CONGRESSIONAL RECORD:

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CONTAINING

THE PROCEEDINGS AND DEBATES

OF THE

FORTY-EIGHTH CONGRESS, SECOND SESSION.

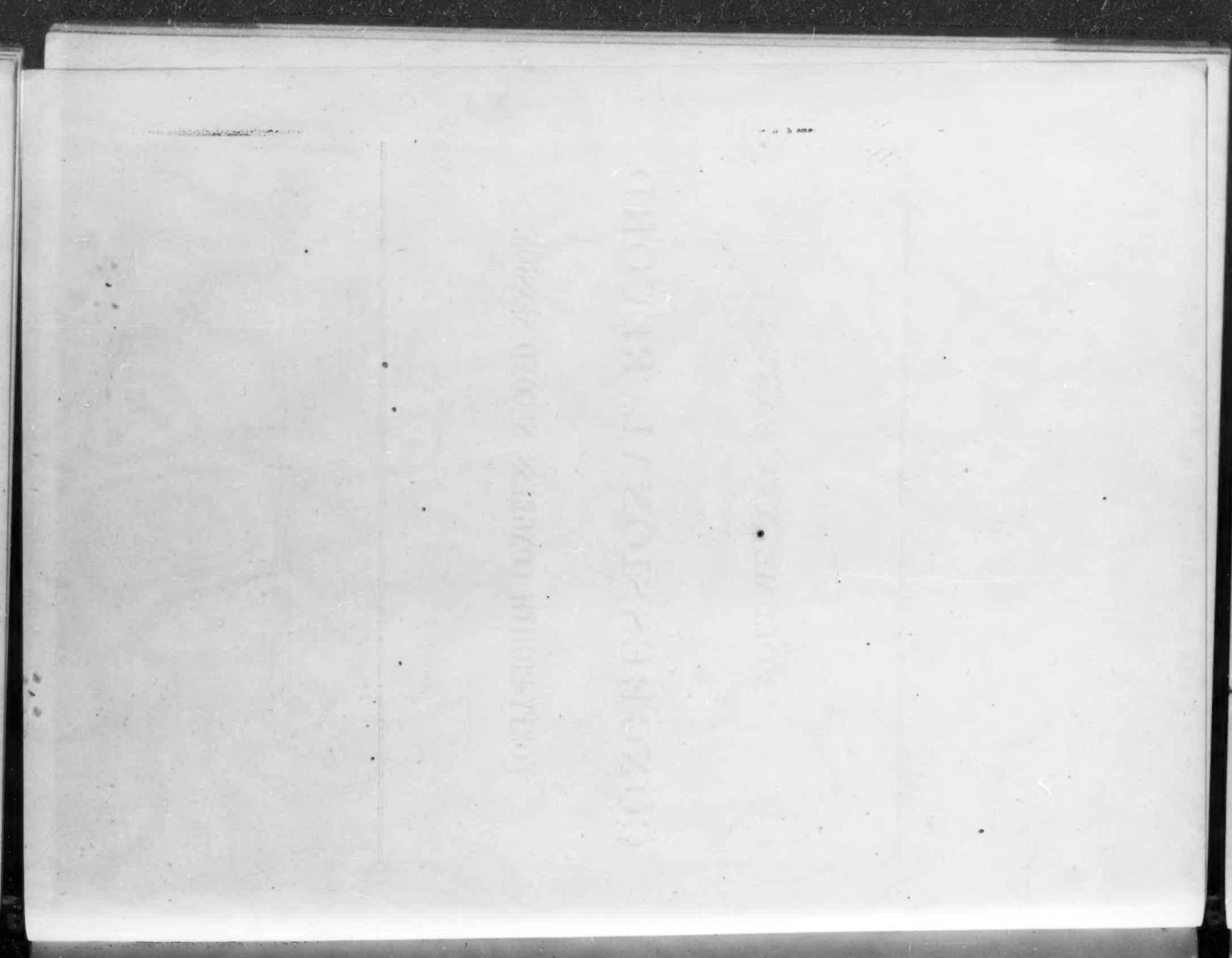
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CONGRESSIONAL RECORD,

FORTY-EIGHTH CONGRESS, SECOND SESSION.



CONGRESSIONAL RECORD.

PROCEEDINGS AND DEBATES OF THE FORTY-EIGHTH CONGRESS.

SECOND SESSION.

SENATE.

MONDAY, *December* 1, 1884.

The first Monday of December being the day prescribed by the Constitution of the United States for the annual meeting of Congress, the second session of the Forty-eighth Congress commenced this day.

The Senators assembled in the Senate Chamber in the Capitol at Washington city.

The President *pro tempore* (Mr. GEORGE F. EDMUNDS, a Senator from the State of Vermont) took the chair and called the Senate to order at 12 o'clock noon.

PRAYER.

Rev. E. D. HUNTLEY, D. D., Chaplain to the Senate, offered the following prayer:

Let us pray. Almighty God, we adore Thee as King of kings and Lord of lords, infinite in wisdom, power, and goodness.

Permit us to draw near with reverence, and honor that Name which is high over all, blessed forever.

We come to thank Thee for the many mercies with which Thou hast been pleased to favor us, and to humbly ask that Thou wilt continue to regard us as the objects of Thy care.

While we have rested Death has been at work, and the ripened grain has fallen by the hand of the great Harvester. Not the Senate only, but the Cabinet and the House of Representatives have received the stroke of the Destroyer, and the nation has been reminded that in the midst of life we are in death.

May we profit by the example of the lives of those now gone, and in their decease read once more the ever salutary lesson of our own mortality. We thank Thee that Thou dost still preserve our country from foreign invasion and intestine war. Surely Thy banner over us is love; and we pray that we may use the opportunity afforded by these pacific times, by such a conserving of fraternal intercourse and by plans for mutual helpfulness, that sectional ambition may be known only in that praiseworthy rivalry by which each desires to outdo the other in benefiting all. Graciously regard all those who are in authority among us, the President of the United States, the Speaker and the House of Representatives, and in an especial manner do Thou be pleased to give Thy blessing to the members of this Senate; continue health and wisdom, strength and fidelity to its presiding officer, and during the entire session may the lives of all its employés be precious in Thy sight. In the performance of their duties may they so yield themselves to the suggestions of Thy Holy Spirit that when done with the management of public affairs now committed to their hands they may be greeted with Thy smile and rest beneath Thy benediction. We ask these mercies in the name of Jesus Christ, our Mediator and Redeemer. Amen.

SENATORS PRESENT.

The following Senators were present:

From the State of—

Alabama—John T. Morgan and James L. Pugh.
Arkansas—Augustus H. Garland and James D. Walker.
California—John F. Miller.
Colorado—Thomas M. Bowen and Nathaniel P. Hill.
Connecticut—Joseph R. Hawley.
Delaware—Thomas F. Bayard and Eli Saulsbury.
Florida—Charles W. Jones.
Illinois—Shelby M. Cullom and John A. Logan.
Indiana—Benjamin Harrison and Daniel W. Voorhees.
Iowa—William B. Allison and James F. Wilson.
Kansas—John J. Ingalls.
Kentucky—James B. Beck.
Louisiana—Benjamin F. Jonas.
Maine—William P. Frye and Eugene Hale.
Maryland—Arthur P. Gorman and James B. Groome.
Massachusetts—Henry L. Dawes and George F. Hoar.
Michigan—Omar D. Conger and Thomas W. Palmer.
Minnesota—Samuel J. R. McMillan and Dwight M. Sabin.
Missouri—Francis M. Cockrell and George G. Vest.
Nebraska—Charles F. Manderson and Charles H. Van Wyck.
New Hampshire—Henry W. Blair and Austin F. Pike.
New Jersey—John R. McPherson and William J. Sewell.
New York—Elbridge G. Lapham and Warner Miller.
North Carolina—Matt W. Ransom and Zebulon B. Vance.
Ohio—George H. Pendleton and John Sherman.
Oregon—Joseph N. Dolph.
Pennsylvania—James Donald Cameron and John I. Mitchell.
Rhode Island—Nelson W. Aldrich.
Tennessee—Isham G. Harris and Howell E. Jackson.
Texas—Richard Coke and Sam. Bell Maxey.
Vermont—George F. Edmunds and Justin S. Morrill.
Wisconsin—Angus Cameron and Philetus Sawyer.

NOTIFICATION TO THE HOUSE.

Mr. LOGAN submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary inform the House of Representatives that a quorum of the Senate is assembled, and that the Senate is ready to proceed to business.

NOTIFICATION TO THE PRESIDENT.

Mr. SHERMAN submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That a committee, consisting of two members, be appointed to join such committee as may be appointed by the House of Representatives to wait upon the President of the United States and inform him that a quorum of each House is assembled, and that Congress is ready to receive any communication he may be pleased to make.

By unanimous consent, the President *pro tempore* was authorized to appoint the committee on the part of the Senate; and Messrs. SHERMAN and GARLAND were appointed.

HOUR OF MEETING.

Mr. DAWES submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the hour of the daily meeting of the Senate be 12 o'clock meridian until otherwise ordered.

CREDENTIALS.

The PRESIDENT *pro tempore* presented the credentials of William P. Sheffield, appointed by the governor of the State of Rhode Island a Senator from that State to fill, until the next meeting of the Legislature thereof, the vacancy caused by the death of HENRY B. ANTHONY; which were read and ordered to be filed.

RECESS.

The PRESIDENT *pro tempore*. The Chair will state that under the rules petitions and memorials are now in order. The Chair understands that the custom has been not to receive ordinary business until the fact of the assembling of the House of Representatives has been communicated to the Senate. Therefore, if there be no objection, the Chair will not make the ordinary call.

Mr. COCKRELL (at 12 o'clock and 10 minutes p. m.). I move that the Senate take a recess for thirty minutes.

The motion was agreed to; and at the expiration of the recess (at 12 o'clock and 40 minutes p. m.) the Senate reassembled.

MESSAGE FROM THE HOUSE.

Mr. JOHN B. CLARK, jr., the Clerk of the House of Representatives, appeared below the bar of the Senate and delivered the following message:

Mr. President, I have been directed by the House of Representatives to inform the Senate that a quorum of the House of Representatives has appeared, and that the House is ready to proceed to business.

I am further directed to inform the Senate that the House has passed a resolution that a committee of three members be appointed on the part of the House to join such committee as may be appointed by the Senate to wait upon the President of the United States and inform him that a quorum of the two Houses has assembled, and that Congress is ready to receive any communication he may be pleased to make.

I am also directed to announce that the House has appointed Mr. SAMUEL J. RANDALL of Pennsylvania, Mr. SAMUEL S. COX of New York, and Mr. THOMAS M. BROWNE of Indiana the committee on the part of the House.

PETITIONS AND MEMORIALS.

Mr. SHERMAN. Mr. President, I see no reason why the Senate should not proceed with the reception of the ordinary morning business. If it is now in order, I shall present a petition.

The PRESIDENT *pro tempore*. The Chair will receive petitions, if there be no objection.

Mr. SHERMAN presented the petition of Israel W. Andrews and other citizens of Marietta, Ohio, praying that certain relief be granted Charles Morris Blake, post chaplain, United States Army, retired; which was referred to the Committee on Military Affairs.

Mr. LAPHAM presented a petition of citizens of New York, praying that certain relief be granted Charles Morris Blake, post chaplain, United States Army, retired; which was referred to the Committee on Military Affairs.

Mr. MORRILL presented the petition of Emily L. Alvord, widow of Brig. Gen. Benjamin Alvord, late Paymaster-General United States Army, praying for a pension of $50 per month; which was referred to the Committee on Pensions.

Mr. MILLER, of California, presented the petition of Charles M. Blake, post chaplain, United States Army, retired, praying for certain relief; which was referred to the Committee on Military Affairs.

He also presented resolutions adopted by the California State Grange, favoring an appropriation of $15,000 for two years for establishing and conducting two agricultural experiment stations in California and one in Oregon; which were referred to the Committee on Agriculture and Forestry.

BILLS INTRODUCED.

Mr. DAWES introduced a bill (S. 2369) declaring certain Indians to be citizens of the United States; which was read twice by its title, and referred to the Committee on Indian Affairs.

He also (by request) introduced a bill (S. 2370) dividing the Pottawatomie reservation in the Indian Territory, and authorizing patents to issue to the tribes of Absentee Shawnee and the Citizen Band of Pottawatomie Indians; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Indian Affairs.

Mr. CULLOM introduced a bill (S. 2371) to hereafter prohibit distinctions being made in the military service of the United States against any class of American citizens; which was read twice by its title, and referred to the Committee on Military Affairs.

He also introduced a bill (S. 2372) to enable officers of the Army who were promoted for gallant and distinguished services in the war of the rebellion to be retired with the rank and full pay of the grade to which they were so promoted; which was read twice by its title, and referred to the Committee on Military Affairs.

He also introduced a bill (S. 2373) to facilitate promotions throughout the Army, by retiring from active service, upon their own application, officers of the Army who served in the war of the rebellion; which was read twice by its title, and referred to the Committee on Military Affairs.

He also introduced a bill (S. 2374) to authorize the lighting of the navigable rivers of the United States with electricity; which was read twice by its title, and referred to the Committee on Commerce.

He also introduced a bill (S. 2375) to authorize the increase of the capital stock of the Commercial National Bank of Chicago; which was read twice by its title, and referred to the Committee on Finance.

Mr. LOGAN introduced a bill (S. 2376) for the relief of Joseph F. Wilson; which was read twice by its title.

Mr. LOGAN. This bill passed through Congress at the last session, but failed, for some reason, I do not know why, to receive the signature of the President. There is a report accompanying it. I ask that the bill lie on the table, so that I may call it up hereafter.

The bill was ordered to lie on the table.

Mr. MORRILL introduced a bill (S. 2377) granting a pension to Emily L. Alvord; which was read twice by its title, and referred to the Committee on Pensions.

Mr. DOLPH introduced a bill (S. 2378) to prevent the obstruction of navigable waters and to protect public works against trespass or injury; which was read twice by its title, and referred to the Committee on Commerce.

He also introduced a bill (S. 2379) to authorize the transfer of one of the vessels of the Greely relief expedition to the Treasury Department for a revenue-cutter and the retention of the other two for use in the Navy; which was read twice by its title, and referred to the Committee on Naval Affairs.

Mr. LAPHAM introduced a bill (S. 2380) to resubmit the claims of Ira D. Warren, receiver of the New York and Virginia Steamship Company, to the Court of Commissioners of Alabama Claims; which was read twice by its title.

Mr. LAPHAM. In connection with the bill I ask to submit a synopsis of the facts and the opinion of the court when the case was before it. I move the reference of the papers with the bill to the Committee on the Judiciary.

The motion was agreed to.

Mr. HOAR introduced a bill (S. 2381) to amend "An act providing for two additional associate justices of the supreme court of the Territory of Dakota, one additional associate justice of the supreme court of the Territory of Washington, and for other purposes," approved July 4, 1884; which was read twice by its title, and, with the accompanying paper, referred to the Committee on the Judiciary.

ILLEGAL FENCES ON THE PUBLIC DOMAIN.

Mr. INGALLS submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Public Lands be directed to report such legislation as may be necessary to authorize the Secretary of the Interior to summarily remove all fences illegally constructed on the public domain of the United States.

RECESS.

Mr. HAWLEY (at 12 o'clock and 55 minutes p. m.) I move that the Senate take a recess for half an hour.

The motion was agreed to; and at the expiration of the recess (at 1 o'clock and 25 minutes p. m.) the Senate reassembled.

NOTIFICATION TO THE PRESIDENT.

Mr. SHERMAN and Mr. GARLAND, the committee appointed in conjunction with a similar committee of the House of Representatives to wait upon the President of the United States, appeared below the bar, and

Mr. SHERMAN said: The joint committee on the part of the two Houses to wait upon the President of the United States and inform him that a quorum of the two Houses of Congress has assembled and that Congress is ready to receive any communication he may be pleased to make, have performed their duty, and the President requests us to say to the Senate that he will immediately communicate a message in writing.

PRESIDENT'S ANNUAL MESSAGE.

At 1 o'clock and 35 minutes p. m. Mr. O. L. PRUDEN, one of the secretaries of the President of the United States, appeared below the bar of the Senate and said:

Mr. President, I am directed by the President of the United States to deliver to the Senate a message in writing.

The message was received from the Secretary and handed to the President *pro tempore*.

The PRESIDENT *pro tempore*. The Chair lays before the Senate the annual message of the President of the United States, which the Secretary will read.

The Secretary of the Senate (Mr. ANSON G. MCCOOK) read the message, as follows:

To the Congress of the United States:

Since the close of your last session the American people, in the exercise of their highest right of suffrage, have chosen their Chief Magistrate for the four years ensuing.

When it is remembered that at no period in the country's history has the long political contest which customarily precedes the day of the national election been waged with greater fervor and intensity, it is a subject of general congratulation that after the controversy at the polls was over, and while the slight preponderance by which the issue had been determined was as yet unascertained, the public peace suffered no disturbance, but the people everywhere patiently and quietly awaited the result.

Nothing could more strikingly illustrate the temper of the American citizen, his love of order, and his loyalty to law—nothing could more signally demonstrate the strength and wisdom of our political institutions.

Eight years have passed since a controversy concerning the result of a national election sharply called the attention of the Congress to the necessity of providing more precise and definite regulations for counting the electoral vote.

It is of the greatest importance that this question be solved before

conflicting claims to the Presidency shall again distract the country, and I am persuaded that, by the people at large, any of the measures of relief thus far proposed would be preferred to continued inaction.

Our relations with all foreign powers continue to be amicable.

With Belgium a convention has been signed whereby the scope of present treaties has been so enlarged as to secure to citizens of either country within the jurisdiction of the other equal rights and privileges in the acquisition and alienation of property. A trade-marks treaty has also been concluded.

The war between Chili and Peru is at an end. For the arbitration of the claims of American citizens who during its continuance suffered through the acts of the Chilian authorities a convention will soon be negotiated.

The state of hostilities between France and China continues to be an embarrassing feature of our Eastern relations. The Chinese Government has promptly adjusted and paid the claims of American citizens whose property was destroyed in the recent riots at Canton. I renew the recommendation of my last annual message, that the Canton indemnity fund be returned to China.

The true interpretation of the recent treaty with that country, permitting the restriction of Chinese immigration, is likely to be again the subject of your deliberations. It may be seriously questioned whether the statute passed at the last session does not violate the treaty rights of certain Chinese who left this country with return certificates valid under the old law and who now seem to be debarred from relanding for lack of the certificates required by the new.

The recent purchase by citizens of the United States of a large trading fleet heretofore under the Chinese flag has considerably enhanced our commercial importance in the East. In view of the large number of vessels built or purchased by American citizens in other countries and exclusively employed in legitimate traffic between foreign ports under the recognized protection of our flag, it might be well to provide a uniform rule for their registration and documentation, so that the *bona fide* property rights of our citizens therein shall be duly evidenced and properly guarded.

Pursuant to the advice of the Senate at the last session, I recognized the flag of the International Association of the Congo as that of a friendly government, avoiding in so doing any prejudgment of conflicting territorial claims in that region. Subsequently, in execution of the expressed wish of the Congress, I appointed a commercial agent for the Congo Basin.

The importance of the rich prospective trade of the Congo Valley has led to the general conviction that it should be open to all nations upon equal terms. At an international conference for the consideration of this subject called by the Emperor of Germany, and now in session at Berlin, delegates are in attendance on behalf of the United States. Of the results of the conference you will be duly advised.

The Government of Corea has generously aided the efforts of the United States minister to secure suitable premises for the use of the legation. As the conditions of diplomatic intercourse with Eastern nations demand that the legation premises be owned by the represented power, I advise that an appropriation be made for the acquisition of this property by the Government. The United States already possess valuable premises at Tangier as a gift from the Sultan of Morocco. As is stated hereafter, they have lately received a similar gift from the Siamese Government. The Government of Japan stands ready to present to us extensive grounds at Tokio whereon to erect a suitable building for the legation, court-house, and jail, and similar privileges can probably be secured in China and Persia. The owning of such premises would not only effect a large saving of the present rentals, but would permit of the due assertion of extraterritorial rights in those countries, and would the better serve to maintain the dignity of the United States.

The failure of Congress to make appropriation for our representation at the autonomous court of the Khédive has proved a serious embarrassment in our intercourse with Egypt; and in view of the necessary intimacy of diplomatic relationship due to the participation of this Government, as one of the treaty powers, in all matters of administration there affecting the rights of foreigners, I advise the restoration of the agency and consulate-general at Cairo on its former basis. I do not conceive it to be the wish of Congress that the United States should withdraw altogether from the honorable position they have hitherto held with respect to the Khédive, or that citizens of this Republic residing or sojourning in Egypt should hereafter be without the aid and protection of a competent representative.

With France the traditional cordial relationship continues. The colossal statue of Liberty enlightening the world, the generous gift of the people of France, is expected to reach New York in May next. I suggest that Congressional action be taken in recognition of the spirit which has prompted this gift and in aid of the timely completion of the pedestal upon which it is to be placed.

Our relations with Germany, a country which contributes to our own some of the best elements of citizenship, continue to be cordial. The United States have extradition treaties with several of the German states, but by reason of the confederation of those states under the imperial rule the application of such treaties is not as uniform and comprehensive as the interests of the two countries require. I propose, therefore, to open negotiations for a single convention of extradition, to embrace all the territory of the empire.

It affords me pleasure to say that our intercourse with Great Britain continues to be of a most friendly character.

The government of Hawaii has indicated its willingness to continue for seven years the provisions of the existing reciprocity treaty. Such continuance, in view of the relations of that country to the American system of States, should, in my judgment, be favored.

The revolution in Hayti against the established government has terminated. While it was in progress it became necessary to enforce our neutrality laws by instituting proceedings against individuals and vessels charged with their infringement. These prosecutions were in all cases successful.

Much anxiety has lately been displayed by various European governments, and especially by the government of Italy, for the abolition of our import duties upon works of art. It is well to consider whether the present discrimination in favor of the productions of American artists abroad is not likely to result, as they themselves seem very generally to believe it may, in the practical exclusion of our painters and sculptors from the rich fields for observation, study, and labor which they have hitherto enjoyed.

There is prospect that the long-pending revision of the foreign treaties of Japan may be concluded at a new conference to be held at Tokio. While this Government fully recognizes the equal and independent station of Japan in the community of nations, it would not oppose the general adoption of such terms of compromise as Japan may be disposed to offer in furtherance of a uniform policy of intercourse with Western nations.

During the past year the increasing good-will between our own Government and that of Mexico has been variously manifested. The treaty of commercial reciprocity concluded January 20, 1883, has been ratified, and awaits the necessary tariff legislation of Congress to become effective. This legislation will, I doubt not, be among the first measures to claim your attention.

A full treaty of commerce, navigation, and consular rights is much to be desired, and such a treaty I have reason to believe the Mexican Government stands ready to conclude.

Some embarrassment has been occasioned by the failure of Congress at its last session to provide means for the due execution of the treaty of July 29, 1882, for the resurvey of the Mexican boundary and the relocation of boundary monuments.

With the Republic of Nicaragua a treaty has been concluded, which authorizes the construction by the United States of a canal, railway, and telegraph line across the Nicaraguan territory.

By the terms of this treaty sixty miles of the river San Juan, as well as Lake Nicaragua, an inland sea forty miles in width, are to constitute a part of the projected enterprise.

This leaves for actual canal construction seventeen miles on the Pacific side and thirty-six miles on the Atlantic. To the United States, whose rich territory on the Pacific is for the ordinary purposes of commerce practically cut off from communication by water with the Atlantic ports, the political and commercial advantages of such a project can scarcely be overestimated.

It is believed that when the treaty is laid before you the justice and liberality of its provisions will command universal approval at home and abroad.

The death of our representative at Russia while at his post at St. Petersburg afforded to the Imperial Government a renewed opportunity to testify its sympathy in a manner befitting the intimate friendliness which has ever marked the intercourse of the two countries.

The course of this Government in raising its representation at Bangkok to the diplomatic rank has evoked from Siam evidences of warm friendship and augurs well for our enlarged intercourse. The Siamese Government has presented to the United States a commodious mansion and grounds for the occupancy of the legation, and I suggest that by joint resolution Congress attest its appreciation of this generous gift.

This Government has more than once been called upon of late to take action in fulfillment of its international obligations toward Spain. Agitation in the island of Cuba hostile to the Spanish Crown having been fomented by persons abusing the sacred rights of hospitality which our territory affords, the officers of this Government have been instructed to exercise vigilance to prevent infractions of our neutrality laws at Key West and at other points near the Cuban coast. I am happy to say that in the only instance where these precautionary measures were successfully eluded the offenders, when found in our territory, were subsequently tried and convicted.

The growing need of close relationship of intercourse and traffic between the Spanish Antilles and their natural market in the United States led to the adoption, in January last, of a commercial agreement looking to that end. This agreement has since been superseded by a more carefully framed and comprehensive convention, which I shall submit to the Senate for approval. It has been the aim of this negotiation to open such a favored reciprocal exchange of productions carried under the flag of either country as to make the intercourse between Cuba and Porto Rico and ourselves scarcely less intimate than

the commercial movement between our domestic ports, and to insure a removal of the burdens on shipping in the Spanish Indies, of which in the past our ship-owners and ship-masters have so often had cause to complain.

The negotiation of this convention has for a time postponed the prosecution of certain claims of our citizens which were declared to be without the jurisdiction of the late Spanish-American Claims Commission, and which are therefore remitted to diplomatic channels for adjustment. The speedy settlement of these claims will now be urged by this Government.

Negotiations for a treaty of commercial reciprocity with the Dominican Republic have been successfully concluded, and the result will shortly be laid before the Senate.

Certain questions between the United States and the Ottoman Empire still remain unsolved. Complaints on behalf of our citizens are not satisfactorily adjusted. The Porte has sought to withhold from our commerce the right of favored treatment to which we are entitled by existing conventional stipulations, and the revision of the tariffs is unaccomplished.

The final disposition of pending questions with Venezuela has not as yet been reached, but I have good reason to expect an early settlement, which will provide the means of re-examining the Caracas awards in conformity with the expressed desire of Congress, and which will recognize the justice of certain claims preferred against Venezuela.

The Central and South American Commission appointed by authority of the act of July 7, 1884, will soon proceed to Mexico. It has been furnished with instructions, which will be laid before you. They contain a statement of the general policy of the Government for enlarging its commercial intercourse with American states. The commissioners have been actively preparing for their responsible task by holding conferences in the principal cities with merchants and others interested in Central and South American trade.

The International Meridian Conference, lately convened in Washington upon the invitation of the Government of the United States, was composed of representatives from twenty-five nations. The conference concluded its labors on the 1st of November, having with substantial unanimity agreed upon the meridian of Greenwich as the starting point whence longitude is to be computed through one hundred and eighty degrees eastward and westward, and upon the adoption, for all purposes for which it may be found convenient, of a universal day, which shall begin at midnight on the initial meridian and whose hours shall be counted from zero up to twenty-four.

The formal report of the transactions of this conference will be hereafter transmitted to the Congress.

This Government is in frequent receipt of invitations from foreign states to participate in international exhibitions, often of great interest and importance. Occupying as we do an advanced position in the world's production, and aiming to secure a profitable share for our industries in the general competitive markets, it is a matter of serious concern that the want of means for participation in these exhibitions should so often exclude our producers from advantages enjoyed by those of other countries. During the past year the attention of Congress was drawn to the formal invitations in this regard tendered by the governments of England, Holland, Belgium, Germany, and Austria. The Executive has in some instances appointed honorary commissioners. This is, however, a most unsatisfactory expedient, for without some provision to meet the necessary working expenses of a commission it can effect little or nothing in behalf of exhibitors. An international inventions exhibition is to be held in London next May. This will cover a field of special importance, in which our country holds a foremost rank, but the Executive is at present powerless to organize a proper representation of our vast national interests in this direction.

I have in several previous messages referred to this subject. It seems to me that a statute, giving to the Executive general discretionary authority to accept such invitations, and to appoint honorary commissioners, without salary, and placing at the disposal of the Secretary of State a small fund for defraying their reasonable expenses, would be of great public utility.

This Government has received official notice that the revised international regulations for preventing collisions at sea have been adopted by all the leading maritime powers except the United States and came into force on the 1st of September last. For the due protection of our shipping interests, the provisions of our statutes should at once be brought into conformity with these regulations.

The question of securing to authors, composers, and artists copyright privileges in this country in return for reciprocal rights abroad is one that may justly challenge your attention. It is true that conventions will be necessary for fully accomplishing this result, but until Congress shall by statute fix the extent to which foreign holders of copyright shall be here privileged, it has been deemed inadvisable to negotiate such conventions. For this reason the United States were not represented at the recent conference at Berne.

I recommend that the scope of the neutrality laws of the United States be so enlarged as to cover all patent acts of hostility committed in our territory and aimed against the peace of a friendly nation. Existing statutes prohibit the fitting out of armed expeditions and restrict the shipment of explosives, though the enactments in the latter respect were not framed with regard to international obligations, but simply for the protection of passenger travel. All these statutes were intended to meet special emergencies that had already arisen. Other emergencies have arisen since, and modern ingenuity supplies means for the organization of hostilities without open resort to armed vessels or to filibustering parties.

I see no reason why overt preparations in this country for the commission of criminal acts, such as are here under consideration, should not be alike punishable, whether such acts are intended to be committed in our own country or in a foreign country with which we are at peace.

The prompt and thorough treatment of this question is one which intimately concerns the national honor.

Our existing naturalization laws also need revision. Those sections relating to persons residing within the limits of the United States in 1795 and 1798 have now only a historical interest. Section 2172, recognizing the citizenship of the children of naturalized parents, is ambiguous in its terms and partly obsolete. There are special provisions of law favoring the naturalization of those who serve in the Army or in merchant vessels, while no similar privileges are granted those who serve in the Navy or the Marine Corps.

"An uniform rule of naturalization," such as the Constitution contemplates, should, among other things, clearly define the status of persons born within the United States subject to a foreign power (R. S. sec. 1992) and of minor children of fathers who have declared their intention to become citizens but have failed to perfect their naturalization. It might be wise to provide for a central bureau of registry, wherein should be filed authenticated transcripts of every record of naturalization in the several Federal and State courts, and to make provision also for the vacation or cancellation of such record in cases where fraud had been practiced upon the court by the applicant himself or where he had renounced or forfeited his acquired citizenship. A just and uniform law in this respect would strengthen the hands of the Government in protecting its citizens abroad and would pave the way for the conclusion of treaties of naturalization with foreign countries.

The legislation of the last session effected in the diplomatic and consular service certain changes and reductions which have been productive of embarrassment. The population and commercial activity of our country are steadily on the increase, and are giving rise to new, varying, and often delicate relationships with other countries. Our foreign establishment now embraces nearly double the area of operations that it occupied twenty years ago. The confinement of such a service within the limits of expenditure then established is not, it seems to me, in accordance with true economy. A community of 60,000,000 of people should be adequately represented in its intercourse with foreign nations.

A project for the reorganization of the consular service and for recasting the scheme of extraterritorial jurisdiction is now before you. If the limits of a short session will not allow of its full consideration, I trust that you will not fail to make suitable provision for the present needs of the service.

It has been customary to define in the appropriation acts the rank of each diplomatic office to which a salary is attached. I suggest that this course be abandoned, and that it be left to the President, with the advice and consent of the Senate, to fix from time to time the diplomatic grade of the representatives of this Government abroad as may seem advisable, provision being definitely made, however, as now, for the amount of salary attached to the respective stations.

The condition of our finances and the operations of the various branches of the public service which are connected with the Treasury Department are very fully discussed in the report of the Secretary.

It appears that the ordinary revenues for the fiscal year ended June 30, 1884, were—

From customs	$195,067,489 76
From internal revenue	121,586,072 51
From all other sources	31,866,307 65
Total ordinary revenues	348,519,869 92

The public expenditures during the same period were—

For civil expenses	$22,312,907 71
For foreign intercourse	1,260,766 37
For Indians	6,475,999 29
For pensions	55,429,228 06
For the military establishment, including river and harbor improvements and arsenals	39,429,603 36
For the naval establishment, including vessels, machinery, and improvements at navy-yards	17,292,601 44
For miscellaneous expenditures, including public buildings, light-houses, and collecting the revenue	43,939,710 00
For expenditures on account of the District of Columbia	3,407,049 63
For interest on the public debt	54,578,378 48
For the sinking fund	46,790,229 50
Total ordinary expenditures	290,916,473 83
Leaving a surplus of	57,603,396 09

As compared with the preceding fiscal year there was a net decrease of over $21,000,000 in the amount of expenditures. The aggregate receipts were less than those of the year previous by about $54,000,000. The falling off in revenue from customs made up nearly $29,000,000 of this deficiency, and about $23,000,000 of the remainder was due to the diminished receipts from internal taxation.

The Secretary estimates the total receipts for the fiscal year which will end June 30, 1885, at $330,000,000, and the total expenditures at $290,620,201.16, in which sum are included the interest on the debt and the amount payable to the sinking fund. This would leave a surplus for the entire year of about $39,000,000.

The value of exports from the United States to foreign countries during the year ending June 30, 1884, was as follows:

Domestic merchandise	$724,964,852
Foreign merchandise	15,548,757
Total merchandise	740,513,609
Specie	67,133,383
Total exports of merchandise and specie	807,646,992

The cotton and cotton manufactures included in this statement were valued at $208,900,415; the breadstuffs at $162,544,715; the provisions at $114,416,547, and the mineral oils at $47,103,248.

During the same period the imports were as follows:

Merchandise	$667,697,693
Gold and silver	37,426,262
Total	705,123,955

More than 63 per cent. of the entire value of imported merchandise consisted of the following articles:

Sugar and molasses	$103,884,274
Wool and woolen manufactures	53,542,292
Silk and its manufactures	49,949,128
Coffee	49,686,705
Iron and steel and manufactures thereof	41,464,599
Chemicals	38,464,965
Flax, hemp, jute, and like substances, and manufactures thereof	33,463,398
Cotton and manufactures of cotton	30,454,476
Hides and skins other than fur-skins	22,350,906

I concur with the Secretary of the Treasury in recommending the immediate suspension of the coinage of silver dollars and of the issuance of silver certificates. This is a matter to which in former communications I have more than once invoked the attention of the National Legislature.

It appears that annually for the past six years there have been coined, in compliance with the requirements of the act of February 28, 1878, more than twenty-seven million silver dollars. The number now outstanding is reported by the Secretary to be nearly one hundred and eighty-five million, whereof but little more than forty million, or less than 22 per cent., are in actual circulation. The mere existence of this fact seems to me to furnish of itself a cogent argument for the repeal of the statute which has made such fact possible.

But there are other and graver considerations that tend in the same direction.

The Secretary avows his conviction that unless this coinage and the issuance of silver certificates be suspended, silver is likely at no distant day to become our sole metallic standard. The commercial disturbance and the impairment of national credit that would be thus occasioned can scarcely be overestimated.

I hope that the Secretary's suggestions respecting the withdrawal from circulation of the one-dollar and two-dollar notes will receive your approval. It is likely that a considerable portion of the silver now encumbering the vaults of the Treasury might thus find its way into the currency.

While trade-dollars have ceased, for the present at least, to be an element of active disturbance in our currency system, some provision should be made for their surrender to the Government. In view of the circumstances under which they were coined and of the fact that they have never had a legal-tender quality, there should be offered for them only a slight advance over their bullion value.

The Secretary, in the course of his report, considers the propriety of beautifying the designs of our subsidiary silver coins and of so increasing their weight that they may bear their due ratio of value to the standard dollar. His conclusions in this regard are cordially approved.

In my annual message of 1882 I recommended the abolition of all excise taxes except those relating to distilled spirits. This recommendation is now renewed. In case these taxes shall be abolished the revenues that will still remain to the Government will, in my opinion, not only suffice to meet its reasonable expenditures, but will afford a surplus large enough to permit such tariff reduction as may seem to be advisable when the results of recent revenue laws and commercial treaties shall have shown in what quarters those reductions can be most judiciously effected.

One of the gravest of the problems which appeal to the wisdom of Congress for solution is the ascertainment of the most effective means for increasing our foreign trade and thus relieving the depression under which our industries are now languishing. The Secretary of the Treasury advises that the duty of investigating this subject be intrusted in the first instance to a competent commission. While fully recognizing the considerations that may be urged against this course, I am nevertheless of the opinion that, upon the whole, no other would be likely to effect speedier or better results.

That portion of the Secretary's report which concerns the condition of our shipping interests can not fail to command your attention. He emphatically recommends that, as an incentive to the investment of American capital in American steamships, the Government shall by liberal payments for mail transportation, or otherwise, lend its active assistance to individual enterprise, and declares his belief that unless that course be pursued our foreign carrying trade must remain, as it is to-day, almost exclusively in the hands of foreigners.

One phase of this subject is now especially prominent, in view of the repeal by the act of June 26, 1884, of all statutory provisions arbitrarily compelling American vessels to carry the mails to and from the United States. As it is necessary to make provision to compensate the owners of such vessels for performing that service after April, 1885, it is hoped that the whole subject will receive early consideration, that will lead to the enactment of such measures for the revival of our merchant marine as the wisdom of Congress may devise.

The 3 per cent. bonds of the Government to the amount of more than $100,000,000 have since my last annual message been redeemed by the Treasury. The bonds of that issue still outstanding amount to little over $200,000,000, about one-fourth of which will be retired through the operations of the sinking fund during the coming year. As these bonds still constitute the chief basis for the circulation of the national banks, the question how to avert the contraction of the currency caused by their retirement is one of constantly increasing importance.

It seems to be generally conceded that the law governing this matter exacts from the banks excessive security, and that upon their present bond deposits a larger circulation than is now allowed may be granted with safety. I hope that the bill which passed the Senate at the last session permitting the issue of notes equal to the face value of the deposited bonds will commend itself to the approval of the House of Representatives.

In the expenses of the War Department the Secretary reports a decrease of more than $9,000,000. Of this reduction $5,600,000 was effected in the expenditures for rivers and harbors and $2,700,000 in expenditures for the Quartermaster's Department.

Outside of that department the annual expenses of all the Army bureaus proper (except possibly the Ordnance Bureau) are substantially fixed charges, which can not be materially diminished without a change in the numerical strength of the Army. The expenditures in the Quartermaster's Department can readily be subjected to administrative discretion, and it is reported by the Secretary of War that as a result of exercising such discretion, in reducing the number of draught and pack animals in the Army, the annual cost of supplying and caring for such animals is now $1,108,085.90 less than it was in 1881.

The reports of military commanders show that the last year has been notable for its entire freedom from Indian outbreaks.

In defiance of the President's proclamation of July 1, 1884, certain intruders sought to make settlements in the Indian Territory. They were promptly removed by a detachment of troops.

During the past session of Congress a bill to provide a suitable fireproof building for the Army Medical Museum and the Library of the Surgeon-General's Office received the approval of the Senate. A similar bill, reported favorably to the House of Representatives by one of its committees, is still pending before that body. It is hoped that during the coming session the measure may become a law, and that thereafter immediate steps may be taken to secure a place of safe deposit for these valuable collections, now in a state of insecurity.

The funds with which the works for the improvement of rivers and harbors were prosecuted during the past year were derived from the appropriations of the act of August 2, 1882, together with such few balances as were on hand from previous appropriations. The balance in the Treasury subject to requisition July 1, 1883, was $10,021,649.55. The amount appropriated during the fiscal year 1884 was $1,319,634.62, and the amount drawn from the Treasury during the fiscal year was $8,228,703.54, leaving a balance of $3,112,580.63 in the Treasury subject to requisition July 1, 1884.

The Secretary of War submits the report of the Chief of Engineers as to the practicability of protecting our important cities on the seaboard by fortifications and other defenses able to repel modern methods of attack. The time has now come when such defenses can be prepared with confidence that they will not prove abortive; and, when the possible result of delay in making such preparation is seriously considered, delay seems inexcusable. For the most important cities—those whose destruction or capture would be a national humiliation—adequate defenses, inclusive of guns, may be made by the gradual expenditure of $60,000,000; a sum much less than a victorious enemy could levy as a

contribution. An appropriation of about one-tenth of that amount is asked to begin the work, and I concur with the Secretary of War in urging that it be granted.

The War Department is proceeding with the conversion of 10-inch smooth-bore guns into 8-inch rifles, by lining the former with tubes of forged steel or of coiled wrought iron. Fifty guns will be thus converted within the year. This, however, does not obviate the necessity of providing means for the construction of guns of the highest power, both for the purposes of coast defense and for the armament of war vessels.

The report of the gun-foundery board, appointed April 2, 1883, in pursuance of the act of March 3, 1883, was transmitted to Congress in a special message of February 18, 1884. In my message of March 26, 1884, I called attention to the recommendation of the board that the Government should encourage the production at private steel works of the required material for heavy cannon, and that two Government factories, one for the Army and one for the Navy, should be established for the fabrication of guns from such material. No action having been taken, the board was subsequently reconvened to determine more fully the plans and estimates necessary for carrying out its recommendation. It has received information which indicates that there are responsible steel manufacturers in this country who, although not provided at present with the necessary plant, are willing to construct the same and to make bids for contracts with the Government for the supply of the requisite material for the heaviest guns adapted to modern warfare if a guaranteed order of sufficient magnitude, accompanied by a positive appropriation extending over a series of years, shall be made by Congress. All doubts as to the feasibility of the plan being thus removed, I renew my recommendation that such action be taken by Congress as will enable the Government to construct its own ordnance upon its own territory, and so to provide the armaments demanded by considerations of national safety and honor.

The report of the Secretary of the Navy exhibits the progress which has been made on the new steel cruisers authorized by the acts of August 5, 1882, and March 3, 1883. Of the four vessels under contract, one, the Chicago, of 4,500 tons, is more than half finished; the Atlanta, of 3,000 tons, has been successfully launched, and her machinery is now fitting; the Boston, also of 3,000 tons, is ready for launching, and the Dolphin, a dispatch steamer of 1,500 tons, is ready for delivery.

Certain adverse criticisms upon the designs of these cruisers are discussed by the Secretary, who insists that the correctness of the conclusions reached by the advisory board and by the Department has been demonstrated by recent developments in ship-building abroad.

The machinery of the double-turreted monitors Puritan, Terror, and Amphitrite, contracted for under the act of March 3, 1883, is in process of construction. No work has been done during the past year on their armor for lack of the necessary appropriations. A fourth monitor, the Monadnock, still remains unfinished at the navy-yard in California. It is recommended that early steps be taken to complete these vessels and to provide also an armament for the monitor Miantonomoh.

The recommendations of the naval advisory board, approved by the Department, comprise the construction of one steel cruiser of 4,500 tons, one cruiser of 3,000 tons, two heavily armed gunboats, one light cruising gunboat, one dispatch vessel armed with Hotchkiss cannon, one armored ram, and three torpedo-boats. The general designs, all of which are calculated to meet the existing wants of the service, are now well advanced, and the construction of the vessels can be undertaken as soon as you shall grant the necessary authority.

The act of Congress approved August 7, 1882, authorized the removal to the United States of the bodies of Lieut. Commander George W. De Long and his companions of the Jeannette expedition. This removal has been successfully accomplished by Lieutenants Harber and Schuetze. The remains were taken from their grave in the Lena Delta in March, 1883, and were retained at Yakutsk until the following winter, the season being too far advanced to admit of their immediate transportation. They arrived at New York February 20, 1884, where they were received with suitable honors

In pursuance of the joint resolution of Congress approved February 13, 1884, a naval expedition was fitted out for the relief of Lieut. A. W. Greely, United States Army, and of the party who had been engaged under his command in scientific observations at Lady Franklin Bay. The fleet consisted of the steam-sealer Thetis, purchased in England, the Bear, purchased at St. John's, Newfoundland, and the Alert, which was generously provided by the British Government. Preparations for the expedition were promptly made by the Secretary of the Navy, with the active co-operation of the Secretary of War. Commander George W. Coffin was placed in command of the Alert, and Lieut. William H. Emory in command of the Bear. The Thetis was intrusted to Commander Winfield S. Schley, to whom also was assigned the superintendence of the entire expedition.

Immediately upon its arrival at Upernavik, the fleet began the dangerous navigation of Melville Bay, and in spite of every obstacle reached Littleton Island on June 22, a fortnight earlier than any vessel had before attained that point. On the same day it crossed over to Cape Sabine, where Lieutenant Greely and the other survivors of his party were discovered. After taking on board the living and the bodies of the dead the relief ships sailed for St. John's, where they arrived on July 17. They were appropriately received at Portsmouth, N. H., on August 1, and at New York on August 8. One of the bodies was landed at the former place. The others were put on shore at Governor's Island, and, with the exception of one which was interred in the national cemetery, were forwarded thence to the destinations indicated by friends. The organization and conduct of this relief expedition reflect great credit upon all who contributed to its success.

In this the last of the stated messages that I shall have the honor to transmit to the Congress of the United States I can not too strongly urge upon its attention the duty of restoring our Navy as rapidly as possible to the high state of efficiency which formerly characterized it. As the long peace that has lulled us into a sense of fancied security may at any time be disturbed, it is plain that the policy of strengthening this arm of the service is dictated by considerations of wise economy, of just regard for our future tranquillity, and of true appreciation of the dignity and honor of the Republic.

The report of the Postmaster-General acquaints you with the present condition and needs of the postal service.

It discloses the gratifying fact that the loss of revenue from the reduction in the rate of letter-postage recommended in my message of December 4, 1882, and effected by the act of March 3, 1883, has been much less than was generally anticipated. My recommendation of this reduction was based upon the belief that the actual falling off in receipts from letter-postages for the year immediately succeeding the change of rate would be $3,000,000. It has proved to be only $2,275,000.

This is a trustworthy indication that the revenue will soon be restored to its former volume by the natural increase of sealed correspondence.

I confidently repeat, therefore, the recommendation of my last annual message, that the single-rate postage upon drop letters be reduced to 1 cent wherever the payment of 2 cents is now required by law. The double rate is only exacted at offices where the carrier system is in operation, and it appears that at those offices the increase in the tax upon local letters defrays the cost not only of its own collection and delivery, but of the collection and delivery of all other mail matter. This is an inequality that ought no longer to exist.

I approve the recommendation of the Postmaster-General that the unit of weight in the rating of first-class matter should be one ounce instead of one-half ounce, as it now is. In view of the statistics furnished by the Department it may well be doubted whether the change would result in any loss of revenue; that it would greatly promote the convenience of the public is beyond dispute.

The free-delivery system has been lately applied to five cities, and the total number of offices in which it is now in operation is one hundred and fifty-nine. Experience shows that its adoption, under proper conditions, is equally an accommodation to the public and an advantage to the postal service. It is more than self-sustaining, and for the reasons urged by the Postmaster-General may properly be extended.

In the opinion of that officer it is important to provide means whereby exceptional dispatch in dealing with letters in free-delivery offices may be secured by payment of extraordinary postage. This scheme might be made effective by employment of a special stamp, whose cost should be commensurate with the expense of the extra service.

In some of the large cities private express companies have undertaken to outstrip the Government mail-carriers, by affording for the prompt transmission of letters better facilities than have hitherto been at the command of the Post-Office.

It has always been the policy of the Government to discourage such enterprises, and in no better mode can that policy be maintained than in supplying the public with the most efficient mail service that, with due regard to its own best interests, can be furnished for its accommodation.

The Attorney-General renews the recommendation contained in his report of last year touching the fees of witnesses and jurors.

He favors radical changes in the fee-bill, the adoption of a system by which attorneys and marshals of the United States shall be compensated solely by salaries, and the erection by the Government of a penitentiary for the confinement of offenders against its laws.

Of the varied governmental concerns in charge of the Interior Department the report of its Secretary presents an interesting summary. Among the topics deserving particular attention I refer you to his observations respecting our Indian affairs, the pre-emption and timber-culture acts, the failure of railroad companies to take title to lands granted by the Government, and the operations of the Pension Office, the Patent Office, the Census Bureau, and the Bureau of Education.

Allusion has been made already to the circumstance that, both as between the different Indian tribes and as between the Indians and the whites, the past year has been one of unbroken peace.

In this circumstance the President is glad to find justification for the policy of the Government in its dealing with the Indian question, and confirmation of the views which were fully expressed in his first communication to the Forty-seventh Congress.

The Secretary urges anew the enactment of a statute for the punishment of crimes committed on the Indian reservations, and recommends

the passage of the bill now pending in the House of Representatives for the purchase of a tract of 18,000 square miles from the Sioux reservation. Both these measures are worthy of approval.

I concur with him also in advising the repeal of the pre-emption law, the enactment of statutes resolving the present legal complications touching lapsed grants to railroad companies, and the funding of the debt of the several Pacific railroads under such guarantee as shall effectually secure its ultimate payment.

The report of the Utah commission will be read with interest.

It discloses the results of recent legislation looking to the prevention and punishment of polygamy in that Territory. I still believe that if that abominable practice can be suppressed by law it can only be by the most radical legislation consistent with the restraints of the Constitution.

I again recommend, therefore, that Congress assume absolute political control of the Territory of Utah, and provide for the appointment of commissioners, with such governmental powers as in its judgment may justly and wisely be put into their hands.

In the course of this communication reference has more than once been made to the policy of this Government as regards the extension of our foreign trade. It seems proper to declare the general principles that should, in my opinion, underlie our national efforts in this direction.

The main conditions of the problem may be thus stated:

We are a people apt in mechanical pursuits and fertile in invention; we cover a vast extent of territory rich in agricultural products and in nearly all the raw materials necessary for successful manufacture; we have a system of productive establishments more than sufficient to supply our own demands; the wages of labor are nowhere else so great; the scale of living of our artisan classes is such as tends to secure their personal comfort and the development of those higher moral and intellectual qualities that go to the making of good citizens. Our system of tax and tariff legislation is yielding a revenue which is in excess of the present needs of the Government.

These are the elements from which it is sought to devise a scheme by which, without unfavorably changing the condition of the workingman, our merchant marine shall be raised from its enfeebled condition and new markets provided for the sale beyond our borders of the manifold fruits of our industrial enterprises.

The problem is complex, and can be solved by no single measure of innovation or reform.

The countries of the American continent and the adjacent islands are for the United States the natural marts of supply and demand. It is from them that we should obtain what we do not produce or do not produce in sufficiency, and it is to them that the surplus productions of our fields, our mills, and our workshops should flow, under conditions that will equalize or favor them in comparison with foreign competition.

Four paths of policy seem to point to this end.

First, a series of reciprocal commercial treaties with the countries of America, which shall foster between us and them an unhampered movement of trade. The conditions of these treaties should be the free admission of such merchandise as this country does not produce in return for the admission free or under a favored scheme of duties of our own products—the benefits of such exchange to apply only to goods carried under the flag of the parties to the contract; the removal, on both sides, from the vessels so privileged of all tonnage dues and national imposts, so that those vessels may ply unhindered between our ports and those of the other contracting parties, though without infringing on the reserved home coasting trade; the removal or reduction of burdens on the exported products of those countries coming within the benefits of the treaties; and the avoidance of the technical restrictions and penalties by which our intercourse with those countries is at present hampered.

Secondly, the establishment of the consular service of the United States on a salaried footing, thus permitting the relinquishment of consular fees not only as respects vessels under the national flag, but also as respects vessels of the treaty nations carrying goods entitled to the benefits of the treaties.

Thirdly, the enactment of measures to favor the construction and maintenance of a steam-carrying marine under the flag of the United States.

Fourthly, the establishment of a uniform currency basis for the countries of America, so that the coined products of our mines may circulate on equal terms throughout the whole system of commonwealths. This would require a monetary union of America, whereby the output of the bullion-producing countries and the circulation of those which yield neither gold nor silver could be adjusted in conformity with the population, wealth, and commercial needs of each. As many of the countries furnish no bullion to the common stock, the surplus production of our mines and mints might thus be utilized and a step taken toward the general remonetization of silver.

To the accomplishment of these ends, so far as they can be attained by separate treaties, the negotiations already concluded and now in progress have been directed, and the favor which this enlarged policy has thus far received warrants the belief that its operations will ere long embrace all, or nearly all, the countries of this hemisphere.

It is by no means desirable, however, that the policy under consideration should be applied to these countries alone. The healthful enlargement of our trade with Europe, Asia, and Africa should be sought by reducing tariff burdens on such of their wares as neither we nor the other American States are fitted to produce, and thus enabling ourselves to obtain in return a better market for our supplies of food, of raw materials, and of the manufactures in which we excel.

It seems to me that many of the embarrassing elements in the great national conflict between protection and free trade may thus be turned to good account—that the revenue may be reduced so as no longer to overtax the people; that protective duties may be retained without becoming burdensome; that our shipping interests may be judiciously encouraged, the currency fixed on firm bases, and above all such a unity of interests established among the states of the American system as will be of great and ever-increasing advantage to them all.

All treaties in the line of this policy which have been negotiated or are in process of negotiation contain a provision deemed to be requisite under the clause of the Constitution limiting to the House of Representatives the authority to originate bills for raising revenue.

On the 29th of February last I transmitted to the Congress the first annual report of the Civil Service Commission, together with communications from the heads of the several Executive Departments of the Government respecting the practical workings of the law under which the commission had been acting. The good results therein foreshadowed have been more than realized.

The system has fully answered the expectations of its friends in securing competent and faithful public servants and in protecting the appointing officers of the Government from the pressure of personal importunity and from the labor of examining the claims and pretensions of rival candidates for public employment.

The law has had the unqualified support of the President and of the heads of the several Departments, and the members of the commission have performed their duties with zeal and fidelity. Their report will shortly be submitted, and will be accompanied by such recommendations for enlarging the scope of the existing statute as shall commend themselves to the Executive and the commissioners charged with its administration.

In view of the general and persistent demand throughout the commercial community for a national bankrupt law, I hope that the differences of sentiment which have hitherto prevented its enactment may not outlast the present session.

The pestilence which for the past two years has been raging in the countries of the East recently made its appearance in European ports with which we are in constant communication.

The then Secretary of the Treasury, in pursuance of a proclamation of the President, issued certain regulations restricting, and for a time prohibiting, the importation of rags and the admission of baggage of immigrants and of travelers arriving from infected quarters. Lest this course may have been without strict warrant of law I approve the recommendation of the present Secretary that the Congress take action in the premises, and I also recommend the immediate adoption of such measures as will be likely to ward off the dreaded epidemic and to mitigate its severity in case it shall unhappily extend to our shores.

The annual report of the commissioners of the District of Columbia reviews the operations of the several departments of its municipal government. I ask your careful consideration of its suggestions in respect to legislation—especially commending such as relate to a revision of the civil and criminal code, the performance of labor by persons sentenced to imprisonment in the jail, the construction and occupation of wharves along the river front, and the erection of a suitable building for District offices.

I recommend that, in recognition of the eminent services of Ulysses S. Grant, late General of the armies of the United States and twice President of this nation, the Congress confer upon him a suitable pension.

Certain of the measures that seem to me necessary and expedient I have now, in obedience to the Constitution, recommended for your adoption.

As respects others of no less importance, I shall content myself with renewing the recommendations already made to the Congress, without restating the grounds upon which such recommendations were based.

The preservation of forests on the public domain, the granting of Government aid for popular education, the amendment of the Federal Constitution so as to make effective the disapproval by the President of particular items in appropriation bills, the enactment of statutes in regard to the filling of vacancies in the Presidential office, and the determining of vexed questions respecting Presidential inability are measures which may justly receive your serious consideration.

As the time draws nigh when I am to retire from the public service, I can not refrain from expressing to the members of the National Legislature with whom I have been brought into personal and official intercourse my sincere appreciation of their unfailing courtesy and of their harmonious co-operation with the Executive in so many measures calculated to promote the best interests of the nation.

And to my fellow-citizens generally I acknowledge a deep sense of obligation for the support which they have accorded me in my administration of the executive department of this Government.

CHESTER A. ARTHUR.

WASHINGTON, *December* 1, 1884.

The PRESIDENT *pro tempore*. If there be no objection, the message will be printed and laid upon the table.

DEATH OF SENATOR ANTHONY.

Mr. ALDRICH. Mr. President, the credentials which you have this morning laid before the Senate, and the absence of the familiar and conspicuous figure of our late senior associate, publish the sad event whose shadows pervade this Chamber, filling every heart with sorrow, but they do not relieve me from the painful duty of making a formal announcement of the death of my late colleague, HENRY B. ANTHONY, who died at his home in the city of Providence on Tuesday, the 2d of September last.

On some proper occasion, later in the session, my colleague and myself will ask the Senate to give expression in fitting terms to their appreciation of the distinguished public services and private virtues of our deceased friend.

I move, as a mark of respect to his memory, that the Senate do now adjourn.

The motion was unanimously agreed to; and (at 2 o'clock and 25 minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, *December* 1, 1884.

This being the day designated by the Constitution, the members of the House of Representatives of the Forty-eighth Congress assembled in their Hall for their second session.

At 12 o'clock noon the Speaker, Hon. JOHN G. CARLISLE, a Representative of the State of Kentucky, called the House to order.

Prayer by the Chaplain, Rev. JOHN S. LINDSAY, D. D.

The roll was then called, and the following members answered to their names:

ALABAMA.

James T. Jones.
Hilary A. Herbert.
William C. Oates.
Goldsmith W. Hewitt.
William H. Forney.
Luke Pryor.

ARKANSAS.

Poindexter Dunn.
James K. Jones.
John H. Rogers.
Samuel W. Peel.

CALIFORNIA.

Charles A. Sumner.
John R. Glascock.
William S. Rosecrans.
James H. Budd.
Pleasant B. Tully.

CONNECTICUT.

William W. Eaton.
Charles L. Mitchell.
John T. Wait.
Edward W. Seymour.

DELAWARE.

Charles B. Lore.

FLORIDA.

Robert H. M. Davidson.

GEORGIA.

Thomas Hardeman.
Henry G. Turner.
Charles F. Crisp.
Hugh Buchanan.
Nathaniel J. Hammond.
James H. Blount.
Judson C. Clements.
Seaborn Reese.
Allen D. Candler.

ILLINOIS.

Ransom W. Dunham.
George R. Davis.
George E. Adams.
Robert R. Hitt.
Thomas J. Henderson.
William Cullen.
Lewis E. Payson.
Nicholas E. Worthington.
William M. Springer.
Jonathan H. Rowell.
Joseph G. Cannon.
Samuel W. Moulton.
William R. Morrison.
Richard W. Townshend.
John R. Thomas.

INDIANA.

Thomas R. Cobb.
Strother M. Stockslager.
William S. Holman.
Courtland C. Matson.
Thomas M. Browne.
William E. English.
John E. Lamb.
Thomas B. Ward.
George W. Steele.
Robert Lowry.

IOWA.

Jeremiah H. Murphy.
David B. Henderson.
James Wilson.
William H. M. Pusey.
Adoniram J. Holmes.
Isaac S. Struble.

KANSAS.

Lewis Hanback.
Samuel R. Peters.
John A. Anderson.
Edward H. Funston.
Thomas Ryan.

KENTUCKY.

Oscar Turner.
John E. Halsell.
Thomas A. Robertson.
Albert S. Willis.
John G. Carlisle.
Philip B. Thompson, jr.
William W. Culbertson.
John D. White.
Frank L. Wolford.

LOUISIANA.

Carleton Hunt.
E. John Ellis.

MAINE.

Thomas B. Reed.
Nelson Dingley, jr.
Charles A. Boutelle.

MARYLAND.

J. Frederick C. Talbot.
Fetter S. Hoblitzell.
John V. L. Findlay.
Hart B. Holton.
Louis E. McComas.

MASSACHUSETTS.

Robert T. Davis.
John D. Long.
Patrick A. Collins.
Henry B. Lovering.
Eben F. Stone.
Theodore Lyman.
William W. Rice.
William Whiting.
Francis S. Rockwell.

MICHIGAN.

William C. Maybury.
Nathaniel B. Eldredge.
George L. Yaple.
Ezra C. Carlton.
Julius Houseman.
Roswell G. Horr.
Byron M. Cutcheon.

MINNESOTA.

Milo White.
Horace B. Strait.
William D. Washburn.
Knute Nelson.

MISSISSIPPI.

Henry L. Muldrow.
Hernando D. Money.
Otho R. Singleton.
Henry S. Van Eaton.
Ethelbert Barksdale.

MISSOURI.

Armstead M. Alexander.
Alexander M. Dockery.
James N. Burnes.
John Cosgrove.
Aylett H. Buckner.
James O. Broadhead.
Lowndes H. Davis.

NEBRASKA.

James Laird.

NEVADA.

George W. Cassidy.

NEW HAMPSHIRE.

Ossian Ray.

NEW JERSEY.

Thomas M. Ferrell.
J. Hart Brewer.
John Kean, jr.
Benjamin F. Howey.
William McAdoo.

NEW YORK.

Henry W. Slocum.
Perry Belmont.
William E. Robinson.
Darwin R. James.
Felix Campbell.
Nicholas Muller.
Samuel S. Cox.
William Dorsheimer.
John J. Adams.
John Hardy.
Abram S. Hewitt.
Orlando B. Potter.
Waldo Hutchins.
John H. Ketcham.
Lewis Beach.
Thomas J. Van Alstyne.
Frederick A. Johnson.
Edward Wemple.
George W. Ray.
Charles R. Skinner.
J. Thomas Spriggs.
Newton W. Nutting.
Frank Hiscock.
Sereno E. Payne.
Stephen C. Millard.
Halbert S. Greenleaf.
Robert S. Stevens.
William F. Rogers.

NORTH CAROLINA.

Risden T. Bennett.
Thomas G. Skinner.
James E. O'Hara.
William R. Cox.
Alfred M. Scales.
Clement Dowd.
Tyre York.
Robert B. Vance.

OHIO.

John F. Follett.
Isaac M. Jordan.
Robert M. Murray.
Benjamin Le Fevre.
George E. Seney.
William D. Hill.
James E. Campbell.
J. Warren Keifer.
James S. Robinson.
Frank H. Hurd.
John W. McCormick.
Alphonso Hart.
George L. Converse.
George W. Geddes.
A. J. Warner.
Beriah Wilkins.
Joseph D. Taylor.
Jonathan H. Wallace.
Ezra B. Taylor.
David R. Paige.
Martin A. Foran.

OREGON.

Melvin C. George.

PENNSYLVANIA.

Charles O'Neill.
Samuel J. Randall.
Alfred C. Harmer.
James B. Everhart.
I. Newton Evans.
Daniel Ermentrout.
A. Herr Smith.
William Mutchler.
Daniel W. Connolly.
George A. Post.
William W. Brown.
Jacob M. Campbell.
Louis E. Atkinson.
Charles E. Boyle.
James H. Hopkins.
Thomas M. Bayne.
Samuel H. Miller.
Samuel M. Brainerd.

RHODE ISLAND.

Jonathan Chace.

SOUTH CAROLINA.

Samuel Dibble.
George D. Tillman.
D. Wyatt Aiken.
John J. Hemphill.
George W. Dargan.
Robert Smalls.

TENNESSEE.

Augustus H. Pettibone.
Leonidas C. Houk.
Richard Warner.
Andrew J. Caldwell.
George G. Dibrell.
Benton McMillin.
John G. Ballentine.
John M. Taylor.

TEXAS.

John H. Reagan.
James H. Jones.
David B. Culberson.
James W. Throckmorton.
Olin Wellborn.
Thomas P. Ochiltree.
James F. Miller.
Roger Q. Mills.
Samuel W. T. Lanham.

VIRGINIA.

John S. Wise.
Harry Libbey.
George C. Cabell.
John Randolph Tucker.
Charles T. O'Ferrall.
John S. Barbour.

WEST VIRGINIA.

Nathan Goff, jr.
William L. Wilson.
Charles P. Snyder.
Eustace Gibson.

WISCONSIN.

Daniel H. Sumner.
Burr W. Jones.
Gilbert M. Woodward.
William T. Price.
Isaac Stephenson.

The following is the list of Delegates from the Territories:

ARIZONA.
Granville H. Oury.

MONTANA.
Martin Maginnis.

NEW MEXICO.
Francisco A. Manzanares.

UTAH.
John T. Caine.

WASHINGTON.
Thomas H. Brents.

WYOMING.
Morton E. Post.

The SPEAKER. It appears from the call of the roll that two hundred and twenty-five members are present, which is more than a quorum.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. McCOOK, its Secretary, informed the House that a quorum of that body was assembled and ready to proceed to business; also, that Mr. SHERMAN and Mr. GARLAND had been appointed a committee to join such committee as should be appointed by the House of Representatives to wait on the President of the United States and inform him that a quorum of each House was assembled, and that Congress was ready to receive any communication he may desire to make.

SWEARING IN OF A MEMBER.

Mr. HOLMAN. Mr. Speaker, I present the credentials of Hon. Benjamin F. Shively, from the State of Indiana, elected to fill the unexpired term of Mr. William H. Calkins, resigned.

The SPEAKER. The credentials will be read.

The Clerk read as follows:

I, Albert G. Porter, governor of the State of Indiana, do hereby certify that at the general election held in this State on the 4th day of November, 1884, Benjamin F. Shively was elected a Representative to the Forty-eighth Congress for the thirteenth Congressional district, composed of the counties of La Porte, Saint Joseph, Elkhart, Starke, Marshall, and Kosciusko, to fill the unexpired term of William H. Calkins, who resigned his office on the 20th day of October, 1884.

In witness whereof I have hereunto subscribed my name and caused to be affixed the seal of the State, at Indianapolis, this 25th day of November, 1884.

ALBERT G. PORTER.

By the governor:

W. R. MYERS,
Secretary of State.

Mr. SHIVELY then appeared at the bar of the House and was qualified by taking the oath prescribed by law.

NOTIFICATION TO THE SENATE.

Mr. MORRISON submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Clerk of the House inform the Senate that a quorum of the House of Representatives has appeared, and that the House is ready to proceed to business.

COMMITTEE TO WAIT UPON THE PRESIDENT.

Mr. RANDALL submitted the following resolution:

Resolved, That a committee of three members be appointed on the part of the House, to join such committee as may be appointed by the Senate, to wait upon the President of the United States and inform him that a quorum of the two Houses has assembled, and that Congress is ready to receive any communication he may be pleased to make.

The resolution was agreed to.

The SPEAKER appointed as such joint committee on the part of the House Mr. RANDALL, Mr. COX of New York, and Mr. BROWNE of Indiana.

DAILY HOUR OF MEETING.

Mr. MATSON offered the following resolution; which was read, considered, and agreed to:

Resolved, That until the further order of the House the daily hour of meeting of the House be 12 o'clock noon.

And then, on motion of Mr. HOLMAN, the House (at 12 o'clock and 35 minutes p. m.) took a recess for fifteen minutes.

AFTER THE RECESS.

The recess having expired, the House (at 12 o'clock and 50 minutes p. m.) resumed its session.

REPORT OF COMMITTEE TO WAIT UPON THE PRESIDENT.

Mr. RANDALL. Mr. Speaker, the joint committee appointed to wait upon the President of the United States and inform him that the two Houses of Congress were ready to receive any communication he might be pleased to make have discharged that duty, and the President desired us to say that he will communicate to the two Houses in writing immediately.

PRESIDENT'S ANNUAL MESSAGE.

A message in writing was received from the President of the United States by Mr. PRUDEN, one of his secretaries.

The SPEAKER. The Chair lays before the House the annual message of the President of the United States.

The message was then read. (See Senate proceedings.)

Mr. MORRISON submitted the following resolution; which was read, considered, and adopted:

Resolved, That the message of the President be committed to the Committee of the Whole House on the state of the Union and, with the accompanying documents, printed.

Mr. MORRISON also submitted the following resolution; which was referred to the Committee on Printing:

Resolved, That there be printed —— thousand copies of the President's last annual message for the use of the House.

TEMPORARY APPROPRIATIONS FOR THE NAVY.

Mr. HUTCHINS, from the Committee on Appropriations, reported a bill (H. R. 7510) making temporary provision for the naval service; which was read a first and second time, referred to the Committee of the Whole House on the state of the Union, and, with the accompanying report, ordered to be printed.

Mr. HUTCHINS. I desire to give notice to the House that I will bring this bill up for consideration to-morrow morning immediately after the reading of the Journal.

DEATH OF HON. WILLIAM A. DUNCAN.

Mr. ERMENTROUT. Mr. Speaker, on me has devolved the sad duty of announcing to the House of Representatives the death of our late lamented colleague WILLIAM A. DUNCAN, recently representing the nineteenth district of the State of Pennsylvania, composed of the counties of Adams, York, and Cumberland, which occurred at Gettysburg on the 14th of November last.

It is not my purpose now to make any remarks commemorative of the qualities and character of the deceased. Upon some future occasion that will be my sad duty. But on behalf of our delegation and of the constituents whom he represented I offer the following resolutions, and ask their adoption by the House, with this qualification, that action be not taken upon them until a Representative from the State of South Carolina shall have presented resolutions of a similar character in relation to the death of our late colleague Mr. EVINS, from that State.

The SPEAKER. The resolutions submitted by the gentleman from Pennsylvania will be read.

The Clerk read as follows:

Resolved, That the House has heard with sincere regret the announcement of the death of WILLIAM A. DUNCAN, late a Representative from the State of Pennsylvania.

Resolved, That the Clerk communicate the foregoing resolution to the Senate.

Resolved, That as a further mark of respect to the memory of the deceased the House do now adjourn.

DEATH ON HON. JOHN H. EVINS.

Mr. AIKEN. Under instructions of the delegation from the State of South Carolina, which State I have the honor in part to represent on this floor, it is my sad duty to announce to the House the death of our late colleague Mr. JOHN H. EVINS, and to ask the adoption of the resolutions which I send to the Clerk's desk.

The SPEAKER. The resolutions will be read.

The Clerk read as follows.

Whereas death has taken from our midst the Hon. JOHN H. EVINS, of South Carolina, a member of this House:

Resolved, That we have heard with much sorrow of this bereavement to his family and loss to his State and country.

Resolved, That the clerk communicate the foregoing to the Senate.

Resolved, That as a mark of respect to the memory of the deceased this House do now adjourn.

The SPEAKER. In the absence of objection the question will be taken upon the adoption of both series of resolutions at the same time.

The resolutions were unanimously agreed to; and in accordance therewith the House (at 2 o'clock and 55 minutes p. m.) adjourned.

PETITIONS, ETC.

The following petitions and papers were laid on the Clerk's desk, under the rule, and referred as follows:

By Mr. BARBOUR: The petition of James G. Field, administrator of Edmund Bickers, Gordonsville, Va., to correct error in the decision of the Southern Claims Commission, and to refer the same to the Court of Claims—to the Committee on War Claims.

By Mr. S. S. COX: Five petitions of business men and seamen of New York city, for a modification of the shipping law to admit seamen giving an allotment note to creditors for any past debt owing by them occurring before engagement—to the Select Committee on American Ship-building and Ship-owning Interests.

By Mr. KETCHAM: Petition of L. G. Dodge and W. C. Fonda, vice-president and cashier of the Merchants' National Bank, Poughkeepsie, N. Y., asking that authority be given the Secretary of the Treasury to issue a duplicate bond in place of one destroyed—to the Committee on Banking and Currency.

By Mr. ROSECRANS: Petitions of Gerard Russell, captain Third United States Cavalry; of B. H. Grierson, colonel Tenth Cavalry, and others; of L. H. Gangee, captain Seventeenth Infantry; of colonel Sixth Infantry; of Henry E. Noyes, major Fourth Cavalry, and others; of J. H. Bradford, captain Nineteenth Infantry; of Edward P. Grumley and others; of C. M. Burley and others; of H. S. Foster and others; of B. G. Heiner, captain First United States Infantry; and of Leslie Smith, major Second Infantry, in favor of a bill to facilitate promotions throughout the United States Army—severally to the Committee on Military Affairs.

By Mr. SINGLETON: Petitions of William J. McGowan, and also of William B. Sims, respectively of Marshall and La Fayette Counties, Mississippi, to correct errors in the decisions of the late Southern Claims Commission, and to have each case referred to the Court of Claims—severally to the Committee on War Claims.

By Mr. STOCKSLAGER: Papers relating to the pension claim of Jacob Ging—to the Committee on Invalid Pensions.

Also, a paper to accompany bill for the relief of Lieut. J. W. Manington—to the Committee on Claims.

Also, a statement to accompany bill for the relief of L. C. Orrill—to the Committee on Military Affairs.

By Mr. VANCE: Papers relating to the payment of salaries of postmasters under act of March 3, 1883—to the Committee on Appropriations.

SENATE.

TUESDAY, *December* 2, 1884.

Prayer by the Chaplain, Rev. E. D. HUNTLEY, D. D.

M. C. BUTLER, a Senator from the State of South Carolina; ALFRED H. COLQUITT, a Senator from the State of Georgia; JAMES Z. GEORGE, a Senator from the State of Mississippi; JOHN E. KENNA, a Senator from the State of West Virginia; PRESTON B. PLUMB, a Senator from the State of Kansas; JAMES H. SLATER, a Senator from the State of Oregon; and JOHN S. WILLIAMS, a Senator from the State of Kentucky, appeared in their seats to-day.

The Journal of yesterday's proceedings was read and approved.

SWEARING IN OF A SENATOR.

Mr. ALDRICH. Mr. President, my colleague Mr. SHEFFIELD, whose credentials were presented to the Senate yesterday, is now present in the Chamber, and I ask that the oath of office may be administered to him.

The PRESIDENT *pro tempore*. If the Senator appointed from Rhode Island will attend at the desk the oath will be administered to him, if there be no objection.

Mr. SHEFFIELD advanced to the desk of the President *pro tempore*, escorted by Mr. ALDRICH, and the oath prescribed by law having been administered to him, he took his seat in the Senate.

REPORT OF SECRETARY OF SENATE.

The PRESIDENT *pro tempore* laid before the Senate the report of the Secretary of the Senate, communicating, in obedience to law, a statement of the receipts and expenditures of the Senate from December 19, 1883, to June 30, 1884, and a full and complete account of all property in his possession belonging to the United States December 1, 1884, and of the amounts received from the sale of waste paper; which was ordered to lie on the table and be printed.

REPORTS OF SERGEANT-AT-ARMS.

The PRESIDENT *pro tempore* laid before the Senate the annual report of the Sergeant-at-Arms of the Senate, communicating, in obedience to law, a full and complete statement of all the property in his possession belonging to the United States December 1, 1884; which was ordered to lie on the table and be printed.

He also laid before the Senate a report of the Sergeant-at-Arms of the Senate on the subject of the sale of waste paper, old carpets, and condemned furniture; which was ordered to lie on the table and be printed.

FINANCE REPORT.

The PRESIDENT *pro tempore* laid before the Senate the annual report of the Secretary of the Treasury on the state of the finances for the year 1884; which was referred to the Committee on Finance, and ordered to be printed.

REPORT OF COMPTROLLER OF THE CURRENCY.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Comptroller of the Currency, pursuant to section 333 of the Revised Statutes, transmitting his annual report; which was referred to the Committee on Finance, and ordered to be printed.

REPORT OF COURT OF CLAIMS.

The PRESIDENT *pro tempore* laid before the Senate a communication from the clerk of the Court of Claims, transmitting, in pursuance of section 1057 of the Revised Statutes, a statement of all judgments rendered by the Court of Claims during the year ending November 30, 1884; which was referred to the Committee on Claims, and ordered to be printed.

HOUSE BILLS REFERRED.

The PRESIDENT *pro tempore*. The Chair lays before the Senate for reference sundry bills from the House of Representatives which were received at the very end of the last session, and which were not then presented to the Senate:

The bill (H. R. 191) for the relief of L. S. Ensel was read twice by its title, and referred to the Committee on Claims.

The bill (H. R. 411) granting a pension to Elizabeth Connor was read twice by its title, and referred to the Committee on Pensions.

The bill (H. R. 652) for the relief of Brannin, Summers & Co. was read twice by its title.

The PRESIDENT *pro tempore*. The bill will be referred to the Committee on Claims, if there be no objection.

Mr. BECK. The bill ought to be referred to the Committee on Finance. That committee reported a bill similar to it, which the Senate passed and sent to the other House. It is a matter that has been considered by that committee a number of times, and it properly belongs there.

The PRESIDENT *pro tempore*. On the suggestion of the Senator from Kentucky, if there be no objection the bill will be referred to the Committee on Finance.

The bill (H. R. 847) for the relief of Francis B. Von Hoesen was read twice by its title, and referred to the Committee on Public Lands.

The bill (H. R. 5509) for the benefit of soldiers and sailors who have lost an arm at the shoulder-joint was read twice by its title.

The PRESIDENT *pro tempore*. The bill will be referred to the Committee on Military Affairs, if there be no objection.

Mr. HARRISON. I suggest that the reference should be to the Committee on Pensions. The bill relates to the subject of pensions for a certain class of disabled soldiers.

The PRESIDENT *pro tempore*. The bill will be referred, then, if there be no objection, to the Committee on Pensions.

The bill (H. R. 6712) to remove the political disabilities of John Randolph Hamilton, of North Carolina, was read twice by its title, and referred to the Committee on the Judiciary.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore*. The Chair lays before the Senate a joint resolution of the General Assembly of the State of Vermont in the nature of a memorial, which will be read.

The joint resolution was read, and ordered to lie on the table, as follows:

Joint resolution.

Resolved, That the thanks of the Vermont senate and house of representatives are due and are hereby tendered Hon. JOHN W. STEWART for the earnest and able manner in which he has urged upon the attention of Congress the importance of national control of "interstate commerce;" and

Be it further resolved, That the Vermont senate and house of representatives most earnestly request our Senators and Representatives in Congress to use all honorable means to secure the passage of some suitable measure concerning the subject-matter of "interstate commerce" by national legislation.

JAMES K. BATCHELDER,
Speaker of the House of Representatives.
E. J. ORMSBEE,
President of the Senate.

The PRESIDENT *pro tempore*. The Chair presents the petition of Richard Woodham, who alleges himself to be illegally confined in the insane asylum at Concord, N. H., claiming that his constitutional rights under the Constitution of the United States are thereby violated. The petition will be referred to the Committee on the Judiciary.

The PRESIDENT *pro tempore* presented a memorial of William Gardner, of Washington, Ill., regarding the rights of the veterans of the North, and the act to relieve certain soldiers from the charge of desertion, approved July 5, 1884; which was referred to the Committee on Military Affairs.

He also presented the petition of Mrs. Mary A. Bryant, of Medford, Mass., praying for an increase of pension; which was referred to the Committee on Pensions.

He also presented the petition of Mrs. Nancy A. Wilson, of Nixa, Mo., praying for an increase of pension; which was referred to the Committee on Pensions.

He also presented the petition of Thomas Kennedy, of Norwich, Conn., a soldier in the Florida Indian war, praying for a pension; which was referred to the Committee on Pensions.

He also presented the petition of the Second Corps Club, Brooklyn, N. Y., praying for passage of amendments of section 1754 of the Revised Statutes, giving preference in appointments to civil offices to honorably discharged Union soldiers and sailors; which was referred to the Committee on Civil Service and Retrenchment.

Mr. MILLER, of New York, presented a petition of over 2,200 citizens of the city of New York, praying for the repeal of all acts fixing the term of many administrative offices at four years; which was referred to the Committee on Civil Service and Retrenchment.

He also presented a petition of bankers and merchants of Buffalo, N. Y., praying for the passage of an act for the redemption of the trade-dollar; which was referred to the Committee on Finance.

REPORTS OF COMMITTEES.

Mr. COKE. On the 30th of June last, by direction of the Committee on Commerce, I reported back to the Senate the bill (S. 1652) to provide for the improvement of the channel between Galveston Harbor and the Gulf of Mexico, which had been referred to that committee, giving notice that I should subsequently file a written report to accompany the bill. I now ask leave to present that report.

The PRESIDENT *pro tempore*. If there be no objection, the report will be received, and printed in accordance with the rule.

Mr. CAMERON, of Wisconsin, submitted the following report; which was ordered to be placed on file:

The Committee on Claims, to whom was referred Senate bill 1592 for the relief of Franklin S. Whitney, have carefully considered the same; and, in accordance with the resolution of the Senate of February 7, 1884, report as follows:

That they have referred the same to the Court of Claims under the provisions of an act entitled "An act to afford assistance and relief to Congress and the Executive Departments in the investigation of claims and demands against the Government," approved March 3, 1883.

PRINTING OF TESTIMONY.

Mr. DAWES, from the Committee on Indian Affairs, reported the following resolution; which was considered by unanimous consent, and agreed to.

Resolved, That the testimony taken by a subcommittee of the Senate Committee on Indian Affairs concerning the condition of certain Indian tribes in the State of California, under resolution of the Senate of July 4, 1884, be printed for the use of the committee only.

BILLS INTRODUCED.

Mr. McMILLAN introduced a bill (S. 2382) to authorize Frank W. Hunt to erect and maintain a ferry across the Missouri River at the military reservation of Fort Buford, Dakota Territory; which was read twice by its title, and referred to the Committee on Commerce.

Mr. LAPHAM introduced a bill (S. 2383) in relation to the salaries of those chaplains in the Army who served one year or more as officers in the line or as privates in the war of the rebellion; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Military Affairs.

Mr. HOAR. I ask leave to introduce a bill granting a pension to Jennette S. Kent, which I desire to have lie upon the table, to be referred to the Committee on Pensions when appointed.

The PRESIDENT *pro tempore*. The Chair will state to the Senator from Massachusetts that, under the rules adopted at the last session, the Chair thinks that the committees of the Senate as appointed at the last session are still in existence.

Mr. HOAR. Then let the bill be referred at once.

The bill (S. 2384) granting a pension to Jennette S. Kent was read twice by its title, and, with the accompanying paper, referred to the Committee on Pensions.

Mr. PENDLETON (by request) introduced a bill (S. 2385) for the relief of R. G. Huston & Co.; which was read twice by its title, and referred to the Committee on Claims.

Mr. HARRISON introduced a bill (S. 2386) granting a pension to John I. Weir; which was read twice by its title, and referred to the Committee on Pensions.

Mr. HAWLEY introduced a bill (S. 2387) for the relief of the sufferers by the wreck of the United States steamer Tallapoosa; which was read twice by its title, and referred to the Committee on Naval Affairs.

Mr. MILLER, of New York, introduced a bill (S. 2388) for the protection and improvement of the harbor of New York; which was read twice by its title, and referred to the Committee on Commerce.

He also introduced a bill (S. 2389) for the relief of E. Remington & Sons; which was read twice by its title, and referred to the Committee on Claims.

WITHDRAWAL OF PAPERS.

On motion of Mr. JACKSON, it was

Ordered, That Thomas P. Jordan, of Henderson County, in the State of Tennessee, have permission to withdraw his papers from the files of the Senate, no adverse action having been had thereupon.

LEASES OF INDIAN LANDS.

Mr. VEST submitted the following resolution; which was read:

Resolved, That the Committee on Indian Affairs be instructed to inquire what leases of lands in the Indian Territory for grazing or other purposes have been made by the tribes of Indians therein, the number of acres embraced by each of said leases, the terms thereof, and the persons, corporations, or associations named therein as lessees; also, that the committee inquire as to the circumstances under which said leases were made and the means used for obtaining the same, and whether said leases are authorized by existing legislation or are conducive to the welfare of the Indians in said Territory.

That the committee have power to send for persons and papers, and shall report by bill or otherwise.

Mr. VEST. Mr. President, I propose to ask for the immediate consideration of the resolution, and I should like to have the attention of the chairman of the Committee on Indian Affairs in regard to it.

By a provision of the Revised Statutes now in force a direct prohibition is in existence as to the making of leases of any portion of any Indian reservation. In 1881 my colleague and myself indorsed the application of a citizen of Missouri who had made such a lease with one of what are known as the five civilized tribes of the Indian Territory. The reply of the Secretary of the Interior was that the Revised Statutes absolutely prohibited any such lease, and I considered that a finality. I find now, however, in a document which comes from the Interior Department, information to the effect that there are now leases in this same Indian Territory for 3,117,880 acres of land. These leases seem to have come to the knowledge of the Interior Department, and while they do not meet the approval of that Department, still the Secretary of the Interior in a public letter declares that he will protect the lessees, and that while he will not approve such a lease he will see that persons who have no leases do not interfere with those who have them. The result is that this enormous amount of land is to-day, notwithstanding a direct prohibition of the Revised Statutes, in possession of lessees, and their names are given on page 124 of the document which I hold in my hand.

I have information since the last session of Congress, which I should be glad to lay before the committee, coming from responsible persons, to the effect that these leases have been procured by corruption, fraud, and bribery; that some of the worst practices which have obtained in civilized communities with regard to legislation have already reached to an alarming degree of corruption among the Indian councils. I have before me a letter coming from Mr. Augustus E. Ivey, directed to the Secretary of the Interior, Mr. Ivey being a gentleman who is editor of a newspaper at Vinita, in the Indian Territory, in which he says:

I must again say that the lease—

That is, the lease of what is called the "Cherokee strip"—

was gotten through by the most corrupt and vile schemes, in order to allow a monopoly to enrich themselves, for which privilege they did not spare any money about our council. Could the inside of the scheme be seen through—and it can—I dare say no more vile a swindle was ever perpetrated upon our people. Five times the amount could have been realized for the lands if our council had went at it in a proper way. I have been connected with the press of the Cherokee Nation for the last half dozen years, in fact ever since I have been grown. I have yet a more burning shame to chronicle than the leasing of the "Cherokee strip."

This gentleman I understand to be an entirely responsible party. In addition to his name, I will say to the chairman of the Committee on Indian Affairs that whenever requested I am prepared to lay before him names, amounts, and dates, which show that as widespread a scheme of corruption is to-day in existence in that Territory as ever obtained in the worst times and under the worst methods known to the States of the United States or any other community.

Mr. DAWES rose.

The PRESIDENT *pro tempore*. Is there objection to the present consideration of the resolution?

Mr. DAWES. I should like to hear the resolution read.

Mr. CONGER. Mr. President——

The PRESIDENT *pro tempore*. The resolution will be again read.

Mr. CONGER. I was about to object to its consideration to-day.

The PRESIDENT *pro tempore*. On that question the Senator from Massachusetts has a right to have the resolution read. It will be again reported.

Mr. CONGER. I ask that it may lie over a day.

The Chief Clerk read the resolution.

Mr. DAWES. I inquire of the Senator from Michigan if he objects to my making a statement before the resolution goes over?

Mr. CONGER. Not at all. I withdraw the objection for that purpose.

The PRESIDENT *pro tempore*. All this debate proceeds by unanimous consent. If there be no objection, the Senator from Massachusetts will proceed.

Mr. DAWES. I should like to state to the Senate that the fact of the existence of these leases came to the knowledge of the committee some time ago. Their attention was called to the subject at the last session by a resolution introduced by the Senator from Indiana [Mr. VOORHEES], if I mistake not. The committee were impressed with the seriousness of the condition of things, not only in the Indian Territory but in other reservations outside of it—the spirit that seemed to have got hold of the white people to take the earliest opportunity and the largest means to appropriate the reservations of the United States throughout, as well outside the Indian Territory as within it.

Upon the passage of the resolution of the Senator from Indiana the committee sought to get a joint committee, a subcommittee of both Houses, to enter into this examination in a serious and thorough manner, and thought that whatever could be done would be best done on a report from such a committee, giving both Houses the advantage of the information at the same time. They were unable to bring about such a result. Just at the close of the session the committee authorized its chairman to report a resolution, which was adopted by the Senate, instructing the committee to visit the Indian Territory and examine into this subject. After the adoption of that resolution, and against the wishes, with the opposition, of the committee, the Senate imposed upon that committee another duty during the vacation, to visit California and examine into the condition of a particular Indian reservation in that State. The committee found it impossible to discharge both of those duties during the vacation. They did execute the resolution imposed upon them by the Senate as well as they could by a subcommittee, but the engagements of the members of the committee as well as of other members of the Senate during the vacation were such that it was im-

possible to get the committee to visit the Indian Territory. They hope to execute that resolution hereafter. If they do not do so during this session of Congress they hope to do it hereafter.

Mr. BECK. Mr. President——

The PRESIDENT *pro tempore*. Does the Senator from Massachusetts yield to the Senator from Kentucky?

Mr. DAWES. Certainly.

Mr. BECK. I desire, having heard something about leases outside the Indian Territory, to ask the Senator from Massachusetts and the Senator from Missouri whether it would not be better to enlarge the scope of the resolution, so as to apply to all Indian reservations, without confining it to the Indian Territory.

Mr. DAWES. Since the Senate adopted the resolutions to which I have referred, and since the efforts on the part of the committee to execute them, there has come to their knowledge an attempt to appropriate other Indian reservations, especially the Crow reservation, by such a lease as this. The committee are impressed with the idea that serious consequences are connected with these efforts, and that something more than a resolution instructing a committee is necessary to check this proceeding.

If it is not improper, I will state that the committee made inquiry with reference to the Crow reservation leases within a few days, and they ascertained that there is in the treaty with the Crows a special provision authorizing the Crow Indians to do this very thing without the sanction of the Interior Department; at least it is so alleged; I do not know how the fact is; but unless something is done every foot of land in these reservations will be taken in the manner described by the Senator from Missouri. I hope that Congress will have their attention called to this matter in a manner that will enlist the active effort of Congress to put an end to it.

The suggestion of the Senator from Kentucky [Mr. BECK] imposes a duty upon the committee which he will see at once it would be impossible for them in this short session to perform. I do not know what it would involve. I certainly know that the committee are desirous of finding some way to put a stop to these leases.

I ought to say in justification of the Interior Department, in response to what was said by the Senator from Missouri, that I have understood the decision of the Interior Department to be this: While no lease can be valid without their sanction, yet withholding their sanction, so long as leases exist there with the consent of the Indians in the Indian Territory which do not appear to the Interior Department to be injurious and unjust, they will not interfere, but will let the Indians manage their own affairs. This condition of things has grown up in the Indian Territory by the Interior Department omitting to interfere, under the impression—a mistaken one, I think—that on the whole these leases are beneficial to the Indians.

Mr. VEST. The Senator from Massachusetts will pardon me for saying a word further. I stated very deliberately, and I will state again, that while the Secretary of the Interior says that he will not approve these leases, virtually he does approve them, because he protects the lessees against the world. I will quote his language:

> While the Department will not recognize the agreement or lease you mention, nor any other of the like character to the extent of approving the same, nor to the extent of assuming to settle controversies that may arise between the different parties holding such agreement, yet the Department will endeavor to see that parties having no agreement with the Indians are not allowed to interfere with those who have.

That is substantially an approval of the lease; and the whole military force of the Government of the United States is used to protect these lessees under an agreement that the Revised Statutes absolutely prohibits. That is what I state upon this floor, and there is no question about it.

Mr. DAWES. I agree with the Senator as to the legal effect disclosed. I only stated the position as it has been stated to me, and as the Committee on Indian Affairs have understood the position of the Interior Department up to this time. I would call the attention of the Senator from Missouri to the resolution under which the committee were instructed to make their investigation, to see whether it does not cover just what the Senator proposes in his resolution, so that his resolution is not necessary.

Mr. VEST. I think not, Mr. President.

Mr. DAWES. If not, I have no objection to the passage of this resolution.

Mr. BECK. Without being prepared to say that anything has yet been done in the matter of the Crow reservation, for that was the subject I was thinking about when I asked the question, I fear from what I see in the papers that efforts are being made to have leases made ostensibly with the Crows which virtually get possession of that territory and destroy very much of the good that the Committee on Indian Affairs by their recent action have done, settling the matter so far as the Crows are concerned. It can do no harm to enlarge the scope of the resolutions, so as to embrace that great reservation which the Crows are now occupying and which they will continue to occupy unless leases are made to cattle-men in Montana, foreign and domestic companies, who will make the same leases that they are now making and to which I endeavored to call the attention of the committee last summer. I hope the Senator from Missouri will enlarge the resolution so as to embrace the Crow reservation.

Mr. DAWES. I think it is due to the committee for me to state that, agreeing with the Senator from Kentucky as to the policy of the Government toward the Crow reservation in all particulars as I understand his position, for he is quite as familiar with it as any Senator, I can conceive of nothing more unjust to those Indians than to attempt to appropriate all the land in that reservation which is thrown out of their particular occupation by the late statute—removing them to another part of the reservation—than these leases. The moment it came to my knowledge I assumed to act for the Committee on Indian Affairs and sought to stop any further effort to get those leases into legal shape, and besought the Secretary of the Interior to do it by telegram if in no other way. I do not think that the committee should be considered as derelict in any particular, for they have done all in their power to put a stop to those leases.

Mr. MAXEY. I ask the Senator from Massachusetts if, in his judgment, the resolution passed at the last session authorizing the committee to inquire into the condition of affairs in the Indian Territory, and to report such legislation, if any, as might be necessary, is sufficiently broad to cover the inquiry proposed by the Senator from Missouri?

Mr. DAWES. I have not that resolution before me. It was passed on the 11th day of June. My impression is that it contained everything that is in the resolution of the Senator from Missouri. I do not object to that resolution, however.

Mr. MAXEY. Nor do I; but I wish to make a suggestion to the Senator, if he will pardon me. I happen to know, from living in close contiguity to that country, that there is an immediate and pressing necessity for an investigation, not only of this but of other important matters, by the Committee on Indian Affairs. Now, can that be done without sending a committee or a subcommittee to the Indian Territory? Can it be done here during the present session? If so, I think it ought to be done by all means.

Mr. DAWES. My colleague on the committee [Mr. CAMERON, of Wisconsin] suggests that the resolution adopted in June required this examination to be made during the recess.

Mr. MAXEY. Then I ask the Senator if the time of that committee would justify an examination during the session?

Mr. DAWES. I ask the Chief Clerk to read the resolution to which I referred.

Mr. MAXEY. The question I asked was, Will the time of the committee justify an investigation during the session?

Mr. DAWES. I do not think it possible for the committee to make a thorough examination into that subject without visiting the Territory. Whether it is practicable to visit it during this session or not, Senators more acquainted with the Indian Territory than myself are better able to answer. The Chief Clerk will read the resolution.

The PRESIDENT *pro tempore*. If there be no objection, as this debate is proceeding by unanimous consent, the paper sent to the desk will be read.

The Chief Clerk read as follows:

> *Resolved*, That the Committee on Indian Affairs, or any subcommittee thereof appointed by its chairman, is hereby instructed to inquire into the condition of the several tribes and bands of Indians in the Indian Territory, the tenure by which the lands in the several reservations in said Territory are now held, and the character of their actual occupation and use, the condition and rights of the freedmen among said Indians, and the relation of said tribes to the United States and to each other, and the need, if any, of legislation in respect to the same; and for that purpose shall have power to send for persons and papers, examine witnesses under oath, employ a stenographer, and sit during the recess of the Senate at such times and places as the committee may determine; and shall report their proceedings and any recommendations they may see fit to make to the Senate at its next session; and that the actual and necessary expenses of said investigation be paid, on the approval of the chairman of the said committee, out of the contingent fund of the Senate.

Mr. HARRISON. Mr. President——

The PRESIDENT *pro tempore*. Does the Senator from Massachusetts yield?

Mr. DAWES. I yield the floor entirely.

Mr. HARRISON. It seems to me, as a member of the Committee on Indian Affairs, that it would be probably impracticable during this short session to conduct as thorough and searching an investigation of this important matter as it ought to have, and that the facilities of the committee for such an investigation would be greatly increased if the members could be upon the ground and come in contact with the existing state of things there. If it be true as the Senator from Missouri has stated—and I have no doubt it is, for he is apt to be accurate in such examinations—that these leases are in open defiance of an express provision of the Revised Statutes of the United States, and if it be true, as he intimates, that the Secretary of the Interior has by any indirection given some sanction and force to the leases—if we may take those two things to be established, one as a matter of law and the other as a fact, I do not see why we may not by a resolution, without any investigation, take such prompt steps as will prevent the continuance of that state of things or the recognition in any way of any future leases which may be made.

If we should do that, then the matter, it seems to me, might well be left until the next vacation, when the Committee on Indian Affairs

could make, on the ground, a searching inquiry into this question. The only thing to be lost by delay might be the making of new leases, or some increase of investment, or tightening of the grip of those who have got hold of some of the lands; and it seems to me that might be prevented, if the Senator from Missouri would present some resolution relating to this matter, either of instruction to the Secretary of the Interior or declaratory of the law in some way, and let us pass it promptly; and then let the investigation follow, and be conducted in a way that should be thorough and searching.

Mr. VEST. There are a good many difficulties which will present themselves to the Senator from Indiana after he has given his attention more fully to this subject. I have looked into it more closely, perhaps, than he has, for the reason that my State, the State of Missouri, is near the Indian Territory, and many citizens of the State are interested in this matter. As the Revised Statutes now stand, no lease is permitted with any Indian tribe for a single acre of their reservations. Notwithstanding that fact the anomalous condition is found now in the Indian Territory of nearly four million acres of land leased with the knowledge of the Interior Department; and the Secretary holds that it is not his duty to go into the question at all, but that he will simply protect the lessees and allow them to remain in possession, and not examine the question in the slightest degree.

In regard to this resolution, all I desire to know is the status of the law, the manner in which these leases have been obtained, and whether the Congress of the United States proposes to allow a few corporations or individuals to go into that Territory and take under leases millions of acres of land and accumulate millions of dollars, for the rent is simply nominal, while the rest of the people of the United States are excluded by the military authorities.

Mr. HARRISON. If the Senator from Missouri will allow me, my suggestion I thought was calculated to apply a prompter remedy than was suggested by the Senator from Missouri. I agree with him that it is a wrong and an outrage—or you may use the strongest terms in its description you please, and I agree with him—but if the Secretary of the Interior thinks it is not his business to interfere, then let us make it his business by some brief joint resolution on the subject which we can pass at once.

Mr. VEST. As I understand the position of the statutes to-day in regard to the Indian Territory, that entire Territory is under the supervision and absolute control of the Interior Department. If that be so, then no additional legislation is necessary, but it is our duty to ascertain why these leases are permitted, why it is that this great Department of the Government ignores the statute, which is as plain as any upon the statute-book, and says that this thing shall still continue to exist. I understand from the report of the Secretary of the Interior that he defends this system, and says it is proper and right and ought to be continued. Out of deference to him and to his practice under the law I thought it was better for the Committee on Indian Affairs to examine the whole subject and make a report.

In regard to the suggestion of the Senator from Texas [Mr. MAXEY] that the subject-matter of my resolution is covered by an antecedent resolution, he will find upon examination that he is mistaken. The first resolution upon this subject was one offered by the Senator from Arkansas [Mr. WALKER] December 4, 1883, and is as follows:

Resolved, That the Secretary of the Interior be, and he is hereby, directed to furnish, for the information of the Senate, copies of all documents and correspondence in his office relating to leases of lands in the Indian Territory to citizens of the United States for cattle-grazing and other purposes.

The report in response to that resolution is the document from which I have read this morning to the Senate. It does not cover the manner in which the leases were made; it does not touch the legality of the leases.

Following that resolution came another, offered by the Senator from Indiana [Mr. VOORHEES], and the date of that, as shown by the Journal, is February 25, 1884. That resolution does not cover this point as I understand it. It reads:

Whereas in compliance with Senate resolution of December 4, 1883—

Which I have just read—

Whereas in compliance with Senate resolution of December 4, 1883, the honorable Secretary of the Interior has transmitted copies of documents and correspondence relating to leases of lands in the Indian Territory to citizens of the United States for cattle-grazing and other purposes; and

Whereas it appears from Executive Document No. 54 of the present session of Congress, containing said copies of correspondence, &c., that several million of acres of land in the Indian Territory have been leased to citizens of the United States for cattle-grazing purposes: Therefore,

Be it resolved, That the Committee on the Judiciary be, and they are hereby, instructed to investigate the matter of said leases; whether the same have been made in conformity to law; whether any money paid by any of the lessees under the terms of said leases have been covered into the Treasury; whether any of said lessees have attempted to survey any of the lands in said Indian Territory belonging, secured, or granted by treaty with the United States to any Indian tribe, or has designated any of the boundaries of said lands by marking trees or otherwise; and that said committee be instructed to report by bill or otherwise at any time.

That simply affects the legal status of this case. Now comes the resolution which was sent to the desk by the Senator from Massachusetts, and which reads:

Resolved, That the Committee on Indian Affairs, or any subcommittee thereof appointed by its chairman, is hereby instructed to inquire into the condition of the several tribes and bands of Indians in the Indian Territory, the tenure by which the lands in the several reservations in said Territory are now held, and the character of their actual occupation and use, the condition and rights of the freedmen among said Indians, and the relation of said tribes to the United States and to each other, and the need, if any, of legislation in respect to the same; and for that purpose shall have power, &c.

By some construction it might be said that this last resolution would cover the subject, but I desire to put it so specifically and so directly before the committee and the country that there can be no mistake about it.

In regard to the suggestion of the Senator from Kentucky [Mr. BECK] I have simply to say that I understand the Senator from Michigan [Mr. CONGER] to object to the present consideration of this resolution. If so, I will ask that it lie on the table and be printed, and we can amend it when it comes up.

Mr. BECK. That is right.

Mr. VEST. I have no objection to extending the inquiry to the Crow reservation.

Mr. MAXEY. I was of the impression, from my recollection of the resolution which we adopted during the last session, that it was sufficiently broad to cover the investigation proposed by the Senator from Missouri. That was my opinion, and, having just now re-examined it, I am of that opinion yet. At the same time if it is not broad enough I desire the inquiry to extend fully and completely to the questions presented by the Senator from Missouri, because they ought to be inquired into. I have heard a great many criticisms about the leases in the Indian Territory just north of me. Lands are rented there for a price greatly less than is paid for corresponding grazing lands in my State; and I think there is much dissatisfaction among the Indians growing out of the leasing of the lands in such large bodies, as well as at such low figures. How those leases were procured I do not know; but I do know that the lands in the Indian Territory are as fine grazing lands as there are in America, and that they are rented to-day at very small figures as compared with corresponding grazing lands elsewhere.

That ought to be looked into. But that is not the only question which I desire to have inquired into. I call the attention of the chairman of the Committee on Indian Affairs to the fact that there are many questions of great moment to the welfare of the Indians, which I called to the attention of the Senate last session, that need prompt action. I did say at the last session, as the Senator will remember very well, that I was exceedingly anxious that the committee should visit the Indian Territory in person and make examination for themselves, send for books, persons, and papers, and make a complete and exhaustive report to this body for our action, not only upon this question, but upon many others that I could name which need to be examined, to the end that the Senate in then pending legislation should act advisedly.

If the committee could at the present session make these examinations, which I regard as important and urgent, I should be very glad. If they can not do it, of course that settles it for the present Congress. I only desired to call the attention of the chairman of the Committee on Indian Affairs to the fact that there ought to be an examination, rigid and thorough, into the affairs of that Territory. I do not know much about the reservations, and am willing to act as the investigations may show to be right as to them.

Mr. CONGER. I asked that the resolution might go over until to-morrow because I desired to see whether the Committee on Indian Affairs and the Committee on the Judiciary, which have been instructed by resolutions, direct and positive, to make reports upon particular subjects connected with this general topic, had made any reports, and what they were.

Mr. GARLAND. Allow me to interrupt the Senator for a moment.

The PRESIDENT *pro tempore*. Does the Senator from Michigan yield?

Mr. CONGER. For an inquiry.

Mr. GARLAND. The resolution to which the Senator from Missouri referred as having been introduced by the Senator from Indiana [Mr. VOORHEES] to instruct the Judiciary Committee was amended, and in place of the Judiciary Committee it was directed to the Committee on Indian Affairs. So that resolution went to them also.

Mr. CONGER. Then there have been two or three resolutions directing the Committee on Indian Affairs (instead of the Committee on the Judiciary as to one) to make a report upon a particular subject. Now, I suppose it is known to every man who has had any familiarity with Indian reservations, not only in the Indian Territory but throughout other parts of the country, that grazing lands and lands for meadows where the grass could be cut on the Western prairies and all over that region have been either seized upon by cattle-dealers, ranchmen, or under some pretended lease—such lands have been taken, been pastured, the grass cut, all for a mere nominal price of no value to the Indians and with no regard for their rights.

I had hoped that there would be a report upon some of these resolutions which at least would give some information to the Senate upon these subjects. I am in full accord with the Senator from Missouri in having this investigation made, if it would be any better than the resolutions which have already been passed by the Senate. The resolution

of the Senator from Missouri gives power to send for persons and papers. It gives no authority to send agents or examiners to find what on the ground the particular condition of affairs is. I will venture to say that there is not a reservation on the whole Western border where the Indian lands suitable for meadows and for mowing the grass have not been used by cattle-men or by those living near there, and the grass cut or the lands pastured without any valuable compensation to the Indians throughout hundreds and thousands and hundreds of thousands of acres. Some of these things I know myself by inquiry for two or three years in succession, and I have called attention to them heretofore.

I desire to have the resolution go over, so that its scope may embrace an inquiry in regard to all these trespasses upon the reservations and rights of the Indians, that the actual condition of the Indian reservations, not only in the Indian Territory but throughout all the West, may be ascertained, and, if necessary, some legislation may be had which shall protect the Indians against the encroachments of the whites. That is the only object I have in desiring that the resolution shall go over, until I can see what reports have been made, if any, and how much answer has been made to the inquiries which the Senate has ordered heretofore.

Mr. BECK. Mr. President, the debate is going on by general consent, I believe, and so I suppose I may be allowed a word. As the Indian matter is being discussed—in which the Senator from Massachusetts takes great interest, and I know he desires to do everything he possibly can to correct evils in connection with the leasing of lands and the purchasing of stock in the Indian Territory, and I believe it exists elsewhere—I hope the committee who are to investigate the subject will see how far these things are carried on.

We have been purchasing large numbers of milch cows and other stock to aid Indians, and have asked them to convert their ponies into cattle so as to have a market for them, and we permit by law or by sufferance or something "squaw-men" to settle among them—that is, white men who pretend to have married squaws; and while we do not allow white people to trade with the Indians, the "squaw-men" can trade with them. Cases were brought before the Committee on Appropriations last year where men claiming to have married squaws, and so having a right to trade, were buying cattle by the hundreds from the Indians at ten or twelve dollars a head, and white men outside were furnishing the money to make the purchases of cattle that the Government paid thirty, forty, or fifty dollars a head for. They were stripping the Indians of cattle under the claim that having married squaws they had the right to trade with them, and outside white men were furnishing the money and the cattle were being taken away. When an Indian agent thought of stepping in in the Indian Territory he was brought here for reproval, but the Secretary of the Interior took his side and said he was right; but the Commissioner of Indian Affairs was unable to find any law that prevented the "squaw-men" from doing this.

I hope the Indian Committee will find some way very promptly to stop that condition of things as well as the leasing of lands, for there is no use in our buying cows at $40 a head for the Indians and letting white men outside furnish the "squaw-men" $10 apiece and take them all away from the Indians, as is being done.

Mr. DAWES. I hope the Senator from Michigan will allow me——

The PRESIDENT *pro tempore*. Does the Senator from Michigan yield to the Senator from Massachusetts?

Mr. CONGER. I do. I thought unanimous consent was given to everybody to speak.

Mr. DAWES. The Senator from Kentucky, as well as myself, went into the very question to which he calls attention.

Mr. BECK. We stopped it in the appropriation bill for this year, but not by a general law. We provided only that that money should not be so used.

Mr. DAWES. That went as far as the Committee on Appropriations could go.

Mr. BECK. Yes; but now let the Committee on Indian Affairs present a general law.

Mr. DAWES. The Committee on Appropriations in that regard have done all that it was in their power to do. The transactions to which the Senator from Michigan allludes are trespasses on the Indian lands, altogether different from the transactions to which attention has been called this morning. In respect to those transactions the Indian Bureau have called the attention of Congress time and again to the necessity of legislation giving that office power to prevent these trespasses. The only power they have now is the imposition of a fine upon an irresponsible man, who has nothing to do but to go the next day and take the poor debtor's oath and repeat his trespass. This man Payne has done that over and over again in the courts in Arkansas, and atoned in that way for his trespasses upon the Indian lands. The Committee on Indian Affairs have reported time and again to this body a bill giving sufficient authority to the Indian Bureau to put a stop to these trespasses. At the last session the Senate passed that bill. If the bill shall become a law before the expiration of this Congress, the Indian Bureau will be clothed with authority sufficient to put an end to this kind of trespass if they have the disposition.

These leases of the Indian lands are no more outrageous than leases of the public lands which have been going on before the eyes of Congress and the administration for two or three years past. Almost all the public lands are fenced in now by wire fences and appropriated by the cattlemen; they have gone from the Indian lands to the public lands, and from the public lands to the Indian lands. The Committee on Indian Affairs visited during the recess, under the instructions of the Senate, a reservation of 102,000 acres, 85,000 of which are in the absolute and exclusive possession of outsiders with their herds of cattle and their flocks of sheep, consuming everything that grows upon that land, while the Indian Bureau has been obliged to advertise for contracts to furnish beef to support the Indians on the reservation and has bought the beef of the men who fattened it upon the Indian reservation itself to feed the Indians, when if they could have had their own reservation they would not only have been self-supporting Indians, but would have had an income—Indians who sold in one year 17,000 bushels of wheat from a reservation which is now occupied entirely or almost entirely by private individuals without any power on the part of the Government to dispossess them.

Such is the spirit not only about the Indian reservations, but the public lands generally. There is abroad in the country a disposition on the part of private individuals to appropriate public lands as well as Indian lands; and the barbed-wire-fence mania which has taken possession of our people, and the great profits growing out of the raising of cattle and sheep upon this large domain, imposed upon Congress a serious and imperative duty to find some remedy, or the public lands and the Indian lands will pass irrecoverably into the possession of large landholders, foreigners as well as citizens of the United States.

I hope that this matter will not end in talk, nor will it be confined alone to the Indian reservations. As alarming a condition of things exists on the public lands without regard to the Indians as exists today in the Indian Territory and on the reservations. Here is the Crow reservation, from a large portion of which Congress by legislation withdrew the Crow Indians to a place where they could support themselves, leaving for disposition by legislation or by treaty a large tract, two or three hundred thousand acres, more or less, to be disposed of for the benefit of the Indians. In this vacation cattle-men have got their influence over the Indians and have obtained a lease for thirty or more years of that whole territory, and I understand the Crows have the authority to make this lease by virtue of their own treaty.

It is necessary for Congress to do something. I think we have evidence enough here, evidence enough without sending a committee out upon these reservations, to require of us immediate, prompt action, clothing the Indian Bureau with the authority and imposing upon it the duty to restore the Indian lands to their rightful occupants and the public lands to the public domain, to be appropriated for the benefit of the United States and of the Indians, rather than to the profit of those who are engaged in raising cattle.

Mr. CONGER. Will the Senator state the reservation which has been visited this year, and whether the committee have made a report on the condition of that reservation?

Mr. DAWES. The reservation to which I alluded is the Round Valley reservation in California. The committee have not made a report, because the investigation was during the recess, and this morning only has the Senate ordered the testimony to be printed for the use of the committee.

Mr. CONGER. From some information I have had I supposed the committee found there that the Indian land of the Round Valley reservation in California had been leased by Government officials.

Mr. DAWES. There are no leases in that valley. It is occupied by private individuals by sufferance, and they have occupied it for ten or fifteen years—eighty-five or more thousand acres out of one hundred and two thousand—and have absolute control of it.

Mr. CONGER. Mr. President, I know that in getting timber from Indian reservations, either cutting down trees or taking away timber that has been cut in some way on reservations, with which I am somewhat familiar, where there are meadow lands, white men have gone in with their mowing-machines and taken in some instances the entire meadow lands and cut the grass from them, so as to leave the Indians, who have their own machines, without any land to mow, without any grass, without any meadow to cut. That has been going on within my observation and knowledge for some three or four years inside of States and Territories on our Western border and under the immediate observation of Government officials and Indian agents. It was in reference to such a condition of things that I desired a resolution of this kind to be large enough to meet what I conceive the demands of justice toward the Indian and toward the Government.

Let the resolution go over until to-morrow.

The PRESIDENT *pro tempore*. The resolution goes over until to-morrow. If there be no objection it will be printed. Resolutions are still in order.

CAPTAIN WHEELER'S REPORT.

Mr. COCKRELL submitted the following resolution; which was referred to the Committee on Printing:

Resolved, That the report of Capt. George M. Wheeler, Corps of Engineers, United States Army, on the Third International Geographical Congress and

Exhibition at Venice, Italy, with the accompanying illustrations, transmitted to the Senate by the Secretary of War on December 10, 1883, be printed for the use of the Senate.

Mr. COCKRELL. I hope the Committee on Printing will take cognizance of the subject and act upon it promptly.

WILLIAM H. FENTON.

Mr. CAMERON, of Pennsylvania. I ask that the vote by which Senate bill No. 1103, to remove the charge of desertion from the military record of William H. Fenton, was indefinitely postponed be reconsidered and that the bill be referred back again to the Committee on Military Affairs.

The PRESIDENT *pro tempore*. The Senator from Pennsylvania asks unanimous consent that the vote of the Senate taken, as the Chair sees, on the 15th of February last, indefinitely postponing the bill (S. 1103) to remove the charge of desertion from the military record of William H. Fenton be reconsidered. The bill was reported adversely and postponed indefinitely on the 15th of February. Is there objection to the reconsideration proposed? The Chair hears none, and the vote postponing the bill is reconsidered. The bill is now before the Senate.

Mr. CAMERON, of Pennsylvania. I move that the bill be now referred to the Committee on Military Affairs.

The motion was agreed to.

Mr. COCKRELL. Let the report be recommitted with the bill.

The PRESIDENT *pro tempore*. The report will be recommitted also, if there be no objection.

ADMISSION OF DAKOTA.

Mr. HARRISON. I desire to give notice that on Tuesday next I will call up and ask the Senate to proceed to the consideration of the bill (S. 1682) to enable the people of that part of the Territory of Dakota south of the forty-sixth parallel of north latitude to form a constitution and State government and for the admission of the State into the Union on an equal footing with the original States, and for other purposes. I shall hope to have the attention of the Senate to the measure at that time. I believe there is no other special order for that day.

Mr. VEST. It is only a notice that is given, I believe.

Mr. HARRISON. I give the notice because I want my friend from Missouri to have a little time for reflection, in the hope that he will by that time see the great injustice of refusing longer to admit to full national citizenship this great and enterprising population.

Mr. VEST. I am very much obliged to the Senator from Indiana.

GOVERNMENT'S INTEREST IN ENCUMBERED PROPERTY.

The PRESIDENT *pro tempore*. If there be no further resolutions that order is closed. The Senate proceeds to the consideration of the Calendar in pursuance of Rule VIII. Order of Business 314 is the first in order. This bill was under consideration under Rule VIII, and by a vote of the Senate its consideration was proceeded with notwithstanding an objection. The bill is now before the Senate as in Committee of the Whole and will be read for information.

The Chief Clerk read the bill (S. 1733) to provide for protecting the interests of the United States in respect of any incumbrances on property wherein they have an interest.

The PRESIDENT *pro tempore*. The pending question is on an amendment offered by the Senator from Alabama [Mr. MORGAN] when the bill was under consideration on the 23d of May last, which will be read.

The CHIEF CLERK. In line 17, after the word "made," it is proposed to insert:

Provided, That if the lien, incumbrance, or mortgage to be paid off or removed is upon the property of a railroad company, the same shall not be paid by the United States until after the validity and amount of such lien, mortgage, or incumbrance shall have been ascertained and settled by the judgment or decree of a court of competent jurisdiction.

Mr. MORGAN. The Senator from Arkansas [Mr. GARLAND], who has charge of this bill, I believe, is not in the Chamber at this moment. I would much prefer that the consideration of it should proceed while he is here. I will therefore suggest that it be postponed until to-morrow at the expiration of the morning hour and be made the special order at that time, so that the Senator from Arkansas may come in and take charge of it.

Mr. HOAR. Why not let it go over by unanimous consent, holding its place on the Calendar? I think it can be disposed of under the five-minute rule.

Mr. MORGAN. I prefer that course if the Senate will agree to it.

The PRESIDENT *pro tempore*. The Senator from Alabama suggests that this bill be passed over for to-day, retaining its place on the Calendar.

Mr. MORGAN. I see that the Senator from Arkansas is now in his seat.

The PRESIDENT *pro tempore*. The Senator from Alabama withdraws his suggestion.

Mr. MORGAN. I withdraw the suggestion if the Senator from Arkansas wishes to go on with the bill.

The PRESIDENT *pro tempore*. The question is on agreeing to the amendment proposed by the Senator from Alabama.

Mr. GARLAND. In view of some general action on the subject to which this bill relates, I ask permission of the Senate to pass it over without losing its place.

The PRESIDENT *pro tempore*. The Senator from Arkansas asks that this bill be passed over, retaining its place on the Calendar under Rule VIII. Is there objection? The Chair hears none.

W. C. MARSH.

The next bill on the Calendar was the bill (S. 1031) for the relief of W. C. Marsh; which was considered as in Committee of the Whole.

The bill was reported from the Committee on Claims with an amendment, in line 5, after the word "dollars," to strike out "in gold coin;" so as to read:

That the Secretary of the Treasury of the United States be authorized and directed to pay W. C. Marsh, of Tennessee, $2,054, the same being the amount taken from him on or about the 10th day of February, 1863, by the officers commanding the gunboat New Era, and turned into the Treasury of the United States.

Mr. COCKRELL. Mr. President, let the report be read.

The PRESIDENT *pro tempore*. The report will be read.

The Secretary read the following report, submitted by Mr. DOLPH March 5, 1884:

The Committee on Claims, to which was referred the bill (S. 1031) for the relief of W. C. Marsh, respectfully reports:

That the said claimant, William C. Marsh, who was at the time a citizen of the United States and a resident of the county of Tipton, in the State of Tennessee, on or about the month of January, 1863, obtained permission from the military authorities at Memphis, Tenn., to ship a quantity of cotton to Saint Louis, in the State of Missouri, and that in accordance with such permission he shipped his cotton—about eighteen bales—to Saint Louis, and sold it for $3,500 in United States currency, which he converted into $2,228 in gold coin, and then took passage on a regular steam transport plying between the cities of Saint Louis and Memphis, and started on his return, via Memphis, to his home in Tipton County; that when said steamer had reached a point at or near Island No. 10, in the Mississippi River, which was on or about the 10th day of February, 1863, the Federal forces upon the United States gunboat New Era seized said transport and took charge of her and the passengers on board, and seized and took from the said claimant the sum of $2,054 in gold coin, which was taken to the city of Cairo, where the same was duly libeled by the district attorney of the southern district of the State of Illinois in the district court of said district, as forfeited to the United States, for the reason that the same at the time of the seizure was being transported from a portion of the United States, to wit, the State of Missouri, to another portion of the United States, to wit, the State of Tennessee, contrary to the act of July 13, 1861, which libel was filed June 2, 1863; and afterward the said claimant appeared and filed a bond and stipulation in the said court, and the said gold coin was delivered to him; that afterward and on the 23d day of January, 1864, the cause coming on to be heard in the said court, the said claimant appeared, by his proctor, J. O. Broadhead, esq., and confessed the allegations of the libel to be true; and it was thereupon ordered, adjudged, and decreed by the court that the libellant (the United States) have and recover from the said claimant the sum of $2,054, the amount of his bond and stipulation filed in said cause, and that execution issue against the said claimant and Jacobs Burns, his surety, therefor. On the same day the claimant filed in said court a petition praying for the remission of the forfeiture of said gold coin, and the district attorney having consented that the same might be heard, the court proceeded to hear the proofs in support of said petition, and ordered that the execution of the decree of forfeiture should be staid until the action of the Secretary of the Treasury in the premises, and proceeded to hear the evidence, and made the following findings of fact:

"First. That the claimant, William C. Marsh, is an illiterate man, unable to read or write, and that he is a poor and honest laboring man.

"Second. That said Marsh is no trader or speculator, and his business is that of a farmer, and that he rents the lands cultivated by him.

"Third. That the $2,054 gold coin found on the person of said claimant Marsh was his own property, no other person having any interest in it, it being the proceeds of certain cotton raised and sold by him.

"Fourth. That said claimant Marsh was carrying said gold coin home with him for the use of himself and family in good faith, without any intention of fraud, he being ignorant of any law, order, or regulation forbidding the carrying of coin into said State of Tennessee.

"Fifth. That said claimant Marsh is and ever has been loyal to the Government of the United States, and that while Tipton County, Tennessee, the home of said claimant, was under rebel rule, he persistently and continuously avoided giving them any aid or comfort or in any way recognizing their authority.

"Sixth. No proof was taken in support of the libel or against the petition of the owner.

"S. H. TREAT, *District Judge*."

The petition and findings having been presented to the Secretary of the Treasury, the Acting Secretary of the Treasury, on April 20, 1864, addressed the following communication to the Solicitor of the Treasury:

"TREASURY DEPARTMENT, *April* 30, 1864.

"SIR: Application has been made by William C. Marsh, of Tipton County, Tennessee, for the remission of a forfeiture of $2,054 in gold coin, seized at Island No. 10, in the Mississippi River, and libeled in the United States district court for the southern district of Illinois, for violation of an act of Congress approved July 13, 1861.

"After a careful review of the summary examination had before the judge of said court, I see no sufficient reason to grant the prayer of the petitioner. You will accordingly please instruct the United States district attorney for said district that the application for the remission of the forfeiture in said case has been denied.

"Respectfully,

"GEORGE HARRINGTON,
"*Acting Secretary of the Treasury.*

"EDWARD JORDAN, Esq.,
"*Solicitor of the Treasury.*"

While the facts found by the district judge upon the summary hearing of the petition for a remission of the forfeiture would seem to have justified the Secretary of the Treasury in granting the prayer of the petitioner, there may have been circumstances which are unknown to your committee which rendered a strict enforcement of the act of July 13, 1861, necessary. Your committee is of the opinion that the claimant is equitably entitled to relief, and recommends

that the bill be amended by striking out the words "in gold coin," in line 5 of the bill, and that the bill as amended do pass.

The PRESIDENT *pro tempore*. The question is on the amendment reported by the committee.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

RICHARD HAWLEY & SONS.

The Senate, as in Committee of the Whole, proceeded to consider the bill (S. 1170) for the relief of Richard Hawley & Sons. It proposes to direct the Secretary of the Treasury to refund to Richard Hawley & Sons, of Detroit, Mich., $473.20, collected of them as duty on malt in excess of the amount authorized by law.

Mr. COCKRELL. I see that there is a report there. Let it be read.

Mr. PALMER. I would call for the reading of the report.

The PRESIDING OFFICER (Mr. GARLAND in the chair). The Senator from Missouri has called for its reading. It will be read.

The Secretary read the following report, submitted by Mr. FAIR March 5, 1884:

The Committee on Claims, to whom was referred the bill (S. 1170) for the relief of Richard Hawley & Sons, respectfully report as follows:

The evidence before the committee shows that Richard Hawley & Sons, of Detroit, imported from Canada in July, 1870, three lots of malt, amounting in all to 6,415 bushels, or 230,940 pounds. In Canada an excise tax of 1 cent per pound was imposed on all malt consumed in that country, and malt out of bond, or in the market for consumption or use, was worth 1 cent per pound more than malt in bond. The petitioners bought this malt in bond, and therefore the excise tax of 1 cent per pound was never paid or demanded in that country. The entry was duly made in this case at the Detroit custom-house at the price actually paid for the malt in Canada.

But it was claimed by the collector of the port of Detroit, in accordance with a decision previously made by the Secretary of the Treasury, that duty must be paid upon this malt according to its value in Canada out of bond at the time of its purchase; and that this value must be ascertained by adding to the price actually paid the excise tax of 1 cent per pound. This valuation of the collector increased the value of the malt, and commission included, $2,367.13, and upon this increased valuation duty was exacted at the rate of 20 per cent., or to the amount of $473.42.

Hawley & Sons paid the duties so imposed, verbally protesting against the exaction, and declaring their intention to appeal to the Department. They were told by the collector that they had the right to do so, but that the Department would undoubtedly reaffirm its decision; and then read to them the decision which had been made by the Secretary.

The United States court in Chicago, in November of that year, rendered a decision on the identical question, in a cause then pending in said court, annulling the ruling of the Secretary of the Treasury and in favor of the importer. The court held that the price paid gave the dutiable value. This decision of the court was thereafter recognized by the Secretary of the Treasury, and he thereafter refunded all duties so illegally collected where protest was made and appeal taken by the importer, but refused to refund the excessive duties collected in this case because no appeal was taken, he having no authority to refund except in cases in which protest and appeal had been duly taken, or failure to appeal was shown to be owing to causes beyond the control of the importer.

There has never been any controversy between the petitioners and the officers of the Government in relation to the facts in this case.

The officers of the United States have illegally collected from the petitioners the sum of $473.42, and aside from the fact that they had no right to collect and the United States have no right to retain this sum, the committee are of opinion that the facts of this case bring the petitioners within the spirit of the remedial statute, and equitably entitle them to relief. They agree perfectly with the court as to the true rule for the valuation of property so imported into this country, and are of opinion that the money so paid into the Treasury in excess of the requirements of the law should be refunded. The petitioners made a mistake of 23 cents in making up the amount improperly collected of them. The committee recommend that the bill do pass.

Mr. COCKRELL. I should like to inquire if this does not involve a very important principle. As I understand, under the customs laws there are thousands of cases now pending in the Treasury of applications for the refund of customs duties. The law is very explicit; it points out exactly the steps that shall be taken when there is any controversy in regard to the payment of customs duties; and unless the parties take these necessary steps they are entitled to no relief. Now, as I understand, in this case they did not take the steps. If they had, they would have had a perfect legal remedy.

Mr. CAMERON, of Wisconsin. The Senator will permit me to say that if they had followed the statute and taken an appeal, as the statute says they may do, the Secretary of the Treasury would have refunded to them the amount.

Mr. COCKRELL. That is precisely the point. There is no question about that.

Mr. CAMERON, of Wisconsin. Not having done that, the committee were of the opinion that their equitable right to relief existed, and that Congress having authority to grant that equitable relief, the committee would recommend the passage of the bill.

Mr. COCKRELL. Then why not pass a general law authorizing refunds in all cases? Is there anything in this case that renders it an exception to the rule? That is the question. If there is nothing in this case to render it an exception, it is a gross injustice to other persons who have failed to make an appeal and whose cases were afterward decided to be on the same footing.

I understand that there are thousands of cases where, after a lapse of years, a decision has been rendered by which customs dues would be refunded if the parties had appealed; but they, not having appealed, have no remedy. Now, if we are going to give relief to one class of these persons, ought we not to give it to the others? Do the committee say that wherever a man has paid customs duties and has failed to take the appeal prescribed by law, and the courts afterward decide that he would be entitled to a refund if he had taken the prescribed steps, he shall have relief, or do they make exceptions?

Mr. CAMERON, of Wisconsin. That question was not presented to the committee. The question presented to the committee was, whether or not, in this case, the committee would recommend that these parties have relief. The question as to whether a general act should be passed embracing the thousands of cases, if there be thousands of cases, now pending before the Treasury Department which are somewhat analogous to this was not presented to the Committee on Claims. The question presented to that committee was simply whether or not, these parties having been required by the collector of customs at Detroit to pay the sum of four hundred and odd dollars in excess of the amount which under the law they ought to have been required to pay, the committee would recommend the passage of this bill for their relief.

Mr. COCKRELL. Then I understand that the committee would in all cases——

Mr. CAMERON, of Wisconsin. The Senator does not understand me.

Mr. COCKRELL. It is a very important question, an exceedingly important question, and if the committee has not considered that question it ought to have considered it. That is the point I make, because we can not afford to lay down the bars in that way. There are millions—yes, $20,000,000 involved in this identical principle, at least $20,000,000, and the reports of the Secretary of the Treasury will show it.

Mr. CAMERON, of Wisconsin. The Committee on Claims has enough to do to consider the questions presented to it. The question presented by the Senator from Missouri, as I have already stated, was not submitted to that committee at all. This bill was introduced and referred to that committee, and it became the duty of the committee to consider this bill. It considered it without regard to any other claims that are or may be pending against the Government.

Mr. CONGER. This occurred in the spring of 1870. A protest was made against it on the ground that 1 per cent. extra duty was charged. Before that time the Treasury Department had ruled that that should be the measure of the duty. The only point here is that the persons mentioned in the bill, Hawley & Sons, did not appeal within the proper time; but in November of that same year a case was carried up from Chicago embracing the same state of facts, involving the same judicial question, and the court decided that the proportion of the value of malt which would be called export charges was not a proper item in calculating the duty, and after that the Treasury Department acquiesced in that decision, and collected no more tax on that account; but the time for an appeal had passed.

This matter was presented to Congress almost immediately after that. I think I introduced the bill in the House some years ago and it passed the House, but never passed both Houses during the same Congress.

There is no doubt about the equity of this bill, and there is no doubt about the practice of Congress to refund money which has been paid by an improper decision of the Treasury Department. It can not affect other cases. Every case of that kind stands on its own merits.

Mr. MORRILL. Mr. President, I agree with the Senator from Missouri that to pass this bill would be setting a dangerous precedent, going back fourteen years; and if we may go fourteen years we may go twenty. And he has not overstated the amount that would be liable to be drawn from the Treasury if this should be established as a precedent.

This bill, I think, was before the Committee on Finance, and it was virtually there rejected; and I may say that at the last session a bill by some accident involving the same principle, that is, where a party had failed to take an appeal within the proper time, got through our committee, but afterward it was reconsidered and the bill was withdrawn from the files of the Senate.

I hope that no precedent will be established to-day on a question of this kind, as it will undoubtedly revive some thousands of claims. Perhaps five thousand cases would not begin to approximate the number that would be brought here for revision by Congress if this should be established as a precedent.

Mr. CONGER. The statute-books are full of just such cases as this at every session, where Congress does justice to a person who has been compelled to pay unjust duties. I am surprised at gentlemen. It is because the Department has not the power to do what is equitable and right that men come to the law-making branch and ask it to do what is right. This is one of those cases—nothing new, nothing unusual. All the time that any man has spent in the Senate or in Congress there has never been a session but that the same class of relief has been furnished by Congress.

Mr. ALLISON. Mr. President, I move that the Senate do now adjourn.

The motion was agreed to; and (at 1 o'clock and 44 minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, *December* 2, 1884.

The House met at 12 o'clock m. Prayer by the Chaplain, Rev. JOHN S. LINDSAY, D. D.

The Journal of yesterday's proceedings was read and approved.

The following additional members appeared: Messrs. BAGLEY BLANCHARD, BRUMM, FIEDLER, GARRISON, MORSE, PERKINS, PHELPS, SPOONER, CHARLES STEWART, STORM, WAKEFIELD, WILLIAMS, GEORGE D. WISE, and WEAVER.

SWEARING IN OF A MEMBER.

Mr. WILSON, of Iowa. Mr. Speaker, I present the credentials of Hon. Hiram Y. Smith, elected from the seventh Congressional district of Iowa, to fill the vacancy caused by the resignation of Hon. John A. Kasson.

The SPEAKER. The credentials will be read.

The Clerk read as follows:

To whom it may concern:

This is to certify that at a general election holden on the 4th day of November, A. D. 1884, Hiram Y. Smith was elected to the office of Representative in Congress from the seventh Congressional district of said State for the term of two years from the 4th day of March, A. D. 1883, to fill the vacancy occasioned by the resignation of John A. Kasson.

In testimony whereof I have hereunto set my hand and caused to be affixed the great seal of the State of Iowa.

Done at Des Moines, this twenty-eighth day of November, in the year of our Lord one thousand eight hundred and eighty-four, of the Independence of the United States the one hundred and ninth, and of this State the thirty-eighth.

[SEAL.] BUREN R. SHERMAN.

By the governor:

J. A. T. HULL,
Secretary of State.

W. T. HAMMOND,
Deputy.

Mr. SMITH appeared at the bar of the House and was qualified by taking the oath prescribed by section 1757 of the Revised Statutes.

CHARGES AGAINST MARSHAL OF SOUTHERN DISTRICT OF OHIO.

Mr. FOLLETT. As a privileged question, I submit what I send to the desk and desire to have it read.

Mr. REED. I reserve all points of order.

The SPEAKER. The paper will be read subject to the right of objection.

The Clerk read as follows:

I do impeach Lot Wright, United States marshal of the southern district of Ohio, of high crimes and misdemeanors.

I charge him with usurpation of power and violation of law:

In that he appointed a large number of general and special deputy marshals to serve at the several voting precincts in the city of Cincinnati, in the State of Ohio, at an election for members of Congress held in said city on the 14th day of October, A. D. 1884, and armed said deputy marshals with pistols and other deadly weapons said to have been furnished by the War Department of the United States Government;

In that a large number of the deputy marshals so appointed and armed were notorious criminals and men of known vicious and brutal habits and reputation, and many of them non-residents of said city of Cincinnati and of said State of Ohio;

In that the said deputy marshals, acting under his orders and directions, aided, abetted, and encouraged fraudulent voting, intimidation of voters, and gross outrages upon the elective franchise and the rights of the honest voters of said city in furtherance of the interests of a political party and its candidates: Therefore,

Resolved, That the Committee on Expenditures in the Department of Justice be required and directed, as soon as the same can reasonably be done, to investigate such charges and report to this House.

First. How many deputy marshals, general and special, were appointed and authorized by said United States marshal for the southern district of Ohio to serve at the several voting precincts of said city at said election, with the name and residence of each and the voting precinct to which each was assigned.

Second. What citizens, if any, of said several precincts asked for the appointment of such deputy marshals, with the names of such citizens and the reasons, if any were assigned, for such request.

Third. Whether any, and, if so, how many, of such deputy marshals have, prior to such appointment, been accused or convicted of crime, or were men of known vicious and brutal habits and reputations.

Fourth. Whether said deputy marshals were under the direction and control of partisans, and used the powers vested in them in the interest of any political party, and aided, countenanced, and encouraged fraudulent and illegitimate voting in the interest of such political party and its candidates.

Fifth. What number and what kind of pistols or other deadly weapons were put into the hands of said deputy marshals, who furnished the said weapons, from whence were they received, why furnished, and how many of such weapons have been returned, together with the names of such deputy marshals as have failed to return the weapons furnished them.

Sixth. What amount of money has been paid to such deputy marshals, and by whose order was the same paid, and at what rate per day.

Seventh. Any other matter or thing connected with or germane to the general subject of such investigation.

Resolved, That in making such investigation the said committee be empowered to appoint a subcommittee of three, consisting of the chairman of said committee and such other two members thereof as he may select, which subcommittee shall have full power to meet and hold its sessions at such times and places as may seem proper, to send for persons and papers, to compel the attendance of witnesses and to require them to testify, to employ a stenographer, and to incur any and all such necessary and reasonable expenditures as may be deemed requisite for the purposes of such investigation, such expenditures to be paid out of the contingent fund of the House.

Mr. KEIFER. I make the point of order that those resolutions are not in order at this time. It may be understood that in the discussion of this question of order we are not called upon to go into the merits of the proposition presented. Under what rule it could be in order I am unable to guess. It is a proposition to investigate charges against an officer of the United States. It is not a question of impeachment. That is not presented. It will not make the resolution in order to say that it looks to impeachment, for that does not meet the question of privilege. If articles of impeachment were preferred under the Constitution of the United States, this rule, I have no doubt, would prevail.

The present occupant of the chair has passed upon this question and decided that a proposition to investigate charges against an officer of the United States is not a question of privilege; although it was claimed, I believe, by the gentleman who submitted that proposition at the first session of this Congress that his proposition looked to the question of impeachment. I now desire to call attention to the decision of the Chair on that occasion. Referring to the Journal, in the appendix to the Journal of the last session, page 1789, I find that on the 4th of February, 1884, the gentleman from Illinois [Mr. SPRINGER] submitted a resolution in many respects similar to this, looking to the investigation of charges that had been preferred by the petition of a gentleman named Webb against the chief-justice of the Territory of New Mexico. It was proposed by the gentleman from Illinois to have the Committee on the Judiciary investigate the charges preferred in the petition that accompanied the resolution, and they were required specifically to investigate and report upon these matters. There was given also to that committee by the terms of the resolutions submitted the right to send for persons and papers and conduct an examination to the close. The gentleman from Iowa, Mr. Kasson, made the point of order that that resolution did not present a question of privilege, and the Journal shows—I have not consulted the CONGRESSIONAL RECORD, but the Journal shows that the Speaker sustained the point of order on the ground that the resolution proposed an investigation of certain charges set forth in the memorial and accompanying papers against the said chief-justice and did not specifically propose articles of impeachment. The resolutions now submitted do not specifically propose articles of impeachment; and hence, following the ruling held by the present Speaker, these resolutions must be held not to be in order.

It will be time enough to discuss the questions presented on the merits when we reach that matter in the proper way and at the proper time. I have accomplished all I desire now by submitting the point of order as against these resolutions.

Mr. FOLLETT. In the preparation of these resolutions I adopted a form furnished by the records of the Thirty-ninth Congress, that form being embraced in resolutions or charges preferred by James M. Ashley, as a question of privilege, against Andrew Johnson, then Vice-President and Acting President of the United States, those resolutions or charges being in substantially the same form as the charges here made, being first charges, followed by a resolution of inquiry, the inquiry in that case being directed to the Judiciary Committee as the proper committee, while in this case it is directed to the Committee on Expenditures in the Department of Justice as the proper committee. The question as to the committee named in the resolutions as the organ for making the inquiry is not a matter affecting the question now before the Speaker. In the case to which I have referred the resolutions proposed simply that the Judiciary Committee proceed to inquire and report with a view to impeachment; and the object of the resolution now presented is the same. The charges are made specifically, and the resolutions of inquiry are directed to furnishing the House with facts either disproving those charges or corroborative of them, as preliminary to the preferring of articles of impeachment.

Now, it strikes me that this question has been settled by precedent in this House and is no longer open to the point of order made by my colleague [Mr. KEIFER], and I do not desire to discuss any further the precedents on this subject.

Certainly this House has a right in every case to inquire into the conduct of any officer of the United States with a view to impeaching that officer if it has the right to impeach him. And it has that right with reference to every such officer, whether appointive or elective—to inquire into the manner in which he has discharged his official duties, and especially whether the discharge of those duties has been attended with any conduct in violation of law.

The SPEAKER. The present occupant of the chair decided during the last session of Congress that a mere proposition to investigate the conduct of a public officer, without proposing to impeach him, was not a matter of privilege under the rules of the House or under the Constitution of the United States; and the Chair has seen no reason to change that opinion. But the gentleman from Ohio [Mr. KEIFER] is mistaken in his statement that the resolution now offered does not contain a proposition for impeachment. The resolution begins with an impeachment of this officer; and all that follows is a mere specification under the general charge made, together with a direction to a committee to make the investigation usual in such cases. The proceeding corresponds precisely with that adopted in the Twenty-seventh Congress when an attempt was made to impeach the then President, John Tyler, and adopted afterward in the Thirty-ninth Congress, when Mr. Ashley, then a member from Ohio, rose in his place on the floor, made charges against the then President, Andrew Johnson, and asked for an investigation.

In both those cases the question was held by the Speaker to be a matter of privilege.

Mr. REED. Will the Chair permit a suggestion in regard to this matter?

The SPEAKER. Certainly.

Mr. REED. I understand that the point has not yet been decided.

The SPEAKER. The Chair has intimated that inasmuch as this resolution does propose directly an impeachment of an officer of the United States, it comes within the previous rulings on the subject. The Chair will be glad to hear the gentleman, however.

Mr. REED. I shall be glad to submit a suggestion or two to the Chair.

I do not understand that either of the precedents which are cited here are like the present case. In neither of the cases which have been referred to as precedents was there any such direction to the committee as is here proposed in regard to their method of examining into the question. I understand it to be conceded on all hands, and very properly, that a declaration of intention to impeach, coupled with a direction to a committee to inquire whether there are sufficient facts existing upon which an impeachment can be founded, is properly a question of privilege. But the point I make with regard to this resolution is that while it contains a declaration of impeachment, it is in substance merely a resolution for the purpose of investigating certain points. It proposes to direct the committee to discover certain facts—not to take in charge the question whether there are facts sufficient to found an impeachment upon—and to report the same to the House.

Now I want to call the attention of the Chair to the very incongruous character of this proposition.

In the first place, under the rules of the House the committee which has jurisdiction of all civil or criminal proceedings is the Judiciary Committee. Consequently if this is a motion looking toward impeachment it must necessarily under our rules go to the Committee on the Judiciary. But if it is an investigation looking to expenditures in the Department of Justice, then it very properly goes to the Committee on Expenditures in the Department of Justice. And the statement of those two facts reveals to the Chair and the House the character and nature of this proceeding. From one point of view it pretends to be with reference to impeachment, and in the other to an investigation into expenditures. Now I submit to the Chair that in order that this may be privileged it must be throughout and solely looking to the question of impeachment. The question of investigation must simply be with reference to finding facts upon which to found an impeachment.

Now, under the rules of this House questions of impeachment are within the jurisdiction of the Committee on the Judiciary; and yet this resolution proposes under the guise of privilege to change the rules of this House, and to make a matter which under the rules goes to the Committee on the Judiciary go to the Committee on Expenditures in the Department of Justice. Well, now, why is it sent to the Committee on Expenditures in the Department of Justice? Because the main purpose and object of the transaction is to investigate expenditures. I submit this resolution as it is now presented is not a privileged question.

Mr. COX, of New York. Mr. Speaker, I imagine that the reason why the case of Chief-Justice Axtell, of New Mexico, went to the Committee on the Judiciary was this: that the Committee on the Judiciary had control and jurisdiction of all judicial matters, and the impeachment being that of a judge, the resolutions would naturally go to the Committee on the Judiciary. But in the case of Belknap, if I remember rightly, the preliminary resolution went to the Committee on Expenditures in the War Department. Perhaps I am wrong.

Several MEMBERS. No, you are right.

Mr. COX, of New York. That is my impression, and I find that I am right about it.

But, Mr. Speaker, the point was already decided in the last session in the case of Chief-Justice Axtell. As the Speaker intimated a moment ago it was decided plainly, and in the very language quoted by the Speaker himself, that the point of order was sustained on the ground that the resolution proposed an investigation of certain charges set forth in said memorial and accompanying papers against said Axtell and did not specifically propose articles of impeachment. Let the Clerk read the beginning of this proposition presented by my friend from Ohio.

The Clerk read the first portion of the pending resolutions.

Mr. COX, of New York. It is not necessary to read all of the resolutions, but from what the Clerk has read it will be seen that the pending proposition is clearly an impeachment. It looks forward to it. It prepares the way by investigation, or rather by obtaining the data toward beginning an impeachment in this House.

I was a member of this House and objected to the proposition of the gentleman from Illinois [Mr. SPRINGER] against Judge Axtell at the last session because it was simply a proposition of investigation that did not look to impeachment, and I did not think it fair to begin a case of such magnitude, a case of impeachment against a judge or anybody else, unless there was first an investigation of fact as a foundation for the solemn action of Congress.

It seems to me that the gentleman from Ohio could not have brought the pending case more clearly within the ruling of the Speaker at the last session as well as in accordance with the precedents of prior Congresses.

Mr. KEIFER. Mr. Speaker, I will occupy but a little time further on this question. I think with all due respect that whatever may have been decided in reference to this character of proposition it can not be said because the paper presented by the gentleman from Ohio, by the use of the form of expression, to wit, I do impeach so and so, that that brings it within the clause of the Constitution which authorizes the House of Representatives to impeach—that because the gentleman from Ohio who presents these resolutions himself personally proposes to impeach it does not follow in any sense that that is an impeachment on the part of the House. And I submit further that a careful scrutiny of the whole of the papers before you at this time, Mr. Speaker, will show that they do not even propose to require the committee to which they are to be referred to report articles of impeachment. It is only another mode of getting at an investigation, an unauthorized step in the direction of impeachment.

Even if the gentleman from Ohio who presents this proposition should succeed in having it adopted, it is not in any sense an impeachment of this United States marshal by the House of Representatives. The House of Representatives, by the second section of the first article of the Constitution of the United States, is given the sole power of impeachment. It rests nowhere else. If this were a proposition by the House of Representatives to impeach this United States marshal, then it might be said it was something more than a mere charge against a United States marshal. I do not believe because the gentleman in this resolution uses the words, "I do charge Lot Wright with the following things," that therefore that determines the power of impeachment under the Constitution. Suppose the resolution is adopted—it does not impeach anybody. It is only a proposition of a gentleman outside of the House to impeach a man of certain high crimes and misdemeanors. It is therefore purely technical to undertake to allege that this is a proposition on the part of the House to impeach. The resolution indicates to the committee to which it is to be referred that it is to investigate certain charges and specifications recited in the resolution. It is therefore not a proposition to impeach, but a mere proposition, as was the case in that of Chief-Justice Axtell, of New Mexico, to investigate charges and report to the House, which, as the Speaker rightfully decided then, was a mere proposition to investigate charges alleged against a person, and that such a proposition did not bring it within the rule. I think the present case is equally objectionable and upon precisely the same ground. It is not material in what form the proposition is drawn when its clear intent is to violate the rules.

Mr. HAMMOND. Mr. Speaker, the distinction made by the gentleman from Maine is not well taken. As to what committee shall have the charge of this resolution the House will determine. The only question now is whether it is a matter of privilege, and there is a distinct charge upon which there is a proposition to impeach. That makes a privileged question. The House will take care as to where the investigation shall be made, to what committee shall be referred the particular details. It seems to me at present the only thing for the Chair is to determine whether there is enough to make it privileged and then submit the other questions to the House.

The SPEAKER. The Clerk will read the proceedings in the second session of the Thirty-ninth Congress in relation to the impeachment of President Andrew Johnson.

The Clerk read as follows:

Mr. JAMES M. ASHLEY, as a question of privilege, submitted the following:

"I do impeach Andrew Johnson, Vice-President and Acting President of the United States, of high crimes and misdemeanors;

"I charge him with a usurpation of power and violation of law:

"In that he has corruptly used the appointing power;

"In that he has corruptly used the pardoning power;

"In that he has corruptly used the veto power;

"In that he has corruptly disposed of public property of the United States;

"In that he has corruptly interfered in elections, and committed acts which, in contemplation of the Constitution, are high crimes and misdemeanors: Therefore,

"*Be it resolved*, That the Committee on the Judiciary be, and they are hereby, authorized to inquire into the official conduct of Andrew Johnson, Vice-President of the United States, discharging the powers and duties of the office of President of the United States, and to report to this House whether, in their opinion, the said Andrew Johnson, while in said office, has been guilty of acts which were designed or calculated to overthrow, subvert, or corrupt the Government of the United States, or any department or officer thereof; and whether the said Andrew Johnson has been guilty of any act, or has conspired with others to do acts, which, in contemplation of the Constitution, are high crimes or misdemeanors, requiring the interposition of the constitutional power of this House; and that said committee have power to send for persons and papers and to administer the customary oath to witnesses."

Mr. REED. Mr. Speaker, so far as that goes I do not understand that there is to be any objection to this resolution. But the resolution goes further, and the two last sheets of it add to the resolution, which is in form like that just read by the Clerk, a series of instructions which practically turn this into an investigation instead of a committal to a committee for the purpose of impeachment; and that is the point I make in regard to it.

The SPEAKER. It seems to be conceded on all sides that a proposition to impeach a public officer who is impeachable under the Constitution is a privileged matter. In deciding the question of order at the last session of Congress in the case of Judge Axtell, to which reference has been made, the Chair used this language, which he will direct the Clerk to read in the hearing of the House.

The Clerk read as follows:

If a member on the floor should prefer articles of impeachment against a public officer, the Chair has no doubt that it would be a privileged matter under the Constitution, because this House possesses the power of impeachment. But this is not a resolution proposing to impeach any one; it simply instructs the Committee on the Judiciary to inquire into the truth or falsity of certain charges made against a public officer in a memorial which has been presented. The inquiry may result in an impeachment or it may not; but the doubt which the Chair has arises upon the distinction between a mere proposition to investigate charges against a public officer and a proposition to impeach that officer.

The SPEAKER. It is admitted that the resolution now offered does contain a proposition to impeach a public officer who is impeachable under the Constitution; but it is insisted that it does not present a matter of privilege under the Constitution or rules of the House, because, in the first place, it contains other matter; that is to say, it directs the committee to take certain evidence in the case which it is claimed is not pertinent to the charges made.

It may be, or it may not be, that the resolution does direct the committee to take what the House might afterward decide to be incompetent evidence upon a charge of this character. But that, of course, is not a question for the Chair to determine. It is the province of the House to decide, when the resolution comes before it, how far it shall direct the committee to proceed in the investigation or as to what charges it shall investigate.

Again, it is objected that this inquiry should be made by the Committee on the Judiciary, and not by the Committee on Expenditures in the Department of Justice. Of course, if a proposition to impeach a public officer should be submitted to the Chair for reference, the Chair, under the rules of the House, would send it to the Committee on the Judiciary; but it is always in the power of the House itself to determine what committee shall conduct an investigation or consider and report upon any matter. So it seems to the Chair that under all of the rulings heretofore made this presents a matter of privilege, and the House can determine for itself how far the committee shall proceed in the investigation, what committee shall have charge of it, and what matters shall be investigated.

Mr. FOLLETT. I do not desire, Mr. Speaker, to discuss the merits of this proposition at this time. The charges are made, and the proposition submitted in the resolutions which have been read from the desk is simply a proposition to ascertain the truth or falsity of these charges, and the questions that it is asked of this committee to investigate and report upon are each of them questions reflecting upon not only the conduct of this officer, but upon the fact as to whether or not he acted willfully and purposely in violation of law.

The committee is asked to inquire in the first place the number of deputy marshals who were appointed to serve at an election and the reasons for their appointment. The law is specific that the marshals have no power to act in any case except upon the request of citizens. The resolutions still further ask that the investigation shall ascertain whether or not that request was made; and, if so, by whom, and why the request was made.

Mr. KEIFER. Will the gentleman yield to me for a moment, as I desire to make a suggestion?

Mr. FOLLETT. Certainly.

Mr. KEIFER. I do not know that the resolutions will be objected to, but my suggestion is only that we would like to have a little time to examine into them, as we heard them read here in some confusion. It may be that there are some important amendments or modifications of them that should be made before they are adopted, and we can perhaps facilitate the matter if an opportunity is allowed us to look at them with a view to suggest such modifications as they may seem to require. I will therefore suggest that they be allowed to go over, say, until to-morrow morning.

Mr. FOLLETT. I prefer, Mr. Speaker, to have them acted upon now. If there were anything in them that the House did not understand then it would present a different question.

Mr. KEIFER. But you are judging for everybody else.

Mr. FOLLETT. I am judging from the resolutions themselves, and from nothing else. In other words, Mr. Speaker, what this committee is asked to investigate is a simple matter embraced within the provisions of an act of Congress. It simply calls upon this committee to investigate the conduct of this officer with reference to the question of whether or not in the performance of what I regard as the highest possible duty of any officer of the Government, to wit, the protection of the ballot—whether or not he acted in pursuance of the law or acted in violation of the law. That, and that only, do I desire to investigate; that, and that only, do I desire that this House shall be informed upon; and that this House ought to and will require from every officer of the Government intrusted with such a duty the strictest compliance with this duty and the laws passed in furtherance of it.

Now, Mr. Speaker, I do not want this proposition encumbered with anything but that simple question—that this officer, in the performance of his duty, acted in pursuance of or in known violation of law. And, as I said, I do not see why every member of this House is not prepared at this moment to have this investigation made. I should be more than delighted to know that that officer had performed the duty conscientiously and legally if this investigation discloses that fact. Gentlemen upon the other side should feel equally delighted to know and to visit the proper punishment upon an officer if it should be disclosed he has not thus acted.

Mr. Speaker, I call the previous question.

Mr. KEIFER. I hope the gentleman from Ohio is not going to insist on making his speech and allowing no reply at all.

Mr. FOLLETT. I will divide the time that is left after the previous question is ordered.

The SPEAKER. The gentleman from Ohio [Mr. FOLLETT] who has the floor is entitled to it for an hour under the rules of the House. He can use the whole of his time himself or yield to other gentlemen.

Mr. KEIFER. I think he should allow reasonable discussion.

Mr. FOLLETT. How much time does the gentleman want?

Mr. KEIFER. I can hardly say. I thought if this could go over until to-morrow we could have an opportunity to investigate the scope of this proposition.

Mr. FOLLETT. I will give the gentleman from Ohio a half hour to dispose of as he sees proper.

Mr. KEIFER. I should like the gentleman to agree to my suggestion to let the matter lie over till after the reading of the Journal to-morrow.

Mr. FOLLETT. I can not consent to that.

Mr. KEIFER. This is not so terribly pressing and we have no special matter for to-morrow, but we have to-day an important matter that ought to go through immediately.

Mr. FOLLETT. Does the gentleman from Ohio want to discuss the resolution?

Mr. KEIFER. I do, and I want to amend it.

Mr. FOLLETT. I will give the gentleman half an hour.

Mr. KEIFER. I would like to see the resolution in print and think I can help the gentleman from Ohio to amend it. I expect to vote for it, but I think it needs amendment.

Mr. FOLLETT. I renew my motion for the previous question.

Mr. CANNON. A number of us have come in since this matter was brought up and have not heard the resolutions read. It occurs to me the request of the gentleman from Ohio [Mr. KEIFER] is perfectly reasonable that this matter go over till to-morrow. I hope the gentleman from Ohio [Mr. FOLLETT] will assent to that proposition. There is no disposition to unduly delay or embarrass the gentleman in the adoption of his resolution.

The SPEAKER. The gentleman from Ohio [Mr. FOLLETT] has demanded the previous question.

Mr. FOLLETT. I want to say this: These are charges against an officer of the United States. The investigation that is sought is an investigation into the conduct of that officer with a view of impeaching him, if the investigation shall disclose the fact that the charges made are substantiated. Unless the gentlemen upon the other side of the House want to add to them, there is nothing in this investigation other than that. The resolution provides that the subcommittee shall investigate any matter germane to the subject of this investigation; and if gentlemen upon the other side of the House desire to add to the charges that have here been made, they will have an opportunity to call the attention of the subcommittee to them for that purpose.

I can not, therefore, consent to the postponement of the consideration of these resolutions. But I will renew my proposition to the gentleman and will give him an hour and at the end of that time move the previous question.

A MEMBER. You mean half an hour.

Mr. FOLLETT. No; I mean an hour.

Mr. KEIFER. That is more time than I desire. But, of course, if the gentleman will not agree to what I have suggested we will have to accept his proposition.

The SPEAKER. The gentleman from Ohio [Mr. KEIFER] has the floor.

Mr. KEIFER. We will necessarily have to say some things without having had time to consider or deliberate upon them. The gentleman from Ohio [Mr. FOLLETT] presenting these propositions that he calls propositions to impeach has doubtless been reflecting and brooding over them a long time and he is himself prepared to act upon them. There may be many others here who are in the same situation that I am, not quite able to vote for these resolutions without knowing all that is intended to be included within the proposed investigation.

I apprehend, Mr. Speaker, that it will be no great risk at prophecy to say that when these resolutions are adopted and when the committee goes to work, when the subcommittee is sent out to the city of Cincinnati or to the southern district of Ohio to commence this investigation, that committee will commence a political investigation from the first and that it will there end in just such an investigation. Feeling that that is all that is going to be accomplished, we were very desirous that there might be considered here by means of the report that would come from that committee the whole situation as it appeared in that great panorama that was exhibited in Cincinnati on the 14th day of October last and the few days prior to that time. I think it would be very important before we are prepared in this House to impeach the United States marshal at Cincinnati that we should know the whole situation surrounding that officer at the time he undertook what I al-

lege to be all that he undertook to do, to wit, to provide that there should be a peaceable election, that all persons of all races properly citizens of the United States might go and cast their ballots. I would like it to appear, if such be the case, that at the very time these deputy marshals were appointed in Cincinnati there were going about the streets of that city officers, claiming at least to be officers of that municipal corporation, seizing men simply because they were colored men and carrying them off and putting them in the station-houses and locking them up by the hundred, keeping them there until the polls closed on the 14th day of October and then turning them out without any charges of any kind against them. I may not be entirely correct, but the newspapers undertake to tell us that there were in one station-house over three hundred colored men at one time against whom there was no charge alleged at all, and that they lay there in that station-house all through election day, being kept there in order that they should not go to the polls and vote.

Now, it ought to be known what was the condition of things surrounding this United States officer who had certain duties cast upon him under the laws of the United States, and I would like this investigation to be broad enough and full enough to bring to us and lay before us all the circumstances that surrounded him. This might help us to determine whether or not he acted wisely and prudently, in the light of the great responsibility which was thrown upon him, when he appointed an unusually large number of special deputy marshals. It might also enable us to tell whether or not this officer acted within the proper scope of his legal power when he directed his special deputy marshals to go to the polls and do their duty resolutely under all circumstances. While I am not going to object in any sense to the investigation here proposed, I would like it to be thorough and complete. It might be well enough for this committee when they go out to Cincinnati, when they are taking this testimony, to find how many persons have been indicted for violating the laws of the United States in the manner which I have indicated—how many persons a grand jury, having as its foreman a distinguished Democrat of Cincinnati, has indicted for seizing men on the street and imprisoning them for no other reason and no other purpose in the world than to prevent them from voting—how many have been convicted after fair trial for this kind of crime. A presentation of such facts might enable us to tell whether or not an honest, able, resolute officer of the United States, clothed with power under the law, acted wisely in appointing a very considerable number of men to go to the polls and see that peace, quiet, and order were preserved there.

Mr. Speaker, I am one of those who believe that no peaceable, quiet citizen of the United States, North or South, is ever injured by having a strong peace power around the ballot-box on election day. Only such persons as go to the polls to create riot and disorder and prevent others from voting peaceably and quietly ever object to a strong power at the polls on election day for the protection of voters. In years gone by I have raised my voice here and elsewhere in favor of such protection to the rights of voters. I have voted in the direction of having a strong power to protect the quiet, peaceable voter everywhere in the United States.

I believe in the power of the United States in all national matters. Gentlemen on the other side of the House have but recently upon the public rostrum boasted of their readiness and willingness to go, with all the power and strength of the United States, into foreign lands and upon foreign seas to protect a citizen of the United States whenever he should be wronged or harmed in any way. I would go as far as he who goes the farthest in that direction. But I also believe in protecting a citizen of the United States under the flag of the United States and within its boundaries. Therefore I believe in an honest, fair, resolute power exhibited, when the law authorizes it, to preserve peace and quiet and order at elections in the United States; and whether violations of law of a character to prevent a peaceable citizen from voting may exist in Ohio, in Mississippi, or in South Carolina, I would apply everywhere the same rule and the same power.

Now, if the gentleman on the other side who has been so kind as to yield to me desires to be heard, I would like to reserve the remainder of my time.

Mr. CANNON. Will the gentleman allow me before he takes his seat to ask a question?

Mr. KEIFER. Certainly.

Mr. CANNON. I have not heard the resolutions read; and I would be glad to know whether they are broad enough to enable and direct this committee to make full investigation touching the Federal election in Cincinnati on the 14th day of last October.

Mr. KEIFER. If I am to answer, Mr. Speaker, I should say that is the very thing they avoid. They undertake to provide for an investigation of a specific, special character, without giving us all the surrounding circumstances and the facts under which the particular officer acted. I have asked for time in order that I might have an opportunity to look more carefully into these resolutions, to see their scope, and to propose amendments which I hope the gentleman offering the resolutions would accept.

Mr. CANNON. If the resolutions as now presented are not broad enough to show the circumstances under which the marshal and his deputies acted—to show the whole machinery in play at the Federal election at that time—then I hope the gentleman from Ohio will take the necessary steps to at least take the sense of the House upon an amendment which shall broaden the scope of inquiry and enable this committee to ascertain and report the exact facts which existed on that day touching the Federal election; otherwise the investigation would be a farce.

Mr. KEIFER. How much time have I left of the hour allotted to me?

The SPEAKER. Forty-seven minutes.

Mr. KEIFER. Then I will reserve that time for the present.

Mr. FOLLETT. Mr. Speaker, the resolutions were intended to be, and I insist are, broad enough to give this officer full opportunity to show his surroundings, to show every condition that contributed in any way whatever to the conduct with which he is charged in the resolutions and in the charges here made.

Now, sir, I am not here to-day nor do I desire to-day to make a statement personally of all that occurred at that election. I prefer to do that after this investigation shall have been had, and when it will no longer be necessary for any gentleman on this floor to defend the position which he occupies by the extreme charges of partisan papers or partisan people. I prefer to let the facts speak and to have the facts before we speak of the conduct of that election and of these officers.

The gentleman has said something with reference to indictments and prosecutions. There have been indictments and prosecutions on one side only. There can be obtained no indictments or prosecutions upon the other side. I propose that the people of this country shall, upon proper investigation, be informed of the actual condition of things.

The gentleman has said that men were arrested and discharged without there being preferred against them any charge of crime. I am not here to-day to speak for those gentlemen. They did not belong to my district; they came from surrounding States, and they were arrested simply because it was known the purpose for which they were there and the reason why they came. So the charges are and so I believe the facts to be, but, as I said, I do not desire to discuss these questions until such time as the testimony shall be brought into this House.

Now, Mr. Speaker, as I said before, there is and can be but one purpose in these resolutions and in these charges. If an officer of the Government has been guilty of what I believe this investigation will show that he was guilty of, if for the purpose of securing a peaceable election, quiet at the polls where there were no armed men, it was necessary to select men who could neither write nor read, known for their brutality and armed with British bull-dog revolvers, to say to them, "You have your weapons; go out and use them"—if that is the method to secure a peaceable, quiet, and orderly election in the United States, then in the name of God let us know it. We have statutes prohibiting the Army of the United States from coming near the polls. Who shall say that a drilled officer—a man who has been accustomed to obey and enforce law—is not a more suitable person, if armies are to be brought to the polls, than men selected, just from the penitentiary, just from the work-house, for their known brutality and criminality, with arms put in their hands and sent to the polls!

Sir, this is not a thing which was done under cover. It was done in broad day. I regret to say that these deputy marshals took possession of our United States court-room, the temple of justice, dedicated to the enforcement and protection of the rights of citizens. These arms were placed in their hands in that court-room, coming I know not from whence, but with nine cases of British bull-dog revolvers. The man selected to preside as temporary chairman of the first Chicago convention, but repudiated by the convention itself, was there from morning until after night to give orders to these people to secure a peaceable, quiet, honest, fair election!

Now, sir, I say these charges are made in good faith. I desire if this is not true that the country should know it. In God's name let us wipe out this stain of a charge if made without foundation. If made with good ground, if substantiated by the evidence thus obtained, this House can not hesitate for one moment to say that an officer thus derelict of duty, thus violating the public trust placed in his hands, is no longer fit to be a servant of the United States, or have placed in his hands another opportunity to give us an honest, quiet, peaceable election, such as my friend from Ohio so much desires.

Now I say, Mr. Speaker, this investigation ought to be made in the interest of the public and of good order. We ought to know whether these charges are true or false, the country ought to be advised by what methods peaceable, quiet elections are to be secured, and how they are to be conducted; and if this is the process, then I say let us at once abandon the ballot and submit our necks to the yoke of the men so ready to resort to such extreme measures for the purpose of accomplishing an object.

Mr. COX, of New York. Will the gentleman from Ohio yield to me for a moment?

Mr. FOLLETT. Yes, sir.

Mr. COX, of New York. Mr. Speaker, the House will remember the trouble we had some years ago in relation to the appointment of United States marshals. There was always a doubt as to whether or not the United States Government could interfere with elections. The doubt still remains in the minds of the body of our people. However,

the matter has been settled in a Federal way. These officers now regulate elections. I am not sure but that in New York city, at least occasionally, these Federal supervisors and officers may be of some good in determining a just election. But, certainly, whether that question be still open or not, it is of the greatest importance we should have a fair and decent experiment in reference to these Federal officers and their interference in our suffrage. And when the gentleman from Ohio presents a resolution having unity, having but one object, the impeachment of an officer under the Constitution and the law, I believe that any amendment such as suggested by the gentleman from Ohio, to use a lawyer's expression, is bad on demurrer for multifariousness. [Laughter.] It has no business in a matter of impeachment. This is a proposition for impeachment only. The investigation looks only to impeachment. No charges are made *aliunde*. [Laughter.] The impeachment only is to be considered in the investigation which is to be made, and therefore when the gentleman from Ohio writes out an amendment to this proposition he goes outside of the object, and I am not sure but it is subject to a point of order. It is about the last session my friend from Ohio [Mr. KEIFER] will have to make these points of order. [Laughter.]

Mr. KEIFER. Oh, no.

Mr. COX, of New York. But it is not all of life to live, nor all of death to die. [Laughter.] These gentlemen on the other side should understand it is magnanimity on our part to give them an opportunity to vindicate themselves in the recent elections. [Great laughter and applause.] Let them show, if they can, in this investigation that their marshals have acted honorably, and how much more glorious and more beautiful and more lovely is our victory when they show they have acted decently and we have got a triumph. I thank the gentleman from Ohio for giving me this opportunity. [Cries of "Vote!"]

Mr. KEIFER. I did not occupy the whole of my time, and now wish to yield a portion of it to my colleague [Mr. JOSEPH D. TAYLOR], who desires a portion of my time.

Mr. JOSEPH D. TAYLOR. I wish to inquire of the gentleman from Ohio if he did not consent that this resolution should be so amended as to meet the demands of other gentlemen from Ohio, that this investigation should be wide enough to cover all the circumstances under which the marshal acted.

Mr. FOLLETT. I did not hear my colleague's question.

Mr. JOSEPH D. TAYLOR. Did I not understand you to say that you would consent to an amendment of the resolutions which would widen their scope and enlarge the field of investigation if the resolution is not now wide enough for that purpose?

Mr. FOLLETT. I have not consented to any amendment at all to the resolutions, nor do I propose to, nor had I intended to be understood as consenting to it.

Mr. JOSEPH D. TAYLOR. Then I understand the gentleman from Ohio objects; that he objects to having this investigation made wide enough to show the circumstances under which the marshal of the southern district of Ohio acted.

Mr. FOLLETT. If the gentleman will permit me I will tell him why.

Mr. JOSEPH D. TAYLOR. I would be glad to have the gentleman do so.

Mr. FOLLETT. I wish to state one fact, that the law does not permit him to go except upon the application of citizens. The resolutions especially point to the fact that he is to be inquired of as to whether or not this request was made by citizens and the reasons given therefor. It covers everything that under the law could be embraced by your amendment.

Mr. JOSEPH D. TAYLOR. I presume that the marshal would be required to act not solely in response to a request made by one, two, or three citizens. I presume the number of citizens making the request would not control his conduct entirely. It seems to me that the circumstances surrounding the marshal, the circumstances then existing in that city, the fact that there were hundreds of colored men fleeing from the city, fleeing from the State, escaping for their lives, men who were threatened in various ways, threatened with menace and violence, threatened with loss of employment, intimidated with the threat that their children would have to go hungry and naked, that their property would be taken and destroyed—I say that such circumstances would have and ought to have weight in influencing the action of the marshal. If it be shown that there were hundreds of colored men in the city of Cincinnati who had taken refuge in cellars and were there trembling with fear, who did not dare to go out in the open day, did not dare to go upon the streets because their lives would be in danger—if this condition of terrorism be true, as I understand it to have been, as I have been informed was the fact by people who live in that city and who have been in business there for more than forty years, then I want these facts showing the condition of things in that city and the situation of the colored people to appear in whatever testimony may be brought out in reference to this matter.

What is the object of this investigation? Is it to show all the facts, or is it to show a part and suppress a part? It seems to me that its scope should be wide enough to show all the facts and circumstances under which the marshal acted. There were circumstances existing there, organized circumstances too, the very object of which was to prevent hundreds of colored men from voting at the October election. We have no fear, sir, in regard to this investigation, but we ask that it shall go far enough to show the necessity and the wisdom of the marshal's action. The investigation should not be confined to specified points only, but should go far enough to put the House in possession of the information on which the marshal then acted, and which may or may not, as the facts will show, justify the steps taken by him to secure a fair election. Our only desire is to show from the testimony of the people, if it be true, that this officer acted from a strict sense of duty and from an honest desire to give to the people of our State a fair, full, and honest ballot. The character of the marshal is involved in this investigation, and if it be gone into let it be gone into far enough to develop all of the facts in reference to it.

Mr. REAGAN. Mr. Speaker, it has been urged that an amendment should be admitted to this resolution to enlarge the scope of the investigation, to inquire into the action of a United States officer, as well as of other officers and the people of Cincinnati in this election. I submit that it would not be germane to the object of the resolution proposed by the gentleman from Ohio. It would simply enlarge the scope of the investigation, thereby embracing a different subject-matter from impeachment, which is the prime object of the resolution presented, and would simply go into a general political examination and inquiry—a subject entirely different from the precise object had in this resolution. I repeat, sir, the object of such an amendment would be to go into a general political investigation, to draw out facts probably without any necessary bearing upon the question submitted by the resolution.

Any fact that would serve as a defense for a person impeached can be brought out under the scope of the investigation as proposed. Every lawyer on this floor will understand that any fact which may be necessary to the defense can be brought out without any such amendment as is proposed, and consequently the only effect of the amendment would be, as I have said, to open up a political investigation, which perhaps would not be concluded within the next year. I submit, therefore, that it is not the proper way to embarrass this suggestion, which I take it for granted is made in good faith, for the impeachment of a public officer for a manifest violation of law, if the charges alleged be true.

Mr. KEIFER. I now yield ten minutes to the gentleman from Pennsylvania [Mr. MILLER].

Mr. MILLER, of Pennsylvania. Mr. Speaker, it affords me very great pleasure to see gentlemen upon the other side of this House apparently so anxious and so earnest to provide for a free election in one section of our country, as well as a fair count of the ballots. I only regret, sir, that the investigation proposed stops at the Ohio River. If it would only pass beyond the confines of that stream, if the proposed investigating committee could wend their way down the Mississippi and in a general way through the South, spending as they go a few days in Mississippi, a few more in the State of Louisiana, a few in the State of Alabama, a few in the State of South Carolina, and a few more in some of the other Southern States where no regard is paid to how a ballot is cast or how counted so that it is counted for the Democrats, I must confess I would be supremely delighted.

Mr. GEORGE D. WISE. May I interrupt the gentleman from Pennsylvania for a moment?

Mr. MILLER, of Pennsylvania. Certainly.

Mr. GEORGE D. WISE. I only wish to say to the gentleman that we do propose an investigation into one of these Southern States, and I have a resolution to that effect ready now, to which I hope there will be no objection from that side of the House when it is presented.

Mr. MILLER, of Pennsylvania. I am glad to hear it.

It has been my duty in the last three years to investigate matters connected with elections in the Southern States; and while I believe in recent years they have measurably ceased to destroy life, while the shotgun has been laid temporarily aside, they still manage in some way, notwithstanding majorities against them, to count the representatives of the Democracy in without regard to the manner in which the ballots were cast.

In the first session of this Congress a Democratic election committee, in the investigation of a contested-election case from the State of Alabama, found the result as certified to the House so farcical and fraudulent, that the subcommittee having the case in charge, with but a single exception, decided to displace the holder of the certificate occupying a seat on this floor and returned here by a majority running into the thousands, and when the case came before the full committee, and after full investigation, there was but one dissenting voice against seating the contestant, although the committee stood nine Democrats and six Republicans.

Mr. MCMILLIN. That shows that we are fair.

Mr. MILLER, of Pennsylvania. I am glad that you propose an investigation, and only hope that its scope will be further extended. I hope the gentleman from Ohio [Mr. FOLLETT] will not take umbrage at the amendment proposed to be offered by his colleague [Mr. KEIFER], but will permit the investigation to be made broad and wide, so that all these matters can be laid before the country by a committee ap-

pointed by the Chair, and that the elections held in many of the Southern States, which are a farce and a fraud on popular suffrage, may be laid bare.

Mr. KEIFER. Mr. Speaker, replying to the very proper suggestion made by the gentleman from Texas [Mr. REAGAN], and also to the suggestion made by the gentleman from New York [Mr. COX], that any amendment to the proposed resolutions would be out of order, I have to state that those gentlemen were exceedingly astute and apparently anxious to get in an objection before the form of an amendment to be submitted was known to them, doubtless for fear that such objection would not be good afterward.

Now I will try to make myself clear as to this matter. I take it that if a United States marshal were to undertake, wherever he had the legal power, to appoint a very large number of special deputy marshals for service at elections where there was no shadow of charge of any sort of irregularity or violation of law or any disorder, that that officer might be assailed for appointing unnecessary officers and for appointing men at an unnecessary expense to the Government and for doing that which would be exceedingly improper in the light of good conduct. But, on the other hand, I apprehend that if a United States marshal was to find that at the several polling places or a large number of them within his jurisdiction there was assembled armed men, bad men, men who had in years gone by been in the habit of seizing the ballot-boxes, taking possession by violence of the boxes, striking down or maltreating the officers of election simply because they tried to protect the ballot-boxes from violence, and assaulting citizens simply because they tried to get access to the polls to cast their ballots—I say if such an officer was apprised and advised by everything around him that the condition of things was such as I have described, it would justify him in the appointment of a larger number of persons to perform that duty.

And what I desire is that this resolution may be so broadened and enlarged that we may be told, when the report comes in here, the circumstances under which these officers were selected and appointed.

The gentleman from Ohio presenting these resolutions in his remarks seems to object to the fact that stalwart, strong, resolute men were appointed to go to the polls. He rather thinks that slender-fingered clerks, or ministers of the Gospel, or professors in colleges ought to have been sent into the seventh ward and some other localities, there to compete with the worst style of plug-uglies that ever gathered into bodies on the face of the earth. That is one of the gentleman's troubles. He thinks the marshal ought to be impeached by the House of Representatives and found guilty by the Senate of the United States because he exercised his judgment in selecting men who were capable of competing physically and otherwise with the character of men they were to meet.

I propose at the proper place, Mr. Speaker, to submit an amendment in some such language as this, to be added to the resolutions:

And the said committee are authorized to fully investigate all the circumstances attending the election of members of the House of Representatives at the recent October election in the first and second districts of Ohio at which said United States marshal appointed deputy marshals.

This does not propose to go into any political matter at all, but to see what state of things existed there at the time these deputy marshals were chosen and appointed. I would like to know what kind of organizations had prepared themselves to seize the polls, and if you please under whose directorship. I would like to know whether the men gathered there were only confined to citizens of Cincinnati, or whether they included some citizens of the State of Kentucky and of the State of Indiana. Ohio was having an election at that time alone, Kentucky and Indiana assisting a little on the outside and sometimes coming within. We would like to know how much of this work was going on that had to be counteracted by this United States marshal. If gentlemen believe, if anybody believes, that the action of these special deputy marshals had anything to do with preventing men from voting or with making them cast votes in a direction that they would not otherwise have cast them, let them test that by a comparison of the vote on the 14th of October last with the vote on the 4th of November. That will show that the election in October was not one to prevent men from voting, but it was held under such auspices as allowed a great many men to vote who could not otherwise have voted. There were some that could not vote because they were in prison, presumably because they were colored and Republicans.

I was sorry to hear the gentleman from Ohio [Mr. FOLLETT] say that the indictments were all on one side. By implication he meant to charge that the United States court, the United States officers, the law officers of that court, and the grand jury charged with the duty of investigating these cases were engaged in simply finding indictments against one side. I think the gentleman will take pains to deny that he wanted to go that far. I say that a majority, as I am informed, of the grand jury—and it was a good one—that found these indictments were not men of the same political party as I belong to; and the foreman of the grand jury that found these indictments, which the gentleman chooses to call one-sided indictments, was a distinguished Democrat. It is true it hit a certain class of politicians that perhaps the gentleman would call one-sided—fellows all on one side.

The little pleasantry, Mr. Speaker, that the gentleman from New York undertook to display here at the expense of my colleague from the Cincinnati district and myself needs no reply from me. When the gentleman from New York could no longer in Ohio get a seat in the Congress of the United States he, wisely perhaps, pulled up stakes and went where he could find some congenial constituents to elect him to Congress. Some of us will not follow that example. We will stay where we were born, and not abandon our friends there. The gentleman was a very distinguished Representative when he represented me in the House of Representatives many years ago, and I am thankful to him for his many kindnesses; and what I have said now is certainly said purely in pleasantry.

Now I think, unless some gentleman on this side desires to be heard, I will occupy no more time. How much time have I left?

The SPEAKER. The gentleman has twenty-seven minutes of his time remaining.

Mr. KEIFER. I will reserve the time which remains to me, but am not sure that we will occupy it.

Mr. FOLLETT. I will say to the gentleman that I should prefer his occupying the whole of his time now. I want the right to close discussion.

Mr. KEIFER. I do not know that I will occupy any more time. Some gentlemen, however, on this side may still desire to be heard. Before the previous question is ordered I ask the gentleman from Ohio to allow me formally to present this amendment.

Mr. FOLLETT. I shall object to the offering of any amendment, and shall at the close of my remarks demand the previous question.

Mr. KEIFER. Will the gentleman allow the amendment to be read for information in my time?

Mr. FOLLETT. I have no objection to that.

Mr. KEIFER. I understand it is not in order to offer the amendment during the discussion.

The SPEAKER. The Chair understood the gentleman from Ohio [Mr. FOLLETT] to demand the previous question. Thereupon he was appealed to to admit amendments and postpone the further consideration of the resolution. He declined to admit the amendments, but agreed there should be one hour more for debate. The Chair understands that to be the situation.

Mr. KEIFER. I understand that to be the effect of it. I desire to have my amendment read.

The Clerk read as follows:

And the said committee are authorized to fully investigate all the circumstances attending the election of members of the House of Representatives at the recent October election in the first and second districts of Ohio at which said United States marshal appointed deputy marshals.

Mr. HISCOCK. If the gentleman from Ohio will allow me a moment——

Mr. FOLLETT. The other gentleman from Ohio [Mr. KEIFER] has not yet consumed all his time.

Mr. KEIFER. I will yield to the gentleman from New York.

Mr. HISCOCK. I understood the gentleman from Texas [Mr. REAGAN] to make the point against the amendment suggested by the gentleman from Ohio that the United States marshal could enter into his defense fully under these resolutions, and that any facts tending in that direction would be proper evidence in the way of rebuttal. Do I state the gentleman's position correctly?

Mr. REAGAN. Yes, sir.

Mr. HISCOCK. Now, as I heard these resolutions read, it seemed to me they were presented here in the form of interrogatories, limiting the investigation to particular questions, particular facts to be reported, and excluding the opportunity on the part of the marshal to enter into any rebuttal or give any excuse for his action. It appears to me that by the resolutions the committee is directed to report certain facts and is limited to a report of those facts, the questions being sent to them, as I said a moment ago, in the form of interrogatories. Now, I ask whether the gentleman who submits the resolutions would not be willing to accept a proposition which I desire to offer and will read:

Resolved, That said committee further investigate and report if there were any facts or circumstances or action on the part of any State, county, or municipal authorities that justified the action of said marshal or may excuse his action.

It seems to me there is involved in this matter of impeachment the question of the intent of the marshal, whether he acted criminally or not, whether he acted in good faith or not; and in view of the fact that the questions are put so pointedly and distinctly to guide the investigation of the committee, I suggest whether there ought not to be an amendment allowing the marshal opportunity to present his defense directly—authorizing him to introduce his defense, if he has any, but limiting it to a justification of the acts on his part. I would not go so far as is suggested in the proposition of the gentleman from Ohio [Mr. KEIFER], but would simply authorize the marshal to introduce such evidence as he may have in the way of rebuttal, or justification, or apology, or excuse, if you please, to repel the supposition of any criminal intent on his part. It seems to me that in justice, in fairness, something of this kind ought to be incorporated in these resolutions, since they are so specific in limiting the investigation to the ascertainment of particular facts.

I will send to the Clerk's desk the amendment I have suggested. All I desire in this case is to allow this officer an opportunity to give to the

House any excuse he may have, if he relies upon an excuse; or apology, if he depends upon an apology; or defense, if he claims that there is a sufficient defense. I would not limit this investigation to simply ascertaining and reporting certain affirmative facts, which it seems to me is the intention of the resolution which has been read.

The SPEAKER. The proposition sent to the desk by the gentleman from New York will be read for the information of the House.

The Clerk read as follows:

Resolved, That said committee further investigate and report if there were any facts or circumstances or action on the part of State, county, or municipal authorities that justified the action of said marshal or may excuse his action.

Mr. HISCOCK. I will change the word "excuse" to "explain."

Mr. REAGAN. I think, Mr. Speaker, that the proposition of the gentleman from New York, as just read, instead of limiting the scope of investigation suggested by the gentleman from Ohio [Mr KEIFER] would in fact very much enlarge it. The proposition just read proposes that the committee shall enter into an investigation of the conduct of State and municipal authorities as a defense for an officer of the United States charged with the violation of law.

Now, no lawyer can believe that any such thing would be admissible by way of defense. If the State authorities of Ohio violated the law, if the municipal authorities of Cincinnati violated the law, such facts would furnish no excuse, no justification, no palliation for a violation of the law by a marshal charged with the official duties under the Government of the United States. I wish to suggest upon this point that if wrong has been done by State or municipal authority, the great State of Ohio has all the machinery, legislative, judicial, and executive, to secure the proper investigation of the conduct of its own officers and its own citizens relating to elections and to punish offenders. This can be appropriately done by the tribunals of the State, and no doubt will be done if the facts require such action.

But the question recurs—here is a proposition to impeach an officer of the United States for a violation of the law. Either of the amendments proposed would enlarge the scope of the investigation so as to bring in everything that occurred in connection with the election, thus indefinitely prolonging the investigation of the committee and delaying a report to the House as to whether this officer ought to be impeached or not.

I do not wish to be understood as throwing any impediment in the way of full and fair investigation or as doing anything which would deprive this officer of any defense which he has a right to make. No one will contend that he will not have such opportunity under the resolution as proposed by the gentleman from Ohio [Mr. FOLLETT], which is a little broader than suggested by the gentleman from New York [Mr. HISCOCK], who has said that it proposes simply to require an answer to certain questions. It does more than that. It requires an answer on the part of the officer as to his reasons for doing the acts he is charged with having done. Not only are certain questions to be answered, but under the resolution he can show, as I understand, the motives of his conduct. All that may be necessary in the way of his defense will be let in. I think we should make a mistake if we enlarged the scope of the resolution so as to turn this into a general political investigation, thereby prolonging the inquiry so as to defeat a proper determination of the question submitted.

Mr. HISCOCK. Mr. Speaker, if I believed that the committee when appointed would have the power which the gentleman from Texas seems to think they will have I certainly would not propose any amendment. But, sir, suppose this state of facts existed in Cincinnati, that there was an armed body of men who proposed to take possession of the polls and only to allow one class of men to vote, or rather men belonging to one party. That might afford an excuse to the marshal for making a large number of appointments of deputies and arming them for the protection of the people there in the exercise of their right of suffrage. Will the gentleman from Texas say that under these resolutions that state of facts can be proved?

Mr. REAGAN. I suggest to the gentleman from New York that if it were proved it would not be a defense to these charges, and therefore it would be improper.

Mr. HISCOCK. Then I understand the gentleman from Texas to say this: That if the United States marshal understood there was an organization and a purpose and design on the part of certain persons to defeat a fair election of Representatives in Congress the marshal would not be authorized to appoint deputies for the purpose of preventing such unlawful proceeding and protecting the rights of suffrage.

Mr. REAGAN. You certainly understand me as saying that he can do nothing unless in conformity and compliance with law, which he must take as his guide. The marshal can not make himself a dictator. He can not be judge of the circumstances when he has arbitrary and unlawful authority to appoint deputy marshals and to arm them with deadly weapons.

Mr. HISCOCK. But suppose he appointed no more than he was technically authorized to appoint, and yet he exercised his discretion improperly, and you could show that he intended to so exercise it, it might afford cause for impeachment. The point I am aiming at is this: That if there was any unlawful combination there to prevent a free and fair election, why not let us go one step beyond proving that fact, and so broaden these resolutions that we will be able to prove the fact of that unlawful combination for an unlawful purpose? The United States marshal is presumably innocent of any unlawful intent. The municipal officers, the State officers, the county officers are presumably innocent of any unlawful intent. But suppose there was a combination of county officers to prevent the free exercise by the electors of their privilege, that would be justification on the part of the marshal to exercise the limit of his discretion as to the appointment and arming of deputy marshals for the protection of the people in the exercise of their just rights.

What I object to on the part of these resolutions is, as I stated awhile ago, to the limitation to answers to certain interrogatories. We are to be limited to the answers made to these interrogatories and the marshal is precluded under the very language of these resolutions from offering any evidence which will tend to justify his action. Now, if the sheriff of Hamilton County, in the State of Ohio, had appointed deputy sheriffs in needless number and armed them to take possession of the polls, it might then have been the duty of the United States marshal to do what he did, but he can not under these resolutions be allowed to prove that fact. He is entitled to have that fact before the House before we pass on any articles of impeachment. Yet, sir, these resolutions have been prepared with the greatest care for the purpose of excluding what it seems to me to be the right on the part of the United States marshal to introduce, whatever evidence he may have in justification of his action.

I am in favor of the broadest inquiry, of the widest investigation, on this question, but let us proceed in such a way that if the marshal has any justification, if he has any facts, provided the charges in the resolutions are true so far as they are indicated by these interrogatories—if he has a defense, then he should not be denied the opportunity of introducing testimony to show just exactly what that defense is.

Mr. KEIFER rose.

Mr. FOLLETT. I understand the gentleman from Ohio is entitled to ten minutes longer of his time.

Mr. KEIFER. Certainly, but I do not propose to use it now.

Mr. FOLLETT. It is my intention when I conclude what I have to say to call the previous question.

Mr. KEIFER. You will keep your agreement?

Mr. FOLLETT. Certainly, but I have the right to close the debate. If the gentleman wishes to occupy his ten minutes he must take it now. When I conclude what I have to say I shall move the previous question and close the debate.

Mr. KEIFER. I did not wish to speak at this time.

Mr. FOLLETT. If the gentleman wishes to occupy any more time he must do it now.

Mr. KEIFER. I will then take the floor and yield three minutes to the gentleman from Maine.

Mr. REED Mr. Speaker, I do not desire to occupy but a few moments. This discussion has led to what I endeavored to suggest to the Speaker on the point of order, and that is, under pretense of a resolution for impeachment a limited investigation is about to be ordered by the House. And I submit upon the face of it it is necessarily an unjust and one-sided investigation.

In the first place it is instigated by a gentleman who feels personally aggrieved by the situation as he found it upon the counting of the votes on election day. And then, instead of bringing here an impeachment or a foundation for impeachment coupled with a direction to the Committee on the Judiciary to consider the whole question of whether an impeachment ought to be ordered for malfeasance in office, the resolution has been seduously curtailed from the form which has been customary in such cases, from a resolution which allowed the whole matter to be gone into, into a resolution which confines the committee, as has been pointed out by the gentleman from New York, to particular points upon which information or misinformation is desired.

Now I submit to the House that such a resolution is not adequate to the subject. This proposes to impeach an officer of the United States for malfeasance in office, and yet at the same time the resolution of investigation on that subject is not broad enough and is not framed to be made broad enough to give a fair foundation, because we owe it as a House of Representatives to an officer against whom charges are made, against whom impeachment proceedings are about to be initiated, that the investigation shall be of such a character that the ground shall be sufficient to justify an impeachment on our part; and it seems to me that under the resolution as offered the only result would be an investigation merely for political purposes and not one which will lead to punishment for violation of law. It seems to me that the rules of the House have not been carried out in framing such a matter to be presented to the House under the guise of an attempt at impeachment.

Mr. ADAMS, of New York. I ask the gentleman from Ohio [Mr. FOLLETT] to yield to me long enough to ask for the reading of the second resolution, because it will show, as I think, a sufficient answer to all the objections stated by my colleague [Mr. HISCOCK].

The second resolution was again read by the Clerk.

Mr. HISCOCK. I do not see why this particular resolution covers the case to which I have referred at all; and it seems to me, if this investigation is to be entered into, that in a spirit of fairness some propo-

sition should be formulated so clear and explicit that there could be no question of its allowing the United States marshal to give his reasons for his action.

If he appointed an undue number of deputies, and if he armed them, if such be facts, make the investigation broad enough not only to cover the facts, but to enable him to give his reasons and excuses for his own justification.

I will say also to my friend from Ohio that no party advantage will be gained by this investigation if it is to be a one-sided matter.

Mr. FOLLETT. I now yield five minutes to the gentleman from Mississippi [Mr. BARKSDALE].

Mr. BARKSDALE. Mr. Speaker, it is not my purpose to participate in the discussion of this resolution, nor should I have submitted a single remark but for certain language of the gentleman from Pennsylvania [Mr. MILLER]. He asks that the scope of the proposed investigation be enlarged so as to embrace the States south of the Ohio River, and couples his proposition with sweeping and unfounded charges in reference to the conduct of elections in those States, naming among them the State of Mississippi, which I have the honor to represent in part upon this floor.

Mr. Speaker, such a proposition, of course, is not germane to the resolution before the House looking to the impeachment of a United States officer in Ohio for malfeasance. But I wish to say, and I can speak for the Representatives, I am sure, of all the States to which he refers—the Southern States; I know I can speak for my own State—that if it be proposed in good faith that this House shall within the limits of its constitutional functions institute such an investigation as will lead to a revelation of all the facts and to a verification or rebuttal of the unfounded charges he makes concerning the mode of conducting elections in those States, they will not throw an obstacle in the way, but on the contrary they will invite the fullest and freest inquiry.

Mr. FOLLETT. I now yield five minutes to the gentleman from Ohio [Mr. CONVERSE].

Mr. CONVERSE. Mr. Speaker, I think the country to-morrow morning will read with some surprise of the course pursued by the gentlemen upon the other side on this proposition to impeach an officer of the United States charged with official misconduct and crime. It is the first time in the history of the country when a political party has resorted to all sorts of machinery and technical objection to avoid an investigation of a public officer whom it is proposed to impeach for high crimes and misdemeanors. Gentlemen have even undertaken to arraign a sovereign State and propose to inquire whether that State has not been derelict in its duty, or whether such State attempted to interfere in some way with the election of members of Congress to prevent a fair and honest election.

Mr. KEIFER. Will you allow me to ask to what State you refer?

Mr. CONVERSE. I understand the gentleman himself to have stated that at the election in the city of Cincinnati the laws of the State of Ohio had been overridden, the rights of sovereign citizens had been invaded, that they were not permitted to vote their sentiments, and that it was necessary for this officer, the marshal, to arm the deputies that he sent to the polls with revolvers and bludgeons so as to preserve the purity of the election.

Mr. KEIFER. The gentleman has stated substantially what I did say, but he will perceive that I have said nothing against the State, but only that if there was violence there or threats of violence this officer acted only in pursuance of his duty in protecting the people against it.

Mr. CONVERSE. Not only does the gentleman charge this upon his State, but the statement made by my colleague from Ohio [Mr. JOSEPH D. TAYLOR], who also addressed the House upon this question, was one involving a more serious charge against his native State; and the two gentlemen sat there in their seats and heard without protest the gentleman from New York [Mr. HISCOCK] rise in his place and solemnly propose to investigate their State to see whether she as a State had undertaken to interfere with the purity of elections.

The gentleman's proposition was a general proposition to investigate and see whether the State of Ohio had not violated her duty and therefore justified the marshals and their deputies to take charge of the polls and override the constituted authorities of the State and the will of the people.

Mr. KEIFER. Oh, no. I said nothing against the State, only against a few individuals.

Mr. CONVERSE. The gentleman may disclaim his assertion; but the fact is, and nobody knows it better than my two colleagues to whom I have referred, that there never was a time in the State of Ohio when the humblest man, black or white, if he was legally entitled to vote, might not go to the polls in perfect safety and deposit his ballot on any election day, and his vote would be honestly counted. It is not true that the laws of my State have ever been overridden at elections and on election day, except as it has been done by the marshals of the United States and their deputies. It is only the men who wore the livery of the United States that came to our elections and undertook to interfere with them. The laws of our State, as these gentlemen well know, severely punish every infraction of the election laws, and our State officers rigidly enforce them. Every attempt at interference with the citizen who proposes to cast his vote and is entitled to vote is punished with great severity by our law. The penitentiary stares the man in the face, whether he be election officer or bystander, who undertakes to interfere wrongfully with our elections, and gentlemen know it very well.

The claim that the State of Ohio had designs against the purity and integrity of the ballot-box at the last October election, or that the county or city authorities had, or that the election officers or deputy sheriffs had, or that any other officers of the State had, is a mere pretense. The elections in Ohio when left under the control of State authority have always been fair and honest, and peace and good order preserved at the polls. But when men came to our polls clothed in the livery of the United States and armed with revolvers and bludgeons, then our citizens retired from the conflict and allowed them to take charge.

I simply rose for the purpose of repudiating this slander upon my State and upon her laws, expressed by my colleagues and implied in the proposition of the gentleman from New York [Mr. HISCOCK]. Gentlemen know that, if there was any combination of deputy sheriffs or anybody else to interfere with any election precinct or with the ballot-box, all they had to do was to make that fact known to some magistrate, when all persons implicated would be placed under arrest and under bonds, and the entire power of the county would be at his command to preserve order and decorum and the purity of the ballot-box, and the entire strength of the State, if needed, was at the command of the justice of the peace and of the sheriff of the county to enforce order at that single poll. The military of the State might be called out for any such purpose. It was not necessary to make the complaint ten days beforehand to a United States marshal in order to get protection. The remedy under State authority was simple, inexpensive, and efficient.

The fact is that the deputy marshals in Ohio have been used only as an electioneering machine to assist the Republican party to carry the elections. [Applause on the Democratic side.] That is all there is of it. They have been able to appoint this unusual number and pay them from $30 to $50 apiece for putting in several days helping the Republican party organize preceding the election and for voting and controlling the polls by force and fraud on election day. The process was simply one of procuring money out of the Treasury to assist the Republican party to carry the elections. That is all there has been of it except the murder of some and the wounding of others to accomplish that wicked purpose.

Mr. BRUMM. Will the gentleman permit me to ask him one question?

Mr. CONVERSE. Yes; if I have a moment remaining.

Mr. BRUMM. If the gentleman is so sure that the State of Ohio is so immaculate and pure, why not challenge investigation instead of objecting——

Mr. CONVERSE. The proposition is simply a slander upon my State——

Mr. BRUMM. Allow me to finish my question. I ask why, then, object to an amendment that will put the immaculacy of your State to the test?

Mr. CONVERSE. I would scorn to stand here without one word of protest and see my State arraigned by a petty marshal. [Derisive laughter on the Republican side.] I do not propose for one, as a Representative of my State, to do it. We have never called upon either the civil or military arm of the Government of the United States to protect either person or property in my State. We have power enough of our own, either civil or military, to preserve order and enforce the laws, and the independent, self-respecting spirit of our people will do it.

The SPEAKER. The time of the gentleman has expired.

Mr. HISCOCK. If the gentleman will allow me to make a single suggestion, I desire to say the form of my resolution was this: If there was any action on the part of any State, county, or city authorities that justified his action. I made no insinuation against the State of Ohio. I have the highest respect for that State. But if all of the authorities of the county of Hamilton or the city of Cincinnati were free from blame why not let them vindicate themselves, or if they were guilty of irregularities or an attempt to influence the election improperly why not permit that to be proven?

Mr. FOLLETT. I propose to reply to that position of the gentleman from New York [Mr. HISCOCK]. The marshal of the United States under the law can appoint deputies to serve at the polls only in pursuance of the law. I have the statute before me, and it is exactly that to which the second of these resolutions is directed:

Whenever an election at which Representatives or Delegates in Congress are to be chosen is held in any city or town of 20,000 inhabitants or upwards the marshal for the district in which the city or town is situated shall—

When? Under what circumstances?—

on the application in writing of at least two citizens residing in such city or town, appoint special deputy marshals, &c.

He has no power to appoint them except when the request is made in writing by at least two citizens. And what more, Mr. Speaker?

No person shall be appointed a supervisor of election or deputy marshal under the preceding section who is not at the time of his appointment a qualified voter of the city, town, or precinct.

Now, what are the facts? These gentlemen, some of them from Ohio,

have said that the appointment of these deputy marshals was made necessary in consequence of the fact that in Cincinnati negroes were prevented from voting. I say the charge is without foundation. The negroes from Kentucky and from Virginia brought in there upon freight cars, locked into the box-cars like cattle, taken to the town, kept for days before the election, and there for the purpose of voting, were the only ones with whom there was any attempt to interfere on the part of any officers, and those men, sir, were decorated with the badges of deputy marshals.

Mr. JOSEPH D. TAYLOR. Why not have that investigated?

Mr. FOLLETT. That is exactly, with other conduct of the marshal, what these resolutions provide to investigate.

Now, Mr. Speaker, before this election was held this marshal was waited upon by citizens of that State, with the request that he should disclose what his intentions were for the election day and that he should co-operate with the State officers for the purpose of securing a fair and honest election. He said, in his immaculate dignity, as an officer of the United States, that if the mayor of our city and the other persons whose duty it was to see that there was a fair election saw fit to wait upon him his majesty would be at his office at certain hours in the day. One of these citizens, the president of one of our leading railroads, one of the most prominent citizens of Cincinnati, replied to him in strong and vigorous language: "Were I the mayor of Cincinnati I would see you in a hot place before I did so. Your little dignity assuming to control the affairs of the State of Ohio! And your office greater than that of the mayor of Cincinnati!"

Now, Mr. Speaker, there were there on that day, decorated with marshal's badges, men professing and glorying in the cognomen of the "Terror of Black Hills"—men just out of the penitentiary from the State of Kentucky—men who were seen and known to be residents of other States. It has been said here that the United States court is prosecuting one side only. That is true. The marshal of the United States knowingly brought persons from outside the State and decorated them with marshal's badges; but no Government officer prefers a charge against him or brings complaint before a grand jury. But, sir, here is a law of the United States. The majesty of that law is invoked; and any poor fellow who attempted to clear the road to the ballot-box, that he might get there and deposit his vote, if he interfered with one of these deputy marshals standing between him and the ballot-box, is immediately arrested, brought before the United States court, and punished in accordance with that law for interfering with the United States deputy marshals.

Now, I have very little care for what the distinguished gentleman from Maine [Mr. REED] sees fit to say about myself or my disappointment at the count upon the night of the election. I say to the gentleman that so far as the honest voters of my district are concerned, I had many more votes than I had two years ago when I was chosen to the seat I am now occupying—very nearly 2,000 more. But, sir, when appliances such as this investigation will disclose are brought into action, when Government officers from Kentucky, postmasters and revenue collectors, are brought into my town decorated with deputy marshal's badges and turned loose to vote from early in the morning till late at night, thank God I was not elected by such votes and I would not wish to be. [Applause on the Democratic side.]

Gentlemen on the other side say that we want to suppress investigation. On the contrary, these resolutions provide for the widest possible scope in this investigation. So far as the marshal is concerned, God knows I would not prevent him from making any excuse, if excuse he has, for the conduct which disgraced the city of Cincinnati and the election upon the 14th of last October. But, sir, when an officer of the United States puts himself into the hands and under the control of that distinguished citizen of New York John I. Davenport (my friend from New York knows who he is), and such distinguished citizens as Powell Clayton, of Arkansas, who was there the whole day giving instructions; such distinguished citizens as Mr. Filley, whose character is known to the gentleman from Missouri; such distinguished citizens as many who congregate about this Capitol during the sessions of Congress—such men as McElfresh; such distinguished citizens as one who, I blush to say, has been an officer of the United States, a man who has presided over the Pension Department of this Government, the chief detective of that department, who for two weeks was there setting up the job to do exactly what was done, to perpetrate a fraud upon the people, to make that fraud possible and successful—when such men as these control and govern an officer of the United States for the purpose of accomplishing such results, when by such means as these, I say to the gentleman from Maine, I am counted out of a seat in Congress, it is not my loss that is to be considered—for that I care not—it is the country's threatened destruction, the stab at liberty which you have given by that act. [Derisive cries on the Republican side.] Oh, those gentlemen begin already to groan. Thank God, their time has come; their eyes are beginning to close in death. [Laughter on the Democratic side.]

I have said all I desire to say on this occasion, and I now demand the previous question upon the adoption of the resolution.

Mr. KEIFER. Will not the gentleman allow me to offer my amendment? Will he not consent to include that in his motion?

Mr. FOLLETT. I move the previous question upon the adoption of the resolutions.

Mr. KEIFER. Will not the gentleman allow my amendment to be incorporated?

Mr. FOLLETT. Not at all. I have said so several times. My language is plain.

Mr. KEIFER. Then I want it distinctly understood that the gentleman does not desire a full investigation, one that will cover the whole case. [Cries of "Regular order!"]

The SPEAKER. The question is upon ordering the previous question on the adoption of the resolution.

The previous question was ordered, and under the operation thereof the resolution of Mr. FOLLETT was adopted.

Mr. FOLLETT moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ELECTION IN RICHMOND, VA.

Mr. GEORGE D. WISE. I ask unanimous consent to offer for present consideration the resolution which I send to the desk. I hope nobody on the other side will object to it.

The SPEAKER. The resolution will be read, after which the Chair will ask for objection.

The Clerk read as follows:

Whereas the United States marshal for the eastern district of Virginia and his deputies are alleged to have appointed a large number of general and special deputy marshals to serve at the several voting precincts in the city of Richmond, in the State of Virginia, at an election for electors of President and Vice-President of the United States and for member of Congress, held in said city on the 4th day of November, 1884, assuming to act in that regard in pursuance of an act of Congress of the United States; and

Whereas it is further alleged that a number of the deputy marshals so appointed were men of known vicious and brutal habits and wholly unfit to be placed in positions of responsibility and to be clothed with the authority of the Government; and

Whereas it is further alleged that the said marshal of the United States for the district aforesaid and his deputies, aided, assisted, and abetted by the United States district attorney for said eastern district of Virginia, did use and employ the powers assumed to be vested in them in the interest of a certain political party for the purpose of intimidation and to prevent a full and fair expression of the popular will at said election; and

Whereas it is alleged that deputy marshals were appointed to serve in said State of Virginia at said election in certain localities in violation of the express provisions of an act of Congress; Therefore,

Resolved, That the Committee on Expenditures in the Department of Justice be required and directed, as soon as the same can reasonably be done, to investigate such charges and report to this House—

First. How many deputy marshals, general and special, were appointed——

Mr. REED (interrupting the reading). I demand the regular order.

The SPEAKER. The gentleman from Maine calls for the regular order, which is equivalent to an objection to entertaining the resolution.

Mr. GEORGE D. WISE. I give notice that I shall present an impeachment to-morrow.

Mr. REED. That is a very good way.

INTERSTATE COMMERCE.

Mr. REAGAN. Mr. Speaker, there is nothing before the House, and I therefore ask to take up for present consideration the special order, being House bill No. 5461 to establish a board of commissioners of interstate commerce and to regulate such commerce.

Mr. GEORGE D. WISE. I do not understand that we have disposed of my resolutions. I ask, by unanimous consent, that they be printed in the RECORD.

The SPEAKER. They have been read by the Clerk, and, as a matter of course, they will go into the proceedings.

Mr. O'NEILL, of Pennsylvania. What is the regular order?

The SPEAKER. The regular order is the morning hour for the call of committees for reports, but the gentleman from Texas [Mr. REAGAN] calls up the special order, made during the last session, which the Clerk will read.

Mr. REAGAN. I also desire to submit some remarks on that bill.

Mr. O'NEILL, of Pennsylvania. I ask for the regular order of business.

The SPEAKER. The special order which the gentleman from Texas indicates takes precedence.

Mr. O'NEILL, of Pennsylvania. Has it precedence over the morning hour?

The SPEAKER. It has.

Mr. REED. But the gentleman from Pennsylvania can raise the question of consideration. Is not there unfinished business?

Mr. KEIFER. I should also like to inquire of the Chair whether this is a special order fixed for this day?

Mr. REAGAN. It was made the special order from day to day until disposed of.

The SPEAKER. It is a continuing special order.

Mr. KEIFER. But does it do away with Rule XXVII, which provides after six days from the commencement of the second or subsequent session of a Congress all bills and resolutions, &c., of the preceding Congress shall come up in their order? Can any special order come within those six days, is the proposition I submit to the Chair, unless the special order has been set apart expressly for a day within those six days? If made by unanimous consent, perhaps we might bring it within that time. But in the absence of any such special character given to this

special order, I would like to know whether it does away with the twenty-seventh rule of the House.

The SPEAKER. The Chair had some difficulty in determining what construction ought to be put upon that twenty-seventh rule, but found on examination it had been construed heretofore by Mr. Speaker Blaine, who held it did not prohibit the House from proceeding in its regular order. It made it imperative on the House, however, to proceed with the regular order after the expiration of six days.

Of course the question of consideration can be raised against this special order as against any other.

While there is some doubt as to the real meaning of the rule, the Chair feels disposed to adhere to the construction put upon it heretofore by Mr. Speaker Blaine.

Mr. KEIFER. What is that?

The SPEAKER. That it does not contain any negative proposition at all against the House proceeding in regular order. It is imperative, however, that after the expiration of the six days the House shall proceed with its regular orders.

Mr. O'NEILL, of Pennsylvania. I call for the morning hour, which, as I understand, is the regular order of business at this time.

The SPEAKER. But the gentleman from Texas calls up a special order, which has precedence over the regular order.

Mr. O'NEILL, of Pennsylvania. Had this special order ever been taken up before?

The SPEAKER. It had not. The gentleman from Texas called it up during the last session of Congress on several occasions, but in every instance the question of consideration was raised against it and it was not considered. As the Chair has already said, the gentleman from Pennsylvania can raise the question of consideration if he desires to do so.

Mr. O'NEILL, of Pennsylvania. Can we raise the question of consideration against it in any other way than by demanding the morning hour?

Mr. REAGAN. I ask unanimous consent to have the bill read.

Mr. O'NEILL, of Pennsylvania. I raise the question of consideration.

Mr. REAGAN. Let the bill be read.

Mr. O'NEILL, of Pennsylvania. I raise the question of consideration against this bill, and I do so because the House is not full at this time, and this is too important a subject of legislation to be acted on without a quorum. No one understands the importance of this subject more than the gentleman from Texas, and I am sure he will not ask to have it considered at a time when the House is thin.

The SPEAKER. The matter is not debatable.

Mr. REAGAN. I hope I may be allowed to proceed without further interruption.

The SPEAKER. The gentleman from Pennsylvania has raised the question of consideration.

Mr. ANDERSON. Did not the gentleman from Pennsylvania raise the question of consideration too late? The gentleman from Texas had previously called up the special order and was occupying the floor.

The SPEAKER. As soon as the gentleman from Texas called up the special order the gentleman from Pennsylvania raised the question of consideration, and the Chair thinks he was in time.

Mr. O'NEILL, of Pennsylvania. And I think the House had now better refuse to consider it.

The SPEAKER. The question is, Will the House proceed to the consideration of the special order indicated by the gentleman from Texas?

The House divided; and there were—ayes 130, noes 10.

So the House determined to proceed to the consideration of the special order.

Mr. REAGAN. I ask by unanimous consent of the House that the bill and substitute which I propose to offer for it shall be printed, for the convenience of members, in the RECORD.

Mr. HISCOCK. I wish to inquire of the gentleman from Texas when he expects to call for a vote?

Mr. REAGAN. Just as soon as the House will consent. I desire an early disposition of the question. It seems to me it can be disposed of in two or three days.

The SPEAKER. The bill has not yet been read.

Mr. REAGAN. Let the bill and my proposed substitute be read and go into the RECORD.

The Clerk read as follows:

A bill (H. R. 5461) to establish a board of commissioners of interstate commerce, and to regulate such commerce.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all charges by any person or persons engaged alone or associated with others in the transportation of property by railroad from one State or Territory to or through one or more other States or Territories of the United States, or to or from any foreign country, shall be reasonable for such service.

SEC. 2. That it shall be unlawful for any person or persons so engaged as aforesaid directly or indirectly to charge to or receive from any person or persons any greater or less rate or amount of compensation or reward than is by him or them charged to or received from any other person or persons for like and contemporaneous service in the carrying, receiving, delivering, storing, or handling the same under substantially similar circumstances; and all persons engaged as aforesaid shall furnish, without discrimination, the same facilities for the carriage, receiving, delivery, storage, and handling of all property of like character carried by him or them, and shall perform with equal expedition the same kind of services connected with the contemporaneous transportation thereof as aforesaid. No break, stoppage, or interruption, nor any contract, agreement, or understanding, shall be made to prevent the carriage of any property from being and being considered as one continuous carriage, in the meaning of this act, from the place of shipment to the place of destination, unless such stoppage, interruption, contract, arrangement, or understanding was made in good faith for some practical and necessary purpose, without any intent to avoid or interrupt such continuous carriage or to evade any of the provisions of this act.

SEC. 3. That it shall be unlawful for any person or persons engaged in the transportation of property as aforesaid directly or indirectly to allow any rebate, drawback, or other advantage in any form, upon shipments made or services rendered as aforesaid by him or them, which, under similar circumstances, are not allowed to all other persons.

SEC. 4. That it shall be unlawful for any person or persons engaged in the carriage, receiving, storage, or handling of property as mentioned in the first section of this act to enter into any combination, contract, or agreement, by changes of schedule, carriage in different cars, or by any other means, with intent to prevent the carriage of such property from being continuous from the place of shipment to the place of destination, whether carried on one or several railroads; and it shall be unlawful for any person or persons carrying property as aforesaid to enter into any contract, agreement, or combination for the pooling of freights, or to pool the freights, of different and competing railroads, by dividing between them the aggregate or net proceeds of the earnings of such railroads, or any portion of them.

SEC. 5. That the provisions of this act shall apply to all property, and the receiving, delivery, loading, unloading, handling, storing, or carriage of the same, on one actually or substantially continuous carriage, or as part of such continuous carriage, as provided for in the first section of this act, and the compensation therefor, whether such property be carried wholly on one railroad or partly on several railroads, and whether such services are performed or compensation paid or received by or to one person alone or in connection with another or other persons.

SEC. 6. That any railroad company, officer of such company, or other person who shall violate any of the provisions of this act shall be liable to any person injured for the actual damages caused by such violation, which may be recovered in any State or United States court of competent jurisdiction. The court before which any such action is tried, if it shall be found that the violation was willful, or continued after the notice provided by the tenth section of this act, shall make an allowance by way of additional costs to the party injured sufficient to cover all his counsel and attorney fees, and all expenses and disbursements in the action, including his own necessary personal expenses.

SEC. 7. That any corporation or person violating this act is guilty of a misdemeanor, and subject to a fine of not exceeding $1,000 for each violation. The courts of the United States shall have exclusive jurisdiction of all prosecutions arising under this section. It shall be the duty of district attorneys of the United States to institute and prosecute to effect criminal proceedings for all such violations. The provisions of this section shall not apply to the first section of this act.

SEC. 8. That there shall be appointed by the President, by and with the advice and consent of the Senate, three commissioners, of whom one shall be of experience in the law and one of experience in railroad business, who shall be collectively known as the commission of interstate commerce of the United States, and shall be charged with the duty of carrying into effect the provisions of this act in respect of interstate commerce. One of said commissioners shall hold his office for the term of two years, one for the term of four years, and the other for the term of six years, to be respectively designated by the President, and thereafter said commissioners shall be appointed for the term of six years; and a commissioner appointed to any vacancy shall hold office for the unexpired term. Any one of said commissioners may be removed by the President for cause, but not otherwise. Said commissioners shall devote their whole time and abilities to the duties of their office, and shall not accept or engage in any office or employment inconsistent with the provisions of this act. If either commissioner, after his appointment, shall be, or shall become by inheritance or operation of law, pecuniarily interested in any railroad or railroad security, he shall, within thirty days, divest himself of such interest; and upon his failure to do so, or upon his voluntarily becoming interested in any such railroad or railroad security, his office shall become vacant. No commissioner shall participate in any hearing or proceeding in which he has any pecuniary interest whatever. Each commissioner shall receive an annual salary of $7,500, payable like the salaries of the judges of the courts of the United States: *Provided*, That before entering upon the discharge of their duties they shall, in addition to the oath required of them by law, take and subscribe to an oath that they are neither directly nor indirectly interested in the ownership or earnings of any railroad company whatsoever.

SEC. 9. That the said commission shall exercise only the powers by this act conferred. Said commission may appoint a clerk, whose duty it shall be to keep a full and faithful record of the proceedings of said commission, and otherwise to assist the members thereof in the performance of their duties, and who shall receive an annual salary of $2,500: and also one accountant, at an annual salary of $2,500. The Secretary of the Interior, at the request of said commission, may also furnish the commission such additional clerical, engineering, expert, or other service as they may request and he shall deem proper. Actual and necessary traveling and other expenses incurred by said commissioners, or their employés under their orders, shall be allowed them, for which vouchers shall be rendered. The commissioners, their experts and clerks, may pass and repass over any railroad engaged in interstate commerce free of charge, whenever engaged in the performance of their duties under the provisions of this act, but neither shall accept any other pass, gratuity, or favor whatever from any railroad company.

SEC. 10. That any person complaining of anything done or omitted to be done by any railroad company or person in violation or contravention of this act may, in addition to the remedies hereinbefore provided, apply to said commission by petition in writing, which shall briefly state the subject of such complaint. If the petition is signed by any board of trade or other commercial body, or, when signed by an individual, if it bears the certificate of any district attorney of the United States, or of any district or county attorney, or officer corresponding thereto, of any State or Territory, that he has examined the facts, and in his opinion the complaint is well founded, the commission is hereby required to entertain and investigate the same. In all other cases the commission shall decide whether or not the petition ought to be proceeded with. The commission may, if they think fit, before requiring or permitting any formal proceedings to be taken on any petition, communicate the same to the railroad company against whom it is made, so as to afford them an opportunity of making such observations or taking such action thereon as they may think fit. The commission shall have power, and in a proper case is required, to cause a copy of the petition to be served upon the railroad company complained against, and to issue a notice requiring such company to appear before the commission and answer the said petition. The answer shall be in writing. After the answer is filed it shall then be lawful for the commission, if it shall think fit, to direct and prosecute, in such mode and by such persons or means as it shall think proper, all such inquiries into matters of fact as may be deemed necessary to enable the commission to form a just conclusion in respect of the matters of said petition. All the proceedings before said commission shall be directed by and

under general orders, which shall secure to all persons interested reasonable notice and opportunity to be heard. If it shall be made to appear to the satisfaction of the commission, either by the testimony of witnesses or other evidence adduced before it, or by the report of any person to whom the commission may have referred the inquiry, or any part thereof, that anything has been done or omitted to be done in contravention or violation of this act, by any railroad company or person so upon due and proper notice proceeded against, it shall be the duty of such commission to make and record its report in writing in respect of any such contravention or violation of this act, which report shall comprise and embrace the findings of the commission upon and in respect of all questions of fact in issue or involved in such proceedings. Within a reasonable time, not to exceed twenty days, after such report and findings are made by the commission, it shall cause a copy thereof to be served upon or delivered to the railroad company so found to have violated this act, to which shall be appended a notice to be issued by said commission to such company forthwith to cease and desist from such violation; and also to deliver to the district attorney of the United States for the district in which the act complained of occurred another copy of such report, findings, and notice.

SEC. 11. That upon notice that any such railroad company has neglected or refused to conform to the decision of said commission, and to desist from such violation or contravention of this act, it shall be the duty of such district attorney to apply by petition, in the name of the party aggrieved, to the circuit court of the United States for such district, for, and it shall be the duty of such court to grant, an order upon such railroad company to show cause why such company should not be enjoined and restrained against the continuance of such violation, and for such other order and relief in the premises as may be just and proper. For the purpose of making any order or decree in the premises, final or otherwise, such court shall be always open, and the day on which any such order or decree is made shall be a special term of such court. Upon the service and return of such order to show cause, and notice to the parties interested, such court shall proceed in a summary manner to ascertain whether the said report and findings are true; and whenever said court shall be of opinion that such company has done or is doing any act in violation or contravention of this act in said report and findings described, it shall so adjudge; and it then shall be the duty of said court forthwith to issue a writ of injunction, requiring such railroad company to desist from such violation, and in respect of the matters in said report contained to conform to and obey all the provisions of said act. Such court may enforce obedience to any such injunction, order, or decree, by any person or party, by fine, proceedings for contempt, and all other means within its lawful jurisdiction sitting as a court of equity. Any person interested to restrain such violation may, on application to the court, be allowed to appear and be heard, by himself or counsel; and upon proof that any district attorney has failed in any proper case for the period of ten days to apply for such order to show cause, the court may permit such application to be made and prosecuted to effect by or in behalf of any person so interested. Such court may, in its discretion, award or deny costs to any party to such proceeding. In any case where the court shall adjudge that the violation of this act by any company has been willful, or continued after notice to desist therefrom, the court may award to any party injured such a gross sum by way of costs as will reimburse all his costs, charges, expenses, counsel fees, and disbursements, to be paid by such company.

SEC. 12. That the commission may make, and from time to time amend, such general orders as may be requisite for the order and regulation of proceedings before it, including all forms for proceeding, notices and the service thereof, and for the prescribing, directing, or regulating any matters authorized by this act. All the proceedings before said commission shall be upon reasonable notice to all parties interested, and such forms shall conform as nearly as may be to those in use in the courts of the United States. Any party may appear and be heard in person or by attorney.

SEC. 13. That for the purposes of this act the commission shall, subject as in this act mentioned, have full power to ascertain and report upon all questions of fact arising under this act, and shall also have the powers following:

(a) They may, by subpœna or order to be served by a person by them authorized, require the attendance of witnesses, and of all such persons as they think fit to call before them, or before any person by them authorized to prosecute an inquiry.

(b) They may require the production of all books, papers, and documents relating to any matter before them, and to that end may invoke the aid of any court of the United States.

(c) Either of them may administer oaths and affirmations.

SEC. 14. That the principal office of the commission shall be in the city of Washington, where its general session shall be held and its records and archives be deposited. Whenever the convenience of the public or of the parties may be promoted, or delay or expense prevented thereby, the commission may hold special sessions in any part of the United States. It may, by one or more of the commissioners, or one of the persons named in the ninth section hereof, or by any person specially appointed by the commission, prosecute any inquiry necessary to its duties, in any part of the United States, into any matter or question of fact, and may specially delegate to the officer or person conducting such inquiry such powers to that end as are by this act conferred upon the commission and may be deemed necessary. Every vote and official act of either of the commissioners shall be entered of record. The commission may conduct its proceedings in such a manner as will most conduce to the dispatch of business and to justice; they may sit together or separately, and either in private or public, but any proceeding before them shall be public upon the request of either party thereto; and a majority of said commission may determine any question submitted. The commission shall prescribe a railroad year, and a system of reports covering said year to be rendered by railroad companies; examine the books and accounts of said companies at such times as may be deemed by them necessary; see that all United States laws relating to said companies are enforced; furnish such information to the several Departments of the Government, or the Government directors of any of said railroads, in regard to the tariffs of fares and freight, or the accounts of said railroads, as may be required of them or as they may deem expedient; make an annual report of their doings to Congress on or before the 1st day of January of each year; and otherwise endeavor to procure the data necessary to the gradual enactment of an intelligent system of national legislation regulating interstate railroad commerce.

SEC. 15. That the Secretary of the Interior shall provide suitable offices and a room for the public sessions of the commission in the city of Washington. Witnesses summoned before the commission shall be paid the same fees as witnesses in the Federal courts, and depositions *de bene esse* and under commission may be taken to be used before the commission in the same manner and upon the same conditions as in such courts. The salaries and expenses of the commission shall be provided for, audited, and paid in the same manner as the salaries of judges and other judicial expenses.

SEC. 16. That said board of commissioners shall inquire into that method of railroad management or combination known as pooling, and state the result of their inquiry in their first annual report, and whether, in their judgment, any, and if so what, legislation is expedient in relation thereto.

SEC. 17. That nothing in this act shall apply to the carriage, storage, or handling of property wholly within one State or Territory and not destined for continuous carriage beyond such State or Territory, or to property carried for the United States, or to the transportation of persons or articles free or at reduced rates for State or municipal governments or for charitable purposes, or to or from public fairs and expositions for exhibition thereat.

SEC. 18. That in the construction of this act the phrases "railroad corporation" and "railroad company" shall be held to be synonymous, and to signify a corporation which either owns or operates a railroad as aforesaid, and shall include receivers, lessees, and trustees operating railroads, and all persons named in the first section of this act. The word "person" in this act includes plurality of persons, corporate and incorporate, and all persons in any manner engaged in interstate railway commerce in whatever capacity, whether as principals, agents, or employés.

SEC. 19. That the sum of $40,000, or so much thereof as may be necessary, is hereby appropriated for the uses and purposes of this act for the fiscal year ending June 30, A. D. 1885, and the intervening time anterior thereto.

Mr. REAGAN'S proposed substitute:

A bill to regulate interstate commerce and to prohibit unjust discriminations by common carriers.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it shall be unlawful for any person or persons engaged alone or associated with others in the transportation of property by railroad from one State or Territory to or through one or more other States or Territories of the United States, or to or from any foreign country, directly or indirectly to charge to or receive from any person or persons any greater or less rate or amount of freight, compensation, or reward than is charged to or received from any other person or persons for like and contemporaneous service in the carrying, receiving, delivering, storing, or handling of the same. All charges for such services shall be reasonable. And all persons engaged as aforesaid shall furnish, without discrimination, the same facilities for the carriage, receiving, delivery, storage, and handling of all property of like character carried by him or them, and shall perform with equal expedition the same kind of services connected with the contemporaneous transportation thereof as aforesaid. No break, stoppage, or interruption, nor any contract, agreement, or understanding shall be made to prevent the carriage of any property from being and being treated as one continuous carriage, in the meaning of this act, from the place of shipment to the place of destination, unless such stoppage, interruption, contract, arrangement, or understanding was made in good faith for some practical and necessary purpose, without any intent to avoid or interrupt such continuous carriage or to evade any of the provisions of this act.

SEC. 2. That it shall be unlawful for any person or persons engaged in the transportation of property as aforesaid directly or indirectly to allow any rebate, drawback, or other advantage, in any form, upon shipments made or services rendered as aforesaid by him or them.

SEC. 3. That it shall be unlawful for any person or persons engaged in the carriage, receiving, storage, or handling of property as mentioned in the first section of this act to enter into any combination, contract, or agreement, by changes of schedule, carriage in different cars, or by any other means, with intent to prevent the carriage of such property from being continuous from the place of shipment to the place of destination, whether carried on one or several railroads. And it shall be unlawful for any person or persons carrying property as aforesaid to enter into any contract, agreement, or combination for the pooling of freights, or to pool the freights, of different and competing railroads, by dividing between them the aggregate or net proceeds of the earnings of such railroads, or any portion of them.

SEC. 4. That it shall be unlawful for any person or persons engaged in the transportation of property as provided in the first section of this act to charge or receive any greater compensation for a similar amount and kind of property, for carrying, receiving, storing, forwarding, or handling the same, for a shorter than for a longer distance on any one railroad; and the road of a corporation shall include all the road in use by such corporation, whether owned or operated by it under a contract, agreement, or lease by such corporation.

SEC. 5. That all persons engaged in carrying property as provided in the first section of this act shall adopt and keep posted up schedules which shall plainly state:

First. The different kinds and classes of property to be carried.

Second. The different places between which such property shall be carried.

Third. The rates of freight and prices of carriage between such places, and for all services connected with the receiving, delivery, loading, unloading, storing, or handling the same. And the accounts for such service shall show what part of the charges are for transportation, and what part are for loading, unloading and other terminal facilities.

Such schedules may be changed from time to time as hereinafter provided. Copies of such schedules shall be printed in plain, large type, at least the size of ordinary pica, and shall be kept plainly posted for public inspection in at least two places in every depot where freights are received or delivered; and no such schedule shall be changed in any particular except by the substitution of another schedule containing the specifications above required, which substitute schedule shall plainly state the time when it shall go into effect, and copies of which, printed as aforesaid, shall be posted as above provided at least five days before the same shall go into effect; and the same shall remain in force until another schedule shall as aforesaid be substituted. And it shall be unlawful for any person or persons engaged in carrying property on railroads as aforesaid, after thirty days after the passage of this act, to charge or receive more or less compensation for the carriage, receiving, delivery, loading, unloading, handling, or storing of any of the property contemplated by the first section of this act than shall be specified in such schedule as may at the time be in force.

SEC. 6. That each and all of the provisions of this act shall apply to all property, and the receiving, delivery, loading, unloading, handling, storing, or carriage of the same, on one actually or substantially continuous carriage, or as part of such continuous carriage, as provided for in the first section of this act, and the compensation therefor, whether such property be carried wholly on one railroad or partly on several railroads, and whether such services are performed or compensation paid or received by or to one person alone or in connection with another or other persons.

SEC. 7. That each and every act, matter, or thing in this act declared to be unlawful is hereby prohibited; and in case any person or persons as defined in this act, engaged as aforesaid, shall do, suffer, or permit to be done any act, matter, or thing in this act prohibited or forbidden, or shall omit to do any act, matter, or thing in this act required to be done, or shall be guilty of any violation of the provisions of this act, such person or persons shall forfeit and pay to the person or persons who may sustain damage thereby a sum equal to three times the amount of the damages so sustained, to be recovered by the person or persons so damaged by suit in any State or United States court of competent jurisdiction where the person or persons causing such damage can be found or may have an agent, office, or place of business; and if the court before which any such action is tried shall be of opinion that the violation of the law was willful, it shall make an allowance, by way of additional costs, to the party injured sufficient to cover all his counsel and attorney fees. Any action to be brought as aforesaid may be considered, and if so brought shall be regarded, as a subject of equity jurisdiction and discovery, and affirmative relief may be sought and obtained therein. In any such action so brought as a case of equitable cognizance as aforesaid, any director, officer, receiver, or trustee of any corporation or company aforesaid, or any receiver, trustee, or person aforesaid, or any agent of any such corporation or company, receiver, trustee, or person aforesaid, or of any of them, alone or with any other person or persons, party or parties, may and shall be compelled to attend, appear, and testify and give evidence; and no claim that any such testimony or evidence might or might not tend

to criminate the person testifying or giving evidence shall be of any avail, but such evidence or testimony shall not be used as against such person on the trial of any indictment against him. The attendance and appearance of any of the persons who as aforesaid may be compelled to appear or testify, and the giving of the testimony or evidence by the same, respectively, and the production of books and papers thereby, may and shall be compelled the same as in the case of any other witness; and in case any deposition or evidence, or the production of any books or papers, may be desired or required for the purpose of applying for or sustaining any such action, the same, and the production of books and papers, may and shall be had, taken, and compelled by or before any United States commissioner, or in any manner provided or to be provided for as to the taking of other depositions or evidence, or the attendance of witnesses, or the production of other books or papers, in or by chapter 17 of title 13 of the Revised Statutes of the United States. No action aforesaid shall be sustained unless brought within one year after the cause of action shall accrue, or within one year after the party complaining shall have come to a knowledge of his right of action. And as many causes of action as may accrue within the year may be joined in the same suit or complaint.

SEC. 8. That any director or officer of any corporation or company acting or engaged as aforesaid, or any receiver or trustee, lessee, or person acting or engaged as aforesaid, or any agent of any such corporation or company, receiver, trustee, or person aforesaid, or of one of them alone, or with any other corporation, company, person, or party, who shall willfully do, or cause or willingly suffer or permit to be done, any act, matter, or thing in this act prohibited or forbidden, or who shall aid or abet therein, or shall willfully omit or fail to do any act, matter, or thing in this act required to be done, or cause or willingly suffer or permit any act, matter, or thing so directed or required by this act to be done not to be so done, or shall aid or abet any such omission or failure, or shall be guilty of any infraction of this act, or aid or abet therein, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than $1,000.

SEC. 9. That nothing in this act shall apply to the carriage, receiving, storage, handling, or forwarding of property wholly within one State, and not shipped from or destined to some foreign country or other State or Territory; nor shall it apply to property carried for the United States at lower rates of freight and charges than for the general public, or to the transportation of articles free or at reduced rates of freight for charitable purposes, or to or from public fairs and expositions for exhibition.

SEC. 10. That the words "person or persons" as used in this act, except where otherwise provided, shall be construed and held to mean person or persons, officer or officers, corporation or corporations, company or companies, receiver or receivers, trustee or trustees, lessee or lessees, agent or agents, or other person or persons acting or engaged in any of the matters and things mentioned in this act.

During the reading of the bill and substitute the following proceedings took place:

Mr. REAGAN (interrupting the reading). I would suggest that by unanimous consent the reading of the bill and substitute be omitted, and that they be published in the RECORD.

Mr. O'NEILL, of Pennsylvania. This is a most important bill, and ought to be read.

The SPEAKER *pro tempore* (Mr. CRISP in the chair). Does the gentleman from Pennsylvania object?

Mr. O'NEILL, of Pennsylvania. I do.

The Clerk resumed and concluded the reading of the bill as above.

Mr. REAGAN. Mr. Speaker, the subject-matter to which the bill just read relates is of perhaps as great moment to the country as any other that can be brought to the attention of the Congress of the United States. This will be realized when it is considered that it relates to regulations affecting 125,000 miles of railroad in the carrying of the commerce—what is denominated the interstate commerce—of the country, an amount of commerce certainly not less than $10,000,000,000 annually. I do not propose, however, this afternoon to enter into the general discussion of the subject.

There are two bills pending before the House: one the bill authorized by the committee, the other a substitute offered by myself as a member of the committee. I thought that perhaps this evening I had better avoid any general discussion of the measure in its constitutional aspect—avoid any discussion of the constitutional authority of Congress over the subject—and simply call the attention of the members of the House briefly to the most clearly-defined differences between the two bills. The committee's bill has good provisions in it. It has provisions that commanded the approval of a majority of the committee. It will be for the House when the subject is presented to determine whether it also meets the approval of the House or whether it desires a bill in some other form.

The seventh section of the committee's bill makes the penalty for a violation of its provisions not more than $1,000, and provides that the provisions of this section shall not apply to violations of the provisions of the first section of the bill. The first section of the bill provides:

That all charges by any person or persons engaged alone or associated with others in the transportation of property by railroad from one State or Territory to or through one or more other States or Territories of the United States, or to or from any foreign country, shall be reasonable for such service.

The only provision in the first section of the bill to which this relates is that the charges shall be reasonable. The committee's bill in fixing the penal part of the bill expressly exempts the first section from its operation, and, therefore, charges which are unreasonable and onerous, unjust or exorbitant, may be made without penalty and without a remedy upon the criminal docket against the offending party.

The substitute bill by its eighth section provides that all violations of its provisions are made penal, and the fine in any case shall be not less than $1,000. There are two differences between the two sections. The committee's bill makes the penalty not more than $1,000, while the substitute bill makes the penalty not less than $1,000. The committee's bill exempts the question as to the unreasonableness of the charges from the operation of the penal provision, while the substitute bill makes a violation of that provision a penal offense as well as the violation of any other provision of the bill.

This is the first difference to which I desire to call the attention of the House. Upon it I suggest that if we make a discrimination as to the allowance of rebates and drawbacks, and the pooling of freights and other matters named in the bill, an offense, why shall we say that unjust charges against shippers shall be less of an offense? The proposition seems to me so clear that the substitute bill is superior in its equities to the committee's bill that I do not deem it necessary to consume the time of the House by discussing that point any further.

Under the sixth section of the committee's bill the liability of a railroad company to any person suffering wrong by their action is the actual damages sustained; while under the seventh section of the substitute bill persons violating the provisions of the bill would be liable in three times the amount of damages sustained. This is a difference of some considerable moment, and I deem it best here to call attention to the reasons which induced me to believe that triple damages in such cases ought to be allowed. Wealthy litigants may be able to combat the railroad corporations in the courts of the country; but the great mass of persons who would be liable to injury by the discrimination and improper conduct of these corporations are unable to contest with them in the courts. They are unable to fee lawyers, pay their witnesses, and lose the time necessary to attend to courts if it can be avoided. But the railroad corporations have almost habitually, where suits were brought against them, undertaken to delay decisions and deter parties from the institution of suits by prolonging litigation. Their wealth, power, and influence are sufficient to enable them to do so. It is fair, therefore, it seems to me, when they provoke litigation by their conduct, to say that they shall pay three times the damages arising from their unlawful action. At the common law they would be liable for actual damages sustained; but at the common law, as has been found in the State of New York and elsewhere, private litigants are unable to contend with the railroad corporations; and it has been developed during past sessions of Congress, and was developed in the great legislative investigation in the State of New York, that men injured by the unlawful acts of these corporations were afraid to institute suits against them in order to bring them to justice for fear of their power to discriminate further against them and inflict upon them irremediable wrong. So that, all things considered, it seems to me that it is right and proper to give triple damages instead of simple common law damages to the actual amount of damage sustained. But I do not propose so much to elaborate these points now as simply to present the differences between the bills, so that gentlemen who participate in the discussion may consider them as we proceed.

Mr. LONG. Will not the gentleman refer to the provision in the committee's bill to meet just that point with regard to the allowing of costs?

Mr. REAGAN. I will read that provision of the committee's bill and will also read the provision of the substitute bill on the same subject. The committee's bill provides:

SEC. 6. That any railroad company, officer of such company, or other person who shall violate any of the provisions of this act shall be liable to any person injured for the actual damages caused by such violation, which may be recovered in any State or United States court of competent jurisdiction. The court before which any such action is tried, if it shall be found that the violation was willful, or continued after the notice provided by the tenth section of this act, shall make an allowance by way of additional costs to the party injured sufficient to cover all his counsel and attorney fees, and all expenses and disbursements in the action, including his own necessary personal expenses.

I will now read a part of the seventh section of the substitute bill:

That each and every act, matter, or thing in this act declared to be unlawful is hereby prohibited, and in case any person or persons as defined in this act engaged as aforesaid shall do, suffer, or permit to be done, any act, matter, or thing in this act prohibited or forbidden, or shall omit to do any act, matter, or thing in this act required to be done, or shall be guilty of any violation of the provisions of this act, such person or persons shall forfeit and pay to the person or persons who may sustain damage thereby a sum equal to three times the amount of the damages so sustained, to be recovered by the person or persons so damaged by suit in any State or United States court of competent jurisdiction where the person or persons causing such damage can be found or may have an agent, office, or place of business; and if the court before which any such action is tried shall be of opinion that the violation of the law was willful, it shall make an allowance, by way of additional costs, to the party injured sufficient to cover all his counsel and attorney fees.

Omitting the part about his personal expenses that is in the committee's bill, I have read the two sections, in order that the difference between them may be seen by members in proceeding with the discussion.

The committee's bill in its remedial provisions only provides legal remedies, while the substitute bill provides both legal and equitable remedies. There is a reference to equitable powers in the committee's bill, but that is not in relation to the remedial provisions of the bill, but only in relation to those provisions which concern a commission and the action of a commission in determining questions between the Government and wrongdoers and not between a citizen and a wrongdoer. I will call attention to a further part of the seventh section of the substitute bill, beyond what I have just read, in connection with this provision about conferring equitable powers in connection with the remedial provisions of the bill:

Any action to be brought as aforesaid may be considered, and if so brought shall be regarded as a subject of equity jurisdiction and discovery, and affirmative relief may be sought and obtained therein. In any such action so brought as a case of equitable cognizance as aforesaid, any director, officer, receiver, or trustee of any corporation or company aforesaid, or any receiver, trustee, or

person aforesaid, or any agent of any such corporation or company, receiver, trustee, or person aforesaid, or of any of them, alone or with any other person or persons, party or parties, may and shall be compelled to attend, appear, and testify and give evidence; and no claim that any such testimony or evidence might or might not tend to criminate the person testifying or giving evidence shall be of any avail, but such evidence or testimony shall not be used as against such person on the trial of any indictment against him.

And it goes on then to extend the provisions of the Revised Statutes in regard to compelling the attendance of witnesses and the production of books, papers, and contracts, and generally gives all the powers of a court of equity for compelling discovery. I will not read the whole of the section. It is the seventh section of the substitute.

This provision that I have in part read I esteem a very important part of any legislation that may secure to the people proper remedies in cases like these. Some years back in looking to the action of State Legislatures I had occassion to see that very wholesome provisions of State legislation had not been carried into effect because of the difficulty of furnishing the testimony necessary to sustain actions. Violations of duty and the law by these corporations are generally within the knowledge of their agents and covered by their books; and in a proceeding at law against them if you call upon them or their agents to testify or to produce their books you can not compel it, unless some provision of the statute is made to enable the compulsion of such parties to testify and produce their books. You may enact the best possible provisions, but if you take away from the courts the power to compel the officers and agents of these corporations to testify, and take away from the courts the power to compel them to produce their books and papers, in many, perhaps a great majority, of the cases that would arise you could not procure convictions. But if you can open the mouths of their officers and agents and compel them to testify and go to their books for the facts which those books disclose, you may convict them of unlawful practices. So I have thought that this provision was an essential feature of any measure that would prevent a disregard of the rights of the people in connection with the transportation of their interstate commerce. At present I do not propose to enlarge on the subject, but simply to call attention to what is required in connection with these remedial provisions, and to the fact that such provision is not found in the committee's bill, as I remember it, connected with its remedial provisions.

It will be understood that I make a distinction between remedial provisions and those which relate to the action of a commission acting chiefly between the Government and the companies, and not between aggrieved individuals and the wrongdoers.

The fourth distinctive difference between the two bills is that the committee's bill does not prohibit the railroad companies from charging more for a shorter than for a longer haul, while the substitute bill does prohibit such charges. This is a very important difference, to which I wish to call especially the attention of the House. It is one that received a good deal of consideration on the part of the committee and upon which there was serious difference of opinion. It was in evidence before the Forty-fifth Congress that a car-load of ordinary freight sent from Omaha to San Francisco was charged for at the rate of $300 per car-load, while a car-load of like freight sent from Omaha to Virginia City or the Palisades, six hundred miles this side of San Francisco, was charged $800; so that for six hundred miles less haul $500 more was charged upon a car-load of freight.

It is only necessary to state this proposition in order that the monstrous wrong of such a system of charges may be realized. It will be seen that the only reason these extortionate rates were adopted was because there was no competition, and the people of Nevada were helpless to protect themselves. It appeared in evidence also that the rates between San Francisco and Virginia City or the Palisades were greatly more than the through rates between Omaha and San Francisco. I give this as a strong illustration of the wrong of the principle of allowing a corporation to charge more for a car-load of freight for a shorter than a longer distance. But, I take it, it is within the knowledge of every member of this House, I care not where he may come from, that it is habitual to charge more for short hauls than for long, where there is no competition to protect the people against improper exactions of that kind.

The argument made in answer to this proposition is that from competing points prices must necessarily be lower than from non-competing points, and that by allowing these discriminations in favor of the long as against short hauls, Western produce is brought nearer to the Eastern markets. Now, I want to call the attention of the House to a fact which I beg may be investigated by all who feel an interest in looking into this precise question. The substitute bill is based upon a principle which renders that description of discrimination unnecessary, and at the same time gives to the people whose freight requires a long haul all the advantages that they can reasonably desire. In the very first Congress in which we had proof on this subject before us the fact was disclosed that flour could be sent from Saint Louis or Chicago through Pittsburgh to the city of Philadelphia cheaper than it could be sent from Pittsburgh to Philadelphia; and a similar statement may be made with reference to points in the interior part of New York. The fact is now developed that it is the practice of the railroad corporations to attempt to grasp more business than legitimately belongs to them by low rates of freight from competing points. The substitute bill which I have offered means to prevent this and to compel these corporations to rely upon the business which legitimately belongs to them.

In connection with this matter I desire to put this question to the good judgment and common fairness of the House: Is it right that a man at a non-competing point shall pay two or three times the rightful cost of the transportation of his freights in order to enable a railroad corporation to procure business at competing points at lower rates than it can afford, thus procuring freight to which it has no legitimate right? To answer this question in the affirmative is to base one wrong upon another, instead of meeting the ends of justice. It can not be insisted that common fairness and common honesty require one man to pay for the freight of another. There is no justice, no fairness, no honesty in saying that one man shall be compelled to pay the cost of carrying the merchandise of another.

But the framework of the substitute bill obviates, as I have said, the very difficulties which here arise in the minds of gentlemen in opposition to it. In the first place, the provisions of the substitute bill require that for a given amount of freight of a given quality no more shall be charged for a shorter than for a longer distance. In settling upon this principle we have from the start found serious difficulty. This difficulty grew out of the impossibility of arriving at a precisely equitable basis on this subject. We recognize the fact that the railroad companies can not load and unload freight and carry it for short distances at as cheap a rate per mile as they can for long distances; and the object in framing the bill was, while protecting the people against wrong, to guard also these corporations against wrong. In the framework of the substitute bill, which in this respect is the same bill that passed the House during the Forty-fifth Congress, we allow the corporations to continue to discriminate in favor of long hauls, and to discriminate to the extent of the whole difference of distance. We simply say that the companies shall not charge more, for instance, for a given amount of freight for 100 miles or 500 miles than they do for 1,000 miles. But there is nothing in the bill which will prevent them from charging as much for the short haul as for the longer haul. Thus they will have all the latitude of discrimination that distance gives them; and justice can not require more. Indeed, the difficulty of getting a better basis of adjustment induced us to go further in allowing this measure of discrimination than we thought was equitable. To this I think there can hardly be a successful answer.

Mr. Speaker, I beg to call the attention of those gentlemen who have objected to the proposition on that ground that there is nothing in the substitute bill submitted by me which prevents the railroad companies from charging as low a rate if the bill shall become a law as they can charge now without the bill becoming a law. We do not pretend to regulate their rates, to say whether they shall charge much or little. We do not ask that. We do not propose in any way to embarrass them in their lawful and rightful action, but simply to abridge, to cut off, to do away so far as possible by legislation with the abuses which have characterized the exercise of their monopoly power.

It has been said this legislation was sought in hostility to the railroad companies. I wish to testify for myself, Mr. Speaker, and I think I can safely testify for every committee which has considered this subject and of which I have been a member, that there has not been any disposition to inflict injury upon these railroad corporations. In common with the members of those committees and with the members of the House I recognize the great value of railroads in the country toward the promotion of its prosperity and the welfare of the people, and toward the development and advancement of our civilization. It is not my intention or desire to advocate any measure of legislation which would cripple their usefulness or inflict loss upon those who have invested in these various railroad enterprises. I can not make this stronger than I would. I simply desire to protect the people against the abuse of the monopoly power of railroad corporations and not to injure them or their stockholders.

Now, then, I have said there was nothing in the bill preventing railroad corporations charging as low a rate for the transportation of freight as they may wish, but there is this provision in the bill: that they shall not between intermediate points charge a higher rate than for the whole distance. What right has Saint Louis or Chicago or Galveston or any other place in the Union to say that in their interest you must permit freights to be carried from those places to the great entrepôts of commerce for less rates, at a less price, at less cost than they can be carried for for one-fourth of the distance? In God's name when they can get them carried for those longer distances at as low a price as they can be carried for shorter and intermediate distances, when they can have their freights carried two or three times farther distance, they ought to be contented, it seems to me. They ought not to go further and demand that these railroad corporations shall carry their freights 1,000 or 2,000 miles at a cheaper rate than they can be carried for 100 or 200 miles.

I invite those who combat my views on this subject to meet me before the House. I invite the attention of all to the fact that we do not interfere with any charges which may be made by the railroad corporations, except that no more shall be charged for the transportation of freights for a shorter than for a longer distance on the same bulk and

quality of freight, and that these charges shall be reasonable. That is all; and surely a citizen of Chicago or a citizen of Saint Louis can not complain if he secures the carrying of freight from that point—that is, from Saint Louis to Philadelphia or from Chicago to New York—as cheaply as from Harrisburg to Philadelphia.

Surely the citizen of Chicago can not complain if he gets his freight carried from Chicago to New York as cheap as the citizen of New York can have his freight carried from Albany to New York. I do not forget in this matter, Mr. Speaker, that I am stating illustrations and giving places within the boundaries of a State, which cases do not come under the proposed law; but the illustrations in themselves furnish a complete and conclusive answer to anything which may be urged in opposition to this provision. They show the injustice of hauling freights for a longer distance, of the same kind and bulk, at a cheaper rate than for a shorter distance; that is, that freights for 1,000 miles or 2,000 miles should pay less rate than for 100 or 200 miles.

But I am dwelling upon this subject longer than I desired. I regard this as one of the great essential provisions of this bill; and if the House desires to promote the remedial legislation which will protect the 50,000,000 of our American people against the rapacity of these corporations, you will never do it successfully by saying that the corporations may charge greatly more for carrying a car-load of freight 100 miles than for carrying it 1,000 miles. Such a proposition will command the approval and sense of justice and propriety of mankind.

The next point of difference between the two bills is that the committee's bill in its third section only prohibits the allowance of rebates or drawbacks and other discriminations to any one person which are not allowed to any other person, while the substitute bill prohibits the allowance of rebates, drawbacks, or advantages of any kind in all cases.

I desire to call attention to the particular wording of this bill on this subject, because I wish the House to understand what is in the bill itself. The third section of the committee's bill provides:

SEC. 3. That it shall be unlawful for any person or persons engaged in the transportation of property as aforesaid directly or indirectly to allow any rebate, drawback, or other advantage in any form, upon shipments made or services rendered as aforesaid by him or them, which, under similar circumstances, are not allowed to all other persons.

Instead of prohibiting the allowance of rebates, drawbacks, cut-rates, and other discriminating advantages, this bill goes on first to prohibit this and say then that if you allow them to one person you must also allow them to another. I submit that it simply opens the door to the whole wrong against which we are proposing to guard. And why, sir, should rebates be allowed to anybody? If they are allowed to all persons alike it simply amounts to a uniform reduction of the rates of freight to that extent. It amounts to that, and nothing else. It can not be anything else; and if, therefore, they make a uniform reduction of rates to all men, why not change the schedule and reduce the freight instead of saying that by this discriminating and swindling method of rebates and drawbacks we propose to swindle everybody alike? Have I not put the case fairly? Why permit this process at all? It amounts to saying that you shall not knock your neighbor down unless you knock some other neighbor down. You shall not steal your neighbor's hog unless you steal another neighbor's sheep. Why put it that way? Why not say that this discrimination in giving advantages to one shipper over another shall be absolutely prohibited?

In this connection I would invite the attention of the members of this House to the legislative investigation made a few years ago by the great State of New York, and contained in five large volumes, in which investigation it was shown, in the face of a written denial on the part of Mr. Vanderbilt and of Mr. Gould, that they allowed special rates. In answer to an inquiry from the chamber of commerce whether they did not make such discriminations Mr. Vanderbilt positively denied it, and the committee, members of the Legislature of New York, proceeded to take evidence, and proved the fact that within the last year preceding that time some thousands of contracts for rebates and drawbacks had been made by that company—not instances of rebates, but contracts for their daily allowance. There stands in these reports the written denial of the president of that corporation, and in opposition to it the proofs submitted to the Legislature of the State of New York. I submit this, Mr. Speaker, not to call attention to that particular man or to his road, but simply to illustrate what has been going on all over the country. If you give the power to a corporation or to the officers of a corporation to discriminate between the shippers, they will enrich their friends while they may impoverish those they do not like; and that investigation cited from New York furnishes the strongest, the amplest evidence of the truth of this statement. So I hold the substitute bill preferable to the committee's bill.

The committee's bill contains no provision requiring a railroad company to post up schedules of its rates of charges, while section 5 of the substitute bill does require such schedules to be posted up. And this is essential to secure fairness and equality in rates between shippers and as a means of evidence in determining whether discriminations have been made, and whether more than regular or schedule prices have been charged. If you leave that provision out and come to a trial in each case, you will have to prove what reasonable rates are. If you put the provision in requiring them to post up their schedules of rates, the law will presume they constitute reasonable rates, and the production of the schedules at a trifling expense would directly show the jury the amount of charges which the road had fixed, and it would then be for the court and jury to determine whether the schedule had been disregarded or not in the case under consideration. Perhaps I had better read this section of the substitute bill:

SEC. 5. That all persons engaged in carrying property as provided in the first section of this act shall adopt and keep posted up schedules which shall plainly state:

First. The different kinds and classes of property to be carried.

Second. The different places between which such property shall be carried.

Third. The rates of freight and prices of carriage between such places, and for all services connected with the receiving, delivery, loading, unloading, storing, or handling the same. And the accounts for such service shall show what part of the charges are for transportation, and what part are for loading, unloading, and other terminal facilities.

That last provision is as to the discrimination of rates and charges under the pretext of regulating the terminal charges. So I require by the substitute bill that the accounts shall state what portion of the amount is for freight and what portion is for terminal charges.

Such schedules may be changed from time to time as hereinafter provided. Copies of such schedules shall be printed in plain, large type, at least the size of ordinary pica, and shall be kept plainly posted for public inspection in at least two places in every depot where freights are received or delivered; and no such schedule shall be changed in any particular except by the substitution of another schedule containing the specifications above required, which substitute schedule shall plainly state the time when it shall go into effect, and copies of which, printed as aforesaid, shall be posted as above provided at least five days before the same shall go into effect; and the same shall remain in force until another schedule shall as aforesaid be substituted. And it shall be unlawful for any person or persons engaged in carrying property on railroads as aforesaid, after thirty days after the passage of this act, to charge or receive more or less compensation for the carriage, receiving, delivery, loading, unloading, handling, or storing of any of the property contemplated by the first section of this act than shall be specified in such schedule as may at the time be in force.

You see this provision not only requires these schedules to be posted up so that the citizen when he goes to make his shipment knows what part of the product of his labor or capital belongs to him and what part must go to the common carrier, but it provides that a charging of more or less than the schedule rates shall be punished as a crime. It simply means to make them be honest and to treat all men alike. Who but the corporations can object to this? Who that seeks common fairness can object to this? The committee's bill limits its provisions to car-loads of freight, while the substitute bill extends its provisions to all amounts of freight. A bill formerly reported from the Committee on Commerce on this subject was the same in its provisions as the present committee's bill, limiting the amount of freight which should come under the influence of the bill to car-loads, but the jobbing merchants of all the great cities protested that it was unjust in not giving to them the same protection for smaller amounts of freight that was given to others for larger amounts. It seemed to me that their statement was so just and fair, that I chose to give up my former convictions and position on this subject in deference to what was demanded by justice. Therefore I submit that as one of the differences between the bills; and I think when we come to examine it we shall see that there is no just reason why we should not place all amounts of freight under the same wholesome influence of this legislation and protect the citizen against the rapacity and unfairness of the corporation.

The committee's bill requires a railroad commission to be appointed under it; and by its sixteenth section it directs said commission to inquire into the method known as pooling and to report what legislation is expedient in relation thereto, while the preceding part of the bill prohibits absolutely by its third section all pooling of freights by competing roads.

I ought to observe that the committee's bill prohibits pooling. After the provision prohibiting pooling was inserted in the bill, however, another provision was inserted in the latter part of the bill, the sixteenth section, directing the commission provided for by the bill to enter upon an investigation as to the propriety of permitting pooling.

I have but a single remark at this time to offer on that subject, and it is this: In early times the anxiety of the people to secure the advantages of railroad transportation and travel induced them to make very liberal charters, almost as liberal as could be at any time asked for. It was felt then, as we all know to be the case now, that each road was a monopoly for the transportation of the freights and carrying of the travel on its particular line. They felt that then, and they then supposed that transportation by water and by other modes of conveyance would furnish such competition as in some measure to relieve the people against the monopoly exaction of these corporations. They felt, too, that as new roads were built they would offer lines of competition with each other and by their competition reduce the rates of freight to a fair price for carriage. And they felt then, as the law authorizes us to feel and to say now, that in case water transportation and other modes of transportation and competing railroad transportation should fail to give the desired relief against the monopoly powers of these corporations—they felt and knew that they derived their life and being from the legislative authority of the country; and that the power which created them could regulate in a reasonable way their rates of charges as common carriers, as their charges and their actions have been regulated from time immemorial, just as turnpikes are regulated and as hack-drivers in cities are regulated. They derive their powers in the main from

legislative authority; and if their powers are not derived from legislative authority then the corporations are engaged in public employments, that is, employments in which the public has an interest, and on both grounds the courts of England and America have always held that the right to regulate followed the creation of such corporations; otherwise we would have to assume, if that power does not exist, that the legislative authority can create something superior to itself. No wise statesman or wise statesmanship could make any such admission. The Government can not create something superior to itself. It would not dare to create something superior to itself. But I do not choose now to elaborate this point. I simply desire to state it.

The substitute bill would omit the provision of the committee bill, which requires inquiry into the subject of the right of pooling. The substitute bill assumes that pooling is wrong. I assume that it is unlawful. I believe that at common law it can be shown to be unlawful. But I do not choose to discuss that question now. The question is simply one of power. The people of this country confer upon these corporations franchises without price—large and valuable privileges—and they have the right to say to such corporations, "You may charge a just and reasonable percentage upon your capital, but you shall not levy unreasonable and unjust exactions upon the people."

The course of the English as well as the American decisions goes to this point: that the power of regulation resides with the legislative authority, but must not be abused by such legislation as will destroy the corporation or take from the stockholders a reasonable dividend upon the capital invested by them. That is the extent and character of the power to regulate transportation charges as recognized in Great Britain and this country.

The right to free competition ought to be left to the people. Pooling simply means we shall make one great mammoth corporation out of a number of smaller ones that shall take from the people all hope of protection against extortionate charges, denying to them the rights which grow out of free competition.

One other point as to the difference between these bills. The greatest defect in the committee's bill is that for many injuries to individuals it does not give an adequate legal or equitable remedy, but refers such matters to a railroad commission which is to determine questions between the wrong-doing railroad companies and the Government, while in many cases no remedy is provided for wrongs done to individual citizens.

Mr. LONG. Will not the individual citizen get the benefit of the investigation?

Mr. REAGAN. He may in a remote degree—indirectly. The substitute bill, on the other hand, gives complete legal and equitable remedy without delay through the ordinary courts of the country to citizens for every injury within the purview of this bill done them by such corporations.

I wish to say a word in relation to the proposed appointment of a commission. If it is the judgment of the House that we should have a commission on this subject I shall of course bow to the decision of the House. But I doubt the expediency of providing for such a commission, and will state why. If we provide for the appointment of a railroad commission either by the President or any other authority (and if provided for it would seem most natural that the members should be appointed by the President), however honest and patriotic his intentions may be in making such appointments, we must remember that the railroad corporations, few in number as to the heads that control them, can easily combine their influence and bring to bear by indirection, if they dare not do it directly, influences which will be likely to control in the appointment of commissioners.

If we get commissioners appointed in the interest of these corporations we can hardly expect either recommendations or direct action that will materially benefit the people.

It has been said that it was difficult even to get the representatives of the people to act on this great question. We know the power of these corporations (with their experts and other officers filling the committee-rooms and corridors and often placing themselves upon the floor of this House with their attorneys, the ablest in the United States, all of them paid out of the people's money by levying a little more tribute upon the people) to secure or prevent legislation. If Congress has found now for nine years the impossibility of legislating upon this great question, what is to be the fate of the people if their interests are left in the hands of three men upon whom all these influences can be concentrated. I do not deny that it may be possible to secure men who will be faithful to the great trust committed to them; but to undertake to perform the duties of such a commission would expose any men to the severest trials that can be imposed upon them.

Mr. WILSON, of Iowa. Will the gentleman from Texas be kind enough to point out the difference between the difficulty of getting good commissioners and the difficulty of getting good judges of the Supreme Court?

Mr. REAGAN. My friend from Iowa asks me if I can point out the difference in point of difficulty between getting honest commissioners and the difficulty of getting honest judges. I do not know that I can point out the difference in such a way as will be satisfactory to him. But judges are appointed with reference to the general legal powers which they are to exercise, while these commissioners would be appointed with reference to the specific duties provided for in this act relating to railroads. Judges have many motives in connection with subjects of jurisdiction other than railroads to preserve their integrity. I have said I do not doubt that it is possible to get men who will act fairly in this capacity. But, in my judgment, when we look at what has occurred in the majority of the States that have appointed commissioners, when we remember that State Legislatures have been suborned, that courts of justice have been corrupted, that even governors of States have been improperly influenced in their action by the power of these corporations, we should rather trust the rights of the people in the hands of the courts of the country than commit them to three particular individuals, whose jurisdiction at most can only be partial.

But I propose now, Mr. Speaker, to antagonize this idea of a commission by providing that certain things shall not be done, and that the doing of them shall be a violation of the law, and that certain things shall be done, and the non-doing of these things shall be a violation of law. I propose to give a civil remedy to the party injured, in the State or Federal court where these parties or their officers can be found, in civil damages for the wrong done. I propose to give a criminal remedy in the courts of the United States for the same wrongs where the penalty on conviction shall be not less than $1,000. If you put the lowest penalty on these corporations they will laugh at you in most cases; but you must make them respect the law and teach them that you are passing laws that must be obeyed, and not such as will tempt them to wrongdoing first by want of vigor in its provisions——

The SPEAKER. The gentleman's time has expired.

Mr. REAGAN. I ask, Mr. Speaker, permission of the House to conclude what I have to say on this question, which I will be able to do in a few minutes.

Mr. DAVIS, of Illinois. I move, by unanimous consent, Mr. Speaker, that the chairman of the Committee on Commerce be allowed an extension of time sufficient to complete what he has to say on the subject.

Mr. REAGAN. I only wish to finish the sentence which I began.

The SPEAKER. What time does the gentleman ask?

Mr. REAGAN. Only for a few moments.

The SPEAKER. The Chair hears no objection, and the gentleman's time will be extended as he desires.

Mr. REAGAN. In opposition to placing this great interest in the hands of a commission, as I have already stated, the substitute bill declares what shall be done and what shall not be done. Among the things which it is declared shall be done the first is that the rates shall be reasonable, then that there shall be no discrimination in freight rates; that there shall be no rebate, no drawbacks, no cutting of rates, no discrimination. In the next place, more shall not be charged for a shorter than for a longer distance for the same amount and character of freight. In the next place, that there shall be no pooling of rates. And after giving all the necessary remedies on the criminal and civil docket, I propose to give equitable powers, so as to compel parties to testify and produce books and papers, in order that the ends of justice may be fairly attained and that our efforts at legislation shall not be thwarted by closing the mouths and the books of those who represent these corporations.

The effect of the substitute bill I propose is to make each court, to make every Federal court, a jurisdiction for the trial of the rights of parties concerned in this transportation or for the punishment of the violators of the law, and to make every State court a tribunal for the trial of civil cases, so as to make them a place where the citizens can go. For example, in a State like Texas or California or any of the large States, to require a citizen to go to a great distance to a Federal court results in giving him no remedy. By giving the citizen in the courts of his State this civil remedy, if he is unable to prosecute a criminal remedy in the Federal court, he can at least secure the civil remedy for the civil wrong done him in the court of his own State and vicinage.

In contrast, this, sir, has no provision creating a commission, and I prefer it to the creation of a commission. While I know there are others who agree with the majority of the committee in favor of a commission, I also know that all the railroad companies and railroad attorneys and railroad experts seek a commission instead of that legislation which will enable the citizen to go right directly to an honest court and an honest jury. They are all the time struggling to get up a commission and to clothe it with power to make reports about something, to make them investigate something. This bill provides they shall report information which will enable Congress to legislate advisedly on this subject. To my mind it is a wrong assumption that we have not now the information necessary to enable us to legislate properly.

If we were attempting to make regulations, if we were attempting to fix the price of freight, I agree with you a commission might be necessary; but we are trying to do no such thing; we are trying by conservative legislation to prohibit the abuses of monopolies and prohibit the corporations from doing the things which all men know ought not to be done. We do not propose to do anything in this Congress which requires, so far as I know, the assistance of any railroad expert. What we propose to do is that which is dictated by common honesty and demanded by a proper consideration for the rights of the American people—simply that there shall be no injustice, no inequality in the transporta-

tion of freight, no discrimination in charges of more for a shorter than a longer distance, no pooling of freights and denying to the people the rights growing out of competition.

Mr. Speaker, I have thus had occasion to go hurriedly through with as good a statement as I am able to make of the differences between the two bills; and I desired to do so at this point because others than the members of the committee might not at first sight observe the difference between them. I have chosen to take this course in order that the attention of the members of the House might be called to the provisions of the two bills, and I thank them most cordially for their kind attention and patience during the delivery of my remarks.

Mr. O'NEILL, of Pennsylvania. I want to ask the gentleman from Texas before he takes his seat if he will not ask consent of the House that this bill and the proposed substitute may be printed in bill form as well as in the RECORD, so that we may have them on our tables for comparison when we again come to the consideration of this question?

Mr. REAGAN. I think the suggestion is a good one, for many members are calling for copies. I have a few, but not enough to supply all.

Mr. O'NEILL, of Pennsylvania. I understand that the committee's bill is quite exhausted, and we should have a reprint of them.

The SPEAKER. Without objection there will be an order made for a reprint of the bill of the committee and also for the substitute proposed by the gentleman from Texas in bill form.

There was no objection, and it was so ordered.

Mr. REAGAN. Mr. Speaker, if no gentleman desires to go on with the discussion this evening I will move that the House adjourn.

The SPEAKER. Pending the motion to adjourn the Chair desires to lay before the House certain executive communications and requests of members.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. MCCOOK, its Secretary, announced that the Senate had passed a bill of the following title, in which the concurrence of the House of Representatives was requested:

A bill (S. 1031) for the relief of W. C. Marsh.

REPORT OF EXPENDITURES BY THE CLERK OF THE HOUSE.

The SPEAKER laid before the House a report of expenditures by the Clerk of the House of Representatives; which was ordered to be printed, and referred to the Committee on Accounts.

REPORT OF BOARD OF VISITORS TO THE MILITARY ACADEMY.

The SPEAKER also laid before the House a report of the Visitors on the part of the House to the Military Academy, upon the discipline, instruction, police, administration, and fiscal and other affairs of the Military Academy at West Point, with accompanying reports thereon of the several committees appointed to consider the same; which was referred to the Committee on Military Affairs.

MAIL CONTRACTS.

The SPEAKER also laid before the House a letter from the Postmaster-General, transmitting a draught of a bill regulating the method of letting mail contracts, and recommending the same as a substitute for House bill 640, now on the Calendar; which was referred to the Committee on the Post-Office and Post-Roads.

REPORT OF THE COMPTROLLER OF THE CURRENCY.

The SPEAKER also laid before the House a letter from the Comptroller of the Currency, transmitting the twenty-second annual report of that officer, as required by section 333 of the Revised Statutes; which was referred to the Committee on Banking and Currency.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted as follows:

To Mr. FINERTY, indefinitely.

To Mr. JOHN S. WISE, for the remainder of this week.

To Mr. CAMPBELL, for three days, on account of important business.

To Mr. WOOD, for one week, on account of important business.

COMMERCIAL CONVENTION BETWEEN UNITED STATES AND MEXICO.

On motion of Mr. HEWITT, of New York, from the Committee on Ways and Means, it was ordered that report No. 1848, to accompany the bill (H. R. 7366) to carry into operation the convention between the United States of America and the United States of Mexico, signed on the 20th day of January, 1883, be reprinted and sent to the document-room for the use of the House.

And then the motion of Mr. REAGAN was agreed to; and accordingly (at 4 o'clock and 15 minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions and papers were laid on the Clerk's desk, under the rule, and referred as follows:

By Mr. CALDWELL: Petition of Saint Cecelia's Academy, Nashville, Tenn., to refer claim to Court of Claims to correct errors in the decision of the late Southern Claims Commission—to the Committee on War Claims.

By Mr. CLEMENTS: Petition of George W. F. Lamkin, Floyd County, Georgia, for reference of his claim to Court of Claims to correct errors in decision of the late Southern Claims Commission—to the same committee.

By Mr. DUNHAM: Petition of T. H. Patterson, of Chicago, favoring passage of House bill 7492—to the Committee on Coinage, Weights, and Measures.

By Mr. EATON: Papers relating to the claim of James Evelette—to the Committee on War Claims.

By Mr. A. S. HEWITT: Petition of Mary F. Blake, for an increase of pension—to the Committee on Invalid Pensions.

By Mr. HOLTON: Papers relating to the claim of George Calvert—to the Committee on War Claims.

By Mr. HOUK: Papers relating to the pension claim of Julia A. Darrell—to the Committee on Pensions.

By Mr. LIBBEY: Papers relating to the claim of Nancy Brown—to the Committee on War Claims.

By Mr. OSSIAN RAY: Petition of George S. Stockwell and 43 others, of Lancaster, N. H., praying that a pension be granted to Mary L. CARR—to the Committee on Invalid Pensions.

By Mr. C. A. SUMNER: Petition of Stuart Taylor and others, relative to the claim of Chaplain C. M. Blake—to the Committee on Military Affairs.

SENATE.

WEDNESDAY, *December* 3, 1884.

Prayer by the Chaplain, Rev. E. D. HUNTLEY, D. D.

WILKINSON CALL, a Senator from the State of Florida; JOHNSON N. CAMDEN, a Senator from the State of West Virginia; ORVILLE H. PLATT, a Senator from the State of Connecticut, and HARRISON H. RIDDLEBERGER, a Senator from the State of Virginia, appeared in their seats to-day.

The Journal of yesterday's proceedings was read and approved.

THE GARFIELD STATUE.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of War, transmitting the report of the commission designated to select a site and supervise the erection thereon of a pedestal for a statue of the late President Garfield; which was read, as follows:

WAR DEPARTMENT, *Washington City, December* 1, 1884.

The Secretary of War has the honor to inform the United States Senate that the commission, consisting of the Secretary of War, the chairman of the Joint Committee on the Library, and the chairman of the Garfield monumental committee of the Society of the Army of the Cumberland, designated by the act of Congress approved July 7, 1884, to select a site and supervise the erection thereon of a pedestal for a statue of the late President James A. Garfield, held a meeting on November 24, 1884, at which the following resolution was unanimously adopted:

"That the commission select as a site for the monument the circle at the foot of the Capitol grounds, situate at the intersection of First street and Maryland avenue southwest, in the city of Washington, D. C."

ROBERT T. LINCOLN,
Secretary of War.

The PRESIDENT *pro tempore United States Senate.*

The letter, with the report, was ordered to be printed, and referred to the Committee on Public Buildings and Grounds.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore.* The Chair lays before the Senate a communication from the Secretary of War, transmitting, in compliance with a resolution of April 18, 1884, the official report of Lieut. Frederick Schwatka, Third Cavalry, of his military reconnaissance in 1883, from Chilkaht Inlet to Fort Selkirk, on Yukon River, Alaska. If there be no objection the letter will be printed, and, as the accompanying papers are quite voluminous, if there be no objection the letter of the Secretary of War and the accompanying papers will be referred to the Committee on Printing for consideration in respect of printing the document.

PETITIONS AND MEMORIALS.

Mr. DOLPH presented a memorial of members of the Bar Association of the Counties of Spokane, Adams, Lincoln, and Douglas, in the Territory of Washington, calling attention to the necessity of certain amendments to the act entitled "An act providing for two associate justices of the supreme court of the Territory of Dakota, one additional justice of the supreme court of the Territory of Washington, and for other purposes;" which was referred to the Committee on the Judiciary.

Mr. LOGAN presented a petition of citizens of Canton, Ill., praying for the repeal of statutes affixing a tenure of four years to certain offices; which was referred to the Committee on Civil Service and Retrenchment.

Mr. FRYE presented the petition of Hannibal Hamlin and other citizens of Maine, praying that Charles Morris Blake, post-chaplain, United States Army, retired, be granted certain relief; which was referred to the Committee on Military Affairs.

Mr. HOAR presented the petition of Timothy Ingraham Post, No. 121, Grand Army of the Republic, Department of Massachusetts, pray-

ing the publication of photographic illustrations in the Official Records of the War of the Rebellion; which was referred to the Committee on Military Affairs.

BILLS INTRODUCED.

Mr. GROOME (by request) introduced a bill (S. 2390) granting an increase of pension to Joseph H. Potts; which was read twice by its title, and referred to the Committee on Pensions.

Mr. DOLPH introduced a bill (S. 2391) to amend an act entitled "An act to amend the statutes in relation to immediate transportation of dutiable goods, and for other purposes," approved June 10, 1880; which was read twice by its title, and referred to the Committee on Commerce.

Mr. McPHERSON. I ask leave to introduce a bill, which, for information, being very short, I should like to have read at length, in order to call the attention of the Senate to it.

The bill (S. 2392) to suspend the coinage of the silver dollar was read the first time by its title and the second time at length, and referred to the Committee on Finance, as follows:

Be it enacted, &c., That on and after the passage of this act the coinage of the silver dollar shall be suspended.

SEC. 2. That the Secretary of the Treasury be, and hereby is, authorized and directed, on and after the passage of this act, not to reissue any United States notes of the denominations less than $5 then in the Treasury, or which may thereafter be received, and to cancel, destroy, and not reissue, all United States notes of a less denomination than $5 in the Treasury or thereafter received, and to cease engraving or printing all such notes.

SEC. 3. That the Secretary of the Treasury is hereby authorized, upon the deposit of silver bullion in such subtreasury as he shall designate, to issue to the depositor thereof silver certificates having upon their face the weight and market value of the metal so deposited, calculated in United States gold dollars, at the rate of 25.8 standard grains to the dollar.

SEC. 4. That the Secretary of the Treasury is hereby authorized and required, on the presentation of any silver certificates issued under the provisions of this act by the legal holders thereof, to redeem the same by delivering to the depositor silver bullion of the weight and fineness certified upon the certificate, and to immediately cancel and destroy said certificate.

Mr. ALDRICH introduced a bill (S. 2393) to change the name of the Slater National Bank, of North Providence, R. I.; which was read twice by its title, and referred to the Committee on Finance.

Mr. WILSON introduced a bill (S. 2394) for the appointment of railway postal clerks, and for other purposes; which was read twice by its title, and referred to the Committee on Post-Offices and Post-Roads.

Mr. GARLAND introduced a bill (S. 2395) to amend section 823 of the Revised Statutes of the United States touching certain fees in the United States courts; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. MILLER, of New York, introduced a bill (S. 2396) for the relief of Bvt. Maj. Gen. William W. Averell, United States Army; which was read twice by its title, and referred to the Committee on Military Affairs.

He also introduced a bill (S. 2397) to define and supplement an act entitled "An act re-establishing the Court of Commissioners of Alabama Claims, and for the distribution of the unappropriated moneys of the 'Geneva award,'" approved June 5, 1882; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. LOGAN introduced a bill (S. 2398) granting a pension to Cyrus Reeser; which was read twice by its title, and referred to the Committee on Pensions.

Mr. CAMERON, of Pennsylvania, introduced a bill (S. 2399) for the relief of Maj. Michael P. Small; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. MANDERSON introduced a bill (S. 2400) granting an increase of pension to Eliza Willson Thornburgh; which was read twice by its title, and referred to the Committee on Pensions.

Mr. McPHERSON introduced a bill (S. 2401) for the relief of Joseph E. Moore; which was read twice by its title, and referred to the Committee on Finance.

LEASES OF INDIAN LANDS.

The PRESIDENT *pro tempore*. "Concurrent or other resolutions" being now in order, the Chair lays before the Senate the resolution submitted yesterday by the Senator from Missouri [Mr. VEST], which went over under the rule. It will be read.

The Chief Clerk read the resolution, as follows:

Resolved, That the Committee on Indian Affairs be instructed to inquire what leases of lands in the Indian Territory for grazing or other purposes have been made by the tribes of Indians therein, the number of acres embraced by each of said leases, the terms thereof, and the persons, corporations, or associations named therein as lessees; also, that the committee inquire as to the circumstances under which said leases were made and the means used for obtaining the same, and whether said leases are authorized by existing legislation or are conducive to the welfare of the Indians in said Territory.

That the committee have power to send for persons and papers, and shall report by bill or otherwise.

The PRESIDENT *pro tempore*. The question is on agreeing to the resolution.

Mr. CONGER. With the consent of the mover of the resolution I move to amend, after the words "Indian Territory," in line 2, by inserting the words "or Indian reservation;" and at the end of the first paragraph, after the word "Territory," by inserting "or Indian reservation;" so as to embrace not only the Indian Territory, but the Indian reservations elsewhere.

The PRESIDENT *pro tempore*. The amendment will be reported.

The CHIEF CLERK. It is proposed, in line 2, after the word "Territory," to insert "or Indian reservation;" and at the end of the first paragraph to add the words "or Indian reservation;" so as to read:

Resolved, That the Committee on Indian Affairs be instructed to inquire what leases of lands in the Indian Territory or Indian reservation for grazing or other purposes have been made by the tribes of Indians therein, the number of acres embraced by each of said leases, the terms thereof, and the persons, corporations, or associations named therein as lessees; also, that the committee inquire as to the circumstances under which said leases were made and the means used for obtaining the same, and whether said leases are authorized by existing legislation or are conducive to the welfare of the Indians in said Territory or Indian reservation.

The PRESIDENT *pro tempore*. The question is on agreeing to the amendment of the Senator from Michigan.

The amendment was agreed to.

The PRESIDENT *pro tempore*. The question is on agreeing to the resolution as amended.

Mr. VEST. On the suggestion of the chairman of the Committee on Indian Affairs, I move, in line 11, to strike out "shall report by bill or otherwise" and insert:

And employ a stenographer, and report by bill or otherwise, and that the actual and necessary expenses of said investigation be paid, on the approval of the chairman of said committee, out of the contingent fund of the Senate.

The amendment was agreed to.

Mr. PLUMB. Mr. President, I wish to make a suggestion to the chairman of the Committee on Indian Affairs about the scope of the investigation and the report to be made of the result of it to the Senate.

Undoubtedly the investigation itself, in view of the statements that have been made, and in any event, is very desirable and entirely proper to be made; but some result ought to grow out of it; something ought to be done or recommended by the committee to be done as the result of whatever discoveries they may make. I am not speaking now particularly about the allegations which were made by the Senator from Missouri yesterday as to the alleged fraudulent acts of which he spoke that led to the making of one of these leases; but I refer to the lands themselves. There are large areas of pasture lands, and probably agricultural lands also, embraced within Indian reservations, both inside and outside the Indian Territory, which are occupied by persons who have obtained in one way and another grazing and other privileges. Now, the question which presents itself at once is whether those lands are to remain the property of the Indians, and, if so, whether subject to their control solely or to their control in connection with the Executive Department of the Government; and, if the latter, under what regulation or rule of procedure they shall be occupied. This is a very important matter, which no mere investigation will settle, because, if it be determined that the occupancy now is illegal, the question comes at once, How shall occupancy be made legal, or shall there be a positive inhibition against any occupancy at all?

This is not a new question in any phase in which it is presented now, except in regard to the magnitude of it. For many years, and I think ever since there have been Indian reservations, those reservations have been used more or less for grazing purposes by white people, sometimes by white people of the character described by the Senator from Kentucky [Mr. BECK] yesterday as "squaw-men," that is, men who made the fact of their marriage, as they called it, into the tribe an excuse or opportunity for occupancy of the land, for the acquisition of privileges more or less valuable which other white men could not get; by other persons again who, under the guise of beef contractors or as public employés, in some way have been able to get a legal entry upon the reservations, and by means of that legal entry have made negotiation with the Indians in some shape or other whereby they were permitted to remain on the reservations with stock and perhaps for other purposes as well; and again by persons who by reason simply of negotiation made by the individual with an individual Indian or with more than one Indian but not with the whole tribe, have under the shelter of the right of the Indian with whom the negotiation was made gone upon the reservation and not only pastured cattle but cut timber and done various other things which were a profit to them and perhaps a damage to the reservation.

These things have been going on, as I have said, for many years, and what is being done now and what has been the subject of animadversion here and elsewhere, and which will be investigated under the pending resolution, is only a phase of this more or less general practice.

In addition to that I may say in regard to the particular reservation which was mentioned yesterday by the Senator from Missouri, the Cherokee reservation, the action of the present Secretary of the Interior is not out of keeping, in fact is directly in keeping, with that of one of his predecessors, and I think more than one. I know at all events that the Secretary of the Interior under the administration of Mr. Hayes, the question being presented to him, decided that the Cherokee tribe had the right to give licenses to graze upon those particular lands. They were not for any particular length of time, as I understood, but perhaps were for a year by fair intent; that is to say, the Indians charged the person pasturing stock so much per head per annum, and the payment of that sum would probably have carried the right to keep the cattle there for a year. The Interior Department held that the Chero-

kee tribe had the right to grant that privilege and to exact that tax, as, I think, it has in other cases held that the Indians have a right to exact a tax for driving cattle across the reservation, which is only another way of saying that the right to occupy the reservation for some time, long or short, may be granted by the Indians.

In the case of the Quapaw reservation in the Indian Territory, a question was presented somewhat similar to that under discussion here in connection with this resolution by the execution of certain leases to white men not members of the tribe by the council of that tribe of Indians for the occupancy for farming purposes of certain lands belonging to that tribe in the Indian Territory. After some consideration the Department decided that those leases, I do not know for what term of years, I am only speaking now from a somewhat general recollection, but I know the Department decided that the leases, such as they were, were legal and proper, and authorized the persons holding the leases to go upon the lands and occupy them. The leases were formally approved, and I presume such occupancy has been continued from that day until this. This was also under the administration of Mr. Hayes; and this was the condition in which the present Secretary found this question when he came into office. It may not be hard to say that these lands or any lands shall not be occupied; it is undoubtedly within the power of Congress to do that; but it would be hard to prevent under any rule of that kind some occupancy other than that of members of the tribe. On the other hand I undertake to say that that would not be a wise declaration. There is no reason why the lands of the various tribes of Indians, if they are to be held by Indians—the Indians themselves do not wish to cultivate or make other practical use of them—should not be occupied for useful purposes by other people any more than there is why the State of Texas should withhold the large body of its grazing lands from occupancy simply because it designed at some future time to do something else with them. It has been the policy of that great State, which leads all the States in the cattle interest, to lease its lands upon proper terms, subject to such conditions as it sees proper to impose, for grazing purposes, and it does that notwithstanding the fact that it designs ultimately to dispose of them to agricultural settlers.

An investigation will undoubtedly disclose the fact that many lands held by the Indians are lands which they do not need, lands which they will never make any beneficial use of, lands which, in a sense at least, are needed to-day for occupancy by settlers who wish to go upon them and make homes. I think when this question comes to be treated by the Committee on Indian Affairs, as I hope it will be, in a thorough and exhaustive manner, we shall have the benefit of the judgment of that committee in regard to the final disposition to be made of these lands; and, pending such final disposition, that we shall have their judgment also as to the regulations under which occupancy of the lands shall be either inaugurated or continued as now existing.

I wish to say one other thing about the action of the Secretary of the Interior. I have stated in substance that the present Secretary of the Interior has followed the action of his predecessor, except that he has not gone so far in approval of leases as his predecessor. The Secretary called the attention of Congress very promptly to what had occurred between persons claiming to lease these lands and the Indians themselves and asked for the direction of Congress on the subject. I do not think it is quite true, as the Senator from Missouri stated yesterday, that the entire Army of the United States has been used for the purpose of expelling persons who were there seeking to graze upon those lands, but who did not hold leases. It may be true that some expulsions have been made. I do not know of any such, however; but I call the Senator's attention to the fact that the position of the Secretary, as expressed in his annual reports, simply is that as between those who have the permission of the Indians to remain upon the reservation for the purpose of pasturage and who pay for the same and those who do not have such permission and who do not pay or propose to pay for the privilege they seek to exercise he will discriminate in favor of the former. He is constantly called on to exercise a discrimination between persons seeking entrance upon Indian reservations in order that the laws may not be violated and the rights of the Indians may be preserved.

As I understand, he regards these leases, so called, as simply temporary expedients, as giving temporary rights; that finding them in existence he simply says, "these persons being there in good faith and paying for the privilege, until some other arrangement is made I will not permit persons who do not propose to pay or who have made no arrangements to pay, who have not obtained permission of the Indians to go upon the lands, to disturb them," and with this he submits the whole matter to Congress for its direction. He does not say that he regards these persons as having rights there of a kind which he can not determine or which can not be determined by legislation, but recognizes simply the status, a condition of things which in the main has existed for a long time—except that now the Indians are receiving some value for the privilege instead of nothing, as heretofore—he permits the continuance of the arrangement until such time as Congress shall determine otherwise, or until it shall be seen that this is against the interests of the Indians.

It is true, as the Senator from Missouri says, that the law forbids a lease, so called, but at the same time there is a section of the statutes, the number of which I do not call to mind, which seems to imply that the Indians may give privileges of grazing, because the statute says that if a person shall graze cattle on Indian land without the consent of the Indians a certain punishment shall follow.

Mr. INGALLS. It is section 2117.

Mr. PLUMB. The number of the section, my colleague states to me, is 2117. There is a provision of the statutes, also, whereby leases made in a certain way, and under certain formalities, are recognized as legal and may properly be approved by the Secretary.

These various sections have been incorporated in the Revised Statutes to meet different classes of cases undoubtedly, and they involve, when they come to be grouped together, some contrariety. Now that this subject is up, we ought to have some rule established by law as the result of the proposed investigation, upon the recommendation of the committee or otherwise, which shall relieve the situation from doubt, and which shall either command all persons upon Indian reservations to leave entirely and dedicate forever the reservations to no use or which shall permit their use upon terms to be prescribed by Congress or the Executive wisdom.

But I am unwilling that this opportunity shall pass without calling attention to the fact that much of the land in the Indian Territory and elsewhere embraced within reservations is fit for agriculture; that they are lands not only fitted for agriculture, but such as the Indians themselves do not need; and that the time has come when by the exhaustion of the public domain it is proper for Congress to consider whether some of them ought not to be, and at a very early day, opened to settlement.

I have in mind now a tract of land in the Indian Territory which I think Congress has the undoubted right to open to settlement. The withholding of settlement from it any longer I regard as unwise and as unnecessary for the maintenance of faith with the Indians and as injurious in every respect. I refer to what is called Oklahoma, at all events the unoccupied portion of it. That land was acquired from the Creek Indians. It is true it was acquired for a specific purpose, for the location of freedmen or friendly Indians upon it, at a time when, in 1866, it was the policy of the Government apparently to locate all the Indians of the United States practically in the Indian Territory, for the purpose of bringing them together in a compact body, so that they could be better controlled and that ultimately the Indian problem could all be worked out in a small area of country. Subsequently, however, that idea was abandoned. The lands have never been required for such a purpose. They have been fully paid for, and the Creek Indians have no title to them. The title is in the Government. It may be said that it is burdened by a condition, having been acquired for a certain purpose, but I think when we come to that Congress has a perfect right to say that it will use the lands for settlement if in so doing the interests of the Indians are not imperiled. I think the time has come when Congress ought to make that declaration and ought by law to open those lands to settlement. I think so not only from the standpoint of those who seek to settle upon them, but from the standpoint of the Indian himself. The Indian Territory remains substantially as a barrier between great States of the Union. It is an anomaly in government and civilization which must in time disappear. It can not long remain. We shall either dispose of the question by degrees, that is to say, opening part of the lands at a time and adjusting the Indians to new relations from time to time and working forward, or we shall wait until population has grown to such a density on the borders of the Territory and the demand for the settlement of its land so overwhelming that the whole structure will disappear at once, and the adjustment of the Indians to the new relation be made under circumstances of great difficulty and with much less chance that full justice will be done them or that they will be fitted for the contact thrust upon them.

The time has come to commence the process of settling up the Indian Territory, and thereby settling that branch of the Indian problem. As the result of this investigation or of any other investigation which touches upon the *status* of things in the Indian Territory the Committee on Indian Affairs ought to address itself at once to this, at least as grave a portion of the problem as any other one that is presented.

In this connection I wish to call the attention of the committee to the fact that at the last session of Congress I introduced a bill having in view this very idea, the opening to settlement of Oklahoma, or a portion of it, such portion as is not occupied by the Indians, that portion which as we all know the Government never located Indians upon, and which it never will use for that purpose. I do not speak of this because I am wedded to that bill or because I think that in many of its features it is not subject to criticism. It may not go far enough; but it embraces the proper idea and is a starting point for the accomplishment of the object. The subject, of course, is not free from difficulty in the fact that some government perhaps would have to be provided for settlers there before the final break-up came; but at all events something can and ought to be done. A government could be improvised. The lands are there waiting for the occupancy of settlers. It is just as well that the settlers should be there to-day as to postpone it until to-morrow or until the next day or the next year. The country needs the

development of the fruitful resources of the Territory. There are men who by reason of their contiguity to those lands, by reason of the exhaustion of the public lands within reach in other quarters, are desirous of going upon them. Already invasions of the Territory have been made. I know they have been characterized harshly here and elsewhere, but I say that they are not more in violation of law or of the rights of the Indians than others which have been made heretofore and which Congress has recognized, if not as constituting a right, at all events as creating a necessity that called for and was followed by Congressional action.

Take the case of the Black Hills, for instance, a portion of the Sioux reservation. When gold was discovered thousands of people went in there. This was in violation of the treaty rights of the Indians, but Congress simply said you can not keep the people out of there any longer, and consequently made a treaty with the Indians whereby they relinquished their rights to those lands and they were opened to settlement. The lands in the Territory to which I have referred will never pass from the Government for any other purpose than that of settlement. They answer no good use in their present condition. Upon what ground, then, can there be any argument for delay? Better act now, and thereby prevent being some day in the near future confronted, if not with the necessity of acting under compulsion, at all events with a very grave situation, made so by the delay which, as I think, is without warrant.

The PRESIDENT *pro tempore*. The question is on agreeing to the resolution as amended.

The resolution was agreed to.

PRINTING OF THE PRESIDENT'S MESSAGE.

Mr. MORRILL. I ask to have the following order made:

Ordered, That there be printed for the immediate use of the Senate the usual number of the message of the President and the reports proper, without appendices, of the heads of the several Executive Departments.

The PRESIDENT *pro tempore*. The resolution will be referred to the Committee on Printing.

Mr. MORRILL. That is hardly necessary.

Mr. HAWLEY. It is a matter of form, being the usual resolution practically. There can be no possible objection to it.

The PRESIDENT *pro tempore*. It will not be referred unless there be objection. The question is, Shall the resolution be now considered? The Chair hears no objection. The question is on agreeing to the resolution.

The resolution was agreed to.

MESSENGER TO COMMITTEE ON MILITARY AFFAIRS.

Mr. LOGAN. I ask for the adoption of the following resolution:

Resolved, That the Sergeant-at-Arms of the Senate be, and he is hereby, authorized and directed to appoint an additional messenger, to be assigned to the Committee on Military Affairs; and that the Secretary of the Senate be authorized to pay him out of the contingent fund at the rate of $1,440 per annum.

I desire to state, so that the Senate may understand it, that the Military Committee, although having 37 per cent. of all the business of the Senate before it at the last session of Congress (and that is only a sample of what it has at every session of Congress), has never had a messenger, and it is the only important committee of seven, I think, which has not. I offered a resolution like this at the last session of Congress and it was referred to the Committee on Contingent Expenses, but I never could get it reported. I found no objection to it, but I could not get the resolution reported to the Senate. I now ask that the Senate may take action on this resolution. If they do not desire the committee to have a messenger, be it so; but if it is to have one, I want it provided for at the beginning of the session.

The PRESIDENT *pro tempore*. Is there objection to the present consideration of the resolution? The Chair hears none.

Mr. CONGER. Let the resolution be reported again.

The Chief Clerk read the resolution.

Mr. INGALLS. I have no objection to the adoption of the resolution, but the rules require that all appropriations of money from the contingent fund shall be referred to the Committee on Contingent Expenses. I presume that unanimous consent could waive the effect of the rule, however.

Mr. LOGAN. I said that if any one objected to the resolution that would be sufficient. I referred, as I will state for the benefit of the Senator, to the fact that the Senate at the last session of Congress sent a similar resolution to the Committee on Contingent Expenses, and I think I applied to the chairman of that committee a dozen times to have it reported, but I could not get it brought before the Senate. No one objected to it, for it is certainly fair that a committee having the business which that committee has before it should have a messenger. Once or twice at the last session of Congress I asked openly to have the resolution reported, but I could not get it done. I desire now that the resolution shall be acted on unless there is objection to it. If there is, of course I do not desire to press it.

The PRESIDENT *pro tempore*. The Senator from Illinois asks unanimous consent that the paragraph of the twenty-fifth rule which requires, as the Senator from Kansas has suggested (the Chair had forgotten it), that all such resolutions as this, "directing the payment of money out of the contingent fund of the Senate or creating a charge upon the same," shall be referred to the Committee on Contingent Expenses, be suspended for the purpose of passing this resolution. Is there objection? The Chair hears none. The question is on agreeing to the resolution.

The resolution was agreed to.

COMMITTEE SERVICE.

Mr. MANDERSON. I ask the consent of the Senate at this time that I may be relieved from further service upon the Committee on Claims.

The PRESIDENT *pro tempore*. The Senator from Nebraska asks that he be relieved from further service upon the Committee on Claims. The question is, Will the Senate discharge the Senator from Nebraska from service upon that committee?

Mr. MANDERSON was excused.

Mr. SLATER. I ask the Senate to excuse me from further service upon the Committee on Fish and Fisheries.

The PRESIDENT *pro tempore*. The Senator from Oregon asks to be excused from further service upon the Committee on Fish and Fisheries. Will the Senate agree to this request?

The request was agreed to.

Mr. MORGAN. I ask the Senate to excuse me from further service upon the Committee on Indian Affairs.

The PRESIDENT *pro tempore*. The Senator from Alabama asks to be excused from further service upon the Committee on Indian Affairs. The question is, Will the Senate agree to the request?

The request was agreed to.

Mr. DAWES. I ask to be excused from service on the Committee to Examine the Several Branches of the Civil Service.

The PRESIDENT *pro tempore*. The Senator from Massachusetts asks to be excused from further service upon the standing Committee to Examine the Several Branches of the Civil Service. Will the Senate agree to his request?

The request was agreed to.

MELISSA G. POLAR.

Mr. PIKE. I desire unanimous consent to call up House bill 2344, being No. 919 in the order of business on the Calendar.

The PRESIDENT *pro tempore*. The Senator from New Hampshire asks unanimous consent to call up for consideration at this time Order of Business 919, being the bill (H. R. 2344) for the relief of Melissa G. Polar. Is there objection?

Mr. CONGER. There is a bill which was under consideration at the adjournment yesterday. I suppose it will not be displaced by this.

The PRESIDENT *pro tempore*. The bill under consideration at the adjournment yesterday became the unfinished business and will be laid before the Senate at 2 o'clock.

Mr. CONGER. All right.

The PRESIDENT *pro tempore*. The Chair hears no objection to the present consideration of the bill called up by the Senator from New Hampshire.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. 2344) for the relief of Melissa G. Polar, which provides for the issue of certain duplicate certificates of indebtedness of the District of Columbia amounting to $18.80.

Mr. PIKE. I desire to say that a bill to accomplish the purpose that this bill contemplates has already passed the House of Representatives and the Senate, but by some error in enrollment it was found ineffectual to accomplish the purpose intended, and this bill is merely to correct that error. This bill also contains some errors, and amendments have been proposed by the Committee on Finance to correct them.

The first amendment of the Committee on Finance was, in section 1, line 6, to strike out the word "huddred" and insert "hundred;" so as to read "eighteen hundred and eighty-four."

The amendment was agreed to.

The next amendment was, in section 2, line 2, after the name "Polar," to insert "the duplicate certificates as provided for in section 1, she;" and in line 5, after the word "paid," to strike out "the duplicate certificates as provided for in section 1," and insert the word "and" in lieu thereof; so as to make the section read:

SEC. 2. That before said auditor shall deliver to said Melissa G. Polar the duplicate certificates as provided for in section 1, she shall furnish satisfactory proof to said auditor of the loss of said certificates, and that the same have not been paid, and the said Melissa G. Polar shall execute and deliver to said auditor her bond of indemnity, in double the amount of the said certificates, with two sufficient sureties, to be approved by said auditor, payable to the District of Columbia, which bond shall be filed by said auditor in the archives of said office.

The amendment was agreed to.

The bill was reported to the Senate as amended and the amendments were concurred in.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

SAINT CROIX RIVER BRIDGE.

Mr. MCMILLAN. I ask unanimous consent of the Senate to take up Order of Business 897, being the bill (S. 2297) to authorize the construction of a bridge across the Saint Croix River at the most accessible point between Stillwater and Taylor's Falls, Minn. This bill was reported at the last session and has been upon the Calendar since.

The PRESIDING OFFICER (Mr. CAMERON, of Wisconsin, in the chair). The Senator from Minnesota asked that the bill referred to by him be taken up by unanimous consent. Is there objection to the consideration of the bill? The Chair hears none.

The Senate, as in Committee of the Whole, proceeded to consider the bill (S. 2297) to authorize the construction of a bridge across the Saint Croix River at the most accessible point between Stillwater and Taylor's Falls, Minn.

Mr. MCMILLAN. Amendments were reported by the Committee on Commerce to conform to the recommendations of the War Department and to obviate all the objections made to this class of bills.

The first amendment reported by the Committee on Commerce was, in section 2, line 11, after the word "bridge," to strike out "and of such" and insert "and other;" and in the same line, after the word "works," to insert "provided for in this act;" so as to read:

And in order to secure compliance with these conditions the corporation, previous to commencing the construction of the bridge, or of the accessory works designed to secure the best practical channel-way for navigation and confine the flow of the water to a permanent channel at said point, shall submit to the Secretary of War a plan of the bridge and other accessory works provided for in this act, together with a detailed map of the river at the proposed site of the bridge and for a distance of a mile above and below the site, together with all other information touching said bridge and river and accessory works as may be deemed requisite by the Secretary of War to determine whether the said bridge, when built, will conform to the prescribed conditions of this act.

The amendment was agreed to.

The next amendment was, in section 2, line 40, after the word "boats," to insert "vessels and other water-craft;" so as to read:

Provided also, That said draw shall be opened promptly upon reasonable signal for the passing of boats, vessels, and other water-craft.

The amendment was agreed to.

The next amendment was, after the words "water-craft," in line 40 of section 2, to insert the following proviso:

Provided, however, That no bridge shall be built under the provisions of this act except there also be built, at the time of the erection of the piers, proper sheer-booms or other proper protections to safely guide boats, vessels, rafts, and other water-craft through said draw-spans, and at the expense of the company or corporation erecting said bridge.

The amendment was agreed to.

The next amendments were, in section 3, line 10, before the word "accessory," to insert "other;" in the same line, after the word "works," to insert "provided for in this act;" in line 13, after the word "or," to strike out "said" and insert "other;" in the same line, after the word "works," to insert "provided for in this act;" and in line 16, after the word "War," to insert "not, however, to be in anywise inconsistent with the provisions or conditions of this act;" so as to make the section read:

SEC. 3. That the Secretary of War is hereby authorized and directed, upon receiving any such plan and map and other information, and upon being satisfied that a bridge built on such plan and with such accessory works and at such locality will conform to the prescribed conditions of this act, to notify the company that he approves the same; and upon receiving such notification the said company may proceed to an erection of said bridge, conforming strictly to the approved plan and location; but until the Secretary of War approve the plan and location of said bridge and other accessory works provided for in this act and notify the company of the same, the bridge shall not be built; and should any change be made in the plan of the bridge or other accessory works, provided for in this act, during the progress of the work thereon, such change shall be subject likewise to the approval of the Secretary of War; not, however, to be in anywise inconsistent with the provisions or conditions of this act.

The amendments were agreed to.

The next amendments were, in section 4, line 2, after the words "according to," to strike out "the terms and limitations thereof" and insert "its provisions and conditions;" and in line 13, after the word "bridge" at the end of the section, to insert "and the United States shall have the right of way for postal-telegraph and telephone lines, free of charge, across said bridge;" so as to make the section read:

SEC. 4. That any bridge and accessory works, when built and constructed under this act and according to its provisions and conditions, shall be a lawful structure; and said bridge shall be recognized and known as a post-route, upon which also no higher charge shall be made for the transmission over the same of the mails, the troops, and the munitions of war of the United States than the rate per mile paid for the transportation over the railroads or public highways leading to said bridge; and said bridge shall enjoy the rights and privileges of other post-routes in the United States; and Congress reserves the right at any time to regulate by appropriate legislation the charges for freight and passengers over said bridge; and the United States shall have the right of way for postal-telegraph and telephone lines, free of charge, across said bridge.

The amendments were agreed to.

The next amendments were, in section 5, line 2, after the word "War," to strike out "on satisfactory proof that a necessity exists therefor;" and after the word "bridge," at the end of line 4, to insert "authorized by the provisions of this act;" so as to make the section read:

SEC. 5. That it shall be the duty of the Secretary of War to require the company or persons owning said bridge to cause such aids to the passage of said bridge authorized by the provisions of this act to be constructed, placed, and maintained, at their own cost and expense, in the form of booms, dikes, piers, or other suitable and proper structures for confining the flow of water to a permanent channel, and for the guiding of rafts, steamboats, and other water-craft safely through the draw and raft spans, as shall be specified in his order in that behalf; and on the failure of the company or persons aforesaid to make and establish such additional structures within a reasonable time the said Secretary shall proceed to cause the same to be built or made at the expense of the United States, and shall refer the matter without delay to the Attorney-General of the United States, whose duty it shall be to institute, in the name of the United States, proceedings in any circuit court of the United States in which such bridge, or any part thereof, is located, for the recovery of the cost thereof; and all moneys accruing from such proceedings shall be covered into the Treasury of the United States.

The amendments were agreed to.

The next amendment was to strike out section 7, in the following words:

SEC. 7. That this act shall take effect and be in force from and after its passage.

The amendment was agreed to.

The bill was reported to the Senate as amended and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

ARMS ACCOUNT OF MONTANA.

Mr. HARRISON. I ask leave to call up Senate bill 1921, Order of Business 546. It is a little bill, adjusting the account for arms between the Territory of Montana and the United States. It is reported favorably by the Military Committee—a bill of a single section, recommended by the Secretary of War.

The PRESIDING OFFICER. The Senator from Indiana asks that the bill named by him may be considered at this time. Is there objection? The Chair hears none.

The Senate, as in Committee of the Whole, proceeded to consider the bill (S. 1921) authorizing the Secretary of War to adjust and settle the account for arms, ammunition, and accouterments between the Territory of Montana and the United States.

Mr. COCKRELL. Let the report be read in this case. I believe it is not long.

The Chief Clerk read the following report, submitted by Mr. HARRISON April 30, 1884:

The Committee on Military Affairs, to whom was referred the bill (S. 1921) authorizing the Secretary of War to adjust and settle the account for arms, ammunition, and accouterments between the Territory of Montana and the United States, respectfully report:

That, in response to a letter addressed to the Secretary of War upon the subject, the committee have received the following communications:

WAR DEPARTMENT, *Washington City, April 24, 1884.*

SIR: In response to your letter of the 16th instant, inclosing S. 1921, a bill "authorizing the Secretary of War to adjust and settle the account for arms, ammunition, and accouterments between the Territory of Montana and the United States," and requesting the views of the Department thereon, I have the honor to transmit herewith a report, dated the 22d instant, from the Chief of Ordnance of the Army, to whom the subject had been referred.

Attention is respectfully invited to the recommendation of the Chief of Ordnance with reference to relieving the Territory of Montana of the charge of $67,561.50 now standing against it on account of the issue of 1867, which is concurred in by me.

Very respectfully, your obedient servant,

ROBERT T. LINCOLN,
Secretary of War.

Hon. BENJ. HARRISON,
Of Committee on Military Affairs, United States Senate.

ORDNANCE OFFICE, WAR DEPARTMENT,
Washington, D. C., April 22, 1884.

SIR: I have the honor to return letter of 16th instant, from Senator BENJAMIN HARRISON, inclosing bill S. 1921, "authorizing the Secretary of War to adjust and settle the account for arms, ammunition, and accouterments between the Territory of Montana and the United States," and to report:

In 1867 a large issue of arms, &c., was made to the Territory of Montana upon the recommendation of Lieutenant-General Sherman and General Grant, and the approval of the Secretary of War, amounting to $67,561.50. I inclose copy of these recommendations and approval, which show that the issue was to enable the people of Montana to "protect themselves" and relieve us (the Army) to that extent, and that the arms were "to be distributed under the directions of General Sherman."

Since that time arms, &c., to the value of $1,735.27 have been issued to Montana. The aggregate amount, $69,296.77, has been reduced by the credit of annual quotas for arming and equipping the militia, so that at the present time the indebtedness of the Territory is $39,551.97. There have since been issued to Montana 1,000 Springfield breech-loading rifles, caliber .50, &c., under the act of May 21, 1872, and 500 more under the joint resolution of July 3, 1876. These 1,500 arms, &c., are not included in the above, nor charged to the quota of the Territory, nor included in the above present indebtedness of $39,551.77.

The 1,200 old muzzle-loading guns stated by Senator HARRISON as being in possession of the Territory of Montana are a portion of the issue of 2,500 made in 1867. These arms are charged on our books at $11.94 each. The present market value of these arms is not more than one-fourth of that charged.

It will be noticed, however, that in 1872 and 1876 1,500 breech-loading rifles, with accouterments, and 225,000 cartridges were issued to the Territory. Although these were not of the latest caliber and model, they were excellent arms.

As the issue in 1867, amounting to $67,561.50, was for a special purpose, under an exigency, and was a relief to the Army in protecting the people of Montana, it would seem proper to relieve the Territory of that charge. In 1875 Congress relieved the different States of charges on their quota, under the law for arming and equipping the militia, for arms issued and which were used during the rebellion. This of Montana is in a sense a parallel case, and I recommend that the Territory be relieved of this charge of $67,561.50.

Very respectfully, your obedient servant,

S. V. BENÉT,
Brigadier-General, Chief of Ordnance.

The Hon. SECRETARY OF WAR.

[From Saint Louis.]

OFFICE UNITED STATES MILITARY TELEGRAPH,
WAR DEPARTMENT,
Washington, D. C., February 26, 1867.

To General U. S. GRANT:

I think very well of your proposition to let the governor of Montana have 2,500 stand of arms to arm the militia of the Territory. There is a good class of people in Montana, and if they can protect themselves it relieves us to that extent.

W. T. SHERMAN, *Lieutenant-General.*

HEADQUARTERS ARMY, *March* 26, 1867.

Respectfully forwarded to the Secretary of War, with the recommendation that 2,500 infantry arms and a battery of mountain howitzers be issued to the Territory of Montana, to be distributed under the directions of General Sherman.

U. S. GRANT, *General.*

MARCH 28, 1867.

Approved, and referred to the Chief of Ordnance for issue.
By order of the Secretary of War.

ED. SCHRIVER, *Major-General.*

Respectfully submitted to the Secretary of War, with the recommendation that the ammunition and also accouterments be issued.

A. B. DYER,
Brevet Major-General, Chief of Ordnance.

MARCH 29, 1867.

I would suggest that 300 rounds per gun, both small-arms and howitzers, be furnished on the within orders.

U. S. GRANT, *General.*

WAR DEPARTMENT, *March* 29, 1867.

Approved, as recommended by General Grant and the Chief of Ordnance.
By order of the Secretary of War.

L. H. PELOUZE,
Assistant Adjutant-General.

The committee recommend the passage of the bill.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

SELECT COMMITTEES.

Mr. SHERMAN. I desire to submit a resolution respecting the organization of the Senate, which is privileged.

The Secretary read the resolution, as follows:

Resolved, That the select committees of the Senate in existence July 7, 1884, be revived and continued during the present session, with all the powers and authorities heretofore given by the Senate to each of the select committees on the respective subjects to which they relate.

Mr. COCKRELL. I should like to ask the Senator whether under the rules that order does not already exist.

Mr. SHERMAN. I will say that several Senators who have examined it think not. They think this order is necessary as to select committees, but the standing committees do remain during the Congress.

Mr. COCKRELL. I thought they were all on the same footing; but this can do no harm.

Mr. SHERMAN. I do not know that I am justified in quoting the opinion of the permanent presiding officer, but it is his opinion and the opinion of several Senators that committees which were made by special order have expired unless continued by some such resolution as this. I submit it for present consideration.

The PRESIDING OFFICER. The rule upon the subject will be read, that it may appear in the RECORD.

The Secretary read from Rule XXV as follows.

STANDING COMMITTEES.

The following standing committees shall be appointed at the commencement of each Congress, with leave to report by bill or otherwise.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution offered by the Senator from Ohio? The Chair hears none.

The resolution was considered by unanimous consent, and agreed to.

COMMITTEE VACANCIES.

Mr. SHERMAN. I desire to offer another resolution in the same line, to authorize the President *pro tempore* to fill any vacancies which have occurred in the standing committees by death or otherwise or that may occur within a few days. One of our members is dead and there are several vacancies. I make that motion.

The PRESIDING OFFICER. The Senator from Ohio moves that the President *pro tempore* of the Senate be authorized to fill any vacancies that have occurred in the standing or select committees.

Mr. SHERMAN. That have occurred or that may occur during the present week.

The PRESIDING OFFICER. Or that may occur during the present week. Is there objection to the present consideration of that motion? The Chair hears none.

The motion was agreed to.

FORFEITURE OF OREGON LAND GRANT.

Mr. SLATER. I give notice that on Monday next I shall move to take up Order of Business 761, being the bill (H. R. 181) to declare forfeiture of certain lands granted to aid in the construction of a railroad in Oregon. I desire to say that I shall press the bill to a passage at as early a day as possible after it is taken up.

GOVERNMENT'S INTEREST IN ENCUMBERED PROPERTY.

The PRESIDING OFFICER. Resolutions are still in order. If there be no further resolutions, the Calendar under Rule VIII is now in order. Order of Business 314, being the bill (S. 1733) to provide for protecting the interests of the United States in respect of any incumbrances on property wherein they have an interest, was passed over yesterday. Order of Business 320, being the bill (S. 1170) for the relief of Richard Hawley & Sons, was under consideration yesterday, and became the unfinished business.

Mr. COCKRELL. The Senator from Arkansas [Mr. GARLAND], who reported Senate bill 1733, is here.

Mr. GARLAND. I understand that the committees by resolution have been continued as they were on the 7th of July. I desire to make a motion to recommit to the Committee on the Judiciary what is known as Order of Business 314, being Senate bill 1733, for further examination.

The PRESIDING OFFICER. The Senator from Arkansas moves that Senate bill 1733 be recommitted to the Committee on the Judiciary.

The motion was agreed to.

DEATH OF REPRESENTATIVES DUNCAN AND EVINS.

A message from the House of Representatives, by Mr. CLARK, its Clerk, communicated to the Senate resolutions passed by the House on the announcement of the death of WILLIAM A. DUNCAN, late a Representative from the State of Pennsylvania, and like resolutions passed by the House on the announcement of the death of JOHN H. EVINS, late a Representative from the State of South Carolina.

EXECUTIVE SESSION.

Several messages in writing of an executive character were received from the President of the United States by Mr. O. L. PRUDEN, one of his secretaries.

Mr. INGALLS. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After twenty-eight minutes spent in executive session the doors were reopened, and (at 1 o'clock and 46 minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *December* 3, 1884.

The House met at 12 o'clock m. Prayer by the Chaplain, Rev. JOHN S. LINDSAY, D. D.

The Journal of yesterday's proceedings was read and approved.

The following additional members appeared:

Messrs. BINGHAM, CLAY, DEUSTER, GREEN, GUENTHER, HENLEY, NEECE, RANNEY, RUSSELL, SHELLEY, WEAVER, WADSWORTH, and YOUNG.

WILLIAM S. HOWARD.

Mr. HOLMAN, by unanimous consent, introduced the following resolution; which was read, and referred to the Committee on Accounts:

Resolved, That William S. Howard, authorized to be employed as a page during the first session of this Congress and assigned to duty at the subcommittee-room of the Committee on Appropriations, be continued in such employment during the present session, and that he be paid out of the contingent fund of the House the same compensation as other pages of the House from December 1, 1884.

FIRST NATIONAL BANK, HILLSBOROUGH, OHIO.

Mr. HART. Mr. Speaker, I ask unanimous consent to take from the House Calendar the bill (H. R. 7428) to authorize the Hillsborough National Bank to change its name to that of the First National Bank of Hillsborough, Ohio, and put the same upon its passage.

The SPEAKER. The bill will be read subject to objection.

The bill was read, and is as follows:

Be it enacted, &c., That the name of the Hillsborough National Bank of Hillsborough, Ohio, shall be changed to the First National Bank of Hillsborough, Ohio, whenever the board of directors of said bank shall accept the new name by resolutions of the board, and cause a copy of such resolutions, duly authenticated, to be filed with the Comptroller of the Currency: *Provided*, That such acceptance be made within six months after the passage of this act.

SEC. 2. That all debts, demands, liabilities, rights, privileges, and powers of the Hillsborough National Bank of Hillsborough, Ohio, shall devolve upon and inure to the First National Bank of Hillsborough, Ohio, whenever such change of name is effected.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. RANDALL. I would like to ask the gentleman from Ohio if this bill has the approval of a committee of the House.

Mr. HART. It has the unanimous approval of the Committee on Banking and Currency.

There being no objection, the bill was taken from the House Calendar, ordered to be engrossed and read a third time; and being engrossed, it was read the third time, and passed.

Mr. HART moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PAGE AT CLERK'S DESK.

Mr. COX, of New York, by unanimous consent, submitted the following resolution; which was read, considered, and adopted:

Resolved, That the Clerk be authorized to employ Harry Blair Smith as a page at the Clerk's desk in the Hall, and pay him at the rate of $2 per day out of the contingent fund of the House until further ordered.

Mr. COX, of New York, moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

LIEUT. JAMES M. BLADES.

Mr. TOWNSHEND, by unanimous consent, introduced a bill (H. R. 7511) granting an increase of pension to Lieut. James M. Blades, Company H, Sixth Regiment Illinois Cavalry Volunteers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

REPORT OF HEALTH OFFICER OF THE DISTRICT OF COLUMBIA.

Mr. TOWNSHEND, by unanimous consent, also introduced a joint resolution (H. Res. 288) authorizing the printing of 2,500 extra copies of the annual report of the health officer of the District of Columbia; which was read a first and second time, referred to the Committee on Printing, and ordered to be printed.

BRIDGE ACROSS SAINT CROIX RIVER.

Mr. WASHBURN. I ask unanimous consent to take from the House Calendar for present consideration the bill (H. R. 3258) to authorize the construction of a bridge across the Saint Croix River at the most accessible point between Stillwater and Taylor's Falls, Minn.

The SPEAKER. The bill will be read for information, after which objections, if any, will be in order.

The bill was read, as follows:

Be it enacted, &c., That the Minneapolis, Sault Sainte Marie and Atlantic Railway Company, a corporation organized under the laws of the State of Wisconsin, be, and is hereby, authorized to construct and maintain a bridge, and approaches thereto, over the Saint Croix River, between the States of Minnesota and Wisconsin, at the most accessible point between the city of Stillwater and the village of Taylor's Falls, on said river. Said bridge shall be constructed to provide for the passage of railway trains, and, at the option of the corporation by which it may be built, may be used for the passage of wagons and vehicles of all kinds, for the transit of animals and for foot passengers, for such reasonable rates of toll as may be approved from time to time by the Secretary of War.

SEC. 2. That any bridge built under this act shall be constructed and built without material interference with the security and convenience of navigation of said river beyond what is necessary to carry into effect the rights and privileges hereby granted; and in order to secure a compliance with these conditions the corporation, previous to commencing the construction of the bridge, or of the accessory works designed to secure the best practical channel-way for navigation and confine the flow of the water to a permanent channel at said point, shall submit to the Secretary of War a plan of the bridge and of such accessory works, together with a detailed map of the river at the proposed site of the bridge and for a distance of a mile above and below the site, together with all other information touching said bridge and river and accessory works as may be deemed requisite by the Secretary of War to determine whether the said bridge when built will conform to the prescribed conditions of this act. That said bridge shall be constructed and built without material interference with the security and convenience of navigation of said river beyond what is necessary to carry into effect the rights and privileges hereby granted: *Provided*, That as to any bridge built under this act, if the said bridge shall be made with unbroken and continuous spans, it shall not be of less elevation in any case than fifty feet above extreme high-water mark, as understood at the point of location, to the bottom chord of the bridge, nor shall the spans of said bridge be less than one hundred and fifty feet in length, and the piers of said bridge shall be parallel with the current of said river, and the main span shall be over the main channel of the river and not less than one hundred and fifty feet in length: *And provided also*, That if any bridge built under this act shall be constructed as a draw-bridge, the same shall be constructed as a pivot draw-bridge, with a draw over the main channel of the river at an accessible and navigable point, and with spans of not less than one hundred and ten feet in length in the clear on each side of the central or pivot pier of the draw: *Provided also*, That said draw shall be opened promptly upon reasonable signal for the passing of boats; and said company or corporation shall maintain, at its own expense, from sunset to sunrise, such lights or other signals on said bridge as the Secretary of War shall prescribe.

SEC. 3. That the Secretary of War is hereby authorized and directed, upon receiving any such plan and map and other information and upon being satisfied that a bridge built on such plan and with such accessory works and at such locality will conform to the prescribed conditions of this act, to notify the company that he approves the same; and upon receiving such notification the said company may proceed to an erection of said bridge, conforming strictly to the approved plan and location; but until the Secretary of War approves the plan and location of said bridge and accessory works and notify the company of the same, the bridge shall not be built; and should any change be made in the plan of the bridge or said accessory works during the progress of the work thereon, such change shall be subject likewise to the approval of the Secretary of War.

SEC. 4. That any bridge and accessory works, when built and constructed under this act and according to the terms and limitations thereof, shall be a lawful structure; and said bridge shall be recognized and known as a post-route, upon which also no higher charge shall be made for the transmission over the same of the mails, the troops, and the munitions of war of the United States than the rate per mile paid for the transportation over the railroads or public highways leading to said bridge; and said bridge shall enjoy the rights and privileges of other post-routes in the United States; and Congress reserves the right at any time to regulate by appropriate legislation the charges for freight and passengers over said bridge.

SEC. 5. That the right to alter, amend, or repeal this act is hereby expressly reserved; and the right to require any changes in said structure, at the expense of the owners thereof, whenever Congress shall decide that the public interests require it, is also expressly reserved.

SEC. 6. That this act shall take effect and be in force from and after its passage.

The SPEAKER. Is there objection to the present consideration of the bill which has just been read?

Mr. GIBSON. I object.

Mr. WASHBURN. I will state to the gentleman from West Virginia [Mr. GIBSON] that this bill has been unanimously reported by the Committee on Commerce and that it has all the provisions found in any bridge bill. This railroad is nearly built, and it is very important that the bill should be promptly passed.

Mr. GIBSON. I observe that the spans provided for are very much less than those provided for in the case of other streams.

Mr. WASHBURN. But this is a very small stream and the navigation is very unimportant; only small boats navigate it. This bill was fully considered by the Committee on Commerce on that very point, and on investigation they were satisfied the spans were sufficiently wide. I will state also that the bill is recommended by the Secretary of War.

Mr. GIBSON. Is it unanimously recommended by the Committee on Commerce?

Mr. WASHBURN. It is.

Mr. GIBSON. I withdraw the objection.

The SPEAKER. Is there further objection? (After a pause.) The Chair hears none.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. WASHBURN moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ATLANTIC AND PACIFIC RAILROAD LAND GRANT.

Mr. COBB. I ask unanimous consent to take from the Speaker's table the bill (H. R. 7162) to forfeit the unearned lands granted to the Atlantic and Pacific Railroad Company to aid in the construction of a railroad and telegraph line from the States of Missouri and Arkansas to the Pacific coast, and to restore the same to settlement, and for other purposes, with Senate amendments, for the purpose of moving non-concurrence in the Senate amendments.

The SPEAKER. The amendments of the Senate will be read, after which the Chair will ask for objections.

The amendments of the Senate were read, as follows:

Strike out all after the word "forfeited," in line 19, on page 1, down to and including line 7, on page 2, and insert:

"And the title thereto resumed by the United States and said lands declared to be part of the public domain, but not subject to disposal under the general laws of the United States until after the termination of the legal proceedings prescribed by this act."

Page 2, at the end of line 7, insert:

"*Provided*, That the price of the lands so forfeited and restored shall be the same as heretofore fixed for the even-numbered sections within said grant."

Page 2, after line 7, insert the following sections:

"SEC. 2. That jurisdiction is hereby conferred on the circuit court of the United States for the western district of Missouri to hear and determine all questions and controversies concerning the rights and equities in said forfeited lands that are claimed or asserted by the United States, or by any person or corporation claiming the same under or in consequence of any law of the United States, or any act of its lawfully authorized agents, and to enforce any judgment or decree, either interlocutory or final, that said court shall render in respect of said lands or any interest therein.

"SEC. 3. That it shall be the duty of the district attorney of the United States for the western district of Missouri, under the direction of the Department of Justice, immediately to proceed, in the circuit court of the United States for the said district, by bill in equity in the name of the United States of America as plaintiff, against any corporations or persons that claim any interest in the lands hereby declared forfeited arising under said act of Congress approved July 27, 1866, or under this act, so as to bring before said court for its determination the validity of such claim, whether the same be legal or equitable."

"SEC. 4. That any person or corporation not made a party defendant in said proceeding, but claiming any interest under the laws of the United States in the lands or any part thereof which are declared forfeited by this act, may present such claim by petition in said cause, duly verified by oath, and if the court, upon consideration thereof, shall decide that the adjudication and settlement of such claim is necessary to do complete justice in said cause, the court shall direct that such further proceeding be had upon such petition as that the same may be fully heard and determined, and shall proceed to decree upon the same as fully as if such petitioner had been made a party defendant in said suit: *Provided*, That no such petition shall be filed after twelve months from the date of the filing of the bill in said cause.

"SEC. 5. That the court, if it shall see fit, may tax all the costs of the suit under the third section of this act against the United States, and shall apportion the costs of any proceeding under the fourth section of this act between the parties according to justice and equity. Any party to the suit instituted under this act shall have the right of appeal from any final decree therein to the Supreme Court of the United States in the same manner and under the same conditions as are prescribed by law and the rules of said court of appeals in equity cases: And the Supreme Court shall cause said appeal to be advanced on the docket so that the same shall be speedily determined. But no right of appeal shall exist after six months from the time when said final decree is entered on the records of the circuit court of the United States.

"SEC. 6. Nothing in this act shall be construed to recognise the right of said company to any land in the Indian Territory or claim thereto on condition or otherwise, except the right of way and land for stations."

Page 2, change "Sec. 2" to "Sec. 7."

There being no objection, the amendments of the Senate were non-concurred in.

Mr. COBB moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. COBB. I now move that a committee of conference on the disagreeing votes of the two Houses be asked for by the House.

There being no objection, it was so ordered.

The SPEAKER subsequently announced as the members of the com-

mittee of conference on the part of the House, Mr. COBB, Mr. HENLEY, and Mr. PAYSON.

ORDER OF BUSINESS.

Mr. HENDERSON, of Iowa. I ask unanimous consent to take up for present consideration the bill which I have sent to the Clerk's desk.

Mr. REAGAN. I shall have to object.

Mr. HENDERSON, of Iowa. This will take but a moment; it is a very brief bill.

Mr. REAGAN. That may be so, but time is precious.

Mr. RANDALL. With consent of the gentleman from Texas——

The SPEAKER. The regular order has been called for.

Mr. RANDALL. I would like to make a motion to dispense with the morning hour in order to reach in Committee of the Whole House on the state of the Union the consideration of the bill making temporary provision for the naval service.

Mr. REAGAN. I will give way for that purpose, if thereby the regular order is not displaced.

Mr. RANDALL. The order in regard to the gentleman's bill makes exception in favor of appropriation bills; and of course the consideration of the bill I desire to bring up will not displace the measure in which the gentleman from Texas is interested.

The SPEAKER. Not at all. That bill will retain its place. The gentleman from Pennsylvania [Mr. RANDALL] moves to dispense with the morning hour.

The motion was agreed to (two-thirds voting in favor thereof).

TEMPORARY APPROPRIATIONS FOR NAVAL SERVICE.

Mr. RANDALL. I move that the House resolve itself into Committee of the Whole House on the state of the Union for the purpose of considering the bill I have indicated.

The motion was agreed to.

The House accordingly resolved itself into Committee of the Whole House on the state of the Union, Mr. COX, of New York, in the chair, and proceeded to the consideration of the bill (H. R. 7510) making temporary provision for the naval service.

The Clerk having read the bill the first time for information,

Mr. RANDALL. Mr. Chairman, unless some member of the House desires to discuss this bill at length I shall ask unanimous consent that general debate may be regarded as closed. For my own part I feel that under the five-minute rule I shall be able to explain the provisions of the bill without consuming time under the hour rule.

The CHAIRMAN. The gentleman from Pennsylvania asks unanimous consent that general debate on this bill be regarded as terminated. Is there objection? The Chair hears none.

The Clerk, proceeding to read the bill by paragraphs for amendment, read the following:

Be it enacted, &c., That for the purpose of providing for the expenses of the naval service for the six months ending June 30, 1885, there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, one-half, or 50 per cent., of the sums of money (and for the like purposes and continuing the same provisions relating thereto) as were appropriated for the service of the fiscal year ending June 30, 1884, by the act entitled "An act making appropriations for the naval service for the fiscal year ending June 30, 1884, and for other purposes," approved March 3, 1883 (except as hereinafter declared), subject to all the limitations and conditions in respect to the disbursement of the appropriations hereby made that were imposed by said act and the other laws of the United States upon or in respect to the appropriations made by said act: *Provided*, That nothing is appropriated by this act for the purposes set forth in said act making appropriations for the naval service for the fiscal year 1884 under the heading "Increase of the Navy" and preceding the heading "Naval Academy," "For special ocean surveys and the publication thereof," or "For the purchase and manufacture, after full investigation and test, in the United States, under the direction of the Secretary of the Navy, of torpedoes adapted to naval warfare, or of the right to manufacture the same, and for the fixtures and machinery necessary for operating the same;" nor is there reappropriated any balance of the appropriation made for commencing the manufacture of steel rifled breech-loading guns, with carriages and ammunition, that remained unexpended during the fiscal year 1883; but in lieu of such reappropriation there is hereby appropriated for such manufacture, during the six months herein provided for, the sum of $25,000; and that the clause under the heading "Bureau of Yards and Docks" commencing "For general maintenance of yards and docks" is amended so as to appropriate for the six months herein provided for the sum of $110,000.

Mr. BLOUNT. I would like to inquire of the gentleman from Pennsylvania what is the balance of the appropriation made for the fiscal year 1883 for the manufacture of steel rifled breech-loading guns. I see that in lieu of the reappropriation of that balance this bill proposes to appropriate $25,000.

Mr. RANDALL. I think a brief recital of the history of the original appropriation for this purpose may prove to be a satisfactory response to the very proper inquiry of the gentleman from Georgia.

Mr. BLOUNT. I shall be glad to hear such a statement.

Mr. RANDALL. There was originally appropriated by the act for the fiscal year 1883 $100,000 for the manufacture of rifled guns, with carriages and ammunition. By the act for the fiscal year 1884 there was made a reappropriation of any unexpended balance of the sum of $100,000. I believe $82,000 remained unexpended, which sum was subsequently expended. So that this was the amount reappropriated by that act. When the act providing appropriations for the naval service for the first six months of the present fiscal year came to be administered some doubt arose as to the effect of the 50 per cent. clause on this item in the act for 1884 reappropriating the balance of the $100,000 originally appropriated. That question was left to the judgment of the First Comptroller, who decided that the act known as the six-months act had the effect of creating an appropriation of $41,000—a sum equal to one-half of the unexpended balance which had previously been reappropriated. Under that construction of the law, to which as a layman I do not give my entire acquiescence, there has been or will be expended about $25,000 of the $41,000. There is therefore remaining unexpended of the $41,000, which the Department has claimed the right to expend under the six-months act, about $16,000. But the committee did not feel desirous to confirm the construction of the law which actually gave the Department, based upon the original appropriation of $100,000, $141,000, of which $125,000 have been expended. The committee preferred to revoke all past legislation bearing on this subject and start afresh with a distinct appropriation, thus avoiding this technical if not doubtful construction.

The effect is to save $16,000 on the first six-months act, and again to use language no longer capable of the construction placed on said act.

Twenty-five thousand dollars will be a sufficient sum, as we understand, to meet fully the requirements of the Navy Department for work in progress. It is true the Department has asked for $25,000 more for the purpose of purchasing foreign steel to be used in the manufacture of a type-gun of 12-inch caliber. But the committee preferred to postpone any legislation on that subject until Congress should have the benefit of the opinion of the gun-foundery board and also the opinion of a committee of the Senate and a committee of the House in relation to that subject.

Mr. BLOUNT. Then, as I understand, the effect of the provision in this bill is the reduction of the appropriation to the extent of about $32,000 for the year.

Mr. RANDALL. Yes. The effect of this entire legislation, to wit, the original appropriation of $100,000, together with the reappropriation in the act of the following year, taken in connection with the construction placed upon the six-months law of last session, would be an appropriation during the three years of $150,000, the six-months act having been construed as creating an appropriation of $41,000, based on one-half of the amount fixed as an unexpended balance which was before reappropriated. We propose by this bill a new appropriation of $25,000 for the next six months, the Department having already expended or contracted to expend for this purpose during the first half of the current fiscal year $25,000. We gave a like amount for the last six months of the current fiscal year. The aggregate amount appropriated for and expended for this purpose during the entire year up to June 30, 1885, will probably be about $50,000.

Mr. BLOUNT. I understand the gentleman from Pennsylvania to say that under the act of 1884 some eighty-odd thousand dollars was left.

Mr. RANDALL. Under the law for 1884 known as the reappropriation clause there were $82,000 left that had to be reappropriated, or otherwise under another general law they would have lapsed or gone back into the Treasury.

Mr. BLOUNT. I understood further they claim that by operation of the act of 1884 a sum of money equal to eighty-odd thousand dollars was appropriated, and that for the first six months they could expend forty-one-odd thousand dollars, and that they had actually expended about $25,000. This bill provides they shall not exceed $25,000 additional for the last six months, which would make for the year a saving of about thirty thousand odd dollars.

Mr. RANDALL. I understand they did expend all of that $82,000, or nearly so. They did claim the right during the first six months of this fiscal year to expend $41,000, but have expended only about $25,000 of that amount. The Committee on Appropriations deem that during the second six months the amount already expended, or that is likely to be expended, during the remainder of this first six months would be sufficient for the next six months. I do not understand any one in the committee or any one of the officials of the Navy Department objects to this, only that they ask an additional $25,000 for the purchase of foreign steel.

Mr. BLOUNT. I was not asking with a view of dissenting, but I could not tell from the language of the act what it meant.

Mr. RANDALL. The interpretation placed on the law has had the effect of making it difficult to explain in terms exactly what was meant. I have endeavored to do it.

The CHAIRMAN. The Chair does not understand there is any amendment pending on which this debate is proceeding.

Mr. RANDALL. I have no substantial amendment to offer.

The CHAIRMAN. Then debate is not in order.

Mr. RANDALL. I move, then, to strike out the last word.

Mr. WARNER, of Ohio. I desire to ask the gentleman from Pennsylvania whether I correctly understood him to say there is here an appropriation for the purpose of purchasing foreign steel?

Mr. RANDALL. The amount asked for of $25,000 in excess of what is herein appropriated for the second six months was, as we were informed, for the purpose of purchasing foreign steel to be used in the manufacture of a 12-inch breech-loading gun. The committee did not think, in the presence of a report not yet made to the House but which

I noticed the President referred to in his annual message as to the capability of American manufacturers to make steel for this purpose, it was necessary to make any appropriation for the purchase of foreign steel, and it has therefore omitted to do so.

Mr. WARNER, of Ohio. That was the question I wished to ask, whether the rumor we have heard is true that we are not able in this country to supply the steel required for the manufacture of breech-loading guns.

Mr. RANDALL. The committee were not willing by indirection or in direct words to affirm anything in connection with that matter. We were not willing to anticipate the conclusions of the two or three organizations now making investigation into the subject. I join with the gentleman from Ohio in the expression of the hope that it will be made conclusive that American manufacturers can produce as good steel for any purpose as any foreign steel which can be brought into the United States.

As there seems to be no further questions to be asked, Mr. Chairman, I will by unanimous consent now withdraw my formal amendment.

The CHAIRMAN. The Clerk will read the next paragraph.

The Clerk read as follows:

That all appropriations made by the act of July 7, 1884, making temporary provision for the naval service for the six months ending December 31, 1884, or any balances thereof that may be unexpended at that date, except any balance for the manufacture of steel rifled breech-loading guns as aforesaid, be, and they are hereby, reappropriated, continued, and made available for the remainder of the fiscal year ending June 30, 1885.

Mr. RANDALL. I move to strike out the last word for the purpose of saying a word. This clause reappropriates and continues all balances, except for steel rifled breech-loading guns, that may remain unexpended December 31 of the appropriations made for the six months ending that date to June 30, 1885.

It is for the purpose of making the two six-months acts come together, or merging the first with the last, and thus avoid a settlement of the books at the end of the first six months of the fiscal year. In other words, sir, the effect of this clause is to make these two appropriation bills as though but one appropriation bill for the maintenance of the Navy had been passed, and that for the entire year. I withdraw the formal amendment.

The CHAIRMAN. The Clerk will now read the third and concluding paragraph of the bill.

The Clerk read as follows:

That the whole amount appropriated by this act for the support of the naval service for the six months herein provided for shall not exceed, exclusive of the amounts herein reappropriated and the amount payable from the income from the naval pension fund for the support of the Naval Asylum at Philadelphia, the sum of $6,734,717.11.

Mr. RANDALL. I will now move to strike out the last word, so as to say, in order, that the total amount appropriated by this act for the six months ending June 30, 1885, is $6,734,717.11; amount appropriated for six months ending December 31, 1884 (including $2,150,100 for steel cruisers and $41,632.50 under reappropriation for steel rifled breech-loading guns), $8,901,449.61; total amount for 1885, $15,636,166.72; amount of law for 1884, $15,894,434.23; reduction of 1885 under 1884, $258,267.51. I withdraw the formal amendment, and now move that the committee rise and report the bill to the House with the recommendation that it do pass.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. COX, of New York, reported that the Committee of the Whole House on the state of the Union had, according to order, had under consideration the bill (H. R. 7510) making temporary provision for the naval service, and had directed him to report the same back to the House with the recommendation that it do pass.

Mr. RANDALL demanded the previous question.

The previous question was ordered; and under the operation thereof the bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

The SPEAKER. This being a general appropriation bill, under the rule the vote on its passage will be taken by yeas and nays.

The question was taken; and it was decided in the affirmative—yeas 235, nays 0, not voting 87; as follows:

YEAS—235.

Adams, G. E.	Brumm,	Culbertson, W. W.	Fiedler,
Adams, J. J.	Buchanan,	Cullen,	Findlay,
Aiken,	Buckner,	Curtin,	Foran,
Alexander,	Budd,	Cutcheon,	Forney,
Anderson,	Burnes,	Davidson,	Funston,
Bagley,	Cabell,	Davis, G. R.	Geddes,
Ballentine,	Caldwell,	Davis, L. H.	George,
Barr,	Campbell, J. M.	Davis, R. T.	Gibson,
Bayne,	Candler,	Dibrell,	Glascock,
Beach,	Cannon,	Dockery,	Goff,
Belmont,	Carleton,	Dowd,	Green,
Bennett,	Clay,	Dunham,	Greenleaf,
Bingham,	Clements,	Dunn,	Guenther,
Blanchard,	Cobb,	Eaton,	Halsell,
Blount,	Connolly,	Eldredge,	Hammond,
Boutelle,	Converse,	Ellis,	Hardeman,
Brewer, F. B.	Cosgrove,	English,	Harmer,
Brewer, J. H.	Cox, S. S.	Ermentrout,	Hart,
Broadhead,	Cox, W. R.	Evans,	Haynes,
Browne, T. M.	Crisp,	Everhart,	Hemphill,
Brown, W. W.	Culberson, D. B.	Ferrell,	Henderson, D. B.
Henderson, T. J.	Matson,	Reese,	Taylor, J. D.
Henley,	Maybury,	Rice,	Taylor, J. M.
Herbert,	Millard,	Robertson,	Thomas,
Hewitt, A. S.	Miller, J. F.	Robinson, J. S.	Thompson,
Hewitt, G. W.	Miller, S. H.	Robinson, W. E.	Throckmorton,
Hill,	Milliken,	Rockwell,	Tillman,
Hiscock,	Mills,	Rogers, J. H.	Townshend,
Hitt,	Mitchell,	Rogers, W. F.	Tucker,
Hoblitzell,	Money,	Rowell,	Tully,
Holman,	Morrill,	Russell,	Turner, Oscar
Holmes,	Morrison,	Ryan,	Van Alstyne,
Holton,	Morse,	Scales,	Vance,
Hopkins,	Moulton,	Seney,	Van Eaton,
Horr,	Muldrow,	Seymour,	Wadsworth,
Houk,	Muller,	Shelley,	Wait,
Houseman,	Murphy,	Singleton,	Wakefield,
Howey,	Murray,	Skinner, C. R.	Wallace,
Hunt,	Mutchler,	Skinner, T. G.	Ward,
James,	Neece,	Slocum,	Warner, A. J.
Johnson,	Oates,	Smalls,	Warner, Richard
Jones, J. H.	Ochiltree,	Smith, A. Herr	Weaver,
Jones, J. K.	O'Ferrall,	Smith, Hiram Y.	Wemple,
Jordan,	O'Hara,	Spooner,	White, Milo
Kean,	O'Neill, Charles	Spriggs,	Whiting,
Keifer,	Paige,	Springer,	Wilkins,
Ketcham,	Payne,	Steele,	Williams,
Lacey,	Peel,	Stephenson,	Willis,
Laird,	Perkins,	Stevens,	Wilson, James
Lanham,	Peters,	Stewart, Charles	Wilson, W. L.
Lawrence,	Post,	Stewart, J. W.	Winans, E. B.
Le Fevre,	Potter,	Stockslager,	Wise, G. D.
Long,	Price,	Stone,	Wolford,
Lowry,	Pusey,	Storm,	Woodward.
Lyman,	Randall,	Strait,	Worthington.
McAdoo,	Ray, G. W.	Struble,	Yaple,
McComas,	Ray, Ossian	Sumner, C. A.	York,
McCormick,	Reagan,	Talbott,	Young.
McMillin,	Reed,	Taylor, E. B.	

NAYS—0.

NOT VOTING—87.

Arnot,	Covington,	Jeffords,	Phelps,
Atkinson,	Dargan,	Jones, B. W.	Pierce,
Barbour,	Deuster,	Jones, J. T.	Poland,
Barksdale,	Dibble,	Kelley,	Pryor,
Belford,	Dingley,	Kellogg,	Rankin,
Bisbee,	Dorsheimer,	King,	Ranney,
Blackburn,	Elliott,	Kleiner,	Riggs,
Bland,	Ellwood,	Lamb,	Rosecrans,
Bowen,	Finerty,	Lewis,	Shaw,
Boyle,	Follett,	Libbey,	Shively,
Brainerd,	Fyan,	Lore,	Snyder,
Breckinridge,	Garrison,	Lovering,	Sumner, D. H.
Breitung,	Graves,	McCoid,	Turner, H. G.
Burleigh,	Hanback,	Morgan,	Valentine,
Campbell, Felix	Hancock,	Nelson,	Washburn,
Campbell, J. E.	Hardy,	Nicholls,	Wellborn,
Cassidy,	Hatch, H. H.	Nutting,	Weller,
Chace,	Hatch, W. H.	O'Neill, J. J.	White, J. D.
Chalmers,	Hepburn,	Parker,	Winans, John
Clardy,	Hooper,	Patton.	Wise, J. S.
Collins,	Hurd,	Payson,	Wood.
Cook,	Hutchins,	Pettibone,	

So the bill was passed.

During the roll-call the following pairs were announced from the Clerk's desk:

Mr. DINGLEY with Mr. DIBBLE, on all political questions, for this day.

Mr. BRECKINRIDGE with Mr. VALENTINE, for this day.

Mr. PRYOR with Mr. BELFORD, for this day.

The vote was then announced as above recorded.

Mr. RANDALL moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

INTERSTATE COMMERCE.

The SPEAKER. The House now resumes the consideration of the bill (H. R. 5461) to establish a board of commissioners of interstate commerce and to regulate such commerce. The gentleman from Connecticut [Mr. SEYMOUR] is entitled to the floor.

Mr. SEYMOUR. Mr. Speaker, if the importance of this bill is to be measured by the number of bills concerning interstate commerce which were referred to the Committee on Commerce at the last session, then the remark of the distinguished gentleman from Texas [Mr. REAGAN] that it is one of the most important bills now pending was fully justified. The committee have appreciated its importance and have given the subject patient and careful consideration for many weeks. As the result of their deliberations they have presented the bill reported by them with the understanding, perhaps the unusual understanding, stated in the report, that it shall be considered no mark of disrespect toward the committee for its individual members to offer such amendments as may make it conform to their individual views.

Taking advantage of that understanding, I shall at the proper time submit at least one amendment, which it seems to me will tend to perfect the bill and make it more acceptable to the House.

But at this point I desire to call attention to the scope and object of the bill as it stands. Briefly and generally, its purport is to declare certain specified acts of interstate railroads unlawful, to furnish sundry remedies, to provide sundry penalties, and to create a railroad commission, with power to prevent and put a stop to such unlawful acts, to

assist in applying the remedies and enforcing the penalties, and also (and herein lies the chief merit of the bill, in my opinion) to investigate all grievances brought to its notice, with power, after careful examination, to make such recommendations to Congress for future legislation respecting interstate commerce as may reach all well-founded complaints and remedy the evils complained of, thus taking the detailed examination of the complaints upon which the demand for legislation is based out of Congress in the first instance, and placing it in the hands of commissioners, who have not only more time to devote to it, but who, by the inspection of books and papers, schedules and contracts, by the investigation of real instead of hypothetical cases of complaint, can act more intelligently than a committee of Congress can possibly do.

These objects which the bill seeks to accomplish certainly ought to be accomplished in some way. But too much faith must not be put in any legislation aiming to govern the operations of trade and commerce. Over legislation respecting details attempts to regulate every particular act by special statute, instead of relying upon an enforcement of those general principles which are the sure foundation of our common law, aided and re-enforced by such general statutes as may from time to time be necessary, are to be avoided as far as possible.

And there is danger that in attempting to interfere too minutely with the methods of trade more harm than good will result. There are certain natural "laws of trade" which will, in a country where competition is open and capital for new enterprises abundant, in the main and in the end prevail, combinations and selfishness to the contrary notwithstanding. If this bill seems to lose sight of these principles in any of its provisions, and I think it does in one particular at least, to which attention will presently be called, it can easily be amended, and should be amended so as to conform to them. Its general object is beneficent, namely, as I have already said, to declare certain indefensible acts unlawful, to provide specific remedies for evils which it is claimed exist, together with penalties for its violation, and to create a board of commissioners with powers and duties as provided in the bill.

Now permit me to explain more particularly the provisions by which it is sought to carry out these objects, that the House may judge of their efficiency and determine whether all of them are wise and expedient, or whether some had better be omitted or amended. The bill begins by re-enacting the common-law principle that all charges for services by persons engaged in interstate commerce shall be reasonable. The purpose of this re-enactment is twofold: first, to emphasize the principle, as the keynote of the proposed legislation; and, second, to make the bill harmonious and symmetrical. It is, then, made unlawful for those affected by the act to charge or receive any greater or less amount of compensation from one person than they charge or receive from any other person for like and contemporaneous services rendered under substantially similar circumstances. They are required to furnish, without discrimination, equal facilities to all for the carriage, receiving, delivery, storage, and handling of all property of like character carried by them, and to perform with equal expedition like services for all.

No one can justly find fault with these provisions, which it was represented to the committee are necessary for the protection of freighters, nor with the one which follows them, making it unlawful in the transportation of property directly or indirectly to allow any rebate, drawback, or other advantage in any form upon shipments made or services rendered which under similar circumstances are not allowed to all other persons.

It was urged by some that no rebate or drawback should be allowed to any one under any circumstances. But it is a sufficient answer to such claim that a rebate or drawback which is allowed to all, if to any, ceases to be a discriminating rebate. It can not harm customers, but may help them and the railroad alike. If, for example, after freight has been shipped from Chicago to New York upon schedule rates over one of the trunk lines, it is discovered that one of the other lines is carrying upon cheaper terms, there is no unfairness in permitting the former line to rebate enough from its schedule rates to make its charge conform to that of the latter line, and so retain its customer, doing injustice to no one.

Without provisions permitting such action a statute forbidding rebates altogether would be unjust to carriers and customers alike. We should strike at unjust, unequal rebates, but not at those which are entirely justifiable, as are those in the supposed case.

The bill reported by the committee then goes on to make it unlawful for the railroads embraced in the act to enter into any contract or combination for the pooling of freights, or to, in fact, pool the freights of different and competing railroads by dividing between them the aggregate or net proceeds of the earnings of such railroads or any portion of them.

The pooling proposed to be legislated against is pooling by the division between competing railroads engaged in interstate commerce of their aggregate or net proceeds. The term "pooling" has become somewhat odious.

It has been assumed that the pooling of earnings by railroads is necessarily hostile to the interests of freighters and consumers. Such assumption is unwarranted, in my judgment.

It was shown to the satisfaction of a portion at least of your committee, in the course of this investigation, that there may be a pooling of freights or earnings, so called, which inures to the advantage of freighters and consumers.

It was argued that it may be and often is a powerful means of preventing railroad wars and the cutting of freights; that whatever may be the momentary and seeming result of railroad wars and freight cutting, its ultimate effect is to the disadvantage of freighters; that freighters are interested in having uniform rates; that their contracts are based upon existing rates, and that fluctuations created by railroad wars are necessarily injurious to freighters as a class, even though individual freighters may gain temporary advantage in consequence of them.

Then, again, it may be suggested, and experience warrants the suggestion, that the losses to the railroads occasioned by such wars are uniformly made up by increased rates, or in some other way, when peace is restored, so that, as I have already said, freighters as a class, and in the long run, and consequently consumers also, are losers by these railroad disturbances. These and other arguments, leading me to distrust the soundness of any claim that real honest advantage can be gained by any class through business disturbances, force me to believe that our true policy lies in so regulating these pooling contracts as to make only those unlawful the intent, purpose, and effect of which are to raise charges above reasonable rates and are calculated to divide earnings on any other basis than a reasonable accordance with service to impair reasonable competition. And to provide against any evasion of this wholesome restriction it should be enacted that every such contract shall be open and in writing, and that a copy thereof shall, as soon as executed, be sent by the parties thereto to the board of commissioners created by this act.

At the proper time I propose to offer an amendment to carry out these suggestions, which, if passed, will prevent the evils which are attributed to pooling, and preserve to the public any advantages claimed in its behalf. And if it should turn out, upon full investigation of the subject by the commissioners, that pooling for any purpose is incompatible with public policy, they will so report, and Congress will no doubt hasten to forbid it.

All through its text the bill is guarded by provisions, in different sections and parts of sections, against its evasion by collusive or unnecessary breaks, stoppages, or interruptions, made to prevent the carriage of any property from being continuous, or to make it appear to be local traffic when in fact it is interstate traffic, such as the bill is intended to effect.

For the violation of any of the provisions of the act any railroad company, officer of such company, or other person is made liable to the injured party for the actual damages, and when the violation is found to be willful the court may allow, by way of additional costs, a sufficient sum to cover his counsel fees and his expenses, charges, and disbursements.

Now, the gentleman from Texas animadverted upon this bill as not being sufficiently strong in its penal provisions, as you will remember. I think he had forgotten—I had, I am sure, at that time—the full scope of the bill in respect to the additional costs which might be allowed for any breach of the provisions of the bill.

In addition the offender is held guilty of a misdemeanor and subject to a fine of not more than $1,000 for each violation. And it is made the duty of the district attorneys of the United States to institute and prosecute to effect all violations within their jurisdiction to prosecute; it being provided, however, for manifest reasons, that these penal provisions shall not apply to the first section of the act, which enacts that charges for service shall be reasonable, it being thought inexpedient to expose persons to a penalty for a mistake in judgment regarding a charge for services rendered.

I wish to call the attention of the House to the argument made by the distinguished gentleman from Texas [Mr. REAGAN] upon that particular clause of the bill. He finds fault specifically with the bill of the committee, for the reason that the first section was taken out from the operation of the penal provisions of the bill. Now, I ask my distinguished friend, and I ask other gentlemen of the House who may give attention to this subject, to answer me whether in their judgment it would be a fair and proper measure to subject the directors of a railroad company to the highly penal clauses of this bill simply for what may be a mistake in judgment in fixing the rate for carrying an article of freight from Chicago to New York, for instance? I should be glad if they would point out to me the rule or criterion of judgment which would enable a jury to arrive at the reasonableness of the charge; and I ask them if there is anybody better qualified to understand what would really be the reasonableness or unreasonableness of such charges than the directors of the roads themselves, who are enabled by their position to inform themselves of the various items of cost which enter into such transportation and all of the various elements which go to make up the sum total of the expenditures of the road in performing such service? To enforce a penalty upon them under the provisions of this bill would be simply imposing a penalty for what might be a mistake in judgment; and there is this further objection, that a jury in one State might hold that a charge against which objection was made was unreasonable, while a jury in another and neighboring State might hold

that it was not unreasonable. Who is to decide between the two? It is an attempt to make that a criminal offense which in the very nature of things ought not to be so made.

The honest judgment of the directors of the road may be that the charge for carrying that freight was entirely reasonable, and it seems to me that nobody would under the provisions of this Reagan bill, as I call it by way of distinction from the committee's bill, be willing to accept the office of directorship of any railroad company being subject to its penalties; for any mistake in judgment which he may make in fixing the rate for carrying the produce of a shipper from one State into another, which rate the jury may find was extortionate, would subject him to all the penalties prescribed. For these reasons the committee, or a large majority of the committee as I remember now, thought the provisions of the first section should be taken out of the operations of this penal provision.

So much for the declaratory, remedial, and penal provisions of the bill. Its further effect is to create a board of three commissioners of interstate commerce, one, at the first appointment, to hold office for two, one for four, and one for six years, and thereafter each for six years. They are removable only for cause, are not to be interested pecuniarily in any railroad or railroad security, are given a salary of $7,500 a year and actual and necessary traveling and other expenses incurred by them. They may appoint a clerk with annual salary of $2,500 and an accountant at annual salary of $2,000. The Secretary of the Interior is authorized to furnish such additional clerical, engineering, expert, or other service as the commissioners may request and he deem proper. In the performance of their duties the commissioners, their experts, and clerks may pass over any railroad engaged in interstate commerce free of charge, but shall accept no other pass, gratuity, or favor from any railroad company.

The commissioners are charged with the duty of carrying into effect the provisions of this act in respect to interstate commerce. Persons complaining of any violation of this act may, in addition to the other remedies provided, apply to the commissioners in writing, briefly stating their complaint. If the petition is authenticated, as provided in the act, the commissioners *shall*, and in other cases *may*, entertain and investigate the same. The modes of such investigation are pointed out in the bill. There is not time, nor is there need, for me to recapitulate them. The question in this part of the discussion will be upon the policy of creating a board of commissioners at all. If they are to be appointed, I confidently submit that the provisions regarding their powers and duties are thoughtfully drawn and carefully guarded. That portion of the act relating to commissioners seems to me the best part of the proposed legislation. They are given ample powers to examine witnesses, books, and papers in order to decide upon the merits of the complaints made to them. They may issue orders to offenders to desist from violating the provisions of this act. If the offender refuses to obey the order and to desist from its violation, it is made the duty of the district attorney to apply to the proper circuit court of the United States to grant an order upon him to show cause why he should not be enjoined against continuing such violation, and the power of the court to enjoin is ample. All the machinery is provided, and, best of all, a capable board is created to hear and examine, as no Congressional committee can, all complaints; to listen to all excuses and defenses, and year after year to intelligently advise Congress what legislation is actually needed in order to settle, upon an equitable basis the relations between carriers and their customers in this vast system of interstate commerce.

Of all the bills before your committee this seems the best. Some went too far in their restrictions and their penalties. They assumed that the directors and managers of our great railroad system were banded together to willfully cheat and defraud the public.

No allowance was made for the difficulties necessarily incurred by honest and honorable men in managing a business so vast and intricate to the satisfaction of all the conflicting interests. I do not suppose that any one thinks this bill perfect in its present shape nor likely to be made so by amendments.

But two or three amendments which are proposed to be offered will make it as good, perhaps, as a committee with limited time and no opportunity to thoroughly test complaints could make it, and at any rate it serves by its very imperfections to emphasize the necessity of a commission to investigate before violent changes in legislation are attempted. It is a tentative measure, therefore, looking to further legislation upon the subject, and I trust it will commend itself to the consideration of the House. Such, in brief, are the provisions of the bill reported by the committee.

In contradistinction to this bill we have what is known as the "Reagan bill," which was offered by the distinguished gentleman from Texas yesterday as a substitute for the bill now pending before the House. This substitute bill is in my judgment too strict and too minute in all of its particulars to be a practical measure. It is so minute in its details as to interfere materially with the very laws of trade, and so strict as to defeat the very object of the bill itself, which is of course a good object. That is the criticism I would make upon the bill of the gentleman from Texas, and that is the criticism that I know other members of the committee made upon it, and which will necessarily arise in the mind of every member of the House who examines closely its provisions. In conclusion I want to say a word in regard to the name of the two bills pending before the House, as confusion will be apt to arise in the minds of gentlemen because of the fact that the bill reported from the committee was reported by the distinguished gentleman from Texas the chairman of the committee, and is therefore known as the "Reagan bill," while the substitute which is pending before the House is also known as the Reagan bill. The bill reported by the committee, was, as will appear by its title, a substitute for a number of bills which had been referred to the committee; among others, the "Reagan bill" itself, strictly so called. When that was brought up before the House on yesterday the gentleman from Texas proposed his bill as a substitute for the committee's bill, and both are now pending for consideration.

The bill which is reported from the committee as a substitute for all the bills before it, including the Reagan bill, is House bill No. 5461, to establish a board of commissioners of interstate commerce and to regulate such commerce. And the House will remember that last night, after that bill was read, the gentleman from Texas [Mr. REAGAN] then offered as a substitute what was known in the committee as the Reagan bill. But the bill I have been discussing is the substitute bill, on which the committee agreed, with the condition, as I have said, that every individual member of the committee was at liberty to offer such amendments as he might see fit.

How much of my time remains?

The SPEAKER *pro tempore* (Mr. OATES in the chair). The gentleman from Connecticut has thirty minutes of his time remaining.

Mr. SEYMOUR. I reserve the remainder of my time.

Mr. LONG. Mr. Speaker, the Committee on Commerce agree that legislation is demanded and is desirable on the subject of interstate railroad transportation. They differ only as to the method of procedure. In discussing the bill which they have reported it is as important not to get up steam against evils which it is not our province to remedy as to consider how most effectually to cure those which we ought to reach. There is no subject of easier declamation, or at which the impassioned orator can fire his gun with a louder report on a small charge of powder than the railroad system of the country. But for the purpose of this debate I do not believe it is profitable to call that system either an angel of beneficence or a monster of iniquity. We all know that it has developed our country, turned the wilderness to a garden, peopled our great territorial domain into flourishing States, belted the Republic together, cheapened transportation, and, best of all, laid at the feet of the poorest citizen by means of mutual and prosperous exchange the products, whether of shop or farm, of every section of the Union. On the other hand, we all know that it has been the raw material, if that term shall offend no sensitive ear, of wild and ruinous speculation, and that the red blood of its stocks has often been watered till in too many cases it has only swashed a bloated corpse, offensive to the nose and damaging to health.

But the question before us is not a question of speculation in railroad investments or of watered stocks. Be the evils that thence arise as grievous as the plagues of Egypt, they are not for us to remedy. Thanks to our Federal Constitution of blessed memory, they lie within the jurisdiction of the States which create railroad corporations and regulate their existence and financial operation.

Nor is it a question directly of political power or of local monopolization. Nor is it ours to attempt any Utopian scheme of leveling the inequalities of human fortune. These exist by natural laws, which are practically beyond our legislative and artificial control.

It is certainly a good rule in legislation to let alone as much as possible, not to contend against but to co-operate with natural laws—especially the laws of competition—and to leave them to work out their own results till the necessity of interference is plain. I take it we are not here to make a raid on railroads simply because, as a sort of public institution, they are accessible and easy of assault, any more than on any of the great private businesses of the country, which often quite as sharply affect the pockets of the people and even more brutally burden them. Indeed, in this whole matter of the railroad hearing, which for two months during the winter we had before our committee, what struck me more than anything else was not only the entire absence of any outcry against the railroads from the people at large, but also the limited complaint from anybody else.

There has been complaint, and, let me say, just complaint, especially in former years, but it has generally come from the middlemen of commerce, who stand between the producer and the consumer, and who, having to share profits with the railroad carrier, naturally and properly incline to reduce as much as possible his charges in order, as he flings back, to increase their own.

The National Board of Trade, which met in this city last winter, expressly, and with hardly a dissenting vote, declared against what is known as the Reagan bill, and recommended a commission such as the bill we have reported provides for. The fact is that the agitation for the last ten years of this railroad question, while it seemed ineffectual at the time because it resulted in no act of Congress, has shown how much more effective is public opinion, open debate, and full exposure than an arbitrary and rusty statute. The very discussion of the problem has half solved it, and many of those who knocked at your doors in former years are now indifferent, because content.

The statistics show a steadily improving diminution of rates in the in-

terest of the people. Look at some of the figures. The $6,000,000,000 or more invested in the 125,000 miles of railroads in the United States pay only about 3 per cent. per annum to their stockholders. The rate of freight ten years ago was 2½ cents per ton per mile. This year, under what is charged as the enormities of the railroad monopoly, it has come down to less than 1 cent per ton per mile. We were told that in Belgium and France it is nearly twice that, and in England still more. Under the operation of natural laws evils have tended to cure themselves, rates have come down, discriminations have lessened. This has happened because it is found with public institutions as with individuals that the nearer the approach to square and fair dealing the better it pays in the long run, although human selfishness and corporate soullessness both learn the lesson slowly and reluctantly. There are no saints running our railroads. On the contrary, there is there as everywhere else a body of selfish, timid—as capital subject to legislation is always timid—but prudent men, and in obedience to their own interest, if to nothing else, they are wisely more and more consulting and more and more meeting every year the public demand and doing more justice to the public.

As Edward Atkinson, a good statistical authority, says, the voluntary reduction in railroad rates in the last twelve years, not forced by law but resulting from natural causes, is greater than the whole sum of the public debt. The development of the West, the value of its herds and farms and crops, the rescue of its corn from voluntary commission to the flames and its transfer to the remunerative markets of the world, are due to the cheap transportation of the railroads; a cheapness for the great realms of the Western people which has been secured somewhat indeed at the cost of local high rates, especially in the East, but in the main has aided in the distribution and cheapening of food for all the people, who buy it and who in exchange for it find a market for their own manufactured products. Our railroads, says the United States Railroad Commissioner, employ nearly 2,000,000 persons in their operation and construction, thus furnishing vast employment to labor. We were told that they cost less per mile for construction, even with the tariff on railroad iron and steel rails, than those of any of the great European countries; about one-fourth of those of England, and one-third of those of France. A barrel of flour is hauled from Chicago to New York, 1,000 miles, for 30 cents. If a man eats one pound a day, the transportation charge for him is less than $1 a year. The freight on meat from Chicago to New York is 32½ cents per 100 pounds. If a man eats one pound a day its transportation costs him $1.20 a year, or about one day's wages for the transportation of his year's bread and meat.

In other words, Mr. Speaker, the evil is not that of general extortion upon the country, except as those discriminations and preferences, to which I shall afterward refer as the real grievance, increase the general cost, as perhaps they do to a slight extent, by favoring some at the expense of others. The competition of railroads among themselves and the abundant water ways which it ought to be the sagacious policy of Congress to develop and improve reduce the general rates of freight to a reasonable price, which still goes on constantly diminishing; and the United States Railroad Commissioner says in his report that ours is the cheapest railroad transportation in the world.

THE REAL GRIEVANCE.

What is the evil, then, at which we should direct legislation? It is the evil of unjust discrimination and undue preferences. Rates are generally reasonable and on the whole generous to the people. But there have been, less now than formerly as and for the reasons I have stated, unjust, indefensible, harassing, and impolitic discriminations, which, so far as they affect interstate commerce, it is our province to correct. While I have less faith than some in the utility of legislative restrictions, I yet believe the time has arrived when, in obedience to public sentiment as well as to the actual demands of business, especially the demands of our mercantile houses and middlemen, something can be done by statutory enactments.

Shippers make complaints, with which every community is familiar and which are well established, that they suffer from unjust discriminations and from rates which, though low, are not uniform or equal. They complain that by favoritism on the one hand and discrimination on the other, in the form of special rates, drawbacks, private contracts, &c., they are wronged; that thereby one mercantile house is enriched at the expense of the ruin of another; that one local shipper is bolstered up and his neighbor crushed out by the malice or the interest of the railroad company, and that the natural and fair competition of commerce and trade is destroyed by the artificial and partial preferences and discriminations of these great overriding public carriers. And, Mr. Speaker, these complaints have in too many cases been well founded. Grossest injustice has been done. Certain shippers have had undue preferences. Certain others have suffered loss by unjust discriminations. Certain places have withered in their local prosperity from unequal rates, and certain others have been favored and stimulated by special indulgences. This evil, so far as it is involved in interstate commerce, we are in duty bound to meet, and so far as that I have very little question of our constitutional power to throttle it.

THE BILL LIMITED TO RAILROAD TRANSPORTATION.

The first question is, How far shall we go in our legislation? Shall we limit our scope to railroads, or embrace in it water ways, transportation by lake and coast, river and canal? It would seem at first as if consistency required the latter. But it is evident that there should be some limit. Undue preferences and unjust discriminations may exist in express companies or in ordinary horse or ox carriage transportation. But there is this distinction: your highways and your water ways are free to all, and carry with their very existence their own unbounded freedom and facility of competition for all alike. But your railway is exclusive. By right of eminent domain it has been invested with the absolute sole use of its road-bed, monopolizing usually the best and shortest cut between two given points. Highways and water ways can well be left to the laws of the free competition which they invite.

The railroads alone are of such monopolistic sort as, in the judgment of your committee, to justify legislative interference at this time. We have therefore submitted a bill which deals only with railroads. I know that it is plausibly and perhaps logically urged that it should embrace the whole subject of interstate transportation, and not that only which is by railroad. But I am certain that if we attempt that we shall involve so many complications and array so many interests, that we shall fail altogether and be knocked out of accomplishing anything. And it is possible that the wish for such a result may be with some who oppose any legislation at all the father of the thought.

THE QUESTION STATED.

We come, then, to this question. Granted a system of interstate railroads, doing the great carrying business of the country, with its inestimable effect upon the prosperity and welfare of the people—the value of its freight $15,000,000,000, or ten times that of our whole foreign commerce; given also the fact that in this business there is more or less of injustice in the way of undue preferences and unjust discriminations, which pervert the natural and healthy development of trade, and which subject not only individuals but municipalities themselves to the caprice or arbitrary pleasure of railroad corporations—how shall we promote a remedy? There are two methods suggested. The first is to enact remedial statutes, prohibiting under severe penalties certain specified injustices and wrongs and leaving the injured party in every case to bring his action in the courts for the enforcement of his statutory remedy and for the recovery of damages, or to depend on the ability or zeal of a criminal prosecuting attorney.

This is the cast-iron, inflexible, perfunctory method, terrible on paper as an army with banners, but practically as ineffectual as a Chinese gong. In my judgment it would avail little or nothing. In the first place, hardly any remedy of this sort is proposed that does not already exist at common law or that has not been enacted into the statutes of various States, and in either case been hitherto found wanting, insufficient, and inefficient. In the second place, no such statute can be made specific and close-fitting and all-fitting enough to reach all cases or even a large part of them or strong enough to elude the ingenuity of railroad counsel and railroad devices. In the third place, the law's delays and the courts' weary and expensive litigation, guard against them as you may, practically bar in all such cases the poor man or any man who is dependent on the good-will of a railroad from getting that prompt, immediate, equitable, constant, and self-recurring relief which is alone of any value to the business community.

It is for these reasons that I regard the bill introduced by Judge REAGAN, and which he asks to substitute for the one reported by the committee, as *brutum fulmen*—attacking the evils of railroad injustice as the Irishman did the fly—when he put his finger on it and it was not there. I understand how taking and simple his bill seems at first sight, carrying with it the impression that it is the long-sought curb which at last will bring down the high horse of the railroad to obedient and docile service. But I predict it would be a dead letter, so far as being of any use to the people, from the day of its passage if it stood alone; or that, if enforced except through the elastic and automatic adaptation of the commission recommended in the bill of the committee, it would only embarrass business, increase rates, and add to the burden of the people's cost of transportation. Let me read what the present United States Commissioner of Railroads says on that subject:

> The universal use and absolute dependence of interstate commerce upon railroads give constant rise to new questions under new conditions, which only experience can properly solve. It would seem that true wisdom would hasten slowly in dealing with this great problem, seeking the fullest information as the only true basis for wise legislation. The solution must lie in the just application of the laws of trade and commerce, with such authoritative regulation by law as will hold abuses in check, and this power can be derived only from Federal law of universal application. I have felt it to be my duty to again call attention to this subject, although I have not thought it appropriate to discuss the question in detail.
>
> Any law not based upon full information might work great injustice to the companies and be inadequate to the proper protection of the people. Experience has shown that unreasonable laws can not be enforced, and in many instances have worked such great embarrassment to transportation as to become inoperative by common consent. Many such laws hastily enacted have been quickly repealed.
>
> I therefore respectfully renew my former recommendation, that a commission be appointed to take into consideration the whole subject and report to Congress the facts necessary for intelligent and efficient action upon the subject.

THE BILL OF THE COMMITTEE.

It is for these reasons that a majority of the Committee on Commerce, desirous to find some real and effective remedy, guided by careful study of the problem and following the lead of the best authorities who have investigated it, as well as the example of those States which have

done most to solve it, agreed that the only way to meet this Protean, this ever-shifting and recurring danger and pest of railroad discriminations, is to adopt certain remedial provisions somewhat after Mr. REAGAN'S plan, but instead of leaving them to rust on the statute-book, to establish for their application and elastic enforcement an interstate commission, which shall have close, constant, immediate supervision of interstate railroad commerce; which shall obtain that "full information" which our present Commissioner says is necessary as a basis for legislation; to which complaints may be made, not under the tedious and expensive forms and delays of court practice, but informally and freely and without expense, at any time, anywhere, by any person, however humble or remote; which shall expose to the sunlight of public gaze every infraction of its regulations and every wrong against fair and uniform dealing, and which shall have power to investigate each case, bring parties to explanation and account, obtain injunction, and compel steady obedience and speedy justice. Its very existence and impendence and the right to invoke its interference at any time would make the cause and need of invoking it less frequent, and so enable it to do its work, which at first thought might seem too extensive for any one commission. Let me read some of the provisions of the bill.

It provides—

That there shall be appointed by the President, by and with the advice and consent of the Senate, three commissioners, of whom one shall be of experience in the law and one of experience in railroad business, who shall be collectively known as the Commission of Interstate Commerce of the United States, and shall be charged with the duty of carrying into effect the provisions of this act in respect of interstate commerce.

Then follow provisions as to tenure, qualifications, and salary, which are matters of detail. It then further provides—

SEC. 10. That any person complaining of anything done or omitted to be done by any railroad company or person in violation or contravention of this act may, in addition to the remedies hereinbefore provided, apply to said commissioners by petition in writing, which shall briefly state the subject of such complaint. If the petition is signed by any board of trade or other commercial body, or, when signed by an individual, if it bears the certificate of any district attorney of the United States, or of any district or county attorney, or officer corresponding thereto, of any State or Territory, that he has examined the facts and in his opinion the complaint is well founded, the commission is hereby required to entertain and investigate the same. In all other cases the commission shall decide whether or not the petition ought to be proceeded with. The commission may, if they think fit, before requiring or permitting any formal proceedings to be taken on any petition, communicate the same to the railroad company against whom it is made, so as to afford them an opportunity of making such observations or taking such action thereon as they may think fit. The commission shall have power, and in a proper case is required, to cause a copy of the petition to be served upon the railroad company complained against, and to issue a notice requiring such company to appear before the commission and answer the said petition. The answer shall be in writing. After the answer is filed it shall then be lawful for the commission, if it shall think fit, to direct and prosecute, in such mode and by such persons or means as it shall think proper, all such inquiries into matters of fact as may be deemed necessary to enable the commission to form a just conclusion in respect of the matters of said petition. All the proceedings before said commission shall be directed by and under general orders, which shall secure to all persons interested reasonable notice and opportunity to be heard. If it shall be made to appear to the satisfaction of the commission, either by the testimony of witnesses or other evidence adduced before it, or by the report of any person to whom the commission may have referred the inquiry, or any part thereof, that anything has been done or omitted to be done in contravention or violation of this act, by any railroad company or person so upon due and proper notice proceeded against, it shall be the duty of such commission to make and record its report in writing in respect of any such contravention or violation of this act, which report shall comprise and embrace the findings of the commission upon and in respect of all questions of fact in issue or involved in such proceedings. Within a reasonable time, not to exceed twenty days, after such report and findings are made by the commission, it shall cause a copy thereof to be served upon or delivered to the railroad company so found to have violated this act, to which shall be appended a notice to be issued by said commission to such company forthwith to cease and desist from such violation, and also to deliver to the district attorney of the United States for the district in which the act complained of occurred another copy of such report, findings, and notice.

SEC. 11. That upon notice that any such railroad company has neglected or refused to conform to the decision of said commission, and to desist from such violation or contravention of this act, it shall be the duty of such district attorney to apply by petition, in the name of the party aggrieved, to the circuit court of the United States for such district, for, and it shall be the duty of such court to grant, an order upon such railroad company to show cause why such company should not be enjoined and restrained against the continuance of such violation, and for such other order and relief in the premises as may be just and proper. For the purpose of making any order or decree in the premises, final or otherwise, such court shall be always open, and the day on which any such order or decree is made shall be a special term of such court. Upon the service and return of such order to show cause, and notice to the parties interested, such court shall proceed in a summary manner to ascertain whether the said report and findings are true; and whenever said court shall be of opinion that such company has done or is doing any act in violation or contravention of this act in said report and findings described, it shall so adjudge; and it then shall be the duty of said court forthwith to issue a writ of injunction, requiring such railroad company to desist from such violation, and in respect of the matters in said report contained to conform to and obey all the provisions of said act. Such court may enforce obedience to any such injunction, order, or decree, by any person or party, by fine, proceedings for contempt, and all other means within its lawful jurisdiction sitting as a court of equity. Any person interested to restrain such violation may, on application to the court, be allowed to appear and be heard by himself or counsel; and upon proof that any district attorney has failed in any proper case for the period of ten days to apply for such order to show cause, the court may permit such application to be made and prosecuted to effect by or in behalf of any person so interested. Such court may, in its discretion, award or deny costs to any party to such proceeding. In any case where the court shall adjudge that the violation of this act by any company has been willful, or continued after notice to desist therefrom, the court may award to any party injured such a gross sum by way of costs as will reimburse all his costs, charges, expenses, counsel fees, and disbursements, to be paid by such company.

Then follow provisions empowering the commission to summon witnesses, require the production of books and papers, and to administer oaths; also requiring them to have public sessions, to examine the accounts of railroad companies, to make reports to Congress, to investigate "pooling," and, in short, to be the eyes, ears, and fingers of Congress in the work of supervising in the interest of the people and under constant and immediate responsibility to their representatives the doings, charges, accounts, and conduct of these great interstate railroad carriers.

All this is a simple, equitable, and speedy system of relief. It has been tried in Massachusetts for nearly twenty years and has worked with unqualified success. In that State, too, it has no such powers as we give in the present bill—indeed no power at all. All the railroad commissioners of Massachusetts can do is to investigate and recommend. And yet I believe that in no case has any railroad company dared to resist or failed to comply with the mere recommendation of the railroad commission. To show how close this system comes to the personal convenience and little wants of the body of the people, I recall that it has been applied successfully even to the matter of carrying the small parcels of suburban passengers. In short, the great remedy for all such wrongs is to let on light, more light.

A corporation may be as powerful as an ancient baron, it may laugh at statutory penalties, but it goes on its knees, it trembles with terror at entire exposure. Nothing can stand the illumination of the public gaze. This has been the tendency in Massachusetts, and it is to be remembered that the board there has been made up of men from the ordinary walks of life, so that the success has been more in the system than in the men who work it, important and vital as is the choice of these. Mr. Adams, now a distinguished railroad authority, was nothing of the sort when he went upon that board. To-day one member sits upon it, who, to his credit, was promoted as a practical man, representing the railroad operatives, from the cab of a locomotive. And that commission, of which Judge Russell is now the able chairman, is a safeguard and protection to our people such as mere cast-iron statutes—and we have them lying rust-eaten and forgotten on our statute-book—could never effect. Indeed, I do not recall an instance where these statutes, with their idle thunders, have been invoked, while the commission is constantly called upon to express its quiet but ever-obeyed influence.

I admit that in some States a commission has not succeeded, while in more it has, thus showing that in the former the conditions and not the principle have been at fault. I also admit that in so great a sphere as the interstate commerce of the whole country this system will not fulfill its work if the best men be not selected to constitute the board. But in view of the vast importance of the trust and its jurisdiction, I know and you know that public sentiment will demand and find such men, whoever be the appointing power. Thank God, an independent public opinion has secured a hold in this country that compels, in the great business interests of the people, something more than favoritism or partisanship. With such a choice as Adams, Cooley, Thurman, and a score of others who might be named this bill would furnish a remedy that would set in motion the true diagnosis and cure of the railroad evil. Much as I differ on many points from the distinguished chairman of our committee, Judge REAGAN, I would sooner, as a measure of legislative relief, constitute him sole railroad commissioner, responsible to Congress, than merely enact his list of bristling and fulminating prohibitions and penalties and nothing more.

In the one case we should at least have honest and attentive regulation and oversight; in the other, only the echo of a threat as empty as the dungeon of a mediæval castle. If we are to put the railroads under restraint against unjust discriminations and undue preferences, as I think we should, I want it to be a restraint that means something and that is constantly in operation. Such would certainly not be the result if we merely passed a penal statute and left it to execute itself in rare spasms.

Consider the great value and advantage of the reports to Congress and the country of a commission made up of such men as I have suggested, of the steady growth of the science of remedial regulation, and of the gradual subordination of the railroad power to salutary and beneficent obedience to the supremacy of the popular will as expressed and manifested by these responsible agents of the National Government.

Compare with this elastic, self-adjusting, and sufficient system the stunted and utterly ineffectual method of a dormant statute, too expensive and too like a boomerang for any poor shipper, whose property is at the mercy of the humor of the railroads, to set in motion. To furnish him only that would be to give the people a stone when they cry for bread, a serpent when they ask for fish. Better to give him the constant backing of a commission. I believe that those who best appreciate the necessity of reform and most thoroughly have studied the problem have little faith in Judge REAGAN'S plan of an iron-clad statute, with its overweight of prohibitions and penalties, through which the railroad lawyer would drive his coach-and-six, and to which the people, especially the men of small means, would no more resort than they would risk their fingers in a chopping-machine to save a runaway nickel. And yet, in order to give the people a bill, in order to make sure of having every string to our bow, in order to meet every aspect of the case and give the railroads no rope or quarter, the Committee on Commerce have united in prefacing to the sections establish-

ing a commission with full powers a number of sections embracing as many of Judge REAGAN'S provisions as a majority of us regarded practicable. We have omitted none that we think the judgment of the country will demand in this new and tentative measure of legislation. We have admitted one which I trust we shall strike from the bill and thereby amend it.

THE COMMITTEE'S BILL COMPARED WITH THE REAGAN BILL.

Let me read these two remedial sections of our bill and compare them with the bill which Judge REAGAN proposes to substitute. Section 1 provides that all charges—and it will be remembered that all this proposed legislation applies only to interstate railroad transportation—shall be reasonable. Section 2, that no discrimination shall be permitted in favor of one shipper against another under similar circumstances, and that transportation shall be continuous from shipment to destination. These two sections are practically the same as Judge REAGAN'S first section except in form—the provision that charges shall be reasonable—which is simply a declaration of the common law, having been taken out and made a section by itself.

REBATES AND DRAWBACKS.

Our third section is:

That it shall be unlawful for any person or persons engaged in the transportation of property as aforesaid directly or indirectly to allow any rebate, drawback, or other advantage in any form upon shipments made or services rendered as aforesaid by him or them, which, under similar circumstances, are not allowed to all other persons.

This is the same as Judge REAGAN'S second section, save that in forbidding rebates and drawbacks it excepts those "which under similar circumstances are * * * allowed to all other persons." Now, why do we add this exception? Or rather, so plain and just is the provision it makes, why should we strike it off? In the first place, by adding it we simply carry out the very plan of equal dealing with all parties and the very purpose of the bill. There ceases to be any discrimination if the same rebate is allowed to one man that is made to another.

In the second place, experience shows that there must sometimes from the necessity of the case be rebates and drawbacks. Our revenue laws are full of provisions for such cases. Suppose the case of a mistake or of a sudden great fall in rates and prices by reason of some glut in the market or some local calamity or riot or flood; suppose some instance of special hardship falling upon a whole mercantile community; in short, suppose the plainest possible case conceivable in which, as often happens, an allowance on the contract price of transportation would be not only innocent but necessary if made alike to all in the same circumstances. Is it wise, is it statesmanlike, to be prevented from this by a statute which fitted to one set of circumstances is unfitted to every other?

It is argued that if there be the least let-up advantage will be taken by secret arrangements to evade the law. But this will occur any way, only it will certainly occur all the more if in addition to your prohibition of what is wrong you prohibit just as inflexibly what is right, and thereby fail to meet natural and honest contingencies. When you do that you are taking the very steps to invite and tempt the secret evasions and preferences you would avoid.

In the third place, it was in evidence before our committee that a drawback or rebate is sometimes desirable in order to aid in exporting to foreign markets the products of American labor. For instance, staves are imported into England from the United States and from Norway. In the competition for this trade the American producer of staves is at a disadvantage, and he has asked of the railroads a rebate on their freight charges to aid him in paying his way across the ocean and in meeting his Norwegian competitor. If the railroads are willing to make a rebate in such a case when staves are transported for export and to extend to all who under similar circumstances transport them for the same purpose, it is a positive good, because it helps American labor and products to a larger market. It does no harm. No one is injured. Not the stave manufacturers, certainly, for they sell more goods; nor any one of them, for they all are treated alike. Not the American consumers of staves, for the slight rebate on railroad transportation is balanced by the charge for ocean carriage. Among themselves the American consumers fare alike, and as against the English consumers the ocean charge to them balances the slight rebate on the railroad transportation of which they get the advantage. How unstatesmanlike and impolitic would be a statute that should forbid uniform and honest rebates in such cases for the encouragement of American industry.

In the fourth place, the existence of competing lines between the same two centers of interstate commerce frequently makes rebates just and necessary. There are three or four such lines between New York and Chicago. They are sharp competitors. Suppose a grain merchant in New York receiving his goods by one line finds that another merchant in exactly the same business is receiving exactly the same goods at the same time and under the same circumstances at a less freight-rate by another line. Unless his own carrier allows him a rebate and thereby puts him on a level in the market with his competitor he suffers an injury and an unjust discrimination, which is the very thing we are seeking to avoid. And yet the Reagan section would forbid the allowance of a rebate to him in this most just case, while our bill grants him relief on the one sole equitable condition that it be extended also to all others who are dealing with the same line under the same circumstances. Which provision is most sensible, most valuable to the mercantile interests and to the people, most in accord with fair dealing? The very necessities of commerce require elastic provisions of law, that will regulate rather than congest, and that will adapt themselves to the public convenience and interest, and not by offering temptation to violation of law wrench everything out of gear.

But admit, as admit we must, that under either form of the section the cupidity and selfishness of human nature will seek to evade the statute and to permit preferences to one shipper over another. Yet, surely, the elastic provision will permit less of this than the other; and, inasmuch as the need is of some constant regulation and control, how can these in any way be so well obtained and applied as by the commission which we propose, which can hear and investigate each complaint and meet and answer its demands at once. The commission makes our section entirely safe. The last thing I would do is to fail to recognize the danger and injustice of unequal discriminations, or fail to correct them so far as we can. But I am confident the best and most complete correction will be in an elastic remedy under steady and responsible supervision.

RECOVERY OF DAMAGES.

Section 6 of our bill gives to an injured party, in addition to his right of resort to the commission, an action for damages for violations of the provisions of the bill, and in case of recovery allows costs sufficient to cover all his expenses in obtaining it. The object of this is, of course, to enable those who have suffered perhaps great and repeated annoyance but small pecuniary loss, to bring and maintain their suits and be vindicated in their rights; for it is claimed that now no man of small means can afford to prosecute a small claim against the railroads because of its expense and especially the delays to which he is subjected. Mr. REAGAN'S bill gives triple damages; but the committee are of opinion, first, that it is indefensible and bad principle to give to a party in a matter of contract three times the amount of his damage; second, that three times the damage where the damage is small—say, $20, $30, or $50—would often not meet the expense; and third, that the actual damage and the actual expense of getting it, which our bill gives, would be such an exquisite fitness of compensation as to reach the very ideal of poetic justice on a very prosy matter.

PENALTIES.

And it is because this remedy which we give in the court is so full, and exact, and, so far as a mere statute goes, so punitive upon the railroads, that I would make an amendment to the bill and strike out section 7, with its fine of a thousand dollars. This section is a mere cumulation of the agony and piles it up at the risk of destroying the whole effect. To the inquisitorial powers of the commission, to the right to recover all damages and all expenses, including personal expenses and counsel fees, it further adds, in case a single one of the provisions of our bill are violated, a criminal action and a fine of not exceeding $1,000 for each violation. This, in homely phrase, is running the thing into the ground. I think Judge REAGAN'S bill, as he originally introduced it, piled successive Ossas even upon this Pelion, and tempted a new swarm of spies and informers by offering them half the fine recovered. The bill will be much wiser and more practicable if we strike section 7 from it. It is going a good ways to make a party liable in damages and full remunerative costs because he charges one man more than another for the same work, but to make him a criminal is extravagant.

With this amendment, and perhaps other minor ones, this will be, I am inclined to believe, not by any means a perfect piece of legislation or beyond criticism, but a good beginning. I believe the people at large and the railroads and merchants who are more particularly affected will see in it an honest purpose to solve the problem that has so long vexed them and knocked at our doors.

THE REAGAN BILL.

It only remains to consider section by section the Reagan substitute.

Section 1 of the Reagan bill is substantially sections 1 and 2 of ours.

Section 2 forbids drawbacks and rebates, and only lacks the words which in our bill forbid only those which under similar circumstances are not allowed to all other persons. I have already discussed this section.

THE LONG AND SHORT HAUL.

Section 4, which is omitted in our bill, forbids a larger charge for a longer than for a shorter haul, and is as follows:

SEC. 4. That it shall be unlawful for any person or persons engaged in the transportation of property as provided in the first section of this act to charge or receive any greater compensation for a similar amount and kind of property for carrying, receiving, storing, forwarding, or handling the same for a shorter than for a longer distance in one continuous carriage; and the road of a corporation shall include all the road in use by such corporation, whether owned or operated under a contract or lease by such corporation.

For one I am not inclined to deny the abstract correctness of the principle here stated. But, like all abstract principles, its application depends upon the circumstances of each case. A similar provision is in the statutes of Massachusetts, though there limited to cases where the comparative hauls are in "the same direction." Last winter it passed the Connecticut house of representatives and was defeated in

the senate. It is better adapted perhaps to the narrow limits of a State than to the whole country, in which its too rigid enforcement might operate very severely against the great grain and meat producing regions of the West.

If a less-than-a-through rate must never under any possible circumstances exceed a through rate, then the West must give up the present marvelously cheap transportation of its products and the people of the East must pay the increased freight-cost of their provisions. This question becomes by no means a simple one when this broader view of the consequences to the whole country are considered. If we were to have no interstate commission there would be more reason for this provision, but with that to investigate, sift, and correct every instance of unreasonable discrimination, the provision is in the judgment of your committe not desirable. It exists, as I have said, in Massachusetts and perhaps in some other States. But there, as would be the case in the Federal statutes, it is, I believe, practically a dead letter. I do not recall an instance where in my own State any injured party has resorted to it in the courts of law, though such may have occurred.

Nor is this requirement altogether free from difficulties. Take some instances. The Saint Louis bridge cost, say, $12,000,000. Ought no more to be charged, either as a practical or an abstract proposition, for a haul over it a distance of one or two miles than over a dozen miles of the continuous road to Chicago or Kansas City, which cost, say, one two-hundredth as much per mile? Is it unjust to charge more for a haul of five miles through the Hoosac tunnel, which cost, say, $4,000,000 a mile, than for a haul of ten miles over another part of the same road that cost a hundred times less per mile? Take a more ordinary and appropriate illustration. By river from Memphis to New Orleans a bale of cotton is carried for, say, $1. Meantime a railroad is built from New Orleans to Winona, in Mississippi. It is a great public benefaction It makes an outlet for Mississippi cotton, and takes it from Winona to New Orleans for, say, $2.50 a bale—a great reduction on former charges. Everybody is happy. An increasing spirit of enterprise extends the railroad to Memphis, and Winona has now two arms. But lo! discontent and unhappiness. For as the river freight from Memphis to New Orleans is $1 a bale, the railroad, if it would get any through carrying business, must also take it for $1 a bale.

What follows, if you enforce this proposed provision of law? This: if the railroad charges $1 from Memphis to New Orleans, then it must practically, in view of intervening points, charge less than $1 from Winona to New Orleans. But it can not do business at that rate. It must therefore stop running, or else it must keep up its former local rates and increase its through rates from Memphis to New Orleans to, perhaps, $3 or $4. But if it does that, the competition and cheaper rates of the steamboats leave it no through business to do at all. It at first seems, of course, unjust that it should charge more from Winona to New Orleans than from Memphis to New Orleans, the longer distance. But Winona made no complaint and was happy so long as the railroad ran only to her threshold; in other words, as long as she had only half her present facilities. The through line having its track and equipment can, if it maintains its local rates, afford to take through freight at a very low figure, at a mere fraction above cost. Competition is in that way promoted in the interest of the general public if not of Winona, and all transportation is cheapened. But this proposed provision of law would forbid all this because of the special wrong to Winona. But stop! What wrongs Winona? Is it the railroad? No; for without it she would be at her original disadvantage. What wrongs her is not the railroad but the river, the natural advantage which Memphis has of water communication.

Understand me, I use Winona only as an illustration, and beg her pardon for the presumption. I do not know that I state the exact figures, or that she makes any complaint; nor do I undertake to say in such case whether the railroad is right or wrong, whether the charges are fair or unreasonable. It serves only to illustrate the difficulty of this whole problem, and to suggest the accidental and varying elements that enter into all cases and forbid the indiscriminate application to them of one unyielding iron-clad rule. Suppose a city set on a hill. It withers because it is inaccessible. At enormous cost a railroad is carried to it from the port of Jericho, at the foot of the mountain. Its grateful people willingly pay the heavy charges which the expensive building of the railroad necessitated. Inspirited, they extend their new railroad down the other side to Jerusalem on the plain, which has, fortunately for itself, a river winding around the mountain to the same port at Jericho. The mountain road pays its way with its local rates. But if it would compete with the river in carrying freight over the mountain from Jerusalem to Jericho it must carry for the same price, thereby instituting a competition with the river which would be of great benefit to the poor people of Jericho and Jerusalem. Ah! if you do that, say the hill people, you must do our work for less, for we on the summit are only half way on your through line. But, answereth the railroad, I must either give up this through business and surrender it to the river and confine myself to your local business, charging you for it what you know it is worth and were at first glad to pay, or you must let me do this through business at through river rates and without reduction of your local rates except so far as any slight profit I may get from this additional through business may enable me gradually to favor you. In such a case who discriminates against the hill folk? Is it the railroad? No. Is it the hill? Yes. In other words, we must not, as we are sometimes inclined to do, charge against the public carrier what is really the natural disadvantage of local situation. No statute, no penalty, can ever make up for an interior village in New York the magnificent natural advantage which the Hudson River gives to Albany, even if that village be half way to the ocean on some circuitous through railroad line running between Albany and the seaboard. The same difficulty occurs where our trunk lines come in competition with the lakes and the Canadian railroads.

As I say, I do not undertake to go into the right or wrong of each case. You can multiply instances of all sorts of wrongs in this matter. Their very infinity and variety show at once the impossibility of a single statute that will meet them all, and the absolute necessity of a general, constant, automatic supervision. I do not pretend that any one illustration covers even a fraction of the ground. There are cases where gross, rank, outrageous injustice is done by the railroads in charging more for a short haul than for a long one, such as Judge REAGAN referred to in opening this debate. They ought to be brought up with a round turn, and a commission would bring them up. There are other cases where they must charge less for a long through haul than for a short local one, or else give up all through competition, which is the very life and safety of the people—the great body of consumers—who must have every aid to cheap transportation. What then? Shall we permit the outrages? No. Shall we forbid the benefit? No. The ends of our noses are too convenient to justify us in cutting them off. We will regulate. We will leave the matter as a part of that reasonable freight-charge provided for in our first section to the interstate commission, who will have full power to act and to do justice in each case. Here is just one of those cases where an iron-clad law would only work mischief and where a commission with elastic powers can do justice and conserve all interests.

SCHEDULES OF RATES.

The fifth section of Judge REAGAN'S proposed substitute bill is in the opinion of most of the committee impracticable. It requires the posting of all schedules of freight-rates in two places in every depot five days before going into effect. Add to this period the time necessary for the actual posting, which in a great trunk road would not be inconsiderable, and you have a week or more during which rates are as absolutely invariable, whatever exigency occurs, as the revolutions of the planets. In other words, all competition between different domestic interstate roads is impossible, while during that period the rival water lines and Canadian railroads can, by reducing their charges a fraction take away not only all business from our own trunk lines but also all chance for them to compete for it. Railroad companies of course should publish their tariffs and not vary from them capriciously; but here again it is better, in the interest of wholesome competition and reasonable rates, to put them under the supervision of the commission than to manacle them; better to regulate than to incarcerate.

Section 6 of the Reagan bill is the same as section 5 of the committee's bill.

Section 7 of the Reagan bill is that relating to penalties, the objections to which I have already referred to.

CONCLUSION.

For one I am satisfied that the Reagan bill as offered by its author is insufficient and would be ineffectual, defeating itself. The committee's bill is by no means perfect. We offer it as the best practical step that can be taken at this time. We, too, would control the railroads and stop their exactions, but not, on the other hand, cripple their usefulness by restrictions that would injure them less than they would the public. We have no pride of opinion. We have adopted all the remedial clauses of Mr. REAGAN'S bill that did not seem positively impracticable. We have annexed to them the system of a commission with full powers. We want to make the railroads the agents of the law, not its violators; the servants of the people, not their defiant adversaries. We have meant business. Our single purpose has been to consummate the passage of an act and not to have another session of Congress go by with no other result than the report of a measure certain to be defeated. We believe the people will see in our action an earnest of our purpose to meet their demands. [Loud applause.]

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. MCCOOK, its Secretary, announced that the Senate had passed with amendments, in which the concurrence of the House was requested, the bill (H. R. 2344) for the relief of Melissa G. Polar.

The message also announced that the Senate had passed a bill of the following title; in which the concurrence of the House was requested:

A bill (S. 1921) authorizing the Secretary of War to adjust and settle the account for arms, ammunition, and accouterments between the Territory of Montana and the United States.

INTERSTATE COMMERCE.

The House resumed the consideration of the bill (H. R. 5461) to establish a board of commissioners of interstate commerce and to regulate such commerce.

Mr. PETERS. Mr. Speaker, for every wrong legislation should furnish a remedy. I am aware that there are some wrongs for which general legislation can not furnish a remedy. What are the wrongs properly chargeable to common carriers in connection with the subject of this bill? Let me precede the answer to this inquiry by the statement that the cost of transportation is a tax upon production. Let me illustrate.

Take, for instance, the article of wheat in the market of Liverpool. What is it that fixes the price of a bushel of wheat in the market of Liverpool? It is the demand for and the supply in that market of that article. What fixes the price of a bushel of wheat in the city of New York? It is the price of the bushel of wheat in Liverpool, less the cost of transportation of that bushel of wheat from New York to Liverpool. The grain merchant in the city of New York has no power absolutely to fix the price of a bushel of wheat in that city. He must take into consideration the price of a bushel of wheat in Liverpool and the cost of the transportation of a bushel of wheat from New York to Liverpool.

Then carry it out farther to the West. What fixes the price of a bushel of wheat in Kansas City? It is not the grain merchant in Kansas City who fixes it. He takes the price of a bushel of wheat in New York and deducts from it the cost of transportation from Kansas City to New York; and that is the price of a bushel of wheat in Kansas City. And then what is the price of a bushel of wheat in the granary in Kansas? Kansas has raised this year 48,000,000 bushels of wheat. She can consume only about 8,000,000 bushels of wheat; perhaps I should say in round numbers 10,000,000 bushels of wheat, including all that she can eat and all that she can plant. There is a surplus of 38,000,000 bushels of wheat that must find a market outside of her borders. How is the price for a bushel of wheat in the granary of Kansas fixed? It is not fixed by the producer. It is fixed by the price of the bushel of wheat in Kansas City, less the cost of transportation from the granary of Kansas to Kansas City.

After all, we are brought right back to the proposition that the cost of transportation is a tax upon production, and that the producer must pay for the transportation of a bushel of wheat. In short, wherever the market for the excess of any product is located, the demand and the supply—the demand for that article and the supply of that product—fixes its value at that point; and the cost of transportation from the field of production to that point, deducted from its value at that point, is the price realized by production. To state the proposition in a shorter form, the producer, as I said before, must pay the cost of the transportation of his article to market. It is so not only in relation to wheat, but it is so in relation to any manufactured product in the eastern portion of the United States. The manufacturer, either directly or indirectly, must pay the cost of the transportation of his manufactured product to the market which it must seek. The producer can not fix the price upon his product; and it is perhaps well that he can not. It is a wise dictate that the demand for and the supply of a product fixes the price of the product. The common carrier should not be allowed to fix the price of a product. Neither should he be allowed to have any voice in the fixing of the price of that product. Every one will assent to that proposition, it seems to me, who will consider it for a moment. It is much more reasonable that the producer should have the power to fix the price upon his product than that the common carrier should have the power to fix the price upon the product which the producer produces.

The law of demand and supply in its relation to the value of a product is an arbitrary one. It takes no notice of the cost of transportation; it takes no notice of the cost of production. But if the common carrier charges unreasonable rates for transportation it does not change the price of the product in the market, but it simply lessens the compensation which the producer receives for the production of that product. It does not benefit the consumer, but, on the other hand, it injures the producer. In short, it increases the tax upon production, not for the benefit of the producer or consumer, but for the benefit of the common carrier.

We can then return to the answer to the question which I before stated: What are the wrongs properly traceable or chargeable to common carriers in relation to this subject? And I answer: First, an unreasonable tax upon production; second, an unjust discrimination between shippers; and third, an unjust acquisition of power by combinations. And under these three general classes every single wrong, every single complaint that has ever been made or that can be made against a common carrier, can be brought. Every single wrong is embraced within one of these general classes which I have stated.

I need not stop to argue that an unreasonable tax upon production is wrong. I need not stop to argue that unjust discrimination between shippers is wrong. I need not stop to argue that an unjust acquisition of power by reason of the combination of railroad interests or common-carrier interests is wrong. The very statement of these propositions in the language used leads the unbiased mind to the conclusion that these are wrong. The disputing, if any there be, must be as to the reasonableness or unreasonableness of the tax upon production; as to the justice or injustice of the discrimination between shippers; as to the justice or injustice of the acquisition of power by combinations. First, then, as to the reasonableness or unreasonableness of the tax upon production.

Fair and reasonable compensation for the transportation of a product is right. Such a compensation is a just tax upon production. Against such a tax the producer has no right to complain. More than this the common carrier has no right to demand. An unreasonable charge for transportation by a common carrier is an unreasonable tax upon production. The evidence that unreasonable charges are demanded and received is overwhelming. Legislation by almost every State in this Union upon the subject is evidence of the existence of this wrong. Twenty of the States of this Union, perhaps more, have adopted laws in relation to this question; and the very fact that twenty States of this Union have had their attention called to the necessity for legislation upon this question is of itself an evidence that these wrongs exist. The fact that one of the important committees of this House has for years had this subject before it is of itself evidence that these wrongs have existed in the past and do exist in the present. The very fact that this House to-day under a special order is considering this very bill is of itself evidence that these wrongs have existed in the past and do exist in the present. There must be some power behind this body that brings this question forward and asks of the House a consideration of it; otherwise we should not consider it in the nature and under the rulings of a special order.

I might cite the numerous instances that were presented to the Committee on Commerce showing the existence of these wrongs. I might cite instances that have come under my own observation. But I will not take the time of the House to do that. I will say that if there is a single instance in the United States where a single railroad charges an unreasonable rate for the transportation of a single article, then legislation of the nature of this bill is demanded. And why? Because legislation in the nature of this bill can not injure any railroad that is not engaged in making unreasonable charges. The common carrier that is not guilty can not be injured by judicious legislation on this subject. Ay, more, the common carrier that is not guilty, that does not make unreasonable charges for the transportation of freight, will desire the passage of a law which will prevent its competitor from charging unreasonable rates. The common carrier that is dealing honestly and squarely with the producer and the shipper will not oppose remedial legislation on this subject. It is the guilty common carrier that "feels the halter draw with poor opinion of the law."

I pass now to the second proposition, and ask, Are there instances of unjust discrimination between shippers? That discriminations have been made and are now made is admitted. Railroad authorities claim that discrimination is necessary, but claim also that there is such a thing as just discrimination in transportation. I seriously question whether there can be such a thing as a just discrimination between shippers; but I will not argue upon that proposition. I do assert, however, without the fear of successful contradiction, that there can be no just discrimination for like and contemporaneous service under substantially similar circumstances. I assert that this proposition can not be successfully refuted. Here, again, I may say that the common carrier that is not guilty of unjust discrimination need not fear and will not oppose the passage of a judicious law upon this subject.

I come now to the third class of wrongs—the unjust acquisition of power by combination of interests. Combination of interests always weakens and oftentimes destroys competition. Competition is an important feature in all commercial transactions. The producer takes it into consideration in his plans and his promises. The merchant considers it in fixing the prices upon his merchandise. The professional man considers it in fixing the compensation for his professional services. The absence of competition means the presence of extortion. Competition is the friend of the masses and the foe of monopolies. It is the friend of honest toil and the foe of luxuriant idleness. It is the friend of fair-dealing and the foe of swindling. It is the friend of honest accumulation and the foe of gambling. It is an element that has always entered into all business transactions until its enemy, "pooling," was discovered by the genius of the common carrier.

I must differ with the position taken by my distinguished friend from Connecticut [Mr. SEYMOUR] in relation to this question of pooling. I am opposed to allowing it as a right or as a discretion to the common carrier. I believe, as I have already stated, it either weakens or destroys competition, and whatever does that is injurious to the large productive and consuming interests of the United States. What community in an American town would for a moment knowingly submit to the pooling of any business interest in its midst? Is there any reason why the railroad interest or the common-carrier interest should be allowed to eliminate this factor from its business transactions? Is there any reason why this interest should be allowed to "hamstring" this friend of honest endeavor? Whatever tends to destroy competition in any class of business is an unjust discrimination against the patrons of that interest.

One of the objects of pooling is to secure better compensation for transportation than could be secured without it. Otherwise there would be no object in the railroad interests pooling.

Another object of pooling is to enable the railroad interest to fix its rates of compensation arbitrarily and without reference to other busi-

ness interests or conditions. In short, it is to obtain a power which does not legitimately belong to it and which can not in the nature of things be obtained by other business interests. It divorces this railroad interest from the laws and usages and influences of trade and commerce, and makes the trade and commerce of the country subject to its whims, its caprices, and its avariciousness. It can by pooling destroy competition; it can place its clutch upon the throat of production.

I will not now, Mr. Speaker, enter into any discussion of the merits or demerits of pooling. I will not discuss the necessity of some such system to insure the prosperity of the common-carrier interest. It is enough for me to know it places the interest of production to some extent at least in the power of the interest of transportation. It is enough for me to know that permission to exercise this power cripples production. If I must choose between crippling production and crippling transportation, then I am ready in the face of the 55,000,000 consumers in the United States to submit to the annoyances of crippled transportation.

It may be urged that if charges for transportation are reasonable, and if this is required to be enforced by legislation, there would then be no necessity for laws prohibiting pooling. Now, this at first blush seems tenable, but it will not bear investigation. The reasonableness of charges for transportation can not be determined alone by the cost of transportation. What is asked and received for transportation of an article must always be taken into consideration in the absence of law. Custom in the absence of law may become law itself. The customary price for transporting an article may, in the absence of law, become a reasonable price for transporting that article. By destroying competition the railroad interest might make customary its rate, and if not notoriously in excess of the cost of transportation such rate might be deemed by the courts reasonable. With competition such a rate might not be customary, and in the absence of this potent factor in judicial construction the courts would deem the same rates unreasonable. But, aside from all this, I deem the destruction of healthy competition in any class of business as wrong. This general proposition, it seems to me, can not be successfully controverted.

The wrongs, then, to be remedied are:

First. Unreasonable tax on production.

Second. Unjust discrimination between shippers; and,

Third. Unjust acquisition of power by combination.

Now, how shall these wrongs be remedied? And this brings me to an analysis of the bill presented by the Committee on Commerce. I refer to House bill No. 5461, which was reported by the chairman of the committee under the instructions of that committee and as representing the sense of the majority of its members.

I am aware that this bill stands before this House in a very peculiar position. It is, if you will allow me the expression, an orphan. It has neither father nor mother in that Commerce Committee. I believe that I was the only member of that committee that was in favor of the bill as reported from beginning to end. I am in favor of it without changing the dotting of an "i" or crossing a "t."

My friend from Massachusetts [Mr. LONG] has so thoroughly presented its features to the House that I need not carry my analysis into detail. It will be apparent from the arguments presented by that gentleman that he regards the commissioner part of the bill as the most important. In this I do not agree with him. I regard the features of the bill outside of those connected with the commissioner system as of equal importance with those connected with that system. The two features of the bill are necessary to each other. They should go together and should stand together.

The first section of the bill, and the most important in my judgment, is as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all charges by any person or persons engaged alone or associated with others in the transportation of property by railroad from one State or Territory to or through one or more other States or Territories of the United States, or to or from any foreign country, shall be reasonable for such service.

It provides that the charges for transportation shall be reasonable charges. That declaration includes in its scope almost everything in connection with the wrongs I have enumerated. If charges are reasonable, then there can be no unjust discrimination between shippers. If charges are reasonable, then there can be no unjust acquisition of power by combination. If charges are reasonable, then there can be no destruction of competition. If charges are reasonable, then there can be no objection to a rebate. In short, if the charges for transportation are reasonable in the United States there would not be a single individual in all the length and breadth of this land who would complain.

The second section is as follows:

SEC. 2. That it shall be unlawful for any person or persons so engaged as aforesaid directly or indirectly to charge to or receive from any person or persons any greater or less rate or amount of compensation or reward than is by him or them charged to or received from any other person or persons for like and contemporaneous service in the carrying, receiving, delivering, storing, or handling the same under substantially similar circumstances; and all persons engaged as aforesaid shall furnish, without discrimination, the same facilities for the carriage, receiving, delivery, storage, and handling of all property of like character carried by him or them, and shall perform with equal expedition the same kind of services connected with the contemporaneous transportation thereof as aforesaid. No break, stoppage, or interruption, nor any contract, agreement, or understanding shall be made to prevent the carriage of any property from being and being considered as one continuous carriage, in the meaning of this act, from the place of shipment to the place of destination, unless such stoppage, interruption, contract, arrangement, or understanding was made in good faith for some practical and necessary purpose, without any intent to avoid or interrupt such continuous carriage or to evade any of the provisions of this act.

It declares that like charges for like articles under substantially similar circumstances shall be made in all cases. That is a fair and equitable proposition, and one that should receive, I think, the recognition and support of the common carrier himself.

The third section is as follows:

SEC. 3. That it shall be unlawful for any person or persons engaged in the transportation of property as aforesaid directly or indirectly to allow any rebate, drawback, or other advantage in any form, upon shipments made or services rendered as aforesaid by him or them, which, under similar circumstances, are not allowed to all other persons.

It prohibits rebate or drawback unless granted to all alike. Can there be any objection to this? If there is a rebate granted to a citizen in my town on a certain article I have no right to complain if the same rebate is granted to me on the same article.

The fourth section is as follows:

SEC. 4. That it shall be unlawful for any person or persons engaged in the carriage, receiving, storage, or handling of property as mentioned in the first section of this act to enter into any combination, contract, or agreement, by changes of schedule, carriage in different cars, or by any other means, with intent to prevent the carriage of such property from being continuous from the place of shipment to the place of destination, whether carried on one or several railroads; and it shall be unlawful for any person or persons carrying property as aforesaid to enter into any contract, agreement, or combination for the pooling of freights, or to pool the freights of different and competing railroads, by dividing between them the aggregate or net proceeds of the earnings of such railroads, or any portion of them.

That section of the bill demands continuous carriage and prohibits pooling. But I have already adverted sufficiently to the question of pooling. I believe that to be one of the most important features of the bill. I am opposed to striking out of the section that portion which prohibits pooling, as is contemplated by my friend from Connecticut [Mr. SEYMOUR].

The fifth section is as follows:

SEC. 5. That the provisions of this act shall apply to all property, and the receiving, delivery, loading, unloading, handling, storing, or carriage of the same, on one actually or substantially continuous carriage, or as part of such continuous carriage, as provided for in the first section of this act, and the compensation therefor, whether such property be carried wholly on one railroad or partly on several railroads, and whether such services are performed or compensation paid or received by or to one person alone or in connection with another or other persons.

That section provides that the provisions of this bill shall apply to all property and to all common carriers. But I need not touch upon that question further than I have already done.

Now we come to the penalties by which the remedies in this bill are enforced; and to this I wish to call the attention of the members of this House. I glory in the fact there is within this bill the power to enforce its provisions.

The sixth section is as follows:

SEC. 6. That any railroad company, officer of such company, or other person who shall violate any of the provisions of this act shall be liable to any person injured for the actual damages caused by such violation, which may be recovered in any State or United States court of competent jurisdiction. The court before which any such action is tried, if it shall be found that the violation was willful, or continued after the notice provided by the tenth section of this act, shall make an allowance by way of additional costs to the party injured sufficient to cover all his counsel and attorney fees and all expenses and disbursements in the action, including his own necessary personal expenses.

That section gives a civil remedy for actual damages and punitive remedy in case of willful violation. This punitive remedy is not given where there is not a willful violation of the provisions of this law. Nor do I believe that it should be given where there has been no willful violation of the provisions of this law; but wherever there has been a willful violation, then the punitive damage can be enforced, including costs, expenses of attorneys' fees, and expenses of attendance on trial, &c. This is in addition to allowing the party to recover the actual damage sustained by the violation of the law. This is one provision for the enforcement of the remedies provided by this law. In addition to this there is a provision for the enforcement of all the provisions of the bill with the exception of the first section, which is criminal in its nature.

The seventh section makes a violation of the provisions of this law, with the exception of the first section, a misdemeanor, and subjects the party to a fine of not exceeding $1,000. That section is as follows:

SEC. 7. That any corporation or person violating this act is guilty of a misdemeanor, and subject to a fine of not exceeding $1,000 for each violation. The courts of the United States shall have exclusive jurisdiction of all prosecutions arising under this section. It shall be the duty of district attorneys of the United States to institute and prosecute to effect criminal proceedings for all such violations. The provisions of this section shall not apply to the first section of this act.

As has been well stated, the reason why the first section was exempted from the provisions of this criminal section was that a man might by error of judgment make an unreasonable charge for the transportation of an article from one place to another, and it was not deemed just or equitable to punish a man criminally for an error of judgment on his part. That is certainly right; that is certainly equitable; that

is certainly fair between man and man, and what is fair between man and man is fair between men and corporations.

Now, then, after the splendid argument which has been offered by my friend from Massachusetts [Mr. LONG] in relation to the commissioner system, I need not dwell on that part of the subject any further. He has so forcibly and so succinctly presented the reasons for the adoption of the commissioner system, in connection with part of the bill I have given, that I know of nothing I could add further in support of it.

For a few moments I will call the attention of the House to some objections which were presented by the distinguished gentleman from the Committee on Commerce [Mr. REAGAN] on yesterday to this bill, in the speech which he made on the floor in opening the pending discussion.

One of the first objections that was made to this bill by the chairman of the committee is the exemption of the provisions of its first section from the operation of the penalty clause of the bill. I have already adverted to that in the course of my argument and will not now refer to it again. One of his original objections was in relation to the amount of the penalties imposed. There is this difference, it will be observed, between the bill as proposed by the committee and the one that is proposed by the chairman, namely, that the bill reported by the committee provides that the penalty for a violation of its provisions shall not exceed $1,000, while the substitute proposed by the chairman provides that the penalty shall not be less than $1,000.

My experience and observation in relation to the penalty for violation of law lead me to the conclusion that it does not depend so much upon the amount of the penalty as upon the certainty of its enforcement. I therefore believe, as we have given under the provisions of this bill a remedy in the way of a civil action, a remedy in the way of a criminal action, and also an additional remedy by an appeal to the commissioners, and, if found good and sustained by them, by calling in the aid of or to the aid of the parties aggrieved the courts in granting an injunction to stay and enjoin the further doing of this wrong—I believe that with all of these remedies we have sufficient to enforce the provisions of this bill.

Another objection made by the chairman to the bill was that it does not confer enough power upon the courts. Now, I beg to call the attention of the House to the provisions of the bill in relation to that specific point, and to state in brief that courts, as a matter of course, have the power to compel the attendance of witnesses and to compel the production of all books and papers, and there is no necessity for the passage of any law to enlarge that power.

The only additional power conferred by this bill is the power that is given to the commissioners to compel the attendance of witnesses, as well as to compel the production of all books and papers in an investigation that may be brought before that board. So that it seems the objections to the bill as made by the gentleman from Texas do not properly apply to it in that regard.

Mr. REAGAN. If my friend from Kansas will allow me to interrupt him for a moment, I desire to call his attention to a point which I made in that connection, and it was that the provisions referred to are only invoked by your bill in cases between the Government and the railroads, and not in favor of the aggrieved individual, which was my objection to it. I want to do something that will help the citizen.

Mr. PETERS. The provisions of this bill, so far as they apply to the commissioner system, are only invoked between the railroads and the Government, but other provisions apply the remedies to be enforced by the courts, in which cases the same provisions apply as apply to all other cases and that are inherent in the power of the courts themselves—namely, the power to compel the attendance of witnesses, the production of books and papers, and everything of that kind necessary and relevant in an investigation before them.

Mr. REAGAN. But I beg to call the attention of my friend from Kansas to the fact that I think he is totally mistaken. There is no such power in the bill in the case of private litigation.

Mr. PETERS. I do not assert that these powers are specifically enumerated in the bill, but that they are powers that do exist inherently in the courts themselves, and it is unnecessary by a provision of this bill to undertake to confer them.

Mr. REAGAN. But my friend from Kansas will pardon me for interrupting him, as I desire to call his attention again to what, in all respect for his ability as a lawyer, I must regard as a mistake on his part. In a suit at law you can not invoke the powers of an equity court, and therefore the bill of the committee fails in affording relief in cases of private litigation, while in the substitute bill there is a power expressly given to invoke the equity powers of the court as a remedy in cases of private wrong. Now, the committee's bill provides no such remedy. You make no provision in such a suit at law for invoking equity jurisdiction and discovery as a remedy between the individual and the corporation.

Mr. PETERS. Suppose that in an action for civil damages, as provided by the sixth section of this bill, it should be necessary for the court to require the attendance of witnesses on the trial and it should be necessary to summon the production of books and papers in the trial, would not a court have the power to enforce such a provision inherently in itself? Would not any court have that power, whether a court of the United States or any court operating under a code?

Mr. REAGAN. Of course all courts of sufficient jurisdiction can by subpœna compel the attendance of witnesses; but courts at law, as I understand, can not compel, without statutory authority and without invoking the rules of equity, the production of books and papers.

Mr. PETERS. With all due deference to the distinguished gentleman from Texas, the chairman of the committee, I must still adhere to my original proposition, that when a suit has been brought under the provisions of this bill by a party who has been damaged by a violation of the law there is inherent in the courts themselves, and in the United States courts especially, the power to enforce not only the attendance of witnesses, but also the power to enforce the production of all books and papers necessary to the completion of the litigation before the court.

Now, then, the fourth point of difference is that the bill does not prohibit charging a greater rate for a shorter haul than for a longer haul, and upon this question the distinguished gentleman the chairman of the committee made a very strong and very plausible argument. But I desire to call attention again to the importance of the provisions of the first section in this bill. I agree with that distinguished gentleman that it is a wrong to charge a citizen in Albany as much for the transportation of an article from Albany to New York as is charged for the transportation of an article from Chicago to New York. But how would such a charge be determined to be a reasonable charge?

Suppose that a charge is made for the transportation of an article from Pittsburgh to New York that is equal to a charge that is made for the transportation of an article from Saint Louis to New York, would such a charge be adjudged to be a reasonable charge? Concede that it would be adjudged to be a reasonable charge, the Pittsburgher has no right to complain.

I say that the question of legislation upon short or long hauls should all be left under the legislation enacted by the first section of this bill. It is enough for me to know that if a charge is reasonable, the shipper has no right to complain of that charge, regardless of what the charge may be from some other point to some other point.

I believe, Mr. Speaker, I have now about covered the objections that have been made to this bill and the points that I had prepared in relation to its discussion. I believe that all legislation that is initiatory in its nature upon any subject should be conservative and not radical. I believe that one of the great injuries that result from initiatory legislation is that it is nearly always too radical in its terms. Legislation of this kind at all events, which is initiatory in its character, which is but beginning to cover the ground, should be conservative, so that as we obtain experience and knowledge upon the question we may add to its provisions and thereby strengthen its power and its force to do good. I therefore glory in the fact that one of the important elements of this bill is its conservatism upon this great question of interstate commerce. I glory in the fact that the interests of the transporter or of the common carrier are carefully guarded as well as the interests of the shipper and the producer. I glory in the fact that it is legislation not in the interest of the shipper and producer alone, but that it is legislation in the interest of the common carrier as well as in the interest of the producer and the shipper. I am not one of those who believe in decrying the grand and glorious results that have accrued to this country by reason of the successful building of railroads throughout its borders. I am not one of those who believe in losing sight of the immense interest that is in this country invested in railroad property; but I desire to take all measures relating to this question and consider them in the same light that I would consider all measures which relate to any other business interests. I desire to treat the question of railroad interests as it bears upon other interests the same as I would treat the manufacturing interest as it bears upon other interests. And that I believe has been the steady purpose of the language as well as the very substance of this bill.

I believe, so far as my judgment goes, there is not a single amendment to the provisions of this bill that I would propose. I therefore ask the members of this House to carefully read and examine it in detail, and I believe they will be prepared to vote for it just as it was reported to this House by the committee. I thank the House for its attention.

Mr. ANDERSON was recognized.

ADJOURNMENT OVER.

Mr. MORRISON. The gentleman from Kansas [Mr. ANDERSON] yields to me that I may make a privileged motion. I move that when the House adjourns to-morrow it stand adjourned until Monday next.

The question being taken on Mr. MORRISON's motion, there were—ayes 102, noes 41.

So (further count not being called for) the motion was agreed to.

INTERSTATE COMMERCE.

The SPEAKER. The gentleman from Kansas [Mr. ANDERSON] has been recognized.

Mr. REAGAN. If the gentleman from Kansas will give way I will move that the House do now adjourn.

Mr. ANDERSON. I am willing to yield for that motion. I would rather wait.

Mr. REAGAN. I move that the House do now adjourn.

ORDER OF BUSINESS.

The SPEAKER. Pending the question on the motion to adjourn the Chair desires to lay before the House certain executive communications.

There was no objection.

ACCOUNTS SETTLED BY FIRST COMPTROLLER.

The SPEAKER laid before the House a letter from the Treasurer of the United States, transmitting copies of accounts rendered to and settled with the First Comptroller for the fiscal year ending June 30, 1884; which were referred to the Committee on Expenditures in the Treasury Department, and ordered to be printed.

REPORTS OF DISBURSING OFFICERS OF WAR DEPARTMENT.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting reports of disbursing officers to accompany annual report of the inspector-General for the year 1884; which was referred to the Committee on Expenditures in the War Department, and ordered to be printed.

ZUÑI INDIAN RESERVATION.

The SPEAKER also laid before the House a letter from the Secretary of the Interior, transmitting, in response to a resolution of the House of Representatives of June 24, 1884, reports from the Office of Indian Affairs and the General Land Office, with accompanying papers, relating to alleged claims to portions of the Zuñi Indian reservation in New Mexico and Arizona; also transmitting copies of letters from the Department of the Interior to Hon. JOHN A. LOGAN in reference to the order setting apart said reservation; which was referred to the Committee on Indian Affairs, and ordered to be printed.

ORDER OF BUSINESS.

The SPEAKER. The question is on the motion of the gentleman from Texas [Mr. REAGAN] that the House do now adjourn.

The motion was agreed to; and accordingly (at 3 o'clock and 35 minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions and papers were laid on the Clerk's desk, under the rule, and referred as follows:

By Mr. J. J. ADAMS: Memorial of Church E. Gates, E. Christian Körner, and others, citizens of New York, asking Congress to authorize the Secretary of War to contract with Charles Stoughton and his associates for the entire work of improving the Harlem River, New York, &c.—to the Committee on Rivers and Harbors.

By Mr. BOUTELLE: Petition of Hannibal Hamlin and others, for the relief of Chaplain C. M. Blake—to the Committee on Military Affairs.

By Mr. CUTCHEON: Petition of citizens of Allegan, Mich., praying for a branch of the National Soldiers' Home in the State of Michigan—to the same committee.

By Mr. DIBRELL: A bill making an appropriation to complete the improvement in the Tennessee River at Muscle Shoals—to the Committee on Rivers and Harbors.

By Mr. A. S. HEWITT: Petition of the board of commissioners of the pilots of New York, for a resurvey of the harbor of New York—to the same committee.

Also, the petition of citizens of New York, for election of President and Vice-President by the people and limiting the term of office to six years—to the Committee on the Judiciary.

By Mr. HITT: Memorial of the survivors of the Fifty-fifth Regiment Illinois Volunteer Infantry, for the passage of an act authorizing the honorable discharge or muster-out of Capt. Francis H. Shaw, Company C, Fifty-fifth Illinois—to the Committee on Military Affairs.

By Mr. MATSON: Petition of William Allen, for a pension—to the Committee on Pensions.

By Mr. CHARLES O'NEILL: Petition of Mary E. Fillebrown, widow of Thomas Scott Fillebrown, for a pension—to the Committee on Invalid Pensions.

By Mr. W. F. ROGERS: Memorial of Wilson & Adams, Manchester & Philbric, and others, citizens of New York, asking Congress to authorize the Secretary of War to contract with Charles Stoughton and his associates for the entire work of improving the Harlem River, New York, &c.—to the Committee on Rivers and Harbors.

Also, the petition of George E. Fell, M. D., to establish the metric system of weights and measures—to the Committee on Coinage, Weights, and Measures.

By Mr. ROCKWELL: Papers relating to the claim of Lester Noble—to the Committee on War Claims.

By Mr. YOUNG: Petition relating to the claim of C. B. Bryan & Co.—to the Committee on Claims.

SENATE.

THURSDAY, *December* 4, 1884.

RANDALL L. GIBSON, a Senator from the State of Louisiana, appeared in his seat to-day.

The Journal of yesterday's proceedings was read and approved.

COMMITTEE SERVICE.

Mr. WILSON, on his own motion, was excused from further service upon the Committee on Mines and Mining.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of War, transmitting, in response to a resolution of July 3, 1884, a report from Col. A. F. Rockwell, United States Army, in charge of public buildings and grounds in the District of Columbia, in relation to a comprehensive system of telegraph and telephone for Government service in Washington on the Waring or other systems of underground cable; which was ordered to be printed, without the map, and referred to the Committee on Public Buildings and Grounds.

The PRESIDENT *pro tempore*. The Chair lays before the Senate a communication from the Secretary of War, transmitting a letter of the Chief of Ordnance, submitting report of tests of iron and steel and other materials for industrial purposes, made by Maj. F. H. Parker, commanding Watertown arsenal, with the United States testing-machine, during the year ending June 30, 1884, and stating the necessity for another machine, if work for private parties is to be continued. If there be no objection, the letter will be printed, and, with the accompanying papers, some of which are quite voluminous, referred to the Committee on Printing for consideration in relation to the question of printing voluminous documents.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Treasurer of the United States, transmitting, in compliance with the requirements of section 311 of the Revised Statutes, copies of the accounts rendered to and settled with the First Comptroller for the fiscal year ended June 30, 1884.

The communication was ordered to be printed, and, with the accompanying papers, was referred to the Committee on Printing.

REPORT OF VISITORS TO WEST POINT.

The PRESIDENT *pro tempore* laid before the Senate a communication from W. S. ROSECRANS, president of the Board of Visitors to West Point Military Academy, transmitting the report of the board appointed to examine the affairs of the United States Military Academy at West Point; which was read.

The PRESIDENT *pro tempore*. The letter, together with the report, if there be no objection, will be printed and referred to the Committee on Military Affairs.

Mr. CONGER. Would it be proper to ask that the maps referred to be also printed with the report?

The PRESIDENT *pro tempore*. The maps are not in the possession of the Senate. The president of the board informs the Senate that the maps were transmitted to the War Department, to be there printed.

Mr. CONGER. They should be published and distributed with the report in order to make it intelligible.

The PRESIDENT *pro tempore*. The Chair thinks that could only be regularly accomplished by a resolution calling on the Secretary of War to transmit the maps or copies of them here so that they may be printed under the direction of the Senate.

Mr. CONGER. Does that need a resolution?

The PRESIDENT *pro tempore*. The Chair thinks so.

Mr. CONGER. Or a motion?

The PRESIDENT *pro tempore*. The motion might as well be in the form of a resolution. Of course the Chair would not insist upon its being made in writing.

Mr. CONGER. I will submit a resolution in this form: That the Secretary of War be instructed to furnish to the Committee on Printing a copy of the maps accompanying the report of the Board of Visitors to West Point.

The PRESIDENT *pro tempore*. The resolution will be reduced to writing by the Secretary.

Mr. CONGER. Having called attention to it, at the suggestion of members of the Committee on Printing that either from that Department or otherwise they will procure the maps to be printed with the report, I shall not press the motion.

PETITIONS AND MEMORIALS.

Mr. MAXEY presented the petition of Fenwick & Lawrence, of Washington, D. C., representing certain patentees and inventors, praying for an amendment to the patent law; which was referred to the Committee on Patents.

Mr. HOAR presented the petition of Mary Sullivan, of Worcester, Mass., praying to be allowed a pension; which was referred to the Committee on Pensions.

He also presented a petition of Mary E. Williams, of Clinton, Mass., praying for a renewal of her pension; which was referred to the Committee on Pensions.

He also presented a petition of the survivors of the Fifty-fifth Regiment Illinois Infantry, praying for the passage of an act authorizing the honorable discharge or muster-out of Capt. Francis H. Shaw, formerly captain of Company C, Fifty-fifth Illinois Infantry; which was referred to the Committee on Military Affairs.

He also presented the petition of Charles Devens Post, No. 27, Grand Army of the Republic, Department of Massachusetts, praying for the publication of photographic illustrations in the Official Records of the War of the Rebellion; which was referred to the Committee on Military Affairs.

Mr. DAWES presented the petition of John Bidwell, of California, praying that certain relief be granted Charles Morris Blake, post-chaplain, United States Army, retired; which was referred to the Committee on Military Affairs.

FRENCH AND AMERICAN MEDALS.

Mr. MORRILL introduced a bill (S. 2402) authorizing the Secretary of State to procure duplicates of certain French and American medals; which was read the first time by its title.

Mr. MORRILL. I ask that the bill may be read at length.

The bill was read the second time at length, as follows:

Be it enacted, &c., That the sum of $75 be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, to enable the Secretary of State to procure duplicates of certain French and American medals presented to Congress by George W. Erving for the use of the National Library, A. D. 1822, which, being shipwrecked and lost, were replaced by Mr. Erving, and which were destroyed by the fire in the Library in 1851.

Mr. MORRILL. I desire to say that in 1822 Mr. Erving, our former minister to Spain, procured from the French Government a very valuable series of medals and presented them to the Library of Congress. They were executed during the Napoleonic era and were undoubtedly some of the finest specimens of engraving and of medals. This gentleman shipped them, and they were lost in consequence of shipwreck. After that, at his own expense, he procured duplicates of the same and sent them here; and those were destroyed in the Library by fire in 1851. At the last session of Congress I procured a correspondence on the part of the Secretary of State and the French Government, and the French Government offered to supply them to us at the cost, I believe, of the bare metal, amounting to about $75, which was very generous on their part and would be a very low charge. An amendment was sent by the Committee on Finance to the Committee on Appropriations, having the unanimous consent of the Finance Committee, and the amendment proposing to procure these duplicates at the expense of $75 had no opposition that I am aware of from the Committee on Appropriations, but by some inadvertency it was not included in the sundry civil appropriation bill, and therefore was not acted upon.

I merely make this statement, proposing at some time hereafter to call up the bill, to which I think there will be no objection on the part of any Senator, in order to procure so important and valuable a set of medals, executed as they were and will be in the very highest style of art.

Mr. HARRIS. Why not consider it now?

Mr. MORRILL. If there is no objection, I will ask that the bill be put on its passage at the present moment.

The PRESIDENT *pro tempore*. The Senator from Vermont asks unanimous consent that the bill, which has been read at length on its second reading, be now considered. Is there objection? The Chair hears none. The bill is before the Senate as in Committee of the Whole and open to amendment. It will be read for amendment.

The bill was read.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

BILLS INTRODUCED.

Mr. GROOME introduced a bill (S. 2403) limiting a portion of an act entitled "An act making appropriations for the naval service for the fiscal year ending June 30, 1883, and for other purposes;" which was read twice by its title, and referred to the Committee on Naval Affairs.

Mr. MITCHELL introduced a bill (S. 2404) granting a pension to Ulysses S. Grant; which was read twice by its title, and referred to the Committee on Pensions.

Mr. WILSON introduced a bill (S. 2405) granting a pension to E. D. Partridge; which was read twice by its title, and referred to the Committee on Pensions.

Mr. GARLAND introduced a bill (S. 2406) to provide for an additional judge of the district court of the United States for the southern district of New York; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. GIBSON introduced a bill (S. 2407) to provide for the erection of a public building in the city of New Orleans, La.; which was read twice by its title, and referred to the Committee on Public Buildings and Grounds.

He also introduced a bill (S. 2408) to authorize and direct the Secretary of the Treasury to cede the abandoned marine hospital buildings and grounds at New Orleans to the board of administrators of the Tulane University of Louisiana; which was read twice by its title, and referred to the Committee on Commerce.

Mr. LOGAN introduced a bill (S. 2409) for the relief of H. W. Hubbard; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Post-Offices and Post-Roads.

AMERICAN SHIPPING TRADE.

Mr. CAMERON, of Pennsylvania, submitted the following resolution; which was read:

Whereas the shipping trade in American vessels is and has for years been depressed, and the export trade in American produce is languishing for want of a market that might be reached if the shipping trade was in the hands of citizens of the United States: therefore,

Resolved, That the Committee on Finance be, and is hereby, directed to inquire whether it would be expedient to expend the surplus revenue of the United States, or any portion thereof, for the purpose of reviving the shipping and export trade, by allowing a rebate from tariff duties on foreign goods imported in ships built and owned in the United States, and by also allowing a premium on American-grown products and articles of American manufacture exported in American vessels, and report by bill or otherwise.

Mr. CAMERON, of Pennsylvania. I ask that the resolution may lie on the table, and I shall call it up at some future time.

Mr. VEST. Before the resolution goes over, I call the attention of the Senator from Pennsylvania to the fact that that subject is now before the Committee on Commerce. I see that his resolution makes it the duty of the Committee on Finance to make the inquiry, which of course takes the question away from the standing committee of the Senate which is now considering that very subject.

Mr. CAMERON, of Pennsylvania. The resolution can lie upon the table for the present, and when I submit a few remarks upon it, which I expect to do at a future time, I can change the direction to the Committee on Commerce. It makes no difference to me to which committee the inquiry is directed.

The PRESIDENT *pro tempore*. The resolution will lie on the table.

SILVER COIN AND SILVER CERTIFICATES.

Mr. HILL submitted the following resolution; which was read:

Resolved, That in the existing depressed condition of the industrial interests of the country, and in presence of the great fall which has taken place and is still in progress in the wages of labor and in the prices of the products of farms, workshops, mills, and mines, the recommendations of the President and of the Secretary of the Treasury that the coinage of silver dollars and the issue of silver certificates shall be immediately and unconditionally prohibited are calculated to create alarm and thereby aggravate the difficulties of the situation, and that, to the end that the public mind may be quieted by the assurance that if the total volume of the currency is not to be enlarged in correspondence with the increasing population and exchanges of the country, it shall at least not be reduced by suspending the coinage of silver dollars,

The Senate declares its opinion to be that no valid reason exists at the present time for imposing any new and additional restrictions upon either the coinage of silver dollars or the issue of silver certificates.

Mr. HILL. I shall at some day in the early future ask the indulgence of the Senate to submit some remarks on the subject of the resolution. Therefore I ask that it may lie on the table and be printed.

The PRESIDENT *pro tempore*. If there be no objection, the resolution will be printed and lie on the table.

COMMITTEE SERVICE.

Mr. HALE. I move that the Senate proceed to the consideration of executive business.

The PRESIDENT *pro tempore*. Will the Senator from Maine withhold that motion for a moment until the Chair makes an announcement?

Mr. HALE. Certainly.

The PRESIDENT *pro tempore*. Pursuant to the authority conferred upon the Chair yesterday by the Senate, the Chair appoints to fill the vacancy upon the Committee on Claims the Senator from Rhode Island [Mr. SHEFFIELD];

To fill the vacancy on the Committee to Examine the Several Branches of the Civil Service, the Senator from Minnesota [Mr. SABIN];

To fill the vacancy on the Committee on Mines and Mining, the Senator from Rhode Island [Mr. SHEFFIELD];

To fill the vacancy on the Committee on Naval Affairs, the Senator from Massachusetts [Mr. DAWES];

To fill the vacancy in the chairmanship of the Committee on Printing—the Chair calls attention to the parliamentary rule, that without the authority of the Senate the direction of appointments to fill vacancies on committees does not make the chairmen—the Chair understands it to be the desire of the Senate that the Senator from Nebraska [Mr. MANDERSON] should be appointed chairman. The Chair appoints the Senator from Nebraska to be the chairman of the Committee on Printing.

To fill the vacancy on the Committee on Revolutionary Claims the Chair appoints the Senator from Rhode Island [Mr. SHEFFIELD].

To fill the vacancy on the Committee on Woman Suffrage the Chair appoints the Senator from Rhode Island [Mr. SHEFFIELD].

To fill the vacancy upon the Committee on Indian Affairs, the Senator from Oregon [Mr. SLATER].

To fill the vacancy upon the Committee on Fish and Fisheries, the Senator from Alabama [Mr. MORGAN].

INTERSTATE COMMERCE.

Mr. HALE rose.

Mr. CULLOM. I ask the Senator from Maine to withhold for a few

moments his motion to proceed to the consideration of executive business.

Mr. HALE. I withdraw the motion. I understand there is some business which needs to be done this morning. I will renew the motion by and by with the leave of the Chair.

Mr. CULLOM. On the 5th of July the bill (S. 2112) to establish a commission to regulate interstate commerce, and for other purposes, was under consideration by the Senate. I supposed that the bill was postponed to and made the special order for to-day, but it seems that on the Calendar it has not been set down as a special order. Upon looking at the RECORD containing the proceedings of that day I find that the understanding seems to have been that it was made a special order for to-day. In view of the misunderstanding or the failure of the Calendar to show any special order, I should like to call up the bill and have it considered or set down for consideration at some future time.

The PRESIDENT *pro tempore*. The Senator from Illinois moves that the Senate now proceed to the consideration of the bill (S. 2112) to establish a commission to regulate interstate commerce, and for other purposes. The question is on agreeing to the motion of the Senator from Illinois.

The motion was agreed to.

The PRESIDENT *pro tempore*. The bill is before the Senate as in Committee of the Whole. It has been read at length. What motion does the Senator from Illinois desire to make?

Mr. CULLOM. I desire to have the bill considered at this time if the Senate is ready to proceed with its consideration. I have no speech to make upon it at present, nor at any other time for that matter.

Mr. COCKRELL. Has the bill been read in full?

The PRESIDENT *pro tempore*. It was read on a former occasion, the Chair is informed. The bill is open to amendment as in Committee of the Whole. If no amendment be proposed, it will be reported to the Senate.

The bill was reported to the Senate without amendment.

The PRESIDENT *pro tempore*. If no amendment be proposed, the question is, Shall the bill be engrossed for a third reading?

Mr. COCKRELL. Let it be read in full the third time.

The PRESIDENT *pro tempore*. The order for third reading has not yet been made. The Chair will direct that it be read in full for information.

The Secretary began to read the bill.

Mr. McPHERSON. I see on reading the Calendar that this bill, which is a very important measure, was postponed until the first Thursday after the first Monday in December, which is to-day. I take it that not many Senators have given this matter much consideration at this session, and I suggest to the Senator having it in charge that the bill go over until next week, attention now having been called to it, and we may then act upon it with more intelligence, certainly more than I can give it this morning.

Mr. CULLOM. I am unable to hear the remark of the Senator.

Mr. McPHERSON. I was only asking that the Senator from Illinois would allow the bill to go over until next week, as I think little attention has been given to the subject at this session; and as it was postponed last session to a special day, to-day being the time fixed for its consideration, for one I have not given it the consideration which I desired to give it. As it is a very important measure and there is no other particular business pressing for a few days, I ask the Senator to let it go over until next week, say next Thursday, if that suits the Senator. The same subject-matter is now under discussion in another place, although in a different form, as I understand. I suggest that the bill go over until next week, because we shall then have time to consider all that is being said about the matter here and elsewhere. I ask, with the consent only of the Senator from Illinois, that the consideration of the bill be postponed until one week from to-day.

Mr. CULLOM. The Senate has just voted to take up the bill for consideration. It was postponed until to-day at the latter part of the last session of Congress. It is a very important subject, to say the least, and its importance ought to entitle it to as early consideration as possible. The fact that the subject of the bill is being considered in another place, as the Senator remarks, ought not to be any reason why it should not be considered here at this time. Of course I am not disposed to be captious in pressing the bill upon the consideration of the Senate, but I think that the Senate can commence the consideration of it to-day, and if we do not get through with its consideration to-day we can finish it next week.

Mr. McPHERSON. I do not desire to interfere at all with the wishes of the Senator from Illinois regarding the bill, as he has it in charge, but it is now before the Senate for amendment. I am quite sure in my own mind that some amendments can be offered which would be a betterment of the bill, but I am not prepared this morning to offer them. For that reason, and only for that reason, I desire its postponement.

Mr. CULLOM. Will the Senator from New Jersey consent that the bill should be made the special order for next Tuesday?

Mr. HARRISON. I suggest to the Senator from Illinois that I gave notice that I should move to take up the Dakota bill on next Tuesday, and I hope he will not let this measure interfere with that one.

Mr. CULLOM. I hope the Senate will proceed with the consideration of the bill to-day, and if we do not conclude its consideration it can be taken up again as unfinished business next week. In the mean time the Senator from New Jersey will have an opportunity to prepare his amendments, if he desires to do so. I have myself no speech to make upon the bill to-day or at any other time.

Mr. McPHERSON. Upon consultation with Senators around me I find that they also are not ready to proceed with the consideration of the bill to-day, and I ask a postponement for one week from to-day, next Thursday.

The PRESIDING OFFICER (Mr. HARRIS in the chair). The Senator from New Jersey moves that the further consideration of the bill be postponed until one week from to-day.

Mr. CULLOM. Unless the Senator will consent to the bill being made a special order for that day, I must resist the motion.

Mr. McPHERSON. Most assuredly I consent to that.

Mr. BAYARD. I suggest to the Senator from Illinois that the Calendar contains no note of this special order at all, and it would be very well——

Mr. CULLOM. If the Senator from Delaware will allow me, I stated that the Calendar had failed to note, as I think, what it should have done. That I may be justified in calling up the bill to-day I will read what the RECORD shows occurred during the last session. The Senator from New York [Mr. MILLER] moved to postpone the consideration of the bill——

Mr. BAYARD. From what is the Senator reading?

Mr. CULLOM. I am reading from the RECORD of the 6th of July last the proceedings of the 5th. The RECORD shows that it was the intention of the Senator from New York as well as myself that the bill should be made the special order for to-day, but the Calendar does not seem to have made it such.

Mr. BAYARD. I observe that on the Calendar, page 14, this bill, reported by the Senator from Illinois, is found, being Order of Business No. 533, but it was not made a special order. The consideration of the bill was "postponed until the first Thursday after the first Monday in December," but that does not make it a special order.

Mr. CULLOM. I understand that; but the RECORD shows a different state of facts. The Senator from New York [Mr. MILLER] moved that the further consideration of the bill—

be postponed until 2 o'clock on the first Thursday after the first Monday of December next.

The PRESIDING OFFICER (Mr. PLATT). The Senator from New York moves that the further consideration of the bill be postponed until 2 o'clock on Thursday after the first Monday of December next.

Mr. CULLOM. I have been and still am very anxious that this bill should pass during this session of Congress, but it seems to be the judgment of many Senators that it is impossible for it to become a law at any rate during the present session of Congress; and while I do not consent to a postponement of it, yet I am willing to yield to the judgment of the Senate on the question, provided it is made the special order for Thursday after the first Monday of December next.

The PRESIDING OFFICER. That is the motion.

The motion was agreed to.

That is what the RECORD of last July shows, and I supposed that the Calendar would show that the bill was made the special order for to-day.

Mr. McPHERSON. To satisfy the Senator, I will move a postponement of this matter until next Thursday, the bill to be made a special order for that day.

Mr. BECK. At 2 o'clock.

Mr. McPHERSON. At 2 o'clock.

The PRESIDENT *pro tempore*. The Senator from New Jersey moves that the bill be postponed until next Thursday, at 2 o'clock in the afternoon, and be made a special order for that time. The question is on agreeing to the motion.

Mr. COCKRELL. I will ask the Chair to state what condition the consideration of the bill is in, whether when it comes up on Thursday it can be amended or not?

The PRESIDENT *pro tempore*. The bill is open to amendment, it not having been read the third time. It has passed from consideration as in Committee of the Whole, but is still open to amendment. The question is on agreeing to the motion of the Senator from New Jersey, that the bill be postponed until Thursday next at 2 o'clock in the afternoon, and be made a special order for that time. Is the Senate ready for the question? [Having put the question.] In the opinion of the Chair two-thirds of the Senators present have voted in the affirmative, and the motion is agreed to.

ADJOURNMENT TO MONDAY.

On motion of Mr. CAMERON, of Wisconsin, it was

Ordered, That when the Senate adjourn to-day it be to meet on Monday next.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. CLARK, its Clerk, announced that the House had passed the following bills; in which it requested the concurrence of the Senate:

A bill (H. R. 7428) to authorize the Hillsborough National Bank to change its name to that of the First National Bank of Hillsborough, Ohio;

A bill (H. R. 3258) to authorize the construction of a bridge across

the Saint Croix River at the most accessible point between Stillwater and Taylor's Falls, Minn.; and

A bill (H. R. 7510) making temporary provision for the naval service.

The message also announced that the House had non-concurred in the amendments of the Senate to the bill (H. R. 7162) to forfeit the unearned lands granted to the Atlantic and Pacific Railroad Company "to aid in the construction of a railroad and telegraph line from the States of Missouri and Arkansas to the Pacific coast, and to restore the same to settlement, and for other purposes," asked a conference with the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. T. R. COBB of Indiana, Mr. BARCLAY HENLEY of California, and Mr. L. E. PAYSON of Illinois managers at the conference on the part of the House.

RICHARD HAWLEY & SONS.

The PRESIDENT *pro tempore*. The Chair lays before the Senate the Calendar under the eighth rule, commencing at Order of Business 320, being Senate bill 1170.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. 1170) for the relief of Richard Hawley & Sons.

Mr. COCKRELL. I hope, under the circumstances surrounding this case, that the bill will be recommitted to the committee and that they will take into consideration the effect that it will have. It will invite hundreds and thousands of claimants to come to Congress for relief. It opens wide the door to the class of claims I spoke of the other day, and it will involve many millions of dollars. There is no government of which I have any knowledge that ever refunds revenue paid in the way this was paid. There is not, I presume, a State in the Union, nor a county, that would refund a tax paid under the same circumstances under which this was paid. Here the Treasury Department laid a certain tariff tax under the law, according to their interpretation of it, honestly and justly. They believed that a certain article should pay a certain rate of tax. It was paid. There was no protest, there was no remonstrance, there was no opposition to it. The money went into the Treasury and was paid out for the expenditures of the Government, supposed to be legitimate Treasury funds. After the lapse of years some one contested this rate of tax, alleging that it was more than ought to have been imposed, and brought suit to determine whether it was correct or not. The courts finally decided that the tax was greater than the law authorized, and the man who brought the suit recovered back his amount because he took the steps necessary to entitle him to recover. These parties took no steps at all, but they say "we ought to have our money back."

There are thousands upon thousands and perhaps hundreds of thousands of cases of that kind from the foundation of this Government. It has never been the policy of the Government to refund such taxes. Go into a State and into a county where a tax is paid without any protest or any remonstrance and it is afterward discovered that it was too much, or possibly that it was placed upon the wrong property; the man goes to the county court and the court refuses to refund it. The State never acknowledges any liability to refund in such cases. I think it one of the most dangerous precedents we have had before the Senate in a long time. I should be very glad if the bill could be recommitted to the Committee on Claims, so that they may give further consideration to the effect it may have.

Mr. CONGER. Mr. President, the Senator from Missouri is usually so fair, candid, and exact in his statements, that I marvel very much at the statement just made by him. The Senator cannot have read the report of the committee, or if he has read the report of the committee he must have forgotten it when he made the broad statement which he has just made to the Senate. The Senator says this was a duty or tax paid without remonstrance and without protest. He says that it remained several years as a paid tax without any effort to recover it, and after a lapse of years the claim is brought. The Senator does not mean any such thing as that, or else the report of the committee is all false.

Mr. COCKRELL. What I meant to say was simply that the parties did not pursue the remedy prescribed by the statute, and did not take the steps which entitled them to a recovery. It does not make any difference whether the delay was one month or six months or twelve months; they are in the same category. All who do not take certain steps are not entitled under the law to recover. That was what I meant by the statement I made.

Mr. CONGER. If it did not make any difference I would prefer that the Senator in making his statement had said that within one month after the payment of this tax vigorous efforts were made to recover back the money. That would suit my case better than a postponement for years.

This is so simple a case and it is so usual a matter, that I venture to say that with a little leisure I could find twenty or thirty cases of the kind passed upon by the Senate on all fours with this in the reason for them since the Senator has been a member of this body. I have no doubt of it. This is a case where the valuation on which the duty was imposed embraced 1 cent a pound export tax of Canada on the malt to be added to the market value ascertained under the law as the value of the property upon which duties should be paid. This property never had paid the export tax. The property was bought in bond in Canada. There had been no export tax of 1 cent a pound paid on it, and that statement was made to the collector of customs, and he still decided that although there had been no payment of 1 cent a pound, although that had been no part of the expense making up the valuation upon which to assess duties, still he would assess it. The proportionate duty upon that 1 cent a pound was paid, and was paid under protest. After this amount was paid Hawley & Sons came to the collector to make an appeal to the Secretary of the Treasury, and the officer of the Government said to them: "This was decided by the Department within a few days past, and I have a copy of their decision, and it will be of no use for you to appeal." The report shows this, which the Senator has not read but which I hope he will. The officer read to them the letter of the Secretary of the Treasury giving the decision upon which he acted, and thus induced these importers to believe that an appeal under the law would be useless.

This was in the spring of 1870. A case arose of a similar kind in Chicago in the summer or fall of that year or was then pending, and the United States court, upon the issue made whether that 1 cent a pound export duty upon malt should enter into the taxable valuation, decided that the ruling of the Treasury Department was erroneous and that it should not be reckoned. As soon as that decision was made the Treasury Department altered their ruling in regard to the duty, and these parties and all other parties importing malt were notified that the former ruling was wrong and that thereafter they could import their malt without paying the duty assessed upon the additional valuation of 1 cent a pound. Immediately Hawley & Sons presented their request for a refund of this money, and were informed by the Treasury Department that the money having gone into the Treasury, it was beyond their control under the law to refund.

And here, Mr. President, I call the attention of the Senator from Missouri to this fact, and I wish he would notice it—for my argument is more for him, because I doubt whether any other Senator has such views on this subject. Immediately upon the decision of the court the Treasury Department made an open ruling, which, if made five months before, would have admitted this malt at the rate of duty claimed by Hawley & Sons, and from that time to this that ruling has been followed.

The Senator says that it would open the way for innumerable claims and frauds and all those things to have an example of this kind. I say there are hundreds of them where the action of Congress has been had giving relief in such cases, and they can be found if it is necessary. What is the spirit of the law? We have in our statute-book a law that if after paying under protest, as this was paid, the party shall go through the formality of an appeal to the Secretary of the Treasury and that appeal is sustained by the law, the money which is in the Treasury may be drawn out without any further action of Congress or the Department and paid back. To-day and through all days that is the law. It is a simple question whether an appeal has been taken, under protest, to the Department. Here the appeal would have been taken, as the record shows, if the collector of customs, the officer of the Government, had not shown to the parties desiring to take the appeal that it was useless and induced them not to take the appeal. That is all there is of it. If the appeal had been made the money under the law would have been refunded just as soon as the Treasury Department changed its decision—just as soon as the court rendered its judgment.

The judgment of Congress is that such money paid illegally and in excess of what the law requires in the way of taxation should in some way be refunded. It provides that it may be by an appeal and a review. If a Government officer, by reading a decision of the Department lately made, prevents a party claiming to have been wronged from taking an appeal, then he comes to Congress. That I understand to be this case exactly, and that is the report of the committee.

If that be the condition, and if the law is in that situation, that by a simple appeal the money can be refunded under the law as it stands now, and this party was prevented from making an appeal, that merely formal step in the proceedings, by the collector of customs, by the officer of the Government, telling him that he had in his possession a recent decision, and it would be no use to appeal, this Government will not take advantage of the wrong of the officer, whether the amount be this small sum of $400 or $4,000 or $40,000.

Mr. CAMERON, of Wisconsin. Mr. President, the Senator from Michigan has accurately stated the facts in this case. To recapitulate, the facts are simply these: In 1870 Richard Hawley & Sons, who at that time were doing business in the city of Detroit, Mich., purchased in bond in Canada 230,940 pounds of malt. At that time, under the Canadian law, an excise tax of 1 cent a pound was imposed on all malt consumed in that country. Malt out of bond or in the market for consumption or use was consequently worth 1 cent a pound more than malt in bond. The petitioners, as I have stated, bought the malt in bond, and therefore the excise tax of 1 cent per pound was never paid or demanded in Canada. The entry was duly made in the Detroit custom-house at the price actually paid for the malt in Canada. It was, however, claimed by the collector of the port of Detroit, in accordance with a decision then recently made by the Secretary of the Treasury, that the duty must be paid upon the malt according to its value in

Canada out of bond at the time of purchase, that the value must be ascertained by adding 1 cent per pound excise duty to the actual value of the malt in bond, and the aggregate was the sum on which the collector claimed that duties must be paid by the purchaser.

These claimants paid the duty according to the erroneous construction given to the law by the Secretary of the Treasury and the collector of the port at Detroit. The additional duty amounted to the sum which it is proposed by this bill to refund to the claimants, that is, $473.42. The claimants at the time of the payment of this additional tax thus erroneously imposed protested verbally against its payment, but, as has been stated by the Senator from Michigan, the collector called their attention to the fact that this identical question had then been recently decided by the Secretary of the Treasury. He not only called the attention of these claimants to that fact, but he produced the decision and read it to them, and informed them that they could, if they chose, take an appeal in accordance with the statute, but that it would be useless, inasmuch as the identical question had then recently been decided by the Secretary of the Treasury. In consequence of that representation thus made to the claimants by the collector no formal appeal was taken.

As has been stated by the Senator from Michigan, a similar case was either then or soon thereafter pending in Chicago. It was brought before the circuit court of the United States, and decided by that eminent jurist Judge Drummond, he holding that the decision of the Secretary of the Treasury was erroneous and that this additional tax thus levied ought not to have been levied. That was in 1870.

The claimants did not sleep upon their claim, but presented a petition in the House of Representatives to the Forty-third Congress asking that this sum be refunded to them. It was referred to the Committee on Claims of the House of Representatives. It was subsequently reported back by that committee, and referred to the Committee of Ways and Means. A favorable report was made by the Committee of Ways and Means to the House on the 8th day of May, 1874, and a bill providing for the repayment of the sum which it is proposed by the bill now under consideration to refund to these claimants was passed by the House of Representatives on the 8th day of May, 1874. No action was taken during that Congress upon the bill in the Senate.

The bill was again introduced in the House of Representatives in the first session of the Forty-fourth Congress. It was referred to the Committee on Claims in the House, and favorably reported from that committee to the House on the 29th day of June, 1876. No further action appears to have been taken upon it during that Congress. The bill was again introduced in the House during the first session of the Forty-fifth Congress, and referred to the Committee on Claims in the House. It was favorably reported from that committee, and passed the House in June, 1878. No action was taken upon it in the Senate during that Congress. It was again introduced in the House during the first session of the Forty-seventh Congress, referred to the Committee on Claims, and again favorably reported from that committee during the first session of the Forty-seventh Congress.

It was introduced in the Senate during the first session of the Forty-sixth Congress, and referred to the Committee on Claims. During the second session of the Forty-sixth Congress it was reported back to the Senate by the Committee on Claims, and upon the motion of a member of that committee was referred to the Committee on Finance. It does not appear that any action was taken upon the bill by the Committee on Finance; at least it was not reported by that committee to the Senate. It probably was allowed to sleep in that committee.

Now I submit that in view of the legislative history of the bill it does not appear that one House of Congress at least was very much afraid of the immense amount——

Mr. COCKRELL. Will the Senator permit me?

Mr. CAMERON, of Wisconsin. I was simply going to say that it does not appear that one House of Congress was very much afraid that Congress would be overwhelmed by a flood of similar bills which were only waiting for favorable action upon this one.

Mr. COCKRELL. I do not know whether the Senator stated in his Congressional history of this case the fact that this bill was reported adversely in the Senate in the Forty-third Congress, second session. The first time it ever appeared in the Senate it was reported adversely by the Finance Committee and killed. That was in the Forty-third Congress, second session. I do not know that the Senator stated that.

Mr. CAMERON, of Wisconsin. I have not a memorandum of it.

Mr. COCKRELL. I have the history of the claim, and that is the fact. The first time it came here it was killed.

Mr. CAMERON, of Wisconsin. That is, it was indefinitely postponed?

Mr. COCKRELL. Adversely reported by the Committee on Finance.

Mr. CAMERON, of Wisconsin. During that same session it was favorably reported from the Committee of Ways and Means of the House and passed the House of Representatives.

Mr. COCKRELL. It was a House bill that came to the Senate and was reported adversely after it had passed the House. In the second session of the Forty-third Congress it came from the House and was reported adversely by the Finance Committee.

Mr. CAMERON, of Wisconsin. That may be so. I do not know whether it is or not.

Mr. COCKRELL. That is the record.

Mr. CAMERON, of Wisconsin. If the Senator has the record before him, he is probably correct about it.

Mr. COCKRELL. It is House bill 2279 of that Congress.

Mr. CAMERON, of Wisconsin. But, entirely outside of the legislative history of the bill, I say that equitably these parties are entitled to have this money refunded. I have heard the Senator from Missouri—I was going to say five hundred times—warn the Senate that if such a measure were favorably considered the Congress would be overwhelmed by similar claims which the claimants were only holding in abeyance until favorable action was taken upon some pending claim by the Senate. Now, we all know that precedents are of no authority whatever in this body. I venture to say that the Senator from Missouri never voted in favor of any measure because a similar measure had been favorably considered in the Senate either in that Congress or in any preceding Congress; and I venture to say that he never voted against a measure because a similar measure had been unfavorably acted upon by the Senate. This is the one body in which precedents are of no authority whatever. They are not even of any authority upon questions of order. So this bugbear—that is the expression I will use—which is held up before us by the Senator from Missouri absolutely amounts to nothing. Every case stands upon its own facts, and no bill, I venture to say, since I have been a member of this body has ever been favorably considered by the Senate because a similar bill had previously been favorably considered by the body.

It is admitted that this tax was illegally assessed upon the malt and the claimants were illegally required to pay it, and they did pay it in pursuance of an erroneous decision of the Secretary of the Treasury. Now, I would not care if there were twenty millions of these claims lying in the Treasury. I do not think there are. I think that the amount of these claims in the Treasury is very inconsiderable. If the Senator from Missouri has any statement of these claims I should be pleased to have him present it to the Senate. It is a very easy matter to say that there are thousands, hundreds of thousands, or millions in amount of these claims now lying in the Treasury. If he has any statement of the amount of these claims the Senate would be more enlightened by having that statement presented to it than by having his unsupported allegation in regard to the amount.

Mr. COCKRELL. If the Senator will take the trouble to read the finance reports showing the number of such claims from year to year he will get a good deal of information therefrom.

Mr. CAMERON, of Wisconsin. Quite likely. But I say on general principles of equity these parties are entitled to have this amount refunded to them; and, beyond that, there are special reasons in this particular case. Those special reasons have been referred to by the Senator from Michigan. The claimants proposed to take an appeal in accordance with the statute; but they were dissuaded from doing so by the representation of the collector of the port of Detroit. They have been persistent in endeavoring to have justice done to them and to secure the repayment of the tax illegally exacted from them.

Mr. MORRILL. Mr. President, when the Senator from Wisconsin states that this body is one that does not pay any attention to precedent——

Mr. CAMERON, of Wisconsin. The Senator will allow me a moment. The case that I referred to was decided in the circuit court of the United States for the seventh circuit at Chicago by Judge Drummond. The Government acquiesced in that decision. It took no appeal. It admitted that the construction given to the statute by the court was correct, and it has since, as I am informed, conformed to that decision.

Mr. MORRILL. Mr. President, I rather regretted to hear the Senator from Wisconsin state that this was a body that paid no attention to precedent, for it would seem to include him at least, as chairman of the Committee on Claims, as one of those who paid no attention to the precedents of this body.

This particular claim of $400 is about a sample of many of those that come before us. They are first sent to one committee, and if they get an adverse report then the partisans of the claim seek out some other committee where they may obtain a more favorable consideration. This claim was sent years ago to the Committee on Finance and reported upon adversely and the bill was rejected. I confess that once since then when the bill was before the Finance Committee, by the importunity of some gentleman—I think a Senator from Michigan, it being known that the committee would report upon it adversely—the good nature of the committee was so far overcome as to withhold any report and let the bill die in committee.

This claim is one of those classes of claims that rest upon the regular proceedings of the claimant at the time. It is necessary for any claimant for a refund of duties to take an appeal and prosecute it. If we pass this claim, then we overrule the existing law, and that law bars numerous claims, as asserted by the Senator from Missouri, from consideration.

Mr. CAMERON, of Wisconsin. Will the Senator from Vermont allow me there?

Mr. MORRILL. Certainly.

Mr. CAMERON, of Wisconsin. If these claimants had a legal remedy it would not be necessary for them to come to Congress, and so it is with all other claimants. Claimants who come to Congress come

because they have no legal remedy in the courts or before any judicial tribunal, but they claim that they have an equitable right and one which ought to be recognized by the law-making power of the country.

Mr. MORRILL. But this claim comes here and can not pass unless we break down one of the leading statutes in relation to the government of the Treasury Department.

I wish to say also that if this claim had been submitted to any Secretary of the Treasury that we have had for twenty years he would have acted adversely upon it.

Mr. CAMERON, of Wisconsin. Of course the Secretary of the Treasury would. He had no authority to pay it.

Mr. MORRILL. The Secretary of the Treasury is bound to obey the law.

Mr. CAMERON, of Wisconsin. Certainly.

Mr. MORRILL. And the law that we have made about this matter is one of general propriety. We can not get along at all without such a law to bar these claims. Now, this claim comes up here fourteen years old. The claim amounts to only $400. Is it to be supposed that a claim of that kind would be so persistently pursued here in the face of the many adverse reports that have been made against it if there was not something more behind it, if there were not other and larger claims that would be admitted upon the payment of this?

Mr. President, I should think it very unwise for us to pass favorably upon this claim after the treatment it has had for the last fourteen years in the Senate.

Mr. CONGER. Mr. President, in less than six months after these proceedings before the collector of customs in Detroit, and in less than six months after the written decision and opinion of the Treasury Department which prevented the appeal being taken when read to Hawley & Sons, the Department acknowledged the correctness of the decision of the court, as they were bound to do, and from that day to this the importations of malt, to the extent of hundreds of thousands, if not millions of dollars, from Canada have been admitted without charging for the one cent a pound export duty.

Within six months the Department and the courts said that the Treasury decision was wrong and that money was exacted from these importers contrary to law; and not only exacted contrary to law, but by the action of the collector himself, not intentionally, but in fact misleading these claimants as to their rights and as to the probable decision of the Treasury Department upon their appeal, so as to prevent their appeal.

To Hawley & Sons, great importers of barley and of malt, the $400 may not be material; but to Hawley & Sons, and to every other citizen of the United States, the collection of a tax contrary to law, enforced contrary to the subsequent decision of the courts, is important; and any good citizen is willing to present his claim to Congress where the law itself has been violated by an erroneous construction, and he may come to the Senate of the United States notwithstanding the dignity of my friend from Vermont and his adhesion to precedents, and ask this Government to do right by him. That is what Congress is for; and this Senate is the body which should take up and do right in this and in every other case where the law has been strained to an improper purpose and taxes collected of the citizen improperly, as appears by the decision of the courts and by the subsequent decision of the Treasury Department itself. That is all that is asked here.

Why, sir, our Committee of Ways and Means will not take these claims, and they report unfavorably because they come before them. They say, "It is a new claim: the matter has not been where the Secretary of the Treasury could pay the money according to law, and if it is a claim it must go to the Committee on Claims." That is what my venerable friend tells me when I go to him, that that committee ought not to allow such a bill to pass from them. They deal with money which may be in the Treasury as a thing pending where the law authorizes them to decide that the money should be paid.

Mr. MORRILL. Will the Senator yield to me for a moment?

Mr. CONGER. And if the claim is a past claim, it must go through the Committee on Claims and not the Committee on Finance.

Mr. MORRILL. I merely desire to say to the Senator that claims for the refund of duties have been heretofore usually referred to the Committee on Finance.

Mr. CONGER. I know, and the Committee on Finance, or the guardian of that committee and the guardian of the Treasury, in the person of my friend from Vermont, has invariably, especially of late years, said, "That is an old claim; let it go to the Committee on Claims." To me and every other man who comes before the Finance Committee to urge such a claim as this they say, "It is an old claim; go to the Committee on Claims; there is no money to meet it now; there must be an appropriation." That is what I am told, when I go to the chamber of the Committee on Finance, by its venerable chairman. He turns me away, with courtesy enough, with kindly manner enough, but he holds before me the rule of the committee of which he is chairman, forbidding him to listen even to a just and equitable claim before that committee, because we have another committee that manages that kind of thing.

Mr. MORRILL. I do not remember that my handsome and juvenile friend ever appeared before the Committee on Finance with a claim.

Mr. CONGER. I know the forgetfulness in that is the same as the forgetfulness about the allowance of this kind of claims before. I do not impute it as a fault. I think the memory my friend has now is remarkable. He is always lively and wide-awake to watch the Treasury. His whole life, his whole political and Senatorial life, is tinctured with that grand success by which he became the nominal father, not only the putative father but the nominal recognized father, of that method which he proposed and which was adopted by Congress of bringing money into the Treasury, the "Morrill tariff bill," and with reasonable pride he may say, "My place in this world and in Congress and in the Senate is to crowd money into the Treasury, and by consequence my place is to stand and guard the door so that none shall come out, no matter how I have got it in." That is a position which any member of the Senate might envy.

There is something serious in what I am charging the chairman of the Committee on Finance with as far as I dare make any allusion to him or find any fault whatever with his course here, for it is so uniformly for the right that I wonder at its being wrong now. What does he care about taking out these $400 from the Treasury as long as that bill, which pours in millions and millions more than we can use, remains on the statute-book?

Sir, I conclude by saying that by the reports of committees, by the history of this case, by the knowledge of it which I had personally while a member of the other House—introducing bills there, the first, I think, after this decision and after this money was secured, to have it repaid—it is plain that the judgment of the House on a full statement of the facts thirteen years ago was that it ought to be paid. Then we have the affirmative and favorable reports of a House committee from that time to this on two or three or more occasions; and against it there is only the report of one committee, which itself says it has no power to meet such claims, and therefore throws them aside whenever they come before it. I present this case on its own merits, and I say, much as I oppose drawing from the Treasury by speculation or by any improper means any moneys that have come there through the law, that this case, from my knowledge of it for so many years and my examination of it, is a case where the money ought to be refunded; where the Treasury Department has said so; where the courts of the United States have said it ought to be refunded; where the House of Representatives has said so by the passage of a bill; where different committees have reported favorably upon it, and where, in my judgment, the careful examination of any man upon the statement of the facts would see that the equities are all with the claimants in this case.

[Several messages in writing of an executive character were received from the President of the United States by Mr. O. L. PRUDEN, one of his secretaries.]

Mr. HALE. Mr. President, I move that the Senate proceed to the consideration of executive business.

The PRESIDENT *pro tempore*. The Senator from Maine moves that the Senate do now proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After eight minutes spent in executive session the doors were reopened, and (at 1 o'clock and 40 minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, *December* 4, 1884.

The House met at 12 o'clock m. Prayer by the Chaplain, Rev. JOHN S. LINDSAY, D. D.

The Journal of yesterday's proceedings was read and approved.

ORDER OF BUSINESS.

Mr. DUNN. I ask unanimous consent that the regular order be suspended in order that the States and Territories may be called for the introduction of bills and resolutions for reference.

There being no objection, it was ordered accordingly.

The SPEAKER. The Chair, before proceeding to execute the order just made, will, if there be no objection, lay before the House several executive communications.

There was no objection.

SUSPENDED ENTRIES OF PUBLIC LANDS.

The SPEAKER laid before the House a letter from the Secretary of the Interior, transmitting a list of suspended entries of public lands acted on by the Commissioner of the General Land Office in the year ending June 30, 1884; which was referred to the Committee on the Public Lands, and ordered to be printed.

STATUE OF PRESIDENT GARFIELD.

The SPEAKER also laid before the House a letter from the Secretary of War in relation to the site for the statue of the late President James A. Garfield; which was referred to the Committee on the Library, and ordered to be printed.

ANNUAL REPORT OF ATTORNEY-GENERAL.

The SPEAKER also laid before the House the annual report of the

Attorney-General of the United States for the year 1884; which was referred to the Committee on the Judiciary, and ordered to be printed.

ANNUAL REPORT OF SECRETARY OF THE TREASURY.

The SPEAKER also laid before the House the annual report of the Secretary of the Treasury on the state of the finances for the year 1884; which was referred to the Committee on Ways and Means, and ordered to be printed.

LEAVE OF ABSENCE.

Mr. NICHOLLS, by unanimous consent, obtained leave of absence until Wednesday next, on account of important business.

ORDER OF BUSINESS.

The SPEAKER. The Chair will now proceed, in pursuance of the order of the House, to call the States and Territories for the introduction of bills and resolutions for reference.

Mr. WARNER, of Ohio. I suggest that the execution of this order might be postponed for awhile, as many members who have bills to introduce are not now in their seats.

The SPEAKER. The order has already been made by unanimous consent.

COURT OF APPEALS.

Mr. OATES introduced a bill (H. R. 7512) to establish a court of appeals; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

MARGARET B. HARWOOD.

Mr. ROGERS, of Arkansas, introduced a bill (H. R. 7513) granting a pension to Margaret B. Harwood, widow of Rear-Admiral Andrew A. Harwood; which was read a first and second time, referred to the Committee on Pensions, and ordered to be printed.

GEORGE W. PHILLIPS.

Mr. PEEL introduced a bill (H. R. 7514) to pay George W. Phillips, of Madison County, Arkansas, for property taken from him by the United States Army in the late war; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

A. J. WOOLUM.

Mr. PEEL also introduced a bill (H. R. 7515) to pay A. J. Woolum for carrying United States mails from Blue Mountain, Ala., to Rome, Ga., in 1865, by order of the military authority of the United States; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

CHARLES CROWELL.

Mr. PEEL also introduced a bill (H. R. 7516) to pay Charles Crowell for property taken from him by the United States Army during the late war; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

MARION D. STEEL.

Mr. PEEL also introduced a bill (H. R. 7517) to pay Marion D. Steel for property taken from him by the United States Army during the late war; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

ARKANSAS RIVER COMMISSION.

Mr. DUNN introduced a bill (H. R. 7518) to provide for the creation of the Arkansas River commission, and for other purposes; which was read a first and second time, referred to the Committee on Rivers and Harbors, and ordered to be printed.

CHINESE IMMIGRATION.

Mr. GLASCOCK introduced a bill (H. R. 7519) to declare the meaning of certain provisions of the Chinese restriction act of 1884, and for other purposes; which was read a first and second time, referred to the Committee on Foreign Affairs, and ordered to be printed.

APPLICATION OF SURPLUS REVENUE.

Mr. MORRISON introduced a bill (H. R. 7520) to apply surplus revenue in excess of $100,000,000 to the payment of United States bonds redeemable at the pleasure of the Government; which was read a first and second time, referred to the Committee on Ways and Means, and ordered to be printed.

PUBLIC BUILDING IN PEORIA, ILL.

Mr. WORTHINGTON introduced a bill (H. R. 7521) to amend an act entitled "An act to provide for the erection of a public building in the city of Peoria, in the State of Illinois," approved May 9, 1882; which was read a first and second time, referred to the Committee on Public Buildings and Grounds, and ordered to be printed.

JOSEPH F. WILSON.

Mr. WORTHINGTON also introduced a bill (H. R. 7522) for the relief of Joseph F. Wilson; which was read a first and second time, referred to the Committee on Private Land Claims, and ordered to be printed.

DUTIES OF SUPERVISING ARCHITECT.

Mr. STOCKSLAGER introduced a bill (H. R. 7523) defining the duties of the Surpervising Architect, and for other purposes; which was read a first and second time, referred to the Committee on Public Buildings and Grounds, and ordered to be printed.

LAVISA HETH.

Mr. STOCKSLAGER also introduced a bill (H. R. 7524) for the relief of Lavisa Heth, widow of Wilford S. Heth, late a private in Company F, Forty-ninth Indiana Volunteers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JACOB GING.

Mr. STOCKSLAGER also introduced a bill (H. R. 7525) for the relief of Jacob Ging; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

DISTINCTIONS IN THE MILITARY SERVICE.

Mr. BROWNE, of Indiana, introduced a bill (H. R. 7526) to hereafter prohibit distinctions being made in the military service of the United States against any class of American citizens; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

MELVIN M. DAVIS.

Mr. MATSON introduced a bill (H. R. 7527) for the relief of Melvin M. Davis; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

DAVID WARD.

Mr. MATSON also introduced a bill (H. R. 7528) for the relief of David Ward; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

E. D. PARTRIDGE.

Mr. HOLMES introduced a bill (H. R. 7529) granting a pension to E. D. Partridge; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

PREVENTION OF WHISKY FRAUDS.

Mr. THOMPSON, of Kentucky, introduced a bill (H. R. 7530) to further secure the Government against fraud in the sale of whisky and the public against duplicate warehouse receipts; which was read a first and second time, referred to the Committee on Ways and Means, and ordered to be printed.

JOHN H. MERRILL.

Mr. REED (by request) introduced a bill (H. R. 7531) for the relief of John H. Merrill; which was read a first and second time, referred to the Select Committee on Payment of Pensions, Bounty, and Back Pay, and ordered to be printed.

MARTHA A. F. TERRITT.

Mr. FINDLAY introduced a bill (H. R. 7532) for increase of pension of Martha A. F. Territt; which was read a first and second time, referred to the Committee on Pensions, and ordered to be printed.

CONDEMNED GUN-CARRIAGES FOR MONUMENTAL PURPOSES.

Mr. MORSE introduced a bill (H. R. 7533) authorizing the Secretary of War to deliver to the Somerville Grand Army of the Republic, of Somerville, Mass., condemned gun-carriages, to be used for monumental purposes; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

MRS. E. L. NOTT.

Mr. LONG introduced a bill (H. R. 7534) granting a pension to Mrs. E. L. Nott; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

SPECIAL DEPUTY MARSHALS AT ELECTIONS.

Mr. DOCKERY introduced a bill (H. R. 7535) to repeal all acts and parts of acts authorizing the appointment of special deputy marshals at the polls; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

SUPERVISORS OF ELECTION.

Mr. DOCKERY also introduced a bill (H. R. 7536) to repeal all acts and parts of acts authorizing the appointment of supervisors of elections; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

BURDENS ON AMERICAN MERCHANT MARINE.

Mr. COX, of New York, introduced a bill (H. R. 7537) to amend the tenth section of "the act to remove certain burdens on the American merchant marine," &c.; which was read a first and second time, referred to the Select Committee on American Ship-building and Ship-owning Interests, and ordered to be printed.

CONTINUATION OF CENSUS WORK.

Mr. COX, of New York, also introduced a joint resolution (H. Res. 289) authorizing the Superintendent of the Census to continue the work of the Tenth Census; which was referred to the Committee on the Census, and ordered to be printed.

ACTING REAR-ADMIRALS.

Mr. COX, of New York, also submitted the following resolution; which was referred to the Committee on Naval Affairs:

Resolved, That the President be requested to furnish this House, as early as convenient, with the necessary information showing the authority of law by which certain commodores of the Navy have been given the rank of acting rear-admirals when, as is alleged, no vacancy existed to justify such action.

RELATIONS WITH MEXICO.

Mr. COX, of New York, also submitted the following resolution; which was referred to the Committee on Foreign Affairs, and ordered to be printed:

Resolved, That the President be requested to communicate to this House, if in his opinion not incompatible with the public service, any correspondence or other information in his possession or in the possession of any of the Departments in regard to the present condition of our relations with our sister republic the United States of Mexico.

MARY F. BLAKE.

Mr. HEWITT, of New York, introduced a bill (H. R. 7538) granting an increase of pension to Mary F. Blake; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

ARREST OF AMERICAN CITIZENS.

Mr. ROBINSON, of New York, submitted the following resolution; which was referred to the Committee on Foreign Affairs, and ordered to be printed:

Resolved, That inasmuch as this House has the right and the desire, never yet fully granted or gratified, to obtain full information concerning the imprisonment of all American citizens recently arrested and imprisoned by the British Government as "suspects," the President is hereby requested to communicate in full to this House all correspondence, by mail, telegram, and cable, whether in cipher or otherwise, between the State Department and our minister at London, and between the Department, our minister, and our consuls, to and from each other, and to and from the persons so arrested and imprisoned, claiming to be American citizens—concerning the arrest and imprisonment more particularly of the following American citizens, to wit, Michael P. Boyton, William Brophy, Joseph Dalton, James F. Daly, M. B. Fogerty, John L. Gunon, Henry George, Michael Hart, M. Hickey, James Lynam, John R. McCormick, John McEnery, Daniel McSweeny, D. Hayes O'Connor, Henry O'Mahony, Philip O'Sullivan, Patrick Slattery, Joseph B. Walsh, and James L. White, and any others whose cases are known in the Department of State, with the dates of their several arrests, the specific charges, if any, against each, the dates when the attention of our minister or consuls was called thereto, the demands, if any, with dates, made for their trial or release, as provided in the law of July 27, 1868, the answers made thereto, the dates of their final release, with reasons therefor; whether any one of them was ever brought to trial or found guilty; whether any demand for apology or indemnity has been made by any one of these citizens, or by their Government, for their unjust and lengthened imprisonment; what reply was made to the instructions given to our minister, as stated by the Secretary of State under date of August 5, 1882, the latest information vouchsafed to this House on this subject, when four of our citizens were still held without accusations because they refused to accept their release on degrading conditions, to wit, O'Mahony, McSweeny, Slattery, and Gunon, of whose release we have even now no official information; and that the President is hereby requested to communicate to this House the telegram the publication of which at the last-mentioned date the Secretary informed us was not "deemed compatible with the public interest."

DISTRICT OF COLUMBIA LOTS.

Mr. SPRIGGS (by request) introduced a bill (H. R. 7539) authorizing the District of Columbia to convey the alley, fifteen feet wide, running east and west between lots 6 and 7, in square 635, comprising an area of 3,480 square feet of land, to the owner of said lots, &c.; which was read a first and second time, referred to the Committee on the District of Columbia, and ordered to be printed.

MICHAEL P. SMALL.

Mr. ADAMS, of New York, introduced a bill (H. R. 7540) for the relief of Michael P. Small, United States Army; which was read a first and second time, referred to the Committee on Claims, and ordered to be printed.

ACCOUNTS OF POSTMASTERS, ETC.

Mr. VANCE introduced a bill (H. R. 7541) making an appropriation to pay accounts of postmasters adjusted under the act of March 3, 1883, and for compensation of ten temporary clerks to be employed in adjusting claims under said act from January 1, 1885, to June 30, 1885; which was read a first and second time, referred to the Committee on Appropriations, and ordered to be printed.

GEORGE W. COLE.

Mr. VANCE also introduced a bill (H. R. 7542) for the relief of George W. Cole; which was read a first and second time, referred to the Committee on Claims, and ordered to be printed.

A. J. LOFTIS.

Mr. VANCE also introduced a bill (H. R. 7543) for the relief of A. J. Loftis; which was read a first and second time, referred to the Committee on Claims, and ordered to be printed.

THOMAS A. WESTON.

Mr. VANCE also introduced a bill (H. R. 7544) for the relief of Thomas A. Weston; which was read a first and second time, referred to the Committee on Patents, and ordered to be printed.

FURNIFOLD MERCER.

Mr. O'HARA introduced a bill (H. R. 7545) for the relief of Furnifold Mercer, of Jones County, North Carolina; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

K. R. PENDLETON.

Mr. SKINNER, of North Carolina, introduced a bill (H. R. 7546) for the relief of K. R. Pendleton; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

ELISHA COLBERT.

Mr. SKINNER, of North Carolina, also introduced a bill (H. R. 7547) for the relief of Elisha Colbert; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

UNION SOLDIERS, ETC.

Mr. JOSEPH D. TAYLOR introduced a bill (H. R. 7548) to prohibit the removal of any honorably discharged Union soldier, sailor, or marine, or the widow or dependent relative of any deceased Union soldier, sailor, or marine, from any office in the civil service of the United States, except for specified causes; which was read a first and second time, referred to the Select Committee on Reform in the Civil Service, and ordered to be printed.

GOVERNMENT ARCHITECT.

Mr. HOPKINS introduced a bill (H. R. 7549) to establish the office of Government Architect and provide for the construction, inspection, preservation, alteration, and repair of public buildings; which was read a first and second time, referred to the Committee on Public Buildings and Grounds, and ordered to be printed.

Mr. HOPKINS also introduced a bill (H. R. 7550) to establish the office of Government Architect; which was read a first and second time, referred to the Committee on Public Buildings and Grounds, and ordered to be printed.

CATHOLIC CHURCH, CARROLLTOWN, PA.

Mr. CAMPBELL, of Pennsylvania, introduced a bill (H. R. 7551) admitting free of duty an altar and church regalia for the Catholic church at Carrolltown; which was read a first and second time, referred to the Committee on Ways and Means, and ordered to be printed.

JOSEPH H. POTTS.

Mr. HARMER introduced a bill (H. R. 7552) granting an increase of pension to Joseph H. Potts, late acting second assistant engineer of the United States Navy; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

PHINEAS GOODWIN.

Mr. BRUMM introduced a bill (H. R. 7553) granting a pension to Phineas Goodwin; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JAMES W. ROULSTON.

Mr. DIBRELL introduced a bill (H. R. 7554) for the relief of James W. Roulston; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

THOMAS M'CARDELL.

Mr. BARBOUR introduced a bill (H. R. 7555) for the relief of Thomas McCardell; which was read a first and second time, referred to the Committee on Claims, and ordered to be printed.

SALE OF MALT AND OTHER LIQUORS, DISTRICT OF COLUMBIA.

Mr. BARBOUR (by request) also introduced a bill (H. R. 7556) to regulate the manufacture and sale of spirituous liquors in the District of Columbia; which was read a first and second time, referred to the Committee on the District of Columbia, and ordered to be printed.

SALE OF CERTAIN PROPERTY, DISTRICT OF COLUMBIA.

Mr. BARBOUR (by request) also introduced a bill (H. R. 7557) to provide for the sale of certain real property in the District of Columbia, and for other purposes; which was read a first and second time, referred to the Committee on the District of Columbia, and ordered to be printed.

DISTRICT OF COLUMBIA JAIL.

Mr. BARBOUR (by request) also introduced a bill (H. R. 7558) relating to persons sentenced to jail in the District of Columbia; which was read a first and second time, referred to the Committee on the District of Columbia, and ordered to be printed.

CODIFICATION OF STATUTES.

Mr. BARBOUR (by request) also introduced a bill (H. R. 7559) to correct errors in the codification of statutes and the supplement thereto; which was read a first and second time, referred to the Committee on the Revision of the Laws, and ordered to be printed.

WILLIAM PORMANN.

Mr. DEUSTER introduced a bill (H. R. 7560) for the relief of William Pormann, late of Company I, Forty-eighth Wisconsin Infantry; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

GEORGE F. WEST.

Mr. JONES, of Wisconsin, introduced a bill (H. R. 7561) to allow a

pension to George F. West; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

WILLIAM W. WIGGINS.

Mr. JONES, of Wisconsin, also introduced a bill (H. R. 7562) to increase the pension of William W. Wiggins, Company E, Fifth Wisconsin Infantry, from $30 to $50 per month; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

P. C. DAVIS.

Mr. OURY (by request) introduced a bill (H. R. 7563) for the relief of P. C. Davis; which was read a first and second time, referred to the Committee on Indian Affairs, and ordered to be printed.

BVT. MAJ. GEN. WILLIAM W. AVERELL.

Mr. MAGINNIS introduced a bill (H. R. 7564) for the relief of Bvt. Maj. Gen. William W. Averell, United States Army; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

JOSEPH H. POTTS.

Mr. MANZANARES (by request) introduced a bill (H. R. 7565) granting an increase of pension to Joseph H. Potts; which was read a first and second time, referred to the Committee on Pensions, and ordered to be printed.

ASSOCIATE JUSTICES IN THE TERRITORIES.

Mr. BRENTS introduced a bill (H. R. 7566) to amend an act entitled "An act providing for two additional associate justices of the supreme court of the Territory of Dakota, one additional associate justice of the supreme court of the Territory of Washington, and for other purposes," approved July 4, 1884; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

MAJ. MICHAEL P. SMALL.

Mr. ROSECRANS introduced a bill (H. R. 7567) for the relief of Maj. Michael P. Small; which was read a first and second time, referred to the Committee on Claims, and ordered to be printed.

ADMISSION OF CERTAIN ARTICLES FREE OF DUTY.

Mr. DUNHAM introduced a joint resolution (H. Res. 290) providing for the admission of articles from foreign countries placed on exhibition at the world's exposition of the arts, &c., by the colored race, to be held in Chicago in September, 1885; which was read a first and second time, referred to the Committee on Ways and Means, and ordered to be printed.

WATERMAN CLIFT AND ROBERT MAY.

Mr. WAIT introduced a bill (H. R. 7568) for the relief of Waterman Clift and Robert May; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

IMMEDIATE TRANSPORTATION OF DUTIABLE GOODS.

Mr. GEORGE introduced a bill (H. R. 7569) to amend an act entitled "An act to amend the statutes in relation to the immediate transportation of dutiable goods, and for other purposes," approved June 10, 1880; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

PUBLIC BUILDING, BROOKLYN, N. Y.

Mr. JAMES introduced a bill (H. R. 7570) to change the limit of the appropriation for the public building at Brooklyn, N. Y.; which was read a first and second time, referred to the Committee on Public Buildings and Grounds, and ordered to be printed.

CORNELIA V. BLACKMAN.

Mr. PETERS introduced a bill (H. R. 7571) granting a pension to Cornelia V. Blackman; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

AMOS M'DOWELL.

Mr. PETERS also introduced a bill (H. R. 7572) granting a pension to Amos McDowell; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

DAVID M'KINNEY.

Mr. PETERS also introduced a bill (H. R. 7573) granting a pension to David McKinney; which was read a first and second time, referred to the Committee on Pensions, and ordered to be printed.

PROMOTIONS IN THE ARMY.

Mr. SPRINGER (by request) introduced a bill (H. R. 7574) to facilitate promotions throughout the Army by retiring from active service upon their own application officers of the Army who served in the war of the rebellion; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

RETIRING OF ARMY OFFICERS.

Mr. SPRINGER (by request) also introduced a bill (H. R. 7575) to enable officers of the Army who were promoted for gallant and distinguished services in the war of the rebellion to be retired with the rank and full pay of the grade to which they were so promoted; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

COL. B. H. GRIERSON.

Mr. SPRINGER also introduced a bill (H. R. 7576) to correct and complete the record of Col. B. H. Grierson, United States Army; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

SARATOGA MONUMENT.

Mr. WEMPLE. I ask unanimous consent to take from the Speaker's table the bill S. 1309, to provide statuary and historical tablets for the Saratoga monument.

The bill was read, as follows:

Be it enacted, &c., That the sum of $40,000 be, and the same hereby is, appropriated, out of any money in the Treasury not otherwise appropriated, to be expended by the Saratoga Monument Association in statuary and historical tablets within and upon the monument now erected at Schuylerville, N. Y., commemorative of Burgoyne's surrender.

SEC. 2. That said money shall be paid by the Secretary of the Treasury to the said association upon the certificate and receipt of the president of the association.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. REAGAN. If the bill can be voted on without debate there will be no objection so far as I am concerned.

There being no objection, the bill was ordered to be read a third time; and it was accordingly read the third time, and passed.

Mr. WEMPLE moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

By unanimous consent, leave was granted to Mr. WEMPLE, and to Mr. COX of New York, to have printed in the RECORD remarks on the bill just passed. [See Appendix.]

FIRST NATIONAL BANK OF LARNED, KANS.

Mr. HENDERSON, of Iowa. I ask unanimous consent to take from the House Calendar for present consideration the bill (H. R. 5747) to authorize the increase of the capital stock of the First National Bank of Larned, Kans., not to exceed $250,000.

The bill was read, as follows:

Be it enacted, &c., That the First National Bank of Larned, located in the city of Larned, in the State of Kansas, is hereby authorized to increase its capital stock, in accordance with existing laws, to any sum not exceeding $250,000, notwithstanding the limit heretofore fixed in its original articles of association and determined by the Comptroller of the Currency; and the Comptroller of the Currency is hereby authorized to fix the limit of increase of the capital stock of the First National Bank of Larned, Kans., at the amount of $250,000.

There being no objection, the bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. HENDERSON, of Iowa, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ADMINISTRATION OF OATHS BY NOTARIES PUBLIC.

Mr. ADAMS, of New York. I ask unanimous consent to take from the House Calendar for present consideration the bill (H. R. 6865) to amend section 2805 of the Revised Statutes of the United States so as to allow oaths to be administered by notaries public in the district of New York. This is a bill merely to allow notaries public to administer oaths.

The bill, which was reported with amendments by the Committee on the Judiciary, was read as proposed to be amended. It is as follows:

Be it enacted, &c., That section 2805, of the Revised Statutes of the United States be, and the same hereby is, amended so that the said section shall read as follows:

"SEC. 2805. All oaths to be taken upon making of any of the reports or entries or respecting any of the acts mentioned in this chapter, whether by a master of any vessel or the owner or consignee of any merchandise, his factor or agent or by any other person, shall be administered by the collector or officer to or with whom the report or entry is made or by any notary public, and shall be reduced to writing and subscribed by the person taking and by the person administering the oath."

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. REAGAN. If a vote can be taken on the bill no objection will be made. If there is to be debate, I will have to call for the regular order.

Mr. BROWNE, of Indiana. Has the bill been reported by a committee?

Mr. COLLINS. It has been reported unanimously by the Committee on the Judiciary.

The amendments proposed by the Committee on the Judiciary were agreed to, and the bill as amended was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

The title was amended so as to read: "A bill to amend section 2805 of the Revised Statutes of the United States so as to allow oaths to be administered by notaries public."

Mr. ADAMS, of New York, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

DENTON & SAGE.

Mr. DUNHAM. I ask unanimous consent to take from the Private Calendar and put upon its passage the bill (H. R. 1735) to refund to Denton & Sage, of Chicago, Ill., the sum of $1,549.67 duties paid on sixty hogsheads of sugar destroyed in the great Chicago fire.

The bill was read.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. BAGLEY. I object.

Mr. DUNHAM. If the gentleman from New York will allow me I would like to explain the bill.

Mr. BAGLEY. I call for the regular order.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted indefinitely to Mr. CONNOLLY, on account of serious affliction in his family.

PRINTING OF PRESIDENT'S MESSAGE.

Mr. ROGERS, of New York. I desire to make a privileged report from the Committee on Printing.

The report was read, as follows:

The Committee on Printing, to whom was referred the following resolution—"*Resolved*, That there be printed —— thousand copies of the President's last annual message for the use of the House"—

have considered the same, and recommend the printing of 25,000 copies for the use of the House. With this amendment, the committee recommend the adoption of the resolution. The estimated cost of printing will be about $475.

The amendment filling the blank so as to provide for the printing of 25,000 copies was agreed to.

The resolution as amended was adopted.

Mr. ROGERS, of New York, moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MESSAGE FROM THE PRESIDENT.

A message in writing from the President of the United States was communicated to the House by Mr. PRUDEN, one of his secretaries.

ORDER OF BUSINESS.

The SPEAKER. The regular order of business, unless the special order is called up——

Mr. REAGAN. I do call up the special order, as I understand that the gentleman from Kansas [Mr. ANDERSON], who is entitled to the floor, is ready to proceed.

INTERSTATE COMMERCE.

The SPEAKER. The House now resumes the consideration of the bill (H. R. 5461) to establish a board of commissioners of interstate commerce and to regulate such commerce. The gentleman from Kansas [Mr. ANDERSON] is entitled to the floor.

Mr. ANDERSON. Mr. Speaker, in common with members generally, the promptness with which this bill has been taken up for consideration after the recess finds me unprepared to present such facts and in such form as I should like and as the importance of the subject merits. I would much prefer time for further investigation, and also for a more careful presentation of the matter than is possible in extemporaneous speaking.

Interstate commerce embraces all traffic and travel between States, and touches every article and animal raised on the farm which is not consumed in the State where produced, and every manufactured article which is not finally used near the factory, in this whole nation. The result is that the question as to the reasonableness of freight charges is one which affects every man in America who raises and sells or buys and uses almost anything.

MAGNITUDE OF THE RAILWAY TRAFFIC OF THE UNITED STATES.

The magnitude of the traffic may be stated, or rather hinted at, in figures, but can not be realized. There were at the close of the calendar year 1883 121,592 miles of railroad in the United States, of which 120,552 miles had been completed at the close of the fiscal year of the companies. The average mileage operated was 110,414 miles. The amount of money alleged to be invested in these roads is stated as being in share capital $3,708,060,583; in funded debt, $3,455,040,383; in floating debt, $332,370,345; making a total of $7,495,471,311. The service performed by these corporations during that period consisted in transporting 312,686,641 passengers, or more than six times the total population of the United States in 1880; for the performance of which work the companies received $215,287,824.

And it is interesting by way of comparison to notice the difference in the rate of charge in the different groups of roads. For the purpose of comparison reduce the passenger traffic in each group to the equivalent number of persons hauled one mile, as is customary in railway statistics, and you will find that in New England there were 1,187,719,657 passengers moved one mile at a charge of 2.15 cents each; in the Middle States 2,489,766,204 persons moved at a charge of 2.17 cents each. Now, the number moved in the Western group of States was still larger, being 3,834,082,895, but the charge was still higher per passenger, being 2.56 cents. In the Southern group there were 613,891,085 persons, at 2.82 cents; and in the Pacific group 415,849,833, at 2.84 cents. So that the total passenger traffic of the United States in that year was equivalent to 8,541,309,674 persons moved one mile at a charge of 2.42 cents each.

Coming to the more important element of traffic, that of freight, we find the whole number of tons moved that year by railroad to have been 400,453,439, probably worth $15,000,000,000, for the performance of which service the companies received $549,756,694. Reducing the distance which this freight was carried to its equivalent of tons moved one mile, and we have 44,064,923,445, at an average charge of 1.24 cents per ton per mile I give here the statistics of the separate groups: The number of tons moved one mile in the New England States was 1,807,112,979, at a charge of 1.7 cents per ton per mile; in the Middle States, 16,100,054,154 tons, at a charge of 1.04 cents; in the Southern, 2,546,941,900, at 1.78 cents; in the Western, 22,548,598,390, at 1.23 cents; in the Pacific group, 1,062,216,022, at a charge of 2.2 cents. It will be noticed that though the volume of traffic in the Western group is greater than that of the Middle group the rate is higher.

Any one, Mr. Speaker, who will examine these and kindred facts, as presented in Poor's Manual of 1884, will find the greatest inequality in charges in the several groups, and that of itself is a question fairly challenging the attention of this House. The gross receipts of these roads were $823,772,924; an increase of $53,563,025 over the previous year. Their net earnings were $336,911,884. Of this latter amount they paid interest $173,139,064 and dividends $102,052,548. I also quote a statement of the gross and net earnings per mile for the last five years, which may be of value:

Earnings per mile of road.

Year.	Gross.	Net.
1879	$6,652	$2,761
1880	7,475	3,318
1881	7,548	3,078
1882	7,377	3,005
1883	7,461	3,051

THE RAILROADS PAYING 10 PER CENT. PROFIT ON THEIR PRESENT VALUE.

Now the profit on the capital actually invested, that is, on the real worth of the roads, was not less than 9 and probably over 10 per cent. I am aware that the esteemed gentleman from Massachusetts [Mr. LONG] yesterday left the impression, at least on my mind, that this profit was only about 3 per cent. I suppose he meant on the amount of the face value of the bonds and stocks. His language was:

Look at some of the figures. The $6,000,000,000 or more invested in the 125,000 miles of railroads in the United States pay only about 3 per cent. to their stockholders.

The inference naturally follows that the charges of the roads must necessarily be so low as to be wholly reasonable. In contravention of this proposition I shall cite the highest of all authorities on railroad statistics, Poor's Manual, to show that the amount of money actually to-day invested in these roads and the amount of earnings reported will indicate a profit to them of at least 9 per cent. and perhaps over 10 per cent. Furthermore, the question as to what a road is really worth enters into the question as to what is a reasonable charge for the freight carried over it; and I maintain that a road is worth just what it can be duplicated for. Take any road in the United States—one reported, we will say, as having cost for its construction $100,000 a mile, but which could now be built for $25,000 a mile—and that road is worth to-day no more than $25,000, because it can be duplicated with this expenditure. It is entitled to charge a fair interest upon its actual worth, but in fact at this time, and for years past, the whole country is being taxed for the purpose of enabling men controlling these roads to draw 3 per cent. interest on double, treble, or quadruple the real value of the roads, by means of fictitious stocks. Let me quote two paragraphs bearing on this question:

The preceding statement shows that since 1880, a period of three years, there have been opened in the United States 28,405 miles of railroad, and that 6,091 miles were opened the past year up to the close of the fiscal years of the several companies. The increase of share capital and indebtedness of all the companies for the three years ending December 31, 1883, was $2,093,433,054, the cost of the new mileage as represented by share capital and debt being about $70,000 per mile. The increase in the three years of the funded debts of all the companies was $924,165,440; of their floating debts, $169,880,406; of the two, $1,094,045,846. It is not probable that the cost of the mileage constructed in the three years equaled the increase of funded and floating debts by at least the sum of $200,000,000. The cost of the mileage constructed certainly did not exceed $30,000 to the mile. The whole increase of share capital, $999,387,208, and a portion of the funded debt, was in excess of cost of construction.

Again:

If it be assumed that the cost in money of all the roads in operation in the United States in 1883 did not exceed, as it certainly did not, the amount of their funded and floating debts, $3,787,410,728, the actual investment was a most profitable one. The net earnings for the year were $336,911,884, a sum equaling about 9 per cent. on their cost. If the fictitious capital could be eliminated from

their accounts, their success as investments would have no parallel. If to net income be added the advantages that flow from them, the result would be a matter of especial wonder. Our railroads the past year transported over 400,000,000 tons of freight. At $25 the ton the value of this freight would equal $10,000,000,000.

THE FARMER PAYS THE FREIGHT ON WHEAT SHIPPED TO EUROPE.

Here, then, we have these corporations collecting from somebody over $823,000,000 during the last year, and in each year increasing the sum of their collections, and the pertinent question for us now is: Who pays that money?

I take as an illustration on this branch of the subject the one chosen by my colleague on yesterday, namely, the transportation of wheat; and I concur in his remarks, able, clear and convincing as they were, upon that point. Any difference between us is solely of judgment as to means, and not of spirit or final object. The price, as every one knows, of wheat, the great product of the farmers of the West, as is cotton that of the farmers of the South, is determined in Liverpool; simply for the reason that there England, acting as a buyer for those who must consume the surplus of all wheat-growers, has the benefit of competition between them. Assume, then, that after this competition the price of wheat in England is fixed at 100 cents a bushel. The price in New York will be about 88 cents a bushel, because it costs 12 cents a bushel to take it from New York to Liverpool. At Kansas City the price will be about 55 cents a bushel, since the roads charge 33 cents for carrying it from Kansas City to New York, and in my district the price will be 40 cents, for the reason that the roads charge 15 cents for carrying it to Kansas City from a point one hundred and fifty miles within the State of Kansas. Of course these figures also include the relatively small charges for commission, &c., say 2 cents.

Now, in response to the question as to who really pays that freight, it is perfectly clear that the farmer pays it. Because if his bushel of wheat were at Liverpool he would receive $1 for it, but being at Abilene he receives just what is the Liverpool price, less the cost of transportation to Liverpool. In other words, the farmer in my district who sells his wheat at 40 cents in accepting that price pays a freight rate of 60 cents a bushel for carrying it from Kansas to Liverpool.

THE PRESENT FREIGHT CHARGES EXTORTIONATE.

That raises, then, the question whether this charge is a reasonable charge. There is no one, Mr. Speaker, upon this floor who is not entirely willing to give to the common carrier a fair interest upon his investment and a fair compensation for the service performed by him, and I am the very last man to take any other position than that either here or anywhere. But in taking that position I take also the position that, at least in my own judgment, I would be recreant to my duty in consenting that these corporations, no matter what their power or what their wealth, should extort from the farmer even one mill more than that which is fair, reasonable, and just. Are they doing this? Let us see. We will take the charge of 15 cents for carrying a bushel of wheat one hundred and fifty miles in Kansas. You will find that the rate from Kansas City to New York is about two and a half cents per bushel per hundred miles, which, at the same proportion, would make the rate from Abilene to Kansas City about four cents per bushel.

But the actual charge, as I have said, is 15 cents. In other words, they charge 11 cents a bushel more for a one hundred and fifty mile haul than the rate at which they make a profit in carrying it from Kansas City to New York, and they excuse this increased charge upon the alleged grounds that a short haul costs more than a long one. Well, say it does, to a certain extent. But, bless my life, is it not longer from New York to the center of Kansas than it is from New York to the border of Kansas? And therefore are not these farmers entitled to the long-haul rate as distinguished from the short-haul rate? In my own judgment there is not a shadow of doubt that the 33-cent rate on wheat from Kansas City to New York is not less than 10 to 12 cents over and beyond a reasonable profit per bushel, and from Abilene to New York not less that from 20 to 24 cents beyond a fair profit.

Now, suppose that by a reduction of rates effected by legislation a difference in favor of the shipper of 20 cents had been made, what then? Why, the wheat that sold at Abilene at 40 would have sold at 60 cents per bushel manifestly. On the wheat crop of Kansas alone, say 48,000,000 bushels, a difference, say, of only 20 cents a bushel would amount to $9,600,000, and make just the difference between this profit to the farmer, enabling him to accumulate something for a rainy day, and that poverty which, receiving no profit, can accumulate nothing.

To show the rates charged by Eastern roads I quote a statement of the freight charged per ton per mile: On the New York Central, 9 mills; the Pennsylvania, 8 mills; Erie and Western, 7.8 mills; the Boston and Albany road, 1.19 cents. That is a Massachusetts road, and Massachusetts is a State where they rely upon "moral suasion," upon "publicity," upon the effect produced by a railroad commission which is not clothed with any particular power by law, and which chiefly desires only to turn up the wick of the lamp of truth in order that the light of "publicity" may be thrown upon the conduct of its railroads. And yet that road is charging a good deal more than other important roads. Contrast this Boston and Albany rate of 1.19 cents with Philadelphia and Erie, .69; Lake Shore and Michigan Southern, .73; Michigan Central, .83; and with Pittsburgh, Fort Wayne and Chicago, 8 mills per ton per mile.

THE SOUTHERN FARMER PAYS THE FREIGHT ON COTTON SHIPPED TO EUROPE.

But let us turn to the crop which is the great product of the South—cotton. Like wheat, its price is made in Europe. Eighty-four per cent. of the cotton used by all Europe last year was raised in the United States. During that year the whole of Europe used 6,930,000 bales, and received from the United States of that amount 4,497,000 bales. The crop in this country in 1882–'83 was 6,949,756 bales. It was raised from an acreage of 16,276,000, and was worth, I suppose, over $400,000,000. That is a crop which is almost universally marketed outside of the area of production. Ninety-six per cent. of the whole cotton crop of the South was sent to Northern mills and to foreign countries; 32 per cent., or 2,225,712 bales, being used in the United States, and the rest, or 68 per cent., being exported.

Now, it is quite clear that since the price of that article is determined in Europe, the cost of transporting it from the field to its final market is paid, not by the man who buys and ships the cotton, but by the man who raises the cotton, just as in the case of wheat; and therefore that, since the raiser of the cotton pays the freight, any difference in the amount of freight affects, of course, the amount of profit which he makes upon his crop. The following table shows the production of cotton by States:

	Bales.
Alabama	810,000
Arkansas	697,000
Florida	62,000
Georgia	942,000
Louisiana	560,000
Mississippi	1,064,000
North Carolina	463,000
South Carolina	630,000
Tennessee	337,000
Texas	1,326,000
All other States	66,000
	6,997,000

SHIPPERS NO LONGER PROTECTED AGAINST HIGH FREIGHTS BY COMPETITION BETWEEN RAILROADS.

We are often told that the great safeguard of the grower of products shipped by rail is the competition between carriers. It is alleged that competition is the safeguard of all trade; that almost from time immemorial this fact has been one of the laws of trade and recognized as a fundamental principle of political economy. And that statement was formerly correct. But any gentleman who will look at the effect which the building of railroads, which the employment of steam as a motor on water in the transportation of freight, which electricity, which the printing-press have had upon capital, upon labor, upon the great trade movements of the world, will find that these are factors which have very largely eliminated competition as a real force in commerce. And the question is to-day whether the farmer who raises wheat or who raises cotton, or any one else who is compelled to pay freights for rail transportation, actually possesses the safeguard of competition; whether the competition between the Pennsylvania Central and the Baltimore and Ohio and the New York and Erie and the New York Central, as rival carriers, secures to him the lowest rate at which the service can profitably be done.

What are the facts in regard to that? The canny Scotchman who invented, or at least used, the first locomotive and built the first railroad, enunciated a sound though in his day a ridiculed proposition when he stated that "where combination is possible competition is impossible." To-day that proposition has supplanted competition as a safeguard. If you will stop a moment to think of the extent to which combination has been carried and of the vast area over which competition has been abrogated you will be startled. Take one-half of this continent, that west of the Mississippi River; with the Northern Pacific, with the Union Pacific, with the Atchison, Topeka and Santa Fé, with the Texas Pacific, one would think that certainly so vast an area would in competition find a safeguard against all extortion by these companies. But what are the facts? Every single one of those roads is pooled with the others for the express purpose of preventing competition. And to such a degree is the perfection of these pools carried that they do substantially prevent competition. And you find that the people who control these lines, that Jay Gould, Dillon, Huntington, the Boston parties, and a few more men whom you could count on the fingers of your two hands, are in such combinations that they actually do collect from the whole area of half a continent precisely what rates they please, and that the farmers in that area who raise and ship their products, or who buy manufactured articles, are forced to pay the rate which, under their pool and by its abrogation of competition, these men are enabled to extort.

THE OCEAN COMMERCE THROTTLED BY RAILROAD POOLS.

But we are told that the water ways of the country are our safeguard. I used to think they were. It seemed to me that at least upon the waves of the Atlantic and the heaving billows of the Pacific Ocean, where no rail could be spiked and no locomotive run, there assuredly and eternally would be an open highway in competition with the transcontinental lines. But what are the facts? Why, sir, that the California roads are to-day in pool with the ocean steamers, and have wiped out competition by compelling the steamship lines to form the pool or be run out of the trade. So that not only does Huntington own all California in that sense, not only do these few men control the whole half of the continent in that sense, but they control the Pacific Ocean in so

far as by steamship lines it comes in competition or may come in competition with their roads. And why? Because they have the capital to do it. Where do they get it from? They get it from the men who raise the crops and ship them over their roads, and use that precise money in building steamship lines to prevent these very men from having the benefit of competition that a beneficent Creator designed when placing the oceans.

Take the case with respect to the Atlantic Slope, which largely furnishes our cotton-fields. Before the war the great avenues of cotton shipment were down the Ohio and Mississippi Rivers and abreast the Atlantic coast. How is it to-day? Have you the competition which one would naturally suppose should result from these geographical conditions? Let me read a paragraph or two upon this point. I read from a paper by Joseph Nimmo, Chief of the Bureau of Statistics of the Treasury Department:

The railroads of the country have become with respect to all "through traffic" virtually one system of transportation, and their efficiency as highways of commerce has been enormously increased. Between the years 1852 and 1875 several great east and west trunk lines were constructed from the Atlantic seaboard to the Mississippi River, connecting subsequently to the year 1864, at Cincinnati, Louisville, Cairo, and Saint Louis with great railroad systems extending into all parts of the "cotton belt." It was not, however, until after the late war that the managers of the great east and west trunk lines, and of the trunk lines extending southward from the Ohio River and from Saint Louis, were led to believe that they could successfully compete with water routes for the transportation of cotton to Northern mills and to Northern seaports, even from the southern part of Tennessee and from Arkansas; but the northward "overland" all-rail movement amounted during the year ended August 31, 1883, to 1,178,560 bales, or 17 per cent. of the entire cotton crop. Not only is cotton thus transported from Tennessee and Arkansas, but also from points far down toward the Gulf, in Alabama, Mississippi, Louisiana, and Texas, and from the northern portion of Georgia. The eastward movement by rail in connection with that northward overland has had the effect of reducing the receipts at Gulf ports from 3,427,585 bales in 1880 to 2,945,149 bales in 1883.

There are the facts, and the following paragraph reveals how these marvelous charges were effected:

One of the most noticeable features of the cotton movement of the present day is the fact that the transportation of a very large proportion of the cotton grown in the Southern States is now controlled and directed by great railroad systems and pooling arrangements. All the railroads engaged in the transportation of cotton to the Atlantic seaboard in the States of Virginia, North Carolina, and Georgia, as well as the several lines of steamers plying coastwise between the ports reached by such railroads and the ports of Boston, New York, Philadelphia, and Baltimore, have, in so far as relates to competitive traffic, united in a pooling agreement. This copartnership arrangement, known as the Southern Railway and Steamship Association, was organized in the year 1875 by Mr. Albert Fink.

RAPACITY OF THE TRUNK-LINE POOLS.

Coming to the region north of the cotton belt and east of the Mississippi River, and we find that competition has here also been eliminated by two great pools, which control the whole area and traffic; that their joint executive committee, of which this same Mr. Fink is chairman, regulates all rates, putting them up or putting them down as they see fit. I read from the July report of the Department of Agriculture, made by J. R. Dodge, statistician:

At a meeting of the joint executive committee, held in the office of the chairman, Albert Fink, 346 Broadway, New York city, June 13, it was agreed that the following articles in car-loads, which have heretofore been in the eighth class, be placed in a special class, namely: Grain, flour, feed, bran, meal, middlings, oil cake and meal, and cotton-seed cake and meal, and that, taking effect June 24, the rates thereon shall be on the basis of 20 cents per 100 pounds, Chicago to New York; and taking effect Monday, July 21, proximo, the rate be advanced to the basis of 25 cents per 100 pounds. Also that, taking effect same date, rate on seventh class and live hogs will be on the basis of 25 cents per 100 pounds, and on ninth class 30 cents per 100 pounds, Chicago to New York; and taking effect July 21, proximo, the rates on these classes will be further advanced to the basis of 30 cents on seventh class and 35 cents on ninth class.

The following statement shows the rates that took effect June 24, and the advanced rates to take effect July 21, Chicago to New York: June 24, 1884, special class, grain, &c., 20 cents; seventh class and live hogs, 25 cents; eighth class 25 cents; and ninth class 30 cents. July 21, 1884, special class, grain, &c., 25 cents; seventh class and live hogs, 30 cents; eighth class, 25 cents; and ninth class, 35 cents.

This advance in the basis of rates, Chicago to New York, increases the rates on the articles named which are destined for Eastern markets from all points east of the Mississippi River.

What was the effect of that? Simply to increase the charge of transporting wheat 5 cents on the hundred pounds or 3 cents on the bushel. In other words, it took just 3 cents per bushel out of the pocket of the farmer who had raised the wheat and had it for sale. I have no doubt that similar arbitrary increases have been made of rates on cotton and all other products. There is no pretense that the rates were so low prior to June as not to give the roads a fair compensation. They were high enough before the increase to be "reasonable" as to the companies. They raised the rate just because they had the power and could make more money; that was the only reason.

THE BENEVOLENT ORDER OF "AMERICAN THUGS."

I wish to look a little at the moral side of that act. This high-joint executive committee, or, rather, these high-joint executioners, by raising the rate 5 cents a hundred pounds, simply because of the plethoric crop of wheat which was coming in, reduced its value 3 cents per bushel to the owner of the crop—took 3 cents out of the pocket of each of those men for each bushel of wheat. It was done by pooling—by an organization of gentlemen who wield power as the officers of the pool, and who individually are said to be very respectable men. They are employed to do this business, and sell their services as such agents for large salaries. But what difference is there in the effect of their action upon the farmer of my State or the cotton-raiser of your State, between taking 3 cents a bushel from the value of the wheat, or going to that farmer and taking 3 cents out of his pocket? That action reduced the value of wheat in my State $1,440,000.

For one, I can not see a shade of difference morally between these high-joint executioners, acting as willing agents for Jay Gould, Vanderbilt, the Boston interest, and the other owners of roads, converting that one million and a half of dollars from the pockets of the farmers of Kansas into their pockets, and these same executioners going directly to the pockets of the farmers in Kansas at midnight and robbing them of $1,440,000. If any other gentleman can see the difference I can not.

Oh, it is more "prudent," perhaps, to regard the power, the wealth, the influence in politics, the influence of such papers as they own, the "respectability" of these men owning these roads and employing "respectable" men to do this thing. But morally I can see no difference between that action and absolute, naked, bald-headed robbery; and I wish to suggest that the day may come, before a Supreme Court which neither Jay Gould nor Mr. Vanderbilt can possibly influence—the day will come after their death—when they and their pool executioners in their individual capacity, not as incorporated partners nor as official thugs, will have the moral side of that act justly passed upon. The thousands of toiling men who raised and owned that wheat will be witnesses.

SHALL AN AMERICAN CONGRESS PROTECT THE AMERICAN PEOPLE?

There is, however, to be considered by this House that other question, whether these men shall be permitted to do this thing while the people who pay these $823,000,000 have not the protection which under competition they ought to have, and while railroads are public highways? That is a question for us to settle, just as New York may limit the charges of Niagara hackmen. You would not have any doubt as to the legality of regulating their rates; and I do not know any three or four or five hackmen in Niagara or elsewhere who are more rapacious, more conscienceless, than Mr. Gould, Mr. Vanderbilt, Mr. Huntington, and you may throw in a half-dozen more of that ilk with my full consent.

That is precisely the point which the bills we are considering purport to secure, to protect the people. Yet we are told in the outset that we must be "conservative," that we must not go too fast, that we must be very cautious, that we must rely upon moral suasion; that we must let the light of publicity, as it does in Massachusetts, illuminate the minds of these men and the public. Just how much does Jay Gould care for the light of publicity? He has had a great deal of that. And when you find in actual fact that the raising of 5 cents a bushel in the rate of transportation of the wheat of the United States is equivalent to the transfer of millions and millions of dollars from the people of this country to the pockets of these men, just how long are you to be "conservative?" *How* slow are you to go? If we have not been going slow enough, and if either of these bills, for that matter, does not propose action that is sufficiently conservative, then I am occupying a different standpoint from that of the gentleman who thinks otherwise.

DIFFERENCES BETWEEN THE REAGAN BILL AND THE COMMITTEE BILL.

Take up these bills. What is the difference between them? The Reagan bill says the charges shall be reasonable, which is the law now, and it imposes a penalty when the charges are not reasonable. The committee's bill says the charges shall be reasonable, and expressly exempts that section from any penalty. This matter of reasonable charges I have only illustrated in that 5-cent raise on the transportation of the wheat of the country, and its importance to the people is almost infinite.

But we are told we must not impose a penalty because these men might have formed an erroneous judgment. How many erroneous judgments do Albert Fink and the high-joints form? If they do form erroneous judgments, and if those erroneous judgments are always for the benefit of their employers and never for the benefit of the people—and that has been a fact ever since they began pooling—is it not now time to let the people have a little bit of benefit, by a penalty imposed as against their erroneous judgments? Because, sir, everybody is satisfied as to their general cussedness—at least I am. [Laughter.]

Now, Mr. Speaker, I criticise no man's opinion who differs from me on this floor. I impugn no man's motives. I recognize the difficulty of this subject, and recognize the fullest liberty of conscience and judgment and purity of action in every man; but to my mind the exemption from penalty for violation of that section as to reasonable charges is just simply a railroad dodge, and I would not be surprised if some railroad attorney had written it. Perhaps that is a clause of the old Charles Francis Adams bill; he is now, by the way, president of the Union Pacific Railroad—a tropical plant from frigid Boston! [Laughter.]

REBATES.

The next difference is that the Reagan bill prohibits rebate, and the committee's bill says it does, and then says it does not. And it does not. The exact difference between the two bills on that point is this:

SEC. 3. That it shall be unlawful for any person or persons engaged in the transportation of property as aforesaid directly or indirectly to allow any rebate, drawback, or other advantage in any form, upon shipments made or services rendered as aforesaid by him or them.

That is the Reagan bill and that is an express prohibition. But the committee's bill qualifies it in this way: "and which under similar cir-

cumstances are not allowed to all other persons." That is, that they shall not allow rebates, but if they do they shall not allow any rebate which under similar circumstances is not allowed to all other persons. They shall not do a given thing; but if in spite of the law they do it, then they shall do it universally!

I would like to hear a railroad attorney, if that clause were enacted and the question were before a court upon the phrase "similar circumstances"—I should like to see how many kind of circumstances his ingenuity would suggest. He might say this, for instance: We could allow rebate to a manufacturing company or to the owner of a lumber mill somewhere for the reason that he did a large business, that he was one of the most prominent men in his community, that he exercised large political influence, which might be useful in the event of any attempt at State legislation or national legislation, and that to him as the only man in that county we may lawfully allow rebate; that at the next county seat they would allow the same thing to only one man because the circumstances were "similar," and so on in every county in the State.

Now, Mr. Speaker, in just this rebate dodge you find the parentage of the Standard Oil Company. It is there you find the means by which the railroad power of the United States elevates itself and hopes to exercise ultimately, if not yet, absolute power in every State in this Union. If they can make rebate to one man they can make it to another. The Reagan bill says they shall not rebate. The committee bill says yes, you shall not rebate—unless you do it!

I am opposed absolutely and unqualifiedly to any form of rebate. I can see no justice in it; and even if there be cases that are equitable, I can see on the other hand infinitely greater dangers to the liberty and purity of this Republic by permitting any such unjust policy to be legalized by granting rebate to anybody; and for that reason I prefer the Reagan bill on that point.

POOLING.

The next provision is in regard to pooling. The committee's bill says that you shall not pool, but that the commission shall report upon the question whether you ought not to pool! That is what it amounts to. Any man who will look to-day at the effect of these pools—not at an exhibit as made up by railroad experts and attorneys, Mr. Albert Fink, for example, but from the standpoint of the people and their welfare—will see that these pools are a wrong to the public. I think so, at any rate, and for one I shall support any legislation that we may formulate which will absolutely prohibit this pooling thuggery, and make every violation of such prohibition a criminal offense, for I regard it as a mode by which there is perpetrated a sheer robbery of the people.

THE "COMMISSION" COMEDY.

Then comes this commission arrangement. The committee, in formulating their bill, say that we shall have a commission. Very well. If you will enact the provisions of the Reagan bill and *then* establish a commission, that would not be created in the interests of the railroads and pass a law which does not expressly provide the appointment of a railroad man—for that is just what they might all be in the end, every one of them—but take your railroad commission and order them to enforce the provisions of the Reagan bill, I am ready to have a railroad commission. But, gentlemen, it seems to me that, in the examination I have given to this bill—and of course I may be incorrect, and therefore I criticise the judgment and conclusions of no man which differ from my own—it looks to me as if the committee had taken up the Reagan bill, and felt as it they must report against pooling, rebates, and the rest of these outrages, because a storm was beginning to break, and then as if some railroad attorney, with his ingenuity, had sought how best to break the force and effect of the storm, how best to extract the teeth of the Reagan bill, and gotten up the commission. I say I may be wrong, but it strikes me that way, as the usual dodge of the corporations; and in so saying I do not in the least reflect upon any member of the committee.

But, Mr. Speaker, what power has that commission? Why, it is expressly limited; the committee's bill says:

Said commission shall exercise only the powers by this act conferred.

What are they?

That for the purposes of this act the commission shall, subject as in this act mentioned—

not otherwise—

have full power to ascertain and report upon all questions of fact arising under this act, &c.

I shall not go into the details, but if I understand the bill correctly, and I may not have done so, the only way that the commission can obtain knowledge upon which it can act at all is through a complaint made by some one. If it ascertains a violation of the law by any one company, if I understand it, the commission cannot of itself institute proceedings upon that information alone. It must wait until some man somewhere, and for some cause under the law, makes a complaint of its violation, and his complaint is attested before a United States district attorney.

If such a complaint amounts to anything, then the commission may hear it and institute proceedings under the act or take steps to examine into the matter. But in the first instance it is necessary that a complaint shall be made, as I understand it. In other words, Mr. Speaker, it is very much like a commission of a similar character established in my own State, a portion of the framework of which original bill was drawn by railroad attorneys connected with the Santa Fé and other railroads in their interest and for the express purpose of preventing anything being done. But their scheme was defeated.

NO GREATER CHARGE FOR A SHORTER THAN FOR A LONGER DISTANCE ON ANY ONE RAILROAD.

Now we come to the question as to the prohibition against charging any greater compensation for a shorter than for a longer distance on any one railroad. When I read that I thought it meant that they must prorate. For instance, if there is a rate from Kansas City to Denver and the charges are so much, then from Kansas City to Topeka the charge must be in ratio. This Reagan bill does not say that. I, for one, would not accept the provisions of a bill that did so, as far as my vote goes. What it does say is just this, and the committee's bill has no such provision:

SEC. 4. That it shall be unlawful for any person or persons engaged in the transportation of property as provided in the first section of this act to charge or receive any greater compensation for a similar amount and kind of property, for carrying, receiving, storing, forwarding, or handling the same, for a shorter than for a longer distance on any one railroad; and the road of a corporation shall include all the roads in use by such corporation, whether owned or operated by it under a contract, agreement, or lease by such corporation.

That is all. They shall not charge, for instance, more for freight from Kansas City to Topeka than from Kansas City to Denver. They shall not charge more for freight from Pittsburgh to Columbus than they do from Pittsburgh to Saint Louis, but they may charge as much for the shorter distance as for the longer; and I am frank to say that that principle, or rather the one it suggests, is an important one both for the West and for the South. I am ready to recognize the difference in cost, as a factor in the reasonableness of charges, between a long and a short haul, but this provision does not touch the question further than that they shall not charge *more* for one hundred miles than on that same road for five hundred miles; and there is no gentleman, it seems to me, from the West or the South who can doubt that this is for the interest of his section, and as far as that interest is concerned, that such a provision would be advisable.

DIRECT REGULATION OF RAILROAD CHARGES.

Now, Mr. Speaker, on a comparison of these two bills, though neither of them purports to regulate rates, as between the Reagan bill and the committee's bill I am unquestionably in favor of the former. As between either of them and a bill which created, say, a commission, or which by a direct act regulated the rates of the railways of the United States, I should prefer the latter. My objection to these two bills is that it can only be said of them that either of them is better than nothing. The committee's bill is mighty little better. The Reagan bill is a good deal better. Yet I doubt whether you can effectively prohibit "pooling" and "rebate." I doubt whether prohibition will be found to prohibit in that matter. But if it should, then you have only relied upon the force of a competition which does not exist, and which you can not restore to its original status and upon publicity; while, because of your conservatism or tender-footedness, you do not affirmatively regulate the rates of these lines.

Looking from the standpoint of the people and their interest as I see it, I for one am not only ready but anxious to engage in any legislation which shall go much further than either of these bills goes, and which shall be affirmative action regulating the rates of these roads.

Objection was made yesterday to the Reagan provision as to the posting of schedules, and it was alleged that it would take five days, perhaps ten, for a trunk line under that provision to change its schedules. If that should be so, what of it? Is it not better that the people should have such notice than that a high potentate Albert Fink shall, by a simple twist of the wrist, extract $10,000,000 out of the pockets of the farmers of my State and many more millions of dollars out of the people of the nation? Are these roads imperial in the sense that in addition to having gone beyond the realm of justice to the people they are also beyond the confines of ordinary propriety and decency? It will take, forsooth, five days or ten days to distribute the schedules! A nice idea! Sticking in the bark, gentlemen! Too thin!

THE CONTROL OF RAILWAYS BY THE NATION ESSENTIAL TO THE SAFETY OF THE REPUBLIC.

Now, Mr. Speaker, in conclusion I wish to state what, in my judgment, will be the effect upon the prosperity of the people of this nation and upon the purity and perpetuity of the Republic if, on the one hand, these railroads be not regulated in their charges, and, on the other hand, if they be so regulated. I have shown, I think, that it is within their power to charge the traffic all that it will bear; in other words, to take from the farmers, the producers of this country, their legitimate profit. That is the reason they made the raise of 5 cents on wheat. Suppose now that for twenty-five years you continue a process by which the profit of the agricultural labor of this land, instead of being given to the farmer, is given to Mr. Gould and Mr. Vanderbilt and the other owners of roads, what will be the result? These men will become voluminously rich. No doubt of that; because they will be receiving the profits of the farming labor of the country.

But what about your farmers? They will be poor. Each year will

find them in the same state of poverty. They will not get ahead. They will not be able to provide for their families, to educate their children, or to accumulate something to leave them. Then what, gentlemen? Then will come riot! Why? Because you will have vast masses of poor, discontented men, who would be the majority of the voters of our country. That will be the result if the success of the attempt made heretofore by the railroad corporations of this country shall be continued; if they shall still prevent legislation by States; if they shall prevent legislation in this House; if they shall use the exact money extorted from the people, for the express purpose of preventing such legislation as shall prohibit them from extorting that money; if they shall in this way control this House, or—a much easier body because a smaller one—if they shall control the United States Senate; if finally, as their last triumph, they shall enter the Supreme Court; and thus through a period of years legislation giving relief to the people shall, by their corrupt, most infinitely damnable, practices, be defeated. Then what? Then capital must come face to face, not with the thinking men of the country but with the mob. So that capital itself has more at stake in securing efficient railway legislation than even the farmers have.

New England manufacturers who sell their products to the West and South have a greater interest at stake in this legislation than all New England capital invested in roads. New York's imperial position can only be maintained twenty-five years hence by cheap railroad rates—in no other way—because it will be but a few years until there will be fifty millions of people west of the Mississippi River, and when they are there they will have their own railway system and their own water transportation. The distance from Topeka, Kans., to the Gulf of Mexico is just the same as from Topeka, Kans., to Columbus, Ohio, and the haul from Columbus to New York is just that much extra. In my judgment, either we must regulate these roads, either a fair share of the profit must go to the men who raised the crop, or within twenty-five years, either peaceably if a law can be passed, if not, which I deplore, by means that no man could approve, there will some day be a great settlement and a final and just decision of that question which was raised 1,800 years ago, aye, 6,000 years ago, whether the man who does the work may have his share of the profits, or whether some more powerful man may throttle him and take that share from him!

Mr. HOPKINS. Mr. Speaker, I think I can justly claim that the agitation of this question of railroad discriminations began in the district which I represent. Individual rights were so completely ignored, corporate power was so arrogantly and unfairly exercised, that the patience of our people was utterly exhausted, and they cried out for relief.

In the first session of the Forty-fourth Congress I introduced a bill to regulate interstate commerce and to prohibit unjust discriminations by common carriers. And soon thereafter I secured the passage of a resolution instructing the Committee on Commerce to investigate the charges of favoritism and combinations by railroad companies. That investigation proceeded far enough to prove specific acts of gross discrimination. But by some process, never yet explained, the investigation was smothered at a critical juncture, and the testimony already taken disappeared from the committee-room. I feel sure that what I state will be corroborated by my distinguished friend the chairman of the Committee on Commerce, who was then a member of that committee. The gentleman from Texas (Judge REAGAN), to whom I refer, took a lively interest then in the effort to protect the people against the wrongs inflicted by corporations. And I am glad to know that ever since then he has labored faithfully, zealously, and ably to secure the legislation necessary to that end.

I am willing to admit that there is less ground for complaint now than existed nine years ago. But I apprehend the reason is that during that time eight States have embodied in their Constitution clauses prohibiting discriminations, and the further reason that bills have been pending in each Congress since to place the strong hand of the Government upon the offending corporations. If a wholesome fear of penal statutes has wrought so much good, it is fair to presume that the enactment of a law upon the subject will accomplish still greater results. And it is also fair to presume that the defeat of this bill will remove all restraints and cause a repetition of the wrongs so earnestly complained of. For the nature of corporations has not changed. They are as rapacious, remorseless, and selfish as they were nine years ago. They are as ready as ever to benefit their friends and favorites at the expense of the general public.

I think, Mr. Speaker, that this view is confirmed by the action of the great railroad companies in reference to the pending measure. Their opposition is earnest, persistent, and bitter. Whenever this question has been before Congress these corporations have appeared, represented by the ablest and most distinguished counsel whom money could employ. I have here one hundred and eighty-nine closely-printed pages of argument delivered before the Committee on Commerce in opposition to the Reagan bill. It is true that certain features of the bill are especially attacked; but it is equally true that the spirit of all these arguments is against any bill asserting the authority of Congress over the subject-matter and prescribing penalties for violations of the law of common carriers.

If no wrongs are practiced or contemplated, why this intense opposition? Just and law-abiding men have no fear of penal statutes. Corporations which intend to deal fairly and equitably with all men will not object to measures of relief to those who may be unfairly and unjustly dealt with.

While I think this is a legitimate inference from the hostility of the railroad companies, we are not left to inference as to the substantial fact of the existence of great wrongs which this bill is intended to redress.

It is boldly and specifically charged that an arrangement exists by which the transportation of live-stock is controlled by an association called the board of eveners, who receive a bonus of at least $15 per car upon all live-stock shipped over certain lines of traffic. This sum is, of course, taxed upon the customer, and is a grievous burden to the poor, to whom nutritious and cheap meat food is so essential.

Besides this, boards of trade, chambers of commerce, agricultural societies, and individual shippers in all parts of the country have sent up resolutions, memorials, and protests against the policy of discrimination practiced by most of the leading corporations. These are practical men, who have personal knowledge and experience of the injuries done them; and having failed to secure redress, they earnestly and emphatically demand that Congress shall throw its shield over them and lay a rod on the backs of those who have oppressed them. All this goes upon the assumption that Congress has the constitutional power to grant the relief prayed for. Can there be any doubt of that? The Constitution expressly declares that Congress shall have power "to regulate commerce with foreign nations and among the several States."

And judicial decisions may be piled upon text-books monument-high, and on every side may be read in the clearest language a construction of these words so plain and simple in themselves.

Commerce means more than the mere barter of goods. It embraces everything by which purchase and sale can be effected, including transportation.

In his Commentaries upon the Constitution, Story, reviewing the clause already quoted, says:

> It may, therefore, be safely affirmed that the terms of the Constitution have at all times been understood to include a power over navigation as well as trade, over intercourse as well as "traffic."

And the highest judicial tribunal in the land has again and again affirmed this doctrine, and maintained the complete power of Congress to control "the subject, the vehicle, and the agent" of commerce.

For sixty years this question has in various forms been before the Supreme Court of the United States, and I believe in every instance the power of Congress to regulate or control commerce in its broadest and fullest sense has been clearly and unequivocally sustained.

Chief-Justice Marshall said "a power to regulate navigation is as expressly granted as if that term had been added to the word 'commerce.'"

Whether or not this great jurist foresaw that other methods would be used for conducting commerce than by navigation, his arguments and illustrations apply with equal force to commerce by means of railroads. He says:

> Commerce among the States can not stop at the external boundary line of each State, but may be introduced into the interior. * * * And if the trading intercourse be between two States remote from each other, must it not commence in one, terminate in the other, and probably pass through a third? (Gibbons *vs.* Ogden, 9 Wheaton.)

And, as if to emphasize the power of Congress and sweep away all restrictions with which the ingenious counsel of railroad companies might seek to hedge in this power, Justice Marshall adds:

> This power, like all others vested in Congress, is complete in itself, may be exercised to its utmost extent, and acknowledges no limitations other than are prescribed in the Constitution.

And the only limitation is that contained in section 9 of article 1, to wit:

> No preference shall be given by any regulation of commerce or revenue to the ports of one State over those of another; nor shall vessels bound to or from one State be obliged to enter, clear, or pay duties in another.

And yet we find to-day railroad corporations undertaking to do, ay, and boldly and persistently doing, that which Congress is expressly prohibited from doing.

The student of the Constitution is constantly compelled to pay reverence to the inspiration which guided the framers of that matchless document. They framed an instrument adapted to all circumstances and to last for all time. They looked far into the future, and foresaw and provided for new and then unknown conditions. They saw the growth of corporate power, the exercise of franchises injurious to the people, and yet beyond the control of State authority. And they provided that Congress should "control commerce among the States," and in that control that "no preference shall be given" to any locality. The current of trade was to flow in its natural channels, and no artificial chutes were to be permitted to turn it aside for selfishness or avarice.

To any unbiased mind it must seem clear that the pending bill is in the exercise of a power expressly granted and is to correct abuses expressly prohibited.

For the benefit of those who have any doubt as to the powers of Congress in this regard, and for the convenience of those who wish to in-

vestigate the train of judicial thought upon this question, I refer to Gibbons *vs.* Ogden, 9 Wheaton; Steamship Company *vs.* Port Wardens, 6 Wallace; Passenger Cases, 7 Howard; United States *vs.* Coombs, 12 Peters; Redfield on Railways; The Clinton Bridge Case, 16 Am. Law. Reg.; The Clinton Bridge Case, 10 Wallace; Brown *vs.* Maryland, 12 Wheaton; The City of New York *vs.* Miln, 11 Peters; Grover *vs.* Slaughter, 15 Peters; Corfield *vs.* Coryell, 4 Wash. C. C. Rep.; Wilton *vs.* The State of Mo., 1 Otto; License Cases, 5 Howard; Erie Ry. Co. *vs.* Pennsylvania, 15 Wallace; The Granger Cases (4), 4 Otto; Railroad Co. *vs.* Richmond, 19 Wallace; Cooley *vs.* Board of Wardens, 12 Howard; Thomas *vs.* Railroad Co., 11 Otto.

From these authorities it will be learned that the power to regulate commerce means the power "to prescribe the rule by which commerce is to be governed." "And this intercourse"—which is covered by the grant of power and embraced in the definition of commerce—"must include all the means by which it can be carried on, whether by the free navigation of the waters of the several States or by a passage overland through the States." "The power to regulate it embraces all the instruments by which such commerce may be conducted." Transportation of passengers or merchandise through a State or from one State to another is of this nature.

"The fact that several different and independent agencies are employed in transporting the commodity, some acting entirely within one State and some acting through two or more States, does not affect the character of the transaction."

"I have no doubt of the right of Congress to prescribe all needful and proper regulations for the conduct of this immense traffic over any railroad which has become part of one of those lines of interstate communication."

The power being settled beyond all controversy, why should Congress hesitate to exercise it? For years there has been a universal demand from the people that the abuses complained of should cease. But thus far corporations have defied the people. It remains to be seen whether or not they will respect the supreme law of the land.

During the present session, as during prior Congresses, delegations have come up from the people demanding Congressional aid against a power grown arrogant by long impunity. So far as I know, not a single association or individual has objected to the pending measure, except the officers and counsel of railroad companies. Even the shareholders of these corporations realize the importance to them of legislation which will prevent a recurrence of "railroad wars," so disastrous to all interested.

Jealousy and rivalry, and often the imprudent and unauthorized act of a subordinate official, cause the bitterest hostility between these companies, and they rend and tear each other like mad giants and unsettle all commercial business during the struggle. They become reckless of the loss they inflict upon themselves, provided they can injure their opponents. Hence they need to be protected against each other. Their stockholders need protection from the ruinous policy of their officers. And the wise provisions of this bill will accomplish that result. Pools and combinations—which are only made to be broken, and broken with disaster to all—are herein prohibited; and each company will be required to act upon business principles of healthful rivalry, which stimulates trade and rewards energy and diligence when exercised in accordance with judgment and experience.

The corporations opposing this bill in a general way admit their duty as common carriers, and in doing so they admit a constant violation of their duty; for common carriers are bound to receive and carry the goods of all alike, upon the same terms, and with equal facilities. (See Chitty's Commercial Law on this subject.) And yet the companies attempt to justify a policy in direct violation of this fundamental doctrine.

The law of common carriers is older than the Constitution. The duty of perfect fairness and impartiality to all shippers is clear and imperative. No discrimination, no favoritism can be tolerated.

Forced to admit that this is the law, the violators of it want to compel the victims to seek redress through the slow and inadequate remedies of the common law. They well know their vast advantage in such an unequal contest. The companies, with counsel employed by the year and with a well-organized force of witnesses, would be more than a match for any individual opponent. And they would worry and utterly crush out small shippers, whose damages might be serious to themselves but too little to justify protracted and expensive litigation. In the interest of all, but especially of the poor and those of moderate means, it is necessary that there should be other remedies than the common law affords.

The pending bill provides some of these needed remedies, all of which sections I cordially support. But I propose to offer an amendment giving an additional and, in my judgment, a more effective remedy. Under it a railroad company can be compelled by a writ of peremptory mandamus to receive, transport, and deliver all goods offered for shipment upon equal terms and with equal facilities. The fear of imprisonment for contempt of court will have far more effect than any possible penalty contingent upon a verdict by jury. And, besides this, shippers can make contracts for the delivery of goods with a reasonable certainty that compliance will not be defeated by the arbitrary act of some railroad official. A compulsory enforcement of right is far more efficacious and satisfactory than even punitive damages for the wrong done. This remedy is prompt and vigorous, and I think adds much to the completeness of the bill.

The clauses in this bill creating a commission and prescribing its power and functions are, as I understand it, merely auxiliary to the general purpose. The rights and remedies of individuals can not be impaired by the commission. But, on the contrary, supplemental guarantees are herein provided for the maintenance of rights and enforcement of their remedies. There is a well-grounded fear in the public mind that the insidious power of corporations might control public officers charged with the oversight and partial regulation of those corporations. So that the usefulness and efficacy of the commission will depend upon the character of the men who may be appointed, upon their intelligence, zeal, courage, and incorruptibility. If redress could be had only through these commissioners, the injured people might well conclude that we were giving them but a barren scepter. I greatly prefer the substitute offered by the gentleman from Texas [Mr. REAGAN], but believing that no harm can result, and hoping for much good from the creation of the commission, I see in these provisions no sufficient ground for opposing the bill in case the substitute should not be adopted.

It is urged as an objection to this bill that it is another effort to centralize power in the Federal Government. I admit, Mr Speaker, that this argument would be potential with me if I believed it had any substantial basis. I have seen with no little alarm the bold disregard of old-time rules of interpretation of the Constitution and the open attempt to absorb all power in the General Government, and to justify it in the name of patriotism. Surely the men who laid the foundations of the Republic and cemented them with their blood, the men who reared the magnificent superstructure, strengthened every beam and arch and column and architrave with their prayers—those inspired builders knew how to adapt the several parts in perfect symmetry and strength, so that the completed whole presented a marvelous model without an omission or an excess. I can follow blindly, and with implicit faith, the guidance of the patriot fathers. And wherever they have indicated a limit of Congressional power, that is to me the *ultima Thule* of our jurisdiction.

But, Mr. Speaker, I have endeavored to show, and I think I have shown conclusively, that one of these powers especially given to Congress in the Constitution is the very power sought to be exercised in this bill. And, aside from that, this bill contemplates no exercise of power by the Federal Government against the people. But it is an intervention in behalf of the people against corporations which oppress and defy them.

The wrongs are grievous and have at times been intolerable. The State authorities are powerless. Will Congress afford relief, or will an enraged people be left to seek that redress which is born of despair? I solemnly believe that this grave issue is presented, and it is the part of wise statesmanship to give it grave consideration.

While this bill guarantees but simple justice to the shipper, it is in no sense hostile to the railroad companies. I verily believe it will prove beneficial to them also. As soon as they adjust themselves to the requirements of the law they will realize the wisdom of its provisions, and the increased value and stability of their securities will justify the measure which their fear and their pride condemn.

Every sensible man recognizes the incalculable benefits which railroad companies have conferred upon the public. By prudent and just action these companies can quiet the angry discontent which prevails and awaken a kindly feeling toward them. There is no individual or corporation too powerful to despise or defy this sentiment. I trust that Congress will aid in promoting it by the passage of this bill.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. MCCOOK, its Secretary, announced that the Senate had passed bills of the following titles; in which the concurrence of the House was requested:

A bill (S. 2402) authorizing the Secretary of State to procure duplicates of certain French and American models; and

A bill (S. 2297) to authorize the construction of a bridge across the Saint Croix River at the most accessible point between Stillwater and Taylor's Falls, Minn.

INTERSTATE COMMERCE.

The House resumed the consideration of the bill (H. R. 5461) to establish a board of commissioners of interstate commerce and to regulate such commerce.

Mr. SHIVELY Mr. Speaker, in all points of agreement as between the committee bill and the substitute bill offered by the gentleman from Texas [Mr. REAGAN] I most cordially approve both. In all points of difference between the committee bill and the substitute bill I emphatically indorse the latter. And for the present, waiving all discussion of the general principles underlying these measures and the constitutional prerogative involved in legislation on this subject, I would briefly emphasize two or three of the points of merit contained in one of the bills as compared with the other.

It is under the force of public opinion that this question is being pressed to a vote. This public opinion has been aroused and rendered

aggressive by certain abuses in the railway management of the country. In the calendar of these abuses are mentioned extortionate rates, discriminations, rebates, drawbacks, cut-rates, pooling, and kindred irregularities destructive to the productive and distributive interests of the people. And certainly any measure of corrective legislation should embrace, to say the least, proper remedies for the more conspicuous of these abuses. In the light of these facts I approach a discussion of the peculiar, rather than the general, features of the respective measures now pending. Turning to the first section of the committee bill, we find this provision:

That all charges by any person or persons engaged alone or associated with others in the transportation of property by railroad from one State or Territory to or through one or more other States or Territories of the United States, or to or from any foreign country, shall be reasonable for such service.

This section recognizes the existence and injustice of unreasonable charges, and would seem prophetic of a purpose to remedy the evil. And, as if in pursuance of this purpose, the opening clause of the penal section, or section 7, is made to read as follows:

That any corporation or person violating this act is guilty of a misdemeanor, and subject to a fine of not exceeding $1,000 for each violation.

But hope is dispelled, and suspicion as to the genuineness of the purpose is naturally aroused by the language of the concluding clause of this section:

The provisions of this section shall not apply to the first section of this act.

Now, I respectfully submit that this exemption of section 1 from the operation of the penal provisions of the bill renders that section only a morsel of gratuitous advice to the transportation companies of the country. It in fact goes further, and practically legalizes in a negative sense the very abuses which section 1 should prohibit. It is, however, urged on the contrary that the substitute bill makes no express provision for the regulation of rates, and that, on the point of reasonable or unreasonable charges, the merits and demerits of the respective measures are equally distributed. True the substitute bill contains no express provision contemplating an arbitrary regulation of rates. It may be inexpedient at this stage of progress on the subject to go to this extent, though I have not the slightest doubt of the right and power of Congress to do so. But, in addition to containing no direct remedy against unreasonable charges, the committee bill does not even guarantee to the shipper the benefits arising from properly regulated competition. It contains no provision whatever against charging more for a shorter than for a longer distance. This is an important point and merits special attention. It involves a form of discrimination both dangerous and far-reaching in its results. To illustrate: A shipper at Bourbon, Ind., is compelled to pay a higher rate per car-load of freight to Philadelphia than is paid by the Chicago shipper over the same line, though Bourbon is situated ninety miles east of Chicago. Two years ago the railway management operating lines through Michigan City, Ind., granted the Chicago lumber merchants a lower rate than that granted the Michigan City merchant, though the latter city is situated nearer the market than is the former. A very striking illustration of this form of discrimination was developed by an investigation before the Forty-fifth Congress, which elicited the fact that for transporting a car-load of ordinary freight from Omaha to San Francisco the company charged $300, while for transporting a car-load of similar freight by the same line from Omaha to Virginia City, six hundred miles east of San Francisco, the company charged $800. In other words, the charge for the shorter distance was $500 more than for the longer distance.

I might go on multiplying cases illustrating this point, but these will suffice. By this discrimination, Chicago, regardless of the circumstance of greater distance, was placed nearer the market than Bourbon or Michigan City, and San Francisco was moved east of the Rocky Mountains in its relations to the Eastern markets. Now, in the presence of this species of favoritism, there can be no fair trading, no honest distribution of the commodities of commerce, no equitable exchange of the products of labor, between different and distant parts of the country. Yet concerning this dangerous factor in railway management the committee bill is entirely silent.

This silence is especially significant when considered in connection with the exemption of section 1 of the bill from the operation of the penal provision. Where do we find these railways practicing their most violent forms of extortion? Of course, at non-competing points. What is the method employed by the railways at these points in their levy of unjust tribute? The charging of more for the shorter than for the longer distance, as illustrated by actual cases just cited. What is the remedy for this evil? This question is answered by section 4 of the substitute bill, which makes it "unlawful for any person or persons engaged in the transportation of property as provided in the first section of this act to charge or receive any greater compensation for a similar amount and kind of property for carrying, receiving, storing, forwarding, or handling the same for a shorter than for a longer distance on any one railroad."

This provision protects non-competing points against unjust discrimination, and, together with the provision against pooling, renders the benefits of competition universal. The abuse aimed at by this clause is so glaring and the remedy offered so just to both shipper and carrier, that it deserves the unqualified support of every member friendly to the people's side of this controversy.

The substitute bill provides for the complete abolition of the whole system of rebates and drawbacks. The committee bill declares against rebates and drawbacks to any particular person "which, under similar circumstances, are not allowed to all other persons." If the words "similar circumstances" mean simply circumstances of time and place, this section, instead of preventing rebates and drawbacks, opens up the way to discrimination, and in its most violent form. While it might possibly prevent discrimination as between two merchants in the same city, it guarantees no safeguard against discrimination as between two merchants in different cities.

For instance, the Chicago merchant, who gets a nominal rate of $500 per car to New York, is granted a rebate of $200, making the actual rate $300. The South Bend merchant, located eighty miles east of Chicago, gets a nominal rate to New York city of $450 per car, is granted a rebate of $75, making the actual rate $375, or an advantage of $75 to the Chicago merchant. Now, in this case the provision of the law is complied with. All other South Bend merchants must have a $450 rate with a $75 rebate, and all other Chicago merchants must have a $500 rate with a $200 rebate, providing all circumstances connected with and surrounding the various transactions are precisely "similar!" South Bend would be at an absolute disadvantage, as compared with Chicago, in her commercial relations, but as the circumstance of place, to say the least, would not be "similar," there would be no redress. It would be interesting to observe a judge who has agreed to go "to the very verge of judicial discretion" to befriend the roads, as was the case in New York not long since, construe the expression "similar circumstances." If rebates are granted alike to all it amounts to a uniform reduction of rates, and no possible benefits can accrue to roads from surrounding their management by all this red tape.

The whole system of rebates and drawbacks is but a cunning scheme to secure the benefits of discrimination under the color of fair dealing. Wherever it has been practiced the worst results have followed. By granting the Standard Oil Company a rebate of $1 on each barrel of oil shipped over their lines, four companies in the short time of seventeen months paid into the treasury of the Standard Company the immense total of $10,151,000. This monstrous discrimination against all competitors bankrupted and absorbed 95 per cent. of all competition and has made the Standard Oil Company the light despot of the civilized world.

And what is true as between the railway companies and the Standard Oil Company is true in a greater or lesser degree in other directions. And no legislation less radical than that contemplated by the bill offered by the gentleman from Texas [Mr. REAGAN] will meet the exigencies of the occasion. The "conservative" legislation of which gentlemen speak will only by its impotency retard rather than advance the settlement of existing difficulties. While the committee bill embraces many commendable features, its defects are of a most fatal nature.

Indeed, in view of the exemption of the first section from the operation of the penal clause, its implied indorsement of the rebate system, its uncertain tone on the question of pooling, the absence of any provision against discriminations in favor of the longer as compared with the shorter distances, its limiting the highest penalty for its violation to $1,000, all coupled with the complicated machinery governing the proposed commission, it should be entitled "A bill to not regulate interstate commerce."

In addition to the peculiar features of these respective distinctions already noticed, I would lend special emphasis to the importance of the proposition embodied in the committee bill to create a railway commission, consisting of three men, to be appointed, and one, at least, of whom must be a practical railroad man. If this House, after due deliberation, decides to create this commission, I shall accept that judgment with becoming grace, at the same time seriously questioning the wisdom and practicability of such policy.

I do not share the great expectations professed by the gentlemen who support this measure. While I make the most charitable allowance for the predominance of patriotism over selfishness in the mind of the average citizen who might be appointed on such commission, I am not blind to the plain and palpable facts of the peculiar and overshadowing influence that must surround the board of commissioners.

The railway interests of the United States, representing a capital of $7,000,000,000, operating 125,000 miles of road, moving $15,000,000,000 worth of commerce annually, reaching into every avenue of trade, extending over every field of enterprise, embracing every department of industry, and affecting every fiber of our political and national life, would be placed in the scales held by this commission over the rights and liberties of the people. I am opposed to such a mighty concentration of power in any appointed body of men.

If the railway management of the country was strong enough in its infancy to dispossess the American people of a quarter of a billion acres of public lands; if this management has been able to stifle legislation on the floor of this House for the past ten years; if it could expend $235,000 in a single year to purchase legislation in a single State; if it has, as has been charged and frequently proven, gone into our legislative bodies and broken down the virtue of some of our strongest and best men; if it has, as charged and frequently proven, gone into the courts

of the country and defiled the judicial ermine; if, as charged on reasonable evidence, this railway management has gone into the executive mansions and compelled executive favors, and with the wake of Congressional investigation strewn with political skeletons bleaching under the uncooled wrath of public opinion, I am not ready to vote to place this mighty power for good or evil in the hands of any three men, however far above reproach they may be.

No, I prefer the comprehensive, practical, convenient, and, as I believe, potent remedy of the bill presented by the gentleman from Texas [Mr. REAGAN]. I trust this latter measure may become a law. The time has come, the hour has certainly struck, for this House to take a decisive step forward on this great question of public policy. The 250,000 products of American inventive genius have solved the question of production. By the intelligent application of steam, heat, electricity, and other forces of nature we have multiplied our productive power in the various departments of productive industry from ten to one-thousand fold, so that we are able to produce wealth to-day at a rate not dreamed of fifty years ago. By this means we have solved the great problem of production.

Now the American people are confronted by the problem of exchange and distribution. We must face the fact that progress in improving our systems of production has outrun progress in the development of our systems of exchange and distribution. This condition of things can result only in increased inequalities in the community, which for the want of adequate and proper systems of distribution breed discord and discontent.

This measure is at least a step in the direction of improvement. The problem has been partially solved. By the intelligent application of electricity all considerations of time and distance are eliminated from human calculation and the nations of the earth brought face to face. To improve our facilities for the transportation and distribution of the products of labor is the living issue. Pass the substitute bill. The productive and distributive interests of the country demand it. Public opinion will sanction it. The public conscience will approve it.

I reserve the remainder of my time.

Mr. REAGAN. I do not know whether any other gentleman desires to speak on this question to-day, but there are some members of the Committee on Commerce, some from having been absent and others from indisposition, who have been unable to be heard, who wish to continue the debate for another day; and I shall therefore move to adjourn.

INTERNATIONAL MERIDIAN CONFERENCE.

The SPEAKER, by unanimous consent, laid before the House the following message of the President of the United States:

To the House of Representatives:

I transmit herewith a communication from the Secretary of State, submitting the text, in the English and French languages, of the proceedings of the International Meridian Conference, provided for by the act of Congress approved August 3, 1882, held at Washington during the month of October, 1884.

CHESTER A. ARTHUR.

EXECUTIVE MANSION, *Washington, December 4, 1884.*

The message and accompanying papers were referred to the Committee on Foreign Affairs, and ordered to be printed.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted to Mr. VALENTINE for ten days, on account of sickness in his family.

And then, on motion of Mr. REAGAN (at 2 o'clock and 30 minutes p. m.), the House, in pursuance of a previous order, adjourned over until Monday, December 8, 1884.

PETITIONS, ETC.

The following petitions and papers were laid on the Clerk's desk, under the rule, and referred as follows:

By Mr. BALLENTINE: The petition of trustees of the Cumberland Presbyterian church—to the Committee on War Claims.

By Mr. BARKSDALE: The petition of Milton S. Haire, to have his claim referred to the Court of Claims to correct errors in the decision of the late Southern Claims Commission—to the Committee on War Claims.

By Mr. CALDWELL: A bill for continuing the improvement of the Cumberland River, Tennessee—to the Committee on Rivers and Harbors.

By Mr. CLEMENTS: Petition relating to the claim of Eli H. Dickson; also, petition relating to the claim of Harriet Gordon; also, petition relating to the claim of Samuel Harper—severally to the Committee on War Claims.

By Mr. S. S. COX: Memorial of P. Cudmore, with regard to the claims of volunteer soldiers—to the Committee on Invalid Pensions.

By Mr. W. R. COX: Petition of President Battle and others, in behalf of an agricultural experimental station at the University of North Carolina—to the Committee on Agriculture.

By Mr. ELLIS: Petition relating to the claim of A. Verrett—to the Committee on War Claims.

By Mr. D. B. HENDERSON: Resolutions and petitions for the relief of Capt. F. H. Shaw, Company C, Fifty-fifth Illinois Infantry—to the Committee on Military Affairs.

By Mr. JEFFORDS: Petition relating to the claim of Mary J. Parker; also, petition of James C. Newman, to refer claim to Court of Claims to correct errors in decision of late Southern Claims Commission—severally to the Committee on War Claims.

By Mr. LYMAN: Petition of Timothy Ingraham Post, No. 121, Department of Massachusetts, for publication in Official Records of the War of the Rebellion of photographic illustrations—to the Committee on Military Affairs.

By Mr. McMILLIN: A bill for the continuance of the improvement of the Cumberland River above Nashville, Tenn., by locks and dams—to the Committee on Rivers and Harbors.

By Mr. MILLARD: Petition of the Co-operative Labor and Land Improvement Association, relative to the public lands—to the Committee on the Public Lands.

By Mr. CHARLES O'NEILL: Petition of R. D. Wood & Co. and others, asking Congress to establish the metric system of weights and measures in the Departments of the Government—to the Committee on Coinage, Weights, and Measures.

By Mr. PETERS: Petition of members of the Eighth Kansas Volunteers, for a pension for Mrs. Blackman—to the Committee on Invalid Pensions.

By Mr. PRYOR: Memorial of John D. Inman, administrator, &c., of Argy L. Garner, for reference of his claim to the Court of Claims under act of March 3, 1883—to the Committee on War Claims.

By Mr. ROSECRANS: Petition of William P. Graves, captain Second Artillery, and others, in favor of a bill to facilitate promotions throughout the United States Army—to the Committee on Military Affairs.

SENATE.

MONDAY, *December* 8, 1884.

Prayer by Rev. J. M. REID, D. D., of New York city.

JOSEPH E. BROWN, a Senator from the State of Georgia; WADE HAMPTON, a Senator from the State of South Carolina; and LUCIUS Q. C. LAMAR, a Senator from the State of Mississippi, appeared in their seats to-day.

The Journal of the proceedings of Thursday last was read and approved.

INTERNATIONAL MERIDIAN CONFERENCE.

The PRESIDENT *pro tempore* laid before the Senate the following message from the President of the United States; which was read:

To the Senate of the United States:

I transmit herewith a communication from the Secretary of State, submitting the text, in the English and French languages, of the proceedings of the International Meridian Conference provided for by the act of Congress approved August 3, 1882, held at Washington during the month of October, 1884.

CHESTER A. ARTHUR.

EXECUTIVE MANSION, *Washington, December 4, 1884.*

The PRESIDENT *pro tempore.* If there be no objection the message will be printed, and, together with the accompanying documents, referred to the Committee on Printing for consideration of the question of printing the voluminous report.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of War, transmitting a statement of the expenditures at the Springfield armory, and of the arms, components of arms, and appendages fabricated, altered, and repaired thereat during the fiscal year ended June 30, 1884; which was ordered to be printed with the accompanying report, and referred to the Committee on Military Affairs.

He also laid before the Senate a communication from the Secretary of War, transmitting the report of the armament board convened under the provisions of an act approved July 5, 1884, for the purpose of determining the various calibers, lengths of bore, greatest and least admissible weights of guns for each caliber, &c., of all ordnance required for the service; which, with the accompanying papers, was ordered to be printed, and referred to the Committee on Military Affairs.

He also laid before the Senate a communication from the Postmaster-General, recommending an additional appropriation for clerks in post-offices for the current fiscal year; which, with the accompanying papers, was ordered to be printed, and referred to the Committee on Appropriations.

He also laid before the Senate a communication from the Secretary of the Interior, transmitting the report of the surveyor-general of New Mexico in the case of the private land claim of Antonio de Salazar, No. 132; which was ordered to be printed, and, with the accompanying papers, referred to the Committee on Private Land Claims.

He also laid before the Senate a communication from the Secretary of the Interior, transmitting the report of the surveyor-general of New Mexico in the case of the New Mexico private land claim of Sebastian de Vargas, No. 137; which was ordered to be printed, and, with the accompanying papers, referred to the Committee on Private Land Claims.

NAVAL APPROPRIATIONS.

The PRESIDENT *pro tempore*. The Chair lays before the Senate bills from the House of Representatives for reference.

The bill (H. R. 7510) making temporary provision for the naval service was read twice by its title.

Mr. HALE. Mr. President, before any disposition is made of the bill the title of which has been read by the Secretary I desire to call the attention of the Senate to the condition and status of the naval appropriations for the present fiscal year, beginning July 1, 1884.

The regular naval appropriation bill for the current fiscal year during the last session gave rise to material differences between the two Houses. In endeavoring to adjust those differences in conference the time of the session was consumed, and the House and Senate found themselves confronted on the very last days with an impossibility on the part of the conferees of the two bodies to agree. Under those conditions a bill was introduced in the House of Representatives and passed making what I may call a lump appropriation for the Navy Department for one half the year, running to the 1st of January next. No attempt was made in that bill to particularize, but the appropriations for the preceding year were taken, and 50 per cent. of them given in bulk to the Navy Department. That bill came to the Senate, and after some debate and some amendment, which the House rejected, was agreed to.

Under that lump appropriation—for I continue to call it by that name as describing it—the Navy Department has been run. The old bill, the regular appropriation bill, with all the subjects of difference which gave in terms to the Department and in detail to each bureau, still remains where it was left, the conferees having reported it, the bill itself being now bodily either with the Senate or the House. It is an appropriation bill framed in the usual manner, giving particular appropriations for the fiscal year ending June 30, 1885. It was my belief when the temporary appropriation was passed that on Congress reassembling in December that bill, the regular appropriation bill, would be taken up, new conferees appointed, and that they would proceed to consider it and report to the two Houses. Instead of that the House bill, which has just been announced from the table of the President, renews the lump appropriation for the rest of the year, thereby by the two bills simply continuing the appropriations for the year ending June 30, 1884, into the year ending June 30, 1885.

With all due respect to the bill that is now before the Senate, I may say that I do not for one like that method of appropriating money. I do not think there should be a resort to an appropriation of this kind unscrutinized, simply depending on last year's appropriations, except in cases where we are obliged to do it by the imminence of an adjournment or by some cause that can not be removed. I do not think that Congress ought in any case where it is not obliged to embark upon that method of making appropriations of public money, and I should much prefer that the regular appropriation bill, regularly framed last session in the House, discussed and amended there, reported to the Senate and discussed at length and amended here, should be taken up, put into a new conference, and reported as the bill for the rest of the year. I should much prefer that to taking this form of appropriation.

There is another thing which by this measure is entirely taken away from our consideration now. Senators will remember that upon the naval appropriation bill last year was ingrafted the proposition for more new ships. That provision is upon the bill in the form of a Senate amendment. The House refused to accept it. The House conferees took ground upon the action of the House, and the Senate maintained its ground; and, therefore, the bill lodged in conference and was reported to the Senate in that way. But to my mind the sooner now the Senate deals with that great subject which was put upon that bill the better. If we consider the bill with the new ships upon it, and are able in conference with the House conferees to agree upon some proposition which shall accelerate the enterprise of building up our Navy, that will be a work desirable to be done. Under this bill, unless radically amended, all of that is still further postponed either to the next Congress, or to the bill which makes appropriations for the next fiscal year, which does not take effect until July 1 next. If the old bill can be taken, the bill now before the Houses, which contains that feature, whatever is finally agreed upon, will take effect, so that the time between now and July 1 will be utilized in this enterprise.

I simply wish to call the attention of Senators to this matter before the bill is referred. I presume it will go to the Appropriations Committee.

The PRESIDENT *pro tempore*. If there be no objection the bill will be referred to the Committee on Appropriations.

HOUSE BILLS REFERRED.

The bill (H. R. 7428) to authorize the Hillsborough National Bank to change its name to that of the First National Bank of Hillsborough, Ohio, was read twice by its title, and referred to the Committee on Finance.

The bill (H. R. 3258) to authorize the construction of a bridge across the Saint Croix River at the most accessible point between Stillwater and Taylor's Falls, Minn., was read twice by its title, and referred to the Committee on Commerce.

ATLANTIC AND PACIFIC RAILROAD LAND GRANT.

The PRESIDENT *pro tempore* laid before the Senate the action of the House of Representatives non-concurring in the amendments of the Senate to the bill (H. R. 7162) to forfeit the unearned lands granted to the Atlantic and Pacific Railroad Company "to aid in the construction of a railroad and telegraph line from the States of Missouri and Arkansas to the Pacific coast, and to restore the same to settlement, and for other purposes," asking a conference with the Senate on the disagreeing votes of the two Houses thereon, and appointing Mr. T. R. COBB of Indiana, Mr. BARCLAY HENLEY of California, and Mr. L. E. PAYSON of Illinois managers at such conference on the part of the House.

On motion of Mr. MORGAN, the Senate insisted on its amendment, and agreed to the conference asked for by the House.

By unanimous consent, the President *pro tempore* was authorized to appoint the conferees on the part of the Senate; and Mr. MORGAN, Mr. BLAIR, and Mr. PLUMB were appointed.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented a communication from the Secretary of War, transmitting a letter of the Surgeon-General inclosing petitions from hospital stewards of the Army for increase of pay, recommended by medical officers of the Army; which was ordered to be printed, and, with the accompanying papers, referred to the Committee on Military Affairs.

He also presented the petition of Mrs. Kate Morgan Smith, widow of Edward W. Smith, late major in the Twenty-second United States Infantry, praying to be allowed a pension; which was referred to the Committee on Pensions.

Mr. WILSON presented a petition of C. P. Searle and 40 other citizens of Iowa, praying for the passage of a special act of Congress granting a pension to Isabella Higgins, late hospital matron Eighth Regiment Iowa Volunteer Infantry; which was referred to the Committee on Pensions.

Mr. SHERMAN. I present the petition of John James Crutchett, formerly a citizen of this city, proposing to furnish the United States Government in the District of Columbia carbon gas at a very low figure. I move that the petition be referred to the Committee on the District of Columbia.

The motion was agreed to.

Mr. HALE presented a memorial of the president and trustees of the Maine State College of Agriculture and Mechanic Arts, in favor of House bill 7498 to establish agricultural experiment stations; which was referred to the Committee on Agriculture and Forestry.

Mr. PLUMB presented a petition of citizens of Kansas, ex-Union soldiers and sailors, praying for the passage of certain legislation favorable to soldiers and sailors; which was referred to the Committee on Pensions.

Mr. MCMILLAN presented the petition of P. Cudmore, late private Company H, Tenth Minnesota Infantry Volunteers, praying for a modification of the pension laws; which was referred to the Committee on Pensions.

ULYSSES S. GRANT.

Mr. MITCHELL. Some days ago I introduced a bill (S. 2404) granting a pension to Ulysses S. Grant. A day or two ago I received from him a letter, an extract from which I will read. He says:

> I learn through the press that you have introduced a bill in the Senate placing me on the pension-list of the nation. I understand the motive which has prompted this action on your part and appreciate it very highly. But I beg you to withdraw the bill. Under no circumstances could I accept a pension, even if the bill should pass both Houses and receive the approval of the President.

I was led to introduce the bill because a recommendation on the subject was made by President Arthur, and because it happens that I am chairman of the Committee on Pensions, and I have been frequently spoken to on the subject. I confess that it did not appear to me to be the proper thing to do in this case. I have always felt that General Grant ought to be placed where he was when he laid down the great office which he won in the late war to accept the Presidency, and that he should be compensated accordingly from the time when he left the office of the Presidency. Therefore, and in view of what General Grant desires in this matter, I ask the unanimous consent of the Senate that the Committee on Pensions be discharged from the further consideration of the bill, and that I may have leave to withdraw it from the Senate.

The PRESIDENT *pro tempore*. The Senator from Pennsylvania asks unanimous consent that the Committee on Pensions, to whom was referred a bill introduced by him providing for a pension for Ulysses S. Grant, be discharged, and that he have leave to withdraw the bill from the files of the Senate. Is there objection? The Chair hears none, and it is so ordered.

REPORTS OF COMMITTEES.

Mr. HARRIS, from the Committee on the District of Columbia, to whom was referred the bill (S. 2296) for the relief of Thomas A. McLaughlin, asked to be discharged from its further consideration, and that it be referred to the Committee on Claims; which was agreed to.

BILLS INTRODUCED.

Mr. BECK introduced a bill (S. 2410) for the relief of the legal rep-

resentatives of Francois Fournier; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Private Land Claims.

Mr. PLATT (by request) introduced a bill (S. 2411) for the relief of Thomas A. Weston; which was read twice by its title, and referred to the Committee on Patents.

He also introduced a bill (S. 2412) for the relief of Mrs. E. A. Benham, widow of Bvt. Maj. Gen. Henry W. Benham, deceased; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

Mr. DOLPH introduced a bill (S. 2413) for the relief of Edward S. Kearney; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. CULLOM introduced a bill (S. 2414) to amend an act entitled "An act in relation to courts and judicial officers in the Territory of Utah;" which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. BLAIR introduced a bill (S. 2415) for an appropriation to promote the colored peoples' world's exposition, to be holden at the city of Chicago, commencing on the first Monday of September, 1885; which was read twice by its title, and referred to the Committee on Appropriations.

Mr. MORGAN introduced a bill (S. 2416) for the relief of H. M. Jones; which was read twice by its title, and referred to the Committee on Claims.

Mr. INGALLS. I introduce a bill to amend section 993 of the Revised Statutes, relating to the District of Columbia, the purpose being to make the day of the inauguration of President of the United States a legal holiday. I ask that it may be read twice and referred to the Committee on the District of Columbia.

The bill (S. 2417) to amend section 993 of the Revised Statutes relating to the District of Columbia was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. INGALLS (by request) introduced a bill (S. 2418) to incorporate the Washington Central Railroad Company of the District of Columbia; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. CALL introduced a bill (S. 2419) for the relief of James Filor, William Curry, and William Pinckney; which was read twice by its title, and referred to the Committee on Claims.

Mr. PALMER (by request) introduced a bill (S. 2420) to provide for the establishment of evening schools in the District of Columbia; which was read twice by its title, and referred to the Committee on the District of Columbia.

He also (by request) introduced a bill (S. 2421) for the relief of John Snyder; which was read twice by its title, and referred to the Committee on Pensions.

ORGANIZATION OF SIGNAL SERVICE AND OTHER OFFICES.

Mr. ALLISON introduced a joint resolution (S. R. 98) extending the time fixed for the joint commission appointed under the sundry civil act approved July 7, 1884, to submit their report; which was read the first time by its title.

Mr. ALLISON. I ask unanimous consent that the joint resolution may be considered now.

The joint resolution was read the second time at length, as follows:

Resolved by the Senate and House of Representatives, &c., That the joint commission appointed under the act of Congress approved July 7, 1884, to consider the present organizations of the Signal Service, Geological Survey, Coast and Geodetic Survey, and the Hydrographic Office of the Navy Department, with the view to secure greater efficiency and economy of administration of the public service in said bureaus, shall report on the first Monday in January, A. D. 1885, or as soon thereafter as practicable, in lieu of the third Monday in December, 1884, as required by said act.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

BLOCK ISLAND HARBOR.

Mr. SHEFFIELD submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of War be, and he hereby is, directed to communicate to the Senate, without unnecessary delay, whether there exists a public necessity for the enlargement of the basin or harbor inside the breakwater at Block Island, Rhode Island, for the proper accommodation of the shipping seeking refuge at that place; and, if so, to what extent should such enlargement be made, and what would be the probable cost thereof.

PURCHASE OF THE MURRAY PAPERS.

Mr. GARLAND. In behalf of the Senator from Indiana [Mr. VOORHEES], who was called away from the city for a day or two, I ask leave to submit a resolution.

The resolution was considered by unanimous consent, and agreed to, as follows:

Resolved, That the Joint Committee on the Library be, and are hereby, instructed to inquire into and report on the expediency of purchasing, for the use of the Congressional Library, the six volumes of manuscript diplomatic correspondence of Hon. William Vans Murray, minister to the Netherlands in 1797, and envoy to France from 1799 to 1801.

PACIFIC RAILROAD SETTLEMENT.

Mr. GARLAND. Senate bill 2123, in reference to the settlement of the indebtedness of the Union and Central Pacific Railroad Companies, was reported on the 29th of April last by myself from the Committee on the Judiciary. Afterward a bill came from the House of Representatives on the same subject and involving other matter, being a bill of much wider scope than the Senate bill. The House bill was referred to the Committee on the Judiciary; they have it now under consideration, and I ask that Senate bill 2123 be recommitted to that committee to be considered with the House bill.

The PRESIDENT *pro tempore*. The Senator from Arkansas asks that Order of Business 540 being the bill (S. 2123) to amend an act entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri River to the Pacific Ocean, and to secure to the Government the use of the same for postal, military, and other purposes," approved July 1, 1862; also to amend an act approved July 2, 1864, and also an act approved May 7, 1878, both in amendment of said first-mentioned act; and to provide for a settlement of the claims growing out of the issue of bonds to aid in the construction of certain of said railroads, and to secure to the United States the payment of all indebtedness of certain of the companies therein mentioned, be taken from the Calendar and referred to the Committee on the Judiciary. Is there objection? The Chair hears none, and it is so ordered.

NATIONAL EDUCATION.

Mr. LOGAN. I move that the bill (S. 228) to appropriate and expend $50,000,000 derived from the internal-revenue taxes and sale of public lands for the education of all the children living in the United States, being the first bill on the Calendar, which was introduced by myself and laid upon the table, be referred to the Committee on Education and Labor. A bill relating to the subject of national education was passed at the last session of Congress, and I merely desire to get this bill off the Calendar.

The PRESIDENT *pro tempore*. The Senator from Illinois asks that the bill indicated by him be taken from the Calendar and referred to the Committee on Education and Labor. Is there objection? The Chair hears none, and it is so ordered.

FRANCES M'NEIL POTTER.

Mr. WILSON. I ask unanimous consent to take from the Calendar the bill (H. R. 4822) for the relief of Frances McNeil Potter, being an adverse report from the Committee on Pensions, in order that it may be recommitted to the Committee on Pensions.

The PRESIDENT *pro tempore*. Is there objection? The Chair hears none.

Mr. WILSON. I move the recommittal of the bill.

The motion was agreed to.

SPOKANE FALLS AND CŒUR D'ALENE RAILWAY.

The PRESIDENT *pro tempore*. The Chair lays before the Senate the Calendar under Rule VIII, commencing at Order of Business 325.

Mr. DOLPH. I ask unanimous consent for the present consideration of the bill (S. 1642) to incorporate the Spokane Falls and Cœur d'Alene Railway Company. In order that there may be no misunderstanding in regard to it, I will state that the only object of the bill is to incorporate a local railway company in the Territory of Idaho, and for the reason that there is no general law of the Territory authorizing such an incorporation. The Legislature of that Territory will not meet until next year. When it does meet it can only act by enacting a general law by which corporations may be formed. The bill itself makes no grant, the company is asking no aid, and there certainly can be no objection to it. It was taken up during one of the last days of the last session, but upon the objection of one of the Senators from Nebraska [Mr. VAN WYCK] it went over. I think there will be no objection to the bill, and that upon the reading of the report it will be passed without discussion.

The PRESIDENT *pro tempore*. The Senator from Oregon moves that the Senate now proceed to the consideration of the bill (S. 1642) to incorporate the Spokane Falls and Cœur d'Alene Railway Company.

Mr. CONGER. Mr. President——

The PRESIDENT *pro tempore*. The motion is not debatable.

Mr. CONGER. There is a bill now under consideration in the order of business of the Senate which has precedence, and I object to the consideration of this bill.

The PRESIDENT *pro tempore*. Under Rule VIII it is in order for the Senator from Oregon to move, and for the Chair to put the question, that "the Senate otherwise order," as the phrase of the rule is, and take up some other bill. That motion is not debatable under the rule, the Chair understands.

Mr. CONGER. My colleague [Mr. PALMER] is prepared to make some remarks on the bill now pending on the Calendar, and desires an opportunity to do so. I hope the Senator from Oregon will not interfere with the regular order of business until my colleague has had an opportunity to be heard.

The PRESIDENT *pro tempore*. Does the Senator from Michigan refer to the bill (S. 1170) for the relief of Richard Hawley & Sons?

Mr. CONGER. Yes, sir.

The PRESIDENT *pro tempore*. That is the unfinished business, and will come up at 2 o'clock as unfinished business. It does not come up under Rule VIII. It having been the unfinished business at the last adjournment of the Senate, it will supersede all other business at 2 o'clock.

Mr. CONGER. Then I withdraw any objection to the consideration of the bill moved by the Senator from Oregon.

The PRESIDENT *pro tempore*. The question is on agreeing to the motion of the Senator from Oregon, that the Senate now consider Senate bill 1642, the title of which has been announced.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill.

The PRESIDENT *pro tempore*. The bill has been read.

Mr. COCKRELL. Let it be read again, Mr. President.

The PRESIDENT *pro tempore*. The bill will be again read for information, on the request of the Senator from Missouri, after which the first amendment recommended by the Committee on Railroads will be reported.

The Secretary read the bill.

Mr. COCKRELL. I see there is a report in the case. I ask that it be read.

The PRESIDING OFFICER (Mr. HARRIS in the chair). The report of the committee will be read.

The Secretary read the following report, submitted by Mr. SAWYER March 26, 1884:

The Committee on Railroads, to whom was referred the bill (S. 1642) to incorporate the Spokane Falls and Cœur d'Alene Railway Company, adopting the language of the report made by the Committee on Pacific Railroads of the House of Representatives, submit the following:

The purpose of the bill (S. 1642) is to incorporate the Spokane Falls and Cœur d'Alene Railway Company, a road proposed to be built from Spokane Falls, in Washington Territory, to the Cœur d'Alene mining region, in the Territory of Idaho, a section of country now wholly without railroad or other transportation facilities.

As there is no Territorial law in Idaho under which a railroad company can be incorporated, and as there can be no session of the Legislature until 1885 at which a general incorporation law can be passed, the incorporators of the proposed road are compelled to come before Congress for a charter.

The company ask no aid or help from the United States. They simply ask the privilege of building the railroad at their own risk under the sanction of law, so that when built they can be protected in their rights.

Your committee are of the opinion that the privilege asked for should be granted them, and therefore report back the accompanying bill, with amendments, and recommend that it do pass.

The PRESIDING OFFICER. The Secretary will report the first amendment recommended by the Committee on Railroads.

The SECRETARY. At the end of section 5 the committee report to add:

Provided, That no Territory, or county, or municipal corporation shall take stock, or buy or guarantee stock or bonds, or in any manner lend or give its credit to said company.

The amendment was agreed to.

The next amendment was to add as an additional section:

SEC. 11. That before commencing to build the road said company shall file a copy of the survey and location thereof in the offices of the secretaries of Washington and Idaho Territories, and submit a like copy to the Secretary of the Interior, who shall advertise the fact of such submission in a prominent newspaper in each of said Territories, and delay action on said survey and location for at least two months. Without his approval said company shall not proceed.

The amendment was agreed to.

The PRESIDING OFFICER. The Chief Clerk calls the attention of the Chair to the fact that in line 4 of section 1 the letter "L" ought to be stricken out and the letter "S" inserted, so as to read, "H. S. Cummings." If there be no objection, that change will be made. The Chair hears none, and it is so ordered.

Mr. HARRISON. Mr. President, my attention has not before been called to this bill, but from a hasty examination of it I think it contains some provisions that are dangerous. I think that unless some special exigency exists legislation of this kind should be left to the proper Territorial Legislature. The members there will be familiar with the incidents and circumstances and conditions under which a corporate organization is asked for this company. We are here entirely ignorant of all those things.

The Senator from Oregon suggests that there will be some delay incident unless Congress takes this step and legislates for the Territory. It can hardly be that the exigency to which he refers can extend to all of the branches which seem to be contemplated by the bill. I have not had an opportunity to look at the map of that country, but it seems to me probable from the number of branches which are authorized to be built by the bill that the company has probably monopolized all the passes through the mountains in that region, and that if we pass the bill as it is we shall practically confer a monopoly of the railroad business in that section upon this corporation.

In addition to the main line of road, which is described as one beginning at Spokane Falls, in the Territory of Washington, and proceeding by way of Fort Cœur d'Alene, in the Territory of Idaho, by the most direct and eligible route, to an intersection with the Northern Pacific or Utah Northern Railroad, in Western Montana—in addition to that, which is described as the main line, the bill authorizes the corporation to construct branch lines from suitable points on the main line in Idaho Territory up each of three rivers, which are named here, to points near their source; and also a railroad and telegraph line from at or near the city of Spokane Falls to a point at or near Moscow, in the Territory of Idaho.

The bill also authorizes the corporation to construct, furnish, maintain, and operate on Lake Cœur d'Alene and the Spokane, Saint Joseph, Saint Mary's, and Cœur d'Alene Rivers a line or lines of steamers, vessels, steamboats, tugboats, towboats, barges, and other water-craft, with the appurtenances. Now, that is a very wide grant. It can not be that there is any exigency which would justify Congress in bestowing such a grant upon any corporation. If there is such an interest in some portion of the railroad in the main line as that its construction is likely to progress immediately, some argument might be made in favor of Congressional legislation upon the subject; but I submit that unless we intend to tie the hands of the Legislatures of Idaho and Washington Territory altogether and absolutely to invest the corporation with power to occupy the whole Territory, possibly every mountain pass, every river valley in it, and not only that but to authorize placing upon the navigable waters their lines of steamboats, barges, and towboats, and to operate telegraph lines—unless we are prepared to do that this bill ought not to pass. I submit we are not prepared to do so, and that when Senators give their consideration to the bill they certainly will not be ready to pass it in the breadth in which it is suggested here.

Not only this, but there are some extraordinary powers granted. I think it has been the policy of all State Legislatures in their general laws regulating railroad corporations to limit the power of consolidation and of purchase by one corporation of the franchise and road of another; and yet section 4 of this proposed act confers upon the railroad company authority to purchase the stock, lands, franchises, and appurtenances of, and to consolidate on such terms as may be agreed upon between the parties with any railroad company or companies heretofore chartered, or that may hereafter be chartered by Congress, or that may hereafter be chartered by the Territorial Legislature, so that so far as this company goes it is emancipated from any limitation which the Territory may undertake to place upon the consolidation of corporations within that Territory.

There is one wholesome provision upon this subject in the interest of shippers which I think is found in the legislation of nearly all our States where consolidations are permitted, and that is an inhibition against the consolidation of parallel lines. Here is a power granted that would enable this corporation to absorb every railroad that might be built in the Territory, to buy up the stock and to get the control of any competing line which might be established in the Territory, even if it were parallel to this main line or some of its branches. I submit that the fourth section is entirely out of harmony with the most recent and intelligent and conservative railroad legislation as we have it in the different States.

The PRESIDING OFFICER. The Chair notifies the Senator from Indiana that his five minutes have expired.

Mr. COCKRELL. Mr. President, I submit that this is not under that rule.

The PRESIDING OFFICER. The Senate is proceeding under an order of the Senate to consider this bill. The Chair supposes, therefore, the five-minutes rule does not apply.

Mr. COCKRELL. It does not apply.

The PRESIDING OFFICER. The Chair was supposing at the moment that the Senate was acting under Rule VIII.

Mr. HARRISON. I call attention also to the very sweeping provision in section 5 of the bill, by which the company is authorized—

to purchase lands or to accept donations or grants of lands or other property from individuals or corporations for the purpose of aiding in carrying out the objects of this company.

The right of a railroad company to hold land ought to be strictly limited to its right of way and to the requisite ground for its depots, shops, and other necessary buildings. I think the grant is wide enough here to enable this corporation to enter into the business of absorbing the public domain as a land speculator. I shall, therefore——

The PRESIDING OFFICER. Will the Senator from Indiana suspend a moment? On looking at the rule the Chair is of opinion that the five minutes' limitation of debate does apply. This bill was not proceeded with notwithstanding an objection, but it was taken up upon the order of the Senate within the time that the rule imposes the five-minute limitation on debate.

Mr. HARRISON. I had about concluded all I intended to say, but before sitting down I make a motion to strike out all after the word "Montana," in line 21 of section 1, to the end of the section.

The PRESIDING OFFICER. The amendment of the Senator from Indiana will be read by the Secretary.

The SECRETARY. It is proposed to strike out, in section 1, line 21, after the word "Montana," the words:

Together with branch lines from suitable points on the main line, in said Idaho Territory, up each of the following rivers: Cœur d'Alene, Saint Mary's, and Saint Joseph Rivers, to near the sources of the same; and also a railroad and telegraph line from at or near said city of Spokane Falls to a point at or near Moscow, in the said Territory of Idaho; and said company is also authorized and empowered to build, construct, furnish, maintain, and operate on Lake Cœur d'Alene and the Spokane, Saint Joseph, Saint Mary's, and Cœur d'Alene Rivers a line or lines of steamers, vessels, steamboats, tugboats, towboats, barges, and other water-crafts, with the appurtenances, and is hereby vested with all the powers, privileges, and immunities necessary to carry into effect the purposes of this act.

Mr. DOLPH. Mr. President, I hardly thought, after the appropriate committee of the Senate had carefully examined this bill and made a favorable report on its merits, and after it appeared from that report that the bill had been favorably reported from the appropriate committee of the House, it would be made the subject of such an attack as has just been made upon it.

I agree with the Senator that he is not familiar with this subject. It has been the custom of Congress to incorporate railroad companies in the Territories. This is a bill intended for the purpose only of incorporating a local company in the Territory of Idaho for the purpose of constructing a railroad and certain branches in that Territory.

The necessity of this legislation arises from the fact that there is no existing general law of the Territory of Idaho by which a railroad or other incorporation can be formed, and Congress has provided that no Territory shall pass a special law creating a corporation. The only way that a corporation can be formed in a Territory for any purpose is under a general law of that Territory. Before this enterprise can be undertaken, if this bill does not become a law, these parties will have to wait until the Legislative Assembly of the Territory of Idaho meets and has time to pass a general incorporation law.

Now, whenever the Territory has passed a general incorporation law, any limited number of persons, usually three or four, can file articles of incorporation for the purpose of building this proposed railroad line with all its branches, and those articles may contain all the powers conferred by this bill. And more than that, they could be duplicated to any number, and any number of corporations formed for the purpose of building precisely the same road and branches, and whenever a corporation or any number of corporations had been formed for constructing this precise road and its branches, under the general act of Congress of March 3, 1875, by complying with certain regulations of the Interior Department, filing a copy of the act under which they were incorporated, filing a record showing that they had been duly organized, and a list of officers, and a map of the location of the road, they could obtain a right of way over the public lands for the purpose of building their roads. That is all that is asked by this bill for this incorporation, that they be granted the rights and privileges secured by the general right of way act of Congress of March 3, 1875. By that act if, after filing the map of location of any twenty miles of the road, the road is not constructed within a limited time—twelve months I believe it is—the right of way would be forfeited, and any other company could occupy it. It seems to me this disposes of the whole of the Senator's argument in regard to this being an attempt to secure the mountain passes and tie them up for a period of years.

Mr. COCKRELL. Will the Senator permit me to ask a question?

Mr. DOLPH. Certainly.

Mr. COCKRELL. This report was made last year, and the principal reason for urging the passage of the bill then was that the Legislature of Idaho, and probably of Washington Territory too, would not be in session until 1885, and therefore it was absolutely necessary that the parties should apply to Congress because they could not apply to the Legislatures. Eighteen hundred and eighty-five will soon be here, the Territorial Legislatures will be in session, and will be authorized to grant all the relief that ought to be granted. Now, why is there any necessity for the attempt to pass the bill at this session?

Mr. DOLPH. I do not now remember at what time the Territorial Legislature of Idaho assembles. If it is the latter part of the coming year, it would prevent the commencement of this enterprise for an entire year. That is the answer to the Senator from Missouri.

Mr. COCKRELL. Does not the Legislature of the Territory of Washington meet this winter?

Mr. DOLPH. Washington Territory has already passed a general incorporation law, under which any three citizens of the Territory can incorporate for building a railroad through any portion of the Territory.

Mr. COCKRELL. Then there is no necessity for this bill to apply to Washington Territory.

Mr. DOLPH. It does not necessarily apply to Washington Territory. I am not certain whether any part of this road is within the Territory of Washington. If it is——

Mr. COCKRELL. The bill so states.

Mr. DOLPH. That may be. But that would not avoid the necessity of an incorporation in the Territory of Idaho.

Mr. COCKRELL. Spokane itself is in Washington Territory.

Mr. DOLPH. That is true. But that would not prevent the necessity of an incorporation in the Territory of Idaho, and I presume Congress would not attempt to incorporate a company to build part of the road, leaving it to apply to the Territorial Legislatures for the rest of the charter.

Mr. COCKRELL. Montana Territory has a general law in regard to corporations, has it not?

Mr. DOLPH. I am not certain about that.

Mr. COCKRELL. So that two of the Territories through which this road is to run have ample provision already made.

Mr. DOLPH. They would have no authority, however, to incorporate a company to build a railroad in Idaho Territory. As I said before, I presume Congress would not undertake to grant a charter to apply to one Territory and leave the company to apply to other Territories for the authority to construct the road in part. The provisions of this charter, I think, are the ordinary provisions. If they are not, as I said before, under the existing laws of Washington Territory or Montana or under any future general incorporation law of Idaho Territory, a corporation may be formed with all the powers that are provided for in this act. The last section of the act provides that Congress shall have the power "to alter, amend, or repeal this act whenever, in its judgment, the interest of the people may require it."

Not only is this company not asking more in regard to the right of way than all companies incorporated under general railroad laws or special laws, State or Territorial, can obtain by compliance with the act of March 3, 1875, but an additional burden has, by the report of the committee, been placed on the company, by providing that before the company shall commence to build the road it shall file a copy of the survey and location thereof, not only in the office of the Secretary of the Interior, but in the offices of the secretaries of Washington and Idaho Territories, and submit a like copy to the Secretary of the Interior, and that that fact shall be advertised. I see no good reason why this little bill should have been made the occasion of such objections, and I hope it will pass.

Mr. HARRISON. Mr. President, I professed at the outset a lack of any familiarity with the subject presented by this bill, but there are some features of it, I think, that require very little study in order to understand them, and the one feature is that to which I alluded, that here is a railroad proposed to be constructed between two points, and with some five or six branches running up, so far as I know, and so far as any one here knows or has informed us, through every one of the streams in that region, and occupying all the passes.

The Senator from Oregon tells us that if the Territory of Idaho should pass a general railroad law, which he says has not been done up to this time, then some other company incorporated under it could occupy this same line; but under existing legislation no railroad company can do it. We have no assurance that the Territory of Idaho will pass such a law, that there may not be influences against its passage, and, if so, then Congress is conferring an exclusive right upon this company to occupy these lines of road.

Mr. DOLPH. Will the Senator allow me to ask him a question?

Mr. HARRISON. Certainly.

Mr. DOLPH. May not Congress at any time incorporate another company or repeal this act?

Mr. HARRISON. Undoubtedly Congress could incorporate another company, but the trouble about that is that Congress moves in matters of this kind upon suggestion simply, and the likelihood, if this corporation were to acquire the powers that these grants seem to imply, that Congress would interfere is remote, I think. But the point I make is that this legislation is appropriate legislation for the Territory. It is a field of legislation which, according to the statements of the Senator from Oregon, the adjoining Territories have entered upon and covered by their legislation, of course not to the exclusion of legislation by Congress; and my point is that Congress should do nothing in a matter of this kind except upon an exigency, and that it should do no more than the exigency requires.

Now, the amendment I have proposed leaves the charter for the main line of this road from Spokane Falls to Cœur d'Alene; it simply cuts off from it the power granted here to construct half a dozen branches, to enter generally into the steamboat business on certain lakes and rivers. Certainly that is more than will be accomplished before the Legislature of Idaho meets and has an opportunity to consider this question and to pass some general legislation covering the subject.

Let me take the case upon the proposition put by the Senator from Oregon, that after the passage of this act this corporation, by filing its survey with the Secretary of the Interior, would only acquire an exclusive use for twelve months to the line which it had thus surveyed and the profile of which it had filed. Then we are granting a right which may be of great value to be bartered out to other companies. For twelve months we are granting to them the exclusive right to occupy these river valleys for the construction of lines of road that the Senator will not pretend, I think, at least he has not said so, are likely to be entered upon at all before the Territory of Idaho will have an opportunity to act upon this question. We are laying out a scheme here that looks to years for its completion, if it is ever completed at all, and we are doing it upon the suggestion that the Legislature of Idaho does not meet for a year. My point is that, if it is a question of exigency legislation, we should confine ourselves to the exigency, and it is enough if we give this company, under ordinary restrictions, the right to build this main line of road.

The PRESIDING OFFICER. The question is on the amendment proposed by the Senator from Indiana.

Mr. PLATT. Mr. President, while this amendment is under consideration there are some other features in this bill to which I would like to call the attention of the Senate, which I think are of considerable importance. I know nothing about this proposed railroad except what I learn from the bill; but it is proposed to charter a railroad which is to be built, as it has become the fashion of late to build roads, without any cash capital, and I think the Congress of the United States had better stop granting such railroad charters. It is proposed that a

company may be organized "when 1,000 shares, amounting to $100,000, shall have been subscribed, and 10 per cent. actually paid thereon in money." That is to say, when $10,000 have been paid in money the company may be organized. It is evidently all that it is expected will ever be paid in cash toward this enterprise.

Section 3 provides that, after the organization of course, the capital stock may "be fixed by the board of directors at a sum not exceeding $2,500,000, in shares of $100 each."

Section 8 provides—

That said company shall be, and they are hereby, authorized and empowered to mortgage, in the usual manner, their franchises, road-bed, and all property belonging to said company, to an amount not exceeding $25,000 per mile for the entire length of said roads, including said branch lines, upon such terms as may seem to said company best.

Now, I submit, Mr. President, that it is quite time that the Congress of the United States should cease lending its sanction to the practice of building railroads without any cash subscribed for that purpose. The practice, which has sprung up in this country, of building railroads upon paper is working infinite mischief and is creating the transportation problem which now excites so much attention. With this charter passed, of course the railroad is to be built on borrowed money, or the building of the railroad is to be paid for by the issue of stock and bonds, and every Senator knows that a railroad built in that way costs twice as much as a railroad built for cash should cost; and the result is that having been so built, the people have to be taxed twice as much for freight as they would be if the railroad were built for cash, in order that the company may earn dividends upon the amount of capital stock. And when I say this, I have but begun to enumerate the methods which are employed for the purpose of inflating the capital, and thereby entailing additional burdens upon the people who have to pay the money for freight and passage to raise a sufficient amount to make dividends secure.

I think we ought to go very slow in granting such charters as this. I have but just looked at the bill. I have nothing to suggest in the way of amendment, but I can not vote for a bill for a railroad charter which is so loosely drawn as this.

The PRESIDING OFFICER. The question is on the amendment proposed by the Senator from Indiana.

Mr. VAN WYCK. I ask that the amendment be reported.

The PRESIDING OFFICER. The amendment will be read.

The Chief Clerk read the amendment of Mr. HARRISON.

Mr. CALL. Mr. President, I concur with the remarks made by the Senator from Indiana in regard to the inexpediency of the passage of this bill without the amendment. The grant of a power, a monopoly in fact, of transportation over three of the rivers of this Territory is one that ought not to be made by Congress. The bill provides that this railroad company shall have the right "to build, construct, furnish, maintain, and operate on Lake Cœur d'Alene and the Spokane, Saint Joseph, Saint Mary's, and Cœur d'Alene Rivers a line or lines of steamers," &c. It not only provides for the right of transportation by rail, the construction of a railroad that is practically a monopoly of the transportation within a limited area of country, but it also provides for the maintaining of a line of steamers upon these different rivers—transportation by water. It is a power granted to a corporation, into which private enterprise can not enter; one which, I think, ought not to be granted to a railroad without the most extreme care and without provision for the protection of those who may be engaged in water transportation against the monopoly. For that reason, sir, I shall vote against the bill, unless the amendment of the Senator from Indiana is adopted.

Mr. DOLPH. I will simply say that the amendment would destroy the bill, and it would be as well to postpone it indefinitely as to strike out that portion of the charter. None of these branches are more than a very few miles in length, as I understand, running up these rivers into some mining regions. The entire road is not very long; I am not able to state the extent of it.

I am very glad to see that there are so many Senators who are so very jealous for the interests of the people of that new community. It has a sparse population, which is in great need of transportation. Here come persons who propose to incorporate as a local company for the purpose of constructing a necessary road in a Territory where there is no existing law under which they may be incorporated. They come asking no aid whatever from the Government except that they may enjoy the benefit of the general act already passed by Congress, by which every railroad company can obtain a right of way over the public lands. They are asking no monopoly. Congress can at any time incorporate another company, or a company can be incorporated at any time by any of these Territories, or at least under a general incorporation act, by which this road may be constructed over its entire route—the main line and all its branches.

If there are unusual provisions in this charter, I have not seen them. I think they are the customary provisions which will be frequently found in charters granted by Congress. Now, if the Senate does not desire to incorporate these individuals, to give them an opportunity to build at their own expense and without any cost to the United States a road in that new Territory and afford the people there the means of transportation, or at least give them an opportunity to try it, let it vote the bill down.

Mr. COCKRELL. Will the Senator permit me to ask one question?

Mr. DOLPH. Certainly.

Mr. COCKRELL. I should like to know if there has ever been a bill passed by the Senate in its whole history containing the provision in lines 27 to 34 inclusive, giving this company the right to run steamboats on the free navigable waters of the United States.

Mr. DOLPH. Not exclusive.

Mr. COCKRELL. I want to know if any company ever asked such a privilege of the Senate.

Mr. DOLPH. I think so. I think there are navigation companies incorporated to run steamboats. It is not an exclusive right.

Mr. COCKRELL. Is there any prohibition in any law of the United States against any individual or incorporation running a vessel upon its navigable waters?

Mr. DOLPH. There is not.

Mr. COCKRELL. Then why do you want a right to do that which no earthly law in existence prohibited, unless it is to be a monopoly?

Mr. DOLPH. Because this is to be an incorporation. An incorporation can do nothing except what its charter provides that it may do, and if it proposes to own and navigate steamboats its charter must provide for that. It is not because any individual can not build and run a steamboat, in compliance with the laws of the United States or the local laws, on any navigable rivers of the United States, but it is because this bill is simply to create a company and to define its power, and that company desires to build not only these short lines of railroad, but to navigate the adjacent rivers; and to enable it to do so that provision must be incorporated in its charter. It is no exclusive privilege and it is no monopoly. It is simply granting the power to the company to build and operate steamboats.

Mr. VAN WYCK. I should like to ask the Senator one question. I ask what is the length of this main line as proposed?

Mr. DOLPH. I think perhaps some member of the Committee on Railroads can tell that. The bill was before the committee. They had a map and examined it carefully. I never did examine the map carefully. Some gentlemen with whom I am acquainted, and in whom I have confidence, came here with the bill, told me that they desired to undertake this enterprise, and I introduced the bill. I do not profess to be very familiar with it; but I am somewhat familiar with the provisions in ordinary railroad charters, and I do not see anything unusual in this charter. If persons proposing to form a company for the purpose of constructing a railroad ask only to be incorporated, ask no aid from Congress or from any State or Territory, I think they should be allowed to get their money where they can and build their road where they can, and as much of it as they can.

Mr. VAN WYCK. What committee reported the bill?

Mr. DOLPH. The Committee on Railroads in the Senate, and the Committee on Pacific Railroads in the House.

Mr. VAN WYCK. Will some member of the committee inform us of the length of the proposed line? Is the Senator from Indiana on that committee?

Mr. HARRISON. I am not.

Mr. VAN WYCK. Is any member of the Railroad Committee present in the Senate? I would very much like to know the length of this proposed road.

Mr. DOLPH. The Senator from Wisconsin reported the bill.

Mr. SAWYER. I can not state its length. It is a very short road. My impression is it is not over one hundred miles altogether.

Mr. HARRISON. I think the Senator is mistaken about that. It may be that the distance from Spokane Falls to Cœur d'Alene is not more than that, but this bill authorizes the company to go on and intersect the Northern Pacific or intersect the Utah Northern, which would certainly be much longer than the distance suggested.

Mr. VEST. I should like to ask the Senator from Oregon who has charge of the bill if W. H. Armstrong, named here as one of the corporators, is the Commissioner of Railroads of the United States.

Mr. DOLPH. I am unable to answer that question. I do not know who he is. There is, I think, a man of the same name who was register or receiver of the land office at Spokane Falls, in Washington Territory, and recently defeated on the Republican ticket for Congress. I am mistaken. The name of the Armstrong at Spokane Falls is J. M. Armstrong.

Mr. VEST. This is the same name as that of the Commissioner of Railroads. We had some experience in the last session of Congress with a railroad project engineered and managed by this same W. H. Armstrong, if it be the same person who was then and is now the Commissioner of Railroads of the United States. It is a remarkable fact that he should be connected with a railroad scheme while he holds a position which gives him supervision and a certain sort of control over all the railroads in the Territory.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Indiana [Mr. HARRISON].

The question being put, there were on a division—ayes 19, noes 12; not a quorum voting.

Mr. VEST called for the yeas and nays; and they were ordered.

Mr. HAWLEY. The Senator who made this motion will perceive that he leaves in the bill the right to continue this road from Fort Cœur d'Alene over to Western Montana. Now, I may say that is the only uncertain element in this section of the bill to me. I can see no serious objection to the part which he proposes to strike out. I can see no difference between a railroad of one hundred miles in its single main line and a road of fifty miles in its main line with fifty miles of spurs or branches running up the valleys which are feeders. The map shows, and my recollection in the Railroad Committee justifies me in saying, that the real main line from the city of Spokane Falls to Fort Cœur d'Alene is not a long one, but that there are valleys running down into this main valley which it is desirable to supply and get the freights of.

Mr. HARRISON. Does the Senator know what the existing fact is as to whether in these valleys there is any present demand for a railroad?

Mr. HAWLEY. There are settlers there, and it is a good deal like a large part of the Western country; railroads get there as early as other things. This railroad is intended to develop these valleys, and will do so. I see no objection, I say, to a railroad with fifty miles in the main line and with branches of fifty miles running down and feeding it. I see no reason why that is any more objectionable than a road of one hundred miles main line. When this bill was considered in the Railroad Committee, and considered with a good deal of care, I remember suggesting some amendments to it. I do not remember how far it is from Fort Cœur d'Alene over to the Northern Pacific road by any route they propose to use. That matter remains quite indefinite in my own mind; but to the rest of it I see no particular objection. I see no objection whatever to the main line up these valleys, and no objection to giving this corporation the right to use steamboats, tugboats, or towboats on these rivers, even if they should never build the branch roads up the valleys.

Mr. COCKRELL. The Senator says he sees no objection to granting this railroad company the right to own and run steamboats, barges, &c., on these rivers. Now, does the Senator not know that if this railroad company which owns the railroad also owns the steamboats and transportation on a river, that is an absolute and unqualified monopoly of the entire freight transportation on that river, because the railroad company will not give one pound of freight to any other than its own vessels, and it will practically and absolutely drive from these rivers every solitary individual vessel? It will drive from them every vessel not owned by this company, and you had just as well grant it the exclusive right and privilege of running vessels of all kinds on these waters as to retain this clause in the bill.

Mr. HAWLEY. I do not see that that is in the nature of an inquiry addressed to me. It seems to have been an argument injected, which the gentleman might just as well have made in his own time.

Of course I would do some things in opening a new Territory that I would not under other circumstances. I do not see any objection to permitting a railroad, for example, which is to come down and strike the Potomac at the city of Alexandria, to run some steamboats in connection therewith down to the harbor at Fortress Monroe. I think you will find plenty of such examples in the history of railroads. Here is a complete line of transportation proposed. The railroad itself is a monopoly up the valley from the city of Spokane Falls to Cœur d'Alene. It is not likely that any one else will build a parallel road there. It is not likely that anybody else will set up a line of steamboats if this company should set up one on these rivers. Of course there would be to some extent a monopoly, but the railroad is the same thing, a monopoly to Cœur d'Alene, and it would undoubtedly be of great value to the land-owners and aid in the development of that Territory.

The only thing that remains doubtful in my mind is the length of the line from Cœur d'Alene to the connection with the Northern Pacific, which is not distinctly pointed out. The route of it is not clearly pointed out. I would rather, before chartering a railroad, know something near the line it is to take; and with a view to partly correct these things or avoid any evil that might arise under them, there is an amendment in one of the later sections which requires that the location and route of this road and branches shall be filed with the Secretary of the Interior and publication thereof made, and that no operations shall be commenced until a certain time shall have elapsed after the filing.

The PRESIDING OFFICER. The question is on agreeing to the amendment proposed by the Senator from Indiana [MR. HARRISON], on which the yeas and nays have been ordered.

Mr. COCKRELL. I hope that amendment will be agreed to. It does seem to me that the amendment proposed by the Senator from Indiana is eminently just, right, and equitable. If this bill is to be passed at all, the clause which he proposes to strike out should be stricken out. There is, in the first place, no necessity now for the passage of the bill at all. We, the Senator from Connecticut [Mr. HAWLEY] and others, are assuming to know more about the wants and necessities of those three Territories than the people living there and electing their representatives and delegates to the Territorial General Assembly. The Territory of Washington has already enacted laws on the incorporation of railroads. The Territory of Montana has, as I am advised. It is only the Territory of Idaho through which this company wants the right to run its road by act of Congress.

The pretext made at the last session was that the Territorial General Assembly of Idaho would not meet until 1885. Now we are within a few days of 1885. The Territorial General Assembly will be in session, and can grant the charters which are necessary and proper. It meets in January, my colleague says. Now, within a month of the meeting of the Territorial Legislature Congress takes up and passes this anomalous and, as I say, monstrous bill.

The yeas and nays were taken on the amendment.

Mr. FRYE (after having voted in the negative). I withdraw my vote, and announce my pair with the Senator from Indiana [Mr. VOORHEES].

The result was announced—yeas 37, nays 16; as follows:

YEAS—37.

Beck,	Groome,	McMillan,	Slater,
Brown,	Hampton,	McPherson,	Vance,
Call,	Harris,	Maxey,	Van Wyck,
Camden,	Harrison,	Morgan,	Vest,
Cockrell,	Hoar,	Morrill,	Walker,
Coke,	Ingalls,	Pendleton,	Williams,
Colquitt,	Jackson,	Platt,	Wilson.
Edmunds,	Jonas,	Pugh,	
Garland,	Jones of Florida,	Ransom,	
George,	Kenna,	Sherman,	

NAYS—16.

Blair,	Dawes,	Mitchell,	Sabin,
Cameron of Wis.,	Dolph,	Palmer,	Sawyer,
Conger,	Hawley,	Pike,	Sewell,
Cullom,	Miller of Cal.,	Riddleberger,	Sheffield.

ABSENT—23.

Aldrich,	Fair,	Hill,	Manderson,
Allison,	Farley,	Jones of Nevada,	Miller of N. Y.,
Bayard,	Frye,	Lamar,	Plumb,
Bowen,	Gibson,	Lapham,	Saulsbury,
Butler,	Gorman,	Logan,	Voorhees.
Cameron of Pa.,	Hale,	Mahone,	

So the amendment was agreed to.

Mr. COCKRELL. I offer the following amendment, to come in at the end of the bill——

Mr. HARRISON. Will not the Senator allow me to move an amendment which precedes his?

Mr. COCKRELL. Yes, sir; certainly.

Mr. HARRISON. I move to strike out the fourth section of the bill. It is the section which confers unlimited power on this corporation to buy all other railroads and all their lands and all their stock and all their franchises. I do not think that power ought to be granted to any railroad company.

The PRESIDING OFFICER. The amendment proposed by the Senator from Indiana will be read.

The SECRETARY. It is proposed to strike out section 4, as follows:

SEC. 4. That the Spokane Falls and Cœur d'Alene Railway Company shall have power and lawful authority to purchase the stock, lands, franchises, and appurtenances of, and consolidate, on such terms as may be agreed upon between the parties, with any railroad company or companies heretofore chartered or that may hereafter be chartered by Congressional, State, or Territorial authority.

The amendment was agreed to.

Mr. WILSON. Mr. President, I do not find in the bill any limitation upon the power of the company to contract indebtedness. It is usual in bills of this kind to place a limitation upon that power. I therefore offer the following amendment to the third section of the bill. After the word "each," in line 4 of section 3, I move to insert:

And the indebtedness of the company, except as hereinafter provided, shall not exceed one-half of the capital stock.

Mr. President, the eighth section authorizes the company to issue bonds to the extent of $25,000 per mile. That, of course, would be a limitation upon the bonded indebtedness of the incorporation; but there is no limitation upon the power to create a floating debt, so called. I think there should be some limitation upon that, and therefore offer the amendment.

The PRESIDING OFFICER. The question is on the amendment proposed by the Senator from Iowa.

The amendment was agreed to.

Mr. HARRISON. In section 5 of the bill power is granted—

To purchase lands or to accept donations or grants of lands or other property from individuals or corporations for the purpose of aiding in carrying out the objects of this company.

An amendment proposed by the committee was intended to prevent the involvement of the Territory or the counties or other municipal corporations in any liability on account of this corporation. I do not think the amendment effects that end. Express authority is granted to receive donations in lands, money, or property from individuals or corporations, and the restrictive provision which is appended simply restrains the municipal corporations, the Territory and counties, from taking stock or from buying or guaranteeing stock or bonds or from lending credit to the railroad company. So far from prohibiting, it really suggests that donations by these municipal corporations may be made and may be taken by this railroad corporation. We certainly ought to provide that no donation should be made by any of these corporations; otherwise there is full power to burden them in the interest of this railroad company.

I move to strike out, beginning with the word "also," in line 5 of section 5:

Also to purchase lands or to accept donations or grants of lands or other property from individuals or corporations.

Perhaps I ought not to strike out the whole clause; I will move to strike out, in section 5, line 5, the words "to purchase lands or"——

The PRESIDING OFFICER. The hour of 2 o'clock having arrived, it is the duty of the Chair to lay before the Senate the unfinished business, which is the bill (S. 1170) for the relief of Richard Hawley & Sons.

Mr. VAN WYCK. I ask leave to submit amendments to the bill the Senate has just been considering with the view that they may be printed.

The PRESIDING OFFICER. If there be no objection, the proposed amendments will be received, printed, and lie on the table.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. CLARK, its Clerk, announced that the House had passed a joint resolution (H. Res. 289) authorizing the Superintendent of the Census to continue the work on the Tenth Census; in which it requested the concurrence of the Senate.

RICHARD HAWLEY & SONS.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. 1170) for the relief of Richard Hawley & Sons.

Mr. PALMER. Mr. President, when, by request, I introduced this apparently innocent bill, I had no idea that its consideration would invoke such an exhaustive discussion. I think if I had known how it would be regarded by the distinguished Senators who oppose it I should have shrunk from introducing it, even with the qualification that it was done "by request." I am not versed in legislation, and experience has not shown to me the possible dangers which may lurk in a bill of this character, and yet—looked at from a moral or business standpoint—Messrs. Hawley & Sons are entitled to relief. By two errors of two officers of the Treasury they have been deprived and kept out of their property. To any one who has carefully read the lucid report of the committee it seems to me but one conclusion is possible, and that is that the claimants are entitled to relief. What that relief may involve indirectly I leave to Senators of riper experience to determine.

The Treasury is prevented from giving relief by a statute wisely enacted for its protection, but I can not believe the animus of it to be to enable the Government to retain moneys improperly and illegally collected from our citizens; and when it works an injustice there is, I understand, no other course open to the victim but to come to Congress for redress. I have no doubt that if such cases as the one before us could have been foreseen a method of relief would have been provided other than by a bill in Congress, if one could have been devised that would not have been subject to abuse and opened the way to frauds.

The ruling of the Secretary of the Treasury that an excise duty imposed upon malt by a foreign government, which duty never became operative on this importation and which therefore never contributed to the enhancement of its commercial value, should be added to the price paid for it in Canada to increase the dutiable value was an absurdity to the commercial mind and so evident an error that I should feel ashamed that the Government should take advantage of it even if it had been sustained by the courts.

However, when the importation had been made and this crude and erroneous ruling appeared, what could the importer do? He had to pay. These parties did pay, but under protest, and were about to take an appeal when they were met by a second error made by an officer of the Government—the collector at Detroit—who dissuaded them from it, read them the ruling of the Department, and showed to them, as they believed, the futility of such appeal.

Messrs. Hawley & Sons did not wish to incur the expense and chances of a legal contest, for they considered it an unequal one and the coutcome adversely assured—the Government, with unlimited means and able counsel, to whom time was no object, on one side, and men following a precarious business, which demanded all their time and all their means, on the other. They preferred the lesser evil and submitted to the wrong, which was none the less a wrong because they did not resist.

It will be said, however, that if they had taken an appeal their rights would have been conserved. I would answer that if this importation had been entered at New York or Chicago, then an appeal would have been made, and long before this Messrs. Hawley & Sons would have had their money back. Customs brokers, who swarm in the corridors of the custom-houses of those ports, would have been at their elbows, and all the technicalities which attend upon importations would have been observed.

At Detroit, however, in 1870, there was not a customs broker. The collector there was and is regarded not only as the guardian of the interests of the Government, but generally as the adviser of the people in the matter of importations. What he said in regard to duties was accepted as law, and when he emphasized it by reference to the rulings of the Department, the average importer looked upon it as law and gospel.

As I said before, Messrs. Hawley & Sons submitted, and the return of this money, wrongfully exacted, would never have been applied for had it not been that some party in Chicago—probably making a larger importation—was stimulated by a customs broker to make an appeal and bring his case into court.

As the committee reports, the court held that the price actually paid for the malt was the dutiable value. The decision of the court was thereafter recognized by the Secretary of the Treasury. It has been the rule of the Department ever since. All the duties thus illegally collected, where protest was made and an appeal taken, were refunded, but in this case, where no appeal was taken, he considered he had no authority to refund.

The Secretary of the Treasury did not reject this claim because he considered that it was not an equitable one, but because he had no authority to refund. His decision does not affect the merits of the case, but is merely an indication of his conception of his authority in the premises.

I suppose it is necessary that limitations should be fixed to the discretionary powers of all public officers, but all these limitations disappear when a party comes to Congress for relief.

The things, in my opinion, to be considered are, first, did the Government illegally and wrongfully take the money of Messrs. Hawley & Sons? Second, did Messrs. Hawley & Sons use due diligence in asserting and protecting their rights?

All will concede that the Government did wrongfully and illegally take the money, and I think when the report of the committee is carefully read, and the circumstances and conditions under which the protest was made and the appeal not taken, with the reasons shown therefor are fully considered, most persons will conclude that this is a meritorious bill.

While I have the highest respect for the opinions of the distinguished Senators from Vermont and Missouri and the zeal and solicitude they evince for the interests of the Treasury, I feel that individuals have rights as well as the Government. The objections made by those honorable gentlemen would, I am sure, never have been interposed by them were they personally the parties against whom a like claim was made. They would scorn to retain moneys which came into their hands by an error of others, much more so if the error was their own. They would scorn to urge the statute of limitations, or any other technicality, to avoid or retard payment. None would be swifter than they to make restitution when the facts were laid before them. I ask that they apply those rules to the dealings of the Government with its citizens which have marked their own long and honorable careers.

The honorable Senator from Missouri urges against the passage of this bill his opinion that the principle involved may lead to the return to similar claimants of $20,000,000.

If our citizens have been illegally mulcted of $20,000,000, or any other sum, we can not too soon set about the work of restitution. Every such claim should be considered here upon its own equities and every citizen has the right to such consideration.

The just pride of Americans in an overflowing Treasury should not be marred by the knowledge that any part of its surplus is made up of illegally wrung and wrongfully retained domestic contributions.

I hope, Mr. President, that this bill may pass as recommended by the Committee on Claims and the $473.42 which these claimants have asked of Congress time and again, since its extortion, may be returned to its rightful owners.

Mr. ALLISON. Mr. President, I think this bill ought not to pass unless the case for which it provides can be brought within some exception to the existing statute. I notice that the Committee on Claims endeavor to so bring it by showing that the fault rests with the collector of customs in Detroit. If that be true, it may be a reason for the passage of this bill; but otherwise it seems to me the bill ought not to pass, because the claim comes within the provisions of the statutes which absolutely exclude the payment of this class of claims, as I understand.

Mr. CAMERON, of Wisconsin. The statute to which the Senator from Iowa refers simply prohibits an executive officer of the Government from paying this or any similar claim.

Mr. ALLISON. That is true, and it provides certain processes by which duties may be refunded; but in this instance these processes were not adopted by the person paying the duties. If we are to refund to every person who pays duties whatever sum a court may say ought to be refunded, there will be no end to the refunding of duties. A few years ago the Secretary of the Treasury required by an order of his that the polariscope should be used as a method of testing the rates of duties upon sugar. The Supreme Court decided some three or four years afterward that that was not a proper ruling of the Secretary of the Treasury, then Mr. SHERMAN, and that those duties were improperly exacted. If every duty thus improperly exacted at the time should be refunded, that single decision would cost the Government three or four million dollars. There is no question of the fact that the amount of duty paid was added to the price of the sugar, and the consumer paid it. Now, is there any equity, is there any justice, in an importer of sugar requiring from the Government a refund of that amount of duty? That may not be so in every case, but I think it will be found to be notably so in this malt case.

The duty upon malt imported from Canada was 20 per cent. ad valorem. The Secretary of the Treasury decided that a certain measure of value should be the true value, namely, the market price of malt in Canada, there being an excise duty of 1 cent a bushel upon it there. I do not know that it is true, but I have no doubt of the fact that this importer of malt added that sum to the price, and therefore I see no equity in refunding to him this money, and I do not know of a single instance where the Government has refunded money, either through the Secretary of the Treasury or by legislative enactment, in cases where there has not been a formal protest made as required by law.

Mr. HOAR. There was a protest.

Mr. ALLISON. If there was a formal protest, then of course there ought to be no question.

Mr. HOAR. The Senator will pardon me. I understand the facts are these, and I should like to submit them to him: The law requires a protest and an appeal to the Secretary. Then if the Secretary does not grant the appeal the remedy is open by application to a court. In this case the man made his formal protest and was about to take his appeal when the collector of the port told him that he had better not be at the trouble of making his appeal; it would be of no use to him, because the question was settled in the Treasury Department, and he could receive no benefit from making the appeal. So, for that reason, under the advice of the officer, he failed to take what was a technical, not a substantial step. Under the decision of the courts the other men got their duty back.

Mr. ALLISON. So I said in the beginning of my remarks that if this case was put on the idea that there was an actual protest, but by the fault of the collector of customs or some officer of the Government this man was misled so that he did not make the protest in accordance with the statute, then there might be some reason why he should be paid. But I desire, for one, to know that this excuse is clearly and distinctly set forth as a reason for payment, because if that be not done, we are bound to refund to every man who has wrongfully paid duties when a court shall decide that those duties have been wrongfully paid; and if that be true, we shall be practically receiving money through the Treasury and paying it out through the courts, because under our system the courts frequently decide that the Secretary of the Treasury or the collector of customs is wrong in his rulings, and when those cases arise the statute comes in and protects the Government, by saying that an importer shall be required to make formal protest at the time he pays the duty, and must commence a suit within sixty or ninety days to recover the same, in order that a statute of limitations may be placed upon the importers preventing them from coming in eight, ten, or twelve, or fourteen years afterward, and exacting, either through the courts or through Congress, a refund of duties after the articles imported have gone into consumption and use, and the price in many cases, as notably in the sugar cases, has included the excess of duty and has been paid by the consumer. That is the reason why I desire that this case shall be placed clearly upon some construction which will give Congress the authority to pass this bill because of the dereliction of its own officers, and not because of anything relating to the decision made in Chicago whereby the 1 cent per bushel should be taken from the valuation of the malt in Canada, and that was the question decided.

Mr. HOAR. Mr. President, I am sorry to find myself in a matter of principle differing with my friend, whom I have followed so often, the chairman of the Committee on Claims. I do not agree with him in what he said the other day, that this is a body which is not bound by precedents, or which ought not to be bound by precedents. I think that the Senate, and every legislative body, in dealing with citizens, especially in regard to a matter of private claim, should establish, as the courts do, general rules, which it will act upon in all possible cases, and which it should depart from rarely. I do not agree with the Senators who have thought it our duty to refund to the citizen all duties which have been illegally exacted of him. The process of taxation is of necessity a clumsy and inexact process. It must be so at best. We can not have the ordinary processes by which private property is taken for public use in regard to taxes, and each generation ought, as a general rule, to be left to bear its own burden, and it would be an undue and improper burden upon the people in any year to require them to go back and correct all the mistakes and informalities of the past.

Take the question of the cotton tax, where the Supreme Court I think was evenly divided as to the legality of the assessment. Suppose at some time there should be a change of one person in the court, and a majority should hold that it was illegal. It seems to me there would be no justice or propriety in requiring us to go back and take upon ourselves this burden which belonged to a past generation, and restore to everybody the tax that had been assessed upon him. So this case, as the Senator from Iowa has very properly and clearly stated, ought to fall, unless it can stand upon some ground which gives this citizen a special equity.

Now I understand that there were a considerable number of cases like this, and one of the persons having such a case brought his suit and tested it. This individual was not cognizant probably of that fact, but he made his protest and he was proceeding as I understand the report made by the committee—I think it was made at a meeting when I was not present; I do not remember hearing of the case before—but as I understand it he made his protest in due form, so that the Government had the proper notice and the notice required by the statute of his objection to the legality of the tax and his purpose to resist it. Then the collector, whom any citizen might fairly suppose to be specially acquainted with the law on that subject, advised him not to make his appeal to the Treasury, on the ground that it would be a mere useless formality and a waste of trouble and expense, because the question had been amply and finally settled in the Treasury Department, and accordingly he did not take the appeal. Soon after, the court deciding that he was right in his claim that the tax was illegal, he came shortly after the fact—I do not know how long, but very shortly after—to Congress for relief. Under these circumstances, does the absence of this second step, which would have done no sort of good to the Government, which was a mere formality, nothing more, of carrying his appeal to the Treasury, when it was occasioned by the advice of an intelligent Government officer to whom any citizen would reasonably and properly look for advice and information on that subject, make the case an exception to the ordinary rule?

The bill was reported to the Senate without amendment.

Mr. ALDRICH. As I understand the argument of the Senator from Massachusetts a member of the Committee on Claims, he now places the position of that committee in favor of this bill upon the ground that an officer of the Government advised these claimants not to take a step which was essential to preserve their rights before the collector and in the courts of the United States. Now I should like to ask the Senator from Massachusetts whether he would apply that rule to all cases of this kind.

Mr. HOAR. The Senator will pardon me. His question gives me the opportunity to say one thing which I omitted. The Senate has repeatedly since I have been a member of the Committee on Claims, where one case of a number has gone up as a test case, the others having refrained from suing solely to abide the result of that, treated that as a sufficient compliance with the statute for the purpose of legislation.

Mr. ALDRICH. Under the revenue laws?

Mr. HOAR. No, I do not mean a particular compliance; but I say we have excused the burdening of the Government with a hundred suits where one suit would raise the entire question and the others had abstained from suing in order to abide the result.

Mr. ALDRICH. Does the Senator mean to say that there has ever been a case of that kind where the construction of the revenue laws was involved?

Mr. HOAR. Yes.

Mr. ALDRICH. Then I am certainly mistaken about the facts. I have never known a case of that kind, and I think the Senator will have hard work to point to such a precedent.

The statement made by the Senator from Massachusetts involves two things. In the first place, he assumes that this officer of the customs had a right to represent the Government in the way which he did and that oral proof of his statement—because there seems to be no other proof except the assumption on the part of the friends of this bill of such an oral statement—was sufficient to exempt these claimants from prosecuting their claim in a legal manner.

I want to call the attention of the Senator from Massachusetts to the fact that under an order of the Secretary of the Treasury a rule was established for exacting duty upon sugar which was afterward declared erroneous by the Supreme Court of the United States. If the precedent established in this case should be followed in those cases, duties which have been assessed and collected, amounting to $200,000,000, would be open to question.

Mr. HOAR. Will the Senator permit me to ask him a question in my turn?

Mr. ALDRICH. Certainly.

Mr. HOAR. Does the Senator say that in regard to that tax he knows or has heard of a single case where a party paid his tax under protest and then proceeded after doing that to abandon the technical step of taking an appeal under the advice of an officer of the United States? That is this case.

Mr. ALDRICH. I do say that precisely that case exists at the present time, and parties are now before the Committee on Finance pressing a bill to give relief and remedy in precisely the case which the Senator supposes.

Mr. HOAR. After an officer of the Government had advised them not to take an appeal?

Mr. ALDRICH. Where they had made a formal protest but neglected to follow that formal protest by an appeal as required by the statute.

Mr. HOAR. The sugar case, as stated by the Senator from Iowa, was a case purely and simply of an overvaluation by reason of an error of the polariscope test, and not of an erroneous construction of the law; a totally distinct case.

Mr. ALDRICH. In the sugar case the Secretary of the Treasury, to avoid frauds upon the revenue, made an order which prescribed an entirely different method of ascertaining the valuation of sugars and assessing the duties upon sugars from that provided by law. The Supreme Court of the United States afterward decided that the order was not warranted by law, and was erroneous and void. Now, there come

some parties after the lapse of fourteen years and claim that they too made a formal protest, but did not follow up the steps required by law, and they ask the Senate to refund to them duties erroneously assessed upon statements made that some officer of the customs, perhaps, told them it was not necessary to do what the law required them to do.

The law in this case prescribes in the first place that a man shall file a protest within ten days; that within thirty days he shall take an appeal, in case the decision is made in the first instance by the collector of customs, to the Secretary of the Treasury, and upon the decision of the Secretary of the Treasury being made if it is adverse to his interest he must within ninety days commence suit in some court of competent jurisdiction. There is no pretense that in this case these steps, made essential by the revenue laws of the United States, were taken. It is said that these claimants did not take them because some collector of customs stated that it would not be necessary or that it would do no good.

Mr. COCKRELL. Will the Senator permit me to read that clause of the report, so that we may see the application of the point he is making?

Mr. ALDRICH. Certainly.

Mr. COCKRELL. The report of the Committee on Claims says:

> Hawley & Sons paid the duties so imposed, verbally protesting against the exaction, and declaring their intention to appeal to the Department. They were told by the collector that they had the right to do so, but that the Department would undoubtedly reaffirm its decision; and then read to them the decision which had been made by the Secretary.

Mr. ALDRICH. So that the collector merely called the attention of the claimants to the fact that the Secretary of the Treasury had made an adverse decision in this very case.

Mr. COCKRELL. Certainly; did not advise them to take an appeal.

Mr. CAMERON, of Wisconsin. Here is the statement made in the report which, if the Senator from Rhode Island will permit me, I will read:

> Hawley & Sons paid the duties so imposed, verbally protesting against the exaction, and declaring their intention to appeal to the Department. They were told by the collector that they had the right to do so, but that the Department would undoubtedly reaffirm its decision; and then read to them the decision which had been made by the Secretary.

Mr. COCKRELL. That is precisely the sentence I read.

Mr. ALDRICH. If I understand the position just taken by the members of Committee on Claims, speaking through the Senator from Massachusetts, it is this: They propose to substitute in place of the legal requirement of the law, of the various steps which must be taken in order to give a claimant any standing in court at least, a verbal statement that some officer of the United States had said that it would not perhaps be well or it would do no good to take the appeal which the law required. Now I say that if this bill is passed and this precedent is established it will be the thin end of a wedge which will open wide the door of the Treasury of the United States to a mass of claims of this kind which no man can number and the amount of which no man can foretell.

As I have said, in the sugar cases there is a question of $200,000,000 that have been collected under a ruling which was afterward declared erroneous, and if you allow these claimants to come to the Senate and make the Senate a court to consider such questions and allow them to prove what some officer of the customs, acting without any authority either of statute or otherwise, said to a claimant fourteen years ago, you are opening a door that I believe the Senate would be very unwilling to open if they understood fully all the facts.

Mr. CONGER. Mr. President, from the beginning these parties have asserted their right to come before Congress and ask a return of money which confessedly was exacted from them contrary to law. There is no question about that. They were charged as the proper valuation for the assessment of duties, in addition to the market price, or the rule that would obtain, 1 cent a pound for excise duties levied by the Canadian Government, when the fact was that there was no excise duty upon this malt. These parties bought it in bond; there had been no excise duty, and its price in bond was the amount upon which the duty should have been laid, as I understand. There is no pretense by any of the Senators who have talked here but that these four hundred and odd dollars were taken contrary to law, to right, to equity, to justice, from these men, Hawley & Sons; that the amount was paid under protest; the reason given and the reason assigned when it was paid; and after it was paid Hawley & Sons went to make their appeal, and while they were engaged in that—for the report is not as full as the facts are on that subject—while they were present to make an appeal, as they might under the law, the collector of customs said to them: "You can take your appeal, but here within a few days I have received this letter from the Department, saying that they still persist in their ruling, that this cent a pound should be a part of the valuation upon which duties should be levied." He showed it to them there—Collector Bell, of Detroit.

Mr. McPHERSON. May I ask the Senator from Michigan a question?

Mr. CONGER. Yes, sir.

Mr. McPHERSON. Does he know whether at that time there were any suits pending against the Government for the return of like duties?

Mr. CONGER. I do not know whether there were; but there was at that time or there was within six months afterward a decision rendered in the courts in Illinois upon this very question, whether that 1 cent a pound export duty formed a part of the valuation of malt bought in bond just as this was, and the court decided that it was not a proper subject of valuation on which to levy duty.

Mr. ALLISON. The Secretary decided the other way.

Mr. CONGER. The Secretary had decided the other way. Immediately upon that decision of the United States court the Secretary of the Treasury, by circular and by order sent out to all the collectors, declared that he followed the decisions of the courts and that they were not to collect duties on this percentage.

Mr. McPHERSON. If the Senator will bear with me one moment longer, I will state that the reason for my asking the question was because of the fact that the Senator from Iowa and the Senator from Rhode Island both compared this case to the sugar cases. I have not watched the argument in this case closely, but I would like to make a suggestion with regard to the sugar cases, if those be like cases, and perhaps it will assist the Senator a little in his argument. I should like to know by what process of right this Government, because it has the power to do it, will play upon the rights and the liberties of its citizens which they have under the law? For instance, a Secretary of the Treasury makes a ruling which the courts decide to be contrary to law. Now take the sugar cases. In most of those cases the sugar had absolutely been purchased before the ruling was made. The Secretary of the Treasury imposes a new rule for the collection of the duty. When the sugar arrived in the port of New York, one importer protests, enforces it by every step that the law requires—by appeal, first to the Secretary and then to the courts. A second one does the same thing and a third and a fourth. A case was made before the courts. The case was then pending and likely to be decided at any moment. Other cases arose under like circumstances. The collector of the port simply states to the parties importing, "These cases are pending and will be decided in a few days; what is the use of your going to the expense of going through this formal protest when certainly this great Government will be equitable and treat you all alike?"

Mr. ALLISON. Was that the case with all the sugar importers?

Mr. McPHERSON. I do not know what the Senator means by "all."

Mr. ALLISON. Or with many of them?

Mr. McPHERSON. I suppose after a few cases appeals would not be taken.

Mr. ALLISON. But I understand the Senator that some of the importers made protests as required by law. Further, I understand the Senator from New Jersey to say that some others did not do so simply because the collector of the port said, "The question is now pending in the courts, and you had better not do it."

Mr. McPHERSON. Well, I claim in the first place that protests were made according to law. The importer protested first to the collector, then to the Secretary, and afterward brought suit, and a second importer did the same thing, and a third one, until four or five of the parties did it. The collector of the port did say in many of the cases to the aggrieved parties, "Suits are pending; they will be decided, and when they are decided as a matter of course you will be paid in common with others." If I understand it, this is almost a like case, and certainly the equities of the case are with a man who is not supposed to understand all the requirements of the law, and I do not see how it can be made to apply to $200,000,000 or to any particular sum except that which absolutely occurred from the time the first protest was made till the decision of the Secretary was reversed by the courts.

Mr. ALDRICH. Mr. President——

Mr. CONGER. I prefer going on with my remarks, as I can very well get along with one interruption, and I do not with too many of them, especially from Rhode Island.

Mr. President, there is no comparison or analogy between the sugar cases and this case. In this case it is admitted that the valuation assessed upon the 1 cent a pound more was either right or wrong. The court said that it was wrong. The Secretary of the Treasury immediately revoked his order and said it was wrong, but he got the money of these men and put it in the Treasury, and the gentlemen here who seem to have charge of the Department are seeking to keep in the Treasury money which was assessed contrary to law, contrary to the decision of the courts. It was paid in July, and in November of that same year—of course there were suits pending, because there could not have been a suit brought to issue from July to November, as any one knows—the decision of the court was rendered, and in November, too, the decision of the Secretary of the Treasury himself was reversed. In the sugar cases the Secretary of the Treasury undertook to make a new way of computing the saccharine qualities and strength of sugars, contrary to law, as was said. He said not. We have heard him say it here often. He said he merely brought in the polariscope as an additional means of detecting fraud. There is no question of fraud in this case. It is a simple, plain question of the Secretary of the Treasury, by a construction taking four hundred and odd dollars from a citizen which he himself in four months thereafter admitted was wrong; and when he was asked to refund that, he said, "You must go to Congress to get the money; it has gone into the Treasury and I can not pay it out."

Hawley & Sons in good faith (for they are great importers of malt) had been importing malt for years and years and are to-day.

This kind of a case arose just at that time: The Canadian Government that same winter and spring, for the first time, had laid by law an export duty of 1 cent a pound on malt, and all these cases had arisen after February 10, if I remember the date aright, when this export duty was laid by the Canadian Government. It all came together in Chicago, Detroit, and other ports where malt was introduced, and the Secretary of the Treasury made this unjust ruling, as the court said, and took money which the Government ought not to have taken. That is a plain question of fact and of law. There was no law ordering this. It was supposed by the Secretary of the Treasury that the 1 cent a pound had been added to the purchase value of the malt in Canada, whereas this was bought in bond, the malt being then in the city of Detroit.

Mr. MORRILL. May I ask the Senator for information a single fact in relation to this case?

Mr. CONGER. Yes, sir.

Mr. MORRILL. Did not the seller and purchaser of the malt understand at the time that this 1 cent was an addition to the cost, and did not the seller obtain a price accordingly? In other words, did he make any loss on the malt?

Mr. CONGER. I can not say from my own knowledge or from my recollection of the facts, but I think this malt was imported into Detroit before the law took effect making the 1 cent export duty, for I think it was that very spring or winter that the law of Canada was passed laying the export tax of 1 cent a pound, and it never had attached to this property. This property was in bond in Detroit; it was bought there in bond at a given price in the market.

Mr. ALLISON. Why "in bond?"

Mr. CONGER. Just as all other goods may be stored in bond until taken out and the duties paid. Our warehousing law provides especially for that. Our laws provide that goods may be kept in the warehouse a certain length of time. My colleague says I am mistaken about this being in bond in Detroit; that it was in bond in Canada.

Mr. ALLISON. I thought so.

Mr. CONGER. I accept the correction, but the proper amount paid on purchasing under our laws was the amount upon which the duty should be levied. There is no question about that.

Now, I pass along down to the point where these parties, large importers of malt, wished to test this question, and when they came to make the appeal, to take the proper steps, they were met by Collector Bell with the last letter from the Department, saying that they ruled upon this, that their ruling should stand, and he said: "You can appeal, but there is no use; here is the last letter that I have received within a week. You are not going to get the Department to change it;" and they did not change it until the courts directed it to be changed. Hawley & Sons ought not to have listened to the collector; but they ought not to be robbed because they were misled by the collector. This Government does not need to take and keep the money of its citizens illegally and unlawfully and by force collected against law. That is not the kind of Government we have. And whether it takes one thousand or ten thousand or a million dollars out of the Treasury, it is better for the Government of the United States that it deal fairly by its citizens than it is to get a great surplus revenue into the Treasury for my friend from Vermont to boast of.

Mr. ALDRICH. Mr. President, I protest against the assumption and assertion of the Senator from Michigan that this duty was improperly and illegally assessed and collected. Under the construction of the law given by the Secretary of the Treasury, whose duty it was to construe the law, this duty was properly and legally assessed and collected from these parties. There can be no question whatever about that; and there was no question about the legality of his construction until it was decided by a court of competent jurisdiction, and of course that decision did not apply to cases which had occurred before that time.

The Senator might as well say that the duties assessed and collected under the order of the Secretary of the Treasury in the sugar cases were all illegal and in fraud because the Supreme Court afterward decided that that order was not according to their construction of the law. All these steps were properly and legally taken, and these duties were as properly and as legally collected as any which were ever assessed and collected by the customs officers of the United States. I care not what representations were made—and there is conflicting testimony as to what they were—these parties neglected to take the only steps which would give them a right to pursue their remedy against the Government of the United States.

Mr. ALLISON. Mr. President, I am myself becoming somewhat confused about the facts in this case. The Senator from Michigan [Mr. CONGER] spoke of this malt being in bond in Detroit.

Mr. CONGER. I corrected that before I sat down. I admitted that I was mistaken about that. My colleague told me it was in bond in Canada.

Mr. ALLISON. The Senator called attention to the fact that this was an export duty and one which had been recently imposed under the laws of Canada, and said that therefore there was a very natural confusion along the border, both in Canada and in the United States, with reference to this business. Now I find in the report that there was an excise tax and not an export tax of 1 cent per pound upon malt. It seems to me that is rather an excessive tax, but if it was an excise tax, of course it was to be included in the cost of the malt sent here by the people who manufactured it in Canada in competition with our own malsters in the United States—in Detroit and Buffalo and New York and elsewhere—whom we supposed we had protected by a duty of 20 per cent. ad valorem, in order that the Canadians might not be permitted to come in and sell their malt in competition with ours unless they paid 20 per cent. ad valorem, which meant 20 per cent. of the value of the article in Canada, and did not mean the value of the article in bond, which could thereby exclude itself from paying the 1 cent excise tax, but meant the market value of the malt in Canada, where it was to be consumed.

Now the Senator from Michigan says that this is acknowledged to have been on the part of the United States an improper exaction of duty. For one I do not believe it. I beg leave to differ, humbly of course, from the decision of a subordinate court in the State of Illinois with reference to what was the true measure of valuation in Canada of the malt there. It is understood under our import laws that where we exact an ad valorem duty upon articles imported into this country we mean to levy it on the valuation of those articles in the markets of the country from whence they are exported, and not that the people who export articles to this country can, by devices of their own, reduce the valuation of those articles at the place of production, and thus by the intervention of their laws change our existing laws in reference to import duties. The facts are that this decision of Judge Drummond in Chicago had the effect to reduce the duty on malt to 19 per cent., instead of 20 per cent. ad valorem, as we supposed we had placed it.

I did not make this case absolutely analogous to the sugar cases. I only made allusion to the sugar cases for purposes of comparison and illustration. The Secretary of the Treasury discovered that instead of the sugar importers importing their sugars according to the Dutch standard of value, they were manipulating the Dutch standard of value, and injecting into it saccharine matter, although the color made a low rate of duty, whereas in fact the saccharine strength would have justified the Secretary of the Treasury in exacting a higher rate of duty. Thereupon he said this new instrument, the polariscope, might be used for the purpose of protecting the Government against this artificial coloring of sugar, and the Supreme Court, I believe, though I have not the decision before me, took a somewhat technical view of the subject, and decided that the order of the Secretary of the Treasury was improper. I only used the sugar cases as an illustration.

I remember very well that many years ago we passed a law with reference to the number of threads of silk or cotton or linen that should be included in a textile fabric imported from another country. The then Secretary of the Treasury decided that that meant one thing, and some importer, being a little more dexterous than his neighbor, made a protest in writing, as the law requires, and carried that case to the Supreme Court of the United States, and the court decided that the Secretary of the Treasury was wrong. In the mean time millions upon millions of dollars' worth of these goods had been imported under the decision of the Secretary of the Treasury and no protest made, and meanwhile all these textile fabrics had gone into the markets and into the consumption of our country with the duty or at least a portion of the duty added to the price and paid by the consumers. Will anybody tell me that this Government is bound either in justice or in equity to go back and pay all those importers the amount of excess of duty which had been exacted from them when they themselves did not comply with the particular provisions of the statutes in this regard? If we do that, then there is no statute of limitations in reference to our tariff laws.

Here is a case that arose fourteen years ago. There are other cases of equal importance and greater magnitude that arose more than twenty years ago or thirty years ago. Can it be said that there is any principle of justice or equity which requires us to go back and pay a man the amount of excess of duty collected because a court has decided that that was an unjust exaction? I say that in our revenue laws, and especially in our tariff laws, there must be an end to these things, and that that end must come quickly and speedily. Your statute (I do not remember the number of the section of the Revised Statutes) requires that when the man who pays the duty objects to the rate of duty and to the valuation fixed by the appraisers and the collector of the port, as he must pay the duty in order to secure his goods, he pays under protest, and he shall make a protest in writing that the valuation is excessive, and it shall be the duty of the collector of customs to send that protest to the Secretary of the Treasury, and the Secretary of the Treasury either reverses or upholds the decision of his subordinate officer; and if he does uphold that decision and the importer desires to pursue the matter further he must within thirty days bring his suit in the circuit or district court of the United States. Now, why is all that exact promptitude required of the importer? It is for a purpose, so that at some time and in some way the question of the amount of duty shall be closed up as between the importer and the Government of the United States.

Therefore it is I say that unless we can plainly bring this case within some exception to these general provisions it is a great mistake for us

to undertake here in this way to pay Hawley & Sons even the trifling sum of $473. So in the remarks I have made I have not undertaken to assimilate this case to any particular thing, but only to call the attention of the Senate to the fact that we are opening a door here which if we follow and follow the logical arguments made by Senators on this floor that because a court has decided that the Secretary of the Treasury is wrong with reference to the amount to be exacted under the revenue law, we must refund the money, there will be no end to the claims that will come before Congress for adjudication under the statute with reference to import duties.

Mr. COCKRELL. I want to get at the foundation of this case exactly. In this report (and it is a very anomalous report, I must confess, when we consider the original papers which I have had now the pleasure of examining) it is claimed that these parties paid the money to the Secretary of the Treasury in July, 1870, and that in November, 1870, the United States court made the decision that the ruling of the Treasury Department was incorrect. In July, 1870, the tax was paid. In November, 1870, the United States court rendered a decision which they say (and which we have not before us) reversed or overruled the prescription of rule of the Treasury Department.

Now, when did Messrs. Hawley & Sons undertake to recover this money? What steps did they take? Let us look at it just as it is. It is an old, stale claim, and nothing else. The officer of the United States made no misrepresentation to them. He practiced no deception; they do not pretend it. There is not a Senator here who will dare to say that the United States officer misrepresented one solitary thing to Hawley & Sons. The United States collector simply told them that the Secretary of the Treasury had decided in a certain way, and read the decision; that was all. He told them the truth. It was so decided; it was the truth. He made no concealment and no misrepresentation.

What did Hawley & Sons do? They laid perfectly dormant until 1874, four long years after this occurred. Not a step did they take to recover this money back until after the lapse of four years, and that fact is not disclosed in the report. We would infer from the report that these gentlemen had been diligent in recovering the money; that immediately, just as soon as the decision of the United States court in Chicago had been made, they came in and asked for the refund. I have before me the papers in this case. Here is what is called the petition that was first presented in Congress, the inception of the claim in Congress. I want the members of the Committee on Claims to notice it. Here it is:

DETROIT, MICH., *January* 19, 1874.

DEAR SIR: We want the United States to refund us an overcharge of duty which the collector of customs here illegally collected from us on three lots of malt imported by us in the month of July, 1870, and we will be obliged to you for any assistance you can give us in this matter. The facts are as follows:

We imported on July 6, 1870, from James Slater, London, Ontario, 99,736 pounds of malt, being 2,770½ bushels, which at 80 cents per bushel cost us $2,116.40, and on which we paid duty $660.75—

That is July 6, 1870, remember. Now—

On July 16, 1870—

Ten days later—

we imported from Labatt & Co., London, Ontario, 41,976 pounds, being 1,166 bushels, which cost us at 79 cents per bushel $912.14, and on which we paid duty $289.40. On July 28, 1870—

Twenty-two days after the first importation—

we imported from George Kains, St. Thomas, Ontario, 89,296 pounds, being 2,480½ bushels, which cost us, at 79 cents per bushel, $1,959.55, and on which we paid duty $565.80.

As we bought this malt in bond in Canada we at first proposed to pay duty only on what it cost in bond, but the deputy collector, Mr. D. V. Bell, would not consent to this. He informed us that in order to get the malt we would have to pay duty on its value in Canada out of bond. We objected to this, and proposed to protest against it. He replied—

I am reading the statement that was made here by this man himself.

He replied "that in justice to us he would inform us that it would do us no good, as the Department had lately decided that duty must be paid on goods out of bond, and if we protested the Department would only reiterate the decision."

Seeing no other way to get possession of the malt than to pay the duty according to the decision of the Department, we paid the duty as assessed on the three lots of malt as above stated.

The excise tax of Canada on malt is 1 cent per pound, and consequently in Canada malt out of bond is worth 1 cent per pound more than it is in bond. In these three lots there were 231,008 pounds. One cent per pound on this would be $2,310.08, and on this $2,310.08 we had to pay duty besides the duty we had to pay on the cost of the malt in bond. We understand—

Now, this is very instructive—

We understand that the Department has since then acquiesced in the decision of the United States court that duty should only be collected on the cost or value in bond, and that other parties who imported malt have had the excess of duties paid by them refunded by the Department.

We think that we, too, should have the excess of duty, $462.01, that we paid refunded to us, and hence we would be obliged to you for any advice you can give us as to the steps for us to take to have this overcharge refunded to us.

Yours, truly,

R. HAWLEY & SONS.

To Hon. J. W. BEGOLE,
Washington, D. C.

It seems that when this letter was received the advice given was to present the claim to Congress, and it was presented, this letter as a petition, four years after the taxes were paid, without one solitary thing having been done.

I have here a copy of an affidavit of Mr. Hawley which was made in 1880. It seems they did not file the evidence until long afterward. It goes on and states the amount that was paid, &c. Here is a copy of a letter of the collector giving the whole transaction:

CUSTOM-HOUSE, DETROIT, MICH., *February* 4, 1874.

Four years after the transaction—

Messrs. R. HAWLEY & SONS:

GENTS: In reply to your request for a statement in writing of the facts connected with the entry at this office by you of certain three lots of malt imported from Canada in the month of July, 1870, I submit the following:

Four years after this thing had occurred they go back and try to find out what transactions actually occurred and what were the facts at the time. They had taken no step; they had no intention of bringing a suit to test this matter; they had no intention to appeal from the decision of the Secretary of the Treasury and took no steps to do it for four long years, and then they write a very polite note to the collector of customs to have their memory refreshed as to what took place, as to what were the facts.

In reply to your request for a statement in writing of the facts * * * I submit the following:

On July 6, 1870, you presented to the entry clerk in this office a certified invoice of 2,770½ bushels malt, valued at 80 cents per bushel, upon which you desired to make entry and pay duties. When asked by said clerk if the value expressed in the invoice included the Canadian excise tax of 1 cent per pound, you replied that it did not, but was the price paid for the malt in bond in Canada. Said clerk then informed you that the entry should express the market value of the malt in Canada out of bond, to which you objected, but in order to obtain possession of the malt made your entry in accordance with the clerk's suggestion and paid duties.

Just what occurs every day in every custom-house in the United States. A question arises as to valuation; the clerk tells the rule of valuation; the man says, "Oh, no; my other rule ought to prevail;" the clerk says, "No; I can only receive it this way," and acquiescence is made. It is just what occurs nearly every day in almost every custom-house in the United States.

Afterward, on the same day, I think, you called upon me for a fuller explanation of the matter, verbally protesting against the exaction of duty as aforesaid, and expressing your intention to appeal to the Department against the decision of this office—

The local office.

To this I replied in substance, to the best of my recollection, that of course you had a perfect right to do so, but that the question had been already decided by the Department, and in my opinion would reaffirm its former decision on the subject if again appealed to.

That was the truth; he simply told him the regulation of the Department.

At the same time I showed or read to you the decision referred to, as follows—

Here is the decision:

The dutiable value of goods, &c., imported into the United States is the value at which such goods enter into consumption in the country of export. A drawback allowed by a foreign government on the exportation of any article does not affect the value in the markets of that country, for the drawback is not paid or allowed until after the goods have ceased to form a part of the common stock of the country whence exported. (Collector, New York, June 12, 1869.)

On July 16, 1870, and July 28, 1870, you imported respectively 1,167 and 2,478 bushels malt, invoiced at 79 cents per bushel, but on entry increased the value 1 cent per pound and paid duty accordingly.

The duty paid by you on the three said importations was as follows: 6,415 bushels, value, commissions included, $7,662, at 20 per cent., equal to $1,532.40. I do not remember any conversation between us on this subject, excepting the one herein referred to, on the occasion of any importation by you.

Yours, &c.,

D. V. BELL, *Deputy Collector.*

There is not one solitary fact in this case that can not be found in every case where there has been any dispute at all between the importer and the collector. It is exceedingly doubtful whether the Treasury Department ought to have acquiesced in the decision of the United States court in Chicago in the interpretation of that law. It is still a question as to whether the Department was not right in its rule and regulation in regard to the rate of duty that ought to have been imposed.

Mr. CAMERON, of Wisconsin. Who makes that question now?

Mr. COCKRELL. I make it now, and the Senator from Rhode Island [Mr. ALDRICH] made it. The question now is whether, without any final decision having been made in that case by the Supreme Court of the country, we are to follow that decision.

Mr. CAMERON, of Wisconsin. The decision was final until an appeal was taken.

Mr. COCKRELL. I know it was final; but are we bound by it? I say we are not bound by it.

Mr. CAMERON, of Wisconsin. We are not bound by any decision.

Mr. COCKRELL. We should be bound by a decision of the Supreme Court.

Mr. CAMERON, of Wisconsin. By no means.

Mr. ALDRICH. Will the Senator allow me to read an extract from the Revised Statutes which I think covers the case?

Mr. CAMERON, of Wisconsin. That is always interesting reading. I should like to hear it.

Mr. ALDRICH. It covers, I think, the point made by the Senator from Iowa [Mr. ALLISON] very distinctly. Section 2906 provides that

the value shall be the "wholesale price thereof," that is, of goods assessed for ad valorem duty:

Wholesale price thereof, at the period of the exportation to the United States, in the principal markets of the country from which the same has been imported.

Of course the value in this case would have been the value in the principal markets of Canada at the time when the malt was imported into the United States.

Mr. CONGER. Will the Senator allow me to ask him a question?

Mr. ALDRICH. Let me finish my point, and then I shall be glad to answer the Senator. That malt could not have been sold in Canada unless the excise tax had been paid. The value in the principal markets of Canada would have been with the excise tax added, and could never have been less the excise tax.

Mr. CONGER. The question I wanted to ask the Senator is this: Under our law whisky has a tax of 90 cents a gallon, and under our law if exported it has no tax of 90 cents a gallon. That 90 cents a gallon is added to the value of whisky in the markets of the United States. If exported to a country where there is a duty similar to ours on its value, does the Senator claim that the 90 cents which was not taxed if exported would form part of the market value in the United States?

Mr. ALDRICH. Undoubtedly it would if they had the same statutes, because it could only be sold in the principal markets of this country with the tax paid.

Mr. CONGER. Then, as I understand the Senator, the 90 cents a gallon would be added to the valuation, although our law says, if exported, that it shall not be added, that it shall not be paid.

Mr. ALDRICH. The law of the country in which the duties were paid of course would control, and, if their statutes were precisely the same as ours, I think, undoubtedly, that rule would apply.

Mr. CAMERON, of Wisconsin. Mr. President, I suppose no Senator has any question in regard to the facts of this case. They are correctly stated in the report which was made to the committee by the junior Senator from Nevada [Mr. FAIR]. If any Senator had any doubt in regard to the correctness of the facts, that doubt would have been removed by the documents just read by the Senator from Missouri. It is quite unnecessary to repeat the facts. The Senator from Rhode Island admits the correctness of the facts as stated in the report, but he dissents from the decision made by Judge Drummond, and which has since been acquiesced in by the Secretary of the Treasury. The decision, as has already been stated, was made by Judge Drummond, the circuit judge for the seventh circuit, a judge of great learning and great experience in this particular class of cases. If the Government were dissatisfied with that decision, an appeal might have been taken and a decision ultimately obtained by the highest judicial authority in the country; but the Government was satisfied with the decision of the circuit judge of the seventh circuit, and, as has already been stated by the senior Senator from Michigan, the Treasury Department immediately notified collectors to impose the tax in accordance with that decision. I say that it is too late for the Senator from Rhode Island to claim——

Mr. ALDRICH. I know that the Senator from Wisconsin does not desire to do me an injustice.

Mr. CAMERON, of Wisconsin. Not at all.

Mr. ALDRICH. The point was raised by his neighbor, the Senator from Iowa, and I merely read the statute to show that I thought there might be some force in his statement.

Mr. CAMERON, of Wisconsin. I understood that the point was acquiesced in by the Senator from Rhode Island. But no matter about that, the legal question was decided by competent judicial authority, and that decision was acquiesced in by the Secretary of the Treasury, and has been acquiesced in from that time to this.

Mr. SHERMAN. The amount involved in this bill on the face of it is very limited, being only some $400, and is scarcely worth the discussion that has been had upon it; but the number of cases that will depend upon the decision of this case is infinite. The number may be so great that any number I could name would probably fall within the lines. The law upon this subject is perfectly well understood. It has been in existence almost since the customs laws have been in operation. I should like to read to Senators the law, to show that this applicant had not complied with the law in any sense, in any part of it. The law requires the notice to be in writing. This notice is alleged to have been verbal. A verbal notice opens the door to fraud constantly. I will read the law; it is very short, and it has been the law, I believe, almost from the beginning:

SEC. 2931. On the entry of any vessel, or of any merchandise, the decision of the collector of customs at the port of importation and entry, as to the rate and amount of duties to be paid on the tonnage of such vessel or on such merchandise, and the dutiable costs and charges thereon, shall be final and conclusive against all persons interested therein, unless the owner, master, commander, or consignee of such vessel, in the case of duties levied on tonnage, or the owner, importer, consignee, or agent of the merchandise, in the case of duties levied on merchandise, or the costs and charges thereon, shall, within ten days after the ascertainment and liquidation of the duties by the proper officers of the customs, as well in cases of merchandise entered in bond as for consumption, give notice in writing to the collector on each entry, if dissatisfied with his decision, setting forth therein, distinctly and specifically, the grounds of his objections thereto, and shall within thirty days after the date of such ascertainment and liquidation, appeal therefrom to the Secretary of the Treasury. The decision of the Secretary on such appeals shall be final and conclusive; and such vessel or merchandise, or costs and charges, shall be liable to duty accordingly, unless suit shall be brought within ninety days after the decision of the Secretary of the Treasury on such appeal for any duties which shall have been paid before the date of such decision on such vessel or on such merchandise, or costs or charges, or within ninety days after the payment of duties paid after the decision of the Secretary.

Then section 3010 of the Revised Statutes provides that—

All money paid to any collector of the customs, or to any person acting as such, for unascertained duties or for duties paid under protest against the rate or amount of duties charged, shall be placed to the credit of the Treasurer of the United States, and shall not be held by the collector, or person acting as such, to await any ascertainment of duties or the result of any litigation in relation to the rate or amount of duty legally chargeable and collectible in any case where money is so paid.

* * * * * * * *

But no recovery shall be allowed in such action unless a protest and appeal shall have been taken as prescribed in section 2931.

That law of the United States has always been the law in regard to the collection of duties. It is applicable alone to the collection of duties, and the reason is because the taxes imposed upon importations enter into the cost of the article, which at once becomes an article of merchandise, and are refunded by the consumer. That is a principle which I believe is conceded by every one. It does not always hold good, but that is the general rule upon which the customs laws are based. It is absolutely necessary to have the decision definite and final before the goods enter into consumption. If the appeal is made, it must be made in writing, by filing a protest with the collector of customs. The collector of customs has no right or authority to waive this rule. If the notice which is given is merely verbal, it is not a compliance with the law. Every intelligent merchant knows the law, as I have no doubt the merchants named in this bill knew very well what the law was, because they did make a protest. They made a verbal protest, which could not be communicated to the Secretary of the Treasury. It was merely a declaration that they did not think the decision was right. Nor has the collector any power whatever to waive this formal notice. It would not be right or safe for the interests of the United States to allow him that power and to permit verbal proof to be given as to a conversation between the importer and the collector of customs.

When the importer makes his appeal to the Secretary of the Treasury he must do it promptly within ten days. The case goes to the Secretary of the Treasury and it is again decided, first by the collector and then again by the Treasury Department. The law then is peremptory that within thirty days after that time suit must be brought. The reason for that is apparent. The collection of customs could not go on safely unless upon some strict rule which required a prompt assertion of a right.

There must necessarily be in the administration of customs laws a great variety of opinion. In the first place, the collector decides. The importer is not bound to listen to that decision. He may take the decision to the Department. He is not bound to listen to the decision of the Department. Those decisions are made promptly and summarily upon the face of the law. Whether the decision is right or wrong it must be made promptly. The decisions are made immediately in the ordinary course within thirty days, and then the law expressly requires an appeal to be made from that decision and a suit to be commenced in the proper tribunal of the United States. If you waive these provisions of law, which are intended as a safeguard to the Treasury in a class of claims like this, the number of claims would be infinite. To open the door for the benefit of this $400 claim would be to involve the Government and involve Congress in all sorts of claims of this kind.

The custom has always been, so far as I have known, that this class of claims has gone to the Committee on Finance, and they have uniformly enforced the requirements of the law. I suppose that no case could be found, there is no case to my knowledge in the history of the Government, where Congress has undertaken to waive every provision of the law. Here no protest was made. The protest must be in writing. Here was a verbal declaration. The collector said there was no use in appealing to the Secretary of the Treasury, because he had already decided. That does not at all relieve the importer from taking the formal proceeding required by the law. Suppose the Secretary of the Treasury decided against him, that would not be the end of his remedy; he could take his appeal, and then he might immediately commence his suit.

It would not be just, it would not be right or prudent, it would not be safe to waive the full, strict, legal application of this rule. Otherwise an infinite variety of suits would spring up and claims would be made upon Congress almost infinite in number.

The importers know this provision as well as any provision of the law. These parties seem to have been the importers of malt from Canada. They were probably brewers. They no doubt converted their malt into beer, and the beer was sold and consumed, and probably the parties who drank the beer are dead long, long ago. Now, to allow them to come here and open up this question on a claim of this kind would be very unsafe. The amount involved may be infinitesimal in this particular case, but the multitude of cases would be so great that the bills would overload your Calendar. There are similar bills now pending in committee, I am told by the Senator from Vermont [Mr. MORRILL], where they will be fairly considered and fairly presented.

Mr. CONGER. I feel thankful for the revelation of the Senator,

knowing that we may have the benefit of the advice and the suggestions of Senators who for years have been at the head of the Treasury Department and are familiar with all the workings there to instruct us Senators who have not had the benefit of that experience, that if we had followed certain provisions of law we could have got back our money without coming to Congress. That is a revelation which it is desirable to have made here. That is all that the Senator has said, that if these parties had followed the law, made a written protest within so many days, made an appeal if the decision was against them, gone to the courts and waited until after a decision should have been made, after the Chicago decision, they could have got their money without coming to Congress.

Now, I venture to say, and I hope I am not immodest in the assertion, that I knew myself, and I doubt whether there is a Senator here who did not know, that if Hawley & Sons had pursued that course they would not have had to come to Congress. But what do men come to Congress for and ask for the enactment of a law for their relief? Because they have been in default or in neglect or ignorant of some other remedy. That the Senator knows as well as I do. It gives me no information to say that we had not complied with the law, for the report says we had not complied with the law. The report says we were required to come to Congress for a new law. Will the Senator tell me or tell his brother Senators that a citizen of the United States may not come in a proper way and ask Congress to pass a new law for his relief when he has been wronged? That is what I want the Senator to tell me. If the position of the distinguished Senator from Ohio is correct we ought immediately to pass a law, or perhaps prepare the way for a constitutional provision, that no man should come to Congress to ask for a new law who had failed to pursue his remedy under the then existing law. By constitutional provision or by law we should shut the door against every citizen who sought the passage of a law for his relief.

That is all there is in the argument. The argument is against permitting a citizen to come to the law-making power for relief at all for fear somebody else may come. Has it come to this, that the Senator will not trust the discretion of his fellow-members of the Senate of the United States and the House of Representatives on each particular case for fear we shall be misled? Are we of necessity to bar the doors of Congress against any applicant coming here for relief? That is all there is of the Senator's argument.

If this case on its merits deserves relief, then under the law, the Constitution, and the institutions of the United States the Senate and the House of Representatives are the proper bodies to make new laws to give relief. That is all there is of it. Is this such a case, or should gentlemen stand up here and wave the uncertain and the unknown millions that are floating around in the empty space of their imaginations to prevent the Senate from doing what is right? That is the argument of the Senator from Rhode Island [Mr. ALDRICH]; that is the argument of the Senator from Ohio [Mr. SHERMAN]; that was the argument with which our revered friend from Vermont [Mr. MORRILL] started into this debate, but with his usual judgment and with his usual good sense he has withdrawn from such a position, as we always expect him to withdraw from any position which he takes contrary to justice and to equity and to right. It is for that I admire my venerable friend from Vermont, for although with the injustice and the rashness of youth he sometimes makes assertions here, when the falsity of his position is exposed he has too much pride of character to persist in them when he sees that he is wrong and doing wrong to citizens of the United States. I would to God other Senators would profit by the distinguished and illustrious example of this father of the Senate, who has withdrawn his objection to this bill.

Mr. MORRILL. Mr. President, the statement of the Senator from Michigan in relation to my position on this bill is just as much warranted as his argument for the bill and no more.

The PRESIDENT *pro tempore*. The question is, Shall the bill be ordered to be engrossed for a third reading and read the third time? [Having put the question.] The noes appear to have it.

Mr. CAMERON, of Wisconsin. I ask for the yeas and nays.

The yeas and nays were ordered and taken.

Mr. SEWELL. I am paired on this question with the Senator from Minnesota [Mr. SABIN]. If he were present, I should vote against the bill and he would vote for it.

The result was announced—yeas 19, nays 29; as follows:

YEAS—19.

Blair,	Coke,	Jackson,	Sawyer.
Bowen,	Conger,	Kenna,	Van Wyck,
Call,	Cullom,	Palmer,	Williams,
Camden,	Dolph,	Pike,	Wilson.
Cameron of Wis.,	Frye,	Riddleberger,	

NAYS—29.

Aldrich,	Garland,	Morgan,	Sheffield,
Allison,	Hampton,	Morrill,	Sherman,
Beck,	Harris,	Pendleton,	Slater,
Brown,	Jonas,	Platt,	Vance,
Butler,	Jones of Florida,	Plumb,	Walker.
Cameron of Pa.,	Maxey,	Pugh,	
Cockrell,	Miller of Cal.,	Ransom,	
Edmunds,	Mitchell,	Saulsbury,	

ABSENT—28.

Bayard,	Gorman,	Ingalls,	Mahone,
Colquitt,	Groome,	Jones of Nevada,	Manderson,
Dawes,	Hale,	Lamar,	Miller of N. Y.,
Fair,	Harrison,	Lapham,	Sabin,
Farley,	Hawley,	Logan,	Sewell,
George,	Hill,	McMillan,	Vest,
Gibson,	Hoar,	McPherson,	Voorhees.

So the bill was rejected.

Mr. MORRILL. I move that the Senate proceed to the consideration of executive business.

Mr. CONGER. I ask the Senator to withdraw that motion. I desire to give notice that I shall ask for a reconsideration of the vote just taken.

The PRESIDENT *pro tempore*. Does the Senator from Vermont withdraw his motion?

Mr. MORRILL. The Senator from Michigan has already given the notice. I think that it is important that we should have an executive session.

The PRESIDENT *pro tempore*. The Chair will state that the notice has no operation as a notice. Any Senator voting with the majority may during to-morrow or the next day's sitting, the Chair thinks—certainly to-morrow—move to reconsider without any notice.

Mr. CONGER. Yes, sir.

Mr. SLATER. I appeal to the Senator from Vermont to allow me to call up a bill so that it may be the unfinished business for to-morrow.

Mr. MORRILL. That can be done just as well to-morrow.

Mr. SLATER. I prefer to do it to-night, because there may be a struggle to-morrow and I wish to make it a matter of record. I gave notice that I should call the bill up to-day and I wish to get it out of the way of other business.

Mr. MORRILL. It is so late.

Mr. SLATER. I do not propose to proceed with the bill to-night, but ask that it may be taken up so as to be the unfinished business for to-morrow.

Mr. MORRILL. I prefer to insist on my motion for the present.

The PRESIDENT *pro tempore*. The Senator from Vermont declines to withdraw the motion. The Senator from Vermont moves that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After ten minutes spent in executive session the doors were reopened, and (at 3 o'clock and 50 minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, *December* 8, 1884.

The House met at 12 o'clock m. Prayer by the Chaplain, Rev. JOHN S. LINDSAY, D. D.

The Journal of the proceedings of Thursday last was read and approved.

CHAPLAIN CHARLES M. BLAKE (RETIRED).

The SPEAKER, by unanimous consent, laid before the House a letter from the Secretary of War, transmitting the petition and other papers in behalf of Chaplain Charles M. Blake (retired), United States Army; which was referred to the Committee on Claims.

CONTINGENT FUND OF INTERIOR DEPARTMENT.

The SPEAKER, by unanimous consent, also laid before the House a letter from the Secretary of the Interior, transmitting, as required by law, a statement of the expenditures of the contingent fund of that Department for the fiscal year ending June 30, 1884; which was referred to the Committee on Expenditures in the Interior Department, and ordered to be printed.

SPRINGFIELD ARMORY.

The SPEAKER, by unanimous consent, also laid before the House a letter from the Secretary of War, transmitting, in compliance with section 1665 of the Revised Statutes, a statement of the expenditures, &c., at the Springfield armory for the fiscal year ending June 30, 1884; which was referred to the Committee on Expenditures in the War Department.

ADDITIONAL APPROPRIATION FOR POST-OFFICE CLERKS.

The SPEAKER, by unanimous consent, also laid before the House a letter from the First Assistant Postmaster-General, recommending an additional appropriation for clerks in the Post-Office Department for the current fiscal year; which was referred to the Committee on Appropriations, and ordered to be printed.

GUNS AND PROJECTILES.

The SPEAKER, by unanimous consent, also laid before the House a letter from the Secretary of War, transmitting the report of the board of officers of the Army appointed by the provisions of the act of July 5, 1884, of the various calibers, the length of bore, the greatest and least admissible weights of guns and projectiles for each caliber, and of all calibers required for the service, and the number of each caliber required; which was referred to the Committee on Military Affairs, and ordered to be printed.

UMATILLA INDIAN RESERVATION, OREGON.

The SPEAKER also laid before the House a letter from the Secretary of the Interior, transmitting report of the Commissioner of Indian Affairs relative to the establishment of a definite northern boundary to the Umatilla Indian reservation in Oregon, and submitting an amendment to Senate bill No. 66, now on the Speaker's table; which was referred to the Committee on Indian Affairs.

APPROPRIATIONS FOR INDIAN SERVICE.

The SPEAKER also laid before the House a letter from the Secretary of the Treasury, transmitting supplementary estimates of the Indian Department for appropriations for the Indian service for the fiscal year ending June 30, 1886; which was referred to the Committee on Appropriations.

ENGRAVING, PRINTING, AND FUNDING NATIONAL-BANK NOTES.

The SPEAKER also laid before the House a letter from the Secretary of the Treasury, transmitting a communication from the Comptroller of the Currency correcting his former estimates for expenses of the national currency, and submitting an additional estimate of $110,000 for the expense of engraving, printing, and funding national-bank notes for the fiscal year ending June 30, 1886; which was referred to the Committee on Appropriations.

COMPENSATION OF INFORMERS, ETC.

The SPEAKER also laid before the House a letter from the Secretary of the Treasury, transmitting, in compliance with law, a detailed report of awards of compensation to informers and seizure officers in customs cases for the fiscal year ending June 30, 1884; which was referred to the Committee on Expenditures in the Treasury Department.

LAND CLAIM, ANTONIO DE SALAZAR.

The SPEAKER also laid before the House a letter from the Secretary of the Interior, transmitting a report of the surveyor-general of New Mexico in the case of the New Mexico private land claim No. 132, Antonio de Salazar; which was referred to the Committee on Private Land Claims.

RAILWAY POSTAL-CAR SERVICE.

The SPEAKER also laid before the House a letter from the Postmaster-General, recommending an additional appropriation of $100,000 for the railway postal-car service for the remainder of the current fiscal year; which was referred to the Committee on Appropriations.

PURCHASES FOR INDIANS IN OPEN MARKET.

The SPEAKER also laid before the House a letter from the Secretary of the Interior, transmitting a statement from the office of the Commissioner of Indian Affairs of purchases exceeding in amount $500 made in open market, without advertisement, from February 1, 1884, to June 30, 1884; which was referred to the Committee on Expenditures in the Interior Department.

JUDGMENTS, COURT OF CLAIMS.

The SPEAKER also laid before the House a report from the clerk of the Court of Claims, containing a list of judgments rendered by said court for the year ending June 30, 1884, with the amounts thereof and the parties in whose favor the same were rendered; which was referred to the Committee on Appropriations.

PRIVATE LAND CLAIM, SEBASTIAN DE VARGAS.

The SPEAKER also laid before the House a letter from the Secretary of the Interior, transmitting a report of the surveyor-general of New Mexico in the case of the New Mexico private land claim No. 137, Sebastian de Vargas; which was referred to the Committee on Private Land Claims.

ORDER OF BUSINESS.

The SPEAKER. This being Monday, the first business in order is the call of States and Territories for the introduction and reference of bills and joint resolutions.

MILITARY ACADEMY APPROPRIATION BILL.

Mr. KEIFER. I rise to make a privileged report from the Committee on Appropriations.

The SPEAKER. The gentleman will send the report to the desk.

Mr. KEIFER, from the Committee on Appropriations, reported a bill (H. R. 7577) making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1886, and for other purposes; which was read a first and second time, referred to the Committee of the Whole House on the state of the Union, and, with the accompanying report, ordered to be printed.

Mr. KEIFER. I give notice that on to-morrow I shall call up this bill for the consideration of the House.

Mr. BEACH. I trust the gentleman will not insist upon that course, and that the consideration of this bill will be deferred at least until Wednesday, so that we can have an opportunity of examining it.

Mr. KEIFER. I will furnish the gentleman with a copy of the bill to-day.

The SPEAKER. There is nothing before the House.

JAMES A. PATTERSON.

Mr. PRYOR introduced a bill (H. R. 7578) for the relief of James A. Patterson for property taken by and for the use of the United States during the war of the rebellion; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

H. W. BOUTWELL.

Mr. HEWITT, of Alabama, introduced a bill (H. R. 7579) granting a pension to H. W. Boutwell, of Pickens County, Alabama; which was read a first and second time, referred to the Committee on Pensions, and ordered to be printed.

JAMES H. HAMILTON.

Mr. ROGERS, of Arkansas, introduced a bill (H. R. 7580) for the relief of James H. Hamilton; which was read a first and second time, referred to the Committee on Indian Affairs, and ordered to be printed.

PETER COOK.

Mr. ROGERS, of Arkansas, also introduced a bill (H. R. 7581) for the relief of Peter Cook; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

RANE C. HUTCHINSON.

Mr. ROSECRANS introduced a bill (H. R. 7582) to enable the Secretary of War to adjust, settle, and pay the accounts of Rane C. Hutchinson for services and expenses incurred in the military service of the United States; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

AGUSTINE OLVERA.

Mr. BUDD (by request) introduced a bill (H. R. 7583) for the relief of Agustine Olvera; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

A. B. MONTGOMERY.

Mr. CLEMENTS introduced a bill (H. R. 7584) for the relief of A. B. Montgomery; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

WILLIAM GARDNER.

Mr. CLEMENTS also introduced a bill (H. R. 7585) for the relief of William Gardner; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

IMMEDIATE TRANSPORTATION OF DUTIABLE GOODS.

Mr. MORRISON introduced a bill (H. R. 7586) to amend section 5 of an act entitled "An act to amend the statutes in relation to immediate transportation of dutiable goods, &c., and for other purposes," approved June 10, 1880; which was read a first and second time, referred to the Committee on Ways and Means, and ordered to be printed.

HIRAM W. HUBBARD.

Mr. TOWNSHEND introduced a bill (H. R. 7587) for the relief of Hiram W. Hubbard; which was read a first and second time, referred to the Committee on Claims, and ordered to be printed.

TREATIES.

Mr. TOWNSHEND also introduced a joint resolution (H. Res. 291) proposing an amendment to the Constitution providing that treaties shall be made by and with the advice and consent of the House of Representatives as well as the Senate; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

WILLIAM GEETING.

Mr. HENDERSON, of Illinois, introduced a bill (H. R. 7588) for the relief of William Geeting; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

SARAH A. ROCK.

Mr. HENDERSON, of Illinois, also introduced a bill (H. R. 7589) granting a balance of pension to Sarah A. Rock; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

WILLIAM T. SHERWOOD.

Mr. CULLEN introduced a bill (H. R. 7590) granting an increase of pension to William T. Sherwood; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

TOWING VESSELS.

Mr. DUNHAM introduced a bill (H. R. 7591) relating to the licensing of vessels engaged in towing to carry persons in addition to their crews; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

INDUSTRIAL AND COTTON EXPOSITION.

Mr. MOULTON introduced a bill (H. R. 7592) to amend "An act to make a loan to aid in the celebration of the World's Industrial and Cotton Centennial Exposition," approved May 21, 1884; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

THOMAS M. DICKSON.

Mr. ENGLISH introduced a bill (H. R. 7593) granting a pension to Thomas M. Dickson; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JOHN SUTTON.

Mr. STEELE introduced a bill (H. R. 7594) to increase the pension of John Sutton; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

GEORGE J. KRAUSE.

Mr. MURPHY introduced a bill (H. R. 7595) for the relief of George J. Krause; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

DELOS L. ROBINSON.

Mr. HENDERSON, of Iowa, introduced a bill (H. R. 7596) granting a pension to Delos L. Robinson; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

PRIVATE LAND CLAIMS.

Mr. PUSEY introduced a bill (H. R. 7597) to provide for ascertaining and settling private land claims in certain States and Territories; which was read a first and second time, referred to the Committee on Private Land Claims, and ordered to be printed.

HOMESTEAD SETTLEMENT IN INDIAN TERRITORY.

Mr. RYAN introduced a bill (H. R. 7598) to open to homestead settlement certain portions of the Indian Territory, and for other purposes; which was read a first and second time, referred to the Committee on Indian Affairs, and ordered to be printed.

ELI W. CAMPBELL.

Mr. RYAN also introduced a bill (H. R. 7599) to grant a pension to Eli W. Campbell; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JOHN G. SHAWBILL.

Mr. RYAN also introduced a bill (H. R. 7600) to grant a pension to John G. Shawbill; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JAMES DYE.

Mr. RYAN also introduced a bill (H. R. 7601) to grant a pension to James Dye; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

HARRIET M. BAILY.

Mr. RYAN also introduced a bill (H. R. 7602) to grant a pension to Harriet M. Baily; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

GREELY EXPEDITION.

Mr. ELLIS introduced a bill (H. R. 7603) making an appropriation for the erection of a monument to the officers and men who perished in the discharge of their duty in the Greely expedition; which was read a first and second time, referred to the Committee on the Library, and ordered to be printed.

IRA D. WARREN.

Mr. ELLIS also introduced a bill (H. R. 7604) to resubmit the claims of Ira D. Warren (receiver) to the Court of Alabama Claims commissioners; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

WASHINGTON CENTRAL RAILROAD.

Mr. ELLIS also introduced a bill (H. R. 7605) to incorporate the Washington Central Railroad; which was read a first and second time, referred to the Committee on the District of Columbia, and ordered to be printed.

LAND CLAIMS IN LOUISIANA.

Mr. HUNT (by request) introduced a bill (H. R. 7606) to provide for the confirmation of certain private land claims in the State of Louisiana; which was read a first and second time, referred to the Committee on Private Land Claims, and ordered to be printed.

LABORERS AT NAVAL ACADEMY.

Mr. FINDLAY introduced a bill (H. R. 7607) for the relief of certain laborers, workmen, and mechanics heretofore and at present employed at the United States Naval Academy at Annapolis, Md.; which was read a first and second time, referred to the Committee on Labor, and ordered to be printed.

ALABAMA CLAIMS.

Mr. STONE introduced a bill (H. R. 7608) relating to the Alabama claims; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

ELIZABETH SULLIVAN.

Mr. MORSE introduced a bill (H. R. 7609) granting a pension to Elizabeth Sullivan, widow of John Sullivan, late a private in Company H, Third Massachusetts Cavalry; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

NAVAL AND MILITARY REPORTS.

Mr. MORSE also introduced a joint resolution (H. Res. 292) authorizing the printing of certain naval and military reports; which was read a first and second time, referred to the Committee on Printing, and ordered to be printed.

MARY PARROTT.

Mr. LOVERING introduced a bill (H. R. 7610) granting a pension to Mary Parrott; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

MARY B. CARLL.

Mr. LOVERING also introduced a bill (H. R. 7611) granting a pension to Mary B. Carll; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

NICHOLAS WITHAM.

Mr. LOVERING also introduced a bill (H. R. 7612) granting a pension to Nicholas Witham; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

WILLIAM H. MORSE.

Mr. LOVERING also introduced a bill (H. R. 7613) granting a pension to William H. Morse; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

ISAAC H. CHILDS.

Mr. LOVERING also introduced a bill (H. R. 7614) granting a pension to Isaac H. Childs; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

ELBRIDGE SMITH.

Mr. LOVERING also introduced a bill (H. R. 7615) granting a pension to Elbridge Smith; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

FRANK N. GRAY.

Mr. LOVERING also introduced a bill (H. R. 7616) granting a pension to Frank N. Gray; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

MRS. ANN E. GRIDLEY.

Mr. ELDREDGE introduced a bill (H. R. 7617) granting a pension to Mrs. Ann E. Gridley, of Hillsdale, Mich.; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

HARRY H. G. KISLINGBURY AND OTHERS.

Mr. MAYBURY introduced a bill (H. R. 7618) granting a pension to Harry H. G. Kislingbury, Walter F. Kislingbury, Wheeler Schofield Kislingbury, and Douglas E. L. Kislingbury, respectively children of the late Frederick F. Kislingbury, lieutenant in the Eleventh Regiment United States Infantry; which was read a first and second time, referred to the Committee on Pensions, and ordered to be printed.

REVERSIONARY RIGHT OF THE GOVERNMENT.

Mr. MAYBURY also introduced a bill (H. R. 7619) to release the reversionary right of the Government of the United States to certain lands in the city of Detroit and State of Michigan; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

PUBLIC BUILDING, MINNEAPOLIS, MINN.

Mr. WASHBURN introduced a bill (H. R. 7620) to increase the appropriation for the erection of the public building at Minneapolis, Minn.; which was read a first and second time, referred to the Committee on Public Buildings and Grounds, and ordered to be printed.

MRS. ELIZABETH M. LEWIS.

Mr. STRAIT introduced a bill (H. R. 7621) for the relief of Mrs. Elizabeth M. Lewis; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

MOBILE AND OHIO RAILROAD COMPANY.

Mr. JEFFORDS introduced a joint resolution (H. Res. 293) to provide for the settlement of the accounts with the Mobile and Ohio Railroad Company; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

LIGHT-HOUSES ON WESTERN RIVERS.

Mr. O'NEILL, of Missouri, introduced a bill (H. R. 7622) to enable the Light-House Board to increase the number of the light-house districts on the western rivers, and making appropriation therefor; which was read a first and second time, referred to the Committee on Appropriations, and ordered to be printed.

PETER RHOADS.

Mr. BURNES introduced a bill (H. R. 7623) for the relief of Peter Rhoads; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

SUSPENSION OF SILVER-DOLLAR COINAGE.

Mr. BUCKNER introduced a bill (H. R. 7624) to suspend the coinage of standard silver dollars, and for other purposes; and moved its reference to the Committee on Banking and Currency.

The SPEAKER. The practice has been to send such bills to the Committee on Coinage, Weights, and Measures, but the Chair will entertain the motion of the gentleman from Missouri.

Mr. BUCKNER. I move, then, that the bill be referred to the Committee on Banking and Currency.

Mr. MILLS. And I move that the bill be referred to the Committee on Coinage, Weights, and Measures.

The SPEAKER. The Chair thinks it goes to that committee, and that motion is unnecessary. If the House declines to refer it to the Committee on Banking and Currency, the Chair will send it to the Committee on Coinage, Weights, and Measures under the rules of the House.

Mr. MILLS. I wish to make the issue so sharp the House can understand it.

Mr. BUCKNER. While I think the bill should be referred to the Committee on Banking and Currency, I do not care to press a vote upon it. I will, however, submit the question to the Chair.

The SPEAKER. The Chair will hear the gentleman from Missouri.

Mr. BUCKNER. There were several bills introduced at the beginning of this Congress——

The SPEAKER. The Sergeant-at-Arms will request members in the rear of the seats to suspend conversation, as it is impossible to hear what is transpiring on the floor.

Mr. BUCKNER. It is not because I feel any interest as to where this bill goes so much as to have a correct ruling on this subject. If the Chair will consider the subject properly I think he will see that it has been the universal practice heretofore, up to within the last two or three years, to refer bills of this character to the Committee on Banking and Currency. Why, sir, the original bill itself, which passed this House by a two-thirds vote, came from the Committee on Banking and Currency. At that time every bill on the subject, so far as my recollection goes, was referred to that committee. I take it the distinction is this, that so far as the fabrication of coins is concerned, that is exclusively within the jurisdiction of the Committee on Coinage, Weights, and Measures; but when the coins are fabricated and go into circulation, they are then as much a part of the general circulation of the country as the bank notes themselves, and being currency, matters referring to them should be referred to the Committee on Banking and Currency.

The SPEAKER. To what original bill does the gentleman refer when he says it came from the Committee on Banking and Currency?

Mr. BUCKNER. The original bill known as the Bland bill was ordered to be reported by the Committee on Banking and Currency. That is a part of the legislative history of this country, and every bill at that session in reference to the coinage of the standard dollar was referred to that committee.

Mr. WARNER, of Ohio. I understood that bill came from the Committee on Mines and Mining.

Mr. CASSIDY. And that is my understanding, that that bill originated with the Committee on Mines and Mining.

Mr. BUCKNER. The gentleman is mistaken altogether. The record will bear me out that the Bland bill was reported by the Committee on Banking and Currency. It was put into the hands of Mr. BLAND by myself, and in that form was reported and passed. The records will show I am correct.

Mr. CASSIDY. It has been my impression that that bill came from the Committee on Mines and Mining.

Mr. BUCKNER. The gentleman is mistaken.

The SPEAKER. Clauses 5 and 6 of Rule XI, which regulate the jurisdiction of the several committees of the House, provide that all matters relating to proposed legislation shall be referred to the committees named in the preceding rule, as follows:

5. To banking and currency; to the Committee on Banking and Currency.
6. To coinage, weights, and measures; to the Committee on Coinage, Weights, and Measures.

Now, it seems to the Chair this relates to coinage, and nothing else.

Mr. BUCKNER. It is not a metal, but a currency.

The SPEAKER. The Chair has understood the fifth subdivision of that rule to refer the business relating to bank paper currency of the country to the Committee on Banking and Currency, and all matters relating to the metallic coinage to the Committee on Coinage, Weights, and Measures.

Mr. BUCKNER. That has not been the construction of former Speakers, as I understand it, though I bow to the ruling of the Chair.

The SPEAKER. In the first place the present rules were not in force at the time that the Bland bill, so called, was reported from the committee and passed by the House. The Chair thinks that under the present rules it is his duty to refer this bill to the Committee on Coinage, Weights, and Measures, subject, of course, to the right of the House to direct a different reference if it sees proper to do so.

The bill was accordingly referred to the Committee on Coinage, Weights, and Measures, and ordered to be printed.

JOHN P. DEATON.

Mr. HATCH, of Missouri, introduced a bill (H. R. 7625) granting a pension to John P. Deaton; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

BENJAMIN FOUTS.

Mr. HATCH, of Missouri, also introduced a bill (H. R. 7626) granting a pension to Benjamin Fouts; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

WILLIAM A. DORNER.

Mr. HATCH, of Missouri (by request), also introduced a bill (H. R. 7627) for the relief of William A. Dorner, of Macon, Mo.; which was read a first and second time, referred to the Committee on Claims, and ordered to be printed.

CATHARINE HAMMER.

Mr. FIEDLER introduced a bill (H. R. 7628) granting a pension to Catharine Hammer; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

ANDREW MANTLE.

Mr. FIEDLER also introduced a bill (H. R. 7629) granting an increase of pension to Andrew Mantle; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

H. J. SIMONSON AND OTHERS.

Mr. KEAN introduced a bill (H. R. 7630) for the relief of H. J. Simonson and others; which was read a first and second time, referred to the Committee on Ways and Means, and ordered to be printed.

PEDESTAL FOR BARTHOLDI STATUE.

Mr. ROBINSON, of New York, introduced a joint resolution (H. Res. 294) providing for the completion of the pedestal for the Bartholdi statue; which was read a first and second time, referred to the Committee on the Library, and ordered to be printed.

INAUGURAL CEREMONIES.

Mr. ROBINSON, of New York, also introduced a joint resolution (H. Res. 295) providing for the restoration of inaugural ceremonies to Jeffersonian republican simplicity; which was read a first and second time, referred to the Committee on the District of Columbia, and ordered to be printed.

COUNTERFEITING LETTERS PATENT.

Mr. COX, of New York, introduced a bill (H. R. 7631) to amend section 5416 of the Revised Statutes of the United States in relation to counterfeiting letters patent; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

BURDENS ON AMERICAN SHIPPING.

Mr. COX, of New York, also introduced a bill (H. R. 7632) to amend section 10 of the act to remove certain burdens on the American merchant marine, &c., approved June 26, 1884; which was read a first and second time, referred to the Select Committee on American Ship-building and Ship-owning Interests, and ordered to be printed.

DUTIES ON FOREIGN IMPORTATIONS.

Mr. COX, of New York, also introduced a bill (H. R. 7633) supplementary to "An act amendatory of certain acts imposing duties upon foreign importations," approved March 3, 1865; which was read a first and second time, referred to the Committee on Ways and Means, and ordered to be printed.

STATUE OF LIBERTY ENLIGHTENING THE WORLD.

Mr. COX, of New York, also introduced a joint resolution (H. Res. 296) to aid in the completion of the pedestal for the statue of Liberty enlightening the World; which was read a first and second time, referred to the Committee on the Library, and ordered to be printed.

EIGHT-HOUR LAW.

Mr. COX, of New York, also submitted the following resolution of inquiry; which was read, and referred to the Committee on Labor:

Resolved, That the Attorney-General of the United States be respectfully requested to report to this House whether in his opinion section 3738 of the Revised Statutes, with reference to eight hours' employment constituting a day's labor for all laborers, &c., employed on behalf of the United States, applies to the letter-carriers of the United States.

CHARLES W. LAMBERT.

Mr. WEMPLE introduced a bill (H. R. 7634) to amend the military record of Charles W. Lambert; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

SECRECY OF THE BALLOT.

Mr. BEACH introduced a bill (H. R. 7635) to maintain the secrecy of the ballot in the election of Representatives and Delegates in Congress; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

S. S. EIGHMY.

Mr. STEVENS introduced a bill (H. R. 7636) for the relief of S. S.

Eighmy; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JOSIAH SCOTT.

Mr. STEVENS also introduced a bill (H. R. 7637) granting an increase of pension to Josiah Scott; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

CHAUNCEY S. PETTIBONE.

Mr. STEVENS also introduced a bill (H. R. 7638) granting an increase of pension to Chauncey S. Pettibone; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JOHN KIMMERLING.

Mr. STEVENS also introduced a bill (H. R. 7639) granting an increase of pension to John Kimmerling; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

HIRAM S. ROWLEY.

Mr. STEVENS also introduced a bill (H. R. 7640) granting a pension to Hiram S. Rowley; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

WIDOW AND HEIRS OF WILLIAM S. CARR.

Mr. HARDY introduced a bill (H. R. 7641) for the relief of the widow and heirs o William S. Carr, deceased; which was read a first and second time, referred to the Committee on Patents, and ordered to be printed.

INSPECTORS OF HULLS AND BOILERS.

Mr. VAN ALSTYNE introduced a bill (H. R. 7642) to amend section 4414 of the Revised Statutes of the United States, fixing the compensation of inspectors of hulls and boilers in the several districts of the United States; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

EXTRA WORK IN THIRD AUDITOR'S OFFICE.

Mr. VANCE introduced a bill (H. R. 7643) to compensate the clerks and employés of the Third Auditor's Office for extra work done at night in the months of April, May, June, and July, 1883; which was read a first and second time, referred to the Committee on Appropriations, and ordered to be printed.

MARTIN BARRINGER.

Mr. LE FEVRE introduced a bill (H. R. 7644) to amend the military record of Martin Barringer, late of Company I, Fifth Regiment Ohio Volunteers; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

CURRENCY CONTRACTION.

Mr. WARNER, of Ohio, introduced a bill (H. R. 7645) to prevent the contraction of the currency; which was read a first and second time, referred to the Committee on Banking and Currency, and ordered to be printed.

EVENING SCHOOLS, DISTRICT OF COLUMBIA.

Mr. FOLLETT introduced a bill (H. R. 7646) to provide for the establishment of evening schools in the District of Columbia; which was read a first and second time, referred to the Committee on the District of Columbia, and ordered to be printed.

SUPERVISORS OF ELECTIONS, ETC.

Mr. FOLLETT also introduced a bill (H. R. 7647) to repeal sections 2011 to 2031 inclusive, also sections 5521 and 5522 and part of section 689 of the Revised Statutes of the United States; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

JOHN STAAB.

Mr. JORDAN introduced a bill (H. R. 7648) to grant a pension to John Staab; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

BALTHASAR KITT.

Mr. JORDAN also introduced a bill (H. R. 7649) to grant a pension to Balthasar Kitt; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

PHILIP SPANGLER.

Mr. JORDAN also introduced a bill (H. R. 7650) to grant a pension to Philip Spangler; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

DRAWBACK ON IMPORT DUTIES.

Mr. GEORGE introduced a bill (H. R. 7651) to amend section 3019 of the Revised Statutes, relating to drawback on duties on imported material when manufactured and exported; which was read a first and second time, referred to the Committee on Ways and Means, and ordered to be printed.

ASTORIA AND WINNEMUCCA RAILWAY.

Mr. GEORGE also introduced a bill (H. R. 7652) to grant to the Astoria and Winnemucca Railway Company the right to construct bridges over navigable water courses; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

CHARLES F. PLEASANTS.

Mr. GEORGE also introduced a bill (H. R. 7653) granting a pension to Charles F. Pleasants; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JOHN CAMPBELL.

Mr. GEORGE also introduced a bill (H. R. 7654) for the relief of John Campbell; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

WIDOW OF MAJ. THOMAS T. THORNBURGH.

Mr. BOYLE introduced a bill (H. R. 7655) granting an increase of pension to the widow of Maj. Thomas T. Thornburgh, late of the United States Army; which was read a first and second time, referred to the Committee on Pensions, and ordered to be printed.

CATHERINE MARY HEIGHLEY.

Mr. KEIFER introduced a bill (H. R. 7656) granting a pension to Catherine Mary Heighley; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

FRANK J. BURROWS.

Mr. BROWN, of Pennsylvania, introduced a bill (H. R. 7657) for the relief of Frank J. Burrows, postmaster at Williamsport, Pa.; which was read a first and second time, referred to the Committee on Claims, and ordered to be printed.

ESTATE OF JESSE A. BROWN.

Mr. TAYLOR, of Tennessee, introduced a bill (H. R. 7658) for the relief of the estate of Jesse A. Brown; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

MRS. EMILY L. ALVORD.

Mr. POLAND introduced a bill (H. R. 7659) granting a pension to Mrs. Emily L. Alvord, widow of the late Paymaster-General Benjamin Alvord; which was read a first and second time, referred to the Committee on Pensions, and ordered to be printed.

MRS. LYDIA W. WEBSTER.

Mr. POLAND also introduced a bill (H. R. 7660) granting a pension to Mrs. Lydia W. Webster; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

INTERSTATE COMMERCE.

Mr. POLAND also presented resolutions of the Legislature of the State of Vermont, in favor of national legislation on the subject of interstate commerce, and also of thanks to Hon. JOHN W. STEWART for his efforts in favor of such legislation; which were referred to the Committee on Commerce.

SUFFERERS BY WRECK OF TALLAPOOSA.

Mr. LIBBEY introduced a bill (H. R. 7661) for the relief of the sufferers by the wreck of the United States steamer Tallapoosa; which was read a first and second time, referred to the Committee on Naval Affairs, and ordered to be printed.

NANCY BROWN AND OTHERS.

Mr. LIBBEY also introduced a bill (H. R. 7662) for the relief of Nancy Brown and the heirs of William W. Brown, deceased; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

MILTON R. MUZZY.

Mr. LIBBEY also introduced a bill (H. R. 7663) granting a pension to Milton R. Muzzy; which was read a first and second time, referred to the Committee on Pensions, and ordered to be printed.

PUBLIC BUILDING AT HARRISONBURG, VA.

Mr. O'FERRALL submitted the following resolution; which was referred to the Committee on Public Buildings and Grounds:

Resolved, That the Secretary of the Treasury be, and he is hereby, directed to report to this House as follows:

First. Whether he has purchased a site for a suitable building for the accommodation of the United States courts, post-office, and other Government offices at Harrisonburg, State of Virginia, as authorized and directed by an act entitled "An act for the erection of a public building at Harrisonburg and Abingdon, State of Virginia," approved July 7, 1882.

Second. What price was paid for said site, if purchased, and whether a valid title has been vested in the United States, and whether the State of Virginia has ceded to the United States exclusive jurisdiction over the same, during the time the United States shall be or remain the owner thereof, for all purposes except the administration of the criminal laws of said State and the service of civil process therein.

Third. What amount of the money appropriated for the purchase of said site and the commencement of the erection of a suitable building has been expended, and how and for what expended.

Fourth. The estimated cost, including site, of said building and the amount necessary to be appropriated, in addition to the sum already appropriated, to complete the same.

IMPROVEMENT OF FOX AND WISCONSIN RIVERS.

Mr. GUENTHER introduced a bill (H. R. 7664) to pay the awards for damages for flowage caused by the building of dams by the United States in the improvement of the Fox and Wisconsin Rivers, in the State of Wisconsin; which was read a first and second time, referred to the Committee on Appropriations, and ordered to be printed.

SWEARING-IN OF A MEMBER.

Mr. AIKEN. Mr. Speaker, I present the credentials of Hon. John Bratton, elected in the fourth Congressional district of South Carolina as successor of my late colleague Mr. JOHN H. EVINS. I ask that Mr. Bratton be now sworn in.

The SPEAKER. The credentials will be read.

The Clerk read as follows:

THE STATE OF SOUTH CAROLINA.
By the Secretary of State.

To the honorable the House of Representatives of the United States of America in the Forty-eighth Congress:

Whereas, in pursuance of the constitution and laws of the State of South Carolina and the Constitution and laws of the United States of America, an election was duly holden on the 24th day of November, in the year of our Lord 1884, in the said State of South Carolina, in the fourth Congressional district thereof, for Representative of the said State of South Carolina from the said fourth Congressional district thereof in the House of Representatives of the United States of America in the Forty-eighth Congress to fill the vacancy occasioned by the death of the late JOHN H. EVINS; and

Whereas upon the examination of the returns of the said election, and by the determination and declaration of the board of State canvassers from the said State, filed and of record in my office, it appears that John Bratton was duly elected at the said election by the highest number of votes Representative of the State of South Carolina from the said fourth Congressional district thereof in the House of Representatives of the United States of America in the Forty-eighth Congress:

Now, therefore, I, the secretary of state of the said State of South Carolina, by virtue of the power in me vested by the acts of the General Assembly of the said State in such case made and provided, do hereby certify that the said John Bratton, at the election aforesaid, was duly elected Representative of the State of South Carolina from the fourth Congressional district thereof in the House of Representatives of the United States of America in the Forty-eighth Congress.

Given under my hand and the great seal of the State of South Carolina, in Columbia, this 5th day of December, in the year of our Lord 1884, and in the one hundred and ninth year of the Independence of the United States of America.

[SEAL.] JAMES S. LIPSCOMB,
Secretary of the State of South Carolina.

Mr. BRATTON appeared at the bar of the House, and was duly qualified by taking the oath prescribed by law.

MARCUS A. RENO.

Mr. THOMPSON, of Kentucky. Mr. Speaker, I ask leave to introduce a bill at this time.

The SPEAKER. If there be no objection the Chair will recognize gentlemen who were absent when their States were called for the introduction and reference of bills. The Chair hears no objection.

Mr. THOMPSON, of Kentucky (by request), introduced a bill (H. R. 7665) for the relief of Marcus A. Reno; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

Mr. PRYOR. I ask unanimous consent for the purpose of taking from the Speaker's table and have referred at this time a Senate bill.

The SPEAKER. The Chair is now recognizing gentlemen for the introduction of bills, but if there are no further bills to be introduced the Chair will submit the gentleman's motion to the House.

PUBLIC BUILDING, HUNTSVILLE, ALA.

Mr. PRYOR. There is a bill upon the Speaker's table (S. 505) for the erection of a public building at Huntsville, Ala., which I ask may be taken up and referred to the Committee on Public Buildings and Grounds.

There was no objection, and the bill was taken up, read a first and second time, referred to the Committee on Public Buildings and Grounds, and ordered to be printed.

COMMITTEE-ROOMS.

Mr. WEMPLE. I offer the following resolution for present consideration:

The Clerk read as follows:

Resolved, That the Committee on Public Buildings and Grounds be directed to inquire whether this House requires any more rooms for its committees, and, if so, where they can be procured, with leave to report to this House at any time.

There was no objection, and the resolution was received and adopted.

Mr. WEMPLE moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

INTERSTATE-COMMERCE INFORMATION.

Mr. O'NEILL, of Pennsylvania. Mr. Speaker, I ask by unanimous consent to offer a resolution for present consideration in reference to printing a document.

The Clerk read as follows:

Resolved, That the expert testimony taken by the Committee on Commerce and the arguments before that committee on the question of interstate commerce be printed for the use of the House.

Mr. HOLMAN. I do not object provided the resolution is introduced for reference to the Committee on Printing.

Mr. O'NEILL, of Pennsylvania. I will suggest to the gentleman from Indiana, if he will withdraw his motion for reference for a moment——

Mr. HOLMAN. Certainly, sir.

Mr. O'NEILL, of Pennsylvania. The object of this resolution is simply to get at an early day—to-morrow if possible—the arguments and testimony submitted before the Committee on Commerce, so that members may have the information before them when they are called upon to vote upon the pending interstate-commerce bill. I know if the members of the House could have those arguments and that testimony before them they would enlighten those who have so far had no opportunity of seeing in print that testimony and those arguments presented to the Committee on Commerce. The members of that committee of course have had that advantage, and it is important that the other members of the House shall be equally favored by possessing all the information possible on this very important subject. The Committee on Commerce had a few copies printed for the use of that committee, and, I presume, as this debate goes, we regret we did not present a resolution to the House at the beginning asking for the printing of the testimony and arguments for general distribution to members of the House. Then each one would have had a copy before him and would be enabled to understand all phases of this interstate-commerce question.

The resolution is not introduced for the purpose of delay, but merely for the purpose of supplying information to members as the debate goes on and will go on. If my resolution be adopted, I have no doubt by to-morrow morning each member can have a copy of this very valuable document. I can not see why there should be any objection to its being printed. It consists of arguments and expert testimony, as I have already stated, the testimony of men who thoroughly understand the subject and arguments upon the various provisions of the bill and on the whole subject, in fact, generally. I ask the gentleman from Indiana to withdraw his objections, so that the resolution may come before the House for adoption.

Mr. REAGAN. The document referred to by the gentleman from Pennsylvania and which he asks to have printed is made up of arguments and testimony covering about three hundred pages of print. There were a considerable number of copies printed which have not yet, I believe, been distributed. The arguments and testimony are by lawyers and railroad officers who appeared before the Committee on Commerce.

The SPEAKER. There is nothing before the House, objection having been made to the introduction of the resolution.

Mr. O'NEILL, of Pennsylvania. I understand, Mr. Speaker, there were about fifty copies printed for the use of members of the Committee on Commerce. I was not aware that there were any of those copies left. I understood they were distributed long ago. They were not indeed sufficient, so far as I remember, to go around. The members were asked for copies in many instances when they were unable to supply them. If the resolution be allowed to come before the House for adoption it will inure to the benefit of the House.

The SPEAKER. Does the gentleman from Pennsylvania desire to have the resolution referred to the Committee on Printing?

Mr. O'NEILL, of Pennsylvania. If I can not have the resolution come before the House in any other way, why I must consent to its introduction for reference to the Committee on Printing. I should prefer of course, however, to have the resolution submitted for adoption.

The SPEAKER. There is so much confusion in the House that it is almost impossible to hear what is going on.

Mr. HOLMAN. Mr. Speaker, I wish to say that inasmuch as I do not understand the value of this paper, I will for the present withdraw my suggestion as to its reference to the Committee on Printing, and leave the matter to the gentleman from Texas, who knows not only the document referred to but the necessity for its further printing.

Mr. REAGAN. The document which is requested to be printed is a very large pamphlet, covering some three hundred pages of print, and composed of arguments made by counsel of certain railroads before the Committee on Commerce.

There were a large number of copies more than were needed. I believe copies remain undistributed in the committee-room, and if there are members desiring copies at this time I have no doubt they can get them by going to the committee-room.

Mr. O'NEILL, of Pennsylvania. I am sorry to say that the gentleman from Texas is mistaken as to there being any copies left over for distribution in the committee-room. My sole object in introducing the resolution is for the purpose of securing information for the members of the House while we are discussing this important subject of interstate commerce, which will be voted on in a few days. I know that I have not been able to get copies for those who desire them, and I should be glad by the adoption of the resolution to be the means of furnishing copies to those members who wish to act intelligently on the subject. I believe that the type still remains undistributed, and all the expense there would be would be for the paper and printing, so that if the resolution were adopted the information could be furnished by to-morrow or the day after.

The SPEAKER. Is there objection?

Mr. REAGAN. I do not wish to waste time further on this sub-

ject, and believing that sufficient numbers already have been printed and distributed, and that if any more were ordered they would not be read, I object to the introduction of the resolution.

DISTRICT OF COLUMBIA BUSINESS.

The SPEAKER. The regular order is the consideration of business coming from the Committee on the District of Columbia.

Mr. BARBOUR. As I understand the Chair states to the House at this time the business in order is that coming from the District of Columbia.

The SPEAKER. Under the rule the second and fourth Mondays of each month are set apart for the consideration of business reported from the Committee on the District of Columbia.

Mr. BARBOUR. I have been requested by that committee to waive their claim for the consideration of their business to-day, as it is not sufficiently advanced, or rather there is not enough ready to take up the time of the House, but the committee will be ready on the fourth Monday, to go on regularly with their business.

ORDER OF BUSINESS.

Mr. STEELE. I rise to a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. STEELE. Is it not in order to call up the Mexican pension bill at this time?

The SPEAKER. The bill known as the Mexican pension bill is upon the Speaker's table, and can only be reached at the proper time by a motion to go to the business on that table.

Mr. STEELE. I was under the impression that it had been made a special order for the 26th.

Mr. TOWNSHEND. No; it was not. At the proper time, Mr. Speaker, I have intended to move to go to the business on the Speaker's table for the purpose of taking up that bill. For the present I have been waiting for the disposal of the interstate-commerce bill.

CENSUS BUREAU.

Mr. COX, of New York. Mr. Speaker, I ask by unanimous consent to report back from the Select Committee on the Census joint resolution (H. Res. 289) authorizing the Superintendent of the Census to continue the work on the Tenth Census for action at the present time. I send the joint resolution to the Clerk's table to be read. It extends the Census Bureau, without further expense, until the 1st of July. It dies out on the 1st of January. No further appropriation is asked for.

Mr. McMILLIN. Is it intended to ask for an appropriation hereafter?

Mr. COX, of New York. If they do, it will be time then for decision on the matter. I do not ask for it.

The joint resolution was read, as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That so much of the act entitled "An act making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1885, and for other purposes," approved July 7, 1884, as provides that the Census Bureau shall be closed on January 1, 1885, be, and is hereby, repealed; and the Superintendent of the Census is authorized to continue the work of the Tenth Census until the further action of Congress: *Provided*, That in no case shall any expense be incurred under this resolution, either for salaries or other items, in excess of the balance of appropriations heretofore made for the work of the Tenth Census which shall remain unexpended on January 1, 1885.

The SPEAKER. Is there objection?

Mr. BLOUNT. I would like to ask the gentleman from New York if this comes from any committee?

Mr. COX, of New York. I ask unanimous consent.

Mr. RANDALL. Let us understand what the fact is before unanimous consent is given.

The SPEAKER. If there be no objection the gentleman can make a statement subject to the right to object.

Mr. BLOUNT. I wish to ask whether there is any of the previous appropriation remaining over?

Mr. HOLMAN. About $15,000.

Mr. COX, of New York. I can make that clear so everybody can understand it if the Clerk will read a communication from the Superintendent of the Census. The Superintendent asked for a larger sum than the bureau got. They did not get enough by $45,000. They do not ask any more now. They ask that the balance now remaining of what the committee gave them at the last session be used until the 1st of July. No further appropriations are asked for now.

Mr. MILLS. Will any more be required?

Mr. COX, of New York. I shall not for myself or the committee. I do not ask for any more appropriation. That depends on the Committee on Appropriations, which are not in favor of giving any more.

Mr. RANDALL. The Committee on Appropriations recommended what was put into the law, and the bureau was to be discontinued after the 1st of January.

Mr. COX, of New York. Yes, the committee recommended the discontinuance of the bureau on the 1st of January, but they can not close up the business at that time, although they have money unexpended.

Mr. McMILLIN. How much?

Mr. COX, of New York. About $15,000 or $20,000.

Mr. RANDALL. The effect will be to repeal the law providing for the closing of the bureau, and continue it without limit.

Mr. COX, of New York. Without any further expense.

Mr. RANDALL. I ask the gentleman if he expects a bureau can be run by this Government without expense.

Mr. McMILLIN. If there is a plan for doing it it ought to be patented. [Laughter.]

Mr. COX, of New York. Gentlemen are facetious in advance of the facts. The money now remaining on hand is all they ask to run the bureau to the 1st of July next. I ask to have the statement of the Superintendent read.

Mr. RANDALL. Then the gentleman should ask that the money remaining on hand should be reappropriated and the bureau continued.

Mr. COX, of New York. I will do so.

Mr. MILLS. Let us facilitate the work of the Superintendent in finishing his report and make the appropriation he asks.

Mr. COX, of New York. I can not do that.

Mr. MILLS. I ask the House.

Mr. COX, of New York. That depends on the Appropriations Committee. I leave that to them.

Mr. MILLS. Here we are in the fourth year of the next decade, and that work has not yet been completed.

Mr. COX, of New York. This is for continuing the bureau. The gentleman inquires in relation to printing. The law which was passed is being executed. This is only to authorize the bureau to wind up its affairs upon the money already remaining unexpended and on hand.

Mr. MORRISON. Amend the bill, then, by providing for winding up the bureau when the money has been expended.

Mr. COX, of New York. I have no objection to doing that.

Mr. MILLS. That ought to be done.

Mr. BLOUNT. I wish to ask the gentleman from Pennsylvania chairman of the Committee on Appropriations a question.

Mr. RANDALL. With pleasure.

Mr. BLOUNT. I wish to ask the gentleman from Pennsylvania if I did not understand him to say the Committee on Appropriations, after consideration, had provided in the law that this bureau should be discontinued on the 1st day of January?

Mr. RANDALL. They did, and both Houses approved of their action by passing the law. It seems, however, under the statement of the gentleman from New York, that the entire amount of money appropriated has not been expended, and as he proposes to amend the joint resolution it will provide for continuing the bureau and reappropriating the money now remaining unexpended.

Mr. McMILLIN. It would be unfortunate, of course, to stop the bureau before the money was expended. [Laughter.]

The SPEAKER. The Chair hears no objection, and the joint resolution is before the House.

Mr. COX, of New York. I move to amend by adding to the resolution the following:

Provided, That the said bureau shall be closed with the expenditure of the money heretofore appropriated.

The amendment was agreed to.

Mr. COX, of New York. I ask by unanimous consent that the letters of the Superintendent be printed in the RECORD.

The SPEAKER. The Chair hears no objection.

Mr. COX, of New York. As to the matter of printing, ordered by this House by a separate law, in order that members may understand what progress is being made I ask to have printed the following:

DEPARTMENT OF THE INTERIOR, CENSUS OFFICE,
Washington, D. C., December 3, 1884.

SIR: With reference to the subject of your verbal inquiries made on Saturday last, I beg to say that the monographs of the Tenth Census, whose republication was ordered by Congress at its last session, are being prepared for printing as rapidly as the facilities of the Government Printing Office will permit. That matter is wholly in the hands of the Public Printer, whose usual energy and push are being brought to bear to secure its earliest publication.

By the same act as provided for the issue of a second edition of the several monographs it was ordered that a new edition of 25,000 copies of the Compendium be printed, all changes necessitated by errata in the former edition to be first made by the Superintendent of Census.

The Compendium was originally published under very high pressure, and went to the public without having received that careful revision which is essential for the prevention of errors in all statistical work, and for lack of which many corrections have been found necessary in preparing the copy of the Compendium for the second edition. Such corrections and changes required a force wholly incommensurate with our clerical and financial resources, the additional work of preparing these several reports having been thrown upon the office not only without any additional appropriation therefor, but upon the heels of a serious reduction in the amount asked for the current expenses of the office exclusive of the extra labor thus imposed.

We have therefore been unable to make as rapid progress as we had hoped with the work of republication in addition to the labor involved in the preparation and publication of several quarto volumes of new matter for the final report. But we shall make every effort to furnish the revised copy during the present month, so that the additional copies of the Compendium can be printed at an early day.

I take this opportunity of again calling your attention to the subject-matter of my communication of the 28th ultimo.

If early provision for the continuation of the work of the census is not made by Congress this office will be closed by operation of law January 1, 1885. By a joint resolution the limitation of time now enjoined could be removed, and without further appropriation the work of the office could be continued until Congress shall have had time to consider and determine whether the report shall be abandoned or a further sum of about $55,000 shall be appropriated to complete a

work which has, it is true, cost some $5,000,000, but whose real value to the country could not be overstated in a much larger sum, if, indeed, its value could be stated in dollars at all.

If the report is to be abandoned January 1, 1885, some provision should at least be made for the disposal of the records looking to their preservation for future reference, and for attention to current and future correspondence, which must otherwise be neglected.

Very respectfully,

C. W. SEATON,
Superintendent of Census.

Hon. S. S. COX, M. C.,
House of Representatives.

DEPARTMENT OF THE INTERIOR, CENSUS OFFICE,
Washington, D. C., November 28, 1884.

DEAR MR. COX: As I understand the provision of law relating to this office which is contained in the sundry civil bill approved July 7, 1884, all work on the Tenth Census must cease January 1, 1885, unless in the mean time further legislation shall extend the time for the completion of our work, and this without regard to any balance of appropriation for the work which may then remain unexpended.

You will remember that I asked an appropriation of the sum of $75,000 for the completion of the report on the Tenth Census, to be expended within the current fiscal year. Congress appropriated $30,000 only, and provided that the office should be closed January 1, 1885. This action necessitated an immediate reduction of our clerical force as constituted at the date of the passage of that legislation, and a consequent postponement of the date at which the completion of our work was possible. Even with the continued services of all employés on our roll July 1, 1884, it would have been impossible to complete the report by the 1st of January proximo. The large reduction of force, made imperative by the insufficient appropriation, has still further delayed us. I have therefore already submitted to the Secretary of the Interior a request that he will ask the further sum of $55,000, of which $45,000 shall be available for the completion of all compilations and other original matter for the report during the present fiscal year, and $10,000 to be used after July 1, 1885, in such work of proof-reading, revision, &c., as may be required in this office in conjunction with the office of the Public Printer while the remaining volumes are going through the press.

It is not likely, I presume, that any Congressional action can be had on this request before January 1, 1885, at which date we shall be compelled to suspend work and close the office, unless some provision is made for continuance; and I write now to inquire whether it would, in your judgment, be advisable to submit to Congress a joint resolution giving authority to the Superintendent of Census to continue the work of this office without further appropriation from January 1, 1885, for such time only as may suffice to exhaust the unexpended balance of appropriations heretofore made, or until Congress shall, by subsequent action, make further provision for the work. On the 1st of January, 1885, there will remain a small unexpended balance of appropriation for this office. The reason for the non-exhaustion of the entire appropriation is as follows: In July last, when the appropriation of $30,000 was made, the current expenses of this office were larger than the above sum of appropriation would justify, and a consequent reduction of our force was made, by transfer principally to other bureaus. But the apparent or seeming disposition on the part of Congress to close this office and leave the report on the Tenth Census unfinished alarmed our remaining clerical force, many of whom sought and obtained transfers to other and more permanent bureaus, thus depleting us to a point even lower than would have been required by the condition of our appropriation. A sufficient force remained, however, to co-operate with the Public Printer in pushing through the press such volumes as could be printed, and it was not deemed advisable to employ any further force than was necessary for this purpose until further action of Congress could be had with relation to the unfinished compilations. We shall therefore have on January 1 an unexpended balance sufficient to continue our present minimum force for perhaps forty or fifty days after that date, provided the consent of Congress can be obtained. In this way we can get through the press much matter for the report now complete in manuscripts, and in the mean time we should hope that Congress will not suffer the remainder of this magnificent report to be lost to the public for lack of the small concluding appropriation already asked at its hands.

I inclose a rough draught of a joint resolution for your consideration, with the request that it or a similar one may be submitted in the House immediately on its reassembling, if such action is not inconsistent with your own views.

Very truly, yours,

GEO. W. RICHARDS,
Acting Superintendent.

Hon. S. S. COX, *No.* 1 *Du Pont Circle.*

DEPARTMENT OF THE INTERIOR, CENSUS OFFICE,
Washington, D. C., November 13, 1884.

SIR: I have the honor to submit the following report of the operations of this office during the past year. At the date of the last annual report of the Superintendent of Census, September 15, 1883, there had been published only the Compendium of the Tenth Census, consisting of two octavo volumes of 923 and 856 pages, respectively. During the year which has since elapsed the following numbered volumes of quarto size have been published:

Vol.	Subject.	Pages.
1	Population	1,050
2	Statistics of Manufactures	1,248
3	Statistics of Agriculture	1,149
4	Agencies of Transportation	860
5	Cotton Culture in the United States	924
6	Cotton Culture in the United States	848
7	Valuation, Taxation, and Public Indebtedness	919
8	Miscellaneous volume, containing four reports, namely:	
	On Newspapers and Periodicals	1,111
	On Alaska, its Resources, &c.	
	On the Alaskan Fur-seal Islands	
	On Ship-Building	

Volume 9, a quarto of 620 pages, devoted to the statistics of forestry and the lumbering interests of the country, and supplemented with a portfolio of maps, showing the distribution of the forests in the several States, will be published in the month of November. It is now in the hands of the Public Printer, and all printed except the index, which is being rapidly prepared.

Volume 10, a quarto of 868 pages, will contain the following-named monographs: (1) Quarries and Building Stones; (2) Petroleum; (3) Coke. This volume is stereotyped, and the entire edition has been printed. It only awaits the receipt of a few illustrations before being bound and published. It will doubtless appear simultaneously with or immediately after the issuance of volume 9.

The little work remaining to be done by special agents is as follows:

The text of the report on the defective, dependent, and delinquent classes of the population is being prepared by Mr. F. H. Wines. A like labor is being performed by Surg. J. S. Billings on the mortality of the population. Mr. J. R. Dodge is similarly engaged on the report relating to sheep-husbandry, and an introductory chapter to the report on the production of the precious metals is being prepared by Mr. Clarence King. This latter report, which will be comprised in two volumes, is otherwise ready for the printing-presses, having been put in type and stereotyped some months ago.

The report of Surg. J. S. Billings on the mortality of the population has in the main been stereotyped, a few small tables, the introductory text, and the index only remaining incomplete. The two volumes containing this report can readily follow the publication of the volumes devoted to the report on the precious metals.

The report by Professor Raphael Pumpelly on the production of minor and base minerals lacks only the introductory text before being placed in the hands of the Public Printer for publication.

The manuscript of the several monographs, constituting a report on the water-power of the country, is all in hand, with illustrations, and ready in turn for the printer.

The report on the fisheries of the United States, by Professor G. Brown Goode, is also complete and in hand, as is also the report on the social statistics of cities, by Col. George E. Waring, jr.

A monograph by Professor F. R. Hutton on the manufacture of shop and machine tools, vividly illustrated, has been stereotyped and is at the Government Printing Office ready for publication. It will form part of a volume devoted to the statistics and history of the manufacture of mechanical contrivances. The remainder of the matter for this volume is also in hand, and only requires arrangement for the printer.

A report by Special Agent J. D. Weeks on wages paid in manufacturing industries in the United States is substantially completed.

The publication of this paper has already been ordered by the House of Representatives to be issued as a miscellaneous House document. It will, therefore, first be given to the public in this form.

A volume devoted to the statistics of fire and of life insurance will form part of the final report. The manuscript is in hand, and only requires arrangement for the printer.

Statistics relating to the manufacture of gas are complete and await publication. A report on the ice crop and its consumption is also finished.

With the exceptions heretofore noted the only unfinished work in the preparation of our report relates to the tabulation of statistics of schools, churches, and libraries. These completed, the entire force would be employed in revision, proof-reading, &c., necessary, in co-operation with the Public Printer, while the several volumes are going through the press. Estimates of the amount required to bring the complete report to publication have already been submitted. By the terms of the act of July 7, 1884, making appropriations for sundry civil expenses, it was provided that the sum of $30,000 should be appropriated "for the work of taking the Tenth Census and closing the bureau on January 1, 1885." Even with the retention of the entire force employed at the date of the passage of this bill it would have been impossible to complete the final report within the limitation of time therein prescribed; but the inadequate sum appropriated necessitated a heavy reduction in our clerical force, and has thereby correspondingly delayed the work of the office.

Furthermore, the same act authorized the printing of additional copies of the Compendium of the Tenth Census and of various monographs, thus devolving upon the Superintendent and his already crippled force a serious burden of extra labor, which was not considered in fixing the limitation of time and of appropriation prescribed by this act.

I have, therefore, the honor to request that a recommendation may be submitted to Congress that the time for the completion of all tabulations and the preparation of all original matter for the final report on the Tenth Census be extended until July 1, 1885; that the additional sum of $45,000 already submitted in estimate for a deficiency in the present fiscal year be appropriated, and that the further appropriation of $10,000 be made for the expenses of such force as shall be required in this office during the fiscal year ending June 30, 1886, for revision, proof-reading, &c., in co-operation with the office of the Public Printer, while the remaining volumes of the report are being published.

Very respectfully, your obedient servant,

C. W. SEATON,
Superintendent of Census.

The SECRETARY OF THE INTERIOR,
Washington, D. C.

The joint resolution as amended was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. COX, of New York, moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

BENJAMIN F. FOX.

Mr. SPRINGER introduced a bill (H. R. 7666) for the relief of Benjamin F. Fox; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

LORENZO DURHAM.

Mr. SPRINGER also introduced a bill (H. R. 7667) for the relief of Lorenzo Durham; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

VENEZUELA AWARD.

Mr. SPRINGER submitted the following resolution of inquiry; which was read, and referred to the Committee on Foreign Affairs:

Whereas on the 19th day of April last past there was reported from the Committee on Foreign Affairs, and passed by this House, a resolution of which the following is a copy:

"*Resolved*, That the Secretary of State be requested to furnish this House with a copy of the list of certificates issued by the late Venezuelan mixed commission, together with copies of all assignments or transfers of such certificates notified to the Department of State, and a statement showing to whom the several payments by the Department upon such certificates have been made; and also copies of all correspondence relating to requests for payments thereupon, or in respect to the hearing of all claimants before a new commission; and as by the joint resolution approved by the President on the 3d day of March, 1883, the moneys paid by the Venezuelan Government, and remaining in the hands of the Secretary of State and to be applied on such awards as may be made by the new commission provided for by said joint resolution, the Secretary of State is requested

to furnish this House with a statement of the amount now on hand applicable to the payment of such new awards;" and

Whereas the request contained in said resolution has not been complied with, nor any communication whatever made to this House by the Secretary of State in respect to the same,

Be it resolved, That the attention of the Secretary of State be called to said resolution, and that he be again requested to furnish the House of Representatives with the information called for therein, and also to state the cause of the delay in complying with the request of the House.

ORDER OF BUSINESS.

The SPEAKER. The regular order is the further consideration of the interstate-commerce bill.

Mr. TURNER, of Georgia. Mr. Speaker, by order of the House at the last session the contested-election case growing out of the election of Mr. SKINNER, from the State of North Carolina, was postponed until this day, but the gentleman from Massachusetts [Mr. RANNEY] who has in charge the views of the minority is absent from his seat, and I am reluctant to proceed with the case in his absence. I will, therefore, submit to the order of business which the Chair has announced, and will endeavor to call up the election case at a later period.

INTERSTATE COMMERCE.

Mr. REAGAN. Before proceeding with the consideration of the pending measure I desire to modify the motion that I made to amend, so as to provide for striking out all after the enacting clause of the committee's bill from the first to the seventh section inclusive, and inserting the provisions of the substitute bill for those sections.

The SPEAKER. There having been no vote taken upon the gentleman's motion, he has the right to withdraw or modify it. The Chair would suggest that it had better, perhaps, be withdrawn and modified as he now contemplates.

Mr. REAGAN. The only modification is to substitute the provisions of the substitute for the seven sections which precede that portion of the committee's bill providing for the creation of a commission, instead of for the whole bill.

The SPEAKER. The gentleman, then, does not desire to offer the substitute for the entire bill?

Mr. REAGAN. No, sir; only for the first seven sections of that bill.

The SPEAKER. It will be so modified.

Mr. FINDLAY. Mr. Speaker, I am neither a friend nor an enemy of railroad corporations. While as a rule I believe they have been instruments of great good in facilitating and cheapening transportation, I have also knowledge of some conspicuous instances and shrewdly suspect the existence of others where they have abused the great powers intrusted to them. I have no disposition, therefore, either to praise Cæsar or to bury him. The questions which concern us in the measures now pending before the House are principally two: first, the right to legislate at all upon the subject; and, second, conceding the right, the proper scope and limitations of such legislation.

It has not been disputed, nor do I believe that a respectable argument can be made, that the functions of these bodies are not in some sense and to some degree fit subjects for public scrutiny and control.

This is a postulate which has been assumed in all the discussion which has taken place upon these bills, and I shall not therefore enlarge upon the proposition that quasi-public agencies affected with what the courts denominate a public employment can not in the nature of things emancipate themselves from public responsibility. The cognate question as to how far regulations of this kind fall within what is called the commercial clause of the Constitution seems also to be settled, and I shall therefore not attempt to enter upon that inviting field of discussion. The only remaining question, then, is how far ought this plain constitutional right be exerted; and that is a question to be solved by the extent and nature of the wrong which we propose to remedy.

It is absolutely necessary to have a clear perception of the grievance itself before we set about to devise the means to abate or remove it, for otherwise we run the risk, too common in legislation, of waging a profitless warfare against imaginary evils. What, then, is the just cause of complaint which has aroused public opinion upon this subject and which demands relief at our hands? It is simply this, that the rule of equality, which constitutes the bond of the social compact itself, has been systematically and persistently violated by some of the transporting agencies of the country in the bestowal of discriminating favors in behalf of one shipper against another.

It is not, as I understand the case, that these carriers charge more for a long haul than for a short haul or more for one service than another, but that for the same or similar service one man is made to pay more than his neighbor, engaged in the same and perhaps a rival line of business. It is perfectly obvious that the circumstances and conditions of traffic between given points may be such that the enforcement of a uniform tariff of rates would be fatal to the existence of the carrier. Take the familiar instance of two competing railroads which terminate at both ends in populous centers, but, reaching these by different routes, pass on the way intermediate points of shipment of varying degrees of commercial importance, both relatively and absolutely.

The proposition contended for by those who are disposed to take an extreme view of this subject is that a uniform rate per mile shall be prescribed for the carriage of goods between the termini themselves of these competing lines and between the termini and any intermediate station, as well as between stations along the route going and returning. That I understand to be the effect of the provision that there shall be no greater charge proportionately for a haul of a thousand miles or any fractional part of the distance.

This is an unreasonable requirement, because it ignores some of the most obvious considerations which control the movement of freights, and confounds two distinct classes of business, the through and the local, each subject to peculiar conditions, which the carrier is bound to respect or fail. In one case there is a fierce competition, coupled with the necessity of making long contracts based upon an uncertain, capricious, treacherous rivalry, but with no certainty that such contracts after they are made will be or can be faithfully observed without ruinous loss, as the observance of them depends not merely upon the good faith of the contracting parties, but also upon the contingent rapacity which, at an opportune moment for injuring a competitor in business, may seize the rival line. There are other differences, growing out of the return cargo and the intimate connection that may exist between it and the ingoing freight, which distinguish a through from a mere way service, and make it simply impossible to prescribe a proportionately uniform rate of carriage for each.

But the intermediate points of shipment scattered along these competing lines differ in commercial value to the carrier not only with the termini but also with themselves, and to say that these differences are not to be taken into account in determining the law is simply to assert that it would be wise to make laws without regard to the facts of the case. These differences may be further enhanced by the fact of local competitions between the through line and other roads which only cover a part of the distance between the principal termini or may touch at local points on the through line without leading from the termini at all, and this difficulty may be still further complicated by the necessity for making provision for a constantly varying volume of interdependent outgoing and incoming business.

Let me offer an illustration of what I mean. It will be a humble one, and will have none of those sacred associations to commend it in the use of which my distinguished friend from Massachusetts, in his masterly speech on Wednesday last, invested railroads with a new interest, although he left Jericho and Jerusalem, hitherto happy with a string of pack mules, in very doubtful company. My honorable friend Judge REAGAN, who has this matter so much at heart and who deserves the thanks of the country for his arduous, intelligent, and responsible labors in this behalf, hails, I believe, from Palestine, and it was just like my honorable friend from Massachusetts, whose kindness and courtesy are such marked features of his character, after giving the judge's bill a merciless overhauling, to restore the equilibrium and make him happy again by a thoughtful reference to these two central figures in the history of Palestine—Jericho and Jerusalem. It was a delicate compliment.

I shall not go so far afield for my illustration, but begin nearer, I may say right at home, upon the principle that the waters of Abana and Pharpar (I do not like to hurt the judge's feelings) are better than all the waters of Judea, the Jordan included. If anybody will take the trouble to observe, he will see between the Avenue and the Baltimore and Potomac depot, at the corner of Sixth and B streets, three apple and peanut stands, not the oriental kiosk with which New York proposes to adorn her streets, but the original, primitive, severely simple stand of the fakir, where the merchant stands himself and his wares rest in a basket or movable tray on the pavement. I will designate these merchants as numbers 1, 2, and 3, respectively, and locate number 1 at the corner of B and Sixth streets, at the entrance of the depot; number 2 on the opposite corner, made by the intersection of B with Sixth street, and number 3 at the corner of Sixth street and the Avenue.

Now, *a priori*, any person with an eye to business would say at once that the intermediate man, located midway between two giants in business, one intercepting all the through trade up and down the Avenue as well as the small inflow toward the depot, and the other catching in his big net all the custom from the depot outward to the Avenue, would, as between these contending forces, fare very badly on the purely local custom—the crumbs, as it were—from this lordly table, which might be scattered at his feet, *faventes aurœ*, from the direction of B street; nor would this conclusion be incorrect, for on examination it would be discovered that the terminal merchants, so to speak, had a better stock, more of it, a higher grade of storage device, though short of a kiosk and all the other unfailing signs of a prosperous trade, than the poor monopoly-ridden intermediary, who could only boast of a peck-measure basket, with its scant contents, like Captain Jackson's feasts, arranged more for the imagination than consumption. Now, I would like to know whether there is any law of our devising which can supersede, modify, or repeal this dominant law of condition and reverse the positions of these merchants, from a commercial point of view, without at the same time compelling a change of stands, and with it of course a change of condition.

I might extend the scope of the illustrations still further, and show that one of these merchants, and that one, too, having the advantage of position, might have the additional endowment of keener insight, superior energy, more persistent endurance, than he of the simple basket and humble store, and then repeat the question, whether it lies in our

power to establish an equilibrium of forces when nature herself depresses the scale and destroys the balance?

I have not been altogether vainly wanton or eccentric in the selection of this homely illustration, for be assured that if this force, which I call the law of condition, is so universal and inexorable in its sweep that not even the humblest relations involving the simplest combinations can escape, then those higher and more complex adjustments with which we are now concerned must submit to the same imperious sway. The result of it all is, that there are inequalities created and continued by force of natural law which no legislation can change or destroy.

But what are these inequalities? Some are congenital, some acquired, and some accidental, and for all such there is no help. In the utter hopelessness of the case we mutter between our teeth, "God help them," or, with a deeper charity and a more genuine submission to His will, put our hands in our pockets and do what we can. But there is another class of inequalities entirely within the reach of remedial legislation, and which it is not only our right but our duty to remedy. They are such as do not spring from natural defects or from the automatic operation of natural law, but are forced into being by the rapacious greed of man, in the abuse of power conferred as a public trust, and yet treated as a private possession to be dealt with as the holder pleases.

The difficulty lies in the failure to distinguish between a mere private faculty, which its owner may exert to the utmost for his profit and advantage, and a public franchise which is held by title of popular will, and which is to be enjoyed not merely for the profit of the holder, but for the mutual advantage of both the grantor and the grantee. Let me recur again to my humble parable of the applemen. Each one of these merchants sells his wares by the same title that he enjoys the liberty of locomotion or any mere personal right. He is under no obligation to his fellow-merchants as to his hours of business, the character of his goods, the schedule of prices, or any other thing.

It is possible this great city may charge him a license for the privilege of selling on the street, but outside of this and a few perquisitial peanuts to the vigilant policeman on the beat for keeping a sharp eye on some predatory boot-black, he is as free to carry on an unrestricted commerce, without regard to the interest, the feelings, wishes, prejudices, or tastes of his rival, as he is to go to market or to church. Not so with the corporation operating a railroad. It has no natural, original, underived powers. It is the creature of the State, and can enjoy just such franchises and perform just such offices and in the mode and manner prescribed for their performance as the State may allow, and no more and in no other way.

It is affected with a public duty and is invested with one of the sovereign functions of the State for the purposes of acquiring the necessary ground for its road-bed, stations, and other purposes. It takes the place of the State in the ownership of the highway, and, in my judgment, is to be charged with the same general responsibility toward shippers using this highway, either in rolling-stock provided by themselves or the corporation, precisely as if the State itself was the owner of the highway.

If this is a sound proposition it will help to classify the subject very much. It will be clear that the first rule governing freight charges which a State operating a railroad would be bound to prescribe must, in the nature of things, be based upon absolute equality between shippers of the same general class, and relative or comparative equality between all others. Discrimination by the State in favor of one of its citizens shipping over the road and against another would be tolerated just so long as it would take to reap in legislation the fruits of an aroused and indignant public opinion. The injustice of such a discrimination would be so patent, and the dangerous consequences to flow from it so serious, that the wrong would provide its own remedy.

To those who are familiar with the genesis of railroads both in this country and in Great Britain it is well known that the original design of these structures was to carry freights on trucks owned by the shipper as well as by the railway company, and in the earlier stages of railroad development it was quite common to witness this joint use of the tracks by foreign in common with proprietary owners. The difficulties, however, of this joint occupation and divided dominion became rapidly apparent, and in a very short time, both in the United States and in Great Britain, the railway companies were charged with the full responsibility for the management of their lines, and in consequence were permitted to exercise exclusive control over the road-bed and all its appurtenant equipment. But the fact that such joint ownership of the right of way existed clearly shows the public character of the railway function and upon what equal terms all customers were required to be received. Equality, therefore, is at the base of the duty which these semi-public agencies owe to the public, and any systematic violation of this duty is in its nature radical and fundamental.

The railway company, substituted in part for the State, performing a vicarious service for the State, and in order to enable it to perform this service invested by the State with the sovereign right of eminent domain, can no more lawfully establish unequal rates between the same classes of shippers and for the same or similar services than the State itself could if it had not transferred this power and was operating the railroad itself. I do not care to repeat what I have already said upon the subject of relative and absolute equality; but as this question has been repeatedly before the courts both here and in England, it may be just as well while I am laying down general principles and before I come to the discussion of the provisions of the bill to refer to one or two of these cases.

In a leading English case, construing what was an undue or unreasonable preference or advantage under the English railway and canal traffic act, 17 and 18 Victoria, the court held that the interests of the railway as well as the interests of the shippers were to be taken into account, and enforced an injunction to enjoin the railway company to desist from giving special rates upon the distinct ground that the cost of the service and the volume of business which one shipper could bring as against another were both to be considered in determining whether a rate was reasonable or not. (*In re* Ransome and another *vs.* The Eastern Counties Railway Company, 3 Jurist, N. S., page 217.)

Relief, however, was granted to the complainant as to that part of his bill which prayed for an injunction requiring the company to desist from giving an undue preference to other shippers and to carry the freight of the complainant on equal terms with others, having due regard to the circumstances of each case. (*Ibid*, page 219.)

So in a leading case in this country it has been held that while the charge must be reasonable, yet it may vary in amount according to circumstances, without being, therefore, necessarily unreasonable. If reasonable, it may, though unequal, be unobjectionable, but in general equality is the standard of both reasonableness and impartiality. Equality, however, is a relative term, and is to be distinguished from simple ratable equality, to be regulated by weight or bulk, and, I may add, or by other considerations affecting the volume of the business and the cost of the service. (See Cambless *vs.* the P. & R. R. R., 4 Brewster, page 563.)

Such, then, is the construction of what is reasonable and what constitutes undue preference by the courts. It is not that A gets a different rate from B, or that the rate charged to one is relatively lower than the rate charged to the other, but upon the ground of absolute inequality and partiality between shippers who stand upon an equal, or proximately equal, footing of commercial value to the carrier, that the courts can be prevailed upon to interfere. Let me illustrate this still further by a case which has been tried within the last month in one of our courts against a prominent and powerful railroad corporation.

The plaintiffs in this case were wholesale grocers, and on the 24th of January, 1879, agreed to give all their New York freights to the defendant for one year, to date from the 1st of January. The company, through its Baltimore agent, agreed to carry these freights at as low a rate as it was then charging, or would thereafter charge, any Baltimore house engaged in the same line of business during the existence of the proposed contract. The rate for sugar was then fixed at 12 cents on the hundred pounds, and the representation was made by the agent of the company that this was the lowest rate it was then charging other wholesale grocers in Baltimore or would charge them while this contract continued with the plaintiffs. The contract was renewed for the year 1880, and the conditions of it on the part of the plaintiffs faithfully observed. About the close of the year 1880 the plaintiffs discovered that prior to the 24th of January, 1879, the date of the first contract and continuously since to the date of the discovery, the defendant had been carrying sugar for another house from New York to Baltimore at the rate of 10 cents on the hundred pounds. During this period the company had carried for the plaintiffs 5,011,875 pounds of sugar.

An action on the case for the deceit was then brought by the plaintiffs, in which the above facts were set forth and the allegation distinctly made that the plaintiffs were induced to enter into the said contracts by the false and fraudulent representations of the defendant; that the plaintiffs' business, owing to the closeness of competition and the narrow margin of profit realized on sugar, had been seriously impaired, and that this injury had further been increased by the ignorance of this discriminating rate in favor of a rival house in which the plaintiffs had been kept by the fraudulent conduct of the defendant.

At the trial of the case the proof was clear and specific that the representation was not only false, but that the defendant knew it was so. The plaintiffs in this state of case contended that the jury in making their allowance for damages should not be restricted to the mere difference of 2 cents on the hundred pounds, but should allow punitive damages for the fraud which had been committed and compensate the plaintiffs for injury to business. This instruction, however, the court refused; and, after instructing the jury that in order to find for the plaintiffs they must first believe from the evidence that the representation was both false and fraudulent, confined them to the allowance of mere damages for the breach of the contract; that is, 2 cents on the hundred on the 5,011,875 pounds of sugar carried. The jury found for the plaintiffs this sum with interest.

Here, then, is a case where the jury have found from the evidence that a public carrier has practiced a deliberate and most injurious cheat upon a shipper; the shipper has waived the contract, and brought his action in tort for the deceit, the breach of the contract being a part only and a small part of his injury, and yet is no better off nor the company any worse than if the action had been grounded on the con

tract alone. The plaintiffs contended that this was an invitation to the transportation lines of the country to commit what frauds they pleased, as the only penalty they would suffer if caught would be the payment of the mere difference between discriminating rates.

As deriving these franchises from the public and as affected by a public employment, it was contended that the same principles of public policy which hold railroad companies to the strictest care and courtesy in the carriage of passengers and visited them with heavy exemplary damages for even very slight breaches of duty should be prescribed in enforcing the obligations which these corporations owe to the shippers of freights; that, in fact, considering the ease with which frauds of this kind could be practiced and the difficulty of detecting them, there was greater reason to hold these companies to a stricter line of duty in the carriage of freights than of passengers, and that unless the courts of the country took high ground with reference to these questions the business of every man would be at the mercy of the railroads.

Mr. HORR. Has that point been decided?

Mr. FINDLAY. Yes, sir; it is a case that I tried myself.

Mr. HORR. But has it been decided by a court of last resort?

Mr. FINDLAY. No, sir; by the court below.

Mr. HORR. You do not believe it is good law?

Mr. FINDLAY. And let me say in passing, in reply to the suggestion of the gentleman from Michigan, that the judge who sat upon the bench in that case was an upright, fearless, and conscientious man as well as a learned jurist, and he could not find sufficient authority to justify him in granting the instruction asked, although I believe he was sorry for it, and was forced to say that such wrongs must be remedied by the Legislature where we are now.

I allude to this case for two reasons: first, because it illustrates the nature and kind of inequality of which I have been speaking, and also because it has a direct connection with some of the provisions of these bills which I now propose to discuss. To make the case perfectly intelligible, however, I should state in addition that the nominal, the schedule rate was 20 cents on the hundred pounds, and the discrimination was effected by a rebate in the one case of 8 cents and in the other of 10 cents on the hundred, making the actual charge 12 and 10 cents, respectively.

The second section of the Reagan substitute provides that there shall be no rebates of any kind whatsoever allowed, and the third section of the committee's bill contents itself with a prohibition against discriminating rebates. One prohibits them altogether; the other, recognizing the rule of equality, which I have attempted to show is the only rule applicable to the case, allows them, but requires that they shall be impartially bestowed. Just as original rates are to be reasonable, as required by the first section of both bills, and as the common law itself, independently of statute, requires, and to be reasonable of course must be relatively equal, so if exigencies arise when the contrivance of rebate can be brought into useful and harmless requisition, the principle of equality, which is all that can be justly demanded, shall be rigidly enforced. It seems to me that in this respect the provision of the committee's bill has been cast in a wiser and more practical mold than the provision of the substitute bill.

It may be argued with great force that the recognition of the system of rebates is an evil in itself, and that the only possible way to get rid of it is to prohibit it altogether. But experience seems to have confirmed this as a necessary commercial contrivance; and recognizing experience as my only guide in legislation, I think we had better regulate the use of the contrivance than attempt to abolish it altogether. And, besides, our ability to regulate may be conceded when our power to prohibit may be very well doubted, and I believe it to be a wise course in legislation to do what we can, not what we would.

The bill of the committee differs from the substitute in another important particular, and that is in providing for the appointment of a commission, the most important duty of which will be the prosecution of those companies for breaches of the law through the agency of the courts and with the aid of the public prosecutor. This I regard as the most valuable provision in the bill. The honorable gentleman from Kansas fell into an error the other day in discussing the bill when he stated that it was necessary in order to institute a prosecution by the commission for the party aggrieved to have his petition certified to by the district attorney or somebody of official or semi-official authority. Anybody may complain to the commission; and the commission may entertain the complaint and prosecute it to judgment. Whenever the complaint comes up officially certified to as above indicated, then in that case the duty of the commission to prosecute ceases to be discretionary and becomes compulsory. This is just what is needed.

Mr. REAGAN. Let me interrupt the gentleman from Maryland to ask if he means that that would give any actual or positive remedy to the injured party?

Mr. FINDLAY. I see no reason why it would not.

Mr. REAGAN. If the gentleman will read the provisions of the bill carefully he will see that it gives no actual remedy, but simply prosecutes the complaint to an inquiry.

Mr. FINDLAY. But I understand the commission is back of the United States district attorney in this matter.

Mr. REAGAN. But the district attorney can not give a remedy to the citizen who is aggrieved. The commission may involve the citizen in the costs of a suit if he fails to get a general principle established for the benefit of the public; but neither the commission nor the district attorney can give any judgment that amounts to a remedy for the wrong complained of.

Mr. FINDLAY. I do not so understand the scope of the bill. On the contrary, I understand that a remedy is provided by the bill.

Mr. REAGAN. The gentleman will find that he is incorrect.

Mr. FINDLAY. I have read carefully the provisions of the bill and they do not strike me as the gentleman from Texas seems to have understood them.

Mr. REAGAN. I would invite the attention of the House to it.

Mr. FINDLAY. I am unfortunate in having left my bills at home, but will not now pause in my argument to answer the objection of the gentleman from Texas further than by saying that I have read both of these bills very carefully, that reported by the committee and the substitute of my honorable friend from Texas, and the best construction I can give to the measure does not lead me to any such conclusion as he has reached.

I want to illustrate what I think would be the probable effect of some of these provisions. The ordinary litigant is powerless to cope with the organized machinery of these corporations, which generally manage to starve out a successful suitor in the lower courts by the interminable delays of appellate procedure; few men, too, are willing to incur the displeasure of an agency which can work him serious injury by corrupt and secret means difficult to detect and harder still to adequately punish.

But with a commission behind his back and with the organized machinery of the United States courts to carry on his suit he will be neither starved nor terrorized out of his rights. This provision has my most cordial support, and the want of it I regard as a very serious defect in the proposed substitute. But the substitute contains a provision in regard to the measure of damages which I think is more just than the committee's bill, which simply allows, in addition to the damages for the breach of contract, costs, expenses, and disbursements for counsel fees. When the violation of the contract has been willful, I think it would be much more just to allow, as Mr. REAGAN proposes, a sum equal to three times the amount of the damage sustained; and for this reason: the damage in these cases of secret discrimination is not merely the difference between rates, but it goes deeper than that, and does an injury of a subtle character difficult of analysis, and under the rules of evidence still more difficult of a specific pecuniary computation.

In the Baltimore case which I have cited there was complaint that the plaintiffs' business had been injured, and the plaintiffs offered to show that a difference of 2 cents on the hundred pounds of sugar was not only a considerable loss of profit in such transactions, but that a competitor in business enjoying this discriminating rate would gradually absorb the business and drive his rivals out of the market. But the court held that this evidence was too remote, and refused the offer. Now, suppose that this discriminating rate had been lower still, it is a matter of demonstration that the business of the plaintiffs might have been utterly destroyed, and yet under the rule of damage laid down all that they could recover would be the actual difference between rates. Again, systematic discrimination of this sort is necessarily a corrupt act. It is not bestowed without some corresponding advantage to the donor.

It would seem in such a case there would be justifiable cause for the infliction of vindicatory damages, through the medium of which the plaintiff might be compensated for such injuries as the rules of evidence prevented him from proving. This, in my opinion, is the true philosophy of exemplary or punitive damages, and the only ground upon which these allowances can be defended. They are not allowed merely to punish the defendant, but to compensate the plaintiff for such losses as are not legally reducible to some specific money value. But the court in the case to which I have referred restricted the jury to the actual pecuniary loss suffered by the plaintiffs and refused to allow smart money. Now, then, assume that the Reagan proposition had been law when this cause of action accrued and the plaintiffs could have availed themselves of the triple damage clause, is there a man who now hears me who doubts for a moment that the infliction of damages in this amount would have promoted justice, not merely of a semi-penal character, but absolute compensatory justice, in the reparation of a wrong which was only half righted by the simple allowance for breach of contract?

In this age of rapid exchanges it should be the policy of the law to encourage the most absolute good faith in the levying of freight charges. The common carriers are partners in every business carried on by men. They take a part of everything that is made or grown. This profit is exacted before the article is ready for use or consumption.

The freight, therefore, is an item of original cost. It makes no difference whether you pay a few more cents for an article or whether they are taxed to you in the carrier's bill; the result is the same. To permit a carrier, therefore, to secretly establish unequal rates is in effect to give it control of the business of the country. But this secret inequality corrupts the beneficiary also. It makes him the subservient instrument of the carrier and degrades him from his position as a free-

man into the pliant tool of a corporation. In this way the corporation becomes mightier than the state; the creature is exalted above and defies the creator. As the area of state citizenship narrows and the field of corporate brotherhood expands the state necessarily weakens, and it is a mere matter of time before it will fall from sheer exhaustion. But the recipient of these favors is corrupted in another way. Humility and equality go together; they are republican virtues and a democracy can not survive without them. A special privilege for the person or a diminished rate for goods inflates the beneficiary with false pride and forces him into invidious comparisons with his less favored neighbor.

But consider the effect of this partiality upon the corporation itself. It is not unreasonable to presume that these favors are granted without consideration. It is not in the usual course of business to be the medium of a gratuitous bounty in the advantages of which the donor, in some form or other, does not contrive to share. All the reasons and all the analogies of the case point to a division of the spoil or a corrupt participation in the advantage. Is it not a monstrous phenomenon of our modern business life that a corporation owing all its franchises and its very existence to the public should be permitted to systematically rob a part of the public in order to enrich another part by enriching itself? Consider, too, the subtle character of this offense—how difficult it must be to detect, when the motive for concealment, both in the donor and the beneficiary, is so strong that exposure seldom comes, except as the result of accident—and I think, putting all these considerations together, I have made out a case for which even the allowance of triple damages falls short of a just compensation for the public and private wrong involved in discriminations of this character. For these reasons I shall give my hearty support to that feature of Judge REAGAN'S substitute bill, and I hope that it may be offered in some shape as an amendment to the committee's bill so that I can also give it my vote.

With this exception, however, I am constrained to say that the bill of the committee commends itself to my judgment as a wiser and more practical measure in every respect. The first section of the committee's bill provides that the charge shall be reasonable. The substitute contains this requirement also, but nullifies it, in my opinion, by the prohibition contained in the fifth section against making a greater charge for a shorter than a longer distance. The conditions of through and local business, I have attempted to show, are essentially different; and, if so, an inflexible requirement that the rate per mile should be the same for each would, so far from producing a reasonable scale of charges, result in the establishment not only of an irrational but an impossible one.

Mr. REAGAN. Do I understand the gentleman from Maryland to maintain that the provisions of the substitute provide for any rate per mile?

Mr. FINDLAY. As I understand the provisions of the proposed substitute, it is contemplated that there shall be the same rate per mile for short as for long distances.

Mr. REAGAN. That is not contemplated by the substitute. On the contrary, I have labored time and again to demonstrate to this House that that was not the case. The substitute provides simply that there shall not be more charged for a given amount or quantity of freight for a shorter than for a longer distance—no more for a car-load, for instance, for one hundred miles than for five hundred miles.

Mr. FINDLAY. I am sorry that I have misapprehended my friend upon that point, but I do not construe that as the practical effect of his bill. It may be so.

If freight is a part of original cost, then it must be apparent that shippers as between themselves and in competition with persons belonging to the same or a similar class, are mainly interested in the establishment of a proximate relative equality, for if the conditions of competition are equalized between persons engaged in the same or a similar line of business, the fact that some non-competitive shipper of a different class and in another line may be charged a different and an apparently lower rate can not of itself constitute the offense of unjust discrimination.

Suppose all the merchants engaged in the flour trade at a particular place on the route of some through line are charged a rate which is higher in proportion to the distance carried than some through shipper is made to pay, but which is absolutely the same for each of these local dealers, without any distinction or discrimination whatever, then as between themselves and the carrier there would seem to be no substantial cause of complaint. Each man upon the hypothesis stated buying his transportation at the home price charged his competitor is placed by the carrier upon an equal footing, and if the obligation as to equality terminated here the carrier might be treated as having discharged the full measure of its duty. But there are obligations which concern the consumer as well as the vender of merchandise, and as the cost of an article in the last analysis is paid by the person using it, it is obvious that any schedule of freight charges which does not take the consumer into account will be unreasonable and unjust.

The conditions as to competition between the rival and conflicting interests of venders may be fully gratified by the prescription and enforcement of a relatively equal rate of freight, and yet that rate may be placed at such a high figure as to be ruinous to the consumers. Hence it becomes necessary to adopt some rule in the interest of this the most numerous and important class affected by these charges. A uniform rule seems be out of the question. That being the case, there is but one alternative, and that is to require that there shall be no discrimination between the same, or substantially the same, classes of shippers, and that all charges shall be reasonable.

If the rate charged be a reasonable one on the service performed, the reasonableness of it to be determined by the cost of the service, with a fair profit added, then the consumer can not complain that he is forced to pay an unreasonable price for the article he uses by reason of the extortionate freight charges levied upon the middleman or distributer from whom he buys. It is impossible to prescribe any fairer rule than this for the carrier, who has some rights I suppose, for the shipper, and all the distributing agencies, as well as the consumer. It is a rule which is in fact only declaratory of the common law, and would have no special significance in this bill if it was not connected with the efficient machinery of procedure devised for its enforcement, and which might be made more efficient still.

I do not subscribe to the doctrine that transportation is merchandise, to be sold like any other article for whatever price it will bring in the market, and with no restriction except what the traffic will bear, for such a doctrine ignores entirely the public character and function of the carrier, and, conducted to its logical results, would deny the right of the public through the law-making power to interfere to any extent, either in establishing fixed rates or in declaring the principles by which they shall be controlled. If that doctrine could be accepted, then the reasonableness of a rate would not only be exempt from judicial determination, but would be made to depend in every case upon the simple discretion of the carrier. On the other hand, I not only believe that a rule of absolute uniformity, based upon distance alone, to be inflexibly applied, without regard to overruling equities, is impracticable, but I am strongly inclined to doubt its legality. The very fact that you declare that rates shall be reasonable, and that that declaration is but the still small voice of the common law speaking here in statutory thunder, is a proclamation in itself that there is no power vested in this body or elsewhere to make rates unreasonable.

The man who travels to-day from New York to Chicago for $8 doubtless considers the rate an extremely reasonable one; but he is simply mistaking his own interest for the true conditions of the problem. Taking into account the cost of the service, it is, in fact, a very unreasonable one. It is obvious that what may be reasonable in the eyes of the passenger or the shipper may be unreasonable in the view of the carrier, and *vice versa*. The reasonableness of a thing between conflicting interests must necessarily be determined by considerations drawn impartially from both sides of the question. This inquiry is in its nature judicial, and any attempt to forestall or anticipate it by a legislative declaration approaches very near, if it does not overstep, the border line which separates these great functions of government.

It is perfectly legitimate to prescribe that a rate shall be reasonable and then leave it to the courts to determine what is and what is not reasonable, but to declare in advance not merely the principle by which the fixing of the rate shall be governed but to prescribe the rate itself by referring it to a fixed standard and apply the rule to the complicated system of interstate transportation, with all its vast ramifications and subtle competitions, is the exercise of a power which, if it be legislative in its nature, certainly ought to be sparingly and cautiously used. The bill of the committee keeps this distinction full in view in all of its provisions and is consistent and symmetrical throughout; but the Reagan substitute, as I have shown, is not only not distinguished by this unity and integrity of purpose, but is complex and contradictory in some of its essential features. It seems to me to confound the judicial with the legislative function, and seems also to leave in one section the question of reasonableness to be determined by the courts and then in another attempts the settlement of the same question by its own declaration.

Mr. REAGAN. Will my friend indulge me with a remark at that point?

Mr. FINDLAY. Certainly.

Mr. REAGAN. I know the gentleman's purpose is to be fair.

Mr. FINDLAY. It is.

Mr. REAGAN. But it would be understood from his reasoning that my bill not only requires rates to be reasonable, but fixes the rates. There is not a word in the bill having that effect.

Mr. FINDLAY. I used the words "fixed the standard" purposely, because I will say to my friend I have read his substitute most carefully and desire to do it exact justice. In some of its features and in one important particular it has not only my support but my hearty sympathy. In what I said on the subject of a fixed standard of rates I referred to the fifth section.

Mr. REAGAN. My substitute provides that the charges shall be reasonable, and if they are unreasonable it provides that the party charging them shall be punished; it provides both an equitable and legal remedy.

Mr. FINDLAY. Section 4 provides—

That it shall be unlawful for any person or persons engaged in the transportation of property as provided in the first section of this act to charge or receive

any greater compensation for a similar amount and kind of property, for carrying, receiving, storing, forwarding, or handling the same, for a shorter than for a longer distance on any one railroad.

Mr. REAGAN. That is just what I stated.

Mr. FINDLAY. What is the meaning of that?

Mr. REAGAN. If my friend from Maryland will allow me, I will state the meaning of it is this: If a railroad charges 50 cents for hauling a barrel of flour five hundred miles it can not charge 75 cents for hauling a barrel of flour on the same line half that distance; or if it charges a dollar for carrying a bale of cotton five hundred miles it can not charge $1.50 for carrying a bale of cotton half that distance. That is what it means.

Mr. FINDLAY. If that is the meaning of it, and if that is the construction that would be placed on it by the courts when it comes up for judicial construction, then I did not so read the bill and did not so understand it; and of course what I have said about the meaning of the provision of the bill fixing a specific rate based upon distance alone and prescribing that no more should be charged for a shorter distance than is charged for a longer distance—what I said in that connection would seem to have been a misapprehension of what the learned author of the bill intended, but I do not so read his bill.

I shall therefore reluctantly be compelled to vote against it, but if the House should be of the same opinion and should adopt the bill of the committee instead of his own, my distinguished friend from Texas will still have the consolation of knowing, and the country will understand that without his fearless, untiring, thankless, intelligent, and conscientious labors, pursued in the face of great difficulties and against immense odds, this wrong of wrongs would have continued to run unwhipped of justice. My friend from Massachusetts, Governor LONG, hands me the eleventh section of the committee's bill, which provides the penalty and also prescribes the powers of the commission proposed to be appointed by the bill. It is in these words:

That upon notice that any such railroad company has neglected or refused to conform to the decision of said commission, and to desist from such violation or contravention of this act, it shall be the duty of such district attorney to apply by petition, in the name of the party aggrieved, to the circuit court of the United States for such district, for, and it shall be the duty of such court to grant, an order upon such railroad company to show cause why such company should not be enjoined and restrained against the continuance of such violation, and for such other order and relief in the premises as may be just and proper. For the purpose of making any order or decree in the premises, final or otherwise, such court shall be always open, and the day on which any such order or decree is made shall be a special term of such court. Upon the service and return of such order to show cause, and notice to the parties interested, such court shall proceed in a summary manner to ascertain whether the said report and findings are true; and whenever said court shall be of opinion that such company has done or is doing any act in violation or contravention of this act in said report and findings described, it shall so adjudge; and it then shall be the duty of said court forthwith to issue a writ of injunction requiring such railroad company to desist from such violation, and in respect of the matters in said report contained to conform to and obey all the provisions of said act.

Now there is the equitable remedy. The section proceeds:

Such court may enforce obedience to any such injunction, order, or decree, by any person or party, by fine, proceedings for contempt, and all other means within its lawful jurisdiction sitting as a court of equity. Any person interested to restrain such violation may, on application to the court, be allowed to appear and be heard, by himself or counsel; and upon proof that any district attorney has failed in any proper case for the period of ten days to apply for such order to show cause, the court may permit such application to be made and prosecuted to effect by or in behalf of any person so interested.

Mr. LONG. That is in addition to the legal remedy.

Mr. FINDLAY. Yes; as I understand, that is in addition to the legal remedy. I propose to vote for the section of the substitute of the gentleman from Texas which provides for the recovery of triple damages. I have distinctly said, so far as that feature of the substitute is concerned, it is better than the committee's bill. If you have the remedy by injunction to force the company to desist from these unlawful acts, if you have also a commission exercising a quasi-public authority, and if, in addition to that, you have a private suit by the aggrieved individual himself, in which he may recover triple damages, it seems to me about as great a right as we can confer upon these parties.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. MCCOOK, its Secretary, informed the House that the Senate insisted upon its amendments to the bill (H. R. 7162) to forfeit the unearned lands granted to the Atlantic and Pacific Railroad Company to aid in the construction of a railroad and telegraph line from the States of Missouri and Arkansas to the Pacific coast and to restore the same to settlement, and for other purposes, disagreed to by the House, agreed to the conference asked by the House on the disagreeing votes of the two Houses thereon, and had appointed Mr. MORGAN, Mr. BLAIR, and Mr. PLUMB as the conferees on the part of the Senate.

The message further announced that the Senate had passed a joint resolution (S. R. 98) extending the time fixed for the joint commission appointed under the sundry civil act approved July 7, 1884, to submit their report; in which the concurrence of the House was requested.

INTERSTATE COMMERCE.

The House resumed the consideration of the bill (H. R. 5461) to establish a board of commissioners of interstate commerce and to regulate such commerce.

Mr. O'NEILL, of Pennsylvania. I desire to stete to the House in as frank and explicit a manner as I can the ideas of the Committee on Commerce upon the subject of interstate commerce and this bill and substitute. I will remark at the outset that the bill as presented by the chairman of the committee of course is not the specific bill of the chairman, and does not embrace, as a general thing, or even to any great extent, his ideas; he merely, as the medium of the committee, reported as instructed the bill agreed upon by the majority of the committee to the House. I will also state that the paternity of that majority bill should be given to the gentleman from Connecticut [Mr. SEYMOUR] who spoke a few days ago. It is not absolutely a bill of the majority of the members of the committee in all its parts. I will also state that when a vote comes to be taken on the substitute bill of the gentleman from Texas the chairman of the committee, I doubt very much whether it will receive the votes of more than a small portion of the members of the committee.

The House has thus for its consideration this great subject cut up in divers ways and with various and different suggestions presented. I, if I am permitted to refer to myself, would prefer simply a commission bill; and yet I preferred that the bill agreed to formally by the majority of the committee should get into the House, because I did not approve of the provisions of the substitute bill offered by the chairman of the committee.

Mr. Speaker, at the outset of my remarks I wish to say that the word "monopoly" is not to me a frightful word. It is an illy-understood word. It may mean one thing at one time or place and another thing at another, just as it refers either to individuals or corporations. Though corporations only are generally spoken of as monopolies, yet there are individuals who may be called monopolists, persons not in a corporate capacity, traders upon their own account, enterprising men, speculators, who have accumulated millions of dollars. Yet these are not designated as monopolists in the sense of the word as used on this floor to stigmatize railroad companies.

I am not in favor of monopoly which oppresses the people. I am not in favor of any legislation which will operate in that way. But while we are seeking to legislate in the interests of 55,000,000 people of this country, let us be exceedingly careful how we strike down or in any way affect injuriously the interests of incorporated capital, which in the case of railroads has proved itself to be for the benefit of the people.

But fifty-six years ago the first shovelful of earth was thrown up in the construction of a railroad in this country, and those who have ridden on the Baltimore and Ohio Railroad between Baltimore and Washington can not but have observed at the point where the main stem connects with the Washington branch a monument to the men of that day who conceived the great enterprise of connecting the waters of the Atlantic and of our Eastern rivers with the great rivers of the West. I refer to this fact because in the course of the remarks I may make I want to show—though members of the House in their intelligence can hardly have failed to see and understand it—that as railroads have been built in this country the country has not only increased in population but has advanced in every interest that a free people and a business people desire to see subserved. I wish to show by the reports of the census that this increase is to be seen in every State and in every great commercial city of this country proceeding *pari passu* with the building of railroad lines. I might refer to the State of the chairman of this committee [Mr. REAGAN], who has been for the past nine or ten years the great advocate in Congress of an interstate commerce bill. His State in 1871 had within its borders but 700 or 800 miles of railroad. To-day it has, I think, nearly 6,000 miles. Under the last census the representation upon this floor from that State has more than doubled; and if she does not push back capital, individual or incorporated capital, that State will soon be represented here by a still larger number of members; and before very long the day will come when in accordance with the provisions of the act admitting her to the sisterhood of States of this Union she will have population enough to demand that her territory be divided into some four or five States.

The views of the chairman of this committee have greatly changed within the past ten years. He has even to-day modified his proposition; I could not understand the exact effect of the modifications, for the House was not very quiet. As modified it does not propose such radical and extreme legislation to break down railroad corporations as did the proposition first introduced by him years ago. Why? Because, although as I must say he has, according to my conception, shown an undue prejudice against railroad corporations (which, I suppose, he will disavow), the intelligence which has been poured into his ears and the ears of members of the Committee on Commerce during the last few years by those who have practical knowledge of the working of railroads has changed his views, as it has changed the views of many others who have listened to gentlemen who practically understand the subject.

I sought to-day by a resolution to get before the House all the testimony and arguments that have been heard by the Committee on Commerce on this subject, because I knew there were no copies to be had by individual members of the House. I wanted the House to have the benefit of all the intelligence communicated by these railroad experts, communicated by persons who, although they may have been interested

perhaps as correct thinkers and practical men on the subject of railroads, have presented facts and logic which are incontrovertible, and would be so considered by every unprejudiced member when read from beginning to end and fairly considered before voting.

I must state frankly that I am in favor of railroad extension. I was born and brought up in a railroad State. Years ago, when the contest was going on for the extension of the Baltimore and Ohio Railroad through one corner of the State of Pennsylvania, I was a friend of railroad extension and desirous to afford facilitities for the employment in that way of capital, voluntarily subscribed by many men in this country of great enterprise and ability, so that the people might be benefited by it.

A Pennsylvania man can not but favor railroads. What have they done for the State of Pennsylvania? The example of the early incorporation of the Baltimore and Ohio Railroad, organized by the wisdom of citizens of Maryland, was followed somewhat later by the State of Pennsylvania. Her public improvements of a different kind, her canal system combined with railroads, connected at last the waters of the Delaware and the Ohio. In New York the wisdom of De Witt Clinton and his contemporaries of that great Commonwealth recognized the necessity of connecting the waters of the Hudson with the lakes; and with this purpose the Erie Canal was constructed. Pennsylvania and New York did not rest with their canal communications, but built through railroad lines; thus having both canal and railroad transportation across their States. I wish to mention here, by way of tribute to a gentleman of Pennsylvania long deceased, Hon. George G. Leiper, who represented on this floor the district then embracing Delaware County, and who carried on a large business as proprietor of immense and inexhaustible quarries of stone, that when in Congress he could state that his father had laid down the first railroad in this country, running about the distance of a mile or more from a creek emptying into the Delaware River to these quarries. Perhaps I should except Massachusetts, which is always coming in to make a claim, and in this case claimed priority in the construction of a somewhat similar railway of a few months. But this question of priority will continue to remain in dispute.

I make this statement to show that the idea of railroads was in the minds of Pennsylvania people long ago; and a road from New Castle, on the Delaware, to Frenchtown, on an estuary of the Chesapeake Bay—a road of about sixteen miles, connecting the waters of the Delaware with those running into the Chesapeake Bay—was I believe the first road drawing passengers and freight upon it by a locomotive That road was not within the borders of Pennsylvania, but Pennsylvania capital was largely invested in it. The great State of Pennsylvania need not defend herself for voting down through her representatives any measure that trammels unfairly and unjustly railroad enterprise or any other enterprise seeking to develop, either directly or indirectly, the resources of the country. Citizens of Pennsylvania, most of them residents in Philadelphia, had sunk into the bowels of the earth millions upon millions in explorations for coal. This was in the line of railroads, as developments of veins of coal were made. It led to the building of the Reading Railroad, which for years was, if it is not now, the largest anthracite coal carrying company in the United States.

So, then, Pennsylvania stands here, or rather I stand here as a Pennsylvania Representative, proclaiming my adherence to anything that looks like a fair extension of railroads, a fair treatment of capital invested in railroads. You stigmatize railroads as monopolies and the owners of them as monopolists. I do not think it is fair in the broadest sense of the term to do anything of the kind. Why, sir, stocks in railroad companies as well as bonds in railroad companies can be subscribed for by any citizen. They can subscribe for them to any extent they may wish, whether for one share or a hundred or a thousand. They can acquire control in railroad companies as incorporated in the State of Pennsylvania. Does this prove them monopolies?

But, Mr. Speaker, when it is announced or argued here that railroad companies themselves do not want proper legislation, I wish to say that that is not so. It is not a fact that these railroad corporations in the different States have not sought for legislation not only to protect themselves, but to protect the citizens; not only to protect the citizen against any wrong being done to him, but also that justice may be done to all parties concerned, the citizens as well as the corporations.

I have here a copy of the Pennsylvania law on the subject passed in June, 1883, which in my judgment covers all that is necessary for the purpose of protecting the people against any injustice on the part of railroad corporations. It is short, and as it covers what I believe to be the points Congress in its wisdom should provide for in its legislation, I ask that it be read at the Clerk's desk.

The Clerk read as follows:

LEGISLATURE OF PENNSYLVANIA.

An act to enforce the provisions of the seventeenth article of the constitution relative to railroads and canals.

SECTION 1. *Be it enacted*, &c., That any undue or unreasonable discrimination by any railroad company or other common carrier, or any officer, superintendent, manager, or agent thereof, in charges for or in facilities for the transportation of freight within this State, or coming from or going to any other State, is hereby declared to be unlawful.

SEC. 2. No railroad company or other common carrier engaged in the transportation of property shall charge, demand, or receive from any person, company, or corporation, for the transportation of property, or for any other service, a greater sum than it shall charge or receive from any other person, company, or corporation for a like service, from the same place, upon like conditions, and under similar circumstances; and all concessions in rates and drawbacks shall be allowed to all persons, companies, or corporations alike, for such transportations and service, upon like conditions, under similar circumstances, and during the same period of time. Nor shall any such railroad company or common carrier make any undue or unreasonable discrimination between individuals, or between individuals and transportation companies, or the furnishing of facilities for transportation. Any violation of this provision shall make the offending company or common carrier liable to the party injured for damages treble the amount of injury suffered.

SEC. 3. If any director, president, officer, agent, or employé of any canal or railroad company shall be interested, directly or indirectly, in furnishing material or supplies to such company, or in the business of transportation, as a common carrier, of freight or passengers over the works owned, leased, controlled, or worked by such company, such director, president, officer, agent, or employé shall be guilty of a misdemeanor, and on conviction thereof in the court of quarter sessions of any county in which any overt act of such offense is committed such person so offending shall be fined in any sum not exceeding $2,000, and shall be imprisoned not more than two years in the proper county jail or in the penitentiary of the proper district.

Approved the 4th day of June, A. D. 1883.

ROBT. E. PATTISON.

Mr. O'NEILL, of Pennsylvania. The gentleman from Iowa tells me that they have had a law of that kind upon the statute-book of that State for ten years. In Massachusetts they have a law more in detail and have had for a number of years, and so have other States legislated. I do not know why here we as representatives in the Congress of the United States should seek to bring into the hands of the Government in the remotest degree the control of these railroad corporations.

I say this, Mr. Speaker, because I know by sad experience in the past action of other States, and especially in the State of Pennsylvania, to just what corruptions such a policy leads. In the State of Pennsylvania the management of the public works of that State was confided by law to the control of a board of canal commissioners, and it was not long before it became such a sink of corruption that the people rose in their might and by legislation abolished the board and drove those men out of office. Some fifteen or twenty thousand men were employed under those canal commissioners in the management of the public works, and they managed to secure for the party to which they belonged the absolute control of the State. I think the Whig party for one year or so had control of the board of canal commissioners, but for the rest of this long period the Democrats were in office and the Democratic party of Pennsylvania had control of them, and, as I have already said, it became so fearfully corrupt that it was entirely abolished.

I speak of this as a matter of history. I was one of those who helped to get rid of that great incubus of the board of canal commissioners which so seriously affected the prosperity of the State of Pennsylvania. I was one who helped by legislation to build up the great railroad corporations of that State and formed consolidations of connecting roads running into and through other States in order that we might in Pennsylvania have our business interests increased and have quicker transit for freight and passengers. The State of Pennsylvania has always been liberal on the subject of railroad corporations.

The gentleman from Texas [Mr. REAGAN] in opening his speech disavowed, as I have already stated, any idea on his part of injuring or distressing any one. He especially disavowed any intention of doing injustice to the railroads or of damaging unnecessarily in any way any one connected with them. He spoke of the 125,000 miles of railroad in the country and of the ten billions of business carried over those railroads. I wish to say to him that perhaps to-day is the saddest time which he could take to legislate on this subject, for at the present time throughout the country of the 1,000,000 employés of railroad companies from 15 to 20 per cent. have been discharged, as there was no work for them to do—nearly 200,000 men out of employment on railroads in this country.

The sensitiveness of capital invested in railroads is damaged by this agitation to-day. It has been heard in Congress for nearly ten years past. The complaints against railroads upon the subject of improper discriminations for freight traffic have almost entirely ceased. I would like to see the petitions of citizens of the different States which have been presented at this session to the House or the communications from boards of trade or other business boards complaining of the course of railroads in this regard, and the gentleman from Texas, the chairman of the committee, who reports the substitute, knows that the Board of Trade—the National Board of Trade—disapproved of his bill, as was stated by the gentleman from Massachusetts a few days ago, by distinctly voting down the propositions embodied therein. A greater light has been thrown upon the subject than formerly existed. Men have been called upon to give their views, large-minded men, fair men, statesmen, men known throughout the country and competent to give their opinion upon such a subject—such men as Charles Francis Adams, of Massachusetts, who, though he believes we should have some legislation, does not go to the extreme proposed by the gentleman from Texas.

I am going to quote here, sir, the name of a man who is very distinguished in this line, because he rose from early boyhood to prominence as years passed on in the railroad business. I refer to Mr. Albert Finck, a man who is competent to speak upon the subject. The statement comes to us from such men as he is that such legislation as proposed by the gentleman could not but be injurious, and from such statements I can not but come to the conclusion that we should beware

how we trample capital and injure these great vested interests and enterprises that are of so much benefit to the country.

The gentleman from Texas commenced by having views in opposition to the commission part of the committee's bill. I do not know whether by his present amendment as modified to-day he is willing to accept that provision of the bill, as I could not gather from what he said this morning exactly what his views were.

Mr. REAGAN. I am still opposed to the commission, but I did not want to bring that issue up now.

Mr. O'NEILL, of Pennsylvania. I could not hear the gentleman, as I have said. I now understand him that he still opposes the commission. Upon what ground he opposes it I can not understand.

Mr. CASSIDY (from his seat). His proposition is now to accept it, is it not?

Mr. O'NEILL, of Pennsylvania. Do I understand you to accept the sections of the committee's bill providing for the creation of the commission?

Mr. REAGAN. No; I merely stated that I offered the substitute for the first seven sections of the committee's bill.

Mr. O'NEILL, of Pennsylvania. Very well.

There has been a great deal of distrust exhibited on the part of these radical interstate commerce legislators and statesmen of men connected with railroads. Some have approved of putting the matter directly into the courts, or to form new courts for the consideration of disputed questions and complaints. Some approve of a commission. I, and I believe others of the committee which considered the matter, approve of the commission plan, a commission merely to examine into the matter, to gather information, and to give information to the Congress, so that in a few months from now when the next Congress meets with that information before it there may be enacted proper measures for relief, if relief be needed, upon facts presented on which might be framed a suitable bill. Not information derived from mere theorists who know nothing upon the subject; not information from men who have merely vague ideas that they want to have carried out by legislative enactment, but from men who understand the scope of the subject from the beginning to the end, and understand it as men can only understand a subject who have given long study to it, who have practical experience in its workings, and are interested in the business transactions involved.

Would this House hesitate if such a man as ex-Senator Thurman should be selected by the President as railroad commissioner? Would it hesitate if such a man as the distinguished Judge Cooley, known all over the country as a man who has investigated the subject? Would there be an objection to such a man as Mr. Adams, of Massachusetts, and many others that I might mention, as able to-day to take up the question and consider it as any men or set of men in the United States, men who are as clear-minded, as patriotic, and as honorable as any who ever sat upon the Supreme Bench of the United States, or occupied a judicial position in any court in any part of the country? I think, sir, for one, that what we want is information upon this subject. Of course the House can not but see that what the committee presents and the substitute suggests, at present at least, are very crude. The differences of opinion are so great among us that members must see that it would be better if we waited for a period of time, and then after this information is furnished to us adopt some plan which had been recommended upon investigation by the distinguished men selected for their knowledge of this subject.

It would not hurt us to postpone final action upon this subject for a few months. A postponement of one year would not do harm. On the contrary it would be a benefit. Every month of every year in the last ten years these great railroad corporations have been reducing rates, and are still considering the ways and means by which they can further make reductions in freight and passenger charges, until in fact to-day such charges are almost infinitesimal as regards freight. But that part of the subject was thoroughly explained by the distinguished gentleman from Massachusetts [Mr. LONG], so that I do not now wish to go over it. Why, the reductions in the charges of freight per ton per mile have been so great in the past few years that they can not be any burden upon any one, whether they be for a short or a long haul.

What can we look forward to in the next five years? If these reductions go on we will have freight carried at the rate of one-half cent per ton per mile. I think it will be so. Railroads are so rapidly extending, capital is being so largely invested in them, that at this moment, we have railroads extending to almost every village in all of the States and Territories throughout the whole country and branches running out from main lines in all directions where the population is sufficient to warrant the expense of railroad connection. The complaints that come here come from those who are not living upon the railroads. It is the expense of getting their goods, their articles, grain, or whatever it may be, to the railroad stations. And yet you are asked to legislate upon a subject that is so extremely sensitive as the vast amount of capital invested in railroads. The estimated amount is immense, absolutely immense. It is useless to state it here again; it is well known that it is between seven or eight billions of dollars. The mileage is immense. At the end of 1883, from Poor's Manual, we find that the railroads have increased nearly double in length of miles in a few years. There were 61,000 miles in operation in 1871 and 121,000 up to January 1, 1884. Capital is extending these means of communication to our Territories, however distant they may be. If you look at the census tables, or if you look at this table in Poor's Manual, you will see the wonderful increase of capital finding investment in the railroads in the Territories. Some of those Territories are increasing rapidly in population. Some of them are knocking at our doors here for admission as States. How have they come into that prosperous position? By the increase of population, by the easy means of access to them by the railroad systems of the country. In the next ten years, if fairly dealt with, whatever may be the complexion of Congress, Democratic or Republican, we will have probably five Territories admitted as States in this Union. But that never can be unless you carefully legislate upon the subject of railroad enterprise and extension.

The early pioneers who went to California—and the commencement of the settlement of California is in the memory of many of us in this House—toiled on foot, some of them, across the deserts and through the valleys and over the hills; some of them went in wagons. Do you not suppose that those enlightened American men as they sat in their wagons moving slowly or traveling slowly on foot—do you not suppose they could see in the future a railroad connecting the Atlantic with the Pacific? Do you not suppose they saw that; and would you to-day, if you had the power under the law and the Constitution, take up those iron bonds between the East and the West, between the Atlantic and the Pacific, even if you could get back what Congress in its liberality appropriated in land for the establishment of rapid communication from the eastern seaboard to the Golden Gate?

When I look back upon the legislation of Congress for a few years I notice with pleasure the large appropriations which have been made for improving the navigation of our rivers and our harbors. I would not take back one vote that I have ever cast for such propositions. Those appropriations improve the water ways of the country. And yet to-day my friend the gentleman from Texas does not look with such a liberal view upon railroads and their interests as he has done, and I hope will continue to do, upon the appropriations for the improvement of rivers and harbors. I do not know, sir, but that this legislation was prompted originally by the river interests of the country. They are not willing to come within its provisions. We have tried that in the committee, and it has been tried upon this floor from time to time. Oh, no! You do not seek to regulate the interstate commerce that is carried on the rivers of the country. You do not require a steamboat-master or the owner of a steamboat to post up in his office and at the ports where the steamboat calls every five days a schedule of charges. Oh, no; let the railroad company do that, however expensive it may be, although it should add thousands of dollars to their expenses!

You do not go into the counting-house of a merchant or manufacturer and ask him to post up his prices or his charges a week before he changes them. You let the wholesale merchant trade and the retail merchant trade and regulate his prices as he may see fit. You do not require him to post up in his store a notice of what he will charge a week hence or five days hence, as is required of railroads in the provisions of the substitute offered by the gentleman from Texas. There are millions and millions of capital invested in merchandise and in manufacturing throughout the country, but you do not impose any such duty there. But you come upon the railroads which to-day give you comfort in carrying you and your families from your homes and back, and which have transported your merchandise and the products of your soil at almost no charge, if I may use that expression, the charge being so small. Oh, no! They are monopolies and we must legislate against them.

I do not propose to go into the details of the bill or to discuss the subject of pooling and the subject of rebate. No railroad company to-day wants to have a rebate that discriminates against any individual. My friend from Maryland [Mr. FINDLAY] quoted a case which lately occurred in his State. Some one man in the employ of some railroad might have used deceit; some dealer might have had his freight carried at a penny a pound or a dollar a ton less than some one else. It is a matter of contract. The remedy is at the common law, and always has been, and will continue to be, even though the strong iron-clad provisions of the substitute bill should prevail.

There has been a great deal said upon the subject of pooling. I only wish I understood those things practically. What I know of them I have learned from others who do understand them. I did not learn it from some chance man who comes from the city of New York, some man jealous of some railroad corporation, or some one who has capital invested in railroads, and who makes an individual complaint before a committee and asks the committee to pass an iron-clad bill such as would gratify the gentleman from Texas. I do not attach great weight to the action of any local board of trade that may come here and seek to represent that this legislation must be passed by Congress or that transporters will be destroyed. I take the voice of the aggregation of boards of trade when they meet in national convention, and I find there no approval of such ill-digested schemes as are embraced in the provisions of some of these bills.

There are, as I have said, several bills on this subject. There is a bill presented by the gentleman from Michigan [Mr. HORR], there are some bills in the Senate—the bill of Senator CULLOM and one or two other

bills—that look to me as if they were measures prepared by statesmen, by men who wanted to be just, by men who wanted to subserve the interests of the people and at the same time not crush the just rights of capital. I approve the provisions of some of those bills; yet I am free to say that with the State legislation existing to-day on this subject I believe there is no need of legislation of the character proposed in the substitute. There can not be any great popular demand for such legislation. If there were, we would have heard it by petition and memorial.

I appeal to my fellow-members and ask them whether the people have been heard from to any extent in that way. I do not say that some petition on the subject may not have come here; but I undertake to state that there is no such public sentiment coming up from the people of this country to Congress as requires us to pass such a measure as the substitute bill of the gentleman from Texas. This country is too great, the people are too numerous and intelligent, to be misguided by what may be said. Our 55,000,000 people know their own wants; they understand what they require; they go on and transact their business. Although at one time in the western section of the State of Pennsylvania, about Pittsburgh, there were complaints of local charges on the main stem of the Pennsylvania Railroad, complaints that freight could be carried at a lower rate from points west of Pittsburgh to Philadelphia than from Pittsburgh to Philadelphia, yet to-day these have ceased, or if there are any they are so few that they have not been brought to the attention of Congress or the country.

I stand here in the interest of the people whom I represent. I stand here sharing in the interest which all members should feel in the success of the business enterprises of the country. I stand here to condemn unjust legislation—unjust because it touches incorporated companies only.

Let us deal justly by individuals and by corporations. Let us not as members of the Forty-eighth Congress pass a bill which when we find it upon the statute-book we shall regret having passed. I need only refer to the manner of rebate as proposed by the gentleman from Texas. By the system he proposes you will do absolute injustice to the shippers of freight. You bind the railroads so that they can not discriminate at all whether they shall take a load of perishable freight and leave a load of coal. You allow them no discretion. All freight must move on without discrimination, no matter what may be the character of the particular freight. I might refer to other instances of injustice. By such legislation you put chains upon the movements of the railroads of the country with their 121,000 miles. You embarrass capital—capital that went generously to the State represented in part by the chairman of the committee; capital that built 6,000 miles of railroad within that State; capital furnished by strangers, scarcely one hundred miles of road having been built within its borders by capital furnished by the people there.

Now look at the growth of the State; look at its railroad extension. Look at the extension of the railroad system into a sister republic (Mexico), millions of dollars having been contributed by American citizens to build railroads connecting the two countries. Such extension of railroad enterprise presents a grand prospect; and I propose to let these corporations alone yet awhile. The burdens they may have put upon the people are too slight to be compared with the good that has been done by the bravery and enterprise of men who put their capital into such enterprises and furnished us the means of transportation and passage from one end of the country to the other, North and South, and from the Atlantic to the Pacific.

Mr. WARNER, of Ohio, obtained the floor.

Mr. O'NEILL, of Pensylvania. Mr. Speaker, I believe I did not consume all my time.

The SPEAKER *pro tempore* (Mr. TOWNSHEND). The gentleman had fifteen minutes remaining, but he did not claim to hold the floor any longer.

Mr. O'NEILL, of Pennsylvania. I wish to yield five minutes to the gentleman from Massachusetts [Mr. ROCKWELL].

The SPEAKER *pro tempore*. The Chair, not being aware that the gentleman desired to reserve any part of his time, has recognized the gentleman from Ohio [Mr. WARNER].

Mr. O'NEILL, of Pennsylvania. Then I will reserve the residue of my time.

Mr. WARNER, of Ohio. Mr. Speaker, I believe it has come to be the settled judgment of thinking men in this country, and is conceded generally by railway owners and managers themselves, that the time has come when the General Government should assume the regulation of interstate traffic on our railways. The railroads of the country have grown to such proportions that States are admittedly no longer adequate to the needed regulation; and what ought to be done, and can not be done by the States separately, ought, if the constitutional power exists, to be done by the General Government.

That the constitutional power does exist to regulate interstate commerce on railways as well as on water ways will, I think, hardly be questioned. That the necessity of some regulation exists, and that the States are inadequate to provide the needed regulation, is manifest from the enormous extent of this traffic, affecting, as it does, the vast industrial and commercial interests of the whole country. Railways, at first constructed under charters obtained for the most part from the States as separate lines, have, by amalgamation and consolidation, grown into vast systems, embracing, some of them, half of the continent. State boundaries become to them but imaginary lines.

No doubt the public interest has been subserved, the cost of railway management greatly lessened, and the cost of carrying reduced by the consolidation of separate roads into systems; and it must, I think, be admitted that amalgamation has not brought with it the evils at first anticipated. A writer on this subject in the Fortnightly Review for July, 1875, says of English railways:

> The amalgamations which have been effected from time to time have in a large degree controlled the rates and fares, generally speaking, to the benefit of all concerned.

But while this is true, it is also true that the power of railroads over the trade, commerce, and productions of the country has been thereby vastly increased, and for this reason the necessity of regulation has increased.

It has, I know, been a favorite theory among railway operators that regulation should be left to competition alone. But competition has not proved sufficient. It is a saying of Stephenson's that "where combination is possible competition is impossible."

The report of the parliamentary committee of 1872 contains this entry:

> In looking back to the history of parliamentary inquiry and legislation from 1840 to 1872, it is evident that the predominant idea in the mind of the public has been that competition, which is so powerful a regulator of most commercial affairs, would also suffice to regulate railways; while, nevertheless, by a slow and gradual process of experiment, one form of competition after another has proved to be inadequate.

And the writer above quoted says:

> It was expected that competition would regulate railways, but instead of this the railways regulate competition.

Competition, then, has ceased to be an all-sufficient regulator of everything. Sometimes competition is little less than a war of one interest, one road, upon another. As an escape from the disastrous consequences of competition, the tendency in almost everything seems to be to combinations. Especially is this true of railways, making their proper regulation as common carriers the more necessary. Admitting, then, that regulation of interstate railway traffic is necessary and that Federal regulation alone is adequate, the first question that arises is, what is the object of regulation or what is to be secured by regulation?

Here we come at once upon common-law principles. The object of regulation is manifestly to secure to the public equal rights and equal facilities for traffic.

In the "suggested regulations" of the parliamentary committee of 1872 the following were laid down as the object of railway regulations:

1. Reasonable rates.
2. Reasonable facilities and equal facilities to all.
3. Security to the public against unjust discrimination and undue preference.

Or, as it may be stated, the public is entitled to regulations to prevent unjust discriminations, to compel reasonable facilities, and to enforce reasonable rates and carriage within reasonable time—"due and reasonable facility in the interest of the public."

But, first of all, the object of railway regulation should be to prevent discrimination and secure equality to shippers. Do this effectively and little else will remain to be done. Favoritism, unjust discrimination, has hurt more than all other wrongs connected with railway traffic. This is the root of the evil. Prevent unjust discrimination, secure equal advantages to all, and you will have accomplished the chief end of regulation.

The British railway commission, according to a recent decision of the court of queen's bench, has power to deal only with questions of "undue preference," "or the withholding of reasonable facilities." Railroads must be compelled to show due regard to the wants of the public.

The next question is, how can the needed regulation be best provided for?

Here gentlemen differ. Two different modes are before us, one contained in the committee bill, and one in the proposed substitute known as the Reagan substitute.

One plan is to enact laws, specify what may or shall and what shall not be done, fix penalties, and send the parties aggrieved to the courts for their remedy. The other, the committee bill, proposes only general regulations and a commission to investigate and report, but relying on the courts in the end for relief.

All prudent men will agree, I think, that it is better at the outset in a matter of such importance not to go far enough than to go too far and incur reaction. Fortunately we are not without some experience to guide us in a matter so important. Railways have been in operation half a century; a thousand questions have arisen, and as many laws enacted in this country and in England as remedies for as many evils. In 1873 England, after a parliamentary inquiry, passed a law establishing a commission. Up to that time it is said that there had been passed 3,000 acts, most of which were dead letters on the statute-books. It would seem as though the prediction of Sidney Smith had been realized: "If

Parliament," he said, "get out of temper with these metallic ways they will visit them with laws of iron and burst upon them with the high pressure of despotism." But even laws of iron alone did little good.

There is scarcely a State in the Union that has not pages of laws relating to railway traffic which the courts are open to enforce. But the plain truth is nobody enforces them. It is too costly and tardy as a remedy and falls too heavily on single persons.

A witness testifying before the parliamentary commission of 1872 says, "Whether the railway companies are compellable or not I do not know, but nobody compels them."

I am inclined myself to agree with a writer who says, "No trading interest, large or small, ought to be exposed to the risk of forcing from railway companies by legal process what ought to be granted without such trouble and expense"—that is, the responsibility of enforcing regulations, preventing discriminations, and compelling railways to furnish proper facilities, and to treat all under like circumstances alike ought not to be left entirely to those who are injured.

The assumption of control by the General Government, if no other means are provided for enforcing prescribed regulations than a right to go into the State or United States courts—which for the most part now exists under State laws—will, in my opinion, fall far short of the end it is desired to reach.

In 1873 an act passed the British Parliament providing for a railway commission; but I will read first from the act cap. xxxi, 17 and 18 Vict., passed in 1854, for the better regulation of the traffic on railways and canals:

Every railway company, canal company, and railway and canal company shall, according to their respective powers, afford all reasonable facilities for the receiving and forwarding and delivering of traffic upon and from the several railways and canals belonging to or worked by such companies, respectively, and for the return of carriages, trucks, boats, and other vehicles, and no such company shall make or give any undue or unreasonable preference or advantage to or in favor of any particular person or company, or any particular description of traffic in any respect whatsoever; nor shall any such company subject any particular person or company, or any particular description of traffic, to any undue or unreasonable prejudice or disadvantage in any respect whatsoever.

Then, as a remedy, section 3 of this same act (1854) provides:

It shall be lawful for any company or person complaining against any such companies or company of anything done, or of any omission made in violation or contravention of this act, to apply in a summary way by motion or summons—

To any court or judge—

and it shall be lawful for such court or judge to hear and determine the matter of such complaint. * * * And if it be made to appear to such court or judge on such hearing, or on the report of any such person, that anything has been done or omission made in violation or contravention of this act by such company or companies, it shall be lawful for such court or judge to issue a writ of injunction or interdict restraining such company or companies from further continuing such violation or contravention of this act, and enjoining obedience to the same; and in case of disobedience of any such writ of injunction or interdict it shall be lawful for such court or judge to order that a writ or writs of attachment or any other process of such court incident or applicable to writs of injunction or interdict shall issue against one or more of the directors of any company, or against any owner, lessee, contractor, or other person failing to obey such writ of injunction or interdict, &c.

I read this for the purpose of showing what powers are given to the railway commission subsequently created by the act of 1873, which gives the same powers to the commission. For after experimenting with laws innumerable, which were never enforced, for regulating traffic upon their railways, the Parliament of Great Britain passed an act providing for a railway commission. The powers of the commission, as prescribed in the act of 1873, are as follows:

Any person complaining of anything done or of any omission made in violation or contravention of section 2 of the railway and canal traffic act of 1854—

That is a part of the section which I have just read—

or of section 16 of the regulations of railways act, 1868, or of this act, or of any enactment amending or applying the said enactments respectively, may apply to the commissioners, and upon the certificate of the board of trade alleging any such violation or contravention, any person appointed by the board of trade in that behalf may in like manner apply to the commissioners.

Then follow the powers of the commission:

And for the purpose of enabling the commissioners to hear and determine the matter of any such complaint, they shall have and may exercise all the jurisdiction conferred by section 3 of the railway and canal traffic act of 1854.

This is the section I have in part read, which prescribes the powers given by the act of 1854 to the courts.

The same powers are by this act conferred upon the commissioners. That is, the powers which under the act of 1854 were given to the courts by this act are given to the commissioners, for the act goes on to say:

The commissioners shall have all the jurisdiction conferred on the several courts and judges empowered to hear and determine complaints under that act; and may make orders of like nature with the writs and orders authorized to be issued and made by the said courts and judges; and the said courts and judges shall, except for the purpose of enforcing any decision or order of the commissioners, cease to exercise the jurisdiction conferred on them by that section.

That is, they constitute a separate court, which is designated a commission, and to that court or commission is given full power to enforce the regulations prescribed in the act of 1854, and make it the duty of the commission to see that the regulations therein prescribed are carried out by the railroad companies.

In its report of 1882 the commission says:

The number and variety of cases which have been before the railway commission, and upon which they have given just decisions, is proof of the value of the tribunal.

A writer in the Fortnightly Review says:

The act of appointing the railway commissioners and the valuable work which has already been done may be taken as an indication that this act is more workable and more calculated to settle differences between the railways and the public and between the railway companies themselves than all previous legislation on the subject.

The British commission has power to adjudicate between railway companies as well as between railway companies and the public. The powers of this commission, it will be seen, are quite different from the powers of the commission provided for in the committee bill now before us.

I believe a few regulations—a few fundamental principles such as have been many times laid down—with a commission of men of ability and integrity, who would do justice alike to the railroads and the public, and with power adequate to their work, would best accomplish the desired object. I believe, too, that the public interest and that of the railroads in the long run, instead of being adverse, go together.

The tendency in modern civilization is to specialization, and I believe to secure proper regulation of railway traffic a court with jurisdiction over all questions arising out of railway transportation is necessary, and I would include in its powers the power to adjudicate between railways as well as between the railways and the public, with the right, of course, of appeal to higher courts.

How far regulations—and now I come to the substitute of the gentleman from Texas—should specify or assume to specifically control rates is not easy to determine; but I do not see how we can do better than leave the question of reasonableness of rates, as we must questions of discrimination, to be judged by the court to be established for that purpose.

As to the interference with rates, Mr. Walker, one of the witnesses before the British commission, says:

All the witnesses have been falling back upon some natural rate that companies ought to charge, as if there were any means of getting at such a rate.

Lord Salisbury said that witnesses before committees have "an idea that when trade is bad the companies should take the loss, and when the trade is good the public take the advantage." What rates are reasonable or unreasonable can only be determined by the circumstances existing at the time. Rates must necessarily depend largely upon circumstances. The rule, however, laid down by the gentlemnn from Texas in his bill, namely, that no higher rate should be charged for a shorter than for a longer haul—the shorter being included always as a part of the longer—is in general a sound one, but not without exceptions.

The gentleman from Massachusetts gave some illustrations, but whether they would justify a departure from the rule or not I will not stop here to inquire. But a better illustration of an exception would be, I think, such a case as I have known to arise. Say two hundred miles from market is a coal deposit of good quality, and twenty-five miles farther away on the same road is another deposit not so good. If no lower rate can be allowed on the poorer coal than on the better grade the owner might be unable to work his mines at all, while lower rates to him might not hurt the owner of the better grade of coal. Nevertheless the interests of capital invested all over the country is so great, and the power of railroads is so limitless to break down in one place and build up in another, that, although a commission would have power to allow exceptions, the rule is a most important one as a general principle.

For instance, capital becomes invested in certain localities in manufacturing industries. If it is in the power of railways to grant without limitation lower rates of freight for a longer than for a shorter distance, they may make profitless the capital invested in one place while they induce the investment of capital in another, thus working great injustice to large industrial interests and affecting the property interests of whole towns. Regulations would be ineffective that did not embrace provisions which would protect the public interests in these respects, and there must be the power lodged somewhere to enforce regulations. The whole question then, Mr. Speaker, is this: Shall Congress prescribe regulations and leave the individual to go into the court to get his remedy, or is it better to organize a commission whose duty it shall be to see that just regulations are carried out?

I believe that a commission with power to adjudicate all questions arising out of interstate commerce on railways, both between the railways themselves and the railways and the public, and to enforce its decisions, orders, and decrees, ought to go hand and hand with the assumption of control over railway traffic. For whatever regulations are prescribed they will not enforce themselves, nor will they be enforced, except perhaps spasmodically, if left to the parties aggrieved to seek their remedy through the courts.

Our experience has been the same as the experience of England, and it will not, in my opinion, help the matter to have the right to go into the courts proceed from laws of Congress instead of from State Legislatures. The object of the laws in either case is to secure equal facilities and equal rates under like circumstances to all. Experience, both

in this country and in England, as far as it goes, shows that this end can most certainly be attained through a commission with power to judge and enforce equity. Not an iron rule inflexibly applied, but justice promptly enforced is what is needed.

Mr. ROCKWELL. Mr. Speaker, the manufacturing interest of the nation is the basis of its prosperity. Enact the principle of the second section of the Reagan substitute without the qualifying clause annexed to section 3 in the committee's bill, and you cripple the industries in every interior town in the United States. Railroads must be allowed to make certain just discriminations in favor of industries in interior towns, or the industries must be given up. Distant from markets, they can not compete with like business nearer the market without discrimination in their favor. Other elements than a blind theory of uniform rates enter into this matter. No cast-iron law should prevent railroads from benefiting their own and the business of interior towns alike by proper discriminations. It is far enough to go to say that the rates should be "reasonable" and alike "under similar circumstances." Given a manufacturing district among the hills where water-power is abundant, and until the industries get upon their feet they must be encouraged for the good of the district and as feeders for the railroad; and if when more firmly established the distance from market is found to be great, they must still ask for and receive discrimination, or oftentimes the business be abandoned.

It may be said that manufacturing must be carried on near the market or the seaboard; if so, then you must abandon the idea of ever developing the interior. The primal design of a railroad is the development of the country. That development not only aids the railroad by building up business along its line, but aids the whole country as well. Thriving villages all through the land make the country prosperous, and we should not tie up the railroads in the matter of proper freight discriminations; else we retard development. Diversified business is the nation's hope. To scatter the industries throughout our territory is a far better policy than to mass them. The railroads should have greater freedom in this matter than the second section of the Reagan substitute gives, not alone for their own interest, but for the public good.

The committee's bill provides a commission to be known as "the commission of the interstate commerce of the United States," and it is charged with the duty of carrying into effect the proposed act. In addition to the remedies by suit, any person aggrieved, with certain proper approval, can petition the commission in writing, who may examine the matter and may give notice to the railroad to desist from the violation of the law. If the railroad neglect or refuse to conform to the decision of the commission after notice, then the United States district attorney for the district in which the act complained of occurred shall apply by petition in the name of the party aggrieved to the circuit court of the United States for such district. If the court, after hearing, finds that the company has violated any of the provisions of the law, an injunction shall be issued, requiring the company to desist from such violation, and the court is given full power to enforce injunctions, orders, and decrees.

The advantage of a commission is obvious. It has the power to ascertain and report upon all questions of fact arising under the law. An independent body of men is created, whose suggestions will have weight and whose recommendations will be alike beneficial to the railroads and the public. It furnishes a place where information may be obtained and where the public interest may be conserved and protected. The necessity of such a commission becomes more apparent when we consider the many State lines our railroads cross and the immense business, yearly increasing, that they transact. A commission furnishes information, safeguards, recommendations, and, above all, it may suggest changes of law which shall bring to the public at large the results derived in individual cases.

The design of a national law is to regulate, not to cripple, the railroads, not to hamper their business and interrupt competition; nor delay the development of the country, but to secure reasonable charges for transportation under like circumstances, and to give an adequate and speedy remedy to any citizen who may be wronged by the action of the roads. Anything further than this, aside from the establishment of a commission with the power of suggestion and recommendation and the granting of reasonable rates and remedies, will only interfere with the business of the roads without benefit to the public, and will but hinder a progress based upon free action which can adjust itself to the wants of business.

The first step toward a national law should be as general as possible, broad in its view, free from perplexing detail.

The difficulty with the Reagan substitute bill is that it prevents proper and just discriminations under similar circumstances. In section 7 it gives triple damages, instead of actual damages with full costs and expenses, as provided by section 6 of the committee's bill, and it leaves out altogether the idea of a commission. For these reasons, Mr. Speaker, I support the committee's bill.

FORT HALL INDIAN RESERVATION.

The SPEAKER, by unanimous consent, laid before the House a letter from the Secretary of the Interior, transmitting a report of the Commissioner of Indian Affairs, with inclosures, relative to the compensation due Indians upon the Fort Hall reservation, Idaho, for right of way taken by the Utah and Northern Railway Company; which was referred to the Committee on Indian Affairs.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted as follows:

To Mr. SUMNER, of Wisconsin, indefinitely, on account of important business.

To Mr. WELLER, indefinitely, on account of illness.

To Mr. KING, for the remainder of this week.

INTERSTATE COMMERCE.

The House resumed the consideration of the bill (H. R. 5461) to establish a board of commissioners of interstate commerce and to regulate such commerce.

Mr. RICE. Mr. Speaker, the gentleman from Texas in opening this discussion did not overrate the importance of the questions which it involves. One hundred and twenty-five thousand miles of railroad tracks lie like a net-work upon the surface of the country. Scarcely a line is wholly separate and distinct from the rest. They touch and interlace at a thousand connecting points—most numerous where population is densest and civilization most active. They stretch out over unsettled territory to open the way for immigration and make connection with new points of commerce or production. They represent nearly eight billions of money, including not only the contributions of the capitalist, but the savings of the middle and laboring classes, filtered through savings banks and other trust institutions into these vast reservoirs of investment. Many billion dollars' worth of commerce, a large portion of the entire wealth of the country, annually moves over them—wealth in healthy, productive activity. There is no person in the land who is not interested in whatever affects this vast internal commerce. Its movements are the pulsations of our national life.

These questions are delicate as well as important. The nervous system of the human frame is not more sensitive than the railroad system of the country. A storm, a drought, sunshine, frost, a panic, or a boom in business, all are noted by this unfailing barometer. A shock at a single point is felt to every extremity. A change of rates on the Erie Canal on freight to be transshipped to the South forces a corresponding change on every line from Saint Louis to Atlanta or Savannah. A change upon any one of the trunk lines of this country or of Canada forces an immediate readjustment on all the rest. The hand that uses the scalpel upon a system so vital, so intricate, so delicate, surely ought not to be rough or inexpert.

Before legislating for the regulation of railroads it is well to inquire how extreme is the necessity for such legislation. It is quite easy, as my colleague [Mr. LONG] has well said, to criticise railroad management, but it is altogether a different thing to decide whether that criticism is just or unjust. There are inequalities and inequities in all kinds of business. Everywhere the cunning outwit the simple, and the strong crowd the weak to the wall. The wise man succeeds where the foolish man fails, and industry and brains build colossal fortunes out of dry goods or pork as well as out of railroads. I do not question that there have been many instances of injustice and wrongdoing in railroad management, but I do not believe there are less in proportion in any other business of importance and complications.

I beg gentlemen who declaim eloquently about the oppression of the people by these monopolies, and recommend the application of what they call "heroic treatment" to curb their power and reform their practices, to consider what railroads have done for the public service unaided by Congressional wisdom and unrestricted by Congressional legislation.

English railroads average three times as many passengers to the mile as ours; their gross receipts are three times as great per mile. They are operated in a compact, thickly-settled country, teeming with business; yet our roads are operated for about the same per cent. of the gross receipts and charge but little more than half the rates. Our railroad service is already the cheapest in the world. This does not indicate an alarming degree of thriftlessness or extortion on the part of those who manage it.

We may be further relieved of apprehension by the undeniable fact that the Eastern and Western railroads are constantly reducing their already low rates, and that the average freight rate on the Eastern roads is now less than 1 cent per ton per mile and but little more than 2 cents per mile per passenger. We should be very confident of our own freedom from prejudice, accuracy of information, and correctness of judgment before we radically interfere with the details of a management which has afforded such results as these.

CENTRALISM.

We hear a great deal of talk nowadays about the growing tendency of this Government toward centralism. I doubt if there was ever a bill before Congress making a longer stride in the direction of centralism or involving a more absolute and far-reaching exercise of the national authority than the so-called Reagan bill. Certainly we can no longer question that this is a nation when Congress assumes jurisdiction over every ton of freight that crosses by rail one State line into another and attempts to regulate the charges of State roads confined within the State which chartered them.

I do not wish to controvert the arguments by which the power of Congress in this respect has been maintained, but I suggest that the possession of power by no means necessitates or makes advisable its active and intrusive exercise. The earth is surrounded and kept in place by an atmosphere of forces the very existence of which renders their patent and sensible interposition unnecessary if not dangerous. Admitting the existence of this national authority even to the extreme claimed by the learned gentleman from Texas, is it wise and practical to employ it in the regulation of the minute details of railroad management, rather than to leave them to the operation of the same laws by which other business matters are controlled, trusting to the existence and supervision of this supreme central power to be actively exercised only in extreme and exceptional cases? The committee in their bill have adopted the latter view. The Czar of all the Russias terrorizes his vast domain by a power scarcely more arbitrary and despotic than would be exercised by the Congress of the United States should it adopt the substitute moved by the gentleman from Texas.

POWER OF CONGRESS.

Still, admitting the power of Congress, whence does it come and how far does it extend? The fact that railroad corporations are chartered gives to the States which charter them no special power over them not reserved in the charter. We find corporations chartered or under general law engaged in almost every branch of business. Nor does the fact that the State exercises its power of eminent domain in behalf of railroad corporations add to its authority over them. A thousand manufacturing establishments all over the country depend upon the exercise of the same power for their water rights. The special power of the State over railroads is from the fact that they are public carriers, and of the United States that they are public carriers of United States commerce.

Now, it is plain, and even the gentleman from Texas, with all his tendencies to centralism, admits it, that Congress can not make regulations for railroad business done solely within a State. The New York Central can oppress the millers of Rochester and destroy the cities and towns upon its line, upon which it depends for its local business; the Pennsylvania Central can wholly disregard the wishes and even the rights of the oil producers of the western section of the State, can buy up the State Legislature, and cause riots which United States troops may be required to quell; but Congress can do nothing to remedy or alleviate the difficulties, because these railroads are operating solely within the States and under State laws.

But is it quite certain that Congress can interfere with the rates and charges of these great roads even as to interstate commerce? They are not obliged to make any contracts operative beyond their own States. What if they see fit to haul freight and make rates only within those States—the one to and from Buffalo, the other Pittsburgh? How can the gentleman reach them with the national arm and force them under the provisions of his bill? It is certain that all water freights from the West to Buffalo and thence by rail to the coast would be absolutely exempt from its provisions; and, if so, would not this give an advantage to the New York Central over its rivals which would enable it to defy all competition? In view of all these doubts and difficulties it would seem to be wise to feel our way somewhat cautiously and perhaps listen a little to expert advice before rashly attempting what we may not be able to accomplish.

HISTORY OF THE REAGAN BILL.

I have observed since being a member of Congress the progress and history of the Reagan bill. Mr. HOPKINS, of Pennsylvania, rightly claims its real paternity. He introduced in the Forty-fourth Congress a bill which seems to have been the germ of this. Mr. REAGAN introduced the same bill in the Forty-fifth Congress, and it was referred to his committee. A little later, January 21, 1878, Mr. Watson, of Pennsylvania, introduced a bill on the same subject, which was referred to the same committee; this bill slumbered in committee until May 2. On that day Mr. REAGAN rose to a personal explanation, and caused to be read extracts from the Pittsburgh Gazette, violently and most unjustly criticising him for holding the bill so long in his committee. On the same day he reported from the committee the bill introduced by Mr. Watson, which has since borne the name of the gentleman from Texas, although the bantling is his only by adoption.

This bill, introduced as above, with slight verbal differences, had its origin in the Legislature of Pennsylvania, and was the outgrowth of a fierce railroad competition for the transportation of petroleum. In debate upon it in this House the gentleman from Texas said it had been drafted with great care by a learned and expert railroad lawyer, and disclosing its origin and purpose, but disregarding his own better knowledge of law, repeatedly spoke of the necessity of preventing greater charges for freight from Pittsburgh to Philadelphia than from Chicago to Philadelphia. The learned and expert lawyer who drew the bill had paid more attention to the woes of oil producers than to the rules of language, and after considerable debate the chairman of the committee withdrew it for the purpose of grammatical revision. This accomplished, he again introduced it very nearly in the form in which it is now before the House.

And thus this bill, born of local passion and strife, discarded in the Legislature of the State where it had its origin, adopted by the gentleman from Texas and corrected and improved by his skillful hand, has worked its way into the national Congress, and seeks sway over the whole country. It would cramp the commerce of the nation into the straight-jacket designed for the petroleum traffic of Pennsylvania.

PROVISIONS OF THE REAGAN BILL.

The chairman of the committee has declared the purpose of his bill to be to establish four great principles:

First. That there shall be no discrimination in regard to freights.

Second. That there shall be no rebates or drawbacks.

Third. That there shall be no pooling of rates.

Fourth. That more shall not be charged for a short distance than for a long distance on the same haul.

It also provides that railroad companies shall post and keep posted, in all their depots, schedules of all rates and charges from the place where the schedules are posted to every other place to which freight can go thence, which schedule must remain in force until at least five days after others are posted in their place. The eighth section of the bill provides substantially that any director or officer of any railroad company violating any one of its many onerous provisions shall be guilty of a misdemeanor, and upon conviction shall be fined not less than $1,000. The next step may well be to keep a director tied to the cow-catcher of every locomotive that draws a passenger train.

DISCRIMINATIONS AS TO FREIGHTS.

The first section of the bill is intended to provide against discriminations in regard to freight. If it merely prohibited unjust discrimination growing out of corruption or favoritism or any other cause, this section would be deserving of support. But it forbids, arbitrarily and absolutely, all discriminations in regard to freights.

But all discriminations in freights are not unjust or improper; they are sometimes really necessary and conducive to the interest of the very persons against whom at first thought they seem to press. A railroad must first pay the current expenses of its operation. If its business fails to do that for any considerable time it must stop. But when the gross receipts are equal to the regular and permanent expenses the business may be largely increased without a proportionate additional outlay. The locomotive that draws ten cars can draw twenty just as cheaply. Hence it is an object to find freight for the ten additional cars. The business that filled the first ten may well submit to the addition of the second ten at a less rate, because the greater proportion of every dollar paid by them will add to the net income of the road, and thus tend directly to the reduction of its own original rates.

A certain section produces ice for the city market, and can afford to pay $2 a ton to move it to the market. The same section produces iron, which can pay $1 a ton and no more. The ice dealer is not injured in paying $2, while the iron dealer sends his freight by the same train for $1. On the contrary, it is quite possible that the railroad is enabled to carry the ice for $2 a ton instead of $3 by the addition to its net income derived from carrying the iron for $1.

A certain district produces oil under the same conditions with another district, excepting that it is a thousand instead of five hundred miles from the common market. The railroad carries oil from the farther district for $10 a car-load, and charges $20 for all other freight from the same place. But it is quite possible that if the oil were not carried at low rates to compete with that nearer the market, but were left in the earth, that place would have no railroad at all, or only at most onerous rates.

Again, it is contrary to the laws of trade that the shipper who regularly loads a hundred cars a week with freight should pay the same rates as he who now and then loads but one. In every other business the large dealer, the wholesaler, has an advantage over the small dealer or the retailer. These illustrations are sufficient to suggest the practical difficulties and wrongs even of an arbitrary prohibition of all discriminations in regard to freight. It is sufficient and better to provide, as does the committee's bill, by a wise supervision against any which are corrupt or personal.

THE REAGAN BILL CREATES DISCRIMINATIONS.

But this bill claiming to prevent discriminations is the source and creator of them to an extent never before existing in this or any other country. It discriminates in favor of every railroad carrier who confines his operations to a single State; in favor of every one who can receive at the terminus of his road freight brought thus far by water; in favor of the carrier by water everywhere; and in favor of the carrier by a foreign road competing for freight with ours. The Dominion of Canada would not find it long difficult to complete its Pacific road when it can compete with our transcontinental lines hampered by these provisions as to rates and schedules, and the stockholders in those now existing competing with ours for east and west freight would soon rejoice in long-waited-for dividends. Nor can I understand why the framer of this bill has exempted water freights from its provisions. The committee bill has done the same. My colleague says it is because the difficulties of including water freight were insuperable, but it seems to me the difficulties of excepting it are greater. Interstate commerce moves on the water equally as on the rail. Why hamper the one class and leave the other free? And this in a bill professedly intended to prevent discriminations!

REBATES AND DRAWBACKS.

The second section of the bill prohibits absolutely and unqualifiedly all rebates and drawbacks. But these may sometimes be allowed without harm to anybody. A shipper contracts with a railroad carrier to carry all his freight at the lowest current rates. He finds that a rival shipper by another road is underselling him in the distant market owing to lower secret freights than he has paid. Is there any reason why he should not rely upon his contract with his road to rebate to him the late-discovered difference?

A railroad contracts with a shipper that if his shipments reach a certain amount in a certain time he shall have a reduced rate. It is not certain whether or not he will comply with the condition. He pays full rates until he has shipped the stipulated amount and then receives his drawback. Who is wronged by it?

Western producers pay one rate on freight which stops in New York and a less on that which is transshipped to Liverpool. It is all shipped mingled in bulk. It is not known until the freight reaches New York, perhaps not until some time after, how much will remain there and how much or what will be transshipped. No one is harmed by allowing the rebate on that which primarily paid New York rates but is subsequently shipped to Liverpool. In this respect, as in discriminations, unqualified prohibition is unwise, while all the evils complained of would be obviated by a wise supervision, as provided by the bill of the committee.

POOLING.

The third section of the bill prohibits pooling. This was not contained in the original bill, but has been added to meet an evil since discovered. The word "pooling" suggests evil practices. It is an admirable catchword by which to stimulate unenlightened prejudice. But when we understand the practice the word is here used to signify, we shall find that the harm is chiefly in the word rather than in the practice. Pooling is simply an attempt by the managers of competing roads to secure by an agreement among themselves stability of rates, and, so far as may be, the advantages of consolidation of systems of roads serving areas too vast and various for the perfect application of that principle.

It is a popular delusion into which the supporters of this bill have fallen that the public interests are promoted by a constant and active competition as to freights. Really such competition frequently causes sudden and extreme fluctuations in prices, which do good to nobody, but harm to many. The most violent railroad wars ultimately result either in ruining one or both of the competing roads, or in an agreement by which they make up, and more, by higher rates the losses they have incurred by the lower.

These effects of unregulated competition were early experienced in England. The stronger roads bankrupted the weaker by their longer endurance, only to find in them fiercer and more reckless competition after the hope of dividends had passed. To avoid these results, soon found to be inevitable, railroad policy tended toward consolidation or amalgamation, which is pooling in principle. It was claimed that parallel roads or a system of roads could be operated together more economically and efficiently than separately. Railroads sought legislative authority to amalgamate; the unenlightened popular feeling was hot against this policy as it is here against pooling. It was declared to be in the interest of the railroads against the public. Under it a powerful road would absorb another, until, like Aaron's rod, it had swallowed all the rest. It would thus become a monopoly absorbing wealth and power, and ruinous to the public interests.

A parliamentary commission was appointed, composed of the ablest and most judicious statesmen of the kingdom, who should thoroughly investigate the subject. Their report settled the question in favor of the railroad policy and against the popular apprehension. Its wisdom has not since been questioned in England. The report says:

> English legislation for a long time discouraged amalgamation; but amalgamations have been effected with directly opposite results to those anticipated.

In support of this statement it cites the case of the Northeastern Railroad Company, as follows:

> The Northeastern is a striking illustration. That railway, or system of railways, is composed of thirty-seven lines, several of which formerly competed with each other. Before their amalgamation they had, generally speaking, high rates and low dividends; the system is now the most complete monopoly in the United Kingdom. From the Tyne to the Humber, with one local exception, it has the country to itself, and it has the lowest rates and the highest dividends of any large English railway.

It is possible that an examination into the workings of the practice of pooling, as provided by the bill of the committee, instead of its peremptory and unqualified prohibition as provided in the Reagan bill, would result in discovering some merit in it—perhaps even to giving it some of the credit of the great reduction of freights during the first few years on the roads practicing it wholly or in part.

The policy of consolidation or amalgamation has already made great progress in this country. First, State lines consolidated. Gradually the process was extended beyond State lines, until few great systems were established contending for the carrying trade of the country. These consolidations have promoted efficiency, convenience, and economy. Rates have been lowered by them and travel rendered more expeditious and convenient. At first the rivalry between them was intense; their wars were titanic, they depleted their own treasuries for the sinews of war, and then plundered the business of the country to replenish them. They were compared to the robber barons, who built their castles on the cliffs overhanging the public ways and plundered the traveler that they might war on each other.

But we have got into a more enlightened age than that of the robber barons. Public opinion called a halt, and common sense and English experience suggested a better way. Covering too vast an area and involving too various interests for consolidation into a single system, they sought to attain similar results by a federation between different systems. This plan has been in operation for seven or eight years under as able and honest management as was ever brought to the administration of vast and complicated business interests. The idea of a peace congress for the settlement of national difficulties has been anticipated and realized by this plan for railroad management. Differences between them are referred to an able board of arbitrators, whose decisions, worth no legal power, are accepted as binding by all parties. The policy means peace rather than war, unity rather than competition. It has worked out great results for good, both for the railroads and for the public. Instead of being prohibited, it should be encouraged. Re-enforced by legislative recognition and watched by Government supervision, it will ultimately furnish the true solution of the railroad problem. Federation in America, like amalgamation in England, will result in lower rates to the shipper and higher dividends to the stockholder.

LOWER RATES FOR LONGER DISTANCES.

The substance of the fourth section of the Reagan bill is condensed by the gentleman from Texas into a statement that "no more shall be charged for a shorter than for a longer distance on the same haul."

No railroad practice has caused greater outcry than that of charging more for a shorter than a longer distance. Its injustice seems obvious even to superficial observation. How can it be right for a road to charge less for carrying a barrel of flour a thousand miles than for another five hundred miles on the same line? On this point the supporters of the Reagan bill have concentrated their forces and thrown up their strongest fortifications. The gentleman from Texas has declared that there shall be "no discrimination against interterminal points." He lives at Palestine, two hundred miles inside from Galveston, and complains that the railroad charges more for freight from Saint Louis to Palestine than from Saint Louis to Galveston.

Mr. REAGAN. If the gentleman from Massachusetts [Mr. RICE] will allow me, I desire to remark that if I said at any time that I did not allow any discriminations I did not say what was in the bill or what I meant to say. I have repeated over and over again that I do allow all the discriminations which difference of distance gives.

Mr. RICE. I am trying to show that your bill does not allow them.

Mr. REAGAN. All right.

Mr. RICE. I am perfectly aware of what the gentleman claims.

The gentleman from Illinois, Mr. Sparks, supporting this bill in the Forty-sixth Congress, echoed the declaration and complaint. He lives at Carlyle, forty-seven miles east from Saint Louis, and yet the railroad charges 88 cents for carrying a barrel of flour from Saint Louis to Baltimore and a dollar from Carlyle to Baltimore. Here is discrimination with a vengeance, which no one with half an eye can fail to see. And yet probably these charges are just and fair, and to reverse them and charge the same or less for the shorter distance would be unjust and unfair. Galveston fronts on the sea. Commerce comes to her not only by steam on the rail, but by steam and sail on the water from every part of the world. Nature, not the railroad company, has discriminated in favor of Galveston. The railroad must bring to her freight as cheap as it comes by water or not bring it at all. Palestine is an interior town, enjoying the great honor of being the residence of the chairman of the Committee on Commerce, but I doubt if it would enjoy the added advantage of a railroad were it not for the freight which passes through it *en route* to and from Galveston.

I have not been able to find Carlyle on any map. I doubt not it is a respectable town in Southern Illinois. The gentleman from Illinois said that it is a way station on the Ohio and Mississippi Railroad, forty-seven miles east from East Saint Louis. But Saint Louis is not a way station on a single line of road. She is the proud mistress of the Mississippi and the Missouri, and has five great railroads pointing east. Nature has discriminated against Carlyle in favor of Saint Louis.

Saint Louis gathers in the commerce from an imperial domain and distributes it to its various points of destination. She has all the facilities for doing this on a large scale and economically. Extensive grounds, full corps of experienced employés, elevators, cattle-yards, all the improved appliances of railroading. Carlyle has not these, and in the nature of things never will have them. The ingenuity of the gentleman from Illinois can not devise legislation which will make her the commercial equal of Saint Louis, or make it just that the railroad shall gather up her scattered and irregular car-loads of freight slowly and inconveniently, and transport them to Baltimore for the same price as from Saint Louis, although the distance were several times forty-seven miles less.

The gentleman from Texas says that he does not mean to take away but to limit this power of discrimination as to places; that he allows

them (the railroads) all the margins of the differences of distance, and provides that they shall not charge more for the shorter than the longer distance, while there is nothing in the bill to prevent them from charging as much. What does the gentleman mean by this rule? Where does the distance begin to run and where does it end? Does the distance begin at the western terminus of railroads on the Pacific, or at some middle point, at Kansas City, or Saint Louis, or Chicago? Are the grain freights to be reckoned from Bismarck or Saint Paul or Chicago? By what rule are these questions to be settled?

Mr. REAGAN. If the gentleman from Massachusetts will allow me I will answer that question. The bill defines explicitly where they are to be. All the road operated by one company is one haul; any railroad and all the road, controlled by it constitutes one haul.

Mr. RICE. There is no question but one corporation controls the road from Saint Louis to New York.

Mr. REAGAN. If that be so, that is one haul.

Mr. RICE. Then your bill provides there shall be no more charged for hauling to any point between San Francisco and New York than is charged——

Mr. REAGAN. There is no one road from San Francisco to New York.

Mr. RICE. But the entire line from San Francisco to New York is controlled by the same management.

Mr. REAGAN. The provision of the bill would require from each road, each separate road, that the charge should be no more for a longer than for a shorter distance.

Mr. RICE. That is not what the bill says. The provision applies to each road or each line of roads controlled by the same company. Now the same management, without a doubt, controls the line from Saint Louis to New York.

Mr. REAGAN. If the gentleman will allow me, what he says is against his own argument, because it would show freights can be taken as cheap from Saint Louis to New York as from any intermediate points.

Mr. RICE. But your position prevents any discrimination of freight between the terminal and interterminal points; that is, between the entire haul from Saint Louis to New York and shorter hauls, excepting that the rates shall not be greater anywhere than from Saint Louis to New York.

Mr. REAGAN. Yes, sir.

Mr. RICE. That is, you take a barrel of flour and carry it from Saint Louis to New York. You take another barrel of flour from Carlyle, forty-seven miles on this side of Saint Louis. Say one is a 2,500-mile haul and the other 2,453 miles. And yet, with all the inconveniences of stopping to take up the flour at a way station, you would not allow the company to charge more for that barrel of flour for a haul forty-seven miles less than for a barrel of flour carried from Saint Louis, with five competing roads and with all the advantages of grounds, elevators, force, and all the vast amount of freight taken from there.

Is it intended that freight may be charged as much from Buffalo to New York as from San Francisco to New York? If so, why not charge more from Chicago than from Buffalo and more from Denver than from Chicago? If this is allowed, more is charged from Chicago than from San Francisco, and the rule is broken; if not, the rule is simply ridiculous and would be laughed at in any country debating society. But there is another difficulty in the way. All the lines from San Francisco or Chicago to New York are not single lines or under a single management. The freight that is paid for a car-load of corn from Kansas to New York may be distributed among possibly twenty railroads. Each receives its share prorated according to agreed rule. The effect of this rule, then, would be to prohibit any single line from taking less for its share of the long freight than it takes for its local freight. The car-load of grain from Kansas or Iowa must pay just as much from the point where it strikes the New York Central as the car-load of grain, if not of any merchandise, taken at that point pays to the terminus.

Is it possible that the advocates of this bill believe that the produce of the West, the beef of Texas and the grain of Iowa, can pay the local rates through every State and still be sold in Liverpool in competition with that grown on the Black Sea and the Mediterranean? It is the sale of that vast production in the markets of Europe that has changed the balance of trade in our favor, and built up the imperial commonwealths of the West and Northwest. It is an advantage to the railroads to carry it at such rates as will sell it in Europe, because they add the amounts so earned to their gross receipts, and by so doing are able to decrease their local rates, not forced to increase them, as is argued, to make up their losses.

If the rule in the Reagan bill should be enforced, many of the railroads of the Northwest would suspend operation, the grain would rot on the prairies, and the cattle of Texas would multiply and die on their native plains in the untamed freedom of nature.

I scarcely believe that gentlemen desire this result, but it is clear as a mathematical demonstration that such is the end toward which they are laboring.

THE REAGAN BILL DESTROYS COMPETITION AND CREATES MONOPOLIES.

The gentleman from Texas seeks to prevent the people from being deprived "of the advantages of competition in freight charges and the rates of transportation on railroads."

No device for depriving them of these advantages could be conceived more admirably adapted to the purpose than his bill. Let us suppose three cities severally situated at the angles of a triangle; a railroad is built between the cities at the base angles. By and by another finds its way around through the city at the apex angle. That city alone has not business enough to support it, but it competes with the first railroad between the cities at the base. This affords them the advantages of competition which the gentleman seeks to promote; but the distance around is longer than on the base line, and the freight must be carried by the longer road at as low or even a less rate than is charged by the shorter.

This it can afford to do if it can charge the same local rates for interterminal points as are charged by its competitor, but this bill forces the scaling down of these also, and the second road would be ruined and the people lose the advantages of competition. There are twenty different possible routes by which freight may be moved between Atlanta and Saint Louis, but one line is shorter than all the rest, and shorter than the longest by more than a thousand miles. Atlanta is growing rapidly from the advantages of her position. This bill would deprive her of the advantages of competition between twenty routes to Saint Louis and place her at the mercy of one.

Mr. REAGAN. I regret to interrupt the gentleman so frequently, and hope he will pardon me. But there is nothing in the bill on which to predicate such a hypothesis as he has now stated; there is nothing to compare freights by competing roads; only they shall not pool freights. In the case the gentleman puts each road makes its charges, and all it has to do is not to discriminate for one as against another. As between the different roads there is nothing about comparing their rates with each other.

Mr. RICE. Will the gentleman allow me a moment? I desire we shall meet each other exactly. Here is a road between two cities two hundred miles long. Here is another road going another route between the same termini three hundred miles long. Now this second road can only carry freight between the terminal points as cheaply as the other does.

Mr. REAGAN. There is nothing in the bill requiring that.

Mr. RICE. It can not compete with the other road and carry the freight if it charges higher rates.

Mr. REAGAN. What I want to say is that any basis for the gentleman's hypothesis does not exist in the bill. It only provides that rates on each road shall not be discriminative.

Mr. RICE. Can the longer road carry the freight except at the same rate as the shorter road with any chance of competition?

Mr. REAGAN. In relation to that, I have gone all the time upon the theory that it was not right to make one set of persons pay for the freight of another.

Mr. RICE. That is just what I am arguing, that your bill destroys this competition—this opportunity for competition. I think we understand each other now.

But this is not the only way by which it contrives to deprive the people of the advantages of competition. The provision requiring the posting up of schedules in all the depots giving the rates to every place to which freight can go from that place, and keeping them in force in every particular for five days after notice of a change, under penalty of a fine of $1,000 upon every director or officer of any railroad violating the provision, would of itself strike a death-blow at competition, and force a combination of all competing roads. The managers of these roads are no longer robber barons, but practical and able business men of these United States. It would be practically impossible for them to do business, each watching for the chance to get five days' advantage of every other in a change of rates, and the result would inevitably be a pool or combination, not voluntary and elastic as now, but arbitrary and forced together by the iron links of law.

The gentleman from Texas is actuated by the highest purposes, and is honestly and ably striving to work out the public good by the measure of which he is the leading and acknowledged champion, but he is walking in a path which has been trodden before and never with success. Other governments have attempted to control by legislation the details of railroad management and have abandoned the effort in obedience to the very interests they sought to promote. The government of a free and civilized people must not govern too much. It may watch and develop, but it must not hamper and check by minute interference. The internal commerce of this nation is its life. Through many and various channels it ebbs and flows, diverse yet ever intermingling, "distinct as the billows, yet one as the sea." The gentleman from Texas will find any attempt to fetter or to curb it, to check or divert its natural currents, to be as impotent as the act of the Eastern despot when he flung his chains on the swelling waves of the Hellespont.

THE COMMITTEE'S BILL.

The bill of the committee follows in the main experienced advice and successful precedents. It declares certain general principles everywhere recognized as applicable to common carriers. It provides remedies for the violation of those principles and creates over the whole a supervisory commission to represent the Government, and, at its expense and with its authority, protect the people from these abuses of which they have too often with good reason complained.

This bill is based upon the principles and largely copied from the provisions of laws which have been in successful operation in England, in Massachusetts, and in some other of the States of the Union for several years past.

In 1873 a board of railway commissioners was established in England, with large powers of supervision and control over the railways of the kingdom. It was given larger powers than are provided in this bill or than are believed necessary in this country. Its workings have been satisfactory. Its experience proves the efficacy of single decisions to settle classes of similar cases, and goes far to dispose of the objection that a commission can not manage all the business to which it would be necessarily called to attend. Its reports show that it was called upon to decide during the first year of its organiztion, in 1875, six cases; in 1876, seven cases; in 1877, nineteen cases; in 1878, twenty-four cases.

These decisions were sufficient to settle all the disputes which were brought before it, and certainly show a light docket for a tribunal over 16,000 miles of railway, representing three billions of investment.

In 1869 a board of railroad commissioners was established in Massachusetts, whose powers, as in the bill now under consideration, were mainly only to supervise, advise, and report to the Legislature. No railroad corporation has yet been found in the State which has dared to face an adverse recommendation of that commission made in a legislative report. The people of a city where several roads center and have their several depots imagine that it would be better that all should join in a union depot; the railroads object; the commissioners concur in the opinion of the people, and the corporations leave their old plants and put themselves down at the common junction.

The most powerful railroad corporation in the State maintained for many years its depot in the city of Boston at a point where its trains incommoded the public ways. It had been there for fifty years and had created the very travel which complained of its obstructions. It was reluctant to incur the expense and inconvenience of removal. The commissioners examined the matter and informally suggested the advisability of a removal. The suggestion was unheeded. A formal hearing was then had, and a report prepared showing the reasons why the company should remove from its old depot and build a new one. No further action was necessary. The company began building operations at once, and the massive walls of a new depot have arisen in a spot where the public travel will not be incommoded. A short time since the grain-dealers of the State found themselves undersold by a competitor whom they suspected received special favors from the same corporation above referred to. They complained to the commissioners; an examination was had; the suspicions were confirmed; a report was published stating the facts, and I do not believe any more favors will be shown to favored dealers by railroads in future. The instrumentalities by which the great problem of railroad management, and the proper relations between them and the public they serve, are to be worked out are—

First. By federation among themselves, agreeing when they can, and when they can not submitting their differences to a board of arbitration.

Second. By the establishment of State boards of commissioners upon a common plan and in frequent communication with one another.

Third. By the establishment of a national board of commissioners, supervising the whole field, watching, suggesting, reporting, occupying to the public the same position which the agents agreed upon in the plan of federation occupy to the railroads.

I am aware that this plan does not adopt the "heroic treatment" so ardently advocated by some gentlemen and formulated in the Reagan bill, but I think it provides a remedy more quiet, more healthy, and far more efficient. It fixes the public eye upon these mighty agents of commerce and informs the public mind how they are discharging their vast and responsible duties. It lets "the bright sunshine of publicity" into every railroad office in the land, and creates a public opinion mightier than law, more potent to reform than fines or imprisonments, to which railroads as well as the earnest gentleman from Kansas and myself must yield. Before it, enlightened and stimulated by intelligent and authoritative information, monopolies, no matter how strong, must yield, and wrong, no matter how intrenched, give place to right.

Mr. BARKSDALE obtained the floor.

Mr. OATES. Mr. Speaker, I move that the House do now adjourn.

The SPEAKER. Does the gentleman from Mississippi yield for that motion?

Mr. BARKSDALE. I do.

WITHDRAWAL OF PAPERS.

Mr. GREENLEAF, by unanimous consent, obtained leave to withdraw from the files of the House papers in the case of Isaac F. Quinby, applying for a pension, no adverse report having been made thereon.

REPORT OF COMMISSION ON SIGNAL SERVICE, ETC.

Mr. LOWRY. I ask unanimous consent to have taken from the Speaker's table for present consideration joint resolution (S. R. 98) extending the time fixed for the joint commission appointed under the sundry civil act approved July 7, 1884, to submit their report. The time fixed by the existing law for making the report will expire next Monday, and the extension proposed by this resolution is necessary.

The joint resolution was read, as follows:

Resolved by the Senate and House of Representatives, &c., That the joint commission appointed under the act of Congress approved July 7, 1884, to consider the present organization of the Signal Service, Geological Survey, Coast and Geodetic Survey, and the Hydrographic Office of the Navy Department, with the view to secure greater efficiency and economy of administration of the public service in said bureaus, shall report on the first Monday in January, A. D. 1885, or as soon thereafter as practicable, in lieu of the third Monday in December, 1884, as required by said act.

There being no objection, the joint resolution was taken from the Speaker's table, read three times, and passed.

Mr. LOWRY moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PUBLIC PROPERTY AT BANGOR, ME.

Mr. BOUTELLE, by unanimous consent, introduced a bill (H. R. 7668) for the protection of the public building and property at Bangor, in the State of Maine; which was read a first and second time, referred to the Committee on Appropriations, and ordered to be printed.

The motion of Mr. OATES that the House adjourn was then agreed to; and accordingly (at 4 o'clock and 40 minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions and papers were laid on the Clerk's desk, under the rule, and referred as follows:

By Mr. BARBOUR: Papers relating to the claim of James G. Field, administrator of Edmund Backers—to the Committee on War Claims.

By Mr. BARKSDALE: Papers relating to the claim of Milton S. Haire—to the same committee.

By Mr. T. M. BROWNE: Petition of 108 citizens and ex-Union soldiers of Delaware County, Indiana, praying for the passage of the Mexican war pension bill and amendments—to the Committee on Pensions.

By Mr. CALDWELL: Papers relating to the claim of Ann Hanlon, "superioress" of St. Cecilia Academy, Davidson County, Tennessee—to the Committee on War Claims.

By Mr. CANNON: Petition of James Lucas and others, praying for the passage of the Mexican pension bill—to the Select Committee on the Payment of Pensions, Bounty, and Back Pay.

By Mr. CLAY: Petition of the pages of the House, for an appropriation to pay them salary due under resolution adopted unanimously by the House July 7, 1884—to the Committee on Appropriations.

By Mr. CLEMENTS: Papers relating to the claim of George W. F. Lamkin—to the Committee on War Claims.

By Mr. S. S. COX: Petition of ship brokers, masters, and seamen, &c., for the repeal of part of the Dingley law—to the Select Committee on American Ship-building and Ship-owning Interests.

Also, petition of Thomas W. Robertson and 572 others, employés of the custom-house service of New York city, asking for an appropriation to reimburse them for 10 per cent. retained salary for the period of ten months from December, 1875, to October, 1876—to the Committee on Appropriations.

Also, petition of the chairman and executive committee of the American Industrial League; of merchants, brokers of New York and Boston, and of 1,350 workers on clocks, in favor of amending the tariff on foreign clocks and wraps of wool—to the Committee on Ways and Means.

By Mr. R. T. DAVIS: Memorial of citizens of New Bedford, on Indian affairs—to the Committee on Indian Affairs.

By Mr. DEUSTER: Petition of John Rising and others, asking a pension for Christian Hable—to the Committee on Invalid Pensions.

By Mr. DINGLEY: Petition of Frederick Robie and 900 officers and soldiers of Maine regiments in the war, that a pension may be granted to Mrs. Sarah S. Sampson—to the same committee.

By Mr. DOCKERY: Petition of citizens of Daviess County, Missouri, asking the passage of the Mexican war pension bill—to the Committee on Pensions.

By Mr. DUNN: Petition of citizens of Phillips County, Arkansas, in favor of a national bankrupt act—to the Committee on the Judiciary.

By Mr. GEORGE: A bill for the improvement of certain rivers and harbors on the Pacific coast—to the Committee on Rivers and Harbors.

Also, petition of merchants and salmon-packers of Oregon, asking for full drawback on imported goods manufactured and exported—to the Committee on Ways and Means.

By Mr. GOFF: Petition of Wheeling Iron and Nail Company, and M. Reiley, Augustus Pollock, and others, requesting the passage of a bankrupt law—to the Committee on the Judiciary.

By Mr. D. B. HENDERSON: Petition of Miss Kate Monroe, of Dubuque, Iowa, praying for pensions to be granted to the destitute children of the soldiers of 1812—to the Committee on Pensions.

By Mr. HILL: Petition of J. T. Templeton and 100 others, citizens of Swanton, Ohio, asking for the passage of the Mexican pension bill and amendments—to the same committee.

By Mr. HOLMAN: Petition of J. H. Woolford, Ison Ross, T. J. Humphreys, and 17 others, citizens of Madison, Ind., in behalf of a just

and equitable system of bankruptcy—to the Committee on the Judiciary.

By Mr. HORR: Petition of ex-Union soldiers, for the equalization of bounties—to the Select Committee on Payment of Pensions, Bounty, and Back Pay.

By Mr. KLEINER: Petition of David H. Eells, a soldier of the Seminole war, for a pension—to the Committee on Pensions.

By Mr. LEWIS: Petition of Lucius J. Seals, for reference of his claim to Court of Claims to correct errors in decision of late Southern Claims Commission—to the Committee on War Claims.

By Mr. LOVERING: Petition of General Landes Post, No. 5, Grand Army of the Republic, Department of Massachusetts, for publication in Official Records of the War of the Rebellion of photographic illustrations—to the Committee on Military Affairs.

By Mr. MAYBURY: Petition for the release of the reversionary rights of the Government of the United States to a certain block in the city of Detroit, State of Michigan—to the Committee on the Judiciary.

By Mr. MILLIKEN: Petition of members of the National Home for Disabled Soldiers, at Togus, Me.; also of members of the Grand Army of the Republic, for the passage of the Mexican pension bill and Senate amendments—severally to the Committee on Pensions.

By Mr. MURRAY: Petitions of William J. McPherson, Samuel Will, James Young, and William Crumley, for pensions—severally to the Committee on Invalid Pensions.

Also, the petition of Andrew J. Konkle, late major Seventh Regiment Ohio Light Artillery, for arrears of pension—to the same committee.

By Mr. O'FERRALL: Petition of Gabriel H. Hill, late lieutenant, &c., United States Army, for removal of disabilities, &c.—to the Committee on the Judiciary.

By Mr. CHARLES O'NEILL: An act for the improvement of the harbor of Philadelphia—to the Committee on Rivers and Harbors.

By Mr. POLAND: Petition of Emily L. Alvord, widow of the late Paymaster-General Benjamin Alvord, for a pension—to the Committee on Pensions.

By Mr. PRICE: Petition of A. W. Hubbard and 50 others, favoring the passage of the Mexican pension bill as amended—to the same committee.

By Mr. RICE: Petition of P. A. Beaman and others, Princeton, Mass., for the abolition of internal excise duties—to the Committee on Ways and Means.

Also, petition of Charles Devens Post, No. 27, G. A. R., Department of Massachusetts, for publication in Official Records of the War of the Rebellion of photographic illustrations—to the Committee on Military Affairs.

By Mr. RIGGS: Papers relating to the pension claim (H. R. 7422) of Alexander Hall—to the Committee on Invalid Pensions.

Also, papers relative to H. R. 3155 for the relief of James T. Dodson—to the Committee on War Claims.

By Mr. RYAN: Petition of citizens of Kansas, for the passage of the Mexican pension bill and amendments—to the Committee on Pensions.

By Mr. SINGLETON: Papers relating to the claim of William B. Sims—to the Committee on War Claims.

By Mr. H. Y. SMITH: Petition of Mary J. Dickson, for a pension, &c.—to the Committee on Invalid Pensions.

By Mr. SPOONER: Petition of Music Teachers' National Association and 1,419 others, citizens of several States, for the passage of the Dorsheimer bill, or similar bill, for an international copyright law—to the Committee on the Judiciary.

By Mr. SPRINGER: Memorial of Lorenzo Durham, for the passage of a bill for his relief—to the Committee on Military Affairs.

Also, memorial of Benjamin F. Fox, praying for the passage of a bill to confer jurisdiction on the Court of Claims to hear and determine his claim—to the Committee on War Claims.

By Mr. STEVENS: Petitions of citizens of Lockport, N. Y., asking for the passage of the bill granting pensions to soldiers in the war with Mexico as amended by the Senate—to the Committee on Invalid Pensions.

Also, petition of Josiah Scott, to be placed on the pension-rolls—to the same committee.

By Mr. CHARLES STEWART: Bill for continuing the work of harbor improvement at Sabine Pass and Blue Buck Bar, Texas; also, bill for continuing improvement of Buffalo Bayou, Texas—severally to the Committee on Rivers and Harbors.

By Mr. TOWNSHEND: Petition of 52 citizens of Ohio, praying for the passage of the Mexican pension bill—to the Committee on Pensions.

By Mr. VANCE: Statement giving names of clerks employed at night copying names of pensioners from old to new rolls, &c.—to the Committee on Appropriations.

Also, letters of honorable Third Auditor, relative to extra labor of clerks in his office in April, May, June, and July, 1883—to the same committee.

By Mr. A. J. WARNER: Petition of W. A. Adair, M. D., and others, citizens of Athens County, Ohio, praying that the bill pensioning Samuel D. Stiles may be passed—to the Committee on Invalid Pensions.

By Mr. E. B. WINANS: Petition of W. E. Hamilton, J. P. Tremfer, and 75 other soldiers of Clinton County, Michigan, praying for the speedy passage of the Mexican pension bill—to the Committee on Pensions.

By Mr. YAPLE: Petition of Samuel B. Corbus, and others, citizens of Saint Louis, Mich., for the passage of the Mexican pension bill with amendments—to the same committee.

SENATE.

TUESDAY, *December* 9, 1884.

Prayer by the Chaplain, Rev. E. D. HUNTLEY, D. D.

The Journal of yesterday's proceedings was read and approved.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of the Interior, transmitting a report of the Commissioner of Indian Affairs relative to the failure of the Utah and Northern Railway Company to compensate the Indians upon the Fort Hall reservation, in Idaho, for the right of way and lands taken and used for the purposes of its road constructed through that reservation; which, with the accompanying papers, was ordered to be printed, and referred to the Committee on Indian Affairs.

HOUSE BILL REFERRED.

The joint resolution (H. Res. 289) authorizing the Superintendent of the Census to continue the work on the Tenth Census was read twice by its title, and referred to the Select Committee to make provision for taking the Tenth Census and ascertaining the results thereof.

NAVAL APPROPRIATION BILL.

The PRESIDENT *pro tempore*. Petitions and memorials are now in order.

Mr. HALE. Before proceeding to the first order I ask to take up the naval appropriation bill so as to make a motion upon it.

The PRESIDENT *pro tempore*. The Senator from Maine asks unanimous consent that the bill (H. R. 4716) making appropriations for the naval service for the fiscal year ending June 30, 1885, and for other purposes, which is pending between the two Houses on amendments of the Senate, be now taken up for consideration. Is there objection? The Chair hears none. The bill is before the Senate. The last action of the two Houses will be read.

The Chief Clerk read as follows:

IN THE HOUSE OF REPRESENTATIVES, *July* 1, 1884.

Resolved, That the House further insist upon its disagreement to the amendments of the Senate to the bill (H. R. 4716) making appropriations for the naval service for the fiscal year ending June 30, 1885, and for other purposes, and ask a further conference with the Senate on the disagreeing votes of the two Houses thereon.

Ordered, That Mr. RANDALL, Mr. HOLMAN, and Mr. CALKINS be the managers of said conference on the part of the House.

IN SENATE, *July* 2, 1884.

Resolved, That the Senate further insist upon its amendments to the bill (H. R. 4716) making appropriations for the naval service for the fiscal year ending June 30, 1885, and for other purposes, disagreed to by the House of Representatives, and agree to the further conference asked by the House on the disagreeing votes of the two Houses thereon.

Ordered, That Mr. HALE, Mr. LOGAN, and Mr. BECK be the conferees on the part of the Senate.

The PRESIDENT *pro tempore*. It appears from the Journal of the Senate that on the 7th of July the Senate conferees reported that the conference committee had been unable to agree. The bill is now before the Senate for its action.

Mr. HALE. I move that the Senate further insist upon its amendments and that a new conference be appointed.

The PRESIDENT *pro tempore*. The Senator from Maine moves that the Senate further insist upon its amendments to the bill disagreed to by the House of Representatives, and ask for a further conference thereon with the House of Representatives.

The motion was agreed to; and by unanimous consent the President *pro tempore* was authorized to appoint the conferees on the part of the Senate; and Messrs. HALE, LOGAN, and BECK were appointed.

PETITIONS AND MEMORIALS.

Mr. MILLER, of California, presented a petition on behalf of the manufacturers and canners of fruits, &c., on the Pacific coast, who use imported materials in the manufacture of articles for export, praying that section 3019 of the Revised Statutes be so amended as to allow a drawback on articles wholly manufactured of imported materials equal in amount to the duties paid on such materials; which was referred to the Committee on Finance.

Mr. MILLER, of California. I present a petition of the Grand Lodge of Good Templars of California, officially signed, representing 18,873 members, praying for a constitutional amendment to prohibit the manufacture and sale of intoxicating liquors for drinking purposes. I do not know to what committee the petition should be referred.

The PRESIDENT *pro tempore*. The Chair is under the impression that this subject has hitherto been under the consideration of the Committee on Education and Labor, and if there be no objection this petition will be referred to that committee.

Mr. SABIN presented a petition of the Good Templars of Minnesota, officially signed, representing 4,516 members, praying for a constitutional amendment to prohibit the manufacture and sale of intoxicating beverages; which was referred to the Committee on Education and Labor.

Mr. MANDERSON presented a memorial of citizens of Nebraska, Utah, and Wyoming, remonstrating against the proposed governmental control of the telegraph; which was referred to the Committee on Post-Offices and Post-Roads.

Mr. DAWES presented the petition of Mary A. Livermore and L. B. Barrett, president and secretary of the Massachusetts Women's Christian Temperance Union, with an aggregate membership of 10,000 women, praying for a constitutional amendment prohibiting the manufacture and sale of intoxicating liquors; which was referred to the Committee on Education and Labor.

Mr. FRYE presented a petition of the board of managers of the National Temperance Society, officially signed, praying for the passage of the pending bill to provide for a commission of inquiry concerning the alcoholic liquor traffic; which was referred to the Committee on Education and Labor.

Mr. MITCHELL. I present a memorial of the National Window Glass Workers' Association of Pittsburgh, Pa., urging the passage of the bill to prevent importation of foreign labor under contract. I do not know whether the bill is in the committee or before the Senate.

Mr. MILLER, of California. The bill is on the Calendar, and the petition ought to lie on the table.

The PRESIDENT *pro tempore*. The petition will be laid on the table, if there be no objection.

Mr. MITCHELL. I also present a similar memorial from the Knights of Labor of Pennsylvania, which I move lie on the table.

The motion was agreed to.

Mr. MITCHELL presented a petition of the Women's Temperance Union of Pennsylvania, officially signed, praying for a constitutional amendment to prohibit the manufacture and sale of intoxicating beverages; which was referred to the Committee on Education and Labor.

Mr. BLAIR presented a petition of the board of managers of the National Temperance Society, officially signed, praying for the prohibition of the liquor traffic in the District of Columbia and the Territories and for increased penalties for the illegal sale of intoxicating liquors to Indians; which was referred to the Committee on Education and Labor.

He also presented the petition of Mrs. Ann Atkinson, granddaughter of George Mason, of Virginia, praying for an increase of pension; which was referred to the Committee on Pensions.

Mr. LOGAN presented the petition of Rhoden Mitchell, of North Carolina, praying compensation for services rendered by him as laborer under the Sergeant-at-Arms of the Senate; which was referred to the Committee on Appropriations.

REPORTS OF COMMITTEES.

Mr. MORRILL, from the Committee on Finance, to whom was referred the bill (S. 2375) to authorize the increase of the capital stock of the Commercial National Bank of Chicago, reported it without amendment.

BILLS INTRODUCED.

Mr. SHERMAN introduced a bill (S. 2422) for the erection of a statue to the memory of General La Fayette; which was read twice by its title, and referred to the Committee on the Library.

He also introduced a bill (S. 2423) for the relief of Wilbur F. Hinman; which was read twice by its title, and referred to the Committee on Claims.

He also introduced a bill (S. 2424) for the relief of Benjamin F. Scribner and John W. Beaman; which was read twice by its title, and referred to the Committee on Claims.

Mr. MILLER, of California, introduced a bill (S. 2425) to amend section 3019 of the Revised Statutes, relating to drawback of duties on imported materials when manufactured and exported; which was read twice by its title, and referred to the Committee on Finance.

Mr. HAWLEY introduced a bill (S. 2426) to empower the President to reappoint not more than two persons as first lieutenants in the Army; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. CAMDEN introduced a bill (S. 2427) granting a pension to William Richardson; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

Mr. GARLAND introduced a bill (S. 2428) granting a pension to Margaret B. Harwood; which was read twice by its title, and referred to the Committee on Pensions.

Mr. LOGAN introduced a bill (S. 2429) for the relief of Moses M. Bane; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Claims.

Mr. LAPHAM introduced a bill (S. 2430) to amend section 2805 of the Revised Statutes of the United States, so as to allow oaths to be administered by notaries public in the district of New York; which was read twice by its title, and referred to the Committee on the Judiciary.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. HOAR, it was

Ordered, That the petition of Enoch Spencer be withdrawn from the files of the Senate and referred to the Committee on Pensions.

GALVESTON HARBOR IMPROVEMENT.

The PRESIDENT *pro tempore*. "Concurrent or other resolutions" are in order.

Mr. COKE. I move that the Senate at 2 o'clock on Monday, the 15th instant, take up and consider the bill (S. 1652) to provide for the improvement of the channel between Galveston Harbor and the Gulf of Mexico.

The PRESIDENT *pro tempore*. The Chair understands the Senator to give notice that he will move to take up the bill at that time.

Mr. COKE. I make the motion now, if in order, to make the bill a special order for 2 o'clock on Monday, the 15th of December.

The PRESIDENT *pro tempore*. The Senator from Texas asks unanimous consent—it requiring unanimous consent at this time—to take up, for the purpose of moving that it be made a special order at a future time, the bill (S. 1652) to provide for the improvement of the channel between Galveston Harbor and the Gulf of Mexico. Is there objection to the present consideration of the bill for that purpose?

Mr. HARRISON. I gave notice last week that I should to-day call up for consideration the bill for the admission of the Territory of Dakota as a State. I therefore object to the consideration of the Senator's bill now, as it is brought forward in a shape to antagonize the bill of which I gave earlier notice.

Mr. COKE. I will state——

The PRESIDENT *pro tempore*. Debate is not in order.

Mr. COKE. This is a very important bill. I desire to appoint some time at which it shall be taken up and considered, and if I had the right of way for it on the Calendar I should be very accommodating in yielding to other measures.

Mr. HARRISON. I shall of course interpose no objection to the Senator naming some time when he will address the Senate upon the bill, but under the circumstances I can hardly consent to its being taken up now, unless the Senator intends to take it up and then postpone it to a particular day.

Mr. COKE. I simply ask that it be taken up now for the purpose of fixing the 15th day of this month, at 2 o'clock, as the time when it shall be considered.

Mr. HARRISON. To that, of course, I have no objection.

Mr. McMILLAN. Mr. President——

The PRESIDENT *pro tempore*. Debate is not in order. Is there objection to the present consideration of the bill?

Mr. McMILLAN. I do not desire that the bill shall be made a special order for any time so early in the session as the date suggested by the Senator from Texas. The report of the majority of the committee was laid upon the tables of Senators yesterday morning, and it is desirable that the minority of the Committee on Commerce shall have the privilege of looking at that report. Perhaps there may be some views of the minority submitted to the Senate if it should seem advisable.

The PRESIDENT *pro tempore*. It is the duty of the Chair to repeat that debate on the request of the Senator from Texas is not in order. Is there objection to the present consideration of the bill?

Mr. McMILLAN. Therefore I must object for the present.

The PRESIDENT *pro tempore*. Objection is made.

Mr. McMILLAN. If the Senator——

The PRESIDENT *pro tempore*. "Concurrent or other resolutions" are in order.

RICHARD HAWLEY & SONS.

Mr. COCKRELL. At the request of the Senator from Michigan [Mr. CONGER], and as a matter of courtesy which affords me a great deal of pleasure, I move to reconsider the vote taken yesterday upon the bill (S. 1170) for the relief of Richard Hawley & Sons, by which the Senate refused to order the engrossment and third reading of the bill. I desire to enter the motion in order that the Senator from Michigan may have an opportunity of presenting certain statistics and data in regard to it. I want the motion entered, and then I desire it to lie over until it is the pleasure of the Senator from Michigan to call it up. As a matter of course I do not in making this motion change my view at all in regard to the bill, nor shall I vote for the motion to reconsider when it comes before the Senate.

The PRESIDENT *pro tempore*. If there be no objection the motion to reconsider made by the Senator from Missouri will be entered.

Mr. CONGER. I suppose while that motion is pending the bill will be restored to its place upon the Calendar.

The PRESIDENT *pro tempore*. The bill will be restored to its proper place upon the Calendar under a motion to reconsider. The Chair is not advised at this moment where it will come in under the rule.

If there be no "concurrent or other resolutions" that order is closed, and the Chair lays before the Senate the Calendar under the eighth rule.

FORFEITURE OF OREGON LAND GRANT.

Mr. SLATER. I move that the Senate proceed to the consideration of the bill (H. R. 181) to declare forfeiture of certain lands granted to aid in the construction of a railroad in Oregon.

The PRESIDENT *pro tempore*. The question is on agreeing to the motion of the Senator from Oregon.

Mr. HARRISON. Mr. President——

The PRESIDENT *pro tempore*. Debate is not in order on a motion of this kind under the rules.

Mr. HARRISON. I desire simply to repeat that there was notice given of another order——

The PRESIDENT *pro tempore*. Is there objection to the Senator from Indiana making remarks upon this subject?

Mr. HARRISON. I hope the motion will be voted down.

The question being put, it was declared that the noes appeared to prevail.

Mr. SLATER. I must call for the yeas and nays on agreeing to my motion. It is a very important matter.

The yeas and nays were ordered; and having been taken, the result was announced—yeas 29, nays 30; as follows:

YEAS—29.

Bayard,	Colquitt,	Lamar,	Vance,
Beck,	Dolph,	McPherson,	Van Wyck,
Brown,	Garland,	Maxey,	Vest,
Butler,	Groome,	Morgan,	Walker,
Call,	Hampton,	Pendleton,	Williams.
Camden,	Harris,	Pugh,	
Cockrell,	Hill,	Ransom,	
Coke,	Jonas,	Slater,	

NAYS—30.

Aldrich,	Edmunds,	Logan,	Riddleberger,
Allison,	Frye,	McMillan,	Sabin,
Blair,	Hale,	Manderson,	Sawyer,
Cameron of Pa.,	Harrison,	Miller of Cal.,	Sheffield,
Cameron of Wis.,	Hawley,	Mitchell,	Sherman,
Conger,	Hoar,	Morrill,	Wilson.
Cullom,	Ingalls,	Pike,	
Dawes,	Lapham,	Platt,	

ABSENT—17.

Bowen,	Gorman,	Mahone,	Sewell,
Fair,	Jackson,	Miller of N. Y.,	Voorhees.
Farley,	Jones of Florida,	Palmer,	
George,	Jones of Nevada,	Plumb,	
Gibson,	Kenna,	Saulsbury,	

So the motion was not agreed to.

ADMISSION OF DAKOTA.

Mr. HARRISON. I move that the Senate now proceed to the consideration of the bill (S. 1682) to enable the people of that part of the Territory of Dakota south of the forty-sixth parallel of north latitude to form a constitution and State government, and for the admission of the State into the Union on an equal footing with the original States, and for other purposes.

The question being put, there were, on a division—ayes 33, noes 22.

Mr. VEST. I ask for the yeas and nays.

The yeas and nays were ordered; and having been taken, resulted—yeas 34, nays 25; as follows:

YEAS—34.

Aldrich,	Edmunds,	Logan,	Sabin,
Allison,	Frye,	McMillan,	Sawyer,
Blair,	Hale,	Manderson,	Sewell,
Cameron of Pa.,	Harrison,	Miller of Cal.,	Sheffield,
Cameron of Wis.,	Hawley,	Mitchell,	Sherman,
Conger,	Hill,	Morrill,	Van Wyck,
Cullom,	Hoar,	Pike,	Wilson.
Dawes,	Ingalls,	Platt,	
Dolph,	Lapham,	Riddleberger,	

NAYS—25.

Bayard,	Coke,	Maxey,	Vance,
Beck,	Colquitt,	Morgan,	Vest,
Brown,	Garland,	Pendleton,	Walker,
Butler,	Groome,	Pugh,	Williams.
Call,	Hampton,	Ransom,	
Camden,	Jonas,	Saulsbury,	
Cockrell,	McPherson,	Slater,	

ABSENT—17.

Bowen,	Gorman,	Kenna,	Plumb,
Fair,	Harris,	Lamar,	Voorhees.
Farley,	Jackson,	Mahone,	
George,	Jones of Florida,	Miller of N. Y.	
Gibson,	Jones of Nevada,	Palmer,	

So the motion was agreed to.

The PRESIDENT *pro tempore*. The bill is now before the Senate as in Committee of the Whole, and it will be read at length.

Mr. SHERMAN. As what is called the Dakota bill is now taken up, I suggest that by unanimous consent we proceed with the Calendar until 2 o'clock, the usual time.

The PRESIDENT *pro tempore*. Pending the consideration of the bill now before the Senate, the Senator from Ohio asks unanimous consent that the Calendar be proceeded with under Rule VIII until 2 o'clock, without displacing the order now before the Senate. Is there objection? The Chair hears none, and it is so ordered. The first case on the Calendar under Rule VIII is Order of Business 325, being Senate bill 1742

ALBERT T. STREAM.

The bill (S. 1742) to authorize Albert T. Stream, keeper of life-saving station at Shoalwater Bay, Washington Territory, to accept a medal awarded to him by the British Government was considered as in Committee of the Whole.

Mr. COCKRELL. Is there a report in that case?

The PRESIDENT *pro tempore*. There is a report.

Mr. COCKRELL. Let it be read, please.

The PRESIDENT *pro tempore*. The report will be read.

The Chief Clerk read the following report, submitted by Mr. MILLER, of California, March 6, 1884:

The British bark Lammerlaw, bound from Australia to Portland, Oreg., with a cargo of coal, stranded on the North Breaker, at the entrance of Shoalwater Bay, Washington Territory, at about 5 o'clock on the morning of October 30, 1881. A heavy southwest gale was blowing at the time, and the sea was very rough and swept over the vessel as soon as she stranded, so that the crew were forced, for the most part, to take to the rigging to save their lives. The point at which the vessel stranded was about nine miles from the shore. The facts, as stated in the official report of the affair to the Treasury Department, show that Albert T. Stream, keeper of the life-saving station at Shoalwater Bay, being without a crew, collected such volunteers as he could, and in the midst of the greatest perils and at the imminent risk of his life rowed out to the vessel and rescued the entire crew, comprising some fifteen persons. He was first apprised of the stranding of the bark at about 8.30 a. m. of the 30th of October, but, notwithstanding all of his efforts to secure the necessary assistance, it was not until the evening of the 31st that he succeeded in getting all of the crew off the wreck. During all of this time the storm raged without abatement, and shortly after the rescue was effected the bark sank, leaving nothing but her spars to mark the spot where she lay. The rescued seamen saved nothing but the clothing on their persons. The bark went to pieces and the cargo was entirely lost.

In recognition of the humanity and noble heroism displayed by Mr. Stream on this occasion the British Government has tendered him a medal, and the same is now in the hands of the Secretary of State, who has recommended that the Congress shall take the necessary action to enable Mr. Stream to accept the reward which he so manfully won.

The committee therefore report herewith a bill to authorize Mr. Stream to accept this medal, and recommend its passage by the Senate.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

WIDOW OF GENERAL MOORE.

The joint resolution (S. R. 37) allowing the widow of General Jesse H. Moore, late consul at Callao, Peru, one year's salary was announced as next in order.

Mr. SHERMAN. There being an adverse report in that case, I ask that it may go over.

Mr. COCKRELL. That is an adverse report. I object to its consideration.

The PRESIDENT *pro tempore*. This resolution was adversely reported by the Committee on Foreign Relations. It is now before the Senate as in Committee of the Whole.

Mr. COCKRELL. I object to its consideration.

Mr. SHERMAN. Let it be indefinitely postponed.

Mr. MILLER, of California. We may as well dispose of it, and I move——

Mr. COCKRELL. Certainly; I withdraw my objection if a motion is made to indefinitely postpone the measure.

Mr. MILLER, of California. I make that motion.

The PRESIDENT *pro tempore*. The Senator from California moves that the joint resolution be indefinitely postponed.

The motion was agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. CLARK, its Clerk, announced that the House had passed the following bill and joint resolution:

A bill (S. 1309) to provide statuary and historical tablets for the Saratoga monument; and

A joint resolution (S. R. 98) extending the time fixed for the joint commission appointed under the sundry civil act approved July 7, 1884, to submit their report.

The message also announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

A bill (H. R. 5707) to authorize the increase of the capital stock of the First National Bank of Larned, Kans., not to exceed $250,000; and

A bill (H. R. 6865) to amend section 2805 of the Revised Statutes of the United States, so as to allow oaths to be administered by notaries public.

FORFEITURE OF OREGON LAND GRANT.

Mr. DOLPH. The Senate undoubtedly refused to take up Senate bill No. 428 on the motion of my colleague, for the reason that a majority of the Senate had determined to take up the bill of which notice was given by the Senator from Indiana [Mr. HARRISON], but Senate bill 428 evidently will come up soon. I now present, if in order, and if not I ask unanimous consent to present, an amendment to be printed to the bill.

The PRESIDENT *pro tempore*. The Senator from Oregon presents an amendment to Senate bill 428 which he intends to offer when the bill shall be under consideration. If there be no objection the amendment will be received and printed.

STEPHEN N. SMITH.

The bill (S. 180) for the relief of Stephen N. Smith was announced as regularly in order on the Calendar.

Mr. COCKRELL. Let that bill pass over.

The PRESIDENT *pro tempore*. The bill is objected to and goes over.

FORT WORTH AND DENVER CITY RAILWAY.

The bill (S. 1502) to grant a right of way to the Fort Worth and Denver City Railway Company through the Indian Territory, and for other purposes, was announced as next in order.

Mr. HARRISON. I believe I will interpose an objection to that bill. We can not consider it under the five-minute rule.

The PRESIDENT *pro tempore*. The bill is objected to and goes over.

COLUMBIA AND COLVILLE RESERVATIONS INDIANS.

The bill (S. 1010) to accept and ratify an agreement between the Secretary of the Interior and the Commissioner of Indian Affairs and Chief Moses and other Indians of the Columbia and Colville reservations, in Washington Territory, and to make the necessary appropriations for carrying the same into effect, was announced as next in order.

The PRESIDENT *pro tempore*. This bill was reported by the Senator from Massachusetts [Mr. DAWES] from the Committee on Indian Affairs on the 6th of March, 1884. It does not appear from the Calendar that the bill has been read the second time, but the filing on the bill shows that it has been. The Chair thinks that the filing is the correct entry. The bill will be read at length.

Mr. DAWES. I should like to have that bill passed over for the present. I think its substance was inserted in the Indian appropriation bill of last year.

The PRESIDENT *pro tempore*. The bill will be passed over.

Mr. DAWES. I am not certain as to the fact I have stated, but such is my impression.

C. S. MOSS.

The bill (S. 493) for the relief of C. S. Moss was announced as next in order.

Mr. HARRIS. Let that be informally passed over if there be no objection. There is an adverse report, I see, and the bill was introduced by me.

The PRESIDENT *pro tempore*. The Senator from Tennessee asks unanimous consent that this bill be passed over, retaining its place at the head of the Calendar under Rule VIII. Is there objection? The Chair hears none.

TEXAS PACIFIC RAILROAD GRANT.

The bill (H. R. 3933) to declare a forfeiture of lands granted to the Texas Pacific Railroad Company, and for other purposes, was announced as next in order.

Mr. MORGAN. That is, of course, a very important bill and there are a majority and a minority report upon it. The minority report in this case brings up a question that was considered by the Senate just before the conclusion of the last session upon the Atlantic and Pacific Railroad land forfeiture bill, and the Senate passed an amendment which I had the honor to offer referring some questions which arose in the case, and arise in this also, to the courts for adjudication. That bill went to the House of Representatives and the House refused to concur in the amendment of the Senate and asked a conference. The conferees have been appointed on the part of both bodies. The conference in that case will determine the question as to whether the Houses can come together upon the amendment that I offered to the other bill and which I shall, of course, offer to this. I ask the Senate to postpone the consideration of this bill for one week from to-day and make it the special order for 2 o'clock, because I believe by that time the conference committee can ascertain what the temper of the two Houses is upon this legal proposition, and we can then proceed with this bill with some degree of satisfaction and intelligence.

The PRESIDENT *pro tempore*. If there be no objection the Chair will entertain the motion to postpone before the reading of the bill.

Mr. ALLISON. Why not let it be laid aside informally?

Mr. MORGAN. I thought as the measure was one of such great importance Senators would like to know the time it was coming up and prepare themselves, and so I ask that it be postponed to a day certain.

The PRESIDENT *pro tempore*. The Chair hears no objection to the question being taken on the postponement of the bill and that it be made the special order before the bill is read. The Senator from Alabama moves that this bill be postponed until Tuesday next at 2 o'clock in the afternoon, and be made the special order for that time.

Mr. SHERMAN. I ask the Chair whether that would interfere with the unfinished business of the day before?

The PRESIDENT *pro tempore*. It would not.

Mr. SHERMAN. Then I see no objection to it.

The motion was agreed to, two-thirds of the Senators present voting in favor thereof.

THE VETO POWER.

Mr. LOGAN. I ask the consent of the Senate that Order of Business 500, being Senate joint resolution No. 18, be set down to be taken up on Wednesday (to-morrow) week, the day following that set for the bill suggested by the Senator from Alabama. It is a joint resolution proposing an amendment to article 1, section 7, clause 2, of the Constitution of the United States, in relation to the veto power. It is a matter of very great importance and I should like to have it brought before the Senate as early as possible.

The PRESIDENT *pro tempore*. The Senator from Illinois asks unanimous consent that Order of Business 500, being the joint resolution (S. R. 18) proposing an amendment to article 1, section 7, clause 2, of the Constitution of the United States, in relation to the veto power, be now taken up with a view of moving that it be made the special order for a week from to-morrow. Is there objection to its being now considered? The Chair hears none. The Senator from Illinois moves that this resolution be postponed until a week from to-morrow (Wednesday) at 2 o'clock in the afternoon, and be made the special order for that time. The question is on agreeing to the motion.

The motion was agreed to, two-thirds of the Senators present voting in favor thereof.

CHEROKEE RESERVATION IN ARKANSAS.

The Senate, as in Committee of the Whole, proceeded to consider the bill (S. 1574) to provide for the sale of the Cherokee reservation in the State of Arkansas.

The bill was reported from the Committee on Public Lands with an amendment, in section 3, line 17, after the word "laws," to insert "or their applications under the homestead laws;" so as to read:

Provided, That all such parties shall file their declaratory statements under the pre-emption laws, or their applications under the homestead laws, within three months from date of receipt by the local land officers of instructions under this act from the Commissioner of the General Land Office, and make proof and payment as in other cases.

The amendment was agreed to.

The bill was reported to the Senate as amended and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

COLUMBIA AND COLVILLE RESERVATIONS INDIANS.

Mr. DAWES. I find on consulting the last Indian appropriation bill that I was correct in reference to Order of Business 331, that it has become a law in the Indian appropriation bill, and therefore with the consent of the Senate I ask that the bill be indefinitely postponed.

The PRESIDENT *pro tempore*. The Senator from Massachusetts asks unanimous consent that Order of Business 331, being the bill (S. 1010) to accept and ratify an agreement between the Secretary of the Interior and the Commissioner of Indian Affairs and Chief Moses and other Indians of the Columbia and Colville reservations, in Washington Territory, and to make the necessary appropriations for carrying the same into effect, be now considered. Is there objection? The Chair hears none. The Senator from Massachusetts moves that this bill be indefinitely postponed.

The motion was agreed to.

RIGHTS IN LAND GRANTS.

The bill (S. 1445) to provide for the settlement of the rights of the States and of the corporations and persons interested in any grant of lands in aid of railroads and canals which shall be declared forfeited by act of Congress was announced as next in order.

Mr. MORGAN. That bill involves the same question as the bill I referred to a few moments ago, and which was made the special order for this day week. I ask the Senate informally to pass over this bill.

The PRESIDENT *pro tempore*. The Senator from Alabama asks unanimous consent that this bill be passed over without losing its place. Is there objection? The Chair hears none, and it is so ordered.

RETURN OF REGISTERED LETTERS AND MONEY-ORDERS.

The bill (S. 1018) to amend sections 3929 and 4041 of the Revised Statutes, authorizing the Postmaster-General to prohibit the delivery of registered letters and the payment of money-orders, and providing for the return of the same, was considered as in Committee of the Whole.

The bill proposes to amend section 3929 of the Revised Statutes by striking out the word "fraudulent," in the second line of the section; so as to make it read:

The Postmaster-General may, upon evidence satisfactory to him that any person is engaged in conducting any lottery, gift enterprise, or scheme for the distribution of money, or of any real or personal property, by lot, chance, or drawing of any kind, or in conducting any other scheme or device for obtaining money through the mails by means of false or fraudulent pretenses, representations, or promises, instruct postmasters at any post-offices at which registered letters arrive directed to any such person to return all such registered letters to the postmasters at the offices at which they were originally mailed, with the word "fraudulent" plainly written or stamped upon the outside of such letters; and all such letters so returned to such postmasters shall be by them returned to the writers thereof, under such regulations as the Postmaster-General may prescribe. But nothing contained in this title shall be so construed as to authorize any postmaster or other person to open any letter not addressed to himself.

The bill further proposes to amend section 4041 of the Revised Statutes by striking out the word "fraudulent," in the second line; so as to make the section read:

The Postmaster-General may, upon evidence satisfactory to him that any person is engaged in conducting any lottery, gift enterprise, or scheme for the dis-

tribution of money, or of any real or personal property, by lot, chance, or drawing of any kind, or in conducting any other scheme or device for obtaining money through the mails by means of false or fraudulent pretenses, representations, or promises, forbid the payment, by any postmaster, to any such person, of any postal money-order drawn to his order or in his favor, and may provide by regulations for the return to the remitter of the sums named in such money-orders. But this shall not authorize any person to open any letter not addressed to himself.

Mr. HOAR. I heard the bill read, I believe, very imperfectly, but it strikes me that it is a very remarkable form of bill to leave to a post-office official to judge, without trial or any other method of procedure, without responsibility, whether a person is engaged in an unlawful business, and on that judgment to deny him all privileges of the mail whatever, whether they relate to that unlawful business or not. That seems to be the effect of the bill as I read it. I should like to ask the Senator who reported it to state what it is.

Mr. JACKSON. I will state to the Senator from Massachusetts that the whole purport of the bill is to amend sections 3929 and 4041 of the Revised Statutes by simply striking out the work "fraudulent." It does not modify or amend the existing law in any respect except to strike out the word "fraudulent."

Section 3894 of the Revised Statutes contains the word "illegal" in reference to lotteries, and by an act passed in July, 1876, that word "illegal" was stricken out of section 3894. The purpose of this bill is to harmonize the other two sections with that section 3894 simply by striking out the word "fraudulent" in relation to lotteries. It does not change the existing law in other respects.

Mr. HOAR. I am in favor, as I suppose all Senators are, of the purpose of the bill; and if it has been carefully considered by my honorable friend from Tennessee, who looks with great care into such matters I know, I shall not undertake on an imperfect hearing to criticise its provisions further.

The bill was reported to the Senate without amendment, and ordered to be engrossed for a third reading.

Mr. HAWLEY. I listened to the reading of the bill, not being familiar with its provisions, and not having heard of it before, and it strikes me that it is open to a criticism in this respect: that it amends an old statute; it provides for striking out a word from an existing statute, so that a certain section of the statutes shall read as follows, &c. It is better usually, it strikes me, to enact the section completely and then say that section so and so is repealed. It avoids confusion in the law.

Mr. JACKSON. That is just what this bill does; it is exactly in that form.

Mr. HAWLEY. I heard it read to this effect, I thought, that the word "fraudulent" is stricken out of sections so and so, so that the said sections shall read as follows.

Mr. JACKSON. Read as follows with that objectionable word stricken out.

Mr. HAWLEY. Does the bill repeal the old section?

Mr. JACKSON. Yes, sir. It says the law shall be as follows with that word stricken out.

Mr. HAWLEY. I make another inquiry. Is there provision made in this for pending prosecutions?

Mr. JACKSON. No, sir.

Mr. GARLAND. I wish to call the attention of the Senator from Tennessee to a point in the bill that I have not had time to examine and in which there may be nothing. It appears to be a penal statute, and there is no reservation as to offenses already committed. I think it would be better for the Senator from Tennessee to insert an amendment that offenses already committed under the existing law shall not be included in the provisions of this bill.

Mr. JACKSON. There will be no objection to that sort of an amendment if the Senator from Arkansas will propose it.

Mr. GARLAND. I will draw one in a moment.

Mr. MORGAN. I wish to ask the Senator from Tennessee whether it is the purpose of the Committee on Post-Offices and Post-Roads in reporting the second section of this bill to prevent the payment of money-orders drawn in favor of a person merely because he may be engaged in an unlawful business, or whether it is the intention of the committee that the money-order shall have some connection with the carrying on of that business? I will read that second section as it is reported here, and I presume I have the right print:

The Postmaster-General may, upon evidence satisfactory to him that any person is engaged in conducting any lottery, gift enterprise, or scheme for the distribution of money, or of any real or personal property, by lot, chance or drawing of any kind, or in conducting any other scheme or device for obtaining money through the mails by means of false or fraudulent pretenses, representations, or promises, instruct postmasters at any post-offices at which registered letters arrive directed to any such person to return all such registered letters to the postmasters at the offices at which they were originally mailed, with the word "fraudulent" plainly written or stamped upon the outside of such letters; and all such letters so returned to such postmasters shall be by them returned to the writers thereof, under such regulations as the Postmaster-General may prescribe. But nothing contained in this title shall be so construed as to authorize any postmaster or other person to open any letter not addressed to himself.

That does not appear to relate, of course, to the registered letters as the first section of the bill does, but as I understand the second section of this bill it defines a certain character of persons, classifies them by the sort of business they are engaged in. If a man "is engaged in conducting any lottery, gift enterprise, or scheme for the distribution of money, or of any real or personal property, by lot, chance, or drawing of any kind, or in conducting any other scheme or device for obtaining money through the mails by means of false or fraudulent pretenses, representations, or promises," then the postmaster to whom this money-order may be presented for payment must, under this statute, refuse its payment, because the man is engaged in that class of business. If he is found to be raffling off a piece of church property, for instance, such as a cake, or some contribution to a benevolent purpose, and sends out through the post-office here letters of that sort, or if a person sends to one engaged in a benevolent enterprise, trying to build a church by a raffle or distribution of property, a postal order to make payment of a contribution he sees proper to give to the object, it is the duty of the postmaster, because the party is engaged in a business of this sort, to stop the payment and return the money-order and all letters of that kind.

I doubt very much our right thus to interfere with business between people and to assign to a man a character because he is engaged in a certain line of business which prevents him from receiving money or sending money by a postal order for the burial of his wife, or child, or to pay for a doctor's bill, or anything like that. This statute is too broad entirely, too radical, according to my understanding of it, if I am correct about it. I appeal to the Senator from Tennessee in charge of the bill to explain to the Senate whether it is not the meaning of this section necessarily that a person who is conducting the character of business that is mentioned in this statute is liable to have his money-orders refused payment, it makes no difference what the consideration of the orders may be or what the purpose which is intended to be accomplished by them.

Mr. JACKSON. Mr. President, as I have already stated to the Senate, the Committee on Post-Offices and Post-Roads simply propose to harmonize three sections of the Revised Statutes. In other respects these sections are already harmonized. Section 3894 originally used the word "illegal" as applied to lotteries. That was stricken out by an act passed the 5th of July, 1876. Now it is proposed to strike out simply the word "fraudulent" in the two other sections, 3929 and 4041. We are not legislating on the general subject of lotteries except so far as to harmonize these three sections of the statutes. My own construction of the statutes, and I think it is that of the Committee on Post-Offices and Post-Roads, is that they relate only to letters and circulars in and about the business of lotteries, and not concerning any other enterprise or business of the parties.

Mr. GARLAND. On examining the two sections of the statutes to which this bill refers I find that there is nothing specially relating to the point I suggested before, and therefore I have no amendment to offer to the bill.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

CAPTURED AND ABANDONED PROPERTY SUITS.

The bill (S. 64) to authorize suits in the Court of Claims in certain cases therein mentioned was announced as next in order.

Mr. CAMERON, of Wisconsin. That bill is adversely reported. It may as well go over.

The PRESIDENT *pro tempore*. Perhaps it can be got off the Calendar.

Mr. CAMERON, of Wisconsin. Very well; I withdraw any objection.

The bill was read, as follows:

Be it enacted, &c., That the right of action in the Court of Claims under the provisions of the captured and abandoned property acts be, and the same is hereby, revived and extended for two years from and after the passage of this act, including all cases of seizures under the said acts, or under color thereof, either before or after June 30, 1865, whether adjudicated by the Secretary of the Treasury or not, and without regard to any statute of limitations.

Mr. GARLAND. The Senator who reported the bill [Mr. MCMILLAN] is not in his seat, but it came from the Committee on the Judiciary with an adverse report. I believe the Senator from Georgia [Mr. BROWN] is particularly interested in it and introduced the bill. I move, however, in accordance with the report of the committee, that it be postponed indefinitely.

Mr. BROWN. On that motion I ask for the yeas and nays.

The yeas and nays were not ordered.

The PRESIDENT *pro tempore*. The question is on the indefinite postponement of the bill.

The motion was agreed to.

SUITS AGAINST THE UNITED STATES.

The bill (S. 1577) to provide for the bringing of suits by citizens of the United States against the Government thereof in certain cases was announced as next in order.

Mr. GARLAND. That is a bill I reported of considerable importance, which can not be disposed of under the five-minute rule. I ask that it be passed over without losing its place.

The PRESIDENT *pro tempore*. The Senator from Arkansas asks that this bill be passed over, retaining its place on the Calendar. Is there objection? The Chair hears none, and it is so ordered.

JOHN B. READ.

The joint resolution (S. R. 67) in relation to the claim made by Dr. John B. Read against the United States for the alleged use of projectiles claimed as the invention of said Read, and by him alleged to have been used pursuant to a contract or arrangement made between him and the War Department, and for which no compensation has been made, was announced as next in order.

Mr. CONGER. Let the report be read.

The PRESIDENT *pro tempore*. The Committee on Military Affairs report the resolution with an amendment, which will first be read.

The amendment of the Committee on Military Affairs was, in line 11, after the word "implied," to insert "whether he consented to the use of said projectiles by the confederate government against the United States, and whether his invention was used by the United States;" so as to make the clause of the joint resolution read:

That the Secretary of War be, and he is hereby, authorized and directed to organize a board of officers, of not less than three in number, selecting the same from the ordnance and artillery arms of the United States service, who shall examine all the facts relative to the said claim of Dr. J. B. Read, and ascertain whether the United States have made any use of any invention of the said Read in projectiles; whether the same, if so used, were used under any contract, express or implied; whether he consented to the use of said projectiles by the confederate government against the United States, and whether his invention was used by the United States; to what extent, if any, his invention was so used, and whether such use was valuable to the United States, and if so, what sum, if any, under the circumstances of the use, the United States ought in justice to pay for the same; and that such board do make their report thereon with all convenient speed to the Secretary of War, to be by him transmitted to Congress for its action in the premises; and that such report be accompanied by a statement of all the proofs submitted to and considered by them.

The PRESIDENT *pro tempore*. The reading of the report is called for. It will be read.

The Secretary read the following report, submitted by Mr. HAMPTON March 11, 1884:

The Committee on Military Affairs, to whom was referred S. R. 67, "in relation to the claim made by Dr. John B. Read against the United States for the alleged use of projectiles claimed as the invention of said Read, and by him alleged to have been used pursuant to a contract or arrangement made between him and the War Department, and for which no compensation has been made," have considered the same, and beg leave to report the resolution amended, and in that form they recommend its passage.

PROPOSED AMENDMENT.

In line 11, after the word "implied," insert the following words: "Whether he consented to the use of said projectiles by the confederate government against the United States, and whether his invention was used by the United States."

Mr. HAMPTON. Mr. President, a joint resolution has come from the House of Representatives precisely similar to the one before the Senate. I move to substitute the House resolution for that of the Senate.

Mr. CONGER. I suppose the first question is that of consideration. If there be no further reports on that subject than have been read, no further information, I object to the consideration of the joint resolution.

The PRESIDING OFFICER (Mr. SEWELL in the chair). The consideration of the joint resolution being objected to, it goes over.

Mr. CONGER. I find there is no report at all accompanying the House resolution.

Mr. HAMPTON. I did not hear what was the motion of the Senator from Michigan.

The PRESIDING OFFICER. The Senator objected to the consideration of the joint resolution, and it goes over.

Mr. HAMPTON. I hope the Senator will consent that it shall not lose its place on the Calendar.

The PRESIDING OFFICER. If there be no objection the joint resolution will retain its place on the Calendar.

Mr. CONGER. The resolution which the Senator offered as a substitute for this comes up a little further along in the regular order, and if the Senator offers that as a substitute for this we shall reach that as soon as we should this if it remains in its place.

The PRESIDING OFFICER. The joint resolution goes over.

SHOSHONES, BANNOCKS, AND SHEEPEATERS.

The Senate, as in Committee of the Whole, proceeded to consider the bill (S. 1008) to accept and ratify the agreement submitted by the Shoshones, Bannocks, and Sheepeaters of the Fort Hall and Lemhi reservations, in Idaho, May 14, 1880, for the sale of a portion of their lands in said Territory, and for other purposes, and make the necessary appropriations for carrying out the same.

The bill was reported from the Committee on Indian Affairs with an amendment, to insert as an additional section:

SEC. 4. That this act shall take effect only when the President of the United States shall have had presented to him satisfactory evidence that the agreement herein set forth has been accepted in conformity with the eleventh article of the treaty of July 3, 1868, with the Shoshones and Bannocks, and he shall have made proclamation thereof.

Mr. CONGER. I ask that the bill go over without prejudice, without its losing its place on the Calendar. There is no report with the bill, and I should like to examine it.

The PRESIDING OFFICER. If there be no objection the bill will go over at the request of the Senator from Michigan, retaining its place on the Calendar.

GEORGE W. BAUSMAN.

The bill (S. 283) to increase the pension of George W. Bausman was announced as next in order.

Mr. COCKRELL. That is adversely reported, and unless there is a desire to move its indefinite postponement I object to its consideration.

The PRESIDING OFFICER. Does the Senator from Missouri object to the consideration of the bill?

Mr. COCKRELL. I simply call the attention of the Senator from New Hampshire [Mr. BLAIR] to it. I suppose he will move its indefinite postponement.

Mr. PLUMB. I do not desire to have the bill indefinitely postponed.

Mr. COCKRELL. Then I object to its consideration.

The PRESIDING OFFICER. The bill will be passed over.

Mr. PLUMB subsequently said: When the bill (S. 283) to increase the pension of George W. Bausman was called I stated that I did not desire to have it indefinitely postponed. I have examined the report since that time, and it discloses one fact which makes it proper that the bill should be indefinitely postponed. Therefore, for the purpose of ridding the Calendar, I ask unanimous consent that that action be now taken.

The PRESIDING OFFICER. Is there objection to the consideration of the bill indicated by the Senator from Kansas? The Chair hears none.

Mr. PLUMB. I move to indefinitely postpone the bill.

The motion was agreed to.

FRENCH SPOLIATION CLAIMS.

The bill (S. 1820) to provide for the ascertainment of claims of American citizens for spoliations committed by the French prior to the 31st day of July, 1801, was announced as next in order.

Mr. HOAR. That bill passed the Senate last winter (if I may be permitted to make a brief statement before it is read) unanimously with the exception of one Senator's vote, I believe. It will take, however, some time to read the report if it is required. We have but twenty-five minutes now before 2 o'clock, and I think perhaps it would be more convenient to the Senate to have the bill go over, retaining its place on the Calendar, so that the Senate may deal with it hereafter. If it were objected to, I should deem it my duty to move to take it up.

Mr. MORGAN. I suggest to the Senator from Massachusetts that we proceed with its consideration to-day, and if it is not finished by 2 o'clock to-day it can go over.

Mr. HOAR. Very well; I only want to do what is most convenient in the order of business.

The bill was read, and considered as in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

PETER DELLA TERRE.

The bill (S. 294) for the relief of Frank Della Terre and Susan Della Terre, heirs of Peter Della Terre, deceased, was announced as next in order.

Mr. COCKRELL. Is there a report accompanying the bill?

The PRESIDING OFFICER. There is a report by the Committee on Claims, but the amendment will first be read, and then the report of the committee.

The amendment reported by the Committee on Claims was, in line 7, before the word "thousand," to strike out "fifty" and insert "ten;" so as to make the bill read:

That out of any money in the Treasury of the United States the Secretary pay to Frank Della Terre and Susan F. Della Terre, heirs of the late district attorney of the northern district of California, Peter Della Terre, deceased, the sum of $10,000, in full consideration for extraordinary services rendered by said Peter Della Terre, during the years 1857, 1858, and 1859, in defending the title of the United States to public property in the State of California and recovery of 19,148 square miles of territory, valued at $150,000,000.

The PRESIDING OFFICER. The report will be read if the Senator from Missouri desires it.

Mr. COCKRELL. I do most certainly, unless the bill is abandoned.

The Chief Clerk proceeded to read the report submitted by Mr. DOLPH, from the Committee on Claims, March 12, 1884, but before concluding was interrupted by

The PRESIDING OFFICER. The hour of 2 o'clock having arrived the Chair lays before the Senate the regular order for this time, being the bill (S. 1682) to enable the people of that part of the Territory of Dakota south of the forty-sixth parallel of north latitude to form a constitution and State government, and for the admission of the State into the Union on an equal footing with the original States, and for other purposes.

PRINTING OF INTERSTATE-COMMERCE BILL.

Mr. CULLOM. I ask the Senator from Indiana to yield until I make a motion that an additional number of copies of the bill (S. 2112) to establish a commission to regulate interstate commerce, and for other purposes, which was made the special order for next Thursday, be printed. There seem to be no copies of the bill for use by the Senate. I ask that the usual number of additional copies be printed.

Mr. GARLAND. Was there a report accompanying the bill?

Mr. CULLOM. No, sir; there was no report.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Illinois to print the usual number of additional copies of the bill.

The motion was agreed to.

LABOR CONTRACTS.

Mr. BLAIR. I ask also the indulgence of the Senator from Indiana to say, in connection with the statement of the Senator from Illinois [Mr. CULLOM] in reference to the special order for Thursday being the interstate-commerce bill, that there is also a special order, made at the last session, for the same time, to wit, Order of Business 863 on the Calendar, being the bill (H. R. 2550) to prohibit the importation and migration of foreigners and aliens under contract or agreement to perform labor in the United States, its Territories, and the District of Columbia.

The PRESIDING OFFICER. The Chair understands from the Chief Clerk that the bill was not made a special order; there was merely a postponement until the day named.

Mr. BLAIR. The bill was postponed until that time, and I shall ask at that time for its consideration.

ADMISSION OF DAKOTA.

The Senate, as in Committee of the Whole, proceeded to consider the bill (S. 1682) to enable the people of that part of the Territory of Dakota south of the forty-sixth parallel of north latitude to form a constitution and State government, and for the admission of the State into the Union on an equal footing with the original States, and for other purposes.

Mr. HARRISON. I ask that the bill be read for the consideration and action of the Senate upon the committee amendments, which are only two or three in number, and also for some formal amendments in reference to dates which I shall propose as the reading progresses. I shall then ask to address the Senate on the general subject of the bill, and it will then be open to any amendment that any Senator may choose to offer.

The PRESIDING OFFICER. The bill will be so read.

Mr. GARLAND. I suggest to the Senator to have the report read first, or does he prefer to have the report read after the bill has been read?

The PRESIDING OFFICER. The reading of a bill usually precedes the reading of the report accompanying it.

Mr. GARLAND. That is the general custom, but in this instance I thought a different course might be pursued. Let it be done, however, just as the Senator from Indiana prefers.

Mr. HARRISON. I will state to the Senator from Arkansas that I shall in the course of my remarks present nearly all the facts mentioned in the report.

Mr. GARLAND. Very well.

The Secretary proceeded to read the bill, and read to line 19 of section 3.

Mr. HARRISON. There is a misprint or a mistake there. There are five commissioners provided for; and in line 19 "two" should be "three," being a majority of the five. I move to strike out "two" and insert "three;" so as to read:

That said apportionment shall be made by the governor, the chief justice, the associate justice for the first judicial district, the associate justice for the fourth judicial district, and the surveyor-general of the Territory of Dakota, or any three of them.

The PRESIDING OFFICER. If there be no objection the correction will be made.

The Secretary resumed the reading of the bill at line 19 of section 3, as follows:

And the governor shall, by proclamation, order an election of the delegates aforesaid to be held on the 4th day of November, 1884.

Mr. HARRISON. This bill was reported at the last session of Congress and contemplated that the proceedings for the admission of the State should be at once started. Therefore the 4th day of November, the day of the general Representatives election, was named here. That day having now passed, I propose, in line 21, that "November" shall be stricken out and the word "June" inserted; and in line 22, that the word "four" be stricken out and the word "five" inserted; so as to read:

To be held on the 4th day of June, 1885.

The PRESIDING OFFICER. If there be no objection the amendment stated will be made. The Chair hears none.

The Secretary concluded the reading of section 3 of the bill.

Mr. HARRISON. In section 4, line 3, I move to strike out "December" and insert "August," and to strike out "four" and insert "five" after the word "eighty;" so as to read:

That the delegates to the convention thus elected shall meet at the city of Yankton on the second Tuesday of August, 1885, and, after organization, shall declare on behalf of the people of said proposed State that they adopt the Constitution of the United States.

The PRESIDING OFFICER. That amendment will be made by unanimous consent if there be no objection. The Chair hears none.

The reading of the bill was resumed and continued to the end of section 8.

Mr. HARRISON. In section 8, line 7, after the word "eighty," I move to strike out "6" and insert "7;" so as to read, "on or before the 1st day of January, 1887," as this proceeding, if the bill should pass, would not bring the State into the Union until late next fall; it could not be done by the 1st day of January, 1886.

The PRESIDING OFFICER. The amendment will be made by unanimous consent, if there be no objection.

The Secretary resumed, and continued the reading of the bill to line 14 of section 14.

The PRESIDING OFFICER. The first amendment of the Committee on Territories will be reported.

The SECRETARY. In section 14, line 11, the committee report to strike out "North Dakota" and insert "Lincoln;" so as to read, "Territory of Lincoln."

The PRESIDING OFFICER. Does the Senator from Indiana wish to take a vote on the amendments of the committee now or to let them go over until after the reading of the bill is concluded?

Mr. HARRISON. I propose that we shall act on the committee amendments as we go along.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Committee on Territories just reported.

The amendment was agreed to.

The next amendment of the Committee on Territories was, in section 14, line 15, after the word "of," to insert "Lincoln."

The amendment was agreed to.

The reading of the bill was resumed. The next amendment of the Committee on Territories was, in section 16, line 5, after the word "of," to insert "Lincoln;" in line 11, after the word "of," to strike out "North Dakota" and insert "Lincoln;" and in line 21, after the word "of," to insert "Lincoln."

The amendment was agreed to.

The next amendment was, in section 17, line 2, after the word "of," to insert "Lincoln."

The amendment was agreed to.

The reading of the bill was resumed and concluded.

Mr. HARRISON. I am told in regard to the bill now under consideration that the supply which was ordered to be printed has been exhausted and there are no more copies in the document-room. It may be that some Senators will desire to examine the bill in the progress of any debate which may ensue upon it, and before proceeding to make my remarks upon the bill I move that there be a reprint of the usual number of copies of the bill with the amendments as adopted. Let it be printed as amended.

Mr. ALLISON. Let the amendments which have been made be put in Italics.

Mr. HARRISON. I would say to the Senator that the amendments are entirely informal. They only relate to some dates and to the name of that part of the Territory which is left with a Territorial organization. But I have no objection that the reprint shall show the amendments which have been adopted. That would be practically to reprint the bill as it first stood, with one or two minor exceptions.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Indiana, to reprint the bill.

The motion was agreed to.

The PRESIDING OFFICER. The bill will be reprinted as amended. Does the Senator from Indiana desire to have the amendments in Italics?

Mr. HARRISON. Yes, sir; the amendments may be printed in Italics.

The PRESIDING OFFICER. That will be the course pursued.

Mr. HARRISON. Mr. President, it perhaps ought to be assumed, when a bill has been read at length as this has been, that the Senate is sufficiently possessed of the details of the bill to make unnecessary any further statement of its contents. I think, however, that this presumption is, in our ordinary experience here, perhaps a little violent. Therefore, with the hope that it may reach some of those who have not gathered from the reading of the bill its tenor and effect, I shall proceed to make a brief statement of what the bill is and what it proposes to do.

The bill proposes to divide the existing Territory of Dakota upon the forty-sixth parallel of north latitude, being very nearly an equal division of the Territory. It proposes to organize into a State that portion of the Territory lying south of the forty-sixth parallel, to continue for that portion of the Territory north of that parallel the present Territorial government, and to transfer to it the officers of the present Territory of Dakota. It gives to that part of Dakota which retains a Territorial organization the name of Lincoln. As to the State, it provides for a constitutional convention, and that the constitution framed by it shall be submitted to a popular vote. If the constitution is adopted, and is conformable to the requirements of the bill, which are those generally found in these enabling acts, the President is then required to make proclamation of that fact, and the State is to be thereupon admitted into the Union on an equal footing with the other States.

As to the land grants which are contained in the bill, they are substantially those which have been found, almost without exception, in all of the bills admitting the organized Territories of the country into the Union of the States. They are grants chiefly for school purposes. There are one or two smaller grants to the State for the purpose of erecting public buildings, and one grant which has been already made by Congress to the Territory as a Territory is revived and vested in the new State.

The movement for the admission of a new member into the sisterhood of States should originate with the people to be affected by it.

Such a movement should not have its initiative or its impetus outside of people of the State to be constituted. I do not need to say that this discussion, if it is kept up on the plane to which it belongs, can not degenerate into a partisan discussion; that we can not divide upon it on party lines; because to consider the application of this people for admission to the Union in its relations to the successes or reverses of a political party is to consider it from a level altogether below that of statesmanship

The movement for the admission of South Dakota into the Union had the origin that I have indicated as the proper origin. It originated in Dakota. The desire of that people for admission into the Union has been brought to the attention of Congress repeatedly in the last four or five years by resolutions and memorials from the Legislature of the Territory, by the expression of popular conventions in the Territory, organized without reference to party, and by the repeated declarations and resolutions of the political conventions of both parties from year to year.

The Legislature of Dakota as early as 1870 memorialized Congress for the division of the Territory, using this language:

> Your memorialists would further represent in evidence of this our petition, that while the said new Territory is remote from the main line of travel in Southern Dakota, and is separated therefrom by a broad extent of unoccupied and wild country, yet the Northern Pacific and Saint Paul and Pacific Railroads will traverse the entire length of the proposed new Territory, giving it direct and easy communication with Minnesota and other States, by means of which several thousand people have already settled in the valley of the Red River of the North and other portions of the proposed new Territory, in which are established towns at a distance of fifteen hundred miles by the nearest traveled route from the capital and courts of Dakota.

This memorial and request for a division of the Territory, for the organization of the northern part into a separate Territory, was repeated by the Legislature at the session of 1872–'73, at the session of 1874–'75, and at other sessions since.

In 1882 a popular convention was assembled to consider the question of the admission of Southern Dakota as a State, the proceedings of which were submitted to the Committee on Territories of the Senate. The convention assembled at Canton on the 21st day of June, 1882, and among the resolutions adopted by it was the following:

> *Resolved*, That it is the sense of this convention, and we believe it to be the general wish of the people of this Territory south of the forty-sixth parallel of north latitude, that the north boundary of the State of Dakota be the forty-sixth parallel, the other boundaries remaining as they now are.

This convention was very largely attended, representatives being present from some twenty or twenty-five organized counties of South Dakota.

The Legislature of Dakota in 1883 passed a bill providing for a constitutional convention to be assembled in South Dakota for the purpose of preparing and submitting to Congress a constitution for the government of that people as a State in connection with an application for admission. This bill passed the council of the Territory, which under the law is composed of twelve members, by a vote of 11 yeas and 1 nay. It passed the house, which under the law was composed of twenty-four members, by 22 affirmative votes to 2 negative votes. The bill, however, did not receive the approval of the governor of the Territory, and failed for want of his signature.

But notwithstanding this, upon a popular call a convention composed of representatives from the counties south of the forty-sixth parallel assembled at Huron in June, 1883, framed a constitution, and at the last session of Congress presented it, with a memorial asking admission upon the basis of that constitution. In the Forty-seventh Congress there was also presented a memorial which was brought in person to the Senate by a large and influential delegation of citizens of Northern Dakota, asking a division of the Territory upon the forty-sixth parallel. They did not, of course, assume to express an opinion as to whether this division should be accomplished by the admission of the southern part of the Territory as a State or by a simple division of the Territory into two organized Territories. They were, however, most emphatic and earnest in their representations to the committee and to the Senate that whether the southern part of the Territory was accepted as a State or compelled to continue under a Territorial form of government, the interests of the people would be subserved by a division of the Territory on the forty-sixth parallel.

As I have already said, the political conventions of both parties in the Territory have perhaps almost every year placed in their platforms a resolution in favor of division and in some cases for the admission of South Dakota as a State. It is a happy thought that political conventions representing opposing parties could find in Dakota in this subject a union of sentiment. In the report of the governor of Dakota recently submitted there is a reference made to the subject of division and to the sentiment of the Territory upon that subject. Governor Pierce says:

> The sentiment in favor of division is practically unanimous; but very few in either section of the Territory oppose it. Whether this desire is wise or unwise is not a question it seems necessary to discuss; whether it will disappear under the effect of a closer acquaintance and relationship, engendered and promoted by the various lines of railway north and south now being built or surveyed, is a probability or contingency that can be estimated by others as well as myself; but it seems to be a rule that latitudinal and not longitudinal lines are the cementing and binding ones; that communities lying east and west of each other become by the laws of trade and commerce more closely allied and more readily assimilated than those lying north and south. In any event there scarcely seems an existing necessity for holding together in Territorial or Statehood two widely separated regions, both largely populated, both immense in area, and both sincerely desirous of division.

I ought, perhaps, to say that at the last session of Congress, from a committee of gentlemen who appeared before the Committee on Territories, all of whom I believe, or almost all of whom, were from the city of Bismarck, in North Dakota, the committee heard the first suggestions of any opposition to the division of Dakota into two political organizations. It was quite apparent to me at that time that the existing conflict between the two sections of the Territories over the question of capital location had much to do with the feeble protest which was lifted by these gentlemen against the division of the Territory. I do not believe that upon the evidence it can be questioned that 90 per cent. or more of the entire population of Dakota are desirous of a division of the Territory. I have been assured, as the committee has been, by men whose opportunity for knowing the sentiment of Dakota is very perfect, that the proposition to admit the whole Territory as a single State would not be accepted by her population.

Mr. President, in considering the question of the admission of Dakota it seems to me that three things must be found to be present in order to entitle this State to admission: First, the area of the State must be sufficiently large to give a guarantee that it will be able to maintain a ratio of growth compared with the other States which would reasonably preserve the equality of States; second, it should have sufficient population to justify its organization into a separate political community; and third, this population should be well disposed toward the institutions of our country, intelligent, and loyal. There should not be found to exist in the Territory by the popular consent any institution that was out of line with the civilization of the country.

The whole Territory of Dakota as now organized contains an area of 149,100 square miles. Divided on the forty-sixth parallel, North Dakota would contain 72,100 square miles and South Dakota 77,000 square miles. Only the States of California, Nevada, Colorado, Oregon, Kansas, Texas, and Minnesota would have a greater area than the proposed State of Dakota. It is nearly 28,000 square miles larger than the Empire State of New York. It is 20,000 square miles larger than the great State of Illinois. It is 7,500 square miles larger than the State of Missouri. It is 10,500 square miles larger than the combined area of the six New England States.

It seems to me, Mr. President, that this brief comparison of the area of the proposed State with that of some of the existing States justifies the statement that no objection can be taken to the admission of Dakota upon the ground that there is not sufficient area for the settlement and support of an enormous population. But after all it is not a question of square miles, I agree. It is rather a question of the producing capacity of the Territory proposed to be constituted into a State; it is a question of its ability to sustain a population. Now, judged by this standard Dakota is entitled to admission. In 1860 the improved land in farms in the whole Territory of Dakota was 2,115 acres; in 1870 it had increased to 42,645 acres; in 1880 to 1,150,413 acres. In 1870 the number of farms in Dakota was 1,720; in 1880 it was 17,439, an increase of 913 per cent. in that decade. The value of farms and farm improvements in 1880 was $22,400,000. Dakota produced, according to the statistics of the census of 1880, on 265,298 acres of land, 2,830,289 bushels of wheat. I find by a comparison that Texas, on 373,612 acres of land, produced in that year 2,567,760 bushels of wheat, or nearly 300,000 less than was produced in Dakota. Dakota produced in 1880 over 2,000,000 bushels of corn. An examination of the returns by counties shows that of these 2,000,000 bushels of corn South Dakota produced 1,975,881 bushels, and of wheat 1,092,616 bushels. From the report of the Commissioner of Agriculture for 1882 I have taken the following statistics:

Table showing the product of crops in Dakota, &c., for 1882.

Products.	Quantity produced in 1882.	Average yield per acre.	Number of acres in each crop.	Value per bushel, pound or ton.	Total valuation.
Indian corn.....bushels...	4,650,000	25	186,247	$0 51	$2,371,500
Wheat.....do.....	11,460,000	15.9	720,000	80	9,168,000
Rye.....do.....	79,167	13.8	5,724	75	59,375
Oats.....do.....	3,600,000	25.7	140,000	38	1,368,000
Barley.....do.....	471,621	16.7	28,273	55	259,392
Buckwheat.....do.....	3,908	8.1	481	70	2,736
Potatoes.....do.....	1,118,500	106.5	10,500	38	425,030
Tobacco.....pounds...					
Hay.....tons...	440,000	1.16	380,000	4 25	1,870,000
Total.....			1,471,225		15,524,033

The preliminary estimate of the Commissioner of Agriculture of the crop of 1883 in Dakota is as follows:

Number of acres in wheat, 1,008,000; average product per acre, 16

bushels; a total product of wheat of 16,128,000 bushels. Only twelve States in the estimate for that year are given a higher production than the Territory of Dakota. I notice in the report of the governor, just submitted, an estimate of the crop of 1884. He says:

> The wheat crop for 1884 is variously estimated at from 20,000,000 to 25,000,000 bushels; flax, 3,000,000 bushels; corn, 2,500,000 bushels; barley, 2,000,000 bushels; oats, 10,000,000 bushels.

It seems from a report made by Mr. Charles B. Lamborn, of the land department of the Northern Pacific Railroad, which is given in a note to the governor's report, having been received after this estimate had been made, that the estimate of the governor is far below the truth. Mr. Lamborn's estimate is as follows:

> It is probable—
>
> He says—
>
> that the estimate of 10,000,000 bushels for the wheat production of Southern Dakota is also too low, and you will, therefore, see that the estimate of 30,000,000 bushels of wheat for Dakota for 1884 would be a safe and conservative estimate.

Mr. President, in view of such facts can any one question that within the limits of the proposed State there is a soil capacity not only sufficient to maintain an enormous population within the State, but to furnish, as it already does, a large surplus for export?

In dealing with an agricultural country we are not assuming any of those risks as to population which are assumed when a State which is given largely to mining and which is devoid of agricultural land is admitted to the Union. Our experience with the great agricultural States in the West, which have come through a Territorial organization to Statehood, whether in that timbered region in which my own State was situated or in the prairie region west of it, is that in the productiveness of the soil there is a guarantee that the State will continue to increase in population.

I do not know whether there will be any one here in the assumed interest of the citizens of Dakota to suggest that the burdens of a State government would be oppressive to its people. If such a suggestion should be made by any one, the author of it would find it difficult to produce any commission from the Territory to make that objection. The people themselves feel that they are able to take upon themselves the burdens of a State government; and when we look at the property assessment for taxation in the Territory for the present year, which has just been returned, I think no one will doubt it.

The whole Territory in 1883 had an assessment for taxation of $69,154,609. In 1884 the assessment was $84,054,583, a gain of nearly $15,000,000 in one year in the total assessment of the whole Territory, of which $12,000,000 was in Southern Dakota. In 1880 the following States had a smaller valuation than Dakota has at the present time. I am contrasting now the present condition of Dakota with the condition of some of the States as returned in 1880: Delaware, as I have said, had a total valuation of $59,951,000; Florida, of $30,938,000; Colorado, $74,471,000; Nevada, $29,291,000; and Oregon, $52,522,000. We find, then, that in 1880 five of the States of the Union, one of them at least an original State, and others that have been long enjoying the benefits of a full participation in our Government, had not then for the support of their State government a valuation equal to that presented by Dakota this year. Of this assessment of $84,054,583 Southern Dakota had $44,594,000, or more than Florida or Nevada.

In 1883 the Territory of Dakota paid in the way of postal revenues in excess of all expenses for conducting the post-office service in that Territory $21,000. She paid of internal-revenue tax $86,875. The Territory of Dakota is now defraying practically all the expenses of her government, except the salaries of her executive and judicial and legislative officers. As to all taxes of a local character for school purposes, for roads, for police, for the various municipal purposes, Dakota is already paying these without aid from the General Government; so that, in passing from a Territorial condition into one of Statehood, the additional expense which would be laid upon her property would be comparatively small.

The next question which I think proper to consider is the one of population. I have looked with some interest to see whether in the admission of new States in the past Congress had established any rule as to population. The conclusion at which I have arrived, and the conclusion expressed by some of the leading Senators in the past debates which have taken place in the Senate on this question, is that no rule as to population has been established or adhered to by Congress.

It has been frequently suggested, it was suggested in the Committee of Territories in the Forty-seventh Congress, that a population equal to the unit of representation in the House of Representatives was essential, and in the bill for the admission of Dakota, reported in the Forty-seventh Congress, to meet this view an amendment was adopted by the committee providing for the taking of a census, and that if the result of that census should disclose a less population than the existing ratio of representation in the House of Representatives all further proceedings under the bill should at once cease. I do not think it will be found that any Senator has ever insisted that we should require of a Territory seeking admission to the Union a greater population than the ratio of representation in the House of Representatives.

The committee were furnished by Mr. BRENTS, the Delegate from Washington Territory, in an argument he made before them for the admission of that Territory, with a table which he had compiled, showing the date of admission, the representative ratio by the previous census, and the population by the previous and by the following censuses of the different States that have been admitted to the Union. It seems from this table that of the twenty States which passed through a Territorial form of organization to Statehood but six of them possessed by the previous census a population equal to the unit of representation in the House of Representatives. I find by looking at the table that no State admitted since Missouri in 1821 possessed this ratio by the census preceding its admission—not a single one.

If we were searching for a rule, then, we should say that it rested entirely in the discretion and good judgment of Congress, and that it had not been judged at all essential that the State should be shown to possess at the time of its admission a population equal to the unit of representation in the House.

The report which was submitted by the Senator from Missouri [Mr. VEST] in the Forty-seventh Congress in connection with the bill which was then reported for the admission of Southern Dakota seems to concede that the requirement can not go beyond a present population equal to the unit of representation in the House. That Senator in his report said:

> While no other provision is found in the Constitution as to the admission of new States than that before quoted, and no law or rule binds or limits the action of Congress, it would be a manifest violation of the spirit and intendment of the Constitution to admit a State into the Union without at least the population requisite under the existing law of apportionment for a Representative in the lower House of Congress.

Mr. President, while the precedents are not that way, while they do not support the proposition of the Senator from Missouri, yet if that is to be the rule applied in the case of Dakota, I think it is an exceedingly easy task to demonstrate that Southern Dakota now has a population largely in excess of 151,000, the present basis of representation in the House of Representatives. There was a bill—I am not sure whether it came to the Senate or not; the report was laid upon our desks—a bill of the House of Representatives the object of which was to establish a rule. That bill provided that no State should be admitted into the Union unless it had a population equal to the existing ratio. It was favorably reported from the Committee on Territories in the House during this Congress, and I am not sure as to what its present status is.

It would be exceedingly unfair in the case of any one of these Western Territories, and especially in the case of Dakota, to judge her population by a census taken five years ago. All of the conditions of emigration have changed. The emigrant who is seeking a home in the West does not now use as his vehicle a pack-train, a Conestoga wagon, or even a broad-horn. The great bulk of the people who have gone into Dakota have gone upon the steam-car, many of them within sight of the home which they were to take up under the homestead laws of the United States. The steam-car, and even the palace Pullman car, is now the medium for transporting our enterprising people to their homes in the West, whereas in the case of the State of Indiana it was thirty years after the admission of that State into the Union before a single mile of railroad was built in its territory. The Ohio River and some of its tributary streams were the channels of emigration. Travel was slow, toilsome, perilous. But now the emigrant reaches his home in Dakota or in Montana surrounded by all those appliances of luxury in traveling which we enjoy here in passing from the capital to the great commercial metropolis.

Therefore it is, as we shall see, that the ratio of emigration and settlement in these new States outstrips almost beyond description the settlements of the earlier States in the West. Looking at some of the statistics upon this question, I find by the Railroad Manual of 1883 that Dakota had eleven railroads and nearly 2,500 miles of completed railway. Many of our States were thirty or forty years without a mile of railway within their borders; but here is this young Territory, organized, I believe, in 1860, still outside of the sisterhood of States, with nearly 2,500 miles of completed railway within her borders.

The population of Dakota at the last census was 135,177. The returns by counties, which I have had carefully analyzed, show that in Southern Dakota there was then a population of about 100,000; rather more than less. The Senator from Missouri, in his report, speaks of this population as embracing the Indians in South Dakota. In this he is entirely mistaken. The census report is of the white and colored population of the Territory, and does not include the Indians.

I desire to call attention to the ratio of increase in the Territory of Dakota. From 1860 to 1870, in that decade, the ratio of increase was 193.1 per cent. From 1870 to 1880 the increase of population in Dakota was 853 per cent., or more than 85 per cent. a year. It was more than twice as much as that of any other State or Territory. Now, if the ratio since has been only 40 per cent., if it has been less than one-half of the ratio between 1870 and 1880, it would show a present population in Southern Dakota of over 300,000. That would be 200 per cent. for the five years, and would show a population, as I have said, of over 300,000 in Southern Dakota—twice the number required for a Representative in Congress; and I pause to say that I have no doubt after a careful examination of the statistics that Southern Dakota now upon a fair census would show a population entitling her to two members in

the House of Representatives. If the increase of population, instead of being 40 per cent., less than one-half of the increase in the preceding decade, was only the absurd sum of 10 per cent.; if we assume that, having increased between 1870 and 1880 853 per cent., the increase of population for the five years succeeding has only been 10 per cent. a year, it would be 50 per cent. for the five years that have intervened, and having a population of 100,000 then, Southern Dakota would have now, if we allow her only 10 per cent. of an annual increase, more population than is required to give a member in the House of Representatives.

Let us look next as a basis of calculation to the vote of the Territory. In 1880 Dakota cast 28,426 votes; in 1884 she cast 86,000—an increase of 57,574 voters in the four years. If we look to some of the other States of the Union and to their vote as returned by the census of 1880, I think we shall feel that objections to the admission of Dakota coming from other States having such a voting population as I shall mention presently, contrasted with that of Dakota, are not well supported in justice and fairness.

In Delaware in 1880 the total vote was 29,333; in Louisiana it was 97,201, only 10,000 more than the Territory of Dakota, and yet upon that aggregate vote the State of Louisiana had six members in the House of Representatives. Will Louisiana, through her Representatives upon this floor, in view of a contrast like that, feel that it is preserving an equality between the citizens of this country for that State upon a vote only 10,000 greater than the vote just cast by the Territory of Dakota to have six members in the House of Representatives, and Dakota be denied a hearing there at all except by a Delegate who can not vote upon any question affecting the public interest?

Mr. JONAS. I should like to ask the Senator from Indiana if the basis of representation in the Congress of the United States is the vote as cast by the States?

Mr. HARRISON. Not at all; it is not the vote; it is population; though I think if you will study the statistics you will find that in some of the States the vote bears a very different ratio to the population.

Mr. JONAS. I will state that, if the Senator from Indiana will look at the census returns, he will find that Louisiana is entitled to the number of Representatives she has on the floor of the House of Representatives by population; and that she has the proper number of voters to correspond with her population. If in an election where there was no contest and a light vote the vote of Louisiana was but 98,000, as he says, it does not follow that Louisiana has not the number of legal voters which her population entitles her to according to the census. And her population according to the census entitles her to six members of Congress. Therefore I do not think the analogy is perfect.

Mr. HARRISON. The condition of the State of Louisiana was one of unusual felicity if in 1880 there was no political contest among her people. I had supposed that in a Presidential year all the States and all their people participated in the excitement and interest which is involved in the choice of a President; but, sir, I shall make another use of this presently. If 97,000 votes in Louisiana represent a population which entitles that State to six Representatives in the House, is it not probable that 86,000 votes in Dakota entitle that people to admission and to one Representative?

But I proceed. Mississippi in 1880 cast a total vote of 117,078; New Hampshire cast a vote of 86,383, nearly the same vote cast by the Territory of Dakota this year—only 300 more. Oregon cast only 40,816 votes in 1880; Vermont cast but 65,096 votes; West Virginia but 112,713 votes, and Rhode Island 29,235.

Mr. JONAS. I ask the Senator whether under the laws of the Territory of Dakota unnaturalized foreigners are not permitted to vote?

Mr. HARRISON. I think not.

Mr. JONAS. I think they are. I am not positively informed, but I think that is the case.

Mr. HARRISON. The laws of Dakota are liberal and her elections are free, I have no doubt, but I do not think that unnaturalized foreigners, that is, not those who have not declared their intention to become citizens, are allowed to vote. In my own State, as well as in many others, foreigners who have been resident one year in this country and have declared their intention to become citizens and have been six months resident in the State are voters. It is possible that some such provision has been adopted in Dakota.

Of these 86,000 voters two-thirds are in Southern Dakota. What is a fair basis upon which to calculate the number of inhabitants in Dakota if we have 86,000 voters there? Will any one contend that a ratio of four inhabitants to each voter is excessive? Will any one contend that as applied to the Territory of Dakota it is an unfair ratio? If there are four inhabitants to each voter it would show a population in Southern Dakota of 230,000.

But we have a basis upon which to arrive at a ratio in Dakota between the number of inhabitants and the number of voters. Take the basis of 1880, when the census furnishes us with the necessary statistics. The vote of Dakota in 1880 was 28,474; her population by the census of that year was 135,177, showing a ratio of 4.82 inhabitants to every voter. If that ratio, the ratio which prevailed in 1880, is maintained, we shall have in Southern Dakota about 250,000 population.

I call attention again in this connection to the report of Governor Pierce, of Dakota, upon this subject. He says:

> That the growth of Dakota has been phenomenal everybody knows. So rapidly has the Territory filled up and developed that the census of 1880 gives no adequate idea of its present magnitude in population, wealth, and varied industries. The census returns may serve as a basis of comparison, however, for computing the present population.

Then he gives the estimate I have already given. He had not then the returns for this election when the report was made, and estimated the total vote at 83,500. The official returns, since complete except as to two or three counties and estimated as to them, show, as I have said, a vote of 86,000. The governor proceeds:

> This number, on the ratio of 5 to 1, gives a population of 417,500—

In the whole Territory of Dakota—

which is no doubt—

He says—

a very moderate estimate.

He proceeds:

> A confirmation of these figures is found in the report of the Territorial superintendent of public instruction. The returns in his office show 80,000 children in the Territory of school age (7 to 20 years). Estimating 5 to 1 (the census of 1880 gave 8 to 1 between the ages of 5 and 17), and we have 400,000, or nearly the number of inhabitants gained from a computation based on the number of votes.
>
> It should be remembered, however, that there are a number of unorganized counties in the Territory where the census of school children is not taken and where no votes are cast, but which contain all the way from 100 to 1,000 population. No account is taken either of non-voters, though the percentage is probably quite as large here as in the older States. When these facts are taken into consideration it is quite evident that 417,000 is much below the actual number. I have very little doubt that a complete census of the Territory would show a population of 450,000, but estimating it at only 400,000, and then Dakota has a greater number of inhabitants than was shown by the last census in either Colorado, Delaware, Florida, Nevada, New Hampshire, Oregon, Rhode Island, or Vermont, while it about equals Connecticut, Maine, Nebraska, and West Virginia.

Mr. President, as to the question of the ratio of inhabitants to voters, I have shown what it actually was in Dakota in 1880. Let us look now to some of the other States. In 1880 the total vote of Florida was was 51,618 and her population 269,493, or a ratio of 5.22 inhabitants to each voter. Let us look at Georgia. The vote of Georgia in 1880 was 155,651; her population was 1,542,180, or a ratio of 9.27 inhabitants to every vote cast in the State. The vote of Mississippi was 117,078; her population was 1,131,597, or a ratio of nearly ten inhabitants to every voter in the State. Let us look at Louisiana. Her total vote was 97,201; her population was 937,946, showing a ratio of 9.67 inhabitants to every voter in the State. Alabama in 1880 cast a vote of 151,507 while her population was 1,262,505, showing a ratio of inhabitants to voters of 8.46. Missouri's vote in 1880 was 397,221 with a population of 2,168,380, or a ratio of 5.45 inhabitants to each voter. The average of these six States is a little more than eight inhabitants to each voter.

Mr. President, I shall leave to others to declare if there are any exceptional or unusual conditions existing in any of these States whose votes and population I have given which disturb, in any degree, the proper average between the number of inhabitants and the votes cast at their election. I shall leave it to some of the Senators from those States to explain.

Minnesota and Nebraska, two comparatively new States, and both bordering upon Dakota, show a ratio of inhabitants to voters of $5\frac{17}{100}$.

I do not think, therefore, upon this hasty review of the ratio as I find it in some of the States south and north, that it is claiming too much to place the ratio in Dakota at five inhabitants to every voter.

If we take the number of votes cast in some of the States for members of Congress, I find that in Georgia the average vote in a Congressional district for every member of Congress in 1880 was 16,425; that in Mississippi it was 19,055; that in Louisiana it was 16,333; or an average in the four States of 17,578. If we take this Congressional vote to represent in each district 150,000 population, Dakota upon that basis would be entitled to nearly five members.

I have shown hastily the conditions as to population, area, and wealth which, according to precedent and, I think, according to reason and justice, entitle this Territory to admission into the Union. The people are intelligent and well disposed toward our institutions. I thought I had before me the statistics of illiteracy in Dakota. My recollection is that only three of the States and one of the Territories—Wyoming—show a less per cent. of illiteracy than is shown by the census in the Territory of Dakota; the per cent. in Dakota being something more than 3, perhaps 3.45 per cent., of the total population who can not write.

In one of the memorials which have been presented to Congress in behalf of the admission of the State the memorialists refer to the fact that under the beneficent land laws of the United States very many of the battered veterans of the Union Army have found homes in Dakota. The Western Territories seem to have some process of election, I have sometimes thought, for the selection of their citizens. When I look at the ratio of illiteracy in such States as Nebraska and Iowa and in the Territory of Dakota, I have sometimes been almost ready to conclude that the early settlers must have organized upon their borders

committees of censorship and examination to exclude ignorance from their Territories. Certain it is that the ratio of illiteracy, which was once lowest in some of the Eastern States, now finds its lowest point in the new States and in the Territories.

The people of Southern Dakota have outgrown a Territorial organization. It is repressive and inadequate for their present needs. The judiciary system of the Territory proved to be so entirely inadequate, that the present Congress at the last session gave two additional judges to Dakota with the view of facilitating the disposition of the cases which encumber the dockets of the courts. I wrote during the last session to the chief-justice of the Territory once, as Senators will remember, a member of our own body, Mr. Edgerton, of Minnesota, upon this subject, and he addressed in turn the associate justices of the Territory for information as to their districts. I read a brief extract from the letter of Judge Palmer in response to an inquiry from Chief-Justice Edgerton. He says:

> My district is composed of seventeen counties, in which are held nineteen terms of court, as fixed by law, each year. I assumed the duties of associate justice and judge of the fourth district on the 24th day of March, 1884. Since that time I have been holding court every week-day, excepting three days employed in traveling from court to court.
>
> From this time my terms follow each other weekly till the close of the second week in July. Then commence again the first Tuesday in August, and continue without interruption (except supreme court in October) till July again. So much for the time.
>
> As to the business, I need not say to you that it is a physical impossibility to perform it, to say nothing of the manner in which it must necessarily be done in the ceaseless rush from day to day and term to term.
>
> To give an important question a quiet thought in library or chambers is out of the question, and as a necessary consequence the work is far from satisfactory to me and I shrink from considering what it must be to the profession.
>
> Since I assumed the duties of my office I have usually opened court at 8 o'clock a. m., and in a large majority of the days it has not been adjourned earlier than 9 and often 10 and 11 p. m. You probably feel like asking me again "what I enlisted for."

I read this, and I might supplement it by reading from the answers of the other justices of the Territory, to show that the present judicial system provided under our laws is entirely inadequate to the settlement of the numerous and important questions of property and other more important questions involving life and liberty which come before the courts of that Territory. We have given them two more judges, and that is utterly inadequate. These people are still hampered and repressed by their Territorial organization and deprived of the power at their own expense to supply a judiciary which shall be acceptable to themselves and which shall promptly dispose of pending controversies.

We have found ourselves also under the necessity of legislating to increase the Territorial Legislature. Under our system of Territorial organization, framed for sparse and feeble communities, the council is composed of twelve members and the house of twenty-four. As applied to the great Territory of Dakota it was found to be an utterly inadequate representation, and the committees of this body having that matter in charge at the last session reported and Congress passed a law doubling the representation both in the council and house of representatives. I give these as instances to show that the present government, even as enlarged, is inadequate. We have patched the clothes, but they are still too tight.

I notice, Mr. President, that in the debate upon the Kansas bill the distinguished Senator from Massachusetts, Mr. Sumner, alluded to a stipulation in the treaty with France by which the territory west of the Mississippi River was acquired as having some force in considering the question of the admission of Kansas. The stipulation contained in that treaty was that the territory should, as soon as might be conformably with the Constitution and institutions of the country, be admitted to the Union.

In the minority report submitted by the Senator from Missouri [Mr. VEST] in the Forty-seventh Congress I find this statement:

> Nor is there any exceptional reason or necessity shown for the immediate admission of the new State into the Union. If the statements of the advocates and friends of the pending measure are to be received even with great allowance, the proposed State is now a Territorial elysium, and the people in the enjoyment of every possible blessing to be obtained from religion, education, or benign and just laws.

I conclude, Mr. President, that this was simply an ebullition of that facetiousness which in his lighter moments characterizes the Senator from Missouri. I take it that he would not seriously say that this community of two hundred and fifty or three hundred thousand American citizens, dwelling in the Territory of Dakota, have no need to have their political rights, or that they are now "in the enjoyment of every possible blessing to be obtained from religion, education, or benign and just laws."

Mr. President, I know too well the impulses of the Senator from Missouri. I know too well how highly he appreciates the full, complete equipment of American citizenship to think for one moment that he would regard it a light matter that 300,000 American citizens, as well entitled as he or I to the full enjoyment of the benefits of a national citizenship, should be deprived in any degree of the privileges of that citizenship beyond the time when the Territory in which they dwell has acquired the wealth and the population that fairly entitle them to admission to the Union.

Is it nothing, Mr. President, that the citizen of Dakota who is equally affected with the citizen of Missouri or Indiana by the laws which we enact here is absolutely without voice in their enactment? Is it nothing that in the choice of the Executive of this great nation the citizen of Dakota is as much disfranchised as the citizen of the District of Columbia? Is it nothing, sir, that when questions of tariff or revenue are to be affected by Congressional enactment or executive veto the inhabitants of a great Territory like this are absolutely deprived of all power to participate in the determination of those questions? Is it nothing, or is it a matter of joke or facetiousness, that this great population have no choice in the selection of the Executive who holds a first veto upon their legislation, while Congress reserves another to itself?

Is it nothing that in the case of the secretary of the Territory, who discharges the duties in many cases of auditor of a State, they have absolutely no voice in his selection? Is it nothing that the judges who are to preside when questions of property are to be settled between citizen and citizen, or when the higher questions of liberty and life are to be settled, are not of their own choice; that the people whose property and whose lives are to be adjudged in the courts have no choice and no influence in the selection of those who exercise these judicial functions?

Is it nothing, sir, or is it matter of joke or facetiousness, that the legislation of the Territory is absolutely in the control of Congress; that the representatives chosen by Missouri and by Indiana to sit in this Chamber, and by those and other States to sit in the House of Representatives, are the legislators who may frame if they please the laws of descent and of the alienation of property, who may frame if they please every criminal statute that is to affect that people?

No, Mr. President, I submit that when he turns his mind thoughtfully to the consideration of this question it will not be with the Senator from Missouri nor with any other Senator upon this floor a matter of joke or facetiousness. We do not need to show this to be an exceptional case. The man who desires to continue such a body of citizens in a condition of semi-citizenship and semi-vassalage should show why the exception should be made against them and why they should not be clothed with full citizenship.

As I said at the beginning, this question can not be approached from the low plane of party benefits or injuries. In the bill reported at the last session of Congress, in order to put this question entirely beyond any such influence, provision was made by which the admission of Dakota could not take place until after the Presidential election. That great issue has been determined and the executive control of this country has passed into the hands of the Democratic party. It must be four years more until Dakota, if she is admitted now, can have any participation in the electoral college. Will any man be so unjust as to suggest that she should stand for these four years more with her great population, her great resources, her intelligent people outside of the pale of the States?

Mr. President, I only intended in these opening remarks to set before the Senate, and if I could to get the attention of some of its thoughtful members, the statistics of the Territory of Dakota. I put my appeal to them now in her behalf upon the precedents and upon principles of equity and fair dealing. She has the requisite population, an ample area, abundant wealth, and a sure prospect of a growth that will speedily place her in advance of many of the older States. I shall probably not have anything further to say in the discussion of this bill unless the discussion should take a range wider than I have anticipated.

Mr. GARLAND. I wish to ask the Senator from Indiana a question. I did not care to interrupt him in the course of his remarks.

Mr. HARRISON. I am through, but I will answer any question I can.

Mr. GARLAND. On page 5 of the report there is an estimate of the population. I was once familiar with the matter, but I have not had occasion to renew my recollection of it. The report states that the present population is believed to be fully 350,000. Does that refer to the entire Dakota Territory, or only to the portion that is sought to be admitted as a State by the bill?

Mr. HARRISON. I think the estimate referred to there was of the whole Territory, perhaps 250,000 in the southern part and about 100,000 in the northern part: but the Senator must recollect when this report was made.

Mr. GARLAND. I understand that.

Mr. HARRISON. It was made in the absence of the statistics furnished by the recent vote of the Territory.

Mr. VEST obtained the floor.

Mr. SHERMAN. I suppose the Senator from Missouri hardly desires to go on to-night. If he will give way I shall move an executive session.

Mr. VEST. With pleasure.

Mr. SHERMAN. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After fifteen minutes spent in executive session the doors were reopened, and (at 4 o'clock and 10 minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, *December* 9, 1884.

The House met at 12 o'clock m. Prayer by the Chaplain, Rev. JOHN S. LINDSAY, D. D.

The Journal of yesterday's proceedings was read and approved.

BUSINESS OF POST-OFFICE COMMITTEE.

Mr. MONEY. I desire consent to offer a resolution for present consideration.

The SPEAKER. The resolution will be read, subject to objection.

The Clerk read as follows:

Resolved, That Wednesday, January 7, 1885, be set apart, after the reading of the Journal, for the consideration in the House as in Committee of the Whole of such bills as may be presented by the Committee on the Post-Office and Post-Roads; this order not to interfere with the consideration of general appropriation and revenue bills.

Mr. HOLMAN. I must object to this resolution unless the bills to be considered be designated, and unless exception be made in favor of reports from the Committee on Public Lands.

Mr. MONEY. I am perfectly willing to designate the bills which the committee wish to consider on the day proposed, and am also willing to make the exception which the gentleman from Indiana [Mr. HOLMAN] indicates. The bills which the committee desire to consider are: one regulating contracts on star routes, to prevent speculative and ring bidding; one to regulate compensation of railroads for mail transportation upon a juster basis than the present; one to equalize postage on mail matter at the office of publication; and one to raise the weight of letters passing through the mails under a two-cent stamp from one-half ounce to an ounce. These are the bills which the committee has agreed to present if the House consents to designate a day for this business. The committee has not had a day in the House during the whole term of the present Congress.

Mr. HOLMAN. With the understanding that those measures alone are to be considered, and that exception is to be made in favor of business of the Committee on Public Lands—I do not see my colleague [Mr. COBB] now in the House——

Mr. RANDALL. I would like to have the agreement embraced in the resolution itself; and until that is done I object.

Mr. MONEY. I am willing to put it in. There may be other bills which the committee may desire the House to consider, but I am perfectly willing that they may be objected to at that time.

Mr. RANDALL. I think some of the bills named by the gentleman should be discussed in the Committee of the Whole House on the state of the Union. The resolution provides for bringing them up in the House.

Mr. MONEY. As in Committee of the Whole.

Mr. RANDALL. I object.

Mr. MONEY. Does the gentleman object if the bills are named in the resolution?

Mr. RANDALL. Before withdrawing my objection I would like to read the resolution as proposed to be adopted.

The SPEAKER. The gentleman from Mississippi can withdraw his resolution and offer it again after an agreement has been reached.

Mr. SINGLETON. I would have to object unless prior orders were excepted.

The SPEAKER. Objection is made.

DEFENSE OF NEW YORK HARBOR.

Mr. HEWITT, of New York, by unanimous consent, presented the following memorial of the Chamber of Commerce of the State of New York; which was referred to the Committee on Appropriations, and ordered to be printed in the RECORD:

To the honorable the Senate and House of Representatives of the United States of America in Congress assembled:

This memorial of the Chamber of Commerce of the State of New York respectfully represents:

That by the representations of the honored Chief of Engineers of the United States in his annual report this harbor and port is practically without defense against existing war vessels, and, therefore, liable to be placed at any moment at the mercy of any inimical nation to be destroyed by bombardment, or under an exaction of a ransom of many millions of dollars to buy off the threatened injury, it is not to be deemed that the United States Government will suffer its greatest port and city to be subjected even to the possibility of such injury or humiliation.

The chamber therefore respectfully prays that your honorable bodies will promptly appropriate a sum of money which will accord with the suggestions of the Chief of Engineers on this subject and serve to carry out his views on this matter.

And your memorialists will ever pray.

[SEAL.] JAS. M. BROWN, *President.*
GEORGE WILSON, *Secretary.*

MISSISSIPPI.

Mr. CHALMERS, by unanimous consent, introduced a bill (H. R. 7669) to restore a republican form of government in the State of Mississippi; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

MISSISSIPPI WATER-POWER AND BOOM COMPANY.

Mr. NELSON. Mr. Speaker, I move, by unanimous consent, to discharge the House Calendar and take up for present consideration the bill (H. R. 6764) to authorize the Mississippi Water-Power and Boom Company, of Brainard, Minn., to construct a dam across the Mississippi River.

The SPEAKER. The bill will be read subject to objection.

The bill was read *in extenso*.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. HOLMAN. I trust before that question is determined the gentleman will make to the House some explanation of the provisions of the bill.

Mr. REAGAN. I demand the regular order of business.

The SPEAKER. The regular order of business is the call of committees for reports.

Mr. REAGAN. I demand the consideration of the special order, which has precedence over the regular order.

The SPEAKER. The special order is the unfinished business coming over from yesterday.

REPRINTING RESCINDED.

Mr. HEWITT, of New York, by unanimous consent, moved that the order made December 2 to reprint House report No. 1848 be rescinded.

The motion was agreed to.

INTERSTATE COMMERCE BILL.

The SPEAKER. The House resumes the consideration of the special order, which is the bill (H. R. 5461) to establish a board of commissioners of interstate commerce, and to regulate such commerce, on which the gentleman from Mississippi [Mr. BARKSDALE] was entitled to the floor.

Mr. BARKSDALE. Mr. Speaker, in the exercise of his constitutional functions to recommend to Congress such measures as he may deem necessary and expedient, the President, in his annual message of December 4, 1883, directed attention to the necessity of legislation to protect the public from acts of injustice and oppression committed by railroad corporations employed as the agents of commerce among the States. He used this strong and unequivocal language:

Complaints have lately been numerous and urgent that certain corporations, controlling in whole or in part the facilities for the interstate carriage of persons and merchandise over the great railroads of the country, have resorted in their dealings with the public to divers measures unjust and oppressive in their character.

In some instances the State governments have attacked and suppressed these evils, but in others they have been unable to afford adequate relief because of the jurisdictional limitations which are imposed upon them by the Federal Constitution.

The question how far the National Government may lawfully interfere in the premises, and what, if any, supervision or control it ought to exercise, is one which merits your careful consideration.

While we cannot fail to recognize the importance of the vast railway systems of the country and their great and beneficent influences upon the development of our material wealth, we should, on the other hand, remember that no individual and no corporation ought to be invested with absolute power over the interest of any other citizen or class of citizens. The right of these railway corporations to a fair and profitable return upon their investments, and to reasonable freedom in their regulations, must be recognized; but it seems only just that, so far as its constitutional authority will permit, Congress should protect the people at large in their interstate traffic against acts of injustice which the State governments are powerless to prevent.

The same recommendation is renewed in general terms by the President in his annual message of December 1, 1884.

It is proper to assume that the President did not act without due deliberation, and that he would not have called the attention of Congress to the subject in the earnest and vigorous language he has employed if the necessity for the legislation he proposes had not been urgent. The recommendation emanates from the executive head of the Government, and though he is the recognized chief of the political party to which he owes his elevation, the measure can not be considered from a partisan standpoint, to bias the minds and pervert the judgment of those whose duty it is to deal with it. It must be regarded from the higher plane of enlightened public policy unaffected by the narrow considerations of party. We have seen in the progress of the discussion that it is common ground upon which the North and the South, the East and the West, can meet; a domain into which the intolerant spirit of party and the still more illiberal spirit of sectionalism can not enter.

CONSTITUTIONAL POWER OF CONGRESS TO REGULATE INTERSTATE COMMERCE.

The question first to be settled in providing the remedial legislation for the acts of oppression and injustice referred to by the President, is whether it is within the scope of the duties confided to Congress by the Constitution. I will address myself the more readily to this point in view of the thorough and elaborate examination which other members who have preceded me in the discussion have made of the details and practical effect of the pending bills. The language of the Constitution is so plain, and the weight of judicial authority in favor of the right of Congress to exercise whatever power is needed for the regulation of commerce among the States is so overwhelming, that no loop exists to hang a doubt upon. It is that "Congress shall have power to regulate commerce with foreign nations, and among the several States, and with the Indian tribes." It is a historical fact that the predominant motive which induced the States to meet in convention "to frame a more perfect union" than existed under the Confederation was to regulate commerce among them and to place it under the protection of a uni-

form law. During the Confederation the States, each for itself, could regulate commerce, and there was constant peril of a conflict of jurisdiction.

It is significant that in the resolution of Virginia urging the assembling of the convention this was the chief object mentioned. Therefore the real intent of the clause of the Constitution "to regulate commerce among the States" can not be questioned. The design of the framers of the instrument is its true interpreter.

The line of judicial authority in support of the power to do what the President has so wisely and well recommended is unbroken from the earlier days of the Government down to the present time. It would be a work of supererogation to cite the authorities in support of the proposition if the power of Congress to do what he has advised had not been denied by the accredited attorneys and representatives of the corporations which are proposed to be placed under the wholesome restraints of law. In his argument before the Committee on Commerce a learned attorney, who announced himself as the accredited representative of over 6,000 miles of railroad, with a capital of more than $100,000,000, denied that the question had ever been judicially decided. He said:

What I maintain is that there has been no case before the Supreme Court of the United States in which the issue has been plainly and distinctly marked as to what the power of Congress is.

Another representative of the corporations, in his argument before the committee, with apparent sincerity, insisted that the power of Congress to regulate commerce was restricted to the navigable waters. He said:

That commerce among the States is necessarily a thing that floats upon the navigable waters, those highways that have their sources in one State and their waters in another, and which are boundaries between the different States, and which, if we had not the different States, would have been regulated by treaties among the several States as independent sovereignties. Commerce is commerce continued upon waters that are not within States, but on water ways that are upon no State.

In a colloquy with the chairman of the committee he expressed himself in this emphatic language:

The CHAIRMAN. Is it your understanding that Congress has no power to regulate the commerce or passenger traffic over the railroads from State to State?
Mr. SELLERS. Yes, sir; they have none whatever.

If these positions be correct, the Government is a failure in one of the main objects of its creation. The Constitution is a dead letter—a nullity—in one of its essential provisions. The corporations annually transporting products valued at not less than $15,000,000,000 are without control; they are a law unto themselves, and have as large a charter to impose whatever burdens their cupidity may suggest upon the labor and business of the country as the winds to blow where they list. If they are hedged by the divinity ascribed to them by their devotees the figure of speech employed by a New England statesman now no more has been verified, that they are like the barons of the feudal ages in their rocky fastnesses, levying tribute upon all the wayfarers of business and pleasure and duty, with none to molest or to make them afraid.

Judge Redfield, in his excellent work on the law of railroads, has this to say in refutation of this monstrous doctrine:

Those who assume that Congress has no power to regulate the traffic on these extended lines of railway, reaching from one end of the Union to the other, must, if they would meet the question fairly, either say the extended lines of railway, amounting to many millions annually, probably ten times as much as the entire commerce of the country at the time of the adoption of the Constitution, is not commerce at all, or if it be is not subject to any regulation or control whatever; for it is certain the States have neither the power nor capacity to regulate to any purpose or with any efficiency the interstate traffic. It must then come under the control of Congress or be left to its own devices and impulses—an experiment never tried in any other country. (Redfield on Railways, 720-722.)

The power of Congress to regulate commerce between the States by whatever agents carried on was asserted by the highest judicial tribunal of the United States, speaking through its greatest authority, Chief-Justice Marshall, in the celebrated case of Gibbons vs. Ogden. The Legislature of New York had granted to certain parties the exclusive navigation of all the waters within the jurisdiction of the State, with boats moved by fire or steam, for a term of years. Thomas Gibbons undertook to employ boats on the waters to the use of which the monopoly had been granted. Ogden, the chief beneficiary, prayed an injunction to restrain him from navigating them. The courts of New York decided to perpetuate the injunction. The case was brought before the Supreme Court, and it reversed the decision, on the ground that the act was repugnant to the clause of the Constitution which authorizes Congress to regulate commerce, so far as the said act prohibits vessels licensed according to the laws of the United States for carrying on the coasting trade from navigating the said waters.

Chief-Justice Marshall, in delivering the opinion of the court, after declaring that "the genius and character of the whole Government seemed to be that its action is to be applied to all the external concerns which affect the States generally, but not to those which are completely within a particular State," said:

The power to regulate commerce among the States is "to prescribe the rule by which commerce is to be governed." This power, like others vested in Congress, is complete in itself, may be exercised to its utmost extent, and acknowledges no limitations other than are prescribed in the Constitution. If, as has always been understood, the sovereignty of Congress, though limited to specified objects, is plenary as to those objects, the power over commerce with foreign nations, and among the several States, is vested in Congress as absolutely as it would be in a single government, having in its constitution the same restrictions on the exercise of the power as are found in the Constitution of the United States. (Gibbons vs. Ogden, 9 Wheaton.)

The court declared further:

Where each government exercises the power of taxation, neither is exercising the power of the other; but when a State proceeds to regulate commerce with foreign nations, or among the several States, it is exercising the very power that is granted to Congress, and is doing the very thing which Congress is authorized to do.

Chief-Justice Story, in the case of New York vs. Miln (11 Peters, 156), citing the foregoing decision, said:

From that time to the present the question has been considered at rest. The power given to Congress to regulate commerce with foreign nations and among the States has been deemed exclusive, from the nature and object of the power, and the necessary implications growing out of it.

This decision pronounced by Chief-Justice Marshall sixty years ago is a monument to his memory more lasting than marble. It has been accepted by all his successors in his great office as the true interpretation of the Constitution. It has stood in all the vicissitudes through which the country has passed, like a guiding pharos in a stormy sea, lighting up the pathway of the mariner amid rocks and shoals and quicksands and whirlpools to a port of safety. Since it was promulgated the country has taken a vast stride in the march of events. The agencies for the transportation of products have been increased; the railroad and the telegraph era has been inaugurated. But the doctrine is applicable to every vehicle of interstate commerce, whatever it may be. The power was conferred for the wise and beneficent purpose of protecting the labor of the country from extortion; of producing harmony among the States; of cementing the bond of their union; and it is exercisable wherever and in whatever fashion the instrumentalities of interstate commerce exist.

Daniel Webster, to whose name has attached the title of the great expounder of the Constitution, in his argument in the same case, held that "the power of Congress to regulate commerce among the States was complete and entire, and to a certain extent necessarily exclusive." He asked: "What is to be regulated? Not the commerce of the several States respectively, but the commerce of the United States. Henceforth" (from and after the adoption of the Constitution), he said, "the commerce of the States was to be a unit, and the system by which it is to exist and be governed must necessarily be complete, entire, and uniform. Its character is to be described by the flag which waves over it—*E Pluribus Unum*." It was with reference to this masterly exposition of the Constitution that Justice Wayne, addressing its author, said:

The court felt the force and effect of your reasoning, and rendered a decision which has released every river and bayou, and lake and harbor, from the influence of monopoly.

Again, in the celebrated Passenger Cases (7 Howard), growing out of the acts of the New York and Massachusetts Legislatures authorizing the collection of toll from passengers arriving at ports within those States under the general denomination of health laws, the question of the power of Congress was raised. The tax was resisted on the ground that the statute was a regulation of commerce and therefore in conflict with the Constitution of the United States. The State courts affirmed the constitutionality of the law, and it was brought before the Supreme Court of the United States.

Justice McLean, in reversing the judgment of the State courts, cited the decision of Chief-Justice Marshall above quoted and numerous other decisions in support of the doctrine of the exclusive power of Congress to regulate commerce among the several States, and used this pointed language:

If these decisions are not to be taken as the established construction of the Constitution, I know of none which are not yet open to doubt.

And Justice Wayne adds:

Keeping then in mind what commerce is, and how far a nation may legally adjust her own commercial transactions with another State, we cannot be at a loss to determine from the subject-matter of the clause in the Constitution that the meaning of the terms used in it is to exclude the State from regulating commerce in any way, except their own internal trade, and to confide its regulation completely and entirely to Congress.

In the Passenger Cases, Norris vs. Boston, Chief-Justice Taney says:

It has always been admitted in the discussion upon article 8, section 3, of the Constitution that the power to regulate commerce includes navigation, and ship and crews, because they are the ordinary means of commercial intercourse.

In the same cases Justice Daniel said:

The power to regulate commerce includes the regulation of the vessel as well as the cargo, and the manner of using the vessel.

The celebrated case (13 Howard) of the State of Pennsylvania vs. The Wheeling Bridge Company, is directly in point. The bridge had been constructed under an act of the Virginia Legislature. The State of Pennsylvania undertook to enjoin the construction of the bridge, on the ground that it interfered with the free navigation of a navigable stream and inflicted a serious injury upon her citizens. Pending the trial of the case Congress passed an act declaring the bridge a lawful structure. The Supreme Court decided that the act of Congress was a legitimate exercise of the power conferred upon it to regulate commerce

among the States. Justice McLean, in delivering the judgment of the court, said:

The regulation of commerce includes intercourse and navigation, and of course the power to determine what shall or shall not be deemed, in judgment of law, an obstruction to navigation.

Justice Daniel, in coinciding with the decision of the court, expressed himself in this strong language:

Congress have by statute undertaken to regulate the commerce upon the Ohio River, so far as the matters in this controversy are concerned. And who shall question their power to do this? Does it belong to this court under any article or clause of the Constitution or of any statute to assume such a superiority? * * * They have regulated this matter upon a scale by them conceived to be just and impartial with reference to that commerce which pursues the course of the river and to that which traverses its channel and is broadly diffused through the country. * * *

In what has been done by Congress I can have no doubt that they have acted wisely, justly, and strictly within their constitutional competency.

In Brown vs. State of Maryland the court held:

It is not therefore matter of surprise that the commercial grant of power should be as extensive as the mischief, and should comprehend all foreign commerce and all commerce among the States. (12 Peters, 446.)

And further the court said:

The question was considered in the case of Gibbons vs. Ogden, in which the power was declared to be complete in itself and to acknowledge no limitations.

Pierce, in his excellent work on the law of railroads, cites the following as a case in which Congress has exercised its power to regulate commerce carried on among the States by railroads:

The act of June 5, 1866, United States Revised Statutes, section 5258, authorizes every railroad company in the United States to carry passengers, troops, government supplies, mails, freight, and property on their way from any State to another State, and to connect with roads of other States so as to form continuous lines of transportation therein. (Pierce on Railroads, 471.)

The following act, regulating the transportation of live-stock on railroads, was passed March 3, 1873 (Revised Statutes, section 4386), and its constitutionality remains unchallenged:

No railroad company within the United States, whose road forms any part of a line of road over which cattle, sheep, swine, or other animals are conveyed from one State to another, or the owners or masters of steam, sailing, or other vessels carrying or transporting cattle, sheep, swine, or other animals from one State to another, shall confine in the same cars, boats, or vessels of any description for a longer period than twenty-eight consecutive hours, without unloading the same for rest, water, and feeding for a period of at least five consecutive hours, &c.

In the case of The Railroad Company vs. Maryland, Justice Bradley delivered the opinion of the court, which is a complete contradiction of the assumption of the railroad attorney before cited, that the power of Congress to regulate commerce among the States was restricted to the navigable waters. The court said:

No doubt commerce by water was principally in the minds of those who framed and adopted the Constitution, although both its language and spirit embrace commerce by land as well. (21 Wallace, 462.)

And here is another case still, directly in point against the same preposterous assumption, the case of the Pensacola Telegraph Company vs. Western Union Telegraph Company. Chief-Justice Waite, in delivering the opinion of the court, said:

Congress has power to regulate commerce with foreign nations and among the several States. The powers thus granted are not confined to the instrumentalities of commerce or the postal service known or used when the Constitution was adopted, but they keep pace with the progress of the country, and adapt themselves to new developments of time and circumstance; they extend from the horse with its rider to the stage coach, from the sailing vessel to the steamboat, *from the coach and the steamboat to the railroad, and from the railroad to the telegraph*, &c. (6 Otto, 9.)

LEGISLATION IMPERATIVELY DEMANDED.

We have thus seen that the power of Congress to regulate commerce among the States, whatever may be its agency, unquestionably exists. If it has not been often exercised, it is, as has been well said, in consequence of the extreme sensitiveness of the States in reference to legislation affecting their interests, and especially of late in consequence of the persistent and unscrupulous efforts of corporations to prevent legislation. Nevertheless the power exists, and though it has been for the most part dormant, to borrow the metaphor of a learned counsel in the Passenger Cases, it has slumbered like electricity in the atmosphere, unseen and unfelt, until its forces are concentrated in the thunderbolt of the law. There is an avalanche of testimony invoking its vigorous exercise now.

There are 125,000 miles of railroad in the United States, representing a capital of $6,000,000,000. They penetrate every part of the country. They conduct a business which in one way and another is interwoven with every other interest of the country; and they are rapidly increasing in numbers, in resources, and in power. Their charges are not controlled by competition. It is a maxim of railroad corporations that when "combination is possible competition is impossible." And they have reduced the practice of combination to a science, thus placing every industry and every person who has business relations with them, of whatever kind, completely at their mercy. Twenty-four States of the Union have, to the extent of their capacity, provided legislation to protect the public against the extortions of these common carriers; but their jurisdiction is restricted to State lines. Most of the commerce of the country is interstate. Though State legislation is doing a great deal in protecting the public, it is powerless to correct the worst evils and accomplish the chief desideratum. The States acting separately can not establish a uniform system of regulation. That duty devolves upon Congress.

The question has been raised as to the extent to which State legislation can be carried. Lately there have been decisions by the supreme courts of two of the States directly opposite. The supreme court of Illinois holds that the State can regulate charges for transportation from points within to points without the State. The supreme court of Iowa has announced a different conclusion. These conflicting decisions show the necessity of a uniform system applicable to all the States. In Tennessee the United States district court has suspended the operation of the State law designed to regulate commerce within the State, on the ground that it overleaps State lines and is repugnant to the clause of the Constitution of the United States authorizing Congress to regulate interstate commerce. In Mississippi the operation of the act of the Legislature to carry into practical effect the doctrine of its right of supervision in the interest and for the protection of the people has been stayed by decisions of inferior State and United States courts. The necessity for general legislation is urgent and imperative. On this point I will again have recourse to the well-considered observations of Judge Redfield:

When it is considered that these corporations, possessing such vast capital, have engrossed almost the entire travel and traffic of the country, and that their powers and functions come in daily contact with the material interests of almost every citizen of this great empire, the importance of their being subjected to a wise and just supervision can not be overestimated. This can only be secured by wise and prudent legislation, and to be of much security to public interests it must be by general acts, as it is in many of the States and in England since 1845. (Redfield on United States Law of Railways, 53.)

THE ABUSES MOST IN VOGUE.

The practices most in vogue by the corporations which it is proposed to put under the restraints of law are pooling, unjust discrimination between different persons and different localities, rebates, and drawbacks—all in aid of overcharges and extortion.

Pooling is the most potent agent of extortions. It destroys competition and creates a centralized monopoly. It deprives the public of their right to transportation cheapened by competition, and compels them to pay whatever the monopoly demands. It is an agreement between the companies to fix the same prices, to force the public to pay them without regard to the cost of service, and to divide the profits among themselves. It is an odious combination, violative of public policy, and a conspiracy against public rights. Mr. Depew, the attorney of the New York Central Railroad Company, put it mildly in his argument before the Committee on Commerce when he said that "pooling seeks to secure to all the lines fair prices, and to prevent them from cutting each other's throats by bidding under." In plain language, pooling seeks to destroy competition, and while the corporations are sparing each other's throats they are cutting the throats of the public, from whom they derive their sustenance and support.

Not less contrary to public policy than pooling are discriminations between different shippers and between different localities.

ENGLISH SUPERVISION.

In England, whence we have derived the muniments of our freedom, monopolies of every kind have been dealt with as contrary to public policy; and it is a settled rule of English railway supervision not to permit a railway company to give "undue preference" to one class of shippers at the expense of others. The English books are full of decisions asserting this doctrine and putting down such abuses.

In the case of Diphwys Casson Slate Company vs. The Festinoig Railway Company, in which an application was made to compel the company to desist from giving "undue preference" to other shippers, it was held that the charge complained of was an "undue preference" within the meaning of the railway traffic act and must be discontinued. The company was required to pay the cost of the application (2 Neville & Macnamara, 81). Similar decisions were rendered in the cases of Woodger vs. The Great Eastern Railway Company; The Bellsdyke Coal Company and others vs. The North British Railway Company, and in numerous other cases, in which it was held that "undue preference for one class of shippers over others or for one locality over another, the cost of service being equal, was contrary to public policy and the law of England."

In Gaston vs. The Preston and Exeter Railway Company it was held that an agreement by a railway company to carry at a lower rate for certain individuals in consideration of their sending all their goods by the railway was not justifiable, such an agreement being against public policy. (2 Neville & Macnamara's Railway Cases, 76.)

But even in England, where the sphere of railroad operation is limited in comparison with the United States, it has been found necessary to agitate for additional restrictions for the protection of the public against the encroachments of the corporations. The following extract from the London Times, the great organ of British opinion, presents reasons for a more restrictive policy which are well worth the consideration of American lawmakers:

It is idle to contend that railways are in no need of the state interference, which they very naturally dislike. They are too powerful to be left without control to do just as they may please. From a small beginning they have risen to an importance and an influence too great by far to be left entirely in private hands. They have become an empire within the empire, or, more properly, a number of empires, competing, indeed, with one another, but bound together by common interests not necessarily coincident with the interest of the public

and not seldom an antagonism with it. These corporations have portioned out the country among them. In its own district each claims to be supreme, and is capable in point of fact of exercising almost supreme powers. The tariff and train service of a great railway can be so arranged as to make or unmake a neighborhood, to favor a firm or to ruin it, to forbid an industry or to give it an undue advantage. Apart from the railway commission, there has been nothing to prevent the employment of railway influence for all these purposes, and it can hardly be contended that it is for the public good that so potent a force should exist without restraint. It is a matter of course that railway companies should take a different view, and should resent an interference which is imperatively called for in every interest but their own.

The time has come at which a more real superintendence is demanded. The railway commission must go on in an improved form and with more extensive powers than have as yet been intrusted to it. So only can a counter-influence be found to the greatest force that has arisen in modern times, which has long outgrown the restraints which were at first thought sufficient for it, and which bids fair to go on developing and increasing in the future without assignable bounds.

THE PREVALENCE OF ABUSES.

Probably there is no community in the United States where railroads exist that has not suffered from the abuses for which the pending bills will, to some extent, provide a remedy. When I assert that abuses injuriously affecting commerce, both State and interstate, in the State which I in part represent, I assert what every intelligent and observant citizen knows to be true. They are no more frequent nor more virulent in my State than in other States, and doubtless the same testimony can be borne by every Representative of States in which no remedial legislation has been provided. In seeking data for just and proper legislation from Mississippi I have obtained many examples of the manner in which the public are wronged by overcharges and discriminations.

POOL COMMISSIONER FINK'S EXPLANATION.

When Pool Commissioner Fink, who bears the reputation of being the ablest expert in railroad management in the United States, was delivering his argument before the committee against regulating interstate commerce, the following interrogatory and answer were propounded and given:

Mr. BARKSDALE. The cost of shipping a bale of cotton from Memphis to New Orleans, a distance of four hundred and fifty miles, is $1 a bale. The cost from Winona, Miss., a distance of two hundred and seventy-five miles, is $3.25. Now, I ask you if there is any just rule of transportation which would justify a discrimination like that?

Mr. FINK. That would depend a great deal upon the circumstances of the case. * * * Suppose, for example, you had built a road from Winona to New Orleans. Before that road was built what did it cost you to carry a bale of cotton to New Orleans? After you had put your money into this road have you not a right to charge at least a reasonable amount to reimburse you for the cost of carrying this bale, including the investment in that road? Suppose it cost you $3.25 to carry that bale of cotton from Winona to New Orleans, have not you a right to charge that? Would you be willing to do the work for less than cost? Now, if it cost $3.25, including interest on investment, that would be one of the conditions under which a charge of $3.25 would be perfectly justified. I do not, however, know the circumstances in the case you mention, and I would not like to express an opinion unless I knew them.

Mr. BARKSDALE. There are equal railroad facilities between the two points. What I ask is this: If the railroad can afford to transport cotton from Memphis to New Orleans for $1 a bale, the distance being four hundred and fifty miles between those two points, by what rule can it charge $3.25 a bale for the transportation of cotton from Winona to New Orleans, a distance of two hundred and seventy-five miles less, the facilities being precisely the same?

Mr. FINK. That I will try to explain to you.

Mr. TURNER. On the same rail route?

Mr. BARKSDALE. Yes; on the same rail route.

Mr. FINK. Let it be the same. You know the rate between Memphis and New Orleans on a bale of cotton is fixed by the steamboats. They take it for 75 cents, and sometimes 50 cents. The question for the railroad that wants to carry that cotton is to decide whether by taking it for $1 a bale, which is the highest the road can get, they can make a little profit out of it. If it costs that railroad 75 cents and it gets a dollar, that is an additional 25 cents profit per bale to the road. The road-bed is there, and the cars are there, and everything is ready to transport that bale of cotton to New Orleans. No new investment to do this work has to be made. Now, if the road could not get more than a dollar per bale from Winona to New Orleans, it would not pay sufficient interest on the investment, and perhaps not enough to pay the general expenses of the road, and in that case the road could not be operated at all. The road charges very little profit on the New Orleans cotton from Memphis. They charge nothing, perhaps, for the use or the investment in the road; but on the bale of cotton they carry from Winona to New Orleans they must charge for the use of the road, for the investment made in the road, because the road was built for the Winona, not for the Memphis, people. The latter could get along without the road. I can not determine whether or not the charge of $3.25 from Winona to New Orleans is justified; but the road is certainly justified in charging a great deal more than they charge on cotton from Memphis to New Orleans.

This was the confused and insufficient answer to a simple business proposition: If the railroad can afford to take cotton from Memphis to New Orleans, a distance of four hundred and fifty miles, for $1 a bale, how can it justify itself in charging $3.25 for two hundred and seventy-five miles? The real solution is that Memphis is a competing point and there is no pool to keep up freights. Winona is a non-competing point and there is no supervision to prevent the company from charging what the traffic will bear, and the answer resolves itself at last into the Rob Roy principle:

That they should take who have the power,
And they should keep who can.

RAILROADS ARE SERVANTS OF THE PEOPLE.

Mr. Fink in his argument before the committee in 1882 said that some of the railroad managers considered themselves autocrats in all that appertained to railroad matters; a significant declaration. Some of them have evidently forgotten, if they have ever learned, that railroads are servants of the people, and that they who build and operate them—in consideration of valuable franchises conferred—are charged with the duty of serving the public, for reasonable compensation, without discrimination, denial, or delay.

THE PENDING BILLS.

The bill reported by the committee prescribes that charges for transportation shall be reasonable. It prohibits discriminations between different persons and different localities under similar circumstances; also pooling, drawbacks, and rebates. It makes companies liable to persons injured by such unlawful acts for the actual damages, recoverable in any court of competent jurisdiction. It prescribes a fine of not exceeding $1,000 for every violation of the act, except that it shall not apply to the clause requiring that charges shall be reasonable. Where wrongs have been willfully committed the court is required to make allowance for cost for the benefit of the injured party at the expense of the company.

It provides for the appointment of a commission charged with the duty of hearing and investigating causes of complaint and instituting judicial proceedings if necessary.

The commission is required to examine the books and accounts of said companies at such times as may be deemed by them necessary; see that all United States laws relating to them are enforced; furnish such information to the several Departments of the Government, or the Government directors of any of said railroads, in regard to the tariffs of fares and freight, or the accounts of said railroads, as may be required of them or as they may deem expedient; make an annual report of their doings to Congress on or before the 1st day of January of each year; and otherwise endeavor to procure the data necessary to the gradual enactment of an intelligent system of national legislation regulating interstate railroad commerce.

It is also required to inquire into that method of railroad management or combination known as pooling, and state the result of their inquiry in their annual report, and whether, in their judgment, any, and if so what, legislation is expedient in relation thereto.

The bill has the double merit of providing remedial measures and appointing a commission armed with the power and authority and money of the Government to enforce them.

In some important particulars the substitute known as the Reagan bill is an improvement on the bill of the committee, notably the clauses which affix a penalty to unreasonable charges, which prohibit discriminations unconditionally, and which forbid a greater price for a shorter than a longer haul. I do not approve its omission of the commission feature.

THE VALUE AND USES OF A COMMISSION.

The plan of a commission has been thoroughly tested in England, and there is no voice in all the realm raised against it; and it has been tried successfully in a majority of the States of the Union.

The value and uses of a commission are conclusively presented in a letter of Hon. T. M. Cooley, the learned chief-justice of Michigan, from which the following extracts are taken:

Few things are more evident to the casual observer than the jealousy with which the railroad interest is regarded by the general public. Some of the reasons for this are as obvious as the fact. The enormous wealth which that interest represents, the rapidity of its growth, the vast numbers and the great ability it summons to its service, and its immense probabilities for evil as well as for good, can not fail most powerfully to affect the imagination, and to cause no little apprehension for the future even in the most thoughtful and well-balanced minds. The fact, too, that the managers of great lines or systems of competing roads are found agreeing upon rates, and perhaps upon apportionment of business, and thus apparently putting an end to competition, has the appearance of organizing those who should be competitors with one or more great monopolies, with which the public is compelled to deal on their own terms; and these terms will *prima facie* be taken to be unreasonable and offensive, for the reason that they are dictated exclusively by one of the parties concerned, irrespective of concurring will in the other. The railway interest being thus personified as a monopoly, all individual interests, as they come in conflict with it, seem to be placed at great disadvantage; none of them receives and disburses such vast sums of money; none of them has so many desirable places at its disposal; none of them without loss to itself can grant so many favors; none of them has so many means of affecting duly or unduly the legislation of the country. So great a power is certain to be more or less abused, and when it is wielded, as sometimes it will be, by men who are arrogant, overbearing, and reckless of the rights of others, the public are more likely to regard the abuse as naturally and inevitably pertaining to a system than as exceptional.

* * * * * * *

The facts above stated indicate what seems to me the chief need of a railroad commission. The railroad interests and the public stand in apparent antagonism, which frequently and needlessly becomes real antagonism. But they ought to be in harmony and mutual prosperity. The more prosperous the railroads are the better are they able to perform the services for which they are created. To deny them reasonable compensation, to cripple or hamper them by needless and vexatious legislation, to load them down with unreasonable burdens will appear as impolitic from the standpoint of public interest as it would be for an employer to put his servant on short allowance, or to compel him to carry weight at his labor. If, on the other hand, as is not uncommonly believed, the railroad managers sometimes invite unfriendly treatment by assuming a mastery where their just position is one of agency, by disregard of law, by extortion, and by favoritism, the impolicy of conduct on their part is equally plain and equally mischievous.

The first and most important duty of a railroad commissioner will be to stand as a friendly umpire between the public on the one hand and the railroad interest serving it on the other. He should be given power to examine into all the details of railroad work, to investigate local complaints of unfair charges or discriminations, of unreasonable management of trains, or of delays, of obstruction of highways, and the innumerable annoyances and dangers of which the public has, or thinks it has, occasion to complain; to examine the condition of the road, the safety of bridges and other structures; whether proper regulations of police are established and enforced as a protection against calamities; and it should be his duty to bring to the attention of the railroad managers, in an authoritative way, any neglect, omission, or misconduct in which the public would be con-

cerned. He should prepare himself to give authoritative and reliable information as a basis for public judgment on railroad affairs, and his impartial position and standing should be such that his information will be accepted without any of the suspicion which is so likely to accompany that which is furnished by the railroad companies themselves.

It can not admit of doubt that a competent and suitable commission, occupying this position, could be of incalculable advantage, not only to the public but to the railroad interest.

A STEP IN THE RIGHT DIRECTION.

Perfection is not claimed for either of these bills, but either is a long step in the right direction. It must be remembered that no product of human hands or of human brain is perfect. None but Infinite Power and Wisdom can look upon his work and say, It is finished.

LET THE CONSTITUTION BE ENFORCED—THE RIGHTS OF THE PEOPLE BE MAINTAINED.

It has been said that there are irreconcilable differences between the corporations and the enormous capital they represent on the one hand and the American public on the other—the latter, for self-protection, claiming their right of control by legitimate legislation within constitutional limits; the former denying and defying such control. In the House of Representatives, on the 16th of December, 1869, the late President James A. Garfield, then a member of this body, submitted a report containing this striking language:

I am persuaded that the next great question to be confronted will be that of corporations and their relation to the interests of the people and to national life. The fear is now entertained by many of our best men that the national and State Legislatures of the Union, in creating these vast corporations, have evoked a spirit which may escape and defy their control, and which may wield a power greater than Legislatures themselves. The rapidity with which railroad corporations have consolidated during the past year is not the least manifestation of this power.

In the light of present surroundings, these words, uttered fifteen years ago, read like prophecy. If there is an "irrepressible conflict" between these tremendous forces—I trust there is not—whatever else shall fail, let the Constitution be enforced, let the rights of the people be maintained.

ORDER OF BUSINESS.

Mr. DAVIS, of Illinois, obtained the floor.

Mr. KEIFER. Mr. Speaker, I rise for the purpose of making a privileged motion.

Mr. DAVIS, of Illinois. Mr. Speaker, I am prepared to go on with my remarks on the special order, which is the interstate commerce bill.

Mr. KEIFER Yesterday I gave notice that to-day I would call up for consideration the Military Academy appropriation bill which I then reported from the Committee on Appropriations. In accordance with that notice I now move that the House resolve itself into Committee of the Whole House on the state of the Union for the purpose of considering that bill.

Mr. DAVIS, of Illinois. But I raise the point of order, Mr. Speaker, that I can not be taken off the floor and be deprived of my right to proceed with the discussion on the special order without my consent. I was recognized by the Chair and am ready to proceed.

The SPEAKER. The Chair will state to the gentleman from Ohio that a motion to go into the Committee of the Whole House on the state of the Union is not in order until the morning hour has either been occupied or dispensed with.

Mr. KEIFER. I will make that motion, then, that the morning hour be dispensed with and that the House resolve itself into Committee of the Whole House on the state of the Union for the purpose of considering the Military Academy appropriation bill. It was the understanding that this special order should not interfere with the appropriation bills.

Mr. DAVIS, of Illinois. But I make the point, Mr. Speaker, that I was recognized by the Chair to continue this debate and can not be taken off the floor without my consent.

The SPEAKER. The gentleman will state his point of order.

Mr. DAVIS, of Illinois. The point I raise is this: That I can not be taken off the floor or deprived of my right after once having been recognized by the Chair.

The SPEAKER. For what purpose did the gentleman rise?

Mr. DAVIS, of Illinois. To discuss the question before the House.

Mr. CHACE. The interstate commerce bill.

Mr. KEIFER. But the gentleman had not entered upon the discussion.

Mr. DAVIS, of Illinois. But I received the recognition of the Chair, and was about to proceed when interrupted by the gentleman.

The SPEAKER. The motion made by the gentleman from Ohio is not in order until after the morning hour has either been occupied under the rules of the House or dispensed with. The gentleman from Ohio, therefore, rises for the purpose of making another motion, which is not privileged as against the consideration of the special order.

Mr. KEIFER. But I understand this special order was made not to interfere with the appropriation bills, and that being so, my right to make the motion to proceed to the consideration of one of the appropriation bills should not be cut off.

The SPEAKER. The special order made by the House in regard to the interstate-commerce bill is subject to the consideration of appropriation and revenue bills, but this difficulty arises in the administration of the rules: that it is not in order under the rules of the House to move to go into Committee of the Whole House on the state of the Union until after the morning hour has been occupied or dispensed with.

Mr. KEIFER. To that I agree.

The SPEAKER. Whereas under the special order made by the House it is in order to call up the interstate-commerce bill before the morning hour. It was called up this morning before the morning hour was occupied or dispensed with, and the House is now considering it.

Mr. KEIFER. I agree to that; but while that is all true, the reservation in the special order that it should not interfere with appropriation or revenue bills would not be operative under such circumstances.

The SPEAKER. That is the difficulty the Chair has.

Mr. DAVIS, of Illinois. This does not come out of my time, I suppose?

The SPEAKER. It does not.

Mr. KEIFER. This special order is for the consideration of the interstate commerce bill in the House. Although it may be brought up before the morning hour, yet by the very terms of the special order, that it shall not interfere with revenue and appropriation bills, as I am informed, presents this question to the Speaker: That if an appropriation bill is called up and the House is ready to proceed, it is not to be interfered with. While it is true, as stated by the Speaker, that the morning hour must be occupied or dispensed with before the motion to go into Committee is in order, yet under the circumstances, when the motion is submitted to go into Committee of the Whole House on the state of the Union for the purpose of taking up an appropriation bill, a case is presented where the Speaker should entertain that motion to dispense with the morning hour.

The SPEAKER. But the gentleman, in order to get at what he properly considers a privileged motion—that is, a motion privileged at a particular time—is compelled to make an intervening motion which is not privileged, to wit, the motion to dispense with the morning hour, which is not a privileged motion as against the special order heretofore made by the House. The Chair has stated already that there is some difficulty in administering the rule and the special order together, on account of the fact that the order of the House fixing the consideration of the interstate-commerce bill did not provide that it should be taken up after the morning hour or at any particular time during the day, and it was taken up after the reading of the Journal and before the morning hour had been occupied or dispensed with. It is now under consideration, and the gentleman from Illinois is entitled to the floor.

Mr. KEIFER. But whenever taken up under the special order the consideration was to be without interfering with appropriation or revenue bills.

Mr. DAVIS, of Illinois. Mr. Speaker, there is no disposition on the part of the Committee on Commerce to interfere improperly with appropriation or revenue bills, but we do protest upon an effort to take us off the floor when the special order is under consideration and I have been recognized to proceed with the debate. Satisfactory and proper arrangements can be made with the Committee on Commerce in the proper way and at the proper time, but it is not proper nor satisfactory in the way in which the gentleman now proposes to take me off the floor.

The SPEAKER. The gentleman from Illinois is recognized as occupying the floor. The Chair thinks he has no discretion whatever in the matter.

Mr. DAVIS, of Illinois. Mr. Speaker, the railway problem, or the question affecting that interest, industry, or institution, which has the carrying of our overland traffic, which is capitalized for nearly four times the amount of our national debt, and whose receipts annually exceed those of the United States by more than twice, is a subject that I enter upon with much trepidation and with a feeling of genuine uneasiness.

This very question has been discussed and legislated upon for scores of years by the legislative bodies of foreign countries relating to their several systems with not altogether satisfactory results; our Congress has given the subject much thought and discussion, and more than two thirds of the States have passed and repealed and subsequently passed other laws for its regulation, and yet the problem has not been satisfactorily solved.

The rights of the public and the duties of the management of the great system have not been sufficiently marked out and established to altogether allay the jealousy and sometimes bitterness with which each interest looks upon the other, or sufficiently to create that harmony and mutuality of interest which ought to prevail for the welfare of all.

Such observations, however, as I submit at this time are those toward which my judgment is inclined from the brief study which a member of this House can give to so important a topic and such experience as my duties in life have given me upon the subject.

The attempt to solve the question or to regulate interstate commerce, the through-railway traffic of this country, by arbitrary rules or by iron-bound and inflexible penal statutory provisions, as suggested in the substitute offered by Judge REAGAN, does not commend itself to me at this time as a wise thing to do, and I fear that it might, should it become a law, create more new evils than it proposes to correct.

For myself I would be content if at this session we could secure the passage of an act creating a commission, with advisory and visitation powers something like the commissions of New York and Massachusetts, the commission to report to the next Congress what legislation a careful and thorough study of the subject seemed to demand, and to leave the question right there until a full, exhaustive, and intelligent investigation was had and the report of the commission received thereon. But the committee has in its wisdom thought best to report the bill now before the House, which in the main meets my views, although I would have personally preferred simply a commission as a first step; for notwithstanding the arraignment given the committee for its conservatism by our friend from Kansas [Mr. ANDERSON], I am still of the belief that if there is any one question toward which we should move with extreme care and caution, it is the prescribing a rule of conduct for the government of the managers of the great railway systems of this country in the transportation of our supplies; and that is just what we are attempting to do.

The question is a too-important one for careless or ignorant handling, no matter how honest the motive, and this Congress should do no more as a first move than is absolutely demanded to correct existing evils and secure intelligent inquiry as to evils alleged to exist for future legislation.

I have no doubt in my mind that the power is vested in Congress to regulate interstate commerce, and possibly confine its action to that commerce carried upon the railroads alone, but the immense interest involved, the 125,000 miles of railroad, its great original cost—something like seven billions of money—with its employment of 250,000 of our people, the gigantic commerce carried, with all of its ramifications and peculiar conditions, all of which will be affected more or less by any law we may enact, the position this vast interest occupies as a vital factor in our national prosperity admonishes me to use such influence as I may possess to see that such power as Congress may have shall be exercised with great care. This from the firm conviction "that to exercise that power unwisely would derange the entire export trade of the country and destroy the agricultural and commercial interests of every Western State."

I believe that it is time for Congress to consider the subject, and am in favor of intelligent legislation. I stand as no apologist for the great wrongs which railway management has committed. I would visit with condign punishment scoundrelism in this as in any other business. I would demand that railways should not be permitted to unjustly ruin individuals or to wipe out of existence prosperous towns, the building up one section to the ruin of another, the gobbling up of whole sections of the country, and the stealing of eligible sites and locations, as is currently reported and generally believed is done; but I would first ascertain definitely what the evil to be corrected is, how best to cure it without creating new evils, and then apply the remedy.

Much of the discrimination and hardship complained of has already been relieved by the roads themselves in the absence of any national law, and complaints have become fewer, with increased intelligence on the part of the management, in the light of the steady, gradual, but regular reduction of the rates of transportation made by the railways themselves. The more intelligent the management the fewer will be the complaints. There is now but little complaint made to Congress by the producer or the consumer; few, if any, petitions come from them, but such as we have come mainly from the middlemen in commerce.

The several States have accomplished much by legislation to prevent unjust discrimination on local traffic, and the people and the management of railways, by reason of the discussion and agitation of the subject in the Legislatures, by reports of the State boards of commissioners, and by educating themselves on the subject, are beginning to understand that their interests are mutual, and that a reasonable, uniform, and regular rate for the transportation of supplies, that gives security and stability to business, is more to be desired than a fluctuating rate caused by railroad wars or by other abnormal conditions, which frequently is an unreasonable rate to either one or the other.

The management understand that the people demand honest and intelligent management of these properties; that railroad wars must cease; that the public shall be honestly and faithfully served; that the public has a right to know whether the charges it pays are reasonable and whether the service is properly performed. It does not expect rates lower than the cost of carriage, for it knows eventually it will have the difference to pay; but reasonable, uniform, and stable rates are demanded by the business interests of the country. The management recognize this fact as much as Congress does, and much improvement in this direction has taken place in the last few years.

Massachusetts, New York, and other States have established railway commissions, with advisory and visitation powers only, which have done much to establish friendly relations between the roads and the people; and these commissions are commended by the most zealous advocates for railway regulation who appeared before our committee last session. The favorable reports received, and the experience had, would seem to justify Congress in moving in the same direction. Mr. L. E. Chittenden, a prominent and conspicuous figure for several years in the advocacy of national railway legislation, spoke in strong terms of commendation of the New York commission.

Mr. Simon Sterne, representing the New York Board of Trade and Transportation, who appeared before the committee, urged the creation of a national commission. Mr. Andrew J. White, of New York, representing the commercial interests of New York, urged the creation of a commission, and read before the committee a resolution passed by the special committee of the Chamber of Commerce recommending a commission. Mr. J. G. Shepard, of New York, representing the farmers of the State of New York, also recommended a commission.

The English Government totally abandoned all confidence in the operation of the law of competition in relation to railways, and appointed in 1873, after the trial for many years of other experiments, a royal commission; and of this commission Mr. Chittenden says, in reply to a question from Mr. Seymour, of the committee, relating to a violation of the law, as follows:

Mr. SEYMOUR. Is there a penalty provided for the breach of that law?

Mr. CHITTENDEN. Only the ordinary penalty in England; but that is quite sufficient. Of course in England in any case of undue preference the citizen may apply to the railway commission, and the railway commission enjoins its continuance.

In this connection, and in support of a commission, I wish to read a paragraph from the report of the railroad commission of the State of Iowa. I read from their report for the year 1883, on pages 34 and 35:

There is at times a feeling that the through rates are too high, and again that they are too low; that Congress should interfere to protect the stockholder, guard the public against fluctuations, and should regulate railway transportation so as to prevent the extremes being reached. Whether the through commerce would be the gainer by the interference of Congress is a serious question, and one that it is not safe to assume affirmatively without investigation. While Congress has the power under constitutional authority to regulate commerce among the States, there certainly is a particular for argument whether this was intended to empower that body to fix the rates of common carriers.

The Supreme Court of the United States has held that States may do this—

that is, regulate rates—

and it is no unwarranted assumption to claim that the court would hold that Congress had the same power. To exercise it unwisely might derange the entire export trade of the country and destroy the agricultural and commercial prosperity of the central States in the interest of those nearer the seaboard.

Now, on the subject of a commission the report goes on to say:

We are inclined to the opinion that a commission created somewhat after the form of the State commissions, whose business it should be to investigate the whole subject of transportation by rail, might be of great service and be the means of furnishing Congress information that could not be readily acquired elsewhere. In our judgment, until this is done legislation that attempts to do more will probably affect injuriously our internal commerce.

That is, as I have said, an extract from the report of the Iowa railroad commissioners. I wish now in this connection to read two or three paragraphs from the report of the United States Commissioner of Railroads for 1883. I read from page 19:

Any law not based upon full information might work great injustice to the companies and be inadequate to the proper protection of the people. Experience has shown that unreasonable laws cannot be enforced, and in many instances have worked such great embarrassment to transportation as to become inoperative by common consent. Many such laws, hastily enacted, have been quickly repealed. I therefore respectfully renew my former recommendation, that a commission be appointed to take into consideration the whole subject and report to Congress the facts necessary for intelligent and efficient action upon the subject.

It will be noticed that I have quoted from no one who appeared before the committee in the interest of any railroad.

From these recommendations and authorities and in the light of what has already been accomplished in the experience of others, I am constrained to believe that a railroad commission with limited powers is the step for us to take first.

The argument that has been advanced and will be heard again, that we have not the men who could honestly protect the interest of the public, I care not to reply to. I have a better opinion of humanity than that; I have more confidence in my people; I have more confidence in my associates here upon this floor; I have more confidence in the public men of this country, than to believe that three men could not be selected, or five, or five hundred, who would execute a trust of this character honorably and with great fidelity.

There are many other reasons I might give for my belief in a commission, but I wish to point out some of the objections I have to this substitute and wherein as I believe a commission would be better without charging it with the execution of such laws.

No one can doubt that thousands of instances would arise where the application of the iron-bound, inflexible laws of penalties and prohibitions, as provided for in the Reagan substitute, would bring embarrassment and hardship upon the very service we hope to improve, and in my opinion they would be fatal to the execution of the provisions of the substitute should the bill become a law, for it is well established that unreasonable laws can not be enforced.

REBATES.

The Reagan substitute prohibits rebates. On principle I would be in favor of that provision, but we had many an illustration where freight carried to a certain point failing to find market for the property, the same might be carried to some other point, and certain rebate would be allowed, that the property might compete with like property shipped from a different point. It seemed to be in the interest of the miner and in the interest of the consumer, and appeared fair and equitable, and injured no one. The illustration given by Governor LONG of the

rebate allowed to the exporter of staves is another case in point, and thousands of illustrations could be given where the rebate was in the interest of every known law of trade; and yet a rebate of 2 cents on a bushel of grain given to one house handling that article in Chicago, and denied to another, would build up one house and destroy the other. Bankruptcy and failure, prosperity and wealth, would come and go at the instance of the railway management. In the one case a genuine benefit was gained and no one injured; in the other, ruin and bankruptcy. The committee have not prohibited rebates in their bill, but provide that all shall be treated alike. A commission would probably soon regulate this.

POOLS.

The next point to which I would call attention is to that provision in the substitute which prohibits the management of different lines to arrange for a division of freight at competing points, sometimes called pooling. This provision, like most of the others, appears plausible and would seem to be in the interest of the people; upon its face it would indicate that it would encourage competition; and yet many and long-continued bitter and wasteful wars were fought and millions of money squandered before this method of adjusting differences was adopted.

At first such an arrangement was not well understood, and was proclaimed against by the people, but it is now urged with much force by both the carriers and shippers that it has given greater uniformity and stability to rates; that in no instance is it resorted to for the purpose of raising rates, but on the contrary has actually reduced them, and secured greater efficiency to the service.

When there is strong competition a railroad will usually do one of two things: it will either secure its fair share of the traffic, or it will engage in a relentless warfare, ruinous to itself and demoralizing to all legitimate business affected by it.

The Iowa commission speak of it, on page 43, as follows:

> In the pooling, whichever form is followed, it is claimed that the facilities for the transaction of business are more reliable and that a saving in the cost of conducting and managing the business is effected. We understand that experience shows that whether railway companies allow business to take its natural channels or compete strongly for it the result in percentage to each is about the same. Whatever the effect of pooling may be in the future, one thing is certain, that with all the pools, combinations, and consolidations that have been formed in the past twenty years the result has been a gradual reduction of rates from the great grain and stock raising regions to the ultimate market.

The English board of commissioners, with Gladstone as arbitrator, allowed roads reaching a central point to make a division of traffic.

The royal commission of England in 1872, composed of the then leading statesmen of England, concluded their report with the statement of the conclusions to which the commission had come: "That past amalgamations had not brought with them the evils which were anticipated; that competition, however, between railways exists only to a limited extent and can not be maintained by legislation."

The gentleman from Kansas [Mr. ANDERSON] in his speech quoted the remark of Stephenson, frequently used when this topic is discussed, "that where combination was possible competition is impossible." Now, what business wants is reasonable and stable rates, and competition in railroad traffic does not secure it. Albert Fink in his argument, speaking on this subject, said that were Stephenson alive to-day he would, in speaking on the same subject, say "that where competition is possible combination is necessary," and gives as a reason "that without combination between competing carriers it is impossible to carry out the intent and spirit of the common law, which requires 'that there shall be like charges for like service.'"

The committee's bill requires this matter to be considered fully by the commissioners and report made thereon. The Reagan substitute prohibits it without any discretion. The experience in the States and in England does not warrant us in prohibiting railroads to arrange for a division of freights at competing points. It does not appear to be against public policy as administered; and I am free to admit that I would prefer to wait the report of a competent commission before with one stroke I would strike down the one great remedy adopted by the railroads themselves to prevent relentless railroad warfare.

SCHEDULES.

The provision in the substitute requiring the posting of schedules for five days, like all of the provisions, is fair and plausible to look upon, and our friend from Kansas [Mr. ANDERSON] became indignant because objection was made to it. He believes the railroad attorneys drew up or might have drawn up many of the provisions of the committee's bill. I might say to him in reply that this provision is worthy of the most cunning attorney of the steamship lines or of the Canadian railroads.

Our genial friend from Kansas, whose heart is always right on all these great economic questions, asks, in his own dramatic style, "What objection can be made to this? Suppose it does take five days or ten days to have schedules posted and notice given to the public. Who is it to injure? What of it? Sticking to the bark, gentlemen. Too thin! Too thin!" Now, I believe to require this simple and innocent-appearing duty to be performed by each railroad coming within the provisions of this bill, and not to require it of the others, or of the competing lines of transportation by water and otherwise, so as to include all lines carrying through traffic, you perpetrate an outrage that is indefensible; you discriminate unjustly and outrageously in favor of foreign railroads against our own system, take away the only weapon of defense our great trunk lines have to protect themselves against the Canadian roads, and place a club in the hands of foreigners to beat out the life of your own industries.

Such is the effect that simple provision will be liable to accomplish, should it become a law and be enforced. To illustrate, using an illustration submitted to the committee, I think, by Governor BROWN: The route is from Galveston or Houston to Saint Louis. It will require, say, one day to determine and adjust the rate, one day to publish the schedules, and probably it would require three days to have them properly posted, two in each depot, from Galveston to Saint Louis. Now, the rate can not go into effect until the last schedule posted has been up five days. Here are ten days required in which to make a change in the rate of freight.

This line of road competes at Galveston with steamers and water craft for freight to Saint Louis. On the morning of the day the schedule is to take effect upon the railroad the water transportation lines not affected by this bill reduce their rates just enough to secure all of the desirable freight. Is not the railroad helpless? Do not the steamboat lines command the freight at that port for the next ten days? Do you not thereby prevent competition? Can not the water lines repeat this dose of medicine to the unwilling and emaciated patient every eight or ten days until a relentless war of rates is commenced, to the ruin of possibly both lines and the demoralization of legitimate business? Do you not encourage just this kind of mischief by this provision? Is it not direct discrimination against the railroad in favor of the boats, and to the benefit of no one save owners of water-craft stock?

Take the Canadian lines as another illustration. Could they not command by this means the traffic from Chicago for eight or ten days at a time against the Pennsylvania Central, Lake Shore, Baltimore and Ohio, and other lines? Most certainly they could.

Our lines are bound for eight or ten days; no change, no help, the iron-bound statute must be enforced; one thousand or ten thousand dollars penalty—for what? for whom? For the foreigner, that his line may be privileged that ours may be destroyed.

Such would be the practical working of this provision unless our lines and management go over to the Canadian lines and agree to their terms, whereas to-day the American lines can protect themselves by an instantaneous reduction to meet any warfare the foreign line might attempt.

Could not the steamboat and barge lines from Chicago to Buffalo and thence to New York by the New York Central, none of which lines are affected by this bill, do the same thing? And would not the Pennsylvania Central, Erie, Baltimore and Ohio, and other lines be at the mercy of the lines favored by this discriminating law?

Justice and equity would seem to demand that all transportation lines should be required to post schedules, if any are required to do so, for a definite time prior to a change of rates. It is a question which should be thoroughly considered by a competent board before its enactment into law.

LONG AND SHORT HAUL.

I now come to the long and short haul provision, of which much has been said upon both sides. The Reagan substitute absolutely prohibits more being received or charged for a short than for a long haul. Like all of the provisions of that substitute, they are fair to look upon, and this, as Governor LONG stated in his eloquent speech, as an abstract principle appears all right, theoretically correct; but is it correct in principle when applied to the workings of a railroad and the rights of the people geographically considered? I think not. It discriminates in favor of one locality against that of another. In one instance it would grant additional advantages, not local or natural to the place; in another instance it would take from the place that which nature had secured to it.

This provision pays no attention to the geography of the country, and seeks by statutory provisions and great penalties to place all towns and locations in the United States on the same level or equality, except in discriminating in favor of towns miles nearer the seaboard, thereby tearing down or overturning the natural laws and the laws governing trade and commerce. I therefore seriously object to the geography of this provision as applied to commerce.

The laws of trade and commerce do not recognize miles distant as the important factor; facilities, not miles, is the great item to be considered. And yet this provision would take away all the natural advantages possessed by one town to build up another which has no such advantages. It is contrary to the laws of nature, the law of commerce, and can not be successfully accomplished.

Chicago is much nearer the seaboard from a commercial standpoint than many an inland town located hundreds of miles east of her, simply because she has great natural facilities. The clear water in front of that city extends in an unobstructed volume to the docks of New York and Montreal, thereby enabling her without the aid of railroads to lay freight down in New York and Montreal at a cheaper price than is possible from a more eastern, inland, and mountain-locked city.

Water transportation is the natural regulator of railroad transportation. Improve your harbors, dredge your rivers, build your canals, and

increase the natural facilities, and tax the entire people to pay for it, but do not seek to lessen the value of those facilities enjoyed by others.

The increasing of the facilities for water transportation by improving the Illinois and Michigan Canal and the immediate construction of the Hennepin Canal will do more toward cheapening freights and regulating the railroad traffic from Kansas, Iowa, Nebraska, Minnesota, and other Western States than the passage of all the interstate-commerce bills that the wisdom of this House could formulate or that the courts would have the nerve to enforce.

Hear what Mr. Fink, who appeared before the committee, had to say on the factors which were considered in fixing rates on the leading trunk lines of the country:

> Another very important rule of action has been adopted by the railroad companies located in the territory east of the Mississippi River, north of the Ohio and the Northern Atlantic seaboard, by which the influence of the low rates on the Erie Canal and the lakes is felt in determining the rail rates from all other points in this great section of the country.
>
> When the rates of transportation between New York and Chicago have been regulated by the competition of the water routes, all the tariffs in this section of country are adjusted upon the basis of the relative distance of the various points from New York, using the distance from Chicago to New York as the basis. The agreed differences are again allowed from the same places to Boston, New York, Philadelphia, and Baltimore. In this case the popular pro rata principle can be, and is, permanently adopted in establishing the tariffs. The distance of Saint Louis, for example, from New York is 16 per cent. greater than the distance from Chicago to New York, and the rate from Saint Louis to New York is 16 per cent. higher. Can anything be fairer? The low rates established on the Erie Canal and lakes are thus extended to Saint Louis, and that city enjoys the full benefit of cheap railroad transportation the same as Chicago.

Chicago is the great focal point of transportation in the West; she has natural advantages which this provision of the substitute will, in my opinion, to a great extent, deprive her of; and yet without such natural advantages to this or some other point in the West no such rates as obtain to-day would be secured.

The Western farmer by reason of water transportation can command a reasonable rate on his product to New York, and yet you propose to prohibit him the use of the railway unless the Pennsylvania, New York, West Virginia, and other farmers, with no such advantages, located hundreds of miles farther from New York commercially than the Western farmer, shall be allowed to send their crops to market on the basis of the Western farmer's advantages, to the detriment and increase of cost to the latter.

The point I wish to fix in this connection is this, that this substitute discriminates in favor of a town geographically near New York against our people of the West who are commercially nearer New York. You deprive us in the West of the use of the railroad; you take from the railroad the freight, in order to secure or attempt to secure to the man through whose town a railroad runs—now getting transportation at rates he could never dream of except for this through freight—even better rates than he now enjoys at our expense.

Who does it injure that a full train of our grain goes through your town on through bill of lading to Liverpool at a rate which will permit us to compete not with you but with the crop from India, Egypt, and Russia, thereby enabling our farmers to dispose of their surplus grain, instead of consuming it at home as fuel or letting it rot in the field, although you may, forsooth, in rare instances be required to pay a little higher rate upon one hundred pounds of oats to New York. Take as an illustration one made before the committee: On the route from New York to New Orleans the rate through was 70 cents per one hundred pounds. This was all that the merchant would pay. He could ship by water a trifle less. To compete—and competition it is said is what we want—to compete with water 70 cents was the maximum that could secure any freight. Now this route runs through Atlanta, and the rate to Atlanta was $1 per one hundred pounds, and this is regarded as an injustice. Why? Because Atlanta was geographically nearer New York than New Orleans, and yet New Orleans could ship at 70 cents regardless of the railroad, and Atlanta without the railroad would be a pasture-lot. Atlanta has freight cheaper than ever before, and yet it is demanded that Atlanta by arbitrary law shall be placed upon the same footing as New Orleans, with none of her natural advantages. To do so would possibly deprive New Orleans of the use of the railroad and increase the rate to Atlanta.

It is possible that this provision, should it become a law, might aid in equalizing freights to some points in Illinois and the West, but it can not accomplish more in this direction than will be secured by a commission; and to pass this as an arbitrary law will, in my opinion, reduce the value of every farm in the West. The next point that will arise and cause litigation under this provision will be the method of determining the rate of freights—what shall be the basis of adjustment. Chicago has 1,000 cars of wheat for Liverpool, the bill of lading is through, the rate may be subject to extra charge by waiting steamer in New York, but when the pro rata rate, Chicago to New York, per hundred pounds is ascertained on that shipment, will that be the maximum upon which each hundred pounds of like freight going either way or through or only to intermediate points shall thereafter be adjusted?

The substitute makes no allowance for quantity, and while I do not approve of discriminating against a small shipper, I would draw the line somewhere. It appears to me a little unjust to put the casual shipper of fifty or one hundred pounds of freight or a coop of chickens on the same basis with a regular car-load shipper, and yet this substitute goes on the assumption that there is no greater care required, risk carried, or expense incurred in dealing with one hundred shippers than with one shipper, provided the aggregate and kind of freight are the same.

I do not discover any well-defined business principle or a conformity with the rules of trade and commerce in any such transactions. But it is urged that the road will have all the discrimination there is in the difference in distance; that is, that you can charge as much from Boston to Albany as you do to Chicago, if you wish; that the substitute does not prohibit it. I do not believe that the provision would be so construed in court. The meaning of the provision is that the railroad shall not charge more for a short than for a long haul.

On one bill of lading the long haul would be, say, Boston to Springfield. All freight between Boston and Springfield would be governed by the long haul in this instance. The next bill of lading might read Boston to Pittsfield. That would be the long haul in that instance and govern intermediate shipments. The next bill of lading might read to Albany, the next to Utica, and so on to Buffalo, Cleveland, and to Chicago; it will make, and must make, on going west, every succeeding western station the long haul, affecting points intermediate, and going east every succeeding eastern station. So that we would find that the through rate Boston to Chicago would be the aggregate or sum of the local rate charged between stations. Having settled rates from Boston to Chicago and New York to Chicago, how are we to protect our roads against a rate established by the Canadian lines? How about the rate from New York to Buffalo and thence on New York Central boats to Chicago? This bill does not presume to touch that route, and could not, so far as the railroads are concerned, if it attempted to.

Having bound up the Pennsylvania Central, Lake Shore and connections, Erie, and Baltimore and Ohio on rates, can we protect them against the New York Central and the barges? Most certainly not. We thereby prevent competition and legalize discrimination. What will be the basis of the rate Chicago to New Orleans and intermediate points? The rate, of course, must be fixed by rail; yet the Illinois Central to Cairo and by boat to New Orleans, not affected by this bill, would receive the benefits of this act.

There are thousands of instances of inequalities, of discrimination, of legalized outrages that could be cited which would be possible under this provision not possible to-day; and no cast-iron provision of this character can be applied to correct existing evils with justice, equity, or common fairness.

Mr. Chittenden, the great New York advocate of the original Reagan bill, did not approve of this provision, and cited English cases to show that a greater charge for a shorter than for a longer haul was not prohibited by the English law and was approved of by the royal commission.

Now, Mr. Speaker, I have thus hurriedly submitted some of the more prominent views which I entertain with reference to this subject as well as the objections which occur to me in opposition to the substitute of the gentleman from Texas. These views I present in advocacy of the features of the committee's bill. I believe it is our duty to look upon this question from a national standpoint instead of a local one. What may be applicable to the transcontinental lines may not be applicable to those east of the Missouri River. What may be applicable in a matter of national legislation with reference to the transportation of our supplies for domestic consumption may not be properly applicable to the transportation of supplies for export. What may be reasonable and proper in Illinois might not be in California.

But, as I have said, we must look upon the question from a national standpoint, and pass such laws as we believe will be practicable and of service; and in this connection I desire to say that the commission recommended by several States and adopted in England is, in my opinion, much fairer, much better, and will accomplish more good than any iron-clad statutes we can pass at this time.

I yield the remainder of my time to the gentleman from Michigan [Mr. HORR].

Mr. HORR. Mr. Speaker, the gentleman from Pennsylvania [Mr. O'NEILL] reserved also fifteen minutes of his time, which he placed at my disposal.

The SPEAKER *pro tempore* (Mr. MCMILLIN in the chair). The gentleman from Michigan is entitled to fifteen minutes remaining of the time of the gentleman from Illinois who has just taken his seat, and ten minutes of the gentleman from Pennsylvania, making twenty-five minutes in all.

Mr. HORR. Mr. Speaker, the twenty-five minutes allotted me is perhaps all the time I desire to occupy in this discussion.

In the Forty-seventh Congress this question of interstate commerce received long, patient, and careful consideration from the committee upon which I then served, hence I shall be compelled to speak to-day largely from impressions that I received at that time. I well remember that the question was one that I left after long investigation fully satisfied that I had by no means mastered it; indeed the feeling was strong that I had come nowhere near mastering it; still I do remember that while I was well satisfied of my inability to present a remedy for all the difficulties of the case, yet there were certain things sought to be done by the bills introduced which I was clearly of the opinion should never be attempted.

To begin with, the railroad system of this country is so extensive,

so complicated, so intricate, has to do with such a vast diversity of interests, that I defy any man, I care not how extensive or prolonged his study of the question may have been, to define or lay down any rule of action that will work exact justice in all cases. Indeed, I came to the conclusion that so varied were the circumstances, so peculiar the conditions that surround almost all these great commercial transactions, that really the only possible method to do justice to all the people and at the same time to permit that perfect freedom which is so essential to the carrying trade of the country, is to let each individual transaction stand or fall by itself.

This subject has been agitated constantly in this country for the past fifteen or twenty years. Legislation has been had in various States looking to the control of transportation by iron-clad rules, and if I am not misinformed, no State has attempted this work in that way that has not been compelled to retrace its steps and go back in the end to the commission plan, which is one of the features of the bill now before the House and reported to it by the Committee on Commerce. This result arises from the fact that no law can be devised which will take cognizance of all the peculiar relations that surround so many different transactions in the freighting business of this country.

The case referred to by my friend from Baltimore [Mr. FINDLAY] is one that no man can defend. In that case the railroad company carried sugar for one large dealer from Baltimore to New York for a cheaper rate than it did for another large dealer, and that too after it had agreed to give the first party as low a rate as it did any of its customers. These dealers were similarly situated, entitled to the same treatment, and had no bargain of the kind been made each shipper would have been, in common honesty and fairness, entitled to the same treatment; were all freighting transactions as simple and clear as that one, a bill could easily be framed that would reach the case. No one favors such unjust discrimination as that, and I do not complain of the Reagan bill, this substitute of the gentleman from Texas, on account of its effect upon that class of cases. His bill not only stops that kind of transactions, but it also prevents discriminations that are just and proper, and without which the business of the country would suffer, and it seems to me almost a matter of demonstration that to pass this substitute will increase the difficulties that the gentleman himself really desires to remove.

I do not claim to be able to solve this great question; let me go still further and say that in my judgment it is one of the questions that nothing but time and practical experience can solve. Men of great ability are devoting their entire time in faithful effort to devise a remedy for the inequalities and unjust discriminations of the carrying trade, and it behooves a body like this to move slow in the passage of any bill that shall in any way hamper any traffic, and especially when dealing with a business that we all know is so full of complications as to baffle the skill and ingenuity of the ablest experts. I would avoid every existing evil to the utmost of my ability, but I would be slow in approaching "evils that we know not of."

Let me state in the outset that I have no sympathy with that class of men who are constantly inveighing against railroad companies simply because they are corporations. I have no sympathy with the people who believe that the combined capital of the country has not been beneficial in its development.

I am aware, Mr. Speaker, that it has become quite common, and in some localities very popular, to rant against all combinations of capital made for the purpose of developing the resources of our common country. The gentleman from Kansas [Mr. ANDERSON] has caught this spirit of the age and is quite a master of its curdling vocabulary. How glibly he talks of "cold-hearted, blood-sucking corporations." It is as good as an ordinary tragedy to just hear him pronounce the word "monopoly," and when he utters the names of "Gould and Vanderbilt" it is almost equal to McCullough in "Virginius"—no, no; I should have said in the "Gladiator." [Laughter.] And in that respect my friend Judge REAGAN is but little behind him.

You shall take men who stand well among their neighbors, who are honored and respected by those who know them best, who are well spoken of by the entire community in which they live. So long as they carry on business as individuals they are all right, but let them put their heads and money together to dig a canal, build a railroad, erect a rolling-mill, put up a salt-block, or organize a bank, and if you can believe these modern critics they at once become a terrible set of "cut-throats," or, to use the classical and clerical language of my friend from Kansas [Mr. ANDERSON], "naked, bald-headed robbers." [Laughter.] I believe that the combined effort of capitalists in this country has done more to develop it than any other one agency since the foundation of the Government.

No agency has done more to build up the West than the great railroad system, save and except, perhaps, our common schools. Money has been poured out like water in constructing these great internal highways; men of means have invested their millions in extending them through sparsely populated States and through the very wilderness and over the mountains, with no immediate prospect of returns for their investment. Improvements, homes, civilization have followed in their track, and now I submit they are entitled to fair, honest treatment, and should not be dealt with in a spirit of bitterness and unreasonable hostility.

I introduced a bill very early in this session providing for a simple commission of inquiry, with power to examine into every complaint, to cause the production of books and papers, and thus to get at all the facts surrounding each and every transaction, and thereby enable them to report what was just in each case. It was, as I now understand it, an attempt to introduce into the management of interstate commerce, as nearly as possible, the plan now in existence in the State of Massachusetts, and which I am told has worked for years in that State with signal success. To do more than that at present does not seem to me to be wise or judicious.

I know this does not at all satisfy the gentleman from Texas [Mr. REAGAN]. He has been brooding over this subject so long, working at one idea connected with it through so many years, that it has become, as it were, a part and parcel of his very being. Yet, if you will examine the various bills he has introduced and advocated for ten years last past, you will find that even he has made some improvement. One item after another he has himself abandoned. As each new bill appears you will miss some familiar section, until to-day you will hardly recognize in his substitute the bill he pressed upon the country many years ago.

Why, sir, if you compare this bill with the one we worked at so laboriously in the Forty-seventh Congress, you will find he has stricken out the section which gave to informers and prosecutors one-half of all the money that should be collected from the railroads. As I recollect that bill it contained all the objectionable features of the moiety system, and I think the gentleman will admit that he then claimed that that was an essential part of this legislation, that it was really the "gist" of the whole bill.

Mr. REAGAN. The gentleman is a little extravagant in saying that I regarded that as the "gist" of the bill; it was only a small item.

Mr. HORR. I know the gentleman was very strenuous about that clause at that time, but it has gone into the attempted legislation of the past. So, too, in the early days of this measure the bill contained a clause making it apply to the water ways of the country. Am I not correct in that?

Mr. REAGAN. One bill did.

Mr. HORR. The bill, as I recollect, that you first tried to pass put all these restrictions upon the commerce that was carried over the water ways of the country and which comes in competition with the railroad freights; the same which you now attempt to apply to railroads alone. The water ways by the gentleman's substitute are left free from all the restrictions of this hostile legislation.

Thus year after year he has been compelled to abandon one of his outposts after another, to drop from the bill one great remedial clause after another, and if he would take my advice now and drop out the rest of his substitute and accept in its stead that consummation of human wisdom which I presented to the House on the first day of this session he would then have a splendid bill. [Laughter.] I say this with some assurance from the fact that that bill is not simply my own, but is precisely the one the committee in the Forty-seventh Congress agreed to with great unanimity after an extended examination of the entire question.

But what is the real difficulty with the Reagan bill? I use that term simply because the measure has come to be known all over the United States by that name. I know that gentleman denies that his bill is drawn in a spirit of hostility to the railroads of the land. If you take his word for it (and I can, for I know him to be upright and truthful) his affection for the railroad companies is really something quite touching and beautiful. True his bill, though he does not know it, is favored mainly by that class of people who work themselves into a furore the moment any corporation is mentioned. I have sometimes thought that the gentleman himself has mistaken this local clamor for genuine public sentiment, and that he has been so long working and tugging at his pet measure that it really does seem to him that it is a great work, and one essential to the happiness and prosperity of the country. Has it ever occurred to him that the mere fact of his inability to make others see it as he sees it himself should be sufficient to induce him to call a halt? Let me ask him one question. Have you ever, during your entire work here in Congress, presented this bill to a committee where it has been carefully investigated, testimony taken and arguments presented, and where you have been able to get a report of such committee in favor of your measure?

Mr. REAGAN. Yes, sir. I had the bill twice reported by consent of the committee and once passed by the House by a majority of 35. It was afterward strangled in an adverse committee against the judgment of the House.

Mr. HORR. They may have consented to the report, but I was not aware that a majority of any committee ever adopted the gentleman's bill.

Mr. REAGAN. It was twice recommended and once passed in this House.

Mr. HORR. After an investigation and after proofs had been taken?

Mr. REAGAN. Oh, yes; after we had taken sworn testimony.

Mr. TOWNSHEND. Yes; it passed the House.

Mr. HORR. Which Congress passed it?

Mr. REAGAN. The Forty-fifth.

Mr. HORR. That was before my day here. I know the committees in the three Congresses in which I have served have rejected this bill, and to-day the gentleman is simply permitted to introduce it as a substitute; it is not the work of his committee.

Mr. REAGAN. I dislike to interrupt the gentleman, but he ought to confine himself to the exact facts.

Mr. HORR. I am anxious to do precisely that.

Mr. REAGAN. When the bill was beaten in the Forty-seventh Congress the case was not as the gentleman remembers it; it was an 8 to 7 case.

Mr. HORR. I beg your pardon. In the Forty-seventh Congress it was a case of 3 to 12. I was on that committee, and even one of the three did not really believe in many features of your measure.

Mr. REAGAN. The records will show that my bill failed to be reported by a vote of 8 to 7.

Mr. HORR. In the Forty-seventh Congress?

Mr. REAGAN. In the Congress in which you were on the committee.

Mr. HORR. I was on that committee in the Forty-seventh Congress, and the gentleman is certainly mistaken. I remember the circumstances distinctly, and if the rules of the House permitted could name each gentleman and tell how he voted.

Mr. REAGAN. The gentleman from Massachusetts [Mr. RUSSELL] corrects me. It was in the Forty-sixth Congress that the vote stood 8 to 7.

Mr. HORR. That I presume is true. But in the Forty-seventh Congress I well remember that while quite a number of the members went onto that committee, as I did myself, thinking that perhaps the gentleman's bill was right, after careful investigation and study they became convinced—that is, the most of them did—that the bill would aggravate and not cure the ills it was intended to reach.

Mr. REAGAN. If the gentleman will permit me to interrupt him——

Mr. HORR. Certainly, though my time is limited and fast slipping away.

Mr. REAGAN. I would like to state that in a committee of fifteen in the Forty-seventh Congress, fourteen of them were appointed to oppose the bill and one of them came over and joined me, and there were 2 to 13.

Mr. HORR. That is one worse for you than I had it.

Mr. REAGAN. The committee was 13 to 2, but was intended to be 14 to 1.

Mr. HORR. That is going into a statement of the constitution of that committee, which is beyond my knowledge and which is entirely new to me. I am certain that the gentleman is mistaken as to the facts given.

I know one member on that committee who was not put on with any such idea, for when I was appointed on that committee my feelings, so far as I had any, were in favor of the gentleman's bill, and it was only after careful study that I became fully convinced that the measure would defeat the very end sought to be accomplished, and consequently I abandoned it.

Mr. REAGAN. As to the facts of the case, which I always like to get at, whenever possible, I would like to ascertain the precise time when the gentleman was even in favor of any bill of that kind and the day at which he abandoned it.

Mr. HORR. I abandoned it when I got the testimony, and when I became satisfied that the bill would work harm instead of good. When appointed on that committee I had given the subject little attention; knew little about it; my impressions were in favor of some such legislation, but after careful examination, for the gentleman knows we gave two or three months' hard study to that question, it became apparent to me that the bill proposed by the gentleman would not be best for the people of this country. As the gentleman now admits, thirteen out of the fifteen members of that committee came to the same conclusion. They were mostly men of character. Many of them men of great business experience, and yet they almost unanimously rejected this substitute.

Now, the question I would like to ask the gentleman from Texas is this: If this bill of his is so clearly a good thing for the United States, how does it come about that men who are selected and set to work to examine this question carefully, cautiously, and who faithfully perform that duty, come to a conclusion so directly opposite from his own? I know the gentleman asserts that the committee in the Forty-seventh Congress was made up, packed, so to speak, in the interest of the railroad companies. I did not know that until I learned it here from the gentleman's lips. But how about the committee in this Congress? Was that constituted in the same way? I have heard it rumored that the gentleman had the selection of that committee, and that it was made up with a view of fixing his bill. Will he be kind enough to tell us how that committee stand now?

Mr. REAGAN. The gentleman will allow me to say that I did not know the name of one single man who was to be on that committee until the committee was announced at the Speaker's desk. I never named a man on that committee.

Mr. HORR. I presume the statement of the gentleman is correct, and that my intimation as to the gentleman having named the present committee is quite as accurate as what he has said about the committee of the Forty-seventh Congress being packed. I do not believe there was a single man put on that committee for any such purpose, nor do I believe that the gentleman has any knowledge to that effect. I can not think that any such thing ever occurred. But let us return to the committee of the present Congress.

Mr. REAGAN. I do not care to go into a discussion of the matter, but I could show you that I do know what I stated from the very highest authority.

Mr. HORR. Well, let that pass and we will come to the committee of this present House. That was not selected in the interest of the railroad companies, was it? Does any one claim that it was? It was named by the party to which the gentleman from Texas belongs. It is fair, is it not, to presume that this committee is a good, clean committee? How many of them are in favor of your bill, judge—this bill which you say is a remedy for these railroad evils? We have heard from almost all of them during this debate; and if there is one who agrees with you I wish he would stand up and speak. He certainly has not done so up to this date. Why is this? What explanation can be given? Let me make this point a little clearer. Why is it that, whenever a committee of good men, clear-headed, honest men, men who have the good of their country at heart, get together and examine this great question, they almost unanimously come to the conclusion that this pet measure of my friend from Texas is not such a measure as the country needs? Such has been the outcome at least in the Forty-sixth, Forty-seventh, and Forty-eighth Congresses. What I desire to ask is this: Why is it so? Let me tell you why I think it turns out in that way. It is because when these men come to look into all the facts and study carefully all the details and intricacies of the great railroad system of the country, they come to the conclusion that such a measure is not needed and that good business rules will not warrant them in supporting such a bill. And I will try in a few moments to show you that their conclusion is correct.

The pet clause in his bill, the one on which he places the most stress and which he claims will be a remedy against the evils of local discriminations, is the one which provides that no company shall charge more for a short than a long haul. That clause out of this bill and he would abandon it at once, because he considers that the key to the whole situation. Now I believe any man who will carefully examine this question will be forced to come to the same conclusion that so many of these committees have reached, that that is the most dangerous provision in the bill, and that instead of preventing unjust discriminations it really creates them, and that in numerous instances such a rule would hamper trade and prevent the transaction of legitimate, profitable business. It is a strike right at the cheap through freights of to-day, because owing to the competition of the great water ways of the country through freights are as a rule much cheaper than way freights. It is both natural and proper that such should be the case. Railroads are built much more for the benefit of inland towns than for these competing points. These large cities have many ways of getting their products to the markets of the country and the world; the local place has only the one railroad, and is much more beholden to it than the cities that have so many other modes of egress; hence it should contribute more to this one road than can be required at the competing points.

Through freights are low because of the numerous lines that are seeking to procure them. My friend from Baltimore [Mr. FINDLAY] showed yesterday most conclusively that position determines certain commercial advantages and that no legislation can possibly change the natural advantages that arise from these favored situations. His "peanut" illustration should go down to history among the classics. [Laughter.] Among the ancient places of the East, Tyre was noted for its purples, Tarshish for its ivory, Arabia for its gold and its spices, and hereafter side by side with these will stand the peanuts of Pennsylvania avenue. [Laughter.]

And now let me show how completely this Reagan substitute would ruin this very peanut trade.

I hold here in my hand a map of a railroad running from Norfolk, Va., and making connections with a road running to Philadelphia and New York city. Now, this road is compelled to compete with boats carrying freight to Baltimore and thence to New York by rail, with those running directly to Philadelphia, and with others going direct to New York. You may be amazed to learn that at that point of Norfolk last year were shipped over two million dollars' worth of peanuts, the very nuts now made famous by my classical friend. [Laughter.]

The SPEAKER. The time of the gentleman from Michigan has expired. [Cries of "Go on!" "Go on!"]

Mr. RICE. I move that by unanimous consent the time of the gentleman from Michigan be extended indefinitely.

The SPEAKER. The Chair hears no objection, and it is ordered accordingly.

Mr. HORR. I am greatly obliged to the House for its courtesy.

I had just stated to the House that at the point of Norfolk alone there were shipped last year over two million dollars' worth of peanuts, raised mostly in Virginia and North Carolina. This bill of the gentleman from Texas would prevent the railroad from carrying one single carload of that freight, provided that they charged from any intermediate

point on the line of their road more for a car of freight than they could get for this through freight.

Now, on the face of the proposition it looks fair and just; a mere statement of this provision looks all right. It is one of those things that seems proper if you do not look into it carefully. But I assure you it will not bear examination. Why not? Simply because at Norfolk the water competition is brisk, and in order to get this through freight at all the railroad is compelled to carry it for much less than the amount for which they can afford to do their other business.

But the gentleman from Texas says: "Why should they get any of it if they must carry it for less than it costs, and then turn around and charge the loss up to the local freight along their line?" Sure enough, if that were true then they should not touch a pound of it, and the gentleman would be correct. But neither proposition is true. They neither carry it at a loss nor do they increase their local rates on account of such through traffic. I well recollect that five or six railroad managers appeared before our committee two years ago, among them a Mr. Alexander, a very intelligent gentleman, who manages a line of Southern roads. He seemed as well posted on this railroad problem as any man I ever listened to. I do not know whether he was before your committee this year or not.

Mr. REAGAN. Not this year.

Mr. HORR. Two years ago he stated in reference to the railroad history of this country that no instance could be found, and he defied any one to point one out, where any railroad company had ever raised its local rates in consequence of carrying through freights at a low price. On this point every railroad manager agreed with him, and they all asserted, on the contrary, that a reduction of local rates almost always followed a reduction of through rates; and my friend from Texas will remember that their universal testimony was that a raise in local freight to make up for losses on through freight was unknown to the railroad business.

Now, Mr. Speaker, if that be true, then the gentleman's proposition falls to the ground. But let us examine this matter a little closer. Ought not a railroad company to be allowed to carry through freights at a less rate than they can afford to do local business? Why not? A railroad company, the same as any other company, ought to be permitted to earn all it can justly on its capital actually invested. It has a right to try and pay interest on the money used in the construction of its road. Local freights should always be carried at a fair and reasonable rate, because it is the only outlet these local points have for their products. If it fixes a fair and just rate for this local traffic, then I say it is not injustice to the people living in these local towns if the company does take through freights at a less rate.

Suppose they fix their local rates so as to pay a dividend of 6 per cent. a year on their investment. If they get any through freight, it is so much extra. If they carry none of the through traffic, other competing lines will, and that, too, at a low rate. They have their engines, their cars, their track on hand; and suppose, in addition to doing their local business, they can carry a portion of this through traffic, and can get it on a basis of paying only 2 per cent. on their investment instead of 6, ought they not to be permitted to do this extra work? Most clearly they should be. This extra 2 per cent. will aid in supporting the company, and in time will enable them to reduce the local rates to a basis of 5 per cent. instead of 6.

Mr. LONG. And finally to reduce them still lower.

Mr. HORR. Certainly such an arrangement will relieve the local traffic constantly, just as long as the through freight pays more to haul it than it actually costs. Can any one longer deny the right of any railroad company to engage in this through business, even though it must do so at a rate lower for a long haul than a short one?

But this clause of the bill in the substitute of the gentleman from Texas discriminates unjustly against all roads that run through more than one State and in favor of roads lying all within one State. It will discriminate in favor of the New York Central, which needs no aid, and against the Delaware and Lackawanna, the Erie, the Baltimore and Ohio, and all the roads of the country that have a continuous line through more than one State. How so? Because you can not formulate a law which will prevent the people of Chicago from sending their wheat to Buffalo as one separate transaction. Then the New York Central can take it as another separate transaction and carry it to the seaboard. This law can not prevent them from getting the best terms possible from Chicago to Buffalo, and the same will be true from Buffalo to the sea-shore. These are separate carriers and neither of them are reached by this bill. It will compel other competing roads to be governed first by the charge made for local freight, next it will prevent them from lowering their advertised rates without posting the new rate for thirty days, and any one can readily see that such routes would stand no chance in the competition for this business. They would be ruled out entirely the moment this law should go into operation.

Mr. REAGAN. Will the gentleman allow me?

Mr. HORR. Certainly, with pleasure.

Mr. REAGAN. It is not the railroad the bill regulates at all, but commerce. All commerce starting from Chicago to New York or other Eastern points is interstate commerce; when it strikes the railroad it is the same interstate commerce, and is under the operation of this law, whether it passes by water or by railroad.

Mr. HORR. Let us see about that. Suppose I have 100,000 bushels of wheat in Chicago, and I ship it to the city of Buffalo, or to some point in Canada. I may not know just what I will do with it. May sell it in Buffalo; may send it through Canada to the sea-shore; may send it on to New York. Now, your bill would not reach that wheat on its route to Buffalo or Windsor, would it? It is an individual right of mine to ship to any of these points and no law can interfere; at least your substitute would not touch it. Am I right?

Mr. REAGAN. My bill does help that very thing. That fraud on the law is provided for in my bill.

Mr. HORR. What fraud? I have proposed no fraud on your law or any other law.

Mr. REAGAN. The very object of the gentleman's argument is to demonstrate the possibility of defeating the law by fraud——

Mr. HORR. I say there is no fraud intended or committed. I should be simply keeping the law, not breaking it.

Mr. RUSSELL. You might sell your grain in Buffalo, for instance——

Mr. HORR. Of course I might. In that case the gentleman from Texas would admit that his law could not reach it. But I say to him further that I could take it to Buffalo with the honest intention of doing with it what should seem to me best after it reached that city, and then I could decide to send it on to New York or anywhere else I might wish, and your law could not touch it anywhere on its route. That is a right which every man possesses in this country, to do pretty much what he pleases with his own property, provided, of course, that he is lucky enough to have any property. [Laughter.]

Mr. Speaker, this bill not only discriminates in favor of all roads that lie entirely within one State, but it will also give the Canada roads an advantage over all the through lines touching more than one State. You could take grain from Chicago and send it to any point in Canada by boat and thence through the Canadian provinces to the seaboard, and this law would nowhere reach it. I ask the gentleman from Texas if his bill could prevent that? He will not claim that it could. There would be a route to the sea untrammeled by any law. They could bid under and secure freight at their pleasure. The products of the great West would be seeking transportation to the consumers of the East, and our country would present the strange spectacle of having a law so framed as to practically prevent our own companies from competing for the trade, and thus give it all to the roads of a foreign power. Hence I assert if this bill had been entitled "A bill for the benefit of Canadian railways, and to do as much harm to a large number of our own as possible," the title would have been appropriate and accurate.

Mr. Speaker, this short and long haul phrase, as I have already said, sounds well, but there is no practical merit in it. Freights are fixed as a rule upon principles which have been found best adapted to the growth and prosperity of all the business interests of the country. You can not charge freights simply according to weight, nor yet with reference only to the distance hauled. The moment this should be done the business of the country would suffer great loss. Disaster, and disaster only, would follow any such hide-bound rule. Many other conditions must be taken into account when you are fixing just rates for the transportation of the varied products of the land.

My friend from Baltimore [Mr. FINDLAY] who sits here before me knows very well that his city raised a great hue and cry at one time as to the comparative rates to Baltimore and New York. Philadelphia had a hand in the controversy. Finally a high commission, composed of Messrs. Cooley, Thurman, and Washburn, were selected to solve the problem. Baltimore, as I remember the contest, claimed that the grain of the West should be laid down by the railroads cheaper in that city than it should be in New York because of the less distance in reaching Baltimore. I speak only from memory. Am I right?

Mr. FINDLAY. Yes; and she got it.

Mr. HORR. New York claimed, I think, that though she was farther from the grain of the West, that still the "cost of the haul," owing to grades, &c., was less than to Baltimore, and therefore she claimed that the question should be settled upon the "cost" principle. After an investigation of the facts my memory is that it turned out that upon the "cost" principle, too, as well as "mileage," Baltimore had the advantage. But did New York give up the trade on that account? By no means. She continues to handle many times as much grain as Baltimore, and will continue to do so, simply because her people are live people, as much so as are the people of Baltimore. They have built and own their own railroads, have put their own money into them, and hence they will permit the people of no city to cut their business throats. They run their roads, they own them, and they will continue to carry grain at such a rate as will secure to them their immense trade in the cereals of the great West. Have they not a right to do this? Most clearly they have. It is a right they possess under the law of self-preservation, and any statute that tries to annul that great law of nature will always be a dead letter on the statute-book.

I remember some twenty years ago of standing on the banks of the Mississippi River when a steamer with a tow of grain barges floated down that stream. It was, I think, the first trip of the kind ever made. It had started on its way to New Orleans to open up the wheat trade by that route to Liverpool. I know I attended a meeting in Saint Louis commemorating the event, and though it is so long a time since, still

the speeches made on the occasion are even now fresh in my memory. They claimed that a new era had just then opened in the grain-carrying trade of this continent.

I recollect that in those speeches the Mississippi River became one mass of steamers and barges from Saint Louis to the Gulf, that Saint Louis itself grew so rapidly that it became the great inland city of this country, and that Chicago soon had grass growing in her streets—in those speeches I mean. [Laughter.] I remember they permitted her to still do a struggling, petty business, such as might be permitted a small hamlet situated as she would be outside the great busy line of the business of the country, and living only in the memory of her past greatness. [Laughter.] They proved by mathematical demonstration that wheat by that route could be landed in Liverpool at a large profit over that sent by the old route. I recollect they had a printed statement of a cargo that had been sent by this new route which showed a large percentage of profit over what could have been realized if it had been sent by Chicago, and from those figures they drew the pictures above referred to.

But, Mr. Speaker, twenty years have gone by, and to-day they are repeating in Saint Louis that same story about this cheap route to Liverpool for the wheat of the country. They are still asserting that that is the natural route for this grain to travel. Theoretically they seem to be right, but practically it does not work. The great bulk of the grain still goes by Chicago and the lakes, and that city is growing faster to-day than at any other minute of her existence. I do not say this to flatter the Chicago men here; they are vain enough already. [Laughter.] Still I will add that in my judgment no city has a greater or more certain future than Chicago. She will continue to be the center of the grain trade of the West and the great shipping point to the East for ages yet to come, and that, too, in spite of any law we may enact, but in accordance with the laws of commerce, which hold business in channels once established until at least a better reason for a change can be given than Saint Louis has yet been able to furnish.

The Saint Louis men in forming their opinion overlooked one fact that enters into this problem. The people of this country consume 90 per cent. of all the grain raised on our broad acres and only 10 per cent. of it goes abroad. The great mass of these home consumers live north of a line drawn through Saint Louis. Hence the northern route must always be the more extensive, and the problem most affected by this bill is the one relating to a cheap transportation for these products from the producers of the far West to the consumers of the East.

The main trouble with the restrictions attempted by the gentleman's substitute is that they will destroy the cheap through rates and increase the present low price of getting the wheat and flour of Kansas, Nebraska, and Minnesota to the mouths of the laboring men of New York, New England, and the entire East. I am not surprised that most of the men here from Kansas oppose this untimely legislation. Why, sir, you pass this bill, and you will reduce the value of every acre of land in Kansas, Nebraska, Minnesota, and Iowa, and in all our far-off Western States. Oh! you do more than that; you compel the teeming millions of workingmen in the East to eat dear bread instead of cheap food, and thus you strike a serious blow at the great cities and manufacturing centers of this country.

These complaints against the railroad companies when carefully examined will be found to be not that they charge too much for local freight, but that they carry through freights for too little money. It is only when comparing local rates with through rates that they get up this fever-heat about extortion. People overlook the great benefits that have come to them by means of this brisk competition of to-day. They forget that it has placed the products of the farm at the door of the consumer at a rate so low as to almost annihilate distance. Then why this constant cry of "monopoly" and "anti-monopoly?" Is it because it tickles the ears of unthinking men? I know it has come to be popular in this country to claim that the people are being ruined, ground to pieces by a few men who own everything; and yet wealth is more evenly distributed in the United States to-day than in any civilized nation under the sun. Not owning anything myself I can appreciate this feeling. [Laughter.] But let us reflect a little. Does it necessarily follow because a man has accumulated a little something that he should be called a "villain," a "heartless monopolist?" The gentleman from Texas is always drawing pictures of the havoc created in this country by a few men who, he claims, are accumulating vast fortunes at the expense of the laboring classes, and he is prone to instance the same men always named by my Kansas friend—Gould and Vanderbilt.

Mr. Speaker, some men do get very rich in these days and many more get to be well off. But does it follow that because they have made money, accumulated wealth, that they have necessarily stolen it? Is it not possible for a man to accumulate wealth faster to-day than could have been done a century ago, and still rob no one in doing it?

Why, sir, fifty years ago, or say one hundred years ago, a man who worked twenty men and made a profit of 50 cents a day on each man had a fine business. To-day a man with the same ability will work 1,000 men, and if he saves 10 cents a day on each man he will make ten times as much money as the man did a century ago, and take less out of the wages of each workingman. Men get rich in this age owing to the magnitude of their operations. Then is it just to base arguments against railroad corporations upon the simple fact that some of their managers have accumulated fortunes? No doubt some men who have come to be directors of railroads have also come to be bad men. Is it reasonable on that account that we should class them all as scoundrels? Can not two men join together in an enterprise and be almost or quite as decent jointly as each man is when acting by himself?

This is coming to be a serious question. One who has listened to this debate for a few days past will almost conclude that it is an utter impossibility for three or four men to associate themselves together for any business purpose, especially to build and manage a railroad, without commencing at once to cheat and wrong somebody. Take for example the two men Gould and Vanderbilt. I take them because they are the men who seem to be ever present in the minds of the gentleman from Texas [Mr. REAGAN] and the gentleman from Kansas [Mr. ANDERSON]. These men are said to have obtained vast wealth, but can any man here say that they have wrung it from the wages of the laboring masses. The roads they own and have built have been paid for. The men who did the work, who handled the shovel and the pick, who furnished the ties and laid the iron, have all been paid for their labor. These men have made money, and made it very rapidly in two ways. First, they have taken property that has been badly managed until it could be purchased cheap, they have bought it on the market, and then, by good management, by putting brains into the business, have made the same property valuable. What was worth but little, by their superior skill has come to be worth a good deal. Is not that legitimate gain? Such transactions benefit the owners, but they also benefit the country.

Again, these men have undoubtedly made large sums in another way. Scattered all over the country are men who come to the conclusion that they are fitted for careers of speculation, and with their money they rush into Wall street to take a bout with these old "bruisers of the ring." [Laughter.] They at once tackle stocks—"buy long and sell short." A few weeks or months and the contest is over. The "lambs are shorn" and the leaders of the flock return to their fold "fatter and better fed." [Laughter.] The money thus accumulated does not come from the poor people, and takes nothing from the workingmen. If you can show me that railroad companies are becoming rich by means of extortionate charges I will go as far as any man to correct the evil. But does my friend from Texas claim that the roads in his own State are at present charging these extortionate rates? Can he name to me a single road in that great Commonwealth, renowned for its vast territory and "magnificent distances," that has ever paid one cent to its original projector? Is there within the boundaries of the State a single road that has ever returned to the men of England, of Europe, of New England, or New York 1 per cent. interest on the capital they have furnished to build up the road and develop the State? I am informed upon good authority that up to this time you have never paid a shilling to any man who invested his money in those enterprises. The State needs those roads. These men have advanced their money for the purpose of benefiting that country. They have made your State richer, more prosperous. They expected no immediate returns; they depended upon the future. They are still waiting, hoping that the growth of the State, the increase of local business, may some day bring them a little interest on their hazardous venture.

Mr. REAGAN. The gentleman will allow me one moment. He seems to be very familiar with railroads and other matters in Texas; but I will say to him that the stock of the Central Texas Railroad is worth more in the market to-day than that of any other railroad I know of; the dividend-paying profit is larger.

Mr. HORR. You surprise me. I confess I am making my statement from memory. I put this very question to men two years ago in the committee, as the gentleman from Texas will remember, and was then told that up to that time not a single road in Texas had ever paid a single shilling of dividend on its original stock.

Mr. REAGAN. I have heard a hundred as false statements as that made to the committee since I have been on it.

Mr. HORR. I will state further—and the history of railroads in this country will bear me out—that over three-fourths of the railroads running to-day in the United States are not paying the men who invested their money in them one dollar of interest on their capital. And only a few large roads, like the New York Central, are to-day paying more than 6 per cent. This bill, if you put it in force, will help the New York Central (which now pays good dividends) to increase them, and will prevent the roads of the West and the South from paying dividends at all. Worse than that, it will prevent some of them from paying running expenses.

Mr. REAGAN. As the gentleman has had his time extended, I would like to ask him this question, which I asked the representatives of the New York Central Railroad before the committee: If this measure would benefit the New York Central road by discriminating in its favor against other roads, why is it that the officers and employés of the New York Central resist and oppose this bill as earnestly and persistently as does any other road?

Mr. HORR. It is not on account of your long and short haul provision at all.

Mr. REAGAN. It is disinterested benevolence.

Mr. HORR. It is because you propose to meddle with another branch of their trade. So far from its being the fact that the long and short haul provision is detrimental to that company, did not Mr. Depew state at the outset that that provision would not damage the New York Central?

Mr. REAGAN. I beg to correct my friend. Mr. Fink and the whole of them opposed that provision in the bill specifically and every other provision in it, and the published record shows it.

Mr. HORR. I beg the gentleman's pardon. The published record of the hearings before the committee will show that the New York Central did not object to the bill so much on that ground, but there were other provisions which they thought were an attempt to meddle with the railroads of the country in such a way as would do damage instead of benefit to them all, their railroad included.

Let me now examine the question of discriminations. This question of freight is a practical question. I remember, and my friend from Texas will remember, an instance given by Mr. Alexander, who was at that time managing a large line of roads in the South. He stated that every day in his business as a common carrier he was compelled to decide upon special cases. He said that at a point in North Carolina they had immense quantities of turpentine to ship over his road. He met the turpentine dealers, and they agreed on what would be a fair rate for the shipper from a certain point to the market place. Afterward one of the heaviest dealers came to him and stated this: That across the river through a long swamp there was an immense pine tract, and if he could get the turpentine from that tract he could make large shipments and build up a large business, but that if he went to the expense of corduroying the swamp and of getting the turpentine across the river he could not get a new dollar for an old one. He said to the railroad company, "If you will do this, if you will put a lower rate on the turpentine made beyond the swamp and beyond the river, which will enable me to get it, I will then build up that new business and I will make it a prosperous trade for that section." He made that contract. The men who were shipping turpentine paid no more than they first agreed to—paid no more than they were satisfied with.

This new business was not any more profitable to the man who made the turpentine than his old business. When he shipped the new he did not make any more out of it, but it enabled him to do more business and the railroad to do more business than they could otherwise have done, and so the agreement was adopted by which they discriminated in favor of the turpentine on that side of the river and beyond the swamp. Was that stealing? Was that wrong? And yet under this bill no such judgment could be exercised.

Why, sir, discrimination means to use judgment—it means to have a little common sense in business. But here is a bill which would deprive the people of the right to exercise their common sense; that is, to bring into their business the exercise of their ordinary judgment.

Now, sir, take another case: On one of the roads which runs through the pine country where I live there are two stations. At the station nearest the mills a gentleman owned a large tract of land near the railroad. He desired to cut the timber from that tract and put it on the railroad and get it to market. He went to the railroad officers and agreed on terms. The company granted what they considered a just and fair price. It was satisfactory to the lumberman. Now, another man, living twenty miles farther from the mills, had a tract of pine, which, instead of being on the line of the railroad, was two and a half miles from it. He could by hauling the logs four miles put them into the river and send them to the mills by that route. He could bring them to the railroad with a haul of only two and a half miles, but he could not do it and pay the rate which they were paying at the town twenty miles nearer the mills than he was. The railroad company saw the difficulty and they said, "Certainly, we will bear part of the burden;" and they contracted with him at a lower rate than that for which they carried the shorter haul. He did not make any more money out of it than the men on the shorter haul who paid more freight, but he made such a rate as enabled him to reach the mills and at the same time it gave additional business to the railroad company.

Mr. REAGAN. Will the gentleman permit me to interrupt him at this point for one moment?

Mr. HORR. Certainly.

Mr. REAGAN. As the gentleman from Michigan assumes it to be a portion of the business of the railroad company to equalize profits of competing business, I would like to ask him whether he thinks it is proper for us to make a law in favor of equalizing the rates of profit between cultivating small farms and large farms.

Mr. HORR. Not at all, sir; there would be no sense in doing that. That would be simply another attempt to legislate upon a matter that can not be reached by passing bills.

Mr. REAGAN. I understand that to be the gentleman's argument.

Mr. HORR. No; I am trying to provide for discrimination where it is right and just.

I now come to another point, but I fear that I am detaining the House on this subject too long. I would have a wise commission for the sole purpose of having every such case as those which I have pointed out examined carefully and fairly, and if the railroad officers did not use good judgment and proper discretion in this kind of contracts, to bring them to terms and to show to the people that railroads would not be permitted to make any very bad mistakes in such matters. In doing that you would not impair the business interests of the country. In passing this bill, which prevents discriminations and fixes the same rate on each class of freight, you prevent the exercise of that business judgment which is necessary in the management of any enterprise, and you take into account none of the conditions which should vary rates. Let me ask the distinguished chairman of the committee a question. Would you prevent railroads extending from Omaha to the Pacific Ocean from carrying one class of ore cheaper per ton than another?

Mr. REAGAN. I understand, in fact, that if the ore is valuable they charge all the profit there is in it, and the same with the inferior grades per ton, so that it amounts to the same thing.

Mr. HORR. That is not borne out by the facts. Do these men continue to work their mines and give all the proceeds away? No, sir.

Mr. REAGAN. And that statement has been submitted to the committee, and there is not a member on this floor from the State of California that will not verify it.

Mr. HORR. The simple statement of the gentleman's proposition refutes itself.

Why, Mr. Speaker, that is as good an illustration as I could have made up if I had sat up nights for that purpose and studied out a statement to show how extravagantly people inveigh against railroad companies without cause. The statement amounts to this: that the railroad companies—for they would have to do it—get an assay made of all the different ores on their lines, find out how much it will cost to produce them, and then carry them to their destination for the rest that the ore is worth, leaving nothing whatever to the owners of mines anywhere in the United States. Is it not absurd for any man to make such a statement? What is the fact? The fact is that the railroad companies found that there were a large number of mines in the West that could not pay the full rate for taking their ores to the smelters and live. If they did charge a full rate it would compel them to shut up the mines and stop the business. The railroad companies, not doing what my friend from Texas said they did, considered the subject in the light that it was presented to them, and said: "Here there are large amounts of ores in the West that are very rich; we will make these ores pay more for carrying them per ton because they can afford to do it, and we will carry the cheaper and poorer classes of ores for less than it is really worth to perform the business in order to keep the mines going."

Now, what is the result? You keep in employment thousands and hundreds of thousands of men all over the United States and at good wages. You furnish freight to the railroad companies so that they can employ all their rolling-stock in the business. You build up business instead of crippling it. You develop the country instead of impoverishing it; and I say it is right and proper that freight should pay according to its worth and value as well as its tonnage. Otherwise how would you get the coal of the world? How would you get the grain and fuel, everything that goes to feeding and housing and clothing the teeming millions of this country, if there should be a uniform standard of price by the ton fixed for carrying all of the articles that go into consumption? Extra freight should be put upon luxuries, upon things that can bear the extra charge, and that is the only way to build up the country and sustain our great railroad systems. No fixed rule can be invented. The necessaries of life, the heavy articles used for food and fuel, should be carried cheaply, and the carrier should be permitted to make good his business by charging extra rates for moving the silks and satins, the wines and plate, of his more wealthy customers.

But, Mr. Speaker, I have detained the House much longer than I intended. I do hope the men from the West, the men from the South, will think twice before they vote for the provisions of this substitute bill, for I say to you that if adopted the effect will be to increase the through rates without giving us any relief for local rates. I say to you that it will discriminate against rates that ought not to be discriminated against. It will throw the trade of the nation largely into the hands of foreign corporations instead of building up our own. I am not for treating the railroad companies with any degree of favoritism. I would have them do justice by all men, and I would have them run on business principles. But in a system so ramifying, so extended, so gigantic and diversified, it is impossible to fix any established iron-clad rule under which they can do the business of the country. It is a problem that must be governed in the future as it has been in the past, by those rules and laws of common business sense, those principles which are older than statutes, and more lasting than the enactments of any legislative body. [Applause.]

Mr. BOYLE. Mr. Speaker, it is not my purpose to discuss what may be considered the general questions involved in the legislation proposed by both the bill of the Committee on Commerce and the substitute for a part thereof proposed by the distinguished gentleman from Texas [Mr. REAGAN]. These have received very full consideration, and have been very exhaustively examined by the gentlemen who have preceded me in this debate. I shall undertake no more than to speak of some of the provisions of these bills, to inquire as to how far they may be effi-

cacious toward remedying the evils against which they are directed and which are admitted to exist in some degree, and as to the probable results and consequences of the legislation proposed.

What are the provisions of these two bills, and what are the differences between them? Both are founded upon that clause of the Constitution which gives to Congress power "to regulate commerce with foreign nations, and among the States, and with the Indian tribes." And the advocates of both find in this clause warrant for the General Government to interfere between shippers and carriers by rail as to all traffic and commerce crossing State lines and to provide by statute what shall be the relations between them, what shall be the rates charged, in what manner the business shall be conducted, what shall be the measure of damages for breaches of duties imposed, and in what way the penalties and punishments provided for may be collected and inflicted. Regarding railroads carrying such freight as instrumentalities of commerce among the States, in the language of Supreme Court decisions, they assert the same power to control them, and, of course, to the same extent, that Congress has heretofore exercised over other instrumentalities of commerce.

Both bills require that all rates shall be reasonable, and so does the common law. Both bills prohibit discriminations between shippers "for like and contemporaneous services" in carrying freight, &c., "under substantially similar circumstances." So, in my judgment, does the common law, if such discrimination be unjust or unreasonable. The committee bill denies the right to allow rebates, drawbacks, &c., to one shipper which are refused to another "under similar circumstances." The substitute prohibits all rebates, drawbacks, &c., whatever. So does the common law, if such rebates and drawbacks are the means of producing unreasonable inequalities and discriminations among shippers. Both bills prevent the pooling of freights by competing railroads, "by dividing between them the aggregate or net proceeds of the earnings of such railroads or any portion of them." The common law does as much, and, in my judgment, much more.

The committee bill gives a civil remedy for actual damages sustained, and in case of willful violation of the law gives, in addition, to the party injured a sum "sufficient to cover all his counsel and attorney fees and all expenses and disbursements in the action, including his own necessary personal expenses." The substitute gives triple damages, and for willful violation a sum in addition sufficient to cover all counsel and attorney fees. The common law in these cases, as in all others, awards to the injured party actual compensation for the injury suffered, together with costs. The bill of the committee makes all violations of the law, except the charging of unreasonable rates, crimes, punishable by a fine not exceeding $1,000; the substitute makes no exception, and provides that the fine shall not be less than $1,000, without providing a maximum limit—a rule for punishments which I do not know to exist in any other case. The committee bill provides for a commission, and a remedy by injunction to prevent continuance of acts prohibited by the bill; the substitute goes only to the extent of supplying the first seven sections of the committee bill, leaving the provisions for a commission undisturbed; and as it also gives a remedy in equity, should the bill, with the substitute, be adopted, we will have double remedies in equity, which will probably be more than are desired. The substitute goes further, and prohibits the charging of more for a short than for a longer haul, and requires the posting of schedules and strict adherence to them. There may be other provisions which I now overlook, but they are not material to this discussion.

As I have said that the first section is only declaratory of the common law, I object to it only on the ground that it is an assertion of the power of Congress to regulate and determine the rates at which railroads shall carry what is called "interstate commerce." If Congress may require that rates shall be reasonable it may also determine what are reasonable and what unreasonable rates, and may thus fix rates and assume entire control of the whole matter. I may refer further to this before I conclude.

The second section of the committee's bill forbids discrimination in charges between one shipper and another engaged in interstate commerce "for like and contemporaneous service in the carrying, receiving, delivering, storing, or handling the same under substantially similar circumstances;" and it also requires equal facilities to be given, subject to the same provisions. And the third section prohibits the allowance of rebates, drawbacks, or other advantages in any form to any one person which are not allowed under similar circumstances to all other persons.

Former bills on this subject, as I understand, were limited to freight by the car-load. These have no such limitation. Is it intended that all shippers of the same article are to have the same rates without regard to the quantity? Is the man who ships five barrels of flour to pay no more per barrel than the man who ships a car-load or ten car-loads? Must a single box of dry goods be charged for at the same rate as a car-load? Shall the firm which ships only five car-loads of coke a day from the Connellsville coke region pay no more per car than the firm which ships three hundred car-loads every day? Is the party who ships ten car-loads one day and ten car-loads some other day, irregularly and at uncertain times, to have the same rates and the same facilities as the party who is ready with his three hundred car-loads every day? In other words, are shipments of the same article in such different quantities and with such differences as to regularity "like and contemporaneous services, * * * under substantially similar circumstances?" If not, then matters will remain just as they are.

The complaint is that railroad companies discriminate by rebates, drawbacks, &c., in favor of large shippers and against small ones—in favor of regular customers and against those for whom they carry only occasionally. The chairman [Mr. REAGAN] has stated that he left out the provision as to car-loads at the instance of jobbers, so that the bill might apply to quantities less than car-loads. He must mean that the man who ships a car-load or less than a car-load is to be charged no more than the man who ships a much larger quantity, or he must allow discriminations to be made. Is it to be one hundred pounds against another hundred, one car-load against another, one ten car-loads against another? This is utterly impracticable. And if you allow discriminations on account of quantities and of regularity of shipments, where will you stop?

Mr. CHACE. Am I not right in saying that both bills use the term "like?" Are they not identically the same in that respect?

Mr. BOYLE. The substitute, as I remember, does not contain the qualifying clause "under substantially similar circumstances." The other clause is the same in both bills.

Mr. STEWART, of Vermont. The word "substantially" is included in the bill of the committee. There is a modification of the language of the bill itself. It is for "substantially like service."

Mr. FINDLAY. "Substantially similar service."

Mr. STEWART, of Vermont. Yes, sir; "substantially similar service."

Mr. CHACE. It is true, then, as I have stated, that both bills use the word "like."

Mr. STEWART, of Vermont. Yes, they use the word "like;" but the bill also uses the word "substantially," which enlarges its scope.

Mr. CHACE. The committee bill goes a little further in its application.

Mr. STEWART, of Vermont. It was so intended.

Mr. CHACE. Then it is open to the gentleman's criticism.

Mr. BOYLE. I do not know how that may be. It is difficult to distinguish between what is "like" and what is "substantially like." That will be matter for the courts; that is, if any person who thinks himself injured can, under the provisions of this bill, ever get into the courts.

The last clause of the fourth section is understood to prohibit pooling. It prohibits only one kind of pooling; that is to say, it forbids railroad companies to pool "by dividing between them the aggregate or net proceeds of the earnings of such railroads or any portion of them."

"Pooling," as I understand it, is resorted to by railroad companies for the purpose of preventing a reduction of rates by competition. The name and this particular manner of accomplishing that end are of modern origin. I have heard it said that the gentleman so frequently referred to in this debate, Mr. Albert Fink, is entitled to the credit of devising this particular form of combination. But the practice of combining to keep up rates is older than Mr. Fink, and is, as I have stated my belief, contrary to the common law. I know, sir, that "pooling" by men who earn their living by their labor, for the purpose of keeping up its price, has been held not only a civil wrong, but a crime. It may be that there is a different rule of law for railroad companies; but so far as I know, no court has yet undertaken to show wherein lies the difference, if difference there be.

Railroad-men are credited with a full share of ingenuity. Prevent them from keeping up rates by combining and dividing the aggregate or net proceeds of their earnings, and they will very quickly find some other means to accomplish the same result not within the terms of your bills. You leave them full liberty to combine together to keep up rates by any other means than this one. You might as well forbear all reference to the matter whatever.

HOW FOUR RAILROADS WILL BE AFFECTED.

Assuming that these bills go beyond the common law in the matter of the wrongs prohibited, as must be maintained by those who advocate them and as they certainly do in some other particulars, what will be their effect? Their avowed purpose is to establish equality between shippers. I presume it is not intended to establish inequalities between railroad companies and to impose burdens upon some from which others, under similar circumstances, will be relieved. Let us see what will be their effect in this respect.

The committee's bill provides "that all charges by any person or persons engaged alone or associated with others in the transportation of property by railroad from one State or Territory to or through one or more other States or Territories of the United States or to or from any foreign country, shall be reasonable." These words, as descriptive of the persons within the purview of the bill, are referred to in every other part of it, and are substantially the same as those used in the substitute.

Take four of the great trunk lines, which are largely engaged in carrying what is called interstate commerce. First, the New York Central road, alluded to by the gentleman from Michigan [Mr. HORR]. Its terminal points are Buffalo on the lake and the city of New York. It is

entirely within the State of New York. Of course to any business originating at or between these terminal points, and not going beyond them, the provisions of these bills will be inapplicable. But more than this, they will not in any degree affect any of the immense traffic from Chicago or any of the lake ports to Buffalo and from there to New York by the Central road, for the reason that this bill does not deal with interstate commerce carried by water, and so far as this railroad carriage is concerned it begins and ends within the State of New York, and does not go out of it. As to this enormous lake traffic, as to all the traffic originating at Buffalo and other points along the line and going east; as to all traffic originating at New York and along the line and going west to Buffalo, and thence by the lakes to Toledo, Detroit, Chicago, Milwaukee, or to any other point in the great West, the New York Central Company will be independent of this legislation. It may charge rates reasonable or unreasonable. It may grant rebates, drawbacks, or resort to any other device to give to one shipper preference over another. It may discriminate between shippers and between localities in any manner and to any extent it may deem proper so far as this legislation is concerned, and snap its fingers in the faces of your commissions and your courts.

Now consider the Erie Railway. Its terminal points are Dunkirk and Buffalo on the lake and New York at tide water. It is engaged in precisely the same kind of trade as the Central, and is practically a parallel road. But unfortunately it crosses a small corner of Pennsylvania. In the language of the bill it passes from one State through one other State; and by reason of that fact is made subject to all the provisions, pains, and penalties of this measure. What the New York Central may do legally, the Erie may not do without a breach of the law. What a Central director or a Central agent may do with impunity would make an Erie director or agent a criminal, and subject him to a fine of unlimited amount—by the substitute not less that $1,000—and his company to triple damages and to costs and expenses at the discretion of the complaining party.

There are two other roads in like circumstances, and which afford a like striking instance of the gross injustice which will follow this legislation—the Pennsylvania Railroad and the Baltimore and Ohio. The main line of the Pennsylvania runs from the Delaware at Philadelphia to the Ohio at Pittsburgh. The company owns or controls the Philadelphia and Erie from the port of Erie to its main line at Harrisburg. It controls the Allegheny Valley from the oil regions of Pennsylvania to its main line at Pittsburgh. All these are wholly within the State of Pennsylvania. It passes through the gas-coal region and the coke region of Western Pennsylvania. It connects with the Ohio River at Pittsburgh, and is there fed by the immense traffic which is gathered from all the great rivers of the West and brought to Pittsburgh. It connects those great freight-producing cities Philadelphia and Pittsburgh.

Now take the Baltimore and Ohio. Its main line runs from the bay at Baltimore to the Ohio River at Wheeling. It has a branch from Grafton to Parkersburg, also on the river. It practically owns and actually controls another line or branch from Cumberland to Pittsburgh. It also traverses the gas-coal region and the coke region of Western Pennsylvania, and connects the great freight-producing centers of Pittsburgh and Baltimore. It gathers traffic from the commerce of the Ohio River at Wheeling and Parkersburg. It also has connections with the oil regions of Pennsylvania by means of the Pittsburgh and Western. I need hardly say to gentlemen what quantities of freight originate at the points named and are carried by these companies. From the Connellsville coke region alone, when the ovens are in operation, there are sent nine hundred car-loads of coke a day; most of it, it is true, going West, but much of it going East over these roads. I can not state what goes from other points or from other sources, but I know it to be enormous.

As to all this traffic the Pennsylvania road will not be subject to any of the provisions of this bill, while the Baltimore and Ohio will be as to all and every part of it. The Pennsylvania may deal with shippers as it may please; it may discriminate as it may think proper, and grant such favors and impose such burdens as to it may seem good; it may build up one man and break down another, with no act of Congress to molest or make it afraid; while the Baltimore and Ohio, as to all this traffic, will be tied hand and foot. It must treat all this freight as interstate commerce. It must make it stand upon the same footing precisely as the freight which it carries from Chicago, from Saint Louis, from Cincinnati, from any part of the boundless West—giving to one no advantage over the other, and imposing no burdens upon one which it does not impose upon the other. It can not discriminate between these freights, while the Pennsylvania can. It can not distinguish between freights coming to it by rail from other States and those before referred to, while the Pennsylvania can. Its officers become criminals for doing what Pennsylvania officials may do without impairing their reputation as honest men.

And why this difference? The Pennsylvania road and its feeders I have named are all within the State of Pennsylvania, and the commerce which comes to it from the Ohio River comes by water and not by rail. The Baltimore and Ohio and its feeders, on the other hand, pass through Maryland, West Virginia, and Pennsylvania—they pass "from one State to or through one or more other States." And yet these bills are urged as measures which will prevent discriminations and secure equality in the shipments of freight by rail!

Mr. REAGAN. If my colleague on the committee will allow me I would like to ask him a question.

Mr. BOYLE. Certainly.

Mr. REAGAN. I wish to ask whether under the provisions of the bill he is criticising all commerce originating in another State than New York or another State than Pennsylvania, passing over the New York Central or the Pennsylvania Railroad, would not be subject to the provisions of this bill, whether it reached a terminal point on these roads by water or by land—whether we are not protecting commerce, not regulating railroads?

Mr. BOYLE. I understand the view of the chairman, and think I will be able to show that he is mistaken. I say this, I trust, in no improper spirit, but with due deference for his intimate and long acquaintance with this subject and for his great ability. This legislation is intended to affect only interstate commerce carried by rail. Although it may pass from one State to another, yet if carried outside of a State by water and wholly within it by rail it will not be subject to the provisions of these bills.

Mr. REAGAN. I see that we are not likely to agree, but I wish the House to understand my suggestion. It is that commerce which originates in one State and passes through another, whether by one or many railroads or by water a part of the way and by land another part of the way, is interstate commerce. But under the rule which my friend lays down it can not be protected.

Mr. BOYLE. Take the case I have stated, of commerce originating in Illinois, carried by water to Buffalo and there first carried by rail from Buffalo to New York by the Central Railroad. Is it within the provisions of this bill?

Mr. REAGAN. It is distinctly subject to the provisions of this bill. If you put a cargo of commerce on a ship at Chicago, land it at Buffalo, and there transfer it to a railroad, it is interstate commerce from the point of shipment to the point of destination; and when it goes upon the New York Central Railroad is to be controlled by the provisions of this bill like all other commerce between the States. I repeat, it is not the railroads that we regulate; it is the commerce which we protect.

Mr. BOYLE. The gentleman will understand that I do not deny that Congress has the same power to regulate commerce passing partly by water and partly by rail that it has to regulate commerce carried entirely by rail. All I have said and all I now say is that such commerce carried partly by water and partly by rail, where such rail carriage is wholly within one State, is not covered by the provisions of this bill. And the best evidence on the point of difference between the gentleman and me is the language of the bill itself. I will read it. It is the first section:

> That all charges by any person or persons engaged alone or associated with others in the transportation of property *by railroad* from one State or Territory to or through one or more other States or Territories of the United States or to or from any foreign country, shall be reasonable for such service.

The case I have put is one in which property does not pass by railroad from one State to another; it is a case in which persons are engaged neither alone nor associated with others "in the transportation of property by railroad from one State or Territory to or through one or more other States or Territories." It is an association, if at all, between a carrier by water outside of the State and a carrier by rail wholly within one State. I do not differ with the gentleman as to what constitutes interstate commerce; my difference with him is only as to the meaning of this bill, and in support of my view I submit the bill itself.

THE COMMISSION.

I come now, Mr. Speaker, to that part of the committee's bill which provides for the establishment of a commission of interstate commerce. It is to this that many gentlemen give their most earnest support. It is to it I am chiefly opposed. The chairman of the committee [Mr. REAGAN] regards the charging of unreasonable rates, the allowance of rebates and drawbacks, and the maintenance of pooling, &c., as crimes, and he says so, and proposes to punish them as other crimes are punishable. He also regards them as civil injuries, and he offers to give to the injured party direct remedies in the way of damages, to be sued for by himself, and recovered as other recoveries are had for injuries done. His meaning and his purpose there is no misunderstanding. Another gentleman who supports the committee bill characterizes the chairman's plan as "the cast-iron, inflexible, perfunctory method, terrible on paper as an army with banners, but practically as ineffectual as a Chinese gong." He further says:

> But I predict it would be a dead letter so far as being of any use to the people from the day of its passage if it stood alone; or that if enforced except through the elastic and automatic adaptation of the commission recommended in the bill of the committee, it would only embarrass business, increase rates, and add to the burdens of the people's cost of transportation.

And he says further, after explaining the commission feature of the bill:

> Compare with this elastic, self-adjusting, and sufficient system the stunted and utterly ineffectual method of a dormant statute, too expensive and too like a boomerang for any poor shipper, whose property is at the mercy of the humor of the railroads, to set in motion.

Certainly this commission—this automatic, elastic, self-adjusting, sufficient commission, so enthusiastially described by my distinguished friend from Massachusetts [Governor LONG] which is to stand between the oppressor and the oppressed; which is to do for the poor shipper what in this free country, where the courts are open to all alike, he can not do for himself; which is to correct evils which have ruined individuals and communities—must be a very beneficent and a very powerful body. Let us see.

The commission is to consist of three persons, to be appointed by the President for the term of six years, and each commissioner is to receive a salary of $7,500. It is to have a clerk at a salary of $2,500, and an accountant at a like salary. It is also to have such "additional clerical, engineering, expert, or other service" as it may request and the Secretary of the Interior may be willing to furnish. Actual and necessary traveling and other expenses for the commission and its employés are to be paid, and they are to be allowed to pass and repass over any railroad engaged in interstate commerce free of charge; but whether with or without the consent of the railroad company is not stated. It is to be provided with an office in Washington, but may go into any part of the United States to discharge its duties, or it may send one of its own members or its clerk, or anybody else, into any part of the United States to perform and discharge its duties, and to this end may delegate to the person thus sent all the powers of the commission. Fortunately, with such liberality as to the delegation of power, the power to be delegated is not very great.

The establishment of a commission was urged by nearly every railroad man who appeared before the Commerce Committee, and I do not wonder. As provided for in this bill, it will not only be without power to aid the shipper, but will be an actual obstruction in his way when he seeks redress for injuries done him by a railroad company.

A private individual or a firm may complain to the commission. Unless a United States district attorney, or a State district or county attorney, or other corresponding officer, certifies that "he has examined the facts and in his opinion the complaint is well founded" (for which he must, of course, be paid by the party complaining), the commission may utterly ignore and disregard the complaint. If the complaint be made by a board of trade or other commercial body or be backed by a district attorney, the commission is required to proceed with an examination.

Mr. STEWART, of Vermont. Will you allow me one moment?

Mr. BOYLE. Certainly.

Mr. STEWART, of Vermont. The bill provides that the commission may take notice of such complaint.

Mr. BOYLE. Yes; but it is not obliged to do so unless the individual complaint is backed by a district attorney.

Mr. STEWART, of Vermont. Or a board of trade.

Mr. BOYLE. Yes; as I have said, or a board of trade.

From my knowledge of district attorneys I see no reason why we should interpose them between the injured individual and the commission. Why shall any person who feels himself aggrieved ask the permission of anybody to have his complaint inquired into? Why shall this commission not be open to all alike, the high and the low, the rich and the poor, as the courts of the country are? Why shall a district attorney be paid in order to secure a hearing?

Mr. LONG. Do I understand the gentleman from Pennsylvania to say that a person can not apply to the commission?

Mr. BOYLE. No; but that the commission may disregard the application unless backed by a district attorney.

Mr. LONG. That is to say, that the commission may exercise its judgment.

Mr. BOYLE. Yes.

Mr. LONG. It is not a fair presumption, is it, to say the commission would act unwarrantably?

Mr. BOYLE. I do not know what the commission might do. The failure to have the indorsement of the district attorney would itself discredit the complaint in the eyes of the commission at the outset. I maintain the right of all men alike to be heard—individuals as well as boards of trade, and individuals without a district attorney as well as with one. What would be thought of a court required to hear one man and not another, both complaining of a like wrong?

Say the commission concludes to examine. Say the wrong complained of occurred in California, or Nevada, or Texas, or Mississippi, or Maine. The commission would not go to the place unless the weather was suitable. It would exercise the power of delegation before referred to. Gentlemen who favor the commission seem to be largely influenced by the success of certain State railroad commissions. They forget that the United States is bigger than the State of Massachusetts, great as it is. They forget that an inquiry which might readily be made in a State by a State commission may be attended with very great difficulty when made in a remote State by a commission located at Washington.

Mr. MILLS. Let me ask the gentleman what are the powers of the commission for the correction of these evils.

Mr. BOYLE. I will state in a few minutes.

Mr. CHACE. If it will not interfere with the argument of my friend I wish to ask him a question, as he seems to be in favor of Judge REAGAN'S substitute.

Mr. BOYLE. I am not conscious of having said anything that would warrant that inference. In response to the inquiry of the gentleman from Texas [Mr. MILLS] I say that with enforcing the remedies given, with imposing the penalties proposed by this bill, the commission has nothing whatever to do. The wronged party must go into the courts single-handed and alone, as he would have to do if no commission existed, and meet these giant and terrible corporations face to face. He must employ an attorney and bring his action like other people who complain of wrong. He must make his information and prosecute for the crime committed just as he would without any commission.

The reason given for the establishment of a commission is that shippers are not able to contend with the railroad companies. Who are the shippers? They are the merchants, the manufacturers, the corporations of the country. You leave the widow whose husband and the children whose father has been killed by a railroad company, the poor employé who has been maimed and ruined while in its service, to sue those companies themselves and to meet and contend with them without the backing of the Federal Government or any other government, while you pretend to give to the capitalists of the country the moral backing at least of a great, imposing, well-paid commission. I do not agree that suitors with railroad companies are at a disadvantage in the courts of the country; much less do I agree that support shall be given to the strong which is denied to the weak.

Let it be understood that with what are called the remedial provisions of these bills, those portions giving remedies for injuries done and imposing punishments for wrongs committed, the commission has nothing whatever to do. All that is claimed for it is that it may aid in preventing the continuance of the wrong. Again, let us see——

Mr. PETERS. Will the gentleman permit me to ask this question: Does not the provision in relation to injunctions distinctively enjoin the railroads from doing the wrong against the individual?

Mr. BOYLE. I have said nothing to the contrary. But it is not done at the instance of or through the commission.

Mr. PETERS. You say there is no remedy to the individual.

Mr. BOYLE. No; there are remedies which he must himself seek. I say the commission does not intervene to give the individual a remedy.

Mr. PETERS. It gives it by injunction.

Mr. BOYLE. No; he must obtain that for himself also. The commission stops short of that. Nor does it intervene to enable him to obtain compensation for wrongs done.

Mr. PETERS. Other provisions of the law do compensate him.

Mr. BOYLE. Undoubtedly; but at his own suit, and without aid from the commission.

Mr. WARNER, of Ohio. That is, the commission has no power to enjoin.

Mr. BOYLE. No, nor any other power except to inquire. The commission upon complaint made has the power to cause a copy of it to be served on the party complained of and to require an answer. After answer, it may, "if it shall think fit," institute an inquiry as to the matters of fact alleged in the petition, "in such mode and by such persons or means as it shall think proper." If it finds the complaint sustained, it is to "make and record its report in writing." Within twenty days it is to serve a copy of its report and findings on the offending railroad company, with notice to desist from the wrong, and it is also to deliver to the United States district attorney for the district in which the act complained of occurred a similar copy.

And here the functions of the commission absolutely terminate.

If the offending company fails to comply with the commission's notice, the district attorney is to commence proceedings in the name of the injured party for an injunction. He is not compelled to do so; and, as no fees are provided for the service, it is not likely he will do so unless the injured party should compensate him. And if he is to pay he should be allowed to select his own lawyer, as he is permitted to do if the district attorney fails to proceed for ten days. And what is the court to do? Is it to enforce the finding of the commission? Not at all. Is the finding of the commission of any value before it as evidence or otherwise? Not at all. The court is to "proceed in a summary manner to ascertain whether the said report and findings are true." That is to say, a proceeding in equity is to be commenced and carried on in the ordinary way after the commission has reported, except that the inquiry is to be confined to the findings of the commission. Everybody must have notice and an opportunity to appear, and, as the question of fact is to be inquired into, everybody, including the railroad company, must be allowed to produce witnesses. In other words, the injured party is just where he was when the inquiry before the commission commenced, except that the scope of inquiry is limited by the findings of the commission, perhaps greatly to the prejudice of the injured party. And the proceeding is carried on at the risk of the injured party. District attorneys do not work for nothing. There is no provision here for paying them.

Mr. PETERS. If the law makes it the duty of the district attorney to do this the private party can not be made to pay him.

Mr. BOYLE. Nor can the United States.

Mr. PETERS. I agree with you there.

Mr. BOYLE. Nor can the district attorney be compelled to perform the labor without compensation. The bills do not undertake to so compel him.

Mr. MILLS. Suppose the party making the complaint loses—he pays the costs.

Mr. BOYLE. Yes; I have said that the proceeding is carried on at his risk. The bill provides that the "court may, in its discretion, award or deny costs to any party to such proceeding."

Where is the good of the commission? The injured party finds himself worse off at the end of its inquiry than at the beginning. Without it he might have commenced proceedings in equity for an injunction in any court of competent jurisdiction. He might have made the scope of his complaint and the subject of inquiry as broad and comprehensive as he liked. He could have had the whole subject disposed of, and not only a preliminary but a permanent injunction before the commission completed its utterly useless inquiry. Under the commission scheme he is confined to one court, the United States circuit court of the district in which the wrong is alleged to have been done. He must wait on notices to the railroad company; he must wait the pleasure of the district attorney, and then either pay him or employ his own lawyer. And then he must limit his inquiry to the findings of the commission.

Surely this scheme was devised by the railroad companies themselves. I have said that their attorneys advocated it. It seems hardly possible that any person other than a railroad manager could have suggested a device so entirely in the interest of the railroad companies. I can see how such a commission might be of great service to itself and its employés, but how it is to help the suffering shipper does not appear.

THE QUESTION OF POWER.

I do not intend to submit an argument as to the power of the Federal Government to enact this legislation. My respected friend before me, the chairman of the committee, entertains no doubt whatever of the existence of this power. My colleague from the Pittsburgh district [Mr. HOPKINS] is equally clear that the Federal Government has full power to enact the legislation here proposed; that is to say, that the Federal Government, under the clause of the Constitution giving Congress power to regulate commerce with foreign nations and among the States, has authority to control the entire railroad system of the country; for it comes to that. Let me make a suggestion—I make it only by way of suggestion, without committing myself irrevocably. Under this same clause of the Constitution the Federal Government has exercised all the power it has ever claimed in regard to the shipping of the country. It has prescribed, I believe, the manner of building ships, how they shall be manned, how they shall be commanded, how they shall enter, clear, &c.

Everything that Congress has enacted in relation to the shipping of the country has been based on that clause of the Constitution giving Congress the power to regulate commerce with foreign nations and among the several States. Control of the navigable rivers of the country is derived from the same provision; so, too, is the right to authorize bridges over navigable waters. Our entire regulation of shipping and seamen and steamboats and inspection of steam-engines and everything of that kind finds its warrant in this clause. Now, I ask gentlemen on this side of the Chamber whether they are willing to extend this power to the control of the railroads of the country? If the same clause which has warranted our legislation in regard to the shipping justifies the exercise of like power and control over the railroads, you may have Congress directing what kind of signal-lights the railroad trains shall carry, how the trains shall be manned, how they shall be run; in short, doing everything as to railroads and railroad trains that it has done and is doing as to ships upon the ocean and navigable rivers and the ships and boats thereon.

It is claimed broadly that Congress has the same power and control of the instrumentalities of interstate commerce as of the instrumentalities of foreign commerce, and that there exists in Congress the same power to control the railroads, because they are instruments of commerce, as the shipping of the country. Are you gentlemen willing to take this step toward centralization? Are you willing to confide to the Federal Government the control of the entire railroad system of the country? It will extend to every railroad in the United States, for there is not one, however short or inconsiderable, which does not at some time, and frequently, carry commerce passing from one State to another.

The Democratic party has seen with alarm the strides toward centralization made by the Republican party while it has had control of the Federal Government. It has labored zealously to preserve and maintain the rights of the States, and to confine the General Government to the exercise of the limited functions which were committed to it by the framers of the Constitution. But to my knowledge no movement has ever been made by the Federalists or their successors which would add so much to the power of the National Government as this, and no doctrine has ever been enunciated by them more destructive of State rights and local self-government.

Mr. WARNER, of Ohio. Will the gentleman yield for a question?

Mr. BOYLE. With pleasure.

Mr. WARNER, of Ohio. You admit, as I understand, that the General Government has the right to control interstate commerce except when it is carried on railroads.

Mr. BOYLE. I have made no such distinction.

Mr. WARNER, of Ohio. But is not that the logic of your position?

Mr. BOYLE. I have not gone so far. I wish to be held responsible for no more than I say. As I have said, it is a good deal by way of suggestion, and although I may use strong expressions, I am not to be understood as committing myself irrevocably to any particular view as to the powers of Congress over railroads as instrumentalities of interstate commerce.

Mr. REAGAN. I will ask my friend to allow me a suggestion. The courts of the country, State and Federal, have, without exception, decided that the States can not regulate commerce between the States. Now, the gentleman assumes that the Federal Government can not do it. Does he recognize the principle that the railroads are a power uncontrolled and uncontrollable by law, either State or Federal?

Mr. BOYLE. No; I am not an advocate or apologist for the railroads, and never have been in any public position I have had the honor to hold. I am not willing to concede that the railroads of the country, great as they are and strong as they are, can not be controlled by the law. I do not admit the correctness of the gentleman's statement. I believe that the humblest court in the country, State or Federal, can put its hand on a railroad company and control it within the limits of the law.

Mr. STEWART, of Vermont. You mean under the common law?

Mr. BOYLE. The courts are as strong to enforce the common law as the statute law. They have the same power, in this respect, as to both.

That the Federal Government has power to regulate commerce among the States I have never doubted. I could not question it without flying in the face of the plain letter of the Constitution. But what is this power; to what does it extend?

In all that the Federal Government has thus far done in the regulation of shipping, in the control of the foreign or interstate commerce of the country, it has never, so far as I am aware, undertaken to prescribe on what terms that commerce shall be carried. If Congress has ever said that ships carrying commerce to or from foreign countries shall do so at certain rates, I do not know it. If Congress has ever legislated at all with reference to the terms between the shipper and the carrier, I do not know it. It is assumed here that because Congress has power to regulate commerce among the States, therefore Congress has the power to prescribe the terms upon which the carrier shall be compelled to carry that commerce. But this is begging the whole question—it is assuming the very point in doubt and controversy.

Mr. REAGAN. Mr. Speaker, if the gentleman will allow me, I will state that if he refers to the Revised Statutes of the United States, he will discover that Congress has been exercising the right of regulation of transportation for many years. A law is now upon the statute-book upon that subject.

Mr. BOYLE. I am not cognizant of any legislation by Congress touching the matter to which I have been referring—the terms, as between shipper and carrier, upon which commerce shall be carried. It may be said this bill does not do that. But this bill, Mr. Speaker, asserts and is bottomed on the power to do it. This bill says in its first section that the rates for carriage shall be reasonable. Well, if Congress has the power to declare rates shall be reasonable, then Congress has the right to determine what are reasonable rates. One follows the other inevitably. That ground is taken by the gentleman from Kansas [Mr. ANDERSON], who has been so earnest in his advocacy of these measures. He maintains that Congress has the right to prescribe the price railway companies may charge for the transportation of commerce between the States.

Mr. Speaker, no case has been cited touching the power of Congress to regulate interstate commerce from which it can be gathered that any court has held that that power would warrant the Federal Government in interposing between shipper and carrier to the extent of prescribing how commerce shall be carried by rail or what rates shall be charged for its transportation. To my knowledge there is no such case. Congress has the right under the Constitution to regulate and control interstate commerce. That is, to facilitate it, and to prevent States from placing obstacles in the way of carrying it on. It has the power to prevent the imposition of burdens or taxes upon it by States.

Mr. REAGAN. If the gentleman will permit me I will again interrupt him.

Mr. BOYLE. Certainly; I yield for that purpose.

Mr. REAGAN. There have been repeated decisions, Mr. Speaker, in which the courts have said that under the provision of the Constitution granting to Congress the power to regulate commerce the whole power is given to Congress over that commerce, and that it is ample and complete in every respect. That as every State has the power to regulate the commerce within the boundaries of the State, Congress has like power under the Constitution to the regulation of interstate commerce. That has been decided over and over again by the courts.

Mr. BOYLE. The gentleman is not to understand me as dissenting from that proposition.

Mr. STORM. If my colleague will permit me to interrupt him for an instant I would like to ask him whether he takes into account the difference between commerce upon the high seas and navigable rivers and interstate commerce as carried on by railroads? In the former case, the channels of commerce are open to all the regulation of price would not be necessary, but in the other case it is not so, and it is important this distinction should be taken.

Mr. BOYLE. I may say to my colleague that the distinction he makes might afford a reason for Congress interposing, if it had the power; but it does not by any means determine that Congress has or has not the power to make the same provision in one case as in the other.

Mr. REAGAN. Let me go on a little further. The power to regulate in a State rests upon the common law principle that common carriers or persons engaged in any employment in which the public has an interest, and especially where the franchise is derived from the political authority, are subject to the control and regulation of that political authority, such as in the case of hackmen, public ferrymen, &c.

Mr. BOYLE. I am not disposed to dispute that. The States have the right to control common carriers within their borders, but it does not spring from any right to regulate commerce. They have the same power to regulate and control all persons engaged in a public or quasi-public business, whether relating to commerce or not. The States do this, because they possess general governmental powers. Where a man sets up to carry for the public generally, then he is subject to the control of the State to the extent, at least, that his charges shall be reasonable.

Mr. REAGAN. I only mentioned the point to show the authority in the State for the regulation of this subject. The courts have decided that Congress has the same power over interstate commerce that the particular States have over local commerce.

Mr. BOYLE. Let me suggest to the gentleman from Texas a palpable difference. The railroad companies of the country, to which this law is to be applied, did not derive their existence from the Federal Government. These railroads you intend to regulate by regulating the interstate commerce on them do not owe anything to the Federal Government as their creator. They were created by the States. The power which creates a corporation may impose such burdens and conditions upon it as to it may seem good. It is clear to me, therefore, that when the gentleman claims the same power for the General Government over State corporations exercised by the States which created them the reason for his claim utterly fails.

Mr. LEWIS. How about the Texas Pacific and the Northern Pacific Railroads?

Mr. BOYLE. I was alluding to the general system of railroads, not to these. But the principle I have stated applies to them, and they happily illustrate it. The Federal Government created them; it gave them all the powers they have; it is their sovereign. Will anybody say it can exercise like control over railroads entirely within a State, created by the State, because they engage in the carriage of interstate commerce, that it can over the Pacific roads?

Mr. REAGAN. If the gentleman will allow me, I will state that that doctrine would lead to the conclusion that a State, by creating a corporation, can take from Congress its constitutional power to regulate commerce between the States. I am satisfied my friend from Pennsylvania will hardly assent to that proposition.

Mr. BOYLE. By no means. The distinction is clear; it comes to this, after all: What is embraced within the regulation of commerce?

Mr. BARKSDALE. If my colleague will permit me a moment I will call his attention to a case in point, and cite a decision bearing directly upon this point.

Mr. BOYLE. Certainly; I will yield to my friend from Mississippi.

Mr. BARKSDALE. I refer now to the power of Congress to regulate commerce among the States, and cite the case of the Pensacola Telegraph Company against the Western Union Telegraph Company. Chief-Justice Waite, in delivering the opinion of the court, said:

> Congress has power to regulate commerce with foreign nations and among the several States. The powers thus granted are not confined to the instrumentalities of commerce, or the postal service, known or used when the Constitution was adopted, but they keep pace with the progress of the country, and adapt themselves to new developments of time and circumstance; they extend from the horse with its rider to the stage-coach, from the sailing vessel to the steamboat, from the coach and the steamboat to the railroad, and from the railroad to the telegraph, &c.

Mr. HERBERT. And the telegraph company to which the gentleman alludes, and whose rates were in question, was a corporation created by a legislative act of the State of Florida.

Mr. BARKSDALE. Yes, sir.

Mr. BOYLE. That, however, is only, as the gentleman will perceive, a statement of the general principle involved. It amounts to saying that the power of Congress to regulate commerce is not confined to transportation by horses and mules, which were the principal modes in operation at the time the Constitution was framed and to a large extent were the only means used at that time for the carriage of commerce by land.

Mr. BARKSDALE. But it declares that the power exists in Congress.

Mr. BOYLE. Undoubtedly the power to regulate interstate commerce rests in the Federal Government under its Constitution, and is supreme and exclusive. I do not wish to be understood as denying the power of Congress in the premises; but I maintain that this power does not include the power to regulate the specific charges for freight by railroad companies created by States and exercising their corporate functions within the States which created them. A State in granting a charter to a railroad company may limit the rate of charges, but that being once done the State has no power to change that provision, unless the right to do so is reserved in the charter or by general law or constitutional provision.

Mr. HENDERSON, of Iowa. Will the gentleman permit me to ask him a question?

Mr. BOYLE. Certainly.

Mr. HENDERSON, of Iowa. When a railroad company accepts a charter from a State are not the powers conferred upon the road measured by the provisions of the Constitution of the United States?

Mr. BOYLE. Undoubtedly the Constitution of the United States is the supreme law of the land. That all understand.

Mr. HENDERSON, of Iowa. Yes; but in accepting a grant of privileges or powers from the State are they not bound by the provisions of the Constitution of the United States?

Mr. BOYLE. Yes; the Constitution of the United States may properly be considered a part of every charter ever granted by a State, because the charter and all State laws are subject to it.

And if you find in this clause of the Constitution (and this is, after all, a matter of interpretation) that Congress has power to regulate the charges which the carrier may make against the shipper, then the power exists, whatever may be in the charter, for the corporation takes its franchises subject to whatever power the Federal Government may have under the Constitution. But, what I tried to say is that the power to regulate the charges by a State stand upon an entirely different footing.

The corporations, I repeat, so that I may not be misunderstood, are not created by the Federal Government. They do not derive their franchises from it. They are subject, of course, to the Federal Constitution and laws made in pursuance of it; but the Federal Government is not its sovereign in that sense. The State government may fix the charter, and in fixing it put in such restrictions as it chooses; and of course the corporation takes the grant *cum onere*. More than that: in my judgment a State government, having created a corporation, might make such changes in its charter and subject it to such control as it thought proper, so long as it did not violate that clause of the Constitution which forbids a State to impair the obligation of a contract.

Now, sir, I recognize the existence of the evils complained of and the evils intended to be remedied by this bill. And if a plan can be devised within the powers of the Government, State or Federal, to prevent railroad corporations from making unreasonable charges or discriminations between shippers by granting one facilities or rates which are denied to another, it shall have my hearty support. I am most anxious to forward any such measure. But I entertain so much doubt at least as to the power of Congress to enact this legislation—and if the power exists, I see so much objection to giving to the Federal Government practical control of all the railroads of the country—that I hesitate to support either of the measures now before the House. [Applause.]

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. McCOOK, its Secretary, announced that the Senate insisted upon its amendment disagreed to by the House of Representatives to the bill (H. R. 4716) making appropriations for the naval service for the fiscal year ending June 30, 1885, and for other purposes, asked a further conference with the House of Representatives on the disagreeing votes of the two Houses thereon, and had appointed Messrs. HALE, LOGAN, and BECK as conferees on the part of the Senate.

The message further announced that the Senate had passed bills of the following titles; in which the concurrence of the House of Representatives was requested, namely:

A bill (S. 1018) to amend sections 3929 and 4041 of the Revised Statutes, authorizing the Postmaster-General to prohibit the delivery of registered letters and the payment of money-orders and providing for the return of the same;

A bill (S. 1574) to provide for the sale of the Cherokee reservation in the State of Arkansas;

A bill (S. 1742) to authorize Albert T. Stream, keeper of the life-saving station at Shoalwater Bay, Washington Territory, to accept a medal awarded to him by the British Government; and

A bill (S. 1820) to provide for the ascertainment of claims of American citizens for spoliations committed by the French prior to the 3d day of July, 1801.

INTERSTATE COMMERCE.

The House resumed the consideration of the bill relating to interstate commerce.

Mr. WEAVER. Will the gentleman from Pennsylvania [Mr. BOYLE] yield to me?

Mr. BOYLE. I yield whatever time I have remaining to the gentleman from Nebraska [Mr. WEAVER].

The SPEAKER. The gentleman from Pennsylvania has only five minutes of his time remaining.

Mr. WEAVER. Instead of speaking in the time of the gentleman from Pennsylvania I should prefer to be recognized in my own right.

The SPEAKER. The gentleman from Nebraska is recognized and will proceed.

Mr. WEAVER. Mr. Speaker, when we consider the vastness of the business sought to be regulated by the committee bill and the substitute bill, and the limited amount of knowledge possessed by those outside of railroad management on the questions under consideration, it becomes very important that we carefully consider every measure that shall be crystallized into law, to the end that we may have legislation to stop those abuses that are known to exist, and having once prohibited by statutory enactment the doing of those things concerning which there is no division of opinion as to their being absolutely wrong, then for the present should we stay further legislation until it becomes known that further abuses have crept into the railroad management.

I say that we should not attempt to correct any imaginary evils, but strictly to confine our legislation to the correction of evils that are known to exist. Neither do I think as to the subject sought to be covered by either of the bills but that the legislation offered is confined strictly to abuses that are known to exist, and the only question at present for consideration is which one of the bills before the House will best serve the purpose for which it is intended.

The first seven sections of the committee bill cover nearly the whole ground covered by the substitute bill; and by this I do not wish to be understood as saying that the first seven sections of the committee bill are similar to the substitute bill, but only that in the first seven sections of the committee bill we have provisions traversing nearly the whole ground traversed by the substitute bill; and if the bill were to end here, and leave the enforcement of the law to the courts entirely, the measures here would elicit little discussion. But after leaving the seven sections of the committee bill we have offered to us a board of commissioners, whose duties and powers are pointed out in the bill; and it becomes very important, after having carefully looked into the proposed system, to determine whether by the adoption of the committee bill we shall have lent our influence to the adoption of a system by which the alleged evils shall be more readily examined into and corrected or whether we will have placed in the road an ornamental stumbling-block.

But before entering into a discussion of the advisability of adopting the board of commissioners, it will be well for a few moments to point out the real difference between the committee bill and the substitute bill in the matters that relate to railroad regulation. As has been stated upon this floor, there is no substantial difference between the first and second sections of the committee bill and the first section of the substitute bill.

The third section of the committee bill covers the same subject-matter as the second section of the substitute bill, namely, the subject of rebates and drawbacks, the committee bill prohibiting any rebate or drawback upon shipments except such as under similar circumstances are allowed to all persons alike, while the substitute bill absolutely prohibits any rebate or drawback, and I have no hesitancy in saying that on this subject I favor the provisions of the substitute bill. No argument has been adduced tending to show that under any state of circumstances could it be to advantage to allow drawbacks and rebates even where under similar circumstances it must be allowed to all persons alike.

It was suggested by the gentleman from Massachusetts [Mr. LONG], in support of the allowance of rebate, that a railroad company in shipping goods from Chicago to a party in New York, upon being informed that another company had been shipping the same class of goods under similar circumstances at a lower rate, ought to have the opportunity to grant a rebate or drawback to the end that the said company might retain its business. We have another provision offered in the substitute bill, which, if it be adopted, will always be a standing notice not only to railroad companies and their agents but the world at large, as to just what charge can be made upon all the classified articles for shipment not only from Chicago to New York but from every place from which any company makes shipment to every and any place to which the shipment is made, so that the House can readily understand that the company that shall have exercised ordinary diligence in the carrying on of its business can not be misinformed as to what any other company is charging for similar service.

The question of allowing a rebate and drawback under similar circumstances is always a question of fact, and will lead not only to much cavil and dispute, but to much litigation and trouble. Another argument that has been made upon this floor in behalf of the drawback system is to the effect that in the case of shipment of goods where the charges had been prepaid and pending the shipment and before the delivery the property of the consignee had been destroyed by fire, it is urged in such case it would be but just to grant the consignee a rebate or drawback; to all of which argument it might be answered that the rebate or drawback given under such circumstances and for such a purpose is nothing more nor less than a donation, and that there is nothing in this bill that provides against the company making a donation under such or any circumstances.

The truth is that the retention of this drawback system as proposed in the committee bill is but to leave open the door to favoritism on the one side and oppression and destruction on the other.

Passing to the fourth section of the committee bill, we find that the same corresponds exactly with the third section of the substitute bill, each one of which makes it unlawful for railroad companies to pool their earnings. I am not prepared to say that this kind of legislation is wise, because we must remember that there should be some safeguards to the railroads, to the end that by reckless management they may not become bankrupt and destroyed, which might occur in a determined effort to destroy a competing line.

I say, Mr. Speaker, that the purpose of this legislation is not to injure railroads, but to prohibit them from taking any unjust advantage, as common carriers, of the people, who must necessarily depend upon them to make their commercial exchanges, and in determining the question as to what is a reasonable charge in fixing the schedule of rates—should that power ever be devolved upon the board of commissioners or be directly fixed by statutory enactment—it might become quite as important to fix a minimum rate as to fix a maximum rate, to the end that there might be protection to weak companies as against their stronger competitors. The people of this country want nothing more than such legislation as shall give to the railroad companies fair profit upon honest investment.

The gentleman from Massachusetts [Mr. LONG] calls attention to the small profit realized on railroad investments. He says:

> Look at some of the figures. The six billions or more invested in the 125,000 miles of railroads in the United States pay only about 3 per cent. per annum to their stockholders.

Now, sir, if this were true, that the 125,000 miles of railroads in the United States had cost $6,000,000,000, or if the present value of the 125,000 miles approximated to that amount, there might be something in the argument to justify a conclusion that rates are reasonable—or perhaps too low—at the present time. But what is the truth? We know that two-thirds of this capitalized stock is water. In other words, that they are receiving 3 per cent. of interest on $2 of watered stock for every dollar of actual outlay, and it is to this that the people of this country object.

What is it but watered stock that has made both Jay Gould and Vanderbilt this day worth more money than the whole assessed valuation of the States of Nebraska and Kansas—both real estate and personal—(the two States comprehending an area of one hundred millions of acres, and a population of over two millions of people), and all this wealth extorted from the honest industry of this country. And this is what is called railroad *business* and *railroad management*, and it is just this kind of management that has made it necessary to have railroad legislation. The people do not and never would object to fair profits upon actual and honest investment.

And, again, the gentleman from Massachusetts [Mr. LONG] says, "it was in evidence before our committee that a drawback or rebate is sometimes desirable in order to aid in exporting to foreign markets the product of American labor," and proceeds to argue that in the exporting of staves from the United States to England the American laborer without a drawback or rebate would be unable to compete with the Norwegian.

Mr. Speaker, I am unable to understand why $10 or any other amount of drawback or rebate on a car-load of staves *in transitu* for the seaboard, the ultimate destination of which is England, would be of any greater advantage to the shipper or place him in better condition than he would have been in had the $10 or amount to be drawn back or rebated never been charged and paid. Why should any amount of money be advanced to the railroad company as pay for freight only to be returned? The American shipper when he sends his car-load of staves knows that he will meet the Norwegian in England with his staves, and knows that unless certain rates be given him he can not compete, and the management of the railroad company knows it, and, to the end that the American laborer may be able to compete, arranges a system of rebates and drawbacks. And now I would like to have the gentleman from Massachusetts tell me why the rates could not just as easily have been so adjusted that it would not have been necessary for the railroad company to temporarily take charge of the shipper's money, a return of which had already been stipulated for, because had not this been so the American shipper would have kept his merchandise, knowing that he could not compete.

The truth seems to be that the rebate business is a fraud. In any event the stave argument of the gentleman from Massachusetts does not tend to show how it can aid the American producer in shipping abroad.

The gentleman from Massachusetts says:

> Section 6 of our bill—
>
> The bill of the committee—
>
> gives to an injured party, in addition to his right of resort to the commission, an action for damages for violations of the provisions of the bill, and in cases of recovery allows costs sufficient to cover all his expenses in obtaining it.

Now, if this were true I would most heartily approve and support the sixth section of the committee bill; but the gentleman from Massachusetts is mistaken when he makes this statement, because the sixth section only provides that the injured party can have an additional allowance by way of costs to cover his counsel and attorney's fees and expenses and disbursements in the action, including his own necessary personal expenses, when it shall be found that the violation was willful or continued after notice.

This is wrong, as any one can see by considering the most numerous class of cases liable to arise from overcharge and discrimination. Take, for instance, a violation of the provisions of the act in an overcharge (beyond a reasonable charge) of five or ten dollars, and who will contend that the aggrieved party, failing to procure settlement, should be required to pay twenty-five or fifty dollars attorney's fees—which would be very ordinary fees in a contested case—to secure the return of five or ten dollars justly due as an overcharge, unless it should be found that the violation was willful or after notice. The expense incident to the recovery of so small an amount without any certainty of recovering the costs would lead to an abandonment of many just claims.

No, sir; this section is not right, but should be just as the gentleman from Massachusetts claimed it to be. In every instance where there is a recovery for actual damage for the violation of this act the verdict should carry with it a reasonable attorney fee, to be allowed by the court, and all reasonable and necessary expense incident to the litigation, and I regret that upon this subject the seventh section of the substitute bill affords no better relief than the provision in the committee bill.

The substitute bill offers as a premium to every one who has sustained an actual damage a verdict for three times the actual damage sustained. This is wrong, and lies in the line of confiscation, and by some courts it has already been held that no such damage can be recovered.

I read from a decision made by the supreme court of Nebraska, Atchison and Nebraska Railroad Company *vs.* Baty, 6 Nebr., page 37, where under a statute it was provided that any railroad company liable to pay for injuring or killing stock should fail to pay the same within thirty days after notice should be required to pay double the value of the property so injured or killed:

> In this cause one question only is raised for determination by this court, and that is whether that part of the statute of June 22, 1867, which gives to the owner of live-stock "double the value of his property injured, killed, or destroyed" on a railroad track, in case the same is not paid within thirty days after demand therefor is made upon the company is "the law of the land." This question is one of importance. It involves an inquiry into the individual rights of property, the inquiry whether the title to the same can be divested without the assent of the owner, and the question of legislative power over such property. The term "right" in civil society is defined to mean that which a man is entitled to have or to do or to receive from others within the limits prescribed by law.
>
> If, however, the Legislature has authority by enactment to declare that, for an injury of the kind in question, the injured party shall be entitled to receive "double the value" of the property injured, then does not the authority imply the power in the Legislature to make it a hundred times the value of the property? And the excess beyond the damages sustained, whatever it may be, is so much property taken from one person and given to another. If this legislative power exists in respect to the case under consideration, why shall it not, on the same principle, apply to simple debt? And therefore, if upon demand by the creditor the debtor fails to pay within a certain time, he may by legislative decree be compelled to pay double, treble, or a hundred times the amount of the debt, according as the Legislature may decree by legislative enactment. And whatever the object of such legislation may be, it eventuates in a decree taking property from one man and giving it to another; but such legislation is repugnant to the fundamental principles of individual rights, the maxims of the common law, and the constitutional limitations, and therefore it can not be "the law of the land." (Bay City and Sag. R. R. Co. *vs.* Austin, 21 Mich., 401; Lewis *vs.* Webb, 3 Greenleaf, 326, 330; Holden *vs.* James, 11 Mass., 396; James *vs.* Reynolds, 2 Texas, 251.)

Now, sir, by this same kind of legislation here we are liable from the courts to meet with a similar decision. But, Mr. Speaker, there is no necessity, for the ends of justice nor for the efficiency of the bill, to have a different measure of damages than that which might reasonably be given in any other class of cases, namely, that the injured party in every instance where he makes out his case shall be able to recover as additional costs his attorney's fees and all reasonable and necessary expense incident to the litigation. The provision to give every injured party who shall make out a case all his necessary expenses incident to the establishment of his case is much better for the majority of cases than either three or four times the amount of damages with his expenses dependent upon the finding as to whether or not the violation of the statute was willful, and then it has the advantage of being founded in justice and is not subject to being overturned by the courts. A statute like this, that compels the corporation that violates its provisions to pay all legitimate expense for its enforcement, will execute itself and needs no ornament of a board of commissioners, without power other than to make reports and draw a salary.

The fourth section of the substitute bill embraces a feature not included anywhere in the committee bill, as follows:

> That it shall be unlawful for any person or persons engaged in the transportation of property, as provided in the first section of this act, to charge or receive any greater compensation for a similar amount and kind of property, for the carrying, receiving, storing, forwarding, or handling of the same, for a shorter than for a longer distance on any one railroad; and the road of a corporation shall include all the roads in use by such corporation, whether owned or operated by it under a contract, agreement, or lease by such corporation.

Even Governor LONG does not like "to deny the abstract correctness of the principle here stated," but argues against it by calling our attention to an imaginary town on a hill between Jericho and Jerusalem. He says:

> Suppose a city set on a hill. It withers because it is inaccessible. At enormous cost a railroad is carried to it from the port of Jericho, at the foot of the mountain. Its grateful people willingly pay the heavy charges which the expensive building of the railroad necessitated. Inspirited, they extend their new railroad down the other side to Jerusalem on the plain, which has, fortunately for itself, a river winding round the mountain to the same port at Jericho. The mountain road pays its way with its local rates. But if it would compete with the river in carrying freight over the mountain from Jerusalem to Jericho it must carry for the same price, thereby instituting a competition with the river, which would be of great benefit to the poor people of Jericho and Jerusalem. Ah! if you do that, say the hill people, you must do our work for less, for we on the summit are only half way on your through line. But, answereth the railroad, I must either give up this through business and surrender it to the river and confine myself to your local business, charging you for it what you know it is worth and were at first glad to pay, or you must let me do this through business at through river rates and without reduction of your local rates, except so far as any slight profit I may get from this additional through business may enable me gradually to favor you. In such a case who discriminates against the hill folk? Is it the railroad? No. Is it the hill? Yes.

Now, Mr. Speaker, if we were inserting this provision for the purpose of regulating the through business of an imaginary railroad passing over an imaginary hill between Jericho and Jerusalem, the illustration might have some little force; but, as will be readily seen, it were better even then that the bill might go through for the salvation of Jerusalem. We know that the railroad could not carry the freight over the hill, as against the water competition around the hill, except at a heavy loss, which, of course, would be readily done by the railroad until the navigation company had been destroyed and taken off its barges and schooners, and then the day for cheap freights for Jerusalem has passed by, and Jerusalem will wish she had never had a railroad.

The truth is, Mr. Speaker, that railroad companies are not hunting for some town on a hill to save from withering. Nor are they on the road to Jerusalem. We would better apply this legislation to the situation of things in this country, where the railroad companies build along the streams by the most accessible routes to their ultimate destination. Take the great West as an illustration, and we who have lived there know well that the companies have paid but little attention to the towns, it being frequently necessary to give large subsidies by way of bonds to divert them but a short distance to the towns, the passing by of which would have much depreciated the property of the resident citizens; and frequently has it been necessary to divide the real estate of the town site with a ring formed inside the railroad company to secure railroad facilities, but more frequently has it occurred that town-site companies (inside the railroad management) have gone in advance of the building of the road and selected town sites, at which points the railroads have erected their stations, paying little or no attention to towns that had been started before the railroad was built, and thereby adding another great source of wealth to those whose only legitimate business should be that of aiding commerce for fair and reasonable compensation, such as is provided by the substitute bill.

I say that when we take into consideration the actual situation of things in this country, the imaginary hill railroad running from Jericho to Jerusalem seems a little far-fetched.

The gentleman from Massachusetts further suggests that the company ought to be allowed to charge a greater rate for a shorter than a longer distance, especially when that shorter distance covers a very expensive portion of the road, such as the bridge at Saint Louis or the Hoosac tunnel; but, unfortunately for his illustration, so far as the bridge part is concerned, most of the bridges, or at least those concerning which I have knowledge, have their separate tolls and charge for every freight-car carried over them, and to-day are paying a greater dividend on the money invested than any other portion of the road under railroad management; but in any event the tunneling through a hill or the erection of bridges over navigable streams is but a portion of the expense in the erection of any great railroad line, and would always be taken into consideration in arriving at the average value of a road from its different termini. In considering what would be reasonable charges under the provisions of this bill and let a car of freight be shipped a short or a long distance, the railroad company would always be receiving reasonable pay, taking into consideration the average cost of a road from end to end.

There is no provision in the substitute that prohibits any railroad company from charging and receiving as much for the carriage of freight for ten miles as it does for a hundred, or for a hundred miles as much as it does for a thousand, other than that provision which says all charges shall be reasonable, and I am much in favor of the provision in the fourth section which says that the charges in a shorter haul shall not be greater than for a longer.

I know of but one gentleman who has taken stronger grounds against the Reagan bill than the gentleman from Massachusetts. That gentleman is John C. Brown, accredited representative of over 6,000 miles of railway, and who made his argument before the committee.

Mr. Brown goes so far as to urge that Congress has no power to pass any bill interfering or regulating transportation of freight from State to State; but does make one strong admission, which forever ought to set the American people at ease, and operate as an estoppel against any railway seeking to gainsay the proposition, namely: "That Congress has the power to appoint its own agents for gathering statistical information in reference to any branch of industry;" so that if we never

succeed in passing this or any other bill, we at least have secured a concession of a representative of 6,000 miles of railroad that Congress may go into the statistics business in perfect safety. This gentleman evidently thinks that the creature is bigger than the creator, and has reversed the adage, *Vox populi, vox Dei*, and come to the conclusion that the voice of Vanderbilt, Gould, and Huntington is the voice of God.

The next argument that seems to have the most weight against the proposed legislation in the substitute bill, wherein it declares against a greater charge for the shorter than for the longer haul, is the argument of the gentleman from Massachusetts [Mr. RICE], and is illustrated by two railroads having the same termini, the one making the base of a triangle and the other the perpendicular and the hypothenuse, the base road being two hundred miles in length and the other road being three hundred miles in length. Now as both these roads start from the same point, and run to the same destination, it is urged by the gentleman from Massachusetts that in order to secure through freights the road which has one hundred more miles to travel must carry the through freight at the same rate as its competitor carries it or fail to secure any proportion of that business. This is true; but who is there who does not know that if the road that carries the freight only two hundred miles is making only a reasonable charge therefor the other road can not carry that freight without a loss, or at least, without profit, and that any loss sustained by the carriage of the through freight must necessarily be made up by overcharge on the local traffic, which overcharge must be just so much in excess of reasonable rates, because all such overcharge is for no other purpose than to enable the road with an indirect line between the two given points to compete with the road that has the direct line?

It is just such business as this that the substitute bill seeks to remedy, namely, that each and every road shall have a full and fair opportunity to do the business that legitimately belongs to it at reasonable and fair rates, and to prevent unjust discrimination and to relieve the people of one locality from paying the charges that naturally fall to those of another.

The fifth section of the substitute bill provides for the posting up of schedules giving the rates of freight and the prices of carriage between different places. This is obviously a very just requirement, to the end that every person who desires to make shipment of freight may be fully advised as to what the charges will be. It has been urged here that the provisions of this section are unreasonable, in that there must be given a notice of at least five days before any new schedule of rates can go into effect. I can readily see how the want of any notice of this kind might work serious injury to shippers, but can not see how the notice can do wrong to any one, either the company or shippers. Take one instance by way of illustration: Grain buyers at the different stations along the road, who have been purchasing large quantities of grain on a close margin, basing their purchases upon present rates charged by the railroad company for carrying the grain to market. Now, sir, if the railroad companies without a day's warning can raise the freights, they have the power not only to deprive these grain buyers of the profits to which they are legitimately entitled, having purchased their grain with reference to rates already fixed—I say they have the power not only to take away their profits, but to cause them great loss; but on the other hand, if they shall have five days' notice in the proposed raising of any freights, as this bill provides, they will have abundant time in which to send their grain to market. And especially is this section of advantage to the farmer, who may desire to send his own grain or stock to market without the intervention of the middleman, always being advised by the schedule rates as to just how much the middleman is making off of him in handling his property, namely, the difference between the freight to market and the market price. This section has my unqualified indorsement.

We come now to the consideration of that part of the committee bill relating to the commission, and it might be well for a moment to inquire into and ascertain how much of this commissioner system is of practical utility and how much is ornamental. We begin at the ninth section, and in that section find that the commission has the power to appoint a clerk at a salary of $2,500 a year, and an accountant whose salary is $2,500, and to make additional expenses by calling upon the Secretary of the Interior. We also find that they have power to accept a pass from any road engaged in interstate commerce, and armed with this weapon of self-defense they go out into the world in the discharge of their sacred duties of seeing fair dealing between the railroads and the people without any power to enforce fair dealing. This is the sum and substance of the ninth section.

Coming to the tenth section, we find that they have power to entertain a complaint made upon petition, and are required to do so when the complaint bears the certificate of any district attorney of the United States or of any district or county attorney or other officer or correspondent thereto of any State or Territory that he has examined the facts and that in his opinion the complaint is well founded. They have power to notify the railroad company of the complaint made, and in proper cases are required so to do, and cause a copy of the petition to be served on the company complained against; but the section fails to define a proper case. The commissioners have power to require the company to appear before them and answer said petition and to prosecute an inquiry and to form their own conclusion in respect to the matters charged in the petition, and it is made a duty of said commission to find whether or not there has been a violation of the statute and make a report in writing setting forth the fact, and if there has been a violation of the statute, within twenty days thereafter to serve a copy on the railroad company so found to have violated the act and to notify the said company to cease and desist from such violation, and also to deliver to the district attorney of the United States for the district a copy of such report, findings, and notice. This is the sum and substance of the tenth section.

In the eleventh section there are no powers conferred upon the commissioners or duty required, but the district attorney to whom the report has been made proceeds before a United States court by petition to secure an injunction, and notwithstanding the finding of facts that have been reported to him by the commissioners, the court is not authorized upon these findings to grant even a temporary order of injunction, but only to cite the company to show why the injunction should not be granted, and to proceed to investigate the same as in ordinary cases it would where the petition alleged a violation of the law where there had been no commission appointed. Now, will some one point out the utility of this commission, in that any citizen has a right at any and all times before the courts to ask for an injunction in case of an alleged violation of the law?

We have now arrived at that point where we have spent at least thirty or forty days with the commission—landed in the court (a place where we had a right to go in the first instance) for an investigation of the case *de novo*.

If this is not an ornamental board, and of as little use as the fifth wheel in a wagon, I have been unable to understand the provisions of the bill. We find further along in this bill that the commission may require the production of all books, papers, and documents relating to any matter before them, but nowhere do we find the power to compel an agent of a railroad company to disclose the facts within his knowledge, neither could he be compelled to do so where there had been a criminal violation of the statute, because the bill makes no provision against the disclosure being used against the party in a criminal case, as does the Reagan substitute, and in this the bill is very defective, because without the disclosure of the facts by the witness the real truth can not be arrived at. The last power conferred upon the commission is that of a notary public, namely, to administer oaths and affirmations, and here ends the power of this remarkable board sought to be thrust upon the public with no real power except to draw its salary and to go armed with the proper implements of its office, namely, a pocketful of railroad passes.

I am in favor of the Reagan substitute, and would like to see it modified only in one particular, and that in allowing the injured party to recover his real damages, with his necessary expenses, including attorney's fees, in every instance when he has made out his case; but in the event that the Reagan bill should fail to take the place of the bill reported by the committee, I shall support the committee bill, believing as I do that it is necessary to have some legislation upon this subject, and for the reason that it contains many provisions of utility aside from that part relating to the commissioner system.

Mr. STEWART, of Vermont, was recognized.

Mr. REAGAN. If the gentleman from Vermont will yield to me I will move that the House adjourn.

Mr. STEWART, of Vermont. I yield for that motion.

ENROLLED BILLS SIGNED.

Mr. WARNER, of Tennessee, from the Committee on Enrolled Bills, reported that the committee had examined and found duly enrolled a bill of the following title; when the Speaker signed the same:

A bill (S. 1309) to provide statuary and historical tablets for the Saratoga monument.

Mr. NEECE, from the Committee on Enrolled Bills, reported that the Committee had examined and found duly enrolled a joint resolution of the following title; when the Speaker signed the same:

Joint resolution (S. R. 98) extending the time fixed for the joint commission appointed under the sundry civil act approved July 7, 1884, to submit their report.

FREEDMAN'S SAVINGS AND TRUST COMPANY.

The SPEAKER, by unanimous consent, laid before the House a letter from the Commissioner of the Freedman's Savings and Trust Company, transmitting his report, as required by the act of February 21, 1881; which was referred to the Committee on Banking and Currency.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted Mr. DIBBLE for two days, on account of important business.

MRS. JANE E. COLE.

Mr. RAY, of New Hampshire, by unanimous consent, introduced a bill (H. R. 7670) granting a pension to Mrs. Jane E. Cole; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

MRS. MARY L. CARR.

Mr. RAY, of New Hampshire, by unanimous consent, also introduced a bill (H. R. 7671) granting a pension to Mrs. Mary L. Carr; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

ELBERT HEWITT.

Mr. RAY, of New Hampshire, by unanimous consent, also introduced a bill (H. R. 7672) granting an increase of pension to Elbert Hewitt; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

MRS. ADELINE E. CHADBOURNE.

Mr. RAY, of New Hampshire, by unanimous consent, also introduced a bill (H. R. 7673) granting a pension to Mrs. Adeline E. Chadbourne; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

NATIONAL CEMETERY, BAXTER SPRINGS, KANS.

Mr. PERKINS. In the last session of Congress I presented a memorial pertaining to the national cemetery of Baxter Springs, Kans., which was referred to the Committee on Military Affairs. That committee has considered it and has the papers here. I ask that the Committee on Military Affairs be discharged from the further consideration of the same, and that, with the accompanying papers, it be referred to the Committee on Appropriations.

There was no objection, and it was so ordered.

JOHN T. WALSH.

Mr. McCOMAS, by unanimous consent, introduced a bill (H. R. 7674) granting a pension to John T. Walsh, of Alleghany County, Maryland; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

And then, on motion of Mr. REAGAN (at 4 o'clock and 45 minutes p. m.), the House adjourned.

PETITIONS, ETC.

The following petitions and papers were laid on the Clerk's desk, under the rules, and referred as follows:

By Mr. BOUTELLE: Memorial of the mayor and city council of the city of Bangor, Me., asking aid in the construction of works for the protection of the Government buildings and other property at that place—to the Committee on Appropriations.

By Mr. CUTCHEON: Resolutions of the Michigan State board of agriculture, in regard to experimental stations—to the Committee on Agriculture.

By Mr. DAVIDSON: Petition of certain citizens of Florida, asking the forfeiture of railroad lands—to the Committee on the Public Lands.

By Mr. DEUSTER: Petition and other papers relating to the pension claim of Capt. Lyman Mower—to the Committee on Invalid Pensions.

By Mr. ERMENTROUT: Memorial relative to the prevention of cholera in America—to the Committee on the Public Health.

Also, petition of cigar-makers of Boyertown, Pa., eighth district, to abolish revenue tax on tobacco and cigars—to the Committee on Ways and Means.

By Mr. HARMER: Petition of Martha McKeown, widow, &c., for arrears and increase of pension—to the Committee on Invalid Pensions.

By Mr. A. S. HEWITT: Petitions of cigar-makers of New York, in favor of a modification of the revenue laws affecting the sale of cigars—to the Committee on Ways and Means.

By Mr. PRYOR: Papers relating to the claim of James A Patterson—to the Committee on War Claims.

By Mr. CHARLES STEWART: Bill for constructing a channel through the bar at the mouth of Cedar Bayou, in Galveston Bay, Texas—to the Committee on Rivers and Harbors.

By Mr. G. D. WISE: Petition of Henry Trimble, late second lieutenant Company K, Ninety-ninth Ohio Volunteers—to the Committee on Military Affairs.

SENATE.

WEDNESDAY, *December* 10, 1884.

Prayer by the Chaplain, Rev. E. D. HUNTLEY, D. D.

NAMING A PRESIDING OFFICER.

Mr. SHERMAN called the Senate to order, and the Secretary read the following letter:

WASHINGTON, D. C., *December* 10, 1884.

To the Senate of the United States:

Under and pursuant to the rules I do hereby name and designate Hon. JOHN SHERMAN, a Senator from the State of Ohio, to preside in the Senate during my absence this day.

GEO. F. EDMUNDS,
President pro tempore.

Thereupon Mr. SHERMAN took the chair as presiding officer for to-day.

THE JOURNAL.

The Journal of the proceedings of yesterday was read and approved.

WORLD'S INDUSTRIAL AND COTTON CENTENNIAL EXPOSITION.

The PRESIDING OFFICER (Mr. SHERMAN) laid before the Senate the following communication from the commissioner-general of the World's Industrial and Cotton Centennial Exposition; which was read, and ordered to lie on the table and be printed:

WASHINGTON, D. C., *December* 9, 1884.

SIR: I am instructed by the board of management of the World's Industrial and Cotton Centennial Exposition to invite the Senate of the United States to participate in the opening ceremonies in the city of New Orleans on the 16th of December, 1884.

In obedience to these instructions I have the honor to request that you communicate this invitation to the honorable body over which you preside.

I have the honor to be, your obedient servant,

F. C. MOREHEAD,
Commissioner-General of the World's Industrial and Cotton Centennial Exposition.

Hon. GEORGE F. EDMUNDS,
President of the Senate.

THE FORBES HISTORICAL ART COLLECTION.

The PRESIDING OFFICER laid before the Senate the following communication; which was read:

NEW YORK, *June* 17, 1884.

DEAR SIR: I have the honor to transmit the following extract from the proceedings of the meeting of the Army of the Potomac, held in Brooklyn, N. Y., June 11 and 12:

Resolved, That this society earnestly recommend the passage of the bill now pending in Congress providing for the purchase by the Government and preservation in the Government archives of the extensive and comprehensive series of sketches and etchings of the battles and campaigns of the Army of the Potomac known as "The Forbes Historical Art Collection," and that a copy of this resolution, duly certified by our president and secretary, be transmitted to the Senate and to the House of Representatives.

Respectfully, your obedient servants,

U. S. GRANT,
President of the Army of the Potomac.
HORATIO C. KING,
Secretary of the Army of the Potomac.

To Hon. GEO. F. EDMUNDS,
President of the United States Senate.

The PRESIDING OFFICER. If there be no objection the communication will be referred to the Committee on Military Affairs.

Mr. CONGER. I think it should be referred to the Committee on the Library.

The PRESIDING OFFICER. Does the Senator make that motion?

Mr. CONGER. I make that suggestion.

The PRESIDING OFFICER. A bill on the subject is now before the Committee on Military Affairs, the Chair is informed.

Mr. CONGER. The subject of purchasing for the use of the Library, the etchings and so forth?

The PRESIDING OFFICER. The Chair is informed that there is a bill before the Committee on Military Affairs embracing the subject-matter of the paper.

Mr. CONGER. I do not know what the process might be to have it considered; but the question of the purchase of the plates and the materials mentioned in the letter and the etchings which are now in Barlow's gallery should be referred to the Committee on the Library, as matters of that kind are always so referred.

The PRESIDING OFFICER. If the Senator submits such a motion the Chair will put the question to the Senate.

Mr. CONGER. I shall not make any motion. If the subject is already before the Military Committee, they can, perhaps, report upon it; but the purchase should be made upon the recommendation of the Committee on the Library.

The PRESIDING OFFICER. The Chair understands that the Senator from Michigan does not make any motion.

Mr. CONGER. No, sir; I simply call attention to it.

The PRESIDING OFFICER. The paper will be referred to the Committee on Military Affairs if there be no objection.

HOUSE BILLS REFERRED.

The bill (H. R. 6865) to amend section 2805 of the Revised Statutes of the United States so as to allow oaths to be administered by notaries public was read twice by its title, and referred to the Committee on the Judiciary.

The bill (H. R. 5747) to authorize the increase of the capital stock of the First National Bank of Larned, Kans., not to exceed $250,000, was read twice by its title, and referred to the Committee on Finance.

PETITIONS AND MEMORIALS.

Mr. HILL presented a memorial of the Chamber of Commerce and Board of Trade of the city of Denver, Colo., favoring the improvement of Galveston Harbor, and praying that a contract be made with Captain James B. Eads for that purpose; which was ordered to lie on the table.

Mr. LAPHAM. I present the petition of Thomas W. Robertson and 572 others, formerly employés of the custom-house in New York, praying for an appropriation by Congress to reimburse them for 10 per cent. of their salaries withheld several years ago by reason of a deficiency of appropriation. They ask that Congress may make provision for the payment to them of the sum so withheld. It is an object already provided for by law, for which an appropriation should be made. I think this petition should go to the Committee on Appropriations and that

provision should be made for the payment in the deficiency appropriation bill. I move the reference of the petition to that committee.

The motion was agreed to.

Mr. CONGER. I present a memorial of citizens of Kalamazoo, Mich., a memorial of citizens of Coldwater, Mich., and a memorial of citizens of Flint, Mich., remonstrating against the ratification of the clause in the proposed Spanish treaty relative to the tariff on tobacco. I do not know where the proper place is to present such memorials.

The PRESIDING OFFICER. The Chair is advised that it is usual to present such matters to the Senate at another time.

Mr. CONGER. I will withdraw them, then.

Mr. MITCHELL presented a memorial of the Ale and Porter Brewers' Association of Pennsylvania, favoring the redemption of the trade-dollar; which was referred to the Committee on Finance.

Mr. JACKSON presented the petition of Mary E. Fillebrown, widow of Commodore Thomas Scott Fillebrown, praying for a pension of $50 a month; which was referred to the Committee on Pensions.

REPORTS OF COMMITTEES.

Mr. CAMERON, of Wisconsin, from the Committee on Claims, to whom was referred the bill (S. 2119) for the relief of Dudley D. Smith, in his own right and as administrator of Whitcomb Smith, submitted an adverse report thereon; which was agreed to, and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the bill (S. 2314) for the relief of the legal representatives of Aquilla Lockwood, submitted an adverse report thereon; which was agreed to, and the bill was postponed indefinitely.

Mr. SHEFFIELD, from the Committee on Claims, to whom was referred the bill (S. 2326) for the relief of Margaret T. Dugan, submitted an adverse report thereon; which was agreed to, and the bill was postponed indefinitely.

Mr. HOAR. I am directed by the Committee on Claims to report back the bill (S. 1351) for the relief of the Continental Fire Insurance Company, Eagle Fire Insurance Company, City Fire Insurance Company, and Commercial Mutual Insurance Company, all of New York city, it being a bill to refund to certain insurance companies a tax which they claim to have been illegally exacted. The committee ask to be discharged from its further consideration, and that it be referred to the Committee on Finance.

The report was agreed to.

PRINTING OF PANAMA CANAL PAPERS.

Mr. MILLER, of California, from the Committee on Foreign Relations, submitted the following resolution; which was agreed to:

Ordered, That the dispatches of Mr. George Maney, formerly United States minister at the United States of Colombia, relative to the Panama Canal, furnished to the Committee on Foreign Relations by the Department of State on the 29th day of March, 1884, be printed for the use of the Senate.

COMMITTEE ON FOREIGN RELATIONS.

Mr. MILLER, of California. I am instructed by the Committee on Foreign Relations to ask the leave of the Senate for that committee to sit during the sessions of the Senate. The business of that committee has accumulated to such an extent that it can not be disposed of at the regular meetings. I make that motion.

The PRESIDING OFFICER. The Senator from California moves, on behalf of the Committee on Foreign Relations, that it have leave to sit during the sessions of the Senate.

The motion was agreed to.

THE TENTH CENSUS.

Mr. HALE. I am instructed by the Select Committee to make provision for taking the Tenth Census and ascertaining the results thereof to report without amendment the joint resolution (H. Res. 289) authorizing the Superintendent of the Census to continue the work on the Tenth Census. I should like to have it passed now if there is no objection.

The PRESIDING OFFICER. The Senator from Maine asks the immediate consideration of the joint resolution reported by him. It will be read at length for information.

The joint resolution was read.

Mr. COCKRELL. Is that a House resolution?

The PRESIDING OFFICER. It is a House resolution.

Mr. HALE. I hope there will be no objection to it; it is simply extending the time.

Mr. COCKRELL. It is just the House resolution?

Mr. HALE. It is just the House resolution.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution. It repeals so much of the act making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1885, and for other purposes, approved July 7, 1884, as provides that the Census Bureau shall be closed on January 1, 1885; and authorizes the Superintendent of the Census to continue the work of the Tenth Census until the further action of Congress. But in no case shall any expense be incurred under this resolution, either for salaries or other items, in excess of the balance of appropriations heretofore made for the work of the Tenth Census which shall remain unexpended on January 1, 1885, and the bureau shall be closed with the expenditure of the money heretofore appropriated.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

BILLS INTRODUCED.

Mr. MANDERSON introduced a bill (S. 2431) for the relief of Miss Anna Ella Carroll; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Claims.

Mr. McMILLAN introduced a bill (S. 2432) to increase the appropriation for the erection of the public building at Minneapolis, Minn.; which was read twice by its title, and referred to the Committee on Public Buildings and Grounds.

Mr. MAXEY introduced a bill (S. 2433) for the relief of Thomas F. Purnell; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. VANCE introduced a joint resolution (S. R. 99) directing copies of the official letter-books of the executive department of the State of North Carolina to be furnished to said State; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Military Affairs.

Mr. MILLER, of California, introduced a joint resolution (S. R. 100) authorizing the printing of certain naval and military reports; which was read twice by its title, and referred to the Committee on Printing.

ERICSSON'S SUBMARINE GUN.

Mr. BLAIR submitted the following resolution; which was read:

Resolved, That the Committee on Naval Affairs be instructed to investigate the new system of naval defense for the seaports of the United States proposed by Capt. John Ericsson, especially with a view to ascertaining the efficiency of his new submarine gun and projectile torpedo for that purpose. Also, to ascertain whether the same is about to be purchased for the exclusive use of any foreign power, and whether or not the efficiency of the naval service and prudent provision for the national defense require the purchase and appropriation of this invention by the Government.

Mr. BLAIR. As that is simply a resolution of instruction to the committee, I should like, if there is no objection, that there be action upon it at the present time; but before action I desire indulgence to say a few words.

It appears evident at the present time that public sentiment is fast ripening up to a determination to rebuild the American Navy. Of course if the Navy is to be reconstructed and a navy made of capacity to compete with and meet in order of battle the navies of the world the expense must be simply enormous. I have never heard it doubted by any individual who was capable of making an estimate of the probable expense that sooner or later, and that within a very few years, it would be at least $500,000,000; and if we enter upon this course of expenditure at all we can hardly be justified in so doing unless we contemplate the ultimate result, for it is no use to half arm the American Navy or to half provide suitable defense against the aggression of foreign powers. Our seaports, as we learn from the reports of the Secretaries of War and of the Navy and from every source, are utterly defenseless at the present time as against the aggression of any of the first-class powers of the world or even of the second class or possibly the third.

Captain Ericsson has invented a submarine gun which it is claimed is of itself, with comparatively a slight expenditure, capable of meeting and destroying the combined navies of the world; at all events that it is valuable in the way of self-defense at a comparatively slight expenditure to the American people. It is stated in behalf of that invention that the harbor, for instance, of the city of New York could be provided at an expense of less than a million dollars with two, three, or four vessels armed with this submarine gun, and by means of that comparatively slight expenditure be able to resist an attack from any or all of the combined navies of the world.

The attention of the Navy Department has been called to this invention, and I presume the attention of the Committee on Naval Affairs has been arrested by it. There have been commendations of its efficiency from the highest naval authorities of the country, Admiral Porter and others, and there is every reason, I think, to believe that a fair investigation of this new system of defense will result in the appropriation of the invention by the Government and the saving of an enormous expenditure to the American people.

I have lately received, in reply to inquiries made by myself, from Captain Ericsson some account of the invention itself, in a letter which I desire to have printed in connection with the remarks I am now making, and also one or two other documentary matters, which throw a good deal of light upon the probable value of the invention. I desire to have this matter printed in connection with what I say, and that the whole shall either be referred directly to the committee for investigation, the resolution itself, as well as this matter, or that the resolution may be acted upon affirmatively and at once by the Senate. I will ask that the matter be printed and that the resolution go over until to-morrow.

The PRESIDING OFFICER. The Senator from New Hampshire asks that certain documents, referred to by him, be printed in the RECORD.

Mr. ALLISON. What is proposed to be printed in the RECORD?

The PRESIDING OFFICER. Certain documents referred to by the Senator from New Hampshire.

Mr. BLAIR. I ask that, rather than to take up the time of the Senate by reading them at the present time as part of my remarks. I am not particular, however. Let the letter of Captain Ericsson be read.

The PRESIDING OFFICER. The letter will be read as part of the Senator's remarks.

The Chief Clerk proceeded to read the letter of Captain Ericsson, dated New York, December 1, 1884, but before concluding was interrupted by,

Mr. ALLISON. I do not care to hear the paper read further.

The PRESIDING OFFICER. If there be no objection the paper will be printed in the RECORD.

The letter is as follows:

NEW YORK, *December* 1, 1884.

SIR: I am informed by my friend Mr. G. H. Robinson that you intend to introduce a resolution in Congress with reference to my new system of destroying hostile iron-clad ships by means of submarine artillery, carried in small, cheaply constructed vessels.

The Secretary of War, in his report for 1883, said: "Our seacoast, with its great cities and important harbors, is defenseless to-day against the attack of a modern ironclad, and it is humiliating even to imagine the mortification, loss of life, property, and prestige to which we would be subjected should war come suddenly upon us, as the history of nations shows may happen at any time." That no means have yet been proposed by our Government capable of preventing the destruction of our great seaboard cities by an enemy's iron-clad ships will be seen by reference to the accompanying "statement relating to the defense of the seaports of the United States."

Regarding the submarine gun, the principal feature of the Destroyer system, I have the honor briefly to call your attention to the fact that its explosive projectile, loaded with three hundred pounds of gun-cotton, is capable of shattering the hull of any ironclad whatever. Admiral Porter, in a letter to the Secretary of the Navy, says with reference to the Destroyer system: "My own opinion is that Mr. Ericsson has invented the most destructive principle known in naval warfare, and if there are objections to it, the objections are simply to mechanical details, which can be ascertained by careful trial. This Government is too poorly provided with means of defense against foreign aggression to allow it to treat lightly this invention of Mr. Ericsson." (See letter from the Secretary of the Navy to the Senate, February 20, 1884.) Since Admiral Porter's letter was written, the Destroyer has been completed, as you will find by referring to the accompanying report, "Trial of the Destroyer," dated October 31, 1883. No defects whatever having been discovered during this final trial of the system, I have offered to build a steel vessel of the Destroyer type, 132 feet long, 29 feet beam, 11½ feet deep, for the sum of $160,000, including submarine gun, projectiles, and all appurtenances complete for actual service. I have also forwarded to the Navy Department complete working drawings and specification of the vessel, steam machinery, submarine gun, and projectile.

Impressed with the importance of the subject, and apprehensive that the Navy Department may not see fit to recommend an immediate introduction of my submarine system for the defense of our unprotected harbors, I respectfully suggest that you introduce a resolution in Congress instructing the Secretary of the Navy to enter into a contract with me for building a steel vessel of the Destroyer type, in accordance with the foregoing particulars. Permit me to observe that such a contract and the acceptance of my offer involve no responsibility whatever on the part of the Department nor can the country suffer any loss, since the due performance of the vessel, submarine gun, and projectile is guaranteed by my sureties.

I beg to state for your information that I have declined to comply with Commodore Sicard's request to exhibit the operation of the submarine gun a second time before a naval board, my grounds for not complying with the demand being stated in the accompanying letter to the Department, dated September 29, 1884.

The report of the trial of the submarine gun on board the Destroyer by the naval board under Captain Selfridge (see letter of the Secretary of the Navy to the Senate, February 20, 1884) concludes thus: "Though the trials before the board have been very limited, sufficient has been shown to convince them that the Ericsson submarine torpedo is a projectile of the most formidable character within a limited range, and within that range whatever further experiments and improvements may prove such to be it is superior to any known form of torpedo." I respectfully submit that on the strength of this report and the facts contained in the accompanying printed documents, apart from my offering sureties guaranteeing the successful performance of my invention (as was the case when I built the original Monitor, which was not fully paid for until after the action at Hampton Roads), Congress will do well to instruct the Navy Department to enter into a contract with me for the construction of a steel vessel of the Destroyer type, armed with submarine artillery, agreeably to the plans and specifications now in the possession of the Navy Department.

I am, sir, your obedient servant,

J. ERICSSON.

Hon. HENRY W. BLAIR,
United States Senator, Washington.

Mr. BLAIR. In this connection I submit a "statement relating to the defenses of the seaports of the United States," and also a report relating to the record of the trial of this vessel, the Destroyer, in the form of an official report to the Secretary of the Navy by Captain Ericsson.

The PRESIDING OFFICER. If there be no objection, the papers presented will be printed as part of the Senator's remarks. The Chair hears none.

The papers referred to are as follows:

STATEMENT RELATING TO THE DEFENSE OF THE SEAPORTS OF THE UNITED STATES.

SIR: I have the honor to submit the following statement concerning my new system of naval defense by means of which the seaports of the United States can be effectually defended. The problem how to defend the seaports of the Union has engaged my attention during a series of years; but the improvements gradually introduced by the leading naval powers in their iron-clad ships have called for modifications which have retarded the execution of my plan of constructing vessels capable of defending harbors against those ships.

The completion of the Inflexible, Lepanto, and other ironclads carrying guns weighing from 80 to 100 tons, protected by armor of 18 to 22 inches in thickness, having at last arrested further increase of weight and size, we now possess a definite knowledge of the character of the ships we must be prepared to meet. But some of the naval powers of Europe have done more than merely increasing the weight of their guns and armor; they have fitted their ships with a protecting netting of wire-rope (readily applied on entering harbors), rendering defense by means of self-moving torpedoes absolutely useless. Moreover, a certain maritime power has elaborated efficient means for destroying stationary submarine torpedoes while passing through channels protected by that delicate and complex system of defense. Having thus briefly adverted to the formidable character of the armored ships possessed by other maritime nations, I propose to show that the United States is wholly unprepared to resist an attack by those ships directed against its seaports, and that at present no adequate means are being prepared for that purpose: (1) The stationary torpedoes intended to be placed in the ship-channels—hitherto supposed to offer an insurmountable barrier against hostile ships—can easily be destroyed by the enemy. (2) The guns of the various United States forts, although very useful for the purpose of destroying the enemy's torpedo-boats, are incapable of penetrating the armor of first-class armed ships, hence unable to resist their entrance into the harbors. (3) The movable torpedo recommended by the Bureau of Ordnance—supposed to be capable of piercing the vulnerable parts of an iron-clad vessel—is of no use, since it can not penetrate the netting which protects the assailant. (4) The turrets, protected by 12-inch steel-faced iron plates, now being built (to be mounted on light vessels insufficiently armored), are too small to admit of guns of sufficient caliber to make any serious impression on modern armor. At the same time the projectile of an 80-ton gun easily penetrates the 12-inch thick turret, besides utterly destroying its mobility, in virtue of the enormous impact of the projectile. It will be well also to bear in mind that conflict in harbors means short range and accurate aim; hence the light hulls of the turret vessels will inevitably be destroyed by the superior attacking ships.

The facts which I have thus had the honor to lay before you prove that, after the completion of the turret vessels now in course of construction, and notwithstanding the intended employment of movable torpedoes, the great cities on the seaboard may at any time be destroyed by a squadron of first-class iron-clad ships.

In view of the foregoing, it is demonstrable that submarine artillery capable of reaching the vulnerable parts of armored ships is the proper method of defending our harbors. Moreover, such a system of defense can be quickly and cheaply arranged. Impressed with the correctness of these assumptions, I have built a partially-armored iron vessel, the Destroyer, capable of navigating the coast in any weather, 130 feet long, 17 feet 4 inches wide, and 11 feet deep, the bow of which is protected by heavy inclined armor plates placed transversely and backed by timbers several feet in thickness. Below this inclined armor, near the bottom of the vessel, a submarine gun 30 feet long is applied, the muzzle of which passes through an opening in the stem. This formidable piece of ordnance has been thoroughly tested under varying conditions, the result being that it has not in a single instance failed to expel the submarine projectile with the required velocity. Its caliber is 16 inches, the projectile being 25 feet long, 15½ inches diameter. The weight of the latter is 1,450 pounds, including an explosive charge of 300 pounds. The hull of the vessel is provided with an intermediate arched iron deck extending from stem to stern below the water-line. The motive engine, 1,000 indicated horse-power, is located under the intermediate deck. During conflict the crew retire below this deck. The Destroyer, whose buoyancy and stability admit of inclined armor several feet in thickness being employed, is capable of resisting any ordnance whatever. It attacks bows on, the projectile being discharged at a distance of 300 feet from the opponent. The explosive charge is sufficient to shatter the hull of any iron-clad ship, thus rendering water-tight compartments of no avail.

I am, sir, your obedient servant,

J. ERICSSON.

Hon. S. S. COX,
Chairman of the Committee on Naval Affairs, House of Representatives.

NEW YORK, *January* 7, 1884.

TRIAL OF THE DESTROYER.

NEW YORK, *October* 31, 1883.

SIR: I have the honor to submit the following report relating to the trial of the Destroyer, its submarine gun and projectile torpedo, conducted during the last four months:

1. Commodore Sicard's apprehension has proved groundless, "that the comparatively low velocity and great length" of the projectile torpedo will cause a deviation of its course in the vertical plane, in consequence of the angular motion of the axis of the gun "while the projectile is passing out of the bore." Various tests were instituted in the course of the trial to ascertain if the deviation from the axial line of the gun in a vertical direction, imagined by the Chief of the Bureau of Ordnance, took place; but no such deviation could be detected. Among other expedients resorted to, a metallic outrigger was applied to the stem of the Destroyer, in order to determine the position of the projectile at the instant of leaving the bore of the gun. Apart from this practical method of proving that the apprehended difficulty does not exist, it may be shown, theoretically, that at the instant of leaving the muzzle the axis of the projectile coincides with the prolongation of the axis of the gun. The accompanying drawing of the projectile torpedo shows that although the tail end is six inches less in diameter than the central part, the four metallic wings attached to the former fit the bore of the gun exactly, thus forming guides which insure the parallelism of the axis of the gun and projectile until the latter leaves the bore. Nor can any appreciable strain take place, since the last three feet of the movement of the projectile within the gun occupies scarcely one one-hundredth of a second.

2. It was found, by repeated discharges during the trial, that although the projectile torpedo, as shown by the drawing, is perfectly symmetrical, it invariably descended on an inclined plane—the angle of deviation from the axial line of the gun at the instant of exit being constant. Various methods were adopted for the purpose of ascertaining whether the tail end of the projectile, as appeared probable, was lifted up by the rush of water accompanying the exit of the propelling piston. Satisfactory indication that such was not the case being furnished during the trial, a very simple expedient was resorted to for depressing the tail end of the projectile—namely, an adjustable inclined projection at the extreme aft end. This device has proved quite successful, and now affords certain means of causing the projectile to continue its course in the direction of the axis of the gun at the instant when the projectile leaves the bore, or at any desirable angle above or below the gun's axial line.

3. With reference to firing the submarine gun at the right time as regards vertical direction, I beg to call your special attention to the fact that far less accuracy is requisite on the part of the manipulator of this gun than that which the ordinary naval artillerist must possess. An error on the part of the latter of only one degree at the moderate range of 1,000 yards will send the shot 50 feet above or below the point aimed at, while an equal error on the part of the manipulator of the submarine gun, the range of which never exceeds 300 feet, will send the projectile torpedo only 5 feet above or below that line of the opponent's hull deemed most desirable to strike.

4. The important fact has been established by the trial that the outboard sea-valve of the submarine gun can be suddenly opened by steam-power while the vessel is running at maximum speed, and that the valve within the gun is capable of resisting the united pressure of the sea and that produced by the powerful current attending the onward motion of the vessel at the instant of opening the outboard sea-valve. As the inner valve should be so fragile that it may be broken by the projectile without sensible loss of energy, it was originally composed of wood; but the valve now employed is made of cast iron one-eighth inch thick, the form being semi-spherical. It proved during the trial to be more readily broken than the original wooden valve. The metallic valve has moreover

proved to be perfectly water-tight, a fact established by the following circumstance: The Destroyer having returned to the navy-yard at the conclusion of the trial of the valves, without firing the submarine gun, the inner valve of course remained in the bore. On going to the trial ground again, after the lapse of a week, it was found on opening the breech-plug that not a drop of water had entered through the fragile valve, which during the period mentioned had been subjected to the pressure of water between the two valves.

5. The propelling pistons of the submarine gun, which transmit the energy of the ignited charge to the projectile torpedo, performed their function without causing any trouble whatever during the entire trial. It is scarcely necessary to observe that one of these pistons, together with the inner sea-valve, must be sacrificed for each shot, since, owing to their weight, they sink after leaving the gun. The projectile torpedo, however, the weight of which is somewhat less than that of the water it displaces, may be used during an indefinite number of discharges, as it floats to the surface after having spent a certain amount of its propulsive energy in overcoming the resistance of the water. It should be observed that the propelling piston is constructed like a steam-engine piston, with an expansive metallic ring at the circumference; hence, unlike the rifle shot, this piston fits air-tight in the bore of the gun. Consequently the whole energy developed by the powder gases is rendered available. Nor should it be overlooked that the great air space round the charge—the marked feature of the submarine gun—promotes a more perfect combustion than hitherto attained. In addition to this advantage, I have devised a new gas-check, composed of gum, which during the prolonged trial remained perfectly tight. This improvement, together with the close fit of the propelling piston and perfect combustion of the charge, satisfactorily accounts for the extraordinary amount of dynamic energy developed compared with the quantity of powder employed. The maximum charge during the trial, 12 pounds of prismatic powder, has proved adequate to propel a projectile 25 feet long, weighing 1,450 pounds, a distance upward of 300 feet in three seconds.

6. The following important question was completely set at rest during the trial: is the firing pin of the percussion lock, which ignites the explosive charge of the projectile, capable of penetrating the inner sea-valve and overcoming the external resistance of the water? The lock referred to being patented and its construction, therefore, well known, it will suffice to mention that the spiral spring which restrains the inward motion of the pin was adjusted to overcome an outward pressure of 700 pounds, its maximum resisting power being twice as great. It will be proper to add, that owing to the great velocity of the projectile the resistance of the water is upward of 400 pounds per square inch against the end of the firing pin. Now, in order to prove practically its capability to overcome the said resistance, besides the needed energy to penetrate the rubber which covers the central hole of the inner sea-valve, the firing pin was coated with paint just before the insertion of the projectile in the gun. Careful examination after each discharge showed that the paint was undisturbed, thus proving that the power of the spiral spring, although set to only half its tension, was adequate to overcome the resistance encountered by the firing pin in piercing the valve.

7. The firing pin of the percussion lock being an essential part of the new system of submarine attack, I have ascertained practically that when the projectile encounters a fixed or a very heavy movable body, while advancing at the rate of 8 feet per second (about 5 miles an hour), the firing pin is instantly pushed in, notwithstanding the resisting power of the spiral spring within the lock—the internal mechanism being such that a triple detonating fuse is exploded by the movement.

Regarding the vessel (the Destroyer) which carries the submarine gun, I have the honor to inform you that the increase of beam adverted to in my former communication has imparted the expected stability to the hull, the Destroyer being now emphatically a sea-going vessel. The mechanical device, before reported, by means of which the vessel is turned on the center without backing or going ahead, has proved very useful; while the present great stability and excess of buoyancy enables the Destroyer to carry inclined armor 2 feet thick backed by 5 feet thickness of wood.

In view of the foregoing it will appear that vessels of the Destroyer type, capable of defying ordnance of any caliber while attacking bows on, armed with submarine guns and projectile torpedoes, can effectually defend our harbors against iron-clad ships—more particularly since the projectile torpedo can not be stopped by the netting carried by European ships, which so completely protects against attack by the feeble self-moving torpedo.

I am, sir, your obedient servant,

J. ERICSSON.

Hon. W. E. CHANDLER,
Secretary of the Navy, Washington.

Mr. BLAIR. I wish to say further in connection with this matter that I am informed and believe that the English Government is engaged in a negotiation for the appropriation of this invention. It is an American invention, made by the man who saved the commerce of the United States during the recent war, whose invention at that time effected a revolution in the system of naval warfare of the civilized world. I believe it probable that this new invention of his marks a like era; and it would be well for the Government of the United States to investigate this matter carefully, for it may be that other powers will be very soon appropriating an invention which might be exclusively our own.

The PRESIDING OFFICER. Does the Senator ask for the present consideration of the resolution?

Mr. BLAIR. Let it go over until to-morrow.

The PRESIDING OFFICER. The resolution will be printed and placed on the Calendar.

INTEROCEANIC SHIP-RAILWAY COMPANY.

Mr. VEST. I ask unanimous consent that the Committee on Commerce be discharged from the further consideration of the bill (S. 1690) to incorporate the Interoceanic Ship-Railway Company, and for other purposes, and that I may have leave to withdraw the bill from the files of the Senate. I have received a letter from Captain Eads, in which he says that certain changes made in the concession of Mexico necessitate the withdrawal of the bill.

The PRESIDING OFFICER. The Senator from Missouri moves that he have leave on behalf of the Committee on Commerce to withdraw a certain bill named by him.

The motion was agreed to.

ENROLLED BILLS SIGNED.

A message from the House of Representatives, by Mr. CLARK, its Clerk, announced that the Speaker of the House had signed the following enrolled bill and joint resolution:

A bill (S. 1309) to provide statuary and historical tablets for the Saratoga monument; and

Joint resolution (S. R. 98) extending the time fixed for the joint commission appointed under the sundry civil act approved July 7, 1884, to submit their report.

CHICAGO COMMERCIAL NATIONAL BANK.

Mr. MORRILL. I desire to call up a bill reported yesterday from the Committee on Finance, the bill (S. 2375) to authorize the increase of the capital stock of the Commercial National Bank of Chicago, which, I am informed by the Senators from Illinois, it is very desirable should pass and become a law before the 1st of January.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported to the Senate without amendment.

Mr. MORRILL. It is suggested to me that there should be an amendment made to the bill. I move to add the following proviso:

Provided, That two-thirds of the stockholders shall consent thereto.

So as to read:

And the Comptroller of the Currency is hereby authorized to fix the limit of the increase of the capital stock of the Commercial National Bank of Chicago at the amount of $2,000,000: *Provided*, That two-thirds of the stockholders shall consent thereto.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

FORFEITURE OF OREGON LAND GRANT.

Mr. SLATER. I move that the Senate now proceed to the consideration of the bill (H. R. 181) to declare forfeited certain lands granted to aid in the construction of a railroad in Oregon, and to enforce the same by judicial proceedings.

Mr. HARRISON. I suppose the Senator from Oregon does not intend that the bill shall displace the regular order at 2 o'clock.

Mr. SLATER. Certainly not. I do not wish to do that.

Mr. HARRISON. I think we can dispose of the bill in a little while, and in that case I have no objection to its consideration.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Oregon.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported from the Committee on Public Lands with an amendment, to strike out all after the enacting clause and to insert:

That so much of the lands granted by an act of Congress entitled "An act granting land to aid in the construction of a railroad and telegraph line from Portland to Astoria and McMinnville, in the State of Oregon," approved May 4, 1870, as are adjacent to and coterminous with the uncompleted portions of said road, and not embraced within the limits of said grant for the completed portions of said road, be, and the same are hereby, declared to be forfeited to the United States and restored to the public domain, and made subject to disposal under the general land laws of the United States as though said grant had never been made: *Provided*, That the price of the lands so forfeited and restored shall be the same as heretofore fixed for the even-numbered sections within said grant.

Mr. DOLPH. I desire to offer an amendment to the bill as reported by the committee, which would involve striking out the proviso of the committee's amendment. I understand that my amendment should be offered before action upon the amendment of the committee. Therefore, I offer now the amendment presented by me yesterday, and which was printed, and which I now send to the desk of the Secretary.

The PRESIDING OFFICER. The Chair understands that it is an amendment to the text of the bill.

Mr. DOLPH. It is an amendment to the amendment reported from the committee.

The PRESIDING OFFICER. It is in order, and will be reported.

The CHIEF CLERK. It is proposed to strike from the amendment of the committee the following proviso:

Provided, That the price of the lands so forfeited and restored shall be the same as heretofore fixed for the even-numbered sections within said grant.

And to insert in lieu thereof:

All persons who at the date of the passage of this act are actual settlers in good faith on any of the lands hereby forfeited, and who are otherwise qualified, on making due claim to such lands under the homestead, pre-emption, or other laws, within six months after the same shall have been declared forfeited, shall be entitled to a preference right to enter the same in accordance with the provisions of this act and of the homestead, pre-emption, or other laws, as the case may be, and shall be regarded as having legally settled upon and occupied said lands under said pre-emption, homestead, or other laws, as the case may be, from the date of such actual settlement or occupation; and in case any such settler may not be entitled to thus enter or acquire such land under existing laws, he shall be permitted, within one year after the passage of this act, to purchase not to exceed one hundred and sixty acres of the same, at the price of $1.25 per acre; and the Secretary of the Interior is hereby authorized and directed to make such rules and regulations as will secure to said actual settlers the benefit of these rights: *Provided*, That the price of the even-numbered sections within the limits of said grant and adjacent to and conterminous with the uncompleted portions of said road, and not embraced within the limits of said grant for the completed portions of said road, is hereby reduced to $1.25 per acre.

Mr. DOLPH. By the bill as it is reported by the Committee on Public Lands it is proposed to forfeit and restore to the public domain for settlement under the general land laws of the United States so much of the lands as were granted to the Oregon Central Railroad Company of

Portland by the act of May 4, 1870, as lie adjacent to and conterminous with the uncompleted portions of said road, and to fix the price of the odd sections so forfeited at $2.50 an acre. By the act of May 4, 1870, there was granted to said company, the Oregon Central Railroad Company of Portland, each alternate section of the public land not mineral, except coal and iron, designated by odd sections, to the amount of ten sections per mile upon each side nearest to the road except such as had been previously reserved or otherwise disposed of or held under valid homestead and pre-emption rights; and also the right to take materials from the public land for the construction of the road and the usual grant of land for depot and station purposes.

The Oregon Central Railroad Company of Portland had prior to the date of that grant projected a line of railroad from Portland westward to Forest Grove, thence along the west side of the Willamette Valley by McMinnville and other west side towns to the southern boundary of the State of Oregon, and had commenced the construction of that line. It had been engaged in a long contest with the Oregon Central Railroad Company of Salem for the lands granted by the act of Congress of July 25, 1866, granting lands to such company as should be designated by the State of Oregon to aid in the construction of a railroad and telegraph line from Portland, in Oregon, southerly through the Willamette Valley to a suitable point of junction with the line of the Central Pacific Railroad Company in California, and having been unsuccessful in that contest, had come to Congress for aid in the construction of its road.

The late Hon. Joseph S. Smith, of Oregon, then in Congress, introduced a bill to grant lands to the company to aid in the construction of its road as then projected, but before the bill was passed it was amended so as to limit the grant of land upon the projected line of the company's road to McMinnville, a point about fifty miles from Portland, and through the influence of the late Judge Olney, of Astoria, and other persons interested in getting a line of road from Portland to Astoria, the bill was amended so as to include a grant of land from Forest Grove to Astoria, a distance of about ninety-seven miles.

Shortly after the passage of that act the Oregon Central Railroad Company of Portland constructed about forty-eight miles of road from Portland to Saint Joe, a point about a mile and a half distant from McMinnville, and then failed, and have been unable to continue the construction of the road. The constructed road and the earned and unearned land grant was transferred to the Oregon and California Railroad Company, a company which has succeeded to the ownership of the grant under the act of July 25, 1866. That company has also acquired fifty miles of additional road from Saint Joseph southward upon the original projected line, and is devoting all its energies to the construction of its main line, and nothing has been done toward the construction of the line from Forest Grove to Astoria. Nothing in fact has been done in regard to the matter except to make preliminary surveys.

As I stated upon this floor on a previous occasion, I intend to vote for the forfeiture of this unearned grant; but as this is an important bill to the people of the State I have the honor in part to represent, and as, if it becomes a law, it will undoubtedly have no little effect upon the future settlement and development of portions of my State, I do not feel like letting the opportunity pass without saying that I have come to the conclusion to vote for the forfeiture of this unearned grant with a good deal of reluctance. I do not share in the views of some that the forfeiture of this grant will aid in securing the early construction of the road. I do not see how we can expect to secure the early construction of the road without Congressional aid when we have not been able to procure it with the aid of a Congressional grant. A railroad constructed from Forest Grove to Astoria would pass through a mountain-broken, timbered country; it will be difficult of construction, quite expensive to build, and when built will have to compete for its traffic with river transportation on the Columbia River.

When the bill making this grant was under consideration in the House Mr. Smith described that country, and I desire to quote briefly from his remarks on that occasion, both for the purpose of showing why the road has not been built and why my amendment as to the price of the lands and for the protection of settlers should prevail. I send the debate to the Secretary's desk, and ask to have the extract marked read.

The Chief Clerk read as follows:

> This bill is in the interest of settlers or prospective settlers on the public lands through which this road is designed to pass. The road will be about one hundred and thirty miles long. Fifty miles of that distance the country is settled; for the remainder of the distance it is not settled, and is not susceptible of settlement, unless means of communication through it such as are proposed by this bill shall be provided.
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> The Willamette Valley, which contains two-thirds of the population of the State of Oregon, has no outlet to the sea but by the Columbia River. That river flows across the north end of this Willamette Valley. On the west, between that valley and the sea, a mountain range extends along its whole length. Through this range of mountains to the mouth of the river we have no road of any kind.
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> We want this road to give us an outlet to the sea at all seasons; and we want to open up the pass we have found through these mountains to the settlement. It is not a question whether by the passage of this bill this land shall be withdrawn from settlement, but the question is whether by the passage of this bill you will open up to settlement a region of country which otherwise never would be settled. It is a question whether it shall be occupied by settlers under the provisions of this bill, or whether it shall remain a wilderness in the future as in the past; whether it shall be the home of a busy, thriving population, or continue to be the home of the elk and the bear.
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> For twenty-five years, Mr. Speaker, this land has been open to settlement, first under a donation law, and now under the homestead law; and yet no man has gone there to settle. No white men ever went there until they went to find this pass for a railroad to the sea. The red man never lived there. It is a forest, an Oregon forest, such as is found nowhere else, perhaps, in the world. And no settler will ever go there unless there is a railroad through the pass connecting this Willamette Valley with the sea. In that event some of the smaller valleys will be opened to settlement. The lands are rich; the timber is abundant; it is valuable. But the land and the timber would remain in the condition they now are for a hundred years to come if this road is not built.
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> No man with a knowledge of the condition of the country and its future prospects would ever settle there in the absence of this railroad.

Mr. DOLPH. Mr. President, I think the description of that country given by Mr. Smith, just read, is somewhat overdrawn, but it is nevertheless true that the lands which will be restored to the public domain and subjected to settlement under the land laws of the United States according to this bill are not very desirable for settlers, and I might add that there have been very few homestead or pre-emption settlements on the even sections within the limits of the grant.

This bill is an important one, as I said before, to the people of my State, and I believe the best interests of the people would be served by holding on to the grant as long as possible, in the hope that it may prove an inducement to the construction of this road. But both political parties of the State have declared in their State conventions for the forfeiture of this unearned grant, and petitions were presented at the last session of Congress, and had been presented at previous sessions, praying for the forfeiture of the grant. I have concluded to accept these expressions as an announcement of the will of my constituents, and, as nothing has been done toward the construction of the road, and the present owners of the grant do not appear to have the ability or the disposition now to commence the construction of the road, to vote for the forfeiture. I do not think, either, that there is any great demand by settlers for lands for settlement within this grant, or that the settlement of the country has been greatly retarded by the withdrawal of these lands from market. From the description already given of the lands it is apparent they must be settled slowly, until the more desirable lands in the vicinity have been occupied.

Since this bill was reported, however, such information as has come to me has convinced me that there ought to be some amendment made to it in the interest of settlers on the land. I have learned that several settlers have gone upon the land supposing that the grant had lapsed. I am informed that settlers have gone upon the odd sections within this grant supposing that the grant had lapsed and become a part of the public domain; and although the officers of the local land office refused to receive and file their papers, they still reside there. Some have gone on the land with the expectation of securing their title from the railroad company.

Under this state of facts, I think their rights should be protected by some provision like the amendment offered by me. The amendment offered by me, except the provision fixing the price of the even sections at the minimum price, one dollar and a quarter an acre, is part of the House bill as it came to this body, and it appears to me is unobjectionable.

It will be observed that it is proposed to strike out the proviso of the bill as reported by the Senate Committee on Public Lands fixing the price of the even sections at two dollars and a half an acre, and from what I have said in regard to the quality and condition of those lands I think it is apparent that if the price of the land is now fixed at two dollars and a half an acre, or double the minimum price, it will retard the settlement of the lands and the development of the country. I know what reasons induced the committee to report the bill fixing the price of this land at two dollars and a half an acre. It was supposed that some persons had gone upon the even sections and purchased lands within the limits of the grant at two dollars and a half an acre, and that they would complain of the inequality should the odd sections be placed at a dollar and a quarter an acre, and come to Congress for relief. I have, however, taken pains to inquire into that matter, and while I could not examine the books in regard to all the townships embraced within this grant, I took two or three at random. One was 6 north, 4 west. I found that eighty acres only had been sold at two dollars and a half an acre. The next was 4 north, 6 west. I found that there had been no entry. The next was 8 north, 6 west, near the Columbia River, half way between Forest Grove and Astoria, and I found that there had been since the date of the passage of the act only 28.64 acres entered at two dollars and a half an acre. It will therefore be seen that the amount of land probably entered upon the even sections at two dollars and a half an acre is so very small, so inconsiderable, as to be of no consequence; and that the difficulty which the committee anticipated does not in fact exist. Besides, Congress has already provided a remedy for such cases by the act of March 3, 1875, which I ask to have read from the Clerk's desk, as it is only a few lines in length.

The Chief Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That where any actual settler who shall have paid

for any lands situate within the limits of any grant of lands by Congress to aid in the construction of any railroad, the price of such lands being fixed by law at double-minimum rates, and such railroad lands having been forfeited to the United States and restored to the public domain for failure to build such railroad, such person or persons shall have the right to locate on any unoccupied lands an amount equal to their original entry, without further cost, except such fees as are now provided by law in pre-emption cases: *Provided*, That when such location is upon double-minimum lands, one-half the amount only shall be taken.

Mr. DOLPH. It seems also reasonable to me that persons who have gone upon these lands in good faith as provided in this amendment should have their rights protected. They should have priority of right to purchase the same under the land laws of the United States; and if any persons have gone upon these lands under the railroad company who are not qualified to purchase under the general land laws of the United States and made settlement and improvement, no harm will be done by permitting them to purchase their land to the extent of 160 acres at the minimum price. I do not believe that the Government ought to recognize any contract, if any has been made, between the railroad company and the settlers or perfect their titles without payment of the price to the United States, and I have therefore not included in the amendment offered by me that provision of the House bill.

The amendment offered by me is broad enough to cover the legal and equitable rights of all settlers, and if any persons have made any payments to the railroad company they must look to the company for the return of the same and not to the Government. The amendment offered by me is intended to provide at once for the settlement of all claims of all persons on any of these forfeited lands, to prevent controversies between the settlers, to relieve the officers of the Land Office from trouble, and turn the matter over at once for adjustment to the Secretary of the Interior. It is not proposed to recognize the rights of any but settlers in good faith at the date of the passage of the act. The right recognized is a priority of right to purchase under the general land laws of the United States, a right to make actual settlement upon the land, a right if any settler is found not to be qualified under the general land laws to purchase one hundred and sixty acres at a dollar and a quarter an acre.

This amendment, it appears to me, is eminently just both as to the settler and as to the Government. I can see no objection to it. It is not to be wondered at when lawyers do not agree as to the question of the title to the lands within the limits of a railroad grant where the road is not constructed after the time limited for the construction of the road and before Congress has acted in forfeiting the grant, that the Western pioneers have gone on the lands under circumstances which require special legislation.

If Congress does not now provide for this class of persons it will undoubtedly do so in the future, for that has been the unbroken practice of Congress for nearly a century. I do not think there are many such settlers in this case, but be they few or many, it appears to me there is plain necessity for the legislation.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Oregon [Mr. DOLPH] to the amendment of the committee.

Mr. PLUMB. I wish to make an inquiry of the Chair in regard to a parliamentary matter. The amendment which has been proposed by the Senator from Oregon [Mr. DOLPH] is not objectionable to me except as to the proviso. I wish to know if it is in order now, before the amendment is acted upon, to move to strike out the proviso. Is that a proper motion to make?

The PRESIDING OFFICER. The Senator from Oregon proposes an amendment striking out a proviso in the committee's amendment and inserting what he has sent to the Chair.

Mr. PLUMB. My difficulty arises from the fact that it is usual in the Senate, acting as in Committee of the Whole, to adopt first the committee amendment, and I think that would be better in this instance, and then let the Senator from Oregon propose his amendment to the bill as it will then stand. I am not particular about that, but I object to the proviso incorporated in the amendment of the Senator from Oregon.

Mr. DOLPH. I do not understand the Senator from Kansas.

Mr. PLUMB. I will move to strike out the proviso in the amendment of the Senator from Oregon. It is in the language following:

Provided, That the price of the even-numbered sections within the limits of said grant and adjacent to and coterminous with the uncompleted portions of said road, and not embraced within the limits of said grant for the completed portions of said road is hereby reduced to $1.25 per acre.

The PRESIDING OFFICER. The Senator from Kansas will perceive that the amendment which he proposes now would be an amendment in the third degree. The proposition before the Senate is an amendment reported from the Committee on Public Lands, which is open to amendment, and an amendment is pending to that amendment, proposed by the Senator from Oregon. An amendment in the third degree would not now be in order.

Mr. PLUMB. I did not want to lose my right to move the amendment by submitting to the adoption of the amendment of the Senator from Oregon.

The PRESIDING OFFICER. If the amendment of the Senator from Oregon shall prevail, then it will be perfectly in order for the Senator in the Senate to move to strike out the proviso.

Mr. PLUMB. The trouble is in this case that the amendment of the Senator from Oregon strikes out the proviso reported by the committee in line 14 and following, and that proviso, I think, ought not to be stricken out. I do not object to a portion of what the Senator proposes to insert, but I do object to what he proposes to strike out of the report of the committee. Therefore, I am put in the attitude of asking the Senate to vote down the entire amendment, which I do not wish to do.

The PRESIDING OFFICER. The Chair is still of the opinion that the proposition as made by the Senator from Kansas would not be in order, being an amendment in the third degree. The Senator can vote against the pending amendment.

Mr. PLUMB. But I do not wish to vote against the amendment, nor do I wish to lose the proviso reported by the committee for very good reasons, which I shall submit to the Senate; and if that be stricken out for the purpose of inserting provisions which are proper in connection with some things that are improper, then I can not move to reinsert that which has been stricken out. I should like to have some way of procedure devised whereby this matter can be voted upon separately; that is to say, the question of striking out the proviso from line 14 to 16, reported by the committee, and then the propositions contained in the amendment of the Senator from Oregon separately, of which there are two.

Mr. SLATER. I would suggest to my colleague that in order to accommodate the Senator from Kansas he withhold his amendment until the Senate pass, in Committee of the Whole, upon the amendment of the Committee on Public Lands, and then offer his amendment in the Senate. That will give an opportunity to the Senator from Kansas to amend the amendment, which he can not now do.

Mr. PLUMB. If the Senator from Oregon who made this motion includes in it a motion to strike out so much of the committee's amendment as is found in the proviso, then I shall have to vote against the entire amendment, for I conceive that the amendment as a whole would be mischievous.

Mr. DOLPH. Striking out the proviso as reported by the Committee on Public Lands and inserting the proviso contained in the amendment offered by me is the vital part of my amendment.

I have been attempting to show that the character of these lands is such, that if their price in the absence of the construction of a road is now made two dollars and a half an acre, double the minimum price, it will retard the settlement of the lands and the growth of the country, and I see no reason for carving out a strip of land in that State through a mountainous, broken, timbered country, not desirable for settlement, and fixing the price thereof at two dollars and a half an acre, while the price of all the other public domain in the State not embraced in the limits of a grant is a dollar and a quarter an acre. I think this is an exceptional case. I think the lands embraced in the limits of this grant are not worth more than a dollar and a quarter an acre. As I have said before, their settlement must necessarily be slow, and I think and I know my colleague agrees with me in that opinion, that the price of these lands ought not to be increased, but ought to be the same as it was before the grant was made. Therefore I say that the striking out of the proviso which I propose to strike out of the bill reported by the committee and the insertion of the proviso in my amendment are both vital and important, so as to secure the fixing of the price of all these lands at a dollar and a quarter an acre, the same as all the other public lands within the borders of the State. If there had been a railroad constructed, if these lands had been benefited by the construction of a road already constructed, I would make no objection to the increase of the price to two dollars and a half an acre. I hope that the Senate will sustain the amendment as it is offered.

Mr. PLUMB. The Senator from Oregon is either oblivious of the point I made or he does not wish to disembarrass his amendment of the objectionable feature in order to obtain that which is without objection. I do not care to enter into a discussion of it, except to show to the Senate that his amendment, while some of it is good enough, when taken altogether is one which ought not to receive the favorable consideration of the Senate.

Mr. DOLPH. I should be glad to assent to anything that does not prevent me from having the amendment voted on. I understand if the bill as reported by the Committee on Public Lands be adopted the Senate will have voted for the committee's proviso, and I could not afterward move to strike it out. If the Senator will suggest any parliamentary course by which I can save my right to have a vote on the proposition to strike out the proviso of the bill as reported by the Committee on Public Lands and at the same time withdraw my amendment, I shall be most happy to do it.

Mr. PLUMB. That can be accomplished by withdrawing the amendment and moving to strike out the proviso reported by the Senate committee. If that is stricken out then the entire proviso of the Senator will be in order and probably be passed without any debate, but if the Senate shall adhere to that proviso then all except the proviso of the Senator's amendment would be in the same condition.

Mr. DOLPH. I have no objection to that course, and I withdraw

the amendment temporarily for that purpose, and instead of it I move to strike out the proviso reported by the committee.

The PRESIDING OFFICER. The Senator from Oregon withdraws the amendment proposed by him, and moves to amend the amendment of the Committee on Public Lands by striking out the proviso, which will be read.

The SECRETARY. It is proposed to strike out the proviso in lines 14, 15, and 16 of the committee's amendment, as follows:

Provided, That the price of the lands so forfeited and restored shall be the same as heretofore fixed for the even-numbered sections within said grant.

Mr. PLUMB. Mr. President, under this grant, as under all similar grants of public lands which have been made heretofore, the price of the sections retained by the Government was advanced to two dollars and a half an acre. If we were to restore the lands granted to this railroad company to the public domain without making any regulation in regard to the price at which they should be sold, we should have the spectacle of the Government asking $1.25 per acre for one section of land, and $2.50 for the adjoining section of land, without there being any perceptible difference or any ascertainable difference in their quality or their value. Therefore some action is necessary to unify the price; that is to say, the Government must either reduce the price of the land it has heretofore held at $2.50 an acre, being the alternate sections which it retained within the limits of the grant, or it must raise the price of the land which it now takes from the railroad company and restores to the public domain. Under either one of these operations there would be a uniform price.

If nothing is done but the forfeiture of this grant and the restoration of the land to the public domain, then the land restored, as I before said, would be sold at a dollar and a quarter an acre, as the land which had before belonged to the Government and within the limits of the same grant would be sold at two dollars and a half an acre. The committee adopted the plan of raising the price of the land to be restored to the public domain by means of the forfeiture to two dollars and a half an acre, the price at which the Government held lands which it had not granted and which were within the limits of the grant, and that was for the reason, in the first place, that there has been a large enhancement of the value of public lands. That, however, is the most inconsiderable of the reasons which operated on the committee, as I believe—certainly on my own mind. But there are persons who have purchased lands within the limits of the railroad grant from the sections which the Government retained the title to, paying therefor two dollars and a half an acre. Many of these purchases were made years ago. It is true the Senator from Oregon says there are very few such cases within the limits of this grant. But whatever number there may be, the moment we pass the bill with the amendment of the Senator from Oregon reducing the price of all the lands to a dollar and a quarter an acre, those persons who have heretofore purchased will have a good claim in equity upon Congress to repay to them a dollar and a quarter an acre in order to put them upon an equal footing with the persons who may purchase hereafter. That class of cases, as the members of the Committee on Public Lands very well know, is largely increasing, and it constitutes a claim of no mean proportions in regard to the amount of money at stake and is of a great deal of force from an equitable standpoint.

But the Senator from Oregon says that this land is not specially valuable, and that it would retard the settlement of that country if we were to fix the price at $2.50 an acre. In making that statement he entirely overlooks the fact that we do not touch the homestead law at all; that the man who wants the land for actual settlement, within the fair meaning of the public land laws of the United States, has only to go upon the land and settle and live there the requisite time to obtain the land for nothing.

Mr. DOLPH. If it does not trouble the Senator from Kansas to be interrupted, I should like to ask him a question: Would it not increase the fees to be paid by settlers for taking a homestead settlement? Would it not double the price of their lands if they were to commute their homesteads?

Mr. PLUMB. A commuted homestead is not a homestead. A commuted homestead is a pre-emption entry, and that is all there is of it. The moment a man performs the act called commutation under the general land laws he simply becomes a pre-emptor in place of a homesteader. He changes the entry from a homestead entry to a pre-emption entry.

The Committee on Public Lands have heretofore voted to report a bill, which is on the Calendar of the Senate, to repeal the pre-emption law entirely. They believe with the Commissioner of the General Land Office and with the Secretary of the Interior that the pre-emption law as it is now administered, and as it is bound to be administered, is the shelter for fraud in the entry of public lands. The Commissioner of the General Land Office has stated repeatedly in his reports to the Secretary of the Interior, and these statements have been indorsed by the Secretary of the Interior himself, that more of these entries were fraudulent than genuine, and that the system did not result in putting settlers upon the public domain, but did result in a speculation in the public domain of a character which has heretofore and always in point of fact been the subject of animadversion as against the spirit and intent of the public land laws of the United States. Now we leave in full force and vigor the homestead law, which permits every citizen of the United States who has not had this privilege to go upon the public lands and by making a genuine, *bona fide* homestead entry, that is, by making a home upon this land obtain a title for nothing. If a person does not want to make a home on the public lands I do not think he ought to have them, at least such as are proper to be acquired for that purpose; and if he does want to make a home on the public lands, how can he say it is a hardship to him to be required to live in that home for the space of five years, or, if he has been a soldier of the United States, live upon it five years minus the time which he served in the Union Army? Certainly he can not say that.

Then we come back to this proposition, that if the experience of the General Land Office is correct, or is correctly reported, the only benefit of the reduction of the price of these lands to a dollar and a quarter an acre would be to give the people who want to speculate on the public domain the benefit of speculation at that low price. Now, if there is to be a speculation in the public domain at all, I want it to be such a speculation as the Government will derive some benefit from, and I think the imposition of two dollars and a half an acre for pre-emption entries would largely tend to prevent speculation in the public domain and confine the settlements within the limits of this grant, or wherever else that rule was applied to persons who wanted to make homes upon the lands and were willing to manifest that intention to make a home by living on the land for five years.

As I said before, there is certainly no hardship in that; and if the public domain is to remain in fact for the purpose of settlement not only some measure as drastic as this, but some one of greater force, some one prohibiting legislative enterprise, will have to be passed in order to save what is left of the public domain from the grasp of speculators, who under the pretense of settlement make a nominal compliance with the land laws of the United States by means whereof they obtain large areas of the public domain. It is a notorious fact that in all portions of the West where lands adjoining water courses are valuable, and where that water is valuable by reason of the fact that it adjoins pasture lands, under the operation of the pre-emption act, and not by actual settlement but by the use of temporary expedient, cattle companies and persons seeking the use of cattle ranges without cost have made locations through the interventions of employés and others by the payment of a dollar and a quarter an acre and get the title and cut everybody else off from the water, thereby appropriating to themselves great fringes on either side of these streams which otherwise they would not be able to obtain.

If there is any virtue at all in the public land laws, if there is any virtue at all in the principle that there should be lands for the landless and homes for those who want homes on the public lands, it is to be found embodied in the homestead law—not necessarily the homestead law as it is now, but in the principle involved in the homestead law and in such wise and judicious amendments of that law as shall make it more stringent and more adequate to the requirements of the spirit of the law, which is that no man shall acquire title to the public domain unless he actually makes a home upon the land, not a home in name, not a home under a contract with somebody else to part with the legal title as soon as he has acquired the entry, but a home permanently, a home for a term of years; and that is the view the committee had in mind when it adopted this amendment, and also the view which it had in mind when it reported the bill repealing the pre-emption law; and in addition to that, as I said before, the idea of preventing the bringing in here of claims for compensation, or for the repayment of one-half the money that has been paid heretofore by men who, by reason of this land having been within railroad limits, have paid two dollars and a half an acre for it, and who would have a right to claim it if we opened up all the remainder of this great area at a dollar and a quarter an acre.

On these two grounds, involving, as I think, materially the administration of the public land laws of the United States, involving the retention to some extent of the remaining portion of the public domain to settlement only, the Public Lands Committee acted, after due consideration, not only in one case but in two or three and perhaps in half a dozen of them, as under their responsibility it seems to me they only could act; and therefore I think that the amendment proposed by the Senator from Oregon to strike out this proviso should not prevail.

I will read from the report of the Commissioner of the General Land Office, the last report not as elaborate as the former one, what is said about the question of fraud under the guise of pre-emptions.

Mr. MORGAN. Before the Senator proceeds to read what he has before him, I should like to ask him whether the lands in this railroad grant are subject to private entry.

Mr. PLUMB. I think they are not subject to private entry. That was a matter which was discussed in the committee, and information was obtained, or at all events it was alleged to have been obtained, from the General Land Office that no portion of these lands were lands that were subject to private entry, but they could only be acquired for the purpose of pre-emption except so far as they are timber lands, and those come under another provision of the statute, or stone lands, each of which character of lands is entitled to be purchased at a price irrespective of the question of settlement.

Mr. DOLPH. I will state in regard to that matter that prior to the date of the grant some portion of these lands had been for several years open to private entry at a dollar and a quarter an acre; but I understand that the Land Office holds (whether correctly or not I am not able to state) that having now been withdrawn from the market, should the grant be forfeited and the lands again restored to the public domain, they will not again be subject to private entry until they have been offered at public sale, and that it is not now the policy of the Interior Department to offer lands at public sale. Consequently there is no danger that they will be restored to private entry.

Mr. PLUMB. The report of the Commissioner of the General Land Office for 1883, upon the subject of "fraudulent pre-emption entries," is as follows:

Large numbers of fraudulent pre-emption entries have been and are being made by parties either for their own benefit or the benefit of others who furnish the money to them for that purpose. The reports of agents show that gangs of men, ranging from ten to fifty, are often employed to make as many entries; that these men are hired at so much a head for that purpose; and that they do not hesitate to perjure themselves in supplying proofs for each other showing that the law has been complied with in every particular. Such violations of law occur in many localities.

And the Secretary in his report for the same year says as follows:

The Commissioner again renews his recommendation that the pre-emption law be repealed. He says:

"In my last annual report I renewed the recommendation frequently made by my predecessors that the pre-emption law be repealed.

"Continued experience demonstrates the advisability and necessity of such repeal.

"The objection that much good has heretofore resulted from the pre-emption system, and that it should not be discontinued because abused, appears to me without good foundation under the changed conditions created by the homestead law.

"Before the homestead system was adopted the only method by which unoffered public lands could be obtained by settlers was by pre-emption. All the advantages of the pre-emption system are now embraced in the homestead laws. The same lands can be entered upon the same conditions and proofs and the payment of the same price under the homestead law as under the pre-emption law.

"We have simply a double system for the same purpose, employing two sets of machinery, two agencies of adjustment, and a duplication of records, when only one is required. The administration of the law would be simplified and the labor and expense lessened by a discontinuance of the now unnecessary system of pre-emption."

It may be asked why the committee in this particular case did not report in favor of restoring this land to entry under the homestead law only. That was for the reason that we had to deal with a great many grants, and it was thought that unless we could apply some general rule to the entire public lands of the United States we should not apply any; that is to say, we should not apply this provision to this grant and then refuse to apply it to the remaining public lands not embraced in any grant; and, therefore, we decided to relieve the Government from the possibility of the presentation of the character of claims that I have spoken of, and at the same time to put this obstruction in the way of fraudulent pre-emption entries. In addition to that, it was understood that the committee had already acted upon the question in a general bill and that that would be ample for that purpose. Therefore the committee did that which it deemed proper in this particular case and in pursuance of its general idea of limiting the entries under the pre-emption system and of actually or substantially confining them to the homestead law.

Mr. DOLPH. Mr. President, I do not desire to occupy more than a moment. I think the Senator from Kansas is mistaken in supposing that the Committee on Public Lands has reported in favor of the repeal of the pre-emption law. My recollection is that such a bill has not yet been reported. I am ready to vote for the repeal of that law at any time. Such repeal will affect all the public domain of the United States; but I am not in favor of repealing the law as the Dutchman cut off his dog's tail, by inches. I am not in favor of repealing the law as to this particular grant, as to a strip of land through the State of Oregon, and leaving it in force over all the other public lands in the State. In view of the character of the land that would be an injustice to settlers. The effect of increasing the price of the odd-numbered sections to two dollars and a half and leaving the price of all the even-numbered sections at two dollars and a half would be to increase the fees to be paid by homestead settlers to double the price of their land if they commuted their homesteads, and to double the price of land to all settlers under the pre-emption act. That would be a provision against the settler as to this particular strip of land. I think it would be safe to wait until Congress does repeal the pre-emption act and let the repeal take effect on all public lands of the United States. It appears to me that what has been said in regard to the frauds under the pre-emption act is hardly relevant to the question under discussion now, and, as I said before, I hope that the Senate will not increase the price of these lands. The road has not been built. The lands have not been benefited by the grant. There is no reason in the world why the price should be more than that of adjacent public lands or than the price was before the grant was made. The proviso in question was reported by the committee against the wishes and judgment of both my colleague and myself.

Mr. WILLIAMS. It seems to me that whenever lands are held for so long a period out of the public domain and kept from sale they must advance in value. It seems reasonable that when they are returned back to the public domain they ought to be in the same condition as other lands, provided they have not increased very greatly in value. Sometimes particular sections of land which are held out of the market have advanced to fifteen, thirty, or forty dollars per acre. I would ask the committee if all this difficulty might not be obviated by putting a proviso in the bill that these lands shall be put up at public sale, and if they do not bring beyond the Government price, then they shall be open to entry at a dollar and a quarter an acre to everybody. I ask the Senator from Kansas, who is perfectly familiar with this whole question, and is chairman of the Committee on Public Lands, if such a proviso would not obviate the whole difficulty—first put them up at public auction, and if they do not bring beyond the Government price, open them all at a dollar and a quarter an acre?

Mr. PLUMB. That is a practice which once obtained, and not with advantage either to the public domain or to the settlers. It resulted in plastering the public domain with land-warrants and withdrawing large areas from the opportunity of settlement. So far as I am concerned, I am not in favor of disposing of any acre of the public domain anywhere to anybody except it be to an actual settler, as far as the title goes, and I do not believe that it would be wise to put up these public lands or any other public lands to public sale. The Government has not disposed of its public domain, for many years at least, with the idea of obtaining a revenue; and the view of the committee was not that the Government should obtain a revenue here, but that by putting these lands at a price of two dollars and a half an acre it would more nearly represent their actual value, and if any one should take them under the pre-emption law with the opportunities that affords for speculation he would have to pay that much more, at the same time leaving in operation the homestead law, whereby the person seeking an adjoining home *bona fide* on the public domain may have the lands without cost except the payment of the necessary fees.

Mr. WILLIAMS. Do not speculators, capitalists, buy up homestead entries?

Mr. PLUMB. They do not, because under the homestead law the lands are only subject to disposal under laws which require settlement. Such entries can not be purchased by any one who does not enter for actual settlement; but under the pre-emption law, requiring only settlement for six months, there can be a conspiracy covering that period of time, which actually occurs according to the reports, which enables men who do not actually make homes upon the lands to obtain title under the pretense of having made settlement. But if you require a settlement of five years the proof is not so easily made; the evidence is more tangible of the continued occupancy and cultivation such as is necessary to show that a man has actually made his home on the lands before he can acquire title.

Mr. SLATER. Mr. President, I only desire to say a word in relation to this amendment. I am entirely in accord with my colleague in regard to this, and hope his amendment will prevail. I should not, however, myself have offered it, because I agreed with the committee on their general proposition, which I think ought to be accepted in this particular case. I think, however, this is out of the line of the character of grants of lands on which it is desired to place the other principle. This land will not be sought for settlement, being on the slope of the mountains, and the Government may consider itself fortunate if even at a dollar and a quarter an acre it can dispose of it to settlers. The lands are in the interior, remote from access to thoroughfares, and the settler who goes there has many difficulties to encounter. The fact that the even-numbered sections have remained unbroken since the grant was made, although offered at two dollars and a half an acre, shows that until a different condition shall prevail there these lands will not be sought to any large extent for settlement.

I am anxious that the bill shall pass, and therefore do not wish to take up the time of the Senate in discussing it beyond the points absolutely necessary to be brought to the attention of the Senate. I hope we shall have a vote.

The PRESIDING OFFICER. The question is on the amendment proposed by the Senator from Oregon [Mr. DOLPH] to the amendment of the committee.

Mr. MORGAN. Mr. President, I concede that the arguments and statements made by both the Senators from Oregon are very persuasive to show that in this case the Senate might very well depart from the rule which the chairman of the Committee on Public Lands insists is the proper rule for the disposal of the public lands in general cases of forfeiture, but the Senate ought to be careful about this. It ought to be expressly understood here that this is an exceptional case, where the character of the country, on account of the very heavy forests which are upon it, is so unfavorable to settlement that the United States, with a view of encouraging settlement on these lands, can afford to price them down to a dollar and a quarter an acre.

A great many grants have been made to railroad companies and a great many lands have been disposed of by the Government of the United States on the even-numbered sections in different parts of the United States, and these grants are being assailed now in both Houses of Congress. If the right to the lands is declared to be forfeited by Congress, it would be a very dangerous thing for us to do to allow these lands to be disposed of to future settlers under pre-emption claims at a

lower price than that fixed in the law making the grant, which is uniformly, I believe, two dollars and a half an acre. I am willing that this amendment should be adopted if it be understood that this is an exceptional case, and that the exception is well founded upon facts stated by the Senators from Oregon. This land has been a long time in market now on the even-numbered sections and practically the great body of public domain in that country is as yet unbroken. The principle which is stated by the chairman of the committee is a very just one and it ought to be observed.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Oregon [Mr. DOLPH] to the amendment of the Committee on Public Lands.

Mr. PLUMB. I call for the yeas and nays.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. FRYE (when his name was called). I am paired with the Senator from Indiana [Mr. VOORHEES].

The roll-call was concluded.

Mr. CAMERON, of Pennsylvania. I am paired with the Senator from South Carolina [Mr. BUTLER].

The result was announced—yeas 33, nays 19; as follows:

YEAS—33.

Bowen,	Garland,	Maxey,	Sheffield,
Call,	Gorman,	Miller of Cal.,	Slater,
Camden,	Hampton,	Mitchell,	Vance,
Cameron of Wis.,	Hawley,	Palmer,	Walker,
Coke,	Jackson,	Pike,	Williams,
Conger,	Jones of Florida,	Platt,	Wilson.
Cullom,	Logan,	Sabin,	
Dawes,	McMillan,	Sawyer,	
Dolph,	Manderson,	Sewell,	

NAYS—19.

Bayard,	Groome,	McPherson,	Ransom,
Beck,	Harris,	Morgan,	Saulsbury,
Blair,	Harrison,	Pendleton,	Sherman,
Brown,	Hill,	Plumb,	Van Wyck.
George,	Lamar,	Pugh,	

ABSENT—24.

Aldrich,	Edmunds,	Hoar,	Mahone,
Allison,	Fair,	Ingalls,	Miller of N. Y.,
Butler,	Farley,	Jonas,	Morrill,
Cameron of Pa.,	Frye,	Jones of Nevada,	Riddleberger,
Cockrell,	Gibson,	Kenna,	Vest,
Colquitt,	Hale,	Lapham,	Voorhees.

So the amendment to the amendment was agreed to.

The PRESIDING OFFICER. The question now is on the amendment of the committee as amended.

The amendment as amended was agreed to.

Mr. DOLPH. Now I offer the rest of my amendment as an addition.

The PRESIDING OFFICER. The Senator from Oregon offers the amendment already read. The question is on the amendment.

The amendment was agreed to.

The bill was reported to the Senate as amended.

Mr. PLUMB. I now move as a separate section what I send to the desk.

The PRESIDING OFFICER. The question is first on the amendment made as in Committee of the Whole. Does the Senator wish to move an amendment to that amendment?

Mr. PLUMB. No, sir; I wish to offer mine as a separate section.

The PRESIDING OFFICER. Then the question is on the amendment adopted as in Committee of the Whole.

The amendment was concurred in.

The PRESIDING OFFICER. The Senator from Kansas [Mr. PLUMB] offers an amendment, which will be read.

The CHIEF CLERK. It is proposed to insert as an additional section:

SEC. 2. That the act of March 3, 1875, entitled "An act for the relief of settlers within railroad limits," is hereby repealed.

Mr. PLUMB. I want to call attention to the fact that this matter has been discussed heretofore, and to the legislation that is proposed to be repealed. Chapter 196 of the laws of 1875 is as follows:

That where any actual settler who shall have paid for any lands situate within the limits of any grant of lands by Congress to aid in the construction of any railroad, the price of such lands being fixed by law at double-minimum rates, and such railroad lands having been forfeited to the United States and restored to the public domain for failure to build such railroad, such person or persons shall have the right to locate, on any unoccupied lands, an amount equal to their original entry, without further cost, except such fees as are now provided by law in pre-emption cases: *Provided*, That when such location is upon double-minimum lands, one-half the amount only shall be taken.

That is a very vicious form of speculation in the public domain; it gives to every person who has heretofore taken eighty acres of land within the limits of this railroad grant the right to a piece of scrip for eighty acres more locatable on any of the public lands in the United States without any condition of settlement, and that upon the theory that indemnity is due to these people. What is that indemnity? Certificates of that precise character now are selling in this city for $18 an acre, and that is given to a man under pretense that he has been deprived of the right to enter one hundred and sixty acres of land and limited to eighty. Indemnity for the eighty acres he did not get at the rate of $18 an acre.

But that is not the worst of it, because the question of value, as I hold, is of no practical consequence in considering the disposition of the public domain. The main difficulty is that it enables that man to locate his eighty-acre warrant or scrip upon any unoccupied portion of the public domain without settlement—timber land, and choice bottom land, or any other land he may find—the best of course that he can find; and under the operation of this ill-advised law as heretofore passed, assuming to deal with the soldiers, hundreds of thousands of acres of the public domain have been withdrawn from settlement and put into the pockets of speculators in the public domain under a system which will be aggravated really by permitting to remain in force this law while we are forfeiting railroad grants. The moment the bill now under consideration shall be passed there will be dozens, perhaps hundreds, of cases where men have entered only eighty acres of land within the limits of this railroad grant—land worth now two, three, four, five, or six, or perhaps ten times what was paid for it originally—who will be entitled to a scrip location of eighty acres of land on any portion of the public domain, worth $18 an acre at the moment the scrip is issued.

The PRESIDING OFFICER. The question is on the amendment offered by the Senator from Kansas [Mr. PLUMB].

Mr. CONGER. Now let the act proposed to be repealed by that amendment be read.

Mr. PLUMB. I read the law a moment ago, but will ask the Secretary to read it again.

The Chief Clerk read as follows:

CHAP. 196.—An act for the relief of settlers on lands within railroad limits.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That where any actual settler who shall have paid for any lands situate within the limits of any grant of lands by Congress to aid in the construction of any railroad, the price of such lands being fixed by law at double-minimum rates, and such railroad lands having been forfeited to the United States and restored to the public domain for failure to build such railroad, such person or persons shall have the right to locate on any unoccupied lands an amount equal to their original entry, without further cost, except such fees as are now provided by law in pre-emption cases: *Provided*, That when such location is upon double-minimum lands one-half the amount only shall be taken.

Approved March 3, 1875.

Mr. CONGER. Mr. President, whether this amendment is right or wrong, it ought not to be attached to a private bill or to a bill relating only to a particular portion of the lands of the United States, and passed and become a law without any further discussion than it has received. In my opinion the effect of repealing that provision of law, if I understand it aright, will be, where soldiers have located on railroad lands with the expectation of receiving the benefit of a railroad near to or through the lands where they have located, when the Government takes back the lands and prevents the railroad being built, to leave those soldiers with their eighty acres of land instead of one hundred and sixty. Whether it reaches that case or not it at least reaches this case: Where citizens have bought land and paid 20 shillings an acre in anticipation of the benefit of a railroad, to which the other half of a certain body of land was given, when the Government recalls that grant, takes away the land, prevents the building of the railroad, it keeps the money, the 20 shillings an acre, of the settler who has paid that double price for some prospective advantage, keeps the money that has been given for eighty acres, which would have bought one hundred and sixty, prevents the company from building the road at all, and prevents any indemnity land or increased number of acres of land being granted. I think it will work great hardship to the soldiers; I think it will work great hardship to the settlers.

I do not know what kind of scrip is issued in such cases. If there is a kind of scrip issued that will enable the holder of the scrip to go far away from the lands he already has, from that Territory, from that district, and pick up more valuable lands elsewhere, there may be something wrong in it, something which would require legislation; but here, on what might almost be called a private bill, a bill to repeal a grant of land to a certain company, to take away all the rights of the soldier and all the rights of settlers who paid double price for their land with the expectation of profiting by the building of the railroad for which the lands were given, I think it wrong. I do not think that is legislation in favor of the citizen and the settler who has gone and occupied these wild lands in advance of the building of railroads.

The PRESIDING OFFICER. The hour of 2 o'clock having arrived, it is the duty of the Chair to lay before the Senate the unfinished business of yesterday.

Mr. CONGER. I wish to make in this connection one further remark.

The PRESIDING OFFICER. If there is no objection, the Senator will proceed.

Mr. CONGER. While I am willing to vote for an amendment of the general law or to change its provisions so as to avoid abuses, I shall vote against the amendment of the Senator from Kansas on this almost private local bill.

Mr. PLUMB. I think if the Senator from Indiana——

The PRESIDING OFFICER. The Senator from Kansas will allow the Chair to lay before the Senate the pending bill, the title of which will be read.

The CHIEF CLERK. The unfinished business is the bill (S. 1682) to

enable the people of that part of the Territory of Dakota south of the forty-sixth parallel of north latitude to form a constitution and State government, and for the admission of the State into the Union on an equal footing with the original States, and for other purposes.

Mr. PLUMB. I ask the Senator from Indiana if he will not consent to have the special order laid aside, if that suits the convenience of the Senator from Missouri [Mr. VEST], who, I believe, is entitled to the floor? I think we shall vote on this land bill in the course of fifteen or twenty minutes at the outside, or perhaps sooner.

Mr. VEST. I shall not object.

Mr. HARRISON. I would not care to do that without some limit as to the time which this railroad bill is to have.

Mr. PLUMB. Say not later than half past 2 o'clock. I think it can be disposed of in ten or fifteen minutes.

Mr. BECK. Mr. President——

The PRESIDING OFFICER. Debate is by unanimous consent.

Mr. BECK. I have a right, I suppose, to object to unanimous consent being given to continue this matter; and, if I may be allowed to give the reason why, I will state that I desire to hear a little more fully the effect of the amendment now offered by the Senator from Kansas, and I do not think it can be disposed of in ten minutes. Therefore I would like it to go over until it can be discussed. I think that every word the Senator from Kansas said is true about allowing the men who have paid for land inside the grant to get scrip and enter land wherever they can. They will locate land where the scrip is worth a hundred dollars an acre, for scrip of that character is being sought for all over the country. This amendment, or something like it, ought to be passed. I would rather give the settlers money for their land than to give them scrip, which can be located on a military reservation or elsewhere. I believe the whole Fort Snelling reservation, which embraces much of the city of Minneapolis, was taken up by just that character of scrip.

The PRESIDING OFFICER. The Senator from Kansas asks unanimous consent to continue the consideration of the railroad bill. Is there objection?

Mr. CONGER. I think on further consideration I must object.

Mr. BECK. I have objected.

The PRESIDING OFFICER. Objection being made, the Dakota bill is before the Senate.

Mr. GARLAND. Let the amendment offered by the Senator from Kansas be printed.

Mr. PLUMB. This matter has been the subject of some discussion now, and I want to ask the Senate to proceed with the consideration of the bill at this time. It is an important measure. It has to receive the concurrence of the House of Representatives to become a law. The objection which the Senator from Michigan has made I can dispose of in a moment, I think, to his own satisfaction. The class about whom we are so solicitous are not concerned in the matter, because no soldier was ever prevented taking one hundred and sixty acres within railroad limits. I move now that the Senate proceed with the consideration of this bill.

Mr. HARRISON. I hope the Senator from Kansas will not undertake to displace the Dakota bill by a vote of the Senate at this time.

The PRESIDING OFFICER. Debate is not in order.

Mr. PLUMB. I ask the Chair when the bill will come up again?

The PRESIDING OFFICER. With the leave of the Senator from Missouri [Mr. VEST] the Senator from Kansas can gain the floor and submit a motion to postpone the pending bill and take up another bill.

Mr. PLUMB. I do not wish to inconvenience the Senator from Missouri at all, but I wish to know when this bill will come up next in order as the unfinished business.

The PRESIDING OFFICER. The Chair is informed that it has no priority.

Mr. PLUMB. Then I will not consent, so far as I am concerned, that it shall be permanently displaced. I must, therefore, move to lay aside the pending business.

Mr. BECK. I made the objection. I thought it would come up to-morrow, and I desired time until to-morrow to look into the amendment. If it does not come up to-morrow I shall withdraw my objection.

The PRESIDING OFFICER. The Chair is informed that the railroad bill can only come up on motion to-morrow during the morning hour as it did this morning. It has no priority; but it may be called up on motion at any time during the consideration of bills under Rule VIII.

Mr. HOAR. I inquire of the Chair whether it would not be in the power of a majority of the Senate to take this bill up at any time to-morrow after the reading of the Journal?

The PRESIDING OFFICER. Certainly, on motion.

Mr. PLUMB. I ask that this be the order on the conclusion of the morning business to-morrow.

The PRESIDING OFFICER. The Senator from Kansas asks that the bill (H. R. 181) to declare forfeiture of certain lands granted to aid in the construction of a railroad in Oregon be made the special order at the conclusion of the morning business to-morrow. Is there objection to that proposition? The Chair hears none, and that will be the order of the Senate.

Mr. GARLAND. Let the pending amendment be printed.

The PRESIDING OFFICER. The amendment will be printed.

CAPTURED AND ABANDONED PROPERTY SUITS.

Mr. BROWN. Before the regular order is proceeded with I ask the indulgence of the Senator from Missouri for a moment while I make a motion. Yesterday a bill introduced by me (S. 64) to authorize suits in the Court of Claims in certain cases therein mentioned was postponed indefinitely. I rose and asked for the yeas and nays on that motion, but I was too hoarse to be heard over the Chamber, and the indefinite postponement took place. I desire to be heard on that bill, and I ask unanimous consent that the action of the Senate taken yesterday be reconsidered and that the bill be placed on the Calendar to be called up at another time.

The PRESIDING OFFICER. The Senator from Georgia asks unanimous consent of the Senate that the vote indefinitely postponing the bill named by him be reconsidered and that the bill be placed on the Calendar.

Mr. CONGER. Let the title of the bill be read.

The PRESIDING OFFICER. The title of the bill will be read.

The CHIEF CLERK. A bill (S. 64) to authorize suits in the Court of Claims in certain cases therein mentioned.

The PRESIDING OFFICER. If there be no objection the request of the Senator from Georgia will be considered as agreed to.

Mr. GARLAND. It was on my motion that this bill was postponed indefinitely, and I called the attention of the Senator from Georgia at the time. I am perfectly willing that the whole matter shall be reconsidered and the bill stand on the Calendar.

Mr. BROWN. That is all I ask.

The PRESIDING OFFICER. That order is made.

GALVESTON HARBOR IMPROVEMENT.

Mr. COKE. I desire to give notice that to-morrow I shall ask the Senate to take up the bill (S. 1652) to provide for the improvement of the channel between Galveston Harbor and the Gulf of Mexico, with a view to make it the special order for Thursday, January 8, at 2 o'clock.

Mr. CULLOM. What is the Senator's motion?

The PRESIDING OFFICER. The Senator from Texas gives notice of a motion in regard to a certain bill.

Mr. CULLOM. I only rise to state that I shall not allow anything to interfere with the consideration of the special order for to-morrow at 2 o'clock.

The PRESIDING OFFICER. The Senator from Missouri is entitled to the floor on the unfinished business, which is Senate bill 1682.

ADMISSION OF DAKOTA.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. 1682) to enable the people of that part of the Territory of Dakota south of the forty-sixth parallel of north latitude to form a constitution and State government, and for the admission of the State into the Union on an equal footing with the original States, and for other purposes.

Mr. VEST. Mr. President, I do not propose, induced or tempted by any intimation or insinuation coming from any quarter, to be swerved from my honest judgment and conscientious conviction in regard to the bill pending before the Senate. The intimation that the motives which influence myself or any of my colleagues in opposition to this bill arise from partisan feeling is not sustained by anything that has happened in the history of this measure, which has been continuously before the Senate for thirteen years.

I do not pretend that I am not a partisan. I am devoted to the principles and the organization of the Democratic party, to which I belong. I would assert nothing unusual—I would confess to nothing that has ever been held disgraceful in the history of the admission of States into this Union—if I did state to-day that I come into this discussion as a member of the Democratic party and as a Democratic Senator. Even in the better days of the Republic, when men whose names are now historic and whose fame belongs to the world, not to this nation, were members of this body, no State was admitted, with but a few exceptions, except after a partisan struggle and after partisan debate.

But I have not considered this measure either as a member of the Committee on Territories or as a Senator from a partisan standpoint. I am here to discuss it without reference to its effect upon parties. I might fairly and honestly and logically answer any such insinuation or intimation by the simple statement that for twenty-four years Dakota and the other Territories of the Union have been under the tutelage, the political influences, of the Republican party exclusively; that Federal patronage, the prestige of success, almost historical success, has had its influence upon those Territories. I say what every public man now knows to be the truth when I assert that every Territory is influenced by the political complexion of the administration under which it exists. Under Democratic administrations the Territories have been Democratic; under Republican administrations they have been Republican. If I as a Democrat should openly avow here to-day that after twenty-four years of Republican rule, when the people of the United States have declared in favor of the party to which I belong, it would be only fair and just that for a few years Democratic influences and

teaching should be permitted before this Territory should be admitted as a State, I would say that of which no honest man need be ashamed. But, sir, I am here to discuss this question which I have considered from almost the day I came into the Senate and went into the Committee on Territories upon facts and upon legitimate deductions and conclusions from those facts.

There is no limitation in the Constitution of the United States upon the power of Congress in regard to the admission of new States into the Union. The framers of the Constitution put no limitation upon our power. I believe that the spirit and intent of the Constitution is that no State should be admitted into the Union unless it has at least the ratio of population which would give it a Representative in the popular branch of Congress. When the Constitution says that population and representation shall be in a just ratio to each other, I hold that although there is no express limitation upon the power of Congress, the spirit and intent of that provision is as I have stated. It is absolute injustice to the people of the rest of the Union when a State is admitted with two Senators upon this floor and at least one Representative in the House of Representatives, if it has not at the time the ratio which would give it a Representative in the popular branch of Congress.

In the first session of the Forty-seventh Congress, on behalf of the minority of the Committee on Territories, I had the honor to submit a report in regard to a bill which is identical, with one or two exceptions, with the measure now pending before the Senate. The reasons which the minority gave then in opposition to that measure apply equally to the bill pending before the Senate to-day, and I ask the Chief Clerk to read what I have marked in that report.

The PRESIDING OFFICER (Mr. GARLAND in the chair). The Chief Clerk will read from the report as indicated by the Senator from Missouri.

The Chief Clerk read as follows:

It is certainly the theory and object of our Constitution that representation should be equal, so far as possible, between the citizens of the United States. In section 2 of the Constitution it is provided that "Representatives and direct taxes shall be apportioned among the several States which may be included within the Union according to their respective numbers," &c., and in section 2 of article 14 of the amendments to the Constitution it is provided that "Representatives shall be apportioned among the several States according to their respective numbers," &c. These provisions manifestly apply to representation in the House of Representatives, and to States after they are admitted into the Union. Section 3 of article 4 of the Constitution provides that "new States may be admitted by the Congress into the Union," and this enactment leaves to the absolute and unlimited discretion of Congress the decision when the people within a certain Territory shall receive not only their equal representation with other citizens of the Union in the House of Representatives and coequal representation with the other States in the Senate, but also the right to appoint, in such manner as the Legislature thereof may direct, a number of electors equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress.

While no other provision is found in the Constitution as to the admission of new States than that before quoted, and no law or rule binds or limits the action of Congress, it would be a manifest violation of the spirit and intendment of the Constitution to admit a State into the Union without at least the population requisite under the existing law of apportionment for a Representative in the lower House of Congress.

To give to a smaller number of people than that fixed by the general law of apportionment a representation in the House would be to establish unequal representation; nor is the number of people in a Territory applying for admission as a State the only question to be considered by Congress. While there should be at least the population required by the general apportionment, and this without question, justice to the other States and other citizens of the United States requires that Congress should consider the necessity for creating a new State, the character of the population, and its probable future.

To ignore these considerations would be simply an abdication by Congress of its high constitutional discretion, and the placing in its stead the enumeration of a census. In our representative Government, based upon universal suffrage, every State and every citizen is directly interested in the question of admitting a new State into the Union—not only as to the simple inquiry in regard to the aggregate of population so admitted, but as to its character and probable influence upon the common destiny of all the States; for it is manifest that the danger to free institutions lies after all in vicious suffrage and its corollary of vicious representation. Besides, if Congress should look only to the amount of population, it is evident how shamefully party greed and ambition could, by filling up the sparsely settled Territories, swell the vote of the electoral college to any number required for party purposes.

In the earlier days of our history, when the great necessity seemed to be population, and when a continent offered its vast domain for settlement, precedents in Congressional action as to the admission of new States can be found at variance with the principles here stated. Out of the twenty-five States admitted into the Union since the adoption of the Constitution, six have been admitted without the ratio of population demanded by the existing apportionment for a member in the House of Representatives, but it must be remembered that the generally accepted proverb that "in numbers there is strength" then governed the action of Congress over and above all other considerations. Our vast domain seemed illimitable in its capacity for population, and it was only natural that Congress should regard with favor every proposition looking to the increase of the number of those who could develop the resources of the immense territory only awaiting the enterprise and toil of the pioneer. The tide of immigration now pouring upon us from all portions of the world has made the matter of population simply one of conjecture, and we must regard it only as a question of time when every foot of our vast possessions will be occupied and utilized.

There is no necessity now for rushing new States into the Union, unless that necessity is one of party. The welfare of the country does not require it, and unless there are exceptional reasons for admitting into the Union a sparsely settled Territory, the number of its population a matter of surmise, Congress should at least look with suspicion upon the hot haste with which the measure is being urged.

The area of the proposed State is 80,000 square miles, or 320,000 quarter sections of 160 acres each, or 51,200,000 acres; and upon this immense territory the friends of the measure claim that there is now a population of 175,000.

In 1880 the census enumeration showed within the limits of the proposed State a population of 100,500, including Indians, and as there has been no enumeration since, the increase to "175,000" is simply a matter of computation, based upon land office entries and the assessed value of property.

Mr. VEST. I have had this portion of the report of the minority of the Committee on Territories read principally in answer to the position of the Senator from Indiana [Mr. HARRISON], that the precedents existing in the legislation of the American Congress on the admission of new States were in favor of his declaration and his argument, that not even the ratio of representation required for a member of Congress in the popular branch was necessary or should be adopted as a rule in regard to the admission of new States into the Union.

Not even the spirit of prophecy, if it had been given our fathers when they made the Constitution of '89, could have forecast or foreseen the wonderful development of the country west of the Mississippi River, the unequaled rapidity with which that vast area has been settled up, and new communities brought into existence as if by magic. Conditions and circumstances have changed so radically since the past action of Congress in regard to the admission of States east of the Mississippi that no rule can be properly or logically instituted upon these precedents. As stated in the report which has just been read, the great idea then of the men who were upon the Atlantic seaboard was that centuries must elapse before the unbroken wilderness in the West could be populated and civilized. It requires a stretch of imagination to place ourselves in the position of the men who were legislating then for this virgin continent, whose conditions and circumstances have altered so much to-day. They did not dream, and could not have dreamed, that in a century 800,000 emigrants would yearly be poured from the continent of Europe upon our shores. They did not dream of the discovery of gold; they did not imagine even the existence of the great area of country now given over to the grazing of cattle, and the great American desert to-day blooming and blossoming like the rose.

All these things render the precedents quoted by the Senator from Indiana utterly inapplicable and illogical. To-day we do not need new States in order to strengthen the Union, in order to give us power at home or prestige abroad. To-day the great problem of the people and statesmen of the United States is how to meet the vast increase of population that is coming to us and the strain necessarily put upon our peculiar form of government, a form of government composite between State and Federal power, and without any precedent in the history of the entire world.

The circumstances surrounding our fathers were altogether different from those which surround us to-day. Now the question before us is what is the necessity for rushing new States into the Union? Ay, Mr. President, and more, what is the necessity, with thirty-eight sovereign States already in existence, of dividing up a Territory across which there is no natural dividing line, no range of impassable mountains, no deep or navigable river, a country which God has cemented together, and which is as much homogeneous as He has made any portion of the American continent.

The proposition here to-day is to divide the Territory of Dakota, to cut it in two, under some great and overruling necessity which I have never yet heard explained either in committee-room or upon this floor, to make two States, when there are already States of the Union larger in area than that of this entire Territory.

This proposition was brought into Congress in 1871. It has been pressed at every session with all sorts of argument and with all sorts of rhetoric. In 1876 the proposition passed the Senate, and it passed it by no party vote. The very same reasons that influenced Republican Senators then to vote against this bill exists to-day, the anomaly of dividing a Territory sparsely settled, with barely, if at all, the requisite population for a Representative in Congress. The bill passed the Senate in 1876 by no party vote, as I shall proceed to show. The vote in the Senate at that time, in 1876, in favor of the bill was Messrs. ALLISON, Bogy, Burnside, CAMERON of Wisconsin, Christiancy, COCKRELL, Cragin, Ferry, Hamilton, Harvey, Hitchcock, Howe, Jones of Nevada, Kelly, McCreery, McDonald, MCMILLAN, Mitchell, MORRILL, Oglesby, Paddock, Patterson, RANSOM, SHERMAN, Spencer, West, Windom, Withers, and Wright. Those voting in the negative were Messrs. Anthony, BAYARD, Boutwell, Conkling, Cooper, Davis, DAWES, Eaton, EDMUNDS, Frelinghuysen, Kernan, Key, Merrimon, Sargent, SAULSBURY, Stevenson, Thurman, Wallace, and Whyte. The Senate did not divide on party lines.

Mr. HARRISON. Will the Senator from Missouri allow me to interrupt him? I did not hear his statement as to what the bill was on which the vote he has just read was taken. My attention was diverted.

Mr. VEST. It was a bill dividing the Territory of Dakota and admitting the southern portion of it, the proposition which is now pending before the Senate. Of course the provisions were not identical in the different sections, but that was the leading and salient idea of the bill, and it passed in 1876 by the vote which I have read. The opposition to it then on the part of leading Republican Senators in this body was the idea of dividing the Territory, when no good or valid reason could be shown for it. The very same influences were at work then that are at work here to-day, and they have been at work during

the six years I have been in the Senate of the United States. Dakota labored then under the difficulty of Senators on this side of the Chamber to-day. There were more pegs than there were holes to put them in. In the southern part of the Territory was the city or town of Yankton, filled with adventurous politicians, who had been sent there by the Federal Government to hold Territorial offices. Fargo sprang up under the wheat emigration to the Red River of the North and became the rival to Yankton, and it became the nucleus of another set of ambitious politicians sent there to hold office in that portion of the Territory. The actual influx of emigration had not filled up the intermediate space between the projected North Pacific Railroad and the territory around Yankton and the Black Hills, and the result was that men ambitious to locate the government upon conjectural town sites, men who were rivals of each other both in the race for political power and wealth, men who were anxious to cut each other's throats politically and physically, in order to reach their own ambitions and personal ends, clutched each other by the throat; and they have been struggling and fighting from 1870 down to this hour as to whether one or the other faction should control that Territory and hold the offices.

General Grant is credited with a remark in regard to Dakota which I have from a gentleman who heard it from his own lips. When the secretary of state of Dakota was killed by a rival politician in a contest over a State or Territorial office, General Grant is credited with having said that Dakota gave him more trouble than all the other Territories in the Union put together; that the trouble was there were two streets in Yankton, and when one street got through a measure the other street rebelled; that the Territory divided upon those two streets, and that it required the Army and the civic power of the United States to preserve peace between the warring factions. That is the simple and the entire trouble to-day. There is not upon this continent a more homogeneous tract of territory than the Territory of Dakota. It is homogeneous in climate, homogeneous in soil, homogeneous in population. There is no line of mountains, there is no river, there is nothing to divide them except political ambition and personal rivalry.

Why, sir, take the State of Missouri. Missouri has running through its center a great river, the Missouri River, from east to west, dividing it absolutely and geographically from one side to the other. Missouri was admitted as one State; and to-day is there any North Missouri or South Missouri? To-day is there any division which engenders antagonistic feeling or interest between the two sections of the great State in which I live? Yet here is a Territory proposed to be a State which asks Congress to run an imaginary line through its middle at the behest of a lot of politicians, with no honest demand as I really believe on the part of the people of that Territory; and the governor of the Territory says to the people of the United States that sentiment and feeling all run from east to west and not from north to south.

It has been asserted by the Senator from Indiana that no feeling, no opinion, existed in the Territory against this division, and he has said here in the most emphatic and aggressive manner that if any Senator proposed to complain on the part of anybody, either of the division or of the burdens of Statehood, it would puzzle that Senator to find any such expression on the part of any one within the Territory. The Senator further said that he was astonished to hear at the last session of Congress from some gentlemen living in Bismarck a feeble protest against the division of the Territory. I desire the Chief Clerk to read a document placed before the Committee on Territories by as respectable a delegation of influential and intellectual citizens as exist in the Territory. It is the statement, as I honestly believe, of a large majority of the people of the northern portion of the Territory in regard to the matter of a division, and, without supplementing a single remark, I will leave the Senate to say whether that instrument is a feeble protest or not.

The PRESIDING OFFICER. The Secretary will read the paper.

The Chief Clerk read as follows:

To the honorable Committee on Territories
of the Senate and House of Representatives:

Your attention is respectfully invited to the bill introduced in the Senate by Hon. ANGUS CAMERON, of Wisconsin, and in the House by Mr. MAGINNIS, entitled "A bill to enable the people of the Territory of Dakota to form a constitution."

Dakota is attracting more general attention than any of the other of the great Territories. This is due to various causes, among which may be mentioned her unprecedented development, caused by the large immigration during the last five years, and especially the past two years, and her applications to Congress to divide the Territory and admit a portion to Statehood, or to give some additional legislation necessary to protect and secure the personal and property rights of her citizens.

The question of the division of Dakota has been before Congress since 1871, when the bill was first introduced. At every session from that day to this the subject has been canvassed and decided adversely in one House or the other, although the strongest possible arguments have been presented in its favor. In 1876 the bill passed in the Senate by a vote of 31 to 19. Those voting in its favor were Messrs. ALLISON, Bogy, Burnside, CAMERON of Wisconsin, Christiancy, COCKRELL, Cragin, Ferry, Hamilton, Harvey, Hitchcock, Howe, JONES of Nevada, Kelly, McCreery, McDonald, MCMILLAN, Mitchell, MORRILL, Oglesby, Paddock, Patterson, RANSOM, SHERMAN, Spencer, West, Windom, Withers, and Wright.

Those voting "no" were Messrs. ANTHONY, BAYARD, Boutwell, Conkling, Cooper, Davis, DAWES, EATON, EDMUNDS, Frelinghuysen, Kernan, Key, Merriman, Sargent, SAULSBURY, Stevenson, Thurman, Wallace, and Whyte.

Senator EDMUNDS was one of the leading opponents of the bill, and it will be seen it met with the almost solid opposition of the older States in the Union. The opposition was not on political grounds. Senators EDMUNDS, DAWES, Boutwell, and Conkling were found voting with Senators SAULSBURY, BAYARD, Thurman, EATON, and Kernan. They based their opposition upon higher ground than party or sectional advantage, and the causes that led them to oppose still exist.

The people have been, and now are, divided in their views as to whether the best interests of the Territory will be advanced by a division, and ultimately two States, or by admission as a whole as one State.

While the right of Congress to do what to them may seem best in regard to this matter is not questioned, it is believed that under the peculiar circumstances of this Territory it would be but justice to the 400,000 people, holding in the aggregate one hundred million dollars' worth of property, to give them an opportunity to express their sentiments upon a question which affects their interests so materially.

There are many questions bearing directly upon the matter which the citizens of the Territory ought to be permitted to settle for themselves, among which may be stated the just apportionment of the public debt, amounting to $400,000.

If the Territory is divided by Congress, what will be done with this? Will Congress apportion it? If so, upon what basis? Then there are seventy-two sections of land granted to the Territory for the university and the land granted for an agricultural college. These grants are to the whole Territory. Will Congress divide them or leave all to the old Territory? The question of boundary, if it is divided, will also be raised, and as an arbitrary line on the forty-sixth parallel will divide counties and farms, questions will arise in that respect. These are some of the questions which are of great interest to the people that should be left to them to settle for themselves. The bill now before you has this in view. It submits the whole subject to the people by giving authority to elect delegates to a convention, which will have authority to settle these questions so far as the people themselves are concerned.

If the bill is amended so as to provide that if the convention shall determine to divide the Territory, then only those delegates from that portion proposed to be erected into a State shall participate in the formation of the constitution for such State, and that the duties of the other delegates shall cease upon such decision, it will be fair and just, and it is believed the best settlement of this question, because it will give the people an opportunity to be heard for their own interest; and when they have given an expression of their views through the formation of a constitution for the whole or a part of the Territory, their action, whatever it may be, will be returned to Congress for approval, change, or modification, and the views of the people expressed in an authoritative manner will have been obtained.

Those believing in division have been represented in Washington at every session of Congress since the first introduction of the measure in Congress, and although every effort has been made by the friends of the measure it has failed, not because of opposition from those opposed to division in the Territory, but because of the opposition encountered in Congress, many of the leading men of both political parties opposing and voting against it. Although there has been at all times an earnest opposition to division in the Territory, those holding such views were willing to accept relief from the present condition of affairs in that form rather than not at all; but that having failed, they now ask that the voice of the people be heard upon this to them all-important question. But the causes that seemed to require division a few years ago have almost wholly disappeared.

When the division bill passed the Senate in 1876 it was shown that the average expense of the Territorial governments was but $27,266.87, and that 10,000 people in the north and 15,000 in the south demanded this consideration. It was shown that Mississippi with a population of but 8,850 was granted a Territorial organization; that Indiana had but 5,641 when organized; Michigan but 7,000; Wisconsin but 6,077; Washington but 1,201; Dakota but 4,837; Nevada but 6,857, and Arizona but 5,000

It was claimed that our population was sufficient in the light of these precedents to justify division. It was shown by the report of the committee and the speeches of the advocates of the measure that an uninhabited and, it was believed, uninhabitable region divided the two sections; that there were no wagon-roads or mail-routes connecting them, and no prospective railways; that members of the Legislature, United States marshals, and judges were compelled to go via Saint Paul, and even Chicago and Dubuque in many instances, in traveling from the north to the south; that it required a less amount of time and expense to reach Washington than to reach the capital of Dakota. Two years ago it was shown that the population of the southern section had reached 175,000 and of the northern 90,000, and that the people still almost with one voice demanded division; but still division failed, because Congress doubted the policy of multiplying States and said that the causes that were then urged for division would pass away and that we would soon be a united people—united in common interests and by bands of iron in bonds of commerce.

Two years ago it was a fact that there was a large tract of country along the forty-sixth parallel which was uninhabited, which practically separated the settled portions of the Territory. But this is not the case now. Nearly if not quite 100,000 people have settled in Central Dakota during the past two years, and now there is no portion of the Territory lying east of the Missouri River, between what has heretofore been called North and South Dakota, that is unsettled or not rapidly being settled, and instead of the unbroken prairie of two years ago thriving villages and industrious farmers may be found in all portions of this section. It was also a fact that to go from the north to the south it was necessary to go outside of the Territory and travel through two States, namely, Minnesota and Iowa, because all the railroads in the Territory ran east and west. Such is not the fact now, because nearly all railroad building done in 1882 and 1883 was upon northerly and southerly lines, and at present, excepting twenty-seven miles' staging, you can go by rail from the extreme southern portion of the Territory to Devil's Lake or Pembina, in the extreme northern part, and by the completion of the Fargo Southern, which is all graded and partially ironed, the Jamestown Southern, which is nearly all graded, and the Bismarck extension of the Milwaukee and Saint Paul, partially completed, which will be accomplished early the coming season, the systems of railroads from the extreme southern part to the northern will be as complete as those running east and west, and every vestige of the difficulties in going from the north to the south not already removed will have been overcome.

All the various efforts for the division of the Territory, so far as the people are concerned, may be said to have culminated in the abortive attempt of those in the south favoring it to form, without authority of Congress, a constitution for South Dakota. This constitution was submitted to the people south of the forty-sixth parallel at the last annual election, and, if the active canvass of its promoters for weeks before the election, the indifference of the people shown by not voting, and the opposition of those who did vote may be taken as a criterion of the wishes of the people, they certainly were not very enthusiastic, to say the least, for division.

If no allowance is made for the increase of population during the year, but we compare the vote upon the constitution with the vote for Delegate in 1882, we will find that there were but 19,150 votes cast for and against the constitution, of which 12,336 were in favor of and 6,814 against, while the same counties in 1882 cast 30,972 votes; it will be seen that there were nearly as many persons who did not vote at all as there were in favor of the constitution, and in fact there were a great many more, because the immigration to this part of the Territory was

very large during the year 1883. It is worthy of note that many of the oldest and most populous counties in the Territory voted against the adoption of the constitution, among which may be mentioned Union, which cast 909 votes against and 31 in favor; Clay, which cast 367 against and 210 in favor; Lincoln, which cast 668 against and 196 in favor; Minnehaha, which cast 863 against and 304 in favor. All of these counties are in the extreme southeastern portion of the Territory.

Nor is there anything in the character of the country or people which would tend in any way to make division desirable or necessary. There is no natural boundary which divides the north from the south. It is the same character of country for many miles upon both sides of the forty-sixth parallel, settled by the same people, mostly immigrants from the older States. The country is well adapted in soil and climate to remain together as one great State, possessing within its borders the elements necessary to support a dense population.

In view, however, of the sentiment so often expressed in favor of division on the part of Dakota, and the many interests involved by division, it would certainly be wise to give the people an opportunity to elect delegates to a constitutional convention, who shall have authority from Congress to consider that question. It will bring the wisdom and experience of the people to bear upon the framework of the proposed new government, whether it be for a part or the whole of the Territory. This framework will be returned to the two Houses of Congress to be corrected, strengthened, or adorned, as may appear necessary.

All of the safeguards may then be added which the accumulated wisdom of Congress can suggest, with a view to the protection of the interests of the people or to prevent the dissipation, as has been the case in some of the newer States, of the immense grants of the lands to be turned over to the State for educational and internal improvement purposes. If it is determined that division is not desired, the adoption of this or a similar bill will hasten the admission of the whole.

The agitation of the subject of division in Congress delays the admission of the whole and withholds self-government from our people. It withholds when most needed the use of the school funds arising from the sale of school lands, valued at $20,000,000, and prevents the application to the people's use of the internal-improvement funds which will accrue to the State (but not the Territory), amounting to about $3,000,000.

It keeps our people in an unsettled state and brings discredit upon the Territory, forcing high rates of interest, and robs us of all the advantages of State government.

All of which is respectfully submitted.

Mr. VEST. That argument was presented to the Committee on Territories by as intelligent and reputable a delegation of citizens as ever came before that committee from the Territory of Dakota or any other Territory, gentlemen who represent the wealth, the social position, and influence of the northern portion of the Territory of Dakota. It asserts what is absolutely true, and that is that the intermediate territory between Northern and Southern Dakota has received the largest amount of population in the last five years; that the system of railroads now projected and being built in the Territory runs from north to south; that great corporations, such as the Milwaukee road, the Saint Paul, the Northwestern, the Illinois Central are competing with each other in building railroads running from north to south and connecting together these two sections of Dakota. The old argument which has been made for the last ten years that persons wishing to come from Fargo to Yankton were compelled to go on the North Pacific to Saint Paul, and then on the Union Pacific in order to get to the southern portion of Dakota, has been exploded; it has disappeared under these railroad projects and under the increased immigration to the central portion of the Territory. Not one shadow exists for any such pretext to-day.

The Senator from Indiana spoke of what is known as the Huron convention, held in 1883, upon the 19th day of June, when four hundred delegates came together, adopted a State constitution out of hand, and declared that Southern Dakota should become a State, and that its admission into the Union should be demanded of Congress; but the Senator from Indiana did not read in this connection the proceedings and the unanimous resolutions of a convention larger than that, held at Fargo on the 11th of September following, which protested against the project of dividing the Territory and making a State government in the southern portion of it. I know that a so-called compromise has since been made between the politicians in Northern and Southern Dakota. I know that an agreement has been entered into, and that Northern Dakota is now in a sort of quasi-way willing that this bill should be enacted by Congress; but I do not believe, as the statement which has just been read by the Chief Clerk says, that the people of Dakota desire any such separation. If so, it is the first instance in the history of the States or of the people of the States of this Union. Texas was admitted into the Union with a territory sufficient to make five States. The public man can not live to-day in Texas who wants to divide that vast domain. There could not be enough votes obtained in Texas to divide its territory to elect a justice of the peace in the smallest township in the State. The people of Texas have learned what the people of this whole country know, that the power is with the large States, and that the area of territory and the amount of population give to a State political influence and prestige with sister States and in the councils of the nations. I do not believe the people of Dakota desire any such separation.

The Senator from Indiana commenced his argument by saying that the movement for a new State should originate with the people. I have in my possession letters from the people, not from politicians, but from persons without ambition politically so far as I know, who come to me accredited as persons of intelligence and respectability. Our late colleague in the Senate Judge Davis, of Illinois, handed to me a letter coming from a person whom he vouched for as a man of influence, respectability, and intelligence, and I ask the Chief Clerk to read it from the desk.

The PRESIDING OFFICER. The Secretary will read the letter.

The Chief Clerk read as follows:

TYNDALL, BON HOMME COUNTY, DAKOTA TERRITORY,
January 24, 1883.

MY DEAR SIR: I do not know that you will remember me as a member of the Senate of Illinois up to the commencement of the war. It matters not, but I am tolerably acquainted with your history. I know that you are a native of Maryland, as well as myself. I have been a resident of Dakota for the last nine years. I claim to have a right to be heard in regard to the division and admission of the southern part as a State into the Union. You know that our Territory is sufficiently large for three States larger than Illinois. If it be divided on the line of forty-sixth degree north latitude it will furnish two large States. As to its division I have no objection to offer, but as to the admission of the southern half into the Union as a State at the present time I believe would be entirely premature, for the following reasons:

First. The population is not sufficient to entitle it to two Senators to equipoise such States as New York, Pennsylvania, Ohio, and Illinois, nor even to one full Representative in the lower House.

Second. The population is too poor at present to bear the expenses of Statehood. Many of the counties are burdened with heavy indebtedness, caused by the fraudulent bonds and consequent heavy taxation.

Third. The people are opposed to admission. The only persons urging it are aspirants for Senatorial and Representative and gubernatorial honors, as well as other distinctions of place and profit.

These are the self-constituted representatives appearing at Washington urging admission. As far as my knowledge extends, I know of no person of any party besides those mentioned who is in favor of Statehood. The people of Dakota do not wish Statehood at present. The majority of voters here are foreign-born, and do not yet understand the nature of our institutions, indeed not more than the colored people of the South. I trust that your influence and vote will be against admission. Will you show this note to Mr. VEST, of Missouri.

Yours, truly,

J. P. RICHMOND.

Judge DAVIS.

Mr. VEST. I have here another letter coming from a lady with whom I have no acquaintance, but when she declares in the first line of it that she is a Republican, I hope that it will meet with the respectful and serious attention of my friend from Indiana, the chairman of the Committee on Territories. I ask the Chief Clerk to read the letter It comes from another portion of the Territory, and from a person certainly of intelligence, whatever I may think of certain opinions which she expresses in regard to woman suffrage.

The Chief Clerk read as follows:

WEBSTER, *March* 30, 1884.

SIR: Will you please do a Dakota (Republican) citizen the favor of presenting to the United States Senate reasons why our Territory should *not* be admitted to the Union as a State, believing such action would be in direct opposition to every interest of our settlers.

First. It is not the voice of our people who are asking admission, which was clearly proven in the fact that so little interest was manifested at elections upon that subject. Many of the polling places were not opened at all; three in my own county (Day) were not, and as nearly as could be ascertained this was the average interest upon that occasion throughout the Territory.

Our country as yet is too new and sparsely settled, such wide distances between towns, that our people are comparative strangers to each other; besides, our actual residents are too poor to support any more officers than we now have, notwithstanding the assistance we have from the General Government.

As an illustration of officers to be supported by this poor struggling people, in this town (Webster, the county seat of Day County), which has not one hundred and fifty inhabitants, there are nine notaries public; six of these nine have all the following titles: land locating, loan agents, and notary public.

Any man, it matters not what his character may be, by sending $2 (and $4 for a seal) to our governor can be commissioned a notary public; then this worthy (?) officer (through the extraordinary ruling of the Commissioner of the General Land Office) is armed with authority to take the testimony of witnesses in final-proof land cases (in many instances the witnesses never having seen the testimony they have sworn to).

This is irrelevant to the subject, and is merely to show you that Dakota's best interest would be served in having fewer officers instead of more.

In fact it is our politicians and not our people who are so anxious for Statehood; and, all things considered, they are really more to be pitied than to be blamed, because the Presidents have seen fit to use Dakota as a field for the appointment of unemployed politicians of the East to all of our Territorial offices, which gives to us a surplus of that class of ambitious, intelligent, and politician citizens, who should not be allowed to inveigle the unwary settlers into subserving their interests by forcing us into Statehood.

The tillers of the soil—our actual settlers—are all poor people; we can not afford the additional expense. Those of this class who favor admission positively do not understand their own interests any more than do poor people who advocate high tariff.

Division of our Territory upon the forty-sixth parallel would be desirable, and probably a benefit to our people.

The greatest detriment in making us a State at the present time would be in turning the tide of immigration to Territories beyond, where settlers would avoid the expense of State and the support of State officers.

We have not enough people here. In many places "Poor Los" are far more numerous than settlers.

Here is an illustration of how inhabitants are usually counted in this country: Time and again I have read in our town paper, "Webster, 600 inhabitants." Doubting this statement somewhat, I have counted every man, woman, and child who is an actual resident, and the exact number is 141 persons. My observation has taught me that this is the way other towns' inhabitants here have been estimated.

Yet with all the eagerness of our politicians to rush us into the Union unprepared, at their (not the people's) State constitutional convention they absolutely refused to acknowledge "as equal before the law" our most sober and industrious citizens—women.

For this and other good reasons herein assigned I pray your honorable body to deny them admission as a State until we are older and they are wise enough to know that a State constitution must be founded upon the true principles of right and justice to her most humble citizen as it does to her highest.

Yours, very respectfully,

MARIETTA M. BONES.

Hon. GEO. G. VEST, *United States Senator.*

Mr. VEST. I caused these letters to be read because they come from persons who are not members of the party to which I belong, because they are not politicians, but citizens of Dakota, and because they show in my judgment the real sentiment and opinion of the people of that Territory who are not influenced by political or personal considerations. As I said, it would require a vast amount of proof to make me believe that the non-political citizens of any State or Territory in this Union, in the light of the past history of the States of the Union, desire a division of their State or Territory.

Mr. MAXEY. Will the Senator from Missouri permit me to ask him a question?

Mr. VEST. Certainly.

Mr. MAXEY. It has been stated very often that the physical obstruction between the north and south portions of Dakota Territory would naturally divide that Territory into two divisions. How is that?

Mr. VEST. It is not at all true. As I said a few minutes ago, there is not a tract of territory upon this continent more homogeneous than the Territory of Dakota, including in the whole Territory this proposed State.

Mr. MAXEY. I believe that to be true, but I want it to go on record.

Mr. VEST. There is not a range of mountains running from east to west. There is not a great river running from east to west. There is no inland sea or lake which divides it or divides any two parts of it. The only river of any magnitude is a tributary of the Missouri, the Platte River, and that runs from northwest to southeast. There is no pretext for this division except political ambition. It is the desire of ruling political spirits of the northern and southern portions of Dakota to have the division in order to make more offices. That is the naked, the simple, and the absolute truth.

The Senator from Indiana indorsed the last governor of that Territory by quoting from his message. The preceding governor, Governor Ordway, who has engineered this matter since I have been a member of the Committee on Territories with an anxiety, a solicitude, and an industry which (and I attack not his motives) did him great credit, went out of office in the midst of a storm and tempest originating over the movement or rather the location of the capital, and I have not recently followed the course of the proceedings against him.

Mr. HARRISON. Do I understand the Senator from Missouri to say that Governor Ordway had been urging a division and the admission of the southern part of the Territory?

Mr. VEST. He urged the admission of the Territory.

Mr. HARRISON. If the Senator had noticed my remarks yesterday he would have seen that Governor Ordway refused to approve a bill passed by a majority of 22 to 2 in the house, and by a proportionate majority in the council, for the calling of a constitutional convention.

Mr. VEST. I understand that very well, and that was a portion of the conflict that was going on in regard to the location of the capital. I say that Governor Ordway has appeared before the Committee on Territories over and over again in favor of a bill admitting the Territory into the Union. Before the Senator from Indiana was the chairman of that committee Governor Ordway made repeated visits here. Afterward he became involved in the interterritorial strife and almost civil war over the location of the capital, and out of that arose his action when he vetoed the bill to which the Senator referred. I do not undertake to locate Governor Ordway upon this question in all its different phases, but I say emphatically that he has appeared before the Committee on Territories and has urged a bill for the admission of Dakota into the Union.

Mr. HARRISON. In that I think the Senator is mistaken.

Mr. VEST. Well, I think not. Here are my colleagues on the committee who can state whether it is so or not.

Mr. BUTLER. I certainly have seen the governor of Dakota before the committee.

Mr. HARRISON. Undoubtedly he has been before the committee several times; the Senator from South Carolina is right; but my recollection is that he was not taking part in this question at all. It was in relation to some other matter that he appeared before the committee, and my impression of his disposition was that he was not urging the bill.

Mr. BUTLER. Certainly, the impression made upon myself as a member of the committee was that he was there as one of the representatives from that Territory in that interest. Perhaps I may have been mistaken; I do not think I was.

Mr. VEST. Not only that, but if my memory has not failed entirely Governor Ordway has called upon me personally in regard to this matter of the admission of Dakota as a State. But the trouble has been in Dakota that no one measure has met with the support of the politicians of that Territory. There are too many statesmen there for the welfare and the quiet of the community and the people, and when a bill has originated with one faction it has been stabbed to death by another.

Governor Ordway—coming back to my line of argument—went out of his administration as governor of the Territory amidst a tempest of invective leading even to criminal prosecution. The incoming governor, who takes upon himself the exposition of the views of the entire Territory in which he has been but a short time, says:

> The sentiment in favor of division is practically unanimous; but very few in either section of the Territory oppose it.

And that in the face of the largest convention ever held in Fargo, in 1883, which passed resolutions against the measure now before the Senate bringing about the division. But the next declaration is even more remarkable. Says this gentleman:

> Whether this desire is wise or unwise is not a question it seems necessary to discuss.

Why, that is the very question now before the Congress of the United States. Are we here to record the edicts of a junta of politicians in a Territory of this Union, or are we here the representatives of sovereign States to declare whether a new State shall enter into the sisterhood of States and assume the sovereignty that becomes her? Are we here representing the States which have sent us to this Chamber, or are we here to record the edicts of a governor in a Territory and of a lot of politicians assembled in convention? This gentleman further says:

> Whether it will disappear under the effect of a closer acquaintance and relationship, engendered and promoted by the various lines of railway north and south now being built or surveyed, is a probability or contingency that can be estimated by others as well as myself; but it seems to be a rule that latitudinal and not longitudinal lines are the cementing and binding ones.

Mr. President, I have heard that declaration before on this floor from a higher authority. I heard the statement made here once by a distinguished Senator, one of the most eminent in this body, that railroads upon this continent, by force of nature, must be constructed from east to west, and could not run from north to south. Sir, I believe no such nonsense. I do not believe that nature has inflicted any such monstrosity upon the human family, or upon commerce, or commercial intercourse. Where is the authority for the statement that railroads running from east to west alone bind a people together? Is there nothing in the great lines of road which to-day run from the North to the South, and bring together the people of the respective sections? Is there nothing in the commercial intercourse that comes from the great river, the Father of Waters, that flows through Northern and Southern territory alike? Where is this law of nature? Where does it exist either upon this continent or elsewhere?

Sir, the statesman who makes this declaration mistakes the ephemeral and evanescent passions that came from an unfortunate war for permanent results, which will not and do not and can not, thank God, exist. The time will come, it is fast approaching and will come in a few years to the people of this country, when the great railroads of the country will cement and bind together with iron bands the North and South as much as the East and the West. To-day in a Southern State, in my judgment, is an enterprise now being inaugurated which will do more to bind together in common interest the people not only North and South in this Union, but the people of the northern and southern continents of this hemisphere, than anything else which has been inaugurated in this entire century.

The governor of Dakota says that a railroad running north and south by some magic and mysterious process does not convey human beings in common sympathy from one section to another; that only in railroads running from east to west is there any sympathetic or social connection. Where is the authority for this statement? Where is the proof of it? It does not exist. It is the dream simply of a politician, who seeks to bring about his own results.

The Senator from Indiana speaks of the area of this Territory, and says that it should be divided on account of the large number of square miles in the entire Territory, there being in the new State as proposed 77,000, against 149,000 square miles in the Territory. I want to call the attention of the Senate to the fact that California and Texas have both a larger area than this Territory united. I want to call the attention of the Senate to the fact that Colorado was admitted into the Union in 1876 with 103,925 square miles of territory. According to the census report Colorado has made a phenomenal advance in population, in resources, in civilization. The census report for 1880 puts Colorado at the head of the new States and Territories of the Union. Colorado was admitted, I grant, with 40,000 square miles less than the Territory of Dakota, but with the enormous amount still of 103,000 in 1876. It has the same sort of soil, the same sort of population, with this proposed State and with the Territory of Dakota as it now exists. Colorado to-day has only one Representative in the lower branch of the Congress of the United States. Her ratio of population has not increased so as to give her more than the original Representative that she had at the time she was admitted into the Union.

Take another Territory or State, that of Nevada. Nevada has now 116,700 square miles of Territory. Nevada was admitted before Colorado. Nevada to-day has about 60,000 inhabitants, a decrease in the number of inhabitants, with one Representative, of course, in the lower branch of Congress.

Here are two States that were located as Territories, with about the same surroundings, soil, climate, and beginning as this proposed State

of Dakota, and to-day one of these has but one Representative still in the lower House of Congress, and the other falls below the ratio nearly one hundred thousand. Now, Mr. President, what assurance have we that this new State is to go on in its phenomenal progress, as it has been termed on this floor and in the petitions of its citizens? What assurance have we that it will prove an exception to the same geographical and climatic influences which have brought about the results I have named in several States of the West?

To listen to my friend from Indiana one would imagine that the Territory of Dakota, and especially the southern portion of it, rivaled the fabled dreams of poesy in all that makes a state delightful as a residence or great in power and in wealth. Why, sir, it is the ordinary and average State that we find at the base of the Rocky Mountains and upon the great cattle plains of the West. It is simply this and nothing more. The southwestern portion of the Territory comprises the mining region of the Black Hills. It can never become thickly populated in the very nature of geographical logic. It is impossible that it should be so.

Where is the immense population to come from that the Senator from Indiana thinks in a very few years will cover all the cattle plains and all the wheat regions of Dakota? Dakota is even phenomenal in the fact that larger tracts of land are owned there than in any other of the Territories of the Union. The immense wheat farms, like the Dalrymple farm, which many Senators here visited, are found all over the Red River region of the North, and immense cattle ranches are found all over the southern portion of Dakota. It can never become the region of small farms and dense population like the States of the Atlantic seaboard or even the Western States upon the edge of the Mississippi. It has not the soil, it has not the climate, it has not the production, it will never have the population. Yet we are told to-day that Dakota should be divided, and the northern portion of it constructed into a Territory, which in a very few years will apply, like the southern portion does to-day, for admission into the Union.

There is no necessity for any such division. Even if the unanimity of sentiment exists in the Territory which has been spoken of here, that would be no warrant for us to divide the Territory under the circumstances presented to the Senate.

The Senator from Indiana has made an argument in regard to population based upon the increase of vote as shown by the recent election for Delegate in that Territory, showing an increase of some 56,000 or 58,000, and the Senator says that the ratio to be admitted in the calculation of population ought to be a family of four in population to each vote cast. The ratio adopted in all the States of the Union in the calculation of population is 5 to 1, but I submit with all deference to the Senator from Indiana that this rule should not and can not obtain in a calculation as to population in a Territory like Dakota. The census states (and it required no statement from even as high a source as that to make good what every Senator knows upon this floor to be true) that in the Western States and Territories there is a large excess of males over females. The immigration that goes there is in the main constituted of young adventurers, miners, cattle-men, and speculators. It is not men of families. This is mainly shown by the fact that while the proportion of females by the census of 1880 in the whole United States is 96,544 women to each 100,000 men, in the Territory of Dakota there are but 64,257 females to 100,000 men. In other words, there is in that Territory a difference of 30 per cent. between the males and females. I state what no one knows better than my friend from Indiana, for he has personally visited the West and knows as well I can what I state to be true, that the ratio of 4 to 1 is not a just ratio.

Mr. HARRISON. The vote in Dakota in 1880 shows a ratio of 4.82.

Mr. VEST. Yes, I understand, Mr. President, it shows that ratio because the immigration then going into that Territory was upon the lines of railroads and to the cities; but the immigration now is to the cattle ranches; the immigration now is to the interior portion of the country. The paper that I caused to be read from the desk to-day speaks of the large immigration to Middle Dakota. One hundred thousand people, according to the statement made before our committee and placed to-day before the Senate, have gone—not to Fargo, not to the towns and cities, but they have moved on to the cattle ranches of the interior portions of Dakota, and they are not people with families; they are young men. There was a time when the ocean invited the enterprise and the energy and the adventure of the young men of the United States; but now enterprise and adventure have gone to the plains of the West, and the adventurers are not men with families. The want of luxuries, the want of comforts, prevents females from seeking homes there as a rule, but men of adventure, in order to accumulate wealth rapidly, engage in the avocations and submit to the privations that are peculiar to that region.

But, Mr. President, one would imagine from the remarks of the Senator from Indiana yesterday that I had mainly opposed this measure in committee and that I had been one of the chief opponents to the passage of this bill in the Senate. The Senator delivered panegyrics eloquent, incisive, rhetorical, upon the blessings of American citizenship, and was pleased to say that in my lighter moods I had indulged in some facetiousness at the idea of admitting the people of the southern portion of Dakota to citizenship, and that he knew that my better nature would repudiate any such outrage.

Mr. President, if this boon of American citizenship is so valuable, if the people of this country are practically being disfranchised, if it is necessary for their happiness, their comfort, their respectability, that they should be citizens of the United States, why is it that for four long years with absolute political control of this body the Senator from Indiana and his colleagues have been unable to pass this bill, or even a bill which submitted to the people of that Territory the question whether they should separate or not? Why is it that since 1871, with delegation after delegation, with argument after argument, with all sorts of appeals coming from the oppressed people of Dakota, they have been refused any sort of relief in the direction indicated now by the Senator from Indiana? Mr. President, the objections to the admission of Dakota as a State have come from the Republican side of the Senate. The objections here made would have been impotent without the assistance we derived from the Republican side of the Chamber. The Senator from Indiana has not been properly giving the reasons why this State has not been admitted. The Republicans are in the absolute control of this Senate, and for a large portion of the time of the popular branch of Congress, and of the executive department, and let them answer why this great wrong has been committed on the suffering and oppressed people of this Territory. I repeat, the objections have come from the Republican side of this Chamber.

The Senator drew the picture of 300,000 American people practically disfranchised, and appealed to me to know why in my better moments I do not agree to the bill of the committee. Sir, it was stated by a Republican Senator that when these people learned the first lesson of common honesty and paid their just obligations they could then be admitted into the sisterhood of States, and not before. The opposition came from a Senator on that side of the Chamber, who declared that until these people paid their honest debts, until they learned the first principles of American citizenship and practically showed their respect for them, they could not be admitted into the American Union. A people whom the Senator represents to be practically disfranchised and who are panting to come into the Union for the glorious privileges of American citizenship even "as the hart panteth after the water brooks," these same American citizens repudiated a decision of the Supreme Court of the United States, trampled it under foot, and by legislative enactments of their own Territory sought to render it nugatory and void. Let any Senator look at the record, and he will find it put down *in extenso* and in detail in the minority report of the Committee on Territories.

Under senatorial coercion these people, who have so much regard for American citizenship—these gentlemen who can not live in the air of a Territory any longer, but must be clothed and dignified with the high attributes which the Constitution and laws give to every human being within the dominion of our States—these gentlemen in their Territorial Legislature did all that could be done to strike down a decision of the Supreme Court of the United States and to evade their honorable and just obligations, and it was not until they discovered that the only way to secure recognition at the hands of the Senate was by the payment of their bonds that they ever came to the conclusion that the debt should be discharged. It has not been any opposition on this side of the Chamber that has kept Dakota out of the Union. We were unable of ourselves to have done it without the assistance that was derived from the motive that I have stated.

Now, Mr. President, having said this much, I shall leave this question to the Senate with the single remark that I will never vote for any bill which attemps to divide this Territory upon the arguments and for the reasons which have hitherto been presented.

Mr. HARRISON. Mr. President——

Mr. MORRILL. I presume at this hour the Senator from Indiana will give way to a motion to proceed to the consideration of executive business.

The PRESIDING OFFICER. Does the Senator from Indiana yield to that motion?

Mr. HARRISON. I am entirely ready to go on now, but I have no disposition to press my own wishes against those of the Senate.

Mr. MORRILL. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After one hour and nine minutes spent in executive session the doors were reopened.

RECIPROCITY CONVENTION WITH SPAIN.

In executive session the convention for commercial reciprocity between the United States and Spain, providing for an intimate and favored exchange of products with the islands of Cuba and Porto Rico, signed at Madrid November 18, 1884, was read the first time.

On motion of Mr. MILLER, of California, it was

Ordered, That the injunction of secrecy be removed from the text of the said convention, and that it be referred to the Committee on Foreign Relations, and, together with the message, be printed for the use of the Senate.

On motion of Mr. ALLISON, it was

Ordered, That the said convention be printed in the CONGRESSIONAL RECORD.

Mr. MILLER, of California, submitted the following resolution; which was referred to the Committee on Printing:

Resolved, That 2,000 extra copies of said convention be printed for the use of the Senate.

Mr. MANDERSON, from the Committee on Printing, reported the resolution without amendment, and it was considered by unanimous consent and agreed to.

On motion of Mr. MORRILL (at 4 o'clock and 37 minutes p. m.) the Senate adjourned.

RECIPROCITY CONVENTION WITH SPAIN.

The President yesterday sent the following message to the Senate, which was read in executive session, and the injunction of secrecy was removed therefrom so far as to permit its publication, with the Convention, in the RECORD:

To the Senate of the United States:

I transmit herewith, for consideration by the Senate, with a view to advising and consenting to its ratification, a convention for commercial reciprocity between the United States and Spain, providing for an intimate and favored exchange of products with the islands of Cuba and Porto Rico, which convention was signed at Madrid on the 18th ultimo.

The negotiations for this convention have been in progress since April last, in pursuance of the understanding reached by the two governments on the 2d of January, 1884, for the improvement of commercial relations between the United States and the Spanish Antilles, by the eighth article of which both governments engaged "to begin at once negotiations for a complete treaty of commerce and navigation between the United States of America and the said provinces of Cuba and Porto Rico." Although this clause was by common consent omitted from the substitutionary agreement of February 13, 1884 (now in force until replaced by this convention being carried into effect), the obligation to enter upon such a negotiation was deemed to continue. With the best desire manifest on both sides to reach a common accord, the negotiation has been necessarily protracted owing to the complexity of the details to be incorporated in order that the convention might respond to the national policy of intercourse with the neighboring communities of the American system, which is outlined in my late annual message to the Congress, in the following words:

> The conditions of these treaties should be the free admission of such merchandise as this country does not produce, in return for the admission free or under a favored scheme of duties, of our own products—the benefits of such exchange to apply only to goods carried under the flag of the parties to the contract; the removal, on both sides, from the vessels so privileged of all tonnage dues and national imposts, so that those vessels may ply unhindered between our ports and those of the other contracting parties, though without infringing on the reserved home coasting trade; the removal or reduction of burdens on the exported products of those countries coming within the benefits of the treaties, and the avoidance of the technical restrictions and penalties by which our intercourse with those countries is at present hampered.

A perusal of the convention now submitted will suffice to show how fully it carries out the policy of intercourse thus announced. I commend it to you, in the confident expectation that it will receive your sanction.

It does not seem necessary to my present purpose to enter into detailed consideration of the many immediate and prospective advantages which will flow from this convention to our productions and our shipping interests.

CHESTER A. ARTHUR.

EXECUTIVE MANSION,
Washington, December 10, 1884.

The United States of America and His Majesty the King of Spain, equally animated by the desire to strengthen and perpetuate the bonds of good friendship which happily exist between those States and the Spanish nation, and recognising particularly that by reason of the Islands and Spanish Provinces of Cuba and Porto Rico being near the shores of the United States frequent and important commercial relations exist between their territories to the benefit of their inhabitants, and both powers equally believing that the community and harmony of their interests counsel that these relations should be stimulated and favored for the greater development and encouragement of commerce and prosperity both in those islands and provinces and in the United States, have decided to celebrate a treaty of commerce to that special end. For this purpose the President of the United States of America has conferred full powers on John W. Foster, Envoy Extraordinary and Minister Plenipotentiary of the United States of America to his Catholic Majesty, and His Majesty the King of Spain has conferred full powers on His Excellency Don Salvador de Albacete y Albert, ex-Colonial Secretary and Senator of the Kingdom.

And said Plenipotentiaries, after having exchanged their respective full powers, which were found to be in due form, have agreed to the following articles:

ARTICLE I.

The United States of America, in reciprocity for the concessions and privileges stipulated by Spain in the present treaty, and as an equivalent therefor, agree to admit into all the established ports of said States, free of import duties, or with the duties fixed in the annexed Schedule letter A, all the articles or merchandise enumerated in said Schedule, provided that the articles or merchandise named in the said Schedule A be the natural product and industry or manufacture of the Islands and Spanish Provinces of Cuba and of Porto Rico, and provided further that the said articles or merchandise be carried directly from the said Islands to the United States in vessels owned exclusively by citizens of the United States or by Spanish citizens, and whose officers are also citizens respectively of said States or of Spain.

If during the existence of this treaty any reduction shall be made in the Customs Tariff of the United States on any article or articles named in Schedule A on which duties are fixed, the duties of said Schedule A shall be proportionally reduced on the aforesaid articles.

ARTICLE II.

Spain, in reciprocity for the concessions and privileges stipulated by the United States of America in the present Treaty, and as an equivalent therefor, agrees to admit into all the established ports of the Islands and Spanish Provinces of Cuba and of Porto Rico free of import duties, or with the duties fixed in the annexed Schedules letters B and C respectively, all the articles or merchandise enumerated in said Schedules, provided that the articles or merchandise enumerated in Schedules B and C be the natural product and industry or manufacture of the United States, and provided further that said articles or merchandise be carried directly from the United States to the aforesaid Islands in vessels owned exclusively by Spanish citizens or citizens of the United States, and whose officers are also respectively Spanish citizens or citizens of the United States.

If during the existence of this Treaty any reduction shall be made in the third column of the Customs Tariffs of Cuba or of Porto Rico, or in the column in force, in case said third column shall be substituted by another, on any article or articles named in Schedules B and C, on which duties are fixed, the duties of said Schedules B and C shall be proportionally reduced on the aforesaid articles.

The articles of merchandise which are the natural product and industry or manufacture of the United States, not embraced in the said Schedules B and C, shall pay on their importation into the Islands and Spanish Provinces of Cuba and of Porto Rico the duties fixed in the third column of the respective Customs Tariff at present in force, or the duties fixed in the column of the Customs Tariff which may be in force during the existence of this Treaty, without differential flag duty.

ARTICLE III.

The goods or merchandise which may be carried directly from the established ports of the United States, and which are not the natural product, industry or manufacture of the said United States, shall pay, on their importation through the established ports of the Islands of Cuba and of Porto Rico, no other duties than those which may be imposed and collected on similar or equivalent goods or merchandise, also carried directly in Spanish vessels from the first named ports which are not the natural product of the United States.

Reciprocally, the goods or merchandise which may be carried directly from the established ports of the Islands of Cuba and of Porto Rico in Spanish vessels, and which are not the natural product, industry or manufacture of the said Islands, shall pay, on their importation through the established ports of the United States, no other duties than those which may be imposed and collected on similar or equivalent goods or merchandise, also carried directly in vessels of the said United States, which are not the natural product of the aforementioned Islands.

ARTICLE IV.

The two High Contracting Parties respectively reserve the right to adopt the laws, ordinances and regulations which they may deem proper to protect their revenues and prevent fraud in the declarations and proof that the articles or merchandise enumerated in Schedules A, B and C annexed to this Treaty are the natural product, industry or manufacture of the United States, and the natural product, industry or manufacture of the Islands of Cuba and of Porto Rico, as the case may be, and are therefore entitled to the special privileges stipulated in the present Treaty and in the said Schedules.

The Government of each one of the contracting parties shall moreover have the right to amend, modify or amplify the laws, ordinances and regulations issued in the exercise of the power reserved to it by virtue of this article.

The said High Contracting Parties, however, mutually agree that the conductors or carriers of the merchandise which may not be of the origin required to enjoy the benefits of the Treaty, or with whose importation the attempt is made to violate the rules or measures established in virtue of this article to prevent fraud, shall not incur responsibility, fine, or imprisonment, unless the complicity of the said carriers in the attempt to commit it is proved. Vessels are also exempt from responsibility and fine if complicity on the part of the captains or owners of the vessels in the commission of the fraud is not proved.

ARTICLE V.

No export duty or charge new or superior to those established by the Tariffs at present in force shall be imposed in the Islands and Spanish Provinces of Cuba and of Porto Rico.

Any reduction which may be made in said Tariffs in the export duties shall be immediately applied to the merchandise mentioned in Schedule A.

Neither shall there be imposed in the United States any export duty or charge on the articles or merchandise mentioned in Schedules B and C.

ARTICLE VI.

None of the articles or merchandise enumerated in Schedules A, B and C nor any of the other articles the product of and proceeding from the United States or from the Islands and Spanish Provinces of Cuba and of Porto Rico, which may be imported into said Islands or States respectively, shall be subject to consumption duties or internal taxes of any kind, greater than those which are or may be imposed on equal or similar articles or merchandise of natural production of each one of the two contracting parties.

ARTICLE VII.

The manufacturers and merchants, as also the commercial travellers, of the Islands of Cuba and Porto Rico who may visit the United States on account of a house of said Spanish provinces; and reciprocally the manufacturers and merchants, as also the commercial travellers of the United States who may visit the Islands of Cuba and of Porto Rico on account of a house of the said States, may make, without being subject either in the United States or in the Islands of Cuba and Porto Rico to any duty, the purchases which their industry requires and receive orders of purchase, with or without samples, but without transporting merchandise.

ARTICLE VIII.

The articles upon which an import duty is paid which are used as samples, and may be brought into the Islands of Cuba and of Porto Rico by manufacturers, merchants or commercial travellers of the United States, and into the United States by manufacturers, merchants or commercial travellers of the Islands of Cuba and of Porto Rico, shall be admitted by each one of the contracting parties with temporary freedom of duties, under the customs formali-

ties necessary to guarantee the re-exportation of the said articles or their return to the customs wharehouses. These formalities shall be established in common accord by the two governments.

ARTICLE IX.

For reasons of public order and safety, the two contracting parties respectively reserve the right to establish rules and ordinances, in virtue of which both in the United States and in the islands of Cuba and Porto Rico, the importation and expertation, as the case may be, of gunpowder, dynamite or other explosive matters, and of arms and munitions of war, may be subject to special authorization or inspection, for the purpose of preventing the illicit transportation or use of the same.

ARTICLE X.

Vessels of the United States which proceeding directly from any port or ports of the same with cargo whether wholly of articles or merchandise the natural product, industry or manufacture of said States, or in part of foreign origin, embarked or transhipped in said port or ports of the United States, or which may go in ballast, on entering into a port or ports of the island of Cuba or of Porto Rico shall be exempt from all tonnage dues of whatever kind; and as to light-house dues, expenses of pilotage, hospital, port and other customary local dues, they shall pay no other or higher dues than those exacted from Spanish vessels engaged in the trade between the said States and islands.

ARTICLE XI.

Reciprocally, Spanish vessels which proceeding directly from any port or ports of the island of Cuba or of Porto Rico with cargo, whether wholly of articles or merchandise the natural product, industry or manufacture of the said islands, or in part of foreign origin embarked or transhipped in said port or ports of the island of Cuba or of Porto Rico, or which may go in ballast, or entering into a port or ports of the United States shall be exempt from all tonnage dues of whatever kind; and as to light-house dues, expenses of pilotage, hospital, port and other customary local dues, they shall pay no other or higher dues than those exacted from vessels of the United States engaged in the trade of said islands and States.

ARTICLE XII.

Vessels which may have their cargo and port of departure under the conditions stated in the two preceding articles shall be free to go from one port to another in the country or island of their destination, unloading or discharging the cargo which they carry consigned in due form to such several ports, on the same terms as vessels engaged in the coasting trade of the nation to which the ports belong, provided they pay the duties of the customs tariff or of the schedule corresponding to the importation of the cargo, in accordance with the present treaty.

ARTICLE XIII.

Vessels which may come within the conditions expressed in Articles X, XI and XII, shall not have the right, whether vessels of the United States or Spanish vessels, to take on board or embark in any port of the nation of its destination any kind of cargo to be conveyed to another port of the same nation in the aforesaid States and islands; as the local coasting trade is exclusively reserved for the flag of each one of the two high contracting parties in their respective territories.

ARTICLE XIV.

Vessels of the United States with or without cargo, proceeding from foreign ports and entering into those of the Islands of Cuba and of Porto Rico, and Spanish vessels with or without cargo proceeding from foreign ports and entering into those of the United States, whatever may be the place of origin or the destination of their cargo, shall enjoy under all circumstances on their entry, during their stay and on their departure, the same treatment as national vessels and their cargo proceeding from the same countries and with similar cargo.

ARTICLE XV.

Vessels of the United States or Spanish vessels which enter into the ports of the Islands of Cuba and Porto Rico, or into the ports of the said States, as the case may be, voluntarily or in distress, with or without cargo, and depart from the said ports without having transacted any commercial operation, shall be exempt from all tonnage, navigation, port and customs clearance dues or charges.

In the case of forced arrival in distress the discharge as well as the reloading or transshipment occasioned thereby, the necessary expense for provisioning the crew, and the sale of the damaged merchandise, shall not be considered commercial operations, provided that the competent customs officials have previously and in legal form authorized them.

ARTICLE XVI.

The consular officers of the United States and those of Spain shall not exact or receive, while this treaty remains in force, any of the fees enumerated in the tariff of consular fees of the United States or of Spain as compensation for official services which may be rendered to the vessel of the United States or of Spain engaged in the trade between the said United States and the Islands of Cuba and of Porto Rico, or respecting the cargoes conveyed by said vessels.

The two powers respectively reserve the right to recompense the service rendered to the shipping, commerce and trade mentioned in this article by the consular officers, adopting for the same the measures which they may deem proper, but without any charge on the said shipping and commerce, or the cargoes.

ARTICLE XVII.

The two high contracting parties mutually stipulate by the present treaty that the fines and pecuniary penalties which may be imposed, and the product of the forfeitures which may result from violations of the laws and of the customs ordinances of the United States and of the Islands of Cuba and of Porto Rico, when the fines, penalties and forfeitures proceed from violations of said laws and ordinances committed in the commerce of importation or exportation of said States and Islands, shall be paid in full into the public treasury of said States and Islands and shall remain absolutely under the control of the respective governments, without being received directly and with any preferred or any other kind of right by any informer or by any other individual.

The laws and regulations of each one of the two contracting parties shall establish the manner of recompensing individually the services rendered by public officials in the prosecution of fraud.

ARTICLE XVIII.

The two high contracting parties mutually agree that no fines or penalties shall be imposed either in the custom-houses of the United States or in those of the Islands of Cuba and of Porto Rico on the vessels of Spain or of the United States or on the captains thereof, engaged in the commerce of importation or exportation between said States and Islands, on account of errors or omissions in the manifests of any part of the cargo of said vessels, if it shall appear that said manifests agree with the bills of lading of said cargo, unless it is proved that there has been complicity on the part of the captains or owners of the vessels in the attempt to defraud the Treasury by said omissions or errors.

ARTICLE XIX.

Vessels of the United States and Spanish vessels whenever referred to in this treaty shall be understood to be vessels *bona fide* owned exclusively by citizens of the United States, or by Spanish citizens, and it shall also be understood that their captains and officers or pilots are also citizens of the United States and of Spain respectively, and no excuse or pretext whatever shall be admitted for failing to comply with these conditions for the benefit of other vessels or other ship-owners.

ARTICLE XX.

The citizens of the United States in the Islands of Cuba and of Porto Rico, and reciprocally Spanish citizens in said States, shall enjoy for their professions, industries and business of whatever character it may be, whether individually or in the quality of associates or in a cooperative capacity, the same rights and privileges which the citizens of the territory of their residence enjoy, under the conditions, however, of their being subject to the laws of the country in which they reside.

They shall also have free and easy access to the tribunals of justice to maintain their suits and defend their rights and claims; and the high contracting parties ratify by the present treaty the principles and provisions set forth in the Protocol signed at Madrid on the 12th of January, 1877, it being understood that it shall be applied in all its effects to cases in which the accused are not more favored in respect to their defence and rights by the law for the application of the penal code in the Island of Cuba promulgated on the 23d of May, 1879, and that it shall be applied in the same manner provided that they are submitted to the military jurisdiction in virtue of the stipulation of said Profocol herein ratified.

ARTICLE XXI.

The citizens of the United States resident or temporarily residing in the Islands of Cuba and of Porto Rico, and reciprocally Spanish citizens resident or temporarily residing in the United States shall not be subject to other or greater taxes than those which may be exacted of the citizens of the nation to which the territory of their residence belongs. They shall be exempt from all personal service in the army, in the navy and in the national militia and exempt from all war tax, forced loans, charges and military contributions of whatever kind and their vessels, cargoes, merchandise or other property shall not be detained for any public use whatever, without previous indemnification fixed upon a just and equitable basis by experts designated by the parties and an umpire. They shall also reciprocally enjoy in said territories the privileges, immunities and favors of whatever kind granted or which may be granted to the citizens of a third power.

ARTICLE XXII.

Each one of the high contracting parties reserves exclusively for its nationality the right of fishing in their respective territorial waters; but fish procured by the vessels of one or the other power on the high sea or within the jurisdiction of a third power shall be held to be the product of the nation to which the vessel belongs.

ARTICLE XXIII.

Each one of the two high contracting parties binds itself to make extensive to the other in the United States and in the Spanish provinces of Cuba and of Porto Rico, reciprocally, all favors and concessions in regard to customs tariffs, commerce, navigation, property and persons, which either one of them may have conceded or may concede to a third power; it being understood that the favors and concessions granted to said third power shall be enjoyed gratuitously, if the concession shall have been gratuitous, or said other contracting party giving the same or other equivalent compensation if the concession be conditional.

ARTICLE XXIV.

The stipulations contained in this treaty shall not prevent either of the high contracting parties from making such changes in their customs tariffs and navigation dues as they may see proper, nor limit the liberty of action of either of the contracting parties to treat and agree with other powers as it may deem its interests require, in order to extend to the said powers by means of treaties, protocols or other international compacts, freedom of duties, reductions and favors equal or similar to those stipulated in the present treaty, under the same or similar conditions.

ARTICLE XXV.

The two high contracting parties agree that the doubts which may arise on the interpretation or execution of this treaty, or the claims which may be made in consequence of any violation of the same, shall be submitted, when the means to adjust them directly by friendly accord may have failed, to the arbitration of a single arbitrator who shall be a citizen of one or the other of the two nations chosen by common consent by the respective governments, or, in case of disagreement, a citizen of a third power selected by common accord by the said governments, and on failure of this accord, the nomination of the arbitrator shall be entrusted to the President of the Swiss Confederation.

Both contracting parties bind themselves to furnish to said arbitrator all the antecedents, data and evidence which may be pertinent to the facts and to the law of the case submitted to arbitration. The decision which is given by the arbitrator shall be binding and conclusive, and shall be complied with without evasion or delay. The expenses occasioned by the arbitration shall be paid conjointly in equal moities by the contracting parties.

ARTICLE XXVI.

This treaty shall be ratified by the President of the United States, by and with the advice and consent of the Senate thereof, and by Spain, in accordance with the law which authorizes its government to celebrate it, and it shall go into effect thirty days after having been officially published by the two governments by mutual agreement on the same day.

The publication shall not be made, however, until after the Congress of the United States shall have passed the laws necessary to carry it into effect and both governments shall have adopted regulations accordingly, which shall take place within six months from the date of signature.

ARTICLE XXVII.

The duration of the present treaty shall be for seven years, from the date on which it is put into force by both contracting parties in accordance with the preceding article, and shall remain in force so long as neither of the said contracting parties shall definitely, one year in advance, inform the other of its intention and decision to consider it at an end—at the expiration of the term of twelve months from the date when it may make known its resolution.

Each one of the contracting parties shall have the right, at the expiration of seven years, or at any time thereafter, to notify the other of the resolution to which the preceding paragraph refers.

ARTICLE XXVIII.

The ratifications of the present treaty shall be exchanged at Madrid as soon as possible after the approbation to which the preceding article refers.

In faith whereof the respective Plenipotentiaries have signed the present treaty, and have affixed thereto their respective seals.

Done in duplicate at Madrid the eighteenth of November, one thousand eight hundred and eighty-four.

JOHN W. FOSTER. [SEAL.] [SEAL.]
SALVADOR DE ALBACETE. [SEAL.] [SEAL.]

SCHEDULE A.

List of articles produced and manufactured in the provinces of Cuba and Porto Rico which shall be admitted into the United States under the conditions stated in the following schedule A:

SCHEDULE A.

Articles.	Unit.	Dollars. Cents.
1. Horses, only to improve the breed and all other animals, live, including land and water fowls.		Free.
2. Cocoa, crude, prepared, or manufactured, and fiber, leaves and shells of cocoa.		Free.
3. Coffee		Free.
4. Fish and shell fish, live, fresh, dried, salted, in brine, smoked and pickled.		Free.
5. Fruits, fresh, dried, and preserved, including almonds, walnuts, and filberts.		Free.
6. Cotton, hemp, flax, and all other vegetable fibers, raw.		Free.
7. Hides and skins, undressed, except sheep skins with the wool on.		Free.
8. Indigo		Free.
9. Dye woods and all other vegetable products used in dyeing and tanning.		Free.
10. Mineral and mineral ores, unrefined		Free.
11. Palm and cocoa-nut oil		Free.
12. All sugars not above No. 16 Dutch Standard in color, according to the tests now in force in the custom houses of the United States.		Free.
13. Tank bottoms, sirups of cane juice, melada, concentrated melada, concrete and concentrated molasses.		Free.
14. Cigars, cigarettes and cheroots of all kinds, one dollar and twenty-five cents per pound and twelve and one-half per centum ad valorem; but paper cigars and cigarettes, including wrappers, shall be subject to the same duties as are herein fixed for cigars.		
15. Leaf-tobacco, of which eighty-five per cent. is of the requisite size and of the necessary fineness of texture to be suitable for wrappers, and of which more than one hundred leaves are required to weigh a pound, if not stemmed, thirty-seven and one-half cents per pound; if stemmed, fifty cents per pound.		
16. All other tobacco in leaf, unmanufactured, and not stemmed seventeen and one-half cents per pound.		
17. Tobacco stems, seven and one-half cents per pound.		
18. Tobacco, manufactured, of all description, and stemmed tobacco, not specially enumerated or provided for in this schedule, twenty cents per pound.		
19. Snuff and snuff flour, manufactured of tobacco, ground, dry, or damp, and pickled, scented or otherwise, of all descriptions, twenty-five cents per pound.		
20. Tobacco, unmanufactured, not otherwise specially enumerated or provided for in this schedule, fifteen per centum ad valorem.		
21. Garden products and vegetables, fresh and dried, including potatoes.		Free.
22. Woods of all kinds, in logs or pieces, beams, rafters, boards, planks, round masts and flooring though cut, planed and tongued and grooved.		Free.
23. Iron, cast in pigs and all useless articles of iron and steel.		Free.
24. Eggs		Free.
25. Honey		Free.
26. Beeswax		Free.
27. Tallow		Free.
28. Sponges		Free.
29. Bones, horns, hiderope, tortoise shells, and animal remains unmanufactured.		Free.
30. Guano, manures and all substances expressly used for manure.		Free.
31. Rushes, esparto, vegetable hair, soft rushes, willow, fine straw, palm and other similar materials, unmanufactured.		Free.
32. Gold and silver coin		Free.

JOHN W. FOSTER. [SEAL.]
SALVADOR DE ALBACETE. [SEAL.]

SCHEDULE B.

List of articles produced and manufactured in the United States which shall be admitted into the Spanish Provinces of the Island of Cuba under the conditions stated in the following schedule:

Articles.	Unit.	Pesos. Cents.
CLASS A.—STONES, EARTHY MATTERS, MINERALS, GLASSWARE AND POTTERY PRODUCTS.		
First Group.—Stones, earthy matters and minerals.		
1. Marble, jasper and alabaster in rough or in pieces dressed, squared and prepared for taking shape.		Free.
2. Same, of all classes, cut into flags, slabs or steps of every size, polished or not.	100 kilograms	0.50
3. Same, worked or carved into all kinds of objects, polished or not.	100 kilogs	1.50
4. Other stones or earthy matters employed in building, arts and manufactures.		Free.
5. Minerals or mineral ores		Free.
6. Mineral waters		Free.
7. Ice		Free.
8. Coal, mineral and vegetable		Free.
Second Group.—Schists, bitumen and their products.		
9. Asphalt, schist, bituminous matter, pitch, tar and resin.		Free.
10. Petroleum, raw or crude		Free.
11. Same, refined and benzine	100 kilogs	1.00
Third Group.—Crystal and Glassware.		
12. Glassware, hollow, common or ordinary	100 kilogs	1.50
13. Crystal, hollow, and the glassware which imitates it.	100 kilogs	4.00
14. Plate and window glass	100 kilogs	2.50
15. Glass and crystal quicksilvered, silvered, platinized and crystals for spectacles and watches.	100 kilogs	10.00
Fourth Group.—Clay worked, earthenware and porcelain.		
16. Clay in tiles, brick and roof tiles unglazed for the construction of buildings, ovens &c.		Free.
17. Clay in tiles, large and small and mosaic for pavements, colored tiles, roof tiles glazed and pipes.	100 kilogs	0.00
18. Stoneware and fine earthenware	100 kilogs	2.50
19. Porcelain	100 kilogs	4.50
CLASS B.—METALS AND ALL MANUFACTURES IN WHICH METAL ENTERS AS A PRINCIPAL ELEMENT.		
First Group.—Gold and Silver.		
20. Gold and silver coin		Free.
Second Group.—Iron and Steel.		
21. Iron cast in pigs, and all useless articles of iron and steel.		Free.
22. Iron cast in pipes and ordinary manufactures.		Free.
23. Same, in fine manufactures or those polished, with coating of porcelain or part of other metals.		Free.
24. Iron forged or wrought and steel in bars of all kinds, plates, axles, tires, springs, and wheels for carriages, rivets, and their washers and anchors and chains for vessels.		Free.
25. Same, in wire, nails, screws, nuts and pipes.		Free.
26. Same, in ordinary manufactures and wire cloth unmanufactured.		Free.
27. Same, in fine manufactures or those polished, with coating of porcelain or part of other metals, not expressly comprised in other numbers of this schedule and platform scales for weighing.	100 kilogs	5.00
28. Tin plate in sheets	100 kilogs	2.00
29. Same, manufactured	100 kilogs	5.00
30. Needles, pens, pieces for watches and other similar articles of iron and steel.	Kilogram	0.50
31. Knives, table and carving, razors, penknives and scissors for sewing.	Kilogram	0.15
Third group.—Copper, nickel and their alloys.		
32. Copper, bronze, brass and nickel, in lump, bars, ingots and useless objects.	100 kilogs	2.00
33. Same metals in plates, nails, pipes, wire and wire cloth unmanufactured.	100 kilogs	5.00
34. Same, manufactured and all alloys of common metals in which copper or nickel enters, in articles varnished or not.	100 kilogs	12.00
35. Same, manufactured in gilt or silvered articles.	100 kilogs	35.00
Fourth Group.—Other common metals.		
36. All other common metals and alloys of the same, in lump, bars, ingots, and useless objects.	100 kilogs	1.50

SCHEDULE B—Continued.

Articles.	Unit.	Pesos.	Cents.
37. Same, in plates, sheets, wire, nails and pipes.	100 kilogs		2.50
38. Same, manufactured in articles varnished or not.	100 kilogs		5.00
39. Same, manufactured in gilt, silvered or nickeled articles.	100 kilogs		15.00
CLASS C.—SUBSTANCES EMPLOYED IN CHEMICAL INDUSTRIES.			
First Group.—Simple drugs.			
40. Cotton and other oleaginous seeds and the products of the same, except oils.		Free.	
41. Tanbark		Free.	
Second Group.—Colors, inks, and varnishes.			
42. Colors prepared, inks of all kinds and shoe-blacking.	100 kilogs		1.25
43. Varnishes	100 kilogs		4.00
Third Group.—Chemical products.			
44. Salt, common (chloride of sodium)	100 kilogs		0.30
Fourth Group.—Various.			
45. Soap, common	100 kilogs		2.50
46. Parrafine, stearine, wax and whale sperm, in mass or manufactured.	100 kilogs		5.00
47. Tallow, common, manufactured into candles.	100 kilogs		3.00
48. Tallow and all other animal greases unmanufactured, not embraced in other numbers of this schedule.		Free.	
CLASS D.—COTTON AND ITS MANUFACTURES.			
First Group.—Cotton, raw.			
49. Cotton, raw, with or without seed		Free.	
Second Group.—Spun.			
50. Cotton, spun and twisted from one to three threads, unbleached, bleached or dyed.	Kilogram		0.15
51. Same, twisted, of more than three threads.	Kilogram		0.30
Third Group.—Textiles.			
52. Textiles closely woven, plain, twilled, and satin faced, unbleached, bleached, and dyed, in pieces, handkerchiefs and ribbons, up to ten threads inclusive (A and B).	Kilogram		0.09
53. Same, from eleven to sixteen threads (A and B).	Kilogram		0.12
54. Same, from seventeen to twenty two threads (A and B).	Kilogram		0.20
55. Same, from twenty three to twenty eight threads (A and B).	Kilogram		0.30
56. Same, of twenty nine threads and upwards (A and B). (A) The number of threads cited in these various numbers of the schedule will be determined by the half of the total of threads contained in a length of six millimetres in the weft and the same length in the warp of the cloth, the counting to be done with the instrument called "thread counter." In worked textiles the number will be determined by counting in the plain part. (B) When these cloths embroidered by hand or machinery, may have a mixture of metal or are sewn or basted, they will pay according to numbers 162, 163 and 164 of this schedule.	Kilogram		0.40
57. Textiles closely woven, plain, twilled or satin-faced, printed, in pieces, handkerchiefs and ribbons, up to ten threads, inclusive (A and B).	Kilogram		0.15
58. Same, from eleven to sixteen threads (A and B).	Kilogram		0.20
59. Same, from seventeen to twenty two threads (A and B).	Kilogram		0.35
60. Same, from twenty three to twenty eight threads (A and B).	Kilogram		0.50
61. Same, of twenty nine threads and upwards (A and B).	Kilogram		0.60
62. Textiles light or transparent, smooth or worked, up to twelve threads inclusive (A and B).	Kilogram		0.25
63. Same, from thirteen to seventeen threads (A and B).	Kilogram		0.30
64. Same, from eighteen to twenty three threads (A and B).	Kilogram		0.45
65. Same, of twenty four threads and upwards (A and B).	Kilogram		0.65
66. Quiltings, blankets, moletons and shaggy textiles (B).	Kilogram		0.15
67. Corduroys and velveteens (B)	Kilogram		0.45

SCHEDULE B—Continued.

Articles.	Unit.	Pesos.	Cents.
68. Tulles, lace edgings and crochet (B)	Kilogram		0.75
69. Textiles, knitted (B)	Kilogram		0.45
CLASS E.—OTHER VEGETABLE FIBRES AND THEIR MANUFACTURES.			
First Group.—Raw.			
70. Hemp, flax, manila hemp, hennequin, jute and all other vegetable fibres, raw.		Free.	
Second Group.—Cordage.			
71. Rope and cordage of all kinds	100 kilogs		3.00
Third Group.—Textiles.			
72. Textiles of said fibres, alone, mixed with each other or with cotton, unbleached, although they may have colored stripes, plain or twilled, smooth, up to five threads inclusive (A).	Kilogram		0.06
73. Same, plain, smooth in pieces, handkerchiefs and ribbons, up to ten threads inclusive (A and B).	Kilogram		0.12
74. Same, from eleven to fifteen threads (A and B).	Kilogram		0.20
75. Same, from sixteen to twenty threads (A and B).	Kilogram		0.40
76. Same, of twenty one threads and upwards (A and B).	Kilogram		0.75
77. Textiles twilled and satin faced, unbleached or dyed (B).	Kilogram		0.18
78. Textiles twilled and satin faced, bleached or printed (B).	Kilogram		0.30
79. Laces, edgings and textiles knitted (B)	Kilogram		0.75
80. Carpets	Kilogram		0.04
CLASS F.—WOOLS, BRISTLES, HAIR, HORSE-HAIR AND THEIR MANUFACTURES.			
First Group.—Raw and Spun.			
81. Wools, bristles, hair, horsehair and their refuse, raw.		Free.	
82. Yarns of all classes	Kilogram		0.40
Second Group.—Textiles.			
83. Carpets of pure wool or mixed with other materials.	Kilogram		0.20
84. Feltings of pure wool or mixed with other materials (B).	Kilogram		0.08
85. Blankets, baizes and other similar articles of pure wool or mixed with other materials, with hair, on one or both sides, which may not have been cleansed (B).	Kilogram		0.10
86. Textiles of hosiery mixed or unmixed with vegetables fibres (B).	Kilogram		0.75
87. Cloths and all other textiles of the cloth line, of pure wool, flock wool, hair or mixed with these materials (B).	Kilogram		1.50
88. Same, when they may have all the warp or all the weft of vegetable fibres (B).	Kilogram		0.75
89. Other textiles of pure wool, flock wool, hair, or mixed with these materials, plain and smooth, in pieces, handkerchiefs and ribbons (B).	Kilogram		0.70
90. Same, when they may have all the warp or all the weft of vegetable fibres (B).	Kilogram		0.50
91. Same, of pure wool, flock wool, hair or mixed with these materials, twilled and satin faced, and the plain worked in loom, brocaded or flowered (B).	Kilogram		1.50
92. Same, when they may have all the warp or all the weft of vegetable fibres (B).	Kilogram		0.75
CLASS G.—PAPER AND ITS APPLICATIONS.			
First Group.—For printing and writing.			
93. Paper continuous for printing, white or colored.	100 kilogs		1.80
94. Paper for writing, lithographing and stamping, and carboard.	100 kilogs		4.00
95. Paper cut in sheets for letters and envelopes, hand made, for cigarettes, ruled and blank books.	100 kilogs		6.50
Second Group.—Paper, printed, engraved or photographed.			
96. Paper, printed or lithographed, in sheets, newspapers, pamphlets and books, bound or unbound, and music paper.		Free.	
97. Engravings, drawings, photographs, maps, labels and playing cards.	Kilogram		0.25
Third Group.—Paper for decorating rooms.			
98. Paper for decorating rooms	100 kilogs		4.00
Fourth Group.—Paper, various.			
99. Paper, brown, ordinary for packing, sandpaper and paste-board in sheets.	100 kilogs		1.50

SCHEDULE B—Continued.

Articles.	Unit.	Pesos.	Cents.
CLASS H.—WOOD AND OTHER VEGETABLE MATERIALS EMPLOYED IN INDUSTRY AND THEIR MANUFACTURES.			
First Group.—Woods.			
100. Woods of all kinds, in logs or pieces, beams, rafters, boards, planks, round masts and flooring, although cut, planed, tongued and grooved.		Free.	
101. Staves and wooden hoops		Free.	
102. Cooperage and wooden boxes, mounted or unmounted, for packing.		Free.	
Second Group.—Furniture and art manufactures.			
103. Wood, ordinary, manufactured into doors, window frames and shutters, white or without paint or varnish.		Free.	
104. Wood, ordinary, manufactured into all kinds of articles, turned or unturned, painted or varnished, except doors, window frames and shutters in white.		Free.	
105. Wood, fine, manufactured into all kinds of articles, those of ordinary wood, carved or veneered with fine woods, those upholstered, except with silk, textiles or leather, and gilt lists or borders.	100 kilogs		10.00
106. Same, in the same articles gilt, those which may be inlaid, veneered or ornamented with metal, ivory, tortoise shell or mother of pearl and those upholstered with silk textiles or leather.	100 kilogs		20.00
Third Group.—Various.			
107. Rushes, esparto, vegetable hair, soft rush, willow, fine straw, palm and other similar materials manufactured into articles which are not specifically enumerated in the tariff of the Island of Cuba.	100 kilogs		3.00
CLASS I.—ANIMALS, SKINS AND OTHER ANIMAL PRODUCTS EMPLOYED IN INDUSTRY AND THEIR MANUFACTURES.			
First Group.—Animals.			
108. Asses		Free.	
109. Mules		Free.	
110. Horses, imported for breeding purposes		Free.	
111. Cattle		Free.	
112. Swine		Free.	
113. Sheep and goats		Free.	
Second group.—Leather and skins.			
114. Hides and skins undressed		Free.	
115. Leather and skins varnished or japaned and calf skins tanned or dressed.	Kilogram		0.20
116. Other leather and skins tanned or dressed, including sole leather and belting for machinery.	Kilogram		0.08
117. Boots and shoes wholly or partially made of leather or skins.	Kilogram		1.20
118. Trunks, valises, travelling bags and hat boxes.	Kilogram		0.15
119. Other articles of harness and saddlery	Kilogram		0.20
Third group.—Other animal products.			
120. Manures, natural or artificial		Free.	
CLASS J.—INSTRUMENTS, MACHINES AND APPARATUS.			
First Group.—Watches and clocks.			
121. Watches, gold	Each		1.00
122. Other watches	Each		0.25
123. Clocks with cases of stone, gilt or silvered metal, wood inlaid or ornamented with metal, ivory, tortoise shell or mother of pearl, and chronometers.	Each		1.00
124. All other clocks	Each		0.25
Second Group.—Machines and apparatus.			
125. Implements, utensils and tools for agricultural arts and trades.		Free.	
126. Machines and apparatus, agricultural, motive, industrial and scientific, of all classes and materials, and loose pieces for the same.		Free.	
127. Material and articles for public works, such as railroads, tramways, roads, canals for irrigation and navigation, use of waters, ports, light houses, and civil constructions of general utility, when preceded by authorization of the Government or if free admission is obtained in accordance with special laws.		Free.	
Third Group.—Carriages.			
128. Passenger carriages for railroads and tramways, when the importers may not have obtained free admission, either by authorization of the Government or in accordance with special laws.	100 kilogs		2.00

SCHEDULE B—Continued.

Articles.	Unit.	Pesos.	Cents.
129. Other vehicles for railroads or tramways and the pieces of wood, iron and steel for the same, when the importers may not have obtained free admission either by authorization of the government or in accordance with special laws.	100 kilogs		1.00
130. Wagons, carts and hand carts and the pieces of wood, iron and steel for the same.	100 kilogs		1.00
131. Carriages for ordinary roads of two or four wheels, without top or hood.	Each		25.00
132. Other carriages for ordinary roads	Each		55.00
Fourth Group.—Materials for naval construction.			
133. Materials of all classes for the construction, repair or refitting of vessels, subject to the following rules: 1. The importers have necessarily to be owners, fitters out or constructors of vessels, machines or boilers. 2. The duties on the materials or effects shall be paid in advance, but shall be returned at the request of those interested, when the use of the materials or effects in the said construction or repair, has been proved by the proper proceeding. 3. It is an indispensable condition that there shall be among the proofs a survey of the vessel or work done or repairs made, by experts designated by the Intendency of Finance and the Naval authorities, accompanied by a surveyor of the customs, in which is stated the importance of the work done, the class and amount of the materials imported, used in it, and those which may have remained. And 4. For the return of the duties conditionally paid, the weight or bulk of the materials and articles shall be appraised accordingly as they are noted in the tariff, by the weight or bulk which may be shown by the work done or completed; so that the part of the duty corresponding to the waste or loss which result from the construction or transformation of the material, may remain to the benefit of the Treasury.		Free.	
CLASS K.—ALIMENTARY SUBSTANCES.			
First Group.—Meats and fish.			
134. Land and water fowls		Free.	
135. Meats, fresh, in brine, salted and smoked, except jerked beef.		Free.	
136. Pork and hams		Free.	
137. Lard and Butter		Free.	
138. Fish and shell fish, live, fresh, dried, in brine, salted, smoked and pickled.		Free.	
Second Group.—Grain and its preparations.			
139. Wheat	100 kilogs.		0.50
140. Rice, hulled or unhulled		Free.	
141. Other cereals		Free.	
142. Wheat flour—			
During the first year of the duration of the treaty	100 kilogs		2.50
During the second year	100 kilogs		2.22
During the third year	100 kilogs		1.94
From the beginning of the fourth year	100 kilogs		1.65
143. Flour of the other cereals, except rice		Free.	
144. Pastes for soup, rice flour, starch and alimentary farinas	100 kilogs		2.00
145. Bread and common crackers	100 kilogs		2.00
146. Crackers, fine	100 kilogs		3.00
Third Group.—Fruits, vegetables, and garden products.			
147. Fruits, fresh, dried and preserved		Free.	
148. Garden products and vegetables, fresh and dried		Free.	
Fourth Group.—Drinks.			
149. Beer of all kinds		Free.	
Fifth Group.—Other alimentary substances.			
150. Preserved alimentary substances, sausages, mustard, sauces and pickles	Kilogram		0.08
151. Cheese		Free.	
152. Eggs		Free.	
153. Hay and straw for forage		Free.	
CLASS L.—VARIOUS.			
154. Rubber and gutta-percha in sheets, threads, pipes, hose, boots and shoes, and life preservers.	Kilogram		0.15
155. The same materials manufactured into other articles.	Kilogram		0.40

SCHEDULE B—Continued.

Articles.	Unit.	Pesos.	Cents.
156. Oil cloths and tarpaulin for floors and for packing.	Kilogram		0.05
157. Same, of other classes	Kilogram		0.13
158. Textiles of rubber mixed with other materials.	Kilogram		0.55
159. Tobacco in leaf and chewing	100 kilogs		3.50
160. Trees, plants, shrubs and garden seeds		Free.	
161. Sacks for sugar packing		Free.	
162. Cloths embroidered by hand or machinery out of the loom; and those mixed with metal, embroidered or not embroidered. Will pay the duty corresponding to its class plus twenty-five per cent. of the same duty.		25%	
163. Clothing, made; including linen articles, whether both are completely finished or simply basted. Will pay on its total weight the duty named on the cloth of which the exterior part is composed, plus an additional thirty per cent. of the said duty.		30%	
164. Clothing made of embroidered cloth or mixed with metal. Will pay on its total weight the duty corresponding to the textile embroidered or mixed with metal, plus an additional thirty per cent. of the said duty.		30%	

Note to item Number 142 of Schedule B. During the time this schedule is in force, for the fulfilment of the Treaty to which it is annexed, and as soon as item Number 142 in regard to Wheat flour reaches the duty of one dollar and sixty five cents per one hundred Kilograms, all reduction which may be made on the duty which foreign flour now pays on its introduction into the ports of the Peninsula, shall be extended *ipso facto* to the duties of the Schedule B fixed for the fourth year in the aforesaid number 142.

The reduction of duties in the Peninsula which may be of a transitory character and made for a brief period on account of the failure of the crops, is excepted from the foregoing rule and from the application to Cuba of the reduction of duties on flour imported from foreign countries into the Peninsula. It shall be understood that the transitory reductions in such case and circumstances are those whose duration does not exceed the period of six months.

JOHN W. FOSTER. [SEAL.]
SALVADOR DE ALBACETE. [SEAL.]

SCHEDULE C.

List of articles produced and manufactured in the United States which shall be admitted in the Island and Spanish province of Porto Rico under the conditions stated in the following schedule:

Articles.	Unit.	Pesos.	Cents.
CLASS A.—STONES, EARTHY MATTERS, MINERALS, GLASSWARE AND POTTERY PRODUCTS.			
First Group.—Stones, earthy matters and minerals.			
1. Marble, jasper and alabaster in rough or in pieces dressed, squarred and prepared for taking shape.		Free.	
2. Same, of all classes, cut into flags, slabs or steps of every size, polished or not.	100 kilogs		0.50
3. Same, worked or carved into all kinds of objects polished or not.	100 kilogs		1.50
4. Other stones and earthy matters employed in buildings, arts and manufactures.		Free.	
5. Minerals or mineral ores		Free.	
6. Mineral waters		Free.	
7. Ice		Free.	
8. Coal, mineral and vegetable		Free.	
Second Group.—Schists, bitumen and their products.			
9. Asphalt, schist, bituminous matter, pitch, tar and resin.		Free.	
10. Petroleum, raw or crude		Free.	
11. Same, refined, and benzine	100 kilogs		1.00
Third group.—Crystal and glassware.			
12. Glassware, hollow, common or ordinary	100 kilogs		1.50
13. Crystal, hollow, and the glassware which imitates it.	100 kilogs		4.00
14. Plate and window glass	100 kilogs		2.50
15. Glass and crystal quick-silvered, silvered, platinized, and crystals for spectacles and watches.	100 kilogs		10.00
Fourth Group.—Clay worked, earthenware and porcelain.			
16. Clay in tiles, bricks and roof tiles unglazed for the construction of buildings, ovens &c.		Free.	
17. Clay in tiles, large and small and mosaic for pavements, colored tiles, roof tiles glazed and pipes.	100 kilogs		0.60
18. Stoneware and fine earthenware	100 kilogs		2.50
19. Porcelain	100 kilogs		4.50

SCHEDULE C—Continued.

Articles.	Unit.	Pesos.	Cents.
CLASS B.—METALS AND ALL MANUFACTURES IN WHICH METAL ENTERS AS A PRINCIPAL ELEMENT.			
First Group.—Gold and Silver.			
20. Gold and silver coin		Free.	
Second Group.—Iron and steel.			
21. Iron cast in pigs, and all useless articles of iron and steel.		Free.	
22. Iron cast in pipes and ordinary manufactures.		Free.	
23. Same, in fine manufactures or those polished, with coating of porcelain or part of other metals.		Free.	
24. Iron forged or wrought and steel in bars of all kinds, plates, axles, tires, springs and wheels for carriages, rivets and their washers and anchors and chains for vessels.		Free.	
25. Same, in wire, nails, screws, nuts and pipes.		Free.	
26. Same, in ordinary manufactures and wire cloth manufactured.		Free.	
27. Same, in fine manufactures or those polished, with coating of porcelain or part of other metals, not expressly comprised in other Numbers of this Schedule and platform scales for weighing.	100 kilogs		4.00
28. Tin plate, in sheets	100 kilogs		2.00
29. Same, manufactured	100 kilogs		5.00
30. Needles, pens, pieces for watches and other similar articles of iron and steel.	Kilogram		0.50
31. Knives, table and carving, razors, penknives and scissors for sewing.	Kilogram		0.15
Third Group.—Copper, nickel and their alloys.			
32. Copper, brass and nickel, in lump, bars, [illegible] and useless objects.	100 kilogs		2.00
33. Same metals, in plates, nails, pipes, wire and wire cloth unmanufactured.	100 kilogs		5.00
34. Same, manufactured and all alloys of common metals, in which copper or nickel enter, in articles varnished or not.	100 kilogs		13.00
35. Same, manufactured in gilt or silvered articles.	100 kilogs		35.00
Fourth Group.—Other common metals.			
36. All other common metals and alloys of the same in lump, bars, ingots and useless objects.	100 kilogs		1.50
37. Same, in plates, sheets, wire, nails and pipes.	100 kilogs		2.50
38. Same, manufactured in articles varnished or not.	100 kilogs		5.00
39. Same, manufactured in gilt, silvered or nickeled articles.	100 kilogs		15.00
CLASS C.—SUBSTANCES EMPLOYED IN CHEMICAL INDUSTRIES.			
First Group.—Simple drugs.			
40. Cotton and other oleaginous seeds and the products of the same, except oils.		Free.	
41. Tanbark		Free.	
Second Group.—Colors, inks and varnishes.			
42. Colors prepared, inks of all kinds and shoe blacking.	100 kilogs		1.25
43. Varnishes	100 kilogs		4.00
Third Group.—Chemical products.			
44. Salt, common (chloride of sodium)	100 kilogs		0.60
Fourth Group.—Various.			
45. Soap, common	100 kilogs		2.50
46. Paraffine, stearine, wax and whale sperm, in mass or manufactured.	100 kilogs		5.00
47. Tallow, common, manufactured into candles.	100 kilogs		3.00
48. Tallow and all other animal greases unmanufactured, not embraced in other Numbers of this schedule.		Free.	
CLASS D.—COTTON AND ITS MANUFACTURES.			
First Group.—Cotton, raw.			
49. Cotton, raw, with or without seed		Free.	
Second Group.—Spun.			
50. Cotton, spun and twisted from one to three threads, unbleached, bleached or dyed.	Kilogram		0.15
51. Same, twisted of more than three threads	Kilogram		0.03

SCHEDULE C—Continued.

Articles.	Unit.	Pesos.	Cents.
Third Group.—Textiles.			
52. Textiles closely woven, plain, twiled and satin faced, unbleached, bleached and dyed, in pieces, handkercheifs and ribbons, up to ten threads inclusive (A and B).	Kilogram		0.08
53. Same, from eleven to sixteen threads (A and B).	Kilogram		0.12
54. Same, from seventeen to twenty two threads (A and B).	Kilogram		0.17
55. Same, from twenty three to twenty eight threads (A and B).	Kilogram		0.25
56. Same, twenty nine threads and upwards (A and B).	Kilogram		0.30
(A) The number of threads cited in these various Numbers of the Schedule will be determined by the half of the total of threads contained in a length of six millimetres in the weft and the same length in the warp of the cloth, the counting to be done with the instrument called "thread counter." In worked textiles the number will be determined by counting in the plain part.			
(B) When these cloths embroidered by hand or machinery, may have a mixture of metal, or are sewn or basted, they will pay according to Numbers 162, 163 and 164 of this Schedule.			
57. Textiles closely woven, plain, twilled or satin faced, printed, in pieces, handkerchiefs and ribbons, up to ten threads inclusive (A and B).	Kilogram		0.14
58. Same, from eleven to sixteen threads (A and B).	Kilogram		0.18
59. Same, from seventeen to twenty two threads (A and B).	Kilogram		0.30
60. Same, from twenty-three to twenty eight threads (A and B).	Kilogram		0.45
61. Same, of twenty-nine threads and upwards (A and B).	Kilogram		0.52
62. Textiles light or transparent, smooth or worked, up to twelve threads inclusive (A and B).	Kilogram		0.20
63. Same, from thirteen to seventeen threads (A and B).	Kilogram		0.25
64. Same, from eighteen to twenty three threads (A and B).	Kilogram		0.35
65. Same, of twenty four threads and upwards (A and B).	Kilogram		0.60
66. Quiltings, blankets, moletons and shaggy textiles (B).	Kilogram		0.10
67. Corduroys and velveteens (B)	Kilogram		0.45
68. Tulles, lace edgings and and crochet (B)	Kilogram		0.75
69. Textiles, knitted (B)	Kilogram		0.40
CLASS E.—OTHER VEGETABLE FIBRES AND THEIR MANUFACTURES.			
First Group.—Raw.			
70. Hemp, flax, Manila hemp, hennequin, jute and all other vegetable fibres, raw.		Free.	
Second Group.—Cordage.			
71. Rope and cordage of all kinds	100 kilogs		5.00
Third Group.—Textiles.			
72. Textiles of said fibres, alone, mixed with each other or with cotton, unbleached, although they may have colored stripes, plain or twilled, smooth, up to five threads inclusive (A).	Kilogram		0.08
73. Same, plain, smooth, in pieces, handkerchiefs and ribbons, up to ten threads inclusive (A and B).	Kilogram		0.12
74. Same, from eleven to fifteen threads (A and B).	Kilogram		0.20
75. Same, from sixteen to twenty threads (A and B).	Kilogram		0.40
76. Same, of twenty-one threads and upwards (A and B).	Kilogram		0.75
77. Textiles, twilled and satin faced, unbleached or dyed (B).	Kilogram		0.18
78. Textiles twilled and satin faced, bleached or printed (B).	Kilogram		0.30
79. Laces, edgings and textiles knitted (B)	Kilogram		0.75
80. Carpets	Kilogram		0.04
CLASS F.—WOOLS, BRISTLES, HAIR, HORSE HAIR AND THEIR MANUFACTURES.			
First Group.—Raw and spun.			
81. Wools, bristles, hair, horse hair and their refuse, raw.		Free	
82. Yarn of all classes	Kilogram		0.40
Second Group—Textiles.			
83. Carpets of pure wool or mixed with other materials.	Kilogram		0.20

SCHEDULE C—Continued.

Articles.	Unit.	Pesos.	Cents.
84. Fettings of pure wool or mixed with other materials (B).	Kilogram		0.08
85. Blankets, baizes and other similar articles of pure wool or mixed with other materials, with hair, on one or both sides, which may not have been cleansed (B).	Kilogram		0.10
86. Textiles of hosiery mixed or unmixed with vegetable fibres (B).	Kilogram		0.75
87. Cloths and all other textiles of the cloth line, of pure wool, flock wool, hair or mixed with these materials (B)	Kilogram		1.00
88. Same, when they may have all the warp or all the weft of vegetable fibres (B).	Kilogram		0.40
89. Other textiles of pure wool, flock wool, hair, or mixed with these materials, plain and smooth, in pieces, handkerchiefs and ribbons (B).	Kilogram		0.50
90. Same, when they may have all the warp or all the weft of vegetable fibres (B).	Kilogram		0.37
91. Same, of pure wool, flock wool, hair, or mixed with these materials, twilled and satin faced, and the plain worked in the loom, brocaded or flowered (B).	Kilogram		1.00
92. Same, when they may have all the warp or all the weft of vegetable fibres (B).	Kilogram		0.50
CLASS G.—PAPER AND ITS APPLICATIONS.			
First Group.—For printing and writing.			
93. Paper, continuous for printing, white or colored.	100 kilogs		1.80
94. Paper for writing, lithographing and stamping, and cardboard.	100 kilogs		4.00
95. Paper cut in sheets for letters and envelopes, hand made, for cigarettes, ruled and blank books.	100 kilogs		6.50
Second Group.—Paper printed, engraved or photographed.			
96. Paper, printed or lithographed, in sheets, newspapers, pamphlets and books, bound or unbound and music paper.		Free.	
97. Engravings, drawings, photographs, maps, labels and playing cards.	Kilogram		0.25
Third Group.—Paper for decorating rooms.			
98. Paper for decorating rooms	100 kilogs		4.00
Fourth Group.—Paper, various.			
99. Paper, brown, ordinary for packing, sand paper and pasteboard in sheets.	100 kilogs		1.50
CLASS H.—WOODS AND OTHER VEGETABLE MATERIALS EMPLOYED IN INDUSTRY AND THEIR MANUFACTURES.			
First Group.—Woods.			
100. Woods of all kinds in logs or pieces, beams, rafters, boards, planks, round masts and flooring, although cut, planed, tongued and grooved.		Free.	
101. Staves and wooden hoops		Free.	
102. Cooperage and wooden boxes, mounted or unmounted, for packing.		Free.	
Second Group.—Furniture and art manufactures.			
103. Wood, ordinary, manufactured into doors, window frames and shutters, white or without paint or varnish.		Free.	
104. Wood, ordinary, manufactured into all kinds of articles, turned or unturned, painted or varnished, except doors, window frames and shutters in white.		Free.	
105. Wood, fine, manufactured into all kind of articles, those of ordinary wood carved or veneered with fine woods, those upholstered except with silk textiles or leather, and gilt lists or borders.	100 kilogs		10.00
106. Same, in the same articles gilt, those which may be inlaid, veneered or ornamented with metal, ivory, tortoise shell or mother of pearl and those upholstered with silk textiles or leather.	100 kilogs		20.00
Third Group.—Various.			
107. Rushes, esparto, vegetable hair, soft rushes, willow, fine straw, palm and other similar materials manufactured into articles which are not specifically enumerated in the tariff of the Island of Porto Rico.	100 kilogs		3.00
CLASS I.—ANIMALS, SKINS AND OTHER ANIMAL PRODUCTS EMPLOYED IN INDUSTRY AND THEIR MANUFACTURES.			
First Group.—Animals.			
108. Asses		Free.	
109. Mules		Free.	

SCHEDULE C—Continued.

Articles.	Unit.	Pesos.	Cents.
110. Horses, imported for breeding purposes		Free.	
111. Cattle		Free.	
112. Swine		Free.	
113. Sheep and goats		Free.	
Second Group.—Leather and skins.			
114. Hides and skins undressed		Free.	
115. Leather and skins varnished or japanned and calf skins tanned or dressed.	Kilogram		0.20
116. Other leather and skins, tanned or dressed including sole leather and belting for machinery.	Kilogram		0.08
117. Boots and shoes wholly or partially made of leather or skins.	Kilogram		0.50
118. Trunks, valises, travelling bags and hat boxes.	Kilogram		0.15
119. Other articles of harness and saddlery	Kilogram		0.30
Third Group.—Other animal products			
120. Manures, natural or artificial		Free.	
CLASS J.—INSTRUMENTS, MACHINES AND APPARATUS.			
First Group.—Watches and clocks.			
121. Watches, gold	Each		1.00
122. Other watches	Each		0.25
123. Clocks with cases of stone, gilt and silvered metal, wood inlaid or ornamented with metal, ivory, tortoise shell or mother of pearl, and chronometers.	Each		1.00
124. All other clocks	Each		0.25
Second Group.—Machines and apparatus.			
125. Implements, utensils and tools for agriculture, arts and trades.		Free.	
126. Machines and apparatus, agricultural, motive, industrial and scientific, of all classes and materials, and loose pieces for the same.		Free.	
127. Material and articles for public works, such as railroads, tramways, roads, canals for irrigation and navigation, use of waters, ports, light houses, and civil constructions of general utility, when preceded by authorization of the government or if free admission is obtained in accordance with special laws.		Free.	
Third Group.—Carriages.			
128. Passenger carriages for railroads and tramways, when the importers may not have obtained free admission, either by authorization of the government or in accordance with special laws.	100 kilogs		2.00
129. Other vehicles for railroads or tramways and the pieces of wood, iron and steel for the same, when the importers may not have obtained free admission either by authorization of the government or in accordance with special laws.	100 kilogs		1.00
130. Wagons, carts and hand carts and the pieces of wood, iron and steel for the same	100 kilogs		1.00
131. Carriages for ordinary roads of two or four wheels, without top or hood.	Each		25.00
132. Other carriages for ordinary roads	Each		55.00
Fourth Group.—Materials for naval construction.			
133. Materials of all classes for the construction, repair or refitting of vessels, subject to the following rules:		Free.	
1. The importers have necessarily to be owners, fitters out or constructors of vessels, machines or boilers.			
2. The duties on the materials or effects shall be paid in advance, but shall be returned at the request of those interested, when the use of the materials or effects in the said construction or repair, has been proved by the proper proceeding.			
3. It is an indispensable condition that there shall be among the proofs a survey of the vessel or work done or repairs made, by experts designated by the Intendency of Finance and the Naval authorities, accompanied by a Surveyor of the customs, in which is stated the importance of the work done, the class and amount of the materials imported, used in it, and those which may have remained.			
And 4. For the return of the duties conditionally paid, the weight or bulk of the materials and articles shall be appraised accordingly as they are noted in the tariff, by the weight or bulk which may be shown by the work done or completed; so that the part of the duty corresponding to the waste or loss which result from the construction or transformation of the material, may remain to the benefit of the Treasury.			
CLASS K.—ALIMENTARY SUBSTANCES.			
First Group.—Meats and fish.			
134. Land and water fowls		Free.	
135. Meats, fresh, in brine, salted and smoked, except jerked beef.		Free.	
136. Pork and hams		Free.	
137. Lard and butter		Free.	
138. Fish and shell fish, live, fresh, dried, in brine, salted, smoked and pickled.		Free.	
Second Group.—Grain and its preparations.			
139. Wheat	100 kilogs		0.50
140. Rice, hulled or unhulled		Free.	
141. Other cereals		Free.	
142. Wheat flour:			
During the first year of the duration of the treaty.	100 kilogs		2.00
During the second year	100 kilogs		1.89
During the third year	100 kilogs		1.78
From the beginning of the fourth year	100 kilogs		1.65
143. Flour of the other cereals, except rice		Free.	
144. Pastes for soup, rice flour, starch and alimentary farinas.	100 kilogs		2.00
145. Bread and common crackers	100 kilogs		2.00
146. Crackers, fine	100 kilogs		3.00
Third Group.—Fruits, vegetables and garden products.			
147. Fruits, fresh, dried and preserved		Free.	
148. Garden products and vegetables, fresh and dried.		Free.	
Fourth Group.—Drinks.			
149. Beer of all kinds		Free.	
Fifth Group.—Other alimentary substances.			
150. Preserved alimentary substances, sausages, mustard, sauces and pickles.	Kilogram		0.08
151. Cheese		Free.	
152. Eggs		Free.	
153. Hay and straw for forage		Free.	
CLASS L.—VARIOUS.			
154. Rubber and gutta-percha in sheets, threads, pipes, hose, boots and shoes and life-preservers.	Kilogram		0.15
155. The same materials manufactured into other articles.	Kilogram		0.40
156. Oil cloths and tarpaulin for floors and for packing.	Kilogram		0.05
157. Same, of other classes	Kilogram		0.13
158. Textiles of rubber mixed with other materials.			0.55
159. Tobacco in leaf and chewing	100 kilogs		3.50
160. Trees, plants, shrubs and garden seeds		Free.	
161. Sacks for sugar packing		Free.	
162. Cloths embroidered by hand or machinery out of the loom; and those mixed with metal, embroidered or not embroidered. Will pay the duty corresponding to its class plus *twenty five* per cent. of the same duty.		25 %.	
163. Clothing, made; including linen articles, whether both are completely finished or simply basted. Will pay on its total weight the duty named on the cloth of which the exterior part is composed, plus an additional *thirty* per cent. of the said duty.			30 %.
164. Clothing made of embroidered cloth or mixed with metal. Will pay on its total weight the duty corresponding to the textile embroidered or mixed with metal, plus an additional *thirty* per cent. of said duty.			30 %.

NOTE to item Number 142 of Schedule C.—During the time this Schedule is in force, for the fulfilment of the Treaty to which it is annexed, and as soon as item Number 142 in regard to wheat flour reaches the duty of one dollar and sixty five cents per one hundred Kilograms, all reduction which may be made on the duty which foreign flour now pays on its introduction into the ports of the Peninsula, shall be extended *ipso facto* to the duties of the Schedule C fixed for the fourth year in the aforesaid number 142.

The reduction of duties in the Peninsula, which may be of a transitory character and made for a brief period on account of the failure of the crops, is excepted from the foregoing rule and from the application to Porto Rico of the reduction of duties on flour imported from foreign countries into the Peninsula. It shall be understood that the transitory reductions in such case and circumstances are those whose duration does not exceed the period of six months.

JOHN W. FOSTER. [SEAL.]
SALVADOR DE ALBACETE. [SEAL.]

FINAL PROTOCOL ANNEXED TO THE TREATY OF COMMERCE AND NAVIGATION CONCLUDED THE [18TH] DAY OF NOVEMBER EIGHTEEN HUNDRED AND EIGHTY-FOUR.

In the act of proceeding to sign the Treaty of Commerce and navigation concluded for the United States and the Islands and Spanish provinces of Cuba and Porto Rico between the said States and Spain, the undersigned Plenipotentiaries of the President of the United States and of His Majesty the King of Spain, have made the following reservations and declarations, which shall form an integral part of said treaty.

1. By the present addition to the foregoing instrument it is agreed that the provisions and stipulations in article XXV of the Treaty which the undersigned Plenipotentiaries this day sign shall not apply to the decision of the questions which may arise while the said Treaty is in force, in respect to the understanding, fulfillment and effects of its articles XXIII and XXIV which shall be decided in a friendly manner between the two High Contracting Parties or with the third powers interested therein.

2. It is further agreed that, on the treaty which is this day signed going into effect, the Agreement of the thirteenth of February, eighteen hundred and eighty four, signed by the undersigned Envoy Extraordinary and Minister Plenipotentiary of the United States and His Excellency the Marquis del Pazo de la Merced, Minister of State of Spain, shall terminate in all its legal effects, said effects ceasing both as to the High contracting Parties and as to the third powers to whom it was applied while in force.

Signed in duplicate at Madrid this eighteenth day of November, eighteen hundred and eighty four.

JOHN W. FOSTER. [SEAL.]
SALVADOR DE ALBACETE. [SEAL.]

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *December* 10, 1884.

The House met at 12 o'clock m. Prayer by the Chaplain, Rev. JOHN S. LINDSAY, D. D.

The Journal of yesterday's proceedings was read and approved.

ORDER OF BUSINESS.

The SPEAKER. If there be no objection, the Chair will lay before the House some executive communications.

There was no objection.

REMOVAL AND STORAGE OF PRINTING MATERIAL.

The SPEAKER laid before the House a letter from the Acting Secretary of the Treasury, asking an immediate appropriation for the removal and storage of material at the Government Printing Office, as provided for by joint resolution of February 6, 1883; which was referred to the Committee on Appropriations.

PRINTING LAWS OF WYOMING TERRITORY.

The SPEAKER also laid before the House a letter from the Acting Secretary of the Treasury, transmitting a letter from the First Comptroller of the Treasury, with inclosures, relating to estimate of appropriation for printing revised laws of Wyoming Territory; which was referred to the Committee on Appropriations.

DAMAGES TO STEAMER DRUID.

The SPEAKER also laid before the House a letter from the Acting Secretary of the Treasury, transmitting an estimate from the Secretary of the Navy of the appropriation required to pay owners of the steamer Druid for damages sustained by collision with United States steamer Powhatan; which was referred to the Committee on Appropriations.

CLAIM OF GEORGE BAGGS.

The SPEAKER also laid before the House a letter from the Acting Secretary of the Interior, transmitting a letter from the Commissioner of Indian Affairs inclosing additional evidence in the case of the claim of George Baggs on account of alleged depredations by Ute Indians in 1879; which was referred to the Committee on Indian Affairs.

RESIGNATION OF HON. A. M. SCALES.

The SPEAKER also laid before the House the following communication; which was read and laid on the table:

HOUSE OF REPRESENTATIVES,
Washington, D. C., December 5, 1884.

SIR: Having been elected governor of the State of North Carolina, I have this day forwarded to his excellency the governor of that State my resignation of the office of Representative in the Forty-eighth Congress of the United States from the fifth district of North Carolina, to take effect on the 30th of December next.

With assurances of my high respect, I am, your obedient servant,

A. M. SCALES.

Hon. JOHN G. CARLISLE,
Speaker of the House of Representatives.

COMMANDER JOHN W. QUACKENBUSH.

Mr. JORDAN. I desire unanimous consent to present for immediate consideration a bill which I ask may be read.

The SPEAKER. The bill will be read subject to objection.

The Clerk read as follows:

A bill touching the grade of commander in the Navy, and to correct an error in relation to an appointment therein.

Whereas John N. Quackenbush, a commander in the Navy of the United States, was on the 9th day of June, 1874, in pursuance and in mitigation of the sentence of a court-martial, suspended by the President of the United States for six years on furlough pay; and,

Whereas W. S. Schley was on June 10, 1874, nominated by the President of the United States as commander, instead of the said Quackenbush, and was by and with the advice and consent of the Senate appointed such commander, and the said Quackenbush was thereby deprived of his rank and position in the Navy; and

Whereas it was not the intention to deprive said Quackenbush of his rank or position in the Navy or dismiss him therefrom, and said action was taken and said dismissal made by inadvertence and mistake and great injustice was thereby done to said Quackenbush, and provision ought to be made authorizing the correction thereof: Now, therefore,

Be it enacted, &c., That the President of the United States shall nominate and, by and with the advice and consent of the Senate, appoint a commander, who shall take rank and position in the Navy as and of the time of the suspension of said Quackenbush, any law now in force enacted since the date of said suspension notwithstanding; and such commander so appointed shall receive pay from the date when said suspension took place: *Provided, however*, That if the President shall nominate and, by and with the advice and consent of the Senate, appoint said Quackenbush as said commander he shall not receive any greater compensation for the period he was suspended than he did in fact receive during that time, but his rank and position shall be the same as if said dismissal had not been made.

Mr. BROWNE, of Indiana. In the absence of the gentleman from Massachusetts [Mr. LYMAN], and in order to give him an opportunity of being heard on this matter, I am compelled to object.

Mr. KEIFER. I do not desire to cut off applications for unanimous consent, but when such requests have been disposed of I desire to be recognized to make a motion with the view to bringing up for consideration the Military Academy appropriation bill.

POLICE FORCE OF THE DISTRICT OF COLUMBIA.

Mr. POLAND. I ask unanimous consent to take from the Speaker's table for present consideration the bill (S. 1432) for the relief of the Metropolitan police force of the District of Columbia.

Mr. RANDALL. I must ask for the regular order.

The SPEAKER. The regular order is demanded, which is equivalent to an objection.

Mr. RANDALL. I desire not to lose the opportunity for the consideration of the Military Academy appropriation bill.

ORDER OF BUSINESS.

Mr. KEIFER. I move to dispense with the morning hour.

The motion was agreed to (two-thirds voting in favor thereof).

MILITARY ACADEMY APPROPRIATION BILL.

Mr. KEIFER. Mr. Speaker, I move that the House resolve itself into Committee of the Whole House on the state of the Union for the purpose of taking up for consideration the Military Academy appropriation bill.

The motion was agreed to.

The House accordingly resolved itself into Committee of the Whole House on the state of the Union, Mr. COX, of New York, in the chair.

The CHAIRMAN. The House is in committee, and the bill (H. R. 7577) making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1886, and for other purposes, will be read the first time for information.

Mr. KEIFER. I move by unanimous consent, Mr. Chairman, that the first reading of the bill for information be dispensed with.

There was no objection, and it was ordered accordingly.

Mr. KEIFER. I do not desire to occupy the time of the committee in any general discussion of this Military Academy appropriation bill. The appropriation I might say for this year, as reported by the Committee on Appropriations, is about $5,000 less than the bill which passed for the present fiscal year. The total appropriation for the year ending June 30, 1885, was $314,563.50, and the total amount reported in the pending bill is $309,771.64. I will observe further, Mr. Chairman, that the committee has reported an appropriation in this bill of $170,000 for the pay of cadets. This sum will provide for the pay of three hundred and fourteen cadets with a fraction over, but not sufficient for the pay of three hundred and fifteen cadets. The total number of cadets possible to be at the Military Academy is three hundred and forty-four. On the 1st day of September of the present year there were three hundred and fourteen cadets at the Military Academy. From various causes, failures, resignations, deaths, or otherwise, that number is always being reduced during the academic year. While there were three hundred and forty-four cadets at the beginning of the year, there is not likely to be that number during the year. The committee, therefore, from all circumstances were satisfied that the sum of $170,000 was sufficient for the fiscal year ending June 30, 1886.

A MEMBER. How much is paid to the cadets?

Mr. KEIFER. The amount that is paid to each cadet each year is $540.

Now, Mr. Chairman, unless some gentleman on either side of the House desires to submit some general remarks on the subjects embraced in this bill, I will ask that the bill be read by paragraphs for amendment under the five-minute rule.

The CHAIRMAN. The Chair hears no objection, and it is so ordered.

The Clerk proceeded with the reading of the bill, and read as follows:

For pay of cadets, $170,000; and no cadet shall receive more than at the rate of $540 a year.

Mr. KEIFER. At that point in the bill I desire to offer an amendment, which I desire the Clerk to read.

The Clerk read as follows:

And hereafter all appointments to the grade of second lieutenant in the Army shall be confined to the graduates of the Military Academy and to meritorious non-commissioned officers recommended for promotion in the manner now provided by law.

Mr. KEIFER. This amendment I will premise by saying, Mr. Chairman, has not been recommended by the Committee on Appropriations, from which this bill has come, but it has been recommended not only by the Superintendent of the West Point Academy, but also by the Secretary of War. In the report of the Superintendent of the Military Academy we find a statement made representing to the Committee on Appropriations that unless some change be made in the existing law there will be more graduates in the coming year than there will be vacancies in the Army to which they can be appointed.

Mr. HOLMAN. I suggest that the gentleman from Ohio send up to the Clerk's desk and have read the amendment which he proposes.

Mr. KEIFER. It has already been read at the Clerk's desk.

Mr. HOLMAN. There has been so much confusion in the House that I was unable to hear, and I ask that it be again read.

The CHAIRMAN. The Clerk will again read the amendment.

Mr. HOLMAN. That proposition is subject to a point of order, which I desire to reserve until the gentleman from Ohio is heard.

The CHAIRMAN. It is too late to reserve the point of order on the amendment, as it was offered and the gentleman from Ohio had proceeded to debate it for two or three minutes.

Mr. HOLMAN. I trust hereafter there will be a little more order in the House.

The CHAIRMAN. The Chair will state to the gentleman from Indiana that the disorder was in his immediate neighborhood. The Chair endeavored to call the House to order, but hereafter will see that better order and decorum are observed in that neighborhood. [Laughter.]

Mr. KEIFER. Let me say to the gentleman from Indiana, Mr. Chairman, that on examination he will find this amendment reduces the expenditures of the Government, and in that way is relieved from being subject to the point of order.

Now, the Superintendent of the academy calls attention to the large number of cadets, as we are told by the Secretary of War, in the class which will be graduated in June, 1886, the class now having eighty-three members, and he expresses the opinion that probably eighty will be graduated. Unless there shall be a change in the law it will not probably be possible for all of the class of 1886 to be appointed in the Army if any civilian appointments are made before their graduation, as the members of that class and the one which will be graduated next June, together with the non-commissioned officers to be appointed under existing laws, will probably be sufficient to take up all the vacancies which will occur in the two years. I will read from the report of the Superintendent of the Military Academy:

The class has now eighty-three members. Of these, making the usual allowances for casualties, from seventy-five to eighty, probably the latter number, will graduate and be for promotion. Unless something is done to hold open the vacancies in the Army from this time forward for the graduates of the academy a number of the class of 1886 will be required to go into civil life. If this were usual or necessary every year it could scarcely be considered a hardship, but occurring as it does once in a great length of time, through no fault of the class, but rather owing to ability, energy, and continuous application on the part of its members, something should be done to prevent their being unjustly affected by the law. A law permitting them to be attached to the Army as additional second lieutenants, provided that vacancies can not be reserved for them, would mitigate the hardship of the case.

The Secretary of War, calling attention to the same matter, says:

Under existing laws those cadets for whom there may be no vacancies existing in the Army at the time of their graduation must be discharged from the military service. For the last few years the law requiring that there shall be no civilian appointments into the Army until a sufficient number of vacancies exist to provide for the next graduating class has been literally complied with, civilian appointments into the Army having only been made to fill such vacancies as remained on July 1 of each year after the appointment of the graduating class of cadets and of meritorious non-commissioned officers recommended according to law, vacancies occurring on and after July 1 of each year being kept open. The Superintendent of the academy calls attention to the large number of cadets in the class which will be graduated in June, 1886, the class now having eighty-three members, and he expresses the opinion that probably eighty will be graduated. Unless there shall be a change in the law it will not probably be possible for all of the class of 1886 to be appointed into the Army if any civilian appointments are made before their graduation, as the members of that class and the one which will be graduated next June, together with non-commissioned officers to be appointed under existing laws, will probably be sufficient to take up all the vacancies which will occur in the two years.

Now, Mr. Chairman, the committee will observe it is not proposed to cut off from appointments to the Army non-commissioned officers now in the Army and who are recommended for promotion. But it is proposed to cut off by this amendment appointments purely from civil life, and to supply whatever vacancy hereafter may occur by graduates from the Military Academy at West Point. I wish to say these persons are graduated at a cost to the Government of the United States of $4,000 each, and it seems to me quite proper the Government of the United States should be entitled to their services by appointments in the Army.

Mr. RANDALL. Mr. Chairman, it is proper I should say that this amendment was not considered by the Committee on Appropriations.

Mr. KEIFER. That is true.

Mr. RANDALL. And it is all the more necessary I should say so from the fact that it is offered in the House by the gentleman from Ohio who is in charge of the Military Academy appropriation bill under the direction of the Appropriations Committee. I should much prefer the committee should have full time to consider the precise effect of such a change in the law than to have the whole subject precipitated in this informal way upon the House. I have no doubt in the world the gentleman's convictions prompt him to move action in this direction. The effect of this amendment, as he states it, is to cut off what no doubt has been maladministration in the past in respect to the character of men from civil life who have been appointed to positions in the Army to the exclusion, I believe, of the graduates from West Point.

It is a very delicate subject to deal with, taking away as it does from the President the power which he has heretofore exercised in the appointment of civilians to fill vacancies which may happen in the Army. Now, if that amendment had been considered by the Military Committee and we had had their judgment upon it, or even if it had been considered by the Committee on Appropriations, whence the bill comes, it might be moved with some propriety by them, but I think we should go slow in the matter of legislating as to the Army, and especially without some full understanding of the exact effect of the proposed legislation.

Mr. KEIFER. I suppose the debate is exhausted on the pending amendment, and for the purpose of adding a word to what I have already said I will move *pro forma* to strike out the last word.

It is true, as stated by the chairman of the Committee on Appropriations, the gentleman from Pennsylvania [Mr. RANDALL], that this matter was not brought before the whole committee. As a matter of fact, sir, my attention was not called to it until yesterday, and since then the committee had no meeting, so that it was impossible for me to submit it to them. The proposition is a plain and simple one, and therefore I felt at liberty to present it on my own motion to this committee. There is now a limitation of the right of the President to make appointments to the Army from civil life, and that is to fill vacancies in second lieutenancies in the Army existing on the 1st of July of each year by appointments from civil life. This is to take away that power, so that such vacancies hereafter shall be allowed to continue until the graduating class from West Point can supply them. And that is the whole of the proposition. If the graduating class is not sufficient, heretofore these positions have been filled by appointments from civil life; but it now appears that the cases are reversed, and that there are more graduates than there are vacancies to be filled. The amendment is recommended by the Superintendent of the West Point Military Academy and is also recommended by the Secretary of War. It is to avoid what may be humiliating to the cadets who may be graduated of being discharged at the very time when they have succeeded in passing their examination. It is to relieve them from any such humiliation of being discharged from the great military institution of the United States at the very moment they have passed all their trials and received their diplomas. The whole scope of the amendment is to prevent any such thing happening.

Mr. HOLMAN. I ask that the pending proposition may be again read.

The amendment was again read.

Mr. HOLMAN. Mr. Chairman, I rose when I first heard this proposition read for the purpose of making the point of order on it that it was not in order to this bill. Now that it is before the Committee of the Whole House I only desire to say this, that, as stated by the gentleman from Pennsylvania, this matter was not considered by the Committee on Appropriations when this bill was considered by that committee. It was for that reason, and that only, I desired to reserve the point of order on the proposition. As the subject is now before the Committee of the Whole House, however, I am not prepared to say, from a want of information on military questions of this kind and as the subject has not been heretofore considered, whether it is a measure which would be recommended by any committee of the House, the Committee on Military Affairs or the Committee on Appropriations, which reported this bill. But I trust, as the question is now up and inasmuch as it seems to be a fair and reasonable proposition, that gentlemen familiar with the subject, those familiar with the military organizations of the country and understanding the relations of the West Point Academy to the Army, will take occasion to express their views on the subject.

If it shall be found that this measure is in harmony with the views entertained by those familiar with this subject, although it has not been considered by the Committee on Appropriations, it might be found proper to give it a favorable consideration at this time. On its face it seems to be a reasonable proposition, but, as has been already intimated by the gentleman from Pennsylvania at the time the question of order was raised, because of the fact that it had not been considered by the committee having charge of the bill.

Mr. KEIFER. I withdraw my formal amendment.

Mr. ROSECRANS. I renew it; and I wish to say, Mr. Chairman, that the effect of this amendment will be to limit the appointing power of the President of the United States from civil life to the Army, so that whatever vacancies may occur shall hereafter be filled by appointments of graduates from West Point. I see no great disadvantage in that limitation in time of peace. As a matter of fact appointments which have been made from civil life have been generally favorites of

wealthy men and of influential men and of those who in no manner have been particularly distinguished or gifted for the discharge of the duties of army life. Inasmuch as the prospect now seems to be that the academy hereafter will graduate a sufficient number to supply all vacancies, in my judgment the amendment is one which ought to be adopted.

It will be noticed that ample provision is made by the amendment for the promotion of meritorious non-commissioned officers and soldiers who are recommended for promotion in the Army.

Mr. MAGINNIS. It ought to provide also for the promotion of privates.

Mr. RANDALL. I find the chairman of the Committee on Military Affairs favors this amendment. I would like to know from him whether the subject has been formally considered by the Committee on Military Affairs.

Mr. ROSECRANS. This matter has never been brought formally before our committee in any way. There has not been much conversation about it, but I was president of the Board of Visitors to the Military Academy when it was considered.

I do not remember any who dissented from the idea that it would be well, in view of the probable number of the next graduating classes of 1885–'86, that some provision should be made to cut off these civil appointments until the young men who had been prepared for the service had graduated and gone into service. The Military Committee, I will say to my honorable friend from Pennsylvania in response to his question, never had any formal consideration of the subject; but there were three members of the House, two of the Senate, and quite a number of distinguished gentlemen who were members of the Board of Visitors who did take into consideration the subject, and expressed the opinion that I now entertain.

I should like to move an amendment to the amendment of the gentleman from Ohio by inserting also after the words "non-commissioned officers" the words "and enlisted men," so that it will embrace meritorious privates; and also the words "except during a foreign war," to be incorporated at the proper place.

The CHAIRMAN. The Clerk will report the amendment proposed by the gentleman from California.

The Clerk read as follows:

Insert after the words "non-commissioned officers" the words "and enlisted men;" and insert at the end of the amendment the words "except during a foreign war;" so that as amended the proposed amendment will read:

"And hereafter all appointments to the grade of second lieutenant in the Army shall be confined to graduates of the Military Academy and to meritorious non-commissioned officers and enlisted men, recommended for promotion in the manner now provided by law, except during a foreign war."

Mr. KEIFER. I have certainly no objection to accepting the proposed modification of the gentleman from California.

The CHAIRMAN. The question then will be taken upon the amendment of the gentleman from Ohio as now modified.

The amendment as modified was agreed to.

The Clerk read as follows:

For clerk to the disbursing officer and quartermaster, $1,200.

Mr. BEACH. I offer the amendment which I send to the desk.

The Clerk read as follows:

In line 75 strike out the words "two hundred dollars" and insert "$650;" so that it will read:

"For clerk to the disbursing officer and quartermaster, $1,650."

Mr. KEIFER. I make the point of order against that amendment.

Mr. BEACH. I hope the gentleman in charge of the bill will reserve the point of order until I have an opportunity of making a very brief statement in reference to this amendment.

Mr. KEIFER. I have no objection to hearing a statement, but reserve the right to make the point of order.

Mr. BEACH. I would like to take the sense of the full committee upon the simple act of justice involved in this amendment. Here we have a clerk who has filled the same position in the service of the Government for thirty-seven years, and he has filled it honestly and faithfully. His services are so efficient and his duties are so arduous and so responsible that I doubt very much if there can be found in the country to-day another person who would fill his place.

In 1877 his compensation was reduced from $1,650 to $1,200. I now want to restore it by this amendment, and I wish to say that I am always opposed to any increase of salaries, because I think as a general thing the Government is paying for its services more than they are worth; but all rules have their exceptions, and this is one of them. I doubt very much whether there is a business man in the country who would reduce the salary of so old, efficient, and faithful a clerk. This clerk, I will say for the information of the House, is the clerk to the treasurer and to the quartermaster, and for thirty-seven years he has stood guard, and so zealous has he been in the discharge of his duties to the Government that he has earned for himself and commonly goes by the name at the academy of the "old watch-dog;" and yet we are told by this Committee on Appropriations that his salary should be only $1,200 a year—not as much as we pay policemen around this building.

In view of his long, arduous, and faithful services, as well as his present and future usefulness, I think he is certainly entitled to receive, and I trust he will receive through the action of this House, his former salary. I hope, therefore, the gentleman from Ohio will not press his point of order, but will permit me to have at least a vote of the committee upon the amendment.

Mr. DUNHAM. Will the gentleman permit me to ask him a question?

Mr. BEACH. Certainly.

Mr. DUNHAM. You say that we can not get along without this man?

Mr. BEACH. I said that it would be difficult for the Government to find a person to fill his place, certainly at that salary. He has been there, as I have said, for thirty-seven years, and his duties are not only of an arduous but peculiar nature.

Mr. DUNHAM. I misunderstood you, then. I thought the gentleman stated that we could not get along without this man, and I asked the question because I wanted to know in case this man should die where we would be. [Laughter.]

Mr. KEIFER. I would not object to the proposed amendment except for the precedent it would set in a large number of other cases. I feel bound, therefore, to make the point of order that it changes existing law and does not retrench expenditures.

The CHAIRMAN. The Chair observes that the amount fixed in this bill is the same as that provided by the last annual appropriation bill for this purpose. The proposed amendment increases this amount. It is therefore subject to the point of order, and the Chair must sustain it.

The Clerk will report the next paragraph.

The Clerk read as follows:

For department of drawing: For books of reference, periodicals on art and technology, $100; models for topographical, mechanical, architectural, and free-hand drawing, $250; rules and triangles, $30; repairs to desks, models, racks, stools, stretchers, $100; drawing material for use of instructors, card-board, tacks, brushes, sponges, glue, alcohol, transfer-paper, hectograph, cloth for screens, color-diagrams, and contingent expenses, $200; stationery, $10; photographic slides for use in lectures, $175; continuing the decorated frieze, paneling, and painting wall to correspond to rest of room, $250; in all, $1,234.50.

Mr. KEIFER. I offer the amendment which I send to the desk to come in at the end of line 134.

The Clerk read as follows:

For department of law: For text-books and stationery, and for books of reference for the use of instructors, $250.

Mr. HOLMAN. Mr. Chairman, that I believe is subject to the point of order.

Mr. KEIFER. I apprehend that there will be no objection to this amendment if it is understood.

Mr. HOLMAN. I will not press the point of order.

Mr. KEIFER. Last year there was a clause in the Military Academy appropriation bill for text-books and stationery and books of reference for the use of instructors, $250, for the department of law. That is the amendment just read by the Clerk.

The reason it was not in the bill in its original preparation, or was not put in the bill by the Committee on Appropriations, was that there was no estimate made for any appropriation for the law department at the academy. The attention of the committee was called to this fact, but for the reason I have assigned, namely, that there was no estimate, nothing was put in the bill. The Secretary of War advises me by letter that there was an accident about it somewhere—he did not know where when he wrote me the letter of the date of the 8th instant.

On yesterday I received from the Secretary of War a telegram reading thus:

I have just heard, by telegram, from the Superintendent of the Military Academy that the omission of the estimate of $250 for text-books for the law department was a clerical error.

And I am requested by the Secretary of War to have this inserted in the bill.

Mr. RANDALL. It is proper to say that, unlike the other amendment which has been agreed to, this proposition was considered in the committee; the other was not considered. This amendment was considered and was disagreed to. I hope it will be voted down. I do not think we need make that change on this bill. There is a professor there under large pay, and this is a proposition which results in making the office a permanent one.

Mr. FORNEY. I think the gentleman from Pennsylvania [Mr. RANDALL] is under a misapprehension. This is an estimate which was overlooked in making the original estimates.

Mr. RANDALL. I did not hear the amendment distinctly, and I supposed it related to an amendment which the gentleman from Ohio [Mr. KEIFER] has given me notice he means to offer.

Mr. HOLMAN. Let the amendment be again read.

The amendment was again read.

Mr. KEIFER. It is the usual appropriation. I think there will be no objection to it.

The amendment was agreed to.

The CHAIRMAN. The Chair suggests that the total at the end of the section be changed to correspond with the amendment just adopted.

Mr. KEIFER. That can be done. I now offer an amendment to come in immediately after the amendment just adopted; and this is

the amendment the gentleman from Pennsylvania [Mr. RANDALL] had in his mind.

The Clerk read as follows:

Add at the end of the paragraph the following:
"*Provided*, That hereafter the professor of law shall be appointed in the same manner as the other professors in the Military Academy."

Mr. HOLMAN. On that proposition I reserve the point of order.

Mr. KEIFER. There are now at the Military Academy eight professors. One is a professor of the department of law, and he is the sole professor that is a detailed or assigned officer. All of the other professorships are permanent appointments. This is the only department in the Military Academy where changes must of necessity take place very frequently, as there can not be any permanent appointment under existing law.

In 1874 the department of law was provided for by statute, but an officer from the department of justice of the Army was authorized to be detailed to fill that place, and since 1874 the place has been filled by a detail. There are seven other professorships, but they are permanent appointments, and those professors hold their appointments indefinitely, so that they can organize their departments and bring them to one harmonious system, making them permanent and valuable to the Government. The Secretary of War makes a recommendation in his report this year on this very subject and in this language:

One of the most important duties of an officer is the administration of justice under the military code. I believe that it would be highly beneficial to the Army if the instruction in legal principles given at the Military Academy were placed in charge of a professor of law of the same rank and tenure as is held by the other professors, and I recommend legislation which will accomplish that result.

Now, while we have permanent officers with a permanent tenure, as professor of drawing, professor of engineering, professor of modern languages, &c., we have merely a detailed officer for the department of law, and the whole purpose of this proposed amendment is to give us a professor of law whose tenure of office is exactly like that of a professor of drawing or of modern languages. We are creating no new office. If the point of order is to be debated, I reserve the right to speak upon it. But it is exceedingly important, I think, in view of the great dignity of the place, that this department should be at least presided over by a person of equal rank to that of the men who instruct in the departments of drawing and of modern languages. I believe that all the officers of the Army should be accomplished officers, and, as far as it is possible that such instruction can be given in a public institution, that they should be accomplished in the matter of law. These officers are often obliged to determine important questions of law. They may all be required at some time or other to sit as judges, if not to act as judge-advocates, and it is important that they should receive the necessary instruction from a permanent professor.

Mr. RANDALL. I desire to say, first, as to the point of order, that professors in the academy are now given the pay which attaches to the rank of a colonel, provided they have held their positions for ten years; if they have been there for less than ten years they are paid the salary of a lieutenant-colonel, which in almost every instance is an increase of pay. I say this much on the point of order to show that this is not a change in the direction of retrenchment.

As to the merits of the proposition, I wish to say in addition to what I have already said on the other amendment but pertinent to this one, that I agree that all officers of the Army should be well educated in international law. I hold that the existing provision of law is sufficient for that purpose. The officer detailed now to this professorship is, I believe, competent to give the necessary instruction to the cadets in international law.

This is a proposition, however, which goes to the extent of making, instead of a temporary detail, a permanent assignment—creating, in fact, a new professorship—making nine professors in all, instead of eight. The committee considered this matter and was adverse to the change proposed. I hope, therefore, that the amendment will not (at this time at least) prevail.

Mr. HOLMAN. Upon the point of order I wish to say that this proposition on its face appears neither to increase nor to diminish expenditures, so that as it is a change of existing law it must be subject to the point of order, because it does not retrench expenditures. In fact, however, from the statement made by the gentleman from Pennsylvania [Mr. RANDALL] it will be seen that the tendency of this proposition is to increase expenditures, inasmuch as it makes this officer permanent, giving him the full benefit of the longevity pay provided for by general law, while now the assignment is made for a term not exceeding four years.

It is very possible that this proposition, when it comes to be thoroughly considered, may be found to be a proper one. But it has not yet been properly considered. It has received but partial consideration by any committee of the House, so far as I am informed. Up to this time the lectures on law delivered at West Point have generally been regarded as emanating from competent and sufficient professors, although they have not been permanent professors, but assigned from time to time to this duty. The very fact of a temporary assignment may indeed be beneficial. Legal study in this institution embraces, of course, a comparatively limited field. I hardly think it would extend beyond international law and the duties of courts-martial. A long experience under the present system of making temporary assignments for instruction in this branch would indicate that up to the present time the existing system in this field of learning at that institution has been satisfactory. I shall, therefore, be compelled to insist on the point of order.

Mr. KEIFER. I desire to be heard on the point of order. The suggestion made against this amendment by the chairman of the Committee on Appropriations [Mr. RANDALL] is, as I understand, that if an officer were permanently appointed to this professorship it would lead to an increase of salary. That was the gentleman's statement, if I understood him aright. Now, I wish to say that such can not be the fact. This bill itself, in lines 7 and 8, appropriates for the payment of a professor of law at the Military Academy at the same rate that we appropriate for the other seven professors. So that the question now is simply whether we shall create a professor of law at that institution who shall have a permanent tenure. In the present bill we appropriate for the payment of eight professors—professors respectively of engineering, drawing, chemistry, modern languages, ethics, mathematics, natural philosophy, and law. These professors, under section 1336 of the Revised Statutes, are all paid as lieutenant-colonels. So that the question now is not as to giving the officer any increased pay or establishing a new professorship, but simply as to making the professor of law a permanent officer, in accordance, as I have said, with the recommendation of the Secretary of War, the Superintendent of the Military Academy, and all other officers who have looked into this question. I am informed that the present professor of law recommends this change, although he expects himself to go out of the office; he does not desire to be continued. He suggests, however, various difficulties to which this department of study is now subjected.

If you will permit me, sir, I will call attention more particularly to the state of the law on this subject. In 1874 there was attached to the Military Academy appropriation bill a clause which read thus:

Provided, That the Secretary of War may assign one of the judge-advocates of the Army to be professor of law.

This professorship was then first created. In June, 1880, a clause in the following language was attached to the Military Academy appropriation bill:

For department of law, provided that the Secretary of War may in his discretion assign any officer of the Army as professor of law.

That opened the field so that assignments might be made otherwise than from the Department of Military Justice. The Secretary of War may now assign any officer of the Army to fill the chair of professor of law at West Point. What I desire to accomplish by my amendment is simply to give this officer a permanent tenure. He is now paid as the other professors are, under section 1336 of the Revised Statutes.

The CHAIRMAN. The Chair is prepared to rule on the point of order.

Mr. HOLMAN. On the point of order I wish to say one word in addition. It is conceded that this professor of law, if we make the professorship permanent, must be paid at least as much as the present compensation; so that though the proposition upon its face does not increase expenditure, it certainly does not diminish it.

The CHAIRMAN. The gentleman from Ohio [Mr. KEIFER] who offers this amendment has stated that its effect is to change the tenure of this office, making it permanent. This is a change of law. By Rule XXI, third section, second paragraph, it is not necessary that an amendment offered to a bill of this nature should increase expenditures in order to be obnoxious to the point of order. If it changes existing law and does not reduce expenditures it comes within the inhibition of the rule. This amendment proposes to change the law and makes no reduction of expenditures. Therefore the Chair sustains the point of order.

The Clerk resumed and concluded the reading of the bill.

Mr. KEIFER. I move that the committee rise and report the bill and amendments favorably to the House.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. COX, of New York, reported that the Committee of the Whole House on the state of the Union had had under consideration the bill (H. R. 7577) making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1886, and for other purposes, and had directed him to report the same back with a recommendation that it be passed with amendments.

Mr. KEIFER. I move the previous question on the bill and amendments.

The previous question was ordered.

The SPEAKER. The Clerk will report the first amendment reported from the Committee of the Whole House on the state of the Union.

The Clerk read as follows:

At the end of line 34 insert the following:
And hereafter all appointments to the grade of second lieutenant in the Army shall be confined to graduates of the Military Academy and to meritorious noncommissioned officers and enlisted men recommended for promotion in the manner now provided by law, except during a foreign war.

The question being taken on agreeing to the amendment, there were—ayes 55, noes 89.

Mr. KEIFER. We had better have the yeas and nays on this amendment, and I therefore make the demand for them.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 88, nays 152, not voting 83; as follows:

YEAS—88.

Adams, G. E.	Everhart,	McCoid,	Ryan,
Anderson,	Funston,	McComas,	Skinner, C. R.
Atkinson,	Goff,	McCormick,	Slocum,
Bayne,	Guenther,	Millard,	Smith, A. Herr
Beach,	Harmer,	Morrill,	Smith, Hiram Y.
Bisbee,	Hart,	Nelson,	Spooner,
Boutelle,	Hatch, H. H.	Nutting,	Steele,
Breitung,	Haynes,	O'Hara,	Stephenson,
Brewer, F. B.	Henderson, D. B.	Parker,	Stewart, J. W.
Browne, T. M.	Henderson, T. J.	Payne,	Strait,
Brown, W. W.	Hepburn,	Payson,	Struble,
Budd,	Hitt,	Perkins,	Taylor, E. B.
Campbell, J. M.	Holton,	Peters,	Taylor, J. D.
Cannon,	Jeffords,	Pettibone,	Thomas,
Cook,	Kean,	Poland,	Throckmorton,
Culbertson, W. W.	Keifer,	Price,	Wadsworth,
Cullen,	Kelley,	Ranney,	Wait,
Cutcheon,	Ketcham,	Ray, Ossian	Wakefield,
Davis, G. R.	Lacey,	Rockwell,	Weaver,
Dunham,	Laird,	Rogers, W. F.	White, Milo
Ellis,	Lawrence,	Rosecrans,	Wilson, James
Evans,	Long,	Rowell,	York.

NAYS—152.

Adams, J. J.	Dunn,	Lowry,	Singleton,
Aiken,	Eldredge,	Lyman,	Skinner, T. G.
Alexander,	Elliott,	McAdoo,	Snyder,
Bagley,	English,	McMillin,	Spriggs,
Barksdale,	Fiedler,	Matson,	Springer,
Belmont,	Findlay,	Maybury,	Stevens,
Bennett,	Follett,	Mills,	Stewart, Charles
Blount,	Foran,	Mitchell,	Stockslager,
Boyle,	Forney,	Money,	Storm,
Bratton,	Fyan,	Morrison,	Sumner, C. A.
Breckinridge,	Geddes,	Morse,	Talbott,
Buchanan,	Gibson,	Moulton,	Taylor, J. M.
Buckner,	Glascock,	Muldrow,	Thompson,
Burnes,	Graves,	Muller,	Tillman,
Caldwell,	Green,	Murray,	Townshend,
Campbell, Felix	Greenleaf,	Mutchler,	Tully,
Campbell, J. E.	Halsell,	Oates,	Turner, H. G.
Candler,	Hancock,	O'Ferrall,	Turner, Oscar
Carleton,	Hardeman,	O'Neill, J. J.	Vance,
Cassidy,	Hardy,	Paige,	Van Eaton,
Clardy,	Hatch, W. H.	Pierce,	Wallace,
Clay,	Hemphill,	Peel,	Ward,
Clements,	Herbert,	Post,	Warner, A. J.
Cobb,	Hewitt, G. W.	Potter,	Warner, Richard
Converse,	Hill,	Pryor,	Wellborn,
Cosgrove,	Hoblitzell,	Pusey,	Wemple,
Covington,	Holman,	Randall,	Wilkins,
Cox, S. S.	Houseman,	Rankin,	Williams,
Cox, W. R.	Hunt,	Reagan,	Willis,
Crisp,	Jones, B. W.	Reese,	Wilson, W. L.
Culberson, D. B.	Jones, J. H.	Riggs,	Winans, E. B.
Curtin,	Jones, J. K.	Robertson,	Winans, John
Dargan,	Jones, J. T.	Robinson, J. S.	Wise, G. D.
Davis, L. H.	Jordan,	Robinson, W. E.	Wolford,
Deuster,	Kleiner,	Scales,	Wood,
Dibrell,	Lamb,	Seney,	Worthington,
Dockery,	Lanham,	Seymour,	Yaple,
Dowd,	Lewis,	Shively,	Young.

NOT VOTING—83.

Arnot,	Davis, R. T.	Howey,	Phelps,
Ballentine,	Dibble,	Hurd,	Ray, G. W.
Barbour,	Dingley,	Hutchins,	Reed,
Barr,	Dorsheimer,	James,	Rice,
Belford,	Eaton,	Johnson,	Rogers, J. H.
Bingham,	Ellwood,	Kellogg,	Russell,
Blackburn,	Ermentrout,	King,	Shaw,
Blanchard,	Ferrell,	Le Fevre,	Shelley,
Bland,	Finerty,	Libbey,	Smalls,
Bowen,	Garrison,	Lore,	Stone,
Brainerd,	George,	Lovering,	Sumner, D. H.
Brewer, J. H.	Hammond,	Miller, J. F.	Tucker,
Broadhead,	Hanback,	Miller, S. H.	Valentine,
Brumm,	Henley,	Milliken,	Van Alstyne,
Burleigh,	Hewitt, A. S.	Morgan,	Washburn,
Cabell,	Hiscock,	Murphy,	Weller,
Chace,	Holmes,	Neece,	White, J. D.
Chalmers,	Hooper,	Nicholls,	Whiting,
Collins,	Hopkins	Ochiltree,	Wise, J. S.
Connolly,	Horr,	O'Neill, Charles	Woodward.
Davidson,	Houk,	Patton,	

So the amendment was rejected.

During the roll-call the following pairs were announced from the Clerk's desk:

Until further notice, on all political questions:

Mr. DIBBLE with Mr. BRUMM.

Mr. ARNOT with Mr. BELFORD.

Mr. NICHOLLS with Mr. HOOPER.

For this day only:

Mr. KING with Mr. MILLER, of Pennsylvania.

Mr. CABELL with Mr. WHITE, of Kentucky.

Mr. ERMENTROUT with Mr. OCHILTREE.

Mr. WOODWARD with Mr. PHELPS, on this vote.

The vote was then announced as above recorded.

The remaining amendment of the Committee of the Whole House on the state of the Union was then agreed to.

The bill as amended was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

The SPEAKER. This being one of the general appropriation bills the rule requires that the vote on its passage shall be taken by yeas and nays.

The question was taken; and it was decided in the affirmative—yeas 232, nays 0, not voting 91; as follows:

YEAS—232.

Adams, J. J.	Evans,	McCormick,	Skinner, C. R.
Aiken,	Everhart,	McMillin,	Skinner, T. G.
Alexander,	Findlay,	Matson,	Slocum,
Anderson,	Follett,	Maybury,	Smalls,
Atkinson,	Foran,	Millard,	Smith, A. Herr
Bagley,	Forney,	Miller, J. F.	Smith, H. Y.
Barksdale,	Funston,	Mills,	Snyder,
Barr,	Fyan,	Mitchell,	Spooner,
Bayne,	Geddes,	Money,	Spriggs,
Beach,	Gibson,	Morrison,	Springer,
Bennett,	Glascock,	Moulton,	Steele,
Bisbee,	Green,	Muldrow,	Stephenson,
Blount,	Greenleaf,	Muller,	Stevens,
Boutelle,	Guenther,	Murray,	Stewart, Charles
Boyle,	Halsell,	Mutchler,	Stewart, J. W.
Breckinridge,	Hancock,	Neece,	Storm,
Brewer, F. B.	Hardeman,	Nelson,	Strait,
Browne, T. M.	Hardy,	Nutting,	Struble,
Brown, W. W.	Harmer,	Oates,	Sumner, C. A.
Buchanan,	Hart,	O'Ferrall,	Talbott,
Buckner,	Hatch, W. H.	O'Hara,	Taylor, E. B.
Budd,	Haynes,	O'Neill, J. J.	Taylor, J. M.
Burnes,	Hemphill,	Paige,	Thomas,
Cabell,	Henderson, D. B.	Parker,	Thompson,
Caldwell,	Henderson, T. J.	Payne,	Throckmorton,
Campbell, Felix	Hepburn,	Payson,	Tillman,
Campbell, J. M.	Herbert,	Peel,	Townshend,
Cannon,	Hewitt, A. S.	Perkins,	Tully,
Carleton,	Hewitt, G. W.	Peters,	Turner, H. G.
Clardy,	Hill,	Pettibone,	Turner, Oscar
Clay,	Hitt,	Phelps,	Van Alstyne,
Clements,	Hoblitzell,	Poland,	Vance,
Cobb,	Holman,	Potter,	Van Eaton,
Converse,	Holmes,	Pryor,	Wait,
Cook,	Houseman,	Pusey,	Wakefield,
Cosgrove,	Hunt,	Randall,	Wallace,
Covington,	Jeffords,	Rankin,	Ward,
Cox, S. S.	Jones, B. W.	Ranney,	Warner, A. J.
Cox, W. R.	Jones, J. K.	Ray, Ossian	Warner, Richard
Crisp,	Jones, J. T.	Reagan,	Washburn,
Culberson, D. B.	Jordan,	Reed,	Weaver,
Culbertson, W. W.	Kean,	Reese,	Wellborn,
Cullen,	Keifer,	Rice,	Wemple,
Cutcheon,	Kelley,	Riggs,	White, Milo
Davidson,	Ketcham,	Robinson, J. S.	Wilkins,
Davis, G. R.	Kleiner,	Robinson, W. E.	Williams,
Davis, L. H.	Lacey,	Rockwell,	Willis,
Deuster,	Laird,	Rogers, W. F.	Wilson, James
Dibrell,	Lamb,	Rosecrans,	Wilson, W. L.
Dingley,	Lanham,	Rowell,	Winans, E. B.
Dockery,	Lawrence,	Russell,	Winans, John
Dowd,	Le Fevre,	Ryan,	Wise, G. D.
Dunham,	Lewis,	Scales,	Wolford.
Dunn,	Long,	Seney,	Woodward,
Eldredge,	Lowry,	Seymour,	Worthington,
Elliott,	Lyman,	Shelley,	Yaple,
Ellis,	McAdoo,	Shively,	York.
English,	McComas,	Singleton,	Young.

NAYS—0.

NOT VOTING—91.

Adams, G. E.	Collins,	Hooper,	Ochiltree,
Arnot,	Connolly,	Hopkins,	O'Neill, Charles
Ballentine,	Curtin,	Horr,	Patton,
Barbour,	Dargan,	Houk,	Pierce,
Belford,	Davis, R. T.	Howey,	Post,
Belmont,	Dibble,	Hurd,	Price,
Bingham,	Dorsheimer,	Hutchins,	Ray, G. W.
Blackburn,	Eaton,	James,	Robertson,
Blanchard,	Ellwood,	Johnson,	Rogers, J. H.
Bland,	Ermentrout,	Jones, J. H.	Shaw,
Bowen,	Ferrell,	Kellogg,	Stockslager,
Brainerd,	Fiedler,	King,	Stone,
Bratton,	Finerty,	Libbey,	Sumner, D. H.
Breitung,	Garrison,	Lore,	Taylor, J. D.
Brewer, J. H.	George,	Lovering,	Tucker,
Broadhead,	Goff,	McCoid,	Valentine,
Brumm,	Graves,	Miller, S. H.	Wadsworth,
Burleigh,	Hammond,	Milliken,	Weller,
Campbell, J. E.	Hanback,	Morgan,	White, J. D.
Candler,	Hatch, H. H.	Morrill,	Whiting,
Cassidy,	Henley,	Morse,	Wise, J. S.
Chace,	Hiscock,	Murphy,	Wood,
Chalmers,	Holton,	Nicholls,	

So the bill was passed.

During the roll-call the following additional pairs were announced from the Clerk's desk:

Mr. MILLER, of Texas, with Mr. WELLER, on this vote.

Mr. BLAND with Mr. VALENTINE.

The vote was then announced as above recorded.

Mr. KEIFER moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

DISTRIBUTION OF THE PRESIDENT'S MESSAGE.

Mr. MORRISON. I move, Mr. Speaker, that the Committee of the Whole House on the state of the Union be discharged from the further

consideration of the President's annual message with a view of offering a resolution to the House for its distribution to the several committees.

The motion was agreed to.

Mr. MORRISON. I move the following resolution for the distribution of the President's annual message to the several committees of the House.

The Clerk read as follows:

Resolved, That so much of the annual message of the President and the documents which accompany it as relates to the public debt and the public revenue, to the national finances, to the revenue provisions of the reciprocity treaties with Hawaii, Mexico, and Spain, and to the commercial relations with foreign countries having connection with revenue questions, be referred to the Committee on Ways and Means.

That so much as relates to the appropriation and expenditure of the public moneys be referred to the Committee on Appropriations.

That so much as relates to the judiciary of the United States be referred to the Committee on the Judiciary.

That so much as relates to the currency and to national banking associations be referred to the Committee on Banking and Currency.

That so much as relates to the coinage and to the mints of the United States be referred to the Committee on Coinage, Weights, and Measures.

That so much as relates to the regulation of interstate commerce and to the regulation of international commerce be referred to the Committee on Commerce.

That so much as relates to the improvement of rivers and harbors be referred to the Committee on Rivers and Harbors.

That so much as relates to agriculture and the preservation of the forests be referred to the Committee on Agriculture.

That so much as relates to the treaty with Nicaragua authorizing the construction by the United States of a canal, railway, and telegraph line across the Nicaraguan territory, to affairs between the Government of the United States and the governments of foreign nations, the regulation of the consular and diplomatic service, and to the violation of the laws relating to Chinese immigration be referred to the Committee on Foreign Affairs.

That so much as relates to the Army and to providing an armament for defense on the seacoast be referred to the Committee on Military Affairs.

That so much as relates to the Navy and the reconstruction of the naval service be referred to the Committee on Naval Affairs.

That so much as relates to postal affairs and to the reduction of the existing rates of postage be referred to the Committee on the Post-Office and Post-Roads.

That so much as relates to the public lands be referred to the Committee on Public Lands.

That so much as relates to the care, education, and management of the Indians be referred to the Committee on Indian Affairs.

That so much as relates to the organization and government of the Territories be referred to the Committee on the Territories.

That so much as relates to the care and improvement of public buildings and grounds in the District of Columbia be referred to the Committee on Public Buildings and Grounds.

That so much as relates to the Pacific Railroads, except as herein otherwise provided, be referred to the Committee on Pacific Railroads.

That so much as relates to illiteracy and education be referred to the Committee on Education.

That so much as relates to patents be referred to the Committee on Patents.

That so much as relates to the pensions be referred to the Committee on Pensions.

That so much as relates to the District of Columbia be referred to the Committee on the District of Columbia.

That so much as relates to civil-service reform be referred to the Select Committee on Reform in the Civil Service.

That so much as relates to the revival of American ship-building be referred to the Select Committee on American Ship-building and Ship-owning Interests.

That so much as relates to legislation in reference to Presidential succession be referred to the Select Committee on Law Respecting the Election of President and Vice-President.

Mr. MORRISON. I move the adoption of the resolutions.

The resolutions were adopted.

Mr. MORRISON moved to reconsider the vote by which the resolutions were adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

WILLIE S. HOWARD.

Mr. COVINGTON, from the Committee on Accounts, reported back the following resolution with the recommendation that it do pass:

Resolved, That Willie S. Howard, authorized to be employed as page at the first session of this Congress and assigned to duty at the subcommittee room of the Committee on Appropriations, be appointed to such employment during the present session, and that he be paid out of any contingent fund of the House the same compensation as other pages of the House from December 1, 1884.

The resolution was adopted.

Mr. COVINGTON moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

COMPENSATION OF UNITED STATES ATTORNEYS, ETC.

Mr. SPRINGER, by unanimous consent, introduced a bill (H. R. 7675) relating to the compensation and duties of the United States attorneys, marshals, and other court officials, and for other purposes; which was read a first and second time.

Mr. SPRINGER. I move that the bill be referred to the Committee on Expenditures in the Department of Justice and ordered to be printed.

Mr. KEIFER. I am under the impression that bill should go to the Committee on the Judiciary, which has jurisdiction of the whole subject.

Mr. SPRINGER. No; the subject has been under investigation for a long time by the Committee on Expenditures in the Department of Justice. At the last session on suggestion of that committee there was included in the sundry civil appropriation bill provisions covering the subject-matters of this bill.

Mr. KEIFER. I think properly under the ruling heretofore the bill should go to the Committee on the Judiciary. It certainly does not belong to the Committee on Expenditures in the Department of Justice. I ask the attention of the Chair to the subject.

Mr. SPRINGER. As I have already stated, this bill embraces precisely the same points contained in the sundry civil appropriation bill of the last session of Congress. In the distribution of the President's annual message the subject was referred to the Committee on Expenditures in the Department of Justice.

The SPEAKER. The rule of the House provides that—

The examination of the accounts and expenditures of the several Departments of the Government and the manner of keeping the same; the economy, justness, and correctness of such expenditures; their conformity with appropriation laws; the proper application of public moneys; the security of the Government against unjust and extravagant demands; retrenchment; the enforcement of the payment of moneys due to the United States; the economy and accountability of public officers; the abolishment of useless offices; the reduction or increase of the pay of officers, shall all be subjects within the jurisdiction of the eight standing committees on the public expenditures in the several Departments, as follows.

Now, this seems to relate to the pay of district attorneys, United States marshals, and other United States officers, and the Chair thinks under the proper construction of the rule the bill should go to the Committee on Expenditures in the Department of Justice.

The bill was referred to the Committee on Expenditures in the Department of Justice.

ANTWERP EXPOSITION.

Mr. PHELPS, by unanimous consent, introduced a joint resolution (H. Res. 297) to enable the people of the United States to participate in the exposition to be held at Antwerp in the year 1885; which was read a first and second time, referred to the Committee on Foreign Affairs, and ordered to be printed.

REAR-ADMIRALS.

Mr. COX, of New York, from the Committee on Naval Affairs, reported back the following resolution, with the recommendation that it do pass:

Resolved, That the President be requested to furnish this House, as early as convenient, with the necessary information showing the authority of law for which certain commodores of the Navy have been given rank of acting rear-admirals when, as is alleged, no vacancy existed to justify such action.

The resolution was adopted.

Mr. COX, of New York, moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PENSIONS TO MEXICAN SOLDIERS.

Mr. REAGAN. I now call up the interstate-commerce bill, which is the special order.

Mr. TOWNSHEND. Before the gentleman proceeds to the consideration of the special order I would like to inquire when he proposes to call the previous question.

Mr. REAGAN. There are four or five members of the committee who yet desire to speak on this subject, and I can not with justice demand the previous question until they shall be heard. At the furthest but little more time will be consumed in the discussion, and perhaps it may be disposed of to-morrow or the day after.

Mr. TOWNSHEND. I wish to give notice, then, that after the disposition of the interstate-commerce bill to-morrow or the day after, as it shall happen, I will move to go to the Speaker's table for the purpose of taking up and passing the bill pensioning soldiers of the Mexican war.

HOLIDAY ADJOURNMENT.

Mr. MORRISON. I ask by unanimous consent to submit the following resolution, for reference to the Committee on Ways and Means.

The Clerk read as follows:

Resolved by the House of Representatives (the Senate concurring), That when the two Houses adjourn on Tuesday, December 23, 1884, they adjourn until Monday, the 5th of January, 1885.

The resolution was referred to the Committee on Ways and Means.

INTERSTATE COMMERCE.

Mr. REAGAN. I now call up the special order, which is the interstate-commerce bill.

The SPEAKER. The regular order of business being called for, the House resumes the consideration of the bill (H. R. 5461) to establish a board of commissioners of interstate commerce and to regulate such commerce, and the gentleman from Vermont [Mr. STEWART] has the floor.

Mr. STEWART, of Vermont. Mr. Speaker, I had supposed at this date in the nineteenth century that no question could be made as to the constitutional power of Congress to deal with the subject embraced in these bills before the House. It is too late for that. The Constitution has proved elastic enough to meet more urgent emergencies than this. The occupation of the strict constructionist is gone. If we hear anything from him now and then it comes with a qualification which yields gracefully whenever the Constitution is stretched for the benefit of his particular section. We have not only the specific clause of the Constitution un-

der which these bills are introduced, which gives to Congress the power to regulate interstate commerce, but we have that other general clause of the Constitution, to which in emergencies we can fall back—the general-welfare clause. We have, beyond that, the doctrine to which the Supreme Court has more than hinted in a recent decision that Congress has power to do anything which the Constitution does not forbid.

Now, Mr. Speaker, it is no part of my purpose to consume the time of this House in the discussion of any constitutional question, or the constitutional right of Congress to deal with this subject. It is a subject whose importance is commensurate with its magnitude, and its magnitude is as wide as the country itself. We have 125,000 miles of railway, represented by twelve hundred different corporations. With two or three exceptions, these corporations are the creatures of State Legislatures and subject to State laws.

These roads ramify and extend all over the continent. They touch the interests of every man, woman, and child in the country. There is not a producer, a manufacturer, a consumer, a laborer, however humble, that is not interested in the question before the House. Further than that, the securities of these 125,000 miles of railway, representing $7,000,000,000 of money at the actual cash value of the roads to-day, are in the savings institutions, in the stockings, in the depositories of securities in every hamlet in the land, and anything which affects the value of these securities, any legislation which can affect them in any way, ought to be most carefully drawn and cautiously considered.

How shall we deal with this great question? It is a most intricate problem, and though men may think otherwise, when they have come to give it careful study and investigation they will find serious difficulties involved in any attempt to regulate it by legislation.

How shall it be done? Two methods are proposed in substance by the two bills before the House. Both recognize the necessity of remedial legislation to correct existing abuses and, as far as may be, to overcome their liability to recurrence. The duty of the carrier may be expressed in a single sentence: His charges should be reasonable, and, as between his customers, just and equitable. And this comprises the whole of it.

The violation of this plain principle furnishes the only just ground of complaint. So far we all agree. The friends of the respective bills before the House are in disagreement as to the method, and as it seems to me the methods proposed by these two bills are radically different. The bill reported from the committee affirms and emphasizes the common law principle governing common carriers, forbids their violation, provides penalties, and affords sure and speedy relief therefor. It recognizes the existence of those natural principles of commercial law which antedate statutes, and which inspire all wise legislation; and it undertakes to work with and supplement them. On the other hand, the substitute bill thrusts into this intricate problem artificial, arbitrary, and inflexible rules not of universal application, and which in many cases, in my judgment, would work the very mischiefs sought to be remedied. I refer to the provisions of the substitute bill which forbid absolutely a greater charge for a short than for a long haul; which absolutely prohibit rebates and drawbacks, as well as the combinations denominated pools.

Mr. Speaker, there is no real antagonism between the carrier and the customer, and this fundamental truth should not be lost sight of. The real interest of the carrier is to stimulate production. His prosperity is but the echo of the general prosperity on his line of transportation. No man knows better than the intelligent carrier that his dividends depend upon the general thrift of the people whom he serves. If his rates are fixed so high as to depress business and discourage enterprise his next balance-sheet will make sure reminder of his error. This is the first law which applies upon this great subject and influences the result. There is a community and a reciprocity of interest—actual, real interest—between the carrier and the customer. Then come in the laws of competition, which are constantly at work to modify and correct injustice and to produce a correct result. The roads compete with one another, they compete with water ways, they compete with Canadian corporations, they compete in the market to which the product is sent. The competition in foreign markets of the product they carry is in itself an element which enters into the problem.

Now, these are the great regulators of railroad traffic: First, the reciprocal interest between the carrier and the customer, which is an ever-present existing fact which every intelligent man must recognize. Secondly, this law of competition which, like the law of supply and demand, is unceasingly at work. These, I say, are the two regulators, Mr. Speaker, of this great subject, the law of reciprocal advantages between the carrier and the customer. The laws of trade which flow from competition are as constant in operation as the law of gravity itself; and in spite of the greed of contending managers, in spite of the insolence and arrogance and the blind unwisdom of men, they are constantly and effectually at work to correct abuses and to make proper equation between apparent conflicting interests.

Mr. Speaker, the only healthy and wise system of law which can work successfully and effectively in the solution of this problem is that which works with the natural law. Men can employ the great agencies of nature—steam, electricity, and the like—and produce grand results, and they do it by working with the laws which govern these forces and not against them. There is what I might describe in this railroad system, as there is in every social system, a principle which answers to what the physiologists denominate the *vis medicatrix* in the human system; to paraphrase a famous saying of Matthew Arnold, there is a power in the social system which makes for health and for the correction of abuses. It is a constantly working force, and if men had patience oftentimes to await the solution of vexing problems through these natural laws, the cure, wrought slowly perhaps, but surely, as nature ever works, would be final and effective.

Now, Mr. Speaker, I desire to call the attention of the House for a moment to the reasoning, which seems to me unanswerable, applicable to those clauses which the distinguished chairman of the Committee on Commerce insists upon ingrafting upon our legislation. He says, in the first place, that no railway in this country in the conduct of interstate commerce shall charge more for a short than for a long haul. As has been said, that seems to be just; as a general rule or as a general principle applicable to railroad traffic it is just. But it is not universally true; and if it is not universally true it should not be applied as an inflexible rule of law to the government of railways. They should be left to the laws of trade and of commerce and to the natural and healthful operation of those laws for the correction of the abuse, if there is any abuse, growing out of the violation of this general principle. Its rigid application would often result injuriously both to carrier and shipper. There is a lurking fallacy in the principle contended for. It takes into account only a single factor in a complex problem, to wit, distance. Rates, either direct or relative, can not be fixed by that standard alone.

It is not true that the short-haul shipper is wronged because he pays a higher rate for a less distance than the more distant shipper who lives at the point of competition. He is only wronged when he pays more than a reasonable rate for the service rendered him, taking into account all the circumstances of the situation, the reasonableness of the cost of the service to the short-haul shipper, the undoubted right of the railroad to fix rates at a standard sufficient to defray expenses and pay a fair profit on the plant, the relative advantage of position of the short and long haul shipper through natural causes, the necessities which the law of competition at important points thrusts upon the carrier, a due consideration to the general good which may be advanced without wrong to the citizen or the railway—these are some of the many factors which enter into the problem presented.

Take the illustration referred to by my friend from Massachusetts [Mr. LONG]—and it is a very good one; one that was used before the committee. A railway from New Orleans to Memphis passes at an intermediate point an internal station called Winona. The Winona man pays, say, $2.50 per bale for the transportation of his cotton from that point to New Orleans. The railway company says to shippers of cotton at Memphis, "We will take your cotton at $1 per bale to New Orleans in competition with the river and make a small profit." The shipper there says, "I will not send my cotton by your railway unless you take it at that price, because I can send it by barge or by steamer at that price or less"—75 cents per bale, I think, was the rate.

Mr. WOODWARD. One dollar.

Mr. STEWART, of Vermont. Very well; what will the railway manager do under those circumstances? The application of the Reagan bill would say he shall not take that freight from Memphis. Does it do any harm to the shipper at Winona? Nobody pretends it harms him. If the railway charges no more than the service is actually worth to him, and no more than they are entitled to charge under their charter for the performance of the service, who is wronged? If the railway makes a small profit by taking this cotton from Memphis, it is for the benefit not only of the railway, but of the local shipper, because it enables the railway under those circumstances to give better terms to the local shipper. Everything which swells income, everything which gives increased competition to those who have cotton to ship, is an advantage to the State of Mississippi. And I say that where there is a general advantage in a railway policy, and nobody is hurt, the application of this principle would work disastrously. It is for that reason I am opposed to it.

Nor is it true universally, Mr. Speaker, that because railways under these circumstances can afford to carry that freight from Memphis for a dollar to New Orleans, therefore they can afford to carry the local freight at the same rate. That is not true. There is not a railway man in the United States that would not deny it. I do not suppose that the gentlemen on this floor who advocate this bill will stand up here and say that all the railway men in the United States who have uttered any sentiment on this subject, the most honorable men, the most upright men, as well as the most enterprising men, representing these great interests in this country, would come before this committee and stultify themselves and falsify for the sake of this advantage. These experts represent to us that they can take freight, for example in the instance I have named, from the city of Memphis to the city of New Orleans and can make a small profit on it, because they say, "We have our roadway, we have our plant, we have our cars, we have our employés, and we can take this, and make on the whole a small profit; now let us do it." But this bill reported as a substitute, omitting to take into account this matter of competition, omitting to take into account the general inter-

ests of all concerned, undertakes to put an absolute, arbitrary, and inflexible rule into this delicate and intricate machinery, a rule which will work the very wrong intended to be remedied.

There is another illustration cited to the committee. The railways from New York to the city of New Orleans dare to compete with coastwise carriers to that point. Do we not desire to encourage competition? Do you wish to destroy competition? How can those railroads compete? Only in one way—by putting the through rates from New York to New Orleans at 76 cents a ton. The railway rate from New York to Atlanta is $1 a ton. Has the Atlanta man any right to complain if the railroad company imposes only a reasonable charge for the service rendered him? That is all he has a right to claim; and no fair-minded man, it seems to me, who looks that proposition squarely in the face, can deny it. That is a just principle, which should govern the relations between the shipper and the railroad manager. The shipper at Atlanta will not get his freight any cheaper if you say the railroad company shall not carry freight for a little less to the city of New Orleans. On the contrary, the ability of the railroad to give him cheaper rates is cut off, and competition to New Orleans is rendered impossible.

It is not true that the local freight is taxed in order that the railroads may carry through freight at a less rate; and I undertake to say, Mr. Speaker, that in this widely extended country, where terminal points are so remote from each other, and where the transportation of a vast amount of freight at minimum rates is constantly necessary, the application of this rule will work nothing but injury to the great interests of the country.

Now, in regard to rebates, the clause in the bill reported by the committee is carefully guarded. It is said that rebates are always, absolutely and unconditionally, an evil—unjust and wrong in principle. Why, Mr. Speaker, there is not any abstract rule applicable to this subject anywhere. This is the most practical question that ever confronted human intelligence. If men straddle abstractions, if they insist upon resting in abstractions on this subject, they are likely to go astray. The question is, how does this matter work in practice? Is it true that a rebate is absolutely, essentially, and under all circumstances wrong? I deny it. Instances have been shown before the committee, and instances can be mentioned before this House, which absolutely disprove it.

Now here are eight or ten—I think eight—great trunk railroads running eastward from Chicago to the New York market. They compete with each other. There is no difficulty in each road making independently its own rates. I make a rate this morning with the Erie road for one hundred car-loads of pork from Chicago to New York with a narrow margin of profit. My friend from Massachusetts [Mr. RANNEY] makes a rate on the same day for the same kind and amount of freight to New York by the New York Central Railroad. I send mine at 75 cents a hundred; he sends his at 50 cents a hundred. There is no common understanding. The Reagan bill says there shall not be any. The Reagan bill says there shall be no combination which shall prevent this injurious competition, this competition which works the worst kind of discrimination between the dealers in the same article. What then? How can this matter be corrected? Shall I go to New York, and when I discover that another man has an advantage of 25 cents a hundred over me go to the railroad company and say, "I suppose you intend to do business on fair principles as regards your neighbors?" The company says, "Certainly." "Then I want you to give me a rebate which shall put me on an equality with my friend, who from another company has obtained a less rate." Is there any injustice in that? Does it not wipe out the very discrimination which is sought to be obviated in this bill? If you adopt the rigid rule of the Reagan bill the hands of the railroad companies are tied, and they can not correct such a wrong.

Again, take the matter of exports. The Reagan bill says that the railroad companies shall not vary from their published tariffs; that when they have agreed upon a tariff they must not change it. They can not change their tariff very often; they can not change it without notice. Now, suppose products designed for export go to New York, and then it is found they can not be exported and meet competition in foreign markets unless the rates are reduced, are you going to cut off the foreign market from the Western producer and say peremptorily, absolutely, and arbitrarily that the railroad companies shall not make a rebate in order that these producers may ship their freight to Liverpool? That is the effect of the provision of the Reagan bill—the inevitable effect of it. The testimony of every intelligent railroad-man goes to this point. Are you going to say in the first place that the railways shall not combine to fix rates, shall not form what is called a "pool," in order to avoid this injurious competition (of which I shall have a word to say presently), and then say further that when freight reaches the seaport from which it is designed to be shipped the companies shall not make a rebate in order that the producer may export it and find a market for it? Are you going to tie the hands of the railroad companies so that produce shall rot at the seaport or at the point from which it would be sent because it can not be exported? Is there any wisdom in the application of such an inflexible rule as that?

Take the case of staves, the case already referred to. These railroads carry staves to New York, all of them, at the same rate. They are not at liberty to vary their tariff, and ought not to do so. Now, suppose I am an exporter of staves in New York and my friend from Illinois [Mr. SPRINGER] is a dealer in staves there. I can not export those staves to compete with the European dealer in that article unless the railroad will give me a rebate. Does it hurt him if they give me a rebate under those circumstances, and allow me to find a market abroad when I can not get one at home?

Is this the encouragement of American commerce? Is this the proper regulation of interstate commerce? I deny it.

Mr. REAGAN. Will the gentleman allow me to ask him a question?

Mr. STEWART, of Vermont. Certainly.

Mr. REAGAN. Would it not be just to allow the same rebate allowed to one person to another person hauling the same goods over the same route?

Mr. STEWART, of Vermont. That depends. In the case I suppose it would be just, because the staves exported and on which rebate was allowed would not in any sense interfere with the regular market or prejudice any consignee.

Mr. REAGAN. Then why not give all persons interested in the same trade—and I do not wish to be considered as interfering with my friend's argument, but if he wishes to accomplish the object which he seems to seek, that of reduction of freight charges—why, let me ask, not give the same rebate to all persons engaged in hauling the same character of commodities? Why punish one part of the people by advantages bestowed upon all others?

Mr. DAVIS, of Illinois. The Judge should put his question this way: Would it not be unjust to not allow this rebate to another man shipping staves to the same market when it is allowed to one man?

Mr. STEWART, of Vermont. As I have stated in the case suggested, if rebate was given to the other man then it would be unjust.

Mr. REAGAN. On the principle for which I am contending the application of a rebate should be made to all persons at the same time doing the same sort of business. That places everybody on terms of equality and will allow advantage to no one person or persons to the disadvantage of any others. Let me ask the gentleman whether it would not be safer and better to reduce freights to all—that is, that the railways should make their schedules lower to the extent at least to which they allow rebate?

Mr. STEWART, of Vermont. That suggests the very difficulty of dealing with it by arbitrary legislation. If you put the freight so low so the exporter can export his staves, you put them so low the business at home is done at loss to the railway. As was in evidence before the committee, they gave an exporter of staves a rebate because they desired to encourage foreign commerce. They would have made more money by holding the exporter of staves to the tariff price, but they gave him a rebate not for their own advantage but for the general advantage, and it harmed nobody. Will it be pretended a principle which works practically in favor of an increased exportation, which widens the market of American commerce, is an injurious principle when it harms nobody? Tariffs are constantly fluctuating, because tariffs have to follow prices and prices fluctuate in the market. So far as the foreign markets are concerned they govern prices. You can not export wheat from Chicago to Liverpool without reference to the price of wheat in Liverpool. That is one of the elements which enters into the problem and helps to settle and regulate it, and it is one of the reasons why the railroads are unable to charge arbitrarily a high price. They are governed because they are under these laws which they can not repeal.

Now I come to the consideration for one moment of the subject of competition—a subject which I think is not thoroughly understood; I certainly never understood it until I turned my attention to it—I mean in its application to the railway traffic. Competition is a thing which we all desire. We want to cultivate it. The elements of competition in the railway system of this country are fixed and sure, and no legislation can repeal them. There is not a great transcontinental line from the seaboard to the Mississippi or from the lakes to the Gulf that is not controlled, absolutely controlled, by this competition in the fixing of the rates. The water rates control the railway, for they can not charge without reference to the water rates. The water rates compete with them. The railroads compete with the great water ways, the lakes, the Welland Canal, the Erie Canal, the Ohio River, the Mississippi River, the Cumberland River, and the Tennessee River. Everything that affects either one of these great lines affects them all.

The moment the price drops in Chicago it must drop at Indianapolis and at Saint Louis and at Louisville; and whenever the price drops in Liverpool it must drop all along the line or else the traffic will be diverted from them. Otherwise the great trunk lines running east would have the traffic diverted from them and shipments would run crosswise to the line which gives the cheapest rates. There is no doubt of that. It is an interlacing and interdependence of interests multitudinous and conflicting, and which the enactments of man in the cold, frigid, stern rules of law, I undertake to say, can not successfully control or govern.

Now, competition within certain limits is properly competition; but when such competition, so called, transcends certain limits it ceases to be competition in the proper sense of the word and becomes war, reckless and ruinous to all interests. Roads should and do compete down

to a point where they can carry traffic at the lowest rate which will enable them to pay a reasonable profit upon it; but the moment they go below that rate it ceases to be competition, and if it be called competition when it reaches a figure below that point, then it becomes an injury not only to the roads but to the business of the country. That is so obvious a proposition that it goes without saying. You make your rates to-day with one road, and under the circumstances I have suggested they are 40 cents lower before night, and somebody else gets the benefit of the different rate. The shipper of the same sort of goods on the same day—if you have a railroad war, which some denominate competition—the shippers of the same character of goods, the shippers of the same articles precisely on the same day, may get a rate varying from $1 to 10 cents, or nothing. That, I maintain, is not competition. It is not the competition that the Congress of the United States should encourage. It unsettles values; it induces wild speculation; it bankrupts railroads, and bankrupt railroads are of no service in this country. We have had 20,000 miles of such roads, of which the stock has been entirely wiped out.

Now, how shall we correct the evil? There is nothing in the Reagan bill, so called, to correct it. There is a principle there which, on the contrary, absolutely forbids every attempt to correct it. Now, I am not in favor, Mr. Speaker, of an unconditional and absolute surrender of this subject to a combination of railroad-men to do what they please in the way of pooling or otherwise. I am as well aware as any man can be that there is a possibility of combination (though it is extremely improbable and never yet has been done, in my judgment certainly there is no proof before the committee that it ever took place), but a possibility of combinations between railroads which would have the effect of raising prices of freights beyond a just and reasonable and proper charge for the service. If any such instances ever occurred, I say there is no evidence before the committee.

Mr. Speaker, how shall competition, which degenerates into ruinous and destructive wars on all interests, be overcome or prevented?

Well, I confess, sir, that, studying the problem for many months as I have, I can not see any possible way by which it can be overcome except by these very combinations. Combination within certain limitations is just as legitimate as competition; and these two opposing principles, if rightly balanced, will regulate the whole subject. There is no doubt of it. If you have eight trunk lines running from Chicago to the seaboard, and they are cutting rates and unsettling the market, unsettling values, inducing wild speculations where the chances can not be calculated, and bankrupting themselves, what is the result? It may be said that they do it voluntarily. Very well; that is the law of human nature. If one road cuts the rates it will get the freight unless the other roads cut the rates too; and then when another road cuts a little lower the others must follow or lose the business. What is the remedy? Why, there is no cure except in a common agreement between the roads as to the rates and a determined policy of standing by them without violation. If they do that nobody has the right to complain. If they abuse the power and fix exorbitant, unjust, unreasonable rates everybody has the right to complain. Why here come in and apply all of the principles to which I have already alluded—the competitive water way, the market abroad? Rival roads working together to establish and maintain reasonable rates form a combination of competitive elements. Such a combination, under the safeguards guaranteed by the amendment proposed by Mr. SEYMOUR, the gentleman from Connecticut, furnishes, in my judgment, the only practical method of prevention of railroad wars, which are admittedly ruinous and a most prolific source of unjust discrimination.

Now, the amendment proposed by the gentleman from Connecticut [Mr. SEYMOUR] meets my hearty concurrence, and I think if Congress would ingraft this upon these provisions of the bill that the pooling system could work no possible harm and might afford a solution of the problem which the railways themselves have been trying for a long time to solve. The amendment is designed to cure the evils of competitive strife.

Mr. LONG. It refers to the pooling of the business of the roads.

Mr. STEWART, of Vermont. Yes; to the pooling system. The amendment proposes in section 4, line 14, referring to this question of pooling:

> The intent, purpose, and effect of which is to raise charges above reasonable rates, or to divide the earnings on any other basis than a reasonable accordance with the service respectively rendered by such roads, or to impair reasonable competition; and every such contract shall be open and in writing, and a copy thereof shall, as soon as the original is executed, be sent by the parties thereto to the board of commissioners hereinafter created.

Now, if this provision is carefully guarded no harm can possibly come to the public thereby and no harm to the railway service.

You put on foot an instrumentality by which this destructive cutting of rates will be measurably prevented—not absolutely. It will not be in the power of legislation or anything else absolutely to prevent it. But all legislation is really approximation. I do not pretend the bill reported by this committee is perfect. I do not think it is in the power of man to frame a bill now in advance which will meet every requirement. It is what is called tentative; it is initiative. But I believe if this provision is ingrafted upon a permission to make a pool, everybody will be served and everybody will be secured, and there will be a remedy for the evil of which my friend from Texas [Mr. REAGAN] complains, and which I would avoid with as much earnestness as he, for I am as much opposed to unjust discrimination on the part of these powerful corporations injurious to the rights of any citizen as he is. But I differ with him essentially as to the methods by which this result is to be secured.

The rules, Mr. Speaker, which are applicable to this case must be elastic and should have genesis in the conditions of each case. These conditions which surround railway traffic are infinitely varied; they can not without injury to all interests concerned be subjected to artificial, unvarying rules imposed by the Government. The only solution, in my view, of the difficulties with which this great subject bristles is through the harmonious co-operation of the common law and the natural laws to which I have referred, re-enforced by legislation working with and never against them, which shall supply machinery for their sure and summary enforcement in case of need.

And this brings me, Mr. Speaker, to the consideration of what I regard as the most important feature in this bill. I do not claim to be wise above my day or above my fellows, but I must say that it seems to me so perfectly clear that the only effective way to remedy evils which are admitted to exist is through the influence and power of a railway commission, that any other legislation than that seems to me absolutely valueless and it may be mischievous.

I was somewhat amused at the criticisms made by my friend from Pennsylvania [Mr. BOYLE] yesterday. He, as we know, is a very acute lawyer, and he argued this question from the standpoint of an acute and an able lawyer. He made a very clear-headed presentation of the case from his standpoint. It was just such an argument as I have listened to many a time in court from a lawyer who carefully concealed everything that was valuable and strong in his adversary's case and directed all his efforts to expose its weakness. He took up the points one after another, instead of grouping them and looking at them as a whole, just as one might separate a bundle of sticks or the strands of a cable, each one of which considered by itself is a slender and weak thing, but when bound together you find it is a whole, having coherence and strength which can hold a tempest-tossed ship. Now, what is my friend's objection? Why, it is the same objection in substance that my distinguished friend from Texas, the chairman of the committee, stated in a general way, and that is that this commission is wholly insufficient. It has no power to do anything—that is to say, it does not afford any remedy to the party injured.

Why, Mr. Speaker, it is a remedy in addition to all the remedies which the gentleman affords in this bill. The party has the same right to go into court in the committee's bill as in his bill. He is subjected to not quite so severe penalties, but he is subjected to penalties in this bill for violation of the general principles which we say should govern railway managers. What is the trouble? The gentleman says it is not efficient enough; when you come to sum it up this commission has not power to render a final judgment and enforce its judgment by execution. That is the sum and substance of the objection. Now, both those gentlemen are too good lawyers not to understand that it is not in our power to create such a commission. We have given this commission more powers than any railway commission has ever had in this country; we give them full power to investigate. They are the ear of the Government, to listen to complaint; they are the right hand of the Government, to put in operation machinery in favor of the humblest and the weakest citizen of this Government who seeks redress.

My friend from Pennsylvania complains because the redress afforded is not full and sufficient. It goes just as far as the law will allow it to go. Commissions elsewhere in the States are clothed with no judicial or executive power. They do not render final judgment; they have no power to issue injunctions; they have no power to make any peremptory orders. Such a commission is a board of investigation, a board of inquiry, and a board of advice, representing the sovereignty of the State as this proposed commission would represent the sovereignty of 60,000,000 people.

It is idle, Mr. Speaker, for a gentleman to belittle the power and the influence of such a board as this bill contemplates. Any man who knows anything of the railway management in this country knows that railway managers may be arrogant; great power begets pride, and great power begets arrogance; it is a temptation to injustice. And it is for that reason, Mr. Speaker, that it has seemed to me wise, inasmuch as this great power, this *imperium in imperio*, has grown up in this Government and has excited the fears of many people because of its possible malign influence upon legislation and upon the judicial operations of the country—it has seemed to me proper, in view of the general feeling upon this subject, in view of the situation of affairs, that some representative of this Government should stand between the people and the railways impartial and not in a threatening or hostile attitude to the railways, but there simply as the watchful guardian of the rights of the people, or, as I have said, the ear and the arm of the Government, to hear and to guard.

Mr. WARNER, of Ohio. Will the gentleman allow me to ask him a question?

Mr. STEWART, of Vermont. Certainly.

Mr. WARNER, of Ohio. Do I understand the gentleman to take the

position that, in constituting a commission as proposed in the committee bill, Congress would go the full extent of its constitutional power; in other words, that it would give to this commission all the power it can exercise under the Constitution?

Mr. STEWART, of Vermont. I do not say that. I say that, as I understand the Constitution and the judicial system of our Government, Congress can not establish this commission as a judicial body without giving its members life-tenure. As I understand the Constitution of this Government, you can not give this board judicial power to hear and determine finally and to execute their judgment through final process unless you give the members of the commission life-tenure; and that we do not want to do.

Let me say here that this provision is drawn in conformity and analogy with the English practice. Let us review the order of procedure. Any man may make complaint. It is true that the commission is not bound to entertain the complaints of every man; and my friend from Pennsylvania [Mr. BOYLE] made a point in this regard. He said there might be cases where the commissioners would refuse to entertain a complaint, and then the party complaining would be turned over to a district attorney or a county attorney or some officer of that description in some State or Territory of the country. Upon this ground he thought the provision objectionable. I say that is one of the merits of the bill. I beg leave to differ with my learned friend on this point.

Suppose such a board of commissioners as this bill contemplates should be appointed by the Chief Magistrate of this country—President Cleveland, if you please, or by and by President Carlisle, perhaps—will my Democratic friends on this floo r say that either of those gentlemen, knowing their action would be reviewed by the Senate, would appoint a board which would not properly exercise the discretionary power to judge as to the propriety of entertaining complaints of this character?

Mr. BOYLE. Is any court in this country armed with such discretion that it may hear the complaint of one man and refuse to hear the complaint of another?

Mr. STEWART, of Vermont. No court is armed with any such power. But this is not a court. That is the very point. It is not intended to be a court. It is intended to be a guardian, a watchful and impartial guardian of the rights of all. It is intended to listen and to investigate and to set this machinery in motion if in its judgment, upon consideration of all the circumstances of the case, it is wise to do so.

Now, my friend knows perfectly well that under this great system of railways there might be, and would undoubtedly be, a great many frivolous complaints; there would be a great many malicious complaints, and it is not that sort of complaints that the law is intended to meet; it is not that sort of difficulty that we are trying to cure. We are trying to cure real substantial evils existing in this country, and I say this machinery is adequate for the purpose. If you constitute such a board as this you may safely intrust to it the discretionary power to say whether it will entertain complaints or not.

That is the first point. Now, this board will have power to go on and investigate. It is true the investigation of the board does not ripen into judgment. Perhaps the bill should go a little further and say that where a man claims damages the commission should inquire and report its judgment as to the amount of damages that should be given. I should have no objection to such an amendment. I think on the whole it would be an improvement, although such a power would be in the nature of a final judgment.

Now, I understand perfectly well that a well-trained lawyer like my friend from Pennsylvania is very apt to pooh-pooh the judgment or finding of such a tribunal. We are accustomed to respect courts that not only have the authority to render judgments but are clothed with power to execute them; and we are disposed to say with reference to such a proposition as this: "This is nonsense; because it does not result in anything absolute and final." But I think my friend and gentlemen who think with him on this subject underestimate the moral power of such a board as this. I undertake to say that the very existence of such a board, representing the sovereignty of this Government and the concrete will and purpose of the American people to see that justice is done, would exercise a powerful and a controlling influence upon the great corporations of this country. I have not a doubt of it, and I do not believe my friend has. If Charles Francis Adams, who is an expert on this subject, a man whose character is above all possible reproach, should be associated with two other men competent to deal with this subject—if a board thus constructed should sit and hear complaints of this sort, listen to the evidence carefully and patiently, upon notice to both sides, and should then come to a finding, do you suppose, Mr. Speaker, that there is any railroad in this country that would not respect such a finding? There would never be any occasion to invoke the aid of a court after such a finding.

Again, I have heard it intimated by some gentlemen that you can not trust the President and the Senate to appoint a board of men who should be superior to the malign influence of the combined corporations of this country. I do not know that any such sentiment has found utterance upon the floor of this House. I should be sorry to hear that stated here as the deliberate conviction of any man who claims to be a democrat; for if a man comes to that he has lost faith in republican institutions and he has lost faith in the people. But it is not true, Mr. Speaker. The President and the Senate of the country, I believe, can safely be intrusted with (and I would as soon trust to the President of one party as to the President of the other party) the duty of selecting a board of able, fearless, impartial men who shall stand as the representatives of the country to keep these corporations within their proper limitations. That is all we ask, and it is all we ought to ask. It does not become the dignity of the American Congress to assail any great interest which has invested in it $7,000,000,000 of the hard-earned money of the people, and which employs 2,000,000 of citizens in its daily service.

They are entitled to the protection of their rights to the fullest extent, and I understand my respected friend the chairman of the Committee on Commerce—and I know his sincerity as well as his ability—has no desire or purpose to inflict any wrong on them. But believing, as I do, the measures he seeks to inaugurate are calculated to produce the very evil he would remedy, I would interpose this machinery, which has allied to it the whole judicial power of the United States. Any circuit-court judge anywhere, at any time, in chambers can be called upon promptly and summarily to entertain this subject. Some gentleman said he had not the power to issue a temporary injunction, but that gentleman had not carefully read the bill, and he is mistaken.

Mr. WILSON, of Iowa. I want to ask the gentleman from Vermont a question which involves a difficulty in the minds of a great many members upon the floor, and it is this: Why the Committee on Commerce did not so frame the bill that the commission might determine the amount of damages done to the complainant. If there be any reason why that should be omitted I should like to know it. The State commissioners are allowed the right to fix the damages.

Mr. STEWART, of Vermont. In answer to the gentleman from Iowa, I will say that I know no other reason except probably that it did not occur to the committee. I have already stated that in my judgment such an amendment would add an important feature to this commission. There certainly should be no objection to going one step further where a man claimed damages and allow the commission to give their judgment of the amount of damage sustained by the complainant. It would not be a judgment such as my friend from Pennsylvania [Mr. BOYLE] would have a great deal of respect for. He would say, perhaps, that it did not amount to much. But when he said that he would look at it from the standpoint of a lawyer and not from the standpoint of a moralist, he would leave out of consideration wholly the moral element. He knows the moral consideration would weigh as strongly with the railways of the country as any proceeding in chancery for injunction.

Now, Mr. Speaker, suppose the bill of my friend from Texas [Mr. REAGAN] is passed and it comes into operation as the law, and some poor fellow in his country starts out to get treble damages, how far do you suppose he would get in remunerating himself for his losses, which might be very small? The very imposition of treble damages imposes a duty on the railway to fight. The very fact the man is to be compensated more than he lost or has sustained is enough to put the railway on the defensive. I think the principle is vicious. It is inequitable and unjust, and I think any man in this country who undertakes under that bill to assert his rights will quite as soon come to grief as any man who should assume to pursue a common law remedy without any statute at all. It invites defense; it provokes a hostile war; and railways would carry such cases to the last extremity. They do not care so much for proceedings in court; they care a great deal more, as my friend from Massachusetts [Mr. LONG] has stated, for the blaze of public sentiment for the publicity of wrongs and outrages done by them than for any mere judicial proceeding.

Mr. Speaker, at the risk of repetition allow me to summarize my view upon this point. An intelligent, upright, and independent board, representing the Government of the people, standing between the people and the railways, charged with the duty of careful supervision of the relations between the two, and clothed with powers sufficient to preserve their just balance, would command the confidence of all parties, and its deliberate behests would challenge respectful attention and obedience by railway managers.

The bare fact of the existence of such a commission, whose action could be summarily invoked by any citizen, however humble, would exert a strong and constant tendency to bring and keep the management of the roads of the country within the limits of righteous dealing. Notice, too, that the Federal courts are brought into swift concurrent and auxiliary action with the board in the exercise of its functions.

Ample provision is made for speedy and intelligent investigation, while the roads are secured against hasty action by a provision for notice, which gives opportunity for retraction or correction of ascertained error.

The substitute bill leaves the wronged citizen to make alone such case as he may dare to undertake against a powerful and arrogant adversary, and attempts to fortify his weakness by severe penalties of doubtful expediency; while under the committee bill the machinery for redress is put in motion and controlled by a board which represents the sovereign will and purpose of the whole people, not for the enforce-

ment of rigid, artificial, arbitrary rules, often of injurious application, but for the wise enforcement of sound and just general principles, broad enough and flexible enough to meet all emergencies without injury or injustice to either citizen or carrier.

Mr. TURNER, of Kentucky. Mr. Speaker, after the elaborate and able presentation of the superior merits of the substitute offered by Mr. REAGAN over the bill under consideration, I deem it unnecessary to consume much of the time of the House. The gentleman from Texas [Mr. REAGAN], ever since the introduction of this question before Congress ten years ago, has given it his patient study and support, and a few days ago gave to this House the result of his investigation in the following substitute for the bill under consideration, which I do not contend is perfect, but is certainly preferable to the so-called committee bill:

A bill to regulate interstate commerce and to prohibit unjust discriminations by common carriers.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it shall be unlawful for any person or persons engaged alone or associated with others in the transportation of property by railroad from one State or Territory to or through one or more other States or Territories of the United States, or to or from any foreign country, directly or indirectly to charge to or receive from any person or persons any greater or less rate or amount of freight, compensation, or reward than is charged to or received from any other person or persons for like and contemporaneous service in the carrying, receiving, delivering, storing, or handling of the same. All charges for such services shall be reasonable. And all persons engaged as aforesaid shall furnish, without discrimination, the same facilities for the carriage, receiving, delivery, storage, and handling of all property of like character carried by him or them, and shall perform with equal expedition the same kind of services connected with the contemporaneous transportation thereof as aforesaid. No break, stoppage, or interruption, nor any contract, agreement, or understanding, shall be made to prevent the carriage of any property from being and being treated as one continuous carriage, in the meaning of this act, from the place of shipment to the place of destination, unless such stoppage, interruption, contract, arrangement, or understanding was made in good faith for some practical and necessary purpose, without any intent to avoid or interrupt such continuous carriage or to evade any of the provisions of this act.

SEC. 2. That it shall be unlawful for any person or persons engaged in the transportation of property as aforesaid directly or indirectly to allow any rebate, drawback, or other advantage, in any form, upon shipments made or services rendered as aforesaid by him or them.

SEC. 3. That it shall be unlawful for any person or persons engaged in the carriage, receiving, storage, or handling of property as mentioned in the first section of this act to enter into any combination, contract, or agreement, by changes of schedule, carriage in different cars, or by any other means, with intent to prevent the carriage of such property from being continuous from the place of shipment to the place of destination, whether carried on one or several railroads. And it shall be unlawful for any person or persons carrying property as aforesaid to enter into any contract, agreement, or combination for the pooling of freights, or to pool the freights, of different and competing railroads, by dividing between them the aggregate or net proceeds of the earnings of such railroads, or any portion of them.

SEC. 4. That it shall be unlawful for any person or persons engaged in the transportation of property as provided in the first section of this act to charge or receive any greater compensation for a similar amount and kind of property, for carrying, receiving, storing, forwarding, or handling the same, for a shorter than for a longer distance on any one railroad; and the road of a corporation shall include all the road in use by such corporation, whether owned or operated by it under a contract, agreement, or lease by such corporation.

SEC. 5. That all persons engaged in carrying property as provided in the first section of this act shall adopt and keep posted up schedules which shall plainly state:

First. The different kinds and classes of property to be carried.

Second. The different places between which such property shall be carried.

Third. The rates of freight and prices of carriage between such places, and for all services connected with the receiving, delivery, loading, unloading, storing, or handling the same. And the accounts for such service shall show what part of the charges are for transportation and what part are for loading, unloading, and other terminal facilities.

Such schedules may be changed from time to time as hereinafter provided. Copies of such schedules shall be printed in plain, large type, at least the size of ordinary pica, and shall be kept plainly posted for public inspection in at least two places in every depot where freights are received or delivered; and no such schedule shall be changed in any particular except by the substitution of another schedule containing the specifications above required, which substitute schedule shall plainly state the time when it shall go into effect, and copies of which, printed as aforesaid, shall be posted as above provided at least five days before the same shall go into effect; and the same shall remain in force until another schedule shall as aforesaid be substituted. And it shall be unlawful for any person or persons engaged in carrying property on railroads as aforesaid, after thirty days after the passage of this act, to charge or receive more or less compensation for the carriage, receiving, delivery, loading, unloading, handling, or storing of any of the property contemplated by the first section of this act than shall be specified in such schedule as may at the time be in force.

SEC. 6. That each and all of the provisions of this act shall apply to all property, and the receiving, delivery, loading, unloading, handling, storing, or carriage of the same, on an actually or substantially continuous carriage, or as part of the continuous carriage, as provided for in the first section of this act, and the compensation therefor, whether such property be carried wholly on one railroad or partly on several railroads, and whether such services are performed or compensation paid or received by or to one person alone or in connection with another or other persons.

SEC. 7. That each and every act, matter, or thing in this act declared to be unlawful is hereby prohibited; and in case any person or persons as defined in this act, engaged as aforesaid, shall do, suffer, or permit to be done any act, matter, or thing in this act prohibited or forbidden, or shall omit to do any act, matter, or thing in this act required to be done, or shall be guilty of any violation of the provisions of this act, such person or persons shall forfeit and pay to the person or persons who may sustain damage thereby a sum equal to three times the amount of the damages so sustained, to be recovered by the person or persons so damaged by suit in any State or United States court of competent jurisdiction where the person or persons causing such damage can be found or may have an agent, office, or place of business; and if the court before which any such action is tried shall be of opinion that the violation of the law was willful, it shall make an allowance, by way of additional costs, to the party injured sufficient to cover all his counsel and attorney fees. Any action to be brought as aforesaid may be considered, and if so brought shall be regarded, as a subject of equity jurisdiction and discovery, and affirmative relief may be sought and obtained therein. In any such action so brought as a case of equitable cognizance as aforesaid, any director, officer, receiver, or trustee of any corporation or company aforesaid, or any receiver, trustee, or person aforesaid, or any agent of any such corporation or company, receiver, trustee, or person aforesaid, or of any of them, alone or with any other person or persons, party or parties, may and shall be compelled to attend, appear, and testify and give evidence; and no claim that any such testimony or evidence might or might not tend to criminate the person testifying or giving evidence shall be of any avail, but such evidence or testimony shall not be used as against such person on the trial of any indictment against him. The attendance and appearance of any of the persons who as aforesaid may be compelled to appear or testify, and the giving of the testimony or evidence by the same, respectively, and the production of books and papers thereby, may and shall be compelled the same as in the case of any other witness; and in case any deposition or evidence, or the production of any books or papers, may be desired or required for the purpose of applying for or sustaining any such action, the same, and the production of books and papers, may and shall be had, taken, and compelled by or before any United States commissioner, or in any manner provided or to be provided for as to the taking of other depositions or evidence, or the attendance of witnesses, or the production of other books or papers, in or by chapter seventeen of title thirteen of the Revised Statutes of the United States. No action aforesaid shall be sustained unless brought within one year after the cause of action shall accrue, or within one year after the party complaining shall have come to a knowledge of his right of action. And as many causes of action as may accrue within the year may be joined in the same suit or complaint.

SEC. 8. That any director or officer of any corporation or company acting or engaged as aforesaid, or any receiver or trustee, lessee, or person acting or engaged as aforesaid, or any agent of any such corporation or company, receiver, trustee, or person aforesaid, or of one of them alone, or with any other corporation, company, person, or party, who shall willfully do, or cause or willingly suffer or permit to be done, any act, matter, or thing in this act prohibited or forbidden, or who shall aid or abet therein, or shall willfully omit or fail to do any act, matter, or thing in this act required to be done, or cause or willingly suffer or permit any act, matter, or thing so directed or required by this act to be done not to be so done, or shall aid or abet any such omission or failure, or shall be guilty of any infraction of this act, or aid or abet therein, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than $1,000.

SEC. 9. That nothing in this act shall apply to the carriage, receiving, storage, handling, or forwarding of property wholly within one State, and not shipped from or destined to some foreign country or other State or Territory; nor shall it apply to property carried for the United States at lower rates of freight and charges than for the general public, or to the transportation of articles free or at reduced rates of freight for charitable purposes, or to or from public fairs and expositions for exhibition.

SEC. 10. That the words "person or persons" as used in this act, except where otherwise provided, shall be construed and held to mean person or persons, officer or officers, corporation or corporations, company or companies, receiver or receivers, trustee or trustees, lessee or lessees, agent or agents, or other person or persons acting or engaged in any of the matters and things mentioned in this act.

Mr. Speaker, before I enter upon the argument I desire to correct an erroneous impression upon the minds of the members outside of the Committee on Commerce in regard to the bill under consideration. It is called the committee's bill by gentlemen who have referred to it in debate, leaving the impression upon the minds of the members that a majority of the Committee on Commerce have approved the provisions of the bill under consideration for which Mr. REAGAN offered his substitute. This is not true. I state here in the presence of the chairman of that committee, and I hope he will correct me if I am mistaken, that a majority of that committee has never approved the bill under consideration. There is but one member of the committee in favor of the bill, as far as I know, and it is wrong that the bill should have the prestige of a bill approved by a majority of the Committee on Commerce.

Mr. Speaker, I have never approved the bill under consideration as one of the committee, and I state again that there is but one of the committee who indorses the bill known as the committee bill, now under consideration, and it is not entitled to that consideration that is given to a bill approved by a majority of a committee. The Committee on Commerce heard the testimony and arguments of able representatives of many of the great trunk lines of railroads and of others not connected with railroads for more than two months at their sessions, and could not agree upon a bill; and finally it was agreed that the bill under consideration should be reported to the House with the privilege of every member to offer substitutes or amendments, and it is in this way it came before this House, and no one on the committee feels bound to support the bill, and I hope no member on this floor will give the bill any weight further than its merits in his judgment entitle it to. I hope gentlemen will give the bill under consideration close scrutiny, owing to the fact that it stands here without the approval of any committee of this House at all. I have said this much in justice to myself and the committee, and to remove a false impression resting on the minds of the members in regard to the bill under consideration known as the committee bill, giving it prestige over the substitute offered by Mr. REAGAN.

Mr. Speaker, what are the evils complained of for many years, that have oppressed the people under the present railroad system, and which have been brought to the knowledge of Congress by thousands of petitions from all parts of the country, and by numerous bills introduced and referred to the Committee on Commerce?

First. It is charged that the railroads have charged unreasonable rates, swallowing up the profits of the producers of this country.

Second. That they have shown favoritism to individuals and to communities, thereby building up some and breaking down others unjustly.

Third. That they had destroyed that just competition which is necessary to commerce and to protect the shippers by a system of pooling.

Fourth. That they covered up their unjust favoritism and discrimination as public carriers by a system of rebates and drawbacks.

These are the evils said to exist and that afflict the country, and no member on this floor has had the hardihood to deny that these evils do exist and need a remedy at the hands of Congress.

THE REAGAN SUBSTITUTE.

The substitute offered by the gentleman from Texas remedies all these evils—

It makes it a penal offense to charge unreasonable rates;

It makes it a penal offense to discriminate against shippers—

Charging one more than another for like service; and to carry out this provision it prohibits any railroad company from charging more for a short haul than for a longer one. It gives to the individual wronged a right of action in either the Federal or State courts, and entitles him to treble damages.

It secures that just competition which is the life of commerce and which protects individuals from monopolies by preventing pooling and making it a penal offense punishable by indictment and fine. It secures similarity of charges for similar work and prevents evasions by prohibiting rebates and drawbacks and making it a penal offense punishable by fine and indictment.

It requires the rates of freight to be posted up in the offices, that all may see and understand them. It gives auxiliary aid by bill of discovery, requiring exhibition of books and papers. It gives a remedy full and complete. What more could any one ask? Every evil complained of is remedied. What less could be given to protect the people from rapacious corporations, clothed with immense power by their charters, and wielding a great influence upon the legislation in many of the States, if not a controlling one?

JUSTICE TO RAILROADS.

Sir, I recognize the benefits conferred upon the country by the building of railroads. I admire the energy and the enterprise of our citizens engaged in railroading; but, sir, those from whom they draw their annual tribute, the people, the farmers, the producers, have rights that ought and must be protected. I would not deprive any railroad company of just, full, and adequate compensation, but let them be just to others. This substitute can not hurt railroad companies that are acting justly. It only forces those who do not want to act fairly and justly to regard the rights of the people.

But, sir, we are told by the distinguished gentleman from Massachusetts [Governor LONG] that this substitute is mere *brutum fulmen*, that it will be a dead letter on the statute-book; if so, it will certainly not hurt any railroad, and they and their friends ought not to object to it.

Mr. Speaker, I have not heard a single shipper object to this substitute. It comes from the other side, the railroad officials. They opposed it before the committee through able counsel, and not on the ground at all that it would prove to be *brutum fulmen*. Oh, no, sir! And, sir, the gentleman from Massachusetts [Governor LONG] is not willing to rely upon this objection, for he attacks one of the main features of the substitute bill, the long and short haul feature, contending that it is unjust; and to prove it he puts two cases—one of hauling freight over the costly bridge at Saint Louis for two miles and one for hauling freight a mile or two through a costly tunnel. Sir, these are delusive instances, and are not practicable objections at all, as every one sees, and which require no argument to show their fallacy. What the people complain of is that railroads charge more for hauling freight fifty miles than a hundred in the same direction, and charge double as much for hauling freight one hundred miles as two and three hundred in the same direction and on roads that cost on an average the same per mile. This is occurring all over the country in the West and South, and it is of this the shippers complain, and have a right to complain, because it is wrong, it is unjust. It is palpable, and requires no argument to show its injustice.

But, sir, the gentleman from Massachusetts [Governor LONG] with great complaisance, after denouncing the substitute of General REAGAN, points us to his remedy in the so-called committee bill, the railroad commission feature found in the eighth, ninth, tenth, eleventh, twelfth, thirteenth, fourteenth, fifteenth, and sixteenth sections of the bill now under consideration. This, in his judgment, is *par excellence*, and is held up by him as the cloud by day and the pillar of fire by night that is to lead the children of Israel into the promised land. [Laughter and applause.] This railroad commission is to give all the desired relief to the oppressed shippers, the relief from the wrongs that he admits exist. Sir, I want every member to read it and study it carefully. It is very lengthy, it is true, but when you come to analyze it it is simply this: That the President is to appoint three commissioners, one skilled in law, one skilled in railroad matters, and the other skilled, I suppose, in nothing, for the bill does not say—I suppose a sort of figure-head—but all to draw $7,500 apiece, to be provided with an office in Washington, to have free passes over every railroad in the United States and Territories, and to have all their necessary and other expenses paid out of the public Treasury, and two clerks at a salary of $2,500 each.

Now, if any poor farmer or shipper has been outraged by a railroad corporation trampling under foot his rights and disregarding the law, then he is to prepare a petition in writing addressed to this commission. If he is fortunate enough to get a board of trade or a United States attorney to examine into the facts and certify that the complaint is well founded, then the commission is to investigate it; and if they find that it is well founded and the petitioner's rights have been outraged and violated, what then? Are they to give judgment for damages? Oh, no, sir! They may communicate the same to the railroad company to afford them an opportunity of making such observation or taking such action as they (the company) may see fit. This is the language of the bill—section 10, lines 15 to 20, of the bill under consideration. Now, did ever any man outside of Massachusetts hear of such a moral-suasion remedy expressly against a soulless corporation? [Laughter and applause.] Why, sir, it does not even amount to "*brutum fulmen*," in the gentleman's own language, for there would be some satisfaction in that to the wronged individual; but in this remedy, after all his trouble, he gets nothing.

The gentleman from Massachusetts, [Governor LONG], in speaking of the Reagan substitute, after charging that it will be a dead letter, that it is mere *brutum fulmen*, says, "The people ask for bread and Mr. REAGAN gives them a stone; they ask for fish and he gives them a serpent." Sir, the rights of the people have been outraged for many years; they ask for a remedy commensurate with the evils that are acknowledged to exist, one that will give substantial relief, one that can and will be enforced in the courts of the country by honest judges and honest jurymen, and the gentleman instead of giving them that proposes to give them some of Mrs. Winslow's Massachusetts Soothing Sirup through his railroad commissioners who have no power. [Laughter.] Sir, it will not do—it will not satisfy the demands of the country.

But, sir, let us proceed with this remedy after this courtship between the railroad commissioners and the railroad company. If moral suasion should amount to nothing, then what? Why, in a proper case, says the bill, the commission may issue a notice to the railroad company requiring an answer, and thereupon the commissioners or some one else shall inquire into the facts of the case, and if the company has been found to have violated the law, then what are the commissioners to do? To give judgment upon this twice proved and established outrage? Ah, no! But they are to record their convictions in a book, and within twenty days afterward they are to cause a copy to be furnished to the railroad company, with a notice to cease and desist from such violations of the law, and also a copy to the United States attorney. Then, upon another notice that the company will not desist or refuses, the attorney is to file a petition in the name of the party aggrieved, and the court shall do what? Give a judgment on this long-delayed and twice-proven claim? Ah, no! But the court is then to begin for the first time and inquire into the matter, by requiring an answer showing why injunction, &c., should not issue, and upon proof for the third time the court is to act.

Now, why is all this rigmarole in favor of the railroad? Look, Mr. Speaker, at the Reagan substitute and contrast the two. It throws open the courts of the country, gives them jurisdiction at the outset, as in all other cases of violated rights of the citizen injured. Sir, it seems to me that the remedy is full, ample, and complete under the substitute offered by Mr. REAGAN. With all due respect to the gentleman from Massachusetts, for whom I entertain great regard, I think that every section of this bill in reference to the commission and creating one ought to be stricken out and the substitute adopted with some amendment. The tribunals created by the Constitution and the laws, the courts, State and Federal, can give all the relief to the citizens that any one asks for, without any additional expense to the people. There is no necessity for a commission at all—not the slightest.

Mr. Speaker, Congress has fallen into the modern habit of referring too many things to a commission or commissioners. We had our Presidential commission, that robbed the people of their victory; and then we had the tariff commission, and their report proved an abortion, a failure, and amounted to nothing. [Applause on Democratic side.] The railroad commissions in many if not all of the States have proved inefficient, and now it is proposed to create a new railroad commission of three—we already have a Federal railroad commissioner. I must confess that I see no use in creating this new commission, except to provide three splendid "sinee-curees." It certainly does this. It creates three officers with a salary of $7,500 and free passes on all railroads—all their expenses paid, necessary and other, and little or nothing to do; for surely no one in his senses would ever apply to this commission for relief.

Mr. Speaker, a friend of General Grant's told me that General Grant promised an old friend of his during the war that if ever he had the power he would give him some good position. Long afterward, when General Grant was President, the old man came to Washington and called upon General Grant. After the usual salutations the old gentleman said: "General, you remember your promise to give me a place?" The general, who never forgot his friends, replied familiarly: "Yes, Tom, I recollect my promise, and will fulfill it. What place do you want?" The old man hesitated and said: "Well, I don't know exactly, but I want a 'sinee-curee.'" The general said that was a new office. "What office is that?" The old man said: "It is an office with little or no work attached, and a damned sight of pay." [Much laughter and applause.]

Now, one of the berths provided for in this bill would have just suited him, $7,500, expenses paid, and little or nothing to do, and three of them at that—pretty good "sinee-curees," at the expense of the people, and no use or necessity for them whatever. But, Mr. Speaker, the gentleman from Massachusetts the other day in his able argument told us that these commissioners could make reports and investigate, &c. To give his identical language, he said: "These commissioners would be the eyes, ears, and fingers of Congress in the work of supervision," &c.

Well, sir, with all due respect, I think it would be much better if Congress would do its own "hearing, seeing, and feeling" in regard to the public matters that affect the right of the people. Sir, the great railroad companies brought before the Committee on Commerce during the last session of Congress their witnesses and experts and able lawyers. Their testimony was all taken down and their argument reduced to writing and revised, and the whole of it is already published and in the archives of the Government, and open to the inspection of every member of Congress who wants to see, hear, or feel. This question has been investigated for the last ten years, and I hope that Congress will now act and give the people the proper relief, and not create the new and useless offices of three railroad commissioners.

Mr. Speaker, the gentleman who has just taken his seat [Governor STEWART, of Vermont] stated that the great protection to the people would be competition; that they must look to competition between the railroads themselves as a remedy for the evils from which they are suffering, and that you must rely upon moral suasion to produce good results. Another distinguished gentleman from Massachusetts, who spoke within the last day or two, stated that no railroad could or would afford to stand up against public opinion in favor of the outrages reported by any board of trade.

I fully agree with the gentleman that competition is of itself a great remedy for unreasonable charges. Competition will stimulate commerce and afford relief for oppressed industries and to the citizens of the whole country. But these railroad-men have devised a means by which they can and do destroy competition. The railroad corporations, or many of them, have devised a pooling arrangement or system which of itself is calculated to destroy competition and in the nature of things must destroy it.

That is one of the very evils against which the bill or substitute of my friend from Texas desires to apply a remedy. What is the use, let me ask, to the people of this country if you have seven great trunk lines, extending from Saint Louis to the East, if these roads are allowed to pool their freights and divide the profits between them? Where is the healthy competition that my distinguished friend who just took his seat refers to if you allow pooling? Can not and does not every member of this House see that such an arrangement or pooling destroys that healthy competition which is the very life of commerce and the protection of the citizen? That is an evil that the Reagan substitute proposes to remedy. That substitute proposes to make it a penal offense for the roads to pool their freights. One of the main objects of the substitute is to strike down that very pooling system and protect the people from its oppression.

Another object, sir, is to prevent rebates and drawbacks. Why are rebates resorted to? It is to cover up a fraud practiced by the railroads themselves. They know under the common law that they are compelled to charge reasonable rates without discrimination between shippers as common carriers. They understand well enough what their duty is in the premises, but what do they do? They nominally charge all men the same rate for similar service, and in that respect make a literal compliance with the law. But that is not all. They give one man, a friend of the road, a rebate on his freight which they deny to another. They give one man a drawback and refuse it to another, or they give to one community a drawback on shipping rates which is denied to another, and thereby build up one fortune or one locality at the expense of others unjustly. That is one of the outrages that is proposed to be remedied by the substitute of the gentleman from Texas. It proposes to make such proceeding a penal offense, punishable by fine and indictment. But in opposition to that we have the so-called committee bill, that furnishes this useless commission, allowing rebates and drawbacks in the third section. Why, they say you shall give the same rebate to all alike. But why give a rebate at all? If the rebate is wrong, why allow it at all? Why allow it in any case?

It is a mere cover for a fraud. If a railroad company charges only just, reasonable, and uniform rates, and does not discriminate, is there any necessity for rebates at all? I repeat, it is simply a cover for the frauds practiced by the railroads upon the shippers of the country, and to enable them to unjustly discriminate.

Another thing that the substitute proposes is to require a schedule of rates to be posted up in some public place in every depot, to enable every man, every farmer or shipper to see what rates are charged, whether they are reasonable or not, and whether he is overcharged beyond the advertised rates. And yet in the face of these just provisions of that substitute gentlemen contend that the so-called committee bill is the best in every feature. That gives no protection to the citizen or to the shipper. They want by legislative enactment to ask the favor of these railroads to deal justly—to use nothing but moral suasion—soothing sirup to be administered by the railroad commission, and leave the shippers to the mercy of railroad corporations. Gentlemen, it will not do. The so-called committee bill does not give a remedy commensurate with the evils of which the people complain.

As I said before at the beginning of my remarks, and which I repeat, because I see that many members came into the Hall while I was speaking who did not hear my opening statement about the bill under consideration, and I desire the members on this floor to disabuse their minds of the erroneous impression that the bill under consideration is the judgment of a majority of the Committee on Commerce, and I, approved by them, repeat what I then said, that there is but one member of the Committee on Commerce in favor of the pending bill, and which has been erroneously called by every gentleman in debate on this floor "the committee bill." It came here, as I have stated before, on an agreement, after spending two months in a vain effort to agree upon a bill, that the bill should be reported but that no member of the committee should be bound to support it, every member reserving the right to offer a substitute for it or an amendment. The real object in reporting the bill was that Judge REAGAN might have an opportunity to bring before the House his substitute, on which he has labored for ten years, in order that we might have a vote upon the substitute in this Congress. That was the whole object, and the bill known as the "committee bill" is before this House without the indorsement of the Committee on Commerce. It stands here without the indorsement of a single committee of this House, and therefore is entitled to no prestige over the substitute offered by the gentleman from Texas. Let gentlemen scrutinize that bill, and I think after mature consideration they will reach the same conclusion that I have, that it merely creates a sinecure and affords no remedy commensurate with the evil for which this legislation is asked by the people.

Mr. Speaker, I desire to append to my remarks the eighth, ninth, tenth, eleventh, twelfth, thirteenth, fourteenth, fifteenth, and sixteenth sections of the bill known as the committee bill, now under consideration. They are the sections to which I have referred creating and regulating the proposed railroad commission. Such a commission, armed with no power except to draw their salaries and make reports, may be very effective in a land of moral suasion like Massachusetts, but I doubt its efficacy elsewhere.

Mr. Speaker, I return my thanks to you and the members of the House for the attention which has been given to me, and shall say no more at present, reserving the remainder of my time. [Loud applause.]

SEC. 8. That there shall be appointed by the President, by and with the advice and consent of the Senate, three commissioners, of whom one shall be of experience in the law and one of experience in railroad business, who shall be collectively known as the commission of interstate commerce of the United States, and shall be charged with the duty of carrying into effect the provisions of this act in respect of interstate commerce. One of said commissioners shall hold his office for the term of two years, one for the term of four years, and the other for the term of six years, to be respectively designated by the President, and thereafter said commissioners shall be appointed for the term of six years; and a commissioner appointed to any vacancy shall hold office for the unexpired term. Any one of said commissioners may be removed by the President for cause, but not otherwise. Said commissioners shall devote their whole time and abilities to the duties of their office, and shall not accept or engage in any office or employment inconsistent with the provisions of this act. If either commissioner, after his appointment, shall be or shall become by inheritance or operation of law pecuniarily interested in any railroad or railroad security, he shall within thirty days divest himself of such interest; and upon his failure to do so, or upon his voluntarily becoming interested in any such railroad or railroad security, his office shall become vacant. No commissioner shall participate in any hearing or proceeding in which he has any pecuniary interest whatever. Each commissioner shall receive an annual salary of $7,500, payable like the salaries of the judges of the courts of the United States: *Provided*, That before entering upon the discharge of their duties they shall, in addition to the oath required of them by law, take and subscribe to an oath that they are neither directly nor indirectly interested in the ownership or earnings of any railroad company whatsoever.

SEC. 9. That the said commission shall exercise only the powers by this act conferred. Said commission may appoint a clerk, whose duty it shall be to keep a full and faithful record of the proceedings of said commission, and otherwise to assist the members thereof in the performance of their duties, and who shall receive an annual salary of $2,500; and also one accountant, at an annual salary of $2,500. The Secretary of the Interior, at the request of said commission, may also furnish the commission such additional clerical, engineering, expert, or other service as they may request and he shall deem proper. Actual and necessary traveling and other expenses incurred by said commissioners, or their employés under their orders, shall be allowed them, for which vouchers shall be rendered. The commissioners, their experts and clerks, may pass and repass over any railroad engaged in interstate commerce free of charge whenever engaged in the performance of their duties under the provisions of this act, but neither shall accept any other pass, gratuity, or favor whatever from any railroad company.

SEC. 10. That any person complaining of anything done or omitted to be done by any railroad company or person in violation or contravention of this act may, in addition to the remedies hereinbefore provided, apply to said commission by petition in writing, which shall briefly state the subject of such complaint. If the petition is signed by any board of trade or other commercial body, or, when signed by an individual, if it bears the certificate of any district attorney of the United States, or of any district or county attorney, or officer corresponding thereto, of any State or Territory, that he has examined the facts, and in his opinion the complaint is well founded, the commission is hereby required to entertain and investigate the same. In all other cases the commission shall decide whether or not the petition ought to be proceeded with. The commission may, if they think fit, before requiring or permitting any formal proceedings to be taken on any petition, communicate the same to the railroad company against whom it is made, so as to afford them an opportunity of making such observations or taking such action thereon as they may think fit. The commission shall have power and in a proper case is required to cause a copy of the petition to be served upon the railroad company complained against, and to issue a notice requiring such company to appear before the commission and

answer the said petition. The answer shall be in writing. After the answer is filed it shall then be lawful for the commission, if it shall think fit, to direct and prosecute, in such mode and by such persons or means as it shall think proper, all such inquiries into matters of fact as may be deemed necessary to enable the commission to form a just conclusion in respect of the matters of said petition. All the proceedings before said commission shall be directed by and under general orders, which shall secure to all persons interested reasonable notice and opportunity to be heard. If it shall be made to appear to the satisfaction of the commission, either by the testimony of witnesses or other evidence adduced before it, or by the report of any person to whom the commission may have referred the inquiry, or any part thereof, that anything has been done or omitted to be done in contravention or violation of this act by any railroad company or person so upon due and proper notice proceeded against, it shall be the duty of such commission to make and record its report in writing in respect of any such contravention or violation of this act, which report shall comprise and embrace the findings of the commission upon and in respect of all questions of fact in issue or involved in such proceedings. Within a reasonable time, not to exceed twenty days, after such report and findings are made by the commission, it shall cause a copy thereof to be served upon or delivered to the railroad company so found to have violated this act, to which shall be appended a notice to be issued by said commission to such company forthwith to cease and desist from such violation; and also to deliver to the district attorney of the United States for the district in which the act complained of occurred another copy of such report, findings, and notice.

SEC. 11. That upon notice that any such railroad company has neglected or refused to conform to the decision of said commission, and to desist from such violation or contravention of this act, it shall be the duty of such district attorney to apply by petition, in the name of the party aggrieved, to the circuit court of the United States for such district, for, and it shall be the duty of such court to grant, an order upon such railroad company to show cause why such company should not be enjoined and restrained against the continuance of such violation, and for such other order and relief in the premises as may be just and proper. For the purpose of making any order or decree in the premises, final or otherwise, such court shall be always open, and the day on which any such order or decree is made shall be a special term of such court. Upon the service and return of such order to show cause, and notice to the parties interested, such court shall proceed in a summary manner to ascertain whether the said report and findings are true; and whenever said court shall be of opinion that such company has done or is doing any act in violation or contravention of this act in said report and findings described, it shall so adjudge; and it then shall be the duty of said court forthwith to issue a writ of injunction, requiring such railroad company to desist from such violation, and in respect of the matters in said report contained to conform to and obey all the provisions of said act. Such court may enforce obedience to any such injunction, order, or decree, by any person or party, by fine, proceedings for contempt, and all other means within its lawful jurisdiction sitting as a court of equity. Any person interested to restrain such violation may, on application to the court, be allowed to appear and be heard, by himself or counsel; and upon proof that any district attorney has failed in any proper case for the period of ten days to apply for such order to show cause, the court may permit such application to be made and prosecuted to effect by or in behalf of any person so interested. Such court may, in its discretion, award or deny costs to any party to such proceeding. In any case where the court shall adjudge that the violation of this act by any company has been willful, or continued after notice to desist therefrom, the court may award to any party injured such a gross sum by way of costs as will reimburse all his costs, charges, expenses, counsel fees, and disbursements, to be paid by such company.

SEC. 12. That the commission may make, and from time to time amend, such general orders as may be requisite for the order and regulation of proceedings before it, including all forms for proceeding, notices and the service thereof, and for the prescribing, directing, or regulating any matters authorized by this act. All the proceedings before said commission shall be upon reasonable notice to all parties interested, and such forms shall conform as nearly as may be to those in use in the courts of the United States. Any party may appear and be heard in person or by attorney.

SEC. 13. That for the purposes of this act the commission shall, subject as in this act mentioned, have full power to ascertain and report upon all questions of fact arising under this act, and shall also have the powers following:

(a) They may by subpœna or order, to be served by a person by them authorized, require the attendance of witnesses, and of all such persons as they think fit to call before them, or before any person by them authorized to prosecute an inquiry.

(b) They may require the production of all books, papers, and documents relating to any matter before them and to that end may invoke the aid of any court of the United States.

(c) Either of them may administer oaths and affirmations.

SEC. 14. That the principal office of the commission shall be in the city of Washington, where its general session shall be held and its records and archives be deposited. Whenever the convenience of the public or of the parties may be promoted, or delay or expense prevented thereby, the commission may hold special sessions in any part of the United States. It may, by one or more of the commissioners, or one of the persons named in the ninth section hereof, or by any person specially appointed by the commission, prosecute any inquiry necessary to its duties, in any part of the United States, into any matter or question of fact, and may specially delegate to the officer or person conducting such inquiry such powers to that end as are by this act conferred upon the commission and may be deemed necessary. Every vote and official act of either of the commissioners shall be entered of record. The commission may conduct its proceedings in such a manner as will most conduce to the dispatch of business and to justice; they may sit together or separately, and either in private or public, but any proceeding before them shall be public upon the request of either party thereto, and a majority of said commission may determine any question submitted. The commission shall prescribe a railroad year, and a system of reports covering said year to be rendered by railroad companies; examine the books and accounts of said companies at such times as may be deemed by them necessary; see that all United States laws relating to said companies are enforced; furnish such information to the several Departments of the Government, or the Government directors of any of said railroads, in regard to the tariffs of fares and freight, or the accounts of said railroads, as may be required of them or as they may deem expedient; make an annual report of their doings to Congress on or before the 1st day of January of each year; and otherwise endeavor to procure the data necessary to the gradual enactment of an intelligent system of national legislation regulating interstate railroad commerce.

SEC. 15. That the Secretary of the Interior shall provide suitable offices and a room for the public sessions of the commission in the city of Washington. Witnesses summoned before the commission shall be paid the same fees as witnesses in the Federal courts, and depositions *de bene esse* and under commission may be taken to be used before the commission in the same manner and upon the same conditions as in such courts. The salaries and expenses of the commission shall be provided for, audited, and paid in the same manner as the salaries of judges and other judicial expenses.

SEC. 16. That said board of commissioners shall inquire into that method of railroad management or combination known as pooling, and state the result of their inquiry in their first annual report, and whether, in their judgment, any, and if so what, legislation is expedient in relation thereto.

MESSAGE FROM THE PRESIDENT.

A message from the President, in writing, was communicated to the House by Mr. PRUDEN, one of his secretaries.

INTERSTATE COMMERCE.

The House resumed consideration of the unfinished business.

Mr. BUDD addressed the Chair.

Mr. REAGAN. I understand that no gentleman on the committee desires to be heard this afternoon.

The SPEAKER. The Chair will then recognize the gentleman from California.

Mr. BUDD. Mr. Speaker, I understand that the efforts of Judge REAGAN and others to prevent corporation abuses and regulate the interstate commerce of the railroads of the United States have continued for eight or ten years without effecting the enactment of any law by Congress. It is the duty of Congress to pass some such law. To secure justice to all parties, Government supervision or regulation or ownership is indispensable.

RAILROAD ABUSES REQUIRE LEGISLATION.

True, the former glaring abuses of railroad mismanagement have been, without law, largely corrected. There are existing, however, glaring and outrageous abuses, extortions, and discriminations which demand corrective and stringent enactments. Just what enactments will remove these evils it is more difficult to determine than that a remedy is needed. The railroad problem is not as simple and easy of solution as is imagined by those who have never given it a patient study. To deal in generalities and denounce abuses is far easier than to correct them.

To correct and prevent extortions, overcharges, and discriminations laws have been passed by nearly every European people. Belgium, Germany, France, and the colonies have legislated on the subject.

In England for more than forty years the railroad problem has been thoroughly studied by leading statesmen; committee after committee of Parliament has investigated and reported thereon. Some governments have attempted to solve it by acquiring railroads within their borders. It is thus in Belgium, in New Zealand, and Australia. France has a present interest in its railroads and a future right to the sole ownership of them.

For forty years England has been puzzling over the problem. During the first thirty-three years no satisfactory result was reached and all efforts at restraint proved abortive.

In 1872 a committee of twelve of the ablest and best men in Parliament, six from each house, was appointed. After long and careful investigation it reported, in effect, that it could neither recommend nor draft a bill that would prevent all railroad extortions, nor the growth of the railroads as monopolies. It recommended, however, measures which would largely remove existing abuses and secure to the people greater benefits than had been theretofore enjoyed. The committee stated that railroad consolidation had in some cases, as that of the Great Eastern line, proved beneficial and caused a reduction of freights and fares and an increase in facilities. But I say that proper laws can and should give the relief demanded.

REDUCTIONS DURING PAST FEW YEARS.

Although the efforts in this House have not resulted in law, they have had a salutary effect. There has been a large reduction in rates and a modification of abuses in interstate railroad commerce that would have been deemed impossible when this agitation began. According to Joseph Nimmo, jr., the able Government statistician, from 1868 to 1883 there was a reduction in the cost of grain transportation from the West to the Atlantic seaboard of more than one-half. Had any member in 1868 introduced a bill reducing these rates 50 per cent., he would have been denounced as a crank and his bill been cited as proof of lunacy. I compile the following from Nimmo's official reports: To transport grain from Chicago to New York, cost, per bushel, in 1868: By water, 25.3 cents; by rail and water, 29 cents; by all rail, 42.6 cents. In 1873, all water, 19.2 cents; rail and water, 26.9; rail, 33.2; 1880, all water, 13.2; rail and water, 15.7; all rail, 19.7. In 1883 it ran, all water, from 7.2 to 11.3; water and rail, 10.7 to 11.9; all rail, 15 to 18 cents—seven months it being 15 cents. Edward Atkinson is authority for the statement that the saving to the people of the United States by reason of the railroad reductions is equal to the national debt.

In Europe, where labor and material are cheap, we expect to find rates much lower than here. The statisticians tell us that this is not the case, and that freights are lower in the United States than in Europe. They say:

In France, where the government regulates the railroads (or tries to regulate them), the average cost per mile of moving a ton of freight is about 1.6 cents; in Belgium, 1.5 cents; while in the State of New York the charge is only .9 cents per ton per mile on the average.

To show further these reductions in rates I will cite from the uncontradicted statement of Mr. Albert Fink before the House Commerce Committee, of which Judge REAGAN is chairman:

During the summer the railroads charge 50 cents for carrying 200 pounds of flour 1,000 miles, but now charge 30 cents. Supposing a man eats 1 pound of flour a day, he then pays on an average for 365 pounds of flour, say, about $1. If he also consumes a pound of meat per day, brought from Chicago to New York at

an average cost of about 32½ cents per 100 pounds, amounting to $1.20 a year, he pays during a year $3.20, which is about equal to one and a half day's wages of a common laborer and less than a day's wages of a skilled laborer for the services rendered him by the railroads.

* * * * * * *

If you will go through the whole list of articles of consumption you will find that the charge for railroad transportation is very small compared with the cost of producing the articles, and much smaller than the profits which are generally charged by the middlemen, the merchants, who are constantly complaining of the railroads. Take, for example, a suit of clothes, shipped from New York to Chicago, weighing about ten pounds. At the present rates it is transported to Chicago for 7½ cents. The suit may cost from $20 to $50, and the cost of transportation is almost inappreciable. Or, take a calico dress, which is transported from New York to Chicago, a thousand miles, for about three-quarters of a cent a pound, or 2½ cents for the dress. And yet we have complaints of dry-goods merchants calling upon the railroad commissioners of New York to reduce the cost of carrying these articles. Take a pound of coffee, which is carried from New York to Chicago for one-third of a cent a pound; and sugar for one-fourth of a cent a pound; the price being 30 cents per pound for coffee and for sugar 11 cents.

That there exist, however, abuses, extortions, discriminations, combinations and poolings injurious to the public good, which must be corrected by law, no one can truthfully deny. In enacting such laws we should be certain that they secure the greatest good to the people without crippling the industries of the country. Railroads brought inestimable blessings; but with these blessings they also brought many evils. They often discriminate unjustly, and build up one man at the expense of another; they at times commit wrongs beyond the reach of law; they frequently place on the people's backs "all the traffic will bear" and more than prosperity can stand. In a thousand ways they may and do, with impunity and profit, violate the laws of trade.

Coming from California, which is known as a strong anti-monopoly State, I insist that in passing laws regulating and correcting the abuses of railroad mismanagement our enactment shall, in so far as it can be done by law, remedy the abuses that exist in interstate commerce.

In discussing these measures I desire to offer a few criticisms on the wording of the substitute, for of the two measures before us I favor the Reagan substitute generally, and desire to see it perfected before it is adopted. I will then pass to a discussion of one section of the substitute which I do not favor, and which, if adopted, would prove injurious to the far West, and especially so to California.

At the proper time I will move to insert, after line 9, on page 1, the words "by him or them."

The first and second sections of the bill are nearly the same as the first section of the substitute. By some oversight the words "by him or them" are omitted from the latter in a place where they are absolutely necessary to prevent injustice.

The only reasonable construction of the section now is, that no person shall charge for the same amount and kind of freight between any two places more or less than is charged by him or any other person, no matter what are the means of transportation.

In other words, a railroad carrying grain from Chicago, or any other point, to New York or any other point, can not charge more or less than is charged for the same amount and kind of freight by the water lines, the lakes, and canals; yet every one who has investigated this subject should know that this water transportation is to rail, in point of cheapness, as 4 to 1, or thereabouts.

The following arrangements throw light upon this subject. These were not poolings but proratings:

That between the Baltimore and Ohio Railroad and the Boston Steamship Company favored the water transportation as 4 to 1.

That between the Erie Company and boats from New York to Boston favored water transportation as 3 to 1.

That between the railroads and steamers from Parkersburg to Cincinnati favored river transportation as 2 to 1.

That between the Erie Railway Company and the lake steamers as 5 to 1.

That between the Vermont Railway and Northern Transportation Company favored water as 3 to 1.

That by Chesapeake and Ohio Railway and Ohio River vessels was as 2 to 1.

That of the Illinois Central and the Mississippi boats as 5 to 1.

A STRANGE OVERSIGHT.

The insertion by the committee in their second section of the words "under substantially similar circumstances" is in my judgment absolutely needless, except as giving a loop-hole for construction by judges or railroad attorneys; for if the words "like and contemporaneous services" in that connection do not express the same thing as "similar circumstances," then you can not get synonymous terms in the English language to do so. The committee have failed to insert in section 3 of their bill the word "substantially" as modifying similar circumstances, leaving the act to be construed with the words "substantially similar circumstances" in section 2 and "similar circumstance" in section 3. The omission of the word "substantially" in section 3 may mean much by legal interpretation, and as the bill is carefully drawn looks decidedly significant.

No two circumstances in human events can be exactly similar; they may be "substantially" so; and you provide by one section that if circumstances are "substantially" similar, certain things may be done, but in the other you have restricted the interpretation by the omission—apparent and glaring omission—of the same word. In the interpretation of this bill, under the rules governing legal construction, the omission of the word in one place and its insertion in another speaks volumes—speaks largely against section 3 of the committee's bill.

REBATES GENERALLY INJURIOUS.

Mr. Speaker, as a general rule the section of this substitute prohibiting rebates is correct. Through rebates and the violation of acts in this section prohibited most of the railroad abuses complained of have occurred. So I say, as a general proposition, rebates are improper and should not be permitted. I can imagine, however, certain circumstances under which rebates ought to be permitted, and under which no harm, but much good, would result. Nevertheless I am not willing to strike out a section prohibiting them, unless all necessary and proper restrictions and limitations are inserted, such as will protect the interests of the shipper and prevent unjust discriminations.

I will in due time offer such.

I can imagine a brick-yard at which a million of bricks are made annually. I can imagine that in such a case the railroad company might say to the manufacturer of bricks, "If you will make and ship over our line 3,000,000 bricks instead of 1,000,000, we will give you a rebate of 15 per cent. per car on all bricks shipped." I can see that in such a case the railroad company, by the larger volume of business, will get in the aggregate greater compensation. I can see that the increased quantity of business may allow the man who runs the yard a considerable saving in his freight. I can see that by the increased, the triple supply to the market, the consumer of bricks gets a reduction. In such a case as this I can see how a rebate may be proper and may yield a profit to the railroad, a profit to the manufacturer, and a profit to the consumer. Some of the States of the Union, as for instance Alabama, allow them occasionally for the purpose of "assisting in the development of any industrial enterprise."

I can see how the same thing might occur in such a coal-mine case as that stated yesterday by the gentleman from Michigan [Mr. HORR]. I can also understand a case in which one mine produces six-dollar ore and the other forty-dollar ore. I can see that in such a case it might not pay the railroad company to construct tracks and carry the six-dollar ore from the mine to the crushing mill if the quantity of ore were very limited; but at the same time, if it can get a few hundred thousand tons of such ore to be carried over the road at a low rate, it might make a profit. In that case and in a few others I can see how a rebate might be justifiable.

Mr. REAGAN. Is it the gentleman's view that the railroad companies should be empowered to discriminate in favor of the wealthy and strong against the poor and weak for like service?

Mr. BUDD. That is the very question that was asked another gentleman on this floor yesterday. I do not see that this case cited is a discrimination in favor of the wealthy as against the poor. I see, sir, that in this very case the discrimination would be in favor of the poor man, or rather the man owning a mine of poor ore, as against the man owning a mine the ore of which is worth $40 a ton. I can see, further, that in this entire substitute you allow discriminations. You allow the railroad companies to charge more for one kind of freight than for another. You do not by your bill regulate the charge upon the jacket of the poor man nor upon the silk of the rich. Under your bill you allow these companies to charge more for the transportation of calico, if they find it profitable to do so, than for silks. If the shipment of one thing is small and the shipment of the other is large, there may be by reason of this increased volume of business another and entirely different rate. Your bill does not prohibit discrimination in such a case.

Proper discrimination is the order of life and business; and in this substitute discrimination is allowed from the beginning to the end. There is not in this substitute by any clause a prohibition of discrimination as such. True, the railroad company must charge the same for the contemporaneous transportation of silks for one man as for another, but under your bill they may put a greater rate on the shovel of the poor man than on the silks of the rich; there is nothing prohibiting it. Directly answering the question, I am not in favor of the rich against the poor. I am against rebates in ninety-nine cases out of one hundred, and I would not vote for any act or any section that allowed them, unless there were proper restrictions and limitations in the same measure protecting all persons against these unjust discriminations. On that section I vote with the substitute, unless there is an insertion absolutely preventing such discriminations.

Speaking of discriminations, I would like to call the gentleman's attention to another point.

DISCRIMINATIONS OF SUBSTITUTE.

One of the most glaring discriminations ever contained in any bill is to be found in this substitute. There is a discrimination in this substitute against persons engaged in transportation which would not be allowed in the commonest affairs of life. If a person "willfully" carries freight at a rate that is unreasonable, or if he "willfully" violates this act in any manner, you can fine him a thousand dollars. There is no doubt about that. It is just. Imagine, however, a case that is

to be left to the courts, in which the question involved is whether the rate charged from San Francisco to Reno, or any other point out of the State of California, is reasonable.

The company or its agent insists that the charge made by it or him is reasonable—that it is worth $10 per ton. The other man says it should be less by $1 per ton. The matter goes into court. Now, we will say $1,080 is the damage claimed by the shipper. There was an honest difference of opinion. What is the result? You can recover three times the damage, or, in other words, for an honest difference of opinion you can recover from the railroad the sum of triple damages, $3,000, although it was not a "willful" overcharge. This substitute by one section provides that, should you arrest a man and try him, in such a case you could not even fine him. Why? Because it was not a "willful" overcharge. A judge sitting to hear and pass on the case would say, "This was not a 'willful' violation; this was an honest difference of opinion, and I can not allow the costs in the case, because it was not such a willful violation as the law contemplates." There the discrimination comes in, and you can not allow costs of $20, because it was not a willful violation, but you can amerce in damages to the extent of $3,000 or more.

Mr. REAGAN. The gentleman from California quotes different provisions in the bill strangely blended. He says you can not fine him in costs for willful violation of the law. There is nothing in the bill——

Mr. BUDD. That is what I say; you can not fine him except for a "willful" violation of the law.

Mr. REAGAN. I have said that.

Mr. BUDD. You can not even charge costs up to him without "willful" violation of the law.

Mr. REAGAN. How can you talk about costs in a criminal action?

Mr. BUDD. I mean for a civil action.

Mr. REAGAN. Unmix them, and I will answer.

Mr. BUDD. I will, and then the gentleman may answer. Under subdivision 8 of your substitute you allow a fine of $1,000 for "willful" violation of the law.

Mr. REAGAN. Yes, sir.

Mr. BUDD. Under section 7 of the same act, line 15, if the court before which any such action is tried shall be of opinion that the violation of the law was "willful" it should make an allowance by way of additional costs to the party injured sufficient to cover all his counsel and attorney fees.

Mr. REAGAN. In a civil suit.

Mr. BUDD. One moment. If there be a "willful" violation of the law additional costs to cover all counsel and attorney fees are allowed; but in section 7, lines 1 to 10, if any person be found violating the provisions of this act such person or persons shall forfeit and pay to the person or persons who may sustain damage thereby a sum equal to three times the amount of the damages so sustained, to be recovered by the person or persons so damaged. You can charge, therefore, under this act a fine of from $3,000 to $30,000 for an honest, conscientious difference of opinion as to what is a reasonable charge without there being any intention "willfully" to violate the act.

Mr. REAGAN. That would be according to the judgment of the court.

Mr. BUDD. Very good.

Mr. REAGAN. But the gentleman is talking as if the question were one of mistake in judgment by the railroad.

Mr. BUDD. Yes, sir; I am.

Mr. REAGAN. In the case of a civil suit there would not be a penalty, but only the assessment of damages.

Mr. BUDD. But let me imagine a case which will illustrate the point.

Mr. REAGAN. Take a real case, something that can exist, not a hypothetical one.

Mr. BUDD. I always desire to take cases that may be recognized by symbols, because you can then at any time put the proper facts in to suit any particular case. I will therefore suppose a case.

I desire to ship a certain number of car-loads, say *a* car-loads or a thousand car-loads, of grain from Stockton to San Francisco, imagining for the sake of illustration that one of them is outside of the State and the case comes under the rule of interstate commerce, and the transporting company say, "We will charge you $10 a ton." I reply, "I think $9 is enough," or any other supposable sum. There is an honest difference of opinion between us as to the value of the service, and the case goes to the courts.

It is found, on trial, that the company honestly believed the service to be worth the amount that they charged me, but that in point of fact I had been charged a thousand dollars too much. Now, under this provision of the bill the judgment of the court must be that the overcharge of $1,000, although it is honestly made, would entitle me to triple damages, and yet the judge sitting in that same case could not give the complainant $50 toward the expense of his attorney's fees.

Mr. REAGAN. If the gentleman will look at the provisions of the bill he will see that schedule rates are required to be posted up, and the law will assume that these are reasonable rates in the contemplation of law.

Mr. BUDD. No, sir.

Mr. REAGAN. And if the transportation company charges more or less than those rates it is made a separate offense by the bill. But on the hypothetical case he supposed it would be a question of law and of fact as to whether there was a willful violation of the law or not, and therefore I can not comprehend the exact ground of his criticism.

Mr. BUDD. Will you be kind enough to point me to any provision of the bill that makes the schedule rates so posted up reasonable rates *prima facie* in the courts?

Mr. REAGAN. There is a provision in the bill that they shall in the first place establish and post up their schedule rates in places designated by the bill, and if they charge more or less than the schedule rates they are themselves liable to the damages prescribed by the act. It is a finable offense under the terms of the bill.

Mr. BUDD. That is true, and would be all right and proper if there was a willful violation of the law; but if an overcharge were made honestly—honestly believing that the charge is simply what is right and proper for the service—if, in other words, they think the schedule is proper and it afterward turns out that it was not a proper rate, then, in the contemplation of this bill, although it were not a willful violation of the law, you can amerce them in three times the damages.

Mr. REAGAN. The gentleman talks about two things that are entirely dissimilar.

Mr. BUDD. Yes, sir, I agree with you; but you made them so by the bill that you propose here.

I say, Mr. Speaker, that it is a discrimination and an unjust one, and one that ought not to be permitted even though it be against a railroad corporation. I come from a State in which the feeling against monopolies is stronger perhaps than in any other State of this Union, and in which the Reagan bill is looked to as the great source of all remedy for the evils our people complained of. I know, sir, that any man may be criticised who dares to criticise adversely any provisions of this substitute, but when I, after careful study of this bill during the last session of Congress and during this, find these discrepancies and discriminations I feel it my duty to the people whom I have the honor to represent to present my objections in order that it may be so amended as to give the remedy we want.

No man is fit to be a representative of the people who fears to express his honest convictions on all public measures, or who keeps silent to avoid adverse criticism. I do not like certain provisions of this measure; I think them unjust, and therefore I oppose them.

LONG AND SHORT HAULS.

Now there is another section of the bill, and I only called this one up incidentally because it had been suggested by the question of Judge REAGAN himself. With the insertion of the word "willful" in subdivision 7 and of "by him or them" in section 1 I intend to vote for the entire substitute of Judge REAGAN with the exception of this long and short haul business. But I can not vote for that section.

Mr. REAGAN. I would like to ask the gentleman from California if he knows the fact that the constitution of California contains that precise provision that more shall not be charged for a short than for a long haul?

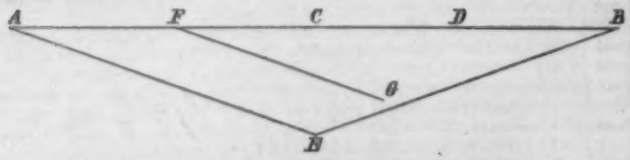
Mr. BUDD. I believe so. But we are dealing now with interstate and not with State commerce; and if the gentleman has studied the question as much as I think he has he would have found by this time that different rules prevail with reference to interstate and State commerce. Where a less charge for a long haul might be proper on a long line of road, running through several States, a thousand miles in length, it might not be proper within the limits of a little State whose extreme borders would not be three hundred miles apart. No more for a short than for a long haul? You make distance the sole measure of cost. You have stated in the first subdivision that all rates must be reasonable; and hence the elimination of section 4 would not allow a greater charge for a short than for a long haul unless the rates for a short haul were reasonably worth more. But you desire to prejudge it. You say, "It must be reasonable," and then prohibit it whether reasonable or not and shut the door against all power or courts so to declare it. You put in a rule that must meet all cases, and, like the bed of the robber Procrustes, if it does not fit you will stretch the man or clip him off; and yet I have figures to show that there are matters entering more largely into the cost of transportation than the mere length of the haul.

It is, under like circumstances, unjust to charge more for a short than for a long haul, but now we are passing upon a section proposed as a universal and inflexible rule under any and all circumstances—a rule without exception. In it the only element considered is distance. Now, unless this is the only or at least the greatest element entering into cost of transportation the section should not be adopted. If there be other elements of cost far more important than distance, the section would be unjust. If there be numerous cases in which the enforcement of the section would cripple or bankrupt railroads or prevent the laws of trade or competition from operating, then it should not be adopted. If under other sections of this bill all charges except such as are reasonable are prohibited and punished and ample remedy given to enforce them, then this section ought not to be adopted.

If it is reasonable to charge more for the short than for the long haul, who should complain? If it is not reasonable to charge more for the

short haul, the party injured has three remedies: First, by criminal prosecution and a fine of not less than $1,000; second, by a civil suit in State or United States courts; third, by an appeal to the commission, its order, or a suit instituted by it, should the commission sections be adopted. Hence there are three safeguards against any company charging more or less than is reasonable for any haul, long or short.

Let us suppose certain cases illustrating the injustice of this section. I have a diagram here that I do not suppose all can see, so I will take those four doors by way of illustration, because every one can see them. I insert my diagram; either illustrates my remarks, as I shall refer to the matter by letters, varying the same to meet the facts in each case supposed:



I will now take these four doors because every one can see them, and I will designate them by letters. The Speaker's desk is C, I am at E; F is where Washington's picture stands. Now, A and B represent cities, as also do the other letters. From city A to city B you can under this section charge the same as from A to C, a lesser distance, whenever competition or the laws of trade or increased volume of business or other causes make them reasonably the same. There is no doubt of that. The distances are unequal, but the charge the same. A to C is a short haul, A to B a long one, but over this short haul you may charge as much as over the long one, though the distance is but one-half. The substitute allows this. Half way between cities C and B is situated a town D, to which from C there is a grade of 60 feet to the mile. A locomotive can at the same cost do only about one-fourth as much work over a 60-foot grade as it can on the level; consequently it is worth more to haul from A to D than it is from A to C. Say it is reasonable to charge $1 per ton from A to C, hence the law allows it. It is also reasonable to charge from A to D more than from A to C because of the increased grade and other causes. The law allows it because reasonable. But you may under this section charge as little from A to B as from A to C; does it not follow that you might be allowed to charge less from A to B than from A to D in such cases? In other words, the charge from A to D may under section 1 be more than from A to C, and under section 4 the charge from A to B may be as small as from A to C.

Mr. REAGAN. The long haul embraces every part of the road, whatever the grade. You can not make the long haul without running over the worst part of the road.

Mr. BUDD. I do not dispute that in this case. I understand that proposition. But yet you allow the company to charge as little for the long haul, running over the entire road, as you do from A to C before you get to the heavy grade. This fault can be corrected by amendment, and hence is not serious. But the Reagan substitute does not say "over the same track;" it says over the railroad, and includes all branches and leased lines.

Now we will suppose another case. A road runs from A to D, but from D to B there is no road operated; B is a large seaport town from which there is water transportation to A, not, however, touching at D. Now the charge from A to D is worth $1 per ton; it is charged; freight can be carried by water from B to A at, say, 50 cents per ton. If the road operated to D could be extended and was permitted to carry freight at like rate from A to B it might get much through and return freight, nearly filling cars both ways, whereas from D to A there is but little return freight. To get this through traffic it must compete with water, however, and can not get any of it at a greater charge than 50 cents per ton. If it could carry this volume of through freight, it would justify operating, or building and operating, the line D B; for a small profit could be made which added to its other revenues would in so far forth relieve D. But under section 4 it can not charge less from A to B than A to D. It might charge the same, but at $1 it can get no through freight and 50 cents on the entire traffic would not pay. You must either abandon the local traffic or not take the through at obtainable rates. Now, this would in some cases retard railroad extension and in others prevent competition.

Again, suppose another case. Assume, this time, that A and B are large competing centers with water communication. From A to D is a heavy grade of sixty feet. The road is tunneled, the beds blasted, and the whole work very expensive. The road is built, of necessity, to connect these points, the through traffic being large, though the local traffic is unremunerative. Now, as heretofore stated, transportation over a grade costs much more than on a level. Another company is operating a line from A to B by the way of E, also a large business center. A E B is on a level, hence the company can and does charge less than is profitable for A C B. The law allows it to, and it may, charge less for the entire route than the first company can for any shorter distance on its line. But the first company lease or buy the line of the second, and at once this section 4 prohibits it charging for the shorter mountain grade or any intermediate points, as from A to D, more than it does for A E B. Or, the first company after building the first line may have discovered the second route. Any case in which a company owns two lines, one good and the other bad, can be made applicable to this illustration.

Suppose in this last case it snows heavily in the mountains between C and D. There are expensive snow-sheds, and on this line are a large force of men at high wages. Now, it is a fact that when there is snow the cost of transportation is greatly increased. Experts say the increase in cost is from 10 to 75 per cent. Nimmo gives it at from 15 to 25 per cent. The experts before the Senate committee of 1876 gave varying figures according to the road. Bliss, of the Boston and Albany Railroad, stated that cost of maintaining that road is 12½ per cent. greater, repairs to machinery 10 per cent. greater, loss of power in locomotive 10 per cent., but that the greatest loss was from the detentions. Kneass, of the Pennsylvania Railroad, gave cost there in winter as 12 per cent. greater than summer. On the Vermont Central, according to Millis, it was in winter from 70 to 75 per cent. more than in summer. On the Baltimore and Ohio it was from 5 to 20 per cent. greater from the same causes.

Now, the road must be kept open and the cities along it be supplied, yet over this rocky, mountainous, snow-shedded, and expensive road section 4 prohibits any charge being made that is greater than is made by the same company on a longer line along the level, open, pleasant country.

That there are such heavily graded, snow-shedded, blasted-out, and expensive lines of road all know who have crossed the continent.

Again, suppose that there is a branch line which runs off into the coal or mining regions to G. Though running into these regions on a grade of forty, sixty, eighty, or one hundred feet to the mile, over which a locomotive could carry from nine to twenty-one cars only, this section 4 prohibits the company from charging a greater amount over this branch than on the level from one terminus to the other because it is a little shorter than the main trunk. Or, suppose the trunk and branch are both level, but differ in the fact that on the trunk there is much traffic both ways; on the other it is almost all in one direction. Suppose, now, that the trunk is one hundred miles and the branch is ninety. Each freight car weighs ten tons, and full load is ten tons more. The locomotive weighs thirty-three tons. There is more than a ton of dead weight to every ton of freight carried. On the level the locomotive can draw seventy loaded cars. On the trunk it can get 70 per cent. return freight; on the branch but 10 per cent. It therefore might be compelled to charge more on the short than on the long haul to make the same rate of profit; this, however, is prohibited.

Were there a grade of forty feet on this branch the same power that hauled seven hundred tons freight over the main line would haul only two hundred and ten tons freight over the branch, and the wear and tear would be much greater. Still the company is prohibited by this section from charging more thereon for a like quantity and kind. This is equally true, no matter in what direction nor from what point the lines radiate. The cost on different systems owned by the same company vary greatly. On some branches a large profit is made, while on others a loss is sustained. The same company has to charge different rates on different branches of its roads to equalize these matters.

I will now give a further illustration. Suppose C and D represent two mines in California. C produces ore worth $40 per ton; D ore worth but $6 per ton, and it is some miles beyond C. To transport the forty-dollar ore it charges $5 per ton, which rate is necessary to pay a profit to the transportation company of 6 per cent. I wish to develop D. My ore is worth but $6 per ton. I can make a good profit on this if I can obtain a reasonable rate to the mills at A. I apply to the company for rates, but am informed that it could carry my ore for $1 per ton and make 15 per cent. on operating expenses, or 1½ per cent. upon its capital, because of the quantity shipped, but that it is by section 4 of this act prohibited from charging for a longer haul one cent less than for a short one, hence it must under the law charge me $5 per ton transportation. This I can not pay. I throw up my hands and say, "Very well; I must wait until nature puts forty-dollar ore into my mine, because you are prohibited from charging a less rate, as the haul is longer." The development of my mine and the locality where it is situated is thus retarded. It is so with other industries which might be developed; so with coal, and iron, and even factories.

Again, if from A to D, in order to compete with another rail line centering at D, a company had to increase its speed to, say, thirty miles per hour, and yet this same company had between A and D water competition only, it might in the latter case run its through freight by slow line. About ten miles per hour is the maximum that will give the greatest profit; as you increase in speed beyond this you nearly in proportion increase the cost of transportation. Now, though by reason of this high rate of speed and the better facilities required at D the cost of transporting a similar amount and kind of property from A to D is greater than from A to B, the company can not charge a cent more therefor, because the haul is shorter.

Why, if from A to B there were two parallel and competing lines owned by different parties, one stopping at D and the other not, the one line could not charge from A to B a cent less than it did from A to

D; and the other line, because not stopping at D, could charge from A to B half as much as the first line did from A to D, and thus run it out of the through business. There are hundreds of competing lines centering in competitive points, but not touching at the same intermediate points, in this very condition. This would not encourage and might prevent competition.

I could, had I time, give forty illustrations showing why section 4 should not be adopted. They rise like Banquo's issue, and with Macbeth I can exclaim:

> Yet the eighth appears, who bears a glass,
> Which shows me many more.

I will use one more illustration, however. Much is said about the charge from Chicago to New York being less than from Buffalo to New York, and it is charged that a high rate is placed upon the latter traffic to compensate the railroads for their losses on the through freight. Now I can see how from Chicago to New York a less charge than from Buffalo to the latter place would not only be no injury but really a benefit. Suppose a certain sum must be raised on freight to pay 6 per cent. upon the New York-Buffalo road, and there are but 9,000,000 tons of local traffic; this then must pay the profit on the road, and rates are fixed accordingly. Now, off in Chicago are the products of the great West awaiting transportation to the Atlantic seaboard. There is water transportation from Chicago to New York and Montreal, and several competing lines also center there.

There is much grain to be transported, but as it has already paid a heavy transportation charge from the West to Chicago, it must have the lowest rates from there to the seaboard in order to leave any profit to the farmer and justify him in further exertions. The water transportation is low; the rate to the East is fixed by it and by the competition of rail lines. If now the New York company desires any of this freight it can have it, but at a low rate, a rate that would not pay 2 per cent. upon its capital, but would pay 20 per cent. over its operating expenses. To get this freight it must take it at a rate lower than from Buffalo to New York. It has the cars. If it takes this freight it can obtain enough to give a gross revenue of $3,000,000, or, say, a net revenue of one million or seven hundred and fifty thousand, or any other sum. Who is injured? It is said the New Yorker must compete in the Liverpool market against the Western man, who has cheaper transportation and can therefore undersell him. This is not so, for the aggregate freightage paid by the Kansas or Iowa farmer to New York is greater than that of the New Yorker, for he pays two charges, to and from Chicago.

But I have said this low rate might be a benefit to the local traffic. Without it there is no outside income; with it is obtained this amount of money from the West, which is added to the receipts from local traffic, and thus assists in making the required percentage of profits, and in so far forth relieves the local shipper; it justifies a reduction of local rates.

The gentleman from Michigan [Mr. HORR], in his speech on this bill, speaking of the evidence of Mr. Alexander before the committee two years ago, said:

> Two years ago he stated in reference to the railroad history of this country that no instance could be found, and he defied any one to point one out, where any railroad company had ever raised its local rates in consequence of carrying through freights at a low price. On this point every railroad manager agreed with him, and they all asserted, on the contrary, that a reduction of local rates almost always followed a reduction of through rates; and my friend from Texas will remember that their universal testimony was that a raise in local freight to make up for losses on through freight was unknown to the railroad business.

From this it will be seen that in so far as the profits from the long haul tend to augment the gross revenue of the company they tend to decrease the local rates.

From these statements the House will understand the reasons why I think the long and short haul provision ought not to be adopted as a part of the substitute. We on the Pacific coast are directly interested in this matter. It is a long haul there. If the rule prescribed in this bill be adopted, and the companies can not make any reduction on the long haul, you simply say to California, "We discriminate against you." That is the effect of this section. There is no State in the Union more interested in having the long interstate hauls as cheap as possible, and should this section be adopted, making the aggregate charges to the intermediate points the measure of rates to California, it would badly cripple our through business. California is a large exporter to England, and prior to the completion of the Southern Pacific was compelled to ship in sailing vessels, owned generally by foreigners. Millions were thus annually sent as freightage-money to foreign countries. It is of interest to California and her farmers that this transportation be by the quickest means and at the lowest profitable rate, and that freightage be paid to American citizens, who will develop our country. This section tends to force an increased through rate, and thus cripple a competition that was of great benefit to California. It will tend to hamper the railroads in their competition for the products of the Orient, and force to foreign bottoms the commerce that otherwise might pour through the Golden Gate and pay tribute to our people.

Having used these illustrations, I will briefly state (and any one can verify these statements) some of the elements that enter more largely into the cost of transportation than the mere item of length of haul. From Newcastle, Cal., to Reno, Nev., is about 123 miles; there is a grade of over 7,000 feet to overcome—nearly a mile and a quarter. At some places the grade is 116 feet to the mile. Now, every one who has examined in regard to gradients can understand that the same power will move much less on this line than on a level—only about nine loaded cars per locomotive over this portion of the road. The wear and tear is greater, and large sums are annually expended on snow-sheds and for a large force of men. The same power that will haul nine cars from Newcastle to Reno can haul over sixty cars one hundred and seventy miles from Newcastle to San Francisco by way of Stockton, and at less expense. Yet, because the former is a shorter haul on the same line of road, section 4 will not permit the company to charge a cent less on the latter route. Examine the section. Direction, branches, physical aspect, snow, wear and tear, gradients, competition, cost of fuel, volume of traffic, and everything are all ignored, and distance made the sole consideration.

The following are a few of the many elements which enter into the cost of transportation; many of these are much more important than distance.

First, gradients. Of this I have spoken. I now append a table showing the hauling power of a 33-ton locomotive:

Grades.	Hauling power.	Loaded cars.
	Tons.	
On a level	1,400	70
20 feet to the mile	655	32
40 feet to the mile	415	21
60 feet to the mile	300	15
80 feet to the mile	230	11
100 feet to the mile	180	9

Second. Cost of road itself. All will understand that to make the same rate of profit on two roads of equal length and volume of traffic more must be charged upon the costlier one.

Third. Wages paid. These differ greatly. On the Pacific coast they are over one-third greater than the average on the railroads of the United States.

Fourth. Cost of fuel and materials, which vary greatly.

Fifth. The direction of the haul. This is a greater item than is generally supposed. It has been estimated that because the west-bound cars are generally empty freight can often be carried in them at a profit over operating expenses for from one-third to one-fifth of the east-bound charges. This was calculated a few years since over the Pittsburgh and Fort Wayne. It was also found by Morehouse, of the Illinois Central, that the average cost of freight transportation over that line per ton per mile was 15.8 mills, but that return freight could be carried for 3 mills per ton per mile, or at about one-sixth of this, and that if the cars traveled both ways loaded the freight charges could be reduced one-half and still yield the same profits. Under section 4, however, one could not charge less for a shorter haul of return than for a longer haul of through freight.

Sixth. Speed. The importance of this I have shown.

Seventh. Competition. The controlling influence of water and rail competition all understand. It is not only competiton between lines of transportation that determined their rates, but also the competition of places. The competition of foreign markets must be considered, and the price and volume of wheat in India and at Odessa have a large influence in determining the rates to the United States seaboard.

Eighth. Volume of traffic. This is one of the most important elements considered by railroad officials in the preparation of schedules of charges. Its importance can not be overlooked. Morehouse's figures show that on the Illinois Central, if the volume was only sufficient to fill the cars operated, a reduction of one-half in the charges would give the same profits. This being so, the effect of doubling the volume of traffic can be understood.

I take the following table from the Government reports, showing the cost of transportation at the time on lines operated by the Louisville, Nashville and Great Southern Railroad Company. The differences over the various branches are due mostly to the volume of traffic on each:

Line.	Cost per ton per mile.
	Cents.
Main stem	1.78
Memphis line	2.10
Nashville and Decatur Railroad	2.54
Knoxville branch	4.17
Bardstown branch	7.72
Richmond branch	9.60
Glasgow branch	19.10

There are many branch lines and feeders in the United States which barely pay their operating expenses at a higher rate than is charged over the main trunks to which they belong, but which must be run on account of the demands of trade and for the profits made on the trunks from the freight they pour into them. According to the last cens us

330 companies had no net income available for dividends or profits; 92 companies made under 1 per cent.; 116 between 1 and 3 per cent.; 182 between 3 and 7 per cent.; 114 between 7 and 10, and the remaining companies made over 10 per cent.

It thus appears that there are many companies that might be bankrupted by this section, although many now making a large profit would not be injured. It would cripple the weak and not the powerful.

But I will not dwell any further upon elements which enter into the cost of the running of railroad trains. Fink gives fifty-eight elements entering into cost of transportation.

I favor in general the bill of the gentleman from Texas [Mr. REAGAN] as a substitute for the first seven sections of the committee's bill, still I think it should be amended; that the first and seventh sections should be changed as indicated, the fourth section struck out, and the third strengthened. All remedies for railroad abuses other than Government ownership have elsewhere proved inadequate, and ultimately this will be the solution everywhere. I do not mean the ownership of all railroads, but of a few trunk tracks crossing the country and kept in order by the Government, over which, at a low toll and under proper regulations, any one can run a train of cars as now they can a boat upon the rivers.

I would have considered it far better for California, and for the people of the Pacific coast generally, if some Pacific railroad bill regulating the operations and charges on those roads which had received aid from the Government, and preventing extortions and unjust discriminations thereon, had been passed by this House, even amended if necessary, such as contemplated and introduced by my colleague [Mr. SUMNER], who has given this subject long study. But that not being the case, we should take the best we can get if so amended as to accomplish the result desired. I would like to point out and urge many of the good provisions of this substitute, but as others have done this and my time has expired I can not now do so. I desire to see amendments adopted to the first, second, third, fourth, fifth, and seventh sections of this bill, and I will offer them when in order. They are to perfect the bill, and in part prevent wars of rates and such pooling and combinations as are injurious to the people. How much time have I remaining?

The SPEAKER. The gentleman has five minutes of his time remaining.

Mr. BUDD. I desire to reserve the remainder of my time.

Mr. GLASCOCK was recognized.

Mr. REAGAN. If the gentleman from California does not desire to proceed this evening I will move that the House do now adjourn.

Mr. GLASCOCK. I will yield for that purpose.

MESSAGE FROM THE PRESIDENT.

The SPEAKER laid before the House the following message from the President of the United States; which was read, and, with the accompanying papers, referred to the Committee on Commerce, and ordered to be printed:

To the House of Representatives:

With reference to the recommendations on the subject in my recent annual message I transmit herewith a report from the Secretary of State of the 9th instant, showing the necessity for immediate legislation for the purpose of bringing the statutes of the United States into conformity with the international regulations for preventing collisions at sea, which have been adopted by all the leading maritime powers of the world except this country.

CHESTER A. ARTHUR.

EXECUTIVE MANSION,
Washington, D. C., December 10, 1884.

NEW ORLEANS COTTON CENTENNIAL EXPOSITION.

The SPEAKER also laid before the House the following telegram; which was read, and laid on the table:

NEW ORLEANS, *December 9, 1884.*

To the Speaker of the House of Representatives, Washington:

On behalf of board of management of the World's Industrial and Cotton Centennial Exposition, by resolution thereof, I am empowered to extend, with yourself, to the House an invitation to be present at the opening ceremonies of the exposition, which will take place on the 16th of December (Tuesday). Individual and collective invitations have already been forwarded by mail to yourself and to each member of the House.

EDMUND RICHARDSON, *President.*
RICHARD DIXON, *Secretary.*

WITHDRAWAL OF PAPERS.

On motion of Mr. HENDERSON, of Illinois, by unanimous consent leave was granted to withdraw from the files of the House papers in the case of Thomas G. Baylor without leaving copies on file.

And then the motion of Mr. REAGAN was agreed to; and accordingly (at 4 o'clock and 55 minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions and papers were laid on the Clerk's desk, under the rule, and referred as follows:

By Mr. BALLENTINE: Petition of widow of F. T. McLaurine, deceased, to have claim referred to Court of Claims to correct errors in adjudication of the Commissary-General—to the Committee on War Claims.

By Mr. BRENTS: Memorial of the Bar Association of Spokane and other counties, Washington Territory, relative to an amendment to the law appointing one additional justice of the supreme court of said Territory—to the Committee on the Judiciary.

By Mr. T. M. BROWNE: Petition of 50 citizens and ex-soldiers of the city of Muncie, Ind., for the passage of the Mexican war pension bill and Senate amendments—to the Committee on Pensions.

By Mr. GOFF: Petition of Eli Phillips and 62 others, asking for the passage of the Mexican war pension bill—to the same committee.

By Mr. HANBACK: Petition of Lebanon Post, No. 240, Grand Army of the Republic, Department of Kansas, for the passage of the Mexican war pension bill—to the same committee.

By Mr. HEPBURN: Petition of J. E. Teale and 50 others, citizens of Davis City, Iowa, asking for the passage of the Mexican war pension bill and amendments—to the same committee.

By Mr. A. S. HEWITT: Memorial of the Chamber of Commerce of the State of New York, relative to the defenses of the port and harbor of New York—to the Committee on Appropriations.

By Mr. LEWIS: Papers relating to the claim of Lucius J. Seals—to the Committee on War Claims.

By Mr. MATSON: Petition of James R. Fritts and 75 others, members of Winchester Post, No. 333, Grand Army of the Republic, Gosport, Ind., for the passage of the Mexican war pension bill as amended—to the Committee on Pensions.

By Mr. MILLIKEN: Petition of Thomas J. Lyon and others, for passage of bill to enforce the eight-hour law—to the Committee on Labor.

By Mr. NELSON: A bill for an examination and survey of the harbor of Duluth, &c.—to the Committee on Rivers and Harbors.

By Mr. CHARLES O'NEILL: Petition of John Connell, to have the charge of desertion removed from his Army record—to the Committee on Military Affairs.

By Mr. RANNEY: Petition of Thomas G. Stevenson Post, No. 26, Grand Army of the Republic, Department of Massachusetts, for publication in Official Records of the War of the Rebellion of photographic illustrations—to the same committee.

By Mr. ROSECRANS: Petition of August V. Kautz, Colonel Eighth Infantry, and other officers of the United States Army, in favor of a bill to facilitate promotions in the Army—to the same committee.

Also, petition of H. Brooks and others, citizens of San Francisco, requesting an early consideration of the bill for the relief of Charles M. Blake—to the same committee.

By Mr. STEELE: Paper relating to the pension claim of Col. E. W. Penney—to the Committee on Invalid Pensions.

By Mr. STRAIT: Petition of P. Cudmore and 250 others, praying that the statute of limitations be removed, and that the soldiers' right of pension shall commence at the date of discharge, &c.—to the same committee.

By Mr. J. M. TAYLOR: Papers relating to the claim of Archibald Thomas—to the Committee on War Claims.

Also, papers relating to the claim of Archibald Thomas, Madison County, Tennessee—to the same committee.

By Mr. WASHBURN: Papers relating to the claim of Chaplain Charles M. Blake for restoration to his former rank in the Army, with pay, &c.—to the Committee on Military Affairs.

SENATE.

THURSDAY, *December* 11, 1884.

Prayer by the Chaplain, Rev. E. D. HUNTLEY, D. D.

The Journal of yesterday's proceedings was read and approved.

PREVENTION OF COLLISIONS AT SEA.

The PRESIDENT *pro tempore* laid before the Senate the following message from the President of the United States; which was read, and, with the accompanying papers, ordered to be printed, and referred to the Committee on Commerce:

To the Senate:

With reference to the recommendations on the subject in my recent annual message I transmit herewith a report of the Secretary of State of the 9th instant showing the necessity for immediate legislation for the purpose of bringing the statutes of the United States into conformity with the international regulations for preventing collisions at sea, which have now been adopted by all the leading maritime powers of the world except this country.

CHESTER A. ARTHUR.

EXECUTIVE MANSION,
Washington, December 10, 1884.

ENROLLED BILLS SIGNED.

The PRESIDENT *pro tempore* signed the following enrolled bill and joint resolution, which had previously received the signature of the Speaker of the House of Representatives:

A bill (S. 1309) to provide statuary and historical tablets for the Saratoga monument; and

Joint resolution (S. R. 98) extending the time fixed for the joint commission appointed under the sundry civil act approved July 7, 1884, to submit their report.

PETITIONS AND MEMORIALS.

Mr. MILLER, of New York, presented a memorial of the Chamber of

Commerce of the State of New York, favoring the construction of suitable defenses for New York Harbor; which was referred to the Committee on Military Affairs.

He also presented the petition of E. A. Farr, of Washington, D. C., agent of the estate of S. O. Baker, deceased, praying compensation for supplies furnished United States troops during the late war; which was referred to the Committee on Claims.

He also presented a petition of over 2,000 citizens of the city of New York, praying the repeal of all acts by which the term of many administrative offices is fixed at four years; which was referred to the Committee on Civil Service and Retrenchment.

Mr. LOGAN presented a telegram from Mark L. Crawford, president of the Trade and Labor Assembly of Chicago, Ill., in behalf of 30,000 organized workmen of Chicago, in favor of the passage of the bill now pending before the Senate forbidding the importation of foreign laborers under contract; which was ordered to lie on the table.

REPORTS OF COMMITTEES.

Mr. MORRILL, from the Committee on Finance, to whom was referred the bill (S. 2393) to change the name of the State National Bank of North Providence, R. I., reported it without amendment.

HILLSBOROUGH NATIONAL BANK.

Mr. MORRILL. I am instructed by the Committee on Finance to report favorably without amendment the bill (H. R. 7428) to authorize the Hillsborough National Bank to change its name to that of the First National Bank of Hillsborough, Ohio.

Mr. SHERMAN. That is simply the correction of the name of a bank. It is recommended by the Comptroller of the Currency, and I believe there can be no possible objection to it. I ask that the bill be put on its passage now.

The PRESIDENT *pro tempore*. The Senator from Ohio asks unanimous consent that the bill be now considered. It will be read for information.

The Chief Clerk read the bill; and by unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider it.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

BILLS INTRODUCED.

Mr. SHERMAN introduced a bill (S. 2434) to amend section 5 of the act entitled "An act to amend the statutes in relation to immediate transportation of dutiable goods, and for other purposes," approved June 10, 1880; which was read twice by its title, and referred to the Committee on Finance.

Mr. WILSON introduced a bill (S. 2435) for the relief of the volunteers of the Fourth Regiment of Iowa Infantry; which was read twice by its title, and referred to the Committee on Military Affairs.

ERICSSON'S SUBMARINE GUN.

The PRESIDENT *pro tempore*. "Concurrent or other resolutions" being in order, the Chair lays before the Senate the resolution submitted yesterday by the Senator from New Hampshire [Mr. BLAIR], which will be read.

The Chief Clerk read the resolution, as follows:

Resolved, That the Committee on Naval Affairs be instructed to investigate the new system of naval defense for the seaports of the United States proposed by Capt. John Ericsson, especially with a view to ascertaining the efficiency of his new submarine gun and projectile torpedo for that purpose; also to ascertain whether the same is about to be purchased for the exclusive use of any foreign power, and whether or not the efficiency of the naval service and prudent provision for the national defense require the purchase and appropriation of this invention by the Government.

The PRESIDENT *pro tempore*. The question is on agreeing to the resolution.

The resolution was agreed to.

DEBATE ON SPANISH TREATY.

Mr. VAN WYCK. I ask for the consideration of the following resolution:

Whereas a commercial treaty of great importance has been negotiated between the United States and Spain, which was made public by the King of Spain to such extent that it was cabled from Madrid by the Times, of New York city, and given to the American people by that journal before the same was presented with becoming solemnity and secrecy to the Senate:

Whereas the provisions of said treaty materially affect the subject of revenues and taxation, involving no serious questions of diplomacy and state secrets, the discussions thereof should be in open session, so that the people may be fully apprised of the reasons why said treaty should be ratified or rejected: Therefore,

Resolved, That the Committee on Rules be directed to report an amendment or additional rule requiring that treaties which concern matters of revenue shall be considered in open session.

The PRESIDENT *pro tempore*. The Senator from Nebraska asks unanimous consent that the resolution be now considered. Is there objection?

Mr. WILSON. I object to the present consideration of the resolution.

The PRESIDENT *pro tempore*. Objection is made, and the resolution goes over.

GALVESTON HARBOR IMPROVEMENT.

Mr. COKE. I desire, with the concurrence of both the majority and minority of the Committee on Commerce, to have a day set for the consideration of the bill (S. 1652) to provide for the improvement of the channel between Galveston Harbor and the Gulf of Mexico.

The PRESIDENT *pro tempore*. The Senator from Texas asks that the bill indicated by him be now taken up with a view to his moving its postponement to a day certain and that it be made a special order. Is there objection?

Mr. CULLOM. I should like to inquire of the Senator what day he proposes to fix.

Mr. COKE. Thursday, the 8th day of January next, at 2 o'clock.

The PRESIDENT *pro tempore*. Is there objection to taking up the bill for the purpose named by the Senator from Texas? The Chair hears none. The Senator from Texas moves that the further consideration of the bill be postponed until January 8, next, at 2 o'clock in the afternoon, and that the bill be made a special order for that time. Is the Senate ready for the question? Senators in the affirmative will say "aye"; the negative will say "nay." (Putting the question.) In the opinion of the Chair, two-thirds of the Senators present have voted in the affirmative, and the order is made.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. CLARK, its Clerk, announced that the House had passed a bill (H. R. 7577) making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1886, and for other purposes; in which it requested the concurrence of the Senate.

FORFEITURE OF OREGON LAND GRANT.

The PRESIDENT *pro tempore*. If there be no further resolutions that order is closed. Pursuant to the order of the Senate of yesterday the Chair lays before the Senate the bill (H. R. 181) to declare forfeiture of certain lands granted to aid in the construction of a railroad in Oregon. The bill has been considered as in Committee of the Whole and reported to the Senate. The question is on agreeing to the amendment of the Senator from Kansas [Mr. PLUMB], which will be read.

The CHIEF CLERK. It is proposed to insert as an additional section:

SEC. 2. That the act of March 3, 1875, entitled "An act for the relief of settlers within railroad limits," is hereby repealed.

Mr. SHERMAN. I should like to have the yeas and nays on agreeing to the amendment.

The yeas and nays were ordered.

Mr. SHERMAN. Temporarily occupying the chair yesterday I was a good deal interested in the subject of the debate in so much as it affected the bill. The lands embraced in the bill are scarcely worth a dollar and a quarter an acre according to the concurring testimony of the two Senators from Oregon, but the precedent about to be set in regard to dealing with lands which have been forfeited and are now restored to public entry is so important, that the Senate ought to consider this question very carefully and vote understandingly.

It seems to me it would not be wise to set a precedent in this case that can not be followed in regard to other land grants when they are restored to public sale. The Senator from Alabama [Mr. MORGAN] made a suggestion that this case might be made an exception; but we can not make exceptions of this kind without doing a great deal of damage. It can do no harm to the people of Oregon to allow the land to be entered only under the homestead law. Under the law as it now stands when this land is restored to the public domain it is open to homestead entry. All the lands that are really needed by the people of Oregon can be acquired under the homestead law; but if the example is set of restoring lands that have long been reserved from sale to the old price of a dollar and a quarter an acre it will enable speculators under the pre-emption law and other laws to get possession of the lands, largely increased in value, and thus withhold them from general settlement.

I am therefore decidedly in favor of the amendment. Indeed, if it were not for introducing general legislation on a private or local bill, I should be in favor in this bill of repealing the pre-emption laws. They have long survived their usefulness; they ought to have been repealed long ago.

When the homestead law was enacted it was a new policy, which embraced all the public lands; and I myself will not vote for any bill that will open any portion of the public lands of the United States to disposition in any other way than under the homestead law. I believe that the homestead law is a wise provision for the disposition of public lands; and all wild lands, wherever they may be located, should be thrown open for settlement and occupation and acquisition only upon the basis of that law, except, as a matter of course, in special cases, where, as in military reservations and other lands which have been long withheld from the market, which have a largely increased value by the growth of settlements around them, in which case they should be sold at public outcry to the highest bidder under circumstances that would secure to the Government the highest price; but all public lands should only be acquired under the homestead policy.

I think the amendment of the Senator from Kansas is much more important as a precedent than it is so far as it affects this particular grant; but it seems to me that in every case where land, after long be-

ing withheld from public entry, is restored again to public disposition, it ought to be disposed of only under the homestead law.

Therefore I shall vote for the amendment, and I only make these remarks in order to call the attention of Senators to the importance of the question upon which they are now about to vote.

Mr. PLUMB. The position the Senator from Ohio takes exactly accords with my vote on yesterday. I should have been glad to have had his aid yesterday in support of the position of the Public Lands Committee, but the Senate, by a somewhat decided vote, disputed the position of the committee, and that has passed out of the jurisdiction of the Senate for the time.

Mr. SHERMAN. The Senator probably is not aware that I voted for his proposition. I was not in a position to speak, however.

Mr. PLUMB. I was going to say that the proposition now pending before the Senate on the motion to adopt the amendment which I proposed yesterday is in the same direction—that is to say, the direction of preventing speculation in public lands—and I hope there will be no dissent in the Senate as to its adoption.

Mr. LAPHAM. So far as I am concerned I am entirely ignorant of the policy which led to the passage of the act of 1875. But it is a general law enacted by Congress, and I rise merely for the purpose of suggesting that to repeal such a law by an amendment to a bill like this is improvident legislation, and we ought not to entertain the idea of doing it. If the law of 1875 is to be repealed let it be done by a bill, when its merits and the purpose of its enactment can be considered. If we repeal it by this amendment, we repeal it without really knowing anything about the policy which led to its enactment, and it seems to me we ought not to do it.

Mr. PLUMB. The Senator from New York is entirely mistaken. This amendment is not only entirely germane to the purpose of the bill, but it is an absolute necessity if speculation is to be prevented, because the occasion for speculation arises on the passage of the bill; that is to say, it then brings up the class of claims under the act of 1875, and unless we repeal the act at this time a repeal of it hereafter in reference to these claims will be entirely valueless. It is the handmaid, the necessary accompaniment, of this forfeiture bill. No forfeiture bill ought to be passed finally until the act is repealed.

The PRESIDING OFFICER (Mr. GARLAND in the chair). The question is on agreeing to the amendment of the Senator from Kansas [Mr. PLUMB], on which the yeas and nays have been ordered.

The Secretary proceeded to call the roll.

Mr. DOLPH (when his name was called). I shall vote "nay" on this question, because I do not like to attach the repeal of the act to this bill.

Mr. KENNA (when his name was called). I am paired on all questions with the Senator from Minnesota [Mr. SABIN].

The roll-call was concluded.

Mr. GARLAND. I am paired with the Senator from Vermont [Mr. EDMUNDS].

The result was announced—yeas 33, nays 11; as follows:

YEAS—33.

Blair,	Hampton,	Mitchell,	Sawyer,
Brown,	Harrison,	Morgan,	Sherman,
Call,	Hawley,	Morrill,	Slater,
Cameron of Pa.,	Hill,	Palmer,	Vance,
Cameron of Wis.,	Hoar,	Pike,	Van Wyck,
Cullom,	Ingalls,	Platt,	Vest.
Dawes,	McMillan,	Plumb,	
Frye,	Manderson,	Pugh,	
Groome,	Miller of N. Y.,	Riddleberger,	

NAYS—11.

Bayard,	Dolph,	Lapham,	Sheffield,
Coke,	Jackson,	Maxey,	Walker.
Conger,	Jonas,	Sewell,	

ABSENT—32.

Aldrich,	Edmunds,	Harris,	Miller of Cal.,
Allison,	Fair,	Jones of Florida,	Pendleton,
Beck,	Farley,	Jones of Nevada,	Ransom,
Bowen,	Garland,	Kenna,	Sabin,
Butler,	George,	Lamar,	Saulsbury,
Camden,	Gibson,	Logan,	Voorhees,
Cockrell,	Gorman,	McPherson,	Williams,
Colquitt,	Hale,	Mahone,	Wilson.

So the amendment was agreed to.

The PRESIDING OFFICER. If no further amendment be proposed, the question is on the third reading of the bill.

Mr. MORGAN. Before the bill goes to a third reading I desire to call the attention of both the Senators from Oregon to a question that may arise in this case. The same question, I will say, arose in committee and was there answered, but I wish to have it answered in the Senate. I wish to know whether there are any persons concerned in this land grant by purchase from the railroad company, or by mortgage of the railroad company upon the lands, whose rights would be affected by this forfeiture; whether there are any other parties to this forfeiture now than the Government of the United States on the one hand and the railroad corporation on the other; because if there are persons whose rights will be affected, their rights are totally unprovided for in the bill, and I should feel compelled to offer an amendment for the purpose of carrying the case into the circuit court of the United States for Oregon, there to have their rights determined, unless the Senators can give assurance to the Senate that there are no such rights.

Mr. SLATER. My understanding is that there are no such cases as those referred to by the Senator from Alabama. While I could not say there might not be a single case, my understanding is that there has been no effort to sell any part of the land by the company or to place any mortgages upon it. So it is a case absolutely and entirely between the Government of the United States and the corporation claiming the grant, and there is no occasion, it seems to me, to attach to the bill a provision sending the case to the courts, which would operate simply to cause unnecessary expense and long delay.

Mr. DOLPH. I believe that there are mortgages which embrace in their terms and description the entire grant earned and unearned, but I suppose that a mortgage of a railroad company or other grantee of a land grant which has been made upon a condition subsequent can only take such rights as the original grantee from the Government had, and that if the condition is not performed and the unearned portion of the grant is forfeited because of such non-performance, the mortagee would have no just claim as against the United States to the unearned portion of the grant; that is to say, that the mortgagee could take by the mortgage no greater rights than the mortgageor, and that if as against the company Congress has power to forfeit the grant, it also has the same power to forfeit the grant against its grantees and mortgagees. For that reason I do not conceive that in this case the amendment mentioned by the Senator from Alabama is necessary.

I thought when the bill was before the Committee on Public Lands that there were no cases of persons who had gone upon the lands claiming under the railroad company. I am informed by Mr. GEORGE, of the House, and heard something to that effect while in Oregon recently, that there are a few persons who have chosen to go upon the lands under the company; but there is no doubt, as I said in my remarks in regard to the amendment already adopted by the Senate, if they have made any payments to the railroad company those payments will be refunded. At all events, I do not see why Congress should undertake to recognize contracts between the railroad company and settlers on the land under it. But it is provided in the amendment that such settlers as are not qualified to purchase under the general laws of the United States may secure the land by paying the United States the minimum price for the same—a dollar and a quarter an acre. I think there are very few such cases. I do not think any question can be involved that will not be settled justly and equitably under the amendment already adopted by the Senate.

Mr. MORGAN. Does the Senator from Oregon say there is a mortgage upon these lands?

Mr. DOLPH. There is a general railroad mortgage and a deed of trust, according to my recollection, which embraces this grant.

Mr. MORGAN. There are two incumbrances on it, then?

Mr. DOLPH. It embraces this grant in terms, and of course if the lands were earned by the construction of the road, the mortgage would take effect upon the earned lands, but to the extent that these lands have not been earned I cannot conceive that the grantees of the railroad company or the mortgagees of the railroad company have any greater rights than the company itself, and when we forfeit the lands, and cut off the right of the railroad company to earn them by the construction of the road, we necessarily cut off the right of all persons claiming under the railroad company either as grantees or mortgagees.

Mr. MORGAN. I am compelled on this occasion to refer to something that occurred in the Committee on Public Lands. When this subject was under discussion and the bill was being prepared, I put the question to both the Senators from Oregon whether there was any incumbrance upon these lands, and I understood both Senators to say that there was not. I further put the question whether there were any persons who had taken land from the railroad company by purchase or under contract, whose rights would be affected by this forfeiture. I understood both Senators to say that there were none. Now, we are informed by one of the Senators at least that there are persons who have purchased land from the railroad company, whose rights are expected to be protected under an amendment which he offers to the bill. We are informed further that there is a mortgage upon the land, and perhaps also a deed of trust. I will say that if these facts had been known to the Committee on Public Lands (and I do not pretend that they were withheld from the committee improperly, but the Senators evidently did not know the facts at the time) a motion at least would have been made in that committee to have the principles applied to this bill which were applied by the Senate to the Atlantic and Pacific Railroad, which principles I think are applicable to every case of forfeiture where the question is not exclusively between the Government and the grantee corporation.

I hold to the doctrine, and the Senate has so voted by a very large majority of the body, that whenever we declare the forfeiture of a land grant and it is found that there are claims asserted in good faith on the part of mortgagees or on the part of other purchasers or contractors with the company to the lands, it is our duty to extend a remedy through the courts of the United States to the company and to these parties to litigate the extent and character and value of their claims, and that duty becomes absolutely incumbent upon the Congress of the United

States, because our system of laws prohibits really the Government of the United States from being sued by any private person unless it is done by the express consent of Congress. Now, to take the property of these mortgagees, about which we know nothing, and here to confiscate it (for that is the effect of it) in an *ex parte* proceeding, without due process of law and without giving them a hearing to show what their claims are, is something that I can not consent to. I was not put here for the purpose of sitting in judgment upon private rights between individuals in this country. My function here is to legislate, to make constitutional laws and none other, and not to invade private rights by the legislative action of this body of which I am a member.

Now, Mr. President, I ask that the further consideration of the bill be postponed until this question can be examined into and until the Committee on Public Lands can be informed as to when these mortgages were created, in whose behalf they exist, what the rights and equities of the mortgagees may be, for we are legislating here entirely in the dark. We are legislating upon a state of facts that I did not know or believe to exist.

Mr. DOLPH. Mr. President, I would not occupy the time of the Senate for a moment longer if the honorable Senator from Alabama had not referred to what was supposed to have taken place in the committee.

If I was ever questioned in regard to this matter of mortgages I certainly stated the fact as I understood it to be, that mortgages had been executed which in their terms embraced the grant and would take effect upon the earned portion of the grant; but if the road was not completed the unearned portion, I suppose, would fall with the forfeiture of the grant itself. I can not conceive why, if Congress proposes to act upon the rights of the grantor, the railroad company, it can not act in the same manner upon the rights of all persons claiming under the company as grantees or mortgagees of the company, and why the title of the company and all its grantees does not stand precisely on the same state of facts and is not governed by the same rules of law.

I think the Senator is mistaken in supposing that the statement was made either by my colleague or myself that the grant had never been mortgaged. I was not aware that there were any persons upon any of the unearned lands which it is proposed to forfeit at the time the matter was under consideration in the Senate Committee on Public Lands claiming under the railroad company. That is a matter of recent information to myself, but the number is very few, and their rights I think are sufficiently provided for by the amendment offered by myself.

I do not think there will be any legal controversy whatever over this unearned portion of the grant if the bill is passed as reported by my colleague from the committee. I think the construction of this road has been virtually abandoned by the company, at least nothing has been done recently, and there is no present disposition to commence its construction. I do not think this is a case requiring the amendment which was made to the Atlantic and Pacific Railroad bill. I speak from a knowledge of the circumstances and the facts of the case. I hope that the honorable Senator will allow the bill to come to a vote and be passed as it now stands.

Mr. MORGAN. Mr. President, if we pass this bill in the shape it now is, of course there will be no legal controversy between the United States Government and these mortgagees, whoever they may be, over this subject, for we shall have destroyed their rights entirely; they will be cut off without remedy; and I do not wish to do that until at least I understand what their rights may be and who they are that compose these mortgagees, and what the debt is that they were intended to secure. These railroad bonds have gone out—the coupon bonds especially have gone out into circulation in the community, and in those older portions of the country where the people have money treasured up they have bought these bonds, frequently at a considerable discount, as a permanent investment, and they look to the Congress of the United States to protect their rights, whatever they are.

Pass this bill, and if a question arises between one of the bondholders, who may hold a bond for a thousand dollars, and the United States Government as to whether that bondholder has some right or equity on these lands which we are now taking out of the possession of this company, what remedy can that bondholder have? None whatever. We destroy all hope of remedy, and we do not know what we are doing. We do not know the value of the claim, or the extent or the amount of it, that is alleged to be an incumbrance upon this property. In the case of Schullenberger *vs.* Harriman the Supreme Court of the United States have decided that the railroad corporation up to this hour is the owner in fee of these lands, subject only to be forfeited by an act of Congress or a judicial proceeding declaring that a ground of forfeiture exists. At this very moment of time when I am speaking upon this floor these mortgagees have a valid, legal subsisting incumbrance on these lands; and if the United States Government does not choose to deny the validity of that incumbrance nobody in this world can do it.

There is not any human being that exists in this world who can deny the validity of this mortgage upon this property to-day except the Congress of the United States or a court acting in pursuance of a proceeding of forfeiture, which I do not believe any court has jurisdiction under our Government to pronounce in a case of this kind. But, however that may be, here stand these mortgagees with legal rights under the laws of the land as palpable and as plain as the right of any gentleman in this body to the homestead that he may occupy, and that without knowing or seeming to care what is the character of that right and its extent and its value in law, and proceed to take it away from these mortgagees. We are the only body of men in the world that can do it, and we do it without an inquiry and without knowledge.

I reassert, sir, that I have not been informed—and I made due inquiry—of the existence of these mortgages at all until this morning. If I had been informed of it I should certainly have brought to the attention of the committee and also of the Senate the same provision which the Senate voted on the Atlantic and Pacific bill at the last session, which requires in a case of this kind that the Government of the United States shall become the actor and shall file a bill in the proper circuit court in the nature of a bill of interpleader, through which action every person claiming to have an interest in the property may be heard in court and have his rights adjudicated by that tribunal which the Constitution sets apart for this express purpose.

I can not conceive how we could go along and condemn and confiscate property without due process of law, as we are doing here to-day, when we are just informed that we are striking at rights of which we know nothing and people whose rights we do not at all comprehend.

I will change my motion, Mr. President, and I will ask that this bill be recommitted to the Committee on Public Lands, in order that it may be thoroughly understood.

The PRESIDING OFFICER. The Senator from Alabama moves that the bill be recommitted.

Mr. BLAIR. Mr. President, I am also a member of the Committee on Public Lands, and certainly have from the beginning understood that this bill proposing a forfeiture of a certain land grant in the State of Oregon had reference to one in which no questions arose, excepting such as might exist between the Government, the grantor, and the grantee, the railroad company; and I am confident that such was the understanding of the committee generally before action was taken on this bill favorable to its passage by the Senate.

I made due inquiry, as I thought, upon that point. I also understood further that this fact was found: that it was conceded upon all hands that no controversy could arise; that it was a fact that the company had abandoned absolutely and entirely all intention and all effort for the construction of the road, and therefore it was a clear case where the Government had a right to resume its control over the land grant. I did not know until this morning, and I learned it this morning by information coming from the other end of the Capitol, that there was a mortgage, and I learn still further by the declaration of the Senator from Oregon [Mr. DOLPH] there is also a deed of trust. Whether he means the same instrument by these expressions I know not, but I understand that there is an incumbrance on this land grant; and further, that questions may arise between individual settlers, and it may be other individual parties in addition to those that may arise under the mortgage and the deed of trust.

So it is conceded now that the necessity for the intervention of a court in determining whether in equity or in law there should be this forfeiture arises with reference to this land grant as to all the other grants the forfeiture of which is in question before this Congress.

Now, Mr. President, I am one of those who understand that the judiciary is one element of our form of government, and that it is no function of the legislative power to confiscate and destroy vested property rights, and I am unwilling myself (and I think such must be the sentiment of the Senate) that any bill should pass this body where it is conceded that there may be or must be controversies touching property rights between individuals, and between individuals and the Government, and there be no court of law to decide what those rights are.

It is with this view, and because I understand in the action of the Senate at the last session that to be the general judgment of the Senate that there shall be attached to all these bills proposing forfeiture a provision that the courts shall decide the rights and equities between all parties and because now it is apparent that this bill is like all the rest, that I trust the motion of the Senator from Alabama to recommit the bill will prevail.

The PRESIDING OFFICER. The question is on the motion of the Senator from Alabama to recommit the bill.

Mr. SLATER. I trust that that motion will not prevail. This matter has been well and thoroughly considered by the committee, and while it may be true that I may have been misled in regard to the fact of there not being any mortgage, a moment's reflection, I think, would show that there was one, for all land grants were mortgaged; but it is also true, as a matter of law and equity, that a mortgageor can give no higher title than he possesses. He can only give a conveyance by way of mortage on what he holds, and not pass the absolute title. As a fact the mortgagee takes only such right as the mortgageor had at the time of the mortgage. It is a notorious fact that not a particle of this road has been constructed during ten years, and so far as any effort to construct the railroad is concerned the matter has been abandoned for ten years, and the act expired as far back as 1876, I think, or perhaps earlier.

The Senator from Alabama, I think, in this particular case is fight-

ing a shadow, that he will really find, when he comes to examine it, has no substance whatever. As a matter of course we know very well that Congress can not affect any vested rights. These rights can be presented in the proper court, if there be any. My understanding is that there are none that can be presented. Under the well-established decisions of the courts it would be simply foolish for the company or the mortgagees to present their alleged rights. They could not succeed if they were allowed to interplead, for the court would decide that they have no equity. Why, then, make this delay? Why have it attached to this bill? It can only end in one direction.

I think my colleague and myself understand this; and as I understand my colleague to-day there is no necessity for an amendment of this kind or an investigation of this kind. As a matter of fact we can not foreclose the rights of these parties if we should undertake to do so. It is only a question of the form of remedy. In one instance they come in under the direction of the United States and in the other they would have to come in against the individual citizen. As a matter of course my colleague and myself desire to look out for the interest of our constituents, and we would not wish them to be placed in an improper attitude; but we are satisfied there is no such case as this alleged, and there ought to be no delay in this matter.

Mr. DOLPH. Mr. President, I regret exceedingly that there should have been any suggestion that there is a necessity for a re-examination of any fact in this case before the Committee on Public Lands. I will state that my own recollection is, and I am very positive, that on one occasion, having some knowledge in regard to this matter, I stated to the committee the history of this grant among others, and on that occasion I mentioned the fact of these mortgages; and I did say, as I said before, that I did not think there were any persons on the land claiming under the railroad company.

I further say that my recollection is that the Senator from Alabama, when the bill was ordered to be reported from the committee, reserved his right of offering his amendment in the Senate if he saw fit to do so, and I have expected he would exercise his own pleasure in regard to that matter. But I certainly have withheld no information from the committee; neither has my colleague. It has been known to other members of the committee that these lands had been mortgaged, like every land grant in the United States, the land-grant mortgage being in general terms, with the understanding, of course, that the land could only be acquired by the mortgagee on the completion of the road by the mortgagor. I do not think a necessity for the amendment exists in this case. I hope at least that the bill will not be rereferred. There is certainly no necessity for it.

I am entirely in accord with my colleague in regard to the passage of this bill as it now stands. If any further amendments are to be put upon it I hope they will be made now and the bill passed and sent back to the House of Representatives in which it originated.

Mr. MORGAN. The Senator from Oregon on my left [Mr. SLATER] thinks I am fighting a shadow. That may be so. I am certainly fighting in very shadowy ground here, somewhat in the twilight, because we have not had information of the facts about this case, and I want to fight in the broad, open daylight. I want to know who it is that has this mortgage, and also the extent of it.

This road has been partly completed and the constructed part is now in operation. It is alleged by both Senators that the residue of the projected road between Portland and Astoria has been abandoned, and acting upon that statement, which I do not controvert at all, I am willing to vote for the forfeiture of the land grant on the ground of abandonment so far as the company is concerned. But it was not until this morning that I found there was another party concerned in interest in this mortgage who has a right to raise the question whether this land grant has been abandoned or not.

I am not quite familiar enough with the terms of the grant to be able to state the point in regard to it which has arisen in other cases, and I dare say arises in this. The mortgagees would have the right to oust this company of the possession of its property, take it into their own care, and go on and complete this road and earn the value of their bonds, or at least cause the road to earn the value of their bonds. I understand that a mortgagee has a right by a proceeding of foreclosure and sale to take the lands, or whatever rights the company has, into his possession, provided the franchises of the road were covered by mortgages, as I have no doubt was the case, and go on and complete the construction of the road under the franchises and in virtue of the assistance of the grant of land. Now, we find that there are mortgagees, and of course there is an unpaid debt.

We find the simple proposition stated here that the company has abandoned its right to complete the road. Suppose it has, have we a right to assume that the mortgagees do not intend to foreclose the mortgage and become possessed of the legal rights of this company and complete the road in accordance with the public use declared by Congress and in accordance with the provisions of this land grant? We declare the forfeiture out and out against the mortgagees and against the company, not upon the ground that the mortgagees have abandoned their rights, but upon the ground that the debtor company has abandoned its rights. At the moment when the debtor company abandons its rights and ceases to become an active factor in this matter then the rights of the mortgagees spring up, and they can go on doubtless under the provisions of the trust deed or of the mortgage, and they can foreclose and perhaps by a mere power of sale become possessed of the franchises of this company and conclude the building of this railway and earn money enough and property enough to redeem their bonds out and out. I am opposed to having this amount of property struck down by the Government of the United States claiming as against the company a technical forfeiture when there may be and doubtless are mortgagees whose interests the Government ought to look to.

Mr. INGALLS. Will the Senator permit me to ask him a question at that point?

Mr. MORGAN. Yes, sir.

Mr. INGALLS. Grant that mortgages and deeds of trust have been placed upon the land included within the limits of this grant; suppose, also, that there have been settlers upon the lands who claim to have purchased from the railroad company to whom the grant was made, does the Senator think that if we should pass this bill it would deprive them of any rights to which they would be entitled by virtue of existing law? In other words, can the constitutional protection to the rights of property which declares that it shall not be taken except by due process of law be impaired by a subsequent act of Congress? And if the view that I take is correct, what would be the practical difficulty following the adoption of the pending bill that is now before us?

Mr. MORGAN. Of course, Mr. President, any law passed here in violation of the Constitution or *ultra vires* by Congress is to be regarded and will be regarded as a nullity in any court before which it is brought, and there is not a court in the United States whose jurisdiction is so mean that, if it has judicial authority at all, it can not upset an unconstitutional law.

Mr. INGALLS. Has the Supreme Court not held repeatedly that an act of Congress in that sense is not due process of law?

Mr. MORGAN. I so understand. That is the basis upon which I am proceeding with my argument. It is a question of remedies. I suppose that a case could be made in one of the State courts; it might originate before a justice of the peace in an action of unlawful detainer perhaps, or in a circuit court in an action of ejectment or trespass to try title or some such sort as that, and that case involving a Federal question could after it passed through the supreme court of Oregon be appealed to and decided by the Supreme Court of the United States, and the action of Congress, if found to be unconstitutional and oppressive, or unconstitutional whether oppressive or not, could be annulled by the judgment of those courts; and after so long a time the parties who assert their rights against our action here to-day, if it is *ultra vires*, would have their remedy.

Now, let us look at the condition of things and see whether we ought to provide some other remedy than this collateral one—this back-door action, as I will call it—which may exist in favor of the holder of a bond or in favor of the purchaser of property from this railroad company. The Senators from Oregon inform us that this is an unpopulated country, and that in a few instances, and only in a few, the railroad company has sold lands to other persons; and the Senator in front of me [Mr. DOLPH] has said that it was one of the purposes of his amendment to compensate those persons and secure to them the same title from the Government of the United States that they would have obtained from the railroad company. That would clear out of the question, perhaps, that class of people, because they would be satisfied and they would make no contention.

Mr. DOLPH. They will secure their title only on payment to the Government for the land.

Mr. MORGAN. They may have paid the railroad company, and now if they pay the Government they can get their land—that is, on paying for it twice instead of once. Now, let us see what condition the bondholders would be in. They have got a mortgage on all these lands. This land, as I have argued, and as I think no Senator will dispute, as between the Government of the United States and every person in the world but the holders of this land, is a fee-simple estate in the hands of the company, and of course that fee-simple estate is mortgaged to the mortgagees. That is the situation to-day.

These mortgagees, having this sort of legal estate conferred upon them under the mortgage for the security of their bonds, could go into a State court, for they can not get into a Federal court unless we permit them to do it by express enactment of Congress. They go into a State court and file a bill of foreclosure. Who is the party defendant to that bill? It can not be this railroad company whom we have bereft of all rights under this very bill, for we have the right to take the property away from the railroad company by an act of entry and ouster, office found, or whatever you please to call it—a declaration by Congress of the forfeiture, which is the same thing.

The railroad company can not be sued for it, for the railroad company has no longer any estate in the property. Whom then will the bond-holder proceed against? Not the Government of the United States, for that Government can not be sued in an action by one of its citizens or by any other person without its express consent. These mortgagees must hunt up some person who is upon some part of this land under

color of title of some character in order to have a standing in court as against that party, and proceed by bill in equity to foreclose the mortgage. I can think of nothing so hopeless as a remedy of that kind.

We have destroyed the title of the mortgageor, the railroad company. By our bill we permit whatever the interest there may be there on the part of citizens to controvert with the Government to be taken up by allowing them to pay to the Government and by payment of money to obtain title to the land direct from the Government, which of course they would do in preference to having any litigation.

Now, sir, if I were an attorney practicing in Oregon and after this bill becomes a law some one should come to me and ask to employ me to file a bill to foreclose this mortgage and try to collect these bonds on these lands and to controvert with the Government of the United States the constitutionality of the law we are trying to pass this morning, I should be certain to say to my client, Go hence; do not send good money after bad money; do not undertake to fight the Government of the United States, which has put itself behind the barrier of legal fortifications which no man in the world dare assail. That is the situation.

It was for the purpose of remedying against this difficulty and giving to our people something analogous to the English petition of right, whereby any British subject may come in and question the Crown as to the ownership of a piece of property that it seeks to condemn by forfeiture, confiscation, or otherwise—it was to give to them some remedy analogous to that, so that the proud boast of American liberty should have some shadow of support at least in the nature of the statutes upon which we dispense and dispose of the rights of private individuals, that I proposed the amendment which the Senate inserted on the Atlantic and Pacific Railroad forfeiture bill.

Now, I hope that I have answered the question of the honorable Senator from Kansas. He and I proceed together upon this question until we come to the point of the remedy. I assert that if these mortgagees, these bondholders, who have a legal estate in this property to-day of a certain character, a legal right of satisfaction out of it, are to be disregarded entirely, and they are to have no opportunity to controvert with the Government in respect of how much of this land is still covered by the mortgage, we are leaving them in a forlorn condition that we ought not to do. I do not know who they are or where they live; I know nothing about them; but it is my duty to know before I legislate in this case.

I think, Mr. President, that the Senate would not be doing right to go along with the passage of this bill because the two Senators from Oregon happen to agree about it. They are both most worthy and excellent Senators, men of high ability as well as high character; but we have also an interest in this question, and the holders of these bonds, who are doubtless not all of them residents of the State of Oregon, have an interest in this matter that ought to be looked after. It can not be fairly looked after until this case can go to the committee and the committee be authorized upon the evidence to report how much these debts are and what is the nature of the lien.

The Senators from Oregon both assume that a railroad company has no right to mortgage more than it owns. Nobody will deny that proposition. Neither has a railroad company by its act a right to forfeit the rights of the bondholders to collect their money out of this property, and it is required here that the right of these bondholders shall be determined because the railroad company has simply abandoned the construction of this road. That is more than the railroad company had a right to do under the law.

Now, sir, I want to know and I want the Senate to know whether it is a shadow that I am fighting about here or not. I maintain that there are rights in favor of bondholders against railroad corporations that sometimes rise superior to the rights of the corporation, not perhaps to the rights of the Government, but certainly to the rights of the corporation. And these mortgagees, I repeat, if this mortgage is at all akin to the multitude that have been examined by this Committee on Public Lands, have the right to carry out the contract with the Government, to go on and build the road, to foreclose the mortgage and take the very franchises away from the corporation, assume the duties and obligations of its charter, build the road, and thereby satisfy the public policy in which this railroad grant was first founded. Shall we cut them off from all these rights? Have we a right to say here, upon what meager knowledge we have about this thing, that these mortgagees would not proceed to foreclose this mortgage, would not proceed to gather up what belongs to them under it, including the franchises of this company, and build this important road from Portland to Astoria down the Columbia River?

Sir, that is an important road. The time, perhaps, is not ten or twenty years distant when that will be looked upon as one of the great arteries of trade in this country, and one of the means of completing by competitive railroads access to the Pacific Ocean. While it may be that persons in Oregon desire to get hold of this right, or rather to get it out of their way so that they can proceed to build a road over the same territory—and that is the allegation which is made here; while it may be that it is one of the necessary conditions precedent that they shall get rid of this mortgage and this railroad and this land grant in order that they may have untrammeled access to this important region of country for the building of this road—while this may all be so, it is still true, I dare say, I believe it to be true upon the statement made here this morning, that these mortgagees have the right to do that same thing. If the right to build a road from Portland to Astoria down that river is so valuable that citizens of Oregon desire to avail themselves of the opportunity under some State charter, why is it not valuable enough to the holders of these mortgage bonds at least to give them a right to be heard on the facts before the Senate of the United States when we are about to take away from them this land grant and to confiscate it for the benefit of the United States?

Mr. President, I do not wish to express the shadow of an opinion here that would reflect in the slightest degree upon any person connected with this matter, for there is no reason for that. Senators are candid in their opinion, no doubt entirely so, that this subject is a matter of no concern to any person, and not to the bondholders, because there is no value in the grant, they say, and because they do not want to press this question as against the company, or against the Government. But before I act upon it I desire to have an opportunity of understanding it. Two members of this committee have assured the Senate that they were not informed as to the condition of this matter; and under these circumstances I do not see how the Senate will refuse to allow this subject to go before the committee, when it can be reported back again and taken up by the Senate and acted upon with a proper knowledge of the facts.

Mr. LAPHAM. Mr. President, the Senate at the last session, after very elaborate argument and with much deliberation and by a large majority, decided that where the Government was seeking a forfeiture of a railroad grant and it appeared there were mortgagees or bondholders interested in the question the Government should perfect a proceeding by a bill in equity, calling in all proper parties, and have a legal determination of the question involved. Now, believing in the wisdom and justice of that provision in all these cases, believing that the Government should be the actor instead of throwing private individuals to their remedies, imperfect as they would be, when this bill came up yesterday I went to the honorable Senator from Alabama and asked him whether it was necessary to have any such provision in this bill, and he answered me very frankly, "There is no occasion for it, because I have inquired and learned that there are no outstanding mortgages upon this road, that there are no rights of third persons involved in the question." I know that was the condition of mind of the Senator from Alabama and the reason why he said nothing upon the subject until this morning.

Now, Mr. President, I submit, whether the amount of the interest of bondholders or mortgagees be greater or less, whether it be one that can be maintained successfully or not, the mode of determining that question adopted by the Senate in the case of the Atlantic and Pacific Railroad Company is one from which we should never depart, and from which we ought not to depart in this case. It will require time. The amendment necessary to accomplish the object that was sought to be accomplished in the Atlantic and Pacific Railroad bill was an elaborate amendment. It will require hours to prepare it. It can not be prepared and offered now, and there is no other mode of reaching this remedy except to adopt the suggestion of the Senator from Alabama and recommit or postpone this bill.

Mr. VAN WYCK. Mr. President, I have been listening attentively to ascertain if I could the object to be gained by a recommittal of this bill. Now for the first time after the long discussion of this matter in the other House, as the RECORD shows, and its long delay and procrastination in this body, first in its committee and then here, an urgent appeal is presented on the part of the bondholders or mortgagees of this road, who have not for two years felt their interests so much imperiled or the duty of self-preservation so imperative as to come here by themselves or their attorneys and make an appeal on their behalf. Is not that a remarkable proposition?

Gentlemen have been relating what took place in the committee-room. I may go a little further and say that day after day, until midnight, and even beyond, did attorneys of different railroads appear before the Committee on Public Lands and enter all conceivable objections to any forfeiture. The gentlemen who have served on the committee will remember that those Senators who have spoken are correct in their own understanding, and they will remember that several of these railroads were placed together, particularly those in California and Oregon, for consideration and argument before the committee, and that learned attorneys came there, and I well remember (if I may be allowed to say it, although it is entirely out of order) that a question was propounded during the argument of some of the cases whether the mortgage of the railroad company covered all the lands embraced in the grant, and the question was answered affirmatively that it did.

I understand, and I think the Senator from Alabama will agree with me, that it must have been understood by every member of the committee who listened to and heard the arguments, the long tedious arguments on that matter, that it was the custom and, as far as any rule went, the rule of railroad companies about the first thing they did to issue bonds covering all the lands granted by the act. I think the Senator from Alabama and the Senator from New Hampshire can not call to mind a single land-grant railroad that did not place a mortgage on all the lands granted.

Mr. MORGAN. I will say, if the Senator will allow me, that I do call to mind this particular case in which I was informed, and believed, there was no mortgage of any kind.

Mr. VAN WYCK. Whether the case of this road was argued separately before the committee or in connection with certain other roads which were represented by the same interest and by the same attorneys I fail to remember; but my recollection is distinct that representations were made, not for the purpose of antagonizing the statement made by any member of the committee or any Senator here, but the impression was given to the committee at some stage of these deliberations and arguments that the railroads conveyed by mortgage all the lands embraced within the grants.

What is to be accomplished by the delay now proposed? The mortgagees did not seek to be heard. If they have any interest outside of the railroad itself, which probably controls the bonds, no mortgagees have appeared in this case asking to be heard, and I do not know that any one appears for them in the Senate to-day asking that they shall be heard on the ground that their rights are to be taken from them. If the position now taken be correct, a forfeiture by Congress will be impossible. If the position is correct that every mortgagee must be heard, then the position will be equally good that every judgment creditor should be heard. Why not? A judgment creditor of this railroad company would have the same right to come in and ask to be heard by Congress before a forfeiture could be declared. I suppose the Government of the United States is not required to ascertain by an examination of the county records who may be mortgagees or creditors of a railroad company.

I understand there was a condition in this grant. That condition runs with the land evidently, and every mortgagee who takes a mortgage on this land takes it subject to this condition. It is for Congress or the Supreme Court to say whether the condition has been broken; and if the fact be true that the condition has been broken and the land is subject to forfeiture, then the same reason applies to all mortgagees and judgment creditors, for neither can have any greater right to the land granted.

That is not the question in regard to this railroad grant. That question never has been raised in the committee or outside of it until this morning. The only question was how far this forfeiture should extend. The House by its bill said that the forfeiture should reach all the lands granted, as well those adjoining the road constructed as those adjoining the road not constructed. The House, if I may be allowed to say it, were more logical than the Senate in this matter, and the facts sustain their action more than that of the Senate, and in order that that point should not be pressed too far the Senate committee, on the only point in discussion on this railroad grant, thought it better to go no further than to declare a forfeiture of the lands adjoining the part of the road not constructed; and that is all the bill which we reported proposes.

The railroad company expressly declared that it abandoned this road. Mr. Villard, in 1883, when he was president of nearly all the roads in Oregon, wrote to the board of trade or commerce of Astoria a communication in which he figured up the cost of this railroad and said they must abandon it. He was president of this railroad company. Then it became evident that the House was right in the forfeiture which it declared, because here was a company organized to construct a road from Portland to Astoria, one hundred and twenty or one hundred and thirty miles, to which a land grant was given with a view to the construction of a road that distance, with a branch running off some twenty miles. The railroad company built twenty miles from Portland and then ran its branch in an opposite direction from Astoria, and there stopped. They had constructed the easiest portion of the road; they had built it through the most valuable part of the land granted, and then they stopped.

The condition of the grant was that if the road was not completed at the end of six years the grant should be forfeited, and they accepted the grant upon that condition, and the mortgagees accepted their mortgage upon that condition. Now it would seem to an ordinary jury, I think, that they had no right to any part of the land. It became evident that they did not intend to build the road from Portland to Astoria. They only got the grant with a view to build twenty miles from Portland and then diverge twenty miles down. That was the only question there was, and it is the only question to-day. This railroad company abandoned its road. It represented the bondholders evidently, and represented the mortgagees. There can be no possible question in regard to that matter. Did I understand my friend from Alabama to say that if these mortgagees proposed to foreclose the mortgage there was no person against whom they could bring a suit, not even the railroad company?

Mr. MORGAN. I do not understand the question.

Mr. VAN WYCK. My friend said that when the mortgagees wanted to foreclose their mortgage there would be no one they could arraign in court as the defendant, not even the railroad company.

Mr. MORGAN. Nobody; and if the Government of the United States now reclaim the land it would be useless to put in a party who would have no interest in the land.

Mr. VAN WYCK. That may be, but they could get a standing in court in that way. The only question is as to delay in this matter. The bill has been already nearly two years before one branch of Congress and the other, and this is the first time an application has been made by the mortgagees as the creditors of this road or any suggestion made in that direction.

Mr. MORGAN. Mr. President, I feel bound to say that this is the first time the fact has come to the attention of some members of the committee at all events, about this mortgage. I do not think I have been delinquent about it, though I certainly have inquired very assiduously; the Senator will bear me out in that; and I certainly gave notice that I would be prepared with an amendment if there was any question of that sort in this case.

This bill can go back to the committee, and we can consider it and ascertain precisely from evidence, I suppose here in Washington, what the extent of this mortgage is and who it is who owns it. The Senator from Nebraska intimates that the mortgage is owned by some railroad company. I do not know a word about that; he may; but I do not, for I never heard of it until it was suggested to me this morning by eminent gentlemen in the House of Representatives who have been inquiring into these matters very assiduously, and who informed me of the existence of these mortgages, very much to my surprise. I think the committee ought to have the opportunity of looking into this question to see what the facts are. Shall we sit as a court here in condemnation of a railroad company or of its mortgagees and adjudicate the property out of their hands by a reclamation of the title absolutely, when there is no Senator on this floor who can tell who the mortgagees are, what length of time the mortgages have to run, what rights they have got, or the amount of the debt? I think, sir, that it would be absurd for us to do it, and I do not see why Senators are in such a hurry to push this bill through this morning as to deny to the committee, or members of it who have not been informed about this matter, an opportunity to know what the real state of the facts is. We ought to be allowed to know it before we are compelled to act; and I protest that we ought to know it.

Mr. VAN WYCK. I did not mean to say absolutely in this case as a matter of fact that these mortgages and bonds were owned by this railroad company.

Mr. MORGAN. The Senator does not know who owns them, neither do I.

Mr. VAN WYCK. I can say as a matter of fact, however, that ordinarily the bonds and mortgages of a road of this nature are under the control of the managers of the railroad; and when their attorneys appeared before the committee to argue for their interest they would most naturally have argued for this interest if it was in peril at that time.

Mr. MORGAN. I do not care to try the rights of this company or of the mortgagees on a suspicion. I want to know what the facts are.

Mr. VAN WYCK. This fact was public, it was notorious; in April last, when the bill was discussed in the House of Representatives, it was there stated that mortgages existed on the line of this road. Senators may not be concluded by what took place in the other branch, but that was a fact which was made as notorious as a fact could be made in legislation. It appeared in the discussion; it was stated as a fact there that mortgages had been issued upon this railroad. That surprised nobody, for I supposed everybody knew that about the first thing a land-grant railroad company did was to issue mortgages upon its lands and put bonds upon the market. Every railroad company does that before it constructs a mile of road. It is done in all cases. These persons for many years have known of this. A person who owns a mortgage on a land-grant railroad is apt to know the history of legislation affecting that road. For many years the question has been before the American Congress, and nobody can presume that any mortgagee who would desire to be heard has not had an opportunity to present his case.

The PRESIDING OFFICER (Mr. HARRIS in the chair). The question is on the motion to recommit the bill.

Mr. SLATER. This whole case it seems to me is in a nutshell. The question is, has this corporation failed to perform the conditions of the grant? Now, it is an admitted fact that for eight years this company has done nothing toward the prosecution of the grant, and has intimated through its president that it can not and will not undertake to build the remainder of the road. Then there is a condition broken in this case, and it has been broken for eight years. This bill has been pending before Congress ever since the second day of the last session of the Senate, the second day of the legislative session of Congress, and it is strange to me that we should not have heard somewhere at some time and in some place a plea for these mortgagees prior to just on the eve of the passage of the bill.

Mr. MORGAN. Will the Senator allow me to ask him a question? I ask the Senator when he first heard that there was a mortgage upon this property?

Mr. SLATER. I can not say that I have heard it before this morning. My impression was, and I was led to believe, that there was none in this case; and yet, as I said before, reflection should have taught me that perhaps in all these cases it was the custom, and I might say the unbroken usage, to put a mortgage on the land grants as a means of constructing the roads.

Mr. MORGAN. The Senator will allow me to say that reflection led me in the direction of supposing that there might be a mortgage until I asked the question and it was stated to me in the committee that there was none.

Mr. SLATER. I do not remember how that might be.

Mr. MORGAN. I do.

Mr. SLATER. But granting that there is a mortgage, I do not see that it is necessary for us to concern ourselves about that. The mortgagees stand on no higher plane, no broader basis, no higher right than the mortgageors themselves do. They can take no right that the mortgageors did not possess. The title of the mortgageors was one hampered and controlled and embarrassed by a condition. The mortgagees know the condition has been broken, and all we have to do now is to declare that condition broken and a forfeiture for that reason. These parties are not remediless. We only change the condition, the manner and mode of the procedure. One mode is proposed by the Senator from Alabama, and I do not see why he does not propose his amendment, as he did in the former case, instead of proposing to send the bill back to the committee, and let us pass on it at once if it is desirable. That amendment only changes the mode. In the one instance under the amendment parties would go into court by an interpleader at the instance of the United States. In the other case they would go into court in a suit against an individual citizen. There can be but few cases, if any at all, in which there would be any one to go into court in regard to this grant.

As I said before, as I understand this case there is no ground or basis for the application of the principle of the amendment as the Senator proposed to apply it to another bill; there are no rights which can possibly be brought into court in behalf of the original corporation, or of their subsequent purchasers, or of the mortgagees of the original corporation upon which they can or would have an equitable or legal standing in court. Why then proceed with it? It simply hampers the action of Congress; it simply ties up the matter of forfeiture an indefinite period and withholds these lands from occupation. It seems to me this is wholly unnecessary. If we had undertaken to forfeit the earned lands as well as the unearned lands, the question whether they would have rights would be a question which would go to the courts; but we avoid that by not agreeing with the House on that point. We treat that question as settled. In my judgment we can not touch the lands that have been earned, and can only touch the unearned portion of the grant.

I hope the Senate will now vote on the question and refuse to recommit.

Mr. BLAIR. The Senator from Oregon is arguing a question upon which the Senate has already pronounced its judgment. By a very large majority, in the discussion upon the bill proposing to forfeit the land grant of the Atlantic and Pacific Railroad during the last session of Congress, the Senate said that there should be a remedy provided in the courts for those whose rights were concerned, and proposed, by an amendment suggested by the Senator from Alabama, to constitute a specific kind of court to entertain and decide those rights.

The distinction between the Atlantic and Pacific case and this, as it has hitherto been supposed to exist, was simply that in the case now being considered by the Senate, that of the land grant in Oregon, there was no possibility of controversy arising with reference to any other rights than those between the General Government and the original grantee, and therefore that there was no case for the attaching of that amendment and the constitution of the proposed court in relation to this grant. But the Senate had before it no other case, unless it was this Oregon case, where that state of facts was supposed to exist; and therefore those who were in favor of the creation of such a tribunal were willing that this particular bill should proceed to forfeiture without any such condition or any provision for such tribunal being attached. And so the bill was going through; but a discussion arose this morning between gentlemen of both Houses who are engaged in the consideration of the amendments upon the Atlantic and Pacific bill, and there I first obtained information that this bill was understood by the other House of Congress to be just like the others, and that there was the same occasion for the constitution of such a court with reference to rights arising under this grant as in the other cases which are before Congress. And it will be understood, I know I understand, that if this bill now before the Senate passes without such an amendment, it is practically a committal of the Senate against the very policy which it adopted in its action on the Atlantic and Pacific bill, and therefore it is important.

This radical mistake with reference to the questions involved is one which leads to this discussion, and it seems to me perfectly apparent that unless the Senate proposes to stultify itself by its action upon these two different bills the motion of the Senator from Alabama should prevail, and this bill should return to the committee, that it may come from the committee under precisely the same conditions as the other bills where the Senate committee understands that there are questions of fact to be adjudicated by the courts. That is all I wish to say.

Mr. DOLPH. I desire to say again that I distinctly recollect on more than one occasion stating to the Committee on Public Lands from my knowledge of this matter that there were mortgages upon this grant. I distinctly recollect that counsel appeared for the company and so stated orally, and I think also in a printed argument filed in the case. And my recollection is in accord with the recollection of other members of the committee. I do not question the good faith or the correctness of the Senator who has just spoken, or the Senator from Alabama, as to what they understood in regard to the matter; but I will say that when it was agreed that this bill should be reported I understood that the privilege was reserved by the Senator from Alabama of offering his amendment in the Senate, and I understood the Senator to say no longer ago than the last session of the Committee on Public Lands, on Monday last, that he might do so.

I do not care anything about this matter any further than as to the suggestion made that there may have been some withholding of information on this subject. But whatever has been done in committee, I do not see the necessity of again referring the bill to the committee for information. It is now stated on all hands that there are mortgages. The amendment which was adopted by the Senate to the Atlantic and Pacific bill is in print; it can be offered to this bill, and the sense of the Senate tested on it at any time without delay.

I will say that I voted for the amendment referred to to the Atlantic and Pacific bill, but I distinctly stated that I did so because the bills making the grants to the Atlantic and Pacific Railroad Company, the Texas Pacific Railroad Company, and the Northern Pacific Railroad Company were peculiar and exceptional; that in my judgment Congress had undertaken to say what the remedy should be or what penalty should be inflicted if those companies failed to construct their roads within the time limited in the grant, and that was that Congress might take such steps as were necessary to secure the completion of the roads and at least one court had held that Congress could not forfeit these grants, but must apply them for the purpose originally intended. That was the reason why I thought that in those three cases the amendment referred to ought to be adopted, and I do not stultify myself in view of what I stated on the 3d of July last when the Atlantic and Pacific bill was under discussion by proposing to vote for this bill without the amendment when I voted for the amendment to the other.

Mr. MORGAN. I regret to appear so frequently in this matter before the Senate, but I have been led into some trouble about it unexpectedly. The Senator from Oregon on my left [Mr. SLATER] informs us that this morning was the first time he ever knew that there was a mortgage on this property. Well, Senators living in other States very far distant from Oregon are perhaps not expected to find out what neither of the Senators from Oregon knew or told the committee of so far as I know. When I made the motion to recommit I did it because I wanted the committee to examine the subject and to ascertain whether there was any necessity for putting on this bill the amendment which the Senate voted onto the Atlantic and Pacific bill. I do not want the Senate to go before the House of Representatives and before the world as voting an amendment onto a bill of the character which I had the honor to offer at the last session and it was passed by this body, and then refusing to put it upon another bill of precisely the same character. That would leave us in rather bad shape, and the committee of conference in which the two Houses are now represented would be very much embarrassed no doubt if the Senate should vacillate in its course from day to day, and on one day say that such a tribunal and such a jurisdiction was necessary to be created for the protection of private rights, and on another day neglect it entirely in a case of precisely the same character. Therefore I wanted the bill to go to the committee, to see if the committee could ascertain that there were in this case facts to excuse us from doing that which the Senators both agreed to. They say they do not want this subject drawn into litigation at all; that if we pass their bill just as it is there will be no litigation. Why will there be no litigation? I wish to know whether it is because by the passage of the bill we paralyze the people who have rights, or whether it is because there are no rights of a substantial character to advance. Therefore I want the committee to act upon it.

At the time I made my motion to refer I was not aware that I should have it in my power to get a print of the amendment which I offered at the last session of the Senate. Since that time I have obtained a copy of that print and I am now prepared to offer the amendment. At the same time I dislike to offer it without action of the committee, because the two Senators from Oregon, both members of that committee, assert here in this body that there is no occasion for having this amendment put upon this bill. Yet on the face of the case as presented by one of the Senators from Oregon at least who has some acquaintance with this mortgage matter, the other not having any acquaintance with it at all, it does appear that there are mortgagees (we do not know who they are) who have rights that ought to be protected in the courts of the United States. If the persons concerned in the Atlantic and Pacific, or in the Texas and Pacific, or in any of the other roads whose lands are sought to be forfeited need the protection of the jurisdiction and power of the Federal courts, then of course in this case it is needed, unless the Senators from Oregon are able to show the committee that there is some reason why this is an exceptional case. Therefore I wanted the bill to be recommitted to the committee, and I think that is the true course to take.

I am very much obliged to my friend from Massachusetts [Mr. HOAR] for calling my attention to a proposition in this case which I think I

ought to state, although I do not wish to abuse the patience of the Senate. It is that it is our duty in making the forfeiture of these land grants to protect the settlers upon the land and all persons interested in the railroad land grants that are being forfeited from a great number of lawsuits. Shall we so manage this business as to compel each one of these persons in the assertion of his rights to institute a suit and undergo the expense of attorney fees and costs of court, besides the other vexations and loss of time incident to litigation, when by providing a jurisdiction of competent authority, a bill to be filed in the name and on behalf of the United States for the settlement of all these questions in one suit, we can so readily determine it?

If there was no right involved in it, as a mere matter of public policy and public justice we ought to establish some means here through the authority of Congress by which these litigations can be consolidated and brought all into one suit. Now, let me illustrate. It bears some resemblance, if the Senate will bear with me a moment, to a creditor's bill. Here a creditor comes into a court of chancery and files a bill—his debt may not be more than $300—against a debtor who owes $100,000, and he says to the court of equity: "I want the assets of this insolvent man marshaled, and I want the preferences that exist according to law and according to contract between his creditors ascertained and secured by the decree of the court; I file this bill on behalf of myself and every other creditor, and I give to every creditor of this man an opportunity to come into the court and to prove his claim and to give to the court information of its precise character."

The court of chancery, upon the petition of a single creditor of a man who may owe $100,000, the debt of the particular man not being more than $300, will take jurisdiction in a cause like that, and proceed by publication or otherwise to call in the other parties and give them an opportunity to come into that record so that the whole estate may be administered and marshaled and settled. Now, here are a class of landholders who are scattered, as in some of these cases, over a territory 1,000 miles long and forty or fifty miles wide. One of these men comes in and files his application, his petition, setting up his peculiar rights. When his rights are decided, the court having made publication that the others may come in, every man can get the benefit of that decision. The court can order a consolidation of the petitions, so that the costs will be trifling, being only the costs of a single petition, and in that way the expenses of litigation and the harassment and embarrassment of it would be very much neutralized, almost entirely dissipated.

We can not forego an opportunity to do as good a thing as this is for the people, and we surely can not deny that the circuit courts of the United States will administer justice according to law to these people as well as any of the courts of this country; for after all when these collateral litigations come to be finally heard they go up from one appeal to another, from one step to another, from a county court to a supreme court, and to the Supreme Court of the United States, and after three or four or six years of delay then we have a question decided here which perhaps unsettles and rips up hundreds of titles and destroys hundreds of homes.

Mr. President, I can not conceive how it is that we can pass over a question of this kind without creating a jurisdiction to hear this entirely new right. Let me appeal to the Senate of the United States, and to every lawyer here, if this is not a question entirely without precedent, if it is not an affair *de novo*. When have we ever established a jurisdiction in the United States for dealing with forfeited land grants? We have made no forfeitures of land grants; the necessity for it has not heretofore arisen; but now that a great number of people seem to be bent and determined upon forfeiting the unearned land grants in this country, it behooves us when we are dealing with this question *in limine* to provide a tribunal and a method of procedure which shall save expense and cost and harassment to the people.

If that is not done those gentlemen, if there be any, who desire to prevent the forfeiture of land grants will carry their purpose, because of the very enormity of the injury and wrong that will be inflicted by a simple forfeiture, and relegating these people to their rights and remedies under the local courts. The very trouble which it will entail upon the country to carry out this litigation will be a sufficient reason in the minds of sensible and good men, many of whom would really like to have some of these land grants forfeited, why none of them should be forfeited.

If I were advising a scheme by which I would effectually prevent the forfeiture of any of these land grants at all, it would be the very scheme which would be the result of passing a bill like this, without providing some Federal remedy for the administration of the right; for if we do convert these lands back into public domain—for that is the proposition, to carry them entirely out of the possession of these companies back into the public domain, and provide no remedy at all, but leave the face of the whole country to be swarming with private litigations between man and man growing out of it in a collateral way—we shall thereby so startle the sense of justice and propriety and policy of the Congress of the United States that no land grants will be forfeited.

That is the best means I know of to prevent the forfeiture of land grants. The gentlemen who are so eager and so hot about this matter, who seem to have no appetite for anything else until they have in the first place satiated their desires, like a before-breakfast toddy, by the destruction of a railroad—these gentlemen will miss their purpose entirely if they simply rely upon the idea that the Congress of the United States is going to forfeit land grants in order to fill up the country with useless and very expensive litigation.

I believe some of these land grants ought to be forfeited. I vote for their forfeiture. I vote for this forfeiture. I voted for the Atlantic and Pacific forfeiture, and perhaps it is not improper to say that I shall vote for the Texas and Pacific forfeiture, but I should hesitate to do that when I believed the evils that would be inflicted upon the litigants whose rights have sprung up under these different charters would be very much greater than the public good which could be accomplished by a relegation of these lands to the public domain.

The PRESIDING OFFICER. The hour of 2 o'clock having arrived, it is the duty of the Chair to lay before the Senate the unfinished business, which is the bill (S. 1682) to enable the people of that part of the Territory of Dakota south of the forty-sixth parallel of north latitude to form a constitution and State government, and for the admission of the State into the Union on an equal footing with the original States, and for other purposes.

Mr. HARRISON. Mr. President——

Mr. SLATER. I ask the Senator from Indiana to yield to me for a moment.

The PRESIDING OFFICER. Does the Senator from Indiana yield?

Mr. HARRISON. I ask the Senator from Oregon for what purpose he desires the floor?

Mr. SLATER. I desire to have some understanding or agreement in regard to the future consideration of the bill just closed.

Mr. HARRISON. I yield for such a purpose.

Mr. SLATER. I ask unanimous consent that the bill may be proceeded with to-morrow morning immediately after the morning business has been concluded, as was done to-day.

The PRESIDING OFFICER. The Senator from Oregon asks unanimous consent of the Senate that House bill 181, from the consideration of which the Senate has just passed, shall be taken up immediately after the completion of the morning business to-morrow.

Mr. SLATER. I will say at the next meeting of the Senate.

The PRESIDING OFFICER. At the next meeting of the Senate, after the completion of the morning business.

Mr. HOAR. I think we ought not to sacrifice the time devoted to the Calendar. There are a great many very important bills there, and that is the only time when they are in order.

The PRESIDING OFFICER. Does the Chair understand the Senator from Massachusetts to object?

Mr. HOAR. Yes, sir; I object.

The PRESIDING OFFICER. There is objection to the request of the Senator from Oregon.

Mr. SLATER. Then I move that the bill be made the order of business at the next meeting of the Senate immediately after the conclusion of the regular morning business.

Mr. HARRISON. I had no objection to yield the floor to the Senator from Oregon until he could make his request for the unanimous consent of the Senate, but if he asks me now that I shall yield further until he can submit motions to the Senate I must ask him to excuse me.

Mr. SLATER. Of course I must submit.

The PRESIDING OFFICER. The Senator from Indiana is entitled to the floor.

ADMISSION OF DAKOTA.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. 1682) to enable the people of that part of the Territory of Dakota south of the forty-sixth parallel of north latitude to form a constitution and State government, and for the admission of the State into the Union on an equal footing with the original States, and for other purposes.

Mr. HARRISON. Mr. President, the Senator from Missouri [Mr. VEST] assumed that I had in my opening remarks upon this bill imputed to Senators upon the other side of the Chamber a disposition to be actuated in their votes upon it by partisan influences and motives. The Senator was entirely mistaken; I made no such imputation. On the other hand, everything I said was intended and I think calculated to lift the discussion upon this important measure above the level of partisanship. I supposed that if I could show that this area of country, which it is now proposed to constitute into a State, had now a population equal to the unit of representation in the House of Representatives; if I could show that it had now a larger population than any other Territory ever had at the time of its admission to the Union; if I could show this so clearly that not even the stingiest arithmetic could impeach the calculation; if I could show this people to be practically unanimous in their desire for admission into the Union; if I could show that this population, under the invitations of public law, had settled upon and occupied an area greater than any one of twenty-one States of the Union; if I could show that this Territory had a productive capacity which had already placed her in the actual achievements of her industrious people far in advance of many of the older States, and gave assured promise to place her very speedily in the front rank of the

States, I think I should then have made out a case which would appeal so strongly to the sense of justice of every Senator that no consideration as to the effects of this measure upon the weight of parties in the Senate of the United States or in the electoral college could influence any Senator in his vote.

Now, I claim to have established every one of those propositions. I assert that the Senator from Missouri has not successfully assailed any one of them. I am not yet authorized to anticipate that we are to have a party division upon the question of the admission of Dakota, although I am free to say that the indications seem to be all that way. I felt that I should be imputing a disgraceful thing if I charged any Senator with approaching the consideration of this question from a partisan standpoint or voting upon it from partisan motives.

But the Senator from Missouri says he would not regard it as disgraceful to declare that his vote was influenced upon this question by party feeling, though at the same time protesting that in this particular case no such feeling actuated his vote. He alluded to the debates which have taken place in the past upon the admission of States to the Union, and he said that the discussions and the votes upon those measures showed that the Senate in those olden and better times, I believe he called them, had been actuated by partisan motives. It is true that before the war and while slavery was still maintaining its aggressive and persistent fight for supremacy in the politics of this country and for an equipoise between the slave and free States, questions affecting freedom or slavery in the Territories did influence the votes of Senators, and that motive was confessed in debate. I had supposed, however, that that exigency which seemed to make it necessary, as the history of such legislation shows, to admit States by pairs, one slave and one free, had passed away with the destruction of the institution of slavery.

I am sure that the Senator from Missouri would feel that it was a disgraceful thing to say upon the floor of the Senate to 300,000 American citizens living in the Territory of Dakota that they should not be admitted to statehood because the prevailing opinion there was Republican. I am sure he would feel it to be so; and I feel very sure that no Senator on the other side of this Chamber will be bold enough to make that confession. Yet the Senator from Missouri suggests that it would be altogether a fair thing, seeing that the Territories of the United States have been so long under what he calls Republican influence, to keep them for a while longer under Democratic influence, in the hope that the Federal officers to be sent to the Territories as governors, secretaries, and marshals by the incoming Democratic administration might have sufficient influence by one means or another over the people of that Territory to change their political sentiments.

The Senator from Missouri greatly exaggerates the influence of the governor of Dakota, he greatly magnifies the power of a United States marshal in Dakota to influence political sentiment, he greatly underrates the intelligence and manhood of her population, if he supposes a complement of Democratic officers would be likely to change the political views of a majority of her citizens. A sentiment prevails in the Territories so hostile to the appointment of their officers from the States, that those who go there to discharge official functions are to a great extent robbed even of that degree of influence which their own ability and standing would give them if they were citizens of the Territory ni a private capacity.

But the Senator says he does not propose to vote against the admission of Dakota with a view of attempting to convert her Republican majority into a Democratic majority. He only suggests it as a fair thing to do, but one that his mind does not quite consent to at the present time.

The speeches of the Senator from Missouri are always sonorous and pleasing. But he does not always define himself with absolute clearness. I think he conspicuously failed in this respect yesterday, not because of any lack of ability to state his propositions clearly, but because the conditions of the debate were against that method of argumentation. I listened with interest, trying, as the Senator proceeded, to settle in my own mind one question, and as I failed I will ask him to settle it for me now. What rule does the Senator prescribe to himself in relation to the population which a Territory should possess before its admission to the Union? Does he consent that when it is shown to have a population equal to the unit of representation in the House of Representatives it is then entitled to admission? If he does not consent to that basis, what basis does he suggest? I should be pleased if the Senator would respond to this question now.

Mr. VEST. With the greatest pleasure, Mr. President. I have never assumed to prescribe for myself or others any rule in regard to the admission of any Territory as a State. I have said and say now that I believe the spirit of the Constitution requires that every new State admitted into the Union should have at least the ratio of population that would entitle it to a member in the popular branch of Congress. But even if that existed, that would not necessitate me to vote in favor of its admission. It would depend in each individual case upon the character of the population, of the institutions that I thought they would have, and of the effect of the admission generally upon the rest of the States in the Union.

Mr. HARRISON. The Senator is quite as indefinite in his answer as he was yesterday in his speech. He says the State should have at least the population requisite for a member of the House, but it may have that population and more, according to the answer of the Senator from Missouri, it might have twice that population, and still have no claim to admission, notwithstanding its population is entirely homogeneous, not only between its own parts, but a population homogeneous with that of the whole country.

Mr. VEST. If the Senator will permit me, I will propound a question to him.

Mr. HARRISON. Certainly.

Mr. VEST. If I understand the Senator correctly, he says that when a population exists over and above the ratio for a member of the lower House that is conclusive of the question, if the population is homogeneous. Is that his position?

Mr. HARRISON. Not at all; my proposition is that as to population it is conclusive.

Mr. VEST. As a matter of course.

Mr. HARRISON. And I ask the Senator whether he regards it so.

Mr. VEST. I state to the Senate emphatically, as I stated yesterday in my feeble way, and I can make it no stronger, that population of itself is not sufficient. Suppose Utah should apply here with a million inhabitants for admission, would the Senator vote for it? I undertake to answer for him "no." Therefore there are other considerations besides population.

Mr. HARRISON. I have not denied, but in my opening remarks asserted, the very proposition which the Senator now asserts. But my question related to population only. Supposing all other things, as to the character of the people, the institutions they have adopted, the civilization that prevails among them—suppose all those to be in line with the general civilization of our country; then, it being a question only of population, how much does he insist upon? That is the point. The Senator is too good a lawyer not to see it. All the other conditions that are essential to the admission of a State, and which assure us that when she takes her place among us it will be with institutions that are in harmony with the civilization of the other States; all that being assumed, how much population can we insist upon; and the answer I get from the Senator is at least the ratio of representation in the House of Representatives. He leaves the other limit entirely unfixed. He leaves himself free, as I understand, notwithstanding there are people enough to entitle the new State to a member in the lower House, notwithstanding all her institutions are right and unexceptional, to vote against her admission.

I showed in my opening remarks, from all the precedents, that no one had ever argued that a larger population than one equal to the ratio of representation could be demanded of any Territory seeking admission to the Union. Now, I ask upon this question of population, for I propose to take up these considerations one at a time and not have them massed upon me, why is it that Dakota is not to be admitted now?

I have not alluded to the prevailing political sentiment in the Territory of Dakota. I had not sought to find in that the cause of Democratic opposition to the admission of this Territory, but when we have such conclusive evidence of a sufficient population, I ask Senators on the other side of the Chamber either to give me some other rule or to pass with me favorably that part of the debate and let the discussion advance to some other question.

The Senator from Missouri rejects all precedents. Trained as a lawyer, trained to quote and to show respect to precedent, he wipes out with one rhetorical sweep the entire history in Congress of the admission of States. He tells us that some new, indefinite rule ought to be applied now, because settlement is so rapid in the new Territories, while formerly it was slow. Does it make any difference whether it takes ten years for one hundred and fifty thousand people to get into a Territory, or whether they all go in in one year, if they are *bona fide* settlers? It is not a question of the length of the journey; it is not a question of tediousness of settlement; it is a question of a *bona fide* resident population.

In that connection the Senator alluded to the fact that 800,000 foreigners were pouring in upon our country every year. I do not suppose that this suggestion came to the Senator's mind by reason of a reference made in one of the letters he read. One of the gentlemen whose letters he read alludes to the fact that there is a very large foreign population in the Territory of Dakota, and expresses the opinion that they are no more fitted to exercise the rights of American citizenship than the colored people in the South. I would not impute to the Senator a suggestion that Dakota should be delayed in her admission because a large per cent. of her population happened to be of foreign birth, and yet he alludes to the great immigration coming from abroad, to the suddenness and rapidity with which our own population, drawn from our best States, is throwing itself into the Western Territories, and he faintly suggests that by reason of this some different rule should be adopted on the subject of the admission of a State.

Now, I wish to say just a word or two as to the actual population in Southern Dakota. I want to show any Senator on the other side of the Chamber who will listen that when I say the stingiest arithmetic can not deny to the southern portion of Dakota a population equal to the present ratio of representation in the House of Representatives I

am fortified by the facts. In 1880 we had an opportunity of arriving at the exact ratio between inhabitants and voters in the Territory of Dakota. An enumeration was taken, taken by the same agencies which took the enumeration in the State of Missouri and in the State of Indiana, and the result is entitled to just as much credit in the case of Dakota as in the cases of the other States and Territories. We have the population given, we have the number of votes that year, and by making a division we find that the ratio of inhabitants to voters was four and eighty-two one-hundredths. Yet for some reason or other the Senator, while accepting this census ratio as applied to all the States and using it in his argument, repudiates the ratio as applied to Dakota, and for the very singular reason that, according to his idea of the course of emigration to Dakota, more women and children went into that Territory prior to 1880 when the only access to it was by the Missouri River or overland, when the travel was not only expensive but tedious and perilous, than have gone into it since, with its twenty-five hundred miles of railway in its own borders, connecting with all of our great east and west lines.

If there is anything perfectly clear, it is that the ratio found to prevail in 1880 instead of being diminished must have been increased from that time till now. The town population of Dakota has increased enormously. Railroads have penetrated the Territory from east to west and some spurs in a north and south direction, so that now there is no reason in the world why an emigrant to Dakota should not take his wife and children with him the very moment he has entered his homestead.

Does the Senator from Missouri think that a ratio of 3 is too much for Dakota? The census showed 4.82. Does he not think that it would be a very stingy arithmetic that would cut them down to 3? If there is a ratio of 3 inhabitants to a voter South Dakota has 165,000 population. I have here the official vote by counties of the Territory of Dakota, with the exception of a single county in Southern Dakota, which was not reported but which is estimated, showing 55,000 votes in Southern Dakota. Is there any Senator on that side of the Chamber who believes that it is an unfair thing to estimate 3 inhabitants to one voter?

I showed in my opening remarks that in some of the Southern States the ratio was 10 to 1; that in the States bordering on Dakota, the States of Nebraska and Minnesota, it was more than 5 to 1—I think 5.17 to 1, as I recall the figures. And it must not be forgotten that in Dakota, as Governor Pierce says in his report, there are quite a number of unorganized counties where the people do not vote, having from one hundred to a thousand population in each. No, Mr. President, no fair argument can be made against the presence in Southern Dakota of a population largely more than the 151,000 required as a basis of representation in the House of Representatives.

But the Senator himself has brought in some witnesses. He indulged in panegyric when he described the character of the gentlemen who brought here a protest against the division of Dakota. He said they were men of great intelligence and of high reputation; that they were men whose statements with reference to sentiment and fact in Dakota were to be accepted with the greatest respect. Did the Senator notice that those very gentlemen declare in their memorial that the Territory of Dakota had then 400,000 inhabitants—the whole Territory? The memorial was presented nearly a year ago. It is conceded that two-thirds or more of the population is in the southern part of the Territory. The very gentlemen whose sentiment upon the subject of division he regards as so influential, and whose character he describes as so high, tell us that at that time there were over 400,000 people in the whole Territory.

The Senator seemed to think that it was a great innovation, a grave departure from precedents, and a most outrageous and extraordinary thing that an artificial line, a parallel of latitude, should be established as a line of division between North and South Dakota. He said there was no great river there rolling like the turbulent Missouri does through his State. Why should it be divided? The Senator is too familiar with the map not to know that artificial lines are the frequent, and even the ordinary, boundaries of States in this country. His reason will show him that it is the best boundary, because it is certain and unfluctuating. It is well for the State of Missouri that she did not border on the Missouri River. That line would have been very difficult to define from year to year. If the middle thread of the stream had been one of her borders, some of her citizens would, very likely, have found themselves in another State without moving out of their houses. The low-water mark, the middle thread of a stream, particularly streams flowing through alluvial beds, is rather a bad boundary for a State, whereas a parallel of latitude is absolutely the most convenient, easily marked, and certain line that could be adopted.

But does the Senator think that it is an unusual thing to divide a Territory and admit one part of it as a State? No; he can not think that, because it was the course pursued with that great domain which we called the Northwestern Territory. It was first placed from Ohio to its extreme borders under one Territorial organization, and when the settlements in that part nearest to the States became sufficiently numerous and the population sufficiently great Ohio was carved out of the Northwestern Territory and constituted a State.

When the march of settlement had gone farther west, Indiana, which had embraced under that name as a Territory much territory west and north, was carved out and constituted into a State. So it will be seen that vast territories, section by section, divided more often upon artificial lines than by natural barriers, were constituted parcel by parcel into States. The same policy was pursued in connection with the great grant which we got under the treaty with France in the purchase of Louisiana. State after State was carved out of it. It never was thought before that because, for convenience in organizing a Territory, a vast sweep was included under one Territorial organization by force of that fact the whole Territory thus organized must come into the Union as a single State. No one suggested it when Ohio, Indiana, Illinois, Michigan, and Wisconsin came into the Union. It was simply a question whether the area of country proposed to be constituted into a State was sufficient to give the State a respectable standing among the great States of the Union. It was simply a question whether the divisions were convenient. It never was thought before to be a reprehensible thing to divide one of these great Territories.

If I were to look for an intimation in Congressional legislation as to what was about the right size of a State I should look at these States which have been thus carved off from a vast outlying country. Just as if I wanted to get the judgment of the carver at the head of the table as to how much venison or turkey would be good for my friend I should look at the work of his carving-knife. We see Congress constituting Ohio, Indiana, Illinois, Wisconsin, Michigan, and Missouri as States of the Union. They were not stinted for territory. Missouri might have been pushed westward indefinitely when she was admitted into the Union. Ohio might have been stretched westward to the Wabash or the Mississippi, and yet I am pleading here for the admission of a State that is larger than any one of the States thus constituted by the American Congress.

If I were to look for another suggestion in public legislation as to what was a reasonable size for a State I should look to the act admitting the great State of Texas into the Union. It was there provided that that State might be divided into not more than five States, which would give to each an area of about 52,000 square miles, or 25,000 less than the area of the Territory of South Dakota. Texas, California, Nevada, Colorado, Kansas, Minnesota, and Oregon would be larger than the State of Dakota, and only those. I do not think the Senator was so definite that I would be justified in saying that he had made the point that South Dakota did not have sufficient area for a State; but if that point is involved at all in his argument, I submit that a State which would be 7,500 square miles larger than the State the Senator so ably represents ought to be accepted as big enough.

But the Senator has a poor opinion of the productive capacity of Dakota. He has great doubt whether if it were divided it would be able to sustain in the divided portions such a population as would enable it to rank fairly with Missouri, for instance, among the States.

The soil of Dakota, he said, was very similar to and its agricultural adaptations very much like that of Colorado and Nevada. I do not think I misquote the Senator, though I do not pause to read his exact words. That certainly was a comparison which came into the mind of the Senator while he was upon his feet, and that he did not have an opportunity to verify by any reference to census tables of production or soil. Nevada is perched on the mountain-tops; Dakota is a great plain. If he had said that as to the great bulk of its lands Dakota was similar in its agricultural adaptation to the States of Nebraska and Minnesota, which border it on the east and south, he would have been nearer to the exact truth. Nevada was admitted into the Union of the States in 1864; Colorado was admitted in 1876. Now I want to show how unlike the Territory of Dakota is to the States of Nevada and Colorado, judged as agricultural States, and I do not mean at all to underrate the capacity at least of Colorado to maintain a great population.

In 1880 the State of Nevada, which was admitted into the Union of the States twenty years ago, had only 1,404 farms; Colorado, which has been a State for ten years, had 4,506 farms, while Dakota had 17,435, or 11,525 more farms than both those States put together. Dakota like those States! The eager searchers for agricultural lands, the restless men who shake off the limitations of a settled neighborhood, sell out their little farms, and go out to look for land, know good land when they see it, and the comparison which I have made between the number of farms taken up shows the judgment of the settlers. It is not a fair comparison to liken Dakota's capacity to sustain population to Nevada or Colorado.

But that is not all. Nevada had a total of land in farms of 530,862 acres, and Colorado had a total of 1,165,373 acres; while Dakota had 3,800,656 acres in farms in 1880, or over 2,200,000 acres more in farms than both of those States combined.

Let us look at their production and see how those States compare with Dakota. In 1880 Nevada raised 69,298 bushels of wheat, Colorado 1,425,000 bushels, the total of the two States being 1,494,312 bushels. In that same year Dakota produced 2,830,000 bushels of wheat.

Mr. FRYE. Dakota entire?

Mr. HARRISON. The entire Territory; I am speaking of that now

I should say to the Senator from Maine that of this 2,830,000 bushels somewhat less than half of it was raised in Southern Dakota, but I think Southern Dakota itself—I gave the exact figures in my opening remarks—was very nearly equal to the aggregate production of those two States in wheat. As I stated in my opening remarks, the wheat crop of Dakota for this year is estimated at 30,000,000 bushels.

Nevada produced 12,891 bushels of corn in 1880; Colorado produced 455,968 bushels; an aggregate of 468,859 bushels for the two States. Dakota produced 2,000,000 bushels of corn the same year, nearly all of it in Southern Dakota. So we have here in Dakota 1,400,000 bushels more of wheat and over a million and a half more bushels of corn raised in 1880 than in the combined States to which the Senator from Missouri likens Dakota as to its agricultural possibilities.

But the Senator said that this new Territory had become the abode of the agricultural monopolists; that its farms were great farms; and he alluded to the great Dalrymple farm, which many here have seen perhaps, though I have not. It has been made too much to stand as a sample Dakota farm. Would the Senator believe that the census shows the average acreage in each farm in Dakota to be only 218 acres? It is not a land of Dalrymple farms, where agricultural monopolists have absorbed the entire Territory and bring only in harvest-time fugitive workmen to reap the crop and then send them off. The average acreage of farms in Dakota is only 218. In North Carolina it is 212, and in Oregon it is 260.

I procured from the Commissioner of the General Land Office the statistics of homestead entries in the Territory of Dakota. I do not intend to put in the entire table, for it is not necessary, but I notice that the first homestead entry marked here in North Dakota was in 1871. The original homestead entries in South Dakota go back further than this table, which begins in 1863 with seventy-five homestead entries in South Dakota that year. The total number of original homestead entries in South Dakota is 62,400, and the number of acres taken up is 9,677,463.

The Senator seems to have the impression that the emigration to Dakota in recent years has been composed of amateur cowboys—men without families, who went out to ranches to live in huts on the hills and ride bronchos. Let me show the Senator the number of homestead entries made in Dakota in 1884 in a single year. In Southern Dakota the number was 10,117. I do not mean to say that every one of these implies a family. I believe it is true that some women have taken homesteads in Dakota, and I have seen some remarkable stories of their success as agriculturists. I should not be at all surprised if Miss Bones, whose letter the Senator read yesterday, was a homesteader in Dakota. These homestead entries imply not cowboys, not ranchmen, not cattle-herders on the public domain, but farmers, who have gone there to take up the moderate amount of land allowed by the homestead law and to make homes about which families are to be gathered.

The Senator argued at some length the question as to the sentiment of the Territory on the subject of division. I should be glad to ask the Senator whether if it were made clear to his mind that a very large per cent., largely more than a majority of the people of Dakota, favored division he would favor it. If not, it is idle for him to be arguing the question as to what the wishes of the people are. If that would influence him in the smallest degree, then I invite him to offer an amendment to the bill which shall provide for submitting the question of a division as a preliminary measure to a vote of the people of the Territory, and that the scheme for the admission of the southern half shall be staid unless a majority of the people vote for division.

As I say, there is no use discussing the question of the wishes of the people unless their wishes when they are known are to be in some degree influential with Senators; and yet as I understand the Senator if every voter in Dakota, if every inhabitant, man, woman, and child in the Territory, north and south, were to express here by petition their desire for a division on the forty-sixth parallel he would not vote for it. Then it is not very important to find out what their wishes are; but I want to look at that question for a moment, and I wish to say here that if any Senator would be influenced at all by such a vote as I have described I should not oppose an amendment to the bill which would ascertain in some authoritative way the sentiment of the people on that subject.

The Senator by way of showing opposition in the Territory to a division brought here a memorial presented by a delegation from Bismarck rather than from Dakota, and there is this peculiar thing about the representations of that memorial. It refers to a vote taken on a bill which the Senator from Missouri described as a bill dividing the Territory of Dakota and admitting the southern portion of it. The memorial refers to the bill as having been presented to the Senate in 1876, and it assumes to give the vote taken in the Senate upon the bill. I have had a careful examination made of the Journals of the Senate from 1871 to this time, and the experts in the document-room have been unable to find any trace of such a bill or of such a vote. It may yet be discovered, but up to this time it seems probable that these memorialists were mistaken; but if it is true, what would be its probative effect, I may ask?

The Senator from Missouri proves, if this is to be accepted as a journal record of the action of the Senate, that his own present colleague, my distinguished friend the senior Senator from Missouri [Mr. COCKRELL], and that his own distinguished predecessor, Senator Bogy, both voted in 1876 for a division of the Territory on the forty-sixth parallel and for the admission of the southern part of it as a State, and not only those Democratic Senators, but the Senator from North Carolina [Mr. RANSOM], and several others whose names I do not recall. Now, in the name of consistency, a jewel which I know my friend the senior Senator from Missouri highly values, for I know how he clings to precedent in the Committee on Military Affairs—in the name of the jewel of consistency, I beg at least the senior Senator from Missouri and the Senator from North Carolina and any surviving members here in the Senate of that noble band of Democrats who voted for the admission of Dakota in 1876 to stand by it now.

Mr. COCKRELL. Will the Senator yield to me for a moment?

Mr. HARRISON. Certainly; with great pleasure.

Mr. COCKRELL. Unfortunately I was not present during the first part of my colleague's speech yesterday, when a paper was read (my attention has been called to it this morning) in which it is stated that in 1876 there was a vote taken in the Senate on this question. I have the paper before me, but I have not examined it very carefully. I believe it states that the question was only on a proposed division of Dakota.

Mr. HARRISON. No; the Senator will find that his colleague, on page 143 of the RECORD, after an interruption by me, says it was a bill dividing the Territory of Dakota and admitting the southern half of it.

Mr. COCKRELL. The memorial only refers to a bill to divide the Territory. Now I desire to say simply that if a proposition was ever before the Senate to divide the Territory I should doubtless have voted for it. If there has ever been any proposition before the Senate for the admission of the Territory since I have been a member of it, from the 4th of March, 1875, to this time, I have certainly not voted for it. I am opposed on principle to the admission of new Territories with immense area and a small population, and I have persistently and consistently voted against any proposition for their admission as States in the Union.

I desire to say that I have searched every solitary Journal of the Senate from 1870 to 1883, and I can find no record of any such vote as is stated in the memorial. I can find no yea-and-nay vote upon that question at all. I have before me every bill that was introduced and printed so far as the Journal shows touching Dakota. The first one was in the Forty-fifth Congress. There were memorials presented previously, but this is a bill, Senate bill 144, reported by Senator Chaffee, February 28, 1878, accompanied by report No. 110. It was to establish the Territory of Lincoln and provide a temporary government therefor. I can not find that there was ever any yea-and-nay vote or any division taken upon that bill. That was the first paper in the shape of a bill. Then, in 1879, Senator Paddock, of Nebraska, introduced a bill. In 1880 Senator Saunders, of Nebraska, introduced a bill, and my colleague upon that bill made a minority report.

In 1881 a bill was introduced by Senator Windom to divide the Territory and form a Territorial government, but I do not find any vote taken upon it. I have a recollection that there has been a vote taken in the Senate since I have been a member of it upon the division of Dakota, but I have no recollection of any vote having been taken for the organization of the Territory of Dakota into a State, and I should like very much for the record of it to be found. I have examined the Journals myself. I understand the Senator from Indiana has also had some examination made, and I called upon the gentleman to whom we all look for information, our reporter, and he was not able, in the few moments he gave, to find it; so that there must be some mistake in regard to a portion of the memorial.

Mr. HARRISON. I am very sorry the record can not be found, because it would show that the Senator from North Carolina, the Senator from Missouri who has just spoken, and two or three other Senators, perhaps, on that side of the Chamber had given a very creditable vote. The Senator from Missouri who has just taken his seat says that he would vote at any time for a division; he thinks the Territory ought to be divided; he would vote now for a division. There is a conflict then between him and the junior Senator from that State, who turns his batteries most strongly, perhaps, upon the proposition for a division of the Territory, while the senior Senator from Missouri says he is constitutionally opposed to the admission of a State with a large area and a small population, and therefore he is going to vote against the admission of Southern Dakota. The area is large, ample, in his mind, for a State. May I ask the Senator whether he does not think that a population equal to a basis of representation in the House of Representatives is sufficient population for the admission of a State?

Mr. COCKRELL. No, sir; not if it had four times that much. That is no criterion at all.

Mr. HARRISON. The Senator is frank, perhaps, in that respect; without intending to indulge in any odious comparison, I might say franker than his colleague, because he says he would vote against the admission of Dakota if it had four times 150,000 population. The area in his mind is ample for a State. If a Democratic Territory with 600,000 inhabitants and a sufficient area, and the other necessary incidents of Statehood, were to ask his vote, I think he would change his mind. Mr. President, to refuse Dakota admission is one method of disfran-

chising men, and when the disfranchisement goes upon the ground of political opinion, and can find no other justification in precedent or reason, it is an outrage upon the rights of a free people.

The Senator from Missouri [Mr. VEST] fortified himself in his argument to sustain the proposition that the people did not desire admission as a State by two most extraordinary letters. He did not deal with the evidence furnished by conventions and Legislatures. He brought individual witnesses. I must say that I was surprised at the bitterness with which the Senator from Missouri talked about ambitious politicians, and attributed to the presence of a pernicious and pestiferous class of men whom he thus described all this agitation for a division and for Statehood in the Territory of Dakota.

Now, the common men, the grangers of this country, I think would be apt to speak of that large body of friends which the Senator has in his own State, who are active about election times, who are candidates for office and holding office, who forward and support his claims to the position which he occupies here—they would be apt to describe that class of men as politicians, and perhaps some might even apply to the Senator and myself the epithet "an ambitious politician;" so I think we should be a little careful not to let this word get down into the gutter.

Mr. VEST. I never used it in that sense.

Mr. HARRISON. All through the Senator's speech there is talk about the ambitious politicians who are misrepresenting the sentiment of Dakota. He imputes to these the low ambition to hold new offices to be created, and the low motive of seeking Statehood and a division of the Territory simply that they might increase the official list. All through the Senator's speech he was talking of such a class. Now, I desire to ask him does he include in that category, did he mean that those scornful words should apply to that large body of reputable Democrats in the Territory of Dakota who have made themselves very active in seeking this relief.

There has not a delegation come from Dakota to this capital to press her claims to Statehood that has not had in it many influential and respectable Democrats. Does the Senator think those men were after offices? Where did they expect to get them? Did they expect to get them by the popular vote in a Territory which gave at the last election 55,000 Republican majority? Did they expect to get them through a Republican administration here at Washington? No; I must defend these gentlemen of his own political household from the imputation that in asking him as a Democrat and in asking other Democrats on the opposite side of this Chamber to do justice to Dakota they were actuated by any low ambition or by any selfish purpose.

But these letters, the letter from Hon. J. P. Richmond and from Marietta M. Bones, which the Senator produced here, and on which he laid great stress, as showing that the people of Dakota were not really in favor of admission, let us look at them. The Senator said:

I caused these letters to be read because they come from persons who are not members of the party to which I belong, because they are not politicians—

There was some special value growing out of that—

but citizens of Dakota, and because they show in my judgment the real sentiment and opinion of the people of that Territory who are not influenced by political or personal considerations.

Mr. J. P. Richmond, whose letter comes first, addresses Hon. David Davis and requests him in a postscript to hand the letter to the Senator from Missouri. Now, I want to look at that letter for one moment. The Senator says the writer does not belong to his political party, but I think I can prove that he does. He says he is a native of Maryland to start with, and that he was a member of the Illinois Legislature before the war. So much for his nativity and history. Now let us look a little at his sentiments. He says:

These—

The people who are urging admission—

These are the self-constituted representatives appearing at Washington urging admission. As far as my knowledge extends, I know of no person of any party besides those mentioned who is in favor of Statehood.

He does not know a man except those who have been to Washington who favors admission. He lives in Bon Homme County, in the Territory of Dakota, and to ascertain how extensive his acquaintance is and how intimate he is with his neighbors I looked at the vote of that county when the Huron constitution was submitted in 1883 to a vote of the people, and I found that about 450 voters in Bon Homme County had voted for the Huron constitution. Yet this correspondent of the Senator does not know a man who favors admission, though there were 450 voters in his own county who voted for a constitution for the State in 1883. But that is only by the way. Listen now at this indication of political sentiment, upon which I base my opinion that he is a Democrat:

The majority of voters here are foreign-born, and do not yet understand the nature of our institutions, indeed not more than the colored people of the South.

Now, I take it that there is a Know-Nothing Democrat. He evidently entirely agrees with a sentiment that is prevalent, if not prevailing, at the South, that the colored man does not understand our institutions and is not a competent or fit voter. And then he declares that Dakota ought not to be admitted because a majority of her settlers are foreign-born. He has a prejudice against foreign-born people. I think he was an old Maryland Know-Nothing; he must have belonged to that old party, and, as my friend from Massachusetts [Mr. DAWES] suggests, that old party in Maryland, after some feeble protest, in great part consented to a lasting wedlock with the Democratic party.

But, Mr. President, the statement of this gentleman is just as wide of the truth when he alludes to the ratio of foreign and native born citizens in Dakota as it is when he says that he does not know a man who is in favor of Statehood. According to the census of 1880 there was a majority of over 30,000 of the inhabitants of Dakota that were native born; and yet this intelligent correspondent, upon whom the Senator puts his belief with so much confidence, declares that a majority of the population of the Territory are foreign born.

Now a word or two as to Miss Bones. I can see the bond of union between Miss Bones and the Senator from Missouri. It appears in this letter. She is a woman suffragist and she knows how ably and earnestly on every occasion the junior Senator from Missouri has stood up for woman suffrage. Mr. President, I do not deem it fair to avail of the privileges of debate here to say anything discourteous or disrespectful of any person whose name is brought into debate by the use of a letter. It would be enough for me to show what the argument of Miss Bones against Statehood is. She thinks they do not want any more officers in the Territory and that the number would be increased if the State was admitted to the Union. Hear her plea. She says:

As an illustration of officers to be supported by this poor struggling people in this town (Webster, the county seat of Day County), which has not one hundred and fifty inhabitants, there are nine notaries public; six of these nine have all the following titles: land locating, loan agents, and notary public.

Miss Bones is opposed to the admission of Dakota as a State because she fears it would increase the number of notaries public in the State. Why, Mr. President, these notaries public are not a tax on anybody; they draw no salary; they derive fees from those who come to them for the acknowledgment of any paper or the administration of an oath; and yet this intelligent lady, whose discussion of this question is dragged in here to outweigh the sentiment of conventions composed of hundreds of the leading citizens of all parties, bases an argument on the number of notaries public in Dakota.

Sir, the real ground of opposition on the part of Miss Bones to the admission of the State appears toward the close of her letter. It is said that a lady always puts in a postscript the important part of her letter, and Miss Bones while not making this a postscript yet makes it the concluding paragraph of her epistle. She says:

Yet with all the eagerness of our politicians to rush us into the Union unprepared, at their (not the people's) State constitutional convention, they absolutely refused to acknowledge "as equal before the law" our most sober and industrious citizens—women.

For this and other good reasons herein assigned I pray your honorable body to deny them admission as a State until we are older and they are wise enough to know that a State constitution must be founded upon the true principles of right and justice to her most humble citizen as it does to her highest.

Here is the proposition. While the Senator from Missouri was a little modest in urging it, and while he has held back under cover his motive for opposing the admission of Dakota, perhaps we have discovered it here, and he means that Dakota shall be kept out of the Union until by a constitutional provision she adopts woman suffrage.

Mr. VEST. Mr. President——

The PRESIDING OFFICER. Does the Senator from Indiana yield to the Senator from Missouri?

Mr. VEST. In these and any other facetious remarks my distinguished friend will always find my sympathy. I know what he says can only be used as sarcasm, but I hope he will not permit this to pass without my statement that if any one has ever opposed the dogma of woman suffrage I think it has been the junior Senator from Missouri. With that explanation I have no objection to his remarks going.

Mr. HARRISON. If I should publish my remarks otherwise than in the CONGRESSIONAL RECORD, where, of course, the Senator's will appear, I will put a foot-note or I will embody in the text the statement he has just made; and, if he will allow me, I will add further that I think if he had not been under great stress in his argument against the admission of Dakota he never would have used in support of any proposition that he argued any communication which was tainted with the suggestion of female suffrage or which came from one of its advocates.

Mr. VEST. If the Senator will permit me, without interrupting him further, it was my duty as a Senator to lay that before the Senate in any event. Information from any State or Territory addressed to the Senate of the United States pertinent to the question under consideration should be communicated to the body. There is in the same communication a recommendation to the Senator from Indiana that he has overlooked. She says she is a Republican.

Mr. HARRISON. The Senator has not had this letter printed accurately. It begins "Sir," and the address at the conclusion is "Hon. Geo. G. Vest, U. S. Senator." It was a private communication, I am sure, and while the Senator did not, of course, violate any obligation of secrecy in producing it, it seems to have been intended for his own personal use.

Mr. VEST. It was addressed to "the Senate of the U. S."

Mr. HARRISON. It is not so printed.

Mr. VEST. It is so in the original.

Mr. HARRISON. Well, Mr. President, I accept the Senator's explanation, that he offered this under that compulsion which rests upon any Senator, when any citizen of the country, however humble, addresses a communication to this body in respectful terms, to present it, and that he would not have used it in his argument if it had not been for this obligation.

Mr. President, even this lady insists upon division, as does also Mr. Richmond.

Now, Mr. President, so far as I am concerned I propose to leave this question to the judgment of the Senate. I will not repeat the propositions which I have endeavored to maintain. I will only remind Senators that this population, which is entitled to their respect, which is entitled to the care of this body as charged with the enactment of public laws, is, by the testimony of men whose veracity you can not impeach, now hampered, restrained by an inadequate governmental organization; that the business of its courts is so delayed and encumbered as to amount to a denial of justice.

Let every Senator, then, answer to his own conscience. Let him remember that he is making a precedent so far as his vote and influence go that is to be applied in the future. Let him find some reason satisfactory to his own mind why a Territory that would be the eighth in size among the States if she were admitted, that has undeniably a population in excess of the ratio for a member in the House of Representatives, that has an intelligent, educated, Christian population, without an institution or a custom that is in any degree out of harmony with our civilization—let Senators answer to their own consciences and to their constituencies why such a community shall be longer denied access to the Union.

Mr. VEST. Mr. President——

Mr. SHERMAN. Will the Senator allow me to introduce a resolution?

Mr. VEST. I will yield the floor to the Senator from Ohio directly. It is not my purpose to detain the Senate.

Mr. SHERMAN. Very well.

Mr. VEST. The Senator from Indiana made an explanation about a letter.

Mr. HARRISON. Not at all. It was a letter that even if addressed to the Senator it was perfectly proper and according to custom to use in debate.

Mr. VEST. I only want to call the attention of the Senate to this letter. The first sentence of it reads:

Will you please do a Dakota (Republican) citizen the favor of presenting to the United States Senate reasons why our Territory should *not* be admitted to the Union as a State?

And in conclusion the prayer of the petition, for though in the form of a letter it is really a petition, is:

I pray your honorable body.

It is really addressed to the Senate of the United States. That is all I desire to say.

Mr. SHERMAN. I ask leave now without displacing the current business to introduce a joint resolution, which I will ask consent of the Senate to act upon at once if it meets no objection.

The PRESIDING OFFICER. The Senator from Ohio asks unanimous consent of the Senate to introduce at this time a resolution which will be read for information.

THE WASHINGTON MONUMENT.

The Secretary read the joint resolution (S. R. 101) in relation to the ceremonies to be authorized upon the completion of the Washington Monument, as follows:

Resolved by the Senate and House of Representatives, &c., That the Secretary of the Treasury is hereby directed to cause to be executed in the Bureau of Engraving and Printing such suitable cards of invitation as may be prescribed by the commission appointed by the joint resolution of May 13, 1884, to make arrangements for suitable ceremonies upon the completion of the Washington Monument, and the Public Printer is directed to furnish such necessary programmes and cards as may be required by said commission. And the ceremonies provided for by said commission shall take place on the 21st day of February, A. D. 1885. And to defray the expenses incurred under the provisions of said joint resolution the additional sum of $7,500, or so much thereof as may be necessary, is hereby appropriated out of any money in the Treasury not otherwise appropriated.

The PRESIDING OFFICER. Is there objection to receiving the resolution at this time? The Chair hears none.

The joint resolution was read twice.

The PRESIDING OFFICER. Is there objection to the present consideration of the joint resolution? The Chair hears none.

The joint resolution was considered as in Committee of the Whole.

Mr. MORGAN. I would ask the Senator from Ohio why he puts the celebration on the 21st of February?

Mr. SHERMAN. It happens that the resolution passed at the last session provided for it on the 22d, properly, but that happens to come on Sunday, and the commission were unanimously of opinion that it was not right to execute it, and therefore we changed the day to Saturday, the day before, the 21st of February.

Mr. MORGAN. I regret to differ from that opinion, but I think there is no day too sacred for that work of celebration on the part of this nation. I think that this is an event which rises quite as high as a national sabbath, as any other sabbath that may be ordained by law or may be recognized by Christianity.

Mr. SHERMAN. The Senate will remember that a large number of delegations are coming from different parts of the United States, some of them military in their character, and the commission felt unanimously that it was not wise to put those ceremonies in antagonism to a sentiment among the religious people of the country, and, therefore, it was deemed better to change the time. We did not feel at liberty to do it without the consent of Congress.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

HOUSE BILL REFERRED.

The bill (H. R. 7577) making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1886, and for other purposes, was read twice by its title, and referred to the committee on Appropriations.

IMPROVEMENT OF GALVESTON HARBOR.

Mr. COKE submitted the following resolution; which was referred to the Committee on Printing:

Resolved, That the Public Printer is instructed to procure 2,000 copies of the lithographic map prepared by Joseph Nimmo, Chief of the Bureau of Statistics, under the direction of the Secretary of the Treasury, to accompany his report on the improvement of Galveston Harbor, and incorporate the same in the majority report of the Committee on Commerce accompanying Senate bill No. 1632.

ADJOURNMENT TO MONDAY.

Mr. RANSOM. I move that when the Senate adjourn to-day it be to meet on Monday next.

The PRESIDING OFFICER. If there be no objection, the Senate will resume the consideration of the unfinished business, pending which the Senator from North Carolina moves——

Mr. HARRISON. Will the Senator defer that until we take a vote on the Dakota bill? I do not know whether there is to be any further debate.

Mr. RANSOM. I make the motion because the debate has been interrupted already.

The PRESIDING OFFICER. Does the Senator withdraw his motion?

Mr. RANSOM. No, sir.

The PRESIDING OFFICER. The Senator from North Carolina moves that when the Senate adjourn to-day it be to meet on Monday next.

The motion was agreed to.

ADMISSION OF DAKOTA.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. 1682) to enable the people of that part of the Territory of Dakota south of the forty-sixth parallel of north latitude to form a constitution and State government, and for the admission of the State into the Union on an equal footing with the original States, and for other purposes.

Mr. GARLAND. I wish to have printed an amendment that I propose to offer in the nature of a substitute to the bill now under consideration.

Mr. HARRISON. Did I understand the Senator from Arkansas to offer a substitute for the Dakota bill?

Mr. GARLAND. I wish to offer an amendment in the nature of a substitute for the Dakota bill. It involves several sections, and I have prepared it under some little confusion while sitting here. I wish, with the consent of the Senator from Indiana, that the bill may go over until Monday, and then we shall be prepared to take it up. This is not an amendment to the framework of the bill.

Mr. HARRISON. I have no objection to yielding to the request of the Senator from Arkansas. I suppose we might have an understanding that we shall vote on the question on Monday.

Mr. GARLAND. I shall be perfectly willing for one.

Mr. HARRISON. Then I ask unanimous consent.

Mr. BUTLER. I do not know that anything I may say will interfere with that arrangement, but it seems to me that it would be premature now to agree on Monday as the day for taking the vote.

Mr. HARRISON. I will not ask it if any Senator objects.

Mr. BUTLER. I think it is not at all unlikely that we may come to a vote on Monday or Tuesday, but I should not like to agree now to the vote being taken then.

Mr. HARRISON. I will not press the suggestion if there is objection.

The PRESIDING OFFICER. Does the Chair understand the Senator from Arkansas as offering at this time an amendment or giving notice of an intention to offer one?

Mr. GARLAND. I give notice of my intention, but I send it up now that it may be printed by Monday.

The PRESIDING OFFICER. If there be no objection the order to print will be made.

Mr. CULLOM. I rise more for an inquiry than anything else. Senate bill No. 2112, to establish a commission to regulate interstate com-

merce, and for other purposes, was made the special order for to-day. In case the bill is not reached to-day will it follow as the special order after the present pending bill is disposed of?

The PRESIDENT *pro tempore*. The Chair is of opinion that the special orders are to be taken up in the order for which they may be assigned, and not in the order at which the Senate made the direction.

Mr. CULLOM. The desire I have is that it shall follow the bill now under consideration.

The PRESIDENT *pro tempore*. The Chair thinks that it is his duty to lay the first special order before the Senate on the conclusion of the pending business, the time having arrived when it should be laid before the Senate.

EXECUTIVE SESSION.

Mr. HOAR. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After thirty-eight minutes spent in executive session the doors were reopened, and (at 4 o'clock and 11 minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, *December* 11, 1884.

The House met at 12 o'clock m. Prayer by the Chaplain, Rev. JOHN S. LINDSAY, D. D.

The Journal of yesterday's proceedings was read and approved.

The following additional members appeared and took their seats: Mr. BLACKBURN and Mr. NICHOLLS.

ORDER OF BUSINESS.

Mr. REAGAN. Mr. Speaker, I call up the unfinished business coming over from yesterday.

The SPEAKER. Pending the demand for the regular order, the Chair will lay before the House certain executive communications.

CLAIMS FOR INDIAN DEPREDATIONS.

The SPEAKER laid before the House a letter from the Secretary of the Interior, transmitting, in compliance with law, an abstract of claims on account of Indian depredations, presented to the Secretary of the Interior since February 20, 1884, together with the action taken thereon and the evidence on which the same is based; which was referred to the Committee on Indian Affairs, and ordered to be printed.

PRINTING AND BINDING CODIFIED LAND LAWS.

The SPEAKER also laid before the House a letter from the Secretary of the Treasury, asking an appropriation of $2,500 for printing, binding, and distributing the codified land laws and history of the public domain of the United States; which was referred to the Committee on Appropriations.

OFFICE OF THE SECOND AUDITOR.

The SPEAKER also laid before the House a letter from the Second Auditor, relative to additional accommodations required for his office, and making an increase of $1,200 in the estimates for rent of buildings; which was referred to the Committee on Appropriations.

REPRINT OF A REPORT.

On motion of Mr. HUNT, by unanimous consent, it was ordered that the report from the Committee on American Ship-building and Shipowning Interests, accompanying House bill No. 4984, be reprinted for the use of the House.

WITHDRAWAL OF PAPERS.

At the request of Mr. OURY, by unanimous consent, leave was granted to withdraw papers in the claim of William Christy from the files of the House, there being no adverse report.

PUBLIC BUILDING AT WACO, TEX.

Mr. MILLS. Mr. Speaker, my colleague will, I hope, yield to me for a moment to make a request of the House to which I believe there can be no objection.

I desire to ask consent of the House to take from the Speaker's table and put upon its passage Senate bill No. 52, providing for the erection of a public building at Waco, Tex.; and I want to state to the House in this connection what will be remembered by all—if gentlemen will recall the action taken in reference to this matter when it was under consideration—that this bill, or rather I should say another bill, a House bill precisely similar and identical to it word for word, was considered by the Committee of the Whole on the state of the Union and recommended to the House for passage, and is now upon the Speaker's table, no action having been taken upon that recommendation by the House. I ask now that this Senate bill be taken up and passed. There has not been a bill of this character passed by this Congress; and gentlemen will recognize the fact that there is great and pressing necessity for the passage of certain of these bills through the House without delay.

Mr. REAGAN. I shall be very much pleased to gratify my colleague and yield for his request, but I can not consent to do so if the bill which he now calls up is likely to give rise to debate or consume much time in its consideration. It is all-important that speedy action should be taken upon the unfinished business.

Mr. MILLS. If it leads to any debate I will withdraw the motion.

Mr. REAGAN. With that understanding I shall not object to the request.

The SPEAKER. The bill to which the gentleman from Texas refers will be read, after which the Chair will ask for objection.

The bill was read at length.

The SPEAKER. Is there objection to the present consideration of this bill?

Mr. PERKINS. I object.

ORDER OF BUSINESS.

Mr. WEAVER. I ask unanimous consent to take from the Speaker's table for present consideration the bill S. 348.

Mr. TULLY. I call for the regular order.

PUBLIC BUILDING AT WACO, TEX.

The SPEAKER. The gentleman from Kansas [Mr. PERKINS] withdraws his objection to the request of the gentleman from Texas [Mr. MILLS]. Is the call for the regular order insisted on?

Mr. TULLY. I withdraw the call for the regular order.

Mr. THOMPSON. I wish to know whether this is to open the floodgates to all the bills for public buildings.

Mr. HOLMAN. Before action is taken upon this bill I hope the report will be read.

The SPEAKER. The Chair will state that this is a Senate bill.

Mr. HOLMAN. There is a corresponding bill which has been reported by the House committee. Let the report of the House committee be read.

Mr. BRUMM. I object to the present consideration of the bill. There are many others in the same condition as this. Let them all take their chance together.

PENSION APPROPRIATION BILL.

Mr. HANCOCK, from the Committee on Appropriations, reported a bill (H. R. 7676) making appropriations for the payment of invalid and other pensions of the United States for the fiscal year ending June 30, 1886, and for other purposes; which was read a first and second time, referred to the Committee of the Whole House on the state of the Union, and, with the accompanying report, ordered to be printed.

INTERSTATE COMMERCE.

Several members called for the regular order.

The SPEAKER. The regular order is demanded, and the House resumes the consideration of the special order, the bill (H. R. 5461) to establish a board of commissioners of interstate commerce and to regulate such commerce. The gentleman from California [Mr. GLASCOCK] is entitled to the floor.

Mr. GLASCOCK. Mr. Speaker, in discussing a measure so fraught with moment to the great body of our industrial and commercial interests it is necessary to examine its approaches with some degree of caution. The railroad problem is not easy of access, much less of ready solution, to those who have not been charged with a close, constant, and practical study of its details. The many complexities that invest the latter-day railway transportation existence, the interdependence of its many parts, the delicate adjustment of its complicated machinery, its close connection with trade, and the stimulating and diversifying influence that it exercises upon all forms of industry, commend its careful and skilled supervision to a power that may be used to destroy when it should regulate.

We recognize in it a potential factor of civilization. It binds a continent and practically annihilates space in the diffusion of production. It tunnels the mountain and tracks the desert. It furnishes an outlet for the farm, the loom, and the forge. On the other hand, although itself the creature of trade, by combination it holds trade in an iron grasp, and where competition is wanting imposes its own terms upon production.

Transportation depends upon production for existence, as production depends upon it for profit. The connection between the two is so intimate that an injury inflicted upon one is an injury to the other. This is so manifest that one would suspect naught but the friendliest and most obliging relations between the two. And such would be the case were the millennium come and selfishness eliminated from human transactions. But the shipper must have the highest profit on production, and the carrier will, where not prevented by competition or controlled by law, assess traffic what it will bear. The constant warfare between these two great conflicting interests has given rise to the agitation that has resulted in constitutional enactments in twenty-two States regulating the operations of the railway carrier within State limits and now demands Congressional legislation to regulate commerce between the States.

It is conceded that much of the evil formerly complained of has been remedied. Many sharp angles have been smoothed by the friction of trade. Whether this has happened, as intimated by the gentleman from Massachusetts [Governor LONG] through a realization on the part

of the corporations that "the nearer the approach to fair and square dealing the better it pays in the long run," or through the sharp competition that has sprung in the carrying service from improved water ways and the rapid and enormous increase in population with the resultant increase in the area of production, it is immaterial for us to inquire. This might lead to a discussion of ethics and good morals which, although always in order, would at present be altogether unprofitable.

Suffice it that freight rates on the whole have decreased with us to such an extent that our freight is now carried at a less rate per ton per mile than in Belgium, France, and England; that our rates have fallen on the average, in a decade, from 2½ cents per ton per mile to less than a cent; that in the diminution of rate for through traffic, sometimes at the expense of way traffic, the food product of the great West has found its way to the populous East and the mill product of the East has turned to the West by rapid transit and at such cheapened rates that they are brought within easy reach of all consumers.

But with the consideration of these matters, while deserving of praise, we have nothing to do. The efforts of the committee were directed to the formulation of certain rules that would in a general way meet the complaints made and at the same time allow the carrier the fullest liberty of operation compatible with the protection of commerce. Unreasonable charges, taking into consideration the cost of service and the advantages accruing to the shipper by reason of increased facilities in rapid and safe shipment, unjust discriminations between contemporaneous shippers, actual and possible broader combinations between carriers by which competition is virtually destroyed and the power placed in the hands of the carrier to unreasonably tax production—these are the questions that now claim the serious attention of this body.

After much labor of analysis—many, I trust, profitable weeks of discussion by the ablest railroad talent in the country (whose arguments, printed by order of the committee, seem, judging from certain lines of reasoning adopted in the preceding part of this debate, to have found their way to the desks of others besides members of the committee on the floor of this House)—after long and mature deliberation, the committee rejected eighteen bills submitted to it and presented to the House in lieu thereof the bill now under consideration. This bill, I am happy to say, has found a champion in at least one member of the committee, who, while not claiming the paternity thereof, is yet willing to be placed in the category of foster-father to this orphan without dotting a bib or crossing a tucker.

In this diversity of opinion the committee but reflected the thought of the country at large upon this perplexing and fascinating question. Granted certain evils, how can legislation be brought to bear upon them so as to cure without injury? How can we formulate a rule of conduct for the carrier that will not prove harsh and iron-clad and will not fail to meet the shifting demands of a varying trade? We are told that if the Government lays its strong hand upon the carrying service trade will suffer. We learn among other things that a combination of competitors will not prevent competition; that it is just and fair to charge one shipper more than another for similar service, or, rather, to charge the same originally to both, and then by a secret rebate to one to create the inequality complained of.

Noli me tangere is the motto of transportation, to which might be justly added the *nemo me impune lacessit*, of sharper and truer significance. Is it right? Is it just that production should be tied hand and foot and handed over to the tender mercies of its great servant? Of course transportation is too astute to kill the industry that lays the golden egg; but why should it complain when the moderate though firm hand of authority is laid upon its efforts to force nature by demanding of an already overburdened production that it honor its double, and often treble, drafts for the golden product?

You who live in the East have not felt as we of the West the full measure of this evil. Nature has provided you with abundant water ways. Inland seas and magnificent rivers are the natural competitors of the railway. These water ways, furnishing a naturally cheaper means of transportation, control and fix the rates of carriage by land as well as on their own element. Besides this, a growing and restless people, stimulated by example and eager to acquire wealth, have dug costly canals and constructed other railways, until now the East is rife with competition in the carrying service. The supply of transporting agencies is in excess of the local demand, and in consequence transportation must stretch its arms to the boundless prairies and fertile valleys of the West.

There, however, the conditions are changed. With a population sparse in proportion to territory, the railway holds sway undisputed, save by rivals of its kind. We have no inland seas, no majestic rivers, to dictate terms of transportation to these gentlemen. We have no canals except those used for purposes of irrigation—adjuncts to production, not of transportation. When these railway carriers combine, pool, confederate, as they can and now do, what mercy can production expect? The farmer must, to get ahead in the world, ship his surplus product. Neighborhood consumption is soon exhausted and with small returns. If it be fed to live-stock, that in turn must be marketed.

In any event transportation must be had at any price above the cost of the article shipped. True, the carrier must live. He has a valuable and costly property in which his money has been invested and from which he must make a reasonable profit. This he is entitled to, and of this no reasonable man would deprive him. I would be the last to counsel or sanction the divorcing of any man from the legitimate fruits of his industry. It is the illegitimate fruits of unchecked power that we object to, and furthermore to the power itself that enables capital by combining to pluck the fruits of others labor without let or hinderance from lawful authority.

When a carrier under corporate authority invests his money in a carrying plant he dons the livery of public service, becomes an agent for the public, and renders himself amenable to public supervision and authority. His plant is his private property. He can give it away, sell it, destroy it. It can not be taken from him except by the laws of eminent domain upon full compensation paid. But so long as he uses it in the performance of the powers and privileges flowing from his charter, his service is a public service and he to that extent becomes a public servant, invested with the obligations of full and fair service for an adequate remuneration.

Is the public to sit idly by and see its servants confederating and combining with the intent and obvious result of exempting themselves from their proportionate share of the burdens of service? But, say the friends of the pool, unless the carriers are permitted to combine, competitive strife, cuts in rates, railroad wars, fluctuations in business, and unsettlement of securities will be the inevitable and disastrous result. It might, and the contingency is to be deplored. But we can not do evil that good may come of it. We can not permit the power given by combination to throttle production. Railroad wars occurred before the divine intricacies of the pooling system were evolved from the mental consciousness of the railroad expert. They have occurred since the pool has been in active operation, and the country still lives. They will occur so long as human cupidity backed by corporate soullessness holds the reins of the carrying power. There are no doubt many who conscientiously believe in the efficacy of the pool to cure the evils that so frequently result from sharp competition. But the fact is, in my humble judgment, no human power can prevent the precipitation of the conditions just mentioned so long as avarice and selfishness dominate the commercial world.

Trade will find its level wherever carried on, and railway as other corporations must render obedience to the law that dominates it—supply and demand. Railways spring from the necessities of the people, and like all other pursuits so originated offer a fair field to the investor. It is the effort to make them monopolies that proves baneful to the public and ruinous to the investor. The business that outrages the public by its charges must give way to some other in which the investor is satisfied with smaller returns, or it must absorb the new enterprise, and this can be done only at a price above cost. Every new absorption must be attended by increased fictitious capitalization to enable it to meet and conquer the next competitor. Either the process of absorption must continue or crushing must be resorted to. Either event is disastrous to the business public and to investors.

And right here lies the chief danger to be apprehended from this pooling system. The great pools are monopolies within their jurisdiction. If they are allowed to live and increase they will absorb or crush their weaker rivals, and the result will be the inthrallment of industrial enterprise and the establishment of a business oligarchy which will hold despotic sway over land transportation and practically control the waters of our country. This may seem visionary, but it is within the limits of possibility. When we reflect that forty great lines are pooled between Chicago and the Eastern seaboard, that the Mississippi Valley and the Southwest are under pool, and that the West is in similar condition, it does not appear such a remote contingency that some master hand may in the not distant future weave all these threads into the warp and woof of a great railway transportation personality, that will be a standing menace not only to the liberty of production but to the free institutions of our fair land.

Considerable has been said in the course of this debate concerning the English policy of railway amalgamations, and the impression has been conveyed, whether designedly or not, that in England pooling is recognized as lawful. Not so. On the contrary, whenever a pooling contract has come before the courts it has been declared void. The common-law doctrine that all contracts between companies to pool their earnings and divide the profits on other than a natural basis are void has been steadily adhered to, and is still the rule. One citation will answer for a dozen. There are two lines of railway between Rugby and Shrewsbury. These roads as to competitive traffic entered into a pooling contract. This contract came before the courts in the case of the Shrewsbury and Birmingham Railroad Company *vs.* The Northwestern Railroad Company (4 De G. & Macn., 134), and was held unlawful, on the grounds that it provided for an alienation by one of these companies of a portion of its traffic to the other, and that it was against public policy.

Mr. Gladstone's action in acting as an arbitrator to divide certain traffic from London among the roads, as evidence of the lawful estimation in which pooling contracts are held in England, has been cited with approval. But the citation is at fault. His arbitration was upon the division of traffic reaching a certain station, not upon a pooling contract which divides earnings.

Mr. Albert Fink, the great railroad authority, acknowledges the illegality at common law of pooling contracts when he asks us "to legalize the management of railroad property under this plan and to abandon the antiquated notion that a government or combination, as it is called, of this kind is against public policy."

In this country, wherever pooling contracts have been submitted to judicial investigation they have been uniformly held void, as against public policy. Notably the case of the M. R. R. Co. *vs.* Barclay Coal Mining Co. (68 Pa. St. Rep., 173), the careful perusal of which is commended to the gentleman from Pennsylvania [Mr. O'NEILL], and the famous case of the Atchison, Topeka and Santa Fé Railroad Company pool with the Denver and Rio Grande, by which the earnings of the roads were to be divided and all trespassers upon their territory crushed. The opinion was delivered by Judge Hallett, Judge McCrary concurring, and declares that it is enough to say that it is a conspiracy to grasp commerce and to suppress the building of railroads in two great States, citing decisions from Pennsylvania, New York, and other States in support.

Railway corporations are formed as free and independent entities for public service. How long would any legislative body tolerate a proposition to permit them to go into partnership? Yet the proposition involved in pooling is tantamount to such permission. The evil involved in a partnership of corporations is inherent in corporate combination for the purpose of dividing earnings, to wit, the power to oppress by aggregation of capital and to prevent fair and free competition among breadwinners. Thus the common law has always set its face against combination. An individual may set the price of his commodities at what rate he pleases, but when two or more enter into a combination to raise or lower the price of an article it becomes a conspiracy and is indictable. So men are allowed to join their fortunes under corporate law for the transaction of legitimate business. But here the line must be drawn. It should not be extended to the union of corporate power and wealth. The results upon public business would be too far-reaching, and public policy calls a halt. It is manifestly in the interest of the American shipper that the pooling system should be abolished and the carriers left to compete for traffic under the recognized and legitimate laws of trade.

This power is prohibited by both the committee bill and the Reagan substitute; the committee bill, however, does not seem to feel fully assured of its position, for it commends the subject to the careful investigation of the commission that it creates. The main differences in the bills lie in the questions of the short and long haul, the rebate and drawback section, the posting of schedules, and the establishment of a commission clothed with inquisitorial and quasi-judicial powers.

The second section of the Reagan substitute is as follows:

SEC. 2. That it shall be unlawful for any person or persons engaged in the transportation of property as aforesaid directly or indirectly to allow any rebate, drawback, or other advantage, in any form, upon shipments made or services rendered as aforesaid by him or them.

The third section of the committee bill adds to the section just cited the words "which under similar circumstances are not allowed to all other persons," thus allowing rebates and drawbacks, but making them applicable, where circumstances are similar, to all alike. Gentlemen who have addressed you in support of the committee bill have deprecated rebates, but have claimed that there are certain circumstances under which rebates are not only justifiable but are necessary to equalize and forward trade. I have listened with attention to the arguments used in this behalf, but am unable to subscribe to the doctrine there enunciated.

Mr. Depew, in his argument before the committee, stated that the system of rebates and drawbacks was resorted to by "one railroad for the protection of its customers against the attempt on the part of other railroads competing with it from the same point to the same point, giving low rates to their customers." And this refreshing declaration was made almost in the same breath with the statement that the efficacy of the pool now existing lay in its ability to prevent competitive strife and cutting of rates. If the pool does prevent cutting of rates, why the necessity of a rebate to provide against a contingency that can not arise? If the pool does not prevent competitive strife, then it stands convicted on its own testimony.

It is further contended by the gentleman from Massachusetts [Mr. LONG] that conditions of great business depression may be sprung upon us, some great calamity may happen; a glut in the market may occur; and he asks why, under these circumstances, should not an allowance on transportation be made by the carrier to the shipper? For the very reason that railways are not run on the sentimental basis. Charity has no place in a business creed. Rebates are purely matters of business. If the company desires to open up new lines of carriage or to increase those already developed it will sacrifice a little to gain more. The rebate is given not with the idea of conferring a boon upon humanity, but with the expectation of increased profit to the carrier. Take the case cited by Mr. Depew. The rebate is there given not to protect shippers, but simply because the system has become so universal that each carrier has to contend, in competing for traffic, not only with the open rates but the secret rebates and drawbacks of his rival. Destroy these special contracts, rebates, and drawbacks as nearly as you can, and according to the measure of success in that direction will trade return to the channels of legitimate competition.

Let us recur to the illustration on this point used by the gentleman from Massachusetts [Governor LONG], namely, the inability of the American stave-maker to compete with his Norwegian brother in the English market by reason of the refusal of the carrier, enforced through the enactment of the Reagan substitute, to allow a rebate on the charges of transportation sufficient to meet the expense of the ocean carriage. I refer thus often to the remarks of my brother on the committee because they are always interesting, always instructive, and nearly always correct. But in this instance he is at fault. His claim is that the enactment of this section of the Reagan substitute would compel the railroad to refuse the rebate so necessary to the exportation of American staves, and thus inure to the disadvantage of American production.

In the first place, the railroads are carrying the staves to New York for six-tenths of a cent per ton per mile. This we learn from Mr. Fink is very little above the actual cash cost of service. Very little additional reduction would reduce the price of carriage to the cost of service. Is the carrier to transport without compensation merely for the pleasure of seeing a foreign trade built up for a certain American product? Does he hold the same financial views as the party who expected to become wealthy by selling at cost price, simply from the enormous sales he made? Or does he expect to assess on other shippers the amount that he has failed to charge this particular one?

In this case competitive service does not enter into the problem. There are no natural advantages or disadvantages that would tend, by decreasing or increasing the cost of service, to lower or raise the carrying price. It is a case of pure patriotism or pure favoritism, and from our knowledge of the fact that railroad men are human, very human, we must incline to the latter view.

Who gives to the carriers the right to say to one man or one product, "We will build you up and exalt you above your neighbors, and your enemies shall become a footstool under your feet?" Who invested them with the power to determine what American product shall be exported and what shall not?

Besides, even under the committee bill how will the stave-exporter fare? No rebate, drawback, or other advantage can be extended to him which is not granted to all others under similar circumstances. Suppose a hundred stave-makers live in the same vicinity. One could not enjoy an advantage not possessed by all. The words "under similar circumstances" are broad. Would not shingle or shake makers come in this category? Must the "similar circumstances" apply only to shapers of wood? Would not iron and steel be included? In fine, are not the words broad enough to cover all articles manufactured or grown and susceptible, under the laws of supply and demand, of export? When this point is reached and all articles capable of exportation are brought within the sacred circle of this clause it is obvious that the stave-maker will stand small show of competing with his Norwegian brother in the English markets. This omnibus clause carries us back virtually to the letter of the Reagan substitute. Being surplusage, it should be stricken out.

The full measure of the evil of this system is felt nowhere so keenly as in sections where little or no competition exists. There it holds imperial sway. It builds up and tears down private business. It has its favorites to reward, its enemies to punish. It controls a host of spies and informers. Its special contracts are systematized and graded. The books of your merchant are subjected to examination and his private affairs laid bare to prying eyes that his good faith with the carrier may be verified.

This power is too great to leave in the hands of the carrier. It is secret, sly, and insidious. Its very secrecy—the fact that it works in the dark and dreads the light—carries with it a warning of a danger too imminent to pass unheeded. It should be met at once with the strong curb of the Reagan section.

The fourth section of the Reagan substitute provides that no more shall be charged for a short than for a long haul, and reads as follows:

SEC. 4. That it shall be unlawful for any person or persons engaged in the transportation of property as provided in the first section of this act to charge or receive any greater compensation for a similar amount and kind of property, for carrying, receiving, storing, forwarding, or handling the same, for a shorter than for a longer distance on any one railroad; and the road of a corporation shall include all the road in use by such corporation, whether owned or operated by it under a contract, agreement, or lease by such corporation.

The enactment of this section into law would, in my judgment, tend to impair rather than facilitate trade. As has been said, the proposition that no more should be charged for a short than for a longer distance looks well in the abstract and on paper. It would seem that, the carrying service being a public service, all men have a similar interest in it and are entitled to like benefits from its exercise under any and all circumstances. So they would be if the carrying charges are to be based on the cost of service alone.

But such is not the case. There is another element that enters into the proposition, namely, the value of the service to the shipper. The carrier guarantees and should be held strictly to a reasonable charge for service; but a reasonable charge is not a fixed quantity. It changes with the conditions of each case. The service rendered to a shipper living on a water way is less valuable to him than to others less fortunately

situated. He has ready and cheap transportation at his door. The railway carrier is here thrown into competition with a rival whose right of way and road-bed has cost him nothing. He must of necessity refuse to extend his service to that point, or, having so extended, must enter into competition with his cheaper and more easily equipped rival. This he can only do by putting his charges at a paying minimum. Who is injured? Certainly not the shipper at this point. He has now two strings to his bow, where formerly he had but one.

The introduction of a new and more rapid competing service has, in all probability, resulted in lowering the rates by water. Who complains? The shipper who lives a hundred miles inland, and who up to the time of the extension of the carrying service to his door has been compelled, at an expense of say 10 cents per ton per mile, to rely upon ox-team transportation. Now by rail he ships at a cost of 2 cents per ton per mile. Yet he is loud in denunciation of the outrage practiced upon him by the carrier in charging him 2 cents a mile while his friend at the competitive point a hundred miles away is charged only a cent. And this in the face of the fact that he has gained by the railway service 8 cents a ton over the team charges, while his so-called more fortunate friend has paid in all probability from a quarter to a half cent more per ton to the railway than would have been exacted of him by the water carrier in order to effect a more rapid transit of production to market.

Let us shift the conditions a trifle. Suppose the competitive point just mentioned to be a railway and not railway and river point of competition. The case now becomes stronger. The inland shipper still maintains his 8-cent margin; but the shipper at the competitive point instead of paying a little more for his shipment pays a little less, as the competing carriers are of the same ilk. Before the introduction of the competing road his transportation charges were at the same rate, though by a different route, as those of his inland friend. Now, under the influence of competition, his charges are reduced say 50 per cent., and he pays a cent per ton per mile. His cost of service to market is less than that of the inland shipper by the same road. But can the inland shipper be heard to complain of an injustice done him? He saves 8 cents per ton over his previous hauls, while the shipper at the competitive point saves only a cent.

Of course the figures used are arbitrary; but they are not far from accurate, and serve to illustrate the principle for which I am contending.

But my honored friend from Texas [Judge REAGAN] stoutly maintains that these inequalities result from the railway carrier's reaching out for business that does not legitimately belong to it. With due respect to his judgment—and there is none that I hold in higher estimation, especially upon a subject that has been his close and unremitting study for many years—I submit that he is in error. And this error lies in his confounding the natural advantages and disadvantages of the *locus* of the shipper with the inequalities of capricious and arbitrary railway exactions.

The carrier has an undoubted right to extend his lines of service to any and all paying points and to tax his carrying capacity to its full limit. Who is injured by his so doing? Certainly not the shipper. If he open up a new field of production the country at large is benefited, as are the producers along the line of service. The shippers at the competitive points will not complain—more roads, more competition; more competition, cheaper rates.

One of the mistaken ideas attending this question is that through freights are often taken at a loss which is made up on the way freight. In some few instances this may be true; and where it occurs it is generally traceable to some sudden and violent interruption of the ordinary course of business, such as virulent railroad wars, &c. The rule is to establish tariffs for long distances, which give the carrier less remuneration than for short distances; but they are paying tariffs. As long as any profit can be thus made it is proper, to meet the competition of water rates and other competing railways. These tariffs are proper as between the communities and the carriers as long as the carrier makes even a slight profit, for trains must be run, and it is better to run them at a minimum profit than that they should run empty. To quote Mr. Depew:

> It is a well known fact that it is only the revolving wheel that makes a profit. There is nothing so dead as an idle car.

The terminal charges for shipment are the same whether the distance be a thousand or twenty miles. The road-bed is there, the plant is there, cars must be run at a loss or profit. Every ounce of through freight at minimum profit is just so much gained toward the relief of local rates, for it is the local traffic that must pay the expenses of the road, the taxes, and maintain and equip stations every few miles along its line.

We of the West have no reason to complain that through traffic is taxed less than local. It is this that has brought the extremities of our great country together. It sends our grain to the East and thence to the markets of the world. It has been the prime factor in the settlement and cultivation of our great prairies and valleys. It has made a common market for the North and South, East and West. It has made us a commercial unit, and in the mutual exchange of our varying products to meet reciprocal wants has, through its silent influence, done more to bring our people into a common brotherhood than could otherwise have been effected.

The fifth section of the Reagan substitute requires the posting of schedules by the carrier:

> SEC. 5. That all persons engaged in carrying property as provided in the first section of this act shall adopt and keep posted up schedules which shall plainly state:
>
> First. The different kinds and classes of property to be carried.
>
> Second. The different places between which such property shall be carried.
>
> Third. The rates of freight and prices of carriage between such places, and for all services connected with the receiving, delivery, loading, unloading, storing, or handling the same. And the accounts for such service shall show what part of the charges are for transportation, and what part are for loading, unloading, and other terminal facilities.
>
> Such schedules may be changed from time to time as hereinafter provided. Copies of such schedules shall be printed in plain, large type, at least the size of ordinary pica, and shall be kept plainly posted for public inspection in at least two places in every depot where freights are received or delivered; and no such schedule shall be changed in any particular except by the substitution of another schedule containing the specifications above required, which substitute schedule shall plainly state the time when it shall go into effect, and copies of which, printed as aforesaid, shall be posted as above provided at least five days before the same shall go into effect; and the same shall remain in force until another schedule shall as aforesaid be substituted. And it shall be unlawful for any person or persons engaged in carrying property on railroads as aforesaid, after thirty days after the passage of this act, to charge or receive more or less compensation for the carriage, receiving, delivering, loading, unloading, handling, or storing of any of the property contemplated by the first section of this act than shall be specified in such schedule as may at the time be in force.

This section has encountered violent opposition both in the arguments before the committee and on the floor of this House. Yet the idea contained in the section is good. The provisions that a schedule showing the kinds of property to be carried, the places between which the carrying service shall be had, and the charges for such service is eminently proper, fitting, and just both to the carrier and shipper. It puts the shipper on notice of matters that he is desirous of knowing and that he ought to know. It may inflict some inconvenience on the carrier, it may work some at first at the point of competition on the interstate carrier and better the competitive status of the State and water carriers. But there is more cry than wool in the fear so loudly expressed. The State and interstate carriers are closely allied in business, and there are very few State roads that are not also interstate. Still fewer are the State roads, that do not engage in interstate commerce. As to the Canadian roads, the Canada Southern is under the control of the New York Central. The Grand Trunk line, through its connections at Detroit and with Boston, can indirectly be reached by laws governing interstate commerce.

Why are gentlemen so alarmed at the thought that the rates of the companies should be published and thus the shipper be partially at least exempted from the danger of unjust discrimination? Is five days' notice too long? If so, cut it down. It is a matter of detail. But give the shipper some notice; twenty-four hours at least. Let in some light upon this darkness.

The committee bill calls for a commission consisting of three commissioners, one of whom is to be a lawyer, one a railroad man, and the third anything you please. The latter has no business nor professional qualification annexed to his tenure of office. He is simply to be the third man on the commission. This mighty overshadowing commission, that is to make the transportation companies tremble when it nods its triple head, that is to be so flexible that it will fit the railroad question like a new glove and yet will be strong enough to grapple with our giant corporations—what is it? Is it a court? No. It has none of the elements of the English commission so potent to regulate railway abuses in Great Britain. It can not render a decision, can not enjoin, can not punish for contempt. It is not automatic. It can not be brought into even the most distant relations with the companies it is supposed to regulate, except through the medium of a petition and a quasi-investigation prosecuted through either itself collectively or individually or under delegation of full powers by a stranger who may not possess a single qualification required by law of the commissioners. The stranger delegate is not required to report in writing the result of his investigation into the matters of fact with which he has been charged. But by some means (incidental mention is made of a report) the commission acquires the information so gathered. It then makes out a report, with its findings of fact, and within twenty days thereafter serves it on the offending corporation, with a notice to the company to desist, and at the same time serves upon the United States district attorney another copy of said report and findings. Here the commission as a redressor of wrong apparently disappears; thenceforward the matter is prosecuted through the instrumentality of the district attorney and the Federal court. Various other powers and duties are laid upon the commission (not necessary to be enumerated) which properly belong to it as an inquisitorial body.

This is the body before the shake of whose gloved finger the great transportation companies of the country are to bow in humble submission. It might work wonders as a remedial agent; it probably would with the God-fearing carriers of Massachusetts, but the corporations of the Middle and Western States are made of sterner stuff. A little less of the dude and more of the man is required to meet and redress the wrongs complained of.

The committee bill, divested of its Reagan attributes—the penal and

remedial clauses of the original Reagan bill—is entirely valueless as a means of righting wrong. It can not give speedy relief. It is dilettant, deprecating, and apologetic. With the Reagan fire infused in it, it amounts to something. Some of its extreme flexibility has departed, and it has developed backbone enough to stand alone. The very section that gives it stability (section 5) is but a pale reflection of the strong remedial powers of the substitute bill, yet those same powers, the skeleton of which has served to fill out and give strength to the committee bill, have been denounced on this floor as hard, inelastic, iron-clad, perfunctory, and *brutum fulmen*, unable to meet the shifting demands of trade, and furnishing a procrustean standard for the measurement of wrong.

If these criticisms be true the substitute should not pass. That they are made in good faith I have no doubt. That they are, with the exception I have already referred to, harsh and unmerited is obvious from an inspection of the measure. It proposes nothing new or radical. It reaffirms certain doctrines of the common law, declaring certain evils unlawful and prohibiting them under sufficient penalties to prevent their repetition. It provides a plain, adequate, and speedy method of relief accessible to and at the option of every injured party. If the party does not see fit to avail himself of it, the fault is his and not that of the system. The machinery of relief is full, simple, direct, and effective. Whatever faults it possesses can be cured by future legislation. The measure is tentative, experimental in its nature, and can not be expected at inception to exhibit that degree of perfection that is attained by experience in operation, careful supervision, and revision.

I hope that the substitute will be adopted, with the section concerning long and short hauls stricken out. A commission may be added to it. I do not understand that the gentleman from Texas [Mr. REAGAN] is opposed to a commission, although not advocating one. But he desires (and in this respect I entirely agree with him) that the bill requiring a commission shall contain substantially the remedies provided for in his substitute—that the commission should be inquisitorial and for the purpose of gathering information on the railroad problem, and should be an adjunct to rather than the main object of the bill.

I sincerely trust that this session will not be allowed to slip by without passing some adequate bill on the subject. It has knocked at the doors of Congress for ten years. The people want nothing rude, harsh, or violent. We would disturb no business interests, excite no animosity between production and transportation. Let us give with open and free hand justice alike to the shipper and the carrier. We have no battles to fight over, no quarrels to revive, no revenge to take. It is simply a cold proposition of business, affecting to its utmost ramifications the industrial interests of a great country, and as such it should be treated calmly, without rancor, hostility, or favoritism, in that large, candid, and honest spirit that will bring to the solution of this great problem the impartial and just investigation its importance deserves.

Having concluded the delivery of the above remarks,

Mr. GLASCOCK said: I had intended to give the remainder of my time to my colleague [Mr. HENLEY]. How much time have I remaining?

The SPEAKER *pro tempore* (Mr. CRISP). The gentleman has fifteen minutes of his time remaining.

Mr. GLASCOCK. My colleague is not at present in the House, and I reserve the remainder of my time.

Mr. DUNN. In the consideration of this question, Mr. Speaker, we are undeniably confronted with one of the gravest and most important questions affecting the internal administration of our Government that we are likely to be called to consider. I shall address myself in this general debate more particularly to the general question of the power and importance of regulating commerce than to the details of the bill. I am under no circumstances the advocate of a reactionary policy in anything. That policy is never wise. Cheap, safe, easy, and ample. Wisely and justly regulated facilities for the interchange of commodities between the widely separated sections of our country and with foreign nations constitute the prime conditions of prosperity and progress.

It is estimated by Henry V. Poor that there are now in the United States not less than 120,000 miles of railway, which, at the low estimate of $25,000 per mile, has cost $3,025,000,000, but upon which not less than $7,000,000,000 of capital stock and bonds have been issued; that they transport per annum more than 400,000,000 tons, of an estimated value of $15,000,000,000. Their gross receipts perhaps exceed $1,000,000,000, and their net earnings more than $100,000,000, and they employ probably more than 2,000,000 persons. Interests so vast and so necessarily and vitally bound up in the prosperity of the people can only be dealt with with the utmost caution and upon the fullest information.

Sir, no one more wonders at and admires the economic and civilizing power of our great American railroad system than I do.

Within a quarter of a century it has almost inconceivably increased our means of wealth, of civilization, and of peace both at home and abroad. In the extent of its commerce, the perfection of its organization, the skill of its handling and the might of its power it is the wonder and admiration of the world. It hourly flies with more than the speed of the wind over its 120,000 miles of iron and steel track. It sets in motion the mighty forces that clear our forests, cultivate our farms, dig our mines, and transport to the remotest corners of the earth the products of labor.

So far from jealousy crippling its power, or restricting its operations, society owes it to itself to grant every reasonable facility for the extension of its legitimate influence and for its development to its fullest extent. In speaking, therefore, as I purpose doing on this occasion, of the grounds and limits of rightful control over them by law, I insist that I am not to be reckoned as their enemy, but as a friend, who is jealous of the evil effects which may flow, both to the railroads and to society, from want of that timely and wholesome control which will preserve the just right of all.

The United States Commissioner of Railroads, in one of his annual reports, says:

> The enormous extent of this interest and the rapidity of its growth, both in the increase of mileage and tonnage, demand that its relations to the public shall be under some judicious legal control.

What it shall be and to what extent are questions upon which the wisest and most experienced differ, and as to which there is much popular misapprehension.

Railroad companies are private corporations, created by authority of a State or national Legislature for public purposes, and their property is to a large extent devoted to public uses.

They exercise, of necessity, part of the sovereign power—the right of eminent domain. They have the right to levy tolls and taxes on commerce for the benefit of the private purses of the stockholders. The profits which the private owners of the stocks derive from their railways are really a tax which they impose upon the circulation of goods and passenger travel. This taxation should not be oppressive it should be financially just and without undue discrimination. The interests of the country demand that railways, which have taken the place to a great extent of ordinary highways, should be managed solely as public highways, in furthering commerce, agriculture, and industry. The railways in this country are what may be termed *private* railways—that is, they are owned by private corporations or individuals, and not by the States or General Government. In all countries except England and the United States the railroads are mostly owned and operated by the government.

Prince Bismarck, the German chancellor, in a speech in advocacy of the acquisition and supervision of all German railways, in 1876, said:

> It is the misfortune of private railways that a privilege granted by the state, and a privilege that could not be made use of without the help of the state—we may say a monopoly granted by the government—should be exploited in behalf of private interests and private pockets.

How "far more exceedingly" unfortunate must it appear for this vast system of private railways in our country to be "exploited in behalf of private interests and private pockets" without any general laws or regulations for their government or for the protection of the people—the sovereign—by whom their privileges were granted against their rapacity and against undue discriminations and injustice. To me it is a matter of great and continuing astonishment that the prudence, forethought, and far-seeing wisdom which led the people of the States and of the United States to recognize the importance of railways should not at the same time have dictated to them (ever jealous as they are of their rights and authority) the necessity for judicious laws marking and defining distinctly and plainly the domain, powers, rights, and trusts conceded to them, and that which still remains and belongs to the sovereign, so that injustice be not done to either. The wisest and most careful, however, did not seem to have any adequate appreciation of the position which railways were soon to occupy in the world's economy.

We find here, as often elsewhere in political and economic science, an apparent anomaly. This stupendous fabric that webs our whole country over has sprung into existence without a statute of the General Government for its control or regulation. They not only have the unrestrained power to levy tolls and taxes on commerce, traffic, and travel for the benefit of "private purses," but they also carry on feuds and railway wars, as suits their good pleasure, like the old feudal lords. As has been said elsewhere, so here "we see to-day railway directors waging battles, not for the benefit of shareholders, but as a sort of noble sport."

It is unfortunate that the railway directors and managers of the country should have reached the conclusion, as they seem generally to have done, that they have absolute sovereign rights in railway matters. Most certainly they have rights, and it is not proposed by those who think as I do that any of these corporations shall lose one particle of their property or have any of their just rights impaired.

But the people also have rights and powers, and hence the apparently impending conflict. I shall support this measure, not because it is in every respect satisfactory to me, but in order that we may take the first step on the way leading to a goal which may not be attained in my lifetime; but if the development be slow, if the struggle for the recovery of just control by the public must be fought out in hard battles, let us not be discouraged. Nothing great was ever attained without fighting for it. However long and severe the battles may be, with the consciousness of contending for the right we should press forward unterrified and unwearied. A correct idea having once taken possession of

public opinion will not disappear until it is realized—until in this case the Constitution becomes as regards the regulation of commerce among the States a living truth.

So far as the bills pending are concerned, the bill of the committee and the substitute, I am now inclined to the opinion that the bill of the committee with all the provisions for a commission stricken out would be the wisest step to take. It does not contain all that I think it ought to contain; but I am satisfied that it is better in this first step that we do too little than that we do too much. I shall at the proper time move to strike out all that part of the bill providing for a commission, and if that motion fails I shall then support the substitute offered by the distinguished gentleman from Texas [Mr. REAGAN]. Legislation on this subject should be cautious. We should proceed with the greatest care and circumspection, and upon the fullest attainable measure of information.

The bill of the committee, as the substitute does, seeks first to declare certain rights, and also to declare certain things to be wrong. It seeks to enforce those rights and to prohibit those wrongs. That is, perhaps, as far as legislation ought to go. The railroads enjoy their privileges under franchises granted by the government with the sanction of the sovereign people. Every living soul who owes allegiance to these governments, State and Federal, participated equally in those grants, and is entitled to equal benefits from the use of those franchises. When private citizens or private corporations accepted those grants and invested their money in the construction of railroad lines they accepted all the conditions attaching to and connected with those grants expressed in the charters and existing in the common law and constitutions, State and Federal.

Among those existing common-law and constitutional rights was this: that every living soul who participated in those grants should share equally and impartially their benefits. Another was the right of public control. It is a well-settled doctrine of the law that whoever invests his money in any business affected with a public interest thereby agrees to accept public control and regulation of that business. No principle of the law is more definitely settled.

The authorities are numerous, but I select one leading and controlling case—Munn *vs.* Illinois (94 U. S. Rep., 124, *et seq.*).

In a most learned and exhaustive opinion delivered by Chief-Justice Waite the court say:

When the people of the United Colonies separated from Great Britain they changed the form, but not the substance, of their government. They retained for the purposes of government all the powers of the British Parliament, and through their State constitutions, or other forms of social compact, undertook to give practical effect to such as they deemed necessary for the common good and the security of life and property. All the powers which they retained they committed to their respective States, unless in express terms or by implication reserved to themselves. Subsequently, when it was found necessary to establish a national government for national purposes, a part of the powers of the States and of the people of the States was granted to the United States and the people of the United States. This grant operated as a further limitation upon the powers of the States, so that now the governments of the States possess all the powers of the Parliament of England, except such as have been delegated to the United States or reserved by the people. The reservations by the people are shown in the prohibitions of the Constitution.

When one becomes a member of society he necessarily parts with some rights and privileges which as an individual not affected by his relations to others he might retain. "A body-politic," as aptly defined in the preamble to the constitution of Massachusetts, "is a social compact, by which the whole people covenants with each citizen and each citizen with the whole people that all shall be governed by certain laws for the common good." This does not confer power upon the whole people to control rights which are purely and exclusively private (Thorpe *vs.* R. and B. Railroad Company, 27 Vt., 143), but it does authorize the establishment of laws requiring each citizen to so conduct himself and so use his own property as not unnecessarily to injure another. This is the very essence of government, and has found expression in the maxim, *Sic utere tuo ut alienum non laedas*. From this source come the police powers, which, as was said by Mr. Chief-Justice Taney in the License Cases (5 How., 583) "are nothing more or less than the powers of government inherent in every sovereignty, * * * that is to say, * * * the power to govern men and things."

Under these powers the Government regulates the conduct of its citizens one toward another, and the manner in which each shall use his own property when such regulation becomes necessary for the public good. In their exercise it has been customary in England from time immemorial, and in this country from its first colonization, to regulate ferries, common carriers, hackmen, bakers, millers, wharfingers, innkeepers, &c., and in so doing to fix a maximum of charge to be made for services rendered, accommodations furnished, and articles sold. To this day statutes are to be found in many of the States upon some or all these subjects; and we think it has never yet been successfully contended that such legislation came within any of the constitutional prohibitions against interference with private property.

With the fifth amendment in force, Congress, in 1820, conferred power upon the city of Washington "to regulate * * * the rates of wharfage at private wharves, * * * the sweeping of chimneys, and to fix the rates of fees therefor, * * * and the weight and quality of bread" (3 Stat., 587, sec. 7); and, in 1848, "to make all necessary regulations respecting hackney carriages and the rates of fare of the same, and the rates of hauling by cartmen, wagoners, carmen, and draymen, and the rates of commission of auctioneers" (9 *Id.*, 24, sec. 2).

From this it is apparent that, down to the time of the adoption of the fourteenth amendment, it was not supposed that statutes regulating the use, or even the price of the use, of private property necessarily deprived an owner of his property without due process of law. *Under some circumstances they may, but not under all.* The amendment does not change the law in this particular; it simply prevents the States from doing that which will operate as such a deprivation.

This brings us to inquire as to the principles upon which this power of regulation rests, in order that we may determine what is within and what is without its operative effect. Looking, then, to the common law, from whence came the right which the Constitution protects, we find that when private property is "affected with a public interest it ceases to be *juris privati* only." This was said by Lord Chief-Justice Hale more than two hundred years ago in his treatise *De Portibus Maris*, 1 Horg., Law Tracts, 78, and has been accepted without objection ever since. Property does become clothed with a public interest when used in a manner to make it of public consequence and affect the community at large. When, therefore, one devotes his property to a use in which the public has an interest, he, in effect, grants to the public an interest in that use, and must submit to be controlled by the public for the common good to the extent of the interest he has thus created. He may withdraw his grant by discontinuing the use, but so long as he maintains the use he must submit to the control.

It is insisted, however, that the owner of property is entitled to a reasonable compensation for its use, even though it be clothed with public interest, and that what is reasonable is a judicial and not a legislative question.

As has already been shown, the practice has been otherwise. In countries where the common law prevails, it has been customary from time immemorial for the Legislature to declare what shall be a reasonable compensation under such circumstances, or, perhaps more properly speaking, to fix a maximum beyond which any charge made would be unreasonable. Undoubtedly, in mere private contracts, relating to matters in which the public has no interest, what is reasonable must be ascertained judicially. But this is because the Legislature has no control over such a contract.

So, too, in matters which do affect the public interest, and as to what legislative control may be exercised, if there are no statutory regulations upon the subject, the courts must determine what is reasonable. The controlling fact is the power to regulate at all. If that fact exists, the right to establish the maximum of charge as one of the means of regulation is implied. In fact, the common-law rule which requires the charge to be reasonable is itself a regulation as to price. Without it the owner could make his rates at will, and compel the public to yield to his terms or forego the use.

But a mere common-law regulation of trade or business may be changed by statute. A person has no property, no vested interest, in any rule of the common law. That is only one of the forms of municipal law, and is more sacred than any other. Rights of property which have been created by the common law can not be taken away without due process; but the law itself, as a rule of conduct, may be changed at the will or even at the whim of the legislature, unless prevented by constitutional limitations. Indeed, the great office of statutes is to remedy defects in the common law as they are developed, and to adapt it to the changes of time and circumstance. To limit the rate of charge for services rendered in a public employment, or for the use of property in which the public has an interest, is only changing a regulation which existed before. It establishes no new principle in the law, but only gives a new effect to an old one.

We know that this is a power which may be abused, but that is no argument against its existence. For protection against abuses by legislatures the people must resort to the polls, not to the courts.

It is clear, therefore, that the business of railroads, being "affected with a public interest," was from the beginning subject to the power of the body-politic to require them to conform to such regulations as might be established by the proper authorities for the common good. The non-user of a power is no evidence that it does not exist. Those who obtained grants of charters for that purpose and invested their private capital in the business entered upon it subject to this condition; and if they did not wish to submit themselves to such interference, they should not have clothed the public with an interest in their concerns.

Among all the eminent counsel and railway officials who have appeared before the Commerce Committee on behalf of the railroad corporations but one single one admitted the power or propriety of Congressional legislation to regulate interstate commerce. I refer to Hon. Chauncey M. Depew, of New York. He said:

I do not think the representatives of railroads are disposed to object to the legitimate exercise of any power the United States may have in reference to them. We recognize that there can not be an investment of $6,000,000,000, that there can not be a business upon which every other business is in a measure dependent, without it being of the highest public moment to the people in the State and national Legislatures. We would be denying one of the manifest truths lying at the bottom of all republican government if we stood up to resist a statement of that kind or a principle which covers questions so broad as these.

This frank and sensible admission by this eminent and justly distinguished lawyer and railroad official was especially gratifying in the midst of the wholesale and sweeping denial of the power on the part of Congress to deal with the subject at all, and reflects credit upon him.

Article 1, section 8, of the Constitution confers upon Congress the "power * * * to regulate commerce with foreign nations, and among the several States, and with the Indian tribes." Fortunately no article of the Constitution has been more thoroughly adjudicated and its meaning more definitely settled than this. I will not tax the patience of the House by a review of the long line of decisions construing it and defining its true meaning, but will refer only to a few controlling cases. "The Constitution of the United States and the laws made in pursuance thereof are the supreme law of the land." Chief-Justice Waite, delivering the opinion of the court in Pensacola Telegraph Company *vs.* Western Union Telegraph Company (96 U. S. Rep., 9), said—

A law of Congress made in pursuance of the Constitution suspends or overrides all State statutes with which it is in conflict.

Since the case of Gibbons *vs.* Ogden (9 Wheat., 1) it has never been doubted that commercial intercourse is an element of commerce which comes within the regulating power of Congress. Post-offices and post-roads are established to facilitate the transmission of intelligence. Both commerce and the postal service are placed within the power of Congress, because, being national in their operation, they should be under the protecting care of the National Government.

The powers thus granted are not confined to the instrumentalities of commerce or the postal service known or in use when the Constitution was adopted; but they keep pace with the progress of the country and adapt themselves to the new developments of time and circumstances. They extend from the horse with his rider to the stage-coach, from the sailing vessel to the steamboat, from the coach and the steamboat to the railroad, and from the railroad to the telegraph, as these new agencies are successively brought into use to meet the demands of increasing population and wealth. They were intended for the government of the business to which they relate at all times and under all circumstances. As they were intrusted to the General Government for the good of the nation, it is not only the right but the duty of Congress to see to it that inter-

course among the States and the transmission of intelligence are not obstructed or unnecessarily encumbered by State legislation.

* * * * * * *

The Government of the United States, within the scope of its powers, operates upon every foot of territory under its jurisdiction. It legislates for the whole nation and is not embarrassed by State lines. Its peculiar duty is to protect one part of the country from encroachments by another upon the national rights which belong to all.

This would seem to be a complete answer and refutation of the various points of objection taken by the opponents not only of the pending measure, but of any legislation whatever looking to the regulation of interstate commerce, so far as the power and jurisdiction of Congress are concerned. It may be here remarked that there are two distinct classes of service performed by railways.

First. The transportation of interstate traffic, that which originates in one State or Territory and is transported into or through one or more other States or Territories. Over this class of traffic Congress has absolute control under the powers delegated by the Constitution "to regulate commerce with foreign nations and among the several States," as shown by the case already quoted.

Second. The transportation of State or domestic traffic, that which originates and is confined within the territorial limits of the State. Over this class of business the State governments have exclusive jurisdiction and control.

The meaning of the word "commerce" has been judicially defined by Chief-Justice Marshall in Gibbons vs. Ogden (9 Wheat., 188, 189):

The subject to be regulated is commerce, and our Constitution being, as was aptly said at the bar, one of enumeration and not of definition, to ascertain the extent of the power it becomes necessary to settle the meaning of the word. * * * Commerce undoubtedly is traffic, but it is something more; it is intercourse. It describes the commercial intercourse between nations and parts of nations in all its branches. * * * Commerce, as the word is used in the Constitution, is a unit, every part of which is indicated by the term.

In a more recent case of the Philadelphia and Reading Railroad vs. Pennsylvania, December term, 1872, the Supreme Court says:

Beyond all question the transportation of freights or of the subjects of commerce for the purposes of exchange or sale is a constituent of commerce itself. This has never been doubted, and probably the transportation of articles of trade from one State to another was the prominent idea in the minds of the framers of the Constitution, when to Congress was committed the power to regulate commerce among the several States.

In construing the words "power to regulate," Chief-Justice Marshall, in the Gibbons vs. Ogden case, says:

This power, like all others vested in Congress, is complete in itself, may be exercised to its utmost extent, and acknowledges no limitations other than are provided in the Constitution.

Congress has already exercised this power to regulate interstate railways. On June 15, 1866, the following act was passed, as is claimed, at the instance of railway companies (see Revised Statutes of the United States, section 5258):

Every railroad company in the United States whose road is operated by steam, its successors and assigns, is hereby authorized to carry upon and over its road, boats, bridges, and ferries all passengers, troops, Government supplies, mails, freight, and property, on their way from any State to another State, and to receive compensation therefor, and to connect with roads of other States, so as to form continuous lines for the transportation of the same to the place of destination. * * * And Congress may at any time alter, amend, or repeal this section.

Again, on March 3, 1873, the following act was passed (see Revised Statutes, section 4386):

No railroad company within the United States whose road forms any part of a line of road over which cattle, sheep, swine, or other animals are conveyed from one State to another, or the owners or masters of steam, sailing, or other vessels carrying or transporting cattle, sheep, swine, or other animals from one State to another, shall confine the same in cars, boats, or vessels of any description for a longer period than twenty-eight consecutive hours without unloading the same for rest, water, and feeding for a period of at least five consecutive hours, &c.

The same law provides that the animals so unloaded from cars "shall be properly fed and watered during such rests" by the railroad company, in case the owner or person in charge shall fail to do so. Any failure to comply with the provisions of this law renders the company liable to a penalty of from one hundred to five hundred dollars fine, and section 4389, Revised Statutes, provides that "it shall be the duty of all United States marshals, their deputies and subordinates, to prosecute all violations which come to their notice or knowledge."

It appears, therefore, that Congress has full and ample power under the Constitution to regulate interstate railway companies, that this power has been judicially confirmed and clearly defined by the United States Supreme Court. It also appears that Congress has already exercised such power to the extent of granting permission to railway companies chartered by State governments to transport passengers and property "on their way from any one State to another State," to "receive compensation therefor," to "connect with roads of other States so as to form continuous lines," and has reserved to itself the right "to alter, amend, or repeal" the law giving such permission.

Congress has further exercised such power by fixing the length of time that live-stock shall be kept in cars without unloading, and the length of time such freight shall stop for rest, feed, and water, by requiring railway companies to properly feed and water such stock in case the owner shall neglect or refuse to do so, by fixing penalties for violations of the law, and requiring United States marshals and their deputies and subordinates to prosecute all violations which come to their notice or knowledge.

This action of Congress has been universally acquiesced in and accepted without protest by the States and by State corporations as within the scope of its powers. No State corporation can properly object to the exercise of such powers by Congress, as their charters were originally granted and accepted with a full knowledge that when their roads should be connected with those of other States, and continuous lines formed extending through more than one State, such lines would become channels for interstate commerce, and would thereby be subject to such commercial regulations as Congress in its wisdom should from time to time prescribe.

The bill of the committee, the first part of it and the substitute, declare that equal facilities shall be granted to all as nearly as may be in shipping and traveling privileges. That is right; and if it is right it ought to be enforced. Each of these bills declares that discriminations between individuals and places in the transaction of the business of the railroads is wrong; and if it is wrong, it ought to be prohibited.

The bill assumes that rebates are only the means of concealing undue discrimination, and for that reason should be prohibited. If that assumption be true, rebates ought to be prohibited. The bills assume that the pool is organized as a means of preventing competition and will be made the means of undue discrimination, and therefore shall be prohibited. If that be true, it ought to be prohibited. The pool, it is assumed and perhaps it is true, has grown and developed out of the fact that the Government has itself never exercised the constitutional power of regulating commerce; and in the absence of that regulation, which the Constitution enjoins upon Congress, the pool has arisen. Somewhat like a great star-chamber court, it has been constituted by the consent and agreement of the great railroad potentates of this country; and in that court the people have no representative and they have no day. I am not of the class of people who believe that the railroad managers of this country are criminals or bad men. I do not believe that.

In many cases railroad corporations have yielded to the temptations, that men always yield to on opportunity, to aggrandize themselves with too much power and an undue measure of wealth, perhaps, if they are not restrained. But all must confess that the ablest minds and many of the best men of this country have become interested in the development of the grand railroad system of this country and have linked their names to immortality. I object to the commission because I think it will prove a failure; it will not answer the purposes which the friends of the commission hope it will answer; and it is unnecessary. I believe that the correct principle in government was asserted when the courts, State and national, were ordained and created to enforce rights and to prohibit wrong. I believe that whatever rights they are incapable of enforcing will fail, and whatever wrongs they are incapable of prohibiting will go unprevented and unrestrained.

These courts have been ordained by the people as one of the co-ordinate branches of the Government. To them have been committed the great powers of judgment upon all laws that we enact. To their keeping are committed the hopes, fortunes, lives, and liberties of the people and the integrity of our laws. If we have come upon a time when any law that we enact declaring rights and prohibiting wrongs can not be administered through their agency, then indeed have we reached the beginning of the end of free government. If the day has or shall ever come in our country's history when the foul waters of political corruption shall rise high enough to touch and pollute the judicial ermine and so corrupt all the fountains of justice, then, I repeat, the end will be at hand and free government a demonstrated failure.

The commission provided for in the bill is not clothed with judicial powers. As stated by the gentleman from California who has just left the floor [Mr. GLASCOCK], it is not clothed with the powers conferred upon the English commission; for that commission can investigate, it can restrain, it can enjoin, it can render advice. But my objection to the English commission is that it is placed between the citizen and the court. Its opinion, its advice must be had upon the legality, the right and the wrong of any act complained of, before suit can be instituted in the English court to enforce the right, prohibit the wrong, or recover damages for mischief done. I will never give my consent in this country to place any body of men, any commission, between the suitor and the court in which his rights are to be adjudicated. No man, no set of men, shall ever, with my consent, stand between the citizen and justice, and hold the power to say whether his rights shall be adjudicated or not. Let no petty autocrat stand between the citizen and justice.

This commission does not stand in this case entirely between the citizen suitor and the court, but it performs a sort of advisory function. It will fail, as such commissions have failed in all other countries. We had better draw some lessons of wisdom from the experience of other governments in this respect. In Prussia, where legal control of railroad management has been pushed to further development than in any other country, the commission business has entirely failed. I will read to the House a speech delivered by the German chancellor, Bismarck, upon

the result of what was really a railroad commission in Prussia. This speech was delivered in 1876 in the Prussian Parliament. He says:

The imperial constitution attributes to the empire the duty of a general supervision over all German railways, a certain control over tariffs, &c. An imperial railway office has been called into existence with the view of carrying out the provisions of the constitution.

Just as we propose to do in this case.

The experience of the office has manifested, however, the impotence of the empire and the strength of the separate states. The imperial railway office has become a council, which gives good advice and prefaces its requests with "if you please." It writes a great deal and makes much ado, but no one heeds its behests.

So no one will heed the behests of our commission.

I had hoped for an imperial railway law before this.

He does not want a commission; he wants a law.

I had hoped for an imperial railway law before this, but the opposition of the states, not only that of Saxony but also that of Prussia, has proved too strong.

* * * * * * *

The rights of the empire are theoretical; those of Prussia are backed by a strong railway net, the influence of which is felt in all Germany.

And this notwithstanding the existence of a commission.

As imperial chancellor, it is my duty to contend against this state of affairs, to see that all parts of the constitution, even the railway articles, become realities, to fight against the development of Prussia at the cost of the empire. * * *

We have in Germany, I believe, sixty-three railway provinces—that is saying perhaps too little, they are more independent than provinces; I should rather say railway territories—of which forty perhaps are in Prussia. Each one of these sovereign territories is fully provided with the feudal rights of the Dark Ages, the right of staple, the right of levying tolls and taxes on commerce for the benefit of its own private purse; yes, even with the right of carrying on feuds and railway wars, as suits its good pleasure, like the old feudal lords. We see to-day railway directors waging battles, not for the benefit of the railways or shareholders, but as a sort of noble sport. This condition of affairs does not correspond to the ideal of the imperial constitution. Even Prussia has not a railway power strong enough to carry out this ideal within its own boundaries.

Now, he was advocating the ownership and control of all railways in the German Empire, that control to be vested in the imperial government, and not subdivided, as he found it, among the states. He says:

I think the state should have its own line between all principal points. * * * I do not regard financial competition as the *raison d'être* of railways. It were foolish to say the state should derive no financial benefit from this property.

The profits which states derive from their railways are really a tax which they impose upon the circulation of goods. This taxation should not be oppressive, and should be financially just. But profits, as I have said, are not the *raison d'être* of railways.

Now, Mr. Speaker, there was the experience of Prussia with a railroad commission. It was not called a commission; it was a great railroad office, such as we propose to construct here. This commission provided for in this bill is clothed with powers to hear complaints on notice, issue process, have it served, bring parties to complaints before the commission—one single commission located here in Washington—take testimony, have affidavits and depositions taken and brought here; and it is thought that through the agency of that one single tribunal located in Washington city all the rights of every little insignificant and every great and significant suitor may be adjusted, all their wrongs remedied, all their rights enforced, and all their damages ascertained and adjusted.

Does any one believe that? It is clothed with all the powers of the courts which has been found necessary to distribute all over this broad land; and we go on constantly designating new places for holding courts to suit the convenience of the people. Establish that great commission, locate it here in Washington, leave the people dependent on it for justice, and it will amount absolutely and substantially to a denial of justice, for scarcely any will ever be heard, and it will dwindle at last to the condition of the Prussian commission.

The wise thing to do, Mr. Speaker, is to declare what is right and enforce it; declare what is wrong and prohibit it. And it matters little what the measure of punishment is for wrong, it is the certainty rather than the measure of penalty that proves effective in the prohibition of wrong.

Dr. Ely says all those governments in Europe have ended with the ownership of railroads by the state, and that they are still gathering up, taking control of, and owning the railroads. In some of the states, in most of them in fact, they do not own all the railroads, but they own enough to maintain and foster that wholesome competition out of which the people find protection and large benefit.

The pool is objected to, and I find in this admirable article, written by Dr. Ely, fellow of Columbia College, in New York, who was for some years engaged in special studies in the operations of political economy as applied to the internal administration of Germany—I find here what is perhaps the origin or nursery out of which came the pool.

But before proceeding further as to the pool I will read from Dr. Ely's article a further evidence of the failure of commissions or department management of railroads:

In the Prussian Parliament, Dr. Lasker entered the lists in favor of state railways, and combated so vigorously and successfully for his cause that the part he then took in the contest will always form a noteworthy epoch in the development of German railways. He began by making serious charges against government, in particular against the minister of commerce, in matters of railway concessions. Early in the session the government demanded of the Parliament a credit of 360,000,000 marks; 180,000,000 for a road from Berlin to Wetzlar, the remainder for other railway undertakings, for rolling-stock, &c. The object was to connect the eastern and western parts of the monarchy by state railways. It was during the first reading of the bill that Lasker made his memorable speech of January 14, 1873. He asserted boldly that in matters of concession the point chiefly considered by the minister of commerce, Count Itzenplitz, was not the interests of the people and the state, but personal favor or personal ill-will; that Dr. Strousberg, *e. g.*, was always granted the desired concession; that concessions had been granted to a high official and to members of prominent families, who from the outset had no intention of building railways; that these parties had derived profit by trading with the concessions (so-called *Gründergewinnen*).

The minister of commerce made an ill showing in his defense. The minister president, Count Roon, addressed a letter, under date of January 31, 1873, to the president of the house of deputies. He defended the above-mentioned official and attacked Lasker. The letter was read in the house February 7, but the utterances against Lasker were at once taken back. Deputy Lasker used this opportunity to continue his exposures, and produced such substantial proof of his statements that Count Roon, astonished at what had been going forward, withdrew the letter *in toto*, and promised to assist in every possible way in clearing up the "sad affair." A royal message, February 14, moved that a special commission be appointed to investigate the matter and to discover "what principles have been employed in granting railwny concessions and the abuses which have grown up in connection with the exploitation (*ausuntzung*) of these concessions, in order that it may be seen (*a*) whether and in how far the existing laws and the rules of administration are fitted to secure the fulfillment of the intentions of government in granting the concessions and to protect the public against deceits and damages; (*b*) what changes in the existing legislation and administration are necessary to put a stop to the abuses which have crept in.

The commission of investigation held fifty-six sittings; the report was contained in three different manuscripts, embracing together 1,000 large quarto pages. The official documents of the ministry of commerce were examined carefully, numberless witnesses were heard, railway experts questioned, &c. The ability and thoroughness with which this so-called Lasker commission conducted the investigation have gained for it celebrity. The most noteworthy parts of the summing up of the report are as follows:

"An exclusive system of state railways is not at present realizable, but economic considerations favor such a system as the final goal to be striven for." "Railways are public highways, means of favoring traffic, resembling in essence and purpose other highways. The only means of justifying the government in relinquishing railways to private industry and speculation is the stringent financial necessity of the time." "It appears desirable to transfer to the empire a controlling power over all German railways."

Now I am not the advocate of the ownership of railroads by the State or by the General Government. I have read that to show the failure, the utter failure, of a railway commission which was raised to the dignity of a department of the government in Prussia.

I digressed to read that from what I was about to say in reference to the pool. This bill prohibits pooling. Various accounts have been given of the pool by the railroad people, and all lead to the one general conclusion, that the object of the pool is to maintain rates. All wise statesmen will agree that the best, the wisest, and the most wholesome regulator of commerce is healthy competition. Believing in that principle, I have always been an advocate of the broadest and most comprehensive system of the improvement of our water ways in order that they might compete with the railroads; for upon the water way, which is free to all and belongs to the Government, all men may run their boats in competition with each other and all the boats run in competition with the railroads. All the evidence taken, all the evidence given by the railroad experts, agrees upon the one single proposition that the great competitor of the railroads in the transportation of heavy freights in the water way. They harp upon that subject. They protest against the regulation and control by law of the railroad system unless the some fetters are put upon the water ways; and there is much force and logic in the argument. But it has never been thought necessary to do it, because the competition of the different kinds of vessels upon the water ways brings everything down to the desired basis.

But to the pool. Here is what Dr. Ely says about the pool. He does not speak of it as a "pool," but as a species of railroad management. It is the nursery out of which the pool came:

In Germany the traffic is usually divided among the different companies, and in such a manner that the bulk of it passes over one road one month and another the second. In his celebrated work, Englische Eisenbahn-Politik, Dr. Cohn has shown that in England a new railway between places already provided with one results almost inevitably in an understanding between the companies and a rise in the tariff.

That is the pool; that is its effect—a rise in rates. Where a new road is built between the same points that should be a competing road. It is pooled, and the rates are raised enough to give that new road an earning equal to the average of the roads already combined in the pool. Does not that suppress competition On that principle the more railroads we have the higher rates must go to maintain them.

The end of railway competition—

Dr. Ely says—

is railway monopoly—

That is the doctrine of the pool—

and this is urged as a ground for state ownership of the railroads there.

There, I take it, is the nursery out of which came the pool. That principle has been transplanted from Europe to this country, and the pool is formed here, they say, to maintain rates. If they would add "and to destroy competition" they would have told the whole story and all the truth. Now, if that be the truth about the pool, and glazed over and enameled and sugar-coated as the account of it is as given by the railroad officials and experts, there is the naked bitter that is in the pool as we have it in this country. That is the truth of it. It is organized for that purpose, so that inevitably the duty devolves upon the General Government to assume and exercise that power conferred upon Congress in the Constitution of regulating commerce. The non-

use of that power is no evidence that it does not exist. It has lain dormant for a long time. Railroad officials have apparently reached the conclusion that with their charters granting them the privilege to operate railroads they have conveyed to them as a part of the charter the right, the power, to regulate commerce. In the absence of the exercise of that power by Congress—which seems up to this time to have absolutely abdicated and surrendered it to the great associations of wealth operating the vast railroad system of this country, the roads having formed the pool—they formed their combinations, and they are regulating commerce to suit themselves.

We have been told in argument before the committee by the counsel of the railroads, who attempt to confuse this question, that the Government has no power, that the States which granted the charters have all the power over the subject. When they come before the State Legislatures they tell them that the States have no power, that all the power is vested in the General Government; that their roads, though constructed under State charters, have gone to the boundary lines of States, where they are connected with other roads which run through other States, and are, therefore, interstate railroads. So here they are State railroads; there they are interstate railroads. They make of them a sort of jointed snake. It is an entire snake so long as the Government does not touch it, but when the hand of the Government is stretched out and touches them they go to pieces, and then they are State railroads; but when the States go after them, then they reunite and become interstate railroads. It is almost a game of thimble-rig. [Laughter.]

We have been repeatedly told by the distinguished counsel and railroad officials who have appeared before the committee that we are attempting something new under the sun; that all our efforts have proved and will prove failures, as they have in all other civilized countries; and that the best intellects of all civilized nations have grappled with this subject, but they have not thus far succeeded in accomplishing the desired end. The "desired end" aimed at here has been in the main accomplished by legislation in almost every civilized country in the world except this, and we are now struggling to do only part of what they have long ago accomplished.

I find the following interesting statement of the laws of Prussia and other European states regulating railroad traffic and transportation, and of the policy of those governments, in Dr. Ely's report, before referred to:

Between the 21st of August and the 13th of November, 1837, concessions were granted for four short railways, namely, the Berlin and Potsdam, the Magdeburg and Leipzig, the Düsseldorf and Elberfeld, and a part of the Rhenish Railway. In the following year, when only one of the above-mentioned railways (the Berlin and Potsdam, 26.4 kilometers) was finished, the celebrated law of November 3, 1838, was enacted. This law, which is still valid, except in so far as certain parts have been rendered of no effect by subsequent legislation, formed the basis of all later Prussian railway laws, and is in many respects a model.

Its main points are as follows:

§§ 1 to 5. Every company having the intention of building a railway must apply to the ministry of commerce for a concession. The application must contain an exact statement of the principal points through which the road is to pass, and of the capital stock to be divided into shares. It must be accompanied by a plan of the road, stating clearly the manner in which the road is to be built, the materials to be used, the wagons, coaches, locomotives to be employed, &c.

If no objections on the score of safety, public interest, &c., are found against the plan after it has been carefully examined, the concession is granted, and a time is fixed within which it must be shown that shares have been taken to the full amount of the capital stock, and the shareholders have met and framed the statutes of the company. The statutes are not valid unless approved of by the government. All those who subscribe for shares are unconditionally responsible for 40 per cent. of the full amount. If afterward the regular payments for the remaining 60 per cent. cease, the company has the choice either to prosecute the subscribers and force them to fulfill their obligations or to release them from the same under loss of the 40 per cent. already paid in. No share may be given out before the full nominal value for which it rends has been paid.

§ 6. Additional shares may not be emitted without the consent of the government. No loan may be contracted without the approval of the ministry of commerce, which has the right to oblige the company to establish a satisfactory sinking fund for the payment of capital and interest.

§ 8. The company has the right of expropriating such property as is *necessary* to render the road capable of fulfilling its functions as a public *highway*.

This paragraph is of importance (1) because it establishes the character of railways as essentially public and not private undertakings; (2) because it justifies expropriation only upon grounds of public welfare.

§ 24. The company is obliged to keep the road and all appurtenances in a condition which insures, as far as possible, safety in the transport of goods and passengers.

§ 25. The company is responsible for all damage to persons and goods, unless it can prove that the damage was in no wise the fault of the company. The weight of proof, it will be observed, lies with the company. The dangers necessarily connected with railways do not free the company from this obligation.

§ 26. The railway tariff must be made known to the government and published. Changes in the tariff are not allowed to be made without notifying the government and the public. In case the change increases the rates, it must be published at least six weeks before it comes into effect. All parties are to be treated alike without partiality.

§ 27. The minister of commerce has the right to allow a second company to use any railway track which has been open three years. For this use the second company must indemnify the first. This provision, which it was thought would effectually protect the public against railway monopolies, has, for obvious reasons, never proved practical.

§ 33. When the profits of any railway exceed 10 per cent. of the capital invested the passenger and goods tariff must be reduced until the annual profits are no longer in excess of 10 per cent.

§ 36. Railways are obliged to carry all postal sendings and to transport postal wagons free of charge.

§§ 38 to 40. All railways must pay a tax in proportion to their receipts. The state is to use the income derived from this tax (1) as indemnification for the loss of the government occasioned by the railways—the government had formerly a monopoly of the transport of passengers in connection with the postal service; (2) for the amortization of the capital employed in building the railway tracks. When this capital is completely amortized in case of any railway track the receipts derived from said railway track shall not exceed the sum necessary to keep the same in repair and the cost of its administration; that is, that railway track would, in this case, become government property and be administered like a highway, from which the government raises sufficient toll to pay for keeping it in repair and to meet the expenses of administration.

§ 42. At the expiration of thirty years after the opening of any railway the state has the right of purchasing it. In case the government and the railway can come to no other voluntary agreement, the company receives twenty-five times the average yearly amount of dividends during the last five years.

§ 44. Before the expiration of thirty years after the opening of a railway no concession may be granted to a parallel line.

This paragraph was repealed in 1867 by article 41 of the constitution of the North German Confederation. Finally the right is reserved of enacting such further laws as experience shall show to be necessary.

The pending measure, it will be seen, falls far short of the stringent requirements of the laws of those countries. It is unfortunate that a wholesome and wise and uniform system of regulation of commerce had not been inaugurated and perfected as our railroad system progressed and developed. In the absence of any such public regulation the railroad managers have become accustomed to the exercise of unrestrained power, and many of them have seriously thought the power to regulate commerce generally was to be claimed and reckoned as among their charter rights, and they naturally feel shocked at any effort to interpose public control.

They must understand that the State or Government, as the case may be, establishes a highway not for the purpose of benefiting a corporation, but to serve the interests and convenience of the people, and its enjoyment must be open to all on just and equal terms, and the State must and does have powers to secure these results.

The corporation is used as an instrument of State service merely as a convenient way of carrying out a public object. This is the great and sole public good, for the accomplishment of which all other powers are given and duties imposed.

This is a people's government. They are our sovereign, and for them and for their protection this Government was ordained, and for them it must be administered in accordance with the Constitution. To those who love their country and who have faith in humanity and who desire that this Government shall be the scene of the progressive happiness of the many rather than an arena of combat of the strong against the weak, where the few only can attain demoralizing and excessive wealth and unstable pleasures at the expense of their brothers, the path of duty is plain and unmistakable.

Mr. WOODWARD. No one, I believe, Mr. Speaker, denies the power of Congress to legislate upon this subject. If there are any who deny the necessity for such legislation they are sufficiently answered by the public sentiment of the country, by the legislation of many of our greatest States, and by the number of bills introduced into Congress upon this subject. These premises being granted, it seems to me unnecessary to take up the time of the House in denunciations of railroads and passionate invectives which throw no light on the question before us.

The duty of the House is to consider soberly the various propositions before us and select from them all that which is safe, judicious, and most efficient to correct the evils of which the country complains.

This, sir, is no easy task. As a rule, those who are loudest in their clamors against the railroads are found least able to master it. The gentleman from Kansas [Mr. ANDERSON], who addressed the House on Thursday, and permitted himself to use language implying suspicion in his mind that the committee had allowed some railroad attorney to dictate the form of their bill, undertook to wrestle with this problem single-handed. At the opening of this Congress he introduced a bill disposing of the whole subject in two short sections so wonderfully concise and comprehensive that I will ask the Clerk to read the bill, or I will read it myself:

A bill to prevent unjust discriminations by railroad companies, and subjecting them to the control of the States under certain circumstances.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in all cases wherein any railroad or railway company has received grants of lands of the United States, or of the bonds of the Government of the United States, to aid in the construction of any such railroad or railway, the whole or any part of which runs into or through any State or Territory of the United States, such railroad or railway shall be subject to and controlled by the laws of the State or Territory into or through which such railroad or railway may run.

SEC. 2. That all legislation of any State or Territory of the United States, and regulations duly authorized and made in pursuance of such legislation, shall be operative upon all railroads and railways running into or through any such State or Territory, or such part of such railroads or railways as are within the limits of such State or Territory, and any such law or regulation, made in pursuance thereof, prescribing rates of charges by any such railroads or railways for the transportation of passengers, merchandise, or live-stock over any such railroads or railways, shall be effective and operative as to all shipments and transportation charges, whether such shipments originate and terminate within the limits of such State or Territory or originate in one State or Territory and terminate in another; and such legislation or regulations shall extend to all shipments of merchandise and live-stock which directly affect the people of the State or Territory where such legislation exists.

The first of these sections, sir, is entirely inoperative, because at law now the fact that a railroad has been aided by the bounty of the General Government does not withdraw it from the jurisdiction of the States through which it passes. The second section proposes to confer upon States a jurisdiction which Congress alone can exercise; to extend the operation of the laws of one State into the territory of other States, and

to subject one line of railroad at the same time to the operation of schedules adopted by two or more States or Territories and liable to differ in their rates for the same distances and between the same points. I venture to assert, Mr. Speaker, that if the railroad attorneys were permitted to name their choice among all the bills proposed here they would not hesitate a moment in giving the palm of preference to the bill of the gentleman from Kansas.

The Committee on Commerce spent a great deal of time in listening to arguments and testimony and discussing among themselves the various propositions referred to them. They could not agree upon an entire bill, and they reported the pending measure with the understanding that members of the committee should have the privilege of offering amendments in the House. I am in favor of all of its provisions except the one indicated by the gentleman from Connecticut [Mr. SEYMOUR], and I shall vote for the amendment which he intends to offer.

Those parts of the bill which establish a commission and prescribe its duties, giving it full power to investigate all complaints and to take all necessary action to correct them, to study the subject in the light of experience and report to Congress what further legislation may be necessary to perfect an intelligent system of railroad control, are in my judgment the most valuable. I shall not speak at length upon this feature of the bill, because other gentlemen have already fully explained it in debate and I concur in what they have said.

Those members of the committee who favored the plan of a commission consented to incorporate in the bill certain portions of the "remedial" legislation proposed in the Reagan bill. I have no confidence, Mr. Speaker, in the effectiveness of these provisions, but I am willing to put some of them on the statute-book and give them a trial. I am even willing now to amend section 6 of the committee bill so as to make the private action there authorized one of "equitable jurisdiction and discovery," giving to the court in every such case the power specified in section 7 of the Reagan bill, to compel discovery and the production of books and papers; and perhaps to carry out the intention of the committee itself this ought to be done. In the courts of some of the States that may be unnecessary by reason of the codes, which abolish wholly or partly the distinctions between courts of law and equity; but in other States where the old distinctions remain in force the provision might fail through mere defect of form.

With this exception the "remedial legislation" in the committee bill is all that can safely be adopted at this time. It declares that all charges must be reasonable for the service rendered. It makes it unlawful to discriminate between persons in the matter of rates and furnishing facilities for business. It makes it unlawful to allow rebates or drawbacks to one person which are not allowed under similar circumstances to all other persons. It gives to a party injured a right of action for his damages and an extra allowance for costs where the act complained of is willful. And it provides for a criminal prosecution, to be conducted by the district attorneys of the United States, and for a penalty, upon conviction, of not more than $1,000.

With these general remarks, Mr. Speaker, I pass to the consideration of the differences between the bill and substitute, those portions of the original Reagan bill which a majority of the committee declined to report favorably.

PENALTIES.

The first difference between the bill and substitute to which the gentleman from Texas calls attention is the provision of the committee bill which exempts unreasonable charges from penalty. I agree with the gentlemen who argue that an error of judgment should not be treated as a crime. But, sir, I have another objection to it. It is impracticable.

The question whether a charge is reasonable or not opens a range of investigation which is practically unlimited. The length of the whole road; the length of the haul; the cost of the entire road and its several sections; the indebtedness of the road and urgency of payment; operating expenses; the value and quality of the goods carried; the state of the weather; the amount of the risk; the income of the road in former years or months and in the current year or month; the prospects of future business; the value of the service; competition or the absence of competition; the amount and value of the article carried in the given instance compared with the whole amount and value of the same article ordinarily carried or produced, and with the whole amount and value of the tonnage; a comparison with the rates charged for the same service by other roads and water routes—all of these facts and circumstances, with many others, must be brought into view and fully considered in order to determine fairly whether a given charge is reasonable or not.

Think for a moment, Mr. Speaker, of the consequences of bringing such an issue as this to be determined by a grand or petit jury in a criminal cause. Every prosecution brought under it would furnish a repetition of the star-route trials—endless and unavailing. The gentleman from Texas criticises that portion of the committee bill which provides a suit for civil damages because it does not, in so many words, invest the court with equity powers. He says evidence sufficient for the purposes of such a suit can only be obtained in that way. I am inclined to agree with him, and, as already stated, am willing to amend the sixth section of the committee bill so as to confer such powers upon the court.

But, Mr. Speaker, the rules of evidence favor the civil suit rather than the criminal prosecution. In the civil suit the plaintiff can recover his damages upon a mere preponderance of evidence. In the criminal prosecution the court will instruct the jury that they must acquit the defendant unless the evidence of the prosecution excludes every reasonable doubt of his guilt. From what source and in what manner will you produce evidence of so high a grade in the criminal court if you must rely for discovery under the equity powers of the court to procure a much lower grade of evidence in the civil suit? Sir, if the gentleman's argument is good, you must, in order to make this provision effective, confer chancery powers and the right to enforce discovery upon the criminal court also. A bill of discovery in aid of the grand jury or tacked on as a rider to an indictment I am afraid would be regarded as an odious novelty in our criminal practice.

REBATES AND DRAWBACKS.

The substitute prohibits rebates altogether. The bill of the committee provides that they shall be given to all persons alike under the same circumstances. It has been shown that there are cases in which the allowance of rebates constitutes a necessary and beneficial feature of railroad management. It has also been shown that the practice is sometimes abused by allowing discriminations. Shall we stamp out the good and the evil together, or shall we endeavor to destroy the evil and preserve the good? The only evil lies in the discriminations. This evil the bill of the committee attempts to prohibit. If it is practicable to enforce the provision of the substitute, no one will pretend that it is not just as easy to enforce the provision of the bill of the committee. If enforced, it will remove the only evil complained of in connection with the allowance of rebates.

POSTING SCHEDULES.

The substitute of the gentleman from Texas provides for posting rates five days before they go into effect. I agree with everything said by the gentleman from Michigan [Mr. HORR] and others who have opposed this provision, and will add by way of supplement to their remarks some observations upon its relation to other provisions of the bill and substitute. Under the first sections of both all rates must be reasonable. It would seem to follow that the rates posted must be reasonable. I venture to say, Mr. Speaker, that it is within the knowledge of every member of this House that the conditions which must determine the reasonableness of a charge frequently change in the course of a single day. A railroad company may post its rates as required by the substitute bill, and then go on under its old schedule until five days have passed. On the morning of the sixth day a change in freights by lake, river, or other roads or other circumstances may make it necessary for that road to reduce its rates below the posted schedule or go out of business for five days until it can post a new schedule. This substitute forbids it to lower the rate. It is impossible for any railroad company to determine with certainty so far ahead what will be reasonable charges on all classes of goods.

Again, sir, under ordinary circumstances it is the legal duty of a common carrier to receive and transport goods offered for that purpose. Freight may be offered on a day when the carrier has concluded that his posted schedule contains unreasonable rates. He can not change them for five days. The freighter insists upon his obligation as a carrier. If he carries at all under this substitute, he must charge the rate in his posted schedule or subject himself to civil damages and criminal prosecution. If he refuses the freight, he is liable to another action for damages for violation of his common-law duty as a carrier, unless this statute absolves him from it, and no one, I think, will pretend that it does.

If I have read the substitute aright, sir, this would be among the most serious consequences of its passage and enforcement. But possibly the gentleman from Texas [Mr. REAGAN] is correct in the statement of its purpose and effect. I will ask the Clerk to read what the gentleman said on this subject in his opening speech.

The Clerk read as follows:

The committee's bill contains no provision requiring a railroad company to post up schedules of its rates of charges, while section 5 of the substitute bill does require such schedules to be posted up. And this is essential to secure fairness and equality in rates between shippers and as a means of evidence in determining whether discriminations have been made, and whether more than regular or schedule prices have been charged. If you leave that provision out and come to a trial in each case you will have to prove what reasonable rates are. If you put the provision in requiring them to post up their schedules of rates the law will presume they constitute reasonable rates, and the production of the schedules at a trifling expense would directly show the jury the amount of charges which the road had fixed, and it would then be for the court and jury to determine whether the schedule had been disregarded or not in the case under consideration.

Mr. WOODWARD. If the gentleman's language were less explicit, or, apparently, less carefully considered, I should be inclined to regard this all as a slip of the tongue. He says, without qualification, that the "law will presume" that the posted schedules of rates "constitute reasonable rates." All that the court and jury will have to do will be to "determine whether the schedule had been disregarded or not in the case under consideration." If the provision is to be interpreted with this gloss by its author, it will devour other provisions of the bill. They put such rates in the schedule as they please. Let them produce the schedule in court and prove that it has been adhered to; no further in-

quiry is then to be made. Your courts, Mr. Speaker, will not be crowded with suitors when they find themselves invited in the outset to traverse and combat a presumption of law.

The rates in the schedule may be more for a short than for a long haul. In fact they may be pool rates, and it is worth while to inquire whether the enforcement of this provision will not compel competing roads to pool. If each road acts for itself the immense advantage to the road posting the latest schedule will immediately bring on such disastrous railroad wars that the roads will be compelled to post their schedules at the same time and with the same rates, as well as to change them at the same time. I would like any gentleman who favors the substitute to explain what more the "pool" does or pretends to do.

RULE OF DAMAGES.

I am opposed to allowance of triple damages as proposed by the substitute. Triple damages are vindictive and punitory. They can not be understood in any other way. The substitute provides that the same act may be punished criminally by a fine of not less than $1,000—it may be a million. We can not justify to reason or conscience such an accumulation of penalties upon the same person for the same act.

Pooling and charging more for a short than for a longer haul are both methods of railroad management which are capable of abuse, but it does not follow that they are alwaya abused, and I prefer to leave those subjects for the consideration of the commission to be appointed under the bill.

POOLING.

The ostensible purpose of the pool is to prevent railroad wars and discriminations. It is only attempted between roads with substantially the same termini. It is wrong and injurious for one road to discriminate between its own customers; but it is quite as injurious to the country to have one road charging less or more to its customers in Chicago or New York than is charged by a competing road between the same points. The effect upon trade is precisely the same whether the discrimination is made between the customers of the same road or the customers of half a dozen roads. Let the commission examine this subject and report what legislation is practicable to do away with the evils of pooling.

LONG AND SHORT HAUL.

The provision prohibiting a greater charge for the short than for the longer haul has been characterized by the gentleman from Indiana [Mr. SHIVELY] as an effort to make the benefits of competition universal; in other words, to give to South Bend all the commercial advantages of Chicago. This alone would be sufficient to determine my vote upon it. The powers of Congress are great, but they do not extend to a repeal of the laws of nature and of trade. Any attempt to do that, sir, can only lead to mischief. But, sir, I am opposed to it because it is wrong in principle and must inevitably prove injurious to the interests of my section. As a basis for what I shall say on this subject I recur to the illustration first brought to the notice of our committee by the gentleman from Mississippi [Mr. BARKSDALE].

This is the case: A railroad runs from New Orleans through Winona, Miss., to Memphis. The distance from New Orleans to Winona is two hundred and seventy-five miles, to Memphis four hundred miles. This road charges for carrying a bale of cotton from Winona to New Orleans $3.25; from Memphis to New Orleans, one hundred and twenty-five miles longer haul, $1. The first impression of almost every man will probably be that this is an outrageous discrimination against Winona, which ought not to be possible under any state of the law whatever. But examination of all the conditions of the problem will rarely fail to change this view. In this way the view of a majority of the Commerce Committee was changed; and I take the liberty of calling attention to another conversion which took place in the committee-room on this subject.

Hon. L. E. Chittenden, of New York, an able lawyer and business man of large experience, came before the committee to advocate the adoption of the original Reagan bill, which is the substitute now offered. His attention was called to this Memphis and Winona case, and he was asked to give his views upon it. After hearing all the circumstances, he declined to give an opinion and said he would look into it further. On the next day he appeared before the committee voluntarily and made a statement which I will ask the Clerk to read.

The Clerk read as follows:

Mr. CHITTENDEN. Mr. Chairman, I do not want to take up a moment's time of the committee. I have been giving the time since yesterday to the problem that was presented in the Memphis and Winona case, and that had led me to an examination of the decisions under the ninetieth section of the railway clauses act in England to which I had reference yesterday, and I find that that problem has given to the house of lords in England the same trouble that it certainly gives me. It may not give the committee any. In one case that I have found which went up from Scotland to the house of lords, the house of lords were divided upon the question whether under this ninetieth section such a similar discrimination as that mentioned here was authorized. In that case the road led from Derby to London. Its maximum rates, as all the rates in England are, are fixed by Parliament. It made a rate to a place called Hampton-on-Arden. They charged 8 shillings from Hampton to Derby, but on through-passenger traffic from Hampton to London the proportion would be only 2 shillings, and yet by a divided court the house of lords held that that was not contrary to the ninetieth section of the act which I read yesterday, and they held further that it was certainly doubtful whether it was practical to take away that power of discrimination from the railway companies. All I have to say is that I should hesitate myself some time before I committed myself absolutely to the provision of the Reagan bill which prohibits more for a short haul than for a long haul under all possible circumstances. There is a very serious question there that certainly is deserving the best examination of the committee. I say this because I thought to some extent differently yesterday. It is probably the most doubtful question there is involved in the bill.

Mr. WOODWARD. What is said in this statement in relation to the effect of the ninetieth section of the railway clauses consolidation act is not strictly pertinent, because both the rates there mentioned were within the maximum allowed by law. But the opinion of the house of lords and the opinion of Mr. Chittenden on the questions of policy and practicability are certainly worthy of attention.

Now, Mr. Speaker, what were the facts and arguments which changed Mr. Chittenden's view overnight, and which have influenced the views of a majority of your committee? Winona is distant from any landing on the Mississippi River and has no railroad connection save the one mentioned. Steamboat and barge lines running on the river from Memphis carry cotton to New Orleans for $1 or less per bale. The railroad, then, must carry the cotton to the same destination for $1 per bale or abandon the business entirely. The current expenses of the road, the wear and tear of its cars and track, will be substantially the same whether its trains return empty to New Orleans or go back laden with cotton. The rate of $1 per bale may not pay if we take into account interest upon the cost of the road, but, sir, if it pays operating expenses, or even a considerable portion of them, the road can not afford to lose it, and the people of Winona can not afford to have the road lose it, because any diminution of its net income will probably result in an increase of rates from that place.

But the gentleman from Texas insists that no harm can result from his bill because the road is permitted to charge as much for the long as for the short haul. Then, Mr. Speaker, the best that the company can do is to equalize the two rates. I venture to assert, sir, that in nine cases out of ten this will result in an increase of the through rate. Very many railroads in this country, especially in the South and West, enjoy large debts and have a very limited income. This road from Memphis to New Orleans, I believe, is one of that class. Stockholders may afford to wait indefinitely for dividends; but the road must derive sufficient income from the business on its line to pay operating expenses, repairs, and interest on its debt. It must do this, sir, or fall into bankruptcy. Its business on the present basis produces, perhaps, that amount of income.

Then, sir, an equalization of the rates, in order to produce the same income, must result in decreasing the rate at Winona and raising it at Memphis. To illustrate: Assume that its shipments from Memphis amount to 5,000 bales at $1 per bale; from Winona 1,000 bales at $3.25. Then it receives from its cotton business at these two points $8,250, and it must continue to receive that amount from that business or make good the deficiency by charging more at other stations or on other classes of freight. If it reduces the Winona rate to $1 it falls short of the necessary income. If it raises the Memphis rates to $3.25 it not only loses the Memphis business but inflicts enormous damage on the public at large. The very best it can do is to fix the rate at both places at $1.37½, which, if it can retain the Memphis business, will yield the same income which it now receives.

But, sir, the provision of this substitute almost literally places the railroad "between the devil and the deep sea." An increase of 1 cent in the rate from Memphis deprives them of the business there. An increase of 3 shillings not only throws the business to the barge lines, but enables those lines to advance their rates to $1.30 or even $1.35. This will incite and authorize railroads carrying cotton north and east from Memphis to increase their rates also, and this increase in rates of transportation will be paid by the producers. The practical effect of this provision of the substitute, Mr. Speaker, will be to levy a fine of from 1 to 3 shillings per bale upon every producer whose cotton is marketed at Memphis, and for no better reason than the simple geographical fact that the town of Winona is situated at a distance from the Mississippi River.

The same thing will occur, Mr. Speaker, at Chicago, but on a vastly greater scale. The great staples of the Upper Mississippi Valley, Wisconsin, Minnesota, Dakota, the northern portions of Illinois, Iowa, and Nebraska, must pass Chicago on their way to the seaboard. There they meet the competition between lake and rail. The railroads are compelled by the competition of the water routes to carry these staples to the seaboard at very low rates—rates which benefit immeasurably not only the millions of producers in the Northwest but the millions of consumers in the East. The roads have their option—they can carry at these low rates, or send their trains back empty to New York. Like the road at Memphis, they prefer to get what they can out of the business to pay or help to pay their current expenses. If they increase the through rates, as they must in any attempt to equalize the through with the local rates, they lose the business; the water routes and Canadian railroads advance their charges, and the increase of freight is paid by the producer. Upon all the producers of that vast region tributary to Chicago you levy a fine for every bushel of grain, barrel of flour, and pound of meat raised in a vain attempt to extend the benefits of competition to places where competition does not in fact exist—an attempt whose only result can be to hamper and restrict competi-

tion at those places where nature and the enterprise of man have established its necessary conditions.

Mr. Speaker, if I were well convinced of the soundness of the principle attempted to be expressed in this section of the substitute, I should hesitate long before voting to inflict its inevitable consequences upon the people whom I represent. Let the commission also examine into this subject and recommend to Congress such legislation as will tend to prevent abuses, and leave to the roads and to the people their natural right to the uses and advantages of competition.

The great difference between the substitute and the bill of the committee is found in the fact that the bill assumes that a complete code of railroad regulations can not be framed by any one Congress, and lays the foundation for the building of such a code in the light of practical experience and calm reflection. The substitute assumes that all the conditions of the problem are completely within our grasp, and proposes forthwith to lay the mailed hand of political power upon the most complicated and sensitive business adjustments of modern times. I believe the results of such action where not ineffective will be disastrous to the interests of the country, and I therefore support the bill of the committee. *Festina lente* should be our motto in a matter so delicate and important. We should proceed with caution and deliberation, groping outward toward the limits both of jurisdiction and expediency. In this way only can we secure to the country a wise, safe, and beneficent system of railroad control.

Mr. McADOO. I am not of those to whom a railroad company, because it is a railroad company, is always and everywhere an object of attack. There are gentlemen to whom the interesting, useful, and civilizing locomotive is "a monster of such hideous mien that to be hated needs but to be seen" in connection with some proposed legislation. There are other gentlemen who, applauding the victories of this mighty monster, would abdicate all governmental functions in its favor. Between these contending hosts there must be a golden mean.

I have long observed that in discussing railroad legislation in the State Legislature or in Congress the advocates and opponents rapidly array themselves into two classes, the one drawing strong pictures of railroad benefits and asking liberal legislation or non-interference, and the other calling for restriction to protect the welfare and liberties of the people against railroad injustice and aggression. The one cries out, "You would have no country without railroads;" the other, "Restrict the railroads or you will soon have a country without liberty." Let it be ours to so legislate as to have a free country and great railroads, each aiding and harmonizing with the other. I am opposed to all legislation savoring of paternal government. Government is an umpire, to see fair play between the contending rivals in the game of life.

But in regulating railroads the Government is dealing with its own creations. The railroad company is a public concern—a governmental agent as it were—a public carrier upon a public highway.

In dealing with railroad companies there are legislators whose liberality makes them dangerous guides to follow. For the results of being too liberal and enthusiastic in legislating for railroads we need not accompany the amiable, interesting, eloquent, and distinguished gentleman from Massachusetts [Mr. LONG] to the Palestine of cooing winds and waving palms, but we can linger to learn in the no less heavenly, if less beautiful, precincts of Jersey City, N. J. To build up her railroad system New Jersey gave exemptions from local taxation to the companies. To-day the metropolitan city of the State has over $40,000,000 of property within her borders that does not share equally in the local burdens while benefiting fully from municipal government. These exemptions have been held by the United States Supreme Court to be in the nature of irrepealable contracts. The enactors of these statutes may have meant well, and when the giant genius of Webster procured the decision of this supreme tribunal in the Dartmouth College case he little thought he was but rearing a monument to his legal fame whose shadow would fall like blight on the cities of his country. On the college case has been based these decisions in favor of the irrepealability of such contracts.

In the light of experience I am opposed to railroad discrimination, rebate, pooling, and to centralizing, expensive, imposing, but worthless commissions, and so in favor of the substitute bill of the distinguished statesman from Texas, Judge REAGAN. Let us look at some of the evils this bill attempts to remedy.

At pooling, for instance. For many years the statute-books of the various States have been laden with penal statutes forbidding the combination of laborers and artisans to "strike" for higher wages. It was said to be a conspiracy against trade and commerce for them to so combine. But, while the printers or the brakemen could be cast into jail for combining to say how much shall constitute pay for a day's work, Messrs. Gould and Vanderbilt and Huntington can form a pool and say how much it shall cost the printer or brakeman to transport his barrel of flour or pork from Chicago. What wonder that such inequalities in legislation awaken popular discontent? What healthy competition does pooling admit of? Make pooling illegal, and an honest standard and fixed schedule will be the result. The people and the companies will both benefit.

A system of rebates encourages unjust discrimination and fraud. Under it one man's success is built up on the ruins of another man's business. In favor of rebates, the erudite and learned gentleman from Massachusetts [Mr. LONG] has attempted to harrow up the feelings of the great American Congress for an unfortunate owner of staves who is hobbling around creation on rebate-crutches looking for a market for his wares. Suppose this unfortunate and nomadic individual knew in advance that in no case could he get a rebate, would he not entirely stave off the evil day by either staying at home and saving his staves or send them to market when he knew there was no risk? What is the history of rebates? Have they not been used by a powerful company to crush its rivals and by great enterprises to ruin struggling competitors? Perfect equality should be the law. As to schedules of rates, I cannot see any possible injury to the companies from that. If trouble is found in carrying out this provision legislation can supply a remedy. Against proposed regulations of any kind captious objections will always be raised. You could stay here until the day of doom and make propositions to regulate the railroads, and every one would be met by some objection. They want unlimited freedom; the people reasonable restriction.

Nothing seems to me so unfair as the allowance in favor of the long haul as against the shorter one.

The fertile and oriental imagination of the gentleman from Massachusetts [Mr. LONG] illustrates his position by supposing the case of a railroad to Jericho on the hilltop without competition, to Jerusalem beyond with competition. He says the difficult grade of the hill makes Jericho pay for Jerusalem. The physical altitude of Jericho inures to the financial elevation of Jerusalem. The malarious vapors of Jerusalem are made bearable owing to the heavy toll on the tonic air of Jericho. To the wayfaring man who now as in Scripture falls among the rebate and pool thieves on his way to Jericho our benevolent friend from Massachusetts would give his sympathy, and our learned and able friend from Maryland [Mr. FINDLAY] would in his own language say:

> In the utter hopelessness of the case we mutter between our teeth "God help them," or, with a deeper charity and a more genuine submission to His will, put our hands in our pockets and do what we can.

But neither would send an officer of the law after the robbers. Practically speaking, the illustration of the gentleman from Massachusetts is not a good one in this country; not even, I think, in mundane Jerusalem. Railroads are operated to make money. In making it let them not rob Peter to pay Paul.

Let us take an occidental illustration: Here is Chicago (not the old and certainly not the new Jerusalem), with many competing lines. Here is Paradise, Pa., on the most natural and easy route between New York and Chicago. Only one line of railroad passes through it. It is only two hundred miles from New York, and yet passage or freight under existing circumstances is liable to be greater to Paradise than Chicago. Of course I know Chicago and another similar place are both reached by down grade and easier of access than Paradise, but on what idea of justice should Paradise, Pa., pay up for Chicago, Ill.? This system is very unjust to the Eastern farmer. With higher taxes, dearer land, and higher cost of production, all paid on account of proximity to the seaboard, he can not compete with those thousands of miles inland. It is unjust to the Western and Southern merchant, because his Eastern rival, without breakage in transit, meets him in the inland towns with positive advantage.

The gentleman from Pennsylvania [Mr. HOPKINS] has very ably shown the constitutionality of this bill. As its distinguished author says, it is the commerce and not the railroads he aims to regulate. All admit the power to regulate the measure if regulation is alone in dispute. The substitute, by putting everything in the courts, prevents any unconstitutional interference being exercised.

Railroad commissions work well in many of the States. There they are invaluable in settling questions of taxation between the railroads and the people. Such is the case in my own State. But the commission proposed by the bill of the committee seems to me a useless institution. I should think the railroad managers would favor the commission. Very imposing but entirely impotent, it would be a harmless safety-valve for popular and individual discontent, without benefiting or hurting any one concerned. Their finding would be less potent than the editorial condemnation of a leading journal. Looking imposing from the respectability of his office and income and the princely freedom of his travel, a railroad commissioner under the committee bill could walk adown the sunny years of his official life amid the serried ranks of smiling railroad directors and all-attentive train conductors, tremendous in his processes and infinitesimal in his results—the stall-fed ox of the national farm, unable to plow and not merchantable in the shambles.

The complainant before the commission waits and watches like another Jarndyce, and finally possessed of their impotent finding is compelled to go into court on his own responsibility and at his own expense, for the committee bill gives him no counsel and less encouragement. The district attorney is not paid nor compelled to succor him. Even if the commission was powerful, I would still think an honest court and jury preferable. What influences might not control the appointment and action of the commissioners. The safety of our institutions and rights demands an honest and fearless judiciary, and if we can not depend upon our courts, then indeed is our condition a bad one. In view of the colossal wealth and great power of these companies, any

three men, however pure and good, holding in their power 125,000 miles of railroad and dealing with a commerce of not less than $10,000,000,000 annually, might indeed fervently exclaim, "Lead us not into temptation." Besides all this, the dangers which might occur in their appointment are too patent to be discussed.

As I said in opening, I have no desire to make indiscriminate warfare on railroads, and am only concerned that the welfare of the people shall be as much considered as the prosperity of these companies. I agree with much that has been said as to how far they have advanced the material growth of the country, but this great country and this free Government must not become totally subservient to their power. Our free Constitution banishes the feudal lords; let us see to it that they are not replaced by railroad monarchs who can control the election and selection of the representatives of the people and direct their actions to suit the interests of these great corporations. I applaud their achievements and would encourage their development, and at the same time protect the citizen from an undue exercise of their great power. So vast is our railroad system, that the locomotive has almost become the national emblem.

The shrill scream of the locomotive has startled the denizens of our virgin forests, and its gleaming light has cleared away the midnight shadows of our most distant hills. Before its swift approach the savage and the wild beast have fled like the hunted quarry before the swoop of the lordly eagle. In the wake of its streaming smoke and curling vapors towns and cities have arisen along its shining course. It has been the missionary of civilization and the apostle of prosperity. Forbid it, wise men and true; forbid it, Representatives of the people, that it should ever be prostituted to become the giant juggernaut of monopoly to crush the liberties, the hopes, and the happiness of our people; to ruthlessly fell the poor man's home and herald its approach with the wailing of its victims; to drag in its wake myriads of honest toilers like chained captives to the triumphant chariots of Roman victors.

Speed it on its way, but let it scatter blessings, instead of blight; let it minister to the wants and happiness of the people, instead of proving destructive to their liberties and their prosperity.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. MCCOOK, its Secretary, announced that the Senate had passed without amendment a bill and joint resolution of the following titles:

A bill (H. R. 7428) to authorize the Hillsborough National Bank to change its name to that of the First National Bank of Hillsborough, Ohio; and

Joint resolution (H. Res. 289) authorizing the Superintendent of the Census to continue the work on the Tenth Census.

The message also announced that the Senate had passed a bill of the following title; in which the concurrence of the House was requested:

A bill (S. 2375) to authorize the increase of the capital stock of the Commercial National Bank of Chicago.

INTERSTATE COMMERCE.

The House resumed the consideration of the bill (H. R. 5461) to establish a board of commissioners of interstate commerce, and to regulate such commerce.

Mr. HEPBURN addressed the House. [See Appendix.]

Mr. WOOD obtained the floor.

Mr. REAGAN. I ask the gentleman from Indiana to yield to me for one moment so I may offer an amendment to be considered as pending to the bill of the committee.

The Clerk read as follows:

Amend the bill of the committee by striking out all after the seventh section.

Mr. REAGAN. Now I wish to ask the members of the committee and others interested whether we can have an understanding as to the closing of this general debate. To-morrow the gentleman from Missouri [Mr. CLARDY], a member of the committee, wants thirty minutes. I wish then to close debate by calling the previous question on the two amendments which have been suggested. The result will be to give us one of the bills, which then can be considered for amendment under the five-minute rule. If the substitute is adopted, that will be under the five-minute rule for amendment; and if the committee's bill is sustained, that will be under the five-minute rule for amendment. What I wish is to get some understanding when we shall get to the five-minute debate and to the disposal of this matter at an early day.

Mr. O'NEILL, of Pennsylvania. That will not preclude any one from offering amendments. Now the committee, when it presented its bill through the chairman, had an understanding it should be open to amendment in the House.

The SPEAKER. According to the rule and practice of the House the bill reported by the committee is first to be perfected by amendment and then the substitute before the vote is taken between the two. But of course there can be an understanding on the part of the House that a test vote shall be taken between the two opposing propositions, and that the one sustained by the vote of the House shall be considered under the five-minute rule.

Mr. REAGAN. It was from my knowledge that such was the practice of the House I have ventured to make the suggestion.

Mr. O'NEILL, of Pennsylvania. I do not know that it is necessary, but I wish to say that at some stage of the proceedings, if I can get the floor, I desire to make the motion to recommit the bill so that it may be improved.

The SPEAKER. That motion will be in order.

Mr. O'NEILL, of Pennsylvania. I wish to recommit the bill so that it can go back to the committee and be brought again into the House improved in many provisions.

The SPEAKER. The gentleman can not be deprived of his right to recommit the bill.

Mr. PETERS. I rise to make a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. PETERS. I wish to ask whether, after the previous question is ordered, any amendments could be offered to the bill other than those which had been presented prior to the demand for the previous question?

The SPEAKER. The gentleman from Texas announced his intention to move the previous question simply upon the two amendments he has offered, leaving the bill thereafter open to amendments.

Mr. PETERS. That will be satisfactory to me.

Mr. O'NEILL, of Pennsylvania. It might as well be stated, so that the House will not misunderstand it, that when this bill was authorized to be reported from the committee full opportunities were to be given to members of the committee to offer amendments in the shape of substitutes or otherwise.

Mr. KEIFER. I understand the gentleman from Texas proposes to move the previous question upon his substitute and another amendment which he has offered.

Mr. REAGAN. Upon the two amendments which I have offered, to call the previous question upon them and for the purpose of determining which of the two bills the House prefers, in order that it may go on without unnecessary delay and amend the one which may be selected, instead of two.

Mr. KEIFER. But does not the Speaker state a difficulty that may grow out of this arrangement, that is, that we might be forced to take the substitute?

Mr. REAGAN. I propose that the substitute itself shall be open to amendment.

Mr. KEIFER. Then that had better be clearly understood, and that we are simply voting as a matter of preference between the bill and the substitute; and after that is done leave it so that the one which is selected shall be considered in Committee of the Whole under the five-minute rule.

Mr. REAGAN. That is my suggestion.

The SPEAKER. The Chair so understands it.

Mr. KEIFER. I do not object, then, to that.

The SPEAKER. Without objection that will be considered as understood.

There was no objection.

Mr. WOOD. Mr. Speaker, railroads have been constructed over the country so rapidly in the few years past, and were so desired by the people in every part, that railroad companies were granted very liberal privileges, and in some cases extensive powers, in statutes and charters. These powers belonged to the government granting them, but they can not be forfeited or repealed, as vested rights have intervened. No industry has developed more than railroad building in the same time, the aggregate capital of which is placed at $6,000,000,000 and the number of miles at 125,000. This vast system is powerful for good to the people and the country, and is equally powerful for abuse and wrong, and we find that human rapacity is as strong in the conduct of railroads as in other kinds of business.

Ordinarily abuses and wrongs between individuals, business firms, or corporations can be remedied and redressed in the local courts, or if there is no existing remedy the Legislature may grant one; but here is a business so enormous as to span the continent and is penetrating the interior of every State in every direction, bringing along great good to the country, developing the waste and forest, building villages, enlarging towns to cities, and stimulating and starting useful industries among the people. Yet with all these great advantages following come also great abuses and gross wrongs to individuals and business, and necessarily there is no adequate remedy by resort to local authority. I think the General Government should exercise the power, which I believe is not denied now, to remedy the abuses charged to exist. The railroad companies need not fear Federal statutes and penalties as long as they conduct a fair and legitimate business, and a fair remedial statute can not menace capital in an honest undertaking.

The enactment of a fair law to remedy abuses charged can not harm honest railroad business or suppress new enterprises. The law can only affect such railroad corporations as are engaged in systematic wrongdoing, and it will have no force whatever against honest dealing and legitimate business.

It is contended that there is a difference of mind as to what is wrong or abusive in railroad practice and management. There is in all human conduct. The action of the law-making power, consistent with the organic law of the country, is decisive of that question. It is fair to say that no legislative power in this country would declare certain conduct in business a crime without just cause or reason for it.

I would only support a bill up to a law that would remedy abuses in railroad management. I would encourage all their legitimate traffic. Which measure is the better, the committee bill or the Reagan substitute? The main difference in them is, the committee bill provides for a commission while the substitute does not, and the substitute prohibits a greater charge per mile for a short haul than for a long one. I submit these are substantial differences, and I must favor the substitute for the committee bill.

There has been a good deal of declamation about the great benefits of a commission. They are mostly imaginary. Suppose a commission is established under the committee bill. It is to sit in Washington or adjourn to other parts when it deems it necessary. Very well. What is the practice? The shipper is to complain to the commissioners in writing. He lives in my district, nine hundred miles away, and he must send his complaint to Washington; or if he lives in the South or far West he must send his complaint to Washington. Then what? The commissioners investigate. How? Go where the shipper lives and does his business, and take testimony? Or require him to employ an attorney and send his deposition, and possibly hire an attorney in Washington to argue the merits of his case before the commission? After hearing his side then they are to send for the railroad company, perhaps doing business in Kansas, for such information as it has on the subject.

After this is done then the commission may send a copy of its decision to the United States district attorney of the State and one to the railroad company. Then the United States district attorney is to ask an injunction to stop the injustice. Here is litigation begun after waiting for the report of the commissioners. This is elastic. It is an india-rubber performance to stretch out the case in hand until the injured party falls from pure exhaustion. After the district attorney gets the matter before the United States court then real delay begins. Then time is asked for a hearing, trial, and argument; then an appeal to the Supreme Court of the United States, where errors are reviewed all through the case, and possibly the case will be reversed. A great remedy that.

Then see how impracticable the work of this commission. If it is to hear and investigate all grievances of every shipper complaining in the United States, as well as decide the protracted contests over pooling operations, then the work and the field is too large for it altogether, and it could not begin to examine the complaints made. A commission would be a farce. It is what the wrongdoing railroad companies suggest and want this House to pass. Why declare certain acts and practices of railroad companies wrong and a crime and then leave it out to a commission to investigate? Oh, what a farce! Make certain conduct a crime, then deal gently and name a commission to handle it carefully. Yes; by all means have a commission, to let the criminals have a chance before it, and then another chance before a court when the district attorney files his complaint.

I see no reason for allowing these corporations more leniency after the commission of crimes than the humblest citizen after he is indicted and brought before the court to answer at once. Declare certain acts wrong, unlawful, a crime, and then appoint a commission to investigate! Is that your tender policy? If so, it is a gross discrimination against the balance of mankind, who must answer directly to the proper authority for their crimes and misdemeanors. I say if we declare certain conduct of railroad companies a crime, then deal with it as a crime directly, as provided in the substitute. Why leave it to a commission to investigate? It would mean nothing in the end.

This brings me to the question of unjust discriminations. It is well known that certain railroad corporations enter into secret agreements with certain shippers, wherein they pay less rates on through or local freight than is paid by other shippers, and this is true whether there are competing lines of railroad or not. The effect of this preference is to build up one shipper at the expense of others, and thus affecting all the people—the producer, laborer, and shipper. It is safe to say that the preferred shipper does not pay less than reasonable rates; but if he did, then the company could not continue business unless it charged more than a reasonable rate to other shippers in order to make good the loss.

If this be done, then an unjust favoritism is granted, by which he reaps large gains not only at the expense of other shippers who pay his freight charges in the payment of their own unequal charges, but also at the expense of the laborer and producer from whom the preferred shipper buys, whether it be the product of the farm, the factory, mill, or the shop, for the price of all such products is fixed in part by the cost of shipment to a given point. Transportation charges are always considered in establishing the prices of commodities. Then we have the preferred shipper buying flour at $5.50 per barrel, the market price at the place of production, and shipping it to another point, the freight rate on which is 50 cents, regular schedule rate. This makes the barrel of flour worth $6 per barrel at place of delivery.

Now the farmer must pay labor and raise wheat at a price fixed after considering the cost of flour per barrel and cost of shipment to the given point. These fix the price of his bushel of wheat, and the price of his wheat fixes the price he pays for labor. Now if the preferred shipper only pays 25 cents per barrel by a secret contract for shipment to the given point when the regular schedule rate is 50 cents, clearly he derives 25 cents from the wheat-raiser, the laborer, and the flour-maker. It enables him to reap large gains from the laborer and producer in other useful industries for which he gives no equivalent, and it is an injustice that can not be defended. It enables him to continue a prosperous business, while other shippers feeding him all the while are not able to do so well, thereby injuring the growth of competitive industry.

In this instance the railroad company and the preferred shipper are doing a wrong to the producer and to the public by enabling the shipper to obtain money that he has no right to get. It is money obtained by a false pretense to all concerned that he pays the schedule rate, when in truth he does not; but through this secret arrangement he unjustly obtains the money of others without rendering unto them any equivalent. I do not hesitate to say that this conduct ought to be called a crime, and that a just penalty should be fixed for it. I know it is claimed that railroad property is individual and private property and that the owner has a right to use it in a way that best suits him; but that claim is no longer well founded, for the courts have declared railroads public ways so far as commerce and transportation are concerned, and their management in this respect is not only individual but for the best interest and safety of the public.

It is asserted here that rebates are proper and that railroad companies have a right to make them. Why, this is the same thing as the secret agreement in effect. The understanding in such cases is that the shipper shall pay the schedule rate, and upon production of his receipt for payment of it at the main or special office he shall have a certain amount refunded. Why is this done? To deceive other shippers? To deceive the public? It is the same false pretense and favoritism. Transportation charges over public ways is the same thing as a tax on all articles transported. Why tax one man more than another engaged in the same business? It would be no worse for the taxing power in any State to tax one man more than it taxes another, or that the tax-collector should collect the fixed rate of tax on a certain individual's property and afterward refund to him half of it on the ground that he was a big tax-payer and influential citizen. The act is so unfair and unequal as to become unconscionable, and I would make it a crime and declare a penalty.

There are instances of freight carriage that appeal strongly for rebates, and in such cases the law ought to permit the facts to come out fully before the court or jury hearing the case, and if it is found to be fair and reasonable it should be a good defense under the law. I would like to see section 8 of the substitute amended so as to allow the facts to come out, and let the court or jury determine whether they constitute a defense to the case or not.

I come now to the other question of pooling.

Pooling contracts between divers competing lines of railroads are made to cut off all competition in the hauling of freight. It does not benefit the people or the patrons of the roads; it does benefit the railroad companies, because the pooling contract establishes and maintains certain charges wholly fixed by the parties to the pooling contract. It is wholly one-sided in its execution and effect. Shippers and other patrons of the roads are not consulted at all; their interest is not considered in these contracts. The producer has no voice in making the pooling contract. It does prevent honest competition in freight hauling. I know it is claimed that competing lines can not survive without pooling contracts, that is, the strongest line will destroy the others, but that the pooling contract protects all the lines.

I think it does protect all the lines from reasonable competition, but I deny that competition would destroy any rival line of railroad. It would have the effect to reduce freights to reasonable rates, and it can not be presumed that any competing line of railroad would mark down freight charges below the reasonable limit to destroy adversary lines, as no profit could result from such methods to any line of road. I see no reason why the people, the shipper, and other patrons of railroads should be deprived of the benefits of honorable competition in railroad freights by pooling and combinations. One of the blessings of every trade is competition. Anything done to prevent competition establishes monopoly, and with it comes the cast-iron grip upon the earnings of honest industry. Pooling is a combination of railroad corporations to equally get the most from the farmer, the mechanic, the laborer. It is an agreement not to injure the chances of one another to get unjust money from all other people.

Why talk here persuasively and softly of this wrong? Are you afraid these railroad companies will take revenge upon you for combating their wrongs upon the public? Are you afraid of these corporations? They are in the hands of the people of this country, and their wrongs ought to be remedied by law just the same as other wrongs are remedied. Talk to me about turning on light to wipe out rascality and wrong! Why, since the Christian era light has been turned on every phase of wrong known to human annals, and is it wiped out by the extra light? Not at all. You may turn light on murder, rapine, and arson until the whole world knows how it is done, and they will not abate one jot or tittle. What does the evil spirit care for the light of exposure? That is no punishment and no preventive at all. Positive law, with penalties, is the only remedy.

It is urged in this discussion that it is right to charge more for a

short haul of freight on same line of road than for a long haul. Well, that is elasticity indeed.

Is it right, is it fair, is it honest to charge the same amount for hauling freight fifty miles as for three hundred miles? The haul of fifty miles is only one-sixth of the cost of steam, wear and tear, and time for the 300 miles. Why do they do this? Oh, they say there is river or lake competition in the long haul and none in the short haul. Ah! is that it? Then where there is competition they must come down to what? Destructive rates? Not at all. What then? Down to what the carriage of goods or produce can be done for. They say that is a loss to them. Who knows? Where is the proof? I want no bald assertions.

It is known that railroads have destroyed good river traffic and canal traffic. What destroyed the Wabash and Erie Canal? The railroads. Here the water traffic could not be done as cheaply as it could be done on the railroads. Greater speed and convenience of handling freight is on the side of the railroads. Take the statement as true that long hauls must be made at less figures than short ones, still is it right? If competition makes the long haul unprofitable, which is never true, is it right to double up the rate on the short haul where there is no competition? Is it right to overload the people and shippers of intermediate points on the road with high charges to make up the loss on long hauls of which other people and other shippers get the benefit?

Is that the beneficent system of railroading? Carry out the parallel, and, if necessary, the long haul must be made for nominal rates; but we will make the people in the back towns smart for it. They have no competing roads, and we will just make them sweat under the doubled-up rates in order that we may make big profits in railroading, though we will haul through freight for nominal rates. Do you call this system beneficent? Do you call it right? I do not. It is a wrong that the people will not much longer endure.

It is contended that every time a railroad runs through a hill, over a mountain, or across a stream, that the local shippers must pay rates in proportion to the extra cost of the road by reason of these contingencies, while the through shipper shall go free of charge for these causes. Well, that is real elasticity indeed. That is called masterly. It certainly is ridiculous, to say the least of it. Does not the through shipper get the benefit of the whole road, with all the hills it cuts, with all the mountains it tunnels, and with all the streams it crosses? Is he not benefited when he ships over the entire road the same as the shipper over part of it? Certainly he is. Then why charge him half what you charge the local shipper? The answer is only because it can be done without regard to justice, right, or reason. It is a matter of pure force and not of right. It is the old saying, that might makes right. I have no prejudice against railroads or their legitimate business; I am for them; but I say to them, do right with all people and there will be no complaint. [Applause.]

Mr. REAGAN. Before any other gentleman proceeds to address the House I desire there should be an understanding about what was agreed upon some time ago. I supposed I had got unanimous consent to proceed with the further consideration of this bill to-morrow. I have been told by some gentlemen that that was not understood. I desire now to know whether I had unanimous consent to go on in the morning.

The SPEAKER. The Chair did not state to the House that part of the request which the gentleman from Texas says he submitted and which the Chair failed to hear, a request for unanimous consent to proceed with the consideration of this bill to-morrow. Is there objection?

Mr. McMILLIN. I dislike to appear to antagonize in any way this bill, the importance of which I fully realize, by insisting on the Private Calendar to-morrow. But I think we should proceed to-morrow to the consideration of the Private Calendar. If thus early in the session we can not reach that Calendar there is no hope of reaching it at all. My friend from Indiana [Mr. HOLMAN] suggests that I should not insist on the consideration of the Private Calendar to-morrow if it placed this bill in jeopardy. But the bill can be completed on Saturday, while we can not go on with the Private Calendar on Saturday. I am as much for the consideration of this bill as any one, but I think it can be disposed of this week without interfering with the consideration of the Private Calendar.

The SPEAKER. Does the gentleman from Tennessee object?

Mr. McMILLIN. I shall have to object, Mr. Speaker.

Mr. REAGAN. Then I ask that the understanding heretofore come to as for to-morrow shall be the understanding for to-morrow or the first day the matter shall be considered, if that day be Saturday.

The SPEAKER. The Chair understands the request made by the gentleman from Texas, except that part in relation to the consideration of the bill to-morrow, has already been agreed to by the House.

Mr. REAGAN. I want it understood it is agreed that after voting on these amendments we proceed under the five-minute rule to consider that one of these bills which shall have the preference.

The SPEAKER. That was part of the understanding.

Mr. O'NEILL, of Pennsylvania. That is the understanding of what shall be done when the bill next comes up.

Mr. REAGAN. If no one desires to continue the debate this evening I shall move that the House do now adjourn.

NEW YORK CANALS.

Pending the question on the motion to adjourn,

Mr. HISCOCK, by unanimous consent, introduced a joint resolution (H. Res. 298) to appoint a committee to investigate the capacity of the canals of the State of New York, and for other purposes; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

Mr. HISCOCK. I ask that the joint resolution be printed in the RECORD.

There was no objection. The joint resolution is as follows:

Be it resolved, &c., That a joint committee of eight members of the next Congress be appointed, to consist of five Representatives, to be appointed by the Speaker of this House, and three Senators, to be appointed by the President of the Senate.

Said committee shall confer with a committee of like power appointed by the Legislature of the State of New York and with the Governor and other State officers of said State, in regard to the maintenance of the canals thereof, and ascertain if said canals are sufficient for the requirements of interstate commerce or if they should be enlarged, and the cost of such enlargement.

And said committee shall ascertain upon what terms and conditions the United States can acquire the title to and jurisdiction of said canals, or of any of them.

Said committee is authorized to appoint one of its members chairman, and may hold its meetings at such times and places as it may appoint in the State of New York or the city of Washington, and to take testimony, and employ a clerk, who shall be a stenographer. The expenses of said committee shall be paid from the contingent funds of the two Houses of Congress, to be disbursed therefrom upon the order of the chairman of the committee and of two other members, one of whom shall be a Representative and the other a Senator; and said committee shall report in writing to the next Congress.

ADDITIONAL COMMITTEE CLERK.

Mr. WARNER, of Ohio, by unanimous consent, submitted a resolution authorizing the Select Committee on the Payment of Pensions, Bounty, and Back Pay to employ an additional clerk; which was referred to the Committee on Accounts.

FEES OF PENSION CLAIM AGENTS.

Mr. WARNER, of Ohio. I also submit a resolution directing the Secretary of the Interior to furnish certain information relating to fees of claim agents in pension cases. This is a report from the Select Committee on the Payment of Pensions, Bounty, and Back Pay, and I ask for its immediate consideration.

The resolution was read, as follows:

Resolved, That the Secretary of the Interior be directed to report to the House the number of contracts providing for the payment of fees of $25 in pension cases to claim agents under the act approved July 4, 1884, which have been filed in the Pension Office, and whether any of such contracts cover claims on file prior to the passage of said act; and also how many, if any, of such claims for fees have been allowed and paid, and if any fees so paid are for claims so filed prior to the passage of said act.

The SPEAKER. Is there objection to the present consideration of this resolution?

Mr. KEIFER. That, I think, would take so much time that it would be necessary to provide a new corps of clerks.

Mr. WARNER, of Ohio, I am assured that this information can be very easily furnished.

Mr. KEIFER. I will not object.

The resolution was adopted.

Mr. WARNER, of Ohio, moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MOSES M. BANE.

Mr. MORRISON, by unanimous consent, introduced a bill (H. R. 7677) to reimburse Moses M. Bane, receiver of public moneys at Salt Lake City, for rent paid by him; which was read a first and second time, referred to the Committee on Claims, and ordered to be printed.

INTERNATIONAL POLAR EXPEDITION.

Mr. THOMAS. I ask unanimous consent to submit for present consideration the resolution which I send to the desk.

The Clerk read as follows:

Resolved, That the Secretary of War be requested to transmit to the House of Representatives, if not inconsistent with the public service, the report of the international polar expedition to Point Barrow, Alaska, by Lieut. D. H. Ray, United States Army, for the years 1881, 1882, and 1883.

Mr. KEIFER. I desire to reserve the right to object until we learn the reason for offering this resolution.

Mr. THOMAS. I will make a very brief statement. There were two expeditions organized at the same time, the Greely and the Ray expeditions, one to go up on the Atlantic side and the other on the Pacific. Lieutenant Ray, having charge of the Pacific expedition, discharged his duties, remaining in the Polar region at Point Barrow, the most northern point of Alaska, for two years, made the most accurate and exhaustive examination and observations, returned with all his men in good shape, and has prepared the most magnificent report of his observations in that section of the world. Under the law the Secretary of War has no authority to have this document printed; and we desire to call for it, simply for the purpose of bringing it to this House that it may be printed for the use of members and of the scientific world.

Mr. McMILLIN. Is this resolution reported by a committee?

Mr. THOMAS. It is not; it does not require any report.

Mr. McMILLIN. Let it be considered by a committee.

Mr. THOMAS. It is all right. The report is all ready to be transmitted here as soon as it may be called for. I hope the objection will be withdrawn.

The SPEAKER. Is there objection to the resolution?

Mr. McMILLIN. My judgment is that this matter ought to be considered by a committee. I have no objection to the introduction of the resolution for that purpose. If it is right the committee can soon report.

Mr. THOMAS. The report is all ready to be transmitted. The adoption of the resolution involves no expense at all. I hope no objection will be made.

The SPEAKER. Unless the objection be withdrawn the resolution will have to go to a committee.

Mr. McMILLIN. Do I understand that this report has already been printed?

Mr. THOMAS. It is all ready to be transmitted to the House. The adoption of this resolution will involve no expense at all.

Mr. McMILLIN. Is it not proposed to have the report printed by this House?

Mr. THOMAS. That is a matter to be determined hereafter when the report comes in—not now.

Mr. McMILLIN. If the object is simply to get the report before the House I have no objection to the resolution.

There being no objection, the resolution was considered and adopted.

Mr. THOMAS moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

EDWARD S. KEARNEY.

Mr. GEORGE, by unanimous consent, introduced a bill (H. R. 7678) for the relief of Edward S. Kearney; which was read a first and second time, referred to the Committee on Expenditures in the Department of Justice, and ordered to be printed.

NATIONAL AID TO EDUCATION.

Mr. LONG, by unanimous consent, presented the following resolution; which was referred to the Committee on Education, and ordered to be printed in the RECORD:

BOSTON, *December* 6, 1884.

DEAR SIR: At a convention of superintendents of public schools held at Boston, November 21, 1884, it was voted that the president forward to each member of Congress from this Commonwealth the following resolution adopted by the convention:

"*Resolved*, That it is the sense of this convention of superintendents that the Senate bill for national aid to education should become law by action of the present Congress."

Very respectfully, yours,

E. C. CARRIGAN, *President.*

To Hon. JOHN D. LONG, *Washington.*

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, announced that the Senate had passed a joint resolution (S. R. 101) in relation to the ceremonies to be authorized upon the completion of the Washington Monument, in which the concurrence of the House was requested.

LABORERS IN CLERK'S DOCUMENT-ROOM.

Mr. HOLMAN. I am requested to submit, for reference to the Committee on Accounts, the resolution which I send to the desk.

The Clerk read as follows:

Resolved by the House of Representatives, That the Clerk of the House be empowered, and is hereby authorized, to continue in the service of the House the two laborers in the Clerk's document-room authorized under resolution of June 13, 1884, to arrange, sack, and ship the reserved calf-bound and special-bound documents belonging to members and to arrange the files; the said laborers to be paid out of the contingent fund of the House at the same rate heretofore named, under the supervision of the Committee on Accounts.

There being no objection, the resolution was referred to the Committee on Accounts.

PRINTING OF EXECUTIVE DOCUMENTS.

The SPEAKER. The Chair asks that an order be made for the printing of certain executive documents heretofore referred to the Committee on Appropriations without any order to print.

There being no objection, the following executive communications heretofore laid before the House and referred to the Committee on Appropriations were severally ordered to be printed:

A letter from the Secretary of the Treasury, transmitting supplementary estimates of the Interior Department for appropriations for the Indian service for the fiscal year ending June 30, 1886;

A letter from the Secretary of the Treasury, transmitting a communication from the Comptroller of the Currency correcting his former estimates for expenses of the national currency, and submitting an additional estimate of $110,000 for the expense of engraving, printing, and furnishing national-bank notes, for the fiscal year ending June 30, 1886;

A letter from the Acting Secretary of the Treasury, asking an immediate appropriation for the removal and storage of material at the Government Printing Office, as provided for by joint resolution of February 6, 1883;

A letter from the Acting Secretary of the Treasury, transmitting a letter from the First Comptroller of the Treasury, with inclosures, relating to estimate of appropriation for printing revised laws of Wyoming Territory; and

A letter from the Acting Secretary of the Treasury, transmitting an estimate from the Secretary of the Navy of the appropriation required to pay owners of the steamer Druid for damages sustained by collision with United States steamer Powhatan.

The SPEAKER. If there be no objection the Chair will lay before the House certain executive communications.

There was no objection.

POSTMASTERS' CLAIMS FOR LOSSES BY FIRE, ETC.

The SPEAKER laid before the House a letter from the Acting Postmaster-General, transmitting, as requested by act of March 17, 1882, lists of claims allowed and disallowed for losses by postmasters from fire, burglary, and other casualties; which was referred to the Committee on Appropriations, and ordered to be printed.

FORBES'S HISTORICAL ART COLLECTION.

The SPEAKER laid before the House the following communication; which was referred to the Committee on the Library:

NEW YORK, *June* 17, 1884.

DEAR SIR: I have the honor to transmit the following extract from the proceedings of the meeting of the Army of the Potomac, held in Brooklyn, N. Y., June 11 and 12:

"*Resolved*, That this society earnestly recommend the passage of the bill now pending in Congress providing for the purchase by the Government and preservation in the Government archives of the extensive and comprehensive series of sketches and etchings of the battles and campaigns of the Army of the Potomac, known as the Forbes Historical Art Collection; and that a copy of this resolution, duly certified by our president and secretary, be transmitted to the Senate and to the House of Representatives."

Respectfully, your obedient servants,

U. S. GRANT,
President of the Army of the Potomac.
HORATIO C. KING,
Secretary of the Army of the Potomac.

Hon. JOHN G. CARLISLE,
Speaker House of Representatives.

FIRST NATIONAL BANK OF OMAHA, NEBR.

On motion of Mr. WEAVER, by unanimous consent, the bill (S. 2348) to authorize the increase of the capital stock of the First National Bank of Omaha, Nebr., was taken from the Speaker's table and read a first and second time.

The bill was read, as follows:

Be it enacted, &c., That the First National Bank of Omaha, in the State of Nebraska, is hereby authorized to increase its capital stock, in accordance with existing laws, to any sum not exceeding $2,000,000, notwithstanding the limit heretofore in its original articles of association, and determined by the Comptroller of the Currency; and the Comptroller of the Currency is hereby authorized to fix the limit of increase of the capital stock of the First National Bank of Omaha, Nebr., at the amount of $2,000,000.

The bill was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. WEAVER moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

HELL GATE.

Mr. WILLIS, by unanimous consent, submitted the following resolution; which was referred to the Committee on Rivers and Harbors:

Resolved, That the Secretary of War be directed to inform this House whether the amount appropriated by the act of July 5, 1884, for Hell Gate, New York, has been diverted from the purpose therein set forth.

And then, on motion of Mr. REAGAN (at 4 o'clock and 20 minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions and papers were laid on the Clerk's desk, under the rule, and referred as follows:

By Mr. ALEXANDER: Petition of citizens of Carroll County, Missouri; also of citizens of Sullivan County, Missouri, for the passage of a Mexican war pension bill and amendments—severally to the Committee on Pensions.

By Mr. BARBOUR: Papers relating to the claim of Thomas McCardell—to the Committee on Claims.

By Mr. BLANCHARD: Petition relating to the claim of J. A. Lampite—to the Committee on War Claims.

By Mr. BRAINARD: Petition of citizens of Erie County, Pennsylvania, for the passage of the Mexican war pension bill—to the Committee on Pensions.

Also, petition of citizens of Venango County, Pennsylvania, for the enactment of a law taxing incomes—to the Committee on the Judiciary.

By Mr. CANNON: Petition of John S. Vesey and others; also of M. F. Davis and others, of Paris, Ill., asking for the passage of the Mexican war pension bill and amendments—severally to the Committee on Pensions.

By Mr. CASSIDY: Petition of Albert Arenta, mechanical engineer, relative to the metric system of weights and measures—to the Committee on Coinage, Weights, and Measures.

By Mr. COLLINS: Petition of Elizur Wright and others, citizens of Massachusetts, for repeal of the act of July 12, 1876, known as the Comstock law—to the Committee on the Judiciary.

By Mr. W. W. CULBERTSON: Papers relating to the pension claim of Sarah T. Duke—to the Committee on Invalid Pensions.

By Mr. G. R. DAVIS: Petition of ex-soldiers of the war, for the passage of the Mexican war pension bill as amended—to the Committee on Pensions.

By Mr. DIBRELL: Papers relating to the claim of James W. Roulston—to the Committee on War Claims.

By Mr. DUNHAM: Petition of tug and vessel owners of Chicago, favorable to House bill No. 7591—to the Committee on Commerce.

By Mr. HILL: Petition of D. G. Britson and 100 others, citizens of Willshire, Ohio, for the passage of the Mexican war pension bill and amendments—to the Committee on Pensions.

By Mr. HOPKINS: Petition of 500 citizens of Massachusetts; also, of 500 citizens of Massachusetts; also, of 125 citizens of Massachusetts, for the passage of the resolution introduced by Mr. HOPKINS relative to the transportation of cattle—severally to the Committee on Agriculture.

By Mr. B. W. JONES: Papers relating to the pension claim of William N. Wiggins—to the Committee on Invalid Pensions.

By Mr. LORE: Petition of Joseph E. Vantine and 34 others, citizens of Delaware, for the passage of the Mexican war pension bill and amendments—to the Committee on Pensions.

By Mr. MAYBURY: Petition of citizens of Detroit, Mich., relative to the metric system of weights and measures—to the Committee on Coinage, Weights, and Measures.

By Mr. O'HARA: Papers relating to the claim of Furney Mercer—to the Committee on War Claims.

By Mr. T. G. SKINNER: Papers relating to the claim of K. R. Pendleton; also, papers relating to the claim of Elisha Colbert—severally to the same committee.

By Mr. H. Y. SMITH: Petition of citizens of Adair County, Iowa, for the passage of the Mexican war pension bill and amendments—to the Committee on Pensions.

By Mr. STOCKSLAGER: Petitions of citizens of Medora, Ind.; also of citizens of Seymour, Ind., for the passage of the Mexican war pension bill and amendments—to the same committee.

By Mr. VANCE: Papers relating to the claim of Andrew J. Lafter—to the Committee on Claims.

By Mr. WARD: Petition of Henry C. Applegate and 33 others, for the relief of John Osborn—to the same committee.

Also, two petitions of citizens of Indiana, for the passage of the Mexican war pension bill and amendments—severally to the Committee on Pensions.

By Mr. WEAVER: Petition of 125 citizens of Nebraska; also, of 83 citizens of Nebraska, asking for the passage of the Mexican war pension bill and amendments—severally to the same committee.

By Mr. E. B. WINANS: Petition of Jacob S. Smith, Abram Frick, and other citizens of Otisville, Mich.; also, of Silas T. Fern, Luman Beebe, and 100 other citizens of Oxford, Mich., for the passage of the Mexican war pension bill and amendments—severally to the same committee.

By Mr. YAPLE: Petition of A. Vanderheyden, and 130 others, citizens of Three Rivers, Mich.; of David Bacon and 69 others, and of William H. Smith and 118 others, citizens of Niles, Mich.; also, resolutions of George H. Thomas Post, No. 14, Grand Army of the Republic, Department of Michigan, for the passage of the Mexican war pension bill and amendments—severally to the same committee.

The following petitions, praying for the passage of the Mexican war pension bill with Senate amendments, were presented and severally referred to the Committee on Pensions:

By Mr. BEACH: Of citizens of Amity, Orange County, New York; of Rockland County, New York; of Cornwall and Newburg, N. Y.

By Mr. BOUTELLE: Of Isaiah N. Merritt and 60 others, of Addison, Me.

By Mr. W. W. BROWN: Of 62 citizens and soldiers of Kane, McKean County, Pennsylvania; of 61 citizens and soldiers of Potter County, Pennsylvania; of 91 citizens and soldiers of the same place; and of 102 citizens and soldiers of McKean County, Pennsylvania.

By Mr. J. M. CAMPBELL: Of citizens of Somerset, Pa.

By Mr. CARLETON: Of citizens of Peck and New Baltimore, Mich.

By Mr. DINGLEY: Of E. D. Heald and 50 others, of Buckfield, Me., and of P. P. Getchell and 200 others, of Lewiston, Me.

By Mr. EATON: Of John Girard and others, of New Britain, Conn.

By Mr. GREENLEAF: Of citizens of Medina, N. Y., and of Medina, Rochester, &c., N. Y.

By Mr. HART: Of John Landon and 125 others, Union soldiers of Ohio.

By Mr. HATCH: Of citizens of Knox and Scotland Counties, Missouri.

By Mr. HAYNES: Of Samuel Walker and 54 others, of Suncook, N. H., and of Charles A. Barrett and 161 others.

By Mr. HOLMAN: Of Julius C. Burgoyne and 64 Union soldiers and citizens of Franklin County, Indiana.

By Mr. HISCOCK: Of citizens of Virgil and other places in New York.

By Mr. HITT: Of 63 soldiers and citizens of East Dubuque.

By Mr. B. W. JONES: Of citizens of Wisconsin.

By Mr. JORDAN: Of citizens of Cadiz, Ohio.

By Mr. KEIFER: Of E. Sherrett and 139 others, soldiers of the late war.

By Mr. LACEY: Of M. D. Reed and 246 citizens of Barry County, Michigan.

By Mr. LAWRENCE: Of citizens of Beaver County, Pennsylvania.

By Mr. MORRISON: Of citizens of Du Bois, and of 70 citizens of Ashley, Ill.

By Mr. MOULTON: Of 500 citizens of Illinois, and 500 citizens of Nilwood, Ill.

By Mr. MUTCHLER: Of citizens of Bucks County, Pennsylvania.

By Mr. NUTTING: Of citizens of Cazenovia, N. Y.

By Mr. POLAND: Of William A. Chamberlain and others, of Stockbridge, Vt., and of F. H. Atherton and 300 others, of Waterbury, Vt.

By Mr. PARKER: Of citizens of Saint Lawrence County, New York.

By Mr. PAIGE: Of George L. Boult and others, of Medina, Ohio, and of Thomas F. Wright and others, of Cleveland, Ohio.

By Mr. PHELPS: Of citizens of Passaic County, New Jersey.

By Mr. NELSON: Of citizens of Melrose and Utica, Minn.

By Mr. REED: Of citizens of Maine.

By Mr. RIGGS: Of A. C. Morris and others; of William Elick and others; of William F. Connor and others; of J. C. Weiser and others; of E. L. H. Barry and others, and of S. H. Lambert and others.

By Mr. W. F. ROGERS: Of citizens of Springville, Erie County, New York.

By Mr. SENEY: Of James Berrington and 100 others, of Crawford County; of B. A. Thomas and 84 others, of Rushville; of George S. Meyer and 31 others, of Wyandot County; and of W. P. Wilson and 120 others, of Hancock County, all in Ohio.

By Mr. C. R. SKINNER: Of 85 citizens of Black River, N. Y.

By Mr. A. HERR SMITH: Of citizens of city and county of Lancaster, Pennsylvania.

By Mr. STEELE: Of Nathan Erhman and 50 others, of Adams County, Indiana; of John Coughlin and 100 others, of La Gro, Ind.; of John W. Miller and 75 others, of Dunkirk, Ind.; of F. N. Kellogg and 90 others, of Bluffton, Ind.; of Thomas E. Ream and 50 others, of Peru, Ind.; and of Alfred O. Briggs and 60 others, of Monroeville, Ind.

By Mr. STRUBLE: Of Charles Isbell and 18 others, of Sioux Rapids, Iowa.

By Mr. WILKINS: Of Franklin Myers and 42 others, of Licking County, Ohio.

By Mr. W. L. WILSON: Of B. J. Davis and 61 others, citizens of West Virginia.

By Mr. VANCE: Of sundry citizens of Macon County, North Carolina.

HOUSE OF REPRESENTATIVES.

FRIDAY, *December* 12, 1884.

The House met at 12 o'clock m. Prayer by the Chaplain, Rev. JOHN S. LINDSAY, D. D.

The Journal of the proceedings of yesterday was read and approved.

NEW ORLEANS EXPOSITION.

Mr. ELLIS. Mr. Speaker, I ask unanimous consent to offer for present consideration the concurrent resolution which I send to the Clerk's desk to be read:

The Clerk read as follows:

Whereas the Congress of the United States has been formally invited to attend the opening ceremonies of the World's Industrial and Cotton Centennial Exposition to be inaugurated at New Orleans on Tuesday, December 16, 1884; and

Whereas the exigencies of the public service prevent their attendance on said day; and

Whereas the President of the United States has decided to open said exposition by telegraph and to start the machinery thereof by electricity from the Executive Mansion in the presence of his Cabinet and the representatives of foreign powers; and

Whereas the Congress of the United States entertains for said exposition the best wishes and desires to lend to its success its countenance and good-will: Now, therefore,

Resolved by the House of Representatives (the Senate concurring herein), That the President of the Senate, together with a committee of thirteen Senators, to be appointed by him, and the Speaker of the House, together with one Representative or Delegate from each State and Territory of the Union, to be selected by him, be requested to attend at the Executive Mansion on Tuesday, the 16th instant, at 12.30 p. m., to witness on behalf of the Congress of the United States the opening of said exposition by the President, and to adopt and forward thereto such address of congratulation as may seem appropriate to the occasion.

The SPEAKER. Is there objection to the present consideration of the concurrent resolution?

There was no objection.

Mr. ELLIS. I move its adoption.

The resolution was adopted.

Mr. ELLIS moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PRIVILEGED QUESTION.

Mr. WARNER, of Ohio. I rise to a privileged question. I am directed by the Committee on the Payment of Pensions, Bounty, and Back Pay to call the attention of the House to some matters which appear in the CONGRESSIONAL RECORD. The matter referred to is contained in the Appendix to the RECORD, page 494, volume 15, part 6, but which appeared first in the issue of the RECORD bearing date August 1, the last session having ended on the 7th of July. In order to bring the matter directly before the House I send to the Clerk's desk to be read the following preamble and resolution.

The Clerk read as follows:

Whereas Hon. JOSEPH D. TAYLOR, of Ohio, on the 5th day of July, 1884—the House being in session, and having under consideration the Mexican pension bill with Senate amendments—having obtained the floor, occupied the time of the House for six minutes in remarks upon said bill; and

Whereas on the 7th day of July said JOSEPH D. TAYLOR obtained leave to extend his remarks in the RECORD; and

Whereas instead of extending his remarks under said leave, said JOSEPH D. TAYLOR did, after the adjournment of Congress, have printed in a copy of the RECORD, bearing date of issue August 1, 1884, a written speech, or paper, not embracing his remarks in the House, but containing sentences and paragraphs reflecting upon members of the House in their representative capacity, upon committees of the House, and upon the House itself, and referring to and reporting, or purporting to report, the action of, and occurrences in, one of the committees of the Senate—all in violation of the implied obligation in his leave to extend his remarks in the RECORD, and in violation of the privileges and rules of the House: Therefore,

Be it resolved, That the parts of said speech reflecting upon members of the House, or of any committee of the House, or on the House itself, or relating to what took place in any committee of the Senate, are unparliamentary and an abuse of the privileges of the House and of his leave to print, and are hereby declared not to be a legitimate part of the official debates of the House.

The parts of said speech more especially referred to are as follows (see page 494, Appendix to CONGRESSIONAL RECORD, volume 15, part 6):

"We are asked why these amendments are not presented in a separate bill, when this House knows very well that numerous bills embracing every line of these amendments have been introduced, and were introduced at the opening of the session, and seven months have elapsed, and yet these bills in which the soldiers of this country, and in which the patriotic people of this country are deeply interested have been suppressed."

Again, same page:

"These bills have been throttled and a hearing denied. Democratic committees do not deign to consider such bills, nor do they dare to report against them."

Also, on page 495, referring to members collectively:

"There are people who would do well to talk less and think more. There is a great deal of ignorance among gentlemen who would like to be called statesmen in regard to the policy and organism of our Government."

On the same page is the following reference to a Senate committee and the action of the Senate:

"The Committee on Pensions in the Senate was composed of nine Senators, five of whom were Republicans and four were Democrats. For a long time Senator SABIN, of Minnesota, was absent, and this left the Pension Committee four and four. The RECORD will show the absence of Senator SABIN, and the further facts that during his absence pension bills were reported adversely by the Democratic subcommittees, and that no progress was made in passing pension bills. This hitch in pension legislation was removed by the resignation of Senator SABIN, who was still absent, and the appointment of Senator WILSON, of Iowa, in his place on the Pension Committee, since which time every pension bill that could be reached, including those reported upon adversely by Democratic members, has been passed by the Senate. The Senate has not only passed these bills, but it spent several weeks in maturing the bill now before this House, which provides not only for Union soldiers, their widows and orphans, but for Mexican soldiers and their dependents as well."

On the same page is the following arraignment of a committee of the House:

"He is the chairman of the Select Committee on Payment of Pensions, Bounty, and Back Pay, to which was referred the most important legislation of this session touching the soldiers and their dependents; and I regret to say that this committee has proved the graveyard of all this important legislation. It never reported but one bill, and this was so objectionable to soldiers that the Senate gave it no consideration.

"Early in the session I introduced a bill granting arrears of pensions, which went to this committee. Governor HART's bill granting pensions to all soldiers who had rendered a certain amount of service and who had arrived at a certain age, and scores of others of like character, were sent to this committee for consideration; but they have all slept the sleep that knows no waking. It seems to have been determined from the opening of this session to this hour that no bill in the interest of the Union soldiers should become a law, and that this end should be accomplished not by open and frank opposition, but by stealth and cowardice."

And on page 496 is the following denunciation of the House itself:

"While I denounce the attitude of this House toward these measures as an outrage upon justice"—

Mr. WARNER, of Ohio. I ask now to send to the Clerk's desk and have read——

Mr. BROWNE, of Indiana. I rise to a question of order, or rather to a parliamentary inquiry. Is this a question of privilege or is it being offered by unanimous consent?

The SPEAKER. The gentleman from Ohio states that he rises to a question of privilege. Of course the Chair has yet to decide whether it is or not.

Mr. BROWNE, of Indiana. I will hear the further paper read.

Mr. WARNER, of Ohio. It is a question of privilege.

Mr. BROWNE, of Indiana. I will hear the further paper read, reserving the right to raise the question.

The SPEAKER. The Chair will recognize the right of any member to raise the question.

Mr. WARNER, of Ohio. I will send to the Clerk's desk the remarks of the gentleman from Ohio [Mr. JOSEPH D. TAYLOR] made when he had the floor on the 5th of July last, as furnished from the notes of the reporter.

The Clerk read as follows:

Mr. JOSEPH D. TAYLOR. The letter read at the instance of the distinguished gentleman from Kentucky [Mr. BLACKBURN] claims that great injustice is done to the Mexican soldiers in the bill now before the House. As I understand, there is no objection on the part of anybody on the other side of the House because of the favorable quality of the pending bill. I want to say to the other side, and to the distinguished gentleman from Kentucky, that there are two marked differences in this bill between the provisions made for the Mexican soldier and those made for the Union soldier. In the first section of the bill it provides that a Mexican soldier shall receive a pension prior to the time when he becomes 62 years of age, if he had incurred a disability or if he is in a dependent situation. The words are coupled in the alternative.

In either event, in either contingency, the Mexican soldier draws a pension. But when you turn over to the section in regard to the Union soldier, you will find the very reverse is true. You will find the Union soldier must not only have incurred a disability, but he must also be in dependent circumstances. Both of these qualities must exist. The disability must have been incurred, and the dependency must be shown. Either one entitles the Mexican soldier to a pension, while it requires both of these concurrently to entitle a Union soldier to a pension.

That is not all; there is another marked difference. No Union soldier receives a service pension, although the contrary has been stated. When a Mexican soldier arrives at 62 he receives a pension; his name is placed on the pension-roll without either of these conditions being required.

It seems to have been presumed all the way through in this discussion that these Senate amendments provided for the Union soldier a service pension. That is not true; there is no service pension, as I understand it. When, where, and under what circumstances do you find any such provision? There is nothing of the kind, and yet the gentleman from Alabama [Mr. HEWITT] claimed at great length last night that he was opposed to these amendments, because he was opposed to service pensions.

This is true and no more; a soldier who is shown to have incurred a disability receives a pension. And why? Because he shows disability to exist, and this law only presumes—it gives the soldier the benefit of a legal presumption if he has a disability which could have been reasonably incurred in the service, so that he shall not be required to prove what he is now required to prove. This kind of proof is dispensed with. It is high time it was. He is not required to show that he was sound before he entered the service. I have seen pension claims rejected where I have seen the letters in which the claimants were called upon to show by their family physician they were in sound health and free from disease before they entered the service. Another is rejected because he failed to show he was sound at the time of enlistment. The presumption of law elsewhere in the courts is that no soldier is admitted anywhere into the Union Army without careful examination by some representative of the Government, and commonly he is now in all the States of the Union presumed to have done his duty and done it faithfully. That kind of testimony is dispensed with.

Hundreds of soldiers have been denied pensions because they failed to show hospital treatment, when perhaps the surgeon did not have the capacity to get a record, where records have been burned and destroyed. Yet I know hundreds of claims have been rejected because the soldier was not shown to have been in hospital and failed to show hospital treatment. Others failed because they failed to show treatment during the time they were in service, which sometimes becomes impossible. Other claims are rejected because they fail to prove the existence of disease or disability at the time of discharge. So that it is only a waiver of legal presumption, and these are not service pensions at all.

The SPEAKER *pro tempore*. The gentleman's time has expired.

Mr. JOSEPH D. TAYLOR. I ask leave to extend my remarks.

The SPEAKER *pro tempore*. The Chair hears no objection.

Mr. BROWNE, of Indiana. Now, Mr. Speaker, I simply make the point, without stopping to discuss it, this is not a matter of privilege under the ninth rule of the House. It is not such as affects the rights of the House collectively, its safety, dignity, and the integrity of its proceedings; second, the rights, reputation, and conduct of members individually in their representative capacity only.

It contains, as well as I can remember, a historical sketch of the course of national legislation in this House, and relates merely to what may be seen by reference to the RECORD. It animadverts, and I think properly, upon the conduct of the committees in reporting for action bills which have been referred to them by the House. If this is an attack upon the dignity of the House there is not a page of the RECORD which does not contain similar ones, and if the gentleman from Ohio is liable to censure, I think that the rule if applied would subject to like censure almost every gentleman of this body.

The SPEAKER. The gentleman from Indiana will allow the Chair to suggest that that is not the question the Chair is called upon to decide. That matter has passed beyond the province of the Chair. The gentleman from Ohio in this resolution asks for the judgment and action of the House itself as to whether or not this publication in the RECORD is a violation of the rules. The question the Chair has to decide is whether the gentleman has the right as a matter of privilege to ask the judgment of the House on a matter affecting the official record of its debates.

Mr. BROWNE, of Indiana. There is no question, I presume, Mr. Speaker, that the gentleman from Ohio has a perfect right at this time or at any other time to present a question of privilege to the House; but must not the Chair now determine whether the paper as read from the desk presents such a question, and is not my raising the question of order equivalent to a demurrer to the complaint by raising the question of its sufficiency, and upon which the Chair must pass?

The SPEAKER. It seems to the Chair, without deciding the question at this time either one way or the other, that the point made by the gentleman from Indiana has nothing whatever to do with the question of order as to whether or not the statement made by the gentleman from Ohio in the RECORD presents a question of the infraction of the privileges of the House. The question, and the only question, for the Chair to determine is whether it is not sufficient when a member rises in his place on the floor and suggests that certain things have been done in violation of the rules of the House and asks the judgment of the

House upon the statement he makes—whether it is not the duty of the Chair to submit that question to the House for its determination.

Mr. BROWNE, of Indiana. With that ruling of the Chair——

Mr. REED. I will submit to the Chair that it is very necessary, in order to ascertain whether the privileges of the House have been invaded or not by the gentleman from Ohio, to have the whole of the speech of the gentleman from Ohio read.

The SPEAKER. That may be.

Mr. REED. For it would seem as if the speech, a portion of which has been read, should be submitted to the House as a whole, in order that it may judge from the context for itself as to whether a question of privilege is presented. And I suppose the gentleman from Ohio has that in mind. [Laughter.]

Mr. WARNER, of Ohio. I did not understand the remark of the gentleman.

Mr. BROWNE, of Indiana. Mr. Speaker, I do not believe the House is in a condition now to discuss the question of privilege, and I move, therefore, that the whole matter be referred to the Committee on Rules.

The SPEAKER. The gentleman from Indiana may make a motion to refer a resolution to the Committee on Rules, but the Chair will suggest that that could only be done with the assent of the gentleman from Ohio on the right, who still holds the floor. The gentleman from Indiana had an undoubted right to raise the question of order and take the gentleman from Ohio off the floor for that purpose; but the right to do that would not give him the privilege of making a motion in reference to the matter without the consent of the gentleman from Ohio.

Mr. WARNER, of Ohio. I do not consent. I have taken the floor on a question of privilege and I must decline to yield for such a motion.

The SPEAKER. The gentleman from Indiana can submit his motion at a proper time.

Mr. BROWNE, of Indiana. I understand, then, the Chair to rule substantially that the question must be passed on by the House.

The SPEAKER. The Chair thinks so. If the gentleman from Ohio, Mr. TAYLOR, for instance, whose remarks are complained of, was on the floor addressing the House, any gentleman, although he might be speaking in entire accordance with the rules of the House, would have the right to rise to a question of privilege, and make a point of order that his remarks were not in order under the rules of the House, and the gentleman would be required to suspend until the matter had been passed upon by the Chair.

The difference between the two cases is simply this, that now the matter to which reference is made has passed beyond the control of the Chair, because it has gone into the official record of the debates of the House over which the Chair has no control, but over which the House has itself complete control.

The Chair thinks that although the complaint made by the gentleman from Ohio might prove to be entirely without foundation, yet it is his privilege to present the matter to the House, his right to call the attention of the House to it as a matter of privilege; and the Chair must submit the question to the House for its action under all the practice and rulings heretofore.

Mr. KEIFER. This is one point to which I think the attention of the Chair should be called in this connection in order that there may be a ruling upon that also. The gentleman from Ohio, in presenting his resolution in the first place, did not propose to present it as coming from himself, but stated that he was instructed by a committee of the House to present it. I therefore make the point of order that this subject never was before the committee, and consequently could not be presented, under any instructions or directions to its chairman, to the House as coming from the committee. If it is presented at all, it must be presented by the gentleman from Ohio as his own act, he assuming the responsibility for all the frivolousness that may be in it.

The SPEAKER. The Chair did not understand the gentleman from Ohio as having presented this as the report of the committee.

Mr. KEIFER. The gentleman from Ohio so stated. If I am wrong in my understanding he can correct me.

Mr. WARNER, of Ohio. I stated that I was advised by the committee, of which I have the honor to be chairman, to call the attention of this House to the matter. The question was before the committee, and by the unanimous vote of more than a quorum the chairman of the committee was instructed to call the attention of the House to the RECORD.

The SPEAKER. The Chair could not receive it as the report of the committee.

Mr. KEIFER. I thought so.

Mr. WARNER, of Ohio. I submit it, as I have said, in obedience to the instruction of the committee.

Mr. KEIFER. And I make the point of order that in such shape the gentleman can not do it. He must do it on his own personal responsibility, if at all.

Mr. WARNER, of Ohio. I think I am entitled to have all the advice that the committee chooses to give me on the subject.

The SPEAKER. This subject has not been referred to the committee; and the committee, under the rules of the House, has no general jurisdiction of the subject-matter. It can not therefore be received by the House as the report of the committee. Of course the gentleman from Ohio has the right to state the circumstances under which he presents it.

Mr. WARNER, of Ohio. I have already said that it is by the concurrence of the committee that I do present it.

Mr. REED. It seems to me the gentleman from Ohio has no right to present this matter as coming from the committee to which he belongs, nor from himself as acting under the orders of this committee. It must be an individual proceeding or a committee proceeding. If it is a committee proceeding it is out of order. The Chair has decided that if it is an individual proceeding it is in order; and I submit to the Chair that the gentleman from Ohio [Mr. WARNER] must take his stand upon his individuality as a member of the House.

Mr. WARNER, of Ohio. I take all the responsibility that may be necessary. It is no objection that I have also behind me the expression of the committee of which I am chairman.

It will be seen by the notes of the reporter which have been read at the desk that no part of the remarks made on the 5th day of July by the gentleman from Ohio is contained in this speech or purported speech in the RECORD, and that no part of what is now contained in the RECORD was delivered in the House on the 5th day of July, when the gentleman had the floor. The RECORD shows that on the 5th day of July Mr. TAYLOR had three minutes' time and that three minutes more were given him. That appears in the RECORD of July 5, page 6140. The RECORD of July 7, page 6174, contains this entry:

Mr. JOSEPH D. TAYLOR asked and obtained unanimous consent to extend in the RECORD the remarks made by him on the Mexican war pension bill.

Now, Mr. Speaker, I do not complain that Mr. TAYLOR printed a speech in the RECORD, or that he printed what he did not deliver in the House. That is not the question. What I complain of is that after the adjournment of Congress he printed in the RECORD a speech containing charges not true in themselves, arraigning a committee of the House, arraigning members of the House, relating what took place in a committee of the Senate, and arraigning and denouncing the House itself. If those parts of his speech had been delivered in the House they could and most certainly would have been objected to. They would certainly have been contradicted. But not having been delivered, the gentleman going instead to the Printing Office a week after Congress had adjourned and printing in the RECORD what nobody then could question and containing charges against members affecting them in their representative capacity—that is what I complain of; and my committee, Mr. Speaker, is not willing to rest under this charge.

This speech, as it now stands in the RECORD, appears on its face to have been delivered on the 5th day of July in the presence of the House and of that committee without contradiction. I have eliminated, designedly, all reference made to myself personally in the speech referred to, so that the personal element should not be the prominent one or the motive for calling the attention of the House to the speech.

The speech contains also in many other parts things that are not true; but the part that the House is asked to declare not to be a legitimate part of the official debates of the House contains this paragraph:

He is the chairman—

Referring to myself—

of the Select Committee on the Payment of Pensions, Bounty, and Back Pay, to which was referred the most important legislation of this session touching the soldiers and their dependents; and I regret to say that this committee has proved the graveyard of all this important legislation.

Now it is easy enough, and gentlemen on the other side may clap one who does it, to go to the Printing Office after Congress has adjourned and insert such a statement as that in the RECORD. But honorable gentlemen will hardly approve it or claim that it is consistent with the dignity of a member of the House if it be not true.

It—

Referring to the committee—

never reported but one bill, and this was so objectionable that the Senate gave it no consideration.

Now, Mr. Speaker, what are the facts? Besides the one bill which the gentleman referred to, a bill which I had the honor to report, and which passed this House and which is now pending in the Senate, my colleague on the committee, Mr. ROGERS, of Arkansas, reported a bill, which will be found on page 3236 of the RECORD, relating to the fees of claim agents, the substance of which bill was ingrafted on the pension appropriation bill and is now the law. Next, my colleague on the committee, Mr. GREENLEAF, reported a bill, House bill 6930, report No. 1516, containing four sections—one increasing the pensions of widows and minor children, one increasing the pensions of dependent parents, another continuing the pension of a soldier to his widow without requiring proof that he died from disability incurred in the service.

Mr. BROWNE, of Indiana. I rise to a question of order. It is, that the only question before the House is whether or not the paper sent to the desk contains a question of privilege; whether the gentleman from Ohio [Mr. JOSEPH D. TAYLOR], in the speech which he put in the RECORD, has attacked the House in its dignity or some member individually. It does not raise the question of fact as to whether he stated

certain things that were, in the judgment of the House, not in fact so. That is not the question. If we are to make an inquiry into the facts here alleged let them go to a committee and be investigated in a regular way.

The SPEAKER. The Chair thinks the question before the House is whether or not the particular passages in this publication referred to in the resolution are or are not a violation of the privileges of the House. The Chair thinks the question whether or not the gentleman from Ohio [Mr. JOSEPH D. TAYLOR] in his remarks stated the facts correctly or drew conclusions from the facts is not before the House. It is simply the question whether or not the particular passages, as printed in the RECORD and indicated in the resolution, are in violation of the rules and privileges of the House.

Mr. WARNER, of Ohio. And is not the fact whether the thing be true or not a part of the question?

The SPEAKER. The Chair does not understand the gentleman's resolution to refer to any part of the speech of the gentleman from Ohio [Mr. JOSEPH D. TAYLOR] which undertakes to state facts.

Mr. WARNER, of Ohio. My resolution deals with the part proposed to be stricken out; I am simply showing that what the gentleman from Ohio there printed is not true in fact.

Mr. REED. Is that a ground for striking it out of the RECORD?

Mr. BROWNE, of Indiana. That ought to have been alleged with a *scienter*, a declaration that he knew it was untrue. That is the rule in criminal proceedings.

The SPEAKER. The Chair finds upon further examination of the resolution that it contains an extract from the speech of the gentleman from Ohio [Mr. JOSEPH D. TAYLOR], stating that the Committee on the Payment of Pensions, Bounty, and Back-Pay never reported but one bill, and this was so objectionable to the soldiers that the Senate gave it no consideration. Of course it is a question for the House to determine whether this is or is not a violation of its privileges—not a question for the Chair.

Mr. WARNER, of Ohio. I am proceeding to show that that statement is not true, but that the committee reported various public bills——

Mr. BROWNE, of Indiana. The point I make——

Mr. WARNER, of Ohio. And the records of the House show that it is not true.

Mr. BROWNE, of Indiana. Mr. Speaker, it might not be true, and yet be no violation of the privileges of the House.

The SPEAKER. But the Chair is not deciding that anything which has been alleged here was done in violation of the privileges of the House. That is not now a question for the Chair to decide. It is one, on the contrary, which the gentleman from Ohio [Mr. WARNER] asks the House to decide; and he proposes to discuss it, as the Chair understands, and to show the House that it was a violation of its privileges.

Mr. WARNER, of Ohio. The bill referred to, reported by Mr. GREENLEAF, contained also a provision modifying the arrears act and removing the limitation in certain cases. My colleague on the committee Mr. WHITING, as shown by the RECORD, page 2174, reported a general bill for the relief of the Fourth Iowa Regiment. My colleague on the committee, Mr. CONNOLLY, of Pennsylvania, reported two bills, one for the relief of West Virginia troops, in which my friend from West Virginia is interested, and also a bill granting pensions to female nurses who acted as such during the war. There were a number of private bills also reported; and it is furthermore a fact that there were no bills referred by this House to that committee that did not receive attention, that were not assigned to subcommittees, that did not receive consideration before the committee. Two of the bills to which I have referred were bills reported in lieu of various bills referred to that committee.

Another error in the part of the RECORD referred to is the statement that certain gentlemen introduced bills and referred them to that committee, while the RECORD shows that no such bills were ever referred to the committee, but were referred to other committees of the House. Governor HART, of Ohio, was among the number thus mentioned.

Now, Mr. Speaker, I shall not make any comment upon the conduct of the gentleman from Ohio in waiting till Congress had adjourned and then laying aside the speech he had made, which contained nothing objectionable to anybody, and going to the Printing Office and inserting a speech arraigning a committee of the House and arraigning members of the House, and containing matter which the records of the House show not to be true. I shall confine myself to a statement of facts, unless something more is called out, and leave the question of correcting the records with the House.

Before taking my seat, however, I will read from Cushing's Law and Practice of Legislative Assemblies the rule respecting the reading of speeches in the houses of Parliament. In section 1553 this rule is laid down:

> It is a general rule in both houses that a member in addressing the house is to do it orally and not by means of a written discourse, for the reason, as stated by Mr. Fox, that if the practice of reading written speeches should prevail, members might read speeches that were written by other people, and the time of the house be taken up in considering the arguments of persons who were not deserving of their attention.

Much greater is the danger, Mr. Speaker (if members may be permitted to go to the CONGRESSIONAL RECORD office after Congress adjourns and print speeches arraigning the House, or a committee, or the members of the House), that we might have published as part of our proceedings the production of other people to which we are not bound to pay any attention.

The SPEAKER. The Sergeant-at-Arms will request gentlemen on the floor and in the rear of the seats to stop conversation. It is impossible to hear what is transpiring.

Mr. WARNER, of Ohio. Whether the publication to which I have referred should be allowed to remain as a part of the official debates of the House when the records show that it was no part of the official debates at all, is a question of course which the House must decide. I desire to refer especially to certain parts of the language used. In one of the paragraphs which is objected to this language occurs:

> And yet those bills in which the soldiers of this country and in which the patriotic people of this country are so deeply interested have been suppressed.

Mr. BROWNE, of Indiana. I make the inquiry whether the gentleman may now refer to a part of the speech not embodied in the resolution.

The SPEAKER. The gentleman may read the whole speech, if he so desires, in his own time.

Mr. BROWNE, of Indiana. He wants to get it out of the RECORD, and yet he is putting it in again himself!

The SPEAKER. That is a matter for the gentleman himself to determine.

Mr. WARNER, of Ohio. The gentleman from Indiana is overnice. I was reading from a part of the speech which it is proposed to strike out.

Mr. REED. We ought to have the whole speech.

Mr. WARNER, of Ohio. "These bills in which the soldiers of this country and in which the patriotic people of this country are deeply interested have been suppressed." That relates, I suppose, to the House. "These bills have been throttled and a hearing denied. Democratic committees do not deign to consider such bills nor do they dare to report against them."

Now, I suppose, Mr. Speaker, it took extraordinary courage to go to the Printing Office and insert that "objections of this kind are futile and groundless. In fact they are a mere pretense"—accusing the House or members of pretending merely. "There are people who would do well to talk less and think more. There is a great deal of ignorance among gentlemen who would like to be called statesmen in regard to the policy and organism of our policy." And my colleague goes to the Printing Office and undertakes to instruct them after Congress has adjourned. They ought to be thankful, perhaps, for that.

In regard to the reference made in the speech to the action of a committee of the Senate, it is well known that under parliamentary law a member of one House can not refer at all to what takes place in a committee of another House, even for the purpose of commending, much less of passing criticism on it or its action. The reason for that is given in the Manual:

> It is a breach of order in debate to notice what has been said on the same subject in the other House, or the particular votes or majorities on it there, because the opinion of each House should be left to its own independency, not to be influenced by the proceedings of the other; and the quoting them might beget reflections leading to a misunderstanding between the two Houses. (3 Grey, 22.)

That is clearly unparliamentary, and the gentleman would not have spoken it in the House. That he would not have been permitted to speak it is clear enough, I think. He would have been called to order if he had said any such thing.

But especial exception is taken to the following language, applied to the committee of which I have the honor to be chairman, a committee composed of five Democrats and four Republicans, and as conscientious Republicans I think as the gentleman from Ohio can claim to be. I do not know that I am paying my colleagues on the committee a very high compliment, but I will let it pass:

> It seems to have been determined from the opening of this session to this hour that no bill in the interest of the Union soldiers should become a law, and that this end should be accomplished not by open and frank opposition but by stealth and cowardice.

What is the meaning of stealth and cowardice in that connection? Would the gentleman have used that language on the floor of this House and applied it to any committee or to any member of the House? It is quite another thing to go to the Printing Office, and from the safe ambush of that office send out a poisoned arrow like that weeks after Congress had adjourned. Do gentlemen on the other side of the House think that is in accordance with parliamentary usage; that that ought to stand in the RECORD, under the circumstances under which it was placed there, as a legitimate part of the official debates of the House? Will you put yourselves on record as indorsing language of that kind to be inserted in the RECORD in the manner in which this language was inserted, charging the committee virtually with theft and cowardice? If this, then, is not a privileged question, if it does not affect members in their representative capacity, I do not know what would. If it does not affect the honor and integrity of a committee of this House I do not know what could.

I said I should refrain from commenting—indeed I could not comment fitly—on conduct of that kind. I shall leave it to rest on the bare statement of the facts, that no part of this speech was delivered in the House, but that this arraignment of committees and members was inserted in the RECORD after Congress had adjourned and members had left the capital, and when there was no possible chance of calling the attention of the House to it until the succeeding session in the manner in which I have brought it up now.

I should have moved, Mr. Speaker, to expunge these parts from the RECORD, to strike them out, but under the advantage which was taken of inserting them in the RECORD during the recess of Congress the speech has become bound in all the copies and can not be expunged or stricken out. The only thing which can be done is to declare it unparliamentary, out of order, in violation of the rules of the House, an abuse of the leave to print, as it manifestly is, and let that go upon the record. The committee I represent is not willing to let such an arraignment go unchallenged, to be quoted by somebody in the future who would not know as well as this House does who inserted the speech in the RECORD.

Mr. BROWNE, of Indiana, rose.

Mr. WARNER, of Ohio. I reserve the balance of my time.

The SPEAKER. The gentleman has thirty-seven minutes of his time remaining.

Mr. JOSEPH D. TAYLOR. I hope the gentleman from Indiana will yield to me.

Mr. BROWNE, of Indiana. I will yield to the gentleman from Ohio.

Mr. JOSEPH D. TAYLOR. Mr. Speaker, I had no notice that anything of this kind was to be presented to this House to-day until yesterday during the session of the House. I have been furnished with no copy of this resolution. I said to the gentleman who informed me about it that I would like to have until the middle of next week for the purpose of getting some papers I desired, but he afterward informed me that the gentleman from Ohio declined to consent to a postponement of it; hence I am required to answer these charges without much time for preparation.

As I understand, Mr. Speaker, this question comes now to the House for its consideration. Perhaps it is only fair the House should know the circumstances which probably influenced the presentation of this resolution. The present Legislature of Ohio some time during last spring redistricted the State and threw the gentleman from Ohio and myself into the same district. We were both renominated and were candidates for the same office at the October election.

Mr. COSGROVE. Who was elected? [Laughter.]

Mr. KELLEY. Never mind; go on in your own way.

Mr. JOSEPH D. TAYLOR. I have abundant charity, and I trust the House will have for the motives which actuated the presentation of this resolution. I was taken from a Republican district, which usually gave a Republican majority of 2,000, and placed in the gentleman's district, which was supposed to be an impregnable Democratic district of not less than 1,500 majority. The present governor of Ohio had a majority in the five counties which compose this new district a year ago of 1,492. The secretary of state who was elected this year was the Democratic candidate two years ago and had a majority in these same counties of 1,509.

A MEMBER. Defeated this year, you mean.

Mr. JOSEPH D. TAYLOR. Yes, I should say defeated this year. So you can see that the Democratic majority in this new district was at least 1,500, and yet the gentleman from Ohio only claims to be elected, in that impregnable Democratic district—a claim which is much doubted by the people there, but he is said to be counted in [derisive laughter on the Democratic side]—by a majority of 217. I carried my own ward. I carried my own ward, town, township, and county by the largest majority ever given to any Representative. I carried the gentleman's ward, town, township, and county. I carried four of the counties out of the five which compose the district by a Republican majority of more than 2,000, the aggregate majority being between 2,100 and 2,200. I gained, over the vote of last year, in these four counties 1,558 votes. The gentleman from Ohio got his entire majority in the county of Monroe, 2,337.

Mr. WARNER, of Ohio. Good for Monroe. [Laughter.]

Mr. JOSEPH D. TAYLOR. The gentleman says, "Good for Monroe;" but yet the gentleman does not say that he ran 67 votes behind the head of the Democratic ticket even in Monroe. His majority was 67 less than the majority of the Democratic candidate for secretary of state.

Mr. REED. Good for Monroe. [Laughter.]

Mr. WARNER, of Ohio. Good for soap. [Renewed laughter.]

Mr. JOSEPH D. TAYLOR. It does not become the gentleman to talk about soap when the chairman of the Democratic committee of my county is to-day under indictment for buying votes which were cast for the gentleman from Ohio. [Laughter.]

Mr. BROWNE, of Indiana. Soap. [Renewed laughter.]

Mr. JOSEPH D. TAYLOR. The gentleman says, Mr. Speaker, "Good for Monroe!" I wish to say to this House, if the gentleman had not carried on his campaign in Monroe on the hypothesis that he had voted for Mr. RANDALL for Speaker he would not have carried Monroe. [Laughter and applause.] I would like to have read the gentleman's letter, and also an extract from the Democratic newspaper of that county.

Mr. WARNER, of Ohio. Let us hear the letter.

Mr. JOSEPH D. TAYLOR. It is going to be read.

HON. W. N. COWDEN'S LETTER.

QUAKER CITY, OHIO, *September* 19, 1884.

DEAR SIR: I have been appointed by the Ohio wool-growers' convention to ask your views for publication on the tariff on imported wool, and particularly an answer to the following question: Will you, if elected to Congress, support by voice and vote a bill for the restoration of the tariff of 1867, or its equivalent, on wool?

I am, sir, your obedient servant,

W. N. COWDEN.

Gen. A. J. WARNER, *Marietta, Ohio.*

GENERAL WARNER'S REPLY.

BELLAIRE, OHIO, *September* 25, 1884.

DEAR SIR: Your letter of the 19th, directed to me at Marietta, has just reached me at Bellaire.

In reply to your question as the representative of the Wool-growers' Association, I beg to say that my views on the tariff question, which have been outspoken both in and out of Congress, are, I think, pretty well known. My votes, too, in Congress on the tariff question generally and in favor of restoring the duty on wool are of record, and I think in every case my speeches and my votes will be found in accord.

I supported Mr. RANDALL for Speaker of the House because his views were in accordance with mine, and I voted against the Morrison bill for the reasons which I stated at the time on the floor of the House.

I may be permitted to add, that as a member of the committee on resolutions at the Democratic State convention of last year I presented the resolution denouncing the reduction of the tariff on wool as detrimental to the interests of wool-growers and unjust to the great agricultural class of the country. This resolution expressed my own convictions at the time, and I have seen no reason to change them, and of course I deem it my duty to act and vote in accordance with them in the future as I have in the past.

Very truly, yours,

A. J. WARNER.

Hon. W. N. COWDEN, *Quaker City, Ohio.*

Mr. WARNER, of Ohio. Now laugh. [Laughter and applause.]

Mr. JOSEPH D. TAYLOR. I ask to have read an extract from a Democratic paper published in Monroe County commenting on that, and insisting that the accusation that he had voted for CARLISLE for Speaker was false.

Mr. REAGAN. I rise to a question of order.

The SPEAKER. The Chair does not see that matters which transpired since the adjournment of Congress have any connection with the question before the House.

Mr. REED. It is a question for the House, and the House may see its bearing.

The SPEAKER. It is for the Chair to decide questions of order in the first instance, subject to an appeal to the House.

Mr. REED. It is a part of the gentleman's argument showing why the matters proposed to be stricken out should not be stricken out.

The SPEAKER. The Chair would not have interrupted the gentleman from Ohio had not the gentleman from Texas raised the point of order. [Cries of "Read!"]

The SPEAKER. If there be no objection the Clerk will proceed to read the extract.

Mr. REAGAN. I object. [Cries of "No!" "No!"]

Mr. REAGAN. I object.

The SPEAKER. The gentleman from Texas makes the point of order that the gentleman from Ohio is not confining himself to the question under debate.

Mr. WARNER, of Ohio. I hope the gentleman from Texas will not object.

Mr. REAGAN. I do object in the interest of the public business.

Mr. BROWNE, of Indiana. But, Mr. Speaker, the reading of the article demanded by the gentleman from Ohio will show and can only show whether it is in order or not.

The SPEAKER. The gentleman from Ohio will proceed, in order, to address himself to the question before the House.

Mr. JOSEPH D. TAYLOR. I now ask the Clerk to read the extract from the paper which I have sent to the desk.

The SPEAKER. The Chair will state that the gentleman from Ohio has already said that this paper contains a publication made during the campaign, and after the speech to which objection is made had been incorporated into the RECORD.

Mr. REED. Mr. Speaker, please permit me to remind the Chair that when the gentleman from Ohio began and asked the reading of the letters which have already been read, two of them, one from the other gentleman from Ohio, he announced also that he purposed to have this paper read, and if any objection was to have been made it should have been made at that particular time and when the subject was first introduced. But having been entered upon and the reading of the letters having taken place without objection he certainly should be permitted to have the remainder of the article read.

The SPEAKER. Perhaps the gentleman who makes the objection now upon the floor did not know to what subject these letters related.

Mr. REED. But he should have made his objection as soon as they were read.

The SPEAKER. Any gentleman has the right to make an objection

when the gentleman addressing the House is not proceeding in order to address himself to the question before the House. Of course the Chair does not know the contents of the paper about to be read, except from the statement of the gentleman himself that it is a publication from a newspaper which appeared during the canvass preceding the late election. The Chair does not see how that can bear upon the publication of these remarks in the RECORD. However, the Chair will allow this to be read so that the House may see what it is. The Clerk will read.

The Clerk read as follows:

The Bellaire Tribune of the 10th instant says that General A. J. WARNER voted for a free-trade organization in the House, by which all the committees were given to the free-traders.

The truth is, General WARNER voted for SAMUEL J. RANDALL for Speaker, and opposed Mr. CARLISLE, who is a free-trader, throughout the contest.

Colonel Poorman, in all fairness, should make the correction. He knows that RANDALL is not a free-trader now, and, further, that he never was.

Mr. WARNER, of Ohio. The House does not understand what paper that is. It is taken from the Bellaire Tribune, a Republican paper.

Mr. JOSEPH D. TAYLOR. I do not yield the floor to the gentleman from Ohio.

The SPEAKER. The gentleman from Ohio [Mr. JOSEPH D. TAYLOR] is entitled to the floor.

Mr. JOSEPH D. TAYLOR. Mr. Speaker, the word "is," as applied to the term "free-trader" in that article, is italicized. That extract is read from the Spirit of Democracy, the only Democratic paper published in that county, and I was branded for slander throughout that county because I represented in that district that the gentleman from Ohio had voted for Mr. CARLISLE for Speaker, and thereby contributed to the organization of a free-trade Ways and Means Committee. I made that statement, and because I had said that he had voted for Mr. CARLISLE I was branded throughout the district for slander, as this Democratic newspaper brands the Bellaire Tribune with slander for having published that the gentleman from Ohio had voted for Mr. CARLISLE.

On the eve of the election I found myself compelled to send here to Washington to obtain 5,000 copies of the CONGRESSIONAL RECORD, which I was only able to distribute in certain portions of the district, in proof of the fact which I had stated, and which had been denied by the Democratic papers throughout the district.

I have the most profound respect for the Speaker of this House. I have spoken of him in the warmest and highest terms on all occasions, and I have also the most profound respect for the chairman of the Committee on Ways and Means, of whom I have also spoken in the highest terms. I can understand a man who does not believe in protection and I can understand a man who does believe in protection, but I can not understand a man who is a trimmer, a go-between—neither one thing nor the other. [Laughter and applause on the Republican side.]

Now, Mr. Speaker, I want to come more directly to the point in issue. I think it would have been only fair and just that these remarks of mine in regard to which some question is now raised should have been read by the Clerk for the information of the House. No gentleman can understand this speech from the disconnected and garbled sentences read as a part of the resolution.

The gentleman stated correctly that I occupied on the 5th day of July six minutes in debate, and that on the 7th day of July I obtained by consent of the House a general leave to extend my remarks. These remarks were printed in this RECORD, covering almost two pages and three-quarters of it. I never attached very much importance to it. I never had the matter printed in pamphlet form for distribution, and never thought of distributing it throughout the district as a campaign document until there was some question raised about it in the district by the gentleman from Ohio. [Derisive laughter on the Democratic side.]

I want to say, Mr. Speaker, that when this speech is read all together and consecutively, when it is taken as a whole, it will be found to state the facts in the case, and it will be found that every line and every paragraph is directed toward the chairman of the Committee on the Payment of Pensions, Bounty, and Back Pay and his committee, over whom he dominates. I want to disclaim any intention of making reference to the Committee on Invalid Pensions. There are one or two sentences here which, when read alone, are doubtless wide enough to embrace that committee, but when the paragraphs are taken together it will be found that they are inapplicable.

If you will observe, the bills to which I make reference, all the bills that I enumerate and in regard to which I complain, are the bills that were referred to the committee of which the gentleman from Ohio is chairman. I said all over my district, and I am happy to say here and now, that no committee in this Congress or any other Congress, in my judgment, did more faithful, efficient, or earnest work than did the Committee on Invalid Pensions, from the top of that committee to the bottom. They sat here day and night and passed bills, two hundred of which became laws, and passed many of them over the head of the gentleman from Ohio, who was here night after night interposing obstacles and objections to bill after bill.

Now, the committee to which reference was made in these remarks never did report but two bills that were intended to be general acts. Sixty-eight bills were introduced in this House, introduced by Democrats and Republicans, all of which were referred to that committee; and there never came from that committee a single report, yea or nay, in regard to any one of these important bills to which I have made reference. They reported three local bills, the one in relation to the Fourth Iowa Infantry, the one in relation to the West Virginia State troops, and one in reference to female nurses. Those are local in their character and were not embraced within the scope of my remarks. One or two other similar bills were reported adversely.

Now, I want to know, Mr. Speaker, if that does not come very near establishing the fact that that committee was the graveyard of all this important legislation? These sixty-eight bills went to that committee and there they were "throttled," because they never came back. In addition, Mr. Speaker, I desire to say that while the reports began to pour in early in the last session from the other various committees of this House, and were placed upon the Calendar, which very soon became a large volume, no report of any kind came from this committee until the 11th day of April. All the preceding months were suffered to pass away and no report came from this committee until the day I have just mentioned, and that was a bill introduced by the gentleman from Ohio and put upon its passage on the 21st day of April, and was passed under a suspension of the rules and sent to the Senate.

I want to know, Mr. Speaker, whether it took four or five months for the chairman of that committee or for that committee to ascertain whether a soldier applying to this great Government for a pension must be denied his claim because he can not prove that he was sound when he entered the service? For that was the only feature in that bill that does not deserve the condemnation of this House. I know the gentleman may say the second section in that bill had some merit in it. The second section of that bill provided——

Mr. WARNER, of Ohio. I have not the least desire in the world to limit the gentleman; but really is this to be a discussion of the Mexican pension bill on its merits? Is that the question before the House?

The SPEAKER. The Chair supposes that the gentleman from Ohio [Mr. JOSEPH D. TAYLOR] is endeavoring to show that the statement he made was correct and that it was not unparliamentary.

Mr. WARNER, of Ohio. I do not insist upon the point.

The SPEAKER. The gentleman from Ohio will proceed.

Mr. JOSEPH D. TAYLOR. The second section of the bill to which I have referred, bill No. 6535, provides that——

In considering the claims of dependent parents, the fact and cause of death, &c., having been shown as required by law, it shall be necessary only to show by competent and sufficient evidence that such dependent parent or parents is without present means of support.

That is the language of the bill—"without present means of support." If the pension examiner shall find an aged decrepit father or mother who has as much as a crumb of bread and a cup of cold water, he will hold that this is a "present means of support," and that such claimants are not entitled to the benefit of this act. The Senate amendment to the Mexican pension bill provides that these dependent parents shall be pensioned if they are "without other means of comfortable support"—a marked difference between any support and comfortable support.

There is another bill which came from that committee. I said there were two general acts that came from that committee. The second was reported by Mr. GREENLEAF on the 7th day of May. Five or six months had passed away before this report was made. Hundreds and thousands of soldiers were waiting with anxious hearts the results of the investigations which were supposed to be going on in that committee, and yet it took five or six months to report this bill of four sections only. It took five or six months for that committee to find out that a widow whose dead husband was sleeping somewhere in an unmarked grave should receive $12 a month instead of $8. It took them five or six months to make that discovery.

It took them five or six months to make another discovery which embraced another section—that a dependent parent who now receives $8 a month should receive $12 a month. It took five or six months to find out that when a pensioner dies the same pension which supported him and his wife and children while he was living shall go directly to his widow and children after his death without the widow and orphans being required as now to prove that the husband and father died from a disability incurred in the service.

It took five or six months to find out one other thing covered by that bill; that is, that a soldier who received a wound in the service from which he subsequently became totally disabled should be entitled to receive a pension from the time of his discharge or from the time of his total disability.

These are substantially the provisions of the bill reported on the 7th day of May. Now, my remarks in regard to there having been but one bill reported were intended to mean that but one bill was ever reported for the purpose of having it become a law. In my judgment this subsequent bill that came from the committee on the 7th of May was purely an afterthought; and you will come to the same conclusion if you will read the remarks made on the day when the Warner bill passed this House by a two-thirds vote under a suspension of the rules; you will find by a reference to those remarks that this bill which was

passed on the 21st day of April was the ultimatum of that committee in the judgment of its chairman. In his own remarks he declares that the committee went as far in the preparation of that bill as public sentiment would justify; that there were some people who desired to go further, and that there were others who did not desire to go so far; that they had endeavored to report a bill which would meet the public sentiment and do justice to all, and that this bill went as far as they felt authorized to go, and in their judgment it would be found to take the place of numerous bills now before their committee.

I challenge the gentleman to show that in that discussion, when gentlemen offered to make amendments and were shut off by the chairman and were prevented—I challenge the gentleman to show where in the remarks of any member of that committee there was made any allusion to the fact that that committee ever intended to report any other bill on that subject. The amendments then proposed would have naturally called out such fact if there had then existed any such intention, but all the remarks then made show that this Warner bill was supposed to meet the present demand in pension legislation.

Perhaps I should make a single remark in regard to the first section of the Warner bill, as I have commented on the other two. The first section of that bill made it odious to the soldiers of this country. From one end of the land to the other there came up one universal protest from the soldiers of this country against that bill, because it compelled every claimant for a pension, before he could avail himself of the provisions of this bill, before he could be relieved from making proof of prior soundness, to elect whether he would prosecute his claim under this law or the general law, and he is required to file this election that he would take only under this bill; and this election is made final.

An election was required, and it was made final; while in the Mexican war pension bill, as amended by the Senate, while the claimant is required to make an election for the time being, that election is not required to be final. After a claimant has made his proof under the Senate amendment and has obtained his pension, and after he has been drawing his pension for years, if he discovers the necessary proof, or if less proof is required by new legislation, he can abandon this pension, and go back and perfect his old claim and obtain a pension under the general law, thereby obtaining his arrears of pension, which he could not obtain under this law. So it is now when a special act is passed pensioning a claimant. If in the future he shall perfect his old claim, he can abandon the benefit of the special act, get credit for the money received, and obtain his pension from the General Government under the general pension laws of the country and obtain all the arrears allowed by the general law.

In speaking a moment ago in regard to the Greenleaf bill, I said I did not believe it was expected that it should ever become a law, for the reason that it was never put on its passage. The Mexican pension bill and the Warner bill had both been passed on suspension days. Why was not this bill put on its passage on suspension day? The gentleman from Ohio was chairman of the Committee on the Payment of Pensions, Bounty, and Back Pay. He might have asked this House that a day be set apart for the consideration of the many bills that were referred to his committee. Other committees asked one day, two days, and sometimes three days, and the request was granted. The Committee on Territories, of which I am a member, asked this House for two days and the request was granted, and those two days were occupied in the passage of bills which came from that committee. That request was made by the chairman of the committee, and it was granted as a matter of course. I have never known such a request as that, in my short experience, to be resisted.

Why was not some effort made to put this second bill on its passage? None was made; no question of consideration was ever made; no day was asked to be set apart for its consideration. This bill went upon the Calendar behind one hundred and twenty other bills of a general character then on the Calendar, and it never went there until five or six months of the session had expired, and then it embraced very few of the provisions for which the soldiers of the country had been so long and so earnestly pleading.

The bill reported by the gentleman from Ohio embraced the Indian wars, the Florida war, the Black Hawk war, and the Mexican war, although this House had previously passed a bill granting pensions to all the Mexican soldiers.

You see my objections to the Warner bill and you see why I made this statement, every word of which is true, that the bill never commanded the respect of the Senate or received its consideration. And this is the reason why the soldiers of the country denominated it a fraud and a cheat, as was done throughout the country.

Now, Mr. Speaker, I submit whether there was not good ground for this complaint. There were other reports of this committee—elaborate reports. The gentleman from Ohio can talk long and loud; but in all that long session of seven months the only report that he ever wrote or made was a report of three lines. He gave the soldiers of this country only three lines of his writing and of his report. This is the extent to which he pleaded the cause of the Union soldiers of this country, their widows and dependent relatives.

We were asked by the Grand Army of the Republic to enact another provision. We were asked to adopt a provision continuing pensions to the children of dead soldiers in cases where these children who had drawn pensions until they were 16 years of age, were blind, idiotic, or imbecile; but no report in favor of any such measure ever came from that committee. The soldiers of this country were asking another provision. They were asking that dependent parents should not, as now, be required to prove first that they had nothing at the hour of their son's death. If they are to-day without a farthing, without a roof to shelter their heads, without food or raiment, they are not asked, "What are your needs now; what are your wants at this hour?" but they are compelled to prove that their necessities existed at the hour of the death of their only son, who sleeps to-day in a soldier's grave. No such provisions came. I might go on and refer to others. The cry of the soldier was unheeded by this gentleman and by his committee. It was further asked to have a provision dispensing with proof that the dead son intended to support his aged and helpless parents; that, too, was denied.

Now, Mr. Speaker, in order to show that I am not mistaken in regard to this, I will ask to send up and have read three letters which were written by three of the members of the committee on pensions of the Grand Army of the Republic—three men who were in Washington last winter, who were before that committee, who talked with its chairman, who were sent here to represent the soldiers of this country, who came here with a memorial which they laid upon the desk of every member of Congress. I want this House to hear what these witnesses say in regard to the conduct of this committee, or rather in regard to the conduct of the chairman of this committee. These letters will establish the truth of the remarks called in question.

Mr. ROGERS, of Arkansas. I object to printing these letters in the RECORD as a part of the gentleman's remarks.

The SPEAKER. The Chair was occupied at the time and did not hear what it was the gentleman asked to have read.

Mr. JOSEPH D. TAYLOR. I wish to establish the truth of my statement by having read to the House letters written by a committee of the Grand Army of the Republic who were here last winter, representing the soldiers of the country, sent here by the Grand Army of the Republic to secure pension legislation.

The SPEAKER. The gentleman from Arkansas objects unless they are read as a part of the gentleman's remarks.

Mr. ROGERS, of Arkansas. And I object to them then even as irrelevant.

The SPEAKER. The gentleman further objects to them as irrelevant to the subject under debate.

Mr. JOSEPH D. TAYLOR. They are to prove what I have said and sustain my statements in regard to this committee.

Mr. ROGERS, of Arkansas. It is stated by the gentleman from Ohio that these letters have been written since the adjournment of last Congress. They can therefore have no bearing at all upon the issues presented by this resolution of the gentleman from Ohio on my left, and I therefore object to that part of it as being irrelevant to the subject under discussion.

The SPEAKER. The gentleman objects to the letters being read on the ground that they are not pertinent to the question under discussion. The Chair does not know whether they are or not until he hears them read.

Mr. JOSEPH D. TAYLOR. It is in regard to the question of fact which the gentleman from Ohio has raised. I will compromise, however, and ask that they be printed in the RECORD.

The SPEAKER. The only question before the House is whether or not the several extracts made from his remarks, or any of them, were printed in the official records of the House in violation of the rules of the House and in violation of the leave given to the gentleman from Ohio. The Chair is unable to see how any letters which may have been written by persons outside since that record was made up can have any bearing on that question. It is not a question what gentlemen elsewhere may think about these matters, but merely whether the rules of the House and the privilege extended to the gentleman from Ohio have been violated. It is a pure question of parliamentary law for the House to decide.

Mr. JOSEPH D. TAYLOR. Now, Mr. Speaker, the next question I wish to call the attention of the House to is whether I have violated the rules and the practice of the House in regard to the remarks I have printed in the RECORD. I will ask the Clerk to read a short transcript I have here showing the proceedings in the House during the Forty-fifth, Forty-sixth, and Forty-seventh, and the first session of the Forty-eighth Congress.

Mr. ROGERS, of Arkansas. I object.

The SPEAKER. The Chair does not know what they are, but the gentleman states they are from the official record of the House, which he desires to have read to show he has not violated the rules of the House.

Mr. ROGERS, of Arkansas. It can not be possible the records of the House of the Forty-fifth, Forty-sixth, and Forty-seventh Congresses can have any bearing on a matter charged against the gentleman of having violated the rules of the House in the Forty-eighth Congress.

The SPEAKER. The Chair may not think it is a good reason, but the House and the gentleman may think otherwise.

Mr. BROWNE, of Indiana. It may show the uniform practice of the House and in other Congresses on the same subject.

The SPEAKER. And that is a question addressed to the House itself.

Mr. ROGERS, of Arkansas. What question?

The SPEAKER. The question whether the gentleman has violated the rules of the House is addressed to the House, and he proposes to show what has been done heretofore in Congress under like circumstances in support of his position.

Mr. ROGERS, of Arkansas. I do not think the Chair caught the remark of the gentleman from Ohio. I understood he proposes to present a synopsis touching this character of legislation in the Forty-fifth, Forty-sixth, and Forty-seventh Congresses.

The SPEAKER. And that thereby a practice or custom may have been established.

Mr. JOSEPH D. TAYLOR. I trust the gentleman from Arkansas will permit me to go on.

Mr. ROGERS, of Arkansas. I only wish the gentleman to proceed in order.

Mr. JOSEPH D. TAYLOR. This does not come out of my time?

The SPEAKER. The time consumed by questions of order do not come out of the gentleman's time, of course.

Mr. JOSEPH D. TAYLOR. I ask now the reading of the paper which I send to the Clerk's desk, which is from the foreman of the CONGRESSIONAL RECORD at the Government Printing Office.

The Clerk read as follows:

OFFICE OF PUBLIC PRINTER,
Washington, D. C., August 23, 1884.

DEAR SIR: In compliance with your request of this date, I have the honor to hand you herewith a statement from Mr. Aven Pearson, foreman of the CONGRESSIONAL RECORD, in regard to the number of "leaves to print" and those "withheld for revision" in the Forty-fifth, Forty-sixth, Forty-seventh, and Forty-eighth Congresses, as shown by the records in his office. I have examined and compared the statement with the RECORD, and find the same to be correct.

Very respectfully, yours,

S. P. ROUNDS, *Public Printer.*

Hon. J. D. TAYLOR, M. C.,
Washington, D. C.

GOVERNMENT PRINTING OFFICE,
OFFICE OF CONGRESSIONAL RECORD,
Washington, D. C., August 23, 1884.

DEAR SIR: In compliance with your direction to examine the book kept in this office showing the names of members of Congress who made speeches which they withheld for revision, and of those who obtained leave of the House to print in the RECORD speeches which had not been delivered in the Forty-fifth, Forty-sixth, Forty-seventh, and Forty-eighth Congresses, and report the number to you, I have the honor to say that I have made a careful examination, and find the following:

Forty-fifth Congress:	
Speeches withheld for revision	240
Leaves to print	247
Forty-sixth Congress:	
Speeches withheld for revision	803
Of this number Hon. A. J. WARNER had two.	
Leaves to print	90
Of this number Hon. A. J. WARNER had one.	
Forty-seventh Congress:	
Speeches withheld for revision	382
Leaves to print	156
Forty-eighth Congress:	
Speeches withheld for revision	258
Of this number Hon. A. J. WARNER had two.	
Leaves to print	76

It will be understood that "leaves to print" are speeches which are *not* spoken in the House, and "speeches withheld for revision" have been—in part at least. Sometimes a member of the House delivers a portion of a speech and asks leave to print the remainder.

In these four Congresses over twenty general leaves to print were given on different bills, on which any member of the House had the right to have remarks printed in the RECORD.

On May 3, 1879, Hon. A. J. WARNER delivered a speech in the House which was printed in the RECORD May 8.

On January 18, 1881, he had leave to print remarks on the funding bill, which were printed on the 27th of the same month.

On February 15, 1881, he spoke on the river and harbor bill. The speech was printed on the 17th of March.

On April 1, 1884, he delivered a speech on the trade-dollar, which was printed on the 15th.

On April 30, 1884, he delivered a speech on the tariff, which was printed on the 4th of May.

Four of these speeches were withheld by him for revision, and were set up from the manuscript returned by him.

Very respectfully,

AVEN PEARSON,
Foreman Congressional Record.

Hon. S. P. ROUNDS,
Public Printer.

During the reading of the above paper the following proceedings took place:

Mr. WARNER, of Ohio. I object, Mr. Speaker, to the further reading. What has this to do with the question presented to the House?

The SPEAKER. The Chair does not know what use the gentleman proposes to make of it. The resolution offered by the gentleman himself recites, among other things, the fact that the leave of the House was granted to Mr. TAYLOR to print on a certain day, and the remarks were not printed until about the 1st of August—some time afterward. Perhaps the gentleman may desire to show that it is the practice to print speeches some time after the leave is given. The Chair, of course, does not know the purpose for which it is presented; but the gentleman is using it as an argument, the Chair presumes, to show that he has not violated the privileges of the House.

The Clerk resumed and concluded the reading of the paper as above.

Mr. JOSEPH D. TAYLOR. You see from that transcript furnished me by the Public Printer what the uniform practice has been in this regard—to print speeches which were never made and to print speeches no part of which was ever spoken upon this floor. Back in the Forty-sixth Congress you will find by reference to page 1350 of the RECORD of the second session of that Congress that Mr. Hazleton had the gentleman from Ohio [Mr. WARNER] arraigned before the House for having suppressed from the RECORD offensive words which he had uttered in debate, and Mr. Hazleton then said that this was the custom of the gentleman from Ohio. Mr. WARNER said then and there in defense of his action that he had done in changing the RECORD only what everybody had done—followed the uniform practice and custom of all members of Congress in that respect.

Besides that, I hold in my hand another certificate from the Public Printer—from the foreman of the RECORD—showing that the gentleman had made a speech in the first session of this Congress on the trade-dollar, and that it made eighty-three pages of manuscript, and that he rewrote eighty-two pages of manuscript for the Public Printer, and that they set up in the office from his own manuscript eighty-two pages of the eighty-three. The eighty-third page, and the only page not rewritten, had on it only twelve words of his original speech, and he changed one of them. [Laughter on the Republican side.] I will read the letter:

OFFICE OF PUBLIC PRINTER,
Washington, D. C., August 28, 1884.

SIR: I have carefully examined the manuscript of a speech made by Hon. A. J. WARNER in the House of Representatives on the 1st of April, 1884, and find that only one page of the reporter's manuscript has been furnished to this office, and that the whole speech, consisting of eighty-three pages, has been rewritten by General WARNER, and that we printed the speech from the manuscript made by him, with the exception of this one page, on which is found these words:

"The SPEAKER. The time of the gentleman from Ohio has expired.

"Mr. WARNER, of Ohio. Then I shall ask consent to elaborate my remarks in the RECORD.

"There was no objection."

Very respectfully,

AVEN PEARSON,
Foreman of Congressional Record.

Hon. J. D. TAYLOR, M. C.,
Washington, D. C.

But that is not all. I hold another certificate from the Public Printer, showing that in his remarks on the Mexican war pension bill he followed his remarks to the Printing Office, and there in his own handwriting attached to his remarks, which were only two or three minutes in length, new paragraphs, struck out over forty lines and inserted fifty lines, changing and reversing the meaning. This shows that his remarks as printed in the RECORD were never uttered upon the floor of the House. The manuscript shows that he falsified the RECORD by changing his remarks and giving them a different meaning, and there is the manuscript; you can send for it and it will prove itself. [Laughter on the Republican side.]

This letter or certificate reads as follows:

OFFICE OF PUBLIC PRINTER,
Washington, D. C., August 25, 1884.

DEAR SIR: I have examined the manuscript of a speech made by Hon. A. J. WARNER in the House of Representatives on July 2, 1884, on the Mexican pension bill, and find that the words "The other amendments I am in favor of, as they embrace substantially what I have indorsed and what the House has already in part passed upon" are not in the handwriting of the reporters, but were added by Mr. WARNER in his revision of his remarks. In his revision he added about fifty lines and struck out over forty lines; in one place striking out the words "these amendments" and inserting "this amendment."

Very respectfully,

AVEN PEARSON,
Foreman of Record.

Hon. J. D. TAYLOR,
Cambridge, Ohio.

That was done without any permission of the House. Further, the gentleman made a speech here on the tariff, and he revised that most thoroughly before it went into the RECORD, inserting additional pages and paragraphs and striking out pages and paragraphs. But when he came to print it in pamphlet form he was not content with the RECORD speech. Oh, no! He made another edition. He made another revision when he printed the speech in pamphlet form. I hold it in my hand now, and if you will compare it with the speech in the RECORD you will find that he made one hundred and thirty-eight changes in it—[laughter on the Republican side]; compare them for yourself—between his speech in the RECORD once revised and that sent out in pamphlet form. And then, besides that, he printed it in a job office—in Polkinhorn's job office—and sent it out under his own frank in violation of the statutes of this country. [Laughter and applause on the Republican side.]

Now, Mr. Speaker, I wish to have read an authority upon this subject. I submitted this speech, as printed in this CONGRESSIONAL RECORD, to Hon. Edward McPherson, for fourteen years Clerk and for many years a member of this House, and perhaps the ablest parliamentarian in this country, and I ask to have read some extracts from

his letter addressed to me, in which he said that upon examination there was nothing whatever in these remarks contrary to parliamentary law or the rules of this House. I am speaking now of my speech which has been called in question. In my letter I asked this question:

Please examine my printed remarks in the RECORD of August 1 and see whether you discover anything in them not authorized by the rules and practice of the House.

I will ask the Clerk to read the following extracts from his letter in answer to the question.

The Clerk read as follows:

It is the ordinary practice in the House for members to ask and the House to grant leave to print remarks not delivered. It is also not unusual for members, having outlined their arguments in the few minutes snatched for debate, to ask and get permission to extend their remarks and print them in the CONGRESSIONAL RECORD as if delivered as printed. This practice grows out of the necessities of our parliamentary life, &c.

I had occasion recently to examine the CONGRESSIONAL RECORD for the proceedings of an evening session devoted to debate on the Morrison tariff bill, and found that seventeen speeches purport to have been delivered in the four hours devoted to the sitting. Not one of these speeches was delivered in full as printed, and of some no portion was delivered.

I have no doubt that at least two hundred speeches will appear in the CONGRESSIONAL RECORD of the last session which were not actually delivered in full in the House.

I find further that you are especially fortified in your right to print in the circumstance that at the sitting of July 7 you asked and obtained unanimous consent to extend the remarks made by you on the Mexican war pension bill. This gave you ample authority to prepare and print a discussion of the pension bill, the Senate amendments thereto, and all proceedings of the House connected with that subject.

COX's speech, "Salt in politics," page 165, CONGRESSIONAL RECORD, July 8, was never delivered, nor any part of it, in the House, but was a reprint of his fourth of July speech before the Tammany Society of New York.

The rules prescribe no limit as to the right of the member to revise his speech after he has spoken five, ten, twenty, or more minutes.

Third. I have examined with considerable care your speech printed in the RECORD of the 1st of August, and do not think there is anything in it which violates the rules or practice of the House.

* * * * * * *

A criticism, parliamentary in terms, of the action of any portion of the House or any member of the House is always permissible, whether in the absence or presence of the person affected. If this were otherwise all that would be necessary for a member who desired to avoid criticism on his public acts would be to absent himself from the sittings until the opportunity for making the criticism had passed.

Mr. JOSEPH D. TAYLOR. And the House will remember that at the last session the distinguished gentleman from New York, than whom perhaps there is no higher authority on this floor, a gentleman who has occupied a seat here for twenty years—in that session when the bonded-whisky bill was under discussion, made a few remarks and then printed a speech upon the tariff. And yet nothing was said about it.

Have you forgotten the remarks of the distinguished gentleman from Illinois [Mr. TOWNSHEND], made at the last session, in which he said that the record of the Republican party was reeking with corruption; that it was destitute of all political virtue; that it had a damnable record; charged it with opening the vaults of the Treasury to the wickedest rings and thieves that ever cursed a free land? Charges of fraud and perjury and forgery dropped from his tongue like the oil from Aaron's beard, and all that was done about it was at the close of his remarks the gentleman from Maine [Mr. REED] arose and asked to have the gentleman's time extended. [Laughter and applause on the Republican side.]

Why, sir, the gentleman from Colorado [Mr. BELFORD] called the other side of this House a herd of political eunuchs, without manhood and virility, and you laughed at it and seemed to think it very funny. The mildest man in this House, and a man for whom I have great respect—the gentleman from Texas [Mr. REAGAN]—in a discussion last year used the word "outrages" when he was charging home on the Republican party its alleged vile record during the last fifteen years.

Mr. Speaker, I have been learning here from day to day the practice of this House. I have learned it from this side and from that side. I have read it in the RECORD and in the newspapers of the country. I want to know now if I am to be catechised or arraigned here because I happen to be speaking for the soldiers of this country.

[Here the hammer fell].

Mr. JOSEPH D. TAYLOR. I ask unanimous consent to have five minutes more allowed me. I have been interrupted so that very much of my time has been consumed.

The SPEAKER. The gentleman from Ohio [Mr. JOSEPH D. TAYLOR] asks unanimous consent to be permitted to proceed five minutes longer. Is there objection?

Mr. GEORGE D. WISE. I object.

Mr. ROGERS, of Arkansas, rose.

Mr. GEORGE D. WISE. I withdraw the objection.

Mr. BROWNE, of Indiana. If the Chair will recognize me I will be glad to yield a portion of my time to the gentleman from Ohio.

The SPEAKER. The objection to the gentleman from Ohio proceeding is withdrawn. He is entitled to five minutes more.

Mr. JOSEPH D. TAYLOR. I want to print in the RECORD a letter from the Public Printer explaining that it was by accident my speech was printed as late as August 1, and taking on himself the entire responsibility for the delay and exonerating me from any blame in the matter.

The following is the letter of the Public Printer:

OFFICE OF PUBLIC PRINTER,
Washington, D. C., August 22, 1884.

DEAR SIR: In reply to your inquiry in regard to the facts as to the publication of your speech on the Mexican war pensions, I find from the RECORD that a portion of it was delivered on the 5th of last July, and leave to print extended remarks in the CONGRESSIONAL RECORD was unanimously given by the House on July 7, and that you furnished this office the copy on the 11th of July. Inasmuch as there were several other speeches by different members, for which leave to print had been given, the copy for which had not then been furnished this office, I ordered the last number of the RECORD to be withheld until the 1st of August, in order to get as many of them as possible. Your speech will be found on page 7063, number 167 of the RECORD of the first session of the Forty-eighth Congress; and although the RECORD was withheld until that date, there were several other speeches for which leave to print had been granted that were not printed in that number of the RECORD.

I have the honor to be, very respectfully, yours,

S. P. ROUNDS, *Public Printer.*

Hon. J. D. TAYLOR, M. C.,
Cambridge, Ohio.

I want to say here and now that if gentlemen will read this speech from beginning to end, if they will take the whole speech and construe it as the old law books say we must do to construe a will, take it up by the four corners, which simply means to take it altogether, they will find no trouble in discovering its meaning or in discovering the truth of its allegations.

The charge of cowardice is referable to the members of the other side who persistently sat in their seats and refused to vote, when this was the only way to defeat the Senate amendments to the Mexican pension bill. Examine the RECORD if you would know how often this was done.

I have exonorated myself from the accusations that have been made. I have kept within what I understood to be the rules of this House. And I want to say to gentlemen that it is a matter of no great moment to me what disposition is made of this resolution. We all have some individual pride, of course. I am not like the gentleman from Ohio. I have the honor of representing now the district in which I was born and in which I have always lived, while he has been migrating from State to State, and from party to party, at his own pleasure.

I want to say in conclusion that anything that this House may do will be as nothing against me. The speech for which I am arraigned here was in behalf of the Union soldiers of this country, and if I am arraigned they are arraigned. If I have erred at all I have erred in a good cause. I have been, during my service in this House, pleading the cause of the Union soldiers, and it has been my endeavor to show that the pension laws of this country should be made more liberal; that there should not be so many widows and orphan children in this country hungry and destitute; that children of soldiers who died that this nation might live should not "be left to the organized charities of the State," as will be the case with thousands of them if this legislation is not secured, and yet your great Treasury is overflowing with money. I will say to you that for whatever vote you may cast in regard to this resolution, for whatever you may do, you will answer not to me, nor to this House, but you will answer to the soldiers of your districts if you represent districts in which there are Union soldiers.

I am willing that this question with this explanation be submitted to the intelligent judgment of this House, and in regard to it I shall make no further defense or explanation. I yield now to the gentleman from Indiana [Mr. BROWNE].

The SPEAKER. The time of the gentleman from Ohio [Mr. JOSEPH D. TAYLOR] has expired.

Mr. BROWNE, of Indiana. I ask to be recognized in my own right.

The SPEAKER. Is the gentleman opposed to the resolution or in favor of it?

Mr. BROWNE, of Indiana. I desire to submit a motion in connection with it.

Mr. WARNER, of Ohio, rose.

The SPEAKER. The gentleman from Ohio [Mr. WARNER] reserved thirty-five minutes of his time.

Mr. BROWNE, of Indiana. But is not his occupying that time dependent on his being recognized by the Chair, and can he occupy it if other gentlemen desire to be recognized?

The SPEAKER. It is the universal custom that if a gentleman reserves a portion of his time and afterward desires to speak the Chair will recognize him.

Mr. BROWNE, of Indiana. I have no wish to have the gentleman from Ohio [Mr. WARNER] cut off. But I want to have this campaign question out of the House and before a committee.

The SPEAKER. The gentleman from Ohio [Mr. JOSEPH D. TAYLOR] having been recognized for an hour, the other gentleman from Ohio [Mr. WARNER] has now the right to occupy the remainder of his hour.

Mr. WARNER, of Ohio. I desire to reserve my time until other gentlemen are through.

The SPEAKER. The gentleman has thirty-seven minutes of his time remaining.

Mr. REAGAN. I should like to inquire how long this debate is to run.

The SPEAKER. Debate can only be stopped by ordering the pre-

vious question. Does the gentleman from Ohio [Mr. WARNER] yield to the gentleman from Arkansas [Mr. ROGERS]?

Mr. WARNER, of Ohio. I do not yield my time, but reserve the balance of it to be used at the close of the discussion. The gentleman from Arkansas [Mr. ROGERS] is a member of the committee, and desires to be recognized in his own right.

The SPEAKER. The gentleman from Arkansas is recognized.

Mr. ROGERS, of Arkansas. To my mind this is a most remarkable exhibition. A committee of this House, composed of Democrats and Republicans alike, unanimously request their chairman to present certain charges against the gentleman from Ohio for violation of the rules of debate at the last session and to ask that these objectionable features of the debate be expunged from the RECORD. What are the issues presented? First, that the gentleman from Ohio has been guilty of a breach of the rules of the House by making charges against a committee of the House, by making charges against individual members of the House, by making charges against the House itself—in plain language, denouncing the House; by repeating in his speech the proceedings of a Senate committee; by expressing in that speech false charges against the House and the Select Committee on the Payment of Pensions, Bounty, and Back Pay. With these grave charges pending against him he seems to be totally insensible of the attitude in which he is placed by this resolution; and instead of undertaking, if the charges are untrue, to establish their falsity, or, if they are true, then to apologize to the House in an honorable and manly way, he undertakes to go into a discussion of the Ohio campaign and to bring into this House records which he has obtained from the Public Printer, who, I suggest, might as well devote his time to the public service instead of answering inquiries for partisan purposes.

I say that, instead of undertaking either to establish the truth of his assertions, which the resolution charges to be untrue, or to confess his mistake as to the facts, the gentleman goes into the question of the Ohio campaign and various other matters totally irrelevant, and in no sense bearing upon the charges made against him.

Mr. Speaker, I do not propose to consume more than three or five minutes, and touching two of these charges only. In regard to one matter that the gentleman goes into in detail, namely, that part of his speech referring to the Senate proceedings, no one, I presume, will undertake to justify or defend his course, for the record is before this House. All that he says by way of defense bearing upon this point or upon the other matters of any importance is that if you will take the whole speech and read it you will find nothing objectionable in it. Yet, instead of undertaking to read the speech himself to the House and to explain away the objectionable features complained of, to which the attention of the House is called, he has, as I have said, devoted his attention to Ohio politics and Ohio statesmanship.

Now, Mr. Speaker, one other proposition and then I am through with this subject so far as I am concerned, for really, though a member of the Select Committee on Pensions, Bounty, and Back Pay, I myself do not care very much for what the gentleman has said, so far as it applies to me personally. But this is his proposition. I read his words:

He—

Alluding to the gentleman from Ohio [Mr. WARNER]—

is the chairman of the Select Committee on Payment of Pensions, Bounty, and Back-Pay, to which was referred the most important legislation of this session, touching the soldiers and their dependents; and I regret to say that this committee has proved the graveyard of all this important legislation. It never reported but one bill, and this was so objectionable to soldiers that the Senate gave it no consideration.

Mr. Speaker, there is a statement from the gentleman from Ohio [Mr. JOSEPH D. TAYLOR] which he has not seen fit to retract. On the contrary, adding insult to injury, he substantially reiterates the charge in the presence of this House this morning.

I propose now, Mr. Speaker, to demonstrate, by a reference to the records of the proceedings of the first session of the Forty-eighth Congress, that the statement which the gentleman made when he published this speech and its reiteration here this morning in the presence of this body are both untrue.

The Warner bill was reported April 11, 1884. (RECORD, volume 66, page 2876.) The bill which I reported as a substitute, under the direction of the committee, for a provision in the pension appropriation bill, and which subsequently passed this House and became a law, was reported April 16, 1884, as will be found by reference to volume 66 of the RECORD, page 3011.

Mr. JOSEPH D. TAYLOR. Will the gentleman allow me a moment?

Mr. ROGERS, of Arkansas. Certainly.

Mr. JOSEPH D. TAYLOR. That amendment, as the record shows, and I think you will admit, was considered in the Committee on Appropriations. It was so stated by the gentleman from Texas [Mr. HANCOCK]. That amendment was added on the statement of fact that it had been recommended by the Commissioner of Pensions originally—you said so and so did the gentleman from Ohio—and the statement of the gentleman from Texas, that it had been considered in the Committee on Appropriations and was recommended by that committee.

Mr. ROGERS, of Arkansas. Mr. Speaker, that is sufficient, I think, from the gentleman on that point. It is to the credit of this committee if the Appropriations Committee of this House deemed the measure of sufficient importance to give it consideration in that committee. But, sir, the fact is that long before the consideration of that amendment I, by unanimous consent, under the direction of the Committee on Pensions, Bounty, and Back Pay, submitted that bill, and it was printed in the RECORD for the consideration of this House. Subsequently, when the pension appropriation bill was under consideration, I offered that bill (which had been previously printed in the RECORD by unanimous consent) with some slight amendments, I think, as a substitute for certain provisions of the pension appropriation bill, and, to the credit of our committee, the Committee on Appropriations accepted it and it became a law.

Mr. Speaker, on the 12th of April, 1884 (I refer to the RECORD, volume 66, page 2902), Mr. CONNOLLY, of that committee, reported another bill. On the 7th of May, 1884 (RECORD, volume 67, page 3936), Mr. CONNOLLY reported another bill from that committee; and on June 21, 1884 (RECORD, volume 68, page 5450), he reported still another bill. On the 7th of May, 1884, Mr. GREENLEAF, of New York, a member of that committee, reported a bill to increase pensions, and for other purposes (Record, volume 67, page 3936); and on the 6th of June, 1884, Mr. GREENLEAF reported two other bills (RECORD, volume 68, page 4843). On the 22d of March, 1884, Mr. WHITING, of Massachusetts, a member of that committee, reported to this House another bill (RECORD, volume 66, page 2174). Yet in the face of the work of this committee the gentleman from Ohio says that he is substantially correct in the statement that the committee reported only one bill. He substantially reiterates that charge on the floor of the House this morning in his remarks.

Mr. JOSEPH D. TAYLOR. I will inquire if all those bills except two were not merely local and special cases.

Mr. ROGERS, of Arkansas. It makes no difference what kind of bills they were, for the gentleman says in broad terms we reported but one bill, while the RECORD shows we reported nearly a dozen bills.

Mr. JOSEPH D. TAYLOR. No; he has not.

Mr. ROGERS, of Arkansas. The gentleman now says he has not. Let us see again whether he has or not. I will read it again for his benefit:

He is chairman of the Select Committee on Payment of Pensions, Bounty, and Back Pay, to which was referred the most important legislation of this session touching the soldiers and their dependents, and I regret to say that this committee has proved the graveyard of all this important legislation. It never reported but one bill, and this was so objectionable to soldiers that the Senate gave it no consideration.

I challenge the record for the truth of the statement I make and for the untruth of the statement he makes.

Now, Mr. Speaker, it occurs to me that it would become the gentleman, who prides himself on his career in the State of Ohio, when these facts have been ascertained in a public body of the dignity of the American House of Representatives, to rise in his seat and confess he had been mistaken and make an apology to the House and submit willingly to the correction of the record. Brought face to face with this record, that, it seems to me, ought to be the course to be pursued by the gentleman from Ohio [Mr. JOSEPH D. TAYLOR] on the other side of the House. But, as I have said, instead of pursuing that course the gentleman has again reiterated his former statement, and he undertakes to discuss with the other gentleman from Ohio the local characteristics of the campaign in his district in Ohio. Now, I thought everybody was satisfied of one thing, namely, that if anything is settled in Ohio it is that that State is Republican and the gentleman's district Democratic. That fact, I thought, was settled in the recent election.

I may say there is one part of the gentleman's speech which I feel inclined to let remain, in view of what has taken place. It is as follows.

There are people who would do well to talk less and think more. There is a great deal of ignorance among gentlemen who would like to be called statesmen in regard to the policy and organism of our Government.

It seems to me, Mr. Speaker, that there are some gentlemen on this floor who do not know so much as they think they do about what took place in the Committee on Payment of Pensions, Bounty, and Back Pay during the last session of Congress. [Laughter.]

There is one other suggestion, and then I believe I am through, and I desire to emphasize the statement I am now about to make. The records show you that a number of bills went to our committee which were never specifically reported upon. I know that when the gentleman from Ohio [Mr. WARNER] on my left reported this bill that was discussed, and which passed the House of Representatives, he reported it in lieu of several others touching the same subject), and when he did so he so stated at that time, and it so appears in the RECORD (I do not quote the exact language, but it does appear that this bill was reported in lieu of the other bills on that subject); in other words, it was the crystallized opinion of that committee as to what legislation ought to take place on the subject covered by it. And the same thing is true about the bill reported by the gentleman from New York [Mr. GREENLEAF], although I discover by an examination of the official record that it does not so appear, from the fact, no doubt, that the gentleman neglected at the time to state that fact in making his report to the House.

One other thing and I am through. When I entered as a member upon the duties of the Committee on the Payment of Pensions, Bounty, and Back Pay I knew very little about the pension laws. I submit to my colleagues on that committee on the other side of the House—and they can speak for themselves on that subject—whether or not there was any period in the history of the work of that committee during the last session of Congress when there was anything like a political division in passing on these several measures. And I will submit another proposition, and it is whether or not at any period during the history of the work of that committee at the last session I was found wanting in any particular in the discharge of what was properly the duty of a Congressman on that committee.

Mr. Speaker, our committee was peculiarly harmonious, and these questions, when presented to the committee, had the highest consideration we could give them. We sought all sources of information, and I undertake to say here to-day no committee of this House, from the highest to the lowest, discharged its duty more industriously, more uprightly, more honorably, or with a higher sense of public duty, than that committee, of which I had the honor to be a humble member. And having said this much in vindication of the committee, feeling myself but little aggrieved so far as this thing is concerned, never having had my attention called to it until the beginning of the present session, I believe I will now yield the floor.

Mr. WARNER, of Ohio. I yield five minutes to the gentleman from Georgia [Mr. HAMMOND].

Mr. HAMMOND. Mr. Speaker, perhaps it had been better if this matter had not been brought before the House, but being here it is very important that we should dispose of it correctly. It is entirely immaterial who in the past has violated the privileges of the House under the leave to print. It is entirely immaterial how the election in the district of these gentlemen here was conducted or how it ended. The sole question is whether by the articles and extracts complained of the gentleman from Ohio [Mr. TAYLOR] committed a breach of the rules of the House and an infraction of its privileges.

The facts, as I understand them from himself, are these: He obtained leave to print. Afterward he was nominated as a candidate to represent that district in Congress, his competitor being Mr. WARNER, and after that nomination he printed a speech that was never made on the floor of the House, reflecting personally upon his opponent.

Mr. JOSEPH D. TAYLOR. The gentleman is mistaken; those were not the facts.

Mr. HAMMOND. And he stated this morning in debate that he did not mean to reflect upon the committee, but the sole purpose he had in view was to reflect upon the gentleman who was his opponent in that campaign.

Mr. JOSEPH D. TAYLOR. I presume the gentleman from Georgia wants to state the facts. The nomination was made before the Congress adjourned.

Mr. HAMMOND. That is just what I was saying, that the nomination was before Congress adjourned, and the printing was after the adjournment of Congress.

Now, the question is, when a man under the fourteenth rule of the House can not indulge in personality in debate when speaking upon the floor of the House, shall he under the privilege of delivering something he did not say in print indulge in personality when there can be no reply? I have argued the question when I have stated it; and I shall vote to expunge this matter from the official records of the House.

Mr. WARNER, of Ohio. Mr. Speaker, the gentleman on taking the floor stated that he had not had notice that this matter would be brought up until yesterday, and that, therefore, he had not time to prepare himself. Then he proceeds to deliver one of his very familiar campaign speeches heard so often in Ohio during the last campaign.

The gentleman refers to leaves to print granted to other members of the House, among them to myself. I make no complaint and have made none against the leave to print. That is not the question involved here. That is one thing. The gentleman made no allegation that in these leaves to print, or in printing under such permission of the House, anybody had printed or had said anything untruthful or had in an improper way availed himself of that right. Nor does he state that in such leaves to print there was any violation of the rules of the House, no abuses of the privileges of the House under leave to print.

It is not, then, a question of leave to print, but a question of the abuse of that permission. It is the taking advantage of that permission to print or insert in the RECORD what the gentleman would not have said and what he would not have been permitted to say on the floor of the House. That is the charge which I have made. Any member under a leave to print, or who withholds his speech for revision—and all know that is a common practice—may revise his speech as fully as he desires. He may prepare it beforehand just as he desires to have it appear in the RECORD, every sentence of it completed as he would have it, punctuation and everything else; or he may deliver his speech and afterward revise it, putting it subsequently in the form that he would have adopted had he written it all out beforehand. But in doing so he recognizes the fact that he must abstain from personality, and has no right, under leave to print, to insert what he would not have been permitted to utter in the House. He must not insert in his speech what affects the dignity or the honor of any other member of the House.

Mr. JOSEPH D. TAYLOR. I desire to ask a question.

The SPEAKER. Does the gentleman from Ohio yield?

Mr. WARNER, of Ohio. I will yield for a question.

Mr. JOSEPH D. TAYLOR. In the last part of your tariff speech, as printed in the CONGRESSIONAL RECORD, you are talking about the Ohio platform. Now, in the last part of your pamphlet speech you will find printed the words "Great applause"——

Mr. WARNER, of Ohio. That is a very trivial matter, like the most of the gentleman's speech, and I do not yield for a trivial piece of nonsense like that.

A member has the right to circulate his whole speech or a part of it only, if he chooses. When I had completed my tariff speech I revised it somewhat, as is the custom in the House, and in printing it in pamphlet form I left out a portion of it; and as a matter of fact it should be stated that the part I left out was a part that was delivered in open House and which related to my colleague, Mr. HURD, but not caring to give that general circulation I struck it out, out of deference to him, although it was done not at his request.

That a member has his speeches printed elsewhere than at the Government Printing Office takes from him the right to circulate them under his frank is simply nonsense. The only question is, is it a part of the matter contained in the CONGRESSIONAL RECORD? He pays for the printing of it himself, and he may print it at the Government Printing Office or print it anywhere else that he chooses; and when the gentleman charges me with having made a hundred or more alterations he misstates the fact, and I challenge him or any one else to take the speech as it appears in the RECORD, compare the two, and point them out. There is no change, except such marginal corrections of punctuation, and minor things of that kind, as you may find upon the margin of every proof-sheet of every speech that is printed at the Government Printing Office or elsewhere.

The gentleman sends to the Clerk's desk to be read the opinion of a former Clerk of this House, but that opinion bears date some time late in August. It was called for and given during the Ohio campaign. I was never aware that the author of that letter was an authority on parliamentary law or anything else but partisan politics, of which he makes, I believe, a yearly publication by collecting and publishing what purports to be the doings of the House, but which are mainly the doings of the Republican side of the House.

But, Mr. Speaker, I wish to call the attention of the House back to the question, not to matters that were in the Ohio campaign. I carefully abstained from bringing anything into this discussion personal to myself or that pertained to matters between myself and my colleague. The question here is: did the gentleman abuse the privileges of this House and his leave to print when, after the House adjourned, he went to the Printing Office and inserted what I have sent to the Clerk's desk? I say, Mr. Speaker, I believe that speech to be without parallel in the proceedings of Congress; that no other case like it can be found. And it was from a full sense of the importance of such a precedent, and the importance of not permitting such a precedent to go unquestioned, that I have called it up.

As the gentleman has referred to politics in Ohio, I shall say nothing about that more than to contradict one or two things. He says that a chairman of one of the Democratic committees was indicted. He did not state what led to that indictment, and that as soon as it could be heard it was quashed. I am not going into the Ohio campaign. The people have settled that question there. The gentleman referred to the matter of the election of Speaker. What had all that to do here where we are considering a charge of the violation of the privileges of this House? But I will say, to go upon the records, that never was there a campaign carried on in that State or anywhere else where methods so corrupt, forbidden, and so abhorrent were resorted to as were resorted to by my colleague and his confederates, his paid staff of scoundrels, employed to circulate the very document which he had printed.

Mr. JOSEPH D. TAYLOR. I demand that the language of the gentleman from Ohio be taken down.

The SPEAKER. The gentleman from Ohio demands that the words of his colleague be taken down. The reporter will reduce them to writing.

Mr. DUNN. While the words are being taken down I ask that an order be made to correct the RECORD of this morning.

The SPEAKER. Nothing else is in order while this matter is pending. The Clerk will now read the words objected to as they have been taken down.

The Clerk read as follows:

I will say, to go upon the records, that never was there a campaign carried on in that State or anywhere else where methods so corrupt, forbidden, and abhorrent were resorted to as were resorted to by my colleague and his confederates, his paid staff, scoundrels employed to circulate the very document which he had printed.

Mr. WARNER, of Ohio. I say that a part——

Mr. KEIFER. I submit that the gentleman from Ohio [Mr. WARNER] is not entitled to proceed until action is taken on the words which have been objected to.

The SPEAKER. The Chair understands that the gentleman from Ohio [Mr. WARNER] desires to make an explanation.

Mr. WARNER, of Ohio. I propose to withdraw the remarks, which I concede to be unparliamentary. I did not intend to say "his paid scoundrels." I will say this, that I do not think a campaign was ever carried on anywhere in which methods more corrupt, forbidden, and abhorrent were resorted to to achieve political ends than were resorted to in the seventeenth district of Ohio during the last campaign.

Several MEMBERS. By whom? [Laughter.]

Mr. WARNER, of Ohio. By and on the part of the Republican party. [Applause on the Democratic side.] I think that is parliamentary, and it is certainly true.

Mr. KEIFER. I do not desire to press this matter; but I do not think the gentleman exculpates himself by merely withdrawing the language. That is a privilege he has, but when he has exercised it, the matter is still left with the House.

The SPEAKER. Certainly; if any member desires to submit a motion on the subject he is at liberty to do so.

Mr. KEIFER. I do not want it to be taken for granted that the gentleman may withdraw the language and then go on with his remarks.

The SPEAKER. The Chair does not understand the rule to be that the gentleman can withdraw his remarks and then proceed, provided any gentleman desires to submit a motion with regard to the words which have been objected to. The Chair is ready to recognize any gentleman for that purpose.

Mr. KEIFER. I think the gentleman must have permission of the House to proceed after being called to order in that way.

Mr. HAMMOND. I submit that when the gentleman from Ohio [Mr. WARNER] stated he did withdraw the words and was allowed to go on without objection, it is now too late to raise the question.

Mr. KEIFER. But he was not allowed to go on without objection.

The SPEAKER. The Chair could not tell when the gentleman from Ohio rose whether he was to proceed to make an explanation of the language used or to proceed with the debate. That fact could not be ascertained until the gentleman had spoken perhaps a sentence or two.

Mr. HAMMOND. The gentleman from Ohio [Mr. WARNER] having withdrawn the words to which objection was made, I move that he be allowed to proceed in order.

The SPEAKER. The gentleman from Georgia moves that the gentleman from Ohio be allowed to proceed in order. Is there objection? The Chair hears none. The gentleman from Ohio will proceed.

Mr. WARNER, of Ohio. That is all I wish to say respecting the campaign in Ohio; because, as I have said and will repeat, this is not a personal matter purely. I have acted under the advice of my committee as well as upon my own judgment. And I must be permitted to refer again to the work of that committee. When the gentleman stands here and says it made no report but one of three lines, or that it made such a report, he again proves, if nothing more, his ignorance of what the records of the House show.

That committee, early in the last session, took up the question of pensions in the Department, called the Commissioner of Pensions before it, held sessions day after day and week after week, with the Commissioner of Pensions before it, questioning him as to the cause of delay in adjudicating upon the 250,000 or 300,000 claims now pending in that office, and which have been pending there some of them for the last twenty years. And, Mr. Speaker, in that office there can be found, I dare say, scarcely a Democrat from garret to cellar; every place of any consequence in that office is now held and has been held every hour of every day from the close of the war till this time by Republicans, and if there is any fault for not adjudicating and settling those pension cases where does that fault rest?

We undertook in that committee to modify the rules of evidence, so far changing the law as to enable the Commissioner to settle claims of that kind. I do not believe there is a committee of this House that worked more faithfully than did the committee over which I had the honor to preside.

How does the gentleman know what we did? Did he, though he had introduced a bill, step his foot in that room to inquire after any bill there or anything pending in the committee? No, Mr. Speaker; his interest in the question arose after Congress had adjourned, when there was an opportunity to put a speech in the CONGRESSIONAL RECORD. The report I allude to is in the form of an interview with Commissioner Dudley—this document which I hold in my hand, designated "Miscellaneous Document No. 43."

Now, the gentleman assumes that he is here on this floor as the representative of the Union soldiers, and is authorized to speak for them. Is it possible that the Union soldiers of this country have made that selection; that they have put him forward here to represent them? Did he represent them upon the field during the war? [Applause on the Democratic side.] I know something of the gentleman's record during the war. I know that after the war was well nigh-over; after all the great battles had been fought; after the Army of Virginia had been rolled back across the Potomac and across the mountains, Vicksburg had been captured, Gettysburg had been fought, and the Mississippi River had been opened to the Gulf, then he enlisted in the Home Guard of the State of Ohio [applause and laughter on the Democratic side], and on conditions, too, for the condition of the regiment in which he served was that it should not go out of the State. [Renewed laughter and applause on the Democratic side.] A gentleman who has won the title of "Feather-bed Colonel" in the State of Ohio has been selected—has he?—to represent the Union soldiers upon the floor of this House! Indeed! indeed! Self-appointed, I think!

They would naturally, of course, select a gentleman of courage; and it certainly took courage after Congress had adjourned to go to the Printing Office and insert in the RECORD what I have alluded to; but it is a kind of courage, Mr. Speaker, which the assassin displays when, finding his victim is asleep, he approaches him to stab him. [Applause on the Democratic side.] That is the kind of courage displayed by the gentleman in going to the Printing Office days after Congress had adjourned to insert an attack upon myself and upon the committee which I represent—an attack which was circulated all over my district. The first I heard of this speech was that it had been circulated all over the district. And he has the face, you will allow me to say, to come here and say that he did not intend to attack a committee of the House, but to take advantage of the circumstances to make an attack upon me personally, and to print that speech which was circulated through that district and was printed and reprinted in every Republican paper within that district.

Mr. JOSEPH D. TAYLOR. I wish to ask the gentleman a question.

Mr. WARNER, of Ohio. But I come back to this question: Did the gentleman who introduces here a great mass of stuff relating to the campaign in Ohio, which has nothing to do with this issue at all, and which covers up the one charge of inserting in the CONGRESSIONAL RECORD after Congress had adjourned the language which has been referred to and is quoted in the resolution—did he abuse the privileges of this House? Did he insert in that publication words unparliamentary, which, if they had been uttered on the floor of the House, might have been questioned—as was done a moment ago in my own case—and be stricken out of the RECORD, as they certainly would have been?

Did he abuse the privileges of the House in taking advantage, after the adjournment of Congress, to insert that speech? Was it a violation of the rules of the House to allude to what took place and to criticise what took place in a committee of the Senate or was it not? That is the only question for this House to pass upon. It can not pass upon the Ohio campaign now; it is too late; it is all over, and I am satisfied with it myself. [Laughter and applause.] The only question to be passed upon is, Did my colleague abuse the privileges of this House under leave granted to him to extend his remarks? Did he insert in the RECORD matter not delivered on the floor of the House and which violated the privileges of the House? If he did not, after the showing I have made, then you may insert anything you may get leave to print, and after Congress adjourns, or any other time, insert what you please affecting the integrity, the honor, the character of members, and there is no way to question it.

I now, Mr. Speaker, move the previous question on the adoption of the resolution.

Mr. JOSEPH D. TAYLOR. I rise to a question of privilege.

The SPEAKER. The gentleman will state it.

Mr. WARNER, of Ohio. If I have five minutes remaining of my time, Mr. Speaker, I will yield it to the gentleman from New York [Mr. COX].

Mr. JOSEPH D. TAYLOR. I rise to a question of privilege for the purpose of correcting the truthfulness of the statement last made by the gentleman from Ohio.

Mr. WARNER, of Ohio. I will withdraw my demand for the previous question and I will yield five minutes to the gentleman from New York.

The SPEAKER. The gentleman from Ohio states that he rises to a question of privilege.

Mr. JOSEPH D. TAYLOR. I do.

The SPEAKER. The gentleman will state it.

Mr. JOSEPH D. TAYLOR. I wish to say, Mr. Speaker, that while the regiment to which I belonged was mustered in early in 1863, at a time of intense excitement in that State, and while some of them understood it was to be confined to that State, nevertheless it was not confined to that State but went into other States.

Mr. WARNER, of Ohio. Oh! Mr. Speaker, that is not a question of privilege.

Mr. JOSEPH D. TAYLOR. I remained with the regiment a year and a half, and was with the regiment outside of the State of Ohio.

The SPEAKER. The Chair thinks that is not a matter of privilege. It is in the nature of a personal explanation, to be made only by the consent of the House.

Mr. WARNER, of Ohio. I withdraw the demand for the previous question, and would like to inquire how much time I have left.

The SPEAKER. The gentleman has eight minutes of his time remaining.

Mr. WARNER, of Ohio. Very well; then I will yield five minutes of that time to the gentleman from New York.

Mr. COX, of New York. Does the gentleman want the whole eight minutes?

Mr. WARNER, of Ohio. I will yield to the gentleman from New York seven minutes, retaining for myself only one minute.

The SPEAKER. The confusion in the Hall is so great that it is

almost impossible to hear what is being said. The Sergeant-at-Arms will request members to resume their seats, so that order may be observed on the floor.

Mr. COX, of New York. Mr. Speaker, I read the other day an account in a California paper of a man who (like the gentleman from Ohio, Mr. JOSEPH D. TAYLOR) got into a difficulty. His difficulty was with another man, who killed him and scalped him, and then he wrote to San Francisco that he did not want the encounter to get into the papers for fear it might be exaggerated. [Laughter.] That is the condition exactly of the scalped gentleman from Ohio.

That gentleman undertakes to defend the peculiar speech he published in the RECORD after the adjournment of Congress. It is indefensible, because there was no opportunity to answer it.

Now, sir, there is an ineradicable rule about publishing speeches. It is a good and golden rule. Every gentleman observes it. It is the rule of honor. It is this: that in publishing speeches after the adjournment according to the rules, and in the absence of members, there should be omitted absolutely all personalities and reflections upon the integrity of members or committees of Congress.

Mr. JOSEPH D. TAYLOR. I ask the gentleman from New York to point out a single personal utterance in that speech. There is not a single personal statement in it.

Mr. COX, of New York. Notwithstanding all we have heard, the gentleman now says there is not a personal statement in that speech. Why, sir, your speech is crammed and rammed and jammed full of personalities. [Laughter and applause.] The record made by his colleague will show it. I have seen it.

But the point I particularly rise to is this: The gentleman seeks the aid of a venerable expert as to the rules of this House; for what purpose? He calls on one of our ex-Clerks to show that others have abused this privilege. Now, this gentleman had better be engaged in better business. He volunteers to challenge my conduct. I have never printed, sir, anything after the adjournment reflecting personally on any member.

The gentleman from Ohio, I understand, referred to a speech I made on the whisky bill. I was not present when he spoke, being in the committee-room. But I beg to correct the statements made. I did make a speech on the whisky bill. The House consented that after a half-hour's talk the rest should be printed. It was a tariff speech. I connected the whisky tax with the customs. They are together in all economic and proper senses. I was advised by the Speaker that I was to be chairman of the Committee of the Whole on the tariff bill of Colonel MORRISON. Consequently I made my speech in advance. As it related to the revenue, I made it logical and orderly, for I had in mind the ultimate intent to couple them together. Any man of logic and intelligence will see that there is no excuse or pattern in this speech for the conduct of the gentleman from Ohio [Mr. JOSEPH D. TAYLOR].

The gentleman from Ohio quotes the late Clerk of the House, Mr. McPherson, in support of a statement that I published a speech in the RECORD that was not delivered in the House. So far that statement is true. But when he gives the statement that this same speech had been delivered in Tammany Hall on the 4th day of July he does not tell the truth.

Here is what Mr. McPherson says:

> COX's speech, "Salt in politics," page 165 CONGRESSIONAL RECORD, July 8, was never delivered, nor any part of it, in the House—
>
> That is a falsehood to begin with [laughter]—
>
> but was a reprint of his Fourth of July remarks before the Tammany Society of New York.

This is another untruth to end with. I have that speech here. I hold a copy of it in my hand. Two pages of it, at the start, never were spoken in Tammany Hall. Gentlemen can make the comparison for themselves. The circumstances under which it was delivered or printed were as follows: The river and harbor bill was under consideration by the Committee of the Whole. My then facetious friend from Kentucky [Mr. WHITE] offered an amendment to the bill appropriating the sum of $40,000 for the improvement of Salt River, Kentucky. It is an old but a good joke. He did it prophetically and with a view of the subsequent use of that stream by his party. [Laughter.] His party has gone up that mythic stream. He said that he wanted to improve that river for the benefit of the Democratic party. Well, we have not gone up Salt River—not far or much. [Laughter and applause on the Democratic side.] The magnetic statesman from Maine and his co-ordinates and companions have gone up—Salt River—with all the meanders thereof. [Renewed laughter.]

Mr. Speaker, I obtained leave to print a speech on "salt" at that time. I asked for it, because urged to it by gentle Republican provocations. Day after day my friend from Kentucky [Mr. WHITE] asked after my salt speech. I had made reference to the conservative element contained in salt as well as to Salt River, which was the subject the gentleman had introduced with a view to the future navigation of that river by his party.

In that published speech I used two or three pages which had pertinence to Salt River and the saline elements in our politics. These I did not deliver in Tammany Hall; but adding them to my pertinent speech in Tammany Hall, I printed a speech which is supposed to have been delivered here. In that speech I used the following language: It is the gravamen and index to the speech. Besides, it is prophetic:

> But in its most remote and liquid meaning the word salt implies a retiracy from power, an exile up a stream where there may be no patronage, but much repentance. *Hinc lacrimæ!*

[Great laughter on the Democratic side.]

See, Mr. Speaker, the beauty and value of a vaticinatory speech printed in the CONGRESSIONAL RECORD after the adjournment!

Now, I ask my Republican friends, even though they may be ever so malignant toward us and cross over their defeat—and I see the defeated over there by scores and scores—I ask them, since they have lost their patronage and gone up their Salt River, to practice humility and patience. Let them give up their whole souls to repentance in sackcloth and ashes. [Great laughter.]

A word to the gentleman from Ohio [Mr. JOSEPH D. TAYLOR]. He sought my record. I say to him, go back for twenty-five years or more and you will not find that I ever took advantage in printing a speech to make personal reflections upon any man. [Applause on the Democratic side.]

I talk openly when I talk at all. I may sometimes talk foolishly, and often audaciously, but I do not print speeches after no one can answer them. The man who does that, the man who prints reflections upon another when he can not answer—if I should characterize his conduct as I think it ought to be characterized, why my words would be taken down. [Laughter.] Is it brave to do an act of that kind?

My friend from Ohio [Mr. WARNER] says that the gentleman from Ohio is not now the accredited agent of the soldier in any relation.

Mr. WARNER, of Ohio. He never was, and never opposed or saw an armed enemy in his life.

Mr. JOSEPH D. TAYLOR. The CONGRESSIONAL RECORD of the Forty-sixth Congress shows that Mr. Hazleton charged you with being shot in the back. Why did you not have that suppressed or expunged?

Mr. COX, of New York. But I would like to read in this connection a little extract from the Congressional Directory:

> JOSEPH D. TAYLOR, of Cambridge, was born in Belmont County, Ohio—

That county is a Quaker county, to my certain knowledge [laughter], and men never fight in Belmont County.

The SPEAKER. The time of the gentleman from New York has expired.

Mr. COX, of New York. I would like to print the remainder of this biography after Congress adjourns; then I will print it. [Laughter and applause.]

Mr. WARNER, of Ohio. I now demand the previous question; but prior to that I wish to say just a word, as a minute remains of my time, in reply to the reflection made upon my record. Brave men have been shot in the back, but not in just the way that the gentleman from Ohio shoots them. But in my case it happens not to be true. The shot that disabled me was almost a direct front shot.

Now, I demand the previous question upon the resolution.

Mr. BROWNE, of Indiana. Mr. Speaker, I rise to a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. BROWNE, of Indiana. May I now be in order to move to refer this question to the Committee on Rules?

The SPEAKER. The present occupant of the chair has always held that the rule which allows one motion to commit with or without instructions applies as well to resolutions, after the previous question has been demanded or ordered, as to bills. Therefore, the Chair thinks that the motion of the gentleman is in order.

Mr. BROWNE, of Indiana. I submit that motion. I do not know whether the motion is debatable or not.

The SPEAKER. It is not.

Mr. BROWNE, of Indiana. I do not desire to debate it, but would simply suggest the reason for making it. It is because I am not able to determine as yet whether or not there has been a breach of privilege in the matter complained of.

Mr. HAMMOND. This is not debatable, I believe.

The SPEAKER. It is not debatable.

Mr. BROWNE, of Indiana. Then I move to refer it to the Committee on Rules, without instructions.

The SPEAKER. The gentleman from Indiana moves to refer the resolution under consideration to the Committee on Rules. The question is upon that motion.

The question having been taken, the Speaker stated that in the judgment of the Chair the "noes" seemed to have it.

Mr. BROWNE, of Indiana. I call for a division.

The House divided; and there were—ayes 90, noes 128.

Mr. BROWNE, of Indiana. I will be compelled to ask for the yeas and nays to show how completely non-partisan the vote is.

Mr. HAMMOND. Take the yeas and nays on the resolution.

Mr. DUNHAM. No; take them on this motion.

Mr. BROWNE, of Indiana. I want them on this motion to refer.

The yeas and nays were ordered.

The question was taken; and there were—yeas 94, nays 161, not voting 68; as follows:

YEAS—94.

Adams, G. E.	Everhart,	Laird,	Robinson, J. S.
Atkinson,	Finerty,	Lawrence,	Rockwell,
Barr,	Funston,	Libbey,	Rowell,
Bayne,	George,	Long,	Russell,
Bisbee,	Goff,	Lyman,	Ryan,
Boutelle,	Guenther,	McCoid,	Skinner, C. R.
Brainerd,	Hanback,	McComas,	Smalls,
Breitung,	Hart,	McCormick,	Smith, A. Herr
Brewer, J. H.	Hatch, H. H.	Millard,	Smith, Hiram Y.
Browne, T. M.	Haynes,	Milliken,	Spooner,
Brown, W. W.	Henderson, D. B.	Nelson,	Steele,
Campbell, J. M.	Henderson, T. J.	Nutting,	Stephenson,
Cannon,	Hepburn,	O'Hara,	Strait,
Chace,	Hiscock,	O'Neill, Charles	Taylor, E. B.
Chalmers,	Hitt,	Parker,	Thomas,
Culbertson, W. W.	Holmes,	Payne,	Wadsworth,
Cullen,	Holton,	Perkins,	Wait,
Cutcheon,	Horr,	Peters,	Wakefield,
Dargan,	Howey,	Poland,	Washburn,
Davis, G. R.	James,	Price,	Weaver,
Davis, R. T.	Johnson,	Ranney,	White, J. D.
Dingley,	Kean,	Ray, Ossian	Wilson, James
Dunham,	Keifer,	Reed,	
Evans,	Lacey,	Rice,	

NAYS—161.

Adams, J. J.	Elliott,	McAdoo,	Springer,
Alexander,	Ellis,	McMillin,	Stevens,
Bagley,	English,	Matson,	Stewart, Charles
Barksdale,	Ermentrout,	Maybury,	Stockslager,
Beach,	Ferrell,	Miller, J. F.	Storm,
Belmont,	Follett,	Mitchell,	Sumner, C. A.
Bennett,	Foran,	Morrison,	Talbott,
Blackburn,	Forney,	Morse,	Taylor, J. M.
Blanchard,	Fyan,	Muller,	Thompson,
Boyle,	Geddes,	Murphy,	Throckmorton,
Bratton,	Glascock,	Murray,	Tillman,
Breckinridge,	Green,	Mutchler,	Townshend,
Brewer, F. B.	Greenleaf,	Neece,	Tucker,
Buchanan,	Halsell,	Nichols,	Tully,
Buckner,	Hammond,	Oates,	Turner, H. G.
Caldwell,	Hardeman,	O'Ferrall,	Turner, Oscar
Campbell, J. E.	Hardy,	O'Neil, John J.	Van Alstyne,
Candler,	Hatch, W. H.	Paige,	Vance,
Carleton,	Hemphill,	Patton,	Van Eaton,
Cassidy,	Henley,	Pierce,	Wallace,
Clardy,	Herbert,	Peel,	Ward,
Clay,	Hewitt, A. S.	Post,	Warner, Richard
Clements,	Hewitt, G. W.	Pryor,	Wellborn,
Cobb,	Hill,	Pusey,	Wemple,
Collins,	Hoblitzell,	Randall,	Whiting,
Cook,	Holman,	Rankin,	Williams,
Cosgrove,	Hopkins,	Reagan,	Wilkins,
Cox, S. S.	Houseman,	Reese,	Willis,
Cox, W. R.	Hunt,	Riggs,	Wilson, W. L.
Crisp,	Hurd,	Robertson,	Winans, E. B.
Culberson, D. B.	Jones, B. W.	Rogers, J. H.	Winans, John
Curtin,	Jones, J. H.	Rogers, W. F.	Wise, G. D.
Davidson,	Jones, J. K.	Rosecrans,	Wolford,
Davis, L. H.	Jones, J. T.	Scales,	Wood,
Deuster,	Kleiner,	Seney,	Woodward,
Dibrell,	Lamb,	Seymour,	Worthington,
Dockery,	Lanham,	Shively,	Yaple,
Dowd,	Le Fevre,	Singleton,	York.
Dunn,	Lewis,	Skinner, T. G.	
Eaton,	Lore,	Snyder,	
Eldredge,	Lowry,	Spriggs,	

NOT VOTING—68.

Aiken,	Connolly,	Jordan,	Potter,
Anderson,	Converse,	Kelley,	Ray, G. W.
Arnot,	Covington,	Kellogg,	Robinson, W. E.
Ballentine,	Dibble,	Ketcham,	Shaw,
Barbour,	Dorsheimer,	King,	Shelley,
Belford,	Ellwood,	Lovering,	Slocum,
Bingham,	Fiedler,	Miller, S. H.	Stewart, J. W.
Bland,	Findlay,	Mills,	Stone,
Blount,	Garrison,	Money,	Struble,
Bowen,	Gibson,	Morgan,	Sumner, D. H.
Broadhead,	Graves,	Morrill,	Taylor, J. D.
Brumm,	Hancock,	Moulton,	Valentine,
Budd,	Harmer,	Muldrow,	Warner, A. J.
Burleigh,	Hooper,	Ochiltree,	Weller,
Burnes,	Houk,	Payson,	White, Milo
Cabell,	Hutchins,	Pettibone,	Wise, J. S.
Campbell, Felix	Jeffords,	Phelps,	Young.

So the motion to refer was not agreed to.

On motion of Mr. LORE, by unanimous consent, the reading of the names of members voting was dispensed with.

The following pairs were announced:

Mr. CAMPBELL, of New York, with Mr. HOOPER, on all political questions, until further notice.

Mr. ARNOT with Mr. BELFORD, until further notice.

Mr. BLAND with Mr. VALENTINE, until further notice.

Mr. DIBBLE with Mr. BRUMM, until further notice.

Mr. KING with Mr. MILLER, of Pennsylvania, until further notice.

Mr. JORDAN with Mr. JEFFORDS, until Monday next.

Mr. YOUNG with Mr. HARMER, until further notice.

Mr. AIKEN with Mr. ANDERSON, on this question.

Mr. FIEDLER with Mr. KELLEY, for this day.

Mr. MONEY with Mr. RAY, of New York, for this day.

Mr. POTTER with Mr. STRUBLE, for this day.

Mr. CABELL with Mr. ELLWOOD, for this day.

The result of the vote was then announced as above recorded.

The SPEAKER. The question is now on ordering the previous question on the adoption of the resolution.

The previous question was ordered.

The SPEAKER. The question now recurs on the adoption of the resolution.

The question being put, the Speaker stated that the "ayes" seemed to have it.

Mr. WARNER, of Ohio. I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 164, nays 62, not voting 97; as follows:

YEAS—164.

Adams, J. J.	Elliott,	Lore,	Skinner, T. G.
Alexander,	Ellis,	Lowry,	Snyder,
Bagley,	English,	McAdoo,	Spriggs,
Barksdale,	Ermentrout,	McMillin,	Springer,
Beach,	Ferrell,	Matson,	Stevens,
Belmont,	Follett,	Maybury,	Stewart, Charles
Bennett,	Foran,	Miller, J. F.	Stockslager,
Blackburn,	Forney,	Mitchell,	Sumner, C. A.
Blount,	Fyan,	Morrison,	Talbott,
Boyle,	Geddes,	Morse,	Taylor, J. M.
Bratton,	Glascock,	Muller,	Thompson,
Breckinridge,	Graves,	Murphy,	Throckmorton,
Brewer, F. B.	Green,	Murray,	Tillman,
Buchanan,	Greenleaf,	Mutchler,	Townshend,
Buckner,	Halsell,	Neece,	Tucker,
Caldwell,	Hammond,	Nichols,	Tully,
Campbell, J. E.	Hardeman,	Oates,	Turner, H. G.
Candler,	Hardy,	O'Ferrall,	Turner, Oscar
Carleton,	Hatch, W. H.	O'Neill, J. J.	Van Alstyne,
Cassidy,	Hemphill,	Paige,	Vance,
Clardy,	Henley,	Patton,	Van Eaton,
Clay,	Herbert,	Payson,	Wallace,
Clements,	Hewitt, A. S.	Pierce,	Ward,
Cobb,	Hewitt, G. W.	Peel,	Warner, Richard
Collins,	Hill,	Post,	Weaver,
Cook,	Hoblitzell,	Pryor,	Wellborn,
Cosgrove,	Holman,	Pusey,	Wemple,
Cox, S. S.	Hopkins,	Randall,	Whiting,
Cox, W. R.	Houseman,	Rankin,	Wilkins,
Crisp,	Hunt,	Reagan,	Williams,
Culberson, D. B.	Hurd,	Reese,	Willis,
Curtin,	Johnson,	Riggs,	Wilson, W. L.
Davidson,	Jones, B. W.	Robertson,	Winans, E. B.
Davis, L. H.	Jones, J. H.	Rogers, J. H.	Winans, John
Deuster,	Jones, J. K.	Rogers, W. F.	Wise, G. D.
Dibrell,	Jones, J. T.	Rosecrans,	Wolford,
Dockery,	Kleiner,	Scales,	Wood,
Dowd,	Lamb,	Seney,	Woodward,
Dunn,	Lanham,	Seymour,	Worthington,
Eaton,	Le Fevre,	Shively,	Yaple,
Eldredge,	Lewis,	Singleton,	York.

NAYS—62.

Atkinson,	Guenther,	Lyman,	Russell,
Bisbee,	Hanback,	McCoid,	Ryan,
Boutelle,	Hart,	McCormick,	Skinner, C. R.
Brainerd,	Hatch, H. H.	Morrill,	Smith, A. H.
Breitung,	Haynes,	Nelson,	Smith, H. Y.
Browne, T. M.	Henderson, D. B.	Nutting,	Spooner,
Brown, W. W.	Henderson, T. J.	O'Neill, Charles	Steele,
Cannon,	Hepburn,	Parker,	Stephenson,
Culbertson, W. W.	Hitt,	Perkins,	Strait,
Cullen,	Holmes,	Peters,	Taylor, E. B.
Cutcheon,	Horr,	Poland,	Wadsworth,
Davis, R. T.	Howey,	Price,	Wait,
Dingley,	James,	Ray, Ossian	Wakefield,
Everhart,	Lacey,	Reed,	Washburn.
Funston,	Laird,	Robinson, J. S.	
Goff,	Libbey,	Rowell,	

NOT VOTING—97.

Adams, G. E.	Converse,	Keifer,	Rice,
Aiken,	Covington,	Kelley,	Robinson, W. E.
Anderson,	Dargan,	Kellogg,	Rockwell,
Arnot,	Davis, G. R.	Ketcham,	Shaw,
Ballentine,	Dibble,	King,	Shelley,
Barbour,	Dorsheimer,	Lawrence,	Slocum,
Barr,	Dunham,	Long,	Smalls,
Bayne,	Ellwood,	Lovering,	Stewart, J. W.
Belford,	Evans,	McComas,	Stone,
Bingham,	Fiedler,	Millard,	Storm,
Blanchard,	Findlay,	Miller, S. H.	Struble,
Bland,	Finerty,	Milliken,	Sumner, D. H.
Bowen,	Garrison,	Mills,	Taylor, J. D.
Brewer, J. H.	George,	Money,	Thomas,
Broadhead,	Gibson,	Morgan,	Valentine,
Brumm,	Hancock,	Moulton,	Warner, A. J.
Budd,	Harmer,	Muldrow,	Weller,
Burnes,	Hiscock,	Ochiltree,	White, J. D.
Burleigh,	Holton,	O'Hara,	White, Milo
Cabell,	Hooper,	Payne,	Wilson, James
Campbell, Felix	Houk,	Pettibone,	Wise, J. S.
Campbell, J. M.	Hutchins,	Phelps,	Young.
Chace,	Jeffords,	Potter,	
Chalmers,	Jordan,	Ranney,	
Connolly,	Kean,	Ray, G. W.	

So the resolution of Mr. WARNER, of Ohio, was adopted.

Mr. WARNER, of Ohio, moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

APPROPRIATION FOR IMPROVEMENT OF HELL GATE.

Mr. WILLIS. I rise to a privileged question. Under instructions from the Committee on Rivers and Harbors I report back the resolution which I send to the desk.

The Clerk read as follows:

Resolved, That the Secretary of War be directed to inform this House whether any part of the amount appropriated in the river and harbor act of July 5, 1884, for removing the reef at Hell Gate, New York, has been used for a different purpose, and, if so, by whom and under what authority.

The resolution was adopted.

Mr. WILLIS moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

SEWERAGE FACILITIES FOR NEWPORT, R. I.

Mr. SEYMOUR, by unanimous consent, reported back from the Committee on Commerce, with a favorable recommendation, the bill (H. R. 7367) granting the right of way to the city of Newport, R. I., over the breakwater at Goat Island.

Mr. CHACE. I ask that this report be now considered and the bill put on its passage. It proposes merely to give to the city of Newport the right to carry a sewer through the breakwater to empty the débris into the outer harbor. The bill has been already passed by the Senate.

The SPEAKER. This appears to be a House bill, not a Senate bill.

Mr. CHACE. Then I ask unanimous consent that we now proceed to consider, in lieu of this bill, the Senate bill of the same tenor.

The SPEAKER. The gentleman from Rhode Island [Mr. CHACE] asks that this bill be laid aside, and that the House now take up for consideration a Senate bill of similar purport.

Mr. CHACE. The bill simply provides that the city of Newport may carry a sewer under the harbor and through the breakwater. The object is that the débris from the sewer now emptied into the inner harbor shall be carried out, so that the tides of the outer channel may wash it away.

Mr. SPRINGER. Does the bill involve any expense to the Government?

Mr. CHACE. None whatever.

Mr. COBB. Has this matter been considered by any committee of the House?

Mr. CHACE. The Committee on Commerce has just reported back favorably a bill similar to the Senate bill which I desire to have considered.

There being no objection, the House proceeded to the consideration of the bill (S. 2041) granting the right of way to the city of Newport, R. I., over the breakwater at Goat Island.

The bill was read, as follows:

Be it enacted, &c., That the city of Newport, R. I., is hereby granted the right to construct and maintain a sewer for drainage purposes through or across the breakwater at Goat Island, subject to such conditions as the Secretary of War may prescribe: *Provided*, That such conditions shall be accepted by the city of Newport before the work hereon authorized shall be commenced.

The bill was read three times, and passed.

Mr. CHACE moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

Mr. MCMILLIN. Before the House met this morning, there was an agreement between the gentleman from Texas [Mr. REAGAN] and myself—subject of course to the ratification of the House, if it should meet its approval—that to-morrow's session should be devoted to private business, and to-day to the further consideration of his bill in regard to interstate commerce. But to-day's proceedings have been interrupted by a little episode, the nature of which the RECORD will show, and which has consumed the entire day. Neither of us would now be disposed to hold the other to the agreement I desire to know whether there is any objection to going on with the Private Calendar to-morrow. This will meet the approval of the gentleman from Texas.

Mr. STOCKSLAGER. I object.

Mr. MCMILLIN. As objection is made, I will not urge the proposition, but withdraw it.

ADJOURNMENT TILL MONDAY.

Mr. MORRISON. I move that when the House shall adjourn today it adjourn to meet on Monday next.

Mr. STOCKSLAGER. I hope not.

The question being taken on the motion of Mr. MORRISON, there were—ayes 119, noes 54.

Mr. BEACH. I call for the yeas and nays.

On ordering the yeas and nays there were—ayes 35, noes 107; less than one-fifth voting in the affirmative.

Mr. BEACH. I call for tellers on ordering the yeas and nays.

Tellers were not ordered.

So the yeas and nays were not ordered, and the motion of Mr. MORRISON was adopted.

CEREMONIES ON COMPLETION OF WASHINGTON MONUMENT.

Mr. TUCKER. I ask unanimous consent to have taken from the Speaker's table for consideration and passage the joint resolution (S. R. 101) in relation to the ceremonies to be authorized upon the completion of the Washington Monument.

The joint resolution was read, as follows:

Resolved by the Senate and House of Representatives, &c., That the Secretary of the Treasury is hereby directed to cause to be executed in the Bureau of Engraving and Printing such suitable cards of invitation as may be prescribed by the commission appointed by the joint resolution of May 13, 1884, to make arrangements for suitable ceremonies upon the completion of the Washington Monument, and the Public Printer is directed to furnish such necessary programmes and cards as may be required by said commission. And the ceremonies provided for by said commission shall take place on the 21st day of February, A. D. 1885. And to defray the expenses incurred under the provisions of said joint resolution the additional sum of $7,500, or so much thereof as may be necessary, is hereby appropriated out of any money in the Treasury not otherwise appropriated.

There was no objection; and the joint resolution was taken from the Speaker's table and ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. TUCKER moved to reconsider the vote by which the joint resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

AMENDMENT TO THE CONSTITUTION.

Mr. MILLARD, by unanimous consent, introduced a joint resolution (H. R. 299) proposing an amendment to the Constitution changing the terms of office of the President of the United States; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

FOREIGN AFFAIRS.

Mr. CURTIN. I ask unanimous consent to present for present consideration the following resolution.

The Clerk read as follows:

Resolved, That January 14, 1885, after the reading of the Journal, be assigned to the Committee on Foreign Affairs for the consideration of such business as may be presented by said committee, this order not to interfere with general appropriation and revenue bills.

Mr. SINGLETON. I object unless it also includes prior special orders.

Mr. CURTIN. I have no objection to including that limitation in the resolution.

Mr. SINGLETON. Very well; then I withdraw my objection.

Mr. CURTIN. I ask unanimous consent that the resolution be considered as modified.

The SPEAKER. Is there objection to the present consideration of the resolution?

There was no objection; and the resolution as modified was received and adopted.

Mr. CURTIN moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

J. H. ADAMS.

Mr. MCMILLIN, by unanimous consent, from the Committee on Claims, reported a bill (H. R. 7679) for the relief of J. H. Adams; which was read a first and second time, referred to the Committee of the Whole House on the state of the Union, and, with the accompanying report, ordered to be printed.

ALLOTMENT OF LANDS TO INDIANS.

On motion of Mr. WELLBORN, by unanimous consent, the bill (S. 48) to provide for allotment of lands in severalty to Indians on the various reservations and to extend the protection of the laws of the States and Territories over the Indians, and for other purposes, was taken from the Speaker's table, read a first and second time, referred to the Committee on Indian Affairs, and ordered to be printed.

ORDER OF BUSINESS.

Mr. COSGROVE. I move that the House do now adjourn.

Mr. MATSON. I ask that the House take a recess.

The SPEAKER. The Chair will state by order of the House a recess is provided on Friday from 5 o'clock until 8, so there may be an evening session for the consideration of pension bills. Does the gentleman insist on his motion to adjourn?

Mr. COSGROVE. I do.

Mr. MATSON. I move to take a recess for the consideration of pension bills under a former order of the House.

The SPEAKER. Before submitting that motion the Chair will lay before the House several executive communications.

BUREAU OF CATHOLIC MISSIONS.

The SPEAKER laid before the House a letter from the Acting Secretary of the Interior, with inclosures, asking an appropriation of $2,000 for the bureau of Catholic missions for the support and education of Indian pupils of the Flathead reservations, Montana; which was referred to the Committee on Appropriations, and ordered to be printed.

GEORGE W. ELLIOTT.

The SPEAKER also laid before the House a letter from the Secretary of the Treasury, inclosing a letter from the Commissioner of Internal Revenue in reference to Senate bill 535, for the relief of the sureties of

George W. Elliott, now on the Speaker's table; which was referred to the Committee on Appropriations, and ordered to be printed.

ENROLLED BILL AND JOINT RESOLUTION SIGNED.

Mr. WARNER, of Tennessee, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a bill and joint resolution of the following titles; when the Speaker signed the same:

A bill (H. R. 7428) to authorize the Hillsborough National Bank to change its name to that of the First National Bank of Hillsborough, Ohio.

Joint resolution (H. Res. 289) authorizing the Superintendent of the Census to continue the work on the Tenth Census.

LEAVE OF ABSENCE.

Leave of absence by unanimous consent was granted in the following cases:

To Mr. STORM, until Monday next, on account of important business.

To Mr. DORSHEIMER, until Tuesday morning.

To Mr. MAYBURY, for ten days, on account of urgent business.

SOLDIERS' HOMES.

The SPEAKER. The Committee on Military Affairs asked by unanimous consent that preliminary copies of the report of the examination of United States military homes for disabled volunteer soldiers be printed for the use of members of the committee.

There was no objection, and it was ordered accordingly.

W. H. POWELL.

On motion of Mr. MORRILL, by unanimous consent, leave was granted for the withdrawal from the files of the House of the papers of W. H. Powell without leaving copies on file, there having been no adverse report on the same.

MARTIN COUGHLIN.

Mr. STEELE, by unanimous consent, introduced a bill (H. R. 7680) for the relief of Martin Coughlin, Company A, Thirty-fifth Indiana Volunteers; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

TARIFF.

Mr. ADAMS, of New York, by unanimous consent, introduced a bill (H. R. 7681) to simplify the existing tariff and collection laws on imports; which was read a first and second time, referred to the Committee on Ways and Means, and ordered to be printed.

ORDER OF BUSINESS.

The SPEAKER. The question recurs on the motion that the House take a recess until 8 o'clock this evening to consider pension bills.

Mr. GEORGE D. WISE. I call for a division.

The House divided; and there were—ayes 55, noes 14.

Mr. GEORGE D. WISE. No quorum.

The SPEAKER. No quorum having voted, the Chair will appoint as tellers Mr. MATSON and Mr. GEORGE D. WISE.

Mr. GEORGE D. WISE. I withdraw the call for a quorum, with the distinct understanding that if no quorum is present to-night I shall object to the consideration of any bill.

The SPEAKER. The motion is agreed to; and the Chair announces that Mr. BAGLEY, of New York, will preside this evening as Speaker *pro tempore*.

And accordingly (at 4 o'clock and 14 minutes p. m.) the House took a recess until 8 o'clock this evening.

EVENING SESSION.

The House at 8 o'clock resumed its session, and was called to order by Mr. BAGLEY, as Speaker *pro tempore*.

The SPEAKER *pro tempore*. The Clerk will read the order under which the session is held this evening.

The Clerk read as follows:

That until the further order of this House, on each Friday the House will take a recess at 5 o'clock until 8 p. m., at which evening sessions bills on the Private Calendar reported from the Committee on Pensions and the Committee on Invalid Pensions shall be considered.

Mr. MATSON. Under the order just read, Mr. Speaker, I move that the House resolve itself into the Committee of the Whole on the Private Calendar.

The motion was agreed to; and the House accordingly resolved itself into Committee of the Whole House on the Private Calendar (Mr. HATCH, of Missouri, in the chair).

JOHN H. COOK.

The CHAIRMAN. The Clerk will read the first bill.

The Clerk read as follows:

A bill (H. R. 2635) granting a pension to John H. Cook; adverse.

Mr. HEWITT, of Alabama. Mr. Chairman, is not the unfinished business of the committee first in order? If so, the bill on page 44, for the relief of Emma De Long, is first to be disposed of.

The CHAIRMAN. The gentleman is correct.

EMMA DE LONG.

The first business on the Private Calendar was the bill (H. R. 3065) granting a pension to Emma De Long.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Emma De Long, widow of the late Lieut. Commander George W. De Long, United States Navy, who died in Siberia, while in the discharge of his duty as the commanding officer of the expedition and during the retreat of the officers and enlisted men of the exploring steamer Jeannette, after the wreck of that vessel in the Arctic seas, and to pay to the said Emma De Long a pension at the rate of $50 per month, commencing from the 23d day of March, 1882.

SEC. 2. That the Secretary of the Treasury is hereby authorized and directed to pay to the said Emma De Long, out of any money in the Treasury not otherwise appropriated, the amount which shall, upon the passage of this act, have accrued to her under the provisions thereof.

Mr. SPRINGER. Let the report of the committee be read.

The report was read, as follows:

The Committee on Pensions, to whom was referred the bill (H. R. 3065) granting a pension to Mrs. Emma De Long, have had the same under thoughtful consideration, and beg leave to report:

The original bill has been slightly amended, and, as amended, the committee recommend its passage. It is not deemed necessary to refer at length to the gallant services of the brave Lieut. Commander George W. De Long, who gave up his life while on duty in the frozen wilds of Siberia. The long and painful story of the Jeannette expedition; the gallantry and devotion of the men therein engaged; the horrible suffering to which they were subjected, and finally the death of a number of them in the ice-fields thousands of miles from the country they served so faithfully—all has gone to history, and become a shining chapter in the great record of human heroism. And now the faithful wife of the brave De Long asks at the hands of Congress a pension sufficient to supply the bare necessities of a life darkened and saddened by the Siberian tragedy of which the husband was the central figure.

The committee unanimously and earnestly recommend the passage of the bill as amended granting a pension to Mrs. Emma De Long.

The CHAIRMAN. When the bill was previously under consideration it was amended by striking out in the first section the words "commencing from the 23d day of March, 1882," and striking out the second section, as follows:

SEC. 2. That the Secretary of the Treasury is hereby authorized and directed to pay to the said Emma De Long, out of any money in the Treasury not otherwise appropriated, the amount which shall, upon the passage of this act, have accrued to her under the provisions thereof.

It was also amended by changing the amount from $50 a month to $30. The question is, Shall the bill as amended be laid aside to be reported to the House with the recommendation that it do pass?

Mr. BENNETT. For one I desire to move a further amendment.

Mr. STEELE. My understanding is the bill went to the Speaker's table as it was reported from the committee.

Mr. SPRINGER. No; it did not, as no quorum was present.

The CHAIRMAN. The bill has not been acted on by the committee. The Clerk will report the amendment of the gentleman from North Carolina.

The Clerk read as follows:

Add the words: "And the mother of Assistant Surgeon Ambler."

Mr. SPRINGER. I make the point that it is not in order to amend a private bill by adding another name, as that makes another bill of it entirely.

The CHAIRMAN. The Chair sustains the point of order. It is a point on which he has ruled.

Mr. BENNETT. I wish to say a word.

The CHAIRMAN. The Chair will hear the gentleman from North Carolina.

Mr. BENNETT. I have nothing to add to what has been said already except that my recollection is the Chairman ruled in favor of such an amendment.

Mr. SPRINGER. Even if that were so it was an error, and would not be a precedent to govern the present occupant of the chair. It has been ruled by the chairman of the committee that such amendments are not in order, as the rule prohibits it.

Mr. BENNETT. The Chair so ruled, whether in order or not.

The CHAIRMAN. The Chair afterward found the practice of the House was otherwise.

Mr. STEELE. I demand the regular order.

The CHAIRMAN. The Clerk will read the paragraph of the rule.

The Clerk read as follows:

It is also out of order to ingraft upon a bill for the relief of one individual a provision for the relief of another.—*Journal* 2, 32, page 414.

The CHAIRMAN. The Chair sustains the point of order raised by the gentleman from Illinois.

There being no objection, the bill as amended was laid aside to be reported to the House with the recommendation that it do pass.

JOHN H. COOK.

The next business on the Private Calendar was the bill (H. R. 2635) granting a pension to John H. Cook; adverse.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll the name of John H. Cook, late a private in Company E, First Division, construction corps.

The report (by Mr. PATTON) was read, as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R

2635) granting a pension to John H. Cook, have had the same under consideration, and report as follows:

The committee find in August 16, 1881, Quartermaster's Office reports, that the records of this office show that J. H. Cook, carpenter, on United States military railroad, is reported, by Capt. F. P. Stockweather, A. Q. M., from June 1 to 30, 1864, twenty-three days, at $2.50, amounting to $57.50. While at work with his gang on the Chattanooga and Atlanta Railroad, he was sent by his foreman to Chattanooga for his box of tools. On his way back he was captured.

The committee find, by affidavit of William A. Clark and four of the Cook family, that when J. H. Cook returned home from the Army in June, 1845—

"He was then suffering from chronic diarrhea and rheumatism very much, and was reduced to a mere skeleton; that some of his friends did not know him, and that ever since he has been afflicted with the same trouble, and has suffered from a gunshot wound in his left leg, and we all know that, ever since his return, about once in every six weeks he has been prostrated by this chronic diarrhea and confined to bed, and said spells last from one to two weeks, and that in 1879 he was for over four months prostrate, and we all thought he was going to die; and for the first year after his return from the Army he was unable to do any work, and that before he went to the Army he was a stout, healthy man."

The committee find the following certificate from examining surgeon Calvin C. Halsey:

STATE OF PENNSYLVANIA,
Susquehanna County:

JUNE 15, 1881.

I hereby certify that I have carefully examined John H. Cook, late a private Company E, First Division Construction Corps, Quartermaster's Department, in the service of the United States, who is an applicant for an invalid pension by reason of an alleged disability, resulting from chronic diarrhea and rheumatism and effects. In my opinion the said John H. Cook is totally (88) incapacitated of obtaining his subsistence by manual labor, cause above stated. Judging from his present condition and from the evidence before me, it is my belief the said disability did originate in the service aforesaid in the line of duty. The disability is probably permanent. A more particular description of the applicant's condition is subjoined. I find large cicatrices on outer side of left leg, just above ankle-joint, produced by gunshot wound, and resulting in gangrene. The cicatrices interfere with action of muscles and cause lameness. There is muscular atrophy, and veins of foot are varicose; disability one-fourth, $2 per month. Diarrhea. I find tongue coated, moist, red edges, papillæ enlarged; abdomen full and tympanitic, and is so most of the time. States that diarrhea occurs severely about once a month; has twelve or more thin, slimy evacuations daily when he has attack of diarrhea. Disability three-eighths, $3 per month. Rheumatism most in both hips and back.

Has certificate from Army surgeon dated April 22, 1865, stating that he is unfit for service by reason of scorbutus and rheumatism, and was discharged soon after. Has rheumatism almost all the time in hips and back, shifting to other parts of body; worse on exposure or taking cold; not much that shows; disability three-eighths, $3 per month. Record good and claim appears meritorious.

The committee report the bill back with a recommendation that it do not pass.

There being no objection, the bill was laid aside to be reported to the House with the recommendation that it do not pass.

JOSEPH RAIBLE.

The next business on the Private Calendar was the bill (H. R. 3947) granting a pension to Joseph Raible.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, directed to place on the pension-roll the name of Joseph Raible, of Indiana, who lost an arm above the elbow during the war, while firing a salute, at the city of Indianapolis, Ind., under the direction of the quartermaster-general of Indiana; and that said Secretary be, and he is hereby, directed to pay him at the rate of $30 per month.

The report was read as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 3947) granting a pension to Joseph Raible, report:

That Joseph Raible enlisted in the military service of the United States as a private in Company A, Thirty-second Regiment Indiana Volunteers, September 10, 1861, and was honorably discharged September, 1864.

October 2, 1882, he was placed on the pension-roll at $1 per month, for partial deafness of left ear, contracted in the military service of the United States.

July 3, 1865, after his discharge from the military service of the United States, while in the military service of the State of Indiana, and in pursuance of an order from General Stone, assistant quartermaster-general, at Indianapolis, while engaged in aiding in firing a salute in honor of the arrival home for muster-out of the Sixty-third Regiment Indiana Volunteers, by the fault of thumber, No. 3 at the gun (claimant being No. 1, rammer), there was a premature discharge of the gun, blowing off the soldier's right arm, which was amputated three inches above the elbow.

It is shown by the evidence in this case that the soldier was acting under orders from Assistant Quartermaster-General Stone, of the United States Army, on duty at Indianapolis, at the time of receiving the disability which resulted in the loss of his arm, and that he was performing a military duty at the time. Your committee therefore recommend that the bill be amended by the following, after the word month, in line 9: "in lieu of all other pensions now paid him;" and when so amended that the bill pass.

The CHAIRMAN. The question is on the committee's amendment.

Mr. GEORGE D. WISE. Mr. Chairman, I do not wish to detain the committee but a moment. Before the adjournment of the House for the recess I made a statement that was rather too broad—that I intended to object to all cases. I did not mean that. In the hurry I said more than I intended. There is no member on this floor who is more willing to vote a pension to Union soldiers in meritorious cases than I am. I believe it not only to be the duty of the Government, but that its honor requires proper provision should be made for those who have received disabilities in its defense; but I give notice here and now, not only to-night but on all proper occasions, I shall object to the granting of pensions in cases in which I believe they ought not to be granted.

It seems to me the statutes of this country are large enough to cover all meritorious cases. I will not say all cases. Perhaps there are some, no doubt many, exceptional cases of which this House ought to take notice, but it is well known to the members of this House that there are upon the pension-roll of this country to-day hundreds of names of persons who never heard the rattle of musketry and never saw the smoke of a battlefield.

Mr. FUNSTON. I desire to ask the gentleman a question.

Mr. GEORGE D. WISE. Certainly.

Mr. FUNSTON. It is whether you mean General Blair's widow?

Mr. GEORGE D. WISE. I do not mean any special name. I mean what you know to be true, that for political purposes by political influences names have been put on the pension-roll of this country of persons who never have rendered any service or received any disability in its service.

Mr. HENDERSON, of Illinois. Name them.

Mr. GEORGE D. WISE. I mean to condemn this system.

Mr. HENDERSON, of Illinois. Will the gentleman from Virginia permit a question?

Mr. GEORGE D. WISE. Yes, sir.

Mr. HENDERSON, of Illinois. I would ask you, in view of the statement you have made, why you do not name these persons?

Mr. GEORGE D. WISE. I am going to name them when the proper time comes for me to do so.

Mr. HENDERSON, of Illinois. We would be glad to know who they are. If there have been any men placed upon the pension-rolls for political purposes it is due to the country that the man who is aware of that fact should give publicity to it in order that we may know it and that their names may be stricken off the rolls. If there are members of the House who know of fraudulent pensions that have been granted to persons who have never seen service and are not entitled to them the country should know it; and I ask the gentleman now, for the sake of the country and for the sake of worthy pensioners, to define what he means and specify the persons to whom he refers.

Mr. GEORGE D. WISE. I am here, sir, to complain of a method of procedure. I am here to complain that these pension bills are considered and passed in night sessions of the House of Representatives when none are here except those who are interested in the passage of particular bills. I am here to say to the country, and I mean to say it, that there are laws broad enough to cover cases of most—I do not say all, but of most of those who are worthy of pensions, and I am here to protest against loose action in pension cases.

You, sir, in the last Congress or in the last year spent more money for pensions than was required for all the expenses of the Government prior to the war.

Mr. STEELE. You claim that we have too much money now in the Treasury. What better use can be made than to pay it out for pensions?

Mr. GEORGE D. WISE. We will not have any in the Treasury if we let you go on much longer.

I want to be understood, though, Mr. Chairman, in what I say. I repeat for the benefit of the gentleman from Indiana that I will go as far as he will go to give pensions in any meritorious case. I will vote the last dollar out of the Treasury to pay any Union soldier who is worthy of it and ought to receive it. I say that the honor of the Government requires that he should be paid, and I am here to do my share toward it; my people want me to do it; but I am here also to protest against this action in sessions of this House when hardly one-sixth of its membership is present.

Now as to the case here under consideration——

Mr. PETERS. Will the gentleman permit me to ask him a question?

Mr. GEORGE D. WISE. Certainly, with pleasure.

Mr. PETERS. I would like to ask the gentleman from Virginia if a single pension bill was passed during the last session that did not receive the scrutiny and recommendation of the Committee on Invalid Pensions or the Committee on Pensions.

Mr. GEORGE D. WISE. Yes; the bills that are passed here receive the scrutiny of those, and only those, who are interested in other bills behind them.

Mr. PETERS. Do I understand the gentleman as accusing the Committee on Pensions or Invalid Pensions of negligence in the discharge of its duties?

Mr. GEORGE D. WISE. No, sir; by no means. I am speaking only of the fact that these bills are considered on Friday evenings when these seats are empty.

Mr. DUNHAM. May I ask the gentleman a question?

Mr. GEORGE D. WISE. Yes, sir.

Mr. DUNHAM. Do I understand the gentleman from Virginia to say that the Committee on Invalid Pensions or the Committee on Pensions who have reported these cases to the House are interested in other cases behind them?

Mr. GEORGE D. WISE. Well, I expect if you look over this roll you will find a good many of the committee who are interested in these cases. Why, it happens that the very bill under consideration in this committee——

Mr. DUNHAM. But I wish to get an answer from the gentleman. Do I understand him to assert that the committee are interested in bills behind the bills which have been presented or passed here?

Mr. GEORGE D. WISE. I do not say that.

Mr. MATSON. Will the gentleman from Virginia permit me to ask him what he does say in reference to the committee?

Mr. GEORGE D. WISE. I have said nothing about the committee at all, except that the committee has made these reports to the House and has other bills favorably reported on the Calendar; and yet we are asked to take these bills under consideration in this House when practically no members are present except the members of the committee. We are asked to consider and pass them when the House is empty.

Mr. MATSON. I desire to know which committee is interested in these bills. If I have understood the gentleman correctly I would like to have him answer that question as to what he means.

Mr. GEORGE D. WISE. I do not know that the committee have any interest in the passage of the bills except in so far as they have been considered and reported by them. I alluded to the committee only in reference to the question of the gentleman on the other side.

Mr. DUNHAM. It is possible we have misunderstood the gentleman on this side, but it was clearly understood here that members who reported these bills to the House were interested in other bills behind them.

Mr. GEORGE D. WISE. Only in so far as they came from the committee. The gentleman must have understood my meaning if he had heard me correctly.

I only want to say in reference to the bill under consideration that if I understand the report, and I ask the gentleman from Indiana to correct me if I have mistaken it, this person is already receiving a pension. Is that much so?

Mr. MATSON. He is; a small pension.

Mr. GEORGE D. WISE. And now it is proposed to give him a pension—for what? For a disability incurred for firing a salute at Indianapolis after the termination of the war, not received in the service of the country at all. Now, I shall object, Mr. Chairman, so far as I am concerned; and I shall not only vote against but shall oppose this bill to the utmost extent of my power.

Mr. MATSON. This bill proposes to pension this man for the loss of an arm incurred by him while firing a salute at Indianapolis immediately after the war closed, and upon the occasion of the return of one of the Indiana regiments to be mustered out. This man belonged to the Thirty-second Indiana Regiment, and had served from the 10th day of September, 1861, to September, 1864. During that time he had served faithfully as a soldier, and he is now receiving a pension of $1 a month on account of partial deafness. The act he was performing at the time he lost his arm was a military act. He was not in the service of the United States at that time, but had prior thereto served, as I have already stated, three years as a private soldier, and was called upon by the quartermaster-general of Indiana, who had charge of these military demonstrations upon the occasion of the return home of the regiments to Indiana, to perform this military service; and while so performing it he lost his arm. That is this case. It is the case of a soldier——

A MEMBER. An ex-soldier?

Mr. MATSON. Yes, an ex-soldier——

Mr. CUTCHEON. Will the gentleman allow me to interrupt him for a moment?

Mr. MATSON. Yes, sir.

Mr. CUTCHEON. Let me correctly understand whether this pensioner or proposed pensioner was in the service of the United States at the time he lost his arm.

Mr. MATSON. He had been mustered out. He had belonged to another regiment but had been mustered out. That is the fact. He had been a soldier and had served three years, and is now an ex-soldier as suggested by a gentleman on my right; and he is an ex-one-armed soldier, having lost his arm in the performance of a military act. It seems to me that makes a case which appeals to the equitable feelings, the conscience, and the judgment of the members of Congress. This is not a case where there can be any question about the fact as to the manner of the incurrence of the disability or as to the fact of the disability. But the whole case is admitted to be one based upon military reasons, and is therefore a peculiarly strong case, appealing to Congress for its equitable interference because the law is deficient and he can not be pensioned under the law for this disability.

Now, Mr. Chairman, I desire to say nothing here in response to what the gentleman from Virginia [Mr. GEORGE D. WISE] has said in relation to the legislation at the last session of Congress more than this, that every bill of the four hundred and eleven that passed this House at the last session received the careful consideration of either the Committee on Pensions or the Committee on Invalid Pensions. Those bills, some of them, were passed perhaps when there were but few members present. But that is not the fault of those that were present. It is the fault of those that were absent. And the gentleman from Virginia, if he could have said during the last session of Congress "I am here" as often as he made that exclamation to-night, would have been less responsible for laches of that character.

Mr. GEORGE D. WISE. Allow me to say that I did not criticise the action of the committee. I was speaking of the method of passing these bills.

Mr. MATSON. I understand the gentleman, but he was criticising the action of the House in passing these bills when but few members were present, and I repeat what I have already said, that the fact that the House passed bills when few members were present was not the fault of those who were present but the fault of those who were absent. There can not be, I apprehend, a clearer proposition than that. And we have not undertaken to pass bills that were objected to here without a quorum. If any gentleman said he believed in his conscience that a bill ought not to pass and that it ought to have the judgment of a quorum of the House, nobody pretended at any time during the last session of Congress or at any other time to deny the right of having that judgment and the right to have the action of the House upon it on the succeeding Friday during the day session, when a quorum might pass on it or the right to have it passed over informally. Nobody has denied the right to any member to have that done, and nobody will deny that right now.

This bill, I want to say again, is certainly a bill that appeals strongly to the judgment as well as to the sympathy of every man that was ever a soldier. Here was a man who had served in the Army for three years, and then in performing a military act, although he had just been mustered out of the service, lost his arm and has carried with him forever afterward the visible badge of his disability. This man comes to Congress and asks Congress to pension him because of the loss of his arm. He now draws a pension of $1 a month on account of partial deafness, and this pension is to be paid to him in lieu of all other pensions now received by him. I ask my friend from Virginia as a soldier, and all the gentlemen present who were in the Army, if they do not believe that these men who carry empty sleeves and go upon crutches ought to be the favorites of Congress as well as of the pension laws.

Mr. HENDERSON, of Illinois. I was very much surprised indeed to hear the gentleman from Virginia make the charge here that it was within the knowledge of members of this House that there are hundreds of fraudulent pensioners upon the pension-rolls of the Government. I say that if there is a single member here to-night who is conscious that there is a single pensioner borne upon the rolls who is a fraudulent pensioner, or who has obtained his pension through fraud, it is his duty to make that fact known. The gentleman complains that we are passing these bills here when there are but few members present. Will the gentleman deny the claimants whose bills are reported from a committee of this House favorably any right whatever to be heard upon the merits of their claims? This whole day, which is the only day in the week that we devote to the private claims of citizens of this country, has been absolutely wasted, and I think worse than wasted, while a man who may have a claim, an honest claim, against this Government, and whose children may be absolutely suffering for the want of bread, is to be denied any hearing whatever.

We have not gone to the Private Calendar to-day, nor did we do so for many weeks during the last session of Congress. Some men of this House, for fear that some dishonest claim may be granted, would never allow us to go to the Private Calendar. I do not know but that it would be right if all these claimants were required to go into the Court of Claims to establish their claims. But we have not provided for any such hearing in these applications that come before us in behalf of men who are entitled to the bounty of the Government on account of services rendered it.

Now, the gentleman says that only members who are interested in particular bills come here at these night sessions. I have been interested, I believe, in but a solitary bill reported during the last session of Congress by the Committee on Invalid Pensions, and that was a case where the soldier whose widow asked a pension had lost his leg, while a member of my own regiment, at the battle of Knoxville, on the 18th of November, 1863; and it was a question of doubt with the physicians whether the loss of his leg had contributed ultimately to his death. And wherever there is a doubt upon such a question as that I would extend the benefit of that doubt to the widow and the helpless children of the soldier who shed his blood and who lost his limb in the service of his country. That was, in my opinion, a righteous claim. I was not here when it was passed, nor did I look after it. I allowed the Committee on Invalid Pensions to consider and report the bill, as they did, without any solicitation on my part.

I do not think it just to members of this House to charge them with coming here on Friday nights for the purpose of putting men on the pension-rolls for political purposes. I say to the gentleman from Virginia that during eight years of the ten that I have had the honor to sit as a member of this House we have had a Democratic Committee on Invalid Pensions; and during that time there has been no bill passed, I think, that has not received the favorable report of at least a majority of that committee.

I think that the gentleman is a little reckless in his statements here. I would ask him whether he intends to deny to these claimants for pensions, whose bills are introduced here by members and referred to the Pensions Committee, any right whatever to be heard in this House? And if we can not give them such hearing on Friday nights we can not do it at all; and we might just as well deny them all justice.

I repeat, that if the gentleman from Virginia or any other member of this House knows of any pensioner who has been guilty of fraud in obtaining a pension, or whose pension is a fraud upon the Government, it is his duty to make the facts known; not to stand here upon the floor of this House and make these reckless charges; not to make assertions of this character, unless he has proof to substantiate them. [Applause.]

Mr. WOLFORD. Mr. Chairman, I wish to say a few words in relation to this case, and I hope that all gentlemen will as much as possible keep this whole question of pensions out of party politics. When I am voting for or against a pension, I do not feel that I am giving either a Democratic or a Republican vote; I feel that I am voting upon the justice or injustice of the application of the man who claims a pension from his country for services rendered to that country. And I do believe that after this little episode shall have passed by we shall do perhaps less talking and more work upon the subject of pensions.

In this case the man in whose favor the bill is reported is drawing a pension—not for having his arm shot off, but for deafness contracted in the service; for he was a soldier during three years, as I understand from the report, and during those three years' service for his country contracted the disease that made him deaf; and for this deafness he is drawing through the department under our laws.

Mr. GEORGE D. WISE. Will the gentleman allow me to interrupt him a moment?

Mr. WOLFORD. Yes, sir.

Mr. GEORGE D. WISE. For that injury this man is receiving already a pension.

Mr. WOLFORD. He is receiving a pension.

Mr. CUTCHEON. A pension of $1 a month—$12 a year.

Mr. GEORGE D. WISE. That is the amount fixed by law; change the law if the allowance is not just.

Mr. WOLFORD. I trust the gentleman from Virginia will have patience, and I hope my position will be satisfactory to him and every other member. It is now proposed by this bill, reported by the Committee on Invalid Pensions, to give this man an additional pension for the loss of an arm; but the injury was incurred when he was not a soldier of the United States. To grant a pension in such a case is, in the opinion of many gentlemen, carrying the doctrine a little to far. But it is not carrying it farther than I am willing to carry it, for I hold to the doctrine which I have advocated in this House, and propose to advocate, that a man who has served his country as a soldier and received an honorable discharge is entitled to a pension when afterward he becomes disabled; that in such a case he is as much entitled in equity and justice to a pension as if the seeds of disease had been sown or the injury incurred while he was in the service.

I know this is a new question; but I ask the candid attention of the gentleman from Virginia and everybody else interested in the question of pensions to a consideration of the question how far do we propose to go in granting pensions. I propose, so far as I am concerned, to go just as far as the necessities and the equities of the case demand. When a man who has served his country honorably and faithfully becomes after the war disabled for any cause other than his own negligent or unrighteous conduct, I am for giving him a pension. I am ready to settle that rule at any time—to-night or hereafter. I propose to vote for this bill not because it comes in the line of any precedent heretofore established, but because it appeals powerfully to my heart, as I believe it appeals to the sympathies of every man in this House.

Pensions must rest upon some principle of equity. We can not establish an iron-clad law upon this subject of pensions. I assume every gentleman here will admit that pensions must stop only where equity and justice stop—never till we reach that point. I believe that the justice and equity of this case demand a pension and I will vote for it. I will vote as cheerfully, and indeed a great deal more cheerfully, to give to every soldier who served his country in any war and afterward becomes disabled. I would vote for a general law on that proposition. I have said all I desire to.

Mr. POST, of Pennsylvania. Mr. Chairman, I do not desire to detain the House at any length, but it seems to me this bill, coming from the gentleman from Indiana [Mr. MATSON], chairman of the Committee on Invalid Pensions, is not entirely a proper one. According to his own statement of this case the injury received by this man was after he had been mustered out of the service of the United States and while executing an order of a State official of Indiana. Now, if there is any pension to be granted in this case let it be granted by the State of Indiana.

To a certain degree, Mr. Chairman, I sympathize with the doctrine which has been stated by my friend from Kentucky [Mr. WOLFORD], that it might be right, it might be proper, that we should pass a general law which would provide for soldiers who are now decrepit, who are now suffering from disease and unable to maintain themselves and their families, and whose disability is not traceable to their military service. But, sir, if you are going to have such a law, let it apply to every one so situated, and not to one single individual who lives in Indiana, and in whose behalf our friend the chairman appeals to the generosity of the House. Let us have no special favorites here. I believe that all soldiers of the Union should be the favorites of Congress; but let our legislation treat all alike, and not favor one special individual as against others equally worthy.

I have in my mind a case in my own district where a man has had a claim similar to this pending, I believe, in two or three Congresses, a man incapacitated from any kind of labor, and who is told when he applies for a pension that his case does not fall within the law governing the granting of pensions. Here he has been denied year after year favorable consideration upon the equities of his case, and yet this man from Indiana it is proposed shall get a pension from mere gratitude and good nature. If such a course is to be taken I wish the rule to apply to such men as in the case I have mentioned who live in my district, as well as those who live in other districts represented by gentlemen upon this floor. Therefore I am opposed to this bill.

Mr. GOFF. It seems to me, Mr. Chairman, that the gentleman from Virginia [Mr. GEORGE D. WISE] entirely misconceives the character of the pension cases submitted to this House. The very reason they are brought here is because the cases themselves do not come within the meaning of the laws. Those laws are, like other laws of the country, to be construed strictly. They are by the Pension Department construed strictly and against the applicants. We here do not act in that respect. We give the applicant the benefit of the equities. We solve the doubt in his favor and not against him. Many of the cases submitted to the consideration of the House, in fact a majority of them, are cases which have already been submitted to the Pension Department and on account of the technical construction that department is required to give them have been rejected, and they must be before they can be considered by this House. If the evidence is full, if all the points are covered, the Pension Department allows the pension and it does not fall to Congress. In the years which have elapsed since the services have been rendered witnesses have died, officers have been lost sight of, and the applicants are unable to obtain testimony, and therefore they are not able to bring their cases within the law as it is interpreted. Those men are meritorious, those men are as well entitled to the gratitude of the Government as the men who have been more fortunate in collecting their evidence and who have received the favorable consideration of the Pension Department.

Now, when the gentleman says that many of these cases, as he himself demands, would not pass the scrutiny of the Pension Department he shows the reason why this House should give them favorable consideration and solve the doubt in their favor.

Now, the gentleman from Pennsylvania [Mr. POST] says this: that this case is not entitled to the consideration of this House because this man was not in the service at the time. The chairman of the Committee on Invalid Pensions has best given the reason for that. The man served three years and incurred disabilities during that time which follow him to-day, and for which he has been pensioned. There is not a gentleman who will say on this floor the provision made therefor is adequate. So far as I am concerned any man who served faithfully during the whole war as this man did and incurred disability as this man did and who then at the close of the conflict was wounded in firing a salute that brought back to this country the old flag and the old Government, a salute which was heard from one end of the land to the other, I say for one, Mr. Chairman, I will pension him for that disability. [Applause.]

Mr. GEORGE D. WISE. Mr. Chairman, I did not propose to address the House again to-night. I do not want to consume all of the time of this session in discussion. I want it to be devoted to the consideration of pension business. But as I have been alluded to by several gentlemen since I had the honor of addressing the House before, I wish to make in justice to myself a few remarks in reply.

I did not say, as represented by the honorable gentleman from Illinois, that I knew or that any member of the House knew, that pensions had been obtained by fraudulent means; but I did say that the granting of pensions in certain cases known to the members of the House is a fraud upon the country, and I gave a reason for it. It is well known that pensions are granted to numerous people who never heard the rattle of a musket or saw the smoke of a battlefield.

Mr. GOFF. May I ask the gentleman from Virginia a question?

Mr. GEORGE D. WISE. Certainly.

Mr. GOFF. May there not be many such cases as that, and yet be meritorious cases?

Mr. GEORGE D. WISE. Not many of them. I do not believe that men whose sole service was in driving a wagon or shoeing mules ought to be placed upon the pension-rolls of the Government.

Mr. GOFF. Still, sir, they had their duty to perform, and such duty, humble though it may have been, was just as essential for the success of the Union as that of men who carried the musket.

Mr. GEORGE D. WISE. It is not the duty which requires that a man should be treated as a hero. I have many such cases as that in my mind. I know some of them; and the gentleman from West Virginia is mistaken if he thinks that I do not understand this pension business.

I am well aware, as he says, that most of the cases which we are called upon to consider here are cases which are not of a character to fall within the limits of the broad acts of Congress, and that if requires, as he well expresses it, the mantle of equity to cover them. But that equity is to be stretched by an appeal to the member of Congress from the particular district, and if the Treasury of the United States is to be opened to cover all the cases which might be considered equitable in the judgment of gentlemen who want to retain their seats on this floor we will have an equity broad enough to cover every case that can be imagined.

Now, sir, as to the case under consideration; it gives an example of what equity will do. You have given or propose to give a pension in

this case for a disability incurred not in the service of the Government. The man is drawing a pension now for services performed for the Government; but what is proposed to be done in addition? You propose to enlarge the pension laws by a special act, to cover a disability received after he was discharged from the service of the Government, and when the pensioner was acting under orders of an officer of the State of Indiana. Adhere to that rule, and you can put and you ought to put 100,000 additional men on the pension-roll of the country. We must stop somewhere. If the pension for deafness is not large enough, then make the statute large enough to cover it.

Why, we have a Pension Bureau here in Washington with hundreds of employés. At the last session of Congress you added one hundred and fifty, I believe—and if I make a mistake I hope some member will correct me—you added one hundred and fifty new employés for special examiners to travel over the country and hunt up evidence; and yet you are not satisfied with that. The gentleman from West Virginia wants the Government to go beyond that. He wants law and he wants equity. I say, Mr. Chairman, it is time that we ought to come to some understanding as to how far we are going.

I am not going to be placed—and I wish all gentlemen present, the gentleman from Indiana and all within the sound of my voice, to understand it—I am not going to be placed in a false position. I repeat now, because it was mentioned by him a few minutes ago, that I will give the benefit of the doubt to the defenders of the Union if you will prove to me that they were defenders. Why, sir, the gentleman from Indiana can not make an appeal—a proper appeal—to me as a soldier to which I will not respond with alacrity. I will vote pensions to the last dollar for Union soldiers who fought and bled for the country. But I do not want to give pensions to those who went into bomb-proof positions or who lay around the quartermasters' wagons, and I will not do it if I can help it.

Twenty years after the day of Appomattox—twenty years—and we have men who after a course of dissipation trace back disease to the time when they drove wagons in the army, and their names are to be put on the pension-rolls! I strike at them, I strike at the laggards who want to go and stand side by side with the brave soldiers who faced the storm of battle and welcomed death upon the battlefield. I I say I strike at them, and not at the soldiers. I honor the soldier for his services, and if it is necessary to increase his pension, or if it is right to increase it for disabilities received in the army, I will vote to increase it, but I will never establish the doctrine by any vote of mine, and I warn the House that it is a dangerous precedent, of giving a pension when the applicant was not in the service of the United States.

Mr. HEWITT, of Alabama. Suppose, by way of illustration, that a faithful soldier had fired a salute in Indiana over the late victory and lost an arm, do you think he ought to have a pension?

Mr. GEORGE D. WISE. No, I do not.

Mr. HEWITT, of Alabama. That is precisely a parallel case with this. If he was a faithful and good soldier he is just as much entitled to a pension as the applicant in this case.

Mr. GEORGE D. WISE. Why, certainly. I say to my friend from Indiana if his committee will report that they find the disability was received in the service of the United States, that his pension ought to be increased, and if that be the deliberate judgment of that committee, I will vote to give it. But never, so help me God, to establish a precedent here will I vote to give a man a pension for disability incurred when he was not in the service of the Government. That is all I want to say. [Cries of "Vote!" "Vote!"]

Mr. MATSON. I wish only to say on the question of precedent that the gentleman from Virginia need not be uneasy on that account. There are many precedents for this case.

Mr. STEELE. I wish to ask my colleague a question. Did you ever see this man?

Mr. MATSON. No, sir.

Mr. STEELE. He is not in your district at all?

Mr. MATSON. No, sir.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Add at the end of the bill the words "in lieu of all other pensions now paid him."

The amendment was adopted.

The CHAIRMAN. The question is, Shall the bill as amended be laid aside and reported with the recommendation that it do pass?

The question being put, the Chairman stated that the "ayes" seemed to have it.

Mr. HEWITT, of Alabama. I call for a division.

The committee divided; and there were—ayes 51, noes 19.

Mr. HEWITT, of Alabama. I make the point in this case that a quorum has not voted. This is not a bill which ought to pass without a quorum.

Mr. MATSON. I ask the gentleman from Alabama to allow the bill to be reported to the House.

Mr. HEWITT, of Alabama. I am willing the bill should be passed over informally and retain its place on the Calendar. This is a departure from the practice that has heretofore prevailed, which I am not willing to make without a quorum.

Mr. MATSON. I have no objection to the suggestion of the gentleman from Alabama.

The CHAIRMAN. Does the gentlemana from Indiana make a motion?

Mr. MATSON. I do not. The gentleman from Alabama makes a request for unanimous consent.

Mr. HEWITT, of Alabama. I ask unanimous consent that this bill be laid aside informally, retaining its place on the Calendar.

The CHAIRMAN. Is there objection to the request of the gentleman from Alabama?

There was no objection, and it was so ordered.

ROBERT C. M'KEE.

The next business on the Private Calendar was the bill (H. R. 4012) to restore Robert C. McKee to the pension-roll; reported by Mr. MATSON from the Committee on Invalid Pensions.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to restore to the pension-roll the name of Robert C. McKee, late a private in Company G, Twentieth Regiment Indiana Volunteers, subject to the provisions and limitations of the pension laws.

SEC. 2. That this act shall take effect from and after its passage.

The report was read, as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 4012) to restore the name of Robert C. McKee to the pension-roll, report:

That Robert C. McKee enlisted in the military service of the United States as a private in Company C, Twentieth Regiment Indiana Volunteers, July 6, 1861; and was discharged on surgeon's certificate of disability January 14, 1864, for total loss of vision of left eye and partial loss of the right. Also disability of left arm from a fracture, producing partial anchylosis of the elbow-joint, existing before enlistment.

December 1, 1866, he was pensioned at the rate of $6 per month for loss of sight of left eye and partial loss of right, which was increased to $8 per month July 23, 1870.

June, 1880, claimant was dropped from the pension-roll, by order of the Secretary of the Interior, on the charge that the disability for which the soldier was pensioned existed prior to and at the time of his enlistment in the military service of the United States.

The evidence taken by a special examiner of the Pension Office in support of this charge was *ex parte*, the claimant having no notice of the taking of such testimony, as is shown by the examiner's report to the honorable Commissioner of Pensions.

November 20, 1880, the claimant was indicted by a grand jury of the United States court at Indianapolis, under section 5438, Revised Statutes, for presenting false vouchers, &c., and on May 21, 1881, was tried by a jury of said court, and a verdict of "not guilty" rendered.

Hon. Charles L. Halstein, United States attorney at Indianapolis, in a letter to Attorney-General MacVeagh, says of the trial in this case: "The evidence was very conflicting, and on the evidence the verdict can not be complained of."

General J. J. Reynolds, a distinguished citizen of Indiana and a resident of La Fayette, Ind., during and since the war, in a statement before this committee, May 26, 1884, in support of the restoration of this soldier to the pension-roll, says that he mustered the Twentieth Regiment Indiana Volunteers into the United States service, and that from seeing the condition of this soldier at the time of his trial in the district court at Indianapolis he is satisfied he would not have mustered a man in such condition into the military service, and expressed the emphatic opinion that the disability of this soldier could not have existed at the time of his enlistment and muster into the service.

From an examination of all the evidence in this case, and the statement of General Reynolds to your committee, we are of opinion that a clear preponderance of the evidence is in favor of the restoration of this soldier to the pension-roll, and therefore report the accompanying bill to the House and recommend its passage.

The bill was laid aside to be reported to the House with the recommendation that it do pass.

JACKSON SHADDAY.

The next business on the Private Calendar was the bill (H. R. 5021) granting a pension to Jackson Shadday; reported by Mr. MATSON from the Committee on Invalid Pensions.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, directed to place the name of Jackson Shadday, late a private in Company B, One hundred and fortieth Regiment of Indiana Volunteers, on the pension-roll, subject to the provisions and limitations of the pension laws.

The Clerk proceeded to read the report. Before he had concluded the reading,

Mr. BAGLEY said: I ask unanimous consent to dispense with the further reading of the report.

Mr. COX, of North Carolina. I object.

The Clerk resumed and concluded the reading of the report, which is as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 5021) granting a pension to Jackson Shaddy, report:

That Jackson Shaddy enlisted in the military service of the United States as a private in Company B, One hundred and fortieth Regiment Indiana Volunteers, September 15, 1864, and was honorably discharged July 11, 1865.

April 12, 1872, he filed a declaration for pension, alleging that while in the service and in the line of duty at Murfreesborough, Tenn., some time in the year 1864, a tumor was noticed on right leg, which caused a great deal of pain, and kept on getting worse until the 25th of October, 1869, when he was obliged to have it amputated; that prior to enlistment his leg was sound, and the disability was contracted wholly in the United States service. The application was rejected January 6, 1875, on the ground that present condition of soldier is not due to his military service.

Thomas B. McGregor, first lieutenant of claimant's company testifies, December 22, 1883:

"That he was present with the company from its muster-in until mustered out of service December 25, 1864; that claimant started with his company from Murfreesborough, Tenn., with other troops in pursuit of the rebel general Hood; marched to Clifton, Tenn., where we were placed on transports and sent to Washington, D. C.; from there to Fort Fisher, where we remained about ten

days, and then went to Wilmington, N. C.; from there to Goldsborough, thence to Raleigh; from there to Greensborough, and after remaining there about two months went to Indianapolis, Ind., to be discharged.

"While lying at Murfreesborough, Tenn., a few days before starting on the above-named march, claimant complained of a soreness in his right leg, a short distance above the ankle-joint, which he represented as a kind of stinging pain, and I have no doubt he was suffering as he stated, as I was present and heard his statement concerning said leg. After lying or sitting for a length of time it would appear very painful to him to stand or walk on it, and during all of said first day's march he seemed to suffer from said leg, and during the afternoon and evening of said day he suffered therefrom quite severely. Said march to Clifton occupied, as near as I can state, about fifteen days, and during the whole of said time his leg grew apparently worse, and from that time up to the time of his final discharge his leg grew worse. There were times when, by resting a few days, the pain would seemingly be a little less severe, but its general tendency was to grow worse. Some ten or fifteen days after he first complained of said pain there appeared a slight protuberance of the skin on the outside of the right leg about three inches above the ankle-joint, and at the point where he complained of pain. This protuberance continued to grow in size until his discharge. Knew claimant for two years immediately prior to enlistment, and have every reason to believe, and do believe, that he was never afflicted with any disability of the nature above mentioned prior to or at the time of his enlistment; that the disability was contracted in the service and in line of duty."

Dr. Joseph Cole certifies, December 22, 1873:

"That I well knew claimant, and was the family physician of his father's family from before claimant's birth up to the time of his enlistment, and during all of said time I resided within a mile of the family, and was on terms of intimacy with all of the family, and I have every reason to believe, and do verily believe, that at the time of claimant's enlistment he was in sound and perfect health, and entirely free from tumor and all other diseases in any manner affecting his legs, or either of them."

Dr. William C. Sweezy testifies, December 22, 1873:

"That he was surgeon of claimant's regiment in the Army; never treated him in the service, but believes the disease first made its appearance in the winter of 1864 and 1865, while claimant was in the service. He first applied to me for treatment for said disease of leg in the summer of 1867, and when first called upon I found a tumor growing out from between the tibia and fibula, about midway between the ankle and knee, and removed said tumor; and after the wound healed he was apparently free from the disease for about six months, when quite a number of cancerous tumors made their appearance on different parts of the leg below the knee. In the winter of 1868–'69, soon after these tumors began to slough and amputation became necessary, I amputated said leg on account of said disease."

February 14, 1874, Dr. Joseph Cole testified:

"That he saw claimant in a few days after his return from the Army and he showed me the sore or disease of his right leg, and I found the same quite sore; I saw said leg every few days, from the time he first came home from the Army until it was amputated by Dr. Sweezy. When I first saw said leg the same was affected as nearly as follows: There was on the outside of said leg, and about three inches below the knee, a protuberance, which appeared to be a tumor about the size of a hen's egg, and that the same continued to grow worse until the leg was amputated in the fall of 1869. I know from personal observation that claimant was suffering from the said disease of leg continuously from the time of his discharge and return home from the Army until his leg was amputated."

Dr. R. R. Ruter, late surgeon Ninety-third Indiana Volunteers, testifies, March 11, 1882, in support of an application for reconsideration of the case filed by claimant:

"That he was personally acquainted with claimant for some time prior to the year 1861, and saw him frequently, and is satisfied that he was a sound young man; that he examined claimant in the court-room at Columbus, Ind., on or about the last of August or 1st of October, 1864; that he was examining surgeon with Dr. Collier, of Columbus; that claimant was sound in every respect, and he is satisfied from the strict examination instituted that a disabled or unsound man could not have passed, as at that time they rejected many who might possibly have stood a soldier's life."

Benjamin F. Rogers and Abraham Montague, in a joint affidavit, filed March 11, 1882, testify—

"That for ten years prior to enlistment claimant was a farmer and lived in one and a half miles of them. Before and at the time of said enlistment he was of sound health. When he returned from the war he had a lump on his right leg, which was the cause of amputation."

Andrew J. Cole, George Cole, W. W. Colten, and Alexander L. Thompson testify in a joint affidavit, filed May 11, 1882, that they were neighbors of claimant, and saw his limb a short time before enlistment and know it was sound.

The reputation of the above witnesses is shown to be good by the postmaster at Bennington, Switzerland County, Indiana.

John P. Bute, M. D., United States examining surgeon, of Vevay, Ind., in an examination of claimant March 4, 1874, says:

"Jackson Shaddy's right leg has been amputated 4 inches below the knee joint. The stump is healthy. He can wear an artificial limb without difficulty. I recommend he be paid $18 per month."

February 20, 1874, Jordan Wainscott, a neighbor of claimant, addressed a letter to the Pension Office, in which he charged that the disease which caused the amputation of the soldier's leg was the result of injuries received while a child by a fall.

On receipt of this letter by the Pension Office the case was placed in the hands of Special Examiner L. C. Black for investigation.

In this investigation a number of witnesses, all neighbors of claimant, were examined, and in this number was Wainscott, the author of the letter, and his wife, and the foundation for the letter is, perhaps, best given in the language of the examiner, who, in summing up the testimony, says:

"I append the testimony of Jordan Wainscott and his wife, Susan. The latter witness testifies that she attended a quilting party at the home of the claimant's mother prior to the war, and while there Mrs. Shaddy told witness that her son Jackson had injured one of his legs by a fall while yet a child, and that the leg still was weak and painful."

We have carefully examined all the evidence in this case, including that elicited by the special examiner in his investigation, and find that both medical and lay testimony clearly establish the fact that the soldier was free from disease at the time of his enlistment, the evidence tending to show prior disability being confined to neighborhood rumors that at some time while yet a boy he had been in some way injured by a fall; that later on in life he had fallen from a horse or been run over. But all this is brushed away by the testimony of his father's family physician, who says that he treated him in 1850 for an injury to his leg; that he was a sound and healthy young man prior to and at the time of his enlistment. The first appearance of the disease was while in the service, and this fact is clearly shown, as well as the continuance of the disease to the time of his discharge, and the final amputation of the leg, as a result of the disability. Your committee therefore recommend the passage of the accompanying bill.

The bill was laid aside to be reported to the House with the recommendation that it do pass.

ELIZABETH KALER.

The next business on the Private Calendar was the bill (H. R. 7169) granting a pension to Elizabeth Kaler.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Elizabeth Kaler, foster-mother of George W. Kaler, late a private in Company E, Eighty-seventh Regiment Indiana Volunteers.

The report was read, as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 5310) granting a pension to Elizabeth Kaler, respectfully report:

That the claimant in this case is Elizabeth Kaler, stepmother of George W. Kaler, who enlisted in the military service of the United States as a private in Company E, Eighty-seventh Regiment Indiana Volunteers, August 9, 1862, and was discharged December 6, 1862, on surgeon's certificate of disability. November 11, 1864, he again entered the military service of the United States as a private in Company E, Eighty-seventh Regiment Indiana Volunteers, and died in post hospital, Richmond, Va., May 16, 1865, of typhoid fever. The soldier was never married.

September 19, 1879, Elizabeth Kaler, the stepmother of said soldier, filed a declaration for pension, which was rejected December 15, 1881, on the ground "that claimant had no title to pension as stepmother of the said soldier."

The death of the soldier in the service from disease contracted in the line of his duty is shown by the records of the Adjutant-General's Office, by the sworn testimony of Peter S. Troutman, captain of soldier's company at the time of his death, and now a reputable citizen of Fort Wayne, Ind., and by Isaac H. Cannon, a comrade of said soldier. It is shown that claimant was married to the father of said soldier in 1845; that claimant's husband died January 30, 1862, and that she has never remarried.

It is also clearly shown that the soldier prior to and during his military service contributed his means to the support of the claimant, who is without any means and was entirely dependent upon the said soldier for support.

This claim would certainly have been allowed at the Pension Office, except for the fact that her right to support by the soldier is not recognized by the law.

Your committee find claimant entitled in equity to a pension as the dependent stepmother of the deceased soldier, and therefore recommend the passage of the accompanying substitute bill.

Mr. GEORGE D. WISE. I want to call the attention of the honorable gentleman from West Virginia [Mr. GOFF] to a case of equity. The proposition here is to grant a pension to a stepmother whose claim could not be recognized under the pension laws because legally she was not entitled to support from the son. There was no relationship, no kinship; there was not a particle of her blood in the veins of the soldier. I shall oppose this bill.

The CHAIRMAN. The question is, Shall the bill be laid aside to be reported to the House with the recommendation that it do pass?

The question being put, the chairman stated that the "ayes" seemed to have it.

Mr. GEORGE D. WISE. I call for a division.

The committee divided; and there were—ayes 45, noes 7.

Before the result of the vote was announced,

Mr. GEORGE D. WISE said: I would like to ask one question before the announcement of the vote is made. How old was the soldier at the time of the marriage of his father to this claimant?

Mr. MATSON. This woman raised him from his infancy.

Mr. PETERS. The report shows that the claimant was married to the father of the soldier in 1845, and that his father died in 1862. The soldier was mustered into the service when very young.

Mr. GEORGE D. WISE. In view of the answer which has been given to my question, I shall make no factious opposition in this case.

The result of the vote was then announced as above stated.

Mr. MATSON. Before the bill is laid aside I ask unanimous consent to add this amendment:

And that the amount of the pension be the same as if she was the mother of the said deceased soldier.

The amendment was adopted; and the bill as amended was laid aside to be reported to the House with the recommendation that it do pass.

WILLIAM HERRING.

The next business on the Private Calendar was the bill (H. R. 4752) granting a pension to William Herring; reported by Mr. MATSON from the Committee on Invalid Pensions.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place the name of William Herring, late a private in Company A, Thirteenth United States Colored Heavy Artillery, on the pension-roll, subject to the limitations and provisions of the pension laws.

SEC. 2. That this act shall take effect from and after its passage.

The committee recommended that the bill be amended by striking out the second section.

The report was read, as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 4752) granting a pension to William Herring, respectfully report:

That William Herring enlisted in the military service of the United States as a private in Company A, Thirteenth United States Colored Heavy Artillery, October 18, 1864, and was honorably discharged November 18, 1865.

July 25, 1881, he filed a declaration for pension, alleging that at or near Smithland, Ky., in December, 1864, he contracted small-pox, which settled in his eyes, causing disease of eyes, and finally destroying the sight of both eyes, which was rejected May 7, 1883, on the ground of no record and inability to satisfactorily connect the alleged disease of eyes with the service and line of duty.

Henry Bibb, colored, Jeffersonville, Ind., testifies, April 6, 1883:

"That he was a comrade of claimant; that the soldier contracted small-pox at Smithland, Ky., about Christmas, 1864. He was sent to the pest hospital, where he remained near two months; saw him when he was broke out and sent to hospital, and did not see him again until he returned to duty. When he re-

turned to duty he complained of his eyes hurting him. Seen him each year from the time of his discharge, and he always complained of his eyes hurting him; said his eyes were getting worse. About four years ago he told me one of his eyes had gone entirely blind, and about two years ago I saw him at his sister's, and he was then entirely blind; lived on the adjoining farm and played and went with him up to our enlistment in the Army. He never had any disease or sore eyes before enlistment."

W. C. Miller, colored, Louisville, Ky., testifies, April 11, 1883:

"That he knew claimant since he was a small boy; lived on adjoining farm, and was raised along with him; he was in good health and free from any disease of the eyes prior to and at time of enlistment; saw him at discharge; his eyes were weak; he complained a great deal of them; one of his eyes went blind about one year ago; he has been blind in the other eye for three years; seen him almost every year since his discharge."

John Scott, alias Parsons, of Louisville, Ky., testifies, April 3, 1883:

"Knew claimant ever since he was a child; lived close to him, and run with him before we enlisted; he was sound in health and free from sore eyes at time of enlistment; was bunking with him in the Army; he took the small-pox, and was taken to the hospital at Smithland, Ky., about December, 1864; he was in hospital two or three months; saw him while in hospital; he had the small-pox, and his head and face were swollen as large as a water bucket; after his return his eyes were red, and he complained of them up to the time of discharge; affiant and claimant returned to their home in Logan County, Kentucky, together after discharge, where claimant remained about one year, and then went to Louisville, Ky. Next saw claimant two years afterward at affiant's house in Russellville, Ky., where he staid two or three weeks; his eyes were then very bad; could hardly see at all; they looked sore, and as if they were running water all the time; saw him again a year ago; he was then blind as a bat."

It is shown by the testimony of intimate associates and neighbors of claimant that at the time of his enlistment he was free from any disease of the eyes; comrades in the Army testify to his having small-pox while in the Army and in line of duty as a soldier; the diseased condition of his eyes at the time of his discharge, and continuously to the loss of the sight of both eyes, is shown by witnesses who had the opportunity of knowing the facts testified to, and whose reputation for truth is certified to by the examiner charged with the investigation of the case.

Your committee are of the opinion that the testimony in this case entitles the soldier to a pension, and recommend that the bill be amended by striking out all of section 2, and, when so amended, that it pass.

The amendment recommended by the committee was agreed to; and the bill as amended was laid aside to be reported to the House with the recommendation that it do pass.

MARY ROYAL.

The next business on the Private Calendar was the bill (H. R. 5304) for the relief of Mary Royal.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place the name of Mary Royal, widow of William Royal, deceased, late a private in Company I, Fifty-ninth Regiment of Indiana Volunteer Infantry, on the pension-roll, subject to the limitations and conditions of the pension laws.

The report was read, as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 5304) granting a pension to Mary Royal, having considered the evidence in the case, report:

That Mary Royal is the widow of William Royal, who enlisted in the military service of the United States as a private in Company I, Fifty ninth Regiment Indiana Volunteers, June 27, 1862, and was honorably discharged July 17, 1865.

July 1, 1870, husband of claimant was pensioned for gunshot wound in left hip, received at the siege of Vicksburg, Miss., May 22, 1863, and was so borne on the pension-roll up to the time of his death, which occurred August 21, 1879, from dropsy of the bowels.

The application of Mary Royal, as widow of the said William Royal, for pension was rejected by the medical referee of the Pension Office May 14, 1883, on the ground that the death of the soldier was not due to his military service.

Dr. N. C. Burge, of Greene County, Indiana, testifies, October 1, 1880:

"That he was the family physician of William Royal from December 25, 1878, up to the time of his death. The soldier during this time was suffering from gunshot wound of left hip and with dropsy of the bowels, and continued to suffer with the same until death. It is his opinion that said wound caused dropsy of the bowels, of which he died. The soldier was confined to his bed most of the time he was treating him."

Dr. John M. Hanah, Greene County, Indiana, testifies September 11, 1880:

"That he attended William Royal in his last illness, and that he died August 21, 1879, and that his death was caused by gunshot wound of left hip; was his family physician from October, 1871, to the date of his death; that soldier was suffering from gunshot wound, and the ball was in his body, having entered the left hip, and having caused a condition which resulted in dropsy; soldier was gradually going down for the last two years of his life; the soldier had the ball in his body at the time of his death, and believes death was caused by the gunshot wound by keeping up a constant irritation of the system, as shown by constantly recurring boils, and so exhausting the system that general dropsy or anasarca supervened."

The condition of the wound and its resulting causes is shown by the report of the pension examining surgeon, December 13, 1875, who says:

"A ball struck him in the left hip about five inches back of the left hip-joint, and ranging backward about three inches, lodged against or in the left side of the lumbar vertebra, where it yet remains. It produces lameness and weakens his hip. When he takes cold it is very painful. I also find he has tenderness in the left kidney."

We have examined the evidence in this case and find that the medical evidence establishes the claim of his widow to a pension, and therefore recommend the passage of the accompanying bill.

The bill was laid aside to be reported to the House with the recommendation that it do pass.

CHARLOTTA A. WELTON.

The next business on the Private Calendar was the bill (H. R. 298) granting a pension to Charlotta A. Welton.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Charlotta A. Welton, widow of John A. Welton, late second lieutenant of Company E, Fifty-first Indiana Volunteers.

The report was read, as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 298) to restore the name of Charlotta A. Welton to the pension-roll, report:

That Charlotta A. Welton is the widow of John A. Welton, who was a second lieutenant, Company E, Fifty-first Indiana Volunteers, and who died May 8, 1872.

It appears that the deceased soldier was wounded April 30, 1863, in the right leg, which was amputated on the 4th day of May subsequent. He was discharged June 20, 1864, and died March 8, 1872. He was pensioned at $15 per month on account of loss of left leg.

March 9, 1872, the name of claimant was placed on the pension-roll at the rate of $15 a month as the widow of the deceased soldier, and continued to receive such pension until July 29, 1878, when her name was dropped from the rolls, by order of the Secretary of the Interior, on the ground that the soldier's death was not due to the military service.

Isaac Smith, of Lovely Dale, Knox County, Indiana, testified before Special Examiner Charles R. Connor, June 16, 1878:

"That he is the father of claimant, and that he was frequently at the house of said deceased soldier during his last illness, in March, 1872, and knows that he was sick and confined to his house for about two weeks immediately preceding his death; that during his last illness he complained all the time of his injured leg hurting him, and the pain extended up his side into his chest; that the attending physicians at the time stated that death resulted from a fever caused by the amputated leg."

James H. Welton testifies, June 17, 1878:

"That he is a brother of the deceased soldier; that by reason of wounds received in battle he had the left leg amputated about midway between the knee and ankle; that from the time he left the Army to the time of his death, March 8, 1872, his stump was healed entirely but twice; that when a running sore his general health was good, but when the wound healed he seemed to decline, and the first time it healed he had a hard spell of sickness; that for some six weeks preceding his death his stump was healed and never again broke out; that by reason of the irritated condition of his stump he was never able to wear his artificial limb with any satisfaction; that he was bedfast just two weeks in his fatal illness, and complained that his leg hurt him very much; that Drs. J. H. Barnett, N. B. Sparks, R. B. Jessup, Courtney, Harrington, and Rollins treated deceased during his last illness; that in conversation with Drs. Barnett, Courtney, and Rollins, they invariably stated to the affiant that if it were not for the condition of the amputated limb they would have no fear of his recovery."

Albert C. Falls testifies to being present with the deceased soldier frequently on Wednesday and Thursday before his death, which occurred Friday, March 8, 1872, and he complained of his injured limb hurting him severely.

Samuel R. Snyder and wife, of Lovely Dale, neighbors of the deceased, testify to his general good health and that he died from fever and pneumonia.

Hon. George G. Reilly, a leading member of the Vincennes (Ind.) bar, and a reputable gentleman, testifies, June 14, 1878:

"That he was personally and intimately acquainted with the husband of claimant from 1866 to 1872, and conversed with him frequently in reference to the condition of his amputated limb; that he complained very much of its hurting him, and on one occasion, when the stump was seen by the witness, it was red, sore, and suppurating some; that he was never able to wear the artificial limb made for him, but was compelled to wear a wooden peg, and bore his weight on his knee; that he was not confined to his house or bed, but was up and about attending to business most if not all the time, though he time and again expressed a desire to submit to a reamputation."

W. N. Denny, of Vincennes, Ind., late colonel Fifty-first Indiana Volunteers, testifies, June 12, 1878, to the wounding of claimant's husband in battle; to his general good health after his return home; that he at times complained of his amputated limb hurting him and making him very nervous from the shock to his system.

Dr. John H. Barnett, of Lovely Dale, Ind., testifies, June 13, 1878, that December 11, 1872, he made an affidavit in support of claimant's application for pension, in which he said:

"It was then my opinion, and still is, that his disease and death were superinduced by the amputation of his leg."

In a subsequent affidavit the witness says that he pronounced the soldier's disease pleuritis, but had not the leg been amputated he would have pronounced it a well-marked case of acute pneumonia.

Dr. Nathan B. Sparks, of Lovely Dale, Knox County, Indiana, testifies, June 14, 1878, to his professional treatment of the deceased soldier prior to and during his fatal illness; that he frequently consulted him in reference to the pain from the stump of the amputated limb; that he attended the soldier during his last illness, and, in his opinion, the amputated leg was the exciting cause of the fever which produced his death.

Dr. Robert Jessup, of Vincennes, testifies to treating the deceased soldier during his last illness, and attributes his death to pneumonia.

The testimony in this case is voluminous and conflicting, but the preponderance of the evidence is clearly in favor of the claimant, and your committee recommend that her name be restored to the pension-roll, and that the bill be amended by striking out the words "place on," in line 4, and insert in lieu thereof the words "restore to," and by adding the following after the word "volunteers," in line 7, "to take effect from and after the passage of this act," and that when so amended the bill do pass.

The following amendments reported by the Committee on Invalid Pensions were read and agreed to:

In line 4, strike out the words "place on" and insert the words "restore to."

At the end of the bill add the words "to take effect from and after the passage of this act."

There being no objection, the bill as amended was laid aside to be reported to the House with a recommendation that it do pass.

WILLIAM BOONE.

The next business on the Private Calendar was the bill (H. R. 374) granting a pension to William Boone.

Mr. MATSON. I ask that this bill be passed over informally. The circumstances are similar to those involved in the bill which was discussed so much this evening. While the two cases are not exactly alike, there is so much similarity that it would perhaps be a waste of time to enter upon the consideration of this bill to-night.

The CHAIRMAN. If there be no objection, the bill will be passed over informally.

There was no objection.

CAPT. ISRAEL STOUGH.

The next business on the Private Calendar was the bill (H. R. 1940) granting a pension to Capt. Israel Stough.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place the name of Israel Stough, late captain Company F, Forty-fourth Regiment Ohio Volunteers, on the pension-roll, subject to the provisions and limitations of the pension laws.

The report was read, as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 1940) granting a pension to Israel Stough respectfully report:

That Israel Stough was mustered into the military service of the United States as captain Company F, Forty-fourth Regiment Ohio Volunteers September 25, 1861, and was honorably discharged September 23, 1863, on account of physical disability.

November 23, 1879, he filed a declaration for pension, alleging that while in the service and line of duty at Barboursville, Ky., in the month of March or April, 1863, he was taken sick with camp fever, resulting in a partial paralysis of the lumbar muscles and sciatic nerves, causing chronic disease of the same, or lumbago and sciatica, which was rejected June 30, 1881, on record evidence that the disability existed prior to his entering the military service of the United States.

John H. Rodgers testifies, July 16, 1879:

"That he was assistant surgeon Forty-fourth Regiment Ohio Volunteers, and was well acquainted with claimant; that he verily believes said claimant at the date of his enlistment was a man of very good and sound health, and continued so up until affiant left the regiment, about January 15, 1863."

A. O. Mitchell, late major Forty-fourth Regiment Ohio Volunteers, testifies, March 15, 1879:

"That he was well acquainted with claimant; that at or near Barboursville, Ky., in March or April, 1867, said claimant was taken sick with camp fever of typho-malarial form, which seemed to affect him more or less afterward; he well remembers when said claimant was taken sick; that previous to that time he had always been a prompt and faithful soldier."

Henry Hinkle testifies, January 4, 1881:

"That he was well and intimately acquainted with claimant prior to and at the date of his enlistment; that at that time he was a man of remarkably good health in every respect, and especially free from lumbago and sciatica, or any disease of that character; that he has been intimately acquainted with claimant from the time he returned from the Army until about the month of May, 1871, and during that time soldier was and continued to be suffering with a partial paralysis of the lumbar muscles and sciatic nerves."

J. G. Arnold, M. D., testifies, April 13, 1881:

"That he has been the family physician of claimant since August, 1879, to the present time; that claimant was suffering from lumbago or sciatica; also functional disorder of the heart, caused by a chronic affection of the lumbar and sciatic nerves and general debility."

After having served in the campaigns of West Virginia and Kentucky, and participating in the battles of Fayetteville, Gauley, Charleston, Va., and Dutton Hill, Kentucky, the soldier was examined by a board of officers at Columbus, Ohio, August 13, 1863. The board say that claimant stated that when a boy he received an injury of the lumbar region by a fall on his back, and had since been subject to weakness.

Your committee have examined the evidence in this case very carefully, and find that the soldier was in good health at the time of entering the military service; that he performed the active duties of a soldier for nearly —— years, participating in the hardships and battles of a campaign in West Virginia and Kentucky; that while he may have been injured when a boy, he was regularly mustered into the service, and under the well-defined policy of the committee on the question of the physical soundness of the soldier at the time of enlistment your committee are of the opinion that he is entitled to the relief sought for, and therefore recommend the passage of the accompanying bill.

There being no objection, the bill was laid aside to be reported to the House with a recommendation that it do pass.

DANIEL H. ROSS.

The next business in order was the bill (H. R. 391) granting a pension to Daniel H. Ross.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll the name of Daniel H. Ross, late a private in Company B, First Regiment, subject to the provisions and limitations of the pension laws. This act to take effect from and after its passage.

The report was read, as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 391) granting a pension to Daniel H. Ross, respectfully report:

That the claim in this case is based on disease of the eyes, resulting from cold contracted in the military service of the United States and in the line of duty.

It is shown that the physical health of the soldier was good prior to and at date of enlistment.

Captain Ruter, Patriot, Switzerland County, Indiana, testifies, August 7, 1880:

"That claimant was a member of his company, and while in line of duty on the Mississippi River, near Saint Louis, Mo., March 20, 1862, from exposure contracted a heavy cold, which settled in his eyes, causing inflammation, which became chronic. Knows these facts from personal knowledge."

Dr. G. L. Spooner testifies, May 17, 1880, that he treated claimant in 1873 for amaurosis of the eye, which has been his trouble since 1865.

Henry Mead and Aaron Z. Taylor testify, May 17, 1880, that they have been neighbors of claimant since 1867, during which time he has been suffering with partial blindness of the eye and continuous headache, and that he has been disabled by the same each year one-half.

Asa E. Siters and J. T. Calvin, Goldsmith, Tipton County, Indiana, testify, May 20, 1882, that they have lived neighbors to claimant since he came home, in 1865, and know that when he returned home he was badly injured by some eye disease, both eyes being affected from 1865 to 1878, and that he was wholly unable to work; he has been in same condition since 1881.

Dr. Thomas C. Whaldrill, Goldsmith, Tipton County, Indiana, testifies, May 30, 1882:

"That he was claimant's family physician in 1872, 1873, 1874, 1875, 1881, and 1882, and during those years he was troubled with his eyes, which is incurable, and he is unable to do manual labor one-half of the time."

June 15, 1882, claimant was examined by the United States examining board of Vevay, Ind., who report:

"Has double cataract. The left eye is most seriously affected. The lens of this eye is distinctly nebulous. The lens of the right eye is affected very slightly. Can distinguish near objects pretty well; can not read well, however; rated at $4."

"The records of the Adjutant-General show that Daniel H. Ross enlisted in the military service of the United States as a private in Company D, Eighteenth Regiment Indiana Volunteers, August 16, 1861, and was mustered out at Benton Barracks, Missouri, January 3, 1863, to enlist in the Mississippi Marine Brigade December 31, 1864, he was mustered out with the company at Vicksburg, Miss., by reason of his services being no longer required. January 26, 1865, he enlisted in Company E, One hundred and eighty-ninth Ohio Volunteers, and was honorably discharged September 28, 1865."

The records of the Surgeon-General's Office show the treatment of claimant in hospital for diarrhœa, and it is on this record that he is unable to complete his claim in the Pension Office, as he has been unable to find the surgeon or any of the officers of the steamer Diana, where he was on detached service at the time of being treated. And that he has been unable to find the surgeon or any commissioned officer of Company B of the Mississippi Marine Brigade, of which he was a member at the time of the incurrence of his said disability.

The examiner in charge of claimant's case in the Pension Office says, September 25, 1882:

"I have searched in the records of office, &c., of the Mississippi Marine Brigade. Can not obtain addresses," &c.

That by reason of these facts he can not complete his case in the Pension Office.

Your committee are of the opinion that the claim of the soldier is clearly made out, and recommend that the bill be amended by inserting after the word "Regiment," in line 6, the words "Mississippi Marine Brigade," and that, when so amended, the bill pass.

The following amendment, reported by the Committee on Invalid Pensions, was read, and agreed to:

After the words "First Regiment" insert "Mississippi Marine Brigade."

The bill as amended was laid aside to be reported to the House with the recommendation that it do pass.

ALICE RILEY.

The next business on the Private Calendar was the bill (H. R. 6590) granting arrears of pension to Alice Riley.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to pay to Alice Riley, of Troy, Rensselaer County, New York, mother of William Riley, late a private in Company B, First New Jersey Artillery Volunteers, in the war of 1861, a pension at the rate of $8 per month from the date of the stoppage of the pension of the said William Riley by reason of holding an appointment as clerk in the general service, War Department, March 5, 1865, up to the death of said William Riley, September 26, 1868.

The report was read, as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 6590) granting arrears of pension to Alice Riley, having considered the same, beg leave to make the following report:

The petitioner asks Congress to pass the accompanying bill, which gives her the amount that accrued to her son as pension, and which was withheld from him by reason of his holding an appointment as a clerk in the War Department, for the time for which his pension was suspended to the time of his death. Her petition to Congress states the case, and is as follows:

"Your petitioner, Alice Riley, of Troy, Rensselaer County, New York, respectfully represents that she is the mother of William Riley, deceased, private of Company B, First New Jersey Artillery Volunteers, in the war of 1861, who was a pensioner at the rate of $8 a month, by reason of wounds received at the battle of Gettysburg, Pa.

"Your petitioner represents that her said son received his pension until he was appointed a clerk in the general service of the War Department, when he was deprived of his said pension by said appointment; that since her son's death all clerks in said general service of the War Department have been paid all sums withheld from them by reason of being in said service, and that she now applies for the amount due her son from the date of his appointment, March 5, 1865, up to the date of his death, September 26, 1868, which he would have received had he lived.

"Your petitioner further represents that she applied to the Pension Office for the amount of pension which she claims is due her said son, and complied with all the rules and forms required."

She states that her son was not married, and that she depended upon him in her old age for support. She finally received a certificate, No. 28065, and was informed that the amount of pay was subject to provisions of section 25, act of March 3, 1873, which reads and provides payment only to the widow and children.

The mother asks that the amount of pension due her said son, as stated, may be paid to her, being an amount at the rate of $8 per month from March 5, 1865, when he was appointed a clerk, to the date of his death, September 26, 1868.

The committee think that this mother should have the amount asked for, although existing law does not give her a title. There is neither widow nor children to whom this amount would go under the law. The mother is clearly shown to have been dependent, and is now in needy circumstances. Her application for mother's pension was rejected on the ground that it is not known that the soldier died of any disease contracted in the service and line of duty. The amount she will receive is about $336. The committee think as the employés in the civil service received the amount withheld for the time being, that the amount which would have been paid to William Riley had he lived should now be paid to his mother, and therefore recommend the passage of the bill, and that the title be amended so as to read, "for the relief of Alice Riley."

Mr. HEWITT, of Alabama. Mr. Chairman, it appears to me this is not in fact a pension bill, and was not properly referred to the Committee on Invalid Pensions, though the House, of course, had power to make the reference. I will ask that the order under which the House is now acting be read. I wish to see whether we are confined this evening to pension bills. If so, I shall make a point of order upon this bill.

The CHAIRMAN. The Clerk will read the order.

The Clerk read as follows:

That until the further order of this House, on each Friday the House will take a recess at 5 o'clock until 8 p. m., at which evening sessions bills on the Private Calendar reported from the Committee on Pensions and the Committee on Invalid Pensions shall be considered.

Mr. HEWITT, of Alabama. I see the bill is not subject to a point of order.

The CHAIRMAN. If there be no objection, this bill will be laid aside to be reported favorably to the House.

Mr. HEWITT, of Alabama. Before that is done I would like to ask this question: If an administrator should be appointed upon the estate of this young man, could he not go before the Court of Claims and recover this amount which, as the committee say, was due the young man by the Government at the time of his death? If this young man had a

claim against the Government for a pension during the years when he was working in the Department, and if he died without collecting the amount, the right to it would vest under the law in his administrator or executor—his personal representative, unless there is some provision in the pension laws which would operate to the contrary. I would like to hear from some gentleman on this subject.

The CHAIRMAN. Does the gentleman from Alabama submit the question to the Chair as a parliamentary question?

Mr. HEWITT, of Alabama. No, sir; I submit it to the gentleman who has charge of this bill.

Mr. MATSON. I refer the gentleman from Alabama to the gentleman from New York [Mr. VAN ALSTYNE], who introduced the bill.

Mr. VAN ALSTYNE. Mr. Chairman, I introduced this bill, and I copied it from a bill which had been introduced in the previous Congress, but at so late a day that it was not acted on. The facts are simply these: The son of the proposed beneficiary had been getting a pension by reason of wounds received in battle. By virtue of his qualifications and personal merits he received an appointment under the Government as a clerk in the War Department. The Pension Bureau, or the authorities controlling that question, had established a rule that all persons receiving a pension who were subsequently appointed to a Government office should not receive the pension so long as they were in the service of the Government.

Mr. WOLFORD. Allow me to ask the gentleman a question?

Mr. VAN ALSTYNE. Certainly.

Mr. WOLFORD. Had the Pension Department any authority for establishing such a rule?

Mr. VAN ALSTYNE. The law itself was to that effect.

Mr. HOLMAN. That was formerly the law.

Mr. VAN ALSTYNE. Subsequently that law was changed, so that all the persons serving the Government in a civil capacity who were entitled to pension received their back pay. After the death of this young man his mother applied to the Department for a pension on the ground of being dependent, and that the death of the soldier was in consequence of the wound he had received in the service. The proof, in the judgment of the department, failed to show that fact, and the application was denied. She then came to Congress for relief. Her bill was introduced, and by accident I happened to meet the member of the Committee on Invalid Pensions having this bill in hand while at the office of the Pension Department, and the matter was called to the attention of that department, and they stated that all the equities were in the interest of this woman, and that had the department the power they would not hesitate to grant the pension.

Now, as to the question which has been raised by the gentleman from Alabama [Mr. HEWITT] the law is this: The right not existing to this pension on the part of the deceased soldier at the time of his death no person under God's heaven had a claim to it. If an administrator had been appointed he could not have obtained it; and this woman is only entitled to it by the gracious act of this House.

I submit to you, sir, so far as equity and justice are concerned—you may call it charity if you please—this is a case which addresses itself with great force to the favorable consideration of the House. This soldier was faithful and brave, and received his injury in the service. His mother is a woman of refinement and culture. She is extremely poor, and her necessity demands that she should receive the recognition she asks. Therefore I hope any objection either to the form of the bill or its merits will be withdrawn, and that it will be permitted to be reported to the House with the recommendation that it do pass.

There was no objection; and the bill was laid aside to be reported to the House with the recommendation that it do pass.

Mr. MATSON. I move that the committee rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker *pro tempore* [Mr. BAGLEY] having resumed the chair, Mr. HATCH, of Missouri, reported that the Committee of the Whole House had, according to order, had under consideration the Private Calendar, and had directed him to report back sundry bills with various recommendations.

Bills of the following titles, reported from the committee without amendment, were severally ordered to be engrossed and read a third time; and being engrossed, they were accordingly read the third time, and passed:

A bill (H. R. 4012) to restore Robert C. McKee to the pension-roll;
A bill (H. R. 5021) granting a pension to Jackson Shadday;
A bill (H. R. 5304) for the relief of Mary Royal; and
A bill (H. R. 1940) granting a pension to Capt. Israel Stough.

Amendments reported from the Committee of the Whole House to bills of the following titles were severally agreed to, and the bills as amended were severally ordered to be engrossed and read a third time; and being engrossed, they were accordingly read the third time, and passed:

A bill (H. R. 391) granting a pension to Daniel H. Ross;
A bill (H. R. 298) granting a pension to Charlotta A. Welton;
A bill (H. R. 4752) granting a pension to William Herring;
A bill (H. R. 7169) granting a pension to Elizabeth Kaler;
A bill (H. R. 3065) granting a pension to Emma De Long; and
A bill (H. R. 6590) granting arrears of pension to Alice Riley.

The bill (H. R. 2635) granting a pension to John H. Cook, reported from the Committee of the Whole House adversely, was laid upon the table.

Mr. MATSON moved to reconsider the several votes just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

And then, on motion of Mr. MATSON (at 10 o'clock and 5 minutes p. m.), the House, in compliance with a previous order, adjourned till Monday next.

PETITIONS, ETC.

The following petitions and papers were laid on the Clerk's desk, under the rule, and referred as follows:

By Mr. BARKSDALE: Petition of Mary H. Bush, to have her claim referred to the Court of Claims to correct errors in the decision of Southern Claims Commission—to the Committee on War Claims.

By Mr. BLANCHARD: Petition of the Louisiana Educational Society, in favor of the Blair educational bill—to the Committee on Education.

By Mr. FORNEY: Joint resolution of General Assembly, State of Alabama, relative to the completion of the work on the Muscle Shoals, in said State—to the Committee on Rivers and Harbors.

By Mr. A. S. HEWITT: Papers relating to the claims of Gustave Elsberg and Jacob Amberg—to the Committee on Indian Affairs.

By Mr. HOPKINS: Petition of 800 citizens of Massachusetts, for the passage of the resolution of Mr. HOPKINS relative to the transportation of cattle—to the Committee on Commerce.

By Mr. PAIGE: Petition of citizens of Summit County, Ohio, for a pension to Elizabeth Adams; also, for a general pension law—severally to the Committee on Invalid Pensions.

Also, of citizens of Summit County, Ohio, for the equalization of bounties—to the Select Committee on Payment of Pensions, Bounty, and Back Pay.

By Mr. RIGGS: Petition of Post No. 289, Department of Illinois, for passage of H. R. 6463—to the Committee on Invalid Pensions.

By Mr. J. W. STEWART: Petition of Ensign Gilbert Morton, for relief—to the Committee on Naval Affairs.

The following petitions for the passage of the Mexican war pension bill, with Senate amendments, were presented and severally referred to the Committee on Pensions:

By Mr. ARNOT: Of soldiers of the late war, from the State of New York.

By Mr. BAGLEY: Of citizens of Greene County and of Prattsville, N. Y.

By Mr. BELMONT: Of C. A. Bates and 75 others, citizens of Queens County; of William Underhill and 54 others, citizens of Richmond County, and of Andrew Chickchester and 65 others, citizens of Amityville, N. Y.

By Mr. BOUTELLE: Of E. S. Frazier and others, of Milford, Me.

By Mr. BOYLE: Of citizens of Belle Vernon, Pa., of Fall City, and of Harrison City, Pa.

By Mr. BREITUNG: Of citizens of Crystal Falls and of Evart, Mich.

By Mr. T. M. BROWNE: Of citizens and ex-soldiers of the counties of Wayne, Randolph, Rush, and Delaware, Indiana.

By Mr. BRUMM: Of citizens of Clinton, Pa.

By Mr. COSGROVE: Of citizens of New Frankfort, Mo.

By Mr. CUTCHEON: Of citizens of Shelby, Mich.

By Mr. DINGLEY: Of Joseph Littlefield & Co. and others, of East Stoneham and Lowell, Me.

By Mr. DOCKERY: Of citizens of Daviess and Mercer Counties, Missouri.

By Mr. ELDREDGE: Of Horace Bisbee and 98 others, of Monroe County; of James F. Herrington and 82 others, of Washtenaw County; of Eli Winchell, and 63 others, of Hillsdale County; of Milo Smith and 117 others, of Washtenaw County, Michigan.

By Mr. ERMENTROUT: Of H. R. Anthony and others, citizens of the eighth Congressional district of Pennsylvania.

By Mr. FYAN: Of citizens of Seneca, Mo.

By Mr. GEDDES: Of W. F. Walcott and 51 others, citizens of La Grange, Ohio.

By Mr. GIBSON: Of citizens of West Virginia.

By Mr. H. H. HATCH: Of citizens of Indian River, of Elmira, and of Vassar, all in Michigan.

By Mr. HEPBURN: Of C. R. Ingraham and 40 others, citizens of Afton; and of S. S. Morrow and 20 others, of Thayer, Iowa.

By Mr. HILL: Of C. E. Reynolds and 50 others, of Henry County; of J. B. Wibel and 64 others, of Ashton; of H. B. Ferguson and 65 others, of Paulding County; of Washington Young and 150 others, of North Baltimore, and of C. M. Walling and 200 others, of Milton Centre, all in Ohio.

By Mr. HOUSEMAN: Of A. P. Meyer and others, of Sparta; of Frank Storms, Plainwell, Allegan County; of H. H. Hatliff and 100 others,

of Kiddville, Ionia County; and of George W. Rockwell and 100 others, of Allegan, Mich.

By Mr. HOWEY: Of citizens of Hunterdon County, New Jersey.

By Mr. JOHNSON: Of W. H. Tefft and others, of Ticonderoga; of W. H. Dunn and others, of Weaverton; and of S. A. Ormsby and others, of Horicon, N. Y.

By Mr. KEAN: Of 28 citizens of Kingston, N. J.

By Mr. KELLEY: Of 62 residents of Philadelphia, Pa.

By Mr. KETCHAM: Of citizens of Poughkeepsie, N. Y.

By Mr. LAMB: Of Bruce Post, No. 273, Grand Army of the Republic, Department of Indiana; and of 103 citizens of Crawfordsville, Ind.

By Mr. McCORMICK: Of citizens of Hoadley, Ohio.

By Mr. MILLARD: Of citizens of Lake Ridge, N. Y.

By Mr. MITCHELL: Of citizens of Ansonia and of Moodus, Conn.

By Mr. MURRAY: Of W. C. M. Brookins and 100 others, of Eaton; of W. H. C. Steele and 25 others, of Gratio; of James Woodward and 200 others, of Montgomery County; of W. D. McKemey and 100 others, of Dayton, and of 3,000 inmates of the National Soldiers' Home at Dayton, Ohio.

By Mr. PAIGE: Of Jacob Adams and others, of Summit County, Ohio.

By Mr. RANNEY: Of John H. Jackson and others, of Boston, Mass.

By Mr. REED: Of citizens of Yarmouthville, Me.

By Mr. ROCKWELL: Of George A. Shepard and eighty others, of Sandisfield, Mass.

By Mr. J. H. ROGERS: Of citizens of Arkansas.

By Mr. ROWELL: Of citizens of Kane and of Stanford, Ill.

By Mr. SEYMOUR: Of W. F. Bellany and others, of Woodbury; of Marshall W. Dowd and others, of Westminster; and of James R. Strout and others, of Fairfield County, Connecticut.

By Mr. SPRINGER: Of citizens of Springfield, &c., Ill.

By Mr. STEVENS: Of 209 ex-soldiers.

By Mr. STORM: Of soldiers and citizens of Pike County, and of Capt. C. B. Brockway and 150 others, of Bloomsburg, Pa.

By Mr. E. B. TAYLOR: Of William S. Wood and 56 others.

By Mr. THOMAS: Of 63 citizens of Belknap, and of 64 citizens of Pulaski County, Ill.

By Mr. TOWNSHEND: Of 327 citizens of Hamilton and other counties, Illinois.

By Mr. WASHBURN: Of 220 citizens and soldiers of Anoka, Minn.

By Mr. WHITE: Of 63 citizens of Rochester, Minn.

By Mr. WOOD: Of citizens of Delphi, Ind., and of Atar City, Ind.

By Mr. WORTHINGTON: Of J. S. Atherton and 63 others, of La Fayette; of L. W. Ewing and 62 others, of Oneida; of D. H. Holcomb and 60 others, of Ravenswood; of J. E. Thomas and 65 others, of Wataga; and of T. A. Boyd and 180 others, of Lewiston, Ill.

SENATE.

MONDAY, *December* 15, 1884.

Prayer by the Chaplain, Rev. E. D. HUNTLEY, D. D.

The Journal of the proceedings of Thursday last was read and approved.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore*. The Chair lays before the Senate a communication from the Postmaster-General, transmitting, as required by law, lists of allowed and disallowed claims for losses by postmasters from fire, burglary, and other casualties. The Chair understands by a note at the foot of the letter that the documents referred to have been sent with a similar communication to the House of Representatives. The letter, if there be no objection, will be printed and referred to the Committee on Post-Offices and Post-Roads.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of the Interior, transmitting a report of the Commissioner of Indian Affairs upon the subject of the right of way required by the Jamestown and Northern Railway Company through the Devil's Lake Indian reservation in Dakota; which was ordered to be printed, and, with the accompanying papers, referred to the Committee on Indian Affairs.

He also laid before the Senate a communication from the Secretary of the Interior, transmitting a report of the Commissioner of Indian Affairs setting forth the embarrassment to the service growing out of the provision in the law requiring that the appropriation for the support of the Indian industrial school at Lawrence, Kans. ($50,000), shall be disbursed upon the basis of an allowance of not exceeding $175 for the support and education of each scholar; which was ordered to be printed, and, with the accompanying papers, referred to the Committee on Appropriations.

He also laid before the Senate a communication from the Secretary of the Interior, transmitting a letter from the Commissioner of Indian Affairs inclosing a claim for $2,000 of the bureau of Catholic missions of Washington, D. C., on account of the support, education, &c., of twenty additional pupils at the boys' school on the Flathead reservation in Montana under its control during the fiscal year ending June 30, 1884, in excess of their contract for that year.

The PRESIDENT *pro tempore*. The letter will be printed, and, with the accompanying papers, referred to the Committee on Claims.

Mr. VEST. I suggest that it should go first to the Committee on Indian Affairs. I think that would be the appropriate reference. I do not see the chairman of the committee here, but I know he takes considerable interest in that matter.

The PRESIDENT *pro tempore*. On the suggestion of the Senator from Missouri, if there be no objection, the reference will be changed from the Committee on Claims to the Committee on Indian Affairs. The Chair hears no objection.

PETITIONS AND MEMORIALS.

Mr. SHERMAN presented the petition of Timothy Kibby, of Dayton, Ohio, praying for relief in the form of back pension; which was referred to the Committee on Pensions.

Mr. CULLOM. I present a memorial of James W. Smith, of Springfield, Ill., first vice-president of the International Federation of Trade and Labor Unions of the United States and Canada; a memorial of Mark L. Crawford, president of the Chicago Trade and Labor Assembly, on behalf of 30,000 workmen; a memorial of the Chicago Trade and Labor Assembly; and a memorial of Richard Powers, of Chicago, vice-chairman of the legislative committee of the labor organizations of the United States, urging the passage of the bill to prohibit the importation of foreign labor under contract. I move the reference of the memorials to the Committee on Education and Labor.

Mr. BLAIR. The labor bill to which the memorials presented by the Senator from Illinois [Mr. CULLOM] have reference was reported from the committee favorably and is upon the Calendar. I therefore suggest that the memorials lie on the table.

The PRESIDENT *pro tempore*. If there be no objection the memorials presented by the Senator from Illinois, instead of being referred to the Committee on Education and Labor, will be laid upon the table.

Mr. DOLPH presented the petition of Theodore J. Eckerson, major and quartermaster, United States Army, praying to be placed on the retired-list of the Army on January 22, 1885, with additional rank; which was referred to the Committee on Military Affairs.

Mr. MILLER, of California, presented a memorial of members of the Society of California Pioneers and others, praying that relief be granted Rev. C. M. Blake, chaplain United States Army, retired; which was referred to the Committee on Military Affairs.

Mr. MANDERSON presented a petition of citizens of Nebraska, praying that a pension be granted Polly Young, widow of Jesse Young, a soldier of the war of 1812; which was referred to the Committee on Pensions.

Mr. CAMERON, of Pennsylvania, presented the petition of Lincoln Post, No. 140, Grand Army of the Republic, Department of Pennsylvania, praying for the publication in the Official Records of the War of the Rebellion of photographic illustrations; which was referred to the Committee on Printing.

Mr. INGALLS presented a petition of citizens of Bourbon County, Kansas, praying for legislation relative to New York Indian lands in that county; which was referred to the Committee on Indian Affairs.

Mr. LAPHAM presented the petition of Sally C. Mulligan, mother of James S. Mulligan, late Company I, Twenty-first Regiment New York Volunteers, praying for arrearages of pension; which was referred to the Committee on Pensions.

Mr. BUTLER presented the petition of Hugh S. Thompson, governor of South Carolina, James F. Tylar, Ashbury Coward, Charles H. Simonton, George L. Buist, S. McGowan, H. McIver, F. W. McMaster, and the faculty of the South Carolina College, in relation to House bill 7498 to establish agricultural experiment stations; which was referred to the Committee on Agriculture and Forestry.

Mr. LOGAN presented a petition of officers of the Army, praying for the passage of the bill to facilitate promotions throughout the Army by retiring from active service, upon their own application, officers of the Army who served in the war of the rebellion; which was referred to the Committee on Military Affairs.

He also presented the petition of Patrick Henry, commissary-sergeant United States Army, Fort Sidney, Nebraska, praying legislation favorable to private soldiers; which was referred to the Committee on Military Affairs.

He also presented a memorial of cigar-makers of Decatur, Ill; a memorial of cigar-makers of Peoria, Ill.; a memorial of cigar-makers of Springfield, Ill.; a memorial of cigar-makers of Jacksonville, Ill.; a memorial of cigar-makers of Morris, Ill.; a memorial of cigar-makers of Alton, Ill.; a memorial of August Schulze, of New York; a memorial of the Chicago Trade and Labor Assembly; a memorial of cigar-makers of Ottawa, Ill.; a memorial of tobacco-dealers and cigar-makers of Chicago, Ill.; and a memorial of the Illinois Peace Society, remonstrating against the ratification of the Spanish treaty; which were referred to the Committee on Foreign Relations.

Mr. LOGAN. I present a petition from soldiers resident in many parts of the United States making the following prayer:

We, the undersigned, ex-soldiers of the late Union Army, desirous of perpetuating in the best possible manner the memory of the late Maj. Gen. George H. Thomas, do most respectfully petition the Congress of the United States to purchase the faithful representation of him in Miss C. L. Ransom's full-length life-

size portrait, and to give it a suitable place for preservation and exhibition in the Capitol in Washington.

I also present 241 petitions, signed by 7,608 discharged soldiers, to the same effect.

I desire to say in presenting these petitions that I have frequently examined the portrait referred to and I consider it a most excellent likeness of General Thomas. I hope the Committee on the Library will take action in reference to the matter and make a report either for or against the proposition. I should be very glad myself to see a favorable report made, for I think it is a very good portrait, and Congress ought to purchase it.

I move the reference of the petitions to the Committee on the Library.

The motion was agreed to.

Mr. BROWN. I present the petition of the National Eclectic Medical Association, asking the Congress of the United States to enact a bill to secure to the medical profession equal rights in the service of the United States as an act of justice to a large number of citizens, an improvement and reform of the former practice and demanded by the best interests of individuals, &c. I move that it be referred to the Committee on Civil Service and Retrenchment.

The motion was agreed to.

Mr. HAWLEY presented the petition of Arnold A. Rand and Albert Ordway, of Washington, D. C., praying that the Government purchase their collection of photographic negatives illustrating the war of the rebellion; which was referred to the Committee on Military Affairs.

Mr. HOAR presented the petition of F. D. Hammond Post, No. 141, Grand Army of the Republic, Department of Massachusetts; the petition of Moses Ellis Post, No. 117, Grand Army of the Republic, Department of Massachusetts, and the petition of Henry Bryant Post, No. 98, Grand Army of the Republic, Department of Massachusetts, praying for the publication in the Official Records of the War of the Rebellion of photographic illustrations; which were referred to the Committee on Military Affairs.

Mr. HOAR. I present certain papers which are not in the form of a petition, but which relate to a private bill now before the Committee on Military Affairs, being the bill (H. R. 263) for the relief of George F. Bicknell: I move the reference of the papers to the Committee on Military Affairs.

The motion was agreed to.

REPORTS OF COMMITTEES.

Mr. HOAR, from the Committee on the Judiciary, to whom were referred the following petitions, asked to be discharged from their further consideration; which was agreed to:

A petition of members of the Stationers' Board of Trade of New York, praying for the passage of a national bankrupt law; and

A petition of business men of Des Moines, Iowa, in relation to the enactment of a bankrupt law.

Mr. SHERMAN, from the Committee on the Library, to whom was referred the bill (S. 2422) for the erection of a statue to the memory of General La Fayette, reported it with amendments.

Mr. McMILLAN, from the Committee on the Judiciary, to whom were referred the following bills, reported them adversely; and they were indefinitely postponed:

A bill (S. 1671) for the judicial ascertainment of the facts in private claims, and for other purposes; and

A bill (S. 1534) in relation to courts and judicial proceedings in the Territories.

Mr. INGALLS, from the Committee on the Judiciary, which was directed by a resolution of the 11th of February, 1884, to examine and report what legislation is necessary, if any, to restrict the appointment of special assistant attorneys and special agents or detectives in the Department of Justice, submitted a report thereon; which was ordered to lie on the table.

Mr. MILLER, of California, from the Committee on Foreign Relations, reported a bill (S. 2436) to enable the President to accept invitations of foreign governments to international exhibitions and to appoint commissions thereto; which was read the first time by its title.

Mr. MILLER, of California. I am instructed by the committee to ask the unanimous consent of the Senate to consider the bill at this time.

Mr. COCKRELL. Let it be read at length for information, subject to objection.

The bill was read the second time at length.

The PRESIDENT *pro tempore*. Is there objection to the present consideration of the bill?

Mr. COCKRELL. I object. Let it be printed, and it can be called up to-morrow morning.

The PRESIDENT *pro tempore*. Objection is made, and the bill will be placed on the Calendar.

PORTS OF PORTLAND AND PORT TOWNSEND.

Mr. DOLPH. I am instructed by the Committee on Commerce, to whom was referred the bill (S. 2391) to amend the act entitled "An act to amend the statutes in relation to immediate transportation of dutiable goods, and for other purposes," approved June 10, 1880, to report it favorably, without amendment, and to ask for the present consideration of the bill.

The PRESIDING OFFICER (Mr. GARLAND in the chair). Is there objection to the present consideration of the bill?

Mr. PLATT. I should prefer to have the bill read first for information.

The PRESIDING OFFICER. The bill will be read at length for information.

The Chief Clerk read the bill, and, by unanimous consent, the Senate, as in Committee of the Whole, proceeded to its consideration. It extends to the port of Portland, Oreg., the privileges of the first section of the act approved June 10, 1880, entitled "An act to amend the statutes in relation to immediate transportation of dutiable goods, and for other purposes," and the privileges of the first and seventh sections of the act to the port of Port Townsend, in Washington Territory; the privileges in each case to be exercised on the same terms and conditions applicable to other ports as provided in the act of which this is amendatory.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

PORT OF OMAHA.

Mr. DOLPH. I am also instructed by the Committee on Commerce, to whom was referred the bill (S. 2269) to extend the provisions of the act of June 10, 1880, entitled "An act to amend the statutes in relation to immediate transportation of dutiable goods, and for other purposes," to the port of Omaha, in the State of Nebraska, to report it favorably without amendment. The bill is favorably recommended by the Treasury Department, and I am directed to ask for its present consideration.

The PRESIDENT *pro tempore*. The Senator from Oregon asks unanimous consent that the bill reported by him be now considered. Is there objection?

Mr. INGALLS. Let it be read for information.

The Chief Clerk read the bill.

Mr. SHERMAN. The only criticism I have to make is that I do not see why the Senator does not have all these places named in one bill. We have already passed one in regard to Portland, Oreg. The original law, of which this is an amendment, embraced quite a number of ports. Probably it is proper that Portland and Omaha should also be named; but it seems to me that one bill would cover the whole.

The PRESIDENT *pro tempore*. The question is, is there objection to the present consideration of the bill?

Mr. SHERMAN. I do not object.

Mr. ALLISON. I do not object to the consideration of the bill——

The PRESIDENT *pro tempore*. The Chair hears no objection, and the bill is before the Senate as in Committee of the Whole.

Mr. ALLISON. I should like to know, as a matter of practical administration of the office at Omaha, how goods can be appraised there. There is no appraiser's office at Omaha, I understand.

Mr. MANDERSON. I will state to the Senator from Iowa that the surveyor of customs, there being such an official at Omaha, has the power of appraisement under the law and the rules of the Treasury Department. This bill in its present form is one that is recommended by the Treasury Department, and they say that no additional officer is needed at that port.

Mr. ALLISON. I am very glad to know that. That is probably true at present, but of course if these several ports are made ports where goods are to be regularly entered and appraised we shall soon have all the machinery of a custom-house found to be necessary at each place. I do not object to the consideration of the bill, however.

Mr. McPHERSON. I think I shall object to the further consideration of the bill at this time. While, as the Senator from Nebraska [Mr. MANDERSON] says, the law does permit the present customs officers to appraise goods, I think in the majority of cases where the operation of the law has been extended new officers have been appointed. Until I can examine more fully into the circumstances I should like to have the bill go over.

Mr. MANDERSON. I desire to say to the Senator from New Jersey that Omaha is one of the ports mentioned in the act of June 10, 1880. It was then admitted to the right of immediate transportation of dutiable goods, but was excluded by the action of the Secretary of the Treasury under the proviso to that act, which was construed by him to grant him that power. The matter has now been referred to the Treasury Department, and in the present condition of affairs, there being such a vast increase of importation of goods at that port, the Secretary now recommends that this privilege be granted to that port. I hope the Senator from New Jersey will withdraw his objection and allow the bill, which has passed the scrutiny of the Treasury Department and also of the Commitee on Commerce, to become a law.

Mr. McPHERSON. I wish to say further, that with respect to the scrutiny of the Treasury Department, of which the honorable Senator speaks, upon the question of appointing new officers, sometimes they do not scrutinize as closely as I should like to have them do. I think no harm will come, no particular damage can result to the interests of Omaha, if the bill should go over for a day or two, as it probably will under my objection.

The PRESIDENT *pro tempore*. The Chair will state that he called for objection, and stated (as the Senator from Iowa had taken the floor, he saying that he had no objection, and as the Chair heard no objection), that the bill was before the Senate as in Committee of the Whole; but inasmuch as the Senator from Iowa had risen, the Chair will treat the objection of the Senator from New Jersey as having been made at the time. The bill will be placed on the Calendar.

Mr. CONGER. I ask that the bill may come up as unfinished business to-morrow. It is important that the question should be decided for that port as soon as may be.

The PRESIDENT *pro tempore*. The Senator from Michigan asks unanimous consent that the bill objected to by the Senator from New Jersey may come up at the head of the Calendar under Rule VIII to-morrow morning. Is there objection?

Mr. McPHERSON. I do not know the necessity of this special and particular case. Perhaps I should be willing to have the bill come up to-morrow morning; perhaps I should make no objection to it then, but——

The PRESIDENT *pro tempore*. It is the duty of the Chair to state that debate is not in order.

Mr. McPHERSON. I only wish to explain the reason of my objection, if unanimous consent can be given for that purpose.

The PRESIDENT *pro tempore*. If there be no objection the Senator from New Jersey will proceed.

Mr. SHERMAN. I think we had better proceed with the regular order.

The PRESIDENT *pro tempore*. Objection is made, and the bill goes on the Calendar.

BILLS INTRODUCED.

Mr. SHERMAN introduced a bill (S. 2437) granting a pension to Mrs. Mary Gordon; which was read twice by its title, and referred to the Committee on Pensions.

He also introduced a bill (S. 2438) granting a pension to Rachel Fleming Cellar; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

Mr. PLUMB introduced a bill (S. 2439) authorizing the Interstate Rapid Transit Railway Company to build a bridge across the Kansas River; which was read twice by its title, and referred to the Committee on Commerce.

Mr. CULLOM introduced a bill (S. 2440) for the relief of Benjamin F. Fox; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Claims.

He also introduced a bill (S. 2441) to amend an act entitled "An act to provide for the erection of a public building in the city of Peoria, in the State of Illinois," approved May 9, 1882; which was read twice by its title, and referred to the Committee on Public Buildings and Grounds.

Mr. MANDERSON introduced a bill (S. 2442) to increase the efficiency of the infantry branch of the Army; which was read twice by its title, and referred to the Committee on Military Affairs.

He also introduced a bill (S. 2443) granting an increase of pension to Polly Young; which was read twice by its title, and referred to the Committee on Pensions.

He also introduced a bill (S. 2444) granting an increase of pension to General S. W. Price; which was read twice by its title, and referred to the Committee on Pensions.

Mr. HILL introduced a bill (S. 2445) to regulate the letting of mail contracts; which was read twice by its title, and referred to the Committee on Post-Offices and Post-Roads.

He also introduced a bill (S. 2446) for the relief of William M. Keightley; which was read twice by its title, and referred to the Committee on Post-Offices and Post-Roads.

Mr. LAPHAM introduced a bill (S. 2447) to remove the charge of desertion against Daniel Morris, of Company F, Fortieth Regiment of New York State Volunteers; which was read twice by its title, and referred to the Committee on Military Affairs.

He also introduced a bill (S. 2448) for the relief of Sally C. Mulligan; which was read twice by its title, and referred to the Committee on Pensions.

Mr. WILSON introduced a bill (S. 2449) to provide for the distribution of the Statutes of the United States and the CONGRESSIONAL RECORD to designated incorporated bodies, institutions, and associations within the several States and Territories; which was read twice by its title, and referred to the Committee on the Library.

Mr. WILSON. I have received a communication from the Secretary of the Interior approving the object of the bill. Although the communication is quite brief I shall not ask to have it read, but I ask that it may be printed in the RECORD, and referred to the Committee on the Library.

The paper was ordered to be printed in the RECORD, and referred to the Committee on the Library, as follows:

DEPARTMENT OF THE INTERIOR,
Washington, April 25, 1884.

SIR: Replying to your communication of the 24th instant, regarding the supply of the Jefferson County library with certain public documents, I have the honor to say that no copies of the Statutes at Large or of Revised Statutes are furnished this Department for distribution. It receives only a sufficient number of copies for its own use and the use of its several bureaus and offices. These documents are now put at the disposal of the honorable the Secretary of State, under whose supervision they are distributed, and from whom it is possible that those needed to complete the set in the library above mentioned may be secured.

In this connection I beg to say that the only two important documents printed by the Government with which depositories of documents in the several States and Congressional districts of the Union are not supplied from this Department are the Statutes of the United States and the CONGRESSIONAL RECORD, provision having been made for furnishing said depositories with every other document ordered by Congress. It is very much to be desired that some provision should be made, without unnecessary delay, by which the RECORD and the statutes should also be included in the documents furnished these institutions, in order that there may be found at every depository of public documents a copy of these, among the most important of Government publications, as well as of those for the supply of which provision has already been made. A joint resolution embodying such a provision, submitted with a statement of reasons for the same, would doubtless be adopted by the Senate, as it would probably be admitted that if any documents are to be supplied to institutions as depositories of Government publications, these certainly ought to be included in the number.

Very respectfully,

M. L. JOSLYN,
Acting Secretary.

Hon. JAMES F. WILSON, *U. S. Senate.*

Mr. WILSON introduced a bill (S. 2450) to repeal the joint resolution approved June 14, 1878, authorizing the purchase of such plate-iron and other material as may enter into the construction of steam-boilers for the Navy without advertising for bids to furnish the same; which was read twice by its title.

The PRESIDENT *pro tempore*. The bill will be referred to the Committee on Naval Affairs.

Mr. WILSON. I desire to have the bill referred to the Committee on Expenditures of Public Money.

The PRESIDENT *pro tempore*. If there be no objection that reference will be made.

Mr. HALE. It seems to me that that is a matter which should go to the Committee on Naval Affairs.

Mr. WILSON. I desire to say that the Committee on Expenditures of Public Money has no disposition to encroach upon the jurisdiction of the Committee on Naval Affairs, but that committee is considering this subject. I wish to have the bill considered in that connection, and then if we come to a conclusion I shall have no objection to the bill being reported and sent to the Committee on Naval Affairs, if it is deemed proper.

Mr. HALE. The bill relates to a very important part of the operations of the Navy Department, and ultimately I think it should go to the committee representing that branch. If the Senator's committee is considering that subject, with the understanding that he has mentioned, I have no objection to its going to that committee first.

Mr. WILSON. I have certainly no desire to assume any jurisdiction belonging to the Committee on Naval Affairs, and if there should be in the course of the consideration of this subject any seeming encroachment I should be willing to have the subject, when resolved upon by the Committee on Expenditures of Public Money, go to the Committee on Naval Affairs.

Mr. HALE. I have no objection to the reference suggested by the Senator from Iowa.

The bill was referred to the Committee on Expenditures of Public Money.

Mr. MILLER, of New York, introduced a bill (S. 2451) for the protection of forests on the public domain; which was read twice by its title, and referred to the Committee on Agriculture and Forestry.

Mr. INGALLS introduced a bill (S. 2452) granting a pension to Mary M. J. Frank; which was read twice by its title, and referred to the Committee on Pensions.

He also (by request) introduced a bill (S. 2453) to amend the act giving approval and sanction of Congress to the route and termini of the Anacostia and Potomac River Railroad; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. MILLER, of California, introduced a bill (S. 2454) to provide for the enlargement of the Yosemite Valley and Mariposa Big Tree Grove grants; which was read twice by its title, and referred to the Committee on Public Lands.

COINAGE OF SILVER DOLLARS.

Mr. MORRILL submitted an amendment intended to be proposed by him as a substitute for the bill (H. R. 4976) for the retirement and recoinage of the trade-dollar; which was read, and referred to the Committee on Finance, as follows:

Strike out all after the enacting clause and insert:

"That the Secretary of the Treasury shall direct the suspension of the purchase of silver bullion and the coinage of standard silver dollars at the mints of the United States, under the act of February 28, 1878, whenever the amount of silver coin, in excess of silver certificates, shall exceed $70,000,000; and the purchase of bullion and coinage of standard dollars, as aforesaid, shall be resumed at any time when the same shall be required in order to keep and retain in the Treasury an amount of silver coin in excess of silver certificates of not less than $60,000,000.

"SEC. 2. That the Secretary of the Treasury be, and is hereby, authorized and directed to purchase as bullion any trade-dollars which may be presented previous to the 1st day of February, 1886, in sums of not less than $20, and to pay therefor the market value of silver bullion when so presented, and in addition — per cent. premium. And the trade-dollars so purchased shall not again be reissued, but shall form a part of the silver bullion authorized to be purchased from time to time under the act of February 28, 1878."

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. CLARK, its

Clerk, announced that the House had passed the following bills and joint resolution; in which it requested the concurrence of the Senate:

A bill (H. R. 4012) to restore Robert C. McKee to the pension-roll;

A bill (H. R. 5021) granting a pension to Jackson Shadday;

A bill (H. R. 5304) for the relief of Mary Royal;

A bill (H. R. 1940) granting a pension to Capt. Israel Stough;

A bill (H. R. 391) granting a pension to Daniel H. Ross;

A bill (H. R. 298) granting a pension to Charlotta A. Welton;

A bill (H. R. 4752) granting a pension to William Herring;

A bill (H. R. 7169) granting a pension to Elizabeth Kaler;

A bill (H. R. 3065) granting a pension to Emma De Long;

A bill (H. R. 6590) for the relief of Alice Riley; and

Joint resolution (H. Res. 300) to pay the officers and employés of the Senate and House of Representatives their respective salaries for the month of December, 1884, on the 20th day of said month.

The message also announced that the House had passed the following bills and joint resolution:

A bill (S. 2041) granting the right of way to the city of Newport, R. I., over the breakwater at Goat Island;

A bill (S. 2402) authorizing the Secretary of State to procure duplicates of certain French and American medals; and

Joint resolution (S. R. 101) in relation to the ceremonies to be authorized upon the completion of the Washington Monument.

The message further announced that the House had passed a concurrent resolution concerning the opening ceremonies of the World's Industrial and Cotton Centennial Exposition at New Orleans, La., on the 16th instant.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bill and joint resolution; and they were thereupon signed by the President *pro tempore:*

A bill (7428) to authorize the Hillsborough National Bank to change its name to that of the First National Bank of Hillsborough, Ohio; and

Joint resolution (H. Res. 289) authorizing the Superintendent of the Census to continue the work on the Tenth Census.

DEBATE ON SPANISH TREATY.

The PRESIDENT *pro tempore.* If there be no further bills or joint resolutions that order is closed. "Concurrent or other resolutions" are in order, and the Chair lays before the Senate the resolution offered by the Senator from Nebraska [Mr. VAN WYCK], which went over under objection. The resolution will be read.

The Chief Clerk read the resolution, submitted by Mr. VAN WYCK December 11, as follows:

Whereas a commercial treaty of great importance has been negotiated between the United States and Spain, which was made public by the King of Spain to such extent that it was cabled from Madrid by the Times of New York city, and given to the American people by that journal before the same was presented with becoming solemnity and secrecy to the Senate;

Whereas the provisions of said treaty materially affect the subject of revenues and taxation, involving no serious questions of diplomacy and state secrets, the discussions thereof should be in open session, so that the people may be fully apprised of the reasons why said treaty should be ratified or rejected: Therefore,

Resolved, That the Committee on Rules be directed to report an amendment, or additional rule, requiring that treaties which concern matters of revenue shall be considered in open session.

The PRESIDENT *pro tempore.* The question is on agreeing to the resolution.

Mr. MILLER, of California. As the Committee on Foreign Relations has a similar resolution to this now under consideration, I move that this resolution be referred to that committee.

Mr. HOAR. I raise the question that that should be considered in secret session.

The PRESIDENT *pro tempore.* The Chair did not understand the Senator from Massachusetts.

Mr. HOAR. I raise the question that this resolution should be considered in executive session.

The PRESIDENT *pro tempore.* The Senator from Massachusetts asks that this resolution be considered with closed doors. Is that request seconded?

Several SENATORS. Yes, sir.

Mr. PLATT. May I be referred to the rule under which the request is made?

The PRESIDENT *pro tempore.* Rule XXXV is as follows:

On a motion made and seconded to close the doors of the Senate, on the discussion of any business which may, in the opinion of a Senator, require secrecy, the presiding officer shall direct the galleries to be cleared; and during the discussion of such motion the doors shall remain closed.

Is there a second to the motion of the Senator from Massachusetts?

Mr. HAWLEY. I second the motion.

The PRESIDENT *pro tempore.* The motion is seconded. The Sergeant-at-Arms will clear the galleries and close the doors.

The Senate, with closed doors, proceeded to consider the resolution. After sixteen minutes the doors were reopened.

THE NEW ORLEANS EXPOSITION.

The PRESIDENT *pro tempore* laid before the Senate the following concurrent resolution from the House of Representatives:

Whereas the Congress of the United States has been formally invited to attend the opening ceremonies of the World's Industrial and Cotton Centennial Exposition to be inaugurated at New Orleans on Tuesday, December 16, 1884; and

Whereas the exigencies of the public service prevent their attendance on said day; and

Whereas the President of the United States has decided to open said exposition by telegraph and to start the machinery thereof by electricity from the Executive Mansion in the presence of his Cabinet and the representatives of foreign powers; and

Whereas the Congress of the United States entertains for said exposition the best wishes and desires to lend to its success its countenance and good-will: Now, therefore,

Resolved by the House of Representatives (the Senate concurring therein), That the President of the Senate, together with a committee of thirteen Senators to be appointed by him, and the Speaker of the House together with one Representative or Delegate from each State and Territory of the Union to be selected by him, be requested to attend at the Executive Mansion on Tuesday, the 16th instant, at 12.30 p. m., to witness on behalf of the Congress of the United States the opening of said exposition by the President, and to adopt and forward thereto such address of congratulation as may seem appropriate to the occasion.

Mr. JONAS. Mr. President, I ask unanimous consent for the present consideration of the resolution.

The PRESIDENT *pro tempore.* The Senator from Louisiana asks unanimous consent that the resolution of the House of Representatives be now considered. Is there objection? The Chair hears none. The question is on concurring in the resolution.

The resolution was concurred in.

RECIPROCITY TREATIES, SO CALLED.

Mr. SHERMAN. If the morning business is now through, I desire to call up a bill.

The PRESIDENT *pro tempore.* The morning business is not yet concluded. The call was for resolutions, opening with the resolution of the Senator from Nebraska [Mr. VAN WYCK], which came over from a previous day. Resolutions are still in order.

Mr. MORRILL submitted the following resolution; which was read:

Whereas the Legislature is the department of Government by which commerce should be regulated and laws of revenue passed; the Constitution in terms communicates the power to regulate commerce and to impose duties to that department. It communicates it in terms to no other. The representatives of the people, sitting in their legislative capacity, with open doors, under the eye of the country, communicating freely with their constituents, may exercise this power more intelligently, more discreetly, may acquire more accurate and more minute information concerning the employment and interests on which this description of measures will press, and may better discern what true policy prescribes or rejects than is within the competence of the executive department of the Government: Therefore,

Resolved, That so-called reciprocity treaties, having no possible basis of reciprocity with nations of inferior population and wealth, involving the surrender of enormously unequal sums of revenue, involving the surrender of immensely larger volumes of home trade than are offered to us in return, and involving constitutional questions of the gravest character, are untimely, and should everywhere be regarded with disfavor.

Mr. MORRILL. I ask that the resolution be printed and lie on the table. I may desire to submit under certain contingencies some remarks upon it.

The PRESIDENT *pro tempore.* Is there objection to the request of the Senator from Vermont? The Chair hears none, and the resolution will lie on the table and be printed.

SURVEY OF NICARAGUA CANAL ROUTE.

Mr. VEST submitted the following resolution; which was considered, by unanimous consent, and agreed to:

Resolved, That the Secretary of the Navy be directed to inform the Senate whether any orders have been issued by the Navy Department for the purpose of sending a surveying party to Central America in order to make a survey of the route for the proposed Nicaragua Canal, and, if so, under what authority of law such orders were issued; and if such orders have not been issued, whether any expedition for the purpose indicated is contemplated by the Navy Department or any preparation being made for the same, and, if so, the nature, extent, and cost of the arrangements made or contemplated.

BILLS RECOMMITTED.

Mr. INGALLS. Order of Business 785, being the bill (H. R. 2136) granting an increase of pension to Merlin C. Harris, was adversely reported from the Committee on Pensions and now stands on the Calendar. Additional evidence has been received, and I ask that the bill may be recommitted for the purpose of further consideration.

The PRESIDENT *pro tempore.* The Senator from Kansas asks unanimous consent that the bill indicated by him be recommitted to the Committee on Pensions. Is there objection? The Chair hears none, and it is so ordered.

Mr. INGALLS. In that connection I offer additional evidence in support of the claim, which I ask may be referred to the Committee on Pensions with the bill.

The PRESIDENT *pro tempore.* The papers will be received and referred to the Committee on Pensions.

Mr. INGALLS. I also ask that the bill (H. R. 2140) for the relief of Hugh Dougherty, which was indefinitely postponed at the last session, may be recommitted. I suppose I should first ask that the vote indefinitely postponing the bill be reconsidered, although the parliamentary period has elapsed, but additional evidence has been received in support of that claim also, and I desire to obtain further consideration.

The PRESIDENT *pro tempore.* The Senator from Kansas asks unanimous consent that the vote of the Senate at the last session indefinitely postponing the bill (H. R. 2140) for the relief of Hugh Dougherty be reconsidered, and that the bill be recommitted to the Commit-

tee on Pensions. Is there objection? The Chair hears none, and it is so ordered.

The PRESIDENT *pro tempore* subsequently said: The Chair begs to state to the Senator from Kansas in reference to the recent action of the Senate on the bill (H. R. 2140) for the relief of Hugh Dougherty, that it appears by the Journal of the Senate that the bill is still in the possession of the Committee on Pensions, and has never been reported.

Mr. INGALLS. I was otherwise advised. Let the matter remain open until it can be further examined.

The PRESIDENT *pro tempore*. That course will be pursued unless objection be made.

SPANISH RECIPROCITY TREATY.

Mr. INGALLS. I ask leave, out of order, to present a petition from a representative meeting of cigar-makers of Leavenworth, Kans., in relation to the proposed reciprocity treaty with Spain.

The PRESIDENT *pro tempore*. If there be no objection, the petition will be received and referred to the Committee on Foreign Relations.

Mr. SHERMAN. I only object because objection was made the other day to similar petitions being presented in open session, and I therefore, as other Senators have, presented similar petitions in another place.

The PRESIDENT *pro tempore*. The Chair has received, without stating the question, some of these remonstrances, inasmuch as the Senate, by an order, had made public the text of the treaty. The Chair thought under those circumstances remonstrances might be received in open session, which otherwise the Chair would not have received without the direction of the Senate in a case where the secrecy of the text of the treaty had not been removed.

Mr. SHERMAN. Then I can only say that if that is concluded to be best I shall hereafter present such petitions in the open Senate, but it will open the door to the presentation of arguments and remonstrances and memorials, and will tend to bring about what I desire, the open discussion of the treaty. I merely call attention to the rule.

The PRESIDENT *pro tempore*. The Chair thinks the distinction is between the case of a treaty in respect to which the injunction of secrecy upon its text has not been removed and one in respect to which the injunction of secrecy has been removed. In the case of the Spanish treaty referred to, the Senate took off the injunction of secrecy and the text of the treaty was printed. The Chair therefore thought, the right of petition by a citizen of course being sacred in either case, that it might be made manifest by presenting a petition in such a case in open session, which the Chair would not have received had not the Senate ordered the injunction of secrecy to be taken off.

Mr. CONGER. I have two petitions from citizens of Michigan on the same subject, which I desire to present. I have presented, under what I supposed to be the ruling of the Chair heretofore, four or five in executive session——

The PRESIDENT *pro tempore*. The Senator is not entitled to state anything that took place in executive session.

Mr. CONGER. I will say then for the information of my constituents who send me these papers that I am very glad of the opportunity of presenting them in open session, as there is no other way in which they can be informed that I have presented their petitions and that the Senate has received them. That may be proper, I suppose.

The PRESIDENT *pro tempore*. The petitions will be referred to the Committee on Foreign Relations.

Mr. MILLER, of California. I ask leave to report a resolution from the Committee on Foreign Relations.

The PRESIDENT *pro tempore*. The Senator from California asks unanimous consent to make a report at this time from the Committee on Foreign Relations. Is there objection? The Chair hears none. The resolution will be read.

The Chief Clerk read the resolution, as follows:

Resolved by the Senate (the House of Representatives concurring), That the letter of the Secretary of State dated December 12, 1884, and the accompanying reports of United States consuls on labor in Europe, be printed, and that —— additional copies be printed for the use of the Senate, —— copies for the use of the House of Representatives; and for the use of the Department of State 5,000 copies, and 10,000 copies of the Secretary's letter.

Mr. MILLER, of California. I ask that the resolution be referred to the Committee on Printing.

The PRESIDENT *pro tempore*. The Senator from California moves that the resolution be referred to the Committee on Printing.

The motion was agreed to.

PUBLIC BUILDING AT AKRON.

The PRESIDENT *pro tempore*. The Calendar under Rule VIII is now in order.

Mr. SHERMAN. At the last session of the Senate I believe all the bills reported in regard to the erection of public buildings except one were acted upon, so as to be sent to the other House. There is one bill for the erection of a public building at Akron, Ohio, on the Calendar, No. 870 in the Order of Business, reported from the Committee on Public Buildings and Grounds, which I ask the Senate to consider now, so that it may be placed in the same position as the other bills of that character. It was overlooked probably by oversight. I should like to have the action of the Senate upon it. It will take but a moment.

The PRESIDENT *pro tempore*. The Senator from Ohio asks unanimous consent that Order of Business 870, being the bill S. (1838) for the erection of a public building at Akron, Ohio, be now considered. Is there objection? The Chair hears none.

The Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported to the Senate without amendment.

Mr. HOAR. I should like to inquire of the committee that reported that bill whether their exceptions as to the administration of the criminal law of the State would make the criminal law of the State operative as a law binding on the conduct of persons. For instance, if an assault be committed in the post-office, or a theft, or a robbery at night, and battery, the bill allows the administration of the criminal law of the State. That would seem to be merely confined to the right to make arrests there, and to hold a criminal court there, as the Senator from Rhode Island [Mr. SHEFFIELD] well suggests. I think we ought to go as far as to say that it may be lawfully done, and the precedents of the Senate seem to imply that it may. We ought to say that the criminal laws of the State shall be in force and operation. I do not see why all the laws of the State should not be; for instance, if a runaway match should take place and the marriage ceremony be conducted in the post-office, I do not see why it should not be binding according to the State law.

Mr. SHERMAN. The Senator from Missouri [Mr. VEST] reported the bill.

Mr. VEST. That matter has been very often discussed both in the Senate and before the Committee on Public Buildings and Grounds, particularly by the Senator from Florida [Mr. JONES]. This is the form which has been adopted in the committee, and we consider it ample to cover the case suggested by the Senator from Massachusetts. The bill is in the ordinary form. All the bills in regard to the construction of public buildings have this provision in them. We considered that distinctly to provide for the administration of justice within the limits of the building.

Mr. HOAR. The Senator will pardon me. I think he will find on examination that there is a great variety of phraseology used in limiting this cession of jurisdiction. There are several different forms in our legislation. I would suggest, beginning in the nineteenth line, to strike out the words "except the administration of the criminal laws of said State and the service of civil process therein" and to insert in lieu thereof, "that the criminal laws of said State shall be in force and its civil and criminal process may be served therein." I make that suggestion.

The PRESIDENT *pro tempore*. The Senator from Massachusetts proposes an amendment, which will be read.

The CHIEF CLERK. It is proposed to strike out all after the word "except," in line 19, and in lieu thereof to insert:

That the criminal laws of said State shall be in force and its civil and criminal process may be served therein.

Mr. VEST. With due deference to the Senator from Massachusetts, I do not think that amendment is necessary; but, not to be critical about it, I shall not make a point. The "administration of justice," as a matter of course, covers the whole subject. A law can not be administered unless it be in force within the limits of that building.

Mr. HOAR. Why not?

Mr. VEST. Because there would be no law there at all. If the position of the Senator from Massachusetts be correct, as soon as you enter one of these public buildings the laws of the State would not be in force. I say they would be in force there. There is no question in regard to their being in force there. There has been a point raised, and the Senator from Florida has repeatedly made it, especially in a case in which he was of counsel for the State of Florida, where a murder was committed in a public building. There this point was raised by him and the court decided against him. He raised the point that the laws of the State could not be administered there, that there was no jurisdiction of the State authorities. The point was overruled both in the circuit court of the United States and by the Supreme Court. Taking that decision—and the subject has been frequently discussed—we have always thought, in the Committee on Public Buildings and Grounds, that the words "administration of justice" covered the entire subject.

Mr. HOAR. Whether the Senator be right or not, the bills under which those cases went up had a different phrase; but I will not put my recollection against his on that point. I think he will agree with me that the proper phrase, where you wish to reserve that jurisdiction in the ceded territory, is to affirm the operation of the law of the ceding power; and to use the language that the administration of the criminal law of said power may be had therein or may exist therein is a very clumsy way of preserving the force of the law itself. It gives simply power to arrest and perhaps power to try. That would be the meaning of it. It seems to me my method is better to cover it entirely.

Mr. VEST. I make no objection.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Massachusetts.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

FORFEITURE OF OREGON LAND GRANT.

Mr. SLATER. I move that the bill (H. R. 181) to declare forfeiture of certain lands granted to aid in the construction of a railroad in Oregon be made the special order for Thursday, the 18th instant, at 2 o'clock.

The PRESIDENT *pro tempore*. The Senator from Oregon moves that the Senate now proceed to the consideration of Order of Business 761, being the bill (H. R. 181) to declare forfeiture of certain lands granted to aid in the construction of a railroad in Oregon.

Mr. PLATT. Is that debatable?

The PRESIDENT *pro tempore*. It is not debatable under the rules.

Mr. PLATT. Does an objection carry it over?

The PRESIDENT *pro tempore*. It does not. The Senator from Oregon is entitled to make the motion at this time.

Mr. SLATER. I think I was not understood by the Chair.

The PRESIDENT *pro tempore*. The Chair understood the Senator, but the Chair is obliged to put the question in the form known to the rules. The bill must first be taken up. Then the disposition of it proposed by the Senator will be proper. Perhaps the Senator from Connecticut did not hear the statement of the Senator from Oregon. The object of moving to take up the bill now is to move to make it a special order for a future day.

Mr. PLATT. Will that question be open to debate when the motion is agreed to?

The PRESIDENT *pro tempore*. It will be debatable when the bill is taken up. The question is now on the motion of the Senator from Oregon, that the bill be taken up for consideration.

The motion was agreed to; and the Senate resumed the consideration of the bill (H. R. 181) to declare forfeiture of certain lands granted to aid in the construction of a railroad in Oregon.

The PRESIDENT *pro tempore*. The Senator from Oregon now moves that the bill be postponed until Thursday next, at 2 o'clock p. m.

Mr. SLATER. And made the special order for that time.

The PRESIDENT *pro tempore*. The question is on the motion made by the Senator from Oregon.

Mr. HOAR. I object to the special order part of the motion. I do not think we can afford to make so many special orders at this short session.

Mr. PLATT. I rose for the purpose of saying that I hoped the Senate would make no more special orders except it should be with reference to such matters as are of great and overshadowing importance. We have now four special orders, I think, on the Calendar, and I have some matters which I consider of as much importance as any of these which have been made special orders—of as much importance as the matter which the Senator from Oregon desires to have made a special order—and I do not wish to have them displaced and those brought up before my matters which have priority upon the Calendar, and which I certainly think ought to be considered as much as any of those bills as have been made special orders. I do not think it is fair to the other business of the Senate to go on making special orders as we are making them.

The PRESIDENT *pro tempore*. The question is on agreeing to the motion of the Senator from Oregon.

Mr. SLATER. Mr. President, we have had this bill up on two occasions in the morning hour, and desiring to avoid the consumption of the morning hour by this bill I thought it best to select some day in the near future when it could be considered. I do not think it will take long now to dispose of it; possibly an hour, perhaps less than that; and I selected Thursday as perhaps the most convenient day for the Senate and the less likely to interfere with other business. I think that no antagonism of a serious character can occur by fixing it for that time. Certainly it is an important measure and ought to be considered. It is a House bill, and if we are to have any legislation on this subject it is time that the Senate was considering and putting the bill in a shape to have some agreement between the two Houses. I shall insist on the motion.

Mr. CAMERON, of Wisconsin. Mr. President, I desire to ask a parliamentary question, and that is this: If this bill be made a special order for Thursday next, would it or would it not take precedence of the special order already made?

The PRESIDENT *pro tempore*. The Chair thinks it would not if the date assigned for them is before the date named by the Senator from Oregon.

Mr. CAMERON, of Wisconsin. The first special order on the Calendar is for the 11th of December at 2 o'clock; the second special order is for the 16th of December at 2 o'clock; the third special order is for the 17th of December at 2 o'clock, and the fourth special order is for January 8, 1885, at 2 o'clock. Each of these special orders but one is fixed for a day prior to the day mentioned by the Senator from Oregon. It is not at all probable that all these three special orders can be disposed of before that time, so that if the bill referred to by the Senator from Oregon were made a special order for the 18th there is no probability whatever that it can be considered at that time.

Mr. MORGAN. Mr. President, the Senate is aware that there is a disagreement between the two Houses in respect of a bill very similar in its character to this, one of the land-forfeiture bills, that of the Atlantic and Pacific Railroad Company—a very important bill, involving a great number of acres of land. The report has not yet been prepared so as to be submitted to the Senate. But this whole question relating to the Atlantic and Pacific, the Southern Pacific, and this Oregon road, and perhaps other roads, is before the Senate in such form that we are obliged to consider it some time during this session, and it ought to be at an early day. The pressure of the other branch of Congress for the forfeiture of these land grants, as indicated by the votes, is very heavy. The House seems to have strong opinions on this question, and of course the Senate must take up the matter and dispose of it; otherwise it must assume a rather unusual responsibility to public opinion. I hope that this whole subject will be considered together.

Perhaps before the 18th of this month, certainly I think before the 20th (though I suppose the 18th may be the day for beginning the recess), the Senate may have an opportunity to come to a final decision upon the question whether these land grants are to be forfeited outright without making any provision of law for having the rights of any persons disposed of or not; whether we are going to decree the forfeiture of these land grants and leave the parties to hunt up their remedies in various different courts of the country, or whether we are going to provide some remedy by which these cases can be speedily heard if not summarily heard.

I trust the Senate will set down the case for the 18th, because perhaps by that time a precedent will have been established by vote of this body upon a precisely similar question, which will enable us to dispose of it very speedily one way or another. Either the House will have receded or the Senate will have receded from the attitude they occupied at the close of the last session of this Congress, or these bills will have to go by the board. These are the three alternatives presented.

I hope the Senate will agree to make this case a special order because of the relation it has toward the other cases now pending before this body.

Mr. PLATT. I have no desire whatever to delay the consideration and settlement of the questions which arise upon this bill, and I would be perfectly willing that the Senate should go on considering it as it has been considered on former occasions, in the morning hour. It has to a certain extent the character of unfinished business which has been considered in the morning hour, and I think it is perhaps entitled to be finished in the way in which its consideration has begun. But it is perfectly manifest to Senators who represent measures of public importance here that if they consent to making these special orders from time to time, a few measures are to be considered out of their time and other matters of public importance are not to receive consideration. I do not think it an orderly and proper way of transacting the business of the Senate, and it is therefore that I am opposed to this order, not because I do not wish to have this bill considered and settled, but because I think it better for the entire business of the Senate that we should make no more special orders at present.

The PRESIDING OFFICER (Mr. HARRISON in the chair). The question is on the motion of the Senator from Oregon, that the further consideration of this bill be postponed until Thursday next at 2 o'clock and made the special order for that time.

The motion was agreed to by a two-thirds vote.

SLATER NATIONAL BANK OF NORTH PROVIDENCE.

Mr. ALDRICH. I ask unanimous consent to take up Senate bill 2393, Order of Business 937, for present consideration. It is a bill to change the name of a national bank.

The PRESIDING OFFICER. The Senator from Rhode Island asks unanimous consent that the Senate proceed at this time to the consideration of the bill indicated by him. Is there objection? The Chair hears none.

The Senate, as in Committee of the Whole, proceeded to consider the bill (S. 2393) to change the name of the Slater National Bank of North Providence, R. I.

It provides that the name of the Slater National Bank of North Providence, R. I., shall be changed to the Slater National Bank of Pawtucket, R. I., whenever the board of directors shall accept the new name by resolution of the board, confirmed by a vote or the written consent of stockholders holding two-thirds of the stock of the bank, and cause a copy of such action, duly authenticated, to be filed with the Comptroller of the Currency.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

THE NEW ORLEANS EXPOSITION.

The PRESIDENT *pro tempore*. The Chair will announce the appointment of the committee, in pursuance of the concurrent resolution of the two Houses adopted to-day, in reference to the opening of the exposition at New Orleans. The Chair appoints the thirteen Senators required by that resolution to be the committee to attend at the Executive Mansion at half past 12 o'clock to-morrow, Messrs. LOGAN, DAWES, CAMERON of Wisconsin, CAMERON of Pennsylvania, HARRISON, MILLER of California, RIDDLEBERGER, PENDLETON, BUTLER, VEST, JONAS, SLATER, and WALKER.

A message from the House of Representatives, by Mr. T. O. TOWLES, its Chief Clerk, announced that the House had appointed certain mem-

bers of the House of Representatives the committee on the part of the House to attend at the Executive Mansion and witness the opening of the World's Industrial and Cotton Centennial Exposition by the President on the 16th instant.

ADMISSION OF DAKOTA.

Mr. HARRISON. I suggest that we proceed now to the consideration of the order for 2 o'clock, the Dakota bill. As it is understood that the Senator from Colorado [Mr. HILL] desires to address the Senate upon some resolution he introduced the other day, I ask that we may go at once to the Dakota bill with a view of completing it if possible before he asks to be heard.

The PRESIDING OFFICER (Mr. HARRIS in the chair). The Senator from Indiana asks unanimous consent of the Senate to proceed to the consideration of what is known as the Dakota bill at this time. Is there objection? The Chair hears none.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. 1682) to enable the people of that part of the Territory of Dakota south of the forty-sixth parallel of north latitude to form a constitution and State government, and for the admission of the State into the Union on an equal footing with the original States, and for other purposes.

Mr. GARLAND. If the Senator from Indiana has perfected his bill, or done all he desires to do in that direction, I now offer an amendment in the nature of a substitute for the bill, which I ask the Secretary to read at length. It is not long.

Mr. HARRISON. I ask the Senator from Arkansas whether it is as printed. Is the substitute as offered by him exactly as it was printed?

Mr. GARLAND. Yes, sir. I have not looked over it to see if there are any errors in it, but I offer it just as it is printed.

The PRESIDING OFFICER. The amendment will be read.

The CHIEF CLERK. It is proposed to strike out all after the enacting clause of the bill and to insert:

That all persons residing within the limits of the Territory of Dakota qualified by the laws of said Territory of Dakota to vote for representatives to the Legislative Assembly thereof are hereby authorized to vote for and choose delegates to form a convention; and the qualifications for delegates to such convention shall be such as by the laws of said Territory persons are required to possess to be eligible to the Legislative Assembly thereof; and the aforesaid delegates to form said convention shall be apportioned among the several counties within the limits of the Territory, in districts established by law, in proportion to the population in each of said districts, as near as may be, to be ascertained at the time of making said apportionment, by the persons hereinafter authorized to make the same, from the best information obtainable; that said apportionment shall be made by the governor, the chief-justice, the associate justice for the first judicial district, the associate justice for the fourth judicial district, and the surveyor-general of the Territory of Dakota, or any three of them; and the governor shall, by proclamation, order an election of the delegates aforesaid to be held on the 4th day of June, 1885, which proclamation shall be issued at least sixty days prior to the time of said election; and such election shall be conducted, the returns made, the result ascertained, and the certificate to persons elected to such convention issued in the same manner as is prescribed by the laws of the said Territory regulating elections therein for Delegate to Congress. The number of delegates to said convention shall be one hundred and twenty; and all persons resident in said proposed State who are qualified voters of said Territory, under the laws thereof, at such time as the constitution to be framed shall be submitted to the people for ratification or rejection, shall be entitled to vote upon the question of such ratification or rejection, under such rules and regulations as said convention may prescribe.

SEC. 2. That the delegates to the convention thus elected shall meet at the city of Yankton on the second Tuesday of August, 1885, and, after organization, shall declare, on behalf of the people of said proposed State, that they adopt the Constitution of the United States; whereupon the said convention shall be, and is hereby, authorized to form a constitution for said proposed State.

SEC. 3. That in case a constitution shall be formed in compliance with the provisions of this act, said convention forming the same shall provide by ordinance for submitting said constitution to the people of said State for their ratification or rejection, at an election to be held at such time and places and under such regulations as may be prescribed by said convention, at which election the qualified voters of said proposed State shall vote directly for or against the proposed constitution. The returns of said election shall be made to the secretary of the Territory, who, with the governor and chief-justice, or any two of them, shall canvass the same; and if a majority of the legal votes cast shall be for said constitution, the governor shall certify the result to the President of the United States, together with a copy of said declaration, constitution, and ordinances; whereupon it shall be the duty of the President of the United States, if said declaration, constitution, and ordinances shall conform to the requirements of this act, to lay the same before Congress.

SEC. 4. That at the election at which the question of adopting the constitution is voted on there shall be submitted also, by ordinance of such convention, the question of the division of such Territory on boundary lines to be fixed by such ordinance; and the qualified voters of the Territory of Dakota shall vote directly for or against the division of such Territory; and the vote on such question of division shall be cast, canvassed, and ascertained and certified in the same manner and under the same rules and regulations as the vote on the adoption of the constitution is required to be by section 2 of this act.

SEC. 5. That the sum of $50,000, or so much thereof as may be necessary, is hereby appropriated, out of any money in the Treasury not otherwise appropriated, for defraying the expenses of the said convention and for the payment of the members thereof, under the same rules and regulations and at the same rates as are now provided by law for the payment of the Territorial Legislature: *Provided*, That any money hereby appropriated not necessary for such purpose shall be covered into the Treasury of the United States.

Mr. GARLAND. Mr. President, what is known as the Territory of Dakota was formed under an organic act approved on the 2d of March, 1861. It seems from the best information I can get that the word "Dakota," adopted at that time, signifies "leagued." Thus organized, this Territory has made rapid strides to prosperity and to a high state of civilization, as was indicated by the Senator from Indiana in his speech and also in the written report that he made. I do not controvert the fact of the great advancement of the Territory; and taking it by analogy to the previous cases where Territories have become States, so far as population is concerned and so far as all the materials of civilization, so to call them, are exhibited, they are exhibited to a very marked degree in the history of this Territory. Under this organic act of March 2, 1861, this Territory has remained unaltered or unchanged except in a few trifling instances of readjusting and changing the boundary line between it and Nebraska in one case, and between it and the Territory of Idaho, I believe, in another.

Mr. HARRISON. Will the Senator allow me to ask him, is it not true that in the original act for the organization of the Territory of Dakota her western line extended clear to Washington Territory?

Mr. GARLAND. Yes; that is so, as I recollect, though I have not examined it recently.

A question in reference to this Territory has been before the Committee on Territories of this body ever since I have been a member of it, and that is now nearly eight years, and it was before the Committee on Territories prior to the time when I came into the Senate, under a bill introduced by Senator Windom in 1876 to organize the Territory of Pembina in the northern portion of Dakota, and it was that proposition, as I take it, that the vote was had upon which was read the other day from the papers sent to the Chair by the Senator from Missouri [Mr. VEST]. There seems to have been afterward some confusion in ascertaining that vote, but from the examination I have made I believe that was the proposition on which the vote was taken.

Shortly after I came into the Senate Mr. Hamlin introduced a proposition to create the Territory of Pembina in the northern portion of Dakota. Mr. Windom afterward introduced another proposition. Shortly after that time Senator Saunders, who was then chairman of the committee, reported a bill in favor of organizing a Territory, to be created out of the northern portion of Dakota Territory, to be called Pembina, and leaving the southern portion of Dakota Territory, as it now stands, to be Dakota Territory. Subsequently to that, perhaps a year or more, Senator Saunders introduced and had referred to, and he reported from, the Committee on Territories a bill similar in many respects to the bill now under consideration; that is, to admit the southern portion of Dakota Territory as a State. He accompanied that bill with a written report, and the Senator from Missouri [Mr. VEST], as a member of the committee, speaking in behalf of the minority, composed of himself, the Senator from South Carolina [Mr. BUTLER], and myself, presented a written minority report against the admission of the southern portion of Dakota as a State, which report he used extensively the other day in the able remarks which he made on the bill now before the Senate.

Shortly after that the Senator from Indiana brought in the present bill, with his written report, to create a State of Lincoln, changing the name from Dakota, out of the southern portion of Dakota Territory.

Mr. HARRISON. The Senator is mistaken. The State is called Dakota and the Territory Lincoln.

Mr. GARLAND. I may be mistaken in that. These, in short, not being very precise or accurate as to dates, have been the propositions in reference to this Territory since its organization in March, 1861, so far as I am acquainted with them.

Pending all this inquiry before the committee numerous delegations have appeared, and I am free to say that a majority of them have been in the advocacy of the measure now proposed by the Senator from Indiana. Some of those delegations have been non-committal on the proposition, some have opposed a division of the Territory, and some have advocated the admission of the Territory as it now stands. As I stated before, I am frank to say that the sentiment of a majority of them, so far as they have spoken, has been in favor of the measure now before the Senate under the guardianship of the Senator from Indiana.

With all this contrariety of opinion, and with all this conflict of views in connection with the fundamental objection so strongly stated by the Senator from Missouri, I am not prepared to vote for the dismemberment of this Territory and for the erection of one portion of it into a State, and I know that I have considered the subject maturely, and I believe I have considered it impartially, with a view of acting with the strictest justice to all interests and all parties concerned. When Governor Ordway made his report after he was sent there as governor, a copy of which I have in my hand, he did not take sides in this controversy, but on the contrary, so far as he spoke, by fair and just implication he would seem to favor the admission of the Territory as it stands as one State. I will ask the Secretary to read portions of his report, commencing at the place marked on page 28 down to the mark on page 29.

The Chief Clerk read as follows:

The proposed division of the Territory from east to west on the forty-sixth parallel, each portion retaining the famous name of Dakota, with a suitable prefix, appears to be satisfactory to both sections. A still further division, cutting off all that portion of the Territory west of the twenty-fourth meridian of longitude west from Washington, which includes the Black Hills and mining districts, has been pretty fully discussed and still has strong advocates. If three divisions were made it would leave Southeastern Dakota, or that portion south of the forty-sixth parallel, with about 100,000 inhabitants and about 50,000 square miles of Territory; while Northern Dakota, or the wheat-growing region, would have from 60,000 to 70,000 inhabitants and an area of about 40,000 square miles. Both of these sections are being settled up so rapidly with such an enterprising and well-to-do class of settlers that each division will soon have the number of

inhabitants which will be required under the new apportionment to form a Congressional district. The third section, containing about 60,000 square miles, would be likely to remain as a Territory for a longer period.

The formation and admission of one new State from the vast territory now embraced in Dakota are questions so prominently engaging the attention of the Government and the general public that they must speedily be met and solved.

From a careful examination and consideration of these important questions, I am clearly of the opinion that the shortest and safest road to Statehood will be through a comprehensive enabling act, prepared by the most experienced members and committees of Congress. This act should contain ample provision for the future protection and safe-keeping of the 5,000,000 acres of school lands now held in trust by the Government to found a system of common schools. It should also provide for an increase of the membership of future Legislatures to not less than one hundred in the lower house and thirty-six in the upper branch, with corresponding membership in constitutional conventions. These members should be elected from single districts, formed and fixed in the enabling act by reference to the latest assessment rolls of polls and estates as well as the last census report, thus giving the people, many of whom are new settlers, an opportunity to select men whom they know and can safely trust to represent them in all the deliberative bodies which shall be charged with the high duties of laying the foundations and molding the institutions of the new State.

If these and other safeguards are thrown around the people through the enabling act, the transition from Territorial government to Statehood can be made easy and beneficial to the people.

If, on the contrary, the people are to be thrown into Statehood with all the hasty and imperfect enactments now existing unrevised, with the small membership in the Legislative Assembly, and with the present unequal and unjust apportionment of members—in some instances making legislative districts larger than some States—the bitter financial and other misfortunes entailed upon Minnesota and adjoining States by their small and irresponsible early Legislatures will be sure to overtake the people of Dakota and check real progress and development for several years.

Mr. VEST. Will the Senator allow me to make a statement in the nature of a personal explanation?

Mr. GARLAND. Certainly.

Mr. VEST. I stated the other day in speaking on this question that ex-Governor Ordway had appeared before the Committee on Territories and had advocated the admission of this Territory as a State. I did not say at that time that he advocated the division of the Territory, for I never so understood; and the report just read carries out my idea and my statement that he advocated the admission of the whole Territory as a State.

I make this statement now because mutual friends of Governor Ordway and myself have said to me that they thought I had misrepresented his position in what I said. The record shows—the CONGRESSIONAL RECORD, with my speech—shows that when he appeared before the Committee on Territories he advocated a bill for the admission of the Territory of Dakota. I never said he was in favor of the division of the Territory.

Mr. HARRISON. In that regard, as there was some difference of recollection between the Senator from Missouri and the Senator from South Carolina on the one side and myself on the other, as to the position of Governor Ordway, permit me to say that what the Senator from Arkansas has just said as to what he understands the governor's position to be from the report which he has had read at the desk, was exactly my understanding of the position of Governor Ordway with reference to the question of division, namely, that he was holding off from it. I do not know that I would go so far as to say, as the Senator from Arkansas has said, that he was opposed to it; indeed he has only stated that as an inference rather than as a fact.

Mr. GARLAND. Now, Mr. President, the purpose of reading this report of Governor Ordway was not with a view of getting up any controversy with reference to the facts about his position one way or the other, but it was to lay before the Senate some information which I desire to have in order to make the remarks which I intended to make in regard to this measure. I think the fair inference, as I said just now, is that Governor Ordway in his report made in 1881 was in favor of the Territory of Dakota being admitted as a State as it now stands. He says:

The proposed division of the Territory from east to west on the forty-sixth parallel, each portion retaining the famous name of Dakota, with a suitable prefix, appears to be satisfactory to both sections.

That is, he states what appears to him to be the view of the two sections of this Territory north and south in reference to their wish or desire to run this line and divide the Territory into two portions, north and south. Governor Ordway does not say in this report that he knows it to be a fact, but he states that it appears to be satisfactory to them, and he himself, I think it may be said, curiously avoids committing himself to one proposition or the other except that by fair and legitimate inference he is in favor of admitting the Territory of Dakota as it stands as one State.

This report was made, as I stated just now, in 1881. The showing made by the Senator from Indiana in his report is to the effect that certainly since that time the population of the Territory has increased from ten to fifteen, I might say probably twenty per cent., so that which may have been satisfactory in 1881 to both sections of the Territory might not be satisfactory now if the voice of the Territory was heard. There is no mistaking the facts that the Senator from Indiana has put in black and white before us, and there is no disposition to escape from them on the part of anybody that I know of. It is plain that this Territory has increased since that time in population 10 to 15 or possibly 20 per cent. We have no very recent data as to the population of that country, none in fact has been presented as far as I know since the report made by the Senator from Indiana; but the information is all the time that the Territory is increasing in population; and yet we have not had a fair and we have not had a certain expression of opinion from the people of the Territory as to whether they wish to be disintegrated and put into two Territories and ultimately two States.

The organic act of 1861 is very significant. The Territory was created for some purpose, and being thus leagued, the northern and southern portion of it, it has reached a high state of civilization and a most wonderful state of prosperity according to the reports made here; and at this long distance and this vast lapse of time since we had information from that country we are asked to pass an act of Congress to partition the Territory which in its combined northern and southern sections has attained such a high state of prosperity and advancement.

The mere fact of a north and a south natural division furnishes no reason for such a political division. In all the States nearly we have just such a natural division in territory. In my own State we have it—south or low lands and the north or the high lands. In one there is a fitness and adaptation for grain and stock, and in the other cotton is the staple. But this is no reason for making a South and a North Arkansas; in fact, this very diversity strengthens and makes more powerful the entire State as one. Such may be the case in Dakota, and indeed I am disposed to believe it is. The dismemberment may dwarf a large and powerful Territory into two insignificant States.

We are all in favor of admitting Territories as States with due regard to the Constitution and laws. I do not believe there is any party or faction of a party in this country that is not in favor of what is called and known so well in political language as "local self-government;" and what my amendment asks to be done in this respect is simply that the voice of the people be taken in legal method and by the proper and necessary appliances to ascertain the fact as to whether they wish to be disintegrated or partitioned and divided in this way.

Great questions come up to vex us about these matters. This Territory has stood thus for nearly a quarter of a century, lacking now not quite three months. It has been a Territory with these slight alterations of boundaries between Nebraska and the Territory and Idaho and the Territory, and has stood thus, lacking now only two or three months of a quarter of a century. In that time they have erected public buildings of various sorts; they have made vast improvements of different kinds; they have incurred a Territorial debt, the last information I have in regard to which was presented to the Committee on Territories by a committee of gentlemen who appeared here in 1882, in the form of a pamphlet prepared by them and submitted to the committee urging the admission of Dakota Territory as a State. There I find the following:

The financial condition of the proposed State is most excellent. The warrants are paid on presentation and there is no current indebtedness save such as is covered by the receipt of current taxes. The entire bonded indebtedness is $90,000, issued and to be issued for the penitentiary and insane asylum, in 5-20 bonds bearing 6 per cent. interest, which were sold at 3¼ per cent. premium so far as they have been sold.

I have made efforts to ascertain whether that debt still exists or whether it is larger or less than it was then, but we may reasonably suppose that it is no less than it was at that time. I do not care what the debt may be and I do not care what provision you make in your enabling act or your admission act in reference to the assumption of this debt by one part of the Territory or the other, it is always a vexing and will continue to be a vexing question. Under the legal principle lying at the bottom of this question, the debt would follow every portion of the Territory as it was when the debt was contracted. It does not matter where the Territory may be sent by any law you pass, whether you institute one or more States or Territories, every particle of the debt attaches to every particle of that Territory. This is a question for the entire people of the Territory to determine whether or not they wish to be dismembered as to this debt or what disposition they will make of it. We know in the old State of Virginia what the question has been in reference to her debt. It has been adjudicated to attach to every portion of West Virginia as well as every portion of the soil of the old State, and we know that Mr. Blaine in his recent book in very strong and powerful language urged and advocated the policy of the General Government paying this large debt of $30,000,000, or more, because of the dismemberment of that State by Congress for the purposes of the General Government.

I instance this merely and for the purpose alone of showing that here is a question we do not get rid of; that we should have these people to speak upon, we should have these people express their voice upon, as to what they are to do with it, and where it is to be located. We know we had trouble here on this question formerly, when the Senators from Maine filed an earnest protest against this Territory being admitted until the debt of the county of Yankton in Dakota was properly adjusted. Difficulties having arisen out of the question it went to the Supreme Court in a case between some banker in the State of Maine and the county of Yankton.

This and other questions connected with this matter are questions on which we should have a free, frank, and open expression of opinion by the people of the Territory. They might two years ago have wanted a division and they may not want it now. It does not necessarily follow that they want it now because it was favored then. The latter

portion of the amendment which I propose is to have the people pass upon the question of division.

There are three simple provisions in the amendment which I offer as a substitute. One is, that there shall be a convention of the entire Territory, the delegates thereto to be elected by the qualified voters of the Territory. That convention, when elected, shall make a constitution, that constitution to be submitted to the popular vote. Then, at the same time, by ordinance of the convention, the people of the Territory are to be called upon to vote on "division" or "no division." This vote taken upon the constitution and upon "division" or "no division," is to be certified and sent to the President of the United States, and he is to lay the same before Congress; and then, the whole matter having been voted upon by the people of the Territory, Congress will have it before it for action.

Mr. President, the only difficulty about this is that there may be some delay caused by it; but by this delay we make a certain and fixed rule by which to get at the popular voice as to the wish of the people of that Territory, a great and important Territory, that has achieved wonders in the march of civilization in the last quarter of a century. Ought they not to be heard upon the proposition? Ought they not to send here what they propose as their organic law for us to pass upon it and to pass too upon the question of division or no division? I can not see any objection to this in reason or in justice, and the Senator from Indiana will do me the justice to say that upon the Committee on Territories I have been in favor of adopting some means by which to get at the voice of the people upon the proposition. Take it to yourselves, Senators. What people would like to have this question disposed of for them by the Congress of the United States situated hundreds and hundreds of miles from the place, with these conflicting reports, these antagonistic statements made before the committee of this body, and with propositions here so repeatedly urged before the Senate, first to make a northern Territory called Pembina, then for the Statehood of the whole Territory, and then for the Statehood of the southern portion of the Territory?

Mr. President, without detaining the Senate, for I have said as much as I care to say upon this occasion, it seems to me the three propositions contained in my amendment must meet the approval of every Senator who has considered this question as I have considered it now for about eight years.

Mr. HARRISON. Mr. President, I took occasion to say the other day when addressing the Senate upon this subject, that if any Senators here felt that the expressed wishes of the people of Dakota upon the question of the division of the Territory would be influential with them on their votes upon this bill, I should not oppose a proposition to test the sentiment of the people of the present Territory of Dakota upon the question of division by a direct vote upon that question. I adhere to the proposition I made then, and if the Senator from Arkansas or any one feeling with him that the expressed wishes of the people of this Territory upon this question should be controlling, feeling with him that if there is a popular majority in the whole Territory in favor of this division, then Southern Dakota ought to be admitted as a State—if he or any holding that view will prepare an amendment to this bill reported by the committee providing that before a constitutional convention is assembled at all the distinct question, ay and no, upon the division of this Territory on the forty-sixth parallel shall be submitted to all the people and shall be voted upon, and that in case the vote shall be against division the convention provided for in this bill shall be called for the whole Territory, and in case the vote is in favor of division it shall be called for the southern half of the Territory, I will not oppose it. On the other hand, Mr. President, I should be glad to see that the Senators on the other side of the Chamber were willing to meet us upon such a proposition. I should be glad to see it, because it would give some hope of the passage of the bill through the other branch of Congress.

But the proposition of the Senator from Arkansas is not that at all. His substitute proposes to call a convention for the whole Territory, and it provides that that convention shall proceed to frame a constitution, I suppose for the whole Territory. It would be a novel thing for a constitutional convention to undertake to frame a constitution for only a part of the Territory from which they had been assembled. I take it then that his proposition is that they shall frame a constitution for the admission of the whole Territory of Dakota as a State. When they have framed that constitution, the amendment proposes that it shall be submitted to a popular vote; and that the convention shall frame, and submit with the constitution, an ordinance upon the subject of a division of the Territory upon a line to be determined by the convention. It is made imperative upon the convention to submit such an ordinance. It is left optional with the convention to name the line upon which the division shall take place, whether it shall be an east and west line, or a north and south line, or a northeast or a northwest line.

But suppose the Senator's scheme of organization to have progressed so far; suppose the delegates assembled from the whole Territory to have met, to have agreed upon the terms of a constitution, to have prepared the ordinance for its submission, and to have prepared an ordinance to be voted upon by the people providing for a division of the Territory on the forty-sixth parallel, and suppose at that election the people vote to divide the Territory on the forty-sixth parallel, will the Senator from Arkansas tell me what the next step under his amendment would be?

Mr. GARLAND. Yes, sir; there are two or three steps. We might adopt, as has been done in some cases, the necessary measure for the immediate admission of the one or the other division, or both, if we saw proper.

Mr. HARRISON. Upon the constitution framed?

Mr. GARLAND. Yes, sir; or we could pass—there are three different ways to meet it—an enabling act, properly speaking. We could adopt a measure something like the Senator now has, exactly like it if it suited the vote upon the question of division, and there need not be any further delay about it.

The Senator will bear in mind that in this amendment of mine, of course, in making provision for calling a convention it was not necessary, if it could have been done at all, to have made a provision for two conventions, one in the northern and one in the southern portion of the Territory. That is the difficulty that exists in the proposition to which I see the Senator's mind is directed; but taking the Territory as an entirety, there is one convention for the Territory to propose a constitution, and the people vote upon it and upon the question of a division. If the division does not carry, there is a constitution on which to admit the entire Territory as a State. If the division does carry, then we shall simply have to pass an enabling act to meet the two particular sections.

Mr. HARRISON. Precisely. I thought I understood the legal scheme of the Senator from Arkansas, and it is a subtle one, it seems to me. It provides that if the people vote against a division then the work of the constitutional convention is to be efficient, and then they are in a shape to be admitted as one State into the Union; but if they shall vote, exercising their choice, in favor of two States, the whole machinery up to that point falls to the ground; and then we must begin *de novo*, as the Senator says, with a new enabling act. Does the Senator think that leaves the question to be settled without Congressional influence or suggestion by the people of Dakota when he says to them, "If you vote against division the constitution which has been framed and submitted to you may be made the present basis of the admission of the whole State; but if you vote in favor of division we will put you back where you were at the beginning, and you may then come to Congress and ask an enabling act by which you can take the initial steps to organize a Territory?"

If they vote in favor of division, then they must come to Congress again as suppliants and ask for an enabling act. That is a direct suggestion bordering closely upon a command that they shall adopt the suggestion of bringing the State in under one constitution as one State. It does not leave the question to be settled in a free, unbiased, and untrammeled way.

Of course it would not do under the Senator's plan to say that the constitution thus adopted could be presented by a fraction of the Territory, whether the north half or the south half, as the basis upon which either might be admitted as a State, because it would be impossible for a convention representing the whole Territory to frame a constitution for one-half of it. It would be impossible for them to agree upon a seat of government until they could know whether the seat of government selected was to be one for the whole Territory or for the north half or for the south half of it.

So, under the scheme proposed by the Senator from Arkansas, these people are invited to call a constitutional convention; that convention is directed to go on and frame the fundamental law of the proposed State, and when they submit it to the people we say to them, "If you will come in as one State all of this machinery is made efficient and you may come in as now; but if you prefer to come in as two, you must await our pleasure in the future."

If it be the single purpose of any Senator on the other side of the Chamber to ascertain the sentiment of the people of Dakota upon the subject of division, if he feels that that sentiment would be controlling of his vote upon the question of the admission of the southern half, then I am entirely willing that there shall be incorporated in the bill a provision taking the vote of the people as a preliminary step to calling a constitutional convention. Let us settle it before we call the constitutional convention. Let it be known before those gentlemen assemble whether they are to frame a constitution for the whole Territory or for half of it. They can not do their work intelligently unless that question is settled for them in advance. But I must oppose the subtle proposition of the Senator from Arkansas, which enables the admission to go forward progressively from this act, provided the people vote to bring it in as one State, and cuts off the whole proceeding and makes it inefficient to advance the Territory one single step if they vote for a division.

Mr. President, I do not intend to repeat what I said on the subject of the sentiment of the people as to division, but I may remind the Senator from Arkansas that, since that distinguished delegation from Bismarck met with the committee a year ago, the Democratic Territorial convention of Dakota assembled this last summer and did its work, and adjourned, and I desire to remind him that those delegates in the Democratic convention, assembled as I may assume, upon a fair ratio and upon a fair distribution throughout the whole Territory, re-

solved that it was the wish of the people of the Territory that it should be divided upon the forty-sixth parallel. This simply completes the chain. All of the political conventions of both parties, all of the Legislatures, every popular convention that has spoken upon the subject, has spoken in favor of division.

Not only that, but the public buildings in the Territory which have been erected have been erected with reference to division. When a penitentiary was built in South Dakota one was built in North, and so with their normal schools and agricultural colleges and every public building. They have duplicated them, putting one in the southern part of the Territory and one in the northern part, so that the idea of division is thoroughly ingrained.

I have no sort of objection, however, as I said before, if the Senator will prepare an amendment which will bring out an expression of the people on this subject, and then let this proceeding go forward either in a convention of the whole Territory or a convention of the southern half of it. If he will do that, we shall not have any controversy about it at all.

As to the debt to which the Senator from Arkansas alluded, I cannot state now to the Senate the amount of it, but I have information from the highest sources in the Territory that the debt has been kept distinct; that if a public building was erected in South Dakota by a loan, the series of bonds was made to relate to that particular work and kept distinct; that if one was erected in the northern part of the Territory the same course was pursued; so that the provision in the bill that Southern Dakota shall assume the bonded debt for those public buildings erected in the southern part of the Territory completely equalizes and distributes the debt of the Territory, and there can be no room for any sort of controversy between the two sections of the Territory as to the amount of debt that each should assume.

Mr. VEST. Mr. President, I have not the slightest objection to ascertaining the public sentiment of the Territory of Dakota, upon the subject of division, but I must specifically and strenuously object to any vote taken in that Territory controlling my vote as a Senator on this floor. The Constitution devolves upon each Senator the duty, irrespective of the sentiment existing in any locality, in any Territory, of determining whether the interests of all the States and all the people of all the Union should admit that Territory as a State or not. I distinctly stated the other day that even if the requisite population existed (and I believe in every case it should be at least equal to that required for a member in the popular branch of Congress), that is not the end of the question. The question further presents itself, What are the institutions of the proposed State? What is its geographical locality? Is it to the interest of the people of the whole Union that a new member should be admitted? I do not care if every Democratic convention that ever has assembled, and every individual Democrat, man, woman, and child, in that Territory should tell me that they wanted it admitted, that does not settle this question at all. My oath is to be consulted and my opinion, and I have no right to try to escape from either.

For four years Dakota Territory has been kept out by gentlemen upon the other side of the Chamber; not upon the ground that there was not enough population, for they always claimed that there was; not upon any geographical ground; but upon the ground that the people were not fit for government as a State; that they did not pay their honest debts, and that they trampled upon a decision of the Supreme Court of the United States; that they were guilty of the great crime of nullification, and that therefore they were not fit to assume the dignity and the rights and the majesty of Statehood. Recent events in the Territory have not made the character of that people as a law-abiding people any higher or more reputable than it was then. It is true that that opposition is withdrawn upon the other side of the Chamber because the debts have been collected that they refused to pay—it was a question of money it seems—but the people of Dakota, according to the telegrams now flashed over the wires, are still in a state of rebellion, that terrible word out of which so much capital was made in the recent canvass. They are now rebelling against the constituted and local authorities. I have before me a Dakota paper just placed upon my desk, coming through the mails this morning. It says: "A bloody riot. One thousand men surrounding the town of Frankfort, in Spink County. The militia of the Territory on its way. The United States troops demanded by the governor" to enforce the mandate of a Territorial court which ordered certain records to be placed in the hands of the sheriff. For all that I know (the probabilities now are in that direction) there is open, flagrant war going on in the Territory of Dakota at this very instant. Because there is sufficient population, are we to admit this turbulent population as a State into the Union? I say that recent events have not removed the force of the argument that has been made for four years on this floor against admission.

But the Senator from Indiana used as his principal argument the other day the vote at the recent election, showing an increase of 58,000, and then putting the ratio of three in a family to each vote, he made out more than the ratio necessary in Southern Dakota for admission as a State. Mr. President, I have very little confidence in that vote. As I said the other day, I know the spirit of the men who controlled it. I have seen them before the Committee on Territories for six long years. I have seen the political adventurers who have got up this vote and have controlled it. I have had occasion to say before on this subject, and I repeat it, that they can vote, in my judgment, just as many as they please, if doing so would bring about the local objects they have in view.

Since the debate the other day, and before the telegraph brought the news of this war in Dakota, I received a private letter from a gentleman with whom I have very slight acquaintance. I do not choose to read his name in the Senate, because he is a citizen of Dakota, but any Senator can have the letter, the original of which I hold in my hand, if he chooses to inspect it. I will read a portion of it upon the subject of elections in Dakota and the enormous increase of vote of which the Senator from Indiana spoke. He is speaking in regard to the location of town sites; I had occasion to say the other day what recent events have most conspicuously proven to be true, that the gentlemen in Dakota who have been manipulating this whole thing were there to make money out of town sites; that the question was how much money and how many offices each one of them could accumulate for himself. Now, says this gentleman—

> On a proper showing counties were organized by the governor appointing three commissioners, who would locate the county seat and appoint the county officials. These commissioners were generally men who had a town site.

Everybody has a town site on the plains in the West, and all those who live in the mountains have a mine. That is a safe proposition:

> These commissioners were generally men who had a town site, and in locating the seat of government did not fail to remember the advantages of their town site. When there were several town sites in a county it took some time on the part of the governor to determine the proper persons for the office of commissioners; and when he finally selected the men the losers would charge bribery on the governor, stating what he received for selecting the other fellows. It was generally a half interest in the town site selected.
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> At a general election a vote of the people would be taken on selecting the county seat and the "place" receiving the largest number of votes would be the victor. At the last election a large number of counties voted on that proposition. To illustrate, in Spink County—

The very county where this war is now flagrant—

> a vote was taken, and Frankfort received or rather returned her vote as voting for her site over 700 votes, when it is apparent that in that precinct there were not five hundred persons, counting men, women, and children; and the same is true in every county where a local question like the above was voted upon.

That sort of vote is the basis upon which the Senator from Indiana says that they made an increase of 58,000. Sir, in that remote locality where the law hangs but loosely upon the settlers, and where the instinctive idea of almost every man is to resort to force, to violence, in order to carry out his purposes, we can very well understand how this state of things should be found to exist.

I have now before me the debate from the CONGRESSIONAL RECORD upon the bill to make the Territory of Pembina out of the northern portion of the Territory of Dakota of which we spoke the other day. In that debate the argument that was made in favor of a division of the Territory, conspicuously by Mr. Windom, then a Senator and afterward Secretary of the Treasury, was, that there was an entire dissimilarity of relations, social, political, and commercial, between the northern and southern portions of the Territory of Dakota. I said the other day what is to-day the absolute fact, that this argument goes for nothing, because that state of things has ceased to exist; that a railroad system is now in existence in Dakota which binds together with iron bands the people of the northern and southern portions of that Territory, that they are homogeneous, and there is no great natural boundary line between Northern and Southern Dakota. I have in my hands a letter which I ask the Secretary to read. I shall not give the name of this gentleman, but I will say that he is the chairman of the Democratic county committee of one of the largest counties in that Territory.

Mr. HARRISON. Of what county, may I ask the Senator?

Mr. VEST. The county in which Bismarck is located.

Mr. HARRISON. That will identify him, I think.

Mr. VEST. I have no objection to giving his name myself. Let the Secretary read the portion of the letter that is marked. The latter part of it refers to another Senator, and I do not care to have that read.

The Secretary read as follows:

> BISMARCK, DAK., *December* 11, 1884.
>
> RESPECTED SIR: You are right. There is no valid, physical, or commercial reason for the division of Dakota. We are big, but not as big as California or Texas. The distance objection is fast becoming obsolete. We have one railroad, Fargo Southern (over which the militia passed to-day to quiet the rumpus in Spink County), connecting the so-called sections. We have another to Jamestown from the south, barring a gap of sixty miles ready for ties and rail. From Ellendale, Aberdeen, and Ordway, in Central Dakota, three surveys have been made to Bismarck, and the boast is daily that two or more roads will be built to the new capital next year or the year after at the latest. Only the times have prevented the Milwaukee and Saint Paul Railroad from being in Bismarck to-day. S. S. Merrill, its noted manager, purchased one hundred and twenty acres adjoining the town for the avowed purpose of getting a location for his roads, shops, &c. It is generally believed the Rock Island is coming. The country south of the Northern Pacific is all covered with settlements and a complete chain of civilization is established. Distance is no bar. Industrial interests, excepting the Black Hills' mines, are the same, and a more harmonious constituency for present or future government can not be found.
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> Hon. GEORGE G. VEST,

Mr. VEST. The gentleman who wrote that letter is personally well known to the junior Senator from Ohio [Mr. SHERMAN]. He is a man

of high character and entire reliability. I stated that he was chairman of the Democratic county committee. I did it because the Senator from Indiana undertakes to say that the sentiment of the Democrats of that Territory is in favor of a division. That would not affect my vote, as I said before, but the salient point in this whole discussion exists and can not be controverted (and it exists there and will exist so long as the Territory itself exists), that those people are connected together as much as the two portions of my own State or the northern and southern portions of any State now in the Union. No reason exists for this separation; there is not a scintilla or shadow of pretext for it except the ambition of local politicians. As a matter of course, if it is to be left to the vote of those people, the politicians would by some means or other bring about a vote which would achieve the result that they have had in view for the last ten years.

The Senator from Indiana says they have built public edifices both in the northern and southern portions of the Territory. Have they built two capitols? Does the Senator pretend to say that all the public buildings which are necessary for a State government have already been constructed? Then I say if that has been done it is an additional argument why those people should not be admitted into the Union. If without consulting Congress, if with the idea that they could force this thing through in the shape that they wanted it, they have gone to work and expended the money of the people in erecting buildings in advance of the action of this body, it is an additional reason why they should not be admitted as a State.

Now, sir, a single word more and I am done with this question. I have discharged my duty in committee and out of it. I know it is charged by the partisan press, the Republican press, that every man who opposes this bill does it because he is a Democrat. Sir, in the light of recent political events I can bear that charge with equanimity. The people of the United States have settled the question as to whether the Democratic party is not entitled to as much consideration for patriotic motives as our political opponents. No amount of clamor, no amount of abuse or detraction will ever make me cast a vote here for a division of the Territory upon the facts and arguments as they have been produced. No living man can bring an argument here why the Territory should be divided, except it be upon the interested clamor of politicians and political adventurers who have crowded the Territory of Dakota.

Mr. HILL. I ask unanimous consent at this time to lay aside the pending order to take up the resolution I offered a few days ago, on which I desire to make some remarks.

Mr. HARRISON. The proposition is to lay the pending bill aside informally, I understand.

Mr. HILL. Informally, temporarily.

The PRESIDING OFFICER (Mr. HARRIS). The Senator from Colorado asks the unanimous consent of the Senate that the pending bill be informally laid aside in order that a resolution offered by him may be taken up for consideration. Is there objection? The Chair hears none.

INTERSTATE COMMERCE.

Mr. GEORGE. With the permission of the Senator from Colorado, I ask leave to submit an amendment intended to be proposed by me to the bill (S. 2112) to establish a commission to regulate interstate commerce, and for other purposes. I move that it lie on the table and be printed.

The motion was agreed to.

HOUSE BILLS REFERRED.

The following bills from the House of Representatives were severally read twice by their titles, and referred to the Committee on Pensions:

A bill (H. R. 4012) to restore Robert C. McKee to the pension-roll;
A bill (H. R. 5021) granting a pension to Jackson Shadday;
A bill (H. R. 5304) for the relief of Mary Royal;
A bill (H. R. 1940) granting a pension to Capt. Israel Stough;
A bill (H. R. 391) granting a pension to Daniel H. Ross;
A bill (H. R. 298) granting a pension to Charlotta A. Welton;
A bill (H. R. 4752) granting a pension to William Herring;
A bill (H. R. 7169) granting a pension to Elizabeth Kaler;
A bill (H. R. 3065) granting a pension to Emma De Long; and
A bill (H. R. 6590) for the relief of Alice Riley.

The joint resolution (H. Res. 300) to pay the officers and employés of the Senate and House of Representatives their respective salaries for the month of December, 1884, on the 20th day of said month was read twice by its title, and referred to the Committee on Appropriations.

THE NEW ORLEANS EXPOSITION.

The PRESIDENT *pro tempore* laid before the Senate the following message from the House of Representatives; which was read:

IN THE HOUSE OF REPRESENTATIVES,
December 15, 1884.

Ordered, That Mr. W. C. OATES of Alabama, Mr. J. H. ROGERS of Arkansas, Mr. BARCLAY HENLEY of California, Mr. J. B. BELFORD of Colorado, Mr. E. W. SEYMOUR of Connecticut, Mr. CHARLES B. LORE of Delaware, Mr. R. H. M. DAVIDSON of Florida, Mr. THOMAS HARDEMAN of Georgia, Mr. R. R. HITT of Illinois, Mr. C. C. MATSON of Indiana, Mr. D. B. HENDERSON of Iowa, Mr. B. W. PERKINS of Kansas, Mr. J. E. HALSELL of Kentucky, Mr. E. JOHN ELLIS of Louisiana, Mr. NELSON DINGLEY of Maine, Mr. G. W. COVINGTON of Maryland, Mr. THEODORE LYMAN of Massachusetts, Mr. E. B. WINANS of Michigan, Mr. H. B. STRAIT of Minnesota, Mr. H. S. VAN EATON of Mississippi, Mr. J. J. O'NEILL of Missouri, Mr. W. J. GREEN of North Carolina, Mr. JAMES LAIRD of Nebraska, Mr. G. W. CASSIDY of Nevada, Mr. OSMAN RAY of New Hampshire, Mr. JOHN KEAN, jr., of New Jersey, Mr. J. J. ADAMS of New York, Mr. D. R. PAIGE of Ohio, Mr. M. C. GEORGE of Oregon, Mr. H. H. BINGHAM of Pennsylvania, Mr. JONATHAN CHACE of Rhode Island, Mr. J. J. HEMPHILL of South Carolina, Mr. A. J. CALDWELL of Tennessee, Mr. J. W. THROCKMORTON of Texas, Mr. L. P. POLAND of Vermont, Mr. C. T. O'FERRALL of Virginia, Mr. EUSTACE GIBSON of West Virginia, Mr. JOSEPH RANKIN of Wisconsin, Mr. G. H. OURY of Arizona, Mr. J. B. RAYMOND of Dakota, Mr. THEODORE F. SINGISER of Idaho, Mr. MARTIN MAGINNIS of Montana, Mr. F. A. MANZANARES of New Mexico, Mr. JOHN T. CAINE of Utah, Mr. THOMAS H. BRENTS of Washington, and Mr. M. E. POST of Wyoming be the committee on the part of the House to attend at the Executive Mansion and witness the opening of the World's Industrial and Cotton Centennial Exposition by the President.

SPANISH RECIPROCITY TREATY.

The PRESIDENT *pro tempore* laid before the Senate the following message from the President of the United States; which was referred to the Committee on Foreign Relations, and ordered to be printed.

To the Senate of the United States:

I transmit herewith to the Senate a communication of this date from the Secretary of State, in relation to the reciprocity treaty recently signed between the United States and Spain. CHESTER A. ARTHUR.

EXECUTIVE MANSION, *December* 11, 1884.

SILVER COIN AND SILVER CERTIFICATES.

The Senate proceeded to consider the following resolution, submitted by Mr. HILL December 4, 1884:

Resolved, That in the existing depressed condition of the industrial interests of the country, and in presence of the great fall which has taken place, and is still in progress, in the wages of labor and in the prices of the products of farms, workshops, mills, and mines, the recommendations of the President and of the Secretary of the Treasury that the coinage of silver dollars and the issue of silver certificates shall be immediately and unconditionally prohibited are calculated to create alarm, and thereby aggravate the difficulties of the situation; and that, to the end that the public mind may be quieted by the assurance that if the total volume of the currency is not to be enlarged in correspondence with the increasing population and exchanges of the country, it shall at least no be reduced by suspending the coinage of silver dollars, the Senate declares its opinion to be that no valid reason exists at the present time for imposing any new and additional restrictions upon either the coinage of silver dollars or the issue of silver certificates.

Mr. HILL. The recommendations in respect to silver contained in the recent annual message of the President and recent annual report of the Secretary of the Treasury are such as to require some expression of the opinion of this body They are inopportune to an alarming degree when falling prices prove that money is deficient rather than too abundant. They are singularly ill-timed in view of the monetary conference of the Latin Union to be held on the 15th of next month, which must be influenced unfavorably to silver if this country shall indicate a disposition to abandon its support and shall actually depreciate it by ceasing to coin it. Furthermore, these recommendations are extraordinary and extreme in their character in this, that they advise the summary prohibition not merely of the further coinage of silver dollars, but of the further issue of certificates for the 187,000,000 of those already coined. As the certificates are daily paid into the Treasury for taxes they will disappear altogether from the circulation if there are no new issues or reissues, and with the inevitable result of making the Treasury the owner of one hundred and forty-seven millions of the one hundred and eighty-seven million silver dollars now coined. In this statement I assume that the channels of circulation will absorb only about forty millions of silver in the metallic form. The consequence must be that there will be no gold in the ownership of the Treasury. It is impossible that the Secretary does not foresee this result, and no motive for his recommendation can be suggested except the belief that the accumulation of silver in the Treasury to the exclusion of gold would lay a foundation for a future demand that the silver dollars already coined shall be demonetized, melted down, and withdrawn from use as money. It is plain that the real scope of the policy of the President and the Secretary of the Treasury is not merely to prevent a further issue of the silver-dollar money, but to insure the destruction of the amount now in existence, by depriving it of the facility of circulation which it acquires from the use of certificates and by forcing into the ownership of the Treasury the whole of it except the forty millions or thereabouts which will circulate in the metallic form.

In respect to the report of the Secretary of the Treasury it is keeping well within the bounds of a proper reserve in language to say that his several times repeated affirmations that the United States has outstanding "gold obligations" amount to an open defiance to the law-making power, to which he and all executive officers owe obedience.

There never was a gold obligation authorized by law in this country, and no obligation was ever issued by it expressed to be payable in gold. I am quite aware that during the discussions of 1876 and 1877 it was claimed that certain bonds expressed to be payable in coin were by the bondholders understood and expected to be paid in gold; but the law-making power in the act of February 28, 1878, directing the resumption of the coinage of the silver dollar, settled all doubts by declaring that such coin should be a "tender for all debts and dues, public and private," and in addition to that the great bulk of the bonds of the United States now in existence, that is, $906,297,103 out of a total of $1,182,147,100, have been issued and bear date since the law of February, 1878.

On this subject I prefer to give my views by quoting the language of an eminent citizen of New York who has filled the offices of Attorney-

General of the United States and minister to England, Hon. Edwards Pierrepont. In a letter to the New York Times of April 18, 1884, Mr. Pierrepont says:

There is not an outstanding bond, coupon, or greenback issued by the United States which may not be lawfully paid in silver. Not one of them on its face or back, or in the statute authorizing the issue, or in declaration or resolution of Congress, has any proviso that they shall be paid in gold. And the act of February 28, 1878, directing the coinage of silver dollars, declares that such dollars "shall be a legal tender at their nominal value for all debts and dues, public and private, except where otherwise expressly stipulated in the contract."

It is asserted in both the President's message and the Secretary's report that one of the consequences of the payment by the Government of all its debts in silver would be the impairment of the national credit, although no explanation is given how a refusal to pay gold can injure the character of a country which has never promised to pay gold, and which has a law on its statute-books admonishing everybody who deals with it that the standard silver dollar is, and shall be, a tender for everything which it owes, unless it is "otherwise expressly stipulated in the contract."

To-day and always since the resumption of the silver-dollar coinage the Government has paid more or less silver dollars or silver certificates to its creditors of every description, including the holders of its bonds, and all the while its credit has been growing stronger instead of weaker. It is only in its clearing-house transactions with certain banks, notably the banks of the city of New York, that it pays nothing but gold or greenbacks as a matter of special favoritism. This is not in conformity with the spirit of the act of Congress passed in July, 1882, forbidding national banks being members of any clearing-house having a rule excluding silver and silver certificates from use in paying clearing-house balances. The New York Clearing-House had adopted such a rule in 1878, but abrogated it when the act of 1882 was passed. The abrogation was merely nominal, as there was substituted for it a tacit understanding that neither the United States assistant treasurer nor any other member should offer silver or silver certificates in payment of balances. Upon that understanding the United States assistant treasurer has acted to this day with the knowledge of the late and present Secretary of the Treasury. This is a practical nullification of a law of Congress and is the sole cause of there being any silver dollars held and owned by the Treasury. If the law of 1882 had been carried out, or if Congress can by new legislation compel the present administration to carry it out, or if the incoming administration shall voluntarily carry it out, every silver dollar now coined, or which can be coined for years to come under the act of 1878, will go into active circulation, in the certificate form, and thereby uphold prices and revive languishing industries.

The practice at the New York Clearing-House is described in the following extract from the late report of the Treasurer of the United States:

As a consequence of the inability of the Treasury under the existing practice to use either the silver dollars or the silver certificates in its settlements with the New York Clearing-House, where by far the greater part of its disbursements is made, the available gold ran down from $155,429,600 on January 1, 1884, to $116,479,979 on August 12, 1884, while the silver dollars and bullion on hand, not represented by silver certificates outstanding, increased during the same period from $27,266,037 to $48,603,958.

As a temporary expedient to stop this drain of gold from the Treasury the assistant treasurer at New York was directed to use in payments to the clearing-house United States notes to the extent of one-half of the payments. But the amount of these notes in the Treasury, which at the time of the commencement of this mode of payment had accumulated beyond its needs, has now become so much reduced that they are no longer available for such payments to any considerable extent.

All debts due from the Government, which, when owned by the New York clearing-house banks and presented for adjustment at the clearing-house, are paid by the assistant treasurer in gold or greenbacks, and never in any part in silver or silver certificates, are precisely the same kind of debts which, if presented at the Treasury at Washington, or at any place where there is no clearing-house, are paid more or less, and sometimes wholly, in silver or silver certificates. A draft for the salary of a justice of the Supreme Court, or a coupon of a Government bond, if presented at the Treasury in Washington, is paid wholly or partly in silver or silver certificates; but if the same draft or coupon is transferred to a New York bank it is paid wholly in gold or greenbacks. In other words, it is not the character of the debt which determines under this practice in what medium it shall be paid, but it is the character of the party to whom the debt is transferred and by whom it is owned and presented. This practice is based upon the strange theory that the bankers of New York are entitled to the special prerogative of refusing any kind of lawful money to which they happen to have a dislike, and that to pay them in silver will ruin the public credit, while at the same time that credit receives no injury if the same silver is paid to other people upon identically the same claims against the Government.

There is not in either the President's message or in the report of the Secretary of the Treasury a single valid reason given for the discontinuance of the silver coinage or the issue of silver certificates. It is true that $40,000,000 out of the $187,000,000 already coined are now held and owned by the Treasury, but it is equally true that $138,000,000 in gold are held and owned in the Treasury, or three and one-half times as much as of silver dollars. No reason is given or can be given why the Treasury ownership of silver is more injurious to the public interests than its ownership of gold. It being the opinion of the Treasury officials that a certain amount of coin must be kept to protect the redemption of the greenbacks, it is plain that to give up the present ownership of forty millions of silver dollars would compel the locking up of forty millions more of gold. That there are now any silver dollars in the Treasury is caused solely, and, as I believe, intentionally, by the refusal of the administration to execute the act of 1882 according to its plain intent, by paying out silver and silver certificates at the New York clearing-house.

Both the President and Secretary predict that the continued coinage of silver dollars under the act of 1878 will at no distant day drive out all the gold which is now in circulation, but they do not affect to give any reasons for such an apprehension, and I shall endeavor to show before I close my remarks that there is no foundation for it whatever.

This great question of preserving the ancient and constitutional standard of money in this country, gold and silver, upon which depends the value of every species of property and the relative position of debtors and creditors of every class, is to be settled by the logic of facts and figures, and not by unsupported assertions and predictions, no matter from how high a source they may come.

I hope to convince the Senate that the measures proposed by the President and Secretary are so alarming and dangerous in their character that this body should adopt such declaratory resolutions upon the subject as will put the public mind at rest by assuring the country that there is no danger that these measures will receive the sanction of Congress.

If a further depreciation of the value of silver bullion, which would result from the stoppage of the coinage of silver dollars, affected only the interests of persons engaged in mining for silver or in extracting it from the ores, it would be a question of local consequence and of no national importance; but it is inevitable that any action on the part of the United States which would produce a further disparity between the price of gold and silver bullion would be a blow at the very foundation of bimetallism.

It is not only good policy on the part of the United States to retain the use of both gold and silver as money metals, but it is one of the highest duties which rests upon our Government to so legislate as eventually to bring about and preserve a parity in the bullion value of the coins of the two metals.

The consumption of gold in the arts and for the purposes of luxury and display will divert more and more of that metal, and is at this time diverting its entire annual production from monetary use. This is a fact which receives in the discussion of the policy of coining silver much less consideration than it is entitled to. Furthermore, the rapidity with which the consumption of gold for other purposes than money has been enlarging in modern times is not generally known. No full and detailed exhibition of it was made till 1881, when Soetbeer published exhaustive presentations of the world's production of gold and of its consumption in the arts outside of Africa and Asia during the fifty years ending 1880. No European statistician enjoys a higher reputation, and as he was the most conspicuous leader of German silver demonetization he will not be suspected of a purpose to represent the situation as more unfavorable than it really is to the theory that gold alone can suffice for the monetary wants of mankind.

The statistics which he collected show that the average annual gold production of the world was $134,000,000 for the decade ending with 1860, and $113,000,000 for the decade ending with 1880. It fell to $101,000,000 in the year 1880.

Mr. Burchard, the Director of the Mint, gives as the gold production of the world for the calendar years—

1881	$103,023,078
1882	98.6 9,588
1883	94,027,901

Soetbeer has furnished extensive tables showing the consumption of gold in the arts. He shows that outside of Asia and Africa the consumption rose from $18,000,000 as the annual average of the decade ending with 1860 to $55,000,000 as the annual average for the decade ending with 1880.

In the last annual report of the Director of the Mint he estimates the consumption of gold in the arts in four countries, namely, United States, Great Britain, France, and British India, at $53,000,000.

It is safely deducible from the figures given by Soetbeer and the Director of the Mint that the annual gold consumption of the world, inclusive of British India, does not fall short of the production for the past year, namely, $94,000,000.

The consumption of gold in the arts and for luxurious display, according to the figures of Soetbeer, is three times what it was twenty years ago, more than four times what it was thirty years ago, and nearly five times what it was forty years ago. If the figures of the consumption in 1823, made by Chabral and adopted by Humboldt, are correct, it is to-day between eleven and twelve times greater than it was sixty years ago. Senator Hunter, of Virginia, said correctly in his report on the coinage in 1852, that "the demand for gold and silver in the arts will be very nearly in proportion to the wealth of society." Who will undertake to set bounds to the future increase of this demand, when it is

recollected that opulence, as a consequence of inventions and discoveries which give to man a constantly enlarging command over the forces of nature, is increasing by strides without example in the history of the human race?

Inasmuch as it is not within the limits of reasonable anticipation that the future yield of the mines can keep pace with the increase of the consumption, it is inevitable that the future demand for the arts will make a disastrous draft upon the gold now in monetary use.

An increase of the production of gold is of course possible, but there are no present indications of it, and there is no certainty that it will ever occur. Its decrease is equally possible and more probable. It has decreased largely, taking the whole period together, since 1856, and during no part of that period has it increased. Its consumption in the arts has fully overtaken the production, and there is nothing in the past history of the metal to induce us to hope that the future production can possibly keep up with such an increase of the consumption as is now plainly inevitable. There is, in short, as clear a certainty as is ever attainable in conducting human affairs by a forecast of the future that while increasing population and exchanges will be constantly requiring more metallic money, mankind are doomed to have constantly less of it if silver is stricken down from its immemorial position as one of the moneys of the world.

In addition to the certainty that the money of the world will be subjected to the drain of an increased consumption of gold, there is an imminent danger, if the policy of depreciating and thereby discrediting silver is persisted in, that it will be subjected to another drain of vast and unknown dimensions from the diversion of Asiatic hoardings from silver to gold.

The London Times of May 7, 1883, in the course of an article upon the rise, which it admits to have taken place, in the value of gold, says:

> The adoption of a gold standard for India, or, still more, the choice of gold instead of silver for hoarding purposes in the East, would so change all the conditions of the problem as to upset all calculations.

It must be true from the nature of the case that the further divergence between the values of gold and silver bullion will tend to diminish the confidence of the people of Asiatic countries in silver, or, what is the same thing, to inspire them with a greater confidence in gold as the repository of wealth laid up for the future. The Times is right in speaking of the possible change of Eastern hoardings from silver to gold as of more consequence as affecting the relations of the two metals than the introduction of gold coinage into India.

This view illustrates the enormous risk of any such experiment on our part, hopeful in no aspect, as the closing of our mints to silver, upon the theory that we can bear the consequences better and longer than England and Germany, and thereby force them into a bimetallic treaty. England has the power, and will certainly exercise it, to close the India mints against silver when we close ours; but, aside from that calamity, the closing of our mints to silver would result in such a depression of the price of that metal that eastern nations would lose confidence in it and devote their hoardings to the other metal. With silver discredited and gold drained away to Asia to disappear forever among its hundreds of millions of people, as silver has disappeared for more than two thousand years, Europe will have nothing before it but an era of paper money, and America, by destroying the Eastern market for silver, will have thrown away in a mad experiment the everlasting resource of wealth which it possessed in the silver mines found everywhere in the great mountain range which stretches unbroken from Patagonia to Alaska.

All the conditions have changed since the beginning of the agitation for a single metallic standard. There was then a greater production of gold and a much less consumption in the arts.

To now contract the volume of money by one-half (which is the ultimate object of most of the persons who urge the stoppage of our silver coinage, and which would probably be the ultimate effect) by the method of demonetizing one of the metals which has heretofore constituted its mass is wholly indefensible. It must be some great object which induces those who originated such a policy to persist in it after the course of events has so clearly demonstrated the injury and injustice which it must inflict upon the world.

Certain classes, having the whole world as tributaries, by a system of national debts which has in itself reached fabulous proportions, and which is re-enforced by a vast amount of other public as well as corporate and individual indebtedness, seek to increase the tribute in the form of interest which they are enjoying by the noiseless and insidious process of increasing the value of the money in which it is paid.

Gold monometallism, which increases the value of credits and in a corresponding degree the burden of debts, is naturally a favorite policy in England, for the double reason that the creditor classes, by whom it is dominated, are enriched by that policy, as against the debtor industrial and tax-paying classes at home, and that the English people as a whole are enriched by it as against the rest of the world, which is involved in an enormous indebtedness to them.

The London Economist of April 21, 1883, closed its comments upon an address in which Mr. Goschen had pointed out the recent rise in gold and fall in general prices by saying:

> There is some consolation to us in the fact to which he directs special attention, that any increase in the purchasing power of gold is a benefit to creditors. Nearly every nation on the face of the globe is indebted to us, and the result of an appreciation of gold is that we obtain a larger quantity of their commodities in settlement of our claims.

H. H. Gibbs, an ex-governor of the Bank of England, says in an article in the British National Review for July, 1883, that the following ideas, being precisely those of the Economist, are constantly pressed upon the English public:

> England is a creditor nation. The scarcity of gold has made that metal more valuable, and she must needs be the gainer by this, and must continue to be still more the gainer if gold becomes scarcer still. Is it to be expected that she should throw away this advantage?

The same reasons which make gold monometallism a favorite policy in England make it a favorite policy in every country and in every section of all countries in which the creditor classes are dominant. Quite as naturally it is not a favorite policy in countries and sections of countries which are heavily loaded with public, corporate, and private debts.

It was not a fortuitous circumstance that when the silver coinage law was passed in the Senate over the President's veto by a vote of 46 to 19, 13 of the 19 votes were given by Senators from New England, New York, and New Jersey. These States have 16 Senators, and the 3 not voting were paired so as to neutralize the vote of 6 Senators who were friendly to the law, so that the entire Senatorial representation of the eight Northeastern States without regard to party lines (5 of the 16 being Democrats and 11 Republicans) supported the veto in one solid and unbroken column, either by voting or pairing.

We must be prepared to expect that the ramified pecuniary interests engaged in this scheme, stimulated as they are to the intensest efforts by the vastness of the profits which success in it will bring to them, controlling the policy of governments in some important countries and having numerous allies and adherents in every country in Europe and in this country, will maintain the struggle to the last moment. It is in the great power of the gold propagandists and in their persistency, arising from the vast interests at stake, that the difficulties of the question of the monetary standard lie.

No careful student of the subject can fail to arrive at the conclusion that the abandonment of the use of silver as a money metal must lead to one of the following results: Either the world must suffer an enormous contraction of the volume of money and a corresponding fall in prices, or it must resort to the use of irredeemable paper money.

It is a most extraordinary delusion to suppose that by closing our mints to silver, and by thus bringing on a great fall in the price of this metal, we can compel the countries of Europe to enter into a bimetallic treaty and resume its coinage. Such an expectation is based upon two propositions: First, that the financial distress which our stoppage of the coinage of silver and the consequent fall in prices of all commodities will bring upon Europe will compel its ruling classes to return to bimetallism; second, that it will so disarrange the Indian exchanges as to force England into bimetallism.

I may be pardoned in answering the first proposition by repeating a few words that I have before uttered on this floor:

> It is said sometimes that if the United States shall go to a gold standard by arresting the coinage of silver it will bring on such a contraction of money, fall in prices, and depression in trade and industries that Europe will be forced to restore bimetallism; while this country, from its greater natural resources, can better bear the strain and can afford to wait until commercial distress causes a change of policy on the other side of the Atlantic. But are we sure? or is there really any reason to believe, that any degree of enhancement of the value of money, or fall in prices, and of that commercial and industrial distress which is inseparable from a fall in prices, would have any other effect than to induce the interests which are now actually dominant in both England and Germany to cling to the gold policy with a more relentless perseverance? Did we find that the industrial distress in Europe from 1873 to 1879, unparalleled as it was in degree and duration, served in any manner to persuade those interests to relax that contraction of money which was not only the real but the avowed object of their gold policy?
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> How was it in the United States in 1878, when bankruptcies were multiplied on every side; when an enormous proportion of the property of the country was being foreclosed and auctioned off at sheriff's sale; and when the violence of starving and desperate tramps was restrained only by displays of the military force of the nation? Did the interests in this country to be benefited by a gold standard then relax in the slightest degree the tenacity and aggressive vigor with which they insisted upon it? Are the bankers of London and Frankfort so sensitive to tender and humane impulses, and so accustomed to prefer the good of others to their own, that they will forthwith abandon a policy, however much it may enrich themselves, as soon as they are satisfied by a trial of it that it is injurious to the community around them?
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> The monometallists of England and Germany manifestly have no apprehension of being driven into silver coinage by our abandonment of it. The fall in prices and the increased value of money which would result from the closure of our mints to silver are precisely what they desire. And after the trial they have had of their own power during the unprecedented commercial and industrial distress which followed the German silver demonetization they have no occasion to distrust their ability to compel submission among their own people to any degree of financial misery which may come from the practical adhesion of the United States to the policy of discarding silver as money.

As to the effect that such a step on our part would have upon the Indian exchanges, it can not be denied that we should depress the value of silver bullion by throwing our whole product upon the world's market; but we can not depress the value of the Indian rupee. England can prevent that by closing the Indian mints. The London Economist of June 24, 1882, says on this point:

> We admit that if the government, while other countries were slaughtering their silver wholesale, were to permit the unlimited coinage of the rupees the depreciation would take place, but what is to prevent the coinage of rupees

under such exceptional circumstances being stopped? This would tend further to depreciate silver but to steady the rupee.

A well-informed European observer (Professor Lexis) says, in a paper translated from the German and printed in the New York Banker's Magazine of December 1, 1882:

In my opinion the expectation would prove itself unfounded that England might be put at a disadvantage and forced into the bimetallic league by the cessation of American coinage. This measure would probably have the result of stopping the coinage in India.

The practicability of keeping a steady ratio of exchange between the English gold sovereign and the Indian silver rupee by limiting the coinage of the latter is shown by the fact that the silver florins of the Dutch East Indies, estimated at 220,000,000, which is equal to $88,000,000, are by the same method of limiting their coinage, as prescribed by a Dutch law passed in 1877, kept at a parity with the florins of gold and silver circulating in Holland.

The policy pursued by the United States in coining silver under the act of 1878 has checked, if it has not completely arrested, what seemed at one time a general movement throughout the world toward silver demonetization, notwithstanding the fact that the moral effect upon the world of the act of 1878 had been greatly weakened by the persistent efforts for its repeal and by mistaken anticipations abroad that its repeal was probable. The coinage of silver by the United States has sustained its price at a nearly uniform rate, notwithstanding the great and unprecedented falling off, owing to causes believed to be temporary, of the demand for silver in China. Further, if the Secretary of the Treasury had exercised the discretion given to him by the act of 1878 upon legitimate considerations, and with a proper regard to the large domestic industry of silver mining and to the importance of preserving bimetallism, as well as to the momentous interests involved in maintaining prices and saving the debtor classes from ruin, and had coined $3,000,000 instead of $2,000,000 per month, the whole of our silver production which is available for coinage would have been kept out of the markets of the world, and the old relation of market value between gold and silver bullion would, in all probability, have been restored. But in spite of all adverse circumstances it is undeniable that since we reversed our action of 1873, by passing the law of 1878 to resume the silver-dollar coinage, no single step in the direction of the demonetization of silver has been taken in any part of Europe.

Our silver legislation of 1878 would undoubtedly have produced by this time much greater effects abroad, and in all probability would have already resulted in an extensive international accord upon the coinage ratio of the two metals if the confidence of Europe in the steadiness of our policy had not been weakened by circumstances which are too well known and which have been most unfortunate in their consequences. From all the information within my reach I believe that the question of the monetary standards would have been satisfactorily settled before this time if doubts of the finality of the decision reached in 1878 by the American Congress, by extraordinary majorities and after the most thorough discussion, had not been inspired abroad by the persistent clamors of the newspapers of our Atlantic cities, which are the only ones read and quoted in Europe, and by the reiterated recommendations for the stoppage of the silver coinage which have been made by both Presidents and Secretaries of the Treasury.

In all European countries in which parliaments exist the opinions of cabinets not only follow but foreshadow legislation, because cabinets resign when they can not command legislative majorities. It is natural, therefore, that Europeans should attach to the recommendations of our executive officials a degree of importance as affecting and indicating legislation which they do not possess under our system of government.

However it may have been brought about, it is certain that an expectation has thus far prevailed in Europe that our silver coinage will be abandoned and that the influence of this country in favor of silver has been thereby for the time being nullified. After the lapse of some period, longer or shorter, the policy of this country, if it is persevered in, will come to be regarded abroad as one of the fixed facts of the situation, and it will then have the influence upon the actions of other countries which it ought to have.

I have briefly referred to some of the advantages which have accrued from the coinage of silver under the act of 1878. Now let us examine some of the objections which have been urged by the opponents of silver coinage to the continuance of this policy.

Much has been said about the accumulation of silver in the Treasury, which is denounced as an idle and costly waste in the loss of interest and otherwise. At the close of last month the total amount of silver dollars and silver bullion in the United States Treasury was $149,745,075. There were outstanding silver certificates to the amount of $104,988,531, so that the Government ownership of silver dollars and of silver bullion amounted to only $44,536,392.

At the same time the Treasury held in gold coin and bullion the sum of $231,389,361, and the gold certificates outstanding were $93,374,290, making the actual Government ownership of gold coin and bullion $138,015,071.

Thus after nearly seven years' experience under the silver-coinage act of 1878 it appears that of the total coinage of 187,180,829 silver dollars 147,424,285 were in active circulation in either the metallic or certificate form. The prediction that they would be a dead weight which must be carried by the Treasury and would exclude gold from it has been completely falsified. Of the metallic full-tender money belonging to the Treasury more than three-fourths is gold.

So long as the country believes it to be wise policy to hold a metallic reserve for the redemption of the greenback there must be coin of some kind accumulated and held unused in the Treasury, and how can it be said to be more idle or costly to pile up silver for that purpose than it is to pile up gold? The more silver dollars are owned by the Treasury, the more gold dollars can be spared from it and set free to sustain the trade and business of the country.

The objection that the Treasury has not vault room for the accumulation of silver dollars, if we continue to coin them and to receive them on deposit, is too frivolous for consideration. The bank of France held on November 13, 1884, 1,028,288,051 francs in silver money, equal to $200,000,000, which is largely in excess of the amount in all the Treasury vaults and mints of the United States, including standard dollars, fractional coin, and bullion.

In receiving silver on deposit and issuing certificates for it the Treasury realizes from the loss and destruction of certificates a direct profit which exceeds many times over the cost of providing storage room. But the cost of the storage room for either of the metals, even if there were no direct compensation for it, is a wholly unimportant consideration in comparison with the vital and overshadowing interests involved in maintaining a proper volume of the monetary currency, which determines the price of property, the wages of labor, the burdens of the tax-payer, the relations of creditor and debtor, and the prosperity or depression of industries. It is trifling with a question transcending nearly all others in its importance to complain of an expenditure of $200,000 on vaults for the custody of silver by a Government which has spent eight millions on a post-office in New York and four millions on a post-office in Boston (a large part of it in architectural and artistic displays), which is spending millions annually upon public buildings in every part of the country and for all sorts of purposes and with very little attention to economy in their construction, and which never lacks either money or disposition to use it in constructing in Washington monuments, museums, and hot-houses for the supply of bouquets to members of Congress and other officials.

Another objection to silver coinage, and a much more important one, is based upon the apprehension that its continuance will cause a depreciation of the silver dollar relatively to the gold dollar, a necessary result of which would be the expulsion of gold from circulation and its exportation from the country.

In a speech which I had the honor to deliver in this Chamber about two and a half years ago I presented somewhat at length the most important facts bearing upon this subject. I do not desire to traverse the same ground again, but a very brief reference to the views then presented may not be out of place at this time.

We had then coined 105,000,000 of full legal-tender silver dollars. There was no disparity of value between our silver and gold coins, and I think it was clearly shown that no disparity could occur until we should coin enough silver dollars to supply the total metallic money required by the country; that there can not be a discount on silver coins without such a premium on gold coins as will expel them from circulation, and that such an expulsion is impossible until the silver coined exceeds the amount below which our metallic circulation can not be reduced. In other words, that so long as specie payments are maintained silver dollars can not become the sole coined money of this country until they are struck at the mints in such numbers as to exceed the smallest figure to which the whole metallic currency of the country can fall.

The total metallic full-tender money of this country on the 1st day of last October, as stated by the Director of the Mint, was—gold $610,535,028, and silver $187,315,233; total, $797,850,261, including both gold and silver bullion in the mints for coinage. There is no reason for believing that this amount is more than our fair distributive share of the metallic money of the world, or that it is more than enough to maintain the equilibrium of prices in this country with the general range of prices in foreign countries. At the present rate of silver coinage we will not reach this amount in twenty years.

Our coined silver, under the act of 1878, has now reached $187,180,829, and notwithstanding it has been confidently asserted that the coinage of silver could not be pushed at the furthest beyond $100,000,000 without depreciation, there is not a symptom of lessening value or acceptability.

When the issue of gold certificates was resumed in October, 1882, it was predicted by the New York press that they would soon expel the silver certificates from use. This was also the unhesitating conviction of the late Mr. Folger, the Secretary of the Treasury, who said, in his annual report of December, 1882:

The amount of silver certificates outstanding November 1, 1881, was about $66,000,000, and the amount outstanding November 1, 1882, was about $65,500,000. Inasmuch as by recent legislation the Secretary is required to issue gold certificates, it is to be looked for that the place of the silver certificates will be, to a great extent, supplied by gold certificates, as the latter are furnished in convenient denominations, and it is just to suppose that a certificate payable in a coin

worth but 88 per cent. of its nominal value will be displaced by one worth fully its nominal value.

But the fact is that since this prediction of the Secretary of the Treasury was made there have been constantly calls upon the Treasury for silver certificates in exchange for gold, dollar for dollar and cent for cent, and instead of the displacement of the silver certificates in circulation by the gold certificates, they have increased from $65,000,000 in November, 1882, to $74,000,000 in August, 1883, to $88,000,000 on the 5th of December, 1883, to $96,000,000 on the 29th of December, 1883, and to $105,000,000 at the end of last month.

Heretofore in discussing this question I have considered it sufficient to show that with a coinage of silver dollars limited to 28,000,000 per annum they could not depreciate relatively to gold dollars for many years to come. I will now submit to the Senate reasons for believing that, at the same rate of coinage, they will never depreciate.

The distinguishing financial circumstance in the case of the United States is the enormous excess of the growth of its population, wealth, and exchanges over the growth of other countries, and of Europe in particular. It may be stated, as a reasonable expectation, that at the end of this century, now only sixteen years distant, our population will equal the combined numbers of the German Empire and of the United Kingdom of Great Britain and Ireland. Our fractional share of the aggregate metallic money of the commercial world must, therefore, steadily and largely increase. This much is certain.

The absolute amount of our money must also largely increase if there is an expansion of the metallic and paper money of the commercial world corresponding with the general increase of population and trade such as will maintain existing prices.

In modern times the increase of wealth is more rapid than that of population. The least measure of the increase of money necessary to save prices from falling, which is proposed by any financial authority, is an increase proportioned to that of population, which would be for this country 3 per cent. per annum. If we compute the total volume of our money, gold, silver, and paper, at fifteen hundred millions, and most authorities make it more while none make it less, it requires now forty-five millions a year and will require more as the total volume becomes greater. The actual expansion of the currency since the resumption of specie payments in 1879 has been at a rate considerably larger than this, and the evidence is conclusive from the condition of our foreign trade, of which the balance is favorable, that our prices are not too high relatively to prices abroad, or, in other words, that our money is not in excess of our proper distributive share.

If the United States was an absolutely stationary country, it would be true that an annual coinage of 28,000,000 silver dollars would finally drive out some other kinds of money, but $28,000,000 is much less than the annual increase of our total money during the past five years. It is clearly less than the increase necessary to keep up our prices. It is less than the increase which we shall probably be able to obtain, and it is also less than the increase which it ought to be our policy to obtain. There is therefore no reason to suppose that an annual coinage of 28,000,000 silver dollars will ever of itself, and without an increase of our paper money, expel any of our gold money or even prevent some degree of its enlargement.

It is often said that in dealing with European nations we must liquidate in gold the balances of trade when they are against us, because silver has no rights of coinage, and is therefore not a money metal in Europe; and that, on the other hand, when the balances of trade are in our favor we will be paid in silver. Paying Europe in gold but being paid by Europe in silver would sooner or later transfer our gold to the other side of the Atlantic. But in truth Europeans can no more pay us in silver than we can pay them in that metal. They could pay us in our silver dollars if they possessed any, but they have none, and they can not get any except at the price of gold dollars. Their own silver coins can not be disposed of in this country at a better rate than 80 per cent. of their value at home. As to silver bullion, it is as commercially impossible that it should be sent here from Europe as that coals should be sent to Newcastle.

We are the chief silver-mining nation in the world, and our total home demand for silver in the arts and at the mints (with our annual coinage of $28,000,000) is less by about ten millions annually than the home production. The excess, whatever it is, must be sold abroad, and must always be, as it is now, put at a price which will force its sale in foreign markets. During the three fiscal years ending June 30, 1884, the excess of our exports of silver over imports was $29,584,783, or at the rate of about $10,000,000 annually. The flow of silver from the United States to the London market will continue constant until all the facts of the situation are changed. It is as idle to apprehend an import of silver coin or bullion from Europe as to apprehend an import from the same quarter of timber, wheat, petroleum, naval stores, or cotton. No silver from Europe will ever be "dumped" upon this country until commodities move from dearer to cheaper markets.

The necessary effect of the whole situation is what we know as a fact of observation, that the money balances due to us from Europe are received always in gold, and in nothing else. The other kinds of money which we use, namely, silver dollars, greenbacks, and national-bank notes, would be accepted by us with equal readiness, but foreigners possess neither, and can not obtain either at less than their face value in gold. Our position is precisely like that of France, in which silver francs are at home of the same value as gold francs, but are worth only four-fifths as much anywhere outside of the Latin Union. When the state of the exchanges requires the transmission of money from Paris to London or to New York, it is only gold which can be sent, because it is only gold which will be accepted. But it is equally true that when London and New York send money to Paris it can only be gold, because they have no French silver francs.

France is not drained of its gold, because the balance of its foreign trade is at least as often favorable as it is unfavorable. Nor does a temporary outflow of gold depreciate silver in France or impair the confidence of the French in silver. That was shown three years ago when the outflow of gold was on a very large scale. They know that the outflow must go to the length of exhausting, substantially, all their gold before a disparity between their gold and silver coins will arise, and of such an outflow they neither have nor need to have any apprehension. The experience of the Dutch has been precisely the same.

The official figures of the movement of the precious metals in our foreign trade since the silver-coinage law of 1878 went into operation show conclusively that there is no foundation for the theory that the coinage of silver must necessarily expel our gold.

Taking first the case of silver, it appears that there was a continuous net export (that is, an excess of exports over imports), including coin and bullion, during the six fiscal years ending June 30, 1884, as follows:

Year ending June 30—	Export of silver.	Import of silver.	Net export of silver.
1879	$30,409,827	$14,671,052	$5,738,775
1880	13,503,894	12,295,914	1,227,980
1881	16,841,715	10,544,238	6,297,477
1882	16,829,599	8,095,336	8,734,263
1883	20,219,445	10,755,242	9,464,203
1884	26,051,436	14,594,945	11,456,481

Taking next the case of gold (coin and bullion together), there was a continuous net import during the five fiscal years ending June 30, 1883, as follows:

1879	$1,037,334
1880	77,119,371
1881	97,466,127
1882	1,789,174
1883	6,133,261

The fiscal year ending June 30, 1884, was the first one since the passage of the silver-coinage law of 1878 to show a net export of gold. The export was $41,081,757; imports, $22,831,317; net export, $18,250,440. This is not a large export for a country with an annual production of about $30,000,000, and even with the proper allowance for the consumption of that metal in the arts it does not imply any decrease of our gold money. So far during the current fiscal year there has been a net import of gold.

During the four months ending October 31 last this net import amounted to $8,344,169, and was large during November, for which exact figures are not obtainable.

From figures furnished to me a year ago by the Mint Bureau, supplemented by the official figures to this date, it appears that between March 1, 1878, and November 30, 1884, there was a net import of $177,793,530 of gold; that between the same dates our gold mines yielded about $236,000,000, and that the consumption of gold in the arts in this country was about $63,000,000. The following table shows the increase of gold in this country from March 1, 1878, to November 30, 1884:

Net import	$177,793,530
Production of our mines	236,000,000
Total	413,793,530
Deduct for consumption in the arts	63,000,000
Net increase	350,793,530

The editors of a leading paper in the city of New York recently declared their opinion to be that "there is positively no limit to human stupidity and credulity in matters relating to finance." It can only be upon some such views of the illimitable gullibility of mankind that it can have been so persistently maintained that an annual coinage of 28,000,000 silver dollars must necessarily soon expel all our gold, in face of the fact that it has absolutely increased $351,000,000 since the coinage of silver was resumed.

An objection to our present silver coinage, which is perhaps urged more than any other, is the deficiency in respect to the weight of the silver dollar. Many persons who claim to be bimetallists, and to favor the continuance of the coinage of both metals, assert that they are opposed to making any more dollars of 412½ grains. They demand that

the coinage ratio of gold and silver should be made to conform to the market ratio of the two metals, which is now nearly 19 to 1.

When the present silver-dollar law was passed various attempts were made to change it so as to conform more nearly to the actual market ratio at that time, but all such attempts, after full consideration, were voted down in Congress. Our legislators at that time saw clearly that to make our ratio 17 or 18 or 19 to 1 would increase the difference, already somewhat embarrassing, between our ratio and that of the European countries (which was 15½ to 1 in all of them except Holland, in which it was 15⅝ to 1), and would render it impossible for them to resume the free coinage of both metals, because a ratio here above 16 to 1 would drive all our silver to their mints. Our legislators saw that no international arrangement would be possible in respect to the coinage of gold and silver except upon the same ratio, or very nearly the same, and that to establish and to adhere to a ratio above 16 to 1 would put an end to any hope of a monetary accord with Europe. This reason for not raising our ratio above 16 to 1 is as cogent to-day as it was in 1878.

The full-tender silver money in Europe (including French Algeria) is stated in the October report of our Mint Bureau for 1883 at $880,017,000, having now a bullion value of only 80½ per cent. in gold. If we should add silver enough to our dollar to make the bullion in it worth a gold dollar, the nations of Europe could not bring up their silver coin to the point required in order to conform to our new ratio except by incurring a loss of $172,000,000. Nobody believes that they would entertain for a moment the idea of submitting to a sacrifice so enormous.

It is not possible, under present circumstances, however important and desirable it may be, to have any steady equality between the bullion values of the gold and silver dollars. So long as the mints of the commercial world, including our own, are either closed entirely to silver, or coin it only in quantities limited as they are at present, a part of the production will be thrown on the markets, to be sold as a commodity, for use in the arts and for export to Asia, and, like everything else sold as a commodity, the price of it will constantly fluctuate. Nothing can be more absurd than the idea of governing our mint ratio by such a market price as that, up to-day and down to-morrow. If we should add 15 cents now to our silver dollars we may find next year that they are at such a premium as will carry them all to foreign countries, or to the melting-pot, and the year afterward that we must add another 5 or 10 cents to bring their bullion value up to their coin value.

It is possible to preserve a steady relation of value between the gold and silver coins of a country so long as the coins of the metal, cheaper for the time being, do not wholly expel from use the coins of the other metal. But we have no right to expect, and we shall never see, a steady relation of value between gold and silver sold as commodities, until some country, or combination of countries, having an importance relatively to the commercial world equal to that possessed by France in 1803, shall coin both the metals without limit. That would steady the relation now, as France steadied it for seventy-one years prior to 1874. There is no occasion for abandoning the expectation that a combination may be formed by the United States with European countries, or at any rate with American countries, of which several besides our own are rapidly rising into importance. It is only necessary that we should convince mankind by a firm perseverance in our present coinage of silver that we are inflexibly resolved that it shall remain one of the moneys of the commercial world.

The equalization of the mint and market relative valuations of the two metals is not a thing to be undertaken in a hurry. It is prudent to delay it until it can be seen whether existing divergences are permanent or only merely temporary, and also until it can be seen pretty clearly what the new market relative valuation is to be. Our predecessors in this Government have always acted upon that view. In 1821, in consequence of the resumption of specie payments in gold by the Bank of England, the silver price of that metal was everywhere enhanced, and in this country the premium on gold rose to from 6 to 8 per cent. The premium continued, although it gradually declined about one-half; but it was not till 1834, or after a lapse of thirteen years, that our mint ratio of the metals was changed by reducing the amount of gold in the gold dollar. The men of that day knew that the change in the market ratio of the two metals was caused by the English resumption in gold, and they waited to see what the ultimate effect of that resumption was to be. When afterward, as a consequence of the unprecedented gold yield in California and Australia, such a premium arose upon our silver coins as to cause their disappearance by melting and export, the measure adopted by Congress in 1853, upon the report made in 1852 by Senator Hunter, of Virginia, was limited to the reduction of the weight of our small silver coins, and to making such coins subsidiary and a tender for only $5. Adopting the views of Mr. Hunter in that respect, Congress thought it best to defer to a future day, when the new market ratio of the metals should be more definitely settled, the adjustment of a new mint ratio between gold and the silver dollar having a full-tender capacity. In fact, no further Congressional action took place, although the premium on the silver dollar continued for twenty years afterward and amounted to 3 per cent. in February, 1873, when an act was passed which, as was discovered three years later, stopped the minting of the silver dollar altogether.

There was no time for twenty years prior to 1874 when to have produced an equality of bullion value it would not have been necessary to have added to the weight of the gold dollar or to have reduced the weight of the silver dollar.

If our predecessors thought it proper, before acting upon the question of changing our mint ratio between the metals, to wait so many years in order to see the permanent effects of the gold resumption in England and of the Californian and Australian mining discoveries, we may well be slow and cautious now, when the market relation of the metals has been so violently disturbed by silver demonetizations and closures of mints to silver in Europe, and when debates, as yet uncertain in their outcome, are still in progress in so many European countries as to their future policy in respect to silver. No man can to-day fairly say of any proposed mint ratio that it can be relied upon to be in correspondence with the market ratios for six months to come. Until we can certainly better our condition by changing our mint ratio, we had better let it alone. We know that it values silver 3 per cent. lower than it is valued in $880,017,000 of European full tender silver coins. We know that if we raise our mint ratio above 16 to 1 it is a step which must be retraced if we ever come to a monetary treaty with France and other European silver-using countries.

It will cost us $31,000,000 to raise the weight of our silver dollar in the proportion of 83½ to 100, besides the considerable expense of recoining it, which is a large sum to venture upon a not very promising experiment.

Of all those in the Senate and House who say that they have no objection to what they call an honest silver dollar, I have not observed that any one of them offers a bill specifically prescribing how much more silver shall be put into the dollar. General denunciations of the present dollar are easy, but it is more difficult to define the exact change which they will take the responsibility of recommending.

It would certainly be inopportune to increase at this time the weight of the silver dollar and raise our minting ratio between the metals above 16 to 1, which would render a bimetallic treaty with European powers impossible, at the same moment when the opponents of silver are concentrating their forces in support of a measure to suspend its coinage, of which the alleged purpose is to drive Europe into bimetallism by the coercion of a distress in which we must necessarily become full participants. It is an affront to the intelligence of mankind to hold up bimetallism as an object to be sought by any measure however dangerous, and certain to be calamitous in its immediate effect, and at the same time to create, by putting more silver into the dollar, a new and insurmountable obstacle in the way of any monetary concert with other countries. In view of the dangers, foreseen and unforeseen, which must attend a change in the money which has been employed by mankind as far back as history goes, the following words, with which a debate on the monetary standard in the French Senate in January, 1876, was closed by Dumas, are as appropriate as they are impressive:

> Those who approach these questions for the first time decide them at once; those who study them with care hesitate; those who are obliged practically to decide doubt and stop overwhelmed with the weight of the enormous responsibility.
>
> The quantities of the precious metals which are now sufficient may become insufficient. Nobody can guarantee that the present vast production of gold will continue. The placers are found on the surface of the earth and may be exhausted by the very facility of working them. In presence of the unknown which dominates the future, we should practice a prudent reserve.

Within a year or two the opponents of the silver dollar instead of demanding absolutely, and in so many words, that its coinage shall be stopped, make the more plausible demand that it shall be coined only to the extent necessary to meet the call for it at the Treasury. Several bills to this effect were introduced into the last Congress, in both the Senate and House, and the measure was recommended in the annual report of 1882 of the Secretary of the Treasury. Nothing can be more ingenious than the phraseology in which this proposition is clothed, but it will not bear the test of a close examination.

The demand in this country for the coinage of silver was not based upon such a preference for silver over gold, and especially not upon such a preference for silver over paper kept equal to coin by convertibility, as would induce anybody having a warrant upon the United States Treasury to demand its payment in silver. It is notorious that the people of this country almost universally prefer to handle convertible paper rather than either of the metals. As between the two metals silver is the least convenient, by reason of its greater weight and bulk for the same value. It would only be in rare and exceptional cases that anybody would demand silver in preference to gold at the United States Treasury or anywhere else. It was not a preference for silver over gold which induced the support of the silver-coinage law of 1878.

It was the inadequacy of gold, in point of quantity, which led the country to demand that it should be supplemented by another metal, admitted to be less convenient, but the inconveniences of which could be mainly avoided by the use of certificates. What the country wanted was not silver money as a matter of preference, but more metallic money than could be obtained from the gold mines alone. It was the necessity of silver coinage, as a means of averting a contraction of money disastrous to mankind, and the general desire of the country, based upon that and other public considerations, that there should be

such a coinage, which constituted together that demand for silver dollars which induced Congress in 1878 to order them to be struck at the mints, and which has induced subsequent Congresses to continue the same policy. That is the only kind of demand, for any species of money, which can legitimately be taken into account by legislators, in either creating currencies or in regulating their volume. But according to the new rule proposed to be applied to silver dollars, the amount coined is to be regulated by the calls for them by a particular class of persons who may have the right to receive payments at the Treasury. On this plan the silver coinage will be dependent as to the amount of it, and indeed as to whether there shall be any at all, not upon the general public interest of the country or upon the law-making power, but upon the caprice and personal interests of individuals.

If this is the proper method of regulating the coinage of silver, no reason can be imagined why it is not equally the proper method of regulating the coinage of gold and the issue of greenbacks. If no more silver should be coined, why should any more gold be coined than there is a demand for at the Treasury? And if as much silver should be coined, why should there not be as many greenbacks issued as there is a demand for at the same place? If this new rule of issuing money was applied to gold and to greenbacks the coinage of gold would imimdiately cease altogether, while the issue of greenbacks would be enlarged. The holders of greenbacks have had them redeemed in gold since January 1, 1879, if they desired it, but have very rarely desired it. The total amount of gold demanded for their redemption has been absolutely insignificant. Since the same date very few persons, if any, having the right to be paid money at the Treasury have desired to be paid in gold in preference to being paid in any other money.

The Senator from Ohio, when he was at the head of the Treasury, was obliged, for the purpose of economizing the use of bank notes and greenbacks, to issue an order requiring persons having the right to payments to accept a part in silver and a part in gold. At no time during the past six years has there been any appreciable demand for gold at the Treasury. If the coinage of gold was subjected to the same rule that it is proposed to apply to the coinage of silver, the Secretary would not have the right to coin gold so long as he had enough already coined to meet demands upon him; and therefore, as there has been all the time a large amount of gold in the Treasury, the coinage of that metal must have ceased during the past six years, and there is no probability that there would be any coinage of it for years to come. But the fact that no preference has been shown for gold the past six years does not prove that there are not considerations of the highest public importance which require the coinage of gold.

The time is most inopportune for stopping the coinage of silver when our bank-note currency is undergoing a considerable contraction, and when it is by no means certain that Congress will be able to agree upon any measure which will avert its further and greater contraction. The situation in respect to our paper money is admitted on all sides to be a very grave one. The volume of the greenbacks is fixed absolutely by law, while the volume of bank notes tends to diminish from the cancellation of the Government bonds upon which they rest. Their contraction has not been seriously felt because their place has been supplied by silver.

Why should the United States, the principal silver-producing country of the world, attempt this dangerous experiment of stopping its coinage or of suspending for a time its purchase? What is there in the condition of the business of this country which demands it? At the present rate of coinage there is no possibility of depreciation of the silver dollar for years to come. The volume of money is not too large, as shown by a tendency to falling prices. There is no inflation of the currency, and it is contraction rather than inflation which is now threatened.

By the addition of $187,000,000 of silver to the money of the country we have increased its volume and have thereby in some measure sustained the wages of labor and the prices of the products of the soil and of the factory. Of the many and dire disasters predicted as the result of this addition it is not pretended that a single one has yet been realized, and the dates for the fulfillment of the prophecies of evil are constantly postponed. In this state of things the country will, I hope, conclude that it is wise to let the silver-coinage law alone so long as it works well, and that it is unwise to throw away its important and admitted advantages from a fear of prospective, certainly far-distaht, and perhaps wholly imaginary dangers, and for which, if they shall ever come, our successors may be trusted to find appropriate remedies.

Mr. SHERMAN. Mr. President, I have purposely for a number of years avoided discussion of the silver question because I regarded the act of February 28, 1878, as in the nature of an experiment, and I wished to see that experiment fairly tried and tested by the logic of experience. Therefore I have not sought directly to change the legislation as it stood on the statute-book, but chose to abide the experiment entered upon by the friends of silver. They no doubt thought the peremptory issuing of a limited amount of silver coin would restore the old ratio of value between silver and gold, and if that could be done it would, I confess, have been one of those desirable results that would greatly benefit all classes of our own people and be a benefit to mankind at large.

I suppose every Senator agrees with the proposition that bimetallism is the best public policy if it is attainable. It has been decided over and over again by the most intelligent nations of the world that silver and gold, traveling side by side, should be the standards of all values. They have changed in their relative market value, but the change has been met by the changing legislation of the times. Alexander Hamilton probably more tersely stated the necessity of bimetallic money than any writer who has followed him, by depicting the great evil it would be to confine the circulation of the world, the money standard of the world, to a single metal, the changes of which might cause a great fluctuation of values. The bimetallic standard of money is accepted by the great body of intelligent men in the United States as the wisest public policy; but this concession is always accompanied with the declaration that these two standards of coin should be made equal to each other according to their general market value, so that the market value of the metal in one tested by the legal ratio should be as near as practicable to the market value of the metal in the other.

It is impossible to make them exactly of the same value, because for two thousand years the relative value of these metals has been changing, but the changes were slow and for years imperceptible. In the last four hundred years a greater change has occurred. Four hundred years ago, prior to the discovery of America, eight ounces of silver were worth one ounce of gold. Now it requires eighteen ounces of silver to be worth one ounce of gold, and in the mutation of time the relative value of the two metals has been met by the laws of the intelligent nations from time to time. The general drift has been the fall of silver or, what is the same in effect, the rise of gold, but this variance has not always continued, for the discovery of gold in California caused gold to decline in relative value, and this continued until the Comstock mine caused a decline in silver. Even with these fluctuations, these two metals have maintained their relative value more nearly than any other two great national productions.

The act I have referred to was passed when from various causes the decline of silver became marked; and this act was designed to check the decline and to restore silver to its legal relation to gold; and now, Mr. President, I say the experiment has been tried. It was entered into for the highest possible object. It has been properly tested. Seven years, nearly, have passed away since the act of February 28, 1878, was passed. The law has been in full force during all that time. The total coinage since that time, by the last report of the Secretary of the Treasury, was $185,000,000, now about $187,000,000. The total amount of these silver dollars now in circulation among the people is $41,000,000, or less than one-fourth the amount coined. The balance belongs to the Government of the United States, and is in the Treasury of the United States.

What has been shown by this experiment? Let us see. In the first place, it has been shown that the law of Congress has not restored silver to its old relation to gold. When that law took effect the silver in the silver dollar was worth only 91 cents in gold. The hope of those who tried the experiment was that if we should give a substantial occupation to all the silver mined in our own country, or the great body of it, we should restore the relation so that the silver in the dollar of 412½ grains of standard silver would be equal to 25.8 grains of standard gold. That expectation has been disappointed. On the contrary, under this law from which so much was expected silver has steadily gone down year by year.

Although we have absorbed $2,000,000 a month to purchase silver bullion for coinage, and have coined 28,000,000 silver dollars a year, and in this way have withdrawn from the market the great body of the domestic production of this country, silver has steadily gone down in relative market value. I have looked at the prices paid; I have them before me. According to the reports of the Director of the Mint from the year 1878, the first year during which this law was in operation, it appears that in 1878 one ounce of fine silver was worth $1.18, or the silver in a silver dollar was worth 91 cents. In 1884, after seven years of experience, an ounce of fine silver is worth in the market $1.11, which means that the silver in the silver dollar is worth between 85 and 86 cents; so that now, instead of 412½ grains of silver being equal to a dollar in gold, it requires, as near as may be, one ounce, or 480 grains of standard silver, to be equal in market value to a gold dollar.

So, then, this first expectation of the friends of the bill has utterly failed. Not only has this law not restored silver to its former ratio, but it has gone down gradually in the face of a determined effort on the part of the United States to prevent that depreciation. It only shows that although the Government of the United States is very powerful in money affairs in this world, it is not powerful enough to prevent that inevitable and continuous depreciation of silver compared with gold that has gone on since the discovery of America, and no power on this continent can prevent that gradual widening of the margin between these two metals. The only question to me of practical politics is whether we ought not ourselves to respect what we can not resist, and not, like King Canute, wait until the tide overwhelms us. Should we not change our ratio, as other nations have done before us, and seek by adapting our coinage to the relative market value of the two metals to check the depreciation of silver, or at least to coin silver at the same value we pay for it, and not try to make a delusive profit out of our own citizens?

But there was another expectation which has not been realized. It is shown that the silver dollar will not circulate among the people. It was firmly believed when the law was passed that the silver dollar would be taken everywhere, and to a certain extent it is taken everywhere as a matter of convenience; but that this silver dollar will not be hoarded or laid away in the stockings of the most ignorant man in the United States, that it will not be received and held with confidence, is shown by the experience of the whole country. Only forty-one millions of silver dollars are now in circulation, and any attempt to force the circulation of silver dollars has proved utterly unavailing. Every Secretary of the Treasury who has been in office since the passage of that law has tried his utmost to induce the circulation of the silver dollar.

Mr. MORGAN. Will the honorable Senator allow me to inquire whether while he was Secretary of the Treasury he did not succeed—it was in the last year of his administration, I believe—in buying about eighty or ninety millions of gold coin with silver certificates?

Mr. SHERMAN. Undoubtedly. I will come to that presently.

Mr. MORGAN. Will the honorable Senator explain how he managed that?

Mr. SHERMAN. I will do that with the greatest pleasure, and if I do not answer the Senator I will give it up; but I want to go on now in the order which I have proposed to myself.

That this silver has not circulated is shown by the fact that but $41,000,000 of silver dollars are now held by the people, while the enormous sum of $334,000,000 of gold coin is now held by the people of the United States according to the last report of the Director of the Mint. Whether that is exactly the sum or whether it is more or less no man can tell; but that is the estimate of the Director of the Mint, who is known to be in favor of the silver standard. So that gold, which is measured by its market value in all the markets of the world, does circulate and is hoarded in large masses by banks and by private individuals, and yet the silver dollar, known to be of less market value, is not hoarded, but is kept in the Treasury of the United States.

That this silver dollar will not circulate as money except to a limited extent is shown by these figures. It is maintained at par with gold like paper money, by being received for all dues to the United States; and there is the answer to the inquiry, and the pertinent one, made by the Senator from Alabama. Why were we able to exchange silver certificates for actual gold coin and bullion? It was because we received those silver certificates as the equal of a gold certificate and of gold coin.

Mr. MORGAN. They were redeemable in silver.

Mr. SHERMAN. They were by law and on their face redeemable in silver, but in fact and by law they are redeemable in gold while we are at the gold standard. They are receivable for all public dues, they are receivable in payment for everything; and therefore a merchant or a man desiring to purchase wheat or cotton in the South (and most of these transactions occur at New Orleans, where the silver certificates were issued in exchange for gold bullion sent to buy cotton) received the silver certificates because they were convenient to handle, they could be paid out as an equivalent of gold, they were treated by the Government of the United States as gold, and they are now to-day the equal of gold—not that the money in which we agreed to pay them is equal to gold, but because all the people and Government of the United States receive them as gold, and as long as we treat them as gold they will be as good as gold. Why is the United States note the equivalent of gold coin? Because the United States has promised to pay its notes in coin and maintains a policy which keeps them at par in gold coin, although the United States has not in its vaults to secure their payment more than 30 or 40 per cent. of gold or silver coin to meet each paper dollar, and because a great country like ours treats them as gold, redeems them as gold. This makes a paper promise that has no security behind it whatever in the present state of the money market as good as gold coin, because the people regard it and receive it as good as gold and convertible into coin if demanded. That is the reason why to-day gold is given for silver certificates. Gold is deposited, and as a matter of convenience rather than to handle the gold coin and bullion, especially coin of foreign countries sent here to purchase our domestic products, it is exchanged for that form of paper money which people can get and which they can use as the equivalent of gold.

Now, sir, this silver that we have coined and of which we have such an enormous stock can not be exported to any country in the world; not a dollar of our standard silver dollars floats anywhere. It is not exported. Why is that? The Senator from Colorado [Mr. HILL], in his carefully prepared speech, says the reason why the French silver will not go abroad is because it is not worth as much as the nominal equivalent in gold coin, and our silver dollar will not circulate as silver abroad in any country in the world because it is not worth as much in intrinsic market value as the gold dollar. Our silver bullion goes abroad; but when it goes abroad it goes at 480 grains of standard silver to the dollar—its market value—and not at the nominal value we put upon the coinage. And, sir, if anything should happen to this country, any adversity in trade, any change in the balance of trade, this dollar piled up in our Treasury would only be worth so much bullion by weight and tale, and not by what we choose to coin it at. The Government of the United States, in dealing with its citizens for silver bullion, deals by the same harsh rule. It buys of my friend the Senator from Colorado silver at its market value. My friend from Colorado buys the raw bullion which he refines at its market value. He does not allow a dollar for 412 grains of standard silver, nor does the Government of the United States. Both demand 480 grains for a dollar. In other words, we treat it as a merchantable commodity, and, like a merchant, we pay the price it commands in the market. The people have a right to take your stamped dollar or not, as they choose, and they do not take it freely, because in the markets of the world for export it is only worth one dollar for 480 grains, instead of one dollar for 412½ grains. That is what you pay for it, and yet you ask them a dollar for 412½ grains. You put your stamp upon it at a cost of less than one cent and offer your own people for one dollar what costs you eighty-six cents.

Mr. President, you must remember that in case of any adverse balance of trade—and such things have happened often; I trust it may not now, and I do not think there is any sign of it now—but whenever it does happen that there is an adverse course of trade or remarkable events should spring up in Europe to make a drain upon this country for money, what money could we send? Will it be silver coin? No; it will be gold. Every dollar of that balance of trade must be measured in gold coin of the standard of 25.8 grains to the dollar. The Senator expresses surprise that people in New York, where nearly all their commercial transactions are based upon foreign values, should rather refuse to accept silver as the basis of their payments. When they are called upon to settle balances from New York to London those balances must be paid in gold, and your silver dollars are not worth anything but the commercial value of the bullion in them, while the gold coin and the gold bullion will pay these balances and travel all over the world.

Now, sir, suppose a state of affairs should come which would lead to the exportation of gold, what would be the inevitable result? The mass of gold now in the Treasury would be gradually drained away, how rapidly no man can tell; drained away silently, moving across the water. Suppose an alarm should be sounded that the gold will disappear from our country, and that all our standards of value were to be based upon silver which will not go abroad and will not be taken abroad, do not Senators know that that would create the most fearful contraction of the currency in this country that we have ever witnessed? The suspension of specie payment in 1837 brought this country to the very verge of bankruptcy, and because in the wild improvidence of those times they cared neither for silver nor for gold, they wanted red-dog money, paper money issued by banks all over the country. The result was that when the credit of these banks failed and their notes ceased to circulate as money and there was a demand for real money, there was no money to pay and the country was bankrupt. We can not be brought to such a position, because even if we were driven down to the silver standard we still should have a solid basis of coin to rest upon, but it would be coin worth 15 or 16 per cent. less than the par of gold.

What would be the effect of that upon all business? Laboring men who still would receive their dollar worth only 85 cents would think they were getting a dollar, while in fact they would be cheated out of the 15 per cent.; their wages would not advance so as to meet this premium, while sagacious and shrewd business men, knowing the exact relation of these moneys to each other, would make their commercial arrangements suit. They might not lose, but the men who labor, the smaller tradesmen of the country, the farmers of the country, who do not understand the mysteries of exchange, would certainly find a dollar worth only 85 cents, with a purchasing power of only 85 cents, substituted in place of the dollar of gold coin worth 100 cents on the dollar in all the markets of the world. What kind of a contraction would that be? The very moment that a gap of one half of 1 per cent. occurred between gold and silver, that moment the gold would be hoarded and exported and shipped to other countries, and that would make a sudden contraction of all that mass of money upon which our great business transactions rest.

It is this fear that excites the minds of business men, and it can not be eluded by any such reasoning as that of my honorable friend from Colorado. Business men in the world use weights and measures, not nominal coins; but weights and measures according to the values of the world. They would hoard and export and sell at a premium the gold of the country, leaving the silver to measure the ordinary transactions of life. And that would create a contraction more marked, as I said, than any other event in our history, perhaps, except the panic of 1837, when there was an entire dropping out of the whole system of paper money of the country and of all the money of the country.

Mr. President, look at the inevitable result of this thing if it should happen. The Senator says it will not happen. I hope to God it will not. It will not if Congress is wise and our people are strong. I do not think it will, because I think the strength of our country will enable us to carry more and more in the Treasury of the United States of this idle money which in an emergency is only good to sell at so much a pound. Because we are strong we are able to bear this load, but we can not go on indefinitely. If we come to the single silver standard, then a pound sterling of England's which is now $4.86 will be worth $5.56; a franc of France which is the second monetary standard of the world, instead of being a little less than 20 cents, would be

worth 23 cents. All the money arrangements of this country would be deranged by the sudden fall in the standards of value, which can not be measured except by a man shrewd and wise, a business man who studies out these decimal fractions to their last figure, while the mass of our people, believing still they have the dollar of the daddies, think they have as much purchasing power as they had in former times, but they will find they are deceived.

Mr. WILLIAMS. I should like to ask the Senator from Ohio a question for information. There is no Senator better informed on this subject than himself, and I should like him to answer me this question. According to his theory the coinage of silver will drive gold out of the country; if so, how does it happen that there is more gold in the country to-day than there was when the silver bill passed?

Mr. SHERMAN. The answer to that is very obvious, that for a number of years we have had the good fortune until the last two or three years of having the largest balance of trade in our favor probably in the history of mankind. At one time it amounted to enormous sums, and that brought gold, and nothing but gold, to pay that balance of trade. It only illustrates the argument I have made that where the balance of trade is in our favor it does not make any difference what we have for money; it is all the gold standard. When it is against us, then the gold goes off. But what was the condition of those countries which had to send us their gold in 1876, 1877, 1878, and along there? Many of those countries were brought almost to the verge of destruction when they had to send to us for food. We drained the Bank of France of gold, and at one time it appeared as if the Bank of France would totter to its fall, because it had an enormous accumulation of silver coin and the gold was steadily drained off.

Mr. WILLIAMS. Then I would ask the Senator if it would not be wisdom to wait until the balance turns against us before we venture to reverse our silver policy?

Mr. SHERMAN. Ah, it will then be too late. You must remedy these difficulties before they occur, and even before they begin to approach, because the very moment the balance of trade turns against us or some event occurs which demands enormous sums of money in a European war, or something of that kind which we cannot foresee, the drain comes. The drain comes from the gold of the country, because that is the only money that will circulate all over the world. That gold measures all values.

If we should ever come to a single silver standard we separate ourselves then from all the civilized and Christian nations of the world in our commercial transactions. Although France has a double standard like ourselves, yet she maintains with the utmost care the standard of gold, and whenever the gold begins to diminish she watches and strengthens her reserve, and so with Germany and all the powerful countries of the world; all their transactions are based upon the gold standard. If we go to the silver standard, we then recede from our association and fellowship with all these commercial nations and take our place by Japan—no; Japan is now a gold country—take our place with China and the South American republics, and we separate ourselves from the great, powerful, Christian, intelligent, and civilized nations of the world in our financial operations.

Mr. President, Senators may say to me it is easy to criticise, but what remedy do you propose, what have you to suggest. My friend from Colorado has said that we who are opposed to continuing the coinage of silver do not propose anything. Well, how foolish it would be for us to propose anything; how idle it is for the Secretary of the Treasury to say anything about it. You can not change this law, or speak of silver until a popular sentiment in this country demands it, or until some great danger which wise men like you ought to perceive threatens the country, when public opinion and the good sense of the people will compel a remedy. Therefore it would be idle for those who entertain my opinions about this matter to offer remedies until the time comes when the public mind will listen to some discussion on the subject.

My first idea is to stop the coinage of the silver dollar. The time the silver bill was proposed I happen to know, and I think my friend from Iowa [Mr. ALLISON] will bear me witness, that it was not expected then that the law would continue forever. It was not expected that this enormous accumulation of silver dollars piled up in the Treasury would be continued for all time. It was supposed a time would come when either the effect of this law would bring us back to the old ratio of 15½ or 16 to one, or else that we would adopt a new ratio, with the concurrence of foreign nations, and therefore the law introduced by the Senator from Iowa provided that while this coinage was going on we should commence an international negotiation to try and get a new ratio. Everybody felt that a new ratio was necessary. But that failed. Now, I do not know anything better than first to stop the coinage of the silver dollar and await events. The Senator from Colorado says that would create a still greater depreciation of silver. I do not believe it. I did not believe that the passage of the bill would appreciate silver, nor has it, nor do I believe the stoppage of the coinage of silver would depreciate the value of silver bullion to the miner.

I am as much bound to respect the interests and take care of and foster the people of Colorado as I am those of Ohio. I do not believe it, because the market will absorb the silver; at any rate, our owning it does not seem to prevent its depreciation, and our coining it has not stopped the slow and gradual decline. Indeed, sir, it has declined more since the passage of the law of 1878 than it has in any other period of fifty years before. So that has not helped it. I would, therefore, stop the coinage of silver.

Again, I have no objection whatever to continuing further negotiations, but I am sorry to say that I do not think this is a very hopeful project. I wish I could see it. I think that Great Britain at least has deliberately made up its mind that it will not change its coinage law, that it will treat silver simply as a subsidiary coinage and gold as the standard of value. But behind England is the enormous population of India, which absorbs more and more of silver and they still demand it. England is very much embarrassed by that question; her exchanges are constantly disturbed; her bonds and railroad securities based upon silver are constantly disappointing the expectation of the holders of those securities in England. So there is a growing feeling in that country that so far as India is concerned they are willing to negotiate, not for Great Britain but for India. They will negotiate just as Spain is negotiating for Cuba and Porto Rico and not for herself. There may be some hope with France also. The great trouble is that her silver standard is still lower than ours, 15½ to 1. To the French people the restoration of silver to its market value compared with gold would be an enormous loss. Probably the Senator does not overstate that, but they must see that the time is coming when they must meet this loss.

It may be asked what remedy do I propose. Why, sir, if I had the power I would enact this day in a law five lines long that every dollar hereafter issued from the Treasury of the United States should contain 470 or 480 grains of standard silver. I would recoin every silver dollar. What is the objection to that? It will cost us some money? No, it will not cost us any money, because we have made a nominal profit in the Treasury of the United States by buying bullion of our miners at market value and coining it at a nominal value. We have a great fund in the Treasury of the United States called the silver-coin profit fund. That silver-bullion profit fund is a fraud upon the miner. I say I would coin a silver dollar containing 470 or 480 grains. The precise market value of an ounce of standard silver, nine-tenths fine, now is one dollar and two mills. To coin a dollar weighing just one ounce troy would be to slightly underestimate silver, because that coin would be worth a little more than a dollar. I think that the silver dollar ought to be of a less value somewhat, but approaching the market value of a gold dollar, and contain from 470 to 475 grains.

That is a question which ought to be determined by a careful analysis of those values, by a careful study of the value of silver for a number of years, and even if the coin should be reduced so low as 460 grains, yet, as that approaches within 3 or 4 per cent. of the market value of silver, it would not be so objectionable. I would place it so low that the miner of this country would, when the new coinage was adopted, get more for his silver bullion than he does now. I would stake my reputation, what little I have—I would stake everything I have—that if the Government of the United would coin a silver dollar worth in market value a gold dollar, or within 2 or 3 per cent. of it, that silver dollar would be received as the silver dollar of mankind; then our silver dollar would go to China, it would go to India, it would go anywhere, because it would be measured by its market value.

Mr. ALLISON. Will the Senator allow me to ask a question?

Mr. SHERMAN. Certainly.

Mr. ALLISON. Would you then open the mints for the free coinage of silver at the ratio stated?

Mr. SHERMAN. I do not think I would, although I should not have much objection to it.

Mr. WILLIAMS. In that connection I should like to ask the Senator from Ohio a further question.

Mr. SHERMAN. I will hear the Senator.

Mr. WILLIAMS. If there is a necessity for increasing the amount of silver in a dollar to make it current, what is there to prevent the bankers and moneyed men of the world, in other words, the gold-bugs, from still discrediting it and requiring still more silver to be put into the dollar? We believe the fixed purpose of the men who advocate a monometallic system to be to discredit silver altogether and drive it out of the coinage of the world.

Mr. SHERMAN. I wish I could cure my friend from Kentucky of the idea that the bankers, or business men, or moneyed men of the world have the power to do what he supposes. They have no power over this question. The United States has no power over this question, but the United States Government is stronger than all the moneyed men of the world. The United States has tried this experiment to advance the value of silver and it has failed. No, sir; market values are mysterious qualities made up by a combination of circumstances, no man can tell how or when. If anybody could make market value he might soon become the richest man in the world or that ever was in the world. I think it could be quoted from the experience of those who have made great fortunes that when they undertook to reason merely about what the market value would be they have almost always been disappointed. Nobody can make the market value of an article that is circulated all over the world, that exists to the amount of three thousand millions of dollars of each metal. It is utterly idle. It is like the ocean, great and strong. The market value of gold and silver will seek its level, and

neither potentate nor power can change it, and the money kings are as weak as King Canute in resisting the tide.

Mr. President, the Government of the United States might do what I propose without loss. It so happens that we have bought silver in a constantly falling market from the rate I mentioned awhile ago from $1.18 an ounce fine down to $1.11, and the silver profit that we have in the Treasury is almost sufficient, yes, it is sufficient—I have had the computation made—excluding the forty-one millions outstanding and that ought to be redeemed and reissued to the full value undoubtedly—excluding this the money in the Treasury is more than sufficient to make every one of these dollars equal to the market value of gold.

Mr. INGALLS. What is the amount of that fund?

Mr. SHERMAN. I can not say without referring to the books, but I think it is twenty-odd millions. It is about 15 or 16 per cent. of the whole value. One hundred and eighty-four million dollars is the whole amount issued.

Mr. INGALLS. Fifteen per cent. of $184,000,000?

Mr. SHERMAN. Yes; that would make between twenty-five and thirty millions.

Mr. President, I would not undertake myself to fix the ratio of the gold or silver dollars, nor what market ratio it should have, whether 18 to 1 or not. That I think ought to be settled by a commission of experts. We know how it was done in times past. Alexander Hamilton, when he was called upon to pass on this very question, sent and procured the coins, both gold and silver, of all countries. They were melted in crucibles, and then he took the average as near as he could ascertain it—not he himself, but skilled experts selected by him took the average, to ascertain the relative value between these two metals, gold and silver, in actual circulation. He came to the conclusion that it was somewhere between 15 to 1 or 15½ to 1, and as it approached nearer to 15 to 1 than the other, he adopted 15 to 1 as the ratio of market value in those times. That was in 1791. In 1795 the French Government, being involved in the same difficulty, took the same method, and they ascertained that Mr. Hamilton had overvalued the silver, because there was more abrasion in the silver coin than in the gold coin used in the test.

No people in the world are more careful in scientific questions like this than the French, and they determined that 15½ ounces of silver were required to be equal to 1 ounce of gold in market value, and they adopted that standard, and that was the standard, of the world for fifty years. Up to that time it had varied in different countries. Great Britain, under the lead of Isaac Newton, in 1705 or 1706, had this same question before them. They did exactly what I propose now should be done. They paid out of the treasury of Great Britain enough money to make their defaced and worn silver coin good—equal to gold. It was believed at that time that that was the cause of riots. The people felt that they were aggrieved, and within one year after it was done Sir Isaac Newton became famous, not only for this financial operation, but for the great philosophic achievements of his mind. The history we are passing through is only the history of ages that have gone since silver was measured out to pay for the graves of Machpelah. It has gone on year by year, and these ratios have changed, and intelligent nations have adapted their coinage to the change.

Sir, I say again that if I had the power to-day to frame a law with a perfect consciousness that what I would propose would be right, I would ascertain by the best means I could the present market value of these two metals compared with each other, not as estimated by the United States or by my friend from Colorado, who deals in one of these measures, but by the sober judgment of mankind, taking the values of India and China, where coins go a great deal further than they do here, and ascertaining the exact market value of these two metals, and then open the doors of the mint and give to every silver dollar that bears the impress of the United States the weight of standard silver equal, as near as may be, in market value to 25.8 of standard gold.

It may be said they will vary. They will vary, but they will vary after we are dead and gone, as they have varied in former times. A well-considered arrangement of this kind would be acquiesced in by the civilized world. What would be the effect upon our miners? Then our silver dollar, no longer depreciated, no longer dishonored, no longer sneered at, would go everywhere at what it calls itself—a dollar, worth a dollar in gold, or in rice, or in wheat, or in the productions of any land or of any clime. Then we should not have to close the vaults of the Treasury on one hundred and forty-odd millions of silver dollars; then we should not have to buy of the miner like a miser, at the lowest market price, and sell our coin at 15 per cent. premium when we had expended three-fourths of a cent upon it.

It is said this would cost a good deal. Here the silver in our coins is already refined and reduced to the exact proportions required for coinage, and an expert tells me that all this silver could be converted into any other silver coin, containing a greater amount of silver, but of the same proportion of pure metal and alloy, for from a third to half a cent apiece, or less than that. I have no doubt the whole of this could be coined at an insignificant sum—less than we would appropriate for our posies in the Botanic Garden, or anything else.

My friend brings in all these little extravagances of Congress to illustrate his argument. I can say that for less than we expend in a single day uselessly we could pay the expense of this recoinage, and then our dollars, when paid out to our people, would be hoarded in the stockings of the country; hoarded in these little cribs, as the ancient dollar was in the olden times, when the silver in the stocking would be brought out in a time of emergency. Then our citizens, no longer fearful of the market value of this silver, would hold on to it as a sure reliance for a rainy day. They would not be so eager to carry this money to the savings banks and to other depositories where it may be wasted and lost. They would accumulate it in their own treasury, and it would be far safer in their hands than in the Treasury of the United States.

Mr. President, I think I have said all that it is necessary to say. The advantages of this system would be that we should have a sure market for all our silver. It would go abroad everywhere, and the very fact that the United States had openly and aboveboard weighed the scale between these two metals after advising with French scientists, if you please, and all kinds of people, after having conferred with Great Britain, if you please, as to what is best for India, we might make the coin of the world. I hope to live long enough to see the day when the silver dollar of the United States, improved just as our fathers would have improved it, made equal in value to gold, will travel side by side with our eagle and our double eagle, the standard of all the commercial countries of the world. I believe the result of this would be to give to our miners a better market for their silver. It would no longer be a hooted-at metal, pushed upon an unwilling people at less than its value; it would be exported, made available for foreign as well as domestic commerce. Another thing it would do, it would compel other nations to conform to our standard.

England coins her fractional silver far below its value, much more below its value than we do ours. France coins hers at much below its value. All the European nations do it, but by a kind of arrangement or treaty stipulation between them, they maintain the credit of their respective coins by redeeming them just as we maintain the credit of the standard dollar by redeeming it. But that does not relieve us from the difficulty when evil times come upon us that this money in our Treasury is simply hoarded bullion and can not now be exported. Then it would be exported and our silver money would float in every country in Europe where silver is greatly desired and greatly liked. In France itself, where silver has been the chief coin among the people, it is now beginning to be a little under color, because of its known depreciation.

Our silver dollars, if brought up to the market standard, would replace the silver of France, and they would be compelled by the law of self-preservation to make their coin something equivalent to the gold standard. So that effect would be produced.

Now, sir, I must say to my friend from Colorado—he may sneer at those who have my views on the subject of silver—that I am in every fiber of my body a bimetallist. I think that the attempt to establish gold alone as the monetary standard of the world would bring destruction upon millions and hundreds of millions of people; but to be bimetallists we must make our metals equal in market value. A man is not a bimetallist who would coin either at less than its market value and try to palm it off on his people for more than its market value. Put these two metals on their legs side by side with each other, measured by the judgment of mankind as to their market value, and I believe during the life of the longest liver of all who hear me, they will be regarded as the equivalent of each other; they will be bimetallic money in the broad sense of the term, and the United States will have had the honor of relieving the whole world of a difficulty that now agitates cabinets, countries, poor and rich, in all parts of the civilized and even of the savage world.

Mr. ALLISON. Mr. President, I had no expectation that this question would come before the Senate to-day, but I regard it as the most important question that has appeared or can appear during this term, and I desire to say a few words with reference to the present situation, and especially do I desire to present my own views upon one topic mentioned by the Senator from Ohio.

The Senator from Ohio says that the coinage act of 1878 was intended as an experiment. It was intended as an experiment in one sense, but the Senators and the men who intelligently considered that bill predicted at the time of its passage what would be the effect of it. It was not supposed then that the coinage of the silver dollar of 412½ grains would go on continuously. We all knew perfectly well that if it went on to an unlimited extent indefinitely the effect of it would be in time to make ours a silver country with respect to the standard of value. But we believed that if a sincere effort were made to secure an international relation between the two metals the effect would be to bring about the coinage of silver and gold at a par with each other within a reasonable time, and I remember perfectly well when that bill was under consideration in the Senate I had the honor to make a few remarks upon it, in which I said, as I say now, that the mistake we made was in coining a dollar of 412½ grains. We did that then in pursuance of a sentiment, which sentiment had grown up in this country, that the prohibition of the coinage of silver was surreptitiously passed through the two Houses of Congress, and the people cried for the 412½-grain

dollar and the House was in favor of that dollar. If we had coined a dollar of 400 grains and placed ourselves in relation with the rest of mankind upon silver we should by this time have had silver and gold at a par with each other.

The Senator from Ohio says that silver has been gradually depreciating in value for centuries. In 1873 when we ceased the coinage of silver it was 3 per cent. in value higher than gold in this country. Why? It was because we were then coining a 412½-grain dollar when France was coining a 400-grain dollar and the two were at par with each other; and this parity would have existed for all time between the gold and silver in this country. Why? Because our dollars of 412½ grains could be shipped to France and sold to their mints that were then coining free at 400 grains, and a profit of 3 per cent. would have been made.

It was not a natural cause that brought about the fall of silver in 1873. It was because Germany changed her standard from silver to gold, and publicly proclaimed that she would sell every dollar of silver in the hands of her people as fast as it could be redeemed at her mints or in her treasury, and she compelled the Latin Union, of which France formed a conspicuous part, to cease the coinage of silver free, as it had been coined for nearly a century before. That was the reason of the depreciation of silver.

The Senator from Ohio talks about the market value of silver. That is a mere surface view of the question. What is it that makes market value? It is the cost of production and use. The use of silver constitutes one of the chief elements of its market value. Let the mints of France and of Italy and of Germany, if you please, be opened to the free coinage of silver as well as the mints of the United States, and if we have a common standard the parity of value between silver and gold will at once be restored, as it existed for more than seventy years on the continent, from 1793 to 1871. Therefore, this question is an international question, and it can not be made anything else.

As to the Senator's idea that we can coin a 470-grain dollar or a 480-grain dollar, I asked the Senator from Ohio if he would open our mints to the free coinage of silver at that ratio. He said he would be perfectly willing to do it. What would be the effect of that? Germany would at once unload all the silver she has into the United States, and we should be coining 480-grain dollars, and would more rapidly come to a silver standard than we can possibly come with a restricted coinage of $28,000,000 per annum.

Every country in the world that has any silver in circulation, except the United States and Mexico, has it at the ratio of 15½ to 1. According to the report of the Director of the Mint which I have in my hand (I glanced at it) there are $550,000,000 in France to-day circulating at a ratio worth 3 cents less upon the dollar than our own. There are in circulation a thousand million dollars of silver, the rupees of India, coined by the mints of Great Britain, where they have free coinage of silver to-day in India, a thousand million dollars of it at the ratio of 15½ to 1. There are nearly $200,000,000 of coin to-day in Germany; and, although its circulation was interdicted in 1873, the German Government has never taken in these coins, and they are circulated there, between $150,000,000 and $200,000,000 of them, to-day at the rate of 15½ to 1, 3 per cent. less than our own, and they are a full legal tender in Germany for every debt due to every citizen of Germany; and so it is in France.

Mr. MORRILL. They are limited.

Mr. SHERMAN. They are limited in amount.

Mr. ALLISON. Undoubtedly they are limited in amount, but they have nearly as much silver in Germany to-day, although in 1873 they declared that the treasury should take in those German coins and coin marks instead, and do it upon a scale of so much per capita. Yet Germany has never done that. Why? Because her people are in hostility to the single standard of gold, and after selling $100,000,000 or $150,000,000 of her silver she ceased drawing in her silver. As those who have traveled in Germany know perfectly well, the German silver coins are there to-day in circulation and are a full legal tender. So it is in France.

Now, just when we are to cease coining silver is a question that we ought to consider. It is an important question, affecting all the people of this country and all our interests. I do not know but that we ought to do it this year; I do not know but that we ought to do it next year; but one thing we ought to do first in my judgment, and that is; make an honest, a sincere, and a persistent effort to see whether we can not come into relations with other governments with reference to this great question, in which they are interested as much as we are, save and except that they do not mine silver as we do. Has such effort been made? I do not know but that it has; and I do not know that it has. I have traced in vain the diplomatic correspondence upon this question, to ascertain whether our minister to Great Britain, our minister to France, our minister to Germany, have been instructed to see whether a common ratio could not be agreed upon. But even when we sent our distinguished representatives abroad for the special purpose, they were confronted at once with the question, what should be the ratio? They said they were not authorized to make any other ratio except that which was adopted by the Congress of the United States, namely, 16 to 1. What was the response of France and Italy? It was that they could not consider any other ratio except that of 15½ to 1, because they had $900,000,000 or $1,000,000,000 at that ratio. There was the difficulty met at the very threshold of the negotiation.

Now is the Congress of the United States ready to follow the Senator from Ohio in fixing a new ratio? If it is, then the diplomatic representatives of this country can say to foreign governments, we are ready to coin the silver dollar upon the ratio of 18 to 1, or 19 to 1, or 15½ to 1, and then we can see how much progress we can make in this international negotiation.

The Government of the United States can not continue to coin silver indefinitely without coming to a silver standard. No single nation can do it. Therefore this matter must be settled in the end by diplomatic arrangements with a sufficient number of countries who will make silver and gold at some ratio upon a par with each other.

That is all I desire to say upon this subject at this moment. I believe myself that the only way to secure international agreement is to adopt the ratio of 15½ to 1 and recoin our own dollars upon that basis; because I am perfectly sure, as the Senator from Colorado has said, that the governments abroad will not entertain the idea of paying out of their treasuries from $150,000,000 to $200,000,000 for the purpose of fixing a different ratio between gold and silver. I am very certain that Great Britain would not consent to a recoinage of a thousand million silver dollars in India upon a basis which would contemplate the loss of 10 per cent. or 15 per cent. of that thousand million. More certainly France would not do it, nor would Germany.

Mr. President, I did not expect to take part in this debate. I express no opinion now as to when I shall be willing to stop the coinage of silver. I may be willing to do it at this session if it is a practical question, because, whether we continue to coin silver or not, the only way to fix the relative standard of value of these metals is by international arrangement at most. So whatever we do must be done tentatively and for the moment, regarding our own interests for the time being. I believe it is our interest to make an honest and sincere endeavor to secure an arrangement with other countries with relation to the coinage of both silver and gold upon some parity of value.

Mr. BECK. Mr. President——

Mr. COCKRELL. Will the Senator yield for a motion to adjourn?

Mr. BECK. I will yield the floor in a minute. I do not propose to make a speech now, of course, but I desire, in connection with the remarks made by the Senator from Iowa [Mr. ALLISON], to say that this matter should be fully and fairly discussed at a very early day, and it should be opened up broadly, as it has been by the debate which has just taken place. I expect to show, and I think I can, that the silver dollar or the silver coinage of this country has never been treated by the administration, or any member of it, with anything like reasonable fairness, and that the reason why silver is to-day depressed as much as it is grows out of the hostility of our own Government, and no man has evinced that hostility more absolutely than the Senator from Ohio from his high place as Secretary of the Treasury. He was required by law and pledged himself, as he called it, to pay out all the coins received at the custom-house upon the interest of the public debt, and he made a report to this body in which he said that, although silver coin was paid to him as Secretary of the Treasury for customs dues and he was obliged to take it, he had never paid one dollar of it to a creditor of the United States as interest on the public debt, though the law required him to do it, but he had made an earnest effort all the time to depreciate it. He made the same speech that he made to-day—and I will read it the first time the question comes up—in regard to the coinage of the trade-dollar that he was going to float all over the world with "In God we trust" instead of the eagle or buzzard or anything else, to use his own expression, and it was to go as American coin everywhere; and yet he has been the worst enemy of that dollar ever since.

To-day we have only $194,000,000 of public debt that we can by possibility pay without going into market and buying bonds at any premium anybody may ask before 1891. That will all be paid in less than two years at the present rate of taxation, and no gentleman on the other side of the Chamber seems disposed to disturb that rate. The banks to-day hold $155,000,000 of that $194,000,000 as security for their circulation and have $136,000,000 of that circulation based upon those bonds. They tell us, and the Comptroller of the Currency tells us, that the charters of seven hundred and eighty-six banks will expire during the next year, nine-tenths of them before the 1st of July, with a capital of over $200,000,000 and a circulation of over $140,000,000. He tells us too that the banks retired their circulation to the extent of twenty-four and a half million dollars last year, and that the contraction will be $40,000,000 a year from this time on unless we change our laws. These are your official reports. Of course the very moment the United States becomes the purchaser of bonds and has to pay the premium that anybody desires, the banks will sell the fours and four-and-a-halfs they have and pocket the premium and withdraw their circulation, because they can carry on their banking organization with only $80,000,000 under the law we passed two years ago. So says the Comptroller, so says the Secretary of the Treasury; and the Senator from Ohio seeks now in the face of facts like these to destroy every substitute, and leave us at the mercy of a body of national banks who we are told must necessarily contract their currency $40,000,000 a year and have already contracted it $24,500,000 in the year just gone by.

Mr. SHERMAN. Mr. President——

Mr. BECK. The history of this—let me read before you interrupt——

Mr. SHERMAN. I should like to have——

The PRESIDENT *pro tempore*. The Senator from Kentucky declines to yield.

Mr. BECK. I will yield in one second. I ask the Senator to listen to this. This is my opinion. The whole history of the silver question is written up thoroughly and well in the Croker papers. The memoirs will be found in the Library. I hope the Senator from Ohio will read them. In speaking of the Duke of Wellington, Mr. Croker said:

What amused the Duke of Wellington most was the "boldness" of Talleyrand's duplicity. "Would you believe it that at Erfurt, when Bonaparte met the Emperor of Russia to persuade him to join in overwhelming Austria, Talleyrand, the minister for foreign affairs, who all day long labored under Bonaparte's vigilant eye to carry this object, used to visit Alexander secretly at night, and furnish him with every argument, reason, or pretense which he could discover or invent against Bonaparte's plan?" This, he said, was told him not only by Talleyrand himself, but also by "the Princess of Tour and Taxis," at whose house these private meetings took place."

That has been the history of the treatment of silver from the day that we ordered it to be remonetized. We have pretended to negotiate——

Mr. SHERMAN. I hope now my friend from Kentucky will allow me to interrupt him.

The PRESIDENT *pro tempore*. Does the Senator from Kentucky yield?

Mr. BECK. Yes, sir.

Mr. SHERMAN. Where have I ever said anything against the silver certificate? Where have I said anything against the silver dollar, except to make it good? On the contrary, if I may be allowed to claim any credit for it, I claim to have done as much as any one could possibly do to keep the silver certificate in circulation. I believe that a gold and silver certificate is the best form of paper money that was ever devised. I hope, therefore, the Senator will——

Mr. BECK. I hope when this discussion comes up again I shall show from report after report of the distinguished gentleman as Secretary of the Treasury that he has denied that we had a right to pay our creditors in the silver coin of the country——

Mr. SHERMAN. Ah!

Mr. BECK. Although the act of July required, and it was written upon the face of the bonds, that it was to be paid in the coin of the country, which embraced both gold and silver of the standard value of that day.

Mr. SHERMAN. What was the date of that act?

Mr. BECK. If that was not hostility to silver, I do not know what was. Now, let me ask the Senator——

Mr. SHERMAN. I ask the date of that act.

Mr. BECK. Why did he fail to comply with the law, and pay the silver dollar received for customs dues, as the laws required him, on the interest of the public debt?

Mr. SHERMAN. To what act does the Senator refer?

Mr. BECK. The act of July 14, 1870, and the act of February 25, 1862, which pledged all the coin received from customs first to the payment of interest and then to the setting apart of a sinking fund. Did he ever pay a dollar received at the custom-house——

Mr. SHERMAN. The act to which the Senator referred by date a moment ago was passed a year or two after I ceased to be Secretary, and I have not had a chance to pay out any, except what I received as my salary.

Mr. BECK. The law remained unchanged and the Senator remained Secretary, and he refused to pay in obedience to law the silver coin received at the custom-house, though the law required him to do it.

Mr. SHERMAN. What law?

Mr. BECK. And it could have been done for no other purpose except to keep it out of the hands of men whose interest it would be to circulate it and make it good, and to keep it in the Treasury and raise the clamor that nobody would take it, when he would not pay it to anybody who was obliged to take it.

Mr. SHERMAN. On the contrary, the law required that to be done which was done. The Senator can certainly tell me——

Mr. BECK. I will get the Revised Statutes and read the very fundamental law which has been regarded all the time as the law that prohibits us from taking greenbacks——

Mr. SHERMAN. My impression is that there was no express law requiring the payment of silver certificates and silver coin on the interest of the public debt until after I ceased to hold the office.

Mr. BECK. I beg pardon. I will find it in a moment, I think.

Mr. SAWYER. Will the Senator give way for a motion to adjourn?

Mr. BECK. Yes, I will, and find it in the morning.

Mr. SAWYER. The Senator from Kentucky gives way, and I move that the Senate adjourn.

The PRESIDENT *pro tempore*. Does the Senator from Kentucky yield to the Senator from Wisconsin?

Mr. BECK. Yes; I give way.

Mr. SAWYER. I move that the Senate adjourn.

Mr. HARRISON. Mr. President——

ADMISSION OF DAKOTA.

The PRESIDENT *pro tempore*. Pursuant to the understanding, as the Chair is informed, the Chair lays before the Senate the regular order, being the Dakota bill.

Mr. HARRISON. Will the Senator from Wisconsin allow me to make a statement?

Mr. SAWYER. Certainly.

Mr. HARRISON. To-morrow I shall ask the Senate to conclude the consideration of the Dakota bill. It has been dragging along nominally before the Senate for some days, but I think not four hours have been consumed upon the bill. I shall ask to-morrow at 2 o'clock that it be proceeded with without interruption until it is disposed of.

Mr. SAWYER. I renew my motion to adjourn.

The PRESIDENT *pro tempore*. The Senator from Wisconsin moves that the Senate do now adjourn.

The motion was agreed to; and (at 5 o'clock and 10 minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, *December* 15, 1884.

The House met at 12 o'clock m. Prayer by the Chaplain, Rev. JOHN S. LINDSAY, D. D.

The Journal of the proceedings of Friday last was read and approved.

CONTINGENT FUND OF THE STATE DEPARTMENT.

The SPEAKER laid before the House a letter from the Secretary of State, transmitting statement of the expenditures of the contingent fund of the State Department for the year ending June 30, 1884; which was referred to the Committee on Expenditures in the State Department, and ordered to be printed.

RIGHT OF WAY THROUGH DEVIL'S LAKE RESERVATION.

The SPEAKER also laid before the House a letter from the Acting Secretary of the Interior, transmitting a report from the Commissioner of Indian Affairs, with accompanying papers, recommending the passage of a bill granting the right of way to the Jamestown and Northern Railway Company through the Devil's Lake Indian reservation, Dakota; which was referred to the Committee on Indian Affairs, and ordered to be printed.

POSTAL-CAR SERVICE, ETC.

The SPEAKER also laid before the House a letter from the Secretary of the Treasury, transmitting estimates from the Postmaster-General of $100,000 for postal-car service, and $75,000 for pay of the clerks in post-offices, to supply deficiencies in the appropriations for the current fiscal year; which was referred to the Committee on Appropriations, and ordered to be printed.

COST OF COLLECTING CUSTOMS REVENUE.

The SPEAKER also laid before the House a letter from the Secretary of the Treasury, transmitting estimates of the cost of collecting the revenue at each port of entry in the United States for the fiscal year ending June 30, 1886; which was referred to the Committee on Appropriations, and ordered to be printed.

FRANK W. LYNN.

Mr. DUNN, by unanimous consent, submitted the following resolution; which was read, and referred to the Committee on Accounts:

Resolved, That the Clerk of the House be directed to pay out of the contingent fund of the House to the widow of Frank W. Lynn, late an employé of the House, a sum equal to his salary for six months, and also the necessary funeral expenses, not to exceed $250.

O. W. STREETER.

Mr. WHITE, of Minnesota. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (S. 1821) authorizing the Secretary of the Interior to examine and adjust the claim of O. W. Streeter for moneys expended and services performed in taking the census of Dakota in 1860, and put the same on its passage.

The SPEAKER. The bill will be read, subject to objection.

The bill was read at length.

Mr. GEORGE D. WISE. I call for the reading of the report accompanying that bill.

The SPEAKER. There is no report, the Chair is informed, accompanying this bill, it being a Senate bill on the Speaker's table.

Mr. HOLMAN. I think that had better go to the Committee on the Census.

The SPEAKER. The Chair must recognize the gentleman from Indiana as objecting to the present consideration of the bill. If there be no objection the bill will be taken from the Speaker's table and referred as indicated by him.

Mr. SPRINGER. I ask unanimous consent for the present consideration of a resolution which I send to the desk.

Mr. WHITE, of Minnesota. Mr. Speaker, this bill, I will say to the gentleman from Indiana, has already been reported unanimously by a committee of this House.

Mr. BROWN, of Pennsylvania. The Committee on Claims have reported it.

The SPEAKER. The Chair was informed that there was no report accompanying the bill.

Mr. WHITE, of Minnesota. There is a report accompanying the House bill.

Mr. GEORGE D. WISE. I ask for the reading of the report.

Mr. HOLMAN. If this has been passed upon by the Committee of Claims of this House, which is also a proper committee to consider this subject as well as the Census Committee, I ask for the reading of that report, and I presume it will be found to justify the action sought by the gentleman from Minnesota.

The SPEAKER. The report accompanying the House bill will be read.

The report was read at length.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. STOCKSLAGER. It seems to me that this man has waited a long time before presenting his claim, and as this covers quite a large sum of money, I would therefore like to hear some explanation with reference to the matter before action is taken upon it.

Mr. WHITE, of Minnesota. There is no sum of money appropriated except such sum as the Secretary of the Interior shall find to be due to this man for the services performed.

Mr. STOCKSLAGER. Why has action upon it been so long delayed?

Mr. WHITE, of Minnesota. If the gentleman from Indiana had observed the reading of the report he would have seen that there were many reasons which necessitated it. The report was made to the Census Bureau in 1860. The claimant shows further that his vouchers and receipts were destroyed by fire in 1862, and also that his going into the war prevented him from presenting his claim where only he could get relief for several years afterward. The delay in prosecuting the claim seems rather to have been his misfortune, and not his fault. It has been pending in the House of Representatives ever since the second session of the Forty-third Congress.

Mr. GEORGE D. WISE. I demand the regular order.

The SPEAKER. The regular order having been demanded, is equivalent to an objection.

This being Monday, the regular order is the call of States and Territories for the introduction of bills and joint resolutions for printing and reference to appropriate committees.

Mr. ADAMS, of Illinois. I will ask the gentleman to withdraw his call for the regular order and simply object, if he desires to do so, to the bill called up by the gentleman from Minnesota, in order that I can get a bill referred to a committee, which I have been trying to do for some time.

Mr. GEORGE D. WISE. I will withdraw the demand for that purpose.

The SPEAKER. Does the gentleman withdraw his objection to the bill of the gentleman from Minnesota? If the demand for the regular order is withdrawn simply, that bill is now before the House for consideration.

Mr. GEORGE D. WISE. I object to that bill.

The SPEAKER. Does the gentleman withdraw his demand for the regular order?

Mr. GEORGE D. WISE. I do.

Mr. SPRINGER. Then I believe that I am entitled to recognition for the purpose of offering a resolution.

The SPEAKER. The Chair will recognize the gentleman from Illinois.

PAY OF HOUSE AND SENATE EMPLOYÉS.

Mr. SPRINGER. I ask unanimous consent to submit now for immediate consideration the joint resolution which I send to the desk.

The SPEAKER. The joint resolution will be read, subject to objection.

The Clerk read as follows:

Resolved by the Senate and House of Representatives, &c., That the Secretary of the Senate and the Clerk of the House of Representatives be, and they are hereby, authorized and instructed to pay the officers and employés of the Senate and House of Representatives their respective salaries for the month of December, 1884, on the 20th day of said month.

The SPEAKER. Is there objection to the present consideration of the joint resolution?

There was no objection.

The joint resolution (H. Res. 300) to pay the officers and employés of the Senate and House of Representatives their respective salaries for the month of December, 1884, on the 20th day of said month, was read a first and second time, ordered to be engrossed for a third reading, read the third time, and passed.

Mr. SPRINGER moved to reconsider the vote by which the joint resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

CHICAGO COMMERCIAL NATIONAL BANK.

Mr. ADAMS, of Illinois. I ask unanimous consent to take from the Speaker's table for reference to the Committee on Banking and Currency the bill (S. 2375) to authorize the increase of the capital stock of the Commercial National Bank of Chicago.

There being no objection, the bill was taken from the Speaker's table, read a first and second time, referred to the Committee on Banking and Currency, and ordered to be printed.

ASSISTANT FILE CLERK.

Mr. ERMENTROUT, by unanimous consent, submitted the following resolution; which was read, and referred to the Committee on Accounts:

Resolved, That the Clerk of the House be authorized to continue in the service of the House during the remainder of the session the assistant file clerk appointed under resolution of March 3, 1881, and pay him out of the contingent fund of the House the same salary heretofore allowed.

GULF AND CHICAGO AIR-LINE RAILROAD.

Mr. OATES. I ask unanimous consent to take from the Speaker's table for present consideration the bill (S. 1909) granting the right of way over the public lands in Alabama to the Gulf and Chicago Air-Line Company and for other purposes.

The bill was read.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. WARNER, of Ohio. I do not object to the bill. But I will say that no railroad in the world needs 200 feet in width as a right of way; and if the land is worth anything it ought not to be granted.

The SPEAKER. The bill is not yet before the House. Is there objection to its present consideration?

Mr. COBB. I object, and move that it be referred to the Committee on Public Lands.

Mr. OATES. I ask but one minute to give an explanation of the bill. I think there is no necessity for referring it.

The SPEAKER. If there be no objection, the gentleman from Alabama may make a brief statement.

There was no objection.

Mr. OATES. What this bill gives to the railroad company is nothing more than they can get under the general statute except the right to take from the adjacent public lands such necessary timber and stone as they might see proper to use in the construction of the road. The general statutes give them the right of way 100 feet on either side; so that the objection interposed by the gentleman from Ohio [Mr. WARNER] is one that would go to the repeal of the Revised Statutes in this regard. This in every particular as to the right of way corresponds to what would be given by the general statute, except in the particular I have mentioned; and as a compensation for that the bill obligates this company to carry for the Government mails, troops, munitions of war, &c., which it would not be obliged to do if it obtained a right of way under the general statute.

The SPEAKER. The gentleman from Indiana [Mr. COBB] objects to the present consideration of the bill and asks that it be referred to the Committee on Public Lands.

Mr. OATES. Very well; let it be so referred.

The bill was taken from the Speaker's table, read a first and second time, referred to the Committee on the Public Lands, and ordered to be printed.

FRENCH AND AMERICAN MEDALS.

Mr. COX, of New York. I ask unanimous consent to take up for present consideration a small Senate bill which involves only $75 and some medals. I ask this at the request of certain Senators, and desire that the bill shall be put upon its passage.

The bill was read, as follows:

A bill (S. 2402) authorizing the Secretary of State to procure duplicates of certain French and American medals.

Be it enacted, &c., That the sum of $75 be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, to enable the Secretary of State to procure duplicates of certain French and American medals presented to Congress by George W. Erving for the use of the National Library A. D. 1822, which, being shipwrecked and lost, were replaced by Mr. Erving, and which were destroyed by the fire in the Library in 1851.

Mr. JOSEPH D. TAYLOR objected, but subsequently withdrew his objection.

There being no further objection, the bill was taken from the Speaker's table, read three times, and passed.

Mr. COX, of New York, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

Mr. WILKINS. I call for the regular order.

The SPEAKER. This being Monday, the first business in order is the call of States and Territories for the introduction of bills and joint resolutions.

JAMES M'PETERS.

Mr. PRYOR (by request) introduced a bill (H. R. 7682) for the relief of James McPeters for property taken by, and for the use of, the United States Army during the rebellion; which was read a first and second

time, referred to the Committee on War Claims, and ordered to be printed.

STEPHEN J. MATTHEWS.

Mr. PRYOR (by request) also introduced a bill (H. R. 7683) for the relief of Stephen J. Matthews for stores and supplies taken by and for the use of the United States Army during the rebellion; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

REUBEN COPELAND.

Mr. PRYOR (by request) also introduced a bill (H. R. 7684) for the relief of Reuben Copeland for stores and supplies taken by and for the use of the United States Army during the rebellion; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

MRS. ELIZABETH ANN PORTER.

Mr. HEWITT, of Alabama (by request), introduced a bill (H. R. 7685) granting an increase of pension to Mrs. Elizabeth Ann Porter, widow of the late Commodore William D. Porter, United States Navy; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

FORFEITURE OF RAILROAD LAND GRANTS.

Mr. OATES introduced a bill (H. R. 7686) to declare forfeited to the United States all lands granted by act of Congress to aid in the construction of any railroad which have not been earned by the grantees, and to provide for the adjudication of controversies in relation thereto; which was read a first and second time, referred to the Committee on the Public Lands, and ordered to be printed.

ADAM HARDIN.

Mr. OATES also introduced a bill (H. R. 7687) for the relief of Adam Hardin, a citizen of Lee County, Alabama; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

HOT SPRINGS RESERVATION.

Mr. ROGERS, of Arkansas, introduced a bill (H. R. 7688) to regulate the Hot Springs reservation, in the State of Arkansas; which was read a first and second time, referred to the Committee on the Public Lands, and ordered to be printed.

IMPROVEMENT OF HOT SPRINGS CREEK.

Mr. ROGERS, of Arkansas, also introduced a bill (H. R. 7689) making appropriation to complete the improvement of Hot Springs Creek, in Arkansas; which was read a first and second time, referred to the Committee on the Public Lands, and ordered to be printed.

J. H. T. MAIN.

Mr. ROGERS, of Arkansas, also introduced a bill (H. R. 7690) for the relief of J. H. T. Main; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

KANSAS CITY, ARKANSAS AND FORT SMITH RAILROAD.

Mr. PEEL introduced a bill (H. R. 7691) to grant to the Kansas City, Arkansas and Fort Smith Railroad Company a right of way through the Indian Territory, and for other purposes; which was read a first and second time, referred to the Committee on Indian Affairs, and ordered to be printed.

MERVIN J. SMITH.

Mr. CLEMENTS (by request) introduced a bill (H. R. 7692) for the relief of Mervin J. Smith; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

DILLARD M. YOUNG.

Mr. CLEMENTS also introduced a bill (H. R. 7693) for the relief of Dillard M. Young; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

ESTATE OF ALLEN BLACK.

Mr. HARDEMAN (by request) introduced a bill (H. R. 7694) for the relief of the estate of Allen Black, deceased; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

MRS. SARAH M'DONNELL.

Mr. DAVIS, of Illinois, introduced a bill (H. R. 7695) granting a pension to Mrs. Sarah McDonnell, widow of Hugh McDonnell, late sergeant Company H, Second United States Artillery; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

THOMAS D. FITCH.

Mr. DAVIS, of Illinois, also introduced a bill (H. R. 7696) granting a pension to Thomas D. Fitch, late surgeon Forty-second Regiment Illinois Volunteer Infantry; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

MOSES M. BANE.

Mr. CANNON introduced a bill (H. R. 7697) for the relief of Moses M. Bane, receiver of public moneys in Utah; which was read a first and second time, referred to the Committee on Claims, and ordered to be printed.

MARQUIS D. DAVIS.

Mr. TOWNSHEND introduced a bill (H. R. 7698) for the relief of Marquis D. Davis; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

HEIRS OF MANNING HARRIS.

Mr. RIGGS (by request) introduced a bill (H. R. 7699) for the relief of Thomas J. Harris and others; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

CHARLES P. JUDD.

Mr. ROWELL introduced a bill (H. R. 7700) for the relief of Charles P. Judd; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JOHN H. DEXTER.

Mr. KLEINER introduced a bill (H. R. 7701) for the relief of John H. Dexter, of Evansville, Ind.; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

JAMES A. HANGER.

Mr. MATSON introduced a bill (H. R. 7702) for the relief of James A. Hanger; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

ALLEN S. THATCHER.

Mr. MATSON also introduced a bill (H. R. 7703) for the relief of Allen S. Thatcher; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

ALTHEA A. FRASNER.

Mr. WARD introduced a bill (H. R. 7704) granting a pension to Althea A. Frasner, widow of Milton Frasner; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

CAROLINE PARISH.

Mr. COBB introduced a bill (H. R. 7705) for the relief of Caroline Parish; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

PEOPLE'S NATIONAL BANK OF INDIANA.

Mr. HOLMAN introduced a bill (H. R. 7706) to authorize the Secretary of the Treasury to issue a duplicate certificate to the People's National Bank of Indiana; which was read a first and second time, referred to the Committee on Ways and Means, and ordered to be printed.

FRENCH AND AMERICAN CLAIMS COMMISSION.

Mr. HOLMAN submitted the following resolution; which was referred to the Committee on Foreign Affairs:

Whereas this House, by resolution of the 7th day of June, 1884, requested the Secretary of State to inform this House of the mode and manner, in detail, of the expenditure of the amounts appropriated by Congress for the expenses of the French and American Claims Commission, stating when, where, to what persons, and for what purposes the moneys so appropriated had been paid, and also what amounts had been paid by the French Government for the expenses of said commission; and

Whereas on the 25th day of June, 1884, there was laid before this House a message from the President of the United States, transmitting a report from the Secretary of State inclosing a statement of the expenditures of said commission under general headings, without stating the details of said expenditures, and without any statement as to the times when, places where, and persons to whom the moneys appropriated had been paid, as was required by the said resolution: Therefore,

Be it resolved, That the Secretary of State be directed to inform this House of the mode and manner, in full detail, of the expenditure of the sums, amounting in all to $325,000, appropriated by Congress for the expenses of said French and American Claims Commission, stating specifically when, where, to what persons, and for what purposes the moneys so appropriated have been paid, giving in each case the date and amount of the payment, the name of the person to whom such amount was paid, and the object for which the payment was made; and also whether the officers of said commission, or any of them, continued in the exercise of their functions after the date fixed by treaty for the conclusion of such commission, and of the labors thereof; and, if so, how long and by what authority of law they so continued, what services they performed, and what payments were made them for the same.

Mr. HOLMAN also submitted the following resolution; which was referred to the Committee on Foreign Affairs:

Be it resolved by the House of Representatives, That the President be, and he is hereby, requested to furnish to this House, if not incompatible with the public service, a copy of all correspondence had with the Government of France in relation to the French and American Claims Commission, since the 23d day of November, 1881, the date of the first meeting of said commission, up to the present time.

Second. Also a copy of the communication or communications made by the two remaining commissioners to the Secretary of State on the resignation of Mr. L. de Geofroy, July 11, 1881, the date when he withdrew as commissioner on the part of the French Republic, and the 15th day of October following, in relation to the resignation of said commissioner; and a copy of the correspondence between the two governments relating to the same subject, and of the notice of the Government of France reappointing said commissioner.

Third. Also a statement giving the name and number of each and every claim which was withdrawn by the agent of either government after the same had been duly filed before said commission, and the reasons for such withdrawal and a copy of all correspondence between the two governments relating thereto.

Fourth. Also a copy of all reports or other communications made by the American commissioner, Hon. A. O. Aldis, to the Secretary of State relating to the busi-

ness of said commission or to any matter or thing pending before said commission from the 23d day of November, 1881 to the present date.

Fifth. And also a copy of the reports or other communications pertaining to the French and American Claims Commission or any matter pending therein made by Hon. George S. Boutwell, the agent and counsel for the United States, to the Secretary of State from the 23d day of November, 1881, to the present date. Also, a copy of the correspondence between the two governments relating to the recall of said Mr. L. de Geofroy, and the appointment and substitution by the Government of France of Mr. Alexis Albert Lafarve as commissioner on or about May 22, 1883.

SPEECHES NOT DELIVERED.

Mr. HOLMAN also submitted the following resolution; which was referred to the Committee on the Rules:

Resolved, That there be added to the rules of the House the following, namely:

RULE XLVII.

All speeches not delivered in the House but authorized to be printed in the RECORD shall be subject to and regulated by the rules governing debate; and the Speaker is charged with enforcement of this rule.

HOLDEN COOK.

Mr. FUNSTON introduced a bill (H. R. 7707) to pension Holden Cook; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

WILLIAM THOMPSON.

Mr. MORRILL introduced a bill (H. R. 7708) granting a pension to William Thompson for services in the Black Hawk war; which was read a first and second time, referred to the Committee on Pensions, and ordered to be printed.

LOUISA A. ESTES.

Mr. MORRILL also introduced a bill (H. R. 7709) granting a pension to Louisa A. Estes; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

SAMUEL V. HALLAND.

Mr. HALSELL introduced a bill (H. R. 7710) granting a pension to Samuel V. Halland; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

EXPOSITION, LOUISVILLE, KY.

Mr. WILLIS introduced a bill (H. R. 7711) to encourage the holding of a national agricultural, horticultural, mineral, timber, and live-stock exhibition at Louisville under the auspices of the Southern Exposition Company and the Department of Agriculture of the United States Government; which was read a first and second time, referred to the Committee on Agriculture, and ordered to be printed.

ELLEN RAY.

Mr. TURNER, of Kentucky (by request), introduced a bill (H. R. 7712) for the benefit of Ellen Ray; which was read a first and second time, referred to the Committee on Pensions, and ordered to be printed.

COMPENSATION FOR EXTRA WORK.

Mr. ELLIS (by request) introduced a bill (H. R. 7713) authorizing the Secretary of the Treasury to compensate clerks and employés for extra work performed in the exchange of bonds in the Departments; which was read a first and second time, referred to the Committee on Appropriations, and ordered to be printed.

RED RIVER COMMISSION.

Mr. BLANCHARD introduced a bill (H. R. 7714) to provide for the creation of the Red River commission, and for other purposes; which was read a first and second time, referred to the Committee on Rivers and Harbors, and ordered to be printed.

CHARLES E. BOLLES.

Mr. DAVIS, of Massachusetts, introduced a bill (H. R. 7715) granting a pension to Charles E. Bolles, Vineyard Haven, Mass.; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

ANACOSTIA AND POTOMAC RIVER RAILROAD.

Mr. ELDREDGE introduced a bill (H. R. 7716) to amend the act giving approval and sanction of Congress to the route and termini of the Anacostia and Potomac River Railroad in the District of Columbia; which was read a first and second time, referred to the Committee on the District of Columbia, and ordered to be printed.

SETH COLVIN.

Mr. HOUSEMAN introduced a bill (H. R. 7717) granting a pension to Seth Colvin; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JOHN SNYDER.

Mr. HOUSEMAN also introduced a bill (H. R. 7718) for the relief of John Snyder, Company I, One hundred and twenty-ninth Indiana Infantry; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

HENRY M. ROBERTS.

Mr. MULDROW introduced a bill (H. R. 7719) for the relief of Henry M. Roberts; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

REFUNDING PUBLIC DEBT, ETC.

Mr. BUCKNER (by request) introduced a bill (H. R. 7720) to provide for refunding the public debt, and to secure stability of the national-bank circulation, and for other purposes; which was read a first and second time, referred to the Committee on Ways and Means, and ordered to be printed.

RODNEY D. WELLS.

Mr. BROADHEAD introduced a bill (H. R. 7721) for the relief of Rodney D. Wells; which was read a first and second time, referred to the Committee on Claims, and ordered to be printed.

ALMIRA K. PARKER.

Mr. RAY, of New Hampshire, introduced a bill (H. R. 7722) granting a pension to Almira K. Parker; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

GEORGE W. CLARK.

Mr. RAY, of New Hampshire, also introduced a bill (H. R. 7723) granting increase of pension to George W. Clark; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

LYDIA WETHERBEE.

Mr. RAY, of New Hampshire, also introduced a bill (H. R. 7724) granting a pension to Lydia Wetherbee, dependent mother of George L. Wetherbee; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

PATRICK M'KEAN.

Mr. HAYNES introduced a bill (H. R. 7725) granting a pension to Patrick McKean; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

NATIONAL BOARD OF HEALTH.

Mr. BEACH introduced a bill (H. R. 7726) to amend an act entitled "An act to prevent the introduction of contagious and infectious diseases into the United States, and to establish a national board of health; which was read a first and second time, referred to the Committee on the Public Health, and ordered to be printed.

SALLY C. MULLIGAN.

Mr. ROGERS, of New York, introduced a bill (H. R. 7727) for the relief of Sally C. Mulligan; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

PARTEN H. MOREY.

Mr. BREWER, of New York, introduced a bill (H. R. 7728) for the relief of Parten H. Morey; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

APPROPRIATION FOR PUBLIC BUILDING, ROCHESTER, N. Y.

Mr. GREENLEAF introduced a bill (H. R. 7729) to change the limit of appropriation for the public building at Rochester, N. Y.; which was read a first and second time, referred to the Committee on Public Buildings and Grounds, and ordered to be printed.

THOMAS ALLCOCK.

Mr. GREENLEAF also introduced a bill (H. R. 7730) granting an increase of pension to Thomas Allcock; which was read a first and second time, referred to the Committee on Pensions, and ordered to be printed.

LOIS B. SMITH.

Mr. GREENLEAF also introduced a bill (H. R. 7731) granting a pension to Lois B. Smith; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

EDWARD P. QUINN.

Mr. VAN ALSTYNE introduced a bill (H. R. 7732) granting an increase of pension to Edward P. Quinn; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

ROBERT NELSON.

Mr. PARKER introduced a bill (H. R. 7733) for the relief of Robert Nelson; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JAMES H. HORTON.

Mr. PARKER also introduced a bill (H. R. 7734) for the relief of James H. Horton; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

HENRY N. HUGGINS.

Mr. PARKER also introduced a bill (H. R. 7735) for the relief of Henry N. Huggins; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

MERCHANTS' NATIONAL BANK, POUGHKEEPSIE, N. Y.

Mr. KETCHAM introduced a bill (H. R. 7736) for the relief of the

Merchants' National Bank of Poughkeepsie, N. Y.; which was read a first and second time, referred to the Committee on Banking and Currency, and ordered to be printed.

RELIEF OF AMERICAN MERCHANT MARINE.

Mr. KETCHAM also introduced a bill (H. R. 7737) to amend an act entitled "An act to remove certain burdens on the American merchant marine, and encourage the American foreign carrying trade, and for other purposes," approved June 26, 1884; which was read a first and second time, referred to the Select Committee on American Ship-building and Ship-owning Interests, and ordered to be printed.

ESTATE OF ISAAC S. HILL, DECEASED.

Mr. SKINNER, of North Carolina, introduced a bill (H. R. 7738) for the relief of the estate of Isaac S. Hill, deceased; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

CAPT. JAMES H. HAFFORD.

Mr. CONVERSE introduced a bill (H. R. 7739) granting an additional pension to Capt. James H. Hafford; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

PATRICK NICHOLAS.

Mr. MURRAY introduced a bill (H. R. 7740) granting a pension to Patrick Nicholas; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JOHN CONNELL.

Mr. O'NEILL, of Pennsylvania, introduced a bill (H. R. 7741) to authorize the Secretary of War to grant an honorable discharge from the Army to John Connell; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

FIRST LIEUT. ANSON G. CARPENTER.

Mr. POST, of Pennsylvania, introduced a bill (H. R. 7742) granting a pension to First Lieut. Anson G. Carpenter; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

ALEXANDER CASKEY.

Mr. BAYNE introduced a bill (H. R. 7743) granting a pension to Alexander Caskey; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

SARAH WATTS.

Mr. DIBBLE introduced a bill (H. R. 7744) for the relief of Sarah Watts; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

W. C. MARSH.

Mr. TAYLOR, of Tennessee, introduced a bill (H. R. 7745) for the relief of W. C. Marsh; which was read a first and second time, referred to the Committee on Claims, and ordered to be printed.

GEORGE E. WOOD.

Mr. POLAND introduced a bill (H. R. 7746) to increase the pension of George E. Wood, late a private in Company E, Second Regiment Vermont Volunteers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

THE SUPREME COURT.

Mr. POLAND also introduced a bill (H. R. 7747) to facilitate the disposition of cases in the Supreme Court of the United States, and for other purposes; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

BRIDGES ACROSS THE GREAT KANAWHA RIVER.

Mr. SNYDER introduced a bill (H. R. 7748) to authorize the construction of bridges across the Great Kanawha River below the falls, and to prescribe the dimensions of the same; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

ORLANDO T. SOWLE.

Mr. PRICE introduced a bill (H. R. 7749) granting a pension to Orlando T. Sowle; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

PRIVATE LAND CLAIMS, NEW MEXICO, ETC.

Mr. MANZANARES introduced a bill (H. R. 7750) to provide for ascertaining and settling private land claims in the Territories of New Mexico, Arizona, and the State of Colorado; which was read a first and second time, referred to the Committee on Private Land Claims, and ordered to be printed.

GEORGE H. OWEN.

Mr. STEWART, of Vermont, introduced a bill (H. R. 7751) making an appropriation to reimburse George H. Owen, United States consul at Messina, on account of necessary official expenditures; which was read a first and second time, referred to the Committee on Appropriations, and ordered to be printed.

PAY OF GRADUATES OF NAVAL ACADEMY.

Mr. THOMAS introduced a bill (H. R. 7752) to equalize the pay of graduates of the Naval Academy; which was read a first and second time, referred to the Committee on Naval Affairs, and ordered to be printed.

CONRAD SCHLEICHER.

Mr. KEIFER introduced a bill (H. R. 7753) granting a pension to Conrad Schleicher; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

J. M. BENNETT.

Mr. PERKINS introduced a bill (H. R. 7754) granting a pension to J. M. Bennett; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

CHALSEY BROTHERS.

Mr. PERKINS also introduced a bill (H. R. 7755) for the relief of Chalsey Brothers; which was read a first and second time, referred to the Committee on Indian Affairs, and ordered to be printed.

CAROLINE TRECKELL.

Mr. PERKINS also introduced a bill (H. R. 7756) granting a pension to Caroline Treckell; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

ELIZABETH CRAWFORD.

Mr. HENDERSON, of Iowa, introduced a bill (H. R. 7757) granting a pension to Elizabeth Crawford; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

DANIEL MORRIS.

Mr. COX, of New York, introduced a bill (H. R. 7758) to remove the charge of desertion against Daniel Morris; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

FREDERICK S. STRANG.

Mr. COX, of New York, also submitted the following preamble and resolution; which were read, and referred to the Committee on Naval Affairs:

Whereas it has been reported that Frederick S. Strang, late a cadet at the Naval Academy at Annapolis, has died in consequence of cruelties practiced upon him by senior cadets: Therefore,

Be it resolved, That the Secretary of the Navy be, and he is hereby, requested to communicate to this House any information he may have obtained in relation to the cause of death of the said cadet, Frederick S. Strang.

HOURS OF LABOR FOR LETTER-CARRIERS.

Mr. HOPKINS. I rise to make a privileged report. I am directed by the Committee on Labor to report back with a favorable recommendation the resolution of inquiry submitted by the gentleman from New York [Mr. COX] and which I send to the desk.

The Clerk read as follows:

Resolved, That the Attorney-General of the United States be respectfully requested to report to this House whether in his opinion section 3738 of the Revised Statutes with reference to eight hours' employment constituting a day's labor for all laborers, &c., employed on behalf of the United States applies to the letter-carriers of the United States.

The resolution was adopted.

Mr. HOPKINS moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

WILLIAM H. WARD.

Mr. GEORGE D. WISE, by unanimous consent, introduced a bill (H. R. 7759) to remove the political disability of William H. Ward, of Virginia; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

ORDER OF BUSINESS.

The SPEAKER. This being the third Monday of the month, the regular order is the call of committees for motions to suspend the rules. The call rests with the Committee on Banking and Currency.

Mr. WILKINS. I am directed by the Committee on Banking and Currency to move to suspend the rules and adopt the resolution which I send to the desk.

The Clerk read as follows:

Resolved, That Thursday, January 15, 1885, after the reading of the Journal, be set apart for the consideration of the bill of the Senate No. 1155, to provide for the issue of circulating notes to national banking associations, now on the Speaker's table, and House bill No. 5043, authorizing the Secretary of the Treasury to invest the lawful money deposited in the Treasury in trust by national banking associations for the retirement of their circulating notes.

Mr. YAPLE. I demand a second.

Mr. SINGLETON. I do not object to the resolution if prior orders are excepted.

The SPEAKER. This is a motion under the rules of the House to suspend the rules and adopt the resolution. The gentleman from Michigan demands a second.

Mr. WILKINS. I ask unanimous consent that the second be considered as ordered.

There was no objection, and the second was ordered.

The SPEAKER. Under the rules of the House thirty minutes are allowed for debate; fifteen minutes in support of the motion and fifteen minutes against it. The gentleman from Ohio [Mr. WILKINS] is recognized to control the time in support of the resolution, and the gentleman from Michigan [Mr. YAPLE] to control the time in opposition to it.

Mr. WILKINS. I do not propose to take up the time of the House in discussing either of these propositions this morning. The question that we are called upon to consider is whether the House will permit the Committee on Banking and Currency to name a day for the consideration of two bills. The first bill is the one that has been sent to us from the Senate, and which is known as the McPherson currency bill. This measure permits national banks to receive from the Comptroller of the Treasury a circulation equal to the par value of the bonds deposited. It is a plain, simple, comprehensive proposition, and needs no explanation from me or from any other member upon this floor. I shall not take the time of the House any further in stating this proposition. I yield five minutes of my time to the gentleman from Maine [Mr. DINGLEY].

Mr. KELLEY. Before the gentleman from Ohio yields to his colleague I wish to ask him this question: Does not the bill also provide for the retirement of bank notes of certain denominations?

Mr. WILKINS. No, sir. This does not contemplate any part of that measure. I yield to the gentleman from Maine [Mr. DINGLEY] five minutes to explain the second proposition contained in the resolution.

Mr. DINGLEY. This resolution proposes simply to set apart a single day for the consideration of the only two bills of a public nature that have been reported by the Committee on Banking and Currency during the present Congress. The first bill, known as the McPherson bill, which has passed the Senate, has been explained by my colleague on the committee who offers the resolution. The second bill for the consideration of which it is sought to set apart a day proposes to authorize the Secretary of the Treasury to invest certain lawful money deposited in the Treasury by national banks which is being accumulated under the following circumstances: Under the law as it exists to-day, when national banks fail, when they go into liquidation, or when they propose to retire any part of their circulation, and to withdraw the bonds which have been deposited as security, they are required to deposit in the Treasury lawful money to the amount of their circulating notes outstanding. It should be borne in mind that this lawful money constitutes under the law a fund for the purpose of redeeming the outstanding circulating notes of the bank which deposits the lawful money; and when a bank has deposited the lawful money its responsibility for its circulating notes thereby ceases. The Government holds this fund for the purpose of redeeming these circulating notes, and whatever portion of the fund may remain after the circulating notes shall have been presented for redemption goes to the Government and not to the banks.

For many years this fund of lawful money in the Treasury was inconsiderable; but when in the progress of events it became unprofitable, to a certain extent, for banks to issue circulating notes they began to retire their circulation and to deposit lawful money for their redemption. September 30, 1880, the amount of this lawful money deposited in the Treasury was $19,746,955; in 1881 it had increased to $31,152,713; in 1883 it had increased to $36,415,358; and on the first day of the current month it had increased to $42,837,408, an increase of $6,000,000 and over in the last year.

But next August this amount will begin to increase more rapidly than ever before, because under the act of July 12, 1882, extending the corporate existence of certain banks those banks are required at the end of three years from the time of such extension to deposit in the Treasury lawful money to the amount of their old circulating notes which may be then outstanding. This will within two years increase this fund to nearly if not quite $75,000,000.

The SPEAKER. The gentleman's time has expired.

Mr. DINGLEY. I hope the gentleman from Ohio will yield me a minute more.

Mr. WILKINS. One minute more.

Mr. DINGLEY. It must be evident to the House that the accumulation of such a fund in the Treasury will seriously contract the currency and lose to the country the interest on a large volume of idle money.

The bill reported by the committee proposes to remedy these difficulties by authorizing the Secretary of the Treasury to invest so much of this fund as he may think proper in United States bonds, these bonds and the accruing interest to be held for the same purpose as the lawful money deposited. This will release the large amount of money so deposited and restore it to the channels of circulation; and as the Government is to leave whatever balance of the fund may remain after redeeming the notes, practically it will save to the people the interest on the fund.

It is evident, I think, to gentlemen that there should be some legislation on this subject, whether of the character proposed by the committee or as it may be amended when it shall come before the House. I hope, therefore, that the resolution presented by my colleague on the Committee on Banking and Currency may receive a passage.

Mr. WILKINS. Mr. Speaker, how much time have I remaining?

The SPEAKER. Seven minutes.

Mr. WILKINS. I reserve the residue of my time.

Mr. YAPLE. Mr. Speaker, this resolution fixes a day for the consideration of the bill known as the "McPherson currency bill," to provide for the issue of circulating notes to national banking associations to the par value of the bonds deposited to secure such notes. One reason why this bill should not receive consideration is that it comes discredited and dishonored by its own author and friends. They admit that it is only a temporary remedy—a mere makeshift, and a poor one at that. Its warmest supporters have confessed that it does not furnish a remedy for the disease; that it is wholly inadequate; that the ultimate effect of it will be to accelerate and intensify the evil results which it is intended to obviate; that something more is necessary to make it efficient. What then can be the reason for urging its consideration and passage unless it be thought that it will make necessary still further legislation in the interest of the national banks?

This bill simply gives the banks an opportunity to increase their circulation, or, as it has been expressed, it creates the capability of more national-bank currency. Suppose the banks do not exercise this capability, what then? Why, something more must be done for them to induce them to do so. They have the capability of increasing their circulation under existing law, but they do not exercise it; and why? Simply because they are waiting to be hired, and we must hire them at their own terms or tell them to go, and restore the issue and control of the currency to the Government where it belongs.

If the effect of the passage of this bill should be to induce the banks to increase their circulation $32,000,000, as some profess to think it would, it would practically be the gift of that amount to the banks without any additional security or further consideration from them. They would get the use and benefit of $32,000,000 without incurring any new or further obligation to the Government. What is the demand for this kind of legislation? None at all but the voracious greed of the banks. It is not necessary in order to provide against the evils of a contraction of the currency. Let the banks carry out their threat of surrendering their circulation, and let the Government thereupon issue legal-tender notes as a substitute. Substitute money for bank notes, which are not money.

I think that since the recent decision of the Supreme Court declaring the issue of legal-tender notes at any time constitutional, no one will question the power or the right of the Government to do this. It is no longer a matter of argument, but settled law. That decision is a fitting supplement to the proclamation of emancipation. It is one of the greatest triumphs for the people in all the ages, and it will never be nullified by any constitutional amendment. It is not only the right, but it is the duty of every national government to institute and regulate the medium of exchange. The power that controls the currency of a nation, the first great instrument of commerce, the medium of all exchanges, controls the nation itself. If a "government of the people, for the people, and by the people" is not to perish from the earth, that power must be sacredly kept in the hands of the people. The party that wages a war upon the provision of the Constitution that secures this power to the people will go down in defeat and death, and be buried in the grave of eternal infamy. No genuine Democrat will begin such a war. It will be the work of an enemy of the people, of a traitor to the Republic.

What the country demands to-day is no makeshift legislation, no toggling up of a tottering system, but a permanent solution of the currency question. The national banks are based on the national debt, and a perpetual debt is necessary to their permanence. The public debt is the bread of life to them, and they are making a fierce struggle to prevent its payment, to perpetuate it. This bill is a step in that direction. Unless it is supplemented by legislation refunding the debt for a long time, it is worse than useless. It will work positive injury. To perpetuate the debt! This is the object to be accomplished. This is the patriotic (?) purpose of its supporters.

There are advocates, even on the floor of this House, of the blessings of a national debt. The gentleman from New York [Mr. POTTER], who is the especial champion of the national banking system, desired an extension of the time for the payment of the tax on distilled spirits, for the reason that the tax when collected would have to be applied in payment of the national debt, and such a use of it would undermine and destroy the basis on which the national banking system rests. He saw a national bank in the bottom of that whisky bill. During the debate upon that bill this House was flooded with letters and telegrams from national bankers, urging members to vote to extend the time for the payment of that tax. Why? Because they understood that the money, when collected, would have to be applied in payment of the debt, and they can imagine no greater disaster to the country than the payment of its debt. It is one of the curses of this national banking system that its continuance makes a public debt necessary. It stands in the way of the discharge of the mortgage which the bondholders have on all the property of the nation. It stands in the way of a proper reduction of taxation. It stands in the way of industry securing its just rewards. It casts a deadly nightshade over every field and home of labor. Sir, think of our situation. We can not even pay our debt without unsettling the financial system of the country, and yet our Treasury

is full to overflowing. The national banking system is a solution of the problem how to maintain war taxes in times of peace, keep up a large surplus of revenue, and not pay the debt. It makes this condition of things possible.

Suppose this bill becomes a law and the banks increase their circulation 10 per cent.? Then, as the bonds are paid off, every time a bank goes out of business the retirement of the currency will be 10 per cent. greater than under existing law. It postpones only to aggravate the evils of contraction. It adds to the power of contraction, which the banks already possess. It is "jumping from the frying-pan into the fire." It is not reasonable, however, to suppose that the banks will take out more circulation, except upon bonds drawing interest at the rates of 4 and 4½ per cent. This would have the effect to greatly enhance the market value of those bonds, and thus compel the Government to pay a higher price for its debt, an unwarrantable and unjustifiable sacrifice of the interests of the tax-payers. The Government ought to be in better business than surrendering the control of its finances to capitalists and building a corner on itself.

The national banks promised the people a currency which would always adjust itself to the demands of business; which would increase or diminish in accordance with the natural laws which control trade—an elastic, expansive, self-adjusting currency. They have not kept their promise. Notwithstanding the constant increase of the number of banks, there has been an actual contraction of their circulation. The reports of the Comptroller of the Currency show that they take out the minimum amount allowed by law. The only reason they give is that there is not sufficient profit on their circulation. Increase their profit and they will increase their circulation. This bill is simply a proposition to hire the banks to increase their circulation. The proposition is an insult to the people, and its adoption by Congress would be a disgrace to the nation. The Comptroller of the Currency in his elaborate argument for the national banks, usually called his annual report, says that if this bill should become a law it would increase the profit to the banks on circulation from two-fifths to three-fifths of 1 per cent. per annum. He further submits "that the profit on circulation may be increased to a point which will induce the banks to keep their circulation to a maximum and stop the contraction of their circulation, which is now occurring, by repealing the law taxing their circulation one-half of 1 per cent. semi-annually."

The privilege of issuing notes equal in amount to the par value of the bonds deposited, and exemption from any tax on circulation, would, he thinks, be sufficient to induce the banks to keep their circulation to a maximum and stop contraction. The profit to the banks, then, is the factor that determines the amount of this elastic, self-adjusting currency. What profit? The banks determine that. The caprice and greed of the banks, not the demands of business, fix the amount of currency for the people. The country is at the mercy of the banks. The only thing for Congress to do is to obey the commands of the banks. We deceive ourselves if we think that the passage of this bill will satisfy them. They will not be satisfied until the tax on their circulation is repealed, the greenback retired, silver demonetized, and the debt perpetuated. They will not be satisfied until the dollar is crowned king and labor wears the collar of slavery. Capital is selfish and tyrannical. If the amount of circulating medium is to be determined by the profit it yields to the banks, the rights of labor are gone.

The national-bank currency circulates not on the credit of banks, but on the credit of the people. All the property of the people—every bushel of wheat and every blade of grass—is pledged for its redemption. The guarantee of the Government gives it all its value. To make it good is the part the people play. To absorb its profits is the part the banks play. There can be no such thing as a safe currency, a currency which adjusts itself to the wants of trade, when the existence and amount of circulation depend on the profit it yields to banks of issue.

Money is the mightiest instrument in the distribution of wealth. Without it commerce is impossible. It is the life-blood of the nation. It is not the fruit of individual effort, of private enterprise, but is exclusively the creation of law. More important as an aid to production and means of exchange than railroads, and yet it is insisted that the right to issue and the power to regulate the volume of currency shall be placed and kept in the hands of associations of private persons. It is the surrender of one of the essential attributes of sovereignty. The issue of currency, metallic or paper, belongs of right exclusively to the nation. It is a sovereign function which ought to be exercised only for the benefit and profit of the whole people. The profit to the people, not to the banks, should be the determining factor. The people constitute this Government, and to promote their welfare every law should be made.

The great evil of our national banking system is the union of banking functions with those of issue. The power of issue always exercised by the banks in the field of private interest renders them dangerous to the public interest. Banks are organized and conducted for private gain. They are not patriots more than mills, factories, and railroads. Clothed with public functions they exercise them exclusively for self-aggrandizement. The only way to remedy the evils born of this illegitimate union is to suppress the bastard bank currency and restore the circulation to the nation.

The introduction of this bill is a confession of the vice of the system, a confession that the banks have no concern or regard for the welfare of the people; that they are governed entirely by self-interest. If the national banks do furnish what currency is needed in reponse to the demands of business, what need is there for this kind of legislation? If they can and refuse to, then, instead of hiring them and thus dishonoring the Government, I say repeal their charters and take from them the power of contracting and expanding the currency at their own will.

The best thing that can be done for the country is to provide for the retirement of the national banking system with the payment of the public debt. Now is the time to settle the question what shall be the paper currency of the future. We must have a paper currency of some kind, and the question is, What shall it be? Shall it be a currency that enables a few to draw a double income from their capital, to borrow the credit of the people for nothing and loan it back to them at 10 per cent.; to live on the interest of what they owe? Or shall it be a currency bearing no interest; that discharges instead of perpetuating the mortgage which now covers every cottage of toil; that saves to the people the benefits of the nation's credit? Why should not the people enjoy all the gains and emoluments to be derived from the use of their credit? What great service have the beneficiaries of this bill ever rendered to the Government that they should receive this bounty of $32,000,000? There is not a page of their history but what is blotted with some act of treachery to the people. They have rendered the service of the burglar.

Sir, we have done enough for the banks. We have yielded to their demands until for very shame we ought to blush. The most humiliating spectacle ever presented to the world is that of an independent, sovereign nation truckling to corporations of its own creation. Banks of issue are relics of feudalism. We do not need them. Let them go. The only bank of issue we want is the people's bank, the Government. There can be no true democracy until every attribute of national sovereignty is exercised by the Government for the benefit of the governed.

Mr. Speaker, I yield the remainder of my time to the gentleman from New York [Mr. POTTER].

Mr. POTTER. How much time have I?

The SPEAKER. Six minutes.

Mr. POTTER. Mr. Speaker, the bill before the House might well be entitled a bill to increase the premium on the high interest bonds of the Government. The 4 per cent. bonds of the Government have been bearing for the last two or three years with some exception from 20 to 25 per cent. premium. Four and a half per cent. bonds have been bearing from 12 to 14 or 15 per cent. premium. The obstacle to the maintenance of a circulation up to the wants of the country has been again and again stated before the Committee on Banking and Currency that the premium is so high on these bonds that the banks are unwilling to carry the premium on their books with a certainty at the maturity of the debt they are to get back only the principal. They are carrying thus a factitious capital. They say that they are taxed, and in the face of that they are unwilling to do the banking of the country.

It has been admitted on all sides, and never contradicted, that the passage of this bill will increase the premium on these bonds from 5 to 10 per cent. Exactly what it may be will remain to be shown by experience. If it increases the premium 5 per cent. it will increase the temptation to sell those bonds and go out of banking. It will contract the currency by exactly the extent that 5 per cent. increase of value of the bonds increases and makes effective the temptation to sell them. It will make what is now a temporary temptation a standing and an increasing temptation and coercion of interest on the banks to sell and retire circulation. It will be an appeal to their own interest to go out of banking and sell the bonds.

I have been told by one person at least who holds $800,000 of these bonds that he waits only to have the 25 per cent. premium touched again to sell his bonds and retire from circulation. It is not a single case; there are many such. If this bill passes it will have the effect not of enlarging the currency, not of keeping it up to the wants of the nation, but will have the inevitable effect of contracting the currency, and perhaps suddenly and fatally to the interests of the country.

This bill takes away from the business of the country whatever safeguard there is for conservatism in the 10 per cent. margin now deposited with the Government. If the banks use the credit of the Government they are at least called upon to leave 10 per cent. between themselves and the Government to protect the latter against fluctuations and the risks from the manner in which the banks may do their business. This wipes it away forever. From the time this bill is passed the Government takes the whole risk and responsibility without any margin and without any deposit of 10 per cent. by the banks to redeem their circulation under any circumstances of disaster which the mismanagement of the banks may bring upon the country. I say it takes away this safeguard at once and forever.

There is no more important provision in our banking system than that this 10 per cent. margin should at all times be continued in order to make the banks conservative, to keep them prudent, to let them know that any mismanagement on their part will fall first on the margin in the hands of the Government belonging to them.

Sir, I am not inimical to the national banks. I claim to have been the first to suggest the plan of national banks, but a part of the national

banking system, and in my judgment a very important part of it, is this 10 per cent. margin. And I say we should hesitate before passing this bill. There are other and certain measures which will reach the end sought here without any of these risks. I hope, Mr. Speaker, the bill will not pass. In extension of my remarks I desire to add the following from the New York Times of December 14:

THE M'PHERSON BANK BILL.

The bill passed by the Senate last session to permit national banks to issue notes up to the par value of the bonds deposited as security, provided the total amount of notes does not exceed the capital actually paid in, will probably be brought up in the Senate to-morrow. It is usually known as the McPherson bill from the fact that it fell to that gentleman to devise a scheme which should sufficiently appear to amount to something to make a good basis of opposition to other schemes, but which in reality amounts to nothing or next to nothing. The situation with which the Senate undertook to deal was a not very complex one. The use of the surplus revenue in the payment of the interest-bearing debt was steadily reducing the amount of bonds available for security for bank issues. The banks were being crowded to make their election between surrendering their circulating notes or buying high-premium bonds to secure them. The problem which the Senate undertook to solve was to make it profitable to the banks to keep up the circulation without stopping the payment of the bonds or reducing taxation.

It was a queer measure that they finally concocted for this purpose. They seem to have reasoned that if the banks could only issue 10 per cent. more notes than now there would be no further difficulty. But there is every probability that the difficulty would by this means be really increased. In the first place, supposing banks generally to avail themselves of the 10 per cent. increase, the amount which would have to be changed when the 3 per cent. bonds were called would be 10 per cent. greater, and the embarrassment in making the change would also be by so much greater. In the second place the increased demand for Government bonds which would doubtless follow from this new privilege of issuing notes on them to their par value would advance the price, and this in its turn would tempt to the surrender of the bonds by banks now holding them. The radical source of the interference with the circulation would not be removed. The surplus revenue would continue to flow in. The necessity for spending it as it gathered would continue to be felt as sharply and steadily as before. Contraction, and, what is the worst feature of it, sudden and arbitrary contraction, would be just as inevitable as ever.

It is our judgment that the so-called McPherson bill, so far from being a remedy for the ills inherent in the present situation, is calculated to aggravate and perpetuate them. The one defect in our system of bank currency—and it is a very grave one—is that, while it is elastic, its movements depend not solely or principally on the demands of trade, but upon the fluctuations of the bond market. Under the influence of these there may be contraction when expansion is needed, or *vice versa*. The McPherson bill leaves this source of confusion and danger untouched, or may even add to it. What the banks ought to have is a class of bonds to be used as security for their circulation, not liable to great or sudden fluctuations of market value, bearing a fair market rate of interest, and not subject to disturbance from the Treasury management of the surplus revenue. That such provision is feasible we have very little question. But if the McPherson bill is to be passed by the House, it is clear that nothing else will be done this session.

Mr. WILKINS. I now yield two minutes to the gentleman from Iowa [Mr. HENDERSON].

Mr. HENDERSON, of Iowa. Mr. Speaker, this resolution does not involve any discussion of the merits of the proposition. The only point for the consideration of the House now is, have we the courage to take up and discuss a question on which this nation is vitally interested? We have 2,672 national banks with an aggregate capital of $189,071,475, and in 1885 721 of these banks will have to surrender their charters. It appears during the year 1883 the currency was contracted $9,613,350. During the year 1884 the contraction amounted to $25,442,300, making a total reduction in two years of $35,055,650. The Secretary of the Treasury and the Comptroller of the Currency unite in saying there will be an increased contraction of the currency unless some remedy is speedily adopted, and the question now before the House is, will we set a day when we will bring to bear our wisdom and our courage to meet the pressing necessity which is upon us? My friend from New York [Mr. POTTER], who has just taken his seat, has his peculiar views; my friend from Michigan [Mr. YAPLE] has his peculiar views. This is only to set apart a time when we can meet and discuss all these questions.

It will not do to put this matter aside on the theory that this legislation is in the interest of national banks. That is not true. The currency that is in every man's pocket, whether he be rich or poor, demands legislation, and demands it now. Be it temporary or permanent, we ought to have the courage and the wisdom to set down a day to dispose of these matters, which involve not only the commercial interests generally, but the interest of every man in this nation. I say let us fix upon a day when we shall be able to meet the question squarely and fairly and like men.

The SPEAKER. The gentleman's time has expired.

Mr. WILKINS. I now yield five minutes to the gentleman from Missouri [Mr. BUCKNER].

Mr. BUCKNER. The gentleman from Iowa [Mr. HENDERSON] has stated the true position, or rather the true question before the House. It is not whether we are sure of the wisdom of the proposition known as the McPherson bill or of the bill presented by the gentleman from Maine [Mr. DINGLEY] and amended by the Committee on Banking and Currency. That is not the question, but the simple question is whether this House will set apart a day at the request of the Committee on Banking and Currency for the purpose of considering the proposition generally and taking such action as may be necessary in the premises. For myself I am free to say that the McPherson bill is not acceptable to me at all, and I shall not with my present views vote for it. But it is due to the Senate as an act of courtesy, it is due to the country at large, it is due to the majority of the Committee on Banking and Currency, that these two bills should be brought before the House. They are the only bills here of a general character which have been reported by this committee to this House during the present Congress. It is not required that any one shall vote for them. They will be open to amendment and to discussion. For myself, I propose to offer an amendment if the opportunity is afforded to me which will settle this difficulty for all time to come.

And the other bill is quite as important as this one, that is the bill known as the Dingley bill. This redemption is growing and growing continually, amounting to $42,000,000. It is provided where it can not be used that it shall be put out and invested in bonds of the United States. That is the proposition of the bill. The evil is going on increasing, and it must increase in the nature of things. It is that much taken out of the currency of the country of silver or gold or both, and locked up by the Secretary of the Treasury to redeem the notes of the national banks. For the difficulty of the circulation of the national banks does not proceed as I supposed from the fact that we are calling in 3 per cent. bonds annually. That is not the disease which affects the people. It was suggested by the gentleman from New York [Mr. POTTER] that it is a temptation to the holders of those high-priced bonds; it is a temptation to any bank holding the 4 and 4½ bonds to reduce their circulation and bring those within the minimum required by the law, which is $50,000 for the largest bank of the United States, by withdrawing and selling these bonds. They may call in the high-priced bonds, that is the 4 and 4½ bonds, and when the premium is increased it is the strongest possible temptation for the banks to sell them for the benefit of their stockholders. That is one of the great troubles we have to guard against, and that, in my opinion, will be increased.

These bonds may go higher, certainly; and in my judgment they will under the operation of the McPherson bill; but, whether they do or not, the time is near at hand when no bank in the United States will hold more than $50,000 of them on deposit, which of itself will be a reduction in the national-bank circulation to the neighborhood of about $100,000,000, instead of $287,000,000 as now.

That is the whole question that is presented. It is not to be decided now, but you are simply asked whether or not you will fix a day in the future when these bills may be discussed and some action taken upon them by the House, such as it may deem proper in view of the circumstances. I hope that the House, therefore, will at least give us a day when we may consider either or both of them, or the Dingley bill, which I consider of vast importance.

[Here the hammer fell.]

The SPEAKER. The question is on agreeing to the motion of the gentleman from Ohio.

Mr. CASSIDY. Let us have the yeas and nays.

The yeas and nays were ordered, 45 members voting in favor thereof.

The question was taken; and there were—yeas 175, nays 87, not voting 61; as follows:

YEAS—175.

Adams, G. E.	Dibrell,	Keifer,	Rockwell,
Atkinson,	Dingley,	Kelley,	Rogers, W. F.
Bagley,	Dowd,	Ketcham,	Rowell,
Barbour,	Dunham,	Lacey,	Russell,
Bayne,	Elliott,	Laird,	Ryan,
Belmont,	Ellis,	Lawrence,	Scales,
Bennett,	Ermentrout,	Lewis,	Seney,
Bisbee,	Evans,	Long,	Seymour,
Boutelle,	Everhart,	Lore,	Shelley,
Boyle,	Ferrell,	Lyman,	Skinner, C. R.
Brainerd,	Findlay,	McComas,	Smith, A. H.
Bratton,	Finerty,	McCormick,	Smith, H. Y.
Breitung,	Follett,	Millard,	Snyder,
Brewer, F. B.	Foran,	Mitchell,	Spriggs,
Brewer, J. H.	Funston,	Money,	Stephenson,
Broadhead,	George,	Morrill,	Stevens,
Brown, W. W.	Goff,	Morse,	Stewart, J. W.
Browne, T. M.	Hammond,	Murphy,	Stone,
Buckner,	Hanback,	Murray,	Strait,
Burleigh,	Hancock,	Mutchler,	Struble,
Cabell,	Hardeman,	Neece,	Talbott,
Caldwell,	Hardy,	Nelson,	Taylor, E. B.
Campbell, J. E.	Harmer,	Ochiltree,	Taylor, J. D.
Campbell, J. M.	Hatch, H. H.	O'Ferrall,	Thomas,
Candler,	Henderson, D. B.	O'Hara,	Turner, H. G.
Cannon,	Henderson, T. J.	O'Neill, Charles	Van Alstyne,
Chace,	Hepburn,	Parker,	Wadsworth,
Clay,	Hewitt, A. S.	Payne,	Wait,
Clements,	Hill,	Perkins,	Wakefield,
Collins,	Hiscock,	Peters,	Warner, A. J.
Converse,	Hitt,	Phelps,	Washburn,
Covington,	Hoblitzell,	Poland,	Weaver,
Cox, S. S.	Holmes,	Post,	Wemple,
Cox, W. R.	Hooper,	Price,	Whiting,
Crisp,	Hopkins,	Randall,	Wilkins,
Culbertson, W. W.	Horr,	Rankin,	Willis,
Cullen,	Howey,	Ranney,	Wilson, James
Curtin,	Hunt,	Ray, G. W.	Wilson, W. L.
Cutcheon,	Hurd,	Ray, Ossian	Winans, John
Dargan,	James,	Reed,	Wise, G. D.
Davidson,	Jeffords,	Reese,	Wolford,
Davis, G. R.	Johnson,	Rice,	Woodward,
Davis, R. T.	Jordan,	Robinson, J. S.	York.
Dibble,	Kean,	Robinson, W. E.	

NAYS—87.

Aiken,	Forney,	Matson,	Skinner, T. G.
Alexander,	Geddes,	Miller, J. F.	Springer,
Anderson,	Glascock,	Mills,	Stewart, Charles
Ballentine,	Graves,	Morrison,	Stockslager,
Barksdale,	Green,	Moulton,	Taylor, J. M.
Blount,	Halsell,	Muldrow,	Thompson,
Breckinridge,	Hatch, W. H.	Nicholls,	Throckmorton,
Buchanan,	Henley,	Oates,	Tillman,
Budd,	Herbert,	O'Neill, J. J.	Townshend,
Burnes,	Hewitt, G. W.	Patton,	Tully,
Carleton,	Holman,	Payson,	Turner, Oscar
Cassidy,	Houseman,	Peel,	Van Eaton,
Chalmers,	Jones, B. W.	Pierce,	Wallace,
Clardy,	Jones, J. H.	Potter,	Ward,
Cobb,	Jones, J. K.	Pryor,	Warner, Richard
Cook,	Jones, J. T.	Pusey,	Wellborn,
Cosgrove,	Kleiner,	Reagan,	Williams,
Culberson, D. B.	Lamb,	Riggs,	Winans, E. B.
Davis, L. H.	Lanham,	Rogers, J. H.	Wood,
Dockery,	Le Fevre,	Rosecrans,	Worthington,
Dunn,	Lowry,	Shively,	Yaple.
Eldredge,	McMillin,	Singleton,	

NOT VOTING—61.

Adams, J. J.	Ellwood,	Libbey,	Spooner,
Arnot,	English,	Lovering,	Steele,
Barr,	Fiedler,	McAdoo,	Storm,
Beach,	Fyan,	McCoid,	Sumner, C. A.
Belford,	Garrison,	Maybury,	Sumner, D. H
Bingham,	Gibson,	Miller, S. H.	Tucker,
Blackburn,	Greenleaf,	Milliken,	Valentine,
Blanchard,	Guenther,	Morgan,	Vance,
Bland,	Hart,	Muller,	Weller,
Bowen,	Haynes,	Nutting,	White, J. D.
Brumm,	Hemphill,	Paige,	White, Milo
Campbell, Felix	Holton,	Pettibone,	Wise, J. S.
Connolly,	Houk,	Robertson,	Young.
Deuster,	Hutchins,	Shaw,	
Dorsheimer,	Kellogg,	Slocum,	
Eaton,	King,	Smalls,	

So (two-thirds voting in favor thereof) the motion was agreed to.

During the roll-call the following proceedings took place:

Mr. THOMAS. Mr. Speaker, I desire to record my vote in the affirmative. I did not respond to my name on the first roll-call——

Mr. HISCOCK. Was the gentleman's name called on the second roll-call?

Mr. THOMAS. I desire to say that my name was not called on the second roll-call and I did not vote on the first. I was standing here ready to respond to my name, but it was not called.

The SPEAKER *pro tempore* (Mr. SPRINGER in the chair). The Chair is informed that some one on the first roll-call responded to the name of the gentleman from Illinois [Mr. THOMAS]. He was, therefore, recorded as having voted in the negative, and his name was not called on the second roll-call. He states that he was listening in order to respond to his name on that call. It seems to the Chair, therefore, that under these circumstances the gentleman is entitled to the right of having his name recorded.

The Clerk will call the name of the gentleman from Illinois.

The roll-call was resumed and concluded as above.

Mr. HENDERSON, of Iowa. I ask unanimous consent that the reading of the names be dispensed with.

Mr. WILKINS. I object.

The Clerk recapitulated the names of those voting.

The SPEAKER *pro tempore*. The Clerk will now read the pairs.

The following members were announced as being paired on all political questions until further notice:

Mr. CAMPBELL, of New York, with Mr. HOOPER.

Mr. ARNOT with Mr. BELFORD.

Mr. KING with Mr. MILLER, of Pennsylvania.

Mr. STORM with Mr. BRUMM.

Mr. BLAND with Mr. VALENTINE.

Mr. YOUNG with Mr. HARMER.

Mr. FIEDLER with Mr. STEELE.

Mr. MAYBURY with Mr. JOHN S. WISE.

Mr. PAIGE with Mr. SPOONER, until December 17.

The following were announced as being paired on all political questions for this day:

Mr. MCADOO with Mr. RUSSELL.

Mr. MULLER with Mr. LIBBEY.

Mr. VANCE with Mr. BINGHAM.

Mr. ENGLISH with Mr. HOUK.

Mr. ADAMS, of New York, with Mr. BOWEN.

Mr. WELLER with Mr. HOLTON.

The result of the vote was then announced as above recorded.

ISSUE OF TREASURY NOTES AND SILVER CERTIFICATES.

The SPEAKER *pro tempore*. The call rests with the Committee on Coinage, Weights, and Measures.

Mr. LACEY. Mr. Speaker, I am instructed by the Committee on Coinage, Weights, and Measures to move to suspend the rules to take from the House Calendar the bill (H. R. 7232) to prohibit the issue of Treasury notes of less denomination than five dollars, and to provide for the issue of one, two, and five dollar silver cetificates, and put the same upon its passage.

The SPEAKER *pro tempore*. The Clerk will report the bill.

The bill was read, as follows:

Be it enacted, &c., That on and after the passage of this act it shall be unlawful for the Secretary of the Treasury to print and issue Treasury notes of a smaller denomination than $5.

SEC. 2. That any holder of standard silver dollars or silver certificates may deposit the same with the Treasurer or any assistant treasurer of the United States, in sums of not less than $10, and receive therefor silver certificates of the denomination, at the option of the holder, of $1, $2, or $5: *Provided*, That nothing in this act shall be construed to interfere with the issuing of silver certificates in other denominations, as now authorized by law.

Mr. COOK. Mr. Speaker, I think there should be some explanation of this bill, and for that purpose I demand a second.

Mr. LACEY. I ask unanimous consent that a second may be taken as ordered.

There was no objection, and a second was considered as ordered.

The SPEAKER *pro tempore*. The Chair will recognize the gentleman from Michigan for fifteen minutes, and the gentleman from Iowa for the same length of time in opposition.

Mr. LACEY. Mr. Speaker, the effect of this bill if it becomes a law may be briefly stated as follows: It will gradually retire all Treasury notes below the denomination of $5, and the amount so retired will be reissued in notes of larger denominations under the provisions of existing law.

Its further effect will be to exchange the present large silver certificates for others of a smaller denomination, to wit, for one, two, and five dollar notes. It will not change the present volume of either Treasury notes, silver dollars, or silver certificates. It will eventually utilize silver coins or their representative certificates for the entire circulation below the denomination of $5.

The present silver certificates are of large denominations, the lowest being $10 and the highest $1,000. They are too large for the use of the great mass of people in the current daily transactions of life. For this reason they flow into the banks, from the banks into the custom-houses, and thence back into the Treasury of the United States.

About one hundred millions of notes and coins of the denominations of one and two dollars are now necessary for the convenience of our people; and by employing silver or its representative certificates exclusively within this field that large sum can be diverted from the great channels of trade. These smaller denominations, Mr. Speaker, of one and two dollar notes are seldom if ever deposited in banks, but unfortunately the silver certificates are issued in large denominations, nothing less than $10. The result is that for domestic use, for the current transactions of daily life, the silver certificates are too large. For instance, if a farmer takes a load of grain to market he may be paid in silver certificates, but there being none of these notes smaller than $10 he is unable to take them home to prosecute the business which it is there necessary to transact—to pay his laborers, to settle small transactions with his neighbors, or to be used as pocket-money. The consequence is he goes to the bank and exchanges these silver certificates for smaller notes.

The bank on the morrow, desiring to make its account good in New York or Chicago, immediately selects these silver certificates (as they do not count upon its reserve) to forward to those commercial centers. They are forwarded to Chicago, New York, Boston, or New Orleans, where custom-houses are situated; they go into the banks there; they can not be counted as part of the reserve of these banks, consequently they are the very first thing selected with which to pay United States customs duties. The result is shown in the report of the Treasurer of the United States. It is there shown that during the last two years and four months 25.6 per cent. of the customs duties paid in the city of New York (and nearly all our customs duties are there paid) were paid in silver certificates. It is further shown that during the last twelve months 28.8 per cent. of the customs duties in New York city were paid in silver certificates. It is shown that during the month of October last 32.1 per cent. of these customs duties were paid in these silver certificates.

Notwithstanding the fact that we have about one thousand eight hundred and six millions of circulation altogether in this country, and that the circulation of silver certificates on the 1st day of October was but $96,491,251, being only 5.3 per cent. of our total circulation, yet 32.1 per cent. of the customs duties of the United States received at the New York custom-house were paid in these silver certificates; and that, too, chiefly on account of the fact that these certificates are of such large denominations.

Mr. HISCOCK. Will the gentleman allow me to ask him a question?

Mr. LACEY. Certainly.

Mr. HISCOCK. Is what the gentleman is now stating not due to the fact that silver is relatively cheaper than gold?

Mr. LACEY. It is not, and for this reason: The holder of a silver certificate knows that to-day a silver dollar or its representative is equal in purchasing and debt-paying power to a gold dollar, not on account of the intrinsic value of the silver dollar, but because the Treasury of the United States, which is the great national clearing-house, conducts its affairs upon the theory that gold is the real standard of value in this country. The effect is precisely the same as though silver was exchangeable at the United States Treasury for gold, at par of its coinage value.

Just so long as the Treasury of the United States treats gold as the real standard, and the money of account; so long as it uses gold in settling its daily balances in New York; so long as the Government uses gold in paying the principal of its called bonds; so long as it uses gold in paying the interest on the public debt; so long as it uses gold to redeem its greenbacks; just so long as the Treasury is able to do these things, so long will the silver certificate be worth to the holder 100 cents on the dollar. Therefore, knowing this, the holder of these certificates does not precipitate them into the Treasury because of their lesser value, but because they are of too large denominations for the ordinary domestic transactions of life, too large to be used as the pocket-money of the people.

When I introduced this bill I had in it a section which called for the suspension of the coinage of the Bland dollar. But the Committee on Coinage, Weights, and Measures struck out that section, and the bill as it stands to-day is the unanimous report of every member of the committee; and on that committee we have men of every shade of opinion—those who believe in a standard of gold alone, those who believe in a standard of silver alone, and those who believe in bimetallism—and every man on that committee, from the chairman down, is in favor of this bill as reported. And why? Simply because every man, no matter what his opinion may be as to the coinage of the Bland dollar, believes that silver should and must be utilized for the purposes of subsidiary coinage and for the current daily transactions of life. All the world over it must be so. And this bill, Mr. Speaker, provides for precisely that and nothing more. It utilizes the silver dollar, or its representative silver certificate, for the pocket-money of the people, for the current daily transactions of life in this country.

Now, whether we suspend the coinage of legal-tender silver or not, this bill ought to pass. I am one of those who believe that the further coinage at this time of the Bland dollar will bring us into great danger. If, with the present coinage, 32 per cent. of the customs duties are now paid in silver, before another Congress shall assemble and enact and put in operation a law to suspend the coinage of silver, more than 50 per cent., ay, I believe a much larger percentage of our customs duties than that will be paid in silver certificates.

When we remember that the Treasury has been gaining silver and losing gold steadily ever since we commenced the coinage of the standard dollar in 1878; when we remember that on the 30th of September, 1877, only 6.5 per cent. of the coin in the Treasury was silver, and that on the 30th of last September the percentage of silver had increased to 44.6 per cent., we can not but be apprehensive that we are approaching with accelerating pace a time when the Treasury of the United States must of necessity be forced to abandon its attempt to maintain gold as the actual standard, and must begin using silver as the money of account. This will bring about the settlement of the daily balances at the New York Clearing-House in silver; it will bring about the payment of the principal of the public debt in silver, the payment of the interest on the Government bonds in silver, the redemption of the greenback in silver; and thus the whole superstructure of currency in this country will descend to a silver standard based upon the Bland dollar, worth but 83.8 cents. This would retire $557,000,000 of gold coin from circulation and cause such a contraction of the currency as would prostrate all the commercial affairs of this country.

Mr. Speaker, I regret that the temper of this House, as shown at its last session during the consideration of the bill to retire trade-dollars, precludes the expectation of the passage of any measure suspending the enforced coinage of the Bland dollar. I greatly fear that we are drifting into a monetary condition from which our successors will find it a difficult matter to deliver us. We have undertaken single-handed to stem a tide which is submerging the whole commercial world. We seem to be so intent on making a market for the silver bullion of our bonanza princes that we fail to notice the dangers which beset our pathway. The relative production of silver is steadily increasing, while its use as coin is as steadily decreasing.

In 1878, when we began the coinage of the Bland dollar, the world's product of gold bullion was $114,000,000, while in 1883 it was but $94,000,000. In 1878 the world's production of silver bullion was only $78,000,000, while in 1883 it advanced to $114,000,000. In addition to this we see all the great commercial nations slowly turning their backs upon silver and preparing to adopt a gold standard. To-day but three countries are coining legal-tender silver in any quantity worthy of mention, to wit, India, Mexico, and the United States, and both India and Mexico long since adopted the silver standard. All this tends to show that the continued coinage of legal-tender silver in this country must at last result in our adopting the silver standard and taking our place among the third and fourth rate powers of the earth, so far, at least, as relates to our monetary affairs.

Why, sir, when we commenced coining the Bland dollar its bullion value was 93.46 cents; to-day it is worth but 83.81 cents. How long, I ask, must we continue on this road to bring it to a parity with gold? Have we not tried this method long enough? Would it not be wiser to try a suspension of its coinage, for a time at least, and see whether such a course will not lead to an agreement among the great powers of Europe and America which shall lead to the free coinage of both gold and silver upon a common ratio between the two metals, and thus correctly and permanently settle this great problem? I sincerely believe this to be the wisest policy, but I am morally certain that no such measure can become a law during the life of the present Congress. I accept the inevitable, and propose the present bill as likely to put off the evil day and protect us from overwhelming disaster until another Congress can assemble and deliver us.

Table showing increase of silver in the United States Treasury.

Date.	Gold.	Silver.
	Per cent.	*Per cent.*
September 30, 1876	90.2	9.8
September 30, 1877	93.5	6.5
September 30, 1878	83.0	17.0
September 30, 1879	76.2	23.8
September 30, 1880	63.3	36.7
September 30, 1881	64.7	35.3
September 30, 1882	55.4	44.6
September 30, 1883	58.5	41.5
September 30, 1884	55.4	44.6

Table showing proportions of world's production of gold and silver.

Semi-decades.	Average yearly production.		Proportion.	Average price of silver.*
	Gold.	Silver.		
1852–1856	$145,000,000	$40,500,000	100 to 28	61 5/16
1857–1861	127,184,000	41,220,000	100 to 32	61 1/2
1862–1866	123,843,000	49,755,000	100 to 39	61 1/2
1867–1871	123,251,000	53,115,000	100 to 43	60 1/2
1872–1876	111,383,750	69,490,682	100 to 62	57 1/2
1877–1878	113,892,085	78,338,158	100 to 69	53 1/2
1879	105,365,697	81,037,220	100 to 77	51 1/2
1880	106,346,786	98,704,978	100 to 90	52 3/16
1881	107,202,733	102,309,675	100 to 95	51 7/16
1882	103,161,532	109,446,595	100 to 106	51 1/2
1883	94,000,000	114,000,000	100 to 120	

*Pence per ounce in London.

GOLD VALUE OF STANDARD SILVER DOLLAR.

	Cents.
February 28, 1878 (date of passage of Bland bill)	93.46
March 12, 1884	87.5
December 12, 1884	83.81

How much time have I remaining?

The SPEAKER *pro tempore*. The gentleman from Michigan [Mr. LACEY] has seven minutes of his time remaining.

Mr. LACEY. I reserve the remainder of my time.

Mr. COOK. I yield five minutes to the gentleman from Indiana [Mr. BROWNE].

Mr. BROWNE, of Indiana. This is a proposition to withdraw from circulation all Treasury notes of denominations less than $5 and substitute for them silver certificates of equal or like denominations. I believe the time is at hand when unless we suspend the coinage of the silver dollar it will constitute the only metal currency of our people. We have been able to maintain it at par with gold simply because, so far as it has circulated at all, we have absorbed it at home. Whenever it goes abroad, whenever it becomes necessary that it be sent out of the country, it must be subjected to a discount. That discount, by its reflex action, will operate upon us, and we shall find that we have what is now not ascertained by our experience, a cheaper currency than either gold or paper; and I think all experience has shown that where there are currencies of unequal value, all business is done by the cheaper.

Unless we now, at least temporarily, suspend the coinage of the silver dollar, gold will disappear from circulation; it will become what it once was—simply an article of merchandise, upon which the gold gamblers will again begin their business in the money centers. So I think the very first thing we ought to do is to provide for a suspension of the coinage of the silver dollar, or provide at least that it shall not longer be obligatory on the part of the Secretary of the Treasury to coin so much per month. I am a bimetallist, but would have all dollars of equal value, so they will float together in our commerce. All dollars should be legal-tenders and worth the full sum of 100 cents.

But why should we withdraw from circulation the Treasury note? Is it to compel silver to circulate? If we desire to put silver in circulation why not suspend the use of bills of any description of a lower denomination than $5, and compel the country to do its business on this depreciated money? If we force it into circulation its use will as a matter of course tend to keep up its price.

But if a change is to be made at all I would prefer that we should continue the circulation of Treasury notes of these lower denominations and put by their side silver certificates of the denominations of one, two, and five dollars. The country needs these smaller denominations of money. There is a demand for them. There is scarcely a Representative on this floor who has not been importuned by his constituency to see that more of this character of currency is put afloat. Not long ago I introduced into this House a bill providing for the re-

issue of $10,000,000 of fractional currency; and I believe that ought to be done. At least it is important that we shall continue in the hands of the people (for the wants of business require it) the one and two dollar bills already in circulation; and I would be willing to add to them an equal volume of currency of like denominations in the form of silver certificates based upon silver deposits. I protest that there is no occasion for retiring these smaller bills, this favorite and necessary currency of the people.

[Here the hammer fell.]

Mr. COOK. Mr. Speaker, I am not opposed to the coinage of silver, but, on the contrary, am in favor of its unlimited coinage. I am opposed to this bill simply because it proposes to retire from circulation greenbacks and substitute something of a different character—something not a legal tender. I would not be opposed to the bill if it simply provided for the issue of these silver certificates without interfering with the greenbacks. The provision of this bill inhibiting the future printing of Treasury notes of a less denomination than $5 would eventually retire from circulation the legal-tender currency of this country below that denomination.

Mr. LACEY. I would like to ask the gentleman a question. Under this bill, will not a person have the choice between a legal-tender silver dollar and its representative certificate; and is not a legal-tender silver dollar just as good as a legal-tender greenback?

Mr. COOK. That is true so far as concerns the silver dollar; but it does not apply to your silver certificate. If a man has a debt of less than $5 to meet, his creditor may refuse to accept the silver certificates, and then he must go and obtain the silver dollars. In addition to this, to the value of the bullion in it, the silver dollar or certificate is more costly than the greenback dollar.

I believe, Mr. Speaker, that the only remedy for the present difficulties in the currency lies in our adopting a currency that shall be in all denominations a legal tender. I am in favor primarily of a legal-tender currency as against silver certificates and against bank issues of all characters.

One of the principal elements of strength in money, as it is one of its highest functions, is its debt-paying power. A knowledge that the money I have will at all times cancel my obligations gives me confidence in it and goes far toward making its purchasing power stable.

The Supreme Court having settled the doctrine of our right to issue legal-tender currency, it is only a question of time when Congress will accept the doctrine that all the currency of the country must be issued and its volume controlled by the Government, and that it must be a full legal tender for all debts, public and private. The sooner we come to this the sooner will we have a stable and permanent money.

I know that nine-tenths of you deride us Greenbackers, but the Supreme Court—the most conservative body in the land—has been converted, and necessity with the logic of events and time will bring you all to it.

Mr. LACEY. The gentleman understands, I presume, that the one-dollar and two-dollar notes which may be retired under this bill are to be reissued in other denominations, so that there will be no contraction of the greenback currency.

Mr. COOK. It is probable that under existing laws higher denominations would be issued to take the place of those retired, but the hasty examination I have been able to give this bill (I had no knowledge of its coming up) leaves me in doubt on this. Certainly, however, it retires all our legal-tender currency of small denominations, and to that I am opposed.

It seems so inexplicable to me that while everybody is satisfied with our greenback currency, and it circulates in preference to even gold itself, and costs the Government much less than any other money, yet here among those who ought to be its friends it is subject to constant menace and attack. It will take care of itself if only you will let it alone. If you want silver certificates, all right; let them stand by the side of the greenback dollar; it has demonstrated its superiority in the past. We Greenbackers have confidence in its future; if you will persist in doubting, stand by and be convinced. I yield to the gentleman from Nevada [Mr. CASSIDY].

Mr. CASSIDY. Mr. Speaker, I had not intended to discuss this question; and I take the floor chiefly for the purpose of replying to some of the assertions made by the gentleman from Indiana [Mr. BROWNE].

In considering this subject at this time we are met with the same old arguments that have always been presented against silver. It was predicted in the beginning that if silver should be remonetized and given a place among the money metals of the land we would attract here all the depreciated silver of the Old World and drive out from this country all of our gold.

The fact is, Mr. Speaker, ever since the remonetization in 1879 we have attracted to this country from the Old World more than three hundred millions of gold, and during the same period we have exported more than seventy-five millions of silver, contradicting every assertion and prediction made at the time, and since, by the enemies of silver; showing also that this metal among the people of this country is of equal dignity and of equal value with gold by the people everywhere.

So far as this bill is concerned, authorizing the issue of silver certificates in denominations of $1 and $2, if those opposed to silver would frankly admit that there is to-day ninety-six million of silver dollars in the Treasury of the United States in circulation among the people of the country through the medium of these silver certificates, then I would have no objection to the bill. But the effect of the bill when it becomes a law will be to place an additional amount of silver certificates in circulation, leaving the metal itself to accumulate in the Treasury, thus furnishing an argument at the same time to gentlemen who will not treat the question fairly that silver will not circulate among the people. I fear that its passage will mean the practical demonetization of the standard dollar, that it will drive all of the silver out of circulation.

I undertake to say, Mr. Speaker, that there is no form of paper money issued by the Government of the United States which is of higher character than that of these silver certificates. They are far preferable to any mere promise to pay, because every dollar of silver certificates has intrinsic value behind it. On the lowest estimate behind every dollar of the silver certificate there is to-day 92 per cent. of intrinsic value. In case of panic, in case of war, there never could be any depreciation of silver certificates below that sum, because in the bullion markets of the world this silver pledged for the redemption of the silver certificates would command 90 per cent. Everybody knows, in the case of a crisis, in the case of a foreign war, it is the universal rule for the metals to appreciate in value, whereas your mere promises to pay, your greenback circulation, as we have seen during the late war depreciated as low as 35 cents on the dollar. Yet gentlemen will undertake to say a silver certificate or the silver dollar itself is not a better form of money than these greenback promises to pay. Why, sir, it is the money of the Constitution, it is the money of the fathers, and I say that any legislation which seeks to displace it in this country should not be enacted by this House. The true theory is to discontinue the issue of all paper money below bills of $5, leaving the small transactions of the people to be conducted in silver—the hard metal itself.

The SPEAKER *pro tempore*. The gentleman's time has expired.

Mr. LACEY. I ask whether the time assigned to the opposition has been exhausted.

The SPEAKER *pro tempore*. It has.

Mr. LACEY. Then I will yield two minutes to the gentleman from Ohio [Mr. WARNER].

Mr. WARNER, of Ohio. Mr. Speaker, I consider the most important question before this House, or before Congress at this session, to be some measure to prevent a contraction of the volume of money. There is one feature of this bill which should be well understood, and if my understanding of it be correct I have no objection to the bill. And that feature is this: that as the one and two dollar notes are canceled there shall be a reissue of a like amount in five, ten, or other denominations of United States notes, so that there shall be no possibility of a contraction of the total volume of the circulation. With the understanding that this is the meaning of the bill, then the substitution of the silver certificates of one and two dollars in place of one and two dollar greenbacks is not to me objectionable. I see no reason why that should not be done, provided the total volume of money is not reduced. Its effect would be simply to mobilize the use of silver, by authorizing these silver certificates to circulate in place of the metal itself, in denominations of one and two dollars, as well as in tens and twenties, as now. Silver coin will probably not circulate any more than now, and perhaps no less than now. I can not see that this bill will make any change in that regard. It is a matter of convenience to have small notes of some kind, but whether greenbacks or silver certificates is not very material. But I have an amendment which I desire to offer to the bill.

The SPEAKER *pro tempore*. The gentleman's time has expired.

Mr. WARNER, of Ohio. Let me present my amendment. It is as follows: Add to the end of the bill the following: "Nor the reduction of the total volume of United States notes;" so that if adopted the proviso in the bill will then read:

Provided, Nothing in this act shall be construed to interfere with the issuing of silver certificates in other denominations as now authorized by law, nor the reduction of the total volume of United States notes.

Mr. LACEY. I am perfectly willing to accept that modification of the bill.

Mr. WARNER, of Ohio. I think that makes it perfectly safe.

The SPEAKER *pro tempore*. It can only be done by unanimous consent.

Mr. WARNER, of Ohio. Then I ask unanimous consent that the amendment be agreed to.

The amendment was again read.

Mr. LACEY. I ask unanimous consent that that be inserted as an amendment.

Mr. HEWITT, of New York, Mr. BAYNE, and others objected.

Mr. CANNON. I submit, Mr. Speaker, that the objection has no force, because without the amendment of the gentleman from Ohio the law would be precisely as he desires it to be with the amendment.

Mr. HENDERSON, of Iowa. I would ask the gentleman from Ohio if he deems that to be true?

Mr. WARNER, of Ohio. I do not want to leave a possibility of doubt about it, and hence have proposed this amendment.

Mr. HENDERSON, of Iowa. Is there reasonable doubt, or is there any question of doubt?

Mr. WARNER, of Ohio. The question has been raised already. For myself I do not think the law is susceptible of any other interpretation than that put upon it by the gentleman from Iowa himself, that the total volume of greenback circulation can not be reduced.

Mr. HILL. I would like to ask my colleague a question.

The SPEAKER *pro tempore*. The gentleman from Michigan has the floor.

Mr. HILL. I hope he will yield to me for a question.

I wish to ask my colleague if the passage of this bill will not result in a reduction of the volume of Treasury notes?

Mr. TURNER, of Kentucky. Undoubtedly it will.

Mr. WARNER, of Ohio. As the bill stands I do not think it would myself; but, as I have already stated, I would rather place it beyond all peradventure, and hence have offered the amendment.

Mr. LACEY. Mr. Speaker, how much time have I remaining?

The SPEAKER *pro tempore*. The gentleman has three minutes.

Mr. LACEY. I only yielded two minutes of my time to the gentleman from Ohio.

The SPEAKER *pro tempore*. The gentleman from Ohio returned the floor to the gentleman, and the Chair must consider these interruptions as coming out of the time belonging to the gentleman from Michigan.

Mr. LACEY. I did not consent that such interruptions should be taken out of my time.

The SPEAKER *pro tempore*. If there be no objection, the gentleman from Michigan will be recognized for five minutes.

There was no objection.

Mr. LACEY. I yield three minutes to the gentleman from Rhode Island [Mr. CHACE].

Mr. CHACE. One can hardly discuss with any satisfaction such a question within the limits of three minutes, but there are two or three propositions that I desire to state to the House before action is taken upon this bill. It embraces no great seminal principle. I wish it did. I wish it might have in some degree provided for a suspension of the coinage of silver or for a suspension of the circulation of it for a time. I have grave doubts in my own mind in regard to it, but have concluded to support the bill, and for these reasons, as the law stands at present, the result is to force the circulation of silver upon the people of this country. It is inconvenient and bulky and the people reject it.

Now, in so far as that objection exists to silver, this bill affords some amelioration. It is simply a matter of convenience for the people. It gives them the paper representative of the dollar; the paper dollar itself instead of the heavy, bulky silver dollar. This paper will be worth, just as the dollar itself is worth, only 83 cents on the dollar. Therefore, in that respect, the situation is not changed.

So far as regards the question as between bimetallism and monometallism there is no change. My own judgment, however, is that the gentlemen who have spoken upon the other side are mistaken in regard to the effect of this law. I believe it will reduce the greenback circulation by just as much as it issues silver certificates.

Now, I desired not to mislead. I will not take advantage of any misapprehension. If I vote for or support this bill I want to be distinctly understood as to the grounds upon which I do support it. I would not wish to convey any misapprehension or misimpression to the mind of any gentleman. It is my belief, therefore, that it will result in a reduction of the greenback circulation in the manner that I have stated.

[Here the hammer fell.]

Mr. LACEY. Mr. Speaker, I must confess that I am somewhat surprised that my friend from Rhode Island should have taken the view that he now takes in reference to the operation of the first section of this act. I certainly would not have introduced the bill nor would I have voted for it if its effect would be to diminish the volume of the greenback circulation one dollar. I never was clearer on any subject in my life than I am on this point, that it will not decrease the volume of the greenback circulation in any degree. I am perfectly willing, however, to accept the amendment of the gentleman from Ohio, which will settle the matter beyond controversy, if I am permitted to do so, and only regret that it is not in the original bill.

When we come to consider that the volume of greenbacks is now fixed by law at $346,000,000; that the Secretary of the Treasury is daily retiring the ones and twos, and issuing fives in their place; retiring tens and issuing twenties, and *vice versa*, under the present law, and thus changing the amount in circulation of each denomination every day in the year, I would like to know how a simple provision of law that he is not to issue any more one or two dollar notes is going to reduce the volume of the currency or prevent the issuance of fives or tens or other denominations in place of the ones and twos thus retired.

Mr. CHACE. Because this bill provides for the substitution of silver certificates for greenbacks of small denominations.

Mr. LACEY. It does not provide in terms for the substitution of silver certificates for greenbacks. The first section says it shall not be lawful after the passage of the act to issue Treasury notes of a smaller denomination than $5; and a subsequent section says that the Treasury may issue silver certificates of the denomination of one, two, or five dollars. I have consulted with the Treasurer of the United States and with the Director of the Mint, and they make no objection to this bill. It meets their approval. I will only add that there is no repealing clause in the bill, and nothing increasing or diminishing in any manner the volume of legal-tender notes as now fixed by law.

The SPEAKER *pro tempore*. The time for debate on this bill has expired. The question is on the motion to suspend the rules and pass the bill.

Mr. NEECE. I call for the yeas and nays.

The yeas and nays were ordered, 56 members voting therefor—more than one-fifth of the last vote.

The question was taken; and there were—yeas 50, nays 219, not voting 54; as follows:

YEAS—50.

Adams, G. E.	Davis, G. R.	Horr,	Reagan,
Alexander,	Dowd,	Houseman,	Rosecrans,
Barksdale,	Follett,	Jones, J. H.	Snalls,
Barr,	Foran,	Keifer,	Stewart, Charles
Blackburn,	Fyan,	Kleiner,	Stone.
Breitung,	Glascock,	Lacey,	Tillman,
Brewer, P. B.	Hanback,	Lanham,	Van Eaton,
Candler,	Hardy,	Lovering,	Wadsworth,
Cannon,	Hart,	Miller, J. F.	Washburn,
Chace,	Hatch, H. H.	Money,	White, J. D.
Chalmers,	Herbert,	Muldrow,	Wilson, W. L.
Culbertson, W. W.	Hewitt, G. W.	Oates,	
Cutcheon,	Holman,	Perkins,	

NAYS—219.

Aiken,	Dunn,	Lowry,	Seymour,
Anderson,	Eldredge,	Lyman,	Shelley,
Atkinson,	Elliott,	McComas,	Shively,
Bagley,	Ermentrout,	McCormick,	Singleton,
Ballentine,	Evans,	McMillin,	Skinner, C. R.
Bayne,	Everhart,	Matson,	Skinner, T. G.
Beach,	Ferrell,	Millard,	Smith, A. H.
Belmont,	Findlay,	Milliken,	Smith, H. Y.
Bennett,	Finerty,	Mills,	Snyder,
Bisbee,	Forney,	Mitchell,	Spriggs,
Blount,	Funston,	Morrison,	Springer,
Bouteille,	Geddes,	Morse,	Stephenson,
Boyle,	Goff,	Moulton,	Stevens,
Brainerd,	Green,	Murphy,	Stewart, J. W.
Bratton,	Greenleaf,	Murray,	Stockslager,
Breckinridge,	Guenther,	Mutchler,	Strait,
Brewer, J. H.	Halsell,	Neece,	Struble,
Broadhead,	Hammond,	Nelson,	Sumner, C. A.
Browne, T. M.	Hancock,	Nicholls,	Talbott,
Brown, W. W.	Hardeman,	Nutting,	Taylor, E. B.
Buchanan,	Harmer,	Ochiltree,	Taylor, J. D.
Buckner,	Hatch, W. H.	O'Ferrall,	Taylor, J. M.
Budd,	Hemphill,	O'Hara,	Thomas,
Burleigh,	Henderson, D. B.	O'Neill, Charles	Thompson,
Burnes,	Henderson, T. J.	O'Neill, J. J.	Throckmorton,
Cabell,	Henley,	Parker,	Townshend,
Caldwell,	Hepburn,	Patton,	Tully,
Campbell, J. E.	Hewitt, A. S.	Payne,	Turner, H. G.
Campbell, J. M.	Hill,	Payson,	Turner, Oscar
Carleton,	Hiscock,	Peel,	Van Alstyne,
Cassidy,	Hitt,	Pierce,	Wait,
Ciardy,	Hoblitzell,	Peters,	Wakefield,
Clements,	Holmes,	Phelps,	Wallace,
Cobb,	Hooper,	Poland,	Ward,
Collins,	Hopkins,	Post,	Warner, A. J.
Converse,	Howey,	Potter,	Warner, Richard
Cook,	Hunt,	Price,	Weaver,
Cosgrove,	Hurd,	Pryor,	Wellborn,
Covington,	James,	Randall,	Wemple,
Cox, S. S.	Jeffords,	Rankin,	White, Milo
Cox, W. R.	Johnson,	Ranney,	Whiting,
Crisp,	Jones, B. W.	Ray, G. W.	Wilkins,
Culberson, D. B.	Jones, J. K.	Ray, Ossian	Williams,
Cullen,	Jones, J. T.	Reed,	Willis,
Curtin,	Jordan,	Reese,	Wilson, James
Dargan,	Kean,	Rice,	Winans, E. B.
Davidson,	Kelley,	Riggs,	Winans, John
Davis, L. H.	Ketcham,	Robinson, J. S.	Wise, G. D.
Davis, R. T.	Laird,	Rockwell,	Wolford,
Deuster,	Lamb,	Rogers, J. H.	Wood,
Dibble,	Lawrence,	Rogers, W. F.	Woodward,
Dibrell,	Le Fevre,	Rowell,	Worthington,
Dingley,	Lewis,	Ryan,	Yaple,
Dockery,	Long,	Scales,	York.
Dunham,	Lore,	Seney,	

NOT VOTING—54.

Adams, J. J.	Ellis,	Libbey,	Shaw,
Arnot,	Ellwood,	McAdoo,	Slocum,
Barbour,	English,	McCoid,	Spooner,
Belford,	Fiedler,	Maybury,	Steele,
Bingham,	Garrison,	Miller, S. H.	Storm,
Blanchard,	George,	Morgan,	Sumner, D. H.
Bland,	Gibson,	Morrill,	Tucker,
Bowen,	Graves,	Muller,	Valentine,
Brumm,	Haynes,	Paige,	Vance,
Campbell, Felix	Holton,	Pettibone,	Weller,
Clay,	Houk,	Pusey,	Wise, J. S.
Connolly,	Hutchins,	Robertson,	Young.
Dorsheimer,	Kellogg,	Robinson, W. E.	
Eaton,	King,	Russell,	

So (two-thirds not having voted in the affirmative) the rules were not suspended.

On motion of Mr. LORE, by unanimous consent, the reading of the names of members voting was dispensed with.

The result of the vote was then announced as above stated.

LEAVE TO PRINT.

By unanimous consent, leave was given to Mr. CHACE, to Mr. COOK, and to Mr. LACEY to extend in the RECORD their remarks on the bill just voted upon.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. McCOOK, its Secretary, informed the House that the Senate agreed to the concurrent resolution of the House of Representatives, that the President of the Senate, together with a committee of thirteen Senators to be appointed by him, and the Speaker of the House, together with one Representative or Delegate from each State and Territory in the Union, to be selected by him, be requested to attend at the Executive Mansion on Tuesday, the 16th instant, at 12.30 p. m., to witness on behalf of the Congress of the United States the opening of the World's Industrial and Cotton Centennial Exposition at New Orleans by the President, and to adopt and forward thereto such address of congratulation as may seem appropriate to the occasion.

The message further announced that the Senate had passed bills of the following titles; in which the concurrence of the House was requested:

A bill (S. 1838) for the erection of a public building at Akron, Ohio;

A bill (S. 2391) to amend an act entitled "An act to amend the statutes in relation to immediate transportation of dutiable goods, and for other purposes," approved June 10, 1880; and

A bill (S. 2393) to change the name of the Slater National Bank of North Providence, R. I.

OPENING OF NEW ORLEANS EXPOSITION.

The SPEAKER *pro tempore*. In accordance with the concurrent resolution which has been adopted by the two Houses the Chair announces the following committee on the part of the House to attend at the Executive Mansion to witness the opening of the World's Industrial and Cotton Exposition by the President: Mr. OATES of Alabama, Mr. ROGERS of Arkansas, Mr. HENLEY of California, Mr. BELFORD of Colorado, Mr. SEYMOUR of Connecticut, Mr. LORE of Delaware, Mr. DAVIDSON of Florida, Mr. HARDEMAN of Georgia, Mr. HITT of Illinois, Mr. MATSON of Indiana, Mr. HENDERSON of Iowa, Mr. PERKINS of Kansas, Mr. HALSELL of Kentucky, Mr. ELLIS of Louisiana, Mr. DINGLEY of Maine, Mr. COVINGTON of Maryland, Mr. LYMAN of Massachusetts, Mr. WINANS of Michigan, Mr. STRAIT of Minnesota, Mr. VAN EATON of Mississippi, Mr. O'NEILL of Missouri, Mr. GREEN of North Carolina, Mr. LAIRD of Nebraska, Mr. CASSIDY of Nevada, Mr. RAY of New Hampshire, Mr. KEAN of New Jersey, Mr. ADAMS of New York, Mr. PAIGE of Ohio, Mr. GEORGE of Oregon, Mr. BINGHAM of Pennsylvania, Mr. CHACE of Rhode Island, Mr. HEMPHILL of South Carolina, Mr. CALDWELL of Tennessee, Mr. THROCKMORTON of Texas, Mr. POLAND of Vermont, Mr. O'FERRALL of Virginia, Mr. GIBSON of West Virginia, Mr. RANKIN of Wisconsin, Mr. OURY of Arizona, Mr. RAYMOND of Dakota, Mr. SINGISER of Idaho, Mr. MAGINNIS of Montana, Mr. MANZANARES of New Mexico, Mr. CAINE of Utah, Mr. BRENTS of Washington, Mr. POST of Wyoming.

REVENUE-MARINE SERVICE.

Mr. PETERS. I am authorized and directed by the Committee on Commerce to move to suspend the rules and pass the bill (H. R. 6120) to promote the efficiency of the revenue-marine service.

The bill was read, as follows:

Be it enacted, &c., That section 2749 of the Revised Statutes be, and the same is hereby, amended so as to require the Secretary of the Treasury to place on waiting orders, with waiting-orders pay, all officers of the revenue marine who are or shall be totally disabled for regular duty, or who are or shall be 65 years of age, or who shall have served forty years; and vacancies created by placing such officers on waiting orders may be filled by promotions under the provisions of section 2752 of the Revised Statutes: *Provided*, That if the disability of any officer of the revenue marine be found to be not incident to his service, he may, in the discretion of the President, be placed on waiting orders, on one-half the pay of his grade, or may be dropped from the rolls, with not exceeding one year's full pay of his grade.

SEC. 2. That the President may, by and with the advice of the Senate, appoint from the list of captains in the revenue-marine service three post-captains, whose compensation shall be at the rate of $3,000 each per annum while on duty, and three-fourths of said sum while on leave of absence or waiting orders.

SEC. 3. That the provisions of sections 1262 and 1263 of the Revised Statutes be, and the same are hereby, extended so as to include commissioned officers of the revenue-marine service.

Mr. REAGAN. On the motion to suspend the rules I demand a second.

Mr. PETERS. I ask unanimous consent that a second may be considered as ordered.

Mr. REAGAN and others objected.

The SPEAKER *pro tempore*. Objection being made, the question on seconding the motion to suspend the rules must be taken by tellers; and the Chair appoints as such the gentleman from Kansas, Mr. PETERS, and the gentleman from Texas, Mr. REAGAN.

The House divided; and the tellers reported—ayes 77, noes 93.

So the motion to suspend the rules was not seconded.

LEAVE OF ABSENCE.

The SPEAKER *pro tempore*. The next committee entitled to submit a motion to suspend the rules is the Committee on Rivers and Harbors; but before calling that committee the Chair will submit to the House some requests for leave of absence, some of which relate to the remainder of the present day.

By unanimous consent, leave of absence was granted as follows:

To Mr. STEELE, indefinitely, on account of important business.

To Mr. KING, for this week, on account of important business.

To Mr. VANCE, indefinitely, on account of illness in his family.

To Mr. BAYNE, indefinitely.

To Mr. BEACH, for the remainder of the day, on account of sickness in his family.

ORDER OF BUSINESS.

The SPEAKER *pro tempore*. The next committee entitled to submit a motion to suspend the rules is the Committee on Rivers and Harbors.

Mr. NICHOLLS. I move that the House do now adjourn.

The question being taken on the motion of Mr. NICHOLLS, there were—ayes 103, noes 86.

Mr. WILLIS. I call for tellers.

Mr. WHITE, of Kentucky. I call for the yeas and nays. It is only half past 3 o'clock.

The yeas and nays were ordered, 61 voting in favor thereof.

The question was taken; and there were—yeas 85, nays 172, not voting 66; as follows:

YEAS—85.

Alexander,	Davis, L. H.	Lore,	Smith, A. H.
Ballentine,	Deuster,	McMillin,	Snyder,
Bennett,	Dowd,	Miller, J. F.	Spriggs,
Blackburn,	Eldredge,	Mills,	Stewart, Charles
Blount,	Elliott,	Mitchell,	Stockslager,
Brainerd,	Findlay,	Morrison,	Thomas,
Breitung,	Foran,	Mutchler,	Throckmorton,
Broadhead,	Goff,	Nicholls,	Tillman,
Buchanan,	Graves,	O'Ferrall,	Tully,
Buckner,	Green,	Potter,	Turner, H. G.
Carleton,	Hancock,	Pryor,	Turner, Oscar
Chace,	Hemphill,	Randall,	Van Alstyne,
Clardy,	Hepburn,	Rankin,	Van Eaton,
Cobb,	Hoblitzell,	Reagan,	Wadsworth,
Converse,	Holman,	Reese,	Wait,
Cosgrove,	Hurd,	Robinson, J. S.	Warner, A. J.
Covington,	Jones, J. H.	Rogers, W. F.	Wellborn,
Cox, W. R.	Jones, J. T.	Scales,	Wilkins,
Crisp,	Jordan,	Seymour,	Yaple.
Culberson, D. B.	Lamb,	Shively,	
Culbertson, W. W.	Lanham,	Skinner, T. G.	
Dargan,	Le Fevre,	Smalls,	

NAYS—172.

Adams, G. E.	Evans,	Ketcham,	Robinson, W. E.
Aiken,	Everhart,	Laird,	Rockwell,
Anderson,	Ferrell,	Lawrence,	Rogers, J. H.
Atkinson,	Finerty,	Lewis,	Rosecrans,
Bagley,	Follett,	Long,	Rowell,
Barksdale,	Forney,	Lovering,	Ryan,
Bayne,	Funston,	Lowry,	Seney,
Bisbee,	Fyan,	Lyman,	Shelley,
Blanchard,	Geddes,	McCoid,	Singleton,
Boutelle,	George,	McComas,	Skinner, C. R.
Boyle,	Glascock,	McCormick,	Smith, H. Y.
Bratton,	Greenleaf,	Matson,	Springer,
Breckinridge,	Guenther,	Milliken,	Stephenson,
Brewer, F. B.	Halsell,	Morse,	Stevens,
Brewer, J. H.	Hammond,	Muldrow,	Stewart, J. W.
Browne, T. M.	Hanback,	Murphy,	Strait,
Brown, W. W.	Hardeman,	Murray,	Talbott,
Budd,	Harmer,	Neece,	Taylor, J. D.
Burnes,	Hart,	Nelson,	Taylor, J. M.
Cabell,	Hatch, H. H.	Oates,	Thompson,
Caldwell,	Hatch, W. H.	O'Hara,	Tucker,
Campbell, J. E.	Haynes,	O'Neill, Charles	Vance,
Campbell, J. M.	Henderson, D. B.	O'Neill, J. J.	Wakefield,
Candler,	Henley,	Parker,	Wallace,
Cannon,	Herbert,	Patton,	Ward,
Cassidy,	Hewitt, A. S.	Payne,	Warner, Richard
Chalmers,	Hewitt, G. W.	Payson,	Washburn,
Clements,	Hill,	Peel,	Weaver,
Collins,	Hiscock,	Perkins,	White, J. D.
Cook,	Hitt,	Peters,	White, Milo
Cox, S. S.	Holmes,	Pettibone,	Whiting,
Cullen,	Hooper,	Pierce,	Williams,
Cutcheon,	Hopkins,	Poland,	Willis,
Davidson,	Horr,	Post,	Wilson, James
Davis, G. R.	Houseman,	Price,	Wilson, W. L.
Davis, R. T.	Howey,	Pusey,	Winans, E. B.
Dibble,	Hunt,	Ranney,	Winans, John
Dibrell,	James,	Ray, G. W.	Wise, G. D.
Dingley,	Jeffords,	Ray, Ossian	Wolford,
Dockery,	Johnson,	Reed,	Wood,
Dunham,	Jones, B. W.	Rice,	Woodward,
Dunn,	Kean,	Riggs,	Worthington,
Ermentrout,	Keifer,	Robertson,	York.

NOT VOTING—66.

Adams, J. J.	Eaton,	Lacey,	Slocum,
Arnot,	Ellis,	Libbey,	Spooner,
Barbour,	Ellwood,	McAdoo,	Steele,
Barr,	English,	Maybury,	Stone,
Beach,	Fiedler,	Millard,	Storm,
Belford,	Garrison,	Miller, S. H.	Struble,
Belmont,	Gibson,	Money,	Sumner, C. A.
Bingham,	Hardy,	Morgan,	Sumner, D. H.
Bland,	Henderson, T. J.	Morrill,	Taylor, E. B.
Bowen,	Holton,	Moulton,	Townshend,
Brumm,	Houk,	Muller,	Valentine,
Burleigh,	Hutchins,	Nutting,	Weller,
Campbell, Felix	Jones, J. K.	Ochiltree,	Wemple,
Clay,	Kelley,	Paige,	Wise, J. S.
Connolly,	Kellogg,	Phelps,	Young.
Curtin,	King,	Russell,	
Dorsheimer,	Kleiner,	Shaw,	

So the motion to adjourn was not agreed to.

The following additional pairs were announced:

Mr. HENDERSON, of Illinois, with Mr. TOWNSHEND, on all political questions, for the remainder of this day.

Mr. CLAY with Mr. KELLOGG, for the remainder of the day.

Mr. KLEINER with Mr. MORRILL, for the remainder of the day.

Mr. JONES, of Arkansas. I am paired with the gentleman from Massachusetts, Mr. RUSSELL, and therefore withdraw my vote.

The result of the vote was announced as above stated.

DEPARTMENT OF AGRICULTURE.

The SPEAKER *pro tempore*. If the Committee on Rivers and Harbors has nothing to present, the next committee is the Committee on Agriculture.

Mr. AIKEN. I am instructed by the Committee on Agriculture to move that the Committee of the Whole House on the state of the Union be discharged from the further consideration of the bill (H. R. 1457) to establish a department of agriculture, and that it be now put on its passage.

The bill was read, as follows:

Be it enacted, &c., That there shall be established in the city of Washington a department of agriculture.

SEC. 2. That there shall be appointed by the President, by and with the advice and consent of the Senate, a secretary of agriculture to preside over said department of agriculture, who shall equal in rank and pay the Secretaries now constituting the Executive Cabinet.

SEC. 3. That there shall be appointed by the President, by and with the advice and consent of the Senate, an assistant secretary of agriculture, who shall receive a compensation of $4,000 per annum, to be paid in monthly installments, and whose official duties shall supersede those of the officer known as the Commissioner of Agriculture, which said office of Commissioner of Agriculture is hereby abolished.

SEC. 4. That the secretary of agriculture shall appoint a chief clerk of the department of agriculture, with a salary of $2,500 per annum, to be paid in monthly installments, whose duties shall supersede those of the chief clerk of the existing Bureau of Agriculture, which said office of chief clerk of the Bureau of Agriculture is hereby abolished.

SEC. 5. That the existing Bureau of Agriculture, with all its appurtenances, save its chief clerk and Commissioner, are hereby transferred to the department of agriculture, to be supervised by the chief clerk and assistant secretary of said department.

SEC. 6. That in addition to the divisions now existing in the Bureau of Agriculture there shall be organized, under the supervision of the secretary of agriculture, and in a manner similar to the organization of the existing divisions, a division of veterinary science, and a division of forestry.

SEC. 7. That all laws and parts of laws inconsistent with this act are hereby repealed.

The SPEAKER *pro tempore*. Is a second demanded on the motion to suspend the rules?

Mr. AIKEN. I ask unanimous consent that a second be considered as ordered.

Mr. NICHOLLS. I move that the House adjourn.

Mr. AIKEN. Is that motion in order?

The SPEAKER *pro tempore*. It is.

Mr. AIKEN. I hope the House will vote down the motion.

The question being taken on the motion of Mr. NICHOLLS, there were—ayes 71, noes 99.

Mr. NICHOLLS. I call for tellers.

Tellers were not ordered.

So the motion to adjourn was rejected.

Mr. AIKEN. I ask unanimous consent that the motion to suspend the rules be considered as seconded.

Mr. BLOUNT. I object.

The SPEAKER *pro tempore*. Objection being made, the question on seconding the motion to suspend the rules will be taken by tellers, and the Chair appoints the gentleman from South Carolina [Mr. AIKEN] and the gentleman from Georgia [Mr. BLOUNT].

The House divided; and the tellers reported—ayes 101, noes 71.

So the motion to suspend the rules was seconded.

Mr. HOLMAN. I make the point that no quorum has voted.

The SPEAKER *pro tempore*. Yes; a quorum has voted.

Mr. AIKEN. Mr. Chairman, I suppose that every member of this House has made up his mind in regard to this bill. It is no new thing in the Congress of the United States. A bill similar was presented in the Forty-fifth Congress. It reached the Calendar and there remained till the end of the term. In the Forty-sixth Congress another bill of like nature was introduced and reported favorably by the committee to which it was referred. It was put on its passage under a suspension of the rules and lost by one single vote, that negative vote being cast by the then chairman of the Committee on Agriculture. In the Forty-seventh Congress a similar bill was again submitted to the House under a suspension of the rules and received but 7 negative votes, there being 183 votes in favor of it. This is a repetition of the same bill; and I do not desire to detain the House at this late hour of the evening to discuss its merits. Unless there shall be some antagonism I am willing it shall be put on its passage at once without debate. I reserve the balance of my time to refute if possible any opposition that may be presented.

Mr. BLOUNT. I have, Mr. Speaker, I trust, as much regard for the interest of agriculture as the gentleman who is in charge of the present bill. I represent largely an agricultural constituency. I have endeavored to favor as far as I could a policy promotive of the interest of agriculture. But, sir, I do not consider that I shall accomplish anything in that way by simply multiplying offices and providing additional salaries in a bill with nothing else to recommend it. I listened as the Clerk read the bill, and I found nothing in it except in lieu of a Commissioner of Agriculture it creates a new office of secretary of the department of agriculture and an additional salary, and an additional office and salary for an assistant secretary. There are no provisions in the bill for additional duties to be assigned to these new officers. It simply provides for the creation of these new offices and the accompanying salaries. That is all there is in it. [Laughter.]

Heretofore there have been bills on the subject; but those bills added to the duties of the present Agriculture Bureau, but, as I have already said, in this case or in this bill we have nothing more than an increase of offices and an increase of salaries. It seems to me, therefore, that it is perfectly ridiculous. It is a cheat to talk about this bill being in the interest of agriculture. Not a single line is suggestive of any new field of operation. The old business of gathering seed and distributing it will make up the whole of this matter.

Now, I trust, Mr. Speaker, that we shall not undertake to pass any bill creating a new Cabinet officer unless we accompany it with provision giving him additional duties. As suggested by gentlemen on my left, if we propose to do nothing more than to create two or three new offices with additional salaries, it would be far better to take the money and with it buy seed in the old manner for general distribution. [Laughter.]

I reserve the balance of my time. [Cries of "Vote!" "Vote!"] I will yield five minutes of my time first to the gentleman from New York [Mr. POTTER].

Mr. BROWNE, of Indiana. I wish the gentleman to yield to me for a while.

Mr. BLOUNT. What side are you on?

Mr. BROWNE, of Indiana. Why, I am opposed to the bill.

Mr. BLOUNT. I would be glad to yield to you.

Mr. POTTER addressed the House. [See Appendix.]

Mr. BLOUNT. I yield now two minutes to the gentleman from Indiana [Mr. BROWNE].

Mr. BROWNE, of Indiana. Mr. Speaker, why not organize a department of manufactures? That is an industry almost equal in importance to that of agriculture in this country. Our manufactured products reach annually an amount equal in value to $6,000,000,000. Why not organize a department of mines and mining? Why not, after this is done, establish a secretary for each of them, with the powers proposed to be given here to this department of agriculture, and for every one of the other great industries of the country? There is as much necessity, in my mind, for the establishment of these as there is for a department of agriculture.

But I oppose this measure now as I have done heretofore for the reason that everything that is of value or can be of value to the great farming interests of the country is being done and well done through the Bureau of Agriculture. It comes nearer to the agricultural people than a department could possibly come. It answers all their wants fully; and because I believe that no good could be accomplished for the farming people of this country, and because I know they do not demand it in the section which I represent, for it is almost purely an agricultural people, and because they do not want or need it, I oppose the proposition.

[Here the hammer fell.]

Mr. BLOUNT. I reserve the remainder of my time.

Mr. AIKEN. I yield two minutes of my time to the gentleman from Iowa [Mr. WILSON].

Mr. WILSON, of Iowa. Mr. Speaker, gentlemen misapprehend the objects and purposes of this bill. They have supposed that the farmers of this country are coming to Washington to be instructed in what they are going to do for their own interests by a secretary of agriculture. We have wider views. Five-sixths of all the exports of this nation go directly from the farm. These products do not stay in the State or the locality where they are raised; they go beyond the control of the State the moment they pass the State line. Consequently our exports become national and pass beyond State jurisdiction. Is it too much to ask Federal care of national commerce? Every nation on earth but ours watches jealously over the prosperity of the producer and gives national heed to its exports. What breadth of statesmanship to suppose the distribution of seeds the object of this bill!

Consider for a moment what keeps this country going financially; what brings the great annual balance of trade in our favor. Look at the great hog products of this country that go abroad defamed, lied about, discounted, depreciated, with no department of our Government that possesses facts to defend; and there is nobody in the great treaty-making powers of the United States to say a word for the interest of America in that respect. Everybody is the farmer's patron. An advocate is wanted, not a patron. The farmers of the country can take care of matters connected with the farm and at their homes. But there is nobody to watch their interests when farm products become national commerce. Farmers are not coming to Washington to learn of cattle or seeding or things of that kind. When they consider production, Congress would be sadly out of place taking a hand in the debates. A head is required for the national producers as a matter of protection when

American products are hostilely dealt with by foreign powers—an intelligent head, that will have a tongue in the councils of the Cabinet.

Bob Ingersoll said in his remarks last night, I have been told, in speaking sneeringly of Christianity, that he heard our Chaplain pray that Congress might have wisdom, and seemed to regard it as an utter impossibility that such prayers could be answered. [Laughter.]

I believe in the efficacy of prayer, but I do not believe in the power of the people about Washington to teach the farmers anything about agriculture. Never do they ask for lessons. Perfect machinery through which our products that become national commerce may have due credit abroad, and let it take the place of the dozen expensive bureaus that now deal with what pertains to agriculture. No step should he taken in any foreign treaty until its effect on our producers be intelligently determined, and that can not be done to-day. Our farmers have interests that are competing with the world to-day. We want a Cabinet officer who comprehends the drift and growth of this competition. We are competing now with the people of India in reference to the shipments and sale of our grain. We are competing with Australia and South America in our wool products. Treaties are being made with reference to these very matters that the House has nothing to do with, treaties made by the President of the United States with the approval and consent of the Senate, and agriculture has no hearing there. We want a finger in the treaty-making. We want a representative head that will comprehend the whole field.

[Here the hammer fell.]

Mr. AIKEN. Mr. Speaker, I am as anxious for a vote as the majority of the members of this House, who seem to be impatient, and I do not wish to delay action upon this measure; but I do desire to say a word in response to the remarks of gentlemen opposing this bill.

The gentleman from New York [Mr. POTTER] seems to anticipate a great centralization of power at Washington because of the fact that we ask for a secretary of agriculture. Does that gentleman see to-day, because there have been created one or more Cabinet positions, any undue centralization of power here? Does he not know the fact that under our Constitution there is no such thing as a Cabinet position? Is he not aware that every officer of the Cabinet has been placed there by statutory legislation and not by constitutional privilege or power?

I say to the gentleman from Indiana [Mr. BROWNE], too, that I am surprised to find him so ignorant of the action of his own State. Within the past few years more than 10,000 petitions have passed through the petition-box from the farmers of the United States asking the elevation of this department, and I hazard nothing in saying more than five hundred of these petitions have come from the State of Indiana; and, sir, they were signed, each of them, by from ten to one hundred adult men and women. Only within the past two months an organization representing thirty-two States of this Union has sent to the Committee on Agriculture the signatures of several thousand petitioners asking the passage of this bill.

I say, sir, that the people demand this legislation, and they are going to have it. If they do not get it now it will come at no distant day.

The gentleman from Georgia [Mr. BLOUNT] ridicules the bill forsooth because it does not go into details to show what are the duties of this officer. I will tell you what would be one of the duties of this officer, the attempted discharge of which has cost this Government more during the past six months than the secretary of agriculture will cost in a lifetime.

Mr. Speaker, a few months ago we became complicated with foreign nations upon the question of the importation of our meat products. We were charged with sending to European countries meats that were introducing fatal diseases among the people of those countries who consumed them. And what was our remedy? There was no one to investigate this matter. It belonged to the agricultural interests of this country, but they had not a friend anywhere to investigate the question so as to ascertain whether we were really liable to the charge brought against us.

The Secretary of the Treasury ordered an investigation to be made through the Marine-Hospital Service. I do not know what ever became of that order. It cost the Government several thousands of dollars. No report that I know of was ever made. But the question was considered of sufficient importance to induce the Secretary to issue another order, this time to Mr. Nimmo, of the Bureau of Statistics, to make investigation of the subject. That involved another expenditure of money, and I hold in my hand his report, comprising about fifty pages, almost the entire contents of which are extracted from the reports issued by the Department of Agriculture; the only original idea in the report being embraced in the statement on the first page, "that hogs are raised in every State of this Union." [Laughter.]

But, sir, this was not enough, for the President of the United States subsequently thought this international complication of sufficient importance to have the charges against us investigated through the State Department, which involved an additional expenditure, far greater than the salary asked for in this bill. As the result of this third inquiry a pamphlet, which I hold in my hand, was issued of one hundred and sixty-nine pages, and almost every word of it taken from the reports of the Agricultural Department; and the House has ordered the printing of 60,000 copies of this pamphlet as if it were something original and new. The prosecution of these investigations has cost the Government already more than would the expenses of the secretary of agriculture during a Presidential term.

Again, sir, during the last session we had a discussion in this House of a week's duration upon the constitutionality of the pleuro-pneumonia bill; and able lawyers on this floor split hairs so finely upon this subject that a microscope would scarcely develop what they were aiming at, contending for and against the constitutionality of the appropriation asked for. And what was the result? I believe we gave $150,000.

Sir, if we had a secretary of agriculture receiving the modest salary of $8,000, but invested with the power granted by this bill, there should never have been the necessity for this discussion or the introduction of a pleuro-pneumonia bill to this House. It would have been his duty, and would have been one of the details of his office, that there should have been no possibility of the introduction of pleuro-pneumonia into this country. But what is the fact now? We can not import a hide or a hoof, we can not export a head of cattle that the Treasury Department does not send on a lot of gentlemen to examine the importation, some of whom, I dare say, could scarcely tell the difference between a steer and a jackass. [Laughter.] Why, sir, the agricultural interests of this country, great as they are, have cost the Government but little.

We expend a vast deal of money here buying seed, and, as a practical farmer, a man who does not know much else than to farm, I say there is not a grander humbug in the American Union to-day than the expenditure of public money for that purpose. I might go, if I had the money, to Peter Henderson, or some other seedsman, and buy up all his stock of seed and scatter them by a gratuitous system more fairly than it is now done. But let there be a bill introduced to take from this House the scattering of those seeds, and my friend from Georgia [Mr. BLOUNT], I have no doubt, would object to it. Has not that thing been fought here during the last eight years? Twice or thrice I have myself tried to take it out of the hands of members of Congress and to put it into the hands of the Commissioner of Agriculture, and on two or three occasions the majority of this House have voted me down. Every man on this floor, nearly, wants to be a seed distributer.

If there were a secretary of agriculture, the office would give character, importance, and extended jurisdiction to this department of agriculture, and it would be what it ought to be, a representative department of the producers of this country, which now the Agricultural Bureau is not.

But, Mr. Speaker, I need not go further with this subject than to say this: Except the English nation there is not a nation in the civilized world that does not have a department of agriculture presided over by a secretary of agriculture. Ours is a republican form of government and I do not like to instance what other nations are doing as examples for us to follow. But it is a practical question, and if this has been an advantage to them it would necessarily be so to us. This question has nothing to do with the centralization of power in the hands of the Federal Government. It is simply organizing here a department presided over by a man with a jurisdiction equal to that of any other member of the Cabinet of the President, so that he will look exactly after the wants—the Federal wants, if you please to call it so—of the farmers of this country, not their individual wants. There is nothing in this bill proposing to teach the farmer how to hold a plow or drive a thrashing-machine or anything of that sort. It is simply a bill to give jurisdiction to that great agricultural interest of the country, and have a man to supervise it as a Federal matter entirely.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, informed the House that the President *pro tempore* had appointed Mr. LOGAN, Mr. DAWES, Mr. CAMERON of Wisconsin, Mr. CAMERON of Pennsylvania, Mr. HARRISON, Mr. MILLER of California, Mr. RIDDLEBERGER, Mr. PENDLETON, Mr. BUTLER, Mr. VEST, Mr. JONAS, Mr. SLATER, and Mr. WALKER as the committee on the part of the Senate under the concurrent resolution of the two Houses of Congress to witness on behalf of the Congress of the United States the opening of the World's Industrial and Cotton Centennial Exposition at New Orleans by the President on Tuesday, December 16, 1884.

DEPARTMENT OF AGRICULTURE.

Mr. AIKEN. I yield one minute to the gentleman from California [Mr. BUDD].

Mr. BUDD. In one minute I can add nothing to the remarks of the gentleman from South Carolina [Mr. AIKEN]. I can only do as did the Western man who got religion. When the cold weather came he tacked the Lord's Prayer to the wall, and at nights, speedily divesting himself of his clothes, he would jump into bed, draw the bedding around his chin, and, pointing to the prayer, say, "Oh, Lord, them's my sentiments. Amen." So I, pointing to the speech of Colonel AIKEN, say, "Those are my sentiments. Amen." Answering the gentlemen from Indiana and Georgia, I wish to state that all Cabinet offices have been created in the manner provided for in this bill and afterward the powers and details provided. It is so here. Create this office, then establish experimental stations or bureaus and such other machinery necessary to carry out its operations and better the condition of our farming classes.

The farming interest is the greatest in the United States and is entitled to this recognition, and its interests to the careful consideration of a separate department; and I therefore implore members to cast their vote for this measure in behalf of the farming interests.

Mr. AIKEN. I yield the remainder of my time to the gentleman from Georgia [Mr. HARDEMAN].

Mr. HARDEMAN. Mr. Speaker, the object of this bill is simply to dignify labor. Our purpose in supporting this measure is to make the labor of the country feel that, while the education of the country has ignored it, the Legislature of the country will come to its rescue. From the petitions which have been sent here by the laboring people of the country, I believe it is their wish that the General Government should so legislate as to dignify labor. By doing this you will make the agricultural regions of the country the home of an industrious population. Labor being thus encouraged, people will not be driven to the cities in search of employment, and for want of it increase the number of paupers or criminals.

In the short time allowed me I can only indorse every word that has been said by the gentleman from South Carolina. I know that many men in this House say to the country in their stump speeches that they are the friends of labor; but their votes as recorded here prove that "not every one that saith unto me, Lord, Lord, shall enter into the kingdom of heaven." [Laughter and applause.]

The SPEAKER *pro tempore*. The gentleman from Georgia [Mr. BLOUNT] has five minutes of his time remaining.

Mr. BLOUNT. In these few minutes I wish to reply briefly to the gentleman from South Carolina [Mr. AIKEN]. In the beginning of his speech he rebuked the gentleman from Indiana [Mr. BROWNE] for not knowing that the people of Indiana want the Commissioner of Agriculture abolished and a "secretary of agriculture" appointed in his stead. Now, Mr. Speaker, the gentleman from South Carolina proves his own ignorance by the reference he has made to the petitions on this subject coming here through our petition-box. As a matter of fact, it is well known that those petitions were printed in the city of Washington under the direction of the Commissioner of Agriculture, and sent through the mails all over the country, to be brought back here with signatures, for the purpose of influencing Congress.

Mr. AIKEN rose.

Mr. BLOUNT. I do not consent to interruption. I state a matter of fact.

Mr. AIKEN. You can not prove it.

Mr. BLOUNT. I can prove it. I have been through my district for years and have never yet had any farmer ask me to support any measure of this sort. But from the time this proposition has been broached the Commissioner of Agriculture—the present Commissioner as well as other Commissioners—has been about this body and the Senate Chamber asking that this thing be done.

My friend from South Carolina grows eloquent on the subject of pleuro-pneumonia. We had at the last session a long discussion on that subject, and if we had had a "secretary of agriculture," receiving the salary of a Department officer without any duties additional to those now performed by the Commissioner (for this bill does not propose to impose on this officer any new duties), we would have had that debate going on still. So in reference to the hog cholera and other subjects of that kind which have been under investigation in the interest of agriculture. This bill, I repeat, does not confer on this proposed secretary of agriculture any greater power than has been exercised by the Commissioner; it does nothing but create this new officer with an enlarged salary as the representative of the agricultural interests of the country.

Mr. BROWNE, of Indiana. The gentleman will concede that this bill does two things—it changes the name of the Commissioner of Agriculture to that of "Secretary of Agriculture," and increases his salary.

Mr. BLOUNT. Certainly it does. And when the rank and salary of this officer has been thus increased, we are to have no more pleuro-pneumonia and no more hog cholera! That is the whole argument presented here. The bill provides nothing in the way of a reorganization of the present bureau—nothing in the way of imposing additional duties. I trust we are not going to enact the farce of passing this bill.

If we are to have a department of agriculture, let the measure be carefully considered; let the duties of the head of the department be defined; and let the matter be submitted here in fair debate, so that we may know what we are undertaking to do.

I yield the residue of my time to the gentleman from New York [Mr. COX].

The SPEAKER *pro tempore*. The gentleman from New York has one minute and thirty seconds.

Mr. COX, of New York. I can not do justice to this thing in one minute and a half. [Laughter.] I suppose gentlemen on the other side of the House desire to make a new cabinet place in order that it may be filled by the incoming administration. It will give Governor Cleveland some trouble. Here is a department that has the regulation of cows and rams and so on. [Laughter and applause.] How can he fill it? Will he say he will give it to a New Englander because maple sugar is a larger thing than the cowslip industry in the Southwest? [Laughter.]

Now I am opposed to any such bill here unless it can show some warrant for it in the Constitution. There is no more warrant for this than for a department of science.

Mr. AIKEN. Let me ask you a question.

Mr. COX, of New York. How can I when I have only one minute and a half? [Laughter.]

Mr. AIKEN. What warrant in the Constitution was there for the establishment of any one of these cabinet positions?

Mr. COX, of New York. A good deal as to some of them. The Navy Department no doubt could take care of the ram business. [Laughter].

The SPEAKER *pro tempore*. The gentleman's time is exhausted. The question recurs on the motion of the gentleman from South Carolina [Mr. AIKEN] to suspend the rules, discharge the Committee of the Whole House on the state of the Union from the further consideration of the bill, and pass it.

Mr. HATCH, of Missouri, demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 166, nays 69, not voting 88; as follows:

YEAS—166.

Aiken,	Elliott,	Lamb,	Shively,
Alexander,	Evans,	Lanham,	Singleton,
Anderson,	Everhart,	Lawrence,	Skinner, C. R.
Atkinson,	Ferrell,	Le Fevre,	Smith, H. Y.
Ballentine,	Finerty,	Lewis,	Snyder,
Barbour,	Follett,	Lowry,	Springer,
Barksdale,	Forney,	McCold,	Stephenson,
Barr,	Funston,	McComas,	Stevens,
Bayne,	Fyan,	McCormick,	Stewart, Charles
Bisbee,	Geddes,	McMillin,	Strait,
Blanchard,	George,	Matson,	Struble,
Boutelle,	Glascock,	Milliken,	Talbott,
Breitung,	Goff,	Mills,	Taylor, J. D.
Brewer, F. B.	Green,	Money,	Taylor, J. M.
Brewer, J. H.	Greenleaf,	Muldrow,	Thompson,
Brown, W. W.	Gunther,	Murray,	Throckmorton,
Budd,	Halsell,	Neece,	Tillman,
Burleigh,	Hanback,	Nelson,	Tully,
Burnes,	Hardeman,	Nutting,	Van Eaton,
Cabell,	Harmer,	O'Ferrall,	Wakefield,
Caldwell,	Hart,	O'Neill, J. J.	Wallace,
Campbell, J. E.	Hatch, H. H.	Patton,	Ward,
Candler,	Hatch, W. H.	Payne,	Warner, Richard
Cannon,	Hemphill,	Payson,	Weaver,
Carleton,	Henderson, D. B.	Pierce,	Wellborn,
Cassidy,	Henley,	Peel,	Wemple,
Chace,	Hepburn,	Perkins,	White, J. D.
Chalmers,	Hewitt, G. W.	Peters,	White, Milo
Clements,	Hill,	Pettibone,	Whiting,
Converse,	Hitt,	Post,	Wilkins,
Cosgrove,	Holmes,	Price,	Williams,
Crisp,	Hooper,	Pusey,	Wilson, James
Culberson, D. B.	Horr,	Ray, G. W.	Wilson, W. L.
Cullen,	Houseman,	Ray, Ossian	Winans, E. B.
Cutcheon,	Howey,	Reese,	Winans, John
Davidson,	Jeffords,	Riggs,	Wood,
Davis, L. H.	Jones, B. W.	Robertson,	Woodward,
Dibrell,	Jones, J. H.	Rockwell,	Worthington,
Dingley,	Jones, J. T.	Rogers, W. F.	Yaple,
Dockery,	Jordan,	Rowell,	York.
Dowd,	Lacey,	Seney,	
Dunn,	Laird,	Shelley,	

NAYS—69.

Adams, G. E.	Davis, G. R.	Jones, J. K.	Reagan,
Bagley,	Davis, R. T.	Kean,	Rice,
Bennett,	Deuster,	Long,	Rogers, J. H.
Blount,	Dibble,	Lovering,	Scales,
Boyle,	Dunham,	Lyman,	Seymour,
Bratton,	Eldredge,	Millard,	Smalls,
Breckinridge,	Ermentrout,	Miller, J. F.	Stewart, J. W.
Browne, T. M.	Foran,	Morrison,	Thomas,
Buchanan,	Hammond,	Morse,	Turner, H. G.
Buckner,	Hancock,	Murphy,	Turner, Oscar
Cobb,	Herbert,	Mutchler,	Van Alstyne,
Collins,	Hewitt, A. S.	Nicholls,	Warner, A. J.
Cook,	Hiscock,	Oates,	Willis,
Cox, S. S.	Hoblitzell,	Potter,	Wise, G. D.
Cox, W. R.	Holman,	Pryor,	Wolford.
Culbertson, W. W.	Hunt,	Randall,	
Curtin,	James,	Rankin,	
Dargan,	Johnson,	Ranney,	

NOT VOTING—88.

Adams, J. J.	English,	McAdoo,	Skinner, T. G.
Arnot,	Fiedler,	Maybury,	Slocum,
Beach,	Findlay,	Miller, S. H.	Smith, A. H.
Belford,	Garrison,	Mitchell,	Spooner,
Belmont,	Gibson,	Morgan,	Spriggs,
Bingham,	Graves,	Morrill,	Steele,
Blackburn,	Hardy,	Moulton,	Stockslager,
Bland,	Haynes,	Muller,	Stone,
Bowen,	Henderson, T. J.	Ochiltree,	Storm,
Brainerd,	Holton,	O'Hara,	Sumner, C. A.
Broadhead,	Hopkins,	O'Neill, Charles	Sumner, D. H.
Brumm,	Houk,	Paige,	Taylor, E. B.
Campbell, Felix	Hurd,	Parker,	Townshend,
Campbell, J. M.	Hutchins,	Phelps,	Tucker,
Clardy,	Keifer,	Poland,	Valentine,
Clay,	Kelley,	Reed,	Vance,
Connolly,	Kellogg,	Robinson, J. S.	Wadsworth,
Covington,	Ketcham,	Robinson, W. E.	Wait,
Dorsheimer,	King,	Rosecrans,	Washburn,
Eaton,	Kleiner,	Russell,	Weller,
Ellis,	Libbey,	Ryan,	Wise, J. S.
Ellwood,	Lore,	Shaw,	Young.

So the bill was passed (two-thirds having voted in favor thereof).

During the roll-call the following additional pairs were announced at the Clerk's desk:

Mr. MITCHELL with Mr. WAIT, for the remainder of the day.

Mr. SKINNER, of North Carolina, and Mr. OCHILTREE, on all political questions, for the balance of this day.

Mr. STOCKSLAGER and Mr. BRAINERD, for the remainder of the day.

Mr. KEIFER and Mr. REED, on this question.

Mr. RYAN and Mr. TUCKER, on this bill. Mr. RYAN would vote for the bill and Mr. TUCKER against it.

The vote was then announced as above recorded.

CONTINGENT FUND POST-OFFICE DEPARTMENT.

The SPEAKER *pro tempore*, by unanimous consent, laid before the House a letter from the Postmaster-General, transmitting a statement of expenditures of the contingent fund of the Post-Office Department for the fiscal year ending June 30, 1884; which was referred to the Committee on Expenditures in the Post-Office Department, and ordered to be printed.

CHANGES IN SHORE LINE AT CALUMET, ILL.

The SPEAKER *pro tempore*, by unanimous consent, also laid before the House a letter from the Secretary of War, transmitting the report of Maj. W. H. H. Benyaurd, Corps of Engineers, relative to change in shore line of Calumet, Ill.; which was referred to the Committee on Rivers and Harbors, and ordered to be printed.

J. B. HALE.

On motion of Mr. PETTIBONE, by unanimous consent, leave was granted for the withdrawal from the files of the House of the papers in the case of J. B. Hale.

A. L. ROGERS.

On motion of Mr. PETTIBONE, by unanimous consent, leave was also granted for the withdrawal from the files of the House of the papers in the case of A. L. Rogers.

FRANK G. STEVENS.

On motion of Mr. BREWER, of New York, by unanimous consent, leave was granted for the withdrawal from the files of the House of the bill for the relief of Frank G. Stevens; no adverse report having been made thereon.

SPEAKER PRO TEMPORE.

The SPEAKER *pro tempore* laid before the House the following communication.

The Clerk read as follows:

SPEAKER'S ROOM, HOUSE OF REPRESENTATIVES,
Washington, December 15, 1884.

Hon. WILLIAM M. SPRINGER is hereby appointed Speaker *pro tempore* for to-morrow, Tuesday, December 16.

J. G. CARLISLE,
Speaker House of Representatives.

And then, on motion of Mr. MORRISON (at 5 o'clock and 10 minutes p. m.), the House adjourned.

PETITIONS, ETC.

The following petitions and papers were laid on the Clerk's desk, under the rule, and referred as follows:

By Mr. BALLENTINE: Papers relating to the claim of William Aymett; also papers relating to the claim of Elisha M. Shaddon—severally to the Committee on War Claims.

By Mr. BAYNE: Papers relative to the improvement of the Ohio River by means of locks and dams—to the Committee on Rivers and Harbors.

By Mr. BLACKBURN: Memorial and papers of Lizzie D. Clark, praying for relief for loss of steamer Belle while in the service of the United States under contract—to the Committee on the Judiciary.

By Mr. BLANCHARD: Petition of members of the bar of Shreveport and Monroe, La., for increase of pay of Federal judges—to the same committee.

By Mr. BRUMM: Petition of Clarence W. De Knight, praying for an appropriation for services rendered as page of the House of Representatives—to the Committee on Accounts.

By Mr. CHALMERS: Papers relating to the claim of Calvin Chesire—to the Committee on War Claims.

By Mr. COLLINS: Petition of the National Druggists' Association of the United States, for the removal of all taxes on alcohol to be used in the arts and in the preparation of medicines—to the Committee on Ways and Means.

By Mr. S. S. COX: Petition of the Society of the Sons of the Revolution, that Congress make the necessary appropriation to complete the construction of the pedestal for the statue of Liberty Enlightening the World—to the Committee on the Library.

By Mr. R. T. DAVIS: Petition of Post No. 141, Grand Army of the Republic, Department of Texas, for publication in Official Records of the War of the Rebellion of photographic illustrations—to the Committee on Military Affairs.

Also, memorial of the New Bedford Board of Trade, relative to the silver-coinage act of 1878—to the Committee on Coinage, Weights, and Measures.

By Mr. DEUSTER: Petition of Andrew Barton, praying for the removal of the charge of desertion standing against him on the records of the Navy Department—to the Committee on Military Affairs.

By Mr. DIBBLE: Papers relating to the claim of Sarah Watts—to the Committee on War Claims.

By Mr. EVERHART: Petition of citizens of Delaware County, Pennsylvania, favoring the passage of the bankruptcy bill—to the Committee on the Judiciary.

By Mr. FOLLETT: Petition of Richard Nevins, John F. Treutlen, and others, employés of the House of Representatives, in reference to their compensation—to the Committee on Accounts.

By Mr. FORAN: Petition of leading merchants and manufacturers of Cleveland, Ohio, praying for the enactment of a national bankrupt law—to the Committee on the Judiciary.

Also, petition of 160 merchants and citizens of Cleveland, protesting against the ratification of the Spanish treaty—to the Committee on Ways and Means.

By Mr. GLASCOCK: Petition on behalf of certain Indians belonging to Mission San José, county of Alameda, California—to the Committee on Indian Affairs.

By Mr. GREEN: Petition of certain citizens of Brunswick County, North Carolina, for an appropriation for the improvement of Lockwood's Folly River—to the Committee on Rivers and Harbors.

By Mr. D. B. HENDERSON: Petition and letters from citizens of Dubuque County, Iowa, asking that a pension be granted to Elizabeth Crawford—to the Committee on Invalid Pensions.

By Mr. HOPKINS: Petition of 75 citizens of Massachusetts, mainly bank presidents and insurance companies; also of 200 citizens of the same State, requesting the passage of the resolution of Hon. JAMES H. HOPKINS relative to the transportation of cattle—to the Committee on Commerce.

Also, petition relating to the claim of V. H. Reno, and to have same referred to the Court of Claims—to the Committee on War Claims.

By Mr. JEFFORDS: Petition of George Hay, of William L. Rogers, of William L. Carnell, of Thomas D. Harkins, of H. G. Richardson, of F. Hodges, to have their claims referred to the Court of Claims—severally to the same committee.

By Mr. KLEINER: Papers relating to the bill for the relief of John H. Derter—to the same committee.

By Mr. LAIRD: Papers relating to the bill for the relief of Captain Shaw—to the Committee on Military Affairs.

By Mr. LONG: Petition of Henry Bryant Post, No. 98, Grand Army of the Republic, Department of Massachusetts, for publication in Official Records of the War of the Rebellion of photographic illustrations—to the same committee.

By Mr. LOVERING: Petition of John A. Andrew Post, No. 15, Grand Army of the Republic, Department of Massachusetts, for publication in Official Records of the War of the Rebellion of photographic illustrations—to the same committee.

By Mr. LYMAN: Petition of Moses Ellis Post, No. 117, Grand Army of the Republic, Department of Massachusetts, for publication in Official Records of the War of the Rebellion of photographic illustrations—to the same committee.

By Mr. McMILLIN: A bill to continue the improvement of the Caney Fork River, Tennessee—to the Committee on Rivers and Harbors.

By Mr. MILLIKEN: Petition of Matthew A. Cullnan, for a pension—to the Committee on Invalid Pensions.

By Mr. MITCHELL: Petition for a breakwater at Duck Island—to the Committee on Rivers and Harbors.

By Mr. MULDROW: Papers relating to the claim of H. M. Roberts—to the Committee on War Claims.

By Mr. MURPHY: Memorial of the hardware trade, in favor of the Hennepin Canal—to the Committee on Rivers and Harbors.

By Mr. O'FERRALL: Papers relating to the claim of George W. Taylor—to the Committee on War Claims.

By Mr. CHARLES O'NEILL: Statement and letters upon bill to grant an honorable discharge from the Army to John Connell—to the Committee on Military Affairs.

By Mr. J. J. O'NEILL: Petition of Ferdinand Hercher, for increase of pension—to the Committee on Invalid Pensions.

By Mr. POST: Petition of Anson G. Carpenter, for a pension—to the same committee.

By Mr. RANDALL: Petition of the Women's National Indian Association, to abolish the reservation system and grant lands to Indians in severalty—to the Committee on Appropriations.

By Mr. ROSECRANS: Petition of Daniel W. Burke and other officers of the Army, in favor of a bill to facilitate promotions throughout the Army—to the Committee on Military Affairs.

Also, petition of E. A. Koerper and others, assistant surgeons United States Army, relative to the construction placed by the War Department on a clause of the last Army appropriation bill—to the same committee.

Also, petition for the passage of a joint resolution for the relief of Lieut. George S. Grimes and other officers of the United States Signal Service—to the Committee on Claims.

By Mr. STOCKSLAGER: Papers relating to the bill for the relief of Louisa Heth—to the Committee on Invalid Pensions.

By Mr. J. M. TAYLOR: Papers relating to the claim of Isaiah Sweat—to the Committee on War Claims.

By Mr. TOWNSHEND: Papers relating to the bill for the relief of Hiram W. Hubbard—to the Committee on Claims.

Also, papers relating to bill for the relief of Marcus D. Davis—to the Committee on Invalid Pensions.

Also, petition of Thomas Harrington, for relief—to the Committee on Claims.

By Mr. VAN ALSTYNE: Petition of Edward P. Quinn, for an increase of pension—to the Committee on Invalid Pensions.

By Mr. WADSWORTH: Petition of Sally C. Mulligan, for payment of pension-money due her—to the same committee.

By Mr. GEORGE D. WISE: Petition of Col. William H. Ward, for removal of political disabilities—to the Committee on the Judiciary.

The following petitions for the passage of the Mexican war pension bill, with Senate amendments, were presented and severally referred to the Committee on Pensions:

By Mr. ANDERSON: Of citizens of Everest; of 63 citizens of Salem; and of 62 citizens of Abilene, Kans.

By Mr. F. B. BREWER: Of citizens of Cattaraugus and of Chautauqua, N. Y.

By Mr. BURLEIGH: Of soldiers of Washington County, New York.

By Mr. CLARDY: Of John Rapp and 23 others, of Manchester, Mo.

By Mr. COBB: Of numerous soldiers of Indiana.

By Mr. CURTIN: Of citizens of Lewistown and of Paintersville, Pa.

By Mr. CULLEN: Of 24 citizens of Kendall County, Illinois.

By Mr. R. T. DAVIS: Of citizens of West Harwich and of South Chatham, Mass.

By Mr. DUNHAM: Of citizens of Barrington, Ill.

By Mr. FUNSTON: Of T. Blakeslie and 242 others, of Neodesha; of Cicero Rhodes and 68 others; of Riley Livingston and 62 others; of T. L. Elliot and 126 others, of Colony; of A. M. Ledman and 63 others, of Elk City; of James M. Picket and 114 others, of Galena; and of John Huff and 68 others, of Crestline, Kans.

By Mr. LACEY: Of J. H. Hamlin and 99 others, citizens of Eaton Rapids, Mich.

By Mr. LOVERING: Of Frederick Kelliher and 107 ex-soldiers, of Chelsea, Mass.

By Mr. LOWRY: Of 51 citizens of Lagrange County; of 64 citizens of Whitly County; and of 37 citizens of Lagrange County, Indiana.

By Mr. MATSON: Of Jacob W. Phillips and 100 others, citizens of Putnam County; of John S. Walton and 100 others, of Coatesville, Ind.; and of R. B. Abels and 100 others, of Greencastle, Iowa.

By Mr. MILLIKEN: Of Samuel Vose and others.

By Mr. MURPHY: Of 22 citizens of Low Moor, Iowa.

By Mr. J. J. O'NEILL: Of Mexican veterans living at Florisant, Mo.

By Mr. PATTON: Of citizens of Armstrong and of Clarion Counties, Pennsylvania.

By Mr. G. A. POST: Of 62 citizens of Canton; of 64 citizens of Thompson; of 63 citizens of Skinner's Eddy; of 61 citizens of Montrose; of 31 citizens of Scranton; of 113 citizens of Carney; and of 124 citizens of Canton, Pa

By Mr. SLOCUM: Of John Carty and others; of Edwin Kelley and others; and of B. A. Raymond and others.

By Mr. J. W. STEWART: Of citizens of Stamford, Brandon, and High Gate Falls, Vt.

By Mr. A. J. WARNER: Of F. P. Bryan and 306 citizens and ex-soldiers of Middleport; of Rufus C. Menzie and 62 citizens and ex-soldiers of Little Hocking and Centre Belpre; and of Fred. Grim and 43 others, of Clarington, Ohio.

By Mr. WEMPLE: Of 60 citizens and ex-soldiers of Saratoga County, New York.

By Mr. E. B. WINANS: Of W. L. Robson and 60 others, of Williamston Post, Grand Army of the Republic, Ingham County, Michigan.

By Mr. JOHN WINANS: Of Dr. J. B. Whiting and others, of Janesville, Wis.

By Mr. WOODWARD: Of E. C. Brainard and 36 others, citizens of Sauk County, Wisconsin.

SENATE.

TUESDAY, *December* 16, 1884.

Prayer by Rev. W. H. H. ADAMS, D. D., of Illinois.

NAMING A PRESIDING OFFICER.

Mr. INGALLS called the Senate to order, and the Secretary read the following letter:

To the Senate:

Pursuant to the rules, I hereby name and designate Hon. JOHN J. INGALLS, a Senator from the State of Kansas, to perform the duties of the Chair in my absence this day.

GEO. F. EDMUNDS,
President pro tempore.

WASHINGTON, D. C., 16 *December*, 1884.

Thereupon Mr. INGALLS took the chair as presiding officer for today.

THE JOURNAL.

The Journal of yesterday's proceedings was read and approved.

PETITIONS AND MEMORIALS.

Mr. BAYARD. I present the petition of George W. Bush & Sons and several hundred other citizens of Wilmington, Del., praying for the redemption of the trade-dollar at the par value of 100 cents. I move that the petition be referred to the Committee on Finance.

The motion was agreed to.

Mr. ALDRICH presented a memorial of the Cigar-Makers' Union, No. 94, of Pawtucket, R. I., remonstrating against the ratification of the Spanish treaty; which was referred to the Committee on Foreign Relations.

Mr. SHEFFIELD. I present the petition of Capt. William P. Martin, military storekeeper, United States Army. The petition represents that the petitioner has been in the military service of the country for over forty-five years; that he lost a leg at the battle of Churubusco; and that he has not been absent from duty six months during the period of his entire service in the Army. He is now 63 years and 10 months old, and prays that he may be placed on the retired list with the full pay and allowances of his present rank, or with the retired pay of major. The prayer of the petition is united in by Brigadier-General Terry, Major-General Schofield, and by Major-General Hancock, Lieutenant-General Sheridan, and General Sherman, late General of the Army. I move that the petition be referred to the Committee on Military Affairs.

The motion was agreed to.

Mr. SHEFFIELD presented a memorial of cigar-makers of Pawtucket, R. I., remonstrating against the ratification of the Spanish treaty; which was referred to the Committee on Foreign Relations.

Mr. SHERMAN presented a memorial of cigar-makers of Elyria, Ohio, remonstrating against the ratification of the Spanish treaty; which was referred to the Committee on Foreign Relations.

He also presented a petition of a large number of ex-soldiers of the late Union Army, residents of Washington city, praying Congress to purchase Miss C. L. Ransom's full-length life-size portrait of the late Maj. Gen. George H. Thomas; which was referred to the Committee on the Library.

Mr. WILSON presented the petition of A. J. Purviance, of Keokuk, Iowa, praying that relief be granted him by an allowance of money in compensation for extra services rendered by him as postmaster at Mount Zion, Iowa; which was referred to the Committee on Post-Offices and Post-Roads.

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Mr. SEWELL presented a memorial of cigar-makers of Bridgeton, N. J., remonstrating against the ratification of the Spanish treaty; which was referred to the Committee on Foreign Relations.

Mr. LAPHAM. I present a memorial of the American Atlantic and Pacific Ship-Canal Company, protesting against the ratification of the proposed treaty between the Republic of Nicaragua and the United States. I ask that its reference to the Committee on Foreign Relations.

Mr. SHERMAN. That treaty has not been made public, and if we are to observe the rules it is proper that such papers should be presented in executive session. Indeed, I think the decision yesterday of the President *pro tempore* was wrong, although I did not take an appeal from it, in respect to the Spanish treaty. The Nicaragua treaty is not a public document.

Mr. LAPHAM. I withdraw the memorial, then.

The PRESIDING OFFICER (Mr. INGALLS). The Chair understands the memorial to be withdrawn.

Mr. LAPHAM presented a memorial of cigar-makers of Dunkirk, N. Y., and a memorial of cigar-makers of Oneida, N. Y., remonstrating against the ratification of the treaty between Spain and the United States; which were referred to the Committee on Foreign Relations.

He also presented a petition of Henry Franke, on behalf of the Pioneer Iron Works, of Brooklyn, N. Y., praying for the ratification of the proposed commercial treaty between Spain and the United States; which was referred to the Committee on Foreign Relations.

Mr. HOAR presented a memorial of Colonel and Brevet Major-General O. B. Willcox, and other statements favoring the passage of a bill for the relief of Charles Morris Blake, post chaplain, United States Army, retired; which were referred to the Committee on Military Affairs.

Mr. CONGER presented the memorial of J. A. Donaldson, of Michigan, favoring certain changes in the pre-emption and timber-culture laws; which was referred to the Committee on Public Lands, and ordered to be printed.

Mr. CALL. I present a petition which is stated to be signed by 500 citizens of Hernando County, Florida. The petition is addressed to the Senate and House of Representatives, and is as follows:

To the honorable the Senate and House of Representatives of the United States in Congress assembled:

Your petitioners would respectfully represent that by act of Congress, approved 17th May, 1856, a grant of land was made to aid in building a railroad from Amelia

Island to the waters of Tampa Bay, on the Gulf of Mexico, with the provision that if the road is not completed in ten years the land shall revert to the United States. Near thirty years have elapsed since said grant was made, and the road is not completed.

Under this act a vast quantity of valuable land has been withheld from market, a very great hinderance to the settlement and prosperity of the country.

Your petitioners therefore pray your honorable body that an act be passed, taking effect from and after the 17th May, 1866, declaring said grant forfeited, and the land open to sale and settlement, as other public lands of the United States.

And your petitioners, as in duty bound, will ever pray, &c.

The petition is signed with the names of Thomas Barnes, J. B. Earnest, John J. Rogers, and purports to be signed by 500 other citizens of Hernando County, Florida, and I move its reference to the Committee on Public Lands.

The motion was agreed to.

Mr. CALL. I also present a petition of citizens of Hernando County, Florida, on the same subject, and to the same purport, signed by J. G. Wallace, Horace Anderson, and a large number of prominent citizens of that county. The petition is also accompanied by the resolutions of a public meeting of citizens of the same county to the same effect. I move its reference to the Committee on Public Lands. The motion was agreed to.

REPORTS OF COMMITTEES.

Mr. HALE. I report back by direction of the Committee on Appropriations the bill (H. R. 7510) making temporary provision for the naval service with sundry amendments. I ask that the bill and the amendments be printed, and I give notice that I shall endeavor to call it up to-morrow morning.

The PRESIDING OFFICER. The order to print will be made, and the bill will be placed on the Calendar.

Mr. MITCHELL, from the Committee on Pensions, to whom was referred the bill (H. R. 3210) for the relief of Jacob Hoerth, reported it without amendment, and submitted a report thereon.

He also, from the same committee, to whom was referred the bill (H. R. 3382) granting a pension to Albert Brant, reported it with an amendment, and submitted a report thereon.

Mr. WILSON, from the Committee on Pensions, to whom was referred the petition of Mrs. Catharine Page, praying for a pension, submitted an adverse report thereon, which was agreed to; and the committee were discharged from the further consideration of the petition.

He also, from the same committee, to whom was referred the petition of Elvira A. Maxey, praying for the enactment of a special law giving her arrears of pension, submitted an adverse report thereon, which was agreed to; and the committee were discharged from the further consideration of the petition.

Mr. COCKRELL. I am instructed by the Committee on Military Affairs, to which was referred the bill (S. 2312) granting condemned cannon to McPherson Post, No. 16, Grand Army of the Republic, of Ohio, to report the same back to the Senate adversely, with a recommendation that the bill be indefinitely postponed. There are no condemned cannon on hand, and none, therefore, can be donated, as shown by sundry reports made at the last session of Congress.

The report was agreed to, and the bill was indefinitely postponed.

Mr. COCKRELL. The Committee on Military Affairs, to which was referred the bill (S. 2313) to remove the charge of desertion from the military record of George W. Rager, introduced by the Senator from Ohio [Mr. SHERMAN], have instructed me to report it adversely and to recommend that the bill be indefinitely postponed for the reason that on the 5th of July, 1884, we enacted a general law authorizing the removal of the charges of desertion in all proper and meritorious cases. The committee therefore decline to consider individual cases. The War Department has ample authority now to consider and adjust all meritorious cases.

The PRESIDING OFFICER. The bill will be postponed indefinitely if there be no objection.

Mr. CONGER. I ask whether the facts in this case come within the provisions of the law, and if not, why does it not need special action?

Mr. COCKRELL. We did not examine the case because the War Department has not examined it. We passed the law to which I have referred on the 5th of last July. This bill was introduced by the Senator from Ohio in June, prior to the passage of that act, and the House and the Senate have refused to consider any of the cases which had been introduced up to that time. This case has not been considered by the War Department; it has not been acted upon there; and we do not know whether the case comes within the provisions of the law or not, nor have we time, if we were to devote ourselves exclusively to it, to consider and pass upon the two hundred and odd thousand cases which would be flooded upon us here if we received and considered them. We must leave the Secretary of War to determine the various cases.

Mr. CONGER. In continuation of what I said, it seems to me that if there are meritorious cases where the charge of desertion lies against a citizen of the United States, and those cases are not provided for in the general law, the committee should take them into account, and either report a special bill, or propose to amend the law.

I do not like to see the petitions of men who are charged with desertion indefinitely postponed, because it is uncertain whether their cases come under the provisions of the general law or not. The very reason why they come to Congress for the removal of the charge in most cases is that their case is peculiar, and does not come under the general provisions of the law. There are many such cases undoubtedly, and it is very possible that the examination of just such a case would lead the committee to recommend an amendment of the law embracing this class. It may be that this case, as is suggested, having been presented before the general law was passed, would come under it; but I think the committee should find out which it is, and by referring this to the Secretary of War the officers in his Department will save the committee this excessive labor and trouble and will report whether it does come under the provisions of the law or not.

Mr. COCKRELL. I desire simply to say that it would be a useless labor for the committee to undertake now to consider every case which might be referred to it without first having had the War Department pass upon it under the law. We passed one general law. Then there were sundry cases that came to us in which relief could not be granted under the law we passed in 1882. We thereupon passed another general law on the 5th of July, 1884. The Senate and House refused to consider any of the special cases then pending, and, as a matter of course, expected them to make their applications to the War Department under the act of July 5, 1884. When they have made their applications and they have been considered, if there be another meritorious class not embraced within the provisions of that law, the committee will, as a matter of course, be perfectly willing to report a general bill covering such cases; but it would be impossible for us to take up and consider these cases in advance of any action by the War Department and determine whether or not they come within the provisions of that law. We should save no labor at all; we should still be entertaining all the cases just the same as if we had not passed the law.

We passed the law leaving the cases to go to the War Department first, and then, after there has been reasonable time for the action of the War Department, if there is any other just and meritorious class of cases not embraced within the provisions of that law, they will then be subject to full consideration by the Senate.

Mr. CONGER. The persons who apply for relief to Congress directly in such cases as these are not generally men who have either the ability or means to follow up cases with attorneys before any Department. Now, if this comes within the provisions of the law already passed, and if this man—I do not know who he is, I only speak in reference to that class of cases, in some of which I am interested myself—if this man can avail himself by applying to the War Department of the provisions of that law that is all that is required. What I want to know is whether there is a class of cases, bills pending here, as there frequently might be, not embraced in the general law?

I ask simply that the bill may remain on the docket until we or somebody who is interested in it can ascertain whether it does come within the provisions of the general law.

Mr. SEWELL. The general law passed last year was so liberal in its character that it will apply to this and every other honest case that can arise in this country to-day. In fact it will apply to everything except the case of a real deserter, a man who intended to desert.

Mr. CONGER. I supposed the law was pretty liberal. With the understanding that this case, with the usual consent, may be placed upon the docket and called up again, I desire to let it pass as the order is now.

The PRESIDING OFFICER. The Senator from Michigan asks that the bill may be placed on the Calendar with the adverse report.

Mr. COCKRELL. Certainly, let it go on the Calendar.

The PRESIDING OFFICER. The Chair hears no objection.

Mr. FRYE. I desire to call the attention of the Senator from Michigan to the rule which has prevailed with the Committee on Pensions ever since I have been in Congress, which is that they will not consider a claim for a pension which has not been before the Commissioner of Pensions and been rejected by him.

Mr. BLAIR. I should like to say on that point, in allusion to the practice of the Committee on Pensions, that where a case seems to come under the provisions of the general law, and therefore to be within the jurisdiction of the Commissioner of Pensions, that is the rule; but there is a large list of cases which seem to be meritorious not embraced under any general law, and those come of course immediately to Congress for action in the first instance.

The PRESIDING OFFICER. The bill goes to the Calendar.

Mr. COCKRELL. The Committee on Military Affairs, to whom was referred the petition of Samuel J. Kinna, of Frederick County, Maryland, praying for a modification of the law in regard to granting honorable discharges to soldiers charged with desertion, have duly considered the same, and report it back, recommending that the prayer of the petition be not granted, and that the committee be discharged from the further consideration of it. This petition was presented on the 4th of February, 1884, prior to the passage of the act to which reference has been made.

The PRESIDING OFFICER. If there be no objection the committee will be discharged and the petition will lie on the table.

Mr. COCKRELL. The Committee on Military Affairs, to whom was referred a resolution of the George Strong Post, No. 19, Grand Army of the Republic, of Fairfield, Iowa, under date of December 17, 1883, in which they set forth that—

Whereas the soldiers and sailors of the late civil war were paid for their services in a currency which was depreciated to the extent that they but real-

By Mr. J. M. TAYLOR: Papers relating to the claim of Isaiah Sweat—to the Committee on War Claims.

By Mr. TOWNSHEND: Papers relating to the bill for the relief of Hiram W. Hubbard—to the Committee on Claims.

Also, papers relating to bill for the relief of Marcus D. Davis—to the Committee on Invalid Pensions.

Also, petition of Thomas Harrington, for relief—to the Committee on Claims.

By Mr. VAN ALSTYNE: Petition of Edward P. Quinn, for an increase of pension—to the Committee on Invalid Pensions.

By Mr. WADSWORTH: Petition of Sally C. Mulligan, for payment of pension-money due her—to the same committee.

By Mr. GEORGE D. WISE: Petition of Col. William H. Ward, for removal of political disabilities—to the Committee on the Judiciary.

The following petitions for the passage of the Mexican war pension bill, with Senate amendments, were presented and severally referred to the Committee on Pensions:

By Mr. ANDERSON: Of citizens of Everest; of 63 citizens of Salem; and of 62 citizens of Abilene, Kans.

By Mr. F. B. BREWER: Of citizens of Cattaraugus and of Chautauqua, N. Y.

By Mr. BURLEIGH: Of soldiers of Washington County, New York.

By Mr. CLARDY: Of John Rapp and 23 others, of Manchester, Mo.

By Mr. COBB: Of numerous soldiers of Indiana.

By Mr. CURTIN: Of citizens of Lewistown and of Paintersville, Pa.

By Mr. CULLEN: Of 24 citizens of Kendall County, Illinois.

By Mr. R. T. DAVIS: Of citizens of West Harwich and of South Chatham, Mass.

By Mr. DUNHAM: Of citizens of Barrington, Ill.

By Mr. FUNSTON: Of T. Blakeslie and 242 others, of Neodesha; of Cicero Rhodes and 68 others; of Riley Livingston and 62 others; of T. L. Elliot and 126 others, of Colony; of A. M. Ledman and 63 others, of Elk City; of James M. Picket and 114 others, of Galena; and of John Huff and 68 others, of Crestline, Kans.

By Mr. LACEY: Of J. H. Hamlin and 99 others, citizens of Eaton Rapids, Mich.

By Mr. LOVERING: Of Frederick Kelliher and 107 ex-soldiers, of Chelsea, Mass.

By Mr. LOWRY: Of 51 citizens of Lagrange County; of 64 citizens of Whitly County; and of 37 citizens of Lagrange County, Indiana.

By Mr. MATSON: Of Jacob W. Phillips and 100 others, citizens of Putnam County; of John S. Walton and 100 others, of Coatesville, Ind.; and of R. B. Abels and 100 others, of Greencastle, Iowa.

By Mr. MILLIKEN: Of Samuel Vose and others.

By Mr. MURPHY: Of 22 citizens of Low Moor, Iowa.

By Mr. J. J. O'NEILL: Of Mexican veterans living at Florisant, Mo.

By Mr. PATTON: Of citizens of Armstrong and of Clarion Counties, Pennsylvania.

By Mr. G. A. POST: Of 62 citizens of Canton; of 64 citizens of Thompson; of 63 citizens of Skinner's Eddy; of 61 citizens of Montrose; of 31 citizens of Scranton; of 113 citizens of Carney; and of 124 citizens of Canton, Pa

By Mr. SLOCUM: Of John Carty and others; of Edwin Kelley and others; and of B. A. Raymond and others.

By Mr. J. W. STEWART: Of citizens of Stamford, Brandon, and High Gate Falls, Vt.

By Mr. A. J. WARNER: Of F. P. Bryan and 306 citizens and ex-soldiers of Middleport; of Rufus C. Menzie and 62 citizens and ex-soldiers of Little Hocking and Centre Belpre; and of Fred. Grim and 43 others, of Clarington, Ohio.

By Mr. WEMPLE: Of 60 citizens and ex-soldiers of Saratoga County, New York.

By Mr. E. B. WINANS: Of W. L. Robson and 60 others, of Williamston Post, Grand Army of the Republic, Ingham County, Michigan.

By Mr. JOHN WINANS: Of Dr. J. B. Whiting and others, of Janesville, Wis.

By Mr. WOODWARD: Of E. C. Brainard and 36 others, citizens of Sauk County, Wisconsin.

SENATE.

TUESDAY, *December* 16, 1884.

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Mr. INGALLS called the Senate to order, and the Secretary read the following letter:

To the Senate:

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GEO. F. EDMUNDS,
President pro tempore.

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The PRESIDING OFFICER (Mr. INGALLS). The Chair understands the memorial to be withdrawn.

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Mr. COCKRELL. We did not examine the case because the War Department has not examined it. We passed the law to which I have referred on the 5th of last July. This bill was introduced by the Senator from Ohio in June, prior to the passage of that act, and the House and the Senate have refused to consider any of the cases which had been introduced up to that time. This case has not been considered by the War Department; it has not been acted upon there; and we do not know whether the case comes within the provisions of the law or not, nor have we time, if we were to devote ourselves exclusively to it, to consider and pass upon the two hundred and odd thousand cases which would be flooded upon us here if we received and considered them. We must leave the Secretary of War to determine the various cases.

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Mr. COCKRELL. I desire simply to say that it would be a useless labor for the committee to undertake now to consider every case which might be referred to it without first having had the War Department pass upon it under the law. We passed one general law. Then there were sundry cases that came to us in which relief could not be granted under the law we passed in 1882. We thereupon passed another general law on the 5th of July, 1884. The Senate and House refused to consider any of the special cases then pending, and, as a matter of course, expected them to make their applications to the War Department under the act of July 5, 1884. When they have made their applications and they have been considered, if there be another meritorious class not embraced within the provisions of that law, the committee will, as a matter of course, be perfectly willing to report a general bill covering such cases; but it would be impossible for us to take up and consider these cases in advance of any action by the War Department and determine whether or not they come within the provisions of that law. We should save no labor at all; we should still be entertaining all the cases just the same as if we had not passed the law.

We passed the law leaving the cases to go to the War Department first, and then, after there has been reasonable time for the action of the War Department, if there is any other just and meritorious class of cases not embraced within the provisions of that law, they will then be subject to full consideration by the Senate.

Mr. CONGER. The persons who apply for relief to Congress directly in such cases as these are not generally men who have either the ability or means to follow up cases with attorneys before any Department. Now, if this comes within the provisions of the law already passed, and if this man—I do not know who he is, I only speak in reference to that class of cases, in some of which I am interested myself—if this man can avail himself by applying to the War Department of the provisions of that law that is all that is required. What I want to know is whether there is a class of cases, bills pending here, as there frequently might be, not embraced in the general law?

I ask simply that the bill may remain on the docket until we or somebody who is interested in it can ascertain whether it does come within the provisions of the general law.

Mr. SEWELL. The general law passed last year was so liberal in its character that it will apply to this and every other honest case that can arise in this country to-day. In fact it will apply to everything except the case of a real deserter, a man who intended to desert.

Mr. CONGER. I supposed the law was pretty liberal. With the understanding that this case, with the usual consent, may be placed upon the docket and called up again, I desire to let it pass as the order is now.

The PRESIDING OFFICER. The Senator from Michigan asks that the bill may be placed on the Calendar with the adverse report.

Mr. COCKRELL. Certainly, let it go on the Calendar.

The PRESIDING OFFICER. The Chair hears no objection.

Mr. FRYE. I desire to call the attention of the Senator from Michigan to the rule which has prevailed with the Committee on Pensions ever since I have been in Congress, which is that they will not consider a claim for a pension which has not been before the Commissioner of Pensions and been rejected by him.

Mr. BLAIR. I should like to say on that point, in allusion to the practice of the Committee on Pensions, that where a case seems to come under the provisions of the general law, and therefore to be within the jurisdiction of the Commissioner of Pensions, that is the rule; but there is a large list of cases which seem to be meritorious not embraced under any general law, and those come of course immediately to Congress for action in the first instance.

The PRESIDING OFFICER. The bill goes to the Calendar.

Mr. COCKRELL. The Committee on Military Affairs, to whom was referred the petition of Samuel J. Kinna, of Frederick County, Maryland, praying for a modification of the law in regard to granting honorable discharges to soldiers charged with desertion, have duly considered the same, and report it back, recommending that the prayer of the petition be not granted, and that the committee be discharged from the further consideration of it. This petition was presented on the 4th of February, 1884, prior to the passage of the act to which reference has been made.

The PRESIDING OFFICER. If there be no objection the committee will be discharged and the petition will lie on the table.

Mr. COCKRELL. The Committee on Military Affairs, to whom was referred a resolution of the George Strong Post, No. 19, Grand Army of the Republic, of Fairfield, Iowa, under date of December 17, 1883, in which they set forth that—

Whereas the soldiers and sailors of the late civil war were paid for their services in a currency which was depreciated to the extent that they but real-

ized less than two-thirds of the amount agreed upon, namely, $13 per month; and

Whereas the depreciation of the currency occasioned a loss to the soldiers and sailors of nearly one-half of their monthly pay by the gold standard of the years 1862, 1863, 1864, and 1865: Therefore,

Resolved by the comrades of George Strong Post, No. 10, Grand Army of the Republic, of Fairfield, Iowa, That the United States Government is in equity and honor bound to make good by the gold standard the loss sustained by the soldiers and their families upon every dollar paid them in such depreciated currency, and that the redundant revenue in the Treasury should be used for this purpose—

have instructed me to report the same back adversely, and with a recommendation that the committee be discharged from the further consideration of the subject.

The PRESIDING OFFICER. If there be no objection the committee will be discharged and the memorial will lie on the table.

Mr. PIKE, from the Committee on the District of Columbia, to whom was referred the petition of Zenas C. Robbins for reimbursement for expenses incurred for the public as register of wills for the District of Columbia, submitted an adverse report thereon, which was agreed to; and the committee were discharged from the further consideration of the petition.

PRINTING OF TREASURY ACCOUNTS.

Mr. MANDERSON. I am instructed by the Committee on Printing to report back the motion to print the letter of the Treasurer of the United States, transmitting, in compliance with the requirements of section 311 of the Revised Statutes of the United States, fair and accurate copies of the accounts rendered to and settled by the First Comptroller for the fiscal year ended June 30, 1884, and to ask to be discharged from its further consideration.

These reports which we are asked to print are very voluminous. They are so extremely voluminous that instead of sending to Congress copies of the books the originals are sent to Congress, under the requirements of section 311 of the Statutes. It has not been the custom of the Senate for a number of years to print the reports, and it seems entirely unnecessary that they should be sent here.

I notice that in 1882 the Committee on Printing recommended the repeal of section 311 of the Revised Statutes which requires that these documents shall be sent here, and the Committee on Printing again desire to report a bill for the purpose of repealing that section. The Secretary of the Treasury has stated that all the information contained in these cumbrous volumes is accessible much more readily by reference to the printed reports of the Treasury Department. It seems to me entirely unnecessary that these reports should come here for the purpose named.

I ask at this time to report from the Committee on Printing a bill to repeal section 311 of the Revised Statutes, and I ask for its present consideration.

The bill (S. 2455) to repeal section 311 of the Revised Statutes of the United States was read the first time by its title.

The PRESIDING OFFICER. If there is no objection the bill will be read the second time in full.

The bill was read the second time at length.

The PRESIDING OFFICER. The Chair understands the chairman of the Committee on Printing to ask for the present consideration of the bill.

Mr. MANDERSON. Yes, sir.

Mr. COCKRELL. Let the section of the statutes be read before the bill is considered.

The PRESIDING OFFICER. The Secretary will report the section of the statutes which the bill proposes to repeal.

The Chief Clerk read as follows:

SEC. 311. The Treasurer shall, on the third day of every session of Congress, lay before the Senate and House of Representatives fair and accurate copies of accounts by him from time to time rendered to and settled with the First Comptroller, as also a true and perfect account of the state of the Treasury.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

PRINTING OF NAVAL AND MILITARY REPORTS.

Mr. MANDERSON. I am instructed by the Committee on Printing to report back with amendments the joint resolution (S. R. 100) authorizing the printing of certain naval and military reports; and I ask for its immediate consideration.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution.

The first amendment reported by the Committee on Printing was, in line 3, after the word "office," to strike out "for the use of the Navy Department;" so as to read:

That there be printed at the Government Printing Office 1,500 copies of each of the following reports.

The amendment was agreed to.

The next amendment was, in line 4, to strike out "one" before "thousand" and insert "four;" so as to read:

Four thousand five hundred copies of each of the following reports.

The amendment was agreed to.

The next amendment was to strike out section 2, as follows:

SEC. 2. That the reports described in the foregoing section be delivered to and distributed by the Secretary of the Navy.

And in lieu thereof to insert:

One thousand copies of which shall be for the use of the Senate, 2,000 copies for the use of the House of Representatives, and 1,500 copies for the use of the Navy Department.

The amendment was agreed to.

Mr. COCKRELL. Now let the joint resolution as amended be read in full.

The Chief Clerk read as follows:

That there be printed at the Government Printing Office 4,500 copies of each of the following reports: The report of Lieut. Commander C. F. Goodrich, United States Navy, on the "British naval and military operations in Egypt;" the report of Lieut. Fisher M. Wright, United States Navy, on the "Operations of the French navy during the recent war with Tunis;" the report of Lieut. Theodorus B. M. Mason, United States Navy, on the "War on the Pacific coast of South America between Chili and the allied republics of Peru and Bolivia;" 1,000 copies of which shall be for the use of the Senate, 2,000 copies for the use of the House of Representatives, and 1,500 copies for the use of the Navy Department.

The joint resolution was reported to the Senate as amended, and the amendments were concurred in.

The joint resolution was ordered to be engrossed for a third reading, read the third time, and passed.

PAY OF CONGRESSIONAL EMPLOYÉS.

Mr. ALLISON. From the Committee on Appropriations I report favorably and without amendment the joint resolution (H. Res. 300) to pay the officers and employés of the Senate and House of Representatives their respective salaries for the month of December, 1884, on the 20th day of said month, and I ask for its immediate consideration.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. CLARK, its Clerk, announced that the House had passed a bill (H. R. 1457) to establish a department of agriculture; in which it requested the concurrence of the Senate.

BILLS INTRODUCED.

Mr. MITCHELL introduced a bill (S. 2456) for the relief of Mary F. Potts; which was read twice by its title, and referred to the Committee on Patents.

Mr. McMILLAN introduced a bill (S. 2457) to change the name of the National Bank of Winona; which was read twice by its title, and referred to the Committee on Finance.

Mr. SHERMAN introduced a bill (S. 2458) for the relief of David L. Brainard and others, non-commissioned officers and privates of the Greely expedition; which was read twice by its title.

Mr. SHERMAN. As the bill relates to persons in the employ of both the Army and Navy, non-commissioned officers and privates, I do not know which committee would be the most proper to consider it, but I suppose the Naval Committee would naturally take consideration of it.

The bill was referred to the Committee on Naval Affairs.

Mr. PLUMB introduced a bill (S. 2459) granting a pension to George W. De Motte; which was read twice by its title, and referred to the Committee on Pensions.

He also introduced a bill (S. 2460) granting a pension to George W. Schell; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

Mr. WILLIAMS introduced a bill (S. 2461) granting a pension to Nancy A. Smith; which was read twice by its title, and referred to the Committee on Pensions.

He also introduced a bill (S. 2462) giving a military record to James King; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. CALL introduced a joint resolution (S. R. 102) to remove the disabilities of H. Myers, a citizen of the State of Florida; which was read twice by its title, and referred to the Committee on the Judiciary.

He also introduced a joint resolution (S. R. 103) making an appropriation for the improvement of Tampa Bay; which was read twice by its title.

Mr. CALL. Before moving the reference of the joint resolution to the Committee on Commerce I desire to say that it is a work of very great and pressing importance. Tampa Bay is one of the far southern ports of the peninsula of Florida from which commerce is had to the West India islands. It is now the terminal point on the Gulf of Mexico of the railroad system of Florida which connects with all the Northern cities and States. It is beginning to be the place of entrance for passenger vessels from Cuba and for the intercourse between the citizens of the United States and the people of Cuba. The work in the bay has been suspended and the appropriation of the last session was entirely inadequate for the work. It is of the first importance to the commerce of this country and to its intercourse with the island of Cuba that this work should be prosecuted without delay in order that steamers

of a proper size may enter that port. It is easy of accomplishment, and it is within twenty-four hours of the island of Cuba and the port of Havana. A large and increasing commerce in cattle exported from Florida is growing up with Cuba, and the improvement of the Gulf ports of Florida is an object of national importance. There is no reasonable ground on which Congress can refuse this appropriation for the port of Tampa.

As the most southern terminus of the railroads on the Gulf of Mexico, I insist it is the duty of Congress to make such an appropriation as will be adequate to accomplish some useful result and enable passenger and other steamers to enter the bay and safely and easily go to the town of Tampa. I move the reference of the joint resolution to the Committee on Commerce.

The motion was agreed to.

Mr. HAWLEY introduced a joint resolution (S. R. 104) providing for the printing and distribution of the Descriptive Catalogue of Government Publications; which was read twice by its title, and referred to the Committee on Printing.

DISTRICT WATER SUPPLY.

Mr. MORGAN submitted the following resolution; which was read:

Resolved by the Senate, That the Secretary of War be directed to inform the Senate whether, in the construction of the new reservoir in the District of Columbia under the act approved July 15, 1882, any serious natural difficulties have been encountered not contemplated or adequately provided for in the plans for said work as approved; also whether any changes or modifications in or of the said plans have been made at any time during the progress of said construction; and, if so, on whose recommendation, and for what causes were such changes or modifications made.

2. That the Secretary of War be directed to furnish, at the earliest practicable date, for the use and information of the Senate, a topographical map of said reservoir, embracing as much of the contiguous terrain as may be rendered liable to the process of filtration through permeable strata by the establishment of a water-head such as is contemplated by the existing plans; the map to embody shadings and indices showing the location, area, and soundings of the several deposits of decayed vegetable matter, ooze, or quicksand known to exist within the flow limits of the reservoir; and also a report of chemical analyses of specimens of soil taken from each of said deposits; and also a report from the Chief of Engineers, United States Army, stating whether the existing plans for constructing the reservoir afford adequate expedients to deal with the said natural difficulties, and, if not, what modifications of the said plans are required to guarantee purity in the water to be supplied from the reservoir when completed, and security from leakage by filtration through permeable strata in the contiguous earth.

3. That the Secretary of War also send to the Senate an estimate of the cost of making any changes in the plan of constructing the reservoir that may be needed to make it more secure, and to give greater purity to the water supply.

Mr. MORGAN. Before the resolution is referred I wish to say that some of the citizens of this city have had conferences with me about the water supply from the new reservoir that we are now constructing. I believe that the act of July 15, 1882, contains an appropriation of $120,000 for the purpose of digging out a reservoir just north of the city at a point where two or three streams meet and form the Tiber Creek, which runs in an aqueduct just in the rear of the Capitol. Of that $120,000 about $80,000, I am informed, has been expended, and they have dug down until they have reached certain quicksands and certain deposits of muck, a formation of alluvial soil very moist from the decay of vegetation, &c. It is believed by some engineers with whom I have also conferred that the present plan will be insufficient for the purpose of containing within the twenty-five-acre area the water which will be brought into it through the aqueduct from the Potomac River, and that some modification of the plan will be necessary and some additional expenditure. Before that is done, I desire that the Committee on the District of Columbia shall consider the question as to the necessity for such additional appropriations and the manner of their expenditure.

The tunnel leading into this reservoir was estimated, I think, to cost $800,000. It is sunk down into the solid stone, being bored by blasting through the strata, and I think about $250,000 have been expended on it. It is perhaps now about one-fourth finished.

I would suggest also, merely for the purpose of calling attention to the subject, that it appears to me, and the opinion is supported by engineers, that the point of admission of the water into this twenty-five-acre reservoir and the point of its exit are so close together as to practically constitute no current. There is perhaps not more than 50 feet difference between the point of entrance and the point of exit for the water. That we know would leave, on an area of twenty-five acres, perhaps an average of ten or twelve feet deep, if not deeper, a great body of stagnant water which would have no circulation, no disturbance, no agitation except by the winds. It seems to me that it is well enough to call attention to the physical difficulties of getting the water into a condition where it will be self-purified by its flow and its agitation.

I simply desired to draw the attention of the committee and of the Senate to this subject before it went to the committee, and to say that I shall be prepared to submit to the committee certain data obtained from engineers which I think will be influential in their consideration of the resolution.

The PRESIDING OFFICER. What disposition does the Senator desire to have made of the resolution?

Mr. MORGAN. I ask its reference to the Committee on the District of Columbia.

The PRESIDING OFFICER. That order will be made.

CALENDAR OF HOUSE BILLS.

Mr. HOAR. I offer the following resolution:

Resolved, That when the Calendar of Bills and Resolutions is next taken up for consideration under Rule VIII, measures from the House of Representatives shall first be considered in their order, subject to said rule.

I should like to make a remark about the resolution now, and then it may either go over or be considered to-day; I have no choice.

An examination of our Calendar exhibits a very remarkable condition of things. It contains three hundred and six subjects for consideration in addition to those that have been reported this morning, which will probably bring the number up by six or eight or ten more. Of those, only twenty-two are measures that have come from the House of Representatives, and on examining those, with the exception of one or two land-grant forfeiture bills and bills relating to railroads, which would require some serious consideration by the Senate, I think substantially every one of them would be disposed of by the Senate without much discussion, without opposition or objection; so that everything in the way of legislation so far during this Congress that has been sent to us from the House of Representatives, except the appropriation bills which have come in, has been or can be in an hour or two by the Senate substantially disposed of and become a law or be rejected, as the Senate shall think fit.

It seems to me that it is absolutely hopeless for us to be busying ourselves about new legislation now to be introduced, or even about matters on our Calendar which are to be sent down to the House for consideration, because they all have to be gone over again in another Congress if they are to be brought up; they can not become laws in all probability this year.

Mr. HARRIS. I should like to ask the Senator if he has counted the number of House bills that are now reported and upon our Calendar?

Mr. HOAR. There are but twenty-two all told, House bills and resolutions, out of three hundred and six.

The PRESIDING OFFICER. The Chair understands the Senator from Massachusetts to ask for the present consideration of the resolution.

Mr. HOAR. No, sir.

Mr. GARLAND. Let it go over.

Mr. HOAR. I desired to call attention to this matter. Let the resolution go over.

The PRESIDING OFFICER. The resolution goes over under the rule.

Mr. HOAR. I shall call it up again to-morrow.

TRADE WITH FOREIGN AMERICAN STATES.

Mr. ALDRICH submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of State is hereby directed to communicate to the Senate any information which he has or which may be accessible to him in regard to the extent and character of the foreign trade of Mexico, the Central and South American states, and the islands of Cuba, Porto Rico, and San Domingo; such information to include, if possible, a detailed statement of the value and character of the manufactured and other articles comprising the imports and exports of such states and islands, and also the share of the United States in the trade of each, and the portion of such imports and exports transported in vessels belonging to citizens of the United States.

JOSEPH F. WILSON.

Mr. PLUMB. On the first day of the present session the Senator from Illinois [Mr. LOGAN] introduced a bill (S. 2376) for the relief of Joseph F. Wilson. It is an exact copy of a bill which passed both Houses of Congress at the last session, and was presented to the President for his signature, perhaps on the last day of the session, but by some misadventure did not reach his attention, and so was not signed. It is a bill which, I think, has passed both Houses of Congress heretofore on separate occasions. The Senator from Illinois has requested me to bring it to the attention of the Senate, stating the facts, and to ask that it be passed now without reference to the appropriate committee, in view of the fact that it has already received the favorable consideration of both Houses of Congress.

The bill is simply to give to a party, who acquired by deed a piece of land in Indiana to the amount of eighty acres about the year 1875, on the faith of a patent from the Government to that amount, but which title was afterward set aside by a decree of a court in that State, the privilege of locating an equivalent amount of land upon the public lands of the United States, to-wit, eighty acres. I have in my hand the bill, and also the report of the House Committee on Private Land Claims, which was adopted by the Committee on Public Lands of the Senate on the same case. I ask unanimous consent to take up the bill. If any one has any curiosity about the matter I shall ask that the bill and report be read.

Mr. COCKRELL. Let the bill and report be read.

The PRESIDING OFFICER. What is the parliamentary stage of the bill to which the Senator from Kansas refers?

Mr. PLUMB. It was introduced by the Senator from Illinois [Mr. LOGAN] on the first day of the present session, and laid on the table.

The PRESIDING OFFICER. Was it read twice?

Mr. PLUMB. It was read twice.

The PRESIDING OFFICER. The Secretary will report the bill at length for information.

The Secretary read the bill, as follows:

Be it enacted, &c., That the Commissioner of the General Land Office, under the direction of the Secretary of the Interior, be, and he is hereby, authorized and required to issue to Joseph F. Wilson, of Peoria, Ill., or his legal representatives or assigns, a number of warrants equal to eighty acres, in tracts not less than the subdivisions provided for in the United States land laws, to be located by the said Wilson, or his legal representatives or assigns, on any of the unoccupied and unappropriated public lands of the United States subject to pre-emption or homestead settlement, in lieu of the west half of the northeast quarter of section 19, in township 35 north, of range 5 west, situate in Porter County, Indiana, which said tract of land was entered by and patented to Josiah Smith, of Macon County, Missouri, under and by virtue of the provisions of the acts of Congress approved June 8, 1872, and March 3, 1873, relating to additional homesteads, and by the said Josiah Smith, after his said entry, sold and conveyed to the said Wilson, and of the title to and possession of which the said Wilson was divested and dispossessed by the judgment and decree of the circuit court of the United States for the district of Indiana, at the November term, A. D. 1880, thereof, by reason of a prior disposal of or a prior equitable title in and to said tract of land, as the said court held and decided, to or in persons other than the said Josiah Smith; and the said Wilson, or his legal representatives or assigns, after the location of the said warrants on such lands as he or they may select, shall be allowed patents for the lands so located; and the lands taken, selected, and located as authorized and provided for by this act shall be in full satisfaction of any claim, right, or benefit which the said Josiah Smith, or any one claiming under him, may have, or may have had, under and by virtue of the provisions of the said acts of Congress, as well as in full satisfaction of any claim which the said Wilson, as assignee or grantee of the said Josiah Smith, may have, or may have had, against the United States touching said described tract of land.

The PRESIDING OFFICER. The report will be read.

The Secretary read the following report, submitted by Mr. HALSELL in the House of Representatives January 30, 1884:

The Committee on Private Land Claims, to whom was referred the bill (H. R. 275) for the relief of Joseph F. Wilson, have considered the same, and report it back with an amendment.

The committee, upon investigation, ascertained that, pursuant to the homestead laws, Josiah Smith, on March 22, 1875, entered the west half of the northeast quarter of section 19, in township 35 north, of range 5 west, situate in Porter County, Indiana, and that a patent was issued to him for the same May 15, 1875, and was duly recorded in the office of the recorder of deeds of said Porter County, Indiana. This tract of land was subsequently sold and conveyed by said patentee to said Wilson, and the deed of conveyance therefor recorded in the recorder's office of said Porter County, Indiana. Soon after said patent and deed were so recorded, the heirs of one Ruel Starr commenced suit against said Wilson, claiming to be the owners of said land, and alleging that said Starr had acquired title thereto by purchase from one Peter Wimmer. The bill, petition, and other papers in this case were referred by the Committee on Private Land Claims of the Forty-seventh Congress to the Commissioner of the General Land Office, who, in his letter of February 24, 1882, to the Secretary of the Interior, inclosing said papers, says:

"The records of this office show that Peter Wimmer made cash entry 1829 of the land in question at the La Porte land office, Indiana, June 5, 1835, which entry was canceled by this office October 17, 1836. It does not appear that the purchase-money was ever refunded, and the tract remained vacant until March 22, 1875, when Josiah Smith entered the same under section 2036 of the Revised Statutes of the United States, as an additional homestead, and said entry was patented May 15, 1875.

"It seems from the papers submitted to Congress by Mr. Wilson in his petition for relief, and which were filed in this office January 27, 1882, by Hon. Nicholas Ford, chairman of subcommittee Private Land Claims, House of Representatives, that the title to the land in question has been judicially determined in the litigation between Joseph F. Wilson, claiming by deed from the patentee, Josiah Smith, and the equitable owners, claiming, by descent, under Ruel Starr, who claimed, as assignee of the duplicate certificate of entry 1829, from Peter Wimmer. From the certified record of the case, herewith, it appears that the court on the 23d December, 1880, adjudged that the equitable title to said land was for many years in Ruel Starr, who at the time of his death was entitled to have the legal title conveyed to him by patent from the United States, and that at the death of Starr, intestate, in April, 1875, all of his right, title, and interest in the land vested in the equitable claimants under him, and the patent issued to Smith, from whom Wilson claims by deed, conveyed only the naked legal title, and Smith and those claiming under him were chargeable with the superior equitable title of Starr and those claiming under him, and Mr. Wilson was held to be a trustee for claimants under Starr, and it was decreed that the claimants under Starr were entitled to have the legal title conveyed to them by Mr. Wilson within thirty days, and in case of default a special commissioner, Willard C. Nichols, was appointed to make the necessary deed of conveyance; and it was further ordered and decreed that Wilson and all persons claiming under him were forever enjoined from setting up any claim to the land in question. As Mr. Wilson has been judicially deprived of the title to the land derived by him under Smith's entry, and as the favorable action of Congress in the case has heretofore been recommended by my predecessor, I deem it proper to concur in that recommendation."

The Secretary of the Interior, in his letter to the committee of February 28, 1882, transmitting a copy of the foregoing letter, says that he concurs in the views of the Commissioner. In view of the foregoing facts, and of the further fact that said Wilson having in good faith, for a valuable consideration, purchased said land from said patentee, relying upon the title so granted by the Government, and he being without notice of equitable title existing in others, the committee are of opinion that it is proper and just that he should receive other land belonging to the Government in lieu of that to which his title has failed.

The PRESIDING OFFICER. The Senator from Kansas moves the consideration of the bill at this time. Is there objection? The Chair hears none, and the bill is before the Senate as in Committee of the Whole.

Mr. GARLAND. The bill, so far as I have had time to examine it, I think is a very good one and very correct; but I suggest to the Senator from Kansas that possibly to meet some little restrictions which have been omitted, there should be, in the first place, provision in the bill that a copy of the decree by which Wilson was dispossessed of the land should be filed with the Commissioner of the General Land Office when application for new warrants is made, and also that the patent or patents to be issued upon these new warrants should contain the recital that they are in satisfaction of what is stated at the bottom of the bill.

Mr. PLUMB. There can be no objection to that, because I think that would ensue in pursuance of the practice of the Land Office itself. The office would require all that as a prerequisite to its own action, but still there will be no objection to its being incorporated in the bill.

Mr. GARLAND. I have drawn up roughly a proviso to come in at the end of the bill to this effect:

Provided, That a certified copy of the decree of the court dispossessing Joseph F. Wilson as aforesaid be deposited with the Commissioner of the General Land Office on the application for new warrants, and also the patent or patents issued under such new warrants shall recite what they are in satisfaction for.

It can be put in more definite shape.

The PRESIDING OFFICER. Is the Senator from Arkansas preparing his amendment?

Mr. GARLAND. Yes, sir.

Mr. BAYARD. While the Senator from Arkansas is preparing his amendment, I would suggest to the Senator from Kansas that it would be well to limit the location of this patent to some State or Territory, or if there be unoccupied land open to such pre-emption or homestead settlement in the same district where the land was of which the party was dispossessed it should be confined to that.

My reason for saying that is because no cases have created more injustice and given rise to more just dissatisfaction than those in which "floats," as they are termed, have been located, by which a man owning an open patent could locate it upon lands alleged to be public lands, there being no restriction as to the location, and in that way transfer claims, the subject of litigation, creating litigation and dispute, and sometimes seeking to absorb exceedingly valuable property.

Such cases have passed through the Senate inadvertently, and great wrong has been done, and I have understood that such claims have been sold for enormous prices, because they enabled the holder to invade private rights, and if not to recover land in possession, at least to throw a cloud upon the title and produce great losses to the holder. Therefore I suggest that there should be not only the limitation here stated that this warrant or warrants to the amount of eighty acres be limited to unoccupied and unappropriated public land of the United States subject to pre-emption or homestead settlement, but that the location of that land should be limited to a particular district, so that the unlimited choice of the whole territory of the United States should not be open to entry and settlement under this bill.

Mr. PLUMB. I agree entirely with all that the Senator from Delaware has said upon the general subject. I tried to enforce that on a bill which the Senator himself reported from the Committee on Private Land Claims in which I think the principle that he now objects to was more viciously asserted than ever before in any bill that ever passed this body. I only speak now to say that I concur with his present position, and regret that that was not his position three or four months ago.

This is to provide compensation practically for a man who entered eighty acres of land in Indiana. There are no public lands now in that State, and consequently he can not be limited to an entry to be made in that State if he is to have anything at all. In the next place, the land of which he was deprived by reason of the judgment of a court was of greater value probably than the average value at all events, and probably than the value of any single acre of the public lands of the United States open to pre-emption or homestead entry. Therefore we shall not allow, in giving to this person the privilege of entering eighty acres of land anywhere on the public domain, more than equal and exact justice requires. I do not think we shall by the passage of this bill give him more than he would be equitably and fairly entitled to; but still I have no objection myself to any limitation. If the Senator thinks that the eighty acres of land this party is to be entitled to under this bill are of too great value, and if, having passed a bill which authorizes the courts of New Mexico to certify scrip to the amount of millions of acres which shall be locatable on the public lands of the United States without any supervision by Congress or the Land Office, the Senate sees fit to strain at the gnat of this eighty acres, of course I have no objection to making the party locate it on the top of Mount Hood or elsewhere.

Mr. BAYARD. Mr. President, I regret that the Senator from Kansas should be in any degree disturbed by my suggestions to him. They were made entirely in the line of safety to the people of the United States, and not in the slightest degree with an intention on my part of invading measures which were under his charge.

But the Senator is mistaken in his facts in regard to my having voted for or favored the passage of a bill here at the last session freed from the checks which I now propose to put upon his bill. I am not an expert in the public land laws of the United States; but I do understand the abuses that have been perpetrated upon private holdings by acts of Congress making land claims valid; and therefore when as chairman of the Committee on Private Land Claims the question was before me as to what should be done with parties who held land grants from the United States and had been dispossessed in whole or in part of the land so granted to them by the public, the point was submitted to the law officers of the Government and to the Commissioner of the Land Office, and subject to his criticism the act which the Senator complains of was framed and introduced here and passed.

Now, as I remember the language of that act, not having the paper before me, for it is not yet a law, but is pending in the other branch of

Congress, the grant of certificates where the party was entitled to some public land in lieu of that which was subsequently taken from him by the action of the Government, or the title to which was changed by the action of the Government, applied only to lands open to public entry. That I take it was far more exclusive than the language of this bill, which gives a right to choose the eighty acres or whatever it may be from homestead lands and lands open to pre-emption. Therefore the honorable Senator is in error in supposing that I am suggesting for his bill a closer limit of exclusion than I favored for a more general bill.

I made my remark because I was attracted by the care of my friend from Arkansas [Mr. GARLAND] in the passage of all bills of this kind, and I respectfully proffered to contribute a small modicum of my experience on that subject, that we should not carelessly give to a citizen the right to obtain a patent that he might make the instrument of unjust demand and litigation upon other lands than were contemplated in the act. There has been mischief wrought by the inadvertent grant of patents by Congress. The holders of these patents have settled upon lands; and since I have been here I have seen the very heart of the city of Chicago proposed to be occupied by the holder of one of these floating grants by Congress. I have heard arguments for some acres of land in the heart of the city of Chicago under the color of the public land laws of the United States by the holder of a land warrant. My suggestion is not because the party holding can recover; but when I know that the claimant may blackmail occupants and possessors, throw clouds upon titles by pretended legislation, I wish to see no bill, whether for 80 acres or 8,000 acres or any other body of land, pass Congress unless from it is eviscerated the power to annoy honest private claimants in all parts of the United States. In other words, sir, Congress, in making grants from the general domain, should be as specific as to locality, as to the character of the lands, as to the right which they are giving in the shape of a patent, as words possibly can permit.

I will frankly say that if the bill of the honorable Senator had been sent to the Committee on Private Land Claims it would have been subjected by that committee to the criticism of the General Land Office before it was approved and brought back here, and that no bill at any time since I have been connected with that committee—and it has not been a short connection—containing language of grant in as general phrase as does this bill has been reported from that committee, except subject to the criticism and the approval of the land officers and the experts in land law of the administration.

Therefore I trust that, having suggested now the restriction of this bill, those who are more competent to advise in such matters by the general current of their action than I am—and I include the Senator from Kansas, or I would have included him prior to his last remarks in this case among those who are better informed than I as to the public land laws and the effect of the language used in an act like this—will propose a restriction that will prevent this present grant, whether of 8 or 80 or 80,000 acres, from becoming a float that may be used for the purpose of annoyance or of settlement upon lands other than those contemplated by those friendly to the passage of this bill.

The PRESIDING OFFICER. The amendment proposed by the Senator from Arkansas [Mr. GARLAND] will now be read.

The SECRETARY. At the end of the bill it is proposed to add:

Provided, That a certified copy of the decree of the court dispossessing Joseph F. Wilson, as aforesaid, be deposited in the General Land Office on application for a new warrant; and the patent or patents issued under such new warrant shall recite the fact that such entries are in satisfaction of all claim of right under the prior entry of Joseph F. Wilson.

Mr. PLUMB. I can say that the Committee on Public Lands never report such a bill as this without its first having been submitted to the scrutiny of the General Land Office. It has not during the period of time I have been connected with it reported a single bill which I can recall providing for the issuance of scrip except the one now before the Senate. The scrip of which the Senator speaks, and which has been so properly criticised by him and by other members of this body at various times, and which has been so vicious in its effect upon the disposition of the public domain, has always been provided for by legislation reported by the Private Lands Committee of the Senate.

Now, so far as these eighty acres of land are concerned, I called up the bill this morning at the suggestion of the Senator from Illinois. I am perfectly willing, as I said before, that it shall be locatable anywhere. I do not care if it can not be located at all, if that is the sense of justice which characterizes the Senate in dealing with a case of this kind; but the bill itself is entirely proper, and does not do more under any possible circumstances than equal and exact justice to a party who, relying on a patent of the United States, purchased eighty acres of land in the State of Indiana, of which he was after a number of years dispossessed by the decree of a competent court.

There are two ways to compensate him for that loss, for I take it no one would sit here and say that the Government of the United States, having issued a patent for a piece of land, and that land having passed into the hands of an innocent purchaser, whatever might be the condition of the original patentee, the Government should not compensate in some way the purchaser dispossessed. It can be done, of course, by money; but it is as easy a way and is subject to as little criticism and is just as fair to give him an equivalent amount of land elsewhere upon the public domain; and I think I do not need to draw on the credulity of members of this body when I say that land in Indiana is worth as much as land in the Territory of New Mexico or in the Territory of Wyoming or of Idaho or Montana or Washington, or elsewhere. If the Senator has in mind some particular Territory that he thinks above any other Territory ought to be endowed with the privilege of the location of these eighty acres of land, of course I am entirely willing it shall be permitted to be subject to that restriction.

The PRESIDING OFFICER. The question is on the amendment proposed by the Senator from Arkansas [Mr. GARLAND].

The amendment was agreed to.

The PRESIDING OFFICER. Did the Chair understand the Senator from Delaware to offer an amendment?

Mr. BAYARD. I move to amend the bill by striking out in lines 11 and 12 the words "pre-emption or homestead settlement," and inserting the words "general entry under the land laws of the United States."

The PRESIDING OFFICER. The amendment proposed by the Senator from Delaware will be read from the desk.

The SECRETARY. It is proposed to strike out, in line 11, after the word "subject," the words "to pre-emption or homestead settlement" and insert "to general entry under the land laws of the United States."

Mr. PLUMB. Will the Senator state to the Senate what would be the difference between a pre-emption or homestead entry and a general entry?

Mr. BAYARD. I can not tell the Senator, and he can scarcely wish to know from me, for he knows better than I; but I believe this to be the result: The lands subject to general entry exclude all reservations of any kind and would exclude a character of lands which may be occupied by pre-emption and homestead settlement; at least that is my belief, and, following my memory upon this subject, I believe the amendment I have offered is in the language of the limitation suggested by the General Land Office in respect of a general bill relating to private land claims in the Territories of New Mexico and Arizona and others resulting from the Mexican purchase and conquest, and, as that was land purchasable, I believe, at a dollar and a quarter an acre, farming lands exclusive of minerals, and exclusive, as I remember, of pre-emption and homestead settlement, I merely made the suggestion in the line of cautionary action in respect to this bill.

The PRESIDING OFFICER. Will the Senate agree to the amendment proposed by the Senator from Delaware?

Mr. PLUMB. That would be traveling in a circle. If I know anything at all about the public land laws of the United States, I do know that there is no such class of lands as those described as subject to general entry. If that language is to have any effect whatever, it would mean all the classes of entry that could be made by any person or with any character of land scrip or with money, and therefore would enlarge rather than limit the scope of the bill.

Mr. BAYARD. Perhaps I used the word "general," but I have since changed it. Let the Secretary read the amendment.

The SECRETARY. It is proposed to strike out, in line 11, after the word "subject," the words "to pre-emption or homestead settlement" and to insert "to private entry under the land laws of the United States."

Mr. PLUMB. That limits it to certain classes of lands; and I doubt whether there are any lands in the United States that can be located by it; but if that be the measure of justice in the Senator's mind, I shall make no objection.

The PRESIDING OFFICER. The question is on the amendment proposed by the Senator from Delaware.

The question being put, there were on a division—ayes 17, noes 5; no quorum voting.

Mr. BAYARD. To save a call by yeas and nays, by unanimous consent the question might be put again.

The PRESIDING OFFICER. Acting on the suggestion of the Senator from Delaware, the Chair will put the question again.

The question being again put, there were on a division—ayes 20, noes 7; no quorum voting.

Mr. HARRIS. Let us have the yeas and nays.

The yeas and nays were ordered; and the Secretary proceeded to call the roll.

Mr. GROOME (when his name was called). I am paired with the Senator from New York [Mr. MILLER].

Mr. HARRIS (when his name was called). I am paired with the Senator from Massachusetts [Mr. HOAR], who is temporarily absent, but if my vote shall become necessary to make a quorum I am at liberty to record it.

The roll-call having been concluded, the result was announced—yeas 29, nays 16; as follows:

YEAS—29.

Aldrich,	Colquitt,	Kenna,	Ransom,
Bayard,	Conger,	McMillan,	Sabin,
Blair,	Garland,	McPherson,	Saulsbury,
Brown,	George,	Maxey,	Sewell,
Call,	Gibson,	Palmer,	Vance.
Camden,	Gorman,	Pike,	
Cockrell,	Hampton,	Platt,	
Coke,	Jackson,	Pugh,	

NAYS—16.

Allison,	Hawley,	Manderson,	Sawyer,
Bowen,	Hill,	Mitchell,	Sheffield,
Dolph,	Ingalls,	Morgan,	Van Wyck,
Frye,	Lapham,	Morrill,	Wilson.

ABSENT—31.

Beck,	Farley,	Jones of Nevada,	Riddleberger,
Butler,	Groome,	Lamar,	Sherman,
Cameron of Pa.,	Hale,	Logan,	Slater,
Cameron of Wis.,	Harris,	Mahone,	Vest,
Cullom,	Harrison,	Miller of Cal.,	Voorhees,
Dawes,	Hoar,	Miller of N. Y.,	Walker,
Edmunds,	Jonas,	Pendleton,	Williams.
Fair,	Jones of Florida,	Plumb,	

So the amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

FUNERAL OF SENATOR ANTHONY.

Mr. PLATT. I offer the following resolution, and ask for its present consideration, unless there be some rule which makes it improper to consider it to-day:

Resolved, That the actual and necessary traveling expenses of the officers and members of the Senate who attended the funeral of the late Senator ANTHONY at Providence, R. I., in September last, be paid out of the appropriation for miscellaneous items of the contingent fund of the Senate, on vouchers properly allowed by the Committee on Contingent Expenses.

The PRESIDING OFFICER. The Chair thinks that under the rules all resolutions appropriating money out of the contingent fund must be referred to the Committee to Audit and Control the Contingent Expenses of the Senate.

Mr. PLATT. Let the resolution be referred, then.

The PRESIDING OFFICER. That order will be made.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. CLARK, its Clerk, announced that the House had passed a bill (H. R. 6578) to amend section 3940 of the Revised Statutes, relating to the forwarding of mail matter; in which it requested the concurrence of the Senate.

The message also announced that the House had passed a concurrent resolution, that when the two Houses adjourn on Saturday, December 20, 1884, they stand adjourned until Monday, the 5th day of January, 1885.

C. S. MOSS.

The PRESIDING OFFICER. If there be no further resolutions, the order of morning business is closed, and the Secretary will report the first bill on the Calendar, under Rule VIII.

Order of Business No. 333, being the bill (S. 493) for the relief of C. S. Moss, was announced as first in order.

Mr. COCKRELL. That has been reported adversely, and I object to its present consideration.

The PRESIDING OFFICER. The bill will be passed over.

RIGHTS IN LAND GRANTS.

The bill (S. 1445) to provide for the settlement of the rights of the States and of the corporations and persons interested in any grant of lands in aid of railroads and canals which shall be declared forfeited by act of Congress was announced as next in order.

Mr. COCKRELL. I do not see the Senator from Alabama [Mr. MORGAN]. He reported that bill. My recollection of the bill is that it is an exceedingly important one; it is a general law, and I do not think it can be considered in the morning hour under the five-minute rule.

Mr. MCMILLAN. The Senator from Alabama is in the Chamber.

Mr. ALLISON. Let it be passed over without prejudice.

Mr. COCKRELL. I have no objection to its being passed over without prejudice.

The PRESIDING OFFICER. The bill will be passed over, and the next bill will be called.

Mr. COCKRELL. The Senator from Alabama is here to take charge of Senate bill 1445.

Mr. MORGAN. I desire the bill to lie over informally as I suggested the other day, because other measures that are in conference between the two Houses will bring up the whole subject involved in the bill. I ask that it be passed over informally.

The PRESIDING OFFICER. That order will be made unless objection be interposed.

SUITS AGAINST THE GOVERNMENT.

The bill (S. 1577) to provide for the bringing of suits by citizens of the United States against the Government thereof in certain cases was announced as next in order.

Mr. GARLAND. I desire to have that called up at some other time. It can not be disposed of under the five-minute rule. Some day I shall call it up when it can be considered.

The PRESIDING OFFICER. The bill will be passed over.

SHOSHONES, BANNOCKS, AND SHEEPEATERS.

The bill (S. 1008) to accept and ratify the agreement submitted by the Shoshones, Bannocks, and Sheepeaters of the Fort Hall and Lemhi reservations, in Idaho, May 14, 1880, for the sale of a portion of their lands in said Territory, and for other purposes, and make the necessary appropriations for carrying out the same, was announced as next in order.

The PRESIDING OFFICER. The Chair is informed that the Senator from Massachusetts [Mr. DAWES], the chairman of the Committee on Indian Affairs, desires this bill to lie over until his return to the Chamber. That order will be made.

PETER DELLA TERRE.

The bill (S. 294) for the relief of Frank Della Terre and Susan Della Terre, heirs of Peter Della Terre, deceased, was announced as next in order.

Mr. COCKRELL. That is a case which involves an important question, the payment of a United States district attorney compensation for services performed away back in 1857 or 1858; the case was about to be called up the other day, and I have given some attention to the question. It will necessarily involve a longer discussion than can be given to it under the five-minute rule, and there would not be much probability of its becoming a law at this session even if passed by the Senate. It strikes me that it would be rather a useless waste of time to devote to it to consider this bill when no good can come from it. It proposes to pay a tolerably large sum to the heirs of a deceased officer, who was United States district attorney in California in 1857 and 1858, and I do not think the report places the claim upon such ground that we should be justified in passing it at this time. Therefore I object to its consideration.

Mr. HAMPTON. I submit to the Senator from Missouri that the Senator from Oregon [Mr. DOLPH] who prepared the report and introduced the bill is absent on special duty on behalf of the Senate, and I suggest to him that the bill be passed over informally until that Senator is in the Senate, retaining its place on the Calendar.

Mr. COCKRELL. I have no objection to letting it be passed over informally, as the Senator from Oregon who made the report is absent.

The PRESIDING OFFICER. That order will be made.

CHESAPEAKE AND OHIO RAILWAY.

The bill (S. 1212) to authorize the extension of the Chesapeake and Ohio Railway to a point in the military lands at Fortress Monroe, Va., was announced as next in order.

Mr. HARRISON. I was informed by the Senator from Virginia [Mr. RIDDLEBERGER] that a bill in substance this bill which is now reached on the Calendar had been passed at the last session and that it was not necessary that any action should be taken on this bill. I think it would be as well to indefinitely postpone it, and I make that motion.

The PRESIDING OFFICER. The Senator from Indiana moves the indefinite postponement of the bill.

The motion was agreed to.

EDUCATIONAL FUND.

The bill (S. 1235) to establish an educational fund and apply a portion of the proceeds of the public lands to public education, and to provide for the more complete endowment and support of colleges for the advancement of scientific and industrial education, was announced as next in order.

Mr. PUGH. That bill can not be considered in the morning hour, and may as well take its place on the Calendar under Rule IX.

Mr. MORRILL. Let it lie as it now is without prejudice.

Mr. PUGH. It is not material, and I have no objection to that suggestion.

The PRESIDING OFFICER. The bill will be informally passed over.

SOUTHERN MAIL CONTRACTORS.

The joint resolution (S. R. 13) to reappropriate and apply the amount appropriated by the act of Congress approved March 3, 1877, to pay certain Southern mail contractors, was announced as next in order.

Mr. ALLISON. That can not be considered in this morning hour. I object to it, but I am willing it shall remain on the Calendar.

The PRESIDING OFFICER. That order will be made.

OREGON CENTRAL RAILROAD GRANT.

The bill (S. 428) to forfeit certain public lands granted to the Oregon Central Railroad Company in the State of Oregon and the Territory of Washington was announced as next in order.

Mr. PLUMB. That has been made the special order for Thursday next at 2 o'clock, and therefore should go over.

The PRESIDING OFFICER. House bill 181 was made a special order.

Mr. PLUMB. They are the same thing, and Senate bill 428, I suppose, might in that case be indefinitely postponed; but I will not ask for that. Let it go over.

The PRESIDING OFFICER. To Rule IX?

Mr. PLUMB. To Rule IX.

The PRESIDING OFFICER. It will be so ordered.

Mr. PLUMB. The House bill exhausts the subject.

PETER TARGARONA.

The bill (S. 902) for the relief of Peter Targarona was considered as in Committee of the Whole.

The bill was reported from the Committee on Claims with an amendment, to strike out all after the enacting clause and in lieu thereof to insert:

That the claim of Peter Targarona for loss and damages alleged to have been sustained by him through the seizure and sale of the steamboat Live Oak, be, and the same hereby is, referred to the Court of Claims, with power to hear and determine the same upon the merits thereof; and any defense, set-off, or counter-claim may be pleaded by the United States as defendants, as in cases within the general jurisdiction of the court, and either party shall have the same right of appeal as in such cases; and the testimony of the claimant or of any party in interest may be admitted in evidence: *Provided*, That the liability of the United States shall be the same as if the acts done by the officers of the Government in the premises had been done by the agents of a public corporation.

Mr. McMILLAN. Can not this bill and amendment be explained by some person having knowledge of them? The Senator having charge of the bill I think is not in his place.

Mr. ALLISON. Let it be passed over.

Mr. McMILLAN. Let the bill be passed over for the present.

The PRESIDING OFFICER. Does the Senator from Minnesota object to the consideration of the bill?

Mr. McMILLAN. It may retain its place.

The PRESIDING OFFICER. That course will be pursued.

MARIA E. WARFIELD.

The next bill on the Calendar was the bill (S. 214) for the relief of Maria E. Warfield.

Mr. PLATT. There is an adverse report in that case.

Mr. HARRIS. The bill is adversely reported.

The PRESIDING OFFICER. The bill will be passed over.

JULIA A. NUTT.

The next bill on the Calendar was the bill (S. 1851) for the relief of Julia A. Nutt, widow and executrix of Haller Nutt, deceased.

Mr. GEORGE. My impression is that since that bill was reported the substance of it was added to a House bill on that subject; and, in order to allow me to look into that, I ask that the bill lie over without prejudice, retaining its place

The PRESIDING OFFICER. That will be the order.

JOHN SILSBY AND OTHERS.

The next bill on the Calendar was the bill (S. 504) for the relief of John Silsby and others, purchasers of the "Weaver tract" lot of land in the city of Selma, State of Alabama.

The PRESIDING OFFICER. This is adversely reported.

Mr. FRYE. What becomes of the bills on this Calendar, unobjected cases, where there are adverse reports and no action is taken? What call do they come back to on the Calendar? As unobjected cases?

The PRESIDING OFFICER. The custom of the Senate has been to regard cases adversely reported by a committee as objected to.

Mr. FRYE. I notice that some of them still remain on this Calendar; and why should they remain on this Calendar?

The PRESIDING OFFICER. That is in cases where a request is made by some Senator that they shall retain their place.

Mr. FRYE. But the ordinary custom would be to have them go on the Calendar of objected cases.

The PRESIDING OFFICER. That would be the order unless special request were made.

LOST LAKE AND MOUNT HOOD IMPROVEMENT COMPANY.

The next bill on the Calendar was the bill (S. 1303) to grant the right of way over the public lands of the United States to the Lost Lake and Mount Hood Improvement Company.

Mr. FRYE. The Senator who reported that bill and who takes a good deal of interest in it is absent on duty as a member of a committee, and I ask that it may be passed over without prejudice.

The PRESIDING OFFICER. That order will be made.

COLORADO INDIAN LANDS.

The Senate, as in Committee of the Whole, proceeded to consider the bill (S. 1695) relating to lands in Colorado lately occupied by the Uncompahgre and White River Ute Indians.

The bill was reported from the Committee on Indian Affairs with amendments. The first amendment was, in section 1, line 5, after the word "reservation," to insert "in Colorado;" so as to make the section read:

That actual settlers on lands subject to pre-emption under existing laws within the late Uncompahgre and White River Ute Indian reservation, in Colorado, shall be entitled to purchase the same, in quantities not exceeding one hundred and sixty acres each, in accordance with the general principles of the pre-emption laws: *Provided*, That no *bona fide* settler as aforesaid shall be denied the right to purchase land under the provisions of this act on the ground that he may have previously had the benefit of pre-emption on other public land of the United States without said reservation, nor on the ground that he may have removed from his own land elsewhere within the State of Colorado to settle upon land in said reservation: *And provided further*, That proof of actual inhabitancy and improvement of the land for not less than one year shall be made to the satisfaction of the register and the receiver, under such regulations as the Secretary of the Interior may prescribe.

The amendment was agreed to.

The next amendment was, in section 2, line 1, after the word "lands," to strike out "shall" and insert "may;" and in line 3, after the words "date of," to strike out "filing" and insert "entry;" so as to make the section read:

SEC. 2. That the payment for these lands may be made in three installments, as follows, to wit: Twenty-five cents per acre at the date of entry, and 50 cents per acre, respectively, in one and two years from such date.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

Mr. CONGER. There is no report accompanying this bill, and it changes the rule in regard to homestead entries entirely. I should like to have some explanation of the bill and why it is necessary to pass it.

Mr. HILL. Mr. President, the bill simply provides that settlers on the reservation may have the right to pre-empt one hundred and sixty acres of land. It is a fact that a large number of persons went upon this reservation with the expectation of making homestead entries, but the law under which this land became public land of the United States prohibits them making such entries. This bill provides that they may take a pre-emption of one hundred and sixty acres, and pay for the land in the regular way under the laws of the United States. The bill has been very carefully considered by the committee, and does not affect any rights of Indians or other persons.

Mr. CONGER. How long a residence is required of those who may pre-empt?

Mr. HILL. It requires a year's residence.

Mr. PLUMB. I wish to call the attention of the Senator from Michigan to the arrangement under which we sell these lands. By the agreement which was entered into by Congress and the Uncompahgre and White River Ute Indians, we agree to sell these lands for their benefit, they to get the entire proceeds. In the rush of people to that section of country there is a large number of settlers, and it was deemed a case where, in view of all the circumstances, an exception should be made to the general rule which prevails, limiting a party to one entry, and under the circumstances related by the Senator from Colorado, the committee agree to recommend a change of the rule in that particular; especially inasmuch as besides that we added to the requirements of settlement now made under existing law, that is, instead of six months, as now required, we require a settlement of twelve months.

Mr. CONGER. Prior to entry?

Mr. PLUMB. Prior to entry.

Mr. CONGER. But it seems they have resided there without any right.

Mr. PLUMB. It was also found that there were a large number of people on the lands who had gone in good faith, supposing that they had a right to enter, and inasmuch as they were Indian lands, and not public lands in the ordinary sense of the term, we thought this exception was allowable.

Mr. CONGER. Then if the lands are to be sold for the benefit of the Indians a prudent care for the interests of the wards of the United States might have required that they be first offered, as other lands are, at public auction, and have the benefit of competition.

Mr. PLUMB. But the agreement between the Indians and the United States was that the lands should be sold to actual settlers, and this is in exact accordance with the agreement; that is to say, it is for the benefit of actual settlers, waiving in this case that provision of the statute which applies to the ordinary public lands of the United States, that no person shall make more than one entry.

The PRESIDING OFFICER. The hour of 2 o'clock having arrived, it is the duty of the Chair to lay before the Senate the unfinished business, which is Senate bill 1682, prior to which the Chair will lay before the Senate bills from the House of Representatives for reference.

HOUSE BILLS REFERRED.

The bill (H. R. 1457) to establish a department of agriculture was read twice by its title, and referred to the Committee on Agriculture.

The bill (H. R. 6578) to amend section 3940 of the Revised Statutes, relating to the forwarding of mail matter, was read twice by its title, and referred to the Committee on Post-Offices and Post-Roads.

HOLIDAY RECESS.

The PRESIDING OFFICER laid before the Senate the following concurrent resolution of the House of Representatives:

Resolved by the House of Representatives (the Senate concurring), That when the two Houses adjourn on Saturday, December 20, 1884, they stand adjourned until Monday, the 5th day of January, 1885.

The PRESIDING OFFICER. The Chair believes it is customary to refer such resolutions to the Committee on Appropriations. That order will be made in this case.

SILVER COIN AND SILVER CERTIFICATES.

Mr. BECK. Before the Senator from Indiana [Mr. HARRISON] proceeds regularly with his bill, I would ask him, without displacing it or laying it aside—for I do not want to interfere with it—to allow me to say a few words in conclusion of the remarks I was making yesterday when there was a disagreement as to facts and as to the law at the time of the adjournment, and I gave way with the assurance that I should have the right to put the matter correctly in the morning. I will take very little time.

Mr. HARRISON. I will not object to laying aside the pending business for fifteen minutes in order to accommodate the Senator from Kentucky. I would express the hope, however, that at that time unless further debate is desired we may have a vote upon the Dakota bill.

Mr. BECK. I shall be very brief and will not delay the Senator.

The PRESIDENT *pro tempore*. The Senator from Kentucky will proceed.

Mr. BECK. Mr. President, on yesterday, while I was attempting to reply somewhat to the Senator from Ohio [Mr. SHERMAN], I said that he as Secretary of the Treasury had failed to pay out the silver coin received at the custom-houses as the law required him to do, and that the administration had in many ways obstructed the use and thereby reduced the value of the silver coin. I said that he was not a friend to the present silver dollar, whatever he may be to such a dollar as he thinks ought to be coined. This occurred; I read from the RECORD:

Mr. BECK. I hope when this discussion comes up again I shall show from report after report of the distinguished gentleman as Secretary of the Treasury that he has denied that we had a right to pay our creditors in the silver coin of the country——

Mr. SHERMAN. Ah!

Mr. BECK. Although the act of July required, and it was written upon the face of the bonds, that it was to be paid in the coin of the country, which embraced both gold and silver of the standard value of that day.

Mr. SHERMAN. What was the date of that act?

Mr. BECK. If that was not hostility to silver, I do not know what was. Now, let me ask the Senator——

Mr. SHERMAN. I ask the date of that act?

Mr. BECK. Why did he fail to comply with the law, and pay the silver dollar received for customs dues, as the laws required him, on the interest of the public debt?

Mr. SHERMAN. To what act does the Senator refer?

Mr. BECK. The act of July 14, 1870, and the act of February 25, 1862, which pledged all the coin received from customs first to the payment of interest and then to the setting apart of a sinking fund. Did he ever pay a dollar received at the custom-house——

Mr. SHERMAN. The act to which the Senator referred by date a moment ago was passed a year or two after I ceased to be Secretary, and I have not had a chance to pay out any, except what I received as my salary.

Mr. BECK. The law remained unchanged and the Senator remained Secretary, and he refused to pay in obedience to law the silver coin received at the custom-house, though the law required him to do it.

Mr. SHERMAN. What law?

Mr. BECK. And it could have been done for no other purpose except to keep it out of the hands of men whose interest it would be to circulate it and make it good, and to keep it in the Treasury and raise the clamor that nobody would take it, when he would not pay it to anybody who was obliged to take it.

Mr. SHERMAN. On the contrary, the law required that to be done which was done. The Senator can certainly tell me——

Mr. BECK. I will get the Revised Statutes and read the very fundamental law which has been regarded all the time as the law that prohibits us from taking greenbacks——

Mr. SHERMAN. My impression is that there was no express law requiring the payment of silver certificates and silver coin on the interest of the public debt until after I ceased to hold the office.

Mr. BECK. I beg pardon. I will find it in a moment, I think.

I, however, at that point yielded for a motion to adjourn. I have found it; this is the law passed February 25, 1862.

Mr. SHERMAN. What page do you read from?

Mr. BECK. Page 735 of the Revised Statutes, section 3694. After providing that coin, and coin alone, should be received for customs dues, section 3694 provides:

The coin paid for duties on imported goods shall be set apart as a special fund, and shall be applied as follows:

First. To the payment in coin of the interest on the bonds and notes of the United States.

Second. To the purchase or payment of 1 per cent. of the entire debt of the United States, to be made within each fiscal year, which is to be set apart as a sinking fund, and the interest of which shall in like manner be applied to the purchase or payment of the public debt, as the Secretary of the Treasury shall from time to time direct.

Third. The residue to be paid into the Treasury.

That was the law long before the Senator accepted the office of Secretary of the Treasury; it remained the law during all the time he was Secretary, and is the law to-day. Under that law large amounts of silver coin were paid into the custom-houses for customs dues while he was Secretary of the Treasury, and have been so paid ever since. Yet, although the law required him to pay out the coin thus received, silver coin as well as gold coin, to the creditors of the United States, first on the interest and next in the purchase of bonds for the sinking fund, neither he nor his successors have ever applied a dollar of the silver coin so received for the purposes prescribed by law; that coin has all been dumped into the Treasury of the United States and held there, and the clamor has been raised that nobody wants it.

I called upon the Senator when he was Secretary once for a report as to what silver coin had been received for customs up to that date and what he had paid out on the public debt under the act of 1862. On the 16th day of December, 1878, he sent a report, accompanied by a report from Mr. Gilfillan, the Treasurer, in which he showed that gold and silver coin was received for customs dues in large amounts, and that not one dollar of the silver coin thus received had ever been paid to any public creditor. I hope he will examine his own report of December 16, 1878, sent from the Treasury Department to the Senate in pursuance of a resolution that I had offered. In that report he said that he allowed the bondholder to determine what character of coin or draft he desired; and, as the creditor always preferred the gold to the silver coin, he allowed him to make the choice. The result was that he did not pay one dollar in silver coin out of the millions of it which were received for customs dues, although required by law to so apply it.

On yesterday I referred also to the act of July 14, 1870, as making the silver coin of the country of 412½ grains, the then standard value, payable in satisfaction of all the bonds of the United States. That act provided for the issuing of fifteen hundred million dollars of bonds, and this language was used. These bonds shall be "redeemable in coin of the present standard value, at the pleasure of the United States"—some in ten, some in fifteen, and some in twenty-five years, but all in "coin of the present standard value;" and the bond itself, thus making it plain, reads thus, and all the renewals of it are written on the face of the bond to the same effect:

This bond is issued in accordance with the provisions of an act of Congress entitled "An act to authorize the refunding of the national debt," approved July 14, 1870, as amended by an act approved January 29, 1871, and is redeemable at the pleasure of the United States after the 1st day of July, 1907—

I have one of the 1907 bonds, but they are all the same—

in coin of the standard value of the United States on said July 14, 1870, *with interest in such coin* from the day of the date hereof at the rate of 4 per cent. per annum, payable quarterly, on the 1st day of October, January, April, and July in each year. The principal and interest are exempt from the payment of all taxes or duties of the United States, as well as from taxation in any form by or under State, municipal, or local authority.

WASHINGTON, *July* 1, 1877.

This is one of the renewed bonds, as its date shows, but every one of them has the same indorsement. Therefore I said and repeat that the silver coin of the United States has never had fair play and has never been used as by our contracts and laws it could be and ought to have been; the law has never been complied with in regard to the payment of our debts with it, and it is for that reason, and that reason mainly, that whatever amount of it is now locked up in the Treasury is locked up there because, if our officials had paid it out as the law required them to do, it would have at once become the interest of the men who received it to make it as valuable as possible, instead of its being denounced and vilified at home and abroad in every form by our own officials.

The reason why we never have had any chance to negotiate on this subject with foreign nations is that all the efforts we seemed to make were under false pretenses. The illustration I gave yesterday of Talleyrand's conduct is exactly applicable. We had determined as early as 1870 that all the bonds we then issued (and there are yet outstanding a thousand millions or more) should be paid in gold and silver coin of the United States at the standard value of July 14, 1870. If we had attempted to alter that by making it 15½ to 1 with gold, or 400 instead of 412½ grains, which is the silver coin of Europe, every bondholder in the United States or elsewhere would have said, "You are bound to pay my bond in silver coin of the standard value of July, 1870, and you are giving me coin at 15½ to 1, or 400 grains of silver to the dollar instead of 412½; you are by this reduction repudiating your obligations." Other nations would not increase their coin, and we could not honorably reduce ours; therefore we could not obtain a uniform silver coinage, very much to the gratification of England and our executive officials.

I have called upon the Director of the Mint for information. I have looked at the statistics of other countries since we adjourned last night, and the silver coin of the United States bears a higher relation to its gold coin than the silver coin of any other country in the world bears to its gold coin, except Mexico and perhaps Japan. That is, our silver dollar is worth more in proportion to the gold coin, and bears a higher relation to it, than that of almost any other country in the world, yet we alone are abusing and denouncing our silver coinage. Other nations seem to be content with theirs. The complaint can not be made, therefore, that in paying our bondholders according to law—a law which has been on the statute-book ever since 1862—we are violating any contract, and the Secretary of the Treasury, I insist, has no right, when he is compelled by law to pay the coin received from customs, to say if the creditor wants something else he will not comply with the law. The Secretary knew very well what the law was; and at one time he entertained very just views in regard to the contract rights of the people of the United States, as I propose to show. When we sold our bonds we received for them greenbacks at par, and issued the bonds for an equal amount, and we wrote upon the back of every greenback what I will read. I believe I have a ten-dollar bill in my pocket this morning. This is the indorsement:

This note is a legal tender at its face value for all debts, public and private, except duties on imports and interest on the public debt.

That can not be taken off the back of that greenback; and yet a few years afterward the Senator from Ohio and all his colleagues repudiated that contract, and said the principal of the bonds should be paid in coin, gold and silver coin. The language of the repudiating act of 1869 mentioned gold and silver as the coin in which the principal of the bonds should be paid. Why, sir, before the Senator was Secretary—when he was first told that the bondholders were going to demand more than their contract, he wrote a very able letter in 1868 to a friend, which I will read for his edification now, and I will add that he seems to me to be pursuing the same course in regard to silver now that he there condemned in regard to the greenback:

DEAR SIR: I was pleased to receive your letter. My personal interests are the same as yours, but, like you, I do not intend to be influenced by them. My construction of the law is the result of careful examination, and I feel quite sure an impartial court would confirm it, if the case could be tried before a court. I send you my views as fully stated in a speech. Your idea is that we propose to-

repudiate or violate a promise when we offer to redeem the "principal" in legal-tenders.

I think the bondholder violates his promise when he refuses to take the same kind of money he paid for the bonds. If the case is to be tested by the law, I am right; if it is to be tested by Jay Cooke's advertisements, I am wrong. I hate repudiation or anything like it, but we ought not to be deterred from doing what is right by fear of undeserved epithets. If under the law as it stands the holders of the five-twenties can only be paid in gold, then we are repudiators if we propose to pay otherwise. If the bondholder can legally demand only the kind of money he paid, then he is a repudiator and extortioner to demand money more valuable than he gave.

Truly, yours,

JOHN SHERMAN.

I repeat and indorse those sentiments in their full force in regard to the silver coin. The cases are parallel. When we issued our bonds in 1870, payable in the coin of the country at its then standard value, which was 412½ grains of silver to the dollar, every creditor agreed to receive it, taking the chance of its rise or fall, and every public officer was obliged to pay it. In my opinion, the public officer who refuses to comply with the law, or the man who holds our obligation and refuses to receive what the obligation calls for, is violating his public duty in the one case and is an extortioner in the other. This people have a right to pay their debts in that coin; and the attempt to make the silver dollar 470 or 480 grains, as now proposed, is to give to the bondholders what by their contract they have no right to ask, and to place an additional burden on the people of the United States that nobody has a right to impose.

Every country in the world, as I have said, except perhaps Mexico, has a smaller proportion of silver in their silver coinage than we have. So the Director of the Mint says, and he has none of the apprehensions that the President and the Secretary of the Treasury and the Comptroller of the Currency seem to have about silver money. Read his report, and you will see that we produced 40 per cent. of all the silver produced in the world last year, and 33 per cent. of all the gold produced in the world; and he says, in substance, that all the gold produced in the world annually is, in his opinion, absorbed in the arts and manufactures. This is his language: The amount of coin and new gold used for the purpose of ornamentation and in the arts is $13,000,000 in the United States, $11,000,000 in France, and $10,000,000 in Great Britain and Ireland. These four countries alone withdrew from the stock of gold last year $53,000,000, out of a total product of $90,000,000.

The struggle now is to have gold and nothing but gold for our coinage. We are asked to destroy our silver, which of course means to destroy our silver certificates, which are based on coin deposited, and thus double the burden of every debt. True, you will double the purchasing power of the little gold which remains to the creditor class, for Mr. Burchard clearly shows that of all that is now produced $53,000,000 out of $90,000,000 is absorbed by four countries alone, without counting what all the rest of the world consumes or uses for purposes other than for coinage. In this condition of things, while we are producing 40 per cent. of all the silver produced in the world, we are now told at this late day that we must destroy or abandon it or add 60 more grains to each dollar by an administration that has never given it a chance. I repeat, no executive officer has given it fair play. Even the law forbidding our national banks from going into any association that would not receive silver certificates has been violated. The Senator from Ohio in his place in this body denounced that provision of law when we passed it. If the debate goes on I will read it all and show the fact to be as I state.

I took up the report of the Director of the Mint yesterday evening and found that France maintains a less valuable silver dollar than ours by 3 or 4 cents, or one of 400 grains against our 412½, in the proportion of five hundred millions of silver to eight hundred millions of gold coin. Switzerland maintains more than half her coinage in silver; Belgium maintains almost as much silver as gold; Spain more silver than gold; Germany one-fourth as much silver as gold—she has $414,000,000 of gold and $105,000,000 of silver in circulation. I do not want to take time, but if I had time I would read what Mr. KELLEY said Prince Bismarck said to him about the mistake Germany had made in demonetizing silver. Austria has more silver than gold; the Netherlands have four times as much silver as gold; Denmark has five times as much; Sweden has twice as much; Japan has half as much; Mexico has nearly all silver. The circulation, I believe, of Bolivia and the Sandwich Islands is nearly all silver. The last named are the countries whose trade we seek, yet we, producing 40 per cent. of the silver of the world, are now told that we must strike it down and proclaim to all other countries that we are not asking to maintain it any longer. As I said, I wrote to the Director of the Mint about the relative value of our silver coin as compared with other countries. His dispatch is handed to me this moment. He says:

TREASURY DEPARTMENT, *December* 16, 1884.

Hon. J. B. BECK, *Senate:*

Yes; Mexico and Japan are the only countries I now remember that give a higher valuation to silver relatively to gold.

HORATIO C. BURCHARD.

I asked him if I was correct in making the statement that our silver dollar came up to the proportion of gold more nearly than the silver coin of a majority of the countries of the world, and the answer is as you observe, yes, with the exception of Japan and Mexico, higher than any of them; yet we are told that we can not maintain our silver dollar, while they all maintain theirs. Sir, we have never tried to maintain it. I want to see an administration that will tell the silver-using countries of the world, as they are the countries we must trade with, such as South America, the West Indies, Central America, China, Japan, India, and others, now dominated by the commerce of England, "We will stand by you on the silver issue, and we will not allow England to dominate and control the trade of the world or bring all its coinages to her standard." I admit that her power is great. She has nearly 60 per cent. of the world's trade now, with the goods of all nations stored in her great warehouses and all the bills of exchange by which the commerce of the world is affected drawn upon London. We have surrendered nearly everything in that regard to her; and now are we going to allow her to drive our silver out of the markets of the world in order to make her the great creditor country, dominating and dictating to everybody else?

Mr. President, I believe that whenever silver is treated fairly and honestly and an earnest effort is made in conjunction with the great countries that are now using it, with whom we trade, England, because she has to maintain her position in trade and commerce if she can, will have to yield. But she will not yield as long as speeches like that of the Senator from Ohio are made to the effect that we are robbers and repudiators; that we are wrongfully maintaining a depreciated currency of 15 per cent., and while even our Comptroller of the Currency has the impudence (for no other word can be used)—a clerk dares to come and tell the Congress of the United States, as he does in his report, what I will read:

The law which stamps 412½ grains of silver and arbitrarily insists upon its circulation as a dollar, *with unlimited legal-tender qualities*, when its true value, as indicated by the market price of silver is but 85.2 cents, is unworthy of this nation, and will sooner or later bring upon us financial trouble and disgrace.

We are to be told by a man who I believe was a clerk a year or two ago, in an official report, that the legislation of Congress is disgraceful. That is the kind of support our silver money gets from those whose duty it is made by law to sustain it. That is the support it is getting from the Treasury officials; yet we are pretending to-day to be in sympathy with those nations who desire to maintain silver coinage. Our officials are not. England needs not to be told that; she will insist on gold as the standard so long as you make her the great storehouse of the goods of the world. So long as you surrender to her 60 per cent. of the carrying trade of the world, so long as you have to draw bills of exchange on her, she will demand gold and do all possible to cheapen silver when she can pay out silver to her 200,000,000 serfs in India, and to others, who are not much further removed from vassalage, in the way of trade. Of course she wants gold.

I am willing to do whatever may be necessary to be done in the way of regulating the silver coinage of this country and the silver certificates based upon it when the proper time comes, but I want that done through friendly and not through hostile hands. We can wait sixty days until the enemies of the silver bill disappear from the other end of the Avenue, and we can have an opportunity of letting the world know that what we propose we propose in good faith. I hope we will tell them that we intend to maintain the currency of this country and to pay our debts and our bonds according to our obligation, and that we will have Secretaries and other officers who will not dare to defy the law, men who will faithfully pay out the silver coin received for customs as the law requires them to do, and not fritter our laws away by executive constructions, and then come here and tell us either in reports or through their comptrollers that we are passing laws disgraceful to the people of the United States.

I have occupied much longer time than I intended. I will discuss these questions when the proper time comes, I hope, to the satisfaction of the Senate, and will endeavor to show, whatever we may do hereafter, that this is not the time and these are not the auspices to act under. With a President, a Secretary, and Comptroller and ex-Secretary wanting to reverse our silver policy, as they have repeatedly tried to do and failed up to this time, I think we had better let things remain as they are during the expiring hours of their power.

Mr. SHERMAN. Mr. President——

ADMISSION OF DAKOTA.

Mr. HARRISON. I call for the regular order.

The PRESIDING OFFICER (Mr. HARRIS in the chair). On the call of the Senator from Indiana the Senate resumes the consideration of the unfinished business, being the bill (S. 1682) to enable the people of that part of the Territory of Dakota south of the forty-sixth parallel of north latitude to form a constitution and State government, and for the admission of the State into the Union on an equal footing with the original States, and for other purposes.

The question is on the amendment proposed by the Senator from Arkansas [Mr. GARLAND].

Mr. SHERMAN. My friend from Indiana may think, probably, that I shall not be able to reply now to the Senator from Kentucky because the Dakota bill is pending before the Senate; but I do not know any rule that will prevent me from replying very briefly to the Senator from Kentucky.

The PRESIDING OFFICER. The Chair knows of no rule that would confine the Senator's remarks in any particular channel.

Mr. HARRISON. I perfectly understand that we have no rule of relevancy here in the Senate. At the same time I think it would be unfortunate to open upon the pending bill a discussion of the silver question. Rather than do that I confess, though it may detract somewhat from the gracefulness of my concession to the Senator from Kentucky under some intimidation for fear he might open the discussion of the silver bill on the Dakota bill, I consented to lay it aside for a little time. I am willing to do the same thing now, as it seems to be proper that the Senator from Ohio should make some response to the allusions which have been directed to him personally; but I would want in the first place to get unanimous consent of the Senate that we shall vote on the Dakota bill at some hour to be named.

Mr. BECK. I have only to say that I am not responsible for the discussion of the silver question. The Senator from Colorado [Mr. HILL] yesterday was allowed to make a speech. The Senator from Ohio [Mr. SHERMAN] thought it his duty to seek to destroy the effect of it; and the Senator from Iowa [Mr. ALLISON] and myself desired to make a few remarks to show that the Senator from Ohio was not altogether as correct as he thought he was. I do not think anybody ought to object to that. That is all we have done. If the silver question is to be opened, I am willing to go into it fully.

Mr. HARRISON. I was not at all criticising the Senator from Kentucky. I understand perfectly that Senators have it in their power to debate the silver resolution upon the Dakota bill while that is the pending business, but I want to avoid that. Now, I ask unanimous consent that we may vote upon the Dakota bill at 4 o'clock.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Indiana that the Senate vote upon the Dakota bill at 4 o'clock to-day?

Mr. GARLAND. The Senator from South Carolina [Mr. BUTLER] objected to an agreement being reached to vote at a certain time. I do not think he will urge that objection, though I do not see him in his seat.

Mr. HARRISON. I feel sure that he will not, for he said to me that he did not intend to speak on the bill.

Mr. GARLAND. I think myself, so far as this side of the Chamber is concerned, that we can take the vote immediately after this discussion is through.

Mr. HARRISON. Say not later than 4 o'clock.

The PRESIDING OFFICER. Is there objection to the arrangement proposed, to vote on the Dakota bill by at latest 4 o'clock to-day? The Chair hears no objection. That is the understanding. Is there objection to informally laying aside the bill in order that the Senator from Ohio may proceed?

Mr. SHERMAN. I do not ask that it be laid aside; but I have no objection.

Mr. HARRISON. I suggest that it be laid aside informally.

The PRESIDING OFFICER. If there be no objection the bill will be informally laid aside.

SILVER COIN AND SILVER CERTIFICATES.

Mr. SHERMAN. Mr. President, I do not propose to reply at any length to the observations of the Senator from Kentucky. What he has stated on this occasion he has stated, so a Senator tells me, fifteen times, but I do not know how many times he has repeated all these arguments, and he will probably repeat them many times again. I am always glad to hear him.

The only point I wish to direct the attention of the Senate to is the charge the Senator makes that the executive officers of this Government have not obeyed the law, that they have made a discrimination against the silver dollar or the silver coin of the United States. I say that that is not true, certainly in respect to myself when I was an executive officer, nor do I believe it is true as to any executive officers who have had charge of the enforcement of the law since its passage in 1862.

What are the circumstances? The law quoted by the Senator is as familiar as the Lord's Prayer, certainly it is about as often repeated; that is, that the coin of the United States received for customs duties should be applied in a certain way to the payment of interest on the public debt and to the sinking fund. From the passage of that law up to the date of the letter which he quotes from me there was no silver coin in the United States that could be applied to the payment of the public debt or interest upon it. The Senator must be forgetful of the most elementary ideas of our currency. From 1862, when that law was passed, until 1868 there was no silver dollar in circulation that could be applied to the payment of customs duties or that was paid for customs duties. Why, sir, there had been only eight million silver dollars issued from the foundation of the Government of the United States to the time of the passage of the law of February 28, 1878, and there was no silver dollar paid into the Treasury for customs duties. There was no such money that could be paid into the Treasury for customs duties, and consequently no discrimination could have been made. The whole of the eight million silver dollars that had been in existence from the foundation of the Government prior to the suspension of specie payments in 1862 had disappeared from circulation, and there was no coin in this country except the gold coin of the United States applicable to the payment of customs duties. It is true the statute speaks of "coin," but the only coin then in existence was the gold coin of the United States, and that was received and applied as the law directed.

Mr. President, let me say further that there was no period from 1862 to 1878 where the amount of revenues paid in under that law was not largely in excess of the interest paid on the public debt. When I became Secretary of the Treasury the interest upon the public debt was $95,000,000 a year; now it is about $50,000,000; and at that time the revenues of the Government, payable in gold coin only, because there was none other to pay them, amounted to $200,000,000, and that coin received into the Treasury was applied in express execution of the provision of the act.

There was quoted a letter written by me some time in 1878. Why, sir, at the time that letter was written there had not been fifteen million silver dollars coined. The coinage commenced in April, 1878, and the letter he quotes I believe was written in October or November, 1878, or thereabouts. Am I correct in the date? Will the Senator advise me what was the date of that letter from me?

Mr. BECK. The letter I have read?

Mr. SHERMAN. Yes, sir.

Mr. BECK. The letter I have read from the Senator was upon another subject altogether, but kindred to it. It was in 1868, when he was denouncing men who demanded the principal of their bonds in gold coin.

Mr. SHERMAN. I do not mean that letter. I mean the official letter as Secretary of the Treasury. It was written some time in 1878.

Mr. BECK. I think it was. I will give you the exact date. It was December 16, 1878.

Mr. SHERMAN. At that time there had not been and could not have been more than 16,000,000 of these silver dollars issued, and probably not a dollar of them had been paid into the Treasury of the United States for customs dues.

Mr. BECK. I beg your pardon. The Secretary himself announced that there had been at least $11,000,000 received, but they had not kept them separately.

Mr. SHERMAN. That is, from the passage of the law of 1862 up to that time $11,000,000 had been paid in.

Mr. BECK. I beg pardon; in the last year; it was only one year; the Secretary was inquired of as to how much had been paid during that year.

Mr. SHERMAN. The first silver coin issued under the act of February 28, 1878, was issued, I think, in April or May. It took some time to prepare for the issue of the silver coin. So between the date of the issue of the silver dollar and the date of that letter there could not have been more than 14,000,000 silver dollars issued.

I have not the official letter before me which the Senator read, but I probably did ascertain by official documents that from the time of the passage of that law some $11,000,000 altogether had been paid in silver coin into the Treasury of the United States in payment of customs duties and other revenue charges. During that time there had been paid in, say, in a period of sixteen years, probably $3,200,000,000 of gold coin. The Senator complains now that we did not force the public creditor instead of being paid out of the thirty-two hundred millions of gold coin collected from 1862 to 1878 to receive on the public debt and on the interest on the public debt the $11,000,000 in silver which we had received up to that time. How absurd a proposition that is! But no discrimination ever was made between the gold and silver coins of the United States of legal tender, nor could any be made, and the amount of silver received and paid into the Treasury was infinitesimal compared with the great mass of gold that had been received.

Mr. HILL. May I interrupt the Senator? I should like to ask a question at this point.

Mr. SHERMAN. Not now. Let me finish with one, and then I will turn to my friend from Colorado and give him a chance.

Mr. HILL. It was right on the point on which the Senator was speaking that I desired to put a question.

Mr. SHERMAN. I say, therefore, that it was utterly idle to complain that a discrimination was made by the Treasury Department, because none was made. Eleven million dollars in silver may have been paid into the Treasury in various forms, mainly from internal revenue, probably, because as a matter of fact silver was not paid into the Treasury for customs at so early a period as that, nor was it attempted to be paid; nor, indeed, as I imagine, was there ever any silver dollar paid in for customs duties, because it is not convenient to merchants in New York and in the importing cities to pay silver dollars. They will not carry great masses of heavy weight like silver dollars to pay customs duties, but they are paid in gold coin. At most, according to the statement, the Senator from Kentucky says $11,000,000 in silver were paid in, and probably largely in fractional currency in order to make change in sums under $5; and what was that as compared with the mass of gold that was paid in during that period of time?

Then the Senator does not show that any discrimination was made, nor has any been made ever since. I doubt very much whether in the course of the Treasury operations at the city of New York, where the

great mass of our revenues from customs duties is collected, any silver is paid in there to-day to any considerable extent, certainly not to an extent to demand that it should be immediately forced out upon people who probably do not desire to receive it for interest on the public debt. No doubt silver certificates have been paid in large quantities, and are paid daily, but, as I showed yesterday, those silver certificates are treated by the Government of the United States as the equivalent of gold coin and are received now every day. It is said that some 30, 40, or 50 per cent. of our revenues is now collected in silver certificates, and they are received without discrimination and paid out in the ordinary course of business, not only in the payment of all public debts, but for all other purposes. The weighty silver dollar is not brought in, but the representative of the silver dollar, maintained by the Government of the United States at par with gold, is received and paid out without discrimination.

There is no law upon the statute-book (and I defy the Senator to show it to me) which requires that these silver dollars should be paid out in discrimination as against gold dollars, because the law treats the two as precise equivalents, and they are to be held in the Treasury as security for the payment of the interest on the public debt. But there is no law, there never has been a law, and Congress would not enact such a law, to require that the silver dollars should be paid out in discrimination as against the gold dollars. No such law exists; no such law has existed. The Treasury of the United States, in the ordinary discharge of its duty of paying the public creditor and paying all the demands made upon the Government, has usually given to the creditor that kind of money which he prefers, not as a matter of legal right, but as a matter of convenience—the same thing that is done by every bank in the country and by almost every person dealing with others. The Treasury pays the creditor that kind of money, all kinds being equal in the eye of the law, which he prefers. That is the general rule.

The large mass, probably the great body, of the interest on the public debt is not paid with money at all; it is paid through the clearing-house in New York, where the coupons of the Government come in the nature of demands against the Government and are there exchanged by the mode adopted by the New York Clearing-House. That is the ordinary mode of payment. The payment over the counter of gold or silver coin to any considerable extent is not adopted in the ordinary transactions of public business. Since the order adopted by the Treasury Department in December, 1878, when, by a construction which my friend from Kentucky so often criticised, I held that the United States notes, after specie payments had been resumed, must be considered as the equivalent of gold coin, nearly all the business of paying the interest and principal of the public debt has been carried on in United States notes; but if anybody desired gold coin it was given to him; and no discrimination in effect or in law has ever been made whatever between the different classes of legal-tender currency of the United States.

Payment is usually made either through the clearing-house or by the use of United States notes; and now all the revenues of the Government of the United States substantially are so paid. Gold may be paid here and there; silver may be paid here and there in small sums; but the great body of these transactions is conducted just like the transactions of private citizens, by the payment of United States notes and silver certificates, and there has been no discrimination by any officer of this Government between silver certificates and the silver dollar, and the gold dollar and the gold certificates, but all are received in the ordinary course of business on exactly the same footing.

There are but comparatively few silver dollars in circulation, only $41,000,000 all told, scattered all over the United States—less than one silver dollar to an individual inhabitant; and there are very few of them in New York. Inconvenient in bulk and size, as a matter of course they would not be brought to the Treasury of the United States in payment of customs duties or any other duties except for a very small matter. No doubt ten, twenty, thirty, forty, fifty, or sixty millions may in a period of years have been brought into the Treasury and been paid out; but usually they have been brought in the form of certificates, and not in the form of actual coin.

So the statement made by the Senator yesterday that the executive officers of this Government had discriminated in any way whatever against the silver dollar is not proven. It is not true in my judgment, for I know of no such discrimination there during the time when I held the office of Secretary, or by any of my successors or predecessors. Before the coinage of the silver dollar under the new law there was no silver to be tendered to the Government, and none could be.

Now, the Senator speaks of some of the officers of the Government with great contempt. He speaks of the Comptroller of the Currency—an officer of very high rank, who performs independent duties, who holds his office under a special tenure, who has been placed beyond, you may say, the ordinary pale of political warfare—with great contempt, and says he was a clerk, and was years ago in some of the Departments. Mr. Cannon was never a clerk in any Department of this Government. He is a man of the highest standing and character known in official circles, who was brought here from a distant city at the request of and upon the recommendation of his predecessor, never having been employed as a clerk by the Government. And because he comes here and in man fashion speaks his sentiments in regard to a matter of public importance he is to be sneered at as a man who was once a clerk, now lecturing Congress! Why, sir, he is bound to speak his opinions freely and fully, and he has done it frankly, and he is a man not to be hooted down in this way.

There is one other remark I wish to make. The Senator highly commends Mr. Burchard, and I underwrite all he says in regard to Mr. Burchard, who is a faithful, industrious, competent officer, long a member of the other House, who discharges his duties as Director of the Mint with singular fidelity. But Mr. Burchard, in the very report to which the Senator refers and which he commends so highly, recommends precisely what I recommended yesterday; that is, the stoppage of the coinage of the silver dollar. In the identical report which the Senator read, differing *in toto* from the views taken by the Senator from Kentucky, he says the time has arrived when the coinage of that dollar ought to be suspended in order to renew our negotiations with foreign powers.

So, then, Mr. Burchard, quoted by the Senator, is now bearing testimony against his ideas, and agrees with me entirely in the view I take of this question, although he probably would not go as far as I in the coinage of a new silver dollar, but he is in favor of the suspension of the present coinage.

There has been so much fog, so much demagogism thrown around this silver question that it is almost difficult to argue about it seriously. The question is whether the United States of America can stop the march of time, can stop the depreciation of silver, can turn the dial backward, and make two things that are unequal to each other the equals of each other. We can not do it. The only point is whether we shall still go on and go on coining this dollar to be piled up in our Treasury as idle money, or whether we shall suspend it for awhile with a view to talk with other nations who are interested in the question, or whether, failing an agreement, we would not confess what we can not prevent, that silver has depreciated, and coin it at the same rate that we buy it of our miners. That is the question, and no amount of demagogism, no amount of fume or bluster can prevent the sober inquiry being put to the people of the United States as to whether they will continue the process which has been going on of hoarding the silver dollar or whether they will in a statesmanlike way meet the question broadly, and coin a silver dollar upon the basis of its purchase from the miner. That is the question; and I know and acknowledge that within a few months a new administration will come into power, and I commend to that administration the settlement of this question. If what is said in the reports in the newspapers be true—and I can only speak in a general way, without any other knowledge—if my honorable friend from Delaware [Mr. BAYARD] is to assume the duties of chief financial officer of the Government, let him solve the question. If he can see a better way out of it than this, I shall follow him with great pleasure. It is for him to say whether or not this policy shall be changed, or for any other person who may be called upon to discharge the duties of that high office. I do not anticipate that our Democratic friends will find any less difficulty in solving the question than we have done, and I venture the prediction that whoever may be the chief financial officer of the next administration will be compelled to meet this question as we have, and I believe he will be able to solve it as we would solve it if we had the control of the future before us.

This is all the answer I desire to make to the Senator from Kentucky, except again to repeat that there is no law which requires the payment of silver coin in discharge of customs duties, but only that all customs duties shall be held, or a sufficient part thereof, to pay the interest on the public debt as it matures, and that no discrimination has been made so far as I know by any executive officer against the silver dollar.

Mr. BECK. One word——

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. SHERMAN. I promised to allow the Senator from Colorado [Mr. HILL] to ask a question.

Mr. HILL. Mr. President——

Mr. BECK. If I have the floor I desire to say a word now.

Mr. SHERMAN. I have not yielded yet.

Mr. BECK. I was recognized.

Mr. SHERMAN. I have not yielded.

The PRESIDING OFFICER. The Chair understood the Senator from Ohio as yielding the floor, and recognized the Senator from Kentucky.

Mr. SHERMAN. I had promised to yield to the Senator from Colorado for a question.

Mr. HILL. I should like to ask my question now, before the Senator from Ohio takes his seat.

The PRESIDING OFFICER. The Chair hopes the Senator from Kentucky will yield temporarily.

Mr. BECK. I have no objection, except that I want the question of fact settled. The Senator said he had yielded.

The PRESIDING OFFICER. The Senator from Kentucky is entitled to the floor.

Mr. BECK. That is all I want.

The PRESIDING OFFICER. The Chair could not say that the Senator from Ohio had yielded; the Chair could only say that he understood the Senator from Ohio had yielded.

Mr. SHERMAN. I was through, but I had promised the Senator from Colorado to answer his question. I simply wish to do what I can toward his being allowed to put it.

Mr. HILL. If the Senator from Kentucky will yield to me for a moment I will put my question. I understood the Senator from Ohio to say that there had never been any discrimination made by any officer of the Treasury Department in regard to disbursements of gold and silver. I wanted to ask him whether the Treasury Department has not steadily refused since the passage of the silver coinage act to pay out any silver or silver certificates in settling its balances in the New York Clearing-House. Is it not true that nearly all the disbursements of the Government are made through the New York Clearing-House? And is it not true that the Treasury Department has never used one dollar in silver or silver certificates in making those payments?

Mr. SHERMAN. That may be so; I do not know; but I say that is not a discrimination against silver.

Mr. HILL. There is constant complaint of the accumulation of silver in the Treasury and that gold is drawn out. I made the assertion yesterday that in a very few weeks the Secretary of the Treasury could free the Treasury of every dollar of silver owned by the Government that is now hoarded (as the Senator from Ohio calls it) in the Treasury if he would pay the clearing-house balances even in part in silver or silver certificates, but he has steadily and constantly refused to do that, and that is the point which I made in my remarks yesterday.

Mr. SHERMAN. My answer to that is that no doubt the Secretary of the Treasury might, if he chose, make a discrimination in favor of the silver dollar and actually refuse to pay gold at all and pay all in silver, and thus precipitate a question which no man in this country desires to have made, that of a single silver standard, but no law has been violated and no discrimination has been made.

As to the contract between the United States and the clearing-house that was communicated to Congress, the terms of that agreement were fully known and have been acquiesced in now for six years. That arrangement was made in the fall of 1878. So far as I know no hostile movement of Congress has been made to change or alter that arrangement.

Mr. HILL. But we distinctly provided in the act of 1882 that no national bank should be a member of a clearing-house which refused to receive silver certificates in payment of balances. Here is what the Treasurer of the United States says himself on that subject:

As a consequence of the inability of the Treasury—

How was that inability created? There is no law for it—

As a consequence of the inability of the Treasury under the existing practice to use either the silver dollars or the silver certificates in its settlements with the New York Clearing-House, where by far the greater part of its disbursements is made, the available gold ran down from $135,429,600 on January 1, 1884, to $116,479,979 on August 12, 1884, while the silver dollars and bullion on hand, not represented by silver certificates outstanding, increased during the same period from $27,266,037 to $48,603,958.

Was not that entirely the fault of officers of the Treasury Department?

Mr. SHERMAN. Not at all. The drain made upon gold was for exportation, and it will be made upon gold only for exportation.

Mr. HILL. The Treasurer said it was on account of the inability of the assistant treasurer of the United States at New York to pay silver or silver certificates in the settlement of its clearing-house balances. It had nothing at all to do with exportation, as I understand.

Mr. BECK. Mr. President, a word or two. Let us get back to the original proposition. The Senator from Ohio is dissatisfied with the existing condition of things. He desires to change the silver dollar now existing of 412½ grains to one containing 480 grains, or somewhere about that. I oppose it, especially in the closing hours of a hostile administration and with a rapidly contracting national-bank currency.

I have endeavored to show, and think I have shown conclusively, that all the obligations of the United States are payable in coin of the standard value of 412½ grains silver to the dollar; that we have no obligations payable only in gold coin, and that we are under no obligation to pay any creditor a dollar which contains more grains in it than 412½. That is the bond; the terms are written upon the face of it; it was accepted by the creditors; indeed it was placed there at their request, as was understood at the time, for the very purpose of preventing us from making our coin contain any less quantity of metal; that being the case, I object to the Senator's proposition to add to the burden of the debt of this people by changing the contract and making a dollar for the creditors' benefit containing fifty, sixty, or seventy more grains than their contract calls for.

I again assert that the law of 1862 requires all the coin received for customs to be applied, first to the payment of interest on the bonds, and second to the purchase of 1 per cent. yearly of the entire debt of the United States for a sinking fund. It is not only for interest but for the sinking fund, which has year after year been provided for, that we had agreed to pay in coin from customs; and yet no dollar of silver coin received at the custom-house has ever been paid out as interest on the public debt or used to redeem a single outstanding bond for the sinking fund.

The Senator says I referred to his report made in December, 1878, which was only nine months after the silver coinage was restored, and that only $14,000,000 of it had then been coined, yet $11,000,000 of that had gone through the custom-house, and he thinks that is a very small matter. He may so regard it, but from that day to this, with all the coinage of silver and all the payments that have been made, the same system has been kept up that he inaugurated and avowed he would pursue, to give to the bondholders gold because they wanted it, and then to lock up the silver in the Treasury and raise a clamor because it was there, demand more vaults to keep it in, and denounce it as a repudiated and degraded coin, although it was the coin of the contracts of 1862 and 1870, a coin with which the people contracted to pay all outstanding obligations. It was a little thing then compared to what it is now; but the principle was just as bad then as it is now, and it has been maintained all the time, as the Senator from Colorado has shown in the remarks he made a few minutes ago.

The Senator from Ohio said, and said truly, that greenbacks became as good as gold the moment they were received at the custom-house, and they would have been as good as gold three years before they were if he had received them at the custom-house instead of clamoring for the right to sell, as we allowed him to do, ninety or ninety-five millions of bonds of the United States and lay the gold into the Treasury under pretense that it was needed to be kept there to guard these very greenbacks. The moment they were taken at the custom-house in violation of law (and he refused to let us make legal the illegal act by making it lawful to receive them at the custom-house) they were equal to gold. He left the law of 1862 to stand, saying that nothing but coin should be received, and yet by executive order he received greenbacks, and still votes against every proposition to make greenbacks receivable by law.

The moment he did so receive them, as I said, they were as good as gold, though they were at a heavy discount till they were received at the custom-houses, and he asserts now that the silver certificates are as good as gold and that they are receivable everywhere as gold or silver coin, and are preferred to either. Then since not a silver certificate can issue that is not supported by a silver dollar laid in the Treasury, why stop coining these silver dollars that are deposited in the Treasury, which alone support the silver certificates which he says are as good as gold and more convenient and more sought after, and are even bought with gold when they can not be otherwise had? The representative of the silver dollar is our best currency; its existence depends on the coin he seeks to destroy. The very moment he stops the coinage of the silver dollar he stops the issue of these certificates, because when you withdraw the silver dollar not another certificate can be issued.

He knows, because the Secretary of the Treasury reports it, the Comptroller reports it, and we all know it, that the national banks contracted their currency last year twenty-four and a half millions; and the Comptroller tells us that they will this year, and every other year, reduce it at an average of $40,000,000 a year. We know that if the law remains as it is in relation to national banks they will sell their bonds and withdraw their circulation from the people and their business. When you stop the coinage of the silver dollar and stop the issue of the silver certificates, and the national banks, as they have a perfect right to do, withdraw their circulation, because they will not pay the price that is demanded for other bonds, where is your circulation to come from? What obligation is there upon a national banker to issue circulation unless he can make a profit by it?

We have only, as I said yesterday, $194,000,000 of debt that we can pay before 1891 and only $250,000,000 then till 1907. We are paying off the national debt at the rate of $100,000,000 a year by our present system of taxation. Every dollar of that $194,000,000 will be paid in two years from this date unless we reduce taxation, which the Senator will not do, nor the gentlemen on his side of the Chamber. One hundred and fifty-five million dollars of that $194,000,000, which is subject to call to-day, is held by national banks to secure $136,000,000 of circulation now outstanding. The very moment we absorb this $194,000,000, as we shall in two years, we can not afford to lock up $100,000,000 of surplus revenue in the Treasury. That would be the most violent contraction imaginable; that process would soon bankrupt this country.

What then have we to do? We can not require men who hold bonds not due till 1891 or 1907 to sell them to us except at such premium as they see fit to ask. The fours of 1907 are worth 22 per cent. premium to-day. The moment the United States is compelled to buy bonds in order to get the surplus revenue lying in the Treasury again in circulation they can demand 44 per cent., and we must pay it or break the country. Every national banker will sell every bond he holds when the premium reaches 30 per cent., and it may reach 40 or 50, for we have to give whatever the holders ask. The banks will sell every bond they have not needed for organization, and only $80,000,000 is needed for that purpose, and take in the circulation now outstanding, leaving us nothing but what few greenbacks we have outstanding and the silver certificates, for the gold certificates are issued in amounts of $5,000, $10,000, and I believe some of them $20,000 each, and are not currency in any sense, and the gold coin is locked up and out of circulation, as everybody knows.

Now, if we withdraw the silver dollar from coinage, stop the issuing of the silver certificates, let the national banks sell their bonds at the premium they will get under our pressing necessities, and curtail their

currency, where are we? That danger is upon us in the near future, it is upon us to-day, and it is, in my judgment, absurd now even to talk of stopping the power to issue silver certificates upon the basis of silver coin when contraction is going on by the banks in the way it is doing, and with the assurance that it will continue to get worse, until they will refuse to buy bonds at all unless we change existing laws. Do you think a national banker looks to the good of the country in keeping out his circulation? Did the interests of this country require the banks to withdraw twenty-four and one-half million dollars last year? Does the business of this country require them to withdraw the $40,000,000 which the Comptroller of the Currency assures us will be withdrawn this year and every other year hereafter? Why is it done? Because it is more profitable for them to sell the bonds they have at the premium they can get for them, especially when the United States is forced to purchase them, than it is to take circulation upon the bonds.

These thriving gentlemen have no other interest except to make the most money they can for their stockholders. And is our Government to be at the mercy of a body of men of that sort or of any body of men? Is there a man on this floor who, if he were president of a national bank and could make 10 per cent. more by selling the bonds than he could by depositing them and taking circulation, would not feel bound to sell the bonds in the interest of his stockholders and would he not do it? The Senator from Ohio would do it, no matter what became of the currency of the country. And that is the condition toward which we are rapidly drifting now.

What I desire to do is this: Just as the greenbacks were as good as gold the moment they were received, even in violation of express law, at the custom-house, the silver dollar will become as good as gold the moment it has all the uses that gold has. The moment that the administration of this country, the executive branch and the Congress of the United States, will give it a helping hand instead of treating it as a step-child, will pay it out for interest, will pay the bonds with it, will use it to comply with existing contracts, every man who receives that silver dollar will be interested in keeping it in circulation, interested in keeping it as good as gold. Foreign nations will then unite with us in making it good, and we shall not be dependent upon England, and England alone, who of all the countries desires gold and only gold, as we have been and will continue to be under the policy sought to be pursued.

I did reflect on the action of the Comptroller of the Currency and I may have been mistaken in saying he was a clerk. I do not care whether he was a clerk or as great a man as the Senator from Ohio, and that is pretty near exhausting comparisons; but I deny the right of any Comptroller to speak thus of any act of Congress:

> The law which stamps 412½ grains of silver, and arbitrarily insists upon its circulation as a dollar with unlimited legal-tender qualities, when its true value as indicated by the market price of silver is but 83.2 cents, is unworthy of this nation.

I deny that any Comptroller has a right to throw into the face of Congress an insult of that kind and tell us that our act is unworthy of this country. I said it was impudence. I repeat it, and I would apply that term to any other subordinate official who would be guilty of such impudence. It was none of his business to talk about it. Even when the coinage bill went before the House of Representatives—and I see my friend from Missouri [Mr. BUCKNER] sitting before me—so well satisfied was that great branch of the Government that it did not belong to banking and currency that they sent the whole matter to the Committee on Coinage, Weights, and Measures. Our coinage does not come under the Comptroller's jurisdiction, does not come under banking and currency jurisdiction; it did not come under anything the Comptroller has anything to do with or anything to say about, and I say it was impertinent in him to tell this Congress that anything we do is unworthy of this country, especially in a matter that he has no concern with and no right to advise us about.

Why, sir, if you turn to page 19 of the report of the Director of the Mint, you will find that we have $123,000,000 of silver certificates now out, $123,000,000 corresponding with that amount of silver coin lying in the Treasury of the United States. We have $120,000,000 of gold certificates, and $120,000,000 of gold coin, an equal amount, lying in the Treasury of the United States. Why not complain that your gold lies there to secure the gold certificates as well as complain that you have to build vaults for silver to protect the silver certificates? They are the security for the more convenient money.

I do not propose to discriminate against gold in favor of silver; there is no danger of that; but I deny the right of anybody as has been done and can not be denied that under a law which required every dollar to be used either to pay the interest on the debt or to go to the sinking fund of 1 per cent. requiring $50,000,000 more to be paid in the very coin that was received for customs of which there have been millions and millions of dollars in silver and silver certificates paid, and not one dollar in silver has been paid either to the extinguishment of the interest on the sinking fund or the redemption of the national debt.

I debated the question of the clearing house at the time it was up, and the action of the Senator from Ohio and his friends in regard to that. I have that debate before me. I do not believe I shall take time to refer to it. I will ask the reporter to take the amount of gold and silver in the different countries as I have noted it down here. I called out in a general way, but here it is a little more in detail than I stated. It shows how easy it is when a people are trying in good faith to keep up silver as other nations are doing to a much larger extent than we are, with coinage laws in proportion and far larger in proportion than ours; but I will hand it to him after awhile.

As I know the Dakota bill is up and this question will be before us again, I do not care to go into it any further at present.

ADMISSION OF DAKOTA.

The PRESIDING OFFICER (Mr. INGALLS in the chair). The bill (S. 1682) to enable the people of that part of the Territory of Dakota south of the forty-sixth parallel of north latitude to form a constitution and State government, and for the admission of the State into the Union on an equal footing with the original States, and for other purposes, is before the Senate as in Committee of the Whole. The pending question is on the amendment proposed by the Senator from Arkansas [Mr. GARLAND].

Mr. ALLISON. Let it be read.

The PRESIDING OFFICER. The amendment will be read.

The Chief Clerk read as follows:

Strike out all after the enacting clause of the bill and insert in lieu:

"That all persons residing within the limits of the Territory of Dakota qualified by the laws of said Territory of Dakota to vote for representatives to the Legislative Assembly thereof are hereby authorized to vote for and choose delegates to form a convention; and the qualifications for delegates to such convention shall be such as by the laws of said Territory persons are required to possess to be eligible to the Legislative Assembly thereof; and the aforesaid delegates to form said convention shall be apportioned among the several counties within the limits of the Territory, in districts established by law, in proportion to the population in each of said districts, as near as may be, to be ascertained at the time of making said apportionment, by the persons hereinafter authorized to make the same, from the best information attainable; that said apportionment shall be made by the governor, the chief-justice, the associate justice for the first judicial district, the associate justice for the fourth judicial district, and the surveyor-general of the Territory of Dakota, or any three of them; and the governor shall, by proclamation, order an election of the delegates aforesaid to be held on the 4th day of June, 1885, which proclamation shall be issued at least sixty days prior to the time of said election; and such election shall be conducted, the returns made, the result ascertained, and the certificate to persons elected to such convention issued in the same manner as is prescribed by the laws of the said Territory regulating elections therein for Delegate to Congress. The number of delegates to said convention shall be one hundred and twenty; and all persons resident in said proposed State who are qualified voters of said Territory, under the laws thereof, at such time as the constitution to be framed shall be submitted to the people for ratification or rejection, shall be entitled to vote upon the question of such ratification or rejection, under such rules and regulations as said convention may prescribe.

"SEC. 2. That the delegates to the convention thus elected shall meet at the city of Yankton on the second Tuesday of August, 1885, and, after organization, shall declare, on behalf of the people of said proposed State, that they adopt the Constitution of the United States; whereupon the said convention shall be, and is hereby, authorized to form a constitution for said proposed State.

"SEC. 3. That in case a constitution shall be formed in compliance with the provisions of this act, said convention forming the same shall provide by ordinance for submitting said constitution to the people of said Territory for their ratification or rejection, at an election to be held at such time and places and under such regulations as may be prescribed by said convention, at which election the qualified voters of said proposed State shall vote directly for or against the proposed constitution. The returns of said election shall be made to the secretary of the Territory, who, with the governor and chief-justice, or any two of them, shall canvass the same; and, if a majority of the legal votes cast shall be for said constitution, the governor shall certify the result to the President of the United States, together with a copy of said declaration, constitution, and ordinances; whereupon it shall be the duty of the President of the United States, if said declaration, constitution, and ordinances shall conform to the requirements of this act, to lay the same before Congress.

"SEC. 4. That at the election at which the question of adopting the constitution is voted on there shall be submitted also, by ordinance of such convention, the question of the division of such Territory on boundary lines to be fixed by such ordinance; and the qualified voters of the Territory of Dakota shall vote directly for or against the division of such Territory; and the vote on such question of division shall be cast, canvassed, and ascertained and certified in the same manner and under the same rules and regulations as the vote on the adoption of the constitution is required to be by section 2 of this act.

"SEC. 5. That the sum of $20,000, or so much thereof as may be necessary, is hereby appropriated, out of any money in the Treasury not otherwise appropriated, for defraying the expenses of the said convention and for the payment of the members thereof, under the same rules and regulations and at the same rates as are now provided by law for the payment of the Territorial Legislature: *Provided*, That any money hereby appropriated not necessary for such purpose shall be covered into the Treasury of the United States."

Mr. MORGAN. Mr. President, the attitude in which this question is now presented before the Senate is one that to my mind is very interesting and impressive. In looking over the condition of the Territories of the United States that are hereafter to be admitted as States, and which I desire shall come in as rapidly as will suit the convenience of this great body of people, I find that it is necessary that we should make some change in the method of our action hereafter. The Territories of the United States at this time unfortunately are not in the condition that the former Territories were at the time of the admission of some of the older States of the new class. We must deal, of course, with each one of these Territories just as we deal with every other, all alike. When we are preparing to admit States into the American Union on terms of equality with the original thirteen, we should treat the Territories, as we provide them with State governments or the means of establishing State governments, with perfect equality.

We can not safely or justly discriminate between them as to the manner or conditions of their admission.

But certain questions have arisen in some of the Territories of the

United States which make it no longer advisable or practicable that we should pursue the plan that we have heretofore pursued, and which is the plan provided for in the bill reported by the committee. That plan is to permit the Territories to adopt their constitutions and to be admitted into the Union as States by proclamation of the President after having passed an ordinance to accept the Constitution of the United States and after having embodied in their constitution certain fundamental features which are mentioned in this bill.

Now, sir, I will ask the question whether there is a Senator on this floor who would be willing to pass a law precisely in the terms in which this bill is couched for the admission of Utah into this Union as a State? If you were to strike out the name of this State and of this Territory where it occurs in this bill and insert "Utah," there is not one Senator, I think, on this floor who would vote for the bill in its present form. Yet Utah, so far as population is concerned, so far as commercial facilities are concerned, and the development of a valuable agricultural and a large mining interest, which are of value to the country, is quite as far advanced as Dakota. I may even call it an older and a more mature civilization. But into the Territory of Utah has crept a poison which we have been unable so far to eliminate and scarcely to modify.

During the nursing period of that Territory its early career has been so marred with a social question involving a criminal condition as that the whole country has been shocked with it, and the Congress of the United States has been engaged laboriously and in the most strenuous exercise of its highest powers for the purpose of stamping out that evil. So far we have only succeeded in giving to the people of Utah Territory certain legislative power and certain autonomy as a Territory which have aided in propagating a great crime. We have enabled them by the use of these powers to throw a shield of protection around the criminal condition which this Federal Government has been unable to modify even, and that Territory is to-day in such a condition as that we could not afford to vote for its admission into the Union, after it had adopted every provision contained in the Dakota bill, by a mere proclamation of the Executive. We would, in the case of that Territory, require its constitution and ordinances to be submitted to Congress for careful scrutiny before any Senator here would consent to its admission into the Union as a State.

Now, with the condition of Utah, and also of Idaho and of Montana, which have to some considerable extent absorbed the evil condition that has so poisoned up the community in Utah, we have to deal in the future. The time is approaching, it will probably soon arrive, when we have got to say to the Territories in which there is this open, public evil—for it is not a lurking and a hiding one—that we will adopt a different rule in respect of your admission from that which we have applied to the Territory of Dakota.

I maintain that no State ought hereafter to be admitted into the American Union until it has first adopted its constitution and that constitution has been laid before the Congress of the United States; and I maintain that as well in view of the evil to which I have adverted in the Territory of Utah and in other Territories as in view of a wise and sound public policy.

There is a provision in the Constitution of the United States that the Congress of the United States will guarantee to every State a republican form of government. The precise nature of that guarantee, perhaps, has never yet been tested by any actual event which required that the Congress should take action in a specific direction for the protection of the republican form of government of a State. We are prepared now to say, the country is prepared to say, that if the institutions of religion, or what is sacrilegiously called religion, that prevail in the Territory of Utah were placed in its constitution and under the protection of constitutional ordinances as a religion entitled to the shield and protection of the Constitution of the United States, we would not regard that State as presenting a republican form of government in the sense in which we understand that word as applicable to this great sisterhood of States.

Now, how are we to conduct ourselves, how are we to act in the future in order to give to these State governments the guarantee of the republican form to which I have just been alluding? And what other questions may arise in the Territories hereafter to be admitted growing out of the peculiarities of the societies which may dwell in them and have political control there which will also make it necessary for the Congress of the United States, either before the State is admitted or after it is admitted, to come to a declaration whether or not a constitution is republican in form according to the acknowledged meaning of that phrase in the Constitution of the United States?

At what time are we to give to these States the guarantee that they shall have a republican form of government? Is it before they are admitted, at the time of their admission, or afterward? It occurs to me that if there is any potency whatever in that guarantee in favor of the States of the American Union it should be applied at the time of their admission, because after they are admitted into the Union they reserve to themselves the right to change their constitutions according to their own will. I do not know how we would get rid of any State in the American Union if they should by a constitutional convention held in accordance with their own written constitutions hereafter ordain some feature that the Congress of the United States might consider a violation of that guarantee. I do not know how we should go about applying this guarantee of the Constitution to a State that is already in full possession of the power to ordain and to amend its own constitution. I can scarcely conceive of a case in which the Congress of the United States could by legislation exercise its power to reform a State constitution or by the use of the military or judicial power compel that State to reform itself so as to become within the understanding of Congress a State republican in its form of government.

Then at what time shall we apply this guarantee? When does it become our duty to look critically into this subject and to ascertain the organic basis upon which the State is to be admitted into the Union as being a republican form of government? I maintain that it must be done by Congress at the time that the proposed constitution is pronounced upon and at the time that the act is passed through these bodies admitting her as a State in the Union. That furnishes, according to my understanding of it, the only opportunity when the Congress of the United States can legislate upon a question of this kind with the slightest degree of force and efficiency.

If that position be a correct one, is not this bill wrong when it declares that a constitutional convention in the Territory of Dakota shall adopt a constitution suited to the thoughts and wishes of that body, and that after it has been ascertained that it contains an admission of the supremacy of the Constitution of the United States and contains the other features that are carefully put into this bill, then it shall be admitted into the Union by the proclamation of the President?

This reservation of power on the part of the Congress of the United States to consider the constitution of a proposed State, after it has been formed, must be a matter of immense consequence to this country under certain conditions. I have cited one dangerous fact in the history of one of the Territories of this country which should put the Senate on its guard in respect of its future line of action in reference to the admission of States into the Union. Let the Territories prepare their constitutions and bring them here; let us discuss the constitutions after they have come here; and if the thirty-eight sister States of the Union are not prepared to admit the State of Dakota with a constitution that she chooses to form, let us reserve to ourselves the opportunity thus to declare in advance of her admission, and not wait until after she has been admitted and thereby lose all power to control her action thereafter.

Mr. President, there is no occasion for being in haste about this business. The admission of States into this great sisterhood is a question of the most serious importance. It finds its first realization in the Senate of the United States. Here it has an effect in the disturbance of balances of power between the older States and the newer ones which is not felt so sensibly in any other branch of the Government. Here are the older thirteen States of the American Union and their younger daughters who now possess a wealth and a population equivalent to about ten times that of any average area in the western parts of the United States all on an equal scale of power. Here is a guarantee in the Constitution of the United States that is felt nowhere else as it is in the Senate, that no State shall be required to give up her representation in the Senate of the United States except by her own consent. No majority power in the Senate can disturb this guarantee of the perfect equality of representation.

I have noticed some allusion made in the newspapers to the falling away of the population in the new State of Nevada. Sharp reference is being made in various directions to the fact that she voted but little over 12,000 votes in the last Presidential election. Queries have been put out in respect of the methods by which a State may be dwarfed out of the Union, or expelled from it, or absorbed by some Congressional or other action. Amendments of the Constitution have been suggested in reference to the falling away of the power of that State. Now, sir, what does all this mean? It means that the rest of the people of the United States find that a population perhaps not exceeding 60,000 in the State of Nevada has as much power on the floor of the Senate as the empire State of New York.

But that power, unequal as it may be, is here to remain. That State is as safe as New York in the full weight of its representation.

When we come to distribute the political power, as we must do in admitting new States, in this country we have no right to do it in an unjust or profligate way. We have no right to do it for the purpose of advancing mere party or political considerations. We must not disregard the growth and power of this country in its older establishments and its older settlements, and disarrange that influence which they have gained legitimately and by a natural growth in the Senate of the United States by interjecting men with equal power here who represent mere pocket boroughs. The evil is one of startling consequences when we come to look at its effect upon the floor of the Senate. How often does it happen when the Senate is narrowly divided upon the very gravest question that may affect the interests of 20,000,000 people along the Atlantic coast that we find men representing 60,000 people or 200,000 people upon the floor of this body wielding as much power as that which at least 5,000,000 of the people in the older States and settlements enjoy.

Are we to go along in this hot haste merely for the purpose of building up new States or of gratifying a desire to have a certain political predominance in the Senate of the United States, and neglect the influ-

ence that these great questions may have upon the most material interests of the whole mass of the people of this country?

Sir, the Senate can afford to pause before she admits two additional members on this floor under any circumstances. The Senate can afford to wait until every incumbrance is cleared out of the path, until the whole subject has been balanced up and considered with reference to all the great interests of this country. I maintain that it is a dangerous evil to introduce with too great rapidity Senators upon this floor to take equal part and enjoy equal power with those who represent the older and the greater States of the American Union.

More than that, there is something in the physical geography of this country that has convinced me thoroughly that the arrangement of the Territories as originally provided by acts of Congress has been eminently wise. When we look to the West, over the vast area of territory included within the borders of the different Territorial organizations, we are sometimes led to exclaim, "These are too large; there is too much land included in these areas;" but the wisdom which caused those areas to be incorporated under Territorial governments, with distinctly marked boundaries and with all the vast area of land, is not to be sneered at or forgotten. I believe now, looking back over the history of these questions, that every Territorial government in the United States has been arranged considerately and diligently with respect to its future capacity to maintain population and with respect to the conditions under which that population is to exist and to thrive. Who that has traveled over the vast expanse of prairies lying at the foot of the Rocky Mountains has not seen that, while there are small areas of agricultural lands out there and large areas of mineral lands, the broad plains which lie at the foot of those mountains, stretched from the Gulf of Mexico to the Canada line, must necessarily and naturally fall under the dominion of State governments, ultimately, which incorporate together three great elements of prosperity, agriculture being the final reliance of these States for population, and mining and pastoral lands a source of growth in riches. These peculiar areas are bound by natural relations into the vast groups which demand a common government.

The Territory of Dakota has been represented here as being so entirely even, throughout its limits, in respect of its producing capacity as that it will hereafter accommodate as dense a population as any State in the American Union. I beg leave to differ with Senators who entertain that view. There are two conditions connected with it without which no country can sustain a very heavy population, and those are water and forests. The magnificent State of California has perhaps as large an area of valuable agricultural lands according to its immense territory as any other State in the Union, but it must nevertheless await centuries before it is developed into an agricultural country that can maintain a population equal to that per square mile which the State of Alabama can maintain to-day. They have not got the water, they have not got the springs, the running brooks, the gently broken areas of vast, magnificent forests that the people in the State of Alabama possess. It is an impossibility to sustain a population per square mile upon the territory of California equal to that which Alabama is capable of sustaining; and so of all the other Atlantic and Gulf States.

When the State of California was laid off it did not occur to any one that that State would be too much of an empire in respect of its population, and that therefore it must be divided. Why not? It has about seven hundred miles of seacoast, and its depth, I think, would average perhaps four hundred miles. Why did it not occur to some of the eminent men who preceded us in this body, when that State was to be admitted into the Union, that it should be divided up into two States or more? Because they saw, as we now realize, that it would be a great number of years before the State of California could sustain a population as dense as that of some of the older States on the Atlantic and Gulf slopes.

These facts have not been altered by experience; they have only been established. When the State of Texas was admitted into the Union a provision was put into the act of admission which was more the result of sectional zeal than of any wise precaution, that she might be divided into five States; yet Texas has not been divided, and the great-grandchildren of the youngest man in the Senate will not live to see the question seriously debated in Texas of dividing it. Why so? It is because Texas, like these other States, has only an equivalent proportion of pastoral lands compared with her agricultural lands and her forest lands. Out in the staked plains, out in the west along the borders of the Rio Grande and up in the north, as far east, I suppose, as Dallas, it may be said of Texas that it is one vast pasture, a merely pastoral region. Would you take that State and divide it?

Mr. COKE. I will state to the Senator that the pastoral portion of Texas is two hundred miles west of Dallas.

Mr. MORGAN. It is two hundred miles west. I was not careful in my geography. Would you take the State of Texas to-day, if you had the power and desired to promote the welfare of her people, and divide it into two States even by a north and south line, one on the east and one on the west? If you should you would have a very rich State on the east and a very poor one on the west. Would you divide it by an east and west line? You would scarcely benefit it in any degree. Although I have had some anxiety as a Southern man to see the power of my section (if we are to have sections here) increased in the Senate of the United States, I would not go to my brethren from Texas and ask them that they would divide their State into four or five great commonwealths, the reason being that the State of Texas, with its enormous area, has the duty devolved upon it of maintaining a vast outlying pasture ground along the Rio Grande by the agricultural power which she possesses farther east. I would not ask Texas to sacrifice the natural and mutual dependence and advantage in the Union of her agricultural fields and her pasture grounds even for the sake of the power it would give her people in the Senate of the United States.

So it is in Dakota. The eastern and the northern parts of Dakota we are informed are excellent for agriculture of certain kinds; a great wheat-growing country. How is it about the west, in the Black Hills, and in the vast grazing grounds out toward the Black Hills? If you were to cut off the Black Hills region and incorporate that into an American State (and it is as large perhaps as New England or nearly so) you would have a State there that would have nothing to depend upon except its mining resources and its cattle pastures.

Let the State of Dakota carry its burden of pasture grounds and its burden of mineral lands, and let its civilization and its power as a great civilized State be used from this time forward for the benefit of its pasture grounds and its mineral grounds as well as for the benefit of its agricultural grounds.

What will you do with Montana when it comes here with an application for admission; what with Idaho or Washington Territory? Will you split them up? What would become of us if we had split up Nevada and made two States there instead of one, that is perishing now for want of population?

Sir, it is unjust to the rest of the Union, and unjust to the people of that Territory, when we disregard the lines upon which these Territorial governments have been framed? It is a question that will come back to us with a visitation that we are not expecting now if we hurriedly move in the direction of admitting these States, cutting them up into small parcels for the purpose of bringing them into the American Union. We will live to regret it. Even men in the Senate will live to regret it, as many people in this country are to-day living to regret the haste with which Nevada was admitted into the American Union as a State. How much power would that country have to-day under a Territorial government? What advantage is her Statehood to her? What does it draw to her in the way of population and wealth? While I admire both the gentlemen who are Senators upon this floor, and have the best of relations with them, and the Senate of the United States admires them, there is not a Senator here from one of the older States who does not feel that the power which is voted against him in the Senate of the United States upon great emergencies from the State of Nevada is a power that is not fairly and justly distributed between the people of this country. Here, I repeat, is where it finds its great expression, here on the floor of the Senate, and we ought to hesitate long before we increase the representation of new and scattered communities in this body equal to those of the older States. We ought at least to hesitate until we see the constitutions that they are prepared to submit to us, and understand how they have composed the disputes and contentions that have been agitating them.

As to the question of division, we are informed by members of the committee who have looked narrowly into the question that there are subjects of confusion and controversy in the Territory relating to the distribution of the public debt and as to the precise boundary of division that may be adopted to sever the Territory into two bodies by an east and west line. We are informed of wrangles and contentions that have been going on in that Territory for some time. While I do not wish to make any expression of an invidious character toward the Territory of Dakota, I have known and every Senator upon committees that I have served upon has had occasion to know, the deep bitterness of feeling that exists in some localities between the people of that Territory, not simply of a political but of a personal character, much of which relates to this very question of the location of the state-house and various matters of that sort. A great deal has been said about their harmony, but I am not prepared to believe to-day that the people of the entire Territory of Dakota are one mass of brethren, living in harmony and unity and peace together without any disturbance between them. They do not come before the Senate of the United States, according to my observation, in that innocent and childlike character.

I would not vote against the admission of Dakota or any State because it might be Republican. I would not cast such a vote as that. The people who are Republican in the United States Territories have as much right to admission into the Union as those who are Democratic, and so it is on the other hand. It is not the part of statesmanship to consult a question of that kind in casting a vote upon a measure as momentous and important as this. But when I come to the point as to whether a Territory should be divided in twain, and made two States instead of one, I would, at least, submit that question to those people before I decided upon the admission of either part of that country into the United States as a State.

We are taking upon ourselves too much authority in this bill, if we propose to consult what we term popular sovereignty or popular suffrage in respect of the internal affairs of Dakota. We are shaping

matters here to suit ourselves in respect of the division of the Territory, without consulting the people of Dakota. We propose, first, to settle the question of division, and then, after we have done that, to admit one of the parts as a State, in the event that one-half of the Territory will adopt a constitution with certain prescribed features in it. Here is a man who lives on the Missouri River; he has property in the northern part of the Territory of Dakota, and that thing occurs continually. You ask the man in the southern part of the Territory to vote upon the division of the State, the division of the public debt, the division of the taxes, the relegation of a part of his property, or it may be a part of his family, into a Territorial form of government while the other part is admitted as a State. That man has a right to say what he thinks about this, if he has any rights at all. We ought by means of the amendment offered by the Senator from Arkansas, first, to take the opinion of those people upon the question of division, to take their opinions and their sentiments upon the question of the constitution, just as we would require the people of Utah to submit their opinions and their sentiments before we admitted them into the Union, and then, after they have brought up their constitution and submitted it to us and have displayed the vote in respect of the division of that Territory, we will have some solid basis of fact to go upon. We will not have merely the representations of interested parties made before a committee of this body coming by delegations to advance their private or political ends, but we will have the solemn and legitimate expression of the people of that country in respect of the division. The man in the northern part or southern part of the Territory would have the right to vote "no," if he chose, upon the subject of dividing his family and his estate, one part of it to be thrown into a Territory and another part into a State.

If we propose to act in respect of the fundamental idea of popular government in this country—that of following the will of the people when expressed in due legal form—let us delay the question of the admission of this State until after the proposition has been voted upon and acted upon by the whole people of Dakota that is presented in the amendment introduced by the honorable Senator from Arkansas. If those people decide that they want their Territory divided, and if they bring a constitution here which the Government of the United States is willing to accept as one republican in form, then I shall never vote against the admission of that Territory as a State because it may turn out in the next Presidential election or in any subsequent election to be a Republican State. I do not know how good I can make this pledge by a mere statement of this kind in advance. I can only express the conviction of my own heart upon the matter, and I do it without reserve. Still, I shall be slow to believe that two States should be formed of this Territory.

There are various other matters that would come up naturally in argument upon this phase of the question, but I suppose it is hardly worth while to go over them. Some of them have been touched upon by gentlemen who have preceded me. But I rose for the mere purpose of presenting to the Senate of the United States a plea for the consideration of the grave problems that are involved in the bill as reported by the committee, which decide my vote against it, and to ask the Senate to delay yet a little while until not only the people of Dakota but the people of the United States at large can become satisfied that one-half of this Territory is in a condition to be admitted as a State and to have an equal representation on the floor of the Senate with every other State of the American Union.

The PRESIDING OFFICER. The question is on the amendment proposed by the Senator from Arkansas [Mr. GARLAND].

Mr. GARLAND. On that I ask for the yeas and nays.

The yeas and nays were ordered; and the Secretary proceeded to call the roll.

Mr. GARLAND (when his name was called). I am paired on this question with the Senator from Vermont [Mr. EDMUNDS]. If he were present, he would vote "nay" and I should vote "yea."

Mr. GROOME (when his name was called). I am paired with the Senator from New York [Mr. MILLER]. Otherwise I should vote "yea."

Mr. HARRIS (when his name was called). I desire to inquire of the Senator from Massachusetts [Mr. DAWES] if he knows how his colleague [Mr. HOAR] would vote upon this question.

Mr. DAWES. I presume my colleague would vote "nay," though I have no knowledge upon that point.

Mr. HARRIS. You suppose he would vote "nay?"

Mr. DAWES. I think he would vote "nay."

Mr. HARRIS. I am paired with the Senator from Massachusetts [Mr. HOAR] who is absent, and will therefore withhold my vote. I should vote "yea" if I were not paired.

Mr. MCPHERSON (when his name was called). I am paired with my colleague [Mr. SEWELL]. If he were here, he would vote "nay" and I should vote "yea."

The roll-call was concluded.

Mr. BUTLER. The Senator from Pennsylvania [Mr. CAMERON] is detained at home by sickness, and requested me to pair with him. I therefore announce that upon this subject I am paired with the Senator from Pennsylvania [Mr. CAMERON].

Mr. MILLER, of California. I desire to announce the pair between my colleague [Mr. FARLEY] and the Senator from Virginia [Mr. MAHONE].

Mr. BOWEN (after having voted in the negative). I am paired with the Senator from Arkansas [Mr. WALKER] and voted under a misapprehension. I withdraw my vote.

The result was announced—yeas 27, nays 31; as follows:

YEAS—27.

Bayard,	Colquitt,	Jones of Florida,	Saulsbury,
Beck,	George,	Kenna,	Slater,
Brown,	Gibson,	Maxey,	Vance,
Call,	Gorman,	Morgan,	Vest,
Camden,	Hampton,	Pendleton,	Voorhees,
Cockrell,	Jackson,	Pugh,	Williams.
Coke,	Jonas,	Ransom,	

NAYS—31.

Aldrich,	Frye,	Manderson,	Riddleberger,
Allison,	Hale,	Miller of Cal.,	Sabin,
Blair,	Harrison,	Mitchell,	Sawyer,
Cameron of Wis.,	Hawley,	Morrill,	Sheffield,
Conger,	Hill,	Palmer,	Sherman,
Cullom,	Lapham,	Pike,	Van Wyck,
Dawes,	Logan,	Platt,	Wilson.
Dolph,	McMillan,	Plumb,	

ABSENT—18.

Bowen,	Farley,	Ingalls,	Miller of N. Y.,
Butler,	Garland,	Jones of Nevada,	Sewell,
Cameron of Pa.,	Groome,	Lamar,	Walker.
Edmunds,	Harris,	McPherson,	
Fair,	Hoar,	Mahone,	

So the amendment was rejected.

The bill was reported to the Senate as amended, and the amendments made as in the Committee of the Whole were concurred in.

The bill was ordered to be engrossed for a third reading, and was read the third time.

The PRESIDING OFFICER. The question is, Shall the bill pass?

Mr. HARRISON and Mr. VEST called for the yeas and nays, and they were ordered.

The Secretary proceeded to call the roll.

Mr. GARLAND (when his name was called). I am paired with the Senator from Vermont [Mr. EDMUNDS]. If he were here, he would vote "yea" and I should vote "nay."

Mr. GROOME (when his name was called). I am paired with the Senator from New York [Mr. MILLER], otherwise I should vote "nay."

Mr. HARRIS (when his name was called). I am paired with the Senator from Massachusetts [Mr. HOAR]. If he were present, he would vote "yea" and I should vote "nay."

The roll-call was concluded.

Mr. BUTLER. On this question I am paired with the Senator from Pennsylvania [Mr. CAMERON], who is detained at home by sickness. I should vote "nay" if the Senator from Pennsylvania were present.

Mr. MILLER, of California. I desire to announce the pair of my colleague [Mr. FARLEY] with the Senator from Virginia [Mr. MAHONE].

The result was announced—yeas 34, nays 28; as follows:

YEAS—34.

Aldrich,	Frye,	Manderson,	Sabin,
Allison,	Hale,	Miller of Cal.,	Sawyer,
Blair,	Harrison,	Mitchell,	Sewell,
Bowen,	Hawley,	Morrill,	Sheffield,
Cameron of Wis.,	Hill,	Palmer,	Sherman,
Conger,	Ingalls,	Pike,	Van Wyck,
Cullom,	Lapham,	Platt,	Wilson.
Dawes,	Logan,	Plumb,	
Dolph,	McMillan,	Riddleberger,	

NAYS—28.

Bayard,	Colquitt,	Kenna,	Saulsbury,
Beck,	Gibson,	McPherson,	Slater,
Brown,	Gorman,	Maxey,	Vance,
Call,	Hampton,	Morgan,	Vest,
Camden,	Jackson,	Pendleton,	Voorhees,
Cockrell,	Jonas,	Pugh,	Walker,
Coke,	Jones of Florida,	Ransom,	Williams.

ABSENT—14.

Butler,	Farley,	Harris,	Mahone,
Cameron of Pa.,	Garland,	Hoar,	Miller of N. Y.
Edmunds,	George,	Jones of Nevada,	
Fair,	Groome,	Lamar,	

So the bill was passed.

INTERSTATE COMMERCE.

Mr. MORRILL. I move that the Senate proceed to the consideration of executive business.

Mr. CULLOM. Pending that motion I ask that the next special order, Senate bill 2112, be laid before the Senate as unfinished business.

The PRESIDING OFFICER. Before submitting the motion of the Senator from Vermont, the Chair will lay before the Senate the first of the special orders under the previous assignment. The Chief Clerk will report the bill by its title.

The CHIEF CLERK. A bill (S. 2112) to establish a commission to regulate interstate commerce, and for other purposes.

The PRESIDING OFFICER. The bill remains the unfinished business for to-morrow.

ADMISSION OF TACOMA.

Mr. PLATT. I ask the Senator from Vermont to yield to me long enough to give a notice.

Mr. MORRILL. Certainly.

Mr. PLATT. I give notice that when the bill to establish a commission to regulate interstate commerce shall have been disposed of, I shall ask the Senate to take up the bill (S. 1898) to provide for the formation and admission into the Union of the State of Tacoma, and for other purposes.

IMPROVEMENT OF GALVESTON HARBOR.

Mr. MANDERSON, from the Committee on Printing, to whom was referred the following resolution, reported it without amendment; and it was considered by unanimous consent, and agreed to:

Resolved, That the Public Printer is instructed to procure 2,000 copies of the lithographic map prepared by Joseph Nimmo, Chief of the Bureau of Statistics, under the direction of the Secretary of the Treasury, to accompany his report on the improvement of Galveston Harbor, and incorporate the same in the majority report of the Committee on Commerce accompanying Senate bill No. 1652.

EXECUTIVE SESSION.

Mr. MORRILL. I renew my motion.

The PRESIDING OFFICER. The Senator from Vermont moves that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After twenty minutes spent in executive session the doors were reopened, and (at 4 o'clock and 33 minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, *December* 16, 1884.

The House met at 12 o'clock m., Mr. WILLIAM M. SPRINGER, of Illinois, in the chair as Speaker *pro tempore*.

Prayer by the Chaplain, Rev. JOHN S. LINDSAY, D. D.

The Journal of the proceedings of yesterday was read and approved.

ADDITIONAL PAGES.

Mr. THOMPSON, of Kentucky. I ask, by unanimous consent, to offer the following resolution for reference to the Committee on Accounts, as it relates to the pages of the House.

The SPEAKER *pro tempore*. The resolution will be read, after which the Chair will inquire for objection.

The Clerk read as follows:

Resolved, That the Doorkeeper of the House of Representatives is hereby authorized to employ three additional pages during the present session, to be paid out of the contingent fund of the House at the rate of $2.50 per day.

There was no objection; and the resolution was received and referred to the Committee on Accounts.

DISTRICT CHARITABLE INSTITUTIONS.

The SPEAKER *pro tempore*, by unanimous consent, laid before the House a letter from the Secretary of the Treasury, transmitting additional estimates from the commissioners of the District of Columbia of appropriations for the support of certain institutions of charity; which was referred to the Committee on Appropriations, and ordered to be printed.

INDIAN SCHOOLS.

The SPEAKER *pro tempore* also, by unanimous consent, laid before the House a letter from the Secretary of the Interior, transmitting a report of the Commissioner of Indian Affairs, with inclosure recommending the removal of certain restrictions upon the disbursements of funds appropriated for the support of Indian schools; which was referred to the Committee on Appropriations, and ordered to be printed.

FORWARDING OF MAIL MATTER.

Mr. SKINNER, of New York. Mr. Speaker, I ask by unanimous consent to take from the House Calendar for present consideration a bill (H. R. 6578) to amend section 3940 of the Revised Statutes, relating to the forwarding of mail matter.

The SPEAKER *pro tempore*. The bill will be read, after which the Chair will ask for objection.

The bill was read, as follows:

Be it enacted, &c., That section 3940 of the Revised Statutes be, and the same is hereby, amended so as to read as follows, to wit:

"Letters and other articles of first-class mail matter prepaid with not less than one full rate of postage shall be forwarded from one post-office to another, at the request of the party addressed, without any charge for such forwarding; the balance of postage, however, if there be any due, to be collected at the office where the matter is delivered. All other mail matter, the postage on which as required by law has been fully prepaid, shall likewise be forwarded from one post-office to another, at the request of the party addressed, without any additional charge.

The SPEAKER *pro tempore*. Is there objection?

Mr. REAGAN. I do not object if the bill shall not give rise to debate.

Mr. SKINNER, of New York. It will not require any debate. I wish merely to say the bill gives authority to postmasters to forward second, third, and fourth class mail matter upon which the postage has been once fully paid in the same manner as the law now applies to letters. This would apply to newspapers and packages upon which the postage had been once fully paid.

Mr. BLOUNT. I wish to ask the gentleman from New York whether there is any other provision in it.

Mr. SKINNER, of New York. None at all.

There was no objection, and the House Calendar was discharged from the further consideration of the bill.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. SKINNER, of New York, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MRS. JANE VENABLE.

Mr. WARNER, of Tennessee. Mr. Speaker, I move by unanimous consent that the bill (S. 2280) for the relief of Mrs. Jane Venable be taken from the Speaker's table and put on its passage at this time.

Mr. REAGAN. I do not object if it shall give rise to no debate.

Mr. WARNER, of Tennessee. I do not think it will give rise to debate. It has already passed the Senate, and there is a unanimous report in favor of it from the House committee.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Treasury pay, out of any money in the Treasury not otherwise appropriated, to Mrs. Jane Venable, widow of William E. Venable, late minister of the United States to Guatemala, the sum of $5,636.87, balance of one year's salary.

Mr. HOLMAN. I ask that the report of the House committee be read.

The Clerk read as follows:

The Committee on Foreign Affairs, to whom was referred the bill (H. R. 1548) for the relief of Mrs. Jane Venable, have had the same under consideration, and ask leave to report as follows:

We find that on March 14, 1857, William E. Venable, of Tennessee, was commissioned as minister resident of the United States to the Republic of Guatemala; that in June thereafter he started to that country to enter upon the duties of the office, arriving there August 2 of that year; that on the next day he signified to the authorities of that government his desire to be presented to the President of that republic; that Mr. Venable was taken sick, on account of which fact his presentation never took place; and that on the 22d day of August in the same year he died, leaving his widow, the claimant.

Mrs. Venable says, in an affidavit relating to her husband's death—

"That his death was caused by the change of climate in midsummer, and the fatigue and exposure incident to his journey; that she has knowledge of but few of the particulars of his sickness and death, and can only state that his sickness was contracted and his death ensued while engaged in the performance of his public duties; that none of his effects were returned to her except his gold watch, which is still [in] her family; that he was buried at the seat of government in Gautemala, and that all the money he had with him was used in his burial expenses; that at the time of his appointment he was engaged in a large and lucrative practice of law; that he borrowed money for his outfit, and executed a mortgage upon his property to secure its payment; that by reason of this mortgage debt his estate proved insolvent, and the money collected from the Government by his administrator was applied to his debts, and no part of it ever came to the hands of affiant or her family; that all she ever had of his estate was a dower interest, worth less than $1,000; that at the death of her husband they had six children, five of them girls, and the eldest aged about 15 years; that by her unassisted efforts she has reared and educated her family; that she is now 54 years of age, and two of her children are mainly dependent upon her for support; and that she is entirely without means, save the small dower interest before stated."

The salary of such minister at that time was $7,500 per annum. The amount received by Mr. Venable and by the administrator of his estate is shown by the records in the State Department to have been $1,863.13.

In view of the facts recited, and of several precedents set in similar cases of the death of persons in this branch of the public service, we recommend the allowance of an amount equal to one year's salary, less the amount which has been paid, and report an amendment to the bill reducing the sum to be appropriated to that amount, and, with this amendment, recommend its passage.

Amend by striking out all after the word "Guatemala," in the fifth line, and insert the following: "The sum of $5,636.87, balance of one year's salary, the same to be paid out of any money in the Treasury not otherwise appropriated."

Mr. HOLMAN. There seems to be an amendment recommended in the House report which ought to apply to the Senate bill.

Mr. WARNER, of Tennessee. That amendment would make the House bill correspond with the Senate bill. The Senate bill as it is now is all right.

The bill was taken up, read a first and second time, and ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. WARNER, of Tennessee, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

BUSINESS OF MILITARY COMMITTEE.

Mr. ROSECRANS. On behalf of the Committee on Military Affairs, Mr. Speaker, I ask by unanimous consent that the resolution I send to the Clerk's desk be received for present consideration.

The Clerk read as follows:

Resolved, That Tuesday, January 6, 1885, after the reading of the Journal, be assigned to the Committee on Military Affairs for the consideration of business reported from that committee now on the Calendar; this order not to interfere with general appropriation and revenue bills and prior orders.

Mr. KEIFER. I would suggest to the chairman of the Committee on Military Affairs that the order should also include bills of the same character upon the Speaker's table.

Mr. REAGAN. I must object if this shall give rise to debate.

Mr. ROSECRANS. I do not think it will give rise to any debate.

Mr. KEIFER. There may be a desire to have other matters considered than those upon the Calendar. There may be business upon the Speaker's table quite as important which should be taken up for consideration. I ask therefore that the resolution be amended so as to include that business.

Mr. ROSECRANS. I will modify the resolution in that way so as to include business on the Speaker's table to be called up by the Committee on Military Affairs.

Mr. DUNN. I wish to call the attention of the gentleman from Ohio to the fact that I offered a rule to that effect at the last session of Congress, and that it was referred to the committee of which he is a member and never reported back.

Mr. KEIFER. I desire to say I am in favor of it. There need be no trouble on that score.

The SPEAKER *pro tempore*. The gentleman from California consents to the modification of his resolution, and it will be read as modified.

The Clerk read as follows:

Resolved, That Tuesday, January 6, 1885, after the reading of the Journal, be assigned to the Committee on Military Affairs for the consideration of business reported from that committee now on the Calendar and similar Senate bills on the Speaker's table; this order not to interfere with general appropriation and revenue bills or prior orders.

Mr. COX, of North Carolina. I object, as the resolution is too general in its character.

Mr. WASHBURN. I make the point of order that the objection comes too late. The resolution was received and modified, and as modified was read by the Clerk.

The SPEAKER *pro tempore*. The Chair is of the opinion that the objection did come too late. The consent of the House had been given to its introduction after which it was modified.

The resolution as modified was adopted.

Mr. ROSECRANS moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

LUCY LE G. JEFFRIES.

Mr. STRUBLE. I move by unanimous consent, Mr. Speaker, to take from the Speaker's table for present consideration the bill (S. 1337) granting a pension to Lucy Le G. Jeffries. I desire to say that a bill of like tenor was reported from the Committee on Pensions of the House, of which I am a member, and passed at the last session of Congress. This bill passed the Senate and is here upon the Speaker's table, and I ask that it be taken up and passed.

The bill was read *in extenso*.

Mr. REAGAN. I hope the vote will be taken on the bill without debate.

Mr. STRUBLE. I hope so. [Cries of "Regular order!"]

Mr. TOWNSHEND. Before the objection is waived I ask that the report be read.

Mr. GEORGE D. WISE. I object to the present consideration of the bill.

The SPEAKER *pro tempore*. The bill is not before the House, objection being made.

ADJOURNMENT OVER HOLIDAYS.

Mr. MORRISON. I am directed by the Committee on Ways and Means to submit the following privileged report.

The Clerk read as follows:

Resolved by the House of Representatives (the Senate concurring), That when the two Houses adjourn on Tuesday, December 23, 1884, they stand adjourned until Monday, the 5th day of January, 1885.

Mr. MORRISON. I demand the previous question.

Mr. BLOUNT. I desire to ask the gentleman to allow me to have a vote on an amendment making it Saturday, December 20. [Cries of "No!" "No!"]

Mr. HAMMOND. I rise to a parliamentary inquiry.

The SPEAKER *pro tempore*. The gentleman will state it.

Mr. HAMMOND. If we vote down the demand for the previous question will not the resolution be open to amendment?

The SPEAKER *pro tempore*. It will.

Mr. HAMMOND. Then I hope it will be voted down.

The House divided; and there were—ayes 84, noes 83.

Mr. BEACH. I demand the yeas and nays.

Mr. MORRISON. Let us have the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 99, nays 118, not voting 106; as follows:

YEAS—99.

Alexander,	Buckner,	Cook,	English,
Bagley,	Burnes,	Cosgrove,	Ermentrout,
Ballentine,	Cabell,	Cox, W. R.	Finerty,
Barksdale,	Clardy,	Curtin,	Follett,
Blackburn,	Cobb,	Dousier,	Foran,
Breckinridge,	Collins,	Dibrell,	Forney,
Browne, T. M.	Converse,	Dunn,	Geddes,
Glascock,	Jones, J. H.	Payson,	Springer,
Greenleaf,	Jones, J. K.	Peel,	Stewart, Charles
Guenther,	Jordan,	Pettibone,	Stockslager,
Hancock,	Ketcham,	Price,	Storm,
Harmer,	Lacey,	Pryor,	Talbott,
Hatch, W. H.	Lewis,	Pusey,	Taylor, J. M.
Herbert,	McAdoo,	Randall,	Thompson,
Hewitt, A. S.	McComas,	Reagan,	Townshend,
Hewitt, G. W.	McMillin,	Reed,	Wallace,
Hill,	Mills,	Rice,	Ward,
Hiscock,	Mitchell,	Riggs,	Warner, A. J.
Holman,	Morrison,	Robinson, W. E.	Wemple,
Hopkins,	Morse,	Rosecrans,	Williams,
Horr,	Moulton,	Ryan,	Willis,
Hunt,	Mutchler,	Scales,	Wilson, W. L.
Hurd,	Neece,	Singleton,	Wise, G. D.
Johnson,	Ochiltree,	Slocum,	Wood.
Jones, R. W.	O'Neill, Charles	Snyder,	

NAYS—118.

Adams, G. E.	Davis, G. R.	McCoid,	Struble,
Aiken,	Davis, L. H.	McCormick,	Sumner, C. A.
Anderson,	Davis, R. T.	Millard,	Taylor, E. B.
Atkinson,	Dibble,	Miller, J. F.	Taylor, J. D.
Barr,	Dockery,	Morrill,	Thomas,
Beach,	Eaton,	Murphy,	Throckmorton,
Bennett,	Elliott,	Nelson,	Tillman,
Bisbee,	Everhart,	Nicholls,	Tully,
Blount,	Findlay,	Nutting,	Turner, H. G.
Boutelle,	Funston,	O'Hara,	Turner, Oscar
Brainerd,	Goff,	Patton,	Van Alstyne,
Bratton,	Hammond,	Pierce,	Wadsworth,
Breitung,	Hanback,	Peters,	Walt,
Brewer, F. B.	Hatch, H. H.	Phelps,	Wakefield,
Brewer, J. H.	Haynes,	Ranney,	Warner, Richard
Brown, W. W.	Hepburn,	Ray, G. W.	Washburn,
Buchanan,	Holmes,	Reese,	Weaver,
Campbell, J. E.	Houseman,	Robinson, J. S.	Wellborn,
Candler,	Howey,	Rockwell,	White, J. D.
Cannon,	James,	Rogers, W. F.	White, Milo
Carleton,	Jeffords,	Shelley,	Whiting,
Chalmers,	Jones, J. T.	Shively,	Wilkins,
Clay,	Keifer,	Skinner, C. R.	Wilson, James
Clements,	Kleiner,	Skinner, T. G.	Winans, John
Cox, S. S.	Lanham,	Smalls,	Wolford,
Crisp,	Lawrence,	Smith, A. H.	Worthington,
Culberson, D. B.	Libbey,	Stephenson,	Yaple,
Cullen,	Long,	Stevens,	York.
Cutcheon,	Lovering,	Stewart, J. W.	
Dargan,	Lowry,	Stone,	

NOT VOTING—106.

Adams, J. J.	Dunham,	Kean,	Potter,
Arnot,	Eldredge,	Kelley,	Rankin,
Barbour,	Ellis,	Kellogg,	Ray, Ossian
Bayne,	Ellwood,	King,	Robertson,
Belford,	Evans,	Laird,	Rogers, J. H.
Belmont,	Ferrell,	Lamb,	Rowell,
Bingham,	Fiedler,	Le Fevre,	Russell,
Blanchard,	Fyan,	Lore,	Seney,
Bland,	Garrison,	Lyman,	Seymour,
Bowen,	George,	Matson,	Shaw,
Boyle,	Gibson,	Maybury,	Smith, H. Y.
Broadhead,	Graves,	Miller, S. H.	Spooner,
Brumm,	Green,	Milliken,	Spriggs,
Budd,	Halsell,	Money,	Steele,
Burleigh,	Hardeman,	Morgan,	Strait,
Caldwell,	Hardy,	Muldrow,	Sumner, D. H.
Campbell, Felix	Hart,	Muller,	Tucker,
Campbell, J. M.	Hemphill,	Murray,	Valentine,
Cassidy,	Henderson, D. B.	Oates,	Vance,
Chace,	Henderson, T. J.	O'Ferrall,	Van Eaton,
Connolly,	Henley,	O'Neill, J. J.	Weller,
Covington,	Hitt,	Paige,	Winans, E. B.
Culbertson, W. W.	Hoblitzell,	Parker,	Wise, J. S.
Davidson,	Holton,	Payne,	Woodward,
Dingley,	Hooper,	Perkins,	Young.
Dorsheimer,	Houk,	Poland,	
Dowd,	Hutchins,	Post,	

So the previous question was not ordered.

During the roll-call the following pairs were announced from the Clerk's desk on all political questions until further notice:

Mr. ARNOT with Mr. BELFORD.

Mr. ADAMS, of New York, with Mr. RUSSELL.

Mr. CAMPBELL, of New York, with Mr. HOOPER.

Mr. KING with Mr. MILLER, of Pennsylvania.

Mr. BLAND with Mr. VALENTINE.

Mr. YOUNG with Mr. HARMER.

Mr. FIEDLER with Mr. STEELE.

Mr. MAYBURY with Mr. JOHN S. WISE.

Mr. MULLER with Mr. DUNHAM.

Mr. MORGAN with Mr. BAYNE.

Mr. ROBERTSON with Mr. LIBBEY.

Mr. SENEY with Mr. ELWOOD.

Mr. HOUK with Mr. DAVIDSON.

Mr. PAIGE with Mr. HART.

Mr. HARDY with Mr. SPOONER, for this day only.

The vote was then announced as above stated.

Mr. BLOUNT. I move to amend the resolution by inserting Saturday, December 20, instead of Tuesday, December 23.

Mr. MORRISON. I move to amend by inserting the 22d.

Mr. RANDALL. I know it is a great interference with the comfort of members, especially those who live at a distance, to make the adjournment at so close a day as the 23d to Christmas. Yet I think that those who live a long distance away could be spared better than we

could lose the sessions of Monday and Tuesday, for I feel authorized to say one of the appropriation bills could be considered on Monday and Tuesday of next week, to wit, the District appropriation bill, as the gentleman having charge of that bill states he thinks it would be ready at that time and could be got out of the way before the two Houses took a recess.

Mr. BLOUNT. Mr. Speaker, I wish to call the attention of the House to previous holiday adjournments, and before doing so desire to say that if this resolution means anything at all—if the custom heretofore adopted by the House means anything, it is to allow members of Congress the privilege of being with their families on Christmas and New Year's Day. I know of no other reason for it; and if we do not propose to accomplish that by this resolution, we ought to vote it down. If we do mean to continue that custom, then we should make it effective by giving sufficient time.

I hold in my hand from the Journal a record of the recesses taken by several previous Congresses. The Forty-fifth Congress in its second session adjourned from December 15 to January 10, and in its third session from December 20 to January 7; a longer time than is proposed now under this amendment. The Forty-sixth Congress adjourned in its second session from December 19 to January 6, 1880, and in its third session from December 22 to January 5, 1881. The Forty-seventh Congress had no holiday adjournment except, perhaps, for a week, as the tariff bill was then under consideration and the debate continued, although many members were absent.

Mr. BROWNE, of Indiana. Does the gentleman propose to allow the members from California, from Washington Territory, from New Mexico, and other portions of the extreme West sufficient time to go home for Christmas?

Mr. BLOUNT. I will answer the gentleman a little further on.

This has been the habit of Congress on this question. The Committee on Ways and Means propose a holiday recess, and I believe the present purpose of the House is to allow some recess. The only question is as to the time.

The gentleman from Pennsylvania [Mr. RANDALL], chairman of the Committee on Appropriations, says that they hope to be able to take up on Monday or Tuesday the District of Columbia appropriation bill. I venture to say from my experience here, and I believe the prediction will be verified by the experience of other gentlemen upon the floor, that these exact calculations in reference to the business of the House fail fully half the time to come up to the expectation of those who make them.

I predict that we will not get to the District bill; but assuming that we might if we did not take this adjournment, what would be the result? I say, sir, nothing can come of it. We have adjourned since we came on Thursday over to Monday. There has not been a single session on Saturday since the House has assembled. We will have no difficulty about passing the appropriation bills, and never have, and this resolution, if adopted, can not affect their passage in any degree.

If the bills are ready for passage I for one am willing at all times to be present here in evening sessions or on Saturdays to take them up and consider them.

Mr. TOWNSHEND. I desire to remind my friend from Georgia that probably as soon as the pending bill is out of the way I shall be able, as I hope, to get the Mexican pension bill before the House and consider that during the present week.

Mr. BLOUNT. If we are in session we will have many matters called up for consideration.

Mr. TOWNSHEND. But this is a public measure.

Mr. BLOUNT. I am aware of that.

My friend from Indiana desires to know if I propose to give time to the members from California and other Western States to go home. It has not been the practice of members residing so far from Washington to take advantage of the holiday recess, whether the length of time is satisfactory or not. But because he cites an extreme case, it affords to my mind no reason for making any difference from what has heretofore been the practice of the House. Now, the gentleman from Pennsylvania [Mr. RANDALL] says that those gentlemen who desire to go home, and who may not have time to reach their homes if they remain here until the day fixed by the resolution from the Committee on Ways and Means, could be spared from the House to start at an earlier date. That, perhaps, is true, sir; but I take it for granted that a great many gentlemen, I certainly among the number, do not propose to start under such circumstances. I feel it my duty to be present on the floor of the House during the sessions of Congress, and shall be here when the House is in session, no matter what may be the action of the House on this resolution. I can see no reason for not making this change from the 23d to the 20th, a Sunday intervening between, merely a difference of two days, and when, as is very likely, should the resolution in its present form pass, on Monday and Tuesday no quorum will be present in either House.

Another thing: We began this session on the 1st day of December, as has been suggested to me by my colleague, an unusually early time, and so the proposition for the amendment that I have suggested is less disadvantageous than at any other previous occasion in the last few years. Under this present resolution, if the amendment is not adopted, not a single gentleman from my State can be at his home on Christmas day. I trust, therefore, the amendment will be adopted, and, if in order, I ask the previous question upon the pending proposition.

Mr. BEACH. I trust the gentleman will allow us the privilege of debating this matter. [Cries of "Vote!" "Vote!"]

Mr. BLOUNT. In deference to the wishes of the House, I must insist upon the demand for the previous question.

The question was taken; and the Speaker *pro tempore* decided that by the sound the ayes prevailed.

Mr. BEACH. I demand a division.

The House divided; and there were—ayes 135, noes 10.

So the previous question was ordered.

Mr. BEACH. Now, Mr. Speaker, I make the motion to recommit which I send to the desk.

The SPEAKER *pro tempore*. The gentleman has the right to make a motion to recommit. The Clerk will read.

The Clerk read as follows:

Recommit the resolution to the Committee on Ways and Means with instructions to so amend it that it will read, that when this House adjourns on Wednesday the 24th instant it shall be to Friday the 26th instant.

The SPEAKER *pro tempore*. The question is on agreeing to the motion of the gentleman from New York.

The question was taken; and upon a division there were—ayes 16, noes 169.

Mr. BEACH. I demand the yeas and nays.

The yeas and nays were not ordered, only 4 members voting in favor thereof.

Mr. MORRISON. I ask unanimous consent to withdraw my amendment for the 22d, so that a vote may be taken directly as to the preference of the House between the 20th and 23d.

There being no objection, the amendment was withdrawn.

The SPEAKER *pro tempore*. The question is on agreeing to the amendment of the gentleman from Georgia, which the Clerk will again report.

The amendment of Mr. BLOUNT was again read.

The question was taken; and upon a division there were—ayes 120, noes 63.

Mr. BEACH, Mr. BROWNE of Indiana, and Mr. HOBLITZELL demanded the yeas and nays.

The yeas and nays were not ordered, only 20 members voting therefor.

Mr. BEACH. I call for tellers on the yeas and nays.

Tellers were not ordered.

So the amendment was agreed to.

The resolution as amended was agreed to.

Mr. BLOUNT moved to reconsider the vote by which the resolution as amended was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

REPRINT OF BILL.

On motion of Mr. BROWNE, of Indiana, by unanimous consent, the bill (H. R. 5667) granting pensions to the soldiers and sailors of the Mexican war, and for other purposes, with amendments by the Senate, was ordered to be reprinted for the use of the House.

INTERSTATE COMMERCE.

Mr. REAGAN. I ask the House, as the regular order, to proceed now with the consideration of the unfinished business.

The SPEAKER *pro tempore*. The House resumes the consideration of the special order, the bill (H. R. 5461) to establish a board of commissioners of interstate commerce, and to regulate such commerce. By previous order of the House, all general debate on this bill will be closed in one hour and a half.

The gentleman from Missouri [Mr. CLARDY] is recognized.

Mr. CLARDY. Mr. Speaker, it is conceded that the provision of the Constitution declaring that Congress shall have power to regulate commerce with foreign nations and among the several States and with the Indian tribes is authority for the proposed legislation. If, then, a law be necessary to restrain the railroad companies of the country engaged in commerce between the States from using their corporate powers to the prejudice of the public, Congress shall not hesitate to enact it.

The Committee on Commerce, I think I may say, are of one mind as to the existence of facts authorizing if not demanding legislative action for the protection of the people from the growing exactions of railroad companies; but they differ, and honestly differ, as to the details of a law that will accomplish their purpose. There is certainly no feeling on the part of the committee or any member of it of hostility to railroad corporations, and the assumption by certain gentlemen in the course of this discussion that a spirit of unfriendliness exists either among those supporting what is known as the committee's bill or those supporting the substitute I regard as wholly unwarranted. We all acknowledge and appreciate the benefactions conferred upon commerce by our grand system of railways. We look with awe and admiration upon the magnificent highways that span the continent and wed the sunrise to the sunset, and yet we are impressed with the truth of the utterance of a very distinguished man that the Government must con-

trol these colossal corporations or they may in time control the Government.

The subject upon which we propose to legislate is a delicate one and a complex one, and I admit that there is danger that in our effort to regulate or control we may do injustice to the railroads and a wrong to the public. However, Mr. Speaker, the provisions of the bill, except those relating to the remedy, and all the provisions of the substitute, except one, are in my judgment but enunciations of the common law in force, and not unknown to the companies at the time their charters were granted. If in the enforcement of these common-law principles which we propose to emphasize by legislative enactment we do not prescribe a remedy that impairs or destroys their corporate rights, the railway companies can have no just cause of complaint.

In the time allotted to me I can do little more than indicate in a general way my position on the proposition of my friend the gentleman from Texas to substitute for the first seven sections of the committee bill the corresponding sections of what is known as the Reagan bill. There is no controversy in regard to the first section, which provides that railroad companies shall transport all freights at reasonable rates. The second section is perhaps obnoxious to the objection that it suggests itself a mode for its own evasion. After declaring that it shall be unlawful for persons engaged in the transportation of property by railroad to charge to or receive from any person a greater or less rate of compensation than is by them charged to or received from any other person for like and contemporaneous service in the carrying, receiving, handling, or delivering the same, it adds the words, "under substantially similar circumstances."

It would seem that "for like and contemporaneous service" railroad companies, as common carriers, ought to be willing, or, if not willing, ought to be compelled, to carry the freight of all their customers at the same rate. It is certainly not our design to relieve the railroad companies from the obligations they now sustain to the public. "The carrier," to quote the common law, "is bound to carry for a reasonable sum and not to extort what he will, and he is bound to carry for all persons at the same price." If this were not so, say the law writers, the duty of carrying for all would be of little value, since the carrier could select his own customers by arbitrary discrimination in prices. Unless we propose, then, to enlarge the powers of the railroad corporations of the country against the interests of the people we ought to strike out these words, "under similar circumstances," making the section conform to the one presented by Judge Reagan on the same subject.

The third section, which prohibits and then under certain circumstances allows rebates, puts it in the power of railroad companies to defeat the object or the supposed object of the second section, which is to secure equality of rates for all shippers. This section not only recognizes, as some gentleman has said, the system of rebates, but it commends it and enjoins the universality of its use. Gentlemen supporting this provision insist that circumstances may arise under which rebates may be allowed in the interest of some shippers without detriment to the rights of others engaged in like business. This may be true. But it were better that isolated instances of individual hardship should occur than that we should give statutory countenance to the employment of secret methods by common carriers that enable them to enrich some of their customers while they pauperize others. I trust that we shall not give legislative sanction to a practice that has caused the bankruptcy of thousands and thousands of honest shippers who, unlike their more fortunate neighbors, were not able to drive a secret bargain with railroad companies for the reduction of schedule rates—a practice which has been the prolific parent of railroad wars in this country.

I suggest that we either refrain from legislation on the subject of rebates or that we prohibit them altogether. I do not believe the section proposed by the gentleman from Texas could injuriously affect the railroads or their customers, but if a majority of the House think otherwise, then let the section be stricken out. Let us not destroy the symmetry of the law by retaining a provision that approves the evils we are attempting to prevent.

I believe the committee are practically unanimous in their support of the fourth section of the bill, which prohibits pooling. I think, if I may be permitted to say so, that every section in the bill received a majority of the votes of the committee, and I make this statement because the matter has been referred to by some of my colleagues, and they have unintentionally perhaps created the impression that a majority of the committee were against every section, or perhaps I should say almost every section of the bill.

We ought to reflect that private corporations are not instrumentalities of the Government in the sense that they are possessed of the attributes of sovereignty that enable them to do acts beyond the reach of an individual. A railroad corporation, like all other corporations, has the rights conferred upon it by its charter or such as necessarily and incidentally arise and which may be exercised in order to carry out the purposes of the charter. A railroad company has no right to go beyond the charter which gives it being. The charter confers upon the company the right of eminent domain and the right to take toll, as they say in England—the right to receive a reasonable compensation for the transportation of freight and passengers; nothing more. The charter does not confer upon the railroad company a right to combine with other railroad companies in the formation of a mammoth copartnership designed to deprive the public of legitimate competition which would exist in the absence of such combination.

There is nothing to prevent the members of the pool from fixing rates for the carriage of property greatly in excess of what such carriage is worth. The amendment which my friend from Connecticut [Mr. SEYMOUR] suggests he may offer at the proper time will not, in my opinion, if adopted, prevent the exercise of this power by the companies. He proposes to declare unlawful all pooling contracts the purpose and effect of which are to raise charges above reasonable rates. But with competition practically destroyed, how will the reasonableness or unreasonableness of a given charge be shown. One of the elements to be considered in investigating the rate charge of a common carrier is the rate adopted by other carriers. If the carriers unite in establishing the same rate, as they might do under this system, the evidence, I apprehend, would hardly be worth considering.

Gentlemen have maintained that it is necessary for these pools to exist, because they say that competition, while legitimate under certain circumstances and within certain bounds, may cease to be legitimate as among the railroads or beneficial to the shipping public.

Now, in discussing another provision of the bill the gentleman from Connecticut instanced the case of a shipper of freight from the city of Chicago to the city of New York who, upon a discovery that other lines of road between the points named were shipping freight at a less cost, could effect an arrangement with the railroad company which would not be prejudicial to it and would put him in the market of New York on terms of equality with shippers by other lines. But if this system of pooling be maintained, as that same gentleman proposes, I imagine that the railroad company in the case supposed would have little incentive to make reparation to its customer by abating a part of its overcharge; for it will not be to its interest to lower the freights in order that they may conform to freights of other roads, because there may be an arrangement among the roads by which their earnings are subjected to a division, and so, with perfect security from the competition of rival lines, the road can afford to be independent.

Now, in regard to the section which follows, and which has been discussed by several gentlemen—the one which provides a penalty for the violation of the preceding sections—I have no hesitation in declaring that I prefer this to the corresponding section in the substitute.

I believe that pooling ought to be prohibited. I believe that the system of allowing rebates should be forbidden, and that penalties ought to be prescribed that will secure the observance of the law. But I do not believe that a mere error of judgment on the part of railroad officials should be declared a misdemeanor and punished by fine not less than $1,000, as the gentleman from Texas proposes.

The provision of the committee's bill I am now discussing excepts from its operation the first section of the bill which prescribes that all rates shall be reasonable. The substitute applies the penalty to a violation of the first section as well as to those prohibiting pooling, rebates, and discriminations between shippers.

Under the substitute an agent at a way station who exacts the schedule prices for the shipment of freight may be indicted and convicted of a misdemeanor and fined in any sum not less than $1,000 if such prices be adjudged higher than the company ought to have fixed, because he has committed the error of putting into practice a schedule furnished him by his superiors.

A jury in the State of Massachusetts might hold that in a given case the rates were reasonable, while a jury in the State of Illinois might hold in a similar case that the rates were too high and therefore unreasonable. Thus that would be an offense in the State of Illinois which would be no offense in Massachusetts.

For an error of judgment in the case supposed the agent could be compelled to respond to the injured party in treble the amount of damages sustained by such party, and besides could be convicted of a misdemeanor and fined $10,000 or $20,000 or any other sum exceeding $1,000.

This section of the substitute, with its minimum punishment of $1,000, certainly can not receive the sanction of the House.

I have briefly adverted to the several sections of the committee bill and undertaken to mark the difference between them and those proposed by the gentleman from Texas. The substitute contains another section embodying a principle that has been the fruitful topic of discussion both in and out of Congress for a series of years. I refer to the provision which declares that railroad companies shall not charge more for a short than for a longer distance.

I know the ability of the distinguished gentleman from Texas [Mr. REAGAN], and I know too he brought to the consideration of this question not only great ability but a purpose while demanding justice for the people to do no injustice to the parties to be affected by this legislation. But I am not able to agree with him as to the justness or equity of the principle announced in the section to which I refer.

The gentleman stated the other day, in opening this discussion, that railroad companies are in the habit of attempting to grasp more business than legitimately belongs to them by establishing low rates of freight at competing points, and that one of the objects of this section

is to compel these companies to rely on the commerce which legitimately belongs to them. I beg leave to remind him that railroad companies as common carriers have the legitimate right to all the carrying business that is offered to them which they have the facilities to do.

Gentlemen asked is it fair or just or right that a man living at a non-competing point shall be compelled to pay two or three times the value of the cost of transportation in order that the railroads may be able to carry freight from competing points at less than they can afford to carry it? I say to the gentlemen that railroad companies do not run their cars for glory; they do not carry freight from competing points at lower rates than they can afford to carry it. They carry thousands of tons of freight, perhaps, from competing points where they carry thousands of pounds from non-competing points, and are thus able to carry at lower rates.

But the gentlemen need not have made that inquiry, because if this bill be passed the railroad companies will be inhibited from charging more than reasonable rates for the transportation of property from and to any points on their roads. If this bill shall become a law, railroad companies can be checked in their efforts to make the intermediate traffic of the roads pay the cost and expenses of the roads and the dividends to the stockholders, as they are charged with doing now. I have supposed our object to be to secure reasonable and uniform rates to all freighters, and not to prevent the carriage of property between competing points at as low a price as the railroad companies might agree to.

When the gentleman says he gives to the railroad companies the advantage of the distance between non-competing points and the competing points that, for example, they may charge as much from the city of Philadelphia to the city of New York as from the city of Chicago to the city of New York, he states only a part of the case. The railroad companies can charge as much from the city of Philadelphia to New York as they do from the city of Harrisburg to the same city, and as much from the city of Harrisburg as they do from the city of Pittsburgh, and as much from the city of Pittsburgh as they would from the city of Steubenville and Columbus and Indianapolis, and on back to the station five miles this side of the city of Chicago. I regard it as practically establishing a rate per mile.

From Saint Louis, Mo., to the city of East Saint Louis, in Illinois, the railroad companies can charge no more than they can from the city of East Saint Louis to a station five miles east of that city. While the commerce between East Saint Louis and the five-mile station is not interstate, and therefore not affected by the bill, it serves to illustrate the principle. The railroad from Saint Louis, Mo., to East Saint Louis was built at a cost perhaps of $14,000,000, and the cost of the road from East Saint Louis to the station suggested was probably $150,000. A railroad freight car which runs seventy-five miles through the prairie and then plunges into the mountains and over cañons, and crosses in its path it may be the home of the eagle, can receive for the last fifty miles of its travel no more than is exacted for the seventy-five miles on the plain. I say the mere statement of the proposition shows it would be injustice to the railroad companies to adopt it.

Why should they say to the citizens of Chicago or Saint Louis, who are blessed with natural advantages, that because of these facilities and natural advantages they have they shall be put in a worse position than parties who live at intermediate points and who have the benefits of no competition at all.

I say, then, Mr. Speaker, this provision in the substitute does not commend itself to my mind. It would not only be unfair to the railroads, but, in my opinion, it would be unjust to the people who patronize the roads. It might succeed in driving out of the carrying business the railroad companies at competing points, and this would result in a disadvantage to the people who live between the termini.

I want to say now that I indorse the substitute of the gentleman from Texas except in the particulars I have named. I can not support the motion of my friend from Texas because of the presence in his substitute of what is known as the long and short haul section.

If the sections of the committee bill can be amended in the respect I have named, and what is known as the commission feature can be stricken out, I think we will have as perfect a bill as we can devise.

I can not indorse the ornamental part of the bill. I do not favor the establishment of a commission. If it be true that this is tentative legislation, then we ought not to favor the prohibition of pooling, nor should we prohibit the rebate system or discrimination in rates. We ought to put this commission into the field and allow it to gather—as some gentleman has said their office under this bill will be—all the facts to enable us to legislate intelligently.

I think, however, that we at least have facts that would authorize us in declaring the principles of the common law and providing remedies for their enforcement. The commission which it is proposed to appoint to examine into the matter is required, among other things, to look into the principle of pooling. We prohibit pooling, in the first place, and then appoint the commission to say whether in that legislation we have been guilty of unwisdom or otherwise.

But my friend the gentleman from Kentucky [Mr. TURNER] so aptly described the duties of the commission, as declared in this bill, that I shall say nothing further upon that subject. Let whatever law we pass be enforced in the courts of the country, where justice is, or ought to be, administered without sale, denial, or delay.

Mr. REAGAN. Mr. Speaker, what I have to say in closing this debate I am satisfied I can not say in the course of one hour, and therefore, if the House will indulge me with an extension of the time, I would like to have it understood now, so that I may proceed with my remarks to their conclusion.

Mr. LONG. How much time would the gentleman like?

Mr. REAGAN. I can not very well fix the time, as I have a quantity of matter here.

Mr. WELLBORN. I would ask unanimous consent that such time as my colleague wants may be granted to him.

Mr. O'NEILL, of Pennsylvania. I wish to ask the gentleman from Texas, before that is done, whether, after he is through with his argument, it is designed to give an opportunity of going through this bill by sections?

Mr. REAGAN. According to the agreement with the House, I propose to call the previous question on the two motions which I have submitted, so that the House may determine which bill it will take up to be considered under the five-minute rule.

Mr. O'NEILL, of Pennsylvania. That is satisfactory to me. I simply desired to know whether we were to act upon either of these bills by sections.

Mr. REAGAN. It was so understood in the House.

Mr. LONG. I ask the unanimous consent of the House that the time of the gentleman from Texas may be extended indefinitely at the conclusion of his hour.

There was no objection, and it was ordered accordingly.

Mr. REAGAN. Mr. Speaker, I will not trespass upon the patience of the House for a greater length of time than I can possibly help.

I had thought my course on the subject under consideration was animated by a sincere desire to promote the public welfare. And when I heard the same arguments which members have repeated on this floor made before the Committee on Commerce by the officers and employés of the railroad companies, and by their paid lawyers and lobbyists, it did not lessen my confidence in the integrity of my motives or in the wholesome and salutary provisions of the bill which I am asking this House to pass. But during the discussion of the provisions of the pending bills before the House I have been so amazed, so almost bewildered by the bold and audacious assumptions on this subject by members of the House, by their bitter arraignment of both myself and the bill I am advocating, acting on their responsibility to their constituents, that I have felt called on to review my action and the policy I am urging to see whether I have been in error. And I will state some facts, some reasons, and some conclusions which induce me to think I am not only right but that I am trying to perform a great duty to the public on a subject on which the people and the best interests of the country demand action.

CHARACTER AND IMPORTANCE OF THE SUBJECT UNDER CONSIDERATION.

We have, according to the best authority, now more than 125,000 miles of railroad, representing a nominal capital of more than $7,000,000,000 and a real capital of probably a little over $3,000,000,000.

The roads do the principal part of the carrying of the vast internal commerce of the United States. The gentleman from Massachusetts, Governor LONG, estimates, as I understand him, the interstate commerce to be of the value of $15,000,000,000 a year, and I do not think this estimate too large. This interstate commerce is subject to just such charges and discriminations as the railroads see fit to make, whether just or unjust. And their power to levy unjust exactions on this commerce, and to make unjust discriminations as between persons and places, is not controlled or restrained by any legislation. State laws do not and can not affect them, and we have no Federal laws for that purpose. They may take away from whole communities all the profits of their labor and capital, leaving the people only enough to keep them at work by charging, as they claim the right to do, whatever the commodity will bear. They may enrich one man and impoverish another in the same business by their unjust discriminations and rebates. They may destroy the business of one town or city and build up another by their unjust discriminations between places. They may enrich one corporation to a fabulous extent, as they have the Standard Oil Company, and in doing so destroy rival corporations by the allowance of rebates to the one and by denying them to others.

In the legislative investigation in New York three years ago it was shown that the railroad companies had allowed and paid rebates to the Standard Oil Company to the amount of $10,000,000 in sixteen months, and yet we have no legislation to prevent or to punish these great wrongs committed by this vast power. In the world's history there is no instance of the exercise of such powers affecting so many people and such great interests as these which is not controlled and regulated by law, except alone the American railway system. Assumptions have been made that the common law furnishes remedies for these evils. I will show as I proceed that it does not.

The question now addresses itself to each member of this House: "Do you mean to show to your constituents by your votes that you intend

this condition of things shall continue?" or do you mean that your votes shall show that you will aid in furnishing a remedy for these great evils?

AGREEMENT OF THE PROVISIONS OF THE REAGAN BILL WITH LAW AND PRECEDENCE.

I quote here from an argument made on a former occasion by me to show that the provisions of my bill are not novel and untried by legislation, but that they are in full accord with the provisions of the most recently formed State constitutions:

I now submit to you an abstract of some of the provisions of twelve of the most recently formed State constitutions, which relate to railroads and railroad corporations. My first reason for doing this is because it is the expression of the opinions of the people in their highest sovereign capacity on this subject. A second reason for doing so is to show you that these opinions of the people, as expressed in their State constitutions, are in strict accord, on every point treated of, with the opinions of the courts and law-writers. A third reason for presenting this abstract to you is that it is in strict accordance with and fully sustains the provisions of what is called the Reagan bill, so far as the two relate to the same subjects. And still a fourth reason for presenting it is that you may see at a glance the uniform current of action of the States which have made or revised their constitutions in recent years, and since it has become apparent to the public that the practices and pretensions of these corporations must be curbed and controlled by law in the interest of the people who grant them, and to prevent the worst possible effects of the employment and use of monopoly power.

For greater clearness, before giving you this abstract, and in order that your attention may be the more directly drawn to them, I will mention some of the points in which these State constitutions and the opinions of the courts and law-writers and the provisions of my bill agree.

They agree—

1. That the railroads are public highways.
2. That they are common carriers.
3. That they shall not discriminate in freight rates and charges.
4. That they shall not allow rebates or drawbacks.
5. That there shall be no pooling of freights between parallel or competing railroads, and no combination of the management, stock, property, or franchises of such railroads to defeat competition.
6. That more shall not be charged for hauling like kinds of freight on the same railroad for a shorter than for a longer distance.

Of course I do not wish to be understood as saying that these constitutions agree on all of these points. But, as you will see, taking them as a whole, they sustain, in a striking manner, these points of agreement; and none of them disagree with the law quoted or referred to or with the provisions of my bill.

And I further call you to note, as I shall present them, that they clearly and distinctly disagree with the opinions given you on these points by the railroad attorneys and officers who have spoken before the committee, which had the matter in charge, and who have written on these questions, and with the opinions of members of this House who have expressed similar views.

With these prefatory remarks I will now present the abstracts from these several constitutions, with the date of adoption of each constitution. I shall not pretend to make literal extracts, but only to give you in substance the meaning of the provisions referred to, which can be easily verified.

It is proper for me to observe at this point that, if any question should arise in your minds as to whether the action of the several States on the points referred to should or should not be regarded as precedents for the action of Congress on like questions, the Constitution gives to Congress the exclusive power to regulate commerce among the States; and that, while Congress may not charter railroad corporations in the States, or legislate upon or regulate their corporate rights and franchises, it may do anything in regulating commerce between the States which a State can do in regulating commerce wholly within the State, for Congress has all the power in this respect in the sphere of its action which the State has in the sphere of its action. This view is fully sustained by the authorities I have already cited, and I need not quote them again.

The constitution of Alabama of 1875 declares railroads in that State to be—

1. Common carriers.
2. Public highways.
3. Requires the Legislature to provide against unjust discrimination and extortion in passenger and freight rates.
4. Forbids railroad companies to grant free passes or to sell tickets or passes at a discount to members of the Legislature or other State officers.

The constitution of Arkansas of 1874 declares railroads in that State to be—

1. Common carriers.
2. Public highways.
3. Declares the equal right of all to have persons and property transported over railroads.
4. Declares against undue and unreasonable discriminations in charges and facilities for freight or passengers.
5. Shall not charge more for freight or passengers for a shorter than for a longer distance.
6. Declares that railroads, canals, or other corporations shall not consolidate with any competing railway or canal, and that the same persons shall not be officers of two such competing corporations.
7. Declares that "no discrimination in charges, or facilities for transportation, shall be made between transportation companies and individuals, or in favor of either by abatement, drawback, or otherwise."
8. Provides that the General Assembly shall prevent by law the granting of free passes by any railroad or transportation company to any officer of that State, legislative, executive, or judicial.
9. That the exercise of the right of eminent domain shall apply to the property and franchises of corporations as well as to individuals.
10. The General Assembly required to pass laws to correct abuses and prevent unjust discrimination and excessive charges by railroads for transporting freight and passengers, and to provide for enforcing such laws by adequate penalties and forfeitures.

The constitution of California of 1879 declares that—

1. All railroads are common carriers, and subject to legislative control.
2. No railroad or transportation company shall grant free passes, or passes or tickets at a discount, to any person holding any office of honor, trust, or profit in that State.
3. No discrimination in charges or facilities to be made by them between places or persons.
4. Shall not charge more for a short than for a longer distance.
5. The railroad commissioners shall have power, and it shall be their duty, to establish rates of charges for the transportation of passengers and freight by railroads.

The constitution of Colorado of 1876 declares that—

1. All railroads shall be public highways.
2. All railroad companies shall be common carriers.
3. Railroads shall not be connected or consolidated with other and competing railroads.
4. All have equal rights to have persons or property transported over railroads.
5. No undue or unreasonable discrimination shall be made in charges or facilities for transportation of freight and passengers.
6. The exercise of the right of eminent domain to apply to the property and franchises of corporations the same as to individuals.
7. Corporations are not to be permitted to conduct their business in such manner as to infringe the equal rights of individuals or the general well-being of the State.

The constitution of the State of Georgia of 1877 declares that—

1. The Legislature shall have power to regulate railroad freight and passenger tariffs.
2. To prevent unjust discriminations.
3. To prohibit the charging of other than just and reasonable rates.
4. The exercise of the right of eminent domain shall apply to the condemnation of the property and franchises of corporations as well as to the property of individuals.
5. Corporations shall not so conduct their business as to infringe the equal rights of individuals or the general well-being of the State.
6. The General Assembly to have no power to authorize corporations, by contract, agreement, or otherwise, to defeat or lessen competition in their respective businesses, or to encourage monopoly.
7. No railroad company shall give or pay any rebate or bonus in the nature thereof, directly or indirectly, or do any act to mislead or deceive the public as to the real rates charged or received for freights or passage.

The constitution of Illinois of 1870 declares that—

1. No railroad corporation shall consolidate its stock, property, or franchises with any other railroad corporation owning a parallel or competing line.
2. That the railways of the State are public highways.
3. That the General Assembly shall pass laws establishing reasonable maximum rates of charges for the transportation of passengers and freight.
4. That the exercise of the power of the right of eminent domain shall never be so construed or abridged as to prevent the taking, by the General Assembly, of the property and franchises of incorporated companies.
5. The General Assembly shall pass laws to correct abuses, and to prevent unjust discrimination and extortion in the rates of freight and passenger tariffs.

The constitution of Louisiana of 1879 declares that—

1. Railways are declared public highways.
2. Railroad companies are declared common carriers.

The constitution of Michigan of 1850 declares that—

1. The Legislature shall pass laws establishing reasonable maximum rates of charges for the transportation of passengers and freight on railroads.
2. Shall prohibit running contracts between such railroad companies whereby discrimination is made in favor of either of such companies owning connecting or intersecting lines of railroad.
3. No railroad corporation shall consolidate its stock, property, or franchises with any other railroad corporation owning a parallel or competing railroad.

The constitution of Missouri of 1875 declares that—

1. It shall not be lawful in this State for any railway company to charge for freight or passengers a greater amount for the transportation of the same for a less distance than the amount charged for any greater distance.
2. Railways in this State are declared public highways.
3. Railroad companies are declared common carriers.
4. The General Assembly shall pass laws to correct abuses and to prevent unjust discrimination and extortion in rates of freight and passenger tariffs.
5. And shall pass laws establishing reasonable maximum rates of charges for the transportation of passengers and freight.
6. No railroad or other corporation shall consolidate the stock, property, or franchises of such corporation with any railroad corporation owning, or having under its control, a parallel or competing line.
7. No officer of a railroad corporation shall act as an officer of any other railroad corporation owning, or having the control of, a parallel or competing line.
8. No discrimination in charges, or facilities in transportation, shall be made between transportation companies and individuals, or in favor of either, by abatement drawback, or otherwise.
9. No railroad or other transportation company shall grant free passes or tickets, or passes or tickets at a discount, to members of the General Assembly, or members of the board of equalization, or any State, or county, or municipal officers.

The constitution of Nebraska of 1875 declares that—

1. No railroad corporation shall consolidate its stock, property, franchises, or earnings, in whole or in part, with any other railroad corporation owning a parallel or competing line.
2. Railways declared public highways.
3. Compelled to transport persons and property under such regulations as may be prescribed by law.
4. The Legislature shall pass laws establishing reasonable maximum rates of charges for the transportation of passengers and freight.
5. The liability of railroad corporations as common carriers shall never be limited.
6. The exercise of the power of eminent domain shall never be so construed as to abridge or prevent taking the property or franchises of corporations the same as of individuals.
7. The Legislature shall pass laws to prevent abuses, and prevent unjust discrimination and extortion in charges of railroad companies.

The constitution of Pennsylvania of 1875 declares that—

1. Railroads are public highways.
2. Railroad companies are common carriers.
3. They shall receive and transport each other's passengers, tonnage, and cars loaded or empty, without delay or discrimination.
4. All individuals, associations, and corporations shall have equal right to have persons and property transported over railroads, and no undue or unreasonable discrimination shall be made in charges for, or in facilities for, transportation of freight or passengers.
5. Persons and property transported over any railroad shall be delivered at any station at charges not exceeding the charges for transportation of persons and property of the same class, in the same direction, to any more distant station.
6. No railroad corporation, or the lessees, purchasers, or managers of any railroad, shall consolidate the stock, property, or franchises of such corporation with, or lease or purchase the works or franchises of, or in any way control any other railroad corporation owning or having under its control a parallel or competing line.
7. No corporated company doing business as a common carrier shall, directly or indirectly, prosecute or engage in mining or manufacturing articles of transportation over its works.
8. No such company shall, directly or indirectly, engage in any other business than as common carriers, or hold or acquire lands, freehold or leasehold, directly or indirectly, except such as shall be necessary for carrying on its business.
9. No discrimination in charges or facilities for transportation shall be made between transportation companies and individuals, or in favor of either by abatement, drawback, or otherwise, and no railroad company or lessee, manager, or employé thereof shall make any preferences in furnishing cars or motive power.
10. No railroad company shall grant free passes, or passes at a discount, to any person except officers or employés of the company.

The constitution of Texas of 1876 declares that—

1. Railroad companies shall receive and transport each other's passengers, tonnage, and cars, loaded or empty, without delay or discrimination.
2. That railroads are public highways.
3. That railroads are common carriers.
4. The Legislature shall pass laws to correct abuses and prevent unjust discrimination and extortion in rates of freight and passenger tariffs on railroads.
5. And shall pass laws establishing reasonable maximum rates of charges for the transportation of passengers and freight on railroads.
6. No railroad corporation, or the lessees, purchasers, or managers of any railroad corporation shall consolidate the stock, property, or franchises of such corporation with, or lease or purchase the works or franchises of, or in any way control any railroad corporation owning or having under its control a parallel or competing line.
7. No officer of a railroad corporation shall act as an officer of any other railroad corporation owning or having the control of a parallel or competing line.

LONG AND SHORT HAULS.

The constitution of Arkansas adopted in 1874 provides that more shall not be charged for a short than for a long distance.

The constitution of California adopted in 1879, the constitution of Missouri adopted in 1875, and the constitution of Pennsylvania adopted in 1875 contain similar provisions.

From this it will be seen that the two gentlemen from Pennsylvania [Mr. O'NEILL and Mr. BOYLE] and the two gentlemen from California [Mr. BUDD and Mr. GLASCOCK], who spoke in opposition to the provision of my bill which prohibits railroad companies from charging more for a short than for a long distance, did so in opposition to the provisions of the constitutions of their respective States. The gentleman from Missouri who has just taken his seat speaks in opposition to the provision of the constitution of his State on this subject. And the two gentlemen from Massachusetts, Governor LONG and Governor RICE, and a number of other members have had much to say in praise of the railroad legislation of that State. I will read from the revised statutes of that State to show that they prohibit charging more for a short than for a long haul.

I read now from the Revised Statutes of the State of Massachusetts. On pages 634 and 635, section 190 provides as follows:

No railroad corporation shall charge or receive for the transportation of freight to any station on its road a greater sum than is at the time charged or received for the transportation of the like class and quality of freight from some original point of departure.

Mr. LONG. Let me ask the gentleman from Texas if it is not from the "same" original point of departure?

Mr. REAGAN. From same point on the road.

I call attention to this to show that the provisions of my bill stand upon the constitutional provisions to which I have referred and also on the law as laid down by the Revised Statutes of Massachusetts, and I am satisfied if I had taken the labor and time to go into the State statutes generally I could have multiplied examples of the same character and in great numbers sustaining precisely my opinion upon the subject and disagreeing with the gentlemen who oppose and condemn it.

Mr. BLOUNT. Are those constitutions to which you refer in force at this time?

Mr. REAGAN. They are.

Mr. ADAMS, of Illinois. Mr. Speaker, will the gentleman from Texas tell me whether there is any difference between these two bills now before the House on that particular point? I thought that there was not, and yet some of the gentlemen who have been discussing the question seem to assume that there is a difference.

Mr. REAGAN. It is simply this: Both prohibit pooling, but what is called the committee bill puts a clause in it requiring the commission proposed to be raised to investigate the question of pooling and see whether it ought to be discontinued or not; and the gentlemen who favor the committee bill, which prohibits pooling, all denounce pooling and denounce my bill because it has a prohibition of pooling.

POOLING DISALLOWED.

The constitution of Arkansas of 1874 prohibits pooling.
The constitution of Colorado of 1876 prohibits pooling.
The constitution of Illinois of 1870 prohibits pooling.
The constitution of Michigan of 1850 prohibits pooling.
The constitution of Missouri of 1875 prohibits pooling.
The constitution of Nebraska of 1875 prohibits pooling.
The constitution of Pennsylvania of 1875 prohibits pooling.
The constitution of Texas of 1876 prohibits pooling.
The constitution of Georgia of 1877 prohibits pooling.

From the foregoing it will be seen that the gentleman from Illinois [Mr. DAVIS], the gentleman from Michigan [Mr. HORR], and the two gentlemen from Pennsylvania [Mr. O'NEILL and Mr. BOYLE], who are opposing the provision of my bill which prevents pooling, and who are the advocates of the pooling system, are opposing the provisions of the constitutions of their own States.

Mr. LONG. May I call the attention of the gentleman from Texas again to this statute of Massachusetts to show him that the word "some," as read by him, should be "same."

Mr. REAGAN. The gentleman from Massachusetts desires me again to read the statute.

No railroad corporation shall charge or receive for the transportation of freight to any station on its road a greater sum than is, at the time, charged or received for the transportation of a like class or quantity of freight from the same original point of departure to a station at a greater distance on its road in the same direction.

Precisely what I stated it meant, and precisely in support of my views on this subject.

Mr. LONG. I understood the gentleman to say that it said "from some point of departure."

Mr. REAGAN. I thought it used that word.

Mr. LONG. I want to bring it out that it is "from the same original point of departure and in the same direction."

Mr. REAGAN. But the point is that more shall not be charged for the short than for the longer distance. I am not particular about it further than that it demonstrates that fact.

Mr. LONG. It adds the words "and in the same direction."

Mr. STRUBLE. If the gentleman will permit me, I desire to ask him a question. He states the committee's bill prohibits pooling, and further he directs that the commission inquire into and report on that subject. Now, if pooling is prohibited emphatically by the bill, as we all understand it is, what is the objection in the gentleman's mind to an investigation of this question with a view to a report to Congress, and with a view, as I understand, to such additional legislation as the state of the case may demand?

Mr. REAGAN. If the gentleman will wait I will answer that at the proper place.

Mr. STRUBLE. I will do so.

Mr. REAGAN. But I desire here to repeat what I said a moment ago, that notwithstanding the committee bill prohibits pooling the advocates of that bill on this floor all denounce pooling, and I have to meet their arguments because I regard that as a very important provision in my own bill.

Mr. PETERS. Mr. Speaker——

Mr. REAGAN. I shall have to decline being interrupted further unless merely for a question, as otherwise I shall never get through.

Mr. PETERS. I think the gentleman does me an injustice when he says I differed with him on that question. In that statement he includes all those who have spoken.

Mr. REAGAN. Perhaps I have done injustice to the gentleman from Kansas [Mr. PETERS], because of all the fifteen members of the committee he is the only one who approved of the committee's bill.

Mr. LONG. The gentleman will remember that in my speech I did not refer to the matter of pooling.

Mr. REAGAN. A good many other gentlemen did.

REBATES.

The constitution of Arkansas of 1874 prohibits rebates, drawbacks, and other modes of discrimination.

The constitution of California of 1879 provides against discriminations of all kinds between persons and carriers.

The constitution of Georgia of 1877 prohibits rebates, drawbacks, &c.

The constitution of Missouri of 1875 prohibits rebates.

The constitution of Pennsylvania of 1875 prohibits rebates, drawbacks, and other discriminations.

The allowance of rebates is simply a secret mode of discriminating in freight rates and charges between shippers. And eleven of the State constitutions out of the twelve I have quoted from prohibit discriminations between shippers by the railroad companies, so that in favoring the allowance of rebates and other discriminations the gentleman from Vermont [Mr. SEYMOUR], the two gentlemen from Massachusetts [Mr. LONG and Mr. RICE], the two gentlemen from Pennsylvania [Mr. O'NEILL and Mr. BOYLE], the gentleman from Michigan [Mr. HORR], the gentleman from Illinois [Mr. DAVIS], the gentleman from Wisconsin [Mr. WOODWARD], and the gentleman from Iowa [Mr. HEPBURN], who have opposed the provisions of my substitute on this subject, have also, in doing so, put themselves in opposition to the constitutions of all these States, and in opposition to the policy and laws of nearly all the States of the Union on this subject.

The gentleman from Connecticut [Mr. SEYMOUR] says pooling is not hostile to the interests of freighters and consumers.

My objections to pooling freights are that—

First. It destroys competition in freight rates.

Second. It makes one great monopoly out of several smaller ones.

Third. That it secures to the pooling roads the power to levy such exactions on the commerce they carry as their cupidity may demand.

Fourth. That it enables them to make their roads the means of oppression and ruin to the people to whom they are indebted for their franchises.

Fifth. That such a power never has been and never can be safely surrendered by a free people to a few men who deny their responsibility to the public. I ask if these five objections do not embody that number of axiomatic truths?

PENALTIES FOR UNREASONABLE CHARGES.

The gentleman from Connecticut [Mr. SEYMOUR], in speaking of the provision of the Reagan bill which imposes penalties for unreasonable charges, and several other gentlemen say "this is a highly penal clause for the mere mistake of the judgment of the directors of a road in fixing the rate charges."

My friend from Missouri [Mr. CLARDY], in his remarks just made, takes the same position—that it is a harsh bill, imposing penalties on mere mistakes of construction. The House will remember how many gentlemen have dwelt upon that point.

I ask if this is a fair way to state the case? The provision of my bill is, if any person shall willfully do anything prohibited, or shall willfully omit to do anything required by the bill to be done, he shall, in either case, suffer the penalty prescribed.

I submit that there is a great difference between a willful and intentional violation of law and an accidental mistake. The first is a crime. The last is never so treated, and these able gentlemen and lawyers must know this. I propose to punish crimes, not mistakes. As well talk of a man committing larceny, burglary, or arson by mistake as to talk of his willfully violating the provisions of this bill by mistake. The gentleman from Connecticut assumes that my bill is too strict and minute in its provisions, so much so "as to interfere with the laws of trade." Is it an interference with the laws of trade to say that railroad corporations shall not make unreasonable charges, or that they shall not allow rebates, or that they shall not charge more for hauling a given amount of freight one hundred miles than for five hundred miles, or that they shall not pool their earnings with a competing road and thereby deprive the people of the advantages of competition, or to require them to post up a schedule of their charges so that the public may be advised of what they have to pay for given services? If these are not unreasonable things, then the bill is not unreasonable, for these are substantially all of its requirements. The Constitution and laws of many States say that these requirements are reasonable. Railroad officers and railroad attorneys say they are unreasonable. The latter say so from self-interest and through a desire to maintain an unlimited control over the commerce of the country.

IS THERE DEMAND FOR SUCH LEGISLATION AS IS PROPOSED BY THIS BILL?

The honorable gentleman from Massachusetts, Governor LONG, and some other gentlemen who have addressed the House speak of there being an entire absence of any outcry against railroads from the people at large, and of a very limited complaint from any one else.

Do facts justify this statement? Let us see. The Legislatures of New York, of Pennsylvania, and of other States have demanded legislation by Congress to restrain and control the railroads. The National Board of Trade has several times demanded such legislation, and more than once specifically approved the Reagan bill. The Chamber of Commerce, the Board of Trade and Transportation, and the Produce Exchange, of New York, have demanded such legislation, and each have specifically approved the provisions of the Reagan bill. Chambers of commerce and boards of trade from nearly all parts of the country have made similar demands of Congress.

The Grain Receivers' Association of Chicago, the Millers' Association which assembled at Cincinnati demanded such legislation and approved the Reagan bill. Twelve, at least, of the most recently formed State constitutions and the laws of many other States show that they demand legal protection against the rapacity of the railroads. The national and many State granges and numerous local granges have demanded such legislation and approved the provisions of the Reagan bill; and citizens from every State in the Union have, in the last few years, by the thousands petitioned Congress for legislation on this subject, and much the greater part of them have asked for the passage of the Reagan bill.

I read from the Wall Street Daily News of December 4, 1884, the following:

THE CORN CROP AND THE RAILROADS.

Prime's crop report in the Journal of Commerce yesterday calls attention to railroad freights in connection with the crop of corn coming to market, and points out some very serious facts. Of the situation in Nebraska he says:

"Corn now sells in Nebraska at an average from 10 to 12 cents per bushel. The freight from many points in Nebraska to Chicago is 22 cents per bushel. This means simple starvation to the farmer. When corn was selling a few weeks ago at from 16 to 18 cents a bushel the movement in that State was quite free, but grain dealers now write me that scarcely a load comes where ten came before. Banks are also refusing to advance any money to crib corn, and the outlook for all kinds of business in that State at present is very poor."

Since the above was written the Union Pacific, which serves Nebraska Territory, has announced a 5-cent reduction, and yesterday it was stated that other roads were considering what they should do about meeting this cut. The Union Pacific also carries for Kansas, and Prime says for that State:

"Last winter at this date the farmers got from 35 to 40 cents for their corn just as fast as they could haul it in. Shellers ran night and day, and Kansas supplied the world with corn. Her crop was exceptional in quality and quantity. This year the conditions are entirely changed. Corn only brings from 12 to 20 cents a bushel, according to locality and distance from Kansas City."

In consequence of previous good crops, Kansas is better off than some other States. In Minnesota the corn is mainly going into hogs and cattle; but in Iowa and Illinois, where poor crops of corn had practically cleaned the country out, the first new corn came upon the market at good paying prices, but the demand has now been filled, and the price has fallen in Illinois to 22 to 25 cents per bushel, and in Iowa it is 4 to 5 cents a bushel less; "and we find," says Prime, "very little movement in this State." He then sums up the situation thus:

"At present very low prices all over the corn belt, and farmers are not selling anything like the quantity of corn that the trade expected to have seen thrown upon the market at this date. Those who have been arguing that an era of low prices of grain would tend to increase our exports and make business lively have an opportunity this winter of putting their theory to a practical test."

As bearing directly on this question of the movement of the corn crop and the railroads, we print the following private dispatch, received by one of the large houses in the street yesterday from its Chicago correspondent:

"CHICAGO, *December* 3.

"A gentleman who has our entire confidence has just made a thorough examination of the outlook in the West, and the business prospects for the railroads, and this is the gist of his views: 'There is a paralysis to-day in the legitimate grain trade of the Northwest caused by outrageously high freights. Corn is worth in Nebraska, on an average, 12 cents per bushel, and it costs 22 cents per bushel to move it to Chicago. At some points in Nebraska it is selling at 8 cents. In Kansas, 13 to 20 cents. Railroads prefer to waste money in moving passengers at $1 per head from Kansas City to Chicago, but will make no reduction in freights except at competitive points. This condition shows that farmers in the South are not obliged to sell corn at these figures, as the wheat-growers in the Northwest are, and have been, and will continue to be.' I don't consider my friend an alarmist. He remarks that a continuance of these conditions means a second granger war, and the results will be even more effective than the war of ten years ago."

This shows that the grain-growers of the West are now at the mercy of the railroads as to the terms of transportation of their grain, and contradicts the many glowing accounts we have had during this debate of cheap railroad freights for the West.

And as further evidence of the necessity and of the demand of the public generally for such legislation as will "prevent unjust discrimination and excessive charges for transportation by the railroad companies," I read the following declaration made by the Republican national convention on the 5th day of last June:

The regulation of commerce with foreign nations and between the States is one of the most important prerogatives of the General Government, and the Republican party distinctly announces its purpose to support such legislation as will fully and efficiently carry out the constitutional power of Congress over interstate commerce. The principle of the public regulation of railway corporations is a wise and salutary one for the protection of all classes of the people, and we favor legislation that shall prevent unjust discrimination and excessive charges for transportation, and that shall prove to the people and to the railways alike the fair and equal protection of the law.

I commend that to my Republican friends, who are so earnestly combating legislation of this kind. If some of the Republican members who have been discussing this question do show that they believe the people of the country have no rights which the railroads are bound to respect, they surely ought to manifest, outwardly at least, some respect for the political declaration which their national convention thought it necessary to make in order to enable them to carry the recent election for President and Congress. Or do they prefer that the public shall understand that this declaration was simply made to deceive the people and cheat them out of their votes by a false pretense? I must not be understood as applying these remarks to those Republicans who are trying in good faith, as many of them are, to redeem the pledge of their party to the people on this subject.

I also quote from my argument made two years ago expressions of a number of the leading men and newspapers on this subject, as follows:

In contrast with the extravagant and unreasonable declarations of the railroad attorneys and railroad experts that there is no danger in leaving these corporations free to do as they please with all questions of railroad transportation, and that it would endanger the interests of both the railroads and the people for us to legislate to control and restrain them, I give the following extracts, showing the opinions of leading public men and newspapers, the representatives of the real opinions and of the real interests of the great body of the American people.

In a letter written by Hon. David Davis, late a justice of the Supreme Court of the United States, and then a Senator from Illinois and President of the Senate, he says:

"Great corporations and consolidated monopolies are fast seizing the avenues of power that lead to the control of the Government. It is an open secret that they rule States through procured Legislatures and corrupted courts; that they are strong in Congress; and that they are unscrupulous in the use of means to conquer prejudice and acquire influence. This condition of things is truly alarming, for unless it be changed quickly and thoroughly free institutions are doomed to be subverted by an oligarchy resting upon a basis of money and of corporate power."

In a letter written by Hon. William Windom, then a Senator in Congress, and recently Secretary of the Treasury of the United States, to the Anti-Monopoly League of New York, three years ago, he said:

"The channels of thought and the channels of commerce thus owned and controlled by one man or by a body of men, what is to restrain corporate power or to fix a limit to its exactions upon the people? What is then to hinder these men from depressing or inflating the value of all kinds of property to suit their caprice or avarice, and thereby gathering into their own coffers the wealth of the nation? What shall be said of the spirit of a free people who will submit without protest to be thus bound hand and foot?"

Hon. Jeremiah S. Black, formerly a judge of the supreme court of Pennsylvania, and Attorney-General of the United States, in a speech delivered before the Anti-Monopoly League of New York, a little over three years ago, said:

"All public men must take their side on this question. There can be no neutrals. He that is not for us is against us. We must have legal protection against these abuses. This agitation once begun, and the magnitude of the grievance being understood, it will force our rulers to give us a remedy against it. The monopolies will resist with all their arts and influences, but 50,000,000 of people, in process of time, will learn the important fact that they are 50,000,000 strong."

Governor Porter, of Indiana, in a message to the Legislature of that State, said:

"In my judgment the Republic can not live long in the atmosphere which now surrounds the ballot-box. Moneyed corporations, to secure favorable legislation for themselves, are taking an active part in elections by furnishing large sums of money to corrupt the voter and purchase special privileges from the Government. If money can control the decision at the ballot-box, it will not be long until it can control its existence."

Daniel Webster, whose fame could not be increased by affixing a title to his name, said, long ago:

"The freest government can not long endure where the tendency of the law is to create a rapid accumulation of property in the hands of the few, and to render the masses of the people poor and dependent."

The New York Times newspaper, discussing the question of the encroachments of corporate power, said:

"It is not only absorbing to itself the fruits of labor and the gains of trade, and piling up wealth in the hands of a few, but it is controlling legislation and endeavoring to sway the decisions of courts in its own interest. We are now at a stage in the contest where the people may vindicate the authority and place these corporations under the regulation of the law."

The Brooklyn Eagle, in a recent editorial, said:

"There is pretty general feeling that the continent of America was not discovered by Columbus, and civil liberty established by the fathers of the Republic, to the end that 50,000,000 of people might be made tributary to a band of railroad magnates, or that farmers, artisans, and merchants might by hard work and

keen competition raise up a dozen Vanderbilts, with several hundred millions of dollars. Those who entertain this feeling have become persuaded that the time has arrived for the industrious masses of this country to protect themselves, if they ever intend to do so. It certainly will not be easier after the adversary has grown stronger. In this contest every delay is to the disadvantage of the people. Let the issue be deferred for a few years, and nothing but a revolution as violent as that of France will overthrow the oppression. Of all misleading delusions, there is none more mischievous than the notion that popular suffrage and popular power are synonymous. Given the means of bribing multitudes, of intimidating others, of wrecking opponents, coupled with actual possession of the Government, and adverse sentiment must be paralyzed. If the suffrage is to be our salvation it must be applied sharply while there are still odds on the side of unbought and unterrorized manhood."

The late President James A. Garfield, who voted for this bill in the Forty-fifth Congress, and whose death we have so recently been called to lament, in discussing the railroad problem and its effect on our Government and people, a few years ago, said:

"The modern barons, more powerful than their military prototypes, own our greatest highways and levy tribute at will upon all our vast industries. And, as the old feudalism was finally controlled and subordinated only by the combined efforts of the kings and the people of the free cities and towns, so our modern feudalism can be subordinated to the public good only by the great body of the people, acting through their government by wise and just laws."

I might multiply such evidences of opinion of impartial, disinterested, and patriotic men of all parts of the country; and I invite you to contrast them with the interested, selfish opinions of railroad lawyers and railroad managers and experts, paid for by the railroads, out of money wrung from the hard earnings of people engaged in other vocations. Do you think such a question can be whistled down the wind by the vast throng of mercenaries who infest the halls and corridors and committee-rooms of Congress, for the purpose of influencing the action of members whenever this question comes up for consideration?

From President Arthur's message of December 4, 1883, I read the following on this subject:

Complaints have lately been numerous and urgent that certain corporations, controlling in whole or in part the facilities for the interstate carriage of persons and merchandise over the great railroads of the country, have resorted in their dealings with the public to divers measures unjust and oppressive in their character.

In some instances the State governments have attacked and suppressed these evils, but in others they have been unable to afford adequate relief because of the jurisdictional limitations which are imposed upon them by the Federal Constitution.

The question how far the National Government may lawfully interfere in the premises, and what, if any, supervision or control it ought to exercise, is one which merits your careful consideration.

While we can not fail to recognize the importance of the vast railway systems of the country and their great and beneficent influences upon the development of our material wealth, we should, on the other hand, remember that no individual and no corporation ought to be invested with absolute power over the interest of any other citizen or class of citizens. The right of these railway corporations to a fair and profitable return upon their investments, and to reasonable freedom in their regulations, must be recognized; but it seems only just that, so far as its constitutional authority will permit, Congress should protect the people at large in their interstate traffic against acts of injustice which the State governments are powerless to prevent.

And he renewed this recommendation in his recent message.

And yet Governor LONG and other gentlemen who concur with him, in their zeal to preserve the railroads in their unrestrained and uncontrolled power to levy whatever tribute they please upon the commerce of this country, seem to be oblivious to all of these facts; and allege in the face of this House, and the knowledge of the members to the contrary, that there is no demand for such legislation. He and others have told us that the National Board of Trade last winter declared against what is known as the Reagan bill and recommended a commission. It did last winter declare for a commission under the influence of railroad corporations, or rather of their representatives, after having at several previous annual meetings declared for the Reagan bill.

PERCENTAGE OF PROFIT ON INVESTMENTS IN RAILROADS.

The gentleman from Kansas [Mr. ANDERSON] fitly and appropriately exposed the fallacy of Governor LONG about the railroads of the United States only paying about 3 per cent. on investments in them, and showed that in reality they pay nearly 10 per cent. I need not repeat what was said by him.

The gentleman from Massachusetts, Governor LONG, also arraigns the Reagan bill as "a cast-iron, inflexible, perfunctory method;" "mere *brutum fulmen;*" "a dead letter;" which "would only embarrass business, increase rates, and add to the burden of the people's cost of transportation."

I appeal to the sense of justice and fairness of the House, and of the country, whether this characterization is either sincere, or fair, or just, as against a bill whose substantive provisions are few in number, simple in nature, and easily understood by any one who desires to understand them. He says: "Hardly any remedy of this sort is proposed that does not exist at common law." Is this a true and fair statement? The common law does not give triple damages for the wrongs provided against. My bill does. The common law does not provide either a civil or penal remedy for allowing rebates, drawbacks, &c. My bill gives both a civil and penal remedy. The common law does not prohibit charging more for a shorter than for a longer haul. My bill does.

The common law does not prohibit pooling. My bill does. The common law does not require schedules of rates to be posted up. My bill does.

And yet in the face of these facts the gentleman from Massachusetts [Mr. LONG] says: "Hardly any remedy of this sort is proposed that does not exist at common law." I am persuaded that the real reason why those who champion the interests of the railroads do not want my bill to pass is that it does give plain, statutory remedies, not given at common law, and provides for their easy and effectual enforcement in the courts of ordinary jurisdiction.

As a specimen of the idea of the gentleman from Massachusetts [Mr. LONG] of simplicity and directness in obtaining redress for wrongs done to citizens, I will read sections 10 and 11 of the committee's bill, defining a part of the duties of the commission it proposes to create, and the duties of others.

SEC. 10. That any person complaining of anything done or omitted to be done by any railroad company or person in violation or contravention of this act may, in addition to the remedies hereinbefore provided, apply to said commission by petition in writing, which shall briefly state the subject of such complaint. If the petition is signed by any board of trade or other commercial body, or, when signed by an individual, if it bears the certificate of any district attorney of the United States, or of any district or county attorney, or officer corresponding thereto, of any State or Territory, that he has examined the facts and in his opinion the complaint is well founded, the commission is hereby required to entertain and investigate the same. In all other cases the commission shall decide whether or not the petition ought to be proceeded with. The commission may, if they think fit, before requiring or permitting any formal proceedings to be taken on any petition, communicate the same to the railroad company against whom it is made, so as to afford them an opportunity of making such observations or taking such action thereon as they may think fit. The commission shall have power, and in a proper case is required, to cause a copy of the petition to be served upon the railroad company complained against, and to issue a notice requiring such company to appear before the commission and answer the said petition. The answer shall be in writing. After the answer is filed it shall then be lawful for the commission, if it shall think fit, to direct and prosecute, in such mode and by such persons or means as it shall think proper, all such inquiries into matters of fact as may be deemed necessary to enable the commission to form a just conclusion in respect of the matters of said petition. All the proceedings before said commission shall be directed by and under general orders, which shall secure to all persons interested reasonable notice and opportunity to be heard. If it shall be made to appear to the satisfaction of the commission, either by the testimony of witnesses or other evidence adduced before it, or by the report of any person to whom the commission may have referred the inquiry, or any part thereof, that anything has been done or omitted to be done in contravention or violation of this act, by any railroad company or person so upon due and proper notice proceeded against, it shall be the duty of such commission to make and record its report in writing in respect of any such contravention or violation of this act, which report shall comprise and embrace the findings of the commission upon and in respect of all questions of fact in issue or involved in such proceedings. Within a reasonable time, not to exceed twenty days, after such report and findings are made by the commission, it shall cause a copy thereof to be served upon or delivered to the railroad company so found to have violated this act, to which shall be appended a notice to be issued by said commission to such company forthwith to cease and desist from such violation; and also to deliver to the district attorney of the United States for the district in which the act complained of occurred another copy of such report, findings, and notice.

SEC. 11. That upon notice that any such railroad company has neglected or refused to conform to the decision of said commission, and to desist from such violation or contravention of this act, it shall be the duty of such district attorney to apply by petition, in the name of the party aggrieved, to the circuit court of the United States for such district, for, and it shall be the duty of such court to grant, an order upon such railroad company to show cause why such company should not be enjoined and restrained against the continuance of such violation, and for such other order and relief in the premises as may be just and proper. For the purpose of making any order or decree in the premises, final or otherwise, such court shall be always open, and the day on which any such order or decree is made shall be a special term of such court. Upon the service and return of such order to show cause, and notice to the parties interested, such court shall proceed in a summary manner to ascertain whether the said report and findings are true; and whenever said court shall be of opinion that such company has done or is doing any act in violation or contravention of this act in said report and findings described, it shall so adjudge; and it then shall be the duty of said court forthwith to issue a writ of injunction requiring such railroad company to desist from such violation and in respect of the matters in said report contained to conform to and obey all the provisions of said act. Such court may enforce obedience to any such injunction, order, or decree, by any person or party, by fine, proceedings for contempt, and all other means within its lawful jurisdiction sitting as a court of equity. Any person interested to restrain such violation may, on application to the court, be allowed to appear and be heard, by himself or counsel; and upon proof that any district attorney has failed in any proper case for the period of ten days to apply for such order to show cause, the court may permit such application to be made and prosecuted to effect by or in behalf of any person so interested. Such court may, in its discretion, award or deny costs to any party to such proceeding. In any case where the court shall adjudge that the violation of this act by any company has been willful, or continued after notice to desist therefrom, the court may award to any party injured such a gross sum by way of costs as will reimburse all his costs, charges, expenses, counsel fees, and disbursements, to be paid by such company.

I submit whether all this verbiage is not intended to hinder, delay, and deny any practical and useful remedy to the individual citizen for wrongs done him by railroad corporations. Under it the citizen can obtain no recovery, no judgment for wrongs done to him. Under it a wrong-doer can not be punished for his crime. In the light of these truths what becomes of the fine rhetoric of the gentleman from Massachusetts and of others on the subject of the iron rule of the Reagan bill and the simplicity and feasibility of the committee's bill? And of what worth are all such opinions as these gentlemen have given us for our guidance on what the gentleman from Massachusetts [Mr. LONG] calls "a simple, equitable, and speedy system of relief?"

On the subject of the long and short haul, the gentleman from Massachusetts [Mr. LONG] has illustrated his views by two examples, plausible and deceptive enough, but which are only calculated to deceive. He wishes to know if no more should be charged for carrying freight over the bridge at Saint Louis, which cost many millions of dollars, than for a like distance over a road built at the ordinary rate of expense—and my worthy friend from Missouri [Mr. CLARDY] who has just addressed the House propounds the same inquiry, I am sorry to say—and whether no more should be charged for carrying freight through the Hoosac tunnel than for a like distance over an ordinary road.

Now, under the provisions of the substitute bill in reference to the

first illustration, as much may be charged for a given amount and kind of freight (if the road is continuous from New York to Saint Louis) from East Saint Louis to Saint Louis as from Indianapolis, or from Columbus, or from Pittsburgh, or from New York to Saint Louis. And surely the railroad would not suffer any wrong from the effects of this bill, if it could charge as much for the few miles crossing the Mississippi River as for all the distance from one of the places above mentioned. And this is what the bill allows. But the bridge at Saint Louis is a road to itself, separate from the other railroads, and makes its own charges, and would be only bound like others not to make unjust discriminations in its rates. The same may be said of the Hoosac tunnel illustration, except that it is not a separate road. And the other gentleman from Massachusetts [Mr. RICE], in illustrating his objection to the provisions of this bill in relation to the long and short haul clause, asked if a car-load of flour could be hauled from Saint Louis to New York for 50 cents a barrel if it would be reasonable to compel a train of cars to stop seventy-five miles this side of Saint Louis and charge no more for a barrel of flour from there than from Saint Louis. He, like the balance of the gentlemen who combat the provisions of this bill, finds it necessary in order to ground an argument to state an hypothetical and impossible case.

Who ever heard of a train of cars stopping to take on a barrel of flour anywhere, or whoever expects to hear of it except from the advocates of railroad monopolies? And who can doubt or deny that a freight train can take on a car-load of flour or several car-loads of flour seventy-five miles east of Saint Louis and carry it to New York at as little expense as if its cars were hauled from Saint Louis?

The gentleman from Massachusetts [Mr. RICE] says if the Reagan bill is enacted into a law it will be more despotic than the Czar of all the Russias. I do not know how to characterize such an argument except to suppose that it springs from the exuberant fancy of the youthful and untrained statesman from Massachusetts. Certainly it could not be said by a grave, serious man with expectation that any one would believe it.

And he gave us another specimen of his humor, Massachusetts Representative as he is, by warning us against the danger of consolidation and centralization found lurking in the Reagan bill. Doubtless the House, like myself, was a little surprised to find any Republican from Massachusetts an advocate of the doctrine of strict construction and State's rights. He says there are fearful dangers in any attempt which may be made to protect the people against the discriminations, exactions, and injustices of railroad corporations, and finds an asylum for the repose, security, prosperity, and happiness of the people in the railroad pool, which erects one huge monopoly out of several small ones, denying to the people all competition in transportation and subjecting them without remedy to such demands as the railroads may make upon their property. He has no fear of the consolidation and centralization of the thousands of miles of railroads. His fears are awakened only by the effort to compel them to do justice by conservative, just, and wholesome legislation.

My friend from Ohio, General WARNER, illustrates his idea of the impolicy of the provision of my bill which forbids charging more for a shorter than for a longer haul by instancing a coal mine with inferior coal farther from market as compared with one of better coal nearer to market. He wants to know if justice would not require that the poor mine farther from market should have lower rates of transportation than the good mine nearer the market, in order to equalize the profits of the two. He might with this view have gone further and inquired if a man with a poor farm should not have cheaper rates of transportation than one with richer land, in order to equalize the profits of the two farms.

Is it possible that we are to be treated to the assumption in this House and in the discussion of this great subject with a statement which implies that a part of the business of railroads is to equalize the profits of inferior and good mines and of poor and rich farms? The statement of the proposition is its condemnation, and shows to what resorts able and ingenious gentlemen are driven to combat a just and reasonable provision that more ought not to be paid for hauling a given amount and kind of freight 100 miles than should be paid for hauling it 1,000 miles.

The gentleman from Illinois [Mr. DAVIS], the gentleman from Michigan [Mr. HORR], and the gentleman from Pennsylvania [Mr. BOYLE] gravely informed the House that the Reagan bill, if it passed into a law, it would discriminate in favor of the New York Central road and against the Erie road, against the Pennsylvania road, and against the Baltimore and Ohio road, because, they allege, the grain from the lakes can be carried by vessels to Buffalo, N. Y., and from thence to New York city on a road wholly within the State of New York, and would therefore be taken from under the operation of the provisions of the Reagan bill, while on the other roads named it would be under the operation of the Reagan bill.

Now, in the first place, these gentlemen have all the time contended that through rates were cheaper than the local rates, and if this be true, the through rates on interstate commerce, instead of being higher, would be lower than local State rates; but their view rests upon the assumption that we are regulating railroads instead of the commerce that passes over them.

The commerce which is shipped from a point in one State to a point in another State is interstate commerce, no matter by what mode of conveyance it is carried; and the courts have repeatedly decided that this interstate commerce is beyond the reach of State legislation, and can alone be regulated by authority of the Federal Government. So that if merchandise is shipped from Duluth or Chicago or Toledo or any other place on the lakes, and is destined to New York or any other place outside of the State in which shipment is made, it is interstate commerce. It can not be regulated by authority of State laws, and is only liable to be regulated by act of Congress; and whenever it passes over a railroad in any portion of its transit it becomes interstate commerce carried on a railroad, and would come fully within the regulations prescribed in the Reagan bill as to such commerce.

It is assumed that by some fraudulent device or trick of management it might be shipped to Buffalo, and from that point sent by a second shipment as freight under the State law. The Reagan bill provides against this very character of subterfuges. A portion of its third section reads as follows:

That it shall be unlawful for any person or persons engaged in the carriage, receiving, storage, or handling of property as mentioned in the first section of this act to enter into any combination, contract, or agreement, by changes of schedule, carriage in different cars, or by any other means, with intent to prevent the carriage of such property from being continuous from the place of shipment to the place of destination, whether carried on one or several railroads.

But what motive could there be for shippers wanting to invoke State rates for through commerce instead of through rates? We all know that local State rates in both New York and Pennsylvania are much higher relatively than through rates on Western freight, so that we would be compelled to suppose that shippers would subject themselves to higher rates of freight simply in order not to come under the influence of an act of Congress which would promote their interests. This is the sort of assumption and sort of reasoning necessarily resorted to in the efforts to defeat the Reagan bill. It can surely deceive no sensible man.

As evidence that the officers and attorneys of the New York Central Railroad do not believe what these gentlemen say on this subject to be true, they have united earnestly and vigorously with the attorneys and managers of other railroads in trying to defeat this bill, which they surely would not have done if they believed it would give their road the advantages over the other roads which these gentlemen assume would be given to it by the Reagan bill.

The gentleman from Illinois [Mr. DAVIS] and the gentleman from Michigan [Mr. HORR] say that the Reagan bill would drive all the Western commerce away from our railroads and cause it to go over the Canada roads. Mr. Depew and others used this argument before the committee, and after the answer which was made to it there it was hardly to have been expected that the argument would have been repeated before this honorable body. The Grand Trunk Railroad, of Canada, from Detroit, Mich., by way of Montreal, Canada, to Portland, Me., is 856 miles long. Its connection by way of Montreal with Boston, Mass., is a little longer. Its extension from Port Huron, Mich., to Chicago is 330 miles. This added to 856 miles makes the distance from Chicago to Portland 1,186 miles. In the greater portion of its length it runs through a country sparsely populated and with a limited commerce. Its equipments and the amount of its rolling-stock are nothing like so great as are either those of the New York Central, the Erie, the Pennsylvania, or the Baltimore and Ohio road.

From these causes, as well as because of its greater length, and the greater amount of interruption from frosts and snows, and because it crosses the St. Lawrence River twice, at one place on ferry-boats and at another on a long bridge, it can not carry as large amounts of freight, or carry that freight as cheaply, at paying rates, as either of the above-named four trunk roads on the south side of the lakes and of the St. Lawrence. And it does not go to the markets to which the owners of our Western produce wish to send their commerce. By the New York Central and by the Erie and the Pennsylvania Railroads the distance between Chicago and New York is about nine hundred miles. The distance to Baltimore is more than two hundred miles shorter. The equipments of these roads are of the best; their rolling-stock is abundant; they pass through densely populated States, of great wealth and with very large local business; they avoid the crossing and the recrossing of the St. Lawrence River.

These lines of roads are nearly three hundred miles shorter from Chicago to New York than the Grand Trunk from Chicago to Portland. These three trunk roads south of the lakes, as well as the Baltimore and Ohio road, have in many respects the decided advantage of the Grand Trunk road in fair competition. Either of them is prepared to carry more freight, to carry it cheaper and more expeditiously and to better markets than the Grand Trunk by way of Montreal. And yet the gentleman from Illinois [Mr. DAVIS] and the gentleman from Michigan [Mr. HORR] are dreadfully alarmed at the danger of the competition of the Canada roads.

But it may be said the branch of the Grand Trunk road, coming from the Northwest to Buffalo, furnishes a route but little longer between Chicago and New York than the trunk lines south of the lakes. It is longer, however, and for more than two hundred miles it passes through a country with much less population, wealth, and commerce

than that through which the competing lines south of the lakes pass. And this line, too, has its long ferriage at Port Huron, and has again to cross the Niagara at Buffalo, and it would be dependent on the New York Central and the Erie for its connections at Buffalo with New York, and hence could not compete with them for the Chicago freights against their consent. It has no independent road to New York city.

The Canada Southern road is another of those Canadian roads whose competition these gentlemen so much fear as against the trunk lines south of the lakes. It is three hundred and ninety-two miles long, extending along the southern border of Canada from the Detroit River to Buffalo, N. Y. Its president is William H. Vanderbilt, of New York; its vice-president and treasurer is Cornelius Vanderbilt, of New York. Its connections at Buffalo are with the New York Central and the Erie. It is simply an adjunct to the New York Central, and is in no sense a competing line.

These facts show that there can be no danger of competition of the Canada roads with our American roads. But it is alleged that as the American roads under the Reagan bill can not change their schedules in less than five days, that the Canada roads might during that period underbid them for freight, and that this would be disastrous to their interests. In the first place none of the railroad systems are anxious for railroad wars, and no road under sensible management would seek a railroad war for the advantage of freights for five days. In the next place, shippers from the West have no interest in sending their freights by the Canada roads, as they could not reach the markets south of Boston at any rate without being dependent upon the trunk roads south of the lakes with which they would have to connect. And it must not be forgotten that under the Reagan bill, if it should become a law, the railroads could charge such rates for freight as they might see proper on all Western freights coming to Eastern ports just as they now do.

The gentleman from Michigan [Mr. HORR] becomes tragical in his alarm at the prospects of the passage of the Reagan bill, and informs us that its passage would reduce the price of lands in Kansas and the West $10 per acre. That is, if we prohibit the railroads from discriminating in their charges as against shippers, and prevent them from allowing rebates and drawbacks, and prevent them from charging more for a shorter than a longer haul, and prevent them from pooling their freights and denying to the people competition, and give to the people the protection of a reasonable and just law and equality in the costs of shipment of their produce, and reduce the rates as a result of competition, that their lands would be reduced $10 per acre in price. It would hardly be respectful to the House seriously to combat such a statement as this.

The gentleman from Michigan [Mr. HORR] also says that the right of the railroads to discriminate in their freight rates enables them to build up the commerce of the country, not to destroy it; to enrich the country, not to impoverish it. That is, the right to allow their friends, such as the gentleman from Michigan, to send their shipments of freight to market at half-price, and to charge his neighbors, to whom they feel under less obligation, double rates, would be building up the commerce of the country, not destroying it; enriching the country, not impoverishing it. Such is the characteristic logic by which advocates and defenders of the great corporations attempt to persuade this House and the country that inequality, unjust discriminations, and harsh and oppressive exactions in freight rates upon the commerce of the country is the way to build up its commerce and to enrich the country.

I call attention to two points made by my honorable friend from Vermont, Governor STEWART. He calls up the illustration used by others of the long and short haul as between Memphis and New Orleans by way of Winona, Memphis and New Orleans both being on the Mississippi River, and Winona being an intermediate inland point. We were told by the gentleman from Mississippi [Mr. BARKSDALE] that the railroad carries cotton from Memphis to New Orleans, four hundred and fifty miles, for $1 a bale, and that they charge three dollars and a quarter a bale for hauling cotton from Winona to New Orleans, a little over three hundred miles. The gentleman from Vermont says this is right, and that if the railroads are not permitted to charge more from Winona than from Memphis to New Orleans they could do no through business.

It is plainly seen from this statement that to do a through carrying business from Memphis to New Orleans involves the necessity of compelling the people of Winona to pay a large part of the freight charges for other people from Memphis to New Orleans, or else that the charges from Winona to New Orleans are unreasonably high, and therefore unjust. We must accept one horn or the other of this dilemma. There is no escape from it. And neither is allowable under any rule of justice and fairness. His difficulty in this case is that God made the Mississippi River, it cost men nothing, while men made the railroad at great expense, and that railroad transportation can not be made as cheap as water transportation; and no attempt, either by discriminations in rates by railroads or by legislation, to take from the people the advantage of cheap water transportation, in order to increase the profits of the roads or for any other purpose, should be allowed.

The railroads should do such business as they can without improper discriminations or injustice, and without violating the natural laws of trade; and they should not be encouraged or permitted to do a business which they can only do by compelling a portion of the people to pay for transporting the produce and merchandise of another portion of the people.

This principle applies with equal force and reason to the commerce on the great lakes as on the rivers, and is an answer to much that has been said about water transportation on the lakes. He says there is nothing in the Reagan bill which would correct the evils of railroad wars, but that there is a provision in it which would promote them.

During the Forty-fifth Congress, when this subject was first being seriously discussed in the House, Governor Cox, of Ohio, then a member of the House and a friend of this bill, and myself received a number of letters from railroad presidents and superintendents approving the provisions of the bill, both because it would protect the people against the wrongs complained of, and because its tendency would be to benefit the railroads by preventing railroad wars.

And this would undoubtedly be one of the necessary effects of the bill. It would compel the railroad companies to adopt regular and honest business methods, such as are employed by persons engaged in any other large business, instead of employing such methods as they now do to cheat one another and the public. It would compel them to rely on the business legitimately belonging to their several roads, and would prevent them from endeavoring to take from each other by rebates and cut rates business which would legitimately belong to other roads. Most of the railroad wars spring from the attempts of one road to take from another or other roads business which does not belong to it, thus provoking counter efforts of a similar character. One of the great objects and one of the undoubted effects of my bill would be to prevent this. My friend from Vermont [Mr. STEWART] did not point out the provision of my bill which he thought would promote railroad wars, and I am at a loss to know to what section he referred.

Several of the gentlemen who have been engaged in this debate have spoken of the gradual reduction of freight rates in past years as if it resulted from the virtuous intentions of the railroad companies; and some of them have compared the cost of railroad transportation with the old time cost of transportation by wagons, as if the railroad companies had in their beneficence and as a matter of good-will to the people caused this reduction of rates. It is not to them but to the inventors and improvers of the steam-engine and other appliances of transportation by steam that we are indebted for cheap railroad freights; and the gradual reduction of the rates of freight is due, not to the beneficent purposes of the transportation companies, but to the improvements constantly going on in rolling-stock, in facilities for handling freight, and to the substitution of steel for iron rails; to the constantly increasing amount of freight and travel, and in some measure to the competition of different roads and systems of roads, and of the water ways.

I have omitted the discussion of the question as to the constitutionality of the authority of Congress to pass such a bill as I have presented, because on two former occasions I have fully discussed that subject before the House, when the question was made as to the authority of Congress, and have not thought it necessary to rediscuss the question, as few persons, if any, now doubt our authority on this subject.

A number of gentlemen who have preceded me have denounced my bill as being a cast-iron measure, a harsh measure, imposing injurious restrictions on trade, and as calculated to injure the best interests of the country.

Let us see what truth there is in these charges.

In the first place, it prohibits all discriminations of freight rates and charges between individuals. What is there that is harsh or unjust in this? What is there in it that merits the denunciations that have been made against this bill? The railroads as common carriers, having a complete monopoly of business over their several lines and being subject to the control of political authority, are told that they should not designedly, unjustly, and unfairly charge one man more than another for the same amount and kind of service.

In the second place, it prohibits the allowance of rebates and drawbacks in all cases. Rebates are always secretly made, and they always give the shipper receiving them an advantage over the shipper who does not receive them. The allowance of rebates is simply an invention for fraud, swindling, and injustice, and ought not to be tolerated by any community or country, and has been denounced by all or nearly all of the recently formed State constitutions, and has been denounced by the laws of a greater portion of the States of the Union.

In the third place, it prevents pooling of freights, and thereby would preserve to the people the advantages of freight competition as between railroads, while by permitting pooling we would deny to the people all the advantages of competition, and give to the pooling roads the power to levy any exactions which their avarice might demand upon the commerce of the country.

In the fourth place, it would limit the power of railroads in making discriminations between places. It would not take away the power of discriminations, but would prevent them on the line of any given road from charging more for a part of the length of that road than for the whole length of it.

Some of the gentlemen who have preceded me, and especially the gentleman from California [Mr. BUDD], can not understand the proposition that the whole length of a road embraces every intermediate

part of it; and that if there are steep grades on some parts of it and costly structures on other parts of it, a through haul would necessarily have to pass all the steep grades and all the costly structures on it; and that while there is a limitation placed upon the power of discrimination as between places the power is not taken away, but a very large latitude is allowed by my bill for discriminations in favor of cheap freights for long hauls as against short hauls.

Thus, if a road is 1,000 miles in length, while there is nothing in the bill that fixes the rates of charges, or limiting the power of railroad companies in this respect, except that their charges shall be reasonable, and that they shall not charge more for hauling a given amount and quality of freight 100 or 500 miles than for 1,000 miles; the bill has been argued against because it discriminates against long hauls. It in fact discriminates against short hauls to a greater extent than is believed to be equitable, but we found it difficult to fix upon a more equitable rule.

Let me say here that it is marvelous to hear gentlemen on this floor say that it is unjust not to allow freight carriage from Saint Louis to New York, or from Chicago to New York, at rates cheaper than from Harrisburg to New York or from Albany to New York. I say it is marvelous. What right has the shipper to complain if for a thousand miles his freights are carried as cheap as they can be carried for a hundred miles? All the committees that have acted on this subject have considered that provision of the bill carefully and fully, and while the railroad attorneys and lobbyists have all the time denounced it and urged that it is unjust, I venture the expression that there is not an honest disinterested man in this land who, upon examination of this provision, will not give his assent to it, unless he demands that freights shall be carried a thousand miles for a less price than they can be carried a hundred miles.

The committee felt that in allowing the discriminations for short hauls they have gone beyond what the rules of right and equity demand; but they felt they could not limit the rate to so much per mile for long and for short hauls, because that would be to discriminate against the long hauls and to do injustice to the railroads, for the same loading and unloading and the same handling would have to take place for the long as for the short haul. And we only adopted the discrimination of this bill against short hauls on account of the difficulty of fixing a more equitable rule in a practicable form. So that all that has been said about discrimination against long hauls will be seen on fair investigation of the bill to be without foundation. It will be found that the discriminations instead of being against the long hauls are against the short hauls.

I apprehend when we get to the bottom it will be found that the purpose of those who oppose this is to secure the carriage of freight on long hauls from the competing points at less rates than the railroads can afford to carry it for, and then increasing the rate of freight on the intermediate shipments to make up the loss of revenue sustained on the long haul. One of the effects of that policy is to invite the railroads to attempt a scramble for commerce that does not legitimately belong to them—to contend with each other for that commerce that does not belong to them, and, by rebates, by cutting the rates, by frauds and deceptive practices upon each other and upon the country, to do their business at the expense of the shippers at intermediate points. There is no escape from this. Gentlemen may argue it as they please; but if you go to the bottom of their objection to this it is that they want their freights hauled a thousand miles at rates cheaper than others can be hauled a hundred miles.

Mr. WARNER, of Ohio. Does my friend go so far as to say that there is no exception at all to the principle he has just laid down?

Mr. REAGAN. I do unhesitatingly say that there ought to be no exception to this rule of justice, and whenever my friend seeks, as others have done, to open the door to discrimination, rebates, and drawbacks, and makes the railroad companies the judges who are to decide the rights and interests of the people, he will perpetrate a wrong upon the people.

Mr. WARNER, of Ohio. That is not necessary, is it?

Mr. REAGAN. There may be differences of opinion. I do not undertake to control the gentleman's opinion. I only undertake to give the House the reasons for mine.

Mr. LONG. If the gentleman will allow me, I wish to ask him whether his bill does not permit as large a charge for a hundred miles as for a thousand?

Mr. REAGAN. Yes, sir; it does.

Mr. LONG. Then why does not the gentleman's bill permit the sacrifice of the shorter routes to the longer?

Mr. REAGAN. I have already said that it does discriminate against the short routes.

Mr. LONG. Then the gentleman's bill is a discrimination against short routes.

Mr. ANDERSON. Does not Jay Gould discriminate against short routes?

Mr. REAGAN. The bill does discriminate against the shorter hauls. My friend from Massachusetts [Mr. LONG] is a great advocate of cheap rates for long hauls; yet it has been shown in this debate, as will be seen by reference to the RECORD, that the rates of transportation are higher per ton per mile in New England than they are even in the South and West.

Fifth. It requires the posting up of schedules of rates of charges, and provides a penalty for charging more or less than schedule rates. This provision is absolutely necessary in any legislation destined to protect the people against excessive charges and discriminations by railroad companies. With schedules of charges posted up for inspection, every citizen would be advised as to what the charges would be upon the shipment of his merchandise. This would be fair, it would be just, it would be reasonable, and no fair or just man could reasonably object to it.

I ask what there is in this provision that is harsh or unreasonable or that would interfere with the laws of trade or with the best interests of the country? Is it to be assumed that these corporations are above the authority of the Government and are beyond the reach of the law? Shall we not hold them amenable to the law for its violation and for the violation of the rules of right and reason, just as we hold all other persons, natural and artificial, down to obedience to the law?

I am obliged to say that the declamation to which I refer, it seems to me, has and can have but one object, and that is to confuse the minds of those who are called upon to legislate upon this subject, and to deceive and bewilder the public.

It has been objected that the requirement which I urge would impose a burden upon the railroads. In answer to that I desire to say that every railroad professes to do that very thing now; but their obedience to their schedule is the exception, not the rule of their conduct. I propose to make them put up a schedule and to make it the rule to obey the schedule. I propose they shall cease to swindle and to defraud one another and the people. I propose that we shall compel them to charge no more and no less than the schedule rates, and punish them if they do charge more or less. As common carriers, deriving their franchises and their right to charge at all from the political authority of the country, they owe it to the country to be honest and fair and not to discriminate as between citizens—not to make their partiality and their friendships the measure of their conduct and their duty to the public.

In conclusion, I have to express my gratification that after years of struggle and labor we have at last got this matter before the people's representatives, where they, on their responsibility to their constituents, can act upon it and provide such legislation as will remedy the evils complained of, and compel obedience to just and necessary regulations. [Loud applause.]

Mr. O'NEILL, of Pennsylvania. I desire to ask the gentleman from Texas [Mr. REAGAN] whether I was correct in understanding him to say that he would incorporate in his remarks at the proper place the constitutional provision of the State of Pennsylvania upon the subject of railroads and canals—article 17 of the constitution of 1873.

Mr. REAGAN. I will do so.

Mr. O'NEILL, of Pennsylvania. I hope the gentleman will publish with his remarks all the clauses of this article, by which the House can see exactly what the constitution of Pennsylvania provides for—that there shall be no undue discrimination against any individual in reference either to freight or passage.

Mr. REAGAN. It provides that more shall not be charged for a shorter than a longer haul.

Mr. O'NEILL, of Pennsylvania. I only regret that the gentleman, when he referred to the constitutional provisions of the State of Pennsylvania on this subject, did not have them read.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. MCCOOK, its Secretary, announced that the Senate had passed without amendment the joint resolution (H. Res. 300) to pay the officers and employés of the Senate and House of Representatives their respective salaries for the month of December, 1884, on the 20th day of said month.

The message also announced that the Senate had passed bills and joint resolution of the following titles; in which the concurrence of the House was requested:

A bill (S. 2376) for the relief of Joseph F. Wilson;

A bill (S. 2455) to repeal section 311 of the Revised Statutes of the United States; and

Joint resolution (S. R. 100) authorizing the printing of certain naval and military reports.

INTERSTATE COMMERCE.

The House resumed the consideration of the bill (H. R. 5461) to establish a board of commissioners of interstate commerce and to regulate such commerce.

Mr. REAGAN. In obedience to the agreement heretofore entered into, I now demand the previous question upon the two amendments I have offered to this bill. But before the vote is taken, as a number of gentlemen desire to print remarks in the RECORD upon this subject, I ask unanimous consent that such gentlemen as wish to exercise this privilege may be permitted to do so.

The SPEAKER *pro tempore*. Is there objection to that request? The Chair hears none, and general leave to print remarks on this bill is granted.

In accordance with an agreement made by the House on the 12th instant, general debate on this bill is now closed. It was further provided by the agreement that upon the close of general debate there should be a vote upon the adoption of the substitute proposed by the gentleman from Texas. If that substitute should be agreed to, it will then be open to amendment and discussion under the five-minute rule. If it be disagreed to, the House will proceed to consider the original bill, with the right of amendment and discussion under the five-minute rule.

Mr. REAGAN. It was agreed that I should call the previous question on the two amendments I have indicated, and that afterward we should proceed under the five-minute rule.

The SPEAKER *pro tempore*. The order of the House which has just been stated by the Chair has all the effect of the previous question. Under that order general debate is now closed; and the vote which the Chair has just indicated will be taken.

Mr. O'NEILL, of Pennsylvania. It is the understanding, I believe, that we are now to vote whether we shall take up the substitute and go through with it under the five-minute rule, or whether we shall take up in the same way the committee's bill.

The SPEAKER *pro tempore*. The question before the House is on agreeing to the substitute submitted by the gentleman from Texas. If that substitute be agreed to by the House, it will then be open for amendment and debate under the five-minute rule. If disagreed to, the original bill will be before the House for that purpose. [Cries of "Regular order!"]

Mr. DUNN. I rise to a parliamentary inquiry.

The SPEAKER *pro tempore*. The gentleman will state it.

Mr. DUNN. I do not understand the question that way. My understanding is, the first question to be voted on will be the motion to strike out.

Mr. REAGAN. The first seven sections of the committee's bill and insert my substitute in lieu thereof.

Mr. LONG. That is the first question.

The SPEAKER *pro tempore*. The effect of this is simply a vote according to the order of the House as to preference between the committee's bill and the substitute.

Mr. KEIFER. That is all there is of it.

The SPEAKER *pro tempore*. The Chair will announce the question again. If this be agreed to, it will bring the substitute before the House for consideration under the five-minute rule, subject to debate and amendment. If disagreed to, the committee's bill will be before the House for debate and amendment.

Mr. REAGAN. We will save time by calling the yeas and nays.

The yeas and nays were ordered.

Mr. LONG. I understand the motion now to be to substitute Mr. REAGAN'S bill for the first seven sections of this bill.

The SPEAKER *pro tempore*. That is the understanding of the Chair. If agreed to, Mr. REAGAN'S substitute will be before the House under the five-minute rule for amendment and debate.

The question was taken; and it was decided in the affirmative—yeas 142, nays 98, not voting 83; as follows:

YEAS—142.

Alexander,	Eldredge,	McComas,	Smalls,
Anderson,	English,	McMillin,	Snyder,
Bagley,	Ferrell,	Millard,	Springer,
Ballentine,	Foran,	Miller, J. F.	Stewart, Charles
Barksdale,	Forney,	Mills,	Stockslager,
Beach,	Fyan,	Morrison,	Storm,
Bennett,	Geddes,	Moulton,	Sumner, C. A.
Blanchard,	Gibson,	Muldrow,	Taylor, J. M.
Blount,	Glascock,	Murphy,	Thompson,
Bratton,	Goff,	Murray,	Throckmorton,
Breckinridge,	Green,	Neece,	Townshend,
Buchanan,	Halsell,	Nelson,	Tucker,
Buckner,	Hancock,	Nicholls,	Tully,
Burnes,	Hardeman,	Nutting,	Turner, H. G.
Cabell,	Hatch, W. H.	Oates,	Turner, Oscar
Caldwell,	Hemphill,	O'Ferrall,	Van Alstyne,
Campbell, J. E.	Henley,	Patton,	Van Eaton,
Campbell, J. M.	Herbert,	Payson,	Wallace,
Candler,	Hewitt, G. W.	Peel,	Ward,
Carleton,	Holman,	Pettibone,	Warner, Richard
Clay,	Hopkins,	Pierce,	Weaver,
Clements,	Hunt,	Pryor,	Wellborn,
Cobb,	James,	Randall,	White, J. D.
Collins,	Jones, R. W.	Ray, G. W.	Wilkins,
Cook,	Jones, J. H.	Reagan,	Williams,
Cosgrove,	Jones, J. K.	Reese,	Willis,
Cox, W. R.	Jones, J. T.	Riggs,	Wilson, W. L.
Crisp,	Jordan,	Robertson,	Winans, E. B.
Culberson, D. B.	Kleiner,	Rogers, J. H.	Winans, John
Cullen,	Lamb,	Rogers, W. P.	Wolford,
Davidson,	Lanham,	Rosecrans,	Wood,
Davis, L. H.	Le Fevre,	Scales,	Worthington,
Dibrell,	Lewis,	Shively,	Yaple,
Dockery,	Lore,	Singleton,	York.
Dowd,	Lovering,	Skinner, C. R.	
Dunn,	Lowry,	Skinner, T. G.	

NAYS—98.

Adams, G. E.	Breitung,	Cannon,	Cutcheon,
Atkinson,	Brewer, F. B.	Chase,	Dargan,
Barr,	Brewer, J. H.	Clardy,	Davis, G. R.
Boutelle,	Brown, W. W.	Converse,	Davis, R. T.
Bowen,	Browne, T. M.	Culbertson, W. W.	Deuster,
Dibble,	Holton,	O'Neill, Charles	Stevens,
Eaton,	Horr,	O'Neill, J. J.	Stewart, J. W.
Elliott,	Houseman,	Parker,	Strait,
Evans,	Hurd,	Payne,	Struble,
Everhart,	Johnson,	Perkins,	Talbott,
Finerty,	Kean,	Peters,	Taylor, E. B.
Funston,	Keifer,	Phelps,	Thomas,
Greenleaf,	Lacey,	Potter,	Tillman,
Hanback,	Laird,	Rankin,	Wadsworth,
Harmer,	Lawrence,	Ranney,	Wait,
Hatch, H. H.	Libbey,	Reed,	Wakefield,
Haynes,	Long,	Rice,	Warner, A. J.
Henderson, D. B.	Lyman,	Robinson, J. S.	Washburn,
Henderson, T. J.	McCold,	Rockwell,	Wemple,
Hepburn,	Milliken,	Rowell,	White, Milo
Hewitt, A. S.	Mitchell,	Ryan,	Whiting,
Hiscock,	Morrill,	Seymour,	Wilson, James
Hitt,	Morse,	Smith, A. H.	Woodward.
Hoblitzell,	Mutchler,	Smith, H. Y.	
Holmes,	O'Hara,	Stephenson,	

NOT VOTING—83.

Adams, J. J.	Covington,	Houk,	Pusey,
Aiken,	Cox, S. S.	Howey,	Ray, Ossian
Arnot,	Curtin,	Hutchins,	Robinson, W. E.
Barbour,	Dingley,	Jeffords,	Russell,
Bayne,	Dorsheimer,	Kelley,	Seney,
Belford,	Dunham,	Kellogg,	Shaw,
Belmont,	Ellis,	Ketcham,	Shelley,
Bingham,	Ellwood,	King,	Slocum,
Bisbee,	Ermentrout,	McAdoo,	Spooner,
Blackburn,	Fiedler,	McCormick,	Spriggs,
Bland,	Findlay,	Matson,	Steele,
Boyle,	Follett,	Maybury,	Stone,
Brainerd,	Garrison,	Miller, S. H.	Sumner, D. H.
Broadhead,	George,	Money,	Taylor, J. D.
Brumm,	Graves,	Morgan,	Valentine,
Budd,	Guenther,	Muller,	Vance,
Burleigh,	Hammond,	Ochiltree,	Weller,
Campbell, Felix	Hardy,	Paige,	Wise, G. D.
Cassidy,	Hart,	Poland,	Wise, J. S.
Chalmers,	Hill,	Post,	Young.
Connolly,	Hooper,	Price,	

So the motion was agreed to.

Mr. BEACH. I move by unanimous consent that the reading of the names be dispensed with.

Mr. WEAVER. I object.

During the roll-call,

Mr. MCADOO said: Mr. Speaker, I was called out and did not think the bill would come to a vote as soon as it has. I wish to say now if I had been present when the vote was taken and had recorded my name I would have voted in the affirmative on the substitute moved by the gentleman from Texas [Mr. REAGAN].

The following additional pairs were announced from the Clerk's desk:

Mr. FOLLETT with Mr. BLACKBURN, on this vote.

Mr. PAIGE with Mr. HART, on this bill. If present, Mr. HART would vote for Mr. REAGAN'S substitute. If that bill failed, he would vote for the committee's bill and Mr. PAIGE would vote against both bills.

Mr. BUDD with Mr. GEORGE, on Mr. REAGAN'S substitute.

Mr. GEORGE D. WISE with Mr. KELLEY, for to-day.

Mr. COX, of New York, with Mr. FINDLAY, on the interstate-commerce bill. Mr. COX, of New York, would vote for the substitute and Mr. FINDLAY against it.

Mr. HILL with Mr. CHALMERS, on this bill.

Mr. ERMENTROUT and Mr. PRICE, for this day.

Mr. WELLER and Mr. HOUK, for this day.

Mr. MATSON. Mr. Speaker, I voted in the affirmative, and regret that I am compelled to withdraw my vote. I voted hoping that the gentleman from New Hampshire [Mr. RAY] would return to the House before his name was called. He and I, under the order of the House, have to-day been attending the ceremonies at the Executive Mansion relating to the opening of the exposition at New Orleans.

Mr. HAMMOND and Mr. BRUMM, for this day.

Mr. OCHILTREE and Mr. MCCORMICK, for this day.

Mr. SHELLEY and Mr. BISBEE, for this day.

Mr. GEORGE D. WISE. I wish to say if I had not been paired I would have voted for the Reagan bill.

Mr. POST, of Pennsylvania, with Mr. BRAINERD, for this day.

Mr. BRAINERD. Mr. Speaker, I voted under misapprehension, not supposing I was paired, and therefore withdraw my vote. I voted in the negative upon the Reagan bill and would have voted in the affirmative upon the other bill. As it is I now desire to withdraw my vote, being paired with my colleague [Mr. POST].

The vote was then announced as above recorded.

The SPEAKER *pro tempore*. By previous order of the House, the question will next be taken on striking out the seven remaining sections of the committee's bill.

The House divided; and there were—ayes 118, noes 68.

Mr. RICE demanded the yeas and nays.

The yeas and nays were not ordered—one-fifth not having voted in the affirmative.

So the motion was agreed to; and the remaining sections of the committee's bill were stricken out.

The SPEAKER *pro tempore*. Mr. REAGAN'S substitute is now before the House for amendment and debate under the five-minute rule.

ENROLLED BILLS AND JOINT RESOLUTION.

Mr. PETERS, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills and a joint resolution of the following titles; when the Speaker signed the same:

A bill (S. 2041) granting right of way to the city of Newport, R. I., over the breakwater of Goat Island;

A bill (S. 2492) authorizing the Secretary of State to procure duplicates of certain French and American medals; and

Joint resolution (S. R. 101) in relation to the ceremonies to be authorized upon the completion of the Washington Monument.

INTERSTATE COMMERCE.

The SPEAKER *pro tempore*. The Clerk will read the first section of the bill.

The Clerk read as follows:

That it shall be unlawful for any person or persons engaged alone or associated with others in the transportation of property by railroad from one State or Territory to or through one or more other States or Territories of the United States, or to or from any foreign country, directly or indirectly to charge to or receive from any person or persons any greater or less rate or amount of freight, compensation, or reward than is charged to or received from any other person or persons for like and contemporaneous service in the carrying, receiving, delivering, storing, or handling of the same. All charges for such services shall be reasonable. And all persons engaged as aforesaid shall furnish, without discrimination, the same facilities for the carriage, receiving, delivery, storage, and handling of all property of like character carried by him or them, and shall perform with equal expedition the same kind of services connected with the contemporaneous transportation thereof as aforesaid. No break, stoppage, or interruption, nor any contract, agreement, or understanding, shall be made to prevent the carriage of any property from being and being treated as one continuous carriage, in the meaning of this act, from the place of shipment to the place of destination, unless such stoppage, interruption, contract, arrangement, or understanding was made in good faith for some practical and necessary purpose, without any intent to avoid or interrupt such continuous carriage or to evade any of the provisions of this act.

Mr. REAGAN. I call for the previous question on the adoption of that section.

Mr. O'NEILL, of Pennsylvania. The gentleman knows he can not do that under the agreement whereby we were to act upon the substitute instead of the committee bill under the five-minute rule.

The SPEAKER *pro tempore*. The Chair is of the opinion that it is not in order to move the previous question until the bill has been under debate under the five-minute rule. That will be exhausted by an amendment and a speech of five minutes in favor and five minutes against it.

Mr. HORR. It was to be considered in the House as in the Committee of the Whole House.

Mr. REAGAN. My only desire is to avoid unnecessary delay in acting on the proposition.

The SPEAKER *pro tempore*. The rule provides for amendment and debate under the five-minute rule; and when there has been a five-minute speech for and a five-minute speech against, then it will be in order for the gentleman to move his demand for the previous question.

Mr. O'NEILL, of Pennsylvania. The agreement was that we were to act upon this bill as in the Committee of the Whole House on the state of the Union, whereby it was to be open to amendment and debate.

The gentleman's proposition was if the substitute should be taken up instead of the committee bill that it should be open to amendment, not only to debate under the five-minute rule, but to debate and amendment. I do not suppose that the House believed it was going to permit the measure to be voted on under such a misapprehension, if the gentleman's position is a correct one, because many members voted with the expectation of having an opportunity to amend the bill in committee when the House had determined which one it would undertake to amend.

Now I propose to amend line 5 by adding, after the word "railroad"——

The SPEAKER *pro tempore*. The gentleman is not recognized at this time for an amendment. The gentleman from Texas has demanded the previous question. The Chair decides that it is not in order at this time, but understands that the gentleman from Illinois desires recognition to offer an amendment.

Mr. CANNON. My amendment is to another section.

The SPEAKER *pro tempore*. The Chair will then recognize the gentleman from Pennsylvania.

Mr. O'NEILL, of Pennsylvania. I move to add, in line 5, after the word "railroad," the words "or by water way;" so that it will read:

That it shall be unlawful for any person or persons engaged alone or associated with others in the transportation of property by railroad or water way from one State or Territory to or through one or more other States, &c.

I offer this amendment so that this section of the bill should provide both for railroad and steamboat transportation upon our rivers and lakes.

Mr. HOPKINS. I desire also to offer an amendment.

The SPEAKER *pro tempore*. The gentleman from Pennsylvania on the left has the floor.

Mr. O'NEILL, of Pennsylvania. I offer this, Mr. Speaker, so that in case this bill becomes a law it would apply to all persons engaged in transportation by whatever means they may employ. I think if we apply the provisions of this bill to the railroads, we had better make the law a little broader so as to include the water ways of the country, and have uniformity in the law, which will reach all modes of transportation as well as all persons engaged in the business, whether of transporting freights or passengers.

Mr. REAGAN. The gentleman from Pennsylvania proposes to embrace within the provisions of this bill the water ways. On that I wish to say only a word. That question has been considered by the committee and determined against on the ground that the water ways are open public highways, free to all navigators. They are not monopolies, and the competition upon them will regulate itself. They stand upon an entirely different footing from the railroads which we are seeking to regulate and which afford no free competition.

Upon this amendment I ask the previous question.

Mr. O'NEILL, of Pennsylvania. Mr. Speaker, a word only in reply.

Mr. TOWNSHEND. Regular order!

Mr. O'NEILL, of Pennsylvania. I wish to say in response to the statement of the gentleman from Texas that the water ways of the country are free to all and open to competition; that as a matter of fact there may be great monopoly in transportation upon them, and as onerous charges as any made by the railroad companies of which he complains.

The SPEAKER *pro tempore*. Does the gentleman from Texas move the previous question upon this amendment?

Mr. REAGAN. I do, upon the section and the amendment.

Mr. KEIFER. I desire to know what the rule is under which we are considering this bill. I have no objection to this proposition being voted upon, but I think the gentleman will not carry out the spirit of the agreement or the order under which we are considering this measure in Committee of the Whole if this motion for the previous question is adopted, thereby cutting off further amendment or debate.

The SPEAKER *pro tempore*. The Chair is of opinion that the gentleman from Texas can move the previous question upon this amendment.

Mr. TOWNSHEND. And on the section?

The SPEAKER *pro tempore*. Not upon the section at this stage of the proceedings.

The question will be taken upon ordering the previous question on the adoption of the amendment.

The previous question was ordered.

The SPEAKER *pro tempore*. The question is on the amendment of the gentleman from Pennsylvania [Mr. O'NEILL].

The House divided; and there were—ayes 28, noes 114.

Mr. O'NEILL, of Pennsylvania. No quorum.

The SPEAKER *pro tempore*. The point of order being made that no quorum has voted, the Chair will appoint tellers.

Mr. O'NEILL, of Pennsylvania, and Mr. REAGAN were appointed tellers.

The House again divided; and the tellers reported—ayes 9, noes 157.

So the amendment was not agreed to.

Mr. HOPKINS. I desire to offer the amendment which I send to the desk.

The Clerk read as follows:

In line 5, after the word "railroad," insert the words "or by pipe-line or lines;" so that it will read:

"That it shall be unlawful for any person or persons engaged alone or associated with others in the transportation of property by railroad, or by pipe-line or lines, from one State or Territory," &c.

Mr. HOPKINS. I desire simply to make a word of explanation in support of that amendment.

Gentlemen here may not be generally familiar with transportation by common carrier under what is known as the pipe-line system. I believe the system is practiced only in the States of Pennsylvania, Ohio, and in New York, and for the transportation of oil. It was the abuse or discrimination by railroad companies of that traffic that caused the inauguration of this agitation. There are several pipe-lines carrying oil as common carriers through these States that I have mentioned and which come properly under the provisions of this bill; and this amendment is simply to make its provisions applicable to that class.

The amendment was agreed to.

Mr. BUDD. Mr. Speaker, I move to amend by inserting after the word "is," in the ninth line, the words "by him or them;" so that it will read:

From any person or persons any greater or less rate or amount of freight compensation or reward than is by him or them charged to or received from, &c.

This is simply to correct what seems to have been an omission in the bill. It is probably an oversight, and was left out in the Printing Office. As the bill now reads he can not charge more or less for the same service whether it is performed by means of the railroad or by water transportation, and I think the gentleman from Texas will see the propriety of incorporating that amendment.

Mr. REAGAN. I have no objection to it.

The SPEAKER *pro tempore*. Without objection the amendment will be considered as agreed to.

There was no objection, and it was ordered accordingly.

Mr. O'HARA. I offer the amendment which I send to the desk.

The Clerk read as follows:

Insert after the word "reasonable," in section 1, line 13, the following:

"And any person or persons having purchased a ticket to be conveyed from

one State to another, or paid the required fare, shall receive the same treatment and be afforded equal facilities and accommodations as are furnished all other persons holding tickets of the same class without discrimination."

Mr. O'HARA. Mr. Speaker, the amendment I have offered provides that whenever any person purchases a ticket or pays an amount of money as fare to the officer or agent of any railroad corporation in the United States for a continuous passage from one State to another, that person shall be entitled to the same facilities, privileges, accommodations, and advantages that any other person or persons holding the same class of ticket is accorded and entitled to, this and nothing more.

Congress has legislated for the protection of property; it has provided by law how dumb brutes shall be cared for, as evidenced by section 4386 of the Revised Statutes, which reads as follows:

No railroad company within the United States whose road forms any part of a line of road over which cattle, sheep, swine, or other animals are conveyed from one State to another, or the owners or masters of steam, sailing, or other vessels carrying or transporting cattle, sheep, swine, or other animals from one State to another, shall confine the same in cars, boats, or vessels of any description, for a longer period than twenty-eight consecutive hours, without unloading the same for rest, water, and feeding, for a period of at least five consecutive hours.

In the bill now under consideration and so ably championed by the honorable gentleman from Texas [Mr. REAGAN], he and his friends ask this House (and properly so) to protect shippers of goods, wares, and merchandise from unjust charges, conditions, and discriminations now imposed upon them by the railroad corporations of the country, and daily, for the several days on which this bill has been considered, its friends almost with one accord have proclaimed to the country their intention to abate and stop what they term the inequality of rates between the "long and short haul."

In the face of the many decisions of the Supreme Court of the United States in favor of the right of Congress to regulate commerce between the States none can deny at this date the constitutional right of Congress so to do, nor will any member upon the floor of this House presume to deny the constitutional right of Congress to ingraft the provisions of this amendment to the laws of the United States, and particularly to the bill now under consideration.

In the celebrated Passenger Case, Norris *vs.* Boston, Justice Daniel uses this language:

The power to regulate commerce includes the regulation of the vessel as well as the cargo and the manner of using the vessel.

Now, sir, if Congress has the right to regulate the using of the vessel it certainly has the right to regulate the using of the cars, and if it has the right to regulate the use of freight cars, a proposition which every friend of the bill admits, then it must certainly follow that it unqualifiedly has the same right to regulate the use of passenger cars.

In Brown *vs.* State of Maryland the court declares "that the commercial grant of power should be as extensive as the mischief."

Mr. Speaker, would time and opportunity permit I might cite a large number of decisions and authorities in strict accord with the two already cited.

Now an evil exists, and none will deny that discriminations are made unjustly, and to a great disadvantage, between persons holding the same class of tickets who are compelled to travel on business from one State to another, and perchance across several States, *en route* to their destination in another State. I therefore hold it to be not only within the power but the imperative duty of Congress to abate the evil and protect all classes of citizens from discriminations in any and every from.

This amendment simply proposes that, should any person purchase a first-class ticket or a ticket of any of the several classes sold by a railroad corporation in the United States for a passage over its road or any of its connections for a continuous passage to some point in an adjacent or some other State, whenever he or she arrives within any of the States necessary to be traveled over they shall not be subjected to any discrimination or molestation not imposed upon all other persons holding tickets of the same grade or class or who has paid the same amount of money for transportation.

Mr. Speaker, this is not class legislation. I do not nor would I ask such. It is not a race question, nor is it a political action. It rises far above all these. It is plain, healthy legislation, strictly in keeping with the enlightened sentiment and spirit of the age in which we live; it is legislation looking to and guarding the rights of every citizen of this great Republic, however humble may be his station in our social scale.

Having heretofore provided (as we ought to have done) for the protection of dumb brutes while *in transitu*, and as we are now providing against discriminations in freight rates by the railroad corporations of the country, let us come nobly forward and in this bill also throw a shield around the citizen's rights.

Mr. REAGAN. I do not doubt the power asserted by the gentleman from North Carolina [Mr. O'HARA]. But the subject of transportation of persons has never been considered by the committee. The committee did not undertake to examine into that subject with the care necessary to a clear comprehension of it; and I trust the House will not undertake to enlarge the bill so as to make it embrace that subject.

The SPEAKER *pro tempore*. The question is on agreeing to the amendment offered by the gentleman from North Carolina.

Mr. O'HARA. I call for the yeas and nays on the question of agreeing to the amendment.

The yeas and nays were ordered.

Mr. HOPKINS. I call for the reading of the amendment.

The amendment was again read.

The question was taken; and there were—yeas 134, nays 97, not voting 92; as follows:

YEAS—134.

Adams, G. E.	George,	Lyman,	Smith, H. Y.
Anderson,	Goff,	McCoid,	Spriggs,
Atkinson,	Greenleaf,	McComas,	Springer,
Bagley,	Hanback,	Millard,	Stephenson,
Barr,	Harmer,	Milliken,	Stevens,
Beach,	Hatch, H. H.	Mitchell,	Stewart, J. W.
Blount,	Haynes,	Morrill,	Stone,
Boutelle,	Henderson, D. B.	Morse,	Strait,
Breitung,	Henderson, T. J.	Murphy,	Struble,
Brewer, F. B.	Hepburn,	Murray,	Sumner, C. A.
Brewer, J. H.	Hewitt, A. S.	Nelson,	Taylor, J. D.
Brown, W. W.	Hiscock,	Nutting,	Thomas,
Browne, T. M.	Hitt,	O'Hara,	Van Alstyne,
Buckner,	Hoblitzell,	O'Neill, Charles	Wadsworth,
Budd,	Holman,	Parker,	Wait,
Campbell, J. E.	Holmes,	Payne,	Wakefield,
Campbell, J. M.	Hopkins,	Payson,	Ward,
Cannon,	Houseman,	Perkins,	Warner, A. J.
Carleton,	Howey,	Peters,	Washburn,
Chace,	James,	Pettibone,	Weaver,
Converse,	Johnson,	Potter,	Wemple,
Culbertson, W. W.	Jones, B. W.	Pusey,	White, J. D.
Cullen,	Jordan,	Ranney,	White, Milo
Cutcheon,	Kean,	Ray, G. W.	Whiting,
Dargan,	Keifer,	Reed,	Wilkins,
Davis, G. R.	Lacey,	Rice,	Wilson, James
Davis, R. T.	Laird,	Robinson, J. S.	Wilson, W. L.
Eldredge,	Lamb,	Rockwell,	Winans, E. B.
Elliott,	Lawrence,	Rosecrans,	Winans, John
Evans,	Le Fevre,	Rowell,	Woodward,
Everhart,	Libbey,	Ryan,	Worthington,
Ferrell,	Long,	Seymour,	Yaple.
Follett,	Lovering,	Skinner, C. R.	
Funston,	Lowry,	Smith, A. H.	

NAYS—97.

Alexander,	Dibrell,	Lore,	Singleton,
Ballentine,	Dockery,	McMillin,	Skinner, T. G.
Barksdale,	Dowd,	Miller, J. F.	Snyder,
Bennett,	Dunn,	Mills,	Stewart, Charles
Blackburn,	Ellis,	Morrison,	Stockslager,
Blanchard,	Forney,	Muldrow,	Storm,
Boyle,	Fyan,	Mutchler,	Taylor, J. M.
Bratton,	Gibson,	Neece,	Thompson,
Breckinridge,	Glascock,	Oates,	Throckmorton,
Buchanan,	Green,	O'Ferrall,	Tillman,
Cabell,	Halsell,	O'Néill, J. J.	Tucker,
Caldwell,	Hancock,	Patton,	Tully,
Candler,	Hardeman,	Pierce,	Turner, H. G.
Clardy,	Hatch, W. H.	Peel,	Turner, Oscar
Clay,	Hemphill,	Pryor,	Van Eaton,
Clements,	Henley,	Randall,	Wallace,
Cobb,	Herbert,	Rankin,	Warner, Richard
Cook,	Hewitt, G. W.	Reagan,	Wellborn,
Cosgrove,	Hunt,	Reese,	Williams,
Cox, W. R.	Jones, J. H.	Riggs,	Willis,
Crisp,	Jones, J. K.	Robertson,	Wolford,
Culberson, D. B.	Jones, J. T.	Rogers, J. H.	Wood.
Davidson,	Kleiner,	Rogers, W. F.	
Davis, L. H.	Lanham,	Scales,	
Dibble,	Lewis,	Shiveley,	

NOT VOTING—92.

Adams, J. J.	Curtin,	Horr,	Post,
Aiken,	Deuster,	Houk,	Price,
Arnot,	Dingley,	Hurd,	Ray, Ossian
Barbour,	Dorsheimer,	Hutchins,	Robinson, W. E.
Bayne,	Dunham,	Jeffords,	Russell,
Belford,	Eaton,	Kelley,	Seney,
Belmont,	Ellwood,	Kellogg,	Shaw,
Bingham,	English,	Ketcham,	Shelley,
Bisbee,	Ermentrout,	King,	Slocum,
Bland,	Fiedler,	McAdoo,	Smalls,
Bowen,	Findlay,	McCormick,	Spooner,
Brainerd,	Finerty,	Matson,	Steele,
Broadhead,	Forney,	Maybury,	Sumner, D. H.
Brumm,	Garrison,	Miller, S. H.	Talbott,
Burleigh,	Geddes,	Money,	Taylor, E. B.
Burnes,	Graves,	Morgan,	Townshend,
Campbell, Felix	Guenther,	Moulton,	Valentine,
Cassidy,	Hammond,	Muller,	Vance,
Chalmers,	Hardy,	Nicholls,	Weller,
Collins,	Hart,	Ochiltree,	Wise, G. D.
Connolly,	Hill,	Paige,	Wise, J. S.
Covington,	Holton,	Phelps,	York,
Cox, S. S.	Hooper,	Poland,	Young.

So the amendment was agreed to.

On motion of Mr. BEACH, by unanimous consent the reading of the names of members voting was dispensed with.

Mr. LOWRY. I desire to change my vote from "no" to "ay."

Mr. BLOUNT. I change my vote from "no" to "ay."

The following additional pairs were announced:

Mr. RAY, of New Hampshire, with Mr. MATSON, for this day.

Mr. NICHOLLS with Mr. YORK, for the remainder of this day.

Mr. TALBOTT with Mr. GUENTHER, for the remainder of this day.

Mr. TOWNSHEND with Mr. HORR, for this day.

Mr. GEORGE D. WISE. I desire to state that if I were not paired I should vote "no."

The result of the vote was then announced as above stated.

Mr. BLOUNT. I move to reconsider the vote by which the amendment has been agreed to.

Mr. O'HARA. And I move to lay the motion to reconsider on the table.

Mr. REAGAN. And pending that I move that the House do now adjourn.

Mr. CHACE. I ask the gentleman from Texas [Mr. REAGAN] to withhold that motion for a moment that I may ask unanimous consent for the passage of a bill.

Many members called for the regular order.

The SPEAKER *pro tempore*. The question is on the motion to adjourn.

The question being taken, there were—ayes 138, noes 73.

Mr. WHITE, of Kentucky, and Mr. HEPBURN called for the yeas and nays.

The yeas and nays were ordered, 56 members voting therefor—more than one-fifth of the last vote.

The question was taken; and there were—yeas 139, nays 84, not voting 100; as follows:

YEAS—139.

Alexander,	Dunn,	Lewis,	Skinner, T. G.
Bagley,	Eldredge,	Lore,	Snyder,
Ballentine,	Elliott,	Lovering,	Spriggs,
Barksdale,	Ellis,	Lowry,	Springer,
Bennett,	Ferrell,	McAdoo,	Stevens,
Blackburn,	Finerty,	McMillin,	Stewart, Charles
Blanchard,	Follett,	Miller, J. F.	Stockslager,
Blount,	Forney,	Mills,	Storm,
Boyle,	Fyan,	Mitchell,	Sumner, C. A.
Bratton,	Gibson,	Morrison,	Taylor, J. M.
Breckinridge,	Glascock,	Morse,	Thompson,
Buchanan,	Green,	Muldrow,	Throckmorton,
Cabell,	Greenleaf,	Murphy,	Tillman,
Caldwell,	Halsell,	Murray,	Tucker,
Campbell, J. E.	Hancock,	Mutchler,	Tully,
Candler,	Hardeman,	Neece,	Turner, H. G.
Carleton,	Hatch, W. H.	O'Ferrall,	Turner, Oscar
Clardy,	Hemphill,	O'Neill, J. J.	Van Alstyne,
Clay,	Henley,	Patton,	Van Eaton,
Clements,	Herbert,	Peel,	Wallace,
Cobb,	Hewitt, A. S.	Pierce,	Warner, A. J.
Collins,	Hewitt, G. W.	Potter,	Warner, Richard
Converse,	Holman,	Pryor,	Weaver,
Cook,	Hopkins,	Pusey,	Wellborn,
Cosgrove,	Houseman,	Randall,	Wemple,
Cox, W. R.	Hunt,	Reagan,	Wilkins,
Culberson, D. B.	Hurd,	Reese,	Williams,
Dargan,	Jones, B. W.	Riggs,	Willis,
Davidson,	Jones, J. H.	Rogers, J. H.	Wilson, W. L.
Davis, L. H.	Jones, J. K.	Rogers, W. F.	Winans, E. B.
Deuster,	Jones, J. T.	Rosecrans,	Wise, G. D.
Dibble,	Jordan,	Scales,	Wolford,
Dibrell,	Kleiner,	Seymour,	Wood,
Dockery,	Lanham,	Shively,	Worthington.
Dowd,	Le Fevre,	Singleton,	

NAYS—84.

Adams, G. E.	George,	Long,	Ryan,
Atkinson,	Goff,	Lyman,	Skinner, C. R.
Barr,	Hanback,	McCoid,	Smith, A. H.
Beach,	Harmer,	McComas,	Smith, H. Y.
Bontelle,	Hatch, H. H.	McCormick,	Stephenson,
Breitung,	Haynes,	Millard,	Stone,
Brewer, F. B.	Henderson, D. B.	Milliken,	Strait,
Brewer, J. H.	Henderson, T. J.	Morrill,	Struble,
Browne, T. M.	Hepburn,	Nelson,	Taylor, J. D.
Brown, W. W.	Hiscock,	Nutting,	Thomas,
Budd,	Hitt,	O'Hara,	Wadsworth,
Cannon,	Holmes,	O'Neill, Charles	Wait,
Chace,	Howey,	Parker,	Wakefield,
Culbertson, W. W.	James,	Payne,	Ward,
Cutcheon,	Johnson,	Perkins,	Washburn,
Davis, G. R.	Kean,	Peters,	White, J. D.
Davis, R. T.	Keifer,	Pettibone,	White, Milo
English,	Lacey,	Ray, G. W.	Whiting,
Evans,	Laird,	Reed,	Wilson, James
Everhart,	Lawrence,	Rice,	Woodward,
Funston,	Libbey,	Rockwell,	Yaple.

NOT VOTING—100.

Adams, J. J.	Crisp,	Hutchins,	Ray, Ossian
Aiken,	Cullen,	Jeffords,	Robertson,
Anderson,	Curtin,	Kelley,	Robinson, J. S.
Arnot,	Dingley,	Kellogg,	Robinson, W. E.
Barbour,	Dorsheimer,	Ketcham,	Rowell,
Bayne,	Dunham,	King,	Russell,
Belford,	Eaton,	Lamb,	Seney,
Belmont,	Ellwood,	Matson,	Shaw,
Bingham,	Ermentrout,	Maybury,	Shelley,
Bisbee,	Fiedler,	Miller, S. H.	Slocum,
Bland,	Findlay,	Money,	Smalls,
Bowen,	Foran,	Morgan,	Spooner,
Brainerd,	Garrison,	Moulton,	Steele,
Broadhead,	Geddes,	Muller,	Stewart, J. W.
Brumm,	Graves,	Nicholls,	Sumner, D. H.
Buckner,	Guenther,	Oates,	Talbott,
Burleigh,	Hammond,	Ochiltree,	Taylor, E. B.
Burnes,	Hardy,	Paige,	Townshend,
Campbell, Felix	Hart,	Payson,	Valentine,
Campbell, J. M.	Hill,	Phelps,	Vance,
Cassidy,	Hoblitzell,	Poland,	Weller,
Chalmers,	Holton,	Post,	Winans, John
Connolly,	Hooper,	Price,	Wise, J. S.
Covington,	Horr,	Rankin,	York,
Cox, S. S.	Houk,	Ranney,	Young.

So the motion to adjourn was agreed to.

The following additional pair was announced:

Mr. CRISP with Mr. STEWART, of Vermont, for the remainder of this day.

EXPEDITION TO POINT BARROW, ALASKA.

The SPEAKER *pro tempore*, by unanimous consent (before announcing the result of the vote on the motion to adjourn), laid before the House a letter from the Secretary of War, transmitting, in response to a resolution of the House, the report of the international polar expedition to Point Barrow, Alaska; which was referred to the Committee on Naval Affairs, and ordered to be printed.

LEAVE TO PRINT.

Mr. O'HARA. I ask unanimous consent to print the remainder of my remarks in the RECORD.

The SPEAKER *pro tempore*. The gentleman from North Carolina asks unanimous consent to print in the RECORD the remainder of his remarks upon his amendment to the pending bill. Is there objection?

Mr. DIBBLE objected, but subsequently withdrew his objection; and there being no further objection, leave was granted.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted as follows:

To Mr. MULLER, for one week, on account of important business.

To Mr. SLOCUM, for five days, on account of important business.

DEPARTMENT OF AGRICULTURE.

The SPEAKER *pro tempore*. The Chair is informed that for the purpose of correcting an error in the engrossment of the bill passed yesterday, to establish a department of agriculture, it is necessary that the bill should be recalled from the Senate. The Chair therefore asks that the resolution which the Clerk will read be adopted.

The Clerk read as follows:

Resolved, That the Senate be requested to return to the House of Representatives the bill (H. R. 1437) to establish a department of agriculture.

There being no objection, the resolution was considered and adopted.

The result of the vote on the motion of Mr. REAGAN that the House adjourn was then announced as above recorded; and accordingly (at 5 o'clock and 30 minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions and papers were laid on the Clerk's desk, under the rule, and referred as follows:

By Mr. BARKSDALE: Papers relating to the claim of Mary H. Bush—to the Committee on War Claims.

By Mr. BARR: Petition of Lincoln Post, No. 140, Grand Army of the Republic, Department of Pennsylvania, for publication in Official Records of the War of the Rebellion of photographic illustrations—to the Committee on Military Affairs.

By Mr. CURTIN: Petition of citizens of Pennsylvania, praying for the establishment of a home for disabled volunteer soldiers in that State—to the same committee.

By Mr. EATON: Petition of the Ætna Insurance Company and others; of Brown, Thompson & Company and others, citizens of Hartford, Conn., for the passage of a bankrupt law—severally to the Committee on the Judiciary.

By Mr. ELDREDGE: Petition of Mrs. Ann E. Gridley, for a pension—to the Committee on Invalid Pensions.

By Mr. A. S. HEWITT: Petition of the bevelers of plate glass, for reform in the tariff on beveled plate—to the Committee on Ways and Means.

Also, petition of Michael Cahill, M. D., and others, citizens of New York, for an investigation of a material proposed by him to obtain rain by art—to the Committee on Agriculture.

By Mr. HOPKINS: Petition of 150 citizens of New Hampshire and Massachusetts, requesting the passage of the resolution of Hon. JAMES H. HOPKINS relative to the transportation of cattle—to the Committee on Commerce.

By Mr. PRYOR: Papers relating to the claim of Stephen J. Mathews, of James M. Peters, and of Reuben Copeland—severally to the Committee on War Claims.

By Mr. W. F. ROGERS: Petition of J. Madison Wells, for reference of his claim to the Court of Claims—to the same committee.

By Mr. WAIT: Petition of the Providence and Stonington Railroad Company and others, asking that a light-ship be located at or near the Ram Island Reef, in Long Island Sound—to the Committee on Commerce.

The following petitions for the passage of the Mexican war pension bill with Senate amendments were presented, and severally referred to the Committee on Pensions:

By Mr. ALEXANDER: Of citizens of Carroll County, Missouri.

By Mr. ANDERSON: Of 10 citizens of Glenwood, Kans., and of 64 citizens of Morganville, Kans.

By Mr. BEACH: Of citizens of Orange County, New York.

By Mr. T. M. BROWNE: Of 106 citizens and ex-soldiers of Boston Station, Ind.

By Mr. J. E. CAMPBELL: Of W. W. Manning and 62 others.

By Mr. CARLETON: Of citizens of Lapeer County, Michigan.
By Mr. COOK: Of John Q. A. Davison and 100 others.
By Mr. COSGROVE: Of citizens of Excelsior Springs, Mo.
By Mr. CUTCHEON: Of 419 citizens of Mason County; of N. DeLong and 98 citizens of Muskegon; of M. B. Houghton and 23 citizens of Tustin; and of 40 citizens of Newaygo County, Michigan.
By Mr. DOCKERY: Of citizens of Daviess, of Harrison, of Worth, and of Clinton Counties, Missouri.
By Mr. FORAN: Of 550 veteran soldiers and citizens of East Liverpool, Martinsville, Bloomingburg, and Washington Court-House, Ohio.
By Mr. FORNEY: Of William Bray and others, citizens of De Kalb County, Alabama.
By Mr. FUNSTON: Of citizens of Armordale, Kans.
By Mr. GOFF: Of Leonard Garrison and 62 others.
By Mr. H. H. HATCH: Of citizens of Jennings, and of Oscoda, Mich.
By Mr. W. H. HATCH: Of citizens of Clarke County, Missouri.
By Mr. HAYNES: Of M. M. Collis and 80 others, ex-soldiers and sailors of Portsmouth, and of H. L. Robinson and 63 others, of Manchester, N. H.
By Mr. HOLMAN: Of D. B. Hall and 67 others, ex-soldiers and citizens of Ohio County; of Michael Herrmann and 39 ex-soldiers and citizens of Franklin County; of Selar Meade and 63 ex-soldiers and citizens of Switzerland County; and of W. H. Huffman and 51 others, of Jackson County, Indiana.
By Mr. HURD: Of F. M. Mayer and others, of Sandusky, Ohio.
By Mr. BURR W. JONES: Of William Green and others, of Albany, Wis.
By Mr. KEIFER: Of Leander Tway and 50 other soldiers, of Plain City, Ohio.
By Mr. LAWRENCE: Of citizens of Beaver County, Pennsylvania.
By Mr. LOVERING: Of Edwin T. Pike and 41 others, of Ipswich, Mass.
By Mr. McCOID: Of S. F. Small and 79 others, of Louisa County, and of F. H. Jordan and 115 others, of Des Moines County, Iowa.
By Mr. McCOMAS: Of 63 citizens of Washington County, Maryland.
By Mr. MATSON: Of Daniel P. Owen and 42 others, of Morgan County, Indiana.
By Mr. MILLARD: Of citizens of Tioga, and of Broome and of Tioga Counties, New York.
By Mr. MORRISON: Of citizens of East Saint Louis, Ill.
By Mr. MOULTON: Of 1,000 veterans of Shelby County, Illinois.
By Mr. NEECE: Of citizens of Macomb and of Henderson Counties, Illinois.
By Mr. NUTTING: Of citizens of Hannibal, N. Y.
By Mr. PARKER: Of citizens of Franklin County, New York.
By Mr. PAYNE: Of citizens of Fair Haven and of Kings Ferry, N. Y.
By Mr. PAYSON: Of citizens of Kankakee and of Woodford Counties, Illinois.
By Mr. PRICE: Of N. M. Clapp and 38 others, and of H. S. Rice and 48 others.
By Mr. G. W. RAY: Of 63 citizens of Otsego County, New York.
By Mr. REED: Of citizens of National Soldiers' Home, Maine; of Dexter, of York County, of Machias, of Oxford, of Aroostook County, of Pittston, of North Winterport, of Saint Albans, of Ashland, of Princeton, and of Franklin, Me.
By Mr. RIGGS: Of George T. Jones and others, of Milton, and of Daniel H. Gibson and others, of Patterson, Ill.
By Mr. J. S. ROBINSON: Of citizens of several counties in Ohio.
By Mr. C. R. SKINNER: Of 37 citizens of Port Leyden, N. Y., and of 57 citizens of Lowville, N. Y.
By Mr. SLOCUM: Of inmates of Soldiers' Home, New York.
By Mr. VAN ALSTYNE: Of Smith O'Brien and many others, citizens of Albany County, New York.
By Mr. WAKEFIELD: Of 40 ex-soldiers of Brown County, Minnesota.
By Mr. WAIT: Of citizens of Colchester and other towns in Connecticut.
By Mr. RICHARD WARNER: Of citizens of Franklin County, Tennessee.
By Mr. WEAVER: Of 63 citizens of Nebraska, and of 34 citizens of Nebraska.
By Mr. WOODWARD: Of citizens of La Crosse, Wis.
By Mr. YAPLE: Of Abel Lumbert and 51 others, citizens of Berrien County, Michigan.

SENATE.

WEDNESDAY, *December* 17, 1884.

Prayer by Rev. BYRON SUNDERLAND, D. D., of the city of Washington.

The Journal of yesterday's proceedings was read and approved.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. CLARK, its Clerk, announced that the House had passed the bill (S. 2280) for the relief of Mrs. Jane Venable.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills and joint resolution; and they were thereupon signed by the President *pro tempore:*

A bill (S. 2041) granting the right of way to the city of Newport, R. I., over the breakwater at Goat Island;

A bill (S. 2402) authorizing the Secretary of State to procure duplicates of certain French and American medals; and

Joint resolution (S. R. 101) in relation to the ceremonies to be authorized upon the completion of the Washington monument.

SURVEY OF NICARAGUA CANAL ROUTE.

The PRESIDENT *pro tempore* laid before the Senate the following communication from the Secretary of the Navy; which was read:

NAVY DEPARTMENT, *Washington, December* 17, 1884.

SIR: Responding to the resolution of the Senate of December 15, I have the honor to state that orders have been issued to Civil Engineer A. G. Menocal, Civil Engineer R. E. Peary, and Ensign Washington I. Chambers to visit Nicaragua in order to make a survey of the route for the proposed Nicaragua canal.

These orders have been issued in the exercise of the general power of this Department, under the President, to issue such orders to all officers of the Navy as may be deemed for the public interest.

The arrangements which have been made contemplate the revision of the survey made on a former occasion by Civil Engineer Menocal and the investigation of any change in route which has been suggested as possibly available for shortening the canal and diminishing its cost.

The cost of the arrangements made and contemplated, in addition to the pay and mileage of the naval officers, is expected to be $1,000 as an outfit, and about $1,000 a month during the stay of the party in Nicaragua.

Very respectfully, your obedient servant,

W. E. CHANDLER,
Secretary of the Navy.

To the PRESIDENT *pro tempore*
of the United States Senate, Washington, D. C.

Mr. VEST. I ask that the communication be laid upon the table and printed, and I give notice that I shall call it up for the purpose of discussing the proposition advanced in it by the Secretary of the Navy that the right rests in any Department of the Government to order such an expedition without any action on the part of Congress. Let the communication lie on the table now and be printed.

The PRESIDENT *pro tempore.* The Senator from Missouri moves that the communication lie upon the table and be printed. That order will be made if there be no objection.

UNVEILING OF DU PONT STATUE.

The PRESIDENT *pro tempore* laid before the Senate the following communication from the Secretary of War; which was read, and ordered to lie on the table and be printed:

WAR DEPARTMENT, *Washington City, December* 16, 1884.

The Secretary of War has the honor to report to Congress that the work of preparing the selected site in the city of Washington and the base for a statue of the late Rear-Admiral Samuel Francis Du Pont, of the United States Navy, as required by the act of Congress approved February 25, 1882, and the making and erection of the statue, under the provisions of the act approved March 3, 1884, have been completed, and that the ceremonies attending the unveiling of the statue contemplated by the act approved July 7, 1884, have been arranged to take place at 2 o'clock in the afternoon of Saturday, the 20th instant, at Du Pont Circle, provision having been made for the anticipated attendance of the Senate and the House of Representatives.

ROBERT T. LINCOLN,
Secretary of War.

The PRESIDENT *pro tempore, United States Senate.*

COAST-SURVEY REPORT.

The PRESIDENT *pro tempore.* The Chair lays before the Senate a communication from the Secretary of the Treasury, transmitting the annual report of Professor J. E. Hilgard, Superintendent of the Coast and Geodetic Survey, showing the progress made in that work during the fiscal year ended June 30, 1884. If there be no objection the letter of the Secretary of the Treasury will be printed, and, with the accompanying papers, referred to the Committee on Printing for consideration as to printing the tabulated matter.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of the Interior, transmitting the report of the surveyor-general of New Mexico on the New Mexico private land claim, Canada de Cochite, No. 135, in the name of Antonio Lucero; which was ordered to be printed, and, with the accompanying document, referred to the Committee on Private Land Claims.

PETITIONS AND MEMORIALS.

Mr. JONAS presented a memorial of cigar-makers of New Orleans, La., remonstrating against the ratification of the reciprocity treaty with Spain; which was referred to the Committee on Foreign Relations.

Mr. MILLER, of California, presented a petition of citizens of Napa, Cal., praying that certain relief be granted Charles Morris Blake, post-chaplain, United States Army, retired; which was referred to the Committee on Military Affairs.

Mr. WILSON presented a memorial of the Cigar-makers' Union of Sioux City, Iowa; a memorial of the Cigar-makers' Union of Avoca, Iowa; a memorial of the Cigar-makers' Union of Atlantic, Iowa; a memorial of the Cigar-makers' Union of Lansing, Iowa; and a memorial of the Cigar-makers' Union of Dubuque, Iowa, remonstrating against the ratification of the reciprocity treaty between the United States and Spain; which were referred to the Committee on Foreign Relations.

Mr. PLATT presented a memorial of cigar-makers of Hartford, Conn.; a memorial of cigar-makers of Danbury, Conn.; a memorial of cigar-makers of Long Hill, Conn.; a memorial of cigar-makers of Norwalk, Conn.; and a memorial of cigar-makers of Ansonia, Conn., remonstrating against the ratification of the Spanish reciprocity treaty; which were referred to the Committee on Foreign Relations.

Mr. HILL presented a memorial of cigar-makers of Denver, Colo., remonstrating against the ratification of the Spanish reciprocity treaty; which was referred to the Committee on Foreign Relations.

Mr. PIKE presented a memorial of the Cigar-makers' Union of Manchester, N. H., remonstrating against the ratification of the Spanish reciprocity treaty; which was referred to the Committee on Foreign Relations.

Mr. INGALLS presented a memorial adopted at a representative meeting of cigar-makers at Humboldt, Kans., remonstrating against the ratification of the reciprocity treaty with Spain; which was referred to the Committee on Foreign Relations.

Mr. HALE presented a memorial of cigar-makers of Bangor, Me., remonstrating against the ratification of the Spanish reciprocity treaty; which was referred to the Committee on Foreign Relations.

He also presented a petition of officers of the United States Navy stationed at Newport, R. I., praying for certain legislation touching promotions in the Navy; which was referred to the Committee on Naval Affairs.

Mr. LAPHAM presented resolutions adopted at a mass-meeting of cigar-makers held in New York city, December 13, 1884, remonstrating against the ratification of the proposed treaty between Spain and the United States; which were referred to the Committee on Foreign Relations.

He also presented a petition of Theodore Thomas, president of the Jersey City Wheel Foundery and Machine Works, and a petition of the New York and Cuba Mail Steamship Company of New York, praying for the ratification of the proposed treaty between Spain and the United States; which were referred to the Committee on Foreign Relations.

He also presented a resolution of the Board of Trade and Transportation of the city of New York, in favor of the enactment of a law regulating interstate commerce; which was ordered to lie on the table.

Mr. ALLISON. I present memorials of the Cigar-makers' Union of Muscatine, Iowa; the Cigar-makers' Protection Union of Keokuk, Iowa; the Cigar-makers' Union of Dubuque, Iowa; the Cigar-makers' Union of Des Moines, Iowa; the Cigar-makers' Union of Lansing, Iowa; the Cigar-makers' Union of Atlantic, Iowa; the Cigar-makers' Union of Sioux City, Iowa; and the Cigar-makers' Union of Avoca, Iowa, remonstrating against the ratification of one of the clauses of the Spanish treaty. I move that they be referred to the Committee on Foreign Relations.

Mr. COCKRELL. I should like to ask the Senator from Iowa whether those memorials are addressed to the Senate of the United States, or to himself as a Senator.

Mr. ALLISON. A reference to the papers will show. I think some of them are addressed to me.

The PRESIDENT *pro tempore*. The first one in the package sent to the desk is addressed to "Hon. WM. B. ALLISON, United States Senate."

Mr. ALLISON. Evidently the people who remonstrate against the treaty intended that the Senate should be placed in possession of proper information in respect to it.

Mr. COCKRELL. The reason why I ask the question is because I have received probably a dozen similar memorials, and I suppose they are all exactly in the same form—they are all printed and addressed at the caption, and then signed officially—and I have not presented them because they were addressed to me and I supposed were intended to influence my action, coming from my constituents. It was only a question as to whether they ought to be presented to the Senate or whether we should simply refer them to the committee personally. That is the only point I desire to raise.

Mr. ALLISON. I will state to the Senator from Missouri that I supposed I was following the usual custom with reference to these remonstrances.

Mr. COCKRELL. As I understand the rule of the Senate, it is directly against receiving such papers.

The PRESIDING OFFICER (Mr. HARRIS in the chair). The Chair understands the Senator from Missouri as objecting to the reception of the papers.

Mr. COCKRELL. I was simply raising the point. We all ought to act in the same way. I have no objection to the Senate receiving such papers, but I have a number that I have not presented to the Senate, and I understand that other Senators have received a number of papers of the same character.

Mr. HARRISON. I have received quite a number, and acted on the same idea with the Senator from Missouri.

The PRESIDING OFFICER. The Chair will state that, under the rule of the Senate, a paper not addressed to the Senate can not be received as a petition or memorial unless by the unanimous consent of the body.

Mr. ALLISON. I ask unanimous consent, then, to present these papers.

The PRESIDING OFFICER. The Senator from Iowa asks the unanimous consent of the Senate that a number of papers presented by him be received as memorials. Is there objection? The Chair hears none. The papers are received, and will be referred to the Committee on Foreign Relations.

Mr. MCMILLAN. I have a communication signed by the officers of an association in Winona, Minn., of the same character, which I have withheld from presentation to the Senate for the reason stated by the Senator from Missouri. In view of the change of the practice among Senators, I ask unanimous consent that the memorial be received.

The PRESIDING OFFICER. If there is no objection the paper will be received and referred to the Committee on Foreign Relations.

Mr. CULLOM. I ask unanimous consent also for the privilege of presenting a number of memorials, a part of them addressed to me and some of them directed to the Senate, protesting against the ratification of the proposed reciprocity treaty with Spain. The first one is from the leaf-tobacco dealers, cigar manufacturers, and cigar dealers of Chicago, Ill.; the next is from the Cigar-makers' Union of Morris, Ill.; the next is from the Cigar-makers' Union of Jacksonville, Ill.; the next is from the Cigar-makers' Union of Alton, Ill.; the next are memorials from citizens of Peoria, Springfield, and Quincy, protesting against the ratification of that portion of the treaty with Spain in relation to cigars; the next is from the Chicago Trades and Labor Assembly, protesting against the ratification of the treaty with Spain; the next is from the Cigar-makers' Union of Chicago, and then from the Cigar-makers' Union of Decatur, Ill., and also from the Cigar-makers' Union of Ottawa, Ill., and then one general protest from cigar-makers all over the country against the ratification of the Spanish treaty. I ask that the memorials be received and referred to the Committee on Foreign Relations.

The PRESIDING OFFICER. If there is no objection the memorials will be received and referred to the Committee on Foreign Relations.

Mr. MILLER, of New York, presented a petition of 1,700 citizens of the city of New York, praying for the repeal of all laws fixing the term of certain administrative offices at four years; which was referred to the Committee on Civil Service and Retrenchment.

Mr. COCKRELL. I ask unanimous consent to present seven remonstrances, addressed to me but evidently intended for the Senate, against the ratification of the reciprocity treaty between some of the Spanish West India Islands and the United States. These remonstrances or resolutions have been passed and sent here by the cigar-makers of Saint Louis, of Kansas City, of Saint Joseph, of Jefferson City, of Brunswick, of Clinton, and of Springfield, Mo. I ask that they be received and referred to the Committee on Foreign Relations.

The PRESIDING OFFICER. If there be no objection that order will be made. The Chair hears no objection.

Mr. LAPHAM presented a memorial of the New York County committee of the People's National party, favoring the bill to prevent the importation of contract labor; which was ordered to lie on the table.

Mr. DAWES. I present a petition of the Women's National Indian Association, praying that speedy appropriation may be made for the relief of the starving Piegans, and also that the Government shall no longer delay making appropriations for the payment of just debts due to the Indians. I move that the petition be referred to the Committee on Indian Affairs.

The motion was agreed to.

LEASE OF CROW RESERVATION LANDS.

Mr. DAWES. Mr. President, some days ago in a discussion in the Senate over a resolution offered by the Senator from Missouri [Mr. VEST] in reference to leased lands in the Indian Territory, the Senator from Kentucky [Mr. BECK] called the attention of the Senate and of myself in particular to a rumor that there was a very large portion of the Crow reservation about being leased for a nominal sum to a syndicate for purposes of grazing, and he desired some information in reference to that rumor. What was known, what we were able to obtain up to that time, was communicated. Since then I have received, very numerously signed, I do not know by how many, but by a very large number of the citizens of Montana, a protest against the execution of the lease. It is directed to me personally. They seem to have been laboring under a mistaken idea that I hold some official position in reference to such a lease. It is, however, so in the nature of a remonstrance or petition that, notwithstanding it is addressed to me, I ask the permission of the Senate to present it as a petition to this body; and as the substance of it is very brief I ask that so much of it as refers to the substance of the remonstrance be read to the Senate in order that I may make a few remarks in regard to it.

The PRESIDENT *pro tempore*. The Senator from Massachusetts asks consent that the paper he has described, being in the nature of a petition, be received, and that it be read. Is there objection? The Chair hears none, and it will be read.

The Chief Clerk read as follows:

SIR: An effort is now being made by a syndicate of Colorado capitalists and cattle-men to lease the Crow reservation for a term of years, contrary to section 2116, chapter 3, page 369, Revised Statutes. We are informed and believe that the agents of these men are now endeavoring by threats and bribes to coerce the Indians into signing a paper giving their consent to such lease. Although

nearly all the Crows are opposed to this lease, yet a majority of them have already given their written consent, being induced thereto by their ignorance, fears, and cupidity.

We earnestly enter our protest against the consummation of this lease and ask your intervention without delay.

* * * * * * *

Hon. HENRY L. DAWES,
Chairman of Commission to treat with Crow Indians.

Mr. DAWES. At the time of the discussion alluded to I stated to the Senate that I understood the authority to execute such a lease was based upon some provision in the last agreement made by the United States with the Crow Indians in 1882. I have been unable to ascertain whether there be any such lease as that already executed, or in process, beyond rumor. There is a rumor in the Interior Department that such a lease has been executed of 3,000,000 acres of land at 1 cent an acre. It is claimed that the Indians have a right to execute the lease without reference to anybody, based upon the third of the five clauses in their agreement, made and ratified on the 11th of April, 1882, found in the Statutes, volume 22, page 43. It is in these words:

Third. That if at any time hereafter we, as a tribe, shall consent to permit cattle to be driven across our reservation or grazed thereon, the Secretary of the Interior shall fix the amount to be paid by parties so desiring to drive or graze cattle; all moneys arising from this source to be paid to us under such rules and regulations as the Secretary of the Interior may prescribe.

What surprised me was the fact that there was no information in respect to this lease in the Interior Department, so far as I have been able to ascertain. I will offer a resolution to draw out whatever there may be. But it will be observed that no such lease can exist except under the sanction and approval of the Secretary of the Interior.

I make this public statement to quiet the apprehensions in Montana and to show that such a lease as rumor has set afloat can not possibly in my opinion exist, because it does not seem to me possible that the Interior Department could sanction such a lease; and the law has placed the responsibility for that, as for all other leases of land on Indian reservations, at the door of the Interior Department.

It is absolutely apparent that Congress can not administer the law; that Congress can not determine what is a wise lease in rental or in quantity or in condition; but it must necessarily be administered by somebody, and the responsibility for the character of that administration must rest somewhere. I do not myself see what legislation can place the Indian reservations under better care than existing legislation. That something must be done with their lands is apparent. What it ought to be can be better determined by the executive than by the legislative branch of the Government, and Congress has wisely placed it there.

The other leases that caused so much trouble rest upon the general provisions of the law and are brought like this, if not as clearly, certainly with distinction and clearness enough, under the control of the Interior Department.

I think it may be assumed that the Interior Department is not indifferent to what is going on upon the Indian reservations. It can not be possible that the Interior Department will have considered that it has done its duty if it keeps itself ignorant of what is done. It sanctions what it permits; and whatever may be wrong in administration can not be excused by saying that it is done without the direct and positive sanction of the Interior Department.

I do not make these remarks as reflecting upon the Interior Department, but to express to those who are troubled about these leases the opinion that the responsibility for their character must rest upon the administration of the Interior Department, and I have no doubt that when the attention of the Interior Department is called to the subject a proper administration of the law in reference to these leased lands will be undertaken and carried through.

Mr. VEST. Mr. President——

The PRESIDENT *pro tempore*. The Chair supposes this debate to be on the motion to refer the petition to the Committee on Indian Affairs. The Chair will so treat it.

Mr. VEST. I suppose so. I just want to supplement what has been said by the Senator from Massachusetts with the statement that at the last session of Congress, upon information which I received from very high authority in the West, I offered a resolution asking the Secretary of the Interior by what right certain bands of cattle had been permitted upon the Crow reservation, and inquiring whether the Indian agents in charge of that reservation had not made contracts with certain parties for grazing cattle there. The resolution was adopted and sent to the Interior Department, but no reply has ever been received to it.

I have received at this session of Congress a large number of letters from gentlemen whose acquaintance I formed summer before last in Montana, stating emphatically that the lease was obtained through the influence of the Indian agent and through white persons at Fort Custer, some of whom were able to speak the Crow language, and who went among the Indians and by the use of all sorts of improper means persuaded them to sign the agreement that the lands should be leased. As a matter of course, personally I know nothing about it, but it is a very remarkable fact that a transaction of this magnitude, involving a lease of 3,000,000 acres of land for less than 1 cent an acre, should have been published in the public press and should be a subject of remonstrance now by a large number of citizens of the United States and no notice whatever be taken of it by the Interior Department and it be permitted just to go on its way.

That is all I desire to say, sir, in regard to the matter.

Mr. DAWES. I ask that the petition be referred to the Committee on Indian Affairs.

The PRESIDENT *pro tempore*. The petition will be referred to the Committee on Indian Affairs, if there be no objection.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. CLARK, its Clerk, announced that the House had passed a resolution requesting the return to that body of the bill (H. R. 1457) to establish a department of agriculture.

TENNESSEE JUDICIAL DISTRICTS.

Mr. GARLAND. I am directed by the Committee on the Judiciary, to whom was referred the bill (H. R. 2728) detaching Grundy County, Tennessee, from the southern district of East Tennessee, and attaching it to the middle district of said State, and for other purposes, to report it with several amendments, and I am instructed also to ask for the immediate consideration of the bill, as it is one of a local character entirely and yet of some importance to the section of the country mentioned in the bill.

Mr. HALE. It is very desirable, in view of the action taken by the House upon the question of adjournment over the holidays, that the naval appropriation bill which was reported yesterday morning should be taken up early this morning and passed, and I ask the Senator not to push the consideration of this bill until after the naval appropriation bill shall have been passed.

Mr. GARLAND. If this excites any discussion at all, I shall withdraw my request; but I do not think it will excite any debate or opposition.

Mr. HALE. With that understanding, I shall not object.

The PRESIDING OFFICER (Mr. HARRIS in the chair). Is there objection to the present consideration of the bill reported by the Senator from Arkansas? The Chair hears none.

The Senate, as in Committee of the Whole, proceeded to consider the bill.

The first amendment reported by the Committee on the Judiciary was, in section 1, line 4, after the word "southern," to insert "division of the;" and in line 6, after the word "issuing," to insert "except as hereinafter provided;" so as to make the section read:

That hereafter the county of Grundy, in the State of Tennessee, shall be detached from the southern division of the district of East Tennessee and be attached to the middle district of Tennessee; and that all process hereafter issuing, except as hereinafter provided, against citizens of said county of Grundy from the district or circuit courts of said State shall be returnable before the district or circuit courts for the middle district of Tennessee; and that any case now pending in the district or circuit court of the United States for the southern district of East Tennessee against citizens of said county of Grundy may, at their election, be transferred to the district or circuit court for the middle district of Tennessee at Nashville.

The amendment was agreed to.

The next amendment was, in section 2, line 3, after the word "southern," to insert "division of the;" and in line 4, after the word "issuing," to insert "except as hereinafter provided;" so as to make the section read:

SEC. 2. That the county of Fentress, in the middle district of Tennessee, be detached therefrom and added to the southern division of the district of East Tennessee; and hereafter all process issuing, except as hereinafter provided, against citizens of the county of Fentress from the district and circuit courts of the United States shall be returnable before said court at Chattanooga, in said State: *Provided*, That causes now pending in the middle district of Tennessee from Fentress County shall be determined where pending, except in cases where both parties consent to removal.

The amendment was agreed to.

The next amendment was, to add to section 2 the following:

And provided further, That all prosecutions for crimes or offenses heretofore committed in either of said counties shall be commenced and proceeded with as if this act had not been passed.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

The title was amended so as to read: "A bill detaching Grundy County, Tennessee, from the southern division of the district of East Tennessee, and attaching it to the middle district of said State, and for other purposes."

THE RECORD FOR AMERICAN LEGATIONS.

Mr. MANDERSON. The Committee on Printing instruct me to report back the joint resolution (S. R. 44) directing the Public Printer to forward a copy of the CONGRESSIONAL RECORD to each of the American legations abroad, with certain amendments, and to ask for its immediate consideration by the Senate.

The PRESIDENT *pro tempore*. The Senator from Nebraska asks unanimous consent that the resolution just reported by him be now considered. Is there objection?

Mr. COCKRELL. Let it be read for information.

The PRESIDENT *pro tempore*. The resolution will be read.

The Chief Clerk read the joint resolution.

Mr. MANDERSON. I simply desire to say with reference to this resolution——

The PRESIDENT *pro tempore*. Debate is not in order.

Mr. MANDERSON. I ask unanimous consent simply to make a statement in reference to it.

The PRESIDENT *pro tempore*. If there be no objection the Senator will proceed.

Mr. MANDERSON. The joint resolution was introduced at the last session of this Congress by the then Senator from Rhode Island, Mr. ANTHONY, at the request of the State Department as I understand. The cost of complying with the resolution will be but $200 or thereabouts per annum.

The PRESIDENT *pro tempore*. Is there objection to the present consideration of the resolution? The Chair hears none.

The Senate, as in Committee of the Whole, proceeded to consider the joint resolution.

The amendments reported by the Committee on Printing were, in line 4, after the word "directed," to strike out "under the instructions of" and insert "to furnish to;" in the same line, after the word "to," where it last occurs, to strike out "forward hereafter;" in line 6, after the word "RECORD," to strike out "to" and insert "for," and to add to the joint resolution "to be forwarded by the Department of State;" so as to make the joint resolution read:

Resolved, &c., That the Public Printer be, and he is hereby, authorized and directed to furnish to the Secretary of State free of charge one copy of the CONGRESSIONAL RECORD for each of the American legations abroad, commencing at the beginning of the present session, to be forwarded by the Department of State.

The amendments were agreed to.

The joint resolution was reported to the Senate as amended, and the amendments were concurred in.

The joint resolution was ordered to be engrossed for a third reading, read the third time, and passed.

The PRESIDENT *pro tempore*. The Chair will call the attention of the Senator from Nebraska to the apparent necessity of amending the title, as it does not now correctly represent the contents of the joint resolution.

Mr. MANDERSON. I ask that it be so amended.

The PRESIDENT *pro tempore*. The title will be amended so as to read, "A joint resolution directing the Public Printer to furnish a copy of the CONGRESSIONAL RECORD to the Secretary of State for the use of each of the American legations abroad." The title will stand amended if there be no objection.

REPORTS OF COMMITTEES.

Mr. BROWN, from the Committee on Railroads, to whom was referred the bill (S. 2355) to amend an act entitled "An act to grant a right of way for a railroad and telegraph line through the lands of the Choctaw and Chickasaw Nations of Indians to the Saint Louis and San Francisco Railway Company, and for other purposes," reported it without amendment.

Mr. MILLER, of California, from the Committee on Foreign Relations, to whom was referred the bill (S. 317) to permit Henry Vignaud, of Louisiana, second secretary of the legation of the United States at Paris, to receive the decoration of the Legion of Honor of France, reported it without amendment, and submitted a report thereon.

Mr. MILLER, of California. I am also directed by the Committee on Foreign Relations, to whom was referred a joint resolution of the Legislature of Ohio relative to foreign cheap labor, to report it back to the Senate. It should have been referred to the Committee on Education and Labor, but that committee having reported a bill on the subject of cheap foreign labor, I ask that the resolution be laid on the table.

The committee were discharged from the further consideration of the resolution, and it was ordered to lie on the table.

Mr. CAMERON, of Wisconsin, from the Committee on Claims, to whom was referred the bill (S. 542) for the relief of John Fletcher, asked to be discharged from its further consideration, and that it be referred to the Committee on Indian Affairs; which was agreed to.

He also, from the Committee on Claims, to whom was referred the bill (S. 1575) to provide for the payment to the legal representatives of Arvah Hopkins of the rent of certain property in Tallahassee, Fla., for the use of the Army, reported it without amendment, and submitted a report thereon.

He also, from the same committee, to whom were referred the following bills, submitted adverse reports thereon, which were agreed to; and the bills were postponed indefinitely:

A bill (S. 1800) for the relief of Edward Corning; and

A bill (S. 1685) for the relief of Edmund Wolf.

He also, from the same committee, to whom was referred the bill (S. 378) for the relief of Thomas B. Wallace, submitted an adverse report thereon, and moved its indefinite postponement.

Mr. COCKRELL. Let that go on the Calendar.

The PRESIDENT *pro tempore*. The bill will be placed on the Calendar with the adverse report of the committee.

Mr. SHEFFIELD, from the Committe on Claims, to whom was referred the bill (S. 165) for the relief of William H. Gray, submitted an adverse report thereon, which was agreed to; and the bill was postponed indefinitely.

UNITED STATES JURISDICTION IN TUNIS.

Mr. PENDLETON. I am instructed by the Committee on Foreign Relations to report a bill. The bill is quite important, but I think it will elicit no opposition, and I am instructed by the committee to ask the consideration of the Senate to it at the earliest period of time. I therefore ask the reading of the title of the bill and the consent of the Senate to its present consideration.

The bill (S. 2463) to authorize the suspension of the exercise of extraterritorial jurisdiction in the territories of the Bey of Tunis and to amend section 1427 of the Revised Statutes of the United States was read twice by its title.

The PRESIDENT *pro tempore*. The Senator from Ohio asks unanimous consent that this bill be now considered. Is there objection?

Mr. HALE. Under the pressure which is upon me with reference to the naval appropriation bill I must object, unless on condition that this shall give rise to no debate.

Mr. PENDLETON. I am perfectly willing to accept the condition. If it gives rise to debate I shall not press it. I think it will not cause debate.

The PRESIDENT *pro tempore*. Debate is not in order. Is there objection to the present consideration of the bill? The Chair hears none.

The Senate, as in Committee of the Whole, proceeded to consider the bill, which is as follows:

Be it enacted, &c., That whenever the President of the United States shall receive satisfactory information that the French Government has established in and over the territories and dominions of the Bey of Tunis judicial tribunals similar in all respects to the judicial tribunals now organized in the dominions and territories of France under the laws of that country, and such as will secure to citizens of the United States within said territories of the Bey of Tunis the same impartial justice which they now enjoy there under the judicial functions exercised there by the consuls and other functionaries of this country under the laws of the United States and pursuant to international law and usage, he is hereby authorized to suspend by his proclamation the further exercise of the extraterritorial jurisdiction now claimed and exercised by the United States in Tunis, and accept for American citizens resident or sojourning in the territories of the Bey of Tunis the jurisdiction of the French judicial tribunals thus established in the territories and dominions of the Bey of Tunis.

SEC. 2. From and after the date of the proclamation of the President provided for by the first section of this act section 4127 of the Revised Statutes of the United States shall be, and the same is hereby, amended by striking out the word "Tunis."

Mr. GARLAND. It would be well to put in after the reference to section 4127 some words to show to what it relates. After the words "section 4127" there should be a description of what the section relates to.

Mr. PENDLETON. Our extraterritorial jurisdiction in Tunis, as well as other countries.

Mr. GARLAND. I move to amend by inserting after "4127" the proper descriptive words.

Mr. PENDLETON. "In relation to the exercise of jurisdiction in Tunis."

Mr. GARLAND. In section 2, line 4, after the words "United States," I move to insert:

"In relation to the exercise of extraterritorial jurisdiction in Tunis."

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

ORDER OF BUSINESS.

Mr. HALE. I move that the Senate now proceed to consider the naval appropriation bill.

Mr. HARRISON. May I ask whether the order of the introduction of bills has been passed?

The PRESIDENT *pro tempore*. Reports of committees are still in order.

Mr. HALE. I did intend to withhold this motion until the completion of the morning business; but it has run along now more than an hour, and it is very important that the naval appropriation bill should be taken up early to-day and sent to the other House.

The PRESIDENT *pro tempore*. The Chair will state that debate is not in order, but after 1 o'clock even pending the morning business under the rules it is in order to make the motion the Senator from Maine has made. Debate on that motion is not in order.

Mr. HALE. I withdraw the motion for a few minutes.

Mr. HARRISON. I desire to introduce a bill.

The PRESIDENT *pro tempore*. That order is not yet reached. Reports of committees are in order.

Mr. DAWES. I wish to offer a resolution which I ask may be adopted at the present time.

The PRESIDENT *pro tempore*. Resolutions are not yet in order.

ATLANTIC AND PACIFIC RAILROAD LAND GRANT.

Mr. MORGAN. I submit the report of the committee of conference between the two Houses on House bill 7162.

The PRESIDENT *pro tempore*. The Senator from Alabama presents the report of the committee of conference on the bill (H. R. 7162) to forfeit the unearned lands granted to the Atlantic and Pacific Railroad Company to aid in the construction of a railroad and telegraph line from the States of Missouri and Arkansas to the Pacific coast, and to restore the same to settlement, and for other purposes. The past action of the Senate and House of Representatives on the bill will be reported.

The Chief Clerk read as follows:

IN THE HOUSE OF REPRESENTATIVES, *December* 3, 1884.

Resolved, That the House non-concur in the amendments of the Senate to the bill (H. R. 7162) to forfeit the unearned lands granted to the Atlantic and Pacific Railroad Company "to aid in the construction of a railroad and telegraph line from the States of Missouri and Arkansas to the Pacific coast, and to restore the same to settlement, and for other purposes," and ask a conference with the Senate on the disagreeing votes of the two Houses thereon.

Ordered, That Mr. COBB, Mr. HENLEY, and Mr. PAYSON be the managers of the said conference on the part of the House.

Attest:

JNO. B. CLARK, JR., *Clerk*.

IN THE SENATE OF THE UNITED STATES, *December* 8, 1884.

Resolved, That the Senate insist upon its amendments to the bill (H. R. 7162) to forfeit the unearned lands granted to the Atlantic and Pacific Railroad Company to aid in the construction of a railroad and telegraph line from the States of Missouri and Arkansas to the Pacific coast, and to restore the same to settlement, and for other purposes, disagreed to by the House of Representatives, and agree to the conference asked by the House on the disagreeing votes of the two Houses thereon.

Ordered, That Mr. MORGAN, Mr. BLAIR, and Mr. PLUMB be the conferees on the part of the Senate.

Attest:

ANSON G. McCOOK, *Secretary*.

The PRESIDENT *pro tempore*. The report of the conference will be read.

The Chief Clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 7162) to forfeit the unearned lands granted to the Atlantic and Pacific Railroad Company to aid in the construction of a railroad and telegraph line from the States of Missouri and Arkansas to the Pacific coast, and to restore the same to settlement, and for other purposes, having met, after full and free conference have been unable to agree.

JOHN T. MORGAN,
H. W. BLAIR,
P. B. PLUMB,
Conferees on the part of the Senate.

THOMAS R. COBB,
BARCLAY HENLEY,
L. E. PAYSON,
Conferees on the part of the House of Representatives.

The PRESIDENT *pro tempore*. The bill is now before the Senate.

Mr. MORGAN. Mr. President, I have not been able to find any print of this bill, as it passed the Senate with amendments, either here or in the House. I will not ask for the consideration of the report of the conference committee this morning, but will ask that the bill with the amendments as it passed the Senate be printed for the use of the Senate.

The PRESIDENT *pro tempore*. The bill is before the Senate on the question of whether the Senate will recede from its amendments or further insist upon them, pending which the Senator from Alabama moves that the bill be laid on the table and be reprinted for the use of the Senate, with the amendments. That order will be entered if there be no objection.

BILLS INTRODUCED.

Mr. HARRISON introduced a bill (S. 2464) granting an increase of pension to Hamilton Elliott; which was read twice by its title, and referred to the Committee on Pensions.

Mr. SLATER introduced a bill (S. 2465) to extend the time for filing certain claims for compensation for horses and other property lost in the military service of the United States; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. MILLER, of New York, introduced a bill (S. 2466) to increase the pension of Mrs. Nannie Cushman; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

Mr. VAN WYCK introduced a bill (S. 2467) to fix rates for the transmission of messages by telegraph west of the Missouri River not to exceed the average rates from the Missouri River east to the seaboard; which was read twice by its title, and referred to the Committee on Post-Offices and Post-Roads.

He also introduced a bill (S. 2468) to fix passenger and freight rates on all railroads west of the Missouri River not to exceed the average rates from the Missouri River east to the seaboard; which was read twice by its title, and referred to the Committee on Railroads.

Mr. LAMAR introduced a bill (S. 2469) to enable the Secretary of War to pay R. C. Hutchinson for services rendered and expenses incurred in the military service of the United States; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. BUTLER introduced a joint resolution (S. R. 105) providing for the transportation of the Government exhibit at New Orleans to the proposed American exhibition to be held in London in 1886; which was read twice by its title.

Mr. BUTLER. I suppose the resolution should be referred to the Committee on Finance.

Mr. HALE. I move that the Senate proceed to the consideration of the naval appropriation bill.

Mr. SEWELL. Will the Senator allow me to make a remark in connection with the joint resolution introduced by the Senator from South Carolina?

Mr. HALE. Of course.

Mr. SEWELL. A measure on that subject has been reported by the Committee on Foreign Relations and is now on the Calendar. The chairman of that committee intends to call it up to-morrow; and I would suggest the reference of this resolution to that committee.

The PRESIDENT *pro tempore*. The Senator from New Jersey suggests that the joint resolution be referred to the Committee on Foreign Relations, which has reported a measure on the subject now on the Calendar.

Mr. BUTLER. This provides, as I understand, for an appropriation of $300,000; and I thought the Committee on Finance should pass upon it. I know very little about the resolution. I introduced it by request.

Mr. HALE. Then it should be referred to the Committee on Appropriations, rather than the Committee on Finance.

Mr. BUTLER. Very well; let it go to the Committee on Appropriations.

Mr. SEWELL. The bill reported is a general bill, authorizing the President to accept invitations to these exhibitions from foreign governments. I should think the same committee that has considered the general subject ought to consider this joint resolution.

Mr. HALE. Let it go to the Committee on Foreign Relations.

Mr. BUTLER. I have not the slightest choice about the matter.

The PRESIDENT *pro tempore*. The Senator from New Jersey moves that the resolution be referred to the Committee on Foreign Relations.

Mr. HAWLEY. I desire to call the attention of the Committee on Foreign Relations to the fact that there is no invitation whatever from Great Britain in this case. This is simply a private enterprise, which proposes to expend $300,000.

Mr. BUTLER. As I said, I know nothing about it except that a gentleman requested me to introduce the resolution and have it referred to a committee. That I have done. The committee can report favorably or unfavorably, as they please. I know nothing about it, and have no choice about the committee to which it shall go; but inasmuch as it provides for an appropriation, I thought the Committee on Appropriations might take charge of it.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from New Jersey that the joint resolution be referred to the Committee on Foreign Relations.

The motion was agreed to.

BREAKWATER AT OSWEGO.

Mr. MILLER, of New York, submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of War be, and he is hereby, directed to report to the Senate as soon as may be the extent of the damage done to the United States breakwater in the harbor of Oswego, N. Y., by the recent gale there, together with the amount necessary for its reparation.

LEASES OF LAND ON CROW RESERVATION.

Mr. DAWES. I desire to offer a resolution.

Mr. HOAR. I do not wish to interfere with my colleague, but I inquire whether the resolution which I submitted yesterday, and which went over, should not come up in order before the introduction of new resolutions? I make no objection to my colleague offering a resolution.

The PRESIDENT *pro tempore*. It would come up, but the present occupant of the chair was not present yesterday, and by an accident the Clerk did not lay on the presiding officer's table the resolution.

Mr. HOAR. If the Chair will lay it before the Senate after my colleague's resolution is disposed of, that will do.

The PRESIDENT *pro tempore*. The Chair will do so. The resolution offered by the Senator from Massachusetts farthest from the Chair [Mr. DAWES] will be read.

The Secretary read as follows:

Resolved, That the Secretary of the Interior be directed to communicate to the Senate all the information in his Department in respect to any proposed or existing leases of land on the Crow reservation for purposes of grazing, and what action, if any, he has taken in reference to the same.

The resolution was considered by unanimous consent, and agreed to.

CALENDAR OF HOUSE BILLS.

The PRESIDENT *pro tempore*. The Chair now lays before the Senate the resolution offered yesterday by the Senator from Massachusetts nearest the Chair [Mr. HOAR], which by accident failed to be laid on the presiding officer's table.

The Chief Clerk read the following resolution, submitted yesterday by Mr. HOAR:

Resolved, That when the Calendar of Bills and Resolutions is next taken up for consideration under Rule VIII, measures from the House of Representatives shall first be considered in their order subject to said rule.

Mr. HOAR. I stated yesterday when the resolution was offered that there were then three hundred and six measures on our Calendar in addition to those reported yesterday, and probably yesterday and to-day

will make a dozen additions to that number, and of those only twenty-two were measures which came from the House of Representatives, and with two or three exceptions I think those twenty-two will be disposed of as a matter of course; at any rate without objection under the five-minute rule.

I have looked at the Calendar of the House of Representatives, and I find that they have on their Calendar two hundred and seventy-one measures which the Senate have sent to them, and among them some of the most important public measures that have been introduced into Congress for many years. It is not necessary to recite them; but they include the bankruptcy bill, the bill for the settling of the Presidential count and that for the Presidential succession, the bill dealing with Mormonism, and a large number of other important measures, among which is the educational bill of my friend from New Hampshire [Mr. BLAIR]. It seems to me it is useless for us to be spending our time in adding to that number of two hundred and seventy-one Senate measures, but we had better dispose of the House business which has come here, and act on measures which will become laws if we agree with the House, and I therefore propose this resolution:

Mr. PLUMB. It seems to me that another view may be taken of this matter. It is quite true, as stated by the Senator from Massachusetts, that it is of very little use for the Senate at this late stage of the present Congress to pass bills of its own and send them to the House. I have here a statement of the number of bills passed by the respective Houses during the first session of this Congress. The House of Representatives passed of bills introduced in that body five hundred and seventy-five, and the Senate passed or otherwise finally disposed of two hundred and eighty-seven of them, so that practically 50 per cent. of the bills sent to us by the House were disposed of by the Senate. Of these two hundred and seventy-three were passed and only fourteen disposed of in other ways.

The Senate passed at the same session of Congress three hundred and eighty-three bills originating in this body, and the House considered one hundred and sixty-two of those, or about one-half as many as the House bills disposed of by the Senate. There are now on the Calendar of the House, of the important bills which the Senate has passed, these:

S. 10. A bill for ascertaining and settling private land claims in certain States and Territories. Passed the Senate February 8, 1884.

S. 22. A bill to provide for the performance of the duties of the office of President in case of the removal, death, resignation, or inability both of the President and Vice-President. Passed the Senate January 15, 1884.

S. 48. A bill to provide for the allotment of lands in severalty to Indians on the various reservations, and to extend the protection of the laws of the States and Territories over the Indians, and for other purposes. Passed the Senate March 26, 1884.

S. 343. A bill concerning the exercise of the jurisdiction conferred upon the United States in places out of their territory and dominion, and to amend the Revised Statutes from sections 4082 to 4130, inclusive. Passed the Senate March 6, 1884.

S. 398. A bill to aid in the establishment and temporary support of common schools. Passed the Senate April 7, 1884.

S. 554. A bill to provide for the efficiency of the General Land Office. Passed the Senate April 2, 1884.

S. 698. A bill to authorize the construction of additional steel vessels for the Navy. Passed the Senate February 29, 1884.

S. 1139. A bill authorizing the construction of a building for the accommodation of the Congressional Library. Passed the Senate February 12, 1884.

S. 1155. A bill to provide for the issue of circulating notes to national banking associations. Passed the Senate February 25, 1884.

S. 1283. A bill to amend an act entitled "An act to amend section 5352 of the Revised Statutes, in reference to bigamy, and for other purposes," approved March 22, 1882. Passed the Senate June 19, 1884.

S. 1372. A bill to establish a uniform system of bankruptcy throughout the United States. Passed the Senate April 22, 1884.

S. 1459. A bill relating to the improvement of the coinage. Passed the Senate April 2, 1884.

S. 156. A bill to amend section 1661 of the Revised Statutes, making an annual appropriation to provide arms for the militia. Passed the Senate February 20, 1884.

S. 309. A bill to amend section 673 of the Revised Statutes of the United States, relating to the quorum of the Supreme Court of the United States. Passed the Senate March 7, 1884.

S. 462. A bill to provide for the removal of obstructions to the navigation of the navigable waters of the United States. Passed the Senate February 21, 1884.

S. 25. A bill to fix the day for the meeting of the electors of President and Vice-President, and to provide for and regulate the counting of the votes for President and Vice-President, and decision of questions arising thereon. Passed the Senate January 16, 1884.

That is but a partial list of bills of a national and of a very important character, some of them seriously affecting the peace and prosperity of the American people, which have been passed by the Senate, and to which the House of Representatives has given no consideration whatever. I do not make this statement in the way of complaint, but it seems to me that the reciprocity which ought to exist between the two Houses has been utterly ignored on the other side, and if we are to continue to make House bills special and give them attention to the exclusion of our own, the discrimination existing will not only continue but go on with increasing ratio until finally the House will claim, as practically its prerogative, the right to originate not only revenue bills but also all other bills. To this it is coming as matters are now going on, and the function of the Senate is gradually being limited to the consideration and passage of House bills. If we wish to preserve the function of the Senate as a co-ordinate branch of the legislative authority, and as possessing authority in its own right to originate bills and consider them in the first instance, more attention it seems to me ought to be paid to the subject now.

While I do not care to object to the passage of the resolution of the Senator from Massachusetts, it seems to me that it would be proper to consider the question in this larger phase.

Mr. HOAR. Mr. President, the suggestions of the Senator from Kansas are of very great weight and interest, and would require, I think, that he or some other Senator should develop them at some proper time for the public information, and call the attention of the House to them. But this resolution relates only to unobjected cases on the Calendar. It will only have the effect of taking up a dozen or so House measures which will go through without objection and become laws, instead of taking up the large number of bills on the Calendar without securing a disposition of them.

I ought to say further that I told the Senator from Maine that if this resolution excited any serious discussion I should let it go over another day with the leave of the Senate, so as not to interfere with the naval bill.

Mr. HALE. I hope it will go over, as it will evidently give rise to debate.

The PRESIDENT *pro tempore*. The Senator from Massachusetts asks unanimous consent that this resolution be postponed until to-morrow, to be laid before the Senate on the call for resolutions at that time. Is there objection? The Chair hears none.

RETURN OF A BILL.

The PRESIDENT *pro tempore* laid before the Senate the following resolution from the House of Representatives:

Resolved, That the Senate be requested to return to the House of Representatives the bill (H. R. 1457) to establish a department of agriculture.

The PRESIDENT *pro tempore*. If there be no objection it will be ordered that the bill named in the request of the House be returned to that body. It is so ordered.

A. L. SINGLETON.

Mr. HAMPTON submitted the following resolution; which was referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

Resolved, That the Sergeant-at-Arms be authorized to pay three months' salary to A. L. Singleton, late an employé of the Senate and who was dropped from the rolls on account of illness contracted in the discharge of his duty.

NAVAL APPROPRIATIONS.

Mr. HALE. I move that the Senate proceed to the consideration of the bill (H. R. 7510) making temporary provision for the naval service.

Mr. LOGAN. Before the motion is put I desire to make an inquiry. The joint resolution (S. R. 18) proposing an amendment to article 1, section 7, clause 2, of the Constitution of the United States in relation to the veto power, was put down as the special order for to-day. Appropriation bills having the right of way, I desire to know whether or not that resolution will come up as soon as this bill is disposed of.

The PRESIDENT *pro tempore*. The unfinished business will come up at 2 o'clock, which is the bill (S. 2112) to establish a commission to regulate interstate commerce and for other purposes. The other special orders will be laid before the Senate on every occasion after 2 o'clock when any pending unfinished business shall have been disposed of.

Mr. LOGAN. I only desire that the joint resolution shall not lose its place.

The PRESIDENT *pro tempore*. Special orders do not lose their place; they stand as ordered, and will be laid before the Senate at any time after 2 o'clock, whenever any pending bill is disposed of. The question now is on the motion of the Senator from Maine.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. 7510) making temporary provision for the naval service.

COLORADO INDIAN LANDS.

Mr. HILL. I ask the Senator from Maine to yield for a moment to allow us to finish the consideration of a bill which was under consideration at the close of the morning hour yesterday. It was about to be put on its passage, and I think there is no objection to the bill. As I have to be absent from the city after to-morrow, I should be glad to have it disposed of now. I am sure it will only take a moment of time.

Mr. HALE. If it is only to be put on its passage without further debate, under the circumstances, the Senator being called away, I shall yield for a moment, but if it gives rise to objection I can not do it.

Mr. HILL. I do not wish to take any time from the appropriation bill, but I am sure this bill will give rise to no debate.

The PRESIDENT *pro tempore*. Pending the consideration of the naval appropriation bill the Senator from Colorado asks unanimous consent that that order be laid aside informally, and that Order of Business 376, being the bill (S. 1695) relating to lands in Colorado lately occupied by the Uncompahgre and White River Ute Indians, be now considered. Is there objection? The Chair hears none.

The Senate resumed the consideration of the bill (S. 1695) relating to lands in Colorado lately occupied by the Uncompahgre and White River Ute Indians.

The PRESIDENT *pro tempore*. The bill is still open to amendment.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

JOSEPH F. WILSON.

Mr. PLUMB. I ask the Senator from Maine to yield until I can enter a motion to reconsider. I enter a motion to reconsider the vote by which the bill (S. 2376) for the relief of Joseph F. Wilson was passed yesterday, in order that the bill may be recalled from the House.

The PRESIDENT *pro tempore*. The Senator from Kansas enters a motion to reconsider the vote by which the Senate yesterday passed the bill (S. 2376) for the relief of Joseph F. Wilson, and moves that the House of Representatives be requested to return the bill to the Senate. The question is on agreeing to that motion.

The motion was agreed to.

The PRESIDENT *pro tempore*. The motion to reconsider will be entered.

NAVAL APPROPRIATIONS.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. 7510) making temporary provision for the naval service.

The Secretary began to read the bill.

Mr. McPHERSON. Let me inquire if there is any necessity for reading the bill? It has been read often in the Senate, I think, and I understand the bill as reported to be practically one that we passed last year subject to some modifications required by circumstances. Can not the Senator from Maine state what changes have been made, and the necessity for passing the bill in this form.

The PRESIDENT *pro tempore*. The Senator from New Jersey asks unanimous consent that the reading of this bill and amendment reported by the Committee on Appropriations be dispensed with.

Mr. HOAR. The Chair will correct me if I am wrong; that is, if he chooses to state the result of his own experience; but I think there has been no instance of a bill (except those bills for paying the judgments of the Court of Claims or the Treasury Department for Southern claims, where there is a mere list of names and sums) being passed without being at some time read in the Senate; and I think I ought to object to dispensing with the reading of this bill unless there is some important exigency. It seems to me that a departure from this rule allowed, though in this case it would not make the slightest difference, would be a very serious thing.

The PRESIDENT *pro tempore*. The Chair thinks there is no instance of suspending the reading of any bill, except the Revised Statutes of the United States, within the recollection of the present occupant of the chair.

Mr. McPHERSON. I withdraw the request.

Mr. HALE. Let me state what I propose to do.

Mr. HOAR. The chairman of the Committee on Claims informs me that I was wrong in supposing that claims bills were not read.

The PRESIDENT *pro tempore*. Claims bills have always been read at length.

Mr. HALE. The Clerk is now engaged in reading the bill which the House of Representatives has sent to us within the last ten days. That bill has never been read in the Senate, and I did not propose to ask that the reading of it should be dispensed with. When we come to the committee amendment, the items of which have been before the body and considered fully, then I shall ask unanimous consent that the first reading be dispensed with and that it only be read for amendment; but I did not propose making that request, as to the House bill which has not been read in the Senate.

The PRESIDENT *pro tempore*. The reading will proceed.

The Secretary resumed and concluded the reading of the bill.

Mr. HALE. As we have now come to the Senate committee amendment, I ask that it be read for amendment, so that there may be but one reading of it.

The PRESIDENT *pro tempore*. The Senator from Maine asks unanimous consent that the amendment reported by the Committee on Appropriations be read by paragraphs for amendment as in Committee of the Whole. Is there objection? The Chair hears none.

Mr. RIDDLEBERGER. Does that mean that we stop the reading of the bill?

Mr. HALE. No; it is read for amendment.

Mr. BECK. The announcement was made that there was no objection. I only rose to request the Senator from Maine, who has charge of this bill, and who I have no doubt is familiar with it, before the amendment is read to explain just what it contains, so that the Senate will have no difficulty in understanding it. Instead of giving a lump sum there is a proposition to appropriate in detail, deducting the sums already appropriated for this year.

Mr. HALE. I was just going to do that.

Mr. BECK. I thought it would save time to have that done before the reading proceeds.

Mr. HALE. The regular naval appropriation bill for the year ending June 30, 1885, was prepared by the House at the last session, passed that body, came to the Senate, was reported with amendments from the Committee on Appropriations, and passed the Senate with certain amendments. To those amendments the House disagreed in bulk and the bill went into conference. The two bodies were unable to agree. In the waning hours of the session the House sent to this body a lump appropriation giving the Navy Department 50 per cent. of the previous year's appropriations to run until January 1, 1885. The Senate passed that bill, and thereby the Navy Department was provided with money to run it for six months. The regular appropriation bill which made the appropriations in detail after the fashion that was always observed was reported from the conference committee with a disagreement, and was left in the Senate to be taken up at the beginning of this session. The report of the conference committee upon the regular appropriation bill was called up some ten days ago, a new conference was ordered, and a request was made to the House of Representatives to join in the conference. So far as the records of the House go (which are open to the inspection of Senators and Members and of the public), the House has done nothing upon that courteous request of the Senate. About ten days have passed, and the Senate is confronted with this situation, that upon an appropriation bill necessary to be passed before the recess, or otherwise this great Department will find itself without money, the House declines to consider the request of the Senate. It is not for me to say whether such action comports with the courtesy that is commonly maintained between the two bodies. Senators must judge for themselves of that.

The Senate is not, however, by this non-action of the House, in any way estopped from bringing up and sending to the House a regular appropriation bill for the Navy Department made out in detailed items, because the House of Representatives has at this session sent over to this body another temporary appropriation bill giving an additional lump sum of 50 per cent. more of the appropriations of last year to run the Navy Department for the additional six months of the year before July 1, 1885, thereby bridging over an entire year by these two lump bills.

I do not like that way of appropriating; the Committee on Appropriations do not like that way of appropriating. I do not suppose that the Senate will agree to or desires that form of appropriation. It is better to keep the scrutiny each year on the bills, and not get into the way (unless you are obliged to at the last hours of the session) of making appropriations in general sums; and therefore when the House bill which they have sent us, covering another lump appropriation for six months, came before the Committee on Appropriations, that committee took it up, and has as an amendment substituted for it the regular naval appropriation bill that was considered last session by the two Houses, and it reports that as an amendment, deducting from the several sums the amount already given to the Navy Department for the six months ending January 1, 1885, and thereby the consideration of the regular appropriation bill as considered at the last session is brought before the Senate, notwithstanding the non-action of the House; and if the Senate, as I hope it will, passes the bill with this amendment it will be sent to the House, and the House must needs consider it.

That is the form of the bill. It has all been considered; it was debated at length on the part of Senators, and also in the House. The Committee on Appropriations has put that on here substantially the same as it was matured in the Senate at the last session; and it is to that bill that I ask the consideration of the Senate now.

Mr. MORRILL. Mr. President, I am obliged to think that it is necessary to fulfill the engagement which I made yesterday, and I now move that the Senate proceed to the consideration of executive business. I have no doubt that we shall get through in season to dispose or this bill to-day, but the executive business had better be done first.

The PRESIDENT *pro tempore*. The Senator from Vermont moves that the Senate now proceed to the consideration of executive business.

Mr. HALE. I ask unanimous consent to make a statement.

The PRESIDENT *pro tempore*. The Senator from Maine asks unanimous consent to make a remark on that motion. Is there objection? The Chair hears none.

Mr. HALE. I appeal to the Senator from Vermont to withdraw that motion for awhile. Senators will see how important it is that this measure should go through now. A few hours' delay may embarrass its consideration between the two Houses. I do not expect under the circumstances that any time will be taken by this bill except to read it, because it has been so fully considered and matured that I believe it will go right through without any amendments, unless formal ones. I hope the Senate will continue the consideration of this bill until it is completed, giving ample time for an executive session at the end of such business as the Senate considers in open session to-day.

Mr. MORRILL. I think, Mr. President, it will be very much better to dispose of the other business first, and therefore I insist upon my motion.

The PRESIDENT *pro tempore*. The question is on agreeing to the motion of the Senator from Vermont, that the Senate now proceed to the consideration of executive business.

The question being put, there were on a division—ayes 17, noes 14; no quorum voting.

Mr. MORRILL. I call for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 30, nays 24; as follows:

YEAS—30.

Aldrich,	Garland,	Maxey,	Sheffield,
Bayard,	Harris,	Mitchell,	Sherman,
Camden,	Harrison,	Morrill,	Slater,
Cameron of Wis.,	Jackson,	Pendleton,	Vest,
Coke,	Jonas,	Platt,	Walker,
Conger,	Jones of Florida,	Sabin,	Wilson.
Dolph,	Kenna,	Sawyer,	
Edmunds,	Manderson.	Sewell,	

NAYS—24.

Allison,	Cockrell,	Hale,	McMillan,
Beck,	Cullom,	Hampton,	Miller of Cal.,
Blair,	Dawes,	Hawley,	Miller of N. Y.,
Brown,	Frye,	Hoar,	Morgan,
Butler,	George,	Ingalls,	Pugh,
Call,	Gibson,	Logan,	Saulsbury.

ABSENT—22.

Bowen,	Groome,	Mahone,	Vance,
Cameron of Pa.,	Hill,	Palmer,	Van Wyck,
Colquitt,	Jones of Nevada,	Pike,	Voorhees,
Fair,	Lamar,	Plumb,	Williams.
Farley,	Lapham,	Ransom,	
Gorman,	McPherson,	Riddleberger,	

So the motion was agreed to.

EXECUTIVE SESSION.

The Senate proceeded to the consideration of executive business. After one hour and seventeen minutes spent in executive session the doors were reopened.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. CLARK, its Clerk, announced that the House had directed him to return to the Senate in compliance with its request the bill (S. 2376) for the relief of Joseph F. Wilson.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bill and joint resolution; and they were thereupon signed by the President *pro tempore:*

A bill (S. 2280) for the relief of Mrs. Jane Venable; and

Joint resolution (H. Res. 300) to pay the officers and employés of the Senate and House of Representatives their respective salaries for the month of December, 1884, on the 20th day of said month.

NAVAL APPROPRIATIONS.

The PRESIDING OFFICER (Mr. HARRIS in the chair). The Senate resumes the consideration of the unfinished business, being the bill (S. 2112) to establish a commission to regulate interstate commerce, and for other purposes.

Mr. HALE. I ask unanimous consent that the unfinished business be informally laid aside in order that the Senate may proceed with the consideration of the naval appropriation bill.

The PRESIDING OFFICER. Is there objection? The Chair hears none.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 7510) making temporary provision for the naval service.

The PRESIDING OFFICER. The Secretary will read the amendment reported from the Committee on Appropriations as a substitute.

The Secretary proceeded to read the amendment, and read to line 31.

Mr. COCKRELL. I should like to know of the Senator from Maine if we are to act upon the bill as it is being read, or is it simply being formally read?

Mr. HALE. No; the substitute is being read for amendment.

Mr. COCKRELL. I should like to know what is the meaning of the clause beginning in line 17—

who shall hereafter, after fifteen years' service, be entitled to receive, as annual pay, when at sea, $2,100, when on shore-duty $1,800, and when on leave or waiting orders $1,600.

Mr. HALE. That is under a provision of existing law, and is put into every naval appropriation bill to cover this particular class. It is in every naval appropriation bill, and has been for years.

Mr. COCKRELL. It is not, then, a new provision at all?

Mr. HALE. No; it is no new provision at all.

Mr. COCKRELL. I made the inquiry because some very serious and dangerous legislation has crept into bills under such provisions.

The Secretary resumed the reading of the amendment and read to line 418.

Mr. BECK. The provision from line 302 to line 418, which has just been read by the Secretary, for the increase of the Navy, is the long provision which was inserted after full discussion upon a call of the yeas and nays by a majority of the Senate in the bill of the last session. I was one of those who voted against it. As a member of the committee having the bill in charge, I felt that it was my duty to report the provision back to the Senate, as the Senate had already passed it, and submit it to the House for their consideration, so that there might be a conference between the House and the Senate in regard to it.

I only desire to say now, that while I agreed to report the provision I opposed it before, and I am not quite satisfied with the experience that we have had as to the ships already produced that it is a good one; but I do not make any objection to it. I believed that the Senate having once passed it, it was the duty of the committee to submit it again and send it to the House.

The Secretary resumed and concluded the reading of the amendment, which is to strike out all after the enacting clause of the bill and in lieu thereof insert:

That the following sums be, and they are hereby, appropriated, to be paid out of any money in the Treasury not otherwise appropriated, for the naval service of the Government for the year ending June 30, 1885, and for other purposes:

For the pay of the Navy, for the active-list, namely: For one Admiral, one Vice-Admiral, eight rear-admirals, seven chiefs of bureaus, twenty-one commodores, forty-five captains, eighty-seven commanders, seventy-eight lieutenant-commanders, two hundred and seventy-two lieutenants, ninety-five junior lieutenants, ninety-five ensigns, ninety-eight junior ensigns, fourteen medical directors, fifteen medical inspectors, fifty surgeons, seventy-nine passed assistant surgeons, eight assistant surgeons, two assistant surgeons not in the line of promotion (who shall hereafter, after fifteen years' service, be entitled to receive, as annual pay, when at sea, $2,100, when on shore-duty $1,800, and when on leave or waiting orders $1,600), thirteen pay-directors, twelve pay-inspectors, forty-nine paymasters, twenty-nine passed assistant paymasters, twenty assistant paymasters, sixty-nine chief engineers, ninety-three passed assistant engineers, seventy-eight assistant engineers, twenty-four chaplains, eleven professors of mathematics, ten naval constructors, nine assistant naval constructors, ten civil engineers, one hundred and eighty-eight warrant officers, thirty-eight mates, two hundred and ninety-five naval cadets; in all, $1,743,750.

For pay of the retired-list, namely: For forty-three rear-admirals, twenty commodores, eleven captains, twelve commanders, sixteen lieutenant-commanders, twenty-seven lieutenants, seven ensigns, twenty-two medical directors, two medical inspectors, four surgeons, five passed assistant surgeons, seven assistant surgeons, nine pay-directors, two pay-inspectors, four paymasters, two assistant paymasters, one assistant paymaster, eleven chief engineers, twenty passed assistant engineers, twenty-six assistant engineers, eight chaplains, six professors of mathematics, one chief constructor, three civil engineers, thirteen boatswains, ten gunners, nine carpenters, and seven sailmakers; in all, $351,865.

For pay to petty officers, seamen, ordinary seamen, landsmen, and boys, including men in the engineers' force and for the Coast Survey service, not exceeding $8,250, in all, $1,245,000.

For two secretaries, one to the Admiral and one to the Vice-Admiral, clerks to paymasters, clerks at inspections, navy-yards, and stations, and extra pay to men enlisted under honorable discharge; commission and interest, transportation of funds, exchange; mileage to officers while traveling under orders in the United States, and for actual personal expenses of officers while traveling abroad under orders, which shall specify the special necessity for such travel, and for actual and necessary traveling expenses of naval cadets while proceeding from their homes to the Naval Academy for examination and appointment as cadets, and for the payment of any such officers as may be in service, either upon the active or retired list, during the year ending June 30, 1885, in excess of the numbers of each class provided for in this act, and for any increase of pay arising from different duty, as the needs of the service may require; for rent and furniture of buildings and offices not in navy-yards; expenses of courts-martial and courts of inquiry, boards of investigation, examining boards, with clerks' and witnesses' fees, and traveling expenses and costs; stationery and recording; expenses of purchasing-paymasters' offices at the various cities, including clerks, furniture, fuel, stationery, and incidental expenses; newspapers and advertising; foreign postage; telegraphing, foreign and domestic; telephones; copying; care and fittings of library; mail and express wagons, and livery and express fees; costs of suits; commissions, warrants, diplomas, and discharges; relief of vessels in distress, and pilotage; recovery of valuables from shipwrecks; quarantine expenses; care and transportation of the dead; reports, professional investigation, cost of special instruction, professional journals, and information from abroad, and the collection and classification thereof, $222,500.

For all emergencies and extraordinary expenses arising at home or abroad, but impossible to be anticipated or classified, exclusive of personal services in the Navy Department or any of its subordinate bureaus or offices at Washington, D. C., $12,500.

BUREAU OF NAVIGATION.

For foreign and local pilotage and towage of ships of war; services and materials in correcting compasses on board ship, and for adjusting and testing compasses on shore; nautical and astronomical instruments, nautical books, maps, charts, and sailing directions, and repairs of nautical instruments for ships of war; books for libraries of ships of war; naval signals and apparatus, namely, signal-lights, lanterns, rockets, running-lights, drawings, and engravings for signal-books; compass fittings, including binnacles, tripods, and other appendages of ships' compasses; logs and other appliances for measuring the ship's ways, and leads and other appliances for sounding; lanterns and lamps, and their appendages, for general use on board ship, including those for the cabin, ward-room, and steerage, for the holds and spirit-room, for decks and quartermasters' use; bunting and other materials for flags, and making and repairing flags of all kinds; oil for ships of war, other than that used in the engineer department; candles when used as a substitute for oil in binnacles and running-lights; chimneys and wicks, and soap used in the navigation department; stationery for commanders and navigators of vessels of war, and for use of courts-martial; musical instruments and music for vessels of war; steering signals and indicators, and speaking-tubes and gongs for signal communication on board vessels of war; and for introducing electric lights on board vessels of war, not exceeding $2,500; in all $50,000.

For erection of compass-testing house, $7,000.

For contingent expenses of the Bureau of Navigation, namely: For freight and transportation of navigation materials, postage and telegraphing on public business, advertising for proposals, packing-boxes and materials, and all other contingent expenses, $2,000.

For the civil establishment of navy-yards and stations, $2,500.

BUREAU OF ORDNANCE.

For procuring, producing, and preserving ordnance material; for the armament of ships; for fuel, tools, materials, and labor to be used in the general work of the ordnance department; for furniture at magazines, at the ordnance dock, New York, and at the naval experimental battery, $65,000.

To continue the manufacture of modern guns, carriages, and ammunition for the rearmament of the Navy, $100,000.

Toward the modern armament of the Navy: For machine-cannon of small caliber, and appliances, $59,480; and for Gatling guns and appliances, $16,500; in all, $75,980.

For necessary repairs to ordnance buildings, magazines, gun-parks, boats, lighters, wharves, machinery, and other objects of the like character, $7,500.

For miscellaneous items, namely: For freight to foreign and home stations, advertising and auctioneers' fees, cartage and express charges, repairs to fire-engines, gas and water pipes, gas and water tax at magazines, toll, ferriage, foreign postage, and telegrams to and from the bureau, $1,500.

For the civil establishment at navy-yards and stations, $2,500.

For the torpedo corps, namely: For labor, material, freight and express charges; general repairs to grounds, buildings, and wharves; boats, instruction, instruments, tools, furniture, experiments, and general torpedo outfits, $25,000.

For the construction or purchase of one torpedo-boat, after the best model of construction now in use, $55,000.

BUREAU OF EQUIPMENT AND RECRUITING.

For equipment of vessels: For coal for steamers' and ships' use, including expenses of transportation, storage, and handling; hemp, wire, hides, and other materials for the manufacture of rope and cordage; iron for the manufacture of anchors, cables, galleys, and chains; canvas for the manufacture of sails, awnings, bags, and hammocks; heating apparatus for receiving-ships; and for the purchase of all other articles of equipment at home and abroad, and for the payment of labor in equipping vessels and manufacture of equipment articles in the several navy-yards, $450,000. The coal or other fuel for the Navy purchased under this appropriation shall be of the kind which may be preferred by the Secretary of the Navy, after an investigation by a suitable board of officers of the comparative merits of anthracite and bituminous coal and of other fuel for ordinary naval uses, and the price of said coals and of other fuel, and the readiness with which they may be procured in the ports of the world.

For expenses of recruiting: For expenses of recruiting for the naval service, rent of rendezvous and expenses of maintaining the same, advertising for men and boys, and all other expenses attending the recruiting for the naval service, and for the transportation of enlisted men and boys at home and abroad, $12,500.

For contingent expenses equipment and recruiting: For extra expenses of training-ships, freight and transportation of equipment stores, printing, advertising, telegraphing, books and models, postage, car-tickets, ferriage, ice, apprehension of deserters and stragglers, assistance to vessels in distress, continuous-service certificates and good-conduct badges for enlisted men, school books for training ships, medals for boys, and emergencies arising under cognizance of Bureau of Equipment and Recruiting unforeseen and impossible to classify, $5,000.

For the civil establishment at navy-yards and stations, $4,500.

BUREAU OF YARDS AND DOCKS.

For general maintenance of yards and docks, namely: For freights and transportation of materials and stores; books, models, maps, and drawings; purchase and repair of fire-engines; machinery; repairs on steam fire-engines, and attendance on the same; purchase and maintenance of oxen and horses, and driving teams, carts, and timber-wheels, and all vehicles for use in the navy-yards, and tools and repairs of the same; dredging; telegrams; furniture for Government houses and offices in the navy-yards; coal and other fuel; candles, oil, and gas; cleaning and clearing up yards and care of public buildings; attendance on fires, lights, fire-engines, and apparatus; for clerical and incidental labor at navy-yards; water-tax, and for toll and ferriages; rent of four officers' quarters at League Island; pay of the watchmen in the navy-yards; and for awning and packing-boxes, and advertising for yard and dock purposes, $140,000.

For contingent expenses that may arise at navy-yards and stations, $10,000.

For the civil establishment at navy-yards and stations, $12,000.

BUREAU OF MEDICINE AND SURGERY.

For support of the medical department: For surgeons' necessaries for vessels in commission, navy-yards, naval stations, Marine Corps, and Coast Survey, and for the civil establishment at the several naval hospitals, navy-yards, naval laboratory, and Naval Academy, $30,000.

For the naval-hospital fund, namely: For maintenance of the naval hospitals at the various navy-yards and stations, $15,000. And if the Secretary of the Navy shall not be able to maintain properly the whole number of naval hospitals now kept open on the amounts hereby appropriated for the maintenance of and civil establishment at naval hospitals, he shall close those which are least necessary to the service, and provide for the patients now cared for therein at such other naval hospitals as may be most convenient.

For contingent expenses of the bureau: For freight on medical stores; transportation of insane patients; advertising; telegraphing; purchase of books; expenses attending the medical board of examiners; rent of rooms for naval dispensary; hygienic and sanitary investigation and illustration; purchase and repair of wagons and harness; purchase and feed of horses and cows; trees, garden tools, and seeds, $12,500.

For necessary repairs of naval laboratory, naval hospitals, and appendages, including roads, wharves, outhouses, sidewalks, fences, gardens, farms, and cemeteries, $12,500.

BUREAU OF PROVISIONS AND CLOTHING.

For provisions for the seamen and marines; commuted rations for officers, seamen, and marines; expenses of the handling and transportation of provisions; of inspections and storehouses; purchase of water for ships for cooking and drinking purposes; and for provisions and commutation of rations for seven hundred and fifty boys, $550,000.

For contingent expenses: For freight on shipments (except provisions); candles, fuel; books and blanks; stationery; advertising and commissions on sales; furniture for inspection and pay-offices in navy-yards; foreign postage, telegrams, and express charges; toll, ferriages, car-tickets; yeoman's stores, iron safes, newspapers, ice, and incidental expenses absolutely necessary, $20,000.

For the civil establishment, $3,000.

BUREAU OF CONSTRUCTION AND REPAIR.

For preservation and completion of vessels on the stocks and in ordinary; purchase of materials and stores of all kinds; labor in navy-yards and on foreign stations; preservation of materials; purchase of tools; wear, tear, and repair of vessels afloat, and for general care, increase and protection of the Navy in the line of construction and repair, and incidental expenses, namely: advertising, foreign postage, telegrams, photographing, books, plans, stationery, and instruments for drawing-room, $650,000: *Provided*, That no part of this sum shall be applied to the repairs of any wooden ship when the estimated cost of such repairs, to be appraised by a competent board of naval officers, shall exceed 30 per cent. of the estimated cost, appraised in like manner, of a new ship of the same size and like material: *Provided further*, That nothing herein contained shall deprive the Secretary of the Navy of the authority to order repairs of ships damaged in foreign waters or on the high seas, so far as may be necessary to bring them home.

For the civil establishment, $10,000.

BUREAU OF STEAM-ENGINEERING.

For repairs, completion, and preservation of machinery and boilers, including steam-steerers, steam-capstans, steam-windlasses, &c., in vessels on the stocks and in ordinary; purchase and preservation of all materials and stores; purchase, fitting, and repair of machinery and tools in the navy-yards and stations; wear, tear, and repair of machinery and boilers of naval vessels; incidental expenses, such as foreign postages, telegrams, advertising, freight, photographing, books, stationery, and instruments, $550,000: *Provided*, That no part of said sum shall be applied to the repair of engines and machinery of wooden ships where the estimated cost of such repair shall exceed 30 per cent. of the estimated cost of new engines and machinery of the same character and power.

For contingencies, such as instruments and materials for draughting-room, $500.

For the civil establishment, $5,000.

INCREASE OF THE NAVY.

That it shall be the duty of the Secretary of War and the Secretary of the Navy, with the assistance of the gun-foundery board, which is hereby revived, to report to Congress, on the first day of the next ensuing session, a plan and estimate for the preparation and purchase of plant for a gun factory to complete guns from 6-inch caliber to 16-inch caliber, including buildings and shrinking-pit, and to report the full and detailed estimate for the cost of the work aforesaid, and whether the same can be better and more economically performed in establishments owned by the Government, or by private contract, or by a combined system whereby the said work can be accomplished partly by the Government and partly by private contract, and in what annual installments the said appropriations can most economically be made.

The Secretary of the Navy is hereby directed to report to Congress, at its next regular session, a plan or plans for the construction of one armored vessel for the United States Navy of not exceeding 8,500 tons displacement, the cost of the same, with machinery and armament, and the time which the process of construction of such vessel would take.

To enable the President to strengthen the naval establishment of the United States the sum of $2,500,000 is hereby appropriated, to be expended as follows and under the following limitations: For the construction of one cruiser of 4,500 tons displacement, one cruiser of 3,000 tons, one dispatch-vessel of 1,500 tons, two heavily-armed gunboats of 1,500 tons each, and one light gunboat of 750 tons, and one gunboat not to exceed 900 tons, this boat to be built on plans and specifications to be furnished by the Admiral of the Navy, and under his supervision and directions, subject to the approval of the Secretary of the Navy; one steel ram, as recommended by the first naval advisory board, November 7, 1881; one cruising torpedo-boat, advocated by the same board and by the present advisory board in its memorandum of November 21, 1882; and two of the harbor torpedo-boats recommended by said first board and in the report from the Bureau of Ordnance of November 1, 1883, all of which are recommended in the annual report of the Secretary of the Navy. And, under existing law, it shall be the duty of the advisory board appointed in conformity with an act making appropriations for the naval service for the fiscal year ending June 30, 1883, and for other purposes, approved August 5, 1882, to advise and assist the Secretary of the Navy, in his office or elsewhere, in all matters referred to them by him relative to the designs, models, plans, specifications, and contracts for said vessels in all their parts, and relative to the materials to be used therein and to the construction thereof, and especially relative to the harmonious adjustment, respectively, of their hulls, machinery, and armament; and they shall examine all materials to be used in said vessels, and inspect the work on the same as it progresses, and have general supervision thereof, under the direction of said Secretary. But said board shall have no power to make or enter into any contract, nor to direct or control any officer of the Navy, the chief of any bureau of the Navy, or any contractor. Neither of the vessels hereby authorized to be built shall be contracted for or commenced until full and complete detail drawings and specifications thereof, in all its parts, including the hull, engines, and boilers, shall have been provided or adopted by the Navy Department, and shall have been approved, in writing, by said board, or by a majority of the members thereof, and by the Secretary of the Navy; and after said drawings and specifications have been provided, adopted, and approved as aforesaid, and the work has been commenced, or a contract made for it, they shall not be changed in any respect, when the cost of such change shall in the construction exceed $500, except upon the approval of said board, or a majority of the members thereof, in writing, and upon the written order of the Secretary of the Navy; and if changes are thus made, the actual cost thereof and the damage caused thereby shall be ascertained, estimated, and determined by said board; and in any contract made pursuant to this act it shall be provided in the terms thereof that the contractor shall be bound by the determination of said board, or a majority thereof, as to the amount of the increased or diminished compensation said contractor shall be entitled to receive, if any, in consequence of such change or changes. And for the construction of all which vessels the Secretary of the Navy shall invite proposals from all American ship-builders and builders of machinery who shall show to the satisfaction of the Secretary of the Navy that within three months from the date of the contract their ship-yards will be equipped for building and repairing iron and steel steamships, and constructors of marine engines, machinery, and boilers; and the Secretary of the Navy is authorized to construct said vessels and procure their armament at a total cost for each not exceeding the amounts estimated by the naval advisory board; and in the event that such vessels, or any of them, shall be built by contract, such building shall be under contract with the lowest and best responsible bidder or bidders, made after at least sixty days' advertisement, published in five of the leading newspapers of the United States, inviting proposals for constructing said vessels, subject to all such rules, regulations, superintendence, and provisions as to bonds and security for the due completion of the work as the Secretary of the Navy shall prescribe; and no such vessel shall be accepted unless completed in strict conformity with the contract, with the advice and assistance of the naval advisory board, and in all respects in accordance with the provisions of the act of August 5, 1882, except as they are hereby modified; and the authority to construct the same shall take effect at once: *Provided*, That the Secretary of the Navy shall utilize the national navy-yards, with the machinery, tools, and appliances belonging to the Government there in use, in the building of said ships, or any parts thereof, as fully and to as great an extent as the same can be done with advantage to the Government.

For procuring tools and otherwise preparing for the construction of iron or steel ships, $150,000, the same to be expended in fitting for construction of the hulls of such ships such navy-yard or yards as may be deemed most advantageous to prepare and use for such work.

For completing the Mohican at the Mare Island navy-yard, $50,000, to be immediately available.

For continuing the work upon the double-turreted monitors, $2,000,000, the same to be applied toward procuring the side and turret armor and armament and finishing the vessels; and the Secretary of the Navy, acting under the advice of the naval advisory board in the same manner in all respects as in the construction of the steel cruisers, shall not, in procuring such armor and armament and finishing the monitors, exceed as the total cost of such completion the amounts estimated in the report of the board of October 25, 1883, and the report of the Secretary of December 1, 1883; and in all purchases of armor or contracts for construction there shall be free and open public competition.

NAVAL ACADEMY.

For pay of professors and others: For two professors, namely, one of mathematics and one of chemistry, at the rate per annum of $2,500 each; three professors (assistants), namely, one of physics, one of Spanish, and one of English

studies, history, and law, at the rate per annum of $2,200 each; six assistant professors, namely, four of French, one of English studies, history, and law, and one of drawing, at the rate per annum of $1,800 each; sword-master, at the rate per annum of $1,500, and two assistants, at the rate per annum of $1,000 each; boxing-master and gymnast, at the rate per annum of $1,200; assistant librarian, at the rate per annum of $1,400; secretary of the Naval Academy, at the rate per annum of $1,800; three clerks to Superintendent, at the rate per annum of $1,200, $1,000, and $800, respectively; one clerk to commandant of cadets, at the rate per annum of $1,200; one clerk to paymaster, at the rate per annum of $1,000; one dentist, at the rate per annum of $1,600; one baker, at the rate per annum of $600; one mechanic in department of physics and chemistry, at the rate per annum of $730; one cook, at the rate per annum of $325.50; one messenger to Superintendent, at the rate per annum of $600; one armorer, at the rate per annum of $529.50; one gunner's mate, at the rate per annum of $469.50, and one quarter-gunner, at the rate per annum of $409.50; one cockswain, at the rate per annum of $469.50; one seaman in the department of seamanship, at the rate per annum of $349.50; one attendant in the department of astronomy and one in the department of physics and chemistry, at the rate per annum of $300 each; six attendants at recitation-rooms, library, store, chapel, and offices, at the rate per annum of $240 each; one band-master, at the rate per annum of $528; twenty-one first-class musicians, at the rate per annum of $348 each; seven second-class musicians, at the rate per annum of $300 each; in all, $26,779.50.

For pay of watchmen and others: For captain of the watch and weigher, at $2.50 per day; four watchmen, at $2 per day each; foreman of the gas and steam-heating works of academy, at $5 per day; ten attendants at gas and steam-heating works, one at $3, one at $2.50, and eight at $2 per day each; one steam-pipe fitter, at the rate per annum of $600; one foreman of joiners, one foremn of painters, and one foreman of masons, at $3.50 per day each; one mason, at $3 per day; two joiners and one painter, at $2.50 per day each; one tinner, one gas-fitter, and one blacksmith, at $2.50 per day each; in all $11,494.25.

For pay of mechanics and others: For one mechanic at workshop, at $2.25 per diem; one master-laborer, to keep public grounds in order, at $2.28 per diem; fourteen laborers, to assist in same, three at $2 per diem each and eleven at $1.50 per diem each; one laborer, to superintend quarters of cadet-midshipmen and public grounds, at $2 per diem; twenty servants, to keep in order and attend to quarters of cadet-midshipmen and public buildings, at $20 per month each; in all, $7,281.83.

For pay of the employés in the department of steam-engineering, Naval Academy: One master-machinist, one boiler-maker, and one pattern-maker, at $3.50 per day each; two machinists and one blacksmith, a $2.50 per day each; four laborers, at $1.50 per day each; in all, $3,832.50.

For necessary repairs of public buildings, pavements, wharves, and walls inclosing the grounds of the Naval Academy, and for improvements, repairs, and furniture and fixtures, $10,500: *Provided*, That no appropriations provided for in this act shall be construed to authorize or be applied to a new building for the use of the Superintendent or other officers of the academy.

For fuel, and for heating and lighting the academy and school-ships, $8,500.

For contingent expenses, Naval Academy: For purchase of books for the library, $1,600.

For stationery, blank-books, models, maps, and for text-books for use of instructors, $1,000.

For expenses of the Board of Visitors to the Naval Academy, $750.

For purchase of chemicals, apparatus, and instruments in the department of physics and chemistry, and for repairs of the same, $1,250.

For purchase of gas and steam machinery; steam-pipe and fittings; rent of building for the use of the academy; freight; cartage; water; music; musical and astronomical instruments; uniforms for the bandsmen; telegraphing; for feed and maintenance of teams; for current expenses and repairs of all kinds; and for incidental labor and expenses not applicable to any other appropriation, $17,300.

For stores in the department of steam-enginery, $400.

For materials for repairs in steam-machinery, $300.

MARINE CORPS.

For pay of officers on the active-list, as follows: For one colonel-commandant, one colonel, two lieutenant-colonels, one adjutant and inspector, one quartermaster, one paymaster, four majors, two assistant quartermasters, one judge-advocate-general United States Navy, nineteen captains, thirty first lieutenants, and twenty-two second lieutenants, $98,220.

For pay of officers on the retired-list: For one colonel, three majors, two assistant quartermasters, three captains, two first lieutenants, and three second lieutenants, $14,819.

For pay of non-commissioned officers, musicians, and privates: For one sergeant-major, one quartermaster-sergeant, one leader of the band, and one drum-major, fifty first sergeants, one hundred and forty sergeants, one hundred and eighty corporals, thirty musicians, ninety-six drummers and fifers, and one thousand five hundred privates, $194,525.

For ten clerks and two messengers, $8,017.50; payments to discharged soldiers for clothing withdrawn, $10,000; transportation of officers traveling under orders without troops, $4,000; in all, $22,017.50.

For provisions for the Marine Corps, and for difference between cost of rations and commutation thereof for detailed men, $30,000.

For clothing, $38,500.

For fuel, $9,000.

For military stores, namely: For pay of one chief armorer, at $3 per day; three mechanics, at $2.50 per day each; purchase of military equipments, such as cartridge-boxes, bayonet-scabbards, haversacks, blanket-bags, canteens, musket-slings, swords, flags, knapsacks, drums, fifes, bugles, and other instruments, $2,500; purchase of ammunition, $500; purchase and repair of instruments for the band, and purchase of music, $250; in all, $4,893.25.

For transportation of troops and for expenses of recruiting, $5,000.

For repairs of barracks, and rent of buildings to be used for the manufacture of clothing, stores for supplies, and offices of assistant quartermaster at Philadelphia, and for hire of quarters where there are no public buildings, $9,500.

For forage for four public horses, one for messenger to commandant and staff, Washington, D. C., and three for general use at marine barracks, Mare Island, California, and League Island, Pennsylvania, $360.

For the purchase of forage, $2,340: *Provided*, That no commutation for forage shall be paid.

For contingencies, namely: For freight; ferriage; toll; cartage; funeral expenses of marines; stationery; telegraphing; rent of telephone; apprehension of deserters; per diem to enlisted men employed on constant labor for periods not less than ten days; repair of gas and water fixtures; office and barrack furniture; mess utensils for enlisted men; packing-boxes; wrapping-paper; oil-cloth; crash; rope; twine; carpenter's tools; tools for police purposes; purchase and repair of hose; repairs to public carryall; purchase and repair of harness; repair of fire-extinguishers; purchase and repair of hand-carts and wheelbarrows; purchase and repair of cooking stoves, ranges, &c.; stoves where there are no grates; purchase of ice; towels and soap for offices; improving parade-grounds; repair of pumps and wharves; laying drain and water pipes; introducing gas; and for other purposes, including gas and oil for marine barracks maintained at the various navy-yards and stations; and water at marine barracks, Boston, Mass.; Brooklyn, N. Y.; Annapolis, Md., and Mare Island, California; also straw for bedding for enlisted men at the various posts, and furniture for Government houses; in all, $12,500.

At the naval asylum, Philadelphia, Pa.: For superintendent, at the rate per annum of $800; steward, at the rate per annum of $480; matron, at the rate per annum of $360; cook, at the rate per annum of $240; two assistant cooks, at the rate per annum of $168 each; chief laundress, at the rate per annum of $192; six laundresses, at the rate per annum of $168 each; nine scrubbers and waiters, at the rate per annum of $168 each; six laborers, at the rate per annum of $240 each; stable-keeper and driver, at the rate per annum of $360; master-at-arms, at the rate per annum of $480; corporal, at the rate per annum of $300; barber, at the rate per annum of $360; carpenter, at the rate per annum of $845; water-rent and gas, $1,000; ice, $100; car-tickets, $125; cemetery and burial expenses, and headstones, $175; improvement of grounds, $250; repairs to buildings, and preservation of all kinds, painting, and for grates, furnaces, ranges, furniture, and repairs of furniture, $2,250; and for support of beneficiaries, $21,750; in all, $29,906.50, which sum shall be paid out of the income from the naval pension fund.

SEC. 2. That all appropriations made by the act of July 7, 1884, making temporary provision for the naval service for the six months ending December 31, 1884, or any balances thereof that may be unexpended at that date, be, and they are hereby, reappropriated, continued, and made available for the remainder of the fiscal year ending June 30, 1885.

SEC. 3. That the Secretary of the Navy is hereby directed to report to Congress, at its next and each regular session thereafter, the amount expended during the prior fiscal year from the appropriations for the pay of the Navy, Bureaus of Navigation, Ordnance, Equipment and Recruiting, Yards and Docks, Medicine and Surgery, Provisions and Clothing, Construction and Repair, and Steam Engineering for civilians employed on clerical duty, or in any other capacity other than ordinary mechanics and workingmen, and to submit, under the estimates for pay of the Navy and for the respective bureaus enumerated above, specific estimates for such civilian employés for the fiscal year 1886, and each fiscal year thereafter.

The PRESIDING OFFICER. The question is, Will the Senate agree to the amendment recommended by the Committee on Appropriations?

Mr. MCPHERSON. Which amendment is that?

The PRESIDING OFFICER. It is the substitute for the House bill.

Mr. MCPHERSON. I desire to amend the report of the committee in one particular. The amendment I desire to offer is on page 20, commencing after the word "modified," in line 411, striking out the words "and the authority to construct the same shall take effect at once," that being the authority to construct new ships provided for in the bill.

It will be remembered that the purpose, as stated by the honorable Senator from Maine when the bill was under consideration at the last session, was to duplicate the ships now under construction, to wit, the Chicago, the Boston, and the Atlanta. One of the principal reasons which actuated the House in not accepting the bill as amended by the Senate arose from the fact of the unwisdom, so to speak, of continuing the construction of a certain kind and class until those ships had been first tested.

It will be remembered that under the contract to complete those ships they ought to be ready to be tested some time in February, or certainly in the month of March. Now the committee propose, if the bill passes in its present form, to give the power to the present Secretary of the Navy to contract for a certain number of new ships in accordance with certain plans that have been adopted by the advisory board, which is a creation of the present Secretary.

It will be remembered further that the ships whose names I have stated have been subjected to very severe criticism, the Secretary of the Navy upon the one hand claiming that they are the best product of the advisory board and he recommends them strongly; on the other hand the criticism coming as it does from very distinguished naval officers in this country and in other countries. I can judge better which is right after the ship is fully completed and tested; perhaps, however, other Senators do not need such aids.

For one, I deem it unwise to continue the construction of new ships of that type until the actual ships have been tested; and inasmuch as the test can be made between now and the 1st day of April let us wait at least until they are tested before new contracts are made under this proposed provision for new vessels of a like class.

Therefore I move, in line 411, after the word "modified," to strike out the words:

And the authority to construct the same shall take effect at once.

And to insert in lieu thereof:

Provided, however, That the authority to construct the same shall not take effect until the vessels now under construction shall have been fully completed and tested.

The PRESIDENT *pro tempore*. The question is on agreeing to the amendment proposed by the Senator from New Jersey to the amendment recommended by the Committee on Appropriations.

Mr. MCPHERSON. Now, Mr. President, there is one other reason that I think ought to be a conclusive one for the adoption of the amendment. It is well known that on the 4th day of March the exercise of the powers of this Government in its executive branch will go into new hands. The present Secretary of the Navy, however distinguished he may be as a naval constructor, will not have anything more to do with that Department for the next four years after this winter. I do not understand the idea of conferring on him power to design through the aid of his advisory board a certain class of ships and to contract that those ships shall be built when a new administration soon to come into power may disagree entirely both as to the plans and the contract. In other words, the carrying into effect of the provisions of this law will devolve almost entirely upon the new Secre-

tary of the Navy, while the power to contract, unless my amendment is agreed to, will be given to the present Secretary, and the design of the proposed ships, let me again repeat, is a copy of ships now under construction which can be tested by the 1st of April or before, and which have been severely criticised by distinguished naval officers.

It has been the policy of every great naval power to first construct one ship upon a certain plan, and by practical tests of the actual vessel, if found to be successful and approved in every particular, then to copy that ship in the building of new vessels; but that policy is not being pursued here. We have now four or five vessels under construction which are new in their plans, departures many of them from any known plans, and some of them have been actually condemned—I speak now of the Chicago as to its machinery, which has not been found to be a successful plan of vessel, and it is proposed here simply to duplicate that ship. As to the 4,500 and 3,000 ton ships and the others named here, which will be built under the appropriation now proposed, they will be duplicates of the Chicago, Atlanta, and Boston.

The intention of my amendment is simply to wait until the ships now under construction are fully tested and then let the appropriation be available for the administration soon to come into power, and if they desire to change the plan of ship the plan may be changed and perhaps with great profit to the Government.

Mr. HALE. Mr. President, it was not the intention of the Committee on Appropriations to open the old discussion of questions that were settled by the Senate at the last session. The Senator from Kentucky has stated very clearly—I think it may have been in the absence of the Senator from New Jersey—what the position taken by the committee was. The House, by its non-action on the Senate's request for a conference, has refused to consider this subject-matter in conference. The Committee on Appropriations deemed it proper and wise and a fitting assertion of the action already taken by the Senate to put on this bill the measure of the last session just as it had been amended, and send it to the House for future conference. Of course when we get into conference the Senate can not drive the House if it is determined and maintains its position with reference to these new cruisers, but it must be a subject of fair consideration in conference. I am sorry as it was going along in this way that the Senator from New Jersey has introduced and brought up the old question about these ships by his amendment.

Mr. McPHERSON. Will the Senator yield right there to a question?

Mr. HALE. Yes.

Mr. McPHERSON. The Senator will remember that one year ago this bill was introduced, and was a subject of conference at that time. The present Secretary of the Navy then had one year and six months almost of his time to serve unexpired. Now he has but two or three months. The bill then would have been perfectly proper to confer on the then Secretary of the Navy the power that the bill does confer, to contract for and construct ships; but it will be remembered that a year has elapsed since that time, and now but two or three months of the present Secretary's term have yet to run. What I object to, and I think the Senator himself must see it, is the impropriety of conferring on the present administration of this Government the power to contract for a style of ship which, perhaps, the next administration may desire not to build, and which it may be found unwise to build from the practical test of the ship itself which will be completed now in a very short time.

Mr. HALE. I see the force of that. If the Senator had waited he would have seen where I was coming out in this direction.

I realize that the situation is not as it was a year ago. The bill itself as reported, if the Senator examines its provisions carefully, has such safeguards as to examination into plans and submission to experts, and then a provision that no contract shall be made until after sixty days' advertisement in five leading newspapers in the United States, found from lines 398 to 404, that it would be impossible for the Secretary of the Navy, if he so desired, to go on and make contracts for new cruisers during the last days of his administration. But the Secretary of the Navy has no such desire. I have no such desire as to intrust that to him. If he did desire it I should be opposed to it.

Mr. McPHERSON. Would not the bill do it?

Mr. HALE. The bill would not do it. I have no objection to striking out the words—and I had thought of making that movement myself:

And the authority to construct the same shall take effect at once.

I do not think these words ought to be there. I do not think in this changed condition they should remain there. I would not like to have any provision put in that in any way seems to reflect upon the present Secretary, and I do not think the Senator from New Jersey desires that.

Mr. McPHERSON. I do not think my amendment does reflect upon the present Secretary. Certainly it was not intended for that. Whatever my opinion of the present Secretary may be, there was no intention on my part to incorporate it in a measure of legislation.

Mr. HALE. Suppose, then, that the words are stricken out?

Mr. McPHERSON. But one word further, if the Senator please. That is not the object I had in view.

Mr. HALE. I did not suppose so.

Mr. McPHERSON. It was primarily that no contract shall be made by any Secretary, whether the present one or his successor, until the ships now under construction shall have been thoroughly tested. That was the idea.

Mr. HALE. Would the Senator desire now to bind up all the work of examination, for instance, when the new administration comes in?

Mr. McPHERSON. I beg pardon; I did not hear the Senator.

Mr. HALE. Would the Senator now desire to tie up the new administration of the Navy Department when it comes in, the administration that must have the responsibility of this work in the future? Would he desire to tie that up so that nothing could be done in the way of advertisement, in the way of plans, in the way of consultation with the advisory board, so that this work may be going on?

Mr. McPHERSON. I would tie up any administration until the ships that we have now under contract, costing millions of dollars, which are, as I have already said, the product of what are said to be the best minds in the Navy, shall be thoroughly tested and their fitness for the service proved. If they are the class of ships we want to build, let us go on and duplicate them; but in any event it is the part of prudence to wait till a practical test has been had. Perhaps no provision of law would be needed as to the next administration, for I do not believe that the Secretary of the Navy that is to be would take one single step forward in the way of constructing new ships until those now being constructed were tested.

Mr. HALE. I shall be willing to believe that. Of course the present Secretary will do nothing

Mr. McPHERSON. At the same time I prefer, inasmuch as we are making the law, that it shall be made positive and decisive. Let both Secretaries and all Secretaries be bound up by a provision which requires that we shall test these ships, and shall not go any further in a wrong direction, if it should be a wrong direction, than we are now going. If it should be right, it is very easy to continue in the right.

The Senator has spoken of a desire to cast some reflection upon the present Secretary of the Navy. I disavow that. When he says the Secretary of the Navy would not do such a thing at the end of his administration, I wish to call the attention of the Senator and of other Senators to the fact that such a thing is not unprecedented in this country, and therefore perhaps with the experience we have had confronting us it is wise for us to guard in every way we can the present.

Mr. HALE. Let the words "and the authority to construct the same shall take effect at once," in lines 411 and 412, be stricken out.

The PRESIDENT *pro tempore*. The question is upon agreeing to the amendment proposed by the Senator from New Jersey to the amendment of the Committee on Appropriations.

Mr. HAWLEY. Mr. President, I ask the attention of the Senator from New Jersey to the wording of his amendment. He refers to the vessels now in process of construction, and would suspend the right to make contracts for new ships until all those vessels shall have been completed, as I understand him. He is aware that with regard to a certain class of vessels under construction we do not regard them as experimental. We know just what their defects are and what their excellences are. I suppose he has reference more particularly to the Chicago and Boston and those that are to some extent experimental. The monitors we know all about. If his amendment is carried in the form it stands now, nothing in the world can be done until all the monitors shall be finished, which might be two or three years hence.

Mr. McPHERSON. Put in "the new vessels under construction." That would be understood.

Mr. HAWLEY. Or you might name them perhaps, the Boston and Chicago.

Mr. HALE. Say "steel cruisers."

Mr. HAWLEY. "Steel cruisers." That will do it.

Mr. McPHERSON. That is satisfactory. There is no intention to have it apply to the monitors.

The PRESIDENT *pro tempore*. The Senator from New Jersey has modified his amendment. It will be read as modified.

The CHIEF CLERK. It is proposed in the amendment of the committee to strike out, in lines 411 and 412, the words "and the authority to construct the same shall take effect at once" and insert in lieu thereof:

Provided, however, That the authority to construct or contract for the same shall not take effect until the steel cruisers now under construction shall have been fully completed and tested.

Mr. HALE. I do not agree to that amendment; but let us have the action of the Senate upon it.

The PRESIDENT *pro tempore*. The question is on agreeing to the amendment proposed by the Senator from New Jersey, as modified, to the amendment of the Committee on Appropriations.

Mr. McPHERSON. I call for the yeas and nays.

The yeas and nays were ordered.

Mr. BAYARD. Mr. President, I hope the Senator from New Jersey will modify his amendment. I understand the Senator from Maine who has the bill in charge to be content that some words in the present bill should be stricken out.

Mr. BECK. The word the Senator from New Jersey proposes to strike out.

Mr. BAYARD. He will agree; in other words to that part of the

amendment suggested which strikes out words conferring power immediately to go on. I hope my friend from New Jersey will be content with that.

Mr. HALE. I was proposing to move that myself if the Senator had not made his motion.

Mr. BAYARD. I submit to my friend from New Jersey that that will accomplish fairly what he intends to do. I am not willing to vote for an amendment that shall materially postpone the commencement of the construction of these ships. I voted for them at the last session of Congress and I desire to vote for them again. At the same time I think the words now in the bill which perhaps were proper enough a year ago are not quite so proper to-day, and it is not necessary to give the reasons for that, because I think they are obvious; but as the Senator in charge of the bill agrees to strike out those words it seems to me that by doing that we reach all the Senator from New Jersey desires.

Mr. MCPHERSON. Will the Senator permit me to ask him a question in this connection?

Mr. BAYARD. Certainly.

Mr. MCPHERSON. I should like to ask the Senator from Delaware what there will be left in the bill to prevent the present Secretary of the Navy from proceeding to make contracts, under the authority conferred by this bill, for all the ships proposed? Nothing in the world. The contracts may be made as they were in 1877. The present monitors, which have given us much trouble, it is well known were contracted for at that time. There are three months of time in which to make contracts, and the appropriation will be available in suitable time to pay for the contracts. If the Senate is not willing to check the present Secretary in making contracts the way to do is to accept the amendment of the Senator from Maine. That leaves it perfectly free for him to contract.

Mr. BAYARD. I prefer not to make the presumption that any high officer of this Government will act improperly upon a matter of grave importance and which lies under his discretion; and there is one check, should it become necessary hereafter, upon any such action as is suggested by the Senator from New Jersey, which was, as I remember, very correctly exercised by the successor to a Secretary of the Navy who made large contracts immediately upon his exit from the post. All of the monitor contracts made by Mr. Secretary Robeson were arrested by his successor, Mr. Thompson, and the contractors were placed, as I remember, in rather an unenviable plight. If it shall appear that contracts have been improvidently or improperly made, undoubtedly they will be subject to modifications, or the Government may retire from them.

I have not changed my view that the amendment consented to by the Senator from Maine will reach all that I think fairly ought to be asked in the present case; and, if it be in order, I should like this amendment to be voted upon in parts; in other words, that the vote upon the motion to strike out should be taken separately from the motion subsequently to insert.

The PRESIDENT *pro tempore*. The Chair thinks that is not in order. The rules provide that a motion to strike out and insert shall not be divided.

Mr. BAYARD. The amendment can not be severed?

The PRESIDENT *pro tempore*. It can not be severed.

Mr. MCPHERSON. Before the Senator from Delaware insists upon that motion I should like to call his attention to a certain fact, which appears to be admitted, regarding the monitors of which he speaks. It is known that during the last days of a Secretary's administration he made contracts for the construction of the monitors. It was made contingent upon an appropriation being made. The Senator will observe that future action by the Department could annul such a contract. This one stands entirely different. The bill which confers the power to make the contract carries with it the appropriation. Now, I should like to ask the Senator from Delaware, with a change of administration soon to occur, the present Secretary of the Navy desiring to build more ships of the style now under construction, and which will be completed in two months, would it not be wise for this Secretary or the succeeding one to wait and see whether it was a proper ship and fulfilled all the expectations?

What harm, then, is there in saying in the body of the bill that no Secretary shall contract for a ship of any style or plan until the new ships, which he tells us will be good ones, shall be tested, and then duplicate them, for I want to say to the honorable Senator from Delaware that there is nothing in this bill, if the amendment of the Senator from Maine is agreed to and my amendment is not, that will deter the present Secretary from making contracts for the seven or eight ships named here, and no power on earth can prevent the contractors from demanding the fulfillment of that contract, for the appropriation is contained in the same bill that gives authority to make the contract.

Mr. HALE. Now, Mr. President, let me answer the Senator from New Jersey right there. Under the provisions of the bill which is before the Senate no Secretary of the Navy would find it possible to make a single contract for one of these vessels between now and the 4th day of March. If the Senator will look on page 19 he will find these words, beginning on line 398:

> And in the event that such vessels, or any of them, shall be built by contract, such building shall be under contract with the lowest and best responsible bidder or bidders, made after at least sixty days' advertisement, published in five of the leading newspapers of the United States, inviting proposals for constructing said vessels, subject to all such rules, regulations, superintendence, and provisions as to bonds and security for the due completion of the work as the Secretary of the Navy shall prescribe.

Under that, if the Secretary was desirous of crowding through in an unseemly manner contracts with favorites or with anybody he would find it impossible.

I can also say, and speak as I believe and know, that the Secretary of the Navy feels in this matter as any retiring Secretary would do. He would not risk his reputation with the American people and with his friends by rushing in mad haste to make contracts now before he goes out. I can not imagine any man who is fit to be Secretary of the Navy ever daring to do a thing of that kind if there were no prohibition, and I am willing to trust something, if it is necessary, to the honor of heads of Departments. It is not needed here, because he is tied up. I expect to contribute and to join in the work of building up the Navy and of staying the hands of the Secretary of the Navy, if he is a wise and prudent and proper man, as I presume he will be, in the next administration, and I shall be willing to trust him. I shall not all the time believe that he is seeking to do some unfitting thing, and I am sure the Senator from New Jersey when he examines the bill carefully will see, as the Senator from Delaware and the Senator from Kentucky have seen, that there is no improper power lodged in the Secretary, if he wanted to exercise it.

Mr. MCPHERSON. There is no answer needed to the arguments of the Senator from Maine except the bill itself. The Senator says it will be impossible for the present Secretary of the Navy to enter into contracts, and he reads as authority the bill. It requires sixty days' advertisement. If an advertisement were made on the 4th day of January, a compliance with the bill would bring it within the present administration.

Mr. HALE. Sixty days!

Mr. MCPHERSON. Sixty days—January and February.

Mr. HAWLEY. Look at the almanac.

Mr. MCPHERSON. Certainly, there is an abundance of time—time enough, anyhow, between now and the 4th of March.

Mr. HALE. It would be utterly impossible.

Mr. MCPHERSON. The plans of the ships already approved, the Chicago, the Atlanta, and the Boston, which the Secretary avers to be the plans upon which he would construct new ships, are already provided; advertisement could be made to-morrow, and contracts for all these ships could be entered into before the close of the administration.

Mr. HALE. No advertisement could be issued until after the bill had passed both Houses.

Mr. MCPHERSON. I am speaking of the effect if the bill should pass. The Senator asks the Senate to pass it to-day and he expects the House to pass it very soon, I suppose.

Mr. FRYE. Not until after the holidays.

Mr. BAYARD. I found by private conversation with the Senator from New Jersey that he was under the impression the words he proposed to strike out had been stricken out. That I understand is not the case, however. I should like to ask the Senator from New Jersey to so modify the amendment as to withdraw that part of it which prevents the inception of this work until the other vessels shall be tested, and let us vote upon the part unobjected to by the Senator from Maine, which is to strike out the words as they now stand in the amendment of the committee.

Mr. MCPHERSON. I suppose if my amendment should not prevail a motion would then be in order to strike out the objectionable words.

Mr. HALE. I propose to ask the Senate to do that. I did propose that.

Mr. HARRIS. That motion will be in order.

Mr. BAYARD. That can be done afterward.

Mr. MCPHERSON. Then I desire the vote to be taken upon my amendment as offered.

Mr. HALE. If that is voted down I shall then ask the Senate to strike out the other words, as I proposed to do originally.

Mr. MCPHERSON. I hope it will not be voted down.

The PRESIDENT *pro tempore*. The question is on agreeing to the amendment proposed by the Senator from New Jersey [Mr. MCPHERSON] to the amendment recommended by the committee, on which the yeas and nays have been ordered.

Mr. MILLER, of California. I ask that the amendment be reported.

The PRESIDENT *pro tempore*. It will be read again for information.

The CHIEF CLERK. In line 411, after the word "modified," it is proposed to strike out the words—

> And the authority to construct the same shall take effect at once.

And to insert in lieu:

> *Provided, however*, That the authority to construct or contract for the same shall not take effect until the steel cruisers now under construction shall have been fully completed and tested.

Mr. MCPHERSON. I should like to state once more, because I think perhaps I may have been somewhat confused in my utterances

upon this question, that unless my amendment is agreed to the present Secretary of the Navy may contract for all these ships.

Mr. HALE. Let us have a vote.

The PRESIDENT *pro tempore*. The Secretary will call the roll on agreeing to the amendment to the amendment.

The Secretary proceeded to call the roll.

Mr. HAMPTON (when his name was called). I am paired with my colleague [Mr. BUTLER]. He would vote "nay" and I should vote "yea," if he were present.

Mr. RANSOM (when his name was called). I am paired on this amendment with the Senator from Illinois [Mr. LOGAN]. If he was present, I should vote "yea" and he would vote "nay."

The roll-call was concluded.

Mr. MILLER, of New York. I am paired with the Senator from Maryland [Mr. GROOME]. If he were here, I should vote "nay."

The result was announced—yeas 19, nays 35; as follows:

YEAS—19.

Beck,	George,	Kenna,	Saulsbury,
Call,	Gibson,	McPherson,	Slater,
Camden,	Harris,	Maxey,	Vance,
Coke,	Jackson,	Pendleton,	Voorhees.
Colquitt,	Jonas,	Pugh,	

NAYS—35.

Allison,	Frye,	Jones of Florida,	Platt,
Bayard,	Garland,	Lapham,	Plumb,
Blair,	Gorman,	McMillan,	Sawyer,
Cameron of Wis.,	Hale,	Miller of Cal.,	Sewell,
Conger,	Harrison,	Mitchell,	Sheffield,
Cullom,	Hawley,	Morgan,	Sherman,
Dawes,	Hill,	Morrill,	Walker,
Dolph,	Hoar,	Palmer,	Wilson.
Edmunds,	Ingalls,	Pike,	

ABSENT—22.

Aldrich,	Fair,	Logan,	Sabin,
Bowen,	Farley,	Mahone,	VanWyck,
Brown,	Groome,	Manderson,	Vest,
Butler,	Hampton,	Miller of N. Y.,	Williams.
Cameron of Pa.,	Jones of Nevada,	Ransom,	
Cockrell,	Lamar,	Riddleberger,	

So the amendment to the amendment was rejected.

Mr. HALE. I now move to strike out, in lines 411 and 412, the words—

> And the authority to construct the same shall take effect at once.

The PRESIDENT *pro tempore*. The question is on agreeing to the amendment to the amendment.

Mr. MCPHERSON. I would now be pleased to have an opportunity of asking the Senator from Maine in what way it subtracts from the power to make contracts even if those words are taken out. They are entirely superfluous, and mean nothing.

Mr. HALE. I think that those words when put in ought to have been added to so as to read:

> And the authority to construct the same shall take effect at once, subject to the provisions of this bill.

I think when they were put in originally that would have been the wiser and safer way. Striking them out now, under the changed condition, leaves the bill as it ought to have been left.

Mr. MCPHERSON. That fails to answer the question I have put to the Senator. The words, in the first place, were entirely superfluous. The power rests in the bill to use the appropriation the moment it is made. Now, I wish to know by striking those words out how much the Senator adds to the guards he proposes to throw around the whole subject.

Mr. HALE. The rest of the bill furnishes the safeguards. These words are of no account, add nothing and subtract nothing. I am entirely willing that they should go out, and I move that amendment.

The PRESIDENT *pro tempore*. The question is on agreeing to the motion of the Senator from Maine to amend the amendment of the committee.

The amendment to the amendment was agreed to.

The PRESIDENT *pro tempore*. The question is on agreeing to the amendment proposed by the committee as amended.

Mr. MORGAN. I desire to ask the Senator from Maine in charge of the bill for some information in respect to that part of the bill reported by the committee in lines 425 and 426. It reads as follows:

> For completing the Mohican at the Mare Island navy-yard, $50,000, to be immediately available.

I wish to know whether that is to be construed as meaning that the work is to be done in the Mare Island navy-yard.

Mr. HALE. She is there at the navy-yard.

Mr. MORGAN. I know. Is it merely meant to designate the location of the ship at the present time, or that the work shall be done at the Mare Island navy-yard?

Mr. HALE. Oh, that it shall be done at the Mare Island navy-yard, the completing of it.

Mr. MORGAN. I should like to ask the Senator who has the bill in charge what information the committee have as to the capacity of the Mare Island navy-yard to do that work to complete the ship.

Mr. HALE. The Senator from California [Mr. MILLER] can answer the Senator more fully.

Mr. MILLER, of California. If the Senator will permit me I will state that the Mohican is a wooden ship, which has been constructed at the navy-yard at Mare Island wholly, and this appropriation is merely for finishing it.

Mr. MORGAN. It is the wooden ship lying there?

Mr. MILLER, of California. It is the ship lying at the wharf at Mare Island which the Senator saw when he was there. They have every appliance and facility for finishing it, because they have done all the work so far on the ship.

Mr. MORGAN. There is no doubt about the navy-yard there being entirely competent to finish that ship.

Mr. HALE. This is old work that has been done for years there.

The PRESIDENT *pro tempore*. The question is on agreeing to the amendment of the committee as amended.

The amendment as amended was agreed to.

Mr. MORGAN. There is a feature of the bill with which I am not satisfied. It is on page 15, under the head of "Increase of the Navy." I will read it:

> That it shall be the duty of the Secretary of War and the Secretary of the Navy, with the assistance of the gun-foundery board, which is hereby revived, to report to Congress, on the first day of the next ensuing session, a plan and estimate for the preparation and purchase of plant for a gun factory to complete guns from 6-inch caliber to 16-inch caliber, including buildings and shrinking-pit, and to report the full and detailed estimate for the cost of the work aforesaid, and whether the same can be better and more economically performed in establishments owned by the Government, or by private contract, or by a combined system whereby the said work can be accomplished partly by the Government and partly by private contract, and in what annual installments the said appropriations can most economically be made.

I do not understand how the gun-foundery board can be worked into a harmonious committee with the Secretary of the Navy and the Secretary of War in devising a plan for the establishment of a gun factory to complete guns or to make guns out and out. I think there will be some trouble about this matter, and it would be very much better to leave this subject to the separate reports of the Secretary of the Navy and the Secretary of War, and let them take advice from any members of the ordnance establishment of the Navy or of the Army with whom they see proper to advise.

The revival of the gun-foundery board for another year is not necessary for the purpose of carrying on this work. It is a board that has been detailed and has been for some time in service. Now it is proposed to incorporate it for a year. It has once visited Europe, and it has also made a very partial excursion through a very limited area of the United States to find out something about the steel-making capacity and the gun-making capacity of this country. It went abroad on its mission after having made a very cursory examination of the condition of some iron and steel industries in the United States. After receiving a few letters from several establishments it came to the conclusion that it was not worth while to make any further examination in this country, and immediately went abroad to look into the different establishments in foreign countries. There they were deliberately snubbed. Mr. Krupp refused to let the gun-foundery board go into his works to examine them, and the rest of the establishments in Europe seemed to look upon it with some suspicion.

Other men have visited Europe from private establishments, from the Cambria Works, from Pittsburgh, from works near Philadelphia, from works in California. They have been well received. They have gone through all the establishments in Europe. They are practical men, practical steel and iron producers and manufacturers, and they have come back with information of a most valuable character, much of which has been obtained from them through the agency of a committee of this body and a committee of the House who were charged with the duty of finding out what the American people could produce in the way of steel and machine tools.

As soon as the two Houses got into activity about this matter (and they got into very great activity at the close of the last session of Congress by raising two select committees to investigate the same field precisely) the gun-foundery board was immediately inspired with a like activity; but still it went to a very few places. I am informed that it has a report which it expects to make to the Secretary of the Navy and through him to the Congress of the United States during the present session. I want to see that report before I consent to the revival of the gun-foundery board and to taking it with its present detail and organization as a fixed and permanent establishment in this country.

I feel it to be my duty to say, after a careful investigation of the former report of the gun-foundery board and a comparison of the facts which they have detailed, with the testimony of enlightened producers and manufacturers throughout the length and breadth of the United States, that the gun-foundery board never put itself to any trouble to find out what is the real power of this country in steel and iron production until a very recent date, and unless it has got the information which the committees of the two Houses have collected it has not yet sufficiently informed itself about this matter. That board started out with a proposition that the guns for the Army should be built by the ordnance establishment of the Army, whether they were field-pieces or whether they were guns for seacoast defense, whether they were guns of 3-inch caliber or 16-inch caliber; that the guns for the Navy should be built by the ordnance establishment of the Navy—guns of all sizes, all calibers,

amendment suggested which strikes out words conferring power immediately to go on. I hope my friend from New Jersey will be content with that.

Mr. HALE. I was proposing to move that myself if the Senator had not made his motion.

Mr. BAYARD. I submit to my friend from New Jersey that that will accomplish fairly what he intends to do. I am not willing to vote for an amendment that shall materially postpone the commencement of the construction of these ships. I voted for them at the last session of Congress and I desire to vote for them again. At the same time I think the words now in the bill which perhaps were proper enough a year ago are not quite so proper to-day, and it is not necessary to give the reasons for that, because I think they are obvious; but as the Senator in charge of the bill agrees to strike out those words it seems to me that by doing that we reach all the Senator from New Jersey desires.

Mr. MCPHERSON. Will the Senator permit me to ask him a question in this connection?

Mr. BAYARD. Certainly.

Mr. MCPHERSON. I should like to ask the Senator from Delaware what there will be left in the bill to prevent the present Secretary of the Navy from proceeding to make contracts, under the authority conferred by this bill, for all the ships proposed? Nothing in the world. The contracts may be made as they were in 1877. The present monitors, which have given us much trouble, it is well known were contracted for at that time. There are three months of time in which to make contracts, and the appropriation will be available in suitable time to pay for the contracts. If the Senate is not willing to check the present Secretary in making contracts the way to do is to accept the amendment of the Senator from Maine. That leaves it perfectly free for him to contract.

Mr. BAYARD. I prefer not to make the presumption that any high officer of this Government will act improperly upon a matter of grave importance and which lies under his discretion; and there is one check, should it become necessary hereafter, upon any such action as is suggested by the Senator from New Jersey, which was, as I remember, very correctly exercised by the successor to a Secretary of the Navy who made large contracts immediately upon his exit from the post. All of the monitor contracts made by Mr. Secretary Robeson were arrested by his successor, Mr. Thompson, and the contractors were placed, as I remember, in rather an unenviable plight. If it shall appear that contracts have been improvidently or improperly made, undoubtedly they will be subject to modifications, or the Government may retire from them.

I have not changed my view that the amendment consented to by the Senator from Maine will reach all that I think fairly ought to be asked in the present case; and, if it be in order, I should like this amendment to be voted upon in parts; in other words, that the vote upon the motion to strike out should be taken separately from the motion subsequently to insert.

The PRESIDENT *pro tempore*. The Chair thinks that is not in order. The rules provide that a motion to strike out and insert shall not be divided.

Mr. BAYARD. The amendment can not be severed?

The PRESIDENT *pro tempore*. It can not be severed.

Mr. MCPHERSON. Before the Senator from Delaware insists upon that motion I should like to call his attention to a certain fact, which appears to be admitted, regarding the monitors of which he speaks. It is known that during the last days of a Secretary's administration he made contracts for the construction of the monitors. It was made contingent upon an appropriation being made. The Senator will observe that future action by the Department could annul such a contract. This one stands entirely different. The bill which confers the power to make the contract carries with it the appropriation. Now, I should like to ask the Senator from Delaware, with a change of administration soon to occur, the present Secretary of the Navy desiring to build more ships of the style now under construction, and which will be completed in two months, would it not be wise for this Secretary or the succeeding one to wait and see whether it was a proper ship and fulfilled all the expectations?

What harm, then, is there in saying in the body of the bill that no Secretary shall contract for a ship of any style or plan until the new ships, which he tells us will be good ones, shall be tested, and then duplicate them, for I want to say to the honorable Senator from Delaware that there is nothing in this bill, if the amendment of the Senator from Maine is agreed to and my amendment is not, that will deter the present Secretary from making contracts for the seven or eight ships named here, and no power on earth can prevent the contractors from demanding the fulfillment of that contract, for the appropriation is contained in the same bill that gives authority to make the contract.

Mr. HALE. Now, Mr. President, let me answer the Senator from New Jersey right there. Under the provisions of the bill which is before the Senate no Secretary of the Navy would find it possible to make a single contract for one of these vessels between now and the 4th day of March. If the Senator will look on page 19 he will find these words, beginning on line 398:

> And in the event that such vessels, or any of them, shall be built by contract, such building shall be under contract with the lowest and best responsible bidder or bidders, made after at least sixty days' advertisement, published in five of the leading newspapers of the United States, inviting proposals for constructing said vessels, subject to all such rules, regulations, superintendence, and provisions as to bonds and security for the due completion of the work as the Secretary of the Navy shall prescribe.

Under that, if the Secretary was desirous of crowding through in an unseemly manner contracts with favorites or with anybody he would find it impossible.

I can also say, and speak as I believe and know, that the Secretary of the Navy feels in this matter as any retiring Secretary would do. He would not risk his reputation with the American people and with his friends by rushing in mad haste to make contracts now before he goes out. I can not imagine any man who is fit to be Secretary of the Navy ever daring to do a thing of that kind if there were no prohibition, and I am willing to trust something, if it is necessary, to the honor of heads of Departments. It is not needed here, because he is tied up. I expect to contribute and to join in the work of building up the Navy and of staying the hands of the Secretary of the Navy, if he is a wise and prudent and proper man, as I presume he will be, in the next administration, and I shall be willing to trust him. I shall not all the time believe that he is seeking to do some unfitting thing, and I am sure the Senator from New Jersey when he examines the bill carefully will see, as the Senator from Delaware and the Senator from Kentucky have seen, that there is no improper power lodged in the Secretary, if he wanted to exercise it.

Mr. MCPHERSON. There is no answer needed to the arguments of the Senator from Maine except the bill itself. The Senator says it will be impossible for the present Secretary of the Navy to enter into contracts, and he reads as authority the bill. It requires sixty days' advertisement. If an advertisement were made on the 4th day of January, a compliance with the bill would bring it within the present administration.

Mr. HALE. Sixty days!

Mr. MCPHERSON. Sixty days—January and February.

Mr. HAWLEY. Look at the almanac.

Mr. MCPHERSON. Certainly, there is an abundance of time—time enough, anyhow, between now and the 4th of March.

Mr. HALE. It would be utterly impossible.

Mr. MCPHERSON. The plans of the ships already approved, the Chicago, the Atlanta, and the Boston, which the Secretary avers to be the plans upon which he would construct new ships, are already provided; advertisement could be made to-morrow, and contracts for all these ships could be entered into before the close of the administration.

Mr. HALE. No advertisement could be issued until after the bill had passed both Houses.

Mr. MCPHERSON. I am speaking of the effect if the bill should pass. The Senator asks the Senate to pass it to-day and he expects the House to pass it very soon, I suppose.

Mr. FRYE. Not until after the holidays.

Mr. BAYARD. I found by private conversation with the Senator from New Jersey that he was under the impression the words he proposed to strike out had been stricken out. That I understand is not the case, however. I should like to ask the Senator from New Jersey to so modify the amendment as to withdraw that part of it which prevents the inception of this work until the other vessels shall be tested, and let us vote upon the part unobjected to by the Senator from Maine, which is to strike out the words as they now stand in the amendment of the committee.

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Mr. HARRIS. That motion will be in order.

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Mr. MCPHERSON. Then I desire the vote to be taken upon my amendment as offered.

Mr. HALE. If that is voted down I shall then ask the Senate to strike out the other words, as I proposed to do originally.

Mr. MCPHERSON. I hope it will not be voted down.

The PRESIDENT *pro tempore*. The question is on agreeing to the amendment proposed by the Senator from New Jersey [Mr. MCPHERSON] to the amendment recommended by the committee, on which the yeas and nays have been ordered.

Mr. MILLER, of California. I ask that the amendment be reported.

The PRESIDENT *pro tempore*. It will be read again for information.

The CHIEF CLERK. In line 411, after the word "modified," it is proposed to strike out the words—

> And the authority to construct the same shall take effect at once.

And to insert in lieu:

> *Provided, however*, That the authority to construct or contract for the same shall not take effect until the steel cruisers now under construction shall have been fully completed and tested.

Mr. MCPHERSON. I should like to state once more, because I think perhaps I may have been somewhat confused in my utterances

upon this question, that unless my amendment is agreed to the present Secretary of the Navy may contract for all these ships.

Mr. HALE. Let us have a vote.

The PRESIDENT *pro tempore*. The Secretary will call the roll on agreeing to the amendment to the amendment.

The Secretary proceeded to call the roll.

Mr. HAMPTON (when his name was called). I am paired with my colleague [Mr. BUTLER]. He would vote "nay" and I should vote "yea," if he were present.

Mr. RANSOM (when his name was called). I am paired on this amendment with the Senator from Illinois [Mr. LOGAN]. If he was present, I should vote "yea" and he would vote "nay."

The roll-call was concluded.

Mr. MILLER, of New York. I am paired with the Senator from Maryland [Mr. GROOME]. If he were here, I should vote "nay."

The result was announced—yeas 19, nays 35; as follows:

YEAS—19.

Beck,	George,	Kenna,	Saulsbury,
Call,	Gibson,	McPherson,	Slater,
Camden,	Harris,	Maxey,	Vance,
Coke,	Jackson,	Pendleton,	Voorhees.
Colquitt,	Jonas,	Pugh,	

NAYS—35.

Allison,	Frye,	Jones of Florida,	Platt,
Bayard,	Garland,	Lapham,	Plumb,
Blair,	Gorman,	McMillan,	Sawyer,
Cameron of Wis.,	Hale,	Miller of Cal.,	Sewell,
Conger,	Harrison,	Mitchell,	Sheffield,
Cullom,	Hawley,	Morgan,	Sherman,
Dawes,	Hill,	Morrill,	Walker,
Dolph,	Hoar,	Palmer,	Wilson.
Edmunds,	Ingalls,	Pike,	

ABSENT—22.

Aldrich,	Fair,	Logan,	Sabin,
Bowen,	Farley,	Mahone,	VanWyck,
Brown,	Groome,	Manderson,	Vest,
Butler,	Hampton,	Miller of N. Y.,	Williams.
Cameron of Pa.,	Jones of Nevada,	Ransom,	
Cockrell,	Lamar,	Riddleberger,	

So the amendment to the amendment was rejected.

Mr. HALE. I now move to strike out, in lines 411 and 412, the words—

And the authority to construct the same shall take effect at once.

The PRESIDENT *pro tempore*. The question is on agreeing to the amendment to the amendment.

Mr. MCPHERSON. I would now be pleased to have an opportunity of asking the Senator from Maine in what way it subtracts from the power to make contracts even if those words are taken out. They are entirely superfluous, and mean nothing.

Mr. HALE. I think that those words when put in ought to have been added to so as to read:

And the authority to construct the same shall take effect at once, subject to the provisions of this bill.

I think when they were put in originally that would have been the wiser and safer way. Striking them out now, under the changed condition, leaves the bill as it ought to have been left.

Mr. MCPHERSON. That fails to answer the question I have put to the Senator. The words, in the first place, were entirely superfluous. The power rests in the bill to use the appropriation the moment it is made. Now, I wish to know by striking those words out how much the Senator adds to the guards he proposes to throw around the whole subject.

Mr. HALE. The rest of the bill furnishes the safeguards. These words are of no account, add nothing and subtract nothing. I am entirely willing that they should go out, and I move that amendment.

The PRESIDENT *pro tempore*. The question is on agreeing to the motion of the Senator from Maine to amend the amendment of the committee.

The amendment to the amendment was agreed to.

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Mr. MORGAN. I desire to ask the Senator from Maine in charge of the bill for some information in respect to that part of the bill reported by the committee in lines 425 and 426. It reads as follows:

For completing the Mohican at the Mare Island navy-yard, $50,000, to be immediately available.

I wish to know whether that is to be construed as meaning that the work is to be done in the Mare Island navy-yard.

Mr. HALE. She is there at the navy-yard.

Mr. MORGAN. I know. Is it merely meant to designate the location of the ship at the present time, or that the work shall be done at the Mare Island navy-yard?

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The amendment as amended was agreed to.

Mr. MORGAN. There is a feature of the bill with which I am not satisfied. It is on page 15, under the head of "Increase of the Navy." I will read it:

That it shall be the duty of the Secretary of War and the Secretary of the Navy, with the assistance of the gun-foundery board, which is hereby revived, to report to Congress, on the first day of the next ensuing session, a plan and estimate for the preparation and purchase of plant for a gun factory to complete guns from 6-inch caliber to 16-inch caliber, including buildings and shrinking-pit, and to report the full and detailed estimate for the cost of the work aforesaid, and whether the same can be better and more economically performed in establishments owned by the Government, or by private contract, or by a combined system whereby the said work can be accomplished partly by the Government and partly by private contract, and in what annual installments the said appropriations can most economically be made.

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The revival of the gun-foundery board for another year is not necessary for the purpose of carrying on this work. It is a board that has been detailed and has been for some time in service. Now it is proposed to incorporate it for a year. It has once visited Europe, and it has also made a very partial excursion through a very limited area of the United States to find out something about the steel-making capacity and the gun-making capacity of this country. It went abroad on its mission after having made a very cursory examination of the condition of some iron and steel industries in the United States. After receiving a few letters from several establishments it came to the conclusion that it was not worth while to make any further examination in this country, and immediately went abroad to look into the different establishments in foreign countries. There they were deliberately snubbed. Mr. Krupp refused to let the gun-foundery board go into his works to examine them, and the rest of the establishments in Europe seemed to look upon it with some suspicion.

Other men have visited Europe from private establishments, from the Cambria Works, from Pittsburgh, from works near Philadelphia, from works in California. They have been well received. They have gone through all the establishments in Europe. They are practical men, practical steel and iron producers and manufacturers, and they have come back with information of a most valuable character, much of which has been obtained from them through the agency of a committee of this body and a committee of the House who were charged with the duty of finding out what the American people could produce in the way of steel and machine tools.

As soon as the two Houses got into activity about this matter (and they got into very great activity at the close of the last session of Congress by raising two select committees to investigate the same field precisely) the gun-foundery board was immediately inspired with a like activity; but still it went to a very few places. I am informed that it has a report which it expects to make to the Secretary of the Navy and through him to the Congress of the United States during the present session. I want to see that report before I consent to the revival of the gun-foundery board and to taking it with its present detail and organization as a fixed and permanent establishment in this country.

I feel it to be my duty to say, after a careful investigation of the former report of the gun-foundery board and a comparison of the facts which they have detailed, with the testimony of enlightened producers and manufacturers throughout the length and breadth of the United States, that the gun-foundery board never put itself to any trouble to find out what is the real power of this country in steel and iron production until a very recent date, and unless it has got the information which the committees of the two Houses have collected it has not yet sufficiently informed itself about this matter. That board started out with a proposition that the guns for the Army should be built by the ordnance establishment of the Army, whether they were field-pieces or whether they were guns for seacoast defense, whether they were guns of 3-inch caliber or 16-inch caliber; that the guns for the Navy should be built by the ordnance establishment of the Navy—guns of all sizes, all calibers,

all descriptions; that we should have in the United States under the control of the different ordnance establishments two great gun factories, to say the least of it—one to make guns for the Army and one to make guns for the Navy; that we should divide the power and influence of the Government between the two military departments, as I infer, for the purpose of giving civil employment and home locations to men who hold commissions to be in the field and upon the sea.

Now, when we build up these two separate establishments which the gun-foundery board has uniformly recognized and uniformly recommended, we will shut out the competition of every enlightened manufacturer in the United States.

Without presuming to draw distinctions between the different manufacturers in this country or the many great manufacturing centers, I can say broadly, and without the fear of successful contradiction, that at Johnstown, in Pennsylvania, there is an establishment which has more money invested than Krupp has; that has to-day a larger capacity in the supply of material for the production of steel than Krupp has; that can make better steel than Krupp can make; that makes it by better methods and processes, and makes it exclusively of American material, and almost exclusively with the skill of American workmen. If you will aggregate what has been done at Pittsburgh by the various private manufacturers in that city and add to it the advantages of the natural gas which has been recently brought into use in that city—a most wonderful discovery and development of fuel power—you will find in and about that city twice the power that Mr. Krupp possesses to produce steel of any quality, from that refined and excellent article of steel necessary for a hairspring in a watch up to a gun that will weigh a hundred tons. It is true that in some of the very largest descriptions of machinery and of furnaces these different establishments have not supplied themselves, for the reason that they have had no market for the material that those large machines would produce. But those large machines, whether they are steam-hammers or whether they are hydraulic compressors, can be made rapidly out and out by American workmen with American tools from the very bed foundation of the machines down to the finest cutting tool that they may require.

What I say is equally true in respect of California. California possesses a power of manufacture that most of the people in this part of the country are entirely unacquainted with. It has steel ores finer than any that are on any other part of the earth, so far as chemistry and physical tests have been able to determine. It has ores in greater abundance than any other country in the world. It has ores more convenient to the seaboard even than England has got, and its capacity for the manufacture of steel of every quality is equal to that of any other country on earth, with the exception that it does not possess within its own limits a fuel which is of sufficient power to conduct heavy manufactures. But Washington Territory and Oregon possess in large abundance in various locations near on to the seacoast and in Vancouver Bay fuel that produces coke as excellent as that which is produced at Johnstown, Pa. The transportation of it down to San Francisco or San Diego, both of which places are convenient to immense deposits of excellent iron ore, is as a matter of course of cheap cost, because it is nearly all by water.

Sir, the United States of America stands to-day in the front of all nations of this earth in its power to manufacture steel of every grade cheaper than can be done in any other country in the world, England not excepted. That is a broad and a bold declaration; but when the committee of which I have the honor to be a member shall make its report through its chairman, the Senator from Connecticut [Mr. HAWLEY], the facts that will be detailed here will prove it beyond all controversy. But the gun-foundery board in its former investigations found out little or nothing about this. They left this country and went abroad to make an examination into the steel-producing capacity of other countries. They came back and made their report, and it was not until Congress had started these committees upon the work of investigation that this board seemed to feel the slightest degree of anxiety in searching out what is now so apparent to the whole world, or at least least to men who know anything about these matters.

They came back and reported that it was an impossibility to get the steel made in the United States for the manufacture of certain parts of the heavy guns that have already been required for the armament of the sloops of war that have been launched at Roach's yard; and our contracts for the steel for parts of these guns have been made in England and France—England, I am sure—and they are not yet filled. We can not get our guns because we can not get the English people to accommodate us with breech-pieces made of steel for the guns to arm our own vessels. Some of these guns are being built in the United States now, some at Midvale. I saw one of the guns there the other day, a rather promising-looking gun. The ingots had been cast at Midvale. They had been forged there. They had been sent to the navy-yard at Washington city to be rough-bored and turned. They had then been retransported to Midvale for the purpose of being tempered in oil, and there they were, waiting to be sent back to Washington. They have been making excursions back and forth from the navy-yard at Washington to Midvale, Pa., just above Philadelphia, of course at a heavy expenditure for freights. One of these guns, that I suppose was manufactured at Midvale, was built up at the navy-yard here. It is about a 30-foot gun. It is now at Annapolis, I am informed.

When that gun was built at the navy-yard in Washington city and they undertook to balance it on its trunnion it took, as I am informed, 1,400 pounds on the front end of that gun to make it balance. A single man or two gunners with machinery could not raise that gun to put it in line for action in battle. It has been hustled out of the way down to Annapolis. I propose to inquire something more about the history of that gun, for I want to know whether the recommendations that have been made to us, that the Army ordnance board and the Navy ordnance board are to have the control of this matter so as to build up two heads to an establishment that does not need but one, are to be followed. I wish to know if this gun is to be taken as a test of the skill of our gun factories that are to be under the charge of the officers of the Army and Navy.

Mr. President, there is not a man in the gun-foundery board to-day, I venture to say, who ever made a pound of steel in his life, or one who would know whether a metal found in a Siemens furnace, while it was boiling under the influence of heat, was steel or iron until it had been taken out and subjected to physical or chemical tests. They, as a rule, have no more practical experience in the business of making steel than I have about making sole leather. They know it theoretically. They are highly informed, splendidly educated in chemistry, in physics, in theoretical mechanics, but that is not practical education. I will take an experienced American workman who has been having his eye upon the furnace at Cambria or Midvale or in Pittsburgh, watching the working of these metals, and I would rely upon his eye to judge of a metal while it is being worked with far more security than can be done by the scientific attainments of any man that belongs to the Ordnance Department of the Army or the Navy in the United States.

What we want to do to infuse life, skill, and energy into this matter of building a navy and building the guns that we are compelled to build for the armament of our seacoast and of our Navy is to allow private enterprise in the United States to come into competition for the work. The very moment that you open the door for private competition you will be astonished at the display of genius and power that this country has right at hand for doing the best and finest work that is possible.

We have almost an entire armament of guns to make, and if we shall put these different manufacturing establishments of the United States into this work in different convenient localities so as to get up between them a rivalry in business and a rivalry in the excellence of their productions, and if we will give them a market, which we are obliged to give to somebody, we will find that these establishments will come to the front and they will make us a navy, and they will make us guns that will surprise the world more than it was surprised when Rodman adopted his splendid system of casting iron guns. Rodman revolutionized the whole subject of gun production in the world by his system, and at the close of the late war the United States had the precedence of all the powers in respect to the capacity, the character, and strength of our ordnance.

Now, sir, if we will allow our men to avail themselves, as they will be certain to do, of the advantages of experience gained by the expenditure of untold millions of money in other countries, and let them start out now to build a navy from the bottom, as we are doing; if you will give to our own people the market that we are compelled to provide to somebody for the building of our ships and our guns for seacoast as well as for naval armament, we will find ourselves more astonished and the world will find itself more astonished with the triumphs of American skill and genius in this direction than it was at the close of the last war, when we furnished the world with the Rodman gun and the pattern for the iron-clad ship.

I am opposed to handicapping the Navy Department and the War Department with a gun-foundery board. Let them have access not to the gun-foundery board alone, but let them have access to all the talent and all the ability of the Navy and of the Army Ordnance Department. More than that, let them have access to those sources of information that the committees of the two Houses have consulted, and the Secretary of War and the Secretary of the Navy will then be able to come before the Congress of the United States with an intelligent array of facts upon which we can hardly hesitate in forming our judgment. But if we put in connection with them and compel them to take the advice of the gun-foundery board, and cause the gun-foundery board to become one of a committee (for that is the nature of this arrangement), consisting of the gun-foundery board, the Secretary of the Navy, and the Secretary of War, to make a report to Congress next year as to the best plan to be adopted, we know what the result is to be. It will be merely to leave this whole subject tied down as it has been now for quite a length of time; to leave this whole subject just where it is to-day, and to compel the Congress of the United States in its anxiety to do something for the armament of this country to adopt only such a plan as shall emanate virtually from the gun-foundery board. Your committees that you sent out will have been of no service. The advice of all the balance of the officers of the Army and Navy not included in the gun-foundery board will be of no service. This whole subject will be shaped just as they have shaped it heretofore and as they wish to con-

trol it hereafter. Mr. President, if it had not been for the report of the gun-foundery board the guns that are to arm these new sloops of war could to-day have been built by private enterprise in the United States, and would have been equal to any guns in the world of their class. That report only delayed such action by Congress as could easily have accomplished these results.

So we are committing an error when we undertake to arrange for the future investigations and recommendations on this subject on the plan that is contained in this bill. The gun-foundery board ought to be stricken out of it, and allow the Secretary of the Navy and the Secretary of War full liberty to consult whoever they think best for the purpose of gaining the information upon which to make a suitable recommendation to the Congress of the United States.

I move, therefore, if it is in order, to strike out the words, beginning in line 304—

With the assistance of the gun-foundery board, which is hereby revived.

The PRESIDENT *pro tempore*. The motion is not in order at this time, the Chair thinks, the amendment of the committee having been agreed to. After the bill is reported to the Senate it will be in order to make the motion.

Mr. HALE. Mr. President, I agree most fully with the Senator from Alabama as to the very valuable work that has been done by the select committee which was raised at the close of the last session to inquire as to the capacity of the steel-producing works in the United States. I know how earnest was the attention given by the Senator from Alabama upon the committee, and I have every reason to believe that the report which will be presented here soon of the work of that committee by the chairman, the Senator from Connecticut [Mr. HAWLEY], will be most interesting and most valuable; but I hope that the Senator from Alabama will not seek to anticipate that by any discussion upon this bill.

While that committee has done most valuable work, and has gone more deeply into the question of the resources and capacities of our steel-works in America than any other, still I think, and am sure, that the gun-foundery board has done some valuable work; and there is no intention and there is no possibility of binding down the Department either of War or of the Navy to the recommendations of that board. I had proposed in this amendment to strike out the clause providing for the report at the next session, in line 306, at the top of page 16, and to substitute the words, "during the present session," so that this board will not be bound to future work, unless in some subsequent bill or in some measure proposed by the select committee it should be so authorized.

I would not have any attack made upon this board. I do not think the Senator desires that. Whatever they have been doing let them report during the present session. Instead of running them over to the next session let us have the benefit of what they can give to us during this session. That carries out the spirit of the amendment as it was put on at the last Congress and does not keep them open hereafter; and if it is not necessary after the Senator from Connecticut presents his report—in which the Senator from Alabama concurs, I have no doubt—to keep this board alive, let it go.

I think the work that has been done by the select committee will astonish the American people. The sooner we get that report the better, and if the Senator will withdraw his amendment I will move, or he can, on page 16, line 306, to strike out the words "on the first day of the next ensuing session" and insert "during the present session."

Mr. MORGAN. I will accept that.

The PRESIDENT *pro tempore*. Neither amendment is in order at this time.

Mr. HALE. It can be done when we get into the Senate.

Mr. COCKRELL. It will be better to name the 1st of February.

The bill was reported to the Senate as amended.

The PRESIDENT *pro tempore*. The question is on agreeing to the amendment made as in Committee of the Whole.

Mr. HALE. I move to amend, on page 16, line 306, by striking out the words "on the first day of the next ensuing session" and inserting in lieu thereof "during the present session."

Mr. HARRIS. The Senator desires to strike out "on the first day of the next ensuing."

Mr. HALE. Those are the words to be stricken out.

Mr. HARRIS. And to insert——

Mr. HALE. Insert "during the present."

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Maine to the amendment made as in Committee of the Whole.

The amendment to the amendment was agreed to.

The amendment as amended was concurred in.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

On motion of Mr. HALE, the title was amended so as to read: "A bill making additional appropriations for the naval service for the fiscal year ending June 30, 1885, and for other purposes."

INTERSTATE COMMERCE.

Mr. CULLOM. I call up the regular order, Senate bill 2112.

The PRESIDENT *pro tempore*. The unfinished business will be again laid before the Senate, being the bill (S. 2112) to establish a commission to regulate interstate commerce, and for other purposes.

Mr. SLATER. I desire to offer an amendment to the bill just called up, and ask that it be printed, so that it may be on the desks of Senators to-morrow. I propose to strike out all after the enacting clause and insert what I send to the desk. I ask that it be printed without reading.

The PRESIDENT *pro tempore*. The Senator from Oregon asks leave to submit an amendment which he intends to propose to the pending bill, and asks that it be printed. That order will be entered if there be no objection.

Mr. MILLER, of New York. I move that the Senate do now adjourn.

The motion was agreed to; and (at 5 o'clock and 2 minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *December* 17, 1884.

The House met at 12 o'clock m. Prayer by the Chaplain, Rev. JOHN S. LINDSAY, D. D.

The Journal of yesterday's proceedings was read and approved.

ADDITIONAL CLERK TO COMMITTEE.

Mr. DOCKERY, from the Committee on Accounts, reported back the following resolution, with the recommendation that it do pass:

Resolved, That the Committee on the Payment of Pensions, Bounty, and Back Pay be authorized to employ an additional clerk, for the remainder of the session only, to be paid out of the contingent fund of the House of Representatives, at the same rate of compensation per diem as other committee clerks receive.

The resolution was adopted.

Mr. DOCKERY moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PAYMENT OF HOUSE EMPLOYÉS.

Mr. ERMENTROUT, from the Committee on Accounts, submitted the following privileged report:

Your committee, to whom was referred a petition relating to the compensation of certain employés of the House, respectfully report:

That, under a decision of the First Comptroller of the Treasury, the Clerk of the House will not be able to pay certain persons now in the service of the House and employed under a simple resolution of the House after the 4th day of March next; the Comptroller having decided that after the expiration of a Congress the terms of a simple resolution of the House of Representatives can not continue the pay out of the contingent fund of the House of any employés.

This decision will have the effect, without some legislation, of discharging after March 4 next certain clerks and employés whose services are necessary to a proper conduct and discharge of public business.

Among the persons affected by it are the following:

First. The messenger in the Chief Clerk's office, a boy, who is paid $25 per month, under resolution of the House of January 29, 1884;

Second. Three clerks engaged in indexing the list of private claims of the Forty-seventh and Forty-eighth Congresses, at $6 per day, under the resolution of April 28, 1884; and

Third. Two laborers in the Clerk's document-room, who have been employed in sacking and shipping to members and others the calf-bound volumes of documents and arranging files, at $75 per month each, under resolution of June 13, 1884.

Your committee have carefully examined into these matters, the work performed by each one of the above employés, and believe that they should be continued in the service of the House, not only this session but after the expiration of the present Congress; and would therefore recommend the passage of the following resolution:

Resolved, That the Committee on Appropriations be requested to provide for the payment in some of the general appropriation bills of the following clerks and employés of the House at the same rate of pay as now allowed under sundry resolutions of the House: Messenger boy in Chief Clerk's office, three clerks for indexing private claims, and two laborers in Clerk's document-room, and payments to extend from March 4, 1885, to June 30, 1886.

The petition is as follows:

WASHINGTON, *December* 13, 1884.

To the House of Representatives:

Your petitioners, Richard Nevins, W. M. Rightmyer, John F. Trentlen, J. J. Coughlan, &c., would respectfully represent that they are employés of the House of Representatives, and that under a recent decision of the First Comptroller of the Treasury they can not be paid any compensation for their services out of the contingent fund of the House of Representatives after the 4th day of March next without some additional legislation. They would respectfully ask your honorable body to make such examination into this matter as may be necessary and to afford the relief required, and for this will ever pray, &c.

RICHARD NEVINS.
W. M. RIGHTMYER.
JOHN F. TRENTLEN.
JOHN J. COUGHLAN.
RYDEN HENRY.
WILLIAM A. JOHNSTON.

The resolution was adopted.

Mr. ERMENTROUT moved to reconsider the vote by which the res-

olution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

STATUE OF REAR-ADMIRAL SAMUEL FRANCIS DU PONT.

The SPEAKER, by unanimous consent, laid before the House a letter from the Secretary of War, informing the House of the completion of arrangements for the mounting of the statue of Rear-Admiral Samuel Francis Du Pont; which was referred to the Committee on the Library, and ordered to be printed.

FEES IN PENSION CASES.

The SPEAKER also, by unanimous consent, laid before the House a letter from the Acting Secretary of the Interior, transmitting, in response to resolution of the House adopted December 12, 1884, a letter from the Commissioner of Pensions relative to contracts for fees to claim agents in pension cases; which was referred to the Select Committee on the Payment of Pensions, Bounty, and Back Pay, and ordered to be printed.

SALARY OF ADDITIONAL MESSENGER.

The SPEAKER also, by unanimous consent, laid before the House a letter from the Secretary of the Treasury, transmitting an estimate from the Navy Department for salary of additional messenger; which was referred to the Committee on Appropriations, and ordered to be printed.

COAST SURVEY REPORT.

The SPEAKER also, by unanimous consent, laid before the House a letter from the Secretary of the Treasury, transmitting a report by J. E. Hilgard, Superintendent of the Progress of Coast and Geodetic Survey, for the fiscal year ending June 30, 1884; which was laid on the table, and ordered to be printed.

"CANADA DE COCHITI."

The SPEAKER also, by unanimous consent, laid before the House a letter from the Acting Secretary of the Interior, transmitting the report of the surveyor-general of New Mexico on the New Mexico private land claim "Canada de Cochiti," No. 135, in the name of Antonio Lucero; which was referred to the Committee on Private Land Claims.

REPRINT.

On motion of Mr. SINGLETON, by unanimous consent, Senate bill 1139, authorizing the construction of a building for the accommodation of the Congressional Library, with accompanying diagram, was ordered to be reprinted for the use of the House, the supply in the document-room having been exhausted.

ORDER OF BUSINESS.

Mr. RANDALL. Let us have the regular order of business.

The SPEAKER. The regular order of business is the call of committees for reports unless the special order is called for.

Mr. REAGAN. I will waive calling the special order with the understanding that it is to come up immediately after this business is disposed of.

JOHN A. LANDAN.

Mr. ROSECRANS, from the Committee on Military Affairs, reported back a bill (H. R. 5935) for the relief of John A. Landan; which was referred to the Select Committee on Payment of Pensions, Bounty, and Back Pay.

FREE HOMES FOR UNION SOLDIERS.

Mr. ROSECRANS, from the same committee, also reported back joint resolution of the Legislature of the State of Iowa, present session, to this the Forty-eighth Congress, relative to free homes for all surviving soldiers and sailors of the Union armies, and for other purposes; which was referred to the Committee on the Public Lands.

ADVERSE REPORT.

Mr. DIBRELL, from the Committee on Military Affairs, reported back adversely joint resolution (H. Res. 159) for the relief of certain officers and enlisted men in the State of Arkansas who served in the war of the rebellion; which was laid on the table, and the accompanying report ordered to be printed.

ELLEN R. HARRIS.

Mr. LYMAN, from the Committee on Military Affairs, reported back with an amendment the bill (H. R. 6915) for the relief of Ellen R. Harris; which was referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

PUBLIC BUILDING, PEORIA, ILL.

Mr. WORTHINGTON, from the Committee on Public Buildings and Grounds, reported back with amendments the bill (H. R. 7521) to amend an act entitled "An act to provide for the erection of a public building in the city of Peoria, in the State of Illinois," approved May 9, 1882; which was referred to the Committee of the Whole House on the state of the Union, and, with the accompanying report, ordered to be printed.

THOMAS A. WESTON.

Mr. GREENLEAF (by request of Mr. VANCE), from the Committee on Patents, reported back the bill (H. R. 7544) for the relief of Thomas A. Weston; which was referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

WILLIAM S. CARR.

Mr. DARGAN, from the Committee on Patents, reported back the bill (H. R. 7641) for the relief of the widow and heirs of William S. Carr, deceased; which was referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

CORDELIA GALE.

Mr. WINANS, of Michigan, from the Committee on Invalid Pensions, reported back with favorable recommendation the bill (H. R. 4548) granting a pension to Cordelia Gale; which was referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

CHANGE OF REFERENCE OF BILLS.

On motion of Mr. WINANS, of Michigan, by unanimous consent the Committee on Invalid Pensions was discharged from the further consideration of the bill (H. R. 7248) to increase the pension of Jane Brent; and the same was referred to the Committee on Pensions.

On motion of Mr. LAIRD, by unanimous consent the Committee on Pensions was discharged from the further consideration of the bill (H. R. 1096) granting a pension to Mary Abbott, widow of William Abbott; and the same was referred to the Committee on Invalid Pensions.

T. M. ENGLISH, ADMINISTRATOR.

Mr. LORE, from the Committee on Claims, reported a bill (H. R. 7760) for the relief of T. M. English, administrator of the estate of William Fitzpatrick, deceased; which was read a first and second time, referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying reports, ordered to be printed.

JOSEPH M. CUMMINGS AND OTHERS.

Mr. TILLMAN, from the Committee on Claims, reported, as a substitute for H. R. 1085, a bill (H. R. 7761) for the relief of Joseph M. Cummings, Hamilton J. Miller, and William McRoberts; which was referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

SALARIES OF OFFICERS AND EMPLOYÉS DOORKEEPER'S DEPARTMENT.

Mr. ERMENTROUT, from the Committee on Accounts, reported a joint resolution (H. Res. 301) in regard to the adjustment of the salaries of officers and employés of the Doorkeeper's department; which was referred to the Committee on Appropriations.

ADVERSE REPORTS.

Mr. TURNER, of Kentucky, from the Committee on Commerce, reported back with an adverse recommendation bills of the following titles; which were severally ordered to be laid on the table and the accompanying reports printed, namely:

The bills H. R. 814, H. R. 2947, H. R. 3455, and H. R. 4179, amending section 4415 of the Revised Statutes of the United States, fixing the compensation of inspectors of hulls and boilers in the several districts of the United States;

A bill (H. R. 218) amending section 4458 of the Revised Statutes, regulating the fees of inspectors' certificates issued to masters, engineers, pilots, and mates of steam vessels;

A bill (H. R. 3542) on the reduction of inspection fees; and

INSPECTORS OF HULLS AND BOILERS.

Mr. GLASCOCK, from the Committee on Commerce, reported back with favorable recommendation the bill (H. R. 6961) to amend section 4414 of the Revised Statutes, relating to inspectors of hulls and boilers; which was referred to the House Calendar, and, with the accompanying report, ordered to be printed.

WILLIAM GARDNER.

Mr. HAMMOND, from the Committee on the Judiciary, reported back the bill (H. R. 7585) for the relief of William Gardner; which was referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

A. B. MONTGOMERY.

Mr. HAMMOND, from the Committee on the Judiciary, also reported back the bill (H. R. 7584) for the relief of A. B. Montgomery; which was referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

ELMINA P. SPENCER.

Mr. BAGLEY, from the Committee on Invalid Pensions, reported back with amendments the bill (H. R. 7262) increasing the pension of Elmina P. Spencer; which was referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

JOHN SPARR.

Mr. BAGLEY, from the Committee on Invalid Pensions, also reported back the bill (H. R. 7340) granting a pension to John Sparr; which

was referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

T. A. MORTON.

Mr. BAGLEY, from the Committee on Invalid Pensions, also reported back the bill (H. R. 7336) granting a pension to T. A. Morton; which was referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

CONTINENTAL FIRE INSURANCE COMPANY OF NEW YORK, ETC.

Mr. HURD, from the Committee on Ways and Means, reported, as a substitute for H. R. 2475, a bill (H. R. 7762) for the relief of the Continental Fire Insurance Company, the Eagle Fire Insurance Company, the City Fire Insurance Company, and the Commercial Mutual Insurance Company, all of New York; the Western National Bank, the Merchants' National Bank, and the Maryland Fire Insurance Company of Maryland.

The bill (H. R. 2475) was laid on the table, and the substitute therefor, the bill H. R. 7762, was read a first and second time, referred to the Committee of the Whole House on the Private Calendar, and ordered to be printed.

TRIBUTES TO MEMORY OF DECEASED MEMBERS.

Mr. BRATTON, by unanimous consent, submitted the following resolution; which was read, considered, and adopted:

Resolved, That Tuesday, the 20th of January, at 2 o'clock p. m., be fixed as the time for delivering tributes to the memory of the late Hon. J. H. EVINS, late a Representative from South Carolina.

Mr. ERMENTROUT, by unanimous consent, submitted the following resolution; which was read, considered, and adopted:

Resolved, That Monday, January 26, 1885, at 2:30 p. m., be fixed as the time for paying appropriate honor to the memory of the late Hon. W. A. DUNCAN, late a Representative from the State of Pennsylvania.

PUBLIC BUILDING AT HARRISONBURG, VA.

Mr. STOCKSLAGER. I desire to make a privileged report. I am instructed by the Committee on Public Buildings and Grounds to report back with a favorable recommendation the resolution of inquiry which I send to the desk.

The Clerk read as follows:

Resolved, That the Secretary of the Treasury be, and he is hereby, directed to report to this House as follows:

First. Whether he has purchased a site for a suitable building for the accommodation of the United States courts, post-office, and other Government offices at Harrisonburg, State of Virginia, as authorized and directed by an act entitled "An act for the erection of a public building at Harrisonburg and Abingdon, State of Virginia," approved July 7, 1882.

Second. What price was paid for said site, if purchased, and whether a valid title has been vested in the United States, and whether the State of Virginia has ceded to the United States exclusive jurisdiction over the same during the time the United States shall be or remain the owner thereof, for all purposes except the administration of the criminal laws of said State and the service of civil process therein.

Third. What amount of the money appropriated for the purchase of said site and the commencement of the erection of a suitable building thereon has been expended, and how and for what expended.

Fourth. The estimated cost, including site, of said building and the amount necessary to be appropriated, in addition to the sum already appropriated, to complete the same.

The resolution was adopted.

Mr. STOCKSLAGER moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

CLERKS IN FIRST-CLASS POST-OFFICES.

Mr. SKINNER, of New York, by unanimous consent, introduced a bill (H. R. 7763) for the grading and classification of salaries of clerks in all first-class post-offices; which was read a first and second time, referred to the Committee on the Post-Office and Post-Roads, and ordered to be printed.

WRECK OF THE UNITED STATES STEAMER ASHUELOT.

Mr. COX, of New York, by unanimous consent, introduced a bill (H. R. 7764) for the relief of the sufferers by the wreck of the United States steamer Ashuelot; which was read a first and second time, referred to the Committee on Naval Affairs, and ordered to be printed.

EVIDENCE TO QUIET TITLES.

Mr. POLAND, by unanimous consent, introduced a bill (H. R. 7765) in relation to evidence to quiet titles; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

INTERSTATE COMMERCE.

Mr. REAGAN. I call for the regular order.

The SPEAKER. The House, as the regular order, resumes the consideration of the bill (H. R. 5461) to establish a board of commissioners of interstate commerce and to regulate such commerce. The pending question is on the motion of the gentleman from North Carolina [Mr. O'HARA] to lay on the table the motion of the gentleman from Georgia [Mr. BLOUNT] to reconsider the vote by which the amendment offered by the gentleman from North Carolina [Mr. O'HARA] was agreed to.

Mr. REED. I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 149, nays 121, not voting 53; as follows:

YEAS—149.

Adams, G. E.	Funston,	Lyman,	Seney,
Anderson,	Geddes,	McCoid,	Seymour,
Atkinson,	George,	McComas,	Shively,
Bagley,	Goff,	McCormick,	Skinner, C. R.
Barr,	Greenleaf,	Matson,	Smalls,
Beach,	Guenther,	Millard,	Smith, A. H.
Belmont,	Hanback,	Mitchell,	Smith, H. Y.
Bingham,	Harmer,	Morrill,	Spriggs,
Bisbee,	Hatch, H. H.	Morse,	Springer,
Boutelle,	Haynes,	Moulton,	Stephenson,
Brainerd,	Henderson, T. J.	Murray,	Stevens,
Breitung,	Hepburn,	Nelson,	Stewart, J. W.
Brewer, F. B.	Hewitt, A. S.	Nutting,	Stone,
Brewer, J. H.	Hill,	Ochiltree,	Strait,
Brown, W. W.	Hiscock,	O'Hara,	Struble,
Browne, T. M.	Hitt,	O'Neill, Charles	Taylor, E. B.
Brumm,	Holman,	Parker,	Taylor, J. D.
Buckner,	Holmes,	Payne,	Thomas,
Burleigh,	Holton,	Payson,	Van Alstyne,
Campbell, J. E.	Horr,	Perkins,	Wadsworth,
Cannon,	Houk,	Peters,	Wait,
Carleton,	Houseman,	Pettibone,	Wakefield,
Chace,	Howey,	Poland,	Ward,
Chalmers,	James,	Post,	Washburn,
Collins,	Jeffords,	Potter,	Weaver,
Converse,	Johnson,	Price,	Wemple,
Culbertson, W. W.	Jones, B. W.	Rankin,	White, Milo
Cullen,	Kean,	Ranney,	Whiting,
Cutcheon,	Keifer,	Ray, G. W.	Wilkins,
Dargan,	Kelley,	Ray, Ossian	Wilson, James
Davis, G. R.	Ketcham,	Reed,	Winans, E. B.
Davis, R. T.	Lacey,	Rice,	Winans, John
Deuster,	Laird,	Robinson, J. S.	Woodward,
Dingley,	Lamb,	Robinson, W. E.	Worthington.
Eldredge,	Lawrence,	Rockwell,	Yaple.
Evans,	Le Fevre,	Rosecrans,	
Everhart,	Libbey,	Rowell,	
Findlay,	Long,	Ryan,	

NAYS—121.

Aiken,	Davis, L. H.	Kleiner,	Singleton,
Alexander,	Dibble,	Lanham,	Skinner, T. G.
Ballentine,	Dibrell,	Lewis,	Slocum,
Barksdale,	Dockery,	Lore,	Snyder,
Bennett,	Dunn,	Lovering,	Stewart, Charles
Blackburn,	Eaton,	Lowry,	Stockslager,
Blanchard,	Elliott,	McAdoo,	Storm,
Blount,	Ellis,	McMillin,	Sumner, C. A.
Boyle,	Ermentrout,	Miller, J. F.	Taylor, J. M.
Bratton,	Ferrell,	Mills,	Thompson,
Breckinridge,	Follett,	Money,	Throckmorton,
Broadhead,	Forney,	Morrison,	Tillman,
Buchanan,	Gibson,	Muldrow,	Townshend,
Burnes,	Glascock,	Mutchler,	Tucker,
Cabell,	Graves,	Neece,	Tully,
Caldwell,	Green,	Nicholls,	Turner, H. G.
Candler,	Halsell,	Oates,	Turner, Oscar
Cassidy,	Hammond,	O'Ferrall,	Van Eaton,
Clardy,	Hancock,	Patton,	Wallace,
Clay,	Hardeman,	Peel,	Warner, Richard
Clements,	Hatch, W. H.	Pierce,	Wellborn,
Cobb,	Henley,	Pryor,	Williams,
Cook,	Herbert,	Pusey,	Willis,
Cosgrove,	Hewitt, G. W.	Randall,	Wilson, W. L.
Covington,	Hopkins,	Reagan,	Wise, G. D.
Cox, S. S.	Hunt,	Reese,	Wolford,
Cox, W. R.	Hurd,	Riggs,	Wood,
Crisp,	Jones, J. H.	Robertson,	Young.
Culberson, D. B.	Jones, J. K.	Rogers, J. H.	
Curtin,	Jones, J. T.	Scales,	
Davidson,	Jordan,	Shelley,	

NOT VOTING—53.

Adams, J. J.	Ellwood,	Kellogg,	Spooner,
Arnot,	English,	King,	Steele,
Barbour,	Fiedler,	Maybury,	Sumner, D. H.
Bayne,	Finerty,	Miller, S. H.	Talbott,
Belford,	Foran,	Milliken,	Valentine,
Bland,	Fyan,	Morgan,	Vance,
Bowen,	Garrison,	Muller,	Warner, A. J.
Budd,	Hardy,	Murphy,	Weller,
Campbell, Felix	Hart,	O'Neill, J. J.	White, J. D.
Campbell, J. M.	Hemphill,	Paige,	Wise, J. S.
Connolly,	Henderson, D. B.	Phelps,	York.
Dorsheimer,	Hoblitzell,	Rogers, W. F.	
Dowd,	Hooper,	Russell,	
Dunham,	Hutchins,	Shaw.	

So the motion to reconsider was laid on the table.

Mr. BEACH. I ask that by unanimous consent the reading of the names of members voting be dispensed with.

Mr. MCMILLIN. I object.

The following members were announced as paired on all political questions until further notice:

Mr. ARNOT with Mr. BELFORD.

Mr. CAMPBELL, of New York, with Mr. HOOPER.

Mr. KING with Mr. MILLER, of Pennsylvania.

Mr. BLAND with Mr. VALENTINE.

Mr. FIEDLER with Mr. STEELE.

Mr. MAYBURY with Mr. JOHN S. WISE.

Mr. MULLER with Mr. DUNHAM.

Mr. MORGAN with Mr. BAYNE.

Mr. ADAMS, of New York, with Mr. BOWEN.

Mr. PAIGE with Mr. HART, until further notice, on this bill.
The following members were announced as paired for this day:
Mr. HEMPHILL with Mr. WHITE, of Kentucky.
Mr. SHELLEY with Mr. YORK.
Mr. HARDY with Mr. MILLIKEN.
Mr. TALBOTT with Mr. KELLOGG.
Mr. DOWD with Mr. PHELPS.
The result of the vote was then announced as above stated.
Mr. CRISP obtained the floor.
Mr. MILLS. I desire to offer an amendment, to come in at the end of the amendment last adopted.
The SPEAKER. The gentleman from Georgia [Mr. CRISP] has been recognized.
Mr. MILLS. I desire the House shall not pass away from this point till I have had an opportunity to offer my amendment.
The SPEAKER. The Chair will recognize the gentleman at a suitable opportunity.
Mr. CRISP. I move the amendment which I send to the desk.
The Clerk read as follows:

After the word "discrimination" insert:
"Nothing in this act contained shall be so construed as to prevent any railroad company from providing separate accommodations for white and colored persons."

Mr. CRISP. I believe, Mr. Speaker, that before the law all men are equal. I believe every man has the right, and should under any law enjoy the right, to demand at the hands of a common carrier as good accommodations and as good service as any other man receives for the same compensation. The amendment which I have submitted does not seek to invade that right of the citizen. There is nothing in this amendment which seeks to deprive one citizen of any right accorded to another.

In the State which I have the honor in part to represent we have a statute requiring railroad companies to furnish equal facilities to all persons—requiring them to make no discrimination, and providing that if they should violate the act any person injured may by suit recover of the railroad a sum not exceeding $10,000. I will read this statute so that the views of the people of Georgia, as expressed in their statute law, may not be misunderstood:

The different railroads in this State, acting as public carriers, are required to furnish equal accommodations to all, without regard to race, color, or previous condition.

And then follows the provision as to damages, as I have stated it.

That is the statute of Georgia. That statute, Mr. Speaker, has been before the courts in Georgia; and lest some gentlemen on this floor may not have the respect for the State courts of Georgia on questions of this kind that I have I will say that the court in Georgia referred to is the United States court. That court has held that the railroad companies may provide separate accommodations for the white and the colored people under a rule of equality.

That is the law to-day; and why change it? Can any good reason be given why either the colored man or the white man should object to that rule? My amendment does not seek to force the railroad companies to provide separate accommodations. It simply provides that this act shall not require them to carry the white people and the colored people in the same cars. If in response to a public sentiment in a State a railroad company sees proper to furnish separate accommodations for the white people and the colored people, is this objectionable? To whom is it objectionable? Whom does it injure? What bad effect can it have that men should come here and complain of it?

As I understand the provision which was adopted yesterday it goes even further than the bill which was passed some years ago and recently decided by the Supreme Court of the United States to be unconstitutional—the civil-rights bill or social-equality law. Now, what is the purpose of this movement! Why agitate anew this question? The law is well settled. The rights of the colored man are absolutely protected. Nobody wants to interfere with his rights. He has the same accommodations, the same kind of cars as the white man when he pays the same fare. Why, then, Mr. Speaker, should Congress pass a law which may be construed into requiring the mixture of the two races in the public conveyances of the land?

[Here the hammer fell.]

Mr. SMALLS. Mr. Speaker, I hope that the amendment just offered will be voted down. I am glad that this amendment comes from a Representative of Georgia. I know, Mr. Speaker, as the gentleman says, that we have no objection to riding in a separate car when the car is of the same character as that provided for the white people to ride in. But I state here to the House that colored men and women do have trouble in riding through the State of Georgia. In Georgia they have a car called a second-class car; and, notwithstanding a colored man may buy a first-class ticket here in Washington, or anywhere else, to go perhaps to New Orleans, yet when he reaches the State of Georgia he is compelled to go into a "Jim Crow car," which is placed next to the locomotive. The railroad officers do not object, as they state, to furnishing us fair and proper accommodations; but when we get to a certain station on the road, and the conductor goes out, as is claimed to attend to business of the road, we always find a crowd coming into the cars and asking us, not very politely, to go out; and if we do not go out peaceably we are put out by force. This has been done time and again in Georgia.

I have no reason to speak of such things, thank God, as occurring in my own State, for we have a statute in that State providing for proper accommodations for the colored people; and I wish to say, to the credit and honor of the people of the State of South Carolina, that no distinction is made in that State among persons traveling through the State. But when you come to the State of Georgia there is a difference; and for that reason a Representative of that State asks that this amendment be made. He has referred to the statute law of that State. Why, sir, that statute, so far as concerns any colored man or lady riding through that State in a first-class car, is as dead as some law that never was thought of.

I hope, sir, that amendment by this House will be voted down. I believe the good sense of the House, and especially the good sense of those Democrats who are now crying out they are going to be the best friends of the colored man, are not going to allow the State of Georgia to come in here at this last hour with any such discrimination as has been proposed. [Applause on the Republican side of the House.]

No, sir, you can not fool the people any longer. If you mean what you say, start doing it now. I believe the same good sense of the House which adopted the amendment offered by the gentleman from North Carolina [Mr. O'HARA] will vote down this amendment moved by the gentleman from Georgia [Mr. CRISP]. I first thought it would be better to move that the amendment be laid upon the table, but supposing other gentlemen wish to have something to say on it, I will for the present withhold that motion.

And I believe, sir, further that this amendment will be voted down by the right-thinking Democrats of the House, by those who are hallooing and crying out that there is no trouble about this matter; that great and good man Governor Cleveland, who is going to be our next President, will do all that is best for the welfare of the colored people. I do not believe those men are going to say here now to-day the colored people shall have nothing but a "Jim Crow" car in Georgia under the action of the railroad commissioners. [Laughter and applause on the Republican side of the House.]

Mr. HERBERT. I move to strike out the last word.

Now, Mr. Speaker, I shall sustain by my vote the amendment of the gentleman from Georgia [Mr. CRISP]. If that amendment be adopted the provision offered by the gentleman from North Carolina [Mr. O'HARA] will mean exactly what it would have meant if the words "without discrimination" in the concluding part of that amendment had been omitted.

There is no disposition on the part of the Southern Democrats to deny that all men without regard to race, color, or previous condition are entitled to equal facilities and equal accommodations when traveling on the same class of tickets with other men. That is not only the law in South Carolina, as has been admitted by the gentleman from that State, it is not only the law in Georgia, but it is the law in the State of Alabama. We have a statute to that effect and we have a decision on the statute by our railroad commission, composed entirely of Democrats.

The gentleman from South Carolina [Mr. SMALLS] who last addressed the House says that the law of Georgia is not enforced. If this amendment be adopted and this bill be enacted into law, then the courts will have the right to enforce the law giving equal facilities and equal accommodations to all men.

And that, sir, will be in accordance with the decisions of the Supreme Court of the United States in the civil-rights cases. Turn to that opinion delivered by Judge Bradley, and you will see while he intimates that the Congress of the United States would have the right to regulate this question when legislating on this subject of interstate commerce, yet he holds that it is not any infringement on the liberty of the citizen to make judicious and proper discriminations.

I read from the opinion, 109 U. S., p. 25. After deciding that neither the thirteenth, fourteenth, nor fifteenth amendments confer any new rights in this respect, he says:

There were thousands of free colored people in this country before the abolition of slavery enjoying all the essential rights of life, liberty, and property the same as white citizens; yet no one at that time thought that it was any invasion of his personal status as a freeman because he was not admitted to all the privileges enjoyed by white citizens, or because he was subjected to discriminations in the enjoyment of accommodations in inns, public conveyances, and places of amusement. Mere discriminations on account of race or color were not regarded as badges of slavery.

The author of the amendment inserted the words "without discrimination" simply for the purpose of making the amendment odious and raising a political issue, exciting political prejudice, and defeating the bill. If there had been any real desire to have a law passed securing to all men the right to have equal accommodations, equal facilities for their money with other people who paid no more, the amendment would have stopped right there. It would have said that much and nothing more, but the words "without discrimination" were inserted carefully for the purpose of compelling certain gentlemen on this side to vote against the bill if the amendment be adopted.

We have no objection, as I have said before and as I now repeat, to declaring that all men shall have equal facilities and equal accommo-

dations; but we do object to any law that compels a common carrier to put all classes of people in the same cars and deprives it of the natural right to give equal accommodations in separate cars.

[Here the hammer fell.]

Mr. O'HARA. I regret exceedingly, Mr. Speaker, that this color question has arisen in this debate. [Laughter.] I for one, sir, hold that we are all Americans; that no matter whether a man is white or black he is an American citizen, and that the ægis of this great Republic should be held over him regardless of his color. The day is too late, public sentiment and the healthy influence of the nineteenth century all stare us in the face—it is too late, sir, for the American Congress to legislate on the question of color.

My amendment proposes nothing sir, in regard to color; it merely says the white man who may not occupy so high a social position as some of his more favored brethren shall not be discriminated against. It says that the colored man shall not be discriminated against. It is an amendment in a healthy direction, an amendment appealing to the common sense and patriotism of the entire people of this land.

The gentleman from Alabama [Mr. HERBERT] has suggested that I introduced the amendment or rather inserted the words in it "without discrimination" for a political purpose. Mr. Speaker, I am not in the habit of raising a political issue two years before a campaign begins. The campaign has ended, and I and others who believe with me politically will abide the result. And far be it from me at this period to raise anything for political purpose. All I ask of the American Congress is that while you are protecting the property of men, while you are protecting dumb brutes, while you are protecting every other interest, you shall at the same time give voice and expression to the protection of the rights of American colored citizens. [Applause on the Republican side.]

Mr. Speaker, "without discrimination" seem to be the words that hurt. If, as the gentleman has said, upon the statute-book of Georgia and upon the statute-book of Alabama there are laws which provide no discrimination can be made, or in substance the same thing, then why in the name of common consistency, why in the name of fairness and justice should there be a desire now to place this "rider" upon my amendment? Why, you gentlemen of the North, you gentlemen of Ohio, of New York, of Indiana, and of every other Northern State, yea, gentlemen from my own State of North Carolina, we ride together, we ride according to the fare we pay or feel able and disposed to pay. If I am not able or disposed to pay for or buy a first-class ticket I buy a second-class ticket, and I go right along and there is no trouble.

If the gentlemen mean what they say, that it is the idea and the firm conviction of every man in the length and breadth of this land to accord to all men their rights and privileges, why then is this amendment to the amendment needed? The very amendment itself bears a negative assertion on its very face. When gentlemen come here and say the words "without discrimination" should be stricken from my amendment, it shows a deliberate purpose to discriminate. I do not believe there is a single railroad in the land, I do not believe there is a single corporation in this country which desires to foster any discrimination. Let the man be white or black, humble or great, plebeian or aristocratic, if he pays his fare, if he decently behaves himself, he is entitled to the same right as his money and desire prompt him. [Applause on the Republican side.]

Mr. BRECKINRIDGE. I offer the following substitute for the amendment.

The Clerk read as follows:

But nothing in this act shall be construed to deny to railroads the right to classify passengers as they may deem best for the public comfort and safety, or to relate to transportation between points wholly within the limits of one State.

Mr. STRUBLE. I rise to a point of order on that amendment. The amendment proposes legislation as to what shall take place in one State, and in that regard it does not relate to interstate commerce, which is the object of this bill.

Mr. BRECKINRIDGE. That is one of the objects of the amendment, to prevent interference within the limits of a State.

The SPEAKER. From the reading of the amendment by the Clerk the amendment provides that it shall not relate to regulations within a State.

Mr. BRECKINRIDGE. Mr. Speaker, I think perhaps the gentleman who has suggested the point of order is not the only one who misconstrues the object and spirit of my proposed substitute. As I understand the gentleman from North Carolina [Mr. O'HARA], he wishes by his amendment to guarantee to colored men all the rights under the law that are given to white men. I, sir, for one, do not wish to see his rights under the law changed or disturbed in the slightest degree, nor in any wise less than those accorded to white men.

An objection I have to the amendment of the gentleman from Georgia is that he speaks of colored men as contradistinguished from white people. I want the legislation, sir, to spread broadly over citizens. I do not wish corporations to have the power to make any discrimination against the comfort of the laboring poor, if you please, or the diseased, or the sick, or the disorderly of the colored race, that they have not over the white race, and gentlemen are entirely mistaken if they think that the Southern people wish to withhold from the colored race equality under the law. What the gentlemen admit here to be the rights under the law of travelers carried by common carriers I am willing to vote for; but when you seek to prevent the assorting of passengers or the providing of equal but separate accommodations from the standpoint of public convenience and public safety, you then introduce a social question into a question of commerce. You seek to prevent the exercise of rights which are now possessed under the common law, as I am told by those who are better informed in the law than I am—for I am not a lawyer—and rights that are as necessary to preserve one set of people from obtrusion as they are to preserve another. Keep out of this domain, but see to it that every man gets value received for his money equally with another. This is commerce. The other is society.

Now, sir, the amendment as offered by the gentleman from North Carolina is vague, in that it implies that when one pays a fare it would apply to places wholly within a State and would not relate to interstate commerce. The exclusive clause of my substitute is to prevent any possible construction of that character.

I submit in all candor and fairness that so far as the Southern people are concerned we do not wish to reserve to the railroads a single power in connection with the transportation of passengers that is not recognized in every part of the Union, or any power over the colored race that they do not have over the white race.

Mr. REED. Mr. Speaker, I must say that I rejoice to see this question lifted by the last suggestion from a mere question of politics or of color. I did not propose to discuss it in that light. I thought it very desirable that we should have a vote on the main question without bringing up questions of color or stirring up feelings of race or partisanship. Let wisdom be justified of her children. So I am very much pleased, indeed, to see this last amendment of the gentleman from Arkansas. This at once ceases to be a question of politics or color, and has now become a question of assortment [laughter]; and now this House, which is determined to pursue these "robber barons," has before it the plain question whether it will not merely leave to them the privilege of assorting us, but whether it will absolutely confer upon them the privilege of assortment by direct enactment on the part of Congress. [Renewed laughter.]

Now, I appeal to this House, engaged as it is in the pursuit of wicked monopolists, if it intends to confer upon them a privilege of assortment without rights by law? Why, surely we must have some Treasury regulations as to the method of assortment. [Laughter.] Are we to be assorted on the ground of size? [Great laughter.] Am I to be put into one car because of my size and the gentleman from Arkansas into another because of his? [Renewed laughter and applause.] Is this to be done on account of our unfortunate difference of measurement? Or are we to be assorted on the moustache ground? Are we to be assorted on the question of complexion, or are we to be assorted on the beard basis?

If not any of these, what basis of assortment are we to have? For my part I object to having these "robber barons" overlook and assort us on any whimsical basis they may undertake to set up. [Laughter.]

Why, surely, Mr. Speaker, this House, engaged as it is in putting down discriminations against good men, can not tolerate itself an amendment of this character for an instant [Applause.]

I hope we shall have a vote on the main question.

The SPEAKER. Debate upon the pending amendment is exhausted.

Mr. REAGAN. I move, *pro forma*, to strike out the last words of the pending substitute.

I wish to say a word in relation to the amendment of the gentleman from Arkansas. I prefer, if I understood the reading of the language of it, that amendment to the one proposed by the gentleman from Georgia, for the reason assigned by him, that it speaks of people without reference to any distinction between races.

The gentleman from Maine is very facetious and makes himself particularly humorous over the question of assortment; and yet all over the State of Maine I will venture to assert the universal practice of railroad conductors is to assort people; and this is the case not only in Maine, but in every other State of this Union, whether they are white or black.

Mr. REED. Oh, no! not in Maine.

Mr. REAGAN. I hope the gentleman will let me complete what I was going to say. For instance, in any part of the State of Maine a gentleman who approaches a car for the purpose of entering, unaccompanied by ladies, will be met by the question, "Have you ladies with you?" If not, you are required to take another car.

Mr. REED. Mr. Speaker, that is not true in reference to Maine, for in Maine every gentleman is considered to be the fit associate of ladies. [Laughter.]

Mr. REAGAN. I ask the gentleman not to interrupt me. I repeat, they ask if you have ladies with you. You say no. The conductor says, "Take another car; this is for ladies with escorts."

Mr. REED. Now, Mr. Speaker, just there——

Mr. REAGAN. I must decline to yield in the five minutes I have.

Mr. REED. But I suppose the gentleman desires to recite facts?

Mr. REAGAN. I can not yield for an interruption in five minutes. Besides, sir, I was going on to say, a drunken man or a rowdy or a

desperado might want to go into a lady's car. Now, does the gentleman from Maine and those who accept his views desire the conductor to be restrained from saying, "You can not do so?"

Mr. KEIFER. They can clear such characters out of the car in Ohio.

Mr. REAGAN. Is that what the gentleman from Maine means? Would he deprive the railroad conductors of that discretion with reference to their passengers and the comfort and convenience of the traveling public that they have in all parts of the country? If not, then what does the gentleman mean? I am not talking now of races. I am talking about men and women, without reference to race. You say that these men, the conductors of cars, shall have no power, but shall be compelled to put all sorts of people together without discrimination into the same car.

Now, does the gentleman insist on his humor in getting up a laugh about assorting people, or does he wish to pile all sorts of people and all classes into the same car? Besides, so far as this general question is concerned, I attach no importance to the amendment of the gentleman from North Carolina. It simply reaffirms the common law and the law and the practice in every Southern State in this Union. It adopts no new principle; and for my part I have only the objection to it that it comes here unconsidered by a committee, and not connected with the regulation of the transportation of freight, which has been the great subject under consideration.

Mr. HENLEY. It has been brought up, it may be, with the hope that it may defeat this bill.

Mr. REAGAN. And of course it is voted on with a view to secure the defeat of this bill by appealing to the sentiment of men who will vote on a sentiment. But when we go before the tribunal of the public we will not be required to answer for the speeches men make on this floor but for the measures on which we vote. And when we come to that, lawyers and all sensible men understand and know that the amendment of the gentleman from North Carolina, if it is not modified, only reaffirms the common law and a right common to all—the right to equal facilities and the right to equal accommodations for equal money. That does not mean that they shall be placed in any particular car. It does not mean that they have a right to any particular seat. But it leaves them as they are left now, under the control of the conductors, compelling them only to give first-class accommodations to holders of first-class tickets, with the discretion of the conductor for the preservation of good order and common decency to "assort," as the gentleman from Maine says, the passengers.

Mr. REED. The gentleman from Texas declined to permit me to correct a misstatement which he made to the House with regard to the customs of the part of the country in which I live. I sympathize with the solemn way in which he treats the manner in which I have attacked his proposition. There is nothing that mistake dreads so much as ridicule; the absurdity of a proposition being pointed out, it is left full of holes

The gentleman from Texas says that this proposition is only a reaffirmation of the common law, and yet he voted against it. If it is nothing, why all these exertions on the part of the gentleman? He says if this is not modified, although it is nothing but the common law, you can not put a drunken man out of a car. Why, that is part of the police regulations of every State; and we can protect our citizens against criminals without modifying this amendment. The gentleman from Texas, upon reflection, will see that we can now. In the State of Maine, and I venture to say in all the New England States, there is no discrimination whatever. Every man is considered gentleman enough to associate with ladies, and no man is kept out of a car because he is not accompanied by a lady. This is true throughout New England, and I think throughout New York State. The utmost equality prevails and no harm is done to anybody.

Now, to refer again to this assortment business, I say that that shows the absurdity of this whole proposition. The amendment of the gentleman from Georgia [Mr. CRISP] has brought out directly for the first time the color question. The amendment of the gentleman from North Carolina was simply a provision that all citizens of the United States should be treated alike. Is not that in accordance with the Constitution? Is not that in accordance with the practices of a free people? And this is a bill which has for its object the putting down of tyrants and the establishment of freedom in this country, according to the gentleman from Texas; but the moment it comes to a question of real freedom where freedom has been really denied he is the first one—although he admits it is only a re-enactment of the common law—he is the first one to head the opposition against it. How much, after that, his declamation about what we owe to liberty ought to avail in this House I leave to the House to judge.

Mr. REAGAN. I withdraw the *pro forma* amendment.

Mr. CRISP. I renew the *pro forma* amendment. I had no intention when I submitted the amendment presented by myself to enter into a political discussion. It did not occur to me that in this country there were any people, white or black, who felt that a railroad company might not separate the one from the other. It did not occur to me on the one hand that the colored people of this country insisted on that sort of association. When I say the colored people I mean, Mr. Speaker, the great mass of them. The great mass of the colored people do not require, if I understand their wishes, anything of that sort. I have learned to-day that the white people, a number of them at least in this country, from what has been said here, prefer and require that sort of mixing of the assortment, to use the simile of the distinguished gentleman from Maine.

That gentleman says, Mr. Speaker, that there was no question of color brought into this debate until I brought it by the amendment that I had the honor to submit. I say to you, Mr. Speaker, and I say to that gentleman that I am in the habit of doing what I feel ought to be done directly, not by indirection, and I do not seek to evade the use of a word or words that exactly convey my meaning and at the same time accomplish a purpose that would be better accomplished if it were more plainly expressed and more frankly stated at the time the proposition was made. As for the amendment that was adopted yesterday at the suggestion of the Representative from North Carolina, whatever may be said about it this morning, I leave it to the good judgment of the House to determine if the purpose was not to prevent a separation of the colors.

If that is true, then that amendment first brought in the question of color upon this bill.

Now I want to say a word or two about the law of Georgia. I have no feeling in this matter. I believe my people desire that the law as it is to-day should remain unchanged. Therefore I have presented this amendment. But I want to say a word about the law of Georgia, because it has been assailed, or rather the practice under the law has been. Mr. Speaker, when a State places upon its statute-book a law, the judgment of the wisdom of the State is thereby expressed that the law is right, that it is founded on reason and justice, and ought to be enforced. If there is any failure in the enforcement of the law, I submit to you, Mr. Speaker, that it is not the fault of the law. Therefore when men say that in Georgia the provisions of the law are not enforced, that equal accommodations are not afforded to all, they say that they are unwilling to appeal to the law for the vindication of their personal rights; for if they are deprived of rights they can get redress if they seek it; the public sentiment that prompted the law will enforce it. The measure of damages for a violation of that law in the State of Georgia is fixed at a sum anywhere from $1 to $10,000. As I said before, it has been determined not only by the State courts but by the district court of the United States that under the law of absolute equality the separation of the races may be made.

That is all we ask. Who ought to complain of it? Do you on the other side complain of the separation? Are you unwilling that even in traveling you should be separated temporarily from any other class of people but white people? Is that the proposition? Is not the amendment that has been adopted, Mr. Speaker, a mere effort to strike at the sentiment existing in some parts of this country which prompts the people there, while fully recognizing the equality of all persons under the law, to avoid as much as possible personal association with a class in their midst?

[Here the hammer fell.]

Mr. HENLEY. Mr. Speaker——

The SPEAKER. Does the gentleman rise to oppose the amendment?

Mr. HENLEY. I do. Mr. Speaker, the substitute of the gentleman from Texas [Mr. REAGAN] is a business, commercial, economic proposition that everybody understands. Now, being in the close confidence of the gentleman from Georgia, I am authorized by him to impart some little comfort to the gentleman from Maine [Mr. REED], who seems to be tortured with some apprehension in regard to this question of "assortment." I am authorized to state that in this proposed "assortment" the assorters, the conductors on the railroad trains, are not to be governed by mere questions of personal appearance. Therefore the gentleman from Maine need have no apprehension. [Laughter.]

Now I want this House and every member thereof to understand very distinctly this proposition—that the introduction of this race question, this social question, whether such was the purpose of the gentleman from North Carolina or not, was seized upon by the other side and taken up for the purpose, in my judgment, of defeating this bill, a bill designed to relieve the people of this great Republic against the exactions and aggressions of railroad corporations. [Applause on the Democratic side.] This proposition comes from a suspicious side of the House. For almost twenty years the fight has been going on in this Hall, the forces on one side being led by the gentleman from Texas [Mr. REAGAN], who has achieved imperishable renown by his advocacy of the rights of the people against the railroad corporations. Finally, as the result of his assiduous, unremitting, and tireless efforts, a bill was about to be passed which would relieve the people—which was responsive to the demands of the people throughout this land for some measure of relief. The bill was about to be passed. In comes this proposition.

It is supported by the other side of the House. Why? Oh, they say, upon philanthropic, upon benevolent, upon humanitarian grounds. We have a right, sir, to our own opinions upon the good faith of that pretense. The judgment of the people of the country is, as you will find hereafter, that upon this commercial question, this question affecting fares and freights, the true friends of the people ought to concentrate

their efforts to keep out of consideration everything alien or foreign thereto, and address themselves exclusively to the question in hand.

There are two ways of defeating a proposition. One is by fighting it fairly and squarely; the other by resorting to circuity and indirection, by encumbering the proposition with all sorts of foreign matter which may make it objectionable. If the amendment of the gentleman from North Carolina [Mr. O'HARA], the evil effects of which are sought to be countervailed by the amendment of the gentleman from Georgia [Mr. CRISP], should be incorporated without modification in this bill, it is apparent to every one that it jeopardizes the bill; it imperils the passage of the bill on this floor; it creates enemies to it. Whether those enemies are right in their view as to the effect of this amendment is not the question. I appeal to the friends of the people; I appeal to those who believe sincerely that corporations should be seized by the throat and throttled into some kind of decency and regard for the law and the rights of the people of this land; I appeal to them to sustain this measure, and thereby afford some relief, especially to the people of the Pacific coast, whom in part I represent upon this floor, and who (I call attention to the enormous extortion) pay almost 7 cents a mile for transportation from San Francisco to Omaha; in fact, quite 7 cents, including sleeping accommodations.

Now, I think the purport of the amendment as originally introduced—I will not say the intent, for that would be impugning motives—I think the effect of the amendment as originally introduced is likely to be destructive to the bill, destructive to the profound wishes of the people as expressed in the platforms in almost every State in the Union in recent conventions which have been held.

[Here the hammer fell.]

Mr. WARNER, of Ohio. I ask by unanimous consent to have the amendment read as it has been modified. [Cries of "Vote!"]

Mr. CRISP. I withdraw the *pro forma* amendment.

Mr. BRUMM. I renew it.

Mr. WARNER, of Ohio. Let the amendment as modified be read.

The amendment as modified was again read.

Mr. BRUMM. Mr. Speaker, I confess I do not understand the object of gentlemen on the other side of the House on this question. They seem to have no objection to the amendment proposed by the gentleman from North Carolina except as to the last words, "without discrimination." Yet they say there is no color line in this question. They are willing to adopt this amendment provided you strike out those words, "without discrimination." They attempt to have us believe that they are willing there shall be no discrimination as to color.

Now, sir, I speak from experience when I say that in the State of South Carolina—and my experience was while attending the funeral of an honored Senator from the State of Georgia—when I say I found there discrimination on the color line in the cars at least even so far as to prevent or prohibit the colored assistant sergeant-at-arms from sitting in the same room with the funeral *cortege*.

This is intended to strike out the color line, and these gentlemen may as well say so, and not attempt to bring in other amendments, as the gentleman from the State of Arkansas has done. I saw in the cars passing through South Carolina Southern women coming in who chewed tobacco and spat over the floor, and I saw well-dressed Southern ruffians come in who were allowed to sit in the same cars with white men, and when a colored man came in he was compelled to take a seat in another car. I was interested to know why, and followed him into the other car. I said to him, "Please let me see your ticket." He showed me the ticket, and it was exactly the same ticket sold to and held by those in the same car we were in and from which he was expelled.

Mr. COSGROVE. Which car were you in? [Laughter.] What was the complexion of its inmates?

Mr. BRUMM. Not any blacker than some I see now were in the car I was in. [Applause on the Republican side.] As I have said, discrimination was made there against that colored man; and I wish to say to the gentleman from California, who accuses us of attempting to defeat this bill by introducing this amendment, if you are honest and there is no color line in this, why then do you not vote for it as an amendment and then you will not defeat the bill?

Mr. HENLEY. Because it creates enemies to the bill, and you know it.

Mr. BRUMM. It does by your color line and nothing else. One man says it is not the color line and another man says you are going to defeat it because it creates enemies. Wherein are the enemies created unless it is on the color line?

Mr. HENLEY. Will the gentleman permit me to ask him a question?

Mr. BRUMM. Yes, sir.

Mr. HENLEY. Have your side favored this bill?

Mr. BRUMM. I have favored the bill, and a number of gentlemen here have favored it. I say, if you are honest, and I repeat it again, vote for this amendment as it is, and do not attempt to come in here and say we are killing the bill simply because we are attempting to prevent any color line in it.

Mr. HENLEY. If the gentlemen think that the rights of the white race are jeopardized, why do not they introduce a bill, and not encumber the passage of this interstate-commerce bill with such an amendment?

Mr. BRUMM. There is a bill already introduced, and why do you not pass it?

Mr. BARKSDALE. Mr. Speaker, the gentleman from South Carolina can speak for that State in reference to alleged discrimination there. I will speak for the State of Mississippi, and will assert there is no discrimination in regard to the transportation of persons under her laws or in the regulations of the railroad companies. Therefore the amendment can have no practical bearing on any practice in vogue in that State.

But, sir, I wish to say that I voted against it because I regarded it as irrelevant and foreign to the objects of the pending bill, and because it purported to correct abuses which do not exist.

The amendment relates to the transportation of persons. The pending bill relates exclusively to the transportation of property. In other words, the bill is designed to provide remedies against acts of oppression and injustice in the transportation of freight.

But, sir, I will not be deterred from voting for a measure of great public importance on account of the irrelevancy of the amendment which has been introduced on the motion of the Representative from North Carolina. It provides that persons purchasing tickets shall receive the same accommodations, be furnished with the same facilities, and afforded the same accommodations that are granted to all other persons. But I submit that the provision does not prevent railroad companies from providing separate accommodations for persons, provided they are equally comfortable, and, for that matter, equally ornamental; and if the amendment is designed to convey a different meaning, it will be declared unconstitutional by the Supreme Court of the United States, or whenever the issue is made, in pursuance of its opinion pronounced through Justice Bradley at the October term, 1883, in the cases founded on what is known as the civil-rights acts, passed March 1, 1875. The amendment is irrelevant, and mere *brutem fulmen;* and I shall still support the bill even if it is retained.

Mr. BRUMM. I withdraw the *pro forma* amendment.

Mr. BROWNE, of Indiana. I renew it.

Mr. Speaker, the world moves. I desire to admonish gentlemen that the soul of old John Brown is marching on. Only a few years ago an intelligent and educated physician of the State of Massachusetts was put off a street-car in the capital of the nation because he was only one-half white. I should not have particularly objected to the discrimination if they had put the colored part off alone, but they put the white part off with it. [Laughter.] And, sir, in all this character of class legislation we recognize and gentlemen who advocate it recognize the idea that if a man happens to be one-eighth colored it is utterly demoralizing to the seven-eighths white; and that proportion of the man is to be insulted in order that they may get out of the company of so much of the colored.

I want to say also that notwithstanding the colored man was put off the street car in this city in order that white men might have the exclusive privilege of riding along Pennsylvania avenue, the day has come when I see even chivalric gentlemen, not plebeians only, but patricians of the purest blood, riding in our street cars sandwiched between men as black as an imaginary minister from Hayti, to which my friend from New York [Mr. COX] alluded somewhat humorously a few years ago when making an attack upon the colored race. [Laughter.]

We ride now in the same cars with colored people. This is not a social question. It is a question of transportation merely. I do not insist that I am bound to admit to my fireside a colored man, or at my table. That is a question of taste or choice with me. I may meet a white man at my threshold and shut the door in his face. It is not a social question in any sense of the word; this is not; the other might be. What, then, is the question?

It is a question between common carriers, engaged in the transportation of passengers for hire and exacting particular fare in return for particular accommodations agreed to be furnished by them and the passenger. That is the contract. It is a contract between the carrier and the passenger. Now it is a question whether or not the colored people may permit the gentleman from New York [Mr. COX] to ride upon the same car with them, provided he has the same character of ticket and entitled to the same accommodations. It is insisted by certain gentlemen here on the other side that the colored people have the right to exclude white people from the same car, for if the white man may exclude the colored man why not the colored exclude the white?

Now, let me here appeal to gentlemen upon the other side to ask what sense is there in this controversy? I know it is not long since the Democratic party by public resolution declared that it would be demoralizing to the white race to allow the negro to be buried in the same graveyard with them. As if it made any material difference to the men in the graveyard one way or the other, for if the negro was planted there they could not get out. As a friend of mine said once, when replying to one asking a subscription for keeping up a graveyard fence, that it ought not to have it even by legislation, because those who are in could not get out, and those who were out did not want to get in [laughter]; and there is just as much sense in excluding the colored race from the graveyards as there is from the cars.

The SPEAKER. The time of the gentleman from Indiana has expired.

Mr. BROWN, of Pennsylvania, was recognized and yielded to Mr. BROWNE, of Indiana.

Mr. BROWNE of Indiana. Now, Mr. Speaker, let me come back to the question again. It is said that this is a social question. There has never yet been a right secured to the colored people by our legislation that was not confronted with that objection. When we proposed to strike the whip from the hand of the master, all over even our northern country it was said it was the first step toward the inauguration of social equality; and after awhile, when we said we would open the doors of the Federal courts so that the humblest American citizen might go into the tribunals of the nation to assert his rights or right his wrongs, the Northern Democracy said it would tend to miscegenation and intermarriage of races. Now, marriage is a matter of taste purely. I have known some instances in which the two races have been intermarried, the white with the colored, and so far as my experience goes in every instance of this kind the colored man or woman got the worst of the bargain. It was a clean cheat, so far as they were concerned.

But after awhile, when, as was suggested by the martyred Lincoln, we put the ballot in the hand of the newly-made freedman that he might assist us in keeping liberty in the family of freedom forever, the whole Democracy, with one accord, said it was an attempt upon our part to introduce the negro into our family relations and create social equality. Emancipation, citizenship, and enfranchisement have come, and the social relations between races continue, as they were, a matter of personal choice.

Gentlemen do not seem to know that this question of social life is not, never was, and never can be regulated by law. It is a question of individual tastes. I associate with gentlemen because I believe them to be my social equals. I decline to associate with other gentlemen, whether they be white or black, because I do not so regard them. If this was a statute to make a colored Republican equal to a white Democrat I should vote against it. I would not vote for it. It could not be possible either to reduce the one or to elevate the other by an act of Congress. [Laughter.]

The time has come when there ought to be an end to this caste legislation, and I hope the time is not far distant when every white American citizen can sit down beside a respectable colored man without feeling that he is disgraced by the mere association, especially when it is simply occupying perhaps a distant seat in the same railroad car. God knows I pity the man, the white man, that would appeal to the Congress of the United States for some statute to protect him from what he would regard as the humiliation of being carried along a public highway in the same carriage of transportation with a man blacker than himself. The man who asks such protection is entitled to commiseration.

Mr. REAGAN. We have had extensive debate on these amendments. I now call the previous question on the pending amendments.

The SPEAKER. The gentleman from Texas [Mr. REAGAN] demands the previous question on the proposed amendments.

Mr. BRECKINRIDGE. Does that include my substitute?

The SPEAKER. It does.

The question being taken on ordering the previous question, there were—ayes 137.

Before the negative vote was counted,

Mr. HORR said: There seems to be a misunderstanding. Some gentlemen understand the Speaker to say that the previous question if now ordered would cut off all debate on future amendments to the pending section.

The SPEAKER. The motion for the previous question applies simply to the pending amendments. The previous question was demanded on the pending amendments, not on the section.

The negative vote being counted, there were—noes 2.

So the previous question was ordered.

The SPEAKER. The first question is upon the adoption of the substitute proposed by the gentleman from Arkansas [Mr. BRECKINRIDGE] for the amendment submitted by the gentleman from Georgia [Mr. CRISP]. Both will be read. The Clerk will first read the amendment offered by the gentleman from Georgia.

The Clerk read as follows:

After the word "discrimination" insert:

"Nothing in this act contained shall be so construed as to prevent any railroad company from providing separate accommodations for white and colored persons."

The SPEAKER. For which the gentleman from Arkansas [Mr. BRECKINRIDGE] proposes the substitute which will now be read.

The Clerk read as follows:

But nothing in this act shall be construed to deny to railroads the right to provide separate accommodations for passengers as they may deem best for the public comfort and safety, or to relate to transportation relating to points wholly within the limits of one State.

The SPEAKER. The question is on the adoption of the substitute which has just been read.

The question being taken, there were—ayes 80, noes 111.

Mr. HOLMAN. I call for the yeas and nays.

On the question of ordering the yeas and nays there were ayes 26—not one-fifth of the last vote.

Mr. HOLMAN. Count the other side.

The negative vote being counted, there were noes 141—the affirmative not being one-fifth of the whole vote.

Mr. WARNER, of Ohio. I call for tellers on the yeas and nays.

Tellers were ordered, 37 members voting therefor—more than one-fifth of a quorum.

Mr. BROWNE, of Indiana. As a matter of compromise, inasmuch as it is the desire of gentlemen to make a record, I hope consent will be given to have the vote taken by yeas and nays.

Mr. BLANCHARD. I call for the regular order.

The SPEAKER. The regular order is the vote by tellers on the question of ordering the yeas and nays.

Mr. KEIFER. I suggest that by unanimous consent the vote for tellers might be taken as ordering the yeas and nays.

The SPEAKER. The Chair understands there was objection to that. The gentleman from Texas, Mr. REAGAN, and the gentleman from Indiana, Mr. HOLMAN, will act as tellers.

The House divided; and there were—ayes 53, noes 5.

So the yeas and nays were ordered.

The question was taken; and there were—yeas 137, nays 127, not voting 59; as follows:

YEAS—137.

Aiken,	Dibrell,	Lewis,	Skinner, T. G.
Alexander,	Dockery,	Lore,	Slocum,
Ballentine,	Dunn,	McAdoo,	Snyder,
Barksdale,	Eaton,	McMillin,	Springer,
Bennett,	Ellis,	Matson,	Stewart, Charles
Blackburn,	Ermentrout,	Miller, J. F.	Stockslager,
Blanchard,	Ferrell,	Mills,	Storm,
Blount,	Findlay,	Mitchell,	Sumner, C. A.
Bratton,	Follett,	Money,	Talbott,
Breckinridge,	Foran,	Morrison,	Taylor, J. M.
Buchanan,	Forney,	Moulton,	Thompson,
Buckner,	Geddes,	Muldrow,	Throckmorton,
Budd,	Gibson,	Murphy,	Tillman,
Burnes,	Glascock,	Murray,	Townshend,
Cabell,	Graves,	Mutchler,	Tucker,
Caldwell,	Green,	Neece,	Tully,
Campbell, J. E.	Greenleaf,	Oates,	Turner, H. G.
Candler,	Halsell,	O'Ferrall,	Turner, Oscar
Carleton,	Hancock,	Patton,	Van Eaton,
Cassidy,	Hardeman,	Pierce,	Warner, A. J.
Clardy,	Hatch, W. H.	Peel,	Warner, Richard
Clay,	Henley,	Price,	Weilborn,
Clements,	Herbert,	Pryor,	Wilkins,
Cobb,	Hewitt, A. S.	Randall,	Williams,
Converse,	Hewitt, G. W.	Rankin,	Willis,
Cook,	Holman,	Reagan,	Wilson, W. L.
Cosgrove,	Hunt,	Reese,	Winans, E. B.
Cox, S. S.	Hurd,	Riggs,	Winans, John
Cox, W. R.	Jones, J. H.	Robertson,	Wise, G. D.
Culberson, D. B.	Jones, J. K.	Rogers, J. H.	Wood,
Curtin,	Jones, J. T.	Rosecrans,	Woodward,
Dargan,	Jordan,	Scales,	Young.
Davidson,	Kleiner,	Seymour,	
Davis, L. H.	Lanham,	Shively,	
Dibble,	Le Fevre,	Singleton,	

NAYS—127.

Adams, G. E.	Everhart,	Libbey,	Rowell,
Anderson,	Funston,	Long,	Russell,
Atkinson,	George,	Lowry,	Ryan,
Bagley,	Goff,	Lyman,	Seney,
Barr,	Guenther,	McCoid,	Skinner, C. R.
Beach,	Hammond,	McComas,	Smalls,
Belmont	Hanback,	McCormick,	Smith, A. H.
Bingham,	Harmer,	Millard,	Smith, H. Y.
Bisbee,	Hatch, H. H.	Morrill,	Spooner,
Boutelle,	Haynes,	Morse,	Spriggs,
Brainerd,	Henderson, D. B.	Nelson,	Stephenson,
Breitung,	Henderson, T. J.	Nicholls,	Stevens,
Brewer, F. B.	Hepburn,	Nutting,	Stewart, J. W.
Brewer, J. H.	Hill,	O'Hara,	Stone,
Broadhead,	Hiscock,	O'Neill, Charles	Strait,
Brown, W. W.	Hitt,	O'Neill, J. J.	Struble,
Browne, T. M.	Hoblitzell,	Parker,	Taylor, E. B.
Brumm,	Holmes,	Payne,	Taylor, J. D.
Burleigh,	Horr,	Payson,	Thomas,
Campbell, J. M.	Houk,	Perkins,	Van Alstyne,
Cannon,	Howey,	Peters,	Wait,
Chace,	James,	Pettibone,	Wakefield,
Chalmers,	Jeffords,	Phelps,	Wallace,
Crisp,	Johnson,	Poland,	Ward,
Culbertson, W. W.	Jones, B. W.	Post,	Washburn,
Cullen,	Kean,	Potter,	Weaver,
Cutcheon,	Keifer,	Ranney,	White, Milo
Davis, G. R.	Ketcham,	Ray, Ossian	Wilson, James
Davis, R. T.	Lacey,	Reed,	Wolford,
Dingley,	Laird,	Rice,	Worthington,
Eldredge,	Lamb,	Robinson, J. S.	Yaple.
Evans,	Lawrence,	Rockwell,	

NOT VOTING—59.

Adams, J. J.	Dunham,	Hutchins,	Rogers, W. F.
Arnot,	Elliott,	Kelley,	Shaw,
Barbour,	Ellwood,	Kellogg,	Shelley,
Bayne,	English,	King,	Steele,
Belford,	Fiedler,	Lovering,	Sumner, D. H.
Bland,	Finerty,	Maybury,	Valentine,
Bowen,	Fyan,	Miller, S. H.	Vance,
Boyle,	Garrison,	Milliken,	Wadsworth,
Campbell, Felix	Hardy,	Morgan,	Weller,
Collins,	Hart,	Muller,	Wemple,
Connolly,	Hemphill,	Ochiltree,	White, J. D.
Covington,	Holton,	Paige,	Whiting,
Deuster,	Hooper,	Pusey,	Wise, J. S.
Dorsheimer,	Hopkins,	Ray, G. W.	York.
Dowd,	Housman,	Robinson, W. E.	

So the substitute of Mr. BRECKINRIDGE for the amendment of Mr. CRISP was adopted.

The following additional pair was announced:

Mr. FINERTY with Mr. ROBINSON, of New York, for this day.

The result of the vote was announced as above stated.

Mr. REAGAN. I now call the previous question——

[The remainder of Mr. REAGAN'S statement was not heard at the reporter's desk.]

Mr. BRECKINRIDGE. I move to reconsider the vote just taken; and also move that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The SPEAKER *pro tempore* (Mr. COX, of New York). The question is on the amendment as amended.

Mr. GOFF addressed the Chair.

The SPEAKER *pro tempore*. The previous question is operating at present on the amendment as amended.

Mr. REED. The gentleman from West Virginia [Mr. GOFF] desires to offer an amendment.

The SPEAKER *pro tempore*. That is not now in order.

Mr. REED. It is in order after the substitute is adopted. The previous question was ordered on the pending amendment, but not, as the Speaker expressly said, to cut off any future amendment. [Cries of "Regular order!"]

The SPEAKER *pro tempore*. The gentleman from West Virginia will be recognized to offer his amendment hereafter. This does not cut off amendments to the first section. [Cries of "Regular order!"] The question is on agreeing to the amendment as amended.

Mr. SMALLS. Mr. Speaker, is it in order to move to lay on the table the amendment as amended? I move that the amendment as amended be laid on the table.

The SPEAKER *pro tempore*. That motion is in order.

The motion of Mr. SMALLS was not agreed to.

Mr. REAGAN. I call the previous question on the section and those two amendments.

The SPEAKER *pro tempore*. The House is dividing on agreeing to the amendment as amended.

Mr. HISCOCK. I desire to make a parliamentary inquiry. After the vote shall have been taken on agreeing to the amendment as amended by the adoption of the substitute, then I understand the proposition of the gentleman from West Virginia [Mr. GOFF] will be in order.

The SPEAKER *pro tempore*. The section is open to further amendment, certainly.

Mr. REAGAN. I had moved the previous question, and we were proceeding to vote, but the result had not been announced.

The SPEAKER *pro tempore*. The Chair will state that the previous question is now operating.

Mr. HISCOCK. It was distinctly stated by the gentleman from Texas that he moved the previous question on the substitute.

Mr. REAGAN. That may have been the understanding of the gentleman; but those around me know that I asked the previous question on the section and the amendments.

Mr. HISCOCK. It was announced by the Chair that after the vote had been taken on the amendment as amended the amendment of the gentleman from West Virginia would be in order.

The SPEAKER *pro tempore*. The pending proposition is this——

Mr. MCMILLIN. The Chair stated that the gentleman from West Virginia would be recognized hereafter; but the gentleman from Texas demanded the previous question.

Mr. GOFF. The previous question was only demanded on the amendment to the amendment; it was so stated.

Mr. HISCOCK. The previous question was not demanded upon the section.

Mr. BLACKBURN. I appeal to the Chair to listen for one moment on the question of order. The gentleman from Texas is in charge of this measure. He has stated to the Speaker and the House that, being recognized by the Chair, he had asked the previous question upon this section and pending amendments. [Cries of "Oh, no!"] That is the statement made by the gentleman from Texas, and I know no right on the part of any gentleman to challenge it.

Mr. HISCOCK. I do challenge it.

Mr. BLACKBURN. I am entitled to the floor, and the gentleman from New York will challenge my statement, if he wants to, in his own time, not mine.

Mr. HISCOCK. I am willing to leave the question to the other gentleman from Texas [Mr. MILLS].

Mr. BLACKBURN. It is the unbroken rule of this House to recognize the gentleman in charge of a measure to enter a motion. The gentleman from Texas has submitted a motion. It is for the previous question, as he tells us, not upon the substitute, but upon the paragraph or section and the pending amendments.

I deny that the gentleman from New York or any other gentleman has the right to challenge that statement, and the Chair is bound to accept it. It is for the House either to order the previous question or reject the motion of the gentleman from Texas.

Mr. HISCOCK rose.

The SPEAKER *pro tempore*. The gentleman from New York will suspend for a moment until the Chair states the proposition before the House. The House was dividing on the question of accepting the amendment as amended by the gentleman from Arkansas. That matter has not yet been determined. When it is determined the Chair will recognize the next person in order.

Mr. BLOUNT. I desire to make a parliamentary inquiry.

The SPEAKER *pro tempore*. The previous question is operating on the amendment to the amendment.

Mr. KEIFER. That is all we claim.

Mr. REAGAN. I ask what the question before the House is?

The SPEAKER *pro tempore*. The proposition is this: The gentleman from Arkansas moved to amend the proposition of the gentleman from Georgia.

Mr. REAGAN. By his substitute.

The SPEAKER *pro tempore*. By a substitute, and that is the pending proposition. It has been adopted, but a division was called for. The Chair must conclude that proposition first; and now the question is on adopting the substitute as amended on motion of the gentleman from Arkansas.

The House divided; and there were—ayes 148, noes 117.

Mr. REED demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 137, nays 131, not voting 55; as follows:

YEAS—137.

Aiken,	Davis, L. H.	Lanham,	Skinner, T. G.
Alexander,	Dibble,	Le Fevre,	Snyder,
Ballentine,	Dibrell,	Lewis,	Springer,
Barksdale,	Dockery,	Lore,	Stewart, Charles
Bennett,	Dunn,	McAdoo,	Stockslager,
Blackburn,	Eaton,	McMillin,	Storm,
Blanchard,	Ellis,	Matson,	Sumner, C. A.
Blount,	Ermentrout,	Miller, J. F.	Talbott,
Bratton,	Ferrell,	Mills,	Taylor, J. M.
Breckinridge,	Findlay,	Mitchell,	Thompson,
Broadhead,	Follett,	Money,	Throckmorton,
Buchanan,	Foran,	Morrison,	Tillman,
Buckner,	Forney,	Moulton,	Townshend,
Budd,	Fyan,	Muldrow,	Tucker,
Burnes,	Geddes,	Murphy,	Tully,
Cabell,	Gibson,	Murray,	Turner, H. G.
Caldwell,	Glascock,	Mutchler,	Turner, Oscar
Campbell, J. E.	Graves,	Neece,	Van Eaton,
Candler,	Green,	Nicholls,	Wallace,
Carleton,	Greenleaf,	Oates,	Warner, A. J.
Cassidy,	Halsell,	O'Ferrall,	Warner, Richard
Clardy,	Hammond,	Patton,	Wellborn,
Clay,	Hardeman,	Pierce,	Wilkins,
Clements,	Hatch, W. H.	Peel,	Williams,
Cobb,	Hemphill,	Pryor,	Willis,
Converse,	Henley,	Randall,	Wilson, W. L.
Cook,	Herbert,	Rankin,	Winans, E. B.
Cosgrove,	Hewitt, G. W.	Reagan,	Winans, John
Covington,	Holman,	Reese,	Wise, G. D.
Cox, S. S.	Hunt,	Riggs,	Wolford,
Cox, W. R.	Hurd,	Rogers, J. H.	Wood,
Crisp,	Jones, J. H.	Rosecrans,	Young.
Culberson, D. B.	Jones, J. K.	Scales,	
Dargan,	Jones, J. T.	Seymour,	
Davidson,	Kleiner,	Singleton,	

NAYS—131.

Adams, G. E.	Guenther,	Lyman,	Seney,
Anderson,	Hanback,	McCoid,	Shively,
Atkinson,	Harmer,	McComas,	Skinner, C. R.
Bagley,	Hatch, H. H.	McCormick,	Smalls,
Barr,	Haynes,	Millard,	Smith, A. H.
Beach,	Henderson, D. B.	Milliken,	Smith, H. Y.
Belmont,	Henderson, T. J.	Morrill,	Spooner,
Bingham,	Hepburn,	Morse,	Spriggs,
Bisbee,	Hewitt, A. S.	Nelson,	Stephenson,
Boutelle,	Hill,	Nutting,	Stevens,
Brainerd,	Hiscock,	O'Hara,	Stewart, J. W.
Breitung,	Hitt,	O'Neill, Charles	Stone,
Brewer, F. B.	Hoblitzell,	O'Neill, J. J.	Strait,
Brewer, J. H.	Holmes,	Parker,	Struble,
Brown, W. W.	Holton,	Payne,	Taylor, E. B.
Browne, T. M.	Horr,	Payson,	Taylor, J. D.
Brumm,	Houk,	Peters,	Thomas,
Burleigh,	Howey,	Pettibone,	Van Alstyne,
Campbell, J. M.	James,	Phelps,	Wadsworth,
Cannon,	Jeffords,	Poland,	Wait,
Chalmers,	Johnson,	Post,	Wakefield,
Culbertson, W. W.	Jones, B. W.	Potter,	Ward,
Culien,	Kean,	Price,	Washburn,
Cutcheon,	Keifer,	Ranney,	Weaver,
Davis, G. R.	Ketcham,	Ray, G. W.	Wemple,
Davis, R. T.	Lacey,	Ray, Ossian	White, J. D.
Deuster,	Laird,	Reed,	White, Milo
Dingley,	Lamb,	Rice,	Whiting,
Eldredge,	Lawrence,	Robinson, J. S.	Wilson, James
Evans,	Libbey,	Rockwell,	Woodward,
Everhart,	Long,	Rowell,	Worthington,
Funston,	Lovering,	Russell,	Yaple.
Goff,	Lowry,	Ryan,	

NOT VOTING—55.

Adams, J. J.	Collins,	Finerty,	Jordan,
Arnot,	Connolly,	Garrison,	Kelley,
Barbour,	Curtin,	George,	Kellogg,
Bayne,	Dorsheimer,	Hancock,	King,
Belford,	Dowd,	Hardy,	Maybury,
Bland,	Dunham,	Hart,	Miller, S. H.
Bowen,	Elliott,	Hooper,	Morgan,
Boyle,	Ellwood,	Hopkins,	Muller,
Campbell, Felix	English,	Houseman,	Ochiltree,
Chace,	Fiedler,	Hutchins,	Paige,

Perkins,	Rogers, W. F.	Steele,	Weller,
Pusey,	Shaw,	Sumner, D. H.	Wise, J. S.
Robertson,	Shelley,	Valentine,	York.
Robinson, W. E.	Slocum,	Vance,	

So the substitute as amended was adopted.

During the roll-call,

Mr. CHACE said: I wish to withdraw my vote, as I am paired with Mr. ROBERTSON. If he were present, I would vote "no."

On motion of Mr. REAGAN, by unanimous consent the reading of the names was dispensed with.

The following additional pair was announced from the Clerk's desk:

Mr. ROBERTSON with Mr. CHACE, for this day.

The vote was then announced as above recorded.

Mr. REAGAN moved to reconsider the vote by which the substitute as amended was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ENROLLED BILL AND JOINT RESOLUTION.

Mr. PERKINS, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled joint resolution (H. Res. 300) to pay to the officers and employés of the Senate and House of Representatives their respective salaries for the month of December, 1884, on the 20th day of said month; when the Speaker signed the same.

Mr. WARNER, of Tennessee, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a bill (S. 2280) for the relief of Mrs. Jane Venable; when the Speaker signed the same.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. MCCOOK, its Secretary, announced the return, in compliance with the request of the House, of the bill (H. R. 1457) to establish the department of agriculture.

It further announced the Senate requested the return of the bill (S. 2376) for the relief of Joseph F. Wilson.

It further announced the passage of the following bills; in which concurrence was requested:

A bill (S. 1682) to enable the people of that part of the Territory of Dakota south of the forty-sixth parallel of north latitude to form a constitution and State government, and for the admission of the State into the Union on an equal footing with the original States, and for other purposes;

A bill (S. 1695) relating to lands in Colorado lately occupied by the Uncompahgre and White Ute River Indians;

A bill (S. 2463) to authorize the suspension of the exercise of extra-territorial jurisdiction in the territories of the Bey of Tunis, and to amend section 4127 of the Revised Statutes of the United States; and

Joint resolution (S. R. 44) directing the Public Printer to furnish copies of the CONGRESSIONAL RECORD to the Secretary of State for each of the American legations abroad.

It further announced the passage with amendments, in which concurrence was requested, of the bill (H. R. 2728) detaching Grundy County, Tennessee, from the southern division, &c., of the district of East Tennessee and attaching it to the middle district of said State, and for other purposes.

RETURN OF SENATE BILL.

The SPEAKER. The Senate has requested the return of the bill (S. 2376) for the relief of Joseph F. Wilson. If there be no objection the request will be granted.

There was no objection, and it was ordered accordingly.

INTERSTATE COMMERCE.

Mr. MILLS. I offer the following amendment to be added to the amendment as amended.

The Clerk read as follows:

Nor shall any railroad company or its officers charge or receive from any person who is to be conveyed from one State or Territory into another any sum exceeding 3 cents per mile for the distance to be traveled by said person.

Mr. MILLS. As the House has adopted the subject of regulation of passengers as well as freight in this bill I have offered this amendment. I am aware that a great many of the railroads in the United States charge largely under 3 cents per mile, but I am aware also there are some roads, and among them those who have received the most generous bounty on the part of the Government of the United States, who charge 6 and 8 and even 10 cents per mile. A number of States, as I am informed—certain it is so in my own State—have passed regulations prescribing the rates passengers shall be charged in the State. It is 3 cents per mile as the maximum in my State. I understand it is so in other States. It is so in Kansas. I wish to place a restriction on the charge which railroad companies may make on interstate passengers who are taken up in one State, travel over others, and are put down in a distant State. Three cents is enough for any railroad to charge for passengers. I hope the House will adopt the amendment.

In accordance with my agreement with my colleague I now demand the previous question on that amendment.

The previous question was ordered.

The House divided; and there were—ayes 65, noes 57.

Mr. BUDD and Mr. HOLMAN demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 139, nays 120, not voting 64; as follows:

YEAS—139.

Alexander,	Fyan,	Matson,	Skinner, T. G.
Anderson,	Gibson,	Millard,	Smalls,
Atkinson,	Glascock,	Miller, J. F.	Spooner,
Barksdale,	Graves,	Mills,	Springer,
Beach,	Green,	Morrill,	Stephenson,
Bisbee,	Guenther,	Morrison,	Stewart, Charles
Blanchard,	Halsell,	Moulton,	Stockslager,
Brainerd,	Hanback,	Muldrow,	Strait,
Brown, W. W.	Hancock,	Murray,	Struble,
Browne, T. M.	Hatch, H. H.	Nelson,	Sumner, C. A.
Brumm,	Hatch, W. H.	Nicholls,	Talbott,
Burleigh,	Haynes,	Nutting,	Taylor, J. D.
Cabell,	Henderson, D. B.	O'Ferrall,	Taylor, J. M.
Campbell, J. E.	Henderson, T. J.	O'Hara,	Thomas,
Campbell, J. M.	Henley,	Payne,	Thompson,
Chalmers,	Hepburn,	Payson,	Townshend,
Clay,	Hewitt, A. S.	Pierce,	Tully,
Clements,	Hill,	Peel,	Turner, Oscar
Converse,	Hitt,	Perkins,	Wakefield,
Cook,	Holman,	Peters,	Wallace,
Cosgrove,	Holmes,	Pettibone,	Ward,
Covington,	Houk,	Poland,	Warner, A. J.
Culberson, D. B.	Howey,	Price,	Warner, Richard
Cullen,	Jones, J. H.	Randall,	Weaver,
Cutcheon,	Kleiner,	Ray, G. W.	Wellborn,
Davidson,	Lacey,	Ray, Ossian	Wemple,
Davis, G. R.	Laird,	Riggs,	White, J. D.
Davis, L. H.	Lamb,	Robinson, J. S.	Whiting,
Davis, R. T.	Lanham,	Rogers, J. H.	Wilkins,
Deuster,	Lawrence,	Rowell,	Wilson, James
Dingley,	Le Fevre,	Ryan,	Wise, G. D.
English,	Lewis,	Scales,	Wood,
Everhart,	Lowry,	Seney,	Yaple,
Foran,	McAdoo,	Shively,	Young.
Funston,	McCormick,	Singleton,	

NAYS—120.

Adams, G. E.	Dibble,	Jordan,	Rockwell,
Aiken,	Dibrell,	Kean,	Russell,
Bagley,	Eaton,	Keifer,	Seymour,
Barr,	Eldredge,	Ketcham,	Skinner, C. R.
Belmont,	Elliott,	Libbey,	Smith, A. H.
Bennett,	Ellis,	Long,	Snyder,
Bingham,	Ermentrout,	Lore,	Spriggs,
Blackburn,	Findlay,	Lovering,	Stevens,
Blount,	Follett,	Lyman,	Stewart, J. W.
Boutelle,	Forney,	McMillin,	Stone,
Bratton,	Geddes,	Mitchell,	Storm,
Breckinridge,	Greenleaf,	Money,	Taylor, E. B.
Breitung,	Hammond,	Morse,	Throckmorton,
Brewer, F. B.	Hardeman,	Murphy,	Tillman,
Brewer, J. H.	Harmer,	Mutchler,	Tucker,
Broadhead,	Hemphill,	Neece,	Turner, H. G.
Buchanan,	Herbert,	Oates,	Van Alstyne,
Buckner,	Hewitt, G. W.	O'Neill, Charles	Van Eaton,
Burnes,	Hiscock,	Parker,	Wadsworth,
Caldwell,	Hoblitzell,	Patton,	Wait,
Candler,	Horr,	Phelps,	Washburn,
Cannon,	Houseman,	Post,	White, Milo
Carleton,	Hunt,	Potter,	Williams,
Cassidy,	Hurd,	Pryor,	Willis,
Clardy,	James,	Pusey,	Wilson, W. L.
Cobb,	Jeffords,	Ranney,	Winans, E. B.
Cox, S. S.	Johnson,	Reagan,	Winans, John,
Cox, W. R.	Jones, B. W.	Reed,	Wolford,
Crisp,	Jones, J. K.	Reese,	Woodward,
Dargan,	Jones, J. T.	Rice,	Worthington.

NOT VOTING—64.

Adams, J. J.	Dockery,	Hooper,	Rankin,
Arnot,	Dorsheimer,	Hopkins,	Robertson,
Ballentine,	Dowd,	Hutchins,	Robinson, W. B.
Barbour,	Dunham,	Kelley,	Rogers, W. F.
Bayne,	Dunn,	Kellogg,	Rosecrans,
Belford,	Ellwood,	King,	Shaw,
Bland,	Evans,	McCoid,	Shelley,
Bowen,	Ferrell,	McComas,	Slocum,
Boyle,	Fiedler,	Maybury,	Smith, H. Y.
Budd,	Finerty,	Miller, S. H.	Steele,
Campbell, Felix	Garrison,	Milliken,	Sumner, D. H.
Chace,	George,	Morgan,	Valentine,
Collins,	Goff,	Muller,	Vance,
Connolly,	Hardy,	Ochiltree,	Weller,
Culbertson, W. W.	Hart,	O'Neill, J. J.	Wise, J. S.
Curtin,	Holton,	Paige,	York.

So the amendment was agreed to.

The following additional pairs were announced:

Mr. ROSECRANS with Mr. MCCOMAS, on this vote.

Mr. BUDD with Mr. GEORGE, on this vote.

Mr. DEUSTER with Mr. O'NEILL, of Missouri, on this vote.

Mr. MCCOID with Mr. DOCKERY, from December 17 to December 21.

Mr. RANKIN with Mr. OCHILTREE, on all political questions and on the Reagan bill. Mr. OCHILTREE would vote for the bill, Mr. RANKIN against it.

The result of the vote was then announced as above recorded.

Mr. GIBSON rose.

The SPEAKER. For what purpose does the gentleman from West Virginia rise?

Mr. GIBSON. I desire to submit a privileged motion. I move to reconsider the vote by which the amendment of the gentleman from Texas was adopted.

The SPEAKER. That is a privileged motion.

Mr. HOLMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GOFF. I now offer the amendment which I send to the desk.

The Clerk read as follows:

Add to the substitute the following——

The SPEAKER. There is no substitute pending.

Mr. GOFF. I desire to offer this to go into the section immediately after the amendment or substitute proposed by the gentleman from Arkansas [Mr. BRECKINRIDGE].

The SPEAKER. The Clerk will report the amendment.

The Clerk read as follows:

Add to the substitute the following:

"*Provided*, That no discrimination is made on account of race or color."

Mr. REAGAN. Does the gentleman desire to address the House? If not, I will call the previous question on the amendment.

Mr. GOFF. Just a moment.

The amendment of the gentleman from Arkansas permits the railroad companies to make any arrangements that to them may seem fit relative to the classification of passengers. Now I simply propose to add to that provision the words "provided that there shall be no discrimination on account of race or color."

It seems to me that gentlemen who advocate the passage of this bill have suddenly changed their tactics. When they offered it to the consideration of the House it was upon the theory that the proposed legislation was intended to regulate the railroads and to prevent discriminations as against the people. But now it seems they have reversed their former opinion, and the idea, as it is now apparently entertained and enunciated, is to regulate the people and to permit the railroads to discriminate as they choose against them.

I can see nothing unfair in this amendment. It does no injustice to the railroad corporations, and it does simple, even-handed justice to all the citizens of this country. The gentleman from California [Mr. HENLEY] has told us that amendments of this character tend to jeopardize the bill. Why should they do so?

So far as I am concerned, if to do justice to the citizens of this country jeopardizes the passage of the bill, then I am in favor of justice, and the bill may die. I can see no reason why a citizen of this country traveling from the capital of the nation and going to the great exposition now open at New Orleans, should be compelled when passing through the great State of Georgia to leave the car that he left the capital of his country in and go into those described by the gentleman from South Carolina [Mr. SMALLS]. Such discrimination might apply to members of this House and men occupying high official positions in this country. We sit here as their equals, and before the law and Constitution of our land they are our equals. Now I submit, without desiring to argue this proposition further, that we should not inquire where a man came from, in what clime he was born, or where the sun first kissed his cheek; nor should we inquire what is the color of the skin. All that we want to know is that he is an American citizen; and if he is such, then he is entitled to all the protection of the Constitution and laws of the country. [Applause on the Republican side.]

Mr. REAGAN. I demand the previous question upon the adoption of the amendment.

Mr. WHITE, of Kentucky. I ask the gentleman from Texas to yield to me to offer an amendment?

Mr. REAGAN. I must decline to yield. I insist upon the demand for the previous question.

The previous question was ordered.

The SPEAKER. The question is on the adoption of the amendment proposed by the gentleman from West Virginia.

Mr. HISCOCK, Mr. MILLARD, and others demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 141, nays 102, not voting 80; as follows:

YEAS—141.

Adams, G. E.	Davis, G. R.	Hitt,	Lyman,
Anderson,	Davis, R. T.	Hobbitzell,	McComas,
Atkinson,	Deuster,	Holman,	McCormick,
Bagley,	Dingley,	Holmes,	Millard,
Barr,	Eldredge,	Horr,	Milliken,
Beach,	Evans,	Houk,	Mitchell,
Bingham,	Everhart,	Houseman,	Morrill,
Bisbee,	Ferrell,	Howey,	Morse,
Boutelle,	Follett,	Hunt,	Murray,
Brainerd,	Foran,	James,	Nelson,
Breitung,	Funston,	Jeffords,	Nicholls,
Brewer, F. B.	Goff,	Johnson,	Nutting,
Brewer, J. H.	Greenleaf,	Jones, B. W.	O'Hara,
Brown, W. W.	Guenther,	Jordan,	O'Neill, Charles
Browne, T. M.	Hanback,	Kean,	O'Neill, J. J.
Brumm,	Harmer,	Keifer,	Parker,
Campbell, J. E.	Hatch, H. H.	Ketcham,	Payne,
Campbell, J. M.	Haynes,	Lacey,	Payson,
Cannon,	Henderson, D. B.	Laird,	Perkins,
Carleton,	Henderson, T. J.	Le Fevre,	Peters,
Chalmers,	Hepburn,	Libbey,	Pettibone,
Converse,	Hewitt, A. S.	Long,	Poland,
Cullen,	Hill,	Lovering,	Post,
Cutcheon,	Hiscock,	Lowry,	Potter,
Price,	Seymour,	Strait,	White, J. D.
Ranney,	Shively,	Struble,	White, Milo
Ray, G. W.	Skinner, C. R.	Taylor, J. D.	Whiting,
Ray, Ossian	Smalls,	Thomas,	Wilkins,
Reed,	Smith, A. H.	Van Alstyne,	Wilson, James
Rice,	Smith, H. Y.	Wakefield,	Winans, E. B.
Robinson, J. S.	Spooner,	Wallace,	Wood,
Rockwell,	Springer,	Ward,	Woodward,
Rowell,	Stephenson,	Warner, A. J.	Yaple.
Russell,	Stevens,	Washburn,	
Ryan,	Stewart, J. W.	Weaver,	
Seney,	Stone,	Wemple,	

NAYS—102.

Aiken,	Culberson, D. B.	Jones, J. T.	Singleton,
Alexander,	Curtin,	Kleiner,	Skinner, T. G.
Ballentine,	Dargan,	Lanham,	Snyder,
Barksdale,	Davidson,	Lewis,	Stewart, Charles
Bennett,	Dibble,	Lore,	Stockslager,
Blackburn,	Dibrell,	McMillin,	Storm,
Blanchard,	Eaton,	Matson,	Sumner, C. A.
Blount,	Ellis,	Miller, J. F.	Taylor, J. M.
Bratton,	Ermentrout,	Mills,	Thompson,
Breckinridge,	Forney,	Money,	Tillman,
Buchanan,	Fyan,	Morrison,	Townshend,
Buckner,	Geddes,	Moulton,	Tucker,
Burnes,	Gibson,	Muldrow,	Tully,
Cabell,	Glascock,	Neece,	Turner, H. G.
Caldwell,	Green,	Oates,	Turner, Oscar
Candler,	Halsell,	O'Ferrall,	Van Eaton,
Cassidy,	Hancock,	Patton,	Warner, Richard
Clardy,	Hardeman,	Peel,	Wellborn,
Clay,	Hatch, W. H.	Pierce,	Williams,
Clements,	Hemphill,	Pryor,	Willis,
Cobb,	Henley,	Pusey,	Wilson, W. L.
Cosgrove,	Herbert,	Randall,	Wise, G. D.
Covington,	Hewitt, G. W.	Reagan,	Wolford,
Cox, S. S.	Hurd,	Reese,	Young.
Cox, W. R.	Jones, J. H.	Rogers, J. H.	
Crisp,	Jones, J. K.	Scales,	

NOT VOTING—79.

Adams, J. J.	Dorsheimer,	Kelley,	Rogers, W. F.
Arnot,	Dowd,	Kellogg,	Rosecrans,
Barbour,	Dunham,	King,	Shaw,
Bayne,	Dunn,	Lamb,	Shelley,
Belford,	Elliott,	Lawrence,	Slocum,
Belmont,	Ellwood,	McAdoo,	Spriggs,
Bland,	English,	McCoid,	Steele,
Bowen,	Fiedler,	Maybury,	Sumner, D. H.
Boyle,	Findlay,	Miller, S. H.	Talbott,
Broadhead,	Finerty,	Morgan,	Taylor, E. B.
Budd,	Garrison,	Muller,	Throckmorton,
Burleigh,	George,	Murphy,	Valentine,
Campbell, Felix	Graves,	Mutchler,	Vance,
Chace,	Hammond,	Ochiltree,	Wadsworth,
Collins,	Hardy,	Paige,	Wait,
Connolly,	Hart,	Phelps,	Weller,
Cook,	Holton,	Rankin,	Winans, John
Culbertson, W. W.	Hooper,	Riggs,	Wise, J. S.
Davis, L. H.	Hopkins,	Robertson,	Worthington,
Dockery,	Hutchins,	Robinson, W. E.	York.

So the amendment was adopted.

On motion of Mr. LONG, by unanimous consent the reading of the names of members voting was dispensed with.

The following additional pairs were announced:

Mr. THROCKMORTON with Mr. LAWRENCE, for the remainder of this day.

Mr. WORTHINGTON with Mr. RIGGS, on this vote.

Mr. PHELPS with Mr. DAVIS, of Missouri, for the remainder of this day.

Mr. HAMMOND with Mr. EZRA B. TAYLOR, for the remainder of this day, reserving the right to vote to make a quorum. On Mr. GOFF's amendment Mr. HAMMOND would vote "no" and Mr. TAYLOR would vote "ay."

Mr. LAMB with Mr. WADSWORTH, for the remainder of the day.

Mr. FINDLAY with Mr. KELLEY, for the remainder of the day.

Mr. COOK with Mr. WAIT, for the remainder of the day.

The result of the vote was then announced as above stated.

Mr. GOFF. I move to reconsider the vote just taken; and also move to lay the motion to reconsider on the table.

Mr. REAGAN. I move that the House do now adjourn.

Mr. GOFF. My motion, I understand, is pending.

The SPEAKER. It is; and pending that motion the gentleman from Texas moves to adjourn.

Mr. REAGAN. I am willing to yield to some requests for unanimous consent.

The SPEAKER. If the motion to adjourn is withdrawn, the question will be on the motion of the gentleman from West Virginia [Mr. GOFF]. Does the gentleman from Texas withdraw his motion to adjourn.

Mr. REAGAN. I do not withdraw it.

INDIANS OF BLACKFEET AND OTHER AGENCIES.

Pending the question on the motion to adjourn,

The SPEAKER laid before the House a letter from the Secretary of the Treasury, transmitting an estimate of $50,000 from the Interior Department to supply a deficiency in the appropriations for the support of Indians of the Blackfeet, Crow, Fort Belknap, and Fort Peck agencies for the current fiscal year; which was referred to the Committee on Appropriations, and ordered to be printed.

HOURS OF LABOR FOR LETTER-CARRIERS.

The SPEAKER also laid before the House a letter from the Attorney-General, in response to a resolution of the House asking his opinion whether the eight-hour law (section 3738, Revised Statutes) applies to letter-carriers; which was referred to the Committee on Labor.

The motion of Mr. REAGAN was then agreed to; and accordingly (at 4 o'clock and 40 minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions and papers were laid on the Clerk's desk, under the rule, and referred as follows:

By Mr. BARKSDALE: Papers relating to the claim of James F. Wooley; also papers relating to the claim of William Evans—severally to the Committee on War Claims.

Mr. S. S. COX: Memorial of Nathaniel McKay, relative to contract for plates on United States monitor Miantonomoh—to the Committee on Expenditures in the Navy Department.

By Mr. GEORGE: Papers relating to the claim of John Campbell—to the Committee on War Claims.

By Mr. W. H. HATCH: Papers improperly referred to the Committee on Agriculture—to the Committee on Commerce.

By Mr. LAWRENCE: Petition of Allison Louderbach, for a pension—to the Committee on Invalid Pensions.

By Mr. LONG: Petition of 175 citizens of Massachusetts, requesting the passage of the resolution of Hon. JAMES H. HOPKINS relative to the transportation of cattle—to the Committee on Commerce.

By Mr. LYMAN: Five petitions from manufacturers and business men of Boston, Mass., requesting the passage of the resolution of Mr. HOPKINS relative to the transportation of cattle—to the same committee.

By Mr. MORRISON: Petition of sundry citizens of Highland, Ill., for the metric system of weights and measures—to the Committee on Coinage, Weights, and Measures.

By Mr. MURPHY: Petitions of citizens of Dakota, asking reduction of the price of public lands—to the Committee on the Public Lands.

By Mr. J. M. TAYLOR: Papers relating to the claim of Jessee A. Brown—to the Committee on War Claims.

By Mr. YAPLE: Resolution of Michigan State board of agriculture, relative to the establishment of experimental stations—to the Committee on Agriculture.

By Mr. YOUNG: Papers relating to the claim of Henry E. Sills; also papers relating to the claim of Elizabeth Rivers—severally to the Committee on War Claims.

The following petitions for the passage of the Mexican war pension bill with Senate amendments were presented and severally referred to the Committee on Pensions:

By Mr. ARNOT: Of citizens of Almond, N. Y.

By Mr. BAGLEY: Of citizens of the counties of Ulster and Schoharie, New York.

By Mr. BLACKBURN: Of certain citizens of Kentucky.

By Mr. T. M. BROWNE: Of 219 citizens and ex-soldiers of Union City, Ind.

By Mr. DOCKERY: Of citizens of Harrison County, Missouri.

By Mr. DEUSTER: Of John H. Wallar and 332 others, soldiers at the National Home near Milwaukee; and of Thomas J. Willis and 139 others, soldiers at the same place.

By Mr. EATON: Of W. H. Burlew and others, of Hartford, Conn.

By Mr. ELDREDGE: Of A. A. Sprague and 62 others, of Lenawee County; of John K. Boies and 64 others, of Hudson; and of Alonzo Shafer and 42 others, of Hillsdale County, Michigan.

By Mr. FUNSTON: Of citizens of La Cygne and of citizens of Lawrence, Kans.

By Mr. GEDDES: Of Levi Light and 62 others, citizens of Ashland and Richland Counties, Ohio.

By Mr. GIBSON: Of citizens of Wood County, West Virginia.

By Mr. GUENTHER: Of citizens of Big Springs, Adams County, Wisconsin.

By Mr. HEPBURN: Of F. W. Brady and 50 others, citizens of Osceola, Iowa.

By Mr. HITT: Of 115 citizens of Winnebago County, Illinois.

By Mr. HOUSEMAN: Of Joel A. Pond and 100 others, of Nunica, Ottawa County, Michigan.

By Mr. HOWEY: Of soldiers of the fourth district of New Jersey.

By Mr. HOLMES: Of V. H. Norton and 74 others, citizens of Belmond; of J. H. Beasau and 122 others, ex-soldiers of Mason City; of A. M. Caldwell and 75 others, citizens of Iowa Falls; of Myron Underwood and 125 others, ex-soldiers of Hardin County, and of Simeon Overacker and 91 others, ex-soldiers of Clarion, Iowa.

By Mr. LACEY: Of F. L. Snell and 62 others, citizens of Kalamo, Mich.

By Mr. LAMB: Of citizens of Vigo County, of citizens of Vermillion County, and of citizens of Parke County, Indiana.

By Mr. LONG: Of P. Bryant and 26 others, and of Edward Davis and 36 others, of Massachusetts.

By Mr. McCORMICK: Of citizens of Jackson County and of Vinton County, Ohio.

By Mr. MURRAY: Of 85 members of the National Soldiers' Home, Dayton, Ohio.

By Mr. MAYBURY: Of citizens of Wayne County, Michigan.

By Mr. MILLARD: Of citizens of Hooper, N. Y.

By Mr. NELSON: Of citizens of Verndale, Minn.

By Mr. NUTTING: Of citizens of New York State.

By Mr. PAIGE: Of citizens of Wayne County, of Berea, and of Bedford, Ohio.

By Mr. PAYNE: Of W. N. Deady and 65 others, citizens of Rose, N. Y.

By Mr. PEEL: Of 90 citizens of Arkansas.

By Mr. POLAND: Of B. H. Percy and others, of Jay, and of S. F. Drew and 300 others, of Charlestown, Vt.

By Mr. POST: Of 59 citizens of West Auburn, Pa.

By Mr. G. W. RAY: Of 69 citizens of Delaware County, New York.

By Mr. OSSIAN RAY: Of J. C. Webster and 23 others, of Danbury, N. H.

By Mr. RAYMOND: Of citizens of Dakota.

By Mr. ROWELL: Of 236 voters of McLean and Atlanta, Ill.

By Mr. RYAN: Of 389 citizens of Kansas.

By Mr. SEYMOUR: Of Charles A. Hobbie and others, of Darien, Conn.

By Mr. SPOONER: Of 194 citizens and ex-soldiers of Rhode Island.

By Mr. SPRINGER: Of citizens of Washington, Ill.

By Mr. STEPHENSON: Of citizens of Taylor County, Wisconsin.

By Mr. STEVENS: Of 100 citizens of Wyoming County, New York.

By Mr. STORM: Of 32 citizens of Columbus County, Pennsylvania.

By Mr. STRUBLE: Of R. J. Hargrave and 79 others, of Spencer, and of Theodore F. Wooster and 63 others, of Mapleton, Iowa.

By Mr. J. D. TAYLOR: Of Elijah Cole and 46 others, citizens of Jefferson County, and of W. H. Boor and 63 others, citizens of Bowerstown, Harrison County, Ohio.

By Mr. TOWNSHEND: Of 64 citizens of Parrish, Ill.

By Mr. WAKEFIELD: Of ex-soldiers of Minnesota.

By Mr. A. J. WARNER: Of Aaron Tucker and 105 others, citizens of Athens County, and of S. M. Grimes and 50 others, citizens of Monroe County, Ohio.

By Mr. WILKINS: Of Waldo Taylor and 65 others, citizens of Licking County, Ohio.

By Mr. WEMPLE: Of 61 citizens of Fulton County, New York.

By Mr. E. B. WINANS: Of L. D. Owen and 60 others, citizens of Farmington; of S. A. Perry and 60 others, citizens of Lansing, and of Charles W. Smith and 66 others, citizens of Webbersville, Mich.

By Mr. WOODWARD: Of 51 citizens of Sauk County, and 60 citizens of Richland County, Wisconsin.

By Mr. YAPLE: Of Hugh Wilson and 124 others, citizens of Buchanan, Mich.

SENATE.

THURSDAY, *December* 18, 1884.

Prayer by Rev. BYRON SUNDERLAND, D. D., of the city of Washington.

The Journal of yesterday's proceedings was read and approved.

JOSEPH F. WILSON.

The PRESIDENT *pro tempore* laid before the Senate the following message from the House of Representatives; which was read:

IN THE HOUSE OF REPRESENTATIVES, *December* 17, 1884.

Ordered, That the Clerk of the House of Representatives be directed to return to the Senate, in compliance with its request, the bill (S. 2376) for the relief of Joseph F. Wilson.

The PRESIDENT *pro tempore*. If there be no objection the bill will be placed on the Calendar in connection with the motion to reconsider entered by the Senator from Kansas [Mr. PLUMB].

PETITIONS AND MEMORIALS.

Mr. HARRISON. I have a number of communications from cigar-makers' unions of Indiana, remonstrating against the ratification of the Spanish reciprocity treaty. They are of the kind presented yesterday by the Senator from Iowa [Mr. ALLISON], not in form addressed to the Senate. I ask unanimous consent to be allowed to present them.

The PRESIDENT *pro tempore*. The Senator from Indiana asks unanimous consent to present sundry papers touching the Spanish reciprocity treaty. If there be no objection, they will be received.

Mr. HARRISON. I present a memorial of the Cigar-makers' Union of Evansville, Ind.; a memorial of the Cigar-makers' Union of Union City, Ind.; a memorial of the Cigar-makers' Union of Arcadia, Ind.; a memorial of the Cigar-makers' Union of Fort Wayne, Ind.; a memorial of the Cigar-makers' Union of Richmond, Ind.; and a memorial of the Cigar-makers' Union of New Albany, Ind., remonstrating against the ratification of the reciprocity treaty with Spain, and ask that they be referred to the Committee on Foreign Relations.

The PRESIDENT *pro tempore*. The memorials will be referred to the Committee on Foreign Relations.

Mr. LAPHAM. I have a communication in the nature of a petition from Motley & Sterling, of New York, manufacturers of railway, steamship, and contractors' supplies, praying for the ratification of the proposed treaty betwee Spain and the United States, which I ask may be received and referred to the Committee on Foreign Relations.

The PRESIDENT *pro tempore*. The Senator from New York asks unanimous consent to present a certain paper on the subject he has named. If there be no objection it will be received and referred to the Committee on Foreign Relations.

Mr. LAPHAM presented the petition of Harvey Adsit, of Willsborough, N. Y., and the petition of Richard M. Chesbrough, of Ellenburg, N. Y., praying for the enactment of a law extending the time for filing claims for arrears of pensions; which were referred to the Committee on Pensions.

Mr. CONGER. I present a memorial and divers papers to be referred to the Committee on Claims to accompany the bill (S. 781) for the relief of the late William A. Burt, inventor of the solar compass, adopted and used in the public surveys of the United States, now before that committee.

The PRESIDENT *pro tempore*. If there be no objection, the papers and memorial will be received and referred to the Committee on Claims.

Mr. HOAR. I present a memorial of the Pennsylvania Woman's Suffrage Association, protesting against the admission of Dakota as a State of the Federal Union under a constitution which withholds the ballot from any of its citizens on account of sex.

As a bill upon that subject has passed the Senate, I suppose under the ordinary practice the memorial should lie upon the table; but before that disposition is made I should like to say that while I cordially share the desire of the ladies and other persons composing this association that the suffrage may be extended to all citizens of the United States, irrespective of sex, otherwise duly qualified, yet it seems to me that it would be very unwise for the persons who entertain that opinion to insist upon having Congress in its present state of opinion impose its views in regard to the true policy on that subject upon new States which seek admission, because, if that principle were established, I suppose a majority of both Houses of Congress, as at present advised, would be more likely to deny admission to Washington Territory and Wyoming when they come, as they will in the near future, probably, with provisions in their constitutions admitting women to the privilege of suffrage, than they would to deny admission to Dakota or any other Territory which confined the suffrage to males. Therefore I think this association is unwise with reference to accomplishing the great object for which it is formed in recommending this action.

I ask that the memorial lie upon the table.

Mr. CONGER. Will the Senator allow me to make one remark? The Territory of Washington, to which this relates, I understand——

Mr. HOAR. The memorial relates to Dakota.

Mr. CONGER. I thought the Senator's remarks applied to Washington Territory. The Territory of Washington in its laws already provides for female suffrage.

Mr. HOAR. If the Senator will pardon me, this is a protest against the admission of Dakota containing a clause in the constitution adverse to female suffrage. The remark which I made was that I thought the friends of female suffrage, of which I profess to be one, would not be wise in asking Congress to impose its opinion upon that question on new Territories which knock at the door, because if that were done Congress would be more likely to reject Washington and Wyoming on that account than it would be to reject Dakota for excluding it.

Mr. CONGER. In that connection my remark was that Washington Territory by a vote of its own people having granted woman suffrage, any existing condition there ought not to prejudice Senators here against the admission of Washington Territory as a State when it shall apply with whatever regulation may be in force there.

Mr. HOAR. I do not believe it would, and I do not want to establish that principle by voting against Dakota myself on the other ground.

Mr. LAPHAM. I desire to make a suggestion. The Committee on Woman Suffrage considered the question while the Dakota bill was pending as to whether we should offer an amendment extending the right of suffrage in the formation of the constitution for the purpose of that Territory applying to become a State, and we concluded that it would be unwise to seek to ingraft that provision upon the proposed bill for the admission of the Territory. Although we prepared the amendment the committee concluded on the whole that it was better to omit presenting it at this time.

Mr. HOAR. I think the example of Washington Territory and of Wyoming will soon be very potent on Dakota.

The PRESIDENT *pro tempore*. The memorial will lie on the table.

Mr. HOAR. I present the petition of George E. Spencer, late a Senator from the State of Alabama, praying for the reimbursement of expenses necessarily incurred by him in defending his title to his seat in the Senate of the United States. I move that the petition be referred to the Committee on Privileges and Elections.

The motion was agreed to.

Mr. HOAR. I present also the petition of Joseph Ainley, late private Company H, Twenty-seventh Regiment Massachusetts Volunteers, praying that a law be enacted extending the time for filing pension claims, and that relief be granted him from injustice he claims to have suffered under the existing laws. I move that the petition be referred to the Committee on Pensions.

The motion was agreed to.

Mr. HOAR presented the petition of F. P. H. Rogers Post, No. 29, Grand Army of the Republic, Department of Massachusetts, praying for the publication in the Official Records of the War of the Rebellion of photographic illustrations; which was referred to the Committee on Military Affairs.

Mr. DAWES presented the petition of Lester Noble, of Longmeadow, Mass., praying the allowance of his claim against the United States for certain damages done his property by the Union forces during the late war; which was referred to the Committee on Military Affairs.

Mr. MITCHELL presented a petition of General Alexander Hays Post, No. 3, Grand Army of the Republic, Department of Pennsylvania, praying for the publication in the Official Records of the War of the Rebellion of photographic illustrations; which was referred to the Committee on Military Affairs.

Mr. GIBSON presented the petition of the Louisiana Educational Society, praying for national aid to education; which was referred to the Committee on Education and Labor.

Mr. LOGAN presented the petition of David E. Ford, late private Company K, Two hundred and nineteenth Pennsylvania Volunteers, praying to be granted a pension; which was referred to the Committee on Pensions.

Mr. MILLER, of New York, presented the petition of the Phœnix National Bank, of the city of New York, praying to be reimbursed certain moneys collected from them by a United States marshal; which was referred to the Committee on the Judiciary.

He also presented memorials of cigar-makers of Buffalo, Oneida, Little Falls, Onondaga County, Dunkirk, Rome, New York city, Troy, Brooklyn, Binghamton, and Port Byron, in the State of New York, and a memorial of the Utica (N. Y.) Trades Assembly, a memorial of a mass-meeting of cigar-makers held at Steinway Hall, New York city, and a memorial of cigar-makers of Utica, N. Y., remonstrating against the ratification of the proposed reciprocity treaty with Spain; which were referred to the Committee on Foreign Relations.

He also presented a petition of Leonard C. Bullis, of Syracuse, N. Y., and a petition of Alexander Buchanan, of Rogersfield, N. Y., praying for extension of the time for filing pension claims; which were referred to the Committee on Pensions.

Mr. MILLER, of New York. I present a petition of marine underwriters and merchants of New York, praying for an additional appropriation to complete the cable and signal communication between Nantucket and the mainland. I ask that the petition be referred to the Committee on Appropriations.

The PRESIDING OFFICER (Mr. INGALLS in the chair). The petition will be so referred, if there be no objection.

Mr. MILLER, of New York. The Senator from Massachusetts [Mr. DAWES] suggests that the petition should go to the Committee on Commerce, but the subject was considered by that committee last year, and they made a report which was referred to the Committee on Appropriations, in order that the appropriation might be made.

The PRESIDING OFFICER. Does the Senator from New York desire to change the reference?

Mr. MILLER, of New York. I think the reference I suggest is right.

The PRESIDING OFFICER. The Chair will suggest to the Senator from New York that the petition was first ordered to be referred to the Committee on Appropriations.

Mr. MILLER, of New York. At the last session a similar petition came to the Senate and was referred to the Committee on Commerce, at one point of the session, I do not know whether first to that committee or not. The Committee on Commerce took action and recommended an appropriation to be made. The papers were then sent to the Committee on Appropriations, and they inserted an appropriation in one of the general appropriation bills. It now turns out that the amount appropriated was not sufficient; the work has not been done, and the petition is for an increased appropriation in order that the work may be carried out. The Senators from Massachusetts were particularly interested in the measure at the last session, and as the Committee on Commerce have already considered the matter I think the petition may go direct to the Committee on Appropriations.

The PRESIDING OFFICER. It will be so ordered.

Mr. CULLOM. I present a memorial of the American Atlantic and Pacific Steamship Canal Company, remonstrating against the ratification of the proposed treaty between the United States and Nicaragua; and I ask that it be referred to the Committee on Foreign Relations.

The PRESIDING OFFICER. The Chair will state to the Senator from Illinois that those petitions have not hitherto been received in legislative session.

Mr. CULLOM. I was thinking that there had been an order made to receive them. The order was in reference to the Spanish treaty, and I will withdraw the memorial.

The PRESIDING OFFICER. The order related to the Spanish reciprocity treaty.

Mr. CULLOM presented the petition of Motley & Sterling, of New York, and the petition of Theodore Thomas, of Jersey City, N. J., praying for the ratification of the proposed reciprocity treaty with Spain; which were referred to the Committee on Foreign Relations.

He also presented a memorial of 627 citizens of Illinois, remonstrating against the enactment of any measure relating to the telegraph which shall increase the number of public officials or establish a governmental monopoly of the telegraph business; which was ordered to lie on the table.

Mr. PLUMB presented a petition of Western Miami Indians, praying that certain money taken from their tribal funds be returned to them; which was referred to the Committee on Indian Affairs.

REPORTS OF COMMITTEES.

Mr. LAPHAM, from the Committee on Patents, to whom was referred the bill (S. 1296) for the relief of Mrs. Henrietta H. Cole, reported it without amendment, and submitted a report thereon.

THICKNESS OF STEAM-BOILERS.

Mr. CONGER. I am instructed by the Committee on Commerce, to whom was referred the bill (S. 1793) to amend section 4434 of title 52 of the Revised Statutes of the United States, concerning commerce and navigation and the regulation of steam-vessels, to report it favorably with an amendment and to ask for its present consideration.

The PRESIDENT *pro tempore*. The Senator asks unanimous consent that the bill be now considered. Is there objection?

Mr. COCKRELL. Let the bill be read for information.

The Chief Clerk read the bill.

The PRESIDENT *pro tempore*. Is there objection to the present consideration of the bill?

Mr. MORGAN. From what committee does the bill come?

The PRESIDENT *pro tempore*. It comes from the Committee on Commerce.

Mr. CONGER. Let the amendment be read. All the change in the present law is contained in the report of the committee in a proviso to be added to section 4434. Let the Chief Clerk read the amendment proposed.

The PRESIDENT *pro tempore*. Is there objection to the present consideration of the bill? The Chair hears none. The bill is before the Senate as in Committee of the Whole. The text of the bill has been already read, and it will be treated as having been read as in Committee of the Whole if there be no objection. The amendment reported by the committee will be read.

The CHIEF CLERK. It is proposed to strike out all after the enacting clause of the bill and to insert:

That section 4424 of the Revised Statutes of the United States be amended by adding thereto a proviso so that the section will read as follows:

"SECTION 4434. No boiler to which the heat is applied to the outside of the shell thereof shall be constructed of iron or steel plates of more than twenty-six one-hundredths of an inch in thickness, the ends or heads of the boilers only excepted; and every such boiler employed on steam-vessels navigating rivers flowing into the Gulf of Mexico, or their tributaries, shall have not less than three inches space between and around its internal flues: *Provided*, That boilers to which the heat is applied to the outside of the shell thereof may, in the discretion of the Secretary of the Treasury, be authorized and used on steam-vessels navigating the Atlantic or Pacific Oceans, or salt-water bays or sounds, when constructed of iron or steel plates not exceeding fifty one-hundredths of an inch in thickness."

The PRESIDENT *pro tempore*. The question is on agreeing to this amendment.

The amendment was agreed to.

The bill was reported to the Senate as amended and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

GEORGE C. TANNER.

Mr. CONGER. I move to take from the table the bill (S. 1661) for the relief of George C. Tanner, United States consul at Liege, Belgium, which was reported from the Committee on Commerce in July last. At that time it was supposed that the provision of the bill would be inserted in one of the appropriation bills, and therefore it was laid upon the table. I move that the bill be taken from the table, and by the request of the Senator from South Carolina [Mr. HAMPTON] I ask that it be considered at this time.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. It directs the Secretary of State to credit the account of George C. Tanner, consul at Liege and Verviers, in Belgium, with $200, being the amount paid by him out of his personal assets for the rent of a house for one year in Verviers, when the amount should have been paid by the United States.

Mr. CONGER. I wish to say that the amount to repay this consul has been recommended by the Secretary of State, and it is recommended as a just claim on the Government, which ought to be paid.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

FUNERAL OF SENATOR ANTHONY.

Mr. PLATT, from the Committee to Audit and Control the Contingent Expenses of the Senate, to whom was referred the following resolution, reported it without amendment, and, by unanimous consent, it was read three times and passed:

Resolved, That the actual and necessary traveling expenses of the officers and members of the Senate who attended the funeral of the late Senator ANTHONY at Providence, R. I., in September last, be paid out of the appropriation for miscellaneous items of the contingent fund of the Senate, on vouchers properly allowed by the Committee on Contingent Expenses.

A. L. SINGLETON.

Mr. PLATT. The Committee to Audit and Control the Contingent Expenses of the Senate, to whom was referred a resolution to pay A. L. Singleton, an employé of the Senate, a sum equal to three months' salary, report the same back and ask for the passage of a substitute for the resolution. I ask for its immediate consideration.

By unanimous consent, the resolution was read the second time, and considered as in Committee of the Whole.

The PRESIDING OFFICER (Mr. INGALLS). The substitute reported from the committee will be read.

The Chief Clerk read as follows:

Resolved, That the Secretary of the Senate be, and he hereby is, authorized and directed to pay to A. L. Singleton, late a fireman in the employ of the Senate, and who was dropped from the rolls on account of illness contracted in the discharge of his duty, a sum equal to three months' salary at the rate he was being paid when he was so dropped, out of the miscellaneous items of the contingent fund of the Senate.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The resolution was reported to the Senate as amended, read the third time, and passed.

BILLS INTRODUCED.

Mr. HALE introduced a bill (S. 2470) providing for the establishment of a port of entry at Mount Desert Ferry, in the town of Hancock, in the State of Maine; which was read twice by its title, and referred to the Committee on Commerce.

Mr. VAN WYCK introduced a bill (S. 2471) to increase the pensions of widows and dependent relatives of deceased soldiers and sailors; also to grant pensions to invalid and dependent soldiers who served three months during the war of the rebellion; which was read twice by its title, and referred to the Committee on Pensions.

Mr. PLUMB introduced a bill (S. 2472) for the relief of Van Vechten Tousey; which was read twice by its title, and referred to the Committee on Claims.

SURVEY OF NICARAGUA CANAL ROUTE.

Mr. VEST introduced a joint resolution (S. R. 106) declaring the action of the Secretary of the Navy in sending an expedition to Nicaragua to be illegal; which was read the first time at length, as follows:

Whereas, in response to a resolution of inquiry on the part of the Senate, the Secretary of the Navy states in his official reply of date December 17, 1884, that orders have been issued by the Navy Department to Civil Engineer A. G. Menocal, Civil Engineer R. G. Peary, and Ensign Washington I. Chambers to visit Nicaragua in order to make a survey of the route for the proposed Nicaragua Canal, and that these orders have been issued in the exercise of the general powers of the Department under the President to issue such orders to all officers of the Navy as may be deemed for the public interest; and

Whereas the reply of the Secretary also states that the cost of the arrangements made and contemplated in addition to the pay and mileage of the naval officers is expected to be $1,000 as an outfit and about $1,000 a month during the stay of the party in Nicaragua:

Resolved by the Senate and House of Representatives of the United States in Congress assembled, That the power to send an expedition into the territory of Nicaragua for the purpose of surveying a route for the proposed Nicaragua Canal and to expend or to make arrangements involving the expenditure of public money for such purpose is not vested by law in the Navy Department, and that without consent or authority from Congress such action by the Department is illegal. That the Secretary of the Navy be directed to discontinue the arrangements for such expedition and not to enforce the orders made as to the same until definite and final action by Congress upon this resolution.

Mr. HALE. Let that go over a day. I wish to examine it.

Mr. VEST. I desire to give notice that I shall call up the resolution to-morrow morning.

The PRESIDING OFFICER. Does the Senator from Maine object to the second reading to-day?

Mr. HALE. I do.

The PRESIDING OFFICER. The resolution having been once read will lie on the table.

Mr. VEST. I give notice that I shall call it up to-morrow. This expedition sails from New York on Saturday, and therefore I shall ask that the resolution be taken up and considered to-morrow morning.

CALENDAR OF HOUSE BILLS.

The PRESIDING OFFICER. Resolutions, concurrent and other, are now in order, under which, according to the custom of the Chair, the resolution is laid before the Senate which was submitted by the Senator from Massachusetts [Mr. HOAR] on the 16th instant.

The resolution was read, as follows:

Resolved, That when the Calendar of Bills and Resolutions is next taken up for consideration under Rule VIII, measures from the House of Representatives shall first be considered in their order subject to said rule.

The PRESIDING OFFICER. Will the Senate agree to the resolution?

Mr. COCKRELL. I see no necessity for adopting that rule at this stage of the session. There are only twenty-two cases on the Calendar of that class. At the close of the last session we took up and disposed of the House bills on the Calendar, nearly every one of them, to which there was no objection, and I think it would be better to let the resolution lie over a while.

The PRESIDING OFFICER. Does the Senator from Missouri submit a motion to postpone?

Mr. COCKRELL. I ask that the resolution be postponed until after the holiday recess.

The PRESIDING OFFICER. The Senator from Missouri asks unanimous consent that the resolution be postponed until after the holiday recess, if there be one. Is there objection? The Chair hears none, and it is so ordered.

JULIET H. PALMER.

Mr. BLAIR. I ask unanimous consent to make a statement showing a mistake in the action of the Senate in reference to certain bills at the last session, and to request that the mistake may be corrected. I read a statement which was prepared by the Chief Clerk of the Senate relative to the status of two bills, Senate bill 1287 and House bill 4085, both for the relief of Juliet H. Palmer, who is the widow of Surgeon-General Palmer:

The two bills are identical in terms. House bill 4085 passed the House of Representatives June 6, 1884. (See House Journal, p. 1399.) Read twice in the Senate and referred to the Committee on Pensions, June 9, 1884. (See Senate Journal, p. 741.)

Senate bill 1287 passed the Senate July 4, 1884 (see Senate Journal, p. 922), and has gone to the House of Representatives (see House Journal, p. 1660); and upon that bill there has been no action.

These bills are identical. The House passed its bill and sent it to the Senate, and it was referred to the Senate Committee on Pensions, which has taken no action upon it, having previously reported a like bill, which was passed by the Senate. Thus two bills identical in terms and provisions have been indorsed by both Houses.

It was supposed by myself, who had charge of the Senate bill, that this lady's pension was granted by the passage of the Senate bill in the House during the last session, but I received yesterday this note from a friend of hers:

The Senate bill 1287, identical with this House bill, was by mistake passed by the Senate on the motion of Senator BLAIR, July 4, 1884.

Referring to the page of the RECORD.

Other pensions in similar cases passed at the same time. The widows of Surgeon-General Barnes and Craven, United States Army, have been in receipt of their increased pensions, but Mrs. Palmer, by reason of the accidental error above noted, can not receive her increase until the Senate passes this House bill instead of the Senate bill. A similar correction was made July 7, 1884, on motion of Senator BLAIR, in the case of the widow of Admiral Sands. If this correction can be now passed this widow will receive a happy and needed Christmas gift.

I would ask of the Senate unanimous consent for the reconsideration of the vote of the Senate whereby Senate bill 1287 was passed July 4, in the last session.

The PRESIDING OFFICER. The Senator from New Hampshire asks unanimous consent for the reconsideration of the vote by which the bill indicated by him was passed. Is there objection? The Chair hears none, and it is so ordered.

Mr. GARLAND. Would it not serve the purpose of the Senator simply to enter the motion to reconsider now, and let the matter be looked into?

Mr. BLAIR. I had a little desire that we might pass the bill before the holidays. It was a mistake; others like situated have been drawing their pensions since the last session, and I desire to have the correction made now.

Mr. GARLAND. It is more a matter of particularity. If the Senator has the record as he states there, I have no objection.

Mr. BLAIR. I have it from the Chief Clerk of the Senate, so that there can be no mistake. I now ask that Senate bill 1287 be indefinitely postponed.

The PRESIDING OFFICER. The Chair is informed that the parliamentary condition of the bill is such that the motion can not be entertained. The bill having been passed and sent to the House of Representatives at the last session, it is not now in the custody of the Senate.

Mr. CONGER. I ask the Senator if the passage of the House bill now before the Senate would not meet what he desires to accomplish?

Mr. BLAIR. That is precisely what I propose to ask as the next step, and it can be done now.

The PRESIDING OFFICER. The House bill on the same subject is now pending before the Committee on Pensions. The committee might be discharged and the bill passed.

Mr. BLAIR. I move that the committee be discharged from its further consideration.

The PRESIDING OFFICER. The Senator from New Hampshire moves that the Committee on Pensions be discharged from the further consideration of the bill (H. R. 4085) for the relief of Juliet H. Palmer. Is there objection? The Chair hears none.

The Senate, as in Committee of the Whole, proceeded to consider the bill. It proposes to pay, out of the Navy pension fund, to Juliet H. Palmer, widow of the late Surg. Gen. James C. Palmer, United States Navy, $50 per month during her widowhood, in lieu of her present pension.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

Mr. BLAIR. The Senate bill in the possession of the House may be recalled; or would it be sufficient to give notice of the action of the Senate on the bill from the House?

The PRESIDING OFFICER. The Chair thinks that it is not necessary to recall the bill.

STATUE TO GENERAL LA FAYETTE.

Mr. SHERMAN. I move that the Senate proceed to the consideration of Order of Business 938, Senate bill 2422, which I think will only need to be read to secure the attention of the Senate, and its passage.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill (S. 2422) for the erection of a statue to the memory of General La Fayette.

The bill was reported from the Committee on the Library with an amendment, to insert as an additional section:

SEC. 2. That the President *pro tempore* of the Senate and the Speaker of the House of Representatives do appoint a joint committee of three Senators and three Representatives, with authority to contract for and erect a statue to the memory of General La Fayette and his compatriots; and said statue shall be placed in a suitable public reservation in the city of Washington, to be designated by said joint committee.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

Mr. CONGER. This leaves a discretion to the committee to be appointed to select the place. I do not know whether it implies that they shall report to Congress and have the sanction of Congress upon that; but there is a square in this city which has long been called La Fayette Square, and I do not know but that there should be some limitation in the bill that the committee shall report to Congress, or have further approval on that point.

Mr. SHERMAN. The second section was put on by the Committee on the Library in accordance with the established precedent in regard to all the monuments in this city, to leave it to the commission of three Senators and three Representatives to select a site. That was done in regard to the Thomas statue; it was done in regard to the Marshall statue, and all the others. As a matter of course this commission, composed of members of both Houses, can probably be trusted with making the selection. I would not like to change the form.

Mr. CONGER. I only called attention to the fact.

Mr. SHERMAN. That is the established precedent.

Mr. CONGER. I only called attention to the fact that a prominent square in this city was already named after La Fayette.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The PRESIDING OFFICER. There is a preamble which the committee recommend the striking out of. The question is on that amendment.

The amendment was agreed to.

EXECUTIVE SESSION.

Mr. MORRILL. I move that the Senate proceed to the consideration of executive business.

The PRESIDING OFFICER. The question is on the motion of the Senator from Vermont.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After one hour and fifty minutes spent in executive session the doors were reopened.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. CLARK, its Clerk, announced that the House had disagreed to the amendments of the Senate to the bill (H. R. 7510) making temporary provision for the naval service, asked a conference with the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. SAMUEL J. RANDALL of Pennsylvania, Mr. W. S. HOLMAN of Indiana, and Mr. J. D. LONG of Massachusetts managers at the conference on its part.

NAVAL APPROPRIATIONS.

The PRESIDENT *pro tempore* laid before the Senate the message of the House of Representatives announcing its disagreement to the amendments of the Senate to the bill (H. R. 7510) making temporary provision for the naval service.

On motion of Mr. HALE, it was

Resolved, That the Senate insist upon its amendments to the said bill disagreed to by the House, and agree to the conference asked by the House on the disagreeing votes of the two Houses thereon.

By unanimous consent, it was

Ordered, That the conferees on the part of the Senate be appointed by the President *pro tempore*.

The PRESIDENT *pro tempore* appointed Mr. HALE, Mr. LOGAN, and Mr. BECK.

PRESIDENTIAL APPROVALS.

A message from the President of the United States, by Mr. O. L. PRUDEN, one of his secretaries, announced that the President had this day approved and signed the following acts and joint resolutions:

An act (S. 1309) to provide statuary and historical tablets for the Saratoga monument;

An act (S. 2402) authorizing the Secretary of State to procure duplicates of certain French and American medals;

Joint resolution (S. R. 98) extending the time fixed for the joint commission appointed under the sundry civil act approved July 7, 1884, to submit their report; and

Joint resolution (S. R. 101) in relation to the ceremonies to be authorized upon the completion of the Washington Monument.

INTERSTATE COMMERCE.

The PRESIDENT *pro tempore*. The Chair lays before the Senate the unfinished business. The title of the bill will be read.

The CHIEF CLERK. A bill (S. 2112) to establish a commission to regulate interstate commerce, and for other purposes.

The PRESIDENT *pro tempore*. The bill is now before the Senate as in Committee of the Whole.

INAUGURATION DAY A LEGAL HOLIDAY.

Mr. INGALLS. Having been otherwise occupied when the order of morning business was called, I ask the consent of the Senator from Illinois [Mr. CULLOM] to make a report from the Committee on the District of Columbia.

The PRESIDENT *pro tempore*. The Senator from Kansas asks unanimous consent to make a report from the Committee on the District of Columbia at this time.

Mr. CULLOM. I shall not object if it does not take any time.

Mr. INGALLS. From the Committee on the District of Columbia I report the bill (S. 2417) to amend section 993 of the Revised Statutes relating to the District of Columbia with an amendment; and as the bill is brief and unobjectionable, I will presume on the indulgence of the Senate to ask for its consideration now.

The PRESIDENT *pro tempore*. The Senator from Kansas asks unanimous consent that the bill be now considered. Is there objection?

Mr. COCKRELL. Let it be read for information.

Mr. INGALLS. I will state that the object of the bill is to make the day of inauguration of President of the United States a legal holiday in the District of Columbia, and if the bill is to be acted upon it should be acted upon now. Let it be read.

The PRESIDENT *pro tempore*. The bill will be read for information.

The Chief Clerk read the bill as proposed to be amended by the committee.

The PRESIDENT *pro tempore*. Is there objection to the present consideration of the bill? The Chair hears none. It is now before the Senate as in Committee of the Whole and will be read. [A pause.] The Chair calls the attention of the chairman of the Committee on the District of Columbia to the fact that the paper sent up by the chairman does not show what the whole of the original bill was. The Chair is, therefore, unable to put the question on agreeing to the amendment to the original bill. The Senator from Kansas might report the amendment as an original bill.

Mr. INGALLS. I have no power to do that, sir.

The PRESIDENT *pro tempore*. In the present state of the paper sent to the desk the Chair can not receive it.

Mr. INGALLS. Let the bill be withdrawn.

The PRESIDENT *pro tempore*. The bill will be withdrawn if there be no objection.

INTERSTATE COMMERCE.

The Senate, as in Committee of the Whole, proceeded to consider the bill (S. 2112) to establish a commission to regulate interstate commerce, and for other purposes.

The PRESIDENT *pro tempore*. The bill will be read.

The Chief Clerk read the bill.

Mr. CULLOM. Mr. President, at the close of the last session I submitted to the Senate a brief and hurried statement of my views upon the subject of the regulation of interstate commerce in connection with the bill now under consideration, which I had the honor of reporting from the Committee on Railroads. I take it for granted that the members of this Senate recognize the importance of this subject and fully appreciate the vast extent and far-reaching influence of the interests to be affected by this proposed legislation. The growth of the railroad system of the country within the time covered by our own recollection has been marvelous, until the total mileage in the United States to-day exceeds that of all Europe, with a population seven times greater than the United States. There is no commercial or business interest that is not affected in a greater or less degree by the manner in which the railroads comprising this vast system are conducted, while the returns received upon the immense amount of capital invested in these enterprises affect in an equally marked degree the business prosperity of the nation.

In undertaking to frame any legislation upon this subject we must constantly bear in mind the fact that the interests of the railroads and of their patrons and of the whole people are identical. In other words, we must remember that any legislation so radical or unjust in its provisions as to destroy the value of railway properties, or to prevent their successful management, would either be wholly inoperative or would result in a more serious depression of business than would be occasioned by the unrestrained continuance of the evils which the public now complain of. All will agree that it is safer not to go far enough than to go too far in inaugurating experimental legislation of this character.

But, while I desire and believe that we should proceed with the utmost care and caution in framing legislation upon a subject that so vitally affects the whole world of business transactions, I am convinced that the time has come when some action should be taken, and that we ought at least to take some preliminary steps toward reaching a practical solution of the complicated problems of railway management that have puzzled the ablest men of the nation for years.

It is no new thing to propose legislation upon this subject. In our own country more than twenty of the States have placed enactments upon their statute-books or provisions in their constitutions intended to regulate railway transportation within their own borders.

It could not be expected that these enactments would prove adequate to remedy the evils connected with the business of interstate commerce. The regulation of these evils must of necessity be left to Congress, so far as legislation can remedy them, but the efforts that have been made by the States within the past ten years demonstrate the popular demand for legislation upon this question. And it is certainly safe to assume that the legislation for the regulation of railroads enacted in so many States has become law only in response to the demand of a public sentiment sufficiently strong to enforce respect.

The existence of a popular sentiment in favor of action by Congress upon this question is too well known to require demonstration. It has been shown by the presentation in Congress during the last eight years of a large number of bills upon the subject, and by discussions that have made the general public familiar with the questions involved. For years past the question has been agitated in the public press, by the shippers and merchants and farmers at the meetings of the local and general organizations to which they belong, as well as by the stockholders and officers of the great railroad corporations. The constant agitation of the questions by those most directly interested has been of great advantage, and we are now prepared to legislate upon them without feeling that we are entering upon a field that is new and wholly unexplored. So far as these matters have assumed shape in this country, as indicated by the legislation of the different States, the experience and information acquired by the State commissions, and the conclusions reached in the public discussions already alluded to, it is clear that the drift of public sentiment and of all State legislation is substantially on the line marked out in the bill now under consideration. In this connection I wish to quote an extract from a letter received within a few days from Mr. Albert Fink, who is generally recognized as one of the leading authorities on these questions, in which he says, speaking of the bill now before us:

> The main feature of the bill is the establishment of a commission, and I believe there is a settled opinion, not only in the minds of the public, but also shared by the railroad companies, that it is desirable to have such a commission established.

The development of this "settled opinion" has been founded not only upon our own experience and observation, but also upon the experience of other countries in which the same difficulties have arisen as those which now confront us, and in which the same problems have been intelligently investigated and carefully considered for years. In England several thousand acts, it is said, were passed for the purpose of regulating in detail the management of railways and of remedying the evils from which the people of that country suffered, but all these attempts at regulation by cast-iron statutes proved unsatisfactory and failed to accomplish the results aimed at. Finally, as a result of the complaints made and of the agitation of the question, and in response to a popular demand similar to that which now comes to us, the British Parliament in 1873, after a thorough investigation, established a commission and conferred upon it the powers previously existing in the courts to enforce the regulations prescribed by statute in relation to the traffic on railways and canals. The result of the numerous legislative experiments at railway regulation in England was the establishment of a commission, and I am satisfied that this will be the final outcome of the consideration of this question by the American Congress.

The English commission was given power to hear and determine complaints, to make orders and issue writs of injunction, and in general to exercise the jurisdiction and authority previously existing in the courts to restrain railways from violating the law and to enforce obedience to its decisions.

The workings of this system are said to have been satisfactory, and the value of this tribunal is shown by the good results accomplished. And the comparatively small number of cases it has been called on to decide meets the objections made in some quarters that such a commission as is proposed in this bill would be swamped with complaints when it undertook to regulate interests of such vast extent as those affected by interstate commerce in the United States. During the first year of

its organization the English commission decided six cases, in the second year seven, in the third nineteen, and in the fourth twenty-four. Under these decisions all complaints received were settled, and, in view of the similar experience of our own State commissions, there is good reason to believe that a national commission, such as is now proposed, would be able to successfully meet all demands made upon it, and that when the general principles of regulation had been determined the railroads would soon adjust themselves to the new conditions imposed upon them. In considering the propriety of passing the bill the main points to be determined are, first, whether any legislation upon the subject is necessary; second, whether Congress has the constitutional power to undertake the regulation of interstate commerce; and, third, what methods shall be adopted to secure the results desired. As to the first point, I believe that the necessity for some legislation in this direction has been impressed upon the members of this Senate by their observation and experience in such a manner that it will not be seriously questioned here. I have already alluded to the popular demand for such legislation, and want to repeat what I said last session in calling attention to this bill:

> While the people generally are willing to acknowledge their indebtedness to railroads for what they have done in the development of the country in aid of commerce, it can not be denied that complaints have arisen against their management; complaints of oppressive charges and unjust discriminations against persons and places are heard from all parts of the country; rates are given to some persons which are denied others under the same circumstances; a greater sum is frequently charged for carrying the same quantity of freight a less than a greater distance. They have it in their power, if unrestrained, to enhance the prosperity of one portion of the country at the expense of another. They may so discriminate in their rates against a particular town or locality as to drive trade away from it to a more favored locality. They may, by giving low rates, encourage manufacturers at any given point, and by raising the rates break up the business and transfer the trade to some other point. Corporations have no souls and very short memories. A change of officers works a change of favorites. The mill that has been favored by one management, when the change comes must look elsewhere for its grist. The town that has been built up by the establishment of shops and factories suddenly finds the men employed in the shops transferred to some other town; the new railroad management turn their backs upon it, and the town is left to languish and die.
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> These, Mr. President, and others that might be mentioned are serious evils which call loudly for a remedy. Many of the States have provided against these evils by legislative enactments—and twenty-two of the States have passed laws for the appointment of railroad commissioners—and in providing in some way for the supervision and control of railroads, in some instances fixing rates, and in all cases, I believe, providing against unjust discrimination and extortion. In my own State the commissioners are authorized by law to establish maximum rates for every railroad within its borders. There have of course been some friction and disputes between the corporations and the commissioners. The law under which the commission acts has been contested in all the courts, until its final favorable adjudication in the Supreme Court of the United States. The roads in Illinois to-day are generally working in harmony with the commission, and the people are, I think, generally satisfied with the result attained. The practice of extortion and unjust discrimination has been in a large measure corrected, and the corporations have in no way been injured by complying with the law and the tariffs of rates given them by the commissioners.
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> I doubt not that the experience of the people in other States where supervision by commissions has been authorized has been equally satisfactory. But, Mr. President, State commissions have no control over interstate commerce. The commerce of this country which is carried on between the States can not under the Constitution be controlled by States or State boards. The transportation companies, whether railroad companies or otherwise, which may carry the products of the country from State to State, or from State to Territory, or from one side of this continent to the other, may only be controlled in their operation in such work by the National Government. Our imports, amounting to many millions of dollars in value, do not remain in the ports of New York and Boston and of other seaport cities; they are carried to the West and South; and so of manufactures. They reach out across the States, wherever a market may be found. The question therefore comes to us: "Shall we afford relief to the people and provide laws for their protection against oppression and unjust discrimination by these powerful transportation companies, or shall we ignore the people's demands?" The enormous power which combined capital gives to those who control it makes it aggressive, impudent, and dangerous.

The next consideration is as to the power of Congress to regulate interstate commerce, which is now, I believe, generally conceded. The Constitution invests Congress with power "to regulate commerce with foreign nations, and among the several States," and "to make all laws which shall be necessary and proper for carrying into execution the foregoing powers." These provisions have been judicially construed and passed upon by the highest court in the nation, and the authority of Congress to legislate in the premises is generally considered as settled. In the case of the Philadelphia and Reading Railroad *vs.* Pennsylvania, decided in 1872, the United States Supreme Court says:

> Beyond all question the transportation of freights, or of the subjects of commerce for the purposes of exchange or sale, is a constituent of commerce itself. This has never been doubted, and probably the transportation of articles of trade from one State to another was the prominent idea in the minds of the framers of the Constitution when to Congress was committed the power to regulate commerce among the several States. * * * It would be absurd to suppose that the transmission of the subjects of trade from the seller to the buyer, or from the place of production to market, was not contemplated, for without that there could be no consummated trade with foreign nations or among the States.

In the same case the court says:

> To regulate commerce means to prescribe the rules by which commerce is to be governed.

Again, in construing the words "power to regulate," Chief-Justice Marshall says, in Gibbons *vs.* Ogden:

> This power, like all others vested in Congress, is complete in itself, may be exercised to its utmost extent, and acknowledges no limitations other than are prescribed in the Constitution.

And in the same case Mr. Justice Johnson argues that the Federal power to regulate commerce is the same power that previously existed in the States, and that the power of a sovereign State over commerce "is the power to limit and restrain it at pleasure." In fact, it has been established by repeated decisions of the United States Supreme Court that the power of Congress over interstate commerce extends to the land as well as to water, and that transportation by rail, being a constituent of interstate commerce itself, is under the exclusive control of Congress by virtue of the power to regulate commerce among the States. Many acts of Congress have been passed touching commerce upon water, such as the establishment of light-houses, buoys, beacons, and public piers in aid of commerce upon the rivers and coast of the country; but it is a somewhat notable fact that Congress, so far as I know, has never passed more than two acts the purpose of which was to regulate the conduct of railways carrying freights from one State to another. One of these acts, passed in July, 1866, at the instance of the railroads themselves, authorized railroad companies chartered by States to form continuous lines for the transportation of freights. The other, passed in October, 1873, provided that no railway in the United States over which live animals, such as cattle, sheep, or swine, were conveyed from one State to another should confine such animals longer than twenty-eight consecutive hours without unloading, &c.

In these two acts by the legislative department, the power over interstate commerce is declared in unequivocal terms. And, in the language of the report of the Senate Committee on Transportation to the Seaboard, made in 1873—

> If Congress has the power to say under what circumstances roads chartered by State governments shall connect and form continuous lines and carry freight and passengers and receive compensation therefor; if Congress may prescribe rules fixing the times when and how long a train shall be stopped, under what circumstances the cars shall be unloaded, and authorize the United States court to inflict a penalty for the disobedience of such rules, it can hardly be doubted that the same power can regulate transportation in other particulars, including the tariff on freights and the manner of conducting the business of such roads.

If, then, it be admitted that the necessity for legislation exists, and that Congress has full power over the subject, the only practical question before us is as to which of the different methods proposed will prove most effective. In a matter of so much importance we can not reasonably expect to accomplish everything desired by a single enactment. The wide differences between the different propositions that are submitted to Congress on the subject indicate the difficulties attending a theoretical solution of the problem involved; but the practical difficulties that would be met with in attempting to apply any of these different theories to complicated business interests of vast extent can only be foreseen in a general way, and can not be guarded against by any inflexible regulations that the best wisdom of the nation can devise. And this is the strongest argument in favor of the creation of a commission acting under enactments sufficiently elastic to accommodate themselves to emergencies that can not be foreseen until they arise, and to the changing conditions of business, yet with sufficient authority to begin the good work of railway regulation, and with intelligence and ability enough to clear away the obstacles to effective legislation. This method of procedure must commend itself to the judgment of those who have considered the experience of England and of our own State Legislatures, and who have felt the popular pulse upon this question. I believe that the bill reported by the committee is better adapted than any other that has been presented to Congress to accomplish what is necessary in the direction indicated, because it contains the principles that have been tested and approved by experience, and because it is a crystallization of what investigation and experience have shown to be most valuable and most practicable.

There is one feature in this bill which, so far as I know, has not been contained in any other bill that has been presented to Congress, and that is the system of arbitration provided for in the fifth section, to which I desire to call special attention. Even among those who believe that a commission ought to be established some insist that they shall simply be charged with the work of collecting facts and reporting to Congress. Others think that the commission should be clothed with certain authority to examine books, business operations, &c., take testimony, and bring suit in behalf of complainants, &c. And there are perhaps many other views of the duty which should devolve upon a commission when created. For my own part I am satisfied that if a commission should be created it ought to be given authority to act as a kind of board of arbitration to hear and determine complaints, and in cases justifying it awarding damages. It is not in the interest of either the people or the transportation companies to be forced into court to settle difficulties that are liable to arise even in the honest transaction of business. I have seen something of the folly, and in some cases almost ruinous folly, of going into court to settle difficulties with railroad companies. The ordinary business man can not afford to do it, and the railroad companies do not desire it. A commission of intelligent and fair-minded men, possessing a knowledge of business both as agriculturists, shippers, merchants, and railroad operators, may be fully trusted with the duty of giving a fair and just judgment in cases growing out of interstate commerce. I am sure that giving to such a commission reasonable authority to dispose of controversies between transportation companies and men or corporations or associations dealing with them will prove one of the most valuable features of any bill we may pass on the subject. Men may say that such power ought not

to be lodged in the hand of a commission; that they would abuse it. In answer, I say that a properly selected commission would be far above temptation to corruption, and of an order of talent equal to the highest judges of the land, and in point of integrity, ability, and information may safely be trusted to do right in all cases.

We can not afford at this late day simply to appoint a commission with authority to investigate and report to a future Congress. Let us give them immediate authority to act for the people so far as this can safely be done, and the experience they will gain by actual work in an attempt to regulate interstate commerce will enable them the better to know what further legislation, if any, will be needed. The people expect us to act and to act effectively in their behalf. They do not expect us to organize a raid upon the railroads, but they do expect us to put the provisions of the Constitution into force by the passage of a law to regulate commerce between the several States, while up to this time substantially nothing has been done touching the land commerce of the country since the Government was organized. It is a remarkable fact that, while the provision of the Constitution is plain and simple, "that Congress shall have power to regulate commerce with foreign nations and among the several States and with the Indian tribes," and with the auxiliary power to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, yet there is no general law upon the statute-books, and never has been, save in the case of the two statutes passed in 1866 and 1873, which I have mentioned, proposing in any manner any regulation of land commerce among the States.

I do not deem it necessary to explain the provisions of the bill in detail at this time. Its main features are the sections defining and prohibiting extortion and unjust discrimination, which have been very carefully drawn and which, in my opinion, cover that ground very fully; and the system provided for the adjudication of complaints by arbitration, which renders recourse to the tedious processes of the courts unnecessary, except when it is considered to the advantage of either party in interest. And this section has been framed with the intention of making it to the interest of the railroad companies at every stage of the proceedings to conform to the findings of the commission and yield obedience to its requirements. In the hands of a commission such as ought to be appointed this system could not fail to facilitate the amicable and satisfactory adjustment of most of the difficulties now complained of. Objection will probably be made to this bill in some quarters because it does not go far enough, but if it should become law it will be found, I believe, that under its provisions the commission can accomplish all that it is safe to attempt in preliminary legislation of this character, and can, from its practical experience, recommend legislation that will be effective without being damaging to the business interests of the country.

Some may object to this bill because it does not attempt to specifically prohibit pooling and rebates, or because it does not provide for fixing rates. I do not consider these objections well founded. In the first place, it must become clear to those who carefully investigate this subject that the root of all the evils complained of to-day, the source of all the trouble in railway operations, is favoritism—unequal preferences allowed to favored persons or places, or, in other words, unjust discrimination. And it must become equally clear that the purpose of all remedial legislation on this subject should be not so much to secure lower rates, not so much to prevent the hotly discussed evils of what is known as the pooling system, not so much to prohibit the equally denounced practice of allowing rebates, as to prevent unjust discrimination in any way, shape, or manner, and to secure stability and uniformity in rates. Legislation is not needed to secure lower rates, perhaps, but it is needed to make unprofitable that system of railway management under which one shipper is made to flourish while his competitor is bankrupted, and one town is built up while its rival is ruined. All questions relating to pooling, rebates, &c., come under the general head of unjust discrimination, and I am satisfied that they can be effectively dealt with by the commission under the provisions of this bill.

As it now stands the bill proposes a harmonious system, complete in itself, and is carefully guarded in all matters of detail as to the appointment and organization of the commission, the employment of the necessary assistants, the expenditure of money, the collection of information, and the preparation of its annual report. It is given all the power needed to thoroughly investigate all the workings of transportation companies and all the problems connected with interstate commerce, and is specially required to recommend such legislation as may be found necessary. Its provisions are plain, and not obscured by unnecessary verbiage. If it should become law, it may not accomplish all that is expected by its friends, but it is surely a step in the right direction—a step that it is our duty to take, and a step that it is safe to take.

Mr. SLATER. I now offer the amendment of which I gave notice yesterday, to strike out all after the enacting clause and insert what I send to the Chair.

The PRESIDING OFFICER (Mr. PLATT in the chair). The amendment will be read by the Secretary.

The SECRETARY. It is proposed to strike out all after the enacting clause of the bill and to insert:

That it shall be unlawful for any person or persons engaged alone or associated with others in the transportation of property by railroad from one State or Territory to or through one or more other States or Territories of the United States, or to or from any foreign country, directly or indirectly to charge to or receive from any person or persons any greater or less rate or amount of freight, compensation, or reward than is charged to or received from any other person or persons for like and contemporaneous service in the carrying, receiving, delivering, storing, or handling of the same. All charges for such services shall be reasonable. And all persons engaged as aforesaid shall furnish, without discrimination, the same facilities for the carriage, receiving, delivery, storage, and handling of all property of like character carried by him or them, and shall perform with equal expedition the same kind of services connected with the contemporaneous transportation thereof as aforesaid. No break, stoppage, or interruption, nor any contract, agreement, or understanding, shall be made to prevent the carriage of any property from being and being treated as one continuous carriage, in the meaning of this act, from the place of shipment to the place of destination, unless such stoppage, interruption, contract, arrangement, or understanding was made in good faith for some practical and necessary purpose, without any intent to avoid or interrupt such continuous carriage or to evade any of the provisions of this act.

SEC. 2. That it shall be unlawful for any person or persons engaged in the transportation of property as aforesaid directly or indirectly to allow any rebate, drawback, or other advantage, in any form, upon shipments made or services rendered as aforesaid by him or them.

SEC. 3. That it shall be unlawful for any person or persons engaged in the carriage, receiving, storage, or handling of property as mentioned in the first section of this act to enter into any combination, contract, or agreement, by changes of schedule, carriage in different cars, or by any other means, with intent to prevent the carriage of such property from being continuous from the place of shipment to the place of destination, whether carried on one or several railroads. And it shall be unlawful for any person or persons carrying property as aforesaid to enter into any contract, agreement, or combination for the pooling of freights, or to pool the freights, of different and competing railroads, by dividing between them the aggregate or net proceeds of the earnings of such railroads, or any portion of them.

SEC. 4. That it shall be unlawful for any person or persons engaged in the transportation of property as provided in the first section of this act to charge or receive any greater compensation for a similar amount and kind of property, for carrying, receiving, storing, forwarding, or handling the same, for a shorter than for a longer distance on any one railroad; and the road of a corporation shall include all the road in use by such corporation, whether owned or operated by it under a contract, agreement, or lease by such corporation.

SEC. 5. That all persons engaged in carrying property as provided in the first section of this act shall adopt and keep posted up schedules which shall plainly state:

First. The different kinds and classes of property to be carried.

Second. The different places between which such property shall be carried.

Third. The rates of freight and prices of carriage between such places; and for all services connected with the receiving, delivery, loading, unloading, storing, or handling the same. And the accounts for such service shall show what part of the charges are for transportation, and what part are for loading, unloading, and other terminal facilities.

Such schedules may be changed from time to time as hereinafter provided. Copies of such schedules shall be printed in plain, large type, at least the size of ordinary pica, and shall be kept plainly posted for public inspection in at least two places in every depot where freights are received or delivered; and no such schedule shall be changed in any particular except by the substitution of another schedule containing the specifications above required, which substitute schedule shall plainly state the time when it shall go into effect, and copies of which, printed as aforesaid, shall be posted as above provided at least five days before the same shall go into effect; and the same shall remain in force until another schedule shall as aforesaid be substituted. And it shall be unlawful for any person or persons engaged in carrying property on railroads as aforesaid, after thirty days after the passage of this act, to charge or receive more or less compensation for the carriage, receiving, delivery, loading, unloading, handling, or storing of any of the property contemplated by the first section of this act than shall be specified in such schedule as may at the time be in force.

SEC. 6. That each and all of the provisions of this act shall apply to all property, and the receiving, delivery, loading, unloading, handling, storing, or carriage of the same, on one actually or substantially continuous carriage, or as part of such continuous carriage, as provided for in the first section of this act, and the compensation therefor, whether such property be carried wholly on one railroad or partly on several railroads, and whether such services are performed or compensation paid or received by or to one person alone or in connection with another or other persons.

SEC. 7. That each and every act, matter, or thing in this act declared to be unlawful is hereby prohibited; and in case any person or persons as defined in this act, engaged as aforesaid, shall do, suffer, or permit to be done any act, matter, or thing in this act prohibited or forbidden, or shall omit to do any act, matter, or thing in this act required to be done, or shall be guilty of any violation of the provisions of this act, such person or persons shall forfeit and pay to the person or persons who may sustain damage thereby a sum equal to three times the amount of the damages so sustained, to be recovered by the person or persons so damaged by suit in any State or United States court of competent jurisdiction where the person or persons causing such damage can be found or may have an agent, office, or place of business; and if the court before which any such action is tried shall be of opinion that the violation of the law was willful, it shall make an allowance, by way of additional costs, to the party injured sufficient to cover all his counsel and attorney fees. Any action to be brought as aforesaid may be considered, and if so brought shall be regarded, as a subject of equity jurisdiction and discovery, and affirmative relief may be sought and obtained therein. In any such action so brought as a case of equitable cognizance as aforesaid, any director, officer, receiver, or trustee of any corporation or company aforesaid, or any receiver, trustee, or person aforesaid, or any agent of any such corporation or company, receiver, trustee, or person aforesaid, or of any of them, alone or with any other person or persons, party or parties, may and shall be compelled to attend, appear, and testify and give evidence; and no claim that any such testimony or evidence might or might not tend to criminate the person testifying or giving evidence shall be of any avail, but such evidence or testimony shall not be used as against such person on the trial of any indictment against him. The attendance and appearance of any of the persons who as aforesaid may be compelled to appear or testify, and the giving of the testimony or evidence by the same, respectively, and the production of books and papers thereby, may and shall be compelled the same as in the case of any other witness; and in case any deposition or evidence, or the production of any books or papers, may be desired or required for the purpose of applying for or sustaining any such action, the same, and the production of books and papers, may and shall be had, taken, and compelled by or before any United States commissioner, or in any manner provided or to be provided for as to the taking of other depositions or evidence, or the attendance of witnesses, or the production of other books or papers in or by chapter 17 of title 13 of the Revised Statutes of the United States. No action aforesaid shall be sustained unless brought within one year after the cause of action shall accrue, or within one year after the party complaining shall have come to a knowledge of his right of action. And as many causes of action as may accrue within the year may be joined in the same suit or complaint.

SEC. 8. That any director or officer of any corporation or company acting or engaged as aforesaid, or any receiver or trustee, lessee, or person acting or en-

gaged as aforesaid, or any agent of any such corporation or company, receiver, trustee, or person aforesaid, or of one of them alone, or with any other corporation, company, person, or party, who shall willfully do, or cause or willingly suffer or permit to be done, any act, matter, or thing in this act prohibited or forbidden, or who shall aid or abet therein, or shall willfully omit or fail to do any act, matter, or thing in this act required to be done, or cause or willingly suffer or permit any act, matter, or thing so directed or required by this act to be done not to be so done, or shall aid or abet any such omission or failure, or shall be guilty of any infraction of this act, or aid or abet therein, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than $1,000.

SEC. 9. That nothing in this act shall apply to the carriage, receiving, storage, handling, or forwarding of property wholly within one State, and not shipped from or destined to some foreign country or other State or Territory; nor shall it apply to property carried for the United States at lower rates of freight and charges than for the general public, or to the transportation of articles free or at reduced rates of freight for charitable purposes, or to or from public fairs and expositions for exhibition.

SEC. 10. That the words "person or persons" as used in this act, except where otherwise provided, shall be construed and held to mean person or persons, officer or officers, corporation or corporations, company or companies, receiver or receivers, trustee or trustees, lessee or lessees, agent or agents, or other person or persons acting or engaged in any of the matters and things mentioned in this act.

The PRESIDING OFFICER. The question is on agreeing to the amendment proposed by the Senator from Oregon [Mr. SLATER].

Mr. GEORGE. Mr. President, I desire to submit some remarks upon the bill and the substitute just presented.

Mr. CALL. If the Senator from Mississippi will yield the floor to me for a motion to adjourn, I will submit that motion.

The PRESIDING OFFICER. Does the Senator from Mississippi yield for that purpose?

Mr. GEORGE. I do, sir.

Mr. CALL. I move that the Senate do now adjourn.

Mr. WILSON. Before that motion is put, I desire to have the Senator from Florida yield to me in order that I may offer two or three amendments to the bill and have the amendments printed in the RECORD, so that Senators may see them.

The PRESIDING OFFICER. Does the Senator from Florida yield for that purpose?

Mr. CALL. Certainly.

Mr. WILSON. I have no desire to engage at present in the discussion of this very important subject, but I have two or three amendments to offer to the bill, and I send them to the desk that they may be read.

The PRESIDING OFFICER. The amendments will be read.

The CHIEF CLERK. After section 1 of the bill it is proposed to insert the following new sections:

SEC. 2. That it shall be the duty of said commission to take into consideration and to thoroughly investigate all the various questions relating to commerce between the States, and especially in the matter of the transportation thereof, so far as the same may be necessary to the establishment of a just system of regulations for the government of the same; and said commission, in the prosecution of its inquiries, is authorized to visit such sections of the United States as it may deem necessary to the most effective discharge of its duties.

SEC. 3. That said commission shall make to Congress a complete report of the results of its investigation, and the testimony taken in the course of the same, not later than the first Monday of December, 1885; and it shall accompany said report with a bill presenting a just and comprehensive code for the regulation of the transportation of commerce among the States, which said bill shall embrace provisions for establishing a system of both maximum and minimum charges for transportation, and for the preservation of free competition within the limits so fixed; for the prohibition of discriminations of any kind whatever either in favor of or against cities, towns, or other localities, whether the same be competing or non-competing points, and for applying the same principle to transportation for individuals, firms, associations, or corporations in all matters relating to commerce among the States; for the preservation and enforcement of the right of shippers to select the lines and parts of lines over which their shipments shall pass, to the end that said commerce among the States may avail itself of the all-rail or part-rail and part-water routes of the country; for the prevention of such pooling arrangements and agreements to refrain from just competition as may tend to impose unreasonable burdens upon said commerce among the States; and for the protection of said commerce against unjust exactions based on a class of securities commonly denominated "watered stocks;" and said commission in conducting said investigation and in the preparation of said bill shall be guided by such rules of action as will be fair, just, and equitable toward all of the interests involved, whether the same be private, public, or corporate, connected with the subject of commerce among the States; and said commission shall cause 2,000 copies of said report, testimony, and bill to be printed by the Public Printer for the use of Congress by the date hereinbefore fixed.

Mr. WILSON. I offer that as an amendment to the bill reported by the committee. Of course it would not be in order for me to offer another amendment now to a different part of the bill; but in order that my purpose may be entirely understood and be before the Senate, I ask that another amendment which will be necessary to perfect the bill as I desire to have it if my first amendment should be adopted may also be read, and I will offer that should the one which has just been read be adopted by the Senate.

The PRESIDING OFFICER. The Senator from Iowa gives notice of an amendment which he asks may be read. It will be read.

The CHIEF CLERK. It is proposed to strike out section 2 of the bill as reported by the committee and to insert as section 4:

SEC. 4. That in addition to the foregoing duties and powers, and until Congress shall otherwise by law provide, the said commission shall have supervision over all matters pertaining to the regulation of commerce among the several States and Territories, and the methods of operation of all transportation companies engaged in interstate commerce; and it is hereby made the duty of said commission to enforce the provisions of this act by all lawful means within its power.

Mr. WILSON. It is my desire that these amendments as read may be printed in the RECORD, in order that my purpose may appear consecutively. I should like very well, inasmuch as we shall not for some time possibly have direct action on them, that they may be also printed in the usual form for the use of the Senate.

The PRESIDING OFFICER. If there be no objection the amendments will be printed. Of course they will be printed in the RECORD, having been read.

EIGHTH NEW YORK HEAVY ARTILLERY.

Mr. VAN WYCK. Will the Senator from Florida yield to me for a moment, that I may ask unanimous consent for the consideration of a joint resolution reported by the Committee on Military Affairs?

Mr. CALL. I yield for that purpose.

Mr. VAN WYCK. Let the Chief Clerk read the joint resolution No. 92.

The Chief Clerk read the joint resolution (S. R. 92) authorizing and requiring the Secretary of War to deliver to the Eighth New York Heavy Artillery Association the regimental colors which belonged to said artillery, and which are now in the custody of the Secretary of War; and by unanimous consent, the Senate, as in Committee of the Whole, proceeded to its consideration.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

PRINTING OF A PETITION.

Mr. HAWLEY. With the permission of the Senator from Florida, I wish to bring before the Senate a small matter of business.

Mr. CALL. I yield to the Senator from Connecticut for that purpose.

Mr. HAWLEY. A few days ago I presented the petition of Arnold A. Rand and Albert Ordway, of Washington, D. C., praying the United States to buy a collection of photographic negatives owned by them, illustrating the war of the rebellion, and it was referred to the Committee on Military Affairs. I omitted to ask that it be printed. I have the assent of a majority of the Printing Committee to ask that the usual number thereof be printed.

The PRESIDING OFFICER. If there be no objection, that order will be made.

Mr. CALL. I renew my motion that the Senate adjourn.

The motion was agreed to; and (at 4 o'clock p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, *December* 18, 1884.

The House met at 12 o'clock m. Prayer by the Chaplain, Rev. JOHN S. LINDSAY, D. D.

The Journal of yesterday's proceedings was read and approved.

DEPARTMENT OF AGRICULTURE.

The SPEAKER. If there be no objection, the Clerk will be directed to return to the Senate the bill (H. R. 1457) to establish a department of agriculture, now correctly engrossed, which was withdrawn from the Senate by order of the House.

There being no objection, the return of the bill to the Senate was ordered.

RAILROAD LAND GRANTS IN KANSAS.

Mr. ANDERSON. I rise to a question of privilege.

The SPEAKER. The gentleman will state it.

Mr. ANDERSON. By direction of the Committee on Public Lands, on the 4th of April last I reported a bill (H. R. 6416) to provide for the adjustment of land grants made by Congress to aid in the construction of railroads in the State of Kansas. The bill was referred to the Committee of the Whole House on the state of the Union. It ought to have been referred to the House Calendar. I ask that the correction be made.

The SPEAKER. The Chair thinks the reference made was an improper one, and if there be no objection the necessary correction will be made. The Committee of the Whole House on the state of the Union will be discharged from the further consideration of the bill, and it will be placed on the House Calendar.

Mr. ANDERSON. As of the same date.

The SPEAKER. It will take its proper place on the House Calendar.

There being no objection, it was so ordered.

INTERSTATE COMMERCE.

Mr. REAGAN. I call for the regular order.

The SPEAKER. The House, as the regular order, resumes the consideration of the bill (H. R. 5461) to establish a board of commissioners of interstate commerce, and to regulate such commerce. The pending question is on the motion of the gentleman from West Virginia [Mr. GOFF] to lay on the table the motion to reconsider the vote by which the amendment offered by that gentleman was agreed to.

Mr. REAGAN. I desire to make a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. REAGAN. If the House shall vote down the motion to lay the

motion to reconsider on the table, will not that bring the amendment before the House for reconsideration?

The SPEAKER. The motion to reconsider the vote by which the amendment was adopted was made, and then a motion was made to lay that motion on the table. If the motion to lay on the table is not agreed to, the next question will be: Shall the vote be reconsidered?

The question being taken on the motion to lay on the table, there were—ayes 87, noes 77.

Mr. REAGAN. I call for the yeas and nays.

The yeas and nays were ordered, 53 members voting therefor.

The question was taken; and it was decided in the affirmative—yeas 140, nays 108, not voting 75; as follows:

YEAS—140.

Adams, G. E.	Funston,	Libbey,	Rowell,
Anderson,	Goff,	Long,	Russell,
Atkinson,	Greenleaf,	Lovering,	Ryan,
Bagley,	Guenther,	Lowry,	Sency,
Barr,	Hanback,	Lyman,	Shively,
Bench,	Harmer,	McComas,	Skinner, C. R.
Bisbee,	Hatch, H. H.	McCormick,	Smalls,
Boutelle,	Haynes,	Millard,	Smith, A. H.
Brainerd,	Henderson, T. J.	Milliken,	Smith, H. Y.
Breitung,	Hepburn,	Mitchell,	Spooner,
Brewer, F. B.	Hewitt, A. S.	Morrill,	Springer,
Brewer, J. H.	Hill,	Morse,	Stephenson,
Brown, W. W.	Hiscock,	Murray,	Stevens,
Browne, T. M.	Hitt,	Nelson,	Stewart, J. W.
Brumm,	Hoblitzell,	Nicholls,	Stone,
Burleigh,	Holman,	Nutting,	Strait,
Campbell, J. E.	Holmes,	O'Hara,	Taylor, E. B.
Campbell, J. M.	Horr,	O'Neill, Charles	Taylor, J. D.
Cannon,	Houk,	Parker,	Thomas,
Chase,	Houseman,	Payne,	Van Alstyne,
Chalmers,	Howey,	Payson,	Wadsworth,
Culbertson, W. W.	Hunt,	Perkins,	Walt,
Cullen,	James,	Peters,	Wakefield,
Cutcheon,	Jeffords,	Pettibone,	Wallace,
Davis, G. R.	Johnson,	Phelps,	Ward,
Davis, R. T.	Jones, B. W.	Poland,	Washburn,
Deuster,	Jordan,	Post,	Weaver,
Dingley,	Kean,	Potter,	White, Milo
Eldredge,	Keifer,	Price,	Whiting,
Evans,	Kellogg,	Ranney,	Wilkins,
Everhart,	Ketcham,	Ray, G. W.	Wilson, James
Ferrell,	Lacey,	Reed,	Winans, John
Findlay,	Lamb,	Rice,	Wood,
Follett,	Lawrence,	Robinson, J. S.	Worthington,
Foran,	Le Fevre,	Rockwell,	Yapie.

NAYS—108.

Alexander,	Culberson, D. B.	Lanham,	Singleton,
Ballentine,	Curtin,	Lewis,	Skinner, T. G.
Barksdale,	Dargan,	Lore,	Snyder,
Blackburn,	Davidson,	McMillin,	Stewart, Charles
Blanchard,	Davis, L. H.	Matson,	Stockslager,
Blount,	Dibble,	Miller, J. F.	Storm,
Bratton,	Dibrell,	Mills,	Sumner, C. A.
Breckinridge,	Dunn,	Money,	Talbott,
Broadhead,	Eaton,	Morrison,	Taylor, J. M.
Buchanan,	Ellis,	Moulton,	Thompson,
Buckner,	Ermentrout,	Muldrow,	Throckmorton,
Budd,	Forney,	Murphy,	Tillman,
Burnes,	Fyan,	Neece,	Townshend,
Cabell,	Geddes,	Oates,	Tucker,
Caldwell,	Gibson,	O'Ferrall,	Tully,
Campbell, Felix	Glascock,	Patton,	Turner, H. G.
Candler,	Green,	Pierce,	Turner, Oscar
Cassidy,	Halsell,	Peel,	Van Eaton,
Clardy,	Hammond,	Pryor,	Warner, Richard
Clay,	Hardeman,	Randall,	Wellborn,
Clements,	Hatch, W. H.	Reagan,	Wemple,
Cobb,	Hemphill,	Reese,	Williams,
Cosgrove,	Henley,	Riggs,	Willis,
Covington,	Herbert,	Robertson,	Wilson, W. L.
Cox, S. S.	Jones, J. H.	Rogers, J. H.	Wise, G. D.
Cox, W. R.	Jones, J. K.	Scales,	Wolford,
Crisp,	Kleiner,	Shelley,	Young.

NOT VOTING—75.

Adams, J. J.	Dowd,	Hutchins,	Rogers, W. F.
Aiken,	Dunham,	Jones, J. T.	Rosecrans,
Arnot,	Elliott,	Kelley,	Seymour,
Barbour,	Ellwood,	King,	Shaw,
Bayne,	English,	Laird,	Slocum,
Belford,	Fiedler,	McAdoo,	Spriggs,
Belmont,	Finerty,	McCoid,	Steele,
Bennett,	Garrison,	Maybury,	Struble,
Bingham,	George,	Miller, S. H.	Sumner, D. H.
Bland,	Graves,	Morgan,	Valentine,
Bowen,	Hancock,	Muller,	Vance,
Boyle,	Hardy,	Mutchler,	Warner, A. J.
Carleton,	Hart,	Ochiltree,	Weller,
Collins,	Henderson, D. B.	O'Neill, J. J.	White, J. D.
Connolly,	Hewitt, G. W.	Paige,	Winans, E. B.
Converse,	Holton,	Pusey,	Wise, J. S.
Cook,	Hooper,	Rankin,	Woodward,
Dockery,	Hopkins,	Ray, Ossian	York.
Dorsheimer,	Hurd,	Robinson, W. E.	

So the motion to reconsider was laid on the table.

Mr. STEWART, of Vermont (before the result of the vote was announced). Mr. Speaker, I came into the Hall from a committee-room during the vote just taken and was told that I was paired with the gentleman from Maryland [Mr. FINDLAY]; so that I did not respond when my name was called on the second roll-call. I now find that I am not paired, and therefore ask to record my vote.

There being no objection, Mr STEWART, of Vermont, was permitted to vote, and voted "ay."

Mr. KELLOGG. I understood I was paired, but am now informed that I am not paired. I ask the privilege of voting.

There being no objection, Mr. KELLOGG was allowed to vote, and voted "ay."

The Clerk announced the following pairs:

Mr. DOCKERY with Mr. MCCOID, until December 21.

The following were announced as paired on all political questions until further notice:

Mr. ARNOT with Mr. BELFORD.

Mr. JONES, of Alabama, with Mr. HOOPER.

Mr. KING with Mr. MILLER, of Pennsylvania.

Mr. BLAND with Mr. VALENTINE.

Mr. FIEDLER with Mr. STEELE.

Mr. MAYBURY with Mr. JOHN S. WISE.

Mr. MULLER with Mr. DUNHAM.

Mr. MORGAN with Mr. BAYNE.

Mr. ADAMS, of New York, with Mr. BOWEN.

Mr. HEWITT, of Alabama, with Mr. YORK.

The following were announced as paired on the interstate-commerce bill:

Mr. PAIGE with Mr. HART.

Mr. HILL with Mr. CHALMERS.

Mr. RANKIN with Mr. OCHILTREE, on the interstate-commerce bill. Mr. OCHILTREE would vote for and Mr. RANKIN against.

The following were announced as paired on this vote:

Mr. GRAVES with Mr. BINGHAM.

Mr. CLEMENTS with Mr. RAY, of New Hampshire.

Mr. AIKEN with Mr. KELLEY.

The result of the vote was announced as above stated.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. MCCOOK, its Secretary, announced that the Senate had passed, with amendments in which the concurrence of the House was requested, the bill (H. R. 7310) making temporary provision for the naval service.

INTERSTATE COMMERCE.

The House resumed the consideration of the bill (H. R. 5461) to establish a board of commissioners of interstate commerce, and to regulate such commerce.

Mr. BARKSDALE. I move the amendment which I send to the desk.

The Clerk read as follows:

Amend by adding after the word "color" in the amendment last adopted the following:

"And that furnishing separate accommodations, with equal facilities and equal comforts, at the same charges, shall not be considered a discrimination."

[Laughter on the Republican side.]

Mr. BARKSDALE. On that motion I call the previous question.

Mr. BROWNE, of Indiana. That is simply establishing a rule of evidence.

The SPEAKER. The question is not debatable. The gentleman from Mississippi demands the previous question.

Mr. KEIFER. I ask that this amendment be read in connection with the amendments already adopted on the same subject, so that we may understand how the whole provision will read.

The SPEAKER. If there be no objection, the Clerk will read the preceding part of the section as it stands, together with the amendment just offered.

The Clerk read as follows:

And any person or persons having purchased a ticket to be conveyed from one State to another, or paid the required fare, shall receive the same treatment and be afforded equal facilities and accommodations as are furnished all other persons holding tickets of the same class without discrimination. But nothing in this act shall be construed to deny to railroads the right to provide separate accommodations for passengers as they may deem best for the public comfort or safety, or to relate to transportation relating to points wholly within the limits of one State: *Provided*, That no discrimination is made on account of race or color; and that furnishing separate accommodations, with equal facilities and equal comforts, at the same charges, shall not be considered a discrimination.

The House divided; and there were—ayes 112, noes 81.

So the previous question was ordered.

Mr. HORR demanded the yeas and nays on the amendment.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 132, nays 124, not voting 68; as follows:

YEAS—132.

Aiken,	Cabell,	Covington,	Follett,
Alexander,	Caldwell,	Cox, S. S.	Forney,
Bagley,	Campbell, Felix	Cox, W. R.	Fyan,
Ballentine,	Campbell, J. E.	Crisp,	Geddes,
Barksdale,	Candler,	Culberson, D. B.	Gibson,
Bennett,	Carlisle,	Curtin,	Glascock,
Blanchard,	Cassidy,	Dargan,	Graves,
Blount,	Chalmers,	Davidson,	Green,
Bratton,	Clardy,	Davis, L. H.	Greenleaf,
Breckinridge,	Clay,	Deuster,	Halsell,
Broadhead,	Clements,	Dibble,	Hammond,
Buchanan,	Cobb,	Dibrell,	Hardeman,
Buckner,	Converse,	Dunn,	Hatch, W. H.
Budd,	Cook,	Eaton,	Hemphill,
Burnes,	Cosgrove,	Ellis,	Henley,

Herbert,	Money,	Rogers, J. H.	Tully,
Hewitt, A. S.	Morrison,	Rogers, W. F.	Turner, H. G.
Holman,	Moulton,	Rosecrans,	Turner, Oscar
Jones, J. H.	Muldrow,	Seymour,	Van Eaton,
Jones, J. K.	Murphy,	Shelley,	Wallace,
Jordan,	Mutchler,	Singleton,	Warner, A. J.
Kleiner,	Neece,	Skinner, T. G.	Warner, Richard
Lanham,	Nicholls,	Snyder,	Wellborn,
Lewis,	Oates,	Stewart, Charles	Wemple,
Lore,	O'Ferrall,	Storm,	Wilkins,
Lovering,	Patton,	Sumner, C. A.	Williams,
Lowry	Pierce,	Talbott,	Willis,
McAdoo,	Peel,	Taylor, J. M.	Wilson, W. L.
McMillin,	Pryor,	Thompson,	Winans, John
Matson,	Randall,	Throckmorton,	Wise, G. D.
Miller, J. F.	Reagan,	Tillman,	Wolford,
Mills,	Reese,	Townshend,	Wood,
Mitchell,	Robertson,	Tucker,	Young.

NAYS—124.

Adams, G. E.	Funston,	McComas,	Russell,
Anderson,	Goff,	McCormick,	Ryan,
Atkinson,	Guenther,	Millard,	Seney,
Barr,	Hanback,	Milliken,	Shively,
Beach,	Harmer,	Morrill,	Skinner, C. R.
Bingham,	Hatch, H. H.	Morse,	Smalls,
Bisbee,	Haynes,	Murray,	Smith, A. H.
Boutelle,	Henderson, D. B.	Nelson,	Smith, H. Y.
Brainerd,	Henderson, T. J.	Nutting,	Spooner,
Breitung,	Hepburn,	O'Hara,	Spriggs,
Brewer, F. B.	Hitt,	O'Neill, Charles	Stephenson,
Brewer, J. H.	Hoblitzell,	O'Neill, J. J.	Stephens,
Brown, W. W.	Holmes,	Parker,	Stewart, J. W.
Browne, T. M.	Horr,	Payne,	Stone,
Brumm,	Houk,	Payson,	Strait,
Burleigh,	Howey,	Perkins,	Struble,
Campbell, J. M.	Hunt,	Peters,	Taylor, E. B.
Cannon,	Jeffords,	Pettibone,	Taylor, J. D.
Chace,	Johnson,	Phelps,	Thomas,
Culbertson, W. W.	Jones, B. W.	Poland,	Wadsworth,
Cullen,	Kean,	Post,	Wait,
Cutcheon,	Keifer,	Potter,	Wakefield,
Davis, G. R.	Kellogg,	Price,	Ward,
Davis, R. T.	Ketcham,	Ranney,	Washburn,
Dingley,	Lacey,	Ray, Ossian	Weaver,
Eldredge,	Lamb,	Reed,	White, J. D.
Evans,	Lawrence,	Rice,	White, Milo
Everhart,	Le Fevre,	Riggs,	Whiting,
Ferrell,	Libbey,	Robinson, J. S.	Wilson, James
Findlay,	Long,	Rockwell,	Worthington,
Forna,	Lyman,	Rowell,	Yaple.

NOT VOTING—68.

Adams, J. J.	Elliott,	Houseman,	Ray, G. W.
Arnot,	Ellwood,	Hurd,	Robinson, W. E.
Barbour,	English,	Hutchins,	Scales,
Bayne,	Ermentrout,	James,	Shaw,
Belford,	Fiedler,	Jones, J. T.	Slocum,
Belmont,	Finerty,	Kelley,	Springer,
Blackburn,	Garrison,	King,	Steele,
Bland,	George,	Laird,	Stockslager,
Bowen,	Hancock,	McCoid,	Sumner, D. H.
Boyle,	Hardy,	Maybury,	Valentine,
Carleton,	Hart,	Miller, S. H.	Van Alstyne,
Collins,	Hewitt, G. W.	Morgan,	Vance,
Connolly,	Hill,	Muller,	Weller,
Dockery,	Hiscock,	Ochiltree,	Winans, E. B.
Dorsheimer,	Holton,	Paige,	Wise, J. S.
Dowd,	Hooper,	Pusey,	Woodward,
Dunham,	Hopkins,	Rankin,	York.

So the amendment was agreed to.

During the roll-call the following additional pairs were announced from the Clerk's desk:

Mr. HISCOCK with Mr. BLACKBURN, on this vote. If present, Mr. BLACKBURN would vote "ay" and Mr. HISCOCK would vote "no."

Mr. LAIRD with Mr. CONNOLLY, on this vote.

The vote was then announced as above reported.

Mr. BARKSDALE moved to reconsider the vote by which the amendment was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

NAVY APPROPRIATION BILL.

Mr. RANDALL. I ask the gentleman from Texas [Mr. REAGAN] in charge of the bill pending before the House to yield for a moment to the unanimous wish of the Committee on Appropriations to take from the Speaker's table the temporary naval appropriation bill, which has been returned from the Senate with amendments.

Mr. REAGAN. I yield for that purpose.

Mr. RANDALL. My desire is to make a motion in connection with that bill.

The SPEAKER. The bill on the Speaker's table is the annual naval appropriation bill.

Mr. RANDALL. The bill referred to is the bill passed at this session by the House. The Chair is right, as both bills are upon the Speaker's table. I only ask that the bill (H. R. 7510) making temporary provision for the naval service be taken up for present consideration.

There was no objection, and the Clerk read as follows:

An act (H. R. 7510) making temporary provision for the naval service.

IN THE SENATE OF THE UNITED STATES, *December* 17, 1884.

Resolved, That this bill pass with amendments.

Mr. RANDALL. Mr. Speaker, in this connection I desire to present for the information of the House and country generally some figures showing the difference between the two Houses on this bill:

The bill providing for current expenses of the Navy, January 1 to June 30, 1885, as passed the House, appropriates	$6,734,717 11
That bill as amended by the Senate gives for the same purposes	7,204,358 83
Being an increase of	469,641 72
The Senate on the same bill also gives for increase of the Navy	$4,700,000 00
Total increase over House bill	5,169,641 72
The bill as passed the House last session gave for current expenses (one-half)	6,318,521 33
That bill as amended by the Senate gave for current expenses (one-half)	7,126,001 33
The bill just passed the Senate is in excess as follows (not including increase of Navy, $4,700,000):	
Over same bill as it passed the House	$469,641 72
Over the bill as passed the House last session	885,837 50
Over the House bill as amended by the Senate last session	78,357 50

I make no comment, but simply present these figures and move the House non-concur in the amendments of the Senate and accede to the request of the Senate for a conference on the disagreeing votes of the two Houses.

The SPEAKER. If there be no objection it will be so ordered.

There was no objection, and it was ordered accordingly.

The SPEAKER. The Chair appoints, as managers of said conference on the part of the House, Mr. RANDALL, Mr. HOLMAN, and Mr. LONG.

INTERSTATE-COMMERCE BILL.

The SPEAKER. The House now resumes consideration of the interstate-commerce bill.

Mr. HORR rose.

Mr. REAGAN. I desire to call the previous question on the first section of the bill.

Mr. HORR. That can not be done under the agreement.

Mr. REAGAN. I desire to be heard a moment on that question.

Mr. HORR. Have I the floor?

The SPEAKER. The gentleman will be recognized.

Mr. REAGAN. I desire to be heard for a moment in reference to the order which required this bill to be considered in the House as in Committee of the Whole. The Committee of the Whole can rise to enable the House to close debate. We are now in the House, and can close debate on this section. The right to call the previous question on the whole bill or various parts of the bill is clear; but I will read the rule:

1. There shall be a motion for the previous question, which, being ordered by a majority of members present, if a quorum, shall have the effect to cut off all debate and bring the House to a direct vote upon the immediate question or questions on which it has been asked and ordered. The previous question may be asked and ordered upon a single motion, a series of motions allowable under the rules, or an amendment or amendments, or may be made to embrace all authorized motions or amendments and include the bill to its engrossment and third reading, and then, on renewal and second of said motion, to its passage or rejection.

The call for the previous question on the bill embraces of course the right to call the previous question on any part of it. The reason of the rule is to enable the House to reach a conclusion at some time. If it be true the previous question can not be called on the sections of this bill, then it becomes necessary to abandon it, because it might be impracticable to secure its passage, as we all know this section will be amended until the 4th of March next, in order to defeat the bill itself. And there is no way to prevent it—that is, if it be true we can not call the previous question.

Suppose under the rule a bill comes back to the House with an order like this, subject to debate and amendment, and no member chooses to debate it; is the bill lost? Can the previous question not be called?

The object, it seems to me, the reason of the rule, is to enable the House to control its proceedings; reasonable privilege for amendment and debate is allowed in order to enable the House to come to a conclusion. But if the view of the Speaker be right, then the House can never, in a case like this, control its own proceedings and business.

Mr. REED. Mr. Speaker, I think the point which is raised by the gentleman from Texas is to some extent novel. I do not remember any decision which covers the present situation. I should like, if the Speaker pleases, to say a word or two on the general subject. This is a proceeding by unanimous consent—just exactly what it was in this special instance I shall not undertake to discuss, but in a general way it is an agreement that this measure should be considered in the House as in the Committee of the Whole. Now, the expression "as in the Committee of the Whole" must have some meaning, and it seems to me plain the meaning is, the House shall have all the rights and privileges which belong to individual members under discussion in the Committee of the Whole under the five-minute rule. What are those rights? First, the right to debate under the five-minute rule until

the House shall have limited debate under that rule; second, the right to make amendments until every member of the House has ceased to desire to amend the bill and to show that desire by proposing amendments.

Now, so far as the right of the House to cut off debate as a general question, for I am not speaking about this particular case or what the particular agreement was here, but in a general way, I should be inclined to think the House had the right in some way or other to cut off debate. Whether it should be done by a motion for the previous question or be done by direct appeal to the House on a direct motion to close debate in such and such a time might be a question for the Chair, and might easily be decided either way; but the right to cut off the privilege of every member to make amendment can not be done under this arrangement, in my judgment, because that would not be a consideration as in Committee of the Whole.

The gentleman from Texas undertakes to point his argument and enforce it by appealing to the inconvenience that would result, but that inconvenience is precisely the same that must always result from the consideration of a question in the Committee of the Whole. And if any fault is to be found with the situation it must be with the situation which he himself has made, and the argument from inconvenience can not be urged by anybody who has himself consented to the inconvenience.

It seems to me that is a fair statement of the matter outside of this particular instance, for I do not happen to remember the terms of the unanimous consent except in a general way, that the bill was to be considered in the House as in the Committee of the Whole.

Mr. REAGAN. I ask the gentleman from Maine, before he takes his seat, if he would say in what respect I have brought about this condition of things?

Mr. REED. The gentleman was one of those who unanimously consented to the bill being considered in the House as in the Committee of the Whole, and being in charge of the bill, if the onus is stronger upon one than upon another, it must be upon the one having the management of the bill who suggested the arrangement.

Mr. HERBERT. It seems to me, Mr. Speaker, the question resolves itself into this: Does this House, by undertaking to consider this bill under the agreement in the House as in the Committee of the Whole, give up its power as a House or not? That is the question.

The gentleman from Maine speaks of the inconvenience of the agreement which had been made. As I understand it, the agreement was made for the convenience of considering the matter in the House and allowing amendment in the House, but it does not necessarily follow at all that the House has thereby given up its power to close debate whenever it wishes to do so. Ordinarily this same body considers a bill of this character by first resolving itself into Committee of the Whole House on the state of the Union for the purpose of considering, amending, and perfecting the measure. Then this same body resolves itself back into the House for the purpose of closing debate.

Now, I contend that the House does not surrender its power as a House because it has been agreed that the bill to be considered is to be considered as in Committee of the Whole. It has the power both of the committee and of the House. In other words, the House, for the sake of convenience in the exercise of the powers that it has in the committee, proceeds in the manner that this bill has been proceeded with to consider it in the House as in the Committee of the Whole, while at the same time it may exercise its power as a House and close debate.

The SPEAKER. Will the gentleman from Alabama allow the Chair to suggest a question? If this bill were now being considered in the Committee of the Whole House on the state of the Union, and the committee should rise and ask the House to close debate, could the House under any rule or practice which has ever prevailed prevent amendments as long as any gentleman saw proper to offer them on the floor? The House might stop debate, it is true, but not the right to offer amendments.

Mr. HERBERT. I do not think it would prevent amendments, but it certainly would prevent debate; and the motion may be made now in the House for the purpose of preventing future debate on any amendment that may be offered. But if I am right in the theory stated, the House does not lose its right as a House because it has taken on the additional privilege of considering, while it is a House, a bill subject to the rules governing the Committee of the Whole.

Mr. BLOUNT. Mr. Speaker, it does seem to me that this is a very clear question. We are here to consider this bill in the House as in Committee of the Whole. Now, suppose we were discussing some bill in Committee of the Whole, there is nothing clearer, there is no practice of this House more undisputed and uniform than that it is entirely competent to cut off debate, but that you can not cut off the right of a member or any member of the House to offer amendments.

The present situation may be inconvenient. It may be that we need to escape from the force of this rule at this time; but the truth as to what the rule is, it seems to me, is easily ascertained; and, while I sympathize with my friend from Texas in charge of this bill, I can not ask the Speaker to make a ruling that would deprive a member of his rights on this floor.

Mr. REAGAN. I am not asking a ruling on that question. I ask the previous question with whatever consequences grow out of it upon this section.

Mr. KEIFER. I want to be heard on that proposition.

Mr. BLOUNT. I understood the gentleman to claim the right to move the previous question upon this section and cut off all debate or amendment, and in that event that the right under the rule to offer amendment should be cut off, and I think it was so understood by the House.

Mr. KEIFER. I so understood it here.

Mr. REAGAN. I repeat, I have simply asked for the previous question on this section with whatever parliamentary consequences may grow out of it.

Mr. KEIFER. Mr. Speaker, I endeavored to make this point of order because I think it is very important to the consideration not only of this section of this bill but to all of the legislation that may be had on this floor. There can be no doubt about the situation of the bill. On the 1st of March, 1884, this bill was made a special order. That was subsequently modified to provide that the bill should be considered in the House as in Committee of the Whole. That was the original arrangement, that stands, as I understand it, up to the present time, so that the status of the bill until within a few days past was fixed and the bill was being considered as in Committee of the Whole.

But the order of the House goes even a step further. On the 11th day of this month the gentleman from Texas in charge of this bill undertook to make an arrangement so as to enable the House to consider his substitute, if it should be the wish of the House and it preferred that to the report of the Committee on Commerce, and that is important to be considered in determining the question now before us. On the day named the gentleman from Texas, addressing the Chair, said:

MR. REAGAN. Now I wish to ask the members of the committee and others interested whether we can have an understanding as to the closing of this general debate. To-morrow the gentleman from Missouri [Mr. CLARDY], a member of the committee, wants thirty minutes. I wish then to close debate by calling the previous question on the two amendments which have been suggested. The result will be to give us one of the bills, which then can be considered for amendment under the five-minute rule. If the substitute is adopted, that will be under the five-minute rule for amendment; and if the committee's bill is sustained, that will be under the five-minute rule for amendment. What I wish is to get some understanding when we shall get to the five-minute debate and to the disposal of this matter at an early day.

The gentleman from Pennsylvania [Mr. O'NEILL] said:

That will not preclude any one from offering amendments. Now, the committee, when it presented its bill through the chairman, had an understanding it should be open to amendment in the House.

Then the following proceedings took place:

The SPEAKER. According to the rule and practice of the House the bill reported by the committee is first to be perfected by amendment and then the substitute before the vote is taken between the two. But of course there can be an understanding on the part of the House that a test vote shall be taken between the two opposing propositions, and that the one sustained by the vote of the House shall be considered under the five-minute rule.

Mr. REAGAN. It was from my knowledge that such was the practice of the House I have ventured to make the suggestion.

Mr. O'NEILL, of Pennsylvania. I do not know that it is necessary, but I wish to say that at some stage of the proceedings, if I can get the floor, I desire to make the motion to recommit the bill so that it may be improved.

The SPEAKER. That motion will be in order.

Mr. O'NEILL, of Pennsylvania. I wish to recommit the bill so that it can go back to the committee and be brought again into the House improved in many provisions.

The SPEAKER. The gentleman can not be deprived of his right to recommit the bill.

Then the gentleman from Kansas on my left [Mr. PETERS] said:

I wish to ask whether, after the previous question is ordered, any amendments could be offered to the bill other than those which had been presented prior to the demand for the previous question?

The SPEAKER. The gentleman from Texas announced his intention to move the previous question simply upon the two amendments he has offered, leaving the bill thereafter open to amendments.

Mr. PETERS. That will be satisfactory to me.

Mr. O'NEILL, of Pennsylvania. It might as well be stated, so that the House will not misunderstand it, that when this bill was authorized to be reported from the committee full opportunities were to be given to members of the committee to offer amendments in the shape of substitutes or otherwise.

Then I said:

I understand the gentleman from Texas proposes to move the previous question upon his substitute and another amendment which he has offered.

Mr. REAGAN. Upon the two amendments which I have offered, to call the previous question upon them, and for the purpose of determining which of the two bills the House prefers, in order that it may go on without unnecessary delay and amend the one which may be selected, instead of two.

Mr. KEIFER. But does not the Speaker state a difficulty that may grow out of this arrangement—that is, that we might be forced to take the substitute?

Mr. REAGAN. I propose that the substitute itself shall be open to amendment.

Mr. KEIFER. Then that had better be clearly understood, and that we are simply voting as a matter of preference between the bill and the substitute; and after that is done leave it so that the one which is selected shall be considered in Committee of the Whole under the five-minute rule.

Mr. REAGAN. That is my suggestion.

The SPEAKER. The Chair so understands it.

To which I replied, as follows:

I do not object, then, to that.

The SPEAKER. Without objection that will be considered as understood.

And so this House understood the arrangement at that time.

Now, the gentleman from Texas, as I understand, in his remarks, first upon the point of order, suggested that he desired the previous question upon the whole section.

I am quite certain that in the ordinary consideration of a bill before

the House the previous question may be ordered upon the whole section or the whole bill or any proposition in a bill. But the gentleman now says that he only wants the House to entertain the previous question, leaving the question to be determined afterward as to the effect of it.

But in the face of this understanding, made on his own suggestion, in the face of the unanimous understanding of the House, it will not do to adopt the previous question upon a section and then to say that the previous question is to have its usual and ordinary effect, as determined by Rule XVII, which is to bring the House to an immediate vote upon the pending proposition. So that we must now look the matter in the face. If we have the previous question it is not offered for the purpose merely of cutting off debate, but it will go to the effect of bringing the House to a direct and immediate vote upon the pending proposition; for such is the rule. But I claim it would be in violation of the unanimous understanding of the House to adopt the previous question and give it the effect either of cutting off debate or of cutting off amendments.

It is perfectly clear, as stated by the gentleman from Maine [Mr. REED] and others, that you can never cut off amendments when you are considering a bill in Committee of the Whole House on the state of the Union. You may cut off debate—not while you are in committee, not there; but you may have the committee rise and by order of the House direct that debate shall terminate upon any proposition in the committee. That will cut off debate entirely; but amendments under the rule go on indefinitely. I refer to paragraph 6 of Rule XXIII, well known to the Speaker. So that we now find ourselves here with a bill in the House but being considered as in Committee of the Whole; by the original arrangement we have given preference to this bill over everything else, even over the morning hour; everything else in the House except appropriation and revenue bills. Then we have a subsequent arrangement to enable the gentleman to get the substitute considered and which requires unanimous consent to make. We have a subsequent arrangement which leaves this bill open to amendment and debate. If we had not so understood it, some of us at least would have objected to this.

But aside from all that, considering that we are passing upon this bill in Committee of the Whole on the state of the Union, the previous question should not be entertained so as to cut off amendment and debate. It is true that the previous question has been entertained to cut off debate upon an amendment after it has been proposed here; but the proposition now of the gentleman is by wholesale to cut it off entirely on a section.

Mr. Speaker, if the gentleman can go that far after having induced the House to consent unanimously to go to the consideration of this bill as in Committee of the Whole with the understanding it shall be open to amendment and debate; if the gentleman can go that far, he has but one thing further to do, that is to move the previous question upon the entire bill and prevent debate and amendment upon any part of it. So that we would be deluded and drawn into a great trap here that would cut off the right and the power of the members of this House to offer any amendments at all. That would be in violation of the practice in committee. It would be in direct violation of the statement of the gentleman when this unanimous consent was obtained to take this bill up in this way. If it can be done at all upon a section it can be done upon the whole bill; and it will not do to say to the Chair that he must entertain this motion for the previous question and then look out for the consequences afterward. The consequences we can see in advance.

Mr. REAGAN. While I am not so familiar, perhaps, with the rules as some other gentlemen may be, I wish to say that my understanding is that when a bill comes before the House subject to debate and amendments, it means such debate and such amendments as the House sees proper to allow. It does not mean a day, a week, a month, or a year. But it means such amendments as the House may allow.

The gentleman from Ohio [Mr. KEIFER] makes the complaint that I, by this motion, proposed to violate the agreement by which the House agreed to close general debate and order the previous question on the two amendments that were then pending. The gentleman is aggrieved, after we have spent one day and more than an hour of another day amending and debating one section of the bill, because I, under these circumstances, seek to cut off further debate and amendment on that section. And he charges that in doing so I want to violate an agreement. That is all there is in his argument. The gentleman discusses and recites what has passed in reference to this bill. We are here in the House engaged in the consideration of the bill. We have surrendered none of our rights under the rules or provisions of the House by coming into the House to consider this bill. We only expedite its action and place ourselves where we can make a record of the votes of members on the various amendments. That is all. When we debate in Committee of the Whole, as a uniform practice the committee rises for the purpose of obtaining an order from the House to close debate. That is under the sixth division of Rule XXIII.

> The House may, by the vote of a majority of the members present, at any time after the five-minute debate has begun—

It does not say after it has lasted an hour, a day, or a week, but after it has begun—

> upon proposed amendments to any section or paragraph to a bill, close all debate upon such section or paragraph, or, at its election, upon the pending amendment only; but this shall not preclude further amendment, to be decided without debate.

That closing of debate is upon a different motion from the one I make. If the Speaker has doubts upon the motion I have made I am willing to make a motion under this rule to close debate.

Several MEMBERS. That is right.

Mr. REAGAN. But I want to do the one thing or the other to place the House in a condition to take action. I say this alternatively, because it seems to me the House can not dare, consistently with the interests of the public, to surrender jurisdiction over its proceedings and allow a few members to detain it indefinitely without calling the previous question. The power to call the previous question over the whole bill or any series of motions in relation to the bill or any paragraph or section in the bill, if it has any meaning, is that it may be done for the purpose of closing debate; that it may be done by the House keeping control of its own business, and that it will not thereby place it in the power of a faction that may wish to delay the action and thwart the will of a majority by mere factious amendments.

Mr. HOLMAN. I think, Mr. Speaker, that the former practices of the House when considering appropriation bills in the House as in Committee of the Whole under the five-minute rule must throw some light on this question. The object, of course, of considering a measure in the House, instead of in Committee of the Whole, is first to make a record, and secondly for the purpose of enabling the majority to control the disposition of the pending measure and each successive question that might arise. The exercise of these two powers—that of making a record and that of controlling the measure by the use of the previous question and closing debate—is the chief advantage of considering bills in the House as in Committee of the Whole.

The important question which in my view springs up here is as to the real intention of the House when it consented to this mode of considering the pending bill, and I find the exact meaning, so far as it can be gathered from the RECORD, expressed on page 195 when the gentleman from Ohio [Mr. KEIFER], in order to make the purpose definite, said:

> Then that had better be clearly understood, and that we are simply voting as a matter of preference between the bill and the substitute; and after that is done leave it so that the one which is selected shall be considered in Committee of the Whole under the five-minute rule.

Now, clearly the object, as stated by the gentleman from Ohio, who, I see, gives me his attention, was that this bill should be considered in the House as in Committee of the Whole under the five-minute rule. I see the gentleman agrees that this was the statement made and intended to be made by him, and to this the gentleman from Texas [Mr. REAGAN] agreed.

Now, Mr. Speaker, that being the purpose, I think it will be found the ruling generally has been when appropriation bills have in former years been considered in the House as in Committee of the Whole under the five-minute rule, that debate could not be cut off in the first instance. Debate must be allowed in the House upon the propositions submitted and until debate is closed; but debate is liable to be closed in the House when so considering a bill as in the ordinary case where the Committee of the Whole rises for the purpose of closing debate in the House.

Mr. BLOUNT. When the gentleman speaks of closing debate, does he mean on the paragraph or upon the whole bill?

Mr. HOLMAN. On the paragraph. To the extent I have stated the rule I mention I think has been often applied where bills have been considered in the House as in Committee of the Whole. Under the five-minute rule, I think that if the precedents should be examined it will be found that where a bill is pending, as this is, in the House as in Committee of the Whole under the five-minute rule, debate on each successive proposition, for and against, must be allowed; and the House may then close the debate. But this has no application to the power of the House to cut off amendment by the previous question. I feel quite confident that an examination of the precedents will sustain the view I have expressed. I think it clear that the House can close debate on each section or amendments thereto after the five minutes' debate has occurred.

The SPEAKER. The gentleman from Indiana [Mr. HOLMAN] refers to the practice of the House in the consideration of appropriation bills in the House as in Committee of the Whole House on the state of the Union. Is the gentleman able to cite for the benefit of the Chair any ruling made upon such occasions?

Mr. HOLMAN. I am not able to do so at this moment. I have not had time to look up the precedents.

The SPEAKER. The Chair has not been able to find any such ruling.

Mr. HOLMAN. I am not able now to point to any particular case, though I am quite confident that precedents of the kind I have indicated can be found.

Mr. KEIFER. Mr. Speaker, I do not wish to prolong this discussion, but I would call attention especially to paragraph 6 of Rule XXIII. Under this provision, as will be noticed, when we are actually in Committee of the Whole on the state of the Union considering a bill debate can not be cut off upon any amendment offered until debate has proceeded upon that amendment. It is very clear that when we are

considering a measure under the five-minute rule in Committee of the Whole debate must have gone on for some time before the committee can rise and debate be cut off by a motion in the House. So that if in this case the previous question is to be considered as taking the place of the motion to limit debate, it is not in order when we reach a section of the bill to cut off discussion until debate has proceeded upon some pending amendment.

Mr. REAGAN. The rule speaks of debate having "begun," not upon an amendment but upon a proposition.

Mr. KEIFER. But when we are considering a measure in Committee of the Whole no vote is taken until somebody offers an amendment, and then the committee can not rise for the purpose of cutting off debate on that amendment until debate has proceeded.

Mr. REAGAN. Debate has been had here. There is no proposition to cut off debate before debate has actually proceeded.

Mr. KEIFER. The gentleman had better read the paragraph of the rules to which I have referred. It is very plain and definite in its terms:

The House may, by the vote of a majority of the members present, at any time after the five minutes' debate has begun upon proposed amendments—

Not on the bill, nor a section, but—

upon proposed amendments to any section or paragraph to a bill, close all debate upon such section or paragraph, or, at its election, upon the pending amendments only; but this shall not preclude further amendment, to be decided without debate.

So, Mr. Speaker, when the gentleman proposes now to use the previous question for the purpose of terminating not only debate but amendments upon a pending section, his proposition can not be entertained (if we are to follow the analogies of the consideration of a bill in Committee of the Whole on the state of the Union) until there is pending an amendment upon which debate has begun.

But this whole difficulty can be gotten rid of very easily. Let the gentleman proceed according to the usual forms of terminating debate when amendments are presented, and not undertake to sweep over the whole field and cut off amendments and debate. If this section is subject to such a motion as the gentleman proposes the whole bill is subject to the same motion. I do not think the Chair is now going to limit us in this way and hold that the previous question if ordered shall have any other than its usual operation, that is to bring the House to a vote immediately upon the pending proposition.

Mr. HORR. Mr. Speaker, when this question was raised by the gentleman from Texas, I had been recognized by the Chair and was on the floor. Now, as to the point of order which has been debated, it has grown less clear to me the more I have listened to the discussion. I do not propose to try to decide that question, but I desire the Speaker to recollect that I have possession of the floor and am entitled to my right under the rules.

The SPEAKER. The Chair will not overlook the gentleman's rights.

Mr. WHITE, of Kentucky. Mr. Speaker, the gentleman from Indiana has referred to page 195 where the gentleman from Texas clearly makes the agreement that we shall have the right to offer amendments to this bill. At the suggestion of the gentleman from Ohio he went further and said the bill should be considered as in Committee of the Whole on the state of the Union. Now I should like to have the attention of the gentleman from Texas for a moment whether he proposes to cut off debate at any time on any pending amendment before the House. At this time there is no amendment, although I have one to offer at the proper time. I tried to offer it yesterday but did not get the opportunity. Now, if that amendment shall be before the House and that amendment shall be under debate, does the gentleman from Texas propose to cut off all debate? Does the gentleman, who has perhaps consumed more time in the discussion of this question than all the other members upon the floor, intend to move to cut off perfectly legitimate debate on that pending amendment? Does he propose not even to allow the member offering it to engage in its discussion? Does he propose to refuse to let the member presenting a proposition explain his amendment under the five-minute rule? It seems to me any such proceeding would be most unkind. I ask the gentleman from Texas to refer to the RECORD, page 195, and to reread the agreement which he entered into.

Mr. REAGAN. There is no trouble about that.

Mr. WHITE, of Kentucky. If I get the floor, Mr. Speaker, I now give notice that I shall move an amendment to this section.

Mr. REAGAN. It certainly never was intended that more than a day and a half should be taken up in the amendment of one section of this bill.

Mr. WHITE, of Kentucky. As I understand it, the gentleman from Michigan [Mr. HORR] has been recognized to move an amendment. If the gentleman from Michigan does not wish to hold the floor I will take it and offer my amendment. Then the gentleman can raise his question at the expiration of the five minutes, which under the rule I am entitled to in debating any proposition which I may submit. At present there is no amendment before the House. The gentleman from Texas can not cut off debate on an amendment to the section when no amendment is pending. Under the rule it can only be done when an amendment is before the committee, and just now, as I have already said, there is no amendment pending. [Cries of "Decision!"]

The SPEAKER. The Chair recognizes not only the difficulty of this question under the rules of the House, and under the order made in this particular case, but also the importance of its correct decision as constituting, perhaps, a precedent to be followed hereafter; for, of course, whatever is decided here, so far as it may be based entirely on the rules of the House, will apply to other bills as well as to this. The order of the House made last March was that this bill should be considered in the House as in Committee of the Whole on the state of the Union. If the bill were actually being considered in Committee of the Whole on the state of the Union, it is conceded on all sides that the House would still have power, under an express rule, to close debate not only upon a pending amendment but upon the whole section or paragraph under consideration. Therefore the question presents itself at once whether the House when considering a bill in the House as in Committee of the Whole on the state of the Union has less power to close debate than if it were actually in the Committee of the Whole on the state of the Union. The most the Chair can do is to assimilate the proceedings of the committee in the House as nearly as possible to the proceedings in the Committee of the Whole on the state of the Union.

It has always been held when the House is considering a proposition as in Committee of the Whole it must be read by section or paragraph, as the case may be, but at the same time it has been held that the previous question may be ordered on a pending question, that the yeas and nays may be called, which can not, of course, be done in the Committee of the Whole on the state of the Union, that a motion to recommit or reconsider may be made, or a motion to lay on the table, which are not proper motions to be made in the Committee of the Whole on the state of the Union. And it has always been the practice of the House, and in fact has been ruled in the House repeatedly, that debate could not be closed otherwise than by the previous question.

Now the Chair feels somewhat embarrassed by what transpired a few days ago in reference to this matter, and he has some difficulty in determining whether that amounted to an agreement or understanding on both sides of the House that there should be unlimited debate and unlimited opportunity for amendment, or whether it simply meant the House should proceed in regard to this bill in the usual way bills are considered in the House as in Committee of the Whole on the state of the Union.

There is another difficulty about entertaining a motion for the previous question on a section of the bill. The Clerk will read the rule.

The Clerk read the seventeenth rule, as follows:

1. There shall be a motion for the previous question, which, being ordered by a majority of members present, if a quorum, shall have the effect to cut off all debate and bring the House to a direct vote upon the immediate question or questions on which it has been asked and ordered. The previous question may be asked and ordered upon a single motion, a series of motions allowable under the rules, or an amendment or amendments, or may be made to embrace all authorized motions or amendments and include the bill to its engrossment and third reading, and then, on renewal and second of said motion, to its passage or rejection. It shall be in order, pending the motion for or after the previous question shall have been ordered on its passage, for the Speaker to entertain and submit a motion to commit, with or without instructions, to a standing or select committee; and a motion to lay upon the table shall be in order on the second and third reading of a bill.

The SPEAKER. Now, it will be observed that the rules of the House prescribe exactly what the effect of the previous question shall be, that is, that it shall bring the House to a direct vote upon the main or pending question, which presupposes that there is a question pending. The gentleman from Texas demands the previous question, not upon any pending motion or question, but upon the section under consideration.

Suppose the House shall order the previous question upon it; what vote is to be taken after that is done? It must be apparent that there is no vote to be taken on the section itself, nor is there anything upon which the previous question can operate, its only effect being to cut off debate and amendment; and the Chair, therefore, is of the opinion that when considering a bill in the House as in the Committee of the Whole House on the state of the Union, a motion for the previous question can not be entertained unless there be some question actually pending before the House upon which the vote should be taken after the previous question is ordered. If there was an amendment pending, that of course would be a question upon which the vote would be taken. So the Chair thinks that the gentleman's motion is premature at all events.

Mr. WILSON, of Iowa. Will the Chair permit me to make a suggestion?

The SPEAKER. Certainly.

Mr. WILSON, of Iowa. The question upon which the gentleman from Texas may move the previous question is to limit debate.

The SPEAKER. But can debate be limited in the House except by the previous question itself?

Mr. WILSON, of Iowa. But you can limit debate by a motion to limit debate, upon which motion the previous question is to operate.

The SPEAKER. It has been decided that there can be no motion to limit debate in the House except by the previous question.

Mr. WILSON, of Iowa. The Chair does not understand my proposition. I have not made my point perhaps clear. Suppose, for instance, the case where the Committee of the Whole rises in the consideration of a bill and comes in the House with a motion to limit

debate. That is done by a motion to limit debate, upon which motion the previous question is asked to prevent debate upon that motion itself.

Now, suppose you desire to limit debate on a section of a bill, but not exclude the right of a member or of members to offer additional amendments; that is the only way you can do it, by moving to limit debate upon the section and by demanding the previous question upon that motion.

The SPEAKER. But the gentleman will see a distinction; can you make a motion to limit debate upon a proposition pending in the House itself, and not in Committee of the Whole on the state of the Union? Is not the only way that can be done by ordering the previous question?

Mr. WILSON, of Iowa. Yes; but the previous question is asked for now to prevent further debate.

The SPEAKER. But there is no vote to be taken upon the section on which the previous question would operate.

Mr. REAGAN. Upon the suggestion of the Speaker with reference to closing debate in the House by the previous question and its parallel case, the operation of the order to close debate in Committee of the Whole, I desire to call the attention of the Chair to the fact that by the terms of the agreement we are acting in the House as in Committee of the Whole.

The SPEAKER. That is true; but suppose the House should order the previous question, as now demanded by the gentleman from Texas, upon what would it operate or upon what would the House be called to vote directly after the previous question is ordered? There is no question pending now before the House.

Mr. SPRINGER. I rise to a parliamentary inquiry.

The SPEAKER. The Chair will hear the gentleman.

Mr. SPRINGER. Suppose a motion should be made to strike out the section, and the gentleman from Texas should move the previous question upon that motion, what would be the effect or the situation that the House would be placed in if the motion to strike out should be voted down? Would the section be subject to further amendment or debate?

The SPEAKER. That is the very question the Chair is considering, whether the effect of the previous question would not be fully exhausted as soon as a vote had been taken upon the amendment, there being nothing else to vote upon. Suppose there was an amendment pending to the section, and the gentleman from Texas should move the previous question upon the amendment and the section, and the House should order the previous question; has not the previous question exhausted itself as soon as the vote is taken upon the amendment, that being the only vote the House can take?

Mr. REAGAN. But when we pass from a section of a bill, acting upon it in the committee, do we not imply that that section is passed?

The SPEAKER. That may be by implication; but there is no vote taken by the House on the section separately; and if a vote were taken it would have no effect. It would not pass the section. It would not make it a law, or have any legal effect whatever.

The Chair desires, however, to say that if upon further examination of the practice and proceedings of the House he finds that he is mistaken in his present opinion he will certainly rule otherwise upon this question. This decision is made without having had an opportunity of examining as thoroughly as the Chair would like the question presented.

Mr. REAGAN. This question, Mr. Speaker, is such a grave one and so far reaching in its results upon the future legislation of the House that I think it should be determined by a vote of the House upon it, and if there be no method of preventing unlimited debate under such circumstances, I should like to know it by the vote of the House.

The SPEAKER. The Chair will gladly entertain the appeal of the gentleman from Texas, and submit it to the House.

Mr. BLOUNT addressed the Chair.

Mr. KEIFER. I move to lay the appeal on the table.

Mr. BLOUNT. I ask the gentleman to allow me to make a suggestion.

Mr. KEIFER. If there is any great object to be attained by further debate I shall not insist upon the motion at this time. Reserving, however, the right to make the motion, I will hear the gentleman from Georgia.

Mr. BLOUNT. My object is simply to inquire of the Chair whether it would entertain a motion, such as may be entertained in Committee of the Whole, that we may rise to limit debate. Whether or not by analogy the Chair could not also entertain the motion to limit debate upon a section when acting in the House as in Committee of the Whole?

The SPEAKER. It has been decided more than once that such a motion could not be made with reference to a proposition actually pending in the House; that the only way debate can be closed and the House brought to a direct vote upon a proposition is to move the previous question.

Now, the Chair has intimated his opinion, but is not inclined to decide now what effect the previous question would have if it could be ordered at all on the section. The Chair has simply declined to entertain a demand for the previous question upon the section of the bill when there is no question pending in regard to that section at all.

Mr. SPRINGER. I desire to make a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. SPRINGER. I do not understand there has been any decision made by the Chair from which an appeal can be taken. If I understand the ruling of the Chair it is a negative ruling, not an affirmative one; and I do not see there is anything from which an appeal can be taken in this case.

The SPEAKER. The Chair has decided it was not in order to demand the previous question upon a section of the bill when there was no question pending before the House with regard to that section; no amendment pending; no proposition to lay it on the table or postpone it or any other parliamentary proposition pending.

Mr. KEIFER. I insist on my motion to lay the appeal on the table.

Mr. WARNER, of Ohio. I desire to make a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. WARNER, of Ohio. Would it be in order to move now to agree to the first section as amended?

The SPEAKER. The Chair would prefer to decide that question when it arises. The Chair understands and appreciates the difficulty under which the House may find itself with regard to these bills unless some practice can be adopted which will enable it to terminate debate and amendment. But that is not the question addressed to the Chair. The Chair must administer the rules of the House as he finds them.

Mr. WARNER, of Ohio. If it be now in order I would make the motion I have indicated.

The SPEAKER. Certainly that motion would not be in order now, while an appeal is pending.

Mr. KEIFER. I insist on the motion to lay the appeal on the table.

Mr. REAGAN. I will withdraw the appeal. And if I am in order I will move to limit debate on this section to five minutes.

Mr. KEIFER. I make the point of order against that motion.

The SPEAKER. It has been decided very frequently in the House that a motion to limit debate on a proposition in the House is not in order, and that it can only be done by ordering the previous question.

Mr. REAGAN. And does the Chair, then, decide that the House can neither limit debate nor order the previous question on this section?

The SPEAKER. The Chair has not decided that. The Chair will state again precisely what it decides. The decision of the Chair is that it was not in order to demand the previous question upon the section when there was no question in relation to the section then pending before the House; and the Chair caused a part of the rule to be read which prescribes exactly what the effect shall be when the previous question is ordered. The very first effect of the previous question when ordered is to bring the House to a vote upon a pending proposition. Now there is no proposition pending.

Mr. REAGAN. Do I then understand the Chair that the House can in no way exercise control on this question?

The SPEAKER. If the previous question is demanded on any question that is pending before the House, the Chair will, of course, entertain the demand.

Mr. SPRINGER. I desire to make a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. SPRINGER. Would it be in order to move to adopt this section as section 1 of this bill? If that is in order I make that motion.

Mr. HORR. That certainly is not in order now, while I am on the floor.

The SPEAKER. The Chair does not see what effect that motion would have if it were adopted.

Mr. SPRINGER. The effect would be to adopt that section as a part of the bill.

The SPEAKER. It is undoubtedly a part of the bill now.

Mr. WARNER, of Ohio. I desire to ask a parliamentary question.

The SPEAKER. The gentleman will state it.

Mr. WARNER, of Ohio. If we were in Committee of the Whole now would it not be in order to move to agree to the section as amended? If it be in order, I make that motion.

The SPEAKER. The Chair thinks that motion is not in order.

Mr. HERBERT. I desire to make a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. HERBERT. The motion was made by the gentleman from Texas [Mr. REAGAN] when last on his feet to limit debate on the pending section. Did the Speaker decide the question as to that motion?

The SPEAKER. The Speaker said that he knew of no rule of the House which authorized a motion to limit debate in the House. Nor does he know of any practice which authorizes that motion. If there has been such a practice the Chair will certainly entertain the motion.

Mr. HERBERT. I desire to appeal from that decision of the Chair simply for the purpose of presenting one point to the consideration of the House and of the Speaker; and it is this——

Mr. KEIFER. I move to lay the appeal on the table.

The SPEAKER. The gentleman from Alabama [Mr. HERBERT] has the floor.

Mr. HERBERT. The point I make is this: That motion is in order if the House in its present condition has the powers both of the House and of the Committee of the Whole House on the state of the Union. Unless it has surrendered one power or the other, that motion

is in order; because when we are in committee we may come back into the House for the purpose of asking the House to limit debate in the committee on a section.

The SPEAKER. That is because the House has adopted an express rule upon that subject, which applies only when a bill is being considered in the Committee of the Whole House on the state of the Union.

Mr. HERBERT. But, Mr. Speaker, the very question here is whether we have not in our present condition still the power of the House and the power of the committee. That rule applies to the House when in committee. The House has now the power of a Committee of the Whole and also power as a House. If that be true, then the House can limit the debate on the section. It certainly has the power to limit debate on the section unless it has lost its power as a House. If it has not lost its power as a House it has the power to limit debate.

It seems to me that in analogy to the rule of law that when there is an apparent conflict between two statutes you must endeavor to reconcile them, so here you must reconcile the situation by giving effect, so far as possible, to all the powers that the House has as such and all the powers that the Committee of the Whole House has as such, when they are not in irreconcilable conflict. There is no irreconcilable conflict here between the power of this House as a House and the power of this House as a Committee of the Whole, none whatever, and by adopting the construction for which I contend you can give effect at once to our powers in both capacities.

To recapitulate briefly: we have the power as a Committee of the Whole to rise and go into the House; being in the House we have the power to limit debate on the section; then, having limited debate, we have the power to go back into committee. Thus the whole question is settled. Where is there any conflict between those two powers? If this House is sitting as a Committee of the Whole and is still the House of Representatives, as a House it certainly has that power.

Mr. WARNER, of Ohio. If that be not so, we have less power in the House than we would have in Committee of the Whole.

Mr. HERBERT. That is true. We never thought that in this matter we were giving up our power as a House. We have both the power of the House and the power of the committee.

The SPEAKER. The Chair suggested a moment ago that the question was whether the House now had less power to control the debate when considering this bill in the House than it would have had if it had proceeded with the consideration of the bill in Committee of the Whole on the state of the Union. The difficulty in this case arises from the fact that when the House is considering a measure as a House, the only way to stop debate, so far as the rules provide, is by ordering the previous question; whereas when the House is considering a proposition in Committee of the Whole on the state of the Union there is another way provided by the rules themselves for stopping debate, and that is by a motion to rise and go into the House, and there, by the action of the House, limit or close debate in the committee.

Mr. REAGAN. The very terms of the agreement in this case are that we shall consider the bill in the House as in Committee of the Whole.

Mr. HERBERT. If we are a House, and if we are acting as a committee, then both sets of rules must logically apply to our proceedings, unless we have given up one power or the other.

Mr. WARNER, of Ohio. And the power to order the previous question is not the same as the power to limit debate on a section.

Mr. KEIFER. If the appeal is entertained I desire to move to lay it on the table.

The SPEAKER. The Chair would be very glad to hear suggestions from any member on this question, because it is a matter of importance, affecting not only this bill but all other measures which may be considered in the House as in Committee of the Whole. It is somewhat singular that there are no precedents; that the House should have transacted business in this way for so many years without there having been any ruling upon this question.

Mr. REED. Mr. Speaker, it seems to me that the gentleman from Alabama [Mr. HERBERT] has not fully considered the fact that the right to debate is unlimited unless there is some specific rule enabling us to limit it; that the presumption in any parliamentary body is that debate shall be unlimited unless specific ground can be found for limiting it. And, as the Speaker has pointed out, it can not be done here, because the only way of closing debate is by moving the previous question, and in the present status of affairs there is nothing upon which the previous question can operate. That seems to be a demonstration.

Mr. HERBERT. I beg the gentleman from Maine to pardon me, but there is a specific rule under which it can be done.

Mr. REED. Which one?

Mr. HERBERT. The rule by which the House can limit debate on the section being considered in the Committee of the Whole.

Mr. REED. But that arises from the control the House has over the Committee of the Whole. Now, while this question is being considered as in the Committee of the Whole, it is not being made by the Committee of the Whole, which is the distinction the gentleman has overlooked.

Mr. HERBERT. Pardon me, right there. He says the House has control over the Committee of the Whole. Yes, it has; and the House always has control over itself, whether it be acting as a committee or a House. [Applause.] How can you escape that conclusion?

Mr. WARNER, of Ohio. There is no escape from it.

Mr. HOBLITZELL. Mr. Speaker, the confusion of this question seems to arise in the construction of the sixth section of Rule XXIII, which rule applies to the work of this House in the Committee of the Whole. Now, that section says that the House may by a vote of a majority of the members present, at any time after the five minutes' debate has begun upon proposed amendments to any section or paragraph to a bill, close all debate upon such section or paragraph or at its election upon the pending amendments only. That is one provision of the rule, and the object of that provision is very evident. In the Committee of the Whole we have no right to call the previous question, and therefore there must be some means for disposing of a question in debate. This question now being considered in Committee of the Whole as in the House leaves the consideration of the bill not only subject to the power of the House to close debate, but leaves it also under the operation of that other provision of the rule which follows:

But this shall not preclude further amendment, to be decided without debate.

How are you to reach the question of closing debate? Rule XVII in the first paragraph is as follows:

1. There shall be a motion for the previous question, which, being ordered by a majority of members present, if a quorum, shall have the effect to cut off all debate and bring the House to a direct vote upon the immediate question or questions on which it has been asked and ordered. The previous question may be asked and ordered upon a single motion, a series of motions allowable under the rules, or an amendment or amendments, or may be made to embrace all authorized motions or amendments and include the bill to its engrossment and third reading, and then, on renewal and second of said motion, to its passage or rejection.

That is simply a declaration of the power of the previous question under the parliamentary law of the country as we understand it in our practice. The effect of that, if simply a motion for the previous question is made, is in effect to cut off all debate and bring the House to a direct vote on the question pending, but the next paragraph declares what are the limits of the rule on that power or motion for the previous question:

The previous question may be asked and ordered upon a single motion, a series of motions allowable under the rules, or an amendment or amendments, or may be made to embrace all authorized motions or amendments and include the bill to its engrossment and third reading, and then, on renewal and second of said motion, to its passage or rejection.

Now, I submit there is an opportunity for the Chair to construe that rule which would give the House in the consideration of the present bill the benefit of cutting off all debate on the pending section by treating it as a paragraph and still reserving the right to the House under the operation of the other paragraph so as not to preclude further amendment, to be decided without debate.

The SPEAKER. That would be a ruling directly in opposition to the rule which the gentleman has read cutting off debate and bringing the House to a direct vote on the question or questions under consideration, which of course cuts off all amendment.

Mr. HOBLITZELL. As we are considering this proposition in the House as in the Committee of the Whole, the whole of Rule XXVI is in operation, and I submit there is a provision in Rule XVII whereby it is within the power of a majority under a call for the previous question to cut off these additional amendments.

MESSAGE FROM THE PRESIDENT.

A message in writing was received from the President of the United States, by Mr. PRUDEN, one of his secretaries.

It also announced approval of joint resolution (H. Res. 300) to pay to the officers and employés of the Senate and House of Representatives their respective salaries for the month of December, 1884, on the 20th day of said month.

INTERSTATE COMMERCE.

The House resumed the consideration of the interstate commerce bill.

Mr. WARNER, of Ohio. Mr. Speaker, it seems to me the whole question is just this: Has the House the same power when considering a bill in the House as in the Committee of the Whole that it has when it is considering a bill in the Committee of the Whole, or has it not the same power? If it has the same power then it may limit debate by ordering the previous question, or directly, as in the case of the Committee of the Whole. The question is, has it the same power or has it not? It seems to me under the rule it has, and we can not claim the House has less power over the question when considering it in the House than it has when considering it in the committee.

The SPEAKER. The Chair has no doubt the House ought to have the power, but the Chair can not determine that it actually possesses it in view of the rules it has adopted and the peculiar circumstances under which the bill is being considered. The rules of the House do not contemplate or recognize such a proceeding as the consideration of a measure "in the House as in Committee of the Whole on the state of the Union." Such a proceeding is not provided for at all.

Mr. WILSON. Let the House decide the question.

The SPEAKER. That is what the Chair proposes to do, and the Chair hopes that order will be observed upon the floor. The Chair desires to get the judgment of the House, because in the absence of prece-

dents and rules applicable to this proceeding he thinks when so important a matter is to be settled it ought to be settled by the judgment of the House itself. If it is a matter upon which there is no rule, and it is now proposed to institute a new rule or establish a precedent, it is more appropriate for the House to do it than for the Chair to undertake to do it.

Mr. KEIFER. I understand the position before the House, Mr. Speaker, to be just this, and if I am wrong I wish to be corrected: The gentleman from Texas withdrew his appeal from the decision of the Chair on his demand for the previous question. Subsequently he submitted a motion to limit debate to five minutes on the entire section, and that was held to be out of order, and from that decision the gentleman from Alabama proposes to take an appeal to the House. If that is the status of the proposition I wish to be heard for one minute on it.

As I understand the proposition now it is on the appeal of the gentleman from Alabama from the decision of the Chair on the motion of the gentleman from Texas to limit debate on the first section of the bill.

Mr. DUNN. And all amendments.

Mr. KEIFER. And all amendments, if he chooses to put it that way. Now, that, it seems to me, ought to take no time, because, if we were possessed of the power that is given to the House when a measure is being considered in Committee of the Whole, there never was a time when such a motion could be entertained, a bill or measure being in the same situation that this is now in. Even if you choose to reason out for some purpose of convenience or by simulation to see whether the House may not do with this bill something it can not do with a bill when actually in Committee of the Whole, you can find no case where such a motion would be in order under the rule.

It is only when there is something pending that the Committee of the Whole House on the state of the Union may rise and go into the House and limit debate upon that particular amendment to a particular paragraph or to a section. There is now nothing pending, and there never was an occasion when the House undertook to say in advance of a pending proposition that debate should be limited, unless there was a proposition pending at the time, one at least on which the House was called to vote. And it is fair to say, in support of the ruling which has just been made, that this section, as I am informed by some gentleman near me, was not read entirely through. I do not know about that. I am not sure of the accuracy of the statement, but that seems to be the impression here. If, however, it be true, the gentleman undertakes to limit debate upon a part of the bill that was never read.

Mr. REAGAN. I will say to the gentleman that it was read from beginning to end.

Mr. KEIFER. I have not contended otherwise. I merely made the statement that was whispered around me.

Mr. SPRINGER. I know that it was read.

Mr. KEIFER. But whether it was read or not is quite an immaterial matter.

Now, Mr. Speaker, by looking at the sixth paragraph of Rule XXIII it will be found that there is no case where a motion to limit debate can be made unless there is a pending amendment upon which debate has first begun. There is no amendment pending here. Then it is sufficient to say that it is clearly out of order, upon every hypothesis in the world, to undertake to move the previous question in the present status of the bill on this section.

Mr. BLOUNT. May I ask the gentleman a question?

Mr. KEIFER. Certainly.

Mr. BLOUNT. Suppose an amendment were pending, does the gentleman admit then that the motion to limit debate would be in order?

Mr. KEIFER. No, sir; but it is not worth while to multiply hypothetical questions or to make suppositious cases when we are dealing with an appeal from the decision of the Chair as to whether or not a certain motion is in order.

Mr. BLOUNT. My purpose was merely to get at the gentleman's understanding of the question.

Mr. KEIFER. My understanding is that debate can only be limited by the House by the interposition of the previous question, and that can only be in order when there is something before the House upon which the previous question is invoked and upon which it can operate.

Mr. HERBERT. Mr. Speaker, I do not desire to place myself in the position of taking an appeal from the decision of the Chair in a matter of this kind, especially when I understand the Chair to intimate, as it did a moment ago, that it is a question proper to be submitted to the House. I therefore withdraw the appeal from the decision of the Chair and request that the Chair will submit to the House for its judgment the question which I send to the desk in writing.

The SPEAKER. Is it a question of order?

Mr. HERBERT. Yes, sir; it is a question on which, as I understand, the Chair desires the judgment of the House, and I ask that it be submitted to the House.

The SPEAKER. The paper will be read.

The Clerk read as follows:

Is it in order when a bill is under consideration in the House as in Committee of the Whole under the five-minute rule to move to limit debate upon a pending section, and on that motion demand the previous question, such order to have the same effect as if the bill were in Committee of the Whole?

Mr. REED. I make the point of order that that is not admissible.

The SPEAKER. The gentleman from Alabama moved to limit debate, and the Chair decided the question against the right of the gentleman to make that motion, whereupon the appeal was taken. The gentleman then withdrew the appeal, and asked the Chair to submit the question of order to the House.

Mr. KEIFER. I make the point of order that it is a mere abstraction, and can not amount to anything.

The SPEAKER. It involves at least one practical question, and one that is now before the House. The gentleman had a motion pending to limit debate. He now asks the Chair to submit this question of order growing out of that motion to the House.

Mr. REED. But if the gentleman from Alabama submits a motion to close debate, then I make the point of order that the gentleman from Michigan has the floor, and that the gentleman from Alabama can not make such a motion while the gentleman from Michigan has the floor, to propose an amendment.

Mr. HERBERT. I do not understand that he has the floor.

The SPEAKER. The Chair recognized the gentleman from Michigan in the first instance; and if the Chair had been satisfied that he could put the demand for the previous question to the House, he would have ruled that it included the amendment proposed by the gentleman from Michigan. After the Chair had recognized the gentleman to submit an amendment the gentleman from Texas was also recognized, the Chair supposing that his motion related to some question of order. The Chair therefore thinks the gentleman from Michigan should be allowed to offer his amendment, no matter what may be the decision of the House upon the questions of order that have been presented.

Mr. REED. Now I call for the regular order.

The SPEAKER. The gentleman from Michigan can send up his amendment, after which the Chair will entertain the motion of the gentleman from Alabama.

Mr. REED. But the gentleman from Michigan desires to keep the floor.

Mr. HORR. I have the floor.

The SPEAKER. The gentleman has the floor for five minutes.

Mr. HISCOCK. The gentleman from Michigan having offered his amendment, can he be taken off his feet?

The SPEAKER. There is no purpose that the Chair knows of to take the gentleman off his feet.

Mr. HORR. I wish that amendment to come in directly at the end of the amendment adopted on the motion of the gentleman from Mississippi [Mr. BARKSDALE], the one last voted on.

The SPEAKER. The amendment will be read.

The Clerk read as follows:

Provided, That such separation shall not be made on the basis of race or color.

Mr. GIBSON. I raise the point of order that that is the substance of other propositions which have been passed upon in this discussion.

Mr. KEIFER. It applies to a different proposition.

The SPEAKER. It is not an objection to an amendment that it is substantially the same as something that is already in the bill. It might be an objection to an amendment that it was inconsistent with something already incorporated in the bill by a vote of the House, but the Chair thinks the amendment is in order, as the House might put substantially the same proposition in the bill a dozen times if it thought proper to do so.

Mr. GIBSON. But, as I understand, the House has amended a precisely similar proposition by declaring it shall not be a discrimination to provide separate cars for white persons and black persons; and that was adopted as an amendment to a provision almost identical with the one now offered.

The SPEAKER. But, as the Chair has stated, the House might put the same provision a dozen times in the bill if it desired to do so. That is a matter for the House to determine, not for the Chair.

Mr. HORR. I offer this amendment for the purpose of putting the bill in such shape that there may be no mistake about it; but more especially for the purpose of enabling my Democratic friends upon the other side of the House to relieve themselves from all future embarrassment upon this subject. During the recent campaign that party took the position in its periodicals and speeches that it was pre-eminently the party which sought to benefit and elevate the colored people of the country. They even went so far as to placard our country with pictures of a large negro being led upward toward the sky by the leading candidate of their party; and they had a person pointing upward as the two men made their advance in the direction of the heavens.

Now to my astonishment, in the very first legislation where the Democrats of this House have a chance to emphasize their new position in reference to the colored race they have jumped the track. [Laughter.] I do not wonder at it, because it is novel legislation to you gentlemen. You do not take to it kindly simply because you are not used to it. [Laughter.]

I have been working, Mr. Speaker, for thirty years in good faith earnestly to benefit all the people of the United States, and especially those that were downtrodden and oppressed. And when I found that

the entire Democratic party had changed front and was to join me in this great work my heart was filled with joy. [Laughter.] And now think of my disappointment when sitting here to see that the very first opportunity they have had to do anything which will wipe out this race distinction and tend to give every man an even chance with his head and his hands to work for himself, instead of adopting such measures with cheerful countenances they sit here and look like men that are going to a funeral. [Laughter.] Why this despondency? Why this feeling that takes possession of you gentlemen in reference to this great question upon which you claim to have taken such advanced ground? You are certainly the best friends of these people, are you not? You all meant what you said, did you not?

I offer this amendment so that you can have an opportunity to show to the country that each and every one of you really did mean what you said; and I take it for granted you will all eagerly vote for the amendment.

[Here the hammer fell.]

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, informed the House that the Senate insisted on its amendments disagreed to by the House of Representatives to the bill (H. R. 7510) making temporary provision for the naval service, agreed to the conference asked for by the House, and had appointed Mr. HALE, Mr. LOGAN, and Mr. BECK conferees on the part of the Senate.

The message also announced that the Senate had passed without amendment the bill (H. R. 4085) for the relief of Juliet H. Palmer.

The message further announced that the Senate had passed bills of the following titles; in which the concurrence of the House was requested:

A bill (S. 1661) for the relief of George C. Tanner, United States consul at Liege, Belgium;

A bill (S. 1793) to amend section 4434 of title 52 of the Revised Statutes of the United States, concerning commerce and navigation and the regulation of steam-vessels; and

A bill (S. 2422) for the erection of a statue to the memory of General La Fayette.

INTERSTATE COMMERCE.

The House resumed consideration of the bill (H. R. 5461) to establish a board of commissioners of interstate commerce, and to regulate such commerce.

Mr. HERBERT. The gentleman from Michigan [Mr. HORR] having sent up his amendment, which is now pending, I rise to ask the Chair to submit to the House for its judgment the question sent up a few moments ago by myself.

The SPEAKER. The Chair understood the gentleman from Alabama to make a motion to close debate on the section.

Mr. HERBERT. I make that motion—to close debate on the pending amendment and the section.

The SPEAKER. Against that the gentleman from Ohio makes a question of order.

Mr. HENDERSON, of Illinois. I rise to a parliamentary inquiry. Will that cut off any further amendments?

Mr. KEIFER. Let us understand what is the question presented.

The SPEAKER. This is not an abstract question, because the gentleman from Alabama makes a motion which presents a question of order.

Mr. KEIFER. Let the proposition be read at the Clerk's desk.

Mr. HORR. Read the whole amendment with that addition.

The SPEAKER. The gentleman from Ohio asks to have the question read as now presented to the House—not the amendment; this is another question.

The Clerk read as follows:

Mr. HERBERT having moved to close debate on the pending section and amendment, submitted the following as a question of order: Is it in order when a bill is under consideration in the House as in Committee of the Whole under the five-minute rule to move to limit debate on a pending section, and on that motion demand the previous question, such order to have the same effect as if the bill were in Committee of the Whole?

Mr. KEIFER. Mr. Speaker, this is in the nature of a parliamentary inquiry addressed to the Chair. The Chair can undoubtedly entertain this question, if he desires to do so, under the practice which has grown up for years in the history of this House. As a matter of information, both to the person propounding the question and to the House, the Chair may answer such questions. But this is not a question which can go to the House on an appeal; it can not be submitted to the House for decision, because it is a mere inquiry; it binds nobody; it is a mere matter of information. The House can not be called to vote upon any questions except such as come before it in practical legislation.

This question, Mr. Speaker, is not in order now, because it does not apply to the present status of the bill and amendments before the House. Moreover, it is an inquiry about a proposition which has been passed upon and disposed of by the ruling of the Chair. The gentleman took an appeal, which he subsequently withdrew. We must deal with this question as we have it. If the gentleman will submit a motion applying to the pending amendment and to the section, and then the question comes up, it may be that he will reach his purpose. But I submit it is not in order to put an abstract question, and ask the Chair to pass upon it, or submit it to the House, or allow an appeal. It is an abstract question unless it applies to a real measure pending before the House.

Mr. BLOUNT. Mr. Speaker, when the gentleman from Ohio [Mr. KEIFER] was on the floor a few moments ago he claimed there was nothing pending at all, and that therefore this motion could not be allowed even under the rule in Committee of the Whole. Now he claims that the Chair has already ruled upon this question embraced in the proposition of my friend from Alabama.

Mr. KEIFER. Is there a pending question?

Mr. BLOUNT. There is—the proposition made by the gentleman from Alabama to limit debate on this section.

Mr. KEIFER. Made when?

Mr. BLOUNT. Made just before submitting his question to the Chair. Therefore this becomes a practical question, and the Chair may submit it to the House. The present incumbent of the chair, and previous Speakers, including the gentleman from Ohio, have submitted questions of this sort to the House; and if the Chair is in doubt (and the Chair has intimated already that the question is not free from doubt) I trust the House may be allowed to vote upon this question. It seems to me an important question; and I concur very earnestly with the gentleman from Alabama in the view that he has taken upon it. The rule as embraced in paragraph 6 of Rule XXIII is in the following language:

The House may, by the vote of a majority of the members present, at any time after the five minutes' debate has begun upon proposed amendments to any section or paragraph to a bill, close all debate upon such section or paragraph, or, at its election, upon the pending amendments only; but this shall not preclude further amendment, to be decided without debate.

Now, it is clearly a very important part of the power of the House, when a bill is being considered in Committee of the Whole, to limit debate; and the proposition now is that this House shall do just that thing. We need not refer to any other rule. It seems to me the mind of the House must be brought to this conclusion—that the proceeding in the House now must be what it is in Committee of the Whole; and when you come to ascertain what may be done in Committee of the Whole in the consideration of bills, one of our powers is to close debate. That is what we are asked to do now, and I trust the Chair will submit this proposition to the House and allow us to pass upon it, especially in view of the doubt already expressed by the Chair.

Mr. REED obtained the floor.

Mr. KEIFER. I wish to ascertain whether, since the amendment offered by the gentleman from Michigan, a motion has been made to limit debate.

Mr. HERBERT. It has.

Mr. KEIFER. Then I submit my point of order. The proposition as sent up by the gentleman from Alabama is, I think, clearly out of order.

Mr. REED. Mr. Speaker, I do not think this House, on account of a difficulty of a temporary nature in which it finds itself, ought to permit itself to violate the rules of parliamentary law in order to accomplish a temporary purpose. The presumption of parliamentary law is not in favor of closing debate. On the contrary, the presumption is in favor of unlimited debate, and debate can not be closed unless there is some positive rule of the House giving the majority that control over the right of the individual member which enables the House to shut his mouth. That is the rule of parliamentary law. Now the Speaker has ruled and is sustained by logic that can not be refuted that there is no rule of the House which enables us to limit debate except the rule for the previous question, and the rule for the previous question is not applicable to the present situation. Under those circumstances and after that ruling the gentleman from Alabama proposes the House without any rule shall limit debate and cut off the right of the individual member—a right which belongs to him as a member of this House to continue debate fully as he shall see fit.

In addition to that the gentleman from Alabama asks this House to perpetrate the further anomaly that while that is pending he shall make a parliamentary inquiry of the House. What is that going to lead to? Every time the gentleman proposes a measure of doubtful propriety he can shift it from the Speaker, who is responsible in the eyes of the country, to the House, and experience shows that responsibility being largely shared is not very heavy on the individual member.

Now I admit the desirability, as a matter of relief for the Speaker, the House should pass upon this matter; but this can not be the way to do it. If the Speaker chooses to submit a question and has a right to do it under the rules, then the House should act on it. But here are two propositions pending at one time. The first is the proposition to close debate, and the second is that the House shall answer a parliamentary inquiry. It seems to me under parliamentary law that situation of things is utterly anomalous, utterly unparliamentary, utterly unprecedented.

Mr. SPRINGER. The gentleman from Maine assumes this point of order as submitted to the House is anomalous. Now it is the duty of the Chair when a question of order is raised to decide that question, or in his discretion to submit it to the House. The request of the gen-

tleman from Alabama is that the Speaker shall submit the point of order to the House. It is clearly addressed to his discretion. The Chair may submit it to the House or he may decide the point of order himself. The proposition of the gentleman from Alabama does not propose to deprive the Speaker of his right to decide the point of order if he chooses so to do, but in view of the complicated character of the question the Speaker is requested to submit the question to the House. Such submission has frequently taken place in the House.

Mr. REED. I do not desire to interrupt the gentleman except for the purpose of arriving at a conclusion such as we want to get at, and that is what is just, proper, and fair in this matter. I submit that if the gentleman from Alabama has not made a suggestion to the Speaker, he should submit the question whether the motion is in order to the House, but that he shall submit a certain written statement of it to the House, and that can not possibly be pending while the point of order is pending against this motion. I wish to call the gentleman's attention to that.

Mr. SPRINGER. While it might be an abstraction in other cases, in this case it is the very one which is desired to be submitted to the House; and that is what should be the rule of the House on this question, and what should be the decision of the Speaker. We are now acting in the House as in Committee of the Whole under the five-minute debate. What is the five-minute debate? The rule on that subject has been read by the gentleman from Georgia. That is the rule in the Committee of the Whole, and when we are acting in the House as in Committee of the Whole I understand we are under the rules of the committee which have been taken into the House. That is, Mr. Speaker, that when we are transacting business in the House as in Committee of the Whole we are transacting that business under the rules of the Committee of the Whole which are applicable to it. If the rules of the committee are not applicable to the House, and the House rules are not applicable to the House as in committee, then we have no rules and we have fallen between the committee and the House.

But, sir, I submit it is not true that there are no rules to govern us, and that we must be under one set of rules—either the rules of the Committee of the Whole or the rules of the House. The rules of the committee are not applicable to such questions if we are in the House, as in the House we have the right under the rules of the House to move the previous question, closing debate, and on the engrossment and third reading of the bill.

The SPEAKER. The great difficulty in the mind of the Chair arises from the fact that heretofore the House has not been governed entirely by the rules which prevail in the Committee of the Whole, nor entirely by the rules which prevail in the House, but partly by one and partly by the other. For instance, it is not in order in Committee of the Whole to move to lay on the table, or to demand the previous question, or to call for the yeas and nays, or to postpone, or to reconsider, while those motions are all in order in the House when it is considering a bill as in Committee of the Whole on the state of the Union. And, again, general debate can be closed in Committee of the Whole on the state of the Union, not by the previous question, but by a mere motion and order of the House, while in the House itself this can be done only by ordering the previous question. In the House the rule allows each member to speak for one hour, while in the committee, after general debate has been closed, each speech is limited to five minutes. The consideration of a bill in the House as in Committee of the Whole on the state of the Union is an anomalous proceeding, not provided for by the rules, and the Chair therefore has nothing to guide him except the practice and precedent, and the question now presented appears never to have arisen before.

The difficulty in the mind of the Chair arises mainly from the fact that there is no settled practice on the part of the House which authorizes him to take either the one or the other set of rules as an entirety, or which prescribes what particular part of each set of rules he shall enforce.

Mr. SPRINGER. We are considering this bill in the House as in Committee of the Whole. Now, I concede that the rules of the House are all in force, only we have a further order, that it is to be considered in the House as in Committee of the Whole. In Committee of the Whole we are entitled to close debate upon a paragraph or upon a pending section, in order that the business of the House may be facilitated.

The gentleman from Maine says the object of the rules is to allow unlimited debate. That, Mr. Speaker, I deny.

Mr. REED. I did not say that, but that the principles of parliamentary law are in favor of unlimited debate; and that it is a repeal of parliamentary law, and a sacrifice of every member's individual right, to have this provision of the rule relating to the previous question. I said that it was a rule in derogation of the common right of every member of this House in that respect.

Mr. SPRINGER. But the previous question has been always enforced in this country in legislative bodies.

Mr. REED. Oh, no; not in all.

Mr. SPRINGER. It never has been denied in any legislative body in the United States.

Mr. REED. The gentleman is mistaken in that. It is enacted only by virtue of the consent of the legislative body.

Mr. SPRINGER. It cuts off by the will of the majority at any time all debate and brings the body to a direct vote upon the amendment or proposition pending; and I have seen it resorted to many times to my own inconvenience and discomfiture.

Mr. REED. How many times have you seen it enforced in the Senate?

Mr. SPRINGER. The Senate has not the previous question. I spoke of legislative practice generally, in which it is of almost universal application. It is absolutely essential to the transaction of business in large bodies.

Mr. REED. That is where it has been adopted.

Mr. SPRINGER. In the House of Representatives we have this provision for the previous question, which gives the right to a majority of the members to close debate at any time by the will of the majority expressed in the manner provided by the rules. In large bodies of this kind, in the absence of the power to limit debate, there would never be a time when the conclusion of a bill could be reached, because if all the members present chose to address themselves to its provisions they would have a perfect right to do so, and there would be no limit to the discussion. If, therefore, the opinion that prevails, as expressed by gentlemen upon the other side, be a correct one, we could never reach the conclusion of any measure of legislation; and that case has never been better illustrated than during the consideration of the first paragraph of this bill. Gentlemen upon the other side have been offering amendments *ad libitum*, and apparently there will never come a time when the bill can be completed. They desire to talk it to death, and amend it until it has no significance whatever.

This House has shown by the vote recently taken, and by several votes upon this bill, an emphatic desire that it should become a law. I understand from the votes that have heretofore been taken upon it that it is the will of the majority of the House to enact it into a law. It is, however, claimed that the mere fact of considering it in the House as in the Committee of the Whole has surrendered the right of the majority who favor the bill to close debate upon it; that the right to offer amendments is unrestricted, and that there is under the rules no way to bring the House to a direct vote upon the proposition which is the passage of the bill. Now we can not accomplish this in any other way except by entertaining the point of order of the gentleman from Alabama.

Mr. HERBERT. Mr. Speaker, I shall not weary the House or detain it but a very few moments longer with this discussion.

The gentleman from Maine [Mr. REED] uttered one sentiment in which I heartily concur. He said that no party ought, in finding itself in a dilemma, to adopt any rule in violation of the rules. I repeat, I most heartily concur in that sentiment. But the gentleman from Maine is the last person upon this floor to utter that sentiment. We all recollect that in the last Congress he was the author of a rule, which took the name of the "Reed rule," that extricated his party from the dilemma in which it had placed itself on the tariff bill—a rule that nobody ever dared to attempt to justify on principle, not even the gentleman from Maine himself.

But this is not a parallel case to the "dilemma" suggested by the gentleman from Maine. What we contend for here is that we have the power to pass this bill according to the rules. There is no doubt, Mr. Speaker, that in that book of rules there is a mode pointed out, by which in just such cases as this debate can be limited, if we are proceeding in the ordinary way as in Committee of the Whole. In Committee of the Whole the committee can rise at any time, go into the House, and limit debate, and under the order of the House as made to that effect can again resolve itself into the committee and proceed with the consideration of the measure before it without further discussion. If, then, the power exists in the House and in the committee acting together to cut off debate, why is it that the same power does not exist when this body as a House, having all the powers of the House and all the powers of the Committee of the Whole combined, is acting upon it?

This body has all the powers that the Committee of the Whole has, with the additional powers that the House itself retains when acting as a House.

The argument of the gentleman from Maine is that because we are acting in committee we have lost our power as a House, but because we have still got the power of the House we have no power as a committee. An absolute *reductio ad absurdum*.

Mr. REED. Mr. Speaker, a word only in reply to the gentleman from Alabama, and I do not make the reply because his allusion was personal to me, but simply because it enforces my argument already made. The gentleman says truly that I was one of those who assisted—he gives me an undue prominence—that I was one of those who assisted to change the rules of this House in order to facilitate the passage of the tariff act. He could also have added that I was one of those who assisted to change the rules of the House for the purpose of carrying through the election cases, and of both of those achievements I permit myself to be proud.

Now I want to say to him that the analogy would have been perfect and his reproach would have been deserved if instead of proposing to change the rules of the House regularly and properly I had got up here and urged my side to violate the rules of the House as established by a decision of the Speaker, from which the gentleman has seen fit to

withdraw his appeal, and to call upon them to establish by construction a new rule for this House which does not exist at present. I say to the gentleman that I should be in perfect sympathy with him as to the establishment of such a new rule. In point of fact I agreed with him that the House might have that right until I heard the decision of the Speaker, the logic of which satisfied my mind that it was a case which had not been provided for. In point of fact the House sitting as Committee of the Whole is a matter which is not contemplated by our rules at all; and it has led to such results that it is very desirable that there should be a rule of the House enabling the House to limit debate.

But I want again to say to this House that the natural right of every member is to discuss all questions, and that only under the rule power of the House can any man's right to discuss questions be limited. We are here to discuss questions, and the limitations of discussion must be by positive rules of the House—not by arguments about temporary inconveniences, but by arguments with regard to inconveniences which cover not only this bill but all bills in like case.

I therefore urge upon the House not to regard this thing as a partisan matter or as a matter connected with railroads, but as a purely parliamentary question, and that we shall not allow ourselves to be betrayed into making a decision which is justified neither by reason, logic, precedent, nor common sense.

Mr. KEIFER. I do not desire to continue the debate, but only to state the real status of the question. I understand that the gentleman from Alabama [Mr. HERBERT]—in the confusion I did not hear him distinctly—after the amendment offered by the gentleman from Michigan [Mr. HORR] was discussed, renewed a motion to limit debate on the pending amendment and section. Is that right?

The SPEAKER. The motion was to close debate on the pending amendment and the section.

Mr. KEIFER. To close debate on the pending amendment and the section. I made the point of order as soon as I ascertained that was the situation. At the same time the gentleman from Alabama submits an interrogatory to the Chair, with the request that that shall be submitted to the House, which is to have the effect of determining the point of order against his motion.

Now I think the orderly way, the proper way under all parliamentary usage, is for the Chair to pass upon the question as to whether the motion is in order, and then if the decision be against the gentleman, let the gentleman take his appeal and see whether the House is willing to sustain the Chair or not. It has been stated by some gentleman that it is in accordance with the custom of the present Speaker and of others who have preceded him to submit such interrogations to the House. I wish to say that in eight years I have never known any such case here. If there has been any I have not known it.

I have known the Speaker, and I recognize it as always his right, rather than to decide a question which appropriately comes up to submit it to the House; but not an abstract inquiry made before the real question comes up to be disposed of. The Chair can always take the judgment of the House rather than give his own decision. That is always a matter of discretion. But here is an interrogatory which the Chair is asked as a matter of practice to submit to the House, the decision of which is to govern the Chair and control it in determining the real question before the House. As suggested by the gentleman from Maine [Mr. REED], it is only another mode of amending our rules.

The SPEAKER. The gentleman from Alabama [Mr. HERBERT] moves to close debate on the pending amendment and on the section of the bill under consideration. Against that motion the gentleman from Ohio [Mr. KEIFER] makes a point of order. The Chair would have no hesitation in deciding or giving his own opinion on this question of order, but, as has been already stated, it is a very important question. It is one on which the House has established no practice, as far as the Chair can ascertain, and any decision made by the Chair would, of course, be subject on appeal to the revision of the House. Under these circumstances the Chair feels it is peculiarly appropriate to submit the question in the first instance to the House itself; and the Chair does, therefore, submit the question to the House in accordance with the request of the gentleman from Alabama, and in accordance with his own judgment as to what is proper.

Mr. REED. The question submitted, then, is as to whether that motion is in order. It is not the question as written out by the gentleman from Alabama.

The SPEAKER. Of course, if the House decides debate can be closed by a motion when it is considering a measure as in Committee of the Whole, the Chair thinks the consequences would follow such action as follow in cases where the House by its order closes debate in the committee.

Mr. REED. But does the Chair desire to establish the precedent of a member sending up a question in that form to be submitted to the House?

The SPEAKER. The gentleman from Alabama does not submit the question to the House, and the Chair does not recognize the right of a member on the floor to submit a question of order to the House except by an appeal. The Chair submits this question to the House; that is, the question of order now pending.

Mr. REED. If the Chair submits merely the point of order, that is all right.

The SPEAKER. The gentleman from Alabama moves to close debate on the pending amendment and the section of the bill under consideration; the gentleman from Ohio [Mr. KEIFER] makes the point of order that this can not be done. The Chair now submits the question to the House, whether it is in order to make a motion to close debate on a pending amendment and on the section under consideration when the House is considering the bill as in Committee of the Whole House on the state of the Union.

Mr. LONG. I desire to make a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. LONG. In case that point should be decided in the affirmative——

The SPEAKER. The Chair would entertain further amendments.

Mr. LONG. In case that question should be decided in the affirmative, will further amendments to the section, to be determined without debate, be cut off?

The SPEAKER. The Chair has just said that he would entertain further amendments, but without debate; in other words, he would give this motion precisely the same effect which it would have if made and carried when the bill was actually under consideration in Committee of the Whole on the state of the Union.

Mr. KEIFER. I do not wish to dispute the discretion of the Chair to submit this proposition, but I want to understand the form of the motion—whether it is that the point of order shall be sustained. [Cries of "Vote!" "Vote!"] If gentlemen propose to make a decision by the House overruling the Chair, I want to understand how they propose to do it.

The SPEAKER. The question is whether the motion made by the gentleman from Alabama is in order and shall be entertained and put to the House. [After putting the question.] The Chair is unable, by the *viva voce* vote, to determine the result.

Mr. HORR and Mr. KEIFER called for the yeas and nays.

The yeas and nays were ordered.

A MEMBER. Let the motion be read.

The SPEAKER. There is nothing to be read. The Chair will again state the question. The gentleman from Alabama moves to close debate upon the pending amendment and the section under consideration. The gentleman from Ohio makes a point of order against that motion; and the question which the Chair submits to the House is whether the motion made by the gentleman from Alabama is in order. The Clerk will call the roll.

The question was taken; and there were—yeas 150, nays 88, not voting 85; as follows:

YEAS—150.

Aiken,	Dibrell,	Lovering,	Stevens,
Alexander,	Dunn,	Lowry,	Stewart, Charles
Anderson,	Eaton,	Lyman,	Stockslager,
Atkinson,	Elliott,	McMillin,	Stone,
Barksdale,	English,	Matson,	Storm,
Beach,	Ermentrout,	Miller, J. F.	Struble,
Bennett,	Findlay,	Mills,	Talbott,
Blackburn,	Follett,	Mitchell,	Taylor, J. M.
Blanchard,	Foran,	Morrison,	Thompson,
Blount,	Forney,	Moulton,	Throckmorton,
Boyle,	Fyan,	Murphy,	Tillman,
Bratton,	Geddes,	Murray,	Townshend,
Breckinridge,	Gibson,	Neece,	Tucker,
Buchanan,	Glascock,	Nelson,	Tully,
Buckner,	Green,	Nicholls,	Turner, H. G.
Burnes,	Greenleaf,	Oates,	Turner, Oscar
Cabell,	Halsell,	O'Ferrall,	Van Alstyne,
Caldwell,	Hammond,	O'Neill, J. J.	Van Eaton,
Campbell, Felix	Hardy,	Patton,	Wallace,
Campbell, J. E.	Henley,	Peel,	Ward,
Candler,	Herbert,	Pierce,	Warner, A. J.
Carleton,	Hewitt, A. S.	Post,	Warner, Richard
Clardy,	Hill,	Price,	Weaver,
Clay,	Holman,	Pryor,	Wellborn,
Clements,	Hunt,	Pusey,	Wemple,
Cobb,	Jeffords,	Reagan,	Wilkins,
Collins,	Jones, H. W.	Reese,	Williams,
Cook,	Jones, J. H.	Riggs,	Willis,
Covington,	Jones, J. K.	Robertson,	Wilson, James
Cox, S. S.	Jordan,	Rogers, J. H.	Wilson, W. L.
Cox, W. R.	Kleiner,	Rogers, W. F.	Winans, E. B.
Crisp,	Lamb,	Seney,	Winans, John
Curtin,	Lanham,	Shelley,	Wolford,
Dargan,	Lawrence,	Shively,	Wood,
Davidson,	Le Fevre,	Singleton,	Worthington,
Davis, L. H.	Lewis,	Snyder,	Yaple.
Deuster,	Long,	Spriggs,	
Dibble,	Lore,	Springer,	

NAYS—88.

Adams, G. E.	Burleigh,	Funston,	Holmes,
Barr,	Campbell, J. M.	George,	Horr,
Bingham,	Cannon,	Goff,	Houk,
Bisbee,	Chace,	Guenther,	Howey,
Boutelle,	Chalmers,	Hanback,	Johnson,
Brainerd,	Culbertson, W. W.	Harmer,	Kean,
Breitung,	Cullen,	Hart,	Keifer,
Brewer, F. B.	Cutcheon,	Haynes,	Kellogg,
Brewer, J. H.	Davis, G. R.	Henderson, D. B.	Lacey,
Brown, W. W.	Davis, R. T.	Henderson, T. J.	Laird,
Browne, T. M.	Evans,	Hepburn,	Libbey,
Brumm,	Everhart,	Hiscock,	McComas,
Budd,	Ferrell,	Hitt,	Morrill.

O'Hara,	Poland,	Rowell,	Stewart, J. W.
O'Neill, Charles	Potter,	Russell,	Strait,
Parker,	Ranney,	Ryan,	Taylor, E. B.
Payne,	Ray, G. W.	Skinner, C. R.	Taylor, J. D.
Payson,	Ray, Ossian	Smalls,	Thomas,
Perkins,	Reed,	Smith, A. H.	Wadsworth,
Peters,	Rice,	Smith, H. Y.	Wait,
Pettibone,	Robinson, J. S.	Spooner,	Wakefield,
Phelps,	Rockwell,	Stephenson,	White, Milo.

NOT VOTING—85.

Adams, J. J.	Ellis,	Ketcham,	Scales,
Arnot,	Ellwood,	King,	Seymour,
Bagley,	Fiedler,	McAdoo,	Shaw,
Ballentine,	Finerty,	McCoid,	Skinner, T. G.
Barbour,	Garrison,	McCormick,	Slocum,
Bayne,	Graves,	Maybury,	Steele,
Belford,	Hancock,	Millard,	Sumner, C. A.
Belmont,	Hardeman,	Miller, S. H.	Sumner, D. H.
Bland,	Hatch, H. H.	Milliken,	Valentine,
Bowen,	Hatch, W. H.	Money,	Vance,
Broadhead,	Hemphill,	Morgan,	Washburn,
Cassidy,	Hewitt, G. W.	Morse,	Weller,
Connolly,	Hoblitzell,	Muldrow,	White, J. D.
Converse,	Holton,	Muller,	Whiting,
Cosgrove,	Hooper,	Mutchler,	Wise, G. D.
Culberson, D. B.	Hopkins,	Nutting,	Wise, J. S.
Dingley,	Houseman,	Ochiltree,	Woodward,
Dockery,	Hurd,	Paige,	York,
Dorsheimer,	Hutchins,	Randall,	Young.
Dowd,	James,	Rankin,	
Dunham,	Jones, J. T.	Robinson, W. E.	
Eldredge,	Kelley,	Rosecrans,	

So the House decided that the motion made by Mr. HERBERT was in order.

The following additional pairs were announced:

Mr. MILLARD with Mr. MULDROW, on all political questions, for this day.

Mr. HATCH, of Missouri, with Mr. HATCH, of Michigan, until further notice, on the pending bill, except the question of its final passage.

The following were announced as paired on this vote:

Mr. DOWD with Mr. JAMES.

Mr. HEMPHILL with Mr. MILLIKEN.

The following were announced as paired on all questions for the remainder of this day:

Mr. FUNSTON with Mr. BURNES.

Mr. WOODWARD with Mr. ELLIS.

The following were announced as paired until further notice:

Mr. VANCE with Mr. WHITING.

Mr. SCALES with Mr. WASHBURN.

Mr. BALLENTINE with Mr. FINERTY.

Mr. SKINNER, of North Carolina, with Mr. MCCORMICK.

The result of the vote was announced as above stated.

The SPEAKER. The question is now upon the motion made by the gentleman from Alabama [Mr. HERBERT] to close debate on the pending amendment and the section under consideration.

The question being taken, it was decided in the affirmative.

The SPEAKER. The question recurs on the amendment of the gentleman from Michigan [Mr. HORR], which will be read.

The amendment was again read.

Mr. HORR. I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 114, nays 121, not voting 89; as follows:

YEAS—114.

Adams, G. E.	Everhart,	Long,	Ryan,
Adams, J. J.	George,	McComas,	Seney,
Anderson,	Goff,	Milliken,	Seymour,
Atkinson,	Guenther,	Morrill,	Shively,
Bagley,	Hanback,	Morse,	Smalls,
Barr,	Harmer,	Murray,	Smith, A. H.
Beach,	Haynes,	Nelson,	Smith, H. Y.
Bingham,	Henderson, D. B.	Nutting,	Spooner,
Bisbee,	Henderson, T. J.	O'Hara,	Stephenson,
Boutelle,	Hepburn,	O'Neill, Charles	Stevens,
Brainerd,	Hiscock,	Parker,	Stewart, J. W.
Breitung,	Hitt,	Payne,	Stone,
Brewer, P. B.	Holmes,	Payson,	Strait,
Brown, W. W.	Horr,	Perkins,	Struble,
Browne, T. M.	Houk,	Peters,	Taylor, J. D.
Brumm,	Houseman,	Pettibone,	Thomas,
Burleigh,	Howey,	Phelps,	Van Alstyne,
Campbell, Felix	Jeffords,	Poland,	Wadsworth,
Campbell, J. M.	Johnson,	Post,	Wait,
Cannon,	Jordan,	Potter,	Wakefield,
Chace,	Kean,	Price,	Ward,
Culbertson, W. W.	Keifer,	Ranney,	Weaver,
Cullen,	Kellogg,	Ray, Ossian	White, J. D.
Cutcheon,	Ketcham,	Reed,	White, Milo
Davis, G. R.	Lacey,	Rice,	Wilson, James
Davis, R. T.	Laird,	Robinson, J. S.	Wood,
Dingley,	Lamb,	Rockwell,	Yaple.
English,	Lawrence,	Rowell,	
Evans,	Libbey,	Russell,	

NAYS—121.

Aiken,	Bratton,	Campbell, J. E.	Clements,
Alexander,	Breckinridge,	Candler,	Cobb,
Barksdale,	Broadhead,	Carleton,	Cook,
Bennett,	Buchanan,	Carlisle,	Cosgrove,
Blackburn,	Buckner,	Cassidy,	Covington,
Blanchard,	Cabell,	Clardy,	Cox, S. S.
Blount,	Caldwell,	Clay,	Cox, W. R.
Crisp,	Herbert,	Nicholls,	Thompson,
Culberson, D. B.	Hewitt, A. S.	Oates,	Throckmorton,
Curtin,	Hill,	O'Ferrall,	Tillman,
Dargan,	Hoblitzell,	Patton,	Townshend,
Davidson,	Holman,	Pierce,	Tucker,
Davis, L. H.	Hurd,	Peel,	Tully,
Deuster,	Jones, J. H.	Pryor,	Turner, H. G.
Dibrell,	Jones, J. K.	Randall,	Turner, Oscar
Dunn,	Kleiner,	Reagan,	Van Eaton,
Eaton,	Lanham,	Reese,	Wallace,
Ermentrout,	Le Fevre,	Riggs,	Warner, A. J.
Ferrell,	Lewis,	Robertson,	Warner, Richard
Forney,	Lowry,	Rogers, J. H.	Wellborn,
Fyan,	Lyman,	Rogers, W. F.	Wemple,
Geddes,	McAdoo,	Shelley,	Wilkins,
Gibson,	McMillin,	Singleton,	Williams,
Glascock,	Matson,	Snyder,	Willis,
Green,	Miller, J. F.	Springer,	Wilson, W. L.
Greenleaf,	Mills,	Stewart, Charles	Winans, John
Haisell,	Money,	Stockslager,	Wise, G. D.
Hancock,	Morrison,	Storm,	Wolford.
Hardeman,	Moulton,	Sumner, C. A.	
Hemphill,	Mutchler,	Talbott,	
Henley,	Neece,	Taylor, J. M.	

NOT VOTING—89.

Arnot,	Ellis,	Jones, J. T.	Scales,
Ballentine,	Ellwood,	Kelley,	Shaw,
Barbour,	Fiedler,	King,	Skinner, C. R.
Bayne,	Findlay,	Lore,	Skinner, T. G.
Beach,	Finerty,	Lovering,	Slocum,
Belmont,	Follett,	McCoid,	Spriggs,
Bland,	Foran,	McCormick,	Steele,
Bowen,	Funston,	Maybury,	Sumner, D. H.
Boyle,	Garrison,	Millard,	Taylor, E. B.
Brewer, J. H.	Graves,	Miller, S. H.	Valentine,
Budd,	Hammond,	Mitchell,	Vance,
Burnes,	Hardy,	Morgan,	Washburn,
Chalmers,	Hart,	Muldrow,	Weller,
Collins,	Hatch, H. H.	Muller,	Whiting,
Connolly,	Hatch, W. H.	Murphy,	Winans, E. B.
Converse,	Hewitt, G. W.	Ochiltree,	Wise, J. S.
Dibble,	Holton,	O'Neill, J. J.	Woodward,
Dockery,	Hooper,	Paige,	Worthington,
Dorsheimer,	Hopkins,	Pusey,	York,
Dowd,	Hunt,	Rankin,	Young.
Dunham,	Hutchins,	Ray, G. W.	
Eldredge,	James,	Robinson, W. E.	
Elliott,	Jones, B. W.	Rosecrans,	

So the amendment was rejected.

The following additional pairs were announced from the Clerk's desk:

Mr. DOWD with Mr. BOWEN, until further notice.

Mr. HAMMOND with Mr. EZRA B. TAYLOR, on all political questions, for the balance of this day. On Mr. HORR's amendment Mr. HAMMOND would vote "no" and Mr. EZRA B. TAYLOR "ay."

Mr. BARBOUR with Mr. BREWER, of New Jersey, on this vote.

The vote was then announced as above recorded.

Mr. WHITE, of Kentucky. I offer the following amendment.

The Clerk read as follows:

Provided further, That any railroad company or its officers, permitting the use of free passes or tickets at other than published reduced rates over its road or any of its branches by any person not a paid employé of said company, shall be required to furnish a similar free pass or ticket at same reduced rate between the same points of any intermediate points to any and all persons who shall apply for the same at any of the regular railroad ticket offices within ten days from the date that the aforesaid pass or ticket at reduced rate may be used.

Mr. WHITE, of Kentucky. It is to prevent discrimination whether by long haul or short haul.

The SPEAKER. Debate is not in order.

The House divided; and there were—ayes 40.

Mr. WHITE, of Kentucky, demanded the yeas and nays.

The House divided; and there were—ayes 23.

Mr. WHITE, of Kentucky. Count the other side.

The other side was counted; and there were—noes 146.

Mr. WHITE, of Kentucky. Tellers on the yeas and nays. [Cries of "No!"] If this is an honest bill it will not hurt it in this way to prevent discrimination.

Tellers were not ordered and the yeas and nays were not ordered—one-fifth not having voted in the affirmative.

So the amendment was disagreed to.

Mr. BUDD. I move the following amendment.

The Clerk read as follows:

Add after the words "3 cents per mile for the distance to be traveled by said person" the following:

"On railroads of the first grade; nor more than 4 cents per mile upon railroads of the second grade; nor more than 5 cents per mile upon railroads of the third grade; nor more than 6 cents upon railroads of the fourth grade, all as herein classified and graded. And for the purposes hereof all railroads on which the net earnings on the entire road, including the amounts allowed for services rendered to the United States, after deducting all expenditures, including repairs, and the furnishing, running, and managing of said road, shall exceed 10 per cent. upon its cost shall be railroads of the first grade; and all railroads on which such net earnings, so as aforesaid calculated, shall exceed 8 per cent. but not 10 per cent., shall be of the second grade; and all railroads on which such net earnings, so as aforesaid calculated, shall exceed 5 per cent. but not 8 per cent., shall be of the third grade; and all other railroads shall be of the fourth grade.

Mr. BUDD. I ask that that be read in its proper connection; and, pending that, so the House may see the effect of the amendment, I move that the House do now adjourn.

The House refused to adjourn.

Mr. BUDD demanded the yeas and nays on the amendment.

The yeas and nays were not ordered.

Mr. BUDD. I ask that it be read in its proper connection.
The SPEAKER. That can be done by unanimous consent.
Mr. BUDD. I ask unanimous consent.
Objection was made.
The amendment was rejected.
Mr. HENDERSON, of Illinois, moved the following amendment:

Insert in line 19, after the word "aforesaid:"
"Unavoidable accidents and detention excepted."

The amendment was disagreed to.
Mr. HENLEY moved the following amendment:

Amend by adding to the end of section 1 the following:
"Any person purchasing a ticket entitling such person to transportation from one State or Territory to another shall be entitled to such transportation at any time after purchasing such ticket within one year; that is to say, such ticket shall entitle the holder thereof for one year to unlimited 'stopover' privileges."

Mr. HENLEY. The object of that amendment is——
The SPEAKER. Debate is not in order. [Cries of "Regular order!"]
The amendment was rejected.
The Clerk read as follows:

SEC. 2. That it shall be unlawful for any person or persons engaged in the transportation of property as aforesaid directly or indirectly to allow any rebate, drawback, or other advantage, in any form, upon shipments made or services rendered as aforesaid by him or them.

Mr. WHITE, of Kentucky. I move to strike out the last word. Here we have a bill before this Congress reported by the gentleman from Texas [Mr. REAGAN] as a substitute for the bill of the committee. That substitute took the place of the original bill before the House by the action of the House. In that step, on the pledge of the gentleman from Texas that we should be allowed to amend this bill, we took his substitute as the basis on which to build up a bill. Now he comes into the House and not only interrupts every gentleman who has sought to speak upon this bill, but has spoken himself longer than any other member and more than any other five members on this floor, and yet when we are about to offer amendments and explain them he rises in the House and proposes to shut off all debate and all amendments.

A few moments ago I offered an amendment. Now, if the gentleman has studied this bill as thoroughly as he tells us he has, he must admit that if his bill is to guard against discriminations in regard to freight, and if it is to be entitled to respectable consideration or is to have any weight, the very gist of it is to be found in the amendment I have offered. For instance, let me ask the gentleman what is to prohibit a railroad company from giving to a shipper in free passes the difference between the amount that he pays and that charged to another shipper, and therefore discriminate between shippers when they should pay and apparently pay precisely the same rate of freight or the same amount of money between the same places? I ask what is to prevent them from discriminating by free passes? And that discrimination is not confined to shippers alone, but the judges of every State know what it is to have free passes. The members of the Legislatures of every State know what it is to have free passes. The members of Congress know what it is to be supplied with them.

Why, in the Committee on Post-Offices and Post-Roads Dr. Norvin Green testified that the gigantic monopoly of the Western Union Telegraph Company in giving check-books to favored persons was but following the example set by railroad companies, which were in the habit of giving free passes to members of Congress because members of Congress were not well paid.

It may be instructive to those interested in the question of free passes, as bearing on the subject of discrimination, about which so much has been said during the discussion of this bill, to give some extracts from the testimony of Dr. Norvin Green, president of the Western Union Telegraph Company, before the House Committee on Post-Offices and Post-Roads, April 8 and April 11, 1884. I quote from page 28 of the printed testimony, as follows:

Mr. WHITE. In view of the fact that a man in Florida has to pay $1 for a night message of ten words to his family in Iowa, can it be defended as a purely business proposition that telegraph franks are given to members of Congress? And I want to renew my question as to how many franks have been given to Members and Senators of the present Congress, to leading newspaper men, to judges on the bench, and to State and national officials; and if those franks are given, what do you expect to receive in return?

Mr. GREEN. I answered the latter branch of the question to the subcommittee of Senator BLAIR'S Committee on Education and Labor in this way: The telegraph company would be considered niggardly and narrow if it did not follow the example of other corporations in its courtesies to public men.

Mr. WHITE. You mean by that the giving of railroad passes, which my friend spoke of awhile ago.

Mr. GREEN. The railroad companies have conspicuously set the example. We issue a limited number for family and social messages. We realize that public men are poorly paid.

And again from page 29, as follows:

Mr. WHITE. Are there as many as fifty Members and Senators in the present Congress that have them?

Mr. GREEN. I do not think I ought to answer that question, because that paves the way to another, and the next question would be, "Who are they. Give their names."

Mr. WHITE. I think we ought to have it.

Mr. GREEN. Get your resolution of the House demanding it.

Mr. WARD. I move that it be considered as the sense of the committee that we would all like to have franks, but we do not like to ask for them. [Great laughter.]

Mr. WHITE. I hope that question will be put, and a yea and nay vote be taken on it. [Renewed laughter.]

And again from page 50 to 52:

Mr. WHITE. I will ask you now if it is not customary for the Western Union Telegraph Company to give stamps and passes to post-office officials?

Mr. GREEN. No more than any other officials.

Mr. WHITE. If I mistake not, it is also customary to give to almost any State or Federal officer that applies for them, stamps and passes. Is not that a fact?

Mr. GREEN. Well, I can not answer that question categorically. I will only say that we do give a great many to State and Federal officers, but to say that they prove of any benefit to us is a question I could not answer.

Mr. ROGERS. I do not suppose you give passes to policemen and constables?

Mr. GREEN. No, sir.

Mr. WHITE. I believe you have stated heretofore that you give passes to members of Congress that ask for them, in order to enable them to correspond by telegraph with their families?

Mr. GREEN. Yes.

Mr. WHITE. I will ask you whether that is a business proposition, and what is the consideration expected?

Mr. GREEN. There is no business proposition, and there is no consideration.

Mr. WHITE. Is it not as important that a man in Florida should correspond with his family in Iowa as a member of Congress in Washington or a judge on the bench or a member of the Legislature should correspond with his family?

Mr. GREEN. All public men, since I was a boy, have been the recipients of public courtesies by all public institutions everywhere. They are dined and wined, and are furnished the choicest rooms at hotels, taken on excursions by railroads, and furnished telegraph passes as a sort of public acknowledgment or indebtedness for their public services. Everybody knows that public men do not make any great amount of money.

Mr. WHITE. Would you put it on the same basis that Mr. Huntington did Mr. Gould's distribution of passes when competing with rivals in railroad matters?

Mr. GREEN. I will repeat what I said when that question was put before, that if we ever derived a particle of advantage by reason of members of Congress or members of Legislatures having our franks in their pockets, we never saw it. I do not believe we have ever derived a particle of benefit from the issuance of passes.

Mr. JONES. There is a saying that a man in trying to stand straight leans a little backward.

Mr. GREEN. Yes; I think that that sometimes applies to some.

I have been informed that the free-check-books business of the Western Union Telegraph Company amounts to one-seventh of the entire business of that gigantic monopoly.

Does not every one know that that is an unjust discrimination in favor of the rich, the influential, and the powerful for which the common people who use the telegraph wires in the pursuit of their daily avocations must in the end pay for?

Now, Mr. Speaker, if the free-check book amounts to so much in so simple a business as the telegraph business, to what extent as an agency for discrimination may not free passes be used in the more complex business of railroad transportation of passengers and freights. Sir, the gentleman from Texas [Mr. REAGAN] has told us over and over again that the essence of his bill is to prevent discrimination between shippers, and he has dwelt long and loud upon "rebates" and upon charging more "for a short than for a long haul." But he seems unable to perceive that free passes are the most objectionable form of discrimination, and may be substituted for rebates to destroy the efficacy of his bill, the very gist of which bill lies in my amendment—an amendment, as this House knows, which the gentleman from Texas [Mr. REAGAN] did not dare to rise in his place and vote for; but, on the contrary, under the whip and spur of his party he has helped to convert his bill, which was professedly one to prevent discrimination between shippers of freight, into a bill which directly authorizes railroad companies to discriminate between passengers "on account of race and color," and that, too, in violation of the pledges of your party before the country during the last campaign, in violation of the Constitution of the United States, contrary to justice, and contrary to the advanced public sentiment of the nineteenth century.

The bill as it now stands is a bill based upon prejudice and hate, characteristic of a party that is unworthy of the trust and confidence of the American people. Taken in connection with the following quotations from the national Democratic platform adopted in Chicago July 10, 1884, this bill is a fit commentary upon the hypocrisy, heartlessness, and fraudulent intent of the Democratic party:

Asserting the equality of all men before the law, we hold that it is the duty of the Government in its dealings with the people to mete out equal and exact justice to all citizens, of whatever nativity, race, color, or persuasion, religious or political.

We believe in a free ballot and a fair count, and we recall to the memory of the people the noble struggle of the Democrats in the Forty-fifth and Forty-sixth Congresses, by which a reluctant Republican opposition was compelled to assent to legislation making everywhere illegal the presence of troops at the polls, as the conclusive proof that a Democratic administration will preserve liberty with order.

Mr. REAGAN. I move to close debate on this amendment and on the section in five minutes.

Mr. O'NEILL, of Pennsylvania. I desire to offer an amendment.

The SPEAKER. There is a motion pending. The gentleman from Texas moves to limit debate upon the pending amendment and section to five minutes.

Mr. O'NEILL, of Pennsylvania. I hope the House will vote that down in pursuance of the agreement had in the Committee on Commerce.

The SPEAKER. The question is on agreeing to the motion of the gentleman from Texas.

Mr. O'NEILL, of Pennsylvania. I think under the agreement in com-

mittee and in the House we have the right to offer amendments under the five-minute rule, and I hope that agreement will not be broken.

Mr. REAGAN. I ask a vote on the pending motion.

The question was taken; and upon a division there were—ayes 118, noyes 58.

Mr. HISCOCK. Do I understand the motion of the gentleman from Texas covers the amendments that may be offered to the section?

The SPEAKER. The motion is to limit debate upon the amendment and the section.

Mr. HISCOCK. That would cover all amendments that may be offered.

Mr. DAVIS, of Illinois. On that I demand the yeas and nays.

The yeas and nays were ordered—50 members voting in favor thereof.

Mr. WAIT. I move that the House do now adjourn.

EXECUTIVE COMMUNICATIONS.

The SPEAKER. Pending the motion to adjourn, the Chair desires to lay before the House a message from the President of the United States and certain executive communications.

RANK OF COMMODORES IN THE NAVY.

The SPEAKER laid before the House the following message from the President of the United States; which was read, and, with the accompanying papers, referred to the Committee on Naval Affairs, and ordered to be printed:

To the Speaker of the House of Representatives:

In compliance with the following resolution adopted by the House on the 10th instant—

"*Resolved*, That the President be requested to furnish this House, as early as convenient, with the necessary information showing the authority of law for which certain commodores of the Navy have been given the rank of acting rear-admirals when, as is alleged, no vacancy existed to justify such action"—

I transmit herewith a communication from the Secretary of the Navy, containing the information called for by the resolution.

CHESTER A. ARTHUR.

EXECUTIVE MANSION, *December* 16, 1884.

CONSULAR REPORTS.

The SPEAKER also laid before the House a letter from the Secretary of State, containing reports of consuls of the United States in relation to the state of labor in Europe; which was referred to the Committee on Labor.

DEPARTMENT OF AGRICULTURE, ETC.

The SPEAKER also laid before the House a letter from the Commissioner of Agriculture, transmitting a list of persons employed and a statement of the expenditures and means adapted for the suppression of contagious and infectious diseases among domestic animals; which was referred to the Committee on Agriculture, and ordered to be printed.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted as follows:

To Mr. MILLARD, indefinitely.

To Mr. DOCKERY, for ten days, on account of sickness in his family.

To Mr. HOPKINS, for the remainder of this day and to-morrow.

To Mr. STEVENS, for two days, on account of important business.

To Mr. CHALMERS, indefinitely, on account of important business.

FEES AND CHARGES OF MARSHALS, ETC.

On motion of Mr. MILLIKEN, by unanimous consent leave was granted to withdraw the views of the minority of the Committee on Expenditures in the Department of Justice upon the subject of fees and charges of United States marshals and other court officials, with authority to present them hereafter.

LEAVE TO PRINT.

By unanimous consent, leave was granted to Mr. WHITE, of Kentucky, and to Mr. BUDD to extend their remarks, made this day, in the RECORD.

ORDER OF BUSINESS.

The SPEAKER. Several gentlemen have intimated a desire to introduce bills for reference, and, if there be no objection, the Chair will recognize them now for that purpose.

There was no objection, and it was ordered accordingly.

JOHN BUSH AND MARTIN GRIGSBY.

Mr. ROBERTSON introduced a bill (H. R. 7766) for the relief of John Bush and Martin Grigsby; which was read a first and second time, referred to the Committee on Ways and Means, and ordered to be printed.

DAVID L. BRAINARD AND OTHERS.

Mr. LE FEVRE introduced a bill (H. R. 7767) for the relief of David L. Brainard and others, non-commissioned officers and privates of the Greely expedition; which was read a first and second time, referred to the Committee on Naval Affairs, and ordered to be printed.

NATIONAL BANK OF BLOOMINGTON, ILL.

Mr. ROWELL introduced a bill (H. R. 7768) to authorize the National Bank of Bloomington, Ill., to change its name to "The First National Bank of Bloomington, Ill.;" which was read a first and second time, referred to the Committee on Banking and Currency, and ordered to be printed.

NATIONAL BOARD OF HEALTH.

Mr. BEACH. I ask unanimous consent to present for reference and printing in the RECORD a memorial.

The SPEAKER. Consent was given merely for the introduction of bills for reference.

Mr. BEACH. This is a very brief memorial, and it is signed by representatives of some twenty States. It is a memorial of the national conference of State boards of health in favor of the bill to prevent the introduction of contagious and infectious diseases into the United States and to establish a national board of health.

The SPEAKER. The gentleman from New York asks unanimous consent that this memorial be printed in the RECORD.

There was no objection.

The memorial was referred to the Select Committee on the Public Health. It is as follows:

Memorial relative to national board of health.

To the Senate and House of Representatives of the United States:

Your memorialists would respectfully represent that for the prevention of the introduction into this country of Asiatic cholera and other diseases dangerous to the public health and their spread from one State into another there is needed thorough organization of health boards, local, State, and national, and such a system of prompt notification from foreign ports and between such boards as shall cause all health authorities throughout this country to act in harmony for the prevention and restriction of such diseases.

Recognizing, therefore, the continued necessity for a national board of health to discharge those functions in health matters which belong to the General Government, and which can not be done by the individual States, the accompanying bill is respectfully presented by the national conference of State boards of health for the consideration of Congress.

At this meeting of the conference States, municipalities, and quarantine stations were represented as follows:

Connecticut: Dr. C. A. Lindsley, State board of health of Connecticut.

Georgia: Dr. J. T. McFarland, health officer of Savannah, Ga.

Illinois: Dr. J. H. Rauch, State board of health of Illinois.

Indiana: Dr. E. S. Elder, State board of health of Indiana.

Kentucky: Drs. J. N. McCormack and W. L. Breyfogle, State board of health of Kentucky.

Louisiana: Drs. S. S. Herrick and S. R. Oliphant, State board of Louisiana.

Maryland: Dr. C. W. Chancellor, State board of health of Maryland; Dr. James A. Stewart, health officer of Baltimore, Md.

Massachusetts: Drs. H. P. Walcott and S. W. Abbott, State board of health of Massachusetts; Dr. S. H. Durgan, health officer of Boston; Dr. A. F. Holt, health officer of Cambridge.

Michigan: Dr. H. B. Baker, State board of health of Michigan.

Minnesota: Dr. C. N. Hewitt, State board of health of Minnesota.

North Carolina: Dr. T. F. Wood, State board of health of North Carolina.

Ohio: Mr. C. W. Rowland, health officer of Cincinnati, Ohio; Dr. A. H. Iddings, health officer of Dayton, Ohio.

Pennsylvania: Mr. Crosby Gray, health officer of Pittsburgh, Pa.; Dr. E. W. Germer, health officer of Erie, Pa.

South Carolina: Dr. J. Ford Prioleau, State board of health of South Carolina; Dr. H. B. Horlbeck, health officer of Charleston, S. C.

Tennessee: Drs. G. B. Thornton and J. B. Thornton, State board of health of Tennessee; Dr. Charles Mitchell, health officer of Nashville, Tenn.

Texas: Dr. William Penny, health officer of Galveston, Tex.

Virginia: Dr. J. G. Cabell, health officer of Richmond, Va.

West Virginia: Drs. J. E. Reeves and T. A. Harris, State board of health of West Virginia.

Wisconsin: Dr. J. T. Reese, State board of health of Wisconsin.

Dr. Smith Townshend, health officer of the District of Columbia.

Canada: Dr. C. W. Covernton, Dominion of Canada and the provincial board of health of Ontario; Dr. F. Montizambert, health officer of Quebec; Dr. William Canniff, health officer of Montreal.

Respectfully submitted.

H. P. WALCOTT,	E. S. ELDER,
W. M. SMITH,	J. C. HEARNE,
J. H. RAUCH,	J. T. REESE,
H. B. BAKER,	I. A. WATSON,
S. S. HERRICK,	J. E. REEVES,
ERASTUS BROOKS,	H. B. HORLBECK,
C. W. CHANCELLOR,	C. A. LINDSLEY,
T. W. WOOD,	J. N. McCORMACK,
G. B. THORNTON,	

Committee.

REPORTS ON LABOR IN EUROPE.

Mr. HITT. On behalf of the Committee on Foreign Affairs I submit the resolution which I send to the desk for reference to the Committee on Printing.

The Clerk read as follows:

Resolved by the House of Representatives (the Senate concurring), That the letter of the Secretary of State dated December 12, 1884, and the accompanying reports of United States consuls on labor in Europe be printed, and that —— additional copies be printed for the use of the House of Representatives, —— copies for the use of the Senate, and for the use of the Department of State 5,000 copies, and 10,000 copies of the Secretary's letter.

The resolution was referred to the Committee on Printing.

JOSEPH R. DODDS.

Mr. WEAVER introduced a bill (H. R. 7769) granting a pension to Joseph R. Dodds; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

ANNA ELLA CARROLL.

Mr. LOVERING introduced a bill (H. R. 7770) for the relief of Anna Ella Carroll; which was read a first and second time, referred to the Committee on Claims, and ordered to be printed.

EFFICIENCY OF THE NAVY.

Mr. McADOO introduced a bill (H. R. 7771) to increase the efficiency of the Navy; which was read a first and second time, referred to the Committee on Naval Affairs, and ordered to be printed.

PENSION LAWS.

Mr. ENGLISH introduced a bill (H. R. 7772) to amend the pension laws; which was read a first and second time, referred to the Select Committee on Payment of Pensions, Bounty, and Back Pay, and ordered to be printed.

WILLIAM E. AYERS.

Mr. NUTTING introduced a bill (H. R. 7773) granting a pension to William E. Ayers, Company E, Twenty-fourth New York Cavalry Volunteers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

J. M. GRIGSBY.

Mr. THROCKMORTON introduced a bill (H. R. 7774) for the relief of J. M. Grigsby; which was read a first and second time, referred to the Committee on Claims, and ordered to be printed.

LOSS OF UNITED STATES STEAMER ASHUELOT.

Mr. O'NEILL, of Pennsylvania, introduced a bill (H. R. 7775) for the compensation of certain officers of the Navy for losses of their property by the loss of the United States steamer Ashuelot; which was read a first and second time, referred to the Committee on Naval Affairs, and ordered to be printed.

NATIONAL BANK OF WINONA.

Mr. WHITE, of Minnesota, introduced a bill (H. R. 7776) to change the name of the National Bank of Winona; which was read a first and second time, referred to the Committee on Banking and Currency, and ordered to be printed.

WILLIAM CHRISTIE.

Mr. BURLEIGH introduced a bill (H. R. 7777) granting a pension to William Christie; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

EXHIBITION IN LONDON IN 1886.

Mr. CURTIN introduced a joint resolution (H. Res. 302) providing for the representation of the United States at the proposed exhibition in London in 1886, and making appropriation therefor; which was read a first and second time, referred to the Committee on Appropriations, and ordered to be printed.

PROPERTY LOST IN MILITARY SERVICE.

Mr. GEORGE introduced a bill (H. R. 7778) to extend the time for filing certain claims for compensation for horses and other property lost in the military service of the United States; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

PIERRE AND SOUTHEASTERN RAILROAD COMPANY.

Mr. KLEINER introduced a bill (H. R. 7779) to grant a right of way to the Pierre and Southeastern Railroad Company across the old Winnebago Indian reservation in Dakota Territory; which was read a first and second time, referred to the Committee on Indian Affairs, and ordered to be printed.

OVERTON L. DEMMITT.

Mr. KLEINER also introduced a bill (H. R. 7780) for the relief of Overton L. Demmitt; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

DAVID RICHEY.

Mr. DEUSTER, by unanimous consent, introduced a bill (H. R. 7781) to increase the pension of David Richey; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JOHN BENSON.

Mr. LAIRD, by unanimous consent, introduced a bill (H. R. 7782) granting a pension to John Benson; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

INTERNAL IMPROVEMENTS.

Mr. GIBSON, by unanimous consent, submitted the following resolution; which was referred to the Committee on Rivers and Harbors:

Resolved by the Senate and House of Representatives, That the Secretary of War be requested to ascertain which and how many, if any, of the navigable streams within the jurisdiction of the United States have been and are now improved by lock and dam, or either, or by other improvement, either by States or by corporations, in pursuance of State authority, and upon which streams and for the use of which improvements toll is now charged, and whether the said improvements can be purchased by the United States, and the probable cost of each of said improvements, together with the probable benefit to navigation and commerce of such purchase, if such purchase were made with the view of making the navigation of such streams free; and that he report to the next Congress.

PATRICK V. DOLAN.

Mr. GIBSON also, by unanimous consent, submitted the following resolution; which was referred to the Committee on Accounts:

Resolved, That the Committee on Appropriations be requested to provide for the payment to Patrick V. Dolan, in one of the general appropriation bills, the difference between the pay of a laborer and that of a messenger, at the rate of $3.60 per day, from June 6, 1884, to June 30, 1885.

CHARLES A. M'DANIEL.

Mr. MURRAY, by unanimous consent, introduced a bill (H. R. 7783) authorizing the Secretary of the Treasury to refund to Charles A. McDaniel the sum of $2,959.55; which was read a first and second time, referred to the Committee on Claims, and ordered to be printed.

PUBLIC BUILDING AT PORTSMOUTH, VA.

Mr. LIBBEY, by unanimous consent, introduced a bill (H. R. 7784) for the erection of a public building at Portsmouth, Va.; which was read a first and second time, referred to the Committee on Public Buildings and Grounds, and ordered to be printed.

PROPOSED IMPEACHMENT OF LOT WRIGHT.

Mr. HOLMAN, by unanimous consent, submitted the following resolution; which was referred to the Committee on Accounts:

Resolved, That the resolution adopted by the House of Representatives on the 2d day of December, 1884, authorizing investigation into the conduct of Lot Wright, United States marshal for the southern district of Ohio, be, and the same is hereby, amended by adding thereto the following:

"The Clerk of the House, upon the order of the chairman of said subcommittee, shall advance to him, in amounts not exceeding $1,000 at a time, such sums as may be required to meet the expenses of said subcommittee; said amounts to be promptly accounted for by proper vouchers, duly certified by the chairman.

ORDER OF BUSINESS.

Mr. TALBOTT. I am directed by the Committee on Naval Affairs to move the adoption of the resolution which I send to the desk.

The SPEAKER. Pending the motion to adjourn, the gentleman from Maryland asks unanimous consent to report a resolution from the Committee on Naval Affairs for present consideration. [Cries of "Regular order!"]

The SPEAKER. The call for the regular order is equivalent to an objection.

The question being taken on the motion of Mr. WAIT that the House adjourn, it was agreed to; and accordingly (at 4 o'clock and 50 minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions and papers were laid on the Clerk's desk, under the rule, and referred as follows:

By Mr. BLANCHARD: Petition of the Louisiana Educational Society, for the passage of the Blair educational bill—to the Committee on Education.

By Mr. BRAINERD: Petition of John E. Larkins and others, relative to pension claim of said Larkins—to the Committee on Invalid Pensions.

Also, petition of citizens of Erie, Pa., relative to the Spanish treaty—to the Committee on Ways and Means.

By Mr. S. S. COX: Memorial of the Phœnix National Bank of the city of New York—to the Committee on the Judiciary.

By Mr. G. R. DAVIS: Resolutions of the Chicago Medical Society, relative to the National Board of Health—to the Committee on Appropriations.

By Mr. DUNN: Papers relating to the claim of the heirs of Alexander G. Clements, deceased; also, papers relating to the claim of Benjamin F. Wallace; also, papers relating to the claim of Pleasant H. Thompson—severally to the Committee on War Claims.

By Mr. FINDLAY: Petition of George W. Alexander, to refund to him the proceeds of sale of certain property sold under the confiscation act, &c.—to the Committee on Appropriations.

By Mr. FOLLETT: Petition of steamboat owners and others interested in the navigation of the Ohio River, protesting against the passage of Senate bill 2374, "To authorize the lighting of the navigable rivers of the United States by electricity—to the Committee on Rivers and Harbors.

Also, resolutions of the Board of Trade and Transportation of Cincinnati, Ohio, in favor of the Lowell bankruptcy bill—to the Committee on the Judiciary.

By Mr. G. W. HEWITT: Papers relating to the claim of William T. Hamner; also, papers relating to the claim of Thomas L. Shamblin—severally to the Committee on War Claims.

By Mr. B. W. JONES: Papers relating to the bill for the relief of George F. West—to the Committee on Invalid Pensions.

By Mr. KELLEY: Protest of the Pennsylvania Suffrage Association against the admission of Dakota as a State, &c.—to the Committee on Territories.

By Mr. PRICE: Papers relating to the claim of Jacob and Elizabeth Sener; also, papers relating to the claim of William H. Rogers—severally to the Committee on Claims.

By Mr. J. H. ROGERS: Papers relating to the claim of Dr. J. H. T. Main—to the Committee on War Claims.

By Mr. ROWELL: Petition of the National Bank of Bloomington, Ill., to change its name to First National Bank of Bloomington—to the Committee on Banking and Currency.

By Mr. RYAN: Petition of Western Miami Indians, praying that cer-

tain money taken from their tribal fund be returned—to the Committee on Indian Affairs.

By Mr. STOCKSLAGER: Papers relating to the claim of Ferdinand Hercher—to the Committee on Invalid Pensions.

By Mr. YOUNG: Papers relating to the claim of Mary E. Geary; also papers relating to the claim of Elizabeth P. Dyer—severally to the Committee on War Claims.

The following petitions for the passage of the Mexican war pension bill with Senate amendments were presented and severally referred to the Committee on Pensions:

By Mr. ANDERSON: Of 62 citizens of Edmonds, of citizens of Ottawa County, and of 55 citizens of Bennington, Ottawa County, Kansas.

By Mr. BARR: Of citizens of Millersburg and of Dauphin County, Pennsylvania.

By Mr. BEACH: Of citizens of Wurtsborough and of Bridgeville, Sullivan County, New York.

By Mr. F. B. BREWER: Of citizens of Cattaraugus County, New York.

By Mr. W. W. BROWN: Of 42 citizens and soldiers of Potter County, Pennsylvania, and of citizens and soldiers of Lycoming County, Pennsylvania.

By Mr. BUCKNER: Of citizens of Frankford, Mo.

By Mr. BURLEIGH: Of citizens of Washington County, New York.

By Mr. J. M. CAMPBELL: Of citizens of Somerset County, Pennsylvania.

By Mr. CULLEN: Of H. A. Crawford and 39 others, of Gardner, Ill.

By Mr. CUTCHEON: Of 63 citizens of Mears, and of 63 citizens of Muskegon, Mich.

By Mr. DIBRELL: Of citizens of McMinn County, Tennessee.

By Mr. EATON: Of Frederick Bissell and others, of East Hartford, and of Leander N. Tucker, of Naubuc, Conn.

By Mr. EVANS: Of Jacob C. Arn and others, of Bucks County, Pennsylvania.

By Mr. FUNSTON: Of citizens of Olathe, Kans.

By Mr. FYAN: Of citizens of the thirteenth district of Missouri, and of Jasper County, Missouri.

By Mr. GUENTHER: Of citizens of Plainfield, Wis.

By Mr. D. B. HENDERSON: Of citizens of the counties of Bremer and Butler; of 64 citizens of Dubuque County; and of 242 citizens of Chickasaw County, Iowa.

By Mr. HEPBURN: Of George L. Young and 100 others, citizens of Decatur County, and of J. A. Roy and 100 others, citizens of Leon, Decatur County, Iowa.

By Mr. HITT: Of 63 citizens of Galena, and of 45 citizens of Warren, Ill.

By Mr. HOUSEMAN: Of E. M. Fitch and 64 others, of Allegan County, and of William E. Estes and many others, of Grandville, Kent County, Michigan.

By Mr. LAMB: Of citizens of Parke County, and of Terre Haute, Ind.

By Mr. LYMAN: Of citizens of Newton, Mass.

By Mr. McCORMICK: Of citizens of Gallia County, Ohio.

By Mr. MILLIKEN: Of Charles Wilson and others, of Togus, Me.

By Mr. MOULTON: Of 500 veterans of the Grand Army of the Republic.

By Mr. PATTON: Of citizens of Indiana County, Pennsylvania.

By Mr. PAYNE: Of S. C. Wheeler and 90 others, of Erie County, Ohio.

By Mr. PERKINS: Of Charles E. Simons and others.

By Mr. PRYOR: Of John B. Caffey and others.

By Mr. RANNEY: Of James M. Freeman and others.

By Mr. RYAN: Of 211 citizens of Kansas, of 108 citizens of Shawnee County, and of 129 citizens of Kansas.

By Mr. SENEY: Of Loyd A. Cook and 60 others, citizens of Seneca County, Ohio.

By Mr. SPRINGER: Of citizens of Lincoln, Ill.

By Mr. STEVENS: Of citizens of Niagara County, New York.

By Mr. STRUBLE: Of J. M. Cochran and 38 others, of Manson; of L. M. Lyon and 71 citizens of Glidden, and of Samuel Adams and 111 citizens of Wall Lake, Iowa.

By Mr. E. B. TAYLOR: Of 62 citizens of Atwater, of citizens of Trumbull, and of 121 citizens of Lake County, Ohio.

By Mr. MILO WHITE: Of 29 citizens of Houston County, Minnesota.

By Mr. WILKINS: Of L. L. Wiles and 60 others, citizens of Muskingum County, Ohio.

By Mr. E. B. WINANS: Of Gideon Durfee and 60 others, citizens of Clinton County, and of W. H. J. Martin and 57 others, citizens of Genesee County, Michigan.

By Mr. JOHN WINANS: Of Ezra Goodrich and 176 others, citizens of Wisconsin.

By Mr. YAPLE: Of R. M. Flack and 61 others, citizens of Constantine, Mich.

SENATE.

FRIDAY, *December* 19, 1884.

Prayer by Rev. BYRON SUNDERLAND, D. D., of the city of Washington.

The Journal of yesterday's proceedings was read and approved.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. CLARK, its Clerk, announced that the House had passed a bill (H. R. 1457) to establish a department of agriculture, in which it requested the concurrence of the Senate.

THE WASHINGTON MONUMENT.

The PRESIDENT *pro tempore* laid before the Senate a communication from W. W. Corcoran, chairman of the Joint Commission for the Completion of the Washington Monument, transmitting the annual report of that body; which, with the accompanying papers, was ordered to be printed, and referred to the Committee on Appropriations.

HOUSE BILL REFERRED.

The bill (H. R. 1457) to establish a department of agriculture was read twice by its title, and referred to the Committee on Agriculture and Forestry.

PRIVILEGES OF THE FLOOR.

Mr. SEWELL. Mr. President, I desire to call the attention of the Senate to a matter that will facilitate business between the two Houses at this stage in relation to enrolled bills. I find some difficulty in delivering enrolled bills to the committee of the House, which is a joint committee, in consequence of the fact that neither of the clerks of the committees can go upon the floor of the other body. I have obtained from the Speaker permission that the clerk of the Senate committee may come on the floor of the House, and I ask unanimous consent that the President of the Senate authorize the clerk of the House committee to come on the floor of the Senate.

The PRESIDENT *pro tempore*. The Senator from New Jersey, from the Committee on Enrolled Bills, asks unanimous consent that the clerk of the House Committee on Enrolled Bills be entitled to the privileges of the floor of the Senate for the purpose of communicating with the Committee on Enrolled Bills here. Is there objection? The Chair hears none, and it is so ordered.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented a memorial of the New York Produce Exchange, favoring some action, either adverse or favorable, on the Spanish reciprocity treaty, so called; which was referred to the Committee on Foreign Relations.

He also presented a memorial of the Bar Association of Spokane, Adams, Lincoln, and Douglas Counties, Washington Territory, on the subject of the administration of justice and the arrangement of counties and districts in that Territory; which was referred to the Committee on the Judiciary.

Mr. LAPHAM presented a petition of Isaac L. Rock, late private of Company I, Ninety-sixth Regiment New York Volunteers, praying for the enactment of a law extending the time for filing claims for arrears of pension; which was referred to the Committee on Pensions.

Mr. CAMERON, of Wisconsin, presented a memorial of cigar-makers of Oshkosh, Wis., and a memorial of cigar-makers of Eau Claire, Wis., remonstrating against the ratification of the proposed reciprocity treaty with Spain; which were referred to the Committee on Foreign Relations.

Mr. HOAR. I present the memorial of Alpheus Hardy and other merchants of Boston and New York, remonstrating against some plans for the distribution of the Geneva award which are contained in various pending bills. It states very briefly, compactly, and clearly the points, and I move that it be printed and referred to the Committee on the Judiciary.

The motion was agreed to.

Mr. SHERMAN presented a memorial of cigar-makers of Sandusky, Ohio, and a memorial of Cigar-Makers' Union 137, of Massillon, Ohio, remonstrating against the ratification of the proposed treaty with Spain; which were referred to the Committee on Foreign Relations.

Mr. SHERMAN. I present resolutions adopted at a meeting of steamboat owners and others interested in navigation, held at the office of the Southern Transportation Line in Cincinnati, December 11, 1884, in which they remonstrate against the passage of the bill to authorize the lighting of the navigable rivers of the United States with electricity, whereby one O. W. Child and his associates are to be granted extraordinary authority and privileges injurious to the navigation of the Western rivers. I move that the memorial be referred to the Committee on Commerce.

The motion was agreed to.

Mr. SHERMAN. I also present the petition of Mary E. Gordon, praying for the passage of a bill replacing the name of her brother, Samuel F. Gordon, late private Company G, Sixteenth Regiment Ohio

Volunteers, on the pension-roll. I move that the petition be referred to the Committee on Pensions.

The motion was agreed to.

Mr. DAWES. I present the petition of John Bird, late private Company I, Fifty-first Massachusetts Volunteers, who says that he is denied arrears of pension because he made application for his pension after the date of limitation had expired, and he prays Congress to remove this unjust discrimination against him. I move that the petition be referred to the Committee on Pensions.

The motion was agreed to.

Mr. INGALLS. I present the petition of sundry citizens of the United States resident in Kansas, praying for legislation to enable certain administrative officers to remain in office so long as their duties shall be satisfactorily and efficiently performed. I move that the petition be referred to the Committee on Civil Service and Retrenchment.

The motion was agreed to.

Mr. ALDRICH. I present a petition of the officers of the Music Teachers' National Association, in behalf of that organization, signed by a large number of well-known professional musicians and by the principal publishers of music in the United States, praying for the passage of an international copyright law. As the petition is very brief, I move that it be printed in the RECORD and referred to the Committee on the Library.

The motion was agreed to.

The petition is as follows:

To the honorable members of the Senate in Congress assembled:

Believing that the promotion of musical-art creation in America would materially benefit us as a nation, and would enable us to command the respect of other nations, and that such art creation has not developed proportionately with the other arts on account of very serious impediments, one of the most important of which is the want of an international copyright law whereby our own art creations are placed at a marked disadvantage before those of foreign nations through the permission of reprints of foreign musical works: Therefore,

We, members of the Music Teachers' National Association, in convention assembled, at Cleveland, Ohio, this 3d day of July, A. D. 1884, and all others whose names are hereunto subscribed, do most respectfully and earnestly petition you, the honorable members of the Senate in Congress assembled, that you will take active measures toward the speedy establishment of an international copyright law, and to this end pray that you will favor the passage of the so-called Dorsheimer bill, or any similar bill, whereby the creative interests of the art of music in America will receive the encouragement so much needed at the present time.

Mr. LOGAN. I present resolutions of the New York Board of Trade and Transportation, in the nature of a petition, in favor of the appointment of a board of railroad commissioners. I suppose it should go to the committee which considered the interstate-commerce bill; but inasmuch as that bill has been reported and is now before the Senate, I move that the petition lie on the table.

The motion was agreed to.

Mr. LOGAN presented two petitions of officers of the Army, praying for the passage of a bill to facilitate promotions throughout the Army by retiring from active service, upon their own application, officers of the Army who served in the war of the rebellion; which was referred to the Committee on Military Affairs.

He also presented a petition of ex-soldiers of Jackson County, Illinois, praying that ex-Union soldiers be given the preference in the settlement of the Oklahoma lands; which was referred to the Committee on Public Lands.

He also presented a petition of ex-Union soldiers, praying for the purchase by Congress of the portrait of the late Maj. Gen. George H. Thomas, owned by Miss C. L. Ransom; which was referred to the Committee on the Library.

Mr. MILLER, of New York, presented the petition of Mrs. E. D. Jones, widow of E. D. Jones, late private Company K, Fourth Regiment New York Cavalry Volunteers; and the petition of Russell Cook, late private Company B, Ninety-sixth Regiment New York Volunteers, praying for an extension of the time of filing arrears of pension claims; which were referred to the Committee on Pensions.

Mr. GIBSON presented a memorial of cigar manufacturers of New Orleans, La., remonstrating against the ratification of the proposed reciprocity treaty with Spain; which was referred to the Committee on Foreign Relations.

REPORTS OF COMMITTEES.

Mr. WILSON, from the Committee on Pensions, to whom were referred the following bills, submitted adverse reports thereon, which were agreed to; and the bills were indefinitely postponed:

A bill (S. 2077) granting a pension to M. A. Jones; and

A bill (S. 1869) granting a pension to Kate C. McDougal, widow of the late Commander Charles J. McDougal.

Mr. WILSON, from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (H. R. 5735) granting a pension to Margaret Daily;

A bill (H. R. 4094) granting a pension to Henry Alden;

A bill (H. R. 2440) granting a pension to Usebus Sweet;

A bill (H. R. 3177) granting a pension to Charles F. Paris; and

A bill (H. R. 452) granting a pension to Frederick Corfe.

Mr. COLQUITT, from the Committee on Pensions, to whom was referred the bill (S. 1796) granting a pension to James P. Roe, submitted an adverse report thereon, which was agreed to; and the bill was postponed indefinitely.

Mr. MITCHELL, from the Committee on Pensions, to whom was referred the bill (S. 2258) granting a pension to Martha Bates, submitted an adverse report thereon, which was agreed to; and the bill was postponed indefinitely.

Mr. DAWES. On the 15th instant there were presented to the Senate by the President *pro tempore* some papers from the Interior Department, consisting of the draught of a bill granting a right of way to the Jamestown and Northern Railway Company through the Devil's Lake Indian reservation in the Territory of Dakota, and some accompanying documents, which contained the negotiations between the Interior Department and the Indians. They were referred to the Committee on Indian Affairs, accompanied by a memorandum upon them that the papers were not ordered to be printed. If there was such a vote as that I ask to have it reconsidered, because it is highly important that the papers should be printed.

I report back the papers, and I should like to have them printed, with the accompanying bill, as a public document, for the transactions between the Interior Department and the Indians out of which the agreement grows should be a public document and printed, so that everybody may see that it is a fair transaction. If there was any such vote as that the papers should not be printed, I should like to have it reconsidered.

The PRESIDENT *pro tempore*. The order of the Senate on the occasion of the presentation of the papers was that the letter of the Secretary of the Interior be printed, and the letter with the accompanying papers referred to the Committee on Indian Affairs. There was no order to print the papers.

Mr. DAWES. The memorandum is that they were ordered not to be printed. I report back the bill, and ask that it be printed and recommitted to the committee; and I ask that the accompanying documents may be printed as a public document to accompany the bill.

The bill (S. 2473) granting a right of way to the Jamestown and Northern Railroad Company through the Devil's Lake Indian reservation, in the Territory of Dakota, was read twice by its title, and, on motion of Mr. DAWES, recommitted to the Committee on Indian Affairs.

The PRESIDENT *pro tempore*. The Senator from Massachusetts moves that the accompanying papers be printed for the use of the Senate. If there be no objection, that order will be entered.

INAUGURATION DAY A LEGAL HOLIDAY.

Mr. INGALLS. I am directed by the Committee on the District of Columbia, to whom was referred the bill (S. 2417) to amend section 993 of the Revised Statutes relating to the District of Columbia, to report it with an amendment.

This is the bill that I reported yesterday, and upon which I asked the action of the Senate. The Chair was correct in calling attention to the incompleteness of the report. It has now been rectified, and I ask the indulgence of the Senate to act upon the bill now.

The PRESIDENT *pro tempore*. The Senator from Kansas asks unanimous consent that the bill be now considered. Is there objection?

Mr. SHERMAN. I should like to hear it read first.

The PRESIDENT *pro tempore*. The bill will be read for information.

The Chief Clerk read the bill.

Mr. INGALLS. Let the amendment be read.

The CHIEF CLERK. It is proposed to strike out all after the word "to," in line 5, as follows:

Include, after the words "Christmas Day," the words "and each 4th day of March of every year on which shall occur the inauguration of the President of the United States."

And to insert:

Read as follows:

"SEC. 993. The following days, namely: The 1st day of January, commonly called New Year's Day; the 4th day of July; the 25th day of December, commonly called Christmas Day, and each 4th day of March every year on which shall occur the commencement of the term of the President of the United States, and when said date occurs on Sunday, then the succeeding day, and any day appointed or recommended by the President of the United States as a day of public fast or thanksgiving, shall be holidays within the District, and shall, for all purposes of presenting for payment or acceptance, for the maturity and protest, and giving notice of the dishonor of bills of exchange, bank-checks, and promissory notes, or other negotiable or commercial paper, be treated and considered as is the first day of the week, commonly called Sunday, and all notes, drafts, checks, or other commercial or negotiable paper falling due or maturing on either of said holidays shall be deemed as having matured on the day previous."

By unanimous consent the Senate, as in Committee of the Whole, proceeded to consider the bill.

The PRESIDENT *pro tempore*. The question is on agreeing to the amendment reported by the Committee on the District of Columbia which has been read.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

BILLS INTRODUCED.

Mr. GIBSON introduced a bill (S. 2474) authorizing the Secretary of

War to transfer the United States barracks at Baton Rouge to the Louisiana State University and Agricultural and Mechanical College at said place for educational purposes; which was read twice by its title, and referred to the Committee on Military Affairs.

He also introduced a bill (S. 2475) to authorize the building of a shell road from Baton Rouge, La., to the national cemetery near said city; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. WALKER introduced a bill (S. 2476) for the relief of James Clifford; which was read twice by its title, and referred to the Committee on Claims.

Mr. SABIN introduced a bill (S. 2477) for the erection of a public building at Stillwater, Minn.; which was read twice by its title, and referred to the Committee on Public Buildings and Grounds.

Mr. PLUMB introduced a bill (S. 2478) to remove the charge of desertion against John Dienst, late of the Twenty-first Ohio Battery; which was read twice by its title.

Mr. PLUMB. I desire to call the attention of the Senator from Missouri [Mr. COCKRELL] and the Military Committee generally to the provisions of this bill to remove the charge of desertion from a soldier named Dienst, and to the fact that accompanying the bill is a letter from the Adjutant-General, in which the case is rejected for the reasons there stated, as not coming within the provisions of the law passed at the last session of Congress, and yet, as I think, stating a very plain case requiring Congress to act for the relief of this most excellent soldier, but who was unfortunate enough to have outstripped many of us and to have enlisted in two regiments in place of one. I move that the bill be referred to the Committee on Military Affairs.

The motion was agreed to.

Mr. VEST (by request) introduced a bill (S. 2479) to repeal section 4419 of the Revised Statutes of the United States; which was read twice by its title, and referred to the Committee on Commerce.

Mr. COKE introduced a bill (S. 2480) for the relief of George Storrs; which was read twice by its title, and referred to the Committee on Indian Affairs.

EDWARD L. KEYES.

Mr. DAWES. I ask unanimous consent for the reconsideration of a vote passed at the last session by which a bill adversely reported was indefinitely postponed. I will state to the Senate the reasons for asking a reconsideration.

On the 22d of April the Senator from New Jersey [Mr. SEWELL] reported adversely from the Committee on Military Affairs the bill (S. 1798) for the relief of Edward L. Keyes, and it was indefinitely postponed. The adverse report, as I understand, was made because there were no papers in the possession of the committee to support the bill. The reason why there were no papers, I am informed, was because the papers had been in the custody of the late Senator Carpenter and were mislaid, and those interested in the matter were unable to find the papers until after the report was made. Mr. Carpenter's late partner in business has been able since then to find the papers upon which the bill was based, and it is the desire of the friends of Mr. Keyes to have the vote reconsidered and the bill recommitted to the committee and those papers submitted. That is the ground upon which I ask a reconsideration.

I do not know the merits of the bill or what is contained in the papers. I have reason to believe and feel that the claim of Mr. Keyes is a meritorious claim. The Senator from New Jersey does not object to having the bill recommitted and the papers which have since been found with Mr. Carpenter's papers submitted to the committee. Of course it can not be done except by unanimous consent.

The PRESIDENT *pro tempore*. The Senator from Massachusetts asks unanimous consent that the vote of the Senate taken at the last session indefinitely postponing the bill (S. 1798) for the relief of Edward L. Keyes be reconsidered. Is there objection? The Chair hears none, and the vote is reconsidered.

Mr. DAWES. I move that the bill be recommitted to the Committee on Military Affairs.

The motion was agreed to.

RIGHTS IN LAND GRANTS.

The PRESIDENT *pro tempore*. The Senate resumes the consideration of the Calendar under Rule VIII, commencing at Order of Business 338, being the bill (S. 1445) to provide for the settlement of the rights of States and of the corporations and persons interested in any grant of lands in aid of railroads and canals which shall be declared forfeited by act of Congress.

Mr. MORGAN. That is a proposed general law providing a remedy in the courts at the suit of the United States in all cases where railroad land grants have been forfeited by act of Congress. The subject is not yet prepared for the consideration of the Senate. There is pending in this body a report of the conferees of the two Houses upon a bill which involves the whole principle of this measure, and which I have not as yet had the opportunity to present in such a way as I think would be appropriate. I will ask the further indulgence of the Senate that this bill may be passed over informally until that report shall be acted upon.

The PRESIDENT *pro tempore*. The Senator from Alabama asks unanimous consent that the bill be passed over, retaining its place on the Calendar under Rule VIII. Is there objection? The Chair hears none, and it is so ordered.

SHOSHONES, BANNOCKS, AND SHEEPEATERS.

The bill (S. 1008) to accept and ratify the agreement submitted by the Shoshones, Bannocks, and Sheepeaters of the Fort Hall and Lemhi reservations, in Idaho, May 14, 1880, for the sale of a portion of their lands in said Territory, and for other purposes, and make the necessary appropriations for carrying out the same, was announced as next in order; and it was considered as in Committee of the Whole.

The bill was reported from the Committee on Indian Affairs with an amendment, to add:

SEC. 4. That this act shall take effect only when the President of the United States shall have had presented to him satisfactory evidence that the agreement herein set forth has been accepted in conformity with the eleventh article of the treaty of July 3, 1868, with the Shoshones and Bannocks, and he shall have made proclamation thereof.

The amendment was agreed to.

Mr. COCKRELL. I should like to have the Senator from Massachusetts [Mr. DAWES] who reported the bill give some explanation of this bill and state what changes it makes in regard to our present relations with those tribes.

Mr. DAWES. I should like to have read the amendment which the Senate has adopted.

The PRESIDENT *pro tempore*. The amendment just adopted will be again reported.

The Chief Clerk read the amendment.

Mr. DAWES. This agreement was made, as appears upon the face of the bill, several years ago, and the Interior Department have been for some time very anxious to have it ratified. There has been no opposition from any quarter, and it has only been for lack of opportunity to bring it before either House that it has not been acted on.

These tribes of Indians are small, but scattered over a large area of reservation. It has been the desire of the Interior Department to gather them all upon one reservation and to throw open to settlement a portion of the reservation of no use to them. They made this agreement after long negotiation, and the terms of the agreement itself are set forth in the bill.

By the terms of the agreement the Indians are to take land in severalty, and to hold it under the United States for twenty-five years, and when they have their land in severalty in the quantities specified in the bill the rest of the land is to be thrown open to settlement, and the Indians in consideration of it are to have the annuity for twenty years specified in the agreement.

It is said by those who negotiated it that the Indians, supposing when they had signed the agreement with the agent of the United States that was the end of it and a completion of the agreement, have gone into possession under the agreement, and are carrying out their part of it, and are at a loss to know why they do not receive this money. They can not understand (and that is the case with a great many of the Indians) that the agreements they make must be ratified by Congress and appropriations must be made. They have an impression when they make an agreement with the United States that the Government is prepared to pay over the money and the agreement is completed. Unless this money is paid there is danger of an outbreak there. It is the opinion of the Interior Department, and especially of the agent sent out to make the agreement, that it is for the best interests of all the Indians, and that it will bring into market a large tract of country which would otherwise be held as a reservation unappropriated and left for cattle-men to have the entire advantage of.

It is an agreement to which I can see no objection, and I think it ought to be ratified. I have the papers here upon which it was founded. The message of the President communicating the whole transaction is in Senate Executive Document No. 19, and the bill itself was drawn in the Interior Department. The Committee on Indian Affairs investigated it to the extent that they were satisfied that these parties acted in good faith. Whether their judgment as to the amount of land to be disposed of is a correct one or not the Committee on Indian Affairs have been obliged to trust to the agents of the Government.

The PRESIDENT *pro tempore*. The time of the Senator from Massachusetts has expired.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

PETER DELLA TERRE.

The bill (S. 294) for the relief of Frank Della Terre and Susan Della Terre, heirs of Peter Della Terre, deceased, was announced as next in order.

Mr. CAMERON, of Wisconsin. The consideration of this bill undoubtedly will involve a good deal of debate. I do not think it can be properly considered under the five-minute rule. I object to, it in order that it may take its place on the Calendar under Rule IX.

The PRESIDENT *pro tempore*. The bill being objected to goes over.

EDUCATIONAL FUND.

The bill (S. 1235) to establish an educational fund and apply a portion of the proceeds of the public lands to public education and to provide for the more complete endowment and support of colleges for the advancement of scientific and industrial education was announced as next in order.

Mr. INGALLS. I object to that, Mr. President.

Mr. MORRILL. I ask the Senator from Kansas to allow the bill to go over informally without prejudice.

The PRESIDENT *pro tempore*. The Senator from Vermont asks unanimous consent that the bill be passed over, retaining its place on the Calendar under Rule VIII. Is there objection? The Chair hears none, and it is so ordered.

SOUTHERN MAIL CONTRACTORS.

The joint resolution (S. R. 13) to reappropriate and apply the amount appropriated by the act of Congress approved March 3, 1877, to pay certain Southern mail contractors was announced as next in order.

Mr. INGALLS. I object to that.

The PRESIDENT *pro tempore*. The resolution goes over.

Mr. GARLAND. Will the Senator from Kansas consent that that may go over informally without losing its place?

Mr. INGALLS. Yes, sir.

The PRESIDENT *pro tempore*. The Senator from Arkansas asks unanimous consent that the joint resolution be passed over retaining its place on the Calendar under Rule VIII. Is there objection?

Mr. CONGER. I have no objection to its going over now, but when it does come up it will be necessary to consider it under Rule IX, or not to have the five-minute rule applied to the consideration of it, I think. Perhaps the sooner it is passed over to take its place under Rule IX the earlier it will be on the Calendar.

The PRESIDENT *pro tempore*. The Chair understands the Senator from Michigan to object to the bill retaining its place under Rule VIII.

Mr. CONGER. I make the suggestion. I have no choice in regard to it.

Mr. GARLAND. I wish to state to the Senator from Michigan that it is my purpose when we do take it up to have it considered regardless of the five-minute rule. I think when the Senator from Michigan looks at the amended resolution as it comes from the Committee on Post-Offices and Post-Roads he will have no further objection to it. I believe it has been amended to meet the objection he and the Senator from Ohio had to the original resolution.

Mr. CONGER. I have no objection to its keeping its place, but it can not be considered properly under the five-minute rule.

The PRESIDENT *pro tempore*. Is there objection to the resolution being passed over, retaining its place?

Mr. MAXEY. Mr. President——

The PRESIDENT *pro tempore*. Debate is not in order. If there be no objection the Senator from Texas will proceed.

Mr. MAXEY. I was going to make a remark because I reported the resolution from the Post-Office Committee. The resolution as reported is in exact accordance with the resolution as it passed at a former session of the Senate, with one additional amendment in the interest of the Government, not in the interest of the claimants, to require the production of certain proofs. It is in the interest of the Government and not of the claimants, and the entire resolution is drawn with the view of meeting the views of the Senate as expressed at a former session. That will appear whenever the matter comes up for consideration.

The PRESIDENT *pro tempore*. Is there objection to the resolution being passed over, retaining its place on the Calender under Rule VIII? The Chair hears none, and it is so ordered.

PETER TARGARONA.

The Senate, as in Committee of the Whole, proceeded to consider the bill (S. 902) for the relief of Peter Targarona, the pending question being on the amendment reported by the Committee on Claims.

Mr. MCMILLAN. I should like to have some explanation of that.

Mr. MANDERSON. There is a report from the Committee on Claims in this case which gives a very full account of the whole subject, a reference to which will show the circumstances.

Mr. INGALLS. Will the Senator state briefly the points?

Mr. CONGER. Let the report be read.

The PRESIDENT *pro tempore*. The report will be read.

The Secretary read the following report, submitted by Mr. MANDERSON March 14, 1884:

The Committee on Claims, to whom was referred the bill for the relief of Peter Targarona, having considered the same, respectfully submit the following report:

This claim has been before Congress since the first session of the Forty-fifth Congress. In the House of Representatives it has been frequently considered by the Committee on Claims, and favorable reports have been made by it at the second session of the Forty-fifth, second session of the Forty-sixth, and the first session of the Forty-seventh Congress.

Favorable report was also made by the Senate Committee of Claims of the Forty-seventh Congress at its first session. This report is so full and sets forth so clearly the claim and rights of the claimant that your committee adopt said report as its own:

"Mr. PUGH, from the Committee on Claims, submitted the following report, to accompany bill S. 522:

"The Committee on Claims, to whom was referred the bill for the relief of Peter Targarona, having considered the same, respectfully submit the following report:

"The committee find the following facts:

"That the claimant, Peter Targarona, in July, 1865, was the owner of the steamboat Capitol, her tackle, apparel, and furniture.

"That Targarona was then an unnaturalized resident in the city of New Orleans and State of Louisiana, and a native of Spain.

"That on July 3, 1865, Rufus Waples, as attorney of the United States for the eastern district of Louisiana, on behalf of the United States, and Charles Black, sr., informant, filed a libel of information in the circuit court of the United States for the sixth judicial circuit and eastern district of Louisiana against the steamboat Capitol, her tackle, apparel, and furniture, in a case of seizure and forfeiture, under the act of Congress approved August 6, 1861, entitled 'An act to confiscate property used for insurrectionary purposes.'

"That Cuthbert Bullitt, as United States marshal, acting under the authority of an admiralty warrant issued from said circuit court on said libel of information, seized and took into possession the said steamboat Capitol, her tackle, apparel, and furniture.

"That the same were duly claimed by said Targarona, who applied to said court to release said steamer, &c., to him on bond.

"That, on motion, the court ordered an appraisement of the steamer Capitol, her tackle, apparel, and furniture, which was done, and reported to the court at $8,000.

"That on the order of the said court Targarona gave bond and security, conditioned as the law directs, and resumed possession and control of his said steamboat, &c.

"That afterward the steamboat, while running on the Red River, in the service of her said owner, was sunk by accident, and became a total loss.

"That on the trial of the libel suit judgment of condemnation and forfeiture was rendered by said court on the 10th day of January, 1866, against said steamboat, her tackle, apparel, and furniture.

"That the claimant, not being able to deliver said steamboat, on account of her loss, judgment was rendered by said court on said release bond against Targarona and his sureties for $8,000.

"That, on motion, said court granted Targaronaun appeal to the Supreme Court of the United States, on his executing bond with sureties in the sum of $12,000 conditioned to prosecute the appeal and satisfy whatever judgment might be rendered against them if they were cast in the appeal.

"That said suspension appeal was granted on the 2d day of February, 1866, and notice thereof served by the United States marshal on the district attorney February 8, 1866.

"That on the application of the district attorney an execution of fieri facias was issued from said court the 7th day of February, 1866, against said Targarona and his sureties on said release bond for $8,000 and $357.85 costs of the libel suit; that said execution was levied by said marshal on the steamboat Live Oak as the property of said Targarona; that under order of the said circuit court the steamboat Live Oak, her tackle, apparel, and furniture were appraised on June 14, 1866, at $18,000; that the appraisers appointed by said circuit court found that the steamer Live Oak cost said Targarona $25,000, and that he expended for repairs $15,000; that under said execution said marshal sold said steamer Live Oak, &c., at public outcry, on 22d day of May, 1866, for cash, at the sum of $8,300, and paid the same into said circuit court in current funds of the United States on the 25th day of May, 1866; that at the December term, 1867, of said circuit court judgment was rendered in favor of divers persons as intervenors and libellants in said case against said proceeds of said steamer Live Oak for the amounts by them claimed, respectively, and which is established in the following classification, &c.:

"That the several sums due by said Targarona to said several intervenors for wages as employés on said steamer Live Oak, and for material and supplies furnished him, amounted in the aggregate to $6,729.15, which said circuit court ordered to be paid said intervenors out of the proceeds of the sale of said steamer Live Oak; and the balance of said proceeds, amounting to $1,570.85, the said circuit court applied to the payment of the costs and charges incurred in said libel proceedings, and for which the United States became liable on the reversal by the Supreme Court of the United States of the judgment of said circuit court, condemning said steamboat Capitol as aforesaid and the dismissal of said libel of information of said circuit court; that at the December term, 1868, of the Supreme Court of the United States the said suspension appeal cause came on to be heard before the said Supreme Court, when it was ordered, adjudged, and decreed that the said decree of said circuit court in said libel proceedings against said steamboat Capitol be, and the same is hereby, reversed, and that said cause be remanded to said court with directions to dismiss the libel of information. The judgment reversing and dismissing said decree and information is dated March 22, 1869. The proof accompanying the petition of claimant to Congress for relief greatly preponderates to show that the steamer Live Oak, her tackle, apparel, and furniture, were worth more than double the amount of $18,000, at which they were appraised under the order and direction of the circuit court.

"When the appeal to the Supreme Court in the confiscation case came on to be heard, the only question considered and passed on by the court was, on the motion of Mr. Evarts, Attorney-General, that the judgment of the circuit court be reversed, and the cause remanded with instructions to dismiss the libel of information. In rendering the opinion on the motion of Mr. Evarts, which was resisted by the informer, the court say (7 Wallace, Rep. 454):

"'Although the name of the informer is mentioned in the libel of information, still it is nevertheless true that the suit was instituted by the district attorney in the name and for the benefit of the United States. Control of the suit, therefore, while it was pending in the circuit court, belonged to the district attorney under the general superintendence and direction of the Attorney-General, and he might, if he had seen fit, have discontinued it at any stage of the proceedings prior to the appeal. Such control on the part of the district attorney ceases whenever such a suit, civil or criminal, is transferred to this court by writ of error, appeal, or certificate of division of opinion, as the thirty-fifth section of the judiciary act also provides that it shall be the duty of the Attorney-General to prosecute and conduct all suits in the Supreme Court in which the United States shall be concerned.'

"It is clear, then, that after granting the appeal, and the execution of the appeal bond, all further proceedings in the circuit court to execute its decree of condemnation of the steamer Capitol were suspended until the final decision of the Supreme Court. The issuance of the execution of fieri facias from the circuit court was wholly unauthorized, and in contempt of the supreme order of the circuit court. The district attorney ordered the clerk to issue the execution after the suspension order of appeal was granted, and after the execution of the suspensive bond, of which order and giving of the bond he had written notice the day after said execution was issued. The clerk knew of the suspension order and the execution of the appeal bond, and so did the United States marshal; and the district attorney, clerk, and marshal well knew that the seizure and advertisement and sale of the steamer Live Oak were in violation of the order of the circuit court suspending all further proceedings in said libel of information. It is equally certain that the claimant Targarona was also fully informed that the issuance of the execution and the seizure and sale of his steamboat were wholly unauthorized, and that all he was required to do to arrest the proceedings which terminated in the sale of his steamboat was to apply to the judge of the said circuit court to supersede and quash said execution.

"It is remarkable that with full knowledge of the suspensive order of the circuit court, and of the pendency of his appeal, the claimant should have made no

effort whatever to protect himself against the open defiance of the order of the circuit court by the district attorney, clerk, and marshal, when his remedy was plain and adequate, and if unknown to him must have been familiar to his attorney, who was present with him in the same city where his rights were openly disregarded.

"There is another equally remarkable feature in the proceedings on the libel of information.

"The Supreme Court say in the opinion (*supra*) that 'judgment in the circuit court is for the complainants or for the United States; and if for the latter, and the claimants do not remove the cause into this court for revision, it then becomes the duty of the circuit court to render the decree for distribution.'

"Notwithstanding the cause was removed to the Supreme Court for revision, while it was pending there on a suspensive appeal the circuit court, Judge Wood presiding, entertained jurisdiction of the petitions and libels of information against the proceeds of the sale of the steamer Live Oak, and condemned the proceeds to the payment of all the costs in his court and rendered judgment of distribution of the balance among the intervening creditors of Targarona.

"It may be that the intervenors proceeded by petition or otherwise to enforce their prior lien on the Live Oak or the proceeds of its sale to satisfy their claims for wages, supplies, and material furnished Targarona. And it may not have been brought to the attention of the circuit court that a suspensive appeal had been taken prior to the sale of the Live Oak and the payment of the proceeds into court. As Targarona must have had notice of the proceedings by the intervenors to ascertain the amount of his indebtedness to them and to obtain judgment of condemnation of the proceeds of the sale of the Live Oak to their claims, the failure of Targarona to bring to the notice of the court the illegality of the sale of his steamboat may estop him from setting up the illegality of the sale as a foundation for his claim against the Government.

"There is no evidence of any attempt by Targarona to enforce any remedy he had against the clerk or marshal. Nor is there any proof that Targarona attended the sale of his steamboat to notify bidders of the illegality of the sale, which he could have done, and entitled himself to bring suit against any purchaser of his steamboat to recover the boat itself or its value.

"Targarona made no effort to reimburse himself for his alleged losses out of the United States except by his petition to Congress, filed January 31, 1876.

"Several questions of law arise on the facts found by the committee.

"1. Were the acts of the clerk and marshal in issuing the execution of fieri facias, and the sale under it by the marshal of the steamer Live Oak, void or voidable? and, if either, can the United States be held responsible in justice and equity for the losses resulting from the illegal and unauthorized acts of its agents? If voidable only, and done under color of authority, ought the United States to reimburse those who suffer from such acts when it is manifest that the injury could have been prevented by the use of ordinary diligence in resorting to plain, adequate, legal remedies.

"2. Was Targarona compelled by law to resort to his legal remedies against the wrongful acts of the clerk and marshal in issuing the execution and selling the steamer Live Oak?

"3. The libel of information being wrongful, and the United States being bound by the acts of the district attorney in filing such libel of information and in ordering the admiralty warrant under which the Capitol was seized and taken possession of by the marshal, ought the United States to be heard to require of the injured party that he should have protected himself against the wrong in selling his other steamboat by resorting to his legal remedies?

"4. Has the original actor in a wrongful judicial proceeding the right to escape liability by charging the sufferer with contributory negligence?

"5. If the United States are liable for anything, to what extent? Does the liability go beyond the amount of the costs and charges paid out of the proceeds of the sale of the Live Oak, and for which costs and charges the United States became liable when the judgment of the circuit court was reversed and the libel of information ordered to be dismissed?

"The Supreme Court in the opinion (*supra*) say:

"'Under the rules of the common law it must be conceded that the prosecuting party may relinquish his suit at any stage of it, and withdraw from court at his option, and without other liability to his adversary than the payment of taxable costs which have accrued up to the time when he withdraws his suit. Precisely the same rule prevails (say the court) in the admiralty courts, and consequently the libelant has the right at any stage of the cause to discontinue the same, and the only penalty to which he can legally be subjected, in the absence of any statutory regulation, except, perhaps, in prize cases, is the payment of the costs of the proceedings.'

"To the extent that the proceeds of the sale of the Live Oak were applied to the payment of the honest debts of Targarona, the United States, in any event, should not be held responsible. But the balance of the proceeds of said sale have gone to the payment of costs and charges for which the United States were liable on the reversal of the judgment of the circuit court, and the dismissal of the libel or information, and as to that amount ($1,570.85) the claimant should be reimbursed, unless he has lost his right by failing to make timely application to Congress for relief. As to all the other questions presented your committee express no opinion. And after due consideration of all the facts and the character of the legal questions in the case, your committee feel constrained to report back Senate bill No. 522 with a recommendation that it pass."

Your committee, coinciding with the views expressed above, report back a substitute for bill S. 902, and recommend that said substitute pass.

Mr. COCKRELL. Mr. President——

Mr. CONGER. Let the substitute be read.

The PRESIDING OFFICER (Mr. HAWLEY in the chair). The amendment reported by the Committee on Claims will be read.

The CHIEF CLERK. It is proposed to strike out all after the enacting clause and in lieu thereof to insert:

That the claim of Peter Targarona for loss and damages alleged to have been sustained by him through the seizure and sale of the steamboat Live Oak, be, and the same hereby is, referred to the Court of Claims, with power to hear and determine the same upon the merits thereof; and any defense, set-off, or counter-claim may be pleaded by the United States as defendents, as in cases within the general jurisdiction of the court, and either party shall have the same right of appeal as in such cases; and the testimony of the claimant or of any party in interest may be admitted in evidence: *Provided*, That the liability of the United States shall be the same as if the acts done by the officers of the Government in the premises had been done by the agents of a public corporation.

Mr. COCKRELL. Mr. President, the report which has been read fits an entirely different bill from the one before the Senate now. It is a report to allow this man $1,570, I think the amount is, and the bill is to refer him to the Court of Claims for $25,000. I object to the further consideration of it.

The PRESIDING OFFICER. The bill goes over.

JULIA A. NUTT.

The bill (S. 1851) for the relief of Julia A. Nutt, widow and executrix of Haller Nutt, deceased, was announced as next in order.

The PRESIDING OFFICER. The Chair is informed that the Senator from Mississippi [Mr. GEORGE] desires to be heard on this bill, as it has been partly provided for in some other subject-matter of legislation. He left that word with the Secretary at the desk.

Mr. HOAR. The Senator was in his seat a moment ago.

The PRESIDING OFFICER. If there be no objection the bill will go over informally.

Mr. HOAR. Let the reading of the bill proceed.

The PRESIDING OFFICER. The bill will be read.

The Chief Clerk read the bill.

Mr. HOAR. If the Senator from Mississippi desires to be heard in the matter it had better go over informally until he comes in.

The PRESIDING OFFICER. The Chair has been informed that the Senator from Mississippi left word with the Secretary that he desired to be heard upon this bill. The Senator is now in his seat.

Mr. GEORGE. Let the Senator from Massachusetts state what he has to say.

Mr. HOAR. I will make a brief statement to the Senate in regard to this bill, if the Senate please.

This claimant presented a claim for a very considerable sum, several hundred thousand dollars, and it was referred to me by the Committee on Claims. I gave a very careful and anxious examination to the matter and made a report allowing a small portion of the amount claimed, I think perhaps $30,000 or $40,000; I do not recollect the sum, but it was a very much smaller sum than was claimed. Then after my report the claimant thought I had omitted some considerations which ought to have been weighed in his favor and desired a hearing, and on a hearing I became satisfied that there were some equitable considerations which had not had their full weight, and so reported to the committee, and the committee agreed to allow the claimant a larger sum, I think about $80,000, if I recollect aright. The Senator from Mississippi will correct me if I state the sum wrong.

Mr. GEORGE. About $80,000.

Mr. HOAR. That bill (and this present bill is the same) being pending, allowing $80,000, the Southern claims bill, the general large omnibus bill, was reported to the Senate, and this claim was put upon it in the Senate as an amendment, and it went to the House and the House struck it out. Then there was a committee of conference, of which I was not a member, and that committee of conference agreed on $30,000.

If that was intended by those conferees as a complete satisfaction of the claimant's claim, the House in the first place denying that anything was due, it seems to me the bill ought not to be pressed further for any sum. If, however, as the claimant informs me he thinks was the fact, the committee of conference intended to make this payment without prejudice to his further claim, though I never knew of such a thing being done before, then the bill ought to be amended by striking out what he has received and be considered by the Senate for the balance. I have no knowledge myself about what governed the committee of conference. The chairman of the Committee on Claims, who was a member of it, will be able to state that, and I shall be governed in my vote by his statement.

Mr. GEORGE. Mr. President, in response to the inquiry made by the Senator from Massachusetts in reference to the action of the conference committee, I will state that I was a member of that committee. I do not know what other members of the committee considered with reference to the sum that was finally agreed upon, but I know what my own action was, and also what I considered as the result of the action of the committee.

I regarded the claim as reported by the Senator from Massachusetts, after a very careful examination, as just to the full amount reported by him. The parties were in necessitous circumstances. The House had stricken out the whole item in the bill which had been sent to them by the Senate, and my action was governed solely by the hope to get a part of a claim which I regarded as just, which the Committee on Claims regarded as just, and which the Senate by unanimous consent pronounced to be just. That was my reason for my action in the matter. What others may have thought I do not know. I am sure of one thing, however, Mr. President, that there was no express agreement made by the committee as a committee that this small sum which was accepted should be considered as a settlement and satisfaction of the whole claim.

Mr. CAMERON, of Wisconsin. Mr. President, I was a member of the conference committee on this bill referred to. I suppose it is proper to state that a majority of the House conferees were very strongly opposed to allowing any part of the claim. The Nutt claim, as has been stated by the Senator from Massachusetts, was put upon the general bill for the payment of claims allowed by the Department during the preceding year. There were in that bill probably a thousand claims, some of them very small, and, so far as the committee was aware, all meritorious. Unless the bill were passed at the last session those parties would be kept out of their money for at least one year longer. After a great deal of argument back and forth between the Senate and the House conferees, it was finally agreed that the sum of $30,000, if that were the sum, should be inserted in the bill for the Nutt claim.

I agree with the Senator from Mississippi, who was also a member of

the conference committee, that there was no express agreement on the part of the committee that that sum should be taken and considered in full payment or settlement of the claim; but I understood—I do not know what the understanding of the other members of the committee was—that it was a full and final settlement and satisfaction of the claim.

Mr. COCKRELL. When was the bill passed; at the last session?

Mr. CAMERON, of Wisconsin. At the last session.

The PRESIDING OFFICER. July 5, 1884.

Mr. CAMERON, of Wisconsin. But I certainly did not expect that the Nutt claim would ever again be pressed in Congress for any sum whatever.

Mr. SAULSBURY. What is the amount?

Mr. CAMERON, of Wisconsin. It is very large—several hundred thousand dollars—perhaps $250,000. There was a part payment made upon the claim under an appropriation made by Congress ten or fifteen years ago. It was not stated at the time that it was in part payment of the claim, but it was taken and the money paid over to the claimant, and, as the Senator from Massachusetts has stated, the claim presented in the last Congress was for a large amount, $200,000 or $300,000. After carefully considering it, the Committee on Claims reported in favor of the payment of $80,000. That is the bill which is now on the Calendar. But the Committee on Claims became satisfied that this bill would not be reached, and if it were reached in the Senate it certainly would not be in the House, and for the purpose of bringing the matter to a final determination the Committee on Claims, when the general bill for the payment of Southern claims was before the Senate, put this bill on as an amendment, and it was the only additional amount that was placed upon the bill.

I myself am not in favor of allowing anything further on this claim, and am in favor of indefinitely postponing the bill.

Mr. GEORGE. Mr. President, in view of the position taken by the chairman of the committee, and also in view of the provisions of the act itself, to which my attention has just been called by the Chair, to this effect—

That the Secretary of the Treasury be, and he is hereby, authorized and required to pay, out of any money in the Treasury not otherwise appropriated, to the several persons in this act named, the several sums mentioned herein, the same being in full for, and the receipt of the same to be taken and accepted in each case as a full and final discharge of, the several claims examined and allowed by the proper accounting officers under the provisions of the act of July 4, 1864, since January 6, 1883—

I will not now press the matter. I would be glad, however, if the Senator from Wisconsin would, instead of having the bill indefinitely postponed, make a motion to lay it upon the table.

Mr. CAMERON, of Wisconsin. Suppose the Senator from Mississippi objects to the further consideration of the bill, and let it go on the Calendar under Rule IX.

Mr. GEORGE. Very well. I will do that.

The PRESIDING OFFICER. The bill is objected to.

LOST LAKE AND MOUNT HOOD IMPROVEMENT COMPANY.

The Senate, as in Committee of the Whole, proceeded to consider the bill (S. 1303) to grant the right of way over the public lands of the United States to the Lost Lake and Mount Hood Improvement Company.

Mr. COCKRELL. Is there any written report with the bill?

The PRESIDING OFFICER. There is not.

Mr. DOLPH. There is no written report. The only purpose of the bill is to grant a right of way to a wagon-road company to build a wagon-road in the Cascade Mountains from the gap in the mountains through which the Columbia River passes up to Mount Hood and to a lake called Lost Lake.

Mr. COCKRELL. How wide do they want that road?

Mr. DOLPH. The bill calls for a right of way three hundred feet in width.

Mr. COCKRELL. A pretty large wagon-road to be kept up at private expense.

Mr. DOLPH. I suppose the Senator understands that a grant of a right of way would confer no right upon the company except to build and maintain the road within the limits. The United States, in such a case, remains the owner of the fee and the owner of everything on the top of the soil and under it except what is necessary to be used.

Mr. COCKRELL. But it prevents anybody else from occupying the same surface, does it not?

Mr. DOLPH. No; any other road can be built across it or along it; but, if the Senator will wait a moment, I propose to offer some amendments. Although the bill was reported by the unanimous direction of the committee, after consultation with my colleague who is upon the Committee on Public Lands, I have concluded to offer some amendments which will obviate the objection now suggested, and which I will have read at the desk. I will also say that a much greater width of right of way will be required to build a road through mountains of the character of the mountains through which this road will run than to build an ordinary wagon-road over prairies or agricultural lands. I offer the amendments, and when they are made I think there will no objection to the bill.

The Chief Clerk read the first amendment proposed by Mr. DOLPH, which was to insert, in line 8, after "State," the words:

Of such width as may be necessary for the purpose of the construction and maintenance of said wagon-road not less than sixty nor more than——

Mr. DOLPH. I think that obviates the objection.

Mr. COCKRELL. This is situated in Oregon, is it not?

Mr. DOLPH. In Oregon.

Mr. COCKRELL. I think it is the first instance I have known of a private corporation coming to get the right of way for a mere public road. It is not a railroad; and I should like to know some necessity for this. I should like to know why it is that this company wants to get a right of way from the United States especially. It is organized under the laws of Oregon, and I suppose nobody on the part of the United States will say a word if they go to work and construct a public road for the benefit of the public over the public lands. I never have heard of such an objection in any State of the West; I have never heard of the United States officers objecting to the construction of a public road over the public lands. Everybody travels over them at will and pleasure, and I do not think there will be any objection made to a road over them. I should like to know why it is that this company comes in here asking this special privilege.

Mr. DOLPH. The State has no power to grant a right of way over public lands of the United States. The probability is that the entire line of this road will be over the public lands and over unsurveyed lands, because, as I have stated, it is to be constructed through the Cascade Mountains up to the foot of Mount Hood, if constructed at all.

I will state that it has been the practice to grant not only rights of way, but to make grants of public land for the purpose of constructing wagon-roads. Several grants of that kind have been made to the State of Oregon and in other States. In the present case no grant of land whatever is asked, but simply the right of way of sufficient width for the construction of the road. The amendment now suggested limits that width to sixty feet where that is sufficient, but allows it to go to the extent of three hundred feet where the road is to be built on the side of the mountain or in other places where it is necessary to occupy the entire three hundred feet to construct the road.

Mr. COCKRELL. What is the distance?

Mr. DOLPH. It may be twenty miles. Perhaps my colleague can state. It is, as I have stated, through the Cascade Mountains from the Columbia River to Mount Hood.

Mr. SLATER. If my colleague will allow me a moment I will say that I am not familiar with that locality, but, as I understand, the proposed road runs from the Columbia River into the Cascade Mountains beyond the settlements.

I can see no evil in the bill itself. I do not know the ground and do not know what effect it may have, but according to my knowledge of the State I should suppose the company could get the right of way by usage, if not otherwise, from the State itself. I know we have many public roads in that way and many roads controlled by corporations that are over the public lands. I know where questions arising therefrom have got into the courts the courts have held that the right could be so acquired. I can say that I see nothing in the bill that can be reasonably objected to. It does not create a corporation, but simply grants a right of way to a corporation already in existence in the State of Oregon to build a road through the public lands of a certain width.

Mr. INGALLS. The junior Senator from Oregon [Mr. DOLPH] informs us that this road or proposed right of way is over the public lands of the United States that are unsurveyed and extends upward to the snow-line of Mount Hood. If these lands are public lands and unsurveyed they are unpeopled; there can be no population there. I assume that above the snow-line on Mount Hood there are no extensive improvements, that there can be no commerce, that there are no manufactures, that there are no inhabitants, and I confess that in the light of the statements made by the Senator from Oregon I am unable to see any good reason why a right of way three hundred feet wide should be granted through a region where there are no people to a point where population is impossible. Might there not be extensive groves of timber in that region, to which this would give the people in the low lands more convenient and ready access?

I hope that before we are called upon to act in this way with regard to the public domain, to endow a private corporation with this extraordinary right under the peculiar circumstances disclosed by the statement of the Senator from Oregon, we shall have more definite and specific information than is conveyed to us by the terms of the bill.

Mr. DOLPH. Mr. President——

The PRESIDENT *pro tempore*. The Senator from Oregon has once spoken on this question. Under the eighth rule he is not entitled to speak again.

Mr. HAWLEY. I hope he will be allowed to proceed.

Mr. PLUMB. Mr. President——

The PRESIDENT *pro tempore*. The Senator from Connecticut asks unanimous consent that the Senator from Oregon be allowed to proceed.

Mr. DOLPH. Have I spoken on the amendment?

The PRESIDENT *pro tempore*. The Chair understood from the Senator from Connecticut who had occupied the chair that the Senator

had once spoken. Is there objection to the Senator from Oregon proceeding? The Chair hears none.

Mr. DOLPH. I did not understand that I was concluded from again occupying the floor when I spoke on offering the amendment.

This is a very little bill. Congress has been in the habit of making, as I said before, grants of the right of way for the purpose of constructing railroads and wagon-roads, and of making grants of land to aid in the construction of both railroads and wagon-roads. Here is a corporation under the laws of Oregon that comes to Congress and asks that it may have a grant of the right of way only over the public lands for the purpose of constructing a road. The bill was favorably reported from the Committee on Public Lands after it was scrutinized there. After consultation with my colleagues, I have offered an amendment in regard to the right of way which will restrict it to sixty feet and to so much additional land, not exceeding three hundred feet, as is absolutely necessary for the construction of the road. Now comes the Senator from Kansas and suggests that there is no necessity for the construction of this road. I do not know that the Senate ought to constitute itself the guardian of the people who propose to construct this road——

Mr. INGALLS. We are the guardians of the public domain, however.

Mr. DOLPH. I will come to that in a moment—and say that because there is no apparent necessity for constructing this road we shall prevent parties from going on the public lands and constructing it. Mount Hood is a place of public resort. There is a lake lying near the snow line on Mount Hood, mentioned in this bill, which may become a place of public resort. I suppose that the parties who projected this road desired it for the purpose of reaching some place of that kind, so as to accommodate the Senator from Kansas or any other persons who shall hereafter visit the State of Oregon and who shall desire to visit Mount Hood. It is proposed to accommodate them by constructing a road over which they can do so. Certainly, if it is not likely to be needed, it will not be built.

So far as the effect on the public domain is concerned, as I said before, this bill will only grant a right of way over the public land. It does not grant the timber; it does not grant the stone or the minerals; it does not grant anything except what may be necessary for the construction of the road, or to be removed from the land in the construction of the road, nor will it give this company any exclusive right over this ground.

Mr. COCKRELL. I should like to ask the Senator why it does not give an exclusive right. Nobody else is granted the privilege, and this company has it therefore solely.

Mr. DOLPH. Because Congress by this act will only grant to the company the right to use this ground for the specific purpose of building their road over it. Whenever any other road can be built over it without interfering with that right; whenever any other company——

Mr. COCKRELL. Would not Congress have to grant the right to anybody else? Can anybody else possess any right there unless Congress grants it by specific act?

Mr. DOLPH. That does not constitute a monopoly in this company. Congress can grant the right of way to other roads, or any other road may be laid out over this right of way under an existing law. The fact that the right is granted to this company for the purpose of building this road does not give the company a monopoly.

As I said before, the grantee would not be entitled to anything growing on the land or found under the earth's surface that is not necessary for the construction of the road, and if it should afford the means of access to timber lands, I can see no objection to that if they are purchased under the laws for the disposal of the public domain.

As I before remarked, this is a very little bill. It was reported favorably by the Committee on Public Lands, and I can see no objection to it. I do not see any good reason why objection should be raised to it.

Mr. MCPHERSON rose.

The PRESIDENT *pro tempore*. Does the Senator from Oregon yield?

Mr. DOLPH. Yes, sir.

Mr. MCPHERSON. Will the Senator from Oregon before he takes his seat answer a question I desire to propound? The right of way three hundred feet in width, as I understand, is asked for in this bill to be granted to a private company. The meaning of it is that after they locate their road they have possession and have all the rights granted and rights which can not be interfered with except by compensation to this company. We will suppose—I do not say that is the case, though I have a case in my mind which may perhaps resemble it—we will suppose the road is in a valley, the only possible route for a future railroad to develop that country unless the railroad could be built in some other location at great cost. Would it not be in the power of this wagon-road company to so take possession of the narrow valley through which a railroad might desire to locate in time as to require large compensation from the railroad to be built for the use of the land on which it is located?

The PRESIDENT *pro tempore*. The time of the Senator from Oregon has again expired.

Mr. MCPHERSON. I do not say that is the case in this instance.

The PRESIDENT *pro tempore*. The Senator from New Jersey is now speaking in his own right.

Mr. MCPHERSON. I have not got through with my question. I only ask the Senator from Oregon, if he will be good enough to give me the information, if that would not be the result of granting this right of way of 300 feet in width?

Mr. DOLPH. May I answer the Senator?

The PRESIDENT *pro tempore*. The Senator from Oregon is not entitled to occupy the floor without unanimous consent.

Mr. DOLPH. I ask unanimous consent.

Mr. HARRIS. May he not answer in the time of the Senator from New Jersey the question that Senator propounded?

Mr. FRYE. I ask unanimous consent that the Senator from Oregon may have his time extended five minutes.

The PRESIDENT *pro tempore*. The Senator from Maine asks unanimous consent that the Senator from Oregon be allowed to continue for five minutes. If there be no objection it will be so ordered.

Mr. DOLPH. I will answer the question of the Senator from New Jersey by saying that in the first place there never can be any railroad built over any part of the lands which will be occupied by this right of way; in the second place, that by the act of March 3, 1875, granting to railroads the right of way, the precise case is provided for which is suggested by the Senator. In that act it is provided that if it is necessary in constructing a railroad through a narrow gorge or mountain pass to occupy a wagon-road, the ground may be occupied and the railroad company shall construct a wagon-road in place of the one occupied outside of the railroad. So I answer by saying that in the first place this land will never be wanted for a railroad; and in the second place, if it should be, the railroad company could occupy it and reconstruct the wagon-road under existing law.

Mr. PLUMB. Mr. President, I consented that this bill should be reported, but it does not seem to me that it involves the question which is suggested here. We have on the statute-book of the United States a general law which grants to all railroad companies which were then or might subsequently be incorporated the right of way through the public domain for the purpose of building railroads. I presume if this had been a bill to grant the right of way to a railroad there would have been no discussion about it whatever and no objection. In Oregon, by reason of the topography of that country, there are localities that can not be reached by railroad. Congress recognized this fact at an early period and made grants of land to companies to construct wagon-roads in the then accessible portions of the Territory of Oregon. There are portions of the country which are not yet reached by wagon-roads to which that class of roads can now be built with profit, but whether with profit or not is a question, I take it, to be settled in the first instance by the companies seeking to build the roads. This wagon-road, as all other wagon-roads in that country and all railroads, will be the precursor of settlement; and if the adventurous people who are seeking this privilege of building a road to stop at Mount Hood or elsewhere in the unoccupied portions of Oregon, and thereby invite new settlements at an expense to themselves, undertake a work which is not compensated by reasonable profit, that will be their own lookout, but it will be for the benefit of the State and of the localities through which the road is built. It is a privilege which I think should not be withheld, but it should be granted cheerfully as one calculated to develop the remaining portions of the public domain in Oregon, make them accessible, and at the same time contribute to the convenience and comfort of the people of that State.

The PRESIDENT *pro tempore*. The question is on agreeing to the amendment proposed by the Senator from Oregon.

Mr. COCKRELL. I move to amend that by striking out "not less than sixty nor more than three hundred," and inserting "not less than sixty nor more than one hundred."

The PRESIDENT *pro tempore*. The Senator from Missouri proposes an amendment to the amendment of the Senator from Oregon, which will be read.

The SECRETARY. It is proposed at the end of the amendment to insert "one hundred feet;" so as to read:

Not less than sixty nor more than one hundred feet in width.

Mr. COCKRELL. It seems from this bill that there is now a public highway there. This raises a very interesting question. There is already a road there that the public probably are using, and this is to be located right on the top of that, and then this company will determine who shall travel there. It is an exclusive right, because no one else can go there without a special authorization from Congress. Therefore, so far as this bill is concerned, as to everybody else it is exclusive, and this company is to take possession of probably the only practicable route up to the snow-line on this mountain, and may drive from the route now used every one who may wish to frequent that place.

I can not see any reason for this. Here is a private corporation which can now go on and build roads, as every man knows, over the public domain; it is done in all the Western States. It can build a road there and nobody will interfere with it; but it wants an exclusive right. There must be something at that point on the mountains to induce them to want to build a road there. There must be expected to be some travel up the mountain or something to bring down from the

mountain, or they would not want to construct such a road. However that may be, they want an exclusive right. I confess that I can see no reason on earth for granting them the right. We do not know whether they have any capital or not; we do not know whether they will build this road, and it may be simply a grant to prevent any one else from going on; it may be a grant to drive the public from a road already used. It ought to be confined down to a narrow limit. As it is now over six hundred acres of land are given to this company. There is no reason why it should be given, and I hope that it will be restricted to not less than sixty nor more than three hundred feet wide. No public highway is ever wider than that, and there is no occasion for it. Then we should have some amendment in regard to the length of time they shall have to construct this road.

Mr. DOLPH. I suppose I am entitled to speak on the amendment to the amendment.

The PRESIDENT *pro tempore*. The Senator from Oregon.

Mr. DOLPH. There might be a great many things true in regard to this bill and the objects of the promoters of this enterprise, but I suppose something is due to the statements made by the Senators from the State. There is no wagon-road running in the direction in which this wagon-road is projected. The wagon-road mentioned in the bill is a wagon-road down at the station of the road of the Oregon Railroad and Navigation Company, which runs down the Columbia River through the gap in the mountains. That is the starting point. From that point up through the Cascade Mountains to the snow-line of Mount Hood it is proposed to construct this wagon-road. Mount Hood is over 11,000 feet high above the level of the sea, and the mountains between Mount Hood and the Columbia River are of various heights, from 5,000 to 7,000 or 8,000 feet. This road will have to be constructed along the declivity of the mountains, and there are places there where it would be impossible to construct a road with a right of way of only one hundred feet in width. The road can not be graded on the side of the mountain so as to obtain a sufficient width of road without disturbing more than one hundred feet of the surface, and I hope the right of way will not be limited to one hundred feet.

I repeat again, this road will not occupy the ground already occupied by any other road, nor will the bill if passed grant an exclusive right, nor will it grant any other right in the land within the limits of the right of way except the right to construct and maintain the road.

Mr. PLUMB. I want to call the attention of the Senate, and especially the Senator from Missouri, to the act granting the right of way over the public lands for the benefit of railroads. Chapter 152 of the act of 1875 provides:

That the right of way through the public lands of the United States is hereby granted to any railroad company duly organized under the laws of any State or Territory, except the District of Columbia, or by the Congress of the United States, which shall have filed with the Secretary of the Interior a copy of its articles of incorporation, and due proofs of its organization under the same, to the extent of one hundred feet on each side of the central line of said road—

That is, a right of way of two hundred feet in width—

also the right to take from the public lands adjacent to the line of said road material, earth, stone, and timber necessary for the construction of said railroad; also ground adjacent to such right of way for station buildings, depots, machine-shops, side-tracks, turn-outs, and water stations, not to exceed in amount twenty acres for each station, to the extent of one station for each ten miles of its road.

For reasons which the Senator from Oregon has stated there may be places where the limit fixed by the Senator from Missouri would not answer the purpose at all. For instance, on the side of a mountain a cut may be necessary where it would take two hundred or three hundred feet in order to get a track wide enough for a wagon to pass and make the cutting on the side of the mountain to carry the material forward to make the basis for the wagon-track.

I hope the Senator from Missouri and the Senate also will consider this question not in a spirit of captiousness but in that catholic spirit in which matters of public enterprise which have not called on the Treasury for money to aid them, but only ask the poor privilege of entering the public lands, have usually been treated. Without this, of course the road can not be built. Without this, every person engaged in building the road on the public lands would be a trespasser, and could be so treated by any one who should make an entry of any portion of this public domain and attempt to use his power for any purpose of delay or obstruction or blackmail. Therefore this has become necessary; but, like all other works of this kind, if another public-improvement company, organized under the laws of the State of Oregon, shall have reason to condemn the use of this track for public purposes, I suppose it can be done.

The PRESIDENT *pro tempore*. The question is on agreeing to the amendment proposed by the Senator from Missouri to the amendment of the Senator from Oregon.

The amendment to the amendment was rejected.

The PRESIDENT *pro tempore*. The question recurs on the amendment proposed by the Senator from Oregon [Mr. DOLPH].

The amendment was agreed to.

Mr. DOLPH. I now offer another amendment. I move to add to the bill:

And said road shall be completed within ten years from the date of the passage of this act; and as to all uncompleted portions of this road, at the expiration of ten years from the date of the passage of this act, all rights granted to the said company under this act shall be forfeited.

The amendment was agreed to.

Mr. INGALLS. I move to add another section in the following words:

SEC. 2. Congress reserves the right to alter, modify, amend, or repeal this act.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

On the question of ordering the bill to be engrossed for a third reading a division was called for, which resulted—ayes 22, noes 3; no quórum voting.

Mr. HARRIS. Let us have the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 39, nays 6; as follows:

YEAS—39.

Allison,	Hale,	Maxey,	Sewell,
Blair,	Harrison,	Mitchell,	Sheffield,
Cameron of Wis.,	Hawley,	Morgan,	Sherman,
Coke,	Hoar,	Pike,	Slater,
Colquitt,	Ingalls,	Platt,	Van Wyck,
Conger,	Jackson,	Plumb,	Vest,
Cullom,	Jonas,	Pugh,	Voorhees,
Dolph,	Lapham,	Sabin,	Walker,
Frye,	McMillan,	Saulsbury,	Wilson.
George,	Manderson,	Sawyer,	

NAYS—6.

Brown,	Cockrell,	Hampton,	Harris.
Butler,	Edmunds,		

ABSENT—31.

Aldrich,	Fair,	Jones of Nevada,	Morrill,
Bayard,	Farley,	Kenna,	Palmer,
Beck,	Garland,	Lamar,	Pendleton,
Bowen,	Gibson,	Logan,	Ransom,
Call,	Gorman,	McPherson,	Riddleberger.
Camden,	Groome,	Mahone,	Vance,
Cameron of Pa.,	Hill,	Miller of Cal.,	Williams.
Dawes,	Jones of Florida,	Miller of N. Y.,	

So the bill was ordered to be engrossed for a third reading; and it was read the third time, and passed.

HOLIDAY RECESS.

The PRESIDENT *pro tempore*. The Chair lays before the Senate the unfinished business coming over from yesterday, being the bill (S. 2112) to establish a commission to regulate interstate commerce, and for other purposes.

Mr. ALLISON. I ask the Senator from Mississippi who is entitled to the floor [Mr. GEORGE] to yield to me that I may report back a House resolution favorably from the Committee on Appropriations.

The PRESIDENT *pro tempore*. The Senator from Iowa asks unanimous consent to be allowed to make a report at this time. The resolution reported by him will be read for information.

The resolution was read, as follows:

Resolved by the House of Representatives (the Senate concurring), That when the two Houses adjourn on Saturday, December 20, 1884, they stand adjourned until Monday, the 5th day of January, 1885.

Mr. HALE. Mr. President, let that go over for the day.

The PRESIDENT *pro tempore*. The resolution will be placed on the Calendar.

ENROLLED BILLS SIGNED.

A message from the House of Representatives, by Mr. CLARK, its Clerk, announced that the Speaker of the House had signed the enrolled bill (H. R. 4085) for the relief of Juliet H. Palmer; and it was thereupon signed by the President *pro tempore*.

INTERSTATE COMMERCE.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. 2112) to establish a commission to regulate interstate commerce, and for other purposes.

The PRESIDENT *pro tempore*. The Chair is informed that in the print of the pending amendment there is an error in respect of the first proposition offered by the Senator from Iowa [Mr. WILSON]. The question is on agreeing to the first amendment offered by the Senator, which will be read. The Senator from Mississippi [Mr. GEORGE] is entitled to the floor.

Mr. BROWN. Let the amendment be read.

The PRESIDENT *pro tempore*. The Senator from Georgia asks the Senator from Mississippi to yield until the amendment is read.

Mr. GEORGE. Certainly.

The CHIEF CLERK. It is proposed to insert after section 1, as additional sections, the following:

SEC. 2. That it shall be the duty of said commission to take into consideration and to thoroughly investigate all the various questions relating to commerce between the States, and especially in the matter of the transportation thereof, so far as the same may be necessary to the establishment of a just system of regulations for the government of the same; and said commission, in the prosecution of its inquiries, is authorized to visit such sections of the United States as it may deem necessary to the most effective discharge of its duties.

SEC. 3. That said commission shall make to Congress a complete report of the results of its investigation, and the testimony taken in the course of the same, not later than the first Monday of December, 1885; and it shall accompany said report with a bill presenting a just and comprehensive code for the regulation of the transportation of commerce among the States, which said bill shall em-

brace provisions for establishing a system of both maximum and minimum charges for transportation, and for the preservation of free competition within the limits so fixed; for the prohibition of discriminations of any kind whatever, either in favor of or against cities, towns, or other localities, whether the same be competing or non-competing points, and for applying the same principle to transportation for individuals, firms, associations, or corporations in all matters relating to commerce among the States; for the preservation and enforcement of the right of shippers to select the lines and parts of lines over which their shipments shall pass, to the end that said commerce among the States may avail itself of the all-rail or part-rail and part-water routes of the country; for the prevention of such pooling arrangements and agreements to refrain from just competition as may tend to impose unreasonable burdens upon said commerce among the States; and for the protection of said commerce against unjust exactions based on a class of securities commonly denominated "watered stocks;" and said commission in conducting said investigation and in the preparation of said bill shall be guided by such rules of action as will be fair, just, and equitable toward all of the interests involved, whether the same be private, public, or corporate, connected with the subject of commerce among the States; and said commission shall cause 2,000 copies of said report, testimony, and bill to be printed by the Public Printer for the use of Congress by the date hereinbefore fixed.

Mr. GEORGE. Mr. President, no subject over which we have jurisdiction is more important than that to which this bill relates, and none more difficult to the conscintious legislator. The interest involved concerns not only those persons who have made investment also in railroads, but the hole mass of our people. There is no subject on which wise, temperate, yet effective legislation is more demanded by the public interests. Ill-advised, crude, or passionate legislation must be avoided. I am deeply impressed with the embarrassments surrounding the subject and with my own inability to solve the many problems it presents. We have no precedent in our legislation to guide us. The power this bill seeks to exercise has hitherto lain dormant in the Constitution, but I do not doubt that it exists. At all events, I shall not discuss that question now. The occasion and necessity for its exercise are of recent growth.

At the formation of the Constitution the means of transportation and intercourse in interstate commerce mainly consisted in the navigation of our rivers, lakes, and the ocean on our borders. That this navigation should be free, free to all, free to an open and unrestricted competition by all, was one of the main and most beneficent ends sought to be attained by the Constitution. Intercourse and transportation between the States were placed under the jurisdiction and control of the Federal Government in order that there should be no unjust discriminations or restrictions under the sanction or cover of State authority, or through the instrumentality of State action. The first attempt to interfere with this unrestricted freedom and to grant a monopoly on our navigable rivers was promptly decided to be unconstitutional in Gibbons *vs.* Ogden in the year 1824. The principles then settled have again and again been reaffirmed and applied in numerous cases, and have received the sanction and approval of the country.

Since then a new instrumentality of interstate commerce has grown up, under State authority, with State charters; and it has so grown and expanded that now it has become the principal means of interstate transportation and interstate intercourse. And it continues to expand yearly, having now reached the enormous dimensions of about 125,000 miles of railroad track; and it is destined at no distant day to grow with our increasing population to much larger dimensions.

So much of the commerce over these roads as is interstate, or foreign, this bill, with others which have been introduced, seeks to bring under the regulation of Congress.

The total mileage of railroads in the United States in 1883 was 121,592, of which 6,753 miles were constructed in that year. I have no later statistics. The total capital stock in that year of all railroads in the United States amounted to $3,708,060,583, and their total indebtedness, funded and floating, was $3,787,410,728, making a total investment, or apparent investment, in these roads of $7,495,471,311, an amount equal to 45 per cent. of the total assessments of all the property in the Union in 1880. In the last-named year there were 12,331 clerks employed in railroad offices, and their other employés amounted to 236,058, and in addition there were 2,069 officers of these companies. To these may be added officers and employés in express companies, mainly engaged in railroad transportation, making a grand total of persons employed in and about transportation on railroads of 265,318. The increase in number of these employés in the decade from 1870 to 1880 was over 60 per cent. At the same rate of increase (60 per cent. for ten years) the number now would be about 329,000.

These statistics show the magnitude of the interests involved directly in these companies, and the large number of persons also directly interested in them for their daily employment. Besides these the number also directly interested in them as stockholders, creditors, attorneys, and persons having arrangements for discriminations in their favor in freight and passenger charges must also be very large. I have no means of ascertaining their number. I think I would not err on the side of exaggeration if I were to assume their number to be at least one-half million—probably the number is much larger.

Any legislation we may adopt on the subject-matter of this bill will more or less affect this large pecuniary interest, and will also affect or will be thought to affect the interests, or at all events the prejudices, of most of this large number of persons. This consideration should admonish us to proceed with deliberation and care in any legislation we may adopt; and it should also remind us of the obstacles which are thrown in the way of any legislation whatever, however just and conservative.

On the other hand, the interests demanding proper legislation are immense. The tonnage moved by all these roads in 1883 amounted to 400,453,439, which, at $25 per ton, the valuation assumed by Poor's Manual, a very high authority, amounts to over $10,000,000,000. For carrying this the railroads received $549,756,695, being about one-third of the whole currency in circulation in this country; their receipts from all sources of railroad traffic being $823,772,924, or about one-half of the whole currency of the United States. The total number of passengers carried by the railroads in the United States in 1883 was 312,686,641, being about six times our population. While it is clear that many of these persons were transported several times, yet we know also that a large portion of our people, largely more than one-half, were transported at least once. There is scarcely a human being in the Union whose interests are not more or less affected by the charges of railroad companies on either passengers or freights, and the mode in which such transportation is effected.

Omitting reference to minor interests, I will call special attention now to the immense stake which the farmers of the country have in a proper regulation of interstate traffic, and especially the grain and cotton-growers and meat-producers. All these commodities are produced here largely in excess of the demand for consumption by our people. In all such cases the price of the product is fixed by the foreign market to which the excess must be shipped. This foreign price is fixed by the demand and supply in the world at large. The price, therefore, which the producer in any country will receive will necessarily be less than the foreign price, as fixed by the world's demand, by so much as the cost of transporting the product from the fields on which it is raised to the regulating market of the world; in which cost are included transportation as the main item and all other charges of middlemen.

The exports from the United States of agricultural products for the fiscal year ending June 30, 1884, consisting chiefly of cotton, animals, breadstuffs, and provisions, amounted to $536,315,318 in value, while all our other exports, excluding gold and silver and including products of mines and forests, amounted only to $188,649,534—agriculture furnishing about two-thirds of all, except gold and silver. The net price which the farmers received for this large amount of their products was fixed by the rates paid for transportation over the railroads in the United States; and not only this, the net price they received for all their products transported from State to State, or wholly in one State, being their proportion of the four hundred millions and over of tons of freight transported in the year over railroads, is fixed in the same manner. How much this may be I am unable to state definitely. But when we reflect that all the population of our large cities are wholly fed by our agricultural products, and that a very large percentage of the food supply of the rural population, especially in the South, is furnished from other States, we may well conceive that the transportation of agricultural products over our railroads is immense.

While the price at home to the producer is thus fixed by the foreign market, it by no means follows that the consumer in our own country gets the benefit of this low price. For it so happens, under the rule adopted by the railroad companies of charging "all the traffic will bear" between non-competitive points, that while the producer gets far less than the value of his goods the consumer pays an exorbitant price, and the difference goes to the carrier or middlemen. The practice of high local freights and differential rates as against the small shipper has prevented all commerce and traffic between the producer and consumer and made necessary the concentration of these products in large cities, where they become the subject of speculation in futures and gambling by corners, whereby the price is run up or down at the will of large speculators. From some observation of these matters I feel justified in saying that high local rates and discrimination against retailers have caused the consumers in the South dependent on railroad transportation to pay higher for the wheat, corn, flour, and meat of the West than those products are sold for in Europe. And thus these high charges rob with an equal hand both producer and consumer.

These facts give us some faint idea of the immense power which the railroad companies of the Union have over the fortunes and welfare of that portion of our population—about half of it—who are engaged in agriculture; a power so great, so absolute, that it enables these companies to fix at their own will the proportions of these products which shall be taken by them or left to the producer. As the share or charge of the railroad companies goes up the share of the farmer goes down, and *vice versa*. The railroad companies thus become the partners of every farmer in the Union, with autocratic power to say what shall be the separate share of each, without consultation with the other associate.

The partnership may well be called leonine in which the lion's share is at the absolute dictation of that regal beast as represented by the transportation companies. Such a relation between the two parties is condemned by both human and divine laws; yet in spite of this it exists here to-day all over the land. The common law declares that the charges of the common carrier shall be reasonable, yet in actual practice the reasonableness of the charge is the unbridled discretion of the

carrier. The rule adopted by the carrier as the guide for rates has no reference whatever to the cost of transport or the acquisition of a reasonable gain upon his actual investment. The rule is to charge "all the traffic will bear," which means that the charges go to that point where in the judgment of the carrier he would lose money if they were still further advanced. Hence the excessive charges which have characterized railroad transportation in this country, except only between competing points, and there they are reasonable only where there has been no opportunity for combination between the carriers.

As a cover, sir, for these charges the railroad companies have invented and pursued a system by which stocks are watered, and their debts have been enormously increased as to their nominal amount; and railroads which under exceptional and sometimes under dishonest circumstances have cost greatly more than they are now worth or would now cost are made to earn dividends on this dead excess.

I have some statistics which will be interesting and instructive on this point. The total of stock and debts of the railroad companies in the United States in the year 1879 was $4,872,017,517, being at the rate of $57,730 per mile; in 1880 it was $5,402,038,257, or $58,624 per mile; in 1881 it was $6,278,565,052, or $60,645 per mile; in 1882 it was $7,016,750,109, or $61,303 per mile; in 1883 it was $7,495,471,331, or $62,176 per mile.

The Senate will observe that for these five years there has been a steady increase in each year over the preceding in the stock and debts of the railroad companies, until in 1883 they amounted to $62,176 per mile, a sum more than double what the best railroad authorities estimate as the cost of the roads. And yet since 1879 the cost of construction has steadily decreased, and during the last three years all materials for construction and maintenance have been unusually low, and no expensive lines have in that time been built. This great outrage upon the people will be made still more clear when we consider the increase in debts and liabilities of the year 1883 over 1882 and the mileage constructed during the former year. This increase was $477,721,202, and the mileage constructed amounted to 6,753, the increase being at the rate of $70,727 for each mile constructed. These figures are suggestive both of watered stock and of fraudulent or improvident debts to a very large amount; for it is almost certain that the cost could not fairly have exceeded $30,000 per mile. The statistics for the three years 1881, 1882, and 1883 show a similar result of excessive debts and liabilities as compared with the cost of the constructed roads in these years. In that time there were constructed 28,405 miles of railroad, which at $30,000 per mile would cost $852,150,000, yet the increase in capital and debts in those years was $2,093,433,054, largely more than double the cost.

Under the rule of charging "all the traffic will bear," adopted by the railroad companies, the people of the United States are made to pay profits on this enormous excess over the true value of the roads. And here I will notice a fallacy sometimes advanced in support of these high charges, namely, that the railroad companies should have profit on the amount actually expended many years ago, when the cost of construction greatly exceeded the present cost, notwithstanding the subsequent large and permanent decrease in the cost; that is, if a road many years ago actually cost $50,000 per mile, but owing to the general depreciation and fall in cost of construction it would now cost only $30,000 per mile to duplicate it, still the company may rightfully charge the public such rates as will be a fair profit on its actual excessive cost. If this were allowed, Mr. President, it is the only case in business affairs in which the public are called on to make good a depreciation in the value of property. Whoever has built a house, or a machine, or a vessel, and whoever has purchased any species of property at times when the cost of these things was high, is bound to submit to such loss as is occasioned by a cheapening of the process of construction or by a depreciation in the price given. Nothing can be justly said to be worth more than the cost of duplicating it.

If the owner of depreciated property attaches to it a *pretium affectionis;* if he will cherish the delusion that while all things else are subject to the law of change, his property, with all its incidents and accidents, is immutable, there can be no objection to it, so far as he is content to consider himself worth so much when he is only worth half that amount; but when he, having a public duty to perform for a reasonable charge, insists on his delusions as realities, insists that the public shall buy them and pay for them in real money and at his fancied valuation, I submit he is guilty of criminal extortion, unless excused on account of lunacy.

Delusions can not be coined into money or converted into actual property. The potentiality of redemption in coin, in real money, is even essential to the value of a greenback note.

This fallacy which I have thus exploded, if allowed by us as the true rule for the regulation of freights, would bind the people of the United States to the hard circumstances of the dead past, and prevent them from reaping any of the advantages arising from the inventions of the age and the cheapening of processes in production and construction which in all other walks of life have so benefited them and the rest of mankind.

It is thus seen that the basis on which the charges rest is wrong, exceeding the true basis by about double. The charges are also excessive, and will remain so unless Congress shall prevent it by legislation.

The next cause of complaint is, that these companies make undue and unjust discrimination in their rates, not only as between places but as between persons in the same place. The power to do this is dangerous and its exercise exceedingly unjust. By it a railroad official can build up and does build up his friends and favorites and destroys their rivals. By it also cities and towns in which the officials are interested, or for which they have a partiality, are also built up, and rival towns and cities crippled and destroyed.

There are provisions in the bill reported by the committee intended to correct these evils in part and to prevent unreasonable charges and to prevent discrimination between persons. There is no provision to prevent discrimination between places, though in my judgment it is equally important.

Very little can be accomplished by the provision intended to secure reasonable rates owing to the absence of a provision preventing what is called "pooling," and this is one of the most serious defects of the bill.

The mere enactment that charges shall be reasonable is of no value. It merely declares what the common law already is. To make it of any value whatever there must be provisions which can be enforced, and which when enforced will compel reasonable charges by the railroad companies. It is utterly impracticable to enforce this provision as it stands in the bill. If a suit be brought for a violation of this provision, by what standard shall the court and jury be guided in measuring the reasonableness of the charge? The bill furnishes none. If we resort to the common law as it was applied and enforced in cases of other common carriers, we find that the standard there was the reasonable and customary charges of the whole body of carriers doing the same business. That presupposes that there were a body of carriers engaged in like business, and engaged also in competition with each other in it. The standard by which the charges of one was measured was and could be only the average of the prices charged by the others.

No court ever undertook to look into the amount of the carrier's investment to ascertain the cost of doing the work and then fixing a reasonable profit as the measure of the charge. Such a proceeding is beyond the province of a court, and is a pure invasion of the domain of active business. Where competition is free, it is certain, by an inexorable law of trade, that exorbitant charges and unreasonable profits will be reduced to the proper standard by such additional investments in the business as will make it no more profitable than capital and labor employed in other callings. This competition will soon regulate the prices on the basis of a reasonable profit; and this can be done in no other way. In the same way charges by railroads will be made reasonable between points where there is free competition, unless there should be combination between the companies to prevent it. If competition be free and there are several railroads, then the excessive and unreasonable charges of one may by a court be ascertained by comparison with the charges of the others for similar service. If there be a combination between the companies to fix rates, by pooling or otherwise, then it is clear that unless we adopt the rates thus fixed as reasonable there can be no other measure.

To adopt the rates thus fixed is to leave the shipper as much at the mercy of the companies as if only one existed. It would be but the will of two conspirators instead of the will of one. The combination would eliminate from the charge all consideration as to the smallest sum at which the work could be profitably performed, and substitute for this essential element the will and greed only of the companies which by the combination had secured themselves from the effects of the law of competition. It is thus clear that the provision of the bill prohibiting unreasonable charges is of itself of no value, mere *brutum fulmen*, if there be no sure standard provided capable of easy application by a jury by which the charges can be measured.

The just provision in the bill against discrimination between shippers will not furnish this standard, for if the general charge be so much to the public, and there be a less charge to one or more favorites of the company, the presumption would be rather that these favorites got their freights too low than that the general charge was excessive and unreasonable. Besides, the provision against discrimination is not based on the idea that others than favorites are charged too high, but that favors injurious to business and the public should not be allowed. Nor will a remedy be found in the provision for a commission, for the commission is not authorized to determine and fix what are reasonable charges. They have no judicial power; they can settle nothing; they can determine nothing; they can order nothing except alone to direct the district attorney to institute in a court a profitless and expensive lawsuit in the name of a private party to see if possibly the railroad company can be convicted of making an unreasonable charge with no standard whatever by which the issue can be determined.

Mr. President, this is so clear, that I wonder why the committee deemed it necessary to introduce into the bill a provision against unreasonable charges, without at the same time incorporting in it the only provision yet devised, so far as I know, which could make it effective. It is the provision incorporated in the House bill and also in Judge REAGAN'S substitute prohibiting pooling. I deem such a provision essential to any bill which undertakes to deal with this subject.

That provision about pooling, as contained in the House bill, is as follows:

And it shall be unlawful for any person or persons carrying property as aforesaid to enter into any contract, agreement, or combination for the pooling of

freights of different and competing railroads, by dividing between them the aggregate or net proceeds of the earnings of such railroads, or any portion of them.

I shall not now discuss this provision at any great length. What I have already said in relation to competition expresses in a great measure what I consider as the necessity for this prohibition against pooling. It seems to be absolutely essential to any effective legislation in restraint of unreasonable charges. I am unable to perceive any valid objection, either as to its justice or its policy. That there can be no real competition, and by it a just fixing of reasonable rates is beyond controversy if competing railroad companies are allowed to combine in a pooling of freights in whole or in part. That such combination will take place in the absence of strong and effective prohibitory legislation is certain. The argument that pooling is necessary to prevent an undue cutting of rates will no stand the test of examination. That railroad companies organized for the purpose of making money are exempt from the ordinary influences which control men in business, and will therefore pursue a policy which will result in loss and financial ruin, is incomprehensible.

The assumption that these companies, if they are not allowed to combine in aggression against the public, will necessarily resort to measures for mutual destruction, is contrary to our experience of the motives and actions of mankind. In all other business there is competition without loss or destruction. Merchants compete; manufacturers compete; all other common carriers but railroads compete, with the result of cheap goods and cheap service to the public and reasonable pecuniary gains to themselves. There is no reason why railroad companies should not do likewise. If they will not, if they refuse to obey the laws which govern mankind in their business relations, this willful misconduct on their part gives them no claim on us to relieve them from just restraint necessary for the public good. The argument plainly stated is this: that they must be allowed to combine in order to extort unreasonable charges from the public, lest, being disappointed in this, they turn upon each other for mutual destruction.

I admit, sir, that they are guilty of a reckless disregard of their own interests, beyond other men, in their efforts to destroy and cripple each other when they have been unable to combine their forces in a concerted and allied warfare on the public. There is a reason for this anomalous and unusual conduct. It is not difficult to find this reason. It comes from their unrestricted power to make good their losses incurred in this warfare from that portion of their business in which they are without competition, in which they are pure monopolists. On the longest of the trunk lines there are but few points which are under the law of competition. On all the remainder of the road each company is an autocrat, a pure monopolist, charging such rates "as the traffic will bear." The unjust gains thus made constitute the fund with which the war of rates is carried on, and the ability to make them furnishes the motive for war, the *animus bellandi*. Destroy their power to acquire these unjust gains, to recuperate losses incurred in a war of rates by an unjust assessment upon innocent parties, and no such wars will be waged. The same motive—the desire of gain—will produce the same action in railroad transportation as in other pursuits of life. Competition in the struggle for business will fix rates at that point where they are reasonably profitable, and there they will remain.

Mr. President, this brings me to another provision found in Judge REAGAN'S substitute and not contained in this bill, and which, besides being eminently just in itself and a proper protection to the public using railroads between non-competitive points, also furnishes the remedy against cutting rates between competitive points, and makes legislation on this subject harmonious, consistent, and effective. This provision consists in a prohibition to railroad companies to charge more for a shorter haul than they do for a longer one. The Senate will note and the country will note that the provision is not that railroad companies shall charge in proportion to the mileage. Such a provision would be eminently just if in addition there could be ascertained and allowed a just recompense for the difference in cost and profit per mile in long and short hauls. But this intricate if not insoluble problem is not raised by the provision. It does not say that the railroad companies shall charge only a quarter or a half of the whole rate for hauling a quarter or half the whole distance. It merely enacts the mathematical axiom that a part is not greater than the whole. It, however, permits the absurdity that a part shall be equal to the whole.

Now, sir, how any company or any reasonable man can object to so mild, so generous a proposition I can not understand. It is certain that when a train passes over the whole line it not only performs the work of passing over each separate part and division of it, but also of passing over the whole of the several parts combined. It is impossible to conceive that it is worth more to carry the train over one-fourth the distance, any one-fourth part of it, than over the whole, since the latter involves necessarily a carriage over each fourth part, and does exactly the work of the shorter haul and three times as much more. But I have seen the argument pressed that on one part of the road there may be an expensive bridge, or a costly tunnel, or a high mountain to be graded, causing the cost of construction or operation there to be greatly in excess of the cost in other parts; and therefore it is unjust that the charge for a haul over part of the whole distance should not be greater than over the whole line. The plain answer to this is, as before stated, the long haul passes over all of this expensive part, as the short haul does, and in addition over the balance of the road.

But if it be insisted that in making short hauls over different parts of the same road this provision would prevent the company from charging less for a short haul over that part which was cheaply constructed than for a still shorter haul over the expensive part, the answer to that is equally plain and conclusive. In the first place I answer that railroad companies do not regulate their charges according to the cost of construction, or even of operation. The watered stock, the excessive debts, which I have pointed out, the greater charge for a haul over half the road than for a haul over the whole show this. The further notorious fact that these greater charges for shorter over longer hauls do not result from nor are regulated by any such considerations, but only by "what the traffic will bear," and the presence or absence of competition, also demonstrate it. The railroad companies, therefore, have no right, in order to break down just legislation, to invoke a rule which has no existence in their own practice, and which they habitually violate and condemn.

There is another answer equally conclusive. A railroad is an entire thing; it is a single and complete enterprise. Its separate parts are but links in the same chain, each being essential to all others. That one link costs more than another makes it no more valuable than the other, for each performs an equal part of the work of the whole. That a high hill has to be cut down or perforated by a tunnel results only from an operation of nature in placing more obstructions there than elsewhere on the plains; when the hill is so cut, or so perforated, it becomes as to the road but the plain which nature has made in other places. A single link in a chain of the same metal and uniform with the others is worth no more than they, because it may have happened as to it that the ore out of which it was made was mined at greater depths and at a more inaccessible place, and was prepared by more costly processes, than in case of the others.

I repeat, with emphasis, that this provision is essential to any effectual remedy of the ills which this bill condemns. The provision against pooling may be evaded by a combination or understanding, express or tacit, by which rates are fixed. It will be difficult, however, to maintain such a combination, as each road will seek to secure to itself all the business it can transact, and this struggle will lead to a violation or evasion of the agreement. This will almost certainly be the result if the through rates be made the standard by which local rates are to be fixed. But, sir, its greatest efficacy will be in its tendency to fix all rates, through and local, at a reasonable point. It certainly will prevent the destructive war of rates so much feared if pooling shall be prohibited, for it will be impossible for such wars to be initiated or carried on when the low competitive rates can not be exceeded by the local charges. To make war with the certainty of self-destruction is a very different thing from waging it with the assured power of turning all its destructive forces against others.

Mr. President, having answered the objections to this provision, as well as stated some of the good to come from its adoption, I now proceed to some other considerations, which demand, in my judgment, favorable consideration by the Senate.

The practice of railroad companies in hauling freight between competitive points, which are generally large cities, at greatly cheaper rates than are demanded for much shorter hauls over other parts of their lines is in itself an injustice, and injustice wherever it exists is a wrong not to be tolerated. Railroads are in a great measure public institutions as well as private property. They do a public work. They exist in virtue of special and peculiar grants by the State of franchises and privileges not allowed to the balance of the community.

The excuse for this is that they are a public necessity and confer a public benefit. In their public character they have been the recipients of bounties from Congress and State Legislatures, and subsidies raised by heavy taxation from counties, cities, and towns. In that character they are grantees of the power of eminent domain, under which they condemn against the will of the owner his property to their use. That this can only be done for public uses is well settled. Being thus created as public agencies, with powers and privileges granted by the people, it is a great wrong that these powers and these privileges should be perverted to the injury of one portion of the people who gave them in order to confer an exceptional benefit on another portion. Private men in transactions strictly personal and private are under no legal obligation to dispense their favors equally to all. They may have their friends and favorites and may reward them. They may have their enemies, and if they may not punish them by positive acts of aggression they may at least refuse them the benefit of favors.

There is no just power to prevent a manufacturer or merchant from selling to one cheaper than to another. But when a man or a company is clothed by the State with public power to perform public duties, there is no room for inequality in benefactions or burdens. The inexorable law of all public trusts is absolute equality in all dealings with each individual of that public. The practice of giving extremely low rates between certain points and making up the loss by high charges on other communities is simple robbery under the forms of law, if the law permits it. It is not in the power of human reason to successfully controvert this. No amount of ingenious sophistry can even obscure it.

But, independent of its abstract injustice, the consequences to the

public are pernicious in the extreme. One city or town is built up at the expense of another. One community is enriched or favored by unjust and unequal impositions on another. Jealousies are engendered and illegitimate and baneful rivalries fostered. The struggle for advancement and superiority between rival communities is degraded from an honorable competition in which success is sought by superior energy and business management into a reliance upon favors to be received from railroad companies and dishonorable and unmanly subserviency in order to gain them.

Mr. President, it is a marked tendency in modern economic and industrial life that population and business of all kinds concentrate in large cities. Much more than one-half of the population of Great Britain is crowded into cities and towns. The tendency in our country is in the same direction. I do not regard this as desirable. On the contrary, I think it would be far better for the happiness and prosperity of my countrymen if wealth and enterprise—all kinds of business—were more diffused all over the land. Producer and consumer should be brought nearer together, that the interchange of commodities, the barter and exchange of the products of agriculture and manufactures should be carried on with as little intervention of middlemen as practicable. The profits of the workers would be increased and the cost to consumers diminished. There would also be more homogeneousness in our population; a greater knowledge of economic processes would be extended beyond the limits of the class engaged in each particular business. There would be fewer specialists, with little or no information outside of the particular work in which they are engaged. There are many considerations connected with this subject worthy of the attention of the Senate. I do not propose to go further now. I may on some other occasion state some of them.

Now, Mr. President, the practice of railroad companies in violating the provision I am now discussing, charging discriminating rates as between different places, tends greatly to this aggregation and concentration of population, wealth, and business in a few favored places, and for that reason should be prohibited. The result I condemn, it must be remembered, is not the creation of new wealth by railroad companies, but is merely the concentration and aggregation of wealth created by others at favored places and in the hands of favored individuals at the expense of other places and other persons, and that, too, in many instances by the ruin of those who created it.

Mr. President, I come now to discuss some of the details of the bill under consideration, and to point out some of the defects in its provisions. And in the outset I will state that its defects are rather of omission, of inefficiency than of positive wrong in its provisions, and while I should prefer to have the defects remedied, yet if they are not I find merit enough in the bill as it stands to command my vote if I do not find some of its minor provisions unconstitutional.

I have already pointed out how vain and ineffectual is the main provision of the bill prohibiting the charging of unreasonable rates unless there be some efficient provisions to enforce it. This bill contains no such provision. As to that, if the bill becomes a law as it now stands it will be but glittering words, holding out a hope sure to be disappointed and a promise never to be redeemed. I have already pointed out its assured failure from the want of a standard by which to measure the reasonableness of the rates. The powers of the commissioners furnish no substitute. Their powers as to this point extend only to ascertaining the existence of wrongs already well known and the institution of suits certain to fail. If they give advice to railroad companies they have no means to compel its adoption. Laws are not made to give wholesome advice, but to prohibit wrongs and compel obedience to the right. Of mere advice and denunciation of wrong the railroad companies have already a surfeit. They refuse to follow the one or to be influenced by the other. But it is said the commissioners will expose to the light of day and subject to the censure of an enlightened public the wrongs in railroad management. But these wrongs have already been exposed, and of censure and complaint the whole land is full.

A great railroad-man is reported to have said, "Damn the public!" and the public in turn deals verbal damnation to the railroads, and yet the evils continue to exist. If it be thought that light thrown on this subject through the agency of a railroad commission because it is official, and because further the railroad companies may regard it in that form for fear of remedial legislation to follow it, I answer that a fear of a restraint upon future acts of wrong to be performed after restrictive legislation shall have been passed has never been efficacious to prevent misconduct precedent to the enactment of the law. The tendency of such a fear is directly the reverse, it stimulates the wrongdoer "to make hay while the sun shines," to make the most of a profitable license which may in the future be revoked. You may possibly stop wrongdoing under a law already enacted by a threat to enforce its punitory provisions unless the wrong shall cease; but it is an anomaly in administration to say to a wrongdoer, "If you do not mend your ways, hereafter when I have more time to devote to the business, more accurate information as to your misdeeds, I will give the matter consideration and see if something can not be devised to arrest your career. I regard you as an amiable and useful, even essential, public agent, and I am awfully afraid if I act at all I shall do you a wrong." And that, sir, is the plain English of this bill so far as it relates to reasonable charges by railroad companies.

The section relating to discrimination I regard as unobjectionable. The provisions of the bill relative to the commission deserve criticism.

In the first place three commissioners are preferable to five. Small bodies are more efficient. I also regard the salary as too low. I would prefer $10,000 to the amount named in the bill, namely, $7,500. As a general rule I am opposed to high salaries. But in this case, if we are to have commissioners at all, we ought to have the best talent and qualifications the country affords. The men selected should, in pecuniary compensation, be placed beyond the temptations and blandishments which will continually beset them. They must be men of the highest character for honor and integrity, of commanding talents, and of great business qualifications and experience. Their work is not attractive. It is not such as men covet, except for gain. If there be no sufficient gain in the salary, the fear is that it may come from largesses and benefactions bestowed by those who have so great an interest in maladministration. They, as the representatives of the Government and of the people, will be brought in contact and collision with the shrewdest and ablest business men in the country, and also with the highest paid of all officials. I do not want to put a seventy-five-hundred-dollar commissioner against a fifty-thousand-dollar railroad president. Besides, on the score of economy, three commissioners at $10,000 will be less expensive than five at $7,500.

The interests which these men are called to supervise and to aid in regulating are of immense magnitude. We have already seen that the gross earnings of the railroads in the United States amount annually to over eight hundred millions, and it is with gross earnings that these commissioners will have to deal, so far as they deal at all. I shall not charge or suspect that the men to be appointed will be liable to either corruption or the seductive influence of the great wealth with which they come in contact in their official action, but I can not shut my eyes to the possibilities in that direction. I would guard as far as possible against such a possibility, for if non-action or bad action come the disaster and wrong to the people will be incalculable. I do not forget, sir, that we live in an age wherein has occurred the very apotheosis of money. I do not forget that a commission from the United States or a State is no absolute guarantee either of efficiency or purity in the recipient. I do not forget that sales of appointments in the Military Academy have been made. I do not forget that the administration of one of the great Departments was the subject of an impeachment before this body, which was defeated by the resignation of the officer. I do not forget that the administration of another great Department was darkened by charges and suspicions, that the great public trust committed to it was prostituted for the purpose of enriching its head and its favorites, and that the American Navy was sacrificed to the greed of politicians; and that a high, though subordinate, official in another great Department habitually discharged his duties to advance the fortunes of himself and confederates by a pillage of the public Treasury. Nor do I forget that in some way these and similar misdeeds have so debauched the opinions of many, that they have become in some degree tolerant of the practice of public men using the opportunities afforded by their offices of enriching themselves and their favorites. Nor has the country forgotten these things. It is expected, therefore, that in creating this commission every safeguard will be taken to secure efficiency and purity in its administration.

There are also other provisions of the bill, so far as they relate to this commission, which deserve criticism. In the first place, the jurisdiction of these commissioners is too broad. Their supervision is declared by the bill to extend "to all matters pertaining to the regulation of interstate commerce." Their powers of supervision as thus defined embrace the whole subject of regulating commerce among the States—just as broad, sir, as the constitutional grant of power to Congress on that subject. Everything connected with this vast subject is brought within their jurisdiction. Look at our statutes on that subject, and we can imagine how broad and extended this subject is. The manning and sailing of vessels, regulating of seamen, steamboats, improvement of rivers and harbors, marine hospitals, pilotage, building of bridges over and obstruction of navigable streams, and an infinite number of other things, defying all attempt at enumeration. While their jurisdiction is infinitely vast, their efficient powers are almost nil. The bill invites them to a feast, inscribing on the bill of fare all things either edible or potable, and sets them down to a banquet of crumbs which the railroad companies have thrown to the dogs. It commissions them to go forth and conquer the world with no equipment for the war more destructive than impotent advice and unavailing solicitation.

While this is true, Mr. President, of the provisions of this bill so far as they relate to any agency of these commissioners to remedy existing evils, admitted by all to exist, yet the tenth section, which prescribes the inquiries which they shall make and the information they are to acquire and report to Congress, is the best provision on that subject I have seen. If the duties therein imposed on the commissioners shall be intelligently and honestly performed a mass of valuable information on this subject will be acquired and given to the public, which will show how derelict we have been in the discharge of our duties, if we fail to enact efficient legislation to remedy the great wrongs suffered by the people at the hands of the railroad companies; and it may also serve to show to our successors a clearer path to pursue on this intricate subject, and to stimulate them to the exercise of remedial powers, which

we abdicate if we enact nothing more efficacious than this bill. For these reasons I regard this section so valuable as to justify the enactment of the bill, if no better one can be agreed on, if only there be sufficient provisions in it to enable the commissioners to carry it out. But, sir, I fear these provisions are also wanting.

The ninth section of the bill contains the only additional provisions designed to carry out the tenth. In this ninth section the commissioners are authorized to summon witnesses, require their attendance, and require the production of books, papers, and documents; and in the tenth section they are empowered to require annual reports from the railroad companies. They may indeed summon witnesses, but how can their attendance be required? How can these annual reports be enforced? If the witnesses refuse to obey the summons, if the companies refuse to produce the books and documents and make the reports, what then? On this important subject the bill contains no other provision than that the commissioners shall require this attendance, shall require this production, and shall require the reports. I respectfully submit that these can not be effectually done except by a court; a United States court can only be where the judges hold their office during good behavior and these commissioners hold their office for the term of six years. They can exercise no judicial power whatever, and therefore can not punish for a contempt or a refusal to obey their orders.

If it is the true intent of this bill, as I think is certain, that these commissioners shall exercise these judicial powers, then the bill is, I fear, unconstitutional; and if not, then the bill is equally ineffective in not providing a mode in which the attendance of witnesses, the production of books and documents, and the making by the railroad companies of the annual reports can be enforced. Without such provision the ninth and tenth sections are utterly valueless. The fifth section makes it a misdemeanor on the part of the railroad company to refuse to produce a book or document, but it contains no provision for their compulsory production; but this does not include the attendance of witnesses or the making of the annual reports.

The tenth section is also fatally defective in the failure to provide any security whatever for the truth of the matters contained in the annual reports of the railroad companies. It is manifest that if the reports be either willfully or negligently erroneous they are of no value. A provision should be inserted requiring these reports to be verified by the oaths of the president, secretary, treasurer, and chief book-keeper of the several companies, and imposing the penalties of perjury for any falsehoods contained therein. As the section now stands the companies may make just such reports as suit either their convenience or interest, not even the formality of a certificate of their correctness being required.

On the whole, because of the defects I have pointed out, this machinery which the committee has devised for the protection of these great interests of the American people is but a search-warrant given to five blind men to hunt for iniquity, with such effect that if they should haply stumble on a discovery, either through awkwardness in management or contempt for their authority on the part of the railroad companies, the commissioners would be equally as powerless to prevent the wrong or punish the wrongdoer as they are to discover any wrong which the companies might desire to conceal. The commissioners are but missionaries to preach the new gospel of peace on earth to wrongdoers and good-will not to men but to those incorporeal and intangible entities recognized by the distinguished chairman of the committee as "corporations having no souls and very short memories" with pardon already granted for past offenses and an indulgence for limitless sin in the future.

The bill also needs amendment, I respectfully submit, in the last paragraph of the fifth section. This section authorizes the commissioners to assess damages in favor of a complaining party against a railroad company for a violation of the provisions of the bill. Singularly enough, it gives no effect to this assessment, not even making it evidence as against the railroad company; but as against the complaining citizen the last paragraph gives the assessment the force of a judgment, if only the railroad company will acquiesce in and pay it. The litigation provided for in the bill is of this unequal and unjust character, that only one of the parties is bound by the judgment of the tribunal. As to the railroad companies, they may treat the complaint before the commissioners with contempt; they may refuse to answer, or they may answer, take the chances of a favoring decision, and if, when it is made, they do not like it, they may treat it with like contempt; or if they like it, they may accept and satisfy it, and thereby, in the language of the bill, "be relieved of liability for any other penalty for the particular act complained of."

The distinguished chairman of the committee, the Senator from Illinois [Mr. CULLOM], in the able and instructive speech he made on yesterday in support of the bill, spoke of the commissioners as a board of arbitrators, from whose action he expected great benefits to the country. As a legal description of their office and functions I think the term is singularly erroneous. The law knows nothing of an arbitration where the award is not equally binding and conclusive on both parties. The law recognizes no trial wherein the judgment shall bind and fetter the hands of one party and leave the other free to act according to his own will and discretion. This bill does this; and in so far as it does it is as much beyond the power of Congress to enact as would be a provision that a party might be a judge in his own case. As to the railroad companies, it is but a board of advisers, with full license on their part to treat its advice with contempt, as they certainly will do if it shall be at all unpalatable or injurious to their interests. I respectfully submit that the need of the hour is for punitory, not for hortatory, legislation.

There are other defects in the frame of the bill, but I have detained the Senate long enough on this subject.

Mr. President, I have criticised the bill freely according to the lights afforded by my humble abilities. I disclaim all disrespect in what I have said to the committee who reported the bill. I do not doubt that they have discharged their duty faithfully and conscientiously. The subject is extremely difficult and intricate. I do not profess to understand it better than they. It is one on which Senators will differ. It is my fortune to be unable to agree with the work of the committee, and what I have said has been said only in the discharge of my duty as a Senator, without the slightest design to impute anything improper to others; for I confess that if I had been called on to frame a bill it would in all probability have been more liable to criticism than the bill now before us. I shall offer some important amendments as a substitute for the most of the bill, but in doing so I shall not offer my own work. I have availed myself of the work, of the judgment, and the researches of far abler men than I am. The amendment to be offered as a substitute is based upon and framed from bills introduced into Congress by others, including the tenth section of the bill now under consideration. I may offer some independent amendments of my own, and if I do the fact will be thus stated.

I admit, Mr. President, that no measure that can now be passed can be perfect. Time and experience will point out defects. We have not sufficient information, either as to all the evils or all the proper remedies, yet there is sufficient known on this subject to justify us in assuming that there are at least three great evils which call aloud for remedy.

First. Excessive charges.

Second. Unjust discriminations between persons and places.

Third. The destruction of competition by the practice of pooling.

We have also sufficient information to enable us to legislate intelligently, so far as the substitute goes, to prevent these evils. Whether a bill embracing the provisions I approve shall pass or not, I am certain that something ought to be done on this subject. It would be a great misfortune to the country if by disagreement as to details among the friends of supervision there should be a failure to legislate at all. For my own part, after making proper efforts to secure the adoption of what is in my judgment a proper bill, if I shall fail I shall support any measure which promises any substantial relief to the people.

The substitute, which has been printed and laid on the desks of Senators, does not go as far in the way of direct regulation as in my judgment would be proper. I think it goes as far as is likely to meet the sanction of Congress. It furnishes the means by which excessive charges and unjust discriminations may be prevented. These means, as I have before pointed out, are in the main the prohibitions to charge more for a longer than for a shorter haul and against the practice of pooling. It attempts to secure reasonable charges through competition. If it shall be found that these provisions are unavailing, I do not doubt that we will be able to provide other remedies still more efficient for these wrongs, which in the end, without being unduly burdensome on the railroad companies, will yet make their service to the people fair and equal, and at such rates as will materially advance the public welfare.

The PRESIDING OFFICER (Mr. MORGAN in the chair.) The question is on agreeing to the amendment of the Senator from Iowa [Mr. WILSON].

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. CLARK, its Clerk, announced that the House had passed a bill (H. R. 6760) to authorize the construction of a bridge across the Mississippi River at Rock Island, Ill., and Davenport, Iowa, and to establish it as a post-route; in which it requested the concurrence of the Senate.

NAVAL APPROPRIATIONS.

Mr. HALE submitted the following report, which was read:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 7510) making temporary provision for the naval service, after full and free conference, have been unable to agree.

EUGENE HALE,
JOHN A. LOGAN,
JAS. B. BECK,
Managers on the part of the Senate.

SAM. J. RANDALL,
W. S. HOLMAN,
JOHN D. LONG,
Managers on the part of the House.

Mr. HALE. I think it is proper in this exigency to explain to the Senate the attitude of the two Houses upon the bill.

As Senators well know, the regular appropriation bill for the naval establishment for the fiscal year ending June 30, 1885, was hung up in conference at the end of the last session, and an emergency bill, as it is

called, was passed, which gave to the Navy Department 50 per cent. of the previous year's appropriation for the half year closing on the 31st day of the present month. By the necessity of the case that had to be done. Everybody realizes that it is not a good thing in our appropriation bills to go back to the previous year, where the conditions may be entirely different, and make that the measure of the necessities for the present year; but under the circumstances, with a session running out, that temporary bill, that emergency bill, was passed, and the Navy Department has been running on those appropriations since, the regular naval appropriation bill being suspended, to be taken up at this session. That is the bill which was matured for the present year for its purposes.

When the House ten days ago sent to the Senate another emergency bill, another temporary bill, simply giving to the Navy Department for the rest of this fiscal year 50 per cent. of the appropriations of last year, the Senate Committee on Appropriations amended that by substituting the regular appropriation bill that was prepared for this year and presented it to the Senate. The Senate sustained the action of the Appropriations Committee of this body. The Senate took the attitude, first, that any emergency bill, any temporary bill, which goes back to another year for the measure of appropriations for the present year is bad; that each year's appropriations ought to be scrutinized by themselves, and not be carried back to the law and the rule and the circumstances of another year, and therefore presented the regular appropriation bill for the present year. The Senate conferees in the conference which met this morning took ground upon that amendment and presented it to the conferees of the other House, asking what reason there was why that bill should not be considered, as the Senate had amended it and sent over.

Mr. HARRIS. Will the Senator from Maine allow me to inquire what is the difference, if any, between the amounts appropriated by the Senate substitute and the bill as it passed the House?

Mr. HALE. I was coming to that in a moment. The House conferees took the ground that the Senate must take their bill, their bill being, as I have said, a general bill giving to the Navy Department for the next six months, from January 1 to June 30, 1885, 50 per cent. of the appropriations that were prepared and matured and passed nearly two years ago. The House conferees insisted that the Senate must take that bill. The conferees of the Senate said, "This is objectionable; the rule of last year is not the rule for this year; the measure of necessity for last year is not the measure for this year. We offer you, not our bill, but the bill which your House prepared and matured and sent to us as the naval appropriation bill for this year, deducting from the several items what we have already given in the emergency bill of July last." Moreover, we said, "As there are large differences in amounts, as the bill which was matured last session contains the provision for the new cruisers and all the extra expenditure involved in that enterprise, the Senate is willing here to say that it recognizes the fact that we do not agree to give up these cruisers, but if the House insists that it will not put them on the appropriation bill, the Senate conferees feel that they can not drive the House on this subject, so that there would be, if we could consider and confer upon all the items, probably no difficulty."

Aside from that, in answer to the question of the Senator from Tennessee, I may say that the differences between the two bodies are small. There are some items which are not very material. Provided we could get into a fair conference, and provided the House conferees would consent to consider our amendments, I believe we should have no difficulty in coming to an agreement; but we can not get into a conference upon the items that the Senate has sent to the House because the House conferees insist that we must take their bill.

Under these circumstances the Senate conferees have felt that although it may be attended with grave results, and although if the two Houses adjourn for the holidays it may leave the Navy Department on the 1st of January without any appropriation, still that it was just and right and a duty to insist upon their grounds. I believe that myself, sir. I think the Senate should maintain its attitude, should insist upon its amendments until the House conferees will consent to consider them. Then, when they come up in detail, as I have said, I do not believe there will be any difficulty in coming to an agreement. But I did not feel, and my fellow-conferees did not feel, that the House of Representatives had the right to say that we must consider their bill alone, and thereby give up what the Senate is trying to compass—analysis and scrutiny and vigilance over every appropriation bill the year in which it is passed.

Therefore I hope that the Senate will accept the report. It will go to the House. I can not say—it rests with that body of course—whether they will ask for a new conference. If they do, I presume the Senate will be willing to go into another conference, but under the rules the motion must come from the House.

The PRESIDING OFFICER. The question is whether the Senate will at this time consider the report of the committee of conference.

Mr. BECK. I desire to say a few words before the vote is taken.

The PRESIDING OFFICER. The question as to whether the Senate will at this time consider the report is not debatable. Senators favoring the consideration of the report will say "ay," the contrary "no." [Having put the question.] The "ayes" have it, and the report is before the Senate.

Mr. BECK. Mr. President, I have very little to add to what the Senator from Maine has said, except that, being one of the conferees on the part of the Senate, I agreed with him, and I confess that I was somewhat astonished to find that we were not able even to make a beginning. The proposition that we made seemed to me obviously fair. It was that we would take the bill which the House had prepared, and had agreed to and had sent over to us, as the basis of our action, based upon the estimates for the current fiscal year, and that we would consult with them as to whether the amendments placed by the Senate upon the bill that they had sent to us should be agreed to or not. If the amendments were right we assumed that they would agree with us; if they were wrong we were prepared to advise the Senate to surrender the amendments that were made to the bill. But we were told at once that they would not be considered; that they had given one-half of the amount that was appropriated for the year 1883, and were willing to give the other half of what was appropriated for that year, and that they would not consider their own action for the current year. I did not think that was intelligent legislation, nor an appropriate mode of considering such a measure, because estimates had varied. I will take one example, which is a small one, but which illustrates the whole perhaps as good as any other: In the bill for the fiscal year ending June 30, 1884, approved March 3, 1883, 50 per cent. of which was given for the first half of the current fiscal year, this provision was made:

Commutation of quarters for officers where there are no public buildings, $10,000.

By the lumping bill passed last July we gave for this item $5,000 for half the current year. It is proposed now to give the other $5,000 for the next six months of the current fiscal year. The Senate and House for the current fiscal year, in the bill that both Houses agreed to, made this provision:

Commutation of quarters for officers where there are no public buildings, $4,000.

We have already given $1,000 more for that item for six months than the House and the Senate in the bill that both Houses agreed to said was necessary for the whole year. The Department have made changes no doubt, and do not need that amount of money, yet the House will not even consider it and we can not even get that looked into. Although it was agreed by the House and Senate that $4,000 was enough for this year and we have given $5,000 for the first six months of the current fiscal year, they say $5,000 more must be given, and they can not consider anything else. That is a specimen.

I confess to some sort of annoyance in regard to this matter. The same men who passed the bill that I hold in my hand for the current fiscal year are here now, and if they have made any mistakes they can correct them, but they will not even consider their own work and say that we must go back to the work of a past Congress, a Congress that is now extinct. Many of the Senators perhaps of the last Congress which passed the bill of 1883, one-half of which was given for the current fiscal year, are not upon this floor. If I may allude to it, as I said, I was annoyed. The fact that a Democratic House with a Democratic committee should be unwilling to consider its own work, which the Senate was willing to consider and act upon, and should say, "No; you must hang to a previous Congress, and take up the work of a Republican House and a Republican committee," annoyed me a little bit, for I thought they ought to have as much respect for their own work as they had for the work of a past Congress, and I think so yet. At any rate I was not willing to say that the action of the House and the Senate during the present Congress based upon the estimates for the current fiscal year should all be thrown aside and that the work of a former Congress upon a former set of estimates, no matter what political party then controlled, should be taken up in preference, and that we should blindly, right or wrong, give 50 per cent. of that year's appropriations, much of which was not wanted now.

Mr. HALE. Let me ask the Senator right there, as illustrating what time has passed to change the conditions, is it not now about two years since the bill which the House wants us to take was matured?

Mr. BECK. It lacks only two months of it.

Mr. HALE. So the House is asking us to go back to the conditions of two years ago.

Mr. BECK. That is the fact, and that is one of the objections; but the serious objection at last is, whatever we may be compelled to do when the exigency arises, as was the case last July, or whatever we may have been compelled to do on the legislative bill in the dead-lock five or six years ago, we have time now to do what we always maintained we ought to do, to keep the Departments under our control as well as we can and act upon the estimates that they send us for the year in such form that we shall know precisely what they have done and fix the responsibility for not doing right as well as we can.

We all know that there will be a change in the administration of the Navy Department on the 4th of March, and we ought to have details of its work based upon estimates, to know, if any wrong occurs, if any deficiency occurs, whether it was created by the present administration of the Department or by the administration of the Department that may follow it after the 4th of March, and not give a lumping sum, whereby

all the responsibility would be concealed from us and whereby Congress would lose its control over the appropriations. If we are going to do this with no exigency arising, with plenty of time to do otherwise, we might just as well for all the other Departments say, and the Senate might very well say, "If you have a change of administration after the 4th of next March we will give you what we gave last year and make a lump sum for that, for the Army, for the Navy, in the sundry civil bill, in the legislative bill, taking no account of the changed condition of things or of exigencies which may have arisen. We may have given money this year for things not needed next year. There may be things that all men might say would not be needed the next year, or things needed next year which are not needed now because of a changed condition, and if Congress gives up its intelligent hold on the action of the Departments it can not hold them responsible, because it has placed them in a position where the responsibility can not be fixed.

The tendency of our legislation for many years has been to go more and more into detail, to be more and more accurate and specific, so as to prevent the Departments from taking advantage of such loose general action as is now proposed to us by the other House. We have passed laws at as early a date as 1872 that no expenditure of money should be made except for the purposes for which appropriations were made and in accordance with the objects for which they were made, and we have narrowed them down year by year so as to stop the former habit of the Departments; and the position of the House now is a return to the worst condition of things we ever had.

That is all I care to say about it. It may be right and I be wrong, but I am stating the reasons why as one of the conferees I thought it was best to report back a disagreement and let the Senate do what it deems best.

The PRESIDENT *pro tempore*. There is no question on this bill before the Senate.

Mr. HALE. I move that the Senate further insist upon its amendments.

The PRESIDENT *pro tempore*. The Senator from Maine moves that the Senate further insist on its amendments to the bill. The question is on that motion.

Mr. FRYE. I am in favor of insisting for the reasons given by both of the conferees who have spoken; but suppose the Senate insists by a united vote and then to-morrow adjourns for three weeks.

Mr. HAWLEY. We will not adjourn.

Mr. FRYE. That was the suggestion I desired to make, that if the Senate insists and really means to insist and the House holds its position, as a matter of course, to be consistent, we can not adjourn, because on the 1st day of January there will be no appropriation available for the Navy.

Mr. BAYARD. Mr. President, the vote is about to be taken upon sustaining the committee of conference of the Senate in refusing to submit to what I may call—I will not say unreasonable, but certainly unreasoned demands on the part of the House. From what has fallen from the chairman in charge of the bill, and from my friend from Kentucky, it is perfectly obvious that the Senate is asked to abdicate its scrutiny over a bill of supplies which, although under the Constitution it must originate in the House, is unquestionably equally and as fully submitted for the approval of the Senate, and the responsibilities for its wisdom or unwisdom are quite as great upon this branch of the Legislature as they can be upon the other. Therefore, sir, I hope that the question will be put by yeas and nays upon this report, and that there may be upon a question of this kind an unbroken front of judgment presented by the Senate in respect to this case. Therefore I ask for the yeas and nays upon the motion to concur in the report of the Senate conferees.

The PRESIDENT *pro tempore*. The Senator from Delaware on this question demands the yeas and nays.

The yeas and nays were ordered.

The PRESIDENT *pro tempore*. The motion of the Senator from Maine is that the Senate further insist on its amendments to this bill, and on this question the yeas and nays have been ordered.

Mr. COCKRELL. I shall vote with the committee; at the same time I desire to do myself the justice of saying that I do not approve of all the amendments in the bill which are insisted on, and I want that distinctly understood.

Mr. McPHERSON. I only want to say that I do not understand the question, or else I misunderstood the Senator from Missouri. I understand that the vote affirmatively upon the motion of the Senator from Maine commits every Senator to the amendment.

Several SENATORS. Oh, no.

Mr. HALE. By no means. It is simply to get a conference upon them.

Mr. McPHERSON. I understand that you have already had a conference, and for reasons—perhaps such reasons as we learned from Senators when the bill was passed by the Senate—the House may have decided not to yield to the amendments. For one I did not agree with the Senator from Maine. I do not agree to all the amendments.

Mr. HALE. Let me say to the Senator that so far from that to which he refers being a subject-matter on which we could not agree, the intimation given by the Senate conferees was that when we ever did come to those questions the Senate conferees realized that we could not drive the House, but we said that we desired a conference upon the other items, and the report is presented because the House conferees refused to consider the Senate items, and said that we must take their bill and their method of appropriating. In this condition of things I do not consider that any Senator has in the least degree committed himself to pushing all the amendments, but that the Senate does take its ground that for the purpose of a full and fair conference its amendments must be considered by the conferees. That is all.

Mr. McPHERSON. Well, Mr. President, I still think that I am right in the matter. As I understand, there has been a conference on the House bill passed by the Senate with amendments. The House refused to accept those amendments. Now the bill comes back to the Senate, and the Senator from Maine rises and asks that the Senate still further insist. Insist upon what? The Senate amendments made to this appropriation bill. I agree with the Senator from Maine mainly as to the appropriations in the bill as amended, that the appropriations should be made. I should be glad to vote for the appropriations proper. I should have been as willing and as anxious for the passage of this bill as the Senator from Maine, or any other Senator, if those appropriations could have been made with suitable restrictions. But the Senate did not see fit to do that. Therefore I will not vote in favor of insisting further upon amendments which I do not approve of.

Mr. BECK. Will the Senator from New Jersey allow me to make a remark to him which will perhaps change his conclusion? All that the conferees are asking is that the House shall regard its own bill sent to us at the last session as the basis of our conference. The House conferees said: "No; we will only consider the provisions of a bill which was passed two years ago, whose provisions expired a year ago, and give the other half of what that bill appropriated, although some of the items are not included in the estimates of the present year." The question is, shall we take the bill the House itself passed during the present Congress, or shall we go back to a bill of a former year? That is all there is in the question.

Mr. McPHERSON. In other words, if I understand the Senator from Kentucky aright, the bill now under consideration and in the possession of the Senate was a House appropriation bill, amended by the Senate. Now the Senate conferees want authority to consider that House bill with all the amendments.

Mr. BECK. We are not committed to any one amendment.

Mr. McPHERSON. If the Senate should now insist upon its action, and should so instruct its conference committee, I wish to know what authority they would have from the Senate to reject any part of the amendments or to subtract any part of them.

Mr. HALE. Does not the Senator know that the fact that either of the bodies insists upon its amendments does not make anything like a pitiless instruction to the conferees, but such action is for the purpose generally of maintaining the attitude of the co-ordinate branch of the Government? Let me ask the Senator if he agrees with me and with the committee that has made this report, that our method of appropriation is the best, that we ought to have a scrutiny of every year's appropriations upon the circumstances of the year—if he agrees that the Senate is right in that, how can the Senate maintain its position except by insisting?

That tells the House that the Senate is determined that the House shall consider these propositions. When you get into conference, if the House will consent to that, as I believe upon firm action by the Senate it will, then the consideration of the respective items is a question of fair arrangement between the two sets of conferees, and each must yield something if necessary, and there are certain things that the Senate realizes now that it can not force the House upon. So the Senator need have no fear that he is committed to the text of the provisions of all these specific amendments or any of them. Nobody expects that. But the Senate can not maintain its attitude with reference to the method of appropriating in appropriation bills if it does not insist.

Mr. HARRIS. I ask the Senator from Maine if the Senate does not further insist is not all conference at an end?

Mr. HALE. Undoubtedly.

Mr. HARRIS. And the bill inevitably fails?

Mr. FRYE. That is it.

Mr. HALE. Of course the Senate can entirely abandon its ground and take the House general bill. That is the only thing. Otherwise it would fail.

Mr. HARRIS. The Senate has refused to take the House bill by adopting a substitute?

Mr. HALE. Yes.

Mr. HARRIS. That is the disagreeing vote between the two Houses. The conferees have failed to agree. They report that failure. Now, if the Senate fails to further insist, the conference is at an end and the bill utterly fails.

Mr. HALE. Undoubtedly. It does not go at all. It has no hope for action without this vote. I should be glad to see the Senate unanimous.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Maine that the Senate further insist on its amend-

ments to the bill of the House. On this question the yeas and nays have been ordered.

The Secretary proceeded to call the roll.

Mr. WALKER (when Mr. GARLAND'S name was called). My colleague [Mr. GARLAND] is paired with the Senator from Vermont [Mr. EDMUNDS].

The PRESIDENT *pro tempore*. The Chair asks the Senator from Arkansas if he thinks his colleague would vote "nay" on this question.

Mr. WALKER. I do not, and withdraw the announcement.

The PRESIDENT *pro tempore*. The Senator from Vermont is paired with the Senator from Arkansas upon any question where it would be thought they would differ; and the Senator from Vermont has voted "yea." If the Senator thinks his colleague would vote "nay" the Senator from Vermont will withdraw his vote.

Mr. WALKER. No, sir. I withdraw the announcement.

Mr. MILLER, of New York (when his name was called). I am paired with the Senator from Maryland [Mr. GROOME] on all political questions, but as this is not one of that character I vote "yea."

The roll-call having been concluded, the result was announced—yeas 55, nays 0; as follows:

YEAS—55.

Allison,	Dawes,	Jones of Florida,	Ransom,
Bayard,	Dolph,	Lamar,	Sabin,
Beck,	Edmunds,	Lapham,	Saulsbury,
Bowen,	Frye,	Logan,	Sawyer,
Brown,	Gibson,	McMillan,	Sewell,
Butler,	Hale,	Manderson,	Sheffield,
Call,	Hampton,	Maxey,	Slater,
Camden,	Harris,	Miller of N. Y.,	Vance,
Cameron of Wis.,	Harrison,	Mitchell,	Van Wyck,
Cockrell,	Hawley,	Morgan,	Vest,
Coke,	Hoar,	Morrill,	Voorhees,
Colquitt,	Ingalls,	Pendleton,	Walker,
Conger,	Jackson,	Platt,	Wilson.
Culiom,	Jonas,	Pugh,	

NAYS—0.

ABSENT—21.

Aldrich,	George,	McPherson,	Riddleberger,
Blair,	Gorman,	Mahone,	Sherman,
Cameron of Pa.,	Groome,	Miller of Cal.,	Williams.
Fair,	Hill,	Palmer,	
Farley,	Jones of Nevada,	Pike,	
Garland,	Kenna,	Plumb,	

So the motion of Mr. HALE was agreed to.

HOUSE BILL REFERRED.

The bill (H. R. 6760) to authorize the construction of a bridge across the Mississippi River at Rock Island, Ill., and Davenport, Iowa, and to establish it as a post-route, was read twice by its title, and referred to the Committee on Commerce.

SURVEY OF NICARAGUAN CANAL.

The PRESIDENT *pro tempore*. The Senate resumes the consideration of the bill (S. 2112) to establish a commission to regulate interstate commerce, and for other purposes.

Mr. HALE. I move that the Senate proceed to the consideration of executive business.

Mr. VEST. Will the Senator withdraw that motion?

Mr. HALE. Very well.

Mr. VEST. Yesterday I offered a joint resolution in regard to the proposed naval expedition to make a survey of the Nicaragua Canal route. I desire now to make a modification of that, and ask that it lie upon the table and be printed, and to give notice that to-morrow morning I shall ask the consideration of this resolution.

Mr. HALE. Will the Senator have it read?

Mr. VEST. As a matter of course. I will say in this connection that I gave notice yesterday that I would call up the resolution to-day, but at the request of the Senator from Maine I did not do so, but I expect to make the motion to-morrow.

The PRESIDENT *pro tempore*. Does the Senator from Missouri ask leave to offer this as an original resolution or as an amendment?

Mr. VEST. As an amendment to the joint resolution I introduced yesterday.

The PRESIDENT *pro tempore*. The Senator from Missouri asks unanimous consent to present at this time, for future consideration, an amendment intended to be proposed to the joint resolution (S. R. 106) declaring the action of the Secretary of the Navy in sending an expedition to Nicaragua to be illegal. Is there objection? The Chair hears none. The amendment will be printed if there be no objection.

Mr. HALE. Let us have it read.

The PRESIDENT *pro tempore*. It will be read for information.

The CHIEF CLERK. It is proposed to amend the joint resolution so as to make it read:

Whereas, in response to a resolution of inquiry on the part of the Senate, the Secretary of the Navy states in his official reply of date December 17, 1884, that orders have been issued by the Navy Department to Civil Engineer A. G. Menocal, Civil Engineer R. G. Peary, and Ensign Washington I. Chambers to visit Nicaragua in order to make a survey of the route for the proposed Nicaragua Canal, and that these orders have been issued in the exercise of the general powers of the Department under the President to issue such orders to all officers of the Navy as may be deemed for the public interest; and

Whereas the reply of the Secretary also states that the cost of the arrangements made and contemplated in addition to the pay and mileage of the naval officers is expected to be $1,000 as an outfit and about $1,000 a month during the stay of the party in Nicaragua:

Resolved by the Senate and House of Representatives of the United States in Congress assembled, That under existing circumstances it is not expedient to send an expedition into the territory of Nicaragua for the purpose of surveying a route for the proposed Nicaragua Canal and to expend or to make arrangements involving the expenditure of public money for such purpose without consent or authority from Congress. That the Secretary of the Navy be directed to discontinue the arrangements for such expedition and not to enforce the orders made as to the same until definite and final action by Congress upon the treaty between the United States and Nicaragua now pending.

Mr. VEST. I give notice that at the conclusion of the morning business to-morrow I shall ask the Senate to consider the resolution.

EXECUTIVE SESSION.

Mr. HALE. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After nine minutes spent in executive session the doors were reopened, and (at 4 o'clock and 27 minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, *December* 19, 1884.

The House met at 12 o'clock m. Prayer by the Chaplain, Rev. JOHN S. LINDSAY, D. D.

The Journal of yesterday's proceedings was read and approved.

PERSONAL EXPLANATION.

Mr. BLOUNT. Mr. Speaker, I desire to make a personal explanation. I ask the Clerk to read the letter which I send to the desk.

The Clerk read as follows:

DEPARTMENT OF AGRICULTURE,
Washington, D. C., December 16, 1884.

DEAR SIR: I find in the RECORD of this morning the following statements made by you in the House yesterday in the debate on the Department of Agriculture:

"As a matter of fact it is well known that those petitions were printed in the city of Washington, under the direction of the Commissioner of Agriculture, and sent through the mails all over the country to be brought back here with signatures, for the purpose of influencing Congress." * * * "But from the time this proposition has been broached the Commissioner of Agriculture—the present Commissioner as well as other Commissioners—has been about this body and the Senate Chamber asking that this thing be done."

Allow me to assure you that I have at no time urged the passage of the bill under consideration, have neither prepared nor printed nor circulated petitions in favor of the bill, nor have I urged its passage upon any member of the House or Senate; and only when urged to do so have I given any opinion on the measure, or any advice with regard to the structure of a bill. I have no knowledge whatever that such petitions have been circulated. I have scrupulously refrained from all personal effort or solicitation in the matter, and have devoted my energies solely to the work of enlarging the usefulness of the department as now organized, and of securing for it public confidence and respect.

Truly, yours,

GEO. B. LORING,
Commissioner of Agriculture.

Hon. JAMES H. BLOUNT,
House of Representatives.

Mr. BLOUNT. Mr. Speaker, the petitions referred to in my remarks antedated the official term of the present Commissioner of Agriculture. In what I said on that subject I had no reference to him; for I had never heard of anything affecting him in that regard, and I did not intend to be so understood by the reporter, although my remarks may have borne that construction.

As to my statement that the present Commissioner and others had exercised their influence for the purpose of having the office of Commissioner of Agriculture erected into the head of a department, I stated what was my information. But in this letter the Commissioner disavows any such action, and as he is an officer for whom I entertain the very highest respect, I feel it my duty to place on record his own statement in regard to the matter.

ROCK ISLAND BRIDGE.

Mr. MURPHY. I ask unanimous consent to take from the House Calendar for present consideration the bill (H. R. 6760) to authorize the construction of a bridge across the Mississippi river at Rock Island, Ill., and Davenport, Iowa, and to establish it as a post-route.

The SPEAKER. The bill will be read subject to objection.

The Clerk proceeded to read the bill.

Mr. REAGAN. I am bound to object to the consideration of that or any other bill to-day. I desire we shall dispose of the unfinished business which comes up this morning as the regular order.

Mr. MURPHY. I hope the gentleman will not insist upon his objection, as the bill has been nearly read through.

Mr. REAGAN. I understand the reading of the bill has been nearly finished, and I will therefore withdraw my objection.

The bill is as follows:

Be it enacted, &c., That it shall be lawful for the Davenport and Rock Island Bridge Company, a corporation duly created and organized under the laws of the State of Iowa, to build a bridge across the Mississippi River at Rock Island, Ill., and Davenport, Iowa, as may accommodate the Moline, Rock Island and Southern Railroad, a corporation duly organized under the laws of the State of Illinois, on the east side of said river, and the Davenport, Iowa and Dakota Railroad, a corporation created under the laws of the State of Iowa, on the west side of said river, and for the accommodation of any railroads that are or may

hereafter be built, and to lay over said bridge a railroad track for the more perfect connection of any railroad or railroads that are or may be constructed to the said river, on either side thereof, at or opposite said point, under the limitations and provisions hereinafter provided: *Provided*, That Congress may at any time prescribe such rules and regulations in regard to toll and otherwise as may be deemed reasonable.

SEC. 2. That said bridge shall be built with a draw, so as not to impede the navigation of said river; said draw shall be a pivot draw, over the channel of said river usually navigated, and with spans giving a clear width of water way of not less than two hundred feet on each side of the central or pivot pier of the draw, and the next adjoining span or spans shall give a clear width of water way of not less than three hundred feet, and said spans shall not be less than ten feet above extreme high-water mark, and not less than thirty feet above low-water mark, measured to the bottom chord of the bridge, and the piers of said bridge shall, as nearly as practicable, be parallel with the current of said river: *Provided*, That said draw shall always be opened promptly upon reasonable signal; and said company, or its successors and assigns, shall at all proper times keep and maintain all proper lights on said bride during nights, so that its presence may always be noticed by vessels and crafts navigating the channel of said river. And all plans for the construction of said bridge and approaches thereto must first be submitted to the Secretary of War for his approval, and when the same shall be approved by said Secretary the work thereon may be commenced and prosecuted to completion: *And provided further*, That said bridge shall be constructed with such aids to the passage of said bridge in the form of booms, dikes, piers, or suitable and proper structures for confining the flow of water to a permanent channel and for the guiding of rafts, steamboats, and other water-craft safely through the draw and raft spans as the Secretary of War shall prescribe and order, to be constructed and maintained at the expense of the company owning said bridge: *And provided further*, That said bridge shall, as nearly as may be, be constructed at right angles with said river or the current thereof: *And provided further*, That any change in the mode of construction of said bridge shall be first submitted to the said Secretary for his approval, and when approved the said company may then proceed with the construction according to said change: *And provided further*, That if said bridge, when constructed, shall, in the opinion of the Secretary of War, be a substantial obstruction to the navigation of said river, the said Secretary shall require said company to change the construction thereof so as to avoid any serious and substantial obstruction to the navigation of said river, at the expense of the owners of said bridge.

SEC. 3. That the bridge hereby authorized shall be a lawful structure, and shall be a post-route, upon which no higher charge shall be made for the transportation of the mails of the United States and the troops and munitions of war, or for passengers or freight passing over said bridge, than the rate per mile paid to railroads and transportation companies leading to said bridge.

SEC. 4. That all railroad companies desiring the use of said bridge shall have and be entitled to equal rights and privileges relative to the passage of railway trains or cars over the same, and over the approaches thereto, upon payment of reasonable compensation for such use; and in case the owner or owners of said bridge and the several railroad companies, or any one of them, desiring such use shall fail to agree upon the sum or sums to be paid, and upon rules and conditions to which each shall conform in using said bridge, all matters at issue between them shall be decided by the Secretary of War, upon a hearing of the allegations and proofs of the parties: *Provided*, That the provisions of section 3 in regard to charges for passengers and freight across said bridge shall not govern the Secretary of War in determining any question arising as to the sum or sums to be paid to the owners of said bridge by said companies for the use of said bridge.

SEC. 5. That this act shall be subject, except as above mentioned, to the limitations and provisions of an act entitled "An act to authorize the construction of a bridge across the Mississippi River at or near the town of Clinton, in the State of Iowa, and other bridges across said river, and to establish them as post-roads," approved April 1, 1872.

SEC. 6. That the right to alter, amend, or repeal this act is hereby expressly reserved; and the right to require any changes in such structure, or its entire removal, at the expense of the owners thereof, whenever Congress shall decide that the public interest requires it, is also expressly reserved.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. WARNER, of Ohio. Does the bill come from any committee?

Mr. MURPHY. Yes; from the Committee on Commerce.

There was no objection, and the House Calendar was discharged from the further consideration of the bill, and it was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. MURPHY moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ENROLLED BILL SIGNED.

Mr. YAPLE, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a bill (H. R. 4085) for the relief of Juliet H. Palmer; when the Speaker signed the same.

WASHINGTON MONUMENT.

The SPEAKER laid before the House a letter from W. W. Corcoran, chairman of the Joint Commission for the Completion of the Washington Monument, transmitting the annual report of that commission; which was referred to the Committee on the Library, and ordered to be printed.

STATE DEPARTMENT PRINTING, ETC.

The SPEAKER also laid before the House a letter from the Secretary of the Treasury, inclosing letter from the Secretary of State asking an appropriation of $5,000 to supply a deficiency in the allotment for printing and binding for the State Department for the current fiscal year; which was referred to the Committee on Appropriations, and ordered to be printed.

YELLOWSTONE NATIONAL PARK.

The SPEAKER also laid before the House a letter from the Secretary of the Treasury, transmitting an estimate from the Interior Department of an appropriation for the protection and improvement of the Yellowstone National Park for the fiscal year ending June 30, 1884; which was referred to the Committee on Appropriations, and ordered to be printed.

COAST SURVEY.

The SPEAKER also laid before the House a letter from the Secretary of the Treasury, inclosing statement of expenses on account of the United States Coast and Geodetic Survey for the fiscal year ending June 30, 1884; which was referred to the Committee on Expenditures in the Treasury Department, and ordered to be printed.

EXTRA POLICEMEN, ETC.

The SPEAKER also laid before the House a letter from the Secretary of the Treasury, transmitting estimates from the commissioners of the District of Columbia of an appropriation for extra policemen at the dedication of the Washington Monument and inauguration ceremonies; which was referred to the Committee on Appropriations, and ordered to be printed.

PUBLIC BUILDING, HARRISONBURG, VA.

The SPEAKER also laid before the House a letter from the Secretary of the Treasury, in response to a resolution of the House of the 17th instant, calling for information relative to the purchase of a site and the erection of a public building at Harrisonburg, Va.; which was referred to the Committee on Public Buildings and Grounds, and ordered to be printed.

JOHN G. THOMPSON.

The SPEAKER also laid before the House the following letter, accompanied by a memorial.

The Clerk read as follows:

WASHINGTON, D. C., *December* 18, 1884.

SIR: I have the honor to inclose the memorial by me to the Senate and House of Representatives of Congress, asking that an appropriation be made by Congress to pay the judgment against me rendered by the supreme court of the District of Columbia in the suit of Hallet Kilbourn against me, in accordance with the recommendation of the Committee on the Judiciary; and also to reimburse me the expenses incurred by me in defense of said suit, and to pay me reasonable compensation for my time and trouble, with the request that you lay the memorial before the House of Representatives.

Very respectfully, your obedient servant,

JOHN G. THOMPSON.

Hon. JOHN G. CARLISLE,
Speaker of the House of Representatives.

The SPEAKER. If there be no objection, the letter and accompanying memorial will be referred to the Committee on the Judiciary.

Mr. KEIFER. I ask it may be referred to the Committee on Appropriations, in order that this Sergeant-at-Arms may be able to relieve himself of the judgment rendered against him while carrying out the order of the House.

The SPEAKER. The Chair thought it would be better to refer it to the Committee on the Judiciary, inasmuch as the memorial asks for reimbursement for expenses which the Chair supposed have not yet been ascertained by competent authority.

Mr. KEIFER. There is a judgment against Mr. Thompson as Sergeant-at-Arms, and he asks that judgment be paid. The Committee on the Judiciary can hardly make appropriation to do that. The amount has been determined, and in my judgment it is in the nature of a claim against the Government, and, therefore, I think it should go to the Committee on Appropriations.

The SPEAKER. The Chair would have no doubt about its reference to the Committee on Appropriations if it asked for no more than the payment of the judgment rendered against a former officer of the House.

Mr. RANDALL. I think, Mr. Speaker, it should go to the Committee on the Judiciary as to the general merits of the case.

Mr. HAMMOND. That is where it was before.

The SPEAKER. If the gentleman from Ohio makes the motion to refer to the Committee on Appropriations, the Chair will submit it to the House.

Mr. KEIFER. Then I move the reference of the memorial and accompanying letter to the Committee on Appropriations.

Mr. RANDALL. I think it should go to the Committee on the Judiciary.

Mr. HOLMAN. Or to the Committee on Claims.

Mr. KEIFER. If it is ever to be paid it should go the Committee on Appropriations, which is the proper committee to make provision for its payment.

Mr. HOLMAN. It is not appropriate to any appropriation bill.

Mr. RANDALL. I should like to have this whole judicial proceeding examined into by the Judiciary Committee.

Mr. KEIFER. I wish to say this is a judgment rendered against the Sergeant-at-Arms after a long litigation, and he asks to be reimbursed. The judgment was rendered against him because he did that which the House of Representatives required him to do. He simply executed the order of the House, which resulted in violating the law of the country under the judgment of the Supreme Court and other tribunals which have passed upon it.

He is now burdened with the judgment of the court when the House compelled him to do that which rendered him liable to the judgment of the court. We ought, in my judgment, to refer the matter to the Committee on Appropriations, so as to provide for the payment of the judgment and for the relief of this officer of the House; but it is now

proposed to send it elsewhere for some further investigation. It ought to be paid at once, unless some fraud shall be alleged against it.

Mr. HOLMAN. The Committee on the Judiciary can determine whether it should be paid or not.

Mr. KEIFER. It never will be paid during this Congress if it goes there.

Mr. RANDALL. This Congress has nothing to do with determining that matter. It should be in the nature of a judicial proceeding. It is well understood that the Committee on the Judiciary can make recommendation for reference to the Committee on Appropriations after that committee has determined exactly what should be done in the premises. In my judgment, the Committee on the Judiciary is the proper committee of this House to settle whatever amount shall be paid.

Mr. KEIFER. I would not persist if I supposed the Committee on the Judiciary had the power to grant the relief which is asked.

The SPEAKER. The impression the Chair had about it is that the reference to the Committee on the Judiciary would be proper, because the memorial asks in the first place the ascertainment of the amount of his expenditures and the value of the time he had been compelled to devote to the suit. The Chair thought the Committee on the Judiciary could make investigation of that matter and make recommendation to the House which could be referred to the Committee on Appropriations.

Mr. HOLMAN. The Committee on the Judiciary is vested with ample power to report a bill covering the whole question. It can be done as well through that channel as by reference to the Committee on Appropriations.

Mr. RANDALL. It is a judicial matter connected with proceedings in court, and should have the judgment of the Committee on the Judiciary before any action is taken in the House.

Mr. LONG. Mr. Speaker, I understand this is an expenditure not authorized by law, and therefore the Committee on Appropriations has no power over it. It is subject to the point of order, but I suggest it be referred to the Committee on the Judiciary, with leave to report at any time.

Mr. KEIFER. I take issue with the gentleman from Massachusetts, as I believe it is authorized by law, at least so far as this House is concerned.

The SPEAKER. The gentleman from Massachusetts moves by unanimous consent that the Committee on the Judiciary have power to report back at any time.

There was no objection, and it was ordered accordingly.

The SPEAKER. Does the gentleman from Ohio insist on his motion?

Mr. KEIFER. I feel reluctant to do so, and I will now only say in answer to what has been said by the gentleman from Massachusetts that there is a statute of 1878 which requires us to protect such officers.

The letter and accompanying memorial were then referred to the Committee on the Judiciary, with power to report at any time, and ordered to be printed.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted in the following cases:

To Mr. HATCH, of Michigan, until January 10, on account of important business.

To Mr. FINERTY, until after the holiday recess.

To Mr. CLAY, for ten days, on account of sickness and important business.

To Mr. JONES, of Arkansas, indefinitely.

JAMES M. WATSON.

On motion of Mr. CARLISLE, by unanimous consent leave was granted for the withdrawal from the files of the House of the papers in the case of James M. Watson, without leaving copies, no adverse report having been made thereon.

ADDITIONAL PAGES.

Mr. SPOONER submitted the following report.

The Clerk read as follows:

The Committee on Accounts, to whom was referred the following resolution, namely—

"*Resolved*, That the Doorkeeper of the House of Representatives is hereby authorized to employ three additional pages during the present session, to be paid out of the contingent fund of the House at the rate of $2.50 per day"—

respectfully report that the purpose of said resolution is to provide for the employment of the same number of pages as in the first session of the Forty-eighth Congress; that your committee believe such additional employés are required for the proper transaction of the business of the House, and therefore recommend the passage of said resolution.

The resolution was adopted.

Mr. SPOONER moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

LABORERS IN CLERK'S DOCUMENT-ROOM.

Mr. BREWER, of New Jersey, from the Committee on Appropriations, reported back the following resolution with the recommendation that it do pass.

The Clerk read as follows:

Resolved by the House of Representatives, That the Clerk of the House be empowered, and is hereby authorized, to continue in the service of the House the two laborers in the Clerk's document-room authorized under the resolution of June 13, 1884, to arrange, sack, and ship the reserved calf-bound and special-bound documents belonging to members and to arrange the files, the said laborers to be paid out of the contingent fund of the House, at the same rate heretofore named, under the supervision of the Committee on Accounts.

The resolution was adopted.

Mr. BREWER, of New Jersey, moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

INTERSTATE COMMERCE.

Mr. REAGAN. I now demand the regular order of business.

The SPEAKER. The pending question is on the motion made by the gentleman from Texas [Mr. REAGAN] to close debate on the pending amendment and section under consideration in five minutes.

Mr. REED. Are we not entitled to the morning hour on private bill day?

The SPEAKER. Does the gentleman make that point?

Mr. REED. I do.

Mr. ANDERSON. It comes too late.

The SPEAKER. The gentleman from Maine raises the question that this is private bill day.

Mr. ANDERSON. I rise to a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. ANDERSON. Is not the point of the gentleman from Maine made too late, as the Chair has already stated what is before the House?

The SPEAKER. The Chair supposes the gentleman from Maine could not know what business the House was about to proceed with until it was stated by the Chair.

Mr. REAGAN. I make the inquiry whether the morning hour can prevent us from taking a vote when the previous question has been asked.

The SPEAKER. It would not, but the previous question has not been demanded.

Mr. REAGAN. But it has been called for and the yeas and nays ordered on that vote.

The SPEAKER. The gentleman's motion was to move to close debate on this amendment and on this section in five minutes.

Mr. REAGAN. On the section and amendment.

The SPEAKER. But the gentleman did not demand the previous question on the amendment.

Mr. REAGAN. Whatever words I used, that was what I meant.

The SPEAKER. The gentleman made a motion, which was authorized under the rule adopted by the House on yesterday, to close debate on the amendment and section under consideration in five minutes. That, however, is not the previous question. The previous question, if ordered, would close debate at once.

Mr. REAGAN. I used the words "close debate," when I should have said the previous question. My object was to get a vote without unnecessary delay.

The SPEAKER. That, of course, would not compel the House to proceed at once to a vote upon the question, which would be the case if the previous question had been demanded and ordered.

But the Chair has not yet decided this question, nor does the Chair mean to decide now, without hearing further upon the subject or without further examination, that private business can cut off the consideration of the special order to-day. The Chair desires to examine, in the first instance, the order under which the House is acting upon this particular measure, and also the rule of the House bearing upon the question of private business. The Chair will cause the Clerk to read the order which was made by the House on the 1st of March last under a suspension of the rules—the rules being suspended to make the order—and the subsequent order of the 18th of March.

The Clerk read as follows:

March 1, 1884. A bill (H. R. 5461) to establish a board of commissioners of interstate commerce, and to regulate such commerce.

Tuesday, March 18, 1884, in the House as in Committee of the Whole, and the consideration thereof to be continued from day to day until finally acted on, not to interfere with appropriation or revenue bills.

Mr. WILSON, of Iowa. Mr. Speaker, this order when made interfered evidently with prior orders under the rules of the House.

The SPEAKER. Except in so far as it excepted from its operation the consideration of appropriation and revenue bills.

Mr. WILSON, of Iowa. And further, it provides that this particular bill is to be considered from day to day until disposed of. It made no provision for the Private Calendar on Fridays having precedence and power to interfere with its consideration on private bill day. I am not disposed to occupy the time of the House in debating points of order, even when I do not think they go the way they might. But the country is looking for legislation upon this subject, if upon anything.

Mr. REED. As I can not reply to the last observation of the gentleman from Iowa because it does not strike me as being pertinent to the point of order, I shall say nothing upon it.

It is entirely immaterial to me how the Chair decides the question.

But the point I suggest is that the order which has been read only refers to the continuation of this subject from day to day when business of this character is properly in order. It does not interfere with or make any exclusion of the Private Calendar.

Mr. WILSON, of Iowa. It does not say that it shall not interfere with it.

Mr. REED. Nor has it ever been held that such an order would interfere with private bill day.

The SPEAKER. It has been held both ways, the Chair thinks.

Mr. REED. Then I have nothing further to say upon that point, and withdraw my observation about what the gentleman from Iowa said, not being parliamentary.

The SPEAKER. If the order made on the 1st of March had contained no exceptions at all, the question presented now would assume a very different form. But it will be observed that it does except revenue and appropriation bills and nothing else, thereby indicating the purpose of the House to make no other exceptions. And as it provides that its consideration shall proceed from day to day until disposed of, the House must have had in mind the exclusion of the Private Calendar.

Mr. REED. Let me ask the Speaker if that order would cover the special session of to-night?

The SPEAKER. It would not, because we have another special order of the House which sets apart a particular evening for particular purposes.

Mr. REED. But that order was prior to this one, and this does not except it.

Mr. McMILLIN. I suggest, Mr. Speaker, to the gentleman from Maine and the gentleman from Texas that there is a way which has been proposed by some members who desire to leave the city this evening, after having taken a vote on the propositions embodied in this bill, which may obviate all difficulty, and that is that we substitute to-morrow for private bill day, and consider the unfinished business to-day. That will enable them to go this evening without missing a vote on the Reagan bill if they are disposed to omit attendance when the Private Calendar is under consideration. It will give them an opportunity of leaving the city to-night. Quite a number of gentlemen on both sides of the House have made that suggestion, and I hope there will be no objection to adopting it.

Mr. TOWNSHEND. I should certainly object to any such arrangement, for it is my intention to call up the Mexican pension bill as soon as the interstate commerce bill is disposed of, and I will make no arrangement that would prevent me from exercising that privilege.

The SPEAKER. The Chair thinks that under the special order of the House the interstate-commerce bill is entitled to consideration to-day.

Mr. WARNER, of Ohio. As against the consideration of the Private Calendar?

The SPEAKER. The Chair thinks so.

Mr. REED. Are we not entitled to a morning hour?

The SPEAKER. The order of the House fixes no hour. The order does not provide that this shall be taken up after the morning hour. In point of fact, the gentleman from Texas has been calling the bill up from day to day immediately after the reading of the Journal.

Mr. O'NEILL, of Pennsylvania. Did it not require unanimous consent on last Friday and Friday a week ago to proceed with the consideration of the interstate-commerce bill instead of the Private Calendar?

The SPEAKER. That question was not raised. The gentleman from Tennessee [Mr. McMILLIN] on last Friday simply rose in his seat and stated that he would not insist upon the consideration of private business on that day.

Mr. O'NEILL, of Pennsylvania. Then I raise the question of consideration. I hold that we should give the Private Calendar at least one day; that private business is entitled to the consideration of the House one single day before adjournment for the holidays.

The SPEAKER. The question of consideration is raised.

Mr. WARNER, of Ohio. Does it not require a vote of two-thirds to set aside the Private Calendar?

The SPEAKER. The question of consideration is the question before the House; and it has always been held to be in the power of the House to say whether it will or will not proceed with the consideration of a matter by a majority vote.

The question is, Will the House proceed to consider the interstate-commerce bill?

The question was taken; and on a division there were—ayes 105, noes 49.

Mr. O'NEILL, of Pennsylvania. No quorum has voted.

Mr. TOWNSHEND. No announcement of the vote has been made.

Mr. O'NEILL, of Pennsylvania. The vote has been announced and no quorum has voted. I insist upon the point of order, because every agreement that has been made upon the floor of the House and in the Committee on Commerce has been violated.

The SPEAKER. The point of order being made that no quorum has voted, the Chair will order tellers.

Mr. O'NEILL, of Pennsylvania, and Mr. REAGAN were appointed tellers.

The House again divided; and the tellers reported—ayes 144, noes 26.

So the House agreed to consider the bill (H. R. 5461) to establish a board of commissioners of interstate commerce and to regulate such commerce.

INTERSTATE COMMERCE.

The SPEAKER. The question is on the motion of the gentleman from Texas [Mr. REAGAN] to limit debate on the pending amendment and section to five minutes; and on this question the yeas and nays were ordered by the House.

Mr. BROWNE, of Indiana. I would like to have the amendment read.

The SPEAKER. The question is not on the amendment, but on the motion to limit debate.

The question was taken; and there were—yeas 157, nays 58, not voting 108; as follows:

YEAS—157.

Alexander,	Ferrell,	Miller, J. F.	Springer,
Anderson,	Follett,	Mills,	Stewart, Charles
Bagley,	Forney,	Mitchell,	Stockslager,
Barksdale,	Fyan,	Money,	Storm,
Beach,	Geddes,	Moulton,	Struble,
Bennett,	Gibson,	Murphy,	Sumner, C. A.
Blanchard,	Glascock,	Murray,	Thompson,
Blount,	Green,	Neece,	Throckmorton,
Boyle,	Greenleaf,	Nicholls,	Tillman,
Bratton,	Guenther,	Oates,	Townshend,
Breckinridge,	Halsell,	O'Ferrall,	Tucker,
Brown, W. W.	Hammond,	O'Neill, J. J.	Tully,
Browne, T. M.	Hanback,	Payne,	Turner, H. G.
Buchanan,	Hancock,	Pierce,	Turner, Oscar
Buckner,	Hardeman,	Peel,	Van Alstyne,
Burnes,	Henderson, D. B.	Peters,	Van Eaton,
Cabell,	Henley,	Post,	Wallace,
Campbell, Felix	Hewitt, A. S.	Potter,	Ward,
Campbell, J. E.	Hill,	Pryor,	Warner, A. J.
Campbell, J. M.	Holman,	Pusey,	Warner, Richard
Candler,	Holmes,	Randall,	Weaver,
Cassidy,	Hopkins,	Ray, G. W.	Wellborn,
Clardy,	Houseman,	Ray, Ossian	Wemple,
Clements,	Hunt,	Reagan,	Wilkins,
Cobb,	Hurd,	Reese,	Williams,
Converse,	Hutchins,	Riggs,	Willis,
Covington,	James,	Robertson,	Wilson, James
Cox, W. R.	Jones, B. W.	Robinson, W. E.	Wilson, W. L.
Culbertson, W. W.	Jones, J. H.	Rogers, J. H.	Winans, E. B.
Deuster,	Jordan,	Rogers, W. F.	Winans, John
Dibble,	Kleiner,	Rosecrans,	Wise, G. D.
Dibrell,	Lamb,	Ryan,	Wolford,
Dowd,	Lanham,	Scales,	Wood,
Dunn,	Le Fevre,	Seney,	Woodward,
Eaton,	Lewis,	Shelley,	Worthington,
Eldredge,	Lore,	Shively,	Yaple,
Elliott,	Lowry,	Singleton,	Young.
Ellis,	McAdoo,	Skinner, C. R.	
English,	McMillin,	Smith, H. Y.	
Ermentrout,	Matson,	Spriggs,	

NAYS—58.

Adams, G. E.	George,	Long,	Seymour,
Barr,	Harmer,	Lyman,	Smalls,
Bisbee,	Haynes,	McComas,	Smith, A. H.
Boutelle,	Henderson, T. J.	Morrill,	Spooner,
Brewer, F. B.	Hepburn,	Nutting,	Stephenson,
Brewer, J. H.	Hitt,	O'Hara,	Stone,
Brumm,	Horr,	O'Neill, Charles	Strait,
Budd,	Howey,	Parker,	Talbott,
Cannon,	Jeffords,	Payson,	Taylor, E. B.
Chace,	Johnson,	Perkins,	Taylor, J. D.
Cutcheon,	Kean,	Phelps,	Thomas,
Davis, G. R.	Keifer,	Poland,	Wadsworth,
Dingley,	Ketcham,	Price,	Wait.
Evans,	Lacey,	Rockwell,	
Everhart,	Laird,	Rowell,	

NOT VOTING—108.

Adams, J. J.	Culberson, D. B.	Hoblitzell,	Patton,
Aiken,	Cullen,	Holton,	Pettibone,
Arnot,	Curtin,	Hooper,	Rankin,
Atkinson,	Dargan,	Houk,	Ranney,
Ballentine,	Davidson,	Jones, J. K.	Reed,
Barbour,	Davis, L. H.	Jones, J. T.	Rice,
Bayne,	Davis, R. T.	Kelley,	Robinson, J. S.
Belford,	Dockery,	Kellogg,	Russell,
Belmont,	Dorsheimer,	King,	Shaw,
Bingham,	Dunham,	Lawrence,	Skinner, T. G.
Blackburn,	Ellwood,	Libbey,	Slocum,
Bland,	Fiedler,	Lovering,	Snyder,
Bowen,	Findlay,	McCoid,	Steele,
Brainerd,	Finerty,	McCormick,	Stevens,
Breitung,	Forna,	Maybury,	Stewart, J. W.
Broadhead,	Funston,	Millard,	Sumner, D. H.
Burleigh,	Garrison,	Miller, S. H.	Taylor, J. M.
Caldwell,	Goff,	Milliken,	Valentine,
Carleton,	Graves,	Morgan,	Vance,
Chalmers,	Hardy,	Morrison,	Wakefield,
Clay,	Hart,	Morse,	Washburn,
Collins,	Hatch, H. H.	Muldrow,	Weller,
Connolly,	Hatch, W. H.	Muller,	White, J. D.
Cook,	Hemphill,	Mutchler,	White, Milo
Cosgrove,	Herbert,	Nelson,	Whiting,
Cox, S. S.	Hewitt, G. W.	Ochiltree,	Wise, J. S.
Crisp,	Hiscock,	Paige,	York.

So the motion to limit debate was agreed to.

Mr. LAMB. I ask unanimous consent to dispense with the reading of the names of members voting.

Mr. O'NEILL, of Pennsylvania. I object.

The following members were announced as paired on all political questions until further notice:

Mr. ARNOT with Mr. BELFORD.
Mr. JONES, of Alabama, with Mr. HOOPER.
Mr. KING with Mr. MILLER, of Pennsylvania.
Mr. BLAND with Mr. VALENTINE.
Mr. FIEDLER with Mr. STEELE.
Mr. MAYBURY with Mr. JOHN S. WISE.
Mr. MULLER with Mr. DUNHAM.
Mr. MORGAN with Mr. BAYNE.
Mr. BLACKBURN with Mr. BOWEN.
Mr. HEWITT, of Alabama, with Mr. YORK.
Mr. BALLENTINE with Mr. FINERTY.
Mr. SKINNER, of North Carolina, with Mr. MCCORMICK.
Mr. DARGAN with Mr. WASHBURN.
Mr. VANCE with Mr. WHITING.
Mr. JONES, of Arkansas, with Mr. RUSSELL.
Mr. AIKEN with Mr. STEWART, of Vermont.

The following pairs were also announced:

Mr. PAIGE with Mr. HART, on the interstate-commerce bill.
Mr. HILL with Mr. CHALMERS, on the interstate-commerce bill.
Mr. RANKIN with Mr. OCHILTREE, on the interstate-commerce bill.
Mr. DOCKERY with Mr. MCCOID, until December 21.
Mr. MILLARD with Mr. MULDROW, on all questions.
Mr. HATCH, of Michigan, with Mr. HATCH, of Missouri, on the interstate-commerce bill, except on its final passage.
Mr. CALDWELL with Mr. RICE, until January 5.
Mr. HERBERT with Mr. REED, until January 5.
Mr. MORRISON with Mr. HISCOCK, until January 5.
Mr. HEMPHILL with Mr. BREITUNG, for this day.
Mr. TAYLOR, of Tennessee, with Mr. WAKEFIELD, for to-day.
Mr. CRISP with Mr. MILLIKEN, for this day.
Mr. COSGROVE with Mr. PETTIBONE, for this day.
Mr. GOFF with Mr. SNYDER, for this day.
Mr. CONNOLLY with Mr. LAWRENCE, for this day.
Mr. CLAY with Mr. KELLOGG, for this day.

The result of the vote was then announced as above stated.

The SPEAKER. By virtue of the vote just taken all debate upon the pending amendment and the section under consideration is limited to five minutes.

Mr. REAGAN. Of the five minutes allowed for debate I allow three minutes to the gentleman from Pennsylvania [Mr. O'NEILL].

PENSION APPROPRIATION BILL.

Mr. HANCOCK, from the Committee on Appropriations, reported, as a substitute for H. R. 7676, a bill (H. R. 7785) making appropriations for the payment of invalid and other pensions of the United States for the fiscal year ending June 30, 1886, and for other purposes; which was read a first and second time, referred to the Committee of the Whole House on the state of the Union, and ordered to be printed.

INTERSTATE COMMERCE.

Mr. O'NEILL, of Pennsylvania. I move to amend the bill by striking out the second section and inserting what I send to the desk.

The SPEAKER. The Chair will state to the gentleman from Pennsylvania that by the order of the House just made the debate is limited to five minutes on the pending amendment and the section. The gentleman from Pennsylvania, however, can proceed.

Mr. O'NEILL, of Pennsylvania. Of course I assert my own right as a member of this House acting as a Committee of the Whole to offer an amendment. I must, however, thank the gentleman from Texas [Mr. REAGAN] for his liberality, now shown for the first time, I believe. If any one can tell me when the gentleman has shown any liberality heretofore in connection with this bill I would like to know it.

Mr. Speaker, this amendment which I offer in lieu of the second section is the section as agreed upon by a majority of the Committee on Commerce; and the understanding in that committee was that each member of the committee should have the opportunity (if not by the allowance of the gentleman from Texas at least by the permission of this House) to offer in the House such amendments to the bill as he might deem proper, and that of course he should have the opportunity to explain them.

Now, I propose to strike out the second section of this bill and insert the section relating to this question of rebates as agreed upon by a majority of the Committee on Commerce. The section of the gentleman's substitute is an iron-clad section. The section as agreed upon by the majority of the Committee on Commerce permits rebates, provided there is no discrimination—permits them when they are accorded to all persons under similar circumstances.

I hope the House will in its judgment accept this amendment and vote it in, striking out the section of the substitute bill. I want, if I can, to assist in the improvement of the substitute bill, which needs a great deal of improvement; and I hope it will be greatly improved before we get through with this question, which has occupied the House for two or three weeks to the exclusion of much legislation—to the exclusion of the Private Calendar for three Fridays, the interests of individuals being thus neglected, though in many instances individuals are as much justified in asking Congress for action as is the gentleman from Texas, for the gratification of whose personal feeling with regard to this bill and his ambition to pass it we have, I think, done enough. I think now we ought to amend the bill, removing its imperfections wherever we can.

Mr. REAGAN. Mr. Speaker, my friend from Pennsylvania [Mr. O'NEILL] thinks me very illiberal in reference to this bill because I do not allow amendments. So the gentleman from Kentucky [Mr. WHITE] thought yesterday, after we had spent two days on one section of the bill amending it.

Now, while it was understood, as the gentleman from Pennsylvania suggests, that this bill was to be reported subject to the offering of amendments by any member of the committee, as showing all the members were not satisfied with the details of the bill, it was not understood that the right to amend and debate should be so unlimited as to prevent the House from acting on the subject. I think the gentleman, anxious as he is to defeat this bill, ought to be satisfied with two days on one section.

Mr. O'NEILL, of Pennsylvania. I took no time in those two days. This side of the House was trying to extend human liberty; the gentleman and his followers were trying to contract it.

Mr. REAGAN. The gentleman knows, though he talks about "extending human liberty," that there has been no proposition made here that would affect human liberty in any way. Perhaps he is like a good many others on both sides of the House; whenever the "nigger" is mentioned they shy like a moon-eyed horse at a black stump. [Laughter]. There is nothing in this attempt to bring that subject in here, and I have already said so. I hope gentlemen will not scare so badly. I have been accustomed to the "nigger" all my life, and he does not scare me at all.

Mr. O'NEILL, of Pennsylvania. It is not easy to scare the gentleman from Texas about anything.

The SPEAKER *pro tempore* (Mr. SPRINGER in the chair.) The Chair trusts the gentleman from Pennsylvania will not interrupt the gentleman from Texas without his consent.

Mr. REAGAN. I think that in the arraignment of myself and the House for the action taken upon this bill the gentleman indicates what I have said before, that he is opposed to the passage of the bill. I believe I am not mistaken in that. Mr. Speaker, I have no further remark to make, and I desire a vote.

Mr. O'NEILL, of Pennsylvania. I ask that my amendment may be read.

The Clerk read as follows:

Strike out the second section of the substitute bill and insert the following:
"SEC. 2. That it shall be unlawful for any person or persons engaged in the transportation of property as aforesaid directly or indirectly to allow any rebate, drawback, or other advantage, in any form, upon shipments made or services rendered as aforesaid by him or them which under similar circumstances are not allowed to all other persons."

Mr. O'NEILL, of Pennsylvania. If it be in order, I desire to offer that amendment at the present time.

The SPEAKER *pro tempore*. It is in order. The first question, however, is upon an amendment offered yesterday by the gentleman from Kentucky [Mr. WHITE] to strike out the last word of the section.

The amendment of Mr. WHITE, of Kentucky, was not agreed to.

The SPEAKER *pro tempore*. The question is now on the amendment of the gentleman from Pennsylvania [Mr. O'NEILL], which has just been read.

Mr. O'NEILL. I ask the Clerk to read the second section as it stands which my amendment proposes to strike out.

The Clerk read as follows:

SEC. 2. That it shall be unlawful for any person or persons engaged in the transportation of property as aforesaid directly or indirectly to allow any rebate, drawback, or other advantage, in any form, upon shipments made or services rendered as aforesaid by him or them.

Mr. BUDD. Before the proposed substitute for the section is voted upon I desire to offer an amendment to perfect the text of the section.

The SPEAKER *pro tempore*. That is in order. The Clerk will read the amendment proposed by the gentleman from California [Mr. BUDD].

The Clerk read as follows:

Amend by adding after the word "them," in line 5, the following:
"Except for the purpose of assisting in the development of an industrial enterprise, and which shall under substantially similar circumstances be allowed to all persons."

The question being taken on agreeing to the amendment of Mr. BUDD, there were—ayes 30, noes 80.

Mr. BUDD. I make the point that no quorum has voted.

Mr. DAVIS, of Illinois. I call for the yeas and nays.

The yeas and nays were ordered.

The SPEAKER *pro tempore*. The point having been made that no quorum has voted on the amendment of the gentleman from California, the Chair will appoint tellers.

Mr. BUDD. I withdraw the point.

The SPEAKER *pro tempore*. The point of no quorum having been withdrawn, the amendment is not agreed to. The question is now on the amendment of the gentleman from Pennsylvania [Mr. O'NEILL].

The question being taken, there were—ayes 52, noes 87.

Mr. O'NEILL, of Pennsylvania. I ask for the yeas and nays on my amendment.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 73, nays 130, not voting 120; as follows:

YEAS—73.

Adams, G. E.	Greenleaf,	Libbey,	Smith, A. H.
Barr,	Guenther,	Long,	Smith, H. Y.
Bingham,	Hanback,	Lyman,	Spooner,
Bisbee,	Harmer,	Morrill,	Stephenson,
Boutelle,	Haynes,	Nutting,	Strait,
Brainerd,	Henderson, D. B.	O'Hara,	Struble,
Brewer, J. H.	Henderson, T. J.	O'Neill, Charles	Taylor, E. B.
Burleigh,	Hepburn,	O'Neill, J. J.	Taylor, J. D.
Cannon,	Hewitt, A. S.	Payne,	Thomas,
Chace,	Hitt,	Perkins,	Tillman,
Culbertson, W. W.	Holmes,	Phelps,	Wadsworth,
Cullen,	Holton,	Poland,	Wait,
Cutcheon,	Howey,	Potter,	Warner, A. J.
Davis, G. R.	Jeffords,	Price,	White, J. D.
Dibble,	Johnson,	Ray, Ossian	Wilson, James
Dingley,	Kean,	Robinson, J. S.	Woodward.
Evans,	Keifer,	Rockwell,	
Everhart,	Ketcham,	Seymour,	
George,	Lacey,	Smalls,	

NAYS—130.

Alexander,	Dowd,	Lowry,	Skinner, C. R.
Anderson,	Dunn,	McAdoo,	Springer,
Bagley,	Eaton,	McComas,	Stewart, Charles
Barksdale,	Eldredge,	McMillin,	Stockslager,
Beach,	Elliott,	Matson,	Storm;
Bennett,	English,	Miller, J. F.	Sumner, C. A.
Blackburn,	Ermentrout,	Mills,	Talbott,
Blanchard,	Ferrell,	Moulton,	Thompson,
Blount,	Follett,	Murphy,	Throckmorton,
Bratton,	Forney,	Murray,	Tucker,
Breckinridge,	Fyan,	Neece,	Tully,
Brewer, F. B.	Geddes,	Nicholls,	Turner, H. G.
Broadhead,	Gibson,	O'Ferrall,	Turner, Oscar
Brown, W. W.	Glascock,	Payson,	Van Eaton,
Browne, T. M.	Green,	Peel,	Wallace,
Buchanan,	Halsell,	Peters,	Ward,
Buckner,	Hammond,	Pierce,	Warner, Richard
Budd,	Hardeman,	Pryor,	Weaver,
Burnes,	Henley,	Pusey,	Wellborn,
Cabell,	Hill,	Ranney,	Wilkins,
Campbell, Felix,	Hoblitzell,	Reagan,	Williams,
Campbell, J. E.	Hopkins,	Reese,	Willis,
Campbell, J. M.	Houseman,	Riggs,	Wilson, W. L.
Candler,	James,	Robertson,	Winans, E. B.
Cassidy,	Jones, B. W.	Robinson, W. E.	Winans, John
Clardy,	Jones, J. H.	Rogers, J. H.	Wise, G. D.
Clements,	Jordan,	Rogers, W. F.	Wolford,
Cobb,	Kleiner,	Rosecrans,	Wood,
Converse,	Laird,	Ryan,	Worthington,
Covington,	Lamb,	Scales,	Yaple,
Cox, S. S.	Lanham,	Seney,	Young.
Cox, W. R.	Le Fevre,	Shively,	
Dibrell,	Lewis,	Singleton,	

NOT VOTING—120.

Adams, J. J.	Dockery,	Jones, J. T.	Rankin,
Aiken,	Dorsheimer,	Kelley,	Ray, G. W.
Arnot,	Dunham,	Kellogg,	Reed,
Atkinson,	Ellis,	King,	Rice,
Ballentine,	Ellwood,	Lawrence,	Rowell,
Barbour,	Fiedler,	Lore,	Russell,
Bayne,	Findlay,	Lovering,	Shaw,
Belford,	Finerty,	McCoid,	Shelley,
Belmont,	Foran,	McCormick,	Skinner, T. G.
Bland,	Funston,	Maybury,	Slocum,
Bowen,	Garrison,	Millard,	Snyder,
Boyle,	Goff,	Miller, S. H.	Spriggs,
Breitung,	Graves,	Milliken,	Steele,
Brumm,	Hancock,	Mitchell,	Stevens,
Caldwell,	Hardy,	Money,	Stewart, J. W.
Carleton,	Hart,	Morgan,	Stone,
Chalmers,	Hatch, H. H.	Morrison,	Sumner, D. H.
Clay,	Hatch, W. H.	Morse,	Taylor, J. M.
Collins,	Hemphill,	Muldrow,	Townshend,
Connolly,	Herbert,	Muller,	Valentine,
Cook,	Hewitt, G. W.	Mutchler,	Van Alstyne,
Cosgrove,	Hiscock,	Nelson,	Vance,
Crisp,	Holman,	Oates,	Wakefield,
Culberson, D. B.	Hooper,	Ochiltree,	Washburn,
Curtin,	Horr,	Paige,	Weller,
Dargan,	Houk,	Parker,	Wemple,
Davidson,	Hunt,	Patton,	White, Milo
Davis, L. H.	Hurd,	Pettibone,	Whiting,
Davis, R. T.	Hutchins,	Post,	Wise, J. S.
Deuster,	Jones, J. K.	Randall,	York.

So the amendment was rejected.

On motion of Mr. BAGLEY, by unanimous consent the reading of the names was dispensed with.

The following additional pairs were announced from the Clerk's desk:

Mr. CULBERSON, of Texas, with Mr. WHITE, of Minnesota, for this day.

Mr. POST with Mr. FUNSTON, on this vote.

Mr. OATES with Mr. RANNEY, on all political questions until after the recess.

Mr. DAVIS, of Missouri, with Mr. KELLEY, until further notice.

Mr. MONEY with Mr. ATKINSON, on all political questions until further notice.

Mr. COSGROVE with Mr. PETTIBONE, for this day.

Mr. HOLMAN. I wish to say when this vote was taken I was absent on a conference committee by order of the House. If present, I should have voted "no."

Mr. MILLER, of Pennsylvania. I am requested to state that my colleagues Messrs. BRUMM and CURTIN are paired on this vote.

The vote was then announced as above recorded.

Mr. EVERHART moved the following amendment:

And no railroad company or companies shall grant free passes allowing persons to ride free from one State or Territory into another: *Provided*, That this prohibition shall not apply to officers or employés of railroad companies or to the United States supervisors or commissioners of railroads, to cases of charity, nor prevent the issuing of excursion or commutation tickets at special rates.

The amendment was rejected.

The Clerk read as follows:

SEC. 3. That it shall be unlawful for any person or persons engaged in the carriage, receiving, storage, or handling of property as mentioned in the first section of this act to enter into any combination, contract, or agreement, by changes of schedule, carriage in different cars, or by any other means, with intent to prevent the carriage of such property from being continuous from the place of shipment to the place of destination, whether carried on one or several railroads. And it shall be unlawful for any person or persons carrying property as aforesaid to enter into any contract, agreement, or combination for the pooling of freights, or to pool the freights, of different and competing railroads, by dividing between them the aggregate or net proceeds of the earnings of such railroads, or any portion of them.

Mr. HEWITT, of New York. I move to strike out all after the word "and," in line 9, to the close of the section relating to pooling. I ask that the words be read.

The Clerk read as follows:

And it shall be unlawful for any person or persons carrying property as aforesaid to enter into any contract, agreement, or combination for the pooling of freights, or to pool the freights, of different and competing railroads, by dividing between them the aggregate or net proceeds of the earnings of sch railroads, or any portion of them.

Mr. HEWITT, of New York. Mr. Speaker, undoubtedly this provision is based upon the idea that pooling is an evil which ought to be abated; that it is against the public interest, and therefore should be prohibited. Pooling may be an evil, Mr. Speaker. There are a great many evils in this world which are remedies for other evils still greater. This class of remedial evils constitutes a large portion of the existing legislation of every civilized country. Now, the evil that pooling was intended to remedy became intolerable. It was the evil of competition, of unlimited competition, leading to discrimination, to private bargains, to fluctuations in the transportation of goods. Not a single consignment could be carried from one point in this country to any other point without a private bargain being necessary on the part of the shipper and the railroad company. Great houses were compelled to employ clerks whose sole business it was to go from railroad office to railroad office and make bargains. More than that, the companies themselves who were intended to be the common carriers for the commerce of the country found themselves reduced to the position of hucksters, and compelled to have a corps of officers and an army of clerks to regulate freight on every invoice of goods which might be shipped over their roads. This evil was so enormous both to the public and the railroad companies that it led to the only practical remedy, which was pooling.

Pooling, if honestly conducted, gives stability in the rate of freights and equal terms to every customer, and is in fact carrying out the great right in common carriage of equal rights to all men. But pooling has not always been honestly managed; hence railroad companies in their own interest were compelled to attempt to regulate pooling, and they have regulated it by the appointment of commissions and commissioners. The evil of competitive and uncertain rates has therefore to a large extent been overcome by a pooling arrangement. How shall the evils of a pooling arrangement be overcome?

The gentleman from Texas tells us by the abolition of pooling, and then he sends us back into the very situation from which the privilege of pooling extricated us.

Mr. Speaker, legislation should not be retroactive. It should proceed upon a careful study of the conditions under which we are trying to do business, and the indications of the situation should be carefully studied. Let me tell these gentlemen, and I suppose I utter a familiar truth to the legal luminaries in this House, that first we get experience, out of experience comes custom, and out of custom comes the common law. So when we are trying to legislate let us see how things are tending toward the establishment of custom; and instead of trying to crush and break it down, let us by legislation enact the coming custom, if we know it earlier, into law. You will thus anticipate what is to be the common law by the common consent of the citizens of this country. Therefore when the railroad companies and the public consented, in view of the common interest of all, to the establishment of this system of pooling, they did it by a commission, and it should be an indication to us that we should also regulate pooling by the establishment of a commission. A bill brought in here to establish a commission would be one approved by the general judgment and experience of men familiar with business. A bill to prevent pooling will be against the experience and general judgment of men familiar with business.

But I see that my time is about to expire, and I hope that some gentleman will take the floor and yield to me.

[Here the hammer fell.]

Mr. WARNER, of Ohio. If I can be recognized I will yield to the gentleman from New York.

Mr. REAGAN. I must object, Mr. Speaker, to farming out the floor. I think we have had a long enough debate upon this bill.

Mr. HEWITT, of New York. I wish to remind the gentleman from Texas that the views of New York have not been heard in this debate, and if the gentleman from Texas chooses to paralyze that voice in this House and not give it expression let him take the consequences upon himself and on his bill.

The SPEAKER *pro tempore*. Does the gentleman from Texas object to the extension of the time of the gentleman from New York?

Mr. REAGAN. The gentleman can go on and utter the voice of New York. I shall not object.

Mr. HEWITT, of New York. I said, sir, that the voice of New York, that great emporium of commerce, had not been heard in this debate. Its voice has been silent because the men of business in New York despair of wise legislation upon these great commercial questions from this House. They have seen this House resist the resumption of specie payments. They have seen this House thrust the silver bill down the reluctant throats of an unwilling community; and now they behold this House and this side of it forcing reactionary measures upon the commerce of the country which will paralyze the business of the port which is the throat of the commerce of this country.

Fifty-seven per cent. of all the commerce of this country passes through the city of New York. The pulses of commerce all over the civilized globe are felt by thousands of fingers in that great mart. The influences that determine prices are there known and from there they radiate to every hamlet in this land. New York registers the conditions upon which the foreign commerce of this country should be done. It registers them every hour and minute of the day, and yet here come gentlemen who propose that no alteration in the conditions of commerce shall be made except upon five days' notice. They have an impression that they can determine the conditions upon which business shall be done. I tell them that all their remedy will do will be to prevent the Western, the Southern producers, who have corn, provisions, and cotton for sale, from getting access to the open markets of the world.

The congestion which now prevails in every part of this country—congestion of products, congestion of labor, congestion of capital, so that there is no profit in production, no adequate and remunerative employment for labor and no compensation for the use of capital; congestion due to the fact that the channels of commerce have been obstructed and dammed up by protective laws—these gentlemen propose to increase by saying you shall not carry your goods from the producers to the consumers of the world except you give five days' notice of any change of schedule rates.

Do these gentlemen suppose that the price of grain is made by Congress? Do they suppose that it is made by the men who deal in it in Chicago? Do they suppose that steamship companies determine prices? Nothing of the kind. The prices are all made in the exchanges of Mark Lane and Leadenhall street. They are telegraphed every day and hour all over the globe. We know what we can get for a bushel of grain delivered in Liverpool. We know what we can buy it for in Chicago. The steamship company and the railroad company can co-operate together and divide the difference between prices in Chicago and Liverpool, and the waiting ship can take its cargo out of the elevators which in turn receive the grain ordered to fill up the vacuum. But if this bill passes that process becomes impossible; steamships must go unloaded, and the commerce of your great port, which is but the outlet of the commerce of the country and its expression, will be utterly paralyzed.

[Here the hammer fell.]

Mr. REAGAN. The principal point of objection made to this section by the gentleman from New York [Mr. HEWITT] was that without the privilege to the railroads of pooling shippers would be driven to the employment of large numbers of clerks and to special contracts with railroad companies, as he says they were before pooling was adopted as a system by the railroads. Just how much truth there might be in the gentleman's position, if this were the only section of the bill that was to be acted upon, I do not know. But if the gentleman had gone a little further and looked at other provisions of this bill he would have seen that it provides that schedules of rates shall be posted up, and that it gives both a criminal and a civil remedy for charging more or less than schedule rates. We propose by law to remedy the evil which the gentleman proposes to remedy by giving the right to the railroads to pool.

The gentleman from New York speaks of the channels of commerce being blocked up. They have not been blocked up by the prohibition of pooling, for that is in full operation, and the country was enjoying the blessings of pooling to which he invites us when that blockade took place.

I will tell you what this section will do. It will restore to the people the right of competition. It will cheapen their rates of freight, and in connection with other provisions of this bill, it will drive railroad corporations to ordinary business methods, such as control other great branches of business in this country. It will take from them that monopoly power which is used to enrich themselves and to impoverish the remainder of the country. And that is what it is intended for. It will take from that gentleman the power by pooling on railroads to secure terms on his freight which perhaps he would not secure if it was open to free and fair competition in the markets.

Perhaps I had better state another thing. The gentleman from New York seems not to understand what nearly all the States of this Union understand and have declared through their constitutions and their laws, that pooling is an evil; he does not seem to understand that when these railroads were incorporated it was known that they possessed a monopoly of the transportation and travel over their particular lines and the hope of the people for relief from this monopoly grew out of such competition as might be afforded by the water ways and all other means of transportation and by such competition as might be created by the building of new railroads, and if these remedies should fail, by the legislative power using its constitutional and rightful authority to control the action of common carriers. The gentleman does not seem to understand any of these things. But to mitigate the evil of monopolistic power he would make one grand monopoly out of many of these small monopolies and say to them, "Destroy competition, assume the controlling of the commerce and the freights of this country, levy upon it what tribute you please; you have nothing to prevent you from exacting all that the commodity will bear except just enough to leave the people to work for your benefit. Take yourselves the profits which would otherwise go to the laborers of this country; command the commerce of the country; levy tribute on it; no power shall control you; competition shall not control you; legislation shall not control you."

The gentleman from New York does not speak of striking out this section in order to benefit the bill. He would not vote for one section, one sentence, or one line in the bill. His object is to oppose all legislation and every effort to lay the restraints of legal regulations upon the power of these corporations to rob and plunder the people.

Such, Mr. Speaker, I say to you and to the members of this House are the influences that have actuated the advocates of these corporations from the beginning until now and which will continue to actuate them until the subject is disposed of.

[Here the hammer fell.]

Mr. TURNER, of Kentucky, was recognized and yielded his time to Mr. REAGAN.

Mr. BUDD. Will the gentleman from Texas yield to me for a question?

Mr. REAGAN, Yes, sir.

Mr. BUDD. I agree with the gentleman that pools ought to be prohibited, but I ask why in this section he has simply prohibited what are known as money pools, while he allows what are known as physical pools and differential contracts to be established among these corporations? Why, sir, five out of every six pools are physical or territorial pools for the division of the freight as such. This is simply a division of the money profits; it is what is known in railroad parlance as a money pool.

Mr. REAGAN. I will answer the gentleman from California, but I do not yield to him for a speech.

Mr. O'NEILL, of Pennsylvania. Mr. Speaker, is not this debate proceeding under the five-minute rule?

The SPEAKER *pro tempore*. The gentleman from Texas [Mr. REAGAN] is speaking in the time of the gentleman from Kentucky [Mr. TURNER].

Mr. REAGAN. I will read the provision of this section:

> And it shall be unlawful for any person or persons carrying property as aforesaid to enter into any contract, agreement, or combination for the pooling of freights——

Mr. WHITE, of Kentucky. I rise to a question of order.

Mr. REAGAN. I hope the gentleman from Kentucky will permit me to go on. It seems I can not read a sentence without some gentlemen rising to interrupt me.

Mr. WHITE, of Kentucky. I rise to a question of order. I understand this is a debate under the five-minute rule, and I object to one gentleman occupying the floor by courtesy or otherwise for more than five minutes.

The SPEAKER *pro tempore*. The objection in this case comes too late. The gentleman from Texas is entitled to the floor in the time of the gentleman from Kentucky [Mr. TURNER].

Mr. REAGAN. Now I will proceed again if I can be permitted to read this provision:

> And it shall be unlawful for any person or persons carrying property as aforesaid to enter into any contract, agreement, or combination for the pooling of freights, or to pool the freights, of different and competing railroads, by dividing between them the aggregate or net proceeds of the earnings of such railroads, or any portion of them.

The gentleman from California [Mr. BUDD] talks about differential rates. I am persuaded from the manner in which he has introduced the subject that he does not know what differential rates are. Those arise from a contest between different cities as to the rates which different cities shall pay. The gentleman talks about the distinction between

physical and territorial pooling and some other kind of pooling, I do not know what.

A MEMBER. Money pools.

Mr. REAGAN. My purpose is to provide that competing railroads shall not put their earnings into a common pool, and divide those earnings while denying the people competition—plundering them to the extent of the power of the monopoly and dividing the amount of their earnings among themselves upon a rate agreed upon. But I am persuaded that the gentleman from California, like the gentleman from New York, will never get this bill so amended that he can support any one of its sections.

The SPEAKER *pro tempore*. Debate is exhausted.

Mr. DUNN. I move to amend the amendment by striking out the last word. Perhaps it is well for the House to be informed just what this pool, which it is proposed to prohibit, is. Mr. Fink, in his testimony before the committee, told us that the forty or more principal trunk lines of this country——

A MEMBER. Forty-eight.

Mr. DUNN. That the forty or forty-eight principal through or trunk lines of the country were in the pool of which he is the commissioner. Now we know that all the competition which can be expected among railroads is to be expected from what are called through lines or trunk lines. These have established in this country, as they have done in England and Germany, pools. In Germany the traffic is divided among different companies or roads in such a manner that the bulk of it passes over one road during one month and over another road during the succeeding month, and so on. Here the traffic goes at the convenience of the shippers, and the earnings are divided at the arbitrary will of the commissioner of the pool pro rata, or upon a basis agreed upon by the companies or fixed by the pool commissioner among the roads.

Thus competition is destroyed and monopoly crystallized, intrenched, and fortified. If absolute monopoly is inevitable, then we had better begin to consider the policy that has obtained in all countries in Europe except England, namely, of transferring the ownership of all the railroads to the respective States or to the General Government. The theory there is that the government alone can be trusted with a monopoly of railroad transportation, because it will be to the interest of the Government to protect the interest of the people and their commerce and productive industries, and because it will not discriminate or unduly oppress. That argument is better in a representative than in a monarchical government.

But that policy should be only a *dernier ressort* anywhere.

In this same article which states the nature of these pools in other countries Dr. Ely says that in England, between two towns or cities having already one line, when another was built, instead of the rates being reduced by competition, as should be the case, the roads were pooled and tariffs increased. Instead of competition putting down rates, the operation of the pools has been in all other countries to increase rates. The end of competition is the pool and complete monopoly.

The gentleman from New York complains that we propose to give only five days' notice of a change of schedule. In Prussia the railway traffic is required by law to be made known to the government and published. Changes in the tariff are not allowed to be made without notifying the government and the public. In case the change increases rates it must be published at least six weeks—not five days—before it is to go into effect. That is the law of Prussia. All the old governments of Europe require regular published notice for a designated time of all changes in schedules.

Dr. Ely says that monopoly is the only solution and avoidance of railroad competition; and in all Europe they say monopoly must come to save the roads from competition. The pool makes a monopoly in the hands of the forty-eight trunk lines of this country. There is to be no more competition. The pool settles rates at will. The shippers who should control the great mass of the commerce of this country have no representative in that pool. The people who pay the tribute have no hearing in the pool, no voice in the selection of the commissioners; commerce has none; labor has none; productive industry has none. Nobody has a voice in that commission but the railroad corporations, for whose benefit alone the pool is established.

The gentleman speaks of the voice of New York not having been heard in this matter. It is the heavy hand of New York that is felt to be so oppressive upon the productive labor and commerce and business interests of this country that has made legislation of this character necessary. Let New York remember that and learn to be just. Let her loosen her fatal grip that is now felt to be strangling legitimate business and stifling all prosperity. When the people cry out in their dire distress and humbly petition for relief from injustice the voice of New York responds in the cold, cruel language of the wicked son of Solomon:

> Whereas my father did lade you with a heavy yoke, I will add to your yoke: my father hath chastised you with whips, but I will chastise you with scorpions.

[Here the hammer fell.]

Mr. BUDD. I did not expect, Mr. Speaker, to be called upon to explain a matter which should be apparent to every one who had studied the pooling question. Had it not been for the remark of the gentleman from Texas, that I did not know what I was talking about when I referred to the money and physical pools, I would not at this time answer his statement. In as civil a manner as a person could I asked him why in the prohibition of pooling he discriminates between moneyed pools and physical pools, and he answers back that I do not know what I am talking about. If he will take any work upon the railroad question he will see that all writers make a distinction between moneyed pools and physical pools. Mr. Nimmo, in his report for 1880, says:

> A railroad freight pool is simply an agreement that at competing points the several contestants for traffic shall be allowed a certain percentage of it, or of the receipts therefrom, to be determined either by arbitration or by a convention of the representatives of all the competing roads.

In his report of 1879 Mr. Nimmo uses this language:

> The pooling arrangements which have been entered into between railroad companies in this country differ from each other in several important particulars. In certain cases the division or apportionment of traffic is based upon the tonnage moved, constituting what is known as a physical pool; but in other cases the receipts from traffic are divided, constituting what is known as a moneyed pool.

In other words, Mr. Nimmo, statistician of the Government, who has studied the question thoroughly, divides pools into two general classes, moneyed and physical. He goes on and gives eight or nine most important pooling arrangements entered into by the trunk lines, and of the seven given by him four are physical and three are moneyed pools. The gentleman from Texas, after long study on this question, desires to prohibit all pooling, and attempts this by prohibiting pooling only where there is a division between companies of the gross or net receipts. The trunk lines in the pools of 1875 and 1876 had, under Fink's management, what were known as physical pools. There are not only moneyed and physical, but many other combinations; there is a division by agreement or combination and division of territory, the railroad that runs through one section not being permitted to take the traffic of another.

Competition is absolutely destroyed by agreements not prohibited here. They often have in physical pooling what are known as "eveners," and under the arrangement which governs them there have been divisions of the amount of traffic which can be carried, the Pennsylvania road being allowed a certain per cent. from New York on to Chicago and the Baltimore and Ohio another per cent., while the Grand Trunk and the Erie and Central roads were allowed still other per cents. of traffic. This was a physical pool, a division of the traffic which often has an instrumentality known as "eveners" for the purpose of carrying it into effect. This is not prohibited; and if pooling is improper and wrong, as I say it generally is, why not extend the operation of this bill? Why is it you prohibit pooling simply in a moneyed sense and not in a physical sense? Why not introduce such amendment as I have drawn up and have here, and which I would like to have an opportunity to submit for the judgment of the House. It is as follows:

> Strike out all after the word "railroads," in line 12, and insert thereafter "or which has for its object the increase or maintenance of rates through a division of freight or territory or by agreement."

Not only do they pool by a division of the proceeds, not only do they pool by a division of freights, but they maintain prices and agree to what rates should be charged from certain points, sometimes taking Chicago as the basis and establishing different rates. I know, sir, what I am talking about on this subject.

Mr. REAGAN. Will the gentleman permit me to ask him a question?

Mr. BUDD. Any question in the world.

Mr. REAGAN. Do you notice that it prohibits all classes of pooling, and does the gentleman suppose that railroads would pool rates when they can not divide the earnings?

Mr. BUDD. They do it.

Mr. REAGAN. When they can not divide the earnings?

Mr. BUDD. They divide freights as such, and not earnings.

The SPEAKER *pro tempore*. Debate is exhausted on the pending amendment.

Mr. DUNN. I withdraw the *pro forma* amendment.

Mr. BUDD. I renew it. I wish to answer the last portion of the gentleman's question. He asked me whether any of the railroads would divide freights if they could not divide earnings. Now I have already referred to Mr. Nimmo, and I might refer further to Adams in his book on the railroad problem. The gentleman from Texas says this freight division is prohibited in this section. I say no, because it prohibits only an agreement for pooling freights by a division of the gross or net proceeds——

Mr. REAGAN. Will the gentleman allow me to interrupt him for a moment?

Mr. BUDD. Certainly.

Mr. REAGAN. When it is said that—

> It shall be unlawful for any person or persons carrying property as aforesaid to enter into any contract, agreement, or combination for the pooling of freights, or to pool the freights, of different and competing railroads, by dividing between them the aggregate or net proceeds of the earnings of such railroads, or any portion of them—

Have you not cut off physical pooling?

Mr. BUDD. No, sir.

Mr. REAGAN. When it provides that it shall not divide proceeds, does not that cut off physical pooling?

Mr. BUDD. It is not necessary for me to bring in an English grammar to give construction to this language which is so plain. It prohibits pooling of freights by dividing between them the net or aggregate proceeds of the earnings of said companies.

Mr. BRUMM. If you substitute the word "or" for the word "by" would not that answer the purpose?

Mr. BUDD. Yes; that might do it.

Mr. BRUMM. Then why not do it?

Mr. BUDD. Now, the recent pooling by Rinstin at Chicago of the traffic of the Northwestern road was, as I understand the facts, what is known as a money pool. The poolings of Fink in 1875–'76, as spoken of by Adams in his work on the railroad problem, were what is known as physical pools.

Mr. HORR. Is there anything wrong about that?

Mr. BUDD. A commission could better investigate the matter and determine, but if the House insists upon prohibiting all pooling they should use language that will do it. The pooling of the Southwestern Association was a physical pool. They divided the traffic: to the Chicago roads 44½ per cent., to the Saint Louis roads 44½ per cent., and to the Wabash (Toledo) line 11 per cent.

The Chicago-Omaha apportionment was a money pool. The apportionment arrangement between Chicago, Milwaukee and Saint Louis, the Chicago and Northwestern, and the Chicago, Saint Paul and Minneapolis Railways was a money pool. The cattle pool, or what is known as the "cattle evener's" pool, which was organized in 1875, was a physical pool. The pooling of the coal-oil traffic was a physical pool, and the several companies entered into an agreement as to the relative share of the total traffic which each should carry. I could go on at length and further explain this distinction in and division of pools. So if you go over all the arrangements of this character you will find a distinction between these pools, and both should be prohibited, if either.

It seems at this time that after consuming two days on the color line members who have studied this problem can not have two minutes to explain the wisdom of amendments proposed by them. One of mine just defeated was eminently just. I withdraw the *pro forma* amendment.

[Here the hammer fell.]

The SPEAKER *pro tempore*. The question is on agreeing to the amendment proposed by the gentleman from New York, to strike out all after the word "railroads," in the ninth line, to the end of the section.

The question was taken; and on a division there were—ayes 19, noes 70.

So the motion to strike out was not agreed to.

Mr. HEWITT, of New York. I beg leave to offer an amendment at the close of the section.

The Clerk read as follows:

Add to the third section the following:

"Unless the rates established by such pooling contracts shall be reasonable and just."

Mr. HEWITT, of New York. Mr. Speaker, if the gentleman from Texas in charge of this bill had studied the question with the same care that the gentleman from California [Mr. BUDD] has given to it he would be less ready, it seems to me, to impute ignorance on the one hand and to come to conclusions on the other as to how members would vote under given circumstances. He has announced to this House that I am opposed to all legislation upon this subject; that there is not a word, or a line, or a sentence that I would vote for; and he made that declaration in the face of the fact that I had just announced to the House that I was in favor of regulating the pooling of freights by the establishment of a commission, and I tried to make the House understand that nature was pointing out the way in which this legislation should travel. I tried to point out to the House that experience had established pools, and pools established a commission, and that in the public interest the time had arrived when the public should be represented in the commission, and pools should be legalized and put under the control of a commission.

Doubtless the gentleman from Texas, in his anxiety to forbid pooling, shut his ears to what I have said. But I do not choose to be misrepresented in this matter. I believe the subject ought to be regulated. I believe there is constitutional power to regulate it. I believe it ought to be regulated as experience has shown to be feasible and practicable.

Mr. REAGAN. Will the gentleman from New York permit me to interrupt him to ask if he has not stated on the floor that he intended to vote for all amendments which would kill the bill?

Mr. HEWITT, of New York. I have not on the floor, if the gentleman means that, made such a statement in any speech. I suppose he uses the word in its technical sense. If so, I answer——

Mr. REAGAN. I did not mean in a speech.

Mr. HEWITT, of New York. If the gentleman means that I used such an expression privately, I answer, yes. I am opposed to the substitute and in favor of the original bill reported by the committee. That is what I have said privately and that I now repeat.

Now, the gentleman says that to legalize and allow pooling would amount to robbery of the public. What were the rates of freight in force before this system of pooling was inaugurated and when the gentleman had begun the agitation of this measure, which he thinks one of reform, but which I think one of reaction? I have the figures here before me. In 1874, the rates of freight which prevailed at that time, before pooling was invented, and when this agitation for the enactment of an interstate-commerce bill had begun, were as set forth in this book in detail. I will refer to grain. On a bushel of grain from Chicago to New York the rate of shipment was then 28.7 cents. Last year the rate, notwithstanding the pooling system, had fallen to 13 cents, or less than one-half of what it was before the agitation began.

Mr. GIBSON. Let me interrupt the gentlemen from New York to ask what was the difference between the price of grain then and now?

Mr. HEWITT, of New York. That does not concern the question at all. It has no reference to my purpose, nor has it any purpose, so far as I understand it, in this connection. My point is that, in the absence of any other legislation to regulate interstate commerce, the public, so far from having been robbed, have had their expenses of shipments of this character brought down from 28 to 13 cents a bushel.

That has been done by pooling and regulating pooling. Let us take advantage of this fact. Let us continue to pool; let the public come in and regulate the pooling, and prevent the frauds which are always possible when there is no popular regulation.

[Here the hammer fell.]

Mr. PHELPS. I rise to oppose the amendment. The discussion begins already to emphasize the unwisdom and injustice of the bill. It is a vain effort to make a code which shall control the management of railways in all cases. But these cases are infinite in number, and very nearly infinite in variety. How absurd to suppose that all these cases can be held in the iron grasp of half a dozen absolute restrictions. Absolute restrictions belong to morals, but have no control in railway management, where each case makes its own right and wrong. You may say to a man, "Thou shalt not steal, thou shalt not commit adultery, thou shalt not bear false witness;" for theft, adultery, and slander are everywhere and always wrong. But you can not say to a railroad company, "You shall not discriminate, you shall not rebate, you shall not pool, you shall not charge more for a longer haul," because in many cases all these methods are right and in many cases they are necessary—necessary even to the very existence of the road. And because they are necessary often to their very existence the railways will elude, evade, and openly transgress the restrictions, looking to popular opinion to shield them from the penalty; just as the gentleman from Texas, if his life were threatened, would, in defending it, violate all laws and escape all punishment.

Nor in so doing are the people indifferent to their rights; they are watchful of them and are willing to judge the future by the past. They see that the laws of man and the laws of nature have shielded them in the past; why should they doubt them in the future? The law of common carriers in every State inhibits injustice and inequality. The laws of nature, acting in the sphere of commerce, make the greed and ambition of man the instruments of justice and equality.

They see that united the result has been a constant triumph of progress and reform. Does any one dispute history? Are there not more railways and better service than ever before? Have we not more trains and better, more equipment and better, cheaper and more efficient management everywhere?

Does the gentleman from Texas deny that goods and passengers are carried cheaper by us than anywhere else in the world, and cheaper by us now than ever before? Perhaps he fears that these great laws of nature have lost their force. Have they? Was competition ever more aggressive on water and on land? Why, the gentleman from New York [Mr. HEWITT] can not take his first excursions over a new road without seeing from his window the surveying party that already lays the deadly parallel. [Laughter.] And if you fear that some obstacles are too mighty, remember that ten years ago we all said, with the Erie, the Central, and the Pennsylvania railways in the field, New York can secure no relief except from the resources of the national Treasury. But while we spoke competition, raising $100,000,000 without public knowledge or public solicitation, threw the Nickel Plate and West Shore into the arena, and there they will remain. [Applause.]

Nor has the desire to succeed in business ceased to be a rule, which includes railway managers in its healthy influence.

Managers were never more solicitious for business and never more ready to make sacrifices to get it. They know that rivals are so many they must themselves create and develop it, and in a one-sided partnership, where the customer gets all the benefit, they aid him in its creation or development. I challenge contradiction when I say that there never was a time when a company that wished to open a mine or a factory could get better returns than now. It is almost accurate to say that the miner or the manufacturer can fix his own rates for the years of experiment. Nor has the power of public opinion weakened. It controls the management of railways as a management and as individual men. The management knows that the surest path to business is that of public favor; that the popular road makes money, and to secure this popularity they spend money lavishly, they make conces-

sions generously. Nor is generally enough stress laid on the character of the management and their natural desire as men to have the approbation of their neighbors and to secure that good report, that good reputation which is the highest prize of life.

Do not confound the managers of whom I speak, and whom I honor, with the great speculators in its securities, whom I despise. It is the speculators and the stock exchange that receive the public attention; it is the railway and its managers who deserve it. It is a great injustice to confound them. The managers are men of high character and great abilities. Theirs is a profession, and they are proud of it. They are sure to spend their lives in its practice, and most of them practice it in the same railway corporation. They are faithful, public-spirited, and as a rule honored and beloved by those among whom they live and with whom they deal. In their desire to retain and deserve this good opinion of their vicinage they are more apt to sacrifice their road than the public. But the great speculators, unlike you or me or them, remote from intercourse with the customers of the road, are indifferent to public opinion, and should be curbed. But, remember, these men, while their names are allied to the roads, almost never interfere with their practical management. Their sole interest is in the stock. That they seize; they hold it for a day, until they have worked their own wicked will on it, and then they cast it out dishonored, to be the prey of the next adventurer. If they retain it longer, it is only to elect a board of directors which shall suffer them to manipulate the securities, and, that accomplished, their interest ends.

The managers of the road meantime go on with their regular business, and have no more connection with the speculators whose names are in stock circles allied with their roads than you or I, Mr. Speaker, except the bitter disgust with which they see these bad men so confusing the distinction between themselves and the actual managers that in the public mind they are apt to stand in the same light and receive the same censure.

Let, then, the laws of man and of nature continue their work of progress and reform. Why attempt to restrict, why pass restrictions which will interfere with these general laws, which are working out the results you pretend to wish? Your effort is vain; your restrictions will be disregarded. Do you ask me how?

The railways, if these restrictions should become laws, will ostentatiously break them all. They will invite litigation until the wheels of the courts are clogged. That will challenge public attention, and public attention is redress. Or they will issue an order, which the whole railway system shall obey, that every locomotive from sea to sea shall stay in its roundhouse; then there will follow a silence from Portland in Oregon to Portland in Maine that can be felt, and only one voice will be heard, the familiar voice of our Speaker: "The gentleman from Texas asks unanimous consent to consider a bill to repeal an act entitled 'An act to regulate interstate commerce.' Is there objection?'" Mr. Speaker, just so sure as the report follows the flash, we shall hear as the end of the matter: "The Chair hears none." [Loud applause.]

[During the delivery of the foregoing remarks, when the five minutes of Mr. PHELPS had expired, Mr. KEAN obtained the floor, and yielded his time to Mr. PHELPS.]

Mr. COX, of New York. Mr. Speaker, I think it would be a very proper sequence to the remarkable speech of my friend from New Jersey [Mr. PHELPS] to have read the telegram of Jay Gould to Mr. Cleveland, President-elect. [Laughter.]

Mr. COBB. I think so, too; I would like to hear it.

Mr. COX, of New York. Unfortunately I have no copy of that telegram now at hand.

I am here, Mr. Speaker, simply as a member of Congress, representing the people, not representing any corporate influence. I do not know railroads. I know the body of the people of New York, including many gentlemen connected with our trades-unions, &c., transportation associations, who favor this just and true bill of the gentleman from Texas [Mr. REAGAN]. I believe it is our business as Democrats, I will not say as statesmen [laughter and applause], because the gentlemen on the other side never recognize that idea [renewed laughter]—I believe the wise thing to be done is to check corporate power and corporate monopoly. The last election was based on that idea. I would like to send to the Clerk's desk to be read a statement in which the thing is brought right down to my very dear colleague from New York.

I do not believe in commissions. We had them in 1876. We had them on the tariff. We have had them since, and commissions are not wise or constitutional. Give us commissions, and you will find the people are not represented. Give us a fair show with the people, and railroads will be more or less catechised and a halt will be called on them.

Now I ask for the reading of that very interesting letter in Mr. Dana's New York Sun of this morning.

Before the Clerk had concluded reading the marked portion of the letter,

Mr. WILSON, of Iowa, said: Who is the author of that?

Mr. COX, of New York. I will have the whole of that letter printed in the RECORD.

Mr. WILSON, of Iowa. But who is the author?

Mr. COX, of New York. Mr. S. R. Davis, a gentleman from Iowa, likely one of your constituents. He ran for Congress, but was not elected.

Mr. WILSON, of Iowa. No; we do not elect that kind of fellows.

Mr. COX, of New York. Many were defeated who were good fellows.

The SPEAKER *pro tempore*. The gentleman's time is exhausted.

Mr. COX, of New York. I ask for the printing of the whole letter.

There was no objection, and it is as follows:

SHALL CORPORATE POWER BE CHECKED?—AN OPEN LETTER TO HON. S. S. COX.

DEAR SIR: I first became interested in political questions when an apprentice in a printing office in 1868. I was then a pronounced Democrat—as I am to-day. It has been my good fortune to read many of your grand utterances in defense of the principles of constitutional government, and with pride and admiration I have watched your course in the Congress of the United States during all these years of Republican party power.

I have seen with sorrow great evils creeping into our political system, and have witnessed with alarm the growing power of corporate influence. As a citizen of the West, one having the welfare of the laboring people of this country at heart, and desirous of seeing the Democratic party give the people a Democratic administration in the true sense of the term, I take the liberty of addressing you, believing that you are a genuine representative of the people and not the agent of the corporations.

I see that the question of regulating interstate commerce is before Congress, and that there is a bill pending for the appointment of a national railway commission to adjust the differences between the railroads and the people. I hope no Democrat will vote for this swindling artifice, conceived for the benefit of railroad corporations. How can a commission in less than a century attend to the business which might accumulate on its hands? What assurance can the people have that the members of the commission will not be the agents of the corporations? They are not elected by the people and not directly responsible to them. Judge REAGAN's bill is infinitely preferable.

But what spirit has taken possession of Congress in these latter days? Why does it vote to create so many swindling commissions to perform its own functions?

It was the duty of Congress in 1876 to declare Mr. Tilden President, but it abdicated its power and created the electoral commission, a body unknown to the Constitution, and the people were thus swindled out of the Presidency.

It is the duty of Congress to suppress polygamy, but it preferred rather to turn that business over to three gentlemen known as the Mormon Commission, and how much has that wonderful Commission accomplished?

It was likewise the duty of Congress to reduce the outrageous taxes, but it created a tariff commission, composed of high tariff men, to give the people relief. The Ways and Means Committee of the House could have made a more satisfactory investigation than the tariff commissioners at one-third the expense.

Again, "Congress has the power to coin money and regulate the value thereof," and the Supreme Court says it has power to issue legal-tender Treasury notes, but yet the money of the people is issued on the commission plan. Congress, instead of controlling the volume of currency, delegates its power to corporations, whose interests prompt them to keep money scarce enough to make interest high, and thus oppress the people and depress trade.

The people of the West are hoping and praying that the railway commission bill will be killed in Congress. It will certainly do no good, and give the railroads a loophole through which to escape from their obligation and responsibility to the public, whose creatures they are. Iowa and Wisconsin have the railway commission system, and they have proved beneficial only to the railroads, whose pliant tools they are. It is the duty of Congress to regulate interstate commerce and prevent extortion upon the people from railroad corporations. It should not shirk that responsibility by creating a body to do the work it was itself elected to perform.

I hope that you and your Democratic associates in Congress will stand firmly for the rights of the people, and give the national banks and railroad monopolies to understand that the people are sovereign, and not the corporations.

Yours, truly,

S. R. DAVIS.

CRESTON, IOWA, *December* 13, 1884.

Mr. COX, of New York. I also ask to print an extract from Mr. REAGAN's speech to show the animus and reasoning in general for this bill.

There was no objection, and the extract is as follows:

I might multiply such evidences of opinion of impartial, disinterested, and patriotic men of all parts of the country; and I invite you to contrast them with the interested, selfish opinions of railroad lawyers and railroad managers and experts, paid for by the railroads out of money wrung from the hard earnings of people engaged in other vocations. Do you think such a question can be whistled down the wind by the vast throng of mercenaries who infest the halls and corridors and committee-rooms of Congress, for the purpose of influencing the action of members whenever this question comes up for consideration?

The wishes of the people on this subject may be baffled and delayed for a time, on pretexts reasonable and unreasonable. But when we consider the magnitude of the interest involved; that the transportation of not less than three thousand million dollars' worth of commerce annually, in which 50,000,000 people are interested; that the larger part of this is interstate commerce; that in all the world's history so much of interest has not been left without the protection of law, and to the mercy of a class of persons interested in levying the largest exactions on it; and when we consider the principles involved, and the probable, nay, the almost inevitable, consequences to the property interests, the prosperity, the happiness, and ultimately the dangers to our liberties and form of government, I say to you, in all seriousness, action by Congress on this subject can not much longer be delayed. So many interests are so constantly affected that all men must see a solution of this problem must come; and I do not think it can ever come through a more just or more conservative measure than the one now before you.

This measure was not conceived in hostility to the railroads. Their great value as a means of progress and prosperity are fully understood by all. No good citizen could wish to cripple or to harm them. No one would hail with more pleasure than myself their prosperity. My judgment is that the passage of the bill before us would benefit them, while it would benefit and protect the people.

Mr. REAGAN. I move to limit debate on the pending section and amendment to five minutes.

Mr. REED. Oh, no.

Mr. HORR. I hope that will not be done.

Mr. REED. I hope the gentleman will not limit debate. We have

not had any debate on this as yet. We have had nothing but essay reading.

Mr. REAGAN. I will give the gentleman five minutes.

Mr. REED. I suggest he give us half an hour's debate.

Mr. REAGAN. I would be glad to do it, but debate on this subject has been exhausted.

Mr. REED. If the gentleman thinks it has been exhaustively discussed, there are other gentlemen here who have not that impression about it.

The SPEAKER *pro tempore*. This question is not debatable.

Mr. HORR. I hope the gentleman will give us half an hour.

Mr. REAGAN. I would be glad to do so, but I wish to get this measure out of the way of other business.

Mr. REED. The gentleman will facilitate his business by doing so.

Mr. REAGAN. If the gentleman is disposed to block business he can do so.

Mr. REED. No one is disposed to block business.

The SPEAKER *pro tempore*. This question is not debatable.

Mr. REED. Under what rule is it not debatable?

The SPEAKER *pro tempore*. Motions to limit debate are not debatable.

Mr. REED. Will the gentleman point out any such decision?

Mr. ANDERSON. The Chair has decided the question.

The SPEAKER *pro tempore*. That has been the ruling in the Committee of the Whole and the ruling of the House when the previous question is demanded to cut off debate.

Mr. REED. I make the point of order, under the rule of the House etablished yesterday, there was no limitation of debate on a question of this kind.

The SPEAKER *pro tempore*. The gentleman's point of order is overruled.

Mr. REED rose. [Cries of "Regular order!"]

The SPEAKER *pro tempore*. The Chair has decided the point of order.

Mr. REED. The gentleman can exercise the force of his position, of course, and can take advantage of it. [Cries of "Regular order!"] My point of order is made in good faith.

The SPEAKER *pro tempore*. And the Chair has ruled upon it in good faith.

Mr. REED. There is no such rule.

The SPEAKER *pro tempore*. The point of order was addressed to the Chair, and the Chair has ruled upon it.

Mr. REED. The Chair ruled on it in a peculiar way. [Cries of "Regular order!"] You can not howl us down. [Cries of "Regular order!"]

Mr. ROGERS, of Arkansas. If the gentleman from Maine wants to, let him take an appeal from the decision of the Chair.

The SPEAKER *pro tempore*. The question is on agreeing to the motion of the gentleman from Texas [Mr. REAGAN].

The House divided; and there were—ayes 100, noes 2.

Mr. HORR. No quorum has voted.

The SPEAKER *pro tempore*. The Chair will order tellers.

Mr. REAGAN. Let us have the yeas and nays.

The yeas and nays were ordered.

Mr. O'HARA. I move the House do now adjourn; and on that motion I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 8, nays 186, not voting 129; as follows:

YEAS—8.

Boutelle,	Evans,	Johnson,	Smalls,
Brewer, J. H.	Harmer,	O'Hara,	Stone.

NAYS—186.

Adams, G. E.	Cassidy,	Glascock,	Laird,
Adams, J. J.	Chace,	Green,	Lamb,
Alexander,	Clardy,	Greenleaf,	Lanham,
Anderson,	Clements,	Halsell,	Lawrence,
Bagley,	Cobb,	Hammond,	Le Fevre,
Barksdale,	Converse,	Hancock,	Lewis,
Beach,	Cook,	Hardeman,	Long,
Bennett,	Covington,	Haynes,	Lore,
Bisbee,	Cox, S. S.	Henderson, D. B.	Lowry,
Blackburn,	Cox, W. R.	Henderson, T. J.	Lyman,
Blanchard,	Cullen,	Henley,	McAdoo,
Blount,	Dargan,	Hepburn,	McComas,
Boyle,	Dibble,	Hill,	McMillin,
Bratton,	Dibrell,	Hiscock,	Matson,
Breckinridge,	Dingley,	Hoblitzell,	Mills,
Brewer, F. B.	Dowd,	Holman,	Mitchell,
Brown, W. W.	Dunn,	Holmes,	Morrill,
Browne, T. M.	Eaton,	Holton,	Moulton,
Buchanan,	Elliott,	Hopkins,	Murray,
Buckner,	English,	Houseman,	Neece,
Budd,	Ermentrout,	Howey,	Nelson,
Burleigh,	Everhart,	Hunt,	Nicholls,
Burnes,	Ferrell,	Hurd,	Nutting,
Cabell,	Follett,	James,	O'Ferrall,
Campbell, Felix	Foran,	Jeffords,	O'Neill, Charles
Campbell, J. E.	Forney,	Jones, B. W.	Payne,
Campbell, J. M.	Funston,	Jones, J. H.	Peel,
Candler,	Fyan,	Jordan,	Perkins,
Cannon,	Geddes,	Kleiner,	Peters,
Carleton,	Gibson,	Lacey,	Pierce,
Price,	Singleton,	Throckmorton,	White, J. D.
Pryor,	Skinner, C. R.	Tillman,	White, Milo
Pusey,	Smith, A. H.	Townshend,	Wilkins,
Reagan,	Smith, H. Y.	Tucker,	Williams,
Reese,	Spooner,	Tully,	Willis,
Riggs,	Springer,	Turner, H. G.	Wilson, James
Robinson,	Stephenson,	Turner, Oscar	Wilson, W. L.
Robertson, J. S.	Stewart, Charles	Van Alstyne,	Winans, E. B.
Robinson, W. E.	Stockslager,	Van Eaton,	Winans, John
Rogers, J. H.	Storm,	Wait,	Wise, G. D.
Rogers, W. F.	Strait,	Wallace,	Wolford,
Rosecrans,	Struble,	Ward,	Wood,
Ryan,	Sumner, C. A.	Warner, A. J.	Woodward,
Scales,	Talbott,	Warner, Richard	Worthington,
Seney,	Taylor, J. D.	Weaver,	Yaple.
Seymour,	Thomas,	Weliborn,	
Shively,	Thompson,	Wemple,	

NOT VOTING—129.

Aiken,	Dorsheimer,	Ketcham,	Ranney,
Arnot,	Dunham,	King,	Ray, G. W.
Atkinson,	Eldredge,	Libby,	Ray, Ossian
Ballentine,	Ellis,	Lovering,	Reed,
Barbour,	Ellwood,	McCoid,	Rice,
Barr,	Fiedler,	McCormick,	Rockwell,
Bayne,	Findlay,	Maybury,	Rowell,
Belford,	Finerty,	Millard,	Russell,
Belmont,	Garrison,	Miller, J. F.	Shaw,
Bingham,	George,	Miller, S. H.	Shelley,
Bland,	Goff,	Milliken,	Skinner, T. G.
Bowen,	Graves,	Money,	Slocum,
Brainerd,	Guenther,	Morgan,	Snyder,
Breitung,	Hanback,	Morrison,	Spriggs,
Broadhead,	Hardy,	Morse,	Steele,
Brumm,	Hart,	Muldrow,	Stevens,
Caldwell,	Hatch, H. H.	Muller,	Stewart, J. W.
Chalmers,	Hatch, W. H.	Murphy,	Sumner, D. H.
Clay,	Hemphill,	Mutchler,	Taylor, E. B.
Collins,	Herbert,	Oates,	Taylor, J. M.
Connolly,	Hewitt, A. S.	Ochiltree,	Valentine,
Cosgrove,	Hewitt, G. W.	O'Neill, J. J.	Vance,
Crisp,	Hitt,	Paige,	Wadsworth,
Culberson, D. B.	Hooper,	Parker,	Wakefield,
Culbertson, W. W.	Horr,	Patton,	Washburn,
Curtin,	Houk,	Payson,	Weller,
Cutcheon,	Hutchins,	Pettibone,	Whiting,
Davidson,	Jones, J. K.	Phelps,	Wise, J. S.
Davis, G. R.	Jones, J. T.	Poland,	York,
Davis, L. H.	Kean,	Post,	Young.
Davis, R. T.	Keifer,	Potter,	
Deuster,	Kelley,	Randall,	
Dockery,	Kellogg,	Rankin,	

So the House refused to adjourn.

Mr. ANDERSON. I ask unanimous consent that the reading of the names be dispensed with.

Mr. O'HARA. I object.

The Clerk then recapitulated the names of those voting.

The following additional pairs were announced:

Mr. DAVIDSON with Mr. HOUK, for this day.

Mr. COVINGTON with Mr. HOLTON, for this day.

Mr. MURPHY with Mr. HENDERSON, of Illinois, until further notice.

Mr. WELLER with Mr. EZRA B. TAYLOR, until further notice.

Mr. HOUK with Mr. DAVIDSON, for this day.

Mr. DAVIDSON. I wish to state that this pair was in existence when the last roll-call took place, but I believe it was not announced.

The result of the vote was then announced as above recorded.

The SPEAKER. The question recurs on the motion of the gentleman from Texas to limit debate, on which the yeas and nays were ordered. The Clerk will call the roll.

Mr. HISCOCK. I would like to ask the gentleman from Texas if he is not willing to allow ten minutes for debate to this side of the House on this question.

Mr. REAGAN. Undoubtedly it would be better to give ten minutes than to consume time in calling the roll, if that would be satisfactory. Can the gentleman speak for that side of the House? Unless the gentleman can speak for that side, I could not undertake to consent to such an arrangement.

The SPEAKER *pro tempore*. The Chair understands the gentleman from New York to ask unanimous consent that ten minutes be allowed for debate on this section and the pending amendment.

Mr. HISCOCK. My proposition was that ten minutes be given to this side of the House.

Mr. REAGAN. If that can be reached by unanimous consent, I will consent to it.

The SPEAKER *pro tempore*. The Chair will submit the question to the House. Is there unanimous consent that the order for the yeas and nays be set aside and that ten minutes be given for debate, the time to be consumed by the gentlemen on the other side?

There was no objection, and it was ordered accordingly.

Mr. HISCOCK. I yield the time to the gentleman from Michigan [Mr. HORR].

Mr. HORR was recognized.

INVESTIGATION OF MARSHAL FOR SOUTHERN DISTRICT OF OHIO.

Mr. ERMENTROUT. Mr. Speaker, before the gentleman from Michigan proceeds I would like to ask unanimous consent to present a privileged report from the Committee on Accounts with reference to a matter that ought to be disposed of promptly.

The SPEAKER *pro tempore*. Is there objection to the gentleman

from Pennsylvania submitting a privileged report from the Committee on Accounts?

There was no objection.

Mr. ERMENTROUT. I submit the report which I send to the desk.

The Clerk read as follows:

"*Resolved*, That the resolution adopted by the House of Representatives on the 2d day of December, 1884, authorizing an investigation into the conduct of Lot Wright, United States marshal for the southern district of Ohio, be, and the same is hereby, amended by adding thereto the following, to wit:

"'The Clerk of the House upon the order of the chairman of said subcommittee shall advance to him, in amounts not exceeding $1,000 at a time, such sums as may be required to meet the expenses of said subcommittee, said amounts to be properly accounted for by proper vouchers duly certified by the chairman.'"

The Committee on Accounts, to whom was referred the foregoing resolution, approved December 18, 1884, having considered the same, report herewith a substitute for the resolution and recommend its passage.

Resolved, That the resolution adopted by the House of Representatives on the 2d day of December, 1884, authorizing an investigation into the conduct of Lot Wright, United States marshal for the southern district of Ohio, be, and the same is hereby, amended by adding the following, to wit:

"The Clerk of the House upon the order of the chairman of said subcommittee shall advance to him in amounts not exceeding $1,000 at a time, and not exceeding in the aggregate under this resolution the sum of $3,000, to meet the necessary expenses of said subcommittee, said amounts to be properly accounted for by proper vouchers duly certified by the chairman."

Mr. KEIFER. Mr. Speaker, I would like to hear from the gentleman in charge of this matter what the purpose is in limiting the amount that is proposed to be allowed for this very important investigation. I yield to him for an answer.

Mr. ERMENTROUT. The explanation is that the committee did not see the propriety of any committee of this House being allowed to dispose of the contingent fund of the House without limit; and as it was understood that this resolution and the moneys called for by it were to meet certain expenditures which are expected to be made during the holiday recess, after consultation with the chairman of the committee this substitute was agreed to for the amount proposed in the original resolution which was referred to the committee.

Mr. KEIFER. But, Mr. Speaker, are we to understand that this is a final limitation of the expenditure for that investigation?

Mr. ERMENTROUT. Not at all.

Mr. KEIFER. There is no provision for a further appropriation to meet the expenses.

Mr. ERMENTROUT. It is always in the control of the House to make such appropriations, and this substitute was prepared by the committee to meet what they believed to be the necessities of the case. This investigation will occur during the recess; and the committee, upon consultation, as I said before, with the chairman of the investigating committee, concluded that this amount would be satisfactory. There is no disposition, I will add for the information of the gentleman from Ohio, to withhold any sums necessary for the purposes of investigation that the committee may find necessary.

Mr. KEIFER. I do not want it to be understood that this is final.

Mr. ERMENTROUT. But, Mr. Speaker, there is another reason why the substitute is proposed in place of the amendment submitted to the committee. Some time ago a resolution like this was proposed, authorizing the chairman of one of the committees of this House to appropriate all the money required in an investigation in sums of $1,000 at a time, and we thought it was playing a little too much havoc with our contingent fund to propose to appropriate it in such a way without limit. We desire to control it to some extent at least, if the Committee on Accounts have power to do so. With that I hope the gentleman is satisfied.

Mr. KEIFER. The amount proposed to be appropriated is inconsiderable in view of the fact that we are about to embark on an exceedingly extensive investigation. If the Committee on Expenditures in the Department of Justice or the subcommittee is to be limited in its expenditures in this way, I am a little suspicious that just a certain class of testimony will be gathered and that we will get a report here that will not cover the entire case; and it will probably not be the fault of the committee that enters upon the investigation. If there is to be but $3,000—the sum fixed in the resolution if I understood it aright—expended in this investigation, it seems to me that will be expended in gathering up testimony on the affirmative of this proposition; and the great question, covering the testimony of perhaps a few thousand witnesses, at a very considerable cost to the Government, will be left entirely unsettled, and the Congress of the United States and the country will be without the desired information.

Mr. ERMENTROUT. I will say to the gentleman from Ohio that there can be no fear of that. If the gentleman had paid attention to the language of the resolution he would have seen it speaks of moneys advanced before expenses are incurred. It is to cover that that the resolution is drawn.

Mr. KEIFER. But this is a limitation.

Mr. ERMENTROUT. It is, as I have said, a limitation of moneys advanced before expenses are incurred.

Mr. KEIFER. Let the Clerk again read the resolution.

The resolution was again read.

Mr. ERMENTROUT. If the gentleman from Ohio has no more questions to ask I will call the previous question.

Mr. KEIFER. I have not yielded the floor. If the gentleman from Pennsylvania [Mr. ERMENTROUT] has any further suggestions to make I am willing to hear him. I am anxious to understand this matter. The proposition here is to place a complete limitation upon the expenditures of the committee, the limitation being $3,000.

Mr. ERMENTROUT. The resolution does not do that. But it is not proposed to give power to the chairman of any committee to advance sums in unlimited amount.

Mr. KEIFER. I understand the economic reason given by the gentleman from Pennsylvania, and appreciate it, I hope. But I do not think it is possible for this committee to enter upon an investigation, with so much involved and having such a wide scope as this, and get along with an expenditure of $3,000. I do not know but many more than 3,000 witnesses are to be called.

Mr. ERMENTROUT. I did not yield the floor to the gentleman from Ohio.

Mr. KEIFER. I will yield to the gentleman from Pennsylvania if he has any further suggestion to make.

Mr. ERMENTROUT. I move the previous question.

Mr. KEIFER. I think I have the floor. If the gentleman desires to ask a question I will yield.

The SPEAKER *pro tempore* (Mr. BAGLEY). The gentleman from Pennsylvania [Mr. ERMENTROUT] has the floor and refuses to yield.

Mr. KEIFER. I have been debating this question for a considerable time, and have not yielded the floor to the gentleman from Pennsylvania except to permit him to ask a question; and now I am not to be taken from the floor because the distinguished gentleman who has been lately occupying the chair [Mr. SPRINGER] has just left it.

Mr. ERMENTROUT. I do not understand that I yielded the floor to the gentleman from Ohio.

The SPEAKER *pro tempore*. The Chair understands the gentleman from Pennsylvania simply yielded to the gentleman from Ohio for a question.

Mr. KEIFER. I addressed the Chair, and the notes of the reporter will show that I proceeded to debate the resolution. The gentleman from Pennsylvania [Mr. ERMENTROUT] asked me questions, and I have been willing to hear him in order that I may understand the resolution. I think the gentleman who has just left the chair [Mr. SPRINGER] understands this to be the position. I do not intend to offer any factious opposition, but I want this matter to be fairly understood.

Mr. ERMENTROUT. The gentleman from Ohio [Mr. KEIFER] asked me for an explanation. I gave it. That did not take me from the floor. I insist on the demand for the previous question.

Mr. KEIFER addressed the Chair.

Mr. BLOUNT. I rise to a question of order. I submit that the Chair has already ruled that the gentleman from Pennsylvania [Mr. ERMENTROUT] is entitled to the floor.

The SPEAKER *pro tempore*. The Chair decided that the gentleman from Pennsylvania had the floor. He was so informed by the gentleman who resigned the chair [Mr. SPRINGER] a moment ago. The Chair recognizes the gentleman from Pennsylvania.

Mr. KEIFER. But does the Chair claim the right to recognize the gentleman from Pennsylvania while I am occupying the floor by the recognition of the former occupant of the chair?

Mr. SPRINGER. I hope I may be allowed one moment.

The SPEAKER *pro tempore*. The Chair recognizes the gentleman from Pennsylvania [Mr. ERMENTROUT].

Mr. KEIFER. The Chair has the power to do that, but not the right.

Mr. ERMENTROUT. I move the previous question.

Mr. SPRINGER. Will the gentleman from Pennsylvania yield to me for one moment?

Mr. ERMENTROUT. No, sir.

The SPEAKER *pro tempore*. The question is on ordering the previous question on the resolution.

The previous question was ordered.

Mr. KEIFER. Now I ask for recognition by the Chair to debate this question under the rule.

Several members called for the regular order.

Mr. KEIFER. The regular order is debate for thirty minutes on this resolution.

The SPEAKER *pro tempore*. There has been debate on it.

Mr. KEIFER. But the Chair has just decided I did not debate it, and did not have the floor to debate it.

The SPEAKER *pro tempore*. The gentleman from Pennsylvania [Mr. ERMENTROUT] debated the question. That gentleman had the floor, and the gentleman from Ohio rose simply to ask a question, and the gentleman from Pennsylvania yielded for a question and nothing else, as the Chair understands.

Mr. KEIFER. Then debate did not follow under the ruling of the Chair; and hence I am entitled now to debate the resolution.

The SPEAKER *pro tempore*. There was debate by the gentleman from Pennsylvania.

Mr. KEIFER. There has been no debate under the rule. We are entitled to thirty minutes after the previous question has been ordered, to be equally divided between those supporting the resolution and those opposing it. That right is given under, I think, the last paragraph of Rule XXVIII.

The SPEAKER *pro tempore*. The Chair has decided the question. The question is on the adoption of the resolution.

Mr. KEIFER. Does the Chair hold that debate is not in order?

The SPEAKER *pro tempore*. No further debate is in order.

The question being taken, the resolution was adopted.

Mr. ERMENTROUT moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

Mr. HART. I call for the yeas and nays.

The SPEAKER *pro tempore* (Mr. SPRINGER). On what motion?

Mr. HART. On the motion to lay on the table the motion to reconsider.

The yeas and nays were ordered, 46 members voting therefor.

The question was taken; and there were—yeas 137, nays 56, not voting 130; as follows:

YEAS—137.

Adams, J. J.	Dibrell,	Le Fevre,	Stephenson,
Alexander,	Dunn,	Lore,	Stewart, Charles
Bagley,	Eaton,	Lowery,	Stockslager,
Barksdale,	Eldredge,	McAdoo,	Storm,
Beach,	Elliott,	McMillin,	Sumner, C. A.
Bennett,	English,	Matson,	Thompson,
Blanchard,	Ermentrout,	Miller, J. F.	Tillman,
Blount,	Ferrell,	Mills,	Townshend,
Boyle,	Follett,	Mitchell,	Tucker,
Bratton,	Foran,	Moulton,	Tully,
Breckinridge,	Forney,	Neece,	Turner, H. G.
Brewer, F. B.	Fyan,	Nicholls,	Turner, Oscar
Brewer, J. H.	Geddes,	O'Ferrall,	Van Alstyne,
Broadhead,	Gibson,	O'Neill, J. J.	Van Eaton,
Brown, W. W.	Glascock,	Pierce,	Wallace,
Buchanan,	Green,	Peel,	Ward,
Budd,	Greenleaf,	Pryor,	Warner, A. J.
Burnes,	Halsell,	Pusey,	Warner, Richard
Cabell,	Hammond,	Reagan,	Weaver,
Campbell, Felix	Hardeman,	Reese,	Wellborn,
Campbell, J. E.	Hill,	Riggs,	Wemple,
Candler,	Hoblitzell,	Robertson,	Wilkins,
Carleton,	Holman,	Rogers, J. H.	Williams,
Cassidy,	Hopkins,	Rogers, W. F.	Willis,
Clardy,	Houseman,	Rosecrans,	Wilson, W. L.
Clements,	Hunt,	Scales,	Winans, E. B.
Cobb,	Hurd,	Seney,	Winans, John
Collins,	Hutchins,	Seymour,	Wise, G. D.
Converse,	Jones, B. W.	Shelley,	Wolford,
Cook,	Jones, J. H.	Shively,	Wood,
Cox, S. S.	Jordan,	Singleton,	Worthington,
Cox, Wm. R.	Kleiner,	Smalls,	Yaple.
Curtin,	Lacey,	Smith, A. H.	
Deuster,	Lamb,	Smith, H. Y.	
Dibble,	Lanham,	Springer,	

NAYS—56.

Adams, G. E.	Funston,	Laird,	Rockwell,
Anderson,	George,	Libbey,	Rowell,
Boutelle,	Guenther,	Long,	Ryan,
Browne, T. M.	Harmer,	McComas,	Skinner, C. R.
Brumm,	Hart,	Morrill,	Spooner,
Cannon,	Haynes,	Nelson,	Stone,
Chace,	Henderson, D. B.	Nutting,	Strait,
Cullen,	Hepburn,	O'Hara,	Struble,
Cutcheon,	Hitt,	O'Neill, Charles	Taylor, J. D.
Davis, G. R.	Holmes,	Payne,	Thomas,
Davis, R. T.	Holton,	Perkins,	White, J. D.
Dingley,	Horr,	Peters,	White, Milo
Evans,	James,	Price,	Wilson, James
Everhart,	Keifer,	Ray, Ossian	Woodward.

NOT VOTING—130.

Aiken,	Dowd,	King,	Ranney,
Arnot,	Dunham,	Lawrence,	Ray, G. W.
Atkinson,	Ellis,	Lewis,	Reed,
Ballentine,	Ellwood,	Lovering,	Rice,
Barbour,	Fiedler,	Lyman,	Robinson, J. S.
Barr,	Findlay,	McCoid,	Robinson, W. E.
Bayne,	Finerty,	McCormick,	Russell,
Belford,	Garrison,	Maybury,	Shaw,
Belmont,	Goff,	Millard,	Skinner, T. G.
Bingham,	Graves,	Miller, S. H.	Slocum,
Bisbee,	Hanback,	Milliken,	Snyder,
Blackburn,	Hancock,	Money,	Spriggs,
Bland,	Hardy,	Morgan,	Steele,
Bowen,	Hatch, H. H.	Morrison,	Stevens,
Brainerd,	Hatch, W. H.	Morse,	Stewart, J. W.
Breitung,	Hemphill,	Muldrow,	Sumner, D. H.
Buckner,	Henderson, T. J.	Muller,	Talbott,
Burleigh,	Henley,	Murphy,	Taylor, E. B.
Caldwell,	Herbert,	Murray,	Taylor, J. M.
Campbell, J. M.	Hewitt, A. S.	Mutchler,	Throckmorton,
Chalmers,	Hewitt, G. W.	Oates,	Valentine,
Clay,	Hiscock,	Ochiltree,	Vance,
Connolly,	Hooper,	Paige,	Wadsworth,
Cosgrove,	Houk,	Parker,	Wait,
Covington,	Howey,	Patton,	Wakefield,
Crisp,	Jeffords,	Payson,	Washburn,
Culberson, D. B.	Johnson,	Pettibone,	Weller,
Culbertson, W. W.	Jones, J. K.	Phelps,	Whiting,
Dargan,	Jones, J. T.	Poland,	Wise, J. S.
Davidson,	Kean,	Post,	York,
Davis, L. H.	Kelley,	Potter,	Young.
Dockery,	Kellogg,	Randall,	
Dorsheimer,	Ketcham,	Rankin,	

So the motion to reconsider the vote by which the resolution was adopted was laid on the table.

The SPEAKER *pro tempore*. The Clerk will announce the additional pairs.

The following-named members were announced as paired for the remainder of the day:

Mr. DOWD with Mr. JOHNSON.

Mr. MURRAY with Mr. HOWEY.

Mr. HENLEY with Mr. PAYSON.

Mr. THROCKMORTON with Mr. HANBACK.

Mr. BUCKNER with Mr. WAIT.

Mr. TALBOTT with Mr. BINGHAM.

Mr. SPRIGGS with Mr. PARKER.

The result of the vote was announced as above stated.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. MCCOOK, its Secretary, announced that the Senate had passed bills and joint resolution of the following titles; in which the concurrence of the House was requested.

A bill (S. 1008) to accept and ratify the agreement submitted by the Shoshones, Bannocks, and Sheepeaters of the Fort Hall and Lemhi reservations, in Idaho, May 14, 1880, for the sale of a portion of their lands in said Territory, and for other purposes, and to make the necessary appropriations for carrying out the same;

A bill (S. 1303) to grant the right of way over the public lands of the United States to the Lost Lake and Mount Hood Improvement Company;

A bill (S. 2417) to amend section 993 of the Revised Statutes relating to the District of Columbia; and

Joint resolution (S. R. 92) authorizing and requiring the Secretary of War to deliver to the Eighth New York Heavy Artillery Association the regimental colors which belonged to said artillery, and which are now in the custody of the Secretary of War.

INTERSTATE COMMERCE.

The House resumed the consideration of the bill (H. R. 5461) to establish a board of commissioners of interstate commerce and to regulate such commerce.

The SPEAKER *pro tempore*. The gentleman from Michigan [Mr. HORR] is entitled to the floor for ten minutes.

Mr. HORR. Mr. Speaker, this debate strangely enough, at its very close, seemed to take a very wide range. I had supposed we were discussing a question as to the policy of permitting railroad companies to pool their earnings. But the gentleman from New York [Mr. COX], whom I do not now see in the House, saw fit to get the floor and cause to be read a letter from some gentleman—or rather some "crank"—from the West; and then, as if by a preconcerted plan, the gentleman from Texas, in order to muzzle this side of the House and prevent us from investigating the important questions presented by that letter, tries to shut down the valve and prevent the escape of all sentiments upon that question.

The gentleman from New York—I am sorry he is not here—introduced this letter of some one from the West, whom I have seen fit to designate as a "crank." That I may prove to the House that the designation is accurate, I wish to have read the first part of that letter, a portion which the gentleman from New York omitted to have read in the presence of the House. I will ask the Clerk to read it, just the first paragraph.

Mr. COX, of New York (entering the Hall). Can not I read it myself?

Mr. HORR. No; the Clerk will read it. But I am glad that the gentleman is here. I am having read, Mr. Speaker, a portion of that letter which the gentleman from New York omitted to have read; and I desire the reading of this portion as an explanation of why the gentleman had the rest of the letter read, and also to prove to this House the truth of my assertion that the letter came from some "crank." I ask the Clerk to read.

The Clerk read as follows:

AN OPEN LETTER TO HON. S. S. COX.

DEAR SIR: I first became interested in political questions when an apprentice in a printing office in 1868. I was then a pronounced Democrat, as I am to-day.

[Applause on the Democratic side.]

It has been my good fortune to read many of your grand utterances in defense of the principles of constitutional government, and with pride and admiration I have watched your course in the Congress of the United States during all these years of Republican power.

[Laughter and applause.]

Mr. HORR. That is sufficient to sustain my statements. [Laughter.] Now, Mr. Speaker, the burden of the letter which the gentleman saw fit to have read for the edification of the members of this House was a trite and worn-out notion that all the commissions of this country heretofore have been failures. And, true to his Democratic instincts, he cites first and foremost among them the commission of 1876—the electoral commission.

So far as my memory goes that was a commission forced upon this country by a vote of Democratic Senators; also by a Democratic House. [Cries of "Oh, no!" on the Democratic side.] Oh, yes! I have the vote right here. A Democratic House passed the bill to create that commission. Out of 191 votes in this branch of Congress for the commission, 131 Democrats voted to compel the people of this country to settle that question by a commission. Only 18 Democrats voted "no."

The gentleman from New York voted "yea," and a majority of the Republicans voted against the bill. The commission, thus proposed and organized by Democratic votes, examined the case and settled it under their consciences as honest men. [Cries of "Oh, no!" on the Democratic side.] I repeat, on their oaths they settled it as honest men, and the very party which forced that commission upon the people has been whining about it from that day down to the present time. [Applause on the Republican side.]

Now, Mr. Speaker, another commission which this gentleman assails is the commission that took testimony in reference to the tariff question and made a report on this subject to Congress. This man, in his wisdom, states that that commission was a failure, and that the subject should have been left to the Ways and Means Committee of this House. We have had a little taste of the Ways and Means Committee and of that commission. The Ways and Means Committee of the present House investigated the tariff, and in the abundance of their wisdom reported to this House a bill which, as they claimed, would relieve the toiling millions of this nation, and in this House, with seventy-two Democratic majority, the head of that bill was taken right off before we were hardly permitted to enter the threshold of the subject.

Mr. GIBSON. Was not that motion supported by every Republican vote?

Mr. HORR. Mr. Speaker, a Democratic majority of seventy-two, if they believe in anything, ought to be able to stand by it in the Halls of the American Congress. We Republicans differ with those gentlemen on the tariff question. I believe that tariff commission did a good work; I believe it did its duty faithfully; and to-day my objection to the bill of the gentleman from Texas is that it attempts by iron-clad rules to govern the great commercial arteries of this country, which can not be governed in that way. And when the gentleman from New York [Mr. HEWITT] was speaking upon that question I held my breath to hear from that side of the House so much good sense. [Laughter.] It was so unusual.

Now, Mr. Speaker, I say that the trouble with the bill of the gentleman from Texas is that it undertakes to do here in this House a thing which can only be done by a commission composed of men who can sit down and examine each and every case by itself, and thus be able to get at all the difficulties of the subject and decide each transaction intelligently. I am in favor of such a commission.

[Here the hammer fell.]

Mr. COX, of New York. Mr. Speaker——

Several MEMBERS. Debate is closed.

The SPEAKER *pro tempore*. The question is upon the adoption of the amendment of the gentleman from New York [Mr. HEWITT]. [Cries of "Regular order!"]

Mr. COX, of New York. Mr. Speaker, I am sorry the gavel has been broken in trying to keep me down. I hope there will be unanimous consent——

The SPEAKER *pro tempore*. By order of the House, debate has been closed upon the pending amendment and upon the section under consideration.

Mr. COX, of New York. I shall seek recognition on the next paragraph.

The SPEAKER *pro tempore*. The question is upon the adoption of the amendment proposed by the gentleman from New York [Mr. HEWITT], which the Clerk will again read.

The Clerk read as follows:

Add to the third section the words "unless the rates established by said pooling contracts shall be reasonable and just."

The amendment was not agreed to.

Mr. BUDD. In pursuance of an understanding with the gentleman from Texas in charge of this bill I propose the following amendment, to correct the evils pointed out by me in my remarks:

Strike out, after the word "railroads," in line 12, the words "by dividing" and insert the words "or to divide."

The amendment was agreed to.

The Clerk read as follows:

SEC. 4. That it shall be unlawful for any person or persons engaged in the transportation of property as provided in the first section of this act to charge or receive any greater compensation for a similar amount and kind of property, for carrying, receiving, storing, forwarding, or handling the same, for a shorter than for a longer distance on any one railroad; and the road of a corporation shall include all the road in use by such corporation, whether owned or operated by it under a contract, agreement, or lease by such corporation.

Mr. ADAMS, of Illinois. I move to amend by striking out the words "receiving, storing, forwarding, or handling."

Mr. Speaker, the only purpose of inserting such words in a bill like this is to prevent a railway company from making an unfair charge for transportation of goods and concealing that charge under the disguise of a charge for receiving, storing, forwarding, or handling goods, or for other terminal service. There is no need of such words in this particular bill, because immediately afterward, in section 5, you have a provision for printed schedules of rates in which the company is obliged to declare what part of a charge is for the service of transportation and what part is for storing or handling or other terminal facilities.

And I desire to remind the gentleman from Texas—and I beg to assure him I make this amendment in perfect good faith—that the practical effect of inserting these words in the bill will be to prevent certain localities in the country from enjoying the facilities for which they have already paid large sums of money. It is well known to every one familiar with this question that up to ten years ago the city of New York, having, or believing she had, the monopoly of the Western freight, became careless about her terminal facilities, and the cities of Boston, Philadelphia, and Baltimore, for the purpose of taking away some part of that freight from the city of New York, spent a large amount of money in the building of docks and warehouses, whereby they rendered the handling of freight in those places cheaper than before, and New York was forced to follow the example of those cities. And in the city of Chicago there was built not many years ago what is known as a belt railway. It encircles that city on the land side, intersecting every railway that terminates there. Its function is to facilitate the transfer of freight from one railroad line to another. Its effect is to diminish the cost of the handling of freight in the city of Chicago. Why should not that city be allowed to get the benefit of low rates for handling goods for which it has paid?

Other facilities have been granted the railroads centering in Chicago by the people of that city, and at the expense of the people of that city. They have changed the grades of streets there to facilitate the building of viaducts in order to diminish the cost of handling freights.

The SPEAKER *pro tempore*. The gentleman's time has expired.

Mr. ADAMS, of Illinois. I hope I will be allowed to continue for two or three minutes longer in further explanation of the provisions of the bill. I do it in good faith, as I have no desire to delay a vote on this bill.

The SPEAKER *pro tempore*. Is there objection?

Mr. REAGAN. I prefer that debate shall proceed under the five-minute rule.

Mr. CANNON. I will take the floor and yield to my colleague.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. MCCOOK, its Secretary, announced that that body further insisted on its amendments to the bill (H. R. 7510) making temporary provision for the naval service disagreed to by the House of Representatives.

INTERSTATE-COMMERCE BILL.

The House resumed the consideration of the interstate commerce bill.

Mr. REAGAN. The purpose of the amendment of the gentleman from Illinois is to strike out from the fifth line of section 4 the words "receiving, storing, forwarding, or handling." Now, what will be the effect of it? Why, it would enable the railroads to make gross charges for receiving, storing, forwarding, or handling, and other terminal facilities. There would be no protection against the power of railroads to discriminate if that amendment were adopted, as will be seen by reading the preceding part of the section. It is as follows:

SEC. 4. That it shall be unlawful for any person or persons engaged in the transportation of property as provided in the first section of this act to charge or receive any greater compensation for a similar amount and kind of property, for carrying, receiving, storing, forwarding, or handling the same, for a shorter than for a longer distance on any one railroad.

In the fifth section of this bill it is provided, in lines 11, 12, and 13, as follows:

And the accounts for such service—

That is, for receiving, delivering, loading, unloading, storing, and handling the same—

And the accounts for such service shall show what part of the charges are for transportation, and what part are for loading, unloading, and other terminal facilities.

If you will let the sections stand as they are the country will be protected against the power of discrimination, but if you sustain the amendment of the gentleman from Illinois, and allow the railroad companies to make aggregate charges for receiving, storing, delivering, handling, and other terminal facilities, the effect will be to destroy the protective features of this bill. It will destroy entirely the effect of the bill, and I do not know a gentleman who more quietly and gently comes to destroy the bill than the gentleman from Illinois.

Mr. ADAMS, of Illinois. I move to strike out the last word. I desire to call the attention of the gentleman from Texas and this House to the necessary effect of this provision. I have shown already, I think, and the House will see from considering this section, it is not necessary.

Now I ask the House to consider whether it is reasonable. It is a provision against a certain rule of charging for a shorter as compared with a longer distance. You can not charge more for storing at Harrisburg than you can charge for storing at Pittsburgh, if the freight comes from a point west of either of those points. But if it comes from a point east of these two points, then you can not charge less for storing at Pittsburgh than you can at Harrisburg, and the consequence of the law would be that the charges for storing of goods and for switching and for other terminal facilities will be precisely the same sum at every other intermediate part of the line running from Chicago to New York. And yet in one place the people of a town may have spent millions of money in order to make the cost of handling goods low by pro-

viding proper facilities, while in another place they may not have spent one cent, and have provided no facilities for this service.

I wish to remind this House that when we establish a rule as between charging for a longer than a shorter distance, it depends upon the assumption that there is some natural or reasonable ratio between such charges. But there can be no possible reason for establishing a certain ratio between the cost of a certain service at Pittsburgh and the cost of similar service at Harrisburg depending merely upon the question as to whether you sent the goods from a point east of those places or west of them, that being the only rule for determining the charge. There are other questions that enter into the consideration of the problem. The cost depends upon the expense of labor at those places. It depends upon the application of steam at those places. It depends upon other things which have nothing in the world to do with the distance over which goods have been carried before they reach the one or the other of those places. The provision as it now stands does, it seem to me, tend to make a burlesque of the bill, and I think it ought to be stricken out.

I withdraw the *pro forma* amendment.

The SPEAKER *pro tempore*. The question is on the adoption of the amendment of the gentleman from Illinois.

The question was taken; and on a division there were—ayes 46, noes 80.

Mr. HENDERSON, of Iowa, addressed the Chair.

Mr. WOODWARD. No quorum has voted.

The SPEAKER *pro tempore*. The point of order being made that no quorum has voted, the Chair will order tellers.

Mr. ADAMS, of Illinois, and Mr. REAGAN were appointed tellers.

The House again divided; and the tellers reported—ayes 62, noes 103.

So the amendment was rejected.

Mr. REAGAN. If it is agreeable to the House now I will move that we take the usual recess until the time fixed by the order of the House, 8 o'clock.

Mr. HENDERSON, of Iowa. I believe I have the floor.

The SPEAKER *pro tempore*. The Chair has recognized the gentleman from Iowa.

Mr. HENDERSON, of Iowa. I am willing to yield for a motion for a recess, with the understanding that I have the floor when this subject again comes up.

The SPEAKER *pro tempore*. The Clerk will report the amendment of the gentleman from Iowa.

The Clerk read as follows:

Strike out all of the fourth section, commencing with the word "that," in line 1, down to and including the word "and," at the beginning of line 7.

The SPEAKER *pro tempore*. Pending the consideration of this amendment, the gentleman from Texas moves that the House take a recess until 8 o'clock for the consideration of business heretofore ordered by the House.

JOHN B. DOYLE AND WILLIAM STANTON.

Mr. VAN ALSTYNE, by unanimous consent, introduced a bill (H. R. 7786) for the relief of John B. Doyle and William Stanton; which was read a first and second time, referred to the Committee on Claims, and ordered to be printed.

IMPROVEMENT OF HELL GATE, NEW YORK.

The SPEAKER *pro tempore* laid before the House a letter from the Secretary of War, transmitting, in response to a resolution of the House, a report of the Chief of Engineers relative to the use of the appropriations for the improvement of Hell Gate, New York Harbor; which was referred to the Committee on Rivers and Harbors, and ordered to be printed.

ART COLLECTION—JAMES L. CLAGHORN.

The SPEAKER *pro tempore* also laid before the House a letter from the president of the Pennsylvania Academy of Fine Arts, with the resolution adopted by the directors of that institution; which was referred to the Committee on the Library, and ordered to be printed.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted as follows:

To Mr. COSGROVE, for two days, on account of important business.

To Mr. CARLETON, indefinitely.

To Mr. OATES, until January 5.

To Mr. HOUSEMAN, indefinitely.

WITHDRAWAL OF PAPERS.

On motion of Mr. HOPKINS, by unanimous consent leave was granted to withdraw from the files of the House papers in the case of Frank A. M. Kreps, certified copies of the same having been left with the file clerk of the House.

ORDER OF BUSINESS.

Mr. TUCKER. I ask consent to offer a bill for reference.

The SPEAKER *pro tempore*. That can only be done now by unanimous consent.

Mr. REAGAN. I have no objection to withdrawing the motion temporarily to allow gentlemen having bills to introduce them for reference.

The SPEAKER *pro tempore*. Without objection that will be done.

Mr. REAGAN. Several gentlemen have asked me if the recess tonight is for the purpose of continuing the consideration of this bill. I will be glad to have the Chair announce the purpose of the evening session.

The SPEAKER *pro tempore*. The Chair has announced that it was for the consideration of business under the order of the House, heretofore made, fixing Friday evening sessions for the consideration of pension business exclusively.

THOMAS R. MONOHAN.

Mr. HEPBURN, by unanimous consent, submitted the following resolution; which was read, and referred to the Committee on Foreign Affairs:

Whereas it is reported that Thomas R. Monohan, an American citizen, has been arrested by officers of the Republic of Mexico, and incarcerated in a Mexican prison and denied a trial:

Resolved, That the Secretary of State be requested to communicate to this House any information he may have upon the subject of said arrest and imprisonment.

RECIPROCITY TREATIES.

Mr. BLANCHARD, by unanimous consent, introduced a joint resolution (H. Res. 303) proposing an amendment to the Constitution of the United States in relation to reciprocity treaties affecting the revenues; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

SAMSON GOLIAH.

Mr. ENGLISH, by unanimous consent, introduced a bill (H. R. 7787) for the relief of Samson Goliah; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

PAY OF HOUSE FOLDERS.

Mr. TUCKER, by unanimous consent, introduced a bill (H. R. 7788) to equalize the pay of House folders; which was read a first and second time, referred to the Committee on Accounts, and ordered to be printed.

PREVENTION OF CHOLERA.

Mr. MCADOO, by unanimous consent, introduced a joint resolution (H. Res. 304) to appropriate a sum of money for distribution and expenditure, under the direction of the Secretary of the Treasury, to prevent the entrance and spread of cholera in the cities surrounding the port of New York; which was read a first and second time, referred to the Committee on Appropriations, and ordered to be printed.

G. B. HARBER AND W. H. SCHUETZE.

Mr. MCADOO. I also ask unanimous consent to make two reports from the Committee on Naval Affairs.

The SPEAKER. Unanimous consent was only given for the introduction of bills.

Mr. MCADOO. I think there will be no objection to my making those reports.

There was no objection.

Mr. MCADOO, by unanimous consent, from the Committee on Naval Affairs, reported back with a favorable recommendation the joint resolution (H. Res. 205) to credit Lieutenants Giles B. Harber and William H. Schuetze with sea-duty and sea-pay while engaged in the search for Lieutenant Chipp and party, and also for the time employed in bringing home the remains of Lieut. Commander De Long and party; which was referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

JEANNETTE EXPLORING PARTY.

Mr. MCADOO, by unanimous consent, from the Committee on Naval Affairs, reported back with a favorable recommendation the bill (S. 1039) for the relief of the survivors of the exploring steamer Jeannette, and the widows and children of those who perished in the retreat from the wreck of that vessel in the Arctic seas; which was referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

JUDICIAL DISTRICTS IN TENNESSEE.

Mr. MCMILLIN. I desire to ask the House to concur in the Senate amendments to a House bill.

The SPEAKER *pro tempore*. Leave was merely given for the introduction of bills for reference.

Mr. MCMILLIN. The gentleman from Texas [Mr. REAGAN] yielded to me, and I think there will be no objection. The bill makes no appropriation, is local in its nature, and simply makes changes in judicial districts in Tennessee.

There being no objection, the bill (H. R. 2728) detaching Grundy County, Tennessee, from the southern district of East Tennessee and attaching it to the middle district of said State, and for other purposes, with amendments by the Senate, was taken from the Speaker's table; and the amendments of the Senate were read, as follows:

Page 1, line 2, after "southern," insert "division of the."

Page 1, line 5, after "issuing," insert the words "except as hereinafter provided."

Page 1, line 17, after "southern," insert "division of the."

Page 1, line 18, after "issuing," insert "except as hereinafter provided."
Page 2, at the end of line 3, insert "*And provided further*, That all prosecutions for crimes or offenses heretofore committed in either of said counties shall be commenced and prosecuted as if this act had not been passed."
Amend the title so as to read:
"An act detaching Grundy County, Tennessee, from the southern division of the district of East Tennessee and attaching it to the middle district of said State, and for other purposes."

Mr. McMILLIN. I move concurrence in the Senate amendments.
The amendments of the Senate were concurred in.
Mr. McMILLIN moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.
The latter motion was agreed to.

G. H. BURROWS.

Mr. GEORGE D. WISE, by unanimous consent, introduced a bill (H. R. 7789) granting a pension to G. H. Burrows, late a private in Company C, Third New York Cavalry; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

REGULATION OF STEAM VESSELS.

On motion of Mr. DAVIS, of Illinois, by unanimous consent, the bill (S. 1793) to amend section 4434, title 52, Revised Statutes of the United States concerning commerce and navigation and the regulation of steam vessels, was taken from the Speaker's table, read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

EMPLOYÉS IN FOLDING-ROOM.

Mr. HOPKINS, by unanimous consent, submitted the following preamble and resolution; which were referred to the Committee on Accounts:

Whereas there is a great inequality in the amounts paid to the different employés in the folding-room of this House, and still greater inequalities between the amount paid the House employés and that paid the Senate employés in the same department for the same service: Therefore,
Be it resolved, That the employés in the House folding-room be paid a uniform salary at the rate of $3 per day.

RECESS.

The SPEAKER *pro tempore*. The hour of 5 o'clock having arrived, in pursuance of the order of the House a recess is now taken until 8 o'clock this evening. The gentleman from New York [Mr. BAGLEY] will occupy the chair as Speaker *pro tempore*.

EVENING SESSION.

The House at 8 o'clock resumed its session, and was called to order by Mr. BAGLEY, as Speaker *pro tempore*.
The SPEAKER *pro tempore*. The Clerk will read the order under which the session is held this evening.
The Clerk read as follows:

That until the further order of this House, on each Friday the House will take a recess at 5 o'clock until 8 p. m., at which evening sessions bills on the Private Calendar reported from the Committee on Pensions and the Committee on Invalid Pensions shall be considered.

Mr. MATSON. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole on the Private Calendar for the consideration of business under the order just read.
The motion was agreed to; and the House accordingly resolved itself into Committee of the Whole House on the Private Calendar, Mr. HATCH, of Missouri, in the chair.

JOSEPH RAIBLE.

The first business on the Private Calendar was the bill (H. R. 3947) granting a pension to Joseph Raible.
The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, directed to place on the pension-roll the name of Joseph Raible, of Indiana, who lost an arm above the elbow during the war, while firing a salute at the city of Indianapolis, Ind., under the direction of the quartermaster-general of Indiana; and that said Secretary be, and he is hereby, directed to pay him at the rate of $30 per month.

The report (by Mr. MATSON) was as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 3947) granting a pension to Joseph Raible, report:
That Joseph Raible enlisted in the military service of the United States as a private in Company A, Thirty-second Regiment Indiana Volunteers, September 10, 1861, and was honorably discharged September, 1864.
October 2, 1862, he was placed on the pension-roll at $1 per month, for partial deafness of left ear, contracted in the military service of the United States.
July 3, 1865, after his discharge from the military service of the United States, while in the military service of the State of Indiana, and in pursuance of an order from General Stone, assistant quartermaster-general at Indianapolis, while engaged in aiding in firing a salute in honor of the arrival home for muster-out of the Sixty-third Regiment Indiana Volunteers, by the fault of thumber, No. 3, at the gun (claimant being No. 1, rammer), there was a premature discharge of the gun, blowing off the soldier's right arm, which was amputated three inches above the elbow.
It is shown by the evidence in this case that the soldier was acting under orders from Assistant Quartermaster-General Stone, of the United States Army, on duty at Indianapolis, at the time of receiving the disability which resulted in the loss of his arm, and that he was performing a military duty at the time. Your committee therefore recommend that the bill be amended by the following: After the word "month," in line 9, "in lieu of all other pensions now paid him;" and when so amended that the bill pass.

The amendment reported by the committee, to add to the bill the words "in lieu of all other pensions now paid him," was read and agreed to.
There being no objection, the bill as amended was laid aside to be reported to the House with the recommendation that it do pass.

WILLIAM BOONE.

The next business on the Private Calendar was the bill (H. R. 374) granting a pension to William Boone.
The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, directed to place on the pension-roll the name of William Boone, late a private in Company F, Eighty-eighth Regiment of Indiana Volunteers, subject to the provisions and limitations of the pension laws.

The report (by Mr. MATSON) was as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 374) granting a pension to William Boone, have had the same under consideration and report:
That William Boone was a private in Company F, Eighty-eighth Regiment Indiana Volunteers. November, 1862, he was taken prisoner and paroled; and while at Aurora, Ill., on parole, July 4, 1863, while engaged in firing a salute in celebration of the fall of Vicksburg, by the premature discharge of a cannon he was assisting to fire, he lost his right arm, and his left hand was injured so as to render it partially and permanently useless. He testifies in his own behalf that the citizens of said town were engaged in said celebration, and
"That he participated therein at the special request of said citizens, because he was a soldier, and because it became him so to do as a soldier and a patriot."
He has not filed a declaration in the Pension Office, because, he says, he understood there were technical objections to granting a pension in his case under the rules and regulations of the Pension Office.
The granting of a pension is strongly urged by the late Governor Williams and other distinguished citizens of Indiana. The surviving officers of claimant's regiment unite in a petition asking that his name be placed on the pension-roll, and assert that he was a gallant soldier, and faithfully, courageously, and honorably discharged his duties as a soldier, and that by reason of his physical disabilities, which were caused and exist as above stated, his capacity to earn a maintenance for himself, his wife, and three children, who depend upon him, is almost entirely destroyed.
This case appeals strongly to the equity of Congress, and in view of the precedents for granting a pension in such cases, your committee recommend the passage of the accompanying bill.

There being no objection, the bill was laid aside to be reported to the House with the recommendation that it do pass.

TREADWELL SEAMAN, JR.

The next business on the Private Calendar was the bill (H. R. 2485) for the relief of Treadwell Seaman, jr.
The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to rerate the pension of Treadwell Seaman, jr., formerly of Company E, Second Regiment United States Volunteers, at $15 per month, commencing at discharge from the military service deducting therefrom the amount that has been paid.

The report (by Mr. BAGLEY) was as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 2485) for the relief of Treadwell Seaman, jr., having considered the same, beg leave to submit the following report:
The petitioner was mustered into the service of the United States at New York city on the 5th day of March, 1863, as second lieutenant of Company E, Second Regiment United States Volunteers, Ullman's brigade, and was honorably discharged at New Orleans on the 30th of June, 1864, being at the time of discharge first lieutenant of Company K, Seventy-ninth Regiment United States Colored Infantry. He was attacked with inguinal hernia during the siege of Port Hudson, La., in the months of May and June, 1863, caused by overexertion and work in the rifle-pits during the siege, and being obliged to be in the saddle both night and day frequently, and exposed to the inclemencies of the season. He never received treatment in any general hospital of the United States, but the surgeon of the regiment, Dr. Charles L. Fisher, examined him and advised him to get a truss at once, which advice he followed. Determined not to succumb to the disability, from which he suffered greatly, he continued in the performance of his duty until his discharge.
He made no application for a pension until February 23, 1871, from an honest pride and desire not to be a pensioner, but his failing health and inability to perform the labor necessary to his subsistence impelled him to the act. The Pension Office granted him $7.50 a month on the 18th of September, 1872, with arrears from the time of discharge in 1864, for "left inguinal hernia." The petitioner alleges that his disability was improperly rated, and that he should have been pensioned for "double hernia." In 1881 he made application for increase of pension on this ground, but it was rejected, because the claimant could not find officers or surgeons to establish the "double hernia." The affidavit of Lieutenant Berthelf, who was adjutant of the Second United States Volunteers, seems to point plainly to the existence of the trouble at that time. After testifying to the arduous services of Lieutenant Seaman at Port Hudson, he says:
"The double inguinal hernia was received while engaged night and day in the rifle-pits, and he knows the facts by reason of being regimental adjutant, and that he favored the applicant as much as possible, as a great number of the officers were down with fevers and off duty, and Seaman was called upon to do more duty than he would have done otherwise, and no doubt this extra duty forced upon him brought on the hernia as before stated."
The affidavit of Alexander Haddon, M. D., proves that the soldier was suffering from the double hernia when he returned from the Army. He says:
"He was a sound, healthy man, and free from hernia both at and previous to enlistment, and that he knows it from having been his family physician since 1860. On returning from the Army, Seaman was broken down in health and suffering from double inguinal hernia, and since his return has been an invalid and unable to perform any ordinary labor in consequence of said hernia and the effects of malarial fever, which he contracted in the service. I treated him for the fever and advised him concerning a double inguinal hernia, which he at that time had."
Thomas F. Smith, M. D., testifies:
"That he treated claimant from June, 1871, to spring of 1877. He was suffering from the effects of intermittent fever, rendering him unable during a great portion of the time from performing any manual labor. During that time he would be confined to the house with severe nervous prostration for two and three weeks at a time. He was and is now suffering from double inguinal hernia, and, as a member of United States examining surgeons in New York city, I applied for a double truss for him in 1872."

W. J. Van Pett testifies:

"Have known the claimant for about eighteen years. He was engaged in the New York post-office for about thirteen years, from January 23, 1865, and assigned to the department of which I was superintendent. Nervous prostration and general debility caused him at that time to absent himself frequently from duty, often months at a time. I have called upon him at his house during such sickness, and have always considered him as a broken-down man in health, which in the end was the cause of his leaving the postal service."

Five examining surgeons subscribe to a certificate which contains this language:

"Judging from his present condition and from the evidence before us, it is our belief that the said disability did originate in the service in the line of duty, and that the disability is permanent."

Your committee are of the opinion that the petitioner is not receiving a pension commensurate with his disability, and recommend the passage of House bill 2485, with the following amendment: Strike out all after the word "month" in line 6.

The amendment reported by the committee, to strike out at the end of the bill the words "commencing at discharge from the military service, deducting therefrom the amount that has been paid," was read and agreed to.

There being no objection, the bill as amended was laid aside to be reported to the House with a recommendation that it do pass.

MRS. D. P. WOODBURY.

The next business on the Private Calendar was the bill (H. R. 6703) to increase the pension of Mrs. D. P. Woodbury.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to increase the pension now paid Mrs. D. P. Woodbury, widow of General D. P. Woodbury, to the sum of $30 per month from and after the passage of this act.

Mr. CUTCHEON. I would like to hear the report read in this case.

The report (by Mr. BAGLEY) was read, as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 6703) to increase the pension of Mrs. D. P. Woodbury, report as follows:

The petitioner is the widow of Daniel P. Woodbury, who was commissioned a brigadier-general of the Army of the United States on the 19th of March, 1862, and who died at Key West, Fla., on the 15th day of August, 1864, of yellow fever, contracted while in the service. Widow's application for pension was filed December 9, 1864, and the proof being complete, she was allowed a pension of $30 per month from the time of her husband's death.

She now asks Congress to increase her pension to $50 per month. She is sixty-four years of age.

In a letter dated May 10, 1881, she states that she needs this increase for her support, and that the necessity for said increase has always existed; that she is obliged to take a part of the pay of her son, who is a lieutenant in the Army, and is therefore dependent. She refers to General Meigs, late Quartermaster-General, and General Wright, of the Engineers, who she is sure will indorse her statement.

General Woodbury was commanding officer of the volunteer forces at Key West, Fla., and was brevetted major-general on the day of his death.

As numerous precedents exist for granting to the widows of general officers the amount asked for in this bill, and as she seems to need the same for her support, your committee think an exception should be made in this case, and therefore recommend the passage of the bill.

There being no objection, the bill was laid aside to be reported to the House with a recommendation that it do pass.

JOHN T. BRAKE.

The next business on the Private Calendar was the bill (H. R. 6803) granting a pension to John T. Brake.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, directed to place on the pension-roll, subject to the rules and regulations of the Pension Office, the name of John T. Brake, late of Company F, Sixth Regiment Provisional Militia of Missouri Volunteers.

The report (by Mr. FYAN) was read, as follows:

The Committee on Invalid Pensions, to whom was referred the bill H. R. 6803 submit the following report:

That John T. Brake originally belonged to Company F, Sixth Provisional Regiment Missouri Militia; that he and said company were subsequently mustered in as Company F, Sixteenth Missouri Volunteer Cavalry.

That evidence in this case shows that said Brake was a private in Company F, Sixteenth Missouri Volunteer Cavalry, and in the month of January, 1865, was taken sick with measles; that he was sent home by his captain for treatment, and was confined to his bed for seven weeks with said disease. On the 28th day of February, 1865, he returned to his command for duty; that by reason of exposure the measles settled on his lungs, resulting in asthma and chronic bronchial trouble and soreness and weakness of the lungs.

That on the least exertion or when getting warm, and every winter, he is afflicted with a severe cold and spits up blood; that he is entirely unable to do any kind of manual labor during the spring and winter months, and very little labor at other times in the year. These facts are sworn to by a number of witnesses; among the rest, the captain of his company, and by David Smittle, a sergeant of said company, who have known him intimately, and frequently been at said Brake's house from 1865 up to 1884. Also, by William Brinkly and Zilpha Brinkly, who made their home with Brake for years.

Dr. William J. James, an eminent physician, swears he has been the family physician of Brake for a number of years; that he has frequently attended him for his attacks of asthma, which are terribly severe; that in addition to asthma Brake is suffering with chronic pharyngitis and laryngitis in a very bad form; that he is constantly troubled with a bad cough, the result of a diseased condition of the lungs, and that he is disabled for manual labor more than one-half his time.

Brake is a sober, temperate, good citizen; a very poor man, and with a large family of small children.

Your committee recommend the bill be amended by striking out "Sixth Provisional Regiment Missouri Militia" and inserting "Sixteenth Regiment Missouri Volunteer Cavalry;" and that so amended it do pass.

The following amendment reported by the committee was read and agreed to:

At the end of the bill strike out the words "Sixth Regiment Provisional Militia of Missouri Volunteers" and insert "Sixteenth Regiment Missouri Volunteer Cavalry."

There being no objection, the bill as amended was laid aside to be reported to the House with a recommendation that it do pass.

SARAH C. THOMAS.

The next business on the Private Calendar was the bill (H. R. 1841) granting a pension to Sarah C. Thomas.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Sarah C. Thomas, widow of Samuel M. Thomas, late a private in Company K, Eighteenth Regiment of Illinois Volunteers, at the rate of $8 per month.

The CHAIRMAN. This bill has been reported by the Committee on Invalid Pensions adversely.

Mr. STRUBLE. I would like to hear the report read.

The report (by Mr. CULLEN) was read, as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 1841, granting a pension to Sarah C. Thomas, respectfully report:

That claimant is the widow of Samuel M. Thomas, who enlisted in the military service of the United States as a private in Company K, Eighteenth Illinois Volunteers, March 4, 1865, and was honorably discharged December 16, 1865.

November 1, 1879, the soldier filed a declaration for pension, alleging that in August, 1865, at Pine Bluff, Ark., he contracted rheumatism, which was rejected June 15, 1881, on the ground of no disability since discharge. The case was subsequently resubmitted. Pending the final adjudication claimant died, and his widow was substituted and attempted to perfect the evidence, and abandoned it September 12, 1882.

The Adjutant-General's report shows soldier's regiment was not at Pine Bluff, Ark., at the time of contracting the alleged disability

It is shown that the soldier was examined a number of times by different examining boards and surgeons, who all agree that soldier was not suffering from the disability complained of, and the only evidence of disability during service is found in the fact that soldier was treated in hospital at Pine Bluff, Ark., from October 7 to November 22, 1865, for intermittent fever.

May 18, 1881, the husband of claimant was examined by the United States examining surgeon of White County, Illinois, who reports him not suffering from rheumatism, but in the last stages of consumption.

We have examined the case very carefully, and find no evidence connecting disability of claimant's husband with his military service, and therefore report the bill back to the House with the recommendation that it lie on the table.

There being no objection, the bill was laid aside to be reported to the House with the recommendation that it lie on the table.

JAMES D. KIRK.

The next business on the Private Calendar was the bill (H. R. 4079) granting a pension to James D. Kirk.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll the name of James D. Kirk, of Ines, Martin County, Kentucky, and pay him a pension from the date of expiration of his term of service in Company B, One hundred and sixty-seventh Regiment West Virginia Militia, at the rate allowed by law to private soldiers for disabilities incurred while in the service of the United States in the late war of the rebellion, for wounds and injuries sustained by the said James D. Kirk while in the line of his duty during the said war of the rebellion.

Mr. GEORGE D. WISE. I call for the reading of the report on this case.

The report (by Mr. LE FEVRE) was read, as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 4079) granting a pension to James D. Kirk, have had the same under consideration, and beg leave to submit the following report:

It appears from the papers on file in the Pension Office that James D. Kirk, while serving as a private in Company B, One hundred and sixty-seventh Regiment West Virginia Militia, and returning with his command to Lawrence County, Kentucky, from a scout to Logan County, West Virginia, was accidentally wounded in right hand by the discharge of his gun while in the act of passing it through a fence. The ball passed through the palm of the hand, fracturing the middle metacarpal bones, causing the drawing up and consequent shortening of the fingers.

The fact of the injury and its incurrence in line of duty is fully shown by the affidavit of the officer and others of the command. The date of the injury is given as November 25, 1863. After recovery from the wound, Kirk became a member of Company I, Thirty-ninth Kentucky Infantry, and served from August 28, 1863, until mustered out, as first sergeant, September 15, 1865.

The claim has been rejected by the Pension Office because the applicant at time of injury was not in the service of the United States.

The command to which claimant belonged it is true was a State organization, but its services were valuable to the Government, and in fact the militia of the several States were co-operating with the forces of the United States in the suppression of the rebellion, and their services are recognized in the pension laws for wounds or injuries received while in an engagement, provided the claim was prosecuted to a successful issue prior to July 4, 1874.

This, as well as preceding Congresses, have recognized the services of the militiamen by granting pensions for those who are excluded from the provisions of the general pension laws; and believing this case to be meritorious, your committee report favorably on the bill, and ask that it do pass, amended, however, by striking out all between the word "Kentucky," in line 5, and the word "in," in line 7, and insert therein instead the words "late of."

The following amendment, reported by the Committee on Invalid Pensions, was read:

Strike out, in lines 5, 6, and 7, the words "Kentucky, and pay him a pension from the date of expiration of his term of service in" and insert "late of,"

Mr. STRUBLE. I wish to inquire how this amendment will leave the bill with respect to the question of arrears.

Mr. CUTCHEON. That is the question which I desired to ask.

Mr. MATSON. I presume (I have not a copy of the bill at my desk) that the amendment was designed to cut out arrears.

Mr. CUTCHEON. I ask that the bill as it will stand if amended be read.

The bill with the amendment was read.

Mr. CUTCHEON. That is all right.

Mr. GIBSON. What service does the committee report Mr. Kirk was in at the time he received this accidental injury?

The CHAIRMAN. The statement of the report is that he was a private of the Sixty-seventh Regiment West Virginia Militia.

Mr. GIBSON. I am well acquainted with the state of affairs which prevailed in Logan County during that time and with the forces or so-called forces that were engaged there. At the time the report speaks of there were no confederate forces in Logan County, nor was there any West Virginia militia there.

There was a sort of border warfare being carried on, not between recognized forces on either side, but between a set of men among whom the name of Kirk is very prominent, as well as that of Hatfield on the other side, carried on by these men, plundering both sides, irrespective of their predilections. It was not a warfare carried on for plundering alone, but for the purpose of executing special vengeance which they had on each other.

I would like to hear something about the organization of this force. I would like to see who the commander of that force was. I would like to know how this man came to be a soldier in the West Virginia militia, he being a citizen of Martin County, Kentucky, marching from Martin County, Kentucky, to Logan County, West Virginia.

Gentlemen ought to remember, or rather they ought to know, the state of affairs in that country before they undertake to pension men who were not in the regular service on the one side or the other, but were mere plunderers.

Now, I have no objection to giving a pension to any honest regular soldier. I believe in the Government pensioning those who stood by it. I believe that those who were disabled in the service of the Government should be sustained by it. But, sir, I do not believe that the regular soldier on either side should be dragged down and put upon the same level with bushwhackers and guerrillas during the war, or that the latter should receive the same benefits as those who were regularly engaged in the defense of their country.

Mr. MATSON. Mr. Chairman, what has been said by the gentleman from West Virginia I fully indorse, and if he says he is acquainted with this man Kirk and knows that he was a bushwhacker or guerrilla during the war and not a soldier in any sense of the word, I certainly shall ask that this case shall be passed over until the gentleman who introduced the bill [Mr. CULBERTSON, of Kentucky] can be heard on the question——

Mr. CUTCHEON. The gentleman from Kentucky is here.

Mr. MATSON. Or until the gentleman from Ohio [Mr. LE FEVRE] who reported the bill is present and can be heard on the subject. As the statement has been substantially made by the gentleman from West Virginia, I ask that this case be passed over informally for the present.

Mr. GIBSON. I do not wish to be understood——

Mr. CULBERTSON, of Kentucky. I know this gentleman, Mr. Kirk, and there is not a better citizen or a better man than he is. What he did during the war I do not know. I presume, however, that the evidence before the committee was sufficient, but I do not know about that. I vouch for Mr. Kirk's being an upright man and good citizen.

Mr. GIBSON. I did not mean, sir, to be understood as saying that I knew Mr. Kirk, the party in this case, nor did I mean to be understood as saying I knew anything in relation to this matter. I was speaking of the state of affairs in that country at that time.

I wish to say further, Mr. Chairman, that there was no such regiment as the Sixty-seventh West Virginia Militia. She had no such number of regiments in the service in 1862. The fact is, I doubt whether there was then a regular organized government of West Virginia. The government of West Virginia was not organized until near about that time, some time late in 1861, and she never had sixty-seven regiments of militia. She never had any such militia engaged in warfare in the county of Logan.

I referred to the name of Kirk as a man known in that sort of warfare there, together with that of others who were considered to be on our side; and I say neither on one side nor the other are these men entitled to be recognized as regular soldiers by being pensioned.

But outside of that, this man was not injured in any engagement during the war. The papers do not show that he ever met an enemy, or that he was on the way to meet an enemy. They show that he was accidentally wounded after going into Logan County.

Mr. CULBERTSON, of Kentucky. On which side were they?

Mr. GIBSON. They were against the side which had the most goods to be taken from them. [Laughter.]

Mr. CUTCHEON. Is it in order to move this bill be reported back to the House with a recommendation that it be recommitted?

The CHAIRMAN. The gentleman from Indiana has asked unanimous consent that the bill be laid aside informally until it can be looked into, and the Chair hears no objection to that course, and it is ordered accordingly.

PENSIONERS ENROLLED BY SPECIAL ACTS.

The next business on the Private Calendar was the bill (H. R. 1981) for the relief of certain pensioners enrolled by special acts of Congress.

Mr. MATSON. That bill is on this Calendar by mistake, and I move it be passed over for the present.

There was no objection, and it was ordered accordingly.

CORYDON MILLARD.

The next business on the Private Calendar was the bill (H. R. 6505) granting a pension to Corydon Millard.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll the name of Corydon Millard, formerly a chaplain in the United States heavy artillery, at the rate of $— per month, subject to the provisions and limitations of the pension laws.

The report (by Mr. SUMNER, of Wisconsin) was read, as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 6505) granting a pension to Corydon Millard, having had the same under consideration, hereby submit the following report:

The claimant, Corydon Millard, enlisted and acted as chaplain of the Fourth United States Heavy Artillery Volunteers from 1861 to 1866, when he was honorably discharged. He was in active service about four years.

He had a broken leg when he enlisted—that is, his leg had been broken—and he had so far recovered that he appeared to be entirely well, but his application for enlistment was held in abeyance on that account for about two weeks before he was accepted. At various times during his service he suffered from lameness and severe pains in the broken limb, resulting several times in running sores and great prostration, on account of long-continued and severe exertion and exposure. These conditions grew upon him until his disability was quite marked, and of an aggravated character at the time of his discharge. This disability has never left him, and he is now greatly if not totally disabled. He is 65 years of age, entirely without means of support, and unable to earn his living by manual labor.

The Pension Office can not grant him a pension, on account of his prior unsoundness, and therefore he asks relief by special act of Congress.

While his disability had its origin in the injury received before his enlistment, we are of the opinion that his four years of constant service, with the consequent exposure and hardships, must have added greatly to his disability.

Wherefore your committee recommend the passage of said bill, provided, however, that the same be amended by inserting therein the words "twenty dollars," after the word "of," in line 6 thereof.

Mr. GEORGE D. WISE. The proposition here is to give a pension to a gentleman who has never received any injury while in the service of the Government, and the report of the committee does not show that he ever did. He was injured before he went into the service. I hate to oppose a minister of the gospel—we need their service very much; but I am compelled to oppose it. It is wrong, and I hope this House will not consent to pass it.

Mr. STRUBLE. I hope the gentleman from Virginia will not insist upon his objection. As I understand the report it was the opinion of the Committee on Invalid Pensions that this gentleman had so far recovered from the injury to his limb that the officers of the Government who examined him with a view to ascertain his physical ability to perform military service saw fit to permit him to enter the service in that capacity. His services were accepted then, and he served for four years. The report shows that his services were worthy and that he was exposed to hardships for that term.

I hope, therefore, my friend from Virginia will not raise an objection against the passage of the bill, because it seems to me the committee, in view of the facts stated, are fully justified in bringing in the bill in the form in which it is presented to the House for action.

Mr. MATSON. There is an additional reason that should be stated. While it is true that this man had his limb broken before he enlisted, there was no attempt on his part to conceal that defect; but, on the contrary, the question of his enlistment was held in abeyance by the medical officers of the Government for several weeks to determine whether he could be accepted or not. There was, therefore, no fraud on his part. The testimony as to his disability seems to be undisputed. After the medical officers of the Government had examined the man and found him capacitated for service, although it is true that the injury he had received was before his enlistment, still the testimony shows that his injury was greatly aggravated by his service afterward, and it seems to me that the case presents a very strong one.

I see, however, that this report proposes an amendment to the bill to be inserted fixing the amount of the pension to be paid to him. I think that is not right. I think he ought to be pensioned subject to the provisions and limitations of the pension laws, but the amount should not be fixed, so that he may be pensioned under the law as others of his rank and grade are pensioned. That seems to have been an amendment suggested by the gentleman who made the report. I see no reason why that should be done. But I think in other respects the case is pretty well shown to be a meritorious one. Taken in connection with the fact that there was such a thorough examination and such a deliberate acceptance of the man's services on the part of the Government, I think it proper that the pension should be granted.

Mr. GEORGE D. WISE. It seems to me from the reading of the report that the Government ought not to have accepted this man at all, and that they did not want to accept his services. I think he urged himself upon the acceptance of the Government, because there was a long delay after his application before he was accepted, and the cause of that hesitation was the inability of the man arising from the injury received by him before he applied to enter the service of the Government. Now, the gentleman from Iowa speaks of the fact that he was in the service of the Government for four years. Why it does not appear from this report, and I take it for granted that it presents the strongest facts in his favor, that he ever was in any battle at all.

Mr. MATSON. The report says that he was in active service.

Mr. GEORGE D. WISE. Yes, but not in any battle, and I do not take it for granted that he was in any, for the report would have shown

that as a substantive fact in his behalf. I know that he was in the peace business, and take it for granted that he did not fight in any battle.

The truth is, he wanted the situation during the war, and wanted it for the pay attached to it, and the Government accepted him notwithstanding his disability, and he was paid during the whole period, the whole four years that he was in the service.

Mr. PRICE. Mr. Chairman, I suggest the propriety of passing this bill over by unanimous consent, leaving it to retain its place upon the Calendar. It is very evident that we can not pass it through the House this evening, and any attempt to do so would result in delay.

The CHAIRMAN. Is there objection to the suggestion of the gentleman from Iowa to pass this bill over informally, retaining its place upon the Calendar?

There was no objection, and it was ordered accordingly.

INCREASE OF PENSIONS UNDER SPECIAL ACTS.

Mr. HOLMES. I desire to call the attention of the Chair to the fact that House bill 1981, for the relief of certain pensioners enrolled by special acts of Congress, has been omitted.

The CHAIRMAN. The Chair will state to the gentleman that the bill was called up and the gentleman from Indiana [Mr. MATSON] stated that it was a general bill and improperly on this Calendar.

Mr. HOLMES. I think not, and I would raise the question of order. This bill, as I understand it, was referred by the Speaker of the House to the Private Calendar. It is a bill referring to a certain class of claims for pensions.

The CHAIRMAN. The Clerk will report the bill.

The bill was read, as follows:

Be it enacted, &c., That any pensioner of the United States receiving a pension by virtue of any special act of Congress, on account of disability incurred by him while in the military or naval service of the United States, shall be entitled to increase of such pension upon the same conditions of rerating and continuance of such increase which are applicable to other pensioners under the general pension laws.

Mr. HOLMES. Now let the report be read.

Mr. MORRILL. That is not a private bill.

The CHAIRMAN. The Chair will cause to be read the order under which the House meets on Friday evenings.

The Clerk read as follows:

That until the further order of this House, on each Friday the House will take a recess at 5 o'clock until 8 p. m., at which evening sessions bills on the Private Calendar reported from the Committee on Pensions and the Committee on Invalid Pensions shall be considered.

Mr. HOLMES. I understand, Mr. Chairman, that this bill is on the Private Calendar and reported by the Committee on Invalid Pensions; that it was referred by the Speaker of the House to the Private Calendar, and by that order appears in its proper place on that Calendar. It seems to me to be clearly within the purview of the committee under the order just read, and a proper bill to be acted upon aside from the fact that it is now on the Calendar and governed by the order to which I have referred.

Mr. MATSON. When I suggested to the Chair that this bill had been improperly referred I did not say, nor did I believe then, that the bill might not be considered by the House; because I think under the order just read, and under which we are operating, that that bill could be considered, because it is on the Private Calendar and reported from the Committee on Invalid Pensions. But I do think that it would be utterly unwise and futile to attempt to consider it here to-night without a quorum, because it involves a general principle of legislation; it would lead to considerable discussion in the House, and undoubtedly the point of order that no quorum is present would be made against its passage. I ask, therefore, that it be passed over.

Mr. HOLMES. Mr. Chairman, before that order is made I desire to say this: I am somewhat surprised that the chairman of the Committee on Invalid Pensions which has reported this bill to the House should object now to its consideration. It was considered by that committee as an eminently proper and just bill to report to the House. I should certainly desire to hear the opinion of the Committee of the Whole upon it before I consent to its being passed over at this time. I should like to have the report read and see whether there is objection to the bill on the part of any gentleman. I do not think that it should be passed over, because it certainly comes within the purview of the business of this evening session.

Mr. MATSON. In reply to what the gentleman from Iowa [Mr. HOLMES] has said in regard to my action in this matter, I desire to say that so far as I am concerned I should not object to the consideration of this bill at any time. But I have an idea that this House, even those members that are absent, ought to be fairly treated in relation to the business which is transacted here on Friday nights. Everybody understands that only private bills are to be considered at our Friday night sessions; and if I was compelled to object myself, I should object to the consideration of this bill at this time in the interest of fair play and fair dealing to other members of the House, because it is well understood by everybody that only private bills are to be considered. Therefore, I feel I should be called upon to object myself, if no one else objected to the consideration of a general proposition of law, to a bill to change the general law at one of our Friday night sessions. That is the reason why I ask that this matter be passed over informally.

Mr. HOLMES. If the chairman of the Committee on Invalid Pensions objects let the bill go over.

The CHAIRMAN. The Chair will state when the bill was called the order was made that it be passed over informally. The Chair does not undertake to decide the character of the bill, because it is on the Private Calendar and is read in its regular order. If there be no objection the bill will be passed over informally.

Mr. HOLMES. I understand the bill goes over, not losing its place on the Calendar.

The CHAIRMAN. The bill retains its place on the Calendar.

GEORGE W. RUGG.

The next business on the Private Calendar was the bill (H. R. 5630) granting a pension to George W. Rugg.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of George W. Rugg, late of Company M, Fifth New York Cavalry.

Mr. GEORGE D. WISE. Let the report be read.

The report (by Mr. SUMNER, of Wisconsin) was read, as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 5630) granting a pension to George W. Rugg, having had the same under consideration, submit the following report:

Soldier enlisted October 18, 1861, and served as a private in Company M, Fifth New York Cavalry, until discharged, January 17, 1865.

Declaration for pension was filed May 17, 1877, and alleges that at Warrenton Junction, Virginia, he received a gunshot wound of the right arm, September 26, 1862, also contracted rheumatism and chronic diarrhea while a prisoner of war at Andersonville.

In an affidavit filed September 22, 1877, he states that he was wounded in the right arm September 9, 1863, at the battle of the Rappahannock, and the wound was dressed by a rebel doctor at Fredericksburg, and the diseases for which he claims pension were contracted while a prisoner of war, and that he is disabled by varicose veins and chronic diarrhea.

His claim was rejected January 23, 1878, upon the ground of inability to furnish any testimony showing the origin of the alleged varicose veins and chronic diarrhea in the service and line of duty.

The prisoner-of-war records show claimant captured at Morrisville, Va., September 13, 1863; paroled at Savannah, Ga., November 21, 1864; furloughed from Camp Parole, Missouri, December 4, 1864, for thirty days. No later record. About fourteen months in rebel prisons.

Claimant in an affidavit filed December 5, 1877, states that it is impossible for him to furnish an affidavit from any of his company, as he has written them, where they used to live, and letters all returned. He has not heard of them since he was taken prisoner in the fall of 1863, excepting three comrades who enlisted at the same time, and they were fellow-prisoners, and all died in Andersonville prison. He states that he was held a prisoner of war fourteen months and nine days, then paroled and sent to parole camp, Annapolis, Md., and his time being out he was sent to New York city, to the Howard Association, and then discharged without being returned to his company, January 17, 1865.

Evidence in the case all tends to show existence of varicose veins and chronic diarrhea since return home in 1865.

The examining surgeon, W. H. Barton, a resident of Fort Howard, Brown County, Wisconsin, reports, August 31, 1877, varicose veins of both legs quite large, and extending from a little above the knees to the feet. He also reports chronic diarrhea. *Disability permanent.* Varicose veins, one-quarter, $2; chronic diarrhea, one-half, $4; disability, three-quarters, $6.

Your committee believe the case a just one and report in favor of the bill, recommending its passage.

The bill was laid aside to be reported to the House with the recommendation that it do pass.

JOHN R. HURLBURT.

The next business on the Private Calendar was the bill (H. R. 1653) granting a pension to John R. Hurlburt.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of John R. Hurlburt, late a private in Company G, Twenty-fifth Regiment Wisconsin Volunteers, and Company G, Fourteenth Regiment Veteran Reserve Corps.

Mr. GEORGE D. WISE. Let the report be read.

The report (by Mr. SUMNER, of Wisconsin) was read, as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 1653) granting a pension to John R. Hurlburt, having had said bill under consideration, submit the following report:

Soldier enlisted August 15, 1862; mustered September 14, 1862, and served as a private in Company G, Twenty-fifth Wisconsin Volunteers, till discharged, June 26, 1865.

Declaration for pension was filed January 27, 1874, alleging disability from chronic diarrhea, contracted July 15, 1863, at Snider's Bluff, Mississippi, and partial paralysis following, or resulting from same, while in hospital at Memphis, Tenn.

Claim was rejected February 21, 1881, upon the ground that claimant is not disabled by chronic diarrhea since discharged, and that paralysis can not be accepted as a result of diarrhea.

Dr. John Ehing, a resident of Alma, Buffalo County, Wisconsin, says he has attended claimant's family as physician since October, 1856, and knows that prior to enlistment he was of good health and sound body. Claimant came home sick on furlough in November, 1863, and remained till February, 1864, and during said period was under affiant's treatment for inflammation of lungs, diarrhea, &c. Also, claimant has been under deponent's medical treatment since June, 1865, when discharged. Right side lamed and unable to use right arm for manual labor. (Affidavit filed May 26, 1874.)

Louis P. Hunner, postmaster at Alma, Wis., and H. D. Engleaby, in affidavit, filed February 15, 1881, testify to disability from effects of chronic diarrhea since June, 1865.

J. W. De Graff, comrade, corroborates claimant as to time and place of contracting diarrhea, and since discharge unable to perform a day's labor, and that he is in feeble health. (Affidavit filed February 15, 1881.)

Drs. Newton McVey and John Ehing, in affidavits filed November 28, 1881, say they that day examined claimant and found him a great sufferer from chronic dysentery and paralysis; they also judge him as unable to perform manual labor. These doctors reside in Alma, Buffalo County, Wisconsin.

Surgeon-General's record shows claimant was admitted to hospital "R. C. Wood," September 30, 1863, from Helena Ark., for treatment for chronic diarrhea, and was transferred to Memphis, Tenn., October 1, 1863; was admitted to Gayoso general hospital October 2, 1863, with chronic diarrhea, and was transferred October 3, 1863; was admitted to general hospital, Benton Barracks, Missouri, October 7, 1863, with chronic diarrhea; furloughed (thirty days) October 30, or November 1, 1863; returned February 5, 1864; disposition not given. [NOTICE.—Dr. Ehing has testified to treatment during all of said furlough.] Was admitted to Lawsen general hospital, Saint Louis, Mo., February 5, 1864, with anæmia (bloodlessness) and was transferred to Alexandria Barracks, March 4, 1864. The records of Helena, Ark., July 1 to September 30, 1863, and of Alexandria Barracks, Saint Louis, Mo., subsequent to March 4, 1864, furnish no information in the case.

This man is now over 60 years of age, suffering from a disability (for which he has tried to get a pension) since discharge. He served nearly three years faithfully, except when undergoing treatment in the different hospitals named.

Your committee find the evidence greatly in claimant's favor since discharge, and therefore recommend the passage of said bill; pension to date from and after the passage of said bill.

The bill was laid aside, to be reported to the House with the recommendation that it do pass.

ELLEN A. VANCE.

The next business on the Private Calendar was the bill (H. R. 5812) granting a pension to Ellen A. Vance.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Ellen A. Vance, invalid daughter of Col. Joseph W. Vance, deceased, late colonel of the Ninety-sixth Ohio Volunteer Infantry, at the rate of $30 per month.

The amendment reported by the committee was as follows:

In line 8 strike out "thirty" and insert "eighteen;" so that it will read: "At the rate of $18 per month."

The report (by Mr. LE FEVRE) was read, as follows:

The Committee on Invalid Pensions, to whom was referred House bill 5812, have had the same under consideration, and beg leave to submit the following report:

Ellen A. Vance is the daughter of Joseph W. Vance, who served during the late war as colonel of the Ninety-sixth Regiment Ohio Volunteers, until killed in action at Sabine Cross-Roads, Louisiana, April 8, 1864. He left surviving him a widow and two daughters; the latter over 16 years of age. The widow remained a pensioner until her death, which occurred a few years ago. The family was left in straitened circumstances, and upon the death of the widow the daughters, both unmarried, were left without means of support. Ellen A. Vance was in her childhood paralyzed throughout the entire left side, and is not only wholly unable to support herself by labor of any kind, but is as helpless as a child.

Having by the death of the father, in defense of his country, been deprived of the support which she so much needs by reason of her infirmities, the committee are of opinion that the relief asked for by the claimant should be granted, and therefore report favorably on the bill, and ask that it do pass, amended, however, by striking out the word "thirty," in line 8, and insert therein instead the word "eighteen."

The amendment was adopted.

The bill as amended was laid aside to be reported to the House with the recommendation that it do pass.

ELIZABETH SMITH.

The next business on the Private Calendar was the bill (H. R. 7302) granting a pension to Elizabeth Smith.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll the name of Elizabeth Smith, foster-mother of Albert Shafer, late a private in Company B, Thirteenth Ohio Volunteer Cavalry, and pay her a pension at the rate of $8 per month.

The report (by Mr. LE FEVRE) was read, as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 1188) for the relief of Charles Smith and Elizabeth Smith, have had the same under consideration, and beg leave to submit the following report:

Charles Smith and Elizabeth Smith are the foster parents of Albert Shaffer, who served as private in Company B, Thirteenth Ohio Cavalry, and while in said service lost a leg in action at Poplar Grove Church, Virginia, for which injury he was pensioned, and from the effects of which he died January 8, 1870. Albert Shaffer was adopted by said Charles and Elizabeth Smith when but 22 months of age, and was clothed and educated by the latter until he entered the service of the United States.

The foster parents in their declining years were much dependent upon their adopted son, who in his last will fully recognized his obligations to them. Charles Smith and Elizabeth Smith at time of the death of Shaffer were possessed of a small home, on which thereafter they were dependent for support.

Since the introduction of the bill under consideration Charles Smith has died, leaving his wife, Elizabeth Smith, with no means of support except the property referred to, upon which there is an indebtedness of $1,300, an amount greater than its actual value. The sale of this property will leave Elizabeth Smith penniless, and, being aged and unable to obtain subsistence by manual labor, she will suffer unless relief is granted her.

The committee are of opinion that, inasmuch as she has given to the country a son, although adopted, upon whom she could have looked for support in her old days, the relief asked for should be granted, and therefore submit the accompanying substitute bill (H. R. 7302) and ask that it do pass.

The bill was laid aside to be reported to the House with the recommendation that it do pass.

EMMA O. ZEIGLER.

The next business on the Private Calendar was the bill (H. R. 4878) granting a pension to Emma O. Zeigler.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Emma O. Zeigler, widow of W. A. Zeigler, late captain of Company —, First Regiment West Virginia Infantry Veteran Volunteers.

The report (by Mr. LE FEVRE) was read, as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 4878) granting a pension to Emma O. Zeigler, respectfully report:

That claimant is the widow of William A. Zeigler, who enlisted in the military service of the United States as a private in Company B, First West Virginia Light Artillery Volunteers, August 5, 1861; was commissioned second lieutenant in Company I, Fifth Regiment West Virginia Volunteers, January 13, 1863; first lieutenant, West Virginia Veteran Infantry Volunteers, September 5, 1864; and captain March 29, 1865, and was honorably discharged July 21, 1865.

September 20, 1869, soldier filed a declaration for pension, alleging that on or about August 5, 1864, near Middleburg, Md., while retreating from the enemy, and in comand of Company I, Fifth West Virginia Volunteers, he received sunstroke.

April 20, 1876, the soldier died, pending the final adjudication of his claim. After the death of the soldier, Emma O. Zeigler, the widow, completed the claim, and was granted a pension up to the date of her husband's death. But her claim for pension as the widow of said soldier was rejected on the ground that the fatal disease of which the soldier died was not due to, and was not a result of, his military service.

Surgeon Hysell, of the Ninth Regiment West Virginia Volunteers, testifies, November 3, 1879:

"That he frequently prescribed for the soldier in the summer of 1864 for hemorrhoids, or piles, and chronic diarrhea, and as surgeon of the First West Virginia Volunteers he prescribed for the said officer on several different occasions during the winter of 1864 and 1865 for the same trouble, together with ulceration of the rectum; that after both officers were discharged from its service in 1865 they settled about ten miles apart, affiant at Wyandotte, W. Va., and the officer at Catlettsburg, Ky.; and that he frequently saw and prescribed for the said Zeigler during the following winter and the summer of 1866 for what he called his old trouble, and the officer appeared to be suffering with the same disease for which he had treated him while in the service."

A. Robb, M. D., testifies, May 27, 1876:

"That he attended soldier in his last illness; had been his family physician for three years; he died April 20, 1876, of what he supposed was hemorrhoids, or piles, but shown by *post mortem* examination to be cancer of rectum, involving lower part of spinal cord, sciatic nerve of left side, and the bladder; that he treated soldier March 17, 1876, for what he considered piles; soldier died April 20, 1876; a *post mortem* examination, made eight hours after death, showed the disease to be of a cancerous nature."

Captain Ewing swears to an intimate acquaintance with the soldier from 1865 to 1870; they occupied the same room as an office from 1865 to 1870, and knows soldier was frequently complaining of piles and under treatment for the same by Dr. Pugh, who was a physician boarding in the soldier's father's family; affiant filed soldier's application for pension and did not allege piles, because Dr. Pugh was dead and they could not prove medical treatment.

Alcinous Carnahan swears he was ward master in the regimental hospital of the Fifth West Virginia Volunteers, and had a personal knowledge of the fact that Lieutenant Zeigler was afflicted while in the service with piles, and that from 1865 to 1870 soldier complained of piles.

Colonel Enochs, of soldier's regiment, swears that soldier was treated for piles in 1864, during the summer campaign in the Shenandoah Valley of Virginia, and from that time on to the date of his discharge in 1865.

James C. Ely testifies that he is a druggist in the town of Catlettsburg, Ky., and sold medicines to the soldier frequently during the year 1865, and on to 1870, which he desired for piles.

This case was investigated by a special examiner of the Pension Office in 1882, and the testimony thus taken is very voluminous and conflicting. In submitting the evidence in the case the special examiner says:

"I also believe that William A. Ziegler contracted piles in service, and that they continued to slightly affect him up to death."

It is shown by the evidence that the widow has not remarried and that the soldier abandoned her a few years before his death, being at the time in fear of arrest for having used money belonging to an insurance company. The soldier located at Blanchester, Ohio, where he assumed the name of Avery, and July 19, 1871, was married to Miss Alice Jerral, with whom he lived until the date of his death, April 20, 1876; and that ten children were the result of this marriage. During the time he was living with this woman at Blanchester, Ohio, he kept up a correspondence with and sent small sums of money to his lawful wife at the town of Catlettsburg, Ky., in which he impressed her he could not return home by reason of his liability to arrest for the use of money belonging to the insurance company as aforesaid. It is shown conclusively that no divorce proceedings were ever had by the soldier or claimant, and the legal marriage of claimant is fully established.

Your committee find from the evidence in the case that the soldier's death was due to the disability contracted in the military service, and that his legal widow, which is the claimant in this case, is entitled to a pension, and therefore recommend the passage of the accompanying bill.

Mr. GIBSON. I desire to make a statement to the House in relation to this claim, some of the facts in connection with which are known to myself. In the first place, the report sets forth that the claim for pension was filed on account of a sunstroke received in Maryland. It appears that this soldier had never made a claim on account of any other disability up to that time; and no other disability was discovered by this soldier, so far as we are informed, for a considerable time afterward. He gives as his excuse for not stating in his declaration that he suffered from piles that he could not find the regimental physician. The regimental physician, Dr. Hysell, lived at Wyandotte, three miles from where I live, and this soldier lived at Catlettsburg, seven or eight miles from where I live. There was daily steamboat communication between those towns, and this soldier could have no difficulty at any time in finding Dr. Hysell, for he remained there all the time from the war till a few years ago, when he himself went to Ohio.

But I wish to call the attention of the committee to a further fact. The evidence shows that whatever may have been the treatment given by the physicians to this man, either during the war or afterward, he did not die of piles, but died from a cancer—an internal cancer. This was shown by the *post mortem* examination. Now, I state here that the family of this man are subject to cancer; a few years after this man's death his father died of cancer. So that this was a family taint, and not a disease arising from any service during the war.

Furthermore, the report shows that Mr. Zeigler himself was not entitled to credit in any reports he may have made. A fugitive from justice, afraid to return to his own section of country, where he had de-

serted his wife, he is not entitled here to any credit for his statements. I do not think this is a case which the Government of the United States ought to shoulder. I do not believe this soldier is entitled to any consideration. I am satisfied that if gentlemen knew the records they would discover he had never performed for the Government any service entitling him or his family to a pension.

Mr. ROBINSON, of Ohio. Mr. Chairman, I introduced this bill at the instance of our present Sergeant-at-Arms, Mr. Leedom, who, I regret to say, is not here to-night. The bill is similar to one introduced by him when a member of this House. He knows these parties personally, and says that this is beyond question a meritorious case. He knows this lady, who I believe now resides in his town, in the State of Ohio. I have understood from him that the merit of this case, so far as this widow is concerned, is unquestioned; that she is a woman of good character, respectable in every way.

Now, I have some knowledge of the effects of chronic diarrhea contracted in the military service; and I know that death has very often resulted from disease of the character described in this report. I believe this to be a meritorious case, and I hope my friend from West Virginia will withdraw his objection to the bill.

I regret exceedingly that Mr. Leedom, who suffered an injury yesterday, is not here to-night, and that I can not obtain further information from him.

The CHAIRMAN. The question is, Shall this bill be laid aside to be reported to the House with a recommendation that it do pass?

Mr. GIBSON. Mr. Chairman, I do not wish to be understood as making any reflections upon the lady to whom it is proposed to grant this pension. She herself may be most meritorious; but it is perfectly immaterial how good or how bad a woman she may be. She comes here basing her claims for a pension upon injuries and disease on the part of her husband, originating, as it is claimed, during his service for the Government. Now, I say this report fails to show any services upon his part; it does not show that he received any injury during such service. Indeed, it shows that he never received any injuries at all. There is not merely negative but affirmative evidence that he never received any injury during his term of service.

If this soldier suffered from the causes for which we now undertake to pension him; if he suffered from the disease for which it is claimed he was under treatment, why did he not so represent in his claim? Why did he undertake to say that he was entitled to a pension because he suffered a sunstroke in Maryland, if there were these other positive matters upon which his claim could have been based? There is no attempt now to prove sunstroke. There is nothing about sunstroke in the evidence. The claim is based upon the allegation that he died from the piles, which, however, the *post mortem* examination shows to have been cancer. I state to this committee that the father of this man died from cancer. There was a family taint of that description.

I am compelled to oppose the granting of this claim, because if we pile up unworthy claims and give them favorable consideration they are just so many bars in the way of worthy people who need pensions and ought to have them. I say let us pension worthy claimants, but let us keep out unworthy ones.

Mr. MORRILL. I ask that this bill be set aside informally.

Mr. MATSON. Mr. Chairman, it seems to me that if the gentleman from West Virginia would read this report carefully he would arrive at the conclusion that while this man died of cancer, it was superinduced by disease which originated in the service. The evidence of the surgeon of his regiment shows that he treated him while in the service for hemorrhoids; and the only physician who speaks of cancer states the fact that the *post mortem* examination showed the man had cancer, involving the lower part of the spinal cord and the lower bowels. Certainly it is not a far-fetched conclusion, even on the part of one who is not a physician, that this cancerous affection must have been superinduced by disease contracted during this man's service—that it was not a constitutional and original disease. It was in this view that the committee found his death was attributable to disease incurred in the service. While I have no doubt of the fact, as stated by the gentleman from West Virginia, that this man's father died of cancer, and that there was a predisposition to cancer in the family, yet I think we are entitled to conclude from the evidence that cancer in this case was superinduced by disease contracted in the service. Hence I believe the finding ought to be in favor of the widow.

Now, as to the soldier himself, it is shown by this report that he enlisted in August, 1861, as a private in Company B, First West Virginia Artillery Volunteers; that he was commissioned as second lieutenant in the Fifth West Virginia Volunteers in January, 1863; as first lieutenant in West Virginia Veteran Infantry Volunteers September 5, 1864; and as captain March 29, 1865; and that he was honorably discharged July 21, 1865. So he seems to have rendered some service.

It is true that it is shown after his service he became a defaulter in an insurance or other company and failed to provide for his wife a little while before his death. The fact that she is his legal widow is undisputed.

Besides, since the gentleman from West Virginia made his statement I now remember that the Sergeant-at-Arms of the House has commended the bill to me repeatedly and spoken of its great merits. It seems to me that it is not a bad case by any means, but on the contrary is a clear case of merit.

Mr. ROBINSON, of Ohio. I have personal knowledge of the service of that Fifth West Virginia Regiment. No regiment raised there performed harder service than that regiment. I know personally and intimately some of the gentlemen who testify in behalf of this soldier. They are gentlemen of the highest respectability. I hope my friend from West Virginia will withdraw his opposition and let the bill be passed.

Mr. GIBSON. I shall object to the consideration of that bill. I know these parties myself.

The CHAIRMAN. The question is upon laying this bill aside to be reported to the House with the recommendation that it do pass.

Mr. GIBSON. I ask for a division. I hope the bill will be passed over informally.

Mr. MATSON. I ask by unanimous consent that be done.

Mr. GIBSON. I want to read the evidence, and if I am satisfied I shall withdraw my objection.

Mr. MATSON. That is a fair proposition, and I cheerfully accept it.

By unanimous consent, the bill was passed over informally.

Mr. STRUBLE. I suggest that the reports of committees be not read unless asked for.

The CHAIRMAN. That is not necessary, as the reports are only read when the reading is asked for. They are not necessarily a part of the bill.

Mr. GEORGE D. WISE. I shall ask that they be read. I do not propose to act on bills without information.

The CHAIRMAN. Any gentleman on the floor has the right to demand the reading of a report in the nature of an argument. It has been so held by the Chair repeatedly.

HENRY MILKEY.

The next business on the Private Calendar was the bill (H. R. 5378) granting a pension to Henry Milkey.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Henry Milkey, late a private in Company I, One hundred and eighty-seventh Regiment Ohio Volunteer Infantry.

Mr. GEORGE D. WISE. Let the report be read.

The report (by Mr. LE FEVRE) was read, as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 5378) granting a pension to Henry Milkey, have had the same under consideration, and beg leave to submit the following report:

Henry Milkey was enrolled on the 24th of February, 1865, at Cincinnati, Ohio, in Company I, One hundred and eighty-seventh Regiment Ohio Volunteer Infantry; was mustered out of the service January 20, 1866, at Macon, Ga.

This case was rejected by the Pension Department because of the alleged inability to establish the existence of the disability of the claimant during service or until after the date of his discharge from the Army.

This case has been carefully examined; the claimant is totally blind, and has been for years. He says he contracted an affection of the eyes while in the Army, caused by exposure and hardship near Dalton, Ga., in the early part of the summer of 1865, and says he was treated by the surgeon of his regiment, but did not go to the hospital for fear of being detained there; he asked the surgeon to excuse him from duty, which he did.

Philip Runy, of Dayton, Ohio, February 25, 1881, swears that "the claimant was strong, with nothing the matter with his eyes previous to entering the service."

Angelus Wertzel, Joseph Mohr, and Peter Sautel, all members of his company and regiment, swear that—

"Henry Milkey was taken sick some time in March, 1865, near Nashville, Tenn., which sickness resulted in disease of the eyes."

In a subsequent affidavit made by Philip Runy to the one already referred to he testifies that—

"The claimant has been suffering with disease of eyes since his return from the Army, and has gradually lost his sight."

William T. Herman, on November 26, 1881, swears as follows:

"I am well acquainted with Henry Milkey, and, to the best of my knowledge and belief, he was a sound and healthy man at the time of and before his enlistment, and contracted the disease of eyes, resulting in total blindness, while in the service of the United States and in the line of his duty."

Henry Fisher, of Dayton, Ohio, on the 28th day of November, 1881, testifies as follows:

"I was a member of Company I, One hundred and eighty-seventh Regiment Ohio Volunteer Infantry, and was well acquainted with Henry Milkey, and have been for over twenty years. He was a sound and healthy man before entering the service, and never had any disease of the eyes. It is my firm belief that the disability of Henry Milkey, which has resulted in total blindness, was the result of exposure and fatigue while in the United States service as a soldier."

Perhaps the most important testimony in favor of the claimant is that of William Egry, a reputable and skillful physician of Dayton, Montgomery County, Ohio. On the 23d day of March, 1880, he swore as follows:

"I have been the family physician of Henry Milkey, and have known him from childhood. He was always healthy prior to his enlistment, on the 24th day of February, 1865. He received his discharge from the service in 1866, since which time I have attended him frequently for attacks of hyperæmia of the brain, in consequence of which there has been progressive amaurosis of both optic nerves, resulting in total blindness."

Subsequently, in answer to a letter from the Pension Department, addressed to him, Dr. Egry writes as follows:

"In February, 1866, I was called to attend the claimant, finding him suffering with hyperæmia of the brain. I administered leeches on his forehead and temples, ice applications on his head, and antiphlogistic and derivating treatment internally. He became better and was able to be about, but was growing blind. Atrophia of the optic nerve was predominating and increasing. Every summer he suffered with a relapse of hyperæmia of the brain, and was for most of the time under my treatment. In the year 1873 I went to Europe, and consequently lost sight of him for seventeen months, and during this time total blindness ensued, and he has been blind ever since, being led by his children."

While the claimant when in the service struggled against going into the hospital, and consequently has no hospital record, so as to furnish the proof to the

Pension Department that he was afflicted while in the service with the disease which has destroyed his sight, the testimony is abundant and convincing that he was well before entering the service, and has been gradually getting blind from the time of leaving the service until he was stricken with total loss of sight.

In the judgment of your committee, this man's affliction was produced by the trials and exposures of the service and while in the line of duty, and the passage of the bill is recommended.

There being no objection, the bill was laid aside to be reported to the House with the recommendation that it do pass.

CHARLES HENDRIX.

The next business on the Private Calendar was the bill (H. R. 1219) granting a pension to Charles Hendrix.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to restore to the pension-roll, subject to the provisions and limitations of the pension laws, the name of Charles Hendrix, late a private in Company H, Second Regiment Michigan Volunteers, and Company B, same regiment; said restoration to commence from the date when his name was dropped from said pension-roll.

Mr. GEORGE D. WISE. I do not call for the reading of the report. I have it here.

There being no objection, the bill was laid aside to be reported to the House with the recommendation that it do pass.

CHRISTIAN BAUMAN.

The next business on the Private Calendar was the bill (H. R. 6357) granting a pension to Christian Bauman.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Christian Bauman, late a private in Company A, Fifty-eighth Regiment Ohio Volunteer Infantry.

There being no objection, the bill was laid aside to be reported to the House with the recommendation that it do pass.

DAVID URBANSKY.

The next business on the Private Calendar was the bill (H. R. 4569) granting a pension to David Urbansky.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of David Urbansky, late a private in Company B, Fifty-eighth Regiment Ohio Volunteer Infantry.

There being no objection, the bill was laid aside to be reported to the House with the recommendation that it do pass.

PETER FALKNER.

The next business on the Private Calendar was the bill (H. R. 6197) granting a pension to Peter Falkner.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Peter Falkner, late a member of Company C, also of Company D, United States Engineer Battalion.

There being no objection, the bill was laid aside to be reported to the House with the recommendation that it do pass.

CAROLINE LEWIS.

The next business on the Private Calendar was the bill (H. R. 6663) restoring to the pension-roll the name of Caroline Lewis.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to restore to the pension-roll the name of Caroline Lewis, widow of John Lewis, late of the United States colored troops (certificate No. 140665), who was killed near Louisville, Ky., about the 6th day of November, 1864, in the line of duty.

Mr. GEORGE D. WISE. Read the report.

The report (by Mr. JOHN S. WISE) was read, as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 6663) restoring to the pension-roll the name of Caroline Lewis, submit the following report:

Caroline Lewis is beyond doubt the widow of John Lewis, late of United States colored troops, who was killed near Louisville, Ky., about November 6, 1864, in the line of duty. As his widow she was placed on the pension-roll from July 25, 1866, until October 31, 1877, when she was dropped, on the ground that she was not the widow of the soldier.

The ground of this action was the report of a man named Fields, whose statement was certainly false and probably malicious. The woman is the widow of John Lewis. She proves this fully by B. L. Brooks, the preacher who married her to Lewis, whose affidavit, dated December 22, 1879, is full and circumstantial, and is filed with the papers. She never ought to have been stricken from the rolls, and ought to be restored now. We recommend passage of the bill.

There being no objection, the bill was laid aside to be reported to the House with the recommendation that it do pass.

J. F. JUSTICE.

The next business on the Private Calendar was the bill (H. R. 5103) granting a pension to J. F. Justice.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior is hereby directed to place the name of J. F. Justice, late a private in Company —, Third North Carolina Mounted Infantry (pension claim No. 317395), on the pension-roll, subject to the limitations of the pension laws.

The report (by Mr. JOHN S. WISE) was read, as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 5103) granting a pension to J. F. Justice, submit the following report:

Joshua F. Justice was duly enlisted October 1, 1863, as a corporal in Company H, Second Regiment North Carolina Mounted Infantry, and discharged August 16, 1865.

The soldier has affidavit of Capt. Levi Jones and others that he was a sound man at the time of enlistment. This is made satisfactory to the committee. He has the evidence of Capt. Levi Jones, and James N. Davis, and Dr. A. B. Sams, with that of comrades, which establishes that he was afflicted during his service in the back, kidneys, and hips, and was sent to hospital at Tazewell. The only ground of rejection was that he had not produced medical certificate. His doctor had forgotten his disease.

The committee think that this is a case justifying Congressional relief, and recommend the passage of the bill, with an amendment, inserting in line 4 the letter "H," and in line 5 strike out "third" and insert "second."

The amendment of the committee was agreed to.

Mr. MATSON. I move instead of "J." to insert "Joshua," as that seems to be the name of the party.

The amendment was agreed to.

The bill as amended was laid aside to be reported to the House with the recommendation that it do pass.

JOSEPH WILLIAMS.

The next business on the Private Calendar was the bill (H. R. 4556) granting a pension to Joseph Williams.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior is hereby directed to place on the pension-roll the name of Joseph Williams, late a private in Batteries K and F, Second United States Artillery, subject to the limitations of the pension laws.

The report (by Mr. JOHN S. WISE) was read, as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 4556) granting a pension to Joseph Williams, submit the following report:

Joseph Williams enlisted in Company K, Second United States Artillery, and served until discharged by reason of re-enlistment, February 22, 1864; was transferred to Company F from Company K in 1865; discharged at Fort Vancouver 22d February, 1867, on account of expiration of service; re-enlisted at same place in the same battery February 26, 1867; was discharged February 26, 1870; re-enlisted in same battery at Presidio, Cal., July 1, 1871, and discharged at Marion, N. C., the 1st November, 1874.

Surgeon-General's report shows that soldier was admitted to post hospital, Fort Pickens, Fla., and treated for "contusion;" treated for "diarrhea" June, 1861; admitted to post hospital, Benicia Barracks, Cal., November 18, 1865, and treated for "contusion."

The soldier makes oath that he was sick in hospital at Plattsburg Barracks with chills and fever, and that on the route from New York to Florida he was hurt by the crushing in of the bulwarks of the transport Illinois; that he was hurt in the face by the pole of a limber, cutting through his under lip, breaking some of the front teeth, and driving one into the jaw, where it remains yet, producing a festering sore in the jaw; was sick with fever at Federal Hill, Baltimore; was kicked by one of the battery horses at Benicia, Cal., being struck on head and chest, and was treated in hospital; was wrecked on bark Torrent in Cook's Inlet, Alaska Territory, in 1865, and the right forearm broken; also suffered from piles, rheumatism, pains in the legs and back; also suffered at Presidio Barracks from disease of the liver and kidneys. Comrades of the soldier swear that he was sick with disease of liver and kidneys at Presidio Barracks, which they state of their own personal knowledge.

Dr. Gilkey, examining surgeon at Marion, N. C., for the United States, says: "Claimant states that he has pain on pressure over the region of the liver, right shoulder, and over the region of the kidneys, with a desire to micturate very frequently, when exerting himself, *indicating* chronic nephritis and chronic hepatitis. I find considerable injury to the teeth and alviolar process in both upper and lower maxillary bones, caused, as claimant says, by being struck with the pole of the limber. Claimant is anæmic, emaciated, very feeble, and general health broken down. Disability from nephritis, hepatitis, and injury to face, one-fourth each, aggregating three-fourths."

The committee think the soldier's long service, his many attacks and injuries, and his diseases and feeble condition at time of discharge and now, entitle him to a pension, and recommend the passage of the bill.

There being no objection, the bill was laid aside to be reported to the House with the recommendation that it do pass.

MARION D. EGBERT.

The next business on the Private Calendar was the bill (H. R. 2975) granting a pension to Marion D. Egbert.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Marion D. Egbert, late of Company K, Eighty-sixth Regiment Ohio Volunteers, for pension.

The report (by Mr. JOHN S. WISE) was read, as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 2975) granting a pension to Marion D. Egbert, submit the following report:

Marion D. Egbert was a corporal in Company K, Eighty-sixth Regiment Ohio Volunteer Infantry, and in service in September, 1863, at Cumberland Gap. He was detailed to act as ordnance sergeant. One day in the latter part of November, 1863, while he and the men working under his orders were sunning the ammunition in the magazine, a comrade lit a portfire, which communicated with damp powder on the ground, and would in a moment have produced a fatal explosion of a large amount of cannon ammunition. Egbert, seeing the danger, and that he could not flee from the explosion, threw himself across the line of burning powder and broke the trail, thus preventing the explosion. The fire burnt his blouse and pants quite severely, and the fright, shock, and fire produced a partial deafness, loss of sight, and paralysis in the left side.

The Pension Office required proof of the soldier's condition from a surgeon and two comrades. These Egbert frankly states he can not furnish, because, as the ill effects of the fright and burning did not culminate at once, he was not treated in hospital, and because those present when the accident occurred were men detailed from a Tennessee regiment, whose names he did not know and does not now know. But he does prove by a comrade that he saw him a few days after the explosion suffering severely. He proves by many of his acquaintances that he was sound prior to his going into the service, and has not been sound since. He proves a good character as a man, and his physician testifies that he has been attending him off and on since 1864 for partial paralysis of his tongue and left side.

We are satisfied of the merits of this case, although it falls short of the degree and character of testimony required at the Pension Office. We recommend passage of the bill.

Mr. GEORGE D. WISE. I remember that case was fully discussed at the last session of Congress; I am sure it was. [Cries of "No!"] Oh, yes; I remember very distinctly. I shall object to that. I do not think that case comes up with any proof at all. The statement on the part of the claimant is that he can not furnish any proof because he can not recollect the names of the comrades with him. There is not a particle of proof but the oath of the applicant—no witness, no comrade, nobody; nothing but the uncorroborated statement of the claimant. If we are going to grant pensions in that way, there is not enough money in the United States to pay the amount we will be called upon to pay. I object to this.

Mr. PETERS. Mr. Chairman, I do not think the gentleman from Virginia takes into consideration the corroborating circumstances in connection with this case. True, there is no direct testimony in the case other than that of the applicant himself; but there are circumstances that go to corroborate his testimony. We have, for instance, the evidence, very important to be considered in that connection, of a physician, to the effect that he was sound when he went into the Army. We have also corroborating testimony that he has not been a sound man since, and the further testimony of a comrade who saw him a few days after the occurrence stated in the report and who testifies that he was suffering from severe injuries at the time caused by sacrificing his own personal comfort and safety to prevent a disastrous explosion. All of these tend to corroborate the statement of the applicant himself, and prove by circumstantial testimony that the injury complained of resulted from the explosion at that time.

Mr. GEORGE D. WISE. In reply to the remarks of the gentleman from Kansas I will only say that I notice the statement of this physician does not furnish to us any information at all as to when this unsoundness commenced, none whatever; and it is utterly impossible that such a transaction as is related in that report could have occurred and yet the claimant be without the ability to furnish any testimony in reference to it.

Mr. PETERS. I would like to ask the gentleman from Virginia whether he remembers the statement made there in the report that the men who were with him on that detail were of different regiments, not his own, men with whom he was not familiarly associated and not comrades; consequently their names were not known to him at the time, nor are they known to him now, and as a result he can not obtain their testimony in support of his application.

Mr. GEORGE D. WISE. In reply I will state to the gentleman from Kansas that it is utterly impossible, no matter what regiment these men belonged to, that this man should have been with them for some time at Cumberland Gap and yet not be able to furnish a scintilla of testimony in support of his application.

Mr. MORRILL. I ask unanimous consent that this bill be informally passed over, not to lose its place on the Calendar.

There was no objection, and it was ordered accordingly.

THOMAS FERGUSON.

The next business on the Private Calendar was the bill (H. R. 7303) to restore the name of Thomas Ferguson to the pension-roll.

The bill is as follows:

Be it enacted, &c., That the Secretary of the Interior be, and is hereby, authorized and directed to restore to the pension-roll, subject to the provisions and limitations of the pension laws, the name of Thomas Ferguson, late a member of Company B, Ninety-first Regiment Indiana Volunteers.

The report (by Mr. MATSON) is as follows:

That Thomas Ferguson enlisted in the military service of the United States as a private in Company B, Ninety-first Regiment Indiana Volunteers, August 10, 1862, and was discharged on surgeon's certificate of disability of paralysis of bladder and chronic diarrhea.

February 12, 1868, he was pensioned at the rate of $6 per month for atrophy of testicle and penis; March 8, 1869, increased to $8, and November 25, 1873, to $18 per month for spinal disease.

December 2, 1878, the name of pensioner was dropped from the roll by order of the Secretary of the Interior, on evidence submitted by a special examiner of the Pension Office that the disability for which claimant was pensioned was due to intemperate habits and not to his military service. The evidence in support of this charge is entirely *ex parte*, and without notice to claimant.

Dr. E. A. West, of Pleasantville, Pike County, Indiana, testified, September 16, 1879, that he has practiced medicine for five years and has treated claimant for spinal disease, and that he has been a constant sufferer from said disease; that he knows these facts from personal observation.

A. J. Harrington, M. D., of Spurgeon, Pike County, Indiana, testifies (November 9, 1882) that for three years after the war claimant was a sober man, as he knows of personal knowledge; that he is now a man of temperate habits, but he is informed was dissipated three or four years ago.

Frederick Gyring, J. M. Fleeneer, Jacob Lyring, Hiram Williams, and Thomas Gourley, all citizens of Pike County, certified to be reputable citizens and witnesses whose statements are entitled to full credit, testify to substantially the same facts as those given by Dr. Harrington.

We have examined all the evidence in this case very carefully, and find the soldier was discharged from the service on account of the disability for which he was pensioned; that the numerous medical examinations by different United States surgeons and boards all agree as to the nature and extent of his disability, and its continuance from the date of incurrence while in the service and in line of duty to the present, and that a clear preponderance of the evidence is in favor of the restoration of the soldier to the pension-roll, and accordingly your committee recommend the passage of the accompanying substitute bill.

Mr. GEORGE D. WISE. Mr. Chairman, I object to that bill. The Secretary of the Interior tells us that the name of this man was dropped from the pension-roll because it had been ascertained by evidence taken by one of the examiners of the Pension Office that his disability had arisen from dissipation, and not from injuries incurred in the line of duty or disease contracted in the service of the Government. The Committee on Invalid Pensions tell us that that was *ex parte* testimony, and now the case is presented to us for the restoration of his name to the pension-roll upon testimony just as much *ex parte* as this. The Government was not represented when this testimony was taken, and consequently it is as much *ex parte* as the testimony upon which the Secretary of the Interior dropped the man's name from the pension-roll.

It seems to me that we have a case here before us in which we are told by one of the highest officers of the Government that the disability of the claimant was contracted on account of dissipation; and I suppose, sir, in a case of this kind that the Government ought to be represented when testimony is taken before we restore this man's name to the pension-roll. Under these circumstances I shall be compelled to object to it.

Mr. MATSON. Mr. Speaker, one of the strongest features in support of this case is found in the fact that this man was discharged from the service on acount of the very disability for which he was first pensioned; he was first discharged and was afterward pensioned on account of that disability which was incurred in the service. After that, sir, it is not unfair to say whoever stated that this man's disability arose from intemperance must have reported that from what we are bound to assume was a spirit of malice.

Mr. GEORGE D. WISE. Will the gentleman from Indiana point me to the proof of that assertion?

Mr. MATSON. I do not say that there is anything in the report to that effect. But any man who made a statement of that kind against a soldier voluntarily must have acted from malice, particularly when that soldier had been discharged from the service on acconnt of the disability for which he was pensioned.

Mr. GEORGE D. WISE. Why, the Secretary of the Interior thought it was of sufficient force to justify him in striking his name from the pension-roll.

Mr. MATSON. Because the Secretary of the Interior did not hear the soldier's side of the case at all.

Mr. GEORGE D. WISE. We do not hear the Government's side.

Mr. MATSON. You have here both sides of the case. Here is the report of a special examiner contained within the papers in that case showing the evidence taken by the examiner when the pensioner was not present at all. Then we have his own side of the case; and when into the scale on his side is thrown the fact that he was discharged for the very disease that he was pensioned for, the committee thought itself justified in finding in his favor. The mere statement of one man or two men or any number of men that originated necessarily in malice I do not think ought to deprive the man of his pension; and that it did originate in malice I must believe, because I can not think a man would report a fact against another unless he had some malice at the bottom of it, especially as I have said in a case where a man was discharged from the service for a disability for which he drew the pension.

Mr. BROWN, of Pennsylvania. Let me ask the gentleman from Indiana if it is not true that sometimes reports go into the Pension Office against a soldier who is never permitted to know the person who makes the charge?

Mr. MATSON. I am happy to say to the gentleman that under the present practice of the Pension Office such statements are given no weight whatever, and in every examination resulting on account of such statements information is given to the pensioner as to the time and place of taking testimony upon the subject.

Mr. BROWN, of Pennsylvania. But at the time this man was dropped?

Mr. MATSON. At the time this man was dropped the practice was different. There were secret investigations; there were detectives; and these detectives desired to have business. They sought cases of that kind, and many cases were made that had no foundation in fact; and I think this is one of them. I am satisfied from the mere fact that he was discharged from the service on account of disease contracted in the service and immediately afterward pensioned. I am satisfied from that fact alone this must have been a malicious thing on the part of the person who informed against him.

Mr. GEORGE D. WISE. I will say to my friend from Indiana I will examine this case if he will consent to its being passed over; and if I find the facts to be as he states I will withdraw the objection.

Mr. WOODWARD. I ask the gentleman from Indiana [Mr. MATSON] whether there is anything in existing law to prevent the Secretary of the Interior from restoring this man to the pension-roll if these facts are brought to his knowledge.

Mr. MATSON. I presume there is not.

Mr. STRUBLE. I desire to make a remark in reference to this case. The gentleman from Virginia [Mr. GEORGE D. WISE] in his objection to this claim appeared to lay great stress on the fact that the Secretary of the Interior had dropped this man from the pension-roll. Now, I beg to remind the gentleman from Virginia of what I understand to be a fact in regard to this business, that very few of these cases come to the personal knowledge of the Secretary of the Interior. The evidence is taken by clerks of the Department, and the order is entered, and the party dropped from the roll; and unless the case is taken to the Secretary on appeal the chance is that he does not personally see one case

in a thousand. I think the gentleman should not lay much stress on that fact.

Mr. GEORGE D. WISE. The gentleman from Indiana [Mr. MATSON] consents to let this case be passed over.

Mr. LAIRD. I object.

The CHAIRMAN. No motion has been made.

Mr. GEORGE D. WISE. I ask unanimous consent that the bill be passed over informally.

The CHAIRMAN. The gentleman from Virginia asks unanimous consent that the bill be passed over informally, retaining its place on the Calendar. Is there objection?

There being no objection, the bill was passed over informally.

THEODORE LEVERON.

The next business on the Private Calendar was the bill (H. R. 301) granting a pension to Theodore Leveron.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Theodore Leveron, late a private in Company M, Third Regiment Kentucky Cavalry Volunteers.

The report (by Mr. MATSON) was read, as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 301) granting a pension to Theodore Leveron, respectfully report:

That Theodore Leveron enlisted in the military service of the United States as a private in Company M, Third Regiment Kentucky Volunteer Cavalry, October 11, 1861, and was honorably discharged August 3, 1865.

May 2, 1874, he filed a declaration for pension, alleging gunshot wound of left arm, received at Hopkinsville, Ky., July 20, 1863; was also thrown from his horse at Cadiz, Ky., in the fall of 1863, causing injuries of the head; which was rejected February 27, 1883, as to gunshot wound, on the ground that soldier was not in line of duty at the time of receiving said injury, and no pensionable disability from injury to head since discharge.

It appears from the evidence in the case that the soldier had an altercation with a citizen at a place of amusement in Hopkinsville, Ky., on or about the 20th day of June, 1863. The next day after this, as soldier was passing the place of business of the citizen, Savage by name, he came out and caught the soldier by the collar, and shot him with a pistol which he held in his right hand. At the time of the shooting soldier was detailed as a messenger at the military telegraph office, and was on his way to his breakfast at the time he was assaulted and shot. The citizen was arrested by the military authorities, but whether he was placed on trial for the offense is not disclosed by the evidence.

Capt. Albert Slov, of Vincennes, Ind., testifies (November 9, 1882) that he was captain of claimant's company in the service, and corroborates the statements of claimant from facts gathered at the time of the shooting, and to seeing the wound after its infliction.

John P. Kullehn, of Wheatland, Knox County, Indiana, testifies (November 9, 1882) to the fact that he was a member of claimant's company and regiment, and to the shooting of the soldier by Savage at the time and in manner above detailed; did not see the shooting, but heard of it immediately after its occurrence.

C. P. Hollingsworth, of Bruceville, Knox County, Indiana, testifies (November 9, 1882) that he was the first lieutenant of claimant's company, and to the fact of the wounding of the soldier by Savage at Hopkinsville, as indicated by other witnesses; that the shooting was without provocation on the part of claimant; that he believes that said shot was given solely because Leveron was a Federal soldier.

Claimant was on detached duty at the time he was shot, and under regular orders.

We think the evidence in the case justifies the conclusion that the soldier was shot by the citizen, Savage, while in the line of duty, and that the controversy was not provoked or encouraged by the soldier, and that the injury to the claimant is clearly due to his military service, and that he should receive a pension, and therefore recommend the passage of the accompanying bill.

Mr. GEORGE D. WISE. I object to this bill.

The CHAIRMAN. The question is, Shall the bill be laid aside to be reported to the House with the recommendation that it do pass?

Mr. GIBSON. It does seem to me that if we go to pension these Kentucky people when they shoot each other, especially those people about Hopkinsville, we will soon exhaust the Treasury of the United States. The report in this case shows that this soldier left his camp, went to Hopkinsville to a dance or frolic of some sort, and while they were at this frolic he and this man Savage got into a row. They met next day and Savage shot him with a pistol.

Mr. RAY, of New Hampshire. Savage went out of his place of business and made an assault on the soldier as he was passing by.

Mr. GIBSON. That is only the style in which they do things there. But this soldier, it will be remembered, returns to his camp; he remains in the service; he is discharged at the expiration of the war; discharged not by reason of any disability that he was suffering under. He continued in the service and never for nine years after the end of the war filed any claim for the pension.

Now, it is well understood that when parties sleep upon their rights an extraordinary length of time that is a circumstance that militates against them in any court. This party if he had been disabled from any cause that entitled him to a pension would not have slept upon his rights until 1874 and then come here. And when he does come here he does not show by the evidence he is suffering from any disability. The evidence merely states that he had a gunshot wound, and does not state that a disability was created. There is no disability proved in this case; it is the case merely of a gunshot wound.

Mr. MATSON. The objection by the gentleman from West Virginia that no disability has been proved I wish to say can be fully answered to his own satisfaction. The bill itself provides that this soldier shall be pensioned, subject to the limitations and provisions of the pension laws, which expressly require him to be examined and the extent of disability ascertained before he is pensioned. This disability must be ascertained before he can be put on the pension-roll. There is not anything in the bill that fixes the disability. That objection, therefore, of the gentleman from West Virginia can not obtain.

Mr. GIBSON. But, Mr. Chairman, this soldier has been examined. He has made his case; he made his case before the department and his claim was there rejected. He then comes before Congress and he makes his case before Congress, accumulating all the testimony that he could bring before this body in addition to what he had before the department. Having been repulsed there, knowing it was necessary to obtain further evidence, after two attempts, one before the department and one before Congress, he comes here and neither alleges nor attempts to show any disability. The only thing he attempts to show is that he received a slight wound in the arm from the discharge of a pistol in a private quarrel with a man he had been with on a frolic the night before.

Then the effort is made to show, simply because he had been on a frolic with a man the night before, and this was in the State of Kentucky, therefore the man shot him because he was a Union soldier. Now, I repeat, if this man is not suffering under any disability, why put him upon the pension-rolls at all? If he incurred any disability, why did he not prove it when undertaking to make out his case before the Pension Office?

If we want to bring this whole pension-list into disrepute; if we want to make the whole system of pensioning soldiers a mere farce, enacted by a few men getting together and parceling out so much in the Treasury as can be spared, let us go on in this way; but if not, then when a party comes before Congress asking to be put on the pension-list, let us require him at least to show that he is suffering from some disability received in the service.

Mr. MATSON. Mr. Chairman, I have listened very patiently to the gentleman from West Virginia, but still I must insist that it would be very unwise for Congress to undertake to turn itself into a board of surgeons to determine under what disability a man may be laboring. The only thing we can do is to submit such questions to those who are more competent to determine them than we are, to place persons on the pension-list subject to the provisions and limitations of the pension laws, leaving the board of surgeons to determine the question of disability.

Now, as to the merits of this case, it is shown very clearly by the evidence in this report that this man was in the line of duty at the time he was injured. Whether the shot was a friendly one or was from the hands of an enemy does not, I apprehend, make any difference. If this man was guilty of no negligence or wrong, and was in the line of duty at the time he was injured, he should be pensioned. That is a proposition which I think my friend from West Virginia will concede.

It is shown that he was detailed as a messenger at the telegraph office at Hopkinsville, and at the time of receiving the injury was going from his office to his boarding-house to get his breakfast. Certainly he was in the line of duty. Whether the disability is great or small is a question that the board of surgeons will determine if we pass this bill.

Mr. GIBSON. Inasmuch as the department has rejected this claim, I submit it is not asking too much if I propose that it be laid aside without losing its place until we can examine the papers.

Mr. MATSON. I have no objection to that.

Mr. CUTCHEON. Mr. Chairman, I am not in the habit of occupying any time at these evening sessions, although I always attend them. I desire, however, to call the attention of my friend from West Virginia to a particular point in this case, because it is one that is constantly recurring. In order that the Pension Office shall grant a pension two things must concur: first, there must be shown a pensionable disability; and, secondly, the pensionable disability must have been incurred in the service and in line of duty. Now, in this particular case there is a question in the gentleman's mind as to the pensionable disability. But that is a thing with which we have nothing to do.

Under the law, in order that the Pension Office shall grant this pension, it must be made to appear by the proofs that a pensionable disability was incurred in the service and in the line of duty. That is a point which the Pension Office can not waive; but that point we can waive. There appears to be some doubt in this case in the minds of some gentlemen whether this disability, such as it is, was incurred in the line of duty—whether it was not the result of something that occurred the night before, when, as my friend from West Virginia says, there was a "frolic." That the man was in the service and in the line of duty at the time the disability was incurred there can be no doubt. Whether his receiving the injury at that time was or was not the result of something preceding which occurred when he was not in the line of duty is a question upon which there may be some doubt.

Now, in passing these special acts, we simply say that the question as to the person being at the time of the injury in the line of duty is a question that we, the Congress of the United States, which made the general law, will waive; that notwithstanding the doubt in this regard we will allow the Secretary of the Interior to place the applicant upon the pension-roll. But the question as to the pensionability of the disability, and the extent of the disability, whether total or partial, or

none at all—that is a matter for the Pension Office to consider. By our action here we simply waive on our part the question whether the soldier was in the line of duty, leaving the extent of the disability and the amount of the pension to be determined at the Pension Office under our general laws.

Mr. LAIRD. Mr. Speaker, it has been properly said by the gentleman from Michigan [Mr. CUTCHEON] that two things must concur in order that the Pension Office may award a pension. The gentleman seems to admit that this case, as stated to us, leaves it a matter of doubt whether the circumstances would justify the rejection of this case by the Pension Department or by Congress. I desire to call attention to the testimony cited in this report—the verdict of the jury that had before them for examination the testimony appearing upon the files—so that we may determine the judgment to be entered in this case by Congress simply as a question of testimony.

Now, here is the evidence of the claimant himself, which I submit to gentlemen, if it is to be rejected must be met by some proof tending to impeach the veracity of the claimant. There is none stated by the gentlemen on their own knowledge; there is none stated from the record—in no instance; while here is the testimony of the two officers of his company, the one swearing directly to the fact to be proven, namely, the receiving of the injury at the time and place where the soldier was in the discharge of his duty. That is the testimony of the first lieutenant; and then we have the captain swearing to the fact of the injury and to the effect produced.

These men swear from knowledge of the circumstances surrounding the transaction gained at the time, but not by sight. Then there is the testimony of a comrade, who swears from actual knowledge acquired at the time. Here are the requirements of the law satisfied. The pension law says they shall have the testimony of one commissioned officer or of two comrades. Here is the testimony of the claimant himself, which we may set aside on the common-law theory he has interest in the recovery, under what is not now recognized by law, but under the savagery of the common law it is set aside and passes for nothing. But what is to be said of the testimony of the two commissioned officers, one from actual knowledge, added to that of the comrade of the man who swears from actual knowledge? Is Congress at liberty to set that aside? It does not pass for anything that the department should not consider it of sufficient consequence to grant a pension on it. Let the department judge for itself. We judge for ourselves.

This matter has been submitted to a committee in the nature of submission to a jury, and that committee has returned a verdict awarding the man a pension. The gentleman from West Virginia comes and asks it be set aside. I do not know his particular object in asking it be set aside, but we are here this evening for this kind of legislation, and for myself I see no good reason why we should tolerate objection which finds no vindication in the testimony presented on the part of the gentleman making it, or why we should refuse to pass this bill.

If these gentlemen who object will submit any testimony; if they will rise in their places and say they have knowledge of circumstances which make against the case reported by the committee, so far as I am concerned I am willing to take it into consideration. But why should these gentlemen interpose objection and arrest all legislation without any testimony to justify them in delaying action until the people who wait on what we do here shall have passed away? Why should Congress make unnecessary delay when, while these gentlemen are making their speeches against these cases, the claimants by death may be placed beyond all reach of relief? So long as a case comes here upon the unanimous report of the Committee on Invalid Pensions, backed by the testimony meeting the technical requirements of the law, I see no reason why this sort of legislation should be resisted.

These gentlemen talk about this man sleeping on his rights. I do not believe it is a matter of disgrace that a man who may have been injured while in the discharge of his duty should have seen fit not to move instantly for what the law would allow him to recover. While I do not believe that to be a matter of disgrace, no more do I believe it to be the occasion for refusing him the justice which the facts demand. There are many of us who received injuries twenty years ago, and we are sleeping on our rights to-day. So long as an honorable man can win some sort of support for himself he will not ask the Government to put itself in place of his ability to labor. It is to the credit and honor of any applicant that he has abstained from putting himself in what may be in the estimation of some a dishonorable position, but nevertheless the contract remains that the Government agreed to when it received the service of these people, and that is to put itself in place of their ability to earn a living for themselves if that ability should become impaired.

So far as I am concerned I see no occasion why this bill should be laid aside or passed over. This evening has been set apart by an order of the House for the consideration of these pension cases, and it seems to me we should proceed to consider them. We might as well fight it out at one time as another, and if there are not enough members here to-night to meet the technical requirement of a quorum, we should insist hereafter a quorum should be present so that prompt action can be had on these cases. They are of as much dignity and appeal to our sense of justice as strongly as any that can come before Congress.

Mr. CUTCHEON. Did the gentleman understand me as objecting?

Mr. LAIRD. No, sir.

Mr. GEORGE D. WISE. I was satisfied with the statement of the honorable gentleman from Michigan and perfectly content to leave it that way. The question is in doubt. But I beg leave to say something in reply to the honorable gentleman from Nebraska who has just taken his seat.

The report in this case, Mr. Chairman, it seems to me, has not disclosed a case for granting a pension. Why, the evidence shows that the claimant on the night before he was wounded had a quarrel with a man who subsequently shot him.

Mr. BROWN, of Pennsylvania. Will the gentleman permit me to interrupt him a moment?

Mr. GEORGE D. WISE. Certainly.

Mr. BROWN, of Pennsylvania. I do not think the gentleman desires to misrepresent the case; I am satisfied he does not; but, as I understand the reading of the report, there is no evidence of an altercation the night before. On the contrary, as I understand it, he was in attendance upon an entertainment of some kind, which, as I remember, is supported by the testimony set forth in the report.

Mr. GEORGE D. WISE. I am positive the report states that he had an altercation the night before.

Mr. GIBSON. I hold the report in my hand, and will read that portion of it:

> It appears from the evidence in this case that the soldier had an altercation with a citizen at a place of amusement in Hopkinsville, Ky., on or about the 20th day of June, 1863.

Mr. BROWN, of Pennsylvania. I was mistaken in my recollection.

Mr. GEORGE D. WISE. It appears then from the report that the claimant had on the night before an altercation with a man who shot him, in consequence of what occurred at the time of the altercation.

Mr. LAIRD. Will the gentleman allow me a question?

Mr. GEORGE D. WISE. Certainly.

Mr. LAIRD. Do you contend that the fact that he had an altercation the night before gave the citizen the right to shoot him the day afterward?

Mr. GEORGE D. WISE. I do not know, because the report does not disclose, what the altercation was. It does not state what it was or what the cause of the difficulty was, but I tell the gentleman from Nebraska I do hold that the evidence the claimant introduced here, which is this, and I want to call the gentleman's attention to it so that he will read it carefully, is only the report of his captain to the effect not that he knows of the fact that the man with whom he had the altercation the night before shot him, but that it is his belief—a belief founded on no fact—that he shot him because he was a Union soldier.

That is the testimony, and this House is asked to grant a pension upon a plea founded upon no fact, but simply an opinion, and that, too, when the positive evidence discloses the fact that the man who shot him had an altercation with him. And yet your committee has not stated to this House what that altercation was. Why, it might have been something which would justify a man to take life or anything else. I do not know what it was. I do not assert that it was, but what I do say is that you have not given us to understand what the altercation was, and the only way in which you attempt to make it an injury received in the service of the Government is by asking us to act upon the belief of his captain that the shot was given because the man who shot him disliked him on the ground that he was in the service of the Government. Now, I say that is going rather too far, and I shall object to this case.

Mr. PRICE. Mr. Chairman, in the language of the gentleman from Michigan, I have been here every evening, but have not taken up much time in discussions on this floor. There are, however, two or three statements which have been made during this discussion that I think should not be permitted to go unchallenged. The first is by the gentleman from West Virginia [Mr. GIBSON], who says that there is something of the merits of this claim lost by reason of the delay in making the application. The gentleman may be mistaken in that respect. My own experience leads me to the belief, and I think I will be sustained by every gentleman here who has any charge of pension cases, that the bravest men, the most gallant soldiers, men who possessed the pride that enabled them to walk undauntedly up to the cannon's mouth, have been sustained by that same pride all these long years, with health shattered, constitutions broken, in poverty and want, with the hope that they might be eventually able to weather the gale without the assistance of the Government. And the bravest men, in most instances, men with the best records in pension cases, hospital records, are usually the men who appeared first to avail themselves of the privilege accorded to them under our pension laws. So that instead of delay operating against the claimant, to my mind it is one of the strongest reasons in the world why we should carefully, dispassionately, and calmly consider his claim.

The gentleman from Virginia [Mr. GEORGE D. WISE] makes a statement to the effect that this House is asked to grant a pension in this case. The gentleman is mistaken in that. We are asked to grant no pension, but simply to bring this case within the rule under which the Pension Office can carefully scan the case and ascertain whether under

the pension laws there is a legitimate claim for disability or not. We grant you that the case is not made up in this report. But you are asked to make it possible for the proper officers of the Government to investigate the facts and place the man upon the pension-roll, if in the course of the investigation it is ascertained that he presents a favorable case and becomes pensionable.

I may state also that I desire to answer another assertion made by the gentleman from Virginia on the last Friday evening that I had the honor to sit here with him on the floor of this House in the consideration of pension cases, when he stated that no man came up here to these evening sessions unless he was interested in some of these pension claims. The gentleman is mistaken in that also, as to the motives that lead some of us to attend these night sessions. I know with reference to myself, and I think with reference to all who attend them, men come here influenced purely and simply by a desire to see justice in the slightest degree done to a set of men to whom this country can not be sufficiently grateful.

Mr. GEORGE D. WISE. If the gentleman will read the remarks which I submitted he will find that I did not say what he seems to think I said.

Mr. PRICE. I was listening and took down the words, and thought I heard the gentleman correctly. I am delighted to find I am mistaken. I do not want that statement to be made. But in regard to the objection of the gentleman from Virginia, that time is the essence of the contract, and the other objection of the gentleman from West Virginia [Mr. GIBSON], I am not astonished at their objection to the bill with their understanding of the facts, but as they are mistaken, both of them, about the facts, I hope they will withdraw their objection and let this bill take the course of the others, and allow that justice be done which we have been so tardy in giving.

Mr. LAIRD. The gentleman from Virginia and the gentleman from West Virginia must have heard this report read. If they had listened carefully to the reading they would have heard this, which is all the answer that is necessary to be made to the statement that the case comes to this House dishonored by the failure of the very officer of the claimant's company to make a statement in his behalf. I read from the report:

John P. Kullehn, of Wheatland, Knox County, Indiana, testifies (November 9, 1882) to the fact that he was a member of claimant's company and regiment, and to the shooting of the soldier by Savage at the time and in manner above detailed; did not see the shooting, but heard of it immediately after its occurrence.

C. P. Hollingsworth, of Bruceville, Knox County, Indiana, testifies (November 9, 1882) that he was the first lieutenant of claimant's company, and to the fact of the wounding of the soldier by Savage at Hopkinsville, as indicated by other witnesses; that the shooting was without provocation on the part of claimant; that he believes that said shot was given solely because Leveron was a Federal soldier.

Mr. GIBSON. The chairman of the Committee on Invalid Pensions and myself had agreed, as I thought, that this bill should be passed over, and if these gentlemen who claim that they are so anxious to pension soldiers had just let me alone they could have passed a half-dozen bills in the time they have been assailing me. But I am entitled to put myself right. My friend from Wisconsin [Mr. PRICE] very pleasantly undertook to give his version of what I said. The gentleman is mistaken when he says I stated because this party had not filed his claim for a pension that is evidence that he was not entitled to it.

Mr. PRICE. What the gentleman said was that the fact that this soldier had slept on his right a great length of time militated against him.

Mr. GIBSON. I made this statement, that the fact the claimant had shown no disability, that he was not discharged for disability, and that he made no positive claim on that ground, the fact that he had slept that length of time on his claim militated against its validity. But I have no desire to discuss the case further than simply to vindicate myself. Let this case be passed over informally, and let us go on with the other business on the Calendar.

Mr. O'HARA. It is evident we can not pass this bill to-night. I ask unanimous consent that it be passed over informally without losing its place on the Calendar.

Mr. MATSON. I have acceded to the request of the gentleman from West Virginia, who states that he desires to examine the evidence. I think that is fair, and that in the mean time the bill should be passed over informally.

There being no objection, the bill was passed over informally.

CUTLER S. DOBBINS.

The next business on the Private Calender was the bill (H. R. 4024) granting a pension to Cutler S. Dobbins.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Cutler S. Dobbins, late captain of Company B, Eightieth Regiment Indiana Volunteer Infantry, and to pay him a pension from the date of his discharge.

The amendment reported by the committee was to strike out these words:

And to pay him a pension from the date of his discharge.

The report (by Mr. MATSON) is as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 4024) granting a pension to Cutler S. Dobbins, respectfully report:

That claimant was mustered into the military service of the United States as captain of Company B, Eightieth Regiment Indiana Volunteers, September 3, 1862, and resigned on surgeon's certificate of disability January 16, 1863.

September 1, 1877, he filed a declaration for pension, alleging that while on the march from Louisville to Crab Orchard, and from thence to Columbia, Ky., October 7, 1862, he contracted a violent form of hemorrhoids; also deafness, contracted at the battle of Perryville, Ky. The claim for first named disability was rejected June 29, 1878, on the ground of existence of disability prior to enlistment, and the last named January 15, 1883, on the ground of no record of deafness, and inability to furnish satisfactory evidence of its origin.

Dr. Dewitt C. Brown, of Shoals, Ind., whose record as a soldier is verified by the records of the Adjutant-General, and who is shown to be a reputable physician, testifies January 27, 1878—

"That he was hospital steward of the Eightieth Regiment Indiana Volunteers; has been well acquainted with claimant since 1858; was his family physician in 1859; claimant was a sound man when he enlisted; affiant enlisted in his company and was shortly afterward made hospital steward, and was with the regiment until October 1, 1862, at Louisville; claimant was sound up to that time; did not see him again until October 18, 1862, after the battle of Perryville. On the 20th of November, while the regiment was on the march, claimant had a severe attack of hemorrhoids; I saw his condition near Rolling Fork River; that he continued so to suffer until he resigned; I saw him again after my return in 1865; the disease had then become violent; prescribed for him professionally; large tumors formed and at times bled profusely; he continued to suffer from that time to the present."

Hon. James E. Walker, Loogootee, late a member of the Indiana Legislature, and a lieutenant of Company B, Eightieth Regiment Indiana Volunteers, corroborates the evidence of Dr. Brown, with the exception of treatment since discharge.

Dr. John C. Bever, of Vincennes, Ind., testifies March 23, 1878, that he attended claimant's family from 1859 to 1866; he has examined his books, and does not find any prescriptions for hemorrhoids; thinks it was brought on by claimant's military service.

It is shown that Dr. William Delamater, who treated claimant after his return from the Army, is now dead.

Dr. William Z. Smith, United States examining surgeon at Shoals, Ind., in an examination of claimant November 24, 1877, reports:

"I find applicant has hemorrhoids. Bowels protruding as large as an ordinary fist; ulcerated and bleeding. On introduction of finger into bowels I find an uneven surface and four distinct enlargements; on least amount of handling bleeds freely. Has all the appearance of a very bad case of piles. Disability one-half."

The incurrence of deafness is shown to have first become manifest after the battle of Perryville, in which claimant participated. This fact is shown by the evidence of Dewitt C. Brown, M. D., hospital steward of the regiment; Thomas Watson, private in claimant's company; also Alexander Shavum, of said company and regiment. The presence of these soldiers at the time and place is verified by the records of the Adjutant-General; and all are now residents of Martin County, Indiana. Lewis Brooks, of West Shoals, Ind., colonel of claimant's regiment, says soldier has become almost deaf since the war.

R. C. Stephens, clerk of the circuit court of Martin County from 1859 to 1867, testifies February 11, 1882:

"That after claimant came out of the Army in 1863, and while practicing in said court, his hearing commenced to fail, and he has gradually grown worse."

Frank Baker, of Shoals, Ind., clerk of the Martin circuit court from 1867 to 1875, testifies February 13, 1882:

"That shortly after claimant's return from the Army the hearing in his left ear commenced to fail, and has gradually grown worse."

Hon. W. R. Gardner, a prominent lawyer of Washington, Daviess County, Indiana, testifies June 30, 1882:

"Has practiced law the past nineteen years in same district and counties as claimant; since he came out of service he has been deaf to such an extent as to seriously interfere with his practice."

That claimant was free from deafness and piles prior to and at the time of his enlistment is shown by the testimony of Hon. James E. Walker, who was a lieutenant in claimant's company; Lewis Brooks, colonel of the regiment; Dr. Dewitt C. Brown, James B. Freeman, William G. Greene, Michael Shirey, Thomas Hart, Samuel Albaugh, Wilson Chenoweth, Hon. James Braden, late candidate for Congress in the second Indiana district, and other neighbors and intimate associates of claimant, all of whom are shown to be reputable citizens. These witnesses also testify to the continuance of the disabilities of the claimant to the present time.

The testimony in the case is voluminous and conflicting, but is overwhelmingly in favor of the soundness of the soldier at the time of his enlistment and conclusive as to the continuance of the same from his discharge to the present time. Your committee recommend that the bill be amended by striking out all after the word "infantry," in line 7, and when so amended that the bill pass.

The amendment reported by the committee was agreed to.

The bill as amended was laid aside to be reported to the House with the recommendation that it do pass.

Mr. MATSON. I move that the committee rise.

The question being taken on the motion of Mr. MATSON, there were—ayes 15, noes 5.

So the motion was agreed to.

The committee accordingly rose; and Mr. BAGLEY having resumed the Chair as Speaker *pro tempore*, Mr. HATCH, of Missouri, reported that the Committee of the Whole House on the Private Calendar had had under consideration, pursuant to order, sundry bills on the Private Calendar reported by the Committee on Pensions and the Committee on Invalid Pensions, and had directed him to report the same back to the House with sundry recommendations.

BILLS PASSED.

The following bills reported from the Committee of the Whole House without amendment were severally ordered to be engrossed and read a third time; and being engrossed, they were accordingly read the third time, and passed:

A bill (H. R. 374) granting a pension to William Boone;
A bill (H. R. 6703) to increase the pension of Mrs. D. P. Woodbury;
A bill (H. R. 5630) granting a pension to George W. Rugg;
A bill (H. R. 1653) granting a pension to John R. Hurlburt;
A bill (H. R. 5378) granting a pension to Henry Milkey;
A bill (H. R. 7302) granting a pension to Elizabeth Smith;

A bill (H. R. 1219) granting a pension to Charles Hendrix;
A bill (H. R. 6357) granting a pension to Christian Bauman;
A bill (H. R. 4569) granting a pension to David Urbansky;
A bill (H. R. 6197) granting a pension to Peter Falkner;
A bill (H. R. 6663) restoring to the pension-roll the name of Caroline Lewis; and
A bill (H. R. 4556) granting a pension to Joseph Williams.

JOSEPH RAIBLE.

A bill (H. R. 3947) granting a pension to Joseph Raible was reported by the Committee of the Whole House with the following amendment:

Add at the end of the bill the following: "In lieu of all other pensions paid him."

Mr. GEORGE D. WISE. I shall have to object to the passage of that bill. Action was taken upon it by the committee while I was in the cloak-room.

The CHAIRMAN. The Chair will put the question.

Mr. GEORGE D. WISE. I suggest that action be first taken on the other bills to which there is no objection.

Mr. ENGLISH. This applicant is one of my constituents, being a resident of Indianapolis. I hope the objection interposed by the gentleman from Virginia against the bill will not prevail.

In reply to the remarks made by the gentleman from Virginia [Mr. GEORGE D. WISE] at the session of last Friday night, I wish to say that my colleague from Indiana, the chairman of the Committee on Invalid Pensions [Mr. MATSON], has no personal acquaintance with this applicant, has never seen him, has no special interest in him; and the applicant is not a resident of his district. Nor have I any personal interest in this applicant. This bill was introduced in this House by my predecessor; and I have no interest in it beyond my desire that a just claim should prevail. The applicant is not a political follower of mine, but is an ardent supporter of the political party that I oppose, and was zealous in his opposition to my election to Congress.

Mr. Speaker, I shall not split hairs as to the exact date at which this soldier gave up his right arm in the service of his country. I do not care whether it was a few days before or a few days after he was formally mustered out of the United States service. It is sufficient that he was at the time (whether technically or not) practically still in the service of the United States and in the line of duty; and while acting in obedience to the commands of his superior officers he suffered this disability. I shall not search for far-fetched technicalities with which to oppose the pensioning of this gallant soldier, but, on the contrary, would urge every just argument in his behalf. I know him. I know his helpless condition. I know his needs. I know that he is deserving of his country's helping hand. I hope that the objections of the gentleman from Virginia will not prevail.

The question being taken on the amendment reported from the Committee of the Whole House on the Private Calendar, it was agreed to.

The bill as amended was ordered to be engrossed for a third reading, was accordingly read the third time, and passed.

BILLS PASSED.

Amendments reported from the Committee of the Whole House to bills of the following titles were severally agreed to, and the bills as amended were respectively ordered to be engrossed and read a third time; and being engrossed, were accordingly read the third time, and passed:

A bill (H. R. 2485) for the relief of Treadwell Seaman, jr.;
A bill (H. R. 6803) granting a pension to John T. Brake;
A bill (H. R. 5812) granting a pension to Ellen A. Vance;
A bill (H. R. 5103) granting a pension to J. F. Justice; and
A bill (H. R. 4024) granting a pension to Cutler S. Dobbins.

SARAH C. THOMAS.

A bill (H. R. 1841) granting a pension to Sarah C. Thomas, reported from the Committee of the Whole House with a recommendation that it lie on the table, was accordingly laid on the table.

Mr. MATSON moved to reconsider the various votes by which bills reported from the Committee of the Whole House were passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

And then, on motion of Mr. MATSON (at 10 o'clock and 15 minutes p. m.), the House adjourned.

PETITIONS, ETC.

The following petitions and papers were laid on the Clerk's desk, under the rule, and referred as follows:

By Mr. DINGLEY: Petition of Gustavus Pease, for a pension—to the Committee on Invalid Pensions.

By Mr. HOPKINS: Petition of 100 citizens of Massachusetts, in favor of the passage of the resolution offered by Mr. HOPKINS relative to the transportation of cattle—to the Committee on Commerce.

By Mr. JAMES: Petition of Isabella J. Ramsdell, for increase of pension—to the Committee on Pensions.

By Mr. B. W. JONES: Petition of D. Schreiner and others, of Grant County, Wisconsin, for the passage of H. R. 7168 and Senate bill 2315—to the Committee on Invalid Pensions.

By Mr. KEIFER: Petition of Rev. W. H. Scott, president of the Ohio State University, and 12 others, professors in said university, asking for the passage of the bill to establish agricultural experiment stations—to the Committee on Agriculture.

By Mr. MITCHELL: Petition of citizens of West Haven, Conn., for the improvement of West River—to the Committee on Rivers and Harbors.

By Mr. OCHILTREE: Petition of the heirs of Henry Harrison, for reference of claim to Court of Claims for correction of mistake of fact in decision of the Southern Claims Commission—to the Committee on War Claims.

By Mr. RANNEY: Petition of Charles H. Swan and others, relative to the metric system of weights and measures—to the Committee on Coinage, Weights, and Measures.

By Mr. OSSIAN RAY: Petition of Ezra B. Corning and 40 others, praying that by special act a pension be granted to George H. Glidden—to the Committee on Invalid Pensions.

By Mr. W. F. ROGERS: Petition of Sally C. Mulligan, to restore pension-money due her—to the same committee.

By Mr. J. M. TAYLOR: Papers relating to the claim of John B. Inman—to the Committee on War Claims.

By Mr. THOMPSON: Petition of Beaufort N. Sampson, for a pension—to the Committee on Invalid Pensions.

By Mr. VAN ALSTYNE: Petition of John B. Doyle and William Stanton, for relief—to the Committee on Claims.

By Mr. RICHARD WARNER: Petition relating to the claim of Samuel D. Travis, deceased—to the Committee on War Claims.

By Mr. W. L. WILSON: Petition relating to the claim of William Lloyd—to the same committee.

By Mr. YOUNG: Petitions relating to the claims of the heirs of Margaret Rawlings, deceased; of Mary A. Blackwell, and of Erastus T. Allen—severally to the same committee.

The following petitions for the passage of the Mexican war pension bill with Senate amendments were presented and severally referred to the Committee on Pensions:

By Mr. BOYLE: Of citizens of Waynesburg and of Westmoreland County, Pennsylvania.

By Mr. J. H. BREWER: Of soldiers of the Mexican war, of Manchester, N. J.

By Mr. CONVERSE: Of John W. Free and 71 others, citizens of Perry County, Ohio.

By Mr. ELDREDGE: Of Chester Clark and 42 others, of Monroe County, Michigan.

By Mr. FUNSTON: Of citizens of Fort Scott, Kans.

By Mr. HALSELL: Of citizens of Logan and of Edmonson Counties, Kentucky.

By Mr. LAWRENCE: Of citizens of Beaver County, Pennsylvania.

By Mr. S. H. MILLER: Of citizens of Spartansburg, of Mercer County, of Milesburg, and of Butler, Pa.

By Mr. G. W. RAY: Of 62 citizens of Morris, Otsego County, and of 54 citizens of Pitcher, Chenango County, New York.

By Mr. OSSIAN RAY: Of John S. Collins and 72 others, of Gilson, Alstead & Marlow, New Hampshire.

By Mr. STEPHENSON: Of citizens of Waupaco, and of Marathon County, Wisconsin.

By Mr. TOWNSHEND: Of 29 citizens of Marion County, Illinois.

By Mr. WALLACE: Of W. M. Young and 62 others, citizens of Mahoning County; of John Wilkins and 67 others, citizens of Carroll and Del Roy Counties; of William Halaerstadt and 11 others, of Columbiana County, and of John O. McGowan and 59 others, of Youngstown, Ohio.

By Mr. WORTHINGTON: Of William Winship and 60 others, of Cuba; of John K. Hindson and 40 others, of Fulton County; and of John F. Linn and 60 others, of Knox County, Illinois.

SENATE.

SATURDAY, *December* 20, 1884.

Prayer by Rev. BYRON SUNDERLAND, D. D., of the city of Washington.

JAMES G. FAIR, a Senator from the State of Nevada, appeared in his seat to-day.

The Journal of yesterday's proceedings was read and approved.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Attorney-General, transmitting a letter of Mr. Robert Furman, of Schenectady, N. Y., on the subject of the establishment of a United States penitentiary as recommended in the annual report of the Attorney-General; which was ordered to be printed, and, with the accompanying paper, referred to the Committee on the Judiciary.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented a preamble and resolutions

adopted by the Pennsylvania Academy of Fine Arts, favoring the purchase by the Government of the engravings and etchings of that association, to be placed in the National Museum in Washington; which were referred to the Committee on the Library.

He also presented the petition of John L. Cleveland, of Bridgewater Corners, Vt., late of Company B, Third Vermont Volunteers, praying that he may be allowed a pension; which was referred to the Committee on Pensions.

Mr. HOAR. I present a petition signed by the presidents of several marine insurance companies of Boston, praying the aid of Congress toward the proposed cable communication between Nantucket, Martha's Vineyard, and the mainland. An appropriation was made last year for that purpose, but it was not enough to even begin the work without a great waste; so it was concluded not to spend it, but to ask for a similar appropriation this year. I move that the petition be referred to the Committee on Appropriations.

The motion was agreed to.

Mr. CAMERON, of Wisconsin, presented a memorial of the Cigar-makers' Association of Green Bay, Wis., remonstrating against the ratification of the reciprocity treaty between the Spanish West India Islands and the United States; which was referred to the Committee on Foreign Relations.

Mr. MILLER, of New York, presented a petition of several hundred citizens of the city of Brooklyn, N. Y., praying for the repeal of all acts fixing the term of administrative offices at four years; which was referred to the Committee on Civil Service and Retrenchment.

He also presented a memorial of 103 firms of importers and jobbers of tobacco of the city of New York, remonstrating against the ratification of the proposed reciprocity treaty with Spain; which was referred to the Committee on Foreign Relations.

Mr. MANDERSON presented the petition of Lee, Fried & Co., Rector, Wilhelmy & Co., and others, hardware dealers of Omaha, Nebr., and the Northwest, praying for increased water-way facilities from the West to the East, and for the building of the Hennepin Canal; which was referred to the Committee on Transportation Routes to the Seaboard.

He also presented a memorial of cigar-makers of Omaha, Nebr., and a memorial of cigar-makers of Lincoln, Nebr., remonstrating against the ratification of the proposed reciprocity treaty with Spain; which were referred to the Committee on Foreign Relations.

BILLS INTRODUCED.

Mr. HARRIS (by request) introduced a bill (S. 2481) for the relief of Jonathan Cone and William K. Kelly; which was read twice by its title, and referred to the Committee on Patents.

Mr. DOLPH introduced a bill (S. 2482) to amend sections 1 and 2 of an act of Congress entitled "An act for the sale of timber lands in the States of California, Oregon, Nevada, and in Washington Territory," approved June 3, 1878; which was read twice by its title, and referred to the Committee on Public Lands.

He also introduced a bill (S. 2483) to amend section 2347 of the Revised Statutes, relating to the entry of coal lands; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. ALDRICH introduced a bill (S. 2484) granting a pension to the widow of the late Commander S. Dana Greene, United States Navy; which was read twice by its title, and referred to the Committee on Pensions.

PROVIDENCE HARBOR IMPROVEMENT.

Mr. ALDRICH submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of War is hereby directed to transmit to the Senate an estimate of the cost of the proposed improvement of the harbor of Providence, R. I., by the removal of Green Jacket Shoals to the depth of twenty-five feet at mean low water.

APOLLOS HALE.

Mr. HOAR. I ask the unanimous consent of the Senate that the bill (S. 1254) referring the claim of Apollos Hale, administrator, to the Court of Claims, be recommitted to the Committee on Claims. I do this by consent of the chairman of the committee and the Senator who made the report.

The PRESIDENT *pro tempore*. The Senator from Massachusetts asks unanimous consent that the bill indicated by him be taken from the Calendar, and recommitted to the Committee on Claims. If there be no objection that order will be entered.

LEAVE OF ABSENCE.

Mr. INGALLS. Under Rule V, I ask leave to absent myself from the service of the Senate for two weeks after this day.

The PRESIDENT *pro tempore*. The Senator from Kansas asks leave of absence for two weeks after this day. If there be no objection, leave of absence will be granted. The Chair hears none, and it is so ordered.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. CLARK, its Clerk, announced that the House had passed the following bills; in which it requested the concurrence of the Senate:

A bill (H. R. 374) granting a pension to William Boone;
A bill (H. R. 6703) to increase the pension of Mrs. D. P. Woodbury;
A bill (H. R. 5630) granting a pension to George W. Rugg;
A bill (H. R. 1653) granting a pension to John R. Hurlburt;
A bill (H. R. 5378) granting a pension to Henry Milkey;
A bill (H. R. 7302) granting a pension to Elizabeth Smith;
A bill (H. R. 1219) granting a pension to Charles Hendrix;
A bill (H. R. 6357) granting a pension to Christian Bauman;
A bill (H. R. 4569) granting a pension to David Urbansky;
A bill (H. R. 6197) granting a pension to Peter Falkner;
A bill (H. R. 6663) restoring to the pension-roll the name of Caroline Lewis;
A bill (H. R. 4556) granting a pension to Joseph Williams;
A bill (H. R. 2485) for the relief of Treadwell Seaman, jr.;
A bill (H. R. 6803) granting a pension to John T. Brake;
A bill (H. R. 5812) granting a pension to Ellen A. Vance;
A bill (H. R. 5103) granting a pension to Joshua F. Justice;
A bill (H. R. 4024) granting a pension to Cutler S. Dobbins; and
A bill (H. R. 3947) granting a pension to Joseph Raible.

The message also announced that the House had agreed to the amendments of the Senate to the bill (H. R. 2728) detaching Grundy County, Tennessee, from the southern district of East Tennessee, and attaching it to the middle district of said State, and for other purposes.

SURVEY OF NICARAGUAN CANAL ROUTE.

The PRESIDENT *pro tempore*. The Chair now lays before the Senate the Calendar under Rule VIII.

Mr. VEST. I move that the Senate proceed to the consideration of the joint resolution (S. R. 106) declaring the action of the Secretary of the Navy in sending an expedition to Nicaragua to be illegal.

The PRESIDENT *pro tempore*. The question is on agreeing to the motion of the Senator from Missouri.

Mr. MORGAN. I move——

The PRESIDENT *pro tempore*. The motion is not debatable.

Mr. MORGAN. Is the joint resolution before the Senate?

The PRESIDENT *pro tempore*. It is not. The question is on the motion to take it up, which motion is not open to debate. Senators in favor of the motion of the Senator from Missouri that the Senate now proceed to the consideration of the joint resolution, the title of which has been named, will say "ay;" contrary opinion "no." [Putting the question.] The "ayes" have it. The joint resolution is before the Senate, and the question is, Shall it be read the second time?

Mr. MORGAN. I move that the Senate consider the joint resolution in secret legislative session.

Mr. VEST. I can not hear the motion.

The PRESIDENT *pro tempore*. The Senator from Alabama moves that on the question now pending the doors be closed. Is there a second?

Mr. CAMERON, of Wisconsin. I second the motion.

The PRESIDENT *pro tempore*. The motion is seconded by the Senator from Wisconsin. The Sergeant-at-Arms will clear the galleries and close the doors.

The Senate with closed doors proceeded to consider the joint resolution.

After three hours and twenty-five minutes the doors were reopened.

MESSAGE FROM THE HOUSE.

While the doors were closed, a message was received from the House of Representatives, by Mr. CLARK, its Clerk, announcing that the House had passed the bill (S. 2393) to change the name of the Slater National Bank of North Providence, R. I.

The message also announced that the House further insisted upon its disagreement to the amendments of the Senate to the bill (H. R. 7510) making temporary provision for the naval service; asked a further conference with the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. SAMUEL J. RANDALL of Pennsylvania, Mr. WILLIAM S. HOLMAN of Indiana, and Mr. JOHN D. LONG of Massachusetts managers at the conference on its part.

NAVAL APPROPRIATIONS.

The PRESIDING OFFICER (Mr. PENDLETON in the chair) laid before the Senate the message of the House of Representatives, announcing its further disagreement to the amendments of the Senate to the bill (H. R. 7510) making temporary provision for the naval service.

On motion of Mr. HALE, it was

Resolved, That the Senate still further insist upon its amendments to the said bill and agree to the further conference asked by the House on the disagreeing votes of the two Houses thereon.

By unanimous consent, it was

Ordered, That the conferees on the part of the Senate be appointed by the Presiding Officer.

The PRESIDING OFFICER appointed Mr. HALE, Mr. LOGAN, and Mr. BECK.

PRESIDENTIAL APPROVAL.

The doors having been reopened, a message from the President of the United States, by Mr. O. L. PRUDEN, one of his secretaries, announced that the President had this day approved and signed the act (S. 2041) granting the right of way to the city of Newport, R. I., over the breakwater at Goat Island.

ENROLLED BILL SIGNED.

A message from the House of Representatives, by Mr. CLARK, its Clerk, announced that the Speaker of the House had signed the enrolled bill (H. R. 2728) detaching Grundy County, Tennessee, from the southern district of East Tennessee, and attaching it to the middle district of said State; and it was thereupon signed by the President *pro tempore*.

HOLIDAY RECESS.

Mr. HOAR. I move that the Senate proceed to the consideration of the resolution from the House of Representatives for the holiday recess.

The PRESIDENT *pro tempore*. The Senator from Massachusetts moves that the Senate now proceed to the consideration of a resolution, which will be read.

The Secretary read as follows:

IN HOUSE OF REPRESENTATIVES, *December* 16, 1884.

Resolved by the House of Representatives (the Senate concurring), That when the two Houses adjourn on Saturday, December 20, 1884, they stand adjourned until Monday, the 5th day of January, 1885.

The motion was agreed to; and the Senate proceeded to consider the resolution.

Mr. HOAR. Mr. President——

Mr. INGALLS. What is the report of the committee?

The PRESIDENT *pro tempore*. The Chair will state the question. The resolution is reported favorably. The question is on agreeing to it. The Senator from Massachusetts is entitled to the floor.

Mr. HOAR. I do not mean by calling up this resolution to commit myself to the doctrine of having a vacation if there be any business whatever that can be done, but I think we should understand from the chairman of the Committee on Appropriations whether the condition of things is such that the Senate can sit here and proceed with its work. If it be true that there is to be no co-ordinate branch of the legislative department in all probability in a condition to aid us in our work, without going into any particular condition of things on that matter—I suppose I may say that under the rules—it would be useless for the Senate to sit here and spend ten days without a quorum in this branch, accomplishing nothing. I expect myself to be very strongly influenced by the opinion of the chairman of the Committee on Appropriations as to what is likely to happen. It seems to me we ought to keep the thing in our power in some way if we can.

Mr. ALLISON. The situation, as I understand it, is simply this: Last year the House passed the regular naval appropriation bill for the present fiscal year, and the Senate passed that bill with certain amendments. The differences between the two Houses continued up to the very last day of the session. Then it was found impossible to agree, and for temporary purposes the House passed a bill providing for the support and maintenance of the Navy for six months covering the period up to the 1st of January, with the original bill as passed by the House and the Senate amendments pending between the two Houses.

When we came here again at this session the bill appeared in the Senate, and the Senator from Maine [Mr. HALE] having charge of the bill asked a vote of the Senate in reference to the amendments, and the Senate insisted upon its amendments to the bill and asked a conference with the House. The House made no response to that request, but either a day or two before or after, or perhaps on the same day, passed another bill extending the appropriations of 1883 to the 1st day of July, 1885. The bill came to the Senate, and the Senate submitted certain amendments to that bill, and returned it to the House with those amendments. The House disagreed, and a conference between the two Houses resulted.

As I understand the situation, not being a member of either of these committees of conference, the House conferees absolutely refuse to consider the Senate amendments, and substantially say to the Senate: "You must take this extension bill or else submit to whatever may follow." A new conference was ordered to-day, but the conferees have not yet reported to the Senate. It is known to us all that on the 1st day of January all appropriations for the Navy will cease, and every Senator must judge for himself whether it is the duty of the Senate to adjourn until the 5th of January with a knowledge of the fact that there will be no appropriations for the Navy after the 1st of January. That is the situation.

Mr. HALE. Mr. President, after the action taken by the Senate yesterday in insisting upon its amendments to the naval appropriation bill by a unanimous vote the action of the Senate was duly communicated to the House, which insisted upon its position and appointed conferees and sent the bill back to the Senate, where it arrived about 2 o'clock to-day, and here conferees were appointed joining with the action of the House in that regard. I took occasion at once to send word to the House that the Senate conferees would be ready at any time, and proposing a conference at once. The House conferees have not appeared. I may say, however, that the member of the House who is chairman of the committee has been here and assures me that a conference is useless unless the Senate will recede from its position.

Mr. ALLISON. I ask the Senator what the exact position of the House conferees is. Do they not refuse to consider the Senate amendments?

Mr. HALE. I was coming to that.

Mr. ALLISON. I beg pardon.

Mr. HALE. I am advised that a conference is useless; that the House insist that the Senate shall take their principle of appropriating, the rule that they have followed of going back and taking the appropriations of the last year and giving half of them for the rest of the fiscal year; and that they will not consider the Senate amendments, and that is accompanied with the statement that the House will never back down.

Under these circumstances, representing, as I presume he did, his conferees, although they were not with him, we have had no conference, although the Senate conferees have been ready to meet the House at any or at all times since the conference was appointed here, about 2 o'clock.

Mr. MORGAN. Will the Senator from Maine allow me to ask him in that connection, does he understand the position of the House to be as represented by its conferees, that if the House chooses to vote, say, $300,000,000 a year for the support of the Government under a joint resolution, without designating the precise purposes to which it is to be applied, the Senate is to follow upon that principle of appropriations?

Mr. HALE. I do not know what would happen under that condition. The House committee is not willing to take the appropriations of last year's bill, and give them in detail, and make them apply to the next year. That is not the objection the Senate makes.

Mr. MORGAN. Then the principle would be, that we must adopt for the year 1885 the appropriations as they were made and distributed in the year 1883.

Mr. HALE. Precisely, that is it; that is the attitude of the House, that for the residue of the fiscal year ending June 30, 1885, the appropriations made for the year ending June 30, 1884, shall be taken as the basis, either in gross or in detail, it does not make any difference, and applied to the wants of the present year. The House refuses to consider the Senate amendments, which cover the action of the House itself at the last session of Congress as sent to the Senate and matured by the Senate; and upon that, so far as the Senate can be notified, it has been notified to-day that the House will never yield.

Mr. RANSOM. That is not the report of the conference committee?

Mr. HALE. As I have said, we have had no meeting of the conference committee; I am only repeating the statement of the leader of the conference on the part of the House.

Mr. RANSOM. Will the Senator from Maine pardon me one second?

Mr. HALE. Certainly.

Mr. RANSOM. This morning, if I apprehend the question properly, the House insisted upon its position, but sent a proposition to the Senate for another conference and has actually appointed the conference.

Mr. HALE. As the Senate has done also.

Mr. RANSOM. As the Senate has done also.

Mr. HALE. And the Senate has sent word that it is ready to confer.

Mr. RANSOM. Then, if the Senator from Maine will pardon me again, I apprehend that we should be controlled by that fact, and that the Senate can do nothing in reference to the matter in any way until there is an official report from the Senate conferees after meeting with the conferees on the part of the House. Anything that we do upon that matter would not be well advised until that conference had actually taken place, because whatever may be the impression of the Senator from Maine, or myself, or any other Senator, or any one member of the House, we are confronted by the fact that this morning the House invited the Senate to another conference upon this subject.

Mr. HALE. To which the Senate has agreed.

Mr. RANSOM. To which the Senate has agreed, and there the matter stands.

Mr. HALE. That undoubtedly would be the fact, and nothing more would come up commonly until the conference had reported; but the question of which I speak is brought out now by the fact that we are confronted with another matter, and that is the adjournment resolution running over the holidays. Yesterday the Senate unanimously took ground on its amendments to the naval appropriation bill. A call of the yeas and nays disclosed no negative vote. This took place when the subject was under consideration:

Mr. HALE. I move that the Senate further insist upon its amendments.

The PRESIDENT *pro tempore*. The Senator from Maine moves that the Senate further insist on its amendments to the bill. The question is on that motion.

Mr. FRYE. I am in favor of insisting for the reasons given by both of the conferees who have spoken; but suppose the Senate insists by a united vote and then to-morrow adjourns for three weeks.

Mr. HAWLEY. We will not adjourn.

Mr. FRYE. That was the suggestion I desired to make, that if the Senate insists and really means to insist and the House holds its position, as a matter of course, to be consistent, we can not adjourn, because on the 1st day of January there will be no appropriation available for the Navy.

Now, the Senate has taken that position; and it is not upon an unimportant matter, for these things are likely to occur frequently if now adopted or consented to by the Senate. At any time, instead of deliberately considering the special needs of any Department of the Government for the existing year and going through the painful labor necessary to mature a bill for the existing year under existing conditions, it is so much easier to go back to an old year and appropriate on that basis

in general terms as the House has done, that it is a precedent which ought not to be established where it can be avoided.

I for one should be glad to see the Senate maintain its attitude, as I believe it will, on the amendments to the bill. Whatever may have been the action of the House, whether that body has adjourned from day to day or has adjourned over for three days with the understanding that it will adjourn over again for three days and do no business, I should be glad to see the Senate show that it is in earnest in this matter and that it is ready to meet the House and make the ordinary adjournment to-day and appear here on Monday morning ready to do business.

There is another question that has occurred to me. I speak now hypothetically, for we do not know by the RECORD. If the House has already passed a resolution that when it adjourns to-night it will adjourn to meet on Wednesday next, what is the effect of that upon the resolution already passed for an adjournment over the Christmas holidays? Has the Senate got really anything before it to act upon? Has not the House taken counter action that invalidates what it has formerly done?

Mr. CAMERON, of Wisconsin, and Mr. RANSOM. No.

Mr. HALE. Then if that be so (I only suggested that question) the Senate on Monday can take up the House resolution and pass it. If it can do it now after the House has passed a resolution that it will adjourn to meet on Wednesday next, then on Monday, or Tuesday, or any day, the Senate can take up the House resolution if it has not been invalidated by any action of the House, and if the House has adjourned to meet on Wednesday, and then from that time three days more, the House is still then practically in session and the resolution which it has passed to adjourn over the Christmas holidays remains on our table alive, and we can take it up at any time.

Mr. HOAR. Will the Senator from Maine allow me to ask him what is the form of the resolution as he understands it? He has had it before his committee. Is it not that when the two branches adjourn on the 20th of December, they shall be adjourned by their presiding officers until the 5th of January?

Mr. HALE. It is the common resolution. The Secretary has it, I suppose.

Mr. HOAR. If that be so, and it is not passed before we adjourn to-day, we might take a recess; they leave it in our power unquestionably; but if we adjourn to-day what power have we to order that when the Senate adjourns on Monday or Tuesday or Wednesday it shall adjourn until the 5th of January? We can not do that without the assent of the House, and the House can not give that assent because it will have no quorum until the 5th of January.

Mr. HALE. How does the resolution read, Mr. Secretary?

The PRESIDENT *pro tempore*. The Secretary will read the House resolution.

The Secretary read as follows:

IN THE HOUSE OF REPRESENTATIVES, *December* 16, 1884.

Resolved by the House of Representatives (the Senate concurring), That when the two Houses adjourn on Saturday, December 20, 1884, they stand adjourned until Monday, the 5th day of January, 1885.

Mr. HALE. We will assume that the House has already passed another resolution, that when it adjourns to-night, instead of its being adjourned until the 5th day of January, as the resolution prescribes, which we have not acted upon, it adjourn to meet on Wednesday next.

Mr. McPHERSON. May I ask the Senator from Maine if it is not almost absolutely certain that there will be no quorum of the House after to-day?

Mr. HALE. That is a matter which we can not assume, of which we can have no knowledge. I would say to the Senator in answer to that, the presumption is that if the House of Representatives has taken an attitude on an important matter it is not going to run away and leave it.

Mr. McPHERSON. I should suppose that it would be impossible to reach a vote in both Houses upon a report of a conference committee, perhaps, before the 5th of January, even if the Senate should remain in session here.

Mr. HALE. If the House remains, the matter can be got at so soon as the conference meet, and an hour will settle whether it can agree or not.

Mr. McPHERSON. There is one other question that I should like to ask the Senator while he is on his feet, because I have listened here for the last three or four days to continued expressions criticising the action of the House on the bill, and the criticisms appeared to be very much sympathized with on this side of the Chamber. The original bill coming to us from the House was an appropriation bill in proper form. It reached us last session. It appropriated in detail, as former appropriation bills had done, the amount of money needed for the Navy. The Senate added to that something that was not needed for an appropriation for the Navy and did not belong upon that appropriation bill; it might almost be said that it could not have been placed there under the rules.

In looking at the Senator's speech of yesterday the statement is there made that upon the last day of the session, the Senate fighting for its amendment to the last day of the session, an emergency bill was necessary. The House passed the emergency bill and sent it to the Senate. No other course was possible. One branch of Congress would have been again accused, perhaps, of an attempt to starve the Government; the House unquestionably would have been the one charged, while if either of the bodies was guilty it was the Senate. In order that that charge might not be made against the House, they passed an emergency bill. The Senate took it up and passed it; and now we have the curious condition of affairs of the Senate attaching to a regular appropriation bill an amendment which did not belong to it nor never has belonged to it. We have already had five or six conferences upon that question, the House in each case instructing its conference committee to insist upon their original bill, and here we find the Senate twelve or thirteen months after that bill reached here still insisting upon an amendment to a bill and rather than give that up you will continue the session during the holidays.

Mr. LOGAN. The Senate insists upon all the amendments.

Mr. HALE. I do not understand why, after the explanation given yesterday, the Senator seeks to present this controversy between the two Houses as one upon the extraordinary items which were put on in the Senate, which the Senator says had no business on the appropriation bill. Of course he refers to the amendments for the building of the new cruisers. That question was discussed in the Senate, passed upon as a point of order, and it was decided that the amendments did belong upon the bill. But I do not propose to discuss that; that is not the controversy between the two Houses. Here is the language which I used yesterday, and I repeat it:

> Moreover, we said, "as there are large differences in amounts, as the bill which was matured last session contains the provision for the new cruisers and all the extra expenditure involved in that enterprise, the Senate is willing here to say that it recognizes the fact that we do not agree to give up these cruisers, but if the House insists that it will not put them on the appropriation bill, the Senate conferees feel that they can not drive the House on this subject, so that there would be, if we could consider and confer upon all the items, probably no difficulty."

And there would be none. That is not the controversy. The Senator from New Jersey shall not befog the issue by bringing that in. The House conferees will not confer upon the items; they will not even consider them.

Mr. ALLISON. Any of them.

Mr. HALE. They will not give the Senate conferees the opportunity to recede on the cruisers amendment, but decline to consider any of the Senate amendments and insist that this body shall take the bill as it came from the House, or the principle of the bill as it came from the House, of appropriating on last year's bill, and the Senator can not bring the controversy as to the new cruisers into this, because the Senate conferees have eliminated that.

Mr. McPHERSON. When the House of Representatives sent the second bill, which the Senator in his speech of yesterday called "the emergency bill," did not that supersede after you had accepted it the former bill sent by the House?

Mr. HALE. There is no superseding at all.

Mr. McPHERSON. The Senate accepted the emergency bill, took it up, and passed it, for what? For a naval appropriation, the very thing which the original bill was intended to cover.

Mr. HALE. Does the Senator refer to the emergency bill passed on the 7th of July last?

Mr. McPHERSON. The last day of the session.

Mr. HALE. The last day of the last session?

Mr. McPHERSON. Yes, sir.

Mr. HALE. So far from that superseding the old bill, it was intended to be simply a general appropriation for the emergency for six months only. The old bill remained with every right, subject to be taken up the moment Congress reassembled; and had there been any intention at that time that the emergency bill then proposed should cover more than six months, it were just as easy for the House to have made the bill for the entire year; but by selecting six months for it to run, and only six months, it gave Congress the right when it reassembled to take up the old bill that was pending before it and pass it, as was the intention at that time.

Mr. McPHERSON. Now, Mr. President, let me go a little further. That was the last day of that session, and let me read the Senator's own words of yesterday:

> By the necessity of the case that had to be done.

Speaking of the emergency bill. We have reached to-day, so far as the wants of the Navy Department are concerned, exactly the same condition. A resolution is before the Senate from the House to adjourn to a period of time beyond which the Navy Department can not run without appropriations. We are now considering the question whether we shall so adjourn, or whether we shall continue the session in order that something may be done. Here is another emergency bill exactly like the one that was sent here six months ago, which made appropriations for six months. Now, the Senate would be just as much justified at this moment in taking up the House bill proposing to make similar appropriations for six months more, and treating it as a second emergency bill, because just so long as we insist on the amendments to the original bill, which I claim had no place there whatever, in my opinion, and quite right, too, the House will not yield.

Mr. HALE. Let me state the differences. In the first place, at the

close of the last session we were confronted with a long adjournment of six months, or nearly that time, which we are not now. In the next place, the emergency bill at that time was brought in in the last stages of the session, and, as I said yesterday, not anything else could be done. On the other hand, at this session nearly two weeks ago the House of Representatives sent us over, not the appropriation bill which they matured last year, and which was in conference, but sent us over, while the Senate had at least ten days or a fortnight to work in, another emergency bill, and insisted that we should take that when there was no stress of weather upon us; and the Senate ever since has been trying to bring the House to substitute for that the regular appropriation bill for the rest of the year. I hope the Senate will maintain its attitude upon that question.

Mr. McPHERSON. May I ask the Senator just one question?

Mr. HALE. Certainly.

Mr. McPHERSON. Is it not absolutely certain that one House or the other must recede from its position before a naval appropriation bill can pass? The Senate have insisted now for about nine or ten months on certain propositions, and four or five different conferences have been had, the House every time instructing its conferees not to yield. Now I want to know how much longer the Senate proposes to go on.

Mr. BECK. The Senator from New Jersey will allow me to make a suggestion to him here. In all the conferences had at the last session the House was insisting upon the bill that it had itself prepared for this fiscal year, and rejected the Senate amendments.

Mr. McPHERSON. Up to the passage of the emergency bill.

Mr. BECK. Now, all the Senate conferees ask the House to do is to take up the bill it then insisted upon, passed by the House, prepared on estimates, and act upon that, and if it sees fit let it reject the Senate amendments. We ask them to take up their own bill. Last year we passed an emergency bill on the estimates of the preceding year, which were the only thing we had to go upon, but the bill which they themselves then presented and maintained they now refuse to present and refuse to consider, and they also refuse to consider any of the amendments we have made. We might be willing to recede from every amendment made in the Senate to their bill, appropriating for the current fiscal year on estimates for this year; but they will not give us a chance even to do that.

Mr. McPHERSON. One-half the amount of money asked for in the original bill for which the House contended during last session was appropriated by the emergency bill and has been already expended.

Mr. BECK. That is properly credited upon our amendments, the amounts being made up by the clerks of both committees and agreed upon.

Mr. McPHERSON. Now the House again send what is called another emergency bill or a bill of like character. The Senate has persistently refused to assist the House in passing the original bill. That is the fact. Now the House sends another bill, conceiving another emergency to have arisen, and the Senate refuses to consider that either in committee or in the Senate, refuses to recede from its former position upon the original bill; and the House is blamed, criticism after criticism is made here day after day by Senators upon the action of the House of Representatives in insisting upon what to me is the plainest, fairest proposition ever submitted to the Senate. The House has as much right to insist upon its position as we have upon ours, and inasmuch as the Senate took a general appropriation bill, which was a bill made out in detail, made out as every appropriation bill in the past, and attached to that a condition which the House can not accept, we have the strange spectacle of holding session after session here during the holidays and at other times for the purpose of carrying out this little ridiculous fight; I can not call it anything else.

MILITARY ACADEMY APPROPRIATION BILL.

Mr. LOGAN. I desire to submit a report from the Committee on Appropriations. I report with an amendment the bill (H. R. 7577) making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1886, and for other purposes.

The PRESIDENT *pro tempore*. The Senator from Illinois asks unanimous consent to present a report from the Committee on Appropriations. It will be received if there be no objection.

Mr. INGALLS. Mr. President——

Mr. LOGAN. I desire to have the bill acted on now if the Senate will agree to it.

HOLIDAY RECESS.

The PRESIDENT *pro tempore*. The Senator from Kansas was recognized on the pending resolution. The resolution of the House of Representatives proposing an adjournment of the two Houses from this day to the 5th of January next is before the Senate.

Mr. INGALLS. Mr. President, this appears to be a repetition of the old problem of an irresistible force moving an impenetrable body. It is an illustration of the saying that you can lead a horse to water, but unless he is thirsty you can not make him drink. The controversy between the two Houses on this naval question is ancient. The naval appropriation bill that was passed by the House of Representatives at the last session was amended by the Senate and the propositions of amendment sent to the House, submitted to a conference, and finally abandoned by the Senate conferees, and an emergency bill passed. At this session the conflict has been again renewed. The House sent here an emergency bill, I understand, the present appropriations expiring on the 1st of January, to cover the remaining period until the 30th of June next, to which the Senate appended amendments substantially those which they abandoned the previous session, and submitted them to the House of Representatives, where they again went into conference; and we are now confronted with the statement that unless the bill is agreed to by the 1st of January certain disastrous consequences are to ensue.

The debate arises upon the proposition to adjourn from this day until the 5th of January. We are informed that the House of Representatives have adjourned or agreed to adjourn from to-day until Wednesday, and the emergency that is anticipated by the Senator from Maine will occur by Thursday of the week following the one immediately before us. It appears to me, therefore, that the only question is what we are going to do in this particular juncture that is now before us. Is there any reasonable or just expectation that if we should remain here from day to day the bill that the Senate conferees desire to have passed will be agreed to by the 1st of January, so that anything will be gained by this process?

I speak entirely from a disinterested standpoint, because, having received leave of absence, of which I intend to avail myself, it is to me practically indifferent whether the adjournment resolution is agreed to or not. But there is a question, it appears to me, that the Senate ought not to stultify itself about. We ought not to do a foolish or a frivolous thing. We have the power, of course, to sit here from day to day until the 1st day of January, or until the 5th day of January, the period contemplated by the resolution; but the question is, what is to be gained by it? The 1st day of January will have arrived and the appropriations will have expired. What is the practical question that confronts us? I should like the Senator from Maine to advise us, he being the Neptune of the body with his trident—what will be the result in case there should be no appropriation for the Navy the 1st of January?

Mr. HALE. I shall be glad to give the Senator from Kansas and other Senators what is my view about that matter. I do not suppose that because either House is unreasonably insisting on its particular ground and thereby an appropriation fails, during the first five days or ten days of the succeeding year that Department of the Government will expire.

Mr. INGALLS. That is what I wanted to know. I feared from the vaticinations of the Senator from Maine that in case this bill did not pass by the 1st of January the feeble remnants of the American Navy, about which we have heard so much, would probably be ingulfed in the deep.

Mr. HALE. I think the Senator must have gone to his own imagination for those forebodings, for I have not certainly felt them myself, and I did not mean to express them.

Mr. INGALLS. Then what is all this difficulty about? If there is to be no serious consequence by reason of the expiration of the appropriations, if the flag is still to float and the sails still to be unbent, and the work to proceed in the navy-yards, and our gallant tars to receive their compensation, what is the reason that we can not adjourn four or five days?

Mr. HALE. That is for the Senate to consider, of course. Undoubtedly it is not as well that the Department should be left without appropriations for a single day.

Mr. INGALLS. Certainly not.

Mr. HALE. But it is no killing matter, as I may say, if it comes about.

Mr. INGALLS. Then I am relieved. My apprehensions were that unless this thing was done the gravest consequences practically would ensue; but as there is nothing to be apprehended of course I feel better.

MILITARY ACADEMY APPROPRIATION BILL.

Mr. LOGAN. I now ask unanimous consent to take up the Military Academy appropriation bill, which I reported a few minutes ago.

The PRESIDENT *pro tempore*. The Senator from Illinois asks unanimous consent that the Senate now consider the Military Academy appropriation bill reported to-day. Is there objection? The Chair hears none.

The bill (H. R. 7577) making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1886, and for other purposes, was considered as in Committee of the Whole.

The bill was reported from the Committee on Appropriations with an amendment, which was, in line 42, after the word "professors," to strike out "and officers (on increased rank);" and in line 43, after the word "service," to strike out "$9,525" and insert "$8,898.50;" so as to make the clause read:

For additional pay of professors for length of service, $8,898.50.

The amendment was agreed to.

Mr. LOGAN. I desire to submit a statement for the information of the Senate, which I ask may be printed in the RECORD. The reductions that have been made from the estimates and the recommendations made to the Congress of the United States that have not been agreed to are embraced in this statement.

The PRESIDING OFFICER (Mr. WILSON in the chair). The Sen-

ator from Illinois asks that a statement presented by him be printed in the RECORD. If there be no objection that order will be made. The Chair hears none.

The statement is as follows:

MILITARY ACADEMY BILL—1886.

Amount of estimates for 1886	$393,344 78
Amount of bill as passed the House	310,021 64
Reduction made by Senate committee	626 50
Amount as reported to the Senate	309,395 14
The bill as reported less than the estimates	83,949 64
The bill as reported less than the act for 1885	5,168 36

The changes made by the bill as reported in the appropriations for 1885, are as follows:

Increase over 1885:	
For fuel and apparatus	$1,000 00
For department of mathematics	100 00
For department of modern languages	75 00
For department of drawing	274 50
For department of practical military engineering	300 00
For cleaning public buildings	100 00
For reflooring cadet barracks	2,580 00
For pointing administration building	790 00
For pointing cadet barracks	300 00
For repairs to cadet barracks	500 00
For repairing band barracks	3,857 14
For water-closets and urinals	1,200 00
For the erection of a new water-cooler	300 00
Total increase	11,376 14
Reduction from 1885:	
For department of civil and military engineering	500 00
For department of natural and experimental philosophy	5,225 00
For department of artillery, cavalry, and infantry tactics	30 00
For completing the 12-inch water-main	2,000 00
For completing the new hospital for cadets	3,850 00
For reflooring the academy building	2,580 00
For new skylights for drawing academy	350 00
For bath-tubs in cadet barracks and repairs	1,000 00
For repairs to cadet laundry	360 00
For bake-oven, &c., for cadet mess	650 00
Total reduction	16,545 00
Net reduction from 1885	5,168 36

Mr. MCPHERSON. There is so much confusion in the Chamber that I did not fully hear the Senator from Illinois. I ask the Senator if this bill as it stands increases the appropriations of last year?

Mr. LOGAN. It reduces them over $5,000.

Mr. MCPHERSON. Has the Senate increased the appropriations in the House bill?

Mr. LOGAN. No, sir; there is a small reduction of about a thousand dollars. There is very little difference between the bill as passed by the House and as reported by the Senate Committee on Appropriations.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

BUCHANAN RIVER, WEST VIRGINIA.

Mr. KENNA. I ask leave to submit at this time and have put on its passage a resolution asking for information from the Department of War.

The PRESIDENT *pro tempore*. Pending the consideration of the resolution for adjournment, which the Senate now resumes, the Senator from West Virginia asks consent to offer a resolution. If there be no objection it will be received.

The Secretary read the resolution, as follows:

Resolved, That the Secretary of War be, and he is hereby, requested to furnish to the Senate a report showing the work done under the supervision of the United States engineers upon the Buchanan River in West Virginia, together with an estimate of the amount required to continue the prosecution of said work.

The resolution was considered by unanimous consent, and agreed to.

HOLIDAY RECESS.

The PRESIDENT *pro tempore*. The question recurs on agreeing to the concurrent resolution of the House of Representatives relative to an adjournment.

Mr. CONGER. I understood the Senator from Maine in charge of the naval bill to say that in his judgment it made no particular difference whether the appropriation bill was passed or not, the Navy Department would carry on its work. I say, if I understood the Senator in charge of the naval appropriation bill, he said in reply to an inquiry, that in his judgment it made no particular difference or no great difference whether the appropriation bill was passed before the 1st of January or not.

Mr. HALE. The Senator will allow me to remind him of the language that I used. I did not say that it would make no particular difference. I said I did not believe the Navy Department would die; I did not believe the Department would disband. I said it was no killing matter. I did not attempt to belittle it. I believe just that. It is a bad thing to do. It is a bad thing for the Department. I know very well the statute under which no contracts can be made and no money paid out, but I think, notwithstanding that, animation would be maintained in the Navy Department for five days.

Mr. CONGER. Then, Mr. President, I understand the Senator to say in principle that the Navy may go on without any appropriation. If it can for five days I suppose it can for ten or one hundred.

Mr. HALE. Not necessarily.

Mr. CONGER. And as the representative of the Navy Department the Senator says it does not seem to make much difference whether Congress appropriates money for it or not; it will not die. Now, the question of the life and vitality and existence of the Navy has been presented by the Committee on Naval Affairs so much lately that it would seem as if the only idea which that committee has is whether it can keep the Navy alive, or if not whether law can be maintained, not whether appropriations shall be made, not whether the officers of the Navy Department shall violate continually the provisions of law.

Section 3679 of the Revised Statutes provides that—

No Department of the Government shall expend, in any one fiscal year, any sum in excess of appropriations made by Congress for that fiscal year, or involve the Government in any contract for the future payment of money in excess of such appropriations.

I had supposed, and that is the way we have been taught heretofore, that any officer of this Government who undertook, without an appropriation, unless it came under some of the exceptions which are in the law, to continue the business of a Department, to keep clerks in employ and keep officers in employ who would draw a salary, and who might say that by their employment there was an obligation on the Government to pay them, violated the law and was liable to impeachment, and liable to impeachment for violating the law for one day or five days or one hundred days. If the Executive of this Government can carry on all the Departments of the Government, whether Congress makes an appropriation for them or not, a greater or a less length of time, then the control of Congress over appropriations and over the management of the Departments of this Government ceases and the Executive has the power to run this Government independent of Congress.

Sir, I for one protest against any proposition that it is of little importance whether Congress makes any appropriations or not; that the Government will go on; that it will live on, no matter what violations of law are going on; and for myself I desire to say that I will not, by voting to adjourn and leave the Navy Department or any other Department without money to continue its labors and its existence and fulfill its contracts and pay its employés, I will not consent to adjourn even a day beyond the regular time.

Mr. HALE. Will the Senator allow me?

Mr. CONGER. Yes, sir.

Mr. HALE. I agree with the Senator in that position, and I have already stated that I hoped the Senate would not agree to this adjournment; but when confronted with a question as to what would actually occur as to the dissolution of one of these Departments, I answered it according to what I believed would follow.

Mr. CONGER. Well, that does not come quite up to the backbone I had expected would be developed here. I thought the Senator let down this question and the principle of it, the whole theory of it, to a little idle phrase that the colors of the Department would not change or that it would not die. It is as much as to say to me and to other Sentors, "Well, after all, I must say it is better to have legal appropriations and let the Government work under law and not by the will of the Executive; but it is not very material, and I, as the representative of the Navy, say it is not very material."

Mr. HALE. Let me ask the Senator a question.

The PRESIDENT *pro tempore*. Does the Senator from Michigan yield?

Mr. CONGER. I yield for a question.

Mr. HALE. What does the Senator from Michigan himself think would actually happen to the Navy Department if from causes entirely beyond our control they were left for five days without appropriations of money under any existing law? What does the Senator himself think would happen to the Navy Department?

Mr. CONGER. I will tell the Senator in a moment. The law provides that there are certain things for the Army and Navy which may be done independent of an appropriation. I call the attention of the Senator in charge of the naval appropriation bill, because probably it has escaped his memory if he ever heard——

Mr. HALE. I am listening attentively.

Mr. CONGER. Section 3732 of the Revised Statutes provides that—

No contract or purchase on behalf of the United States shall be made, unless the same is authorized by law or is under an appropriation adequate to its fulfillment, except in the War and Navy Departments, for clothing, subsistence, forage, fuel, quarters, or transportation, which, however, shall not exceed the necessities for the current year.

Mr. HOAR. Will the Senator allow me?

The PRESIDENT *pro tempore*. Does the Senator from Michigan yield?

Mr. CONGER. One word, and then I will yield with pleasure. The Senator from Maine very well says that the Navy will not starve, be-

cause (though he did not refer to it I do) the men may have subsistence and clothing and transportation. They can live. Now it is not a question whether they can live, whether their mouths may be filled and whether their bodies may be kept warm or cool, whatever may be the climate they are in; and therefore the answer of the Senator that they would not die is provided against by this provision of law. They are not to die from starvation.

Mr. HALE. I think my answer covered the case exactly on that statute.

Mr. CONGER. But the Senator did not refer at all to the duty of the officers of the Government, to the clerks of the Department, to keeping hundreds of men in employment with the implied obligation that they shall be paid their wages and salaries. These officers have no right to order a vessel anywhere to carry on at all naval operations, because by doing that they incur obligations.

I do not care to dwell upon that, but I did think the Senator was letting down a little from the true theory of government when he said we could neglect to pass laws and the Executive could go on in a royal, kingly manner to run this Government just as well as if this Congress had made appropriations and provided for it. Now, I will hear the Senator from Massachusetts.

Mr. HOAR. I desire to remind the Senator from Michigan that in 1877, as he knows quite as well as I do, the Army appropriation bill failed, and there was no lawful appropriation except so far as that statute authorized the incurring of expense without an appropriation, and that is no appropriation. It was so from the 1st of July, 1877, until October, when an extra session of Congress was called by President Hayes.

Mr. CONGER. At that time the termination of Congress was a constitutional termination, I believe—the 4th of March—and then, although all these provisions in behalf of the Army for forage, subsistence, transportation, and clothing existed in the law, the emergency was so great that the President of the United States, with the approval and assent of the whole people of every party, immediately called an extra session of Congress to meet that emergency.

Mr. HOAR. It met in October.

Mr. CONGER. If I remember aright, the Senator from Massachusetts thought at that time that the failure to make the appropriations was a revolutionary and insurrectionary movement, and I think he denounced it with language and words and a force and vigor that I never expect to equal even in a case like this; and I call his attention to a review of his celebrated and interesting remarks on that occasion.

Mr. HOAR. I have no recollection myself of having made any. I think the Senator must remember some of his own.

Mr. CONGER. He was our leader then in opposition to this revolutionary mode of carrying on the Government. Now, I expect those kind of things from the Senator from Kansas.

Mr. INGALLS. What kind of things?

Mr. CONGER. He has obtained the leave of the Senate to go away; obtained it when he saw the storm gathering here and the doubt about whether we could adjourn or not. My friend from Kansas has that kind of sagacity which foresees the necessity, and for that he is remarkable, of immediate, quick, prompt action, and before there was this excitement and turmoil and confusion and doubt about whether we should have a quorum or not or adjourn or not, my friend comes, and with all that peculiar grace and suavity of his nature which endears us to him so much and endears him to us, he asked the Senate if they would permit him to go to the prairies of the West and enjoy the winter holidays. I do not know a Senator on this floor, even if he had the inclination to insist upon a member's being here, who would dare refuse our friend from Kansas liberty to go to the wilds of the West if he asked it. I have some little boldness myself now and then when I am really waked up to a thing; but I say without any hesitation that now in the midst of this danger to the Government, this crisis, as Artemus Ward would call it, all around us and among us and everywhere, if he asked to go even when the danger is that we should be left without a quorum Monday or Tuesday, I could not refuse to grant the Senator from Kansas leave to go.

But the Senator says he has no interest in this matter. That is the point I am coming to. Sir, the Senator from Kansas is the leader to whom I look for opposition to every violation of law, to every parliamentary or legal obstruction to the regular course of government. I have been accustomed to look to him on our side as the first man to oppose and repress any effort toward that monarchical, kingly power, whether executed and carried out by king or President, that forgets the Legislature of the people, the law-making power, and would carry on the Government on its own hook without appropriation. The idol is tottering on its pedestal, sir. A little cloud obscures from my vision the admiration with which I have always looked to that leader on such grave questions as this, and I hope he will regain his position and say that it is important that Congress should make the appropriations and that Congress should make the laws to run the Government, and not that the Executive shall make such laws. There is a vital principle involved there, and I call the attention of the Senator from Kansas to review his remarks and lead us on as he has heretofore in the strict line of parliamentary and legislative duty, and then I shall be proud to follow him as I always have before.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. CLARK, its Clerk, announced that the House had passed a bill (H. R. 7791) making temporary provision for the naval service; in which it requested the concurrence of the Senate.

HOLIDAY RECESS.

The PRESIDENT *pro tempore*. The concurrent resolution of the House of Representatives providing for an adjournment is before the Senate.

Mr. LOGAN. Mr. President, I desire to state to the Senate what I understand to be the position in which we are placed, and I will certainly be very brief.

A bill which was passed at the last session of Congress, called the emergency act, authorized the Secretary of the Navy to expend 50 per cent. of the amount of the appropriations of 1883 for the first half of the fiscal year ending June 30, 1885. The objection that I had and have now, for I was on the conference committee, is that instead of taking the estimates made in 1884 for the fiscal year 1885, the estimates for 1883 were taken. It is well known to all Senators here that estimates differ annually. In fact one year some certain thing is required that perhaps may not be required the following year, and *vice versa*.

In reference to taking the estimates made in 1883 for 1884–'85, the proposition may be summed up in this way: The Senate and the House of Representatives by a bill authorized the Secretary of the Treasury to expend half the money appropriated for the year 1883, for the first half of the year, ending June 30, 1885. That is all there is of it, just in so many words. That was the bill which was passed, and that is the proposition of the House to-day. I objected to it as one of the conferees, first, for the reason that it was based upon the estimates for the wrong year; second, that it did not specify to what the money should be applied, except in general terms, that is, applying to a certain bureau a certain amount of money to be expended for its purposes, whereas regular appropriation bills, whether they are applicable to the Army or the Navy, specify particularly how the money shall be expended. Under such a character of bill as was passed by the House the Secretary of the Navy might in divers and sundry ways expend money in a direction which was not contemplated by the Congress of the United States. For that reason I objected to it.

A further reason is that it is not legislation of a character that should be consented to by the Congress of the United States, except in an extreme case. You might just as well appropriate $300,000 in one sum, a lump sum, as it is commonly called, and say to the Secretary of the Navy, "Apply this to the different bureaus of the Navy as you deem proper, or as seems to be proper for you to expend it." That is the meaning of the bill, and that is all there is in the bill.

My proposition would be that the amendments to the appropriation bill in reference to the cruisers, because they will not be agreed to, should be receded from by the Senate of the United States and that we then between the House and Senate agree upon the other amendments which were thought to be absolutely necessary by the Senate. If we can not agree on them let them be stricken off, let them be divided, or let such an agreement be made as is proper for a conference committee between the two Houses to make.

The conferees on the part of the House absolutely refused to confer in reference to these amendments and required us to confer only on their proposition, which is a bill like the emergency act passed at the last session, their bill making appropriations for the next six months. I disagreed to that and I disagree to it now, and as far as I am concerned I never will agree to it. The Senate can do as it likes, of course. I am but one; but I never will agree to that character of legislation when we have time before us to prosecute the duties that belong to us.

I have said this much only to give my views in reference to the matter, and to state substantially what I understand to be the position of affairs. When you come to sum it up it means nothing more than a bill authorizing the Secretary of the Navy to expend 50 per cent. of the amount of the appropriations of 1883 as he deems proper where the expenditure is not restricted by the bill.

The PRESIDENT *pro tempore*. The question is on agreeing to the resolution.

Mr. CONGER. What is the proposition?

The PRESIDENT *pro tempore*. The question is on agreeing to the concurrent resolution of the House of Representatives, that when the two Houses adjourn to-day, they shall stand adjourned until the 5th of January next.

Mr. CONGER. I move to postpone the resolution until after the reading for information of the bill which has just come from the House.

The PRESIDENT *pro tempore*. That is not a parliamentary motion. A motion to postpone must be to a day certain or indefinitely.

Mr. HALE. I think unanimous consent will be given that the House bill just sent in shall be read.

The PRESIDENT *pro tempore*. The Senator from Maine asks unanimous consent that the pending order be laid aside informally and that the Chair lay before the Senate a bill from the House of Representatives.

Mr. HALE. Yes, sir.

The PRESIDENT *pro tempore*. Is there objection? The Chair hears none.

NAVAL APPROPRIATIONS.

The bill (H. R. 7791) making temporary provision for the naval service, was read the first time by its title.

The PRESIDENT *pro tempore*. If there be no objection the bill will be considered read the second time and referred to the Committee on Appropriations.

Mr. CONGER. Let it be read at length.

Mr. HALE. Yes; let us have a full reading.

The PRESIDENT *pro tempore*. The second reading will be at length.

The Secretary read the bill the second time at length, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That for the purpose of providing for the expenses of the naval service for the month ending January 31, 1885, there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, a sufficient sum of money no greater in amount than will be in the same proportion to the appropriations of the fiscal year 1884 as thirty-one days' time bears to the whole of said fiscal year and for the like purposes and continuing the same provisions relating thereto as were made by the act entitled "An act making appropriations for the naval service for the fiscal year ending June 30, 1884, and for other purposes," approved March 3, 1883 (except as hereinafter declared), subject to all the limitations and conditions in respect to the disbursement of the appropriations hereby made that were imposed by said act, and the other laws of the United States upon or in respect to the appropriation made by said act: *Provided*, That nothing is appropriated by this act for the purposes set forth in said act making appropriations for the naval service for the fiscal year 1884 under the heading "Increase of the Navy" and preceding the heading "Naval Academy," "For special ocean surveys and the publication thereof," or "For the purchase and manufacture, after full investigation and test, in the United States, under the direction of the Secretary of the Navy, of torpedoes adapted to naval warfare, or of the right to manufacture the same, and for the fixtures and machinery necessary for operating the same;" nor is there reappropriated any balance of the appropriation made for commencing the manufacture of steel rifled breech-loading guns, with carriages and ammunition, that remained unexpended during the fiscal year 1883; but in lieu of such reappropriation there is hereby appropriated for such manufacture, during the thirty-one days herein provided for, the sum of $2,152.80; and that the clause under the heading "Bureau of Yards and Docks" commencing "For general maintenance of yards and docks" is amended so as to appropriate for the thirty-one days herein provided for the sum of $18,840.

That all appropriations made by the act of July 7, 1884, making temporary provision for the naval service for the six months ending December 31, 1884, or any balances thereof that may be unexpended at that date, except any balance for the manufacture of steel rifled breech-loading guns as aforesaid, be, and they are hereby, reappropriated, continued, and made available for the thirty-one days ending January 31, 1885.

That the whole amount appropriated by this act for the support of the naval service for the thirty-one days herein provided for shall not exceed, exclusive of the amounts herein reappropriated and the amount payable from the income from the naval pension fund for the support of the Naval Asylum at Philadelphia, the sum of $1,160,000.

The PRESIDENT *pro tempore*. The bill has been read the second time. It will be referred to the Committee on Appropriations.

Mr. BUTLER. I ask unanimous consent that the bill be considered now.

The PRESIDENT *pro tempore*. The Senator from South Carolina asks unanimous consent that the bill be now considered. Is there objection?

Mr. LOGAN. I do not wish to interfere, but I will state very briefly one objection to the bill. If we are to take the appropriations for 1883 for the year 1885 in homeopathic doses I do not know but that we might just as well take the whole dose at once. The objection, as shown by a unanimous vote of the Senate, was to appropriating for the next six months as we did for the preceding six months, but now the House sends us a bill appropriating up to the 31st of January. I suppose when the 31st of January comes they will propose to appropriate until the 4th of March, and in that way we are to take this character of legislation.

I state this as the reason why I shall certainly object to the consideration of the bill, for I do not believe in this kind of legislation. I think it is vicious and a character of legislation that ought not to be permitted by either branch of Congress, and especially by this branch.

The PRESIDENT *pro tempore*. The bill will be referred to the Committee on Appropriations.

Mr. BUTLER. I have no choice about this matter. I only wanted to get over a difficulty which seemed to me to be confronting us, and a chasm which appears to have been made by the disagreement of the two Houses. I thought that we might consider this bill to-day, inasmuch as the Appropriations Committee, I have no doubt, are as well informed as to its provisions now as they would be after a minute examination of it. I confess myself that I do not like the mode of legislation proposed in it.

Mr. LOGAN. I will state to the Senator that the very reason why I object to it is because we know exactly what it is. We have examined it, and it is the principle in it to which I object. The Senate voted against it yesterday unanimously.

Mr. BAYARD. Mr. President——

The PRESIDENT *pro tempore*. The Senator from South Carolina has the floor.

Mr. BUTLER. I yield to the Senator from Delaware.

The PRESIDENT *pro tempore*. This whole debate is proceeding by unanimous consent. The Senator from Delaware.

Mr. BAYARD. I think it was upon my motion that the yeas and nays were called yesterday for the purpose of expressing the sentiment of this body not so much upon the merits or demerits of the amendments which had been placed by the Senate upon a bill originating in the House, as upon the action of the House conferees as reported to us by the committee of conference unanimously, represented by the Senator from Maine [Mr. HALE], the Senator from Illinois [Mr. LOGAN], and the Senator from Kentucky [Mr. BECK], that the House conferees would not even consider, read, weigh, or reason on the action of the Senate amendatory of the action of the House. The result of such a proposition is that the Senate is no longer a co-ordinate body, but it would become a mere register of the decrees of another body. That would be an abdication of the duty and of the dignity of the Senate to which I should be very unwilling to agree.

Therefore, without any regard to the character of the legislation proposed, I thought it right for the Senate, and I was very glad that the Senate concurred in that view, that the Senate should record themselves unanimously in favor of the committee who had properly asserted the right of this body, and the duty of this body which is higher than its right, in dealing with legislation touching supplies for the Government. That was the principle involved in the suggestion that I made.

Now, I agree with the Senator from Illinois that this legislation is—I will not use the word vicious, probably it is not necessary to say so, but I mean to say that it is derogatory to the ordinary course of finding annual supplies for the continuance of the Government to have this patching out by what are called emergency bills. We have had one for six months and now we have another one proposed to us for thirty days.

I do not mean to say that there may not be times of convenience when such bills may properly be passed. It is perfectly plain that it requires the uninfluenced approval of both Houses of Congress for the passage of a bill, and then its signature by the Executive. We have no method of coercion upon the other branch of Congress, nor have they upon us to affect us in the slightest degree, but there does come a question simply of public convenience and our own convenience whether we shall bridge over differences of opinion between the two branches of the Legislature. In that I can see no dereliction in principle if we should agree to postpone the time of trying ultimately our differences.

I am as displeased as the Senator is with this mode of providing the proper supplies for the Navy. The subject contains a good many elements which I do not care to delay the Senate to recount. I differed with the majority of the Senate as to their right to place general legislation upon an appropriation bill even under the peculiar wording of the rule of the Senate; but I understood perfectly from the Senator who had the bill in charge that when the Senate made the amendments providing for general legislation, that is to say, the increase of the Navy generally, they did not intend to do more than to present that measure, as they had once done by a separate bill, to the judgment of the House, and that their reason for presenting it a second time upon the appropriation bill was that the separate bill had been pigeon-holed and refused consideration; that their object was to reiterate the views of the Senate by presenting the bill for the immediate reconstruction of the Navy again to the House in the form of an amendment to an appropriation bill, but that it was not intended that the appropriations should fail by reason of the want of the House to assent to that provision if it was necessary for the Senate to recede from their amendment.

The vote of yesterday unanimously by the Senate, if it had the meaning it should have and that my vote was intended to aid in its having, was that when a conference was raised in regard to a bill of supplies the amendments of the Senate were to be considered by those who represented the House. I did not mean to say that they were to be coerced into any agreement, but I meant to say that the amendments were to be considered and they were to be received, and that we are not called upon in silence to swallow any measure that may be brought by the House before the sense of the Senate without exercising an independent and a conscientious judgment. That was the meaning of the vote, at least I believe it was the meaning of the vote, and I hope the Senate will always vote in that way.

But we have already accepted a makeshift, a mere makeshift, and not a very good one at that, by taking the estimates of a prior year, which might be and were quite inappropriate to the requirements of the present year. That was, to say the least, a very clumsy piece of legislation; yet it saved the question of annoyance, and it practically supplied the uses of the Navy for six months' time. Now the fact is practically that we stand upon the threshold possibly of the ordinary Christmas adjournment. A very large number of the members of the House have gone away from the city, and as I look around upon the benches here I see that a great many members of the Senate have gone, supposing that the ordinary custom would be followed at the present time. While I will stand I think as long as any one for a principle, I do not see the dereliction of a principle in accepting for thirty days longer the same rule that we accepted for six months when it comes upon us in an emergency. If I am informed by any committee of conference on the part of the Senate that the House refuses to consider the amendments offered by the Senate, I will agree in reappointing that committee until the end of my term, and then we will submit the question to the American people, whose opinion after all is to control those who sit in either branch of Congress.

While I agree with my friend as to the unwisdom or viciousness, if you please to call it so, of the mode of legislation proposed, I do not

see a dereliction in principle between passing a bill for thirty days when we have once agreed to do the same thing for six months.

Mr. LOGAN. I desire, if I can have the ear of the Senator from Delaware, to call his attention to one fact. We passed the bill denominated an emergency bill on the last day of the last session of Congress.

Mr. BAYARD. In order to get away.

Mr. LOGAN. In order to get away. Now, when we have two months and a half before us, I hope he will not call this an emergency. When the Senator says that because the Senate through its conferees insisted on the consideration of its amendments we gave the vote which we did yesterday and the Senate will insist again provided the House conferees will not confer on that proposition, and states that to be the principle we voted on and not in reference to the character or manner of the bill, I ask him what the difference is when we appointed a committee of conference to-day, when the House appointed a committee of conference, when they have not met, and they send a bill here ——

Mr. BAYARD. A separate bill.

Mr. LOGAN. Yes; a separate bill, as they did in the case which the Senator calls an emergency. They do not meet the Senate in conference, but send us this bill, and what rule will you apply or what standard will you be gauged by in order to bring the conferees together at the time when the appropriation proposed by this bill shall expire?

Mr. BAYARD. May I ask the Senator does not the conference that we ordered unanimously yesterday stand, and will it not stand until it meets (if we adjourn now), twenty or thirty days from this time?

Mr. LOGAN. But suppose the conferees of the House do not meet? They have not met with us since they were appointed. Suppose they do not meet?

Mr. BAYARD. They were only appointed to-day.

Mr. LOGAN. There has been plenty of time to meet, but they have not met or proposed to meet. Will the Senator tell me that now, sixty days before the adjournment of the session, or when we approach within thirty days of its close, then an emergency will not be upon us for the purpose of passing the same character of bill? If the conferees do not meet, will not the same exigency exist then that exists now? I should like to know the difference. If the Senate of the United States propose that any one man in this country shall fashion the character of legislation for the Congress of the United States, and the Senators from the different States of this country will not stand up and say they will have something to do with it, they had better abdicate and admit that they no longer belong to the Congress of the United States. I look upon this not as proper legislation, not as fair legislation. I do not regard it as fair treatment to the Senate, when the House conferees do not meet with the conferees of the Senate, for the House to send continuously bills here called emergency bills to be passed.

Mr. McPHERSON. Will the Senator inform me on one point?

The PRESIDENT *pro tempore*. Does the Senator from Illinois yield?

Mr. LOGAN. I do.

Mr. McPHERSON. When the bill first went into conference, speaking of the bill of last session, did the House conferees meet with the Senate conferees and consider the subjects-matter involved in the amendments?

Mr. LOGAN. Yes, sir.

Mr. McPHERSON. Then it is the same committee of the House and the same committee of the Senate, the same conference committee on the part of each House?

Mr. LOGAN. I do not remember whether the same persons are on the conference committee of the House that were on at the last session of Congress. Perhaps they are the same persons.

Mr. McPHERSON. The point I wish to submit to the Senator is whether it is not asking a good deal to continuously insist upon it that the same committee after having once rejected a proposition shall continue to consider it? That was the inquiry I wished to make.

Mr. LOGAN. I have nothing whatever to do with appointing the committees of conference. The conference committee have never conferred in reference to these amendments at all except so far as the amendments in reference to the cruisers were concerned. The House refused to agree to them and the Senate adhered to their proposition. The other amendments were not considered, never have been considered, the House conferees would not consider them and they have utterly refused up to this time to consider any amendment whatever to that bill.

Mr. McPHERSON. The Senator will bear with me a moment longer. It will be remembered by him that the Senate refused to instruct their conferees to recede. The House in like manner instructed their conferees, and so both were acting under instructions. Therefore, I do not see how the conferees could have agreed if they had tried.

Mr. LOGAN. I have heard the Senator repeat the same thing, this is the third time perhaps to-day, and it is nothing new to us that the House have refused to agree and the Senate have refused to agree. We all know that. I have spoken of the character of this legislation and the manner in which the conferees representing the Senate have been, I will not say improperly treated, but the ignoring of our propositions, the refusal to consider any amendment whatever to this bill. If under the rules and under the parliamentary practice in reference to conferees considering questions the House can refuse to consider any amendments whatever to a bill that the Senate proposes, and will go back and substitute another bill for that, and insist on our passing it without amendment, I wish to ask any Senator what we have to do with legislation if we take up and accept every bill that is sent to us from the House.

Now let me put a case. Here in the Congress of the United States is a precedent being set, that by withholding a measure in committee up to the time that some emergency may be claimed to be upon us, a bill then suited to the taste of some individual or committee, without proper consideration, may be sent, and one of the Houses told, "Take this or nothing;" and you call that legislation! You call that legislating for the country! You call that examining into questions and appropriating money for different and specific purposes in a proper and legitimate way!

If it be true that this sort of legislation is to be followed as a precedent hereafter it may be that a party in power in one House or the other may, through stubborness and design, almost entirely thwart an administration. Suppose at the next session of Congress a majority in the Senate should say, "We will not agree to your bill at all;" then you refer it to the Committee on Appropriations. The Committee on Appropriations, having a majority disagreeing perhaps with a majority of the House, may say, "This substitute that we propose shall be considered, and nothing else." Then my friend the Senator from New Jersey will get up and insist on the rights of the Senate. I suppose you can not coerce the House; you can not coerce any legislative body. That is true. But there is proper consideration that should be given to both. We should consider fairly and properly that which is suggested by one House to the other, and neither House should say to the other, "This must be taken, or you get nothing." The time may come—I hope it never will; I certainly would not desire to be a party to it—but the time may come in the Congress of the United States when party spirit may run so high that a majority in one House or the other may refuse to agree, and force the other House either to take what they propose or nothing, and in that way thwart the intentions and proper purposes of an administration that is trying fairly to administer the affairs of this Government.

Now, Mr. President, I do not believe, as I have said, in this character of legislation, nor in this manner of dealing by one House with the other. It is not fair to the Senate, and would not be fair to the House if the Senate should undertake to force upon them a character of legislation that was not consistent with their views and notions of that which was proper and right.

I only say this much as a representative, giving what I believe to be the correct principle so far as legislation is concerned, and not only that, but the proper courtesy to be extended by one House to the other and by one committee to the other.

Mr. BUTLER. I withdraw my request for unanimous consent, as it leads to debate.

Mr. HALE. What is the question before the Senate?

The PRESIDENT *pro tempore*. There is no question before the Senate. The debate is proceeding by unanimous consent.

Mr. HALE. But below that, when this disappears what is the question before the Senate?

The PRESIDENT *pro tempore*. The Senator from Illinois objected to the present consideration of the bill, and, pending its being referred under the rules to the Committee on Appropriations, by unanimous consent this discussion has gone on. The Senate now resumes the consideration of the resolution of the House of Representatives providing for an adjournment from this day to the 5th of January.

HOLIDAY RECESS.

Mr. HALE. Let us have a vote on that.

The PRESIDENT *pro tempore*. The question is on agreeing to the resolution.

A division was called for.

Mr. HALE. We may as well have the yeas and nays.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. COKE (when his name was called). I am paired with the Senator from Minnesota [Mr. MCMILLAN], who, if here, would vote "nay."

Mr. PLATT (when Mr. HAWLEY's name was called). My colleague [Mr. HAWLEY] being called from the city for the day, is paired with the Senator from Louisiana [Mr. JONAS]. My colleague will return this evening.

Mr. MILLER, of New York (when his name was called). I am paired with the Senator from Maryland [Mr. GROOME] on all political questions. Not regarding this as one of that nature, I vote "nay."

Mr. CONGER (when Mr. MITCHELL's name was called). The Senator from Pennsylvania [Mr. MITCHELL] is paired with the Senator from Ohio [Mr. PENDLETON] as I understand.

Mr. MORRILL (when his name was called). On this question I am paired with the Senator from Kansas [Mr. PLUMB]. He would vote "yea" and I should vote "nay."

Mr. CONGER (when Mr. PALMER's name was called). My colleague [Mr. PALMER] is paired with the Senator from Kentucky [Mr. WILLIAMS].

Mr. PENDLETON (when his name was called). I am paired with the junior Senator from Pennsylvania [Mr. MITCHELL].

Mr. HALE (when Mr. RANSOM's name was called). The Senator from North Carolina [Mr. RANSOM] is paired with the Senator from Iowa [Mr. ALLISON].

The roll-call was concluded.

Mr. JONAS (after having voted in the affirmative). I desire to withdraw my vote. I am paired with the Senator from Connecticut [Mr. HAWLEY].

The PRESIDENT *pro tempore*. The vote will be withdrawn if there be no objection.

Mr. BUTLER. I am paired with the Senator from Pennsylvania [Mr. CAMERON]. On this question, not knowing how he would vote, I withhold my vote.

Mr. BLAIR. My colleague [Mr. PIKE] is paired with the Senator from Tennessee [Mr. JACKSON].

Mr. MCPHERSON (after having voted in the negative). I desire to withdraw my vote. My colleague [Mr. SEWELL] I see is absent, and he is paired with me generally, and I do not know now he would vote on this question.

The Secretary read the names of those voting in the affirmative and negative.

Mr. BLAIR. Is the name of the Senator from Tennessee [Mr. JACKSON] called as voting?

The PRESIDENT *pro tempore*. The Senator from Tennessee voted.

Mr. BLAIR. I made the announcement, according to my recollection, of his pair.

The result was announced—yeas 8, nays 25; as follows:

YEAS—8.

Bayard,	George,	Hampton,	Jones of Florida,
Colquitt,	Gibson,	Jackson,	Lamar.

NAYS—25.

Aldrich,	Edmunds,	McPherson,	Sawyer,
Blair,	Frye,	Manderson,	Sheffield,
Call,	Hale,	Maxey,	Walker,
Cameron, of Wis.,	Harrison,	Miller of N. Y.,	Wilson.
Conger,	Hoar,	Morgan,	
Cullom,	Lapham,	Platt,	
Dolph,	Logan,	Pugh,	

ABSENT—43.

Allison,	Farley,	McMillan,	Sabin,
Beck,	Garland,	Mahone,	Saulsbury,
Bowen,	Gorman,	Miller of Cal.,	Sewell,
Brown,	Groome,	Mitchell,	Sherman,
Butler,	Harris,	Morrill,	Slater,
Camden,	Hawley,	Palmer,	Vance,
Cameron of Pa.,	Hill,	Pendleton,	Van Wyck,
Cockrell,	Ingalls,	Pike,	Vest,
Coke,	Jonas,	Plumb,	Voorhees,
Dawes,	Jones of Nevada,	Ransom,	Williams.
Fair,	Kenna,	Riddleberger,	

The PRESIDENT *pro tempore*. There is not a quorum voting.

Mr. HALE. I move that the Senate do now adjourn.

Mr. HARRISON. I ask the Senator from Maine to withdraw that for a moment that I may move an executive session on some nominations which have come in.

The PRESIDENT *pro tempore*. No motion is in order but for a call of the Senate or to adjourn, no quorum being present.

Mr CULLOM. I should like to make an inquiry before the motion is put. The unfinished business of yesterday has not been taken up to-day because of this being a sort of special day. I inquire whether that will come up as the unfinished business at the next session.

The PRESIDENT *pro tempore*. The Chair will not be able to answer that question authoritatively at this moment. As no quorum is present, the Chair can make no decision upon any point. The Senator from Maine moves that the Senate do now adjourn.

The motion was agreed to at 5 o'clock and 42 minutes p. m.

The PRESIDENT *pro tempore*. The Senate stands adjourned till Monday next at 12 o'clock.

HOUSE OF REPRESENTATIVES.

SATURDAY, *December* 20, 1884.

The House met at 12 o'clock m. Prayer by the Chaplain, Rev. JOHN S. LINDSAY, D. D.

The Journal of yesterday's proceedings was read.

CORRECTION.

Mr. HATCH, of Missouri. I desire to have the Journal corrected. It states that "leave of absence was granted WILLIAM H. HATCH for ten days on account of important business." Instead of "WILLIAM H. HATCH" it should read "HORATIO H. HATCH."

The SPEAKER. The correction will be made.

The Journal as corrected was then approved.

INTERSTATE COMMERCE.

Several members addressed the Chair.

Mr. REAGAN. I call up the unfinished business, which is the consideration of the special order.

The SPEAKER. The gentleman from Texas [Mr. REAGAN] calls up the special order; and the Chair can not entertain any requests for unanimous consent.

Mr. CHACE. I hope the gentleman from Texas will give me two or three minutes.

The SPEAKER. If the gentleman from Texas withdraws his demand, of course the Chair would recognize gentlemen who wish to submit requests for unanimous consent.

Mr. REAGAN. I should be glad to gratify all these gentlemen, but I want to get through with this bill, and I apprehend that before long we may be left without a quorum.

The House resumed the consideration of the bill (H. R. 5461) to establish a Board of Commissioners of Interstate Commerce, and to regulate such commerce.

The pending question was upon the amendment offered yesterday, by Mr. HENDERSON, of Iowa, to strike out all of the fourth section, commencing with the word "that," in line 1, down to and including the word "and," at the beginning of line 7.

The SPEAKER. The gentleman from Iowa [Mr. HENDERSON] is entitled to the floor for five minutes.

Mr. HENDERSON, of Iowa. Mr. Speaker, the effect of the amendment which I submitted last evening is to strike out in section 4 of this bill these words:

> That it shall be unlawful for any person or persons engaged in the transportation of property as provided in the first section of this act to charge or receive any greater compensation for a similar amount and kind of property, for carrying, receiving, storing, forwarding, or handling the same, for a shorter than for a longer distance on any one railroad; and.

I leave the latter clause of the section, which has reference to private and leased lines, that they shall form a part of the whole line.

Now, Mr. Speaker, I am in favor of railroad legislation. I am in favor of railroad legislation even if it does not meet my entire views. I believe the bill which was reported by the committee was the better bill. I believe there are dangerous pitfalls in this substitute introduced by the gentleman from Texas [Mr. REAGAN]. This section is one of the most captivating sections of the bill, but I believe it to be one of the most deadly to the interests of that part of the country which I have the honor in part to represent. I believe, sir, it is opening rat-holes, as might be said, in the great granaries of this Republic—the regions that supply the food of the country. I believe that it strikes down the very interests that the most of us are here to represent, that is, the great agricultural interests of this country.

I do not need to argue this at length, for it has been admitted in debate by the friends of this very section of the bill. I call attention to the remarks of the gentleman from New Jersey [Mr. MCADOO] in discussing and supporting this very section of the bill. He said:

> Let us take an occidental illustration: Here is Chicago (not the old and certainly not the new Jerusalem), with many competing lines. Here is Paradise, Pa., on the most natural and easy route between New York and Chicago. Only one line of railroad passes through it. It is only two hundred miles from New York, and yet passage or freight under existing circumstances is liable to be greater to Paradise than Chicago. Of course I know Chicago and another similar place are both reached by down grade and easier of access than Paradise, but on what idea of justice should Paradise, Pa., pay up for Chicago, Ill.? This system is very unjust to the Eastern farmer. With higher taxes, dearer land, and higher cost of production, all paid on account of proximity to the seaboard, he can not compete with those thousands of miles inland.

There is an admission that this fourth section of the bill strikes in the face the inland parts of this Republic—the parts remote from the seaboard market. It cuts down the value of every farm. It puts practically a tax on every ox, every horse, every hog, every bushel of grain raised and sold. Chicago, for the States of Ohio, Indiana, Iowa, Minnesota, Missouri, and others adjacent thereto, is the market for the farmer. If you increase the rate on long hauls from the Chicago market eastward, you tax all the products of those States. Take it, for instance, in Meadville, Pa.; and a car-load of cattle shipped from there costs $5 more than a car load of cattle shipped from Chicago. This shows the benefits that the West derives from low rates on long hauls. You pass this fourth section of the bill and you force an increase of the rate on long hauls. Competition in the great shipments made from a point like Chicago enables them to ship at low rates. Pass this fourth section, and you increase that rate. Increase that rate and you add a tax to the products of the people of my district. You not only do so in shipping our products to the East, but you also do so when you bring your manufactures from the East. Clothing and merchandise of all kinds brought from the East get the benefit of the same principle, and you put a tax on the people when you land those goods at the doors of the consumers and producers in my State. For, sir, it works both ways: it is an injury to the consumers of the East, and it is a disadvantage to the producers of the West.

Mr. Speaker, I say this, that while I conscientiously believe any gentleman on this floor is warranted in voting against this entire bill because of that fourth section, so earnestly do I desire legislation on this general subject even if I can not carry my amendment, I believe

I am prepared to vote for this bill. I appeal to gentlemen in this House to recognize the fact that the people do demand legislation. It is not true, in my opinion, as stated by the gentleman from New Jersey [Mr. PHELPS], that they are content. They are not content. Every legislative body in this country has been an intellectual battlefield for years where the people have fought for the regulation of railroads, and those struggles have brought down rates of transportation as much perhaps as the natural law referred to by my always eloquent friend from New Jersey.

[Here the hammer fell.]

Mr. REAGAN. Mr. Speaker, I desire briefly to endeavor to answer the argument just submitted by the gentleman from Iowa, and I the more desire to do so because I regard him as a fair man. I think his judgment must be controlled by some sort of facts different from those really presented by the bill before the House, and which induce him to take the position that he does.

What are the facts presented? This bill simply proposes that more shall not be charged for a shorter than for a longer distance on the same amount and kind of freight on any single railroad. What objection can there be to that? What does the gentleman want? Does he want to have his freights carried from Iowa to New York at less rate than it could be carried for one hundred or two hundred miles on that line of road? If he does, if he wants freights carried below any compensating rates to the railroads, does he not demand simply that other people living upon the line of the road shall pay the difference in the freight between what are the compensating rates to the company and those which he himself is compelled to pay?

Mr. HENDERSON, of Iowa. Let me interrupt the gentleman to ask him——

Mr. REAGAN. I must decline in five minutes to yield to an interruption.

Mr. HENDERSON, of Iowa. Is it not true that farmers in Pennsylvania have farms worth $150 an acre, while in Iowa they are worth from but $25 to $50, and is there not a compensation to those Pennsylvania farmers by living in nearer proximity to the markets?

Mr. REAGAN. I hope I will not be interrupted in violation of the rule. I have declined to yield to the gentleman.

The SPEAKER. The gentleman from Texas declines to be interrupted, and is entitled to the floor.

Mr. REAGAN. Mr. Speaker, I have heretofore alluded to this subject in the general discussion of this bill, and have endeavored to combat the extraordinary assumption that one of the duties of the railroad companies is to equalize the profits of the people.

Why, sir, if we submit to them in this matter we submit to them the entire commerce of the country, and the interests of the people are placed directly under their control. We can not afford to do it. Their business is the transportation of products and not the equalization of business, nor the regulation of private fortunes or the investments of capital. That is not what they were chartered for. The real question is, and there is no escaping from it by the gentleman from Iowa or any other gentleman, that the object had in view is to arrange so that freights for a longer distance shall not be carried for less than a compensating rate to the railroads, and the people between the terminal points be required to make up the difference by paying an extra cost for the carrying of their freights for shorter distances over the same line. There is nothing in this bill requiring the railroads to charge more for carrying freights than there is now. They can control that question just as they do now, and establish a fair compensating rate for the service performed. What more, I would ask, can possibly be desired than that?

There is, however, an equity connected with the subject. Suppose you allow these unjust rates to be charged; then you compel the people at other points on the line to pay your freight. That discriminates in favor of one locality and against another. You enrich certain favorite individuals at the expense of others; you build up localities and impoverish others; you make one town a city by the unlawful action of the railroads, while you destroy the commerce and prosperity of another by the same unlawful action.

Instead of the discrimination being made as the gentleman from Iowa suggests, it is a discrimination by the bill against excessive charges for short hauls; that is all. The gentleman from Iowa objects because he would leave it in the power of the railroad companies to charge as much for one-tenth of the distance as they do for the whole distance, or for one-fourth or one-half of it as for any other portion of the length of the line.

Now, while they can not carry as cheaply per ton per mile for a short haul as for a long haul, as the same handling takes place for both, they can charge as much on the long haul, and it puts the short haul at a disadvantage by subjecting it to the full amount of freights that would be charged upon a long haul. We said it is not equitable, but we can not get a better rule that is equitable in favor of long hauls, and hence adopted this provision.

[Here the hammer fell.]

Mr. WILSON, of Iowa. Mr. Speaker, the people of the West are asking the governors of their respective States to call their Legislatures together to take action with regard to the condition of transportation. If the petitions should be acceded to the State Legislatures can only deal with about one-fifth of the transportation problems, as four-fifths of the carrying is interstate in its character. Congress must regulate interstate commerce or it will not be regulated. For many years we have been asked to do it and nothing has been done. The present distress and consequent agitation surely deserve our earnest attention. No two members agree exactly upon details on this question. A minority is sure not to get what it wants in any bill. But I am resolved to vote for the judgment of the majority in the faith that as the bill progresses through its several stages in both Houses it may be perfected. This is the preliminary stage, and it has to go through many; it will come back to the House, and final voting will then take place. I have no sympathy with attempts to destroy the bill or hinder its progress.

With regard to the bills before the House, I am sure that neither is free from grave objection. The fourth section now being considered, to prevent more for a short than a long haul, is right nine times out of ten. Schedules are based upon it, because distance is one factor in arranging rates; but the rule has exceptions, and provision should be made for them, and no act can be so framed as to do it. The law should have brains in it; an executive hand to moderate it; eyes to see and ears to hear. The feature of the same section that prohibits more for a short haul than a longer one for a similar amount and kind of property would permit the worst discriminations now complained of in the West. A shipper who bills two cars could get a different rate from the shipper who bills one car, and thereby get a monopoly of local business. Our transportation is dual in its nature—a local business that should be looked at from a local standpoint, and a through business that should be considered from a through standpoint. Train-loads of goods are sent from the West and at a lower rate by the hundred-weight than single hundred-weights from a point near the seaboard to the seaboard. We can not frame a statute that will fairly apply to the hundred-weight a short distance and the train-load a long distance.

Wholesaling has grown up very rapidly in Iowa. The application of distance as the greatest factor in transportation will destroy every wholesale establishment in the State. It will take our factories for packing pork and condensing other products to Chicago. Time may enable Congress to frame a statute that will apply to both local and through commerce, but we have not found it yet. We should try to prevent unjust discriminations, unfair rebates, injurious pooling, and extortionate rates, but we are sadly at variance how to frame the act that will do it. I think we should give the people an arbitration board, where their complaints should be heard and determined—a place where poor men can go without retaining a lawyer—an arbitration board, that will hear at once and act promptly. It is no use to send a man with a ten-dollar grievance to the courts. Few have sought that form of redress in the past, although the courts have been open. Few will resort to them in the future. There are but two ways to give redress—either by an arbitration without expense or by a lawsuit with it.

Mr. HENDERSON, of Illinois. Mr. Speaker, I have heretofore, in a former Congress, spoken at length on the subject of regulating interstate commerce, and at that time discussed the section of the bill now under consideration, and gave some reasons why I thought it should not be adopted. I have seen no reason since to change the opinions then expressed, although the section has been amended, so that it is not now limited to a car-load, as it was at that time.

I do not agree fully with the gentleman from Iowa [Mr. WILSON] who has just taken his seat when he says that in ninety-nine cases in a hundred the provision in this section is right. I am of the opinion that if this section should become the law it would operate injuriously in a much larger proportion of cases. I believe it would operate injuriously to the people whom I have the honor to represent, as well as those of other sections of Illinois. In the district where I reside our railroads terminate at Chicago, and our produce is shipped to that city. Chicago is the market largely for what we buy or sell. Certainly the larger part of what we buy or sell is shipped to or from that city, and we complain that we have to pay higher rates than those who live at greater distances west of us; and it is true that we oftentimes pay more to Chicago—only about one hundred miles distant—than we do from Chicago to New York, or from Chicago to Philadelphia or Baltimore. Now, I do not see how this section can possibly benefit us. Freight rates from my district to Chicago can not be affected by any provision of this bill, the railroads fixing such rates for transportation being wholly within the State.

This, Mr. Speaker, is really one of the difficulties in our way in attempting to legislate on the subject of regulating railway transportation by Congress. There are many sections of the country where the people are in the same situation as my constituents. Take the people of New York who ship to New York city, or to Albany, or to Buffalo; take the people of New Jersey who ship to Jersey City, or the people of Pennsylvania who ship to Philadelphia, and these are the people who have complained most of unjust discriminations, of the lower rates for transportation from longer distances; and such instances may be pointed out in many other parts of the country. These people in such cases can not, as it seems to me, be benefited by this provision, as their transportation by railroad is largely within the State, and is not therefore interstate; and if they are subjected to unjust discriminations or

to unreasonable or exorbitant freight charges, they must rely upon State legislation largely, if not entirely, for relief. Now, while we complain of freight charges to Chicago, we have cheaper rates from Chicago to the Atlantic seaboard, and the effect of this bill, if it has any effect at all, will be, as I believe, to increase charges from Chicago east, and from all other points where there exists the competition of numerous railroads and, at the same time, that of the cheaper transportation by water; and such points are too numerous to mention.

I know, Mr. Speaker, the gentleman from Texas says that this provision does not require railroads to charge more than they are now charging for the longer distances, but will they not be compelled to do so? In many cases they may be compelled to charge more or otherwise carry nothing. He says they can still carry for the same. But may they not be compelled to carry even for less, and for a rate which is not remunerative or which is unreasonably low? And if so, then I can not for the life of me see why they may not when they get beyond the point of such severe competition charge a reasonable rate, even though it may be more than that charged for a longer distance. I admit that as a rule it is unjust to charge more for a shorter than for a longer distance or to charge a different price for the same distance; and I would be willing to make such charges *prima facie* evidence of unjust discrimination. But there are many cases where, in my opinion, railroads may be justified in charging more for the same or for a shorter distance, and when it would be an absolute injustice to forbid such charges. I do not believe, therefore, that any such iron rule should be adopted as this section provides.

The supreme court of the State of Illinois in a well-considered case, where the complaint was that the Chicago and Alton Railroad Company had charged more for a shorter than it had for a longer distance, held that the Legislature should amend the act to prevent unjust discriminations and extortions in the rates to be charged by the different railroads in the State for the transportation of freight on said roads, so as to make the charging of a greater compensation for a less distance, or for the same distance, merely *prima facie* evidence of unjust discrimination, instead of conclusive evidence as such act made it. In the opinion of the court in that case it is said:

> That the naked fact that a railway company charges a larger sum for transporting freight of the same class over a given distance than it is charging for the same distance over another part of its road, or in the opposite direction, is not of itself conclusive evidence of an unjust discrimination, will be manifest on a moment's consideration. Take, for instance, the road of the appellant with one terminus at Chicago and the other at East Saint Louis. At one season of the year more freights are moving from Chicago toward East Saint Louis than in the opposite direction. The consequence, of course, is, that the supply of empty cars at the latter point will be in excess of the demand. There is a water route between these points, which also touches several intermediate stations upon the road. Now, unless the railway company is permitted under such circumstances to induce shipments over its line by lowering its freights, it is evident that a portion of its cars will return empty. This would, of course, necessitate a higher charge for freight moving toward Saint Louis than it would be necessary to impose if return freights could be secured by lowering the rates on the return trip. To forbid the company to lower the rates of return freight would thus benefit no one, and would work an injury both to the company and to the people along the line.

That illustration is given, the court say, for the purpose of showing that a difference of price for the same distance of transportation is not necessarily an unjust discrimination, and that any law must be fatally defective which infers guilt as a conclusive presumption from the mere fact of difference of rates, without permitting the companies to show why the different rates were adopted.

It occurs to me that the reasoning of the court will apply with as much weight to the section under consideration, for if railway companies are compelled, from the competitive point, to carry at a very low rate in order to carry anything, it does seem but just to allow them to charge a reasonable rate from other points when you get beyond such competition.

I am opposed to this provision as much for what it permits as for what it forbids. The gentleman from Texas [Mr. REAGAN] says this provision allows railroad companies to charge as much for any part of the distance over their roads as they charge for the whole distance. But why permit them to do that? Why permit them to charge as much from Albany to Boston as they do from Buffalo to Boston? Why permit them to charge as much from Fort Wayne to Chicago as they do from Pittsburgh to Chicago? And if you permit them to charge as much from Fort Wayne to Chicago as they do from Pittsburgh to Chicago, or from Albany to Boston as they do from Buffalo to Boston, would it not seem just to allow them to charge more from Crestline to Chicago than from Fort Wayne, where it is more than double the distance, or from Rochester, N. Y., to Boston than from Albany for the same reason? It seems so to me.

This, Mr. Speaker, shows the absurdity of the rule, that it is not a just rule. It would, in my opinion, be a far better rule to permit no unreasonable or exorbitant charges to be made under any circumstances from any point. I am certainly in favor, Mr. Speaker, of any proper legislation to protect the people from any and all unjust discriminations and from any and all unreasonable and exorbitant freight charges; and I would make it the duty of the Government to enforce the law. But I do not believe the rule embraced in this section is either wise or just; and, in my judgment, it should not be adopted as an absolute rule to govern in all cases and under all circumstances.

The following remarks made by me in the Forty-sixth Congress on the provisions of this section, which, however, were then limited to a car-load, but are now made general as to all freights, being applicable, are hereby appended as a part of my remarks:

And now, Mr. Chairman, as to the fourth section of the proposed substitute, which makes it unlawful to charge or receive any greater compensation per car-load of similar property for carrying the same for a shorter than for a longer distance, I will say that such provision does not commend itself to my judgment at all. I know that many members of this House approve of that section of the proposed substitute, and insist that it is right in principle. They tell you with great confidence that every man of common sense knows that it does not cost any more to carry freight of any kind a shorter than it does for a longer distance, and that it is a wrong and an outrage to do so. I know this seems to be very plausible indeed, but I assert here that no such rule can be applied to railroads engaged in carrying interstate commerce indiscriminately without doing in many cases absolute wrong and injustice; and it does seem to me not to require much examination and reflection to satisfy any one of the truth of this statement. The rule might be a just rule, and I think it would be, if there were no controlling influences to prevent a railroad from charging at its terminal points a reasonable rate for the transportation of property. Then, and in that case, you might insist that no greater charge should be made for a shorter than for a longer distance. But such is not the case, as every one knows. Take Chicago, Saint Louis, Cincinnati, and many other cities where there are numerous railway lines running to the seaboard, all competing not only with each other but with the cheaper water transportation, and there are times when the strife for the carrying trade between these competing lines, lines constructed and run as far as may be in the interest of rival cities, each striving to build up its own commerce or to maintain its own commercial supremacy, is so great that railways are compelled by this high competition to carry for less than a reasonable rate, for less than a living rate; and then I ask every candid, fair-minded man in this House, is it just to say that because a railway is thus compelled to carry for less than a reasonable rate, or living rate, from the point of such high competition in order to carry anything, that it should not be allowed to charge a reasonable rate, or living rate, from intermediate points where there is no competition whatever, even though such charge be more than was charged for a longer distance on the same line of transportation? I know it is said that if railroads carry from terminal points for less than cost they should not be allowed to make up their losses by exorbitant charges on local freights; in other words, that unreasonably high local rates should not be permitted to compensate for unreasonably low through rates; and that proposition I do not object to. I maintain, however, that unreasonable, extortionate rates should not be permitted anywhere on any railroad; and I insist that the question to be considered should be, what is a reasonable charge from the given point, and not what is charged from some other point.

It is admitted by all who are conversant with the subject that freight can be carried for much less by water than by rail. Some say for one-fourth, and certainly it can be carried for one-half by water that it can be by rail. God made the rivers, the lakes, and the ocean, and the Government dredges the bars, removes the snags and the rocks, and deepens the channels, and all the expense the carrier by water is at is the expense of building his boats and running them, while the construction of the railway costs millions to those who carry by rail, to which millions more may be added for rolling-stock, locomotives, and cars, and the expense of operating them. Hence water transportation is by far the cheaper, and railroads that have to compete with water lines of transportation are compelled to carry at the very lowest possible rates; and when you add to that the competition of numerous other railway lines, each striving for business, the rates for carrying freight are in many cases reduced so low that any one can see that to prohibit a railway company, under such circumstances, from charging more from some other point where there is no such competition, and where the shipper has no such advantages as exist at the competing point or points, would be absolutely unjust and ruinous to such company. This is the case at Chicago, and this is the case at Saint Louis, Cincinnati, and very many other cities where competition runs high and railways are striving for business.

My colleague [Mr. SPARKS], who delivered a speech on this subject some weeks since in the House, who approves of the fourth section of the substitute proposed by the gentleman from Texas [Mr. REAGAN], and who thinks it tersely and admirably drawn, said in his speech:

"From Saint Louis pointing east there are five important railway lines, which of themselves and in combination with other roads forming their eastern connections are through lines to the great business centers on the Atlantic seaboard. These railways all pass through the district or parts of the district in Illinois which I have the honor to represent in this House. * * * That district of country is devoted mainly to agriculture, and the productions principally wheat and corn. These crops, together with flour, quite extensively manufactured there, constitute the great bulk of its exports, 90 per cent. of which is destined for the markets of the East, such as Baltimore, Philadelphia, New York, and Boston."

He further said that his home was at Carlyle, a way station on the Ohio and Mississippi Railway, forty-seven miles east of Saint Louis; and then shows that in the month of November last freight rates were more from Carlyle to Philadelphia, Boston, and New York than from East Saint Louis.

Now, Mr. Chairman, there are not only the five important railway lines running east from Saint Louis through my colleague's district, but there are competing water ways by way of New Orleans and Chicago, and I would say to him that these five railway lines are compelled necessarily to compete not only with each other, but with these several lines of transportation by water when they leave Saint Louis; and as the proposed substitute for the bill under consideration, which my colleague approves, forbids all poolings of freights and combinations of railways for that purpose, and seeks by legislation to compel competition, and, as he said in his speech, "when railroad companies declare war against each other, during the continuance of such war, at the terminal and intersecting points their tariff rates are in many cases reduced to ridiculously and ruinously low amounts," I would ask him whether if the Ohio and Mississippi Railroad Company under such circumstances should be compelled by such a war, or by great competition, to reduce its tariff of rates to a ruinously low amount, it should be compelled to charge ruinously low rates at every other point where there is no competition whatever? There can be no good reason given, it occurs to me, why such railroad may not under such circumstances justly charge a fair and reasonable rate from such other points where there is no competition. My colleague says again that on the Pacific Railway, six hundred miles east of San Francisco, shippers are compelled to ship their freights at local rates west to San Francisco, and then ship them back over the same line in order to get the best rates. And this seems to be a great wrong.

But why is this, Mr. Chairman? How does it come that this seeming wrong is perpetrated? It is of course because the Pacific Railroad when it leaves San Francisco must compete with transportation by ocean, which is much cheaper; for the railroad was constructed at immense expense, and if it is compelled to carry freight from San Francisco for less than a remunerative or reasonable rate by reason of the cheaper transportation by ocean, I would like to have my colleague, or any other gentleman, give me any good reason why a reasonable or remunerative rate should not be permitted at other points east of San Francisco. While no exorbitant charge, no unreasonable or extortionate charge, should be allowed anywhere, it seems to me to be unreasonable to attempt to give people who live ten, twenty, or a hundred miles away from water transportation the

benefits he would have if living by it. With as much reason you might as well try to put the man who lives twenty miles away from navigable water, or a railway station, on an equality with the man whose farm is near by.

The same complaints are made in regard to Chicago rates and local rates east of Chicago that are made as to Saint Louis, San Francisco, and many other places. And why? Because Chicago has water transportation by the lakes and by the Erie Canal, and by the Illinois and Michigan Canal, the Illinois and Mississippi Rivers to the Gulf and the ocean. And in addition to these cheaper lines of water transportation, there are numerous railway lines leading to the seaboard and to rival commercial cities striving to build up their commerce, if not to maintain commercial supremacy. Now if with all these competing lines of transportation striving for business, and especially during a war among railway lines, a railway company is compelled, in order to do any business, to carry at unreasonable or ruinously low rates, I am wholly unable to see any wrong or injustice in permitting such railway company to charge from any station on its line east of Chicago a reasonable rate, even if such charge should be greater for the shorter than is made from Chicago, where the advantages of all these competing lines exist, and which would be a longer distance. And the same thing may be said of numerous other cities and places all over the country.

I would ask, Mr. Chairman, why this fourth section, so much commended, permits a railroad company to charge as much for the shorter as it does for the longer distance? We are told that under this section the Pittsburgh, Fort Wayne and Chicago Railway Company may charge as much from Crestline to Pittsburgh as it does from Chicago to Pittsburgh. And so a railroad company may charge as much from Albany to Boston as it does from Buffalo to Boston. Of course, to do this the company must charge as much at every intermediate station between Chicago and Crestline as it does from Chicago, and the same from Buffalo to Albany, and this fourth section permits that to be done. It does not seek to regulate or control charges in any way; it permits a railway company to charge what it pleases for its services. And when it fixes a through rate from its terminal points, whether such through rate be high or low, it permits the high rate to be continued at every intermediate station all the way to the end of the line, and also requires that the low rate shall not be exceeded at any intermediate station on the line. Why is this permitted? And may not the circumstances which would justify charging the same for a shorter distance than is done for a longer be of such character as to justify charging more in some cases for the shorter than is done for the longer distance? It seems so to me, and I am satisfied that the only just rule that can be adopted, both for the interest of the shipper, of the people who are interested in cheap transportation, and of railway owners, is to require railway companies to carry at reasonable rates from all points and for all distances. And I ask, Mr. Chairman, why, if you are permitted to charge as much from Crestline to Pittsburgh as you do from Chicago to Pittsburgh, you may not be allowed to charge a little more from, say, Fort Wayne, which is from one to two hundred miles farther from Pittsburgh than Crestline?

The fact is the rule that a railway shall not under any circumstances charge more for a shorter than is at the same time charged for a longer distance is not a just rule. There are many cases where it seems to me a railway company may without any injustice be permitted to charge more for the shorter distance. Take the railway lines that necessarily have to compete with the cheaper water transportation, as from Louisville, Ky., to Memphis, Tenn. That line must compete with the Ohio and Mississippi Rivers. The railway lines from Pittsburgh, from Wheeling, from Bellaire, and Parkersburg to Cincinnati, and from Cincinnati to Saint Louis must compete with the Ohio River, and with the Ohio and Mississippi Rivers. And in these and many other cases the railway lines may, I think, be permitted justly to charge more for the shorter distance after leaving the point of competition with water transportation, provided always the charge be a reasonable charge. Nor is it entirely clear that under some circumstances a railway line may not without any injustice be permitted to charge more for the shorter distance even without reference to competition. Take the case of Carlyle, Ill., mentioned by my friend and colleague from Illinois, forty-seven miles east of Saint Louis. This fourth section only applies to a car-load. Where does the car come from to Carlyle? The probabilities are that it comes from Saint Louis and is hauled empty to Carlyle, and you not only have to stop to leave the car, but it must remain there for a time and you must then stop your train to get it again, and so it may have been better and cheaper for the railway company to have hauled the car loaded all the way from Saint Louis.

I am led to believe, Mr. Chairman, that the proposed fourth section has grown out of complaints that railway lines are discriminating in their freight charges in favor of the West. In New York it is made a matter of complaint that the New York Central and the New York and Erie Railroads discriminate against the people of that State, and charge them more proportionately than they do the people of the West. It is the same thing in Pennsylvania with the Pennsylvania Railroad, and perhaps the same charges may be made against the Baltimore and Ohio Railroad. Mr. Thurber, an intelligent gentleman of New York, connected with the board of trade and transportation of that city, who takes a deep interest in the passage of the substitute proposed by the chairman of the Committee on Commerce, is reported to have said, in speaking of the great wrongs which have been perpetrated upon the people of the State of New York by railroads, that—

"It is wrong that the farmers of this State [New York] should be charged for transporting their produce a rate proportionately three or four hundred per cent. higher than those of the Mississippi Valley."

This same complaint is made by many others. I have in my hand a paper entitled Public Opinion, containing extracts from a number of newspapers published in New York and Pennsylvania, and perhaps some other States, in relation to the question of railway transportation. I presume other members have received it as well as myself, and on looking over these extracts I find many of them complaining of this discrimination in favor of the West and against the people of New York. One newspaper, the Evening Express, says:

"The present system of railway discrimination virtually puts every farmer in New York west of the Mississippi."

The Lake Shore News says:

"The Central road alone has made poor men of thousands of New York farmers by reducing transportation from the West to a figure lower than it can be had from this State to New York."

And the same paper quotes from the report of the committee of nine appointed by the Legislature of New York to investigate the methods of railway management, as follows:

"The charge that the railroads of this State discriminate against the citizens of the State [New York] and in favor of Western and foreign producers is fully proven by the evidence taken."

The Patriot and Gazette says:

"The discrimination against our own State [New York] is telling heavily on the farmers. Their lands have declined very largely and are still declining. With the most rigid economy and with the most exacting labor, they are constantly growing poorer and poorer. If a barrel of flour can be carried from Chicago to the seaboard cheaper than it can be carried from Oswego, then wheat at Oswego is not worth as much as it is at Chicago."

And then asks the following question:

"Shall the railroads be so perverted as to be made to build up Illinois at the expense of New York, or shall it be made to prove a benefit and a blessing to the State from which it derives all of its power?"

The same paper (Patriot and Gazette) in another extract says:

"The railroads of this State are carrying freight from the West at rates far below those charged on all the above productions of this State, and the result is no farmer or manufacturer is able to hold his own against the competition from the West, aided as it is by the low rates of freight there obtained."

And then states that while flour is carried by all rail from Milwaukee to New York for 36 cents per barrel, the charge from Rochester to New York is 30 cents.

The Long Island Farmer says:

"Grain, flour, butter, and cheese are brought from the Mississippi Valley to New York, twelve hundred miles, for less than half the freight exacted from farmers living within one hundred and fifty miles of the city, thus practically removing their farms one thousand miles farther from the market, subjecting them to a portion of the expenses for transporting the products of the West, and reducing by one-third the cash value of their land."

The Yonkers Statesman says:

"Our railroads are being run in the interests of the Western States."

And then repeats the exact language already quoted from the Patriot and Gazette, only substituting "Yonkers" for Oswego.

I might go on and multiply these quotations, but those already referred to are quite sufficient to show that there is a very general feeling in New York that the railways in that State are discriminating in favor of the West; that the people of the Mississippi Valley are getting cheaper transportation than the people of the State of New York, and the same feeling exists in Pennsylvania and other Eastern States to a great extent. But if it be true, I ask, in all candor, why do the railways of New York, or of Pennsylvania, or of Maryland discriminate in favor of the West? Why do they carry the produce of the Mississippi Valley to the seaboard so much cheaper, proportionately, than they do the produce of the States which give them their very existence? Is it because they love the people of the West better than the people who gave them all their rights and privileges that they thus discriminate in favor of the West and against their own States? It may be these railways wrong the people of their own States which have conferred upon them their franchises; and, if so, I certainly would not defend the wrong nor attempt any apology for it. But whether the people of New York and of Pennsylvania and other Eastern States are charged too much or not, I am very certain railroad companies do not carry for lower rates from the Mississippi Valley than they are compelled to do.

Fortunately for the people of the West and of the Mississippi Valley their products are not compelled to pass over one line of transportation and to pay tribute to it. They have many lines of railway transportation competing with each other; and what is better and more favorable for them, they have lines of water transportation by the Mississippi River and by the lakes so much cheaper than by rail that these railways are compelled to do whatever they do in the way of giving to the people of the West cheaper transportation. Now, I have believed, and still believe, that the intention and the effect of this fourth section, which prohibits railway companies from charging more for a shorter than they do for a longer distance, is to compel such companies to charge higher through rates and lower local rates, and that it will increase the cost of transportation to the people of the West rather than lessen or cheapen it; and for that reason I oppose the section and believe that it would operate injuriously to the people I represent and to the entire West. And knowing, Mr. Chairman, that the New York Board of Trade and Transportation is anxious to maintain the commercial supremacy of New York, I would say to the members of that board, and especially to Mr. Thurber, that the commerce of New York can not be built up and the commercial supremacy of that city maintained by compelling the people of the Mississippi Valley to pay higher rates of transportation. If you do that, you drive them out of the market, or else you drive them down the Mississippi River by way of New Orleans; and in either case, whatever the railway companies suffer by loss of through traffic, has to be made up in some way by charging higher rates on local traffic. This is inevitable unless their receipts are already larger than they should be or you drive them into bankruptcy.

But the people of the West do not understand they are so highly favored with cheap railway transportation. There are many and loud complaints in the State in which I live of railway extortion, and the people there will be surprised to learn how greatly they have been benefited by cheap transportation. The same complaints are made in the district which I represent of high local rates; and it is undoubtedly true that my constituents, only from one hundred to one hundred and seventy-five miles from Chicago, are compelled often to pay more to or from that city than is charged for four or five times the distance east of Chicago. One gentleman writes me that he paid last fall $18 for a car-load of coal from Pittsburgh to Chicago and $28 for the same car from Chicago to his residence, the latter place being only about one hundred miles, while the former distance is, say five hundred miles. Now, if $18 is a reasonable charge from Pittsburgh to Chicago, five hundred miles, $28 is certainly an unreasonable charge from Chicago to Van Orin, one hundred miles. But Congress can give no relief for such wrongful or extortionate charges to my constituents, because our railways are State railways and terminate at Chicago, within the State of Illinois, and are therefore beyond the reach of national legislation.

And again, the people of Illinois complain also that the people of Iowa, Kansas, and Nebraska are getting much cheaper transportation proportionately to Chicago than they do, and that our own railways are discriminating against Illinois and in favor of those States; and without doubt the railways of Illinois are carrying for cheaper rates proportionately for the people of Iowa, Kansas, and Nebraska than they are for the people of Illinois, especially those in Illinois who are not favored in any way by competing lines. This discrimination against the people of Illinois may be very unjust, and if so the injustice should be remedied. But to a great extent it grows out of the fact that Saint Louis, on the Mississipi River, and Chicago, on Lake Michigan, are two great rival commercial cities, and have each numerous railway lines reaching out into the States lying west of the Mississippi and of the Missouri Rivers, which compete with each other and with the rivers named for the carrying business. It is this competition, as any one can see, that gives to the people of Iowa, Kansas, and Nebraska cheaper transportation than the people of Illinois enjoy, and not any particular love the railway companies have for them. I do not object to the people of those States getting cheap transportation; but I do want my own constituents also to have cheap transportation; and while they are now subjected to high local rates to Chicago, I protest against any rule which would deprive them of the low rates which, by reason of the competition of numerous lines of transportation by railroad and by water, railway companies are now compelled to give them east of Chicago. And that, in my opinion, would be the effect of the fourth section of the proposed substitute.

Mr. REAGAN. Mr. Speaker, this question has been discussed by, I suppose, twenty members in the general debate; and I think it is fully understood. I must move, therefore, to limit the debate.

Mr. O'NEILL, of Pennsylvania. I desire to occupy a few minutes on this question before the debate is closed.

TEMPORARY APPROPRIATIONS FOR THE NAVY.

Mr. RANDALL. I desire the attention of the gentleman from Texas for a moment. I ask him to permit me to call up a privileged subject—the conference report on the bill making temporary provision for the naval service.

Mr. REAGAN. I cheerfully yield. The gentleman has the right to call that subject up at any rate.

Mr. RANDALL. I know I have the right, but I think it due to the gentleman to bring the question up with his consent. I ask the Clerk to read the conference report which I send to the desk.

The Clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to House bill 7510, making temporary provision for the naval service, after full and free conference have been unable to agree.

SAM. J. RANDALL,
WILLIAM S. HOLMAN,
JOHN S. LONG,
Managers on the part of the House.
EUGENE HALE,
JOHN A. LOGAN,
JAMES B. BECK,
Managers on the part of the Senate.

The SPEAKER. The Clerk will read the statement of the House conferees which accompanies this report.

The Clerk read as follows:

The managers on the part of the House of the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H. R. 7510) making temporary provision for the naval service submit the following written statement in explanation of the accompanying conference report:

The conference committee having been unable to agree, the bill remains in the same condition as when last considered by the House.

SAM. J. RANDALL,
W. S. HOLMAN,
JOHN D. LONG,
Managers on the part of the House.

Mr. RANDALL. Mr. Speaker, I do not consider that the differences between the two Houses in reference to this appropriation bill should be the occasion of any feeling. I believe rather that we should have an intelligent investigation into those differences, and then we shall be justified in some degree of firmness in the direction of what we may consider to be right.

I am free to say that in my view the position of the House conferees in reference to this bill was not fairly stated in the Senate yesterday; and, therefore, I will now express what I think is the unanimous voice of the House conferees as to the position we maintained in the conference.

It is well known that during the last six months the Navy Department has been administered under what is known as a temporary appropriation. The passage of a bill making a similar temporary appropriation for the next six months was objected to on the part of the Senate. It was then the House conferees said that, having no desire to make a lump appropriation, we would in this bill make a recital of every item from which the support of the Navy has been derived during the six months now almost closed. In other words, to make our provision perfectly plain, we were ready to agree upon a bill based on the existing law, and not based upon a bill which never in fact received the full approval of either House. We were willing to consider each item in its order, making reduction if it should appear in any case that for the last six months more money than was necessary had been given, or, on the other hand, increasing the appropriation if a sufficient sum had not heretofore been given. But we adhered strictly to the position that the Navy Department during the next six months of this fiscal year should be run in the same manner and with the same amount of money as during the last six months.

Thus we would consider the item of "pay of the Navy," for which we appropriated for the first six months of the current fiscal year $1,857,075, that being one-half the amount required for the full year 1884. In the same way we would appropriate for "miscellaneous pay." Next would come "contingent expenses of the Navy;" next the "pay of the Marine Corps," "provisions for the Marine Corps," "clothing for the Marine Corps," "fuel for the Marine Corps," "military stores for the Marine Corps," "transportation and recruiting for the Marine Corps," "repairs of barracks," "forage for horses," and all the various items relating to that service. So in the same way we would take up by items the appropriations for the Naval Academy. Then we would take up the Bureau of Navigation, considering each item with reference to the administration of the existing law; then the Bureau of Ordnance, then the Bureau of Yards and Docks, then the Bureau of Medicine and Surgery, then the Bureau of Provisions and Clothing, then the Bureau of Construction and Repair, then the Bureau of Steam-Engineering. There was, in addition to the usual appropriations for the naval establishment, in the law for the current six months appropriations for the "increase of the Navy," which we gave in full, so as to complete the cruisers that were partially built and under contract, and for their armament.

Mr. COX, of New York. Will the gentleman permit me to ask him a question?

Mr. RANDALL. Pardon me for a moment and I will yield for that purpose, but I just now wish to make a connected statement.

On the other hand, Mr. Speaker, the Senate conferees desired we should make the basis of our conference a bill that was passed by the House and amended by the Senate, but which was finally laid aside and never became a law. And I want to illustrate to the House the effect of going into conference on that proposition. It would be based upon an increase of the appropriation to the Navy approaching more than five millions of money. But, sir, I gave that statement once before, and will not now detain the House by repeating it, and will ask the privilege to have it inserted in my printed remarks. It is as follows:

The bill providing for current expenses of the Navy, January 1 to June 30, 1885, as passed the House, appropriates	$6,734,717 11
That bill as amended by the Senate gives for the same purposes	7,204,358 83
Being an increase of	469,641 72
The Senate on the same bill also gives for increase of the Navy	4,700,000 00
Total increase over House bill	5,169,641 72
The bill as passed the House last session gave for current expenses (one-half)	6,318,521 33
That bill as amended by the Senate gave for current expenses (one-half)	7,126,001 33
The bill just passed the Senate is in excess as follows (not including increase of Navy, $4,700,000):	
Over same bill as it passed the House	$469,641 72
Over the bill as passed the House last session	885,837 50
Over the House bill as amended by the Senate last session	78,357 50

The effect of proceeding as the Senate desired us to do would bring into conference other new subjects not legislated upon until the last session of Congress.

We have here a board provided for to determine the merits of coal in reference to its capacity for producing steam; we have also a proposition to revive the gun-foundery board, neither of which was touched in the law last year; and in the third place a provision directing the Secretary of the Navy to report to Congress plans for the construction of an armored vessel. That new legislation of the Senate bill is as follows:

The coal or other fuel for the Navy purchased under this appropriation shall be of the kind which may be preferred by the Secretary of the Navy, after an investigation by a suitable board of officers of the comparative merits of anthracite and bituminous coal and of other fuel for ordinary naval uses, and the price of said coals and of other fuel, and the readiness with which they may be procured in the ports of the world.

That it shall be the duty of the Secretary of War and the Secretary of the Navy, with the assistance of the gun-foundery board, which is hereby revived, to report to Congress, on the first day of the next ensuing session, a plan and estimate for the preparation and purchase of plant for a gun factory to complete guns from 6-inch caliber to 16-inch caliber, including buildings and shrinking-pit, and to report the full and detailed estimate for the cost of the work aforesaid, and whether the same can be better and more economically performed in establishments owned by the Government, or by private contract, or by a combined system whereby the said work can be accomplished partly by the Government and partly by private contract, and in what annual installments the said appropriations can most economically be made.

The Secretary of the Navy is hereby directed to report to Congress, at its next regular session, a plan or plans for the construction of one armored vessel for the United States Navy of not exceeding 8,500 tons displacement, the cost of the same, with machinery and armament, and time which the process of construction of such vessel would take.

Neither one of those subjects was legislated upon, as I have already stated, by Congress at the last session; neither one of those three items was contained in the bill as it passed; and yet, sir, the Secretary of the Navy, as I am advised, has proceeded to execute those three provisions although the legislation asked on those three subjects was refused by the action of the House at the last session.

The items of appropriations which would be forced into the conference by the Senate if we acceded to their request would embrace the following items; these are the items of appropriations in the Senate amendment not in the House bill:

Compass-testing house	$7,000 00
Manufacture of modern guns	100,000 00
Machine-guns	75,980 00
Construction or purchase of torpedo boat	55,000 00
For the construction of three cruisers, one dispatch vessel, four gun-boats, and three torpedo boats	2,500,000 00

I see there is an intimation on the part of one of the Senate conferees that possibly the Senate might yield that point for the construction of cruisers.

For procuring tools for constructing ships	$150,000 00
For completing the Mohican	50,000 00
For continuing work on the monitors	2,000,000 00
Total amount of new items proposed by the Senate and not in the House bill, nor for which expenditures have been made during the first six months	4,937,980 00
The bill as it is amended by the Senate appropriates an excess over the bill as it passed the House of	5,169,641 72

My experience of conferences is that when it comes to a controversy about differences in amounts of money the House generally has to give away at least one-half. And if we had acceded to the consideration of the bill as the Senate conferees had desired, the result in all human probability would have been that $2,000,000 or more of money would have been added to the appropriation for the coming six months beyond the amount which the two branches of Congress with the approval of the President gave for the support of the Navy for the first six months of the present fiscal year.

In addition it was stated, Mr. Speaker, that the other differences, leaving out the cruisers, were rather of minor importance, both in the object as well as the amount appropriated. Let me state them to see whether they are minor in amount or in importance.

The Senate amendment to the bill states in detail the appropriations for the Navy for the next six months, and the amount for each item of expenditure is arrived at and fixed by deducting from the amount proposed by the Senate amendments to the naval bill last session the sum

appropriated by the bill providing for the six months ending December 31, 1884. This method would disproportion the expenditures for the first six to those for the last six months thus:

Bureau of Equipment and Recruiting, first six months	$400,000
Bureau of Equipment and Recruiting, last six months	450,000

Here would be an excess of $50,000 for the next six over the last six months.

Bureau of Yards and Docks, first six months	$110,000
Bureau of Yards and Docks, last six months	140,000

That would be an excess of $30,000.

Bureau of Construction and Repairs, first six months	$550,000
Bureau of Construction and Repairs, last six months	850,000

Here is an increase of $300,000.

Bureau of Steam-Engineering, first six months	$500,000
Bureau of Steam-Engineering, last six months	550,000

Here is an increase of $50,000.

Now, what we wanted in conference on the part of the House conferees was to take the existing law for the last six months and if necessary repeat by items the same for the next six months against any lump appropriation.

This relieves the bill of all disproportion in the appropriations for the first six months of the current year as compared with the second six months, and makes it plain. It restricts the officials at the Navy Department so that they can not do as has been alleged and as is apprehended—that is, mak eany expenditures except for the distinct purposes enumerated in each separate item which I have recited. And in addition the proceeding as indicated by the House would be in such harmonious relation in the administration of the Department as would make the two divisions of the year run together in perfect unison, not only on the books of the Department but also in the administration of its affairs.

That is the difference between the Houses. We as a conference committee were unwilling to march further than the existing law and take in, as it were, a drag-net to bring in other matters of controversy involving large sums of money as well as the expenditures of money for objects which this House has heretofore indicated that it does not propose or is unwilling to allow.

I yield now to the gentleman from Massachusetts [Mr. LONG], my colleague on the committee, if he desires to be heard further upon this subject. If not, or if there be no other gentleman desiring to submit remarks, I will ask the House to insist upon its disagreement and ask a further conference.

Mr. KEIFER. Will the gentleman from Pennsylvania yield to me for a few minutes?

Mr. RANDALL. Certainly.

Mr. KEIFER. I suppose it is going to be the decree of the House that we shall insist upon the disagreement to the amendments of the Senate. I would rather have heard something this morning about the merits of each of the matters in dispute between the two Houses, than to have heard only aggregate amounts talked about as constituting a difference.

It must be borne in mind that we are creeping along through this year so far as our Navy is concerned. If we are to have a navy, Mr. Speaker, that at last is to become respectable, we ought to begin now and ought in fact to have commenced much earlier. We ought to have entered upon this work years ago and have established a navy that would command the respect of all the maritime nations of the world. We ought to have stood abreast of any of those nations all through the years gone by. But we have not done so. Now, if there be an attempt on the part of the Senate to do something in the direction of making this Navy what it ought to be, although we have failed for the first six months of the current year to do what we should have done, let us be active, vigilant, and prompt in the coming six months.

It is said that we are at difference with the Senate in amounts of money appropriated in matters relating to the cruisers, as well as in other things, and it is argued that we could now go forward and do just as we have been forced to do in the first six months of the current fiscal year. But, Mr. Speaker, we want to remember that for want of time or because of the arbitrary differences in views between the Senate and House of Representatives we simply passed at the last session a resolution continuing the appropriations of the preceding year with some limitations, too, for the last six months.

In that way we succeeded in keeping the Navy alive. We are now reaching the first day of the last half of the present fiscal year, and likely to enter upon it without any sort of provision for the Naval Department of the Government of the United States; and while I am not familiar with the items of this bill, it seems to me it would have been well for the House to understand just the reason why the Senate of the United States stands so firmly in favor of making appropriations for the naval service, which would enlarge it to some extent at least.

Mr. RANDALL. Will the gentleman allow me a moment?

Mr. KEIFER. Certainly.

Mr. RANDALL. The bill passed for the first six months of this year provided in full for the increase of the Navy, and, as I have already shown, provided, as the present bill provides in full, for the completion of all of the steel cruisers.

Mr. KEIFER. What amount is involved here in dispute between the Senate and the House?

Mr. RANDALL. The difference is principally in reference to the construction of new vessels, not the old ones, the finishing of which, as well as their armament, being provided for just as it was in the first six months of the year.

Mr. KEIFER. That is proposed to be continued now?

Mr. RANDALL. Provision is made for their completion, and appropriations have been made also, as I have said, for their armament.

Mr. COX, of New York. That is done already.

Mr. KEIFER. Very well. It is proposed on the part of the Senate to do something now that is regarded as essential to build up the Navy; and it is upon that point that we would like to have had a full discussion and explanation. Whether the time has arrived that we are to make appropriations for the enlargement of the Navy, if we have completed some vessels, and to build it up into commanding respectability, build it up so that it will be at least in harmony with the other great powers of our Government, so that whether on the Atlantic or the Pacific harbors we may be able to protect ourselves against other nationalities, we ought to begin it now. It has been said that a single vessel owned by the small power of Chili can capture every port or city on the Pacific coast of the United States, and that we will be entirely powerless if we were to have a difficulty with that one single little power. The Pacific coast is open so that we are now practically defenseless, there being no vessel in progress that could compete with such a power. We have nothing in fact to protect our great Pacific seaboard cities. We are exposed on every side; yet here we are dallying and discussing various things instead of proceeding in the direction which has been suggested. But I have only risen to offer my protest against it. I suppose we will have to disagree as before. I admire the gentleman's persistency in standing up for the judgment of the House and his own judgment; but I would rather have met this question upon its broad merits.

Mr. RANDALL. I did not discuss the merits for two reasons: First, because the merits had been discussed at length at the last session, and also because I did not think it would be wise to discuss them at this time. But as the gentleman from Ohio has opened the subject, I want to say in answer, for I have nothing to conceal, that these cruisers are but experiments at most, and that none of them are yet afloat. The dispatch boat has been afloat but is put up for repair already. She broke her steel shaft, and that of itself should warrant us to go slowly in these particulars.

So far as the present cruisers are concerned I want emphatically to say, what I interrupted the gentleman from Ohio to say, that we have already given every dollar in the bill for the last six months to finish, arm, and put them afloat; so that they are not at all in controversy. So far as the gentleman seeks to pay a compliment to my persistency I want to say that in this case, as I do in every case, I recognized that I was the mere voice of a majority of this House, and I have endeavored to keep myself in that exact relation.

Mr. ADAMS, of Illinois. Will the gentleman from Pennsylvania allow me to ask him a question?

Mr. RANDALL. Yes, sir.

Mr. ADAMS, of Illinois. Leaving out these new vessels which the Senate proposes to build, leaving out the main question of dispute discussed so much in the last session, I wish to ask the gentleman what is in substance the difference between the Senate and the House?

Mr. RANDALL. The Senate enters on legislation in reference to many objects. The aggregate amount is, I think, about $800,000.

Mr. ADAMS, of Illinois. Is it that the Senate desires to spend money for items to which the gentleman thinks the House does not agree? Is that the difference?

Mr. RANDALL. I object as one of the conferees to giving an appropriation for any objects not itemized by the action of the Navy Department in the expenditure of money during the first six months of the fiscal year. I now yield to the gentleman from Massachusetts [Mr. LONG], my colleague on the committee of conference.

Mr. LONG. While I agree with the gentleman from Ohio [Mr. KEIFER] as to the desirability of an increase of the Navy, I think that is scarcely the question which troubles the conferees on the part of the Senate and on the part of the House. If there be no objection I will read from the remarks of the chairman of the conference committee of the Senate as I find them in the RECORD.

The SPEAKER. If no objection is made on the floor the Chair will not interpose an objection.

Mr. LONG. I find these remarks in the RECORD:

> Moreover, we said, "as there are large differences in amounts, as the bill which was matured last session contains the provision for the new cruisers and all the extra expenditure involved in that enterprise, the Senate is willing here to say that it recognizes the fact that we do not agree to give up these cruisers, but if the House insists that it will not put them on the appropriation bill, the Senate conferees feel that they can not drive the House on this subject, so that there would be, if we could consider and confer upon all the items, probably no difficulty."

I infer, sir, from that that the question of the new cruisers and of the increase of the Navy is not a question about which there is likely to be any difficulty.

That brings us then to ask what is the question really between the two Houses? When the Committee on Appropriations came together, after proper consultation with the head of the Department of the Navy, and acting in consonance with what was understood to be the opinion of that Department, the committee reported a bill extending the temporary provision, which had been made for the current six months, for the rest of the year. It is recognized that this is not wise and good legislation, nor altogether a good precedent. The reasons for our action in that respect were practical reasons. In the first place, the fiscal year is a unit from July to July. It is desirable that the books of the Navy Department should be kept in accordance with that unit. It was thought desirable on the part of the committee, concurring I understand with the head of the Department, not to have one system of appropriations for one half of the year and another system for the other half of the year. We shall not spend all the money appropriated for the present six months. Certain balances will go over unexpended. Undoubtedly the officers of the Executive Department of the Navy in making expenditures under the present temporary bill have acted with due reference to the six months, but somewhat also with reference to the whole year. It might introduce confusion in the book-keeping and some confusion in the proper carrying out of the executive work of the Department if we should vary the system for the next six months from what it has been for the current six months.

There is also the practical difficulty of determining in the short time left us what is desirable for the next six months. Therefore the House Committee on Appropriations presented, and the House passed, a bill extending the provision for the present six months to the next six months. That went to the Senate and the Senate amended by striking out all after the enacting clause and inserting the provisions of the bill which was in dispute and in conference between the two Houses at the last session and on which the two Houses could not agree. Your conference committee were appointed; they met in conference. The House conferees presented the reasons for their action and for insisting on the extension of the temporary bill which they have presented.

The first criticism made by the Senate conferees was that it is a bad principle to legislate in a lump. Our answer to that is that we are not appropriating a lump sum. We propose to continue for the next six months the same appropriation under which we are acting for the present six months. That would make for the year a bill exactly like the bill of 1883, for the fiscal year ending July 1, 1884. That bill is clearly itemized and specific. The Department in expending the money will be bound strictly by its specifications and items. There will be nothing, therefore, in a lump sum, but everything is itemized and specified.

The second objection was that every appropriation bill when made ought to be made to accord with the circumstances existing at the time it is made. The Senate conferees say that the bill passed in 1883 was made with reference to the circumstances of the year about to follow upon the date of its enactment.

They then say that the bill under disagreement between the two Houses at the last session was framed with reference to the circumstances of this year, and that it is not good policy for us to pass now a bill which was adapted to circumstances as they formerly existed, and not to present circumstances. Even on that ground we answer that the difference is merely one of degree and time. If we pass now the bill of last session, still we are adopting a bill which was prepared with reference not to present circumstances, but to such as existed six months ago. But even on the doctrine of adapting our legislation to existing circumstances, is not the bill extending for the next six months the temporary provision made for the last six months the measure best adapted to the present and immediate circumstances of the Navy? The Navy Department has been acting under that bill, has arranged all its expenditures with reference to the provisions of that bill, has kept its books upon the basis of the items embraced in that bill; and hence, in repassing that bill we adapt ourselves more closely to the present circumstances and exigencies of the Navy than by adopting any other.

The third objection on the part of the Senate was an objection of principle and of precedent. It was urged that it is the duty of every legislative body not to adopt a former bill, even if it be itemized and even if the necessities of the present case be somewhat assimilated to those before existing; and that a legislative body should make up a new bill carefully and according to the wants and necessities of the present time. I agree that this principle is of weight; but it weighs against both the Senate and the House propositions. Each of them is obnoxious to objection in that respect, one being the Senate bill of six months ago and the other the House bill of a year and a half ago. But here the difficulty is a practical one: it is that in the five or six hours remaining before the anticipated recess we have not time to take up these questions from the beginning and prepare a new specific bill.

A MEMBER. Why cannot this question go over till after the recess?

Mr. LONG. If it goes over till after the recess, then on the 1st of January there is no appropriation at all for the expenses of the Navy; and, besides, if it goes over till after the recess it is impossible to state how much time might be taken in preparing a new bill.

Only one other suggestion. All these great questions connected with the Navy must of necessity be considered thoroughly, carefully, and fully at this session—not only questions as to the ordinary running expenses of the Department, but as to new cruisers and an increase of the Navy. How can there be any more fitting opportunity for the consideration of these questions than will be presented upon the regular naval appropriation bill for the next fiscal year, ending June 30, 1886?

Mr. ADAMS, of Illinois. I would like the gentleman from Massachusetts [Mr. LONG] to answer a single question.

Mr. RANDALL. I believe I still hold the floor.

The SPEAKER. The Chair so understands, but the gentleman from Illinois desires to put a question to the gentleman from Massachusetts.

Mr. ADAMS, of Illinois. Merely a question.

Mr. RANDALL. Certainly.

Mr. ADAMS, of Illinois. I would like the gentleman from Massachusetts to answer the question which I put to the gentleman from Pennsylvania [Mr. RANDALL]—what are the specific points of difference between the two bills, leaving out this question of the new cruisers, which I admit must be left out?

Mr. RANDALL. I enumerated them in my remarks.

Mr. ADAMS, of Illinois. The gentleman said they amounted to so much, but without giving the different points.

Mr. RANDALL. The gentleman will permit me to say that I enumerated them by items, and then I ventured the opinion that they aggregated in money about $800,000.

Mr. THOMAS. Mr. Speaker, I would like to submit some brief remarks, if the gentleman from Pennsylvania will yield to me for a few minutes.

Mr. RANDALL. Although this is a privileged subject, I feel bound to regard the wish of the gentleman from Texas as to the time which it may consume.

Mr. REAGAN. I prefer to leave that matter under the control of the gentleman from Pennsylvania.

Mr. THOMAS. I desire only five minutes.

Mr. RANDALL. Very well. I yield to the gentleman.

Mr. THOMAS. Mr. Speaker, I am opposed to the adoption of the temporary bill as proposed by the House committee. At the last session there was presented to this House by the Appropriations Committee a bill making full and complete appropriations for the naval service for the fiscal year ending June 30, 1885. After full consideration by the House that bill was sent to the Senate, and after consideration and amendment in that body it was returned here. There is no special difficulty involved in taking up that bill, which was designed specifically for the current fiscal year, and disposing of that measure instead of attempting to pass a temporary bill based upon the appropriations for the fiscal year 1883-'84, which are not now applicable.

There is no such urgency as demands that this House should take the appropriations made for a former year and adopt them by a general provision, instead of taking a measure which has been considered and matured and which had special reference to the wants and necessities of the Navy for the present year. The only effect of doing so is that some very important legislation embraced in that bill is cut out by this slipshod attempt to dodge a stern duty devolving upon this House to meet promptly and fairly the demands of the service for each fiscal year. I think we ought to take up that regular legitimate bill to which I have referred, instead of attempting to substitute this carrying-over bill.

Mr. RANDALL. I now yield for a few minutes to the gentleman from New York [Mr. COX].

Mr. COX, of New York. If I understand this present motion, Mr. Speaker, it has no reference whatever to future construction of a navy. I think my friend from Ohio [Mr. KEIFER] mistakes it. We have already provided, as the gentleman from Pennsylvania [Mr. RANDALL] has stated, for four cruisers. The cruisers of the future, the seven cruisers every year for ten years, seventy cruisers, proposed by the Secretary of the Navy, are not thought of in this discussion. If anything is to be done hereafter on that subject it has to be done on the next Navy appropriation bill, the bill for the next fiscal year, or else by some action of this Congress produced here irrespective of the Appropriations Committee.

I believe the $800,000 which are to be appropriated in this bill by the action of the Senate, and as to which our people do not agree that amount may well be considered in conference. If that amount concerns the building of guns, it is about time to begin building them. It takes time—about three years—to create this gunnery board, as my friend well knows. It takes time in advance to make these iron ships, ironclad or otherwise—armored vessels, torpedoes, and other similar vessels, including ironclads. So we must in some way or the other, if not now, after the holidays, on the bill for the next fiscal year, determine what we shall do; or, if not then, in the next Congress determine what we shall do for the protection of our coasts and our honor at home and everywhere.

[Here the hammer fell.]

Mr. RANDALL. I move that the House further insist on the amendments disagreed to by the Senate.

Mr. CANNON. I hope the gentleman from Pennsylvania will yield to me for five minutes.

Mr. RANDALL. With pleasure.

Mr. CANNON. Mr. Speaker, I gathered from the remarks of the

gentleman from Massachusetts [Mr. LONG], assented to in part if not entirely by the gentleman from Pennsylvania [Mr. RANDALL], that this is largely a question of form or propriety or of opinion as to what shape should be given to the proposed legislation in conference between the House and Senate. Now, sir, if that be true, then I care nothing about it.

However, on examining the Senate bill, or rather the Senate amendments, I find they do propose or do provide for the construction of new cruisers, for the construction of two heavily armed gunboats, for the construction of one steam-ram as recommended by the naval advisory board, and so on.

But the gentleman from Pennsylvania [Mr. RANDALL], in reply to the gentleman from Ohio [Mr. KEIFER], and in opposing these Senate amendments, stated that the cruisers which are now about to be completed are merely experimental, and that at this time we could not tell whether they will be a success or otherwise. That may be true if there be no other method of determining their success except by actually floating them in the sea and putting them into actual service. But, sir, it is also true that board after board has recommended them, and that we have had boards skilled in naval architecture, composed of professional gentlemen, who have been educated at the expense of the Government, who have reported in favor of the feasibility of these ships, and I had supposed we could rely in some degree at least on such advice after earnest inquiry.

The gentleman from Pennsylvania [Mr. RANDALL] since 1874, Mr. Speaker, the Democratic party being in power in this House with the exception of two years, has, I think, invariably taken the position he would not countenance the construction of any ship whatever because it would be merely experimental.

Mr. RANDALL. I never made any such statement.

Mr. CANNON. Ah!

Mr. RANDALL. No, sir.

Mr. CANNON. Since the gentleman from Pennsylvania has been Speaker part of the time, and part of the time at the head of the Appropriations Committee, the truth is, by his disapproval or that of his party, no ship has been constructed or entered upon.

Mr. RANDALL. If there has been no ship constructed properly it rests with the administration of the Navy Department, which has, during all the time alluded to, been under the control and in the charge of a representative of the gentleman's own political party. It has not been in any respect controlled or administered by a member of the Democratic party. [Applause on the Democratic side.]

Mr. CANNON. The gentleman reminds me, in his position now as in his position heretofore, of the words of the old song:

> Mother, may I go out to swim?
> Yes, my darling daughter;
> Hang your clothes on a hickory limb,
> But don't go near the water.

[Laughter.]

Mr. RANDALL. But I want a vessel that can swim. [Applause and laughter on the Democratic side.]

Mr. CANNON. Vessels constructed that can swim—but, Mr. Speaker, no vessels can swim until they are constructed. [Laughter and applause on the Republican side.] And now the gentleman says that the fault lies in the administration of the Navy Department, as he has been saying for years and years, certainly to my personal knowledge for the last ten years.

Now, Mr. Speaker, the administration is about to change. We, on this side of the House, speaking for myself as one of this side, are so anxious for a navy that notwithstanding the Democracy are to come in on the 4th of March, and the administration of the Department will change, stand ready to make these appropriations of money to be expended under that administration.

One word in conclusion. I want to say to the gentleman that grave questions touching our foreign policy are pressing upon us day by day and week by week; and throughout the length and breadth of the country a strong argument in the settlement of these questions and in the proposed ratification, of important treaties is an argument, and perhaps the strongest one, against their ratification, that the United States is not prepared to follow any policy that would redound to its credit and well-being in certain directions; that it stands powerless before the world to enter upon a policy, because by the policy outlined by the gentleman from Pennsylvania, who supported the Democratic idea for the last ten years, we are crippled and without power of defense so far as our Navy is concerned.

Mr. RANDALL. Only a word in reply to the remarks of the gentleman from Illinois who has just taken his seat. All the appropriations for the maintenance of the Navy for years past have been under the control of the party to which the gentleman belongs, and if that money has produced no ships this side of the House, nor any one in harmony with it politically, is in any degree responsible therefor. [Applause on the Democratic side.]

Mr. CANNON. Allow me a question?

Mr. RANDALL. And I want to say that the course of wisdom would indicate that these vessels now being built should be first allowed to float so that we may see whether they come up to the measure of our expectations or not. If they do not, we certainly do not want to construct more of that kind. It is not wise, therefore, until they are completed that we should in advance make appropriations for their duplication nor should we permit in any way contracts to be made for such duplication in view of the suggestion that seems to be founded upon a wise policy on the part of the Congress.

Mr. CANNON. The gentleman from Pennsylvania stated a moment ago that sufficient money had been appropriated in the last ten years, and that it was not his fault or his party's fault that it had not been expended in building ships. In reply to that suggestion I want to ask the gentleman if it is not true that it was out of the power of the head of the Navy Department to construct a ship until he was authorized to do so by the Congress of the United States?

Mr. RANDALL. There have been appropriated since the close of the war, for naval purposes, some $400,000,000 and over——

Mr. ELLIS. And over one hundred and fifty million for construction and repairs.

Mr. RANDALL. And I would like to be cautious in saying how much has been used for construction and repairs, but I will venture to say not less than one hundred and fifty millions.

Mr. CANNON. For repairs, not construction. Nor has the head of the Department had power to construct a single ship out of all the appropriations made.

Mr. RANDALL. As I have said, I mention that amount with great caution.

Mr. ELLIS. That is correct. The figures are about $154,000,000 for construction and repair since the close of the war.

Mr. KEIFER. What did we construct?

Mr. ELLIS. That sum was sufficient to have completed the construction of thirty vessels such as the Lepanto, the most powerful and the most formidable naval vessel afloat in the world to-day, and yet the Senate of the United States insist upon going on with the construction of the cruisers already under the fire of criticism of all naval authorities and architects in the world—vessels which we believe to be too slow to catch a merchantman, too slow to run away from an armed vessel, while at the same time they are utterly unable to fight the battles of the country. Now, until there is some verification by absolute results of the efficiency of these vessels, it is worse than futile to attempt to embark upon the plan of duplicating them or of increasing their number. No gentleman on that side of the House, no man in this country will go further than I would go in appropriating the public moneys to build up a navy that the country ought to have, and of which it may be justly proud. But looking to the amendments of the Senate, I see that the items upon which we disagree are in the line of experiment alone, and until experiments already made are verified by practical results, in my judgment, sir, we had better call a halt.

Besides, Mr. Speaker, we will soon be called upon to frame the naval appropriation bill for the next fiscal year, and in the consideration of that bill, by having the advice of the highest authorities in the country, I will go with the gentleman as far as the farthest in providing the country with a navy that shall make it respected in time of peace and invincible in time of war. [Applause.]

Mr. RANDALL. I now call the previous question on the motion that the House further insist on its disagreement to the Senate amendment and ask a further conference.

The previous question was ordered.

The SPEAKER. The question is on the motion of the gentleman from Pennsylvania [Mr. RANDALL] that the House do further insist on its disagreement to the amendment of the Senate and ask a further conference with the Senate on the disagreeing votes of the two Houses.

The motion was agreed to.

Mr. RANDALL moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The SPEAKER. The Chair appoints as managers of the conference on the part of the House the gentleman from Pennsylvania, Mr. RANDALL; the gentleman from Indiana, Mr. HOLMAN, and the gentleman from Massachusetts, Mr. LONG.

SLATER NATIONAL BANK OF NORTH PROVIDENCE, R. I.

Mr. REAGAN. I understand the gentleman from Rhode Island [Mr. CHACE] desires the action of the House on a matter that will take but a moment and which is indispensable to be acted on before the recess. I yield to the gentleman for that purpose.

Mr. CHACE. I ask unanimous consent to take from the Speaker's table for present consideration a Senate bill which proposes simply to change the name of a bank.

There being no objection, the bill (S. 2393) to change the name of the Slater National Bank of North Providence, R. I., was taken from the Speaker's table and read, as follows:

Be it enacted, &c., That the name of the Slater National Bank of North Providence, R. I., be changed to the Slater National Bank of Pawtucket, R. I., whenever the board of directors of said bank shall accept the new name by resolution of the board, confirmed by a vote or the written consent of stockholders holding two-thirds of the stock of the bank, and cause a copy of such action, duly authenticated, to be filed with the Comptroller of the Currency: *Provided*, That such acceptance shall be made within six months after the passage of this act,

and that all expenses incident to the proposed change, including engraving, shall be borne and paid by said bank.

SEC. 2. That all the debts, demands, liabilities, rights, privileges, and powers of the Slater National Bank of North Providence shall inure to the Slater National Bank of Pawtucket, R. I., whenever such change of name is effected.

The bill was read three times, and passed.

Mr. CHACE moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ADJOURNMENT OVER.

Mr. RANDALL. I desire to make a privileged motion. I move that when the House adjourns to-day it adjourn to meet on Wednesday the 24th instant. In that connection I want to make a statement. The Constitution prohibits an adjournment without the concurrence of the Senate for a period longer than three days. There is to-day a bare quorum of the House present. A careful count a short while ago developed that there was not a quorum of members then in their seats; there may have been a quorum including other gentlemen not at that time in the Hall. Therefore we have to make this motion at once. And I want to say that I think we should come to the understanding—which, I am authorized to state, will occasion no inconvenience to the Speaker, as he intends to remain here during the recess, and it is necessary to adopt this course in order to give effect to the judgment of the House as to the holiday adjournment—that when the 24th comes it shall be unanimously understood that the House shall be called to order and that no business whatever, even by unanimous consent, shall be in order; that there shall be in order on the 24th only an adjournment to the 27th, and on that day only an adjournment to the 31st, and on that day only an adjournment to the 5th day of January, 1885.

Mr. WASHBURN. I would like to ask what would be the effect of this in case the Senate should agree to the concurrent resolution.

The SPEAKER. That of course would vacate what is now proposed by the gentleman from Pennsylvania. The action of the Senate and the House together would vacate the order made by either House separately.

Mr. RANDALL. I ask the adoption of the resolution first, and afterward the unanimous agreement by the House to the effect I have stated.

Mr. SPRINGER. I desire to make a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. SPRINGER. If this House should vote that when it adjourns to-day it shall stand adjourned until Wednesday next, is not that practically a vacation of the vote of the House agreeing to the concurrent resolution to adjourn to the 5th of January?

The SPEAKER. The House alone could not vacate an order made by the Senate and House together.

Mr. SPRINGER. But the Senate has not yet made that order. We have sent that concurrent resolution to the Senate. Suppose the Senate before it adjourns to-day agrees to that resolution, where are we?

Mr. RANDALL. Why, in that case, the resolution I now offer will be, of course, vacated. The adoption of the concurrent resolution will be the final action of the two Houses providing for an adjournment beyond three days.

The SPEAKER. The Chair thinks the House if it desires to vacate its action on the concurrent resolution must recall it by a direct vote.

Mr. RANDALL. I do not wish to recall the concurrent resolution. If the Senate concurs in the resolution to adjourn to the 5th of January, then that vacates this resolution. But if the Senate sees fit to attempt to hold us here, we can do nothing because we have not a quorum, and it is well known the subject under consideration will not be permitted to be proceeded with without a quorum.

The SPEAKER. The question is on the motion of the gentleman from Pennsylvania, that when the House adjourns to-day it shall adjourn to meet on Wednesday next.

Mr. REED. While not opposing the motion, I desire to express my doubt whether the House under the Constitution can make an arrangement of this character which will be binding.

Mr. RANDALL. In answer to the gentleman from Maine, I will say that I am not seeking to evade the Constitution at all; on the contrary, I am seeking to meet its requirements.

Mr. REED. I merely wish to express my personal doubt in the matter.

Mr. RANDALL. If the gentleman from Maine, with his judicial knowledge, can suggest any improved method which will provide for the comfort of members in a better way than this I have no tenacity of purpose as to my own proposition.

Mr. REED. I stated distinctly that I proposed to make no opposition. I simply wished to state I had my doubts about it as a matter of personal judgment.

The SPEAKER. The Chair will state the question before the House is not debatable under the rules. The gentleman from Pennsylvania [Mr. RANDALL] made a statement with the view of having an understanding, but not to debate the question.

A MEMBER. What is the motion?

The SPEAKER. The gentleman from Pennsylvania has moved that when the House adjourns to-day it be to meet on Wednesday next, and in connection with that motion he made a statement as to what he desired to be the understanding on the part of the House.

Mr. RANDALL. I did this at the solicitation of a great number of members, and not upon my own motion.

Mr. WHITE, of Kentucky. I rise to make a parliamentary inquiry. I desire to ask whether the adoption by the House of the course now proposed will not be practically an evasion of the Constitution.

The SPEAKER. That is not a parliamentary inquiry. That is a matter for the House to determine in voting upon the proposition.

Mr. WHITE, of Kentucky. I desire to call attention to two paragraphs of the Constitution of the United States; and I wish to ask the gentleman from Pennsylvania——

The SPEAKER. Debate is not in order.

Mr. WHITE, of Kentucky. But, Mr. Speaker, the question has been debated. [Cries of "Regular order!"]

Mr. RANDALL. I hope the gentleman from Kentucky, by unanimous consent, will be allowed to put to me the question he desires.

The SPEAKER. Is there objection? The Chair hears none.

Mr. WHITE, of Kentucky. I desire in the first place to ask the attention of the gentleman from Pennsylvania to this provision of the Constitution, on page 5 of the Manual:

> Neither House, during the session of Congress, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two Houses shall be sitting.

Now, I desire to ask the gentleman from Pennsylvania whether the proceeding now proposed is not practically an effort to nullify the Constitution, and whether——

Mr. RANDALL. If the gentleman had listened to the motion I made he would have understood it to be that when this House shall adjourn to-day it adjourn to meet on Wednesday next, the 24th instant.

Mr. WHITE, of Kentucky. I beg the gentleman's pardon. I have not yet read the other clause of the Constitution to which I referred. I read from page 4 of the Manual:

> A majority of each House shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner, and under such penalties as each House may provide.

Now, the Senate refuses to agree to the resolution for a holiday adjournment, and the gentleman from Pennsylvania proposes to this House the adoption of a resolution to the effect that the great body of members go home, while a few shall be allowed to meet here on the 24th instant, but to do no business even by unanimous consent, but to adjourn again for three days, and then again for three days more; and so on until the 5th of January, thus defeating the will of the Senate in this matter and the express provisions of the Constitution to which I have called attention.

A gentleman on the Democratic side says, "Knock the bottom out of the Constitution." That is just what gentlemen on that side purpose to accomplish, if they adopt the resolution proposed by the gentleman from Pennsylvania [Mr. RANDALL].

Mr. RANDALL. I have proposed what in my judgment is a common-sense method of meeting the present difficulty. If there be any better mode of accomplishing the wish of the great body of the House, without respect to sides, so that members who have determined to leave for their homes may do so, I am ready to assent to it. But surely this proposition is in order. [Cries of "Regular order!"]

Mr. WARNER, of Ohio. I rise to a parliamentary inquiry. I wish to know whether the motion upon which we are to vote goes any further than to adjourn until Wednesday next?

The SPEAKER. As the Chair has already stated, the motion is simply that when the House shall adjourn it be to meet on Wednesday next.

Mr. BROWNE, of Indiana. Is there anything before the House except the mere proposition for a recess till Wednesday next?

The SPEAKER. Nothing whatever. No other question is presented to be voted upon.

Mr. PETERS. I wish to make a parliamentary inquiry. If the House should adjourn until next Wednesday, could less than a quorum at that time take a recess until Friday night for the transaction of pension business in pursuance of the standing order of the House?

The SPEAKER. Less than a quorum can transact no business except to adjourn, or to take measures for the purpose of compelling the attendance of absent members.

Mr. RANDALL. Mr. Speaker, I am quite willing to agree to any understanding which may accomplish the purpose of the great body of the House, and at the same time avoid all possibility of variance with either the spirit or the letter of the Constitution.

Mr. BROWNE, of Indiana. I call for the regular order.

The question being taken on the motion of Mr. RANDALL that when the House adjourn to-day it adjourn to meet on Wednesday next, there were—ayes 140, noes 16.

Mr. WHITE, of Kentucky. I call for the yeas and nays.

Mr. RANDALL. If the gentleman from Kentucky makes the point of no quorum, let us have tellers.

Mr. WHITE, of Kentucky. I will make that point if you do not

give us the yeas and nays. I would like to see the other side of the House on record.

Mr. RANDALL. The country has put us on record.

The question being taken on ordering the yeas and nays, they were not ordered, there being only one vote in favor thereof.

Mr. WHITE, of Kentucky. I make the point of order that no quorum has voted.

The SPEAKER appointed as tellers Mr. RANDALL and Mr. WHITE, of Kentucky.

The House again divided; and the tellers reported—ayes 156, noes 9.

So the resolution was adopted.

The SPEAKER. Does the gentleman move to reconsider and lay upon the table?

Mr. RANDALL. I do not, as it may be important in a certain contingency to reconsider the vote.

HENRY A. PAUS.

Mr. WASHBURN, by unanimous consent, introduced a bill (H. R. 7796) for the relief of Henry A. Paus; which was referred to the Committee on Military Affairs, and ordered to be printed.

INTERSTATE COMMERCE.

The SPEAKER. The House resumes the consideration of the interstate commerce bill.

Mr. REAGAN. I move to close debate on the pending amendment and on the section under consideration, and on that motion I demand the previous question.

Mr. REED. Is that motion debatable?

The SPEAKER. The Chair thinks it is, but the gentleman from Texas has demanded the previous question on it.

Mr. REED. When did the gentleman demand the previous question?

The SPEAKER. The gentleman demanded the previous question when he was on the floor and made the motion to close debate.

Mr. REED. I wish to make a point of order.

The SPEAKER. The gentleman will proceed.

Mr. REED. On page 402 of the RECORD will be found the following:

Mr. REAGAN. I move to limit debate on the pending section and amendment to five minutes.

The SPEAKER *pro tempore*—

That *pro tempore* is Latin and refers to gentlemen who are occasionally in the chair. [Laughter.]

The SPEAKER *pro tempore*. This question is not debatable.

Mr. REED. Under what rule is it not debatable?

The SPEAKER *pro tempore* (Mr. SPRINGER in the chair). Motions to limit debate are not debatable.

Mr. REED. Now I do not state that for the purpose of putting the permanent occupant of the chair in the wrong [laughter], but merely to express the hope that the temporary chairmen hereafter may be so instructed on these subjects that they may temporarily at least possess the wisdom and courtesy and good sense which distinguish the permanent occupant of the chair. [Laughter and applause on the Republican side.]

The SPEAKER. There is no point of order in that statement.

Mr. SPRINGER. With the permission of the Chair and the House I would like to make a statement in regard to that matter. I was occupying the chair yesterday when the gentleman from Texas made the motion to close debate on the pending section and amendment. The gentleman from Maine was proceeding to debate that proposition, or an effort was being made to secure a compromise in the matter, and the Chair indulged the debate for a moment; but seeing the House was about to drift off into a general debate, he stated that he must put an end to it, as the motion to close debate was not debatable. And, sir, I made that statement while occupying the chair temporarily with a full understanding of its force and its parliamentary effect. I still entertain the belief that I decided correctly. I have looked into the Journals of the House as well as into the Digest, and there is not an opinion by any previous occupant of the chair contrary to that decision. My decision, sir, was bottomed on common sense, and I stand upon it, although it may not commend me in any very large degree to the gentleman from Maine. [Laughter and applause on the Democratic side.]

Now, sir, the motion that debate be closed is directed to the House, and intended to close debate and not to continue debate. It is so evident as scarcely to need argument. It is analogous in this proceeding to a motion in the House for the previous question, and every gentleman will agree when the previous question is moved in the House you can not debate the propriety of closing debate on that demand for the previous question. The rules are meant to express some idea, and when the motion is made to close debate, whether by the previous question in the House or the motion to close debate in this proceeding, it is intended to bring the House to a decision on that question at once, and not to continue the debate.

We have endeavored for the first time to reach some conclusion as to what rule shall govern the proceedings of the House when the House is considering a bill as in the Committee of the Whole. When the House was considering a bill as in the Committee of the Whole it took with it from the committee the rule which provided for limiting debate. If we have any portion of that rule in operation in the House, we, of course, have the whole of it. It was adopted for the purpose of closing debate in committee that that rule was adopted, and when the House is acting as in Committee of the Whole it has the same rule. It was for that reason I decided in the way in which I did. I believed it then to be parliamentary, and I believe it to be so now. [Applause on the Democratic side of the House.]

Mr. REED. Mr. Speaker, on page 196——

Mr. REAGAN. I demand the previous question.

The SPEAKER. There is no question of order before the House. The gentleman from Maine rose and stated he rose to a question of order, but there is no question of order pending, so far as the Chair sees.

Mr. REED. I thought the indulgence of the House would permit me——

Mr. ROGERS, of Arkansas. I demand the regular order of business.

Mr. REED. If the gentleman feels that way, all right.

Mr. O'NEILL, of Pennsylvania. I ask the gentleman from Texas to withdraw his demand for the previous question and allow me to go on for two or three minutes.

Mr. REAGAN. So far as I am concerned I would be glad to yield to gentlemen, but if I yield to one I must yield to thirty or forty others who are just as anxious to be heard on this proposition, which has already been discussed so fully in general debate.

Mr. O'NEILL of Pennsylvania. In general debate, yes; but when we come down to the point of voting on important provisions of the bill itself, I do not think the gentleman ought to cut off debate when we come down to the consideration of important provisions in the bill and when they are to be voted upon. [Cries of "Regular order!"]

The SPEAKER. The regular order is demanded, and the pending question is on the demand for the previous question.

The House divided; and there were—ayes 66, noes 39.

Mr. O'NEILL, of Pennsylvania. No quorum has voted.

Mr. REAGAN. If three minutes would satisfy the gentleman from Pennsylvania, I am willing to make that compromise.

Mr. O'NEILL, of Pennsylvania. I mean three or four minutes.

Mr. REAGAN. The gentleman can take five minutes, if that will do.

Mr. HENDERSON, of Iowa. I understand the gentleman from Missouri [Mr. CLARDY] also desires to be heard.

Mr. REAGAN. I have no doubt there are forty members here who would like to be heard, but I do not propose to go off into any further general debate on this subject.

The SPEAKER. The Chair hears no objection to the understanding that the gentleman from Pennsylvania shall be permitted to occupy the floor for five minutes.

Mr. O'NEILL, of Pennsylvania. I wish to call the attention of the House, Mr. Speaker, to the amendment proposed by the gentleman from Iowa [Mr. HENDERSON], to strike out the long and short haul section of this bill. But before I go into that I desire to make this remark, and to have the House understand it, that of all the men who appeared before the Committee on Commerce against the substitute bill—men who have studied the railroad question for years—there was not a single, solitary man who testified that any railroad in the country made larger charge for a short haul for the purpose of making a lower charge for a long haul.

I will state here that if the gentleman from Texas had only permitted my resolution to pass through the House, when I asked of the House to pass a resolution to authorize the printing of the arguments and testimony before the Committee on Commerce for the information of the House, information which every member ought to have upon his desk at this time, there would have been much more satisfaction in the consideration of this matter. I regret, sir, that that information has not come into this House from the document-room, as ordinarily every document of great importance does come; I regret that it has not been laid upon the desk of every member before the House was called to act upon this bill. For some reason I have not been enabled, and I am informed that others have not been able, to receive copies sufficient of that argument and testimony, which they should have had for the last two weeks, and we have not now that information. There has been a desire to keep the House in ignorance of these propositions, in ignorance of these arguments, in ignorance of the reasons stated by men who know something about the workings of railroads, so that the House could not have an opportunity of acting properly and intelligently upon each section of this bill.

I want to state again that no one man heard by that committee in this or in any other Congress when the interstate-commerce bill was before it, and in the care of the Commerce Committee, has pretended that the short hauls were used for purposes of bringing revenue to the railroad companies as against the long hauls.

Mr. REAGAN. I suppose the gentleman means no attorney or managers of the road made any such acknowledgment.

Mr. O'NEILL, of Pennsylvania. I do not say attorneys. I say that no railroad man appeared before that committee and made such a statement. Not one of them appeared before the committee, and no person competent to speak upon the subject made any such statement, notwithstanding the fact of the billions of money invested in railroad corporations in this country.

Mr. Speaker, one other word and then I will take my seat. I stated in my remarks made in this House a few days ago that there was no intelligent public sentiment in this country to-day, as expressed through the channels of the petition-box of this House, in favor of this bill, and that there was during this Congress on this question no public agitation favoring such a bill as that introduced in the substitute of the gentleman from Texas. I have taken pains, sir, to look through the RECORD, and I find that there are some five or six individual petitions on the files of the House. I find the action of one Legislature of one of the States, the Legislature of Iowa, presented here in printed form by five members of that State, which makes five representing the same resolutions of the same Legislatures and also one other Legislature. That is all.

I want to get this fact before the House, because I have taken the trouble to hunt it up in response to the suggestion that these petitions were crowding the petition-box, to show how little foundation there is for the statement. There is nothing upon the records of this Congress to show the desire of the people for the passage of any such law on the subject of interstate commerce.

Mr. REAGAN. Will the gentleman permit me to interrupt him to ask if he regards the Legislature of Pennsylvania as an intelligent body, and the Legislature of New York as composed of intelligent men?

Mr. O'NEILL, of Pennsylvania. Since the Legislature of Pennsylvania sent that resolution to this House it has passed a law upon the subject and carried out the provisions of the constitution of the State with reference to its railroads and canals. That act passed by the Legislature of Pennsylvania I quoted in my remarks upon this bill in the general debate.

Mr. REAGAN. And let me ask does the gentleman regard the President of the United States as an intelligent source for such information? I refer him also to the Republican national convention.

Mr. O'NEILL, of Pennsylvania. I regard the President of the United States as a very intelligent gentleman, and one who has known how to fill the Presidential office, but I do not say that I indorse everything that he has communicated to this House in his message.

Mr. REAGAN. What about the resolution of the Republican national convention?

Mr. O'NEILL, of Pennsylvania. The resolutions of that convention meant that we should pass intelligent legislation; that we should pass practical legislation; that we should not be brought into such a position as the gentleman from Texas would bring us in by the passage of his substitute bill. That convention never meant to recommend the adoption of such a law as that, and I hope the House will strike out that section.

The SPEAKER. The question is on the motion of the gentleman from Texas to close the debate upon the pending section and amendment.

The motion to close debate was agreed to.

The SPEAKER. The question now recurs upon the amendment of the gentleman from Iowa to strike out a portion of the fourth paragraph, which the Clerk will read.

The Clerk read as follows:

Strike out of section 4 the following words:

"That it shall be unlawful for any person or persons engaged in the transportation of property as provided in the first section of this act to charge or receive any greater compensation for a similar amount and kind of property, for carrying, receiving, storing, forwarding, or handling the same, for a shorter than for a longer distance on any one railroad; and."

So that the section will read:

"SEC. 4. The road of a corporation shall include all the road in use by such corporation, whether owned or operated by it under a contract, agreement, or lease by such corporation."

Mr. HENDERSON, of Iowa. On that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 57, nays 117, not voting 149; as follows:

YEAS—57.

Adams, G. E.	Funston,	Keifer,	Strait,
Bingham,	Glascock,	Long,	Struble,
Bisbee,	Guenther,	Lyman,	Taylor, J. D.
Boutelle,	Hammond,	Morrill,	Thomas,
Brewer, F. B.	Hanback,	O'Hara,	Walt,
Buckner,	Hardeman,	O'Neill, Charles	Wakefield,
Budd,	Haynes,	Perkins,	Washburn,
Burleigh,	Henderson, D. B.	Peters,	White, Milo
Clardy,	Hepburn,	Pusey,	Wilkins,
Converse,	Hitt,	Robinson, J. S.	Wilson, James
Cutcheon,	Holmes,	Rockwell,	Woodward,
Davis, R. T.	James,	Ryan,	Worthington.
Deuster,	Johnson,	Smith, H. Y.	
Dowd,	Jones, B. W.	Spooner,	
Ellis,	Kean,	Stephenson,	

NAYS—117.

Alexander,	Buchanan,	Culberson, D. B.	Foran,
Anderson,	Cabell,	Curtin,	Forney,
Bagley,	Campbell, J. E.	Davidson,	Fyan,
Barksdale,	Campbell, J. M.	Dibrell,	Gibson,
Beach,	Candler,	Dingley,	Green,
Bennett,	Cassidy,	Dunn,	Greenleaf,
Blackburn,	Clements,	Eldredge,	Haisell,
Bratton,	Cobb,	English,	Henley,
Breckinridge,	Collins,	Everhart,	Holman,
Brown, W. W.	Connolly,	Ferrell,	Hopkins,
Browne, T. M.	Cox, W. R.	Follett,	Hunt,
Hurd,	Nicholls,	Seymour,	Warner, A. J.
Jones, J. H.	Nutting,	Shively,	Warner, Richard
Jordan,	O'Ferrall,	Singleton,	Weaver,
Laird,	Payson,	Skinner, C. R.	Wellborn,
Lamb,	Pierce,	Snyder,	Wemple,
Lanham,	Peel,	Springer,	White, J. D.
Le Fevre,	Price,	Stewart, Charles	Williams,
Lewis,	Pryor,	Stone,	Willis,
Lore,	Ray, G. W.	Sumner, C. A.	Wilson, W. L.
Lowry,	Ray, Ossian	Taylor, J. M.	Winans, E. B.
McAdoo,	Reagan,	Throckmorton,	Winans, John
McComas,	Reese,	Tillman,	Wise, G. D.
McMillin,	Riggs,	Townshend,	Wolford,
Matson,	Robertson,	Tucker,	Wood,
Miller, J. F.	Rogers, J. H.	Tully,	Yaple,
Mills,	Rogers, W. F.	Turner, Oscar	Young.
Moulton,	Rosecrans,	Van Eaton,	
Murray,	Scales,	Wallace,	
Neece,	Seney,	Ward,	

NOT VOTING—149.

Adams, J. J.	Dibble,	Jeffords,	Post,
Aiken,	Dockery,	Jones, J. K.	Potter,
Arnot,	Dorsheimer,	Jones, J. T.	Randall,
Atkinson,	Dunham,	Kelley,	Rankin,
Ballentine,	Eaton,	Kellogg,	Ranney,
Barbour,	Elliott,	Ketcham,	Reed,
Barr,	Ellwood,	King,	Rice,
Bayne,	Ermentrout,	Kleiner,	Robinson, W. E.
Belford,	Evans,	Lacey,	Rowell,
Belmont,	Fiedler,	Lawrence,	Russell,
Blanchard,	Findlay,	Libbey,	Shaw,
Bland,	Finerty,	Lovering,	Shelley,
Blount,	Garrison,	McCoid,	Skinner, T. G.
Bowen,	Geddes,	McCormick,	Slocum,
Boyle,	George,	Maybury,	Smalls,
Brainerd,	Goff,	Millard,	Smith, A. H.
Breitung,	Graves,	Miller, S. H.	Spriggs,
Brewer, J. H.	Hancock,	Milliken,	Steele,
Broadhead,	Hardy,	Mitchell,	Stevens,
Brumm,	Harmer,	Money,	Stewart, J. W.
Burnes,	Hart,	Morgan,	Stockslager,
Caldwell,	Hatch, H. H.	Morrison,	Storm,
Campbell, Felix	Hatch, W. H.	Morse,	Sumner, D. H.
Cannon,	Hemphill,	Muldrow,	Talbott,
Carleton,	Henderson, T. J.	Muller,	Taylor, E. B.
Chace,	Herbert,	Murphy,	Thompson,
Chalmers,	Hewitt, A. S.	Mutchler,	Turner, H. G.
Clay,	Hewitt, G. W.	Nelson,	Valentine,
Cook,	Hill,	Oates,	Van Alstyne,
Cosgrove,	Hiscock,	Ochiltree,	Vance,
Covington,	Hoblitzell,	O'Neill, J. J.	Wadsworth,
Cox, S. S.	Holton,	Paige,	Weller,
Crisp,	Hooper,	Parker,	Whiting,
Culbertson, W. W.	Horr,	Patton,	Wise, J. S.
Cullen,	Houk,	Payne,	York.
Dargan,	Houseman,	Pettibone,	
Davis, G. R.	Howey,	Phelps,	
Davis, L. H.	Hutchins,	Poland,	

So the amendment was not agreed to.

Mr. HENDERSON, of Illinois. I am paired with Mr. MURPHY, of Iowa. If he were present, I should vote "ay." I do not know how he would vote.

Mr. BRAINERD. I voted inadvertently. Being paired I withdraw my vote. I should have voted, if not paired, in the affirmative.

On motion of Mr. GEORGE D. WISE, by unanimous consent the reading of the names of members voting was dispensed with.

The following members were announced as paired on all political questions until further notice:

Mr. POTTER with Mr. EVANS.
Mr. HEWITT, of New York, with Mr. HOOPER.
Mr. CAMPBELL, of New York, with Mr. BREWER, of New Jersey.
Mr. BLOUNT with Mr. CHACE.
Mr. ARNOT with Mr. BELFORD.
Mr. JONES, of Alabama, with Mr. BURLEIGH.
Mr. KING with Mr. MILLER, of Pennsylvania.
Mr. BLAND with Mr. VALENTINE.
Mr. FIEDLER with Mr. STEELE.
Mr. MAYBURY with Mr. JOHN S. WISE.
Mr. MULLER with Mr. DUNHAM.
Mr. MORGAN with Mr. BAYNE.
Mr. DARGAN with Mr. BOWEN.
Mr. HEWITT, of Alabama, with Mr. YORK.
Mr. BALLENTINE with Mr. FINERTY.
Mr. SKINNER, of North Carolina, with Mr. MCCORMICK.
Mr. VANCE with Mr. WHITING.
Mr. JONES, of Arkansas, with Mr. RUSSELL.
Mr. AIKEN with Mr. STEWART, of Vermont.
Mr. DAVIS, of Missouri, with Mr. KELLEY.
Mr. MONEY with Mr. ATKINSON.
Mr. MURPHY with Mr. HENDERSON, of Illinois.
Mr. WELLER with Mr. EZRA B. TAYLOR.
Mr. MURRAY with Mr. ROBINSON, of Ohio.
Mr. SHELLEY with Mr. KELLOGG.
Mr. COSGROVE with Mr. PETTIBONE.
Mr. DIBBLE with Mr. HOLTON.
Mr. STORM with Mr. BRUMM.
Mr. ERMENTROUT with Mr. HARMER.
Mr. KLEINER with Mr. LIBBEY.
Mr. CARLETON with Mr. ROWELL.
Mr. HOUSEMAN with Mr. BREITUNG.

The following members were announced as paired on the interstate-commerce bill:

Mr. PAIGE with Mr. HART.

Mr. HILL with Mr. CHALMERS.

Mr. RANKIN with Mr. OCHILTREE.

Mr. HATCH, of Missouri, with Mr. HATCH, of Michigan.

Mr. THOMPSON with Mr. SMITH, of Pennsylvania, and on all political questions.

The following pairs were also announced:

Mr. DOCKERY with Mr. MCCOID, until December 21.

Mr. MILLARD with Mr. MULDROW, until January 5.

Mr. CALDWELL with Mr. RICE, until January 5.

Mr. HERBERT with Mr. REED, until January 5.

Mr. MORRISON with Mr. HISCOCK, until January 5.

Mr. OATES with Mr. RANNEY, until January 5.

Mr. BOYLE with Mr. WADSWORTH, until January 5.

Mr. TURNER, of Georgia, with Mr. CANNON, until January 5.

Mr. HEMPHILL with Mr. DAVIS, of Illinois, until January 5.

Mr. POST with Mr. BRAINERD, until January 5.

Mr. CRISP with Mr. GEORGE, for this day.

Mr. GEDDES with Mr. KETCHAM, for Saturday, December 20.

Mr. GEDDES, if present, would vote for the Reagan bill, and Mr. KETCHAM against it.

Mr. MCCORMICK. I voted not knowing I was paired with the gentleman from North Carolina [Mr. SKINNER]. I withdraw my vote.

The result of the vote was then announced as above stated.

By unanimous consent, leave was given to Mr. HENDERSON, of Illinois, to extend in the RECORD his remarks in connection with the amendment just voted upon.

Mr. PETERS. I offer the amendment which I send to the desk.

The Clerk read as follows:

Add after the word "railroad," in line 6, section 4, the following:
"The longer distance to be limited to the nearest competing point at which two or more railroads compete for business."

Mr. PETERS. I would like to have the section read as it will be if amended.

The Clerk read as follows:

That it shall be unlawful for any person or persons engaged in the transportation of property as provided in the first section of this act to charge or receive any greater compensation for a similar amount and kind of property, for carrying, receiving, storing, forwarding, or handling the same, for a shorter than for a longer distance on any one railroad; the longer distance to be limited to the nearest competing point at which two or more railroads compete for business.

The question being taken on agreeing to the amendment, there were—ayes 16, noes 68.

Mr. O'NEILL, of Pennsylvania. There is no quorum voting. I think we should not legislate on this subject without a quorum.

Tellers were ordered; and Mr. PETERS and Mr. REAGAN were appointed.

The House proceeded to divide, but before the result was announced,

Mr. REAGAN said: Mr. Speaker, if it be in order pending this vote, I will call for the yeas and nays.

The SPEAKER. It is in order.

The yeas and nays were ordered, 55 voting in favor thereof.

The question was taken; and there were—yeas 13, nays 142, not voting 168; as follows:

YEAS—13.

Brown, W. W.	Keifer,	Morrill,	Worthington.
Clardy,	Long,	Peters,	
Culbertson, W. W.	Lyman,	Skinner, C. R.	
Hepburn,	McComas,	Woodward,	

NAYS—142.

Adams, G. E.	Eaton,	Lowry,	Stone,
Alexander,	English,	McMillin,	Strait,
Anderson,	Everhart,	Matson,	Struble,
Bagley,	Ferrell,	Miller, J. P.	Sumner, C. A.
Barksdale,	Follett,	Milliken,	Taylor, J. D.
Beach,	Forman,	Mills,	Taylor, J. M.
Bennett,	Forney,	Moulton,	Thomas,
Blackburn,	Fyan,	Neece,	Throckmorton,
Blanchard,	Gibson,	Nicholls,	Tillman,
Bratton,	Glascock,	Nutting,	Townshend,
Breckinridge,	Green,	O'Ferrall,	Tucker,
Browne, T. M.	Greenleaf,	O'Hara,	Tully,
Buchanan,	Guenther,	Payson,	Turner, Oscar
Buckner,	Halsell,	Pierce,	Van Eaton,
Burnes,	Hammond,	Peel,	Wait,
Cabell,	Hanback,	Perkins,	Wakefield,
Campbell, J. E.	Hardeman,	Pryor,	Wallace,
Campbell, J. M.	Henderson, D. B.	Pusey,	Ward,
Candler,	Henley,	Ray, Ossian	Warner, A. J.
Cassidy,	Hill,	Reagan,	Warner, Richard
Clements,	Hitt,	Reese,	Weaver,
Cobb,	Holman,	Riggs,	Wellborn,
Connolly,	Holmes,	Rogers, J. H.	White, J. D.
Cook,	Hopkins,	Rogers, W. F.	White, Milo
Covington,	Hunt,	Rosecrans,	Wilkins,
Cox, W. R.	James,	Scales,	Williams,
Culberson, D. B.	Jones, B. W.	Seney,	Wilson, James
Cullen,	Jones, J. H.	Seymour,	Wilson, W. L.
Curtin,	Jordan,	Shively,	Winans, E. B.
Cutcheon,	Lacey,	Smalls,	Winans, John
Davis, R. T.	Laird,	Snyder,	Wise, G. D.
Deuster,	Lamb,	Spriggs,	Wolford,
Dibrell,	Lanham,	Springer,	Wood,
Dingley,	Le Fevre,	Stevens,	Yaple.
Dowd,	Lewis,	Stewart, Charles	
Dunn,	Lore,	Stockslager,	

NOT VOTING—168.

Adams, J. J.	Dockery,	Jones, J. K.	Randall,
Aiken,	Dorsheimer,	Jones, J. T.	Rankin,
Arnot,	Dunham,	Kean,	Ranney,
Atkinson,	Eldredge,	Kelley,	Ray, G. W.
Ballentine,	Elliott,	Kellogg,	Reed,
Barbour,	Ellis,	Ketcham,	Rice,
Barr,	Ellwood,	King,	Robertson,
Bayne,	Ermentrout,	Kleiner,	Robinson, J. S.
Belford,	Evans,	Lawrence,	Robinson, W. E.
Belmont,	Fiedler,	Libbey,	Rockwell,
Bingham,	Findlay,	Lovering,	Rowell,
Bisbee,	Finerty,	McAdoo,	Russell,
Bland,	Funston,	McCold,	Ryan,
Blount,	Garrison,	McCormick,	Shaw,
Boutelle,	Geddes,	Maybury,	Shelley,
Bowen,	George,	Millard,	Singleton,
Boyle,	Goff,	Miller, S. H.	Skinner, T. G.
Brainerd,	Graves,	Mitchell,	Slocum,
Breitung,	Hancock,	Money,	Smith, A. H.
Brewer, F. B.	Hardy,	Morgan,	Smith, H. Y.
Brewer, J. H.	Harmer,	Morrison,	Spooner,
Broadhead,	Hart,	Morse,	Steele,
Brumm,	Hatch, H. H.	Muldrow,	Stephenson,
Budd,	Hatch, W. H.	Muller,	Stewart, J. W.
Burleigh,	Haynes,	Murphy,	Storm,
Caldwell,	Hemphill,	Murray,	Sumner, D. H.
Campbell, Felix	Henderson, T. J.	Mutchler,	Talbott,
Cannon,	Herbert,	Nelson,	Taylor, E. B.
Carleton,	Hewitt, A. S.	Oates,	Thompson,
Chace,	Hewitt, G. W.	Ochiltree,	Turner, H. G.
Chalmers,	Hiscock,	O'Neill, Charles	Valentine,
Clay,	Hoblitzell,	O'Neill, J. J.	Van Alstyne,
Collins,	Holton,	Paige,	Vance,
Converse,	Hooper,	Parker,	Wadsworth,
Cosgrove,	Horr,	Patton,	Washburn,
Cox, S. S.	Houk,	Payne,	Weller,
Crisp,	Houseman,	Pettibone,	Wemple,
Dargan,	Howey,	Phelps,	Whiting,
Davidson,	Hurd,	Poland,	Willis,
Davis, G. R.	Hutchins,	Post,	Wise, J. S.
Davis, L. H.	Jeffords,	Potter,	York,
Dibble,	Johnson,	Price,	Young.

The following additional pairs were announced:

Mr. O'NEILL, of Missouri, and Mr. KEAN, on this vote.

The following were announced as paired for the remainder of this day:

Mr. YOUNG with Mr. WASHBURN.

Mr. BISBEE with Mr. DAVIDSON.

The following were announced as paired until further notice:

Mr. HURD with Mr. BINGHAM.

Mr. WILLIS with Mr. STEVENSON.

Mr. BARKSDALE with Mr. JEFFORDS.

The SPEAKER. On this question the yeas are 13, the nays 142.

Several MEMBERS. No quorum.

The SPEAKER. It appears that no quorum has voted.

Mr. REAGAN. I move a call of the House.

Mr. WAIT. I move that the House adjourn.

The motion of Mr. WAIT was not agreed to, there being—ayes 63, noes 67.

The question recurring on the motion of Mr. REAGAN for a call of the House, it was agreed to; there being—ayes 61, noes 57.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, announced that the Senate further insisted on its amendments disagreed to by the House to the bill (H. R. 7510) making temporary provision for the naval service; agreed to the further conference asked by the House on the disagreeing votes of the two Houses, and had appointed as conferees on the part of the Senate, Mr. HALE, Mr. LOGAN, and Mr. BECK.

ENROLLED BILL SIGNED.

Mr. GLASCOCK, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a bill of the following title; when the Speaker signed the same:

An act (H. R. 2728) detaching Grundy County, Tennessee, from the southern division of the district of East Tennessee, and attaching it to the middle district of said State, and for other purposes.

ORDER OF BUSINESS.

A call of the House having been ordered, the Clerk proceeded to call the roll; when the following-named members failed to answer:

Adams, J. J.	Campbell, Felix	Fiedler,	Hurd,
Aiken,	Campbell, J. E.	Findlay,	Jeffords,
Arnot,	Carleton,	Finerty,	Jones, J. K.
Atkinson,	Cassidy,	Garrison,	Jones, J. T.
Bagley,	Chalmers,	Geddes,	Kelley,
Ballentine,	Clay,	Graves,	Kellogg,
Barbour,	Cosgrove,	Hardy,	Ketcham,
Bayne,	Cox, S. S.	Harmer,	King,
Belford,	Crisp,	Hatch, H. H.	Kleiner,
Belmont,	Dargan,	Hatch, W. H.	Lawrence,
Bingham,	Davis, G. R.	Hemphill,	Libbey,
Bisbee,	Davis, L. H.	Herbert,	Lore,
Bland,	Dibble,	Hewitt, A. S.	McCold,
Bowen,	Dockery,	Hewitt, G. W.	Maybury,
Boyle,	Dorsheimer,	Hiscock,	Millard,
Brainerd,	Dunham,	Hoblitzell,	Money,
Breitung,	Eldredge,	Holton,	Morgan,
Brewer, J. H.	Elliott,	Hooper,	Morrison,
Brumm,	Ellwood,	Horr,	Morse,
Burleigh,	English,	Houk,	Muldrow,
Caldwell,	Ermentrout,	Houseman,	Muller,

Murphy,	Potter,	Skinner, T. G.	Valentine,
Murray,	Rankin,	Slocum,	Van Alstyne,
Mutchler,	Ranney,	Smith, A. H.	Vance,
Nicholls,	Rice,	Steele,	Wadsworth,
Oates,	Robinson, J. S.	Stevens,	Washburn,
Ochiltree,	Robinson, W. E.	Stewart, J. W.	Weller,
Paige,	Rockwell,	Storm,	Whiting,
Parker,	Rowell,	Sumner, D. H.	Wise, G. D.
Patton,	Russell,	Talbott,	Wise, J. S.
Payne,	Shaw,	Taylor, E. B.	Young.
Pettibone,	Shelley,	Turner, H. G.	

The SPEAKER. The doors will now be closed.

Mr. HAMMOND. I move to dispense with all further proceedings under the call.

Mr. REAGAN. How many members voted on the call of the roll?

The SPEAKER. One hundred and ninety-five members have responded to the call of the roll.

Mr. HAMMOND'S motion was agreed to.

The SPEAKER. The question now recurs on the amendment of the gentleman from Kansas [Mr. PETERS], on which the yeas and nays have been ordered. The roll has once been called, but a quorum failed to vote.

Mr. REAGAN. I move to reconsider the vote by which the yeas and nays were ordered; and also move that the motion to reconsider be laid on the table.

Mr. O'NEILL, of Pennsylvania. Let us have the yeas and nays on that motion to lay on the table.

Mr. KEIFER. Is this proposition to lay the motion to reconsider the vote ordering the yeas and nays on the table?

The SPEAKER. It is.

Mr. KEIFER. That is entirely useless any way—it amounts to nothing, for the right to order the yeas and nays is, under the Constitution, when one-fifth of those present shall request it.

Mr. O'NEILL, of Pennsylvania. The gentleman from Texas ought to have the yeas and nays when he asks for them.

The SPEAKER. The purpose of the gentleman from Texas is to prevent a reconsideration of the vote and to insure the taking of the vote on the amendment by the yeas and nays.

Mr. KEIFER. He can have the yeas and nays whenever one-fifth of the House shall request it.

Mr. PETERS. I rise to a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. PETERS. Is it in order to withdraw my amendment?

The SPEAKER. It is. The amendment having been voted on and a quorum having failed to appear, the roll must again be called.

Mr. PETERS. Because I have no right to explain my amendment, debate having been cut off on this section, and because the vote just taken has disclosed opposition to it, I will now withdraw it.

Mr. O'NEILL, of Pennsylvania. Has the gentleman the right to do that?

The SPEAKER. Yes; as the previous question was not ordered on the amendment.

Mr. O'NEILL, of Pennsylvania. I would like to have the opportunity to say a word to the gentleman from Kansas. [Cries of "Regular order!"] I hope the gentleman from Kansas will not withdraw his amendment, so that the gentleman from Texas may be allowed to have the yeas and nays on it.

Mr. RYAN. The amendment is withdrawn, as I understand, by the gentleman from Kansas.

The SPEAKER. It has been withdrawn, and the gentleman from Kansas has the right under the rules to withdraw it. There is now nothing before the House, the amendment having been withdrawn, and the Clerk will read the next section.

Mr. O'NEILL, of Pennsylvania. I move that the House do now adjourn. The House is not in condition to vote.

Mr. ANDERSON. The gentleman from Pennsylvania, the country understands, is filibustering.

Mr. O'NEILL, of Pennsylvania. I demand a division of the House.

The House divided; and there were—ayes 57, noes 71.

Mr. O'NEILL, of Pennsylvania. I ask for the yeas and nays on this question. There are so many absentees.

The SPEAKER. The question is not debatable.

Mr. O'NEILL, of Pennsylvania. We had better postpone until the House is full and when we can have a deliberate vote. [Cries of "Regular order!"]

The yeas and nays were not ordered.

So the House refused to adjourn.

Mr. LACEY. I offer the following amendment.

The Clerk read as follows:

Strike out all after the word "receive," in line 3 of section 4, to and including the word "railroad," at end of line 6, and insert:

"As compensation for carrying, receiving, storing, handling, or forwarding said property to any station on his or their road, a greater sum than is charged or received for a similar amount and kind of property from the same original point of departure to a station at a greater distance on the same road in the same direction, nor shall a less sum be charged or received for a similar amount and kind of property from any station on said road to another station on said road than is charged from any other station situated between the aforesaid points of shipment and delivery.

Mr. LACEY. I ask that the Clerk read the amendment as it will read if adopted.

The Clerk read as follows:

SEC. 4. That it shall be unlawful for any person or persons engaged in the transportation of property as provided in the first section of this act to charge or receive as compensation for carrying, receiving, storing, handling, or forwarding said property to any station on his or their road a greater sum than is charged or received for a similar amount and kind of property from the same original point of departure to a station at a greater distance on the same road in the same direction, nor shall a less sum be charged or received for a similar amount and kind of property from any station on said road to another station on said road than is charged from any other station situated between the aforesaid points of shipment and delivery; and the road of a corporation shall include all the road in use by such corporation, whether owned or operated by it under a contract, agreement, or lease by such corporation.

The amendment was rejected.

Mr. WARNER, of Ohio. I offer the following amendment which I think the chairman of the Committee on Commerce will accept, as it only makes certain what probably was intended to be provided for in the bill.

The Clerk read as follows:

After the word "distance," in line 6, insert "which include the shorter;" so it will read: "for a shorter than for a longer distance which include the shorter on any one railroad," &c.

Mr. REAGAN. It is what I understand the bill to be now, and I have no objection to it.

Mr. BUDD. I wish to offer an amendment to the same effect, but in a direction which will be more effective.

The SPEAKER. Debate is not in order.

Mr. BUDD. I wish to ask the attention of the gentleman from Texas to my amendment.

The SPEAKER. Does the gentleman offer it as a substitute to the amendment of the gentleman from Ohio?

Mr. BUDD. I do.

The Clerk read Mr. BUDD'S amendment, as follows:

Amend by adding in line 6, after the word "distance," the following words: "in all cases in which the shorter distance shall be over the same roadway and in the same direction."

Mr. REAGAN. I can not consent to accept the amendment. It is only multiplying trouble. The bill means that now.

Mr. BUDD'S amendment was rejected.

The question recurred upon the amendment of Mr. WARNER, of Ohio.

The House divided; and there were—ayes 74, noes 19.

Mr. O'HARA. No quorum has voted.

The SPEAKER appointed as tellers Mr. O'HARA, and Mr. WARNER of Ohio.

Mr. O'HARA, by unanimous consent, withdrew his point of no quorum.

So the amendment of Mr. WARNER, of Ohio, was agreed to.

Mr. REAGAN. It is manifest, Mr. Speaker, we are not going to proceed with business this afternoon, and I shall not object to yielding the floor for the introduction and reference of bills for the present, and I understand the Committee on Appropriations will occupy the time of the House in reporting an appropriation bill. If I do not compromise the condition of the interstate-commerce bill, I will yield for that purpose.

The SPEAKER. If the House now passes from the consideration of this bill to other business it will retain its place as unfinished business.

Mr. REAGAN. With that understanding I will consent to it being laid aside for the present.

Mr. WHITE, of Kentucky. I desire to know, if there is any rule requiring small matters to be considered by a quorum, whether large matters can be considered by less than a quorum. I shall insist on the regular order.

The SPEAKER. The gentleman from Kentucky insists on the consideration of the regular order.

Mr. SPRINGER. What is the regular order?

The SPEAKER. The bill which is before the House. The Chair will state to the gentleman from Kentucky that it does not appear a quorum is present.

Mr. HOPKINS. I ask the gentleman from Texas to yield to me for a moment.

The SPEAKER. The gentleman from Kentucky demands the regular order, which is the further consideration of the interstate-commerce bill, and which demand cuts off all requests for unanimous consent.

Mr. O'NEILL, of Pennsylvania. I move to strike out the fourth section of the bill.

Mr. REAGAN. Mr. Speaker, in view of the fact that the Committee on Appropriations, as I understand, desire to present some important measure of legislation, I shall not move, as I otherwise, would be inclined to do, that the House adjourn.

The SPEAKER. The question is on the motion of the gentleman from Pennsylvania, to strike out the fourth section.

The House divided; and there were—ayes 20, noes 61.

Mr. WOODWARD. I ask for the yeas and nays.

Mr. RANDALL. Will the gentleman yield to me to introduce a bill?

Mr. WOODWARD. Certainly.

TEMPORARY APPROPRIATION FOR THE NAVY.

Mr. RANDALL. I ask consent at this time to introduce a bill for immediate action.

The SPEAKER. From the Committee on Appropriations?

Mr. RANDALL. It is, I may say, a privileged bill, but it is not reported from the Committee on Appropriations by authority of the committee, although I have conferred with several members of the committee, and with all the members of the conference committee on the part of the House on the naval appropriation bill, and I introduce the bill with their consent. To that extent it is a bill from the committee.

The SPEAKER. The bill will be read.

The Clerk read as follows:

A bill (H. R. 7791) making temporary provision for the naval service.

Be it enacted, &c., That for the purpose of providing for the expenses of the naval service for the month ending January 31, 1885, there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, a sufficient sum of money, no greater in amount than will be in the same proportion to the appropriations for the fiscal year 1884 as thirty-one days' time bears to the whole of said fiscal year, and for the like purposes and containing the provisions relating thereto as were made by the act entitled "An act making appropriations for the naval service for the fiscal year ending June 30, 1884, and for other purposes," approved March 3, 1883 (except as hereinafter declared), subject to all the limitations and conditions in respect to the disbursement of the appropriations hereby made that were imposed by said act and the other laws of the United States upon or in respect to the appropriation made by said act: *Provided*, That nothing is appropriated by this act for the purposes set forth in said act making appropriations for the naval service for the fiscal year 1884, under the heading "Increase of the Navy," and preceding the heading "Naval Academy," "For special ocean surveys and the publication thereof," or "For the purchase and manufacture, after full investigation and test, in the United States, under the direction of the Secretary of the Navy, of torpedoes adapted to naval warfare, or of the right to manufacture the same, and for the fixtures and machinery necessary for operating the same;" nor is there reappropriated any balance of the appropriation made for commencing the manufacture of steel rifled breech-loading guns, with carriages and ammunition, that remained unexpended during the fiscal year 1883; but in lieu of such reappropriation there is hereby appropriated for such manufacture, during the thirty-one days herein provided for, the sum of $2,152.80; and that the clause under the heading "Bureau of Yards and Docks," commencing "For general maintenance of yards and docks," is amended so as to appropriate for the thirty-one days herein provided for the sum of $18,840.

That all appropriations made by the act of July 7, 1884, making temporary provision for the naval service for the six months ending December 31, 1884, or any balances thereof that may be unexpended at that date, except any balance for the manufacture of steel rifled breech-loading guns as aforesaid, be, and they are hereby, reappropriated, continued, and made available for the remainder of the fiscal year ending January 31, 1885.

That the whole amount appropriated by this act for the support of the naval service for the thirty-one days herein provided for shall not exceed, exclusive of the amounts herein reappropriated and the amount payable from the income from the naval pension fund for the support of the Naval Asylum at Philadelphia, the sum of $1,160,000.

The bill was read a first and second time.

Mr. RANDALL. This is a provision for thirty-one days, and is identical in all respects with the bill which was passed at the last session of Congress for this purpose, with the exception, of course, that it provides for only one month instead of six. It is introduced here by me, I will state again, with the concurrence of the Committee on Appropriations, as far as I have been able to confer with the members, and also with the knowledge and approval of the conferees on this bill, so that out of abundant caution the Navy Department may not be deprived of funds from the 1st to the 5th of January, as it might be if no such provision were made. Although it is proper I should say I am advised that it would not interfere with the operations of the Department even though no bill were passed covering the five days to which I have referred, yet I think it advisable to make temporary provision rather than leave the matter undetermined.

If no gentleman desires to discuss the matter, I shall ask the previous question upon the engrossment and third reading of the bill.

The SPEAKER. The Chair will state that this proceeding is by unanimous consent; otherwise of course the bill would have to go under the rule to the Committee of the Whole House on the state of the Union.

Mr. RANDALL. Yes, of course; but I do not think there will be any objection to this proceeding.

Mr. KEIFER. I would like to know what assurance we have that the Senate, not being willing to take such a bill as this for six months, would take it for thirty-one days.

Mr. RANDALL. Of course I have no right to speak for the Senate in that particular. But it is for the House to do that which is its duty under the circumstances.

Mr. KEIFER. The gentleman from Pennsylvania has great familiarity with the proceedings in the Senate on the subject of a naval appropriation bill; and we have learned there has been no agreement between the members of the conference committee on that subject.

Mr. RANDALL. If the Senate is not willing to accept this bill our duty will have been done in passing it.

Mr. KEIFER. But we ought not to do an unnecessary thing. If there is a radical difference between the House and the Senate it ought to be settled. This piecemeal way of doing it is not quite up to the standard of legislation.

Mr. RANDALL. What does the gentleman from Ohio propose instead of this?

Mr KEIFER. I propose we go together on some basis which may lead to an agreement, and discuss what that agreement shall be.

Mr. RANDALL. But the House is to adjourn.

Mr. KEIFER. It is not entirely to the credit of this Congress that we should not have been able to appropriate in the usual and ordinary way for the Navy. If we can not do it entirely we ought to come as near doing it as we can.

Mr. RANDALL. I am trying to get as near it as I can.

Mr. HAMMOND. There is no danger from Chili for thirty-one days.

Mr. KEIFER. If gentlemen are afraid of making big appropriations, we might as well appropriate from day to day. But that does not seem to me the way to run the great Navy of the United States.

Mr. RANDALL. We have a good many examples to follow in this matter. I have introduced this bill so that there can not possibly be any embarrassment, and I hope the gentlemen on that side will not throw any obstacle in the way of giving the Navy all the money required up to the 31st of January.

Mr. KEIFER. There is always embarrassment, so far as the heads of these Departments are concerned, when they can not make arrangements for more than thirty-one days.

Mr. RANDALL. The Secretary of the Navy has repeatedly said to me and other gentlemen that it will be no embarrassment if this appropriation is continued for six months, and there has been no embarrassment in the conduct of the Navy for the past six months by reason of the legislation of the last year making this appropriation.

Mr. KEIFER. I do not want to make an issue with the gentleman from Pennsylvania. But I understand the Naval Department has been embarrassed in making its purchases, having been only allowed to make its purchases for a half year instead of a whole year. I am informed that they have been embarrassed by this state of things from the beginning of the fiscal year up to this time, not so far embarrassed perhaps as materially to impair the efficiency of the Navy, but so as to cause some additional expense to the Government, and a very considerable amount of trouble to the officers of the Navy. But having said this much, I wish to say, Mr. Speaker, that I will not offer any opposition to the passage of the bill.

Mr. RANDALL. If the gentleman from Ohio will tax his memory he will remember, I think, that exactly this action took place as to some of the appropriation bills during the time that he occupied the exalted place in the House which you, Mr. Speaker, now occupy.

Mr. KEIFER. I do not remember any such thing as this took place during that time. There was a little extension at the opening of a fiscal year at one time; but there was no such appropriation as this, so far as I remember, during the Forty-seventh Congress. There is, however, I think, a precedent for this in the Forty-sixth Congress. I believe there was in that Congress an exact precedent.

Mr. RANDALL. There are a great many instances of bills like this having been passed.

Mr. KEIFER. If the gentleman will say that he stands only on the precedents of the Forty-sixth Congress, I will not make the point that the bill should go to a committee.

Mr. RANDALL. In my recollection of what took place in the Forty-seventh Congress I am corroborated by gentlemen around me.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

The SPEAKER. The question is on the passage of the bill.

Mr. BEACH. Is not a yea-and-nay vote required on the passage of this bill?

The SPEAKER. Under what rule?

Mr. BEACH. Is not this a bill appropriating money?

The SPEAKER. But the rule applies only to general appropriation bills. The question is on the passage of the bill.

The bill was passed.

Mr. RANDALL moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

Mr. MILLS. I desire to make a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. MILLS. Is it competent for the House to postpone the further consideration of the interstate-commerce bill until Tuesday, the 6th of January?

The SPEAKER. It is competent for the House to postpone the consideration of any bill.

Mr. RANDALL. I do not think any such motion is necessary.

Mr. HAMMOND. Would it not come up as the unfinished business when the House reassembles?

The SPEAKER. The Chair has so stated. The gentleman from Texas [Mr. REAGAN] proposed that the House should pass from the present consideration of the bill without any motion. The gentleman from Kentucky [Mr. WHITE] thereupon demanded the regular order, which compelled the Chair to state that the bill was still before the House.

Mr. MILLS. That was what I wanted to obviate.

Mr. WHITE, of Kentucky. If we have a quorum I do not see why we should not go on with business.

The SPEAKER. The regular order is before the House unless it is got rid of in some way.

Mr. REAGAN. I hope the gentleman from Kentucky [Mr. WHITE] will not insist on the call for the regular order. A great many gentlemen have bills to introduce and desire the action of the House on small matters which have been interfered with by the consideration of this bill.

The SPEAKER. Is the demand for the regular order withdrawn?

Mr. WHITE, of Kentucky. I withdraw the demand for the regular order so as to permit the introduction of bills.

Mr. HOPKINS. I ask that a joint resolution of the Senate relating to the payment of laborers in the Government service on holidays be taken from the Speaker's table for present consideration.

The SPEAKER. The gentleman from Kentucky did not withdraw his demand for the regular order for such a purpose as that; it was only withdrawn to permit the introduction of bills.

Mr. WHITE, of Kentucky. I do not object to the gentleman from Pennsylvania [Mr. HOPKINS] calling up the resolution he has indicated.

HOLIDAYS FOR GOVERNMENT EMPLOYÉS.

Mr. HOPKINS. I ask unanimous consent to have taken from the Speaker's table for present consideration the joint resolution (S. R. 32) providing for the payment of laborers in Government employ for certain holidays. I am satisfied that if the resolution be read no member will object to it. We are now ourselves about to take a two-weeks' holiday. This resolution simply provides that the employés of the navy-yard, Government Printing Office, Bureau of Engraving and Printing, and other per diem employés of the Government shall be entitled to four or five holidays during the year without losing their pay for those days.

The resolution was read, as follows:

Resolved by the Senate and House of Representatives, &c., That the employés of the navy-yard, Government Printing Office, Bureau of Printing and Engraving, and all other per diem employés of the Government on duty at Washington, or elsewhere in the United States, shall be allowed the following holidays, namely: The 1st day of January, the 22d day of February, the 4th day of July, the 25th day of December, and such days as may be designated by the President as days for national thanksgiving, and shall receive the same pay as on other days.

There being no objection, the House proceeded to the consideration of the joint resolution; which was read three times.

Mr. GEORGE D. WISE. I move that the House adjourn.

The question being taken, there were—ayes 79, noes 58.

Mr. GEORGE D. WISE. At the request of my friend from Pennsylvania [Mr. HOPKINS] I withdraw the motion to adjourn.

The question recurring on the passage of the joint resolution, it was passed.

Mr. HOPKINS moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

OVERFLOWS IN CHIPPEWA RIVER, WISCONSIN.

Mr. PRICE, by unanimous consent, introduced a bill (H. R. 7992) to provide for an inquiry into the causes of extraordinary overflows in the Chippewa River, in the State of Wisconsin, and to prevent a recurrence of the same; which was read a first and second time, referred to the Committee on Rivers and Harbors, and ordered to be printed.

ORDER OF BUSINESS.

Mr. GREENLEAF. On behalf of the Committee on Patents, I ask consent to introduce a resolution for present consideration.

Mr. GEORGE D. WISE. I move that the House adjourn.

The question being taken on the motion to adjourn, there were—ayes 95, noes 38.

Several members called for tellers.

Tellers were not ordered.

Mr. WHITE, of Kentucky. I call for the yeas and nays.

The question being taken on ordering the yeas and nays, there were yeas 9, noes 105—less than one-fifth voting in the affirmative.

Mr. WHITE, of Kentucky. Will it be in order to have tellers on ordering the yeas and nays?

The SPEAKER. It will be if the gentleman can get them. He has the right to call for tellers.

Mr. WHITE, of Kentucky. Before the vote is announced, I desire to make a parliamentary inquiry, in order to decide whether I will call for tellers or not. I understand that the Senate will, in all probability, agree to the resolution for a holiday recess; and I would like to hear from the other end of the Capitol on that subject. [Cries of "Regular order!"] Therefore I call for tellers on ordering the yeas and nays. Tellers were not ordered, only 4 voting therefor.

The SPEAKER (at 4 o'clock and 20 minutes p. m.). Tellers are refused, and the yeas and nays are refused. The motion that the House adjourn is agreed to; and in accordance with its order already made, the House stands adjourned until Wednesday next, at 12 o'clock.

PETITIONS, ETC.

The following petitions and papers were laid on the Clerk's desk under the rule, and referred as follows:

By Mr. BROADHEAD: Petition and papers relating to the claim of Chaplain C. M. Blake—to the Committee on Military Affairs.

By Mr. CLEMENTS: A bill to continue the improvement of the navigation of the Coosa River in Georgia and Alabama—to the Committee on Rivers and Harbors.

By Mr. DINGLEY: Petition of James Johnston, for arrears of pension—to the Committee on Invalid Pensions.

By Mr. DUNN: Papers relating to the claim of Eli T. Diamond—to the Committee on War Claims.

By Mr. FORNEY: A bill making appropriation to continue the work at the Muscle Shoals in the Tennessee River, in the State of Alabama—to the Committee on Rivers and Harbors.

Also, a bill making appropriation to continue the work on the Coosa River in the States of Alabama and Georgia—to the same committee.

By Mr. McCOMAS: Petition of 55 citizens of Allegany County, Maryland, asking the passage of a bankrupt act—to the Committee on the Judiciary.

By Mr. RANDALL: Petition of John Devlin, relative to the exact distance of the sun from the earth, and of the diameter of the sun—to the Committee on Naval Affairs.

By Mr. ROSECRANS: Petition of Machinists and Blacksmiths' Union, No. 2, of Detroit, Mich., protesting against the confirmation of John Fehrenbatch—to the Committee on Labor.

Also, petition of Charles Elliott, praying for the passage of a joint resolution relative to the registry of deaths, births, and marriages—to the Committee on the District of Columbia.

By Mr. RYAN: Petition of Western Miami Indians, asking to be reimbursed certain money unlawfully taken from them—to the Committee on Indian Affairs.

By Mr. SEYMOUR: Memorial of the Bridgeport Board of Trade, favoring the passage of the bill known as the Lowell, to establish a uniform system of bankruptcy—to the Committee on the Judiciary.

By Mr. J. M. TAYLOR: Petition of John A. Barnes, for compensation for property taken and used by the United States Army during the late war—to the Committee on War Claims.

Also, petition of J. G. McFarlane, asking compensation for property taken and used by the United States Army during the late war—to the same committee.

By Mr. A. J. WARNER: Papers relating to the claim of John Lappert—to the Committee on Invalid Pensions.

By Mr. YOUNG: Petition of George P. Shelton, for compensation for property taken for the use of the Army—to the Committee on War Claims.

Also, papers relating to the claim of James Tucker—to the same committee.

The following petitions for the passage of the Mexican war pension bill with Senate amendments were presented and severally referred to the Committee on Pensions:

By Mr. CONNOLLY: Of J. Emmett O'Brien and 79 others, of Scranton, Pa.

By Mr. W. W. CULBERTSON: Of citizens of Foster, Bracken County, Kentucky.

By Mr. FUNSTON: Of citizens of Bourbon County, and of Thayer, Neosho County, Kansas.

By Mr. McCOMAS: Of 90 citizens of Sharpsburg, Washington County, Maryland.

By Mr. WASHBURN: Of 60 citizens and ex-soldiers of Hennepin County, Minnesota.

SENATE.

MONDAY, *December* 22, 1884.

Prayer by Rev. BYRON SUNDERLAND, D. D., of the city of Washington.

The Journal of the proceedings of Saturday last was read and approved.

HOUSE BILLS REFERRED.

The following bills, received from the House of Representatives on Saturday last, were severally read twice by their titles, and referred to the Committee on Pensions:

A bill (H. R. 374) granting a pension to William Boone;
A bill (H. R. 6703) to increase the pension of Mrs. D. P. Woodbury;
A bill (H. R. 5630) granting a pension to George W. Rugg;
A bill (H. R. 1653) granting a pension to John R. Hurlburt;
A bill (H. R. 5378) granting a pension to Henry Milkey;
A bill (H. R. 7302) granting a pension to Elizabeth Smith;
A bill (H. R. 1219) granting a pension to Charles Hendrix;
A bill (H. R. 6357) granting a pension to Christian Bauman;
A bill (H. R. 4569) granting a pension to David Urbansky;
A bill (H. R. 6197) granting a pension to Peter Falkner;
A bill (H. R. 6663) restoring to the pension-roll the name of Caroline Lewis;
A bill (H. R. 4556) granting a pension to Joseph Williams;
A bill (H. R. 2485) for the relief of Treadwell Seaman, jr.;

A bill (H. R. 6803) granting a pension to John T. Brake;
A bill (H. R. 5812) granting a pension to Ellen A. Vance;
A bill (H. R. 5103) granting a pension to Joshua F. Justice;
A bill (H. R. 4024) granting a pension to Cutler S. Dobbins; and
A bill (H. R. 2947) granting a pension to Joseph Raible.

REPORTS OF GUN-FOUNDERY BOARD.

The PRESIDENT *pro tempore* laid before the Senate the following message from the President of the United States; which was read, and, with the accompanying documents, ordered to be printed, and referred to the Committee on Military Affairs:

To the Senate and House of Representatives:

I transmit herewith the supplementary report, dated December 20, 1884, made in pursuance of orders of the Secretary of War and the Secretary of the Navy, by the gun-foundery board, appointed by me in accordance with the act of Congress approved March 3, 1883.

CHESTER A. ARTHUR.

EXECUTIVE MANSION, *December 22, 1884.*

Mr. HALE. I offer the following resolution, which I ask may be considered at the present time:

Resolved by the Senate, That there be printed at the Government Printing Office the usual number of copies of the supplementary report of the gun-foundery board, dated December 20, 1884, and in connection therewith the same number of the report of the board of February 16, 1884.

By unanimous consent the Senate proceeded to consider the resolution.

The PRESIDENT *pro tempore*. The question is on agreeing to the resolution.

Mr. HAWLEY. The resolution includes the supplementary report?

Mr. HALE. The resolution includes the supplementary report.

Mr. HAWLEY. The two reports should be printed in one pamphlet.

Mr. HALE. Under the resolution I have offered I suppose they will be printed together. That would be a more convenient way, as the Senator from Connecticut suggests.

The PRESIDENT *pro tempore*. Does the Senator desire to modify the resolution so as not to make a double print?

Mr. MORRILL. The reports should be printed together.

Mr. HALE. The resolution is enough to carry that; it says "in connection therewith."

The resolution was agreed to.

PETITIONS AND MEMORIALS.

Mr. LAPHAM presented resolutions adopted by the New York Leaf-Tobacco Board of Trade, remonstrating against the ratification of the proposed reciprocity treaty between Spain and the United States; which were referred to the Committee on Foreign Relations.

Mr. SHERMAN. I present a memorial very numerously signed by citizens, merchants, firms, owners of steam vessels, and other persons engaged in commerce and mining, mainly engaged in what is called the Lake Superior iron trade, remonstrating very strongly against the ratification of the Spanish reciprocity treaty, setting out in very clear and terse language the grounds of their opposition. In order that the Senate may have the benefit of the facts stated and suggestions made by the memorialists, which I believe are reliable, based upon their business operations, I ask that this memorial be printed in the RECORD.

The memorial was ordered to be printed in the RECORD, and referred to the Committee on Foreign Relations, as follows:

Hon. JOHN SHERMAN,
United States Senate, Washington:

The undersigned, representing iron-ore producing and transporting interests of the Northwest, whose products are mainly distributed from Lake Erie ports throughout the adjacent States, beg leave respectfully to call your attention to the terms of the proposed treaty with Spain in behalf of her West Indian dependencies as affecting American iron-ore production. The duty on iron ore is now 75 cents per ton—insufficient even now for a reasonable protection to the capital and the labor engaged in development of our American mines, and in the extensive transportation of their products to our furnaces.

The iron and steel industries of the United States, for obvious reasons, can never depend upon a foreign ore supply.

The reliance for cheap iron and steel must always be upon our American ore, and that, fortunately, may be obtained in abundant supply and in great variety of chemical constitution in every part of our country, provided the development of our mines be not retarded and discouraged by a policy which refuses to discriminate in favor of home interests.

Under the present rate of duty we are obliged to compete directly with some of the poorest paid labor in the world—in Spain and Africa—Spanish and African ores produced at a labor cost that would be humiliating and oppressive to the last degree to the American laborer, and which we do not ask him to accept. Even now hundreds of thousands of tons annually displace the products of our American mines.

Under the treaty, however, the American iron-ore producer is threatened with a removal of all protection.

Iron ore in Schedule A is on the free-list. In our relations with the Spanish West Indies hitherto the rate of duty on iron ore has not been of importance, because until recently there have been no importations. It is not well known, however, that Cuba has very extensive and valuable deposits of ore, and within the last year or two large investments of capital have been made for their development. The admission of these ores duty free, as provided in the treaty, would be a gross injustice and injury to our home production. Should a temporary or local advantage thereby be gained by two or three iron and steel manufacturing plants favorably situated near the Atlantic coast for the use of these Cuban ores, that could only operate to the injury of many Eastern and all Western, Northwestern, and Southern iron and steel interests. Such discrimination in favor of special interest to the injury of others in the same line of manufacture should, in our judgment, never be recognized in our tariff laws. Nor do we understand that it is even asked for by such special interests. The iron-ore producing interests of the country and the great body of iron and steel manufacturers as well are satisfied to stand upon a common level with respect to each other and to accept such conditions as local advantages for cheap production may give to each, but they are unwilling to consent to changes in rates of duty that will operate, as in this case, to a discrimination in favor of special interests at home and abroad. Iron ore is produced in every part of our country. The product last year was not less than 10,000,000 tons. Engaged in this business are vast capitals, and by it hundreds of thousands of laborers are furnished with remunerative employment. In a single section of the country—the Lake Superior region—in the mines, in the railroads necessary for moving their products to the lakes, in the transportation over the lakes and in the ore business of the railroads moving the ores from lower lake ports to furnaces in adjacent States are now employed $85,000,000 of capital, with all of labor occupation that such an amount of capital involves. In other sections of the country are similar connected and independent industries, whose safety and whose ability to furnish employment to labor is menaced by this proposed removal of the duty from Cuban ores. That removal would close many American mines. We do not ask the American laborer to live on the wages of the Spanish West Indies—ore mining 28 cents a day.

Although beyond the intended scope of this communication, we cannot refrain from referring to some general considerations in opposition to this treaty.

In return for open gates to a very small American export to these islands, with a decaying civilization, and whose laboring population is of the lowest type and with few wants, we are asked—a nation of 55,000,000 large consumers and consequently affording the best market in the world—to admit six-tenths of the entire exports of these islands free of duty; and in admitting free the great bulk of her sugar export and at greatly reduced duty her tobacco, we injure severely our own tobacco interest, and we not only destroy our cane-sugar production, but we render impossible the establishment of a beet-sugar industry in the Northern States—an end greatly to be desired as a diversification of our agriculture.

But iron ore and sugar and tobacco are only illustrative of the practical working of such a treaty. As in the case of these commodities the principle of protection to our home industries is contravened all through the schedules. A protective system admits free, unless duties are required for revenue, the raw materials for a home manufacture which do not compete with another home industry. But with exact justice it lays a duty protective on so-called raw materials of foreign production that do compete. This well-settled principle is in this treaty conspicuously violated.

The President in his annual message clearly states this rule, and, in his message transmitting the treaty to the Senate, quotes it in this language: "The conditions of these treaties should be the free admission of such merchandise as this country does not produce, in return for the admission free or under a favored scheme of duties of our own products." But in this treaty there is an absence, a conspicuous absence, of the very conditions which in the message of the President are stated to be essential. The principal exports of these islands coming in free and at a very low duty would compete, and that most injuriously, with a large number of our home productions. As in the case of tea and coffee, the foreign producer will save the amount of the duty. Sugar, tobacco, and the principal West Indian products will be no cheaper in our markets, but in this case, in addition to our loss of the revenue—very large—from these islands, there is the needless infliction of positive injury upon many of our home industries.

But what are the promised compensations to us for the destruction of some of our valuable industries and the injury of others and the relinquishment for the sole advantage of Spain and her dependencies of $20,000,000 to $30,000,000 of revenue.

We are promised a removal of some of the disabilities and restrictions to which our shipping interests are now subject in the trade with those islands and equal advantages in it with the Spanish flag; and yet is not the value of this concession greatly overestimated? Must not such a country remain, as she now is, a small consumer of those commodities which we most need a market for? Our total exports in 1883 to these islands were only $14,567,918. A high duty is still retained on our cereals, and our manufacturers will have to meet in Cuban markets, as they now do, the sharp competition of manufacturing Europe.

In respect to that competition also there seems to be no adequate discrimination in our favor.

We recognize the necessity of enlarged markets. The increasing volume of our products must be absorbed somewhere, but it would be a fatal policy to seek this abroad at the sacrifice of vital interests at home. Our best and largest market is the home market. The preservation and the enlargement of that is the first dictate of a true American policy. A successful external policy must start from that economic premise.

The proposed treaty, in our judgment, will not stand that test and should be rejected.

We therefore respectfully request, in behalf of most important interests we represent, your earnest efforts to that end.

Mr. HOAR presented a petition of William F. Bartlett Post, No. 99, Grand Army of the Republic, Department of Massachusetts, praying for the publication, in the Official Records of the War of the Rebellion, of photographic illustrations; which was referred to the Committee on Military Affairs.

He also presented the petition of Eugene Dickinson, of Elliott, Iowa, praying for the passage of an act of Congress authorizing the payment to him of certain moieties of fines for information given by him to the Government of parties engaged in illicit trade in spirits; which was referred to the Committee on Finance.

Mr. PENDLETON. I present certain petitions in favor of the ratification of what is commonly known as the Spanish treaty, from Motley & Sterling, of New York; the Pioneer Iron Works, of Brooklyn, N. Y., and the Jersey City Wheel Foundery and Machine Works, of Jersey City, N. J. I move that the petitions be referred to the Committee on Foreign Relations.

The motion was agreed to.

Mr. PENDLETON. I present memorials from cigar-makers of the city of Norwalk, Ohio, and the city of Columbus, Ohio, of the city of Cincinnati, and the city of Akron, Ohio, and of Massillon, Ohio, Germantown, Ohio, Sandusky, Ohio, and of a mass-meeting of cigar-makers of the city of New York, and also of the New York Leaf-Tobacco Board of Trade, all remonstrating against the ratification of the Spanish reciprocity treaty. I move that the memorials be referred to the Committee on Foreign Relations.

The motion was agreed to.

Mr. HARRISON presented a memorial of the Cigar-makers' Union, at Vincennes, Ind., remonstrating against the ratification of the reci-

procity treaty between Spain and the United States; which was referred to the Committee on Foreign Relations.

Mr. PLUMB presented a petition of the Western Miami Indians, praying to be reimbursed certain money alleged to have been unlawfully taken from them; which was referred to the Committee on Indian Affairs.

Mr. CONGER presented the petition of Knorr & Steffens, B. Landingham & Son, Charles Groesbeck, and Snook & Robinson, of Mount Clemens and Fraser, Macomb County, Michigan, praying for a modification of the sugar clause of the proposed reciprocity treaty with Spain; which was referred to the Committee on Foreign Relations.

BILLS INTRODUCED.

Mr. FRYE introduced a bill (S. 2485) authorizing the Secretary of the Treasury to compensate clerks and employés for extra work performed in the exchange of bonds in the Department; which was read twice by its title, and referred to the Committee on Appropriations.

Mr. PLUMB introduced a bill (S. 2486) granting a pension to William L. Clarke; which was read twice by its title, and referred to the Committee on Pensions.

He also introduced a bill (S. 2487) to establish an additional land district in Dakota; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. CAMERON, of Pennsylvania, introduced a bill (S. 2488) to remove the charge of desertion against William H. McBride, late private Company F, Seventeenth Pennsylvania Cavalry; which was read twice by its title, and referred to the Committee on Military Affairs.

WITHDRAWAL OF PAPERS.

On motion of Mr. PLUMB, it was

Ordered, That Henry W. Hoffman, late collector of the port of Baltimore, have leave to withdraw his memorial and other papers, in his claim for relief as such collector, from the files of the Senate.

COMPILATION OF INTERNAL-REVENUE LAWS.

Mr. VANCE submitted the following concurrent resolution; which was referred to the Committee on Printing:

Resolved by the Senate (the House of Representatives concurring), That there be printed at the Government Printing Office 1,000 copies of the compilation of the internal-revenue laws of the United States, with a history of the legislation in regard thereto from the organization of the Government to the present time, by D. R. Goodloe; of which 200 copies shall be for the use of the Senate, 700 copies for the use of the House of Representatives, and 100 copies for the use of the Treasury Department.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. CLARK, its Clerk, announced that the House had passed the joint resolution (S. R. 32) providing for the payment of laborers in Government employ for certain holidays.

RIGHTS IN LAND GRANTS.

The PRESIDENT *pro tempore*. The Chair lays before the Senate the Calendar under Rule VIII, commencing with Order of Business 338, being the bill (S. 1445) to provide for the settlement of the rights of the States and of the corporations and persons interested in any grant of lands in aid of railroads and canals which shall be declared forfeited by act of Congress. The Chair will state that the Senator from Alabama [Mr. MORGAN] not now in his seat previously asked unanimous consent that this bill stand over, retaining its place. If there be no objection it will be again passed over, retaining its place on the Calendar under Rule VIII.

HOUSE PENSION BILLS.

Mr. BECK. I should like to make a suggestion to the Senate and ask unanimous consent to have it carried out. I have been requested in one or two pension cases which have passed the House and have been reported by the Senate committee without amendment to endeavor to urge their passage before the Christmas holidays, and in one or two cases I said I thought it would surely be done. What I propose now is to ask unanimous consent to take up—I do not like to ask to take up one pension case, but the pension cases, the unobjected cases which have passed and have been reported to the Senate without amendment.

Mr. HOAR. May I ask the Senator from Kentucky if he will favor me by withdrawing his request until the first matter on the Calendar is disposed of?

Mr. BECK. Oh, certainly.

Mr. HOAR. It is a matter of which I have some knowledge as it comes from my State, and I am obliged to be absent after to-day. If the Senator will wait until that is disposed of I shall be obliged to him.

Mr. BECK. Certainly, I shall be very glad to do so. The only reason why I made the suggestion in regard to the pension cases was to get them passed before the holidays if I could.

EDUCATIONAL FUND.

The bill (S. 1235) to establish an educational fund and apply a portion of the proceeds of the public lands to public education, and to provide for the more complete endowment and support of colleges for the advancement of scientific and industrial education, was announced as regularly in order.

Mr. HOAR. That I suppose will go over. That is not the bill I meant. It is the next but one.

Mr. MORRILL. I ask unanimous consent that the bill be passed over.

The PRESIDENT *pro tempore*. The Senator from Vermont asks unanimous consent that this bill be passed over, retaining its place on the Calendar under Rule VIII. Is there objection? The Chair hears none.

SOUTHERN MAIL CONTRACTORS.

The joint resolution (S. R. 13) to reappropriate and apply the amount appropriated by the act of Congress approved March 3, 1877, to pay certain Southern mail contractors was announced as next in order.

Mr. HOAR. The Senator who reported that is absent. I suggest that it go over and retain its place on the Calendar.

The PRESIDENT *pro tempore*. The Senator from Massachusetts asks unanimous consent that this joint resolution be passed over, retaining its place on the Calendar under Rule VIII. Is there objection? The Chair hears none, and it is so ordered.

WILBUR F. STEELE.

The bill (S. 1543) for the relief of Wilbur F. Steele was considered as in Committee of the Whole. It provides that all the right, title, and interest of the United States in and to the west half of section 16, in township 129 north, of range 73 west, containing three hundred and twenty acres, in the Bismarck district, Territory of Dakota, shall be granted and confirmed to Wilbur F. Steele, his heirs or assigns, of Steele, Dak., upon the payment to the United States for the land at the rate of $2.50 per acre.

The bill was reported from the Committee on Public Lands with an amendment, at the end of section 3 to add:

Said selections to be made according to legal subdivisions and contiguous.

So as to make the section read:

That upon the passage of this act the Territory of Dakota, through its proper officer, shall be, and is hereby, authorized to select as indemnity for said land, and in full satisfaction thereof, and for the purpose stated in section 1946 of the Revised Statutes, one half section, or three hundred and twenty acres, of public lands, at any office in said Territory, said selections to be made according to legal subdivisions, and contiguous.

The amendment was agreed to.

Mr. CONGER. Is there a report accompanying the bill?

The PRESIDENT *pro tempore*. There is not any written report.

Mr. CONGER. Perhaps the Senator who reported it will explain it.

Mr. PLUMB. The bill was introduced by the Senator from Michigan, and I suppose it will not be necessary to give him a recital of the facts, but I can explain it in a very few minutes.

Before the lands were surveyed, or at all events at a time when the boundaries were insufficiently marked, Mr. Steele went upon this land supposing it to be section 17 in place of section 16. He has placed upon the land a very large and valuable improvement, amounting to many thousands of dollars. He now asks to be authorized to purchase the land, which he expected to be able to do when he located upon it, and this bill gives the Territory of Dakota the right to select other lands in place of it.

Mr. CONGER. I see that I introduced the bill by request.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

FIRST NATIONAL BANK OF NEWTON.

Mr. VOORHEES. I see there are seven pension bills passed by the House which are on our Calendar reported from our committee without any amendment, and I should like to ask the Senate to consent to take them up and pass them.

Mr. HOAR. The Senator from Kentucky [Mr. BECK] made that request, but generously consented to defer it until after the disposition of the next case on the Calendar, as I am obliged to go away.

Mr. VOORHEES. I thought the Senator from Massachusetts was through with his case.

Mr. HOAR. I thought when I made the request that it was the next case on the Calendar. It is the one now coming up.

Mr. VOORHEES. I defer with pleasure. I thought the Senate had acted on it.

The PRESIDENT *pro tempore*. The next case on the Calendar will be announced.

The bill (S. 1331) making an appropriation for the relief of the First National Bank of Newton, Mass., was considered as in Committee of the Whole.

The bill was reported from the Committee on Claims, with an amendment, in section 2, line 1, to strike out "seventy-five" and insert "forty-nine" before "thousand;" and after the word "thousand" to insert "and thirty-nine and ninety-five hundredths;" so as to make the bill read:

Be it enacted, &c., That the Secretary of the Treasury be, and he hereby is, authorized and directed to pay interest at the rate of 5 per cent. per annum on the judgment rendered in favor of the First National Bank of Newton, Mass., against the United States, in the sum of $371,025, from March 1, 1867, to the date of payment.

SEC. 2. That the sum of $249,069.95 is hereby appropriated for the purposes set forth in section 1, out of any money in the Treasury not otherwise appropriated.

The amendment was agreed to.

Mr. COCKRELL. Let the report be read.

The PRESIDENT *pro tempore*. The report will be read.

The Chief Clerk read the following report, submitted by Mr. JACKSON March 17, 1884:

The Committee on Claims, to whom was referred the bill (S. 1331) making appropriations for the relief of the First National Bank of Newton, Mass., have considered the same, and respectfully report:

That on and prior to February 28, 1867, Julius F. Hartwell was cashier of the United States subtreasury in Boston, Mass. While acting as such cashier he embezzled a large amount of the Government's money by lending the same to the firm of Mellon, Ward & Co., who were extensively engaged in stock speculations. As the time for the examination of the funds in the subtreasury approached, March 1, 1867, when Hartwell's accounts would have to be passed, some plan had to be devised by the guilty parties to prevent or delay exposure. The device resorted to and put in operation was to procure funds and assets of innocent third parties to be placed temporarily on deposit in the subtreasury till the examination was had, and then to be immediately withdrawn again, and thus tide Hartwell and his associates in the embezzlement over the crisis.

Edward Carter, the active financial member of said firm of Mellon, Ward & Co., who concocted this scheme with Hartwell, was a director in the First National Bank of Newton, and seems to have possessed not only the confidence of, but unlimited influence over, E. Porter Dyer, the cashier of said bank. By means of this confidence and influence, and in execution of his and Hartwell's fraudulent conspiracy, Carter procured from Dyer the money, bonds, securities, and checks of the First National Bank of Newton, to the amount of $371,025, which were deposited in the subtreasury on February 28, 1867, Hartwell giving a receipt therefor, as cashier, that the deposit was "to be returned on demand in governments, or bills, or its equivalent." This receipt being in the name of Mellon, Ward & Co., was immediately indorsed by Carter as follows: "Pay only to the order of E. Porter Dyer, jr., cashier," and signed, Mellon, Ward & Co.

This deposit of its funds and assets was made without the knowledge and consent of the president and directors of the First National Bank of Newton. Hartwell's default was discovered on the night of February 28, and on March 1, 1867, when Dyer presented the above receipt and demanded its redemption, payment was refused, and the bank's funds and securities were held and applied by the Government to make good Hartwell's default. The capital stock of the bank was $150,000. It was doing and for years had done a prosperous and profitable business, but this fraudulent misapplication and appropriation of its assets ruined the institution, and on March 11, 1867, it was placed in the hands of a receiver, and, to make good its losses and provide the means to discharge its debts, the stockholders were compelled to pay in a second time the amount of their respective holdings of its capital stock. On February 24, 1873, the First National Bank of Newton filed its petition in the Court of Claims against the United States to recover the amount of its funds and assets so deposited in the subtreasury, and appropriated by the Government. The case was heard in December, 1880, and judgment was rendered in favor of the bank January 24, 1881, for the full amount of principal claimed, namely, $371,025.

The full details of the conspiracy and transaction by which the Government, through the fraud of its agent, wrongfully got possession of the bank's assets are clearly set forth in 10 Court of Claims reports, page 519; 96 United States Supreme Court reports, 30, and 16 Court of Claims Reports, page 54, to which reference is here made for a more complete statement of the facts than hereinabove stated. In delivering the opinion of the Court of Claims in the bank's suit, Chief-Justice Drake characterized the taking of its assets as a "villainous scheme," and the transaction as "simply a case of a bank being robbed, and of its stolen assets being put into the hands of the cashier of the subtreasury for a purpose which by no possible view could in law be held to effect a transfer of the bank's right of property in them either to him or to the United States." That the United States could not derive a benefit from the fraudulent act of their cashier or lawfully withhold the funds thus obtained admitted of no question either in law or morals. After referring to many of the authorities on the question, the Supreme Court (96 United States Reports, page 36) say, in conclusion:

"But surely it ought to require neither argument nor authority to support the proposition, that where the money or property of an innocent person has gone into the coffers of the nation by means of a fraud to which its agent was a party, such money or property can not be held by the United States against the claim of the wronged and injured party. The agent was agent for no such purpose. His doings were vitiated by the underlying dishonesty and could confer no rights upon his principal."

On the 28th April, 1881, a duly certified copy of the bank's judgment against the United States was presented to the Secretary of the Treasury, as provided by law. Before its payment the now Attorney-General of the United States, in March, 1881, entered an appeal to the Supreme Court. This appeal seems to have been taken for the purpose of enabling him to examine the case. After making such examination and finding the case undistinguishable from that reported in 96 United States Reports above cited, the appeal, which had been in the mean time entered in the Supreme Court, was, on his motion, dismissed in that court October 25, 1881.

Thereafter, on October 29, 1881, the sum of $260,000 was paid, on account of this judgment, by the Treasurer of the United States, that being the only amount available under the appropriation then existing. The balance of $111,025 was paid August 30, 1882.

Such is a brief history of the case. The bill under consideration proposes to pay the bank interest on the amount of its funds so taken and appropriated by the United States, from date of conversion to time of payment. The Court of Claims was not authorized to award such interest, its jurisdiction in the matter of "interest" being confined to cases of contract expressly stipulating for the payment of interest. It will hardly be insisted that this restriction upon one of its tribunals settles either the question of the Government's liability or the measure of its duty in a case like the present, where the contract relation is not voluntarily assumed by the party making the claim. The Government may with propriety refuse to recognize any obligation to pay interest to those who voluntarily deal with it, without expressly stipulating for the payment of interest.

But the question of its obligation to make indemnity by the allowance of interest, where the creditor relation is forced upon the individual by the wrongful act of the Government or its agents, stands upon a different footing, and should be determined by the general principles of the public law and the rules of natural justice and equity applicable to the facts and circumstances of the particular case. Ordinarily, the Government can not and should not be made responsible, to the extent of individuals, for the wrongful acts of its officers or agents. But this rule can not be justly invoked to shield or protect the Government from the measure of responsibility applied to private persons, where it has adopted such wrongful acts and derived an advantage and benefit therefrom. Where the Government has profited by the fraud of its agent, why should it deny to the injured party the full redress that courts of equity would afford as between individuals and private corporations? In the jurisprudence of all civilized countries the general doctrine is well settled that any one—except a *bona fide* purchaser for value and without notice—who obtains possession of property which has been procured from the owner by fraudulent means or practices is converted by the courts into a trustee, and ordered to account as such; or, as stated by Perry on Trusts, section 166, the principle "denotes that the parties defrauded, or beneficially entitled, have the same right and remedies against him as they would be entitled to against an express trustee who had fraudulently committed a breach of trust." Whenever the principal adopts the fraudulent act of his agent, or attempts to reap an advantage therefrom, his liability is properly measured by this rule. Indeed (says Perry on Trusts, 172), the doctrine has been thus broadly stated:

"That when once a fraud has been committed, not only is the person who committed the fraud precluded from deriving any benefit from it, but every innocent person is so likewise, unless he has innocently acquired a subsequent interest; for a third person by seeking to derive any benefit under such a transaction, or to retain any benefit resulting therefrom, becomes *particeps criminis*, however innocent of the fraud in the beginning."

It would not admit of a moment's doubt that in the present case interest would have been awarded the bank as against the agent committing the fraud. It is also clear that as against any private principal occupying the position of the Government the bank could and would have received interest. Why should not the Government, standing as it does under this transaction in the attitude of a trustee if not a *particeps criminis*, be held to the same measure of responsibility and redress? Nothing short of this will meet the justice of the case or afford the equitable relief to which the bank is justly entitled. A great Government like ours, with unlimited resources and revenues at its command, should above all things deal justly with its citizens. It should not stand upon technicalities in withholding property or funds which may have wrongfully come into its possession. It should never make for itself a profit or secure and retain an advantage through the fraud of its agents or by any breach of trust which has worked a wrong and injury. It should in such cases make such reparation as its courts would enforce as between individuals.

The American counsel at Geneva successfully claimed interest upon the amounts awarded to the United States against Great Britain. The counsel for Great Britain, while objecting to the application of the principle allowing interest, distinguished between cases where, in their view, it should and should not be allowed, in language strikingly applicable here; and attention is called to it as being a concession, on the part of a party objecting to the allowance of interest, which covers the present case, as follows:

"Interest, in the proper sense of that word, can only be allowed where there is a principal debt of liquidated and ascertained amount detained and withheld by the debtor from the creditor after the time when it was absolutely due and ought to have been paid, the fault of the delay in payment resting with the debtor; or where the debtor has wrongfully taken possession of and exercised dominion over the property of the creditor. In the former case, from the time when the debt ought to have been paid, the debtor has had the use of the creditor's money, and may justly be presumed to have employed it for his own profit and advantage. He has thus made a gain corresponding with the loss which the creditor has sustained by being deprived, during the same period of time, of the use of his money; and it is evidently just that he should account to the creditor for the interest which the law takes as the measure of this reciprocal gain and loss. In the latter case, the principle is exactly the same. It is ordinarily to be presumed that the person who has wrongfully taken possession of the property of another has enjoyed the fruits of it; and if, instead of this, he has destroyed it or kept it unproductive, it is still just to hold him responsible for interest on its value, because his own acts, after the time when he assumed control over it, are the causes why it has remained unfruitful. In all these cases, it is the actual or virtual possession of the money or property belonging to another which is the foundation of the liability of interest. The person liable is either *lucratus* by the detention of what is not his own, or is justly accountable as if he were so."

In the case under consideration, the funds of the bank—an amount fixed and liquidated—have been wrongfully withheld for many years, during which the Government has retained and used them, and to that extent has made or saved interest, of which the bank throughout the same period lost such interest. In allowing interest at a low rate the bank will receive only (or less than) what it was unjustly deprived of, while the United States will only yield up what it has received or saved that rightfully belonged to the bank, for it can not be questioned that the use of the principal sum has put the Government in receipt of additional funds to the amount of the value of such use. The claim is thus brought within the general principle so clearly and forcibly stated in the above-quoted extract from the council of Great Britain.

In this statement of the proposition which should govern the present case it is hardly necessary to say that the committee do not wish to be understood as even suggesting that the same rule could or should be applied to that large class of cases known as war claims. They stand entirely upon a different footing. Every man, woman, and child residing, during the war, in the insurrectionary territory became thereby an enemy of the United States. The Government could have asserted against each and all of them the extremest measures conceded by the public law to belligerents. That it did not adopt this policy, but modified the harsher rules of war, by which it waived some of its belligerent rights, could not be made in any case the basis of a claim for interest, nor lay the ground for the payment of interest. Take, for illustration, the captured and abandoned property cases. This property and its proceeds, under the modern rules of war, could have been appropriated to the absolute use of the Government. Instead of pursuing this course, the Government, in a spirit of liberality, adopted the generous policy of making itself a depository of these funds, to be held for the benefit of the real owners. The proposition to allow interest on such claims should not and would not be entertained for a moment.

It can not be properly urged as an objection to this claim for interest that the bank should be held responsible to some extent for the unfaithfulness of the cashier whom it has selected and intrusted with certain well-defined duties in respect of its funds and assets. No want of care is shown in making the selection. There was nothing in his previous conduct to excite suspicion or put the bank upon inquiry or notice so as to charge it with any degree of negligence in retaining him in its employ. The doctrine of contributory negligence is sometimes looked to and considered in the determination of the better equity as between two innocent parties who have been defrauded by a third party who has been trusted by both. If there had been no previous default on the part of Hartwell, and he had on the night of February 28, 1867, embezzled the funds and assets of the bank that day deposited with him by Carter and Dyer, the Government and the bank might then have occupied the position of two innocent parties, whose equities would have to be determined and settled to some extent by the question of negligence in the employment of unfaithful agents.

But that is not the present case. The Government had already lost its money by the previous embezzlement of its cashier of the subtreasury, and then, through the corrupt influence of that same agent and his confederate, the bank's agent is tempted, by a "villainous scheme," into a breach of his trust, by means of which the Government obtains possession of the bank's entire assets, and wrongfully appropriates them in making good its previous losses. It would be shocking to every sense of right and justice for the Government now to urge that the unfaithfulness of the bank's trusted agent was a bar or valid defense to its liability and duty to refund either the principal or interest of the funds so procured and converted to its own use. Your committee have too much regard for the honor and good name of the Government to allow it to occupy a position so questionable. It should be observed, too, that the decision of its own courts declaring that the Government could not rightfully hold the assets so fraudulently obtained, has really disposed of this question of negligence, which applied with equal force to the recovery of the principal as to the interest.

To the objection that the allowance of this claim for interest will establish a

bad precedent, the reply of Mr. Sumner to a similar objection is a complete answer:

"If the claim is just, the precedent of paying it is one which our Government should wish to establish. Honesty and justice are not precedents of which either Government or individuals should be afraid." (Senate Report No. 4, Forty-first Congress, first session, page 10.)

But it is respectfully submitted that there are abundant precedents, both in the judicial and in the legislative branches of the Government, to support the present application for the allowance of interest. The prevalent idea that "the Government never pays interest" has grown up from the practice of the Departments, which do not allow interest except where it is specially provided for in cases of contracts or expressly authorized by law. But this usage and custom of the Executive Departments can not be properly regarded as the settled rule and policy of the Government, for its action upon the subject of interest has not from the earliest times conformed to such usage. On the contrary, it will be found, upon an examination of the precedents where Congress has passed acts for the relief of private citizens, that in almost every case, except those growing out of the late war, Congress has directed the payment of interest where the United States had withheld a sum of money which had been decided by competent authority to be due, or where the amount due was ascertained, fixed, and certain. The highest court of the country has also affirmed this to be not only the practice of the Government but the measure of its duty. Thus, in 15 Wallace, page 77, where the suit was against a United States collector for the recovery of taxes illegally collected, the Supreme Court used the following language upon the subject of interest allowed on the claim, namely:

"The third exception is to the instruction that if the jury found for plaintiff they might add interest. This was not contested upon the argument, and we think it clearly correct. The ground for the refusal to allow interest is the presumption that the Government is always ready and willing to pay its ordinary debts. Where an illegal tax has been collected the citizen who has paid it and has been obliged to bring suit against the collector is entitled to interest in the event of recovery from the time of the alleged exaction."

On June 8, 1872, Congress referred the claim of the heirs of Francis Vigo to the Court of Claims, in the following language:

"The claim of the heirs and legal representatives of Col. Francis Vigo, deceased, late of Terre Haute, Ind., for money and supplies furnished the troops under command of General George Rogers Clarke, in the year 1778, during the Revolutionary war, be, and the same hereby is, referred, along with all the papers and official documents belonging thereto, to the Court of Claims, with full jurisdiction to adjust and settle the same; and in making such adjustment and settlement, the said court shall be governed by the rules and regulations heretofore adopted by the United States in the settlement of like cases, giving proper consideration to official acts, if any have heretofore been had in connection with this claim, and without regard to the statutes of limitation."

The Court of Claims allowed the claim with interest thereon from the time it accrued, and, among other facts, found that—

"No rules and regulations have heretofore been adopted by the United States in the settlement of like cases except such as may be inferred from the policy of Congress when passing private acts for the relief of various persons. When passing such private acts, Congress has allowed interest upon the claim up to the time that the relief was granted."

The Attorney-General appealed from this judgment, awarding interest, but the decision of the court below was affirmed by the Supreme Court at the October term, 1875. (See 91 U. S. Rep., p. 443 *et seq.*) In delivering the opinion of the Supreme Court, Mr. Justice Miller says:

"It has been the general rule of the officers of Government, in adjusting and allowing unliquidated and disputed claims against the United States, to refuse to give interest. That this rule is sometimes at variance with that which governs the acts of private citizens in a court of justice would not authorize us to depart from it in this case. The rule, however, is not uniform; and especially is it not so in regard to claims allowed by special acts of Congress, or referred by such acts to some Department or officer for settlement."

This was said in reference to unliquidated and unadjusted claims. Where the Government, by and through the fraud of its agents, gets possession and withholds from the rightful owner an ascertained, fixed, and certain amount, the claim for interest certainly stands upon higher equitable grounds than in the cases cited. The finding by the Court of Claims that the policy of the Government, as shown by the general rule pursued by Congress in passing acts for the relief of private claims, was to allow interest, is supported by the precedents.

Your committee, upon this proposition, beg leave to refer to and adopt this portion of House Report 391, Forty-third Congress, first session, which discusses the subject of interest as follows:

"THE OBLIGATION TO PAY INTEREST ON THE AMOUNT AWARDED THE CHOCTAW NATION.

"Your committee have given this question a most careful examination, and are obliged to admit and declare that the United States can not, in equity and justice, nor without national dishonor, refuse to pay interest upon the moneys so long withheld from the Choctaw Nation. Some of the reasons which force us to this conclusion are as follows:

"1. The United States acquired the lands of the Choctaw Nation on account of which the said award was made on the 27th day of September, 1830, and it has held them for the benefit of its citizens ever since.

"2. The United States had in its Treasury, many years prior to the 1st day of January, 1859, the proceeds resulting from the sale of the said lands, and have enjoyed the use of such moneys from that time until now.

"3. The award in favor of the Choctaw Nation was an award under a treaty, and made by a tribunal whose adjudication was final and conclusive. (Comegys vs. Vasse, 1 Peters, 193.)

"4. The obligations of the United States, under its treaties with the Indian nations, have been declared to be equally sacred with those made by treaties with foreign nations. (Worcester vs. The State of Georgia, 6 Peters, 562.) And such treaties, Mr. Justice Miller declares, are to be construed liberally. (The Kansas Indians, 5 Wall., 737-760.)

"5. The engagments and obligations of a treaty are to be interpreted in accordance with the principles of the public law, and not in accordance with any municipal code or executive regulation. No statement of this proposition can equal the clearness or force with which Mr. Webster declares it in his opinion on the Florida claims, attached to the report in the case of Letitia Humphreys (Senate report No. 93, first session Thirty-sixth Congress, page 16). Speaking of the obligation of a treaty, he said:

"'A treaty is the supreme law of the land. It can neither be limited nor restrained, nor modified, nor altered. It stands on the ground of national contract, and is declared by the Constitution to be the supreme law of the land, and this gives it a character higher than any act of ordinary legislation. It enjoys an immunity from the operation and effect of all such legislation.

"'A second general proposition, equally certain and well established, is that the terms and the language used in a treaty are always to be interpreted according to the law of nations, and not according to any municipal code. This rule is of universal application. When two nations speak to each other they use the language of nations. Their intercourse is regulated, and their mutual agreements and obligations are to be interpreted by that code only which we usually denominate the public law of the world. The public law is not one thing at Rome, another at London, and a third at Washington. It is the same in all civilized States; everywhere speaking with the same voice and the same authority.'

"Again, in the same opinion, Mr. Webster used the following language:

"'We are construing a treaty, a solemn compact between nations. This compact between nations, this treaty, is to be construed and interpreted throughout its whole length and breadth, in its general provisions, and in all its details, in every phrase, sentence, word, and syllable in it, by the settled rules of the law of nations. No municipal code can touch it, no local municipal law affect it, no practice of an administrative department come near it. Over all its terms, over all its doubts, over all its ambiguities, if it have any, the law of nations "sits arbitress."'

"6. By the principles of the public law interest is always allowed as indemnity for the delay of payment of an ascertained and fixed demand. There is no conflict of authority upon this question among the writers on public law.

"This rule is laid down by Rutherford in these terms:

"'In estimating the damages which any one has sustained, when such things as he has a perfect right to are unjustly taken from him, or withholden, or intercepted, we are to consider not only the value of the thing itself, but the value likewise of the fruits or profits that might have arisen from it. He who is the owner of the thing is likewise the owner of the fruits or profits. So that it is as properly a damage to be deprived of them as it is to be deprived of the thing itself.' (Rutherford's Institutes, Book I, chap. 17, sec. 5.)

"In laying down the rule for the satisfaction of injuries in the case of reprisals, in making which the strictest caution is enjoined not to transcend the clearest rules of justice, Mr. Wheaton, in his work on the law of nations, says:

"'If a nation has taken possession of that which belongs to another, if it refuses to pay a debt, to repair an injury or to give adequate satisfaction for it, the latter may seize something of the former and apply it to [his] its advantage, till it obtains payment of what is due, together with interest and damages.' (Wheaton on International Law, p. 341.)

"A great writer, Domat, thus states the law of reason and justice on this point:

"'It is a natural consequence of the general engagement to do wrong to no one that they who cause any damages by failing in the performance of that engagement are obliged to repair the damage which they have done. Of what nature soever the damage may be, and from what cause soever it may proceed, he who is answerable for it ought to repair it by an *amende* proportionable either to his fault or to his offense or other cause on his part, and to the loss which has happened thereby.' (Domat, Part I, Book III, Tit. V., 1900, 1903.)

"'Interest' is, in reality, in justice, in reason, and in law, too, a part of the debt due. It includes, in Pothier's words, the loss which one has suffered, and the gain which he has failed to make. The Roman law defines it as *quantum mea interfuit; id est, quantum mihi abest, quantumque lucraci portui.* The two elements of it were termed *lucrum cessans et damnum emergens.* The payment of both is necessary to a complete indemnity.

"Interest, Domat says, is the reparation or satisfaction which he who owes a sum of money is bound to make to his creditor for the damage which he does him by not paying him the money he owes him.

"It is because of the universal recognition of the justice of paying, for the retention of moneys indisputably due and payable immediately, a rate of interest considered to be a fair equivalent for the loss of its use, that judgments for money everywhere bear interest. The creditor is deprived of this profit, and the debtor has it. What greater wrong could the law permit than that the debtor should be at liberty indefinitely to delay payment, and, during the delay, have the use of the creditor's moneys for nothing? They are none the less the creditor's moneys because the debtor wrongfully withholds them. He holds them, in reality and essentially, in trust; and a trustee is always bound to pay interest upon money so held.

"In closing these citations from the public law, the language of Chancellor Kent seems eminently appropriate. He says: 'In cases where the principal jurists agree, the presumption will be very great in favor of the solidity of their maxims, and no civilized nation that does not arrogantly set all ordinary law and justice at defiance will venture to disregard the uniform sense of established writers on international law.'

"7. The practice of the United States in discharging obligations resulting from treaty stipulations has always been in accord with these well-established principles. It has exacted the payment of interest from other nations in all cases where the obligation to make payment resulted from treaty stipulations, and it has acknowledged that obligation in all cases where a like liability was imposed upon it."

The most important and leading cases which have occurred are those which arose between this country and Great Britain; the first under the treaty of 1794, and the other under the first article of the treaty of Ghent. In the latter case the United States, under the first article of the treaty, claimed compensation for slaves and other property taken away from the country by the British forces at the close of the war in 1815. A difference arose between the two governments which was submitted to the arbitrament of the Emperor of Russia, who decided that "the United States of America are entitled to a just indemnification from Great Britain for all private property carried away by the British forces." A joint commission was appointed for the purpose of hearing the claims of individuals under this decision. At an early stage of the proceedings the question arose as to whether interest was a part of that "just indemnification" which the decision of the Emperor of Russia contemplated. The British commissioner denied the obligation to pay interest. The American commissioner, Langdon Cheves, insisted upon its allowance, and in the course of his argument upon this question said:

"Indemnification means a reimbursement of a loss sustained. If the property taken away on the 17th of February, 1815, were returned now uninjured it would not reimburse the loss sustained by the taking away and consequent detention; it would not be an indemnification. The claimant would still be unindemnified for the loss of the use of his property for ten years, which considered as money is nearly equivalent to the original value of the principal thing."

Again he says:

"If interest be an incident usually attendant on the delay of payment of debts, damages are equally an incident attendant on the withholding an article of property."

In consequence of this disagreement the commission was broken up, but the claims were subsequently compromised by the payment of $1,204,960, instead of $1,250,000 as claimed by Mr. Cheves; and of the sum paid by Great Britain $418,000 was expressly for interest.

An earlier case, in which this principle of interest was involved, arose under the treaty of 1794, between the United States and Great Britain, in which there was a stipulation on the part of the British Government in relation to certain losses and damages sustained by American merchants and other citizens, by reason of the illegal or irregular capture of their vessels or other property by British cruisers; and the seventh article provided in substance that "full and complete compensation for the same will be made by the British Government to the said claimants."

A joint commission was instituted under this treaty which sat in London, and by which these claims were adjudicated. Mr. Pinckney and Mr. Gore were commissioners on the part of the United States, and Dr. Nicholl and Dr. Swabey on the part of Great Britain; and it is believed that in all instances this commission allowed interest as a part of the damage. In the case of The Betsey, one of the cases which came before the board, Dr. Nicholl stated the rule of compensation as follows:

"'To reimburse the claimants the original cost of their property, and all the expenses they have actually incurred, together with the interest on the whole amount, would, I think, be a just and adequate compensation. This, I believe,

is the measure of compensation usually made by all belligerent nations, and accepted by all neutral nations, for losses, costs, and damages occasioned by illegal captures.' (Vide Wheaton's Life of Pinckney, page 198; also 265, note, and page 371.)

"By a reference to the American State Papers, Foreign Relations, vol. 2, pages 119, 120, it will be seen by a report of the Secretary of State of the 16th February, 1798, laid before the House of Representatives, that interest was awarded and paid on such of these claims as had been submitted to the award of Sir William Scott and Sir John Nicholl, as it was in all cases by the board of commissioners. In consequence of some difference of opinion between the members of this commission, their proceedings were suspended until 1802, when a convention was concluded between the two governments, and the commission reassembled, and then a question arose as to the allowance of interest on the claims during the suspension. This the American commissioners claimed, and though it was at first resisted by the British commissioners, yet it was finally yielded, and interest was allowed and paid. (See Mr. King's three letters to the Secretary of State, of 25th March, 1803, 23d April, 1803, and 30th April, 1803, American State Papers, Foreign Relations, vol. 2, pages 387 and 388.)

"Another case in which this principle was involved arose under the treaty of the 27th October, 1795, with Spain; by the twenty-first article of which, 'in order to terminate all differences on account of the losses sustained by citizens of the United States in consequence of their vessels and cargoes having been taken by the subjects of his Catholic Majesty during the late war between Spain and France, it is agreed that all such cases shall be referred to the final decision of commissioners, to be appointed in the following manner,' &c. The commissioners were to be chosen, one by the United States, one by Spain, and the two were to choose a third, and the award of the commissioners, or any two of them, was to be final, and the Spanish Government to pay the amount in specie.

"This commission awarded interest as part of the damages. (See American State Papers, vol. 2, Foreign Relations, page 283.) So in the case of claims of American citizens against Brazil, settled by Mr. Tudor, United States minister, interest was claimed and allowed. (See Ex. Doc., first session Twenty-fifth Congress, House Reps., Doc. 32, page 249.)

"Again, in the convention with Mexico of the 11th April, 1839, by which provision was made by Mexico for the payment of claims of American citizens for injuries to persons and property by the Mexican authorities, a mixed commission was provided for, and this commission allowed interest in all cases. (House Ex. Doc. 291, Twenty-seventh Congress, second session.)

"So also under the treaty with Mexico of February 2, 1848, the board of commissioners for the adjustment of claims under that treaty allowed interest in all cases from the origin of the claim until the day when the commission expired.

"So also under the convention with Colombia, concluded February 10, 1864, the commission for the adjudication of claims under that treaty allowed interest in all cases as a part of the indemnity.

"So under the recent convention with Venezuela, the United States exacted interest upon the awards of the commission, from the date of the adjournment of the commission until the payment of the awards.

"The mixed American and Mexican commission, now in session here, allows interest in all cases from the origin of the claim, and the awards are payable with interest.

"Other cases might be shown in which the United States or their authorized diplomatic agents have claimed interest in such cases, or where it has been paid in whole or in part. (See Mr. Russell's letter to the Count de Engstein of October 5, 1818, American State Papers, vol. 4, p. 639, and proceedings under the convention with the Two Sicilies of October, 1832, Elliot's Dip. Code, p. 625.)

"It can hardly be necessary to pursue these precedents further. They sufficiently and clearly show the practice of this Government with foreign nations, or with claimant under treaties.

"Eighth. The practice of the United States in its dealings with the various Indian tribes or nations has been in harmony with these principles.

"In all cases where money belonging to Indian nations has been retained by the United States, it has been so invested as to produce *interest*, for the benefit of the nation to which it belongs; and such interest is *annually* paid to the nation who may be entitled to receive it.

"Ninth. The United States in adjusting the claim of the Cherokee Nation for a balance due as purchase-money upon lands ceded by that nation to the United States in 1835, allowed interest upon the balance due them, being $189,422.76, until the same was paid.

"The question was submitted to the Senate of the United States, as to whether interest should be allowed them. The Senate Committee on Indian Affairs, in their report upon this subject, used the following language:

"'By the treaty of August, 1846, it was referred to the Senate to decide, and that decision to be final, whether the Cherokees shall receive interest on the sums found due them from a misapplication of their funds to purposes with which they were not chargeable, and on account of which improper charges the money has been withheld from them. It has been the uniform practice of this Government to pay and demand interest in all transactions with foreign governments, which the Indian tribes have always been said to be, both by the Supreme Court and all other branches of our Government, in all matters of treaty or contract. The Indians, relying upon the prompt payment of their dues, have, in many cases, contracted debts upon the faith of it, upon which they have paid, or are liable to pay, interest. If, therefore, they do not now receive interest on their money so long withheld from them they will in effect have received nothing.' (Senate Report No. 176, first session Thirty-first Congress, p. 78.)

"Tenth. That upon an examination of the precedents where Congress has passed acts for the relief of private citizens it will be found that in almost every case Congress has directed the payment of interest where the United States had withheld a sum of money which had been decided by competent authority to be due, or where the amount due was ascertained, fixed, and certain.

"The following precedents illustrate and enforce the correctness of this assertion and sustain this proposition:

"1. An act approved January 14, 1793, provided that lawful interest from the 16th of May, 1776, shall be allowed on the sum of $200 ordered to be paid to Return J. Meigs and the legal representatives of Christopher Greene, deceased, by a resolve of the United States in Congress assembled on the 28th of September, 1785. (6 Stats. at Large, page 11.)

"2. An act approved May 31, 1794, providing for a settlement with Arthur St. Clair, for expenses while going from New York to Fort Pitt and till his return, and for services in the business of Indian treaties, and 'allowed interest on the balance found to be due him.' (6 Stats. at Large, page 16.)

"3. An act approved February 27, 1795, authorized the officers of the Treasury to issue and deliver to Angus McLean, or his duly authorized attorney, certificates for the amount of $254.43, bearing interest at 6 per cent., from the 1st of July, 1783, being for his services in the corps of sappers and miners during the late war. (6 Stats. at Large, p. 20.)

"4. An act approved January 23, 1798, directing the Secretary of the Treasury to pay General Kosciusko an interest at the rate of 6 per cent. per annum on the sum of $12,280.54, the amount of a certificate due to him from the United States from the 1st of January, 1793, to the 31st of December, 1797. (6 Stats. at Large, p. 32.)

"5. An act approved May 3, 1802, provided that there be paid Fulwar Skipwith the sum of $4,550, advanced by him for the use of the United States, with interest at the rate of 6 per cent. per annum from the 1st of November, 1795, at which time the advance was made. (6 Stats. at Large, p. 43.)

"6. An act for the relief of John Coles, approved January 14, 1804, authorized the proper accounting officers of the Treasury to liquidate the claim of John Coles, owner of the ship Grand Turk, heretofore employed in the service of the United States, for the detention of said ship at Gibraltar from the 10th of May to the 4th of July, 1801, inclusive, and that he be allowed demurrage at the rate stipulated in the charter-party, together with the interest thereon. (6 Stat. at L., p. 50.)

"7. An act approved March 3, 1807, provided for a settlement of the accounts of Oliver Pollock, formerly commercial agent for the United States at New Orleans, allowing him certain sums and commissions, with interest until paid. (6 Stat. at L., p. 65.)

"8. An act for the relief of Stephen Sayre, approved March 3, 1807, provided that the accounting officers of the Treasury be authorized to settle the account of Stephen Sayre, as secretary of legation at the court of Berlin, in the year 1777, with interest on the whole sum until paid. (6 Stat. at L., p. 65.)

"9. An act to, approved April 35, 1810, directed the accounting officers of the Treasury to settle the account of Moses Young, as secretary of legation to Holland in 1780, and providing that after the deduction of certain moneys paid him, the balance, with intergst thereon, should be paid. (6 Stat. at L., page 89.)

"10. An act approved May 1, 1810, for the relief of P. C. L'Enfant, directed the Secretary of the Treasury to pay to him the sum of $666, with legal interest thereon from March 1, 1792, as a compensation for his services in laying out the plan of the city of Washington. (6 Stat. at L., page 92.)

"11. An act approved January 10, 1812, provided that there be paid to John Burnham the sum of $126.72, and the interest on the same since the 30th of May, 1796, which, in addition to the sum allowed him by the act of that date, is to be considered a reimbursement of the money advanced by him for his ransom from captivity in Algiers. (6 Stat. at L., page 101.)

"12. An act approved July 1, 1812, for the relief of Anna Young, required the War Department to settle the account of Col. John Durkee, deceased, and to allow said Anna Young, his sole heiress and representative, said seven years' half pay, and interest thereon. (6 Stat. at L., page 110.)

"13. An act approved February 25, 1813, provided that there be paid to John Dixon the sum of $329.84, with 6 per cent. per annum interest thereon from the 1st of January, 1785, "being the amount of a final-settlement certificate, No. 596, issued by Andrew Dunscomb, late commissioner of accounts for the State of Virginia, on the 23d of December, 1786, to Lucy Dixon, who transferred the same to John Dixon. (6 Stat. at L., page 117.)

"14. An act approved February 25, 1813, required the accounting officers of the Treasury to settle the account of John Murray, representative of Dr. Henry Murray, and that he be allowed the amount of three loan-certificates for $1,000, with interest from the 29th of March, 1782, issued in the name of said Murray, signed Francis Hopkinson, treasurer of loans. (6 Stat. at L., page 117.)

"15. An act approved March 3, 1813, directed the accounting officers of the Treasury to settle the accounts of Samuel Lapsley, deceased, and that they be allowed the amount of two final-settlement certificates, No. 78446, for $1,000, and No. 78447, for $1,300, and interest from the 22d day of March, 1783, issued in the name of Samuel Lapsley, by the commissioner of Army accounts for the United States on the 1st day of July, 1784. (6 Stat. at L., p. 119.)

"16. An act approved April 13, 1814, directed the officers of the Treasury to settle the account of Joseph Brevard, and that he be allowed the amount of a final-settlement certificate for $183.23, dated February 1, 1785, and bearing interest from the 1st of January, 1783, issued to said Brevard by John Pierce, commissioner for settling Army accounts. (6 Stat. at L., p. 134.)

"17. An act approved April 18, 1814, directed the receiver of public moneys at Cincinnati to pay the full amount of moneys, with interest, paid by Dennis Clark, in discharge of the purchase-money for a certain fractional section of land purchased by said Clark. (6 Stat. at L., 141.)

"18. An act for the relief of William Arnold, approved February 2, 1815, allowed interest on the sum of $600 due him from January 1, 1783. (6 Stat. at L., 146.)

"19. An act approved April 26, 1816, directed the accounting officers of the Treasury to pay to Joseph Wheaton the sum of $836.42, on account of interest due him from the United States upon $1,600.84, from April 1, 1807, to December 21, 1815, pursuant to the award of George Youngs and Elias B. Caldwell, in a controversy between the United States and the said Joseph Wheaton. (6 Stat. at L., 166.)

"20. An act approved April 26, 1816, authorized the liquidation and settlement of the claim of the heirs of Alexander Roxburgh, arising on a final-settlement certificate issued on the 18th of August, 1784, for $480.87, by John Pierce, commissioner for settling Army accounts, bearing interest from the 1st of January, 1782. (6 Stat. at L., 167.)

"21. An act approved April 14, 1818, authorized the accounting officer of the Treasury Department 'to review the settlement of the account of John Thompson,' made under the authority of an act approved the 11th of May, 1812, and 'to allow the said John Thompson interest at 6 per cent. per annum from the 4th of March, 1787, to the 20th of May, 1812, on the sum which was found due to him, and paid under the act aforesaid.' (6 Stat. at L., 208.)

"22. An act approved May 11, 1820, directed the proper officers of the Treasury to pay to Samuel B. Beall the amount of two final-settlement certificates issued to him on the 1st day of February, 1785, for his services as a lieutenant in the Army of the United States during the Revolutionary war, together with interest on the said certificates, at the rate of 6 per cent. per annum, from the time they bore interest, respectively, which said certificates were lost by the said Beall, and remain yet outstanding and unpaid. (6 Laws of U. S., 510; 6 Stat. at L., 249.)

"23. An act approved May 15, 1820, required that there be paid to Thomas Leiper the specie value of four loan-office certificates, issued to him by the commissioner of loans for the State of Pennsylvania, on the 27th of February, 1779, for $1,000 each; and also the specie value of two loan certificates, issued to him by the said commissioner on the 2d day of March, 1779, for $1,000 each, with interest at 6 per cent. annually. (6 Stat. at L., 252.)

"24. An act approved May 7, 1822, provided that there be paid to the legal representatives of John Guthry, deceased, the sum of $123.30, being the amount of a final-settlement certificate, with interest at the rate of 6 per cent. per annum, from the 1st day of January, 1788. (6 Stat. at L., 260.)

"25. An act for the relief of the legal representatives of James McClung, approved March 3, 1823, allowed interest on the amount due at the rate of 6 per cent. per annum from January 1, 1788. (6 Stat. at L., 284.)

"26. An act approved March 3, 1823, for the relief of Daniel Seward, allowed interest to him for money paid to the United States for land to which the title failed, at the rate of 6 per cent. per annum from January 29, 1814. (6 Stat. at L., 286.)

"27. An act approved May 5, 1824, directed the Secretary of the Treasury to pay to Amasa Stetson the sum of $6,215, 'being for interest on moneys advanced by him for the use of the United States, and on warrants issued in his favor, in the years 1814 and 1815, for his services in the Ordnance and Quartermaster's Department, for superintending the making of Army clothing and for issuing the public supplies.' (6 Stat. at L., 298.)

"28. An act approved March 3, 1824, directed the proper accounting officers of the Treasury to settle and adjust the claim of Stephen Arnold, David and George Jenks, for the manufacture of 3,925 muskets, with interest thereon from the 26th day of October, 1813. (6 Stat. at L., 331.)

"29. An act approved May 20, 1826, directed the proper accounting officers of the Treasury to settle and adjust the claim of John Stemman and others, for the manufacture of 4,100 stand of arms, and to allow interest on the amount due from October 26, 1813. (6 Stat. at L., 345.)

"30. An act approved May 20, 1826, for the relief of Ann D. Taylor, directed the payment to her of the sum of $354.15, with interest thereon at the rate of 6 per cent. per annum from December 30, 1786, until paid. (6 Stat. at L., 351.)

"31. An act approved March 3, 1827, provided that the proper accounting offi-

cers of the Treasury were authorized to pay to B. J. V. Valkenburg the sum of $567.24, 'being the amount of fourteen indents of interest, with interest thereon from the 1st of January, 1791, to the 31st of December, 1826.' (6 Stat. at L., 365.)

"In this case the United States paid interest on interest.

"33. An act approved May 19, 1828, provided that there be paid to the legal representatives of Patience Gordon the specie value of a certificate issued in the name of Patience Gordon by the commissioner of loans for the State of Pennsylvania, on the 7th of April, 1778, with interest at the rate of 6 per cent. per annum from the 1st day of January, 1788. (7 Stat. at L., p. 378.)

"32. An act approved May 29, 1830, required the Treasury Department 'to settle the accounts of Benjamin Wells, as deputy commissary of issues at the magazine at Monster Mills, in Pennsylvania, under John Irvin, deputy commissary-general of the Army of the United States, in said State, in the Revolutionary war;' and that 'they credit him with the sum of $574.04, as payable February 9, 1779, and $326.67, payable July 20, 1780, in the same manner, and with such interest, as if these sums, with their interest from the times respectively as aforesaid, had been subscribed to the loan of the United States.' (6 Stats. at Large, 447.)

"34. An act approved May 19, 1832, for the relief of Richard G. Morris, provided for the payment to him of two certificates issued to him by Timothy Pickering, quartermaster-general, with interest thereon from the 1st of September, 1781. (6 States. at Large, 486.)

"35. An act approved July 4, 1832, for the relief of Aaron Snow, a Revolutionary soldier, provided for the payment to him of two certificates issued by John Pierce, late commissioner of Army accounts, and dated in 1784, with interest thereon. (6 Stats. at Large, 503.)

"36. An act approved July 4, 1832, provided for the payment to W. P. Gibbs of a final-settlement certificate dated January 30, 1784, with interest at 6 per cent. from the 1st of January, 1783, up to the passage of the act. This act went behind the final certificate and provided for the payment of interest anterior to its date. (6 Stats. at Large, 504.)

"37. An act approved July 14, 1832, directed the payment to the heirs of Ebenezer L. Warren of certains sums of money illegally demanded and received from the United States from the said Warren as one of the sureties of Daniel Evans, formerly collector of direct taxes, with interest thereon at the rate of 6 per cent. per annum from September 9, 1820. (6 Stats. at Large, 573.)

"38. An act for the relief of Hartwell Vick, approved July 14, 1832, directed the accounting officers of the Treasury to refund to the said Vick the money paid by him to the United States for a certain tract of land which was found not to be property of the United States, with interest thereon at the rate of 6 per cent. per annum, from the 23d day of May, 1818. (6 Stats. at Large, 523.)

"39. An act approved June 18, 1834, for the relief of Martha Bailey and others, directed the Secretary of the Treasury to pay to the parties therein named the sum of $4,837.61, being the amount of interest upon the sum of $200,000, part of a balance due from the United States to Elbert Anderson on the 26th day of October, 1814; also the further sum of $9,595.36, being the amount of interest accruing from the deferred payment of warrants issued for balances due from the United States to said Anderson from the date of such warrants until the payment thereof; also the further sum of $2,018.50, admitted to be due from the United States to the said Anderson by a decision of the Second Comptroller, with interest on the sum last mentioned from the period of such decision until paid. (6 Stats. at Large, 562.)

"40. An act approved June 10, 1834, directed the Secretary of the Treasury to pay balance of damages recovered against William C. H. Waddell, United States marshal for the southern district of New York, for the illegal seizure of a certain importation of brandy, on behalf of the United States, with legal interest on the amount of said judgment from the time the same was paid by the said Waddell. (6 Stats. at Large, 504.)

"41. An act approved February 17, 1836, directed the payment of the sum therein named to Marinus W. Gilbert, being the interest on money advanced by him to pay off troops in the service of the United States, and not repaid when demanded. (6 Stats. at Large, 622.)

"42. An act approved February 17, 1836, for the relief of the executor of Charles Wilkins, directed the Secretary of the Treasury to settle the claim of the said executor for interest on a liquidated demand in favor of Jonathan Taylor, James Morrison, and Charles Wilkins, who were lessees of the United States of the salt works in the State of Illinois. (6 Stats at Large, 626.)

"43. An act approved July 2, 1836, for the relief of the legal representatives of David Caldwell, directed the proper accounting officers of the Treasury to settle the claim of the said David Caldwell for fees and allowances, certified by the circuit court of the United States for the eastern district of Pennsylvania, for official services to the United States, and to pay on that account the sum of $496.38, with interest thereon at the rate of 6 per cent. from the 25th day of November, 1820, till paid. (6 Stats. at Large, 644.)

"44. An act approved July 2, 1836, provided that there be paid Don Carlos Delassus interest at the rate of 6 per cent. per annum on $333, being the amount allowed him under the act of July 14, 1832, for his relief, on account of moneys taken from him at the capture of Baton Rouge, La., on the 23d day of September, 1810, being the interest to be allowed from the said 23d day of September, 1810, to the 14th day of July, 1832. (6 Stats. at Large, 672.)

"In this case the interest was directed to be paid four years after the principal had been satisfied and discharged.

"45. An act approved July 7, 1838, provided that the proper officers of the Treasury be directed to settle the accounts of Richard Harrison, formerly consular agent of the United States at Cadiz, in Spain, and to allow him, among other items, the interest on the money advanced, under agreement with the minister of the United States in Spain, for the relief of destitute and distressed seamen and for their passages to the United States from the time the advances, respectively, were made to the time at which the said advances were reimbursed. (6 Stats. at Large, 734.)

"46. An act approved August 11, 1842, directed the Secretary of the Treasury to pay to John Johnson the sum of $756.82, being the amount received from the said Johnson upon a judgment against him in favor of the United States, together with the interest thereon from the time of such payment. (6 Stats. at Large, 856.)

"47. An act approved August 3, 1846, authorized the Secretary of the Treasury to pay to Abraham Horbach the sum of $5,000, with lawful interest from the 1st of January, 1836, being the amount of a draft drawn by James Reeside on the Post-Office Department, dated April 18, 1835, payable on the 1st of January, 1836, and accepted by the treasurer of the Post-Office Department, which said draft was indorsed by said Abraham Horbach at the instance of the said Reeside, and the amount drawn from the Bank of Philadelphia, and, at maturity, said draft was protested for non-payment, and said Horbach became liable to pay, and, in consequence of his indorsement, did pay the full amount of said draft. (9 Stats. at Large, 677.)

"48. An act approved February 5, 1859, authorized the Secretary of War to pay to Thomas Laurent, as surviving partner, the sum of $15,000, with interest at the rate of 6 per cent. yearly, from the 11th of November, 1847, it being the amount paid by the firm on that day to Maj. Gen. Winfield Scott, in the City of Mexico, for the purchase of a house in said city, out of the possession of which they were since ousted by the Mexican authorities. (11 Stats. at Large, 558.)

"49. An act approved March 2, 1847, directed the Secretary of the Treasury to pay the balance due to the Bank of Metropolis for moneys due upon the settlement of the account of the bank with the United States, with interest thereon from the 6th day of March, 1838. (9 Stats. at Large, 689.)

"50. An act approved July 20, 1852, directed the payment to the legal representatives of James C. Watson, late of the State of Georgia, the sum of $14,600, with interest at the rate of 6 per cent. per annum, from the 8th day of May, 1838, till paid, being the amount paid by him, under the sanction of the Indian agent, to certain Creek warriors, for slaves captured by said warriors while they were in the service of the United States against the Seminole Indians in Florida. (11 Stats. at Large, 734.)

"51. An act approved July 29, 1854, directed the Secretary of the Treasury to pay to John C. Frémont $183,825, with interest thereon from the 1st day of June, 1851, at the rate of 10 per cent. per annum, in full for his account for beef delivered to Commissioner Barbour, for the use of the Indians in California, in 1851 and 1852. (10 Stats. at Large, 804.)

"52. An act approved July 8, 1870, directed the Secretary of the Treasury to make proper payments to carry into effect the decree of the district court of the United States for the district of Louisiana, bearing dated the *fourth* of June, 1867, in the case of the British brig Volant, and her cargo; and also another decree of the same court, bearing date the *eleventh* of June, in the same year, in the case of the British bark Science, and cargo, vessels illegally seized by a cruiser of the United States; such payments to be made as follows, namely: To the several persons named in such decrees, or their legal representatives, the several sums awarded to them respectively, with interest to each person from the date of the decree under which he receives payment. (16 Stats. at Large, 650.)

"53. An act approved July 8, 1870, directed the Secretary to make the proper payments to carry into effect the decree of the district court of the United States for the district of Louisiana, bearing date July 13, 1867, in the case of the British brig Dashing Wave, and her cargo, illegally seized by a cruiser of the United States, which decree was made in pursuance of the decision of the Supreme Court, such payments to be made with interest from the date of the decree. (16 Stats. at Large, 651.)

"An examination of these cases will show that, subsequent to the seizure of these several vessels, they were each sold by the United States marshal for the district of Louisiana as prize, and the proceeds of such sales deposited by him in the First National Bank of New Orleans. The bank, while the proceeds of these sales were on deposit there, became insolvent. The seizures were held illegal, and the vessels not subject to capture as prize. But the proceeds of the sales of these vessels and their cargoes could not be restored to the owners in accordance of the decrees of the district court, because the funds had been lost by the insolvency of the bank. In these cases, therefore, Congress provided indemnity for losses resulting from the acts of its agents, and made the indemnity complete by providing for the payment of interest.

"Your committee have directed attention to these numerous precedents for the purpose of exposing the utter want of foundation of the often-repeated assumption that 'the Government never pays interest.' It will readily be admitted that there is no statute law to sustain this position. The idea has grown up from the custom and usage of the accounting officers and Departments refusing to allow interest generally in their accounts with disbursing officers, and in the settlement of unliquidated domestic claims arising out of dealings with the Government. It will hardly be pretended, however, that this custom or usage is so 'reasonable,' well known, and 'certain,' as to give it the force and effect of law, and to override and trample under foot the law of nations and also the well-settled practice of the Government itself in its intercourse with other nations.

"Eleventh. Interest was allowed and paid to the State of Massachusetts because the United States delayed the payment of the principal for twenty-two years after the amount due had been ascertained and determined. The amount appropriated to pay this interest was $678,362.41, more than the original principal. (16 Stats. at Large, 198.)

"Mr. Sumner, in his report upon the memorial introduced for that purpose, discussing this question of interest, said:

"'It is urged that the payment of this interest would establish a bad precedent. If the claim is just, the precedent of paying it is one which our Government should wish to establish. Honesty and justice are not precedents of which either Government or individuals should be afraid.' (Senate Report 4, 41st Cong., 1st sess., page 10.)

"Twelfth. Interest has always been allowed to the several States for advances made to the United States for military purposes.

"The claims of the several States for advances during the Revolutionary war were adjusted and settled under the provision of the acts of Congress of August 5, 1790, and of May 31, 1794. By these acts interest was allowed to the States, whether they had advanced money on hand in their treasuries or obtained by loans.

"In respect to the advances of States during the war of 1812-'15, a more restricted rule was adopted, namely: That States should be allowed interest only so far as they had themselves paid it by borrowing, or had lost it by the sale of interest-bearing funds.

"Interest, according to this rule, has been paid to all the States which made advances during the war of 1812-'15 with the exception of Massachusetts. Here are the cases:

"Virginia, U. S. Stats. at Large, vol. 4, p. 161.
"Delaware, U. S. Stats. at Large, vol. 4, p. 175.
"New York, U. S. Stats. at Large, vol. 4, p. 192.
"Pennsylvania, U. S. Stats. at Large, vol. 4, p. 241.
"South Carolina, U. S. Stats. at Large, vol. 4, p. 499.

"In the Indian and other wars the same rule has been observed, as in the following cases:

"Alabama, U. S. Stats. at Large, vol. 9, page 344.
"Georgia, U. S. Stats. at Large, vol. 9, page 626.
"Washington Territory, U. S. Stats. at Large, vol. 11, page 429.
"New Hampshire, U. S. Stats. at Large, vol. 10, page 1.

"Thirteenth. The Senate Committee on Indian Affairs, in the report to which reference has heretofore been made, speaking of this award and of the obligation of the United States to pay interest upon the balance remaining due and unpaid thereon, used the following language:

"'Your committee are of the opinion that this sum should be paid them with accrued interest from the date of said award, deducting therefrom $250,000, paid to them in money, as directed by the act of March 2, 1861; and therefore find no sufficient reason for further delay in carrying into effect that provision of the aforenamed act and the act of March 3, 1871, by the delivery of the bonds therein described, with accrued interest from the date of the act of March 8, 1861.'

"Your committee have discussed this question with an anxious desire to come to such a conclusion in regard to it as would do no injustice to that Indian nation whose rights are involved here, nor establish such a precedent as would be inconsistent with the practice or duty of the United States in such cases. Therefore your committee have considered it not only by the light of those principles of the public law—always in harmony with the highest demands of the most perfect justice—but also in the light of those numerous precedents which this Government in its action in like cases has furnished for our guidance. Your committee can not believe that the payment of interest on the moneys awarded by the Senate to the Choctaw Nation would either violate any principle of law or establish any precedent which the United States would not wish to follow in any similar case, and your committee can not believe that the United States are prepared to repudiate these principles, or to admit that because their obligation is held by a weak and powerless Indian nation, it is any the less sacred or binding than if held by a nation able to enforce its payment and secure complete indemnity under it. Could the United States escape the payment of interest to Great Britain, if it should refuse or neglect, after the same became

due, to pay the amount awarded in favor of British subjects by the recent joint commission which sat here? Could we delay payment of the amount awarded by that commission for fifteen years, and then escape by merely paying the principal? The Choctaw Nation asks the same measure of justice which we must accord to Great Britain; and your committee can not deny that demand unless they shall ignore and set aside those principles of the public law which it is of the utmost importance to the United States to always maintain inviolate.

"Your committee are not unmindful that the amount due the Choctaw Nation under the award of the Senate is large. They are not unmindful, either, that the discredit of refusing payment is increased in proportion to the amount withheld and the time during which such refusal has been continued."

Few, if any, of the foregoing cases presented as strong and meritorious grounds for the allowance of interest as the claim now under consideration. Following these precedents, and for the reasons above set forth, the committee deem the present a proper case for the payment of interest on the sum converted ($371,025) from date of conversion to date of payment. This interest they fix at the rate of 4½ per cent. per annum, that being about the average rate paid by the Government between 1867 and 1881, and which it may be fairly assumed was saved or made by it for the use of the funds during the period of detention. On this basis the interest allowed will amount to the sum of $249,039.95.

The committee accordingly recommend that the bill be amended as follows: in line 1 of section 2 strike out the words "seventy-five" and insert in lieu thereof "forty-nine," and in line second of said second section, after the word "thousand," insert the words "and thirty-nine and ninety-five hundredths;" and as thus amended that the bill be passed by the Senate.

Mr. COCKRELL. I should like to ask if this case was not once before the Committee on the Judiciary and reported adversely by that Committee?

Mr. HOAR. Never.

Mr. JACKSON. It was not, Mr. President. It never had been before Congress until it was referred to the Committee on Claims. There was a case, that of the First National Bank of Boston, which was referred to the Judiciary Committee last year or the year before, on the question of waiving the statute of limitations. That was the question involved, and the Committee on the Judiciary reported against it.

Mr. COCKRELL. I desire to say that I dissent from the views expressed in the report. I do not believe that interest ought to be paid in this case, and I regard it as an exceedingly dangerous precedent. I simply desire to say that I am opposed to the bill, and would vote against it on a yea-and-nay vote. I am paired, however, with the distinguished Senator from Massachusetts [Mr. DAWES] who is now absent upon this particular question, and can not vote.

Mr. CONGER. I see by an examination of the bill that this judgment became a valid judgment by the action of the Supreme Court of the United States October 25, 1881, and the judgment then was for $371,025. It will be presumed that whatever was due these parties at the time that judgment was finally rendered and confirmed by the dismissal of the appeal to the United States Supreme Court is contained in that amount. October 25, 1881, there came a judgment of $371,025. Four days after that $260,000 was paid out of the Treasury, and ten months after that $111,025, the balance of the judgment, was paid. Now, the committee recommend an appropriation of $249,039.95. Even allowing, which I do not admit for a moment, that interest should be paid in such a case as this, the committee recommend for the interest from the time the judgment became perfected, ten months, $249,039.95.

I have computed the interest which should be on the balance of the payment, not having computed it on the whole for four days, throwing that out because the $260,000 was paid when the claim was presented to the Treasury; and the interest, even if it could be allowed on the unpaid amount between the time it was due and the time it was paid, $111,025, would be $41,063.62, instead of the amount proposed here, over $249,000. By any rule of computation the interest could be only $41,063. Now, how can the $249,000 be possibly worked in here by any estimate of the liability of the Government? Here is a document containing probably an examination of the whole payments of the Treasury from the beginning of the Government until now, and giving every case in which interest has been allowed by the Government or by foreign governments. Peculiar cases!

This is a case where the party has not purged itself from complicity with the original fraud by the mere assertion of the committee that the cashier and principal owner of the bank did this and not the bank itself proper. There is nothing in the report to satisfy me but what not only the principal owner of the bank, who had great influence over the cashier, but the cashier himself and other members of the bank, assented to the temporary deposit of the bank securities with this defaulting officer for the purpose of defrauding and deceiving the United States. There is nothing in the testimony here to show that there was not complicity with more than the two persons mentioned. The presumption would be that no cashier and no officer of a bank dare, without consultation with the directors or managers, take the securities of a bank from the possession of the bank and go and give them to any other person whatever for any purpose whatever.

It was an open, patent fraud against the United States, committed by two officers of this bank, and there is nothing to show but that it was sanctioned by the others.

I think it was very well for the bank, after having shown these things, to trust to the equity, almost the mercy, of the Government to be repaid the value of the securities which it had so used. The Government paid back the full amount of the nominal face value of the securities which were thus transferred to this officer of the Government in fraud of the Government's rights as well as of the bank.

By any proper construction, if interest is demandable and payable against the Government of the United States, instead of $249,000 there would be but $41,063 due. I think this should have a more full discussion than we can have under the five-minute rule, and it seems to me that there is nothing peculiar in this case that should make the Government depart from the usual ordinary method of paying claims where the party seeking relief was in default and where some defaulting officer of the Government was in fault, paying back in full the face value of the securities taken. Whether they were worth that amount or not I do not know.

Mr. JACKSON. I will state to the Senator from Michigan and the Senate that every fact connected with this transaction has undergone judicial investigation in the highest courts of the land, and those courts have found that the bank did not connive at the fraud which was perpetrated upon it. They settled that as a question of fact ascertained and determined in those decisions, and the case is simply the case of a bank being robbed and of its stolen assets being placed in the hands of a defaulting officer of the Government for the use of the Government with the knowledge of the Government agent and appropriated by the Government agent to make good his own default, a large proportion of those assets being interest-bearing securities. It would be monstrous for the Government of the United States to withhold the payment of interest on this fund when it has thereby canceled obligations of its own that bore interest, and done that through the fraud of its own agent.

The interest allowed, I will say to the Senator from Michigan, is interest from the date of conversion to the date of payment. The Court of Claims was not authorized to allow interest, its jurisdiction upon the subject of interest being limited to cases where there was an express contract for the payment of interest; but the obligation of the Government goes beyond the mere question of the jurisdiction of the Court of Claims, and the committee, after thorough investigation of this claim and of the numerous precedents before them in the legislation of Congress, thought that no stronger case could be presented for the allowance of interest.

Mr. HARRISON. Will the Senator from Tennessee allow me to ask him a question?

Mr. JACKSON. Yes, sir.

Mr. HARRISON. What proportion of the securities of this bank which were obtained by the subtreasurer at Boston were interest-bearing securities?

Mr. JACKSON. Forty-seven thousand dollars of them were interest-bearing securities, and at a higher rate than we allow.

Mr. HARRISON. Then only $47,000 out of $371,000 of the total debt was in interest-bearing securities.

Mr. JACKSON. Yes, sir.

Mr. HARRISON. The balance was either cash or non-interest-bearing securities?

Mr. JACKSON. The balance was funds of the bank, checks on which it had to pay interest immediately after the breaking of the bank by this transaction. The Government got the benefit of the funds on which it stopped interest, the use of this money in paying its obligations, and subjected the bank at the same time to the loss of interest which it had to make good by its stockholders.

Mr. HARRISON. Then I understand the position of the Senator from Tennessee and of the committee is that the Government of the United States ought in all cases where it is indebted and unjustly postpones payment for any reason to pay interest. It seems to me it leads to that, because if the Government has collected an improper tax, as it once did I recollect in a case in which I was interested and retains that tax for ten years, the policy that the committee propose in this bill would make it an obligation on the Government in every such case when it made restitution of money which had been improperly exacted or obtained—and I think it should extend to the case of any debt where the payment of it was not promptly made for any reason—in all such cases the Government ought to adopt the policy of paying interest. Does it not involve that?

Mr. JACKSON. It does not, for the committee confined themselves to the special facts of this case. They did not undertake to lay down any general rule for the guidance of the Senate.

Mr. HOAR. Mr. President, the Senate will pardon me for making a little further answer to the Senator from Michigan. The foundation of this claim is not the fraudulent conduct of the bank's officer on the one side or of the agent of the United States on the other. When that fraud was discovered, after all the facts were known, the bank made a demand on the United States for its securities and funds, and the United States refused to return them. It is with that conversion made purposely by the authorities of the United States that this claim begins. It was a conversion to its own use. Now, the Supreme Court of the United States say over and over again that it is the policy of the United States to pay interest in such cases. It is not the policy of the United States to pay interest on taxes; it is not the policy of the United States to pay interest on mere debts, because it is presumed to be always ready to pay its debts, as all governments are; but it is the policy of the United States to repay with interest a citizen whose property it has seized and converted to its own use.

In June, 1872, it will be found by Senators on the sixth page of this report, Congress referred the claim of Francis Vigo to the Court of Claims

with directions to be governed in the matter by the rules and regulations heretofore adopted by the United States in the settlement of like cases, and the Supreme Court of the United States say, affirming in that particular the judgment of the Court of Claims:

No rules and regulations have heretofore been adopted by the United States in the settlement of like cases except such as may be inferred from the policy of Congress when passing private acts for the relief of various persons. When passing such private acts Congress has allowed interest upon the claim up to the time that the relief was granted.

So we have here the express adjudication of the highest tribunal of the country that in such cases as this it is the policy of the Government to allow interest. The Senate will observe that the amount proposed in the bill has been cut down, and that for this period, when the current rate of interest in the country was 10 per cent., when the Government was paying first 8, then 7, then 5, then 4½, and only within a year or two 3½ and 3, we have allowed 4½ per cent. interest for the whole time.

The PRESIDING OFFICER (Mr. CAMERON, of Wisconsin, in the chair). The bill is before the Senate as in Committee of the Whole and open to amendment.

Mr. CONGER. Mr. President, of course under the rule I can speak but once. When I closed my remarks before I objected to the consideration of the bill under this rule. I think it demands more examination than I have been able to give to it now.

The PRESIDING OFFICER. The Senator from Michigan objects to the further consideration of this bill.

Mr. HOAR. I move that the Senate take it up for consideration. The report has been read. The Senate never can examine it more fully nor my friend from Michigan than he can now. I ask him to allow it to go on.

The PRESIDING OFFICER. The Senator from Massachusetts moves that the Senate proceed to the consideration of this bill, notwithstanding the objection of the Senator from Michigan. The question is on that motion.

The question being put, it was declared that the ayes appeared to prevail.

Mr. CONGER. I ask for the yeas and nays.

The PRESIDING OFFICER. The Chair did not understand the Senator from Michigan.

Mr. CONGER. I ask for the yeas and nays on this motion.

Mr. HOAR. If the Senator from Michigan desires further time, as this is a matter of great importance, both in the amount involved and the principle involved, and it should be thoroughly understood by the Senate; there is no disposition to press it now. Perhaps the Senator will be content to let the bill go over until after the holidays, retaining its place on the Calendar.

Mr. CONGER. To be then taken up by the vote of the Senate allowing full debate.

Mr. HOAR. The Senator will then have an opportunity to make his objection. My request is that the bill shall remain on the Calendar under Rule VIII, that is the five-minute rule, as now, until after the 1st of January, and in the course of that time the Senator from Michigan can examine the bill. He will have his right of objection then as now.

The PRESIDING OFFICER. The Senator from Massachusetts asks that this bill may retain its place on the Calendar and go over. Is there objection? The Chair hears none, and that order will be made.

HOUSE PENSION BILLS.

Mr. BECK. I moved some time ago to proceed to the consideration of five or six pension bills that had passed the House of Representatives and been reported favorably by the Senate Committee on Pensions without amendment. I hope now there will be no objection.

Mr. FRYE. Why not put it, "all House bills that have been reported favorably?"

Mr. BECK. There are only six or seven of the pension bills, beginning at Order of Business 942. I have gone over the Calendar carefully.

The PRESIDING OFFICER. The Senator from Kentucky asks unanimous consent that all House pension bills which have been reported favorably and are now on the Calendar may be taken up for consideration in their order subject to objection.

Mr. WILSON. Does that include the Senate bills as well as House bills?

Mr. BECK. Only the House bills, so that a few of them may become laws before the holidays.

Mr. WILSON. I suggest that the Senator include Senate bills favorably reported and unobjected to.

Mr. BECK. I thought we could pass the few bills that have come from the House and have them become laws before the holidays.

Mr. WILSON. I am not prepared to say that there are any Senate bills of that character on the Calendar, but there may be two or three, and in that case I suggest that favorable reports on Senate bills unobjected to may be considered.

Mr. BECK. After the few House bills are passed we can go over them, I think.

The PRESIDING OFFICER. The Chair is informed by the Secretary that there are no Senate pension bills on the Calendar.

Mr. WILSON. If there are no such Senate bills on the Calendar, of course I do not press my suggestion.

The PRESIDENT *pro tempore*. Will the Senator from Kentucky state precisely what he asks unanimous consent to?

Mr. BECK. To proceed to the consideration of unobjected pension cases that have passed the House of Representatives and been reported favorably by the Senate Committee on Pensions.

The PRESIDENT *pro tempore*. The Senator from Kentucky asks unanimous consent that the Senate now proceed to the consideration of House pension bills reported favorably, it being stated that there are no Senate pension bills. Is there objection?

Mr. WILSON. I will not object after the statement made by the Secretary.

The PRESIDENT *pro tempore*. Is there objection to the request of the Senator from Kentucky.

Mr. CONGER. There is no objection where there are favorable reports.

The PRESIDENT *pro tempore*. The request of the Senator from Kentucky is for the consideration of House pension bills favorably reported, it being suggested that there are no favorable reports of Senate pension bills on the Calendar. The Chair hears no objection. The first bill in order will be read.

Mr. BECK. Order of Business 942 is the first I can find.

The PRESIDENT *pro tempore*. The Chair finds on the Calendar Order of Business 406, being the bill (S. 772) granting a pension to Erastus W. Babson, which was passed and a motion to reconsider entered.

Mr. COCKRELL. Let it be passed over.

The PRESIDENT *pro tempore*. The Chair understands that in that case the beneficiary has died and therefore no action can be taken at present.

JACOB HOERTH.

The PRESIDENT *pro tempore*. Order of Business 942, being House bill 3210, will be reported.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. 3210) for the relief of Jacob Hoerth. It provides for placing on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Jacob Hoerth, late of Company C, Twenty-eighth Regiment of Kentucky Volunteers.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

ALBERT BRANT.

The bill (H. R. 3382) granting a pension to Albert Brant was considered as in Committee of the Whole.

The bill was reported from the Committee on Pensions with an amendment, in line 4, after "pension-roll," to strike out "at $8 per month" and insert "subject to the provisions and limitations of the pension laws;" so as to make the bill read:

That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Albert Brant, late a private in Company A, Fourth Regiment Ohio Volunteer Cavalry.

Mr. SHERMAN. I hope, as the Senator from Pennsylvania [Mr. MITCHELL] who reported the bill is not here, the Senate will not insist on the amendment, because it sends the bill back to the House, and the case is a very urgent and needy one. The pension is but $8 a month, and the amendment would require this applicant to appear before the examining officer at some distance and pass an examination so as to fix the rate of pension. The pension fixed by the House bill is only $8 a month, and I trust this delay will not be required. It is a case I happen to know something about, and if the Senator from Pennsylvania were here he would not insist on the amendment; but he is not here.

The PRESIDENT *pro tempore*. The question is on agreeing to the amendment reported by the Committee on Pensions.

The amendment was rejected.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

MARGARET DAILY.

The bill (H. R. 5735) granting a pension to Margaret Daily was considered as in Committee of the Whole. It proposes to place on the pension-roll the name of Margaret Daily, widow of Thomas H. Daily, late captain of Company D, Twenty-second Regiment Indiana Volunteers.

Mr. COCKRELL. Let the report be read in that case.

The PRESIDENT *pro tempore*. The report will be read.

The Secretary read the following report, submitted by Mr. WILSON December 19, 1884:

The Committee on Pensions, to which was referred the bill (H. R. 5735) granting a pension to Margaret Daily, has examined the same, and reports that an examination of the papers, records, and proofs submitted to the committee in support of the bill justifies a concurrence in the report of the Committee on Invalid Pensions of the House of Representatives, made to that body, and which is here quoted, as follows, namely:

"That Margaret Daily is the widow of Thomas H. Daily, who enlisted as a private in Company D, Twenty-second Regiment Indiana Volunteer Infantry, on the 6th day of July, 1861, and served through all the intermediate grades to that of captain of said company, which position he held at the time of his hon-

orable discharge from the military service of the United States, September 14, 1864.

"On the 3d day of September, 1881, the claimant filed her application for a pension, on the ground that the said Thomas H. Daily, while in the military service of the United States and in the line of his duty, contracted hemorrhoids, superinducing fistula in ano, resulting in his death, which occurred on the 3d day of May, 1881. This claim was rejected June 29, 1882, on the ground that the disease of which the soldier died was not contracted in the military service of the United States.

"The records of the Adjutant-General's Office show that Thomas H. Daily was mustered into the military service of the United States as second lieutenant Company D, Twenty-second Regiment Indiana Volunteers, June 30, 1862; July and August he is reported present, and so borne to October 31, 1862; November 25, 1862, mustered as first lieutenant; February 28, 1863, as captain; December 31, 1862, detailed on General Jeff. C. Davis's staff, and so borne to April 30, 1863; May and June, 1863, present for duty; July and August, 1863, not on file; September and October, 1863, on detached service on General Davis's staff since July 2, 1863, and so borne to August 31, 1864.

"General Jeff. C. Davis, commanding First Division, Twentieth Army Corps, in accepting the resignation of Captain Daily, August 1, 1864, says:

"'This officer has won his promotion from the ranks, and has often distinguished himself in battle. He has served on my staff at different times with credit to himself. He seems now to have thoroughly made up his mind to resign from the service, and urges his resignation. His health has not been very good since the battle of Stone River.'

"Anthony R. Ravencraft, captain Company I, Twenty-second Regiment Indiana Volunteers, says:

"'That Capt. Thomas H. Daily, by exposure and fatigue at the battle of Chickamauga, brought on piles; visited him at General J. C. Davis's headquarters soon after the battle, and found him very much prostrated from the effects thereof. Captain Daily was then on General Davis's staff; met him frequently afterward; he had not recovered, and frequently complained of fistula.'

"Alex. M. Rutherford, private Company D, Twenty-second Regiment Indiana Volunteers, corroborates the statement of Captain Ravencraft, and adds:

"'That said affection continued until said soldier was mustered out; subsequently resulting in fistula, from which he suffered until his death, May 3, 1881.'

"Dr. Samuel M. Work, of Hot Springs, Ark., says:

"'Capt. Thomas H. Daily came under his professional treatment in December, 1864; had a severe case of hemorrhoids, both internal and external, which continued until January, 1877; thinks fistula developed about 1867; that he never recovered from fistula in ano.'

"Dr. Will. F. Works, of Jeffersonville, Ind., treated Captain Daily for said affections from April, 1877, to 1879.

"Dr. James E. Oldham, of Charlestown, Ind., was Captain Daily's family physician from January, 1879, to the time of his death, May 3, 1881. He says:

"'That in January, 1879, soldier applied to him to treat him for hemorrhoids and fistula in ano, but his general health was so bad that he did not deem it advisable to recommend any but palliatives and tonics for his general condition; that about November 25, 1879, there were well-defined evidences of cerebro-spinal softening, which continued until and was the immediate cause of his death; that it is his (affiant's) opinion that hemorrhoids and fistula in ano, by their depreciating effects upon the vital force, acted as prime causes in the production of the cerebro-spinal troubles of which he died.'

"Your committee find from the evidence as given above that the disease contracted by this soldier in the distinguished military service rendered resulted in his death, and therefore recommend the passage of the bill."

Your committee, approving this statement of the case, reports the bill to the Senate, and recommends its passage.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

HENRY ALDEN.

The bill (H. R. 4094) granting a pension to Henry Alden was considered as in Committee of the Whole. It directs the Secretary of the Interior to place on the pension-roll the name of Henry Alden, late a private in Company E, Eighteenth Massachusetts Volunteers.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

USEBUS SWEET.

The bill (H. R. 2440) granting a pension to Usebus Sweet was considered as in Committee of the Whole. It proposes to place on the pension-roll the name of Usebus Sweet, late of Company G, One hundred and fifty-seventh Regiment New York Volunteers.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

CHARLES F. PARIS.

The bill (H. R. 3177) granting a pension to Charles F. Paris was considered as in Committee of the Whole. It proposes to place on the pension-roll the name of Charles F. Paris, late a private in Company F, One hundred and twenty-third Indiana Volunteers.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

FREDERICK CORFE.

The bill (H. R. 452) granting a pension to Frederick Corfe was considered as in Committee of the Whole. It proposes to place on the pension-roll the name of Frederick Corfe, late an acting staff surgeon in the United States Army.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

PORT OF OMAHA.

Mr. MANDERSON. I crave the indulgence of the Senate and ask the immediate consideration of Order of Business 939 on the Calendar under the eighth rule.

The PRESIDENT *pro tempore*. The Senator from Nebraska moves that the Senate now proceed to the consideration of Order of Business 939, the title of which will be read.

The Secretary read the title of the bill (S. 2269) to extend the provisions of the act of June 10, 1880, entitled "An act to amend the statutes in relation to immediate transportation of dutiable goods, and for other purposes," to the port of Omaha.

The motion was agreed to; and the bill was considered as in Committee of the Whole.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

COMMISSION ON ALCOHOLIC LIQUOR TRAFFIC.

Mr. BLAIR. I ask the indulgence of the Senate to move to take up Order of Business 489, being the bill (S. 654) to provide for a commission on the subject of the alcoholic liquor traffic. This is merely the ordinary bill which we have passed four separate times in the Senate, introduced always by the Senator from Vermont [Mr. MORRILL], and reported favorably by the Committee on Education and Labor.

The PRESIDENT *pro tempore*. Debate is not in order. The Senator from New Hampshire moves that the Senate now proceed to the consideration of Senate bill 654.

Mr. CAMERON, of Wisconsin. The bill is brief. Let it be read for information.

The PRESIDENT *pro tempore*.. It will be read for information.

Mr. BLAIR. Before the bill is read I wish to state that it has passed the Senate four times——

The PRESIDENT *pro tempore*. Debate is not in order.

Mr. BLAIR. I ask permission to state——

The PRESIDENT *pro tempore*. The Senator from New Hampshire asks unanimous consent to be allowed to make some remarks on this bill. The Chair hears no objection.

Mr. BLAIR. I will make my remarks after the reading of the bill.

The PRESIDENT *pro tempore*. The bill will be read.

The bill was read, as follows:

Be it enacted, &c., That there shall be appointed by the President, by and with the advice and consent of the Senate, a commission of seven persons, not more than four of whom shall belong to the same political party nor be advocates of prohibition, who shall be selected solely with reference to personal fitness and capacity for an honest, impartial, and thorough investigation, and who shall hold office until their duties shall be accomplished, but not to exceed two years. It shall be their duty to investigate the alcoholic liquor traffic, its relations to revenue and taxation, and its general economic, criminal, moral, and scientific aspects in connection with pauperism, crime, social vice, the public health, and general welfare of the people; and also to inquire as to the practical results of license and prohibitory legislation for the prevention of intemperance in the several States of the Union.

SEC. 2. That the said commissioners shall serve without salary; that the necessary expenses incidental to said investigation, not exceeding $10,000, shall be paid out of any money in the Treasury not otherwise appropriated, upon vouchers to be approved by the Secretary of the Treasury; and for this purpose the sum of $10,000 is hereby appropriated out of any moneys in the Treasury not otherwise appropriated. It shall be the further duty of said commissioners to report the result of their investigation, with such suggestions and recommendations as they may see fit to make, and the expenses attending the same, to the President, within eighteen months after the passage of this act, to be transmitted by him to Congress.

The PRESIDENT *pro tempore*. The Senator from New Hampshire is entitled to the floor.

Mr. BLAIR. I will not make any remarks, but submit the question.

The PRESIDENT *pro tempore*. The question is on agreeing to the motion of the Senator from New Hampshire, that this bill be now considered.

The question being put, a division was called for.

Mr. CONGER. I call for the yeas and nays.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. PENDLETON (when his name was called). I am paired with the Senator from Pennsylvania [Mr. MITCHELL].

Mr. PUGH (when Mr. VANCE's name was called). I am requested to announce the pair of the Senator from North Carolina [Mr. VANCE] with the Senator from Virginia [Mr. RIDDLEBERGER].

The roll-call was concluded.

Mr. MCPHERSON (after having voted in the negative). I voted inadvertently. I am paired with my colleague [Mr. SEWELL]. I do not know how he would vote on this subject, and therefore I withdraw my vote.

Mr. FAIR. I am paired with my colleague [Mr. JONES, of Nevada]. I shall not vote.

Mr. BLAIR. My colleague [Mr. PIKE] is paired with the Senator from Tennessee [Mr. JACKSON].

Mr. COKE. I am paired with the Senator from Minnesota [Mr. MCMILLAN]. I do not know how he would vote, and therefore will not vote. I would vote "nay" if at liberty.

Mr. CONGER. My colleague [Mr. PALMER] is paired with the Senator from Kentucky [Mr. WILLIAMS]. If present, my colleague would vote "yea."

The PRESIDENT *pro tempore*. The present occupant of the chair is paired with the Senator from Arkansas [Mr. GARLAND] on all questions about which he supposes they would differ. The Chair does not know what the views of the Senator from Arkansas are on this question.

Mr. WALKER. I think my colleague [Mr. GARLAND], if present, would vote "nay."

The PRESIDENT *pro tempore*. The present occupant of the chair would on that account withhold his vote, being in favor of the bill, but

he asks to be called again and votes "nay," in order that the business of the Senate may not be interrupted.

Mr. MILLER, of New York (after having voted in the affirmative). I have voted on this question, but I am paired generally with the Senator from Maryland [Mr. GROOME] who is not present.

Mr. SHERMAN. Vote "nay" the same as he would vote.

Mr. MILLER, of New York. Let my vote stand under the circumstances.

The result was announced—yeas 23, nays 16; as follows:

YEAS—23.

Allison,	Hale,	Manderson,	Sawyer,
Blair,	Harrison,	Miller of Cal.,	Sheffield,
Cameron of Pa.,	Hawley,	Miller of N. Y.,	Sherman,
Conger,	Hoar,	Morrill,	Van Wyck,
Cullom,	Lapham,	Platt,	Wilson.
Frye,	Logan,	Plumb,	

NAYS—16.

Bayard,	Cockrell,	Harris,	Slater,
Butler,	Edmunds,	Jonas,	Vest,
Call,	Gibson,	Morgan,	Voorhees,
Cameron of Wis.,	Hampton,	Pugh,	Walker.

ABSENT—37.

Aldrich,	Farley,	Kenna,	Ransom,
Beck,	Garland,	Lamar,	Riddleberger,
Bowen,	George,	McMillan,	Sabin,
Brown,	Gorman,	McPherson,	Saulsbury,
Camden,	Groome,	Mahone,	Sewell,
Coke,	Hill,	Maxey,	Vance,
Colquitt,	Ingalls,	Mitchell,	Williams.
Dawes,	Jackson,	Palmer,	
Dolph,	Jones of Florida,	Pendleton,	
Fair,	Jones of Nevada,	Pike,	

So the motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill.

The PRESIDENT *pro tempore*. The bill will be read.

Mr. BLAIR. It has been read.

The PRESIDENT *pro tempore*. It was only read for information, and as it is a bill of some importance it had better be read.

Mr. BLAIR. Then I suppose it is not read for information now?

The bill was read.

Mr. BLAIR. Let the report of the committee be read; it is quite full.

The Secretary read the following report, submitted by Mr. BLAIR April 15, 1884.

The Committee on Education and Labor, to whom was referred the bill (S. 654) to provide for a commission on the subject of the alcoholic liquor traffic, have considered the same, and recommend its passage.

This bill has been presented in many Congresses and repeatedly passed in the Senate, but has thus far failed to become a law. Its passage has been strongly urged hitherto, and is still demanded by a great multitude of the wisest and most patriotic citizens of the country. Its leading purpose is to secure a thorough and authoritative investigation, that the truth may become known and authentically, accurately, and reliably stated in regard to the existence, the nature, and the extent of the evils of the traffic in alcoholic liquors. In the great controversy now pending, and which seems to grow more and more serious and to press more and more for solution between the advocates of diverse policies and measures in regard to this traffic, it is a matter of the first importance for all parties to ascertain the facts.

It is with this view, and for no other purpose, that your committee, entertaining, as they do, diverse opinions personally upon the questions involved in the general subject of so-called temperance legislation, unite in recommending the passage of this bill for the creation of a commission for thorough and impartial inquiry into the facts.

We annex the reporter's notes of the statements of advocates of the bill made before the committee.

The bill was reported to the Senate without amendment.

Mr. BUTLER. I should like to have the bill read again; I did not catch what the bill was. Let the title at least be read.

The PRESIDENT *pro tempore*. The title of the bill will be again read.

The title was read.

The PRESIDENT *pro tempore*. The question is, Shall the bill be engrossed for a third reading?

Mr. BUTLER. Let us have the yeas and nays on that.

The yeas and nays were ordered.

Mr. CAMERON, of Wisconsin. I would suggest to the Senator from South Carolina that he ask for the yeas and nays on the question of the passage of the bill.

Mr. BUTLER. I thought that was exactly what I was doing.

Mr. CAMERON, of Wisconsin. The question now is on the third reading.

Mr. VEST. This will do just as well.

Mr. BUTLER. It is practically the same thing.

Mr. VEST. I wish to say a word before the vote is taken. I have not the slightest disposition to oppose any examination in regard to existing facts or the evils that arise from the excessive use of alcoholic beverages; but I object to this mode of arriving at legislation. In my judgment it is a matter for the States and not for the National Government. I know the answer will be that this is simply preliminary and does not involve the question of the powers of the States or the rights of the States; but it is a step in that direction. There is no proof, no evidence that the States are not entirely competent under the Constitution to attend to this matter. And as the legislation, in my judgment, must come from the States I think the information should be had by them on their own motion.

I do not choose to be put in the attitude of advocating intemperance, and I do not choose to be placed in the category of opposing temperance, but I do not believe in the Federal Government either by investigation or otherwise invading what I suppose to be the constitutional province of the States.

The PRESIDENT *pro tempore*. The question is, Shall the bill be engrossed for a third reading.

Mr. HOAR. I suggest that by unanimous consent—I understand that was the desire of the Senator from South Carolina—the yeas and nays be taken on the passage of the bill and the order just made be regarded as reconsidered.

The PRESIDENT *pro tempore*. The Senator from Massachusetts asks unanimous consent that the order for the yeas and nays on the engrossment of this bill be reconsidered and that they stand as being ordered on the passage of the bill.

Mr. BUTLER. I have not the slightest objection to that.

The PRESIDENT *pro tempore*. The Chair hears no objection. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

The PRESIDENT *pro tempore*. The bill having been read three times, the question is, Shall it pass? on which question the yeas and nays have been ordered.

The Secretary proceeded to call the roll.

Mr. COKE (when his name was called). I am paired with the Senator from Minnesota [Mr. MCMILLAN]. If he were here, I should vote "nay;" but not knowing how he would vote, I decline to answer.

The PRESIDENT *pro tempore* (when Mr. EDMUNDS's name was called). On this question the Senator from Vermont is paired with the Senator from Arkansas [Mr. GARLAND]. If the latter Senator were present, the Senator from Vermont would vote "yea."

Mr. HOAR. I should like to inquire if there be any Senator paired with my colleague [Mr. DAWES] on this question? I believe there is none. And if not, I should like to have the pair of the Senator from Vermont with the Senator from Arkansas transferred to my colleague.

Mr. HARRIS. Some gentleman announced this morning a pair of the Senator's colleague.

Mr. HOAR. That was on one particular bill.

Mr. COCKRELL. I was paired with the Senator from Massachusetts [Mr. DAWES] on one bill only. I found that it did not extend to anything else. I vote "nay" on this.

The PRESIDENT *pro tempore*. If there be no objection the Senator from Vermont will transfer his pair with the Senator from Arkansas [Mr. GARLAND] to the Senator from Massachusetts [Mr. DAWES].

Mr. MCPHERSON (when his name was called). I am paired with my colleague [Mr. SEWELL]. If he were here, I should vote "nay." I do not know how he would vote.

Mr. CONGER (when Mr. PALMER's name was called). My colleague is paired with the Senator from Kentucky [Mr. WILLIAMS]. If he were present, my colleague would vote "yea."

Mr. PENDLETON (when his name was called). I am paired with the Senator from Pennsylvania [Mr. MITCHELL].

Mr. PLUMB (when his name was called). I am paired on this subject with the Senator from Georgia [Mr. COLQUITT]. If he were present, I should vote "yea."

The roll-call was concluded.

Mr. BLAIR. I desire to announce the pair between my colleague [Mr. PIKE] and the Senator from Tennessee [Mr. JACKSON]. If he were present, my colleague would vote "yea."

The result was announced—yeas 25, nays 16; as follows:

YEAS—25.

Allison,	Edmunds,	Lapham,	Sheffield,
Blair,	Frye,	Manderson,	Sherman,
Cameron of Pa.,	George,	Miller of Cal.,	Van Wyck,
Cameron of Wis.,	Hale,	Miller of N. Y.,	Wilson.
Conger,	Harrison,	Morrill,	
Cullom,	Hawley,	Platt,	
Dolph,	Hoar,	Sawyer,	

NAYS—16.

Bayard,	Gibson,	Jones of Florida,	Slater,
Beck,	Hampton,	Maxey,	Vest,
Butler,	Harris,	Morgan,	Voorhees,
Cockrell,	Jonas,	Pugh,	Walker.

ABSENT—35.

Aldrich,	Farley,	Lamar,	Plumb,
Bowen,	Garland,	Logan,	Ransom,
Brown,	Gorman,	McMillan,	Riddleberger,
Call,	Groome,	McPherson,	Sabin,
Camden,	Hill,	Mahone,	Saulsbury,
Coke,	Ingalls,	Mitchell,	Sewell,
Colquitt,	Jackson,	Palmer,	Vance,
Dawes,	Jones of Nevada,	Pendleton,	Williams.
Fair,	Kenna,	Pike,	

So the bill was passed.

NAVAL APPROPRIATIONS.

Mr. HALE. I ask unanimous consent to report back at this time with amendments the bill (H. R. 7791) making temporary provision for

the naval service, that it may be laid on the table and printed, and I give notice that I will call it up to-morrow morning.

The PRESIDENT *pro tempore*. The Senator from Maine asks unanimous consent to present at this time a report from the Committee on Appropriations. Is there objection? The Chair hears none. The Senator from Maine reports with amendments the bill (H. R. 7791) making temporary provision for the naval service.

Mr. HALE. I will simply say that the committee now report as a substitute for the House bill sent over to us for thirty-one days the regular appropriation bill for the remainder of the fiscal year from January 1 to June 30, 1885, precisely as the House of Representatives sent that bill to us at the last session. The cruisers are stricken out, the ironclads are stricken out, the legislation that was put on by the Senate is stricken off, and the substitute stands, so far as amounts go, precisely on the basis that the House made up the appropriation bill originally for the present year. In that the Senate maintains its attitude of considering this year's appropriations, and not voting upon the rule of last year.

Mr. MORRILL. Do you provide for one month or six months?

Mr. HALE. For six months, making the bill complete for the year. I will call it up, and, if necessary, make further explanations to-morrow.

LEAVES OF ABSENCE.

Mr. HOAR and Mr. MAXEY were, on their own motion, granted leave of absence until January 2, 1885.

Mr. LAPHAM was, on his own motion, granted leave of absence until January 5, 1885.

EXECUTIVE SESSION.

Mr. SHERMAN. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After five minutes spent in executive session the doors were reopened, and (at 2 o'clock and 3 minutes p. m.) the Senate adjourned.

SENATE.

TUESDAY, *December* 23, 1884.

Prayer by Rev. BYRON SUNDERLAND, D. D., of the city of Washington.

The Journal of yesterday's proceedings was read and approved.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore*. The Chair presents a memorial of the American Association for the Advancement of Sciences, together with a resolution on the subject of extending the operations of the Coast and Geodetic Survey through all the States of the United States. The memorial and paper will be referred to the Committee on Appropriations.

Mr. JONAS presented resolutions adopted at a meeting of a joint committee of the commercial exchanges of New Orleans, La., composed of the Cotton Exchange, Sugar Exchange, Produce Exchange, and Mexican, Central American, and South American Exchange, signed by their respective chairmen, protesting against the ratification of the proposed treaty with Spain, for the reason that it would be ruinous in its effect upon the commercial and agricultural interests of Louisiana and the Southwest; which were referred to the Committee on Foreign Relations.

REPORT OF A COMMITTEE.

Mr. MORGAN, from the Committee on Public Lands, to whom was referred the bill (S. 2031) to declare a forfeiture of lands granted to the New Orleans, Baton Rouge and Vicksburg Railroad Company, and for other purposes, reported it with an amendment.

BILL INTRODUCED.

Mr. PLUMB introduced a bill (S. 2489) for the relief of Mrs. Moivere Tousey; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Claims.

CONGRESSIONAL RECORD REPORTS.

Mr. VEST submitted the following concurrent resolution; which was read:

Resolved by the Senate (the House of Representatives concurring), That the reports in the CONGRESSIONAL RECORD shall be an accurate transcript of the proceedings and the debates of the two Houses of Congress, and that no speech shall be published therein which was not spoken in the Senate or in the House of Representatives; and such speeches shall be printed as they were actually delivered, except verbal corrections made by the author of the speech, and by no other person; and that when speeches are reserved by their authors for correction they shall be returned to the reporter of the House in which they were delivered within one week, and if not so returned they shall then be printed in the CONGRESSIONAL RECORD from the original notes of the reporter.

The PRESIDENT *pro tempore*. Does the Senator desire the present consideration of the resolution or its reference?

Mr. VEST. I wish to say a few words about it before it is referred to the appropriate committee.

The PRESIDENT *pro tempore*. If there be no objection the Senate will now consider the resolution subject to objection.

Mr. VEST. Mr. President, of all the abuses which have grown up in public affairs, none is more glaring than that connected with the printed reports of Congressional debates.

In a country where public opinion controls the conduct of the Government, and those who make the laws are responsible directly to their constituents, it is manifestly of the greatest importance that correct and full reports of the proceedings and debates of Congress should be had, not only for the information of those who have elected the existing Congress, but for transmitting to those who come after a reliable history of the causes and motives for legislation found upon the statute-books. It is absolutely required, in justice to the representative and his constituency, and in obedience to the demand for a truthful history of political events, that the CONGRESSIONAL RECORD should become, what it purports to be, an account of what is said and done in Congress, and not the garbled and fraudulent thing it really is, filled with orations which were never delivered and turgid eloquence never heard.

The CONGRESSIONAL RECORD should truthfully represent the thoughts and action of those who are transacting the public business of 55,000,000 earnest, intelligent, hopeful people, who are working out not only for this continent and age, but for all ages, the problem of free government. Making the laws, influencing the opinions, and shaping the destiny of such a people should be considered the highest duty ever committed to human hands, and the record of the manner in which this duty is discharged should contain the truth.

Good faith between the people and their servants, public morality and decency demand that the abuses now existing should be remedied. What can be more ruinous to the cause of truth than the daily printing of debates which have no existence? What can be more demoralizing and disheartening to the young and honest reader of the RECORD than the discovery that the Representative whom he has been taught to admire as an exemplar of all public virtues is a public cheat and fraud? That he is holding himself out to those at a distance from the capital as a parliamentary orator, and franking by the thousand "Remarks of the Hon. Bardwell Slote, delivered in the House of Representatives on June 25, 1884?"; when in fact the Hon. Bardwell Slote had made no such remarks, but was probably at the identical time when he was supposed to be electrifying the floor and galleries, greeted with rounds of applause, and the recipient of numberless bouquets, munching his frugal lunch in the House restaurant or snoring placidly in a cloak-room.

The people of the United States are the best natured and most forgiving upon the face of the earth, for in no other country would such outrages be tolerated as have for years been perpetrated upon the CONGRESSIONAL RECORD by aspiring orators and statesmen. Some of them are so ludicrous as to appeal successfully to the national sense of humor, and the American public have generally come to regard the proceedings of Congress as a sort of variety performance, where nothing is supposed to be real except the pay.

Mr. President, I am not the first to attack this abuse. On February 11, 1876, our late colleague, Governor Anthony, offered in the Senate the resolution which I now submit.

In the course of an admirable speech supporting the resolution Governor Anthony alluded to an instance within his own term of service where a member of the House obtained leave to print some remarks on the annexation of Cuba, and when the speech appeared in the Globe it proved to be a most violent personal assault upon Mr. Sumner, then a member of the Senate. As Governor Anthony proceeds to say, the most ludicrous and disgraceful illustration of the practice obtaining under the rule permitting the publication in the Globe of speeches never delivered is found in Part 4, Appendix to the Globe for the Thirty-seventh Congress. The same speech was delivered by two gentlemen, one on the 24th of April in "Committee of the Whole on the state of the Union," and the other on May 26 in the House, on the "bill to confiscate the property and free the slaves of rebels." Malicious persons have intimated that this wonderful identity of thought and diction came from the fact that an enterprising member of the "literary lobby" sold the same speech to two ambitious statesmen without either knowing of the purchase by his colleague; but those of us who have watched the operation of great intellects and the singular unanimity with which they arrive at the same conclusions, especially after a party caucus, will discard the slanderous imputation.

Whatever may have been the cause of the identity to which I have alluded, the RECORD shows that each gentleman asked and obtained leave to print, their incubation having the same result.

Another disgraceful abuse of the printing rule is found in the RECORD of April 13, 1880, where a member of poetic tendencies obtained leave to print his remarks on a "bill providing for certain paintings on the walls of the Capitol," and then inserted in the RECORD blank verse to the amount of sixty pages quarto, with this appropriate caption, "To the Immortals."

On December 14, 1882, we find in the RECORD, while the House was in Committee of the Whole on the "bill making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1884," a very few remarks by a distinguished member of the House, supplemented by the entire Constitution of the United States; and this publication in face of the fact that the Constitution can be

found in the volumes containing the Revised Statutes, the Rules of both the Senate and House, and the hundreds of publications on constitutional law and United States history.

It is hardly to be supposed that this sacred instrument would appear at length in the CONGRESSIONAL RECORD except under leave to print.

The most remarkable act of disinterested publication is found, however, in the CONGRESSIONAL RECORD, May 6, 1884.

The RECORD shows the following:

> On the bill (H. R. 5893) to reduce import duties and war-tariff taxes.
>
> Mr. ——— said:
>
> Mr. CHAIRMAN: I said all that I wish to say on the tariff in my speech in the Forty-seventh Congress, and I could only reiterate the same. But since that time an article has been written upon the tariff which in my judgment surpasses all others for clearness of statement and conclusiveness of argument that have ever been written on that subject. It comes from the pen of the magnetic statesman James G. Blaine, who I hope may be chosen as the standard bearer of the principles he so ably represents.
>
> In his Twenty Years of Congress, volume 1, pages 178-214, he says.

This brief address is then supplemented by the chapters on the tariff of the Hon. J. G. Blaine's recently published work, and the Congressional campaign committee of the Republican party advertised this original oration in the late canvass at the moderate price of $10 per thousand, sent under frank as part of the CONGRESSIONAL RECORD to any part of the country.

In other words, leave to print his remarks is obtained by a member of the House, and a campaign document is then inserted in the RECORD, the cost of printing to be paid for out of the common Treasury of the people, and the cost of transportation in the mails to be covered by a Congressional frank! At the last session leave to extend his remarks in the RECORD was given to a Representative who had spoken for six minutes, and after the adjournment of Congress an elaborate speech appeared in the printed debates, reflecting seriously upon committees of both the Senate and House and upon another Representative. In the course of debate some days since, upon a motion to expunge this speech from the RECORD, a communication was read from the Public Printer showing that in the Forty-fifth, Forty-sixth, Forty-seventh, and Forty-eighth Congresses five hundred and sixty-nine speeches were printed in the RECORD, not one word of which was delivered in the House, and eleven hundred and eighty-three were withheld for revision, and so altered and amended as to be beyond all recognition by those who heard the original addresses.

Mr. President, if time permitted I could multiply almost indefinitely instances of flagrant outrage perpetrated under the practice of printing in the RECORD speeches never delivered. It has often happened that assertions the most monstrous and assaults the most outrageous have been discovered for the first time in the RECORD after the adjournment of Congress and when the debate had been distributed over the country. Every public man knows how useless it is then to attempt refutation or explanation. At the last session the provisions of the resolution I offer were placed upon the legislative appropriation bill by the Senate, but stricken out in the House, and upon conference the amendment was abandoned. It was argued then, conspicuously by the Senator from Ohio [Mr. SHERMAN], that the House of Representatives should have the right to control the record of its own proceedings, and regulate as it pleased the publication of its own debates.

If the House were an independent body, legislating alone and not in conjunction with the Senate; if its debates were not printed under an act of Congress and paid for out of the common Treasury, there would be some force in this position. But the debates are those of Congress, published under the provisions of law, and it is our duty so far as we are able to see that the abuse of publishing pretended and not real debates should be abolished. The law requires the publication of the debates in Congress, not in one House alone, but in both, and it is impossible to discriminate between our duty to attempt by proper legislation to prevent a pernicious violation of law in this as in every other such instance.

There is but one method by which to prevent the CONGRESSIONAL RECORD from being made the vehicle for injustice and personal or party malevolence. Let the disgraceful and fraudulent practice of publishing as uttered what has never been heard in debate be at once and forever prohibited, and let the anomaly of a *silent orator* be no longer known in the American Congress.

I move that the resolution be referred to the Committee on Printing.

Mr. CONGER. Let the resolution be read. While I enjoyed the remarks of the Senator, for the life of me I could not tell what he was talking about.

Mr. VEST. Let the resolution be read.

The PRESIDENT *pro tempore*. The resolution will be again reported.

The Chief Clerk read the resolution.

The PRESIDENT *pro tempore*. The Senator from Missouri moves that the resolution be referred to the Committee on Printing.

Mr. HAWLEY. I wish to correct what seemed to be a misapprehension on the part of the Senator from Missouri. He referred to a speech which was substantially the chapters of Mr. Blaine's book upon the tariff as having been printed at Government expense and then sold by committees at 10 cents a hundred, or whatever the price may have been. Now, any copies of the CONGRESSIONAL RECORD, or of speeches that are in the RECORD, beyond the regular edition of the RECORD, are paid for at the Government Printing Office by whatever committee orders them, Republican or Democratic, before they are distributed, or before they are sold to anybody. If sold, they are sold to local committees, who simply repay the national committee. I venture to say that is the case with the committees of both parties; so that it can not be said that the printing was done at Government expense and then the pamphlet sold afterward by private persons or volunteer committees.

Mr. VEST. I only spoke of what has been stated currently in the press. Of course I have no personal knowledge, but I will ask the Senator from Connecticut if it is not true that this paper, purporting to be a portion of the CONGRESSIONAL RECORD, was franked and sent all over the country?

Mr. HAWLEY. Oh, yes; anything that is a part of the RECORD; anything that is part of a Government print—that is, a reprint or part of the original Government edition—can be franked. That is the well-understood law. But I wanted to correct the Senator's misapprehension in this, that if any copies were sold they were first paid for to the Government and then afterward transferred at the same cost. I have no doubt that is true of both political committees.

Mr. SHERMAN. Another statement should be made in aid of the position taken by the Senator from Missouri. The chief expense caused by this extra printing is undoubtedly in composition. The Government of the United States prints a great number of copies of the RECORD for public distribution by members of Congress, and all the extra cost of composition and printing this large number, together with the cost of binding, makes it a very expensive document, probably the most expensive printed by the Government except the explorations and surveys—makes that additional cost of public printing, so that the public RECORD now is reaching six, seven, or eight volumes for one session of Congress. When I first entered Congress one volume for the short session and two volumes for the long session was the rule as to the size of the Globe. Now it has got to be seven or eight volumes, and all of it grows out of this abuse, which, in my judgment, ought to be corrected. In this matter the Senate is somewhat to blame. We ought not to complain of others while we violate the rules ourselves. We print a great deal more in the Senate than we formerly did. Every day almost there is printing ordered by the Senate, generally good-naturedly, because no one likes to object, which by the rules can not be printed except by unanimous consent.

Mr. PLATT. May I interrupt the Senator from Ohio?

Mr. SHERMAN. Certainly.

Mr. PLATT. No speeches of Senators are printed in the RECORD unless they are actually delivered here. There is no "leave to print" in the Senate, I think.

Mr. SHERMAN. But almost every day printing is ordered by unanimous consent. Without making any invidious distinction, I will state that the other day a member of the Senate rose and said that instead of reading them he would ask to have certain documents printed. It is done every day here. I have seen it done many a time.

Mr. LOGAN. That is not a speech.

Mr. SHERMAN. No; but parts of a speech—exhibits, and memorials, which are longer than a speech; and sometimes when memorials are offered by Senators they are printed in the RECORD, so that we are gradually falling into the same habit.

In my judgment it would be a great deal better to reduce the RECORD below even what it was twenty years ago, and make it like what in England are called the Hansard Debates, a compendium of the debates. Such a publication would be immensely more valuable because immensely more convenient. If the resolution of the Senator from Missouri could bring about a reform of that kind it would reduce the size of our CONGRESSIONAL RECORD to one volume in the short session and two volumes in the long session. If we could have a prohibition of all matter that is not delivered, and some mode of condensing, I think it would be of great advantage, but it would be a very difficult operation.

Mr. PLATT. I think the Senator from Ohio is quite right. It is desirable if possible to condense the CONGRESSIONAL RECORD; but what I alluded to was the different practice which prevails in the Senate and House as I understand it. Now, in the Senate it is supposed that if the rule is followed nothing goes into the RECORD except what is actually delivered here orally by Senators. In the House, as I understand, a leave to print is obtained, so that speeches which are never in fact delivered in the House are printed in the RECORD. Nothing of that sort occurs here.

Then I understand another practice prevails in the House, which is for a member, who is limited to perhaps five or ten minutes, to commence the delivery of a speech which he has already prepared, and not having time to conclude it, to obtain leave to print the remainder of his remarks. Nothing of the kind is done in the Senate. That is what I alluded to when I interrupted the Senator from Ohio.

Mr. FRYE. There is one thing that might be said in excuse for the other branch. Under the rules of the House it is very seldom that there occurs a discussion where any member is allowed over ten minutes in

debate. The most valuable discussions that are had in the other branch are under the five-minute rule, and under no rule of the House can any member be entitled to over one hour, that is, a member having in charge a matter of importance or the committee having it in charge, while in the Senate a Senator may rise in his place and give notice and at any time in the future may stop the whole business of the Senate, surround himself with books five feet high and read from one hour to two hours or four or six or ten hours, I judge, or any length of time that he pleases. There is no limitation upon debate in the Senate. Any Senator gets time when he pleases, and any Senator occupies all the time that he pleases. This may be to a certain extent an excuse for the House of Representatives.

It seems to me that the most serious difficulty about this whole matter is not the expense of printing, it is not the number of volumes which are printed, but is the suggestion which the Senator from Missouri just made, that a speech appears in the RECORD as if made in the Committee of the Whole House or as if made in the House, and whoever reads that RECORD away from here, not understanding the customs of the House, has reason to suppose that that speech is made when all the members of the House are present; and statements are made, assertions are indulged in, attacks occur where the member attacked or assailed must have been expected to have made answer, and yet no answer is made, because he knows absolutely nothing about it. I remember very distinctly one day reading in the RECORD a speech which was made about the manufacturers of New England, and charges were made that the operatives in those mills were slaves, that they were almost starved to death, that they were treated more inhumanly than the slaves of the South ever were treated. A constituent of mine called my attention for the first time to it and wanted to know if I was not present attending to my duty and why I had permitted a thing of that kind to go unchallenged. Well, it was one Saturday when nobody was there except the Speaker of the House of Representatives and six other members, each one of whom had a long speech to deliver, and each one of whom, perhaps, read five or ten minutes and then printed about a two hours' speech. That seems to me the most serious difficulty about the matter.

Mr. DOLPH. Mr. President, I embrace this opportunity to correct an impression which is quite prevalent, that a member of Congress can have any amount of printing done at the public expense. The fact is well known here that but a limited number of copies of the CONGRESSIONAL RECORD is distributed, and if a member of Congress desires more he must pay for his copies, and if he desires to have a speech printed he must pay the cost to the Government and 10 per cent. added. There is nothing which appears in the CONGRESSIONAL RECORD that can be obtained for gratuitous distribution or at all unless it is paid for.

The PRESIDENT *pro tempore*. The question is on agreeing to the motion of the Senator from Missouri that the concurrent resolution be referred to the Committee on Printing.

The motion was agreed to.

PRESIDENTIAL APPROVAL.

A message from the President of the United States, by Mr. O. L. PRUDEN, one of his secretaries, announced that the President had this day approved and signed the act (S. 2280) for the relief of Mrs. Jane Venable.

CHEROKEE LANDS WEST OF ARKANSAS RIVER.

Mr. WALKER submitted the following resolution; which was considered by unanimous consent, and agreed to:

Whereas by the act of March 3, 1883, the sum of $300,000 was appropriated by Congress for the benefit of the Cherokee Nation of Indians "out of the funds due under appraisement for Cherokee lands west of the Arkansas River:" Therefore,

Be it resolved, That the Secretary of the Interior be, and he is hereby, directed to inform the Senate as soon as practicable—

First. What was the price paid said Cherokee Nation per acre for their lands west of Arkansas River.

Second. Whether there has been more than one appraisement of such lands; and, if so, what, and by what authority.

Third. If the payment of said $300,000 was on account of any lands belonging to said Cherokee Nation west of the Arkansas River other than the lands occupied by the Pawnees, Nez Percés, Poncas, Ottoes, Missourias, and Osages.

NAVAL APPROPRIATIONS.

The PRESIDENT *pro tempore*. The Chair lays before the Senate the Calendar under Rule VIII.

Mr. HALE. I move to take up the bill (H. R. 7791) making temporary provision for the naval service.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported from the Committee on Appropriations with an amendment.

Mr. HALE. I ask unanimous consent that the Senate amendment be now read for amendment, thereby saving a reading.

The PRESIDING OFFICER (Mr. MANDERSON in the chair). If there be no objection it will be so read.

The Chief Clerk read the amendment, which was, to strike out all after the enacting clause of the bill and to insert in lieu of the matter stricken out—

That the following sums be, and they are hereby, appropriated, to be paid out of any money in the Treasury not otherwise appropriated, for the naval service of the Government for the last half of the year ending June 30, 1885, and for other purposes:

For the pay of the Navy, for the active-list, namely: For one Admiral, one Vice-Admiral, eight rear-admirals, seven chiefs of bureaus, twenty-one commodores, forty-five captains, eighty-seven commanders, seventy-eight lieutenant-commanders, two hundred and seventy-two lieutenants, ninety-five junior lieutenants, ninety-five ensigns, ninety-eight junior ensigns, fourteen medical directors, fifteen medical inspectors, fifty surgeons, seventy-nine passed assistant surgeons, eight assistant surgeons, two assistant surgeons not in line of promotion (who shall hereafter, after fifteen years' service, be entitled to receive, as annual pay, when at sea, $2,100, when on shore duty $1,800, and when on leave or waiting orders $1,600) thirteen pay-directors, twelve pay-inspectors, forty-nine paymasters, twenty-nine passed assistant paymasters, twenty assistant paymasters, sixty-nine chief engineers, ninety-three passed assistant engineers, seventy-eight assistant engineers, twenty-four chaplains, eleven professors of mathematics, ten naval constructors, nine assistant naval constructors, ten civil engineers, one hundred and eighty-eight warrant officers, thirty-eight mates, two hundred and ninety-five naval cadets; in all, $1,743,750.

For pay of the retired-list, namely: For forty-three rear-admirals, twenty commodores, eleven captains, twelve commanders, sixteen lieutenant-commanders, twenty-seven lieutenants, seven ensigns, twenty-two medical directors, two medical inspectors, four surgeons, five passed assistant surgeons, seven assistant surgeons, nine pay-directors, two pay-inspectors, four paymasters, two passed assistant paymasters, one assistant paymaster, eleven chief engineers, twenty passed assistant engineers, twenty-six assistant engineers, eight chaplains, six professors of mathematics, one chief constructor, three civil engineers, thirteen boatswains, ten gunners, nine carpenters, and seven sailmakers; in all, $361,865.

For pay to petty officers, seamen, ordinary seamen, landsmen, and boys, including men in the engineers' force and for the Coast Survey service, not exceeding 8,250; in all, $1,245,000.

For two secretaries, one to the Admiral and one to the Vice-Admiral, clerks to paymasters, clerks at inspections, navy-yards, and stations, and extra pay to men enlisted under honorable discharge; commission and interest, transportation of funds, exchange; mileage to officers while traveling under orders in the United States, and for actual personal expenses of officers while traveling abroad under orders, which shall specify the special necessity for such travel, and for actual and necessary traveling expenses of naval cadets while proceeding from their homes to the Naval Academy for examination and appointment as cadets, and for the payment of any such officers as may be in service, either upon the active or retired list, during the year ending June 30, 1885, in excess of the numbers of each class provided for in this act, and for any increase of pay arising from different duty, as the needs of the service may require; for rent and furniture of buildings and offices not in navy-yards; expenses of courts-martial and courts of inquiry, boards of investigation, examining boards, with clerks and witnesses' fees, and traveling expenses and costs; stationery and recording; expenses of purchasing-paymasters' offices at the various cities, including clerks, furniture, fuel, stationery, and incidental expenses; newspapers and advertising; foreign postage; telegraphing, foreign and domestic; telephones; copying; care of library; mail and express wagons, and livery and express fees; costs of suits; commissions, warrants, diplomas, and discharges; relief of vessels in distress, and pilotage; recovery of valuables from shipwrecks; quarantine expenses; care and transportation of the dead; reports, professional investigation, cost of special instruction, and information from abroad, and the collection and classification thereof, $182,500.

For all emergencies and extraordinary expenses arising at home or abroad, but impossible to be anticipated or classified, exclusive of personal services in the Navy Department or any of its subordinate bureaus or offices, at Washington, D. C., $7,500.

BUREAU OF NAVIGATION.

For foreign and local pilotage and towage of ships of war; services and materials in correcting compasses on board ship, and for adjusting and testing compasses on shore; nautical and astronomical instruments, nautical books, maps, charts, and sailing directions, and repairs of nautical instruments for ships of war; books for libraries of ships of war; naval signals and apparatus, namely, signal-lights, lanterns, rockets, running-lights, drawings, and engravings for signal-books; compass-fittings, including binnacles, tripods, and other appendages of ships' compasses; logs and other appliances for measuring the ships' ways, and leads and other appliances for sounding; lanterns and lamps, and their appendages, for general use on board ship, including those for the cabin, ward-room, and steerage, for the holds and spirit-room, for decks and quarter-masters' use; bunting and other materials for flags, and making and repairing flags of all kinds; oil for ships of war, other than that used in the engineer department; candles when used as a substitute for oil in binnacles and running-lights; chimneys and wicks, and soap used in the navigation department; stationery for commanders and navigators of vessels of war and for use of courts-martial; musical instruments and music for vessels of war; steering-signals and indicators, and speaking-tubes and gongs for signal communication on board vessels of war; and for introducing electric lights on board vessels of war, not exceeding $2,500; in all, $25,000.

For erection of compass-testing house, $7,000.

For contingent expenses of the Bureau of Navigation, namely: For freight and transportation of navigation materials, postage and telegraphing on public business, advertising for proposals, packing-boxes and materials, and all other contingent expenses, $1,000.

For the civil establishment at navy-yards and stations, $2,500.

BUREAU OF ORDNANCE.

For procuring, producing, and preserving ordnance material; for the armament of ships; for fuel, tools, materials, and labor to be used in the general work of the Ordnance Department: for furniture at magazines, at the ordnance dock, New York, and at the naval experimental battery, $35,000.

For necessary repairs to ordnance buildings, magazines, gun-parks, boats, lighters, wharves, machinery, and other objects of the like character, $7,500.

For miscellaneous items, namely: For freight to foreign and home stations, advertising and auctioneers' fees, cartage and express charges, repairs to fire-engines, gas and water pipes, gas and water tax at magazines, toll, ferriage, foreign passage, and telegrams to and from the bureau, $1,500.

For the civil establishment at navy-yards and stations, $2,500.

For the torpedo corps, namely: For labor, material, freight and express charges; general repairs to grounds, buildings, and wharves; boats; instruction; instruments, tools, furniture, experiments, and general torpedo outfits, $25,000.

BUREAU OF EQUIPMENT AND RECRUITING.

For equipment of vessels: For coal for steamers' and ships' use, including expenses of transportation, storage, and handling; hemp, wire, hides, and other materials for the manufacture of rope and cordage; iron for the manufacture of anchors, cables, galleys, and chains; canvas for the manufacture of sails, awnings, bags, and hammocks; heating apparatus for receiving-ships; and for the purchase of all other articles of equipment at home and abroad, and for the payment of labor in equipping vessels and manufacture of equipment articles in the several navy-yards, $298,000.

For expenses of recruiting: For expenses of recruiting for the naval service, rent of rendezvous and expenses of maintaining the same, advertising for men

and boys, and all other expenses attending the recruiting for the naval service, and for the transportation of enlisted men and boys at home and abroad, $12,500.

For contingent expenses equipment and recruiting: For extra expenses of training-ships, freight and transportation of equipment stores, printing, advertising, telegraphing, books and models, postage, car-tickets, ferriage, ice, apprehension of deserters and stragglers, assistance to vessels in distress, continuous service certificates and good-conduct badges for enlisted men, school-books for training-ships, medals for boys, and emergencies arising under cognizance of Bureau of Equipment and Recruiting unforeseen and impossible to classify, $5,000.

For the civil establishment at navy-yards and stations, $4,500.

BUREAU OF YARDS AND DOCKS.

For general maintenance of yards and docks, namely: For freights and transportation of materials and stores; books, models, maps, and drawings; purchase and repair of fire-engines; machinery; repairs on steam fire-engines, and attendance on the same; purchase and maintenance of oxen and horses, and driving teams, carts, and timber-wheels, and all vehicles for use in the navy-yards, and tools and repairs of the same; dredging; postage on letters and other mailable matter on public service; telegrams; furniture for Government houses and offices in the navy-yards; coal and other fuel; candles, oil, and gas; cleaning and clearing up yards and care of public buildings; attendance on fires, lights, fire-engines, and apparatus; for clerical and incidental labor at navy-yards; water-tax, and for toll and ferriages; rent of four officers' quarters at League Island; pay of the watchmen in the navy-yards; and for awning and packing-boxes, and advertising for yard and dock purposes, $86,000.

For contingent expenses that may arise at navy-yards and stations, $5,000.

For the civil establishment at navy-yards and stations, $12,000.

BUREAU OF MEDICINE AND SURGERY.

For support of the medical department: For surgeon's necessaries for vessels in commission, navy-yards, naval stations, Marine Corps, and Coast Survey, and for the civil establishment at the several naval hospitals, navy-yards, naval laboratory, and Naval Academy, $30,000.

For the naval-hospital fund, namely: For maintenance of the naval hospitals at the various navy-yards and stations, $15,000. And if the Secretary of the Navy shall not be able to maintain properly the whole number of naval hospitals now kept open on the amounts hereby appropriated for the maintenance of and civil establishment at naval hospitals, he shall close those which are least necessary to the service, and provide for the patients now cared for therein at such other naval hospitals as may be most convenient.

For contingent expenses of the bureau: For freight on medical stores; transportation of insane patients; advertising; telegraphing; purchase of books; expenses attending the medical board of examiners; rent of rooms for naval dispensary; hygienic and sanitary investigation and illustration; purchase and repair of wagons and harness; purchase and feed of horses and cows; trees, garden tools, and seeds, $12,500.

For necessary repairs of naval laboratory, naval hospitals, and appendages, including roads, wharves, outhouses, sidewalks, fences, gardens, farms, and cemeteries, $12,500.

BUREAU OF PROVISIONS AND CLOTHING.

For provisions for the seamen and marines; commuted rations for officers, seamen, and marines; expenses of the handling and transportation of provisions; of inspections and storehouses; purchase of water for ships for cooking and drinking purposes; and for provisions and commutation of rations for seven hundred and fifty boys, $550,000.

For contingent expenses: For freight on shipments (except provisions); candles, fuel; books and blanks; stationery; advertising and commissions on sales; furniture for inspection and pay offices in navy-yards; foreign postage, telegrams, and express charges; toll, ferriages, car-tickets; yeomen's stores, iron safes, newspapers, ice, and incidental expenses absolutely necessary, $10,000.

For the civil establishment, $3,000.

BUREAU OF CONSTRUCTION AND REPAIR.

For preservation and completion of vessels on the stocks and in ordinary; purchase of materials and stores of all kinds; labor in navy-yards and on foreign stations; preservation of materials; purchase of tools; wear, tear, and repair of vessels afloat, and for general care, increase, and protection of the Navy in the line of construction and repair, and incidental expenses, namely, advertising, foreign postage, telegrams, photographing, books, plans, stationery, and instruments for drawing-room, $450,000: *Provided*, That no part of this sum shall be applied to the repairs of any wooden ship when the estimated cost of such repairs, to be appraised by a competent board of naval officers, shall exceed 30 per cent. of the estimated cost, appraised in like manner, of a new ship of the same size and like material: *Provided further*, That nothing herein contained shall deprive the Secretary of the Navy of the authority to order repairs of ships damaged in foreign waters or on the high seas, so far as may be necessary to bring them home.

For the civil establishment, $10,000.

BUREAU OF STEAM-ENGINEERING.

For repairs, completion, and preservation of machinery and boilers, including steam-steerers, steam-capstans, steam-windlasses, &c., in vessels on the stocks and in ordinary; purchase and preservation of all materials and stores; purchase, fitting, and repair of machinery and tools in the navy-yards and stations; wear, tear, and repair of machinery and boilers of naval vessels; incidental expenses, such as foreign postages, telegrams, advertising, freight, photographing, books, stationery, and instruments, $250,000; and the unexpended balance of the appropriation of $1,000,000 made by the act approved March 3, 1883, for engines and machinery for the double-turreted ironclads, be, and the same is hereby, reappropriated and made available during the fiscal year ending June 30, 1885, for the purposes enumerated in this paragraph: *Provided*, That no part of said sum shall be applied to the repair of engines and machinery of wooden ships where the estimated cost of such repair shall exceed 30 per cent. of the estimated cost of new engines and machinery of the same character and power.

For contingencies, such as instruments and materials for draughting-room, $500.

For the civil establishment, $5,000.

INCREASE OF THE NAVY.

For completing the Mohican at the Mare Island navy-yard, $50,000.

For care and safe-keeping of the iron-clad monitors now in the hands of the contractors, when they shall have been turned over to the Government by said contractors, $5,000.

NAVAL ACADEMY.

For pay of professors and others: For two professors, namely, one of mathematics and one of chemistry, at the rate per annum of $2,500 each; three professors (assistants), namely, one of physics, one of Spanish, and one of English studies, history, and law, at the rate per annum of $2,200 each; six assistant professors, namely, four of French, one of English studies, history, and law, and one of drawing, at the rate per annum of $1,800 each; sword-master, at the rate per annum of $1,500, and two assistants, at the rate per annum of $1,000 each; boxing-master and gymnast, at the rate per annum of $1,200; assistant librarian, at the rate per annum of $1,400; secretary of the Naval Academy, at the rate per annum of $1,800; three clerks to Superintendent, at the rate per annum of $1,200, $1,000, and $800, respectively; one clerk to commandant of cadets, at the rate per annum of $1,200; one clerk to paymaster, at the rate per annum of $1,000; one dentist, at the rate per annum of $1,600; one baker, at the rate per annum of $600; one mechanic in department of physics and chemistry, at the rate per annum of $730; one cook, at the rate per annum of $325.50; one messenger to Superintendent, at the rate per annum of $300; one armorer, at the rate per annum of $529.50; one gunner's mate, at the rate per annum of $469.50, and one quarter-gunner, at the rate per annum of $469.50; one cockswain, at the rate per annum of $469.50; one seaman in the department of seamanship, at the rate per annum of $349.50; one attendant in the department of astronomy and one in the department of physics and chemistry, at the rate per annum of $300 each; six attendants at recitation-rooms, library, store, chapel, and offices, at the rate per annum of $240 each: one band-master, at the rate per annum of $528; twenty-one first-class musicians, at the rate per annum of $348 each; seven second-class musicians, at the rate per annum of $300 each; in all, $26,779.50.

For pay of watchmen and others: For captain of the watch and weigher, at $2.50 per day; four watchmen, at $2 per day each; foreman of the gas and steam-heating works of academy, at $5 per day; ten attendants at gas and steam-heating works, one at $3, one at $2.50, and eight at $2 per day each; one steam-pipe fitter, at the rate per annum of $600; one foreman of joiners, one foreman of painters, and one foreman of masons, at $3.50 per day each; one mason at $3 per day; two joiners and one painter, at $2.50 per day each; one tinner, one gas-fitter, and one blacksmith, at $2.50 per day each; in all, $11,494.25.

For pay of mechanics and others: For one mechanic at workshop, at $2.25 per diem; one master-laborer, to keep public grounds in order, at $2.28 per diem; fourteen laborers, to assist in same, three at $2 per diem each and eleven at $1.50 per diem each; one laborer, to superintend quarters of cadet-midshipmen and public grounds, at $2 per diem; twenty servants, to keep in order and attend to quarters of cadet-midshipmen and public buildings, at $20 per month each; in all $7,281.83.

For pay of the employés in the department of steam-engineering, Naval Academy: One master-machinist, one boiler-maker, and one pattern-maker, at $3.50 per day each; two machinists and one blacksmith, at $2.50 per day each; four laborers, at $1.50 per day each; in all, $3,832.50.

For necessary repairs of public buildings, pavements, wharves, and walls inclosing the grounds of the Naval Academy, and for improvements, repairs, and furniture and fixtures, $10,500: *Provided*, That no appropriation provided for in this act shall be construed to authorize or be applied to a new building for the use of the Superintendent or other officers of the academy.

For fuel, and for heating and lighting the academy and school-ships, $8,500.

For contingent expenses, Naval Academy: For purchase of books for the library, $1,000.

For stationery, blank-books, models, maps, and for text-books for use of instructors, $1,000.

For expenses of the Board of Visitors to the Naval Academy, $750.

For purchase of chemicals, apparatus, and instruments in the department of physics and chemistry, and for repairs of the same, $1,250.

For purchase of gas and steam machinery; steam-pipe and fittings; rent of building for the use of the academy; freight; cartage; water; music; musical and astronomical instruments; uniforms for the bandsmen; telegraphing: for feed and maintenance of teams; for current expenses and repairs of all kinds; and for incidental labor and expenses not applicable to any other appropriation, $17,300.

For stores in the department of steam-enginery, $400.

For materials for repairs in steam-machinery, $500.

MARINE CORPS.

For pay of officers on the active-list, as follows: For one colonel-commandant, one colonel, two lieutenant-colonels, one adjutant and inspector, one quartermaster, one paymaster, four majors, two assistant quartermasters, one judge-advocate-general United States Navy, nineteen captains, thirty first lieutenants, and twenty-two second lieutenants, $98,220.

For pay of officers on the retired-list: For one colonel, three majors, two assistant quartermasters, three captains, two first lieutenants, and three second lieutenants, $14,819.

For pay of non-commissioned officers, musicians, and privates: For one sergeant-major, one quartermaster-sergeant, one leader of the band and one drum major, fifty first sergeants, one hundred and forty sergeants, one hundred and eighty corporals, thirty musicians, ninety-six drummers and fifers, and one thousand five hundred privates, $194,526.

For ten clerks and two messengers, $8,017.50; payments to discharged soldiers for clothing undrawn, $10,000; transportation of officers traveling under orders without troops, $4,000; in all, $22,017.50.

For provisions for the Marine Corps, and for difference between cost of rations and commutation thereof for detailed men, $30,000.

For clothing, $38,500.

For fuel, $9,000.

For military stores, namely: For pay of one chief armorer, at $3 per day; three mechanics, at $2.50 per day each; purchase of military equipments, such as cartridge-boxes, bayonet-scabbards, haversacks, blanket-bags, canteens, musket-slings, swords, flags, knapsacks, drums, fifes, bugles, and other instruments, $2,500; purchase of ammunition, $500; purchase and repair of instruments for the band, and purchase of music, $250; in all, $4,893.25.

For transportation of troops and for expenses of recruiting, $5,000.

For repairs of barracks, and rent of buildings to be used for the manufacture of clothing, stores for supplies, and offices of assistant quartermaster at Philadelphia, and for hire of quarters where there are no public buildings, $9,500.

For forage for four public horses, one for messenger to commandant and staff, Washington, D. C., and three for general use at marine barracks, Mare Island, California, and League Island, Pennsylvania, $360.

For the purchase of forage, $2,340: *Provided*, That no commutation for forage shall be paid.

For contingencies, namely: For freight; ferriage; toll; cartage; funeral expenses of marines; stationery; telegraphing; rent of telephone; apprehension of deserters; per diem to enlisted men employed on constant labor for periods not less than ten days; repair of gas and water fixtures; office and barrack furniture; mess utensils for enlisted men; packing-boxes; wrapping-paper; oil-cloth; crash; rope; twine; carpenter's tools; tools for police purposes; purchase and repair of hose; repairs to public carryall; purchase and repair of harness; repair of fire-extinguishers; purchase and repair of hand-carts and wheelbarrows; purchase and repair of cooking-stoves, ranges, &c.; stoves where there are no grates; purchase of ice; towels and soap for offices; improving parade-grounds; repair of pumps and wharves; laying drain and water pipes; introducing gas; and for other purposes, including gas and oil for marine barracks maintained at the various navy-yards and stations, and water at marine barracks, Boston, Mass., Brooklyn, N. Y., Annapolis, Md., and Mare Island, California; also straw for bedding for enlisted men at the various posts, and furniture for Government houses; in all, $12,500.

At the naval asylum, Philadelphia, Pa.: For superintendent, at the rate per annum of $600; steward, at the rate per annum of $480; matron, at the rate per annum of $360; cook at the rate per annum of $240; two assistant cooks, at the rate per annum of $168 each; chief laundress, at the rate per annum of $192; six laundresses, at the rate per annum of $168 each; nine scrubbers and waiters, at the rate per annum of $168 each; six laborers, at the rate per annum of $240 each;

stable-keeper and driver, at the rate per annum of $360; master-at-arms, at the rate per annum of $480; corporal, at the rate per annum of $330; barber, at the rate per annum of $300; carpenter, at the rate per annum of $845; water-rent and gas, $1,000; ice, $100; car-tickets, $125; cemetery and burial expenses, and headstones, $175; improvement of grounds, $250; repairs to buildings, and preservation of all kinds, painting, and for grates, furnaces, ranges, furniture, and repairs of furniture, $2,250; and for support of beneficiaries, $21,750; in all, $29,906.50, which sum shall be paid out of the income from the naval pension fund.

SEC. 2. That all appropriations made by the act of July 7, 1884, making temporary provision for the naval service for the six months ending December 31, 1884, or any balances thereof that may be unexpended at that date, be, and they are hereby, reappropriated, continued, and made available for the remainder of the fiscal year ending June 30, 1885.

SEC. 3. That the Secretary of the Navy is hereby directed to report to Congress, at its next and each regular session thereafter, the amount expended during the prior fiscal year, from the appropriations for the pay of the Navy, Bureaus of Navigations, Ordnance, Equipment and Recruiting, Yards and Docks, Medicine and Surgery, Provisions and Clothing, Construction and Repair, and Steam-Engineering, for civilians employed on clerical duty, or in any other capacity than as ordinary mechanics and workingmen, and to submit, under the estimates for pay of the Navy and for the respective Bureaus enumerated above, specific estimates for such civilian employés for the fiscal year 1886, and each fiscal year thereafter.

Mr. HALE. The basis of the amendment is the regular appropriation bill for the present year ending July 1, 1885, made up on the estimates of that year, as matured by the House and sent to the Senate. So far as the amounts go they are precisely the same as the House bill; so that we tender to them the bill as matured by them, taking their work.

The only exceptions are some small items, one of a thousand dollars for commutation of quarters for officers of the Marine Corps by the act of July 7, 1884; another for contingent expenses of the Bureau of Yards and Docks, $5,000; and a third for the civil establishment, Bureau of Provisions and Clothing, $6,000; in all $12,000. Those are made necessary by the fact that without them nothing would be had in these several branches for the succeeding six months. Otherwise the amendment is the regular bill as it passed the House.

There have been one or two matters of change of law that the bill leaves off for the conference to adjust, and there are one or two places to which I call attention now, where I wish to make amendments to conform to existing law.

First, in line 13 the amendment provides for "ninety-five ensigns and ninety-eight junior ensigns." Since the bill was matured by the House a law has been passed, the act of June 26, 1884, by which they are all made ensigns and the rank of junior ensign is abolished. Therefore, in line 13, before the word "ensigns," I move to strike out "ninety-five" and insert "one hundred and ninety-three," and after the word "ensigns" to strike out "ninety-eight junior ensigns;" so as to read, "one hundred and ninety-three ensigns," to conform to existing law.

The amendment to the amendment was agreed to.

Mr. HALE. In line 229, before the word "thousand," I move to strike out "twelve" and insert "two;" so as to read:

For necessary repairs of naval laboratory, &c., $2,500.

That is a mistake in the print.

The amendment to the amendment was agreed to.

Mr. HALE. In line 287, before the words "per cent.," I move to strike out "thirty" and insert "twenty;" so as to read:

Provided, That no part of said sum shall be applied to the repair of engines and machinery of wooden ships where the estimated cost of such repair shall exceed 20 per cent. of the estimated cost of new engines and machinery of the same character and power.

That is to conform to existing law.

The amendment to the amendment was agreed to.

Mr. HALE. I believe that is all except the amendment to the title, which will come up after the bill has passed.

The PRESIDING OFFICER. The question is on agreeing to the amendment proposed by the committee as amended.

The amendment as amended was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

On motion of Mr. HALE, the title was amended so as to read: "A bill making additional appropriations for the naval service for the fiscal year ending June 30, 1885, and for other purposes."

TAXATION OF RAILROAD LANDS.

The PRESIDING OFFICER. The first case on the Calendar under Rule VIII will be stated.

Mr. VAN WYCK. Before the Senate proceeds to the Calendar I should like to move that Order of Business 113 under Rule IX, being the bill (S. 60) to declare certain lands subject to taxation, be made the special order for Friday, the 9th day of January.

The PRESIDING OFFICER. The Senator from Nebraska moves that the bill named by him be made a special order for Friday, the 9th of January next, at 2 o'clock.

Mr. GARLAND. With the permission of the Senate, I desire to state that that is a very important bill, and several Senators, who I see are absent now from their places, are very much interested in it. If the Senator from Nebraska thinks the time named by him will be sufficient to allow the return of those Senators, I am perfectly satisfied myself.

Mr. VAN WYCK. I will say to the Senator from Arkansas that it can be made a special order for that day, with the understanding that if any Senator who is interested is away, it shall be made a special order for another day.

Mr. GARLAND. It is perfectly agreeable to me with that understanding. There are several Senators who I know are very much interested in this bill, who I know are absent from the city. With that understanding, however, I have no objection to the motion.

The PRESIDING OFFICER. The question is on the motion of the Senator from Nebraska.

The motion was agreed to by a two-thirds vote.

FORFEITURE OF OREGON LAND GRANT.

Mr. SLATER. I move that the Senate proceed to the consideration of Order of Business 761, being the bill (H. R. 181) to declare forfeiture of certain lands granted to aid in the construction of a railroad in Oregon.

The PRESIDING OFFICER. The Senator from Oregon moves that the bill named by him be now considered by the Senate.

Mr. SHERMAN. I move that the Senate proceed to the consideration of executive business.

The PRESIDING OFFICER. It is moved by the Senator from Ohio that the Senate now proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After six minutes spent in executive session the doors were reopened.

HOLIDAY RECESS.

Mr. ALLISON. I ask that the House resolution relating to adjournment now on the table may be taken up.

The PRESIDING OFFICER. The resolution will be read.

The Chief Clerk read as follows:

IN THE HOUSE OF REPRESENTATIVES, *December* 16, 1884.

Resolved by the House of Representatives (the Senate concurring), That when the two Houses adjourn on Saturday, December 20, 1884, they stand adjourned until Monday, the 5th day of January, 1885.

Mr. ALLISON. I think the Senate is now in such a situation with regard to the public business as to be able to take up that resolution for consideration. I move that it be taken up.

The motion was agreed to.

The PRESIDING OFFICER. The resolution is before the Senate.

Mr. ALLISON. I move now to strike out "Saturday," before "December," and insert "Wednesday;" and after "December," to strike out "20th" and insert "24th;" so as to make the resolution read:

Resolved by the House of Representatives (the Senate concurring), That when the two Houses adjourn on Wednesday, December 24, 1884, they stand adjourned until Monday, the 5th day of January, 1885.

The PRESIDING OFFICER. The question is on the amendment proposed by the Senator from Iowa.

The amendment was agreed to.

The PRESIDING OFFICER. The question is on the resolution as amended.

The resolution as amended was concurred in.

EXECUTIVE SESSION.

Mr. EDMUNDS. I move now that we resume the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After thirty-eight minutes spent in executive session the doors were reopened, and (at 1 o'clock and 54 minutes p. m.) the Senate adjourned.

SENATE.

WEDNESDAY, *December* 24, 1884.

Prayer by Rev. BYRON SUNDERLAND, D. D., of the city of Washington.

The Journal of yesterday's proceedings was read and approved.

PETITIONS AND MEMORIALS.

Mr. PENDLETON presented a memorial of the cigar-makers' union of Elyria, Ohio, remonstrating against the ratification of the proposed reciprocity treaty with Spain; which was referred to the Committee on Foreign Relations.

REPORTS OF COMMITTEES.

Mr. CAMERON, of Wisconsin, from the Committee on Claims, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (S. 237) for the relief of Frances W. Dyer; and

A bill (S. 1863) for the relief of Robert C. Murphy.

He also, from the same committee, to whom was referred the bill (S. 384) for the relief of William M. Pleas and F. S. Jones, reported it with an amendment, and submitted a report thereon.

Mr. PENDLETON, from the Committee on Foreign Relations, to

whom was referred the bill (S. 678) in relation to the Chinese indemnity fund, reported it without amendment, and submitted a report thereon.

He also, from the same committee, to whom were referred the following bills, moved their indefinite postponement; which was agreed to:

A bill (S. 1271) in relation to the Chinese indemnity fund; and,

A bill (S. 1961) supplementary to an act approved June 19, 1878, giving to the Court of Claims jurisdiction of the Caldera claims upon the Chinese indemnity fund.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. CLARK, its Clerk, announced that the House had passed the bill (S. 2348) to authorize the increase of the capital stock of the First National Bank of Omaha, Nebr.

The message also announced that the House had agreed to the amendments of the Senate to the concurrent resolution of the House providing for a holiday recess.

ENROLLED BILL SIGNED.

The message further announced that the Speaker of the House had signed the enrolled bill (S. 2393) to change the name of the Slater National Bank of North Providence, R. I.

EXECUTIVE SESSION.

Mr. MORRILL. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After twenty-five minutes spent in executive session the doors were reopened, and (at 12 o'clock and 35 minutes p. m.) the Senate, in pursuance of the concurrent resolution of the two Houses, adjourned until Monday, January 5, 1885.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *December* 24, 1884.

The House met at 12 o'clock m. Prayer by the Chaplain, Rev. JOHN S. LINDSAY, D. D.

The Journal of the proceedings of Saturday last was read and approved.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, announced that the Senate had passed without amendments bills of the House of the following titles, namely:

A bill (H. R. 452) granting a pension to Frederick Corfe;

A bill (H. R. 2440) granting a pension to Usebus Sweet;

A bill (H. R. 3177) granting a pension to Charles F. Paris;

A bill (H. R. 3210) for the relief of Jacob Hoerth;

A bill (H. R. 3382) granting a pensiqn to Albert Brant;

A bill (H. R. 4094) granting a pension to Henry Alden; and

A bill (H. R. 5735) granting a pension to Margaret Daily.

The message also announced that the Senate had passed with amendments, in which the concurrence of the House of Representatives was requested, bills and a concurrent resolution of the following titles, namely:

A bill (H. R. 7577) making appropriation for the support of the Military Academy for the fiscal year ending June 30, 1886, and for other purposes;

A bill (H. R. 7791) making temporary provision for the naval service; and

Concurrent resolution providing that when the two Houses adjourn on Saturday, December 20, they stand adjourned until Monday, January 5, 1885.

The message further announced that the Senate had passed bills of the following titles; in which the concurrence of the House of Representatives was requested:

A bill (S. 654) to provide for a commission on the subject of the alcoholic liquor traffic;

A bill (S. 1543) for the relief of Wilbur F. Steele; and

A bill (S. 2269) to extend the provisions of the act of June 10, 1880, entitled "An act to amend the statutes in relation to the immediate transportation of dutiable goods, and for other purposes," to the port of Omaha, in the State of Nebraska.

ORDER OF BUSINESS.

Mr. MOULTON. Mr. Speaker, I ask leave to withdraw certain papers from one of the committees of the House——

The SPEAKER. The Chair would suggest to the gentleman that it will be necessary to submit a request in writing. The Chair thinks, perhaps, however, that it is not the intention of the House to transact any business to-day except mere formal business.

Mr. RANDALL. I ask now to take up for present consideration the House resolution providing for the usual holiday recess as amended by the Senate.

CORRECTION OF THE RECORD.

Mr. REED. Before that is done I desire to make a correction of the RECORD.

On page 427 of the RECORD of the proceedings of Saturday last, under the heading "Interstate commerce," the Speaker has directed in the regular edition a correction of the following six lines, coming immediately after the second line under this title:

Mr. REAGAN. I move the previous question on the pending section and amendment.
Mr. REED. Is that motion debatable?
The SPEAKER. It is not.
Mr. REED. Why?
The SPEAKER. The gentleman from Texas has demanded the previous question.

I wish now, in this same connection, to have the correction inserted in the daily edition, because it would not appear in that edition unless attention was called to it on the floor of the House.

The SPEAKER. The Clerk, with the permission of the House, will read the correction to which the gentleman from Maine refers.

Mr. TOWNSHEND. I would like to inquire if it is not in order for my colleague to ask the House to grant a mere formal order for the withdrawal of papers, by what authority we can undertake to proceed in this manner to transact other business?

The SPEAKER. The request of the gentleman from Illinois was not a mere formal matter, but was a request requiring the action of the House in relation to the withdrawal of papers sent, the Chair supposes as a matter of course by the order of the House, to one of the committees of the House. The practice of the House has been to treat corrections of the RECORD as somewhat in the nature of privileged matters. However, if there is objection to it of course it will not be done.

Mr. TOWNSHEND. I have not objected; but simply asked the question how, if no business is to be transacted to-day, this could be done, when the request of my colleague was denied.

The SPEAKER. The Chair will of course entertain the request of the gentleman from Illinois if there be no objection; and has only intimated that it was generally understood that no business shall be transacted to-day except mere formal matters, in the absence of a quorum.

The Clerk will read the correction to which the gentleman from Maine refers.

The Clerk read as follows:

Insert after the second line, under the heading, "Interstate commerce," on page 427 of the RECORD, as follows:

"Mr. REAGAN. I move to close debate on the pending amendment and on the section under consideration, and on that motion I demand the previous question.

"Mr. REED. Is that motion debatable?

"The SPEAKER. The Chair thinks it is, but the gentleman from Texas has demanded the previous question on it.

"Mr. REED. When did the gentleman demand the previous question?

"The SPEAKER. The gentleman demanded the previous question when he was on the floor and made the motion to close debate."

The SPEAKER. The RECORD as it stands says the gentleman from Texas [Mr. REAGAN] demanded the previous question on the pending section and amendment; whereas, as a matter of fact, the gentleman moved to close debate upon the amendment and the section, and on that motion demanded the previous question.

If there be no objection the proper correction will be inserted.

There was no objection, and it was ordered accordingly.

HOLIDAY RECESS.

Mr. RANDALL. I now call up the resolution of the House providing for the holiday recess with Senate amendments.

The SPEAKER. The Clerk will read the resolution of the House and the Senate amendments.

The Clerk read as follows:

Resolved by the House of Representatives (the Senate concurring), That when the two Houses adjourn on Saturday, December 20, 1884, they stand adjourned until Monday, January 5, 1885.

IN THE SENATE OF THE UNITED STATES, *December* 23, 1884.

Resolved, That the Senate agree to the foregoing resolution of the House of Representatives with the following amendments:

In line 3, strike out "Saturday" and insert "Wednesday." In line 3, strike out "twenty" and insert "twenty-four;" so that it will read:

"*Resolved*, That when the two Houses adjourn on Wednesday, December 24, 1884, they stand adjourned until Monday, January 5, 1885."

Mr. RANDALL. I move that the House concur in the amendment of the Senate.

Mr. BEACH. Is that proposition debatable?

The SPEAKER. Although there is no rule of the House which prescribes that propositions to concur in amendments of the Senate in relation to fixing a time for adjournment are not debatable in the House, still the rule of the House prescribes that such motions when made in the House are not debatable.

Mr. RANDALL. I ask the previous question.

Mr. BEACH. I think the gentleman from Pennsylvania had better give gentlemen an opportunity to be heard upon the amendments of the Senate.

Mr. RANDALL. I am sorry that I can not comply with the request of the gentleman from New York.

The SPEAKER. The question is on ordering the previous question.

The question was taken; and on a division there were—ayes 74, noes 4.

Mr. BEACH. No quorum.

The SPEAKER. The point of order being made that no quorum has voted, the Chair will appoint tellers.

Mr. BEACH and Mr. RANDALL were appointed tellers.

Before the result of the vote by tellers was reported,

Mr. RANDALL said: I withdraw the demand for the previous question.

The SPEAKER. The demand for the previous question having been withdrawn, the question is on concurring in the amendments proposed by the Senate.

The amendments proposed by the Senate were concurred in.

Mr. RANDALL moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. RANDALL. I move that the House do now adjourn.

ENROLLED BILL SIGNED.

Pending the question on the motion to adjourn,

Mr. NEECE, from the Committee on Enrolled Bills, reported that the committee had examined and found duly enrolled a bill of the following title; when the Speaker signed the same:

An act (S. 2393) to change the name of the Slater National Bank of North Providence, R. I.

Mr. PERKINS, from the Committee on Enrolled Bills, reported that the committee had examined and found duly enrolled a joint resolution of the following title; when the Speaker signed the same:

Joint resolution (S. R. 32) providing for the payment of laborers in Government employ for certain holidays.

CHANGE IN COMMITTEE ASSIGNMENTS.

The SPEAKER. The Chair announces the following committee assignments, made necessary by changes in the membership of the House.

The Clerk read as follows:

Committee on Elections: Hiram Y. Smith, of Iowa, in place of Mr. Hepburn, resigned.

Committee on Military Affairs: Daniel Connolly, in place of William A. Duncan, deceased.

Committee on the Public Lands: James E. Campbell, of Ohio, in place of Mr. Scales, resigned.

Committee on the Territories: William D. Hill, to fill vacancy occasioned by the death of Mr. Evins.

Committee on Education: Charles T. O'Ferrall, in place of William A. Duncan, deceased.

Committee on Revision of the Laws: George T. Garrison, in place of W. D. Hill, resigned.

Committee on Expenditures in the Treasury Department: Jonathan H. Wallace, in place of Mr. Connolly.

Committee on Printing: John Bratton, to fill vacancy caused by resignation of Mr. Scales.

SELECT COMMITTEES.

On Payment of Pensions, Bounty, and Back Pay: Jonathan H. Wallace, in place of Mr. Connolly, resigned.

On the Alcoholic Liquor Traffic: William E. English, in place of Mr. Evins, deceased.

The motion to adjourn was then agreed to; and accordingly (at 12 o'clock and 23 minutes p. m.) the House, in pursuance of the concurrent resolution of the two Houses, adjourned until Monday, January 5, 1885, at 12 o'clock m.

PETITIONS, ETC.

The following petitions and papers were laid on the Clerk's desk, under the rule, and referred as follows:

By Mr. BAGLEY: Petition of New York Leaf Tobacco Board of Trade opposing the Spanish treaty—to the Committee on Ways and Means.

By Mr. EATON: Petition of Toy, Bickford & Co. in favor of Mexican treaty—to the Committee on Ways and Means.

By Mr. McCORMICK. Petition of President W. H. Scott and eleven professors of the Ohio State University, for passage of House bill No. 7498, to establish agricultural experiment stations—to the Committee on Agriculture.

By Mr. MILLS: Petition of citizens of Corsicana, Tex., praying for a uniform system of bankruptcy—to the Committee on the Judiciary.

By Mr. PETERS: Papers relating to claim of Capt. M. Quigg—to the Committee on War Claims.

Also memorial of the city of Leavenworth, Kans., asking for an appropriation to improve the Missouri River—to the Committee on Rivers and Harbors.

By Mr. POLAND: Petition of Thomas Cavanagh and George R. Herrick, relating to Senate bill 1432—to the Committee on the District of Columbia.

The following petitions for the passage of the Mexican war pension bill with Senate amendments were presented and severally referred to the Committee on Pensions:

By Mr. T. M. BROWNE: Of 68 members of the William A. Boyd Post, G. A. R., and 98 citizens of Dublin, Ind.

By Mr. FUNSTON: Of citizens of Uniontown, Kans.

By Mr. LE FEVRE: Of M. McDonald and 54 others, citizens of Hollandsburg, Ohio.

By Mr. MATSON: Of George W. Mitchell and 58 others, citizens of Morgan County, Indiana.

By Mr. WEMPLE: Of 63 citizens and ex-soldiers of Montgomery County, New York.

By Mr. WOODWARD: Of 76 citizens of Vernon County, and 74 citizens of Sank County, Wisconsin.

By Mr. WORTHINGTON: Of Norman McQueen and 70 others, of Fulton County; and of W. M. Stockdale and 60 others, citizens of Knox County, Ill.

SENATE.

MONDAY, *January 5*, 1885.

Prayer by the Chaplain, Rev. E. D. HUNTLEY, D. D.

The Journal of the proceedings of Wednesday, December 24, 1884, was read and approved.

CREDENTIALS.

The PRESIDENT *pro tempore* laid before the Senate the credentials of JUSTIN S. MORRILL, chosen by the Legislature of Vermont a Senator from that State for the term commencing March 4, 1885; which were read, and ordered to be filed.

ENROLLED BILLS SIGNED.

The PRESIDENT *pro tempore* announced his signature of the enrolled bill (S. 2393) to change the name of the Slater National Bank of North Providence, R. I.; which had heretofore been signed by the Speaker of the House of Representatives.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of War, transmitting, in response to a resolution of April 22, 1884, a report of the Chief of Engineers, with report of Lieut. Col. O. M. Poe, Corps of Engineers, concerning the Portage Lake and Lake Superior ship-canal; the interest of the State of Michigan therein; the rights, title, &c., of the Portage Lake and River Improvement Company thereto, &c.; which, with the accompanying papers, was, on motion of Mr. CONGER, referred to the Committee on Commerce, and ordered to be printed.

He also laid before the Senate a communication from the Secretary of the Interior, transmitting a letter from the Commissioner of Indian Affairs, recommending that a portion of the $2,000 appropriated for the purchase of teams and agricultural implements for the Lawrence school during the current fiscal year, and not required for that purpose, may be expended in the purchase of materials for the construction of washhouse, blacksmith and carpenter shops, fencing, &c.; which, with the accompanying papers, was, on motion of Mr. DAWES, referred to the Committee on Appropriations, and ordered to be printed.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented the petition of Mrs. Sanford Makepeace, of East Weymouth, Mass., praying that her husband may be allowed an increase of pension with back pay; which was referred to the Committee on Pensions.

He also presented the petition of Lenora W. Marshall, of Chicago, Ill., praying that she and other heirs of Thomas Hoyt, deceased, a colonel in the Revolutionary war, may be allowed a pension; which was referred to the Committee on Revolutionary Claims.

He also presented the memorial of J. Van Allen, of New York city, remonstrating against a charter for the establishment in this country of a university to be presided over by a foreign potentate; which was referred to the Committee on Foreign Relations.

He also presented the petition of Atchison Wolf, of Roanoke, Ind., praying for an increase of force in the Patent Office; which was referred to the Committee on Patents.

Mr. SHERMAN. I present a petition of citizens of Ohio, members of the Society of Friends, who respectfully pray for the insertion of a clause in the pending treaty between the United States and Spain, requiring that all questions which can not be settled by the usual diplomatic methods be submitted to a board of arbitration. I move that the petition be referred to the Committee on Foreign Relations.

The motion was agreed to.

Mr. SHERMAN presented a petition of Dick Lambert Post, No. 165, Grand Army of the Republic, of Ohio, praying for the passage of the bill (H. R. 2522) granting a pension to John Q. Bellville; which was referred to the Committee on Pensions.

He also presented a petition of citizens of Cleveland, Ohio, praying for the construction of the Hennepin Canal; which was referred to the Committee on Commerce.

He also presented a memorial of Memorial Post, No. 141, Grand Army of the Republic, Department of Ohio, favoring the purchase of the portrait of Maj. Gen. George H. Thomas painted by Miss C. S. Ransom; which was referred to the Committee on the Library.

Mr. WILSON. I have received a memorial in the form of a protest

and resolution of the Board of Trade of Council Bluffs, Iowa, in opposition to legislation tending to an extension of the charter of the Union Pacific Railroad Company. The memorial is addressed to the Iowa delegation in Congress, but is evidently intended for the consideration of the two bodies. I therefore ask that it may be received and referred to the Committee on the Judiciary.

The PRESIDENT *pro tempore*. If there be no objection, the paper will be received and so referred.

Mr. HALE presented the petition of Ignatius Sargent and others, of Maine, the petition of S. H. Talbot and others, of Maine, and the petition of E. A. Barnard and others, of Maine, praying for the ratification of the proposed Spanish reciprocity treaty; which were referred to the Committee on Foreign Relations.

Mr. CAMERON, of Pennsylvania, presented a petition of Courtland Saunders Post, No. 21, Grand Army of the Republic, Department of Pennsylvania, praying for the publication of photographic illustrations in the Official Records of the War of the Rebellion; which was referred to the Committee on Printing:

He also presented memorials of cigar-makers of Philadelphia, Bradford, Greenville, and Farrandsville, in the State of Pennsylvania, and a memorial of cigar-makers of Philadelphia, Pa.; a memorial of cigar-makers of Meadville, Pa.; a memorial of the Cigar-makers' League and Knights of Labor of Pittsburgh, Pa.; a memorial of the New York Leaf Tobacco Board of Trade, and a memorial of the Cigar-makers' Union of Warren, Pa., remonstrating against the ratification of the proposed Spanish reciprocity treaty; which were referred to the Committee on Foreign Relations.

He also presented a petition of marine underwriters and merchants of Philadelphia, Pa., praying an additional appropriation of $20,000 for the purpose of rendering the signal service on the island of Nantucket more effective; which was referred to the Committee on Appropriations.

He also presented a petition of Mary G. Shott, of Middletown, Dauphin County, Pennsylvania, praying to be allowed a pension; which was referred to the Committee on Pensions.

He also presented a memorial of citizens of York County, Pennsylvania, remonstrating against the ratification of that portion of the proposed treaty between the United States and Spain which relates to tobacco and cigars; which was referred to the Committee on Foreign Relations.

Mr. MANDERSON presented a petition of Curtis Post, No. 89, Grand Army of the Republic, Department of Nebraska, praying for the publication of photographic illustrations in the Official Records of the War of the Rebellion; which was referred to the Committee on Printing.

He also presented a petition of the city council of Omaha, Nebr., praying for the construction of the Hennepin Canal; which was referred to the Committee on Commerce.

Mr. LAPHAM presented resolutions adopted by the Board of Managers of the Produce Exchange of New York City, urging a modification of the proposed treaty with Spain so as to admit flour from the United States on the same basis as Spanish flour as regards duty; which were referred to the Committee on Foreign Relations.

He also presented a resolution adopted at a mass-meeting of cigar-packers, held at Concordia Assembly Rooms, in the city of New York, on the 18th ultimo, and a resolution adopted at a mass-meeting held by the cigar-makers of the city of Albany, N. Y., protesting against the ratification of the proposed treaty between Spain and the United States; which were referred to the Committee on Foreign Relations.

He also presented a petition of merchants and manufacturers of New York city, praying for the ratification of the proposed Spanish reciprocity treaty; which was referred to the Committee on Foreign Relations.

Mr. CONGER presented a memorial of Messrs. Salliotte & Raupp, of Ecorse, Mich.; a memorial of the Knights of Labor of Kalamazoo, Mich.; and a memorial of the Michigan Carbon Works of Detroit, Mich., remonstrating against the ratification of the proposed Spanish reciprocity treaty; which were referred to the Committee on Foreign Relations.

Mr. DAWES presented the petition of William H. Smart Post, No. 30, Department of Massachusetts, Grand Army of the Republic, praying for the publication of certain photographic illustrations in the Official Records of the War of the Rebellion; which was referred to the Committee on Printing.

He also presented papers relating to the application of E. L. Keyes for appointment to the Army; which were referred to the Committee on Military Affairs, to accompany Senate bill No. 1798, heretofore referred to that committee.

Mr. PENDLETON. I present the petition of Richard Dymond, of Cincinnati, representing a large mercantile firm in that city, praying for the passage of what is known as the Potter refunding bill. I move that the petition be referred to the Committee on Finance.

The motion was agreed to.

Mr. VOORHEES presented the petition of Perry W. Chappell and 114 other citizens of Pike County, Indiana, praying that the name of Sasser Sullivan be placed upon the pension-roll for services in the war of the rebellion and also the Mexican war; which was referred to the Committee on Pensions.

Mr. VEST presented a memorial of tobacconists, cigar manufacturers, and employés, of Saint Louis, Mo., remonstrating against the ratification of the treaty now pending before the Senate, known as the Spanish-American reciprocity treaty; which was referred to the Committee on Foreign Relations.

Mr. SAWYER presented resolutions of the State board of health of Wisconsin, in favor of the bill to provide for the establishment of a national board of health; which were referred to the Committee on Epidemic Diseases.

BILLS INTRODUCED.

Mr. BECK introduced a bill (S. 2490) to create a revenue commission; which was read the first time by its title.

Mr. MORGAN. I ask that the bill be read at length.

The bill was read the second time at length, and referred to the Committee on Finance, as follows:

Be it enacted, &c., That a commission is hereby created, of which the Secretary of the Treasury shall be *ex officio* a member, composed of five members of the House of Representatives elected to serve during the Forty-ninth Congress and three Senators whose terms extend beyond the present Congress by re-election or otherwise, to be called the "revenue commission," whose duty it shall be to examine and report to Congress on or before the second Monday in December, A. D. 1885, what changes and modifications ought to be made in the existing tariff and revenue laws and regulations in regard to the amount of duties and taxes imposed, and the methods employed in their collection.

SEC. 2. Said commission is empowered to organize at such time and in such manner as a majority thereof may determine. It may act through subcommittees, and hold meetings at such places within the United States as will best secure the information desired; and it shall be the duty of all the United States officials, when called upon by the commission, to furnish it with such information as they possess touching the subjects it is inquiring into.

SEC. 3. The commission is authorized to employ such stenographers and messengers as it may require. It may call for information from such persons as it may believe to be well advised in regard to the subjects it is investigating, and reduce to writing such portions of their statements as may be considered material. It is authorized to pay such persons as it calls before it the usual amount allowed for mileage and per diem to witnesses when summoned to appear before the courts of the United States, and it is empowered to procure suitable places in which to hold its meetings.

SEC. 4. All the traveling and other necessary expenses of the commission, the pay and allowance of witnesses, the compensation of stenographers and messengers, the rent of rooms, and other expenses shall be paid out of any money in the Treasury not otherwise appropriated on the order of the chairman of the commission; and 1,500 copies of the report and such testimony, statements, and exhibits as the commission may direct shall be printed by the Public Printer for the use of the House of Representatives and 500 copies for the use of the Senate.

SEC. 5. The members of the commission shall be selected by the respective Houses of which they are members in such manner as each House may determine.

Mr. MAXEY introduced a bill (S. 2491) to amend section 2117 of the Revised Statutes, in relation to grazing live-stock on lands occupied by Indian tribes or nations; which was read twice by its title, and referred to the Committee on Indian Affairs.

Mr. SHEFFIELD introduced a bill (S. 2492) to prevent the discharge from the military service of the United States of graduates from the Military Academy under the provisions of section 3 of chapter 181 of the Supplement of the Revised Statutes, and for the repeal of the said section; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. VOORHEES introduced a bill (S. 2493) to repeal the statute of limitations on the allowance of pension arrears, and to regulate proof in pension cases; which was read twice by its title, and referred to the Committee on Pensions.

He also introduced a joint resolution (S. R. 107) tendering the thanks of Congress to the officers and men of the Greely relief expedition; which was read twice by its title, and referred to the Committee on Naval Affairs.

Mr. COCKRELL introduced a bill (S. 2494) providing for the relief of G. Alexander Ramsay; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Claims.

AMENDMENT TO A BILL.

Mr. SEWELL submitted an amendment intended to be proposed by him to the bill (S. 2436) to enable the President to accept invitations of foreign Governments to international exhibitions and to appoint commissioners thereto, and for other purposes; which was ordered to lie on the table and be printed.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. CONGER, it was

Ordered, That the papers in the pension claim of Peter Lennon be taken from the files and referred to the Committee on Pensions.

PUBLICATION OF TREATIES.

Mr. MILLER, of California. I offer the following resolution, and ask for its present consideration:

Resolved, That the Secretary of State be directed to transmit to the Senate copies of all the treaties and conventions (except postal conventions) entered into by the United States the ratification whereof has been exchanged, with such notes as may be in his possession indicating such treaties or conventions, or such parts of treaties or conventions, as have been changed or abrogated; together with a synoptical and analytical index of such treaties and conventions.

Mr. INGALLS. Does that refer to all the treaties that have been made since the institution of the Government?

Mr. MILLER, of California. Yes; all but postal treaties. It is desirable to get out another edition for the purpose of having it printed. There has been none for ten years.

Mr. INGALLS. I was not aware of the object of the resolution.

The PRESIDENT *pro tempore*. Is there objection to the present consideration of the resolution? The Chair hears none. The question is on agreeing to it.

The resolution was agreed to.

KIOWA, COMANCHE, AND WICHITA INDIAN AGENCY.

Mr. DAWES submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Interior be, and he is hereby, directed to furnish, for the information of the Senate, copies of the reports of the inspectors and of Special Agent P. H. Folsom, of the Indian Office, recently made, in respect to the management of the affairs of the Kiowa, Comanche, Wichita, &c., Indian agency, and of all papers relating thereto.

RECIPROCITY TREATIES, SO CALLED.

Mr. MORRILL. I give notice that I shall on Wednesday of this week call up the resolution introduced by me on the 15th of December, 1884, in relation to reciprocity treaties, so called, for the purpose of making some remarks thereon.

LEAVE OF ABSENCE.

Mr. CULLOM. I ask that my colleague [Mr. LOGAN] may be granted a leave of absence for fifteen days.

The PRESIDENT *pro tempore*. The Senator from Illinois asks that his colleague [Mr. LOGAN] may have leave of absence for fifteen days from this day. If there be no objection that order will be entered.

ENROLLED BILLS SIGNED.

A message from the House of Representatives, by Mr. CLARK, its Clerk, announced that the Speaker of the House had signed the following enrolled bills and joint resolution; and they were thereupon signed by the President *pro tempore*:

A bill (H. R. 452) granting a pension to Frederick Corfe;
A bill (H. R. 2440) granting a pension to Usebus Sweet;
A bill (H. R. 3177) granting a pension to Charles F. Paris;
A bill (H. R. 3210) for the relief of Jacob Hoerth;
A bill (H. R. 3382) granting a pension to Albert Brant;
A bill (H. R. 4094) granting a pension to Henry Alden;
A bill (H. R. 5735) granting a pension to Margaret Daily; and
Joint resolution (S. R. 32) providing for the payment of laborers in Government employ for certain holidays.

RIGHTS IN LAND GRANTS.

The PRESIDENT *pro tempore*. The Chair lays before the Senate the Calendar under Rule VIII, commencing at Order of Business 338, being the bill (S. 1445) to provide for the settlement of the rights of the States and of the corporations and persons interested in any grant of lands in aid of railroads and canals which shall be declared forfeited by act of Congress.

Mr. MORGAN. I ask that that be laid over without prejudice, inasmuch as the subject to which it relates is not yet ready for the attention of the Senate.

The PRESIDENT *pro tempore*. The Senator from Alabama asks unanimous consent that the bill be passed over, retaining its place on the Calendar under Rule VIII. Is there objection? The Chair hears none, and it is so ordered.

EDUCATIONAL FUND.

The bill (S. 1235) to establish an educational fund and apply a portion of the proceeds of the public lands to public education, and to provide for the more complete endowment and support of colleges for the advancement of scientific and industrial education, was announced as next in order on the Calendar.

Mr. PUGH. Let that bill be passed over, retaining its place on the Calendar.

Mr. COCKRELL. Can we not make some arrangement by which such cases will not have to be called every morning? Suppose the bill be allowed to retain its place on the Calendar but that it be not called in order every time we go to the Calendar, and let the same order be made with regard to the bill which has just been passed over.

Mr. MORGAN. I have no objection to that course.

Mr. COCKRELL. Then the Chief Clerk will not have to call these bills every morning.

The PRESIDENT *pro tempore*. The Chair will suggest that if the bills are not to be taken up immediately under Rule VIII, they might be passed over and placed on the Calendar under Rule IX, to be taken up then at the pleasure of the Senate on the motion of the Senators having them in charge.

Mr. PUGH. Very well; let this bill be placed on the Calendar under Rule IX, and if any action is proposed on it we can set a day for its consideration.

The PRESIDENT *pro tempore*. The bill will then be placed on the Calendar under Rule IX.

SOUTHERN MAIL CONTRACTORS.

The joint resolution (S. R. 13) to reappropriate and apply the amount appropriated by the act of Congress approved March 3, 1877, to pay certain Southern mail contractors was announced as next in order.

The PRESIDENT *pro tempore*. This resolution has been previously considered by the Senate as in Committee of the Whole.

Mr. CONGER. I object to its consideration under Rule VIII.

The PRESIDENT *pro tempore*. The consideration of the resolution is objected to, and it goes on the Calendar under Rule IX.

FIRST NATIONAL BANK OF NEWTON, MASS.

The bill (S. 1331) making appropriation for the relief of the First National Bank of Newton, Mass., was announced as next in order.

Mr. JACKSON. The Senator from Massachusetts [Mr. HOAR] will not be in his seat until Wednesday morning. He is very much interested in the bill, and I ask that it be passed over without prejudice until Wednesday.

The PRESIDENT *pro tempore*. The Senator from Tennessee asks that the bill be passed over retaining its place on the Calendar under Rule VIII. Is there objection?

Mr. CONGER. I think the bill may as well now as at any time go to the Calendar under Rule IX. It should be taken up when it can have more full discussion than under Rule VIII. Therefore I ask that the bill may go under Rule IX.

Mr. JACKSON. I ask the Senator from Michigan to allow it to be passed over informally until Wednesday. He can interpose his objection then.

Mr. CONGER. As the Senator from Massachusetts is not in his seat, I shall not make an objection to the bill being passed over informally at this time.

The PRESIDENT *pro tempore*. Is there objection to the bill being passed over retaining its place on the Calendar under Rule VIII? The Chair hears none, and it is so ordered.

SUITS IN COLLISION CASES.

The bill (S. 1472) to permit the owners of certain vessels and cargoes to sue the United States in the Court of Claims was considered as in Committee of the Whole.

The bill was reported from the Committee on the Judiciary with amendments: in line 8, to strike out "Court of Claims" and insert "district court of the United States that would have jurisdiction thereof if the case had arisen between private parties;" in line 11, after the words "arising from," to strike out the words "or attributable to;" in line 14, after the word "Court," to strike out the words "of Claims;" in line 15, after the word "authorized," to insert "to try and determine such cases according to the principles of law, and;" and in line 19, after the word "representatives," to insert "and the right of appeal shall exist as in other cases;" so as to make the bill read:

That the owner or owners of any American ship or vessel engaged in the United States merchant marine, or the owner or owners of any cargo laden thereon, or any person or persons interested in said vessels or cargos, may, and they are hereby, authorized and empowered to sue the United States in the district court of the United States that would have jurisdiction thereof if the case had arisen between private parties for any damage, loss, or injury to such vessels or cargoes arising from the negligence, want of skill, or mismanagement of any vessel owned by or belonging to the United States, or those in charge thereof, by collision; and the said court is hereby authorized to try and determine such cases according to the principles of law, and to enter a judgment or decree for the amount of such injury, loss, or damage, if any shall be found due, in favor of the party or parties plaintiff, or their legal representatives; and the right of appeal shall exist as in other cases: *Provided, however*, That this act shall not extend to cases occurring more than five years prior to the passage of this act.

The amendments were agreed to.

Mr. CONGER. I desire to ask the Senator who reported the bill whether there is any provision for payment of or security for costs in any of the cases that may be commenced under this proposed law. Here is a general right to ship-owners and passengers and individuals of all classes to sue the United States where the owner or sailor or passenger may claim to have been injured. I ask whether this provision is not too general without some restriction to guard the United States?

Mr. GARLAND. The bill in that respect simply recognizes the general law as to costs with which the Senator from Michigan is familiar, and does not change it in any particular. The general law on that subject is ample, I take it, for all purposes in this proceeding.

I will state, since I am up, that the bill has been suggested by the Committee on the Judiciary in obedience to a number of petitions that have been sent here on behalf of parties owning vessels for relief who have alleged that they have suffered as the bill indicates. There was no jurisdiction, properly speaking, anywhere to try such cases. The Supreme Court held in the case of the Syren, in seventh Wallace, that a suit of this sort could not be brought without an act of Congress authorizing it, and that the jurisdiction of the Court of Claims was not sufficient without enlarging that jurisdiction.

The present occupant of the chair [Mr. SHERMAN] will remember that there was a case here from Tennessee, introduced by the Senator on my right [Mr. HARRIS] on the petition of some gentlemen at Memphis. There was a special bill for that case authorizing the parties to go into the district court. The present occupant of the chair, the Senator from Ohio, offered an amendment to send them to the Court of Claims, but the Senate passed the bill as it came from the committee.

The committee have had several applications of this sort, and they have thought best not to pass a special bill upon each petition that may come up, but to have a general bill allowing all these persons to go into the district court that would otherwise have the jurisdiction to try such matters between private parties, and to relieve the difficulty that was stated in the case of the Syren, in seventh Wallace.

There is one amendment I would offer to the bill. In line 16, before the word "law," I move to insert the word "admiralty," because it is an admiralty proceeding. That then will cover the question suggested by the Senator from Michigan, because the admiralty practice regulates the matter of costs.

Mr. CONGER. Mr. President——

The PRESIDING OFFICER (Mr. SHERMAN in the chair). The Senator from Michigan has already spoken once.

Mr. CONGER. I can speak upon the amendment.

The PRESIDING OFFICER. The Senator from Michigan can speak to the amendment, but it will be first reported.

The CHIEF CLERK. In line 16, before the word "law," it is proposed to insert the word "admiralty;" so as to read:

And the said court is hereby authorized to try and determine such cases according to the principles of admiralty law.

Mr. CONGER. Speaking to the amendment, then, I make the inquiry whether under the provisions of the bill as it stands, even with that addition, power would be given to consolidate any claims about the same transaction.

Mr. GARLAND. No, sir.

Mr. CONGER. Should it not be so?

Mr. GARLAND. I have no objection, if the Senator prefers to make it specific.

Mr. CONGER. I do not know where it comes in, but it seems to me there should be power in the court to consolidate any questions that may arise between owners and passengers of ships, or whatever it might be, concerning the same injury or the same transaction.

Mr. GARLAND. I think my amendment would relieve against that objection.

Mr. CONGER. My objection is not on that account. I think there should be some provision by which, if there were numerous actions by different claimants for the same occurrence, they might all be tried together.

Mr. GARLAND. I think so, and that is my reason for putting in the word "admiralty." That covers every question the Senator has suggested, both as to costs and as to consolidation of claims. I am pretty positive as to that, the only difference being that under admiralty the trial would be before the judge, and contributory negligence would operate only to divide the damages, whereas in a trial as at common law it would be before a jury, and contributory negligence would defeat the claim absolutely.

Mr. SHEFFIELD. I should like to ask the Senator a question. By the rules of the admiralty courts the party coming in for relief is required to give surety for costs. I ask whether that does not apply in this case. It has occurred to me, and I wish to attract the Senator's attention for a moment to the point, that this does not come under the limited-liability act. In the case of any old hulk that belongs to the United States injuring a ship and cargo, it may be, would the United States be liable for the entire amount of the injury and not limited to the value of the colliding vessel?

Mr. GARLAND. I do not think that objection is tenable. If the Senator will examine the bill and the case I have referred to, which was passed upon by the Supreme Court, he will find that the bill is drafted with a view to that case and to meet the objection raised there; and it would simply give this general jurisdiction under the admiralty law under rules well known and established by the Supreme Court to carry on practice of that sort.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Arkansas.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended to read: "A bill to permit the owners of certain vessels and cargoes to sue the United States."

MRS. EMILY MILLER.

The bill (S. 1320) for the relief of Mrs. Emily Miller was announced as next in order.

Mr. HARRIS. That is adversely reported. Let it go over.

The PRESIDING OFFICER. The bill will go over under the adverse report.

PEARSON C. MONTGOMERY.

The bill (S. 896) for the relief of Pearson C. Montgomery, of Memphis, Tenn., was considered as in Committee of the Whole.

The bill was reported from the Committee on Claims with an amendment, in line 6, to strike out "$14,800" and insert "$3,100;" so as to read:

That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Pearson C. Montgomery, of Memphis, State of Tennessee, the sum of $3,100, in full compensation for property taken from him for the use of and used by the Army of the United States during the late war.

Mr. CONGER. I call for the reading of the report in that case.

The PRESIDENT *pro tempore*. The report of the committee will be read.

The Chief Clerk read the following report, submitted by Mr. PIKE March 17, 1884:

The Committee on Claims, to whom was referred the bill (S. 896) for the relief of Pearson C. Montgomery, having considered the same, beg leave to make the following report:

On the breaking out of the rebellion Pearson C. Montgomery, of Memphis, Tenn., was the owner of the steamer New National, of about four hundred and eighty tons burden, and was engaged in regular business with said boat on the Mississippi River.

At the outbreak of the rebellion she was impressed by the confederates into their service without and against the consent of Montgomery, as he alleges. She continued in the service of the confederates from that time to June 6, 1862, when Memphis was captured by the Union forces. She was at Memphis on that day under orders from the confederate authorities to proceed down the river. Said orders were not obeyed, but after the fight Chief Clerk Nicholas M. Johnson, under the direction of said Montgomery, as he alleges, went on board the monitor Benton and delivered the New National to Admiral Davis, and Capt. Alexander Grant, of the Navy, was immediately placed in command of her, and she entered upon the service of the United States with the full consent of said Montgomery, as he alleges.

She continued in said service from June 6, 1862, to March 20, 1863, a space of two hundred and eighty-eight days, at the expiration of which time she was turned over to said Montgomery by the order of the Secretary of the Treasury, and thereupon he chartered her for one year to Admiral Porter, at the rate of $90 a day, and for a second year at the rate of $85 a day.

The said Montgomery now asks that he be paid at the rate of $50 a day for the two hundred and eighty-eight days the New National was in the service of the United States, under the command of Captain Grant, amounting to the sum of $14,400.

While the New National was so held, and before March 20, 1863, she was libeled in the United States district court for the southern district of Illinois under the act of Congress of July 13, 1861, entitled "An act further to provide for the collection of duties on imports, and for other purposes."

December 17, 1862, the district attorney for the southern district of Illinois, L. Weldon, wrote to the Solicitor of the Treasury as follows:

"A few days since I obtained in the district court of this district a decree of condemnation against two steamers, the Kentucky and the New National. The ground of condemnation is, that they carried on traffic in violation of the act of July 13, 1862, and the President's proclamation of August 16, 1861.

"The claimants have given notice of appeal to the circuit court, and intend also to make an appeal to the Treasury Department for remission of the penalty. My judgment is that in the case of the New National especially no relief should be given.

"The claimant has taken an oath of allegiance to the rebel government, and made some statements, as shown by the testimony, tending to show him at heart a disloyal man. The testimony on which he predicates his defense is taken without cross-examination and without any evidence as to the truthfulness of his witnesses.

"I have taken great trouble and expense in preparing these cases for trial, having been as far south as Memphis in taking proof. I am thoroughly satisfied, from what I know or have heard outside of the legitimate proof of the case that the New National is a fit subject of prize and capture."

The following letter from the Secretary of the Treasury, Salmon P. Chase, to the Solicitor of the Treasury, Edward Jordan, gives a further history of the case. The letter is dated January 16, 1863:

"Capt. Pearson Montgomery, master and owner of the steamer New National, seized and recently condemned in the United States district court for the southern district of Illinois, under the act of July 13, 1861, has made his petition before me for the remission of said seizure and release of the boat. The complete record in the case, together with a statement of United States District Judge Treat, and the evidence, are presented. From these it appears to my satisfaction that Captain Montgomery was not of his own will in the rebel service with his boat, and that, so soon as he could, he escaped therefrom and voluntarily turned her over to the Federal authorities. * * * I conceive that the discretionary power conferred on the Secretary of the Treasury of mitigating or remitting forfeitures in cases of this nature should be used to extend relief to loyal persons and to lighten the hardships of the war so far as consists with the public interest.

"In this view of the case, and for the reasons above stated, I feel justified in extending such relief as lies in my power to the petitioner, upon the usual terms. You will accordingly please instruct the proper district attorney to dismiss said suit and further proceedings against said steamer upon these conditions, namely, that the claimant shall pay all costs of whatever character incurred by the seizure and judicial proceedings, together with a fee of $100 to the United States district attorney, and agree that a certificate of probable cause of seizure shall issue from the court for the protection of the seizing officer."

Accordingly the proceedings in the circuit court were dismissed and an order made in accordance with the Secretary's letter, as appears of record in said court.

In 1880 Captain Montgomery presented his claim for $14,400 to the Treasury Department. May 25, 1880, a decision was rendered by the Third Auditor on the case rejecting it, and in July of the same year the Second Comptroller made a long examination of the case and rejected it. Captain Montgomery made two points, first, that the boat was not forfeit because it did not ply between ports one declared to be in a state of insurrection, and a port not in such a section. He maintained that though the boat did run between New Orleans, La., and Columbus, Ky., both ports were in the insurrectionary sections, even though Columbus had not been so declared by the President's proclamation of August 16, 1861.

The above-mentioned proclamation declared, among other States, Louisiana to be in a state of insurrection, but did not so declare as to Columbus, Ky.

The law authorizing such proclamation is the act of July 13, 1861, and is as follows:

"SEC. 5. It shall be lawful, &c., * * * for the President by proclamation to declare that the inhabitants of such State, or any section or part thereof, where such insurrection exists, are in a state of insurrection against the United States; and thereupon all commercial intercourse by and between the same and the citizens thereof and the citizens of the rest of the United States shall cease and be unlawful so long as such condition of hostility shall continue; and all goods and chattels, wares, and merchandise coming from said State or section into the other parts of the United States, and all proceeding to such State or section, by land or water, shall, together with the vessel or vehicle conveying the same, or conveying persons to or from such State or section, be forfeited to the United States.

"SEC. 6. That from and after fifteen days after the issuing of said proclamation, as provided in the last foregoing section of this act, any ship or vessel belonging in whole or in part to any citizen or inhabitant of said State or part of a State whose inhabitants are so declared in a state of insurrection, found at sea, or in any port of the rest of the United States, shall be forfeited to the United States."

It will readily be seen that the Treasury Department could not legally decide this point different from what it did.

Captain Montgomery's second point was that the remission of the forfeiture by the Secretary of the Treasury not only restored to him his vessel, but the right to recover for her services from the time she was first seized.

Secretary Chase does not seem to have considered in his above letter that the

remission of the forfeiture went to that extent. His power of remission arose under section 8 of the act of July 13, 1861, which is as follows:

"That the forfeitures and penalties incurred by virtue of this act may be mitigated or remitted in pursuance of the authority vested in the Secretary of the Treasury by the act entitled 'An act providing for mitigating or remitting the forfeitures, penalties, and disabilities accruing in certain cases therein mentioned, approved March 3, 1797,' or in cases where special circumstances may seem to require it, according to regulations to be prescribed by the Secretary of the Treasury."

The statute of March 3, 1797, gives power to the Secretary to stay the prosecution and remit the penalty, if one has been imposed, but it goes no further. There is no power in the statute, express or implied, whereby the Secretary could restore to Captain Montgomery the right to be paid for the services of his boat while under the decree of forfeiture.

The Treasury Department could not do otherwise than overrule Captain Montgomery's second point.

Under that head he also claimed that there was an implied contract on the part of the Government to pay for the boat for these 288 days.

That argument must necessarily fall, for the reason that the boat belonged to the Government by force of the statute from the moment it was used in violation of the law and the President's proclamation. It has been held that where a forfeiture is declared by statute in a case like this the forfeiture becomes complete at the moment the statute is violated.

Mr. Justice Ballard says:

"The decisions are uniform both in England and the United States. In the United States *vs.* Fifty-six Barrels of Whisky, &c., 'that where a statute denounces a forfeiture of property as a penalty for the commission of crime, if the denunciation is in direct terms and not in the alternative, the forfeiture takes place at the time the offense is committed and operates as a statutory transfer of the right of property to the Government.' "

And he adds:

"That the subsequent conviction and judgment are simply the consummation of the proceeding that the law requires to be instituted to ascertain the fact of the forfeiture:" (See also United States *vs.* Nineteen hundred and sixty Bags of Coffee, 8 Cranch, 398; Gelston *vs.* Hoyt, 3 Wheat., 311; Caldwell *vs.* United States, 8 How., 381; Wood *vs.* United States, 16 Peters, 362; Henderson *vs.* Distilled Spirits, 14 Wal., 61.)

As to the loyalty of Captain Montgomery the testimony is somewhat conflicting, but the committee are inclined to adopt the view of the Secretary of the Treasury, Hon. Salmon P. Chase, that Captain Montgomery was loyal to the United States Government, and that his acts inconsistent with that were not of his own free will. It appears that as soon as the coercive acts of the confederates were removed he voluntarily surrendered the New National to the United States.

It can not be supposed that the Secretary of the Treasury intended at the time he remitted to Captain Montgomery the forfeiture, and requiring him to pay the costs and $100, that he was to have a claim against the Government up to that time for the use of it during the time it was in possession of the Government and while it was in fact the property of the Government. Such a supposition is simply absurd.

The remission of the forfeiture can not have the effect of giving the right claimed in this case.

The statute of March 3, 1797, gives power to the Secretary to stay the prosecution and remit the penalty, if one has been imposed, but it goes no further. It does not confer the power to set aside or reverse the judgment. Its effect is to remit the penalty and restore the property, but the judgment and all its attendant disabilities, except those so remitted, stand, and the claimant is affected thereby.

But it appears from this case that this remission of the forfeiture was on the 16th day of January, 1863, but that the vessel remained in the use of the Government and was not surrendered to the claimant till the 20th day of March following, a period of sixty-two days. It does not distinctly appear where the boat was during this time. It does not appear but that the Government had the use of it during this time. The claimant alleges that it had, and the evidence tends strongly to show it. This point does not seem to have been considered at all by either the Third Auditor or the Comptroller of the Treasury.

The committee think it would be just that the claimant should be paid for the use of the boat during this time. After the 20th of March, when the boat came into the possession of Captain Montgomery, the Government paid him $50 a day for the first year and $65 per day for its use thereafter.

The committee therefore recommend that the claimant be allowed for the said sixty-two days at $50 per day, amounting to $3,100; that the bill be amended so as to read for that amount instead of $14,400, and when so amended that it pass.

Amend the bill by striking out, in lines 6 and 7, the words "fourteen" and "eight," and insert in place thereof the words "three" and "one."

Mr. CONGER. Mr. President, in reading this report I inquired of myself on what principle, on what ground the committee have made a recommendation for the payment of this money during the sixty-two days mentioned herein. This is a vessel that was seized and actually in the possession of the confederate government, belonging to it, laden with its property, or so far seized that the gunboat was in its neighborhood, and the captain or an officer of the boat, it is said, surrendered the boat to this Government. The committee have reported in favor of this claim. They have not reported in the bill that this payment shall be in full for this claim and for all claims which the owner of this vessel may have against the Government.

I think the bill should not pass, and I shall vote against it; but I suggest to those who are in favor of the bill that if it is to pass they should enact that this payment shall be in full of all claims of the owner of said vessel against the Government.

The PRESIDING OFFICER (Mr. HARRISON in the chair). Does the Chair understand the Senator from Michigan to move an amendment?

Mr. CONGER. I do not. I do not care myself to perfect the bill. I propose to oppose it, and vote against it at any rate, but for the interest of the United States I think there should be some provision on the point I have mentioned if the bill is to be passed and become a law.

Mr. PIKE. The Committee on Claims considered this claim and were unanimous that it ought to be paid to the extent of the $3,100 proposed to be allowed. This steamer, the New National, was, as the Senator from Michigan says, libeled in court and condemned. An appeal was taken by the claimant, Mr. Montgomery, to a higher court. While that was pending, an application was made to the Secretary of the Treasury, Hon. Salmon P. Chase, who had the authority to stay the prosecution and remit the penalty under the statute of March 3, 1797. He exercised that right, stayed the prosecution, and remitted the penalty. After this was all done, after the vessel was free, the Government continued to use it for the sixty-two days here provided for. The committee could see no reason why for that time the claimant ought not to be paid. There is some question as to the other time. The bill as amended only provides for payment for the sixty-two days, which it seems to me is amply just.

The Senator from Michigan says there ought to be some provision that this shall be in full. It seems to me to be so already. In the seventh line after the proposed amendment the bill reads:

In full compensation for property taken from him for the use of and used by the Army of the United States during the late war.

That seems to me ample to meet the objection.

The PRESIDING OFFICER. The question is on the amendment reported by the Committee on Claims.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The PRESIDING OFFICER. The question is, Shall the bill be engrossed for a third reading?

The question being taken by a division, resulted—ayes 28, noes 1.

The PRESIDING OFFICER. The roll of the Senate will be called, there being not a quorum voting.

Mr. CONGER. Can we not take the vote over again?

The PRESIDING OFFICER. If there be no objection, the call of the roll may be dispensed with.

Mr. CONGER. I have no objection to that. I do not insist upon a further vote on this bill.

The PRESIDING OFFICER. The question is then, Shall the bill be engrossed for a third reading?

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

CONVEYANCE AND DEVISE OF DISTRICT REAL ESTATE.

The bill (S. 754) in regard to the conveyance and devise of real estate in the District of Columbia was announced as next in order.

The bill was reported from the Committee on the District of Columbia with amendments.

The first amendment was, in section 5, line 2, after the word "shall," to strike out "make transcripts upon his books of" and insert "record;" before the word "transcripts," in line 4, to strike out "such" and insert "certified;" and after the word "transcripts" to insert "thereof;" so as to make the section read:

SEC. 5. That the register of wills in the District of Columbia shall record all wills filed in his office and admitted to probate; and certified transcripts thereof shall be *prima facie* evidence in all courts of the contents of such wills.

Mr. MORGAN. I think the bill ought to go over. It is a very important bill. Have the Judiciary Committee considered the bill, I ask the Senator from Arkansas?

Mr. GARLAND. No, sir; the bill has not been before that committee, so far as I know.

Mr. INGALLS. It was reported from the Committee on the District of Columbia. It refers entirely to devises and bequests of real estate within the District.

Mr. MORGAN. I have great faith in the ability of the Committee on the District of Columbia, and I have no doubt the bill has been well considered. At the same time it takes hold of a question which it seems to me could be more properly considered by the Committee on the Judiciary of this body, because it is a measure affecting the rights of everybody, changing the law as it exists, I have no doubt—the laws of Maryland and the common law as applied in the District heretofore. I object to its consideration at the present time.

The PRESIDENT *pro tempore*. The consideration of the bill is objected to, and it goes over.

NICHOLAS J. BIGLEY.

The bill (S. 536) for the relief of Capt. Nicholas J. Bigley was announced as next in order.

Mr. INGALLS. That is adversely reported.

Mr. COCKRELL. That being reported adversely, let it be passed over.

The PRESIDENT *pro tempore*. The bill will be passed over.

EFFICIENCY OF THE ARMY.

The bill (S. 1420) to increase the efficiency of the Army of the United States was announced as next in order.

Mr. INGALLS. The Senator who reported that being absent, I suggest that it be passed over.

The PRESIDENT *pro tempore*. Does the Senator from Kansas object to its consideration?

Mr. INGALLS. Yes, sir.

Mr. HAWLEY. Let it keep its place. It is a bill in which the Military Committee take a great deal of interest, and I hope it will retain its place on the Calendar.

Mr. INGALLS. I have no objection to its retaining its place, though I confess that I am unable to see the advantage that a bill has by being kept under the operation of Rule VIII. If passed over and placed

under Rule IX it is still subject to the direction of a majority of the Senate at any time when they see fit to call it up. If kept under Rule VIII the objection is that every morning when we begin this Calendar we call over and over and over again the same cases and they are passed over informally, retaining their location on the Calendar. It certainly does not prejudice the passage of a bill by having it put under Rule IX, and it advances the convenience of the Senate.

Mr. HAWLEY. Will not the Senator be kind enough to let this lie until the Senator from Illinois [Mr. LOGAN] comes back?

Mr. INGALLS. I have no objection; but he has had leave of absence for fifteen days this morning.

The PRESIDENT *pro tempore*. Is there objection to passing over, the bill retaining its place on the Calendar?

Mr. HARRIS. To obviate the objection—and it is one that pertains to all of us—of having to call the cases that have been passed over informally holding their places on the Calendar subject to the call of the Senator having them in charge, I suggest that the Secretary be directed to place all such bills at the foot of the Calendar, letting them remain subject to the call of the Senator having them in charge. That will obviate the necessity of having to call them over every morning when we begin on the Calendar. Of course I have no objection to this bill being informally passed over.

The PRESIDENT *pro tempore*. The Chair could not give such a direction without an order of the Senate, as it changes the rule and puts the bills practically where they are under Rule IX, where on the motion of any Senator after 1 o'clock or after the morning business is through, and without debate, the Senate can take up any case.

Mr. HARRIS. My suggestion is that it shall not require a motion, but be taken up on the call of the Senator having the bill in charge. I will put it in the form of a resolution at the proper time.

The PRESIDENT *pro tempore*. Is there objection to this bill being passed over, retaining its place? The Chair hears none, and it is so ordered.

INSPECTION OF EXPORTED MEATS.

The bill (S. 1876) providing for an inspection of meats for exportation, prohibiting the importation of adulterated articles of food or drink, and authorizing the President to make proclamation in certain cases, and for other purposes, was announced as next in order.

Mr. INGALLS. That can hardly be considered in the morning hour.

The PRESIDENT *pro tempore*. The bill is objected to and goes over.

Mr. MILLER, of California. That bill may as well go to the Calendar under Rule IX.

The PRESIDENT *pro tempore*. That will be the effect of its going over under objection.

DES MOINES RIVER LANDS.

The bill (S. 1886) to quiet title of settlers on the Des Moines River lands, in the State of Iowa, and for other purposes, was announced as next in order.

Mr. ALLISON. I ask that that bill be passed over without prejudice until the return of the Senator from Kansas [Mr. PLUMB].

The PRESIDENT *pro tempore*. The Senator from Iowa asks unanimous consent that this bill be passed over, retaining its place under Rule VIII. Is there objection?

Mr. LAPHAM. That bill can not be considered under Rule VIII. It involves a discussion which can not take place under that rule.

The PRESIDENT *pro tempore*. Objection is made, and the bill goes over.

Mr. ALLISON. I hope the Senator from New York will not make objection now. I ask him to withhold any objection he may have until the Senator from Kansas returns.

Mr. LAPHAM. Very well.

The PRESIDENT *pro tempore*. Is there objection to this bill being passed over, retaining its place on the Calendar under Rule VIII? The Chair hears none, and it is so ordered.

WILBUR F. COGSWELL.

The bill (S. 54) for the relief of Wilbur F. Cogswell was announced as next in order.

Mr. COCKRELL. That is adversely reported. Let it go over.

The PRESIDENT *pro tempore*. The bill will go over.

Mr. MILLER, of California. I think the bill may as well be indefinitely postponed, so as to get it off the Calendar.

Mr. COCKRELL. I have no objection to that.

The PRESIDENT *pro tempore*. The Senator from Missouri withdraws his objection. The bill is before the Senate as in Committee of the Whole. The Senator from California moves that the bill be indefinitely postponed.

The motion was agreed to.

F. PROSH AND T. F. M'ELROY.

The bill (S. 954) for the relief of F. Prosh and T. F. McElroy was announced as next in order.

Mr. DOLPH. There is an adverse report in that case, and I suggest that the bill go to the Calendar under Rule IX.

The PRESIDENT *pro tempore*. The Senator from Oregon objects to the consideration of the bill. It will be passed over.

ERASTUS W. BABSON.

The bill (S. 772) granting a pension to Erastus W. Babson was announced as next in order.

The PRESIDENT *pro tempore*. This bill has passed the Senate, and now stands on a motion to reconsider. The question is on the motion to reconsider the vote by which the bill was passed.

Mr. BLAIR. That bill is on the Calendar pending the production of some evidence bearing on the case by the Senator from Rhode Island [Mr. ALDRICH]. At his request I desire that it be passed over.

The PRESIDENT *pro tempore*. Does the Senator from New Hampshire desire it to be passed over retaining its place or passed to the Calendar under Rule IX?

Mr. COCKRELL. It is just simply useless to keep bills under Rule VIII and call them continually on the Calendar. We spend the entire morning hour every morning in calling cases passed over, and I am going to object to all the rest of them and all those that are on the Calendar, so that we shall know when we commence that we are to consider cases and not spend the hour every morning in calling up cases that are to be passed over.

Mr. BLAIR. Let this bill go over to the Calendar under Rule IX.

The PRESIDENT *pro tempore*. The bill is objected to and goes over.

STATE UNIVERSITY OF CALIFORNIA.

The bill (S. 1273) for the relief of the State University of California was announced as next in order.

Several SENATORS. That is reported adversely.

Mr. MILLER, of California. Let it go over to the Calendar under Rule IX.

The PRESIDENT *pro tempore*. The bill is objected to, and will be passed over.

WILLIAM C. DODGE.

The bill (S. 1399) for the relief of William C. Dodge was considered as in Committee of the Whole. It provides for the payment to William C. Dodge, of Washington, D. C., of —— dollars, for a cartridge-loading machine furnished by him to the United States upon an order from the Ordnance Department, and for the use of his invention of the same, and of the patent therefor, dated July 17, 1866, and for his improvement in cartridges patented July 4, 1865, and for the infringement of his patents by the United States, which sum of —— dollars is to be in full satisfaction of all claims for such use and infringements and for the relinquishment of all right to claim any further compensation for the use of the same by the United States.

Mr. COCKRELL. Let the report be read.

Mr. SHERMAN. I think the whole case depends on filling the blanks.

Mr. MITCHELL. There is an amendment proposed by the committee.

The PRESIDENT *pro tempore*. The reading of the report is called for. It will be read.

The Secretary read the following report, submitted by Mr. MITCHELL March 24, 1884:

The Committee on Patents, to whom was referred the bill (S. 1399) for relief of William C. Dodge, respectfully report:

That the Committee on Patents of the House of Representatives have reported a similar bill favorably at the present session, fixing the compensation of Mr. Dodge for the use of his patent at $10,000.

Your committee recommend the passage of the bill with amendments, inserting in the blanks in lines 6 and 14 the words "ten thousand," for reasons set forth in the House report, which is as follows:

"[House Report No. 737, Forty-eighth Congress, first session.]

"The Committee on Patents, to whom was referred the bill (H. R. 4670) for the relief of William C. Dodge, have investigated the subject, and report as follows:

"It appears from the testimony that the operation of filling cartridge-cases with powder had always been performed by hand down to 1864, and that it was a very dangerous work, explosions frequently occurring, destroying life and property, despite the utmost precautions.

"June 17, 1864, an explosion occurred in the cartridge-filling shops at the arsenal in Washington, D. C., where one hundred and fifty operatives were employed, which killed twenty-one persons, and seriously injured many others, who were buried among the burning ruins.

"That in consequence of this disaster the petitioner conceived the idea that this work might be done by a machine, and after consultation with the officers in charge, who expressed doubts as to the feasibility of his plan, but encouraged him to try, he devised a machine, had a small one made, and submitted it to the Department for trial. Colonel Benton, then in charge of the arsenal, in his official report under date of December 27, 1864, after describing the machine, and the tests to which he had submitted it, concludes with this statement:

"'The principle of this machine is a good one, and a machine properly constructed on it would, I think, give *greater uniformity of weight to the charges*, and work could be turned out *more uniformly, rapidly, and safely* than at present done by the hand process.'

"The result was so satisfactory that four days thereafter the Department gave petitioner an order to furnish a full-sized machine which should fill one hundred cartridges at a time.

"After much trouble and expense the machine was delivered August 18, 1865. It was officially tested and approved, and in his report dated February 15, 1866, Colonel Benton says:

"'It can be worked at the rate of six slideful per minute, or about 360,000 per day, so that one such machine would fill as many cartridges as could be made by any one establishment. If a greater number, however, were required to be filled, the capacity of the machine could be easily increased by increasing the number of holes in the slides and drawer.

"'For cartridges like those of Sharps and those with copper cases (now used), the use of this machine affords a considerable saving of time, as one machine can do the work of many hands.'

"The great merit of the invention, however, consists in providing means for

insuring uniformity of charge, which the present Chief of Ordnance, in a letter to the committee, says is 'a very important matter,' and that he 'knows of no machine prior to that invented by the petitioner that provided any means for that purpose.'

"He also says 'Mr. Dodge's invention seems to antedate anything of the kind in this country.'

"The invention has been embodied in all machines since built and used by the Government, the present machines being so modified as to also put the bullets into the copper shells, and then crimp the shells on the bullets to unite them and render the cartridge water-tight. Prior to this invention all cartridges made by the Government had been filled by hand. Since this invention they have all been filled by machines operating on this principle, and doubtless always will be, not only because of the saving in time and expense, but also because of the greater uniformity with which they can be filled, and which General Dyer, then Chief of Ordnance, said was of more value to the Government than the proposed saving of life and property.

"The benefits of this invention to the Government are many. The saving in the cost of filling the cartridges made since its adoption has been from $15,000 to $20,000. It has greatly reduced the risk to both life and property, has enabled the Department to concentrate the business at a single arsenal, thereby enabling the Government to dispense with a large number it formerly had located at various points, and the expense of keeping them up, and enables the work to be performed with immensely greater rapidity in cases of emergency and far more perfectly.

"From the nature of the invention, it is one that is of value to the Government only, as it is a thing that can not be sold to or used by the public at large.

"The petitioner has never been paid a cent, either for the machine furnished on the order of the Department, or for the use of his invention. The Chief of Ordnance says that 'he is entitled to remuneration,' and the Secretary of War also says he ought to be paid.

"The petitioner also claims that the Government has used for several years a patented improvement of his in cartridges, but as that was a matter of minor importance the committee have not given it any consideration in arriving at their conclusion in this case.

"The committee are unanimously of the opinion that the petitioner is justly entitled to remuneration, both for the machine furnished and for the use of his invention, and therefore report the accompanying bill, and recommend its passage, with an amendment fixing the amount to be paid Mr. Dodge at $10,000."

The amendments reported by the Committee on Patents were to fill the blanks in line 6 and line 14 by inserting the words "ten thousand."

The amendments were agreed to.

Mr. MITCHELL. In order to prevent any possible misconstruction of this bill, I move to amend where the word "use" occurs, toward the end of the bill, by inserting "past or future."

The PRESIDENT *pro tempore*. The Senator from Pennsylvania moves an amendment, which will be read.

The CHIEF CLERK. It is proposed, in line 16, before the word "use," to insert "past or future."

The amendment was agreed to.

Mr. COCKRELL. Now let the bill as amended be read.

The PRESIDENT *pro tempore*. The bill will be again read for information.

The Chief Clerk read the bill as amended, as follows:

Be it enacted, &c., That the Secretary of the Treasury be, and he is hereby, directed to pay, out of any money in the Treasury not otherwise appropriated, to William C. Dodge, of Washington, D. C., the sum of $10,000, for a cartridge-loading machine furnished by him to the United States upon an order from the Ordnance Department, and for the use of his invention of the same, and of the patent therefor, dated July 17, 1866, and for his improvement in cartridges patented July 4, 1865, and for the infringement of his said patents by the United States; which said sum of $10,000 shall be in full satisfaction of all claims for such use and infringements, and for the relinquishment of all right to claim any further compensation for the past or future use of the same by the United States.

Mr. COCKRELL. Do I understand the committee in this case to hold that the United States is liable to damages for the infringement of the patent?

Mr. MITCHELL. The committee considered no proposition of that kind. The committee were unanimous in reporting this bill. There is no objection to it at all. I was directed to prepare the report, and simply presented the case as it was presented in the House of Representatives. Unquestionably the invention has been of very considerable value to the Government, especially in the protection of human life. It is a very interesting discovery. It operates most admirably. The principal benefit undoubtedly, so far as the filling of the cartridges is concerned, is that suggested in the report, that it makes them all of equal quantity; but the prime consideration with me at least was that it was a very great security to human life. A reference to the case of the accident in this city recalls to the minds of Senators a circumstance which appealed to our sympathies at that time, and the use of this machine avoids that danger.

Mr. COCKRELL. Is this the only machine of the kind the Government is using for this purpose?

Mr. MITCHELL. The only machine ever invented and used for this purpose, as I understand.

Mr. COCKRELL. The report leaves that indefinite. I object to the word "infringement" in the bill. The Government is not liable to damages for infringement, and it is a very bad expression to use in the body of a bill, that the Government is liable for any infringement. I do not understand from the report that this is the only machine that is used. If this is only a stepping-stone to eight or ten other patentees to come in and claim compensation for the use of machines of the same character I should like to know it; that is the only question with me. If this is the only machine the Government is using for this purpose compensation ought to be made. I am perfectly satisfied of that. But if this is only one of a number of machines, and the others have been used in the same way, we are establishing a precedent for allowing fifty or one hundred or two hundred thousand dollars, I should like to know that fact.

Mr. MITCHELL. I understand there never has been any such machine invented by any other person. It is so stated in a communication among the papers, I think, from the War Department. There is no question as to that.

Mr. COCKRELL. No other claimant?

Mr. MITCHELL. The inventor of this machine furnished a model first and afterward furnished a machine to the Government. He never has been paid even for the expense, which was quite considerable, that he was put to in order to produce the model and the machine which was used by the Government. It is a kind of patent which can only be used by the Government to any extent. There are many instances where compensation has been made to inventors for inventions used by the Government.

Mr. COCKRELL. I have no doubt about that; I do not object to that. I think it is perfectly right in many instances to make compensation.

Mr. LAPHAM. The bill and the report disclose that this $10,000 is for the use by the Government of this invention. The use of the term "infringement," though it may be in the bill, does not make it compensation for an infringement. It is compensation for the benefit the Government has derived from the use of the invention and will derive in the future. As the Senator from Pennsylvania reporting the bill has said, really this is an invention which can be profitably used only by the Government. It is not adapted to private use for small arms. It is only adapted to the use of large arms for cartridges which are required by the Government.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

NATIONAL SOLDIERS AND SAILORS' ORPHANS' HOME.

The bill (S. 1578) to amend the charter of the National Soldiers and Sailors' Orphans' Home, and in relation to the assets thereof, was considered as in Committee of the Whole.

Mr. CONGER. I should like to inquire from some one familiar with the bill whether the trustees of this organization turned over by some authority of law their building, the orphan asylum, or the proceeds of it, to the Garfield Hospital. I see there is no report in this case.

Mr. GARLAND. Instead of making a report on this bill, I submitted with the papers a letter which explains the whole matter.

Mr. CONGER. I do not care to have it all read, but I wished to inquire whether it was this institution which owned the building of the Soldiers and Sailors' Orphans' Home that was authorized to be passed over to the Garfield Hospital.

Mr. GARLAND. My recollection is that this relates simply to an individual transaction, and what the bill proposes is a mere formal proceeding to get the title divested, and the Government has no responsibility about it at all. The bill was introduced by the Senator from Connecticut [Mr. HAWLEY].

Mr. CONGER. I understand there was a building, which I supposed belonged to this same association, which by some authority of Congress was authorized to be transferred, or the proceeds of the sale of it, to the Garfield Hospital, a building to the west of the Winder block.

Mr. GARLAND. I examined the papers. Let the bill be passed over, if the Senator from Michigan objects, until to-morrow morning, and I will get the necessary papers.

Mr. CONGER. I do not object to the passage of this bill.

Mr. EDMUNDS (Mr. GARLAND in the chair). I think I can state, as I remember about it, for the information of the Senator from Michigan, that this bill applies to a little sum of money that was given in a will to certain trustees—Dr. Sunderland, I remember, is one—to be paid to certain orphans of certain soldiers. They paid all they could find, long ago, but there are some whose place of residence or what has become of them they can not possibly find, and they have a few hundred dollars in their hands. They are of course personally responsible, and it disturbs the settlement of their estates. They wish to put that money in the Treasury so that these orphans, if found, can go there and get it and they be relieved of responsibility. That is all the bill does.

Mr. CONGER. It does not affect at all the transfer of this property?

Mr. EDMUNDS. It does not affect the rest of it at all.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

RAILROAD TRANSPORTATION OF MAILS.

The next bill on the Calendar was the bill (S. 1450) for the readjustment of compensation for the transportation of the mails on railroad routes.

Mr. CONGER. In the absence of my colleague [Mr. PALMER], who reported this bill, I ask that it go over, retaining its place on the Calendar.

The PRESIDENT *pro tempore*. The Senator from Michigan asks unanimous consent that this bill be passed over, retaining its place on the Calendar under Rule VIII. Is there objection? The Chair hears none, and it is so ordered.

NEZ PERCÉ INDIAN WAR.

The next bill on the Calendar was the bill (S. 512) for the relief of

citizens of Oregon, Washington, Idaho, and Montana who served in connection with the United States troops in the war with the Nez Percé Indians, and for the relief of the heirs of such as were killed in such service, and for other purposes.

The PRESIDENT *pro tempore*. This bill having been considered was indefinitely postponed, and on the 25th of March last the vote postponing the bill was reconsidered. The question now is, Shall the bill pass?

Mr. COCKRELL. There is no reason why the bill should be passed. It was indefinitely postponed on the report of the Senator from West Virginia [Mr. CAMDEN], and I suppose the object of the reconsideration was simply to examine the report that was made. I do not remember on whose motion the reconsideration was had.

The PRESIDENT *pro tempore*. On motion of the Senator from Oregon [Mr. SLATER].

Mr. COCKRELL. He is not here. I object to its consideration. That will put it on the other Calendar.

The PRESIDENT *pro tempore*. The consideration of the bill is objected to, and it goes over.

SCHOONER ADDIE B. BACON.

The bill (S. 748) referring the claim of the owners of the schooner Addie B. Bacon to the Court of Claims was considered as in Committee of the Whole.

The bill was reported from the Committee on Claims with an amendment, in line 7, after the word "the," to strike out "Court of Claims" and insert "district court of the United States for the eastern district of Pennsylvania;" so as to read:

Be it enacted, &c., That the claim of the legal owner or owners of the schooner Addie B. Bacon, her cargo, freight, and personal effects, alleged to have been damaged by collision with the United States steam-ram Alarm on or about the 8th day of July, 1876, be referred to the district court of the United States for the eastern district of Pennsylvania, to hear and determine the same to judgment, with right of appeal as in other cases: *Provided*, That no suit shall be brought under the provisions of this act after six months from the date of the passage thereof.

Mr. COCKRELL. Let the report be read.

The PRESIDENT *pro tempore*. The report will be read.

The Secretary read the following report, submitted by Mr. GEORGE March 24, 1884:

The committee report that this claim was before them in the last Congress, and was then fully considered. They refer for the facts to the report then made, which is as follows:

"That the schooner Addie B. Bacon, about the 8th day of July, 1876, was run into and injured by the United States steam ram Alarm and seriously injured is established by the evidence. It seems also from the *ex parte* showing made that the schooner was wholly without fault. The petitioner only asks for leave to sue in the Court of Claims, where the facts can be fully investigated. The committee believe that such an investigation should be allowed, and therefore report back the accompanying bill (S. 1083), and recommend its passage."

The collision took place in the Delaware River, near Philadelphia, and near the eastern shore. The committee believe the more appropriate tribunal to adjudicate this claim is the United States district court for the eastern district of Pennsylvania, and they recommend that the bill be amended by striking out, in lines 7 and 8, "Court of Claims" and inserting "district court of the United States for the eastern district of Pennsylvania," and, when so amended, that it pass.

Mr. MORGAN. I should like to inquire of the Senator who has charge of this bill how it is that we are to get this claim into a district court of the United States by a reference from Congress. I do not understand any legal procedure of that kind as obtaining now, and I do not know how we can confer that jurisdiction upon a district court by a special bill of this character. If the parties were authorized to sue in that court instead of the Court of Claims, that would confer jurisdiction; but merely to transfer the cause to the district court without giving jurisdiction to that court would not reach the remedy intended to be given by this bill.

Mr. CAMERON, of Wisconsin. I see that the bill was reported by the Senator from Mississippi [Mr. GEORGE] who is now absent. I suggest that the bill be passed over without prejudice until to-morrow.

Mr. GROOME. I hope the Senator from Wisconsin will not press that suggestion. The Senator from Mississippi reported this bill in the Forty-seventh Congress, recommending that the case should go to the Court of Claims as the bill was originally framed. He has evidently been overruled by the committee in the present instance. I think the original report was right, and that the proper course would be to reject the amendment and refer the case to the Court of Claims, and I hope that will be done.

The PRESIDENT *pro tempore*. The Senator from Wisconsin asks unanimous consent that the bill be passed over.

Mr. CAMERON, of Wisconsin. I withdraw that request.

The PRESIDENT *pro tempore*. The question is on agreeing to the amendment recommended by the Committee on Claims.

Mr. CAMERON, of Wisconsin. I concur with the Senator from Maryland that the amendment had better not be agreed to.

Mr. COCKRELL. That will obviate the objection made by the Senator from Alabama. I think the amendment ought not to be agreed to.

The amendment was rejected.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

The committee proposed to amend the title so as to make it read:

A bill referring the claim of the owners of the schooner Addie B. Bacon to the district court of the United States for the eastern district of Pennsylvania.

The PRESIDENT *pro tempore*. The question is on the amendment of the committee to the title.

The amendment was rejected.

SPOKANE FALLS AND CŒUR D'ALENE RAILWAY.

The bill (S. 1642) to incorporate the Spokane Falls and Cœur d'Alene Railway Company was announced as next in order.

Mr. DOLPH. That bill has been discussed to some extent in the Senate and several amendments offered. The objections made to the bill were partly answered in the limited period allowed for discussion. I object to its consideration now, so that it may go over to Rule IX, and I shall move hereafter to take it up.

The PRESIDENT *pro tempore*. The bill being objected to goes over.

LIEUT. H. R. LEMLY, U. S. A.

The joint resolution (S. R. 61) to authorize Lieut. Henry R. Lemly, United States Army, to accept a position under the Government of the United States of Colombia was announced as next in order.

Mr. LAPHAM. There is an adverse report in that case.

Mr. COCKRELL. The Senator who reported that case I believe is not present. Both the Senators representing the State of which this gentleman is a citizen are absent, and there is an adverse report. It had better be objected to.

The PRESIDENT *pro tempore*. The joint resolution is objected to and goes over.

JURISDICTION OF DISTRICT JUSTICES.

The bill (S. 880) to extend the jurisdiction of justices of the peace in the District of Columbia, and to regulate proceedings before them, was considered as in Committee of the Whole.

The bill was reported from the Committee on the District of Columbia with amendments.

The first amendment was, in section 1, line 7, to strike out the word "two" and insert "three;" in line 10, after the word "office," to strike out "and;" and in line 11, after the word "written," to insert "and cases of breach of promise to marry;" so as to make the section read:

That justices of the peace of the District of Columbia shall have jurisdiction to hear, try, and determine all pleas and actions, including attachment and replevin, where the amount claimed to be due or the value of the property sought to be recovered shall not exceed $300, except in cases where the title to real estate is concerned, actions for malicious prosecution, actions against justices of the peace or other officers for misconduct in office, actions for slander, verbal or written, and cases of breach of promise to marry.

The amendment was agreed to.

The next amendment was, in section 2, line 7, to strike out the word "two" and insert "three;" and at the end of the section to insert "and where the sum claimed exceeds $20 either party shall be entitled to a trial by jury, which trial shall be governed by the same rules as are now in force in the supreme court of the District of Columbia;" so as to make the section read:

SEC. 2. That such jurisdiction shall be exclusive original jurisdiction where the amount claimed to be due or the value of the property sought to be recovered shall not exceed $100, and original and concurrent with the supreme court of the District of Columbia where the amount claimed to be due or the value of the property sought to be recovered is more than $100 but does not exceed $300; and where the sum claimed exceeds $20 either party shall be entitled to a trial by jury, which trial shall be governed by the same rules as are now in force in the supreme court of the District of Columbia.

The amendment was agreed to.

The next amendment was to add at the end of the third section, "nor unless the appellant enters into an undertaking, with sufficient surety, approved by the justice, to pay and satisfy whatever final judgment may be received in the appellate court, and costs;" so as to make the section read:

SEC. 3. That no appeal shall be allowed from the judgment of a justice of the peace in any common-law action unless the matter in demand in such action or pleaded in set-off thereto shall exceed the sum of $20, nor unless the appellant enters into an undertaking, &c.

The amendment was agreed to.

The next amendment was, in section 4, line 10, to strike out the word "two" and insert "three;" so as to make the section read:

SEC. 4. That whenever any constable shall neglect or refuse to pay over to the party entitled thereto any moneys collected or received by him, on any process issued by a justice of the peace, the justice issuing such process may, upon complaint of such party, summon the said constable and the sureties upon his official bond to appear before him, at a day and hour therein named, and not less than two days after service of such summons, to answer to the said complainant, and may render judgment against the said constable and his sureties for the amount so collected or received, if not exceeding $300, with interest and costs, and execution may issue therefor without stay, except by appeal; and when the sum claimed exceeds $20 either party shall be entitled to a trial by jury.

The amendment was agreed to.

The next amendment was, in section 6, line 6, after the word "person," to strike out the words "of proper" and insert "over 21 years of;" so as to read:

SEC. 6. That in proceedings under the provisions of chapter 19 ("Landlord and tenant") of the Revised Statutes relating to the District of Columbia, where the tenant can not be found so that personal service can be made upon him, service of process may be made by leaving a copy of such process with some person over 21 years of age upon the premises, or in the absence of such tenant or person, then process may be served by fixing a copy of the same to a conspicuous

part of the premises where it may be conveniently read; and the officer shall in his return state the manner of such service.

The amendment was agreed to.

The next amendment was to strike out section 7 in the following words:

SEC. 7. That in cases of appeal or on certiorari the justice shall retain all original papers, except those filed in evidence, and make and file with the appellate court copies of the papers so retained, certified by himself; and for preparing and transmitting the papers on appeal or certiorari he shall be paid a fee of $1; but the superior court may require the production of the original papers.

The amendment was agreed to.

The next amendment was, in section [10] 9, line 3, to strike out the words "and a change of venue may be taken as in other cases;" so as to read:

SEC. 9. That the justice shall enter such cases on his docket, and the trial shall be had therein in the same manner as in other trials before justices of the peace.

The amendment was agreed to.

The next amendment was, in section [13] 12, line 5, after the word "his," to strike out "agents" and insert "agent;" so as to read:

SEC. 12. That the judgment in such cases shall be a complete indemnity to the constable in proceeding to sell or restore any such property; and in case of appeal the constable shall retain such property, unless the party claiming, or the defendant in the execution, or his agent, shall enter into a bond, with sufficient security for the delivery of such property to the officer if the judgment of the court shall be against the party giving such bond.

The amendment was agreed to.

The next amendment was to insert as an additional section:

SEC. 14. That civil cases tried by the justice without a jury shall be decided by him, and judgment rendered not later than the fourth day after trial, except when the fourth day falls on Sunday, when judgment may be rendered on the day following.

The amendment was agreed to.

Mr. CONGER. I should like to hear the section in regard to appeals read again.

The PRESIDENT *pro tempore*. The section referred to will be again read.

The SECRETARY. Section 3 as amended reads:

SEC. 3. That no appeal shall be allowed from the judgment of a justice of the peace in any common-law action unless the matter in demand in such action or pleaded in set-off thereto shall exceed the sum of $20, nor unless the appellant enters into an undertaking, with sufficient surety, approved by the justice, to pay and satisfy whatever final judgment may be recovered in the appellate court, and costs.

Mr. CONGER. It seems to me that the requirement of a bond for the payment of a judgment and the costs, which may be very large, is rather a harsh measure. As I understand an appeal can not be for any amount under $20. I do not know whether it refers to anything over $20. I wish the committee who have charge of the bill would explain that matter.

Mr. CAMERON, of Wisconsin. I ask that the proposed amendment in regard to extending the jurisdiction of the justices be read.

The PRESIDENT *pro tempore*. The amendment extending jurisdiction was to $300.

Mr. CONGER. I see in reading this bill that there is to be no appeal unless the judgment "shall exceed the sum of $20, nor unless the appellant enters into an undertaking, with sufficient surety, approved by the justice, to pay and satisfy whatever final judgment may be recovered in the appellate court, and costs." It seems to me that that would defeat the ends of justice and no poor man could get into any court at all, nor if a man was ever so much wronged by a judgment, could he make an appeal unless he entered into a bond with sureties to pay the final judgment and all the costs. That amendment, I believe, has been adopted. I move a reconsideration of the vote by which that was adopted.

The PRESIDENT *pro tempore*. The Senator from Michigan moves that the vote adopting the amendment just read be reconsidered. The question is on agreeing to that motion.

Mr. HARRIS. What amendment is it that the Senator from Michigan refers to?

The PRESIDENT *pro tempore*. The amendment to section 3.

Mr. HARRIS. Let it be read.

The PRESIDENT *pro tempore*. The amendment will again be read.

Mr. HARRIS. I do not remember what is text and what is amendment.

The PRESIDENT *pro tempore*. The text will first be reported, and then the amendment.

The Secretary read section 3 as it originally stood, and then the amendment, which was to add:

Nor unless the appellant enters into an undertaking, with sufficient surety, approved by the justice, to pay and satisfy whatever final judgment may be recovered in the appellate court, and costs.

The PRESIDENT *pro tempore*. The question is on agreeing to the motion to reconsider the vote by which this amendment was agreed to.

Mr. SHEFFIELD. As I understand the bill, in all cases there is to be a right to trial by jury where more than $20 is involved. Under this amendment may not a justice of the peace decide and render judgment where the claim is more than $20? That being so, would not the clogging of an appeal by requiring a bond to pay the amount of the judgment be invading the right of trial by jury? I remember a case decided in the circuit court of the United States where Mr. Justice Curtis decided that it was not allowable to clog the right of appeal in this way, and I apprehend the same rule would obtain here in the District of Columbia.

The PRESIDENT *pro tempore*. The question is on agreeing to the motion to reconsider.

The motion to reconsider was agreed to.

The PRESIDENT *pro tempore*. The question recurs on agreeing to the amendment to section 3.

Mr. GARLAND. Let it be again read.

The PRESIDENT *pro tempore*. It will be again read.

The SECRETARY. At the end of section 3 it is proposed to add:

Nor unless the appellant enters into an undertaking, with sufficient surety, approved by the justice, to pay and satisfy whatever final judgment may be recovered in the appellate court, and costs.

Mr. HARRIS. This bill was reported by the Senator from Kansas, the chairman of the Committee on the District of Columbia, who is not in his seat at this time. I see the hour of 2 o'clock has arrived and I shall simply call for the regular order so that the Senator from Kansas may be present when the bill is considered.

CHEYENNE AND ARAPAHOE INDIANS.

The PRESIDENT *pro tempore* laid before the Senate the following message from the President of the United States; which was read, and, with the accompanying papers, referred to the Committee on Indian Affairs, and ordered to be printed:

To the Senate and House of Representatives:

I transmit herewith a communication of the 2d instant from the Secretary of the Interior, inclosing certain papers in relation to the present condition of the Cheyenne and Arapahoe Indians in the Indian Territory, and recommending that some provision of law be enacted for disarming those and other Indians when such action may be found necessary for their advancement in civilized pursuits, and that means be provided for compensating the Indians for the weapons so taken from or surrendered by them.

The subject is commended to the favorable consideration and action of the Congress.

CHESTER A. ARTHUR.

EXECUTIVE MANSION, *January* 5, 1885.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. CLARK, its Clerk, announced that the House had passed the bill (S. 55) to provide for the erection of a public building for the use of the United States courts, post-office, and other Government offices in the city of Carson City, in the State of Nevada, and the bill (S. 52) providing for the erection of a public building at Waco, Tex.

INTERSTATE COMMERCE.

The PRESIDENT *pro tempore*. The hour of 2 o'clock having arrived, the Chair lays before the Senate the first in the list of special orders, being the bill (S. 2112) to establish a commission to regulate interstate commerce, and for other purposes, which is now before the Senate as in Committee of the Whole. The pending question is on agreeing to the amendment proposed by the Senator from Iowa [Mr. WILSON].

Mr. WILSON. Mr. President, whoever expects that a single act of Congress, however efficiently it may be executed, will eliminate from our transportation system the evils which have become parts of it will be disappointed. Nor do I include in the term "evils" many of those acts and omissions which excite the complaints of individuals concerning their personal affairs, as contradistinguished from those which, because of their more general effect, come to be regarded as matters of public moment. But whether we come to treat of the general subject from considerations affecting the one or the other or both of the suggested elements of the case, we shall surely find that no single act of Congress, however perfectly framed on the basis of present knowledge, and however wisely administered by those to whom its execution may be committed, will reach and wholly remedy the complicated disease which afflicts our transportation system. But this is no sufficient reason why the patient should not receive attention or why we should restrain ourselves from endeavors to discover and formulate a course of action which may ultimately effect an eradication of the disease. Because this may not be done at once, and in a measure perfectly, serves to disclose the difficulties that surround the subject but should not induce discouragement and enforce inaction.

The bill now commanding the attention of the Senate, while not fully coming up to the standard requisite to measure the great proportions of the subject with which it deals, is not exceptional in this regard. All of the bills which have been, from time to time, proposed have disclosed this defect; and all which may in the present and near future come to us for action will, in some degree, trouble us with their imperfections. But the present bill does possess one virtue which I hope may so far commend it to the favor of the Senate as to assure its passage. It proposes that this Government shall make a start in the matter of so regulating by law the great transportation service of this country as to ultimately put it into right lines of action as regards the relations which exist between it and the public. No single act of Congress can do more than to make a wise, just, conservative start concerning this very grave and very great subject; and I mean to include in the terms here used all of the powers and parties and interests embraced within the present conditions and future possibilities of the transportation question. In-

deed wise, just, and conservative action can not be had by any movement which fails to considerately regard any material element of the case. And all experience teaches us that disaster is more likely to spring from attempts to do too much at the beginning of movements in the field of legislative action embracing complex subjects of public interest and concern, such as this bill relates to, than from the hesitation which evidences that cautious deliberation which, while it may lack speed, gives promise of enduring results.

To begin right is the prime factor in all reforms. If no mistake be made in this regard each successive step is most likely to be twofold in character and effect. It will define a permanent advance and at the same time disclose how others may be made. No matter how extended the ramifications of such an evil as this bill treats of may be, they can be traced, and it can be removed, if the instrumentality directed thereto be rightly selected, its effects intelligently observed and assured by the adoption of such means as they indicate. Hence, in dealing with the transportation question, notwithstanding its magnitude and complex character, we have a rule for our safe guidance, and if we but give it due consideration we shall not go wrong and do mischief instead of effecting a needed reform by eliminating evils detrimental to the general welfare.

Mr. President, many persons who have given more or less thought to the phases of the transportation question which now confront us doubt whether or not the present bill will accomplish the purposes of the committee which reported it. I should join the ranks of the doubters if I did but regard this bill the end of effort instead of the beginning. Viewed from the latter standpoint, it seems to me that the measure is one of sufficient merit to command my support. Therefore, notwithstanding I have proposed several amendments to the bill, it is not my purpose to interfere with its declaratory provisions, nor its general structure. The adoption of the amendments will not stay the operation of any essential provision of the bill should it become a law. The regulations and restraints imposed on corporations and others engaged in the transportation of interstate commerce, the declarations of right, powers, and duties affecting whosoever may come within the scope of the bill, including the commission established by its terms, will all go on and have their legitimate office and effect as fully as in the absence of said amendments. For while they definitely deal with several of the most pronounced and generally complained of evils of the present methods of the transportation system, it is only in a way calculated to bring to our aid, at the beginning of the first regular session of the next Congress, such light as may come from definite data and exact information to be derived by the commission by virtue of the investigation it is directed to make on the lines of inquiry defined by the terms of the amendments. In the mean time, should the bill become a law, we will have had the results derived from several months of its practical operation. This will test the question as to whether or not we have made a wise beginning, and the results of the commission's investigation will indicate the lines on which we may pursue further effective action. Surely such a course of action is sufficiently conservative to commend itself to every mind desirous of that proper caution which, in the end, always tends to impress stability on the institutions, laws, and other results to which it leads.

Mr. President, we have crossed the line at which the transportation companies once stood and challenged the power of Congress to do the things which this bill and the amendments propose. Indeed Congress was invited to cross it by one of said companies. A New Jersey company claimed a monopoly of the carrying trade between Philadelphia and New York. A rival company entered the field and carried freight and passengers to and from the two cities. The former company asserted its monopoly in the court of New Jersey and obtained a decree requiring its rival to account for and pay over to it all earnings received from said traffic, and perpetually enjoining it from transporting through freight and passengers between the said cities. What did the enjoined company do? It came to Congress and presented a petition praying for the passage of an act to authorize it to engage in the business in respect of which the chancellor of New Jersey had enjoined it. The proper committee of the House of Representatives, after due consideration of the petition, reported a bill to grant and give effect to the prayer thereof, basing its action on that provision of the Constitution which confers on Congress power "to regulate commerce with foreign nations and among the several States, and with the Indian tribes." But the bill so reported related solely to the restrained New Jersey company, and proposed to exercise this great power for the mere purpose of resolving this contest between two local corporations created by the laws of the State of New Jersey.

This was in the Thirty-ninth Congress, of which I was a member. It seemed to me that if the power was to be exercised at all it should be in form of a general application to the subject involved, and be made to include all of the railroads of the country. In pursuance of this view I prepared and offered an amendment to the bill reported from the committee, which was adopted and became a part of the act approved June 15, 1866, entitled "An act to facilitate commercial, postal, and military communication among the several States." The amendment thus proposed by me and now a part of said act is in these words, namely:

That every railroad company in the United States whose road is operated by steam, its successors and assigns, be, and is hereby, authorized to carry upon and over its road, boats, bridges, and ferries, all passengers, troops, Government supplies, mails, freight, and property on their way from any State to another State, and to receive compensation therefor, and to connect with roads of other States so as to form continuous lines for the transportation of the same to the place of destination.

That this exercise of the commercial power of Congress was, and is, satisfactory to the transporting companies of the country is uninterruptedly evidenced on all of their lines, in every State of the Union, and during every day of the year. It is because of this exercise of the now undisputed power of Congress that solid passenger trains run from New York to Chicago, to Saint Louis, to New Orleans, and other points; that sleeping and hotel cars traverse the continent; that freight goes from Maine to California, from Chicago to New Orleans, along all lines and over all distances in the same cars and without breaking bulk. This is a great reform over old methods which changed freight and passengers at the end of each several company's line. It was a right start in the exercise of this great power in the field of operation to which the act referred to applies. It was induced by friction in the affairs of two New Jersey companies. Its results are accepted, praised, and defended by all companies, and approved by the entire country.

The principle embedded in the act of June 15, 1866, is broader than any application that has yet been given to it by the railroad companies whose operations now go on under it. They seem to treat that act as one which does no more than confer certain privileges on them. Neither the rule of public policy involved nor the terms of the act will justify such conclusion. Heretofore, and in a different place from this, I expressed my views of this particular phase of the case in language which I apply to it here to-day, namely:

No one can doubt what the rule of public commercial policy thus established is, nor question its wisdom. The policy is, through lines of transportation for passengers and freight passing from one State to another State—the abolition of unnecessary changes, delays, breaking of bulk, and attendant wastage, cost, charges, and loss of time. These were to end, so far, at least, as the means at the command of the railway companies could be utilized to effect that result. Commerce was to be facilitated. This rule was established not merely for the benefit of railroad companies, for their convenience and greater profit, but for the advancement of the interests of the great and constantly augmenting interstate commerce of the country, and of every one connected therewith, either as passenger, or shipper, or producer, or consumer of things transported.

That legislation did not merely confer a privilege on railroad companies, which they might use or not, at their pleasure. Running with this privilege, and inseparable from it, is the duty of using it for the public good, a duty which constitutes the consideration for which the privilege was granted to them.

The purpose of the act referred to was clearly stated in its title. It was: "An act to facilitate commercial, postal, and military communication among the several States." Its enactment was the exercise of a great constitutional power for a public purpose. It established a public policy. The authority conferred on railroad companies within the definition of the act was equivalent to a command. The authority to do was associated with the duty to do; and with this duty ran every obligation imposed on common carriers by the common law, and such additions thereto or modifications thereof as Congress had declared or may by law provide. The facility extended to interstate commerce was not confined to its mere movement over the lines of the several railroad companies, but included as well its equality, its convenience, and its protection. It was not the purpose of the act, nor the office of the public policy thereby established, to create burdens, impose restraints, and to obstruct the ways of interstate commerce; its declared purpose was to facilitate commercial communication; in other words, "to make easy or less difficult, to free from difficulty or impediment, to lessen the labor of" the movements of the interstate commerce of the country. Whatever contravenes the rule of public policy thus declared by Congress is unlawful.

The employments of men and the results and movements thereof constitute commerce. This definition embraces producers, dealers, transporters, and consumers. They are all present in interstate commerce. Neither may impose arbitrary restraints on the others which tend to destroy equal freedom of action in the lines of lawful commercial movements. The transporters should be the great conserving force of commerce, and this they would be if kept within the lines of obligation and duty through which alone they can best promote the general welfare. But when they depart from this rule and interfere with those normal conditions of business which are induced by freedom of choice and action on the part of those who create and pursue it, they cease to conserve its best interests and obstruct the general welfare; and this is just what the transporters of this country have done and still are doing. They are not content to administer their own affairs and let the other factors of business and commerce do the same with theirs, but on the contrary they have intermeddled with everything and forced upon the country abnormal conditions patent to all observing minds. It is this fact, more than all others combined, that has caused the existing manifestation of popular irritation relative to the railroad corporations of the country.

Nor will this state of popular feeling cease until these intermeddling practices shall come to an end. The people of this country can not be brought to an acceptance of the abnormal system of forced combination and centralization with which the transporting corporations have bound to their own real or supposed convenience the industries of the country. I am glad to feel assured that this is so; for I can not believe that the present tendency to drive the manufacturing industries and all who employ and are employed therein to a comparatively few localities will

tend to conserve the best public interests, whether we regard them from the standpoints of moral, material, or political consideration, singly or combined. The system is repressive and unjust. A body politic can no more thrive under a system which confines the vital forces represented by its employments, its business, its commerce to a few points than can a natural body whose life currents are obstructed and denied their normal action. A self-reliant man, whose independence and individuality assert themselves in his ways of life, is always a conquering force. A nation thrives by multiplication of such men; it weakens and dwarfs as their numbers diminish. The rule is not confined to individuals. It applies to communities as well as to men. A self-reliant, energetic, prosperous, contented community is a national force. Multiply this force, and the nation grows in strength, prosperity, contentment; and so long as these conditions exist its power will increase and its institutions endure.

Mr. President, a diffusion of industries will multiply such communities as will give us the results I have indicated, and this diffusion will transpire whenever the transportation shackles shall have been stricken from the willing limbs of communities now impatient of the restraints which hold them to inaction. They want to move, but they can not. They witness the processes of forced centralization going on, and feel and know that the vast concentration of capital, and work, and workers in the ponderous cities gives back no augury of encouragement to us to let this system go on unchallenged. I do not mean by this that we should so legislate that cities shall cease to grow; but I do mean that the practices of the transporting corporations whereby abnormal growth is forced upon a few cities at the expense of the equal rights of other communities shall cease by voluntary action or be reformed by law, and in saying this I look beyond the field covered by the material interests of those other communities as they may be affected by a diffusion of industries throughout the country, and into that even more intricate one where the action of political forces tends to resolve the weal or woe of this Republic. Nor do I make the suggestion in any sense from the standpoint of partisan consideration, but from that better view which takes in the public good, the general welfare and stability of our institutions, regardless of the effect which may fall to any party organization or association of men.

Every close student of public affairs in this country knows that the weak point in our political machinery is to be found in the great cities. We do not always find that jealous care in the political methods of great cities which is ever present in the smaller communities and rural localities. There is a vitality of vice which constitutes no inconsiderable political force in the former that rarely appears in the latter. But I have no purpose to pursue the discussion of this phase of the general subject here. It will be forced on our attention at no distant day, if this practice of forced centralization be allowed to go on unchecked, in a manner that will give us a clear definition of the saying, "Paris is France," and when we may have to undo something which we can now do much to prevent. And it is a cause of profound regret that the railroad companies, when the act of June 15, 1866, was passed, did not enter upon the new order of things which it both authorized and commanded with an intelligent fairness that would have compassed their own convenience and the unquestionable rights of the people both as respects communities and individuals. That great comfort, convenience, and expedition in the matter of the transportation of interstate commerce have resulted from that act is undisputed. But the act meant more than these results. It meant that persons and localities connected with the interstate commerce of the country should have equality of treatment; that transportation should be the servant and not the master of commerce; that such disadvantages as business might be under at any points or localities from natural causes should not be aggravated by hostile discriminations in transportation rates; that each locality, industry, and person should be entitled to and receive a fair proportion of the advantages that were expected to result from the improved transportation facilities authorized by said act, and that by these means and in these ways commercial communication among the several States should be facilitated. This was the public policy authorized and established by the act of Congress.

This, as I have already remarked, was a good start; and had the act been given its full and intended force, very little, if any, complaint would now be heard in all this country concerning the transportation of interstate commerce. Connecting by practice the duties and obligations of common carriers with the things which that act authorized the railroad companies to do, a realization of the natural and necessary results springing therefrom would have silenced almost every complaint that has been lodged against the corporations engaged in the transportation of interstate commerce. Nor would this have worked injustice or harm to the railroad companies. On the contrary, it would have established harmonious relations between them and the public, and have tended to augment rather than diminish the volume of business supplied to the carriers. It is one of the incomprehensible business blunders of our times that an opportunity so favorable to the true interests of the railroad companies was not seized upon by them and converted into a bond of amity between them and the public. It needed no surrender to unreasonable demands to accomplish this. A decent respect for the obligations imposed on them by the law relating to common carriers would have met the extremest exactions of the case so far as those elements of it which I am now discussing are concerned. The opportunity was neglected, and this was supplemented by a studied disregard of those obligations which can not be discharged by repeated violations.

The remonstrances which the public has opposed to this course can not successfully be dismissed by denouncing them as popular clamor. Nor will the earnest thought which is now focused on this subject be diverted by assertions that "natural laws and individual interests" will sooner right existing abuses than can be done by the enactment of statutes. I stated at the beginning of my remarks that whoever expects that a single act of Congress, however efficiently it may be executed, will eliminate from the transportation system the evils which have become parts of it will be disappointed, and our experience proves it. But no one will say that the laws already enacted and directed to that end have not done some good. The improved service which has been assured to the country is a complete justification of what has been done; but this does not compensate for, nor will it excuse, the abuses which have kept pace with it. While due credit will be given for the former, the latter will enforce agitation until a remedy shall have been provided.

The "natural-laws" theory that is advanced by the railroad companies as the unfailing remedy for all of the ills which have become fixed upon our interstate transportation system would do very well if the corporation doctors would allow their patient to take the medicine. But this is just what they will not do except as coercion, gentle or otherwise, is applied to overcome the idiosyncracies of a system which teaches one thing while it practices another. Natural laws tend to maintain the best conditions, no matter whether they relate to physics, morals, trade, commerce, or other fact or movement. Give free course to the natural laws about which so much is said in discussions relative to the subject of which the bill we are now considering treats, and I will agree that the relations existing between the public and its complex interests and the railroad companies would soon be resolved into movements of harmony and conditions of good-will. But this free course is not allowed to the natural laws in question, and, therefore, we have the agitation which demands that other laws shall be provided.

But the demand is not for enactments in contravention of the said natural laws. The demand made is reasonable, and its reasonableness consists in the fact that it only asks for such enactments as will enable commerce to enjoy the rights, freedom, and advantages which would be assured to it by the unobstructed action of said natural laws. It does not exact other and different conditions than those which the normal action of said natural laws would induce. The case is quite the opposite of that which the railroad companies present. Let them remove their arbitrary obstructions from the ways of commerce and allow it to move on the fair, just, and orderly lines of said specially pleaded natural laws, and the controversy will be at an end. Even the occupation of the demagogue who seizes upon popular discontent to serve his selfish purposes and to promote his personal and conscienceless ends will be gone. No one who possesses the slightest conservative tendency toward the practice of fair dealing has any desire to impose unjust terms, conditions, or laws on the railroad companies. Every well-informed man realizes and admits the great benefit they have been and now are to the country. No well-informed and honest man would for a moment entertain a proposition whose tendency would be to cripple the efficiency of the railway service. Every intelligent railway manager knows this to be true. And yet, in the face of this knowledge, the evil genius of arbitrary interference with the natural laws of commerce is allowed to have its way. This is the masterful spirit which has evoked the demand that now presses on this Senate and asks it to conserve the true interests of the country and its commerce by such just and conservative action as will restore the sway of those natural laws which are so often presented as a plea in bar to our progress in the direction indicated.

Mr. President, let us briefly examine this plea in the light of some of the evil practices that have become fixed in the administration of the transportation system of this country. What natural law of commercial action can be cited in justification of the arbitrary discriminations with which the transportation companies annoy, perplex, and punish localities, communities, investments, employments, and individuals in almost every department and division in their field of operations, or warrants them in their persistent efforts to destroy competition, and then because of failure to impose arbitrary rates for service rendered to the business of all non-competing points in order to make good the losses occasioned by the uncertain, whimsical, and unremunerative charges so often given to and from competing stations; to determine what places may engage in the manufacturing industries and which shall not; to encourage the investment of capital in some localities and to repress it in others; to say what towns or cities, other than the great commercial centers, may be selected by jobbers and wholesale merchants in which to pursue their business and to put all others under the ban of ruinous discriminations; to so discriminate between individuals engaged in like business in the same community as to enrich some and bankrupt others; to close the doors of opportunities against men of moderate fortunes, who otherwise would plant industries where real estate and food are cheap, and thereby furnish diversified employ-

ment to willing and waiting workers in multiplied localities, and only open those which lead to centers already overcrowded; to foster combinations in business and employments of capital in such manner as to suppress individual endeavor and repress the self-reliant trait in American character; to load down the railway lines of the country with burdens of fictitious securities and insist that no limitation shall be placed on the power to exact rates to any extent necessary to pay interest and dividends thereon; and to do whatever else may be suggested by pleasure, circumstance, or caprice of those who manage their affairs? All of these elements are present in the case, and in view of this fact I can but repeat the question, What natural law of commercial action can be cited in justification of these things?

Let us further test the real character of our transportation system by a more definite examination of some of its elements, taking as the first the one which involves the creation of fictitious securities. At the close of 1883 the total railway mileage in the United States was 120,552 miles. The cost thereof is represented by shares of capital stock issued amounting to $3,708,060,583, funded debts $3,455,040,383, floating or unfunded debts $332,370,345, representing a total cost of $7,495,471,311, or an average cost per mile of $62,176. And right here we have one of the most inexcusable features of our railway system, for it is safe to assume that the actual cash cost of the entire system did not exceed one-half of the nominal amount I have stated, and that the average per mile was but little, if any, more than $30,000. This feature of the case is remarked upon in Poor's Manual of Railroads for 1884 in this language, namely:

It is safe to assume that the new mileage constructed in the last three years cost about $30,000 to the mile, and that when our people build, say, 10,000 miles of line in one year, they expend upon them $300,000,000. In addition, a very large amount of fresh capital is yearly expended on old lines, so that we have for many years past been expending upon railroads considerably over $100,000 for every working day in the year. Should a large portion of the cost of new lines be lost the country is undoubtedly the richer by a corresponding amount from the incidental advantages they confer, the opening up of vast tracts for settlement, and in bringing within the reach of markets products which had before no commercial value.

There would be no danger of the loss suggested if the railroad lines of the country were limited in their financial burdens to the cost of construction, including equipment and all other expenditures necessary to their effective operation. It is not the real but the fictitious burden which cripples the roads and disturbs the business of the country. And were it not for this fact the railway securities of this country would be almost, if not quite, as stable in value as Government bonds. Treating of this view of the case, the author from whom I have just quoted says:

If it be assumed that the cost in money of all the roads in operation in the United States in 1883 did not exceed, as it certainly did not, the amount of their funded and floating debts, $3,787,410,728, the actual investment was a most profitable one. The net earnings for the year were $3,336,911,884, a sum equaling about 9 per cent. on their cost. If the fictitious capital could be eliminated from their accounts, their success as investments would have no parallel. If to net income be added the advantages that flow from them, the result would be a matter of special wonder. Our railroads the past year transported over 400,000,000 tons of freight. At $25 per ton the value of this freight would equal $10,000,000,000. It is enough to say that, compared with the wealth of the country thirty years ago, they have created on this continent a new nation. While penetrating every portion of the continent, at least wherever our people go, they, for the first time, create the conditions of a firm and compact nationality.

Here we have a group of facts and opinions most suggestive. We see that if the railroad corporations had been held to the safe and conservative lines of the law relative to such artificial persons, this country would now be in possession of not only the most magnificent railway system in the world, but also the most prosperous, stable, and remunerative one. But, unfortunately, too many of the promoters of the system have been allowed to run riot over all sound provisions of the general law of corporations and of every correct principle of business economy. In many cases this ruinous course has had the sanction of public authority, while in others it has been pursued in direct violation of limitations imposed by law. And while it may be true that all of the abuses in the action of railroad corporations in the past may not now be remedied, it certainly is well for us to consider how far they can be corrected and how future repetitions of them may be prevented. It is not a pleasant fact for the people of this country to contemplate that our railway system is called on to pay dividends on capital stock and interest on funded and unfunded debt representing an amount twice as great as the cash cost of the roads. And while they may agree to all that the author quoted says relative to the great benefits which the country has derived through the railway system as it has been developed and now exists, still they will charge up to this feature of the account the burdens which rest upon the business of the country because of fictitious capital, which constantly cries aloud for interest and dividends.

It is not difficult for any man to see that too little money has gone into the treasuries of the companies to balance the amounts which the stock and bonds represent. And it is very generally understood that the law and public policy do not authorize the creation of such obligations except in return for a full equivalent paid into the treasury of the corporation in whose name they issue. If this rule had been observed every railroad company in the country that can present a reasonable excuse for having built a road at all could now earn a reasonable annual return on all of its cash capital invested by charging much less than the present average rates charged, and its bonds and stock would not need the gambling manipulations of the stock exchange to give them an appreciable value. It is true that by this conservative procedure there might not have been so many colossal private fortunes evolved as under the practice which has obtained; but the country would be in possession of a sound and satisfactory railway system in harmonious relations with the people and their business interests, and whose securities would rank with the best.

Leaving out of view the many cases of fraudulent stock issues representing no capital whatever, we need but direct our attention to some of the practices of the most solvent and conservative railroad companies to discover how fictions enlarge their aggregate of shares. It is no uncommon thing for such companies to capitalize expenditures for improvements, betterments, extensions, and other outlays of many kinds. Hundreds of millions of dollars earned in the ordinary course of business have been so capitalized and made a perpetual burden on the future earning capacity of the respective roads. In some cases I am informed that the capitalization of such expenditures as I have indicated amounts to nearly if not quite the original stock shares of the companies, and in about all cases to many duplications of the money which has gone from the holders to the treasuries of the companies. I am not inclined to impose a hard rule on the corporations relative to their earnings. I believe that the public will be content with such an adjustment of rates that the earnings therefrom shall be sufficient to pay operating expenses, interest, necessary improvements, and a reasonable dividend on the stock shares representing money or other valuable thing paid to the companies toward the construction of the roads.

But it is not right that any part of these earnings and expenditures shall be capitalized and stock shares issued therefor. This is money supplied by the public patronizing the roads. It does not come from the private funds of the owners of the roads. What rule of fairness and justice will allow such money to be turned into stock shares in order that the public supply the funds required to pay dividends on it? And how long can this process go on before even present solvent companies will break down under the ever-increasing weight which this process imposes? The rapidly changing conditions in our country and the rest of the world ought to be considered by the managers of our railway system. Instead of overloading their respective companies by the methods adverted to it should be their care to relieve them as opportunity offers. The very multiplication of roads should impress caution on them. While those who manage the trans-continental lines may well study the effect which the construction of ship-canals connecting the Atlantic and Pacific Oceans may have upon the business of their roads, it is well that these considerations be not overlooked either by those who manage the railways or those who are charged with the powers and duties of legislation.

Mr. President, it is because I recognize the benefits which have come to this country through the railway system that I feel anxious to aid in effecting such reforms as will establish cordial relations between it and the people. The railroads have been of immense value to this nation. I quite agree with the general statement of the case as put by the writer from whom I have quoted, wherein he said:

It is enough to say that, compared with the wealth of the country thirty years ago, they have created on this continent a new nation. While penetrating every portion of the continent, at least wherever our people go, they, for the first time, create the conditions of a firm and compact nationality.

While this is true as a general statement, it nevertheless suggests some considerations tending to restrain the enthusiasm it is well calculated to evoke. When we put our minds earnestly to the subject we come to realize that our legislative authority, both State and national, has been less wise than the railway system has been absorbent and forceful. Had this not been so the abuses of which there is now so great complaint would never have grown to their present proportions. This is quite clear to our comprehension now. The public and the legislative minds were entranced by the beauties of the panorama of magnificent results as it unrolled itself during the greater number of those thirty years. If attention had not been so wholly given up to that absorbing contemplation we might have become possessed of all the beauties and results without the defects we now discover, and at much less cost. While the roads were penetrating every portion of the continent and creating the conditions of a firm and compact nationality their promoters and managers were, possibly with the best intentions, introducing methods and practices which have produced abnormal results now far from satisfactory to the greater portion of the country. One of these I have already noticed at some length, and that is the system of forcing everything possible to a few great centers. The entire power of the transportation companies has been bent to effecting this end. This was done by so adjusting rates as to force everything to the favored centers.

The centralization aimed at has been accomplished, and this is what renders the low rate on the long haul, of which so much discussion has been had, a necessity to the interior portions of the country. A mere declaration that the railroad companies shall not charge a greater rate for a shorter than they do for a longer haul will not cure the evil of forced centralization. The foundations of this structure have got to be sapped and mined by the adoption of a system of regulation that shall eradicate the entire nest of vipers of discrimination which now are used as aids to maintain the policy of centralization. While it remains the

low rate on the long haul is the only door through which the West and far interior can reach the distant markets at the points of centralization. It is not the abolishment of the low rate on the long haul that is the immediate need of those great regions of our country lying distant from the dominant market centers. The thing most needed is a change of the system which keeps producers and consumers of both agricultural and manufactured products so far apart, forcing the greater volume of our interstate commerce to be transported over great distances, thereby rendering the low rate on the long haul a necessary element in the freight traffic of the country. The present conditions enforce an abuse of this very proper element of commercial movement by degrading it to the improper office of maintaining the present policy of centralization in opposition to one which would tend to diffuse the industries and employments of our people throughout all sections of the land.

But when we shall have changed existing conditions and established a system of commercial transportation more in harmony with the general welfare, experience will teach us that we will still have highly important use for the now abused practice of granting a low rate for the long haul. We can hardly expect that the time will come when the demand for domestic consumption will be equal to the entire volume of the productions of our people. Agriculture, manufacture, and mining will continue the present practice of producing more than we can consume. If we are to have no surplus in the future, why are we casting about for the discovery of methods for the revival of our ocean carrying trade? Do we expect the other nations of the world to so adjust their navigation laws as to put us in possession of their carrying trade? Do we expect England to foster the production of wheat in India, in order that our restored merchant marine may flourish by transporting it to the world's markets? These illusions are not in our minds. We anticipate an enlargement of the volume of our surplus, and expect to compete with other nations in disposing of it, and in order to do this successfully our products, of whatever kind, of the far interior must have the advantage of the low rate on the long haul to the seaboard. And so it will be, under the best conditions we can establish relative to a general diffusion of employments and industries, when commercial transportation must be made over long interior lines, it must have a corresponding advantage in rates; for this tends to a diffusion of values, and is not inimical to the widest distribution of industrial pursuits. The principle is a correct one. Let it be applied to its proper office and it will be promotive of the public good. Its abuse in our present system of commercial activity is the true cause of complaint. I shall be rejoiced when we reach the point from which we can take a new departure in this regard. But the difficulties which I see in the way constitute one of the reasons which led me to say that disappointment will come to any one who expects a single act of Congress to eliminate all of the evils that have become parts of our transportation system.

When we consider that the defects and abuses of the system which we now seek to reform have been developing and embedding themselves in it through the practically undisturbed progress of a period of about thirty years, we must not be too sanguine in our expectations in respect of their immediate elimination. Not merely the railroad corporations stand opposed, but all persons, associations, firms, communities, and interests participating in the profits and advantages resulting from the things complained of are ranged along with them. The great cities whose overtowering advantages and powers have been upbuilded on foundations laid of the evils and abuses of the general system; the communities whose successes in the main have come through arbitrary discriminations enforced against others; the associations which thrive on the effects of unequal rules imposed on their competitors; the firms whose prosperity is the fruit of transportation favors not accorded to others; the persons who revel in the luxury of rebates and drawbacks, will not be swift to see that a reform which proposes to enforce the principle of equality in respect of matters of commercial transportation is one of the supreme needs of the present juncture. But the change will come; for well-founded discontent with the present order of things is too prevalent and justly forceful to cease its efforts until a real reform shall be established.

I know how apt we are in this country to believe that anything, no matter how intricate or difficult it may be, can be accomplished at once and perfectly. But a moment of serious reflection will serve to convince us that this belief is not in accord with our experience. Great reforms have not been in the habit of appearing in full life and vigor at first command. They have been evolved rather than specially created. And it will be so, in greater or less degree, with the one we now have in mind. It will not be perfect from the start. But to be anything it must have a start. Having this it will grow, and ultimately develop into the form we desire. It may be best not to undertake to do too much at once. This consideration induces my support of the bill reported by the committee and now before the Senate. It certainly does not include all that I hope to have done. But as the act of June 15, 1866, was a good start in the matter of asserting the power of Congress to regulate the transportation of interstate commerce, so is the present bill a good beginning of the legislative action which will ultimate in a system of commercial regulation adapted to the right protection of all the varied interests to be affected, and, hence, promotive of the general welfare.

The provision of the bill which establishes a commission for the administration of the system proposed has my most hearty approval. With the aid of a competent commission a complete system of interstate commercial regulation can rapidly be developed, and in manner and form which will justly care for all of the complex interests to which it will apply. The amendments which I have proposed to the bill do not, as I have heretofore remarked, interfere with the structure or declaratory provisions of the measure, and I am content to have them incorporated in such manner and places as the Senator from Illinois [Mr. CULLOM], in charge of the bill, may prefer. I deem these amendments important to the ultimate perfection and success of the scheme presented by the bill, and, therefore, earnestly advise their adoption.

Mr. CULLOM. I do not rise to make any remarks except to say that when the bill is further proceeded with and before the amendments are voted upon I shall take occasion to indicate to the Senator from Iowa where I think his amendments ought to come in if they should be adopted by the Senate.

The PRESIDING OFFICER (Mr. HARRIS in the chair). The Senator from Oregon [Mr. SLATER] has offered an amendment in the nature of a substitute for the bill reported by the committee. The Senator from Iowa [Mr. WILSON] offers several amendments to the text of the bill in the nature of perfecting the text, and the question is first upon the amendments offered by the Senator from Iowa.

Mr. WILSON. I suggest to the Senator from Illinois that if he is prepared now to suggest the proper place for the amendments proposed by me, it may be well to do so at this time.

Mr. CULLOM. I will do so now if it is desired. The first amendment offered by the Senator from Iowa I think should be added to the second section of the bill under consideration. The substance of it should be simply added to section 2.

Mr. SEWELL. If the Senator from Illinois will allow me, I will state that I desire to submit to the Senate a few general remarks on the practical questions embraced in the bill.

Mr. CULLOM. I was aware that the Senator from New Jersey desired to speak, and hence I did not profess to suggest the place where the amendments should come in until after he had made his remarks.

Mr. SEWELL. I am ready to go on now.

Mr. CULLOM. I will yield to the Senator from New Jersey, and will suggest the proper place for the amendments of the Senator from Iowa when the Senator from New Jersey shall have concluded his remarks.

Mr. SEWELL. Mr. President, the bill under consideration aims at a national control of the railroad system of the country, so far as it pertains to interstate commerce. It proposes to establish a commission for the purpose of seeing that fair rates are made by railroads, and that the oplpee of the country are fairly treated by the corporations, giving the commission power to punish those companies that do not comply with what they consider just rates for transportation.

Many of the States have, in one way or another, legislated on this subject, and most of them have created commissions for the purpose of carrying out the acts of their Legislatures.

The transportation problem is one of great magnitude and one that has engaged the attention of some of the brightest minds in this country and in Europe. I think the time has fairly come now when it is the duty of the Government to take just such action as is proposed by this bill. While I do not think, myself, that there is any very great injustice being done by the transportation companies in general, there may be some isolated cases, and if this can not be reached by State laws it is but just and proper that Congress should provide a remedy.

It is but a few years since the first railroads were laid in this country. The growth for the last twenty-five years has simply been enormous. State after State has been gridironed, and we now have several lines across the continent. The railroad mileage of to-day amounts to 125,000 miles, costing over seven billions of dollars, the gross receipts amounting to $850,000,000 annually, and the profit to the owners to somewhat less than 5 per cent., although the stockholders have not received more than a fraction less than 3 per cent.

It is almost impossible to make a rigid law that could govern the transportation system of this country without in many cases doing great injustice by which some roads might be wiped out of existence and others benefited at their expense. The transportation of coal differs from that of grain, and grain from that of lumber, and lumber from that of cotton. The different sections of the country present different obstacles to overcome, in some cases, such as the passage of mountains, making it much more expensive than on the plains, and the severe winters of the northern section of our country making it much more costly than in the South; so that any law that would fix any rigid rule as to charge of transportation where there is such great difference in the cost would be manifestly unjust. Therefore, I think it is wise to leave to the discretion of the commissioners to be appointed under this act the determination of what are fair rates in the different sections of the country and under the different circumstances that the various lines are operated.

As I am in favor, therefore, of the bill as presented by the honorable Senator from Illinois [Mr. CULLOM], and which met the approval of the Railroad Committee of the Senate, I will pass from that to the discussion of the merits of the amendment as presented by the honorable Senator from Mississippi [Mr. GEORGE].

That amendment proposes radical changes, among which are the prohibition of pooling, the charging more for a short than a long haul, and the prevention by law of the granting of drawbacks.

I understand the Senator from Mississippi to say that in his judgment one thing is absolutely essential to any effective legislation in restraint of unreasonable charges, and that is a prohibition against pooling, and that if competing railroad companies are allowed to pool their freights there can be no real competition or just fixing of reasonable rates. I understand the intention of the Senator from Mississippi to be to provide by some proper legislation for the carriage of interstate traffic at reasonable rates and at the same rates to all shippers for the same service. Both he and Mr. REAGAN contend that the great evil existing to-day and demanding prompt redress is the action of the railroad companies in carrying through freight below cost, and in then providing for the deficit thus caused in their earnings by taxing the local freight or that carried between points upon their roads where there is no competition. No one will deny that such a practice is deserving of severe reprehension if it exists, nor contend that the power of Congress can be more beneficently exerted than in redressing just such an evil.

The natural point of inquiry, therefore, is whether this end can be accomplished by the prohibition against pooling which the Senator from Mississippi suggests.

It may not be clear to all the members of the Senate just what is meant by the term pooling, and it may be well in the outset to get clearly in our minds that the mere act of pooling has necessarily nothing whatever to do with the fixing of rates. Pooling simply means that where two or more competitive lines carry traffic between the same points they agree between themselves as to what is the proper proportion for each line to carry; and when I say the proper proportion I mean the proportion which each line would naturally get by reason of the facilities which it furnishes to the shipper, either in the transportation of the traffic, or in the more or less favorable handling and delivery of it at the point of destination. There certainly can be no wrong done to anybody by two lines agreeing upon this point; it is done in all business, and works no injustice to any one. It gives to the enterprising railroad company, the one that has most largely invested its capital in furnishing a perfect road-bed, large warehouses for the receipt and storage of traffic, a full equipment and the other facilities necessary for its prompt transportation, a proper advantage over its competitor that has expended less capital, has inferior facilities, a longer route, and less favorable terminals, and therefore is not entitled to as large a proportion of the competitive traffic as its more active competitor.

It is in the interest of trade and the interest of all shippers that the railroads of the country shall be induced to expend their capital in furnishing just such facilities as these, and I am sure every one will agree that it would be a great mistake on the part of Congress or any other legislative body to interfere in the slightest degree with steps leading to that end. There is no practicable trouble in two or more competitive roads settling this question as between themselves, for the reason that their accounts show just the proportion of the traffic they have handled in the past between certain points, including periods when they were at peace and when they were at war with each other, but if the roads themselves can not agree any fair-minded third party can settle the question and give each road its proper percentage of the business. There is certainly nothing in this to prevent a just fixing of reasonable rates, and nothing which necessitates unreasonable charges. On the contrary it will, I think, be admitted by every one that if through this plan the railroads receive upon this through competitive traffic fair and reasonable rates, then the other object sought to be accomplished by the Senator from Mississippi—that is, the fixing of just and reasonable rates upon local traffic—becomes very easy to accomplish. It is useless to say that fair rates can be secured upon local traffic while the roads are allowed to compete for the through traffic at any or no rates, and allowed or compelled to carry it to destination below cost; and, therefore, any arrangement by which fair rates can be secured upon through traffic should, it seems to me, receive the sanction of Congress.

It must be borne in mind that the position of the railways in this country is entirely different from that in any other part of the world. In England, France, Germany, and all other countries than our own, no railroad can be built except by the direct sanction, in each individual case, of the legislative or executive authority, while under what is known as our free railroad laws any four or five men can associate themselves together, procure a charter, and build roads whenever and wherever they please. The natural result is, that not only are sufficient lines built to take care of the traffic, but that these lines are duplicated again and again until they are far ahead of the necessities of traffic, and until it is utterly impossible for them to earn a sufficient amount to begin to take care of the actual cost involved in their construction. This evil is aggravated, too, by the fact that through local aid from townships and counties it is made much easier for unnecessary roads to be built, as the constructors rely simply upon the profit made during construction, and having disposed of their securities have no further interest in the enterprise, while the damage caused by the construction of the unnecessary road is visited upon the local communities who have assumed heavy debts to aid a worthless undertaking, and on the other lines with which it becomes a direct and active competitor; for be it remembered that a railway differs from all other enterprises in this essential point: that once built it is practically there for all time; men can withdraw from other enterprises in which they have sunk their capital, and allow a mill or a warehouse to go to destruction, but a railway once built continues to be operated and remains a potent factor for good or evil throughout the entire territory which it traverses.

Not only this, but having been unnecessarily built, and being unable to get business from its longer established competitors at the same rates, yet being compelled to get money in some way to take care of its road-bed and track, its management cut rates in all directions, carry traffic below cost, and in that manner affect the earning power and the value of the securities of all the railways with which it comes into competition. As a natural result of this cut-throat policy it is placed in the hands of a receiver, and once there it practically becomes entirely irresponsible, for the judge of the court in whose custody it is has no practical knowledge of railroading and is compelled to rely entirely upon the officers who are running it. It makes no difference what it earns, for the receiver's certificates can be issued *ad libitum* and become a lien upon the property prior to its mortgages, so that to-day there is not a trunk line between the seaboard and the Mississippi whose business is not disastrously affected by the ruinous competition of railways which were utterly unnecessary to accommodate the traffic, and which now, in the hands of receivers, are carrying business below cost, and thus compelling solvent corporations to take it at the same ruinous figures.

It is not necessary, therefore, to assume that the railway companies resort to measures for mutual destruction because they are not allowed to combine in aggression against the public. The railway managers are, most of them, men of ability and experience, whose pride and interest it is that their properties shall justly and fairly accommodate the public and give to their owners a fair profit upon the capital invested. They do not desire wars to prevail, yet to-day and for nearly a year past the trunk lines between the East and the West, by reason of the acts of irresponsible and bankrupt corporations, have been utterly unable to secure a fair compensation for the transportation of traffic between the West and the seaboard, while the advantage of the low rates has accrued not to the producer but mainly to the middleman and the broker.

I do not believe there is any higher railroad authority upon this question of competition than Mr. Fink, the commissioner of the trunk lines, and his arguments before the committees of the House are so forcible and so much to the point as to present a very clear view of the whole question. Mr. Fink shows that it is absolutely impossible for the railways of this country to fix unreasonable rates upon the through traffic, by reason of the competition of the great lakes, the rivers, and the ocean; that the facilities furnished by the ocean steamers along the Atlantic coast to the Gulf of Mexico, and the railways stretching from the Southern ports to all parts of the South and Southwest, make it impossible for the railways to charge unreasonable and high rates upon competitive traffic to and from that section, while the Mississippi, the Ohio, and the great lakes on the north equally protect the interests of that portion of the Union. The moment a rate is made unreasonably high the farmer ceases to send by rail and ships by water, and the entire history of railroad transportation in this country shows a wonderful decrease in the rates upon traffic, both local and competitive. It is folly for gentlemen to preach about the railways oppressing the country by unreasonable charges, when the indisputable fact remains that the charges to-day are about one-half of what they were ten years ago and when the tonnage statistics show such a tremendous increase in the movement of freight by all railways from one end of the country to the other. I need only cite the experience of one railway, where the rate received per ton per mile decreased from 1.416 cents in 1873 to 8 mills in 1883, while its tonnage, moved one mile, increased from 1,384,831,970 to 2,996,892,567 in the same period.

Before the system of pooling was adopted it was utterly impossible to secure the same rate for the small as for the large shipper, and the great mercantile houses in the different cities sold their business to the railroad company that would carry it at the lowest rates, while the small houses were compelled to pay a materially higher rate to compensate the railroad companies for the reduced profit received from the large shipper. Agreements were continually made between the railroad companies by which a fair and reasonable rate was to be charged to all shippers alike, but they were no sooner made than violated, so that the man with small capital was at the mercy of his more wealthy rival, and in the end was ruined and driven out of the business. Now, the small shipper between competitive points, say New York and Chicago, is certainly equally as much entitled to protection against the large shipper between those points as the local shipper against the through shipper, and the only way in which this has ever been accomplished is by the railroads agreeing among themselves as to what percentage each is fairly entitled to, for the moment this is done it makes no difference to the railroad company whether it carries the goods of the large or small shipper if it gets a proper amount of tonnage and gets the same price for carrying it, whereas before the pooling system was adopted each railroad was competing with the other for the business of the large houses, and the small shippers paid high rates and the large shippers low rates.

This practice of pooling is one which is sanctioned by law in England,

Austria, and other foreign countries, and it is hardly fair or just to the railroad companies to condemn them in one breath because they can not maintain tariffs alike to all persons, and in the next prohibit them from adopting the only practicable method by which this end can be accomplished.

Under the great East and West pool of 1877 there has been a continuous and regular reduction in rates for a number of years.

The following statement from the report of Mr. Joseph Nimmo, jr., chief of the Bureau of Statistics, exhibits this fact:

REDUCTIONS IN THE COST OF TRANSPORTATION BY LAKE AND RAIL.

The following statement exhibits the gradual reduction which has taken place in the rates charged for the transportation of grain from Chicago to New York from the year 1857 to September 1, 1884:

Average freight charges per bushel for the transportation of wheat from Chicago to New York during the years 1857 to September 1, 1884, inclusive.

Calendar year.	Average rates per bushel.		
	By lake and canal.*	By lake and rail.	By all rail.
	Cents.	*Cents.*	*Cents.*
1857	26.03		
1858	17.03		
1859	18.33		
1860	25.58		
1861	27.05		
1862	27.08		
1863	23.65		
1864	29.11		
1865	28.37		
1866	31.36		
1867	24.11		
1868	24.54	29.0	42.6
1869	23.13	25.0	35.1
1870	17.10	22.0	33.3
1871	20.24	25.0	31.0
1872	24.50	28.0	33.5
1873	19.19	26.9	33.2
1874	14.10	16.9	28.7
1875	11.43	14.6	24.1
1876	9.58	11.8	16.5
1877	11.24	15.8	20.3
1878	9.15	11.4	17.7
1879	11.60	13.3	17.3
1880	12.27	15.7	19.7
1881	8.19	10.4	14.4
1882	7.89	10.9	14.6
1883	8.40	11.5	16.5
1884, January 1 to September 1	6.60	9.3	15.5

*Including Buffalo transfer charges and tolls.

The reduction in the average rates of transportation by lake and canal from 24.54 cents per bushel in 1868 to 6.60 cents per bushel in 1884, in the rates by lake and rail from 29 cents per bushel in 1868 to 9.3 cents per bushel in 1884, and in the "all-rail" rates from 42.6 cents per bushel in 1868 to 15.5 cents during the year 1884, was the direct result of the sharp competition which prevailed between competing railroads and between the railroads and the water line formed by the lakes, the Erie Canal, and the Hudson River. Each transportation line has exerted a regulating influence over every other transportation line, and this competition has strongly tended to reduce freight charges. It is probable that during this entire period the carrier has been able to realize only a narrow margin of profit.

It is not claimed nor do I believe that the reduction is in consequence of pooling, but it has been the means by which railway wars have to some extent been avoided, and the result has been improved economies and greater efficiency of the railroads and of more economical administration.

The general reduction of freight charges in the United States is also illustrated by the following table:

Statement showing the reduction in freight charges per ton per mile on the New York State canals, and on several leading trunk railroads of the United States.

Canals and railroads.	Year—		
	1868.	1873.	1883.
	Cents.	*Cents.*	*Cents.*
New York State canals*	.873	.887	
New York Central Railroad†	2.743	1.573	.91
Pennsylvania Railroad*	1.906	1.415	.819
New York, Lake Erie and Western†	1.81	1.454	.78
Boston and Albany Railroad†	2.811	1.956	1.19
Philadelphia and Erie*	1.609	1.135	.62
Lake Shore and Michigan Southern*	2.336	1.335	.738
Michigan Central*	2.45	1.891	.88
Chicago, Burlington and Quincy*	3.248	1.921	
Chicago and Northwestern‡	3.168	2.351	1.42
Chicago, Milwaukee and Saint Paul*		2.50	1.39
Saint Louis, Iron Mountain and Southern*			1.66
Chicago, Rock Island and Pacific‡		2.29	1.17
Illinois Central*		2.20	1.43
Chicago and Alton*			1.13
Pittsburgh, Fort Wayne and Chicago*		1.41	.79
Average on canals and railroads	2.295	1.737	
Average on railroads	2.453	1.803	1.055

*Year ended December 31.
†Year ended September 30.
‡Year ended May 31.
‖Year ended March 31.

It appears from this table that the average annual freight charge on the trunk lines mentioned fell from 2.453 cents per ton per mile in 1868 to 1.803 cents per ton per mile in 1873, and further to 1.055 cents per ton per mile in 1883. This important reduction in the cost of internal transportation by rail in the United States has been the combined result of new economics, improved facilities, and competition. The rapidly increasing volume of traffic has also been one of the important elements in the reduction of freight charges.

It is worthy of note to observe the fact that the general fall of rates has effected a constant and rapid increase of traffic in the country. Quoting again from Mr. Nimmo's report:

The general results of the improved facilities for transportation which have been provided on the east and west trunk railroads, and of the competition between the railroads and the northern water lines, are also illustrated in the following table, which shows tonnage movements.

Total number of tons (of 2,000 pounds) transported upon the New York State canals, the New York Central and Hudson River Railroad, the New York, Lake Erie and Western Railroad, and the Pennsylvania Railroad each year, from 1868 to 1883, inclusive.

Year.	New York State canals.*	New York Central and Hudson River Railroad.*	New York, Lake Erie and Western Railroad.*	Pennsylvania Railroad Division.†
	Tons.	*Tons.*	*Tons.*	*Tons.*
1868	6,442,225	1,846,599	3,908,243	4,722,015
1869	5,859,080	2,281,885	4,312,209	5,402,991
1870	6,173,769	4,122,000	4,852,505	5,804,051
1871	6,467,888	4,532,056	4,844,208	7,100,294
1872	6,673,370	4,303,965	5,564,274	8,439,535
1873	6,364,782	5,522,724	6,312,702	9,211,231
1874	5,804,588	6,114,678	6,364,276	8,626,946
1875	4,859,858	6,001,954	6,299,946	9,115,368
1876	4,172,129	6,808,680	5,972,818	9,922,911
1877	4,955,968	6,351,356	6,192,451	9,738,295
1878	5,171,320	7,695,413	6,150,568	10,946,752
1879	5,362,372	9,015,753	8,212,641	13,684,041
1880	6,457,656	10,533,038	8,715,892	15,364,788
1881	5,170,192	11,591,379	11,066,223	18,229,365
1882	5,467,423	11,330,393	11,866,288	20,360,399
1883	5,664,056	10,892,440	13,610,623	21,674,160

*From annual report of auditor of canal department, State of New York.
†From annual report of Pennsylvania Railroad Company.

From this table it appears that the tonnage transported on the New York State canals fell from 6,442,225 tons during the year 1868 to 5,664,056 tons in 1883, but that the tonnage transported on the New York Central and Hudson River Railroad increased from 1,846,599 tons in 1868 to 10,892,440 tons in 1883; that the tonnage transported on the New York, Lake Erie and Western Railroad increased from 3,908,243 tons in 1868 to 13,610,623 tons in 1883; and that the tonnage transported on the Pennsylvania Railroad increased from 4,722,015 tons in 1868 to 21,674,160 tons in 1883. The total tonnage transported by rail on these three roads increased from 10,476,857 tons in 1868 to 46,177,223 tons in 1883. Perhaps no more striking illustration can be furnished of the enormous increase of the internal commerce of the United States by rail.

RAILROAD POOLING COMBINATIONS.

In this connection it appears proper to advert to the federation of railroads and other transportation lines by means of organizations having for their object the maintenance of rates established, and from time to time adjusted by common consent or by submission to the rulings of an executive head. Such agreements as to rates are generally enforced and rendered effective through agreements as to the division of traffic commonly known as pooling. Besides, some of these organizations have the function of determining the classification of freights and other matters pertaining to the conduct of traffic over connecting and competing lines. The present consideration of pooling organizations must be limited to their operations touching the transportation of grain, flour, provisions, and cotton to the seaboard. The determination of rates on grain, flour, and provisions from the West to the seaboard has been committed to the "joint executive committee" of the East and West trunk lines and their connections, embracing almost all the more important lines in the United States north of the Potomac and Ohio Rivers and east of the Mississippi River. The main office of this organization is at 346 Broadway, New York.

The Southern Railway and Steamship Association, which embraces the various lines extending from Atlantic seaports south of Cape Henry into the interior, and also the various steamer lines engaged in the coastwise trade between Northern and Southern ports, has the determination of the rates upon all cotton carried by those lines. The operations of this pool embrace the entire eastward movement of cotton by rail from Selma and Montgomery, Ala., and from all points east of the eastern boundary of the State of Alabama. Through affiliated lines it also exerts a competitive influence over cotton movements as far west as Memphis, Tenn. The main office of this organization is at Atlanta, Ga.

The "overland movement" of cotton is not controlled by any pooling agreement. The Cincinnati, New Orleans and Texas Pacific Railway, the Louisville and Nashville Railroad, the Mobile and Ohio Railroad, and the Chicago, Saint Louis and New Orleans Railroad have not entered into any pooling agreement. The cotton rates over these several lines are, from time to time, determined by agreement. The Cincinnati, New Orleans and Texas Pacific and the Louisville and Nashville are parties to a pool at Selma, Ala.

The several lines west of the Mississippi River which are engaged in the transportation of cotton overland from Arkansas, Texas, and Northern Louisiana to Cairo and Saint Louis, and other points on the Mississippi River above Saint Louis, are all parts of the great Missouri Pacific Railway system.

Railroad companies in this country have united in pooling organizations mainly for the purpose of mutual protection against a competition which invariably ran into demoralization after repeated failures of mere agreements as to the maintenance of rates. It has also been found that pooling arrangements have had the effect of preventing secret rates to favored shippers, and of preventing those sudden and extreme fluctuation of rates which are demoralizing to trade.

The railroads have, through pooling operations, in important particulars, restrained competition; and, on the other hand, the extension of railroad lines has created competition between rival commercial centers, and this competition of trade forces has been found to be the paramount influence in the conduct of the internal commerce of the country. This is indicated by a quite general and marked reduction in rates.

The subject of the relations of railroad pooling operations to the public interest has for several years commanded the attention of Congress, in connection with the general discussion of the question as to the regulation of the railroads engaged in commerce among the States. This is a matter the practical administration of which would properly devolve upon a national railroad commission.

I concur generally in the views of Mr. Nimmo, who has given this subject great attention as to its results. I do not, however, at the same time, admit that pooling is necessarily a combination on rates. The latter often accompanies a pool, but pools are primarily for the protection of the different corporations for the amount of tonnage they receive.

The system of transportation that has presented such wonderful results can not have done very great injustice to the people of this country. There may be, and probably are, isolated cases where individuals and communities may have been injured, but they are few and far between. There has been as little wrong done in proportion to the magnitude of the business as has been done in any other sphere in life or business.

The Senator from Mississippi charges directly that half the capital of the united railroad corporations of this country (and there are about 2,000 companies) is water. Now, Mr. President, I deny that statement.

The present capitalized cost of the railroads of this country is at the rate of a little over $60,000 per mile. When you come to compare this with the cost of railroads in Europe, the lowest of any nation there being $100,000 per mile, increasing to $200,000 per mile in England, where money was to be had during the construction of the great lines at one-half the cost paid for it in the United States, it looks as though the capitalization of our railroads was not above their actual value.

For a number of years railroads were built by an actual cash subscribed capital, or sufficiently so to give them credit to mortgage their lines for part of their expenditure. It is only of late years that water has crept in.

Many of the States prohibited anything but cash subscriptions and the legitimate issuing of mortgages, generally to the extent of the amount of the subscribed capital. The great companies, in fact, large and small, in the Eastern and Middle States have been constructed on a solid cash basis. The process of watering has been applied more particularly to the lines going through the Territories, where special inducements had to be offered to the public in order to get the money to build them, but even in all of these cases there is no burden thereby placed on the shipper by the fact that there is water in the stock.

A number of these railroads were built on the bonds, and the stock, or a part of the stock, given to the subscriber for the bonds. It is well known which they are, and their stocks and bonds are quoted, not, as the honorable Senator from Mississippi would have us suppose, on the basis of paying dividends, but at a mere fractional percentage of their par value. It is not expected that they will pay dividends on a capitalization of this character, and few, if any, I think ever do. To offset the amount of increase of capitalization many of the older companies that have been in existence for a great many years have used their receipts for the bettering of their property without declaring dividends and without issuing a corresponding amount of stock to their owners. Occasionally the public will hear of an additional issue of stock by an old corporation to its stockholders and the press immediately charges that the stock is watered.

Now, it is the custom of fairly managed railroad corporations, that are earning dividends, to declare about half that they earn, accumulating the other and using it for extensions and betterments of their property; and, finally, they may determine, when they have accumulated 25 per cent. in this way, to issue that amount of stock to their stockholders. This, both in this country and in Europe, is considered perfectly legitimate. The amount of money has been earned and put into the additional plant, and it is no more than right that it should be represented in the hands of stockholders. This can not justly be called watering stock, so that I am of the opinion that the railroad system does not get the credit for a large amount of money that has been earned and spent for extensions and betterments of the different properties; but assuming that a part of what the honorable Senator from Mississippi charges is correct, even then (taking the dividends received last year from these properties) the stockholder has not obtained anything more than a fair, reasonable return for his investment.

The substitution of steel rails a few years ago was one principal means of cheapening railroad transportation. It came at a time when increased tonnage and a demand for lower rates were pressing upon the railroads of the country, and it looked as though (the renewals of iron rails were so frequently required) the corporations would become bankrupt, but a rapid substitution of steel reduced the current expenses to such an extent that the companies were saved, and rates of transportation constantly lessened.

The question of the difference between local and through rates, and the cost of doing both classes of business, has also occupied the attention of many of our ablest men. Local rates are fixed by law in the different States, but the railroad charges have gone so much below the authorized rates that there is no prospect now of the companies violating their charters in that direction. It is contended by some that the carrying of through freight at low rates, which sometimes is done at an apparent loss, is injurious to the local shipper, and that he is required in the end to pay a higher rate than if the companies were obliged to charge the same rate to all shippers. The reduction in rates, both through and local, that has been going on for years is a sufficient answer to this proposition.

The amendment proposed by the honorable Senator from Mississippi does not seem to take into consideration the fact that a large part of the transportation of this country is done by water, and that a control that would leave out the water system might bankrupt all the railroads in the country. By reason of the fact that some corporations under this act would be interstate, and some of the largest would be only within one State and have the advantage of water connection that would not be governed by the act, the chances are that the latter corporations would bankrupt their rivals.

I wish to call the special attention of the Senate to the palpable injustice of tying up the American railways hand and foot, as against their competitor the Grand Trunk Railway of Canada, and as against the water routes of the country.

Under the provisions of the amendment as proposed by the Senator from Mississippi, the Grand Trunk of Canada is entirely free to make what rates it pleases and change them at will, and the natural result would be that the moment the American railways had fixed their rates the Grand Trunk would be able to cut under them and take from the American railways the business which they were built to accommodate, and take it over foreign roads to the seaboard entirely for the benefit of foreign capital. The Grand Trunk of Canada has been ever since it was built a most potent factor in destroying the through rates of the American railways and in bringing about the very evils of which the Senator from Mississippi so strongly complains; yet under this bill it is permitted and authorized to bring about the very state of facts against which the Senator from Mississippi protests, and is enabled either to take through competitive business from the American railways and compel them to rely upon their local traffic for their revenues, or to reduce their competitive rates to so low a point that they make no profit out of the carriage.

It certainly seems to me strange legislation for the Senate of the United States to be favoring foreign capital and foreign railways as against the roads built up through the enterprise and capital of the American people, and yet under the provisions of this bill the through traffic simply could be laden in vessels at Chicago, as was done before the Grand Trunk completed her rail line to Chicago, and sent to Sarnia or Windsor, in Canada, and from there taken by rail to points on the Canadian seaboard, entirely free of the operations of this bill, and at just such rates as might be necessary to take the traffic from the American railways. The Grand Trunk Railway is built on cheap capital furnished at a low rate of interest, has comparatively little local traffic, and is in a position where it is absolutely necessary for its existence to get a long haul on through traffic; and the result has been in the past that she goes into the market at Chicago and other points in the West that can be reached by water, and utterly demoralizes the through rates of the American railways and prevents them from getting fair and reasonable rates upon that traffic. There certainly can be no justice in this, and the argument advanced by the Senator from Mississippi that under the provisions of this bill the railroads would be compelled to exact a reasonable rate on their through business and thus be prevented from levying charges upon their local traffic falls utterly to the ground, because the railroads are left at the mercy of a competitor which has ample power to destroy through rates and compel them to carry at or below cost.

I need hardly refer further to the fact that under this amendment the water ways are left entirely free to change their rates at any moment of the day, and, as the most active competitors of the railways are the water routes all through the country, the railroads are practically put at their mercy, for while they are tied up under the bill for five days, the water routes have it in their power to reduce and vary their rates so as to take the business by cutting under the schedule fixed by the railways, no matter how reasonable it may be.

I have already adverted to the fact that through the great lakes and rivers this water competition is felt at every point upon the railway system of the country, and that the rates from Atlanta, Montgomery, Nashville, and all interior points are practically regulated as much by the water routes as the rates to and from Savannah, Charleston, Chicago, Toledo, and other ports situated directly upon the seacoast or the rivers; yet this amendment at one moment says to the railways, "We propose to stop your wars upon through traffic and compel you to get a fair rate upon that business, in order that you may not oppress your local business," and in the next breath it says, "We propose to prevent your getting a proper rate upon through traffic by leaving you at the mercy not only of your natural competitors, the water routes, but also of the Grand Trunk Railway of Canada, a foreign enterprise entirely free from the provisions of this bill, and able to destroy your through rates at its own will and pleasure."

I think it will puzzle any one to show the justice of such legislation as this.

Upon the provision of the bill that no greater charge shall be made for a short than for a long haul I do not propose to dwell at length,

but I fail utterly to see the justice of the position taken by the Senator from Mississippi, that when a portion of a road has to be built through a tunnel or over a mountain, involving an enormous expenditure of money, the company should be prevented from making a higher charge for that section of the road, because, as he puts it, it is but a link in the chain, and it was nature that saw fit to put a mountain there and thus require an expensive tunnel or road through or over it. This reasoning would hardly apply to any other undertaking; and if the Senator from Mississippi had to build a turnpike road through a very difficult section of the country, he would hardly be consoled if he had to make the same low charge upon that section as upon a piece of perfectly level highway by being told that it was his misfortune that nature should have put obstacles in his way, and that his expensive piece of turnpike over a mountain was simply a link in his general system, and he could not be permitted to charge any more for it than for the comparatively inexpensive work in the valley. I doubt whether he would regard the subject in the same philosophical calmness if the rule were applied in that way.

But this amendment provides that a railway company shall be compelled to haul over, say, fifty miles of mountainous road, costing perhaps $5,000,000 to build, for the same sum of money that it charges over fifty or one hundred miles of road costing only $2,000,000. The mere statement of the case seems to me to show its absurdity, and I doubt whether any one familiar with the practical operations of railroads would for a moment contend for the justice of such a provision.

Under that section the railway companies that have built expensive lines in the coal regions of Pennsylvania and Maryland and into the mining regions of Nevada and Arizona would not be permitted to charge for a haul of fifty miles over such expensive sections any more than for a haul of fifty miles along the valley of the Susquehanna or Sacramento. If that section of the bill were to become a law it would simply place an embargo upon the development of the mining interests of this country and throttle the enterprise that has for thirty years past done so much to develop the rich mineral territory of the United States.

It seems hardly necessary to say that miles of railroad that cost in the case of the Hoosac Tunnel three millions a mile, and in case of some bridges over the Ohio and Mississippi one to ten millions per mile, can not be run and should not be required to be run at the same rate as a road costing fifteen to twenty thousand dollars per mile on an Illinois or Iowa prairie.

To show the difference in cost in operating different railroads, I present the following statement of the hauling power of locomotives on different grades, which shows the utter fallacy of fixing rigid rates of transportation over continuous lines which are often made up of several roads each operating under a different cost:

Grades.	Hauling power.	Loaded cars.
	Tons.	
On a level	1,400	70
20 feet to the mile	655	32
40 feet to the mile	415	21
60 feet to the mile	300	15
80 feet to the mile	230	11
100 feet to the mile	180	9

In the Pennsylvania system it costs from 4 mills a ton per mile upon the most favored portions of the line to 6 cents a ton per mile upon some of its branches. On the Louisville and Nashville Railroad it is represented to cost 1.7 cents a ton per mile on the main stem, varying over different portions of the road until it reaches 19.10 cents a ton per mile on its Glasgow branch.

Mr. Fink, who is looked upon as one of the ablest men of this country in a railroad point of view, and who occupies a position which certainly gives him a thorough knowledge of the system and its requirements, and who would hear every complaint that would be likely to be made against the corporations, stated before a committee of Congress, within a short time, that there are no wrongs now which were unredressed, and that whenever complaint was made he investigated it and applied a remedy.

There will always, however, be a complaint of overcharge from individuals who do not have the benefit of water transportation or of the competition which water transportation brings about. Freight can be shipped from New York to New Orleans by water at a cheaper rate than the charge by rail to an interior point in Georgia. At the same time railroads compete for the coast-line business, charging more in this instance for a short haul than a long one; but if they were prohibited from doing so they would simply be obliged to give up the long haul, and it would not in any sense cheapen the rate for the short distance.

Believing, Mr. President, that the provisions of the amendment offered by the Senator from Mississippi, and also that offered by the Senator from Oregon, would be impracticable, injurious to the business interests of the country, and unjust to the railroads, I trust that the bill as offered by the Senator from Illinois will pass as reported by the committee.

The railroads of this country, as I understand them, are governed by intelligent men, who are required to-day to have the highest class of education in order to make them competent to fill the positions they hold, and they may certainly be said to be as conscientious in the discharge of their duties as any other class of gentlemen in the country. They are, to my knowledge, at all times ready to redress any grievance or wrong, and have no desire to burden the public unnecessarily, as the figures that I have presented will show in the constantly reduced cost of transportation. They are not averse to a fair supervision of their business by the Government; in fact, I think it would be a relief to them to have such a commission as is proposed by this bill. There is more of a necessity to-day for the protection of the railroad stock holder or of one corporation from another than there is ground for the general complaint, which is not made by business men or the actual shippers, that corporations are oppressing individuals and communities.

Nowhere else in the world is there such a system. In no other country is the traffic moved at so low a rate as in this, and it has not reached, in my opinion, the minimum yet. The amount of money expended in the past few years, which were fairly remunerative, in the improvement of the great railroads will constantly show a reduction in the cost of transportation; and with all that has been said against these companies as to pooling their traffic, charging more for short hauls than for long, watering their stock, and giving drawbacks to favorite individuals, the great result stands out in bold relief that within a few years the population of the country has been doubled, its traffic quadrupled, cities, towns, and States built up, a continent spanned in several places, and the balance of trade turned in our favor by the genius of these men of the rail, who have accomplished in the lessening of transportation charges that which the wildest granger never dreamed could be done fifteen years ago.

Is it well, Mr. President, to take any chances in a matter of this kind? Is it not well to make haste slowly? A system which has given us such extraordinary and magnificent results, which has built the country up and contributed more to its wealth than all else except the agriculturist, should not be experimented upon or hampered by any unwise legislation that could not be immediately changed.

Therefore, while I am in favor of a commission as proposed by the honorable Senator from Illinois, and of giving them ample powers to redress wrongs, I am opposed to the amendments offered by the honorable Senators from Mississippi and Oregon.

Mr. CULLOM. I ask the Senator from Iowa [Mr. WILSON] if he will withdraw his amendments for a moment until I can offer one or two formal amendments. Then I will promise to renew them, or the substance of them, and will indicate the places in the bill where I think they should come in if adopted.

Mr. WILSON. I have no objection to that course.

The PRESIDENT *pro tempore*. The Senator from Iowa withdraws both of his proposed amendments?

Mr. WILSON. Yes; in order that the Senator from Illinois may submit an amendment.

Mr. CULLOM. I offer an amendment to the first section of the bill, which is merely striking out a few words. I move to amend section 1 by striking out, in lines 11 and 12, the words "beginning with the 1st day of July, anno Domini 1884." I ask to have those words stricken out, for the reason that the bill was introduced last year, and the year having passed they are of no account there. I ask a vote upon the amendment now.

The PRESIDENT *pro tempore*. The question is on agreeing to the amendment proposed by the Senator from Illinois.

The amendment was agreed to.

Mr. CULLOM. I move to amend section 3 of the bill by inserting in line 5, after the words "freight of any description," the words "or for the receiving, delivery, storage, or handling of property."

The amendment was agreed to.

Mr. CULLOM. I now call the attention of the Senator from Iowa to an amendment as embodying the substance of the first section of his amendment. I desire to state that the previous amendment offered by him, which was adding a section, is embodied in the second section almost *verbatim*. As the substance of the first section of the second amendment offered by him, I move to amend section 2 of the bill by adding after the words "within its power," at the close of the section, the following:

> And to take into consideration and to thoroughly investigate all the various questions relating to commerce between the States, and especially in the matter of the transportation thereof, so far as may be necessary to the establishment of a just system of regulations for the government of the same.

That amendment embodies all of his second amendment except the last clause; and the Senator from Iowa will find that that portion of his section is embodied in another part of the bill. I have no objection myself to the adoption of the amendment.

The amendment was agreed to.

Mr. CULLOM. I now desire on behalf of the Senator from Iowa to reoffer the substance of his main amendment, which I will offer as an addition to section 11. I am not prepared to say that I am for that amendment; but I offer it in his behalf and indicate that as the proper place where it should come into the bill if it is to be adopted by the Senate.

The PRESIDENT *pro tempore*. The amendment will be read.

The CHIEF CLERK. It is proposed to amend section 11 by adding the following:

And said commission shall accompany its first report with a bill presenting a just and comprehensive code for the regulation of the transportation of commerce among the States, which said bill shall embrace provisions for establishing a system of both maximum and minimum charges for transportation, and for the preservation of free competition within the limits so fixed; for the prohibition of discriminations of any kind whatever either in favor of or against cities, towns or other localities, whether the same be competing or non-competing points, and for applying the same principle to transportation for individuals, firms, associations, or corporations in all matters relating to commerce among the States; for the preservation and enforcement of the right of shippers to select the lines and parts of lines over which their shipments shall pass, to the end that said commerce among the States may avail itself of the all-rail or part rail and part water routes of the country; for the prevention of such pooling arrangements and agreements to refrain from just competition as may tend to impose unreasonable burdens upon said commerce among the States, and for the protection of said commerce against unjust exactions based on a class of securities commonly denominated "watered stock;" and said commission, in conducting said investigation and in the preparation of said bill, shall be guided by such rules of action as will be fair, just, and equitable toward all of the interests involved, whether the same be private, public, or corporate, connected with the subject of commerce among the States.

The PRESIDENT *pro tempore*. The question is on agreeing to this amendment.

Mr. ALLISON. That is a very important amendment. I suppose it is in substance the amendment offered by my colleague. I am not clear that it is. I think we had better see it in the RECORD. Therefore I move that the Senate now proceed to the consideration of executive business.

Mr. COCKRELL. Before that is done I ask the Senator from Illinois if he has already offered the amendments he desires to have made and if they have been agreed to?

Mr. CULLOM. The amendments offered by me on behalf of the committee have been adopted by the Senate.

Mr. COCKRELL. Would it not be well to have the bill printed as amended?

Mr. CULLOM. The amendments which have been offered are very slight and do not change the substance at all.

Mr. COCKRELL. I should like very much to see the bill in print the way it is amended. A few words may make a very material change. I ask that the bill be printed as amended.

Mr. CULLOM. The last amendment offered was substantially the amendment offered by the Senator from Iowa, and that has not been voted upon by the Senate. It has not become a part of the bill but was simply offered to be considered by the Senate.

Mr. COCKRELL. Let the bill as amended be printed, and let that amendment also be printed.

Mr. HARRISON. I suggest to the Senator from Missouri that he wait until the consideration of the bill has progressed a little before we order a reprint. We have made but two small amendments; we have not changed the scope of the bill as yet.

Mr. COCKRELL. I suppose we shall be called upon to vote on the bill to-morrow?

Mr. ALLISON. Not to-morrow.

Mr. HARRISON. Hardly to-morrow.

Mr. COCKRELL. Then I have no objection to deferring a reprint.

Mr. CULLOM. I wish to say on that point that I am very anxious that the bill shall be pressed forward to a vote as fast as may be with a view to its due consideration. I was in hopes, if no other gentleman desired to speak at length, that we should be able to get a vote on it to-morrow.

Mr. COCKRELL. That was exactly the reason why I asked that the bill might be printed as it now is.

The PRESIDENT *pro tempore*. Does the Senator from Missouri move that the bill be printed?

Mr. COCKRELL. In view of the suggestion of the Senator from Iowa I shall not make that motion.

Mr. SEWELL. I desire to offer some verbal amendments which do not change the character of the bill, but are intended to confine it to interstate commerce. In section 2, line 5, after the word "commerce," I move to add "so far as they affect the same."

The PRESIDENT *pro tempore*. No amendment is in order at present except an amendment to the amendment offered by the Senator from Illinois. One amendment is now pending.

Mr. SEWELL. I was not aware of that. I supposed that had been decided.

The PRESIDENT *pro tempore*. The question is on agreeing to the amendment proposed by the Senator from Illinois [Mr. CULLOM].

Mr. COCKRELL. The Senator from Iowa, I believe, moved to proceed to the consideration of executive business.

The PRESIDENT *pro tempore*. That motion was not received by the Chair, as the Senator from Iowa yielded.

Mr. ALLISON. I now renew it.

The PRESIDENT *pro tempore*. The Senator from Iowa moves that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After six minutes spent in executive session the doors were reopened, and (at 4 o'clock and 21 minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, *January* 5, 1885.

The House met at 12 o'clock m. Prayer by the Chaplain, Rev. JOHN S. LINDSAY, D. D.

The Journal of the proceedings of Wednesday, December 24, 1884, was read and approved.

NEW MEMBER SWORN.

Mr. SMITH, of Pennsylvania. I rise to a question of privilege. I present the credentials of John A. Swope, elected to serve as a Representative from Pennsylvania, to fill the vacancy occasioned by the death of William A. Duncan.

The SPEAKER. The certificate of election will be read.

The Clerk read as follows:

PENNSYLVANIA, *ss*:

[SEAL.]

In the name and by the authority of the Commonwealth of Pennsylvania, Robert E. Pattison, governor of the said Commonwealth.

A PROCLAMATION.

Whereas in and by the forty-second section of an act of the General Assembly of this Commonwealth entitled "An act relating to the elections of this Commonwealth," approved the 2d day of July, in the year of our Lord 1839, it is provided that "when the returns of any special election for a member of the House of Representatives of the United States shall be received by the secretary of the Commonwealth, the governor shall declare by proclamation the name of the person elected;" and

Whereas the returns of a special election held in the nineteenth Congressional district of this Commonwealth, composed of the counties of York, Adams, and Cumberland, on Tuesday, the 23d day of December, A. D. 1884, under the authority of writs issued in conformity with the provisions of the Constitution of the United States and the above-recited act of the General Assembly of this Commonwealth, have been received by the secretary of this Commonwealth, whereby it appears that John A. Swope was duly elected to serve as a Representative of the people of this Commonwealth in the House of Representatives of the United States to fill the vacancy in the Forty-eighth Congress occasioned by the death of William A. Duncan: Now, therefore,

I, Robert E. Pattison, governor as aforesaid, do issue this my proclamation, hereby publishing and declaring that the said John A. Swope has been returned as duly elected in the district above mentioned as Representative of the people of this Commonwealth in the House of Representatives of the said Forty-eighth Congress of the United States, in room of the said William A. Duncan, deceased.

Given under my hand and the great seal of the State, at Harrisburg, this 31st day of December, in the year of our Lord 1884, and of the Commonwealth the one hundred and ninth.

By the governor.

ROBERT E. PATTISON.

W. S. STENGER,
Secretary of the Commonwealth.

Mr. SWOPE appeared and qualified by taking the oath prescribed by law.

FALLS OF SAINT ANTHONY.

The SPEAKER, by unanimous consent, laid before the House a letter from the Secretary of War, transmitting the report of the Chief of Engineers in regard to the condition of the Falls of Saint Anthony; which was referred to the Committee on Rivers and Harbors, and ordered to be printed.

LIGHT-HOUSE TENDER LILY.

The SPEAKER also laid before the House a letter from the Secretary of the Treasury, transmitting a letter from the Light-House Board in regard to the burning of the light-house tender Lily, and asking an appropriation of $5,000 to pay losses of officers and men; which was referred to the Committee on Appropriations, and ordered to be printed.

CASE OF H. KILBOURN VS. J. G. THOMPSON.

The SPEAKER also laid before the House a letter from the Attorney-General, inclosing accounts of stenographers for reporting the case of Hallet Kilbourn against John G. Thompson, and asking an appropriation for the payment thereof; which was referred to the Committee on Appropriations, and ordered to be printed.

LOCATION OF UNITED STATES PENITENTIARY.

The SPEAKER also laid before the House a letter from the Attorney-General, inclosing letters from Mr. Robert Furman and Hon. John S. Langdon relative to the location of the United States penitentiary recommended by the Attorney-General in his annual report; which was referred to the Committee on the Judiciary.

RANGE-LIGHT, KEY WEST, FLA.

The SPEAKER also laid before the House a letter from the Secretary of the Treasury, transmitting a communication from the Light-House Board, recommending the establishment of a small range-light at the northwest passage, Key West, Fla., and asking an appropriation of $200 therefor; which was referred to the Committee on Appropriations, and ordered to be printed.

NATIONAL HOME FOR DISABLED SOLDIERS.

The SPEAKER also laid before the House the report of the board of managers of the National Home for Disabled Soldiers for the year ending June 30, 1884; which was referred to the Committee on Military Affairs, and ordered to be printed.

POST-OFFICE AT POUGHKEEPSIE, N. Y.

The SPEAKER also laid before the House a letter from the Secretary of the Treasury, transmitting an estimate from the Supervising Archi-

tect for an appropriation of $30,000 for the completion of a post-office at Poughkeepsie, N. Y.; which was referred to the Committee on Appropriations, and ordered to be printed.

HARBOR OF REFUGE, SANDY BAY, MASSACHUSETTS.

The SPEAKER also laid before the House a letter from the Secretary of the Treasury, transmitting a letter from the Chief of Engineers, inclosing reports, maps, and papers relating to the construction of a harbor of refuge at Sandy Bay, Massachusetts; which was referred to the Committee on Rivers and Harbors, and ordered to be printed.

CLAIMS.

The SPEAKER also laid before the House a letter from the Secretary of the Treasury, transmitting a list of claims allowed by the several accounting officers of the Treasury, amounting to $215,951.12, remaining unprovided for; which was referred to the Committee on Appropriations, and ordered to be printed.

DEATH OF WILLIAM BLAIR LORD.

The SPEAKER. With the consent of the House the Chair will lay before the House and ask to have printed a communication from the corps of Official Reporters of the House, transmitting resolutions adopted by them in relation to the death of their late associate, William Blair Lord. The Clerk will read the communication and accompanying resolutions.

The Clerk read as follows:

HOUSE OF REPRESENTATIVES UNITED STATES,
Washington, D. C., January 5, 1885.

SIR: I have the honor to transmit copy of resolutions adopted by the Official Reporters of debates on the death of their late associate, William Blair Lord.

I am, with high regard, your obedient servant,

J. J. McELHONE,
Chief of Corps.

Hon. JOHN G. CARLISLE,
Speaker of the House of Representatives.

HOUSE OF REPRESENTATIVES UNITED STATES,
Washington, D. C., January 3, 1885.

At a meeting of the Official Reporters of the proceedings and debates, held this day, the following preamble and resolutions were adopted:

"Whereas William Blair Lord, who died December 21, 1884, at New York city, had served continuously and faithfully as one of the Official Reporters of debates of the House of Representatives since 1864, or for twenty years: Therefore,

"*Resolved*, That we, his associates, place on record in the customary mode the expression of our deep sorrow at his loss and our appreciation of his personal integrity, his generous spirit, his professional skill, and his large knowledge of parliamentary law and of public affairs generally.

"*Resolved*, That a copy of these proceedings be transmitted to the honorable the Speaker of the House of Representatives and to the relatives of the deceased.

"D. W. BROWN.
"J. K. EDWARDS.
"JOHN H. WHITE.
"J. J. McELHONE,
"*Chief of Corps.*"

The SPEAKER. If there be no objection the communication just read will be printed.

There was no objection.

LEAVES OF ABSENCE.

By unanimous consent, leave of absence was granted as follows:

To Mr. DIBBLE, for five days, on account of important business.
To Mr. DOCKERY, indefinitely, on account of sickness in his family.
To Mr. BELFORD, until February 1, on account of sickness.
To Mr. LOWRY, for one week, on account of important business.
To Mr. SMITH, of Iowa, until January 9, on account of sickness.
To Mr. LAIRD, indefinitely, on account of sickness.
To Mr. DUNN, indefinitely.
To Mr. BENNETT, indefinitely, on account of sickness.

WITHDRAWAL OF PAPERS.

Mr. MOULTON, by unanimous consent, obtained leave to withdraw from the files of the Committee on Claims papers of Jesse D. Durrell, there having been no report.

REPRINT OF HOUSE REPORTS.

The SPEAKER laid before the House the following:

Mr. KING requests that a reprint of House reports 322 and 390, third session Forty-sixth Congress, be ordered.

There being no objection, it was ordered accordingly.

REFERENCE OF SENATE PENSION BILLS.

The SPEAKER also laid before the House the following:

Mr. MATSON asks that Senate pension bills now on the Speaker's table, for the relief of individuals, be taken therefrom and referred by the Speaker to appropriate committees.

The SPEAKER. If there be no objection this order will be made, and the Chair, at the proper time, will make the references.

There was no objection.

MILITARY ACADEMY APPROPRIATION BILL.

Mr. KEIFER. I ask unanimous consent that the bill (H. R. 7577) making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1886, and for other purposes, which has been returned from the Senate with amendments, be taken from the Speaker's table, ordered to be printed with the amendments, and referred to the Committee on Appropriations.

There being no objection, it was ordered accordingly.

ENROLLED BILLS SIGNED.

Mr. YAPLE, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

A bill (H. R. 452) granting a pension to Fredrick Corfe;
A bill (H. R. 2440) granting a pension to Usebus Sweet.
A bill (H. R. 3177) granting a pension to Charles F. Paris;
A bill (H. R. 3210) for the relief of Jacob Hoerth;
A bill (H. R. 3382) granting a pension to Albert Brant;
A bill (H. R. 4094) granting a pension to Henry Alden; and
A bill (H. R. 5735) granting a pension to Margaret Daily.

ORDER OF BUSINESS.

Mr. MILLS. I call for the regular order of business.

The SPEAKER. This being Monday, the first business in order is the call of States and Territories for the introduction and reference of bills and joint resolutions.

CONGO CONFERENCE.

Mr. HERBERT presented the following resolution; which was read, referred to the Committee on Foreign Affairs, and ordered to be printed:

Whereas it appears that the President of the United States has empowered Hon. John A. Kasson and General W. S. Sanford to represent this Government at what is styled the international African conference met at Berlin, in the Empire of Germany, to consider the question of erecting and maintaining a state in the basin of the river Congo, on the continent of Africa; and

Whereas such an alliance, as this conference seems to import, is a departure from the traditional policy of the Government of the United States, and the House of Representatives is without official information of the reasons which may have induced the President to accredit representatives to take part in such conference: Therefore

Be it resolved by the House of Representatives, That the President be requested to inform this body, if not incompatible with the public interests, what were the reasons which impelled him to appoint delegates to represent the United States in said international African conference at Berlin. The President is further respectfully requested to inform the House whether in the letters of authority to said Kasson and Sanford, or otherwise, there were any conditions affixed to or limitations placed upon the exercise of their authority as such delegates; and if limitations and conditions were prescribed, whether such delegates made known to the conference the limitations of their authority, or whether they appeared unconditionally and apparently with full powers to act as delegates representing the United States in a conference assembled to discuss the question of erecting and maintaining a new state on the continent of Africa. And the President is further requested to impart to the House such information as may be in his possession tending to show whether the new state to be erected and maintained by the powers taking part in the conference is to be republican or monarchical in form. The President is also respectfully requested to give his opinion as to whether the appearance of delegates from the United States in such an international conference would not estop the Government to deny the rightfulness of any future alliance European sovereigns might make to set up on the American continent governments of such form as to them might seem wise whenever an occasion for such interference might arise.

ETHAN A. AND EDWARD V. DEUELL.

Mr. ROGERS, of Arkansas, introduced a bill (H. R. 7793) for the relief of Ethan A. and Edward V. Deuell; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

JOSEPH WILLETT.

Mr. PEEL introduced a bill (H. R. 7794) to remove the charge of desertion against Joseph Willett, late private Company "D," Third Regiment Rhode Island Cavalry of the war of the rebellion; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

WILLIAM L. ARNOLD.

Mr. PEEL also introduced a bill (H. R. 7795) for the relief of William L. Arnold; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

ELIZABETH PUTNAM.

Mr. PEEL also (by request) introduced a bill (H. R. 7796) for the relief of Elizabeth Putnam; which was read a first and second time, referred to the Committee on Claims, and ordered to be printed.

APPOINTMENT OF SERGEANT-MAJOR.

Mr. ROSECRANS introduced a joint resolution (H. Res. 305) authorizing the Secretary of War to appoint one sergeant-major; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

ANNA H. NONES.

Mr. LORE introduced a bill (H. R. 7797) for the relief of Anna H. Nones; which was read a first and second time, referred to the Committee on Pensions, and ordered to be printed.

ARVAH HOPKINS.

Mr. DAVIDSON introduced a bill (H. R. 7798) to provide for the payment to the legal representatives of Arvah Hopkins of the rent of certain property in Tallahassee, Fla., for the use of the Army; which was read a first and second time, referred to the Committee on Claims, and ordered to be printed.

MARY S. AND SARAH BATES.

Mr. RIGGS introduced a bill (H. R. 7799) to place on the pension-roll the name of Mary S. and Sarah Bates; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

PUBLIC BUILDING AT QUINCY, ILL.

Mr. RIGGS also introduced a bill (H. R. 7800) to amend the act entitled "An act for the erection of a public building at Quincy, Ill.," approved May 9, 1882; which was read a first and second time, referred to the Committee on Public Buildings and Grounds, and ordered to be printed.

CARPENTERS IN UNITED STATES NAVY.

Mr. LAMB introduced a bill (H. R. 7801) to fix the status of carpenters in the United States Navy; which was read a first and second time, referred to the Committee on Naval Affairs, and ordered to be printed.

JOHN KENNEDY.

Mr. HOLMES introduced a bill (H. R. 7802) granting a pension to John Kennedy; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

L. W. PITTS.

Mr. HOLMES also introduced a bill (H. R. 7803) granting a pension to L. W. Pitts; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

HENRY A. HUDSON.

Mr. HANBACK (by request) introduced a bill (H. R. 7804) for the relief of Henry A. Hudson, of Washington, D. C.; which was read a first and second time, referred to the Committee on Claims, and ordered to be printed.

CAPT. VINCENT PHELPS.

Mr. PERKINS introduced a bill (H. R. 7805) granting a pension to Capt. Vincent Phelps; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JAMES F. GATT.

Mr. HALSELL introduced a bill (H. R. 7806) granting a pension to James F. Gatt; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

SUMPTER & CHRISTIAN.

Mr. HALSELL also introduced a bill (H. R. 7807) for the benefit of Sumpter & Christian, of Todd County, Kentucky; which was read a first and second time, referred to the Committee on Claims, and ordered to be printed.

UTAH, SANTA FÉ AND GULF RAILROAD COMPANY.

Mr. ELLIS (by request) introduced a bill (H. R. 7808) to incorporate the Utah, Santa Fé and Gulf Railroad Company, and for other purposes; which was read a first and second time, referred to the Committee on the Pacific Railroads, and ordered to be printed.

PUBLIC BUILDING AT NEW ORLEANS.

Mr. HUNT introduced a bill (H. R. 7809) to provide for the erection of a public building in the city of New Orleans, La.; which was read a first and second time, referred to the Committee on Public Buildings and Grounds, and ordered to be printed.

ROSANNA REILLY.

Mr. LOVERING introduced a bill (H. R. 7810) granting a pension to Rosanna Reilly; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

MARGARET KILROY.

Mr. MAYBURY introduced a bill (H. R. 7811) granting a pension to Margaret Kilroy, mother of William H. Kilroy, deceased, late first lieutenant of Company E, Thirty-fifth Regiment Indiana Volunteers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

REBECCA RHODES.

Mr. MAYBURY also introduced a bill (H. R. 7812) granting a pension to Rebecca Rhodes, widow of William H. Rhodes, deceased, late first lieutenant of Company F, First Regiment of Michigan Engineers and Mechanics; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JAMES F. WOOLEY.

Mr. BARKSDALE introduced a bill (H. R. 7813) for the relief of James F. Wooley; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

WILLIAM EVANS.

Mr. BARKSDALE also introduced a bill (H. R. 7814) for the relief of William Evans; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

MINERAL LANDS ON INDIAN RESERVATIONS.

Mr. CASSIDY introduced a bill (H. R. 7815) throwing open for occupancy mineral lands situated on Indian reservations; which was read a first and second time, referred to the Committee on the Public Lands, and ordered to be printed.

JOHN COLLISTER.

Mr. COX, of New York, introduced a bill (H. R. 7816) for the relief of John Collister for injuries received as laborer on the New York post-office in May, 1877; which was read a first and second time, referred to the Committee on Claims, and ordered to be printed.

ASSISTANT CHIEF SIGNAL OFFICER.

Mr. COX, of New York, also introduced a bill (H. R. 7817) to create the office of assistant chief signal officer, and for other purposes; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

NEW YORK HARBOR.

Mr. COX, of New York, also introduced a bill (H. R. 7818) to prevent destructive and injurious deposits within the harbor and adjacent waters of New York, and to punish and prevent such offenses, and other provisions in connection therewith; which was read a first and second time, referred to the Committee on Rivers and Harbors, and ordered to be printed.

DUTY ON CERTAIN WORKS OF ART.

Mr. COX, of New York, also introduced a bill (H. R. 7819) to admit certain works of art for the French Benevolent Society of New York free of duty during 1885; which was read a first and second time, referred to the Committee on Ways and Means, and ordered to be printed.

STATUE OF LIBERTY ENLIGHTENING THE WORLD.

Mr. COX, of New York, also introduced a joint resolution (H. Res. 306) authorizing the colossal statue of Liberty enlightening the world to be used for a light-house; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

ADDITIONAL JUDGE SOUTHERN DISTRICT OF NEW YORK.

Mr. DORSHEIMER introduced a bill (H. R. 7820) to provide for an additional judge of the district court of the United States for the southern district of New York; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

MRS. NANNIE S. CUSHMAN.

Mr. ROGERS, of New York, introduced a bill (H. R. 7821) to increase the pension of Mrs. Nannie S. Cushman; which was read a first and second time, referred to the Committee on Pensions, and ordered to be printed.

MARK SPENCER VAN LOAN.

Mr. BAGLEY introduced a bill (H. R. 7822) granting a pension to Mark Spencer Van Loan; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

INSURANCE COMPANIES IN DISTRICT OF COLUMBIA.

Mr. JOHNSON introduced a bill (H. R. 7823) to regulate the organization and management of insurance companies in the District of Columbia; which was read a first and second time, referred to the Committee on the District of Columbia, and ordered to be printed.

JOHN F. RILEY.

Mr. HISCOCK introduced a bill (H. R. 7824) for the relief of John F. Riley, collector of the estate of Samuel R. Hamill, deceased; which was read a first and second time, referred to the Committee on Claims, and ordered to be printed.

NOAH B. BROOKSHIRE.

Mr. YORK introduced a bill (H. R. 7825) granting a pension to Noah B. Brookshire; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

HEIRS OF LIEUT. JOHN F. STEWART.

Mr. YORK also introduced a bill (H. R. 7826) for the relief of the heirs of the late Lieut. John F. Stewart; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

MUSTER AND PAY OF VOLUNTEERS.

Mr. MURRAY introduced a bill (H. R. 7827) to provide for the muster and pay of certain officers and enlisted men of the volunteer forces; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

STAFFORD PALMER.

Mr. WARNER, of Ohio, introduced a bill (H. R. 7828) granting a pension to Stafford Palmer; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

SAMUEL D. STILES.

Mr. WARNER, of Ohio, also introduced a bill (H. R. 7829) granting a pension to Samuel D. Stiles; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

WIDOW OF COMMANDER S. DANA GREENE.

Mr. LE FEVRE introduced a bill (H. R. 7830) granting a pension

to the widow of the late Commander S. Dana Greene, United States Navy; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

MARY A. FISHER.

Mr. JOSEPH D. TAYLOR introduced a bill (H. R. 7831) granting a pension to Mary A. Fisher, wife and guardian of Samuel D. Fisher, late private Company E, One hundred and fifty-seventh Regiment Ohio Volunteer Infantry; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JOHN BUCHAN.

Mr. GEDDES introduced a bill (H. R. 7832) granting a pension to John Buchan; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

ESTATE OF RICHARD BODDY.

Mr. GEORGE introduced a bill (H. R. 7833) for the relief of the estate of Richard Boddy; which was read a first and second time, referred to the Committee on Indian Affairs, and ordered to be printed.

PUBLIC BUILDINGS.

Mr. HOPKINS introduced a bill (H. R. 7834) to provide for the erection of public buildings; which was read a first and second time, referred to the Committee on Public Buildings and Grounds, and ordered to be printed.

MARY F. POTTS.

Mr. SMITH, of Pennsylvania (by request), introduced a bill (H. R. 7835) for the relief of Mary F. Potts; which was read a first and second time, referred to the Committee on Patents, and ordered to be printed.

LIEUT. LOUIS F. ELLIS.

Mr. BROWN, of Pennsylvania, introduced a joint resolution (H. Res. 307) granting a medal to Lieut. Louis F. Ellis for heroic conduct in joining the forlorn hope storming party at Port Hudson, June 15, 1863; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

MRS. IDA P. BELCHER.

Mr. SMALLS introduced a bill (H. R. 7836) for the relief of Mrs. Ida P. Belcher, widow of the late Capt. Edwin Belcher; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

THOMAS PEMBERTON.

Mr. PETTIBONE introduced a bill (H. R. 7837) for the relief of Thomas Pemberton, late of Company D, Fourth Tennessee Infantry; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

REUBEN F. BERNARD.

Mr. PETTIBONE also introduced a bill (H. R. 7838) for the relief of Reuben F. Bernard, major of the Eighth United States Cavalry; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

WILLIAM F. BREWSTER.

Mr. PETTIBONE also introduced a bill (H. R. 7839) for the relief of William F. Brewster, of Tazewell, Tenn.; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

MARY RENFRO.

Mr. DIBRELL introduced a bill (H. R. 7840) granting a pension to Mary Renfro; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

HARRIET J. CAMPBELL.

Mr. MILLER, of Texas, introduced a bill (H. R. 7841) granting a pension to Harriet J. Campbell, widow of A. A. Campbell, late assistant surgeon First Regiment Kentucky Cavalry; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JULIUS L. DEWEY.

Mr. MILLER, of Texas, also introduced a bill (H. R. 7842) granting a pension to Julius L. Dewey, late private Company D, One hundred and thirteenth Illinois Volunteers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JUDGES OF UNITED STATES COURTS.

Mr. TUCKER introduced a bill (H. R. 7843) to increase the number of judges for the courts of the United States, and prevent delays in the administration of justice in their courts; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

MINERVA S. HUARD.

Mr. WOODWARD introduced a bill (H. R. 7844) for the relief of Minerva S. Huard; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

CHRISTOPHER MOEGLING.

Mr. WOODWARD (by request) introduced a bill (H. R. 7845) authorizing Christopher Moegling to make application to the Commissioner of Patents for the extension of his patent for a new and useful ventilator for grain mills; which was read a first and second time, referred to the Committee on Patents, and ordered to be printed.

SIDNEY E. SHEPPARD.

Mr. PRICE introduced a bill (H. R. 7846) to place the name of Sidney E. Sheppard on the pension-roll; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

The SPEAKER. The call of States and Territories is now completed, but if there be no objection the Chair will recognize for the introduction of bills and joint resolutions gentlemen who were not in their seats when their States were called.

There was no objection.

PUBLIC BUILDING AT MARQUETTE, MICH.

Mr. BREITUNG (by Mr. STOCKSLAGER) introduced a bill (H. R. 7847) to increase the appropriation for the erection of the public building at Marquette, Mich.; which was read a first and second time, referred to the Committee on Public Buildings and Grounds, and ordered to be printed.

WILLIAM A. GRAHAM.

Mr. HEPBURN introduced a bill (H. R. 7848) for the relief of William A. Graham, of Tingley, Iowa, late a private in Company D, Twenty-third Regiment Missouri Volunteer Infantry; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

NORMAN KAUFMAN.

Mr. FINDLAY introduced a bill (H. R. 7849) granting an increase of pension to Norman Kaufman; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

COPYRIGHTS TO FOREIGNERS.

Mr. ENGLISH introduced a bill (H. R. 7850) granting copyrights to citizens of foreign countries; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

ONE, TWO, AND FIVE DOLLAR SILVER CERTIFICATES.

Mr. ENGLISH also introduced a bill (H. R. 7851) to provide for the issue of one, two, and five-dollar silver certificates; which was read a first and second time, referred to the Committee on Coinage, Weights, and Measures, and ordered to be printed.

CHARLES F. H. WOODBURY.

Mr. HAYNES introduced a bill (H. R. 7852) granting an increase of pension to Charles F. H. Woodbury; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

MARGARET FLAHERTY.

Mr. HAYNES also introduced a bill (H. R. 7853) granting a pension to Margaret Flaherty; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

WILLIAM MURRAY.

Mr. HENDERSON, of Illinois, introduced a bill (H. R. 7854) granting a pension to William Murray; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

RIVER AND HARBOR DEPARTMENT.

Mr. BRECKINRIDGE introduced a bill (H. R. 7855) to provide for the creation of a river and harbor department, and for other purposes; which was read a first and second time, referred to the Committee on Rivers and Harbors, and ordered to be printed.

MERCY A. COLE.

Mr. BLAND introduced a bill (H. R. 7856) for the relief of Mercy A. Cole; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

ORDER OF BUSINESS.

Mr. CASSIDY. I understand that we have now reached the order of motions to suspend the rules, and I desire to call up under that order the unfinished business coming over from the last session. At the time of the adjournment of the last session a Senate bill providing for the erection of a public building at Carson City, Nev., was pending on a motion to suspend the rules and pass the bill. I inquire whether that is not the order of business at this time, this being the first day this session for individual motions to suspend the rules?

The SPEAKER. Was the bill presented to the House and read and had the House proceeded to consider it?

Mr. CASSIDY. We had voted upon it; and the point of "no quorum" had been made. We were attempting to develop a quorum when the hammer fell at the expiration of the session.

The SPEAKER. Then the bill is in order now as unfinished business. Was a second demanded on the motion to suspend the rules?

Mr. CASSIDY. The demand for a second had been waived. Discussion on the bill had taken place, and we had got so far along as to vote upon the bill. The point having been made that no quorum had voted, tellers had been ordered.

The SPEAKER. The question then is upon the motion made by the gentleman from Nevada [Mr. CASSIDY], just before the adjournment of the House in July last, to suspend the rules and pass the bill.

Mr. HISCOCK. Mr. Speaker, what order of business is it that comes up now?

The SPEAKER. Suspension of the rules.

Mr. HISCOCK. I believe the first business of that character now in order is the motion made by me on the last day when this order of business was before the House. That motion is still pending.

The SPEAKER. The gentleman from New York [Mr. HISCOCK], on the first Monday in July, the last day of the last session for individual motions to suspend the rules, was recognized by the Chair, rose in his place, and stated that he moved to suspend the rules and pass some bill, which he sent to the Clerk's desk.

It was not read, but a motion was immediately made to adjourn, which was adopted by the House. Therefore under the rules of the House that motion was not yet in possession of the House for consideration. Later in the session, when the present occupant of the chair was absent, the then occupant of the chair recognized the gentleman from Nevada [Mr. CASSIDY], who moved to suspend the rules, as is shown by the official record, and pass a certain bill, which was read and upon which the vote was attempted to be taken. So the House was in possession of that bill, and the Chair thinks it is obliged to complete the consideration of that motion, under the circumstances, before going to any other business.

Mr. HISCOCK. The bill on which I moved to suspend the rules and pass it was sent up to the Clerk's desk, and is now in possession of the Clerk, and has remained in the possession of the Clerk ever since.

The SPEAKER. It was not read, nor was the proposition made by the gentleman stated by the Chair. The Clerk will read the second subdivision of Rule XVI.

The Clerk read as follows:

2. When a motion has been made, the Speaker shall state it, or (if it be in writing) cause it to be read aloud by the Clerk before being debated, and it shall then be in possession of the House, but may be withdrawn at any time before a decision or amendment.

The SPEAKER. The gentleman from New York will see the bill which he sent up was not read and was not therefore in possession of the House to be considered by the House, whereas the bill——

Mr. HISCOCK. But I had made my motion.

The SPEAKER. But the motion was not before the House until it had either been stated by the Chair or put to the House, and the House determined it would not have it presented, and adjourned, cutting the gentleman off. [Cries of "Regular order!"]

Mr. HISCOCK. But suppose the motion to adjourn had failed, would not the question have recurred on my motion?

The SPEAKER. The gentleman's bill would then have been read and before the House for consideration. The Chair thinks the House can not have two matters of this sort under consideration at the same time. It is perfectly clear the proposition offered by the gentleman from Nevada [Mr. CASSIDY] was in possession of the House and that the House was voting on it.

Mr. HISCOCK. Am I to understand that my motion comes in next?

The SPEAKER. The Chair had recognized the gentleman from New York and will recognize him next, as the gentleman had the floor. [Cries of "Regular order!"]

PUBLIC BUILDING, CARSON CITY, NEV.

Mr. CASSIDY. I now ask for a vote on my proposition.

The SPEAKER. The question recurs on the motion of the gentleman from Nevada [Mr. CASSIDY] to suspend the rules and pass the bill (S. 55) to provide for the erection of a public building for the use of the United States courts, post-office, and other Government offices in the city of Carson City, in the State of Nevada.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Treasury be, and he hereby is, authorized and directed to purchase a site for, and cause to be erected thereon, at the city of Carson City, in the State of Nevada, a suitable building, with a fire-proof vault, for the accommodation of the United States courts, the post-office, and other Government offices in said city, which site shall leave the building unexposed to danger from fire in adjacent buildings by an open space of at least fifty feet, including streets and alleys; the site, and building thereon, when completed upon plans and specifications to be previously made and approved by the Secretary of the Treasury, not to exceed the cost of $100,000: *Provided*, That no money to be appropriated for said building shall be available until a valid title to the site selected is vested in the United States, nor until the State of Nevada shall cede to the United States exclusive jurisdiction over the same during the time the United States shall be or remain the owner thereof, for all purposes except the administration of the criminal laws of said State and the service of any civil process therein.

SEC. 2. That the sum of $100,000 is hereby appropriated, out of any money in the Treasury not otherwise appropriated, for the purposes hereinbefore mentioned.

The SPEAKER. The question recurs on seconding the motion to suspend the rules and pass the bill.

Mr. CASSIDY. That was waived by unanimous consent.

The SPEAKER. Then the question is on the motion to suspend the rules and pass the bill.

Two-thirds having voted in favor thereof, the rules were suspended and the bill was passed.

REPEAL OF INTERNAL TAXES ON TOBACCO.

Mr. HISCOCK. I now ask to submit my motion to the House.

The SPEAKER. The Chair now recognizes the gentleman from New York.

Mr. HISCOCK. I move to suspend the rules and pass the bill which is in possession of the Clerk to repeal all laws imposing internal taxes on tobacco.

The SPEAKER. The bill will be read.

The Clerk read as follows:

A bill to repeal the laws imposing internal-revenue taxes upon tobacco, and to authorize the withdrawal of alcohol and distilled spirits, and all products of distillation containing alcohol and distilled spirits, from bond without the payment of the internal-revenue tax, for use, except for use as a beverage, and for other purposes; and to repeal the internal-revenue taxes on liquors distilled wholly from apples, peaches, grapes, and all fruits.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That on and after the 1st day of July, 1885, the taxes herein specified imposed by the internal-revenue laws of the United States now in force be, and the same are hereby, repealed, namely: The taxes on manufactured tobacco, snuff, cigars, cheroots, and cigarettes, and the special taxes required by law to be paid by dealers in leaf-tobacco, retail dealers in leaf-tobacco, dealers in manufactured tobacco, peddlers of tobacco, snuff, and cigars, and manufacturers of snuff and of cigars: *Provided*, That on all original and unbroken factory packages of smoking and manufactured tobacco, snuff, cigars, cheroots, and cigarettes held by manufacturers, factors, jobbers, or dealers at the time such repeal shall go into effect, upon which the tax has been paid, there shall be a drawback or rebate in favor of said manufacturer, factor, jobber, dealer, or other owner of said tobacco, snuff, cigars, cheroots, and cigarettes, to the full amount and extent of the tax so paid thereon, but the same shall not apply in any case where the claim has not been presented within ninety days following the date when such repeal shall take effect; and no claim shall be allowed for a less amount than $10, and any special-tax stamp covering taxes repealed by this act may be redeemed for the portion of the special-tax year unexpired at the time of the repeal when the amount claimed for such stamp shall not be less than $10; and all sums required to satisfy claims under this act shall be paid out of any money in the Treasury not otherwise appropriated, and it shall be the duty of the Secretary of the Treasury to adopt such rules and regulations and to prescribe and furnish such blanks and forms as may be necessary to carry this section into effect.

SEC. 2. That all internal-revenue laws limiting, restricting, or regulating the manufacture, sale, or exportation of tobacco, snuff, cigars, cheroots, and cigarettes are hereby repealed on and after the 1st day of July, 1885, and that there shall be no drawback allowed upon any such articles which shall be entered for export on or after that date: *Provided*, That all laws now in force shall remain and have full force and effect in respect to all offenses committed, liabilities incurred, or rights accruing or accrued prior to the date when the repeal of the taxes specified in this act shall take effect.

SEC. 3. That on and after the 1st day of July, 1885, all laws and parts of laws heretofore passed by Congress and now in existence imposing an internal-revenue tax upon liquors wholly distilled from apples, peaches, grapes, and other fruits shall be repealed.

SEC. 4. The Secretary of the Treasury, under such rules, regulations, and restrictions as he may from time to time make for the withdrawals hereinafter provided for, and for their use, manner, and place of use, is hereby authorized to grant permits to any individual, copartnership, or corporation to withdraw from bond, without the payment of the internal-revenue tax thereon, distilled spirits, alcohol, and all products of distillation containing distilled spirits or alcohol, and subject to an internal-revenue tax, in specified quantities for use, provided the same shall not be so withdrawn for use as a beverage or for the manufacture of any product thereof for use as a beverage, or admixture of the same, or any product thereof, with any other substance or product for such use: *And provided further*, That the applications for the aforesaid withdrawals shall state respectively where and for what purpose and in what manner the distilled spirits, alcohol, or product of distillation aforesaid is to be used for which the application for withdrawal is made: *And provided further*, That upon each withdrawal under this act the individual, copartnership, or corporation making the same shall execute and file a bond with two good and sufficient sureties, to be approved by a collector of internal revenue or the Commissioner of Internal Revenue, in a penalty for double the amount of the tax on the quantity of distilled spirits, alcohol, or product of distillation aforesaid stated in the application for withdrawal thereof, conditioned that the same shall only be used at the place, for the purpose, and in the manner stated in said application, and that all rules, regulations, and restrictions made by the Secretary of the Treasury for the use thereof shall be observed and complied with, and for a breach or violation of any condition of such bond the United States may recover the full penalty thereof: *And provided further*, That any person who shall sell, use, or knowingly permit the use of the distilled spirits, alcohol, or product of distillation aforesaid withdrawn under this act, or any product thereof in any quantity whatever, for any other purpose than that specified in the application for the withdrawal of the same, shall be guilty of a misdemeanor, and for each offense, upon conviction thereof, shall be imprisoned not less than ninety days, and pay a fine of not less than $100: *And provided further*, That the Secretary, in the rules, regulations, and restrictions which he may make, in his discretion may require the admixture of the distilled spirits, alcohol, or product of distillation withdrawn under this act to be mixed with methyl or wood alcohol of equal proof strength, and in such quantities and under such regulations as he shall approve.

The SPEAKER. The gentleman from New York moves to suspend the rules and pass the bill just read.

Mr. MILLS. On that I demand a second.

Mr. HISCOCK. I ask unanimous consent that where the date in this bill is July 1, 1884, it be modified to read "July 1, 1885."

The SPEAKER. The gentleman has the right to do that, as the bill was never presented to the House until this morning, and of course he has a right to place it in such form as he may desire.

Mr. HISCOCK. Then I ask to make that change in the bill.

The SPEAKER. The gentleman from Texas demands a second on the motion.

Mr. BROWNE, of Indiana. Let it be considered as ordered by unanimous consent.

Mr. MILLS. I object.

The SPEAKER. The Chair will then appoint tellers.

Mr. MILLS and Mr. HISCOCK were appointed tellers.

The House divided; and the tellers reported—ayes 87, noes 75.

So the second was ordered.

Mr. HISCOCK. I suppose I have the last fifteen minutes, and will therefore hear from the other side.

Mr. MILLS. That, as I understand it, is contrary to the custom. The gentleman has the affirmative of the proposition, and according to the practice of the rule has a right to open and close the debate.

Mr. HISCOCK. I am entirely willing to occupy the fifteen minutes after the other side has concluded.

Mr. BLOUNT. I hope the gentleman from New York will take at least a portion of his time now, since we have not been able to get this bill, and I, for one, should like to have some explanation of its provisions.

Mr. HISCOCK. I will occupy, then, five minutes of the time now, and ask to be notified by the Chair when I have consumed that much time, reserving the remainder until after the other side has been heard from.

I shall attempt only in this brief time to state the objects of the bill. First, it repeals all of the internal-revenue taxes upon tobacco; second, it repeals the internal-revenue taxes upon distilled spirits so far as they are used and consumed in the manufacturing, mechanical, and industrial arts; and, third, it repeals the internal-revenue tax upon brandies distilled from fruits. These are the three essential features of the bill.

In my judgment the adoption of this measure will decrease the revenues of the Government nearly or quite $40,000,000, and I believe it will be a good thing to have the revenues reduced to that extent.

Mr. BLOUNT. Will the gentleman from New York permit me to ask him a question?

Mr. HISCOCK. Yes.

Mr. BLOUNT. I would be glad if the gentleman from New York would state his estimate of the reduction in the revenues from the repeal of the tax on spirits used in manufacturing and mechanical arts.

Mr. HISCOCK. The best and most careful estimate that I have seen, and one that I regard as reliable, is that it will amount to from seven to ten millions of dollars reduction. I believe my colleague from New York [Mr. HEWITT] once said upon the floor of the House that the internal-revenue tax upon alcohol was a tax upon the manufacturing industries of this country to the amount of nearly $10,000,000, in his judgment.

Mr. BLOUNT. Where, then, do you get the reduction of fifty millions?

Mr. HISCOCK. From the other features of the bill. The amount to be taken from tobacco will be from twenty-five to twenty-seven million dollars, and somewhere from three to seven millions of dollars by the repeal of the taxes upon brandies distilled from fruits.

I now reserve the remainder of my time.

Mr. MILLS. I yield now five minutes to the gentleman from Missouri [Mr. O'NEILL].

Mr. O'NEILL, of Missouri. Mr. Speaker, the intent of this bill is to so largely reduce the revenue that there will be no surplus, and thereby greatly remove the danger of legislative interference with certain interests which are robbing the people of this country. It means to protect the salt interests of the gentleman from New York [Mr. HISCOCK], the mover of this proposition, that are robbing the people of the country of over a million of dollars annually on this important necessary of life, besides the incidental increase on the product here. It means to protect the sugar rings of Louisiana, where $46,000,000 are wrung from the people. And so you may go on through the list and figure out the industries that are protected. It means to take the righteous revenue from whisky and tobacco so as to have no surplus from which you can make a cut in the interest of tariff reform.

You have done nothing on the tariff question; you can at least avoid a stupendous blunder of this kind; or if you want to go before the people leaving to this Congress a hated memory as an infragrance in their nostrils for all time, take the taxes off whisky and tobacco and leave untouched your enormous duties on the absolute necessaries of life. [Applause.]

Mr. MILLS. I yield now to the gentleman from Kentucky [Mr. THOMPSON] for three minutes.

Mr. THOMPSON, of Kentucky. Mr. Speaker, in the brief time allowed to me I desire to say to the House that the passage of this bill, if it should pass with the free-brandy clause in it, would operate for the destruction of the entire tax on distilled spirits. We now realize every year between seventy and eighty million dollars from the production of distilled spirits, and if you allow brandy or whisky to be distilled from fruit free of taxes, all that we now consume of distilled spirits in this country will be immediately manufactured from these commodities, and the entire revenue now raised from this source will be lost.

Not only that, but immediately upon the passage of this bill it will operate as a confiscation of 80,000,000 gallons of goods now in the hands of the dealers and the makers. And not only that, but after that time it operates as a confiscation of every dollar of invested capital that has been made by the distillers in this country, except those possibly at Baltimore and in some other cities, where, by procuring fruits from abroad from every direction free of tax, they can manufacture sufficient to supply the whole country.

So far as the tobacco tax is concerned, we all understand that if you repeal the tobacco tax now we will lose a revenue of nearly $25,000,000 per annum—a tax, too, which is unfelt by the consumer. We have had experience with it in the last five years. We reduced the tax from 16 to 8 cents a pound, and we have not reduced the price of tobacco or cigars a single cent to the consumer. It is just as high to-day as it was then. Nor has a high tax cut off the profit of the men who raised the product. On the contrary, tobacco is higher, as the statistics show. In New York, Kentucky leaf tobacco has ruled higher under a high tax than under a low one.

No man is interested in taking this tax off either tobacco or distilled spirits. If we were to take the crude law which the gentleman from New York has brought to us and pass it under a suspension of the rules, the effect would be to take off the best tax that can be levied, because it is a voluntary tax paid by vicious consumption, while you still leave the taxation on the necessaries of life.

[Here the hammer fell.]

Mr. MILLS. I yield five minutes to the gentleman from Georgia [Mr. BLOUNT].

Mr. BLOUNT. Mr. Speaker, the gentleman from New York [Mr. HISCOCK] estimates that the reduction of the revenues under the proposition contained in the bill will amount to $50,000,000.

Mr. HISCOCK. I change that estimate, and will say $40,000,000, so as to be within the mark.

Mr. BLOUNT. And now the gentleman changes the estimate and says the reduction will be $40,000,000, and so we are asked to progress in this conjectural way about the revenues of the country in regard to which there ought to be so much care.

The gentleman from New York [Mr. HISCOCK] proposes to this House that on these simple conjectures we shall take up a great measure like this and pass it through this House. He tells you that the amount of revenue received from brandy distilled from fruit at this time is about $3,000,000, while the Commissioner of Internal Revenue tells you that the receipts are $1,023,000. The Commissioner gives you the receipts from spirits distilled from grain and other materials from which this bill removes the tax as $70,000,000; the gentleman from New York guesses that the reduction will be $10,000,000. The receipts from tobacco are $26,000,000; about what the gentleman has stated.

Now, sir, this bill comes here without any recommendation from any committee. It comes here under circumstances that prevent debate. It comes here under circumstances that prevent the best judgment of this House from accommodating itself to right conclusions by amending it wherever it is objectionable, I submit, sir, that the principles of wise legislation forbid any such proceeding.

Some of the measures contained in the bill I should be glad to support. The fruit-brandy tax I should be very glad to see repealed; other gentlemen differ with me about it. The tobacco tax taken in connection with other subjects I should be glad to see disposed of. The tax on whisky the gentleman from New York proposes shall remain, except where it is used for manufacturing purposes and in the arts, leaving all the vicious machinery connected with that tax.

Now, sir, I think when we undertake to reduce taxes we ought to consider the question of reducing taxation on the clothing, farming implements, and other articles used by men, women, and children as necessaries, rather than commence by reducing the price of intoxicating drinks; and further, I am quite sure that one of the prime causes of objection to the internal taxes grows out of the machinery itself, all of which is permitted to remain under the provisions of this bill.

I trust, therefore, sir, that we shall not adopt a measure of this character in this way. Our revenues from customs are falling off and our public debt is increasing. All of these questions deserve the careful consideration of this House. I do not believe that the country is expecting that at this session of Congress we should take up the question of the mode of raising revenue, either the tariff or the internal taxes. The feeling is that so far as this Congress is concerned those matters belong to the things of the past, and I trust they will go over until a new Congress shall assemble under circumstances where they can be carefully and wisely considered.

The SPEAKER. The time of the gentleman has expired.

Mr. BLOUNT. I should like another half-minute.

Mr. MILLS. I yield another half-minute to the gentleman from Georgia.

Mr. BLOUNT. I only add that in the light of recent events in November, since there is to be a new administration of affairs and a new policy to be adopted in this Government, I trust that gentlemen on this side will not make great haste to anticipate the action of another administration.

Mr. MILLS. I yield one minute to the gentleman from Kentucky [Mr. WILLIS].

Mr. WILLIS. Mr. Speaker, in the time allotted to me by the gentle-

man and enlarged by the House I desire briefly to state my reasons for voting against this bill. This bill we know now can not become a law. It requires a two-thirds vote. The vote upon the seconding of the motion just taken discloses a meager majority in its favor. When the yea-and-nay vote is taken it will, instead of the necessary two-thirds vote, hardly receive one-third. No practical result will follow, and no good, but only harm, will come from this effort.

This is an unusual, I may say an extraordinary, proceeding. In the closing hours of this Congress it is proposed to pass a bill which will revolutionize our whole system of taxation, both internal and external; a bill which brings into one hotch-potch a number of subjects which have no affinity either direct or remote; a bill which, without the indorsement of any one of our numerous committees or of a single Department of the Government, proposes at a single dash to withhold untold millions from the public Treasury. No one, not even the gentleman introducing it [Mr. HISCOCK], has been able to state the amount involved in its passage.

Not only are we to be led thus blindly without facts or figures from any source, but we are asked to pass this important bill without a word of debate or a single opportunity for amendment. It is a most vicious and inexcusable way to deal with great questions. Not a member here in the hurried reading of the Clerk can state the full effect or meaning of this legislation. The subjects are too important to be passed upon in this hasty and extraordinary manner.

What change has come over the spirit or spirits of my distinguished friend from New York [Mr. HISCOCK], the able leader of the Republican side of this House, that he should ask Democrats to follow him without knowing where he leads? Only a few months ago, when time and full debate could be given, he was unwilling even to consider this and kindred subjects. Then it seemed he wanted no change of these laws. The surplus in the Treasury did not disturb him then. He refused by his vote to give it a single hour of thought. Having refused a careful and systematic examination of the whole subject of Federal taxation, he brings in two or three of the thousands of articles demanding investigation and asks legislation upon their status without reference to the effect it may have upon the others. Is this wise and prudent legislation? Is this to restore confidence and business prosperity? Has the gentleman commended himself to this House as a friend of revenue reform that he should expect us to desert our own chosen leaders and follow him? Knowing as I well do the position of that gentleman upon all of these questions in the past, I must claim the privilege of looking with great distrust upon his proffered relief. *Timeo Danaos et dona ferentes.*

Since this bill has been up under the thirty minutes' discussion allowed by the rules I have endeavored to ascertain its contents, but with imperfect success. A part of it is the substance if not the exact words of a bill which I have had the honor to introduce in several Congresses, making alcohol free of tax for use in the arts and manufactures. In three successive Congresses I have urged the passage of that bill. I am heartily in favor of it to-day. If it came before this House as a separate measure I believe it would promptly secure not only a majority but the two-thirds vote necessary to suspend the rules and pass it. I regret that the gentleman has jeopardized a good measure with another proposition which, as I shall presently show, is dangerous, unjust, and indefensible. There are quite a number of gentlemen who will vote for free alcohol in the arts who have already refused their assent to the triple or quadruple proposition embodied in the pending bill. I have at considerable length heretofore given my reasons for supporting a bill for free alcohol in the arts. I shall be glad to do so again when the question comes up, not, as in this instance, as a mere theoretical expression of opinion, which some people may suspect is intended only for political capital, but as a matter of practical, hopeful legislation.

The abolition of the tobacco tax is another important question which deserves and ought to receive the most careful and considerate attention of this House. It is true the present tax is only 8 cents a pound, and if it were determined by the Government that it should always remain it would be, as I understand, entirely satisfactory both to the consumer and manufacturer. The tax is now so small that its entire abolition would not make much if any difference in the price to the consumer. It is, however, upon the manufacturer that the existing tax bears most heavily, and this not because of its amount, but because of the frequent agitation of the question by Congress. The periodical introduction of bills changing the amount or proposing to abolish the tax demoralizes the market and puts it in the power of large and wealthy manufacturers by a system of guarantees to secure a monopoly of the market. For this reason my purpose has been for several months as a choice of evils to vote to abolish the tax.

This result could perhaps have been accomplished to-day if this question alone had been embraced in this bill. The amount involved could be correctly ascertained, as the last reports of the Secretary of the Treasury and the Commissioner of Internal Revenue give it exactly—$26,062,399. The Secretary of the Treasury states that the surplus for the coming year would be a larger sum than this, so that the abolition of the tax on alcohol used in the arts and the abolition of the tax on tobacco could, even in this unusual way, have been secured without going beyond safe limits as to the income of the next fiscal year. Had this bill been confined to these two subjects, both important, both deserving fuller consideration, but yet both sufficiently familiar to authorize our action upon them, it would have met with my hearty support.

It goes, however, much further than this. It asks us to make fruit brandies free—to withdraw all Governmental inspection and regulation over them. This proposition I regard as unwise, unjust, and unnecessary. It would be in my judgment the source of the greatest frauds upon the Government. It would induce thousands of men to go into the business because of the invitation and opportunity for imposition which it would furnish. Practically it would be the overthrow of the whole internal-revenue system. I do not believe that the interests of the country demand such a result. I am unalterably opposed to the abolition of the tax on whisky. If this bill passes there will be no more "whisky" manufactured. It will all be "grape brandy." The temptation of 90 cents per gallon would tempt even a "moonshiner" to desert his chosen vocation and to believe that a rose by any other name would smell as sweet. I am opposed to doing by indirection what I am unwilling to do directly. Moreover, the passage of such a bill would mean bankruptcy and ruin to a large number of my constituents, who under existing law have honestly manufactured and paid tax upon an article whose value would thereby be enormously reduced.

I waive here all question as to the intention of this part of the bill with reference to the continuance of our present high and unequal tariff duties. The excise tax is provided for by the Constitution; and so far as this part of the whisky tax is concerned, it meets to-day with the approval of nineteen-twentieths of our population. As to the complaints of our "moonshiner" friends which have so recently touched a tender chord in the bosom of our high-protection advocates, it may not be improper to suggest that in the next four years, under a Democratic administration, we hope and expect to have officers identified with the communities in which they live, who, while executing the law, will be careful themselves not to violate law. Better promise than this no honest man could ask for.

Thus hurriedly, Mr. Speaker, and very unsatisfactorily I have stated my position upon these propositions and given some of the reasons why I can not support this bill as a whole.

The SPEAKER. The gentleman from Texas [Mr. MILLS] has three minutes and a half remaining.

Mr. MILLS. Mr. Speaker, this appears to me a very extraordinary bill to be brought into the House to be passed at this time under a suspension of the rules. The last two of the reports made to the country by the Secretary of the Treasury show that the public debt is on the increase. We all know that the amount of our interest-bearing debt now due is about $190,000,000 or $200,000,000, and it ought to be paid as soon as possible. Yet with the public debt now pressing upon the people, and requiring some $50,000,000 annually to meet the interest, the House of Representatives is employing itself to give away the revenue of the Government. And for what purpose? To stop paying the debt. And for what purpose? To perpetuate the debt as the basis upon which the national banks shall exist, and to perpetuate a system of high tariff protection. That is the whole theory of all this system of legislation.

Why, sir, as soon as the war was over and it was demonstrated that large revenues were coming into the Treasury sufficient to pay off all this debt in a few years, Congress commenced then, under the leadership of my distinguished and venerable friend from Pennsylvania [Mr. KELLEY], to reduce the revenues by propositions passed under suspension of the rules. But from whose shoulders was this burden of taxation removed? Was it from the shoulders of the vast body of the people of the United States who have to consume $600,000,000 of the products of iron and steel to maintain their daily existence? Was it from the shoulders of the vast body of our people who require woolen clothing in winter and cotton clothing in summer? No, sir. From whose shoulders was this great burden of taxation taken in this hurried manner by the Congress of the United States? It was taken from the shoulders of 450,000 persons, among others, who had an annual income of $800,000,000 and who paid into the Treasury taxes on that income amounting to $72,000,000. That taxation was so burdensome, so odious, so inquisitorial in its nature, so oppressive upon those who had it to pay, that Congress removed the burden to satisfy the demand of those few but powerful people, and left the whole crushing weight of taxation upon the necessaries of life still pressing upon the shoulders of the laboring population of this country.

[Here the hammer fell.]

Mr. HISCOCK. I yield five minutes to the gentleman from Virginia [Mr. TUCKER].

Mr. TUCKER. I yield a portion of my time to my colleague [Mr. CABELL].

Mr. CABELL. Mr. Speaker, as I understand this bill I am in favor of its passage, for the reason that it will be a great relief to the industrial interests of the country. Gentlemen charge that this is a movement in the interest of tariff protection. I do not stand here to advocate it as a protectionist—I am not that; but I advocate it because it will lessen the burdens upon the people and because it will relieve a large section of our country from an infamous system which has brought

distress and calamity upon it for years. Not only is the system itself a bad one, but the method of its execution in many places is a reproach to the Government as well as an outrage upon the people.

I am especially in favor of the passage of this bill because it removes entirely the tax from tobacco, the only agricultural product upon which a tax now remains. It was said years ago that as soon as the emergency which called this system into existence should pass the people would be relieved of this onerous and inquisitorial species of taxation. Surely enough time has elapsed and the gains to the Government have been sufficient to justify the repeal of the law at the present session of Congress. The passage of this bill will not deprive the Government of the amount of revenue which gentlemen have stated. The remission of the tax upon tobacco proposed by this bill will not amount to over $23,000,000. That upon alcoholic spirits used in the mechanic arts will not exceed six or eight million dollars, and the abolition of the tax upon liquors distilled from fruits will not exceed, if it will equal, $1,800,000; so that the entire reduction of revenue to be accomplished by the measure will be some thirty-five or thirty-six million dollars at the outside. In view of all the circumstances can not the Government afford to submit to such reduction of its revenues?

Gentlemen profess great regard for the agriculturists and the agricultural interests of the country. Is it not time to make good those professions by repealing every law which lays a burden upon the farmer or his products?

I speak not only of tobacco, but is it not time that the poor men in the mountains of several of the Southern and Western States should be allowed to utilize their fruits by distilling them and putting them into such shape as that the product can be marketed and the proceeds devoted to the sustenance of these toilers and their families rather than to the doubtful requirements of an overflowing Treasury? The amount realized from the tax on liquors distilled from fruits does not at all compensate the Government for the cost of collection and the maintenance of a system so liable to abuse and so distasteful to the people.

I trust, Mr. Speaker, that it will be the pleasure of this House, after the continuance of this system of taxation for so many years, to give relief to the great interests involved by the prompt passage of this bill.

Mr. TUCKER. Mr. Speaker, one of the reasons, and a principal one, for the passage of this bill is that it will reduce the surplus in the Treasury. That surplus has been for years past, and will be for years to come, a wrong to the people, from whom the Government should take no more than it needs for an economical administration.

The revenue from customs was last year about $195,000,000, from miscellaneous sources about $30,000,000, and from internal taxation about $121,000,000; in all about $348,000,000.

The expenditures were: for pensions about $55,000,000, for interest on public debt about $55,000,000, for other ordinary expenses about $135,000,000, and for the sinking fund about $46,000,000; in all about $290,000,000; leaving a surplus of about $58,000,000 of the people's money to lie idle in the Treasury.

It is thus seen that customs and miscellaneous sources furnish about $225,000,000, which falls short of the sum of expenditures and the sinking fund about $65,000,000, or short of ordinary expenditures, including pensions and interest, about $19,000,000, and leaving nothing for the sinking fund. This would be the deficit on the total repeal of all internal taxation.

But as customs and the miscellaneous sources supply $225,000,000, the internal taxes are only needed to supply $65,000,000, the difference between the total expenditure of $290,000,000 and the revenue of $225,000,000 thus obtained from customs and miscellaneous sources.

Now, as my colleague [Mr. CABELL] has said, the total repeal of tax on cigars and tobacco will be, say, $23,000,000, on spirits used in manufacture not more than $7,000,000, and on brandies from fruits about $2,000,000; in all about $32,000,000; leaving more than $80,000,000 from the tax on spirits, beer, &c. Add this sum to $225,000,000 from customs and miscellaneous sources, and we will have over $305,000,000 to meet $290,000,000 of demands on the Treasury for ordinary expenses, pensions, interest on debt, and the sinking fund.

This bill will therefore leave ample means for the Government's needs and relieve the people of taxes which only put a useless surplus into the Treasury to tempt to unconstitutional legislation, to reckless extravagance, and to official corruption.

Again, there is a strong reason, and a special one, why this tax on tobacco should be repealed. The law which imposes it singles out this one product of the farmer for taxation, subjects the producer to restrictions upon its free sale, and, with the zeal of inquisitorial watchfulness, pursues it from the plant-bed to the hand of the consumer. The same may be said of the vast surplus fruit product of the country, which rots in the hands of the producer because he can not take it to market in the condition of distilled spirits.

But the tax on tobacco is a most unequal one. It has all the evils which have been condemned as involved in the system of specific duties under the tariff system. It taxes the cheap article consumed by the poor as heavily as the dear article consumed by the rich. If it be, as is often said, a luxury to the consumer, why is that luxury which poverty consumes made to bear an equal tax with that which wealth consumes? Why lay the 8 cents tax on the tobacco which the laboring classes use, and the same upon the tobacco used by the millionaire, and which costs five times as much? This is unequal, unjust, and oppressive, and should be abolished entirely, because it discriminates in favor of the rich and against the poor.

But there is another reason for the repeal of these taxes which has not been mentioned. It is this:

The framers of the Constitution knew that the subjects of taxation must be distributed between the Federal Government and the States. The States are denied the power to lay customs duties. That has been given exclusively to the Federal Government. The tax on land and on the person (together constituting what by judicial construction is held to be the "direct taxes" referred to in the Constitution), and the excise and other taxes on employments, occupations, income, and the like are common subjects of taxation for both governments. In practice, through all our history, our financial policy has been to leave to the States the domain of direct and internal taxation, and confine the Federal power to customs duties, which are exclusively its own.

Let the Federal Government take off its hand from tobacco and spirits and leave it to the States, and large revenues would be thence derived for their treasuries, to the relief of the people from direct taxes on property. When the Federal Government reaches out to grasp these subjects of taxation, which are common to both governments, it operates to enlarge the sphere of Federal taxation and to contract that of the States. It does more: by thus enlarging its own revenues and decreasing those of the States respectively it expands more readily its functions where money is the means of their exercise, and dwarfs those of the States, divested of power, because too stinted in their revenues to exercise it. Nothing could and does tend more to the centralization of power in this Government at the expense of the States than the continuation of this internal-revenue system of taxation.

For example: By this system the Federal Government collects at 8 cents a pound on tobacco and by its tax on cigars over $3,000,000 in Virginia. Repeal the tax and Virginia, by a tax of 1 cent on tobacco, could raise a revenue of over $400,000 every year for the education of its people and for other State purposes. It can not do so now, for it is ousted of the power by the exclusive action of Congress.

On broad grounds of a sound constitutional policy, therefore, and looking to the equilibrium of powers between this Government and the States, I insist these taxes should be repealed. Money is the root of power, and by enlarging the means by which this Government can raise it, and contracting in the same degree the means of the States, you will steadily strip the States of their authority and centralize all power in this Government.

Now, as to the other clause of the bill in reference to spirits used in manufactures, that is for the benefit of the manufacturing class of the country. The gentleman from Louisville [Mr. WILLIS] has a great interest there which has appealed to this Government for years to have the tax on spirits used in the manufacture of drugs repealed entirely. This bill proposes to do it. And that is sound policy.

Mr. WILLIS. And we want it taken off also as to fruit brandies.

Mr. TUCKER. Yes; and that the tax shall be remitted also as to the fruit brandies. Here are the products of the soil in which the farmer is interested, the product of tobacco, the product of apples and peaches, and so on; and these are the only means by which some farmers can make a living; and they only are seized by this Government, these products of agriculture, and crushed by this heavy internal-revenue taxation. This bill would then give great relief to these agricultural products of the farming classes. It relieves from taxation, then, only agricultural products which are subject to it. We protect manufactures by a system against which my friend from Texas [Mr. MILLS] is as much opposed as I am, by heavy duties. Congress ought to lend some aid to the farmer; but instead of doing so, with one hand you crush him by keeping this heavy internal-revenue taxation upon the products of his fields and with the other you oppress him by high protective duties on all that he consumes. You strike a blow at him through his production and through his consumption.

I appeal to gentlemen on all sides of the House to favor the passage of this bill.

But gentlemen say if you repeal the internal-revenue taxes you will have to raise the customs duties. In my judgment nothing is more fallacious.

The logical framework of a protective tariff is that which makes duties so high as to prohibit importation of foreign goods. But if importation be prohibited no revenue accrues. Lessen the duties and protection decreases, as revenue on increased importations increases. The present tariff on many articles is so high as to protect the domestic article by almost absolute prohibition of the importation of the foreign article. This is the case with blankets, hats of wool, and hundreds of other articles.

Repeal the internal-revenue system, and Congress will be compelled to abandon the prohibitory rates of duties to adjust them to the revenue standard; and they will then be high enough to raise all the revenue you need, to give full encouragement to the industries of the country, and make the people more prosperous under a state of things more natural and less artificial—when capital will have fair profits, laborers full wages, and the interests of the consuming classes will be

promoted by leaving them to untaxed production, and relieving them from the heavy burdens now resting upon consumption.

But gentlemen say, Mr. Speaker, that we had better wait until the next administration before we do anything in this matter. Why should we delay the removal of the unjust burdens which the people bear? Why should the farmer longer wait?

> Rusticus exspectat dum defluat amnis; at ille
> Labitur et labetur in omne volubilis ævum.

[Laughter.] We want the tax repealed now. I do not care by whom or by what party it is done. I am not such a partisan as to reject the relief because tendered by Republicans. I will not claim the exclusive honor for the Democratic party here to do this just thing and to achieve this victory for right against an oppressive wrong. Let Democrats and Republicans unite in patriotic alliance to do justice to the people of the country, and the people will be satisfied. [Applause.]

Mr. HISCOCK. Mr. Speaker, I shall spend no time in replying to the remarks of the gentleman from Missouri [Mr. O'NEILL], who seems to think the salt industry is involved in this bill. [Laughter.] We do not pump brine with whisky. [Laughter.] Nor shall I spend any time in replying to the point made by my friend from Georgia [Mr. BLOUNT] that this bill has not been considered by any committee of the House. Why has not the Ways and Means Committee considered the matter and brought in a bill for the action of the House is the question I propound to him.

Mr. Speaker, let us look at the tax on spirits used in the mechanic arts. It is a direct tax on the consumer. It goes into the cost of the production of those articles in general use in the United States; into the production of all the paints, varnish, drugs, and very many other articles in most general use by all classes of people. When you relieve the manufacturing industries of this tax you will of course reduce the price of their products to the people to the extent of the reduction.

Now let us look for one moment at the article of tobacco. There is no tax levied in this country which is more onerous on the poor man, on the laboring men, than the tax on tobacco. It is too late to say we will drive it out of use or that they should not use it. All classes consume tobacco, and the tax comes more largely from the laboring and poorer classes than from any other, and you are therefore directly relieving them by the passage of this bill.

It has been urged this bill is in the interest of manufacturing industries. No, sir; this bill is in the interest of the consumers of these goods.

There is that rivalry existing to-day in all of the manufacturing industries of this country that they have forced down the prices of their products to the lowest point at which they can manufacture with any profit to themselves; and when you take this tax of seven or ten millions of dollars from these industries the result must be to still further reduce the prices of the commodities they manufacture and compound.

The bill, sir, is in the interest of the consumer; it is in the interest of the agricultural classes of this country that produce the "raw materials," and it is in the interest of the laboring men, and I can not imagine a class or an individual that will be harmed by the passage of the bill.

I yield the remainder of my time to the gentleman from Rhode Island [Mr. CHACE].

The SPEAKER. The gentleman has one minute remaining.

Mr. CHACE. Mr. Speaker, I am surprised to hear my friend from Texas to-day. It is curious to notice the change in his tone. Only last year he was constantly complaining of these "burdens of taxation" upon the people of this country. "Revenue reform," "reduce the burdens of the tax upon the people," take off these "onerous taxes" we heard on all occasions from his lips; but now, forsooth, we hear a very different sort of argument.

Mr. MILLS. You do not pretend to say that I ever advocated taking the tax off whisky and tobacco?

Mr. CHACE. I say that you talked about revenue reform incessantly; and now the opportunity is presented to put it into practice. The last campaign was fought upon revenue reform and reduction of taxation.

Mr. HEWITT, of New York. Is it revenue reform to keep the tax upon cotton goods and take it off of liquors?

Mr. CHACE. And I ask gentlemen on all sides, and the gentleman from Texas particularly, to put themselves on record in favor of revenue reform.

Why, it was only two or three years ago that we heard a great deal about the "blood tax," as it was called, the tax on quinine, and you gentlemen took the duties off of quinine nominally, and yet you still tax it, because one of the most important elements of its manufacture is alcohol, on which you retain the tax. Now redeem your pledges to the people; take the tax off alcohol and let them have cheap quinine.

Mr. THOMPSON, of Kentucky. Let me ask the gentleman from Rhode Island whether he has ever heard of apple-brandy being used in the manufacture of quinine?

[Here the hammer fell].

The SPEAKER. The time allowed for debate under the rule has expired.

Mr. MILLS. I would like to ask the gentleman from Rhode Island a question.

The SPEAKER. The time for debate has been exhausted.

Mr. CULBERTSON, of Kentucky. I ask consent to print some remarks in the RECORD on this subject.

Mr. MILLS. There are several gentlemen around me who wish that privilege. I ask, therefore, that it be extended to all who desire to avail themselves of it.

Mr. COX, of New York. I would like to print certain extracts from the Secretary's report—one McCulloch.

Mr. KELLEY. And I would like to print some extracts from the speech of Mr. HEWITT, of New York, in favor of the repeal of the spirit tax because it is a tax on raw material. [Laughter.]

Mr. HEWITT, of New York. Print the whole speech.

Mr. HISCOCK. I would like to amend my remarks in reference to the amount of the reduction which will be made if this bill passes.

The SPEAKER. The gentleman from Texas asks consent that all gentlemen desiring to avail themselves of the privilege shall be allowed to print remarks in the RECORD, and, if there be no objection, of course the gentleman from New York can amend or extend his remarks.

Is there objection to the request of the gentleman from Texas?

There was no objection, and it was so ordered.

Mr. COX, of New York. Mr. Speaker, various questions are involved in the wholesale change proposed by this bill. It involves the surplus. The President says that the Secretary of the Treasury estimates the total receipts for the fiscal year which will end June 30, 1885, at $330,000,000, and the total expenditures at $290,620,201.16, in which sum are included the interest on the debt and the amount payable to the sinking fund. This would leave a surplus for that entire year of about $39,000,000. The surplus for 1866 will be the same as for 1885. (Treasury Report, vii.)

From the customs the ordinary revenues for the fiscal year which ended June 30, 1884, were:

From customs	$195,067,489
From internal revenue	121,586,072
From other sources	31,866,307
Total	348,519,868

The surplus for that year was $57,603,396. No one objects to a reduction of the surplus. But the main point is that it be done discreetly and with wisdom. A motion like this has not had proper deliberation, nor has any one the privilege except the mover to say the effect of his bill.

One effect is apparent. This bill does not touch the odious internal-revenue machinery. Its espionage remains. The spy still lives. The intimidation and venality remain. It is simply an abolition of a portion of the revenue, so as to avoid a future reduction of the worst tariff that ever cursed a country.

Now, the taxes repealed by this bill are the easiest paid of any taxes. They all go to the Treasury unless there be fraud. The taxes relieved are not those on necessaries. If our platforms mean anything, they mean that on such articles as tobacco and spirits the tax should be the last to be removed.

I asked leave to print the suggestions of the Secretary of the Treasury. They are not the views of a politician, but of an economist and statesman. He observes what his predecessor observed and what the President urged, that the surplus should be cut down, but not exclusively on the internal-revenue basis. The extracts I desired to print justify the vote against this immature measure. The Secretary is eager to have a commission, unless something better can be devised. Something better can be devised. A new Congress not committed to one idea, but anxious to increase our trade and trade off our surplus production by enlarging our markets, may devise something better.

The condition of the manufacturing interest of the United States is similar in some respects to the condition of the agricultural interest of the West in the early days to which I have referred. What the Western farmers then needed was a market for their crops. What manufacturers now need is a market for their surplus manufactures.

The all-important question, therefore, that presses itself upon the public attention is, how shall the country be relieved from the plethora of manufactured goods, and how shall plethora hereafter be prevented? It is obvious that our power to produce is much in excess of the present or any probable future demand for home consumption. The existing iron, cotton, and woolen mills, if employed at their full capacity, could meet in six months—perhaps in a shorter time—the home demand for a year. It is certain, therefore, that unless markets now practically closed against us are opened, unless we can share in the trade which is monopolized by European nations, the depression now so severely felt will continue and may become more disastrous.

The question how shall our foreign trade be increased is the question which now comes to the front and demands prompt and careful consideration. Manufacturers are primarily interested, but the whole country has a stake in its solution. In its investigation the tariff will necessarily be involved, inasmuch as the relations between it and our foreign trade are so close that they can not be considered separately, but it need not be involved except so far as it stands in the way of international trade. If the duties upon raw materials are an obstruction, those duties should be removed. If the duties upon other articles are an obstruction, they should be modified. Whatever may be required to increase our foreign trade, whether it be a repeal or modification of existing duties, should be demanded by the manufacturers themselves. How, then, shall the information required for a full understanding of what stands in the way of an increased exportation of our manufactured goods be obtained? It may not be proper for me to offer advice on this point, but I can not forbear to say that I can see no better means than by the appointment of a commission, composed of men not wedded to the doctrines of free trade or protection—fair-minded men, who would prosecute the inquiry thoroughly, comprehensibly, and impartially. If such a commission should be created, it should be done without unnecessary delay.

It is true that previous commissions have not accomplished all that was ex-

pected of them. The cause of this partial failure it is not necessary to inquire into, but this failure should not prevent the appointment of such a commission as has been suggested, unless something better can be devised. It is very clear that what is needed can not be accomplished through the agency of the Committee on Ways and Means. So vast in its comprehensive reach is the question to be investigated, and so complicated is it by the changing policy of other nations, that this committee would lack the time required for its thorough investigation. Besides, the Committee on Ways and Means is usually appointed to sustain measures to which the party in control in the House is pledged, rather than to give to subjects referred to it that impartial consideration which is needed to correct conclusions. Nor is the fact to be overlooked that even constituted as this committee has been, and able as have been its members, there has rarely, if ever, been a committee which so reflected the sentiments or commanded the respect of the House as to be able to carry through without important changes the bills which it had prepared.

It is, therefore, obvious that some other agency than the Committee on Ways and Means must be resorted to in order that the House may have the information absolutely needed for correct conclusions in regard to the nature of the obstructions in the way of an extension of our foreign trade and the best means of removing them. The labors of a commission, if properly performed, would be very great. Ample time, therefore, should be allowed for their performance.

The business of the whole world has been revolutionized by steam-power and the substitution of machinery for hand-work. If not the inventor of the steam-engine, Great Britain took the lead in utilizing it in manufacturing, and she thus became the great workshop of the world. For many years she had a monopoly in manufacturing. The raw materials from nearly all nations were taken in her own ships to her ports and returned in manufactured goods. It has been the profit of this combination of manufactures and commerce which has made her the richest and most powerful of nations. Now, however, all Western nations are endeavoring to use their raw materials at home and to encourage and sustain their manufactures by protective duties, the effect of which has been general overproduction.

It is this great revolution caused by steam-power and machinery and their general use that will make the labors of the commission so arduous. All the leading nations of the world are now engaged in manufacturing, and all but Great Britain are fencing themselves in by protective duties.

When the real condition of our foreign trade and the character of the competition in which we must sooner or later engage are fully understood, it will be found that our inability to make that trade as free as our best interests require lies in the necessity which exists for heavy import duties, which, although they may be levied for revenue only, must be in a large degree protective.

It is upon such taxes, therefore, that our Government must mainly rely for its large current expenditures and the reduction of the national debt. Large revenues will be derived from the taxes upon whisky and tobacco, if the tax on the latter article should be retained, but our chief revenue must be derived from import duties. To show how these duties may be imposed and distributed as to neither imperil our manufactures nor obstruct our foreign trade, while the Treasury is kept in an easy condition, will be the task of the commission. That the task will be a very difficult one is certain; that it may be successfully performed ought to be certain also.

In the commencement of its work the commission should, I think, regard the following points as being settled:

First. That the public revenues are not to be in excess of what may be required for the support of the Government and the gradual reduction of the public debt.

Second. That our manufactures, which under the fostering care of the Government have attained such gigantic proportions and whose prosperity is essential to the welfare of all other interests, are not to be put in jeopardy by radical and sweeping changes in the tariff; and that all reductions of import duties should be made with a view to their ultimate advantage by opening to them markets from which they are now in a large degree excluded.

Something has been done, and more might be done, to increase our foreign trade by reciprocal treaties, but the advantage to be derived from such treaties would be restricted and partial; and there are very serious objections to treaties which affect the public revenues, on the ground that they are an encroachment upon the rights of the House of Representatives, in which, under the Constitution, all revenue bills must originate.

As to the persons who should constitute the commission there will be various opinions. It might be composed of persons who have no connection with the Government or of Senators and members of the House, but I strongly incline to the opinion that it should be composed of members of the House only, because, in the investigation of the subject of our foreign trade, questions affecting the public revenues will necessarily be involved; and that members should be selected from those who have been re-elected to the Forty-ninth Congress, in order that its work may be explained and defended by those who have performed it. It would be advisable also that the Secretary of the Treasury should *ex officio* be a member of the commission, in order that the views of the Treasury Department and those of the commission may be in accord.

In the preceding remarks the tariff has been only indirectly referred to. From this it must not be inferred that I am not in favor of a reform of the tariff, but rather that the subjects of the tariff and foreign trade are so intimately connected that they must, in my opinion, be considered together. Have we not reached the stage when a policy should be adopted which will embrace and harmonize the great interests of the country?

If such a commission as has been suggested had been appointed, and its work could be performed at an early date, I should not be disposed to say anything bearing directly upon the tariff, but as relief from the present burden of taxation is urgently and justly demanded, I deem it my duty to suggest that something in this direction should be done without delay. Owing to the shortness of the time allowed to me for the consideration of the subject, I am not prepared to name the articles upon which duties should be removed or reduced. I should regret this if Congress were not already in possession of the facts which should govern its action. This much, however, it may be proper for me to recommend:

First. That the existing duties upon raw materials which are to be used in manufacture should be removed. This can be done in the interest of our foreign trade.

Second. That the duties upon the articles used or consumed by those who are the least able to bear the burden of taxation should be reduced. This also can be effected without prejudice to our export trade.

In regard to our internal-revenue taxes, I have to say that as these taxes, with the exception of the tax upon whisky, ought not to be and will not be needed for revenue if appropriations are kept within reasonable bounds and rigid economy is established in all branches of the public service, I see no good reason for their continuance. The tax upon bank-note circulation I shall refer to in my remarks upon national banks. Taxes upon agricultural productions, although indirectly levied, are inconsistent with our general policy, and tobacco is the only one of these productions which has been taxed. An article which is so generally used, and which adds so much to the comfort of the large numbers of our population who earn their living by manual labor, can not properly be considered a luxury, and as the collection of the tax is expensive and troublesome to the Government, and is especially obnoxious and irritative to small manufacturers, the tax upon tobacco should, in my judgment, be removed.

The tax upon whisky could not be repealed without a disregard of public sentiment, nor without creating a necessity for higher duties upon imported goods, but while this is true the tax upon the alcohol used in manufacturing might be removed with decided benefit to home industry and foreign trade.

Under the provisions of section 3433, Revised Statutes, as amended, spirits used in the manufacture for export of certain enumerated articles are freed from the tax of 90 cents per gallon. This law has greatly increased the exportation of the articles therein named.

These articles, however, constitute but a very small portion of those in the manufacture of which alcohol is used, or in which it would be used were it not for the tax thereon.

In Great Britain spirits have been used in manufactures free of tax since the year 1855, the spirits having been previously mixed with wood naphtha or "methylated."

It is understood that spirits thus methylated are unfit to be used as a beverage, while they remain uninjured for the general purposes of manufacturing. It is suggested, therefore, that provision be made for the use of domestic methylated spirits, free of tax, as a measure tending to encourage manufactures, both for home use and for exportation.

The SPEAKER. The question is on the motion of the gentleman from New York to suspend the rules and pass the bill which has been read.

Mr. RANDALL. Let us have the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 78, nays 127, not voting 118; as follows:

YEAS—78.

Atkinson,	Dibrell,	Keifer,	Robinson, W. E.
Barbour,	Eaton,	Kelley,	Skinner, T. G.
Barr,	Ellis,	Ketcham,	Smalls,
Bayne,	Ermentrout,	Lewis,	Smith, A. H.
Bisbee,	Everhart,	Lyman,	Stevens,
Blanchard,	Forney,	McComas,	Storm,
Boyle,	George,	Murray,	Sumner, C. A.
Brewer, J. H.	Glascock,	Mutchler,	Swope,
Brown, W. W.	Goff,	Nicholls,	Taylor, J. M.
Buchanan,	Green,	O'Ferrall,	Tillman,
Budd,	Hammond,	O'Hara,	Tucker,
Cabell,	Hardeman,	O'Neill, Charles	Tully,
Campbell, J. M.	Hardy,	Peel,	Wadsworth,
Candler,	Hart,	Pettibone,	Warner, A. J.
Chase,	Henley,	Pierce,	Warner, Richard
Clements,	Holton,	Pryor,	Whiting,
Cox, W. R.	Hopkins,	Randall,	Wise, G. D.
Crisp,	Hunt,	Reed,	York.
Culbertson, W. W.	Jeffords,	Reese,	
Davis, R. T.	Kean,	Robinson, J. S.	

NAYS—127.

Adams, G. E.	English,	Lovering,	Seymour,
Adams, J. J.	Findlay,	McCormick,	Shively,
Alexander,	Foran,	Matson,	Singleton,
Anderson,	Funston,	Miller, J. F.	Slocum,
Bagley,	Fyan,	Mills,	Stewart, Charles
Barksdale,	Geddes,	Mitchell,	Stockslager,
Beach,	Gibson,	Money,	Stone,
Blackburn,	Greenleaf,	Morse,	Strait,
Bland,	Halsell,	Moulton,	Struble,
Blount,	Hanback,	Murphy,	Talbott,
Bratton,	Hancock,	Neece,	Taylor, J. D.
Breckinridge,	Haynes,	Nelson,	Thomas,
Broadhead,	Hemphill,	Oates,	Thompson,
Browne, T. M.	Henderson, D. B.	O'Neill, J. J.	Throckmorton,
Buckner,	Henderson, T. J.	Paige,	Townshend,
Burnes,	Hepburn,	Payson,	Turner, H. G.
Cannon,	Herbert,	Perkins,	Valentine,
Cassidy,	Hewitt, A. S.	Peters,	Wakefield,
Clardy,	Hill,	Post,	Wallace,
Cobb,	Hitt,	Potter,	Washburn,
Collins,	Holman,	Price,	Weaver,
Cook,	Holmes,	Pusey,	Wellborn,
Cosgrove,	Hurd,	Ranney,	White, Milo
Cox, S. S.	James,	Reagan,	Wilkins,
Cullen,	Johnson,	Riggs,	Williams,
Cutcheon,	Jones, J. H.	Robertson,	Willis.
Davidson,	Lacey,	Rogers, J. H.	Winans, E. B.
Davis, G. R.	Lamb,	Rogers, W. F.	Winans, John
Davis, L. H.	Lanham,	Rosecrans,	Woodward,
Dingley,	Le Fevre,	Rowell,	Worthington,
Dorsheimer,	Long,	Ryan,	Yaple.
Eldredge,	Lore,	Seney,	

NOT VOTING—118.

Aiken,	Dunham,	Kleiner,	Shaw,
Arnot,	Dunn,	Laird,	Shelley,
Ballentine,	Elliott,	Lawrence,	Skinner, C. R.
Belford,	Ellwood,	Libbey,	Smith, H. Y.
Belmont,	Evans,	Lowry,	Snyder,
Bennett,	Ferrell,	McAdoo,	Spooner,
Bingham,	Fiedler,	McCold,	Spriggs,
Boutelle,	Finerty,	McMillin,	Springer,
Bowen,	Follett,	Maybury,	Steele,
Brainerd,	Garrison,	Millard,	Stephenson,
Breitung,	Graves,	Miller, S. H.	Stewart, J. W.
Brewer, F. B.	Guenther,	Millikin,	Sumner, D. H.
Brumm,	Harmer,	Morgan,	Taylor, E. B.
Burleigh,	Hatch, H. H.	Morrill,	Turner, Oscar
Caldwell,	Hatch, W. H.	Morrison,	Van Alstyne,
Campbell, Felix	Hewitt, G. W.	Muldrow,	Vance,
Campbell, J. E.	Hiscock,	Muller,	Van Eaton,
Carleton,	Hoblitzell,	Nutting,	Wait,
Chalmers,	Hooper,	Ochiltree,	Ward,
Clay,	Horr,	Parker,	Weller,
Connolly,	Houk,	Patton,	Wemple,
Converse,	Houseman,	Payne,	White, J. D.
Covington,	Howey,	Phelps,	Wilson, James
Culbertson, D. B.	Hutchins,	Poland,	Wilson, W. L.
Curtin,	Jones, B. W.	Rankin,	Wise, J. S.
Dargan,	Jones, J. K.	Ray, G. W.	Wolford,
Deuster,	Jones, J. T.	Ray, Ossian	Wood,
Dibble,	Jordan,	Rice,	Young.
Dockery,	Kellogg,	Rockwell,	
Dowd,	King,	Russell,	

So (two-thirds not having voted in favor thereof) the bill was not passed.

Mr. COX, of North Carolina. I am requested to state that my colleague, Mr. VANCE, is detained at home by sickness.

On motion of Mr. BLOUNT, by unanimous consent the reading of the names was dispensed with.

Mr. HISCOCK. Mr. Speaker, I am paired with the gentleman from Illinois [Mr. MORRISON] until to-day; but as he is not present I will continue my pair with him and withdraw my vote.

The following pairs were announced from the desk:

Mr. POTTER with Mr. EVANS, on all questions, until further notice.
Mr. HEWITT, of New York, with Mr. HOOPER, until further notice.
Mr. ARNOT with Mr. BELFORD, until further notice.
Mr. JONES, of Alabama, with Mr. BURLEIGH, until further notice.
Mr. KING with Mr. MILLER, of Pennsylvania, until further notice.
Mr. FIEDLER with Mr. STEELE, until further notice.
Mr. MAYBURY with Mr. JOHN S. WISE, until further notice.
Mr. MULLER with Mr. DUNHAM, until further notice.
Mr. MORGAN with Mr. BAYNE, until further notice.
Mr. DARGAN with Mr. BOWEN, until further notice.
Mr. BALLENTINE with Mr. FINERTY, until further notice.
Mr. JONES, of Arkansas, with Mr. RUSSELL, until further notice.
Mr. AIKEN with Mr. STEWART, of Vermont, until further notice.
Mr. MONEY with Mr. ATKINSON, until further notice.
Mr. WELLER with Mr. EZRA B. TAYLOR, until further notice.
Mr. MURRAY with Mr. ROBINSON, until further notice.
Mr. DIBBLE with Mr. SMITH, of Iowa, until further notice.
Mr. ERMENTROUT with Mr. HARMER, until further notice.
Mr. KLEINER with Mr. LIBBEY, until further notice.
Mr. CARLETON with Mr. ROWELL, until further notice.
Mr. HOUSEMAN with Mr. BREITUNG, until further notice.
Mr. WILLIS with Mr. STEPHENSON, until further notice.
Mr. BELMONT with Mr. HOUK, on all questions, except the bankrupt bill, until further notice.
Mr. MILLARD with Mr. MULDROW, on all political questions.
Mr. RANKIN with Mr. OCHILTREE, on all questions, until further notice.
Mr. HATCH, of Missouri, with Mr. HATCH, of Michigan, until further notice.
Mr. CAMPBELL, of Ohio, with Mr. SKINNER, of New York, until January 12.
Mr. VANCE with Mr. BRAINERD, until further notice.
Mr. CONNOLLY with Mr. BINGHAM, on all questions, until further notice.
Mr. JORDAN with Mr. LAIRD, on all questions, until further notice.
Mr. MORRISON with Mr. HISCOCK, until further notice.
Mr. CULBERSON, of Texas, with Mr. NUTTING, until further notice.
Mr. CALDWELL with Mr. SPOONER, until further notice.
Mr. HEWITT, of Alabama, with Mr. RAY, of New Hampshire, until further notice.
Mr. DOCKERY with Mr. WILSON, of Iowa, on all questions, until further notice.
Mr. MCMILLIN with Mr. PAYNE, on all questions, until further notice.

The result of the vote was then announced as above stated.

PUBLIC BUILDING AT WACO, TEX.

Mr. MILLS. I move to suspend the rules so as to take from the Speaker's table and pass the bill (S. 52) providing for the erection of a public building at Waco, Tex.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Treasury be, and he is hereby, authorized and directed to purchase a site for, and cause to be erected thereon, a suitable building, with fire-proof vaults therein, for the accommodation of the United States courts, post-office, and other Government offices at the city of Waco, Tex. The plans, specifications, and full estimates for said building shall be previously made and approved according to law, and shall not exceed, for the site and building complete, the sum of $100,000, which sum is hereby appropriated, out of any money in the Treasury not otherwise appropriated: *Provided*, That the site shall leave the building unexposed to danger from fire in adjacent buildings by an open space of not less than forty feet, including streets and alleys; and no money appropriated for this purpose shall be available until a valid title to the site of said building shall be vested in the United States, nor until the State of Texas shall have ceded to the United States exclusive jurisdiction over the same during the time the United States shall be or remain the owner thereof, for all purposes except the administration of the criminal laws of said State and the service of civil process therein.

Mr. MILLS. I desire to state to the House that this bill passed the Senate, and a bill corresponding to it word for word——

Mr. KEIFER. The question is not debatable unless a second be ordered.

The SPEAKER. Is a second demanded?

A second was not demanded.

The SPEAKER. The question is on the motion of the gentleman from Texas to suspend the rules and pass the bill.

The question being taken, there were—ayes 86, noes 7.

So (further count not being called for, and two-thirds having voted in favor thereof) the rules were suspended, and the bill was passed.

MEXICAN WAR PENSIONS.

Mr. KEIFER. I move that the rules be suspended, and that the bill (H. R. 5867) granting a pension to the soldiers and sailors of the Mexican war, and for other purposes, with amendments by the Senate, be taken from the Speaker's table, and that the amendments of the Senate be concurred in.

Mr. HAMMOND. I suggest that the bill as it passed the House should first be read and afterward the amendments of the Senate.

The bill as it passed the House was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll the names of the surviving officers and enlisted men, including marines, militia, and volunteers, of the military and naval services of the United States who served sixty days in the war of 1846 and 1847 and '48 with Mexico, or who, being enlisted as aforesaid, actually served with the Army or Navy of the United States in Mexico in said war, or were actually engaged in a battle in said war, and were honorably discharged, and to such other officers and soldiers and sailors as may have been personally named in any resolution of Congress for any specific service in said wars although their term of service may have been less than sixty days, and the surviving widows of such officers and enlisted men as were married to such officers or soldiers or sailors prior to the discharge of such officers and enlisted men: *Provided*, That such widows have not remarried: *And provided further*, That this act shall not apply to any person not a citizen of the United States.

SEC. 2. That pensions under this act shall be at the rate of $8 per month, and payable only from and after the passage of this act, for and during the natural lives of the persons entitled thereto.

SEC. 3. That before the name of any person shall be placed on the pension-roll under this act proof shall be made, under such rules and regulations as the Secretary of the Interior may prescribe, of the right of the applicant to a pension; and any person who shall falsely and corruptly take any oath required under this act shall be deemed guilty of perjury; and the Secretary of the Interior shall cause to be stricken from the pension-roll the name of any person whenever it shall be made to appear by proof satisfactory to him that such name was put upon such roll through false and fraudulent representations, and that such person is not entitled to a pension under this act. The loss of the certificate of discharge shall not deprive any person of the benefits of this act, but other evidence of service performed and of an honorable discharge may be deemed sufficient.

SEC. 4. That the pension laws now in force which are not inconsistent or in conflict with this act are hereby made a part of this act, so far as they may be applicable thereto.

SEC. 5. That it shall be unlawful for any attorney, claim agent, or any other person to demand or receive a fee greater than $10 for services rendered in behalf of a claimant under this act.

SEC. 6. That section 4716 of the Revised Statutes is hereby repealed so far as the same relates to this act or to the pensioners under this act.

SEC. 7. That the provisions of this act shall not apply to any person while under the political disabilities imposed by the fourteenth amendment to the Constitution of the United States.

The amendments of the Senate were read, as follows:

In section 1, line 7, after the words "United States," strike out these words: "Who served sixty days in the war of 1846 and 1847 and '48 with Mexico, or who, being enlisted as aforesaid, actually served with the Army or Navy of the United States in Mexico in said war."

And insert the following:

"Who, being duly enlisted, actually served fourteen days with the Army and Navy of the United States in Mexico, or on the coasts or frontier thereof, or *en route* thereto, in the war with that nation."

In section 1, line 18, after the word "said," strike out "wars" and insert "war."

In section 1, line 18, after the word "war," strike out the following: "Although their term of service may have been less than sixty days."

In section 1, line 20, after the word "men," strike out these words: "As were married to such officers or soldiers or sailors prior to the discharge of such officers and enlisted men."

In section 1, line 23, after the word "remarried" strike out these words: "*And provided further*, That this act shall not apply to any person not a citizen of the United States."

At the end of section 1 insert the following:

"*Provided*, That every such officer, enlisted man, or widow who is or may become 62 years of age, or who is or may become subject to any disability or dependency equivalent to some cause prescribed or recognized by the pension laws of the United States as a sufficient reason for the allowance of a pension, shall be entitled to the benefits of this act; but it shall not be held to include any person not within the rule of age or disability or dependency herein defined, or who incurred such disability while in any manner voluntarily engaged in or aiding or abetting the rebellion against the authority of the United States."

In section 2, line 1, after the word "under," insert "section 1 of."

At the end of section 2, insert the following:

"Or during the continuance of the disability for which the same shall be granted: *Provided*, That section 1 of this act shall not apply to any person who is receiving a pension at the rate of $8 per month or more, nor to any person receiving a pension of less than $8 per month, except for the difference between the pension now received (if less than $8 per month) and $8 per month."

In section 3, line 14, after the word "other," insert the word "record."

In section 3, line 14, after the words "evidence of," insert "enlistment and."

In section 3, line 15, after the word "service," strike out the word "performed."

At the end of section 3 insert the following:

"*Provided*, That when any person has been granted a land-warrant, under any act of Congress, for and on account of service in the said war with Mexico, such grant shall be *prima facie* evidence of his service and honorable discharge; but such evidence shall not be conclusive and may be rebutted by evidence that such land-warrant was improperly granted."

In section 5, after the word "act," strike out the words "to be paid when" and insert "which shall not be demanded or received until."

At the end of section 5 insert the following:

"And any person violating the provisions of this section shall be subject to the provisions of section 5485 of the Revised Statutes of the United States."

Insert the following additional sections:

"SEC. 8. That every person specified in the several classes enumerated in section 4693 of the Revised Statutes of the United States, and the amendments thereto, who served in the military or naval service, as mentioned in said section, for the period of three months during the war of the rebellion, and has an honorable discharge therefrom, and who is or shall become disabled from any cause not the result of his own gross carelessness, disreputable conduct, or vicious habits, and shall also be dependent upon his own labor for support, shall, upon making due proof of the facts, under such regulations as may be prescribed by the proper authority, be placed upon the list of pensioners of the United States, and be entitled to receive a pension during the continuance of such disability at a rate proportionate to the degree thereof; and such pension shall commence at the date of filing an application therefor. The highest rate of pension granted under this section, which shall be for total incapacity to perform any manual labor, shall be $24, which is hereby made divisible upon that basis for any less degree of disability: *Provided*, That no person entitled to or receiving an invalid

pension under existing laws, or such as may be hereafter enacted, granting pensions for disabilities contracted in the military or naval service of the United States, and in line of duty, greater than that provided for herein, shall receive the benefits of this act; but any applicant for such invalid pension having an application therefor pending, or who shall hereafter file his application for such pension, may, by a declaration over his own signature, at any time, elect to prosecute his said claim under this act or under the general laws, and his pension, when allowed, if prosecuted under this act, shall commence from the date of such election.

SEC. 9. That all widows or minor children of soldiers and sailors who as such are now receiving, under existing laws, general or special, the sum of $8 per month, by reason of the death of such soldiers and sailors in service or from a disability contracted in the military or naval service of the United States, and in line of duty, shall, from and after this date, be entitled to and receive the rate of $12 per month in lieu of said rate of $8; and all such widows or minor children who shall hereafter be found to be entitled to the rate of $8 per month under existing laws shall be entitled to and receive the rate of $12 in lieu of said rate of $8.

SEC. 10. That if any invalid pensioner pensioned for a disability contracted in the military or naval service of the United States, and in the line of duty, has died or shall hereafter die, leaving a widow or minor child under 16 years of age, or both, at the date of the death of such pensioner, such widow and minor children shall be entitled, in the order of succession named, to an original pension in their own right, under existing laws, without being required to prove that the death of such pensioner was due to his military or naval service of the United States, and shall receive the rates now allowed by law, except that such as may be found to be entitled to $8 per month under existing laws shall receive in lieu thereof $12 per month.

SEC. 11. That pensions granted widows on account of minor children shall be continued without limit as to age, whenever it shall appear that such minors are of unsound mind or physically helpless, so as to render them incapable of earning a subsistence: *Provided*, That such widow retains the care, custody, and control of such minors; and in the event of the death or remarriage of such widow, or abandonment by her of such minors, then the pension and additional pension shall be continued to them in their own right, without limit as to age, during the continuance of such disability, payable to a duly constituted guardian.

SEC. 12. That in considering the claims of dependent parents the fact and cause of death and the fact that the soldier left no widow or minor children having been shown as required by law, it shall be necessary only to show by competent and sufficient evidence that such dependent parent is without other present means of comfortable support than his or her own manual labor, or the contributions of others not legally bound for his or her support; and such as may be found to be entitled to $8 a month under existing laws shall receive in lieu thereof $12 a month from the date of this act.

SEC. 13. That in all applications under the general pension laws, including this act, where it appears by record evidence that the applicant was regularly enlisted and mustered into the service, that fact shall be *prima facie* evidence of soundness at the time of his enlistment; but such presumption shall be subject to rebuttal by record or other competent evidence.

SEC. 14. That no person shall be entitled to more than one pension at the same time under any or all laws of the United States, whether such pension shall have been already obtained or shall be hereafter obtained, unless the act under which such pension is claimed shall specially so declare.

Mr. HAMMOND. I demand a second.

Mr. KEIFER. Will there be objection to considering the second as ordered?

Mr. HAMMOND. I object.

Mr. WARNER, of Ohio. I desire to make a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. WARNER, of Ohio. Some of these amendments have already gone to the Committee of the Whole under the ruling of the Chair. [Cries of "Regular order!"]

The SPEAKER. The regular order is demanded.

Mr. WARNER, of Ohio. This is a parliamentary inquiry.

The SPEAKER. But there is no question before the House, except the matter of a second. The gentleman's inquiry might be in order afterward.

Mr. WARNER, of Ohio. Then I withhold the parliamentary inquiry for the present.

The SPEAKER. The gentleman from Georgia, Mr. HAMMOND, and the gentleman from Ohio, Mr. KEIFER, will act as tellers.

The House divided; and the tellers reported—ayes 98, noes 68.

The SPEAKER. The motion to suspend the rules is seconded. Under the rules thirty minutes are now allowed for debate, fifteen minutes in support of the motion and fifteen minutes in opposition to it. The Chair will recognize the gentleman from Ohio [Mr. KEIFER] to control the time in support of the motion, and the gentleman from Georgia [Mr. HAMMOND] to control the time in opposition.

Mr. KEIFER. I do not desire to enter upon any discussion until we hear from the other side. This bill with the amendments has been before the country a long time. There have been more petitions for the passage of this bill with these amendments than have come to this House in favor of any other bill within my knowledge. I yield the floor for the present to the gentleman who is to control the debate on the other side.

Mr. HAMMOND. Mr. Speaker, I have no disposition to debate this measure. I desire simply to call the attention of the House to the position and magnitude of the measure. We passed in this House a bill for pensioning soldiers of the Mexican war. A proper bill for that purpose I heartily approved. It went to the Senate, and on it were ingrafted measures to pension all the Federal soldiers of the late war. I do not know how much it will cost.

Mr. HENDERSON, of Iowa. Will the gentleman allow just a question?

Mr. HAMMOND. I will.

Mr. HENDERSON, of Iowa. Does the gentleman state that this bill as it comes from the Senate pensions all soldiers of the late war, without reference to disability? Is that what the gentleman means to be understood as saying?

Mr. HAMMOND. I do not intend to be exact about it in any particular. I do not know how much this measure will cost the people. It was stated in the debate at the last session, I believe, that by the calculation of certain insurance experts it would cost between two and three thousand million dollars. I do not know whether that is true or not, but certainly it is true that these amendments would entail upon the people an immense burden of taxation.

I fear that many of the gentlemen who favor these amendments in the Senate, and who will favor them here, are simply pandering to the disposition to make the soldiers believe that the people would do everything, anything for them. I believe they at the same time hope that the conservative Democrats will keep this burden off the shoulders of the people, notwithstanding the "buncombe" which urges the action.

I have said all that I care to say about the bill except to state this novel condition of things: the fourth and fifth amendments are now in Committee of the Whole on the state of the Union upon a point of order, yet the proposition is to take them away from that committee, to take the bill from the table of the Speaker and to pass it with the amendments, when no man would risk his reputation upon an attempt to fix a limit as to the quantum of taxation which the measure with these amendments will entail. I desire, before I take my seat, to ask the gentleman from Ohio [Mr. KEIFER] categorically to answer how many dollars he thinks it will take to meet the exigencies of this legislation. I will wait for the answer now.

Mr. KEIFER. I am unable to give the gentleman an accurate statement as to the number of dollars.

Mr. HAMMOND. Can you say within one thousand millions?

Mr. KEIFER. Oh, yes.

Mr. HAMMOND. Then tell me.

Mr. KEIFER. Well, it will not take any "thousand millions" at all.

Mr. HAMMOND. How much will it take?

Mr. KEIFER. That would be a sufficient answer to the gentleman.

Mr. HAMMOND. How many will it take?

Mr. KEIFER. I am unable to give an exact answer, or even a very good approximate answer.

Mr. HAMMOND. I stated, Mr. Speaker, and I repeat now with emphasis, that no man who regards his reputation for honesty will undertake even to guess the amount which this measure in its present shape will require to carry out its provisions.

I yield ten minutes to the gentleman from Ohio [Mr. WARNER].

Mr. WARNER, of Ohio. Mr. Speaker, I desire now to make a parliamentary inquiry which I started to make a few moments ago, and I ask that this shall not be taken out of my time.

The SPEAKER. The gentleman will state his inquiry.

Mr. WARNER, of Ohio. Several of these amendments have been already referred to the Committee of the Whole under the ruling of the Chair. My inquiry is this: If this bill should now pass, in what condition would it be? A part of these amendments are in Committee of the Whole. Will they be taken out of the Committee of the Whole and restored to their place on the bill?

The SPEAKER. That depends upon the form of the motion of the gentleman from Ohio [Mr. KEIFER]. If the gentleman moves to suspend the rules and concur in all the amendments, the motion, if adopted, would be, of course, a concurrence in the amendments which have been sent to the Committee of the Whole on the state of the Union, as well as the others. The Chair has not examined closely the form of the gentleman's motion.

Mr. WARNER, of Ohio. I desire then to know exactly what the gentleman's motion is.

Mr. KEIFER. I can state it. My motion was to concur in all the Senate amendments to the House bill; and I wish to say that while the Chair has held that certain amendments must under the rules be first considered in Committee of the Whole, they have never been sent there.

The SPEAKER. This is a motion to suspend the rules——

Mr. KEIFER. And would suspend among others the rule which would require the consideration of the amendments in the Committee of the Whole.

The SPEAKER. The answer to the question of the gentleman from Ohio [Mr. WARNER] would depend, as the Chair has stated, upon the form of the motion.

Mr. WARNER, of Ohio. Then, Mr. Speaker, I desire to call the attention of the House to the real meaning of this bill. If the principle involved in the provisions of the bill relating to the soldiers of the Mexican war be extended to the Union soldiers of the late war, as it must be and ought to be if adopted here, then I say this measure will involve an expenditure of not less than $2,500,000,000. I regret, Mr. Speaker, that I have not here at my desk the estimates made by the Commissioner of Pensions during the last session of Congress for the committee of which I have the honor to be chairman, which showed that the principle involved here, if applied to the Union soldiers of the late war, would entail an expenditure of some $2,200,000,000; and that was upon the bill as it passed the House, not as amended by the Senate; and the Senate amendments would add considerably to that amount.

Mr. BLOUNT. Will the gentleman yield a moment?

Mr. WARNER, of Ohio. I will yield for a question only.

Mr. BLOUNT. I wish to ask the gentleman from Ohio whether he can state the amount the Committee on Pensions estimated would be the cost of the arrearages act and the cost up to this time?

Mr. WARNER, of Ohio. The estimate of the cost of the arrearages act was somewhere, I believe, about $20,000,000.

Mr. BLOUNT. Yes; that was about it.

Mr. WARNER, of Ohio. And it has cost from two hundred to two hundred and fifty millions of dollars already; I forget exactly how much.

Mr. REAGAN. And will cost some $600,000,000 before it is done with.

Mr. WARNER, of Ohio. Yes; and will cost many millions of dollars more, no doubt.

But, Mr. Speaker, I wish more especially to call attention to the principle of the bill as it relates to Mexican soldiers. Here the pension is purely a service pension, and not only that, but this bill grants to a man who enlisted in the war with Mexico after the war was all over, if he merely started from home and was borne on the rolls fourteen days—it grants to him, sir, a pension for life and his widow after him; and not only that, Mr. Speaker, but it grants to him the same pension that it grants to the soldiers who fought the battles of that war and won its victories. Yes, the same pension that it grants to a man who followed the flag under Taylor from Monterey to Buena Vista, or who marched with Scott from Vera Cruz to the City of Mexico, who endured all the hardships of that war, endured the climate of that country, and who suffered wounds and disability in that service—under this bill, I say, such a man, the true hero of that war, gets no more pension than the man who enlisted after the war was all over. Now, apply that principle, I say, to the Union soldiers of the late war, and what would be the result? And I maintain that you must do it if that principle is adopted in this bill. We must have uniformity and equality in our pension laws. Apply that principle, then, to the Union soldiers, and grant the same pensions to the men who were borne on the rolls but fourteen days, or who enlisted after the fighting was all over, that you grant to men who served one, two, three, or four years, who went through all the campaigns, endured all the hardships and participated in all the struggles and battles of that war, and you see to what it leads. In another war would such a principle be safe? Is such a principle right? No, sir; the principle itself is wrong. It is unjust. It never can be right. It is unsafe to establish and ought to defeat any bill based upon it.

If we depart from the principle of disability pension and grant pensions for service alone, then I maintain that we should grade the pension according to the service which the soldier has rendered. But here you give the same pension for no service, no hardships, no battles, no wounds, no scars, no disability, no anything, that you give for wounds and scars and disability incurred during years of service. To do that, sir, in my judgment, is to enact into law a manifest injustice.

Now, Mr. Speaker, reserving the balance of my time until after the gentleman from Ohio [Mr. KEIFER] has been heard, I will resume my seat.

The SPEAKER. The gentleman from Ohio has five minutes left.

Mr. KEIFER. How many minutes have I remaining?

The SPEAKER. The gentleman has fourteen minutes of his time remaining.

Mr. KEIFER. I will yield to the gentleman from Illinois [Mr. TOWNSHEND] for three minutes.

Mr. TOWNSHEND. Mr. Speaker, it was my intention at the beginning of this session of Congress to call up the House bill granting pensions to Mexican soldiers, as it was returned from the Senate with amendments, in order that it might be disposed of at the earliest practicable moment, but as the rules prohibited any such motion being made within the first six days of the session, and inasmuch as then the gentleman from Texas [Mr. REAGAN], chairman of the Committee on Commerce, obtained the floor and called up the interstate commerce bill, I announced in the House it was my purpose to call up the bill pensioning the soldiers in the war with Mexico from the Speaker's table as soon as that interstate commerce bill was disposed of. I suppose that it will be disposed of to-morrow or the next day, and then it was my intention to call up House bill pensioning the soldiers in the war with Mexico, and dispose of the Senate amendments as they were reached. I believe now that bill should be disposed of in the next two or three days. If this motion to suspend the rules and pass the bill shall fail, it is my purpose to take up that House bill with the Senate amendments for consideration as soon as the interstate commerce bill has been disposed of. If, however, the discussion of that interstate commerce bill shall be protracted I give notice that I shall raise the question of consideration even on that bill for the purpose of having the bill for the benefit of the soldiers in the war with Mexico brought up for consideration and passed.

I wish to say further that while I am not entirely satisfied with the Senate amendments to this bill, and especially those relating to the soldiers of the Mexican war, and while I have had strong hopes we could reach an arrangement by which the House bill, with the Senate amendments, could be placed in the control of a conference committee, and the whole matter could be disposed of in such a way as to give satisfaction to all sides of the House, that nevertheless, as this motion is now before the House, I shall vote for it.

I am not as much frightened at the danger of depleting the Treasury by distributing the surplus among the soldiers of the country as some other gentlemen seem to be. I believe such distribution will bring about prosperity in the country.

It will circulate in every neighborhood throughout the land. If the entire surplus now in the Treasury was divided in payment of pensions to the soldiers it would be no hardship upon the people of this country, but would rather be a benefit to all. I believe, sir, that the time is near when we can economize by putting every man who fought under the flag of this country, no matter in what war, upon the pension-rolls, abolish the Pension Bureau, and discharge the clerks employed in the Pension Office, the Surgeon-General's, the Adjutant's Office, and other departments of the Government engaged in that business.

[Here the hammer fell.]

Mr. KEIFER. I yield now two minutes to the gentleman from Illinois [Mr. CANNON].

Mr. CANNON. Mr. Speaker, nearly forty years have elapsed since the close of the Mexican war. Following the precedents, it is proper that the soldiers who served in that war should be placed upon the pension-roll as a reward for their services.

In addition, the Senate amendments to this bill, as I understand it, place all of the soldiers of the late war who are disabled and who are dependent in whole or in part upon their labor for a support upon the pension-roll according to their disability, and I believe it right that this should be done whether it costs much or little. I do not believe it will cost more than from fifteen to sixteen millions of dollars per annum, according to the best estimates I have been able to procure.

The proposed legislation is but justice to the soldier and will prove a measure of economy to the Government. The nation can not afford to withhold from its defenders in the field proper relief and compensation. In every neighborhood, at least in the northern part of the country, can be found one or more Union soldiers in the late war who are disabled and needy, and who can not make the technical proof required under the law to place their names on the pension-roll. Yet they know, and their neighbors know, they ought to be pensioned. The time will come, following the precedents, when all Union soldiers of the late war will have their names placed on the pension-roll without reference to disability, and unless we afford relief to those who are actually disabled, by this or similar legislation, you will find that public opinion will demand that justice be done these disabled soldiers, even if in doing them justice it is necessary to put the names of all soldiers of the Union Army on the pension-roll at an earlier day than it would otherwise be done.

It would be economical to give this legislation. It is right to give it; and therefore I shall vote for it now; and I say to my friend from Illinois [Mr. TOWNSHEND] that I have no confidence whatever, considering the filibustering tactics of gentlemen on that side of the House during the last session of Congress, that this bill will ever become a law unless it becomes so within sixty minutes of this time, so far as the House is concerned.

Again, it is right and proper to increase the pension of the widow whose husband died from injuries received in the service from $8 to $12 a month as old age comes upon her and her necessities annually increase.

[Here the hammer fell.]

Mr. KEIFER. I yield now two minutes to the gentleman from Maine [Mr. REED].

Mr. REED. It will be absolutely impossible to consider this bill under the rules of this House at any other time than to-day for the purpose of passing it. Every man who is familiar with what we call our regulations for doing business, but which are in fact regulations to prevent the doing of business, knows that it is absolutely impossible to consider this bill as the gentleman from Illinois has suggested that he will attempt to consider it; and while for my part I do not believe that such a measure should be considered in this way, yet what is called the wisdom of this House has decided that this is the only manner in which it can be considered.

I believe that so far from involving an expenditure of so large a sum as suggested by the gentleman from Ohio [Mr. WARNER] it will cost not more than $20,000,000 per annum increase over the present pension appropriations, and I think that the revenues of this country can well stand such an increase. Therefore under all of these circumstances I shall vote for this bill, and I hope the House will concur with the Senate in the amendments in order that we may dispose of it to-day; for I asseverate again, without fear of contradiction from any man who knows what are called the rules of this House, that unless we pass it to-day we never shall pass it unless we change the rules for that express purpose.

Mr. KEIFER. I yield two minutes to the gentleman from Pennsylvania [Mr. BAYNE].

Mr. BAYNE. Mr. Speaker, I agree with what has been said by the

gentleman from Maine [Mr. REED] and the gentleman from Illinois [Mr. CANNON] who have preceded me that now is the time to pass this bill. Both sides of this House have placed themselves in the attitude of being responsible for the passage of the measure. In the first place, that side of the House, aided largely by this, passed a bill granting a pension to every Mexican soldier. Some of the men who are to be the beneficiaries of that bill are worth tens of thousands of dollars, some are worth hundreds of thousands, and others millions of dollars, and yet they all fall within the provisions of the original bill which passed this House to pension the soldiers of the Mexican war. That bill went to the Senate of the United States, and the Senate struck out from it the provisions relating to the Mexican soldiers who were able to take care of themselves, those who have an abundance of this world's goods and who have no necessity for a pension, and included within the category all of those who should be pensioned on account of necessity arising from ill health and indigent circumstances and all Mexican soldiers when they attain the age of 62 years. It went also a step further and included those of the Union soldiers of the late war who are in indigent circumstances and who need the support of the Government.

Will anybody refuse to grant pensions to these men who are in indigent circumstances, who served their country, and who need this support from this Government, let it cost much or little? But this is a bugbear about the cost. The cost has been estimated by the Commissioner of Pensions to be about $16,000,000. Suppose it is $20,000,000, suppose it is $25,000,000. It is raised by taxes imposed upon the people of the country, and it is a question whether the Government of the United States shall pay this or whether the people shall pay it by taxes levied upon themselves in their homes and in their own States. This money must be paid in any event. And in my mind plainly the great duty of the Government is to provide for these men who served their country when their country needed their services; and therefore I shall cordially vote for this bill with the Senate amendments.

Mr. KEIFER. I reserve the remainder of my time until gentlemen close the debate on the other side.

The SPEAKER. The gentleman from Ohio [Mr. KEIFER] has five minutes remaining.

Mr. WARNER, of Ohio. I assert that to carry out the principle of this bill will add not less than 1,250,000 names to the pension-roll.

Mr. REED. Will the gentleman yield to me for a question?

Mr. WARNER, of Ohio. If it be a short one I will.

Mr. REED. Does the gentleman mean to say this bill will do that? He talks about what the principle of the bill will do.

Mr. WARNER, of Ohio. I say if we adopt the principle of this bill we can not stop until we apply it to the soldiers of the late war. The debates in the other end of the Capitol on this bill show that, and show what the cost would be. That that is the sentiment of the country, too, is manifest.

Let me show why it will be necessary to extend the application of the principle. The sixth amendment of the Senate provides—

That every such officer, enlisted man, or widow, who is or may become 62 years of age, &c.

That is, that every officer and enlisted man who was borne for fourteen days on the roll in the Mexican war and is 62 years of age shall be pensioned. How can we adopt that principle and apply it to one war without applying it immediately to the late war? If a man is 62 years old he is 62 years old. And what odds does it make whether he served fourteen days in the Mexican war or whether he served fourteen days in the late war if the fourteen-day principle is adopted? If he served fourteen days in the Mexican war under this bill he would be entitled to a pension; but if he served three or four years in the late war he is not. Can we stand there? It would not be right to do that. No, sir; we must apply the principle to the Union soldiers as well as to the Mexican soldiers if it is to be adopted at all. Will you adopt it? A more unjust act could not be done than to put those who did no fighting and performed little or no service on the same plane with those who fought the battles, endured hardships, and suffered disability.

Many of the amendments of the Senate, most of them, I believe to be just; and bills have already been reported from committees of the House, and are now on the Calendar, embracing most of these amendments. I refer especially to amendments relating to pensions of widows and minor children and those intended to promote the settlement of claims now on file for disability incurred in the late war. I think we had better look first to cases of disability. After the battles the first duty was to take care of the wounded and disabled. Let us first pension those who were disabled in any of the wars. The fourteen-day men, I think, can wait. I am in favor of uniform pension laws—the same pensions for the same disability and the same service in one war as in another.

I honor the men who fought in the Mexican war. I honor no less those who fought in the late war. And I say the disability incurred in the one entitles a man to as much as like disability incurred in the other—service in one war to be the same as service in the other. The Government can not discriminate, and the same principle ought to govern in all cases; and if we apply the same principle I say we can not stop short of an expenditure of $2,500,000,000—twice as much as the entire pay of the Army and Navy from the beginning to the end of the war. More than the entire national debt at the close of the war. All that is involved in this bill. And yet it is proposed now to pass this bill through under a suspension of the rules and without an opportunity to amend it. I believe this principle of pensioning men for fourteen days and giving them the same as for one, two, three, or four years' service to be a dangerous one; a dangerous one to establish after a great war; a dangerous one if we should become involved in another war. I do not believe free institutions could long survive the establishment of such a principle.

I yield the remainder of my time to the gentleman from Alabama [Mr. HERBERT].

The SPEAKER. The gentleman has one and a half minutes remaining.

Mr. HERBERT. I voted for the Mexican war pension bill as it passed this House. I shall vote against it as amended by the Senate, because I believe the measure to be unwise, extravagant, and unjust; unjust to the Mexican veterans and other classes who are discriminated against, and unjust to the tax-payers of this country, who will be saddled with a debt which this discussion has shown is absolutely incalculable.

I believe, Mr. Speaker, that many of those who feel compelled to vote for this bill will thank us who take upon ourselves the responsibility of voting to defeat it. And if we defeat it, as I am sure many of you sincerely hope we will, if you do not thank us I am sure the country will.

[Here the hammer fell.]

MESSAGE FROM THE PRESIDENT.

Several messages in writing from the President of the United States were communicated to the House by Mr. PRUDEN, one of his secretaries, who also informed the House that the President had approved a joint resolution and bills of the following titles:

Joint resolution (H. Res. 289) authorizing the Superintendent of the Census to continue the work of the Tenth Census;

An act (H. R. 7428) to authorize the Hillsborough National Bank to change its name to that of the First National Bank of Hillsborough, Ohio;

An act (H. R. 4085) for the relief of Juliet H. Palmer; and

An act (H. R. 2728) detaching Grundy County, Tennessee, from the southern division of the district of East Tennessee and attaching it to the middle district of said State, and for other purposes.

MEXICAN WAR PENSION BILL.

Mr. KEIFER. I yield one minute to my colleague [Mr. JOSEPH D. TAYLOR].

Mr. JOSEPH D. TAYLOR. Mr. Speaker, there ought to be no question in regard to the amount of money which this bill will cost the Government. The Commissioner of Pensions was called upon during the last session of Congress to make an estimate of the additional amount which this bill would require for the payment of pensions. He did so, and he made his report to members of this House. It was twice stated upon this floor, once by the distinguished gentleman from Illinois [Mr. TOWNSHEND] and on another occasion I stated it myself. I have frequently conversed with the Commissioner of Pensions on this subject. I understand from him that he made his estimate very carefully, calling to his aid the ablest assistants in the employ of the Government, and this estimate is still unquestioned by the Department. And according to this estimate it will cost the Government from four to four and a half million dollars a year to pay the soldiers of the Mexican war as provided in this bill as amended by the Senate, and about twelve or twelve and a half million dollars a year to pay the Union soldiers embraced in these Senate amendments.

This is the estimate of the Commissioner of Pensions, as made by him with the aid of Government experts skilled in this branch of knowledge, certainly the most reliable authority on this subject obtainable anywhere; and if this bill is passed to-day, as I hope it will be, the amount of money now paid to the pensioners of the United States will not be increased more than $17,000,000. The estimate was made on this bill as it is now introduced.

There can be no question about the accuracy of this estimate. If you look over the provisions of this bill you will see that there is no serious difficulty in ascertaining what the cost will be. The provisions of this bill only reach a few classes, and certainly the most needy and deserving classes. It increases the pensions of widows, dependent parents, and minor children from $8 to $12 a month. It dispenses with certain proofs in regard to aged and dependent parents. It dispenses with the proof of prior soundness, proof that never ought to have been required.

If a soldier has an existing disability, and is dependent on his daily labor for support, he is not required, as now, to prove that this disability was incurred in the service, a thing which is now impossible in most cases at this long distance from the close of the war. This bill will pension him to the extent of his disability. If a pensioner dies, his pension goes to his widow and children without proof that he died from a disability incurred in the service. It also continues pensions after the age of 16 to children of dead soldiers where they are imbecile, idiotic, or blind. This is in substance the extent and character of the Senate amendments to this bill, and the money appropriated by it goes to re-

lieve poverty and want and suffering more than any other bill ever before this or any other Congress. Besides, Mr. Speaker, this bill would greatly relieve the distressed condition of the country, and would benefit those who are not soldiers almost as much as those who are, as the money thus paid out would pass from hand to hand, and would go into all the avenues of trade, giving activity to all kinds of business.

[Here the hammer fell.]

Mr. KEIFER. I yield one minute to the gentleman from Michigan [Mr. CUTCHEON].

Mr. CUTCHEON. Mr. Speaker, I shall vote for this bill because I believe it is simply a measure of justice; and I am glad to have the opportunity to vote for it now, because, as has been observed by the gentleman from Maine [Mr. REED], if this bill shall not pass within the next sixty minutes I fear it will never be passed at this session or at any other. It is a measure of simple and naked justice to the veterans of the Mexican war. It does no more than simple justice to the veterans of the late war who are now disabled from gaining their livelihood by their labor, and are the objects of public and private charity. It says to the widow of the fallen soldier who died in the front of the battle that she shall no longer receive merely the $8 a month which this Government now doles out to her, but that the amount shall be increased to $12 a month. It does a like act of justice to the orphan children, left without the support of the strong arm which death paralyzed in the service of this country. It does another act of justice. It provides that when the Government has accepted a soldier, has passed him through a medical examination by an examiner of its own choice, has mustered him into the service, and put him into the ranks, he shall be presumed *prima facie*, to be sound, fit for military duty, and the burden of proof is shifted upon the Government. These are some of the just and righteous things that this bill will accomplish. But it will take money. I am glad of it. The treasures of this country can be put to no better use either with reference to the past or the future than to pay well-deserved pensions to the men who sacrified their strength, and the widows and orphans of those who sacrificed life that the life of the nation might be preserved.

[Here the hammer fell.]

The SPEAKER. The gentleman from Ohio [Mr. KEIFER] has now three minutes remaining.

Mr. KEIFER. Mr. Speaker, it is always true, when gentlemen oppose a measure that is filled with merit throughout, they must do it by undertaking to exaggerate some feature of it. When it is declared here upon the floor that this bill undertakes to pension all the Union soldiers of the recent war, that is certainly done for the purpose of defeating the bill; for there is no such provision in it, and when it is declared that it will take a thousand millions of dollars or more to make the payments required to be made under this bill, that may be classed as an exaggeration. And when the gentleman on the other side undertakes to say that these immense sums will be required, it is only another mode of opposing a just measure.

This country owes a debt of gratitude to the soldiers of the Mexican war, who are now old. There are now alive no young men who were in that war. There are very few below the age of 62. A man who was engaged in the Mexican war at 21 years of age is now 59. There are very few soldiers of that war who will not be pensioned immediately under this act.

Mr. COSGROVE rose.

Mr. KEIFER. I would like to yield to the gentleman if I had time.

Mr. COSGROVE. I would ask the gentleman whether he did not vote against the Mexican pension bill when it was before the House?

Mr. KEIFER. I think not. The Mexican pension bill undertook to pension all persons who were in that war; but I do not seriously object to that, for this bill pensions nearly all of them, because it pensions all above the age of 62.

Now, while this bill in its present form proposes to pension this class of persons, these men whose sands of life are fast running out, it proposes to pension at the same time men of the Union Army who are to-day broken down by disease—not through any fault of theirs——

The SPEAKER. The debate has now closed.

Mr. HAMMOND. I move that the House do now adjourn.

Mr. KEIFER. That is another mode of opposing this bill.

The question being taken on the motion of Mr. HAMMOND, there were—ayes 62, noes 105.

Mr. HAMMOND. Was there a quorum?

Mr. KEIFER. None is necessary.

The SPEAKER. It is not necessary that there should be a quorum on this question; but a quorum has voted.

Mr. CABELL called for the yeas and nays.

The yeas and nays were not ordered, 33 voting in favor thereof—less than one-fifth of the last vote.

So the motion to adjourn was not agreed to.

The SPEAKER. The question now is upon the motion made by the gentleman from Ohio [Mr. KEIFER] to suspend the rules and concur in the Senate amendments to the bill as read to the House.

Mr. REAGAN. On that question I ask for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 129, nays 85, not voting 109, as follows:

YEAS—129.

Adams, G. E.	George,	McComas,	Stockslager,
Anderson,	Glascock,	McCormick,	Stone,
Atkinson,	Goff,	Matson,	Strait,
Bagley,	Hanback,	Moulton,	Struble,
Barr,	Hardy,	Murray,	Sumner, C. A.
Bayne,	Harmer,	Neece,	Swope,
Beach,	Hart,	Nelson,	Talbott,
Brewer, J. H.	Haynes,	O'Hara,	Taylor, E. B.
Brown, W. W.	Henderson, D. B.	O'Neill, Charles	Taylor, J. D.
Browne, T. M.	Henderson, T. J.	O'Neill, J. J.	Thomas,
Budd,	Henley,	Paige,	Townshend,
Campbell, J. M.	Hepburn,	Payson,	Tully,
Cannon,	Hill,	Perkins,	Valentine,
Cassidy,	Hiscock,	Peters,	Wadsworth,
Cobb,	Hitt,	Pettibone,	Wait,
Collins,	Hoblitzell,	Post,	Wakefield,
Cook,	Holman,	Price,	Wallace,
Culbertson, W. W.	Holmes,	Pusey,	Washburn,
Cullen,	Holton,	Randall,	Weaver,
Cutcheon,	Hurd,	Ranney,	White, Milo
Davis, G. R.	James,	Reed,	Whiting,
Davis, R. T.	Jeffords,	Riggs,	Wilkins,
Dingley,	Johnson,	Robinson, J. S.	Wilson, James
Eldredge,	Jones, B. W.	Robinson, W. E.	Winans, E. B.
English,	Kean,	Rogers, W. F.	Winans, John
Ermentrout,	Keifer,	Rosecrans,	Wolford,
Evans,	Kelley,	Rowell,	Woodward,
Everhart,	Ketcham,	Ryan,	Worthington,
Fiedler,	Lacey,	Seney,	Yaple,
Foran,	Lamb,	Shively,	York.
Funston,	Le Fevre,	Smalls,	
Fyan,	Long,	Smith, A. H.	
Geddes,	Lovering,	Stevens,	

NAYS—85.

Adams, J. J.	Davidson,	Lanham,	Seymour,
Alexander,	Davis, L. H.	Lewis,	Singleton,
Barbour,	Dibrell,	Lore,	Skinner, T. G.
Barksdale,	Dorsheimer,	Lyman,	Stewart, Charles
Bisbee,	Eaton,	Miller, J. F.	Storm,
Blackburn,	Ellis,	Mills,	Taylor, J. M.
Blanchard,	Ferrell,	Mitchell,	Thompson,
Bland,	Findlay,	Money,	Throckmorton,
Bratton,	Forney,	Morse,	Tillman,
Breckinridge,	Gibson,	Murphy,	Tucker,
Broadhead,	Green,	Mutchler,	Turner, H. G.
Buchanan,	Greenleaf,	Nicholls,	Turner, Oscar
Buckner,	Halsell,	Oates,	Van Eaton,
Burnes,	Hammond,	O'Ferrall,	Warner, A. J.
Cabell,	Hancock,	Pierce,	Warner, Richard
Candler,	Hardeman,	Peel,	Wellborn,
Clardy,	Hemphill,	Potter,	Williams,
Clements,	Herbert,	Pryor,	Willis,
Cosgrove,	Hewitt, A. S.	Reagan,	Wise, G. D.
Cox, S. S.	Hunt,	Reese,	
Cox, W. R.	Jones, J. H.	Robertson,	
Crisp,	King,	Rogers, J. H.	

NOT VOTING—109.

Aiken,	Dargan,	Kleiner,	Rockwell,
Arnot,	Deuster,	Laird,	Russell,
Ballentine,	Dibble,	Lawrence,	Shaw,
Belford,	Dockery,	Libby,	Shelley,
Belmont,	Dowd,	Lowry,	Skinner, C. R.
Bennett,	Dunham,	McAdoo,	Slocum,
Bingham,	Dunn,	McCoid,	Smith, H. Y.
Blount,	Elliott,	McMillin,	Snyder,
Boutelle,	Ellwood,	Maybury,	Spooner,
Bowen,	Finerty,	Millard,	Spriggs,
Boyle,	Follett,	Miller, S. H.	Springer,
Brainerd,	Garrison,	Milliken,	Steele,
Breitung,	Graves,	Morgan,	Stephenson,
Brewer, F. B.	Guenther,	Morrill,	Stewart, J. W.
Brumm,	Hatch, H. H.	Morrison,	Sumner, D. H.
Burleigh,	Hatch, W. H.	Muldrow,	Van Alstyne,
Caldwell,	Hewitt, G. W.	Muller,	Vance,
Campbell, Felix	Hooper,	Nutting,	Ward,
Campbell, J. E.	Hopkins,	Ochiltree,	Weller,
Carleton,	Horr,	Parker,	Wemple,
Chase,	Houk,	Patton,	White, J. D.
Chalmers,	Houseman,	Payne,	Wilson, W. L.
Clay,	Howey,	Phelps,	Wise, J. S.
Connolly,	Hutchins,	Poland,	Wood,
Converse,	Jones, J. K.	Rankin,	Young.
Covington,	Jones, J. T.	Ray, G. W.	
Culberson, D. B.	Jordan,	Ray, Osslan	
Curtin,	Kellogg,	Rice,	

So the motion was disagreed to (two-thirds not having voted therefor).

During the roll-call the following additional pairs were announced from the Clerk's desk:

Mr. BLOUNT with Mr. BOYLE, on this question.

Mr. MORRISON with Mr. CHACE, on this vote.

Mr. GRAVES with Mr. WHITE, of Kentucky, on all questions, until further notice.

Mr. FOLLETT with Mr. MILLIKEN, on all questions, until further notice.

Mr. CONVERSE with Mr. BREWER, of New York, on all questions, until further notice.

Mr. COVINGTON with Mr. MORRILL, on all questions, until further notice.

Mr. CLAY with Mr. MCCOID, on all political questions, until further notice.

Mr. DOWD with Mr. ELLWOOD, on all political questions, until further notice.

Mr. DUNN with Mr. BOUTELLE, on all political questions, until further notice.

Mr. WARD with Mr. BENNETT, on the Mexican war pension bill. Mr. WARD would vote "ay" and Mr. BENNETT "no."

Mr. MILLARD with Mr. MULDROW, on all political questions, including the Mexican war pension bill. Mr. MILLARD would vote for the bill with Senate amendments.

Mr. SPRINGER with Mr. GUENTHER, on all political questions, until further notice.

The vote was then announced as above recorded.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. MCCOOK, its Secretary, announced the passage of the following bills; in which concurrence was requested:

A bill (S. 748) referring the claim of the owners of the schooner Addie B. Bacon to the Court of Claims;

A bill (S. 896) for the relief of Pearson C. Montgomery, of Memphis, Tenn.;

A bill (S. 1399) for the relief of William C. Dodge;

A bill (S. 1472) to permit the owners of certain vessels and cargoes to sue the United States; and

A bill (S. 1578) to amend the charter of the National Soldiers and Sailors' Orphans' Home, and in relation to the assets thereof.

BANKRUPT BILL.

Mr. COLLINS moved to suspend the rules and pass the following resolution:

Resolved, That Senate bill 1372, to establish a uniform system of bankruptcy in the United States, be taken from the Speaker's table and be made a special order for Thursday, January 22, 1885, to be considered in the House; the consideration to be continued from day to day until finally acted upon, not to interfere with general appropriation and revenue bills.

Mr. WILLIS. I demand a second.

Mr. REAGAN. Will not this interfere with the interstate commerce bill?

The SPEAKER. That is a matter of debate. The Chair appoints as tellers Mr. WILLIS and Mr. COLLINS.

Mr. WASHBURN. By unanimous consent, may we not have the second ordered?

Mr. HAMMOND. I object.

The House divided; and the tellers reported—ayes 119, noes 51.

So there was a second.

Mr. HAMMOND. I move the House do now adjourn.

The House divided; and there were—ayes 46, noes 103.

So the House refused to adjourn.

The SPEAKER. Under the rule thirty minutes are allowed for debate, fifteen minutes on each side.

Mr. COLLINS. I will yield three minutes to the gentleman from New York [Mr. POTTER].

Mr. POTTER. Mr. Speaker, in my judgment the time has now come when the bankrupt law is required by the absolute necessities of the country. During the last two years the failures have risen from about sixty millions per annum to two hundred and fifty millions per annum, and they are still increasing in amount. It is common knowledge that debtors acting under the permission of the laws of their different States dispose of their assets, however great, by fraudulent preferences among their relatives and friends, and those whom they choose to put in confidential relations and positions, in such a way that the vast property which has been intrusted to them is being divided mainly or largely fraudulently among preferred creditors.

It was foreseen by our fathers that in order to give the largest value to individual liberty and to individual activity, in order to make the whole of this vast country the theater of every citizen's activity and enterprise and energy, bankrupt laws which should secure the largest division of assets among creditors would be necessary by the General Government. That necessity has been made apparent throughout the history of the country during every year of its existence. It is a necessity that exists to-day, and the time has come when we must meet the demand. It has come to this, that in matters of trade State lines are necessarily disregarded. It is an impossibility for merchants intrusting their property throughout the country to keep up with the laws of the thirty-eight States and with all of the rules and regulations of thirty-eight States, and unless a uniform bankruptcy law is passed which will operate justly and equally upon all portions of the country, practically this great provision of the Constitution—to give the whole country as the theater of activity to every man's energy and enterprise—will fail and be denied.

I hope, sir, we shall now fix a day for the consideration of this important measure; and I hope and believe that if it is considered at all it will be passed in obedience to the demands of the best interests of the country.

[Here the hammer fell.]

Mr. COLLINS. I now yield two minutes to the gentleman from Illinois [Mr. ADAMS].

Mr. ADAMS, of Illinois. Mr. Speaker, I represent, I think, the business men of Chicago in saying that they all almost without exception desire a good bankruptcy law to be passed which will administer estates economically and discourage dishonesty and reckless trading. I hold in my hand a petition to that effect signed by the representatives of all branches of trade, containing almost all of the heaviest houses engaged in trade, as well as many others of lesser business. These gentlemen do not all approve of every feature of the bill which is now pending in Congress; but I think I may say that no objection has been made, certainly none in my presence, that can not be cured by an amendment to the bill.

I was present also at the annual dinner of the Shoe and Leather Association, in which the pending bill was discussed, and the members were almost unanimously in favor of the passage of this particular bill. I will ask to have the heading of this petition printed in the RECORD as a part of my remarks. I am sure that the business men of the country generally desire that this bill, with certain modifications it may be, shall be passed at this session of Congress.

I ask now to insert the heading of this petition as a part of my remarks.

Mr. COX, of North Carolina. I object.

Mr. COLLINS. I yield now two minutes to the gentleman from Iowa [Mr. HENDERSON].

Mr. HENDERSON, of Iowa. Mr. Speaker, we stand in this position to this question: Shall we fix a day for the consideration of the bill? That is all the resolution contemplates. The Senate has given a bill, and on careful consideration of it I believe it meets nearly all the objections that made the last bankruptcy bill offensive to the best business interests of the country. The East is not alone interested in the passage of this bill. I have received more letters from my own district urging the consideration of this bill than with reference to any other bill pending before the House; and I believe in times like these, when the business interests are depressed, that the passage of a wholesome bankruptcy law will give an impetus to trade which will save our people from disasters which are threatening. With that feeling I earnestly urge upon the House the propriety of fixing a day for the consideration of the bill.

There were objections to the former bankruptcy bill which were honestly urged, but which do not apply to this. That bill was too expensive in its operations; but I believe after a careful examination of the present bill that the expenses are cut down to a minimum, and that the objections which were justly urged against the old law can not be urged with propriety against the one we have before us for consideration. But, sir, even if there are objections of that kind, it is within our power to meet and remedy them by proper amendments. We are not now discussing that question, but only the propriety of taking up the bill for consideration. Certainly the great business interests of the country from one ocean to the other ask their legislators to take up, consider, and pass the bankruptcy bill. Let us bow to that earnest demand of the business interests of the country.

[Here the hammer fell.]

Mr. COLLINS. I now yield two minutes to the gentleman from Missouri [Mr. O'NEILL].

Mr. O'NEILL, of Missouri. Mr. Speaker, I am in receipt of a memorial from the Merchants' Exchange of Saint Louis, the association of wholesale grocers and other organizations of representative business men, asking the passage of a bankruptcy bill that will put a stop to the fraudulent and dishonest repudiation of honest indebtedness that has overwhelmed the country since the repeal of the last bankruptcy law. As their representative I shall certainly vote to take up and pass this bill.

Mr. COLLINS. I yield one minute to the gentleman from New York [Mr. JAMES].

Mr. JAMES. Representing as I do the commercial interests of the city of New York, and representing the board of trade, of which I have the honor to be secretary, which has taken an active part in bringing this subject before the merchants of the country, I am able to state to the House that I hold in my hand the names of one hundred and forty commercial organizations in the United States representing thirty-four States of this Union, all asking for the passage of this Lowell bankruptcy bill. The memorials of the Board of Trade of Mobile, Ala., and the Mobile Cotton Exchange are a specimen of what come from the Southern States. The States represented here are from Maine to California and from Texas to Michigan.

[Here the hammer fell.]

Mr. COLLINS. I yield one half minute to the gentleman from Maryland [Mr. FINDLAY].

Mr. FINDLAY. I simply desire to say that all classes of our citizens, mercantile, mechanical, manufacturing, and I may say the professional classes, too, are deeply interested in a bankruptcy bill, and desire that an early day should be fixed for its consideration. I have in my hand here twenty or thirty letters from all these classes, who earnestly request me to use what little influence I may have to fix a day for the consideration of the bill.

Mr. COLLINS. I yield one minute and a half to the gentleman from New York [Mr. ADAMS].

Mr. ADAMS, of New York. I hold in my hand a letter written to me by one of the largest commercial houses in the city of New York,

the firm of Arnold, Constable & Co. It is similar in tone to all the letters I have received from the business men of our city, and it so well expresses the sentiment of the commercial community that I ask for its reading. It is very short and the reading will only take half a minute.

The Clerk read as follows:

JANUARY 2, 1885.

DEAR SIR: We address you as one of our Representatives in Congress from this city upon a subject the importance of which to the entire business community of this country can not be overestimated.

We allude to the pressing and vital urgency for supplanting our present wholly inadequate insolvency laws by the immediate passage at this session of Congress of the Lowell bill.

The alarming increase of failures, from $65,000,000 in 1880 to two hundred and fifty millions in 1884, renders imperative a radical change, which shall reduce to a minimum the ruinous frauds and rascalities which have been practiced with impunity upon honest business men throughout the country.

We therefore respectfully request that you will use your influence to bring up for consideration the bankruptcy bill (Senate bill 1372), and your voice to urge its adoption at this present session.

By such action you will earn and receive the thanks of all having business interests in this country, including,

Yours, respectfully,

ARNOLD, CONSTABLE & CO.

Hon. JOHN J. ADAMS,
House of Representatives, Washington, D. C.

Mr. COLLINS. I reserve the remainder of my time.

The SPEAKER. The gentleman has four minutes of his time remaining.

Mr. WILLIS. I yield five minutes to the gentleman from Georgia [Mr. HAMMOND].

Mr. HAMMOND. I have no argument to make now against the consideration of this bill. I do not think if we were to fix a day for it that it would pass. There are so many measures connected with the appropriations that must be considered that this would be switched off the track at any rate.

But I am opposed to the passage of the bill, and therefore opposed to fixing a day for its consideration. I have opposed it during three Congresses upon the Judiciary Committee; and this is the first time it has succeeded in getting before the House on a favorable report from that committee. I respect very highly the opinions of gentlemen from the large business centers—from New York, Boston, Baltimore, and other cities—who simply desire what in their estimation would be a better collection law. They are actuated by pure selfishness. My constituency is actuated by pure selfishness the other way. They elected me to represent them, and I am glad that their views coincide with my own ideas of what is right.

The Government has tried bankrupt laws several times. It has never failed to get rid of one as early as it could possibly be done after the trial had been made. Dishonesty will exist whether there is a bankrupt law or not. The community in which I live believe there will be more dishonesty with one than without one.

I would like to have, without fatiguing the House, a petition of ten lines, with thirty names signed to it, printed as part of my remarks. If it is objected to I will have it read; if not objected to I will cease with the request that this be printed in the RECORD.

The SPEAKER. The gentleman from Georgia has a right to have it read in his own time.

Mr. HAMMOND. I will not occupy that time unless objection is made to the printing of the petition with the names.

Mr. COLLINS. Let it be understood, then, that the objection to printing made on the other side is withdrawn.

The SPEAKER. The Chair hears no objection to the printing of the paper indicated by the gentleman from Georgia.

The paper is as follows:

To the Senate and House of Representatives of the United States:

The undersigned, who are merchants in the State of Georgia, respectfully represent that the business interests of which they have knowledge would suffer by the enactment of a law of bankruptcy, and pray that there be no legislation in that direction.

MOORE, MARSH & CO.	W. Y. HOLLAND.
DRAPER, MOORE & CO.	A. C. BEALL.
THOS. M. CLARKE & CO.	C. E. ROGERS.
GRAMLING, SPALDING & CO.	JNO. ATKINS.
JOHN M. HILL & CO.	W. S. GRAMLING.
W. G. HERNDON.	F. B. LAW.
MAGNUS & HIGHTOWER.	HUGHES & LAW.
M. C. & J. P. KISUR & CO.	CLARKE, THOMPSON & CO.
J. H. ALMAND, SON & CO., Conyers, Ga.	HIGHTOWN & HALLMAN.
	G. S. PRIOR.
MORRISON, BAIN & CO.	AVORY BROS.
M. & J. HIRSCH.	J. J. POWELL & BRO.
TANNE, CURRIER & HEATH.	JELKS & TAPPAN.
ROBINSON BROS.	A. G. GRIER.
JOHN SILVEY & CO.	BECK & GREGG H'DW'E CO.
COX, HILL & THOMPSON.	GEAVE, BOYLSTON & CO.
McKELDIN & CARLTON.	

JANUARY 1, 1885.

Mr. WILLIS. I yield five minutes to the gentleman from Illinois [Mr. MOULTON].

Mr. MOULTON. Mr. Speaker, I desire to say a very few words in opposition to the fixing of a day for the consideration of this bill. It has been said here by gentlemen from New York and elsewhere that there have been petitions circulated in the business centers and in the country, and that the business men of the country are demanding the passage of this bankrupt bill. It is true, Mr. Speaker, that petitions have been circulated. It is equally true that these petitions have been circulated by specially interested parties; and they have sent their circulars to all the smaller city, town, and mercantile associations in the country, with the request that they sign and return the same or send them to Congress.

I want to say that those petitions and circulars relating to this bill have never been fairly considered by the persons signing them; and I venture to say that more than one-half, I might say that more than two-thirds, who have signed the petitions have never seen the bill or read it. I know that less than a year ago in the city of Chicago, notwithstanding the statement of my colleague from that city, there was a large meeting held by the Citizens' Association of Chicago, representing the business interests of that city, to consider this Lowell bill.

Mr. ADAMS, of Illinois. Will the gentleman tell me what that association was?

Mr. MOULTON. There is a printed petition against this bill, with hundreds of names, comprising the very best business men and names in Chicago.

Mr. ADAMS, of Illinois. What is the association to which the gentleman had reference?

Mr. MOULTON. One of the associations that considered the Lowell bill was the Citizens' Association of Chicago. That association appointed a committee of five of the most eminent lawyers in Chicago to consider the question of the Lowell bill. That committee, after full consideration, reported April 24, 1884, against this bill, giving their reasons at length. I have the report here.

In addition, in the city of Chicago, just before the meeting of the association referred to, a petition was signed by over one hundred, I think, of the largest business and manufacturing firms in Chicago, and forwarded the same to Congress, representing that in the experience of the signers the operation of a United States bankrupt law has proved to be an injury to the business interest of the whole country. Petitioners state their objections to bankrupt acts, and say, for the reasons given, they oppose any bankrupt legislation. The Wilson Sewing Machine Company and the McCormick Harvesting Machine Company were among the petitioners. The parties signing it are all representative men.

I want to say further that the largest business firms in New York and other places have numerously signed and circulated petitions of the same character. I hold some of them in my hand, and the gentleman can look at them at his leisure.

Now, let me call the attention of the House to a very significant fact. It is claimed that the necessity of a bankrupt bill is for the purpose of protecting creditors and obtaining from the bankrupt all his assets and fairly distributing them among his creditors. It is claimed more money is realized by reason of a bankrupt bill—from the bankrupt—than without one.

For the purpose of realizing the most money from the bankrupt estate no bankrupt law whatever is necessary. The history of collection in our country shows that better results are obtained and more money is collected from insolvent and bankrupt debtors when there is no bankrupt law than under one.

Let me state a fact, and let gentlemen who advocate the passage of a bankrupt bill controvert it if they can. I state as a fact that prior to the passage of the bankrupt law of 1867 more than 35 per cent. of debts of bankrupt and insolvent debtors was collected for the benefit of creditors in all the States. On the other hand, under the infamous bankrupt law of 1867 only 10 per cent. of the assets of bankrupts and insolvents was collected for the benefit of creditors, and of this amount the greater part was collected in the cities, less than 5 per cent. having been collected in the country.

Now let me state another fact. This cry for the passage of a bankrupt law comes from purely interested parties; the measure is sought for their benefit and for the benefit of dishonest traders. Taking the whole amount of business done in this country, less than 1 per cent. is lost by reason of insolvency, frauds, or bankruptcy.

These facts show that the mass of the people are honest, and no bankrupt law is necessary for the protection of the interest of any one.

But it is claimed that a bankrupt law is necessary for the protection of foreign creditors. Credit is the voluntary act of the party, and he takes his chances; he knows the risk he runs, and it is always charged somewhere in the bill.

I deny that foreign creditors run more risks and have less chance for collection than domestic creditors. I think they have a better chance than domestic creditors. In nearly every town in the United States mercantile agencies are established, and a failure or fraudulent transfer of property in a remote town in Texas is known as soon in New York or Boston as in the town itself.

The foreign creditor acts at once with the domestic creditor. Besides, the foreign creditor is permitted to resort to the Federal courts, by which he can attach all the property of the debtor to the exclusion of the domestic creditor, who can not resort to that court. There is but little to fear from fraudulent transfers. These can always be attacked by any one interested. A bankrupt law gives no advantage in this particular. More than two-thirds of the States have insolvent laws and statutes against preferences by a failing or insolvent debtor.

Mr. Speaker, the bill now proposed is, in my judgment, infinitely

worse than the law of 1867. The expenses under this bill will not be less than under that law, and in my judgment they will be more. You are to have trustees, you are to have supervisors, you are to have directors and commissioners, you are to have clerks' fees, marshals' fees, and sheriffs' fees. There is hardly any limitation at all upon the charges which may be made in one way or another under this bill. This bill is more in the nature of a treatise for the purpose of teaching dishonest men how they may cheat their honest neighbors. All bankrupt bills in this country have been failures.

That a bankrupt bill works well in England, where the laws operate uniformly, no separate state governments, and the people occupying a small territory, is no reason that it would work well here, where everything is so wholly different. Our separate State and Federal Governments make any bankrupt law by the General Government impracticable.

Mr. Speaker, if a vote should be taken in this country to-day on this question, if the people could send here a fair and honest expression of their views, I have no doubt there would be more than two to one of the people against any measure of this character.

[Here the hammer fell.]

The SPEAKER. The gentleman from Kentucky [Mr. WILLIS] has six minutes of his time remaining.

Mr. WILLIS. Mr. Speaker, I am not surprised that there should be, as gentlemen state there is, unusual pressure for the consideration and passage of another bankruptcy bill, but in the interest of the comfort of members of this House, aside from the general principles involved, I desire to enter my protest against such a deplorable result. It should be remembered that within the next thirty or sixty days gentlemen of this House will be met with thousands of applications for office coming from one end of the country to the other, and I do not see why our comfort and the comfort of the country should be disturbed by precipitating upon our tender sympathies another five or fifteen thousand, which would be the effect of the passage of this bill. There are proposed here not only the old officers, whose names are now a hissing and a byword before the American people—registers and assignees and trustees and messengers—but we have commissioners and supervisors at $3,000 and $2,000 a year, besides clerk-hire, room-rent, and other expenses to be allowed by the complaisant circuit judges:

That supervisors under this act shall receive yearly salaries at the rate of $3,000, payable quarterly from the Treasury. The commissioners shall each receive an annual salary of $2,000, payable quarterly from the Treasury: *Provided*, That the court, both of said justices concurring, appointing them may in any case decree a further allowance, not exceeding $10 for each case instituted before them during the year, but not exceeding in the aggregate the sum of $1,000. And said supervisors and commissioners may be allowed a reasonable sum for their actual and necessary disbursements for temporary office-rent elsewhere than at the place of their general office, for clerk-hire, traveling and incidental expenses.

Verily there are "millions in it," and no one is eligible to these fat offices but lawyers. I am not surprised that these attorneys in New York, Mr. Wise and others, have been enabled to create this artificial demand for the passage of a new bankrupt law. While it curses the country it will bless them.

Mr. Speaker, the testimony of the people of the United States, whenever authentically given, has been overwhelming against all bankrupt laws. In a hundred years of national life we have had but three bankrupt laws. The first bill, as we know, was passed in 1800; and although by its terms it was to last five years, it was in a little over half that period repudiated by the American people. Though passed as a party measure, the evils of its operations were so evident that party hostilities were suspended, and by a vote of 99 to 13 the obnoxious law was stricken from the statute-book. The next bankrupt law passed in 1841. Financial ruin, universal depression, and demoralization followed, and at the expiration of thirteen months after its passage popular indignation compelled its repeal by the same Congress and the same party that had passed it. The last experiment of this kind—the law of 1867, of which the present bill is practically a reproduction—was four times in four years prior to its overthrow condemned by this House in propositions of repeal which were rejected in the Senate, and finally it went to its grave with the execration of all our people—a grave which it was then hoped would have no resurrection day.

What, now, is this bill? It is, as I have said, but a reproduction of the law of 1867, and its amendments, which was in its turn substantially a copy of the English acts of 1861 and 1869. The changes are only in details. It is in substance the measure which only three years ago was repudiated by the British Parliament when the gentleman who had introduced it, and whose words I have before me, declared that it had proved an utter failure, a disgrace to the statute-book; that creditors received nothing under it; that the assets of bankrupts were all consumed in the expenses of officers. I quote here from an able memorial upon this subject of the Louisville Board of Trade:

Still another experiment followed—the elaborate bankruptcy act of 1869—which was claimed to be a certain solution of the problem, and one that would revive lost faith in bankrupt laws. We are told that "experience has not proved its wisdom. Insolvencies were not less frequent, nor less expensive, and not less fraudulent than before," and we are told that "the results of the English bankrupt act of 1869 are declared to be an enormous increase of insolvencies and deterioration of their character, excessive expenses, a great facility for fraud."

The result was, in England, the repeal of the act of 1869 and the passage of still another bankrupt act in 1883, containing one hundred and seventy separate sections. It is the last despairing attempt in England to establish a bankrupt law. By its terms the regulation of bankrupt estates is now made a governmental matter, and all bankrupt affairs are placed under the control of a government department and state regulations. The creditors and debtors are no longer the chief objects of consideration, but the state. By it, too, a man who has been adjudged a bankrupt is made very much like a criminal, for it provides that an undischarged bankrupt should be no longer capable of holding any municipal or local government office, and that he shall also be criminally liable if he obtains credit to the extent of $100 without disclosing the fact that he is an undischarged bankrupt. In short, the act makes him a sort of "ticket-of-leave man."

In a paper read in November last before the Bankers' Institute of England Mr. M. D. Chalmers, who was one of the draughtsmen of the act of 1883, said, in substance:

"The present act makes an entirely new departure, and places all the bankrupt affairs under the control of a government department; so that our bankruptcy machinery is now very largely a matter of state regulation. This new experiment is practically the last that can be made. We will all watch eagerly the workings of this new experiment, which must for good or evil have a great effect upon the commercial interests of the country. If the experiment succeeds in the main, amendments in detail, which the practical working of the measure would suggest, would no doubt be introduced. If it fails, like its predecessors, nearly everything in the shape of a bankrupt law will have been tried, and we will be brought face to face with the last alternative, the abolition of all bankrupt laws." (See his remarks quoted from Whitehall Review, printed in the Public Opinion of 1st December, 1883.)

In his debate upon the passage of this act, Mr. Chamberlain, the president of the English board of trade, said:

"The history of bankruptcy legislation of England is a history calculated to depress and discourage. It was composed of continual changes, vacillations, and disappointments."

Speaking of the English act of 1869 (from which the Lowell act now before Congress is substantially copied), he said:

"The present law gives facilities for evasions, extravagance, and delay. We lose by the bankrupt law twenty-five millions of pounds a year."

Lord Sherbrooke said of the proposed act of 1883:

"The attention which I have been able to give to it does not encourage me to believe in its healing virtue, and there is but little probability that this new scheme laid on the table of the house of commons will redress the evils of a system which has for many centuries baffled the effort and mocked the industry of mankind."

The fundamental defect is inherent in the very nature of all bankrupt laws. Proceedings in bankruptcy are of necessity nearly always *ex parte;* and in all *ex parte* proceedings somebody's interests are sure to be sacrificed. In bankruptcy matters the officers of the courts are present and the creditors are absent. Hence the creditors are the victims.

"From the shield of Achilles till the present time," said Lord Sherbrooke, "the only litigation which has really worked successfully has been that which is carried on between two parties representing thoroughly hostile and conflicting interests. One great and fatal weakness in a court of bankruptcy is that this conflict is wanting. The question is not as to the decision of the battle but as to the quantum of the loss. The court of bankruptcy is a forum in which there are no litigants, and to which, therefore, the machinery of a court is obviously inapplicable."

We are now asked to take this discarded English bill of 1869 and ingraft it upon the living law of our country. Why, sir, this bill can not claim to meet the requirement of the Constitution, for it is not a "uniform" bill. Talk about "uniformity" in a bill that incorporates within it all the exemption laws of every State of this Union—a bill which embraces a three-thousand-dollar exemption for Arkansas, a five-thousand-dollar exemption for California, and a thousand-dollar exemption for Kentucky, all being made a part of this "uniform" law (see the forty-third section)—the decisions of the State courts at the same time controlling the action of the registers and commissioners! How can a bill the provisions of which in reference to different States are as diverse as the escutcheons over our heads be called "uniform?" It is "uniform" only in accomplishing the withdrawal from creditors of the money justly their due and distributing it among the officials charged with its execution.

Mr. Speaker, I predict here to-day if this House pass this bill, and consideration in this case means its passage—let not gentlemen deceive themselves on that point—if you vote to-day to consider this bill you vote to pass it, because if you have two-thirds to consider, you will have a majority to pass it.

Mr. HAMMOND. Of course.

Mr. WILLIS. And I predict here to-day if you pass this bill these 5,000 officials, these 325 commissioners, one for each Congressional district, these registers, assignees, marshals, messengers, clerks, &c., will hardly have begun their infamous despoiling of the people again before a cry will come up from all quarters of this country as it came up before demanding of Congress the repeal of the law.

If I had time I could go through section by section of this bill and show that it is worse than the old bill. It is worse because in the 1867 bill it was only commercial paper, but under this bill any merchant who fails to pay an open account for thirty days is declared a bankrupt, thus giving the law a wider and more merciless action. Not only that, but in its provisions it is infinitely worse than the bill of 1867. There is no clause of this bill preventing repeated bankruptcies. In the old bill on second appeal for bankruptcy a man must pay thirty cents on the dollar. There is no provision of that kind in this bill. It thus unites and encourages repudiation.

It is an incitement and perpetual allurement to fraud. It is a temptation to that wild and reckless speculation which has caused so many of our people to lay their hands on sacred trust funds, to become forgetful of fiduciary responsibility to the dishonor of themselves and the ruin of those whose confidence they had betrayed.

Pass this bill, and you invite again a saturnalia of hazardous speculation. You open wide the door to your Enos and other defaulting and embezzling cashiers of the land. You say to them all: Go on with your

fraud and your infamy, and this benignant law, through its greedy ministers, will treat and meet you with a welcome hearty in proportion to the amount you succeed in stealing.

[Here the hammer fell.]

The SPEAKER. The gentleman from Massachusetts is now entitled to the floor, and has four minutes of his time remaining.

Mr. COLLINS. Mr. Speaker, in the four minutes at my disposal I can not hope to discuss the merits of this bill, but I serve the gentleman from Kentucky [Mr. WILLIS] with fair notice that if he and our other adversaries are fair-minded enough to give us a chance to discuss the merits of this measure I shall take the contract to convert him to our side.

I can not even hope in these four minutes to reconcile the differences between its opponents who have the power to-day as they did on the 19th of May last to vote in opposition to the consideration of this bill. My friend from Georgia [Mr. HAMMOND] says it does not make any difference if we pass this resolution, for we can not pass the bill, as we can not reach it in time. My friend from Kentucky [Mr. WILLIS] says that if the House shall vote to consider the bill it means its passage. I hope he is right, and I will take the risk so far as the gentleman from Georgia is concerned.

If I did not know my friend from Kentucky [Mr. WILLIS] to be a moderately truthful man I would venture the assertion he had not read the bill or looked at the index.

Mr. WILLIS. I have heard that before.

Mr. COLLINS. He says he has heard that remark before. Yes, and I make it again. I do not know where the gentleman from Kentucky gets his 5,000 office-holders. If this bill shall become a law no more than three hundred new offices can be created—and the officers are not to be paid by the United States, but to be paid out of the estates of those who take advantage of the bankrupt act.

My friend from Illinois [Mr. MOULTON] says more money is collected to-day in the absence of a bankrupt law than there was collected before. Why? When the act of 1867 was passed it was for the purpose of relieving the people, who did not have anything except a load of debt to carry, and people go into bankruptcy only as a last resort.

My friend from Kentucky again refers to the English bankruptcy act and says it is not a good law. The boards of trade of England, the merchants of England, the courts of England, are all against him. I hold in my hand from the Pall Mall Gazette an article which shows the admirable working of the present English bankrupt law.

Mr. WILLIS. Last year.

Mr. COLLINS. The last bankrupt act of England, and it is based on the principles of this very bill. My friend from Kentucky is talking ancient history when he is talking about the ill-working of the English bankrupt act. I have compared the last English act with the present and every other bill, and it is based on the principles of the Lowell bill.

The gentleman from Illinois [Mr. MOULTON] says it is asked for by interested parties. Ay, by parties interested in the honest collection of debts as well as by the traders and farmers of the land.

Mr. HENDERSON, of Iowa. And of the honest merchants.

Mr. COLLINS. Yes; in the interest of the honest merchants, the traders, the farmers, and the men who labor; all are interested that the debtor shall yield his assets to be ratably distributed among his creditors to whom they belong, and that he shall be relieved of the burden resting upon him and allow him to resume his travels in the channels of trade free from an incumbrance. I am interested in that, and I wish the gentleman from Kentucky and the other opponents of the bill were interested in it also.

I ask unanimous consent now to print, as a part of my remarks, this article from the Pall Mall Gazette to which I have referred, showing the workings of the present English bankrupt law; and as we have had the courtesy not to object to the other side, I renew the request of the gentleman from Illinois [Mr. ADAMS] that the memorial to which he referred during the course of his remarks be also printed in the RECORD.

The SPEAKER. Without the names.

Mr. COLLINS. Yes; without the names.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The extract referred to by Mr. COLLINS is as follows:

WORKINGS OF THE ENGLISH BANKRUPTCY ACT.

We are indebted to the Pall Mall Gazette for the following:

"The net gain under the new bankruptcy act can be summed up in a paragraph, but it is felt throughout the whole country. Under the act of 1869 the law costs averaged 37 per cent. in cases of bankruptcy and 30½ per cent. in cases of liquidation, while under Mr. Chamberlain's act they only average 12 per cent. At one stroke, therefore, 25 per cent. of the assets have been saved from the lawyers and accountants and rendered available for distribution among the creditors. It was bad enough for the creditor to lose half his money owing to the impecuniosity of the debtor, but it was worse to have 37 per cent. of the residuum devoured by the rapacity of the lawyers.

"But that is only a small part of the boon conferred upon the trading community by the new act. It has acted as a great deterrent to fraudulent bankruptcies. The number of bankruptcies this year up to October 11 was 5,223 below that of the corresponding period in last year. The decrease has been nearly 60 per cent., a great and notable diminution indeed. At first it was believed that this was due to the making of private arrangements behind the act. It is quite true that the worshipful fraternity of accountants and bankruptcy lawyers did their utmost to effect such arrangements. But they failed, failed utterly and ignominiously, and we have in the diminished number of bankruptcies a fair index to the diminution effected in the number of debtors who try to cheat their creditors. That is a remarkable change to have effected, and while the air is still ringing with Carlyle's denunciations of dishonesty and roguery of this decadent generation it is well to remember that this is the notablest stroke that has yet been dealt at 'swindling by statute.'

"That is good; but that is not all. Not only have 25 per cent. of the assets been saved to the creditors, not only have the number of bankruptcies been reduced in ten months by 5,223, but in places where private compositions have been accepted by creditors so great is the dread excited by public examination of debtors that the amount of the composition has risen all round. In one district in the west of England it is reported that compositions of 10s. and 15s. in the pound are now the rule. Thus, both directly and indirectly, the act has operated most beneficially in securing the payment of debts and in preventing the swindling of honest men.

"So remarkable have been the results obtained by the operation of Mr. Chamberlain's act that even such a sworn enemy of the new law as the Standard has admitted that the cost of official administration is much less; that the dividends are much greater; that the lawyers' fees are saved, and that estates are much more promptly realized. But the crowning proof of the success of the act is afforded by the circular of the association for its repeal or amendment. This circular sets forth with thinly veiled frankness the real motives of those who alone question the reality of Mr. Chamberlain's success. "Bankruptcy practitioners" have set the thing on foot with the following objects:

"1. To amend the rules and scales of fees and curtail the powers of the board of trade.

"2. To obtain the legal recognition of arrangements between debtor and creditor without the necessity of recourse to absolute bankruptcy—which means the avoidance of examination on oath and the taxing of solicitors' bills.

"3. To protect encroachment on bankruptcy practitioners, and to protect trustees against the unfair retrospective clauses of the present act—which being interpreted means that the board of trade is no longer to compel trustees to account for funds which they have misapplied.

"4. To obtain an increase in the scales of remuneration to solicitors, trustees, &c.; which needs no explanation.

"The bankruptcy act must, indeed, have been a great success when the worst that can be said against it is that it must be amended, not in the interest of the creditor, but solely in the interest of those who have fattened on the creditor for years past."

The petition referred to by Mr. ADAMS, of Illinois, is as follows:

To the honorable Senate and House of Representatives in Congress assembled:

The undersigned, citizens of Cook County, State of Illinois, engaged in mercantile, manufacturing, and other business avocations, believing that a uniform system of bankruptcy in the several States, under a national bankrupt act that shall be equitable in respect to the creditor and debtor classes and economical in its administrative provisions, would tend to impart stability to commercial interests and contribute to the maintenance of soundness in business affairs, respectfully, but earnestly, petition your honorable bodies to take early action favorable to the enactment of such a law.

The SPEAKER. The question is on the motion of the gentleman from Massachusetts to suspend the rules and pass the resolution which has been read.

Mr. FUNSTON. I rise to a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. FUNSTON. I wish to ask whether this order, if adopted, will supersede other special orders with which it comes in conflict?

The SPEAKER. That is scarcely an inquiry now to be addressed to the Chair. The resolution itself exempts certain characters of business; but it is always in order for the House to determine whether it will or will not take up even a special order.

The Clerk will again report the resolution.

The resolution was again read.

Mr. NEECE. I demand the yeas and nays upon the passage of the resolution.

The yeas and nays were ordered.

The question was taken; and there were—yeas 136, nays 75, not voting 112; as follows:

YEAS—136.

Adams, G. E.	Everhart,	Ketcham,	Rogers, W. F.
Adams, J. J.	Ferrell,	King,	Rosecrans,
Atkinson,	Fiedler,	Lacey,	Ryan,
Bagley,	Findlay,	Lewis,	Seney,
Barksdale,	Foran,	Long,	Seymour,
Barr,	Geddes,	Lore,	Slocum,
Beach,	George,	Lovering,	Smalls,
Belmont,	Glascock,	Lyman,	Spriggs,
Bisbee,	Green,	McComas,	Stevens,
Blackburn,	Greenleaf,	McCormick,	Stone,
Blanchard,	Hanback,	Maybury,	Storm,
Boyle,	Hardy,	Mitchell,	Strait,
Breckinridge.	Harmer,	Money,	Struble,
Broadhead,	Hart,	Morse,	Sumner, C. A.
Brown, W. W.	Haynes,	Murphy,	Taylor, E. B.
Budd,	Henderson, D. B.	Murray,	Taylor, J. D.
Cassidy,	Henderson, T. J.	Nelson,	Thomas,
Chace,	Hepburn,	Oates,	Thompson.
Clardy,	Herbert,	O'Ferrall,	Throckmorton,
Collins,	Hewitt, A. S.	O'Hara,	Valentine,
Cook,	Hill,	O'Neill, Charles	Van Eaton,
Cox, S. S.	Hiscock,	O'Neill, J. J.	Wadsworth,
Cox, W. R.	Hitt,	Paige,	Wait,
Culbertson, W. W.	Hoblitzell,	Perkins,	Wakefield,
Cullen,	Holmes,	Peters,	Wallace,
Cutcheon,	Hopkins,	Pettibone,	Washburn,
Davidson.	Hunt,	Post,	Weaver,
Davis, G. R.	Hurd,	Potter,	White, Milo
Davis, R. T.	James,	Price,	Whiting,
Dingley,	Jeffords,	Ranney,	Wilkins,
Dorsheimer,	Johnson,	Reagan,	Wilson, James
Eaton,	Jones, B. W.	Reed,	Wise, G. D.
Ellis,	Kean,	Robertson,	Woodward,
Evans,	Keifer,	Robinson, W. E.	Worthington.

NAYS—75.

Alexander,	Davis, L. H.	Miller, J. F.	Stockslager,
Anderson,	Dibrell,	Moulton,	Swope,
Barbour,	Eldredge,	Mutchler,	Taylor, J. M.
Bayne,	English,	Neece,	Tillman,
Bland,	Ermentrout,	Nichols,	Townshend,
Blount,	Forney,	Payson,	Tully,
Bratton,	Funston,	Peel,	Turner, H. G.
Brewer, J. H.	Fyan,	Pierce,	Turner, Oscar
Buchanan,	Halsell,	Pryor,	Warner, A. J.
Buckner,	Hammond,	Randall,	Warner, Richard
Burnes,	Hardeman,	Reese,	Wellborn,
Cabell,	Hemphill	Riggs,	Williams,
Campbell, J. M.	Henley,	Rogers, J. H.	Willis,
Candler,	Holman,	Rowell,	Winans, E. B.
Cannon,	Jones, J. H.	Shively,	Winans, John
Clements,	Lamb,	Singleton,	Wolford,
Cobb,	Lanham,	Skinner, T. G.	Yaple,
Cosgrove,	Le Fevre,	Smith, A. H	York.
Crisp,	Matson,	Stewart, Charles	

NOT VOTING—112.

Aiken,	Dockery,	Kellogg,	Ray, Ossian
Arnot,	Dowd,	Kleiner,	Rice,
Ballentine,	Dunham,	Laird,	Robinson, J. S.
Belford,	Dunn,	Lawrence,	Rockwell,
Bennett,	Elliott,	Libbey,	Russell,
Bingham,	Ellwood,	Lowry,	Shaw,
Boutelle,	Finerty,	McAdoo,	Shelley,
Bowen,	Follett,	McCoid,	Skinner, C. R.
Brainerd,	Garrison,	McMillin,	Smith, H. Y.
Breitung,	Gibson,	Millard,	Snyder,
Brewer, F. B.	Goff,	Miller, S. H.	Spooner,
Browne, T. M.	Graves,	Milliken,	Springer,
Brumm,	Guenther,	Mills,	Steele,
Burleigh,	Hancock,	Morgan,	Stephenson,
Caldwell,	Hatch, H. H.	Morrill,	Stewart, J. W.
Campbell, Felix	Hatch, W. H.	Morrison,	Sumner, D. H.
Campbell, J. E.	Hewitt, G. W.	Muldrow,	Talbott,
Carleton,	Holton,	Muller,	Tucker,
Chalmers,	Hooper,	Nutting,	Van Alstyne,
Clay,	Horr,	Ochiltree,	Vance,
Connolly,	Houk,	Parker,	Ward,
Converse,	Housemun,	Patton,	Weller,
Covington,	Howey,	Payne,	Wemple,
Culbertson, D. B.	Hutchins,	Phelps,	White, J. D.
Curtin,	Jones, J. K.	Poland,	Wilson, W. L.
Dargan,	Jones, J. T.	Pusey,	Wise, J. S.
Deuster,	Jordan,	Rankin,	Wood,
Dibble,	Kelley,	Ray, G. W.	Young.

So (two-thirds not voting in favor thereof) the rules were not suspended.

Mr. BAGLEY. I ask unanimous consent to dispense with the reading of the names.

Mr. MORSE. I object.

The Clerk recapitulated the names of those voting.

The following additional pairs were announced:

Mr. CAMPBELL, of New York, with Mr. PUSEY, on the bankruptcy bill.

Mr. SNYDER with Mr. HOUK, on this vote.

Mr. TALBOTT with Mr. HOLTON, for this day.

Mr. JOHN S. WISE with Mr. BROWNE, of Indiana, on this question.

The result of the vote was then announced as above recorded.

Mr. HAMMOND. I move that the House do now adjourn.

NAVAL APPROPRIATION BILL.

Mr. RANDALL. I ask the gentleman to yield to me a moment for a motion to take from the Speaker's table the House bill making temporary appropriations for the Navy for thirty-one days, with Senate amendments thereto, and ask that it be referred to the Committee on Appropriations.

The SPEAKER. The Clerk will report the title of the bill.

The Clerk read as follows:

A bill (H. R. 7791) making temporary provision for the naval service.

IN THE SENATE OF THE UNITED STATES,
December 23, 1884.

Resolved, That this bill pass with amendment.

There being no objection, the bill, with the Senate amendments, was taken from the Speaker's table and referred to the Committee on Appropriations.

CONGO CONFERENCE AT BERLIN.

Mr. BELMONT, by unanimous consent, submitted the following resolution of inquiry; which was read, and referred to the Committee on Foreign Affairs:

Resolved, That the President be requested to inform this House in respect to all the negotiations or arrangements (if in his opinion such information will not be incompatible with the public interests) between this Government and any other government or governments which led up to the Congo conference at Berlin, and the motives or purposes with which this Government consented to participate therein. And also that the President cause to be transmitted to this House a copy of all correspondence between this Government and other governments relating to the Congo conference, together with the names of those who have been authorized by this Government to act as its delegates or plenipotentiaries thereat, the text of the credentials or powers given to such representatives of the United States, and a copy of all dispatches, reports, or other communications received by this Government from its representatives at the conference. And that the President, if he shall inform this House of the precise objects and purposes with which this Government was represented in the conference, will also inform the House which, if any, of those objects or purposes have been accomplished, and also whether or not any of the opinions or purposes of this Government, or its delegates or plenipotentiaries, as set forth in such conference, was resisted in the conference by any of the governments represented there; and, if so, by which of the governments, on what points, for what reasons, and with what results.

ORDER OF BUSINESS.

Mr. BAYNE rose.

The SPEAKER. The Chair would recognize the gentleman from Pennsylvania, but there is a motion for adjournment pending.

Mr. HAMMOND. I will withdraw the motion on account of the importunities of gentlemen around me.

PUBLIC BUILDING, PITTSBURGH, PA.

Mr. BAYNE. I move to suspend the rules and pass the bill H. R. 1339, now on the Calendar of the Committee of the Whole House on the state of the Union, a bill to increase the appropriation for the erection of the public building at Pittsburgh, Pa.

The SPEAKER. The bill will be read.

The bill is as follows:

Be it enacted, &c., That the amount heretofore fixed as the limit of cost for the erection of a public building by the United States Government at Pittsburgh, Pa., be, and the same is hereby, increased to $1,500,000, and that sum is hereby fixed as the limit of cost for the erection of said building.

SEC. 2. That the officers of the United States Government having charge of the erection of public buildings are authorized and required to be governed by the limitation hereby prescribed in making contracts for the erection of said building.

Mr. WARNER, of Ohio. What has become of the motion to adjourn?

The SPEAKER. The motion to adjourn was withdrawn.

Mr. WARNER, of Ohio. I renew it.

The motion was agreed to; and accordingly (at 4 o'clock and 50 minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions and papers were laid on the Clerk's desk, under the rule, and referred as follows:

By Mr. BAYNE: Protest of United Cigar-makers' League, of Pittsburgh, Pa., against the ratification of the proposed Spanish treaty—to the Committee on Ways and Means.

By Mr. BEACH: Petition of citizens of Ramapo, Rockland County, New York, in favor of the reciprocity treaty with Mexico—to the same committee.

By Mr. BLAND: Petition of F. C. Smith, for a pension—to the Committee on Invalid Pensions.

By Mr. J. H. BREWER: Petition for the relief of Henry T. Knox—to the same committee.

By Mr. T. M. BROWNE: Petition for the relief of James A. Lee—to the same committee.

By Mr. COLLINS: Petition of seamen of Boston, Mass., for modification of the "Dingley shipping act"—to the Select Committee on American Ship-building and Ship-owning Interests.

By Mr. R. T. DAVIS: Petition in favor of the improvement of Wellfleet Harbor—to the Committee on Rivers and Harbors.

By Mr. ERMENTROUT: Petition of mass-meeting of cigar-packers' at Concordia Assembly Rooms, against ratification of the Spanish treaty—to the Committee on Ways and Means.

Also, memorial of the New York Leaf Tobacco Board of Trade against the Spanish treaty—to the same committee.

By Mr. GEDDES: Petition of John Buchan, for a pension—to the Committee on Invalid Pensions.

By Mr. GEORGE: Papers relating to the bill for the relief of Mrs. Kate Hatton—to the Committee on Indian Affairs.

By Mr. GREEN: Petition of E. W. McDowell, G. G. King, and 800 others, citizens of Bladen County, North Carolina, and of E. J. Lewis, A. M. Burney, and 300 others, citizens of the same place, in favor of national aid to education—severally to the Committee on Education.

By Mr. D. B. HENDERSON: Letters and papers from Hon. J. G. Brown, of Marshalltown, Iowa, urging the enactment of a law for the relief of Francis H. Shaw—to the Select Committee on Payment of Pensions, Bounty, and Back Pay.

By Mr. HOLMAN: Petition of William H. Frear, asking for an investigation of the late French and American Claims Commission—to the Committee on Foreign Affairs.

By Mr. HOPKINS: Petition of 350 citizens of New Hampshire and Massachusetts, and of 150 citizens of same States, requesting the passage of the resolution of Mr. HOPKINS relative to the transportation of cattle—severally to the Committee on Commerce.

By Mr. HUNT: Protest of commercial bodies of New Orleans against the Spanish treaty—to the Committee on Ways and Means.

By Mr. J. T. JONES: Resolutions of Chamber of Commerce of Mobile, Ala., favoring the passage of a national bankrupt law—to the Committee on the Judiciary.

By Mr. KELLEY: Memorial of 15 members of Post No. 56, Grand Army of the Republic, praying for the establishment of a United States national cemetery at Philadelphia—to the Committee on Military Affairs.

Also, petition of Post No. 21, Grand Army of the Republic, Department of Pennsylvania, for publication in Official Records of the War of the Rebellion of photographic illustrations—to the same committee.

By Mr. KING: A bill appropriating $7,000,000 for the improvement of the Mississippi from the Head of the Passes to Cairo—to the Committee on Rivers and Harbors.

By Mr. LORE: Petition of Anna H. Nones, for a pension—to the Committee on Pensions.

By Mr. LOVERING: Petition and papers relating to the bill for the relief of John Peirce—to the Committee on Invalid Pensions.

By Mr. MAYBURY: Petition of Margaret Kilroy, for allowance of pension—to the same committee.

By Mr. MITCHELL: Petition of citizens of Connecticut, in favor of the Mexican reciprocity treaty—to the Committee on Ways and Means.

By Mr. MORSE: Petition of William H. Smart Post, No. 30, Grand Army of the Republic, Department of Massachusetts, for publication in Official Records of the War of the Rebellion of photographic illustrations—to the Committee on Military Affairs.

By Mr. JOHN J. O'NEILL: Petition of wholesale grocers of Saint Louis, Mo., in favor of the passage of the bankrupt law—to the Committee on the Judiciary.

By Mr. PEEL: Papers relating to the claim of Elizabeth Putnam—to the Committee on War Claims.

By Mr. PERKINS: Resolutions of mass meeting of cigar-packers of New York, protesting against the Spanish treaty—to the Committee on Ways and Means.

Also, resolutions adopted at a meeting of friends of national education in the city of New York favoring the passage of the Blair educational bill—to the Committee on Education.

By Mr. RANDALL: Petition of marine underwriters and merchants of Philadelphia, asking a further appropriation to connect the light-houses and light-saving stations on Nantucket Island and the mainland—to the Committee on Appropriations.

By Mr. REED: Petition of Mrs. Abby J. Ramsdell and 40 others, for increase of widows' pensions—to the Committee on Invalid Pensions.

By Mr. J. H. ROGERS: Papers relating to the claim of Edward V. Deuell and to the claim of Ethan A. Deuell—severally to the Committee on War Claims.

By Mr. ROSECRANS: Petition of James A. Powlett, with regard to improvements in ordnance methods, &c.—to the Committee on Military Affairs.

By Mr. SENEY: Petition of Oscar Bull and 50 others, of Sterling; Dak., for the reduction of price of public land within the Northern Pacific Railroad grant to $1.25 per acre—to the Committee on Public Lands.

By Mr. SEYMOUR: Petition of the Yale and Towne Manufacturing Company of Stamford, Conn., for the speedy enactment of all legislation necessary to put in force the reciprocity treaty with Mexico—to the Committee on Ways and Means.

By Mr. SLOCUM: Petition of manufacturers and merchants of New York, in favor of ratification of treaty with Spain—to the same committee.

By Mr. A. H. SMITH: A remonstrance against the ratification of the reciprocity treaty with Spain—to the same committee.

By Mr. STONE: Petition of W. F. Bartlett Post, No. 99, G. A. R., Department of Massachusetts, for publication in Official Records of the War of the Rebellion of photographic illustrations—to the Committee on Military Affairs.

Also, petition of Mrs. De Ford Baley, for allowance for extra services of her husband—to the Committee on Claims.

By Mr. TALBOTT: Memorial of the Baltimore Branch Educational Association of the African Methodist Episcopal Church—to the Committee on Education.

By Mr. J. D. TAYLOR: Petition of D. A. Hollingsworth and 26 others, and resolution of J. S. McCreedy Post, G. A. R., favoring the passage of the bill for the relief of R. A. McCormick—to the Committee on Invalid Pensions.

By Mr. VAN EATON: Petition of citizens of Tylertown, Pike County, Mississippi, in favor of Federal aid to education—to the Committee on Education.

By Mr. MILO WHITE: Petition of citizens of Winona County, Minnesota, for a bankrupt law—to the Committee on the Judiciary.

Also, of citizens of Mazeppa, Minn., for the repeal of the act limiting arrears of pensions—to the Committee on Payment of Pensions, Bounty, and Back Pay.

By Mr. WILKINS: Petition of Fred. Spring and 14 others, of Tuscarawas County, Ohio, relative to amendments to pension bill—to the Committee on Pensions.

By Mr. WOODWARD: Papers relating to the claim of Christopher Moegling for extension of patent—to the Committee on Patents.

The following petitions for the passage of the Mexican war pension bill, with Senate amendments, were presented and severally referred to the Committee on Pensions:

By Mr. ALEXANDER: Of citizens of Grundy County, Missouri.

By Mr. BISBEE: Of citizens of Marion County, Florida.

By Mr. T. M. BROWNE: Of 93 citizens of Fells City, Ind.

By Mr. CANNON: Of Ivan Link and others, of Paris, Ill.

By Mr. COOK: Of N. Townsend and 100 others, citizens of Newton, Iowa.

By Mr. COX, of New York: Of W. A. Reed and 79 others, citizens of New York.

By Mr. R. T. DAVIS: Of citizens of Bristol County and of Dukes County, Massachusetts.

By Mr. DIBRELL: Of citizens of Spring City, Tenn.

By Mr. DINGLEY: Of M. R. Mathews and others, of Warren, and of L. P. Gould and others, of East Livermore, Me.

By Mr. GIBSON: Of citizens of Wood County, West Virginia.

By Mr. HART: Of Adna Ninola and 75 others, of Licking County; of L. P. Coman and 85 others, of Newark; and of G. A. Klein and 64 others, of Tuscarawas County, Ohio.

By Mr. D. B. HENDERSON: Of H. L. Bailey and 61 others, and of B. Cumley and 63 others, of Butler County, Iowa.

By Mr. T. J. HENDERSON: Of Samuel Sigler and 123 others, of Sterling; of Rev. Charles Machin and 63 others, of Syndon; and of Merritt Miller and 60 others, of Steward, Ill.

By Mr. HILL: Of Robert Loe and 125 others, of Wood County; of Hiram Hoadley, jr., and 116 others, of Williams County; and of P. H. Mooney and 300 others, of Antwerp, Ohio.

By Mr. HITT: Of 200 citizens of Oregon, Ill.

By Mr. HOLMES: Of 74 citizens and soldiers of Webster County, Iowa.

By Mr. B. W. JONES: Of citizens of Highland, of Albany, of Monroe, and of Calamine, Wis.

By Mr. PERKINS: Of citizens and comrades of Post No. 99, Grand Army of the Republic, Department of Kansas.

By Mr. PHELPS: Petition of Ralph S. Demarest, residing at Demarest, Bergen County, New Jersey.

By Mr. RAYMOND: Of citizens of Dakota, and of Brown County and Deuel County, Dakota.

By Mr. REED: Of Holman S. Melcher, pension for service in the late war.

By Mr. J. S. ROBINSON: Of 195 soldiers of Morrow County, Ohio.

By Mr. W. F. ROGERS: Of citizens of Erie County and of Tonawanda, N. Y.

By Mr. STEVENS: Of citizens of Wyoming County, New York.

By Mr. STOCKSLAGER: Of 128 citizens of Elizabeth, Ind.

By Mr. J. D. TAYLOR: Of J. C. Benton and 56 others, of Akron; of J. R. Youngblue and 39 others, of Noble County; of T. A. Burries and 52 others, of New Athens; and of Thomas Miller and 102 others, of Hopedale, Ohio.

By Mr. TOWNSHEND: Of 58 citizens of Christopher, Ill.

By Mr. WAIT: Of Arthur L. Botham, of New London County; of W. M. Smith and others, of Champlin; and of Lewis Dest and others, of Putnam, Conn.

By Mr. WAKEFIELD: Of 95 ex-soldiers of Martin County, Minnesota.

By Mr. WEAVER: Of 150 citizens of Nebraska.

By Mr. WOODWARD: Of 194 citizens of Sauk County, and of 59 citizens of Juneau County, Wisconsin.

By Mr. WORTHINGTON: Of John M. Tyson and 60 others, of Mapleton, Ill.

SENATE.

TUESDAY, *January* 6, 1885.

Prayer by the Chaplain, Rev. E. D. HUNTLEY, D. D.

The Journal of yesterday's proceedings was read and approved.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of War, transmitting, in response to a resolution of the 17th ultimo, a letter of the Acting Chief of Engineers, submitting a report of Lieut. Col. H. M. Robert, Corps of Engineers, regarding the extent of the damage done to the United States breakwater in the harbor of Oswego, N. Y., by the recent gale there, and the amount necessary for its reparation; which, with the accompanying papers, was referred to the Committee on Commerce, and ordered to be printed.

He also laid before the Senate a communication from the Attorney-General, in reference to a previous communication from him on the subject of increased appropriations to be expended in the defense of suits brought in the Court of Claims in consequence of the large number of claims referred to that court by the two Houses of Congress, and stating that the sum appropriated is entirely inadequate; which was referred to the Committee on Appropriations, and ordered to be printed.

He also laid before the Senate a communication from the Secretary of the Interior, transmitting, in compliance with law, a letter of the Commissioner of Indian Affairs, submitting the report of the commission appointed under the act of July 4, 1884, to examine into and report upon the character, extent, &c., of the coal on the White Mountain Indian reservation in the Territory of Arizona; which, with the accompanying document, was referred to the Committee on Indian Affairs, and ordered to be printed.

He also laid before the Senate a communication from the Secretary of the Interior, transmitting, in response to a resolution of the 23d ultimo, a report of the Commissioner of Indian Affairs regarding the appraisement of and price paid for certain Cherokee lands west of the Arkansas River; which, with the accompanying document, was referred to the Committee on Indian Affairs, and ordered to be printed.

He also laid before the Senate a communication from the Secretary of the Interior, transmitting, in answer to a resolution of the 17th ultimo, a report regarding the leasing of lands for grazing purposes upon the Crow Indian reservation in Montana Territory, and also a letter of the Commissioner of Indian Affairs and copies of all correspondence since the report of March 25, 1884, relating thereto; which, with the accompanying papers, was referred to the Committee on Indian Affairs, and ordered to be printed.

He also laid before the Senate a communication from the Secretary of the Interior, submitting, in answer to a resolution of the 3d ultimo, a report regarding the leasing of lands in the Indian Territory or Indian reservations for grazing and other purposes by the tribes of Indians therein, with a letter of the Commissioner of Indian Affairs and other correspondence upon the subject.

The Chief Clerk proceeded to read the letter of the Secretary of the Interior, and was interrupted by—

Mr. INGALLS. I suggest that the further reading of this document be dispensed with, and that it be printed in the RECORD. It is very long, I see, and the subject is now under consideration by the Committee on Indian Affairs, who will have access to the communication.

Mr. SHERMAN. I ask the Senator if he would not as lief have it printed as an ordinary document, instead of being printed in the RECORD?

Mr. INGALLS. I think that would be better.

Mr. DAWES. Of course this will be printed as an ordinary document. It occurred to me, however, that it might be interesting enough for Senators to see in the RECORD.

Mr. SHERMAN. I have made up my mind, after the speech made the other day by the Senator from Missouri [Mr. VEST], that if other Senators will join me I shall try to keep out of the RECORD everything but what transpires here; and if all Senators are willing to stand by that we shall be able to shorten the RECORD, so far as we are concerned.

Mr. DAWES. I think this paper should be an exception. It is a large document and it will be some days before we can get it from the Printer. The Committee on Indian Affairs are now in session, morning and evening, examining the matter that is committed to them, and it will be very desirable for them to see this document soon. It contains information that will be of value to us in the investigation. I have no desire beyond that myself. Otherwise I should not care to see it in the RECORD.

Mr. SHERMAN. I desire to say further, and it may as well be understood, that whenever there is anything of importance to be printed immediately, all that is necessary is for the Secretary to say so, and it can be printed in three hours instead of three months. It is entirely a matter of discretion with the Senate.

Mr. DAWES. I was under the impression that it would be several days before the printing could be done.

Mr. SHERMAN. If the Senator desires to have it printed promptly, I have no doubt by having that suggested to the Secretary he can have it printed by to-morrow morning.

The PRESIDENT *pro tempore*. The Senator from Kansas asks unanimous consent that the further reading of the letter of the Secretary of the Interior be dispensed with. Is there objection? The Chair hears none.

Mr. DAWES. I suppose what has been read will not go into the RECORD.

The PRESIDENT *pro tempore*. No part of it will go into the RECORD, the Chair understands. If there be no objection, the letter of the Secretary of the Interior will be printed and, with the accompanying documents, referred to the Committee on Indian Affairs. The Chair has not suggested an order to print the voluminous package accompanying the letter, thinking that the Committee on Indian Affairs might examine it first to see whether it should all be printed.

Mr. DAWES. I hope it will all be printed, and I hope the Secretary will have it printed by to-morrow morning if possible.

The PRESIDENT *pro tempore*. The Senator from Massachusetts moves that the accompanying documents be printed. If there be no objection, that order will be entered. It will be so ordered.

PETITIONS AND MEMORIALS.

Mr. WILSON presented the petition of Daniel G. Eldridge, of Sanborn, Iowa, praying for the passage of an act granting him a pension on account of disabilities incurred in the military service of the United States; which was referred to the Committee on Pensions.

Mr. SEWELL. I present the petition of William B. Hatch Post, No. 37, Department of New Jersey, Grand Army of the Republic, praying for the publication of photographic illustrations in the Official Records of the War of the Rebellion. These petitions seem to have been prepared with a view of having them referred to the Committee on Military Affairs, but I think it will be more appropriate, in view of the fact that they relate to the question of printing connected with public documents, that they should be referred to the Committee on Printing.

The PRESIDENT *pro tempore*. Similar petitions have been referred to the Committee on Printing. The petition now presented will be so referred, if there be no objection.

Mr. MILLER, of California. I present a communication addressed to me as chairman of the Committee on Foreign Relations from certain merchants in the city of New York, in favor of the ratification of the pending treaty of commerce with Spain. I desire to have it received and referred to the Committee on Foreign Relations.

The PRESIDENT *pro tempore*. The Senator from California asks leave to submit a document addressed to him on the subject of the reciprocity treaty, so called, with Spain. If there be no objection, it will be received and referred to the Committee on Foreign Relations.

Mr. MILLER, of California, presented a memorial of cigar-manufacturers of San Francisco, Cal., remonstrating against the ratification of the proposed Spanish reciprocity treaty; which was referred to the Committee on Foreign Relations.

Mr. CULLOM presented a memorial of cigar-makers of Aurora, Ill., and a memorial of cigar-makers of Havana, Ill., remonstrating against the ratification of the proposed Spanish reciprocity treaty; which were referred to the Committee on Foreign Relations.

Mr. MILLER, of New York, presented the petition of Wilbur F. Hendrick, late a private in Company B, Tenth Regiment New York Volunteers, praying for an increase of pension; which was referred to the Committee on Pensions.

He also presented the petition of F. Weiss, ex-colonel Twentieth Regiment New York Volunteers, and the petition of Oatman Covill, late a private in Company M, Second New York Volunteers, praying for an extension of the time for filing pension claims; which were referred to the Committee on Pensions.

He also presented memorials of cigar-makers of Elmira and Albany, in the State of New York, remonstrating against the ratification of the proposed Spanish reciprocity treaty; which were referred to the Committee on Foreign Relations.

Mr. GORMAN presented a petition from the Woman's Christian Temperance Union of Maryland, officially signed, representing nine hundred members, praying for a constitutional amendment to prohibit the manufacture and sale of intoxicating liquors; which was referred to the Committee on Education and Labor.

Mr. DOLPH presented a memorial of the Board of Trade of Portland, Oreg., in favor of the establishment of a United States assay office at that place; which was referred to the Committee on Finance.

Mr. BOWEN presented the petition of George N. Marden, of Colorado Springs, Colo., praying compensation for certain lands owned by him in the District of Columbia, alleged to have been taken by the Government; which was referred to the Committee on the District of Columbia.

Mr. DAWES presented the petition of John A. Andrew Post, No. 15, Department of Massachusetts, Grand Army of the Republic, praying for the publication of certain photographic illustrations in the Official Records of the War of the Rebellion; which was referred to the Committee on Printing.

Mr. PIKE presented memorials of cigar-packers of New York and the New York Leaf-Tobacco Board of Trade, remonstrating against the ratification of the proposed Spanish reciprocity treaty; which were referred to the Committee on Foreign Relations.

Mr. HAWLEY presented memorials of cigar-makers of Hartford and Danbury, Conn., remonstrating against the ratification of the proposed Spanish reciprocity treaty; which were referred to the Committee on Foreign Relations.

Mr. McMILLAN presented a memorial of leaf dealers, cigar manufacturers, and cigar-makers of Minnesota, remonstrating against the ratification of the proposed Spanish reciprocity treaty; which was referred to the Committee on Foreign Relations.

REPORTS OF COMMITTEES.

Mr. SLATER. I am instructed by the Committee on Pensions, to whom was referred the bill (S. 1154) to increase the pension of Anne S. Mellach, to submit an adverse report thereon. I ask that the bill be placed on the Calendar.

The PRESIDENT *pro tempore*. The bill will be placed on the Calendar with the adverse report of the committee.

Mr. SLATER, from the Committee on Pensions, to whom were referred the following bills, submitted adverse reports thereon, which were agreed to; and they were indefinitely postponed:

A bill (S. 1175) granting a pension to Anna M. Smith; and

A bill (S. 1789) for the relief of John O. Donald.

Mr. WILSON, from the Committee on Pensions, to whom were referred the following bills, reported them without amendment, and submitted reports thereon:

A bill (H. R. 6282) to place the name of R. W. Duncan on the pension-roll; and

A bill (H. R. 4041) restoring the name of Zelica T. Dunlap to the pension-roll.

Mr. WILSON, from the Committee on Pensions, to whom was re-

ferred the bill (S. 2200) to place the name of R. W. Duncan on the pension-roll, reported it without recommendation, and moved its indefinite postponement; which was agreed to.

He also, from the same committee, to whom were referred the following bills, submitted adverse reports thereon; which were agreed to, and they were postponed indefinitely:

A bill (S. 585) granting a pension to John B. Tibbetts; and

A bill (S. 2322) granting a pension to Mrs. Margaret Abbett.

Mr. HALE, from the Committee on Naval Affairs, to whom were referred the bill (H. R. 1567) for the relief of the legal representatives of the late Capt. John G. Tod, of the Texas navy, and the bill (S. 1042) for the relief of the legal representatives of the late Capt. John G. Tod, of Texas, asked to be discharged from their further consideration, and that they be referred to the Committee on Claims; which was agreed to.

Mr. MORRILL, from the Committee on Finance, to whom was referred the joint resolution (H. Res. 124) authorizing the collector of the port at New York to deliver, free of duty, a silver cup won by Sergt. A. B. Van Heusen as a member of the American rifle team at Wimbledon in July, 1883, reported it without amendment.

He also, from the same committee, to whom was referred the bill (H. R. 5747) to authorize the increase of the capital stock of the First National Bank of Larned, Kans., not to exceed $250,000, reported it without amendment.

Mr. MORRILL. I am instructed by the Committee on Finance, to whom was referred the bill (S. 619) authorizing the Secretary of the Treasury to make final adjustment of claims of certain foreign steamship companies arising from the illegal exaction of tonnage duties, to report it adversely. I will state that a bill was formerly passed to pay these parties the principal of the sum claimed, and this appears to be a bill in favor of paying the interest on the sum to the several parties, which the Government has always refused to do. I move that the bill be indefinitely postponed.

The motion was agreed to.

Mr. CAMDEN, from the Committee on Pensions, to whom was referred the bill (H. R. 5500) for the relief of Benjamin F. Amos, reported it without amendment, and submitted a report thereon.

He also, from the same committee, to whom were referred the following bills, submitted adverse reports thereon; which were agreed to, and they were indefinitely postponed:

A bill (S. 1791) granting a pension to David G. Porter;

A bill (H. R. 1142) granting a pension to Nelly Roberts; and

A bill (S. 752) granting an increase of pension to Joshua M. Ash.

Mr. JACKSON. I am instructed by the Committee on Pensions, to whom was referred the bill (H. R. 930) granting a pension to Geriah Collins, to report it adversely.

Mr. COCKRELL. Let that be placed on the Calendar.

The PRESIDENT *pro tempore*. The bill will be placed on the Calendar with the adverse report of the committee.

Mr. JACKSON. I am instructed by the Committee on Pensions, to whom was referred the bill (H. R. 5962) granting a pension to Mrs. Eliza Hicks, to report it adversely. I believe the junior Senator from Illinois [Mr. CULLOM] desires to have this bill placed on the Calendar.

Mr. CULLOM. I ask the Senator from Tennessee to allow the bill to go on the Calendar for the present.

The PRESIDING OFFICER (Mr. INGALLS in the chair). The bill will go on the Calendar with the adverse report, if there is no objection.

Mr. JACKSON, from the Committee on Pensions, to whom was referred the bill (S. 1268) for the relief of Sidney L. Skaggs, reported it without amendment, and submitted a report thereon.

Mr. MITCHELL, from the Committee on Pensions, to whom was referred the bill (S. 2327) for the relief of James Bedell, sr., reported it without amendment, and submitted a report thereon.

Mr. CULLOM, from the Committee on Pensions, to whom were referred the following bills, submitted adverse reports thereon, which were agreed to; and they were indefinitely postponed:

A bill (S. 1813) for the relief of Frank Schwartz;

A bill (H. R. 3023) granting an increase of pension to John Dwyer; and

A bill (S. 960) granting an increase of pension to Ann H. Cunningham.

Mr. CULLOM, from the Committee on Pensions, to whom was referred the bill (H. R. 5004) for the relief of William B. Smith, reported it without amendment, and submitted a report thereon.

Mr. COCKRELL. I am directed by the Committee on Military Affairs, to which was referred the petition of Anderson Winfrey, of Carrollton, Mo., praying for reimbursement of expenditures for recruits for the Forty-fourth Missouri Volunteer Infantry, with affidavits of Henry C. Manning, William N. Waters, and John T. Patton, to report it back to the Senate, and to ask that the petition be laid on the table, that the committee be discharged from its further consideration, and that the claimant be given leave to withdraw the affidavits of Henry C. Manning, W. N. Waters, and John T. Patton, which have been filed in the case, there being no adverse report.

The PRESIDING OFFICER. The committee will be discharged from the further consideration of the petition, the petition will lie upon the table, and the claimant will have leave to withdraw the papers suggested, if there is no objection. The Chair hears none, and it is so ordered.

Mr. COCKRELL. I am directed by the Committee on Military Affairs, to which was referred the bill (H. R. 263) for the relief of George F. Bicknell, to report it back to the Senate, recommending that no action be had upon the bill, that the bill be laid upon the table, and that the committee be discharged from its further consideration. The bill proposes to direct the Secretary of War to remove the charge of dismissal from the records of the War Department standing against Captain Bicknell. There is no charge of dismissal on the records of the War Department. He tendered his resignation and it was duly accepted. The officers in forwarding the resignation expressed their opinions in regard to him as an officer. The committee decide that it has no jurisdiction to revise or correct or erase the voluntary expressions of opinion by the officers when they indorsed the application for resignation.

The PRESIDING OFFICER. The committee will be discharged and the bill will lie on the table, if there is no objection.

Mr. COCKRELL, from the Committee on Military Affairs, to whom was referred the bill (S. 2426) to empower the President to reappoint not more than two persons as first lieutenants in the Army, moved its indefinite postponement, which was agreed to; and reported as a substitute therefor a bill (S. 2495) for the relief of John Hollins McBlair; which was read twice by its title.

He also, from the same committee, to whom was referred the bill (H. R. 5713) to provide for the settlement of the claims of officers and enlisted men of the Army for loss of private property destroyed in the military service of the United States, reported it with amendments.

Mr. CAMERON, of Pennsylvania. I am instructed by the Committee on Military Affairs, to whom was referred the bill (H. R. 1389) for the relief of Myron E. Dunlap, to report it without amendment, and to submit a report thereon.

Mr. COCKRELL. I desire to say that that is not the report of all the members of the Committee on Military Affairs. There are some who are opposed to the report, among whom I am one.

The PRESIDENT *pro tempore*. The bill will be placed on the Calendar.

BILLS INTRODUCED.

Mr. GORMAN (by request) introduced a bill (S. 2496) for the relief of John F. Riley; which was read twice by its title, and referred to the Committee on Claims.

Mr. SAWYER introduced a bill (S. 2497) for the relief of John Daily; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. HAWLEY introduced a bill (S. 2498) to establish an international copyright; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. MANDERSON introduced a bill (S. 2499) granting right of way to the Fremont, Elk Horn and Missouri Valley Railroad Company across the Fort Robinson military reservation in the State of Nebraska; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. MCMILLAN introduced a bill (S. 2500) granting an increase of pension to Mary C. Ringgold; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

Mr. HALE introduced a bill (S. 2501) granting a pension to Mrs. Sarah S. Sampson; which was read twice by its title, and referred to the Committee on Pensions.

Mr. PLUMB introduced a bill (S. 2502) granting a pension to Jesse C. Osgood; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

He also introduced a bill (S. 2503) for the relief of Charles E. Maris; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Military Affairs.

He also introduced a bill (S. 2504) to remove the charge of desertion against Miner Ellis; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Military Affairs.

Mr. GROOME introduced a bill (S. 2505) for the relief of certain laborers, workmen, and mechanics heretofore and at present employed at the United States Naval Academy at Annapolis, Md.; which was read twice by its title, and referred to the Committee on Appropriations.

ARREARS OF PENSIONS.

Mr. INGALLS. On the 4th of December, 1883, I introduced Senate bill No. 1, to amend section 2 of "an act making appropriations for the payment of the arrears of pensions granted by act of Congress approved January 25, 1879, and for other purposes," approved March 3, 1879. This bill was referred to the Committee on Pensions. They have had it in their possession and custody now for thirteen months, which in my opinion is sufficiently long for them to have been able to make up their judgment as to the propriety of the passage or of the rejection of the bill. For the purpose of testing the sense of the Senate upon the proposition, I move that the Committee on Pensions be discharged from the further consideration of the bill. I am aware that under the rules a motion to discharge a committee from the consideration of any subject

must lie over one day. I will therefore consent, unless there is some objection on the part of the chairman of the committee, that the motion may lie over until to-morrow.

Mr. MITCHELL. I have no objection to the Senate considering the motion at this time, if it so desires; but the whole subject was gone over, as the world knows, at the last session of Congress by the Senate, and adverse action was taken upon the Senator's proposition by the Senate. The Senator from Kansas moved to the bill known as the Mexican pension bill an amendment which covered the whole subject. I favored the proposition at that time. Some Senators on this side took a different view of it; I guess all those on the other side took a different view; and the amendment was voted down. The Committee on Pensions intended to dispose of the bill formally, but it is a mere formality; and if the Senate desires to dispose of it in this way there is no objection on the part of the committee.

The PRESIDENT *pro tempore*. The Senator from Kansas moves that the Committee on Pensions be discharged from the further consideration of the bill the title of which will be now reported.

The CHIEF CLERK. "A bill (S. 1) to amend section 2 of an act making appropriations for the payment of the arrears of pensions granted by act of Congress approved January 25, 1879, and for other purposes, approved March 3, 1879."

Mr. MITCHELL. At the suggestion of Senators near me I ask that the motion may lie over.

The PRESIDENT *pro tempore*. If there be no objection the motion will go over until to-morrow. It is so ordered.

FORFEITURE OF OREGON LAND GRANT.

Mr. SLATER. I move that the Senate proceed to the consideration of the bill (H. R. 181) to declare forfeiture of certain lands granted to aid in the construction of a railroad in Oregon.

The motion was agreed to.

The PRESIDENT *pro tempore*. The bill has been considered as in Committee of the Whole and has been reported to the Senate. The pending question is on a motion to recommit the bill to the Committee on Public Lands.

Mr. MORGAN. I withdraw that motion. I made the motion to recommit.

The PRESIDENT *pro tempore*. The motion to recommit is withdrawn by the mover. The bill is still open to amendment. If no amendment be proposed, the question is, Shall the amendments be engrossed and the bill be read a third time?

Mr. MORGAN. I ask that the amendments be read which have been adopted by the Senate.

The PRESIDENT *pro tempore*. The bill will be read as amended.

The CHIEF CLERK. The bill has been amended by striking out all after the enacting clause and inserting in lieu of the matter stricken out:

Be it enacted, &c., That so much of the lands granted by an act of Congress entitled "An act granting land to aid in the construction of a railroad and telegraph line from Portland to Astoria and McMinnville, in the State of Oregon," approved May 4, 1870, as are adjacent to and conterminous with the uncompleted portions of said road, and not embraced within the limits of said grant for the completed portions of said road, be, and the same are hereby, declared to be forfeited to the United States and restored to the public domain, and made subject to disposal under the general land laws of the United States as though said grant had never been made.

SEC. 2. That all persons who at the date of the passage of this act are actual settlers in good faith on any of the lands hereby forfeited, and who are otherwise qualified, on making due claim to such lands under the homestead, pre-emption, or other laws, within six months after the same shall have been declared forfeited, shall be entitled to a preference right to enter the same in accordance with the provisions of this act and of the homestead, pre-emption, or other laws, as the case may be, and shall be regarded as having legally settled upon and occupied said lands under said pre-emption, homestead, or other laws, as the case may be, from the date of such actual settlement or occupation; and in case any such settler may not be entitled to thus enter or acquire such land under existing laws, he shall be permitted, within one year after the passage of this act, to purchase not to exceed one hundred and sixty acres of the same, at the price of $1.25 per acre; and the Secretary of the Interior is hereby authorized and directed to make such rules and regulations as will secure to said actual settlers the benefit of these rights: *Provided*, That the price of the even-numbered sections within the limits of said grant and adjacent to and conterminous with the uncompleted portions of said road, and not embraced within the limits of said grant for the completed portions of said road, is hereby reduced to $1.25 per acre.

SEC. 3. That the act of March 3, 1873, entitled "An act for the relief of settlers within railroad limits," is hereby repealed.

Mr. MORGAN. I move to amend the bill by striking out the words "as though said grant had never been made" where they occur.

The PRESIDENT *pro tempore*. The amendment proposed by the Senator from Alabama will be reported.

The CHIEF CLERK. In section 1, line 13, after the words "United States," it is proposed to strike out the words "as though said grant had never been made."

The PRESIDENT *pro tempore*. The Chair is of opinion that the motion is not in order, the words proposed to be stricken out being in an amendment which was agreed to by the Senate after the bill had been considered as in Committee of the Whole. The motion, therefore, is to strike out words that the Senate has by its vote inserted.

Mr. MORGAN. I did not catch the last remark of the Chair.

The PRESIDENT *pro tempore*. The motion of the Senator is to strike out words that the Senate by a previous vote has inserted in the bill, and the Chair thinks therefore the motion is not in order.

Mr. MORGAN. I had the impression that those words were in the bill as it came from the House.

The PRESIDENT *pro tempore*. They are in the amendment agreed to in the Senate, the Chair finds on inspection of the bill.

Mr. MORGAN. I will ask the unanimous consent of the Senate that the motion to strike out those words shall be considered in order.

The PRESIDENT *pro tempore*. The Senator from Alabama asks unanimous consent that the motion be considered as in order. Is there objection?

Mr. DOLPH. Before determining whether there is objection on my part, I should like to have the section read in connection with the words proposed to be stricken out, so that I may understand the purport of the amendment.

The PRESIDENT *pro tempore*. The section will be read in connection as if the amendment were now proposed.

The Chief Clerk read as follows:

That so much of the lands granted by an act of Congress entitled "An act granting land to aid in the construction of a railroad and telegraph line from Portland to Astoria and McMinnville, in the State of Oregon," approved May 4, 1870, as are adjacent to and conterminous with the uncompleted portions of said road, and not embraced within the limits of said grant for the completed portions of said road, be, and the same are hereby, declared to be forfeited to the United States and restored to the public domain, and made subject to disposal under the general land laws of the United States as though said grant had never been made.

Mr. DOLPH. I have no objection.

The PRESIDENT *pro tempore*. The motion of the Senator from Alabama is to strike out the words indicated. Is there objection?

Mr. SLATER. I object.

The PRESIDENT *pro tempore*. The Senator from Oregon on the right of the Chair objects. The Chair overrules the motion as being not in order.

Mr. MORGAN. Mr. President, I have desired that the Senate should have an opportunity to consider this bill on its merits. The two Senators from Oregon seem to have agreed that the bill shall become a law, and I suppose that the rest of us are necessitated from the circumstances to stand by and see them have their own pleasure with this railway grant.

The feature to which I have just called the attention of the Senate is a very radical form of legislation upon anybody's property or anybody's claim of property, and the Senate it seems to me ought not to pass a bill which embodies the principle contained in those words as well as in other words found in this measure. The subject of the forfeiture of land grants to railroads is one that has attracted no attention particularly from Congress, in the nature of debate and close examination, until a recent period. It has recently become, it appears, the sentiment of the two great political parties in this country that railroad corporations should be raided, and their bondholders also, for the purpose of repairing some supposed injuries that have been inflicted on the country by the action of our predecessors in Congress, and for the purpose of gratifying the wishes of those persons who have settled on the public lands in contravention of law in various parts of the Western country.

When these railroad land grants were made it was not really within the expectation of Congress that the grantees would all be able to comply with the terms and conditions of the grants precisely as they were made. Consequently when the period for forfeiture had arrived, because these railroads were not completed within the time prescribed by these several statutes, Congress was very quiescent, and permitted the railroad companies to proceed with their work and bondholders to invest money in these roads precisely as if the grant was in all respects valid, subsisting, and continuing, and the roads were expected to be entirely completed to the satisfaction of the people.

In this period of inaction on the part of Congress rights have sprung up in favor of third persons who aver—whether that averment is true or not it is not for me to say—that they were induced to make investments of this kind upon the idea that so long as these companies were prosecuting their efforts to complete their roads to their terminal points the Government would acquiesce in maintaining the land grants and whatever other privileges had been granted to them for this purpose. In this way rights have sprung up in favor of individuals founded upon the belief that Congress would always deal equitably with them in regard to these great public trusts. Those persons were before the committees of this body by their counsel for the purpose of insisting upon their rights, and they complain most bitterly that, after the lapse of years and after by our acquiescence we have induced them to invest their money in these enterprises, we now seize and confiscate their property without giving them an opportunity to be heard in the Federal courts.

Sir, I have sympathized with the movement which would compel the railroad corporations to return to the public domain all the lands that they had not honestly earned, or had not shown a sufficient capacity or purpose to continue to strive to earn. I have therefore voted for these land-grant forfeitures, but in doing so I have attempted to provide in this case, as we have provided in every other case of forfeiture in the history of the United States, that there should be some judicial ascertainment of the rights of the parties whose property is to be confiscated or condemned to forfeiture. I use the term "confiscate" because that is an apt term to express the exact situation.

I have been acquainted with some of the confiscating laws of this country. I have seen something of their operations, and long before I came to the Senate of the United States, while practicing as a lawyer at the bar, I acquired a sufficient knowledge of the application of this system of laws to private rights and private property to be put very much upon the alert after I arrived here in giving my sanction as a Senator to any system of confiscation if it could be avoided at all fairly and honorably, and particularly to that sort of confiscation which makes the act of seizure the act of expropriation.

Sir, we have systems of laws relating to confiscation for various causes. Sometimes they are called confiscations, sometimes they are called forfeitures, sometimes they are called penalties. Our system of laws in this respect has been derived from the practical experience of our ancestors in England and in this country for centuries back. Wise lawmakers and wise judges have not found it necessary to be more conservative and more cautious in the administration of any system of laws that prevailed in England than those which relate to penalties and forfeitures and confiscations. So necessary was it considered to protect the people against the arbitrary power of confiscation that we introduced into our Constitution certain guarantees of a personal character to protect the people against the power of the judges or of the Legislature in matters of this kind.

How many classes of forfeitures have we in the United States to-day? We have a very large list of them that relate to the collection of the revenue through the customs and the breach of the internal-revenue laws. We have another large list of them, not entirely obsolete as yet, that relate to the conduct of persons in the late rebellion. We have some which relate to church property in the Territories. Where a church in a Territory shall acquire a property exceeding $50,000 in value the surplus is made liable to escheat to the Government of the United States. We have various other kinds of forfeitures and confiscations and penalties, all belonging to the same generic family, but differing in their variety.

Now let me ask the Senate, has it ever shamed the statutes of this country before by declaring any forfeiture whatever without giving the party an opportunity to go into a Federal court to have it determined whether the seizure made was a lawful seizure or not? Has that thing ever before occurred? I said, sir, that I had witnessed the operation of the confiscation laws, and I have a reason to speak with strong approval of the generosity of the United States Government in dealing with men whose property it had declared confiscated or confiscable for insurrection and rebellion during the war. Here was a nation divided against itself; here were warring States and people; here was the very bitterest acrimony that has ever yet sprung from a civil war in its full tide of vicious innovations; here was every stimulus that could excite a people to seize, to convert, to destroy, to appropriate what belonged to the enemies (as we were termed) of the Government of the United States; and traitors besides they called us. In the midst of that fearful war, when the acts of confiscation were passed in respect to the property of the Southern people, the Government of the United States would not permit the property of any citizen to be confiscated except through the judgment of a court. That was a proud record, sir, and I am glad to be able to stand upon the floor of the Senate of the United States to-day, and to bear testimony to the equanimity of the people of the United States in the respective bodies of their great Congress in the enactment of the provision of law that seizures made during the war for the cause of rebellion should be carried into court before they could be disposed of.

Mr. VOORHEES. Will the Senator from Alabama allow me to ask a question?

Mr. MORGAN. Yes, sir.

Mr. VOORHEES. I should like to hear the Senator upon one point. If the land-grant railroad companies have vested rights in the grants of land, could any act of Congress declare them forfeited and divest them of those rights? Would not they be free to assert their rights in court without any legislation on that subject? In other words, take the act of Congress to which the Senator alludes that was applied to his own part of the country. I know a great many instances where the rights of parties were not divested and were so declared by the courts afterward and the property was restored, and as far as I have looked into this matter, it has not occurred to me that we could by declaring the land-grant forfeiture divest the railroad company of any legal right it may have.

Mr. MORGAN. The question of the Senator from Indiana only needs an answer as to the latter branch of it, and that is as to the remedy to be provided for the purpose of asserting the title that has been assailed by an act of forfeiture here. In the first part of the question I concur with the Senator; and that is that a mere declaration of forfeiture by act of Congress does not divest the property of any citizen of the United States; and yet this bill was intended to have that effect. If this bill does not have that effect, it will disappoint its authors, it will disappoint the gentlemen who are urging it through the Senate. And if it does not have the effect of relegating this land back to the public domain without giving to any person an opportunity to question our right to do it, these gentlemen will be disappointed. The language of the bill is framed for that purpose. That is its object and that is its intention throughout, and I leave it precisely as I understand it to be intended——

Mr. SLATER. I should like to interrupt the Senator with his permission.

The PRESIDENT *pro tempore*. Does the Senator from Alabama yield?

Mr. MORGAN. Certainly, I will yield.

Mr. SLATER. Mr. President, we are only asking in this bill for compliance with the conditions of the contract and of the grant. The railroad company agreed, under the enactment of Congress, to build this road within a specified time. The act itself said that if they did not complete it within a certain time they should not have even the evidence of title—a patent. We are asking nothing but what the railroad grant proposed we should ask, after eight years absolute silence on the part of the company so far as any act is concerned. We do not expect to touch any right which has been acquired by the company. The Senator is entirely mistaken.

Mr. MORGAN. Mr. President, I am very far from being mistaken in any respect about it. I was speaking exactly upon the record, and exactly in reference to a state of facts that no man can dispute. The title to this land is conceded on all hands to be in this railroad company at this moment. I do not know that I could strengthen that proposition by restating it, or by arguing it, or by attempting to intensify it at all. But there is no Senator on this floor, including both the Senators from Oregon, who is not prepared to admit, and is not compelled to admit, that at this moment of time the title to this land is in the railroad company, a perfect title, subject to be divested by no other person than by the United States Government claiming the right of forfeiture.

Mr. DOLPH. If that constitutes a perfect title, then I agree with the Senator. I suppose that would not constitute a perfect title.

Mr. MORGAN. A perfect title, as I remarked, Mr. President, subject to be divested only by the Government of the United States for the cause of forfeiture alleged or stated in the act making the grant and in accordance with law as I contend. That being the situation, this railroad company having a perfect title as to every person in the world except the United States Government, it has a property in this land which we are bound to respect. Every man in the United States is bound to respect it, unless it may be the Congress of the United States.

It having a perfect title of this kind, what is sought to be done? Not to get the assistance of the judiciary to determine upon the facts and the law whether there is a forfeiture and whether that forfeiture carries the estate back to the Government of the United States; that is not what is sought to be done, but it is by virtue of an act of Congress operating directly and of its own force to seize this title, transfer it to the Government of the United States, conclude all people against questioning it, hold it there forfeited, confiscated without trial. Sir, I am opposed to that principle of legislation. I know, as the Senator from Indiana who put the question to me a moment ago knows, and as every Senator here knows, that the Congress of the United States can not by act of legislation take property out of the hands of a citizen of this country and appropriate it to itself or to the Government of the United States. They can not do it. They would not do it even as to parties in rebellion; they would not do it when the heat of war was upon the country and there was every incentive and inducement to make confiscations out of hand. No, sir; they paused on that ground which has respect for personal rights, recognized by our English ancestry and by the colonial fathers, as also by the founders of this great Government of ours—they paused upon that ground, and they ordained that the act to be performed by the United States in a case of that kind should only be an act of the seizure of property and then that it should be taken into court to be there condemned.

Mr. VAN WYCK. Will the Senator allow me a question?

Mr. MORGAN. Yes, sir.

Mr. VAN WYCK. Do I understand the Senator from Alabama to state that the title of this railroad company to the whole extent of this grant is perfect and absolute?

Mr. MORGAN. Until the United States Government takes advantage of the forfeiture, if the condition subsequent has been broken.

Mr. VAN WYCK. Then you say it is not perfect.

Mr. MORGAN. I do not say either way.

Mr. VAN WYCK. I am asking you——

Mr. MORGAN. No. The alert mind of the Senator gets around me and puts me in a false attitude.

Mr. VAN WYCK. No, sir. I understood the Senator to state distinctly that the title of the railroad company to this grant was perfect and absolute, and then I propounded the question.

Mr. MORGAN. Then the Senator did not understand me; that is all. I beg the Senator when he does not understand me not to interrupt me.

Mr. VAN WYCK. I want to understand you. Then I propounded the question whether the Senator does state or mean to state that the title is absolute to the land conveyed within this grant.

Mr. MORGAN. I say there is a perfect title in this railroad company against every person in the world except the United States.

Mr. VAN WYCK. Except the owner.

Mr. MORGAN. No; I do not say "the owner."

Mr. VAN WYCK. Then the gentleman has qualified his original statement.

Mr. MORGAN. And it is perfect as against the United States to-day if it should bring an action of ejectment to recover it from the defendant. Will that satisfy the Senator?

Mr. VAN WYCK. No; not exactly. I desire to know the Senator's legal proposition in regard to this matter.

Mr. MORGAN. I have been trying to state my legal proposition.

Mr. VAN WYCK. Not that I will take the opportunity to antagonize it now, but I desire to know where he stands, so that the position may be stated as the courts have stated it, and as the Congress of the United States have claimed, that the title is not absolute, that in this land the Government of the United States retains not only the title but the possession of the land until the railroad company has earned it by completing the road, and then it becomes entitled by patent to the land.

Mr. MORGAN. I am aware that since the honorable gentleman had the misfortune to have a controversy about some of those lands before the Supreme Court of the United States he has no respect for its decisions, but I must be controlled by the decisions of the Supreme Court of the United States.

Mr. VAN WYCK. Right there, Mr. President, I wish to say that that is what I am desiring the Senator from Alabama to do. I want to present to him squarely the decision of the Supreme Court on this question. If he takes the position that the title of the railroad company is perfect and absolute, then he antagonizes, as I will show at another time, the decision of the Supreme Court of the United States, and I beg him to yield peculiar reverence to the decisions of the Supreme Court when they happen to be in conflict with the claim of the friends of railroad organizations.

Mr. MORGAN. The case of Schulenberg *vs.* Harriman has been quoted so frequently that I suppose the pages around the Senate Chamber must understand it perfectly well. The Senator from Nebraska seems to think it is his mission in life to fight Schulenberg *vs.* Harriman from this out. It will be a hard fight; I do not know who will win, but so far the Supreme Court is a little ahead. I am following the Supreme Court, which has decided that a grant precisely of the character, as I understand it, of the grant in question in this bill, was a grant *in præsenti* of the legal estate to the railroad company; that it passed every right and every title that the United States had in the land, subject only to be forfeited upon the breach of the condition subsequent. That is what I understand. If it is not a good title as against everybody but the United States, I do not understand what a good title is; and if it is not a good title as against the United States until the declaration of forfeiture, I do not understand what a good title is; and therefore I would maintain that if the railroad company had a tenant in occupation of any of this land, and the United States were to-day to try the title in an action of ejectment with that tenant, the tenant could set up that he held under this grant and under the railroad company, and would have a perfect title against the Government of the United States in the action of ejectment.

We have got something to do before we resume this title. What is that? We must have what is equivalent to office found under the British law; that is to say, we must have a repossession of the land either by an actual taking of possession or by a constructive legal possession; and we must do it in virtue of the sovereign power of this Government, exercised either through the Legislature or through the judiciary. But these conditions we must comply with before we can resume the title which we have granted out of us and which now rests in the railroad company. It seems to me that is a pretty clear proposition, and therefore if the Government of the United States were to sue a tenant in possession of this land, holding under this corporation to-day, in an action of ejectment, the forfeiture not having been declared, the proceedings to make the forfeiture perfect not having been executed or carried into effect, the title of the plaintiff would fail because it had granted the title out of itself. I do not think it takes a very wise man to see that. It seems to me that if there is any proposition settled in this country in the shape of law that is settled; and therefore I do not care to waste my time and strength in trying to debate horn-book law in this country, which everybody understands except the few gentlemen who do not want to understand anything about it.

Now, sir, how are we to get hold of this title? Shall we do it by an act of legislative confiscation? Shall we attempt to do it by an act of legislative confiscation, which the honorable Senator from Indiana foresees would be entirely unavailing? Shall we attempt to march over the ground that separates us from the domain of the judiciary, and usurp to ourselves the power of ultimate and final adjudication upon the rights of property of this railroad company? I maintain that we ought not to do it.

I have taken a position a little further in advance, just a little further in advance than that which has been taken and adhered to by the Judiciary Committee of this body after frequent and close and earnest investigations of this question. That committee in its previous recommendations upon several bills, as Senators will well remember, had asserted that it was the duty of the Government of the United States when proceeding to declare a forfeiture to go to the courts, and the duty of Congress to empower the courts to make the declaration. To go there as a suitor, to get a judge to declare the forfeiture; and I do not know but that the better opinion among the bar of the United States to-day is that that is the real duty of the Government whenever it seeks to declare a forfeiture of these lands. That it shall go as a suitor in the courts after having made a seizure of them, as they would in a case of confiscable property go into the courts and upon a libel filed, or whatever it is that you choose to use, ask the judge to declare a forfeiture as a matter of right.

I say that I have gone a little further than that. I have done it because I have conceived that the United States was not only a party to a contract in the enactment of these statutes, but that it was a lawmaker at the same time; that it was acting in a double capacity of making a law and also of making a contract when these grants were made, and that the Government, through its Congress, had the right to declare that that law had been violated, and that it was no longer, therefore, a shelter of protection to the claimant under its former grant. Perhaps the distinction is not a very palpable one; but perhaps more in deference to the eager earnestness of gentlemen who seem determined to wrest the property from the railroads I have gone with them, believing that many of these roads had forfeited their rights of property in these grants. So I have consented on my part to advocate the doctrine that Congress has the right to make a legislative declaration upon a question of this kind which will have all the effect of office-found under the English law, and will reinstate the United States in the possession of the land.

Now, sir, if that declaration has all that effect that is enough, and surely it is as far as we have any precedent for going. The British Parliament have never seen proper to condemn property out and out by a legislative enactment. They have always relied upon that ancient prerogative writ addressed by the king to the coroner that he would summon a jury in the first instance and have judicial procedure taken on the question of the right of the crown to repossess itself of lands. That government has always, in deference to the rights of its citizens and rights of property, maintained that attitude toward its people. It brings to me a sense of humiliation when I think that the British Government can be more just to British subjects than this free American Republic dares to be to its own people.

Whatever the process may be, whether it may be by a proceeding in court or whether it may be a legislative declaration, there is a limit to the effect of the declaration on the part of the Government of the United States. What can the Government of the United States do in this case? Not actually usurp to itself the title to these lands, but it can assert a claim in law to them and have it adjudicated and settled in accordance with law. Are we, while we are the lawmakers of this country, not to approve ourselves as law-abiding men? Have we a contempt for the rules of property and the rules of right that we enact continually as between man and man in this country? Have we the idea that when the Government of the United States asserts a title to a piece of property that assertion must be in the nature of a final and an effectual decree of divestiture of all rights on the part of the claimant? Have we got to that pitch that an American citizen as against his own Government has not the protection of the law, and that we can stand upon the floors of these Houses and in virtue of power delegated to us under a written constitution rob the very people who send us here and vote for us for these places? No, sir; I shall not be of that party. They may raise their clamors trumpet-tongued against me through every newspaper in the land, but I will still stand by the idea that the people of Alabama did not send me here as a judge to adjudicate the property of other people out of their hands, but as a lawmaker only, to represent the constitutional rights of the Government of the United States in such matters.

What is a confiscation? It is, first, the seizure of property by the Government because of the breach by the citizen of some law of the United States. What is to be done in order to ripen a confiscation into a title to the property adverse to the holder of it? After the seizure a proceeding must be had in a court. We say in this bill, "Here is a forfeiture of land for the breach of a contract, and we take that land and we reclaim it because the contract with us is broken." "Here is the property of a man in rebellion whose property is forfeited, not because he breaks a contract, but because he is guilty of an alleged crime of a high character." We take that man's property by an act of seizure merely, and we say to the Government of the United States, "Before you can condemn the property of this man that you have seized you must go into the courts and prove your case." If the Government of the United States, in order to preserve its constitutional duty toward the people, found it necessary to put into the law of confiscation for the crime of insurrection or rebellion this clause, that the Government after the seizure should follow the property into the courts, take it there, and there have it condemned, let me ask Senators how they can afford, where there is only an alleged breach of contract, to take the property and condemn it out and out? A government that for the protection of its own authority in respect to its own rebellious citizens refused to condemn their property, they being unheard, and finally to decide the title by a legislative enactment, comes in obedience to a popular clamor raised by men who have got votes to cast in

the ballot-box, and dishonors itself by saying, "We will take the title to this land out and out because a contract has been broken."

Is there any public necessity, Mr. President, of an imminent and a dangerous character, to hasten the Congress of the United States on in this rapid course of seizure and confiscation in respect of the lands granted to any railroad company in this country? These lands are still there, and so far as they have been squatted upon they are still yielding subsistence and comfort to the men who have violated the law in getting upon them. They are not likely to run away or to be displaced in any way, and we have ample leisure in the circumstances surrounding these transactions to look carefully into our duty and not to violate the constitutional rights of anybody in our efforts to do justice to the people of the United States. There is no occasion for haste. We can very well afford to give ample time to the judiciary to say how far they have the right to judge of questions of this kind.

I come now to the next point, which will be an answer or an attempted answer to the last branch of the question put by the Senator from Indiana. We have no right, as the Senator and I agree, I have no doubt, to take these lands by a legislative decree and confiscate them, and to determine that the title is divested out of the corporation and invested in the United States. There must be some power of the courts to intervene and try that right, for while we may safely put ourselves in the attitude of the actual capture of the lands from our grantee, we never can put ourselves in the position of protection against the warrant from the court which shall call us to trial for it.

But, Mr. President, how is this trial to be had—and that is the whole question that is presented in this case—how is it to be had? How was it had in England? In England, as I have observed, the Crown issued a prerogative writ to a coroner. He summoned as many jurors as he pleased, not exceeding thirty I believe. They took an *ex parte* view of the case; they heard the Crown side of it, and they returned a verdict, which was certified to a court, that in consequence of the grant and the breach of the condition thereof by the defendant, which consisted of certain stated facts, the Crown had the right to reenter; and thereupon the King entered into possession as of his former title, precisely like a man could do who had made a grant upon a condition subsequent.

What next? Was the citizen concluded by this judicial proceeding to which he was not a party? By no means. What did he then do? He brought his writ of right or his bill in equity, and in that he attacked the whole title claimed by the Crown, including the coroner's verdict and the office found. That writ of right penetrated back to the true title of the property, and, marching through all legal obstructions that might obviate justice in the premises, that title at last was found to rest in the party who brought his petition of right, if he proved that the condition was performed, and when that was established he was reinstated—put back again in his estate—and damages were paid him if any had been sustained in consequence of his ouster from the possession of the property.

Now, sir, let me ask what remedy any citizen of the United States has got against the Government of the United States under like circumstances? None of your citizens can sue the Government, and yet any citizen can sue the Crown in England. You dole out through your statutes permission to your people to sue in certain cases in the Court of Claims, and that is all that you do. When you forfeit this land grant under this bill you give to this railroad company or the bondholders, or whoever else may be interested in it, no remedy against the Government of the United States. If any man should bring a bill in equity or an ejectment or any action at law against the Government of the United States after we put it in possession of these lands, that action would be immediately dismissed on the ground that Congress had never permitted such an action to be brought. There, then, stands the citizen in this unequal attitude toward the Government, his property gone by an act of Congress, and no remedy given to him at all against the Government. What must he do? He must wait until the Government sells that property to somebody else, and then he must bring his action in some local court in some Territory or in some State to test the validity of that title. There he raises the question in a collateral way; there the majesty of the law of this land becomes more powerful in the end than the act of Congress, and the poor fellow who has been ousted of his possession can stand and question your act down to the very bottom.

But, Mr. President, this remedy is difficult, it is expensive, it is inefficient. It is not what the Government of the United States ought to give in the form of a remedy in a case of this kind. Suppose, sir, that your courts during the late civil war had proceeded with confiscations without giving notice at all, and suppose that your officers of the Treasury or your officers of the Army had seized the property of the people of the South and had sold it without the decree of a court, and then those people had afterward come into the courts of the United States or into the courts of the States and sued the purchasers for the property, we should have had almost as many lawsuits as there have been grains of wheat upon the Western plains during the last fruitful season. But you provided in that law that after the seizure and after notice these people whose property had been taken might come into court and require the Government of the United States to establish its title.

How is it in regard to this land that to-day belongs to the railroad company and that we intend to take, reclaiming the ownership to ourselves upon the pretext, or upon the fact if you please, of a breach of the condition subsequent? The railroad corporation can not sue for it. That right is gone. It has no chance to sue for it; but if the Government of the United States sells to some person else the railroad corporation can sue that person. How many lawsuits would this give rise to? A myriad. What would be the uniformity of decision in these cases? There would be no uniformity of decision. In Oregon the question would be settled in one way perhaps in one court, and in another way in another court. As we apply the principle to this Oregon railroad so we must apply it in justice to all of them. Some of these suits will be brought in the Territories by private persons, and ten years after to-day, after these titles have been involved in labyrinths of difficulties, the courts, and at last perhaps the Supreme Court of the United States, will make some decision upon some of them that will produce more panic among the settlers and among the railroad men than the case of Schulenberg *vs.* Harriman did. How did that great case come up here? How did it ever get here? It was a suit, as I remember the facts of it, about some tanbark taken from a tract of land that had been conveyed by the Government of the United States to a railroad. Here were a railroad company and an intruder that got into a lawsuit about some tanbark taken from the trees upon a tract of land, if I remember the facts correctly.

Mr. CAMERON, of Wisconsin. Sawlogs.

Mr. MORGAN. Sawlogs, was it? And here, years after that grant had been called in question, not in Congress, but elsewhere, years after rights had sprung up under it, this sawlog case brought the great question into the Supreme Court of the United States, and there it was decided. What had occurred in the mean time? How many men had been induced by the appearance of affairs to invest their money upon this uncertain sort of title? There have been tens of thousands, yes, hundreds of thousands, of investments made in respect of these lands in different parts of the United States.

I maintain, sir, that when we take this course—forfeiting this land, whether we do it for the violation of law by the railroad or whether we do it for a breach of the contract; it makes no difference what the ground is that we proceed upon—it is our duty to furnish to these people a remedy in the United States courts which shall enable them and us in one suit to settle all these difficulties. What does this bill provide? That these lands shall revert to the United States just as if the granting act had never been passed. Mr. President, the Government of the United States can not falsify its record. That act was passed. Rights have sprung up under it. Those rights are valid as far as the judges see proper to sustain them, and if we declare now that these lands revert to the United States Government, just as if that act had never been passed, we declare that which falsifies the record and shames the Congress of the United States. We have the right to repeal that act, I presume, if we desire to do so, though in its repeal we can not change vested rights that have arisen under it; but instead of repealing the act——

Mr. VAN WYCK. Mr. President——

The PRESIDING OFFICER (Mr. SHERMAN in the chair). Does the Senator from Alabama yield?

Mr. MORGAN. In a minute. But instead of repealing the act we merely let it stay on the statute-book untouched by our repealing power, and we declare the effect of it shall be hereafter as if it had never existed.

Mr. VAN WYCK. Now if the Senator from Alabama will allow me——

The PRESIDING OFFICER. Does the Senator from Alabama yield?

Mr. MORGAN. I want to know what it is about first.

The PRESIDENT *pro tempore*. Does the Senator from Alabama yield?

Mr. MORGAN. I want to know what the honorable Senator desires me to yield for.

Mr. VAN WYCK. I will explain to the Senator.

Mr. MORGAN. Make your speech afterwards.

Mr. VAN WYCK. I do not propose to make a speech.

The PRESIDENT *pro tempore*. The Senator from Alabama declines to yield and must not be interrupted without his consent.

Mr. VAN WYCK. Only a question.

The PRESIDENT *pro tempore*. The Senator from Alabama declines to yield.

Mr. MORGAN. I am so anxious to hear the Senator from Nebraska that I want him to occupy the floor in his own time and in his own way, not in my time and by interjecting his speech into mine. I shall listen with the greatest possible attention and pleasure I have no doubt to his debate of this question. He is well informed about it and is otherwise very able to handle it.

I was going on to say when the Senator interrupted me by some fresh idea that had got into his mind, one that was not in mine at all at the time, that we undertake to get rid of the effect of this act not by re-

pealing it, but by declaring that it never had any effect, and should now be read as if it had never had any effect since the date of its birth. Ah, Mr. President, that is not a worthy way to deal with our own acts. Are we ashamed of it? Are we afraid of it? Do we want to expunge it? Do we want the judges to read it now as if it had never existed, or do we want to prevent the judges from reading it when it is offered to them upon the bench for their consideration? Shall they reply to the petitioner who brings his suit to recover some of this land "This act, though once an act, is no longer an act, and never was an act?" That is the situation we are put in if Congress, having once passed it and having never repealed it, has at last declared that it shall be considered by the courts as if it had never existed.

Is there any necessity to resort to such extraordinary terms in a statute as those in order to maintain the power of the Government of the United States to seize these lands? Is there any necessity for such harsh action as that? These lands when they are relegated to the domain of the United States are lands that have passed through the experiences and historic connections of this act. Everything that attaches to them that in any respect affects the title to them is something that belongs to these lands in consequence of legislation of Congress. If an equitable title has sprung up in favor of a third person, or if a legal title by estoppel has sprung up in favor of a third person, if the laches of the Government may be construed into an abandonment, as has been done often against governments as to their right of forfeiture, let all of these incidents that we have put upon these lands both by our legislation and by our inaction remain attached to this property, so that when the subject comes into litigation in the courts, whether of the United States or of the States, it shall be said that the Congress of the United States left these lands exactly in the situation in which it found them on the day marked by the passage of this bill.

I object, Mr. President, to any of this retroactive legislation, this rubbing out, this falsifying of records, this attempt to establish by legislative action matters as matters of fact that never existed; this attempt to bury facts that have existed and do exist. I object to it. This bill ought not to be passed with those words in it. This bill ought not to be passed until the Senate of the United States has attempted to furnish to the people concerned in this land grant a reasonable remedy, so that they may advance whatever their rights are in the courts of justice and have them adjudicated at a reasonable expense. It is for this purpose that I have interposed my objection to the passage of the bill in its present form.

The PRESIDENT *pro tempore*. The question is, Shall the amendments be engrossed and the bill read a third time?

Mr. VAN WYCK. I desired to propound an inquiry to the Senator from Alabama before he resumed his seat. He has commented on the decision reported in 21 Wallace of Schulenberg *vs.* Harriman. I say it favors the very position taken by the committee and taken by this bill, and in the moment I have before the special order comes up I may be allowed to read from the decision that to which I call the attention of the Senator from Alabama:

> In what manner the reserved right of the grantor for breach of the condition must be asserted so as to restore the estate depends upon the character of the grant. If it be a private grant, that right must be asserted by entry or its equivalent. If the grant be a public one, it must be asserted by judicial proceedings authorized by law, the equivalent of an inquest of office at common law, finding the fact of forfeiture and adjudging the restoration of the estate on that ground, or there must be some legislative assertion of ownership of the property for breach of the condition, such as an act directing the possession and appropriation of the property, or that it be offered for sale or settlement.

That is precisely what this bill does, and that is precisely the thing which the Supreme Court in this case in 21 Wallace says may be done:

> At common law the sovereign could not make an entry in person, and, therefore, an office found was necessary to determine the estate, but, as said by this court in a late case, "the mode of asserting or of resuming the forfeited grant is subject to the legislative authority of the Government. It may be after judicial investigation, or by taking possession directly under the authority of the Government without these preliminary proceedings."

Here is the case of Schulenberg *vs.* Harriman, which the railroad companies and their attorneys and friends everywhere roll as a sweet morsel under their tongue, and that very decision, to which the Senator refers, expressly gives the authority to Congress to do what it is now proposed to do. I have a few other authorities which I may take the liberty of troubling the Senate with hereafter, because I know the Senator from Alabama adheres to the decisions of the Supreme Court of the United States.

The PRESIDENT *pro tempore*. The question is, Shall the amendments be engrossed and the bill be read a third time?

Mr. MORGAN. Mr. President, I offer the following amendment——

The PRESIDENT *pro tempore*. Where does the Senator desire his amendment to come in?

Mr. MORGAN. As additional sections.

The Chief Clerk read the amendment, as follows:

> SEC. —. That jurisdiction is hereby conferred on the circuit court of the United States for the district of Oregon to hear and determine all questions and controversies concerning the rights and equities in said forfeited lands that are claimed or asserted by the United States, or by any person or corporation claiming the same under or in consequence of any law of the United States, or any act of its lawfully authorized agents, and to enforce any judgment or decree, either interlocutory or final, that said court shall render in respect of said lands or any interest therein.
>
> SEC. —. That it shall be the duty of the district attorney of the United States for the district of Oregon, under the direction of the Department of Justice, to proceed in the circuit court of the United States for the said district, by bill in equity, in the name of the United States of America as plaintiff, against any corporations or persons that claim any interest in the lands hereby declared forfeited arising under said act of Congress approved May 4, 1870, or under this act, so as to bring before said court for its determination the validity of such claim, whether the same be legal or equitable.
>
> SEC. —. That any person or corporation not made a party defendant in said proceeding, but claiming any interest under the laws of the United States in the lands, or any part thereof, which are declared forfeited by this act, may present such claim by petition in said cause, duly verified by oath; and if the court, upon consideration thereof, shall decide that the adjudication and settlement of such claim is necessary to do complete justice in said cause, the court shall direct that such further proceeding be had upon such petition as that the same may be fully heard and determined, and shall proceed to decree upon the same as fully as if such petitioner had been made a party defendant in said suit: *Provided*, That no such petition shall be filed after twelve months from the date of the filing of the bill in said cause.
>
> SEC. —. That the court, if it shall see fit, may tax all the costs of the suit under the third section of this act against the United States, and shall apportion the costs of any proceeding under the fourth section of this act between the parties according to justice and equity. Any party to the suit instituted under this act shall have the right of appeal from any final decree therein to the Supreme Court of the United States, in the same manner and under the same conditions as are prescribed by law and the rules of said court for appeals in equity cases; and the Supreme Court shall cause said appeal to be advanced on the docket so that the same shall be speedily determined; but no right of appeal shall exist after six months from the time when said final decree is entered on the records of the circuit court of the United States.

The PRESIDENT *pro tempore*. The hour of 2 o'clock having arrived it becomes the duty of the Chair to lay before the Senate the unfinished business of yesterday.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. CLARK, its Clerk, announced that the House had passed a joint resolution (H. Res. 308) appropriating $50,000 for the support of certain destitute Indians, in which it requested the concurrence of the Senate.

ENROLLED BILL SIGNED.

The message also announced that the Speaker of the House had signed the enrolled bill (S. 2348) to authorize the increase of the capital stock of the First National Bank of Omaha, Nebr.; and it was thereupon signed by the President *pro tempore*.

INTERSTATE COMMERCE.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. 2112) to establish a commission to regulate interstate commerce, and for other purposes.

The PRESIDENT *pro tempore*. The question is on agreeing to the amendment proposed by the Senator from Illinois [Mr. CULLOM].

Mr. SLATER. I move that the pending order be postponed until to-morrow, in order that I may move to proceed with the bill which has been under consideration this morning.

The PRESIDENT *pro tempore*. The Senator from Oregon moves that the pending bill be postponed until to-morrow.

Mr. CULLOM. I hope that the Senator from Oregon will not insist upon that motion. This bill has been before the Senate for some time, and we are getting to that point in it where we hope to get through with it before a very long time at any rate.

Mr. SLATER. I am anxious to dispose of the commerce bill at an early day; but looking at the state of legislation before the Senate and elsewhere, I think there can be no loss of time and that we shall probably reach a vote on that bill as early by delaying it to-day as by continuing its discussion. The bill just under consideration is a very important bill; this is the third time it has been before the Senate, and I have made this motion with a view of facilitating the interstate-commerce bill. I think I ought now to press the motion and ask the Senate to postpone the commerce bill until to-morrow.

Mr. CULLOM. I hope the motion will not prevail.

The PRESIDENT *pro tempore*. The Senator from Oregon moves that this bill be postponed until to-morrow. The question is on agreeing to that motion.

Mr. SLATER. I ask for the yeas and nays.

The yeas and nays were ordered; and the Secretary proceeded to call the roll.

Mr. HALE (when Mr. FRYE's name was called). My colleague [Mr. FRYE] is necessarily absent, having been called away to the State of Maine.

Mr. HAWLEY (when Mr. PLATT's name was called). My colleague [Mr. PLATT] is detained in Connecticut by important business.

The roll-call having been concluded, the result was announced—yeas 23, nays 22; as follows:

YEAS—23.

Beck,	Gorman,	Kenna,	Slater,
Cockrell,	Groome,	McPherson,	Vance,
Coke,	Hampton,	Maxey,	Van Wyck,
Dolph,	Harris,	Plumb,	Vest,
George,	Jackson,	Pugh,	Walker.
Gibson,	Johns,	Saulsbury,	

NAYS—22.

Blair,	Edmunds,	McMillan,	Pike,
Bowen,	Hale,	Manderson,	Sewell,
Cameron of Wis.,	Harrison,	Miller of N. Y.,	Sheffield,
Conger,	Hawley,	Mitchell,	Wilson.
Cullom,	Ingalls,	Morgan,	
Dawes,	Lapham,	Morrill,	

ABSENT—31.

Aldrich,	Colquitt,	Jones of Nevada,	Ransom,
Allison,	Fair,	Lamar,	Riddleberger,
Bayard,	Farley,	Logan,	Sabin,
Brown,	Frye,	Mahone,	Sawyer,
Butler,	Garland,	Miller of Cal.,	Sherman,
Call,	Hill,	Palmer,	Voorhees,
Camden,	Hoar,	Pendleton.	Williams.
Cameron of Pa.,	Jones of Florida,	Platt,	

So the motion was agreed to.

Mr. VANCE. I ask consent to offer an amendment to the bill (S. 2112) to establish a commission to regulate interstate commerce, and for other purposes, in order that it may be printed and be on the desks of Senators to-morrow.

The PRESIDING OFFICER (Mr. MANDERSON in the chair). The amendment will be received and ordered to be printed, if there be no objection.

Mr. SLATER. Now, I move——

TEXAS PACIFIC RAILROAD GRANT.

The PRESIDENT *pro tempore*. Under the rules the Chair lays before the Senate the next special order, being the bill (H. R. 3933) to declare a forfeiture of lands granted to the Texas Pacific Railroad Company, and for other purposes. This bill is now before the Senate as in Committee of the Whole.

Mr. SLATER. I presume a motion now to proceed to the consideration of the bill (H. R. 181) to declare the forfeiture of certain lands granted to aid in the construction of a railroad in Oregon would be in order.

The PRESIDENT *pro tempore*. The Chair thinks under the rules, which are a little obscure in regard to special orders, all these bills, including the one that the Senator from Oregon wishes to reach, are special orders, although the bill he refers to is low down, being now the third in the list of special orders. A motion to change that order is in order under Rule IX. The Chair will therefore entertain the motion to proceed directly to the consideration of House bill 181.

Mr. SLATER. I make that motion.

The PRESIDENT *pro tempore*. The Senator from Oregon moves that the Senate now proceed to the consideration of the bill (H. R. 181) to declare forfeiture of certain lands granted to aid in the construction of a railroad in Oregon. The question is on agreeing to the motion.

The motion was agreed to.

FORFEITURE OF OREGON LAND GRANT.

The Senate resumed the consideration of the bill (H. R. 181) to declare forfeiture of certain lands granted to aid in the construction of a railroad in Oregon.

The PRESIDENT *pro tempore*. The question is on the amendment proposed by the Senator from Alabama [Mr. MORGAN].

Mr. MORGAN. Is it now in order for me to ask the Senate to consider a report from a committee of conference on one of these railroad bills?

The PRESIDENT *pro tempore*. The Chair thinks under the rules that reports of committees of conference are always in order.

Mr. MORGAN. I do not desire, Mr. President, to interfere at all with the passage of the bill the Senators from Oregon are so anxiously urging before the Senate, but there are certain important questions connected with the bill which are also up on the report I had the honor to submit to the Senate at a previous day of the session. I had hoped that the members of the Committee on Public Lands would be willing to allow these questions to come up in such way as that we could have definite action on the part of the Senate in response to the refusal of the House to adopt the amendment that the Senate put upon the Atlantic and Pacific bill.

Mr. SLATER. I must——

The PRESIDENT *pro tempore*. The Chair does not hear the Senator from Oregon.

Mr. SLATER. I ask permission to appeal to the Senator from Alabama for a moment.

The PRESIDENT *pro tempore*. Does the Senator from Alabama yield?

Mr. MORGAN. Yes, sir.

Mr. SLATER. I certainly hope the Senator will not consume the time on this bill by motions which can only serve to complicate this measure and probably carry it beyond to-day. His report is a privileged report which he can make at any time, and it will only continue the antagonism, perhaps. I hope he will take some other time to make his report.

Mr. MORGAN. Mr. President, I had just disclaimed any intention to antagonize the Senator's bill in the sense he now mentions, and I appeal to him, as a member of the Public Lands Committee, and to every other Senator here, that when the House and the Senate are in controversy upon this same question that we are debating now, it is my duty to bring this controversy before the Senate and have its action, so that our future action upon this whole proposition can be governed according to the vote of the Senate. In what attitude should we stand here to-day if we should pass the bill which is advocated by the Senators from Oregon without the amendment I seek to put upon it now? We should have a pending report before this body of one of its conference committees not acted upon, which brought up the very same question as a controvery between the House and Senate, and we should decide that question by the views we should take here to-day in a collateral way. The Senator from Oregon ought to be entirely willing to have the question of the propriety of this amendment passed upon by the Senate on the report I have made. If the Senate votes me down, or votes the committee down upon this question; if the Senator wants to move that we shall recede from the amendment we put upon the Atlantic and Pacific bill heretofore, and he should sustain that motion, then, of course, I could have no pretext in the world for offering further opposition to the passage of his bill.

I assure the Senator that I have not the slightest disposition to consume time or to interfere in any way with the passage of his bill, but I have not only a disposition but a duty resting on me as a member of the conference committee to see that the Senate of the United States is put fairly in possession of this question and has an opportunity to act upon it.

Mr. SLATER. Mr. President——

Mr. COCKRELL. I rise to a question of order. Has the report of the conference committee been submitted to the Senate, so that it is before it?

The PRESIDENT *pro tempore*. The Chair is not yet informed what report the Senator from Alabama desires to make.

Mr. COCKRELL. I raise the question of order that nothing is in order until that report is presented.

The PRESIDENT *pro tempore*. The Senator from Alabama, the Chair thinks, is entitled to speak on his amendment. The Senator from Missouri knows that the relevancy of debate is not a question here that the Chair can determine; and the Senator is speaking technically on a pending question—his amendment to the bill of which the Senator from Oregon has charge, now before the Senate. He has given notice in the course of his speech that he intends to submit a report of a committee of conference. The Chair thinks he is entitled to go on upon the amendment.

Mr. COCKRELL. Unquestionably; but I wanted to get at the real question.

The PRESIDENT *pro tempore*. When the Senator from Alabama concludes his remarks and submits the report, the Chair will determine whether that report is in order or not.

Mr. MORGAN. The report has been made to the Senate, but the question has not been acted on. The Senate has taken no action upon it except to receive the report of the disagreement of the committee. I have not yet moved that the Senate further insist on its amendments.

Mr. SLATER. Then I raise the question of order whether it can be introduced now.

The PRESIDENT *pro tempore*. When the Senator from Alabama makes a motion, the Chair will rule whether it is in order or not. The Senator from Alabama has as yet made no motion, but is entitled to the floor on the pending question, being the amendment he has offered to the pending bill.

Mr. MORGAN. I make that motion, Mr. President.

The PRESIDENT *pro tempore*. The Chair thinks that it is not in order except as a motion under Rule IX to proceed to the consideration of a different bill. That motion is in order and must be decided without debate. But as a privileged report the Chair thinks the privilege has been lost. The committee reported on a previous day that the committee had been unable to agree with the House conferees. That left the bill before the Senate for consideration on the Calendar, and it is in order, the Chair thinks, under Rule IX, to move to proceed to its consideration, just as the Senator might move to proceed to the consideration of any other bill, but not as a privileged report.

Mr. MORGAN. Then, Mr. President, having made the report and not having made any motion upon it at all, and the privilege, according to the opinion of the Chair, having been lost, I, of course, as the chairman of that committee of conference, am exonerated from bringing it again to the attention of the Senate. I supposed, however, that whenever the question was before the Senate it was at any time a question of privilege as to whether that report should be taken up for consideration. It has not been considered. It has merely been received.

However, I will restate the attitude of this case before the Senate in the hope that Senators may feel enough interest in it to take an intelligent view of one of the greatest questions that has ever been brought before this body; and that is, whether the United States Government will furnish any remedy at all to persons interested in railroad land grants for controverting what action we may take here, or for controverting the fact whether or not those lands were liable to forfeiture. It is said that there are about 200,000,000 of acres of land now subject to forfeiture, and I believe the attacks that are made by different bills upon land grants heretofore made involve now considerably over 100,000,000 acres of land.

The interests that are owned by different people in the United States and in foreign countries in these lands are diverse; they are scattered over all civilized countries, and of course they are very important. They are in the hands of all kinds of people, people belonging to foreign governments and the home government, people who are able to take care of their own interests and people who are not. There are thousands

doubtless of administrators, trustees, widows, and orphans who are interested in the bonds, and in other questions which arise out of these grants. I have not found one man in all the course of the investigations which have been made before the Committee on Public Lands who would come into that committee or send any intimation to that committee that he was satisfied to have his rights disposed of by an act of Congress without any hearing on his part. I never found one; so that all the adversary claimants, whoever they may be, and wherever they may be, under this enormous system of railroad land grants which was inaugurated thirty or forty years ago have an interest in this question. That question is whether the Government of the United States will forfeit these grants by a simple act declaring their forfeiture and relegating them to the public domain, or whether it shall be accompanied with some provision of law by which these rights may be asserted. When I have discharged my personal duty in regard to this matter by bringing forward their claims and submitting them to the Senate of the United States, I shall of course be excused in conscience and otherwise from any further responsibility in the matter.

This subject was presented to the Senate during the last session. It was debated as freely as any other question could have been debated at that time, perhaps four or five days before the close of the session. Several Senators engaged in the debate, and the question was as well understood by the Senate, I think, as any other that has been before this body. The Senate by a vote of singular unanimity, I believe 30 to 10 or 11, voted to put the amendment upon the Atlantic and Pacific bill precisely in the words of the amendment I now offer to this bill, and that amendment went to the House of Representatives, and without any debate at all it was not concurred in. The bill which came here from the House had never been debated there. The bill forfeiting the Atlantic and Pacific Railroad land grant, important as that grant was, was not debated; and I supposed that when the committee of conference got together there would be some debate, and there was, and a very instructive debate it was, but, so far as I am aware, without changing the opinion of the members of the conference on either side.

So the Senate has taken its attitude upon this question. It has taken it after discussion, after full debate; it has taken it upon a yea-and-nay vote of 10 or 11 to 30; and now the attitude then taken by the Senate is brought in question by the amendment I have had the honor to offer. If the Senate on a call of the yeas and nays on this bill should determine that this amendment ought to be abandoned, the committee of conference will when raised again doubtless consider itself instructed so to abandon the amendment, and we shall leave ourselves in the attitude which is demanded by some who are desirous of forfeiting these land grants of having done so without furnishing any remedy or redress whatever to persons who make honest and *bona fide* claims.

These claims are just as numerous as the roads; they are more numerous, for they are varied and multiplied with every distinct grant. It would not be fitting or becoming in me here to-day, although the questions are so very important, to go through these different land grants and point out the different wrongs and evils which would follow the legislation that is proposed in this bill, striking out the amendment that has been voted by the Senate on the Atlantic and Pacific bill and is offered also to this bill. But, sir, in every particular case of the forfeiture of a land grant a new and a very important question arises. I will give the Senate one or two examples of the questions that arise under these laws to enable it to determine whether or not we are willing to take the risk and responsibility upon ourselves of deciding all these grave matters by a legislative decree of Congress without a hearing of the parties to these controversies.

I will take now the Texas Pacific Railroad land grant, one that has not yet been considered by the Senate. That was a grant to the Texas Pacific Railway Company from the borders of Texas on through the public domain as far as San Francisco in California—an immense grant of land. A California corporation—the Southern Pacific Railway Company—commenced with its own funds and resources to build a railway from San Francisco in the direction of El Paso in Texas, or upon the border line between Texas and Mexico. As it came on with its immense power, its immense resources, building its road with extraordinary rapidity, it made proclamation to the world, and especially to Congress, that it did not ask or demand any subsidy, and it stood here in the attitude of an antagonist and opponent of the Texas Pacific Railway, which then, under the presidency of Mr. Thomas Scott, was claiming land grants and bounties or subsidies for the purpose of its construction.

But the Southern Pacific Railway, under the direction of Mr. Huntington, its president, I believe, or at least its chief manager, came on in the direction of El Paso, acting under the California charter and under charters from the governments of Arizona and New Mexico, and finally succeeded in completing the road to El Paso on the border between Mexico and the United States. After that had taken place, after that road had been built, the Texas Pacific Railway transferred its entire land grant to the Southern Pacific Railway, transferred it bodily, putting the Southern Pacific in the same position of ownership of the grant, so far as it could, as the Texas Pacific had under the act of Congress. Thereupon Mr. Huntington claimed that he had completed the road, that he had complied substantially with the condition of this land grant that the road should be completed within a certain time, and that having complied substantially with the purposes of the grant, and having obtained the grant by assignment from the Texas Pacific Railroad Company, his company became the rightful owner of the entire land grant.

The Committee on Public Lands of this body, following also the action of the Committee on Public Lands of the House of Representatives, have concluded that the transfer or assignment of this land grant by the Texas Pacific Railroad Company to the Southern Pacific Railway Company was without the authority of law, was in contravention of the statute, and was against public policy. In that land grant that great question arose, a pure question of law upon admitted facts, we, deciding that question for ourselves and excluding the courts from all participation in it, basing our action entirely upon our own judgment, declare that that land grant was not assignable in the manner in which it was assigned and that the Southern Pacific Railroad Company got no title under its assignment.

Now, Mr. President, not only the Southern Pacific Railroad Company but all the people between El Paso and San Francisco are interested in that question. Every man who lives in that section of country has a more or less direct interest in it. Not only they, but the holders of the different bonds issued by that company which are held by them to be mortgages on all the lands thus acquired are interested in the question.

Here is the great law question presented: Can one corporation receiving a land grant of this kind transfer it bodily to another corporation without the consent of Congress? We decide it, admitting no appeal to the courts, and as in some cases that have occurred here, we decide it entirely without debate. Is it not better, safer, wiser, and more just that we should have this law question decided by the courts in a direct proceeding?

Now I will take up another example. I will take the Atlantic and Pacific road. They claim a land grant reaching through the State of Missouri, the Indian Territory, Texas, New Mexico, Arizona, California, out to the seacoast of the Pacific Ocean. That land grant passes through a body of lands called the Indian Territory. That company, in order to perfect its grant and build its road, by agreement with the Cherokee Indians and the Creek Indians, extinguished their titles to the lands which constituted the bed of the road, the right of way, got a concession from them. They had also the authority of this act of charter for passing through the other Indian lands held in reservation by an executive order for the benefit of the Arapahoe and Cheyenne Indians within the Indian Territory. They made some arrangement, I do not know now precisely what, for passing across that part of Texas which is called the Pan Handle. Then they had a land grant and a right of way from the border of Texas on through to the Pacific Ocean, intended primarily to reach the Pacific Ocean at San Diego. Intermediate between the Texas line and the California line some bodies of wild savage Indians were taken by the United States Government after this grant was made, and they were located upon the very tract that the company was to build its road upon. This company, after having failed to build its road, after having failed to build more than about forty miles of its road within the period limited by law for its construction, made a mortgage under a special act of Congress to trustees to raise money to go on and complete the road, a mortgage upon its franchise, upon its road-bed, upon its property of every kind, including its land grant. This act of Congress was made expressly so broad as to enable the Atlantic and Pacific Railroad Company to make the mortgage in order to raise money to complete its road.

It is worthy of notice, in this connection, that the Atlantic and Pacific Railroad Company and the Northern Pacific Railroad Company were organized about the same time, and under contemporaneous acts of Congress, upon the idea that those roads could be built by the companies out of the endowment of public lands which the Government made to them; in other words, that they would be able to sell enough of the public lands to complete the construction of their roads. The Government of the United States, as well as the companies, found that that expectation was vain; that it could not be realized; that the roads could not be built without drawing in the assistance of outside capital. Thereupon the Government by acts of Congress changed its policy toward the roads and authorized them to mortgage their property and land grants, to issue bonds upon the mortgages, and to go into the markets of the world and raise money for the purpose of their construction. The Government, thereby becoming distinctly a party to this change of policy, omitted to name any period for a law-day in the mortgage, a most remarkable instance, as any lawyer is bound to admit. There was no period fixed in the mortgage for the maturity of the bonds, and if the railway companies had made the bonds to run for a hundred years they had the absolute right under the acts of Congress to do it.

Under such circumstances the companies went into the money markets of the country, they employed their syndicates in different parts of the world to place the bonds, and, as in the case in all matters of placing bonds, they found their way by drifting out through the communities into the hands of the owners of small sums of money. These small sums aggregrated furnished the capital which built the roads.

The Atlantic and Pacific Company, in virtue of the power given to it to make its mortgage and of the transactions which I have described,

received money and credit enough to go on and build nine hundred miles of that additional railroad, commencing at Albuquerque, within the period of three years. A most wonderful achievement it was! They completed a connection between an existing system of railways connecting with Saint Louis and Chicago out as far as San Francisco. They built to the point called the Needles, and there Mr. Huntington met them with one of the branches of the Southern Pacific Railway. They furnished to that country—a most interesting and valuable country it is—commercial facilities the like of which no one could have dreamed could possibly have fallen to the advantage of those people inside of a century.

Here is the bill for the forfeiture of the grant to the Atlantic and Pacific which passed the House. The bill is almost exactly like the bill of the Senator from Oregon—a bill of open confiscation without remedy; a bill of seizure and confiscation without adjudication; a bill that compels this railroad company and all of its incidental creditors to accept the decree of the Congress of the United States as something that can not be directly assailed through a United States court. That is the situation. The Atlantic and Pacific Railroad Company in reply to our demand of forfeiture (and I voted for the bill to forfeit) says: "You had an express guarantee in this charter that you would open the right of way through the Indian Territory for the road, and you not only have not done it but we have sent our parties of engineers there to survey the route, and you have compelled us to retire from the Territory time and again. We have spent thousands and thousands of dollars in our efforts to survey our route through the Indian Territory." And the Government of the United States, which in the charter of the road pledged itself to remove all obstructions and to extinguish the Indian title as to the right of way, compelled the railroad company to retire from the Indian Territory, not even allowing them to survey the line. These are facts; nobody can dispute them.

Then, again, it was averred by the Atlantic and Pacific Railroad Company that after they had commenced building their road beyond Albuquerque, when General Crook went down into the Mexican territory and got that savage band of Navajoes who had escaped from our jurisdiction and had gone there to make war upon us and brought them back, they were located right across the line of the railroad, and they were prohibited from interfering with the Indians or going along to build their road. They claim that under circumstances like these the Government of the United States had committed itself to the proposition that it would not insist upon a forfeiture of the lands, at least until after a reasonable time had elapsed after the difficulties that I mention had been removed. That is their claim. I can not deny its justice. I can only say that the railroad company are not building their road beyond The Needles, and are not, therefore, entitled to lands beyond The Needles.

Now, sir, how was that claim presented? It was presented, just like all the rest of the claims in favor of creditors of the railroad companies, by counsel before the Public Lands Committee of the Senate. Were they allowed to call witnesses to prove their claims? No, sir. The committee had no authority to make a judicial inquiry. I moved in this body in respect of one of these cases where personal fraud was alleged that the Committee on Public Lands should have authority to summon witnesses, and the Senate refused to give us the power and voted it down.

After you had shut the doors of the Senate committee against testimony, and the Senate committee have had nothing to rely upon at all except the records that have found their way into the Interior Department and the statements of counsel made before the committee, you require us to sit in judgment upon a title and to destroy it and give still no practical remedy to these people. I care not how flimsy or false their pretenses of title may be in my opinion or in the opinion of any one else upon the law or upon the facts; that, sir, is not a trial; that is not a hearing. Am I to come before the Senate of the United States as one of the committee charged with the investigation of this question and ask them to adopt my opinions upon the law and the facts of a case like this, and to adjudicate it finally and conclusively and never to allow the parties in actual interest to controvert these opinions unless they can go off and find some court where they can controvert them in a collateral way? I should feel that I had abused the confidence of the Senate and the trust imposed upon me if I had not sought out some remedy for the purpose of mitigating the harshness of the judgment that we are pronouncing in such a case.

I appeal again to the Senate, what have your Judiciary Committee recommended in cases of this kind? Bill after bill has gone before that committee and has been considered by them; they have made report after report to this body upon it, and they have uniformly refused to recommend to this body the adoption of any measure which did not include a remedy against their decision or a right to call it in question by a direct proceeding held in a Federal court of justice.

There was another case that I will cite as an example, a case upon which the House of Representatives acted and refused to declare a forfeiture. That was the celebrated case of the Backbone Railroad in Louisiana. In that case the majority of the House Committee on Public Lands reported in favor of the forfeiture, and the bill was taken up in the House of Representatives and practically without debate was acted upon in the negative; the House refused to follow the recommendations of the committee and declare the forfeiture. Now, what were the facts about that case? The Backbone Railroad Company had been chartered by the Legislature of Louisiana from New Orleans to Baton Rouge and to Vicksburg.

At Baton Rouge it was permitted to cross the Mississippi River going toward the northwest, and to extend its line to Shreveport by the way of Alexandria. That railroad company received in the very same act that made the grant to the Texas and Pacific Railroad a land grant in Louisiana. It never expended a dollar so far as we can find out. It did no work, it earned no land, and so faithless did it become, and so entirely useless, that the Legislature of Louisiana passed an act to repeal the charter. After that act had been passed and the charter had been repealed, a case was made in court, surreptitiously made, for the purpose of getting an adverse decision from the court to the effect that the Legislature had no constitutional power to repeal the charter. Another company, working in combination with Mr. Huntington for the purpose of extending his Pacific system on the west side of the Mississippi River into New Orleans, desired to build the railroad, and did build it on the west side of the river, on a route entirely different, from Baton Rouge down to New Orleans, from that which was occupied by the Backbone charter and also by the act making the land grant.

After the charter had been repealed, and after the company had been galvanized into a sort of semblance of life again for the purpose of making an assignment of its land grant, every member of the House and the Senate from Louisiana but one, I believe, was here inveighing against the charter, and asking the Congress of the United States to forfeit the land grant. Thereupon certain capitalists from the East came into the project, and they advanced some money for the purpose of assisting what is called the New Orleans Pacific road to build its way. They advanced some money, and thereupon they organized the old Backbone Railway Company, and they transferred the grant by assignment from the Backbone Railway Company to the New Orleans Pacific Railway Company. They took the property of the United States granted to a particular company which had become defunct, had been killed by an act of the Legislature of Louisiana, and transferred it by assignment into the hands of the New Orleans Pacific Railway Company, and these gentlemen who are so extremely anxious to forfeit land grants found sufficient reasons why they would not forfeit that.

Now, what is Congress going to do about that? The House defeated the bill and refused to forfeit the land grant. A bill was reported back to the Senate from its own committee with a declaration that the grant should be forfeited except as to those parts which may be considered as having been earned by the building of the road by the assignee company after the date of the assignment. Thus we make contradictory decisions on about the same state of facts, and yet we ask the world to admit that we are infallible as judges.

Here are questions of a grave character, and in great number and variety to be decided. Who is going to decide them? Who is going to prevent a court from coming in to adjudicate upon matters of this kind? Who is bold enough to do it? After the committees of the House and the Senate have passed upon measures of this kind, and after the Committee on the Judiciary of the Senate have continually advised you that you have no right and no power to do it, who is bold enough to do it? It must be a keen appetite for confiscation that will not stop to consider anything relating to power, but will gulp and gobble down railway company after railway company in the hope of being able to have afterward a quiet conscience and a good digestion. It may be that they will, but I do not want the burden of it. The better plan and the honest plan, as I conceive, to deal with this question is to make your declaration (which is equivalent to a seizure under a confiscation law) that in the name of the sovereignty of the United States of America we intend to reclaim these lands, but if you have rights which the courts of the country will sustain against that declaration as being superior to the declaration, let the courts pass upon the rights and so decide. Then you have got justice without sale, delay, or denial.

Because I take this position I have been assailed in the newspapers of the country (humble as I am and as my opinions must be) as being the man who desires to prevent justice from having its full sway against these forfeited land grants to the railroad. Mr. President, there is something that is not disinterested in these representations. There is some disposition it seems to me to hoodwink justice. There is some disposition to seize hold of the popular clamor for the purpose of compelling men to do that which they know is wrong and which they would not do in regard to the humblest man in the world. It is in moments like this that I thank God that he gives me the moral courage still to do what I conceive to be right without fear, favor, or affection; and I can not conceive that I would be doing right as a Senator to pass in judgment upon the rights of property of any individual or any corporation without giving to that person a right to question the validity of the decree that I have passed. I am not a judge, nor is the Senate a court, nor have we judicial power, nor can we administer the ultimate rights between the Government and a citizen by acts of legislation. It was not intended, and when we do it we violate the spirit of the Constitution of this land.

I am, therefore, for adhering to the action taken by the Senate by this decisive vote that in making declarations of forfeiture we will grant to the courts of the United States the jurisdiction to hear and determine these questions. That we will save the people from the myriad of lawsuits which must arise under the forfeiture of these land grants if we do not provide some speedy and efficacious remedy by which the questions can be settled.

What is that remedy? As provided in the amendment which was put upon the Atlantic and Pacific bill, and which I offer now to this bill, it is that the district attorney of the United States for the particular district shall file a bill in the circuit court of the United States in the nature of a bill of interpleader. He shall be under the direction of the Attorney-General of the United States, in order to insure probity and also in order to insure speed of action in the matter. He files his bill there in the name of the United States Government against the forfeited corporation and all others concerned. He makes as parties defendant to that bill those persons whose interests are obvious upon the face of the record, and they proceed to make up the issues and to controvert the questions before the court in which they think that their rights are involved. If there be other persons who are interested as claimants under the law of the United States against the Government or against the railroad company, they can come in by petition after due notice, and they can have themselves made parties defendant to that suit. If a great number of them come in their petitions can be consolidated so as to save the expenses of the trial of the same question on each petition and to speed the progress of the cause. Thereupon the court proceeds to judgment upon all these different controversies. No petition can be filed later than a year after the bill of interpleader has been filed. That is a pretty short statute of limitations, and the object is to encourage men to industrious action in presenting their claims. The cause is decided by the judge. Any party in interest has a right to appeal from the decision and take it to the Supreme Court. Then it is made the duty of the Supreme Court to advance the cause on the docket and to decide it as a cause of urgency, the object being that the Government of the United States shall come into possession of its real title to the lands, whatever that may be, in sufficient time to give to every man a clear title to the land that belongs to him, without embarrassment and without conflict with his neighbor.

Sir, I present that as a contrast to the plan under which questions have arisen in the courts and have been decided like the case of Schulenberg vs. Harriman upon the question of the title to logs cut off a piece of land. I put this system in contrast with that which has been suggested here and elsewhere, of permitting every man who has got an interest in a question of this kind to sue his neighbor in some court, and after winding around through the different difficulties and labyrinths of the law finally to get to the Supreme Court of the United States with his case. I put it in contrast with the system which involves a necessity of tedious, wasteful, and expensive litigation, with a system which delays the bestowal of the public lands, delays the completion of final and unquestionable titles until cross-interests of every description that can be thought of have sprung up in the country. I claim that the system which I have had the honor to introduce and which the Senate has put upon the Atlantic and Pacific bill is one, and the only one that I can think of at least, which furnishes an adequate and proper remedy to all persons concerned under the circumstances.

Now, what harm is there in it? I have asked that question here and I have asked it elsewhere. What harm is there in it? What injury or injustice can it do? The answer has been, "We are afraid to trust the judges of the United States," and that is all of it. That is the only answer which any sensible man can make, it seems to me. We are afraid to risk the judges of the United States. They and their officers, in other words, may be corrupted; and we can not afford to trust the public interests of the United States in the hands of its judiciary. If such a suggestion had ever arisen in my mind I should have felt a sense of patriotism that would have prevented me from urging it or suggesting it. But that is where it comes to at last. In order to beat the railroads we must have, it seems, the judgment of other tribunals than the Federal courts, if a judgment must be had; but above all and before all we must fence out with absolute bars, as far as we can make them absolute, all right of access to any court for the adjudication of these questions. We must lay down the stern decree of the two Houses of Congress, approved by the President, that these lands are forfeited, and tell the party who holds a thousand dollars of bonds—some orphan child or some widow woman perhaps it may be in this country or in Germany—to confront this decree of the Congress of the United States approved by the President and beat it if you can. How are they going to do it? They can not sue the United States. We forbid them to do it. They must sue some person who is in possession of the land or has an interest in it of some kind. They must sue in some outside court, some Territorial or State court. They can take an appeal, if cast in the action, to the supreme court of that State; and if there is money enough in the question to justify the appeal or to bring it to the attention of the Supreme Court of the United States, after years and years of delay they may bring it there and have it decided. In the mean time they are wrecked; the expenses have overcome them.

Sir, we are not without fault in these matters. Whatever rights there may be in favor of the United States Government in regard to these lands, there are some equities existing in favor of the holders of the bonds and of the different claims against these estates. By our carelessness, our inattention, and, as it is construed by them, by a fraudulent connivance at the situation, we have induced them to go on from year to year to expend their money and to raise more by the sale of bonds, and now they say to us: "You forfeit these lands out and out, and you furnish us no remedy. On the contrary, you bar the path to a remedy. You do that which Senators on this floor declare is an absolute confiscation out and out and is rightfully made." And all this we do, Mr. President, with haste and without mercy.

Mr. President, I have always understood since I have had the honor of a place at the bar in this country that penal laws and laws of confiscation and laws of forfeiture were not encouraged; that the Congress of the United States and the State Legislatures and the judges of the United States and of the State courts uniformly held, and had uniformly been controlled by the idea, that the Government would not break the law in its spirit in order to take advantage of it in its text. But if these moneys have been expended honestly and faithfully and in view of the security furnished by the public lands (admit that the people who advanced the money were mistaken in the law), can we shut our eyes to the equity of the transaction and to the equitable claims that arise out of it against us? Are we not bound to consider that these men have been misled by the laches and the other indifferent conduct of the Government of the United States into making their investments? When they come to a court and present these questions, as they have presented them to your committee, that court ought to be allowed to decide them, and your committee ought not to be compelled to decide them, cutting off the courts from all opportunity to investigate them.

Mr. President, I do not wish to pursue this subject any further, but I hope that the Senate will put this amendment on the bill. It can not hurt it. If there are no creditors of this railroad corporation, no bondholders, and no persons whose rights are interfered with, the bill which will be filed in the circuit court of the United States at the suit of the United States of America will be decided inside of six months; it will be all decided, and then nobody can complain. But if there are creditors who may be injured and who have rights, and we do not give to those creditors the opportunity to be heard in the courts of the United States, we do them an injustice. This bill was reported back to this body on an assurance given in the committee by at least one of the Senators from Oregon that there were no creditors of this railway company.

Mr. DOLPH. Mr. President——

The PRESIDING OFFICER (Mr. MANDERSON in the chair). Does the Senator from Alabama yield to the Senator from Oregon?

Mr. MORGAN. Certainly.

Mr. DOLPH. Since the previous discussion upon this bill I have called to the recollection of my colleague [Mr. SLATER] the circumstance that when he had written his report to accompany the bill he referred to the fact that these lands were mortgaged, and in the report claimed that the company had used the credit of the unearned grant for the purpose of constructing other portions of the road. I called his attention to the fact that while it was true that all the lands were mortgaged, the bonds were not issued except as the road had been completed, and the bonds had not been issued for the uncompleted portion of the road. I said in the former debate on this bill that I never had stated in the committee-room or elsewhere that these lands were not mortgaged. I could not have done so, because I either drafted or participated in the execution of the mortgages myself. It was only upon this question (I do not know that I should term it a question of veracity, but upon this question of fact) that I desired to speak at this time. The fact is that the fact was stated more than once in committee that the lands were mortgaged, and when my colleague reported upon the bill and prepared his report he referred in his report to the fact that the lands had been mortgaged.

Mr. MORGAN. Whatever may have been the recollection of either of the Senators from Oregon, I am quite sure that I addressed to one of them a question in the committee as to whether there were any creditors of the company, and I was answered that there were not. More than that, the honorable Senator who sits behind me [Mr. SLATER], on the morning that the bill first came up in the Senate during the present session, was interrogated by me, and stated that there were creditors of the company; that he had been recently informed of it; and when asked as to when he had ascertained the fact he said it was that morning he had first become acquainted with the fact. That was after the bill got into the Senate. The RECORD shows that statement was made. What I am complaining of—I do not complain of anything really——

Mr. SLATER. Will the Senator from Alabama allow me to interrupt him?

Mr. MORGAN. Certainly.

Mr. SLATER. The Senator is correct as to the colloquy that occurred in the Senate. As to that I was mistaken, and my attention was called to it by my colleague. He referred to what took place in committee, and the conversation that came up between my colleague

and myself as to the language and terms of the report, and the part of the report he objected to was stricken out. I was led into the mistake and misapprehension from the fact that it was stated before the committee that there were no bonds out for the uncompleted portion of the road, and I was under the impression at the moment that there were none at all.

Mr. MORGAN. But the fact is, as the Senators now give it out, that there are bondholders who hold bonds against the railroad company, and whether they were given out after a portion of the road was completed or not the bonds were held against the franchise and against all the lands. These bonds have not been paid; no one pretends that, and if we do not cut off the entire security by this bill we cut off part of it.

Mr. LAPHAM. If the Senator will allow me I will state that the bonds are mainly held abroad. They are mainly held in London.

Mr. MORGAN. I did not know that, and I am a member of the committee.

Mr. BLAIR. If the Senator will permit me I will also state a fact which may be of importance to him just at this stage of the debate, a fact which has come to my knowledge from a person thoroughly acquainted with these lands and a reliable gentleman. The lands which it is attempted to forfeit are along a line about seventy miles in length. They are timber lands, covered with very heavy growth and are exceedingly valuable, and they are the very lands that by the amendment adopted by the Senate in reference to this bill have been cut down in value from $2.50 per acre to $1.25. If, as is now stated, those lands are held as security for the bonds which were issued, they are undoubtedly the most valuable portion of the security for the bonds.

Mr. MORGAN. This colloquy illustrates the point I am making, that it is an impossibility for a Senate committee or the Senate of the United States to try these questions intelligently and to come to a sound judicial decree about them under existing circumstances. We have not got the appliances; we have not got the means of rendering a proper decree. Here are Senators who announce that they did not know anything about this debt. Here is one of the Senators from Oregon who announces that he did not know anything about it when the bill came up. Here is another Senator who drew the mortgage. Here is another Senator who informs me now that the bonds are held abroad. Doubtless some of his constituents or some of his friends abroad have reminded him of their interests in this question. Here are bonds outstanding that are a lien by the express terms of the mortgage upon the whole land grant. Here is a Senator who announces upon information derived from a person whom he respects that the part of the land we are now confiscating is one of the most valuable parts of the security for the payment of the bonds. Here is the Senate of the United States about to decree an absolute forfeiture and confiscation of the lands, and here are the Senators from Oregon objecting that any court should have anything to do with it. They may have good grounds for that objection.

It is none of my business what their grounds may be, but there is danger ahead of us if we undertake to pass the bill without the amendment or something like it. There is a wrong to be done to somebody. How easy is it now, if we put this amendment upon the bill, to allow these people to go, yes, to cause the Government to go into its own courts and file a bill in the nature of a bill of interpleader and have all these questions settled. Why shall we refuse to do that? What great public demand is it that compels us thus to throttle justice in its own temple and refuse to allow our own judges to decide upon questions of controversy involving large estates like this?

I am astonished, sir, at the pressure against this amendment. It occurs to me that the honorable Senators from Oregon ought to invite its adoption. They ought to say to all people who are concerned in this grant: "Come into the court and show what your claims are, and show whether they are valid in law or not. If they are valid our judges are honest enough to respect them; if they are invalid they will be soon rejected and we will know exactly the state of the title to this land."

It seems to me that we can not avoid the duty under the circumstances presented before the Senate at this moment of time of voting this amendment on the bill. Surely I should have offered it in the committee, I should have taken the judgment of that honorable body upon the amendment if I had had a thought that there was a creditor outstanding whose rights could be affected by this act of violent confiscation. I am not prepared to confiscate lands out of hand by a legislative act. I am not here to seize the property of the people of the United States who claim it, whether they are railroad corporations or private people, and upon my judgment, derived from a meager, unsubstantial, and unreliable statement of facts, to deprive them of their property and then afford them no remedy.

Sir, there ought to be a remedy equivalent to the petition of right in the United States. The people of the United States will never enjoy the liberties of their ancestors under the English Government until they have the free right of suing the Government exactly as they do in England in respect of any matter that relates to their titles to real estate derived from that government. There ought to be, but there is not, such a right. Our system of jurisprudence has been so arranged as that we deny remedies to citizens against the Government, except where we give them under special acts of Congress. Here is a broad field of litigation opened by an act of Congress, forced upon the people by an act of Congress, and then we refuse to grant to the people the right of access to the Federal courts for the decision of these questions speedily, and almost summarily, because some men say that they are afraid to trust the judges. What sort of a government have we got if the judicial department of it can not be trusted to pass upon the title of a railroad company to a land grant? When did Congress establish its reputation for immaculate purity and honorable action to that high extent that it should rise above the title of the judges to the same distinction?

When have we found the precincts of the courts haunted by gangs of foul lobbyists who attempt to pervert the judgments of the courts of this country? No, sir; it is not the courts that they visit; they visit Congress. They are here; they are not there. They are not found in the sanctuary of the Supreme Court, but oftentimes they are found in the lobbies of this body. I will not say that where the carcass is there will the eagles gather together, for that would be unjust; but I will say that for a serene, honest judgment, of perfect integrity, and one upon which the country can rest with satisfaction, commend me to a court rather than to any legislative body.

Mr. SLATER. Mr. President, I shall not attempt to follow the Senator from Alabama in his long argument in relation to his amendment offered to another bill, but I desire to call the attention of the Senate to the fact that the bill before it relates to a different grant, couched in different language, and surrounded by different circumstances. Whatever may have been right in regard to the amendment as attached to the bill to which the Senator refers, no such condition of facts exists or surrounds this grant.

The grant was made in 1870. The road was to be completed in 1876. Some forty-odd miles were completed within the time within which the grant had life. Since 1876 not a single lick has been struck in the construction of the remainder of the road. For eight years the condition has been notoriously broken. The company has not even intimated that they would continue or make an effort to continue the road. More than that, the late president of the company, Mr. Villard, in a letter to the Chamber of Commerce of Astoria, signified that it was impossible for them to continue the effort, or something to that effect.

As to the question of the outstanding bonds it is not necessary for us to inquire into the facts in regard to that. We have only to refer to the terms of the statute upon which the grant rests. The language is explicit that the grantees are to build the road within the time specified; and the implication is, if implication can arise in the English language in any form in which it may be expressed, that if they did not complete the road within that time the lands were subject to be reverted to the Government of the United States as for a condition broken. That is precisely what we are asking here to-day. It is not confiscation; it is simply asking that which the terms of the original grant contain within it. It is the meaning, the purpose, the express intention so far as it could be expressed that if the road was not built within the time specified in the act Congress would reassert its title to the lands.

If the company having the grant went into the market with that title conditioned as it was and procured money, the persons advancing the money must look themselves to the security. It is not for us to look and see that they have their money when they put it upon security that has not been realized. They loaned their money upon a specified title; they loaned it to a corporation that had the right to build the road at the time of the loan, encumbered by the condition. The parties to whom they made the loan have not completed the work; they have not performed the conditions. They had notice in advance of this matter, and now it is not quite correct it seems to me that this plea should be made for them, when the company have come here in the way they have, with an eight years' lapse between any effort to complete the road—eight years of continuous broken condition.

The theory of the amendment of the Senator from Alabama is very beautiful to behold, but it is false, it is misleading. It goes upon the idea that these people will have no right, that they can not seek their remedy in the courts unless we give them a remedy in this form. That is entirely a mistake. It is utterly impossible for the Congress of the United States to take from any person a vested right. If there is any vested right existing under the previous act that would be affected by the passage of the pending bill they will be able to go into the courts at the proper time and in the proper form and assert their right. To go into court in the form that the Senator suggests by his amendment is simply to attach to this forfeiture a condition that is to stand in the courts an indefinite period of time. It unsettles everything and leaves everything at loose ends.

It is not proper, perhaps, that I should allude to the manner in which this thing is viewed outside of this Chamber, but I wish to say to the Senator and to the Senate in regard to the amendment to the bill that he refers to, now pending before the Senate on a conference report, that in my judgment the Senate ought to recede from its amendment, and if no other Senator moves that the Senate shall recede I shall take the liberty to make that motion myself. I think the Senate ought not to insist upon that amendment. I think we should be placing ourselves in a false position. I think the time has come when these forfeitures

should take place and the forfeitures should be just as broad as the original grant; that is, where the condition has been broken the United States steps in and retakes to itself what is remaining to which title has not been acquired.

There is one other point. The bill as it came from the House proposed to sweep from this corporation the entire grant, that which is classified as earned as well as the unearned land, the land adjacent to the forty-odd miles of completed road as well as the seventy-odd miles of uncompleted road. The Senate Committee on Public Lands did not believe the position of the House to be tenable, because in the original act it is provided that as often as the company shall complete twenty or more miles of road and have it accepted as provided in the act the company shall be entitled to receive patents therefor. As a matter of course, a patent is only the evidence of title, but when the law says that on a certain state of facts existing a party shall be entitled to a patent it was deemed by the committee that although a patent had not issued, yet it was to be taken as if it had issued in point of fact, and that the title vested not only upon the issuance of the patent but upon the completion of the contract and the conditions and the acceptance of the road by the United States; in other words, that the grant for each section of twenty miles was the portion of a grant, and that the right of the company attached to the land adjacent to the completed road as fast as twenty-mile sections were completed and accepted by the United States, and that the Government of the United States could not go behind this acceptance, it being within the lifetime of the grant, and sweep from the corporation the lands that had been earned.

Hence the amendment of the Senate committee reaches only the unearned portion of the lands. There can be no litigation about that. The grant is a plain one. What right can the company exhibit in a court in regard to this matter? It is not possible that they can exhibit any. The end will be simply in affirmance of the act of Congress that the lands were forfeited. As to any other rights that may come up, they are all provided for either in the bill or in the laws of the United States that bear on this case. So there is no pretense, in my judgment, for any such amendment being attached to the bill, and I doubt whether it is proper upon any bill that is likely to come before the Senate. That is all I desire to say.

Mr. DOLPH. Mr. President, I do not propose to discuss this bill at any length. On the 3d of July last I made some remarks on the then pending bill to forfeit the land grant of the Atlantic and Pacific Railroad Company, in which I went over the question of the power of Congress to forfeit unearned grants to railroad companies and of the propriety of the amendment offered by the Senator from Alabama to that bill.

It seems to me there is some confusion in the minds of some Senators as to the precise legal status of this grant. The grant was a grant *in præsenti;* it took effect from the date of the grant. It acquired precision by the location of a definite line of the road. It was a grant upon a condition-subsequent. The condition-subsequent was the construction of the road in accordance with the provisions of the act of Congress. The time within which the road was to be constructed was limited. In such a case at common law if the condition is not performed within the time limited in the grant, but is performed afterward and before entry for non-performance, the performance of the condition is as good as if it had been performed within the time prescribed. In other words, the title becomes perfect, and advantage can not then be taken by the grantor of the non-performance of the condition within the time provided in the grant.

In this case a portion of the road of the company was constructed within the time limited in the grant. No portion of the road has been constructed since the expiration of that time. Therefore, the question as to whether the company earned land by the construction of portions of its road after that time, and before Congress had interfered and declared a forfeiture, is eliminated from this case. It is not proposed by the bill to forfeit any portion of the land which has been earned. The object of the bill is simply to declare a forfeiture of the unearned portion of the grant. That is undoubtedly within the power of Congress. All lands granted to the company have been included in a general mortgage or mortgages, and also in a deed of trust, but, as I understand it, bonds have not been issued for the portion of the road which has not been constructed. Under the terms of the mortgage, bonds could only be issued as certain sections of the road were constructed and accepted by the President of the United States; consequently, while the lands not earned are included in the mortgages, it can hardly be said that the bonds issued for the constructed portions of the road are a lien upon the unearned lands.

Besides, I suppose the title of every corporation and person claiming under the railroad company depends upon the same conditions that affect the title of the railroad company itself, and if Congress has the power to forfeit the lands as against the railroad company, it certainly has the power to forfeit them as against every corporation and person claiming under the company.

In the case of the grants of the Atlantic and Pacific Railroad Company, the Texas Pacific Railroad Company, and the Northern Pacific Railroad Company another question arises. In each of those acts, in addition to a provision for the forfeiture of the land granted in case the road is not constructed within the time prescribed, it is provided in substance that in case of a breach in the conditions of the grant Congress may do whatever is necessary to secure the completion of the road; and it is contended that such provision is the only penalty which Congress reserved to the Government the right to inflict for a breach of the conditions upon which the grant was made, and that Congress can not deprive either of those three companies of its land grant except for the purpose of using the lands for the completion of the road. That is a question which I thought ought to go to the courts—a question which would be involved in the title to all the lands declared by the act to be forfeited if they should be opened to settlement and sale under the laws of the United States for the disposal of the public lands.

Therefore I favored the amendment offered by the Senator from Alabama to the bill to forfeit the grant of the Atlantic and Pacific Railroad Company, and with my present views upon the questions I shall feel bound to favor the amendment if offered to the bills to forfeit the grants of the Texas Pacific and the Northern Pacific Railroad Company, not because such an amendment is necessary to secure to the railroad companies and their grantees their rights, for it is utterly impossible for Congress to cut off or destroy a right which has accrued to the granted lands. A railroad charter granted by Congress is a contract between the Government and the railroad company, and so far as the land grant is concerned it is not in the power of Congress to pass an act which would impair that contract. In any controversy which may arise between the mortgagees of the railroad lands or any grantee of any of such lands from the company, or any other person claiming any interest in the lands under the company and persons claiming under the laws of the United States for the disposal of the public lands, the question of title can be raised and litigated in spite of any act of Congress. In any action of ejectment brought by a pre-emptor or a homesteader against a party in possession claiming lands under the railroad company the question as to whether the lands in controversy had been in fact forfeited and restored to the public domain by act of Congress might be raised and judicially determined.

It was because I thought such a controversy might be prolonged for years in the case of the Atlantic and Pacific Railroad grant, and extensive litigation might arise out of the attempted forfeiture of the grant, that I deemed it wise as a matter of policy to provide for settling the title before the lands should be placed in the market, and for that purpose to provide for the bringing of a suit by the United States at an early day and for its early decision to determine the title of the land declared forfeited. I do not think that the persons interested in this grant claiming under the railroad company are numerous enough, that there are controversies enough likely to arise, or that there is a question of sufficient importance as to the power of Congress to forfeit the grant in this case to require such an amendment. As I said, the question that arises in the case of the Northern Pacific, and which arose in the case of the Atlantic and Pacific, is not involved in this case. The act of Congress making the grant in this case simply, by appropriate words, provides that if the railroad is not completed within the time prescribed in the grant the lands shall be forfeited, and the question of the power of Congress to declare a forfeiture in this case I submit is not an open one. Congress can not do anything more than declare the lands forfeited, which would be equivalent to an entry at common law for a breach of the condition. No party having any vested legal right to these lands from the railroad company will be injuriously affected by any act Congress may pass.

In connection with this matter I desire to call the attention of the Senator from Alabama to his amendment. I read from the bill to forfeit the land grant of the Atlantic and Pacific Railroad Company which passed the Senate, which, I believe, is identical with the amendment offered to this bill. The third section of the amendment provides that it shall be the duty of the district attorney, under the direction of the Department of Justice, immediately to proceed in the circuit court of the United States by a bill in equity against any corporations or persons who claim any interest in the lands hereby declared forfeited arising under said act of Congress. The fourth section provides:

> That any person or corporation not made a party defendant in said proceeding, but claiming any interest under the laws of the United States in the lands, or any part thereof, which are declared forfeited by this act, may present such claim by petition in said cause, duly verified by oath; and if the court, upon consideration thereof, shall decide that the adjudication and settlement of such claim are necessary to do complete justice in said cause, the court shall direct that such further proceedings be had upon such petition as that the same may be fully heard and determined, and shall proceed to decree upon the same as fully as if such petitioner had been made a party defendant in said suit.

I desire to call attention to the fact that while it is made the duty of the district attorney to file a bill against all parties claiming an interest in the land, and permission is given to any person not made a party defendant to come in by petition within a year, there is no provision that cuts off such claimants, as I understand the amendment, if they do not present their petition within a year. That is to say, if any corporation or person claiming an interest in any of these lands is not made a party defendant in such suit by the district attorney, and does not come in within the year and file a petition to be made a party, or if the court should decide that the case pending may go on and be determined in the absence of a party who applies by petition to be made a

defendant, in that case the claim is not heard and is not determined, and there is no statute of limitations provided against such claimants. I think if we are to adopt an amendment of this kind it ought to be broad enough to secure a complete determination of all questions and claims which can possibly arise to any portion of the grant under the act of forfeiture. There ought to be a provision requiring notice of the pendency of the suit to be given by publication to all persons, known and unknown, having or claiming an interest in the lands, and further provision that if they do not appear within a year and file their application to be made defendants they shall be forever barred. If this is not done I fear the amendment will not accomplish what it is claimed to be intended to accomplish.

Mr. MORGAN. Allow me to explain the amendment a moment. I had both questions in my mind under consideration at the time I prepared this amendment to the former bill. The first relates to putting in an absolute bar, a statute of limitations, to those persons who do not apply within a year. I understand the effect of a decision of the chancellor, after notice is given for instance in a bill of interpleader or in a creditors' bill that persons interested may come in within a certain time and propound their claims, is to cut them off if they do not propound their claims, unless they have some excuse, such as insanity or idiocy or infancy, which would be an exception under the rules of the common law in the country from which we have derived our jurisprudence. So I found it difficult to prepare an amendment in the statutory form that would cover the whole case. We give them the right to come in within a year. They can not come in later than that. The case then goes to the Supreme Court of the United States if any person sees proper to appeal it. All the questions in the case are necessarily settled in that adjudication, and they affect persons who are in privity of interest, whether parties to the record or not. Therefore I did not essay in preparing the amendment to go on and anticipate all the different classes of cases that might arise, but merely left them to the general disposition of the law as is done in all bills of this kind, as I understand.

As to the other question about giving notice, that is provided for in the general laws regulating practice in equity in the courts of the United States. It will be the duty of the district attorney in filing his bill to give notice by publication under the rules of practice of the Supreme Court, in respect of all persons who may have an interest in the case, to come forward and propound their claims.

Mr. DOLPH. I think the act goes to the extent of requiring notice to be published as to parties who are not within the jurisdiction of the court but who are known. Now, there are provisions in some of the States that publication shall be made against parties known and unknown; and I think in a case of this kind, where there are liable to be so many parties having diversified interests, that sort of notice had better be given and should be provided for.

Mr. MORGAN. The Senator correctly states the scope of the statute of the United States on this subject. At the same time the Supreme Court of the United States is a court of equity and has a right to establish rules of practice, and has done so. It has resorted to the English rules of practice as a general basis of the administration of the rights of parties in courts of equity. Now, take a creditors' bill and undertake to manage that. Under the rules of English chancery practice the court makes an order that all creditors who desire to prove their claims against the estate that is being administered shall have a certain time within which to come in, otherwise they shall be barred. Where did the court derive its authority to do that? Not from any statute of the United States, but from the rules of the English chancery practice, which have been adopted by the Supreme Court of the United States under their authority to adopt rules for the government of courts of equity, so that the whole case is covered.

Mr. BLAIR. Mr. President, I have on a former occasion given expression to substantially all the views which I desire to impart to the Senate or which are of any consequence to the Senate on this general question; but I think with reference to this particular bill that there are some considerations in addition to those which have already been offered that might well be considered by the Senate.

I suppose with reference to all these proposed forfeitures of land grants to various roads that have been chartered with rights in the public lands of the United States as an encouragement to the construction of railroads through those lands, and none of which, with the exception of the Southern Pacific, in constructing its line from San Francisco to the Colorado River, has ever complied with the conditions of the grant, that the real question with Congress and with the American people should be, what it is right to do and not what have we the power to do in dealing with these corporations, their grantees, and those who have derived rights of various kinds during the operations of these grants. I have not, as a member of the Committee on Public Lands, given so very much attention to the sharp technical legal questions that may arise on these grants and on the facts that exist in the various cases. Indeed I may say, and I think no one will contradict me when I say, that so far as regards an ascertainment of the facts in any case whatever that has been before Congress, there has been none. There has never been any such method of ascertaining the facts with reference to any one of these cases as would justify us in allowing a claim for pension. The Committee on Pensions has never to my knowledge passed a single case in favor of the defenders of this Union, the life of this Government, where they did not demand more rigid scrutiny as to the facts than has been made in any one of these cases involving the title to such tremendous masses of property.

It is idle to say that there has been any ascertainment of facts which is to be relied upon. There is none in this particular case. Neither Senator from Oregon nor any Senator on this floor can arise in his seat and say what amount of bonded indebtedness there is against this corporation to-day. It is still a question between the Senators, as I understand, whether there be one or two sets of bondholders or mortgagees. I doubt whether the Senator from Oregon on my left [Mr. SLATER] can answer whether there be two, or more or less. I know that the Senator on my right [Mr. DOLPH] says that he drafted these mortgages or was in some way connected with them. I am not quite sure whether he himself will say that there are two sets or only one, or whether there may be three; and who knows the amount of that bonded indebtedness or where it is located? It is admitted that there is a large bonded indebtedness, that it is owned abroad, that it is also owned in our own country in part, or that it may be owned in both; but nobody knows where it is, nobody knows its amount. The Senator [Mr. DOLPH] as he takes his seat says before the amendment proposed by the Senator from Alabama can be considered perfect it must provide for giving notice to all parties interested. It contemplates giving only one year's time for this settlement for these corporations, for these bondholders, no matter where they may be, to find their way to court, and it is a most egregiously severe provision in itself in that regard as it seems to me. But the Senator seems to understand that before these parties are to be deprived of their remedy—and it has been shown by the Senator from Alabama that they have no remedy practically when the question arises between the corporation and the United States—there should be notification given to them, they should have the opportunity to come in; and that idea is consonant with our most elementary notions of justice; but has there ever been such notice given in any of these cases?

You may say there have been pending these bills in both Houses of Congress, but that is not notice to the settlers on these lands. It is in no sense whatever legal notice. These parties have a right to presuppose that Congress will give them formal notice before it undertakes to find any question of fact whatever against them. Suppose in our States that we undertake the division of a township; suppose we undertake any other legislation which interferes with individual rights, such as the taking away of a water privilege, the erection of a dam for the purpose of increasing the manufacturing facilities of a given district, or to add property of that kind to the ownership of a corporation, we never legislate until we first give notice to all those whose interests may be concerned and they have the right and the opportunity to be heard. Yet no such notice has been given in any of these cases, and no American citizen has any reason to believe that Congress will undertake to steal his right without giving him notice. And yet, sir, I say—I say it because upon my conscience I believe it is the right, the honest thing to say—that this whole procedure in the direction of the forfeiture of these land grants where Congress has not undertaken first to ascertain the facts with some appearance of judicial fairness and some regard to judicial methods of procedure, although it may be finding those facts by its own committees—I say this whole process of taking these vested rights (for that it substantially is) is an organized robbery, and I am opposed to it.

I have opposed all these bills. I have opposed them in committee. I have voted against them because we had not first learned our facts, because we had not given those whose rights are concerned the opportunity to be heard; and I oppose this bill as much as any other of them on this general principle.

Now, let us look at this matter a little more closely. It is claimed here that whatever equities may exist, or whatever legal rights may exist, that ordinarily should be ascertained by means of a court, a tribunal provided by the General Government to the citizen, so that he could be heard in the nature of granting him the privilege of a writ of right, ought not in this particular case to be insisted on, because no questions arise save those which arise between the Government, itself the grantor, and the corporation or the grantees or assignees of the corporation; and if the Government has a right strictly to insist on the forfeiture of the lands so far as the corporation is concerned, as a necessary consequence, as a logical conclusion, it has a right to proceed further and take these lands without notice, without any formalities whatever, as against the assignees of the corporation which was the original grantee.

Now, sir, let us examine that position for a moment. It is now conceded that there are bondholders, at least one set of bondholders; that a portion of the road has been constructed; that the portion of the road which was built has been constructed with funds that were obtained from the bondholders, and that the chief security of the bondholders was an assignment or mortgage upon the land grant, upon the entire land grant, not the land grant opposite the constructed portion of the road, but the entire grant from one end to the other of the proposed route. That is conceded. So then the road, whatever there is of it, the forty or fifty or sixty miles completed, was built upon the faith of the entire grant, and these bondholders have an assignment of

it. So far as I can learn the facts—I do not know whether I am right or wrong in this regard, for there has been no opportunity to ascertain by taking testimony, but I have the sort of information which I believe in and which is as good as the information of anybody in the Senate on the subject—I say, sir, that as near as I can ascertain the facts, the more valuable portion of this land grant upon which the road was constructed, so far as it has been built, is that which it is now proposed to forfeit because it is not opposite or contiguous to the constructed portion of the road. While the portion of the road that has been constructed, if I mistake not, is the most expensive part of it, the security upon which the money was obtained to construct that portion of the road was obtained by the pledge of the land which is not opposite that part of the line that is completed.

Then, in equity, as everybody will see at once, these bondholders have some rights, whatever may be the case as between the Government and the corporation, that did not put in its own money, it seems, but raised the money in accordance with the ordinary custom of getting it out of somebody else, and if the loss fell anywhere putting it on these innocent parties, who on the faith of the grant furnished the money and built the road as far as it is built. However the case may be between the Government and the corporation itself, there can be no sort of doubt that there is an exceedingly strong equity in favor of holding this entire land grant so far as it is necessary to fully indemnify the bondholders. Any honest man would say so. The Government of the United States must say so, and any man who thinks that when they understand this question the people of the United States will become a party to any wrong such as I believe is here proposed much mistakes the temper of the American people.

So much as to the real equity. Whether it amounts to a legal claim or not, it is nevertheless a pertinent consideration for us to consider, and it ought to control our action, because we are called upon to legislate or not, as we see fit, to enforce this right of forfeiture or not to enforce it, just as may be in accordance with the dictates of justice. We are not called upon to enforce a right of forfeiture simply because it exists. Even the common law in the days of its utmost severity allowed the enforcement of the forfeiture of a condition subsequent to be waived; it could be enforced by nobody whatever except the original grantor, the original creator of the condition. No third party could interfere with it. And these forfeitures are not favored in the law. There has been no period in English or American history when they have been favored by the law, and if there be a half equity, the court will not enforce a forfeiture. And is there not an equity in this case upon this statement of facts which I make to you, which is the nearest to the truth I am able to ascertain—and I admit I have ascertained most of it since this bill reached the Senate, since the action of the committee, because I had supposed, like the Senator from Alabama, that he was correct in understanding that nobody was interested save the original corporation, and that its abandonment of the idea of completing the road was utter, absolute, and universally conceded.

Thus much for the matter of equity that ought to control us to the extent, as I think, of defeating this bill under the circumstances even with the amendment proposed by the Senator from Alabama. Now, sir, as to whether here is any legal right of forfeiture as against these bondholders at the present time I wish to address a few considerations to the Senate.

We know that in every case where there has been a land grant, save one, the time provided in the original charter has elapsed before the completion of the road, and it is true that there never has been a forfeiture in any case declared even by Congress as yet. In every instance there has been what I consider and what I believe the courts will hold to be a license given to the original corporation or its assignees to proceed even after the expiration of that time to the completion of their road, and under that license the great completed portion of the Northern Pacific has been constructed and its land grant transferred to it, and the entire reach of its road from the middle of the country to the Pacific slope is now in process of construction on the faith of its grants. The same is true of the Atlantic and Pacific.

The point is that by the act of the Government, the deed of the Government in permitting the company to proceed after the right of forfeiture had accrued, raising more money, pledging or continuing the pledge of the land grant for the purpose of raising money in the markets of the world, there arises a license on the part of the Government to proceed for some length of time. Everybody admits that. If there is such a license or right granted by the Government to proceed for some length of time, how long is that time? It must have duration; it must be longer or shorter. It is not limited by any statute; it is not fixed in any definite way in the law. Now, what rule have we, what rule does the law itself apply in a case like this? Only this rule, and it is the rule of sound reason, that a reasonable or rational period of time shall be allowed. For what purpose? It is to complete the road, is it not? Very well. It can be nothing else, as it seems to me.

So, then, if the original corporation elects to proceed and does proceed in good faith, using such exertions, strenuous or otherwise, as under the circumstances a prudent man would use in the prosecution of his own business, the Government has said to that corporation, "So long as you continue in this course of action you shall have the right to complete your road and to possess and enjoy all the privileges that are contained in your original charter, and which you may have pledged in order to obtain the means for the completion of your road." If that is not so, then this at least is true: that if the corporation proceeding thus honestly, prudently in the prosecution of its purpose to complete its road, yet fails to succeed for the lack of means or for any reason whatever beyond its own control or within its own control to complete that road as soon as the public good requires, so that the original object for which the grant was made can be attained, then that corporation, as a matter of good faith and honesty on the part of the Government, is entitled to notice as to the time within which it must complete its road or the forfeiture will be insisted on. That much at least is the duty of the Government.

If this be so, if this is justice, if this is probably the law, if these are points which a court may well consider, I wish to call attention to one further proposition with reference to this particular case, and that is that these bondholders certainly are entitled to such notice if the original corporation itself were not. These bondholders, these mortgagees, placed themselves in an attitude of contractors with this corporation. The Government creates the corporation and gives it the power to contract. It necessarily then contemplated the fact that the relation of grantor and grantee, assignor and assignee, should come to exist between the corporation and these bondholders.

Thus, Mr. President, the Government has notice of the relative attitude of the several parties in the relations they came to have toward each other in this contract. The Government, in other words, knows that the actual control of the road is not in the hands of the mortgagees, that they are not able to compel the reasonably rapid construction of the road; and until such time as the Government sees fit to give the original grantee, the corporation itself, notice that it must finish its road, certainly it must be conceded that justice would require that the bondholders had a still stronger right to such notice in order that they might protect themselves. Now, how can they protect themselves? There is only one way in which they can do it; and that is by entering into possession, which they must obtain under the forms of law, and discharging the obligations of the original grantee, and thus protecting their title as against the Government. Is there any justice in saying that we shall proceed to the forfeiture of the rights of these assignees who have not been in possession, who had no reason to suppose it was expected of them that they would enforce their mortgages and perhaps can not as yet do so? Is there any right or justice that we now undertake to forfeit the major part of their security when we have never intimated to them until now that we propose to forfeit the right of the original grantee itself?

They, I claim, have right of notice of what we propose to do as to this grantee in order that they may protect themselves by enforcing their legal rights against the corporation and thus enter into possession and complete the road.

Now, Mr. President, here is certainly a very strong equity with reference to these bondholders that does not exist with reference to the original corporation itself. I believe that here is a legal right in these bondholders. I believe it is a right that could be enforced as between private parties, and that the opportunity ought to be given to them to set up that right as against the United States. I do not believe myself, as I have said before, that until all these interested parties have had fair notice of our intent to take from them this land unless they completed the road, in justice and equity we should legislate at all. We should give the notice first. If after having given the notice these parties unreasonably fail to take those steps which are essential to the completion of the road, then the Government can enforce its right, undoubtedly. But we have done nothing like that in any of these cases. We have not done it with reference to these bondholders; we have not done it with reference to any one of the original corporations whose rights it is proposed to assail in any of these bills.

Mr. President, I have taken more time than I expected to occupy at the present on this subject. I think that whenever a land grant has been made, and the purpose to complete the road is abandoned and it is clearly abandoned, then it is not only the right but it is the duty of the Government to declare a forfeiture, to resume its possession, its control, and to dispose of the public lands to the people of the country as they may be called for. I am in favor of legislation of that kind; but the title of the poor man should be as well protected and as impregnable in the law as that of the wealthiest corporation. But, sir, when you assail the rich, or the corporation, you equally assail and you more assail and destroy that of the weaker individual, who is unable to protect himself by those means that a corporation may bring to its defense.

I look upon this effort disregarding the forms of law, the equities of the law, the methods that we pursue in the most ordinary controversies over property cases before justices of the peace, and every right that we have, whether it be of property or of person—I look upon the ignoring of all those just preliminary means of securing justice which are adopted in this legislation that is pending in Congress as a wild, agrarian movement veiled under hostility to corporations, but yet, really, the wildest and most dangerous movement as against property that has ever taken place in this country. I look upon it as likely to result only in very great ill and in the greatest ill to those who are the least able to bear it.

Mr. MORGAN. Mr. President, at the risk of incurring the dis-

pleasure of the Senate even I must beg to be allowed to say a few more words upon this bill.

The bill as it came from the House of Representatives is not at all the bill that is reported back by the committee and that we are now considering. All of the House bill is stricken out after the enacting clause and the Senate committee have reported entirely a new bill. The bill as it came from the House was a forfeiture out and out, as we call it, of all the lands granted to this railroad company notwithstanding the fact that the company had completed a very considerable portion of its line and to important places.

The Senate committee report back a bill as a substitute for that which forfeits only those lands which are "adjacent to the uncompleted portions of the said road." The attitude taken by the House in its bill was that when a cause of forfeiture exists in a grant like this it is a legal and technical cause of forfeiture, and reaches back to the original grant and unsettles everything that occurred from the time of the original grant down to the time of the enactment of the bill declaring the forfeiture. The position taken by the Senate is that notwithstanding that is true as an interpretation of the grant, yet the Senate has a right equitably to apportion the grant for them, so that while we might have the right to take the whole of it equitably, we should not be justified in that, and we will therefore only take that portion which is adjacent to the uncompleted portions of the railroad. So the Senate of the United States in this bill is to-day dealing with an equitable question. It has undertaken in a judicial way to sever this land grant into two parts, the one being its legal characteristics, the other its equitable characteristics or bearings. The first it rejects. The Senate rejects the right of the United States Government to claim a forfeiture of this grant in accordance with the terms of the act. Having abandoned that right, it assumes and asserts on the part of the Senate the right to apportion the grant and to say that we will give you so much and we will take so much.

Mr. DOLPH. Will the Senator from Alabama yield to me for a moment?

Mr. MORGAN. Yes, sir.

Mr. DOLPH. I attach some importance to what the Senator is saying if he assumes to speak for the committee. I wish to say, as one member of the committee, that I do not subscribe to the doctrine that Congress can declare a forfeiture which shall relate back and forfeit the entire grant. I think that each section of a road, under the peculiar provisions of these grants, is so far a separate grant that when the condition is performed as to that section the title is perfect and no act of forfeiture can affect it.

Mr. MORGAN. I was not speaking of the attitude of Senators in committee or elsewhere on this question. I was talking about the attitude of the House and the attitude of the Senate. I repeat, that the House treats this grant as one that is forfeited *ab initio* by the fact of non-compliance with the terms of the condition subsequent. The Senate says, "No; we will not enforce that view of the case at all. That is the legal view; that is what any court of law would order in a proper case; but instead of doing that we will cut the grant in twain, and we will confirm so much of it as is opposite to the completed portion of the road and will forfeit so much of it as is opposite to the uncompleted portion of the road."

Now I proceed to state again that the Senate of the United States in doing this assumes to itself the authority or the jurisdiction of a court of equity. That can not be denied. We depart from the law. We make not only a new law, but we make a new grant that is apportionable, when in fact, according to the terms of the grant, it is not apportionable. If this railroad company has actually earned one-half of this grant, and if that is the reason why the whole of it can not be forfeited, the whole grant remains and there has been no forfeiture. That is the logical, that is the legal, conclusion to which we are driven.

I voted for this bill in committee and I vote for it here, not because I believe that the Senate of the United States has the right to apportion a grant, but because I believe that the Government may waive a part of its remedy. That is all. But you do apportion the grant. Now when we are waiving a part of this remedy upon equitable considerations we waive it as against the bondholders, we waive it as against the corporation, we waive it as against everybody. Why then shall we set ourselves up as a court of law executing the absolute edict of the law so as to preclude these bondholders and these persons interested from asking a court for a further equitable consideration of their claims when we predicate our whole action upon the basis of equity?

That is a curious and a very ridiculous attitude for the Senate of the United States to be in. I regret it; but still it appears to be so. Having ourselves laid down that the true rule upon this grant is the rule of equity, a rule of fair apportionment, having admitted that this railroad company has earned a large portion of its grant, as it is termed, by building its road, we put our decree right upon that state of facts, and say, "Thus far shalt thou go, but no farther;" but when we come to a rule of equity we will shut the doors. If they desire to go into a court of equity to make a claim against this action of Congress, there is no court of the United States open to them; the United States can not be sued. We do not leave the title in abeyance; we do not leave it in the hands of private owners, we do not leave it in the hands of the corporation in any sense; but we relegate it back into the public domain, and it becomes the land of the United States, and the United States can not be sued. We shut the door, and after having pretended to act equitably in this case and upon the basis of the principles of equitable jurisprudence, we turn around and close out all opportunity on the part of persons who are interested from raising their questions of equity in respect to their mortgages.

When I say that these people claim that they have got equities under the mortgages, the honorable Senator from Oregon on my left [Mr. SLATER] replies to me, how can that be, how can they assert a claim of that sort when here is an act of Congress which contains certain conditions of forfeiture that everybody knows have not been complied with, and therefore they are shut out by the act itself? I respond to the honorable Senator from Oregon, you do not stand on the act; you abandon it yourself, and you establish a new rule of law in this case—one that never was heard of until this bill was enacted into a law. You abandon all previous rules and the grant itself; you establish a new rule which is based only on equitable considerations, and then you put your hand down and say they shall have so much equity and no more.

Mr. President, I protest that for a body skilled in law—and every gentleman on the floor of the Senate nearly is technically skilled in the law—to involve themselves in a matter of this kind when we are adjudicating, as the house of lords might do upon an appeal, a great question of law coming up before it, when we put ourselves in this attitude I think it is time we should consider what we are doing. We can not maintain ourselves on that position. No court will sustain us.

Then I ask again—and the question has not yet been answered—why should there not be a bill filed so that this whole matter may be construed judicially in the circuit court in Oregon? Why should it not be so? Who is going to suffer by the delay? Is it mere pride of opinion that we are controverting about here? God forbid. I have none of it in this case. Is there some great public necessity or demand to be supplied by this hasty action on our part? Must we have this grant forfeited instantly or not at all? Is it a question of peace and war? Why can we not await the adjudication of one of the courts of the United States upon a question like this? I protest again, sir; this bill would never have come into the Senate without at least a minority report accompanied by the amendment I have had the honor to offer if I had known that there was a creditor of this railroad company anywhere, for I would not sit in committee or elsewhere and allow such rights to be disposed of by a decree to which I am made a party against which no man is allowed to appeal. I can not do that.

Now, sir, I hope that the Senate in laying down this precedent which must have its bearing upon two or three hundred million acres of land will consider whether or not they intend to cut off men who claim against the Government under such circumstances from a proper remedy in the Federal courts. It is a great wrong to our people that they have no right to question the Government's action in its own courts. They can question the action of other people, but not of the Government. In this case when we are now undertaking to forfeit and recover lands because of forfeiture, this immense domain which runs through not only the territory of this railroad but a number of others in this country, let us be careful how we go, and let us feel that a sense of justice waits upon every step that we take in this important proceeding.

The PRESIDING OFFICER (Mr. MANDERSON in the chair). Is the Senate ready for the question on the amendment proposed by the Senator from Alabama?

Mr. MORGAN called for the yeas and nays, and they were ordered.

Mr. LAPHAM. Mr. President, there are business aspects of this case about which there is no dispute. It is conceded that by the act of Congress the title to these lands vested in the railroad company subject only to a condition subsequent. It is conceded that the company has executed a mortgage or mortgages upon its entire franchise and upon these lands, that bonds to a greater or less extent have been issued, bonds secured by the mortgages thus given, the mortgages having been executed to trustees. It is conceded that the company has built the most expensive portion of its road with the money thus raised upon bonds secured by mortgage on the entire property of the company.

It is eight years, it is said, since the company has done anything in the way of constructing its road. How do we know but what the trustees under the mortgage have foreclosed? Suppose they have foreclosed and purchased in the title to this property upon the foreclosure? If the Senator from Oregon is right the Government may nevertheless declare this forfeiture. Nothing could cut it off, according to his theory, because the mortgage is subject to the condition subsequent which was embraced in the original grant. Are we to decide those questions without giving the parties interested an opportunity to be heard? Suppose the Government had been authorized to enter its own courts and prosecute for a forfeiture of this grant and had commenced an action in the name of the United States, making this corporation only a party, not bringing in any of the bondholders as parties, and a judge of the United States should order final judgment without bringing in the parties really in interest and giving them an opportunity to be heard, what would be thought of such a judicial proceeding as that? Now, what are we doing? Who are we? We are the United States. We are a plaintiff declaring final judgment in our own favor without giving the parties interested any

opportunity whatever to be heard. That is our position exactly. That is what this bill proposes to do. I trust it will not be done. I trust, as I said when this bill was up before the recess, that the Senate will not recede from the position it took, when by a vote of nearly three to one it added to a prior bill now in the hands of a conference committee the precise provision which is embraced in the amendment of the honorable Senator from Alabama. We owe it to ourselves to maintain that position. It is not a question as to the number of parties interested, whether they be few or whether they be many. If but one man has an interest as a bondholder we should stop and hesitate about declaring this grant forfeited without giving him an opportunity to be heard. It is not a question of numbers. It is not a question of the magnitude of the claim. Those considerations do not weigh a feather in my judgment in determining the point of giving to all parties interested, whether they are many or whether they are few, an opportunity to be heard as to their rights before the Government shall resume and put into the market these lands for the purpose of giving title to absolute and *bona fide* purchasers.

The PRESIDING OFFICER. The question recurs on the amendment proposed by the Senator from Alabama [Mr. MORGAN], upon which the yeas and nays have been ordered.

The Secretary proceeded to call the roll.

Mr. CAMERON, of Wisconsin (when his name was called). I am paired with the Senator from North Carolina [Mr. VANCE]. If he were present, he would vote "nay" and I should vote "yea."

Mr. GARLAND (when his name was called). I am paired with the Senator from Vermont [Mr. EDMUNDS], who I see is absent from the Chamber.

Mr. HARRIS (when his name was called). I am paired with the Senator from Massachusetts [Mr. HOAR]. I do not know how he would vote on this question. I shall therefore withhold my vote.

Mr. CONGER (when Mr. PALMER'S name was called). My colleague [Mr. PALMER] is paired with the Senator from Kentucky [Mr. WILLIAMS].

The roll-call was concluded.

Mr. HAWLEY. The pair between the Senator from Wisconsin [Mr. CAMERON] and the Senator from North Carolina [Mr. VANCE] has been changed to a pair with my absent colleague [Mr. PLATT], leaving Mr. CAMERON at liberty to vote.

Mr. DAWES. I wish to state that my colleague [Mr. HOAR] is paired with the Senator from Florida [Mr. CALL].

Mr. HARRIS. Did I understand the Senator from Massachusetts to say that his colleague was paired with the Senator from Florida?

Mr. DAWES. I so understood him.

Mr. HARRIS. The Senator from Massachusetts [Mr. HOAR] arranged a pair with me during his absence upon all questions that we should probably differ upon, and not knowing how he would vote upon this question I withheld my vote because of the pair.

Mr. DAWES. I withdraw the announcement of the pair with the Senator from Florida.

The result was announced—yeas 15, nays 28; as follows:

YEAS—15.

Allison,	Conger,	McMillan,	Sawyer,
Blair,	Dawes,	Miller of N. Y.,	Sherman,
Cameron of Pa.,	Hawley,	Mitchell,	Wilson.
Cameron of Wis.,	Lapham,	Pike,	

NAYS—28.

Beck,	George,	Jones of Florida,	Sewell,
Camden,	Gorman,	McPherson,	Slater,
Cockrell,	Groome,	Manderson,	Van Wyck,
Coke,	Hampton,	Maxey,	Vest,
Colquitt,	Harrison,	Morgan,	Voorhees,
Cullom,	Jackson,	Pugh,	Walker.
Dolph,	Jonas,	Saulsbury,	

ABSENT—33.

Aldrich,	Frye,	Kenna,	Plumb,
Bayard,	Garland,	Lamar,	Ransom,
Bowen,	Gibson,	Logan,	Riddleberger,
Brown,	Hale,	Mahone,	Sabin,
Butler,	Harris,	Miller of Cal.,	Vance,
Call,	Hill,	Morrill,	Williams.
Edmunds,	Hoar,	Palmer,	
Fair,	Ingalls,	Pendleton,	
Farley,	Jones of Nevada,	Platt,	

So the amendment was rejected.

The amendment heretofore made was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. CAMERON, of Pennsylvania. I move that the Senate proceed to the consideration of executive business.

Mr. MORGAN. I ask the Senator to withdraw the motion for a second.

Mr. CAMERON, of Pennsylvania. I do.

Mr. MORGAN. I desire to enter a motion to reconsider the vote by which the bill just considered by the Senate was passed.

The PRESIDING OFFICER. The motion will be entered.

HOUSE BILL REFERRED.

Mr. ALLISON. I desire to ask that the House joint resolution relating to an appropriation be laid before the Senate.

The joint resolution (H. Res. 308) appropriating $50,000 for the support of certain destitute Indians was read twice by its title, and referred to the Committee on Appropriations.

INTERSTATE COMMERCE.

On motion of Mr. CULLOM, and by unanimous consent, the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. 2112) to establish a commission to regulate interstate commerce, and for other purposes.

Mr. CAMERON, of Pennsylvania. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After eight minutes spent in executive session the doors were reopened, and (at 4 o'clock and 40 minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, *January* 6, 1885.

The House met at 12 o'clock m. Prayer by the Chaplain, Rev. JOHN S. LINDSAY, D. D.

The Journal of yesterday's proceedings was read and approved.

PAIRS.

Mr. WILSON, of Iowa. I desire to make a statement to the House. I supposed on yesterday we had Mr. RICE, of Massachusetts, paired with Mr. CALDWELL, of Tennessee, but by inadvertence Mr. RICE was left out. Mr. CALDWELL is paired with Mr. SPOONER. Mr. ROCKWELL, of Massachusetts, requested me to have him paired on yesterday; but I found it impossible to obtain a gentleman on the opposite side to pair with him.

CHANGE OF REFERENCE.

Mr. ROBINSON, of New York. A bill introduced yesterday by the gentleman from Ohio [Mr. LE FEVRE] granting a pension to the widow of the late Commander S. Dana Greene was referred to the Committee on Invalid Pensions. It ought to have gone to the Committee on Pensions. I ask that it be referred to that committee.

The SPEAKER. The correction will be made if there be no objection.

There being no objection, the Committee on Invalid Pensions was discharged from the further consideration of the bill (H. R. 7830), and it was referred to the Committee on Pensions.

BUSINESS OF JUDICIARY COMMITTEE.

Mr. TUCKER. I ask unanimous consent to submit for present consideration the resolution which I send to the desk.

The Clerk read as follows:

Resolved, That Tuesday, January 13, be assigned to the Committee on the Judiciary for the consideration of such business as may be presented by said committee; this order not to interfere with the consideration of general appropriation and revenue bills or prior special orders; and in case this order shall be interfered with on that day, it shall be continued in force until one day thereafter has been occupied by said committee.

Mr. HOLMAN. I suggest to the gentleman from Virginia that the bills to be brought before the House for consideration ought to be named.

Mr. TUCKER. I will say to my friend from Indiana that it was agreed in the Committee on the Judiciary that no measure to which there is any serious objection shall be considered under this order. There are a number of bills, some fifteen or twenty, that we think ought to be passed; these are bills looking to the administration of justice in the country, and to which there is no objection in the committee. I think no bill will come up under this order to which my friend from Indiana will object.

Mr. HOLMAN. I insist that reports from the Committee on Public Lands shall be excepted.

Mr. REAGAN. Unless the resolution excepts the bill now pending relating to interstate commerce I must object.

Mr. TUCKER. The order excepts all prior orders.

Mr. HOLMAN. Unless exception is made of reports from the Committee on the Public Lands I must object.

The SPEAKER. Objection being made, the resolution is not before the House.

ORDER OF BUSINESS.

Mr. RANDALL. I ask for the regular order.

Mr. BINGHAM. I hope the gentleman from Pennsylvania will yield to me for a moment.

Mr. STOCKSLAGER. If the regular order is demanded, I object to any exception being made.

Mr. RANDALL. I will state that I desire the House to pass the pension appropriation bill.

SUPPLEMENTARY REPORT OF GUN-FOUNDERY BOARD.

The SPEAKER, by unanimous consent, laid before the House the following message from the President of the United States; which was

read, referred to the Committee on Appropriations, and ordered to be printed:

To the Senate and House of Representatives:

I transmit herewith the supplementary report, dated December 20, 1884, made in pursuance of orders of the Secretary of War and the Secretary of the Navy, by the gun-foundery board, appointed by me in accordance with the act of Congress approved March 3, 1883.

CHESTER A. ARTHUR.

EXECUTIVE MANSION, *December* 22, 1884.

CONSULAR SERVICE.

The SPEAKER also laid before the House the following communication from the President of the United States; which was read, referred to the Committee on Foreign Affairs, and ordered to be printed:

To the House of Representatives:

In accordance with the provisions of the act making appropriations for the diplomatic and consular service for the year ending June 30, 1883, I transmit herewith a further communication from the Secretary of State in relation to the consular service.

CHESTER A. ARTHUR.

EXECUTIVE MANSION, *January* 5, 1885.

CHEYENNE AND ARAPAHOE INDIANS.

The SPEAKER also laid before the House the following message from the President of the United States; which was read, referred to the Committee on Indian Affairs, and ordered to be printed:

To the Senate and House of Representatives:

I transmit herewith a communication of the 2d instant from the Secretary of the Interior, inclosing certain papers in relation to the present condition of the Cheyenne and Arapahoe Indians in the Indian Territory, and recommending that some provision of law be enacted for disarming those and other Indians when such action may be found necessary for their advancement in civilized pursuits, and that means be provided for compensating the Indians for the weapons so taken from or surrendered by them.

The subject is commended to the favorable consideration and action of the Congress.

CHESTER A. ARTHUR.

EXECUTIVE MANSION, *January* 5, 1885.

CONSUL AT BUENOS AYRES.

The SPEAKER also laid before the House the following communication from the President of the United States; which was read, referred to the Committee on Appropriations, and ordered to be printed:

To the House of Representatives:

I transmit herewith, with a recommendation for its favorable consideration, a communication from the Secretary of State, in which he urges the adoption of measures to secure the consul at Buenos Ayres against loss through the dropping of his salary at the last session of Congress.

CHESTER A. ARTHUR.

EXECUTIVE MANSION, *January* 5, 1885.

CIVIL EMPLOYÉS OF THE NAVY DEPARTMENT.

The SPEAKER also laid before the House a letter from the Secretary of the Navy, transmitting statement showing names of civil employés of the Navy Department, the time they were employed, and the sums paid for their services; which was referred to the Committee on Expenditures in the Navy Department, and ordered to be printed.

DEFENSE OF UNITED STATES IN COURT OF CLAIMS.

The SPEAKER also laid before the House a letter from the Attorney-General, asking additional appropriations for defending the United States in the Court of Claims for the current fiscal year; which was referred to the Committee on Appropriations, and ordered to be printed.

CONTINGENT EXPENSES OF TREASURY DEPARTMENT.

The SPEAKER also laid before the House a letter from the Secretary of the Treasury, transmitting a report of the contingent expenses of the Treasury Department for the fiscal year ending June 30, 1884; which was referred to the Committee on Expenditures in the Treasury Department, and ordered to be printed.

COAL ON WHITE MOUNTAIN INDIAN RESERVATION.

The SPEAKER also laid before the House a letter from the Secretary of the Interior, transmitting a letter from the Commissioner of Indian Affairs inclosing a report of a commission appointed to examine coal on White Mountain Indian reservation, Arizona; which was referred to the Committee on Indian Affairs, and ordered to be printed.

JOHN BANNISTER.

The SPEAKER laid before the House the following request; which, by unanimous consent, was granted:

Mr. YAPLE asks leave to withdraw from the files of the House the papers in the case of John Bannister, without leaving copies.

AGRICULTURAL EXPERIMENT STATIONS.

The SPEAKER also laid before the House the following request:

Mr. JOSEPH D. TAYLOR asks unanimous consent to have printed in the RECORD the petition of the president and professors of the Ohio State University, asking for the passage of House bill 7496, to establish agricultural experiment stations; with the names of the faculty.

There being no objection, leave was granted.

The petition is as follows:

OHIO STATE UNIVERSITY,
Columbus, December 5, 1884.

To Hon. J. D. Taylor:

The Congressional bill H. R. No. 7496, "to establish agricultural experiment stations," has been favorably reported by the Committee on Agriculture, and its passage recommended. It is now before Congress, and ready to be acted upon; and you are earnestly requested to give it that consideration which its importance entitles it to receive.

This bill proposes to provide such stimulus for agricultural improvement as the patent laws do for mechanics, manufacturers, and artists, and the copyright laws for authors. This seems to be the only way in which such an end can be reached. Farmers can not maintain a personal right to improvements in tillage, in crops, in stock-breeding, in overcoming the diseases of animals or plants, or in withstanding the attacks of insect enemies. However much of labor, or study, or money the farmer may expend for either of these, his neighbor can imitate his work and get as much profit from it as he himself can, and that without asking permission or expressing thanks. Some action of the sort proposed by this bill may fairly be asked, in order to put agriculture on a par with the other industrial arts.

Agricultural experiment stations carry on investigations in subjects of the greatest importance to agriculture, by the use of the accurate methods and processes of chemistry, botany, entomology, physiology, and kindred sciences. The analysis and management of manures, the production and adaptation of new varieties of seeds and crops, the destruction of injurious insects, the protection against contagious diseases of animals, have all been the subject of successful and satisfactory investigation in experiment stations. Wherever they have been established they have proved themselves of great benefit to farmers, and have received their unanimous and hearty support. There are a hundred or more of them in the various countries of Europe, and in our country they have been established in Connecticut, North Carolina, and New Jersey for several years, and are highly valued. More recently they have been established in New York, Ohio, Wisconsin, and some other States, and are doing good work.

When the interests involved are looked at, it will be seen that the outlay contemplated by this bill is exceedingly small, $15,000 a year for each State, or $570,000 for all the States, while 7,500,000 men, which is 44 per cent. of our working population, are engaged in agriculture; $10,000,000,000 are invested in farm lands, $400,000,000 in its implements and machinery; $1,500,000,000 in its live stock, and its annual products are $2,200,000,000. Surely the farming community may ask this comparatively small provision for their interests.

The bulletins publishing the results of the work of the State experiment stations are printed as soon as the work is done, and sent without charge to farmers who desire them. And they are producing a great revolution in farm economy wherever their influence extends. The benefits of intelligence and skill in farming make themselves felt wherever they are applied. To produce these, no other means equal to that of agricultural experiment stations have been devised. And no thrifty and progressive farming community can afford to do without them.

The establishment of these stations in connection with the agricultural colleges will be strengthening to both. The colleges have done excellent work, and have given a large return to the country for the gifts by which they were established. The $7,000,000 fund created by the gifts of the Government has been supplemented by $5,000,000 more from States and benevolent individuals. The colleges have been established in all the States, and more than 4,000 students are profiting from the instructions of above four hundred professors. These institutions mainly teach the branches of learning which relate to agriculture and the mechanic arts, while the experiment stations apply these branches of learning to the practical wants of the agriculturist. The studies begun by the students in college are carried on by the practical farmer in the field, and the college professors will be quickened in their duties by seeing the useful purposes to which their sciences are applied. It brings learning and work fairly in connection, and meets a pressing demand of the age.

The advantages to be secured by the passage of this bill are wide and far-reaching, both for the farmers and for the whole country; and the interests which it is intended to promote are so vital to the prosperity of the whole country as to be entitled to the fostering care of the General Government. Trusting that these suggestions will commend themselves to your favorable consideration, we ask for the bill your earnest support.

Yours, very respectfully,

W. H. SCOTT,
Prest. Ohio St. University.
T. C. MENDENHALL,
Prof. of Physics, O. S. University.
R. W. McFARLAND,
Prof. Math. and Civ. Eng., O. S. U.
S. W. ROBINSON,
Prof. Mch. Eng., O. S. U.
A. H. TUTTLE,
Prof. Zool. and Comp. Anat., O. S. U.
F. H. ELDRIDGE,
Prof. Steam-Eng., O. S. U.
S. C. DERBY,
Prof. Latin, O. S. U.
EDWARD ORTON,
Prof. Geology, O. S. U.
N. W. LORD,
Prof. of Metallurgy.
N. S. TOWNSHEND,
Prof. of Agriculture.
J. R. SMITH,
Prof. of Greek, O. S. U.
WILLIAM R. LAZENBY,
Prof. Botany and Hort.
H. A. WEBER,
Prof. Agri. Chem., O. S. U.

WITHDRAWAL OF PAPERS.

The SPEAKER laid before the House the following requests; which, by unanimous consent, were granted:

Mr. BUCKNER asks leave to withdraw House bill 2339, entitled "A bill to prevent undue contraction of the paper circulation, and for other purposes."

Mr. POTTER asks leave to withdraw House bill 4975, to refund the bonded debt of the United States at 2½ per cent. interest, to reduce taxation upon circulating bank-note currency when secured by deposit of 2½ per cent. bonds, and to secure such currency against unnecessary disturbance and fluctuation by applying the national revenues economically to payment of the national debt.

Mr. DIBRELL asks leave to withdraw from the files of the House the papers accompanying the bill for the relief of W. T. Green; no adverse report.

ENROLLED BILL SIGNED.

Mr. NEECE, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a bill of the following title; when the Speaker signed the same:

A bill (S. 2348) to authorize the increase of the capital stock of the First National Bank of Omaha, Nebr.

RELIEF OF DESTITUTE INDIANS.

Mr. ELLIS. I rise to make a privileged report. I am instructed

by the Committee on Appropriations to report the joint resolution which I send to the desk and to ask consent for its consideration at this time in the House as in Committee of the Whole.

The SPEAKER. The joint resolution will be read, after which the request of the gentleman from Louisiana [Mr. ELLIS] will be submitted to the House.

The Clerk read as follows:

Joint resolution appropriating $50,000 for the support of certain destitute Indians.

Resolved by the Senate and House of Representatives, &c., That the sum of $50,000 be, and the same is hereby, appropriated out of any moneys in the Treasury not otherwise appropriated, the same to be immediately available, to be applied to the support and maintenance of the Indians at the Crow, Fort Belknap, Fort Peck, and Blackfeet agencies in Montana Territory.

The SPEAKER. The gentleman from Louisiana presents this privileged report and asks that it be now considered in the House as in Committee of the Whole on the state of the Union. Is there objection? The Chair hears none.

The joint resolution (H. Res. 308) was read a first and second time.

Mr. ELLIS. Mr. Speaker, the estimate for this appropriation comes to us regularly from the Secretary of the Interior through the Secretary of the Treasury. It asks $50,000 for the Montana Indians at the four agencies mentioned in the joint resolution. This appropriation is most earnestly urged by the Commissioner of Indian Affairs, backed by the agents at all these respective agencies, and also re-enforced by the indorsement of the Army officers and inspectors there. It appears that these Indians have not been adequately provided for this year; they were not adequately provided for last year, and hundreds of them absolutely starved to death. To meet this urgent condition of affairs I report the joint resolution which has been read. If any gentleman desires further explanation of it, I stand prepared to give it.

Mr. COX, of North Carolina. I would like to know the number of these Indians.

Mr. ELLIS. There are fifteen thousand of them.

Mr. CHACE. To what tribes do they belong?

Mr. ELLIS. The Blackfeet, Piegans, Crows, Assinaboines, and Gros Ventres. The scenes of distress among those unfortunate people during the past summer were simply terrible, as they were shameful to our Government. And yet, when making the appropriations for the past year, we did not know the real condition of affairs. We did not know that the buffalo and other game which had in great part constituted the support of these tribes had disappeared, and therefore made a conscientious though inadequate appropriation. The appropriation for these Indians for 1883–'84 was about $196,000. To this we added in the first session of the present Congress $100,000, making in all $296,000. We gave for the present year, 1884–'85, $294,000. We believed it would be enough if properly administered, together with such crops as might be raised, to aid which, we gave money for purposes of irrigation and cultivation. But it seems that we did not give enough. There are no proofs of maladministration of the funds appropriated.

But even if there were, I would not pause to hold parley with revelations of fraud and peculation, but would move promptly to avert a repetition of the harrowing scenes of last year, when those unfortunate people were starving in sight and sound of sheaves of wheat and lowing herds.

Mr. Speaker, I have received from several sources letters asking why this appropriation was not more promptly made. To such I will reply that my attention was called to the matter of this emergency just before the holiday adjournment, when there was not time to ascertain from the Indian Office the real facts upon which this appropriation was asked, and the people, whose servants we are and whose treasure we expend, had the right to know fully the occasion of this and of every expenditure.

Besides, I knew that there was ample time after the holidays to provide and forward the necessary relief. No citizen of this country, no member of the Indian Relief Association, shall go before me in appreciation of the duties we owe the Indian or in prompt movement for his relief. I have thought it proper to say this much on this occasion; and now, if no gentleman desires to be heard or to ask further information, I will move the adoption of the joint resolution.

The joint resolution was ordered to be engrossed for a third reading, was accordingly read the third time, and passed.

Mr. ELLIS moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. ELLIS. I now ask that the documents which I send to the desk, and which serve to explain more fully the circumstances on which this joint resolution is based, be printed in the RECORD.

The SPEAKER. Is there objection? The Chair hears none.

The documents are as follows:

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, January 3, 1885.

SIR: Referring to your verbal request to be furnished with a statement of the necessity for the deficiency appropriation of $50,000 required for the Indians in Montana, what tribes are to be benefited by it, &c., I have the honor to state that the appropriation asked for is required for the support of the following tribes: Blackfeet, Bloods, and Piegans, located at Blackfeet agency; Assinaboines, Yanctonais Sioux, &c., located at Fort Peck agency; Crows, located at Crow agency; Gros Ventres and Assinaboines, located at Fort Belknap agency; numbering, as per reports for 1883, over 15,000 Indians.

In the estimate submitted to Congress for the support of these Indians for the fiscal year 1885, the sum of $366,700 was asked for. After the estimates were made and printed a communication was received from Agent Armstrong, of the Crow agency, strongly urging an increased appropriation for supplies for his Indians for 1885, and on the 7th of January last the honorable Secretary of the Interior transmitted to Congress letter from this office of the 5th of January, together with copy of letter from Agent Armstrong, and requested that the estimate for the Crows for supplies for 1885 be increased from $65,000 to $90,000 (see Senate Ex. Doc. No. 42, Forty-eighth Congress, first session), thus making the amount estimated for the Indians named $391,700. The amount appropriated by Congress for the fiscal year is $295,000, or $95,700 less than estimated for.

The necessity for increased appropriation for the support of the Montana Indians arises from the total destruction of the game. In former years the prairies supplied these Indians with everything they needed, and up to two years ago the Indians were almost able to support themselves by hunting. But now the situation is changed; the game is gone, but the Indian is not sufficiently civilized to support himself. In addition, the Crows have only within the last year been moved from their old agency to the new location near Fort Custer. They are doing as well as can be expected of them, but for the next few years will be unable to support themselves. I am, however, satisfied that if the Government should furnish them with a sufficient ration for the next five years to keep them from want and enable them to engage in agriculture, they will, at the end of that time, require but little help from the Government.

For the information of the committee, I inclose herewith copies of letters from the agents at Crow, Blackfeet, and Fort Peck agencies, bearing on this subject, as well as telegrams from the Board of Trade of Helena, Mont., and the governor of Montana.

Very respectfully,

H. PRICE, *Commissioner.*

Hon. E. JOHN ELLIS,
Chairman subcommittee on Appropriations,
House of Representatives.

UNITED STATES INDIAN SERVICE,
Blackfeet Agency, Montana, August 11, 1884.

SIR: In reply to your telegram of the 9th instant, asking for facts in regard to the starving condition of the Indians at this agency, I have the honor to state the following:

Under date of June 4, 1884, I wrote your office reviewing the estimate for supplies made by my predecessor, John Young, for the year ending June 30, 1885, and showed that the amount of meat estimated for was only one-fourth the quantity required, and that of flour only about one-third the quantity required. He asked for 500,000 pounds beef gross, and only 400,000 pounds have been purchased—less than one-fifth rations, or less than five ounces per day for each person. The flour purchased for the current fiscal year gives less than six ounces per day to each person. On such an allowance, having nothing else, how could they avoid starving? I telegraphed you that I have supplies for present needs. If I were to divide 400,000 pounds beef gross by fifty-two, the number of weeks in a year, and issue only that amount, the needs would not be met, but I am issuing more than that, and will continue to do so while I have it on hand, for these Indians shall not die of starvation while I have anything to give them. If the supplies run out the responsibility may rest where it belongs.

At present there is a great abundance of berries, and these help to prevent starvation, for the Indians gather and eat them in great quantities, but the berries will soon be gone and then there will be nothing but meat and flour. It should be borne in mind that at no time since I assumed charge of this agency has there been a single pound of rice, beans, hominy, oatmeal, or anything of that kind to give the Indians. Do you wonder that it is reported they are starving? In May and June there were times when they stripped the trees and ate the inner bark to keep their souls and bodies together, and all the time they were begging for food. Does that look as though they were in a starving condition? I at one time issued over two thousand pounds of bacon that I had not receipted for and that had been condemned by a board of survey. I would never have done so had they not been in a starving condition.

Just now they are not suffering, but in a very short time the berries will be gone and supplies will run low, and the carpenter will again be kept busy making burial boxes unless something can be done in the way of getting them additional food.

Very respectfully, your obedient servant,

R. A. ALLEN,
United States Indian Agent.

Hon. E. L. STEVENS,
Acting Commissioner of Indian Affairs,
Washington, D. C.

FORT CUSTER, MONT., *December 5, 1884.*

SIR:

* * * * * * * *

Although only ordered to inspect the annuity goods and witness the issue, I think it my duty to report to the department commander that the Crow Indians are only issued half rations of beef and that the bacon at seven-tenths of a pound per ration issued every six weeks will only last forty-eight weeks of the year, or until the last of May. The above I think are the figures given me. The Indian agent, Major Armstrong, has written a very urgent letter to his Department upon the subject, in which he stated that he was afraid the Indians by starvation would be driven to commit depredations upon their own (the Government) herd or upon citizen herds, which would most likely lead to further and more serious trouble.

I am, sir, very respectfully, your obedient servant,

A. G. FORSE, *Captain First Cavalry.*

The ASSISTANT ADJUTANT-GENERAL,
Department of Dakota, Fort Snelling, Minn.,
Through Post Commander.

UNITED STATES INDIAN SERVICE,
Crow Agency, Mont., December 2, 1884.

SIR: I am very sorry indeed to annoy you again in regard to the insufficient supply of beef and bacon for this agency, but I dread to cut down the ration of beef below what we are now issuing (one and one-half pounds gross), and I feel that I must give due notice of the following facts: While it is well known that the Crows have always been friendly with the whites and never given the Government any trouble, there have been and are a few chiefs and leaders among them who in their hearts are really hostile. They have never been able to do any harm simply because the great majority of Crows have held them back. These evil-disposed Indians have been visiting the Sioux this summer and brought the Sioux here to visit the Crows. Now I really believe that if the Government is going to starve these people, the well-disposed Crows, who are in the majority, will go over to the minority, and there will be trouble.

I can not believe that the Indians at Wolf Point and at the Blackfeet agency suffered last winter as they were reported to have suffered. I should have thought they would have broken out and gone to war.

I am certain the Crows will not quietly sit down and suffer so. If they are starved they will fight. It is true they have a liberal allowance of flour for this fiscal year, but they are always hungry if they have no meat, and if I reduce the ration so as to make our supply hold out until we can get some on next year's contract they will receive almost none each week.

By issuing seven-tenths of a pound of bacon (which is almost nothing for a grown person for one week) once in six weeks, the total amount allowed us will not last through the year.

Can it be possible that for the sake of saving a few thousand dollars the Government will drive a people who are so well disposed as these have always been into a state of hostility? It is a common saying among white men who are best acquainted with the Crows that they will never go to war unless they are driven to it by starvation; and the same men will tell the honorable Commissioner in the next breath that they believe the Indians will fight before they will allow themselves to be starved.

I have shown in more than one letter, and especially by my letter of January 10, how funds to purchase the additional supplies needed can and ought to be provided from the moneys due the Crows. There is no reason why the supplies should be a gratuity. The Indians will be very glad to have a part of their moneys expended in purchasing the additional supplies. I beg that the honorable Commissioner will call upon the beef contractor for the additional 25 per cent. as provided for by the terms of the contract, and that he will also purchase 20,000 pounds more bacon for us.

I think it is too soon to crowd the Crows too far. I date the beginning of their farming operations from the past season. Nothing had been done at the time of my arrival at this agency, and the first two seasons after I came were thrown away because it was useless to try to place them on their homesteads so long as the question of their removal to this part of the reservation was undecided; so that they are really only partially to be blamed for not raising better crops than they have this past season.

If they are crowded, as we shall have to crowd them unless we get a further allowance of beef and bacon, I think the certain result will be that they will kill a great many of their stock cattle, a great many cattle belonging to stockmen in the surrounding country, and that it will cause them to be so nearly hostile that they will not try to farm much next season. The result may even be more serious. I believe they ought to be allowed one-half the established ration of beef for this fiscal year.

I hope we may get it, but if not will issue in such quantities as will make the cattle we now have last until the middle of July, no matter what the result may be.

I would be very much obliged if I could have a reply to this important matter soon.

Very respectfully,

H. J. ARMSTRONG,
United States Indian Agent.

Hon. H. PRICE,
Commissioner of Indian Affairs, Washington, D. C.

UNITED STATES INDIAN SERVICE,
Fort Peck Agency, August 11, 1884.

SIR: Referring to office letter under date of July 14, 1884, wherein is stated the amount of subsistence supplies to be furnished this agency for the fiscal year 1885, and directing me to divide said supplies into fifty-two equal parts, and to issue one of said parts to my Indians each week during the year. As regards the amount of flour to be furnished (500,000 pounds) I would respectfully inform you that it will be impossible for me to keep my Indians on that amount and do the vast amount of work we have to do, and at the same time pay them for their labor in supplies. The 500,000 pounds of flour furnished for the fiscal year ending June 30, 1885, will be about one hundred pounds per capita for the year; but if I must divide my supplies into fifty-two equal parts, and issue one fifty-second part each week, as directed in your order of July 14, it will militate against our work; in fact I can not work the Indians on two pounds of flour per week.

Very respectfully, your obedient servant,

S. E. SNIDER,
United States Indian Agent.

Hon. H. PRICE,
Commissioner of Indian Affairs, Washington, D. C.

HELENA, MONT., *August* 8, 1884.

Hon. HENRY M. TELLER,
Secretary of the Interior:

Recent reliable information comes before this board that while the death-rate among the families of the Blackfeet Indians in Montana from want of food is not so great as in the preceding month of July, still the famishing condition and death-rate among the several tribes of the Blackfeet Nation are such at this time that immediate relief by your Department is demanded by every instinct of humanity and justice. The wailings of distress among the men, women, and children who have survived the cruel and inhuman famine cry aloud for food with such an appeal that their lamentations should be heeded by yourself without waiting for the slow process of feeding by contractors according to the usual mode at agencies far remote from your official observation.

A. M. HOLTER,
Vice-President of the Helena Board of Trade.

By order of the executive committee.

ROBERT C. WALKER, *Secretary.*

HELENA, MONT., *August* 29, 1884.

Hon. HENRY M. TELLER,
Secretary of the Interior, Washington, D. C.:

Mr. Urquhart, my special agent sent to investigate the condition of the Piegans at the Blackfeet agency, has just returned. These Indians have been slowly wasting away and dying for years for want of food, and the present ration of two pounds of beef and three of flour once a week is insufficient to sustain life in their present weak condition. Agent Allen's instructions from Commissioner Price forbid a larger issue; death averages 1 daily out of total of 2,000; game has disappeared and only ten acres land cultivated, and this small ration is the only means of subsistence, as the appropriation is inadequate for supplying daily wants of Piegans for fiscal year. I urge, in view of their desperate condition, the issuing of full rations until Congress meets in December. As Governor of Montana, in the name of her people, I protest against keeping the nation's wards within the limits of this Territory in such a pitiable, starving condition; humanity and justice demand their immediate relief.

JNO. SCHUYLER CROSBY, *Governor.*

Letter from the Secretary of the Treasury, transmitting an estimate of $50,000 from the Interior Department to supply deficiency in the appropriation for the support of Indians of the Blackfeet, Crow, Fort Belknap, and Fort Peck agencies for the current fiscal year.

DECEMBER 17, 1884.—Referred to the Committee on Appropriations, and ordered to be printed.

TREASURY DEPARTMENT, *December* 17, 1884.

SIR: I have the honor to transmit herewith, for the consideration of Congress, an estimate received from the Secretary of the Interior to supply a deficiency in the appropriation for the current fiscal year for support of the Indians of the Blackfeet, Crow, Fort Belknap, and Fort Peck agencies, amounting to $50,000.

Very respectfully,

H. MCCULLOCH, *Secretary.*

Hon. JOHN G. CARLISLE,
Speaker, House of Representatives.

DEPARTMENT OF THE INTERIOR,
Washington, December 17, 1884.

SIR: I have the honor to request that the item of $50,000 for the support of the Indians of the Blackfeet, Crow, Fort Belknap, and Fort Peck agencies, included in the estimate of deficiencies for the Indian service for the fiscal year ending June 30, 1885, and forwarded to your Department December 15, may be taken from said estimate and transmitted to Congress at the earliest practicable moment.

The appropriation for this purpose for the present year was insufficient.

This Department instructed the agent of the Blackfeet Indians to exhaust his supplies on the 21st of March, so as to increase the food issue by three months, trusting to an immediate appropriation by Congress.

Supplies must be sent in by January 15, 1885, or the chances are that they can not pass over the roads before the middle of June.

Immediate action should be taken, or starvation will ensue.

Very respectfully,

M. L. JOSLYN, *Acting Secretary.*

The HON. SECRETARY OF THE TREASURY.

Support of Indians of Blackfeet, Crow, Fort Belknap, and Fort Peck agencies, being a deficiency for the fiscal year ending June 30, 1885, $50,000.

NOTE.—The sum of $100,000 was appropriated for this object by joint resolution of February 8, 1884 (23 Stat., p. 267).

Several members called for the regular order.

MORNING HOUR DISPENSED WITH.

Mr. RANDALL. I move, Mr. Speaker, by unanimous consent that the morning hour be dispensed with.

The motion was agreed to (two-thirds voting in favor thereof).

PENSION APPROPRIATION BILL.

Mr. HANCOCK. I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the purpose of proceeding to the consideration of general appropriation bills.

The motion was agreed to.

The House accordingly resolved itself into Committee of the Whole House on the state of the Union, Mr. ROGERS, of Arkansas, in the chair.

Mr. HANCOCK. I move, Mr. Chairman, that the House take up for consideration the bill (H. R. 7785) making appropriation for the payment of invalid and other pensions of the United States for the fiscal year ending June 30, 1886, and for other purposes.

The motion was agreed to.

The bill was read for information.

Mr. HANCOCK. I ask that the clerk also read the report of the Committee on Appropriations which accompanies it.

The Clerk read as follows:

The Committee on Appropriations, to whom was recommitted the bill (H. R. 7676) making appropriations for the payment of invalid and other pensions for the fiscal year ending June 30, 1886, submit the following report in explanation of the accompanying bill, which is submitted as a substitute therefor:

The estimates upon which the bill is based will be found on page 139 of the Book of Estimates for 1886, and amount to $60,000,000.

The accompanying bill appropriates $59,976,000, apportioned as follows:

For the payment of pensions	$59,172,000
For fees of examining surgeons	500,000
For salaries of pension agents	48,000
For fees for vouchers and allowances to pension agents	253,000
For contingent expenses of pension agencies	3,000

The amount for examining surgeons is the same as was given for the current year; for pay and allowances of pension agents an increase of $1,090 is made; and for contingent expenses of pension agencies a decrease of $7,000 under the current year is made.

The direct appropriations from the Treasury on account of pensions for the current fiscal year amounted to $20,810,000. The amount reappropriated from unexpended balances for the same purpose is estimated by the Commissioner of Pensions to have been $68,250,000; making the total sum available for pensions for the year a little in excess of $89,000,000. Of this sum it is estimated there will remain an unexpended balance of $30,000,000 at the close of the fiscal year, which, under the operations of section 3690, Revised Statutes, will be carried to the surplus fund of the Treasury.

Section 4755 of the Revised Statutes provides that Navy pensions shall be paid out of the "Navy pension fund" upon an appropriation by Congress, so far as the same may be sufficient.

The naval pension fund at present amounts to $14,000,000, bearing interest at the rate of 3 per cent. per annum, and is created under the provisions of sections 4751 and 4752 of the Revised Statutes.

The payments on account of Navy pensions during the fiscal year 1884 aggregated $750,696.97.

The compensation of pension agents is fixed by the act of June 14, 1878 (Supplement to the Revised Statutes, pp. 347 and 348), and by the act of July 4, 1884. (Statutes at Large, vol. 23, p. 99.)

The compensation of examining surgeons is fixed at $2 for each examination by section 4 of the act of July 25, 1882. (Statutes at Large, vol. 22, pp. 175 and 176.)

New legislation is recommended in the bill, as follows:

* * * * * * *

"And hereafter each member of each examining board shall, as now authorized by law, receive the sum of $2 for the examination of each applicant whenever five or a less number shall be examined on any one day, and $1 for the examination of each additional applicant on such day: *Provided*, That if twenty or more applicants appear on one day, no fewer than twenty shall, if practicable, be examined on said day, and that if fewer examinations be then made, twenty or more having appeared, then there shall be paid for the first examinations made on the next examination day the fee of $1 only until twenty examinations shall have been made.

* * * * * * *

"And from and after July 1, 1885, there shall be no more than twelve agents for payment of pensions; and it shall be the duty of the President, and he is hereby

authorized and directed, to reduce the pension agents to not exceeding the number aforesaid; and so much of sections 4778 and 4780 as is in conflict with this provision be, and the same is hereby, repealed.

* * * * * * *

"That from and after March 4, 1885, the salary and emoluments of agents for the payment of pensions shall be $4,000, and no more, per annum; and of the fees, provided by law for vouchers prepared and paid, only so much thereof as may be required for expenses incurred in having said vouchers prepared, as well as the necessary clerical work at the agencies, shall be available."

Mr. HANCOCK. Mr. Chairman, in the consideration of this bill I have little, almost nothing, to say in reference to anything outside of the new legislation proposed by the committee, and upon that I shall not detain the House but for a few moments. The total estimates for 1886 were $60,000,000, apportioned as set forth in the various paragraphs according to the direction of the Commissioner of Pensions. The amount appropriated is $24,000 less than the estimates, so that the total amount proposed to be appropriated by the bill is $59,976,000.

The new legislation proposed contemplates in the first instance a change in the law providing compensation for examining surgeons. I will state this is with the approval of the Commissioner of Pensions. As the law now stands these examining surgeons get $2 for the examination of each applicant for a pension. That law is proposed to be amended so as to give $2 for each one application up to the number of five with the proviso that if twenty or more applicants appear on o e day no fewer than twenty shall, if practicable, be examined on said day; and that if fewer examinations be made, twenty more having appeared, then there shall be paid for the first examinations made on the next examination day the fee of $1 only, until twenty examinations shall have been made. I presume this is a fair and just compensation for the labor required to be performed.

I do not wish to criticise the law on the subject, but I will be pardoned, I am sure, when I say, with the utmost deference to everybody, that probably the surgeon who can trace back the causes of chronic diseases twenty or twenty-five years ought, I think, to be entitled to the compensation here provided. But, it seems to me, it is an unsafe practice on the part of the Government to rely upon any such theory, while at the same time it is a strong temptation, in my judgment, to imposition and fraud.

Our pension-roll is growing to enormous proportions, and it ought I think to arrest the attention of those who would guard the people's money from being squandered for unworthy objects. We are now expending for pensions alone more than double as much annually as was necessarily expended by the General Government from 1840 to 1850, and it is difficult to say where it is to stop when it is looked upon as a powerful lever by many members of the House to secure a succession to their seats upon this floor. [Laughter.]

Now, I am in favor of pensions to every worthy object, but I do not think it the part of wisdom for any legislative body to hold out temptations to fraud and perjury. When you talk to me about a physician being able to go back for twenty or twenty-five years and trace disease to what occurred in the discharge of the line of duty, I must be permitted to question any one's skill to that extent.

Perhaps these remarks might better have been left unsaid. But, Mr. Chairman, it is a source of gratification sometimes to speak out what we really feel; and while I have as much sympathy as any man should have for those who deserved its bounty, I nevertheless think we are going too far and too fast in this direction.

Another provision proposed by this bill in the way of new legislation is in reference to the compensation of the agent as the law now is. It is contended and shown by very satisfactory testimony that many of these gentlemen get from $7,000 to $14,000 per annum. They get $4,000 for the first 4,000 certificates made out. This bill proposes to limit the compensation and make it uniform at $4,000 to each one of these agents, and that any excess that may be received for issuing certificates shall remain in the Treasury and not be drawn save for specific appropriations made under the bill.

I think this would commend itself to the approval of all parties, for it seems to me that a man whose time is not wholly occupied, who has an opportunity of remaining at home for the larger part of his time, ought to be satisfied with a compensation of $4,000 as a remuneration for the services rendered to his country.

Another provision of the bill is that the number of agents shall be reduced from eighteen, as now, to twelve, and to be apportioned or distributed over the country by the President, as he is authorized to do by the laws now in force. I have not much to say about this matter, as I may not understand it so thoroughly as many others; but on consultation with the officials of the Department I am satisfied that the pensioners could all be paid off with no longer delay than perhaps an average of three and one-half days for the more distant States, California, Oregon, and others, and that would only relate to the first payment, for afterward they would get their quarterly payments as now without any delay. I do not know how much would be saved, but according to the estimates submitted from the Department I assume that it will be in the neighborhood of $98,000. In reference to the question of fees, as that mode was condemned by the last House, it is not brought before this but dropped out in deference to the action then taken.

A change is made, however, as I have stated, in the number of the agents and in their remuneration.

These, Mr. Chairman, are all of the points of new legislation embodied in this bill, but I have no disposition to occupy the time of the committee further, and will therefore yield the floor for twenty minutes to the gentleman from Ohio [Mr. WARNER], reserving the remainder of my own time.

Mr. WARNER, of Ohio. Before taking the floor I would like to ask the gentleman in charge of this bill whether it is his purpose to open the bill for general discussion; and, if so, what length of time it is proposed to allow.

Mr. HANCOCK. I have not thought of any general discussion on the bill further than that we might perhaps occupy one hour. I hoped that we would be able to get through in that time.

Mr. WARNER, of Ohio. Very well; then I will occupy the twenty minutes at this time courteously yielded to me by the gentleman from Texas.

Mr. Chairman, I desire to call the attention of the committee to what I deem to be a very important matter in connection with the law relating to fees in pension cases passed at the last session of Congress, and the abuses, if I may be permitted to use that term, that have grown up under that law. It will be remembered that an amendment was offered by yourself, Mr. Chairman [Mr. ROGERS, of Arkansas], under instructions from the Committee on the Payment of Pensions, Bounty, and Back Pay, amending the law relating to the fees of claim agents.

That amendment was incorporated in the appropriation bill and passed the House, and just here I would be glad to have for a few minutes the attention of such gentlemen as have not before had their attention called to this matter. This bill as it passed the House repealed the law of June 20, 1878, and re-enacted the law of 1870 as far as relates to the collection of fees of claim agents. The law of 1878, it will be remembered, permitted claim agents to collect their fees before the allowance of the claim. The law of 1870 prohibited that and provided for the payment of the fees out of the claim after it had been allowed.

Under the act of 1878, abuses had grown up. Claim agents here in Washington had succeeded in getting a large number of claims in their hands, and as soon as they obtained control of them set themselves to work to obtain all the fees they could. Ten dollars which the law allowed, if they could get it all; if they could not get $10, then $5, and if they could not get five then two or one or any other sum that they could worm out of the claimants, and after getting all the fees they could, some of these agents—not all of them, but some of them—threw the papers in the cases aside and never even filed them in the Pension Office, abandoning both claims and claimants.

In some cases the papers were transferred to another claim agent, who in turn proceeded in the same way, and who perhaps in the end abandoned them again. To prevent such abuses the Committee on the Payment of Pensions, Bounty, and Back Pay recommended the re-enactment of that part of the law of 1870 providing that fees in such cases should not be demanded or received till the claim had been allowed. The bill further provided that on a written contract, approved by the Commissioner of Pensions, a fee of $25, instead of $10, might be allowed in cases filed after the passage of the act. In this form the bill went through the House. It carefully excluded all claims that were filed under the act of June 20, 1878; that is to say, all claims filed subsequent to the passage of that act and prior to the passage of the act in question were excluded from the provisions of the bill.

It was stated here in debate, stated by the gentleman who now occupies the chair, that the bill as reported and adopted by the House was in no way retroactive. I stated also, as the RECORD will show, that it did not cover any cases filed under the old law, and did not affect claims filed after June 20, 1878, and prior to the passage of this act. That was the understanding of the House at the time of the passage of the bill. That provision of the bill was stricken out in the Senate, and in the conference committee a provision differing very materially from the amendment as it passed the House was incorporated in the bill. The bill in this way was so changed as to become retroactive, and was made to cover all cases on file in the Pension Office—that is to say, all cases filed after June 20, 1878—amounting in effect to a blanket mortgage upon all the claims on file in the Pension Office for the benefit of these claim agents. I characterize it as one of the grossest abuses ever practiced upon pension claimants. As made use of by claim agents, I say it is an unmitigated outrage on all soldiers or their widows who had claims pending in the Pension Office when this act became a law.

It is due to my friend from Texas [Mr. HANCOCK] for me to say—and I only presume what I am about to say, for I have no authority from him to say it—but I presume the gentleman from Texas in the conference committee having charge of this bill generously left that provision to the distinguished soldier of the other House on the committee with him; nor is it to be presumed for a moment that the distinguished soldier referred to or any one else on the committee understood what the amendment offered in the conference committee and finally adopted really meant. But the claim agent—and I think I am safe in assuming that some claim agent proposed the amendment—knew perfectly well what it meant and what it would accomplish. He knew it would be worth $7,000,000 to the claim agents to have that become a law and made to cover all the claims on file at that time in the office, to say nothing of those to be filed after the passage of the act.

Not only that, Mr. Chairman, but that bill makes the Government a collector for these claim agents of old, stale claims. It actually requires the Pension Office to put its clerical force to work for them to go over claims long ago allowed, and collect from the pensioners the fees which the agent last of record claims that he has not received. Let me illustrate this by a case which came to my knowledge during the vacation at my own home: A pensioner called on me who receives a pension of $2 a month, $24 a year, and which he has been receiving, I believe, since 1878 or 1879. He found when his certificate should have come to him for the last quarter that there had been deducted from his pension all that was coming to him for that quarter, the $6, and that he was left still $4 in debt, to be taken out of the next quarter's pension. He said he had paid one claim agent $10 and another $5. This one claims to be the last agent and that he never received his $10; and under this law the Commissioner of Pensions is required to use the clerical force of his office to hunt up and adjudicate all such old claims; he has to put his clerks to work to find out what is due to these agents.

And from a communication which I hold in my hand from the Pension Office I learn that 20,000 cases of this kind have already been adjudicated, and the fee of $10 in each case paid; that pensioners who have been receiving their pensions under certificates for a number of years find themselves mulcted in the sum of $10 for the benefit of these agents, no matter how much has been paid to other claim agents. Twenty thousand cases of this kind, I say, have been already settled under this law. Thus $200,000 have been taken from widows and invalid soldiers by the Government through its own agencies and paid over to a lot of claim agents. Could a greater outrage be perpetrated on needy pensioners? The whole business of the Pension Office is retarded and impeded that claim agents at Washington may be satisfied.

Mr. Chairman, in my humble opinion piracy in the Middle Ages on honest commerce was an honest calling compared with some of the operations of claim agents in this city on the pensioners and claimants for pensions under this law. There have been already filed in the office under this law about 90,000 contracts, every one of which must be filed with the claim to which it relates. I mean now the old claims—claims on file before the passage of this act, and consequently under previous agreements expressed or understood. There have been allowed of these claims, to which the fee of $25 attaches, about 10,000, amounting in fees to $250,000; making, with the $200,000 collected from those before receiving pensions, $450,000. And there are other claims about to be settled which will swell the sum probably to $750,000 before this bill can become a law. The cost to the Government of the blank checks alone used by the agent in paying these attorneys' fees has already amounted, I am told, to $4,000; and altogether the cost to the Government of collecting and paying over these fees will run into hundreds of thousands of dollars. Think of $750,000 taken from invalid soldiers and their widows by the Government and paid over to the claim agents who infest the city of Washington.

These pension agents, Mr. Chairman, or some of them, seem to think or talk as if they thought Congress was under their control. And I dare say they do prepare four-fifths of all the bills relating to claims that are introduced in Congress, and they are bold to affirm what Congress will and what it will not do in matters of pension legislation. They act as though Congress would not presume to do otherwise than obey their behests. There is scarcely a petition that comes to either House relating to these questions that has not its origin with some claim agent here. They form associations; they have their bureau; they send out circulars, and assail any member of Congress who does not respond to their demands. They claim to be the friends of soldiers. They are friends of soldiers, as their raids under this law show, as the wolf is the friend of the sheep. And I imagine now that they are chuckling not only over the fact that they are gathering the fleeces of the soldiers, but that they are making the Government do the shearing for them. For under this law we are not only corralling the soldiers for them, or gathering them into their fold, but we are doing the shearing for them with the force in the Pension Office.

If I have time left in the twenty minutes allowed me, I desire to make an analysis of the law showing more in detail the difference between the act as it passed the House and as it finally became a law. But before doing that I desire to refer to the methods resorted to to secure contracts covering old claims on file when the law went into effect. It may be claimed perhaps that these are voluntary contracts made by the soldier with the claim agent, and therefore we have nothing to do with them, but the truth is the claim agent makes the soldier believe that these contracts are required of him by law, and that he must sign them and return them to the agent.

Let me call attention to a circular that has come into my hands which one of these agents sent out.

Remember—

He says to the claimant—

both fee agreements inclosed herewith must be executed and returned promptly to us in accordance with the requirements of the Commissioner of Pensions.

Conveying to the claimant the idea that the Commissioner of Pensions requires them to execute the agreements. This circular is sent out by Soulé & Co. In another circular sent out they say:

By the provisions of an act of Congress approved July 4, 1884, it was made unlawful, from and after that date, for any claim agent or any other person to charge an advance fee in a pension claim. The fee, which, since June 30, 1878, has been $10, is fixed at $25 under the new law, provided these duplicates are signed.

These circulars are sent out to claimants with the agreements to be signed.

I will not stop to read all the circulars that I have, but here is one sent out by George E. Lemon:

Why do you not execute and return the articles of agreement, or state your reasons for not doing so? Very few of my clients have failed to execute the contracts as authorized by law.

"Why do you not execute and return the contracts," he says. Claimants are thus led to believe that they can not get their claims allowed unless they do sign the articles of agreement.

Please comply with my request by promptly executing both the articles of agreement and return them to me at once.

Mr RANDALL. That circular is from the editor of the soldiers' paper?

Mr. WARNER, of Ohio. Yes; this is from the editor of the soldiers' paper—the Tribune, I believe it is called—the would-be friend of the soldier. This is the agent who bought out the Fitzgeralds, I believe, at least he says so in one of his circulars. After the Fitzgeralds had fleeced the soldiers by getting hold of their cases, collecting all the fees they could, they sold out their claims to Lemon, who, as I am informed, paid $20,000 for them.

Now he gets a law passed by Congress which gives him $25 on each one of these claims. What is that worth? You can figure it up very quickly. Supposing there were 20,000 claims at $25 each, they would amount to half a million dollars. A pretty good speculation, it would seem, since Congress has helped him out in it by giving him the use of the machinery of the Government and the clerical force of the Pension Office to make up and collect his claims for him.

A claim agent who has 10,000 claims allowed and receives $10 in each case makes $100,000. The increase of $15 in each case makes it $250,000. The $150,000 is virtually given him by an act of Congress; that is, the Government takes it from the soldiers and their widows and gives it to the claim agent.

In justice to the Commissioner of Pensions it should be said that no discretion is left him, and I do not see how he can do otherwise than he is doing, or how he can put any other interpretation on the law than he has given it. I think he has only followed the law; he could do nothing else.

[Here the hammer fell.]

Mr. WARNER, of Ohio. I would be glad to have a little further time.

Mr. HANCOCK. I will give the gentleman five minutes more.

Mr. WARNER, of Ohio. I can not get through in five minutes.

Mr. HANCOCK. Then I will reserve the residue of my time, and the gentleman from Ohio can now take the floor in his own right.

Mr. WARNER, of Ohio. Very well; then I will take the floor in my own right. I was about to say that the Commissioner of Pensions in his interpretation of the law makes it apply to all claims on file, whether the agent who gets the $35 has done anything in the case or not. Though a claim may be entirely completed, if even the certificate has issued but has not yet received the final signature of the treasurer, and the new agreement overtakes it before the final signature is affixed, the lien attaches and the $25 is paid to the attorney or agent.

This is the retroactive feature of the law which the House was assured when the act passed the House was not in the bill, and it was not. As it passed the House the bill excluded in specific terms all claims filed under any previous act; the bill was made operative only from and after its passage.

I am further informed that it probably takes now about 5 per cent. of the entire clerical force of the Pension Office to execute this law, for the sole benefit of the claim agents who are reaping out of it a rich harvest. For instance, the 90,000 contracts which have come in had to be filed with the claims to which they relate. The claims must all be hunted up and these contracts filed with them. Then there are always 5,000 or 6,000 claims passing from one division to another which are not on the files. Clerks must be detailed to follow these up. This is more labor, a great deal, than to file them with claims that have not been removed. Clerks must follow these claims up and attach the contracts to them—see that they do not get through before the lien under the new contract attaches. Five per cent., I say at least 5 per cent. of the clerical force of the office is required, according to the estimates given me, to carry out the provisions of that law; and the only beneficiaries are the claim agents. The Government does all this work for nothing, takes from the soldiers and gives to the claim agent for nothing; and all because the claim agent likes to have it so.

But the worst feature of the law is that it requires the Government to go back six or eight years, and if an attorney says he has not had his fee, although other attorneys may have had fees, whether he has done anything in the case or not, the Government undertakes to hunt up his claim for him, adjudicate it, and collect his fee from the pensioner for him. Why should the Government do this?

That is a retroactive feature of the law which I think will condemn it in the eyes of every member of the House.

I wish now to call the attention of the House to a comparison of

the bill as it passed the House and as it passed the conference committee.

Mr. RANDALL. I was about to ask the gentleman from Ohio to make such a statement.

Mr. WARNER, of Ohio. I have a full abstract of the differences made out. Here it is:

Attorneys' fees in pension cases, abstract of act of July 4, 1884, first session Forty-eighth Congress, page 99.

Section 1 of the law (being section 4785 of the Revised Statutes), which I have before me, provides that "no attorney shall demand or receive for his services in prosecuting a claim for pension or bounty land any other compensation than such as the Commissioner of Pensions shall direct to be paid to him, not exceeding $25."

That section of the law as it now stands in the bill reported from the Committee on the Payment of Pensions, Bounty, and Back Pay by the distinguished gentleman from Arkansas [Mr. ROGERS] who now occupies the chair, and which is here called the Rogers bill, provided that the fee should be $10 except in cases of special written contract, filed in the Pension Office and approved by the Commissioner, in which cases a claimant may contract with his attorney of record, in writing, in such form as the Commissioner might prescribe, for a fee not exceeding $25. Now comes in the exception: Except in claims for increase of pension where no new disability is alleged, in cases of pensions for service, and in all claims filed in the Pension Office after June 28, 1878, and prior to the passage of the act, in which cases no fee above $10 shall be contracted for.

This provision would prevent allowing contracts already made to be increased, or new contracts made in cases pending after June 28, 1878; but the act of July 4 makes no such provision, but, on the contrary, expressly allows the attorney to make a new contract for the larger fee, provided it was a case in which a contract might be filed, although the repealing clause makes a saving as to contracts in pending cases under the act of 1870. The present law also provides that "no part of such compensation shall be demanded or paid until the pension claim is allowed." The bill reported from the Committee on the Payment of Pensions, Bounty, and Back Pay, the Rogers bill, contained a similar provision (section 2), and also the further provision that all fees in pension claims should be paid out of the first installment of pension due by the agent paying the claim, and no fee should be paid except through this agent.

The present law further provides that in all claims allowed since June 20, 1878, where it shall appear to the satisfaction of the Commissioner that the fee of $10, or any part thereof, has not been paid, the same shall be deducted from the pension, and the agent for paying pensions shall pay the same to the recognized attorney. This provision virtually makes the Pension Office a collection agency for stale attorney fees. There is no provision of the kind in the Rogers bill.

The present law provides that the attorney may cause to be filed with the Commissioner duplicate article of agreement, duly executed and verified, without additional cost to the claimant; setting forth the fee agreed upon by the parties; and where no agreement is filed the fee shall be $10, and no more.

The provisions of the Rogers bill on this subject have already been given.

Section 4 of the present law (being section 4786 Revised Statutes) provides that agreements are allowed to be filed in the following cases only:

First. Original pensions.

Second. Claims for increase on account of new disability.

Third. Claims for restoration where name has been dropped on testimony taken by special examiner, showing that disability or cause of death for which pension was allowed did not originate in the line of duty.

Fourth. In claims of dependent relatives whose names have been dropped on like testimony upon the ground of non-dependence.

Fifth. Such other cases of difficulty and trouble as the Commissioner of Pensions may see fit to recognize.

The Rogers bill does not classify the cases in which contracts may be filed, but merely designates the class of cases in which the fee shall not exceed $10.

The fourth section of the present law further provides that in cases where contracts are filed and it appears that the claimant had paid any sum to the attorney prior to the execution of the contract, and the amount so paid is not stipulated in the contract, then the claim is to be adjudicated as though no contract had been filed; and the amount which the claimant can show has been paid is to be deducted from the fee of $10 allowed by law.

This provision is in the nature of a penalty for failure to specify in the contract the amount previously received by the attorney. There does not seem to be any provision anywhere for the deduction of the amount paid in all cases.

In the Rogers bill it was provided that in all claims filed prior to the passage of the act the attorney shall file a statement under oath showing the amount of fee already received by him, and the amount so received shall be deducted from the fee allowed by the act. To willfully and knowingly make a false statement in regard to the amount received subjected the attorney to the penalty prescribed by the act.

The present law provides that no greater fee than $10 shall be allowed (1) in any claim granted by a special act; or (2) in claims for increase on account of increase of disability for which pension had been granted. You see, they only ask a fee of $10 where Congress passes a special act. They are considerate. Ten dollars only for a special act. The Rogers bill provided that no greater fee than $10 shall be allowed (1) in claims for increase of pension where no new disability is alleged; (2) in cases for pensions for service; (3) in all claims filed after June 28, 1878, and prior to the passage of the act.

No fee is allowed by the present law in any claim for arrears, as arrears of increase allowed by any act of Congress passed subsequent to the date of allowance of the original claim in which such arrears, or of arrears of increase, may be allowed.

The Rogers bill contains no provision of this kind. The penalty clause of the present law is the same as section 6 of the Rogers bill, except the omission of the part applying to an attorney who shall "willfully and knowingly make a false statement in regard to the amount of fee already received;" also except the fine is reduced from $1,000 to $500, and the phrase "and be forever debarred from practicing in the Pension Office" is omitted.

Section 5 of the present law is the same as section 5 of the Rogers bill, with a few verbal changes.

Section 6 of the act (which is found substantially in section 4 of the Rogers bill) gives the Commissioner power, subject to review by the Secretary of the Interior, to reject or refuse to recognize any contract for fees whenever it shall be made to appear that any undue advantage has been taken of the claimant in respect to his contract.

Mr. HENDERSON, of Iowa. May I ask the gentleman from Ohio a question?

Mr. WARNER, of Ohio. Certainly.

Mr. HENDERSON, of Iowa. I would like to ask the gentleman if this provision of the law to which he refers—

Provided, however, That the rights of the parties shall not be abridged or affected as to contracts in pending cases as provided for under said act, but such contracts shall be deemed to be and remain in full force and virtue, and shall be recognized as contemplated by said act—

whether that provision does not fix the fee at $10 in each case for claims filed prior to the passage of the act?

Mr. WARNER, of Ohio. The Secretary of the Interior and the Commissioner of Pensions do not so interpret it. The attention of the Department was called to that section referring to the act of 1870, and the Commissioner has decided that it does not prevent making a new contract with the claimant.

Mr. HENDERSON, of Iowa. That is, of course, if they are willing; but suppose that they refuse to make a new contract, are they not protected by the act?

Mr. WARNER, of Ohio. Of course, if they choose to decline; but I have shown that in all such cases the claim agents make the claimants believe that it is absolutely necessary for them to sign the contract, and the claimants believe that if they do not sign the new contracts they will not get their pension.

Mr. HENDERSON, of Iowa. But as a matter of law is not the claimant absolutely protected by that proviso—that he can not be compelled to execute a new contract and that the claim agent must finish the application for the $10 paid?

Mr. WARNER, of Ohio. He can not be legally compelled, of course, but practically they are compelled in the manner that I have stated.

Mr. GREENLEAF. As a matter of fact some 90,000 new contracts have been made in the face of that act.

Mr. WARNER, of Ohio. Yes, about 90,000.

Mr. HENDERSON, of Iowa. I am not questioning the right of the matter. I agree that it ought not to be done, but what I do contend is that the law prohibits it.

Mr. WARNER, of Ohio. It is done in the manner I have suggested, notwithstanding the law.

The main difference, Mr. Chairman, between the law as it now stands and the bill as it passed the House is in its application to the claims already on file. The present law amounts practically to a lien on all claims on file in the Pension Office at the date of the passage of the act, and adds $15 to the fee of the claim agent in many cases where they have done no service at all for the $15. It is an act of spoliation upon the invalid soldiers of the country, and their widows and orphans. And yet these pension agents are claiming to be the friends of the soldiers. They are friends just as wolves are friends to the sheep they seek to devour. They approach the soldiers in sheep's clothing for the purpose of robbing and plundering them.

Now, I propose, Mr. Chairman, the following amendment to the pension appropriation bill. I will send it to the Clerk's desk and ask to have it read, and I ask the attention of the House to it. After the reading I will explain one or two features of it.

The Clerk read as follows:

SEC. 1. No agent or attorney or other person shall demand or receive a greater fee than $10 for services rendered in behalf of any claimant for pension or bounty land under any law of the United States, and it shall be unlawful for any agent or attorney or other person to demand or receive any part of such fee until the claim for pension or bounty land shall have been allowed, and in case of pensions such fee shall be paid to the attorney of record out of the first installment due the claimant by the agent paying the pension, and in no other

way: *Provided*, That in claims for pensions filed after the passage of this act it shall be lawful for any agent or attorney, being a *bona fide* resident of the same State and county with the claimant, to contract in writing, in form to be approved by the Commissioner of Pensions, for a fee not exceeding $25, no part of which fee shall be demanded or received until the claim shall have been allowed, and then shall be paid only by the agent for paying pensions out of the first installment due the pensioner; and it shall be unlawful for such agent, attorney, or other person, directly or indirectly, to enter into partnership for the purpose of dividing said fee of $25, or in any manner to divide said fee, with any agent or attorney or other person residing in any other county or State or in the District of Columbia; and any person found guilty of violating this provision shall, in addition to the penalty prescribed by this act, forfeit all right to such fee.

SEC. 2. The provisions of this act shall apply to and include all cases filed in the Pension Office between June 20, 1878, and July 4, 1884, whether contracts have been filed in the same or not, and which remain unsettled, and to all cases filed after the passage of this act; and in all cases where any part of the fee of $10 has been paid by the claimant to any agent or attorney of record in the case, the same shall be deducted from the fee of $10 allowed by this act; and if any agent or attorney shall neglect or abandon any claim intrusted to him, it shall be lawful for the claimant to employ another agent or attorney, and the agent or attorney who prosecutes the claim to final settlement shall be entitled to the fee.

SEC. 3. Any agent or attorney or other person who shall directly or indirectly contract for, demand, or receive or retain any other or greater compensation for his services in behalf of a claimant for pension or bounty land than is herein provided shall be deemed guilty of a misdemeanor, and upon conviction thereof shall for every such offense be fined in any sum not exceeding $500 or imprisoned at hard labor not exceeding three years, or both, in the discretion of the court.

SEC. 4. That so much of the act approved July 4, 1884, as relates to the fees of agents or attorneys, and all other acts and parts of acts in conflict with this act, are hereby repealed.

SEC. 5. This act shall take effect on its passage.

Mr. MATSON. Will the gentleman from Ohio yield to me for a question?

Mr. WARNER, of Ohio. Yes, sir.

Mr. MATSON. I ask if there is anything in that amendment saving pending prosecutions for violation of this act?

Mr. WARNER, of Ohio. This amendment repeals the law of last July as far as it relates to cases remaining unsettled, but goes no further. We can not go back where cases have been settled and the money paid, but it repeals the law and makes void all contracts covering claims filed under the act of June 20, 1878, and down to July 4, 1884.

Mr. MATSON. I understand the last clause of the proposition is a general repealing clause.

Mr. WARNER, of Ohio. Oh, no; not a general repealing clause.

Mr. MATSON. I wish to know if there is anything in the amendment saving pending prosecutions.

Mr. WARNER, of Ohio. It only repeals those provisions of the act of July 4, 1884, relating to the fees of agents, and other acts that may be in conflict with this act.

Mr. MATSON. It strikes me there ought to be an express saving of any offenses that may have been committed, so that the Government might prosecute hereafter.

Mr. WARNER, of Ohio. It does not repeal the penalty clauses in other acts.

Mr. MATSON. It repeals the acts and parts of acts in conflict with this act.

Mr. WARNER, of Ohio. Yes; those in conflict with this act. I am very glad to receive any suggestion, and will accept any amendments that will make this bill safer. But I desire to explain further the proposed amendment and its effect.

One object of the bill which passed the House last session was to get these cases out of the hands of the claim agents that infest this capital. We know very well how much of the private business that comes before Congress, and that is imposed upon members, has its origin with claim agents whose motives are to get fees, sometimes plunder. We know that they write four-fifths of all the pension bills and other private bills that are introduced into the House. The purpose in part, I say, of the act which passed the House last session was to get these claims out of the hands of agents here and induce claimants to employ reliable attorneys at home to do their work. These claim agents do little or no work in a claim. They write letters and collect fees and send out blanks, but all the work of preparing the evidence must be done by parties where the claimant resides, and that is largely done gratis now.

The idea was to offer sufficient inducement to attorneys throughout the country to induce them to assist these claimants in the preparation of their claims. For $10 they could not afford to do it where there are but few cases in a locality; but for $25 they could. Now it is proposed in this amendment to limit absolutely the fees to claim agents here in Washington to $10, to be paid only when the claims are allowed, but to allow a contract for $25 to be made with an attorney or claim agent resident in the county and State of the claimant, and only in such cases to allow a fee of $25.

Mr. RYAN. Will that allow the making of two contracts with two agents?

Mr. WARNER, of Ohio. No; there must be no double contracts. That is provided against. This claim business in Washington has become altogether too profitable. It brings too many agents here. There is too much money in it. Where the carcass is there the buzzards gather; and they are thick here in Washington. Make this business less profitable and there will be fewer of these agents here.

Mr. CURTIN. As I understand, the proposition advocated by the gentleman from Ohio will transfer this business to the locality where the pensioner lives.

Mr. WARNER, of Ohio. That is the object of the amendment.

Mr. CURTIN. That is right.

Mr. WARNER, of Ohio. We propose to induce reputable, reliable attorneys at the homes of the claimant to take these cases. They have to get the work done for them now at home and the agents here get the fees. The practice now is for these claim agents at Washington to send out blanks and then instruct the claimant to write to his member of Congress, and the member or somebody else does the work. The Pension Office does most of the writing. The agents here do not do the work, but they get the fee of $25 now in each case.

Mr. RYAN. The only person who can be of any practical use to the claimant is the home attorney.

Mr. WARNER, of Ohio. That is the fact, and there is very little use for pension agents here at all. I believe the soldier would be better off without them, and with attorneys at home to assist in preparing his evidence and the rest left to the Pension Office he would be much better off.

Mr. CURTIN. I will say to my friend that I have told hundreds of applicants in Pennsylvania not to sign these contracts at all.

Mr. WARNER, of Ohio. I am glad to learn that.

Mr. CURTIN. The gentleman properly denounces the mode of doing business as pursued by many of these agents as pillage of the soldier.

Mr. WARNER, of Ohio. This amendment proposes to repeal so much of the act of July 4, 1884, as relates to the fees of claim agents. It is carried back to cover all cases on file and not now settled, whether there are contracts in the cases or not. This is upon the theory that the law of 1884 was retroactive; and we are only repealing that provision.

Mr. CURTIN. That is right.

Mr. WARNER, of Ohio. It is retroactive and unjust. It permits the spoliation of the soldiers, and the claim agents have been very prompt in carrying it out. Ninety thousand cases are now on file and they are coming in at the rate of 20,000 or more a month. We propose to provide that by written contract attorneys at the home of the claimant may contract for a fee of $25, to be paid after the claim is allowed. These local attorneys can do the claimants some good. These agents here in Washington do them little or no good.

Mr. PERKINS. Would it not be well to make provision that the Commissioner of Pensions shall not honor any of these contracts which have been entered into pertaining to cases now pending?

Mr. WARNER, of Ohio. I see no objection to that; but if the law is repealed these contracts by the proposed amendment are made null and void.

Mr. PERKINS. But the contracts are there on file.

Mr. WARNER, of Ohio. I will state that this amendment does not affect contracts covering claims which have been filed since July 4, 1884. Contracts covering claims filed since that date are not touched by this amendment; it allows them to stand. We would have no right, I take it, to abrogate such contracts.

Mr. RANDALL. I would like to ask the gentleman whether his amendment in the terms in which it is drawn will be operative immediately upon the passage of the act?

Mr. WARNER, of Ohio. It will.

Mr. CURTIN. Is the gentleman quite clear in supposing that we have no right to abrogate these contracts made since July 4, 1884?

Mr. WARNER, of Ohio. We assume that it would not be judicious legislation to undertake to abrogate contracts made after July 4, 1884, relating to claims filed after that date—claims filed under the new law. As to such claims we propose to allow contracts made since July 4, 1884, to stand. But we propose to abrogate all contracts relating to claims on file before the passage of the act, because that act itself was retroactive, and retroactive as to that class of claims against the interests of soldier claimants.

I believe, Mr. Chairman, I have said all I desire to say, unless some gentleman wishes to ask some question. I reserve the residue of my time, and yield to the gentleman from Pennsylvania [Mr. RANDALL].

Mr. RANDALL. In view of the statements which have been made, I think it proper to give a recital of the former action of the Committee on Appropriations and the House in relation to this subject. To this end I desire to insert in the RECORD the provisions originally recommended by the Committee on Appropriations, and embraced in the last pension appropriation bill as originally reported from the Appropriations Committee. Section 2 of the bill as we reported it was in this language:

SEC. 2. That section 1 of the act entitled "An act relating to claim agents and attorneys in pension cases," approved the 20th day of JUNE, A. D. 1878, be, and the same is hereby, made applicable to bounty, arrears-of-pay, lost-horse, and bounty-land cases, and pension cases in which arrears of pension are or shall be claimed or granted. And the fee of $10 prescribed by law shall not be payable to nor demanded or received by any agent or attorney in any pension case, whether for arrears or otherwise, or in any bounty, arrears-of-pay, lost-horse, or bounty-land case, in whole or in part, until such claim shall be allowed. Upon allowance of arrears of pension and pension cases the Commissioner of Pensions shall direct that the same be paid by the proper pension agent in the manner provided for in sections 4768 and 4769 of the Revised Statutes. And the

provisions of section 5485 of the Revised Statutes shall be applicable to any person who shall violate this act.

I think I am warranted in saying that under these provisions none of the abuses complained of by the gentleman from Ohio [Mr. WARNER] would have occurred. But from abundance of caution, and deeming that the Committee on Pensions, Bounty, and Back Pay had given more thorough and exhaustive examination to this subject, the Committee on Appropriations gave up the provisions which they had recommended with the view to caring for the interests of the soldiers, and adopted the report of the Committee on Pensions, Bounty, and Back Pay. The bill making appropriations for the payment of invalid and other pensions for the current year therefore contained as it went to the Senate the following provisions, being, as I understand, in substance about the same as the proposition now submitted by the gentleman from Ohio:

SEC. 2. That no agent, attorney, or other person shall demand or receive any fee for his services in pension, arrears of pension, or bounty-land claims until the allowance of the claim.

SEC. 3. That all fees in pension claims shall be paid by the agent for paying pensions, out of the first installment of pension due the claimant; and no agent, attorney, or other person shall receive any fee for his services in a pension claim except through the agent for paying pensions.

SEC. 4. That the fee in all pension, arrears of pension, or bounty-land claims shall be $10, except in case of special written contract filed in the Pension Office and approved by the Commissioner of Pensions, as hereinafter provided. The claimant may contract with his attorney of record, in writing, in such form as the Commissioner of Pensions may prescribe, for a fee to an amount not exceeding $25, except in claims for increase of pension where no new disability is alleged, in cases of pensions for service, and in all claims filed in the Pension Office after June 20, 1878, and prior to the passage of this act, in which cases no fee above $10 shall be contracted for; and in all claims filed prior to the passage of this act the attorney shall file a statement under oath, duly attested, setting forth the amount of fee already received by him, and the amount already received shall be deducted from the fee allowed by this act.

SEC. 5. That the Secretary of the Interior may prescribe rules and regulations governing the recognition of agents, attorneys, or other persons representing claimants before his Department, and may require of such persons, agents, and attorneys, before being recognized as representatives of claimants, that they shall show that they are of good moral character and in good repute, possessed of the necessary qualifications to enable them to render such claimants valuable service, and otherwise competent to advise and assist such claimants in the presentation of their cases. And such Secretary may suspend, debar, dismiss, and disbar from further practice before his Department any such person, agent, or attorney shown to be incompetent, disreputable, or who refuses to abide by the said rules and regulations, or who shall in any manner deceive, mislead, or threaten any claimant or prospective claimant, by word, circular, letter, or by advertisement.

SEC. 6. That any agent or attorney, or other person, instrumental in prosecuting any claim for pension or arrears thereof, who shall, directly or indirectly, contract for, demand, or receive, or retain, any compensation for his services or instrumentality for prosecuting a claim for pension or arrears thereof greater than is herein provided, or in any other manner than herein provided, or shall willfully or knowingly make a false statement in regard to the amount of fee already received, shall be deemed guilty of a high misdemeanor, and, upon conviction thereof, shall, for every such offense, be fined not exceeding $1,000, or be confined at hard labor not exceeding two years, or both, at the discretion of the court, and be forever afterward debarred from practicing before the Pension Office.

The House is clear, in my judgment, from any censure for any participation in this alleged improper legislation. It went, therefore, the way the gentleman from Ohio desires it now to go, a year ago, to the Senate. The Senate disagreed altogether to any proposition or any legislation having in view the correction of the abuse which the House sought to remedy. They struck the House proposition out entirely. They said, in substance: No; we want no legislation. This is in effect the result of the action of the Senate at the time to which I allude.

When the question came back to the House the House still insisted that legislation was required, and what the gentleman from Ohio has indicated was the character of the legislation upon which the House insisted. When the matter got into conference the change was made and legislation was inserted under which fees were unnecessarily taken from soldiers making applications for pensions, and by which they were compelled to employ lawyers here in the city of Washington rather than at their homes.

That, Mr. Chairman, is the way in which this legislation came to be placed upon the statute-book. It was never dreamed by any one that such a condition of things would arise as that which has since occurred, and I have deemed it proper to recite the provisions of the bill as reported and sent to the Senate so that the record may be made up and this House relieved from any reflection whatever in connection with this subject.

Mr. WOODWARD. What was the date of the conference report?

Mr. RANDALL. The bill was reported from the Committee on Appropriations on the 22d of March, and it was first passed by the House on the 23d of May, I believe.

Mr. KEIFER. April 22.

Mr. WARNER, of Ohio. The law was approved July 4.

Mr. WOODWARD. When was the conference committee?

Mr. WARNER, of Ohio. The very last days, at the very close of the session.

Mr. RANDALL. At the very end of the session, I believe, when there was not that full and quiet opportunity to know everything in connection with the matter. I might say that the Committee on Appropriations had then parted with the subject, or rather had remitted it to the conference committee. It does seem we ought to have been able under the circumstances to have checked any such legislation getting through the House; but so it is.

Mr. WARNER, of Ohio. I wish to say, Mr. Chairman, that the committee of which I have the honor to be chairman does not wish to shirk any responsibility, nor do I myself wish to shirk any responsibility in this matter. It never occurred to me that any change was made. Indeed I think I was not here. I have not looked up the record to see whether that is so or not. I did not know that any such amendment was made. I knew nothing about it. I do not wish to be exculpated from all blame in the matter. Still it could hardly be expected under the circumstances that it would have been noticed. I do not think I was here. I went to Chicago about that time. [Laughter.] Perhaps that is not a good excuse, however.

Mr. RANDALL. I had not that excuse, as I did not go to Chicago, but staid here until Congress adjourned, and I did not wish by any remark of mine to cast any reflection on any member of the House. I wished merely to state what was the current of legislation. I do not believe there is a member in either House who, if he had been advised this would have been the effect of what was enacted, would for an instant have advocated or voted for any such proposition. The truth is, in the hurry at the close of the session, under information derived, I suppose, from interested attorneys, we were led into the error. I do not wish to relieve myself entirely from blame in this particular, but I wish to say that the members here are not altogether censurable for having this legislation placed upon the statute-book.

Mr. WARNER, of Ohio. I did not in anything I said mean to make any reflection upon either House or upon any member of either House.

Mr. RANDALL. I so understood the gentleman.

Mr. WARNER, of Ohio. I do not wish to reflect in the slightest degree on any member of this House.

Mr. RANDALL. I do not consider that the gentleman has reflected upon any member of the House, and I do not believe there is any occasion to do so.

Mr. WARNER, of Ohio. I do not believe any member of the Committee on Appropriations or any member of the House, if his attention had been called to the matter, would have sanctioned this legislation; but one thing is remarkable, where mistakes of this kind do creep into legislation they are always against the Government and in favor of somebody. Somebody always knows about them, and some one understood the effect in this case. I do not believe it was known on the part of any member of any committee of the House, or of any member of the House, but the mistake was made. And when such mistakes are made, as I have already said, they are always against the Government and in favor of somebody.

Now while I am on the floor I wish to add one further remark. I do it because my attention has been called by my friend from Kansas [Mr. RYAN] to a publication sent out from this city by hundreds of thousands of copies to the soldiers of the country claiming specially and particularly to be the organ of the soldiers of the country. Soldiers do not know generally that it is sent out by claim agents, who have no other purpose than to gather into their hands all the claims of soldiers they can for the purpose of making as much as possible out of them.

A MEMBER. What paper is that?

Mr. WARNER, of Ohio. It is known as the National Tribune, published in this city. The soldiers do not understand, or did not understand, its character; but they are coming to understand it better. They are coming to know that it is merely an advertising sheet of certain claim agents. It seeks to exercise its influence through the organization of the Grand Army of the Republic, which is not a political organization, or is not intended to be, but almost always when one connected with this paper or any of this class of agents comes to the surface, whether as lobbyist in Congress or before some committee, it turns out somehow or other that he is a claim agent and has some ax to grind, and I place on record this statement for the reason that it ought to be known throughout the country what friends these people are in whose hands the soldiers of the country are falling.

I now, sir, yield the floor.

Mr. HANCOCK. Mr. Chairman, I yield five minutes to the gentleman from Ohio [Mr. JOSEPH D. TAYLOR].

Mr. JOSEPH D. TAYLOR. Mr. Chairman, I shall ask to be recognized in my own right for the reason that I shall require something more than five minutes for what I wish to say. I happened to say on one occasion that the Committee on Payment of Pensions, Bounty, and Back Pay had proved the graveyard of all the important legislation committed to it; that it had never reported to the House for passage but a single bill, and that this one was so objectionable to the soldiers that the Senate gave it no consideration whatever, and hence it never became a law.

Not only this, but I made the broad declaration, which at that time I believed to be true, and which now I know to be true, that this committee never secured a single line of legislation during the last session of Congress. When I made that declaration, and when it went broadcast throughout the country, it was controverted by the chairman of that committee. My declaration in that regard was denied, and the

only scintilla of proof that was ever produced here or elsewhere that my statement in that respect was untrue was the fact that this committee claimed to be the author of this now objectionable section, which was added as an amendment to the pension appropriation bill at the last session of Congress.

To disprove my statement the chairman and other members of that committee pointed with pride to that one solitary amendment to the pension appropriation bill in reference to the payment of the fees of pension attorneys or agents. It seemed then to have been the glory of that committee, and especially the glory of those who were thus representing it, that they had secured some legislation, and that a bill which came from that committee had ultimately become law. It was pointed to with pride by the chairman of that committee on this floor only a few days since, when he stated that the bill reported by the gentleman from Arkansas [Mr. ROGERS], a member of this committee, in regard to the fees of pension attorneys, had been ingrafted upon the pension appropriation bill passed at the last session and had become a part of the statutes of this country.

Yes, Mr. Chairman, this very law, which is now so strongly condemned, was placed to the credit of the Committee on Payment of Pensions, Bounty, and Back Pay only a few days since, when its chairman introduced in this House a resolution to expunge from the RECORD certain things that I had said about this committee; and it was then stated that this provision of law was carefully considered by this committee, reported to the House by one of its members, and attached as an amendment to the pension appropriation bill, and made the law of the land. This was the statement then made by the gentleman from Ohio [Mr. WARNER] and the gentleman from Arkansas [Mr. ROGERS].

The distinguished gentleman from Arkansas [Mr. ROGERS] said on that occasion that this provision was reported by him from the Committee on Payment of Pensions, Bounty, and Back Pay, under its direction, and that it subsequently passed the House and became a law. And it should be remembered, Mr. Chairman, that this statement was made for the purpose of showing that I had not stated the truth when I said that that committee had secured no legislation whatever. The statement of the gentleman from Arkansas [Mr. ROGERS] will be found on page 229 of the RECORD of the proceedings of this House. He used this language; I will read it:

> The bill which I reported as a substitute, under the direction of the committee, for a provision in the pension appropriation bill, and which subsequently passed this House and became a law, was reported April 16, 1884, as will be found by reference to volume 65 of the RECORD, page 3011.

There he declares that this bill which he reported under the direction of his committee became a law. That was the sort of evidence then introduced to disprove the declaration which I had on other occasions made. The gentleman pointed with pride to the fact that this bill increasing the fee of pension attorneys from $10 to $25 came from his committee and ultimately became a part of the law of this land.

And on the same occasion the gentleman from Ohio [Mr. WARNER] said on the floor of this House, page 222 of the daily RECORD:

> Mr. ROGERS, of Arkansas, reported a bill, which will be found on page 3236 of the RECORD, relating to the fees of the claim agents, the substance of which bill was ingrafted on the pension appropriation bill, and is now a law.

And this was said for the same purpose, namely, to disprove my declaration that the committee of which the gentlemen from Ohio is chairman had secured no legislation whatever upon the statute-books of this country, although sixty-eight bills had been referred to it; for it will be remembered that I was making the point then that I make now, that that committee was the graveyard, has been the graveyard, and will continue to be the graveyard of all pension legislation in the Forty-eighth Congress. Yet the gentleman to disprove that declaration uses the language quoted.

Why this change of front? Only yesterday that was legislation which had come from the gentlemen's committee, and to which they pointed with great self-satisfaction. It was the only legislation to which they could possibly point, in seven long months, of which that committee claimed the paternity and authorship, and now all at once there is a change of front. I repeat, why this change? What is the occasion of this remarkable alteration of the sentiments of these gentlemen upon this floor and in the committee of this House? On one day claiming honor for what they professed to have done; on the next day ignoring the paternity of their own offspring and condemning it as a law corresponding with the piracy of the Middle Ages. They declare to-day that this committee never was the author of any such villainous legislation.

Mr. WARNER, of Ohio. It passed the House as the committee reported it.

Mr. KEIFER. And went into the bill as the committee reported it.

Mr. WARNER, of Ohio. Who put it in?

Mr. KEIFER. Your committee recommended it.

Mr. JOSEPH D. TAYLOR. I never denied, Mr. Chairman, that the gentleman from Arkansas [Mr. ROGERS] reported a bill. I never said that the bill was not a good one. I never raised that question; but I did him the honor and I did his committee the honor never to charge them with the authorship of this legislation. It never had occurred to me, Mr. Chairman, that the Committee on Payment of Pensions, Bounty, and Back Pay would claim the credit of this amendment to the appropriation bill, and consequently I made no allusion to it whatever. I simply stated the fact as I then believed it, and as I believe it now, more fully because of these explanations that no part of a bill from that committee ever became a part of the legislation of the country.

I only refer to this now because of my surprise and because of the surprise of other gentlemen on this floor that these gentlemen should attempt here before this House to arraign me for an alleged false statement, the entire truth of which they to-day frankly admit, since they are now engaged in exculpating themselves from the charge of authorship or paternity of this provision.

Now, Mr. Chairman, I agree with them, I agree with the gentleman from Ohio [Mr. WARNER] that this amendment was exceedingly unfortunate in some respects. It has enabled dishonest attorneys to rob soldiers of thousands and tens of thousands of dollars. It was retroactive, and unscrupulous agents have gone abroad all over this land, wherever they found the cottage of the Union soldier, or of his widow, or of his orphans, and claimed an increase of their fee from $10 to $25 without reference to the character or condition of the claim. I appreciate the character of that amendment. I saw its operation day by day. And yet I never accused that committee of having been the author of it. I never held the committee responsible for the wrong contained in it. And yet it is nevertheless true that when you take away that authorship or paternity you have established most conclusively the truth of the position I have heretofore taken that the committee never did secure any legislation whatever.

And now, after what was witnessed on this floor yesterday, after the record which was made then in the consideration of the Mexican pension bill as it was amended by the Senate at the last session, after what now goes out before the country everywhere from ocean to ocean, coupled with what has occurred here to-day, I want gentlemen to remember—and I want them to carry it home with them—that every sentence, and every word, and every syllable of those remarks of mine printed on the four hundred and ninety-fourth page of the Appendix to the CONGRESSIONAL RECORD, save and except the omission of two words, is entirely true; and it has been written down in the records of this country that those allegations stand unimpeached, because the last controverted proposition, the last disputed sentence, was surrendered yesterday and to-day. When I intended, on a former occasion, to say that that committee never reported but one bill for passage, the words "for passage" were omitted; and if this House had heard read, as it should have done, the other parts of those remarks, instead of voting in ignorance of what they contained, it would have understood what I then stated, that I was discussing what that committee was intending to do, what legislation it was intending to secure, and I repeat it now that that committee never reported but one bill for passage, and the facts and conduct of the committee warrant the conclusion that they never intended to pass any other bill involving general legislation or involving the principles of the Senate amendments to the Mexican pension bill.

I wish to say one more thing, Mr. Chairman; I regret the necessity of saying it. I take no pleasure in a discussion of this kind, but I felt that it was due to myself to make these statements, and to further say that all those allegations made by the gentleman from Ohio [Mr. WARNER] in regard to the time of my entering the service—the statement that I entered the service after the battle of Gettysburg, and after the battle of Vicksburg, and after the Mississippi was opened to the sea, &c.—were wholly untrue, as the Army records of the country, the records which are to-day in the War Department, will fully show.

Every paragraph, every sentence, every syllable of those allegations are entirely without a shadow of truth. But the gentleman made them with great declamation and then moved the previous question in order to prevent me from saying a word in reply. I submit whether such conduct as this should go unexplained and unchallenged.

Mr. Chairman, I had no thought of calling the attention of this House to-day or on any other day to this matter or to these statements. The circumstances of this hour and the surprising statements of these gentlemen have called them forth.

I reserve the balance of my time.

Mr. ROGERS, of Arkansas. I hope the House will not do me the injustice of supposing I will undertake to-day to open a question discussed here on a former occasion, and which, I take it, in the judgment of this House is now *res judicata*. I allude to the question which the gentleman from Ohio [Mr. JOSEPH D. TAYLOR] has just been discussing. I did not take the floor, Mr. Chairman, with a view of responding to anything the gentleman from Ohio might suggest on this occasion. I had another object in view, which I will undertake to give the House the benefit of after I refer to a single remark which the gentleman from Ohio has just made, and I hope the gentleman will give me his attention, for I shall endeavor to set him an example which he could well follow in the future. I did state in the discussion which took place on the 13th of last month what the gentleman read from the RECORD. In other words, I said:

> The bill which I reported as a substitute, under the direction of the committee, for a provision in the pension appropriation bill, and which subsequently passed this House and became a law, was reported April 16, 1884, as will be found by reference to volume 65 of the RECORD, page 3011.

That part of my remarks, of which the gentleman from Ohio now com-

plains, is the statement reported by me that this bill "became a law"—that, and that only. I did make that statement, and I made it under a misapprehension of fact. I now withdraw the statement, namely, "that bill became a law," and I commend the example I set to the gentleman from Ohio in the future.

This is all I have to say touching the controversy which grew out of the misconduct of the gentleman from Ohio after the adjournment of Congress at its last session. I thought, Mr. Speaker, when I made that remark that the bill which I had reported had become a law; and I now appeal to my friend and colleague on the committee, the gentleman from Massachusetts [Mr. WHITING] who sits on the opposite side of the House, to state whether the discovery of this fact was not made by the committee at a session subsequent to the debate in which I made the statement.

Mr. WHITING made a gesture of assent.

Mr. ROGERS, of Arkansas. The gentleman from Massachusetts answers in the affirmative. Until this discovery was made by our committee and since the debate to which I have referred no member of the House that I have heard except the gentleman from Texas—not even the chairman of the Committee on Appropriations, or any other member of that committee, so far as I have been able to learn—had discovered the fact that the bill which the Committee on Pensions, Bounty, and Back Pay reported, and which was accepted by the Committee on Appropriations, had not become a law.

I think, sir, that with this statement, supported as it is by my colleagues on the committee upon the other side of the House, I can well leave this branch of the subject where the House left it, and I do so. The gentleman from Ohio on this side [Mr. WARNER] can make any statement he may desire to submit after I am through.

Mr. Speaker, I now invite the attention of both sides of the House to a brief statement touching the business aspects of the proposition now pending. I will say in the beginning that when after the reassembling of the present Congress these abuses about which so much has been said were made known, I was struck with astonishment that the Commissioner of Pensions should have construed that statute, which we had matured in the committee, in such a way as to make the bill retroactive in its operation. In the progress of the debate upon the floor, gentlemen on both sides of the House, as I now recollect (and I have recently examined the RECORD), put the question to me, as the mover of that amendment upon the floor, whether or not it did operate retroactively, and I stated twice during the progress of the debate that it did not operate retroactively; that the intention was it should not so operate. I was therefore astounded when I ascertained the fact that the Commissioner of Pensions had placed that construction upon this measure, which I supposed was the bill I had reported and had become the law of the land.

But, Mr. Speaker, as I understood the recent colloquy between the gentleman from Iowa and the gentleman from Ohio, the construction of the Commissioner of Pensions on this subject was called in question by the gentleman from Iowa. I commend to his consideration, because I know from his conduct on this floor that he is the friend of the soldier, the fact that this bill which has become a law is substantially the same law which was passed in 1870, upon which the then Commissioner of Pensions placed the same interpretation that is now placed upon this act. No rule of construction is more potent or more seriously to be considered in determining the interpretation of a statute recently passed than the settled construction of a similar statute upon the same subject. The one, it is presumed, was passed in view of and with reference to the construction put upon the other. I say now to the gentleman, after a careful examination of this act, after a patient hearing of the Commissioner before our committee, after a thorough investigation of the subject myself at my rooms in the hope that I might be able to overturn the interpretation the Commissioner has placed on the act, I arrived at the conclusion, and so confessed to him, that his interpretation was correct. In view of the fact that this statute is substantially the same, so far as the provision under consideration is concerned, I have no doubt of it.

Mr. Chairman, the chief object I had in view in taking the floor was to invite attention to some amendments which I propose to offer to the bill now pending. I am somewhat loath to offer these amendments, because of the fact that the distinguished chairman of the Committee on Pensions, Bounty, and Back Pay has prepared an amendment which in the main seems acceptable to distinguished gentlemen on the floor. The amendment which I had proposed to offer—being in fact a bill every provision of which has been considered during the present session of Congress in our committee, although not authorized to be reported—is substantially the bill which this House passed at its last session, with the addition of several provisions, among others one looking to the annulment of those contracts which were filed between the passage of the act of 1878 and the act of 1884.

I have also added other provisions, the object of which is to prevent parties who have gone into this business of collecting claims for pensions, bounty, and back pay from doing as one firm in this city has done, transferring their business to a second firm in order that the latter might receive the benefits of the legislation which passed last session. So far as I am individually concerned, I have simply to say that I have not myself examined the record to ascertain who offered the substitute for the House bill in the Senate; but I have been informed that a distinguished soldier, whom in my boyhood I learned by practical experience to respect, offered the amendment. If he did, I now do him the credit to say that I believe when he offered it he was imposed upon as to the effect it would have upon the soldiers of this country.

But, sir, it makes no difference who prepared that Senate amendment. It was prepared carefully. Every feature of former legislation on the same subject had been scrutinized, and it was formed solely and exclusively in the interests of those men who make their living out of the soldier element of the country—the pension attorneys.

Mr. Chairman, I will avail myself of a statement made by the senior member of one of the most distinguished and honorable of the firms, engaged in this business in this city. When this bill was prepared last year he had been before the committee. He said to us in the committee that he believed it was as fair and as just as pension attorneys could require or demand. Yet, Mr. Chairman, during the present session of this Congress that gentleman tells me openly and frankly that when this bill which found its birth in the Senate, as I understand, perhaps in the conference committee, had become law, and he scrutinized it, he at once sent out circulars to thousands of clients all over the country asking them to enter into contracts increasing the fee $15 a case.

Sir, it is not my purpose here to attack these attorneys. I do not hold them responsible for this legislation. If the American Congress passes bills which find their origin in one end of the Capitol without mature consideration, or if it passes bills which have not been matured by any committee, I say it ought to be held responsible for the result. Its committees are intrusted with this legislation. Why, sir, the Committee on the Payment of Pensions, Bounty, and Back Pay spent nearly two months of the last session of Congress trying to mature some measure which would meet with the approbation of the country and give pensions to those who are justly entitled to them; but somewhere this bill they proposed was stricken out and another inserted, and the flood-gates thrown open and the soldiers wronged.

Sir, the responsibility belongs to us. I have said so far as I am concerned I never knew or dreamed that this had become a law until the present session of Congress. I did not know that it had become the law in its present shape. It may be while charged in the last days of the last session of Congress with specific duties on a special committee which sat during the sessions of the House this report came from the conference committee and was passed when I was not present. However that may be, if I had known at the time the bill passed this carefully matured bill of our committee which I have said over and over again I believe closed the gates against all sort of tyranny, oppression, wrong, fraud, or injustice on the soldier element of the country, if the opportunity had been offered me I would have entered my protest against it passage.

I believe these measures ought to be matured in committee. Perhaps the amendment now offered by the chairman of the committee of which I happen to be a member may be a good one, and, so far as I am concerned, the only objection I can offer to it is that I have not had the opportunity to examine it at all. This amendment I offer I have examined, and the committee of which I am a member have examined it. Every feature of it has been carefully matured; and although one feature of his bill may be better than ours, I believe it would be the part of wisdom for the Committee on Appropriations to accept this amendment in lieu of the one my friend from Ohio proposes to offer on the subject.

Now, in reference to one legal feature of this proposition and I am through. One section of this amendment, all of which during my remarks I will ask the Clerk to read, looks to the annulment of all contracts which have been entered into by attorneys and clients where the application was filed after the act of 1878 and before the act of 1884. The law then fixed the fee at $10. If we strike down that provision of it we get rid of nearly all the abuses which have grown up under the passage of the law of the last session. But few applications have been filed since July, 1884.

The question arises, how can you consistently, having in view wise and conservative legislation, undertake to annul these contracts which have been made under the operation of a statute which, however bad, is certainly valid. Mr. Chairman, it can be made to rest in my opinion upon one single proposition, and that proposition is this: that in the law as it now exists there is a provision which made it the duty of the Commissioner of Pensions to exercise his discretion as to whether or not he would allow the increased fee of $15 in each case. He did not exercise that discretion, but construed the law as allowing the additional $15 in all cases when contracts for $25 were filed. If we now enforce by statute what the Commissioner of Pensions might in his discretion do under existing law, I maintain that no contract will be violated in so doing. This position is re-enforced by the fact that the law, as it exists, operates retroactively and against the soldier; if it is not so in terms it is made so by construction; and I take it therefore that no injustice will be done the pension attorneys if we annul all contracts filed under the act of 1884, in cases filed between the passage of the act of 1878 and the act of 1884, thereby putting attorneys and clients on the same footing that they were when the attorneys undertook the cases.

The amendment which I propose to offer does not undertake to interfere with these contracts filed since July, 1884, which is the date of the passage of the bill in the last Congress. I say, Mr. Chairman, we ought not to interfere with those; that we ought to assume in the presence of the country whatever of responsibility belongs to that bad act. Bad though it be, whatever rights these men have under it they are entitled to justly.

Then there is another provision here, which I incidentally alluded to and to which I invite attention. It prohibits, under the penalties of this act imposed by the sixth section of it, any firm of lawyers from assigning their claim to others so that the assignee firm shall have the power to charge an additional fee for the prosecution of the claim; and it requires in that connection that the assignor firm, before the assignee firm can receive a single dollar when the claim is allowed, shall file an affidavit setting forth the exact sums that have been paid to them and which are entitled to be deducted from the original fee allowed by the law.

Now I believe I am through with the remarks I desired to make, and send to the desk to be read in my time the amendments which I propose to offer in conjunction with the original bill as it passed at the last session, the whole constituting the amendment to be offered now, reserving for the present the balance of my time until the reading is through.

The Clerk read as follows:

SEC. 2. That no agent, attorney, or other person shall demand or receive any fee for his services in pension, arrears-of-pension, or bounty-land claims until the allowance of the claim.

SEC. 3. That all fees in pension claims shall be paid by the agent for paying pensions out of the first installment of pension due the claimant, and no agent, attorney, or other person shall receive any fee for his services in a pension claim except through the agent for paying pensions.

SEC. 4. That the fee in all pension, arrears-of-pension, or bounty-land claims shall be $10, except in cases of special written contract, filed in the Pension Office and approved by the Commissioner of Pensions, as hereinafter provided. The claimant may contract with his attorney of record, in writing, in such form as the Commissioner of Pensions may prescribe, for a fee to an amount not exceeding $25, except in claims for increase of pension where no new disability is alleged, in cases of pensions for service, and in all claims filed in the Pension Office after June 28, 1878, and prior to the 4th day of July, 1884, in which cases no fee above $10 shall be contracted for; and in all claims filed prior to the passage of this act the attorney shall file a statement, under oath, duly attested, setting forth the amount of fee already received by him, and the amount already received shall be deducted from the fee allowed by this act.

SEC. 5. That the Secretary of the Interior may prescribe rules and regulations governing the recognition of agents, attorneys, or other persons representing claimants before his Department, and may require of such persons, agents, and attorneys, before being recognized as representatives of claimants, that they shall show that they are of good moral character and in good repute, possessed of the necessary qualifications to enable them to render such claimants valuable service and otherwise competent to advise and assist such claimants in the presentation of their cases; and such Secretary may suspend, debar, dismiss, and disbar from further practice before his Department any such person, agent, or attorney shown to be incompetent, disreputable, or who refuses to abide by the said rules and regulations, or who shall in any manner deceive, mislead, or threaten any claimant or presumptive claimant by word, circular, letter, or by advertisement.

SEC. 6. That any agent or attorney, or other person instrumental in prosecuting any claim for pension, or arrears thereof, who shall directly or indirectly contract for, demand, or receive, and retain any compensation for his services or instrumentality for prosecuting a claim for pension, or arrears thereof, greater than is herein provided, or in any other manner than herein provided, or shall willfully or knowingly make a false statement in regard to the amount of fee already received, shall be deemed guilty of a high misdemeanor, and, upon conviction thereof, shall for every such offense be fined not exceeding $1,000, or be confined at hard labor not exceeding two years, or both, at the discretion of the court, and be forever afterward debarred from practicing before the Pension Office.

Mr. ROGERS, of Arkansas. Now, Mr. Chairman, I invite the attention of the House to the remainder of this amendment, it not being contained in the bill which passed the House at its last session—the portion just read having been offered as an amendment to that bill, and, as will be remembered, was adopted by the House.

Mr. HOLMAN. I would suggest to my friend from Arkansas whether it would not be better to confine the amendment solely to the matter already read, that is, the exact language of the provision that passed through the House at the last session. Would it not be better that the bill should go to the Senate as it passed the House then, and as approved by the members of the committee and of the House?

Mr. ROGERS, of Arkansas. I can satisfy my friend from Indiana on that point in a moment. The bill, as it passed the House last session, did not allow an increase of attorneys' fees on claims filed between the act of 1878 and the act of 1884. But the bill that was substituted for the House bill did, under the construction placed upon it, extend the increase of fee over that period. The bill, as it passed last session, does not annul the contracts since made covering cases filed during that period. We have to go further and annul these contracts and conform the bill so as to meet the changed condition of things.

Mr. HOLMAN. With that understanding, it would be better, of course, that the amendment should go further.

Mr. ROGERS, of Arkansas. I ask the Clerk to read the remainder of the amendment.

The Clerk read as follows:

SEC. 7. That no agent or attorney shall either demand or receive on account of the prosecution of any claim provided for under the provisions of this act, when such claim was filed after the 28th day of June, 1878, and prior to the 4th day of July, 1884, any fee or sum of money in excess of $10, nor shall said $10, or any part thereof, be paid to any agent or attorney until he make and file in the office of the Commissioner of Pensions the affidavit provided for in section 4 of this act; and if it shall appear from said affidavit or in any other way that all or any part of said $10 has been paid, it shall be deducted therefrom and the residue, if any, shall be paid to such attorney as hereinbefore provided: *Provided*, That this act shall not be so construed as to interfere with any contracts entered into fairly and without fraud or duress for the prosecution of claims filed after the 4th day of July, 1884, and prior to the passage of this act; and that any person who shall violate the provisions of this act shall be upon conviction punished as provided in the sixth section of this act.

SEC. 8. That this act shall not be so construed as to prohibit any claimant, the prosecution of whose claims has been heretofore abandoned by his attorney, from employing another attorney or agent, but in no such case shall the fee paid such attorney exceed the sum of $10, under the penalties of the sixth section of this act: *Provided*, That if such new attorney successfully prosecute such claim the original attorney or agent shall not be allowed to demand or receive any part thereof under the penalties of the sixth section of this act.

SEC. 9. That hereafter no person or persons that may have been heretofore engaged in the prosecution of pension or bounty-land claims of any character whatsoever or who may have heretofore collected on account thereof any sum whatever shall be allowed to sell, assign, convey, or to make over to any other person any such claim or claims so as that it shall be lawful for any vendee or assignee of such claim or claims to demand or to receive any other or greater fee than is hereinbefore provided for, nor shall such vendee or assignee be allowed to receive anything therefor until the vendor or assignor of such claim or claims (if alive) shall make and file in the office of the Commissioner of Pensions the affidavit provided for in the fourth section of this act, and any person or persons who shall violate the provisions of this section shall be subject to the penalties imposed by the sixth section of this act.

SEC. 10. That the act approved July 4, 1884, and all other acts in conflict with this act be, and the same are hereby, repealed, and that this act take effect from and after its passage.

Mr. ROGERS, of Arkansas. I now yield to the gentleman from Ohio [Mr. WARNER], the chairman of the committee, such time as he requires, reserving the balance of the time which he may not occupy.

Mr. MATSON. Before the gentleman from Arkansas takes his seat I wish to ask him whether the substantial difference between his proposition and that submitted by the gentleman from Ohio [Mr. WARNER] lies in the fact that his does not attempt at all to annul the contracts filed between June, 1878, and July, 1884.

Mr. ROGERS, of Arkansas. I can not say precisely what are the distinctive features as between the two bills; but both seek to annul the contracts, so far as applications filed between 1878 and 1884 are concerned.

Mr. MATSON. Yours seeks to do that.

Mr. WARNER, of Ohio. And mine also does that.

The CHAIRMAN (Mr. CRISP). The gentleman from Arkansas [Mr. ROGERS] has twenty-nine minutes of his time remaining.

Mr. WARNER, of Ohio. I desire only to occupy the time of the committee for a few words in reply to what has been said as to the responsibility of the Committee on the Payment of Pensions, Bounty, and Back Pay for this legislation. I do not wish, Mr. Chairman, to shirk any responsibility which falls upon me as a member of this House in reference to this act or to any other. But I think it due to that committee to say that this bill after it had been reported to the House, and certainly after it had passed the House, was entirely beyond the control of that committee. It was ingrafted on the pension appropriation bill, a bill reported from the Committee on Appropriations, and the conference was between members of that committee and members of the Appropriations Committee of the Senate. No member of the Committee on the Payment of Pensions, Bounty, and Back Pay was on that conference committee, and no member of that committee was any more responsible for the changes in the bill than my colleague from Ohio or any other member of this House.

My colleague from Ohio, who is a member of the Appropriations Committee [Mr. KEIFER], I do not think would be willing to assume the responsibility for the errors connected with this legislation. I certainly do not charge him with any such responsibility. The amendment adopted by the House was stricken out in the Senate. The House had no control of that, much less the Committee on Payment of Pensions, Bounty, and Back Pay. The change was made, as I have already explained, in the conference committee. I have not looked to see, but I think I was not in the House. I certainly knew nothing of it. I think it was not read at all in the House; and I frankly admit I was not aware of any change until a few days before the adjournment of the House for the holiday recess. I ascertained that fact by calling upon the Commissioner of Pensions and asking how it was that the fee of $25 was allowed in cases filed prior to the passage of the act, and he called my attention to the law and I then saw that the law as it now stands on the statute-book was not the act as it passed the House. That was a fact I was not aware of when the discussion took place early in this session. I frankly admit it, but it has no bearing on that discussion. I do not think any member of this House had discovered the change. No one had spoken to me about it. So far as I know I made the discovery quite as early as anybody else.

The Committee on the Payment of Pensions, Bounty, and Back Pay, as soon as the facts were discovered, took the matter in hand, called the Commissioner of Pensions before it, asked him for an explanation of the law, the interpretation he put upon it, what had been done under the law, the number of claims filed, &c., and that information is furnished to the House. Certainly it can not be charged that that committee has been derelict in its duty in this matter from the time the facts about the law were discovered.

I do not propose, Mr. Chairman, to go back over questions that this House has already settled. I can not, however, let the occasion pass without a reference to the charge that is reiterated here by my colleague that the committee of which I have the honor to be chairman has neglected its duty, that it has acted in bad faith to this House. I do not think any other gentleman on this floor than my colleague would have made that charge. He charges my friend from Massachusetts [Mr. WHITING] as well as myself and all other members of the committee, my friend from New York [Mr. BREWER] and my friend from New York [Mr. GREENLEAF], and other members of that committee with acting in bad faith, as members of that committee in what they have done and reported to this House; that in the measures they have considered and reported they have been trifling with the House, not acting in good faith, not meaning what they have said and done.

Mr. Chairman, it seems to me that a gentleman must be devoid of a sense of the honor of gentlemen and the responsibility of members of this House to make such a charge, a charge affecting members who, I think this House will agree, are actuated by motives as high and honorable certainly as those which actuate him; gentlemen having as high a sense of honor and of the responsibility that pertains to them as members of this House as he can have.

Mr. Chairman, I shall not refer to what was said here on another occasion; but I deny the charge which is reiterated now that the Committee on the Payment of Pensions, Bounty, and Back Pay has not acted in as good faith as any other committee of this House; that it has not labored as faithfully in considering all measures that have been referred to it. Not a single bill has been referred to that committee which has not had consideration. Its chairman has referred all bills to subcommittees. They have been considered, and bills have been reported to this House and are on its Calendar expressing the judgment of that committee as to the legislation which this House ought at this time to adopt. When a committee has reported measures to the House those measures are in the control of the House.

But our committee went further and instructed the gentlemen who reported those several measures to take the first opportunity to call them up and press them to a passage. The bill which I had the honor myself to report was passed under a suspension of the rules. My colleague, in his speech printed after the adjournment of Congress, complained that we passed the bill under a suspension of the rules, and now complains that we do not pass more that way. We thought the only sure way to get that bill through at that session was to pass it under a suspension of the rules, and we deemed it important that it should be passed early. The other bills are here. The House can judge of their merits; and when they come up they will doubtless be acted upon as in the judgment of the House may be deemed best.

But when the gentleman charges members of that committee with acting in bad faith and not intending the passage of the measures they have reported he makes a charge without any authority or warrant whatever. What does he know of the action of that committee? What does he know as to what has been done in that committee or by members of the committee? Let me call his attention and the attention of the House to this fact: this committee in the Forty-seventh Congress, a Republican Congress, was called together, I believe, but once during both sessions. No bills were considered; not one bill was reported from it, if I am rightly informed. That Republican committee of that Republican House did not consider or report a single bill, as I am informed. If I am in error I hope I may be corrected. Certainly not one bill coming from that committee was acted on; and the records, as I am told, show that the committee was only called together once during both sessions of the Forty-seventh Congress.

But the committee of the present Congress is arraigned for a political purpose and charged with dereliction of duty, although it has held regular sessions twice a week nearly all the time, considering bills which were referred to it. And I will state now what I have not stated before, and what I did not intend to speak of, that under the instructions of the committee its chairman has been at work upon a report on pension legislation, going back to the earliest legislation upon the subject of pensions, beginning with the Continental Congress—a report designed to embrace a digest of all the discussions and legislation of Congress on the subject of pensions. This work, which must of course be somewhat voluminous, has not yet been completed. I hope to have time to complete it before the close of this session. I shall endeavor to do so, but may not be able. In that report it is proposed to show succinctly what has been the policy of our Government on this question, what distinguished men have said on pension measures in Revolutionary times or relating to Revolutionary pensions, as well as relating to pensions of the war of 1812, and later legislation of the same class.

He who thinks that the work which has come before our committee is light and ought to be turned off in a week or two has but a limited understanding of the scope and meaning of pension legislation. It must be remembered that pension legislation, involving the interests of thousands and hundreds of thousands of soldiers, and the expenditure of hundreds, yes, thousands, of millions of dollars, is a far-reaching subject. I have said many times that I thought it a greater and more important subject than the national debt. Very few questions before Congress are more important surely than questions relating to pensions. The pension laws as they stand are much involved. They have been made up by a sort of patch-work process. I have favored a commission to digest and reconstruct our entire pension legislation; but such a work can not be done during a session of Congress. I think it ought to be done. I do not believe we shall have a wise and consistent pension system until there has been a complete revision of the pension laws. But to suppose that our committee, with all its other duties, can do all this work in a single session is ridiculous.

Mr. Chairman, I have the honor to be a member of another committee before which some 1,200 bills are pending, nearly one hundred of which have been placed in my hands for examination and report. Some of them involve millions of dollars. I finished the other day and am prepared to submit a report on one case involving $20,000,000. Is it expected that members can take up all the various questions presented in hundreds of bills, make lengthy reports upon them, and do justice in all cases to the subjects committed to them? All that it has been possible for members of my committee and for myself to do I believe we have done. I know we have endeavored to do so. We have sought to discharge our duties honestly and in good faith as members of this House. The charge made by my colleague is one which I ought to ask pardon of the House for making reference to at all. Such charges and such insinuations only merit the contempt of myself, as I believe they do of every other member of this House.

Mr. GOFF. It seems, Mr. Chairman, the explanations made by the chairmen of committees and also by individual members of the House have but little in fact to do with the matter now presented for our consideration. I think if the gentlemen who have even discussed this matter will examine the statute critically they will ascertain they have created a tempest in a tea-pot, and that there is in fact very little wrong which has been accomplished by the legislation of 1884. It has enabled these gentlemen to make their personal explanations and to endeavor indirectly or to shift responsibility from one committee to another, but we all know that our committees, like the king, can do no wrong.

Mr. WARNER, of Ohio. But my friend would not do me a wrong there or my committee.

Mr. GOFF. Certainly not.

Mr. WARNER, of Ohio. Will he then explain how the Committee on the Payment of Pensions, Bounty, and Back Pay could control the action of a conference between the two Houses?

Mr. GOFF. I am not laying the responsibility on the gentleman's committee.

Mr. WARNER, of Ohio. Thank you.

Mr. GOFF. I do not lay it on the Committee on Appropriations or that committee which has a subject of conference between the two Houses; nor do I think it proper to lay it on the other end of the Capitol either. We should assume our responsibility, and our Committee on Appropriations and the members who represented us in conference should bear their part of it if there be any to bear.

I say, Mr. Chairman, there has been little wrong if any by any committee, and I think the gentleman from Ohio when he offered his amendment and submitted his speech to the House said things which the facts will not bear out. The act of 1884, so far as it affects the rights of parties under contracts entered into previous to 1884, is not retroactive. There is no lawyer on this floor who will say so.

Mr. WARNER, of Ohio. The gentleman will not deny that under the interpretation given by the Secretary of the Interior and the Commissioner of Pensions——

Mr. GOFF. I say that is not the interpretation given by either the Secretary of the Interior or the Commissioner of Pensions.

Mr. HATCH, of Missouri. Will the gentleman from West Virginia allow me to say a word?

Mr. GOFF. Yes, sir.

Mr. HATCH, of Missouri. In conversation with the Commissioner of Pensions within the last forty-eight hours he said to me that was his interpretation, and that he felt himself compelled under the act to approve every single contract that had been filed.

Mr. WARNER, of Ohio. And the Commissioner of Pensions said the same thing before our committee.

Mr. GOFF. I beg the gentleman's pardon; I have not reached that question. That is a question of contract which takes place subsequent to the passage of the act of 1884, and in which the claimant and agent reached a conclusion. I say under the act itself the claimant can present this claim and make this demand. This House can not say to the citizens of the country, "You shall not enter into this contract."

Mr. WARNER, of Ohio. I have not claimed that. Nobody has claimed it.

Mr. GOFF. The gentleman from Ohio has claimed the effect of the act of 1884 is to make the fee of $25 applicable to all contracts entered into by virtue of the act of 1870, I believe it is. Now, such is not the case. I will concede to the gentleman some claim agents have made claimants for pensions believe that was the effect of the act, and I concede also certain parties have entered into contracts under the stipulations of this act by which they agree to pay $25 for that they were entitled to have done by the payment of $10. But that is not the effect and operation of this act; and I think if the gentleman from Missouri

will read the act he will so understand it, and he must have misunderstood the gentleman he alluded to a moment ago as referring to the effect of a contract entered into between an agent and attorney subsequent to the passage of the act.

Mr. HATCH, of Missouri. I held the same view of the law which the gentleman has stated before having the conversation referred to with the Commissioner of Pensions. He told me, however, that was the law, and that where contracts had been filed between claim agents and claimants in cases which had arisen and been completed as far as filing evidence was concerned under contract to charge only $10, he felt compelled under that act to approve a new contract, giving the claim agent $15 additional, or in all a fee of $25 for each case. That in my judgment is the greatest outrage ever perpetrated.

Mr. GOFF. I say so. We do not differ on that point. That is the contract, I say, that has been subsequently entered into between the attorney and the claimant. It is a voluntary contract. It is not the action of the Commissioner of Pensions which would be taken by virtue of this act, but for the contract subsequently made. That is what I mean. There is no bearing whatever in the case the gentleman from Missouri cites and the point the gentleman from Ohio makes in his argument. It is not owing to this language in this act of 1884 that this action on the part of the Commissioner of Pensions is taken, but it is owing to the fact that the claimant and the attorney have entered into a contract subsequently.

Mr. WARNER, of Ohio. Which contract could not have been entered into but for the passage of that act.

Mr. GOFF. Which could not have been done——

Mr. HATCH, of Missouri. If the gentleman from West Virginia will allow me, I want to relieve the Commissioner of Pensions from the responsibility of approving a contract which in his judgment is a fraud upon the face of it.

Mr. GOFF. I am with the gentleman in that respect. I am going to do that, too, if I can; but I want to say to this House that there has not been the great blunder or error which the gentlemen who represent the Committee on the Payment of Pensions, Bounty, and Back Pay, and also the Appropriations Committee, think has been made.

Now, what action might have been taken subsequently to that time is another thing, and some legislation may be necessary to prevent its continuance in the future. But it is no new thing to provide that a fee of $25 shall be allowed for prosecuting claims. It is not the first time in the history of this country that such a fee has been allowed. It was at the request of the soldiers themselves in the first instance.

It was allowed at the request of the claimants for pensions who had been demanding of the Government that owed them the pension—and I use the word "owed" to the gentleman from Ohio—that they should receive what they were entitled to.

Mr. WARNER, of Ohio. I assent to that in every case where there was a disability incurred in the military service.

Mr. GOFF. Well, we are not going to get off the track now, I hope.

Mr. WARNER, of Ohio. I trust not.

Mr. GOFF. Then I say this change was made originally at the request of the soldiers, and the same bugaboo which the gentleman now complains of did not seem to frighten them.

Mr. WARNER, of Ohio. I do not want to be understood as assenting to that part of the gentleman's remarks, however, that this was done at the request of the soldiers themselves. That I do not admit.

Mr. GOFF. Very well; we will see how it was. It was claimed that advantage had been taken of that act. I have no doubt of it. Sharp, shrewd, brainy men from the time that time was down to the present have imposed upon those not so fortunate as themselves, and they will continue so to do as long as time is, and no legislation of ours can prevent it.

But this legislation was subsequently changed, and it was provided that a pension fee could not be contracted for to exceed the sum of $10, and that remained in force down to the passage of the act of 1884. What was the reason of that change? I do not know who the distinguished gentleman from Arkansas, the chairman of the Committee of the Whole at the present time, alluded to a moment ago when he spoke of the distinguished soldier to whom he was referring, but I do mean to say that the distinguished soldier was not far wrong when he said that the interests of the soldiers of this country demanded that they might have the privilege, not that they should be charged, but that they might have the privilege of contracting to pay $25 for the prosecution of their claims. Why, it is not written in this act, it is not nominated in this bond, that these soldiers shall be compelled to pay a fee of $25; and in the absence of the contract—and I speak of the act of 1884—the absence of the contract to pay fifteen, twenty, or twenty-five dollars, which it shall not exceed, the sum of $10 is still paid for that service.

Now, there are cases which no attorney will undertake, I care not whether he lives in the city of Washington or in a county of any one of the different States of the Union where the claimant lives. There are some cases that can not be and will not be undertaken for the sum of $10. It will not be possible for a man to prosecute them for such a sum. If, then, you prohibit the soldier from contracting to exceed the sum of $10, and if you make it a penalty, ay, a felony, for the attorney to charge over the $10, or enter into a contract by virtue of which he will receive over $10, you simply say to the soldiers of that class, "You shall not be allowed to prosecute your claims."

Mr. WARNER, of Ohio. Will the gentleman from West Virginia allow a question?

Mr. GOFF. Yes, sir; a question.

Mr. WARNER, of Ohio. The gentleman understands that another amendment proposed cuts off that right in claims after the passage of the act?

Mr. GOFF. I have not reached your amendment yet. I am only discussing the law you are abusing here; that is all; and I will not take any longer the time of the committee on that point.

Now, the gentleman takes exceptions to this provision and he relies upon it more particularly. He claims that since the passage of the act of 1884 the clerical force of the Pension Department, to a great extent, has been occupied in ascertaining to whom this fee of $10 in old long-since adjudicated cases shall be paid. Does the gentleman mean to say that that is new legislation? I would like to know whether the gentleman from Ohio claims that that is new legislation. He has hurled the thunderbolts of his eloquence more particularly at that. Now, is that new legislation? If the gentleman does not intend to answer——

Mr. WARNER, of Ohio. If my friend will allow me, I wish to say I was trying to catch the full force of his question; my attention was otherwise occupied at the moment he commenced to address the question to me.

Mr. GOFF. This is one of the counts of the gentleman's indictment against this legislation, that it provided that the force in the Pension Office should ascertain to whom of the great number of claim agents throughout the country this fee of $10 should be paid, and that the Department should cause it to be paid.

Mr. WARNER, of Ohio. That is what the Pension Office is now doing in those cases where the fee of $10 has not been paid—that is, where the last attorney claims that it has not been paid. The clerical force—a part of it, the necessary part of it—of the Pension Office is turned on to those cases and is looking them up, and the Office has already adjudicated and paid some 20,000 of them $10 each, making $200,000.

Mr. GOFF. It has been the law of this country ever since 1868 that attorneys should have their claims adjudicated at the Department, and that it should be the duty of the Pension Commissioner to transmit that adjudication, together with the certificate of the allowance of the pension, to the pension agents of the country, who were to deduct that fee.

Mr. WARNER, of Ohio. I beg pardon of the gentleman from West Virginia. He is mistaken as to the act of June, 1878. Prior to that the law was as he states; but it was not the law from 1878 to 1884.

Mr. GOFF. I say it is not new legislation.

Mr. WARNER, of Ohio. But in this case Government clerks are set at work going back over these cases after men have been allowed their pensions, and when they have paid perhaps other attorneys, and the Government is required to collect these now stale claims and pay the amounts over to the agents. That is new legislation, and novel legislation, too.

Mr. GOFF. I claim it is not new legislation, and that is not the effect of the legislation. It is true it is made the duty of the Commissioner, if it shall appear to the satisfaction of the Commissioner of Pensions that the fee of $10 has not been paid. Now, if that fee of $10 has been paid to the claim agent, it is utterly impossible unless fraud is resorted to for the subsequent claim agent to have the fee paid to him again.

Mr. WARNER, of Ohio. I beg the gentleman's pardon. The practice of the Pension Office is this: If a claimant has paid a fee to somebody under the act of June, 1878, some agent—to the Fitzgeralds, for instance, who sold out to the Lemons afterward—and now the new claim agent comes in, not as the agent of the former attorney, and the fee is paid to him, although the soldier may have paid under a former contract half a dozen fees——

Mr. GOFF. I do not know what the practice may have been, but I say that can not be done under the statute. That is what I say and that is what I have been endeavoring to show, that you have been making statements here as to matters which have been done, as to contracts that have been entered into, as to outrages said to have been perpetrated, which, if they have occurred, find no warrant under the statute. That is what I mean. The Commissioner may be imposed upon, the Secretary may be imposed upon, you or I may be imposed upon. Fraud may have been committed. But that is not the effect of the operation of the statute. I insist that its plain construction does not warrant those things, and that the most critical attorney could not find in it a warrant for such things.

Mr. WARNER, of Ohio. Will the gentleman allow me to again interrupt him, although I do not desire to intrude on his time? If a former claim agent or attorney has been paid by the claimant under the act of June 20, 1878, which allowed the collection of fees prior to the allowance of the claim and without regard to the allowance of the claim, and another claim agent has been appointed, the former one having abandoned the claim, he comes *de novo* into the claim, and the Commissioner of Pensions can not do otherwise under the law than in pay him the fee.

Mr. GOFF. The gentleman is mistaken. I read the statute:

In all claims allowed since June 20, 1878, where it shall appear to the satisfaction of the Commissioner of Pensions that the fee of $10, or any part thereof, has not been paid, he shall cause the same to be deducted from the pension, and the pension agent to pay the same to the recognized attorney.

Now, if the fee has been paid to the attorney then prosecuting the case, or if any part of it has been paid to the attorney presenting the claim, then the Commissioner has to so ascertain from the facts submitted to him and to declare the result as any other judge would do. As to this subsequent claim to which the gentleman from Ohio alludes, the attorney may have imposed on the Commissioner; but that is not the fault of the law; nor from what I know of the Commissioner is he apt to be imposed upon in that regard.

I am not defending any agent or agents. I am endeavoring to defend the soldiers of this country, those that I think are entitled to the serious consideration of this Congress; and it is not to their interest, Mr. Chairman, that we should have these continuous changes in the pension laws of the land or in the legislation under which pensions are to be secured.

Nor do we subserve the interest of the soldiers by saying to attorneys who have become proficient in this line of business, who have made it their study for a quarter of a century, that they shall step down and out; that new men shall come in to prosecute these claims. The soldiers of this country, in their misery and penury, must contribute to the fund by which new men shall be educated to prosecute their causes.

It is utterly wrong to arraign an entire class in this manner. There are honorable and conscientious gentlemen engaged in the prosecution of these claims, and there are also bad men, men who defraud the soldiers of the country, and it is our duty to prevent the latter class from being successful. There are black sheep in all professions and in all communities, if not in all parliamentary bodies.

The proposed amendment of the gentleman from Ohio, wherein it is provided that an attorney residing in the city of Washington shall not prosecute one of these stale cases at a fee exceeding $10, is not in the interest of the soldiers of the country; on the contrary, it is a direct stab at their interest. It says to them that they shall not be permitted now, in their old age and in their want, to make contracts which will enable them speedily to obtain the pittance which the Government doles out to them.

The provision which proposes to permit a contract for $25 in the county where the party resides is not in the soldiers' interest. Why, Mr. Chairman, go to your own home; what reputable attorney there will undertake, for this fee of $25, a case which, bear in mind, is a peculiar case? The easy cases, the good cases, the cases rapidly and easily proven, have been adjudicated. It is the stale cases, the cases which demand strict attention, the cases where witnesses have gone to their long homes, where records have been destroyed, where claimants are not able to produce living witnesses to speak for them—it is cases of this kind that demand the payment of $25 fees. What attorney at the home of the claimant can undertake for such a fee a case of this kind, which may require him to visit the capital of the country and inspect the records of the nation before the case can be determined? Therefore, I say, that while by this provision you intend to benefit the soldiers of the country you do not do it; you in fact prohibit them from making a contract to secure the pensions to which they are entitled.

Another thing, the gentleman's amendment repeals all laws imposing penalties for offenses under our previous legislation on this subject. All men who are now arraigned in the courts of this country for fraudulent practices on the soldiers of this country, all men who are to-day under indictment for such offenses will by the operation of this amendment repealing the penalties for such offenses walk out of the courthouses of the country acquitted.

Mr. WARNER, of Ohio. My amendment only repeals provisions of law in conflict with the proposed amendment; it repeals no law not in conflict with it.

Mr. GOFF. Yes, it does.

Mr. WARNER, of Ohio. I beg the gentleman's pardon.

Mr. GOFF. It repeals such provisions as "relate to the fees of agents or attorneys, and all other acts or parts of acts."

Mr. WARNER, of Ohio. It repeals so much of the act of July 4, 1884, as relates to fees of agents and attorneys; that is all.

Mr. GOFF (reading):

And all other acts and parts of acts in conflict with this act are hereby repealed.

Mr. WARNER, of Ohio. Exactly. It repeals everything in conflict with it, but it repeals nothing else.

Mr. GOFF. I will show my friend that I am right. This act of July 4, 1884, enbraces a penalty for the violation of the section relating to the collection of pensions. The previous acts passed by Congress imposed penalties for like violations.

Mr. WARNER, of Ohio, rose.

Mr. GOFF. Allow me to get through. Under these acts prosecutions have been commenced, indictments have been found, and those are the very acts that the gentleman's amendment would repeal.

Mr. WARNER, of Ohio. But they were repealed by the act of July 4, 1884.

Mr. GOFF. Oh, no; they were not; you can not find any such legislation as that.

Mr. WARNER, of Ohio. The gentleman will find it right in the act itself.

Mr. GOFF. No, sir.

Mr. WARNER, of Ohio. If my amendment is not perfect in its terms it can be amended; and any amendment which the gentleman from West Virginia may offer which will improve my amendment I shall be glad to accept.

Mr. GOFF. I should have no difficulty at all in suggesting an amendment which would cover that branch of the case. But I do think that the proposition which the gentleman has embodied in this amendment by which he would restrict to these stale cases—I borrow this adjective from the gentleman himself—the right of the claimant to contract for the payment of a fee of $25 is unwise and will be injurious in its effects. This twenty-five-dollar clause was restored, upon the petition of the soldier organizations throughout the country, owing to the extraordinary quantity of work which the attorney is often compelled to undertake in order to secure favorable action for his client.

Now, I insist that we had better go slowly in this matter; and while I do not mean to assert that any gentleman on this floor does not endeavor honestly to subserve the interests of the soldiers of the country, I do claim that legislation of the kind here proposed is directly against the interest of the men whom I assume gentlemen here desire to protect.

Mr. HANCOCK rose.

Mr. KEIFER. With the permission of the gentleman from Texas I would like to be heard.

Mr. HANCOCK. Certainly. How much time does the gentleman want?

Mr. KEIFER. I do not want to hold the floor under any limitation, but I will not occupy it to exceed five or ten minutes.

Mr. HANCOCK. I yield the floor to my colleague on the Committee on Appropriations, the gentleman from Ohio, for whatever time he desires.

Mr. KEIFER. Mr. Chairman, I do not wish to follow up the line of discussion we have drifted into here to-day. I commend, of course, the gentleman from Arkansas [Mr. ROGERS], the present chairman of this committee, in withdrawing the statement which he made some time ago in the discussion of a resolution which affected very seriously my colleague [Mr. JOSEPH D. TAYLOR]; I say I commend that as an example to my other colleague [Mr. WARNER]. We ought to sympathize with my colleague [Mr. JOSEPH D. TAYLOR] when we know this House is not now in condition to rescind its vote on that resolution some time ago, which was given largely on account of these statements which are now withdrawn.

Mr. WARNER, of Ohio, rose.

[Cries of "Order!" on the Republican side of the House.]

Mr. KEIFER. I can not yield to my colleague after having interrupted for two-thirds of the time of almost every member who has spoken on this subject. I hope he will allow me to finish a sentence before interrupting me. I will be courteous to him.

Mr. WARNER, of Ohio. I am much obliged to the gentleman.

Mr. KEIFER. I do not attribute it to the gentleman's discourtesy, but to his indisposition to wait. [Laughter.]

Mr. WARNER, of Ohio. I did not hear the remark of the gentleman. I would like to ask him a question. [Laughter.] I regret I did not hear what the gentleman said.

Mr. KEIFER. I only said this much, that in order it may be understood that the gentleman from Ohio, my colleague [Mr. JOSEPH D. TAYLOR], was condemned in part by a vote of this House the principal part of which was effected by statements which are now withdrawn——

Mr. WARNER, of Ohio. Not in the slightest degree. It had no effect on that at all.

Mr. KEIFER. I hope the gentleman will get my consent before he takes the floor from me—I mean the gentleman who is now running away. [Laughter.] He has spoken over an hour to vindicate his course while on committees.

Mr. WARNER, of Ohio. I now return. [Laughter.] There is a mistake about that; no one charged him with it anywhere.

The CHAIRMAN. The gentleman from Ohio [Mr. KEIFER] is entitled to the floor, and it cannot be taken from him without his consent. He will therefore proceed.

Mr. KEIFER. I am obliged to the Chair, as I have not yet been allowed so far to proceed without interruption. I will say that after the gentlemen from Ohio on the other side [Mr. WARNER] has occupied at least two hours to-day in vindicating his own conduct and his own industry while on committees of the House, he really ought to permit me to proceed for the few minutes which I intend to occupy the floor without interruption.

Mr. WARNER, of Ohio. I have not occupied as much time as my colleague did last term himself. If my colleague will vindicate himself I must be allowed to vindicate myself. [Cries of "Order!"]

Mr. KEIFER. I understand, Mr. Chairman, that a great deal of forbearance ought to be extended by the Chair to the gentleman from Ohio, because it is constitutional with him. [Laughter.]

Mr. WARNER, of Ohio, rose. [Renewed laughter.]

Mr. KEIFER. I do not want him to prove my assertion any more than he can help. [Laughter.]

Mr. WARNER, of Ohio. I will spare the gentleman any further——

Mr. KEIFER. I was about to say that the great difficulty lies in the fact that this House has been acting in this Congress as well as in previous Congresses under rules which were adopted to prevent action in the House rather than to favor it. I have been one of those ever since I came here and occupied a seat upon this floor who believed that the majority of this House ought to be able to take up any measure whenever it chose to do so. If that were done, in my judgment legislation would proceed with decorum and be settled with consistency and dispatch. Now, if that fact had been stated by the gentleman who is so fearful that he will not be known as a faithful and industrious man here it would have been a sufficient answer to any remark my other colleague could have made.

I believe the Committee on the Payment of Pensions, Bounty, and Back Pay, the Committee on Claims, and many other committees who have reported hundreds and thousands of bills now on our calendars which never can be reached, are entitled to credit for working out a work that is never to bear fruit, and which they must know can not bear fruit in this House. It is a good deal of a task to ask a man to sit down and consider a long claim, or the provisions of a bill, with a full knowledge that when he has worked out something satisfactory to himself or good to the whole country, that when it comes in here with a report covering all of the points in the case it must go to the burying-ground of all such matters, to wit, the House Calendar or the Committee of the Whole.

Now, Mr. Chairman, to the measure under consideration, as I have been forced to depart a little from what I had intended to say. I wanted to suggest in general debate on the subjects embraced in this bill a few points bearing directly upon it. I think with the present occupant of the chair that with some little additions or modifications to adjust it to the present day the bill which passed the House on the 22d day of April last was a wise bill on the subject of the payment of claim agents, provided we are going to tolerate any longer the present system at all. I entered my protest in the last session of Congress against this whole plan of claim agents. It has proved to be bad from the beginning. The whole system of preparing pension cases and sending them to the Pension Office is faulty. It is a bad system, and growing worse.

No lawyer, as I once said before in this House, of good standing in his own county or village will take one of these claims. Why? Simply because he can not afford to enter upon that sort of practice. The better lawyers, or those who rank among the younger and the rising men coming up throughout the country, never think of taking a claim of this kind. The claims, as a rule, which are presented in the Department are not prepared in a lawyer-like way. The statement is bad, and when presented it has the appearance of having been prepared by persons who do not understand the effect of evidence or what is competent evidence in the case, and this, I may say, is the rule in such cases. Every day the members of this House get hundreds of letters from all parts of the country with reference to pension cases, and one of our duties, and a heavy duty here, is in the writing of letters about pension cases. We all know upon examination of such cases on file in the Departments that it would be a shame or a disgrace to any lawyer of standing to have prepared the statements and claims as we find them.

We ought to provide in some way that these claimants for pensions should be allowed to employ men who know something of the law. The claim should be presented not only in the proper form of application, but the law and the testimony should be arranged in proper shape by men who know the effect of the law, and then sent to the Department to be considered and decided as any other case.

It would be to the interest of the Government to do this, and I undertake to say that there is more that one-half of all the clerks in the Pension Office now engaged in working upon claims or answering letters from ourselves and others about claims that are never to be allowed in the world, and which were never expected in many cases to be allowed when the applications were filed. How does the system work? A man or woman goes to a person who knows nothing whatever about the case, and cares less, and asks him to make an application for a pension. The application is made out in some shape and perhaps the applicant is told by the party who makes up the application that he will probably succeed in getting the pension. After awhile he is informed that the application is in, and then correspondence begins and the Department designates what proof is required. The applicant is notified and then goes around the country to try and find it.

The claim agent says to the claimant, perhaps some poor widow or broken-down soldier suffering from disease or wounds incident to the service, "You must furnish such and such testimony," and they are sent prowling around the country to find it. Years elapse and nothing is done. Within a week I have had inquiry with reference to a claim which was filed thirteen years ago. Letters are sent asking us every day what is necessary to do to get a claim long pending. So after a while the time comes when the claimant is asked to pay some money to the claim agent to cover expenses already incurred; and in point of fact the agent is not so much to blame. He is asked at times to go to a distant county or State perhaps to see if he can find witnesses or hunt up evidence or induce a witness to come before a proper officer and furnish the affidavit required by the office. How can he go? Must he go at his own expense? If he goes he must lose time; he must pay his expenses of traveling, his hotel bills, and yet all of this is expected to be undertaken for the paltry sum of $10. He can not be employed in the ordinary course of business as any attorney in any other case is employed.

Within a month a gentleman in my town, broken down in health and every other way, whether incident to the service or not is immaterial, has been notified to go one hundred and fifty miles to attend a special examination. He can not go himself. It is impossible for him to do so. He can not leave his own door. The claim agent is asked to go, and has to travel the one hundred and fifty miles. He goes and stays four or five days watching the case. Is it right to say that this man shall be paid but $10, and if he exceeds that sum that he shall be sent to the penitentiary; or is the solider obliged to abandon his case, his just claim, altogether, and surrender it because of the policy of legislation on the part of Congress?

[Here the hammer fell.]

Mr. KEIFER. I desire just one moment more on another point.

Mr. HANCOCK. I yield to the gentleman a few minutes more.

Mr. KEIFER. The gentleman from Texas yields to me that I may say a word in reference to another part of this bill that has not yet been spoken of—the reduction of the number of pension agents from eighteen to twelve. I do not believe that is wise in an economical point of view. I do not believe it is wise in view of the prompt payment of pensions. And I am authorized to say, because I have before me a letter written to the clerk of the Committee on Appropriations by the Commissioner of Pensions, that the Commissioner does not think it will be economical legislation to reduce the number certainly below sixteen. This bill proposes to reduce the number to twelve. I think it would be wise to allow the number of pension agents to stand where it is now.

Mr. HANCOCK. I do not feel I am arraigned here or on trial, or that it is necessary for me to offer any vindication of the participation I may have had in the conference between the House and the Senate on this bill in the last session. The measure complained of was brought forward and championed by a very distinguished soldier Senator who has been as conspicuous and probably as effective in his advocacy of the rights of the soldier as any man in this broad land. He strongly urged the provisions which are now so much objected to, and he impressed me with the conviction that they were such as were best calculated to secure the highest interests of the pensioner.

Simmered down to the actual point of complaint, it may be stated that the soldier has his liberty so far enlarged that he may make a contract to the extent of paying $25 for securing his pension claim. That is all there is in it so far as I can see, and all that has been presented on the part of the gentleman from Ohio [Mr. WARNER]. It seems that he and his colleague [Mr. JOSEPH D. TAYLOR], like old soldiers, delight to shoulder their crutch and show how battles were won and lost on the field in the last canvass.

It appears the law has been so interpreted that these agents were permitted to make additional charges for claims that probably had been long pending, and upon which $10 had been paid, and that now they have got an addition of $10. Whether that has been beneficial to the soldier or not I do not know. But I think it very likely it has been.

It was stated in the committee of conference, as I well recollect and I know my colleague on the committee will sustain me in that recollection, that it was frequently worth $100 to make up a claim, and that unless the soldier was permitted to make such a contract he would likely never have got anything. It was represented there was one instance where it would have required several weeks to go through all the different accounts in the disbursing offices in order to secure the information which was required by the Commissioner of Pensions before he could finally act upon the application.

I believe most of the soldiers are competent to act for themselves, and I think it would be in the line of their interests to let them do so under the supervision of the Commissioner of Pensions. This law left it under his supervision; and if he did not scrutinize the matter as closely as he might have done, I have no doubt an excuse is to be found in his having been heavily burdened at the time with political duties. He wished to be where the canvass waxed warmest and he was constrained to go where my friends had their encounter of which we have heard so much to-day, and he had not time to look at this thing.

I make these remarks rather in vindication of my colleagues on the committee of conference than of myself, for I do not feel I need any. A good deal of this pension matter is a grab game, and if lawyers get $25 out of it I do not think it is more than they are entitled to. The average is $8.33; not a very big thing. I have nothing more to say about that. I think, Mr. Chairman, this debate has occupied a sufficient time, and I move that the committee rise for the purpose of asking the House to limit the debate to thirty minutes. I will make that motion unless the committee will agree to proceed now to consider the bill under the five-minute rule.

The CHAIRMAN. The question is on the motion of the gentleman from Texas that the committee do now rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. ROGERS, of Arkansas, reported that the Committee of the Whole House on the state of the Union had had under consideration the bill (H. R. 7785) making appropriations for the payment of invalid and other pensions for the fiscal year ending June 30, 1886, and had come to no resolution thereon.

Mr. HANCOCK. I move that the House again resolve itself into the Committee of the Whole House on the state of the Union to resume the consideration of the pension appropriation bill; and pending this motion I move that all general debate in Committee of the Whole be limited to one minute.

The SPEAKER. The question is on the motion to close debate.

The motion was agreed to.

The question recurring on the motion of Mr. HANCOCK, that the House again resolve itself into Committee of the Whole House on the state of the Union, it was agreed to; and the Committee of the Whole House on the state of the Union resumed its session.

The CHAIRMAN. All general debate is limited to one minute.

Mr. HANCOCK. I waive my right to occupy one minute in debate, and ask that the bill be now read by paragraphs for amendment.

The Clerk, proceeding to read the bill, read the following:

For fees and expenses of examining surgeons, $500,000. And hereafter each member of each examining board shall, as now authorized by law, receive the sum of $2 for the examination of each applicant whenever five or a less number shall be examined on any one day, and $1 for the examination of each additional applicant on such day: *Provided*, That if twenty or more applicants appear on one day, no fewer than twenty shall, if practicable, be examined on said day, and that if fewer examinations be then made, twenty or more having appeared, then there shall be paid for the first examinations made on the next examination day the fee of $1 only until twenty examinations shall have been made.

Mr. EVERHART. I offer the amendment which I send to the desk.

The Clerk read as follows:

At the end of the paragraph just read add:

"*Provided*, That all applicants for pensions shall be presumed to have had no disability at the time of enlistment; but such presumption may be rebutted."

The question being taken on agreeing to the amendment, there were—ayes 53, noes 44.

Mr. BLAND and others. "No quorum."

Tellers were ordered; and Mr. HANCOCK and Mr. EVERHART were appointed.

The committee again divided; and the tellers reported—ayes 117, noes 14.

So the amendment was adopted.

The Clerk read as follows:

For the salaries of twelve agents for the payment of pensions, at $4,000 each, $48,000; and from and after July 1, 1885, there shall be no more than twelve agents for the payment of pensions, and it shall be the duty of the President, and he is authorized and directed, to reduce the pension agents to not exceeding the number aforesaid; and so much of sections 4778 and 4780 as is in conflict with this provision be, and the same is hereby, repealed.

Mr. HEPBURN. I submit the amendment which I send to the desk.

The Clerk read as follows:

Amend line 30 by striking out the word "twelve" and inserting "eighteen;" amend line 31 by striking out "forty-eight" and inserting "seventy-two;" amend line 32 by striking out all after the word "dollars;" and strike out lines 33, 34, 35, 36, 37, 38, and 39; so that, as proposed to be amended, the paragraph will read:

"For the salaries of eighteen agents for the payment of pensions, at $4,000 each, $72,000."

Mr. KEIFER. I think the gentleman who offers this amendment does not intend to go quite so far as the amendment by its terms proposes. It seems to me the clause contained in lines 37, 38, and 39, which this amendment proposes to strike out, ought to remain, because that has relation to the preceding provision fixing the salary of these officers. I cordially concur in the amendment provided the gentleman in his proposition to strike out will stop at line 36.

Mr. HEPBURN. It seems to me that is not necessary. The salary is already fixed in line 31.

Mr. KEIFER. But sections 4778 and 4780 of the Revised Statutes should be modified so as to be in harmony with this legislation. That is the reason the last clause of the paragraph should be allowed to remain.

Mr. GOFF. Section 4778 provides simply that the President shall appoint pension agents; and section 4780 provides that he shall distribute them over the country at such points as he may deem proper. There is nothing in those sections on the subject of salaries.

Mr. KEIFER. Then I was under a misapprehension.

Mr. GOFF. If the concluding clause of the paragraph be struck out the President may still act under those sections and make these designations.

The question being taken on the amendment of Mr. HEPBURN, it was not agreed to; there being—ayes 48, noes 76.

The Clerk resumed and concluded the reading of the bill.

Mr. ROGERS, of Arkansas. I move to amend by adding at the end of the bill the sections which I send to the desk.

The Clerk read as follows:

SEC. 2. That no agent, attorney, or other person shall demand or receive any fee for his services in pension, arrears-of-pension, or bounty-land claims until the allowance of the claim.

SEC. 3. That all fees in pension claims shall be paid by the agent for paying pensions, out of the first installment of pension due the claimant; and no agent, attorney, or other person shall receive any fee for his services in a pension claim except through the agent for paying pensions.

SEC. 4. That the fee in all pension, arrears-of-pension, or bounty-land claims shall be $10, except in cases of special written contract filed in the Pension Office and approved by the Commissioner of Pensions, as hereinafter provided. The claimant may contract with his attorney of record, in writing, in such form as the Commissioner of Pensions may prescribe, for a fee to an amount not exceeding $25, except in claims for increase of pension where no new disability is alleged, in cases of pensions for service, and in all claims filed in the Pension Office after June 20, 1878, and prior to the 4th day of July, 1884, in which cases no fee above $10 shall be contracted for; and in all claims filed prior to the passage of this act the attorney shall file a statement under oath, duly attested, setting forth the amount of fee already received by him, and the amount already received shall be deducted from the fee allowed by this act.

SEC. 5. That the Secretary of the Interior may prescribe rules and regulations governing the recognition of agents, attorneys, or other persons representing claimants before his Department, and may require of such persons, agents, and attorneys, before being recognized as representatives of claimants, that they shall show that they are of good moral character and in good repute, possessed of the necessary qualifications to enable them to render such claimants valuable service, and otherwise competent to advise and assist such claimants in the presentation of their cases. And such Secretary may suspend, debar, dismiss, and disbar from further practice before his Department any such person, agent, or attorney shown to be incompent, disreputable, or who refuses to abide by the said rules and regulations, or who shall in any manner deceive, mislead, or threaten any claimant or prospective claimant, by word, circular, letter, or by advertisement.

SEC. 6. That any agent or attorney, or other person, instrumental in prosecuting any claim for pension or arrears thereof, who shall, directly or indirectly, contract for, demand, or receive, and retain, any compensation for his services or instrumentality for prosecuting a claim for pension or arrears thereof greater than is herein provided, or in any other manner than herein provided, or shall willfully or knowingly make a false statement in regard to the amount of fee already received, shall be deemed guilty of a high misdemeanor, and, upon conviction thereof, shall, for every such offense, be fined not exceeding $1,000, or be confined at hard labor not exceeding two years, or both, at the discretion of the court, and be forever afterward debarred from practicing before the Pension Office.

SEC 7. That no agent or attorney shall either demand or receive on account of the prosecution of any claim provided for under the provisions of this act, where such claim was filed after the 28th day of June, 1878, and prior to the 4th day of July, 1884, any fee or sum of money in excess of $10; nor shall said $10 or any part thereof be paid to any agent or attorney until he make and file in the office of the Commissioner of Pensions the affidavit provided for in section 4 of this act. And if it shall appear from said affidavit or in any other way that all or any part of said $10 has been paid, it shall be deducted therefrom, and the residue, if any, shall be paid to such attorney as hereinbefore provided: *Provided*, That this act shall not be so construed as to interfere with any contracts entered into fairly and without fraud or duress for the prosecution of claims filed after the 4th day of July, 1884, and prior to the passage of this act; and that any person who shall violate the provisions of this act shall be, upon conviction, punished as provided in the sixth section of this act.

SEC. 8. That this act shall not be so construed as to prohibit any claimant, the prosecution of whose claim has been heretofore abandoned by his attorney, from employing another attorney or agent, but in no such case shall the fee paid such attorney exceed the sum of $10, under the penalties of the sixth section of this act: *Provided*, That if such new attorney successfully prosecute such claim, the original attorney or agent shall not be allowed to demand or receive any part thereof, under the penalties of the sixth section of this act.

SEC. 9. That hereafter no person or persons who may have been heretofore engaged in the prosecution of pension or bounty-land claims of any character whatsoever, and who may have heretofore collected on account thereof any sum whatever, shall be allowed to sell, assign, convey, or make over to any other person any such claim or claims so as that it shall be lawful for any vendee or assignee of such claim or claims to demand or receive any other or greater fee than is hereinbefore provided for; nor shall such vendee or assignee be allowed to receive anything therefor, unless the vendor or assignor of such claim or claims, if alive, shall make and file in the office of the Commissioner of Pensions the affidavit provided for in the fourth section of this act. And any person or persons who shall violate the provisions of this section shall be subject to the penalties imposed by the sixth section of this act.

SEC. 10. That the act approved July 4, 1884, and all other acts in conflict with this act be, and the same are hereby, repealed; and that this act take effect from and after its passage.

Mr. WARNER, of Ohio. I desire to make an inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. WARNER, of Ohio. What has become of the amendment I offered to come in at the end of the bill?

Mr. KEIFER. The gentleman did not offer it, but only read it as a part of his remarks.

The CHAIRMAN. The Chair is informed that the gentleman did not offer his amendment.

Mr. WARNER, of Ohio. I did state that I sent up to the Clerk's desk to be read an amendment which I proposed to offer to come in at the end of the bill.

The CHAIRMAN. That is true; but when the end of the bill was reached the gentleman from Arkansas [Mr. ROGERS] offered his amendment, which is now pending.

Mr. WARNER, of Ohio. I offer my amendment, then, as a substitute for the pending amendment.

The CHAIRMAN. The substitute of the gentleman from Ohio [Mr. WARNER] will be read.

The Clerk read as follows:

SECTION 1. No agent or attorney, or other person, shall demand or receive a greater fee than $10 for services rendered in behalf of any claimant for pension or bounty land under any law of the United States; and it shall be unlawful for any agent or attorney, or other person, to demand or receive any part of such fee until the claim for pension or bounty land shall have been allowed, and, in case of pensions, such fee shall be paid to the attorney of record out of the first installment due the claimant by the agent paying the pension, and in no other way: *Provided*, That in claims for pensions filed after the passage of this act it

shall be lawful for any agent or attorney, being a *bona fide* resident of the same State and county with the claimant, to contract in writing, in form to be approved by the Commissioner of Pensions, for a fee not exceeding $25, no part of which fee shall be demanded or received until the claim shall have been allowed, and then shall be paid only by the agent for paying pensions out of the first installment due the pensioner, and it shall be unlawful for such agent, attorney, or other person, directly or indirectly, to enter into partnership for the purpose of dividing said fee of $25 or in any manner to divide said fee with any agent or attorney or other person residing in any other county or State or in the District of Columbia, and any person found guilty of violating this provision shall, in addition to the penalty prescribed by this act, forfeit all right to such fee.

SEC. 2. The provisions of this act shall apply to and include all cases filed in the Pension Office between June 20, 1878, and July 4, 1884, whether contracts have been filed in the same or not, and which remain unsettled, and to all cases filed after the passage of this act; and in all cases where any part of the fee of $10 has been paid by the claimant to any agent or attorney of record in the case, the same shall be deducted from the fee of $10 allowed by this act; and if any agent or attorney shall neglect or abandon any claim intrusted to him it shall be lawful for the claimant to employ another agent or attorney, and the agent or attorney who prosecutes the claim to final settlement shall be entitled to the fee.

SEC. 3. Any agent or attorney, or other person, who shall directly or indirectly contract for, demand, or receive, or retain any other or greater compensation for his services in behalf of a claimant for pension or bounty land than is herein provided, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall, for every such offense, be fined in any sum not exceeding $500, or imprisoned at hard labor not exceeding two years, or both, in the discretion of the court.

SEC. 4. That so much of the act approved July 4, 1884, as relates to the fees of agents or attorneys, and all other acts and parts of acts in conflict with this act, are hereby repealed.

SEC. 5. This act shall take effect on its passage.

Mr. WARNER, of Ohio. The House will observe that the principal difference between the amendments I have offered and the amendments offered by my colleague on the committee, which embraces the whole of the act passed at the last session, is in making a difference of fee to agents residing in the District of Columbia and those residing in the States where the claimants reside. I think that is an important feature.

I wish to call the attention of my friend from West Virginia [Mr. GOFF] to a statement which he made in reference to this amendment, claiming that it repealed the penalties of former statutes. Let me read to him section 13, chapter 2, of the Revised Statutes, which is as follows:

SEC. 13. The repeal of any statute shall not have the effect to release or extinguish any penalty, forfeiture, or liability incurred under such statute, unless the repealing act shall so expressly provide, and such statute shall be treated as still remaining in force for the purpose of sustaining any proper action or prosecution for the enforcement of such penalty, forfeiture, or liability.

The gentleman stated with great positiveness it did repeal these penalties. He is a good lawyer, and I only called his attention to that statute.

Mr. GOFF. I do not care to know the number of the section, what is it?

Mr. WARNER, of Ohio. It is section 13, chapter 2, of the Revised Statutes.

While on the floor I wish to correct a misapprehension my colleague [Mr. KEIFER] is under as to what I said respecting what took place some time ago in this House, in correcting the statement I made that the bill reported by the Committee on the Payment of Pensions, Bounty, and Back Pay had become a law. I did not intend to and do not wish to be understood as retracting anything I then said in reference to the conduct of my other colleague from Ohio [Mr. JOSEPH D. TAYLOR], to which I then referred, save this one thing that the bill as it came from the committee passed the House and became a law as reported from the committee. When it passed the House it was beyond the scope and control of the committee. It had nothing to do with it. Therefore, what was stated at that time as far as respects the responsibility of the committee was entirely correct.

Mr. ROGERS, of Arkansas. Mr. Chairman, the gentleman from Ohio [Mr. WARNER] states that the provisions of this bill and the provisions of the amendment which I have offered are substantially identical, with the exception that attorneys resident here are not allowed in any case to charge for their services in prosecuting pension cases a fee exceeding $10. I assume that my friend is sincere in his conclusions as to the differences between the two propositions, and I do not know that he is not correct. The trouble, however, about his bill is that I have not had the opportunity, nor has the House nor any committee, as far as I am aware, had the opportunity, to give it that careful examination and consideration which all legislation should have in this respect, especially one involving so great and important an interest as that under consideration. So, while I shall not support his bill, I shall decline to do it upon the simple ground that I have not had the opportunity to give it that consideration which I think all important legislation should have before we are called to act upon it. In other words, I am not willing to trust even the careful preparation which he has given the subject without some opportunity to investigate it for myself, especially when I am to take it in comparison with a bill which has been matured by his committee both as to the original matter and the modifications of the bill which I have offered, making it conform to the changed conditions of circumstances since the act of July last.

Mr. KEIFER. Will the gentleman allow me to ask him a question?

Mr. ROGERS, of Arkansas. Certainly.

Mr. KEIFER. I only desire to offer a suggestion with reference to perfecting the text of the amendment. I wish to know, in the first place, whether the gentleman has examined his amendment so carefully as to be able to state the effect of it in the repealing clause upon pending prosecutions under the act of July 4, 1884, and other acts that may be in conflict with the provisions of this amendment?

Mr. ROGERS, of Arkansas. My friend from Ohio was obviously not listening to his colleague from Ohio a few moments ago, for if he had been he would have discovered the fact that, by consulting the thirteenth section of chapter 2 of the Revised Statutes, there is a general law providing that the repeal of a statute shall not affect pending prosecutions.

Mr. KEIFER. That does not apply in this case, I think.

Mr. ROGERS, of Arkansas. I will read it if the gentleman desires it:

The repeal of any statute shall not have the effect to release or extinguish any penalty, forfeiture, or liability incurred under such statute, unless the repealing act shall so expressly provide; and such statute shall be treated as still remaining in force for the purpose of sustaining any action or prosecution for the enforcement of such penalty, forfeiture, or liability.

Mr. KEIFER. Now, if the gentleman from Arkansas will allow me, I submit that that provision of the law does not refer to criminal matters at all, but to penalties attached to statutes disconnected with criminal prosecutions.

Mr. ROGERS, of Arkansas. I have not at hand decisions of any of the courts to sustain my views of the case, but I think the language of the act itself is clear, and I am satisfied that upon an examination it will be found to apply to all penal prosecutions instituted before the statute is repealed.

Mr. KEIFER. It relates only to penalties.

Mr. HENDERSON, of Iowa. Why leave any doubt in reference to the matter?

Mr. ROGERS, of Arkansas. The language of the act is:

Shall be treated as still remaining in force for the purpose of sustaining any proper action or prosecution for the enforcement of such penalty, forfeiture, or liability.

Mr. KEIFER. Yes; penalty, forfeiture, or liability; but it does not extend to criminal prosecutions where there may be fine or imprisonment as a mere punishment. It refers to statutory penalties, where there is a forfeiture, and that was obviously the intent of the law when it was passed.

Mr. ROGERS, of Arkansas. As I have said, I have no decisions at hand to sustain my view of the case, but I think if the gentleman from Ohio examines the subject he will be convinced.

Mr. KEIFER. There are numerous decisions in the States with which I am familiar where the same principle is involved.

Mr. GOFF. Will the gentleman from Arkansas permit me to state that this has direct reference to the absolute repeal of a statute. Now, if a statute be substituted for another, if it is merely an ingrafting of the provisions of one statute upon another statute, to take the place of a portion of a statute still in force, to which penalties are affixed, the penalty clause remains and stands in like manner toward the new statute as it did toward the old. There is the difficulty; and the gentleman will find that the difficulty does exist if he will examine the decisions bearing upon this subject.

There are two questions to be considered in connection with the matter: whether the statute is absolutely repealed, or whether or not the penalty has been so affected as to change the punishment to be inflicted for an infraction of the statute.

Mr. ROGERS, of Arkansas. I have no sort of question on the subject myself, but will state in response to the gentleman from West Virginia that while I do not recollect any cases in the Federal courts, either the lower or the higher courts, determining the question, it is *res adjudicata* in my own State that where one statute repeals another, and prior to the passage of the repealing act parties have been indicted under the original statute, the repeal does not release such parties, because the offense was committed prior to the repeal.

Mr. KEIFER. That is not the question presented here, however.

The CHAIRMAN. The time of the gentleman from Arkansas has expired.

Mr. HENDERSON, of Iowa. I am glad, Mr. Chairman, that we have gotten through with the Congressional campaign and have come down to the work of the committee in reference to the perfecting of this bill; and I am glad to know the earnest desire on the part of both gentlemen who have offered amendments to the present bill to protect the interests of the soldiers. Let us try to do that with a good purpose.

I do not like the substitute offered by the gentleman from Ohio, but am heartily in favor of the amendment offered by the gentleman from Arkansas. I am opposed to that of the gentleman from Ohio because of the very difference that he has named. It is a form of class legislation. It handicaps the citizen soldier in the employment of his agent or attorney. I do not want, if I have a claim before the Department in Washington, to have this Congress say to me, "You must employ a man in a distant town or State and not the man who is here on the ground in the District of Columbia, even if you wish to do so." I do not say this, sir, in the interest of any claim agent, for I believe I do not know one in the District of Columbia.

But I had some experience myself at the close of the war. I em-

ployed some local attorneys and they charged me $100 and kept me on the rack a year and a half, while I was trying to collect my back pay and failed. I then employed an agent in the District of Columbia, and within three weeks after I employed him I had my pay, and I had only to pay him $25. I believe the soldiers themselves as a rule would prefer to employ men here who could go in person to the Departments; and I believe if a fee of $25 be allowed, and if payment be not made till the work is done, the claim will be soon got through.

The truth is, the real agents of the applicants for pensions are on this floor. We are the pack-horses for the soldiers' interests. These men get their $10 for filling a little blank worth 5 cents, while the members of Congress and the Senators do the work. But if a fee of $25 be allowed and be not paid till the work is done, that will get work out of these claim agents. And I believe that a man here in Washington familiar with the law, familiar with the debates in Congress, familiar with the rulings of the Departments, who can go in person and point out the defects in decisions and demand rehearings, can better serve the soldiers than the claim agents at our own homes in our own cities. This may be unpopular talk. I know I am not playing the part of a demagogue in making this speech. Nor would I intimate the gentleman offering the substitute has done so.

But I do say it is almost impossible to get competent men in the States to take the position of claim agent. I have had to urge and beg men in my State to take that position. I would be glad to have the business of claim agents built up at home; but this will not do it. There is not a reputable lawyer on this floor that would ever take the position of a claim agent; I will hazard the statement that not one of you gentlemen on either side would do so. You can not afford to do so even for $25 a claim.

I say, then, do away with this discrimination. It is an insult to the intelligence of the American Congress to say that a citizen of Washington may not be as honest and reputable as a citizen of Ohio or a citizen of Iowa. I have faith in my fellow-men. I have faith in the intelligence of the soldier as well as of any other class, and I wish to let him select for himself his agents and attorneys.

The substitute offered by the gentleman from Arkansas [Mr. ROGERS] is clean cut and searching. It will guard against every danger and meet every necessity. From my intercourse with my fellow-soldiers I believe it will fully and comprehensively meet their desires and their necessities.

Mr. RANDALL. The committee desire to pass this bill and I call for a vote.

The CHAIRMAN (Mr. HAMMOND in the chair). Does the gentleman from Iowa withdraw the *pro forma* amendment?

Mr. HENDERSON, of Iowa. I do.

The CHAIRMAN. The question is on the substitute of the gentleman from Ohio [Mr. WARNER].

The question being taken, there were—ayes 35, noes 47.

So (further count not being called for) the substitute was not agreed to.

Mr. WARNER, of Ohio. I offer the amendment which I send to the desk.

The Clerk read as follows:

Add the following proviso:

"*Provided*, That the provisions of this act authorizing contracts for a fee of $25 shall be limited to attorneys or agents in the State where the claimant resides, and shall not extend to agents or attorneys in the District of Columbia."

Mr. WARNER, of Ohio. This amendment does not restrict the residence to the county but to the State alone. It limits the right to contract for a fee of $25 to attorneys residing in the same State with the claimant. Now, I do think, Mr. Chairman, that it is important to offer better inducements to attorneys and agents at home with whom the claimant may be acquainted to take such cases. They can better prepare the evidence. I think the gentleman from Iowa [Mr. HENDERSON] is mistaken in supposing that this work has mainly to be done here at Washington. Very little of it is to be done here or can be done here. It is mainly to be done at home. The affidavits of comrades, the evidence in fact to sustain the claim, must all come from outside the District of Columbia.

So far as record testimony goes my friend must know that claim agents here are not permitted to rummage the Departments and themselves examine the records. They have not access to them. They have no such rights. They must get them as attorneys or agents living in the States must get them. Our attorneys and agents at home, I believe, can and will better serve the claimants. They will prepare their cases. They will aid them in procuring the necessary evidence to sustain their claims. They must do the work anyway. There is very little that the agents here can do, but they gather here and get the claims into their hands because there is money in the thing.

I make no sweeping charge that all the claim agents here are rascals. Not at all. There are honorable gentlemen engaged in the business of claim agents and engaged in prosecuting pension claims. But we have here as claim agents hordes of men who are not professional lawyers. They may be barbers, shoemakers, saloon-keepers. There are among them men belonging to every other profession. Clerks in the Departments possibly are working up claims and getting claims into their hands for the sake of the fees that are in them. They can do the claimant very little good, while an attorney at home can; and if he is permitted to contract for $25 he will take the claim, while he could not afford to do it for $10. I think this is important. I think it is desirable to get these claimants out of the hands of the ghouls here at Washington.

Mr. ROGERS, of Arkansas. Mr. Chairman, during the progress of this discussion I have sent out for the volume containing the only adjudication, so far as I am aware, in regard to the construction of this statute. It is a case in 3 Dillon, page 532, in which it is held specifically that this statute applies to penal as well as to civil prosecutions; so that I can say to my friend on the opposite side that my construction of this statute is substantially correct. The precise point has not been adjudicated, but the principle has been decided in the case to which I have just referred—the case of the United States *vs.* Ulrici.

I will say, however, that if there is any sort of doubt as to this being the proper construction I shall be willing to accept an amendment to make the matter perfectly clear.

The question being taken on the amendment of Mr. WARNER, of Ohio, to the amendment of Mr. ROGERS, of Arkansas, there were—ayes 85, noes 22.

Mr. CANNON. No quorum has voted.

The CHAIRMAN. The point is made that no quorum has voted.

Mr. HOLMAN. If the amendment prevails there will be a vote in the House.

Mr. CANNON. If there is to be a vote in the House, all right.

The CHAIRMAN. The point that no quorum has voted is, as the Chair understands, withdrawn; and the amendment to the amendment is adopted.

Mr. HOLMAN. I ask that the last clause of the amendment of the gentleman from Arkansas may be read again.

The Clerk read as follows:

SEC. 10. That the act approved July 4, 1884, and all other acts in conflict with this act, be, and the same are hereby, repealed; and that this act take effect from and after its passage.

Mr. HOLMAN. I call the attention of the gentleman from Arkansas to the fact that the provision just read repeals the whole of the act of July 4, 1884. Of course that is not intended by the gentleman, as that act contains appropriations for the payment of pensions for the current year. I move to amend the last section of the gentleman's amendment so as to read:

That all of the provisions of the act making appropriations for the payment of invalid and other pensions of the United States for the fiscal year ending June 30, 1885, and for other purposes, approved July 4, 1884, relating to claim agents and attorneys in pension cases are hereby repealed: *Provided*, That as to offenses committed under said act all the provisions thereof shall remain in full force.

Mr. ROGERS, of Arkansas. I accept that amendment as a modification of my amendment.

The amendment of Mr. HOLMAN was adopted.

Mr. WARNER, of Ohio. I offer an amendment to come in after the amendment which I have already offered and which has been adopted. I think when this amendment has been read the House will see its propriety and importance. I will not take time in discussing it. I only ask for a vote on it.

The Clerk read as follows:

And it shall be unlawful for any agent or attorney residing in a State of which the claimant is a resident to enter into partnership with or otherwise to divide the fee of $25 with any attorney or agent residing in the District of Columbia.

Mr. HANCOCK. Pending this amendment, I move that the committee rise for the purpose of limiting debate.

Mr. HOLMAN. Let us have a vote on this amendment.

Mr. WARNER, of Ohio. I think there will be no objection to the amendment, and I do not desire to discuss it.

Mr. HANCOCK. I withdraw my motion.

The question being taken on the amendment of Mr. WARNER, of Ohio, it was agreed to; there being—ayes 81, noes 27.

The amendment of Mr. ROGERS, of Arkansas, as amended, was then adopted.

Mr. O'NEILL, of Missouri. I move to amend by adding after the amendment last adopted the provision which I send to the desk.

The Clerk read as follows:

Pension agents and other officers of the United States already authorized by law to administer oaths are hereby authorized and directed to take the affidavits of pensioners to their quarterly pay vouchers without charge.

Mr. O'NEILL, of Missouri. The object of this amendment is to save to the pensioners the money they now pay every three months for making affidavits to their vouchers that they are the identical persons entitled to the pension.

A MEMBER. No charge is made.

Mr. O'NEILL, of Missouri. A charge is made to the pensioners all over the country. They have to go before a notary or other officer authorized to administer oaths and pay 25 or 50 cents for each affidavit. As there are about 400,000 pensioners and an additional 350,000 claims pending, it amounts to a loss to pensioners, a direct loss, if the full fee is charged, of nearly $800,000 a year. It is an unfair tax on every pensioner in the United States. My amendment makes it the duty of

the officer to take these acknowledgments without charge. Certainly as the Government requires them to make affidavit to the voucher, it should exempt the pensioners from any tax or charge on that account; they should receive the full pension allowed.

Mr. ROBINSON, of Ohio. So far as Ohio is concerned it makes no charge.

Mr. O'NEILL, of Missouri. Mr. Chairman, we all have heard enough of Ohio. [Great laughter and applause.] Let us in Heaven's name talk about something else. [Renewed laughter.] I never knew what the Ohio idea was until this celebrated election case of Warner *vs.* Taylor came up to-day. [Laughter.]

But to return to my amendment. I know that pensioners all over the country are compelled to take that affidavit, and while it may be that they are not charged in Ohio for taking it, it is true they are charged in almost every other State for doing so. Why they are not charged in Ohio I do not know.

Mr. KEIFER. It is because the statute prohibits it.

Mr. O'NEILL, of Missouri. This will do no harm, then, to make the same law operative elsewhere. It makes it the duty of these officers to administer the oath without charge.

A MEMBER. What officer?

Mr. O'NEILL, of Missouri. Any United States officers authorized to administer oaths.

Mr. ROBINSON, of Ohio. Carry out the Ohio idea all over the country and there will be no necessity for any such amendment.

Mr. O'NEILL, of Missouri. This prohibits any charge and makes it the general law for the taking of these affidavits without charge to the pensioner. I call for a vote on my amendment and hope every soldier's friend will vote for it.

The question recurred on the amendment of Mr. O'NEILL, of Missouri.

The committee divided; and there were—ayes 47, noes 48.

Mr. O'NEILL, of Missouri. I call for tellers.

Mr. HOLMAN. Oh, no.

Mr. O'NEILL, of Missouri. Oh, yes. There is no quorum, Mr. Chairman.

The CHAIRMAN. The point of no quorum being made, the Chair will appoint as tellers Mr. O'NEILL, of Missouri, and Mr. HANCOCK.

The committee again divided; and the tellers reported—ayes 53, noes 114.

So the amendment was rejected.

Mr. O'HARA. I move the following amendment.

Mr. HANCOCK. There is to be no debate on it.

Mr. O'HARA. No, I do not expect any. I ask the Clerk to read my amendment.

The Clerk read as follows.

After the word "available," in line 50, add the following:
"And hereafter the mode and manner provided by the law and regulations for the payment of white persons entitled to pensions shall apply to and govern the payment of all pensions."

Mr. HOLMAN. That is right.

Mr. RANDALL. I believe it is the law now, but if it is not it should be the law.

Mr. HOLMAN. That is all right.

Mr. LONG. There is no objection to it.

Mr. HANCOCK. Let the vote be taken.

The amendment was adopted.

Mr. WARNER, of Ohio. If this is not the law now, I am willing to have it so.

Mr. HOLMAN. I believe the amendment has been adopted.

The CHAIRMAN. Yes, the amendment was adopted.

Mr. MATSON. I offer the following amendment.

The Clerk read as follows:

That on and after the 4th day of March, 1885, the rate of pension for widows, minor children, and dependent relatives now on the pension-roll, or hereafter to be placed on the pension-roll, and entitled to receive a less rate than hereinafter provided, shall be $12 per month; and nothing herein shall be construed to affect the existing allowance of $2 per month for each child under the age of 16 years. And all acts or parts of acts inconsistent with the provisions of this act are hereby repealed.

SEC. 2. That no claim agent or attorney shall be recognized in the adjudication of claims under this act, nor shall any such person be entitled to receive any compensation whatever for services or pretended services in making applications thereunder.

Mr. HANCOCK. I make the point of order on the amendment, in the first place, that it is new legislation; and, in the second place, that it is the substance of a bill already pending before the House.

The CHAIRMAN. The Chair sustains the point of order and rules the amendment out.

Mr. JONES, of Wisconsin. I move the following amendment, to come in as an additional section:

That in all cases where a pensionable disability was incurred during the term of service of any soldier against whom no charge of desertion exists the disability shall be presumed to have been incurred while in the line of duty.

Mr. RANDALL. I make the point of order that that ought to come from another committee. It may be all right, but it has no place here.

The CHAIRMAN. Does the gentleman from Wisconsin wish to be heard on the point of order?

Mr. JONES, of Wisconsin. Not on the point of order.

Mr. HERBERT. I make the additional point that it is new legislation.

The CHAIRMAN. The Chair sustains the point of order and rules the amendment out.

Mr. HEPBURN. I move the following as an additional section:

That in all cases where a pensionable disability is shown to exist at the date of the filing of a claim for pension, it shall be presumed that such disability was incurred in the line of duty and during the time of enlistment of the claimant: *Provided*, That this presumption may be rebutted by competent proofs.

Mr. RANDALL. I make the point of order that it is new legislation.

The CHAIRMAN. The Chair sustains the point of order and rules the amendment out.

Mr. HANCOCK. I move the committee rise and report the bill and amendments to the House.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. ROGERS, of Arkansas, reported that the Committee of the Whole House on the state of the Union had, according to order, had under consideration the bill (H. R. 7785) making appropriations for the payment of invalid and other pensions of the United States for the fiscal year ending June 30, 1886, and for other purposes, and the committee had directed him to report the same back to the House with sundry amendments.

Mr. CANNON. These amendments we ought to see in print before being required to vote upon them, and therefore I move that the House do now adjourn.

Mr. HANCOCK. I demand the previous question upon the engrossment and third reading of the bill.

The SPEAKER. The gentleman from Illinois moves that the House do now adjourn.

Mr. CANNON. I will withdraw the motion temporarily.

Mr. HANCOCK. Then I insist upon the demand for the previous question.

The previous question was ordered.

Mr. CANNON. I move that the House do now adjourn.

The question was taken; and on a division there were—ayes 51; noes 95.

Mr. CANNON. I will ask for the yeas and nays on that motion.

The yeas and nays were not ordered.

So the House refused to adjourn.

The SPEAKER. The question is on agreeing to the amendments reported from the Committee of the Whole House on the state of the Union, which the Clerk will read.

The first amendment, offered by Mr. EVERHART, was read and agreed to.

Mr. RANDALL moved to reconsider the vote by which the amendment was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The second amendment, offered by Mr. O'HARA, was read and agreed to.

Mr. RANDALL moved to reconsider the vote by which the amendment was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The third amendment, offered by Mr. ROGERS, of Arkansas, was read.

Mr. KEIFER. I desire to have a separate vote upon the last part of that amendment; not the repealing clause, but just preceding.

The SPEAKER. The Chair thinks that it constitutes but one amendment.

Mr. KEIFER. Yes; but I ask a division of the question on the last proposition of the amendment. It is divisible, I think. I refer to the proposition relating to the discrimination against persons residing in the District of Columbia. It is but one amendment, it is true, in a certain sense, but it embraces several distinct propositions.

The SPEAKER. It has been always held in the House that an amendment reported from the Committee of the Whole House on the state of the Union is not divisible, being in the nature of an entire proposition to be voted upon by the House.

Mr. KEIFER. It is one entire proposition so far as the name is concerned, but it involves different propositions.

The SPEAKER. That question has been made, the Chair thinks, and frequently decided that when an amendment is reported from the Committee of the Whole House on the state of the Union, although it embraces several distinct propositions it is an entirety in itself to be voted upon, and is not divisible.

Mr. KEIFER. I have not examined the question with a view to ascertaining the precedents, but I think it has been held the other way.

The SPEAKER. The Chair thinks that the uniform ruling in the House, both by his immediate predecessor as well as others, has been to treat such an amendment as an entirety.

Mr. WARNER, of Ohio. There is a verbal change which should be made, if I have understood the reading of the Clerk aright. The date June 28 should be June 20.

Mr. KEIFER. It can not be modified now. The whole thing is made so absurd that it had better be voted down.

Mr. WARNER, of Ohio. That modification should be made if it is not already in the bill.

Mr. KEIFER. It can not be modified now.

The SPEAKER. The question is on agreeing to the amendment which has been read.

The question was taken; and on a division there were—ayes 114, noes 12.

Mr. CANNON. I suggest that we had better have tellers.

The SPEAKER. Does the gentleman make the point that no quorum has voted?

Mr. CANNON. I make that point.

Mr. RANDALL. I hope the gentleman from Illinois will not insist upon it, since the vote has been very decided in favor of the amendment.

Mr. CANNON. I will say to the gentleman from Pennsylvania that I think if we could see this amendment in print it would be more satisfactory, and we can vote on it to-morrow.

Mr. RANDALL. The Committee on Appropriations, or certainly a portion of the committee, are very anxious to get this bill out of the way to give place to other legislation that it is desired to proceed with to-morrow.

Mr. CANNON. I will call my friend's attention to the fact that this legislation now sought to be made is to correct other legislation made hastily, and shows the folly of hasty legislation.

Mr. RANDALL. It is always wise to correct folly, and therefore I ask a vote.

Mr. CANNON. It is not wise to commit a folly in endeavoring to correct one.

The SPEAKER. The point of order being made that no quorum has voted, the Chair will order tellers.

Mr. CANNON and Mr. HANCOCK were appointed tellers.

The House again divided; and the tellers reported—ayes 145, noes 18.

So (no further count being demanded) the amendment was agreed to.

Mr. RANDALL moved to reconsider the vote by which the amendment was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The bill as amended was ordered to be engrossed and read a third time.

Mr. RANDALL. I move the previous question upon the passage of the bill.

The previous question was ordered.

Mr. RANDALL moved to reconsider the vote by which the previous question was ordered; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The SPEAKER. This being a general appropriation bill, under the rule the yeas and nays will be taken upon its passage.

The question was taken; and there were—yeas 174, nays 5, not voting 144; as follows:

YEAS—174.

Adams, G. E.	Fiedler,	Long,	Seney,
Adams, J. J.	Findlay,	Lore,	Seymour,
Alexander,	Forney,	Lovering,	Shively,
Anderson,	Funston,	McComas,	Skinner, T. G.
Atkinson,	Fyan,	McCormick,	Smalls,
Bagley,	Geddes,	McMillin,	Smith, A. H.
Barr,	Gibson,	Matson,	Snyder,
Bayne,	Goff,	Maybury,	Spriggs,
Beach,	Green,	Miller, J. F.	Stevens,
Bingham,	Greenleaf,	Mitchell,	Stewart, Charles
Blackburn,	Halsell,	Money,	Stockslager,
Bland,	Hancock,	Morrill,	Stone,
Blount,	Hardy,	Murray,	Storm,
Boutelle,	Hart,	Mutchler,	Strait,
Bowen,	Hemphill,	Neece,	Struble,
Boyle,	Henderson, D. B.	O'Ferrall,	Swope,
Bratton,	Henderson, T. J.	O'Hara,	Taylor, J. D.
Breckinridge,	Henley,	O'Neill, Charles	Taylor, J. M.
Brewer, F. B.	Hepburn,	O'Neill, J. J.	Thomas,
Brown, W. W.	Herbert,	Paige,	Thompson,
Browne, T. M.	Hewitt, G. W.	Payne,	Throckmorton,
Burnes,	Hill,	Payson,	Tilman,
Campbell, J. M.	Hiscock,	Pierce,	Townsend,
Candler,	Hitt,	Peel,	Tucker,
Cannon,	Hoblitzell,	Perkins,	Van Eaton,
Chace,	Holman,	Peters,	Wadsworth,
Clements,	Holmes,	Pettibone,	Wallace,
Cobb,	Horr,	Phelps,	Warner, A. J.
Cosgrove,	Howey,	Post,	Warner, Richard
Cox, W. R.	Hunt,	Potter,	Washburn,
Curtin,	James,	Pryce,	Weaver,
Cutcheon,	Jeffords,	Pryor,	Wellborn,
Davis, L. H.	Johnson,	Pusey,	White, Milo
Davis, R. T.	Jones, J. H.	Randall,	Whiting,
Dibrell,	Kean,	Reagan,	Williams,
Dingley,	Keifer,	Reed,	Willis,
Dowd,	King,	Riggs,	Wilson, James
Eldredge,	Kleiner,	Robertson, J. S.	Wilson, W. L.
Elliott,	Lacey,	Rockwell,	Winans, E. B.
Ellis,	Lamb,	Rogers, J. H.	Wolford,
English,	Lanham,	Rogers, W. F.	Worthington,
Ermentrout,	Lawrence,	Rosecrans,	Yaple.
Everhart,	Le Fevre,	Rowell,	
Ferrell,	Libbey,	Ryan,	

NAYS—5.

Buchanan,	Hardeman,	Reese,	Turner, H. G.
Crisp.			

NOT VOTING—144.

Aiken,	Dargan,	Jones, J. T.	Robinson, W. E.
Arnot,	Davidson,	Jordan,	Russell,
Ballentine,	Davis, G. R.	Kelley,	Shaw,
Barbour,	Deuster,	Kellogg,	Shelley,
Barksdale,	Dibble,	Ketcham,	Singleton,
Belford,	Dockery,	Laird,	Skinner, C. R.
Belmont,	Dorsheimer,	Lewis,	Slocum,
Bennett,	Dunham,	Lowry,	Smith, H. Y.
Bisbee,	Dunn,	Lyman,	Spooner,
Blanchard,	Eaton,	McAdoo,	Springer,
Brainerd,	Ellwood,	McCoid,	Steele,
Breitung,	Evans,	Millard,	Stephenson,
Brewer, J. H.	Finerty,	Miller, S. H.	Stewart, J. W.
Broadhead,	Follett,	Milliken,	Sumner, C. A.
Brumm,	Foran,	Mills,	Sumner, D. H.
Buckner,	Garrison,	Morgan,	Talbott,
Budd,	George,	Morrison,	Taylor, E. B.
Burleigh,	Glascock,	Morse,	Tully,
Cabell,	Graves,	Moulton,	Turner, Oscar
Caldwell,	Guenther,	Muldrow,	Valentine,
Campbell, Felix	Hammond,	Muller,	Van Alstyne,
Campbell, J. E.	Hanback,	Murphy,	Vance,
Carleton,	Harmer,	Nelson,	Wait,
Cassidy,	Hatch, H. H.	Nicholls,	Wakefield,
Chalmers,	Hatch, W. H.	Nutting,	Ward,
Clardy,	Haynes,	Oates,	Weller,
Clay,	Hewitt, A. S.	Ochiltree,	Wemple,
Collins,	Holton,	Parker,	White, J. D.
Connolly,	Hooper,	Patton,	Wilkins,
Converse,	Hopkins,	Poland,	Winans, John
Cook,	Houk,	Rankin,	Wise, G. D.
Covington,	Houseman,	Ranney,	Wise, J. S.
Cox, S. S.	Hurd,	Ray, G. W.	Wood,
Culberson, D. B.	Hutchins,	Ray, Ossian	Woodward,
Culbertson, W. W.	Jones, B. W.	Rice,	Yorke,
Cullen,	Jones, J. K.	Robertson,	Young.

So the bill was passed.

On motion of Mr. BEACH, by unanimous consent the reading of the names of members voting was dispensed with.

The following pairs were announced:

Mr. MULLER with Mr. DUNHAM, on all political questions, until further notice.

Mr. MORGAN with Mr. BAYNE, until further notice.

Mr. DARGAN with Mr. KELLOGG, until further notice.

Mr. BALLENTINE with Mr. FINERTY, until further notice.

Mr. JONES, of Arkansas, with Mr. RUSSELL, until further notice.

Mr. AIKEN with Mr. STEWART, of Vermont, until further notice.

Mr. DIBBLE with Mr. SMITH, of Iowa, until further notice.

Mr. CARLETON with Mr. ROWELL, until further notice.

Mr. HOUSEMAN with Mr. BREITUNG, until further notice.

Mr. CONNOLLY with Mr. BINGHAM, until further notice.

Mr. JORDAN with Mr. LAIRD, until further notice.

Mr. MORRISON with Mr. HISCOCK, until further notice.

Mr. CULBERSON, of Texas, with Mr. NUTTING, until further notice.

Mr. HATCH, of Missouri, with Mr. HATCH, of Michigan, until further notice.

Mr. JONES, of Alabama, with Mr. BURLEIGH, until further notice.

Mr. ARNOT with Mr. BELFORD, until further notice.

Mr. POTTER with Mr. EVANS, until further notice.

Mr. CALDWELL with Mr. SPOONER, until further notice.

Mr. WELLER with Mr. MILLER, of Pennsylvania, until further notice.

Mr. DOCKERY with Mr. HOOPER, until further notice.

Mr. SPRINGER with Mr. GUENTHER, until further notice.

Mr. CLAY with Mr. MCCOID, until further notice.

Mr. FOLLETT with Mr. MILLIKEN, until further notice.

Mr. GRAVES with Mr. WHITE, of Kentucky, until further notice.

Mr. BENNETT with Mr. HOUK, until further notice.

Mr. WARD with Mr. JOHN S. WISE, until further notice.

Mr. MCADOO with Mr. RICE, until further notice.

Mr. CAMPBELL, of New York, with Mr. PAYNE, until further notice.

Mr. CONVERSE with Mr. CHALMERS, until further notice.

Mr. LOWRY with Mr. STEELE, until further notice.

Mr. VAN ALSTYNE with Mr. ELLWOOD, until further notice.

Mr. DUNN with Mr. RAY, of New York, until further notice.

Mr. VANCE with Mr. RAY, of New Hampshire, until further notice.

Mr. CAMPBELL, of Ohio, with Mr. SKINNER, of New York, until January 12.

Mr. HAMMOND with Mr. VALENTINE, on this vote.

Mr. HOPKINS with Mr. PARKER, on this vote.

Mr. FORAN with Mr. HARMER, on this vote.

Mr. SNYDER with Mr. HANBACK, for this day.

Mr. NICHOLLS with Mr. LYMAN, for the remainder of this day.

Mr. CASSIDY with Mr. DAVIS, of Illinois, for the remainder of this day.

Mr. TALBOTT with Mr. HEWITT, of New York, on this vote.

Mr. HOPKINS with Mr. GLASCOCK, on the pension appropriation bill, for this day.

Mr. WAIT with Mr. BUCKNER, for this day.

Mr. ROBERTSON with Mr. BREWER, of New Jersey, for the remainder of this day.

Mr. DAVIDSON with Mr. NELSON, for the remainder of the day.

Mr. BUDD with Mr. GEORGE, for this day.
Mr. JONES, of Wisconsin, with Mr. HAYNES, for this day.
Mr. SINGLETON with Mr. BREWER, of New York, on this vote.
The result of the vote was then announced as above stated.
Mr. HANCOCK moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.
The latter motion was agreed to.

ENROLLED BILLS SIGNED.

Mr. NEECE, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills of the following title; when the Speaker signed the same:
A bill (S. 55) to provide for the erection of a public building for the use of the United States court, post-office, and other Government offices in the city of Carson, in the State of Nevada; and
A bill (S. 52) providing for the erection of a public building at Waco, Tex.
Mr. NEECE. I move that the House do now adjourn.

MISSISSIPPI RIVER COMMISSION.

Pending the question on the motion to adjourn,
The SPEAKER, by unanimous consent, laid before the House a letter from the Secretary of War transmitting the annual report of the Mississippi River Commission; which was referred to the Committee on Rivers and Harbors, and ordered to be printed.
Mr. KING. I ask that the report of the Mississippi River Commission be printed without the maps.
The SPEAKER. The Chair thinks it will be so printed in the first instance under the order just made.
Mr. KING. Not unless the House so orders.
The SPEAKER. The order will be made that the report shall be printed as a House document without the maps. It would be very expensive to print those maps.

MILITARY ACADEMY CLASS OF 1886.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting the petition of cadets at the Military Academy, class of 1886, for legislation to secure appointments to the Army to members of the said class; which was referred to the Committee on Military Affairs.

WITHDRAWAL OF PAPERS.

On motion of Mr. BURNES, by unanimous consent leave was given to withdraw from the files of the House the papers in the case of James A. Price without leaving certified copies on file, no adverse report having been made thereon.
The motion to adjourn was then agreed to; and accordingly (at 5 o'clock and 40 minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions and papers were laid on the Clerk's desk, under the rule, and referred as follows:
By Mr. BARKSDALE: Petition of Thomas J. Wood and others, citizens of Jefferson County, Mississippi, for an appropriation to aid in repairing Mississippi River levees—to the Committee on Rivers and Harbors.
By Mr. BAYNE: Resolution of the council of Allegheny, Pa., in favor of a public building for that city—to the Committee on Public Buildings and Grounds.
Also, of General Alexander Hays Post, No. 3, Department of Pennsylvania, for publication in Official Records of the War of the Rebellion of photographic illustrations—to the Committee on Military Affairs.
Also, resolutions of the Chamber of Commerce of Pittsburgh, Pa., in favor of the Lowell bankrupt bill—to the Committee on the Judiciary.
By Mr. BOUTELLE: Petition of S. B. Home and others, of Eastport, Me., in favor of the ratification of the reciprocity convention with Spain—to the Committee on Ways and Means.
By Mr. BRAINERD: Petition of citizens of Franklin, Pa., favoring the reciprocity treaty with Mexico—to the same committee.
By Mr. BUDD: Petition of regents of State University, California, for passage of bill establishing experimental stations—to the Committee on Agriculture.
By Mr. CUTCHEON: Memorial of George F. Hale and others, citizens of Bear Lake, Mich., favoring the passage of the bankrupt law—to the Committee on the Judiciary.
By Mr. ENGLISH: Petition of business men and merchants of Indianapolis, Ind., against the passage of the pending bankrupt bill—to the same committee.
By Mr. GEORGE: Petition from the Board of Trade of Portland, Oreg., asking for the establishment of an assay office—to the Committee on Coinage, Weights, and Measures.
By Mr. HAYNES: Petition of A. J. Johnson and others, of West Epping, N. H., for increase of pensions to widows, &c.—to the Committee on Pensions.
Also, petition of George N. Marden, relative to his claim—to the Committee on the District of Columbia.
By Mr. D. B. HENDERSON: Letter from Coolidge & Co., Waterloo, Iowa, urging the passage of the bankrupt bill—to the Committee on the Judiciary.
Also, papers from Capt. Robert Williams, urging legislation for the relief of soldiers for services at the "Cascades," in Washington Territory, in 1856—to the Committee on Military Affairs.
By Mr. LORE: Petition of the Harlan & Hollingsworth Company and other corporations and firms of Wilmington, Del., favoring legislation to put in force the reciprocity treaty with Mexico—to the Committee on Ways and Means.
By Mr. LOVERING: Papers relating to the claim of Anna Ella Carroll—to the Committee on Claims.
By Mr. MATSON: Petition of W. S. Dunham and 200 others, citizens of Johnson County, Indiana, and of Abner Harden and 20 others, citizens of the same county, favoring the passage of the Lovering pension bill—to the Committee on Invalid Pensions.
By Mr. MURPHY: Petition of citizens of Davenport, Iowa, favoring a national bankrupt law—to the Committee on the Judiciary.
Also, memorial of the hardware trade, for the construction of the Hennepin Canal—to the Committee on Rivers and Harbors.
By Mr. CHARLES O'NEILL: Memorial of Sarah Jane and Isabella Larmour—to the Committee on Invalid Pensions.
Also, petition of Vessel Owners and Captains' Association of Pennsylvania, urging the passage of Senate bill No. 1742—to the Committee on American Ship-building and Ship-owning Interests.
By Mr. PAIGE: Petition of George H. Ely and others, of Cleveland, Ohio, against the proposed Spanish treaty—to the Committee on Ways and Means.
By Mr. PAYSON: Petition of S. A. Kent and many citizens of Chicago, Ill., for the necessary legislation to put in force the reciprocity treaty with Mexico—to the same committee.
By Mr. PHELPS: Petition of Ralph S. Demarest, relative to the Venezuelan awards—to the Committee on Foreign Affairs.
By Mr. PETTIBONE: Petition of J. H. Beal Post, No. 17, Grand Army of the Republic, Department of Tennessee, for publication in Official Records of the War of the Rebellion of photographic illustrations—to the Committee on Military Affairs.
By Mr. PRICE: Resolutions of the board of health of the State of Wisconsin on the subject of a national board of health—to the Committee on the Public Health.
By Mr. RANDALL: Memorial of the citizens of East Washington, D. C., concerning street improvements—to the Committee on Appropriations.
By Mr. ROSECRANS: Petition of Messrs. Baker & Hamilton and others, citizens of San Francisco, asking legislation to put in force the reciprocity treaty with Mexico—to the Committee on Ways and Means.
By Mr. SENEY: Memorial of cigar packers of New York, against the ratification of the Spanish treaty—to the same committee.
By Mr. TULLY: Petition of the Board of Trade of Los Angeles, Cal., for a national bankrupt law—to the committee on the Judiciary.
By Mr. W. L. WILSON: Papers relating to the pension claim of Francis M. Shear—to the Committee on Invalid Pensions.

The following petitions for the passage of the Mexican war pension bill, with Senate amendments, were presented and severally referred to the Committee on Pensions:
By Mr. ANDERSON: Of 246 citizens of Cloud County; of 64 citizens of Belleville, and of 62 citizens of Riley County, Kansas.
By Mr. ARNOT: Of 300 ex-soldiers and citizens of the State of New York.
By Mr. ATKINSON: Of 130 citizens of Pennsylvania.
By Mr. BAGLEY: Of citizens of Schoharie County, New York.
By Mr. BEACH: Of citizens of Sullivan County, New York.
By Mr. BRAINERD: Of citizens of Erie County and of Warren County, Pennsylvania.
By Mr. F. B. BREWER: Of citizens of Cherry Creek and of Watts Flats, N. Y.
By Mr. T. M. BROWNE: Of 105 citizens of Jackson, Wayne County; of 35 citizens of Harrison, Wayne County, and of 134 citizens of West River, Randolph County, Indiana.
By Mr. BRUMM: Of 128 citizens of Tioga County, Pennsylvania.
By Mr. J. M. CAMPBELL: Of James Rollins and 75 others, citizens of Bedford County, Pennsylvania.
By Mr. CANNON: Of A. D. Ricketts and others, citizens of Fisher, Ill.
By Mr. CASSIDY: Of residents of Reno, Nev.
By Mr. COOK: Of W. Shunafelt and 58 others, and of D. D. Moore and 50 others, residents of Keokuk County, Iowa.
By Mr. CUTCHEON: Of citizens of Chase, of Mears, of Ferry, of Charlevoix, and of Sears, Mich.
By Mr. EATON: Of William J. Wilson and others, of Rockville, Conn.
By Mr. ELDREDGE: Of J. P. Boston and 43 others, of Henry Hicks and 34 others, of J. H. Jagger and 62 others, of Hillsdale County, and of O. P. Newcomb and 48 others, of Monroe County, Michigan.
By Mr. FORAN: Of 121 citizens of Medina County; of 58 citizens of

Latham, Pike County; of 37 citizens of Omega, Pike County, and of 108 citizens of Lockland, Hamilton County, Ohio.

By Mr. FUNSTON: Of citizens of Lawrence, of Miami County, of Allen County, of Paolo, of Montgomery County, and of Crawford County, Kansas.

By Mr. GEDDES: Of H. Pomerene and 64 others, citizens of Richland County, and of B. F. Watros and 91 others, citizens of Huron County, Ohio.

By Mr. HALSELL: Of sundry citizens of Kentucky.

By Mr. W. H. HATCH: Of citizens of Clark County, Missouri.

By Mr. D. B. HENDERSON: Of 47 citizens of Black Hawk County, and of 62 citizens of Delaware County, Iowa.

By Mr. HEPBURN: Of John D. Marlin and 65 others, citizens of Page County; of J. C. McDonald and 59 others, citizens of Appanoose County; of Ford Teal and 100 others, citizens of Decatur City; of H. White and 32 citizens of Blanchard; of W. D. Nelson and 162 others, citizens of Fingley; and of J. A. Johnson and 100 others, citizens of Lineville, Iowa.

By Mr. HILL: Of William Dilworth and 100 others, of Hicksville, Ohio.

By Mr. HOLMAN: Of James G. Endicott and 82 others, citizens of Decatur County, Indiana.

By Mr. JOHNSON: Of Levi Rock and others, of Morrisonville, N. Y.

By Mr. LAMB: Of citizens of Covington and of Clay County, Indiana.

By Mr. LAWRENCE: Of citizens of Beaver County, Pennsylvania.

By Mr. LE FEVRE: Of F. A. Washburn and 175 others, citizens of Allen County, Ohio.

By Mr. LORE: Of Edward Williams and 50 others, citizens of New Castle, Del.

By Mr. McCORMICK: Of W. H. Markin and 44 others, citizens of Gallia County, Ohio.

By Mr. MATSON: Of E. F. Harrold and 15 others, of Patricksburg; of Jacob Riegel and 200 others, citizens of Putnam County; and of William E. Telford and 100 others, citizens of Johnson County, Indiana.

By Mr. MITCHELL: Of citizens of New Haven County, Connecticut.

By Mr. MORRILL: Of John H. Carpenter and 64 others.

By Mr. MOULTON: Of 200 citizens of Shelby County, and of 1,000 citizens of Shelby County, Illinois.

By Mr. MURPHY: Of citizens of Jackson County, of Clinton County, of Preston, and of Clinton County, Iowa.

By Mr. MURRAY: Of John C. Wilkinson and 200 others, members of the National Military Home, Ohio.

By Mr. PAIGE: Of citizens of Cornet, Ohio.

By Mr. PAYSON: Of citizens of Iroquois County, and of Robert Ranney and others, citizens of Kankakee County, Illinois.

By Mr. PETERS: Of citizens of Edwards County, Kansas.

By Mr. PERKINS: Of T. A. Drake and 80 others, of Elk County, Kansas.

By Mr. PETTIBONE: Of M. Beckner and others.

By Mr. PRICE: Of D. J. Van Hovenberg and 43 others.

By Mr. PUSEY: Of citizens of Emerson, of Malvern, of Marne, and of Plum Hollow, Iowa.

By Mr. RANNEY: Of J. H. Gould and others.

By Mr. RIGGS: Of George P. Elser and 91 others, of Beardstown; of L. D. Simmonds and 33 others, of Quincy; of Peter Staff and 67 others, of Kinderhook, and of A. S. McDonald and 126 others, of Clayton, Ill.

By Mr. ROBINSON: Of 100 soldiers from Ostrander, of 30 soldiers of Pharisburg, of 118 soldiers from Minerva, of 62 soldiers of Mount Gilead, of 108 soldiers of Delaware County, and of 275 soldiers of Mount Vernon, Ohio.

By Mr. SEYMOUR: Of George W. Toms and others, of Stamford; of George W. Young and others, of North Stamford, and of W. C. Wile, M. D., and others, of Sandy Hook, Conn.

By Mr. SNYDER: Of A. J. Bickell and others, of S. J. Jarrett and others.

By Mr. SPRINGER: Of citizens of Grove City, of Arcadia, and of Mason County, Illinois.

By Mr. STEVENS: Of citizens of Niagara and Steuben Counties, New York.

By Mr. STORM: Of A. Rood and 64 others, of Luzerne County, Pennsylvania.

By Mr. STRAIT: Of 48 citizens of Zumbrota, Minn.

By Mr. TOWNSHEND: Of 110 citizens of Saline County, Illinois.

By Mr. WAKEFIELD: Of 39 ex-soldiers of Pipestone County, Minnesota.

By Mr. MILO WHITE: Of citizens of Freeborn County, Minnesota.

By Mr. E. B. WINANS: Of Henry E. Stokes and 60 others, of Genesee County; of H. C. English and 63 ex-soldiers, of Oakland County; of A. W. Dees and 76 others, of Clio; and of Albert S. Gibson and 46 others, of Eaton County, Michigan.

By Mr. JOHN WINANS: Of Edward Gillin and others, of Racine; of Sidney I. Thompson and others, of Watertown; of E. P. King and others, of Beloit; and of Edwin H. Smith and 50 others, of Allen's Grove, Wis.

By Mr. W. L. WILSON: Of citizens of Sleepy Creek, and of Michael Hartman and others, of Preston County, West Virginia.

SENATE.

WEDNESDAY, *January* 7, 1885.

Prayer by the Chaplain, Rev. E. D. HUNTLEY, D. D.

The Journal of yesterday's proceedings was read and approved.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of War, transmitting, in response to a resolution of the 20th ultimo, a report of the Chief of Engineers, accompanied by a report of Capt. James C. Post, Corps of Engineers, on the work for the improvement of Buchanan River, in West Virginia; which, with the accompanying papers, was referred to the Committee on Commerce, and ordered to be printed.

He also laid before the Senate a communication from the Secretary of War, transmitting for the information of Congress papers showing the maintenance of the channel at the South Pass, Mississippi River, by Mr. James B. Eads, during the quarters ending March 9, 1884, June 9, 1884, September 9, 1884, and December 9, 1884, respectively; which, with the accompanying papers, was ordered to be printed, and referred to the Committee on the Improvement of the Mississippi River.

REPORT OF MISSOURI RIVER COMMISSION.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of War, transmitting, in compliance with law, the annual report of the Missouri River Commission; which, together with the accompanying papers, was referred to the Committee on the Improvement of the Mississippi River, and ordered to be printed.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* laid before the Senate a letter from the Secretary of War, transmitting a petition from the class which will be graduated at the United States Military Academy at West Point in June, 1886, praying for legislation which will secure appointments in the Army for those cadets who may be graduated that year; which was ordered to be printed, and, with the accompanying papers, referred to the Committee on Military Affairs.

Mr. GARLAND. The other day I introduced a bill (S. 2428) granting a pension to Margaret B. Harwood. I now present her petition praying for a pension, and move that it be referred to the Committee on Pensions.

The motion was agreed to.

Mr. JONAS presented a memorial of merchants of New York city, remonstrating against the ratification of the proposed Spanish reciprocity treaty; which was referred to the Committee on Foreign Relations.

Mr. LAPHAM presented a memorial of merchants of New York city, remonstrating against the ratification of the proposed Spanish reciprocity treaty; which was referred to the Committee on Foreign Relations.

Mr. HALE presented a petition of citizens of Machiasport, Me., praying for the ratification of the proposed Spanish reciprocity treaty; which was referred to the Committee on Foreign Relations.

He also presented the petition of W. M. Folger, lieutenant-commander, United States Navy, and other officers of the Navy, praying for legislation in relation to rank and promotion in the Navy; which was referred to the Committee on Naval Affairs.

Mr. COCKRELL. I present what is intended as a memorial, although it is addressed to me individually or officially, being a resolution of the Trades and Labor Assembly of the city of Saint Louis, composed of the representatives of the various labor organizations of that city, earnestly urging the passage of the bill to prohibit the importation of contract labor into the United States now before Congress and known as the Foran bill, and protesting against the ratification of the Spanish reciprocity treaty now before the Senate. I do not know whether the bill to prohibit the importation of contract labor has been reported from the Committee on Education and Labor. If it has not been, I ask that the memorial may be referred to that committee as a gentle reminder to them of the necessity of action.

The PRESIDENT *pro tempore*. The foreign-contract-labor bill is on the Calendar.

Mr. COCKRELL. Then let the memorial be laid upon the table.

The PRESIDENT *pro tempore*. The memorial will lie upon the table.

Mr. PLUMB. I present the memorial of a large number of persons, who represent in substance that they are now settled upon and occupy what are known as the Oklahoma lands in the Indian Territory. I ask that their memorial may be read at length, omitting the names, and that the memorial may then be referred to the Committee on Indian Affairs.

The PRESIDENT *pro tempore*. The Senator from Kansas asks unanimous consent that the memorial presented by him be read at length, omitting the names. Is there objection? The Chair hears none, and it will be read.

The Chief Clerk read as follows:

To the honorable the Senate and
House of Representatives in Congress assembled:

We, the people of Oklahoma, assembled in public meeting, at the town of Stillwater, in Oklahoma, do most earnestly and respectfully request the immediate attention of Congress to the following facts:

Oklahoma was bought by the United States from the Creek and Seminole Indians eighteen years ago. It has been paid for in full. The title rests solely and exclusively in the United States. There are no limitations of any kind what-

ever. No Indian or tribe of Indians owns, or claims to own, controls, or claims to control, one foot of these lands.

No one disputes any of these statements, yet notwithstanding these plain and undeniable facts, and notwithstanding the further fact that all of the western part of our country has been settled and improved, exactly as we have settled and improved this country, in advance of official invitation, we have repeatedly been driven from our homes by military force, our houses burned, our property destroyed, and our bodies dragged hundreds of miles into out-of-the-way places, and held for weeks, beyond the reach of civil processes, and then dismissed without trial or explanation.

When we have cited laws to these men wearing Federal uniforms, and asked them for justice, they have cursed us and told us they cared nothing for laws, they had the power and would use it.

We thoroughly and with one accord believe that our right to make homes for ourselves and our families upon these lands would not have been questioned had it not been for the fact that rich cattle syndicates were here ahead of us.

These men are few in number, but strong in the use of unlimited capital.

They do not pretend to have even a lease of these lands from any source whatever, yet they hold and inclose them with wire fences, and the Federal Army is used as their private police.

We are now in Oklahoma again.

We are here with our axes and our plows. Hundreds and thousands of our friends are on their way to join us from all States of the West.

We are here to stay. We deny the right of any man, or mob of men, whether in uniform or plain clothes, to molest us.

We do most earnestly request that Congress will henceforth guarantee to us our plain and undeniable rights under the laws and Constitution of our country; and as a means to secure and maintain those rights, we request that Congress may immediately order the withdrawal of the Federal troops from our midst, and at as early a day as possible organize Oklahoma as a Territory of the United States, and provide for the appointment of a governor and the election of other necessary officers.

Mr. PLUMB. I desire to say in reference to the memorial that the subject-matter of it has been before the Committee on Indian Affairs for some considerable period of time, and while I do not deny that the subject is one of very great importance and may involve extended deliberation, I submit that prompt action is necessary in view of the fact that these persons are there. While they are there, technically at least, in violation of the law, or at all events in violation of the law as construed by the Attorney-General and as understood by the President, at the same time the violation is merely technical, as I think. The Congress has said heretofore that these lands should not be occupied by Indians. It can only be in any event a brief period of time when they must necessarily be open to settlement, and it seems to me that the time has come when Congress should say "yea" or "nay," not merely to the petition of these people, but to the situation which is presented by the very considerable body of land which is not now in occupancy by Indians and not designed to be occupied by them hereafter. I therefore venture to suggest that the Committee on Indian Affairs should take this matter up and dispose of it at as early a day as possible, and I think that would not only conduce to the interests of the General Government, but, perhaps, to a peace which is liable to be disturbed by the contact of forces down there on the part of the settlers on one side and on the part of the Government seeking to restrain the occupancy on the other.

Mr. DAWES. I did not hear the remarks of the Senator from Kansas at the outset. Does the Senator contemplate any such immediate action as will meet the exigencies now existing there?

Mr. PLUMB. I do not want to interpose by getting into the domain of the committee; but I think, in consideration of the facts stated in the memorial, or so much of them as may be held to be without controversy, the committee would be warranted in saying "yea" or "nay" to the general proposition that the land should be opened to settlement by act of Congress. That may result from a variety of considerations of course; but that something should be said in view of what is clearly an emergency of the situation I have no doubt.

Mr. DAWES. The Senator is aware that at the last session the committee were instructed to make inquiry into the title to Oklahoma, and after a careful consideration they reported that it could not be under existing title open to settlement, and that report was adopted by the Senate. I am aware of the serious condition of things at this moment in what is called Oklahoma; and my inquiry was whether the Senator contemplated such immediate action as would interfere with the authorities, or in any way undertake to put an end to the troubles down there at this time.

Mr. PLUMB. I will say, in regard to that matter, that while I presume it would be practically impossible that legislation should be finally passed to meet the immediate situation, there may be other things which could be done in some way which would make more emphatic the expressions than have heretofore been made or which would modify them in some way so as to have influence to prevent the breach of peace which is now threatened. I am not undertaking to put myself in the position of criticising the committee, or assuming any responsibility, or in any way complaining of the committee for considering at some length probably this question, which is quite a serious one, involving as it does not merely the disposal of the land to various settlers and the surrounding tribes of Indians, but also the question of local government. At the same time I do say it is one of those things that ought to be met in some way very promptly, and I hope to present to the committee itself at no very remote day some facts and circumstances bearing upon this question, which I think will tend to facilitate a decision.

Mr. DAWES. I assure the Senator that the committee are as anxious as they can be to meet the exigencies of this case, and will give him or any other Senator the largest opportunity to present any suggestions that will meet the difficulties which surround it.

The PRESIDENT *pro tempore*. The memorial will be referred to the Committee on Indian Affairs.

Mr. FAIR presented a memorial of merchants of New York city, remonstrating against the ratification of the proposed Spanish reciprocity treaty; which was referred to the Committee on Foreign Relations.

Mr. SHERMAN presented a memorial of citizens of Steubenville, Ohio, remonstrating against the ratification of the proposed Spanish reciprocity treaty; which was referred to the Committee on Foreign Relations.

Mr. HOAR presented a memorial of citizens of Massachusetts, remonstrating against the ratification of the proposed Spanish reciprocity treaty; which was referred to the Committee on Foreign Relations.

He also presented a petition of merchants, manufacturers, and shipowners of Boston, Mass., praying for the ratification of the proposed Spanish reciprocity treaty; which was referred to the Committee on Foreign Relations.

REPORTS OF COMMITTEES.

Mr. KENNA, from the Committee on Claims, to whom was referred the bill (H. R. 2185) for the relief of Rosa Vertner Jeffrey and others, reported it without amendment, and submitted a report thereon.

Mr. JACKSON, from the Committee on Claims, to whom was referred the bill (H. R. 1567) for the relief of the legal representatives of the late Capt. John G. Tod, of the Texas navy, reported it without amendment, and submitted a report thereon.

He also, from the same committee, to whom was referred the bill (S. 1042) for the relief of the legal representatives of the late Capt. John G. Tod, of Texas, reported it back, and moved indefinite postponement; which was agreed to.

He also, from the same committee, to whom was referred the bill (S. 2296) for the relief of Thomas A. McLaughlin, reported it with an amendment, and submitted a report thereon.

He also, from the same committee, to whom was referred the bill (S. 578) for the relief of Dennis W. Mullan, submitted an adverse report thereon, which was agreed to; and the bill was postponed indefinitely.

Mr. PIKE. I am instructed by the Committee on Claims, to whom was referred the bill (S. 2151) for the relief of William H. Davis, of Oakland, Cal., to report it adversely. The committee also instruct me to report the following resolution, referring the claim to the Court of Claims:

Resolved, That the claim of William H. Davis be transmitted, in accordance with the provisions of article 1, section 1059, of the Revised Statutes of the United States, to the Court of Claims of the United States, together with the vouchers, papers, proofs, and documents appertaining thereto.

The PRESIDENT *pro tempore*. Does the Senator from New Hampshire desire to have the resolution placed on the Calendar?

Mr. PIKE. I wish action upon it at this time.

The PRESIDENT *pro tempore*. Is there objection to the present consideration of the resolution?

Mr. COCKRELL. Why the necessity of passing a resolution of that kind? Has not the committee power to refer the claim to the Court of Claims?

Mr. CAMERON, of Wisconsin. It is not proposed to refer it under the provisions of the so-called Bowman act.

Mr. COCKRELL. It is to be referred under the general provisions?

Mr. CAMERON, of Wisconsin. Under the general provisions of the Revised Statutes.

The resolution was agreed to.

Mr. PIKE. I move that the bill be indefinitely postponed.

The motion was agreed to.

Mr. PIKE, from the Committee on Claims, to whom was referred the bill (S. 1098) for the relief of V. B. Horton, submitted an adverse report thereon, which was agreed to; and the bill was postponed indefinitely.

Mr. CAMERON, of Wisconsin, from the Committee on Claims, to whom were referred the following bills, submitted adverse reports thereon, which were agreed to; and the bills were indefinitely postponed:

A bill (S. 2050) for the relief of Mrs. Eliza Clark;

A bill (S. 640) for the relief of Rebecca Johnson;

A bill (S. 1392) to compensate John W. Smith for losses sustained by him during the war of the rebellion; and

A bill (S. 721) for the relief of Joseph W. Yates.

Mr. CAMERON, of Wisconsin. By direction of the Committee on Claims I submit a report which I ask may be read.

The Chief Clerk read as follows:

The Committee on Claims, to whom were referred the bill (S. 864) for the relief of William G. Ford, administrator of John G. Robinson; the bill (S. 866) for the relief of John F. Kranz; and the bill (S. 1167) for the relief of the estate of Marcus Walker, beg leave to report that, having referred the said claims to the Court of Claims under the provisions of an act entitled "An act to afford assistance and relief to Congress and the Executive Departments in the investigation of claims and demands against the Government," approved March 3, 1883, said claims have been returned by the said court to the committee as not coming within the jurisdiction of the court under the act referred to.

Mr. CAMERON, of Wisconsin. I desire to say, in connection with the report just read from the desk, that each of those bills represents a large class of claims now pending before the committee. The committee had doubt as to whether those classes of claims came within the provisions of the so-called Bowman act. The bills were referred to the Court of Claims for the purpose of obtaining a judicial construction of the act. That construction has been obtained, and the committee will be governed hereafter in transmitting cases to the Court of Claims according to the decision of the court.

The PRESIDENT *pro tempore*. If there be no objection, the report will be placed on file.

Mr. SHEFFIELD, from the Committee on Claims, to whom were referred the following bills, submitted adverse reports thereon, which were agreed to; and the bills were indefinitely postponed:

A bill (S. 1163) for the relief of Anson Atwood; and

A bill (S. 1901) for the relief of William H. Whiting.

Mr. SHEFFIELD, from the Committee on Claims, to whom was referred the petition of E. A. Farr, agent of the estate of S. O. Baker, deceased, praying compensation on account of supplies furnished United States soldiers during the late war, submitted an adverse report thereon, which was agreed to; and the committee were discharged from the further consideration of the petition.

SUPPORT OF DESTITUTE INDIANS.

Mr. DAWES. The Committee on Appropriations, to whom was referred the joint resolution (H. Res. 308) appropriating $50,000 for the support of certain destitute Indians, have instructed me to report back the same, and to ask, owing to the exigencies of the case, that it may be considered at this time.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution. It appropriates $50,000, to be immediately available, to be applied to the support and maintenance of the Indians at the Crow, Fort Belknap, Fort Peck, and Blackfeet agencies, in Montana Territory.

Mr. DAWES. I will state that the occasion for this special appropriation is all set forth in the RECORD this morning. The documents are somewhat voluminous, yet I can not but think that any Senator who has read them will be satisfied that this action is demanded by every consideration of justice.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

BILLS INTRODUCED.

Mr. COCKRELL introduced bill (S. No. 2508) for the relief of Timothy McCormick; which was read twice by its title, and referred to the Committee on Indian Affairs.

Mr. SEWELL introduced a joint resolution (S. R. 108) authorizing the Secretary of War to assist in canceling the debt and in enlarging and improving the grounds and collections of Washington's Headquarters in Morristown, N. J., and in securing suitable ground in which to gather the remains of Revolutionary soldiers there buried and in erecting a monument over the same; which was read twice by its title, and referred to the Committee on Military Affairs.

ENROLLED BILLS SIGNED.

A message from the House of Representatives, by Mr. CLARK, its Clerk, announced that the Speaker of the House had signed the following enrolled bills; and they were thereupon signed by the President *pro tempore*:

A bill (S. 55) to provide for the erection of a public building for the use of the United States courts, post-office, and other Government offices in the city of Carson City, in the State of Nevada; and

A bill (S. 52) providing for the erection of a public building at Waco, Tex.

ARREARS OF PENSIONS.

The PRESIDENT *pro tempore*. "Concurrent or other resolutions" being in order, the Chair lays before the Senate the motion of the Senator from Kansas [Mr. INGALLS], that the Committee on Pensions be discharged from the further consideration of the bill the title of which will be read.

The CHIEF CLERK. "A bill (S. 1) to amend section 2 of an act making appropriations for the payment of the arrears of pensions granted by act of Congress approved January 25, 1879, and for other purposes, approved March 3, 1879."

The PRESIDENT *pro tempore*. The question is on agreeing to the motion.

Mr. MORRILL. The Senator from Kansas has kindly informed me that he would consent to have that go over until to-morrow.

The PRESIDENT *pro tempore*. Does the Chair understand the Senator from Vermont to make that motion?

Mr. MORRILL. Yes.

The PRESIDENT *pro tempore*. The Senator from Vermont moves that the further consideration of the motion be postponed until to-morrow. Is there objection? The Chair hears none, and it is so ordered.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by MR. CLARK, its Clerk, announced that the House had passed a bill (H. R. 7785) making appropriations for the payment of invalid and other pensions for the fiscal year ending June 30, 1886, in which it requested the concurrence of the Senate.

RECIPROCITY TREATIES, SO CALLED.

Mr. MORRILL. Now I ask that the resolution introduced by me on the 15th of December be read.

The PRESIDENT *pro tempore*. The Senator from Vermont asks unanimous consent that the Senate proceed to the consideration of the resolution indicated, which will be read for information.

The Chief Clerk read the resolution, as follows:

Whereas the Legislature is the department of Government by which commerce should be regulated and laws of revenue passed. The Constitution in terms communicates the power to regulate commerce and to impose duties to that department. It communicates it in terms to no other. The representatives of the people, sitting in their legislative capacity, with open doors, under the eye of the country, communicating freely with their constituents, may exercise this power more intelligently, more discreetly, may acquire more accurate and more minute information concerning the employment and interests on which this description of measures will press, and may better discern what true policy prescribes or rejects, than is within the competence of the executive department of the Government: Therefore,

Resolved, That so-called reciprocity treaties, having no possible basis of reciprocity with nations of inferior population and wealth, involving the surrender of enormously unequal sums of revenue, involving the surrender of immensely larger volumes of home trade than are offered to us in return, and involving constitutional questions of the gravest character, are untimely and should everywhere be regarded with disfavor.

The PRESIDENT *pro tempore*. Is there objection to the present consideration of the resolution? The Chair hears none. The question is on agreeing to it.

Mr. MORRILL. Mr. President, the substance of the declarations in the resolution just read were copied from a report of the Senate Committee on Foreign Relations. I much regret, however, to be unable to ascribe the credit of its authorship to the committee of the Forty-eighth Congress.

The magnitude of the subject embraced in the resolution would seem to justify full and free discussion. Differing in opinion from those whom I greatly esteem, it will be my duty to give utterance to no sentiments not based upon my profoundest convictions. If the President, the Secretary of State, our envoy extraordinary, and all the newspapers may present elaborate statements relating to the new gospel of "reciprocity treaties," with the whole text fully displayed, it would seem passing strange that Senators, of all the world, must keep a padlock on their lips and remain silent. Though I am inflexibly opposed to revolutionizing all American traditions by having our revenue laws tampered with by those to whose especial care they were never constitutionally intrusted, it would be vain for me to indulge in any dreams of successful resistance to the apparent numbers and the power now enlisted in this rampant policy, but I may, at least, preserve the symmetry of my record to the last moment on the general subject, and present some special objections to the latest pattern of so-called "reciprocity," to which, under the rules of the Senate, I regret to say my remarks must be limited. Let me here say that some of the points now to be submitted were presented in my remarks made in executive session on the Mexican treaty, which the Senate kindly gave me permission to publish.

RECIPROCITY TREATIES UNCONSTITUTIONAL.

When the question of a reciprocity treaty was first presented to the Senate forty years ago, it was unanimously decided that it would be a grave and dangerous invasion of the prerogative of Congress to regulate commerce with foreign nations, as well as of the prerogative of the House of Representatives as to its exclusive power to originate revenue bills. The record shows (and it was long since made public) that two reports on the Zollverein treaty, with Prussia and other members of the Germanic Confederation, were made at different times by the Senate Committee on Foreign Relations, both reaching the same adverse conclusion—one by Mr. Choate, of Massachusetts, when the treaty was laid upon the table, as the least offensive mode of rejection, and one later, by Mr. Archer, of Virginia, when, at the request of the President for further consideration, the treaty was squarely and unanimously rejected—including even the vote of John C. Calhoun, although, while Secretary of State, the treaty had received his perfunctory support. That the standing of Mr. Choate, as a lawyer of profound learning, and the sound judgment of Mr. Archer, the long-trusted Congressional leader on foreign affairs, peculiarly qualified them to handle the subject, not only justly but with pre-eminent ability, will not be controverted even by the present distinguished Committee on Foreign Relations. Notwithstanding it was broadly claimed by Mr. Archer that the treaty would have promoted our interests, it was resolutely refused, and solely on the ground of paramount constitutional objections. This adverse determination was again and finally confirmed in 1848 by a record of the yeas and nays, with every member, both of the Democratic and Whig parties then present, in the negative, and at a time when among the members of the Senate were to be found, besides many others of national renown, such celebrities as Calhoun, Crittenden, Berrien, Badger, Corwin, Dix, Hamlin, Mangum, Bell, Davis of Mississippi, "Honest John Davis" of Massachusetts, Mason of Virginia, and Johnson of Maryland. We may well feel proud even to be members of a

body which has been decorated with names wearing such enduring national luster. I think the Senate would willingly be refreshed with at least a single paragraph from one of these adverse reports, from which it will be seen that my resolution has been taken, and I will therefore read the following from that of June 14, 1844:

In the judgment of the committee, the Legislature is the department of Government by which commerce should be regulated and laws of revenue passed. The Constitution in terms communicates the power to regulate commerce and to impose duties to that department. It communicates it, in terms, to no other. Without engaging at all in an examination of the extent, limits, and objects of the power to make treaties, the committee believe that the general rule of our system is, indisputably, that the control of trade and the function of taxing belong, without abridgment or participation, to Congress.

They infer this from the language of the Constitution, from the nature and principles of our Government, from the theory of republican liberty itself, from the unvaried practice, evidencing the universal belief of all, in all periods, and of all parties and opinions. They think, too, that, as the general rule, the representatives of the people, sitting in their legislative capacity, with open doors, under the eye of the country, communicating freely with their constituents, may exercise this power more intelligently, more discreetly; may acquire more accurate and more minute information concerning the employments and the interests on which this description of measures will press, and may better discern what true policy prescribes or rejects, than is within the competence of the executive department of the Government.

Mr. President, this was the well-considered and determinate argument accepted by a united Senate, solemnly bound as we are by an oath, and though floods of eloquence may come, and the winds of rhetoric beat against it, it will stand, for it is founded on the bed-rock of the Constitution. Its high and thorough seriousness, Senators will find, can not be dismissed with the sneer of silence, nor can its cogency be checkmated even by an imposing front of numbers. Antagonism to the constitutional position then announced by the Senate will not win future colossal reputations.

I regret not to find myself in accord with some of the ablest constitutional lawyers of the Senate at the present time; but, as humble as I feel myself to be, I am not ashamed to appeal from the new to the old Senate, and to remain an adherent to the constitutional doctrine asserted and promulgated by some of the most illustrious names that have adorned the history of the American Senate. One of the present distinguished Senators from Massachusetts—with whom on this question it is my misfortune to differ—has told me that "the great expounder of the Constitution," a grander name than even that Africa gave to Scipio, was once reported to have said, "I hope I know the Constitution of my country better than to think a reciprocity treaty is constitutional." If reciprocity treaties were unconstitutional when this declaration was made by Mr. Webster, they are surely none the less so now, and my friend the learned Senator from Massachusetts may find, even in the wayside opinions of his distinguished predecessor, "the bones of a giant."

Mr. HOAR. To which Senator from Massachusetts does the honorable Senator from Vermont allude?

Mr. MORRILL. I refer to the Senator now addressing me.

Mr. HOAR. The authority for Mr. Webster's opinion is good; but the Senator's authority for mine—he says I differ from him—is not good.

Mr. MORRILL. I am very happy to hear it, Mr. President.

The powers separately and specially granted by the Constitution to one branch of our Government can not be assumed or held in common by any other branch at its pleasure. The invasion of the jurisdiction of one by another can not be accounted less than rank usurpation. Any other interpretation of the Constitution would be derogatory not only to the Constitution itself, but to its far-sighted framers. The President is the Commander-in-Chief of the Army and Navy, but this gives him no authority to invade the power of Congress "to raise money to support the Army and Navy." The President, with the concurrence of two-thirds of the Senate, may make treaties, but under cover of this authority no constitutional treaty can be made "to regulate commerce with foreign nations" or to initiate "revenue bills," any more than to establish a "uniform law of bankruptcy" or "of naturalization;" and these, together with all other powers which were specially confided to Congress or to the House of Representatives by the Constitution, stand as a flaming sword against all encroachments of the Executive, and forever limit and exclude the reach of its treaty-making power.

The House of Representatives has ever been open-eyed as to the least apparent Senatorial usurpation of the power to originate revenue bills, and the Senate in all controversies on this point has promptly yielded to the claims of the House. This exclusive power of the House is consecrated in all of our earliest traditions, and will ultimately be found impregnable, whether threatened by the Senate alone or with the aid of the auxiliary forces of the Executive.

I know that the constitutional barrier is assumed to be avoided, if a profane illustration may be pardoned, by whipping His Sooty Majesty around the stump, or by obtaining the subsequent consent of Congress, or of the House of Representatives, to the stipulated requirements of the treaty; but this consent subjects Congress and the House to a state of suspended animation, and is only a flimsy subterfuge, by which the full power of Congress, or of the House of Representatives, for a term of years, is to be curtailed and abridged. In the first place, the Constitution does not contemplate the action of the House at all upon treaties. All legitimate treaties must be made by the Executive, with the concurrence of two-thirds of the Senate, and, when so made, no action of the House can amend or change them or defeat them by a legislative veto. But, in the examples of hybrid treaties now officially made known to the public, the vital part of each treaty is to be carried into effect, not by the concurrence of two-thirds of the Senate, but by a bare majority of each House. The rule of majorities is to prevail in contravention to fundamental law. In the second place, the action of the House, or even of Congress, in 1885 can not impair, abridge, or take away the legislative authority of the next or of any succeeding Congress "to regulate commerce" nor of the House of Representatives "to originate revenue bills." Nor can this legislative authority be abdicated even by making the Executive the heir apparent. No act of the executive branch of the Government or of Congress can suspend, repeal, or blot out plain provisions of the Constitution. If such provisions could be suspended and renounced for six years by a temporary majority of Congress or of the House of Representatives, they could of course be suspended or renounced for twenty years or a hundred. It appears to me, therefore, that any treaty which encroaches upon the power to regulate commerce or upon that to originate revenue bills involves a plain, open, and palpable violation of the Constitution.

Mr. JONES, of Florida. Will the Senator yield for a question? I would ask the Senator if in the early treaties of peace commercial advantages were not——

Mr. MORRILL. I should rather the Senator would not ask any questions until I get through.

The PRESIDING OFFICER (Mr. WILSON in the chair). The Senator from Vermont declines to be interrupted.

Mr. MORRILL. It may be said that the power to regulate commerce and to originate revenue bills will remain in full force in spite of treaties, and may be still exercised at any time, and, if so exercised, would abrogate and, as the latest law, supersede all conflicting treaties. This may be true, but its exercise in defiance of treaties would be a flagrant breach of good faith, for which the fullest reparation might be demanded and a very sufficient provocation for a declaration of war by the party betrayed. The violence to the Constitution done through the making of a reciprocity treaty would be very lamely undone by any violence to the treaty itself.

The terms of these treaties appear to provide that they must be carried into effect by virtue of laws yet to be passed by Congress, and thus a dramatic foregone conclusion is to be rehearsed and enacted on the Congressional stage as a pageant of statecraft. If the treaties were to be operative when ratified, as it appears very innocently and rather haltingly to have been originally provided in the Mexican treaty before it was amended by the Senate, then any action of Congress or of the House of Representatives would be contemptuously disregarded, as will be sure to happen whenever the epidemic of reciprocity treaties shall so far prevail as to become the diseased and chronic policy of the country; but if treaties are to become operative by subsequent laws to be passed by Congress, it will be an introduction of a third and unknown party to the treaty-making power for which we have no warrant in the Constitution, and the deluded House of Representatives, like Samson shorn of his locks, will wake up to find its strength has departed. Not only will its share of power to regulate commerce and its exclusive power to originate revenue bills be gone, but its consent once given to a seven years' reciprocity treaty may be indefinitely elongated and perpetuated by a subsequent treaty to which its consent may no longer be held essential by the executive department.

To my blunt sense, if I have any sense, it appears strange how Senators learned in the law can regard the confession and avoidance contained in the eighth article of the Mexican treaty as anything less than a limping subterfuge, designed to escape a plain provision of our Constitution, and, as here presented, as I shall hereafter attempt to show, without even the excuse of any healthy national advantages. It would seem to contain an admission that the Executive and the Senate have unlawfully originated an illegitimate revenue bill, and this graceless bantling, left in a state basket at the door of the House of Representatives, the Executive proposes to legitimize by procuring a trustless and unveracious certificate from the House of its legislative fatherhood, although in truth it was a bill previously concocted and brought forth in the precise terms of the treaty with Mexico and with the same godfathers; and thus the House has been solemnly, perhaps seductively, urged to cheat itself, if not the world, by the farce of appearing to originate a bill which it dare not even amend, and which is already showing some signs of the decrepitude of age.

It is an insidious method by which the vastly important power of the House of Representatives over all revenue bills may, with an ambitious Executive, become obsolete and utterly valuless. The whole field of regulating trade and commerce by a tariff on imports may thus be opened to secret invasion, patch by patch, and twenty treaties may as properly be concocted as one, leaving only tattered remnants of tariff laws to be dealt with by Congress. A reciprocity treaty necessarily abandons protection by any tariff upon all the articles enumerated, and equally abandons all revenue and power to obtain revenue therefrom during the existence of the treaty. It is a measure clearly as inconsistent with the idea of "revenue only" as with that of "protection." It is hodge-podge free trade with special favorites only, and invidious restriction against all others.

If this departure from the revered example of our fathers is in harmony with our Constitution, I fail, and I think future patriots and statesmen, as well as the common people, will fail to so understand it. Friendly to all nations, they would proffer equal generosity to all. For the solid and enduring reputation of the Senate itself, sound policy dictates a prudent exercise only of the constitutional powers clearly granted, and the avoidance of all suspicious enlargements and doubtful amplifications. We can not afford to demolish the accepted theory of a republican government by sanctioning the initiation of revenue bills by the Executive. We can not afford to change the Constitution by merely a new interpretation, and without any change of the fundamental law.

THE PRETENDED PRECEDENTS.

The claim that the Mexican treaty originated in the House of Representatives, because the "sundry civil bill" of 1884 contained an appropriation "for the salaries and expenses of a commission to negotiate a commercial treaty with Mexico," is untenable, for the sufficient reason that commercial treaties may be of many descriptions and are daily negotiated, in fact nearly all being entitled treaties of "commerce and navigation;" but they have never been understood as synonymous with reciprocity treaties undertaken solely to regulate tariffs on imports; and if the "sundry civil" appropriation—doubtless prompted by and originating with the executive department—had borne the slightest hint of its secret "reciprocity" purpose, it would have encountered prompt opposition in both branches of Congress. Secrecy, as well before as after negotiation, possibly best enables such treaties to prosper. Congress can not give to the Executive its power of attorney in advance to make a tariff by treaty; and were that even possible, Congress, under the new patent theory, should at least be allowed to see such a tariff, even if not permitted to originate it. But Congress can only make a tariff uniform for all the world, and not for one foreign nation alone.

The further claim that in 1803, upon the Louisiana purchase from France, there was a precedent for "reciprocity treaties" in the provision of the treaty then made, that French ships for twelve years should be subjected to no greater duty on tonnage and merchandise than that paid by the citizens of the United States, is more untenable or simply preposterous. This was merely a condition precedent to obtaining full and complete possession of and jurisdiction over the territory for which we had made a bargain. France gave us no reciprocal privileges of any kind, but for twelve years retained a part of her original rights.

We made another convention in 1831 with France, our ancient ally, by which we limited for ten years the maximum duties upon red and white wines, in order to obtain the sum of twenty-five million francs for the unlawful seizure and confiscation of the vessels of United States citizens. There was not a shadow of "reciprocity" by which France made any reduction of duties in favor of the products of the United States, although on our part a weak concession was made—never to be again repeated—and made to obtain the payment of a just and long-delayed demand. Even this limitation of duties, and so hedged about as it was in consequence of the "favored-nation" conditions of our treaties, gave rise to reclamations by other governments for the excess of duties paid on wines above that imposed on French wines, and Daniel Webster, whose fame is not yet wholly eclipsed, as Secretary of State conceded the justice and legality of the claims.

Thanks are abundantly due to those who have revived the memory of the past. The advocates of reciprocity treaties appear willing to accept the thinnest of gossamer supports when they venture to claim that there is any example of a reciprocity treaty in the first sixty-five years of the history of the Government. There is none such, or none prior to 1854, and the treaty of that date was abrogated and stamped with the ban of the Government at the earliest possible moment.

EVERYWHERE INCURABLY WRONG.

If I could easily pass by, as I can not, the insuperable constitutional objections to reciprocity treaties, there are other grave and scarcely less substantial objections to the policy of such treaties. The most intelligent statesmen of the world "let them alone severely." Not a first-class government of Europe, so far as I am advised, now tolerates such treaties. Throughout the whole horizon none are visible even to reciprocity star-gazers—saving our own twinkling and pitiful show. England would be glad to make a treaty compact with the United States for the benefit of the Dominion of Canada, if that, sweetened by the bonbons and ribbons of occasional knighthoods, would keep the Dominion loyal, as well as proud and contented to furnish contingents to maintain British supremacy elsewhere; but she never permits the Canadas to offer favors to which Great Britain is not to become an equal participant, and never proposes to be a principal party to reciprocity herself. If we were to propose that American tobacco and whisky should be received duty free by Great Britain, and should offer all proper equivalents, the "no" of the British lion would resound across the Atlantic. But to some of our home administrations, I fear, it has happened that too many of their members have felt obliged to have a reciprocity treaty, like the small-pox, once in their lives, and it were to be wished that the malady would no more return in the one case than in the other.

The Cobden commercial convention with France was not a reciprocity treaty—which would properly only include one and the same list of articles to be made duty-free by both parties—but it was, like the pattern which threatens us, a give-and-take contract, one government freeing from duty certain articles and the other government freeing from duty certain other articles; and yet it proved fatally disastrous to the entire silk industry of England, and was very galling and detrimental in other directions to various important interests which have been loud in adverse criticisms. In France the Cobden treaty crippled their revenue, after the war with Germany, so seriously that the government of President Thiers urgently asked to be relieved from its oppressive terms, but England coldly refused, and insisted upon all that was "nominated in the bond." As quickly, under the provisions of the treaty, as France had the power, the Cobden treaty was terminated, and wherever or whenever mooted since there has been no chance of its renewal. We suffered a great and similar embarrassment from 1860 to 1864 from our Canadian reciprocity treaty. When such treaties are made, the resources of the nation, the sinews of war, are more or less tied up for a term of years, and even defensive wars must be dreaded, and peace, however ignominious, maintained at any price.

AT WAR WITH THE "MOST FAVORED NATION" CONDITIONS OF ALL OTHER TREATIES.

Among the oldest and ripest statesmen of Europe it is held and believed that "the most favored nation" stipulations, now to be found in nearly all international treaties, have some potential and enforceable meaning. If any production of one nation is subjected to a less duty than that imposed upon a similar production of some other nation, no matter whether the difference has been brought about by legislation or by treaty or by both combined, it would seem to be a substantial violation of all compacts which set forth that "no other or greater duties shall be imposed than those which are paid upon the productions of the most favored nation."

Every fresh example in the line of a possible future settled policy of select and special favoritism will be found dangerous and in conflict with our plighted faith given in treaties having "the most favored nation" provisions with between thirty and forty other nations. Any of these foreign powers strong enough to assert its rights or to enforce its compacts will scarcely fail to make any grievance of this sort known and to seek prompt redress.

Since the date of our treaty with Mexico Great Britain has suddenly resumed her diplomatic relations with Mexico, the latter having also mollified British creditors with new promises, and the first fruit of this sudden pledge of eternal friendship appears to have been a short treaty by which Great Britain has been restored to the footing of "the most favored nation," as has been still more recently accomplished with Spain. This has not been done with an aimless purpose, and whatever rights accrue will most likely be unflinchingly exacted.

In a former speech of mine the following statement was made of historic facts:

> At the first rumor of the Zollverein treaty, negotiated by Mr. Wheaton in 1844, Lord Aberdeen notified Mr. Everett, our minister in London, that Great Britain would claim an equal relaxation of duties in their favor, and Mr. Everett admitted the propriety of the claim, provided it was accompanied by the same equivalents. To this Lord Aberdeen responded that he conceived that by the convention of July 3, 1815, we should be bound to admit British fabrics on payment of the same duties as the Germans without any such conditions.

The treaty, however, having been rejected by the Senate, no complications followed, although enough were here abundantly indicated.

Let me call attention to the elaborate terms of a treaty made, obviously with all of the renowned skill of the German school of diplomacy, by Germany with Mexico so lately as 1882, Article X of which is as follows:

> No other or greater duties shall be imposed in the territory of either of the contracting parties upon the importation, re-exportation, or transportation of natural or manufactured productions of the other party than those which are paid upon the same class of productions of the most favored nation.

These terms are comprehensive and much too plain to be misinterpreted. Without any conditions whatever each party is solemnly bound to the other not to impose any other or greater duties than those paid upon the same class of productions of the most favored nation. Germany, now armed at all points, and more aggressive than even when ruled by Frederick the Great, perhaps still sore from our rejection of a similar treaty with her in 1848, will not lack the energy needful to assert all of her rights, and possibly might not much regret some provocation to enforce them, if by so doing she might plant a thorn in the side of a republic.

Among the most impassioned supporters of reciprocity treaties here, no one has ever contended that any nation, enjoying by treaty the promised advantages of "the most favored nation," might not, by a tender to us of equal terms, become entitled to all of the concessions granted by us to any party to a reciprocity treaty. If, then, Germany were to offer to receive from us free of duty ice and sausages, as well as all the other rattle-trap articles which by the proposed treaty Mexico offers to us, there can be no doubt that Germany would be entitled to all the privileges now to be yielded by us to Mexico, and the cheap tobacco and cheap sugar of Germany would also here find, perhaps, a new and most desirable market. Or, if Germany were to offer like terms to Mexico, then all the concessions made to the United States by Mexico must be accorded to Germany.

But, as I have already shown, it is more than doubtful whether or not a fair construction of the "most favored nation" clause in treaties does not alone entitle the party to have its productions subjected to no other or greater duties than are paid by any other nation, and without any reciprocal concessions. The phraseology of all such treaties is absolutely and wholly free from all conditions whatsoever. It appears to me, therefore, that it would be wise and prudent to avoid such obviously serious and wide-extending complications, and also especially wise to steer clear of any entanglements with foreign nations tending to restrict and circumscribe our freedom to legislate, whether in peace or war, upon the subject of increasing or reducing the national revenue.

LITTLE FOREIGN TRADE ACQUIRED FOR MUCH HOME TRADE SURRENDERED.

But, it is said, we must do something to build up and extend our foreign commerce—to which I agree—and to do this it is strangely proposed at once to surrender much more of our markets at home than is offered to us abroad—to which I do not agree. We are asked, so to say, to throw into the sea a greater amount of bait than will be returned in the catch of fish. Eleven years of this overbaited traffic, giving up superior markets in exchange for inferior markets, did not win the commercial or political friendship of the Canadas. Even during the existence of the so-called reciprocity treaty with them, their friendship was gauged infinitely below the price we paid for it. They would trade with us, but, like Shylock and Lord John Russell, they thought to catch us on the hip and "feed fat the ancient grudge." Financial benefits of treaties are never so far appreciated by nations as to create obligations of conscience for any returns. They are bargains without warranty as to the value given or received, sure to end in the discontent of the party overreached. Since the abrogation of the Canadian reciprocity treaty our trade with the Canadas has been larger and much more advantageous than ever before, being even larger than that of Great Britain. Were any treaty in force, to that fact alone the credit would be falsely ascribed. It may be well to recall precisely the wretched results of our Canadian reciprocity experiment. Our exports to Canada in 1855 were $20,828,676, but under the operation of reciprocity then commenced they dwindled in twelve years down to $15,243,834, while the exports of Canada to the United States increased from $12,182,314 to $46,199,470. When the treaty began the balance of trade had been $8,000,000 annually in our favor, and that paid in specie, but at the end the balance against us to be paid in specie in a single year was $30,000,000. Here was a yearly positive loss of over five millions of our export trade and a loss of thirty-eight millions of specie—all going to enrich the Canadas at our expense. This is the sore lesson of bitter experience.

The time is long past when nations can be enormously enriched by any excessive profits upon foreign trade. Even semi-barbarous colonies, however expensively maintained, resist the utter commercial enslavement of free trade. The universal expansion of manufactures, with gigantic production everywhere conspicuous, now presents unprecedented and many-sided competition, and the margin of net profits in distant commerce is reduced to very fine points and subject to many contingencies. It is only those articles produced by cheaper labor than anywhere else, or specialties not to be found elsewhere, that are even tolerably sure of a remunerative market, and then largely dependent on the cheapest transportation. National wealth must now and hereafter be mainly created by labor at home; and the home market is the only one of value over which any nation now has absolute control. Until trade in our own country becomes poorer than that abroad, our people will not seek to establish foreign trading posts. While foreigners, though handicapped by our duties upon imports, are still able, as in 1883, to send us annually manufactures to the amount of $460,000,000, we can not expect to rival them in other markets upon equal terms until the wages of labor in America shall have been razeed and brought down to the miserable level of wages abroad. Foreign trade gained by such a reduction of wages would be a calamitous degradation of American laboring men, and as much to be shunned as pestilence or famine. The day has gone by when silver spoons are to be found at the end of a rainbow, or when glass beads can be swapped for nuggets of gold. The splendor of the colonial system of Holland and Spain has vanished, and that of Great Britain, though still imperial, is environed with perils no less imperial. Disraeli, when chancellor of the exchequer in 1852, wrote to Lord Malmesbury that "These wretched colonies will all be independent, too, in a few years, and are a millstone around our necks." The monopoly of colonial trade was denounced by Adam Smith long ago as "mere loss instead of profit," and the monopoly of reciprocity trade can not be any better. We want no millstones around our necks.

But we can follow the advice of Washington and place our people at the summit of civilization and prosperity by cultivating peace with all nations and by seeking entangling reciprocity alliances with none. When any reductions of our tariff occur, we can tender the uniform benefit to all nations and excite the ill-will of none. We can, notwithstanding investments in ocean carrying trade yield little or no profit, show some favors to our shipping interests, rather than lean upon those who care not for us. American goods in British bottoms will always be apt to find poor and reluctant markets.

We may at least give ample remuneration to our own flag when carrying United States mails. We can also send able and wide-awake American ministers and consuls—knowing more of commercial business than of Apollo's lute—not only to Mexico but to every other government on the American continent, charged with the duty of making our Government and the country, the people and all of their manifold productions, better known, showing to them that we go down to the sea in ships, proving to them that we are not only potential neighbors, but really most enterprising friends, good enough for "human nature's daily use," and ever ready to meet them in any good work more than half way, as Mexico will find should any future Maximilian invade their territory.

It is parsimony to fit out one man to represent the United States as an itinerant minister at the capitals of three or four different nations. The State Department, so far as our foreign intercourse is concerned, and when not pregnant with unhealthy admiration of reciprocity treaties, is the most economical department of the Government. A more liberal representation of our country and its flag everywhere abroad should not be withheld; and our consuls should also be selected for well-known capacity to render active and efficient service, and not because they have neither ability nor industry to earn a living at home.

RECIPROCITY WITH MEXICO OR ANY INFERIOR COUNTRY IMPOSSIBLE.

Unwilling as I am to disparage the resources of any people, yet in making a national compact we should be derelict in duty to our own people were we to proceed wholly unmindful of the resources and responsibility of the party with whom we are negotiating. The rare beauty of the landscape and the natural advantages of the soil and climate of Mexico have been recognized through three hundred years of colonial bondage and fifty years of revolutionary vicissitudes. Her elevated plateaux, with their wondrous fertility when artificially watered, bring forth all of the products of the tropical, semi-tropical, and temperate zones. Unlimited northern grazing fields, vacated by the buffalo, give room for immense herds of cattle. Minerals everywhere abound, and silver seems to come forth from every smitten rock. The religion and culture of Southern Europe, such as it happened to be, were early sought to be imposed upon her people, overthrowing, indeed, human sacrifices and other Aztec superstitions; but with the departure of superstitions much of the early arts and of traditional Mexican splendors have also departed. The history of the country has been unfortunate, and has not kept pace in enterprises of "pith and moment" with that of her northern neighbors. Though once "loved and lost" by Spain, the mourning mother of colonies, brave soldiers and strong leaders of men have from time to time appeared in Mexico, but among her variously mingled and commingled inhabitants the material for stable human advancement in the principles and methods of free government, of law and order, has not, unless very lately, been in the ascendency, and its future industrial achievements are likely to depend too much upon colonies pushed by the intrepid greed of adventurers, not only from the United States, but from other countries and other hemispheres, when attracted by the extraordinary temptations we have proposed to offer.

A large amount of commerce with a country three-fourths of whose people are non-consumers of any foreign merchandise and contented to live almost exclusively upon corn and beans is impossible. Their whole trade, if we were to have it all, would hardly be more than that of one of our second-class cities, and the whole yearly value of the exports of all her states, as well as of their manufactures, is perhaps eclipsed by that of Texas, a State which broke away from Mexico, and so recently leaped fully grown into our Union. Outside of the precious metals, the entire exports of Mexico in 1883 amounted only to $12,178,937. The surplus available for foreign commerce will be found insignificant, and will furnish a slender and hopeless basis for reciprocal trade.

The character and habits of their population are almost insurmountable impediments to a large and progressive growth of commerce, which must always be based upon the natural and habitual industry of the people. One million only of the nine or ten million of her people are of pure Spanish lineage, the least industrious and the least bony race of Europe, holding, like their ancestors, that labor is beneath their dignity. Has any one heard of even moderate achievements, during recent centuries, of this proud and once prosperous race in any branch of trade or of laborious industry? Three or more million of the inhabitants of Mexico are of mixed breeds, African, Spanish, and Indian, the latter largely predominating; and the remainder, of about 5,500,000, are purely of the old aboriginal Indian stock, represented in the northern regions of Mexico by strong tribes of wild savages, most prosperous when at war with the more civilized inhabitants. This is the condition of the people—stamped with the features of their exhausted volcanoes and still troubled with earthquakes—upon whom the United States are urged to rely to build up a great and prosperous trade! On credit they may buy all we have to sell, but it will be Mexican credit, with all that implies of delay and insolvency, tempered by peonage. They are people living in a climate requiring for the major part less clothing than suffices for our blanketed Indians, and will be content to live as they long have lived, being races, whether pure or mixed, which never have been and are not soon likely to become producers of surplus commodities for sale or export.

A reciprocity treaty with the United States, on just and equal terms, is a financial impossibility, and could not be made, even by the illustrious hero of Appomattox (for whom I have great respect), except with a nation having an equal population, with a corresponding purchasing and consuming capacity. But no nation on the globe can offer these terms. Our acceptance of the "bad best," or of inferior reciprocity proposals is but the acceptance of international communism. Few nations are our equals in numbers, and no nation is comparable to the United States in the annual per capita production of wealth, nor consequently in the power of national expenditure and consumption. These facts alone forbid reciprocity treaties, which with us must always involve, as they do now, an equal exchange, no better than would be that of the American Lexington or Morgan horse and Jay-Eye-See for the Mexican mustang and stump-tail mule.

Notwithstanding these transparent facts, it is seriously proposed to give to Mexico, having only the comparatively small and heterogeneous population of 9,600,000, an opportunity, so far as the treaty goes, soon to enjoy on terms of equality the trade with over 60,000,000 of people, and a trade infinitely more valuable than that of any other country. I am unwilling to dilute the prosperity of the American people with such a sorry admixture.

I say this not forgetting that by the terms of the treaty itself Mexico is to have privileges immensely greater than those proposed for the United States. We are to open a great market, where the scale of wages is very high, for the chief natural productions of Mexico, and in return are offered a petty market for comparatively petty things where the scale of wages is very low. This kind of reciprocity may be illustrated by an incident in Scott's novel of "The Pirate," where Mordaunt and Magnus Troil sat down to drink brandy and water—that is, according to Scott, Magnus drank the brandy and Mordaunt the water. Obviously, here Mexico takes the brandy and the United States water only. Even St. John would not accept water on such terms.

It should not be overlooked that power has been reserved in article 5 of the treaty by which Mexico is free to make changes in her import duties by treaty with any other governments. When she does this our proposed pale-faced exclusive privileges, trivial as they may be, will grow "fine by degrees and beautifully less." Of course parties who make reciprocity treaties with us whenever it may be for their interest will make them with others. The chief European powers will not remain idle spectators of any monopoly of trade on our part obtained through treaties, but, if found to be of any value, will demand and receive equal favor.

WHATEVER MEXICAN AGRICULTURISTS GAIN AMERICANS MUST LOSE.

The treaty will be found to bear heavily upon our agriculturists—upon the owners of land. I do not think this class of our people are in a mood to be easily reconciled to additional and uncalled-for burdens. If there is a single article from the United States to be admitted into Mexico free of duty which will benefit farmers, planters, graziers, or owners of land, I have failed to discover it; but all there is of real importance to be admitted free of duty here, when coming from Mexico, will be found to be products of the soil or of pasturage, and all will come into most unwelcome competition with our own people. Look at the list of items we are to receive, and see if the facts are not as I have stated—for example: barley, beef, eggs; esparto and other grasses, and pulp for the manufacture of paper; fruits; henequen, sisal hemp, and other like substitutes for hemp; molasses, straw (unmanufactured), sugar, tobacco, vegetables, wood, and timber.

These articles, for the most part, admit of indefinite augmentation, and the amount which we may hereafter receive from the cheaper lands of Mexico, when cultivated in large haciendas by companies and coolies or by foreign emigrants (as have been those of Hawaii), should the treaty become operative, can no more be measured by the last year's productions than could the present crop of sugar in Hawaii have been measured by the crop at the date of the Hawaiian treaty. Mexico is a country with immense pasturage for sheep and cattle. The reciprocity offered, therefore, may be said to have "straw upon its horns," always among Spaniards the sign of dangerous bulls, and much pushing competition will be found lurking in every field. The climate and soil of nearly every State in Mexico admit of the production of tobacco and sugar. Not alone our own people, but other people will be, as they already have been, tempted to transfer their capital and machinery for the cultivation of these specialties to Mexico. Permit me to say frankly, if the American people are to be taxed for the protection of sugar in Mexico, and possibly in all the West India Islands as well as Hawaii, it is quite time to think not only about some real protection of American sugar, but of the total release of our own people from all taxes on sugar.

The farmers of our country will have reason to further appreciate the delicate left-handed attention bestowed upon them when they look at the lists of the articles we may export to or import from Mexico under the treaty. It is provided that we may take henequen bags, if made of Mexican henequen hemp, free of duty to Mexico "on condition that they be used for subsequent exportation with Mexican products." Such are the painstaking facilities we are actually seeking to bring Mexican barley, wheat, and corn into competition with similar products of the United States.

There is another item to be admitted free by Mexico, to which much importance has been attached—the loud cackle indicating that some biddy had laid an egg—and I hope it may not wholly escape attention, as the advantages claimed may possibly be disputed, namely:

Machines and apparatus of all kinds for industrial, agricultural, and mining purposes, sciences and arts, and any separate extra parts and pieces pertaining thereto.

All textile fabrics are excluded from the treaty, but to machines for their manufacture and to their owners Mexico is to open wide her doors. Practically very little increase of a market for American agricultural machines would be obtained, as even an Indian would be unlikely to buy any other. But the item punctuates the evidence that the great interests of the farmers of the United States have been altogether diligently surrendered. Agricultural machines and apparatus and any separate parts are to be invited and may be exported to Mexico duty free. Thus we have the high privilege of supplying without limit auxiliary forces to largely increase the agricultural products which we are to be bound to receive from Mexico free of duty. Will the American farmer look with composure upon this suddenly and secretly invited border rivalry to which he may be thus exposed, especially after the American reaper and kindred machines go to the ranches of Mexico and enable one man there to do the former work of five? Will he get a better price for his sheep and cattle or his barley and wheat? On the contrary, our commercial prosperity will be much like that of Coleridge's pig, which, while swimming down the river with wind and tide, it will be remembered, cut its own throat.

THE BARGAIN FOR US WRETCHEDLY BAD AND PITIFUL

Having shown, as I believe I have shown, that the farmers and planters, never to be inebriated by reciprocity, are to derive no benefit from this treaty, and that their broad shoulders are to bear the chief part of its burdens—I was almost tempted to say insults—let me show up the sum total of the concessions which Mexico will be called upon to make to anybody and everybody in the United States. All of the duties released to us, based upon our export trade to Mexico in 1883, will be as follows, viz:

Petroleum	$472,045
Carriages	175,000
All other articles included by the treaty	95,306
	742,351
Less 10 to 15 per cent. difference of currency	74,235
Leaving total amount of duties to be remitted	668,116

The whole annual revenue of Mexico is not large, and the surrender by her of even six or seven hundred thousand dollars, as proposed, may be sorely inconvenient; but the statement shows that the chief portion of the duties to be surrendered, $472,045, was collected from petroleum alone, of which they are said to have an abundance, but to lack the enterprise to set it flowing. This American trade the Standard Oil Company would command without any aid from a national treaty, which they are not known to have asked for. We are not called upon to make any sacrifice on their account, and yet petroleum obtains nearly two-thirds of all the concessions granted to the United States. The duties collected by Mexico upon imported carriages amounted to $175,000. No other country than our own has supplied or ever can supply these carriages. The town of Concord, in New Hampshire, furnished stage-coaches for Mexico forty years ago. Indiana, Ohio, and other States are now largely in this line of trade, and their timber and skill assure it to them forever. No increased market for carriages, or for anything else of appreciable importance, will be gained in any region of our country by a bargain so barren of favors as that which is here proposed. Deducting petroleum and carriages from the account of our exports to Mexico, and we have for all other items named in the treaty upon which duties are to be relinquished the insignificant residuum of $95,306; and even this small sum must be whittled down a large percentage on account of the difference of the Mexican silver standard before we arrive at the actual sum total of the practically beneficial concessions promised to us by the treaty. For this paltry sum we are to throw away vastly more than an equivalent, to pinch and imperil extensive farming interests of our own people, risk many national entanglements, and yet its sanguine promoters, ever building "castles in Spain," would have us believe that a feat of magnificent statesmanship was about to be consummated by an international compact of untold comprehensiveness. There is, however, no sentimental statesmanship involved, nothing of carrying our flag, nor of the cross or crozier, as a missionary enterprise, but it is purely a sum in arithmetic, comprehensible by a child in Colburn's "First Lessons." I must be permitted to say, as a bargain it appears to me poor and mischievous, although as a diplomatic achievement we may at least feel consoled that we have not deceived the strong nor oppressed the weak.

The bargain, as a bargain, it will be discovered when carefully studied, fairly matches that of Moses, the son of the Vicar of Wakefield, who, having been intrusted to sell a colt at a fair, returned with the pack of a peddler, and said he had sold the colt for three pounds five shillings and two pence. This his mother thought no bad day's work,

and asked to see the money. "I have brought back no money," cried Moses; "I have laid it out in a bargain, and here it is—a gross of green spectacles, with silver rims and shagreen cases." It is needless to say that the "silver rims" of the treaty are likely to turn out no better, or "only copper varnished over." The theory of Mr. Darwin, through which the world has arrived at its existing perfection by the natural selection of the fittest, would seem to be refuted whether applied to the selection of the framers or to the selection of the commodities of reciprocity treaties. But if our tillers of the soil are to suffer, let us ascertain, if we can, to whom, if to anybody, the treaty promises prosperity.

NO OPENING FOR TEXTILE MANUFACTURES, AND NOT MUCH FOR ANYTHING ELSE.

There appears to have been little consideration bestowed by the treaty upon any United States export trade of manufactures, and none whatever upon textile manufactures. Cotton, woolen, silk, and linen manufactures are wholly ignored. Not a yard or thread of any of these is to be invited into Mexico. She retains all this trade to herself. While the widest streams of Mexican agricultural productions are to be allowed to pour in upon our country, only little puling rivulets, floating no great staples of commerce, nothing but the merest shreds and patches, are to go forth from us to Mexico in return. And yet the lofty pretension is made in some quarters that we have a compact which is to open a new and rainbow-tinted era, offering a great outlet for any surplus of our manufactures. Overproduction is to find a daily panacea and be only a memory of the past. But surely all this must be inspired by post-prandial dreams and destitute of any sober foundation. It is true that Mexico engages to receive free of duty a few small articles of iron and steel of a fragmentary and disjointed description, but there is no general or class inclusion of iron or steel, nothing of nails or spikes, nothing of cutlery, nothing of general house-furnishing hardware, and nothing of saddlery hardware, for all of which it might have been supposed there would be possibly some little demand. Instead of this the railroad corporations appear to have secured the foremost consideration, and iron and steel rails, locomotives, cars, and even their hand-trucks are to be admitted into Mexico free of duty. This might all be very nice for railroad repairs, but with the stock of the Mexican Central road down to less than a dozen dollars per share, the further construction of railroads does not seem to indicate "an incarnation of fat dividends," and may not after all be much encouraged. It is, however, more than suspected that the railroad managers had previously obtained Mexican promises for these identical favors, as in fact the same railroad articles under their existing laws appear to be exempt from duties, and therefore would be exempt treaty or no treaty. They, however, serve for padding, of which there is a prodigal expenditure to be found in the proposed treaty. For instance, the free-list for the benefit of the United States formally and ostentatiously embraces seventy-three articles, but of this number fifty-two articles were and are already free of import duties to all the world under the existing tariff laws of Mexico. This would look like a menagerie with its larger part made up of tame cattle.

It is well known, however, that the Mexican state governments, in defiance of the Mexican constitution, levy right and left what are called consumption duties, and if the treaty should have greater restraining force than the national constitution, these duties on treaty articles may be abandoned, but not otherwise.

TOO MUCH PRETENTIOUS PADDING.

The free-list proposed by us for the benefit of Mexico embraces twenty-eight articles, but of these eighteen are now free to all nations under the existing tariff of the United States. Take out the diplomatic padding, and this remarkable treaty at once shrivels up so as to actually cover only twenty-one articles on the one side and but ten on the other. One hundred and one articles are enumerated as the veritable component parts of chief value in this international compact, but the treaty, in sober truth after taking out the nests of empty boxes with nothing in the last box, will only modify or change the existing tariff laws of the contracting parties in relation to thirty-one of all the articles which have been so elaborately designated. Seventy of the articles are of the shoddy description, or free without the treaty, which leaves more than two-thirds of the treaty as bulky pretension, serving no purpose here except to create the false impression that the compact is valuable for all that appears on its face. In this statement I make no account of the nominal Mexican duty already mentioned of about one-fourth or half of a cent per pound applicable to nearly all of their imports.

I can not suppose that any Machiavelian deception has been intended by anybody, and, therefore, I had hoped, but in vain, that some friend of the treaty would move to strike out all of the articles which are now free to everybody under our existing laws, on the ground that it would be more to the honor and dignity of the respective countries, in the solemn terms of a national compact, when they mean nothing, to say nothing.

The PRESIDENT *pro tempore*. The Senator from Vermont will suspend. The hour of 2 o'clock having arrived, it becomes the duty of the Chair to lay before the Senate the unfinished business of yesterday, being the bill (S. 2112) to establish a commission to regulate interstate commerce, and for other purposes.

Mr. DAWES. I ask that the unfinished business may be informally laid aside.

The PRESIDENT *pro tempore*. The Senator from Massachusetts asks unanimous consent that the pending bill be laid aside informally in order that the Senator from Vermont may conclude his remarks. Is there objection? ["No objection."] The Chair hears none. The Senator from Vermont will proceed.

Mr. MORRILL. Of the twenty-one hop-o'-my-thumb articles (instead of seventy-three) to which Mexico is really to open her ports free of duty to the eager and ambitious trade of the United States, our people will learn with becoming rapture that among them will be found the following hitherto undiscovered and hereafter greatly to be appreciated nine wonders of future commerce, namely: Ice, dynamite, lithographic stones; sausages, great or small; wheelbarrows with one or two wheels, crucibles, faucets, accordions; heniquen bags, on condition that they be used for subsequent exportation of Mexican products.

As Beau Brummel said of his Dresden china, these articles "are almost too fine to be looked at." The marvel is that some other equally important and kindred staples, found only in the milky-way of reciprocity, should have been overlooked, or that tripe, corkscrews, spigots, bootjacks, and hurdy-gurdies were not also included to complete the grandiose collocation. It seems that "motley is the only wear." Let me repeat from the original text of the treaty this part of the exquisite list of the goods which are to revolutionize international trade: Ice, dynamite, lithographic stones, sausages, wheelbarrows, crucibles, faucets, accordions, and heniquen bags! Practically this congenial group embraces about one-half of all the articles upon which concessions are actually to be made by Mexico. What temptations are here disclosed, not to daze mankind in a museum of unique curiosities, but to laden argosies and continental railroads in new fields of commerce! Was ever a puissant nation in this humor wooed? Was ever any nation in this humor wed? If we must have reciprocity it appears to me that it should not be of this unfortunate and beggarly description, but something more worthy of our great Republic. If anybody has indulged the idle fancy that we are about to enrich and aggrandize our country by supplanting other nations in Mexican trade while leading off with such low commercial trumps as wheelbarrows with one or two wheels, or with sausages large or small, it may as well be dismissed as a delusion and a snare.

THE SUBSIDIZED RAILROADS LIKELY TO BREED NOTHING BUT NATIONAL CONFLICTS.

But it is said that the lately authorized railroads in Mexico will effect a revolution in the industrial character of the people, as well as in the variety and magnitude of their productions; but this is no more likely to occur than that health in the *tierra caliente* will become contagious. We are treated with too many prophecies in the air, which are most likely to be verified when the back of the man in the moon becomes visible, but not till then.

Marvelous claims are put forth on the ground that some of these railroad companies have been able to hire native laborers to help build their roads. In a country where labor has been accustomed to the slenderest compensation it would be strange if a few thousand workmen could not be obtained when new and extraordinary inducements were offered. When these works suspend, and some have already suspended, the temporary employment of the few thousand native laborers will cease, and with the disappearance of the prosperity arising from the lavish expenditure of foreign capital they will be relegated to their former complacent condition of idleness, indigence, and ignorance.

If the recent extensive system of lavishly subsidized railroads in Mexico had been adventured upon by a nation abounding in wealth and in gilt-edged credit from its debt-paying reputation, it would still be a doubtful experiment. Reliable support of railroads must chiefly be found in the thrift upon their borders. The lubricity of Mexican subventions will not last forever. Already the axles begin to creak.

I would by no means becloud the fortunes of those who have been, fortunately or unfortunately, induced to invest their money in Mexican ventures; but practical facts must control the actions of sober legislators, who ought not to be dazed by the tropical luxuriance of predictions concerning future possibilities. There is, perhaps, something too much of railroads in the warp and woof of the proposed treaty. After summarily forfeiting several prior charters, Mexico recently chartered railroads aggregating in length 17,194 miles, which, when completed and equipped, can not cost less than about $500,000,000. From whence is this magnificent capital all to be drawn? Not certainly from London or Paris, and the condition of not a few of our own dividendless railroad investments at home is not so brilliant as to attract further American contributions to enterprises abroad, where success would be much more problematical. A railroad halt here will not be the signal for an onward march elsewhere, even in Utopia.

Whether the success of our treaty depends upon the success of the railroads, or the success of the railroads upon the success of the treaty, is a complicated question, with which I do not propose to vex either myself or others by any discussion.

It is not possible that a large commerce shall spring up as by magic where there is comparatively none now, and where the people are too few in number and too poor to encourage its growth. I would gladly see the wealth, intelligence, and civilization of Mexico and the stabil-

ity of its government advance to a higher plane, but I do not think we shall aid her by inducing outsiders to revive the age of feudal proprietors upon all her large vacant estates, nor shall we aid her by sending restless adventurers there solely to gratify their greed for gain; and I am quite sure such a line of policy would not result to our advantage, but much to our disadvantage should it stimulate our hereditary Anglo-Saxon greed for the acquisition of all adjacent territory.

THE CLOUDY SIDE OF THE SILVER QUESTION.

Let me call the attention of the Senate for a moment to the silver side of the Mexican treaty. In our country we are hoarding for the most part our entire production of silver. We do not allow it to go out of the country as an article of merchandise, but with monthly precision and stolid endurance pile it away by millions and by tons in the painfully overloaded vaults of the Treasury, and restrict our exports accordingly to the same extent. Therefore the stipulation in the Mexican treaty that we may export to Mexico the precious metals or the legal money of silver and gold is as nugatory as it would be to grant the privilege of walking to a man whose legs were tied up in a bag. Our silver is tied up at home. The eccentricity of this provision, as an example of "carrying coal to Newcastle," challenges further attention when we remember that the track of silver ever has been and ever must be all the other way; that is to say, that the silver mines of Mexico are nearly as prolific as our own, and only a small part of their domestic product has ever been or ever can be absorbed at home.

Our entire imports from Mexico for 1883 were $17,960,109, and of this more than half, or $9,782,986, was in silver coin and bullion, which in 1884 was increased to $13,015,901. This was a large part of the annual production of silver in Mexico, where it is now very properly held to be sound policy to treat silver as one of the chief commodities they produce to sell. Mexican silver does and will come here—as overstocked as our market is likely to be—to compete with the silver produced from the mines of the United States. We have no laws, and nowhere but in Colorado is it proposed to have any, that will prevent this influx. It is the only commodity of which Mexico now produces a surplus with which to settle her yearly balance of trade with us. A demand, therefore, for our silver in Mexico may be looked for when more brimstone is called for in the realms of Pluto, but at no earlier date.

When this treaty shall be consummated there is little doubt that for the first time in our history some emigration will take place from the United States to a foreign country. It may be found more profitable to produce sugar and tobacco, hemp and beef in Mexico for our markets than in the United States, stimulated as all will be not only by cheaper land and cheaper labor, but by the large and special bounties offered by us through the relinquishment of our present duties.

Richer mines of the precious metals also may perhaps be found there than even in Nevada and Colorado. Adventurers will attempt the sudden acquirement of fortunes; and the silver mines of Mexico, glittering in history as well as in fable, will attract more or less the capital and the miners of the United States. From the application of greater numbers, with greater skill and better machinery, we may reasonably anticipate a much larger importation of silver from Mexico. If this were to be brought about without a drain upon our own people and our own capital, it would not be, perhaps, altogether objectionable, as all the silver received from Mexico will be received at its cash or bullion value. It might possibly interfere as an unwelcome and vigorous competitor with the profits of our own mines, and, if it should, some further depression in the commercial value of silver could hardly be escaped. That must be determined hereafter. But for myself I should much prefer to encourage our own mines and miners than to transfer either Americans or their capital to Mexico. If we are to have a deluge of silver, let it come from our own fountains and inure to the benefit of our own citizens and of those intending so to remain.

ALL EXPERIENCE ADVERSE TO RECIPROCITY.

The experience of our country should serve as an all-sufficient warning against so-called reciprocity treaties, with the reciprocity somehow always obtusely left out. The fault is not wholly to be imputed to the negotiators, but largely to the inherent impossibility of reciprocity, and yet, if such treaties are to be our daily food in the new and more resplendent coming era, as foretold, it might be well to provide a corps of profoundly trained diplomatists, equal to the "college of heralds and embassadors" of ancient Rome, or at least to have such as had learned some of the mysteries of commerce, some of the great highways of trade, some of the existing revenue laws, and also, in the solemn badinage of Sir Robert Peel to his friends when going to Paris—

They must understand the lingo,
Or they'll get cheated by jingo.

Our reciprocity treaty with the Canadas was so notoriously unequal and jug-handled that we have been offered large additional favors as temptations to a renewal. Our later arrangement as to reciprocity in the fisheries, with its hidden statistical frauds, was not one calculated to make us vain of American diplomacy. The preponderance of the favors granted by us beyond all doubt was worth millions, and yet we paid to the Canadas a bonus of millions to secure their acceptance. Our reciprocity treaty with His Hawaiian Majesty—a king with more alien Johnny Newcomes and coolies than subjects—is now maintained at a positive annual loss of nearly $4,000,000 of revenue on the sugar and rice duties remitted, and without any computable benefit to anybody, unless the benefits to Mr. Spreckels are computable, and computable not for any reduction in the price of sugar and rice on the Pacific coast and not because the kingdom of Kalakaua offers a market for American products, but for the reason that Mr. Spreckels, the sugared autocrat, and his sweet associates are the recipients of unearned millions annually, and hold His Majesty *sandwiched* in the hollow of their hands, flattering him with the éclat of a coronation and a triumphal airing in the royal courts of Europe, or curbing him with the suave mastery of a premier at their own sweet will and pleasure. In six years we have relinquished $13,717,436 of duties upon sugar and rice alone, while the gross value of all merchandise exported to the islands during the same time was only $13,033,314. This is the mountain of political ascendency bringing forth a mouse at Hawaii, supported by reciprocity, and all that has yet appeared of what is called "American influence," and we flatter ourselves with having American ascendency in the Pacific Ocean, but it is an ascendency incapable of withstanding the slightest aggression, exposed to the chances of sudden wars as well as of treacherous bribery, and which a modern gunboat, or a few Old World guineas, might extinguish in forty minutes.

The treaty we have had under consideration is of the same class of those mentioned, and will be found no less at war with our material interests. That is to say, it will be found that our concessions will ultimately be large and important, while those of Mexico, made up of trivialities, are wholly destitute of substance or of reciprocity. If the Senate had reached the conclusion to have a treaty with Mexico, then, as it seemed to me, it should have been carefully and decently amended, the "unlicked cub" should have been put in better shape by the Senate, so that when we go home to our respective States we might defend ourselves from the imputation of having hastily and unwisely consented to a compact with the unequal and peculiarly obnoxious conditions now presented. By its terms the compact can not take effect until the prescribed tariff shall have been enacted by Congress. Our only chance of escape with honor from the unfit and onerous compact will be to postpone indefinitely any tariff for Mexico only.

THE FREE ZONE, AS NOW EXTENDED, FATAL TO ALL TRADE SAVE THAT OF SMUGGLERS.

The former condition of the Zona Libre permitted all foreign dutiable merchandise to be imported into Matamoras, Reynosa, Camargo, Mier, Guerrero, and Nueva Laredo, in the State of Tamaulipas, free of all duties, except the nominal one of one-fourth or one-half cent per pound and 1.37 per cent. of the regular Mexican tariff on all imports. The goods thus imported were to be consumed in these towns, or transported to any other towns inside of the Zona Libre, and there consumed free of duties. This free zone was originally established by a decree of an *ad interim* governor of the then defiant, if not semi-disloyal, State of Tamaulipas, in order to build up, as it has built up, her border towns in competition with American towns, and it has succeeded in gathering a reckless population of flourishing and desperate smugglers, who are as eager for the business of illicit trade in domestic as in foreign merchandise, one way as the other, or as ready to defraud the Government of Mexico as that of the United States.

The trade through this free zone is largely supported by importations from Europe. While it exists it must heavily countermine the supposed advantages of any so-called reciprocity treaty. How are we to prosper, though having a free entrance at the front door of Mexico for a limited number of unimportant articles of American production, while back doors of Sodom and Gomorrah, as these free towns have been called, are left wide open and free for the universal admission of foreign productions of all descriptions? Some assurances were given that the national government of Mexico would soon be able and willing to abolish this very anomalous Zona Libre. If any such intention really existed, why was it not secured and riveted by some proper provision of the treaty? With such an ominous and overwhelming outlet and inlet, extending hundreds of miles along the boundary line, where smuggling is life's gamy business, opening a career to both sexes more remunerative than any other, the treaty could not be expected to hold even water except by a miracle, certainly not to hold anything of solid substance.

Rats have been said to mark the progress of civilization by keeping pace with the progress of railroads, and the free zone, no less enterprising, appears to follow the railroad progress of civilization in Mexico by an extension north to and beyond Paso del Norte. Looking, as we were taught to look, for the suppression of this licensed invasion of their constitutional laws, we discover instead its broad extension by a further national legislative act, passed since the date of the treaty, and of which the Senate certainly had no timely information.

It now appears that goods exempt from duty may be sold for consumption "to supply the towns of all that frontier line," from Matamoras to Pas del Norte, Nogales, and "as far as the limit of the respective municipal jurisdictions toward the interior of the country." After this how much will our treaty-bought privileges be worth? If reciprocity trade would have had much to encounter from the prior extent of the free zone, it will have much more to encounter from

this recent almost boundless expansion, with the possibility that the end is not yet reached. Our entertainment will be much like that prepared by the fox for the stork, and foxy Mexico, seeing that we partake so sparingly, may express sarcastic regrets "that the dish was not seasoned more to our taste."

The initiation of tariff bills, in whole or in part, or the ingenious legerdemain of substitutes, sent here in the shape of reciprocity treaties by the executive department of the Government, is not only an encroachment upon the privileges of the other House of Congress—breaking the very heart-strings of the Constitution—but contrary to the fundamental principles of our Government, wholly unrepublican, and only in harmony with empires and monarchies where the executive originates and monopolizes the introduction of all the leading legislative measures. A reciprocity treaty, wholly unknown to our fathers, is a modern invention, which, like the Trojan horse, hides in its belly all of its sinister and miscreated forces, including its insidious and ravenous absorption of revenue. This recently developed executive power I greatly fear threatens to increase, and not only ought to be diminished but wholly and forever inexorably denied. Should this power, unfortunately, be triumphant, so much of our revenue will be sacrificed as to require the early and prompt creation of new sources of revenue. I am unwilling to collect any revenue from our people for the sole purpose of giving it away to foreigners through reciprocity treaties.

I am willing to confess that I am not without some apprehension that future border difficulties may be engendered by measures of so-called reciprocity. Three-fourths of all wars arise directly or indirectly from the eagerness of foreign trade, its frictions, accidents, and complications. Investments of American capital in Mexico will give rise to conflicts of interest, to strife between the herdsmen of Abram's cattle and the herdsmen of Lot's cattle, and possibly to some flagrant wrong or violation of compacts, which even an unstable and revolutionary people must be called upon to atone, and which diplomacy may find no way to adjust except through a further transfer to us of territory. With the territory would come its miscellaneous tribes of inhabitants. Our own territory is now well rounded out, needing nothing for a scientific boundary, needing nothing for its symmetry, prosperity, or convenience, and we need no such inauspicious augmentation of our population as would follow. Little political confidence can be reposed in the transplanted Latin race, still less in the Indian race and its hybrids, for the maintenance of liberty, law, and republican institutions of government. We are already sufficiently weighted. Let us say to Mexico, "We will go this way and you may go that way, and we will live in perpetual peace and friendship, for we are republican brethren."

CONCLUSION: THAT ANY TARIFF FOR MEXICO ONLY SHOULD BE REJECTED.

I shall be constrained to oppose any legislative action required to carry the treaty into effect, first, because, as it appears to me, it is incurably wrong, a downright and flagrant invasion of the rights of Congress, and of the House of Representatives, to them exclusively granted by the Constitution.

Second, because a fair interpretation of the "most favored nation" clause in all of our treaty compacts forbids it, and controversies on this point, which must strain our relations with all friendly nations, should be carefully avoided.

Third, because the whole boundary line of the State of Tamaulipas on our border has long been and is now a Zona Libre, where merchandise from all foreign countries is admitted duty free, and the national government of Mexico seems to have neither the power nor will to prevent it, but since the date of the signatures to the treaty has authorized by law its very large northerly extension.

Fourth, because the treaty, if now made operative, will impose an unlooked-for burden upon farmers and planters, bringing the whole territory of Mexico into direct and untaxed competition with our own people, and that without any sufficient reciprocal or adequate compensation.

Fifth, because we have no opening presented for the export of any class of our productions, except in homeopathic prescriptions of no respectable magnitude and destitute of all national importance.

Sixth, because it would be likely at an early day to transfer the base of an incomputable share of cattle-raising, and of sugar, tobacco, and other important American industries, to a foreign land.

Seventh, because it would show Mexico to be the goal to-day from which we might start next week for South America, and the week after for Canada and the rest of mankind; and would also show that we are willing and eager to accept as a precedent for the future the far-reaching innovation of reciprocity treaties, though of the smallest merit and however undeserving acceptance.

Eighth, because it may hereafter contribute the materials for a Gordian knot, only to be cut by the acquisition of territory we do not need, and of inhabitants we do not want, as they seem better schooled to local revolutions than to the government of a republic.

Ninth, because such treaties are unrepublican in their origin and character, having been sternly and unanimously rejected by the earlier statesmen of our country, and because they obviously tend largely to the increase of the executive power by making Congress the obedient registers of its will.

I ask that the resolution may lie upon the table.

The PRESIDING OFFICER (Mr. COCKRELL in the chair). The resolution will lie upon the table, if there be no objection?

Mr. LAPHAM. I give notice that I shall ask to continue this discussion after the close of the routine business to-morrow morning by offering some remarks upon that portion of the President's message which relates to commercial treaties.

LIGHT-HOUSES AND FOG-SIGNALS ON NARRAGANSET BAY.

Mr. SHEFFIELD submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Treasury be, and he hereby is, directed to inform the Senate, without unnecessary delay, whether there exists a public necessity for the construction and maintenance of additional light-houses and fog-signals in order to afford proper facilities for the navigation and shipping employed on the waters of Narraganset Bay; and, if so, what light-houses and fog-signals are needed for that purpose; at what places should they be located, and what would be the probable cost thereof; and if any report in reference thereto is in his Department from the Light-House Board, that he communicate a copy thereof to the Senate.

PRESIDENTIAL APPROVALS.

A message from the President of the United States, by Mr. O. L. PRUDEN, one of his secretaries, announced that the President had on the 6th instant approved and signed the joint resolution (S. R. 32) providing for the payment of laborers in Government employ for certain holidays.

INTERSTATE COMMERCE.

The PRESIDING OFFICER. The Chair lays before the Senate the unfinished business of yesterday.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. 2112) to establish a commission to regulate interstate commerce, and for other purposes, the pending question being on the amendment of Mr. CULLOM to add, at the end of section 11, the following:

And said commission shall accompany its first report with a bill presenting a just and comprehensive code for the regulation of the transportation of commerce among the States, which said bill shall embrace provisions for establishing a system of both maximum and minimum charges for transportation, and for the preservation of free competition within the limits so fixed; for the prohibition of discriminations of any kind whatever either in favor of or against cities, towns, or other localities, whether the same be competing or non-competing points, and for applying the same principle to transportation for individuals, firms, associations, or corporations in all matters relating to commerce among the States; for the preservation and enforcement of the right of shippers to select the lines and parts of lines over which their shipments shall pass, to the end that said commerce among the States may avail itself of the all-rail or part rail and part water-routes of the country; for the prevention of such pooling arrangements and agreements to refrain from just competition as may tend to impose unreasonable burdens upon said commerce among the States, and for the protection of said commerce against unjust exactions based on a class of securities commonly denominated "watered stock;" and said commission, in conducting said investigation and in the preparation of said bill, shall be guided by such rules of action as will be fair, just, and equitable toward all of the interests involved, whether the same be private, public, or corporate, connected with the subject of commerce among the States.

Mr. CULLOM. The amendment which was offered by the Senator from Iowa [Mr. WILSON], and which was withdrawn by him with the understanding that I should reoffer it, is now before the Senate as the first amendment to be considered. I have no remarks to make upon it. I suppose the Senator from Iowa wishes to be heard.

Mr. WILSON. I do not wish to occupy the attention of the Senate on the amendment further than to say that its purpose is to impose a duty upon the commission, should the pending bill become a law, to pursue certain lines of investigation, and to report to the Secretary of the Interior in time for Congress to have the benefit of their findings by the commencement of the first session of the next Congress. There is nothing in the amendment which commits any person to any line of policy. It merely directs the investigation, with the results to be presented, accompanied by a bill in which shall be formulated the principles involved in the investigation directed.

Mr. CULLOM. I inquire of the Senator from Iowa, if he has his amendment before him, whether he would be willing to strike out, in line 5, the words "both maximum and minimum," and leave the rest of the amendment stand? I think the Senator will find that there will be serious opposition to the amendment with those words in. With them out, so far as I am personally concerned, while I have not the authority to speak for the committee, I would not object to the adoption of the amendment.

Mr. WILSON. As I have just said, the amendment commits no one to the policy of establishing a system of maximum and minimum rates. It simply directs the commission to pursue that as one of the lines directed in the investigation; and we are to get the results of the investigation concerning that feature of the amendment the same as the others embraced within its terms.

Mr. HARRISON. If the Senator from Iowa will allow me I will state one objection that I think I see in the amendment. If I were an advocate of a law which should establish maximum and minimum rates of transportation, I should not want to submit the framing of such a law to a commission that might be opposed to it. The commission is to report upon this question. Suppose after a full examination of the whole subject they should be unanimously of the opinion that an attempt to establish by law maximum and minimum rates for transportation was altogether unwise and not feasible? Now, to lay the duty

upon a commission holding such an opinion as that to frame a bill which should establish maximum and minimum rates I think would be illogical. I would rather frame it myself if I were in favor of it. Therefore I think if the Senator will get the facts and let the proper committee frame the bill, if one is to be framed, when the time comes, he will accomplish all that ought to be done.

Mr. WILSON. I should prefer to have the commission, which we direct to pursue this investigation upon certain lines, to give us a bill in accordance with the results of their investigation. Nobody is bound by their finding. It merely gives a result.

Mr. HARRISON. The Senator is mistaken. He does not require them to give a bill which may be conformable to the results they have reached at all, but he compels them to present a bill establishing a system of maximum and minimum rates, even if their opinion is clear against it.

Mr. WILSON. That can be of no disadvantage. We shall at all events get the best thought of that commission on this subject, and it is one of the most interesting features in the entire range of the investigation. If we can arrive at their best judgment as represented in the provisions of such a bill as they may present under the operation of this amendment it will certainly aid us; at least it can do no harm.

Mr. HARRISON. I think that the bill already calls for full information on this subject and for such recommendations as these commissioners after the experience of a year may feel willing to make to the Congress of the United States. Now, I am willing that the scope of that investigation shall be just as broad as possible, that it shall embrace this business of transportation in every detail, and that the facilities for making the investigation thorough shall be most ample; access shall be given to all the books and papers of every railroad company; but I doubt the wisdom of requiring that commission to report a bill with the limitations that are proposed in this amendment. They are not left free to report such a bill as they think ought to be submitted to Congress, as the Tariff Commission was, but they are required to report a bill which shall contain certain features, even though the commission should be unanimously of the opinion that Congress ought not to pass a bill containing any such features at all. It would come to us, and it would be said, "Here is the bill presented by the railroad commission." It would be known as "the railroad commission bill;" and yet it might be a bill that did not have the approval of a single member of that commission. As I have said, if I believed in a system of maximum and minimum charges by law I should want to commit the framing of that bill to some committee or some commission that agreed with me, not to a committee or commission that did not believe in establishing maximum and minimum rates. Therefore I think the Senator is wrong in principle when he requires them to report a bill containing a schedule of maximum and minimum rates. Suppose the commission should say, "We can not do it; it ought not to be done at all;" yet they are under the compulsion of this amendment to present such a bill and let it come before us as the commission bill.

This amendment says:

And said commission shall accompany its first report with a bill presenting a just and comprehensive code for the regulation of the transportation of commerce among the States—

That gives them discretion to frame it according to their wise view of what is proper, but it is added—

which said bill shall embrace provisions for establishing a system of both maximum and minimum charges for transportation.

It does not leave anything to their discretion. They are compelled to include in that bill such a system, and it would seem by reporting it that they gave it some sanction.

Mr. WILSON. Does the Senator suppose that the imposition of this duty upon the commission will prevent them from pursuing any other line of investigation or giving us any other results no matter how different they may be from the provisions of this amendment? Not at all. My purpose is to compel an investigation upon certain lines which will result in the formulation of a bill such as is described by the amendment; and the commission may go as widely over the field as they please. They may report a bill in accordance with the duty imposed by the terms of the law if the amendment shall be adopted, and report any other number of accompanying bills, and give us their best judgment. But I desire to have a definite investigation of the very difficult subject involved in the question of a system of maximum and minimum rates. If upon that investigation it shall appear that that is impracticable, all well. The mere fact that they are required to formulate the results of their inquiries in a bill will not detract from the effectiveness or value of the investigation and the consequent report.

Mr. HARRISON. Why, Mr. President, as I have said to the Senator from Iowa, I agree that this investigation ought to be without limit. I say it seems to me that it is absolutely without precedent to lay upon a commission that is charged with the duty of investigation a requirement that they shall report a particular measure. The Senator does not leave this open to their investigation. He concludes it now by this amendment.

Mr. WILSON. Not at all.

Mr. HARRISON. He says, "You shall report to us a bill fixing maximum and minimum rates, whatever your view may be, although the information that you bring us and the experience and observation of the year may satisfy every one of you that there ought to be no such bill, but even if you think so you have got to frame one."

Mr. WILSON. But at the same time they may accompany it with any recommendation or any number of bills they please touching the subject.

Mr HARRISON. Then, as the Senator from Massachusetts [Mr. HOAR] suggests, the difficulty would be obviated by inserting "if they shall see fit," or "if they shall believe they ought to report such a measure." That meets my point. Otherwise suppose their report comes in and they say it is utterly impracticable, that it would demoralize transportation?

Mr. WILSON. The answer to that is, that the commission never will come in with such a statement as that without having investigated the subject, and unless you impose the duty of that investigation upon them they may not pursue that branch of the subject at all.

Mr. HARRISON. I have said repeatedly that I want the investigation to be as wide as possible. The Senator from Iowa can have no controversy with me on that. He may make it as broad as he pleases; I want it to be broad; but the point of my objection is that we shall require them upon a specific point involved in this investigation to report a bill of a certain kind absolutely, divesting them of all discretion in framing their bill. If they should be of opinion that this ought not to be in the bill, they are obliged to come in here and here is the commission bill containing a system of maximum and minimum rates and charges reported to us.

Mr. WILSON. That would be the bill which they would report under the limitations of this amendment; but if their judgment should be against the practicability of such a measure, they can report also another bill or any number of bills. This limitation merely holds them to an investigation of the subject, the results of which shall be given us in this bill.

Mr. HARRISON. If that is so, why will not the Senator consent to an amendment that shall require them to investigate and report the result, instead of compelling them to report a bill with this feature in it?

Mr. CULLOM. Mr. President, for the purpose of enabling the Senate to understand what the bill itself contains on the subject of investigation and reports to the Congress, I will read the section originally in the bill, and which is in the bill now, requiring a report from the commission:

SEC. 11. That the commission shall, on or before the 1st day in December in each year, make a report to the Secretary of the Interior, which shall be by him transmitted to Congress, and copies of which shall be distributed as are the other reports issued from the Interior Department. This report shall contain such information and data collected by the commission as may be considered of value in the determination of questions connected with the regulation of interstate commerce, together with such recommendations as to additional legislation for the regulation of interstate commerce as the commission may deem necessary.

That is the section reported by the committee in reference to the report of the commission. On the motion of the Senator from Iowa [Mr. WILSON] an amendment was adopted a day or two ago to section 2 which requires the commission "to thoroughly investigate all the various questions relating to commerce between the States, and especially in the matter of the transportation thereof, so far as may be necessary to the establishment of a just system of regulations for the government of the same."

That provision which I have just read has been added to the bill as a part of section 2. Now the Senator from Iowa offers his amendment, which has been explained by the Senator, and much of which to my mind is proper, and I have no objection to very much of it. In fact, I would vote for any of it personally if the words "both maximum and minimum" were stricken out. It leaves the amendment after that with the duty imposed upon the commission to make investigation, and to report a bill which "shall embrace provisions for establishing a system of charges for transportation and for the preservation of free competition within the limits so fixed; for the prohibition of discriminations of any kind whatever, either in favor of or against cities, towns, or other localities," &c.

So far as I am personally concerned I should be inclined to support the amendment with those two or three words out of it. I hope the Senator from Iowa will eliminate those words, so that the vote upon the rest of the amendment may be taken.

Mr. WILSON. I do not feel willing to eliminate the words mentioned by the Senator from Illinois. If the Senate, however, choose to amend the proposition by voting those words out, of course I can not help it. There will be enough of the amendment left to induce me to support it after the elimination; but I prefer not to consent to the words being stricken out. If it is done by the vote of the Senate, of course I can not avoid it.

Mr. CULLOM. If it be in order, I move to strike out in line 5, of the amendment, the words "both maximum and minimum."

The PRESIDING OFFICER. The question is on the amendment of the Senator from Illinois to the amendment of the Senator from Iowa.

Mr. CULLOM. My motion is to strike out of the amendment offered by the Senator from Iowa, though it appears as offered by myself, the words in line 5, "both maximum and minimum."

Mr. McPHERSON. I have in my hand an "amendment intended to be proposed" by the Senator from Iowa [Mr. WILSON], and I find those words on the second page, in line 9.

Mr. HARRISON. The Senator will allow me to explain. The amendment offered by the Senator from Iowa was temporarily withdrawn with the understanding with the Senator from Illinois that he would reoffer it, and as it stands now it is an amendment purporting to be offered by the Senator from Illinois.

Mr. CULLOM. The words I speak of are in line 5.

The PRESIDING OFFICER. The amendment now pending is the amendment offered by the Senator from Illinois [Mr. CULLOM], but really is the amendment of the Senator from Iowa [Mr. WILSON].

Mr. WILSON. Modified.

Mr. CULLOM. Substantially the same amendment.

The PRESIDING OFFICER. The Chair made a mistake in referring to it as the amendment of the Senator from Iowa, as it was simply the understanding that it was his. It is offered by the Senator from Illinois.

Mr. HARRISON. I want to call the attention of the Senate, and especially of the Senator from Illinois, to the effect of this amendment which he proposes. It seems to me it leaves the original amendment in a more objectionable shape than it was before; for whereas the amendment provided that the system of charges reported should be maximum and minimum, the amendment with those words stricken out will read:

Which said bill shall embrace provisions for establishing a system of charges for transportation.

Instead of fixing outside and inside rates of charges they would be required to make a schedule, if the amendment of the Senator from Illinois is adopted and then the original amendment is adopted. I do not want to repeat what I have said, but this whole amendment simply directs the commission to report a bill which shall contain certain things, not only the one to which I have referred, but they shall report a bill "for the prohibition of discriminations of any kind whatever, either in favor of or against cities, towns, or other localities, whether the same be competing or non-competing points."

They must frame a bill by which the same rate of charges would be established between non-competing as competing points. In other words, while it may be that the Senator from Iowa is right, and the bill which we shall adopt when this report comes in should contain every one of these things, what I object to is establishing a commission for the investigation of certain questions, and then foreclosing that commission in advance by directing them to report a bill which shall contain certain things.

Mr. CULLOM. Mr. President, the only reason why I vote for the amendment with those words out is that the remainder of the amendment is of a general character, and as I think will enable the commission appointed to report just such a bill as they think is necessary in the premises. But with those words in they would be compelled to report a bill fixing maximum and minimum rates, and I do not feel ready to commit myself to that proposition.

Mr. HARRISON. May I ask the Senator from Illinois whether as he leaves the amendment they will not have to report a schedule of charges?

Mr. CULLOM. As the amendment would be left with those words out, the bill would necessarily have to embrace "provisions for establishing a system of charges for transportation and for the preservation of free competition within the limits so fixed; for the prohibition of discriminations of any kind whatever either in favor of or against cities, towns, or other localities, whether the same shall be competing or non-competing points."

Mr. SEWELL. Let me suggest to the Senator from Illinois that he also strike out "charges for transportation and," so as to read:

And which said bill shall embrace provisions for establishing a system for the preservation of free competition, &c.

The fixing of a rate by Congress in view of the facts I presented a few days ago showing that the cost of railroad transportation runs from less than half a cent per ton a mile to 20 cents per ton a mile on some railroads seems to be perfectly absurd. We can not fix a rate to cover all; it is a physical impossibility unless you choose to wipe out some corporations. That is a matter which must be left to the good sense of the commission absolutely.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Illinois to the amendment of the Senator from Illinois.

Mr. BAYARD. Mr. President, before any further elaboration of these propositions is made by the Senate, I would venture to make a suggestion to the Senator from Illinois, in view of the fact that the matter touched by these bills and the amendments is one of the most important under any sense of the word that we can consider, and especially as it embarks for the first time upon a very great question of constitutional power in the regulation of commerce between the States. It is perfectly well understood that all the agencies of interstate commerce, all the agencies of transportation except the natural highways of water, are the creation of State charters and State incorporations. I am not here for a moment to deny, but on the contrary rather to affirm, the great necessity for some regularity of proceeding for the citizens of this country in regard to their intercommunication; nor am I here to seek at all to restrict the concession of power to the Congress of the United States to regulate commerce between the States. I am disposed to believe that the most intelligent and able of those minds now concerned in the business of transportation of merchandise and passengers between the States of this Union are to-day themselves as much as any impressed with the necessity of something like uniformity in the regulation of their business. But, sir, just in proportion to the gravity of this power and its importance, so is the necessity for a deliberate approach to the execution of the authority confided to us.

It is not a violation of the rules of this body to refer not to the debates or to the action of the co-ordinate branch of Congress, but to the fact that before the House of Representatives measures touching this same question are now pending, and if not approaching a finality of consideration are certainly under consideration, and that we may reasonably expect propositions in one form or another relating to this same great business to come to us in the course of a few days. Now it is obvious that there is not only a waste of time, but there is something more—the danger of the conflict of the pride of opinion between the two Houses that may lead to a disagreement in the event of our pursuing this great subject by separate paths at the same time. The regular course of legislation is for the origination of a bill in one or the other House of Congress, and after it has been matured as well as that body may see fit and has passed, then to submit the result of their opinions to the co-ordinate branch in order that there may be reached the great finality, concurrence of judgment between the two Houses upon any public question.

Now, therefore, as it is well known as a public fact, and known to us individually and known to us as members of this body, that the whole of this question is to-day, and even as I speak to-day, under debate at the other end of this Capitol building, I submit to the honorable Senator having charge of this measure whether it is not eminently wise and proper to delay the consideration of this class of measures until we have the outcome of the consultations and judgment of the House. I can well understand that if Senators shall take a stand so to speak, if there shall be here expressions of opinion positively made in advance of the action of the House, gentlemen may be unwilling perhaps to retire from such expressions; and that is unfavorable to that community of thought and community of action which is essential for legislation.

I will also say for myself that I do desire longer time and more knowledge than I now possess, before passing on questions of such far-reaching magnitude. Whether or not we may throw the action of the two Houses under the consideration of the judicial branch, to have questions put to us as to whether our action has been within the warrant of our powers, is something that I would greatly rather avoid. I never desire to vote upon a question of doubtful constitutionality. I think the affirmative and the affirmative proof is always upon Congress to show that they have the power to do that which they attempt to do or propose to do, and not that they shall legislate in doubtful premises. Therefore it is that I hope, quite irrespective of the merit or demerit of the amendment now proposed, that the entire question may be allowed to rest here until we shall have learned something more determinate of the action of the other House, which is just as essential for the practical enactment of any measure as our own, before we proceed on parallel lines with them—parallel lines that may never touch—in debating questions which simply occupy time without bearing fruit in practical results.

I know very well that the questions embraced in these bills have engaged the attention of my honorable friend from Illinois, and in regard to which we have heard from him from time to time are of enormous importance, important to every branch of American industry, important to individuals, important to communities, important to those vast aggregations of power and capital called incorporations; but just in the same measure that I perceive their importance so do I view the necessity of our being very guarded here in our action upon them.

I hope therefore the Senator will allow this measure and its amendments, as it now stands before the Senate, to be laid aside, not waiving any right of priority which it may have attained by being now taken up. I make the suggestion, not with a desire to avoid it or postpone it unduly; but the whole class of measures, the claim of power, the extent to which that power shall be exercised, are questions that require close scrutiny, for we have no legislative precedents upon the subject. Plain as may be the declaration of the power in Congress, it is certainly true that Congress has never up to this period in American history assumed to exercise the power. The power to regulate commerce is of itself one of ascertained judicial definition, and it is a very serious question how far the Congress of the United States may interpolate new conditions in the contracts formed by corporations or by individuals with the several States under the authority of law.

I hope, therefore, that this measure will not be further considered at this time. I submit to the honorable Senator having it in charge that we are, as I said before, moving upon parallel lines with the other House. That is not a proper method of legislation, because it is intended that the minds of the two Houses should go together, and for that purpose it is proper to have the determination of one before the other assumes to criticise or act upon it. I desire to see and I expect to see in the rational course of events measures relating to this great

subject passed by the other House and laid before the Senate. In that case we can consider what has been done, we can amend it according to the discretion of the Senate; but I submit respectfully to my friend from Illinois that his independent measure debated now, voted upon now, will rather tend to keep the action of the two Houses asunder and destroy that uniformity which is necessary for the purpose of enacting any law. That end is not reached by our acting separately and without regard to what is being done elsewhere.

Mr. CULLOM. In answer to the suggestions of the Senator from Delaware, I desire to say that this bill has been before the Senate now for many months. When I came into the Senate more than a year ago I was impressed with the feeling and belief that something should be done upon this very important question, and having been placed by the Senate upon the Committee on Railroads I gave it some attention. I prepared a bill, introduced it in the Senate; it was referred to the committee, amended and reported back by the committee to the Senate during the last session of Congress, and it has been upon the Calendar ever since.

So far as I am concerned I am not able to see any reason why the Senate should suspend the consideration of this very important subject because, forsooth, the other branch of Congress is considering the same subject. If the Senator is not aware I will inform him that that body has been considering this subject, as I understand, with the distinguished member of the House who now has charge of it there, about ten years. They have had all kinds of bills before them; they have been voted down; they have been debating them from session to session, and, as I am informed by the Senator, they are doing so now.

If it has come to be that the Senate of the United States, when it finds that the House is considering a subject, must lay it aside until the expression of the House is sent over to us in the shape of a bill, there are a good many other questions that we might lay aside just as well. I do not suppose that any man, either here or in the other House, knows what the action of the House is going to be on this subject. They have been debating it, as has been said, for a long time; there is a diversity of opinion upon the question; and it does seem to me if there is that importance attached to it that the Senator himself says there is, and that I believe every Senator regards as being attached to the subject, it is our duty to prosecute the question until we come to some conclusion about it.

There are before the Senate amendments to the bill covering, as I understand, the bill that is now under discussion in the other House, as well as other substitutes and amendments. The probability is that if the House is going to pass a bill at this session, it will have passed it and it will come into the Senate before the Senate concludes the discussion and consideration of the question. But I do not feel myself that there is one Senator upon this floor who would be doing right by the Senate or right by the people of the United States if he were to postpone the consideration of the question, important as it is, to await the action of the House of Representatives.

It seems to me that it is my duty and the duty of the Senate, now that the subject is before us, to proceed with the consideration of the bill. If in the mean time, before our consideration of the question is concluded, the House of Representatives should pass a bill upon the subject and it should come before us, there will be time then to determine whether that bill shall be substituted for the bill now before the Senate for consideration, or what shall be done with it; but I think we ought to go forward with the consideration of the bill that is now before us.

I am very sorry that my distinguished friend the Senator from Delaware does not feel himself thoroughly acquainted with the question. I think his expression upon that subject is more the result of his own modesty than a statement of a fact. I think when we get into the consideration of it the Senator will know as much about it as any other man upon this floor.

I hope the Senator will allow the discussion to go forward, that he will allow the consideration of the bill now before the Senate to proceed, and in the mean time, while it is being considered, the substitute offered by the Senator from Oregon [Mr. SLATER] will come before the Senate for consideration, which, I understand, is the exact bill that is under consideration by the House of Representatives.

Mr. BAYARD. Of course the practical object of either House of Congress is not only that a bill may pass its own consideration and obtain a majority, but in such form as to procure concurrence in the other branch. The assent of both Houses is essential. Therefore it is a practical course of legislation so to arfange the consideration and presentation of measures as to procure that which is essential for all laws, the concurrence of the co-ordinate body.

My friend says that for ten years the House of Representatives has been considering this question. So in some degree has the Senate. Certain it is that no measure as yet has been sufficiently matured to meet the independent judgment of either body, for as I am informed no bill upon this subject has ever passed either House of Congress.

Mr. CULLOM. I am informed by some Senators here that the statement of the Senator that no such bill has ever passed either branch is a mistake. One was heretofore passed by the House of Representatives, I understand.

Mr. BAYARD. Then, without considering its merits, I understand that a bill did pass the House a few years ago; but certain it is it did not meet the concurrence of the Senate; it never became a law, and we are as far off as we were originally.

My desire is that the minds of the two Houses shall come together upon this important subject. The question is how that shall be facilitated, and I certainly do not think that it is to be facilitated either in point of value or in point of time by proceeding upon parallel lines, which, as I said before, will never touch.

The commerce of the United States may be generically divided into exterior foreign commerce and interstate domestic commerce. Of the two we are told by high statistical authority that our internal commerce, the bargain and sale and contract among our own people and at home, outnumbers many times the whole of our foreign transactions and exchanges. I do not know how many times more. I have heard it estimated at twenty times as much. I believe that amount has been somewhat by guesswork, reduced to ten times; but certain is it that the bulk of American interests affected by interstate commerce far exceeds many times over the whole body of our exterior commerce with foreign nations.

Now, what is proposed by the Senate bill? Without going into particulars or details, it is proposed that the whole of a commerce five, six, eight, ten times as great as our foreign commerce, shall be submitted to the control of a commission of five men. Certain it is that if such a proposition had ever been made in regard to the foreign commerce of the United States it scarcely would have received respectful attention. We have had a body of commercial regulations, formed of necessity and instructed by experience following since the foundation of the Government. The body of our commercial regulations with foreign nations is very vast and complicated, much of it useless perhaps, a great deal obstructive; and nevertheless it has been a great growth, running through all the generations that have here lived since the foundation of the Government. Suppose it were now proposed to substitute for that great body of law, good, bad, and indifferent as it may be, the regulation of a commission under some such act as we find here to-day, would it receive a single vote in this Chamber? I apprehend not. And yet it is proposed to submit interests tenfold as great as the foreign commerce of the United States to the control of a single commission composed of five men.

The Senator from Illinois will see that I do not underrate the importance of the business in hand; but I do question most seriously and fundamentally the manner in which he proposes to deal with it—five commissioners, who shall take the affairs of all the great railway and canal companies and other means of transportation, and become the superior board of direction for all this great business, and have the power to pass upon such questions as are suggested by the bill. And the commission is to be "appointed so that the different interests affected"—that means to say the great industrial and leading interests of this country of sixty millions of people—"shall have a proper representation" upon the board of commission. What is "a proper representation?" Upon what basis is the propriety of that representation to be fixed? Is it to be upon the pecuniary interest or upon the number of people involved in it, the livelihood of a given number of inhabitants?

Further, they are to fix "a reasonable rate of compensation." I apprehend that questions of reasonable rates of compensation have engaged men all over this country by hundreds and thousands; and the quarrels, the objections, the protests, the litigation that has followed upon the attempt to bring the common carriers under some general rule of "reasonable rates of transportation" in the exercise of their powers has been more fruitful of indeterminate and unsatisfactory contests than almost any question that can be named.

I hope I shall not be understood as expressing here an unalterable determination to oppose the scheme of the honorable Senator and those who may think with him, but I have said this much only for the purpose of showing that we are attempting to deal in a somewhat summary manner with interests far greater than those which have ever been made the subject of regulation by a commission. A government by commission has in it strongly the suggestion of an unwarranted delegation of discretion. If the Congress may pass what laws they will in respect of regulating traffic, it is very much to be considered, and I submit it for the consideration of those who have interest in this subject, whether the discretion of Congress as to its regulations can be deposited in five men to be chosen by Congress.

This bill, as I have read it, abounds in discretionary powers. What has been commonly called the "rule of thumb" is to be found here in almost every section. Whether it "shall seem to be just," "shall seem to be reasonable," "shall seem to be proper," is the rule laid down; and whose minds are to be affected by these opinions and by this discretion? Five commissioners; and they are to deal with interests ten times greater than the whole external commerce of the people of the United States.

I say that nothing can exceed the importance of this question. Its magnitude grows the more it is considered. For that reason it is important that we should deal with it wisely; and in order to deal with it at all there must be concurrence between the two branches of Congress. I submit that even if it has taken the House of Representatives ten years or six years to mature a bill that came into this body only to die,

ten years of gradual approach and deliberation upon a subject of this kind is much wiser than one year of too great progression in a decisive direction that may turn out not to have been wise.

But sir, without regard to the wisdom or the want of wisdom of the measures proposed to the Senate, it is perfectly plain as a practical question that the concurrence of the judgments of the two Houses is essential for the purpose of framing law. We know that even to-day (and I have the right so far to refer to it), this very question is pending and under debate, it may be that it is now being voted upon, twelve hundred feet from where we now stand. It is plain to me that if we wish to be practical and to reach some result upon this very interesting subject we had better await some finality, some determination, some expression of judgment on the part of those whose concurrence is as essential to our suggestion as our own is to them. Neither can act by itself. It is the joint will of the two Houses and the constitutional majority of both that are essential. Therefore as this measure, I think not improperly—I do not say necessarily but not improperly—originated in the other branch, I prefer to see what they propose shall be done in this question. When it comes before us then we shall see whether we can concur or not, or concur with such amendments as shall be reasonable and proper.

I did not mean to express any opinion upon this subject, although I have indirectly perhaps by implication done so, for I can not but feel that there never was such a power proposed to be conferred upon five men on earth as is proposed to the five commissioners who shall regulate the interstate commerce of the thirty-eight States and the ten Territories of this Union.

Mr. CULLOM. I think the Senator in his remarks has shown conclusively that the best thing to do is to proceed with the discussion of the bill before the Senate. The Senator has intimated his views upon the question, and has undertaken to criticise the bill before the Senate, as I think, wrongly.

As a matter of fact the five commissioners provided for in the bill have no absolute power. The transportation companies of the country are not absolutely in their power, but the commission is put forward by the Government of the United States as a means of controlling and facilitating commerce between the States. If the Senator will read the bill he will find that the commission will have no absolute power to dispose of any question finally which is submitted to them for consideration. It is true the bill provides that they shall have a quasi power of arbitration, but any complainant, either the shipper or the transportation company, can refuse to abide by any decision that the commission, when it shall be created, undertakes to make between the parties. The Senator will find upon reading the bill that finally the courts of the country have the disposition of all controversies in case either party sees proper to take the controversy to the courts.

So I think the Senator misapprehends the provisions of the bill; and whether he does or not, it seems to me that his very statement of the importance of the question and of the uncertainty as to what the House of Representatives, if I may be allowed to refer to it, is going to do upon the question, calls upon the Senate to proceed with the consideration of the bill.

The Senator says the subject has not only been before the House of Representatives, but it has been before the Senate also. I am not advised as to whether that is true or not, but I take it for granted that it is; but the very fact that it has been before the Congress of the United States so long, coupled with the fact that the people of this country are calling upon us for some legislation upon this great question, is an argument in itself why we should proceed with it without further delay. It is true, as the Senator says, that nothing can be accomplished by the two Houses running in parallel lines, but nothing can be accomplished unless the two Houses consider the question and finally come to an agreement. Everybody knows that before anything can be accomplished some bill must be passed by the Congress of the United States, and, as I say, the people of this country expect this Congress to take action; and if they do, and if it is an important question to the country, why not proceed with the consideration of it in the hope that the two Houses of Congress may eventually get together and pass some proper legislation?

I am not disposed simply to consume the time of the Senate in running in parallel lines with the House of Representatives, but neither am I disposed to lay aside a bill that is before the Senate for the purpose simply of awaiting the action of the House, which is as indefinite as anything can be, to ascertain what they are going to do. I think we have some status in this country as a co-ordinate branch of the Congress of the United States. While, as I say, I am not disposed to consume the time of the Senate, yet I am disposed to insist upon the consideration of this bill until we arrive at some conclusion as to what is the best interest of the country in regulating and facilitating interstate commerce.

The PRESIDENT *pro tempore*. The question is on agreeing to the amendment proposed by the Senator from Illinois to the amendment proposed also by himself.

Mr. GIBSON. Mr. President, I offer an amendment.

The PRESIDENT *pro tempore*. The amendment offered by the Senator from Louisiana is not at present in order, as it relates to a different part of the bill. There are two amendments now pending.

Mr. GIBSON. I ask that mine be printed.

The PRESIDENT *pro tempore*. It will be printed as an amendment intended to be proposed by the Senator from Louisiana, if there be no objection.

Mr. WILSON. Mr. President, in order to avoid the criticism of the Senator from Indiana [Mr. HARRISON], and at the same time to effect the purpose which the Senator from Illinois [Mr. CULLOM] and myself both have with reference to this amendment, I desire to suggest a modification of it, which I think upon hearing it read the Senator from Illinois may be willing to accept in lieu of the amendment proposed by himself.

The PRESIDENT *pro tempore*. The proposed modification will be read for information.

The CHIEF CLERK. At the end of section 11 it is proposed to add:

And said commission shall precede its first report with an investigation of the subject of interstate commerce which shall embrace the subjects of establishing a system of both maximum and minimum charges for transportation and for the preservation of free competition within the limits so fixed; for the prohibition of discriminations of any kind whatever either in favor of or against cities, towns, or other localities, whether the same be competing or non-competing points, and for applying the same principle to transportation for individuals, firms, associations, or corporations, in all matters relating to commerce among the States; for the preservation and enforcement of the right of shippers to select the lines and parts of lines over which their shipments shall pass, to the end that said commerce among the States may avail itself of all the all-rail or part rail and part water routes of the country; for the prevention of such pooling arrangements and agreements to refrain from just competition as may tend to impose unreasonable burdens upon said commerce among the States, and for the protection of said commerce against unjust exactions based on a class of securities commonly denominated "watered stock;" and said commisson, in conducting said investigation, shall be guided by such rules of action as will be fair, just, and equitable toward all of the interests involved, whether the same be private, public, or corporate, connected with the subject of commerce among the States.

Mr. WILSON. The modification of the amendment just read simply directs the investigation of the general subject and eliminates the duty of the preparation and presentation of a bill.

Mr. INGALLS. Mr. President, the predisposition of my mind is always to listen to the opinions of the Senator from Delaware [Mr. BAYARD] with great respect; but I confess that I have been somewhat surprised by the observations he has made and the arguments he has employed this afternoon with regard to this bill.

I think upon reflection that he would hardly be willing to adhere to the proposition that contemporaneous discussion of a subject professedly of profound importance can not be permitted in the two Houses of Congress; that when the House of Representatives is engaged in deliberating upon a question that concerns the people of the entire country the Senate of the United States must either take up some other topic of thought or go into executive session.

Mr. President, I am disposed to believe that the Senator from Delaware did not give his customary deliberation to this subject when he advanced that as a reason why upon this great question debate should cease. We have been told that the House of Representatives now for ten years have been engaged in grappling with this great topic. Whether they have not sent us a bill I am not prepared to say. We are advised that at one time four or five years ago a bill did reach us that, as we are informed, either died in committee or was otherwise disposed of in the Senate.

Mr. CULLOM. If the Senator will allow me, I can state that the bill which passed the House was passed March 26, 1874.

Mr. INGALLS. Ten years ago the House of Representatives passed a bill upon a subject that during the entire interval since has engrossed the attention of the people of this country more than any other, and they have since that time been engaged in endeavoring to elaborate some measure that up to this time has failed to receive the support of a majority of that body; and we, after a week or ten days' discussion of this subject, are advised by the Senator from Delaware that it is best that we should cease to debate it until the House of Representatives see fit to send us the result of their deliberations. In the opinion of the Senator from Delaware the way to reach a decision upon this subject is not to discuss it or think about it! He informs us, what every one knows, that there is no topic of profounder interest at this time than the subject of interstate commerce and the regulation of railway transportation.

We have various propositions upon the subject before us. They are usually elaborated by debate. Discussion is commonly considered as the method by which valuable results are to be obtained. And here, with less than two months of this session remaining, the Senator from Delaware advises the Senate that the proper way to deal with the subject and to reach proper conclusions is to do nothing about it—practically that; because the House of Representatives have discussed this subject for ten years without reaching any decision, and they have been engaged during the greater part of this session in discussing this subject without reaching a conclusion. What assurance have we that, after this debate has thus long continued, we are shortly to receive the result of the deliberations of the House of Representatives?

Mr. President, we may as well deal candidly with ourselves upon this subject. The Senate of the United States is suspected by the peo-

ple of this country—I use plain language—the Senate of the United States is suspected by the people of this country with a desire not to do anything with this subject. I do not need to appeal to the consciousness of any Senator. I do not need to appeal to the current strain of observations that are made in the public press when I say that the Senate of the United States is not an object of public adoration at this time in this country. I regretted to hear the Senator from Delaware, supposed to be the leader of a new public opinion under the new evangel of reform in the days that are to come, gravely recommending to the Senate of the United States to pursue the do-nothing policy that has characterized Congress upon this subject for ten years last past.

I have not familiarized myself sufficiently with the various features of this bill and the amendments that are now before the Senate to be able to say which of them will ultimately command my assent; but, sir, I desire that the debate shall proceed for the purpose of enabling me to determine which of them is best calculated to reach a solution of this gigantic question that is at the present time engaging the attention of the people of this country. I do not stand here in any sense whatever as the advocate or champion of that cheap system of demagogy that appeals to public opinion against railroads. I would as much resist injustice to railroads as I would resist injustice to the humblest settler in the remotest dugout upon the frontier of the West. Railway corporations are creatures of law; they are entitled to the protection of the law. I would stand between them and injustice as I would between injustice and any one of my humblest constituents; but it can not be denied that there is in this country at the present time a conviction, in which I profoundly share, that the railway corporations of this country have made exactions that render it necessary that they should be subjected to limitation and to control. This subject is too far advanced, it is too wide, its proportions are too immense to allow us to sit down in a sleepy, Rip Van Winkle inactivity, and declare that because it is novel and tentative we will not deal with it, and because it is under discussion in the House of Representatives we will not deliberate upon it.

I do not know, Mr. President, but that the time is rapidly approaching when the active coalition of the conservative forces of this country is not to be required in order to prevent destructive organic changes in our system of government. The people of this country labor under burdens that they themselves do not understand and for which they ask us to afford satisfactory solution. They ask nothing that is unreasonable; they ask nothing that is unjust. They do demand that these subjects shall be discussed, and that if possible we shall reach some solution that will enable us to protect them from the burdens under which they labor. And, sir, the man or the body of men who attempt to stand in the pathway of this great inquiry, who attempt to arrest it or to block it, will be as absurd politically as would be physically the man who should attempt to refute the law of gravitation by jumping from the summit of the Washington Monument.

Mr. BAYARD. Mr. President, the few remarks that I submitted with respect to this bill have furnished the honorable Senator from Kansas [Mr. INGALLS] apparently with material for a good deal of discursive effort on his part. My object was to bring this legislation to some practical end, and I made the suggestion that to do that we must procure some concurrent action of the two Houses, that in the many years this question has been discussed there has been a failure to do that. The House of Representatives has passed a bill which has been brought here to the Senate and it here has died, and therefore we have no law of the United States upon this subject. I did state that in my judgment it was important and that the most intelligent men, those most deeply interested for themselves and others in this great problem of interstate communication and commerce, felt that there was a necessity for some general legislation, some general regulation under the Federal power over this broad and deep question. My object plainly was to reach a practical result and not to waste time upon that which was wholly without practical result.

The Senator suggests in some way that suspicion will attach to the movements of those who shall express their opinions in a manner that may lead to the inference that they are for or against certain measures. Well, Mr. President, I do not know how it feels to be suspected. So far in my life I have not suffered from that. I do not know how far the Senate of the United States is suspected, for if it has members open to suspicion they are not those of my association, and certainly I do not feel myself to be one of the number. I am perfectly indifferent to such suspicions if they exist; I do not think they do.

Mr. President, we have passed, as our Calendar will show, some two hundred bills that await the action of the House of Representatives. I only hope in the sixty days that remain of this session there may be action by the House of a concurrent nature that may lead to the enactment of those measures into laws, for among them there are many of importance. It is for that reason that I would be glad not to pass a bill in the Senate not in accord with the expression, almost the concurrent expression of the House upon the same subject, and have the two measures standing without any result for the rest of this session. I am desirous that there should be some step taken upon this grave subject. I am unable to see the wisdom of the proposition contained in this bill. But that is not the question. The thing is whether you will reach a practical result more quickly by continuing to debate this bill now upon an utterly dissimilar character of view and action from that which is going on elsewhere in this building to-day, or whether you will await that which every public paper tells us is probable, that there will be a measure brought before the Senate for its concurrence or for its rejection.

That is the practical question; and I interposed what was intended to be a practical suggestion in regard to it, that we should come much nearer to a common result by first hearing what the co-ordinate branch of Congress said. There was not one word in what I said suggestive of the idea that the same subject should not be currently considered by the two Houses. I referred to the fact that the minds of two Houses had met upon this subject and had differed; and if they differed in the past they were likely to differ in the future. But as this difference had occurred and had resulted in postponement of any action whatever upon a subject on which the Senator from Kansas is anxious, and all of us I trust are anxious, for a wise result, not an unwise one, it seemed to me that we should be more apt to get it speedily by not antagonizing in advance an opinion which, for better or for worse, formed the basis of our possible agreement. That is all there was of it; that is all that I meant; that is all that I mean now. I should be very glad to listen, and to no member of the body would I listen with more interest than the Senator from Kansas, if he would give us a disquisition, not upon the abuses, not upon the favoritisms, not upon the discriminations, not upon the obvious iniquities and wrongs which are to-day illustrated by our interstate commerce and the management of the transportation companies—not that, but as to what rule we may safely substitute for State regulation and State visitation upon such irregularities and such injustice.

That the various States of this Union have it in their power to prevent discriminations is already attested by laws of some of the Western States which have passed the criticism of the Supreme Court of the United States and have been sustained. Therefore the question is for the people of this country whether they shall now make a new departure and deposit in the hands of the central Government the exercise of those powers constitutionally granted, but which are to be exercised as suggested now, in lieu of the local legislative control to which the whole of these transporting companies owe their chartered rights, and under whose laws the contracts contained in their charters have been granted. Well, sir, as I said before, it is almost impossible to exaggerate the importance of this question, not only as to the variety of interests, but as to the enormous amounts involved, and as to the danger of dealing hastily with such powers as I believe are vested in the Government and in the Congress of the United States over this great question of interstate commerce.

If from what I have said there is to be inferred an opposition to the subject of abating this injustice, of compelling justice in respect of the contracts for the transportation of merchandise and the like in this country, I only can say that it will be very ignorant and very unjust on the part of any one so to consider it; and the trial of that charge must of course depend upon the votes or speeches and the like that I may give here in my place in the Senate. It is my good fortune, sir, to be able to deal with public questions with great frankness and with a great disregard of suspicions from any quarter.

The PRESIDENT *pro tempore*. The question is on agreeing to the amendment to the amendment proposed by the Senator from Illinois.

Mr. CULLOM. I ask leave to withdraw the amendment which I offered, as I think the modified amendment of the Senator from Iowa does away with the necessity of the amendment I offered to his original amendment, or to mine, as it appears to be. So I ask leave to withdraw it.

The PRESIDENT *pro tempore*. The Senator has a right to withdraw it, the yeas and nays not having been ordered.

Mr. INGALLS. Let us understand, then, how the proposition is presented.

Mr. WILSON. I offer my amendment.

The PRESIDENT *pro tempore*. The Chair understood the Senator from Illinois to withdraw his amendment to the amendment.

Mr. CULLOM. That was all.

The PRESIDENT *pro tempore*. So that the question is now on the original amendment proposed by the Senator from Illinois.

Mr. INGALLS. Now let us hear it read, Mr. President.

Mr. WILSON. I move to amend that by substituting for it the amendment I now send to the Chair.

The PRESIDENT *pro tempore*. The Senator from Iowa proposes to amend the amendment offered by the Senator from Illinois, which is in print, by substituting therefor that which will be read.

The Chief Clerk read as follows:

And said commission shall precede its first report with an investigation of the subject of interstate commerce, which shall embrace the subjects of establishing a system of both maximum and minimum charges for transportation, and for the preservation of free competition within the limits so fixed, for the prohibition of discriminations of any kind whatever.

Mr. HARRISON. The rest of the amendment is just as printed. The change is in the few lines that have been read, requiring the commission to precede their report on this subject with an investigation.

The PRESIDENT *pro tempore*. There is one later change, the Chair thinks, in the amendment.

Mr. HARRISON. If there is another, let it be read.

The Chief Clerk continued the reading, as follows:

For the prohibition of discriminations of any kind whatever either in favor of or against cities, towns, or other localities, whether the same be competing or non-competing points, and for applying the same principle to transportation for individuals, firms, associations, or corporations in all matters relating to commerce among the States; for the preservation and enforcement of the right of shippers to select the lines and parts of lines over which their shipments shall pass, to the end that said commerce among the States may avail itself of the all-rail or part rail and part water routes of the country; for the prevention of such pooling arrangements and agreements to refrain from just competition as may tend to impose unreasonable burdens upon said commerce among the States, and for the protection of said commerce against unjust exactions based on a class of securities commonly denominated "watered stock;" and said commission, in conducting said investigation, shall be guided by such rules of action as will be fair, just, and equitable toward all of the interests involved, whether the same be private, public, or corporate, connected with the subject of commerce among the States.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Iowa [Mr. WILSON] to the amendment of the Senator from Illinois [Mr. CULLOM].

Mr. ALLISON. Now I ask that the first part of the amendment of my colleague may be read.

The Chief Clerk read as follows:

And said commission shall precede its first report with an investigation of the subject of interstate commerce, which shall embrace the subjects of establishing a system of both maximum and minimum charges for transportation and for the preservation of free competition within the limits so fixed, &c.

Mr. INGALLS. Mr. President, I am satisfied that we ought not to be called upon to act upon a section so important as this without seeing it in print, so that we may know exactly upon what we are called to vote. With that object in view, I move that the Senate now proceed to the consideration of executive business.

The PRESIDENT *pro tempore*. The Chair understands that it is desired that the amendment offered by the Senator from Iowa be printed.

Mr. INGALLS. Yes, sir.

The PRESIDENT *pro tempore*. The Chair will put the question on the motion to print the amendment.

The motion was agreed to.

HOUSE BILL REFERRED.

The bill (H. R. 7785) making appropriations for the payment of invalid and other pensions for the fiscal year ending June 30, 1886, was read twice by its title, and referred to the Committee on Appropriations.

ENROLLED BILL SIGNED.

A message from the House of Representatives, by Mr. CLARK, its Clerk, announced that the Speaker of the House had signed the enrolled joint resolution (H. Res. 308) appropriating $50,000 for the support of certain destitute Indians; and it was thereupon signed by the President *pro tempore*.

EXECUTIVE SESSION.

Mr. INGALLS. I renew the motion that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After nine minutes spent in executive session the doors were reopened, and (at 4 o'clock and 21 minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *January* 7, 1885.

The House met at 12 o'clock m. Prayer by the Chaplain, Rev. JOHN S. LINDSAY, D. D.

The Journal of yesterday's proceedings was read and approved.

SUPPORT AND EDUCATION OF INDIAN PUPILS.

The SPEAKER, by unanimous consent, laid before the House a letter from the Secretary of the Treasury, resubmitting the estimate from the Secretary of the Interior of an appropriation of $2,000 for support and education of certain Flathead Indian pupils, which estimate was transmitted to the House by the Secretary of the Interior December 11, 1884; which was referred to the Committee on Appropriations, and ordered to be printed.

LIGHT-HOUSE, ETC., AT MOUTH OF DETROIT RIVER.

The SPEAKER, by unanimous consent, also laid before the House a letter from the Secretary of the Treasury, transmitting an estimate from the Light-House Board of an appropriation of $18,000 for completing the light-house and fog-signal at the mouth of Detroit River, Michigan; which was referred to the Committee on Appropriations, and ordered to be printed.

GUN FACTORY, ETC.

The SPEAKER, by unanimous consent, also laid before the House a letter from the Secretary of the Treasury, submitting estimates from the Secretary of the Navy of appropriations for the erection of a gun factory and for the purchase of steel for manufacture of heavy ordnance in pursuance of recommendations of the gun-foundery board, $2,500,000; which was referred to the Committee on Appropriations, and ordered to be printed.

ORDER OF BUSINESS.

Several members addressed the Chair.

Mr. REAGAN. I call for the regular order.

The SPEAKER. The gentleman from Texas, as the Chair understands, insists upon the regular order.

Mr. TUCKER. I ask my friend from Texas to allow me to submit for consideration by unanimous consent a resolution in reference to business of the Judiciary Committee.

Mr. REAGAN. If the matter can be disposed of without debate, I withdraw for the present my demand for the regular order.

BUSINESS OF JUDICIARY COMMITTEE.

Mr. TUCKER, by unanimous consent, submitted the following resolution; which was read, considered, and adopted:

Resolved, That Tuesday, January 13, be assigned to the Committee on the Judiciary for the consideration of such business as may be presented by said committee; this order not to interfere with the consideration of general appropriation and revenue bills, and the special order adopted January 21 last, relating to reports from the Committee on Public Lands; and in case this order shall be interfered with on that day, it shall be continued in force until one day thereafter has been occupied by the Committee on the Judiciary.

Mr. TUCKER moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

INTERSTATE COMMERCE.

Mr. RANDALL and others called for the regular order.

The SPEAKER. The regular order being demanded, the Clerk will report the title of the bill which was under consideration at the adjournment of the House immediately before the holiday recess, and which now comes up as the continuing special order.

The Clerk read as follows:

A bill (H. R. 5461) to establish a board of interstate commerce and to regulate such commerce.

The SPEAKER. The Chair thinks there is an amendment pending.

Mr. TOWNSHEND. I desire to ask the gentleman from Texas when he expects to get a vote on this bill. I presume he can give us some indication.

The SPEAKER. The bill is now being considered in the House as in Committee of the Whole House on the state of the Union, and it is open to amendment on each section.

Mr. TOWNSHEND. I merely wanted the gentleman from Texas to indicate to the House when he intends to take a final vote on the bill.

Mr. O'NEILL, of Pennsylvania. In about two weeks, I suppose.

The SPEAKER. The pending question is on the motion to strike out the fourth section of the bill.

Mr. REAGAN. As I understand the yeas and nays were ordered on a motion to close debate on the fourth section.

The SPEAKER. The Chair will state to the gentleman from Texas that there was a motion made to close debate, but it was finally agreed that the gentleman from Pennsylvania [Mr. O'NEILL] should have ten minutes. There are now ten minutes remaining for debate upon the motion to strike out the fourth section. The gentleman from Pennsylvania is entitled to the floor.

Mr. O'NEILL, of Pennsylvania. Mr. Speaker, I ask for the reading of the fourth section, which I propose to strike out.

The section was again read.

Mr. HORR. My recollection is, Mr. Speaker, that we have never debated that section at all under the five-minute rule.

The SPEAKER. Yes, it has been debated and amended, and finally, when there were no other amendments to the text, the gentleman from Pennsylvania [Mr. O'NEILL] moved to strike out the entire section, and on that the debate was limited to ten minutes.

Mr. O'NEILL, of Pennsylvania. Mr. Speaker, I wish the gentleman from Texas [Mr. REAGAN] could have replied to the gentleman from Illinois [Mr. TOWNSHEND] when he asked when it was proposed to get through with this bill. The gentleman from Texas did not, I suppose, hear the question which was propounded to him, and I ventured at the time the short answer I supposed it would be disposed of in two weeks.

I will simply say, Mr. Speaker, that if it is the intention of this House to block all the important business of the session for the purpose of considering this bill, which seems to admit of so much discussion on every imaginable subject, then these gentlemen, if they wish to consult the interest of their constituents, had better make some movement to get before the House some of the important bills demanding attention, and let this matter be postponed for the present. Then we can see exactly where we stand in this House so far as the business of the country is concerned.

In reference to this particular question of long and short hauls I feel that I have been heard sufficiently in the remarks made when the matter was under discussion during the first days of the session. Now, all I desire to say further before yielding to my friend from Michigan

[Mr. HORR] is this, that the entire experience of railroad men, the entire experience of those interested in railroads, the innocent citizens so to speak, is that it is an utter impossibility to try to compel in their varied business the railroads to carry out any provisions restricting them to particular arrangements as to how they shall carry freights on long or short hauls. I do not see, Mr. Speaker, and I say this in all seriousness and in all sincerity, how it is possible to trammel the railroad corporations of this country so as to oblige them to carry out the idea promulgated in the fourth section of this bill. The experience of the members upon this floor—and I would like to call the attention of the House to the remarks of the gentleman from New York [Mr. HEWITT] on this subject, the remarks of a gentleman who has had so much to do in all kinds of business, who has been prominent in great enterprises—I say I would like to call particular attention of the members on this floor to the remarks of that gentleman where he showed in a logical manner how impossible it was to expect to trammel railroad corporations in the way indicated and so aid the shippers by any such injudicious action. I wish to protest again that never in the experience of any of these men who have been before the Committee on Commerce—I speak as well of railroad men as those interested in the carrying of freight on railroads—not one of them has given any intimation that any railroad company has charged more in proportion for a shorter haul simply because it wanted to charge less for a longer haul.

I will now yield to the gentleman from Michigan [Mr. HORR], with the expression of the hope that this House with a direct vote will strike out this fourth section of the bill, which, in my judgment, is so inimical to the business interests of this country.

Mr. HORR. Mr. Speaker, this fourth section contains a principle which will do more to render this bill absolutely injurious to the business interests of this country than all the balance of the provisions combined. That attempt to prevent competition in the carrying of products for long distances from the West and South to the East and to the seaboard will cripple the industries of this country beyond the power of expression. I say to the House that once enforce that bill and you will simply prevent the cheap food we eat to-day in the East from ever reaching that East at rates such as can compete with the importations from abroad.

The wheat of Minnesota, Kansas, Nebraska, and Iowa is reaching the seaboard to-day at a very low figure, and reaching it at those figures simply because the through rates are not trammeled as this bill would trammel them. You can not possibly run the railroads of this country and keep them in existence if you compel the local traffic to be carried upon the same principles or upon the same bases you do the long through traffic which travels thousands of miles.

I have stated already to the House, Mr. Speaker, but I want to repeat it, that this fourth section will do more to cripple the commerce of the West and to reduce the price of land in every Western and Southern State than any clause I can now possibly imagine this House could adopt.

Now, understand me. I expect you gentlemen intend to pass this bill; but let me say one thing, which perhaps I ought not to say, but once and awhile I like to say a thing which one may not have the right to say, and that is this: If you gentlemen would be governed by your ideas of what are proper business principles this fourth section could not get twenty votes on your side of the House, and if it is passed it will be passed simply as a matter of political clap-trap, in order that you may claim to have done something against the railroad monopolies of this country.

Take all of that sort of humbug out of the minds of you gentlemen, and as a business proposition I hope you know too much to pass a law which will cripple the entire business of the country, as this bill will cripple it.

I do not expect you to strike out this section, but I do expect to have the glorious privilege of not only telling this House what I believe the result will be, but of voting according to my convictions on business principles on such a purely business matter. On business principles, I repeat, no man can sustain this fourth section. It will do more to injure the transportation of this country than any one small section in any bill ever passed by this House. It ought to be stricken out.

The SPEAKER. The question is on the motion of the gentleman from Pennsylvania to strike out the fourth section of the bill.

The question was taken.

Mr. VALENTINE. I think we had better have the yeas and nays.

The yeas and nays were ordered, forty-three members voting in favor thereof.

The question was taken; and there were—yeas 90, nays 128, not voting 105; as follows:

YEAS—90.

Adams, G. E.	Brewer, F. B.	Dingley,	Harmer,
Aiken,	Buckner,	Dorsheimer,	Haynes,
Atkinson,	Budd,	Dowd,	Henderson, D. B.
Barr,	Cannon,	Eaton,	Henderson, T. J.
Belmont,	Chace,	Findlay,	Hepburn,
Bisbee,	Clardy,	Glascock,	Hewitt, A. S.
Boutelle,	Culbertson, W. W.	Greenleaf,	Hewitt, G. W.
Bowen,	Cullen,	Hammond,	Hitt,
Brainerd,	Cutcheon,	Hanback,	Holmes,
Breitung,	Davis, G. R.	Hardeman,	Horr,
Howey,	Milliken,	Pusey,	Thomas,
James,	Mitchell,	Ranney,	Tillman,
Jeffords,	Morrill,	Reed,	Wadsworth,
Johnson,	Morse,	Rockwell,	Wait,
Kean,	Nicholls,	Rowell,	Wakefield,
Kelley,	O'Hara,	Ryan,	Washburn,
Ketcham,	O'Neill, Charles	Seymour,	White, Milo
Lacey,	O'Neill, J. J.	Smalls,	Whiting,
Lawrence,	Payne,	Smith, A. H.	Wilson, James
Libbey,	Perkins,	Stone,	Woodward,
Long,	Peters,	Strait,	York.
Lyman,	Post,	Struble,	
Millard,	Price,	Taylor, E. B.	

NAYS—128.

Alexander,	Dibrell,	McAdoo,	Shively,
Anderson,	Eldredge,	McComas,	Singleton,
Bagley,	Elliott,	McCormick,	Snyder,
Ballentine,	English,	McMillin,	Stewart, Charles
Barksdale,	Ermentrout,	Matson,	Stockslager,
Bayne,	Everhart,	Mayberry,	Storm,
Beach,	Ferrell,	Miller, J. F.	Sumner, C. A.
Blackburn,	Fiedler,	Mills,	Swope,
Blanchard,	Foran,	Money,	Talbott,
Bland,	Forney,	Morgan,	Taylor, J. M.
Blount,	Fyan,	Moulton,	Thompson,
Boyle,	Geddes,	Murphy,	Throckmorton,
Breckinridge,	George,	Murray,	Townshend,
Brown, W. W.	Gibson,	Mutchler,	Tucker,
Browne, T. M.	Green,	Neece,	Tully,
Buchanan,	Halsell,	Nelson,	Turner, H. G.
Burnes,	Hardy,	Oates,	Turner, Oscar
Cabell,	Henley,	O'Ferrall,	Van Eaton,
Caldwell,	Herbert,	Payson,	Wallace,
Campbell, Felix	Holman,	Peel,	Warner, Richard
Campbell, J. M.	Hopkins,	Pierce,	Weaver,
Cassidy,	Houk,	Pettibone,	Wellborn,
Clements,	Houseman,	Pryor,	Wemple,
Cobb,	Hunt,	Randall,	Wilkins,
Cosgrove,	Jones, J. H.	Reagan,	Williams,
Covington,	Kleiner,	Reese,	Willis,
Cox, S. S.	Lamb,	Riggs,	Wilson, W. L.
Cox, W. R.	Lanham,	Robertson,	Winans, E. B.
Crisp,	Le Fevre,	Rogers, J. H.	Wise, G. D.
Curtin,	Lewis,	Rogers, W. F.	Wolford,
Davidson,	Lore,	Rosecrans,	Worthington,
Davis, L. H.	Lovering,	Seney,	Yaple.

NOT VOTING—105.

Adams, J. J.	Dunn,	Keifer,	Skinner, C. R.
Arnot,	Ellis,	Kellogg,	Skinner, T. G.
Barbour,	Ellwood,	King,	Slocum,
Belford,	Evans,	Laird,	Smith, H. Y.
Bennett,	Finerty,	Lowry,	Spooner,
Bingham,	Follett,	McCold,	Spriggs,
Bratton,	Funston,	Miller, S. H.	Springer,
Brewer, J. H.	Garrison,	Morrison,	Steele,
Broadhead,	Goff,	Muldrow,	Stephenson,
Brumm,	Graves,	Muller,	Stevens,
Burleigh,	Guenther,	Nutting,	Stewart, J. W.
Campbell, J. E.	Hancock,	Ochiltree,	Sumner, D. H.
Candler,	Hart,	Paige,	Taylor, J. D.
Carleton,	Hatch, H. H.	Parker,	Valentine,
Chalmers,	Hatch, W. H.	Patton,	Van Alstyne,
Clay,	Hemphill,	Phelps,	Vance,
Collins,	Hill,	Poland,	Ward,
Connolly,	Hiscock,	Potter,	Warner, A. J.
Converse,	Hoblitzell,	Rankin,	Weller,
Cook,	Holton,	Ray, G. W.	White, J. D.
Culberson, D. B.	Hooper,	Ray, Ossian	Winans, John
Dargan,	Hurd,	Rice,	Wise, J. S.
Davis, R. T.	Hutchins,	Robinson, J. S.	Wood,
Douster,	Jones, B. W.	Robinson, W. E.	Young.
Dibble,	Jones, J. K.	Russell,	
Dockery,	Jones, J. T.	Shaw,	
Dunham,	Jordan,	Shelley,	

So the motion to strike out was not agreed to.

On motion of Mr. BAYNE, by unanimous consent the reading of the names was dispensed with.

The following members were announced as being paired on all political questions until further notice:

Mr. MULLER with Mr. DUNHAM.
Mr. DARGAN with Mr. KELLOGG.
Mr. SHAW with Mr. FINERTY.
Mr. JONES, of Arkansas, with Mr. RUSSELL.
Mr. YOUNG with Mr. STEWART, of Vermont.
Mr. DIBBLE with Mr. SMITH, of Iowa.
Mr. CARLETON with Mr. ROWELL.
Mr. HOUSEMAN with Mr. BREITUNG.
Mr. CONNOLLY with Mr. BINGHAM.
Mr. JORDAN with Mr. LAIRD.
Mr. MORRISON with Mr. HISCOCK.
Mr. CULBERSON, of Texas, with Mr. NUTTING.
Mr. HATCH, of Missouri, with Mr. HATCH, of Michigan.
Mr. JONES, of Alabama, with Mr. BURLEIGH.
Mr. ARNOT with Mr. BELFORD.
Mr. POTTER with Mr. EVANS.
Mr. BENNETT with Mr. SPOONER.
Mr. WELLER with Mr. MILLER, of Pennsylvania.
Mr. DOCKERY with Mr. HOOPER.
Mr. SPRINGER with Mr. GUENTHER.
Mr. CLAY with Mr. MCCOID.
Mr. FOLLETT with Mr. JOHN S. WISE.
Mr. GRAVES with Mr. WHITE, of Kentucky.
Mr. WARD with Mr. RICE.

Mr. CONVERSE with Mr. CHALMERS.
Mr. LOWRY with Mr. STEELE.
Mr. VAN ALSTYNE with Mr. ELLWOOD.
Mr. DUNN with Mr. RAY, of New York.
Mr. VANCE with Mr. RAY, of New Hampshire.
Mr. MULDROW with Mr. MILLARD.
Mr. HILL with Mr. CHALMERS, on the interstate commerce bill.
Mr. FINLEY with Mr. STEWART, of Vermont, on the triple-damage clause.
Mr. CAMPBELL, of Ohio, with Mr. SKINNER, of New York, until January 12.
Mr. PAIGE with Mr. HART, on this bill.
Mr. ROBINSON, of New York, with Mr. MILLER, of Pennsylvania.
Mr. RANKIN with Mr. OCHILTREE, on the interstate commerce bill.
Mr. SHELLEY with Mr. STEPHENSON, until further notice.
Mr. PATTON with Mr. VALENTINE, for this day.

Mr. BINGHAM. Mr. Speaker, my name has been announced as paired with my colleague, Mr. CONNOLLY. My pair was only to extend until Monday. I believe, however, it will be arranged. I make the announcement in justice to myself and to him, and will withdraw my vote.

The result of the vote was then announced as above recorded.

CONSULAR APPROPRIATION BILL.

Mr. BURNES, from the Committee on Appropriations, reported a bill (H. R. 7857) making appropriations for the consular and diplomatic service of the Government for the fiscal year ending June 30, 1886, and for other purposes; which was read a first and second time, referred to the Committee of the Whole House on the state of the Union, and ordered to be printed.

Mr. DINGLEY. I reserve all points of order on this bill.

INTERSTATE COMMERCE.

Mr. EVERHART. I offer the amendment which I send to the desk.

The Clerk read as follows:

At the end of section 4 add the following:
"*Provided*, That this restriction shall not apply to any railroad company in competition with water-way lines of transportation running laterally in the same direction."

The question being taken on the amendment, it was not agreed to.

Mr. HOPKINS. I desire to offer an amendment to this section corresponding with the amendment already adopted to the first section; and I ask unanimous consent that to avoid the necessity of offering repeated amendments to the different sections the same words be added in each section where they apply.

The SPEAKER. The gentleman from Pennsylvania will send up his amendment.

The Clerk read the proposed amendment, as follows:

In line 6, section 4, after the word "railroad," insert "or pipe line."

The amendment was agreed to.

Mr. HOPKINS. I also offer the following amendment.

The Clerk read as follows:

In line 7, section 4, after the word "road," where it twice occurs, insert "or pipe line."

The amendment was agreed to.

Mr. HOPKINS. I now ask unanimous consent that the same amendment be made to the subsequent sections of the bill.

The SPEAKER. The Chair will suggest to the gentleman from Pennsylvania that those parts of the sections where he desires to insert the words indicated may be stricken out. The gentleman had better reserve his amendment until the sections are under consideration.

Mr. HOPKINS. Very well, I shall do so.

The Clerk read section 5, as follows:

SEC. 5. That all persons engaged in carrying property as provided in the first section of this act shall adopt and keep posted up schedules which shall plainly state:

First. The different kinds and classes of property to be carried.

Second. The different places between which such property shall be carried.

Third. The rates of freight and prices of carriage between such places, and for all services connected with the receiving, delivery, loading, unloading, storing, or handling the same. And the accounts for such service shall show what part of the charges are for transportation, and what part are for loading, unloading, and other terminal facilities.

Such schedules may be changed from time to time as hereinafter provided. Copies of such schedules shall be printed in plain, large type, at least the size of ordinary pica, and shall be kept plainly posted for public inspection in at least two places in every depot where freights are received or delivered; and no such schedule shall be changed in any particular except by the substitution of another schedule containing the specifications above required, which substitute schedule shall plainly state the time when it shall go into effect, and copies of which, printed as aforesaid, shall be posted as above provided at least five days before the same shall go into effect; and the same shall remain in force until another schedule shall as aforesaid be substituted. And it shall be unlawful for any person or persons engaged in carrying property on railroads as aforesaid, after thirty days after the passage of this act, to charge or receive more or less compensation for the carriage, receiving, delivery, loading, unloading, handling, or storing of any of the property contemplated by the first section of this act than shall be specified in such schedule as may at the time be in force.

Mr. REAGAN. I desire to make a *pro forma* amendment for the purpose of expressing some views in reference to a speech made recently by the gentleman from New Jersey [Mr. PHELPS].

Mr. O'NEILL, of Pennsylvania. I hope other gentlemen will be allowed to express their views on this section without being cut off by calling the previous question.

Mr. REAGAN. On the last day before this on which the bill before the House was under consideration—the 19th of December—the gentleman from New Jersey [Mr. PHELPS] made a very extraordinary speech, to which I would then have replied if I could have heard his remarks, which I was prevented from doing by the confusion in the Hall. Though the holidays have intervened the remarks of the gentleman require an answer now, on the first occasion on which it could be made.

The gentleman said he arose to oppose the amendment of the gentleman from New York [Mr. HEWITT], but made his speech on the side taken by that gentleman. He then said:

I arise to oppose the amendment. The discussion begins already to emphasize the unwisdom and injustice of the bill. It is a vain effort to make a code which shall control the management of railways in all cases. But these cases are infinite in number and very nearly infinite in variety. How absurd to suppose that all these cases can be held in the iron grasp of half a dozen absolute restrictions.

This shows that either he had not read the bill he was animadverting on, or that if he had read it he did not understand it. It is not an effort to make a code which shall govern railroads in all cases, infinite in number and variety, as he alleges. It only prohibits their managers from committing crimes against their patrons, and provides for their punishment when they do so. He next says:

But you can not say to a railroad company, "You shall not discriminate, you shall not rebate, you shall not pool, you shall not charge more for a longer haul," because in many cases all these methods are right and in many cases they are necessary—necessary even to the very existence of the road. And because they are necessary often to their very existence the railways will elude, evade, and openly transgress the restrictions, looking to popular opinion to shield them from the penalty. Just as the gentleman from Texas, if his life were threatened, would, in defending it, violate all laws and escape all punishment.

But he has in no way enlightened us as to how the making of discriminations between shippers, the allowance of rebates, the practice of pooling, or the charging of more for a short than for a long haul are right and necessary "to the very existence of the railroads." And because they are necessary, he says the railroads will elude, evade, and openly transgress restrictions.

The gentleman undoubtedly wishes us to understand that the railway corporations are now the masters of this country and of its property and rights, and that, being masters, they will disobey and defy our laws if the laws do not please them. And we should remember that this comes from one who is largely interested in the ownership and management of railroads, and who has, at the same time, been selected by his constituents as one of the lawmakers of the United States. He then said:

And if you fear that some obstacles are too mighty, remember that ten years ago we all said, with the Erie, the Central, and the Pennsylvania Railways in the field, New York can secure no relief except from the resources of the national Treasury. But while we spoke, competition, raising $100,000,000 without public knowledge or public solicitation, threw the Nickel Plate and West Shore into the arena, and there they will remain. [Applause.]

* * * * * * *

Managers were never more solicitous for business, and never more ready to make sacrifices to get it. They know that rivals are so many they must themselves create and develop it, and in a one-sided partnership, where the customer gets all the benefit, they aid him in its creation or development.

If this means anything it is that these trunk roads named are competing roads, and that the Nickel Plate is a competitor of all the rest for cheap freights for the benefit of the people. Now, if he does not know it everybody else does, that this statement is not true. We all know, and he must know, that all of the roads he named and many more have pooled their freights and earnings, and are now being operated under the pool in order to effectually deprive the people of all the benefits of competition, and in order that they may be enabled to dictate such charges for carrying freight as they may think proper. And we must infer from another part of the remarks of the gentleman from New Jersey [Mr. PHELPS] that this is his idea of the method of making railroad management popular with the people and of gratifying the natural desire of the railroad managers to secure "that good report, that good reputation, which is the highest prize of life."

The gentleman from New Jersey draws a distinction between the managers of railroads, whom he honors, and the great speculators in their securities, whom he despises. His statement on this point would have been more satisfactory if he had gone a little further and told us to which of these classes he assigns Mr. Gould and Mr. Vanderbilt. Are they not both engaged in the management of great systems of railroads? Are they the good men who manage railroads, or are they of those who, to use the language of the gentleman from New Jersey, "seize the stock, hold it for a day, until they have worked their own wicked will on it, and then cast it out dishonored, to be the prey of the next adventurer."

The gentleman from New Jersey then caps the climax of his argument in the following brilliant peroration:

Let, then, the laws of man and of nature continue their work of progress and reform. Why attempt to restrict, why pass restrictions which will interfere with these general laws, which are working out the results you pretend to wish? Your effort is vain; your restrictions will be disregarded. Do you ask me how?

The railways, if these restrictions should become laws, will ostentatiously break them all. They will invite litigation until the wheels of the courts are clogged. That will challenge public attention, and public attention is redress. Or they will issue an order, which the whole railway system shall obey, that every locomotive from sea to sea shall stay in its roundhouse; then there will follow a silence from Portland in Oregon to Portland in Maine that can be felt, and only one voice will be heard, the familiar voice of our Speaker: "The gentleman from Texas asks unanimous consent to consider a bill to repeal an act entitled 'An act to regulate interstate commerce.' Is there objection?" Mr. Speaker, just so sure as the report follows the flash, we shall hear as the end of the matter: "The Chair hears none." [Loud applause.]

This is the language of a member of this House; of one branch of one of the most august legislative assemblies in the world. It is the language of a man of great wealth and of high social position. It is the language of an extensive railroad owner and representative. It is the language of one who, from his social position, great wealth, and political eminence, we would reasonably expect to find law-abiding and conservative, a lover of order regulated by law. But he chooses in this arena, in this law-making assembly, and before the whole American people, in the interest of a class of people, to menace and attempt to intimidate Congress with a threat that if it passes a just and reasonable and necessary law to protect the great body of the people against the greed, the rapacity, the tyranny of the class which he represents, that class will "ostentatiously" violate that law and "invite litigation until the wheels of the courts are clogged." And this threat is made in view of the fact that the managers of the railroads can, and do now, besides paying the interest on the investments in them, levy such tribute as they please on the commerce of the country to pay hired lawyers and lobbyists to control conventions and elections and to influence Legislatures and Congress in opposition to the passage of laws to take this extraordinary power from them and to protect the people against them. But I think the gentleman misjudges as to their power to block the wheels of the courts so as to prevent the administration of justice. His friends would no doubt soon become tired of this luxury. There are too many courts, State and Federal, and too much purity and patriotism still left on the bench of the country for the railroads to intimidate or to suborn them all.

His other threat, that the railroads will issue an order, if this bill shall be passed, "which the whole railroad system *shall* obey"—no *may* about this—"that every locomotive from sea to sea shall stay in its roundhouse until there will follow a silence which will be felt from Portland in Oregon to Portland in Maine," is as puerile as it is utterly without the support of law or the sanction of morals; as wanting in discretion as it is unjust in purpose. If the railroad managers should be foolish enough and wicked enough to attempt to put this threat into execution they would lay themselves liable, at the suit of every shipper, for the damage caused by their non-performance of their duty. And if they would adhere for a sufficient time to so suicidal a policy they would get judgments enough against them to cause the sale of their roads and their transfer to the hands of others, who would no doubt protect themselves by avoiding such folly in future. And, besides this, by such conduct they would forfeit their charters and subject them to be revoked on account of so wicked an attempt to use them for lawless and revolutionary purposes.

This attempt to intimidate and overawe Congress by such threats to use lawless violence to nullify an act of Congress passed in the exercise of its undoubted constitutional authority and for a most beneficent purpose is addressed to the wrong body and in the wrong age of the world to either have the desired effect or to command the respect of a virtuous and law-abiding people. [Applause.]

[Before Mr. REAGAN had concluded the above remarks the five minutes to which he was entitled expired.

Mr. WILSON, of Iowa, was recognized and yielded Mr. REAGAN his time.

Mr. REAGAN then resumed and concluded the remarks printed above.]

Mr. PHELPS was recognized, and asked how much time he was entitled to.

The SPEAKER. The gentleman from New Jersey is entitled to five minutes under the rules of the House.

Mr. PHELPS. It will be scarcely possible to treat of this whole subject, as touched by the gentleman from Texas, in so short a time. The time, however, is sufficient for me to say that I recognize in his remarks just that intellectual defect, if I may say it without offense, which has made it impossible for him to prepare a bill which would be operative and therefore useful; one that would work, and therefore that could be enforced. It is an inability to make proper and natural distinctions. I stated what under the laws of trade and nature will be; and the gentleman claims that I stated what ought to be, as if I were the Almighty, and threatened what should be. He has failed to recognize the distinction between a prophecy and a threat. I made no threat. I have no power to carry a threat into execution, and certainly have no wish to see the prophecy fulfilled and the business of this country blocked by the gentleman's bill and the action of the railways under it. Whether I am a true prophet or not time will show. Whether I have grounds for making this prophecy or not the past and its history fortunately can show. There are precedents.

Take a case, coming out of this House, not very different from this case which the gentleman from Texas is anxious to inject into it. Both cases struck the legislation of the country. Probably the gentleman is not familiar with the case I refer to. Were he, he would have recognized that my prophecy was only an easy prediction of the future from the past.

The gentleman from Texas was in another section of the country and engaged in giving his high character and his great ability to the support of another cause when a distinguished Representative of Pennsylvania, equally able, equally respectable, giving his efforts to the cause of the Union, concluded that he would undertake by legislation to correct the crying evil of those times. He thought the great obstacle to a successful prosecution of the war which was waged for our country was the speculation in gold—was that speculators would buy and sell it and raise its price—just as the great trouble at this time, in the opinion of the gentleman from Texas, is that railways will manage their business with the object of making money by it, will charge for their services, and will not consent to carry the freight and passengers of the country for nothing. He sees that it would be for the interest of his section of the country if they were forced to change this policy. So it was for the interest of Mr. Stevens's section of the country in its loyal struggle that gold should be kept at par, and he made the attempt to do it. Is there a man on this floor, unless possibly my friend from Texas, who forgets the result of that effort?

The great Republican leader passed his bill prohibiting all dealings in gold. He too was shocked at the suggestion that any act of this august legislative body should stand helpless before the facts, yet how short was the time before he found that his attempt to overcome the natural laws of trade and commerce was a pitiable failure. The price of gold, in proud defiance, rose rapidly out of sight; business was checked, the existence of the country was threatened; and, wise as patriotic, no member was readier than the author to assist in the immediate repeal of the unfortunate law. And I did the justice to the gentleman from Texas to suppose, as I stated in what he is pleased to call my eloquent peroration, that when the laws of commerce and trade should be found to be just as potent against his edict as they were against that of Thaddeus Stevens he would be just as wise and patriotic in the readiness with which he would ask that his edict might be annulled and the business of the country restored. This is why I say, Mr. Speaker, I had a right to prophesy, not to threaten, what I did; and in my statement there was much of prediction and nothing of threat.

[Here the hammer fell.]

Mr. PHELPS. If I could be allowed——

Mr. KEAN. I will take the floor and yield my time to my colleague.

Mr. PHELPS. Mr. Speaker, perhaps I now yield to an indiscretion—I certainly yield to a very natural feeling of injury, in view of the fact that it is the gentleman from Texas who makes this attack and seems to inspire it with a certain suggestion of personal feeling. I recognize this, I say, with an impression that it is unbecoming and unjust. He has been pleased to class me as among those citizens of this Republic who by frugality and industry, by honorable and honest methods, I hope, have accumulated a competence. He has been pleased to call me a rich man. If I may make a personal confession—and I make it now only under his taunt and in the interest of the truth, which we all search for in this great discussion—I can say this: If once I enjoyed that distinction, such as it is, which belongs to wealth, that distinction has been diminished, has been almost entirely destroyed; and if I were asked where I found the origin of my misfortunes, I should be obliged to say that the gentleman himself knows the origin; and the gentleman himself lives in the very section and uses the same railway in which half a million of dollars intelligently and honestly invested were sunk, and apparently were sunk forever.

I have no hesitation in charging that the railway which made his home at Palestine valuable, and gave it distinction other than the solitary distinction which it enjoyed before of being the residence of an able and patriotic citizen, obtained its railway connection, secured its growth and all the advantages which it now enjoys and which the gentleman from Texas himself shares, through the efforts and sacrifices of myself and some dozen of my friends, who, in a New York office, agreed to embark in the enterprise. It was an enterprise to build a railway which, starting at Houston, should traverse the State and open up counties which were then almost worthless to connection with the North and the South. This was an honorable and a useful purpose; I put in my money cheerfully, and citizens associated with me, of more wealth but with equally honest purpose, put in still larger sums. The money was expended, dollar for dollar, in the construction of the road; we took for it stock at par; we received for it nothing else, not even bonds, which we might have sold.

It was our pride to test and settle this question: Could a railway be built honestly, with each dollar that was actually invested represented and no other, no watering of stock or bonds, and pay a fair interest upon the money invested? So dollar after dollar, to the amount of some millions, each one of which passed through my hands, was faithfully sent down to the State of Texas and put into the Great Northern Railroad. It was invested in buying land, in making cuts and fillings, in bridging streams, in purchasing and laying the rails upon the road which

now connects the Gulf of Mexico with the great system of railways by which Palestine has become an important station on a great through route. That was the result for Palestine and Texas. What has been the result for us? Our money is in that railroad, honestly and carefully expended as a man expends his own, and as yet I have not received one dollar of interest upon that stock, nor do I ever expect to obtain any. The investment would be to me and to my friends an absolute loss, that money would all have been lost, except for this precaution: I foresaw the benefits that would be received by the gentleman from Texas and others who owned land along the route, so I wisely made some investment in it myself.

The lands did receive the benefit—were so far benefited by this New York money which was made to enrich them, and among them the farm and other real estate of my friend in Palestine, that our loss, although not recouped, was somewhat broken by their appreciation in value. Land on this road now sells for two, three, or four times its value at the time this undertaking was begun.

If, then, this railroad has accomplished so much for his section; if it has made us who gave it lose all of the money which built it; if we built it nor asked one dollar from the gentleman, though his farm was sure to get an advantage from it; if not one dollar was received from any other citizen of Texas, is it strange that having had this experience in that State and similar experience in other States we are hurt at the reception we receive here when we get up and speak not from theory but from experience, not immodestly, not arrogantly, telling only what we know, even if we do in the interest of truth tell the gentleman from Texas that we speak of actual knowledge while he speaks only as a theorist.

Nothing would give me greater pleasure than to show exactly how each one of his four restrictions, that against discrimination, against rebates, against pooling, against charging more for shorter than for longer hauls, all of them would injure every single acre of his farming land around Palestine, and crush, as if under an avalanche, every growing industry in its streets.

[Here the hammer fell.]

Mr. REAGAN. In the first place, Mr. Speaker, I wish to disabuse the mind of the gentleman from New Jersey that I was in any way animated by any feeling of special malevolence against him, as such was not the fact. I was dealing with a great public question, and to the language I then used I refer the House and the country to see whether the animadversions which I felt it my duty to make are justly founded or not.

I should regret, Mr. Speaker, if the gentleman had his investment sacrificed in building up the country or its railroads, but I apprehend the gentleman's picture is deficient in the statement of all the facts. He says the investment was made in that railroad. There were two of them, but both were under one charter. One of them received sixteen sections of six hundred and forty acres of land to the mile and the other received twenty sections of six hundred and forty acres of land to the mile. The one which received the smallest amount received a bonus, upon which I am now paying a tax, to the amount of $150,000 from the poor county in which I live in order to induce the building of a depot there. And I contributed also my full portion of about $50,000 in money and property in order to secure the building of a depot of the other road at that place.

Therefore, while the gentleman is speaking of the munificence of his liberality, he ought to remember that he and the others to whom he has referred received liberal charters from the State and most generous treatment on the part of the county in which I live.

I wish to say further, that notwithstanding the magnificent treatment on the part of the State, the county, and district in which I live to these railroads, there is not one there to-day who would desire to see any injury befall these railroads, so far as I know. We wish them to prosper. We regard them as valuable, as excellent servants; but we regard them also as detestable masters. We do not wish them as masters. We do not intend to have them as masters. We wish them well. We hope they may be profitable. In view of the liberal charters granted to the roads in which the gentleman is a stockholder, besides the bonus of land and money given by others in the State, I do not think that his remarks on this subject were quite what they ought to have been.

Mr. PHELPS. Mr. Speaker, I rise to oppose the amendment. I did not mean to say the railroads did not receive any aid from the State of Texas, nor do I think I made my statement so as to warrant that conclusion. What I said was, that there was no citizen of Texas asked to subscribe, or who did, so far as I know, subscribe one dollar of his private funds to the construction of this railroad. It was the gift exclusively of Northern capital.

With reference to the generosity of the State I want to say this: The inducement to build this railroad, for at that time the unoccupied country offered no business to encourage its construction, was the formal act of the State by which it agreed to give us its bonds. I regret that truth requires me to state what I had no intention of stating, and what is now drawn out by the comments of the gentleman, that the State of Texas having agreed with us that in consideration of building this road they would give us of those bonds a certain number to the mile, did absolutely refuse to keep their bargain, and did repudiate their obligation.

Every effort was made by appeals to the Legislature and to the executive and elsewhere throughout the State to obtain a fulfillment of their promise, but the State persisted. The bonds were prepared, signed, and ready for delivery, but Texas refused to issue and deliver them to the railroad company. Had the State of Texas kept its promises, had it not repudiated its just obligations, and had it given to us the $8,000 to the mile that were promised—a repudiation and refusal, which they wisely made after the railway was constructed and built—I believe that before this time we might have received some interest upon our investment. As it is, the investment is there; it produces no results for the investors. And the road is there; it is run satisfactorily and produces valuable results to Texas and its citizens who use it. It satisfies all their reasonable wants; it is giving them rates of freight and passage cheaper than any known outside of the United States; and yet we are not getting from it one dollar of interest. And while the gentleman from Texas tells us that the charter is so good and the State is so good that we shall see in time a profit, are we impatient when we complain in the face of his statement that he would be glad to administer the investment himself under the laws of the United States, that we ought to be paid some of the interest of the last twelve years before our property is taken from us?

I would like to show, Mr. Speaker, in the three minutes remaining, how the first restriction imposed by the gentleman would affect his own home at Palestine. He would forbid all discrimination. In the shipment of all classes of freights brought to the same station at the same time, he would enforce, under penalty, equal dispatch. If the railway moved one parcel before another it would be punished. Well, let us see how such a provision would work at Palestine. Let us suppose three kinds of freight are delivered at this station for transportation on the same day. Let us assume that one is a shipment of fruit, one a shipment of coal, and the other a shipment of grain. They are delivered at the Palestine station at the same time, and must therefore, under the Reagan law, be carried off at the same time. The daily freight train comes along to its regular morning task with the usual number of vacant cars ready for the ordinary needs of Palestine, but the three shipments make more than the usual tonnage. The capacity of the empty cars is not sufficient for all the freight, and only part of it can be taken. The wise conductor, remembering the law and knowing its penalty, glances at the three piles of freight, then at the empty cars on his train, and recognizes the fact that he has not accommodations for the whole. He signals the engineer, the whistle is blown, and the train goes southward to Houston, ignoring fruit, coal, and corn. All three classes of goods are left at the station. What is the result? The fruit which might have been carried forward without injury is either injured or destroyed by the delay. The coal which was needed at Houston to keep in blast an iron furnace is left at Palestine; operations stop at the furnace, its fires burn low and its workers stand in enforced idleness—loss of capital and of work.

The law of the gentleman from Texas must be charged with the loss of this work and capital and with the loss or destruction of the fruit. And with what is it credited? What has it accomplished? Nothing; and all this is done in order that the grain, which might have been delivered days after without loss or injury to anybody, shall have the same facilities and be delivered at the same time as the coal and the fruit. It has estopped the owner of the grain from assailing his member of Congress at Palestine with the complaint that some one's coal and some one's fruit was carried by the railway before his grain; that it was an outrageous discrimination, and that he demands that the laws of the United States shall be made to prevent such outrages. And that is all it has done.

[Here the hammer fell.]

Mr. REAGAN. I desire to say a word in response. The gentleman has made a charge which concerns me as a Representative of the State of Texas, of bad faith on the part of that State: that the State had agreed to give to one of these railroad companies $6,000,000 as a bonus to complete its road, and had refused to comply with the obligation.

It is true, sir, that the twelfth Legislature of that State did so—a Legislature which represented nobody in the main but a set of criminals and disreputable characters. They granted not only $6,000,000 to that road, but six millions to another road at the same time, and every sort of charter was made by wholesale out of which the legislators could make a profit to themselves and to the outsiders who were hanging around watching their chance to greedily pluck at the public treasury. That Legislature has become a byword and a hissing, and is to this day among the people of Texas. That proceeding was done while the other States in the Southern portion of the country were being robbed by the same sort of men, and almost to the same extent, at this period.

The people of Texas, knowing it to be notorious that these charters were obtained by fraud and corruption, determined not to pay the money fraudulently promised; but in order to do the best they could, and not to saddle the people with a debt of $12,000,000, made the company of which the gentleman from New Jersey is a member a grant of 12,800 acres of land to the mile of road built to satisfy their demand; and I may be permitted to state here that the land is worth at the lowest

figure $2 in cash per acre for pasture and other purposes, and much of it is worth more than that.

I dislike, sir, to have to go into these things, but the gentleman makes it necessary that I should do so, and so far as it is necessary I shall try as far as I can, as one of the Representatives of the State of Texas, to take care of the character of that State when it is assailed. She shall not be charged with the violation of her contract obligations when that contract was notoriously obtained by fraud and corruption, and when it was intended to saddle a debt of $12,000,000 upon the State, which the people would not pay, to gratify the class of men that held power when decent men and citizens could not be members of the Legislature.

That is all I have to say. I do not propose to answer the criticisms of the gentleman upon the bill itself.

Mr. STEWART, of Texas. The lands in question were also exempted from taxation.

Mr. REAGAN. My colleague reminds me by stating that these lands which can now be sold for $2 or more per acre are not taxable, and were exempted from taxation for a period of twenty-five years.

Mr. JONES, of Texas. And the railroad too.

Mr. REAGAN. Yes; and the railroad and the property connected with it are exempted from taxation for twenty-five years. So that in addition to the charter and 12,800 acres of land exempt from taxes for twenty-five years the railroad running through the center of the State and property connected with it are exempt from taxes for twenty-five years; and I think the gentleman might be satisfied and not arraign the State here.

Mr. CANNON. Mr. Speaker, I did not intend to discuss this bill. But perhaps in justice to myself I should make a remark or two about it. I have no doubt of the power of Congress to enact apt legislation that will accomplish the result aimed at.

In ten years' service in this House I have seen many bills brought forward touching the question of interstate commerce. I recollect, sir, in 1874, when it was held in most of the States in the country, by the courts and by many of the people who discussed these questions, that under the Dartmouth College case and a long line of precedents there was no power in a State to prohibit the railway fixing its charge under the charter granted to it under the doctrine of vested rights. At that time, under the lead of Mr. McCrary, of Iowa, then a member of the Forty-third Congress, we sought to pass a bill here to regulate interstate commerce. It was discussed for two months, if I recollect aright. It was a bill providing for a commission. I thought then, and am inclined to think now, it was a wise bill. It passed the House. I recollect, and I have verified my recollection by reference to the Journal, that the Democratic members then present, some of whom are now present, almost unanimously voted against that bill; ay, sir, going further than that, and putting themselves upon the record as denying the constitutional power of Congress to regulate commerce among the States by legislation prohibiting unjust tolls by railways upon such commerce.

Here is the resolution which on the 9th of February, 1874, was offered in the House and adopted under a suspension of the rules by yeas 172, nays 64:

Mr. J. Q. Smith moved that the rules be suspended and the following preamble and resolution adopted:

"Whereas the Constitution of the United States provides in express terms that Congress shall have power to regulate commerce with foreign nations and among the several States, and with the Indian tribes; and

"Whereas this provision of the Constitution imposes upon Congress powers and duties of such high moment to the common commercial interests of the people of these States, as the citizens of one nation, as to have been a leading cause for the formation of the Union itself: Therefore,

"*Be it resolved by the House of Representatives*, That in the judgment of this House it is within the constitutional power of Congress by law so to regulate commerce among these States as to protect that portion of our internal commerce which is among the several States from all unjust or oppressive tolls, taxations, obstructions, or other burdens, whether imposed by railroad companies or by combinations thereof, or by other common carriers, when engaged as the instruments of such portion of the commerce of the people; that the present condition and magnitude of the commerce among the States are such as to demand the prompt and wise exercise of the power and duty declared in this resolution."

That resolution was voted against by nearly all the Democratic members, including my friend from Georgia [Mr. BLOUNT], the gentleman from Pennsylvania [Mr. RANDALL], the gentleman from New York [Mr. COX], the gentleman from Missouri [Mr. BUCKNER], the gentleman from Texas [Mr. HANCOCK], also Mr. MILLS.

Since that time, however, under a proper public opinion, the courts have overthrown the doctrine of vested rights as it was then claimed; and the railway mileage of the country has more than doubled, and the amount of product carried by the railways has more than doubled also in those ten years; and while the mileage has doubled and the product carried has doubled, the rate at which it is carried has been decreased by one-half.

Now it is everywhere, I believe, acknowledged in this country, in this Hall, in the State Legislatures, by the Federal and by the State courts, that the common law obtains touching this commerce, namely, that it shall be done at a reasonable rate. And if any man thinks he is aggrieved, the courts, both State and Federal, in a proper case, are open to him for redress; and the common law, like the grace of God, as some one has said, always stands ready to adjust itself to the necessities of each case.

It is said, however, with great force, that it is a practical denial of justice to force a man who has been charged an unreasonable rate upon a small haul of goods to enter the courts to enforce his remedy. This is true in many cases. Therefore I would enlarge the remedy. I would make it cheaper and more speedy. I would appoint a commission and give the proper legislation to advance the remedy, leaving the common law all the while intact to adjust itself to the merits of each case.

Therefore I was in favor of the bill reported by a majority of the committee, which provided a commission. It may not be perfect—I apprehend it was not perfect—but I believe it to be a step in the right direction, and I stood ready to vote for it, and voted against the substitute offered by way of amendment by the gentleman from Texas.

[Here the hammer fell].

Mr. ADAMS, of Illinois, was recognized, and yielded his time to Mr. CANNON.

Mr. CANNON. I live a thousand miles from the seaboard and represent a constituency the products raised by which for the market have doubled in ten years' time. In that same ten years the rate for taking their product to market has decreased one-half. It stands me in hand, while I am always ready to co-operate in apt legislation to give needed relief—it stands me in hand as their Representative to see that the legislation proposed does not do exactly the thing that they do not want done. I believe that would be the effect of this legislation. I am not a very good railroad man. I have no interest in railroads and never had, except the interest that every citizen has. I have no pecuniary interest in them. Where, as in Illinois, in Iowa, in Nebraska, in Texas, car-loads originate by the multiplied thousands for the seaboard and for the foreign trade; where they gather them up at one station and then at another, and for a continuous haul, without stopping full employment for the cars from the beginning to the end, and where there is full employment in the main for the cars on the return trip, where it is no retail business, I do believe that kind of business is worth less than it is where you take it by the half car-load and the car-load at every station between those points and the seaboard, after you have waited two or three days to fill, in whole or part, the empty cars, and then take them up by retail to take to the market.

For these reasons, and many others, I can not get my own assent, although I have tried to get it by careful examination of this bill—the best examination I have been able to make—I can not get my own assent to vote for it. And I regret this, because I believe that some legislation on this subject should be had. Perhaps in the course of time, without legislation, under an enlightened and decided public opinion and a continuation of the development of railway management, these wrongs might largely right themselves. I would prefer, however, to assist in the righting of them by apt and proper legislation enlarging the remedy, but, as I before said, leaving the common law always ready to apply itself to the exact injury complained of. The arbitrary rule, proposed by the gentleman from Texas, that these roads shall not in any instance charge more for a longer than for a shorter haul, the folly of which he concedes himself, because in the last section he makes some exceptions, and as he concedes some exceptions he can not (for he is not all-wise) determine that there are no more exceptions—I say that this iron-clad rule would, as I believe, work harm and advance the rates upon the products of my section and of the greater part of the country without doing any good to the consumer of these products upon the seaboard or anywhere else. Therefore I shall, for these and other reasons my time will not permit me to state, be compelled, unless this substitute be materially amended, to vote against it.

Mr. REAGAN. I withdraw the *pro forma* amendment.

Mr. HORR. I renew the amendment. I desire to occupy the time of the House but a moment. In a former discussion on this bill the following language was used by myself and the gentleman from Texas [Mr. REAGAN]. I read from the RECORD:

Mr. HORR. If you can show me that railroad companies are becoming rich by means of extortionate charges I will go as far any man to correct the evil. But does my friend from Texas claim that the roads in his own State are at present charging these extortionate rates? Can he name to me a single road in that great Commonwealth, renowned for its vast territory and "magnificent distances," that has ever paid one cent to its original projectors? Is there within the boundaries of the State a single road that has ever returned to the men of England, of Europe, of New England, or New York 1 per cent. interest on the capital they have furnished to build up the road and develop the State? I am informed upon good authority that up to this time you have never paid a shilling to any man who invested his money in those enterprises. The State needs those roads. These men have advanced their money for the purpose of benefiting that country. They have made your State richer, more prosperous. They expected no immediate returns; they depended upon the future. They are still waiting, hoping that the growth of the State, the increase of local business, may some day bring them a little interest on their hazardous venture.

Mr. REAGAN. The gentleman will allow me one moment. He seems to be very familiar with railroads and other matters in Texas; but I will say to him that the stock of the Central Texas Railroad is worth more in the market to-day than that of any other railroad that I know of; the dividend-paying profit is larger.

Mr. HORR. You surprise me. I confess I am making my statement from memory. I put this very question to men two years ago in the committee, as the gentleman from Texas will remember, and was then told that up to that time not a single road in Texas had ever paid a single shilling of dividend on its original stock.

Mr. REAGAN. I have heard a hundred as false statements as that made to the committee since I have been on it.

I have since taken pains to look into the condition of the Central Texas Railroad, to which the gentleman referred and for which he

vouched in such strong terms, and I now wish to correct him and to substantiate the statement I then made. I wish to show to the House that the gentleman was mistaken about this road being such a wonderful pecuniary success. I have before me the exact net earnings of that road for the years 1882, 1883, and 1884, which shows a large loss to its owners. Why, sir, they did not make within $200,000 enough money on that road during those three years to pay the interest on their bonds. To be accurate, they lacked $208,340. Thus it seems not only has this company failed to pay its stockholders anything, but it did not in those three years earn enough within over $200,000 to pay the interest on its bonded debt. And I assert that although the road is now connected with another road, the stock of the joint roads, instead of being the best-paying stock in the country, is nothing of the kind. So far as I can learn their stock is not found quoted on the boards anywhere in the United States as having any value at all. I merely make this statement now because on the former occasion I was taken at a disadvantage, and the gentleman from Texas seemed to think I was meddling with the affairs of his State, which he claimed to know so much more about than I did. I desire simply to show him that while my knowledge was not excessive he was in a much worse condition—indeed, was even more ignorant than I was myself. [Laughter.]

Mr. REAGAN. I wish to ask the gentleman whether he knows that after that road was built $12,000 of stock to the mile was issued—watered stock—on which we are now asked to pay dividends.

Mr. HORR. That does not affect the question; but I am glad the gentleman makes the statement. What difference does that make? Let me read again the statement of the gentleman from Texas:

He [Mr. HORR] seems to be very familiar with the railroads and other matters in Texas; but I will say to him that the stock of the Central Texas Railroad is worth more in the market to-day than that of any other railroad I know of.

The gentleman may get out under that clause limiting his statement to what he knows [laughter]; but certainly he can not get out in any other way. He concluded

The dividend-paying profit is larger.

Now what difference does it make, Mr. Speaker, whether the stock has been watered or not, if the road does not pay a shilling on either the watered or unwatered stock? Would watering the stock affect the amount of earnings? [Laughter.] If there is not profit sufficient arising from the running of the road to pay interest on its bonds, then my statement was accurate to the dot, and he should not have undertaken to place me, with my known diffidence, at such a disadvantage before the House. [Laughter.] Especially he should have known the condition of this road, so as to have been at least accurate.

Mr. BUDD obtained the floor.

Mr. REED. Do I understand the gentleman from Michigan [Mr. HORR] as intending to state that the stock which the gentleman from Texas said was the most valuable he knew of is absolutely valueless?

Mr. HORR. I will be careful in my statement.

The SPEAKER. The gentleman from California has the floor.

Mr. HORR. But let me answer the question of the gentleman from Maine.

Mr. BUDD. I will yield to the gentleman in order that he may answer that question.

Mr. HORR. What I stated is that I am utterly unable to find any quoted value of it in any work I have examined, and I tried to be thorough. How can the stock be valuable when the road does not earn the interest on its bonded debt?

Mr. REED. I am surprised.

Mr. BUDD. I offer the following amendment:

The Clerk read as follows:

Strike out after the word "provided," in line 23, the following words, "at least five days before the same shall go into effect," and insert instead thereof the words, "and it shall be unlawful to make or charge any increase of or on such rates until the schedule containing such increase shall have been posted as hereinbefore provided for a period of at least fifteen days."

Mr. BUDD. Mr. Speaker, I will state briefly the object and scope of this amendment. That the publication of rates is one of the effective modes of preventing railroad discrimination and abuse, no one who has carefully studied the railroad question will deny. The parliamentary committee of 1872 found that this would "let the public know what they are charged and why they are charged, and give them better means than at present exist for getting unfair charges remedied."

But in the section as proposed there is a provision that ought not to receive our indorsement. It is the provision prohibiting the lowering or decreasing of a rate without five days' notice thereof. I am in favor of prohibiting, and by this amendment I propose to prohibit, any increase in the rate charged by a railroad without a previous notice of fifteen days.

Commercial interests demand that the stability of rates be not disturbed by frequent or sudden increases therein. I would allow railroads—such as so desired—to lower their rates without hinderance or notice, but would force them when once they had made a decrease to maintain it until due notice was given to the merchants and the people of a proposed future increase.

Not only would this amendment benefit the people by preventing sudden increases, but it would also tend to prevent wars of rates, or so-called railroad wars, and thus also benefit transportation companies. Few companies would cut below the cost of transportation if they knew that they could not come back to paying rates without due public notice.

This amendment is a provision which has the sanction of some of the States of this Union, and also of several of the nations of Europe. The State of Kansas requires sixty days' notice before any increase is made. Nimmo in his report favors the publication of rates and prohibition of an increase thereof without due notice. In Belgium, Prussia, and Austria provisions requiring publication of rates are in force. In North Germany it requires a notice of six weeks before an increase in rates is lawful, and in Sweden thirty days is necessary. In England the royal commission of 1867 recommended publication of rates, and the joint committee of 1872, composed of six of the ablest members of each house of Parliament, indorsed and reaffirmed this recommendation in very strong language. In the United States Congress the Senate Committee of 1872 on Transportation Routes to the Seaboard in its report took decided grounds in favor of the publication of rates. It also holds that this publication should precede any increase of rates, but does not seem to deem it necessary to prohibit a decrease thereof without notice.

The committee says:

There is no doubt that a valuable reform in railroad management may be obtained by requiring such publication in this country, especially if accompanied, as in several European countries, with a provision prohibiting an increase of rates without reasonable public notice.

Now all I desire, and all I suggest, and all my amendment will effect is this: it will prevent any railroad that has once fixed its schedule and posted it, as required by the Reagan bill, from making an increase of rates without fifteen days' notice to the public. It can lower them without any notice as much as it wishes, and thus give the people cheaper rates, but must not make an increase without due notice.

I feel certain that this provision preventing railroads from making any decrease in rates without notice is wrong; but that one, such as my amendment, which has as evidence of its value the example of some of the States of this Union, the action of several European countries, the recommendation of the Senate committee which so fully investigated the matter a few years ago, the report of that able Government official who for many years has made internal commerce of the United States his special study and who stands to-day as an authority upon interstate commerce without a peer among the employés of this Government—I mean Joseph Nimmo, jr.—ought to be by this House incorporated in this bill.

[Here the hammer fell.]

Mr. O'NEILL, of Pennsylvania. I propose to insert thirty instead of sixty, and will make a remark on that amendment. The argument of the gentleman from California is unanswerable as to five days' notice; and giving five days only, opportunity is given to the railroad companies to cut under the rates, and thus defeat competition. If you make it longer you prevent undercutting in proportion to length of notice. You will not get the railroads to carry freights at a less rate for so long a time. Five days' notice is not enough, and I do not think the gentleman from Texas, after hearing what has been said by the gentleman from California, will be inclined to disagree with him.

But, Mr. Speaker, there is another point here—a point with reference to the expense thus imposed upon the railroad companies themselves. Congress does not wish, I am satisfied, to put them to an extraordinary and unnecessary expenditure of money. Why, sir, I believe we have about 40,000 post-offices in this country. We have just about as many railroad stations, probably more, and yet under the provisions of this bill requiring a five days' notice you compel the railroad companies to establish printing offices, to employ hundreds and thousands of men to carry out this idea of posting up every five days any increase in the freight rates. I want the House to look upon it in that light.

The gentleman protests that he is not endeavoring to crush out enterprises in railroad construction, or to depress railroad interests, or to depreciate their property; but here is an instance where he forces, absolutely drives them, to a great and useless expenditure of money. I believe we have about 2,200, perhaps more, people employed in the Government Printing Office to do the printing and binding for Congress and the Departments. It requires that number of persons to do it. Now, under the provisions of this section of the bill you will compel the railroads to establish printing offices just as large in order to prepare the schedules which they must post in their offices, and employ men by hundreds to do the work of printing.

But there is still another point to which I wish to invite attention. How will you manage with reference to the Canada railroads? I presume Canada railroads have agents in the city of Chicago and other cities on the lakes seeking business for them. The bill does not require that the rates of these foreign roads should be posted up in any office in the United States where they have agents doing business for them. I do not think, then, that it is fair to our American companies that this great expense and trouble should be incurred by them, and yet the Canada roads not required, where they have their agents in the cities along the lakes or at other points, to do the same. I do not know how, nor do I see why, the railroad companies are to do it; and yet you do

not oblige the canal and water-way transportation companies to post up their rates. It is an unjust discrimination against the railroads. I believe the section should be stricken out entirely, or perhaps with the amendments which have been suggested it might be made not so objectionable as to render it our duty to vote against it.

Mr. REAGAN. I allowed the colloquy between the gentleman from Michigan and myself to pass without an explanation which is due to the House as well as to myself in reference to one point suggested. My colleagues on this floor will indorse the statement when I say that up to a few years past the Central Railroad of Texas paid the highest dividend of any other road in the Union. I was not aware until informed by the gentleman from Louisiana of the changed condition of affairs brought about by the largely watered stock in recent years. So the gentleman from Michigan has had his joke, and I hope is satisfied.

In reference to the amendment before the House, Mr. Speaker, the provision about the posting up of notices announcing changes of schedules has been fully and seriously discussed by the committee during several Congresses past, and objection has been made to even the requirement of five days' notice. But here, lest I should pass from the subject about which the gentleman from Pennsylvania seems to be so much alarmed, I wish to say that this five days' notice is a very simple thing after all. The gentleman from Pennsylvania complains as if this was to be done continuously.

Mr. O'NEILL, of Pennsylvania. That is, five days' notice if they raised their freights.

Mr. REAGAN. Yes; but the gentleman speaks as if it was required to be done every five days. It may be done only once a year. It need not be done at all if they do not choose to change their rates.

Mr. O'NEILL, of Pennsylvania. But in a competition between railroad companies the rates are necessarily changed in a very short time.

Mr. REAGAN. I must decline to be interrupted in the short time that I have. The objections made to this bill by the railroad officers and by the lawyers representing them before the committee was that often five days was too long a time, and my recollection now is that the gentleman from Pennsylvania himself objected on that ground.

Mr. O'NEILL, of Pennsylvania. I say what occurred in committee when I state that I objected to the five days upon the very same ground on which I object to it in the House. The gentleman from Texas fails to recollect the facts.

Mr. REAGAN. Of course the gentleman from Pennsylvania objected to anything that places any control or restriction upon the railroads. But I must beg not to be interrupted.

Mr. O'NEILL, of Pennsylvania. I only objected to such things as destroy the railroads.

Mr. REAGAN. I trust the gentleman will not interrupt me and that the Speaker will require order to be preserved upon the floor.

The SPEAKER. The gentleman from Texas can not be interrupted without his consent.

Mr. REAGAN. The point of trouble on that subject to the mind of those gentlemen who appeared before the committee as lawyers and the officers connected with the railroads was not that it endangered anything with reference to the railroads in the United States, but that the requirement of a long notice before a schedule could be changed could not affect the intervening period during which the notice was given, and would give a privilege to certain roads in freight charges. The argument has been made by gentlemen here during this discussion that it gave the Canada railroads an advantage in that respect. The answers which I then made to it I now repeat, that no road managed by men of ordinary business sense would enter into a railroad war for the advantages in freight transportation, covering a period of only five days; and the other was that the Canadian roads which had less rolling-stock, which passed through a poorer country, less transportation facilities, and had to cross the Saint Lawrence River twice, were not capable of competing with our own roads in that respect.

But let us understand what this is. It is a requirement that the railroads shall post up their schedules of rates of charges at certain designated places. It requires that they shall not charge more nor less than the rates posted up until the schedule is changed, and gives them, when they wish to make a change, five days' time within which to change it, so as to post up the new schedule which is to supersede the old one. Such changes are of course at their own option; but there is no obligation resting upon them to make the changes if it is not to their interest to do so.

My opinion is that if the amendment of the gentleman from California and the amendment to it or the amendment of the gentleman from Pennsylvania shall be adopted it does give substantial validity to the argument that it gives advantages to the Canadian roads. And it is because I think it would be unjust to our railroads that I object to it. Kansas may well adopt that rule because there are no outside railroads, so far as I know, competing with the Kansas railroads. There can be no outside railroads competing with them in reference to commerce wholly within the State. Belgium and other countries which have been referred to have their systems of roads. We can not know whether there are competing roads there to be considered in connection with the system of transportation, as we must consider the Canada roads in connection with the great transportation system of the Northern lakes.

I hope neither the amendment nor the amendment to the amendment will be adopted. The five days' notice can work no harm. It will be easy of execution and will protect the people, while it can not harm the railroads.

Mr. BUDD. I move to strike out the last word.

The SPEAKER. There are already two amendments pending. The question is on the amendment of the gentleman from Pennsylvania [Mr. O'NEILL] to the amendment of the gentleman from California [Mr. BUDD] to strike out "fifteen" and insert "twenty."

Mr. O'NEILL, of Pennsylvania. I did not offer that as a *pro forma* amendment.

The SPEAKER. The question is on the amendment to the amendment.

The question being taken, the amendment to the amendment was not agreed to.

Mr. BUDD. I move to strike out the last word.

The gentleman from Texas [Mr. REAGAN] and myself agree as to the necessity for a publication of rates and of public notice being given of any change therein. We disagree as to the number of days and as to what notice should be given. In referring to Belgium and the roads there the gentleman from Texas says that we can not know whether or not there are competing lines that have to be taken into consideration. I thought that the Belgium system established by Leopold I was so well known, and that the competition of private lines with Government lines was so well understood, that all would know that there was competition in Belgium the same as in nearly all the other countries of Europe.

The gentleman from Texas states that his objection to my amendment is that it would give force to the objection made by the attorneys for the railroads before the Committee on Commerce. I have carefully read the arguments before the Committee on Commerce, and I believe I am correct when I say that the objection was based on a lowering of rate and an increase thereof was not mentioned. They stated that if we required five days before a railroad could come down in rates, the Canadian road could reduce one cent or some other amount, and when the five days were up and the United States railroad rates came down to meet the competition, the Canadians could still decrease and for another five days prevent competition and monopolize the trade. But I fail to see in all the arguments any valid objection against the time within which they should prescribe or publish their notices of any increase in rates.

This system has worked well in the old countries. It works well in some of the States of the Union. This amendment is, like other sections of this bill, taken from State statutes. And I state now that I believe the adoption of an amendment requiring notice before an increase of rates is the only kind of notice of change in rates that should be required; that it will prevent wars of rates; that it will neither injure railroad companies nor the people, but will be beneficial to both interests.

That was my object in offering the amendment. I have heard nothing advanced against the correctness of my position except the statement by the gentleman from Texas [Mr. REAGAN] that the railroad attorneys before the committee had said that it would prevent competition with the Canadian lines. But, as I understood their objection there, it was against prescribing a time within which they could not lower their rates to meet competition on the Canadian lines. I will print Mr. Depew's objection.

Mr. DEPEW. * * * The schedules are to be posted from one end of the line to the other. But who can tell at what moments the connecting line may repudiate the schedule, and so make absolutely inoperative, so far as this railroad is concerned, from one end of the line to the other? You have got to stick to it for five days. The American Congress steps up and takes the American railway system by the throat, ties its hands behind it, and puts it in the lap of the Canadian system.

* * * * * * *

Suppose the Pennsylvania and New York Central, and the Baltimore and Ohio all agree upon a schedule. It is posted for five days. It is a remunerative schedule, and gives them a profit. The next day the Grand Trunk says to the country, "We will carry that freight at 5 cents less." Will you tell me what will become of the business of these American companies?

Mr. REAGAN. Just as now; when the five days expire they can reduce the rates, as they do without this law, and as they could do with this law.

Mr. DEPEW. In five days they come down, and they are fixed by your bill for five days more. And the next day again the Grand Trunk lowers and takes the business.

Mr. REAGAN. That makes a railroad war, just as we have now.

Mr. DEPEW. Then we have an unlimited railroad war.

Mr. REAGAN. That is just as it is now.

Mr. DEPEW. But the lines can drive the Grand Trunk into terms now; but under your iron-clad rule they can do no such thing, because they can always have five days the start, and five days' time is decisive usually in the railroad war.

I withdraw the *pro forma* amendment.

Mr. HEWITT, of New York. I renew the *pro forma* amendment.

I am compelled to recall attention to the point I made the other day. There is no analogy between the conditions in Belgium or any European country, or in any State in this Union, taken by itself, and the condition of the foreign commerce of this country, which is fed by long hauls on railways passing from State to State. What may work very well in a small community or in a single State, or a single European country, fails utterly to be of use when you come to deal with the great

foreign commerce of this country, consisting largely in the transportation of grain, provisions, and cotton to our customers in the Eastern Hemisphere. This business is now done by telegraph. There are not five days' interval between the unloading of a ship in the port of New York and the day of her sailing. The rates which can be paid for the transportation of grain from Chicago or Saint Louis to New York, and from New York to Liverpool, have to be determined in less than one day. They have to be determined very often in less than five minutes.

Now this being a question of minutes and not of days, the gentleman from Texas [Mr. REAGAN], who lives in the important city of Palestine, a name of which I have heard in my time, although I confess I thought it was an Oriental region—the gentleman steps in and undertakes to say to the merchants of New York and to the commerce which centers there that for five days it shall stand still while the requisite notice of a change of rates is being printed and posted. Here is a new Joshua who has come upon the scene and can bid the sun or the moon to stand still in their heavenly orbits. [Laughter.]

Let me say that I can not understand the position of the gentleman from Texas. The other day when I took the floor he objected to my proceeding for five minutes because the debate had already been exhausted. To-day I find him taking the floor and occupying the time of a gentleman who yields to him and by the grace of the chairman doubling the actual time——

Mr. REAGAN. I was replying to something that occurred after the occasion to which the gentleman refers.

Mr. HEWITT, of New York. It may have occurred afterward; but the gentleman should have remembered that other people besides himself want to be heard on this floor, and other communities besides the magnificent region of Palestine have a right to have their interests explained here.

And now I find him to-day making the only defense that I ever heard of the abominable reconstruction Legislatures of the Southern States. I have been taught by my Southern friends to abhor the outrages of those unconscionable men who went South and seized upon the sovereign power of those States for their own base uses. Yet the gentleman from Texas has stated here to-day that these unprincipled carpet-baggers for $8,000 a mile could secure and did secure the construction of a great highway through the State of Texas; and this was such an outrage that when the honest men came into power they disregarded the previous bargain and made a new bargain which, by his own admission, has given to these railroads $25,000 to the mile in land—12,000 acres to the mile worth, as the gentleman says, at the minimum $2 an acre—and exempted them from taxation for twenty-one years.

Mr. REAGAN. Twenty-five years.

Mr. HEWITT, of New York. Well, all I can say is if the gentleman's statement be true those "scalawags" "builded wiser than they knew;" they were men of farsightedness, who understood how to make better bargains for the State whose sovereignty they had stolen than the honest men who came in afterward, and who did not seem to understand the true interests of the State of Texas as well as the "scalawags" had done. If that is the case let us have scalawag government all over this country instead of such legislation as the gentleman proposes, only calculated to embarrass the conduct of business already deranged throughout the length and the breadth of the land. The people are clamorous for the removal of obstructions, not for the imposition of new impediments. Let us have freedom to trade and freedom to move our products under the beneficent law of free competition so regulated as to prevent abuses developed by experience.

[Here the hammer fell.]

Mr. REAGAN rose.

Mr. HEWITT, of New York. I am not altogether done. Perhaps the gentleman from Texas would like to shut me off again.

Mr. REAGAN. No, sir.

Mr. HEWITT, of New York. Thank you. I hope some gentleman will yield me five minutes.

Mr. ADAMS, of Illinois, obtained the floor and yielded his time to Mr. HEWITT, of New York.

Mr. HEWITT, of New York. Now, Mr. Speaker, I understand that the whole object of the gentleman's bill is to secure low rates. I have been taught that low rates and low prices are secured by competition. I know that the competitive system has reduced the rates of transportation in this counary in ten years, as the gentleman from Illinois said a few moments ago, to one-half and less than one-half what they were before. I know that this process of reduction has gone on, and is going on to-day, so that there is not a trunk line of railroad in the United States that is doing more than earning its running expenses. Now, the gentleman, who says he wants cheap rates and wants to protect the people, and who therefore ought to want competition, proposes by this section of his bill to muzzle competition. In the previous provisions of the bill he has prohibited pooling in order to secure competition. Yet if I have a cargo of wheat which I want to ship to Liverpool and go to a railroad company to obtain a rate that will make the shipment possible, I am met by the clause of this bill which tells me that I can not get a reduced rate in less than five days; that for five days, during which my steamship may be obliged to sail, no railroad company shall compete with any other railroad company and give me a favorable rate. The gentleman from Texas is here as the friend of the people, yet in his efforts to secure what he thinks will benefit commerce he muzzles it so that our ships will sail empty and our ports will be closed up, because we are not allowed to meet the requirements of the commerce of the world.

For one I am tired, I confess it, of this kind of legislation and of this indifference to the plainest facts which ought to be known to every man of business in this country, and even to the gentleman from Texas, who has had before his committee some of the ablest, wisest, and strongest men in the country on the subject of transportation business. From them he might have learned that it is not restriction but freedom that promotes the growth of commerce, and that nowhere is the maxim of *laissez faire* so beneficial and between the competing companies who have provided the means of transportation in advance of the wants of the country, and the possibility of unreasonable profits or of any profits, unless the business is pooled on a reasonable basis. It is the business of Congress to see that the basis is reasonable, and this can be secured by regulation under the supervision and control of a competent commission, for which I had the honor to report a bill so long ago as the Forty-fifth Congress.

Mr. REAGAN. Mr. Speaker, I have always given the gentleman from New York credit for great intelligence and information. But he has revealed the fact that he does not know where Palestine is. Why, sir, the smallest child on my place knows where it is.

Mr. HEWITT, of New York. Oh, I know where the original Palestine is. There was some sense there. [Laughter.]

Mr. REAGAN. The gentleman is very kind. I suppose by that he means to say there is none at the other place.

Mr. HEWITT, of New York. No; I mean no inference. I let the gentleman speak for himself.

Mr. REAGAN. Very well. The gentleman thinks this bill ought not to be passed because I have become a Joshua and am commanding the sun to stand still. If I could induce him to let his tongue stand still awhile I think the bill would pass. [Laughter.] I have never professed to be a Joshua; never professed to be a prophet; never professed to exercise extraordinary powers. I only ask the passage of a measure of ordinary justice and common honesty.

Why, sir, the gentleman talks about my objecting to hearing the voice of New York. Does he pretend to speak the voice of New York? The Legislature of New York is a better exponent of the opinions of the people of New York than the gentleman who has just addressed the House. That Legislature a few years ago demanded legislation like this.

Mr. HEWITT, of New York. For a commission, and I am in favor of a commission.

Mr. REAGAN. I am glad of that. I never heard of it before.

Mr. HEWITT, of New York. I stated it the other day.

Mr. REAGAN. The gentleman says that he is for a commission. That is, he wants a commission which means nothing, and which is not intended to mean anything. It is what is used and has been used all the time to antagonize my bill. If the voice of New York, if the voice of the people of New York could be heard to-day, instead of the voice of her money and aggregated capital, a different voice would be heard from that which has been uttered by the gentleman as well as others here upon this floor. [Applause.]

The gentleman talks of this bill inflicting irreparable injury on the commerce of the country. Shall I repeat what I have said so often on this floor? It prohibits the charging of one man more than another for like service. Is it wrong to say, "Gentlemen, you shall be honest; you shall not rob one for the benefit of the other?" What is there wrong in that?

It says no rebate will be allowed to one and denied to another. It says this system of secret and fraudulent methods employed to benefit one class of shippers at the expense of another shall be no longer indulged in, shall be no longer permitted; that to do so is a crime which shall be punished. I appeal to the common sense of all present, to the common sense of every honest heart, if both these provisions are not based on good morals, on sound philosophy, and upon the principles of eternal justice.

It says, sir, that there shall be no pooling. Why, that gentleman comes in with another statement about competition, just as the gentleman from New Jersey [Mr. PHELPS] did, and yet he knows to-day there are forty roads in one pool managed by pooling managers in New York for the purpose of denying to the people the rights and benefits of competition. Yet they talk about competition. He ought to know that the advocacy of a universal pool has been earnestly presented by Mr. Fink, Mr. Adams, and all the other leading railroad advocates of this country to make one grand monopoly out of all the inferior monopolies of this country.

Yet gentlemen, when I try to present these principles, and one more, which is that they shall not charge more for a shorter than for a longer haul, the shorter haul being included in the longer, tell me it is all wrong. Is it wrong, sir, to prohibit a railroad from charging more for a car-load for one hundred miles than for five hundred, including the one hundred? The gentleman from Illinois [Mr. CANNON], to make his argument plausible, broke the shipment into parts of car-loads, and

did not make the distinction that the charge should be for like service and like transportation.

These are the four principles involved in this bill, and I undertake to say that the man who means to benefit the interests of this country, who means to be just to his fellow-men, who means to curb the growing power of railroads which have defied us on this floor, who means to protect the people against the rapacity of the railroads, can not object to the provisions of this bill, but must rely on them, notwithstanding the appeals and the audacious declamation we continually hear, and which is miscalled argument, in opposition to this bill.

[Here the hammer fell.]

Mr. GREEN. I wish to submit an amendment.

Mr. BUDD. Is the gentleman's amendment an amendment to my amendment?

Mr. GREEN. No; it is an entirely independent proposition.

Mr. BUDD. My amendment is pending, and must, of course, be first voted upon.

Mr. GREEN. I will withhold my amendment, then, for the present.

Mr. BUDD'S amendment was again read.

Mr. KEIFER. I move to strike out the last word, so I may be allowed to say what I desire on this bill. It is quite impossible for any of us not starting early to be able to give our views on so elaborate a measure as this. I shall not attempt it. It requires great study and care and large examination of statistics; but there are some general principles applying to this bill which we can of course understand, especially if we have been close observers of the trade and commerce between the States. I do not doubt the power of the Congress of the United States to regulate the trade and commerce between the States, but I doubt the wisdom of this bill in many respects. Its main features were before us in the Forty-fifth Congress, when I believe I voted for it, believing then there was some necessity for such a measure; but I believe that necessity has entirely passed away and that it does not now exist, however the gentleman may seek to magnify it.

There is another thing that has some influence on my mind, and that is the fact that the great Commerce Committees of the House of Representatives have had this subject before them from Congress to Congress for years past and have examined it carefully, have examined witnesses, experts and others, and they have with great uniformity of sentiment, since the Forty-fifth Congress at least, reported against this bill and in favor of another.

I know the distinguished gentleman in charge of this measure has seen fit to say that the Commerce Committee was packed in favor of a particular bill, and this same statement has been made more than once on the floor. It might have been so in the beginning, but in response to that it is proper for me to say that it is not true with reference to the Forty-sixth Congress, I know it was not true as to the Forty-seventh Congress, nor do I believe it to be true as to the present Congress; and the gentleman in the heat of debate made a statement which I think he will not insist upon now. I was not present in the House when the statement was made, but I do undertake to refute the assertion that the Committee on Commerce of the Forty-seventh Congress was packed against his bill. He was himself placed at the head of the minority of that committee, because he was chosen properly by the distinguished Speaker of the Forty-sixth Congress to preside over that committee, and chosen largely because of his fitness, his earnestness, and his zeal in his advocacy of this measure. There was put next to him on the committee the present governor of the State of Maryland, Mr. McLane; there was Mr. Ross, of New Jersey, a man of brains and will-power, a man of knowledge and investigation, who examined closely into these subjects. There was the distinguished scholar, the present Senator from the State of Louisiana [Mr. RANDALL L. GIBSON], and so on throughout the list on that side.

On the Republican side there was not a man put on the committee who, with any knowledge on my part, was opposed to the gentleman's bill. I understand the chairman of the committee, the gentleman from California, Mr. Page, advocated it; and he was the sole man, after hearing all of the testimony offered, to stand up on the side of the gentleman from Texas in the Forty-seventh Congress in advocacy of the bill.

The trouble in that Congress was the same as the trouble is here, that when the gentleman got all of the facts before the committee, and when they earnestly desired to do the thing they wanted to do, namely, the best thing for the whole country, they preferred another bill to that of the gentleman from Texas; that is to say, they preferred the bill providing for a commission. And it has great weight upon my mind in determining what I shall do here in this connection, although earlier in the history of my career in Congress I have been an advocate of the gentleman's measure and thought it one that would be likely to accomplish good in the direction sought to be accomplished.

[Here the hammer fell.]

Mr. REAGAN. I do not desire, Mr. Speaker, to have any personal issue upon this floor, but I am not satisfied with the statement of the gentleman from Ohio. Knowing that he had voted for the bill in a previous Congress, after his election as Speaker I went to him and told him that while I did not wish to ask any particular favors at his hands, I wanted him, if consistent with his views, to constitute the Committee on Commerce so as to let this measure come before the House and be acted upon by the representatives of the people. He suggested to me, occupying the chair, Mr. Speaker, you now occupy, that I had better write to him on the subject, because in the hurry of business he might forget or overlook the suggestion. I took him at his word and wrote a statement of what I wanted. I desired him, while I did not name any one to go upon the committee, to so constitute it, or that it was my wish that he should constitute the committee so as to allow the measure to come before the House, and in this request I was supported by memorials and petitions from all the sections of the country. When the committee was organized there were thirteen members who were opposed to that bill, and some of them who were its well-known opponents and had voted against it when the gentleman himself voted for it.

I do not like, sir, to speak of these things, because I am not authorized to speak for others, but there was no injunction of secrecy, and it is proper that I should say that the then chairman of the Committee on Commerce told me himself that there was a struggle to keep even me off the committee by the railroad interest. The gentleman from Ohio himself told me that these people quarreled with him because he left me on the committee. What other inference is there that the committee was made up to answer the purpose of men who desired for very particular reasons to have me off that committee, and so stated to the Speaker himself? I have nothing to do with motives. It is not for me to say that the Speaker, in making up the committee, knew the position of the men placed upon it; but the struggle of men to put persons there favorable to the railroad interests, and the struggle to keep me from being a member of the committee, afforded ample evidence of the truth of the position that I took.

I was obliged to the then Speaker for putting me on the committee. The discussion on this bill led to bringing out the remarks which I made and to which reference has been made here, remarks that I do not know under other circumstances I should have made, but after considering all of the facts I do not feel that I would be just to myself to withdraw the statement which I made.

Mr. KEIFER. I withdraw the *pro forma* amendment and renew it for the purpose of saying a word. I have no desire to pursue this matter in the shape of a personal controversy between the gentleman from Texas and myself, but I am authorized to say for the then chairman of the Committee on Commerce of the Forty-seventh Congress that he never made any such statement as the one now made here by the gentleman from Texas to me. As a personal friend of his I say this much.

Mr. REAGAN. It is simply a question of veracity.

Mr. KEIFER. And if he had made it I must say that it would not be true. There never was any such ground for it. I did not remember with great distinctness that the gentleman from Texas had applied to me to pack that committee in the interest of his bill. But if he says that is the case, as he repeats here to-day, I will make no issue with him.

Mr. REAGAN. I did not say that.

Mr. KEIFER. But I will say I did not pack the committee as he says he requested me, either in his interest or in the interest of his bill or in the interest of any railroad or of any person.

Mr. REAGAN rose.

The SPEAKER *pro tempore* (Mr. TOWNSHEND). Does the gentleman from Ohio yield to the gentleman from Texas?

Mr. KEIFER. Yes, sir.

Mr. REAGAN. I wish to say the gentleman from Ohio should not use that offensive expression. I did not ask him to pack that committee. I only asked him to let the voice of this House upon that bill be heard.

Mr. KEIFER. I like very much to have a rule that will work both ways. In my absence from the floor a few days ago the gentleman from Texas used the word "packing" in reference to myself, and said a committee had been "packed." Now he asks that that word shall not be applied to himself, when he has just stated that he requested me to make up the committee so that his bill might get before Congress. What does that mean but to pack it?

Now I say nobody asked me to pack that committee. One gentleman did ask me if I was to put the gentleman from Texas on the committee, and I said, "Yes." That is the only thing that happened. I never proposed to pack the committee. The gentlemen who were on that committee were certainly of the best members of that or of any other Congress. Does the gentleman complain of his colleagues on his own side who were on that committee? Were they not of the best men of the country on that side?

Mr. REAGAN. They were all known to be hostile to that bill and had voted against it when the gentleman from Ohio voted for it. The yeas and nays were called and show that fact.

Mr. KEIFER. I can not say whether that is true or not. But a large number who had been put on the committee by the distinguished Speaker of the Forty-sixth Congress were continued on it in the Forty-seventh Congress because of their experience there.

But the misfortune is whenever that bill has passed under a scrutiny of gentlemen who have had time to devote to it, who have had time to gather and collate the facts relating to it and could investigate it by day and by night—whenever that time came, the bill has failed to meet the judgment of a committee. I do not know whether the gen-

tleman claims that the committee of the present Congress is packed. But I am advised there were only one or two other gentlemen on the committee besides the gentleman from Texas who were in favor of his bill after they had heard the whole case.

Mr. REAGAN. That is not correct.

Mr. KEIFER. How many on the committee favored the reporting of your bill?

Mr. REAGAN. I beg to tell the gentleman that I am not on the witness-stand.

Mr. KEIFER. The gentleman from Texas undertakes to testify and then declines to state what is the fact. I suppose when a man who has a charge made against him stands mute that is a confession.

Mr. REAGAN. I wish only to say that the statement of the gentleman from Ohio [Mr. KEIFER] that one man asked him if he was to put me on the committee is not the statement he subsequently made to me. His statement to me was that "they," which meant more than one, had quarreled with him for putting me on the committee.

The question being taken on the amendment offered by Mr. BUDD, it was not agreed to.

Mr. GREEN. I now offer the amendment which I indicated a short time ago.

The Clerk read as follows:

That, within thirty days after the passage of this act the managers of each and every railroad embraced therein shall be required to have provided on each and every passenger train running on their line of road, which now carries a so-called express car, at least one car of like capacity for purpose hereinafter specified, and such car to be under the exclusive control of such road.

That, to the extent of ordinary carrying capacity of such car, every such railroad shall be required, under penalty of forfeiture of one-half of the ascertained and marked value of every package committed to it marked "*speed*," to take the same to its destination, or to the connecting road making such destination, with the usual celerity of the passenger train, provided that all such packages shall be of class and description usually carried by express companies, and no one package to exceed one hundred pounds in weight.

That, upon arrival at place of destination it shall be stored and cared for until delivered to the consignee in person or upon his written order, and at an additional charge not to exceed 100 per cent. over what would have been ordinary freight rate on same.

That, if destination of package so marked involves transfer to other and connecting railroads, whether owned or operated by the same company or not, such transfer shall be made with reasonable celerity on arrival at connecting point; and the road failing to make such transfer, or the one refusing to receive such package, if in good condition, shall be held responsible for such neglect and liable to aforesaid penalty on account thereof.

Provided, That nothing in this act shall be construed to require a passenger train carrying such freight to stop and deliver the same or any part thereof at any depot, station, or point other than one where the road has an accredited agent and where the train stops for ingress or egress of passengers.

Mr. GREEN. Mr. Speaker, if abatement of monopolistic assumption and extortion be the end in view of the bill under consideration, the amendment just read is certainly germane thereto.

Of all monopolies or close corporations with which we have to deal, there are few so close or with abuses more glaring than the three or four so-called express companies of a national character which enjoy the exclusive right of rapid freight carriage and arbitrary and extortionate charge. Actuated by no genuine or affected sentiment of public spirit, and deterred by no qualms of conscience, their motto seems to be—

> The good old rule
> Sufficeth them, the simple plan,
> That they should take who have the power,
> And they should keep who can.

They rarely come in competition with each other, but intrenched in franchise like the robber barons of the Rhine in a kindred era, on their castled crags, they seem by some occult understanding between themselves to map out the country to be despoiled by forced contribution, each taking their slice of territory. This arrangement is more objectionable to the public than a unitized monopoly. It is a good thing for the companies. Demand redress for overcharge or other grievance and the blame is sure to lie with the other company over the border, or if, perchance, discarding this stereotyped excuse, they will give you the equally hackneyed one of heavy bonus to the railroad for monopoly enjoyed. But, Mr. Speaker, the rapidly accumulating and already accumulated colossal fortunes of its chief functionaries and grand factotums completely negative and give the lie to that flippant but plausible pretext for their wholesale petty robberies.

But admit for the nonce that it is even so, and the reason for divorce between the two stands out the more apparent. What right, I ask, has the railroad to take the uttermost farthing of honest exaction from these poor innocents with the implied if not expressed understanding that in consideration therefor these last are to enjoy the exclusive privilege of exacting the very last farthing that they can get out of a reluctant public?

Mr. Speaker, there is no use in mincing terms. The profits of the express company under this delectable system, and they are enormous, when sifted down constitute an aggregation of petty swindles.

Whatever the road can afford to farm out the privilege at, that, with a reasonable percentage added for subagents, &c., is the proper gauge of measure and the aggregate of legitimate charge that it can conscientiously exact from the public if it did what it should do and what it should be made to do—attend to its own business instead of delegating it to another. The proposition covered by the resolution will probably be combated on the ground that patronage is not compulsory; in plainer terms, that no one is compelled to submit to the extortion. It is the India-inked plea of monopolists. As a rule it is fallacious, as it most certainly is here. Take a case for instance: You must have or deliver to another some article by a certain close day. The railroad can not take it. Why? It has barred itself from so doing by specific contract. And so it must come or go, if come or go it does, through the agency of the specially favored lessee yclept the express company.

Is there any limit as to duration of the powers enjoyed? Not the slightest. And there, sir, comes in another most objectionable feature. This privilege is in the nature of an interminable patent. Would you know its origin and the claim upon which it is based? If so, then hearken and I will tell you the tale as it was told me. An individual in the city of Boston conceived the brilliant and original idea of delivering bundles in the surrounding towns in a one-horse wagon. The idea grew, and its author grew, until it has developed into the mammothian, monopolized devil-fish known by its founder's name as "The Adams Express," whose feelers extend across the continent lengthwise and breadthwise, and whose age of life is not to be measured by that of the Republic, but of some succeeding despotism which may perchance arise out of its ruins. Is there not a brief specific limit to other patented ideas of grander conception and more beneficent scope?

We will be met on the threshold here, Mr. Speaker, with the pert retort that "The way is open to competition." But I say, not so.

Let competition dare to enter, as it has time and again, and it will be, as it has been, throttled, squelched, wiped out, obliterated by this pampered ogre as would a lady's lap-dog by a Siberian bloodhound whose dinner it dared invade. Like other monopolies which curse and afflict our land, it is all too powerful to tolerate the rivalry of competition. The public, in their eyes, is a very inconvenient bird. It may be too much for one but is not enough for two.

Doubtless, Mr. Speaker, the intermediary agent saves "the gentlemen of the road" (pardon the equivocal expression; it is not intended literally in the Dick Turpin sense) some trouble and annoyance in handling and delivery. But I submit whether it is fair or just that the public should be subjected to quadruple or quintuple tax for the convenience of the road. They might with equal right dispose of license to carry all freights at option and on terms most suitable to the lessee.

Nay, further; concede the right in the one case, and there is no barrier against farming out to the highest bidder all passenger traffic likewise. Already we see the entering-wedge to this, to some extent, in the parlor and sleeper department. But it is optional so far, I concede, with him who takes passage whether he will avail himself of greater comfort at higher cost. If, however, on precedent established, the sleeping-car company sees fit to buy up the monopoly of all live freight carriage, constructively, bipeds as well as quadrupeds, what recourse or alternative has the ordinary ticket-buyer but to submit to the claim set up and justified under long-established usage in fast-freight carriage and delivery? The right to sell the right to transport a poodle or a parrot, a monkey, a dude, or a donkey implies the kindred right to carry folks at a corresponding increase of rate. Is such intent within the scope or purview of any railroad charter granted outside of Turkey, China, Egypt, or Japan? I simply reiterate, by inference, Mr. Speaker, that if the last is not transferable, neither is the other by any rule of ethics or of equity that can be conceived or laid down. And hence I hold that it is within the scope of our restrictory powers to proclaim null, void, and nugatory in way designed, and to that extent, all such transfers of exclusive rights and arbitrary monopolistic powers.

[During the delivery of the foregoing remarks, when five minutes had expired, Mr. DOWD obtained the floor and yielded his time to Mr. GREEN.]

Mr. REAGAN. I rise for the purpose of moving to close debate on this section and all amendments thereto in one minute.

Mr. WARNER, of Ohio. I hope the gentleman from Texas, before making the motion to close debate, will take time to explain what is meant by the second clause of section 5, which requires that schedules shall be posted at "the different places between which such property shall be carried." Is this intended to require that railroad companies shall post up in every station the rate to every other station in the United States to which freight may be consigned? This, it seems to me, would be impracticable.

Mr. REAGAN. This section, including the clause to which the gentleman refers, is to be construed *in pari materia* with the remainder of the bill. The bill is designed to regulate commerce between the States. The provision to which the gentleman calls my attention proposes to require railroads to indicate by their schedules the different places between which freight is carried. This every railroad company professes now to do. This provision adds nothing to their present obligation, takes nothing from it. But while they profess to do this, obedience to the rule by which they profess to be governed is the exception. We wish to make compliance with the rule universal. This section is intended to provide an instrument of evidence as well as an instrument of justice, so that the companies shall not charge more or less than their schedule rates, but that equal justice shall be done to all shippers. This provision simply requires the railroads to do exactly what they say they do now.

With reference to the amendment offered by my friend from North Carolina [Mr. GREEN], while I regard the question which it presents as one well deserving attention, it would involve at this time the consideration of questions which may operate injuriously upon a measure which has been fully considered. I would therefore be very glad if the gentleman would not press his proposition as an amendment to this bill.

Mr. Speaker, I now move that debate on this section and all amendments to it be closed in one minute.

Mr. STRUBLE. I have been endeavoring to secure recognition in order to offer an amendment.

Mr. REAGAN. Time is precious; and if the House will sustain me I propose to press this bill to a conclusion.

The SPEAKER. The Chair will state to the gentleman from Iowa [Mr. STRUBLE] that if the motion of the gentleman from Texas be adopted it will merely stop debate, and will not prevent the offering of amendments.

Mr. STRUBLE. Unless the gentleman from Texas should be willing to accept my amendment, I should like to be heard upon it.

Mr. REAGAN. If the gentleman wants to move an amendment, I will give way to him before moving to close debate, so that he may offer his amendment and occupy five minutes in its explanation, and then if necessary a brief rejoinder may be made.

The SPEAKER. The amendment of the gentleman from Iowa might be read with the understanding that after the motion to close debate has been adopted the gentleman may be allowed to occupy five minutes if he desires to do so.

The Clerk read the amendment of Mr. STRUBLE, as follows:

Add to section 5 the following:

"Fourth. It shall be the duty of said person or persons engaged in carrying property, as provided in the first section of this act, to file or cause to be filed, and within fifteen days from and after posting, a copy of each schedule, posted as in this section required, with the clerk of the circuit court of the United States in and for each judicial circuit in or through which any railroad may be operated; and it shall be the duty of said clerk to file and preserve the same as a part of the records of his office."

The SPEAKER. The gentleman from Texas moves to close debate upon the pending section and amendments thereto, with the understanding that the gentleman from Iowa [Mr. STRUBLE] may address the House for five minutes.

The motion of Mr. REAGAN was agreed to.

The SPEAKER. The first question is upon the amendment proposed by the gentleman from North Carolina [Mr. GREEN].

The amendment was not agreed to.

The SPEAKER. The question now recurs on the amendment of the gentleman from Iowa [Mr. STRUBLE].

Mr. REAGAN. I see no objection to that amendment.

Mr. STRUBLE. If the gentleman from Texas accepts the amendment I do not care to make any remarks upon it.

The amendment of Mr. STRUBLE was agreed to.

Mr. HOPKINS. I offer the following amendment:

In line 27 of section 5, after the word "railroads," insert "or pipe lines.

The amendment was agreed to.

Mr. O'NEILL, of Pennsylvania. In order merely to test the sense of the House I move to strike out this entire section.

The question being taken on the motion of Mr. O'NEILL, of Pennsylvania, it was not agreed to, there being—ayes 19, noes 61.

The Clerk read as follows:

SEC. 6. That each and all of the provisions of this act shall apply to all property, and the receiving, delivery, loading, unloading, handling, storing, or carriage of the same, on one actually or substantially continuous carriage, or as part of such continuous carriage, as provided for in the first section of this act, and the compensation therefor, whether such property be carried wholly on one railroad or partly on several railroads, and whether such services are performed or compensation paid or received by or to one person alone or in connection with another or other persons.

Mr. HOPKINS. I move to amend by inserting after the word "railroads," in the eighth line of the section just read, these words: "or wholly by one pipe line or partly by several pipe lines."

Mr. HOPKINS's amendment was agreed to.

The seventh section was read, as follows:

SEC. 7. That each and every act, matter, or thing in this act declared to be unlawful is hereby prohibited; and in case any person or persons, as defined in this act, engaged as aforesaid, shall do, suffer, or permit to be done any act, matter, or thing in this act prohibited or forbidden, or shall omit to do any act, matter, or thing in this act required to be done, or shall be guilty of any violation of the provisions of this act, such person or persons shall forfeit and pay to the person or persons who may sustain damage thereby a sum equal to three times the amount of the damages so sustained, to be recovered by the person or persons so damaged by suit in any State or United States court of competent jurisdiction where the person or persons causing such damage can be found or may have an agent, office, or place of business; and if the court before which any such action is tried shall be of opinion that the violation of the law was willful, it shall make an allowance, by way of additional costs, to the party injured sufficient to cover all his counsel and attorney fees. Any action to be brought as aforesaid may be considered, and if so brought shall be regarded, as a subject of equity jurisdiction and discovery, and affirmative relief may be sought and obtained therein. In any such action so brought as a case of equitable cognisance as aforesaid, any director, officer, receiver, or trustee of any corporation or company aforesaid, or any receiver, trustee, or person aforesaid, or any agent of any such corporation or company, receiver, trustee, or person aforesaid, or of any of them, alone or with any other person or persons, party or parties, may and shall be compelled to attend, appear, and testify and give evidence; and no claim that any such testimony or evidence might or might not tend to criminate the person testifying or giving evidence shall be of any avail, but such evidence or testimony shall not be used as against such person on the trial of any indictment against him. The attendance and appearance of any of the persons who as aforesaid may be compelled to appear or testify, and the giving of the testimony or evidence by the same, respectively, and the production of books and papers thereby, may and shall be compelled the same as in the case of any other witness; and in case any deposition or evidence, or the production of any books or papers, may be desired or required for the purpose of applying for or sustaining any such action, the same, and the production of books and papers, may and shall be had, taken, and compelled by or before any United States commissioner, or in any manner provided or to be provided for as to the taking of other depositions or evidence, or the attendance of witnesses, or the production of other books or papers in or by chapter 17 of title 13 of the Revised Statutes of the United States. No action aforesaid shall be sustained unless brought within one year after the cause of action shall accrue, or within one year after the party complaining shall have come to a knowledge of his right of action. And as many causes of action as may accrue within the year may be joined in the same suit or complaint.

Mr. BROWNE, of Indiana. I move, in line 10, section 7, to strike out the words "three times."

Now, Mr. Speaker, punitive damages under the old rule of the common law I believe are confined to cases where the injury is to the person. I see no reason why in an action to recover damages, simply because of injury to property, there should be awarded more than the actual damage sustained by the person injured. It seems to me there ought to be compensation for injury and no more. This section, as it now stands, provides in all actions against railroad companies by parties injured the sum recovered shall be equal to three times the amount of damage actually sustained. It seems to me this is an invitation to all persons who may be tempted to bring little suits against these corporations simply for the purpose of securing damages. I remember we used to have a great horror that the law gave a moiety to informers. There were many reasons for it, and one of them it seems to me would apply with the same force to this section. It put men as spies into the business of others in order that they might ascertain some infraction of the law so a suit might follow and they might share in the proceeds or result. Where damages are so extraordinary and so disproportionate to loss sustained it would be, it seems to me, a standing invitation to those who so desired to prosecute suits against the railroad companies.

Now, when we have given to a party injured the full measure of damage sustained, taken in connection with the other provisions of this section making it incumbent upon the court to give the party recovering attorney and counsel fees in addition—I say it seems to me that when we have given the party injured the full measure of damage sustained by the injury which he received and, in addition, providing for the payment of attorney and counsel fees, we have done quite enough.

While I am disposed to vote for the bill, I do not believe I will be able to do so if it shall inflict such extraordinary and unreasonable penalties. We ought to treat corporations as we treat others who have rights under the law. Corporations are simply the aggregate of citizens who have combined their capital for some public purpose. When the law visits a penalty on a corporation it simply visits it on the citizens composing it who have contributed their capital to build it up. And while we are considering this question let us look at it in the light of reasonable persons, and if it is possible for Congressmen to be statesmen we might then consider it as statesmen. For these reasons, which I have not time in five minutes to enlarge upon, I hope the amendment which I have moved will be adopted.

Mr. REAGAN. I wish to say in reply to the gentleman from Indiana, Mr. Speaker, that this provision of the bill for the payment of three times the amount of damages sustained by the party injured has grown out of the habitual practice on the part of railroads themselves to protract in every possible way any recovery on the part of those who have been injured. Many of these railroads have been in the habit of protracting litigation so as to deter all people of ordinary means from prosecuting suits to recover damages for losses sustained. If there is any wrong in this matter that wrong has grown out of the acts of railroad corporations themselves.

In addition to that, Mr. Speaker, if the gentleman from Indiana had noticed the remarks of the gentleman from Maryland [Mr. FINDLAY] who sits near me, he would have seen in a case actually tried in the courts of Baltimore the ordinary common-law damages were inadequate to meet the injury inflicted and that these triple damages are proper. If they can violate the law and the party injured can only recover actual damages—and we are informed by the gentleman from Maryland the court so held, that no punitive damages can be allowed, only the actual damages—then the railroads would be as safe in violating the law as in obeying it.

Mr. BROWNE, of Indiana. If the gentleman from Texas will allow me a moment——

Mr. REAGAN. The gentleman will permit me a moment longer. I will then yield to him.

The gentleman from Indiana presents another view of the subject, that this would invite informers. Evidently the gentleman has not contemplated the section; for if he had, with his clear head he would have perceived that the remedy is given to the party aggrieved, and not to the informer.

Mr. BROWNE, of Indiana. The gentleman from Texas misapprehended my statement entirely. I simply said that it was analogous to the law that allowed moieties and of which complaint was made.

Mr. REAGAN. But I understood that the gentleman claimed it would invite informers.

Mr. BROWNE, of Indiana. No; I knew that there was nothing in this section to induce informers.

Mr. REAGAN. Well, I was afraid the argument would be so understood, and I desired to set the matter right at the proper point.

Mr. Speaker, this question of giving triple damages is a very common one as a statutory remedy against torts such as this is intended to provide against. It is common both in English and in American State courts to give triple damages for willful wrongdoing, and that is all we propose. We propose to tell these gentlemen that they must obey the law, and if they do not we will put penalties upon them which will compel obedience.

If the gentleman from Indiana does not wish to make any further remarks I will move to close debate upon this section.

Mr. BROWNE, of Indiana. I would like to have a few moments longer, and for that purpose move to strike out the last word.

If it be true, as stated by the gentleman from Texas, that triple damages may be allowed in some cases, it seems to me, to say the most of this provision that can be said of it, that it ought not to be an inflexible rule. Here in every case in which there is a willful act that constitutes a violation the court must award damages equal to three times the amount of the injuries sustained. Now, in addition to the invitation to litigation contained in this section, it seems to me to be even intended to be a terror to the companies themselves, who may be afraid even to refuse to settle without bringing to the attention of the courts the question of their legal rights, lest they may be mulct in three times the damages, for every act against the statute would be willful, and its being willful, the violation would be construed to be willful also.

So I would not complain so much if it allowed this measure of damages to be fixed by the court in its discretion, so it might be applied to proper cases; but here it is inflexible and admits of no exception. If it were stated to be damages in the discretion of the court, I should not object to that.

I will say to the gentleman from Texas that I have had some little experience in litigation with railroad companies, and I want to say to him that the citizen is not in very much danger when he joins issue in the courts and before a jury with a railroad company—not in much danger. I have never known the corporation to succeed in any case where they should not have succeeded, and I have known many instances in which they have been defeated where I think under a due administration of law they should have been successful.

I want to state another fact, that there is no danger in these cases where a conviction follows that the damages will not be the full measure of the injury sustained. There will be no cutting down, no paring by the jury in the interest of the railroad company. If they prove damages and the amount be $10 or $10,000 the jury and the courts will award every penny of it, and there is no necessity for this provision in this bill.

I withdraw the *pro forma* amendment.

Mr. REAGAN. I now move, pending the motion of the gentleman from Indiana, to close debate in one minute on this section and the pending amendment.

The motion to close debate was agreed to.

The SPEAKER. The question is on agreeing to the amendment proposed by the gentleman from Indiana.

The amendment was not agreed to.

Mr. BROWNE, of Indiana. I move a further amendment, which I send to the desk.

The Clerk read as follows:

Strike out all the words in line 18, after the word "injured," and also the word "fees," in line 19, and insert the words "a sum to be determined by the court in its discretion, but not to exceed his reasonable attorney's fees."

Mr. BROWNE, of Indiana. Just a word now.

The SPEAKER. Debate has been closed upon the amendments and the section.

Mr. BROWNE, of Indiana. I wanted to leave, inasmuch as there will be three times the damages awarded, the attorney's fees in the discretion of the court.

The question was taken on the adoption of the amendment; and on a division there were—ayes 36, noes 54.

So (no further count being demanded) the amendment was not agreed to.

Mr. BUDD. I now offer the amendment which I send to the desk.

The Clerk read as follows:

Strike out in lines 10 and 11 the words "equal to three times the amount of the damages so sustained," and insert instead thereof the words "equal to the amount of the damages so sustained, and in case such violation were willful, the person or persons so sustaining damage shall be entitled to judgment for three times the damages actually sustained."

The amendment was not agreed to.

Mr. O'NEILL, of Pennsylvania. I move to strike out the seventh section and insert in lieu thereof what I send to the desk. What I desire to insert is the sixth section of the bill which was reported by the committee. I propose to strike out the section in the substitute bill and insert the section reported in the committee's bill.

The SPEAKER. Debate is not in order.

Mr. O'NEILL, of Pennsylvania. I was taking the one minute.

The SPEAKER. Debate has been closed. The Clerk will read the amendment.

The Clerk read as follows:

Strike out section 7 and insert in lieu thereof the following:

"That any railroad company, officer of such company, or other person who shall violate any of the provisions of this act shall be liable to any person injured for the actual damages caused by such violation, which may be recovered in any State or United States court of competent jurisdiction. The court before which any such action is tried, if it shall be found that the violation was willful or continued after the notice provided by the tenth section of this act, shall make an allowance by way of additional costs to the party injured sufficient to cover all his counsel and attorney fees, and all expenses and disbursements in the action, including his own necessary personal expenses."

The question being taken on the amendment, there were—ayes 14, noes 50.

Mr. O'NEILL, of Pennsylvania. I want to call attention to the fact that a quorum has not voted.

The SPEAKER. A quorum not having voted, the Chair will appoint the gentleman from Pennsylvania, Mr. O'NEILL, and the gentleman from Texas, Mr. REAGAN, as tellers.

Mr. O'NEILL, of Pennsylvania. I did not call for a quorum. I merely called attention to the fact that a quorum had not voted.

So (further count not being called for) the amendment was not agreed to.

Mr. STRUBLE. I offer the amendment which I send to the desk.

The Clerk read as follows:

Insert after the word "him," in the thirty-fourth line, the following words: "For violating any of the provisions of this act."

The amendment was not agreed to.

Mr. ADAMS, of Illinois. I offer the amendment which I send to the desk.

The Clerk read as follows:

In lines 51 and 52 amend by striking out the words "or within one year after the party complaining shall have come to a knowledge of his right of action."

The amendment was not agreed to.

Mr. HOPKINS. I offer the amendment which I send to the desk as an addition to the section.

The Clerk read as follows:

Add to section 7 the following:

"And any circuit or district court of the United States having jurisdiction of the persons shall have the power, upon application of any person or persons, firms, railroads, or other corporations or associations, alleging undue and unjust discrimination against a person in violation of the provisions of this act, to issue writs of mandamus against such person, commanding such person to move and transport freight, or to furnish facilities for transportation for the party applying for the writ, upon such terms and in such manner as shall seem just and proper to the court in order to prevent any undue or unjust discrimination against the relator. The proceedings shall be as in other cases of mandamus; and in cases of urgent necessity or involving the transportation of perishable goods the writs of alternative mandamus may be made returnable forthwith: *Provided*, That no writ or peremptory mandamus shall issue under this act until the relator shall have given security, in such sum as shall be named by the court, to pay the defendant the proper and legal charges for the services required to be performed by the writ aforesaid: *And provided further*, That the remedy herein given by writ of mandamus shall be cumulative, and shall not exclude or interfere with the other remedies herein provided."

The amendment was agreed to.

Mr. HAMMOND. I offer the amendment which I send to the desk.

Add to section 7 as follows:

"No cause brought under this act in any State court of competent jurisdiction shall be removed to any United States court."

The question being taken on the proposed amendment, there were—ayes 36, noes 21.

Mr. O'NEILL, of Pennsylvania. I make the point that a quorum has not voted.

The SPEAKER. A quorum not having voted, the Chair will order tellers, and appoints the gentleman from Georgia, Mr. HAMMOND, and the gentleman from Pennsylvania, Mr. O'NEILL.

Mr. BROWNE, of Indiana. I ask that the amendment be again read.

The amendment was again read.

The House again divided; and the tellers reported—ayes 86, noes 32.

Mr. SMALLS. I insist upon a quorum, inasmuch as this amendment is in the interest of the Jim Crow car.

The tellers resumed the count and reported the result.

The SPEAKER. The tellers report ayes 111, noes 55. The amendment is agreed to.

Mr. BRUMM. I call for the yeas and nays.

ENROLLED JOINT RESOLUTION.

Mr. SNYDER, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a joint resolution of the following title; when the Speaker signed the same:

A joint resolution (H. Res. 308) appropriating $50,000 for the support of certain destitute Indians.

INTERSTATE-COMMERCE BILL.

Mr. BRUMM. I have called for the yeas and nays.

Mr. REAGAN. I make the point that the gentleman called for the yeas and nays too late.

The SPEAKER. The Chair did not hear the demand for the yeas and nays until after other business had been transacted.

Mr. BRUMM. I asked for the yeas and nays before the report was made from the Committee on Enrolled Bills.

Mr. REAGAN. But the gentleman did not call for the yeas and nays before the Chair had announced the result.

The SPEAKER. The gentleman from Pennsylvania states that he called for the yeas and nays before the title to the enrolled bill was read. The practice has always been in such cases to take the gentleman's statement.

Mr. REAGAN. The gentleman says that he called for the yeas and nays before the title of the enrolled bill was read. But the point is that he did not call for them until the Speaker had announced the result.

The SPEAKER. It is usual when the Chair announces the vote that then gentlemen rise and demand the yeas and nays, and the Chair thinks the call for the yeas and nays was made in time.

The yeas and nays were ordered, 39 members voting therefor.

The question was taken; and there were—yeas 125, nays 88, not voting 110; as follows:

YEAS—125.

Adams, J. J.	Dowd,	McMillin,	Sumner, C. A.
Alexander,	Eaton,	Matson,	Swope,
Anderson,	Eldredge,	Maybury,	Taylor, J. M.
Bagley,	English,	Miller, J. F.	Thompson,
Ballentine,	Ermentrout,	Money,	Throckmorton,
Barksdale,	Ferrell,	Morgan,	Tillman,
Beach,	Fiedler,	Muller,	Townshend,
Bland,	Forney,	Murphy,	Tucker,
Blount	Fyan,	Murray,	Tully,
Bratton,	Geddes,	Neece,	Turner, H. G.
Breckinridge,	Gibson,	Nicholls,	Turner, Oscar.
Buchanan,	Glascock,	O'Ferrall,	Van Eaton,
Buckner,	Green,	Peel,	Wallace,
Budd,	Halsell,	Pierce,	Warner, Richard
Cabell,	Hammond,	Post,	Weaver,
Caldwell,	Hardeman,	Pryor,	Wellborn,
Campbell, Felix	Hardy,	Pusey,	Wemple,
Candler,	Hatch, W. H.	Randall,	White, Milo
Cassidy,	Hemphill,	Reagan,	Wilkins,
Clardy,	Herbert,	Reese,	Williams,
Clements,	Hewitt, A. S.	Riggs,	Willis,
Cobb,	Hewitt, G. W.	Rogers, J. H.	Wilson, James
Cook,	Hoblitzell,	Rogers, W. F.	Wilson, W. L.
Cosgrove,	Holman,	Rosecrans,	Winans, E. B.
Covington,	Hopkins,	Seney,	Winans, John
Cox, W. R.	Jones, J. H.	Shively,	Wise, G. D.
Crisp,	Kleiner,	Singleton,	Wolford,
Culbertson, W. W.	Lamb,	Skinner, T. G.	Worthington,
Davidson,	Lanham,	Snyder,	Yaple.
Davis, L. H.	Lore,	Stewart, Charles	
Dibrell,	Lovering,	Storm,	
Dorsheimer,	McAdoo,	Struble,	

NAYS—88.

Adams, G. E.	Dingley,	Libbey,	Price,
Atkinson,	Elliott,	Long,	Ranney,
Barr,	Everhart,	Lyman,	Reed,
Bayne,	Findlay,	McComas,	Rockwell,
Bingham,	George,	McCormick,	Ryan,
Bouteille,	Hanback,	Millard,	Seymour,
Bowen,	Harmer,	Milliken,	Smalls,
Boyle,	Haynes,	Mitchell,	Smith, A. H.
Brainerd,	Henderson, D. B.	Morrill,	Stevens,
Breitung,	Henderson, T. J.	Morse,	Stone,
Brewer, F. B.	Hitt,	Mutchler,	Strait,
Brewer, J. H.	Holmes,	Nelson,	Taylor, E. B.
Brown, W. W.	Horr.	Nutting,	Taylor, J. D.
Browne, T. M.	Houk,	O'Hara,	Thomas,
Brumm,	Howey,	O'Neill, Charles	Wadsworth,
Campbell, J. M.	Hunt,	O'Neill, J. J.	Wait,
Cannon,	James,	Payne,	Wakefield,
Chace,	Jeffords,	Payson,	Washburn,
Cullen,	Johnson,	Perkins	Whiting,
Cutcheon,	Keifer,	Peters,	Wise, J. S.
Davis, G. R.	Lacey,	Pettibone,	Woodward,
Davis, R. T.	Lawrence,	Potter,	York.

NOT VOTING—110.

Aiken,	Ellis,	Kean,	Robinson, W. E.
Arnot,	Ellwood,	Kelley,	Rowell,
Barbour,	Evans,	Kellogg,	Russell,
Belford,	Finerty,	Ketcham,	Shaw,
Belmont,	Follett,	King,	Shelley,
Bennett,	Foran,	Laird,	Skinner, C. R.
Bisbee,	Funston,	Le Fevre,	Slocum,
Blackburn,	Garrison,	Lewis,	Smith, H. Y.
Blanchard,	Goff,	Lowry,	Spooner,
Broadhead,	Graves,	McCold,	Spriggs,
Burleigh,	Greenleaf,	Miller, S. H.	Springer,
Burnes,	Guenther,	Mills,	Steele,
Campbell, J. E.	Hancock,	Morrison,	Stephenson,
Carleton,	Hart,	Moulton,	Stewart, J. W.
Chalmers,	Hatch, H. H.	Muldrow,	Stockslager,
Clay,	Henley,	Oates,	Sumner, D. H.
Collins,	Hepburn,	Ochiltree,	Talbot,
Connolly,	Hill,	Paige,	Valentine,
Converse,	Hiscock,	Parker,	Van Alstyne,
Cox, S. S.	Holton,	Pattou,	Vance,
Culberson, D. B.	Hooper,	Phelps,	Ward,
Curtin,	Houseman,	Poland,	Warner, A. J.
Dargan.	Hurd,	Rankin,	Weller,
Deuster,	Hutchins,	Ray, G. W.	White, J. D.
Dibble,	Jones, B. W.	Ray, Ossian	Wood,
Dockery,	Jones, J. K.	Rice,	Young,
Dunham,	Jones, J. T.	Robertson,	
Dunn,	Jordan,	Robinson, J. S.	

So the amendment was agreed to.

On motion of Mr. MCCOMAS, by unanimous consent the reading of the names of members voting was dispensed with.

The following additional pairs were announced:

Mr. COLLINS with Mr. KELLEY, on all political questions, for the remainder of the day.

Mr. FORAN with Mr. GOFF, for this day.

Mr. TALBOTT with Mr. HOLTON, for this day.

Mr. AIKEN with Mr. POLAND, for the remainder of the day.

Mr. MOULTON with Mr. BISBEE, on all political questions, for the remainder of this day. Mr. MOULTON would vote for the Reagan bill.

Mr. JONES, of Wisconsin, with Mr. KEAN, on the Reagan bill. If present, Mr. JONES would vote "ay" and Mr. KEAN "no."

Mr. ROBINSON, of New York, with Mr. PARKER, on the Reagan bill.

Mr. LEWIS with Mr. GREENLEAF, on the Reagan bill; for the day.

Mr. BLANCHARD with Mr. CHACE, on the interstate commerce bill, for the remainder of this day. Mr. BLANCHARD would vote for the Reagan bill and Mr. CHACE against it.

Mr. HURD with Mr. HATCH, of Michigan.

The result of the vote was then announced as above stated.

The Clerk read as follows:

SEC. 8. That any director or officer of any corporation or company acting or engaged as aforesaid, or any receiver or trustee, lessee, or person acting or engaged as aforesaid, or any agent of any such corporation or company, receiver, trustee, or person aforesaid, or of one of them alone, or with any other corporation, company, person, or party, who shall willfully do, or cause or willingly suffer or permit to be done, any act, matter, or thing in this act prohibited or forbidden, or who shall aid or abet therein, or shall willfully omit or fail to do any act, matter, or thing in this act required to be done, or cause or willingly suffer or permit any act, matter, or thing so directed or required by this act to be done not to be so done, or shall aid or abet any such omission or failure, or shall be guilty of any infraction of this act, or aid or abet therein, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than $1,000.

Mr. CLARDY. I move to amend by striking out in the last line of the section just read the word "less" and inserting "more;" so as to make it read, "shall be fined not more than $1,000."

Mr. Speaker, the object of this amendment is to provide a maximum instead of a minimum punishment for a violation of the provisions of this bill. This bill applies not only to directors and managers of railroad corporations, but to agents and employés as well. So that any station agent who may ship or permit to be shipped property for which more than the reasonable cost of transportation is exacted can, under this section, be fined in any sum not less than $1,000. He might be fined $10,000 or $50,000, but the penalty can not be less under the terms of this bill than $1,000. When we reflect, Mr. Speaker, that for an error of judgment this penalty may be visited upon the officers or agents of railroad corporations, we can see at once that instead of fixing a minimum punishment we should fix a maximum. As stated by the gentleman from Indiana awhile ago, in a contest between a railroad company and an individual the juries of the country will always do justice to the individual, and I think it would be a great mistake indeed to permit juries, without any restraint, to impose a penalty in any amount that they might determine.

I repeat that I think there ought to be a maximum penalty. Under the bill as it now stands, if its provisions be violated by an agent who simply carries out a schedule furnished him by his superiors, he is liable to a penalty which in no instance can be less than $1,000. Perhaps $1,000 is not enough for the maximum penalty; but it is certainly more than the minimum penalty ought to be.

Mr. REAGAN. If the gentleman from Missouri [Mr. CLARDY] will consent to make the maximum penalty $2,000, I will not object to his amendment.

Mr. CLARDY. The gentleman from Texas suggests that my amendment be modified so as to fix the maximum penalty at $2,000 instead of $1,000.

Mr. REAGAN. In that form I have no objection to the amendment.

The amendment of Mr. CLARDY as modified, so as to make the last line of the section read "shall be fined not more than $2,000," was agreed to.

The Clerk read as follows:

SEC. 9. That nothing in this act shall apply to the carriage, receiving, storage, handling, or forwarding of property wholly within one State, and not shipped from or destined to some foreign country or other State or Territory; nor shall it apply to property carried for the United States at lower rates of freight and charges than for the general public, or to the transportation of articles free or at reduced rates of freight for charitable purposes, or to or from public fairs and expositions for exhibition.

SEC. 10. That the words "person or persons" as used in this act, except where otherwise provided, shall be construed and held to mean person or persons, officer or officers, corporation or corporations, company or companies, receiver or receivers, trustee or trustees, lessee or lessees, agent or agents, or other person or persons acting or engaged in any of the matters and things mentioned in this act.

Mr. HAMMOND. I move to make the formal amendment to the last section just read by striking out the last word. During the excitement growing out of the granger laws in the West, and just after the decision of the Supreme Court sustaining their constitutionality, I was in the constitutional convention in Georgia in 1877, in which many measures connected with railroads were discussed. I was so unfortunate then as to be in a minority. I believed that any rigid rule in regard to railroad tariffs or rates, any rigid, unbending rule as to their management, would work evil and only evil to the people. The Legislature of my State, which met in 1879 to carry out the action of the constitutional convention, started upon a measure as radical as this. With the experience of only those two years that Legislature, upon calm

consideration, receded from the measure which was first contemplated and gave us a commission. Whatever may be the defects of such arrangement, it has a great advantage in flexibility. While there is much to be said in favor of legislation on the subject of railroads, there is much more to be said against any procrustean bed upon which all must be made to lie, though it may require the knife to make them fit.

I know the wrongs and oppressions of the railroads, but I know that the people need railroads, and that every additional burden or expense put upon them must sooner or later come out of the pockets of the public. I know besides that this bill contains the first effort ever made by Congress to legislate as to the transportation of passengers on land, except in the civil-rights bill, which has lately been declared unconstitutional by the Supreme Court of the United States.

I can not in five minutes give fully my reasons for voting against this bill; but I was unwilling to vote without declaring that while I differ, with deference and reluctance, from my friends on this floor, I shall feel compelled to vote against this proposed legislation.

Mr. REAGAN. My friend from Georgia [Mr. HAMMOND] misapprehends the character of this bill. He speaks of it as a bill to regulate railroad freights—as a "procrustean bed"—implying that it is an arbitrary measure. One of the greatest troubles I have had even with the friends of legislation in this direction has been to get them to understand that this is not a bill to regulate freight rates, that it does not undertake to prescribe rates for the transportation of freight. I know the difficulties which would attend any measure attempting to prescribe rates of freight. I am persuaded that no law fixing rates of freight could be made to work with justice either to the railroads or to the public; and I have intended from the beginning to avoid that difficulty. I have sought to secure the passage of legislation which would strike down the greatest and most manifest abuses of the railroads in the exercise of their monopoly powers. They have a complete monopoly of the business done upon their several lines; there is no permission to others to compete with them for the carriage of freights upon those lines.

I simply propose to say they shall not discriminate in freight rates, but shall be just and equal in their charges to the public who have given them their charters and the right to charge at all; that they shall not allow rebate to swindle one class for the benefit of another; that they shall not deprive the public of the benefit of competition by pooling the freights of different railroads; that they shall not charge more for fifty miles than they would for five hundred miles, including that fifty miles in the distance. That is simply to strike down the exercise of the monopoly powers of railways, in which they inflict the most manifest and constant injuries upon the public.

What procrustean bed is there in that? I have not undertaken to say they shall charge this or that price as to freights.

The difficulty with gentlemen in considering the bill is that they can not keep out of their minds the arguments of the railroad lawyers and lobbyists, who are continually harping upon it that this bill establishes arbitrary rates of freight. It does no such thing. It carefully guards against that, simply intending to prevent the most manifest abuse against the public and control the monopoly powers of these corporations.

The SPEAKER. Debate is exhausted. [Cries of "Vote."]

Mr. HAMMOND, by unanimous consent, withdrew his formal motion.

Mr. PERKINS. I move the following amendment.

The Clerk read as follows:

SEC. 11. That to aid in executing and carrying out the provisions of this bill there shall be appointed by the President, by and with the advice and consent of the Senate, three commissioners, no more than two of whom shall belong to the same political party, and of whom one shall be of experience in the law and one of experience in railroad business, who shall be collectively known as the commission of interstate commerce of the United States. One of said commissioners shall hold his office for the term of two years, one for the term of four years, and the other for the term of six years, to be respectively designated by the President, and thereafter said commissioners shall be appointed for the term of six years; and a commissioner appointed to any vacancy shall hold office for the unexpired term. Any one of said commissioners may be removed by the President for cause, but not otherwise. Said commissioners shall devote their whole time and abilities to the duties of their office, and shall not accept or engage in any office or employment inconsistent with the provisions of this act. If either commissioner, after his appointment, shall be, or shall become by inheritance or operation of law, pecuniarily interested in any railroad or railroad security, he shall, within thirty days, divest himself of such interest; and upon his failure to do so, or upon his voluntarily becoming interested in any such railroad or railroad security, his office shall become vacant. No commissioner shall participate in any hearing or proceeding in which he has any pecuniary interest whatever. Each commissioner shall receive an annual salary of $7,500, payable like the salaries of the judges of the courts of the United States: *Provided*, That before entering upon the discharge of their duties they shall, in addition to the oath required of them by law, take and subscribe to an oath that they are neither directly nor indirectly interested in the ownership or earnings of any railroad company whatsoever.

SEC. 12. That the said commission shall exercise only the powers by this act conferred. Said commission may appoint a clerk, whose duty it shall be to keep a full and faithful record of the proceedings of said commission, and otherwise to assist the members thereof in the performance of their duties, and who shall receive an annual salary of $2,500; and also one accountant at an annual salary of $2,500. The Secretary of the Interior, at the request of said commission, may also furnish the commission such additional clerical, engineering, expert, or other service as they may request and he shall deem proper. Actual and necessary traveling and other expenses incurred by said commissioners, or their employés under their orders, shall be allowed them, for which vouchers shall be rendered. The commissioners, their experts and clerks, may pass and repass over any railroad engaged in interstate commerce free of charge, whenever engaged in the performance of their duties under the provisions of this act, but neither shall accept any other pass, gratuity, or favor whatever from any railroad company.

SEC. 13. That any person complaining of anything done or omitted to be done by any railroad company or person in violation or contravention of this act may, in addition to the remedies hereinbefore provided, apply to said commission by petition in writing, which shall briefly state the subject of such complaint. If the petition is signed by any board of trade or other commercial body, or, when signed by an individual, if it bears the certificate of any district attorney of the United States, or of any district or county attorney, or officer corresponding thereto, of any State or Territory, that he has examined the facts and in his opinion the complaint is well founded, the commission is hereby required to entertain and investigate the same. In all other cases the commission shall decide whether or not the petition ought to be proceeded with. The commission may, if they think fit, before requiring or permitting any formal proceedings to be taken on any petition, communicate the same to the railroad company against whom it is made, so as to afford them an opportunity of making such observations or taking such action thereon as they may think fit. The commission shall have power, and in a proper case is required, to cause a copy of the petition to be served upon the railroad company complained against, and to issue a notice requiring such company to appear before the commission and answer the said petition. The answer shall be in writing. After the answer is filed it shall then be lawful for the commission, if it shall think fit, to direct and prosecute, in such mode and by such persons or means as it shall think proper, all such inquiries into matters of fact as may be deemed necessary to enable the commission to form a just conclusion in respect of the matters of said petition. All the proceedings before said commission shall be directed by and under general orders, which shall secure to all persons interested reasonable notice and opportunity to be heard. If it shall be made to appear to the satisfaction of the commission, either by the testimony of witnesses or other evidence adduced before it, or by the report of any person to whom the commission may have referred the inquiry, or any part thereof, that anything has been done or omitted to be done in contravention or violation of this act by any railroad company or person so upon due and proper notice proceeded against, it shall be the duty of such commission to make and record its report in writing in respect of any such contravention or violation of this act, which report shall comprise and embrace the findings of the commission upon and in respect of all questions of fact in issue or involved in such proceedings. Within a reasonable time, not to exceed twenty days, after such report and findings are made by the commission, it shall cause a copy thereof to be served upon or delivered to the railroad company so found to have violated this act, to which shall be appended a notice to be issued by said commission to such company forthwith to cease and desist from such violation; and also to deliver to the district attorney of the United States for the district in which the act complained of occurred another copy of such report, findings, and notice.

SEC. 14. That upon notice that any such railroad company has neglected or refused to conform to the decision of said commission, and to desist from such violation or contravention of this act, it shall be the duty of such district attorney to apply by petition, in the name of the party aggrieved, to the circuit court of the United States for such district, for, and it shall be the duty of such court to grant, an order upon such railroad company to show cause why such company should not be enjoined and restrained against the continuance of such violation, and for such other order and relief in the premises as may be just and proper. For the purpose of making any order or decree in the premises, final or otherwise, such court shall be always open, and the day on which any such order or decree is made shall be a special term of such court. Upon the service and return of such order to show cause, and notice to the parties interested, such court shall proceed in a summary manner to ascertain whether the said report and findings are true; and whenever said court shall be of opinion that such company has done or is doing any act in violation or contravention of this act in said report and findings described, it shall so adjudge; and it then shall be the duty of said court forthwith to issue a writ of injunction, requiring such railroad company to desist from such violation, and in respect of the matters in said report contained to conform to and obey all the provisions of said act. Such court may enforce obedience to any such injunction, order, or decree, by any person or party, by fine, proceedings for contempt, and all other means within its lawful jurisdiction sitting as a court of equity. Any person interested to restrain such violation may, on application to the court, be allowed to appear and be heard, by himself or counsel; and upon proof that any district attorney has failed in any proper case for the period of ten days to apply for such order to show cause, the court may permit such application to be made and prosecuted to effect by or in behalf of any person so interested. Such court may, in its discretion, award or deny costs to any party to such proceeding. In any case where the court shall adjudge that the violation of this act by any company has been willful, or continued after notice to desist therefrom, the court may award to any party injured such a gross sum by way of costs as will reimburse all his costs, charges, expenses, counsel fees, and disbursements, to be paid by such company.

SEC. 15. That the commission may make, and from time to time amend, such general orders as may be requisite for the order and regulation of proceedings before it, including all forms for proceeding, notices and the service thereof, and for the prescribing, directing, or regulating any matters authorized by this act. All the proceedings before said commission shall be upon reasonable notice to all parties interested, and such forms shall conform as nearly as may be to those in use in the courts of the United States. Any party may appear and be heard in person or by attorney.

SEC. 16. That for the purposes of this act the commission shall, subject as in this act mentioned, have full power to ascertain and report upon all questions of fact arising under this act, and shall also have the powers following:

(a) They may, by subpœna or order to be served by a person by them authorized, require the attendance of witnesses, and of all such persons as they think fit to call before them, or before any person by them authorized to prosecute an inquiry.

(b) They may require the production of all books, papers, and documents relating to any matter before them, and to that end may invoke the aid of any court of the United States.

(c) Either of them may administer oaths and affirmations.

SEC. 17. That the principal office of the commission shall be in the city of Washington, where its general session shall be held and its records and archives be deposited. Whenever the convenience of the public or of the parties may be promoted, or delay or expense prevented thereby, the commission may hold special sessions in any part of the United States. It may, by one or more of the commissioners, or one of the persons named in the eleventh section hereof, or by any person specially appointed by the commission, prosecute any inquiry necessary to its duties, in any part of the United States, into any matter or question of fact, and may specially delegate to the officer or person conducting such inquiry such powers to that end as are by this act conferred upon the commission and may be deemed necessary. Every vote and official act of either of the commissioners shall be entered of record. The commission may conduct its proceedings in such a manner as will most conduce to the dispatch of business and to justice; they may sit together or separately, and either in private or public, but any proceeding before them shall be public upon the request of either party thereto; and a majority of said commission may determine any question submitted. The commission shall prescribe a railroad year, and a system of re-

ports covering said year to be rendered by railroad companies; examine the books and accounts of said companies at such times as may be deemed by them necessary; see that all United States laws relating to said companies are enforced; furnish such information to the several Departments of the Government, or the Government directors of any of said railroads in regard to the tariffs of fares and freight, or the accounts of said railroads, as may be required of them or as they may deem expedient; and make an annual report of their doings to Congress on or before the 1st day of January of each year.

SEC. 18. That the Secretary of the Interior shall provide suitable offices and a room for the public sessions of the commission in the city of Washington. Witnesses summoned before the commission shall be paid the same fees as witnesses in the Federal courts, and depositions *de bene esse* and under commission may be taken to be used before the commission in the same manner and upon the same conditions as in such courts. The salaries and expenses of the commission shall be provided for, audited, and paid in the same manner as the salaries of judges and other judicial expenses.

SEC. 19. That in the construction of this act the phrases "railroad corporation" and "railroad company" shall be held to be synonymous, and to signify a corporation which either owns or operates a railroad as aforesaid, and shall include receivers, lessees, and trustees operating railroads.

SEC. 20. That the sum of $40,000, or so much thereof as may be necessary, is hereby appropriated for the uses and purposes of this act for the fiscal year ending June 30, A. D. 1885, and the intervening time anterior thereto.

Mr. REAGAN. I rise to a question of order on that amendment. As read it is a copy of sections 10, 11, 12, 13, 14, 15, 18, and 19, which have been voted down by the House.

Mr. PERKINS. It is perhaps true that some of the sections I offer here as an amendment to the bill supported by the gentleman from Texas are the same as those contained in the bill heretofore rejected, but there are other provisions and sections materially different; and as to them it seems to me the point of order can not be sustained, and if the point of order can not be sustained as to them, then these sections to which the point of order is interposed can not be sustained, because they are necessary to the efficacy and effect of the bill. I desire to say this amendment is not offered for the purpose of embarrassing or interfering at all with the legislation contemplated by the gentleman from Texas. Instead of that it seems to me that this amendment should be accepted in order to give additional advantages and opportunities through which to secure the relief desired by all.

Mr. REAGAN. The gentleman is not debating the question of order.

Mr. PERKINS. It does not in any way impinge upon or conflict with the provisions of the bill already considered and acted upon by the House. We of the West know how important it is to have legislation upon this subject——

Mr. REAGAN. I make the point of order that the gentleman is not confining himself to the question of order, but is discussing the merits of the bill.

The SPEAKER. The gentleman from Texas makes the point of order that the gentleman from Kansas must confine his remarks to the question of order.

Mr. PERKINS. I was attempting to do so, and in connection with that was suggesting why in my opinion the point of order should not be insisted upon.

The SPEAKER. The Chair will state that this amendment is offered as an entirety. It must be one amendment, and the vote taken in the House on striking out what was known as the commission part of the bill, reported from the Committee on Commerce, was a vote upon one single proposition, although it embraced many sections, just as the amendment of the gentleman from Kansas embraces many sections.

Mr. PERKINS. And I offer this as an entirety.

The SPEAKER. It must, of course, be so offered.

Mr. PERKINS. And you will perceive on examining it that it is quite different in some important principles from the commission part of the bill of the Committee on Commerce which was rejected by the House.

The SPEAKER. The Chair thinks that while a large part of the proposed amendment is identical with some of the provisions stricken out by the vote of the House, yet it is not exactly the same proposition on which the House voted at that time.

Mr. REAGAN. I move to close debate in one minute upon the pending section and the amendment.

The SPEAKER. The Chair overrules the point of order and entertains the amendment.

The gentleman from Texas now moves to close debate upon the pending section and amendment in one minute.

Mr. PERKINS. But I believe I have the floor, Mr Speaker.

The SPEAKER. The gentleman had the floor in response to the point of order made by the gentleman from Texas.

Mr. PERKINS. But can the gentleman from Texas take me off the floor before I have exhausted my right to discuss the amendment under the five-minute rule?

The SPEAKER. The Chair did not understand that the gentleman from Kansas was recognized for debate upon the merits of the amendment, but simply upon the point of order.

Mr. PERKINS. Then I move to amend the motion of the gentleman from Texas by giving ten minutes for debate instead of five.

Mr. PETERS. I would like to suggest to the gentleman from Texas that it will save time by allowing debate——

Mr. REAGAN. This subject has been already fully discussed in the House. It is important that we should proceed with the consideration of the bill. It is growing late now and I can not yield further time for discussion.

Mr. PETERS. I only suggest that the gentleman will save time by giving time for debate.

Mr. REAGAN. If the gentleman wants to filibuster he can place himself in that attitude before the country,

Mr. PETERS. I do not like to be charged with filibustering, for I have not done any so far.

Mr. PERKINS. I did not intend to yield the floor.

The SPEAKER. But when the Chair had decided the question of order the gentleman from Texas immediately took the floor and made his motion.

Mr. REED. But, Mr. Speaker, the gentleman from Kansas states that he did not intend to yield the floor. The gentleman from Texas had the right to take the floor of course on the point of order even while the gentleman from Kansas had the floor, and the gentleman from Kansas says that he did not intend to yield the floor and thereby waive his right to discuss his amendment.

The SPEAKER. But the gentleman did not take the floor for the purpose of discussing the amendment.

Mr. PERKINS. I had the floor when the point of order was made and did not yield it except for the point of order; not for a motion.

The SPEAKER. The gentleman from Kansas took the floor on his amendment, which was sent to the desk. When it was read, the gentleman from Texas immediately rose and made the point of order and some remarks upon it. Thereupon the gentleman from Kansas took the floor on the point of order. In the course of his remarks the gentleman from Texas claimed that he was not confining himself to the point of order, and the Chair called his attention to that fact. When he had completed his remarks the Chair decided the question of order, and the gentleman from Texas took the floor and submitted his motion.

Mr. REED. Then the gentleman from Kansas was entitled to the floor, and he says he did not yield it. After the point of order was decided he had the floor on his amendment.

The SPEAKER. The gentlemen had not the floor to discuss the merits of the amendment but the question of order, and had completed his remarks and resumed his seat when the gentleman from Texas rose and made his motion.

Mr. REED. But the gentleman from Kansas says that he had not yielded the floor.

The SPEAKER. The Chair did not recognize the gentleman for debate after the point of order upon the amendment was overruled and before the gentleman from Texas moved to close debate.

Mr. REED. But the gentleman from Kansas was on the floor at that time.

The SPEAKER. If the gentleman states that he was on the floor after the question of order was decided, and before the gentleman from Texas made his motion to close debate, the Chair can only say that he did not see the gentleman.

Mr. PERKINS. I was not only on the floor but I was attempting somewhat to discuss the merits of the amendment, as the Chair will remember.

The SPEAKER. But that was before the Chair had decided the point of order.

Mr. PERKINS. I had not abandoned the floor at all.

Mr. REAGAN. The gentleman from Kansas took the floor and offered an amendment. The point of order was made on that. In discussing the point of order the gentleman from Kansas entered into a discussion of the merits of the proposition and his attention was called by the Speaker to the fact. Subsequently the Speaker decided the point of order in his favor, and I took the floor at that time and moved to close debate.

The SPEAKER. That was the observation of the Chair. The gentleman from Kansas had completed his remarks on the question of order and had resumed his seat, and thereupon the Chair decided the question of order.

Mr. PERKINS. I was on my feet when the decision was made.

Mr. LONG. The gentleman from Kansas was on his feet from the beginning.

Mr. WILSON, of Iowa. That does not cover the whole point involved here. The rules of the House under which we act permit that when a gentleman offers an amendment he can discuss it five minutes. Now, when the gentleman from Kansas offered his amendment the moment that the points of order connected with it were disposed of he had a right to go on and discuss his amendment for those five minutes. The gentleman from Texas can move that at the end of five minutes debate shall close, but he can not move now that it shall close in one minute, because, under the rules, the gentleman from Kansas had the right to speak for five minutes.

Mr. REAGAN. To obviate further discussion as to this I will move to close debate in five minutes, with the understanding that those five minutes shall be occupied by the gentleman from Kansas.

The motion of Mr. REAGAN, as modified, was agreed to.

The SPEAKER. The gentleman from Kansas [Mr. PERKINS] is entitled to the floor for five minutes.

Mr. PERKINS. Mr. Speaker, as I have already suggested in the amendment I have offered, I am moved by no desire or interest to embarrass or hinder the proposed legislation to which for so many days we have given the attention of this House.

The importance of this legislation I believe is appreciated by all, and particularly by those of us who live upon the prairies of the West, far removed from the seaboard and the advantages of cheap water transportation. Hence, we have watched this debate with interest and examined with care the amendments offered from time to time to the bill reported by the committee to this House for its consideration. We have seen these great corporations—these handmaids to commerce and adjuncts to modern civilization—grow and increase in number until there are more than twelve hundred of them extending and ramifying their interests and their 125,000 miles of road into almost every community and hamlet in the land, carrying blessings and privileges to the people only to be secured by railroad communication.

We have learned of the seven billion of dollars invested in these great enterprises, and know of the two million of men given employment by them, and have witnessed the wonderful transformations worked by these agencies and instrumentalities, and while we have learned and know all this, we have felt their iron heel, and know how ruthlessly at times they ride down statutes, defy courts, and outrage the rights of individuals and communities; and knowing all this, Mr. Speaker, we want legislation that will be remedial, effective, and yet just to all. We would not by the strong arm of the Government take from these railroad companies that which is necessary to their vitality and usefulness—the legitimate prerogatives of common carriers—nor from their stockholders their accummulations and earnings; and neither would we permit them, in consequence of more ineffective legislation, to become stronger than the Government which gives them the right to live—chariots of Juggernaut, to accept the plaudits and peans of the people served, but to crush with its iron wheels those who complain of their ruinous extortions and unjust discriminations or have the effrontery to question their high-handed measures.

I am not unmindful of the fact that competition is doing much to relieve us of the wrongs we have suffered in the years gone; nor am I unmindful of the fact that these great corporations give to the people of the United States the cheapest and the best railroad service to be found in the entire circuit of the sun, but I am not of the opinion, apparently possessed by some gentleman upon the floor of this House, that competition will remedy all the evils we suffer, and hence it is that we favor legislation—healthy, vigorous, and effective legislation; and hence I hope this bill will be amended so that we of the West can sustain it. I know of communities in the West that almost bankrupted themselves in aid to what promised to be a competing line of railroad, but when the supposed advantage was secured, and hope was high with the anticipations of cheap transportation for the future, a pool was formed between the new and the old roads, and all competition was destroyed, and the towns lavish in their contributions to the road promising them competition were not only disappointed in their expectations but witnessed the growth of new towns brought into existence somewhat by their aid to the new corporation where advantages and rates were given, not given to the town with the two roads or more, because at the new town no pool or combination existed.

The amendment I offer does not in any way impair or impinge upon the provisions of the bill so earnestly advocated by the distinguished gentleman from Texas, but gives to the public and to the individual sufferer greater remedies and additional advantages. My amendment leaves in full force the common law remedy, the effective provisions, if any such there are, in the gentleman's bill, and the additional benefits of a nonpartisan, thoroughly accomplished, and I believe honest commission.

In my judgment this House should learn something from other legislative bodies and from the experience of others, and we know that this railroad legislation has proven abortive and ineffective I think in every instance in those States where by arbitrary statutes and inflexible rules they have attempted to remedy existing evils, instead of by the wise provisions of a commissioners' bill.

In the few minutes allotted me I can not attempt to speak of the many benefits to accrue from the aid furnished by the commissioners. Many of them have already been suggested in this debate, but one of the most important is the information it will furnish to the man or community that is compelled by the arrogance and continued wrong of the railroad company to go into court to secure a correction of the evil. Without this amendment the litigant with the company, as of the common law, will be compelled to find and secure his testimony as best he can, largely dependent upon the servants and employés of the railroad companies—the camp of the enemy—for his most important information. But with my amendment a thoroughly competent and dispassionate tribunal is furnished and delegated with full power to investigate the grievance and secure the information, and with it the litigant will be able to show the wrong, if wrong there is, of which he complains, and secure the justice denied him by the obstinacy of the railroad company and under other circumstances almost unattainable.

In my judgment, Mr. Speaker, with my amendment the bill will be a potent, effective, remedial measure, but without it a *brutum fulmen*, not honored even by the gentleman from Texas and not responsive to the desires and interests of the people, and hence I trust the amendment may prevail.

Mr. REAGAN. I now move to close debate on the amendment and section under consideration.

The motion was agreed to.

Mr. O'NEILL, of Pennsylvania. I offer the amendment which I send to the desk.

The SPEAKER. Is it an amendment to the pending amendment?

Mr. O'NEILL, of Pennsylvania. It is a substitute for the whole bill.

The SPEAKER. That will be in order at a later stage.

Mr. HAMMOND. I offer an amendment to the amendment.

The Clerk read Mr. HAMMOND'S proposed amendment, as follows:

Add at the end of the amendment the following:

"*Provided, however*, That the commissioners herein provided for shall not be appointed until the 5th day of March, 1885."

Mr. REAGAN. I move that the House do now adjourn. But before the question is put upon that motion I ask that, in accordance with the suggestion of a number of gentlemen, the bill, as far as it has been matured, be printed in the RECORD.

There was no objection, and it was so ordered.

The bill is as follows:

The words stricken out are printed in brackets, and the additions to the bill are printed in Italics.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it shall be unlawful for any person or persons engaged alone or associated with others in the transportation of property by railroad *or by pipe line or lines* from one State or Territory to or through one or more other States or Territories of the United States, or to or from any foreign country, directly or indirectly to charge to or receive from any person or persons any greater or less rate or amount of freight, compensation, or reward than is *by him or them* charged to or received from any other person or persons for like and contemporaneous service in the carrying, receiving, delivering, storing, or handling of the same. All charges for such services shall be reasonable. *And any person or persons having purchased a ticket to be conveyed from one State to another, or paid the required fare, shall receive the same treatment and be afforded equal facilities and accommodations as are furnished all other persons holding tickets of the same class without discrimination. But nothing in this act shall be construed to deny to railroads the right to provide separate accommodations for passengers as they may deem best for the public comfort and safety, or to relate to transportation relating to points wholly within the limits of one State:* Provided, *That no discrimination is made on account of race or color; and that furnishing separate accommodations, with equal facilities and equal comforts, at the same charges, shall not be considered a discrimination. Nor shall any railroad company or its officers charge to or receive from any person who is to be conveyed from one State or Territory into another any sum exceeding 3 cents per mile for the distance to be traveled by such person.* And all persons engaged as aforesaid shall furnish without discrimination, the same facilities for the carriage, receiving, delivery, storage, and handling of all property of like character carried by him or them, and shall perform with equal expedition the same kind of services connected with the contemporaneous transportation thereof as aforesaid. No break, stoppage, or interruption, nor any contract, agreement, or understanding, shall be made to prevent the carriage of any property from being and being treated as one continuous carriage, in the meaning of this act, from the place of shipment to the place of destination, unless such stoppage, interruption, contract, arrangement, or understanding was made in good faith for some practical and necessary purpose, without any intent to avoid or interrupt such continuous carriage or to evade any of the provisions of this act.

SEC. 2. That it shall be unlawful for any person or persons engaged in the transportation of property as aforesaid directly or indirectly to allow any rebate, drawback, or other advantage, in any form, upon shipments made or services rendered as aforesaid by him or them.

SEC. 3. That it shall be unlawful for any person or persons engaged in the carriage, receiving, storage, or handling of property as mentioned in the first section of this act to enter into any combination, contract, or agreement, by changes of schedule, carriage in different cars, or by any other means, with intent to prevent the carriage of such property from being continuous from the place of shipment to the place of destination, whether carried on one or several railroads. And it shall be unlawful for any person or persons carrying property as aforesaid to enter into any contract, agreement, or combination for the pooling of freights, or to pool the freights of different and competing railroads [by dividing] *or to divide* between them the aggregate or net proceeds of the earnings of such railroads, or any portion of them.

SEC. 4. That it shall be unlawful for any person or persons engaged in the transportation of property as provided in the first section of this act to charge or receive any greater compensation for a similar amount and kind of property, for carrying, receiving, storing, forwarding, or handling the same, for a shorter than for a longer distance, *which includes the shorter*, on any one railroad *or pipe line;* and the road of a corporation shall include all the road *or pipe line* in use by such corporation, whether owned or operated by it under a contract, agreement, or lease by such corporation.

SEC. 5. That all persons engaged in carrying property as provided in the first section of this act shall adopt and keep posted up schedules which shall plainly state:

First. The different kinds and classes of property to be carried.

Second. The different places between which such property shall be carried.

Third. The rates of freight and prices of carriage between such places, and for all services connected with the receiving, delivery, loading, unloading, storing, or handling the same. And the accounts for such service shall show what part of the charges are for transportation, and what part are for loading, unloading, and other terminal facilities.

Such schedules may be changed from time to time as hereinafter provided. Copies of such schedules shall be printed in plain, large type, at least the size of ordinary pica, and shall be kept plainly posted for public inspection in at least two places in every depot where freights are received or delivered; and no such schedule shall be changed in any particular except by the substitution of another schedule containing the specifications above required, which substitute schedule shall plainly state the time when it shall go into effect, and copies of which, printed as aforesaid, shall be posted as above provided at least five days before the same shall go into effect; and the same shall remain in force until another schedule shall as aforesaid be substituted. And it shall be unlawful for any person or persons engaged in carrying property on railroads *or pipe lines* as aforesaid, after thirty days after the passage of this act, to charge or receive more or less compensation for the carriage, receiving, delivery, loading, unloading, handling, or storing of any of the property contemplated by the first section of this act than shall be specified in such schedule as may at the time be in force.

Fourth. It shall be the duty of said person or persons engaged in carrying property as provided in the first section of this act to file, or cause to be filed, and within fifteen days from and after posting, a copy of each schedule posted, as in this section required, with the clerk of the circuit court of the United States in and for each judicial circuit in or through which any railroad may be operated; and it shall be the duty of said clerk to file and preserve the same as a part of the records of his office.

SEC. 6. That each and all of the provisions of this act shall apply to all property, and the receiving, delivery, loading, unloading, handling, storing, or carriage of the same, on one actually or substantially continuous carriage, or as

part of such continuous carriage, as provided for in the first section of this act, and the compensation therefor, whether such property be carried wholly on one railroad or partly on several railroads, *or wholly by one pipe line or partly by several pipe lines*, and whether such services are performed or compensation paid or received by or to one person alone or in connection with another or other persons.

SEC. 7. That each and every act, matter, or thing in this act declared to be unlawful is hereby prohibited; and in case any person or persons, as defined in this act, engaged as aforesaid, shall do, suffer, or permit to be done any act, matter, or thing in this act prohibited or forbidden, or shall omit to do any act, matter, or thing in this act required to be done, or shall be guilty of any violation of the provisions of this act, such person or persons shall forfeit and pay to the person or persons who may sustain damage thereby a sum equal to three times the amount of the damages so sustained, to be recovered by the person or persons so damaged by suit in any State or United States court of competent jurisdiction where the person or persons causing such damage can be found or may have an agent, office, or place of business; and if the court before which any such action is tried shall be of opinion that the violation of the law was willful, it shall make an allowance, by way of additional costs, to the party injured sufficient to cover all his counsel and attorney fees. Any action to be brought as aforesaid may be considered, and if so brought shall be regarded, as a subject of equity jurisdiction and discovery, and affirmative relief may be sought and obtained therein. In any such action so brought as a case of equitable cognizance as aforesaid, any director, officer, receiver, or trustee of any corporation or company aforesaid, or any receiver, trustee, or person aforesaid, or any agent of any such corporation or company, receiver, trustee, or person aforesaid, or of any of them, alone or with any other person or persons, party or parties, may and shall be compelled to attend, appear, and testify and give evidence; and no claim that any such testimony or evidence might or might not tend to criminate the person testifying or giving evidence shall be of any avail, but such evidence or testimony shall not be used as against such person on the trial of any indictment against him. The attendance and appearance of any of the persons who as aforesaid may be compelled to appear or testify, and the giving of the testimony or evidence by the same, respectively, and the production of books and papers thereby, may and shall be compelled the same as in the case of any other witness; and in case any deposition or evidence or the production of any books or papers, may be desired or required for the purpose of applying for or sustaining any such action, the same, and the production of books and papers, may and shall be had, taken, and compelled by or before any United States commissioner, or in any manner provided or to be provided for as to the taking of other depositions or evidence, or the attendance of witnesses, or the production of other books or papers in or by chapter 17 of title 13 of the Revised Statutes of the United States. No action aforesaid shall be sustained unless brought within one year after the cause of action shall accrue, or within one year after the party complaining shall have come to a knowledge of his right of action. And as many causes of action as may accrue within the year may be joined in the same suit or complaint. *And any circuit or district court of the United States having jurisdiction of the persons shall have the power, upon application of any person or persons, firms, railroads, or other corporations or associations, alleging undue and unjust discrimination against a person in violation of the provisions of this act, to issue writs of mandamus against such person, commanding such person to move and transport freight or to furnish facilities for transportation for the party applying for the writ, upon such terms and in such manner as shall seem just and proper to the court in order to prevent any undue or unjust discrimination against the relator. The proceedings shall be as in other cases of mandamus; and in cases of urgent necessity or involving the transportation of perishable goods the writs of alternative mandamus may be made returnable forthwith: Provided, That no writ or peremptory mandamus shall issue under this act until the relator shall have given security, in such sum as shall be named by the court, to pay the defendant the proper and legal charges for the services required to be performed by the writ aforesaid: And provided further, That the remedy herein given by writ of mandamus shall be cumulative, and shall not exclude or interfere with the other remedies herein provided.*

No cause brought under this act in any State court of competent jurisdiction shall be removed to any United States court.

SEC. 8. That any director or officer of any corporation or company acting or engaged as aforesaid, or any receiver or trustee, lessee, or person acting or engaged as aforesaid, or any agent of any such corporation or company, receiver, trustee, or person aforesaid, or of one of them alone, or with any other corporation, company, person, or party, who shall willfully do, or cause or willingly suffer or permit to be done, any act, matter, or thing in this act prohibited or forbidden, or who shall aid or abet therein, or shall willfully omit or fail to do any act, matter, or thing in this act required to be done, or cause or willingly suffer or permit any act, matter, or thing so directed or required by this act to be done not to be so done, or shall aid or abet any such omission or failure, or shall be guilty of any infraction of this act, or aid or abet therein, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not [less] *more* than [one] *two* thousand dollars.

SEC. 9. That nothing in this act shall apply to the carriage, receiving, storage, handling, or forwarding of property wholly within one State, and not shipped from or destined to some foreign country or other State or Territory; nor shall it apply to property carried for the United States at lower rates of freight and charges than for the general public, or to the transportation of articles free or at reduced rates of freight for charitable purposes, or to or from public fairs and expositions for exhibition.

SEC. 10. That the words "person or persons" as used in this act, except where otherwise provided, shall be construed and held to mean person or persons, officer or officers, corporation or corporations, company or companies, receiver or receivers, trustee or trustees, lessee or lessees, agent or agents, or other person or persons acting or engaged in any of the matters and things mentioned in this act.

Mr. O'NEILL, of Pennsylvania. I ask that my proposed amendment, which is a substitute for the bill, be printed along with it.

There was no objection.

The amendment proposed by Mr. O'NEILL, of Pennsylvania, is as follows:

Strike out all after the enacting clause and insert:

"That the President of the United States, by and with the consent of the Senate, shall appoint five commissioners to be styled commissioners of interstate commerce, whose salaries shall be $6,000 per annum each, and whose duties shall be to hear complaints of shippers, and who shall make annual reports each fiscal year to the President of the United States, and for whom sufficient office-room shall be furnished by the Secretary of the Interior, and who shall have a clerk at the annual salary of $3,000, and an assistant clerk at the annual salary of $2,000, and a messenger at a salary of $75 per month."

SEC. 2. That said commissioners shall report, so that it may be submitted to the Forty-ninth Congress in printed form upon the day of its assembling and organization, the propriety of requiring from all railroad companies engaged in carrying merchandise as interstate-commerce carriers, publicity of all rates; ample public notice of change of rates, publicity and uniformity of all rebates, contracts with shippers for rates or rebates to be in writing and open to public inspection and the inspection of officials; publicity and uniformity of the accounts and reports of all interstate railroads and of interstate business of all other railroads; regular and unreserved reports of earnings and expenses, with penalties for falsification; no concessions in rates to large shippers, except to such as represent the actual merchandise saving in the expense of hauling large shipments over small shipments, such concessions to be in writing and invariably made known to the public; every pool or combination between interstate railroads or railroads doing an interstate business to be made in public, and their terms posted at every point interested.

Mr. HEPBURN. I desire also to have printed in the RECORD a bill which I propose to move as an instruction in connection with a motion to recommit.

There was no objection.

The proposed motion of Mr. HEPBURN to recommit with instructions is as follows:

Mr. HEPBURN moves to recommit the bill to the Committee on Commerce with instructions to report the following bill as a substitute at an early day, and when so reported the said substitute shall occupy the same status for consideration as the bill now being considered.

A bill to establish a board of commissioners of interstate commerce, and to regulate such commerce.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all charges by any person or persons engaged alone or associated with others in the transportation of property by railroad from one State or Territory to or through one or more other States or Territories of the United States, or to or from any foreign country, shall be reasonable for such service.

SEC. 2. That it shall be unlawful for any person or persons so engaged as aforesaid directly or indirectly to charge to or receive from any person or persons any greater or less rate or amount of compensation or reward than is by him or them charged to or received from any other person or persons for like and contemporaneous service in the carrying, receiving, delivering, storing, or handling the same under substantially similar circumstances; and all persons engaged as aforesaid shall furnish, without discrimination, the same facilities for the carriage, receiving, delivery, storage, and handling of all property of like character carried by him or them, and shall perform with equal expedition the same kind of services connected with the contemporaneous transportation thereof as aforesaid. No break, stoppage, or interruption, nor any contract, agreement, or understanding, shall be made to prevent the carriage of any property from being and being considered as one continuous carriage, in the meaning of this act, from the place of shipment to the place of destination, unless such stoppage, interruption, contract, arrangement, or understanding was made in good faith for some practical and necessary purpose, without any intent to avoid or interrupt such continuous carriage or to evade any of the provisions of this act.

SEC. 3. That it shall be unlawful for any person or persons engaged in the transportation of property as aforesaid directly or indirectly to allow any rebate, drawback, or other advantage in any form, upon shipments made or services rendered as aforesaid by him or them, which, under similar circumstances, are not allowed to all other persons.

SEC. 4. That it shall be unlawful for any person or persons engaged in the carriage, receiving, storage, or handling of property as mentioned in the first section of this act to enter into any combination, contract, or agreement, by changes of schedule, carriage in different cars, or by any other means, with intent to prevent the carriage of such property from being continuous from the place of shipment to the place of destination, whether carried on one or several railroads; and it shall be unlawful for any person or persons carrying property as aforesaid to enter into any contract, agreement, or combination for the pooling of freights, or to pool the freights, of different and competing railroads, by dividing between them the aggregate or net proceeds of the earnings of such railroads, or any portion of them.

SEC. 5. That the provisions of this act shall apply to all property, and the receiving, delivery, loading, unloading, handling, storing, or carriage of the same, on one actually or substantially continuous carriage, or as part of such continuous carriage, as provided for in the first section of this act, and the compensation therefor, whether such property be carried wholly on one railroad or partly on several railroads, and whether such services are performed or compensation paid or received by or to one person alone or in connection with another or other persons.

SEC. 6. That any railroad company, officer of such company, or other person who shall violate any of the provisions of this act shall be liable to any person injured for the actual damages caused by such violation, which may be recovered in any State or United States court of competent jurisdiction. The court before which any such action is tried, if it shall be found that the violation was willful, or continued after the notice provided by the tenth section of this act, shall make an allowance by way of additional costs to the party injured sufficient to cover all his counsel and attorney fees, and all expenses and disbursements in the action, including his own necessary personal expenses.

SEC. 7. That any corporation or person violating this act is guilty of a misdemeanor, and subject to a fine of not exceeding $1,000 for each violation. The courts of the United States shall have exclusive jurisdiction of all prosecutions arising under this section. It shall be the duty of district attorneys of the United States to institute and prosecute to effect criminal proceedings for all such violations. The provisions of this section shall not apply to the first section of this act.

SEC. 8. That there shall be appointed by the President, by and with the advice and consent of the Senate, nine commissioners, one from each judicial circuit in the United States, who shall be collectively known as the commission of interstate commerce of the United States, and shall be charged with the duty of carrying into effect the provisions of this act in respect of interstate commerce. Three of said commissioners shall hold their office for the term of two years, three for the term of four years, and three for the term of six years, to be respectively designated by the President, and thereafter said commissioners shall be appointed for the term of six years; and a commissioner appointed to any vacancy shall hold office for the unexpired term. Any one of said commissioners may be removed by the President for cause, but not otherwise. Said commissioners shall devote their whole time and abilities to the duties of their office, and shall not accept or engage in any office or employment inconsistent with the provisions of this act. If either commissioner, after his appointment, shall be, or shall become by inheritance or operation of law, pecuniarily interested in any railroad or railroad security, he shall, within thirty days, divest himself of such interest; and upon his failure to do so, or upon his voluntarily becoming interested in any such railroad or railroad security, his office shall become vacant. No commissioner shall participate in any hearing or proceeding in which he has any pecuniary interest whatever. Each commissioner shall receive an annual salary of $7,500, payable like the salaries of the judges of the courts of the United States: *Provided*, That before entering upon the discharge of their duties they shall, in addition to the oath required of them by law, take and subscribe to an oath that they are neither directly nor indirectly interested in the ownership or earnings of any railroad company whatsoever.

SEC. 9. That the said commission shall exercise only the powers by this act conferred. Said commission may appoint a clerk, whose duty it shall be to keep a full and faithful record of the proceedings of said commission, and otherwise to assist the members thereof in the performance of their duties, and who

shall receive an annual salary of $2,500; and also one accountant, at an annual salary of $2,500. The Secretary of the Interior, at the request of said commission, may also furnish the commission such additional clerical, engineering, expert, or other service as they may request and he shall deem proper. Actual and necessary traveling and other expenses incurred by said commissioners, or their employés under their orders, shall be allowed them, for which vouchers shall be rendered. The commissioners, their experts and clerks, may pass and repass over any railroad engaged in interstate commerce free of charge, whenever engaged in the performance of their duties under the provisions of this act, but neither shall accept any other pass, gratuity, or favor whatever from any railroad company.

SEC. 10. That any person complaining of anything done or omitted to be done by any railroad company or person in violation or contravention of this act may, in addition to the remedies hereinbefore provided, apply to said commission by petition in writing, which shall briefly state the subject of such complaint. If the petition is signed by any board of trade or other commercial body, or, when signed by an individual, if it bears the certificate of any district attorney of the United States, or of any district or county attorney, or officer corresponding thereto, of any State or Territory, that he has examined the facts and in his opinion the complaint is well founded, the commission is hereby required to entertain and investigate the same. In all other cases the commission shall decide whether or not the petition ought to be proceeded with. The commission may, if they think fit, before requiring or permitting any formal proceedings to be taken on any petition, communicate the same to the railroad company against whom it is made, so as to afford them an opportunity of making such observations or taking such action thereon as they may think fit. The commission shall have power, and in a proper case is required, to cause a copy of the petition to be served upon the railroad company complained against, and to issue a notice requiring such company to appear before the commission and answer the said petition. The answer shall be in writing. After the answer is filed it shall then be lawful for the commission, if it shall think fit, to direct and prosecute, in such mode and by such persons or means as it shall think proper, all such inquiries into matters of fact as may be deemed necessary to enable the commission to form a just conclusion in respect of the matters of said petition. All the proceedings before said commission shall be directed by and under general orders, which shall secure to all persons interested reasonable notice and opportunity to be heard. If it shall be made to appear to the satisfaction of the commission, either by the testimony of witnesses or other evidence adduced before it, or by the report of any person to whom the commission may have referred the inquiry, or any part thereof, that anything has been done or omitted to be done in contravention or violation of this act by any railroad company or person so upon due and proper notice proceeded against, it shall be the duty of such commission to make and record its report in writing in respect of any such contravention or violation of this act, which report shall comprise and embrace the findings of the commission upon and in respect of all questions of fact in issue or involved in such proceedings, which report and findings shall in all subsequent proceedings be regarded as *prima facie* true. Within a reasonable time, not to exceed twenty days, after such report and findings are made by the commission, it shall cause a copy thereof to be served upon or delivered to the railroad company so found to have violated this act, to which shall be appended a notice to be issued by said commission to such company forthwith to cease and desist from such violation, and also to deliver to the district attorney of the United States for the district in which the act complained of occurred another copy of such report, findings, and notice.

SEC. 11. That upon notice that any such railroad company has neglected or refused to conform to the decision of said commission, and to desist from such violation or contravention of this act, it shall be the duty of such district attorney to apply by petition, in the name of the party aggrieved, to the circuit court of the United States for such district, for, and it shall be the duty of such court to grant, an order upon such railroad company to show cause why such company should not be enjoined and restrained against the continuance of such violation, and for such other order and relief in the premises as may be just and proper. For the purpose of making any order or decree in the premises, final or otherwise, such court shall be always open, and the day on which any such order or decree is made shall be a special term of such court. Upon the service and return of such order to show cause, and notice to the parties interested, such court shall proceed in a summary manner to ascertain whether the said report and findings are true, but shall presume such report to be true until the contrary is made to appear; and whenever said court shall be of opinion that such company has done or is doing any act in violation or contravention of this act in said report and findings described, it shall so adjudge; and it then shall be the duty of said court forthwith to issue a writ of injunction, requiring such railroad company to desist from such violation, and in respect of the matters in said report contained to conform to and obey all the provisions of said act. Such court may enforce obedience to any such injunction, order, or decree, by any person or party, by fine, proceedings for contempt, and all other means within its lawful jurisdiction sitting as a court of equity. Any person interested to restrain such violation may, on application to the court, be allowed to appear and be heard, by himself or counsel; and upon proof that any district attorney has failed in any proper case for the period of ten days to apply for such order to show cause, the court may permit such application to be made and prosecuted to effect by or in behalf of any person so interested. Such court may, in its discretion, award or deny costs to any party to such proceeding. In any case where the court shall adjudge that the violation of this act by any company has been willful, or continued after notice to desist therefrom, the court may award to any party injured such a gross sum by way of costs as will reimburse all his costs, charges, expenses, counsel fees, and disbursements, to be paid by such company.

SEC. 12. That the commission may make, and from time to time amend, such general orders as may be requisite for the order and regulation of proceedings before it, including all forms for proceeding, notices and the service thereof, and for the prescribing, directing, or regulating any matters authorized by this act. All the proceedings before said commission shall be upon reasonable notice to all parties interested, and such forms shall conform as nearly as may be to those in use in the courts of the United States. Any party may appear and be heard in person or by attorney.

SEC. 13. That for the purposes of this act the commission shall, subject as in this act mentioned, have full power to ascertain and report upon all questions of fact arising under this act, and in all subsequent proceedings their findings shall be taken as *prima facie* true, and shall also have the powers following:

(a) They may, by subpœna or order to be served by a person by them authorized, require the attendance of witnesses, and of all such persons as they think fit to call before them, or before any person by them authorized to prosecute an inquiry.

(b) They may require the production of all books, papers, and documents relating to any matter before them, and to that end may invoke the aid of any court of the United States.

(c) Either of them may administer oaths and affirmations.

SEC. 14. That the principal office of the commission shall be in the city of Washington, where its general sessions shall be held and its records and archives be deposited. Whenever the convenience of the public or of the parties may be promoted, or delay or expense prevented thereby, the commission may hold special sessions in any part of the United States. It may, by one or more of the commissioners, or one of the persons named in the ninth section hereof, or by any person specially appointed by the commission, prosecute any inquiry necessary to its duties, in any part of the United States, into any matter or question of fact, and may specially delegate to the officer or person conducting such inquiry such powers to that end as are by this act conferred upon the commission and may be deemed necessary. Every vote and official act of either of the commissioners shall be entered of record. The commission may conduct its proceeding in such a manner as will most conduce to the dispatch of business and to justice; they may sit together or separately, and either in private or public, but any proceeding before them shall be public upon the request of either party thereto; and a majority of said commission may determine any question submitted. The commission shall prescribe a railroad year, and a system of reports covering said year to be rendered by railroad companies; examine the books and accounts of said companies at such times as may be deemed by them necessary; see that all United States laws relating to said companies are enforced; furnish such information to the several Departments of the Government, or the Government directors of any of said railroads, in regard to the tariffs of fares and freight, or the accounts of said railroads, as may be required of them or as they may deem expedient; make an annual report of their doings to Congress on or before the 1st day of January of each year; and otherwise endeavor to procure the data necessary to the gradual enactment of an intelligent system of national legislation regulating interstate railroad commerce.

SEC. 15. That the Secretary of the Interior shall provide suitable offices and a room for the public sessions of the commission in the city of Washington. Witnesses summoned before the commission shall be paid the same fees as witnesses in the Federal courts, and depositions *de bene esse* and under commission may be taken to be used before the commission in the same manner and upon the same conditions as in such courts. The salaries and expenses of the commission shall be provided for, audited, and paid in the same manner as the salaries of judges and other judicial expenses.

SEC. 16. That said board of commissioners shall inquire into that method of railroad management or combination known as pooling, and state the result of their inquiry in their first annual report, and whether, in their judgment, any, and if so what, legislation is expedient in relation thereto.

SEC. 17. That nothing in this act shall apply to the carriage, storage, or handling of property wholly within one State or Territory and not destined for continuous carriage beyond such State or Territory, or to property carried for the United States, or to the transportation of persons or articles free or at reduced rates for State or municipal governments or for charitable purposes, or to or from public fairs and expositions for exhibition thereat.

SEC. 18. That in the construction of this act the phrases "railroad corporation" and "railroad company" shall be held to be synonymous, and to signify a corporation which either owns or operates a railroad as aforesaid, and shall include receivers, lessees, and trustees operating railroads, and all persons named in the first section of this act. The word "person" in this act includes plurality of persons, corporate and incorporate, and all persons in any manner engaged in interstate railway commerce in whatever capacity, whether as principals, agents, or employés.

SEC. 19. That the sum of $40,000, or so much thereof as may be necessary, is hereby appropriated for the uses and purposes of this act for the fiscal year ending June 30, A. D. 1885, and the intervening time anterior thereto.

Mr. REAGAN. The gentleman from Kansas [Mr. PERKINS] inquires whether my motion to print embraces his amendment. I am not sure whether it would do so, but I ask that the gentleman's amendment may be included.

The SPEAKER. The amendment of the gentleman from Kansas, having been read and being now pending, will of course appear in the RECORD as a part of the proceedings.

Mr. HAMMOND. Allow me to understand the effect of the order in regard to my amendment.

The SPEAKER. The amendment of the gentleman from Georgia is also pending.

ORDER OF BUSINESS.

Mr. BROWNE, of Indiana. I desire unanimous consent to introduce a bill for reference to the Committee on Invalid Pensions.

The SPEAKER. Several gentlemen who were not in their seats on last Monday desire to introduce bills or resolutions for reference, and, if there be no objection, the Chair will recognize them.

JOHN ANTRIM.

Mr. BROWNE, of Indiana, by unanimous consent, introduced a bill (H. R. 7858) granting a pension to John Antrim, late of Company A, Thirty-sixth Regiment Indiana Volunteers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

RIVERS AND HARBORS.

The SPEAKER, by unanimous consent, laid before the House a letter from the Secretary of War, transmitting a report of the Chief of Engineers, with accompanying papers from officers in charge of river and harbor districts; which was referred to the Committee on Rivers and Harbors, and ordered to be printed.

MISSOURI RIVER COMMISSION.

The SPEAKER also, by unanimous consent, laid before the House a letter from the Secretary of War, transmitting the annual report of the Missouri River Commission for 1884; which was referred to the Committee on Rivers and Harbors, and ordered to be printed.

INDEX OF SOUTHERN CLAIMS.

The SPEAKER also, by unanimous consent, laid before the House a letter from the Clerk of the House of Representatives, in relation to the consolidated index of Southern claims, authorized by resolution of July 3, 1884; which was referred to the Committee on Accounts, and ordered to be printed.

LEAVE OF ABSENCE.

Mr. CULBERSON, of Texas, by unanimous consent, obtained leave of absence for five days.

MARGARET A. BLAKE.

Mr. BINGHAM, by unanimous consent, introduced a bill (H. R.

7859) granting a pension to Margaret A. Blake; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

CONTESTED ELECTION.

Mr. DAVIS, of Missouri. I desire to give notice that to-morrow I will call up the contested-election case of Craig *vs.* Shelley from the fourth district of Alabama.

HIRAM FOSTER.

Mr. KLEINER, by unanimous consent, introduced a bill (H. R. 7860) granting a pension to Hiram Foster, late second lieutenant Indiana Legion; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

PAY OF BOILER INSPECTORS, ETC.

Mr. CUTCHEON, by unanimous consent, introduced a bill (H. R. 7861) to amend section 4414 of the Revised Statutes of the United States, fixing the compensation of local inspectors of hulls and boilers in the Michigan district; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

LEWIS S. BATEMAN.

Mr. ROGERS, of Arkansas, by unanimous consent, introduced a bill (H. R. 7862) for the relief of Lewis S. Bateman, late private Company G, Fourth Regiment Arkansas Cavalry, United States Army; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

THOMAS M. M'CHESNEY.

Mr. KEAN, by unanimous consent, introduced a bill (H. R. 7863) granting a pension to Thomas M. McChesney; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JAMES A. SMITH.

Mr. WILKINS, by unanimous consent, introduced a bill (H. R. 7864) for the relief of James A. Smith; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

HEIRS OF JOSEPH P. AND EMILY J. TUTTLE.

Mr. LIBBEY, by unanimous consent, introduced a bill (H. R. 7865) for the relief of the heirs of the late Joseph P. and Emily J. Tuttle; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

JAMES E. HOLMES.

Mr. BARBOUR, by unanimous consent, introduced a bill (H. R. 7866) for the relief of James E. Holmes; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

ASSAY OFFICE IN OREGON.

Mr. GEORGE, by unanimous consent, introduced a bill (H. R. 7867) to establish an assay office in Oregon; which was read a first and second time, referred to the Committee on Coinage, Weights, and Measures, and ordered to be printed.

CONSTRUCTION OF A NAVY.

Mr. GIBSON, by unanimous consent, submitted the following resolution; which was referred to the Committee on Naval Affairs:

Resolved by the House of Representatives, That it is the duty of this Congress to enact such laws and make such appropriations as will enable the Government to at once commence the construction of a Navy suitable for both offensive and defensive purposes in time of war.

JOHN P. M'DONALD.

Mr. MORRILL, by unanimous consent, introduced a bill (H. R. 7868) granting a pension to John P. McDonald; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

EMELINE L. FITCH.

Mr. MORRILL also, by unanimous consent, introduced a bill (H. R. 7869) granting a pension to Emeline L. Fitch; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

MARY BRADY.

Mr. ENGLISH, by unanimous consent, introduced a bill (H. R. 7870) for the relief of Mary Brady, widow of James H. Brady, late private in Company E, Sixteenth Regiment Missouri Cavalry; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

PAY OF HOUSE ENROLLING CLERK.

Mr. NEECE, by unanimous consent, submitted the following resolution; which was referred to the Committee on Accounts:

Resolved, That the Committee on Appropriations be requested to provide in the sundry civil appropriation bill for the payment to the enrolling clerk of the House of the difference between the pay of said clerk and the pay of the enrolling clerk of the Senate from December 1, 1883, to December 1, 1885.

REMOVAL OF POLITICAL DISABILITIES.

Mr. TUCKER, by unanimous consent, reported from the Committee on the Judiciary a bill (H. R. 7871) to remove the political disabilities of W. H. Ward, of Virginia; which was read a first and second time, referred to the House Calendar, and, with the accompanying report, ordered to be printed.

Mr. TUCKER, by unanimous consent, also reported from the Committee on the Judiciary a bill (H. R. 7872) to remove the political disabilities of Gabriel H. Hill, of Virginia; which was read a first and second time, referred to the House Calendar, and, with the accompanying report, ordered to be printed.

ORDER OF BUSINESS.

Mr. COX, of New York. I rise to a question of privilege.

The SPEAKER. The demand for the regular order of business was withdrawn, as was stated at the time, merely to permit gentlemen to introduce bills and joint resolutions for reference.

Mr. TUCKER. I hope I will be permitted to put these two bills removing political disabilities upon their passage at this time.

Mr. RANDALL. I do not think any one will object to passing bills removing political disabilities.

Mr. HOLMAN. I am on the floor asking to introduce a bill for reference.

The SPEAKER. The Chair will recognize the gentleman from Indiana.

BRIDGET MORRIS.

Mr. HOLMAN, by unanimous consent, introduced a bill (H. R. 7873) granting a pension to Bridget Morris; which was read a first and second time, referred to the Committee on Pensions, and ordered to be printed.

FREDERICK S. STRANG.

The SPEAKER. The Chair will now hear the privileged report from the gentleman from New York [Mr. COX].

Mr. COX, of New York. I am directed by the Committee on Naval Affairs to report back the following resolution with the recommendation that it be put upon its passage.

The Clerk read as follows:

Whereas it has been reported that Frederick S. Strang, late a cadet at the Naval Academy at Annapolis, has died in consequence of cruelties practiced upon him by senior cadets,

Resolved, That the Secretary of Navy be, and he is hereby, requested to communicate to this House any information he may have obtained in relation to the cause of death of the said Cadet Frederick S. Strang.

The resolution was adopted.

Mr. COX, of New York, moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. COX, of New York. Mr. Speaker, I ask, by unanimous consent, to print in the RECORD a statement from the Committee on Naval Affairs on this subject.

The SPEAKER. Is there objection to printing the statement referred to?

There was no objection, and it was ordered accordingly.

The Committee on Naval Affairs have requested me to present this resolution. It relates to the allegation that Cadet Strang was hazed to death. It is a matter that could not be passed over when brought to the attention of the committee. Those interested have said that they could get no response from the authorities who were interested in making an exposé of the matter; hence, through very reputable German friends interested in Cadet Strang, we were led to present the resolution as preliminary to more serious investigation should the matter require it.

It is not necessary to reproach Superintendent Ramsey or the authorities at the academy, though there is no doubt that hazing has existed in many types—some mild, some harsh, and some simply diabolical—at Annapolis, in spite of all denials to the contrary.

Damaging rumors, if not evidence, come that there is more or less of insubordination connected with the education at Annapolis. Rebellious demonstrations have disturbed the academy, and have threatened almost to culminate in revolt. The exasperating tricks and the mischievous demonstrations, with which the papers have been rife, indicate that some reform is necessary. One newspaper, the Hartford Courant, through its correspondent has referred to detailed reports concerning outrages at this national school. It says they show that a "great many young ruffians are getting their food and clothing from the public and giving promise of very slight return for the outlay." It gives this specimen of the doings of the young men:

Soon after the arrival of the "plebes" the august third-class man ascertains who are the pious young men. There are always pious young men at the first part of the academic course, but there are very few on graduation day. When the pious ones are found out, a religious service is held. With the pious ones for ministers and deacons, there is a meeting. It consists of preaching and prayer. Once every minute each one of the audience is required to give vent to hearty "amens."

But the immediate matter of this resolution concerns a young man whose home was in and whose appointment was from Oregon. I have letters before me which he addressed to his mother, and other evidences,

showing the relation which he bore to the academy. I have letters in my possession from those whose sons have been at the institution, and who rejoice that they have escaped its contamination. If these are credible we need not wonder that some of these scenes are simply horrible. Boys are sent from the influence of a pure home-life to battle with sin and vice in all its forms of hideousness at this academy, dedicated by our law and money to the best education possible. If such be the character of this school, it would be best if it were broken up.

The death of young Strang occurred in October, 1883. It is said to have been the effect of "horse-play," so called, on the part of the third class. Whatever this "horse-play" is, it is certain that within twelve hours after Strang went to the academy he was in the hospital. His injuries are alleged as the result of falling out of his hammock. It is further alleged that a surgical operation was necessary, and the boy died from the effects. But his friends believe that he was fatally hurt in an encounter with the third class, by being put in a barrel and rolled around until "the hazing party" chose to let him out.

Other instances of hazing have been brought to my attention. It is a violation of the oath taken on entering the academy. The cadet is required by oath to support all laws; and hazing is a violation of law. Still this hazing goes on. In my judgment, any man of ordinary skill and discipline might stop it; but I do not know. Some one should know and that soon. If this resolution is answered by the Secretary of the Navy, and it reveals a condition calling for general investigation, our committee will ask for it, for the honor and humanity of the service.

Mr. GEORGE. I wish also to make a statement on this subject to go into the RECORD.

The SPEAKER. The Chair hears no objection.

Mr. GEORGE. Mr. Speaker, this resolution should be adopted. The circumstances attending the appointment and death of young Strang were peculiar. I had the honor of naming him as a cadet at Annapolis. I was particularly impressed with his native energy and qualifications for the position. Practically left an orphan, his success over the many obstacles in his way demonstrated that he was possessed of those traits and characteristics that guaranteed success in the future. He was subjected in Oregon to a most searching examination, both mentally and physically, and it can well be imagined with what surprise and pain I heard of his sad and untimely death. He lived, I believe, but a few hours after his admission. Rumors were current in the press and otherwise that he met his death through hazing. If this be true we should know it, and should take such steps as will not only punish crime committed but prevent its repetition.

I know not whether there is any foundation for these rumors, but justice to the deceased, to his friends and relatives, to ourselves and to our country, and to that honored institution the Naval Academy itself, demand that the full light of investigation be turned upon the unfortunate event. I concur in the adoption of the resolution.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. MCCOOK, its Secretary, announced the passage of joint resolution (H. Res. 308) appropriating $50,000 for the support of certain Indians.

REMOVAL OF POLITICAL DISABILITIES.

On motion of Mr. TUCKER, by unanimous consent, the House Calendar was discharged from the further consideration of the bill (H. R. 7872) to remove the political disabilities of Gabriel H. Hill, of Virginia, and the bill (H. R. 7871) to remove the political disabilities of W. H. Ward, of Virginia, and the same were severally ordered to be engrossed and read a third time; and being engrossed, they were accordingly read the third time, and passed (two-thirds voting in favor thereof).

On motion of Mr. TUCKER, by unanimous consent, the bill (S. 737) to remove the political disabilities of J. R. Waddy was taken from the Speaker's table, read a first and second time, and ordered to a third reading; and it was accordingly read the third time, and passed (two-thirds voting in favor thereof).

LOUISA LE G. JEFFORDS.

Mr. STRUBLE. I ask by unanimous consent to take from the Speaker's table the bill (S. 1337) granting increase of pension to Louisa Le G. Jeffords, for the purpose of putting it upon its passage.

I desire to say that a bill of like tenor was reported from the Committee on Pensions of the last session and was passed by the House. Another of like tenor was passed by the Senate. I hope under the circumstances there will be no objection to taking up this Senate bill and putting it upon its passage.

The SPEAKER. The bill is before the Committee on Invalid Pensions, and the gentleman from Iowa proposes to discharge that committee.

Mr. RANDALL. Has the committee reported?

The SPEAKER. It has not.

Mr. MCMILLIN. We have an evening session every Friday night for the consideration of such bills, and I hope as the bill has not been reported back from the committee the gentleman will not press his motion.

Mr. STRUBLE. I understand this bill could not be considered on Friday evening under the order.

The SPEAKER. Objection is made.

SURVIVORS OF STEAMER JEANNETTE.

On motion of Mr. MCADOO, by unanimous consent leave was granted for the withdrawal of the report from the Committee on Naval Affairs on Senate bill 1039, for the relief of the survivors of the exploring steamer Jeannette, and the widows and children of those who perished in the retreat from the wreck of that vessel in the Arctic seas.

On motion of Mr. MCADOO, by unanimous consent the bill (S. 1039) for the relief of the survivors of the exploring steamer Jeannette and the widows and children of those who perished in the retreat from the wreck of that vessel in the Arctic seas was taken from the Speaker's table, read a first and second time, referred to the Committee on Naval Affairs, and ordered to be printed.

And then, on motion of Mr. REAGAN (at 5 o'clock and 5 minutes p. m), the House adjourned.

PETITIONS, ETC.

The following petitions and papers were laid on the Clerk's desk, under the rule, and referred as follows:

By Mr. BLOUNT: Petition of James Lord, for reference of his claim to the Court of Claims—to the Committee on War Claims.

By Mr. F. B. BREWER: Petition of citizens of Almond, New York, for increase of widows' pensions—to the Committee on Invalid Pensions.

By Mr. T. M. BROWNE: Petition of 47 citizens of Henry county, Indiana, for the relief of John Antrim—to the same committee.

By Mr. COSGROVE: Petition of citizens of Saint Louis, Mo., in favor of the bill to prohibit the importations of foreign labor under contract—to the Committee on Labor.

By Mr. ENGLISH: Petition of merchants and business men of Indianapolis, Ind., against the bankrupt bill—to the Committee on the Judiciary.

By Mr. W. H. HATCH: Memorial of the American Ornithologists' Union—to the Committee on Agriculture.

By Mr. A. S. HEWITT: Petition of underwriters and merchants, praying for an additional appropriation for the Signal Service connected with the island of Nantucket—to the Committee on Appropriations.

By Mr. HOLMAN: Papers relating to the claim of Samuel Morrison, of Indianapolis, Ind.—to the Committee on Claims.

By Mr. JEFFORDS: Bill making an appropriation for the protection and improvement of the harbor at Greenville, Miss.—to the Committee on Rivers and Harbors.

Also, bill making an appropriation for the protection and improvement of the harbor at Vicksburg, Miss.—to the same committee.

Also, petition of R. S. & G. W. Woodbury, to have their claim referred to the Court of Claims, &c.—to the Committee on War Claims.

By Mr. KING: Bill appropriating $10,000 for the improvement of the harbor of Monroe, La.—to the Committee on Rivers and Harbors.

Also, bill appropriating $15,000 for the improvement of the Tensas and Macon Rivers, State of Louisiana—to the same committee.

Also, bill appropriating $12,000 for the improvement of the Bayou Bartholomew, State of Louisiana—to the same committee.

Also, bill appropriating $10,000 for the improvement of the Bœuff River, Louisiana—to the same committee.

Also, bill appropriating $100,000 for the improvement of the Ouachita River, Louisiana—to the same committee.

By Mr. LIBBEY: Petition of V. D. Groner, asking for an appropriation for the improvement of Elizabeth River, Virginia—to the same committee.

By Mr. MATSON: Petition of William J. Dobson and 200 others, ex-Union soldiers of Bartholomew County, Indiana, asking that a law may be passed giving each ex-Union soldier a land warrant of one hundred and sixty acres of public land—to the Committee on the Public Lands.

By Mr. MITCHELL: Petition of W. F. Hendrick, for increase of pension—to the Committee on Invalid Pensions.

By Mr. MORSE: Petition of citizens of Boston, asking for the enactment of all legislation necessary to put in force the reciprocity treaty with Mexico—to the Committee on Ways and Means.

Also, petition of certain ship-owners and brokers of Boston, and three petitions of manufacturers and merchants of Boston, Mass., praying for the immediate ratification of the recent reciprocity convention with Spain—severally to the same committee.

By Mr. NELSON: Resolution of Grand Forks Chamber of Commerce, relative to Red River improvements—to the Committee on Rivers and Harbors.

Also, memorials of Grand Forks Chamber of Commerce, relative to the Red Lake Indian reservation—to the Committee on Indian Affairs.

Also, petition of A. R. McFarlane and others, of Duluth, Minn., for a bankrupt law—to the Committee on the Judiciary.

By Mr. NICHOLLS: Memorial of citizens of Echols County, Georgia,

favoring the passage of the educational bill—to the Committee on Education.

By Mr. PETTIBONE: Papers relating to the claim of Thomas Barnes—to the Committee on Claims.

Also, petition relating to the claim of A. W. Harmon—to the Committee on War Claims.

By Mr. PRICE: Bill making an appropriation of $75,000 to dredge the Saint Louis Bay and River, in the State of Wisconsin—to the Committee on Rivers and Harbors.

By Mr. RIGGS: Petition of J. L. Staker and others, of Clayton, Ill., for increase of widow's pension—to the Committee on Pensions.

By Mr. J. H. ROGERS: Petition for the relief of Lewis S. Bateman—to the Committee on Invalid Pensions.

By Mr. SENEY: Petition of John Cushing and 55 others, praying for the passage of a bankrupt law—to the Committee on the Judiciary.

By Mr. J. D. TAYLOR: Petitions signed by McGowan Brothers and others, citizens of Steubenville, Ohio, protesting against the ratification of the treaties with Spain, San Domingo, and the extension of the term with Hawaii—to the Committee on Ways and Means.

By Mr. VAN EATON: Papers relating to claim of J. W. Causey—to the Committee on War Claims.

By Mr. J. S. WISE: Petition of John N. Waddy, for the passage of Senate bill 737—to the Committee on the Judiciary.

The following petitions for the passage of the Mexican war pension bill, with Senate amendments, were presented and severally referred to the Committee on Pensions.

By Mr. ANDERSON: Of citizens of Ogden, Kans.

By Mr. BAGLEY: Of citizens of Ulster County, New York.

By Mr. BEACH: Of citizens of Unionville, N. Y.

By Mr. W. W. BROWN: Of 58 citizens of Potter County, Pennsylvania; of 92 citizens of Lycoming County, Pennsylvania; and of 202 citizens of Bradford, Pa.

By Mr. J. M. CAMPBELL: Of citizens of Cambria County, Pennsylvania.

By Mr. COOK: Of J. H. Gordon and 50 others, of Mahaska County, Iowa.

By Mr. COSGROVE: Of citizens of Marshfield, Mo.

By Mr. CUTCHEON: Of citizens of Rathbury, Mich.

By Mr. GREENLEAF: Of W. B. Young and others, of Albion, N. Y.

By Mr. GOFF: Of William Chapman and 49 others, of Samuel C. Knicely and 59 others, of W. N. Edgell and 109 others, of James T. Criss and 112 others, of Isaac Meekley and 80 others, of John C. May and 28 others, and of Samuel Brown and 61 others.

By Mr. HALSELL: Of J. D. Engler and 63 others.

By Mr. HANBACK: Of 124 citizens of Jewell City and of 250 citizens of Paris, Kans.

By Mr. W. H. HATCH: Of citizens of Knox County, Missouri.

By Mr. HEPBURN: Of D. H. Woodward and 94 others, citizens of Murray, Iowa.

By Mr. HOUSEMAN: Of C. E. Koon and 64 others, of Ottawa County, Michigan.

By Mr. HOWEY: Of citizens of High Bridge, N. J.

By Mr. LAWRENCE: Of citizens of Beaver County and of Industry, Beaver County, Pennsylvania.

By Mr. LE FEVRE: Of James R. Doty and 150 other ex-soldiers, of Allen County, Ohio.

By Mr. McCORMICK: Of Joseph Imboden and 59 others, of Hocking County, Ohio, and of M. S. Blake and 119 others, of Gallia County, Ohio.

By Mr. MILLARD: Of citizens of Maine, N. Y.

By Mr. MORSE: Of soldiers of the Mexican war, Boston, Mass.

By Mr. PAYNE: Of citizens of Seneca County, of Butler County, of Ledyard, N. Y.

By Mr. PEEL: Of 37 citizens of Carroll County, Arkansas.

By Mr. PETERS: Of 128 citizens of Finney County, Kansas.

By Mr. PUSEY: Of citizens of Cass County, Iowa.

By Mr. RANDALL: Of citizens of Philadelphia, Pa.

By Mr. RIGGS: Of William Taylor and 55 others, of Perry; of H. M. Condee and 47 others, of Mount Sterling, Ill.

By Mr. ROBERTSON: Of citizens of Kentucky.

By Mr. ROBINSON: Of 64 soldiers of Ada, Ohio.

By Mr. ROWELL: Of citizens of Cooksville, of Arrowsmith, and of La Place, Ill.

By Mr. RYAN: Of 550 citizens of Kansas.

By Mr. STEVENS: Of citizens of Niagara County, New York.

By Mr. STOCKSLAGER: Of 64 citizens of Palmyra, Ind.

By Mr. J. D. TAYLOR: Of R. M. Black and 208 others, citizens of Harrison County; of S. F. Dean and 183 others, of Belmont County; and of Morris Allbaugh and 63 others, of Tappan, Harrison County, Ohio.

By Mr. TOWNSHEND: Of 62 citizens of Hamilton County, Illinois.

By Mr. WILKINS: Of D. R. Liggett and 70 others, of Holmes County, Ohio.

By Mr. YAPLE: Of Edwin E. Crandall and 41 others, of Schoolcraft; of B. O'Dell and 120 others, citizens of Decatur; of H. H. Van Camp and 29 others, of Decatur; of Thomas C. Bradley and 40 others, of Three Oaks, and of Charles W. Shepard and 115 others, of Mendon, Mich.

SENATE.

THURSDAY, *January* 8, 1885.

Prayer by the Chaplain, Rev. E. D. HUNTLEY, D. D.

The Journal of yesterday's proceedings was read and approved.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. CLARK, its Clerk, announced that the House had passed the following bills; in which it requested the concurrence of the Senate:

A bill (H. R. 7872) to remove the political disabilities of Gabriel H. Hill, of Virginia; and

A bill (H. R. 7871) to remove the political disabilities of W. H. Ward, of Virginia.

The message also announced that the House had passed the bill (S. 737) to remove the political disabilities of J. R. Waddy, of Virginia.

PETITIONS AND MEMORIALS.

Mr. CAMERON, of Pennsylvania, presented the petition of John C. Myers, of Reading, Pa., praying reimbursement for certain moneys expended and services rendered by him in the investigation of the conduct of George F. Seward, late consul-general, and Oliver B. Bradford, late deputy consul-general, at Shanghai, China; which was referred to the Committee on Appropriations.

Mr. HOAR. I present certain papers, and among them a petition of Jennette S. Kent, relating to the bill (S. 2384) granting a pension to Jennette S. Kent, and I move that they be referred to the Committee on Pensions.

The motion was agreed to.

Mr. LAPHAM presented a memorial of Cigar-makers' Union, No. 223, of Amenia, N. Y., and a memorial of Cigar-makers' Union, No. 9, of Troy, N. Y., remonstrating against the ratification of the proposed Spanish reciprocity treaty; which were referred to the Committee on Foreign Relations.

Mr. MILLER, of New York, presented a petition of the American Ornithologists' Union, praying the establishment of a bureau of ornithology as a branch of the Agricultural Department; which was referred to the Committee on Agriculture and Forestry.

Mr. HALE presented a petition of citizens of Millbridge, Me., praying for the ratification of the proposed Spanish reciprocity treaty; which was referred to the Committee on Foreign Relations.

REPORTS OF COMMITTEES.

Mr. MAXEY. I am instructed by the Committee on Military Affairs, to whom was referred the bill (S. 1374) to provide for the sale of the old site of Fort Brady, Michigan, and for a new site, and the construction of suitable buildings thereon, to report it with an amendment in the nature of a substitute. I ask that the bill be placed upon the Calendar, and at the proper time I shall ask its consideration by the Senate.

The PRESIDENT *pro tempore*. The bill will go on the Calendar.

Mr. CAMERON, of Pennsylvania, from the Committee on Naval Affairs, to whom was referred the bill (S. 2458) for the relief of David L. Brainard and others, non-commissioned officers and privates of the Greely expedition, asked to be discharged from its further consideration, and that it be referred to the Committee on Military Affairs; which was agreed to.

THE BARGE PIRATE.

Mr. MILLER, of New York. I am instructed by the Committee on Commerce, to whom was referred the bill (H. R. 4539) to issue American papers to the lighter or barge Pirate, now at New York, to report it without amendment, and with a recommendation that it pass. I ask for its present consideration.

The PRESIDENT *pro tempore*. Is there objection to the present consideration of the bill?

Mr. HALE. What is the bill?

Mr. SHERMAN. Let it be read in full.

The PRESIDENT *pro tempore*. The bill will be read for information.

The Chief Clerk read the bill, as follows:

Be it enacted, &c., That the Secretary of the Treasury is hereby authorized and directed to grant and issue to the lighter or barge Pirate, now lying at New York, an American register or enrollment.

The PRESIDENT *pro tempore*. Is there objection to the present consideration of the bill?

Mr. HALE. From what committee does it come?

The PRESIDENT *pro tempore*. From the Committee on Commerce, reported by the Senator from New York.

Mr. MILLER, of New York. It is a House bill; it has passed the House.

Mr. HALE. What are the circumstances?

Mr. CONGER. It is a unanimous report from the Committee on Commerce.

Mr. HALE. Is there any report accompanying it?

Mr. CONGER. No; but there is a letter of the Secretary of the Treasury recommending it.

Mr. MILLER, of New York. I can briefly explain it, and I think there will be no possible objection to its passage.

The PRESIDENT *pro tempore*. The Senator from New York, if there be no objection, will be allowed to explain the bill, after which the Chair will ask for objection.

Mr. MILLER, of New York. The facts are simply these: The barge named in the bill was built in Boston in 1854 as an American vessel. Some years after it was sold under a mortgage foreclosure and came into the possession of a citizen of Hayti under the Haytian flag. It was then engaged in foreign commerce, and upon coming into the port of Norfolk in the United States some time ago it was there condemned as a wreck, having had a very stormy passage and being very much damaged. It was bought by a citizen of the United States and by him taken to New Jersey with the intention of repairing it as a sea-going vessel; but upon examination it was found to be so badly wrecked that that was abandoned, and it was subsequently rebuilt and made into a barge without any motive power, simply to be towed. It can be used in no other service save that of our internal waters. The American citizen before rebuilding it took legal counsel, which counsel advised him that upon so rebuilding it there would be no difficulty in obtaining an American register. After the money had been expended, some $3,500, when the papers were applied for the application was refused upon the ground that some of the material in the barge came from the old Haytian vessel, which was originally one of American build. It is impossible that this American citizen should get any return whatever for his money unless he be allowed an American register, for the vessel now, instead of being a sea-going vessel, is simply a barge to be towed about in the internal waters.

Mr. HALE. The Senator believes that the case comes under the spirit of the general law allowing an American register to be given to wrecked vessels that have been rebuilt, but not technically?

Mr. MILLER, of New York. There is no doubt but that it comes under the spirit of that law. The measure is simply asked for as a matter of equity. If it came absolutely under the law technically, of course the Secretary of the Treasury would have granted the papers; but it is one of those cases where the repairs are not equal to three-quarters of the value of the wreck, and therefore the papers can not be granted. This citizen acted in good faith, after having taken counsel; he has his money invested in it; and it is simply to put it in internal trade, because it is no longer a sea-going vessel. The Secretary of the Treasury has examined the case and reported favorably upon it, and it is necessary that the bill should be passed in order that the vessel may be used.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

PRINTING OF SCHWATKA'S REPORT.

Mr. HAWLEY. There was referred to the Committee on Printing a communication from the Secretary of War, transmitting the official report of Lieut. Frederick Schwatka of his military reconnaissance on the Yukon River, in Alaska, to which considerable public attention was directed. The committee instruct me to report a concurrent resolution for printing the same, as follows:

Resolved by the Senate (the House of Representatives concurring), That the official report of Lieut. Frederick Schwatka, United States Army, of his military reconnaissance be printed, and that 3,500 additional copies be printed, of which 1,000 copies shall be for the use of the Senate, 2,000 copies for the use of the House, and 500 copies for the use the War Department.

I ask for the present consideration of the resolution.

The Senate, by unanimous consent, proceeded to consider the resolution.

Mr. HAWLEY. The Secretary of War and the Lieutenant-General strongly recommend the printing of the report. I believe it is a matter of considerable public interest and value.

The PRESIDENT *pro tempore*. The question is on agreeing to the resolution.

The resolution was agreed to.

BILLS INTRODUCED.

Mr. SHERMAN introduced a bill (S. 2507) to amend the law concerning mechanics' liens in the District of Columbia; which was read twice by its title, and, with the accompanying papers, referred to the Committee on the District of Columbia.

Mr. MAXEY introduced a bill (S. 2508) to regulate the letting of mail contracts; which was read twice by its title, and referred to the Committee on Post-Offices and Post-Roads.

Mr. PALMER introduced a bill (S. 2509) to confirm titles to lands in certain cases; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. HAWLEY introduced a bill (S. 2510) for the relief of the Good Intent and other companies; which was read twice by its title, and referred to the Committee on Claims.

Mr. PIKE introduced a bill (S. 2512) touching the grade of commander in the Navy, and to correct an error in relation to an appointment therein; which was read twice by its title, and referred to the Committee on Naval Affairs.

He also introduced a bill (S. 2513) to amend the law in relation to the registration of trade-marks; which was read twice by its title, and referred to the Committee on Patents.

FEES IN PENSION CASES.

Mr. ALLISON introduced a bill (S. 2511) relating to claim agents and attorneys in pension cases; which was read the first time by its title.

Mr. INGALLS. Let the bill be read the second time at length, Mr. President.

The bill was read the second time at length, as follows:

Be it enacted, &c., That no agent, attorney, or other person shall demand or receive any fee for his services in pension, arrears-of-pension, or bounty-land claims until the allowance of the claim.

SEC. 2. That all fees in pension claims shall be paid by the agent for paying pensions out of the first installment of pension due the claimant; and no agent, attorney, or other person shall receive any fees for his services in a pension claim except through the agent for paying pensions.

SEC. 3. That the fee in all pension, arrears-of-pension, or bounty-land claims shall be $10, except in cases of special written contract, filed in the Pension Office and approved by the Commissioner of Pensions, as hereinafter provided. The claimant may contract with his attorney of record, in writing, in such form as the Commissioner of Pensions may prescribe, for a fee to an amount not exceeding $25, except in claims for increase of pension where no new disability is alleged, in cases of pensions for service, and in all claims filed in the Pension Office after June 28, 1878, and prior to the 4th day of July, 1884, in which cases no fee above $10 shall be contracted for; and in all claims filed prior to the passage of this act the attorney shall file a statement, under oath, duly attested, setting forth the amount of fee already received by him, and the amount already received shall be deducted from the fee allowed by this act.

SEC. 4. That the Secretary of the Interior may prescribe rules and regulations governing the recognition of agents, attorneys, or other persons representing claimants before his Department, and may require of such persons, agents, and attorneys, before being recognized as representatives of claimants, that they shall show that they are of good moral character and in good repute, possessed of the necessary qualifications to enable them to render such claimants valuable service and otherwise competent to advise and assist such claimants in the presentation of their cases; and such Secretary may suspend, debar, dismiss, and disbar from further practice before his Department any such person, agent, or attorney shown to be incompetent, disreputable, or who refuses to abide by the said rules and regulations, or who shall in any manner deceive, mislead, or threaten any claimant or presumptive claimant by word, circular, letter, or by advertisement.

SEC. 5. That any agent or attorney or other person instrumental in prosecuting any claim for pension, or arrears thereof, who shall directly or indirectly contract for, demand, or receive and retain any compensation for his services or instrumentality for prosecuting a claim for pension, or arrears thereof, greater than is herein provided, or in any other manner than herein provided, or shall willfully or knowingly make a false statement in regard to the amount of fee already received, shall be deemed guilty of a high misdemeanor, and, upon conviction thereof, shall for every such offense be fined not exceeding $1,000, or be confined at hard labor not exceeding two years, or both, at the discretion of the court, and be forever afterward debarred from practicing before the Pension Office.

SEC. 6. That no agent or attorney shall either demand or receive, on account of the prosecution of any claim provided for under the provisions of this act, where such claim was filed after the 28th day of June, 1878, and prior to the 4th day of July, 1884, any fee or sum of money in excess of $10; nor shall said $10, or any part thereof, be paid to any agent or attorney until he make and file in the office of the Commissioner of Pensions the affidavit provided for in section 4 of this act; and if it shall appear from said affidavit, or in any other way, that all or any part of said $10 has been paid, it shall be deducted therefrom, and the residue, if any, shall be paid to such attorney as hereinbefore provided: *Provided*, That this act shall not be so construed as to interfere with any contracts, entered into fairly and without fraud or duress, for the prosecution of claims filed after the 4th day of July, 1884, and prior to the passage of this act; and that any person who shall violate the provisions of this act shall be, upon conviction, punished as provided in the sixth section of this act.

SEC. 7. That this act shall not be so construed as to prohibit any claimant the prosecution of whose claim has been heretofore abandoned by his attorney from employing another attorney or agent, but in no such case shall the fee paid such attorney exceed the sum of $10, under the penalties of the sixth section of this act: *Provided*, That if such new attorney successfully prosecute such claim, that the original attorney or agent shall not be allowed to demand or receive any part thereof, under the penalties of the sixth section of this act.

SEC. 8. That hereafter no person or persons who may have been heretofore engaged in the prosecution of pension or bounty-land claims of any character whatsoever, and who may have heretofore collected on account thereof any sum whatever, shall be allowed to sell, assign, convey, or make over to any other person any such claim or claims, so as that it shall be lawful for any vendee or assignee of such claim or claims to demand or receive any other or greater fee than is hereinbefore provided for; nor shall such vendee or assignee be allowed to receive anything therefor until the vendor or assignor of such claim or claims, if alive, shall make and file in the office of the Commissioner of Pensions the affidavit provided for in the fourth section of this act; and any person or persons who shall violate the provisions of this section shall be subject to the penalties imposed by the sixth section of this act: *Provided*, That the provisions of this act authorizing contracts for a fee of $25 shall be limited to attorneys or agents residing in the State where the claimant resides, and shall not extend to agents or attorneys in the District of Columbia; and it shall be unlawful for any agent or attorney residing in a State of which the claimant is resident to enter into partnership with or otherwise to divide the fee of $25 with any attorney or agent residing in the District of Columbia.

SEC. 9. That all of the provisions of the act making appropriations for the payment of invalid and other pensions of the United States for the fiscal year ending June 30, 1885, and for other purposes, approved July 4, 1884, relating to claim agents and attorneys in pension cases, are hereby repealed: *Provided*, That as to offenses committed under said act all the provisions thereof shall remain in full force.

Mr. ALLISON. Mr. President, I offer the bill this morning and ask its reference to the Committee on Pensions, for the reason that I desire to have the expression of that committee with regard to this proposed legislation. I do not wish to be held responsible for all the provisions of the bill. All the provisions of it are found in House bill 7785, being the pension appropriation bill for the next fiscal year. It is legislation the object of which is to regulate the fees of attorneys and agents in pension cases, and to repeal the legislation upon that subject

which was passed last year on the pension appropriation bill for the current year.

I desire this reference for two purposes: In the first place, that the Committee on Appropriations of this body, when the pension appropriation bill for next year comes up for its consideration, will not be confronted with the fact that the attention of the Senate has not been called to this important legislation; and in the next place, the legislation which is proposed to be repealed by the last section of the bill which I have introduced is the legislation of last year put upon the pension appropriation bill in a conference committee.

It will be remembered that when the pension appropriation bill was before the Senate last year it came to us with a large amount of legislation relating to this subject and to other subjects. Under the rules of this body it is impossible for the Senate Committee on Appropriations or for the Senate itself to consider legislation on an appropriation bill. Therefore, under the rulings of the Chair and under the practice of the Senate, the Committee on Appropriations on that very bill were instructed to report it back without any legislation whatever; and the committee, under the instructions of the Senate, so reported the bill; so that when the bill passed the Senate at the last session there was no legislation upon it as amended by the Senate. It then went to the House and, the House refusing to agree to our amendment striking out the legislation, a committee of conference was ordered upon the bill, and several sections relating to the question of compensation to pension attorneys were put upon the bill and agreed to. Now, there is great complaint that that was hasty legislation and legislation unjust to the soldiers of the country, and it has been stated in some quarters indirectly, although not directly, that the Senate of the United States is responsible for this legislation.

The object of the bill which I have introduced is, in some respects, if there was hasty and inconsiderate and unjust legislation on the pension appropriation bill last year, that that legislation may be corrected.

Mr. INGALLS. Will not the Senator state what the points are that are alleged to be unjust?

Mr. ALLISON. I am not so familiar, perhaps, with the acts relating to pension practice as I ought to be, and if I misstate them I hope the chairman of the Committee on Pensions or some other member of that committee will correct me. Under the act of 1870, or at any rate prior to 1878, the law was that no attorney should receive compensation for his services until after the pension had been allowed. By the legislation of 1878 that limitation was removed and pension attorneys were authorized to receive a portion at least of the compensation during the pendency of the claim, and the compensation was limited to $10. The Committee on Pensions in this body reported an elaborate bill at the last session of Congress looking to a re-establishment of the law of 1870, together with sundry and divers limitations for the regulation of the practice of attorneys before the Pension Bureau. When the pension appropriation bill came to the Senate it had upon it legislation looking in the same direction, and the Committee on Pensions, in the discussion that was had upon the bill, called attention to the fact that they had prepared an elaborate and well-considered measure on the subject; and I believe the chairman of the committee called attention to the fact that if legislation was had, in lieu of the legislation proposed by the House on the appropriation bill, that contained in the Pension Committee's bill should be adopted by the Senate. But under the rules of the Senate it was impossible for us to consider that bill at all on the appropriation bill; and therefore it was that the Committee on Pensions could not in this body, under our rules, propose, as an amendment to the legislation proffered by the House, anything in regard to this question of compensation.

Mr. INGALLS. Because it was legislation on an appropriation bill?

Mr. ALLISON. Because it was legislation on an appropriation bill, and therefore prohibited by the rules of the Senate. That bill restored the law of 1870, as I understand, and provided that in cases where a written agreement was filed in the Pension Office a fee of $25 might be charged by the attorney prosecuting a claim; but it also provided, as I remember, that where pension applications were made after the law of 1878 and before the passage of that proposed law, in no case should a fee beyond $10 be allowed.

Mr. DAWES. If the Senator will permit me, I think the provision of the last law was that a fee not exceeding $25, to be determined by the Commissioner, might be allowed.

Mr. ALLISON. That is as the conference committee reported the measure to the Senate and as it was finally passed. That provision in the bill of the Pensions Committee of the Senate, for some reason or other, I do not know how, does not appear in the bill reported from the committee of conference, and therefore the Pension Bureau has ruled, as I understand, that the pension attorneys can go back to 1878, and that upon all claims filed between 1878 and 1884 they can present a written agreement and receive a compensation of $25 in lieu of $10 as provided by the law of 1878. Thus it is claimed that these attorneys or agents in pension cases have oppressed and are oppressing the pension claimants who filed their claims between 1878 and 1884, covering, of course, all the cases of arrearages of pensions. Whether that is the correct construction of the law of last year, I do not pretend to say. It certainly is within the discretion of the Commissioner of Pensions to say whether the fee shall be $25 or $15, as suggested by the honorable Senator from Massachusetts.

Now, it is claimed that that was vicious legislation put upon an appropriation bill without due consideration; and to correct that vicious legislation it is claimed that these sections, nine in number, ought to be adopted this year on the pension appropriation bill, for the purpose of correcting legislation vicious in its character passed upon the pension appropriation bill last year.

I desire to call the attention of the Senate to the fact that under our rules it is impossible for us on appropriation bills to have well-considered legislation, because we can not offer amendments nor can we debate the questions that may come up with relation to legislative provisions on an appropriation bill.

I have presented this bill, taking it bodily from the appropriation bill which Senators will find upon their tables this morning, and I ask the especial attention and consideration of the Committee on Pensions to this proposed legislation, so that they may report to us (and I think the report should be as speedily made as the committee can find convenience to make it with the other matters they have before them), and that the Senate may know whether the legislation of last year was well considered or proper legislation; and, if it is not, that the Committee on Pensions, the proper committee of this body, acting under our rules, shall so inform us and present to us a bill upon this important subject, as it relates to all the pension claimants in this country. That is the object I have in introducing the bill.

Mr. JACKSON. Will the Senator permit an interruption just there?

Mr. ALLISON. Yes, sir.

Mr. JACKSON. I desire to inquire in what respect the bill he has just offered differs from the bill which was reported on behalf of the Pension Committee at the last session on that very subject?

Mr. ALLISON. It differs materially in many respects, so far as I am able to judge from having given it, of course, a somewhat hasty examination. All the features of detail which are involved in the bill reported by the Senator from Tennessee are omitted in this bill, and the legislation on the appropriation bill of last year is absolutely repealed so far as the detailed provisions are concerned.

What I desire, and what I think the Committee on Appropriations are entitled to have, is the judgment of the Committee on Pensions reported to the Senate in the form of a bill, their attention being called to the legislation of last year on an appropriation bill. Let that committee report to us such a bill, an independent measure, because under our rules we can not consider this measure on an appropriation bill. Let them report an independent measure so that we may send it to the House of Representatives and have their independent and separate judgment upon it.

I move the reference of the bill to the Committee on Pensions.

Mr. BECK. Mr. President, while all that the Senator from Iowa has said meets my approval in regard to his desire to relieve the Committee on Appropriations from great difficulties, it does not reach the root of the evil, because every other appropriation bill that comes from the House may contain legislation of the same character which the Committee on Appropriations of the Senate will be wholly unable to touch. Last year in the sundry civil bill we had a law regulating the fees of marshals and affecting the connection of the Government with the great Pacific and other railroads, among other things that were apparently and I suppose actually very imperfect, and which the House itself would have desired to amend. We could not touch any of them. There is not an appropriation bill that comes from the House of Representatives that may not have, as it did have last year (and at this short session it will be worse even than it was at the long session of last year), just such legislation, which we are obliged to reject or obliged to accept as it comes from the House; and when we reach a committee of conference we are obliged to agree to it or, if the Senate conferees refuse to strike it out, the bill is lost altogether. That is the way much legislation comes in.

We can only reach the object in view by the Joint Committee on Rules establishing some rule binding upon both Houses if they can, or, if they can not, reporting to us that they can not, and then we must take our stand upon the question of legislation on appropriation bills firmly and decidedly, let the consequences be what they may.

Mr. HARRIS. If the Senator from Kentucky will allow me, I will state that the Senate Committee on Rules at the beginning of the last session of this Congress reported a set of joint rules which have been before, and I suppose are being considered by, the House Committee on Rules. The Committee on Rules of the Senate, I simply desire to say, reported such rules as would effectually remedy this evil if the House would agree to the rules so reported or rules similar in effect. The Committee on Rules of the Senate have done all that it was in their power to do.

Mr. BECK. Let me ask the Senator from Tennessee, who knows very much more about the rules than I do, and has been quite observant in regard to the difficulties we have had on appropriation bills, if some joint rule is not absolutely necessary to protect the Committee on Appropriations in acting upon appropriation bills with legislation in them?

Mr. HARRIS. Oh, I quite agree with the Senator from Kentucky

and other Senators that a joint rule that will protect appropriation bills from general legislation is very important to the Committee on Appropriations, as it is to the country, in my opinion. I desire to suggest to the Senator from Kentucky that the only remedy in my judgment that the Senate has, in the absence of such joint rule, is that the Senate strike out, without regard to merit, every feature that is general legislation which comes to us in an appropriation bill from the House. There is a remedy in that, and so far as I am concerned I am ready not only to vote to strike out every such provision without regard to merit, but to stand upon the striking out to the last extremity.

Mr. BECK. The purpose I have in view is being attained quite rapidly by declarations of that sort. Then we are confronted with the fact that whatever the House of Representatives under its rules may put in an appropriation bill, even if it is stricken out by the Senate, only sends it to a committee of conference where it can hold us or reject the bill altogether. Then is the Senate prepared to refuse to pass appropriation bills into which the House under its rules can insert legislation that we can not amend? We go one step further, and when that step is reached an issue is made upon which the country will have to decide who is right and who is wrong.

All I rose to say is, that while the bill of the Senator from Iowa meets my approval, we shall in all probability be confronted with legislation on appropriation bills at this short session of Congress of only about fifty working days. I alluded to the sundry civil bill of last year, and the Senator from Iowa knows the trouble we had about it in regard to railroads and marshals and many other things that were very important. My real object is to impress upon the Joint Committee on Rules the importance of making a very earnest and serious effort, so as to avoid what this is only the beginning of in the pension appropriation bill and which may be followed in every other appropriation bill with things of the same sort. Our committee may appeal to them, attention having been called to it by the Senator from Iowa. If the Committee on Rules would make an earnest effort, the Senator from Ohio [Mr. SHERMAN] and the Senator from Tennessee [Mr. HARRIS] being very well able to explain our difficulties, they may succeed before many important bills come up in having some agreement that may save both Houses a great deal of trouble.

Mr. DAWES. I was a member of the committee of conference to which the differences of the two Houses upon the pension appropriation bill were committed at the last session, and signed the conference report. I regret that the chairman of that committee, the Senator from Illinois [Mr. LOGAN], is not present, as he had the matter especially in charge and could explain the considerations which led the committee to recommend the concurrence of the Senate in the report. It was a question of compromise. The committee on the part of the Senate were with the Senate in the proposition to make proper appropriations for the pension department of the Government and nothing more in an appropriation bill. They were met, however, by a bill which not only made those appropriations, but had in it very essential modifications of the existing law, and the conferees were in controversy for a long time between making these appropriations and adopting the proposed legislation. The legislation which came ultimately into that appropriation bill was put there in order to save the bill. It was a modification or substitute for the legislation which came to this body in the bill, better the committee thought than the proposition which came here, but so far as I am concerned and (I speak with some confidence) so far as the other members of the conference committee on the part of the Senate were concerned, unsatisfactory to them. It was in their opinion the best they could do. Under the rules of the Senate, the Senate was forbidden even to amend or modify that legislation. Their alternative was to take it exactly as it came from the House, or to reject it altogether. They rejected it. The House refused to pass the appropriation bill without that legislation.

The committee of conference was then brought at the very last moment to say that they would take this provision. I thought I foresaw the condition of things which is now represented to exist. A provision that all contracts heretofore made under the $10 limitation could be remodeled between the claim agent and the applicant within the limitation of $25, subject to the supervision of the Commissioner of Pensions, would certainly result in my opinion (although I had no opportunity to make that statement to the Senate when the conference report was adopted; it was adopted without debate and without opportunity of debate) in circulars sent out from here to all applicants insisting upon a new contract within the limitation of $25 and the Commissioner of Pensions would practically approve of them all; it would be impossible for him to review them. I understand that a corps of clerks is now set apart to review and investigate the amount of labor in each claim that is finally adjudicated to see whether $25 is or is not a reasonable sum.

Every applicant has this circular sent to him informing him in substance that the law has been modified and that he must sign a new contract, and he signs that contract believing that he is obliged to pay the $25; and under the law the Commissioner is obliged to look into the matter, and see whether $25 is a reasonable sum. It results practically in every applicant whose claim has not been adjudicated being obliged to pay $25 instead of $10.

But, sir, I do not see how the Senator from Iowa is going to reach this difficulty in the method which he proposes. He will get the opinion of the Committee on Pensions; he may get the opinion of the Senate; but when the pension appropriation bill comes up, here under our rules we can not amend that bill by modifying it according to the conclusions of our Committee on Pensions or of the Senate itself. We must reject altogether the legislation which is in that bill, and take the appropriations simply just as we did last year, and then be confronted in a committee of conference precisely as we were last year with the alternative, "take this legislation along with the appropriations, or not get the appropriations," with the additional pressure that will be on us that the session ends on the 4th of March.

Mr. President, the evil lies where the Senator from Kentucky has indicated it. Unless the two Houses can come to some common understanding about the form and shape of their appropriation bills we shall be constantly and always in the power of a committee of conference, or be faced with the alternative of taking such legislation in appropriation bills as may be brought here for us to consider. We have no deliberation upon the subject. This evil of legislation in appropriation bills has been growing upon Congress for these many years. When I first had anything to do with appropriation bills they were upon the objection of a single member stripped by an iron rule, in the body of which I was then a member, from everything that looked to independent legislation; and so careful were the members of that rule and so impressed were they with the importance of it that care was taken at the moment every appropriation bill was reported, before it went to a Committee of the Whole for consideration, to raise the objection, so that no omission of time might give any legislation, which peradventure might have crept into the bill unaware, exemption from the objection of any member. Now almost the entire legislation of Congress has found its way into appropriation bills, and the Senate has voluntarily tied its own hands. Knowing that under some rules legislation of any kind and however broad can come here in appropriation bills and under the pressure of the power and necessity of appropriations, we have voluntarily tied our hands and said that we will not permit ourselves to introduce any independent legislation which is right and absolutely necessary, and further that we will not even modify by any amendment such legislation as shall come to us. I can not conceive of anything so absurd, to say nothing of the evil tendencies of such a course of legislation and of such rules.

Now, Mr. President, what does the Senator from Iowa gain if he gets a report from the Committee on Pensions of a modified and well-considered and proper plan that shall meet unanimously the judgment of the Senate? He can not offer it as a modification of the existing law. All he can do and all that is possible is that a committee of conference can take that in their pocket into the conference room, and they can tender it to the conferees they meet there; but the conferees they meet there can do as they please with the 4th of March staring us in the face.

Mr. ALLISON. Mr. President, in answer for a moment to what the Senator from Massachusetts suggests as to the practical remedy, I will say that I do not know that anything can be accomplished, but certainly if here is vicious legislation, as is claimed, I take it for granted the House of Representatives will be swift to correct that legislation, especially when we send to them the means of doing so in the form of an independent bill. I can not for an instant suppose that legislation of this importance will be smothered under the two hundred bills said to be lying somewhere that have already passed this body. Therefore it is that I am endeavoring, knowing that we have put gyves upon our wrists in reference to our legislation, to see if I can not in some way untie our hands by means of an independent measure which is now said to be of pressing and immediate importance. Hence I have introduced this bill in the hope that we can send to the House of Representatives separate and independent legislation for their action, and thus relieve us under the rules from the embarrassment in which we are placed.

Mr. HALE. Mr. President, hardly anything could have come up that would show more clearly than the present situation the infirmity under which the Senate labors in resisting legislation upon appropriation bills. The Senate for some years has been making an earnest and consistent and steady fight against what it believes is a vicious practice in legislation—that is, incorporating upon appropriation bills important general legislation. The ground taken by the Senate has been that by that practice there is no opportunity for consideration; and appropriation bills dealing with the numerous items of expenditure needed by the different Departments of the Government come in almost always late in the session, and do not furnish a proper vehicle for the discussion of important legislative matters. So the Senate has endeavored to maintain its attitude upon appropriation bills, and if it were able to maintain this attitude and to so influence the co-ordinate branch of the Legislature, its purpose would be accomplished. But all the same, notwithstanding the fight that the Senate has made, every year important legislative provisions are incorporated in appropriation bills and become a part of the general law of the land, and are a portion of the general legislation of Congress.

Why is this? Because the Senate is always at a disadvantage; and

the present situation, as I have said, illustrates it more completely than anything I have seen in my service in this body. An appropriation bill comes to the Senate with a half-dozen provisions of general legislation which the other House has put upon it and sent to the Senate. The Senate refers the bill to the Committee on Appropriations and under the rules of the Senate and under the spirit of the rules the Committee on Appropriations strikes out all the legislative provisions from the bill and reports a clean and simple proposition for appropriations, as it did last year in the case of the pension bill. All that is very well so far as the Senate is concerned. The bill passes the Senate shorn of the objectionable features and goes back to the House, and the House, as it has a clear right under its rules to do, disagrees to the Senate's amendments and appoints a committee of conference. The bill is returned to the Senate, and the Senate appoints a committee of conference to meet the conferees of the House, and the whole matter is thrown into the conference, which is the deliberation of six men, three Senators and three Representatives. The outcome is that sometimes the Senate conferees are obliged either to abandon their ground *in toto* and consent to the House legislation, or exercising their best discretion to accept portions of or to modify the House legislation; and the result is that, under the whip and spur of a conference report passed on the appropriation bills almost always in the last three days of the session, the legislation goes through. We are here confronted precisely with that situation; and when I read the proceeding that took place in the House of Representatives as they appear in the RECORD I find that although all the legislation upon the pension appropriation bill which is now objected to was initiated in the other branch, still the Senate does not escape responsibility.

I was about to ask the Secretary to read from the RECORD of yesterday morning; but, on reflection, I will not ask to have anything read from the debates in the House, because some Senator might call attention to the point of order which would exclude it. But it is impossible to realize the serious condition that the Senate finds itself now confronting without taking into consideration the attitude and the debates of the two Houses. I will only then, without referring to anything that has taken place elsewhere, suppose this case: An appropriation bill comes from the House of Representatives loaded with legislation. The Senate strikes it off. It goes back to the House clean—an appropriation bill pure and simple. The House insists upon its legislation. The whole subject is thrown into conference, and out of that conference comes a bill with legislation upon it that a year's observation and a year's experience show to be very vicious, very pernicious legislation, and the Senate has not escaped the responsibility because it may be said by the House of Representatives in maintaining its ground that unless the particular items of legislation, just as they appear in the final law as it is enacted, were incorporated into the provisions of the House bill the House is not responsible for it; and so the responsibility may be thrown upon this body. So then, although the Senate is striving to prevent legislation upon appropriation bills and the House is insisting upon putting legislation upon them, if as an outcome of a conference vicious legislation is found to result because the House has insisted on putting legislation upon an appropriation bill, if it is not found in the law in precisely the terms of the House proposition, then the responsibility is shifted upon the Senate, and we are liable to find ourselves in that situation upon every appropriation bill.

I must say, Mr. President, that for one I am becoming somewhat weakened in my view as to our position under the present system of rules that we are doing legislation by; I am becoming somewhat doubtful about the wisdom of our rule with reference to legislation. We are all the time at the mercy of the House. We can not amend their legislation; we can put on no new legislation; we are thrown into conference, and they have the advantage of us. There is only one remedy, and that is the one suggested by the Senator from Tennessee. If the Senate as a body in all cases, no matter what the legislation is, will declare, and stand firmly to the declaration, that it will have nothing to do with general legislation upon appropriation bills, and will refuse to accept the reports of conferees whenever a particle of general legislation has been found to creep into those reports, then a monition would be served upon the co-ordinate branch that might be of some avail; but until that has been done we are at the mercy of the other branch.

I do not know whether the general rules applicable to both bodies, the rules referred to by the Senator from Tennessee as reported by our Committee on Rules, can be carried any further. But unless the House assents to give up its superior privilege and to adopt a joint rule that shall apply in common to both of the bodies, we are liable all the time to be found in the present condition.

The Senator from Iowa very properly proposes to take the provisions of legislation that are found now upon an appropriation bill, to refer them to the Committee on Pensions, and to ask that committee to report a bill containing them and send it to the House; but in the condition of the docket of the House that will not be acted on, and the House can do all the time what we can not do. It is not obliged to resort to the channels of the various committees that deal with the different subjects-matter of legislation as we are, but may wait until the waning days of the session and put legislation on an appropriation bill and send it here and we are confronted with it.

It seems to me that it is high time that something was done, either that a joint rule be made or that we let up on the stringency of our rule, which is constantly disabling us and putting us at the mercy of the other House.

Mr. BECK. I wish to submit to the Senator from Maine that the difficulty we have now, and the reason I suggested a modification of the rule was this: Even if the bill of the Senator from Iowa passes, it will necessarily go on the Calendar of the House, and there a single man can prevent it from ever being taken up; and I understand that there are two hundred Senate bills now before the House that have not yet even been referred. So we must either have a joint rule agreed to by both Houses or the present rule so modified that we can amend House provisions on appropriation bills to avoid trouble.

Mr. HALE. I had these difficulties in mind when I referred to the improbability of any action being taken by the other body on a bill reported by the Committee on Pensions and passed in this body. It is almost impossible for any new legislation sent over by us now to that body to be got through, from the difficulties that the Senator has referred to and others very numerous.

Mr. INGALLS. Mr. President, I have listened with a great deal of interest to those Senators who have roared so loud and thundered in the index about the impropriety of legislation upon general appropriation bills; and I admired the vigor with which the Senator from Tennessee with resounding clamor smote his desk and declared that for one he was willing to stand up in solid phalanx and declare that the aggressions of the House of Representatives should be resisted, if necessary, to the death. That amusing comedy has been repeated in my hearing over and over again *interum interumque* for the past five years. We have resolved that there should be no legislation on general appropriation bills. We have declared that the system was vicious, that it had been increased from year to year until finally it had come to pass that almost the entire mass of legislation was vested in the Appropriations Committees of the two Houses, and we have withdrawn ourselves and gone up into a high mountain and declared that for us and our people we would have nothing to do with that sort of legislation.

The Senator from Maine advised us in the observations which he has just closed, and to which I listened with so much pleasure, about the dangers of the situation and the fact that we were at the mercy of the House of Representatives. How are we at the mercy of the House of Representatives? "By tying our own hands," *soto voce* says the Senator from Missouri [Mr. COCKRELL]. We are at the mercy of the House of Representatives not by reason of any infirmity in the powers of the Senate, but by reason of the infirmity of the Committee on Appropriations of this body. "Tied our hands," again says the Senator from Missouri. Tied our hands! Why, sir, again and again, whenever this subject has been brought to the attention of the Senate upon a yea-and-nay vote, there never has been a single Senator recording his vote against any concessions to the House of Representatives—never one. There never has been a division of opinion as to what the powers of the Senate were and that our rules were correct and should be observed.

Mr. President, there being a definite and final disagreement between the two Houses, the whole subject goes into committee of conference and that committee of conference is composed of members of the Committees on Appropriations in the two Houses. The committee of conference on the part of the House confronts the members of the committee on the part of the Senate and says to them, "We intend to insist on our rights; we insist upon these amendments whether you call them legislation or not upon appropriation bills." Have not the conferees on the part of the Senate the same right to say to the conferees on the part of the House, "We insist upon the rules of our body that legislation shall not be upon appropriation bills?" But what is the result? After baffling about, after diplomacy, after discussion and debate until time is wasted and perhaps the hour of adjournment has been fixed, in comes the chairman of the committee of conference on the part of the Senate and says, "We were compelled to yield to the conferees on the part of the House; time was getting valuable, the hour of adjournment was near; it might be that appropriation would altogether fail, that we should have no money for the support of the Army, that there would be none to pay for the Navy, and therefore we thought best, under all the circumstances, to yield to the demand of the conferees on the part of the House, and we now submit our report including legislation upon general appropriation bills!"

I submit, sir, that so far as the action of the Senate upon this subject has been concerned, ever since this has been incorporated on our rules, we have been deliberately abandoned in every instance by the Committee on Appropriations. After having been admonished by the Senate by a vote that was unanimous, without a dissenting voice, Republican or Democrat, that we insisted upon our rule and that we did not propose to yield to the aggressions on the part of the House of Representatives, in every single instance the Committee on Appropriations have come in and said that they were compelled to yield to the members of the House of Representatives for fear appropriations might fail. Suppose appropriations did fail, under the circumstances would there be any more responsibility, if our rule is right, if we are a co-ordinate branch, if we have the same power that the House of Representatives have, would there be any more responsibility resting on the Senate than there would be on the

House of Representatives? I never have heard in the House of Representatives that the chairman of a committee of conference came in and said that the conferees on the part of the Senate refused to yield. That is a statement which never has echoed under the panels and through the corridors of that end of the Capitol. It would be refreshing, it would be a novelty, it would be charming indeed if sometimes we could hear the chairman of the Committee on Appropriations of the House of Representatives, or the chairman of a conference committee there say, "The Senate conferees refused to yield to us; we were compelled to abandon our position. Although we believed we were right, we were obliged to relinquish the ground on which we stood." But no! It is commonly supposed that each of these bodies is of equal dignity, but never within my experience, never during the twelve years that I have been honored with a seat in this body, have I heard it said in the House of Representatives, "The conferees on the part of the Senate compelled us to abandon our position and yield to their demand, although we thought they were wrong."

Mr. President, I believe that legislation upon appropriation bills is vicious. I think with the Senators who have spoken upon this subject that the practice has enormously increased until, as has been said, the power has been practically lodged in the Committees on Appropriations in both branches of Congress. We all know how the pressure is brought to bear; we all know the power of delay, of procrastination, until we are caught in the very jaws of expiring time. But, sir, we are, so far as I know, the sole illustration of a deliberative body that has voluntarily cast itself into a dungeon and loaded itself with chains and left its adversary free.

The Senator from Maine says let us have a joint committee on rules that will deal with this subject. We do not need a joint committee on rules. The Senator knows that the House of Representatives will not consent to a committee on rules that shall compel them to relinquish their prerogative.

Mr. HALE. My suggestion was not for a joint committee, but a joint rule such as the Senator from Tennessee has referred to.

Mr. INGALLS. That is, that there shall be no legislation on appropriation bills.

Mr. HALE. That there shall be a common rule upon this most important subject-matter applicable to both Houses, that the measure of restriction of legislation upon appropriation bills shall be the same there as here. I am beginning to believe, I state plainly to the Senator, that we never shall reach what I think is desirable without some provision of that kind.

Mr. INGALLS. Mr. President, nobody knows better than the Senator from Maine, I presume, that so long as the House of Representatives have notice served on them by the Committee on Appropriations from session to session that they can do exactly as they please in this matter, they will not relinquish that power.

Mr. HALE. Will the Senator allow me to interrupt him here?

Mr. INGALLS. Yes, sir.

Mr. HALE. It is a very easy thing, as the Senator knows, for one to claim that another body or that another person shall have more backbone. It is a very easy thing to charge that the Committee on Appropriations on the part of the Senate gives away the rights of this body; but let me tell the Senator that the Senate at any time is liable to find itself confronted on an appropriation bill with legislation that is in itself so strictly just, that has so much inherent merit, that the Senate itself will not stand against it. Here, in the very case now in question, the House of Representatives has put upon an appropriation bill provisions that cure serious defects, which apply to the vast mass of pensioners throughout the country. It is removing a grievance that hundreds of thousands of men are interested in, whose complaints come to our doors and speak in such tones that neither the Senator nor I will disregard them; and when upon the annual appropriation bill for pensions there is found a provision that cures the legislation of last year in the interest of pensioners, and the House of Representatives insist that it shall pass upon an appropriation bill, and that situation confronts the Senate in the last days of the session, the Senate will yield, and will allow that legislation to go on, and the Committee on Appropriations will not stand in the way of the Senate, and if it did it would be voted down. And unless the Senator from Kansas has himself changed his views and the propositions of legislation that he has enforced for the soldier, he will be the first man who will run from the position the Senate has assumed. The Committee on Appropriations is all the time confronted with this situation, and it is impossible, even by taking an attitude such as has been taken here by the Senator from Tennessee, to remedy this evil, because the Senate, not in any cowardly way, but realizing that it is confronted with legislation that may be sound and good, will yield. It will make the best fight it can, but under the present conditions it can not make an effective fight.

Mr. INGALLS. Mr. President, the Committee on Appropriations have never invited on any single occasion an expression of opinion as to the merits or demerits of the legislation to which they have consented in committee of conference. It does not do for the Senator from Maine to assume that I shall be a fugitive from the position that I have occupied until he has invited me to say whether I will run or whether I will stay. Whenever the Committee on Appropriations have invited an expression of opinion on the part of the Senate upon this proposition, as I said before, there has never been a vote against adhering to the rules of this body that there should be no legislation upon appropriation bills.

The Senator from Maine now says that we are brought into this emergency, that upon certain occasions there is legislation confessedly so just that the Senate of its own motion, by its own volition, recedes from its position and adopts the proposition made by the House. That condition of affairs has never been presented to this body; never once; but the Senate has declared affirmatively that it will adhere to its rules, that there shall be no departure from them. The conferees on the part of the Senate come in and make a report that has been signed by the conferees on the part of the House, and that has been signed by the conferees on the part of the Senate, which concludes their action so far as it is possible, and then ask the Senate to say yea or nay upon that proposition.

Mr. HALE. Now let me ask the Senator there this question: When a conference committee of three on the part of the Senate has made its report and has recommended yielding to the House upon certain features of legislation, after perhaps it has stripped the bill of a great many others, will the Senator tell me why his responsibility then as a Senator is not just as great as mine? Where is the difference in the attitude of any member of this body? If he desires to reject a conference report because it has recommended yielding to the House on matters of legislation, why does not the Senator from Kansas, when the report is made, at once antagonize it and make a contest over it here in the Senate? I should like to see him do it. The responsibility of the committee of conference ceases the moment it makes its report and presents it to the Senate, and after that every Senator who lets that report pass without having made the issue and brought the Senate to an attitude upon it, shares equally in the responsibility.

Mr. INGALLS. The Senator from Maine says that he never has heard me object to this method of procedure. If he has not heard it, it is because he has been absent giving the Senate away on other propositions, for there have been repeated occasions—not one but many occasions—when I have risen here and called the attention of the Senate to the absurdity of the proposition that after we had expressed our opinion upon these matters a committee of conference should come in here and say that they were compelled to yield to the House of Representatives, and that we must take that or take nothing.

Mr. HALE. What has been the result of the Senator's effort in that direction?

Mr. INGALLS. Nothing.

Mr. HALE. The Senate then has sustained repeatedly, whenever the issue has been raised, the committee in yielding; and that bears out the point I have made that from time to time the Senate will be found ready to yield.

Mr. INGALLS. I recall one or two instances upon a subject that may be of interest to the Senator from Maine. I think he is or has been acting as chairman of the Committee on Naval Affairs in the Senate. He has been greatly interested in the project of building up and rehabilitating the American Navy. At the last session of Congress the Senate adopted certain amendments to the naval appropriation bill that I believe went to the House of Representatives and were disagreed to there. I recollect that we then also went into conference, and the Senate resolved, I believe without a single dissenting voice, to adhere to the amendments that we had made to the naval appropriation bill. If I recollect aright, even in that matter the Senate abandoned its own amendments, of which the Senator from Maine, I think, was the responsible author, was more than any other Senator responsible for, and we passed what is known as an emergency appropriation bill for the period of six months. When we assembled here in December the Senator from Maine, resolved to insist upon the prerogatives of the Senate, declaring that we would for once try the strength of our mettle with the House of Representatives, refused to agree to another emergency appropriation bill, called up the old committee of conference, and had another committee appointed. The House refused to agree to the amendments proposed by the Senate; they sent over here another emergency appropriation bill covering the period of thirty-one days, and so strenuous was the Senator from Maine as to the strength of his position that he made up his mind that rather than abandon the attitude the Senate had taken upon the proposition they would absolutely refuse to adjourn over the holiday recess, and we spent two or three days here in wrangling and discussing and debating whether we would adjourn on the 22d or the 24th of December. I believe, after some discussion upon that important subject, after endeavoring to bring a pressure to bear upon the House of Representatives by refusing to adjourn for the holidays, discretion was finally concluded to be the better part of valor, even in that case, and on the 22d or 23d of December the adjournment resolution passed, and the amendments of the Senate were definitely abandoned so far as that was concerned.

Mr. HALE. Oh, no; they were not abandoned. The Senator was not here at that time, and therefore he has got the record wrong. The Senate insisted upon its attitude and before adjournment had amended the last House bill by a definite appropriation for the last six months of the present fiscal year based upon the estimates for the present year, thereby

maintaining its attitude. It never agreed to adjourn until it had done that and sent that action to the House of Representatives, and the Senate upon that matter stands to-day having taken its position that it will not agree to any appropriation that is not made in detail upon the estimates of the present year, upon the needs of the present year; and I hope it will maintain that attitude no matter what happens.

I only rose to correct the Senator, because the Senate did not in any way yield its position with reference to the naval appropriation bill, having sent over the third bill to the House before adjournment.

Mr. INGALLS. Did not the committee absolutely abandon all provisions for the construction of the Navy that were added to the first bill that the House sent over here?

Mr. HALE. Undoubtedly, because that was not the great point in controversy this year. The Senate very well understands, and the Senator does, that upon appropriations for money for specific objects neither House can coerce the other—that is, the House originating special specific objects can not stand if the other House is in opposition. That is not the controversy, and never has been on the naval appropriation bill this year. It was at the last session, but has not been this.

Mr. INGALLS. Did not the Committee on Appropriations recommend the adoption of the bill at the early part of this session as it passed the Senate at the last session?

Mr. HALE. Undoubtedly.

Mr. INGALLS. Very well; that is exactly what I said. The whole position taken by the Senate on this proposition has been abandoned at this session; and now we stand upon a simple matter of definition as to whether there shall be an appropriation in lump or whether we shall untangle and disravel and dishevel it and put it out dollar by dollar and cent by cent.

Mr. HALE. I do not agree with the Senator that that is a matter of very little importance. It is a matter of the greatest importance that appropriation bills should be considered with reference to the estimates in detail, with every object specified in the bill, and any other course and any other policy leads to permanent appropriations, which for years both Senate and House have been trying to abolish and do away with.

Mr. INGALLS. Mr. President, I have no desire to continue this discussion longer. It is apparent from what has been said and from the general course of legislation for the past five years that we have adopted a position that we can not maintain. Certainly if that statement requires modification, it is true that we have adopted a position that we do not maintain.

There are just two ways out of the difficulty: either we must have a Committee on Appropriations that will not yield in committees of conference to any demands made on the part of the House of Representatives, or we must strike out the first clause of the third section of Rule XVI. That is the simple proposition before us. And I submit, after what has appeared this morning with regard to the proposition made by the Senator from Iowa, that nothing could be more futile, nothing could be more trivial, nothing could be more unlikely to accomplish the object that he seeks to attain, than the consideration of the bill he has introduced by the Committee on Pensions of this body. The House have sent it over here as a part of their appropriation bill. How does it change our rules if the Committee on Pensions say that is good legislation? I wish the Senator from Iowa would be more explicit. If there is any method by which the affirmative action of the Committee on Pensions can relieve us of this difficulty, I shall be glad to concur with his proposition; but if there is not, I submit to him that he is darkening counsel by words without wisdom when he attempts to convince us that we can get around this dilemma by having the Committee on Pensions consider the bill that he has offered this morning.

Mr. ALLISON. Mr. President, I think I ought as chairman of the Committee on Appropriations to thank my friend from Kansas for the compliment he pays that committee, because, if what he says be true, it is a committee that is able to lead at its will and pleasure the seventy-six Senators on this floor, whether it be a triumphal march with the Senator from Kansas at the tail of the procession or whether it be one of humiliation toward the House of Representatives with the Senator from Kansas occupying the same position.

Mr. President, it is no easy task for the Committee on Appropriations to handle these questions, and I have said this over and over again in this body with reference to the position of the House of Representatives and with reference to the situation under our own rules; and I must beg to remind the Senator from Kansas that while he is engaged in other avocations at the close of the session of the Senate, either at the short session or the long, while he may be packing his trunk for the journey to Kansas at the close of his labors here, the Committee on Appropriations is diligent in its efforts to reach the difficulties pending with regard to the great questions concerning appropriations that must always be settled before we can have a final adjournment. The Senator must remember, as we all do know, that in these matters of appropriation where there is difference between the two Houses whether it respects the amount of the appropriations, or whether it respects regulations and rules with regard to their expenditure, or whether it respects legislation that is forced on the appropriation bills by the House of Representatives, after all, the Congress of the United States is composed of two bodies, the House of Representatives and the Senate; and when we have differences, no matter what they are, those differences must in some way be composed, because the Government of the United States must go on, and it can not go on without appropriations of public moneys.

I want to remind the Senator of another fact. He says that the Committee on Appropriations of the Senate on every occasion yields and surrenders to the House, that on no occasion within his knowledge has the Committee on Appropriations insisted upon its propositions, with reference to matters of legislation and triumphed over the House, but that always the House of Representatives comes out triumphant in the end. Why, Mr. President, I need not tell the Senator that at the very last session of Congress most important matters of legislation were put upon the legislative appropriation bill and most important matters upon the sundry civil bill, both bills being required to be passed before the 1st day of July because the appropriations ceased on that day with reference to the great matters appropriated for in the sundry civil bill and in the legislative bill, and that finally the House of Representatives surrendered *in toto* and absolutely the important legislation that it had put on those bills, in deference to the Senate Committee on Appropriations if you please to designate it in that way, or in deference to the will and judgment of the Senate.

Look at the question of the compensation of marshals, regarded by the House of Representatives as a most important matter. Your Committee on Appropriations brought in here four disagreements upon that bill, standing by the rule which the Senator from Kansas says ought to be adhered to. Standing by the rule of the Senate in regard to legislation, four times upon that bill we stood here and finally the House did yield. It yielded also important legislation on the legislative and judicial appropriation bill; and the Senator from Massachusetts [Mr. DAWES] reminds me there was very important legislation upon that bill with reference to distilled spirits in bond. There were other important matters which I do not now call to mind but which occupied the conference committees by the hour, not during the light of the sun, but away into the gray hours of the early morning, endeavoring to secure an agreement.

Is it true that your Committee on Appropriations is so imbecile; is it true that its members know so little of the rules and regard so little the judgment of the Senate that they come in here, in violation of its rules and in violation of its will, and enforce upon the Senate reluctantly that which it does not agree to? The very accusation of the Senator from Kansas condemns himself. He is not without ability to discuss these questions; he is not too modest to discuss them when he desires to do so; but I have yet to know or hear of an instance where the Senator from Kansas has come and said to a conference committee, "You have yielded a principle to the House of Representatives which we insist upon." He says he has now and then and here and there expressed his opinion on this subject. Doubtless he has; but like every other Senator here, when we are confronted with a day of adjournment fixed by the House of Representatives and also yielded to by the Senate, then he sees that the appropriation bills must pass or an extra session must come. Take the bills of last year; I think I am permitted to say that those bills, important in their character, although that was a long session of Congress, running from the 3d day of December to the 7th day of July, were not received by your Committee on Appropriations until five or six months of the session had passed, until not only the House of Representatives had wended its way homeward with scarcely any of its membership left, but the Senate also was left with a bare quorum; and yet we were confronted with these important matters and had to settle them before we adjourned.

It will not do for the Senator from Kansas to say that the remedy is for us to stay here perpetually and forever. The Committee on Appropriations and the conference committees composed of members of that committee are as willing to remain here as any other Senators on this floor. We have resisted this legislation not only up to the mark of the judgment of the Senate and its persistency, but we have gone even beyond it, and Senators have discussed publicly on the floor, and have gone privately to the committee and discussed these questions with reference to the time of adjournment.

The Senator from Kansas says that this is a trivial matter that I have introduced here this morning; that my remedy is not a proper remedy. If it be true, as stated elsewhere, that there was vicious legislation put upon the pension appropriation bill last year, then that legislation should be corrected before we adjourn. I ask the Senator from Kansas—I need not ask him because he knows perfectly well that that legislation can not be corrected under our rules on an appropriation bill. Now it is the duty of the Senate in some way to correct that vicious legislation, if it be vicious. I have resorted to the only method whereby it can be done. I have introduced the bill and proposed to refer it to the appropriate committee of this body to consider it, and we are not required to say that that is futile because another body will not consider it. When we have passed that bill in this body and sent it to the co-ordinate branch, our duty in reference to it is ended. It may be that we shall be confronted with a remedy which the Senator from Kansas did not mention, namely, that the Committee on Appropriations and the Senate following them will be obliged to allow this Congress to expire on the 3d day of March without any appropriation being made for the payment of pensions to the soldiers of the country,

or else we shall be confronted with the other alternative that we shall have a called session of the Forty-ninth Congress.

I will say for myself, without being responsible to anybody else for what I say, that I am perfectly willing, if these matters are to be insisted upon as proposed, that these questions shall go over to another Congress, and let the men who are to come in on the 4th of March and who have been elected this year take the responsibility of settling them. It is perfectly well known that the Navy now is being run without appropriations. Why? Because the two Houses are at difference with reference to the amount of appropriation and the method of appropriation. If we are to follow the suggestions only of the House of Representatives, then, as a matter of course, we can easily pass these bills. We can easily pass the pension bill with all its legislation, whether vicious or beneficial. I do not know but that the Committee on Appropriations has ability enough, with all its imbecility, to examine these nine sections and ascertain whether or not they are necessary for the promotion of the interests of the administration of the Pension Department, and whether or not they are necessary to correct evils in the legislation of the last session. But it is not the business of the Committee on Appropriations, as I have said over and over again on this floor, to engage in the examination of these matters of legislation. It is our business, and we have adhered to it as rigidly as we could, to recommend appropriations of public money, and not to recommend legislation; and although the Senator from Kansas seems to think that we have yielded always upon such questions to the House of Representatives, if he will exert his giant intellect in a more careful examination of the record he will see that, taking the last three or four years, we have in many instances and in a majority of instances overcome and exhausted the House of Representatives, which he so largely respects, and which I also respect. In other words, if we are to sum up and weigh in the scales with the Senator from Kansas the number of surrenders and the number of successes, I think, with all due deference to what my friend so well knows, he will find that the House of Representatives in many instances would kick the beam.

Mr. President, it is an easy thing for a Senator to stand in his place here and scold the Committee on Appropriations. It is an easy thing for him to shut his eyes and fold his arms and slumber for a week or two at the close of the session or for three or four months during the session, and then come here and in a genteel and courteous philippic deliver himself with regard to the Committee on Appropriations and talk about their surrendering, talk about their imbecility and their infirmity. That, I say, is an easy thing to do; but I think if Senators who indulge in that sort of pleasantry were for a little time to have the responsibility of the Committee on Appropriations, they would see that it is not always easy sailing, that it is not always easy to drive a body, to say, "Thus you shall do, or else nothing shall be done." I know that that can sometimes be accomplished, and I often wish that I had the Senator from Kansas—I now wish it—by my side when these questions are up so that he could show his vigor and his energy, because I think it would be a great advantage to us sometimes at the close of a session on the morning of the 4th of March, perhaps at 2 or 3 o'clock, when we are endeavoring to compose the differences on appropriation bills; but unfortunately for the Committee on Appropriations they have for their membership mortal men only. They have a different class of persons from the Senator from Kansas; they have Senators who perhaps are more yielding in their disposition, have more infirmities than he has. We do the best we can; and if the Senate is not satisfied with our work it is an easy thing for it to reorganize the Committee on Appropriations and put the Senator from Kansas at the head of it. I do not object to that. I only say that while I am chairman of that committee, and while the committee is composed as it is, we will do the best we can with these great questions under the rules of the Senate. When we drop into error by reason of our infirmity we ask Senators, seventy-six of them here, to stand up in their rigidity and frigidity and tell us that we are surrendering to the House what we ought not to surrender; but if they sit in their seats with that quietude and gentleness which often characterizes the Senate when the report of a conference committee comes in, and if they will persist in doing that, or if my friend from Kansas, who is always in his seat on such occasions, remains there quietly, then I submit that the Committee on Appropriations have some reason to believe that the Senate is in accord with them in the suggestions that they make to the body in relation to the composition of the differences between the two Houses.

Now, Mr. President, I have introduced this measure and I ask that it be referred to the Committee on Pensions. I do not know that it will aid the Senate in coming to a correct conclusion with reference to this important legislation, but it certainly can do no harm to have the question considered by the important committee of this body whose duty it is under the rules of the Senate to consider pension legislation.

Mr. EDMUNDS (Mr. SHERMAN in the chair). It is 2 o'clock.

The PRESIDING OFFICER. One minute of it.

Mr. EDMUNDS. I do not think——

Mr. MITCHELL. I desire to say one word in justification of the Committee on Pensions.

Mr. EDMUNDS. I yield to the Senator from Pennsylvania.

Mr. MITCHELL. I think it is due to the Committee on Pensions that I should state that if the committee of conference had followed the recommendations which were made by the Committee on Pensions to the Senate in Senate bill 1407, introduced by the Senator from Connecticut [Mr. HAWLEY] and reported to this body from the Committee on Pensions by the Senator from Tennessee [Mr. JACKSON], it would have done what is right and what the Committee on Pensions of the Senate think it would have been right to do.

Mr. DAWES. I ask the Senator if he has any reason to suppose that the committee of conference omitted to do what the Committee on Pensions recommended?

Mr. MITCHELL. Yes, sir; there is a very important, and I think significant omission in the transcription of the amendment as presented.

Mr. DAWES. I do not inquire whether the legislation which actually came from the committee of conference was correct, but I only wish to inquire if the Senator has any evidence that the committee of conference did not insist upon the bill of the Senate Committee on Pensions.

Mr. MITCHELL. I have none whatever, and I have no desire to charge anything to the committee of conference on the part of the Senate.

The PRESIDING OFFICER. The hour of 2 o'clock having arrived——

Mr. MITCHELL. I ask the Senate to allow me to proceed.

The PRESIDING OFFICER. It is the duty of the Chair to lay before the Senate the unfinished business. The Senator from Pennsylvania asks unanimous consent of the Senate that the matter which has been under consideration shall be continued. Is there objection?

Mr. HOAR. I hope the regular order will be laid before the Senate.

The PRESIDING OFFICER. The unfinished business will be laid before the Senate. It is the bill (S. 2112) to establish a commission to regulate interstate commerce, and for other purposes. The Senator from Pennsylvania asks unanimous consent to address the Senate upon the question which has been before the Senate during the morning. If there be no objection, that will be allowed.

Mr. HARRIS. The unfinished business being laid aside informally?

The PRESIDING OFFICER. Pending that the unfinished business will be informally laid aside.

Mr. CULLOM. I wish to ascertain what the purpose of the motion is. I did not hear what the motion was.

Mr. MITCHELL. I made no motion.

Mr. EDMUNDS. It is merely to set aside informally the unfinished business.

Mr. CULLOM. I have no objection to that.

Mr. MITCHELL. It is a singular thing that this conference committee's report on the legislation which is on the statute-book is in the very words almost of the bill which was presented by the Committee on Pensions of the Senate, and follows the language of that bill down to the point where it leaves out these words relating to the application of section 4768 of the Revised Statutes to certain pension cases:

Nor in any case filed in the office of the Commissioner of Pensions after June 20, 1878, and prior to the date of this act.

Those words were stricken out of the bill as it came before us in the conference committee report and as it stands on the statute-book. If they had been retained all this difficulty would have been avoided, because they expressly provided that the legislation should not apply to any of those cases which arose from the time of the passage of the act of 1878 down to the time of the passage of this law. In other words, the law would have been left to apply simply to cases arising in the future as the words of the bill reported from the Committee on Pensions expressly declared. I do not know how it occurred, but to my mind it is a very singular circumstance.

Mr. DAWES. As I have stated, I was upon that committee of conference. I stated to the Senate how the result came about. Though I have seen the practice indulged in very much in debate here, I have always considered it out of order to allude to the deliberations of committees in reference to measures pending in this body. I could tell the Senator where the draught of the existing law was made which the committee of conference on the part of the Senate, after having insisted upon the bill suggested by the Committee on Pensions, were compelled to adopt or lose the appropriation bill. But, Mr. President, I am free to say, and I am bound to say, that the provisions of the bill incurred my opposition, for one, in that committee of conference, and I only yielded in signing the report to the necessity which I have stated here. But arguments were presented to that committee of conference of this kind: It was said that the old cases were paralyzed and slept, because the fee of $10 in those old cases in a great many instances was insufficient to compensate attorneys for the actual labor in bringing them to a final determination; that the cases now existing were cases of a different character from those that originated and where application had been made when the ten-dollar fee was fixed; that a great deal more labor was necessary in sifting evidence and in procuring evidence on the part of attorneys; and they ceased to make that effort and the applicants were pressing members of Congress and pressing everybody to know why claims that had been filed five and six and eight years ago nobody had heard from, and they could not get any hearing.

It was represented to the committee of conference that in most of these cases it was fair and just and proper that the claim agent honestly pursuing his calling should have more compensation than the $10, and that that was as applicable to old applications as to new ones. That was the ground on which the committee of conference were induced to adopt the form of the existing legislation as their report. To me it seemed that it would result precisely as it did, that every applicant whose case was undetermined in that Department would have a circular sent out from Washington—that was the statement I made at that time which was repeated in the other branch—from which he would infer that the law required that people pay $25, and that the Commissioner of Pensions would only perform some perfunctory operation and indorse every new agreement for $25. So exactly it has turned out, with this exception, that the Commissioner in an effort to do his duty under that provision has established a bureau, as I understand, to examine into the work which each agent has been performing under the new contracts, to see whether $25 or a less sum should be allowed when the pension has been granted.

The Senator from Pennsylvania brought in here a bill which seemed to the committee of conference to be wiser and better than the provision which came from the House of Representatives and than the provision which was finally adopted; but that committee of conference acted as they understood all committees of conference are required to act, and acted under what they supposed was the permission of a committee of conference, not to stand without yielding, for that is no conference. It is no conference committee that goes instructed. A conference committee is bound by the commission that appoints it to confer freely and to bring out of the conference something to which all sides will agree, rather than to stand in the spirit of the Senator from Kansas upon the vote of the House they represent and yield to nothing. A committee of conference is a useless waste of time and machinery if that is all it has to do. Whether in the end the result is wise or not the body to whom they make their report must determine, and the body to whom they make their report is as answerable for the character of the legislation that comes with that report as they are as to the report of any committee. The report of a committee of conference in that respect does not differ from the report of any other committee.

Mr. MITCHELL. The remarks just made by the Senator from Massachusetts induce me to make a statement in explanation of my own conduct as chairman of the Committee on Pensions. I think it is due to that committee and to myself that I should state it, and I do not think I take up very much of the time of the Senate in discussing any subject.

I myself was misled in regard to this amendment made to the pension appropriation bill last year, because the law as it stands and the bill brought in here by the committee of conference pursued the very wording of the bill which had come from the Committee on Pensions, omitting the very important words I have spoken of and making some other changes that misled me. If I had not understood at the time that the conference report substantially agreed with the action of the Senate Committee on Pensions, I should have felt bound to examine into it more carefully. I did so understand. I supposed that it followed this bill substantially to the end, but I find, as I stated, that in the third section, as it appears in the bill as we reported it and the fourth section of the act of Congress as it became a law, the proviso reads:

Provided, That no greater fee than $10 shall be demanded, received, or allowed in any claim for pension or bounty-land granted by special act of Congress, nor in any claim for increase of pension on account of the increase of the disability for which the pension had been allowed, "nor in any case filed in the office of the Commissioner of Pensions after June 20, 1878, and prior to the date of this act."

That is the way the law reads; but the bill we reported contains these words, which are omitted:

Nor in any case filed in the office of the Commissioner of Pensions after June 20, 1878, and prior to the date of this act.

What was the effect of omitting these words? The effect of it was to apply this legislation to all of the cases standing in the Pension Office which had been filed between these two dates, and that is precisely where this mischief which is attracting the attention of the country creeps in. If these words had been retained in the conference committee report, and were in the law now, that difficulty would be avoided.

I want to say in this connection that I do not think the mischief is nearly as great as many believe it to be. I think that the pension department is able very largely to restrain it and to correct it. My impression is that the Secretary of the Interior has under this very act of Congress sufficient power to make a rule which will control it, for this legislation does contain an important provision on this subject. In the fifth section of the act the Secretary of the Interior is empowered to make rules and regulations. Prior to this time there was no such power vested in the Secretary, and I am inclined to think that, as he has entire control of the whole subject of the employment or engagement of pension attorneys relating to the business before that Department, he may establish a rule which will cut off those gentlemen who are availing themselves of this omission to defraud pension claimants. I trust that the question will be examined and that, if possible, a rule will be made to supply this omission.

I am not disposed to charge any responsibility for this omission on the Committee on Appropriations or on the committee of conference representing that committee on the part of the Senate. That is not my purpose at all; but I think it is important that the country should understand precisely how this thing crept in. It would look to me as if it might have been an error very easily made in the transcription of the law possibly, and it might be well that it should be investigated. I do not believe that any person intentionally omitted that clause from the bill as it came here finally, yet it follows, as I stated before, precisely the bill as reported to the Senate, with this single omission.

In relation to the bill now presented, I can only say that I shall call the attention of the Committee on Pensions to it, and if it is thought desirable make a report at an early day. But we have already acted upon the subject; the bill heretofore reported is still pending before the Senate, and if the Senate desire to take it up and make it the basis of action, the foundation for the action necessary is ready in the bill reported at the last session.

The PRESIDING OFFICER. The unfinished business is Senate bill No. 2112.

Mr. HOAR. I hope this reference will be made by unanimous consent, so that we shall not spend another morning upon this subject.

The PRESIDING OFFICER. If there be no objection, the bill introduced by the Senator from Iowa [Mr. ALLISON] will be referred to the Committee on Pensions. The Chair hears none, and it is so referred.

REPRINTING OF A BILL.

Mr. GARLAND. I wish to make a motion to have Order of Business 113, being the bill (S. 60) to declare certain lands subject to taxation, reprinted. The edition is exhausted, and I want the usual number of copies reprinted.

The PRESIDING OFFICER. The order to reprint will be made if there be no objection.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. CLARK, its Clerk, announced that the House had passed the following bills and joint resolution; in which it requested the concurrence of the Senate:

A bill (H. R. 4273) for the relief of Madison R. Calvert;

A bill (H. R. 7329) granting right of way to the Fremont, Elk Horn and Missouri Valley Railroad Company across the Fort Robinson military reservation, in the State of Nebraska; and

Joint resolution (H. Res. 309) extending the permission granted Maj. William Ludlow by the act of February 28, 1883, to accept a civil position.

PUBLIC POLICY OF CONFEDERATE STATES EXECUTIVE DEPARTMENT.

Mr. HAWLEY submitted the following resolution, and asked for its immediate consideration:

Resolved, That the President of the United States be, and he is hereby, requested, if in his opinion it be not incompatible with the public interest, to communicate to the Senate a historical statement concerning the public policy of the executive department of the Confederate States during the late war of the rebellion, reported to have been lately filed in the War Department by General William T. Sherman.

Mr. HARRIS. Let that lie over.

The PRESIDING OFFICER. The resolution will lie over under the rules and be printed.

RECIPROCITY TREATIES, SO CALLED.

Mr. LAPHAM. I gave notice yesterday that at the close of the morning business to-day I should like to address the Senate on the resolution of the Senator from Vermont [Mr. MORRILL]. The time having been otherwise occupied, I suggest to the Senator from Illinois [Mr. CULLOM], as there is to be an executive session at 3 o'clock, that he consent that his bill be laid aside that I may offer my remarks now, which may occupy perhaps an hour.

The PRESIDING OFFICER. The Senator from New York asks unanimous consent to lay aside the pending bill without losing its place, so that he may address the Senate.

Mr. CULLOM. Informally.

The PRESIDING OFFICER. Is there objection to the proposition of the Senator from New York? If not, it will be considered as agreed to. The resolution of the Senator from Vermont [Mr. MORRILL] is before the Senate.

Mr. LAPHAM. Mr. President, I ask to take from the table the President's message for the purpose of basing my remarks upon it, and I send to the desk to be read an extract from it.

The Chief Clerk read as follows:

The countries of the American continent and the adjacent islands are for the United States the natural marts of supply and demand. It is from them that we should obtain what we do not produce or do not produce in sufficiency, and it is to them that the surplus productions of our fields, our mills, and our workshops should flow, under conditions that will equalize or favor them in comparison with foreign competition.

Four paths of policy seem to point to this end.

First, a series of reciprocal commercial treaties with the countries of America which shall foster between us and them an unhampered movement of trade. The conditions of these treaties should be the free admission of such merchandise as this country does not produce, in return for the admission free or under a favored scheme of duties of our own products—the benefits of such exchange to apply only to goods carried under the flag of the parties to the contract; the

removal, on both sides, from the vessels so privileged of all tonnage dues and national imposts, so that those vessels may ply unhindered between our ports and those of the other contracting parties, though without infringing on the reserved home coasting trade; the removal or reduction of burdens on the exported products of those countries coming within the benefits of the treaties; and the avoidance of the technical restrictions and penalties by which our intercourse with those countries is at present hampered.

Mr. LAPHAM. Mr. President, I enter upon the discussion of the important questions involved in the proposed negotiations with a consciousness of my inability to grapple with the magnitude of the subject. It is not my purpose to dwell at length upon the expediency, propriety, or advantages of the details of the proposed treaties. I shall mainly devote my hour to the consideration of the position taken by the opponents of any and all treaties which in any manner relate to the subject of revenue, that they are unconstitutional and, for that reason alone, should be rejected. The honorable Senator from Vermont [Mr. MORRILL] in his eloquent and earnest remarks yesterday sought to maintain this position. He and other opponents of such treaties insist that they violate the Constitution because all revenue bills must originate in the House of Representatives, and because to the Congress is given the power to regulate foreign commerce. While these positions may appear plausible at first sight, a closer examination will, I believe, show that they are based upon an erroneous interpretation of the Constitution of the United States.

No one will doubt the soundness of the general proposition that each department of the Government should be confined within its constitutional limits. The error consists in the bold affirmation that a treaty dealing with the subject of revenue can be negotiated only in violation of the organic law. Such an interpretation would deprive the treaty-making power of the right of incorporating in treaties, as has been so often done during our history, stipulations calculated to promote and extend commercial relations with other powers, and thus in the end to increase our revenues and foreign trade. A very large number of our treaties with foreign nations contain provisions at war with the theories of those who advocate this construction. Thus, the treaty of commerce and navigation with France in 1822 embraced numerous provisions of the character named, fixed the duties on a variety of articles, and even provided that the extra duties levied under an act of Congress originating in the House of Representatives in the year 1820 should be refunded. Another treaty with France was framed in 1831, by which the duties on French wines were provided for.

Our treaties with China in 1844 and 1858 contain many provisions in relation to duties on imports and exports. We adopted a treaty with Great Britain in 1794, styled a "treaty of amity, commerce, and navigation," which embraces stipulations on the same subject. The reciprocity treaty with Great Britain, ratified in 1854, remained in force over twelve years. It provided for the admission of British or Canadian products free of duty, and was signed by William L. Marcy. The provisions for the passage of goods in transit in the treaty with Great Britain in 1871 is analogous in its nature, as well as the provisions in the same treaty for the admission of fish and fish oil free of duty, which are still in force.

Many other treaties might be cited containing provisions of a similar character—for instance, the treaty with Borneo, 1850; that with Hanover, 1840; with Japan, 1858 and 1864; with Mexico, 1848; with the Netherlands, 1852; with New Grenada, 1846; with Turkey, 1862; with Peru, 1851; with Siam, 1856.

The last-named treaty contains a tariff-list of both imports and exports.

Our treaty with Japan in 1858 contained important stipulations upon the subject, which was modified by the convention of 1866 establishing a tariff of duties between the United States, Great Britain, the Netherlands, and Japan, and was ratified by the Senate in June, 1868. To this treaty is annexed long schedules of specific duties upon both imports and exports, which on inspection would be open to all the criticisms made by the honorable Senator from Vermont [Mr. MORRILL] to the list embraced in the treaty with Mexico.

The commercial reciprocity treaty with the Hawaiian Islands is another instance of the exercise of the power, and the treaty remains in full force.

This usage, continued for so long a period, amounts to an interpretation of the constitutional provision on the subject which is fixed and binding upon the various departments of the Government.

The treaty-making power is granted in these words: "He (the President) shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur." What is implied by this grant? It is unlimited in terms. It must be construed by referring to the common law and the usage of nations on the subject. The grant to Congress of the power to regulate foreign commerce, or to the House of Representatives to originate revenue bills, does not necessarily conflict with it, and can not be permitted to restrict its legitimate exercise. The meaning of the constitutional provision simply is that when a revenue bill is to be enacted by Congress it shall originate in the House, and that when commercial regulations are the subject of legislation instead of a treaty, Congress is to legislate.

Mr. Rawle, a writer of acknowledged merit, in his treatise on the Constitution, places treaties, next to the Constitution, as the supreme law, and designates the laws of Congress as "the third rule of obligation." He also says, while the power of Congress to make laws is laid under restrictions, there are none in respect to treaties. He defines a treaty as a compact between independent nations, extending to such subjects as peace, alliance, commerce, neutrality, &c.

The primary definition of the word commerce is "the exchange of one sort of produce or property for another." Foreign commerce is the trade which one nation carries on with another. Inland commerce is the trade in the exchange of the commodities between citizens of the same nation. The Yankee has a pre-emption of this kind of traffic.

Chancellor Kent, in his chapter on the law of nations (volume 1, page 33), says:

Treaties of commerce defining and establishing the rights and extent of commercial intercourse have been found to be of great utility, and they occupy a very important title in the code of national law. They were considered, even two centuries ago, to be so conducive to the public welfare as to overcome the bigotry of the times; and Lord Coke admitted them to be one of four kinds of national compacts that might lawfully be made with infidels.

And he adds:

Every nation may enter into such commercial treaties, and grant such special privileges as they think proper; and no nation to whom the like privileges are not conceded has a right to take offense, provided those treaties do not affect their perfect rights. A state may enter a treaty by which it grants exclusive privileges to one nation and deprives itself of the liberty to grant similar privileges to any other. Thus Portugal, in 1703, by her treaty with England, gave her the monopoly of her wine trade; and the Dutch, formerly, by a treaty with Ceylon, engrossed the cinnamon trade, and latterly they have monopolized the trade of Japan.

We embraced a stipulation of like character, which was to be enforced for ten years, in the treaty for the acquisition of Florida.

Story, in his Commentaries (volume 3, section 1502, page 355), says:

The power to make treaties is, by the Constitution, general, and of course it embraces all sorts of treaties, for peace or war, for commerce or territory, for alliance or succor, for indemnity for injuries or payment of debts, for the recognition and enforcement of principles of public law, and for any other purposes which the policy or interests of independent sovereigns may dictate in their intercourse with each other.

Story, in another place, adds:

There can be no doubt that the power competent to bind the nation by treaty may alienate the public domain and property by treaty. If a nation has conferred upon its executive department, without reserve, the right of treating and contracting with other states, it is considered as having invested it with all the power necessary to make a valid contract. * * * A power to make treaties of peace necessarily implies a power to decide the terms on which they shall be made.

Even private rights may be sacrificed by treaty to secure the public safety.

These positions are abundantly fortified by citations from Grotius, Puffendorf, and Vattel. It is also laid down by these writers, and others which might be cited, that the treaty-making power is neither exclusively executive nor legislative, but partakes of both. Hence, a treaty is made the supreme law, next in importance to the Constitution.

Judge Story, in his treatise (section 1507), says:

By the ninth article of confederation no treaty of commerce could be made whereby the legislative power of the States could be restrained from imposing such imposts and duties on foreigners as their own people were subject to; or from prohibiting the exportation or importation of any species of goods or commodities whatsoever.

And no treaty of alliance could be made without the consent of nine States. These limitations, he adds, "contributed to the prostration and utter imbecility of the Confederation." The grant without limit to the President and Senate may therefore be regarded as designed to remedy the evils experienced under the Articles of Confederation.

In another section (1509) he says:

It is difficult to circumscribe the power within any definite limits, applicable to all times and exigencies, without impairing its efficacy or defeating its purposes. The Constitution has, therefore, made it general and unqualified.

Mr. President, as I have already stated, under the Articles of Confederation the States reserved the right to impose duties, and yet it was provided that "no State shall lay any imposts or duties which may interfere with any stipulations of treaties entered into by the United States." Not only may portions of our territory be alienated by treaty, but it is now settled that we may acquire territory in the same way. The acquisition of Louisiana and the purchase of Florida and Alaska were all effected by treaty. The propriety of the treaty for the cession of Louisiana was severely challenged at the time, but Judge Story states (section 1292):

At the present day few statesmen are to be found who seriously contest the constitutionality of the purchase and admission of Louisiana into the Union. The general voice of the nation has sustained and supported it. Why, then, should not that general voice be equally respected in relation to other measures of vast public importance, and by many deemed of still more vital interest to the country, such as the tariff.

These citations serve to illustrate the magnitude and gravity of the exercise of the treaty power under our Constitution. To us at home treaties have the force of laws next in importance to the Constitution. With the nations negotiating them they are contracts only, but contracts of the highest character, and imposing the most solemn obligations. The language of the Constitution in regard to their effect and operation is deserving of notice. It is in these words:

This Constitution and the laws of the United States which shall be made in pursuance thereof, and all treaties made or which shall be made under the authority of the United States, shall be the supreme law of the land.

Whether the variance in describing laws and treaties was made to cover existing treaties, as some authors have stated, the fact remains that it is laws made in "pursuance of the Constitution," and treaties "made under the authority of the United States," that become the supreme law.

In the light of these general principles I desire to call attention to some of the questions which may arise in the exercise of the treaty-making power as thus provided in the Constitution. By the eighth section of article 1 it is provided that Congress shall have power to pay debts and provide for the general welfare, &c. Can there be any doubt that a treaty may deal with these subjects?

Congress has also power to regulate commerce with foreign nations and with the Indian tribes. Can there be any doubt about the exercise of the treaty-making power on these subjects? Many of our treaties with foreign powers contain regulations as to commerce, and our most important dealings with the Indian tribes have been by treaties.

By the same article Congress has power to establish post-roads, and yet by treaty we have postal conventions with many nations, and could not have obtained them in any other way. Congress has the power to give to authors and inventors the exclusive right to their discoveries; yet we have treaties on the subject of trade-marks with most of the nations with whom we have other treaty relations. Congress has power to declare war, but before a gun is fired or any other hostile act performed the treaty-making power may intervene and stop the contest without bloodshed by a treaty of peace.

Congress has power to dispose of and make all needful rules and regulations respecting the Territories of the United States. But the treaty-making power may be exercised on the subject, and territory be alienated or acquired, as the best interests of the country may demand. Congress has power to establish a uniform rule of naturalization; still, foreigners resident in the Territories, when acquired, have been declared to be clothed with the rights of citizens. In Alaska the treaty for its cession admitted foreigners to all such rights.

When we recall the fact that "all treaties made, or which shall be made, under the authority of the United States" override all State laws and acts of Congress, it would seem that the treaty-making power is not so restricted and circumscribed as the authors of the construction under consideration claim. They assert that the entire field of laying duties belongs to Congress, and that whenever the treaty-making power makes a free-list it usurps a function that does not belong to it. Suppose we should desire to open new commercial relations with a foreign power, or should deem it advantageous to establish a more free and extended intercourse with such power, and to that end it should become necessary to provide for the introduction of our products for a limited time and of a specific character into the dominions of such power, with the admission of its products as an equivalent therefor; Congress could not do that. The treaty-making power can alone accomplish the result.

The exchange of commodities stipulated for in the proposed treaty with Mexico, as was provided in the reciprocity treaty with Great Britain in 1854, can only be secured by the treaty-making power. The fact that this last-named treaty was negotiated and signed by William L. Marcy, who was familiar with the rules of diplomacy and profound in his knowledge of constitutional law, is a guarantee that this treaty was not an unauthorized exercise of power and an open violation of the Constitution.

The great advantages to us of the proposed treaty with Mexico are pointed out in the report of our minister resident, under date of August 14, 1883. By this he shows that while we surrender revenues amounting only to $179,075, we receive an exemption of $742,351. This makes the difference in our favor $563,276 per year, as shown by the imports and exports of 1882. It is a convention for six years only, and is designed to meet the growing wants of both countries in view of the rapidly increasing means of intercommunication by the railroads now in progress.

The position that treaties are beyond the reach of Congressional action is not wholly true. For good reason Congress can annul a treaty as it can repeal a law. By an act of Congress in 1798 Congress annulled our treaty with France. The power given Congress to declare war necessarily carries with it the power to annul treaties.

Mr. MORRILL. Would it interrupt the Senator for me to ask him a question?

Mr. LAPHAM. I prefer to get through, and then I shall cheerfully answer any question.

These are extreme cases. The general rule, as I have stated, is that a treaty overrides all existing laws and prior treaties in conflict with its provisions.

Mr. President, another and conclusive answer to the objection to such treaties is the stipulation contained in them that they shall not be operative until Congress shall have enacted the legislation necessary to carry them into effect.

The statement in the message under consideration is as follows:

> All treaties in the line of this policy which have been negotiated or are in process of negotiation contain a provision deemed to be requisite under the clause of the Constitution limiting to the House of Representatives the authority to originate bills for raising revenue.
>
> There has hitherto been no difficulty in providing the necessary legislation of Congress.

A treaty negotiated and ratified without containing this provision would become the supreme law, and Congress would be as much bound to provide for its execution as for the execution of the laws of its own enacting. The omission to do so would be a *casus belli* and subject us to national dishonor and disgrace.

It is a solecism to say that a treaty is unconstitutional when the constitutional power to make it is without any limit and it vests entirely in the exercise of the discretion of the President and the Senate. It requires the concurrence of two-thirds of the Senate to ratify a treaty. This being more than the usual party majority, no question of partisanship will arise in the consideration of treaties. The language of the President on this subject is as follows:

> It seems to me that many of the embarrassing elements in the great national conflict between protection and free trade may thus be turned to good account; that the revenue may be reduced so as no longer to overtax the people; that protective duties may be retained without becoming burdensome; that our shipping interests may be judiciously encouraged, the currency fixed on firm bases, and above all such an unity of interests established among the states of the American system as will be of great and ever-increasing advantage to them all.

Mr. President, notwithstanding these are the views I entertain of the magnitude and importance of the treaty-making power, I deem it proper to say that I do not yield to the Senator from Vermont or any one else in my firm belief of the necessity and the constitutionality of laws for the protection of our industries and labor.

As I have already shown, under the Articles of Confederation the General Government had no control over the subject. The whole power to legislate upon the subject was reserved to each of the thirteen colonies. Even the treaty-making power was limited so that the consent of nine of the thirteen was necessary to the validity of a treaty. These are stated by writers as the causes which led to the overthrow of the Confederacy and the adoption of our present Constitution, and therefore the treaty power and the legislative power were given without limit in the Constitution. Congress may, therefore, enact a revenue tariff or a protective tariff or a prohibitory tariff in its discretion whenever the public interests or safety shall demand it.

The second act passed by Congress was a protective tariff bill. The preamble recited: "Whereas it is necessary for the support of the Government, for the discharge of the debts of the United States, and the encouragement and protection of manufactures, that duties be laid upon goods, wares, and merchandise imported: Therefore, be it enacted," &c. This bill was introduced by Mr. Madison, who perhaps more than any other person took part in framing the provisions of the Constitution. In support of the bill Mr. Madison, among other things, said:

> The States that are most advanced in population and ripe for manufactures ought to have their particular interests attended to in some degree. While these States retained the power of regulations of trade they had the power to protect and cherish such institutions; by adopting the present Constitution they have thrown the exercise of this power into other hands; they must have done this with an expectation that those interests would not be neglected here. * * * Gentlemen who are opposed to giving sufficient encouragement to ship-building ought to recollect an argument that was considered of weight in the case of encouraging manufactures. It is certain that manufactures have been reared up by the fostering care of State Legislatures, displayed in the shape of protecting duties; but the people, by the adoption of this Constitution, have put it out of their power to continue them. * * * Those States, not being able to continue their encouragement, expect that we will attend to their policy and protect their citizens in the property they were led to acquire under the State regulations. If we disappoint them they will suffer more than is consistent with good policy.

Mr. President, the great ends sought are not alone to be accomplished by a tariff upon imports. We may enact laws to exempt our industries and labor from competition with the impoverished labor of other countries, and yet the remedy is incomplete. What is wanted now is a market for our surplus agricultural, mechanical, and manufactured products.

No law of Congress can secure to us such markets. It requires the exercise of the treaty-making power to accomplish these ends.

Instead of paying enormous subsidies, as is the custom of Great Britain, to secure foreign markets, we chiefly relinquish the duties imposed upon one of the prime necessities of life—more so than tea or coffee, which have been added to the free-list—for there is scarcely a man, woman, or child who is not a consumer of sugar. We are to receive as an equivalent therefor an exemption of many of our important products from the duties now imposed upon them, and we open the door for an annually increasing market abroad.

Many of the most ardent protectionists in the United States are advocates of the policy and wisdom of placing sugar with tea and coffee, upon the free-list, without obtaining any equivalent therefor. By the negotiation of treaties we secure advantages to our foreign trade, with all its surroundings, which no legislation of Congress can afford.

Mr. President, it is evident to my mind, or, as Mr. Webster once said on the floor of the Senate, "I see, or I think I see, * * * it may be an illusion, but, if it be an illusion, it appears to me with all the brightness of noonday," * * * that there are vast probabilities in the future of the Republic if the policy inaugurated in the proposed treaties shall become the permanent policy of the Government. Close commercial relations with all the South American states and with other countries, and a constantly increasing foreign trade commensurate with our needs, our coastwise traffic extending from Portland in Maine through the gates which in the near future will be opened between the two oceans, and also around the cape to Portland in Oregon and the har-

bors in Alaska, with a ready market for all our surplus products thus assured, the great commercial city of the State of New York will become the most important mart of trade and traffic in the world.

New empires will be carved out of the regions yet within our limits, each vying in enterprise and production with the older States.

Mr. President, this is no sketch of the fancy, but points to realities within our grasp; and when we shall have reached these desirable results, with a Constitution not violated, but adhered to with unswerving fidelity and with a patriotic purpose to achieve the great ends designed by its framers so nearly accomplished, our country will realize in full fruition the picture drawn by one of the best of poets, while dwelling upon the exalted statesmanship of the past and contemplating the auspicious promises for the future of the Republic:

Great were the hearts and strong the minds
Of those who framed, in high debate,
The immortal league of love which binds
Our fair, broad empire, State to State.

And ever hallowed be the hour
When, as the auspicious work was done,
A nation's gift—the sword of power—
Was given to glory's unstained son.

* * * *

Wide as our own free race increase,
Wide shall they stretch the elastic chain,
And bind, in everlasting peace,
State after State—a mighty train.

Mr. MORRILL. If the Senator will permit me now, I will ask him a question.

The PRESIDING OFFICER (Mr. COCKRELL in the chair). Does the Senator from New York yield to the Senator from Vermont?

Mr. LAPHAM. Yes, sir.

Mr. MORRILL. The Senator referred to some treaty that was pending where its term of existence was fixed at seven years. I wish to ask the Senator from New York whether, in his opinion, the President of the United States and the Senate would have the power, should that treaty be ratified, at the termination of seven years to continue the treaty for seven years or for twenty years longer without the consent of the House of Representatives?

Mr. LAPHAM. They would clearly have the discretion to do it, even without the consent of the other House; but I do not believe that it would be continued without asking the consent of the House, as it was provided that the consent of the House should be given to its original enactment. There is no difficulty upon these questions, as I have shown. The legislation of Congress has always been furnished and always will be. Respect will be paid to the action of the treaty-making power, and is sure to be. It will not be treated lightly, will not be scoffed at, will not be derided, will not be belittled, but will be treated as the exercise of one of the great fundamental powers of the Government—a power more important in a national point of view as respects our foreign intercourse than the legislative power given to Congress, as I have shown by the voice of all authority.

The PRESIDING OFFICER. The question is on agreeing to the resolution of the Senator from Vermont.

Mr. MORRILL. I venture to propose that it be referred to the Committee on Finance, although I do not know but that we shall hereafter have no occasion for that committee—only the Committee on Foreign Relations and the State Department—and may get rid of the Committee on Finance and also the Secretary of the Treasury. I will move, however, to refer the resolution to the Committee on Finance.

Mr. MORGAN. I shall desire when the Senate is a little more at leisure to be heard on the question of referring it to the Committee on Finance. I can see very naturally why the Senator should wish his own bantling to be in the hands of his own nursing. It needs that attention, I think, from the Senator or somebody else. At the same time before it goes to the Committee on Finance I should like to be heard upon it, and I move that its further consideration be postponed until to-morrow.

Mr. MORRILL. If the Senator desires to address the Senate upon it I have no objection to a postponement.

The PRESIDING OFFICER. The Chair hears no objection, and the resolution is accordingly postponed.

INTERSTATE COMMERCE.

Mr. CULLOM. I should like to know where the pending order is.

The PRESIDING OFFICER. The Chair lays before the Senate the unfinished business, being the bill (S. 2112) to establish a commission to regulate interstate commerce, and for other purposes.

Mr. HOAR. There is a matter on the Calendar which was debated quite fully the other day and the report read, a bill for the relief of the Newton bank. A vote was about being taken but there was considerable doubt whether there was a quorum present, and accordingly it went over to stand at the head of the Calendar. I ask unanimous consent that that may be taken up now, saying that if it will require any further debate I shall withdraw the request.

Mr. HARRISON. I think the Senator from Michigan [Mr. CONGER], who I do not see in his seat, took some interest in that question, and it is very possible that it may give rise to debate. I see that the Senator is here now.

Mr. HOAR. I should like to inquire of the Senator from Michigan if he desires to discuss further the Newton National Bank matter, which went over the other day just before the adjournment?

Mr. CONGER. I think it would be well to discuss it some more. At least it would be very gratifying to me to hear some response to what I suggested before.

Mr. HOAR. Then I withdraw the request.

Mr. CULLOM. I call for the regular order.

The PRESIDING OFFICER. The regular order is before the Senate.

EXECUTIVE SESSION.

Mr. MILLER, of California. In accordance with the notice I gave on Monday, I now move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After two hours and twenty-five minutes spent in executive session the doors were reopened, and (at 5 o'clock and 25 minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, *January* 8, 1885.

The House met at 12 o'clock m. Prayer by Rev. FREDERICK D. POWER, of Washington, D. C.

The Journal of yesterday's proceedings was read and approved.

ADDITIONAL ESTIMATES, WAR DEPARTMENT.

The SPEAKER laid before the House a letter from the Secretary of the Treasury, transmitting additional estimates from the Secretary of War of appropriations for the erection of a gun factory, improving the Missouri River, Missouri River Commission, the Frankfort arsenal at Philadelphia, Pa., &c.; which was referred to the Committee on Appropriations, and ordered to be printed.

WITHDRAWAL OF PETITION.

On motion of Mr. ROSECRANS, by unanimous consent leave was granted to withdraw from the files of the House the petition of Machinists and Blacksmiths' Union, No. 2, of Detroit, Mich.

FREMONT, ELKHORN AND MISSOURI VALLEY RAILROAD.

Mr. VALENTINE. Mr. Speaker, I ask unanimous consent to take up for present consideration the bill (H. R. 7329) granting the right of way to the Fremont, Elkhorn and Missouri Valley Railroad Company across the Fort Robinson military reservation, in the State of Nebraska.

The SPEAKER. The bill will be read, subject to objection.

The bill was read, as follows:

Be it enacted, &c., That the Fremont, Elkhorn and Missouri Valley Railroad Company, a corporation duly organized under the laws of the State of Nebraska, are hereby granted the right of way, one hundred feet in width, for their said railroad across and through the Fort Robinson military reservation, located in said State of Nebraska, not to interfere with any buildings or improvements thereon, and the location thereof to be subject to the approval of the Secretary of War.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. HOLMAN. Has this measure been reported from any committee of the House?

Mr. VALENTINE. I will state in response to the gentleman from Indiana that this bill was before the Committee on Military Affairs, and was directed by the committee to be reported favorably to the House. It was in the hands of my colleague [Mr. LAIRD] for that purpose. Owing, however, to the recent accident which has detained him from the House, the report has not yet been made. There is every reason for the passage of the bill. I saw the Lieutenant-General of the Army, General Sheridan, myself in reference to it, and am informed by him that it is the desire of the Department to have it passed, as there are many reasons in favor of its passage and none against it.

Mr. HOLMAN. It is limited, I believe, to the right of way only?

Mr. VALENTINE. Yes, sir; limited to the right of way; and the location is to be subject to the approval of the Secretary of War.

There being no objection, the bill was ordered to be engrossed and read the third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. VALENTINE moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MADISON R. CALVERT.

Mr. ELLIS. Mr. Speaker, I ask unanimous consent to discharge the Committee of the Whole House on the Private Calendar from the further consideration of the bill (H. R. 4273) for the relief of Madison R. Calvert.

The SPEAKER. The bill will be read, subject to objection.

The bill is as follows:

Be it enacted, &c., That the Secretary of the Treasury be, and he is hereby, directed to pay to Madison R. Calvert, an assistant paymaster in the United States

Navy, the sum of $501, out of any moneys in the Treasury not otherwise appropriated, to reimburse him for a like amount stolen from his paymaster's safe on the United States steamer Mayflower, and made good by him; the said relief being recommended by the Paymaster-General of the Navy.

Mr. REAGAN. If this measure will give rise to no discussion, I shall not object to its present consideration.

Mr. ELLIS. It will not lead to any discussion, I am satisfied.

Mr. RANDALL. Has this been reported by any committee of the House?

Mr. ELLIS. It is unanimously reported by the Committee of Claims of the House.

The facts in connection with the matter, I will state briefly, are that this money was stolen from the claimant when in charge of the safe of the paymaster and was lost without any fault of his own. It was, according to the evidence in the case, deposited in a rickety safe furnished by the Government to which there were two or three keys, only one of which was furnished to him. The matter was examined into by the naval board, and at the moment the theft was discovered the claimant promptly made good the loss out of his own private means. The Paymaster-General has given the opinion that Mr. Calvert, the claimant, who was the assistant in charge, was not at all to blame. He made good the loss at once. In addition to this it is also a fact that he is on shore duty, and has been for several years, at a salary of $80 a month. He is in need of the money, and the bill ought to be passed for his benefit.

The SPEAKER. Is there objection to the present consideration of the bill?

There being no objection, the bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ELLIS moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MAJ. WILLIAM LUDLOW.

Mr. BINGHAM. Mr. Speaker, I ask unanimous consent to submit for present consideration a joint resolution.

The SPEAKER. The joint resolution will be read.

The Clerk read as follows:

Resolved by the Senate and House of Representatives, &c., That the permission granted to Maj. William Ludlow, Corps of Engineers, United States Army, to accept a civil position in the service of the city of Philadelphia, without forfeiture of his military commission, until the 1st day of April, 1885, by the provisions of a joint resolution approved February 28, 1883, is hereby extended for the period of one year: *Provided, however*, That the said Ludlow shall not receive from the United States any pay or allowance whatever during said period.

There being no objection, the joint resolution (H. Res. 309) was read a first and second time, ordered to be engrossed for a third reading, read the third time, and passed.

Mr. BINGHAM moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. REAGAN. I now call for the regular order.

Mr. BINGHAM. I ask the gentleman to yield for a request that a letter in connection with the subject be printed in the RECORD.

Mr. REAGAN. I am willing to yield for that purpose.

Mr. BINGHAM. I ask, then, that the letter which I send to the desk be printed in the RECORD.

There was no objection.

The letter is as follows:

WAR DEPARTMENT, *Washington City, December* 19, 1884.

SIR: I have the honor to acknowledge the receipt of your letter of the 16th instant, stating that Maj. William Ludlow, Corps of Engineers, was elected by the city council of Philadelphia chief engineer of the water department; that his commission has one more year to run; that he has entered upon important municipal work, and that a change in the general management of it would seriously interfere with the speedy completion of the work; and inclosing, for my views thereon, a draught of a joint resolution, which you state you propose offering in the House of Representatives at an early day, extending for the period of one year the permission granted by the joint resolution approved February 28, 1883, to Major Ludlow to accept a civil position in the service of the city of Philadelphia without a forfeiture of his military commission.

In reply I beg to inform you that the matter was referred to the Chief of Engineers, who reports that for the reasons set forth in your communication no objection is made by him to the continuation of Major Ludlow for an additional year upon the duties in which he is now engaged.

As the draught of the proposed resolution embodies the same conditions as to pay and allowances as that of the joint resolution approved February 28, 1883, no objection is urged to it by this Department.

The draught referred to is herewith returned.

Very respectfully, your obedient servant,

ROBERT T. LINCOLN,
Secretary of War.

Hon. HENRY H. BINGHAM,
House of Representatives.

INTERSTATE COMMERCE.

Mr. REAGAN. I demand the regular order.

The SPEAKER. The House, as the regular order, resumes the consideration of the unfinished business coming over from the last adjournment, being the bill (H. R. 5461) to establish a board of interstate commerce, and to regulate such commerce. The question is on the amendment proposed by the gentleman from Georgia [Mr. HAMMOND] to the amendment proposed by the gentleman from Kansas [Mr. PERKINS]. The Clerk will report the amendment proposed by the gentleman from Georgia.

The Clerk read as follows:

Add at the end of the amendment the following:

"*Provided, however*, That the commissioners herein provided for shall not be appointed until the 5th of March, 1885."

The question being taken on the adoption of the amendment, there were—ayes 71, noes 12.

So (further count not being called for) the amendment was adopted.

The SPEAKER. The question recurs on the amendment proposed by the gentleman from Kansas as amended.

Mr. REAGAN. The amendment proposed by the gentleman from Kansas is of some length, and is printed in the RECORD of this morning. To save the time of reading, the substance of it might be stated.

The SPEAKER. It is the amendment offered yesterday afternoon by the gentleman from Kansas providing for the appointment of a commission.

The question being taken on agreeing to the amendment as amended, there were—ayes 65, noes 79.

Mr. PERKINS. I call for the yeas and nays.

The yeas and nays were ordered, 45 members voting therefor.

Mr. TOWNSHEND. I ask unanimous consent that the amendment on which we are to vote be again read.

Mr. NICHOLLS. I object.

The question was taken; and there were—yeas 96, nays 126, not voting 101; as follows:

YEAS—96.

Adams, G. E.	Dunham,	Ketcham,	Rockwell,
Adams, J. J.	Everhart,	Lacey,	Ryan,
Bingham,	Findlay,	Lawrence,	Seymour,
Bisbee,	Funston,	Libbey,	Smalls,
Boutelle,	George,	Long,	Smith, A. H.
Bowen,	Greenleaf,	Lyman,	Stevens,
Brainerd,	Hammond,	McComas,	Stone,
Breitung,	Hanback,	McCormick,	Straight,
Brewer, F. B.	Harmer,	Millard,	Struble,
Brewer, J. H.	Henderson, D. B.	Milliken,	Swope,
Brown, W. W.	Henderson, T. J.	Mitchell,	Taylor, J. D.
Browne, T. M.	Hepburn,	Morrill,	Thomas,
Brumm,	Hewitt, A. S.	Nelson,	Tillman,
Budd,	Hiscock,	O'Neill, Charles	Van Eaton,
Campbell, J. M.	Hitt,	Payne,	Wadsworth,
Candler,	Horr,	Perkins,	Wait,
Cannon,	Houk,	Peters,	Wakefield,
Culbertson, W. W.	Howey,	Pettibone,	Warner, A. J.
Cullen,	James,	Phelps,	Wemple,
Cutcheon,	Jeffords,	Post,	White, Milo
Davis, G. R.	Johnson,	Potter,	Whiting,
Davis, L. H.	Kean,	Pusey,	Wilson, James
Davis, R. T.	Keifer,	Ranney,	Winans, John
Deuster,	Kelley,	Robinson, J. S.	Woodward.

NAYS—126.

Aiken,	Eaton,	Lore,	Singleton,
Alexander,	Eldredge,	Lovering,	Skinner, T. G.
Anderson,	Elliott,	McAdoo,	Snyder,
Bagley,	English,	McMillin,	Stewart, Charles
Ballentine,	Ermentrout,	Matson,	Stockslager,
Bayne,	Fiedler,	Maybury,	Storm,
Beach,	Forney,	Miller, J. F.	Sumner, C. A.
Blackburn,	Fyan,	Money,	Talbott,
Blanchard,	Garrison,	Morgan,	Taylor, E. B.
Bland,	Geddes,	Moulton,	Taylor, J. M.
Blount,	Gibson,	Muller,	Throckmorton,
Boyle,	Glascock,	Murphy,	Townshend,
Breckinridge,	Goff,	Mutchler,	Tucker,
Buchanan,	Green,	Neece,	Tully,
Buckner,	Halsell,	Nicholls,	Turner, H. G.
Burnes,	Hancock,	Nutting,	Turner, Oscar
Cabell,	Hardeman,	Oates,	Wallace,
Caldwell,	Hardy,	O'Ferrall,	Warner, Richard
Cassidy,	Hatch, W. H.	Payson,	Washburn,
Chace,	Henley,	Peel,	Weaver,
Clardy,	Herbert,	Pierce,	Wellborn,
Clements,	Hewitt, G. W.	Pryor,	Wilkins,
Cobb,	Holman,	Randall,	Williams,
Cook,	Hopkins,	Reagan,	Willis,
Cosgrove,	Houseman,	Reed,	Wilson, W. L.
Covington,	Jones, J. H.	Reese,	Winans, E. B.
Cox, S. S.	Jones, J. T.	Riggs,	Wise, G. D.
Crisp,	Kleiner,	Robertson,	Wolford,
Curtin,	Lamb,	Rogers, J. H.	Yaple,
Davidson,	Lanham,	Rosecrans,	York.
Dibrell,	Le Fevre,	Seney,	
Dowd,	Lewis,	Shively,	

NOT VOTING—101.

Arnot,	Converse,	Hart,	Lowry,
Atkinson,	Cox, W. R.	Hatch, H. H.	McCoid,
Barbour,	Culberson, D. B.	Haynes,	Miller, S. H.
Barksdale,	Dargan,	Hemphill,	Mills,
Barr,	Dibble,	Hill,	Morrison,
Belford,	Dingley,	Hoblitzell,	Morse,
Belmont,	Dockery,	Holmes,	Muldrow,
Bennett,	Dorsheimer,	Holton,	Murray,
Bratton,	Dunn,	Hooper,	Ochiltree,
Broadhead,	Ellis,	Hunt,	O'Hara,
Burleigh,	Ellwood,	Hurd,	O'Neill, J. J.
Campbell, Felix	Evans,	Hutchins,	Paige,
Campbell, J. E.	Ferrell,	Jones, B. W.	Parker,
Carleton,	Finerty,	Jones, J. K.	Patton,
Chalmers,	Follett,	Jordan,	Poland,
Clay,	Foran,	Kellogg,	Price,
Collins,	Graves,	King,	Rankin,
Connolly,	Guenther,	Laird,	Ray, G. W.

Ray, Ossian	Skinner, C. R.	Stewart, J. W.	White, J. D.
Rice,	Slocum,	Sumner, D. H.	Wise, J. S.
Robinson, W. E.	Smith, H. Y,	Thompson,	Wood,
Rogers, W. F.	Spooner,	Valentine,	Worthington,
Rowell,	Spriggs,	Van Alstyne,	Young.
Russell,	Springer,	Vance,	
Shaw,	Steele,	Ward,	
Shelley,	Stephenson,	Weller,	

So the amendment was not agreed to.

On motion of Mr. PERKINS, by unanimous consent the reading of names of members voting was dispensed with.

The following members were announced as paired on all political questions until further notice:

Mr. DARGAN with Mr. KELLOGG.

Mr. SHAW with Mr. FINERTY.

Mr. JONES, of Arkansas, with Mr. RUSSELL.

Mr. DIBBLE with Mr. SMITH, of Iowa.

Mr. CARLETON with Mr. DINGLEY.

Mr. JORDAN with Mr. LAIRD.

Mr. MORRISON with Mr. BARR.

Mr. CULBERSON, of Texas, with Mr. STEWART, of Vermont.

Mr. HURD with Mr. HATCH, of Michigan.

Mr. FORAN with Mr. BURLEIGH.

Mr. ARNOT with Mr. BELFORD.

Mr. BENNETT with Mr. SPOONER.

Mr. WELLER with Mr. MILLER, of Pennsylvania.

Mr. DOCKERY with Mr. HOOPER.

Mr. SPRINGER with Mr. GUENTHER.

Mr. CLAY with Mr. MCCOID.

Mr. GRAVES with Mr. WHITE, of Kentucky.

Mr. CONVERSE with Mr. CHALMERS.

Mr. LOWRY with Mr. STEELE.

Mr. VAN ALSTYNE with Mr. ELLWOOD.

Mr. DUNN with Mr. RAY, of New York.

Mr. VANCE with Mr. RAY, of New Hampshire.

Mr. MULDROW with Mr. EVANS.

Mr. WARD with Mr. RICE.

Mr. SHELLEY with Mr. STEPHENSON.

Mr. RANKIN with Mr. OCHILTREE.

The following pairs were also announced:

Mr. HILL with Mr. CHALMERS, on the interstate-commerce bill.

Mr. CAMPBELL, of Ohio, with Mr. SKINNER, of New York, until January 12.

Mr. PATTON with Mr. VALENTINE, for to-day.

Mr. PAIGE with Mr. HART, on this bill.

Mr. ROBINSON, of New York, with Mr. PARKER, on the Reagan bill.

Mr. JONES, of Wisconsin, with Mr. KEAN, on the Reagan bill. If present, Mr. JONES would vote "ay" and Mr. KEAN would vote "no."

Mr. KEAN. I desire to say that I understood the pair just announced between myself and Mr. JONES, of Wisconsin, was only for yesterday.

The SPEAKER. The Chair is informed that on the notice of the pair it is not limited to any particular time.

Mr. KEAN. It was only for the remainder of yesterday.

The SPEAKER. It will be withdrawn. The Chair will state to gentlemen on the floor that they will prevent much confusion at the Clerk's desk if they will withdraw their pairs or notify the Clerk when they have expired.

Mr. WELLBORN. My colleague from Texas [Mr. MILLS] is kept from the House by serious sickness in his family. If present, he would vote "no."

The result of the vote was then announced as above stated.

NAVAL APPROPRIATION BILL.

Mr. RANDALL, from the Committee on Appropriations, reported a bill (H. R. 7874) making additional appropriations for the naval service for the fiscal year ending June 30, 1885, and for other purposes; which was read a first and second time, referred to the Committee of the Whole House on the state of the Union, and, with the accompanying report, ordered to be printed.

Mr. RANDALL. I give notice that I will call this bill up for consideration to-morrow morning immediately after the reading of the Journal.

Mr. KEIFER. I reserve all points of order on this bill.

The SPEAKER. All points of order are reserved by the gentleman from Ohio.

INTERSTATE COMMERCE.

The House resumed the consideration of the bill (H. R. 5461) to establish a board of interstate commerce, and to regulate such commerce.

The SPEAKER. The question is now on the substitute proposed for the bill by the gentleman from Pennsylvania [Mr. O'NEILL].

Mr. O'NEILL, of Pennsylvania. I simply wish to say that I have taken the ideas of this substitute from an editorial in the Chicago Tribune of about the 19th of December last—an editorial remarkably conservative and just.

The SPEAKER. Debate has been closed.

Mr. O'NEILL, of Pennsylvania. I am aware of that; but I wanted to get this explanation in so that it might not be supposed I am "stealing the thunder" of other people—adopting their ideas without giving them proper credit.

The SPEAKER. The substitute proposed by the gentleman from Pennsylvania [Mr. O'NEILL] has not been read. It will be read if the gentleman so desires.

Mr. O'NEILL, of Pennsylvania. I do.

The Clerk read as follows:

Strike out all after the enacting clause and insert:

"That the President of the United States, by and with the consent of the Senate, shall appoint five commissioners, to be styled commissioners of interstate commerce, whose salaries shall be $6,000 per annum each, and whose duties shall be to hear complaints of shippers, and who shall make annual reports each fiscal year to the President of the United States, and for whom sufficient office-room shall be furnished by the Secretary of the Interior, and who shall have a clerk at the annual salary of $3,000, and an assistant clerk at the annual salary of $2,000, and a messenger at a salary of $75 per month.

"SEC. 2. That said commissioners shall report, so that it may be submitted to the Forty-ninth Congress in printed form upon the day of its assembling and organization, the propriety of requiring from all railroad companies engaged in carrying merchandise as interstate-commerce carriers publicity of all rates; ample public notice of change of rates; publicity and uniformity of all rebates, contracts with shippers for rates or rebates to be in writing and open to public inspection and the inspection of officials; publicity and uniformity of the accounts and reports of all interstate railroads and of interstate business of all other railroads; regular and unreserved reports of earnings and expenses, with penalties for falsification; no concessions in rates to large shippers, except to such as represent the actual merchandise saving in the expense of hauling large shipments over small shipments, such concessions to be in writing and invariably made known to the public; every pool or combination between interstate railroads or railroads doing an interstate business to be made in public, and their terms posted at every point interested."

Mr. O'NEILL, of Pennsylvania. As I have already indicated, the points upon which my substitute proposes the commission shall report are taken from an editorial in the Chicago Tribune——

Mr. REAGAN. I object to debate.

The SPEAKER. Debate is not in order.

Mr. O'NEILL, of Pennsylvania. I know that.

The question being taken on the adoption of the substitute of Mr. O'NEILL, of Pennsylvania, there were—ayes 37, nays 87.

Mr. O'NEILL, of Pennsylvania. Mr. Speaker, instead of making at this time the point that no quorum has voted, I will call for the yeas and nays.

The yeas and nays were not ordered, only 13 voting in favor thereof.

The result of the vote was then announced as above stated.

Mr. O'NEILL, of Pennsylvania. I make the point that no quorum has voted. This is an important proposition, and it ought to be voted upon by a full House.

Tellers were ordered; and Mr. O'NEILL, of Pennsylvania, and Mr. REAGAN were appointed.

The House again divided; and the tellers reported—ayes 35, noes 133.

So the substitute of Mr. O'NEILL, of Pennsylvania, was not agreed to.

The bill as amended was then ordered to be engrossed for a third reading; and it was accordingly read the third time.

Mr. REAGAN. I move the previous question on the passage of the bill.

Mr. HEPBURN. At the proper time I desire to make a motion to recommit the bill with instructions——

The SPEAKER. The gentleman has that right now under the rules.

Mr. HEPBURN. I make the motion which I ask the Clerk to read. It is the motion as printed, for information of the House, in the RECORD of this morning, except that I have inserted the words "with or without amendment."

The SPEAKER. The Clerk will report the motion of the gentleman from Iowa.

The Clerk read as follows:

Mr. HEPBURN moves to recommit the bill to the Committee on Commerce with instructions to report the following bill, with or without amendment, as a substitute at an early day, and when so reported the said substitute shall occupy the same status for consideration as the bill now being considered:

"A bill to establish a board of commissioners of interstate commerce, and to regulate such commerce.

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled——

The SPEAKER. If the reading be called for, the proposed bill of the gentleman from Iowa [Mr. HEPBURN] as already printed in the RECORD of to-day must be read.

Mr. HEPBURN. If I may be permitted to occupy a moment, I can state the special features of the proposed bill.

Mr. REAGAN. If no one else objects I do not object to permitting the gentleman from Iowa to state without argument the substance of his bill in lieu of having it read.

The SPEAKER. The bill is quite long, and, instead of demanding that it be read, the gentleman from Iowa asks unanimous consent to make a brief statement of the contents of the measure. Is there objection? The Chair hears none.

Mr. HEPBURN. Mr. Speaker, the bill which I have made a part of my motion is the bill reported by the Committee on Commerce, with three or four amendments. The eighth section is amended so as to provide for a commission of nine persons, one from each judicial circuit. The tenth section is amended so that the reports of the commission shall in all subsequent legal proceedings stand as *prima facie* true. The

eleventh and thirteen sections are also amended by the insertion of similar words. With these exceptions, the bill is the same as that reported by the Committee on Commerce.

The SPEAKER. The question is on the motion of the gentleman from Iowa [Mr. HEPBURN] to recommit the bill to the Committee on Commerce with the proposed instructions as read. [Having put the question.] The noes seem to have it.

Mr. HEPBURN. I call for the yeas and nays.

The yeas and nays were ordered, 55 voting in favor thereof.

The question was taken; and it was decided in the negative—yeas 92, nays 132, not voting 99; as follows:

YEAS—92.

Adams, G. E.	Davis, G. R.	Johnson,	Reed,
Adams, J. J.	Davis, R. T.	Kean,	Robinson, J. S.
Aiken,	Deuster,	Keifer,	Rockwell,
Atkinson,	Dunham,	Kelley,	Rowell,
Barr,	Everhart,	Ketcham,	Ryan,
Bingham,	Funston,	King,	Seymour,
Bisbee,	George,	Lacey,	Smalls,
Boutelle,	Greenleaf,	Lawrence,	Smith, A. H.
Bowen,	Hanback,	Libbey,	Strait,
Brainerd,	Harmer,	Long,	Struble,
Bratton,	Haynes,	Lyman,	Taylor, E. B.
Breitung,	Hemphill,	McCormick,	Taylor, J. D.
Brewer, F. B.	Henderson, D. B.	Millard,	Thomas,
Brewer, J. H.	Henderson, T. J.	Mitchell,	Tillman,
Brown, W. W.	Hepburn,	Morrill,	Wait,
Browne, T. M.	Hewitt, A. S.	Morse,	Wakefield,
Brumm,	Hitt,	O'Hara,	Warner, A. J.
Candler,	Hoblitzell,	O'Neill, Charles	Washburn,
Cannon,	Holmes,	Perkins,	White, Milo
Chace,	Horr,	Peters,	Whiting,
Culbertson, W. W	Houk,	Potter,	Wilson, James
Cullen,	Howey,	Price,	Wise, J. S.
Cutcheon,	Jeffords,	Ranney,	Woodward.

NAYS—132.

Alexander,	Dibrell,	Lanahan,	Shively,
Anderson,	Dorsheimer,	Le Fevre,	Singleton,
Bagley,	Dowd,	Lewis,	Skinner, T. G.
Ballentine,	Eldredge,	Lore,	Snyder,
Barksdale,	Elliott,	Lovering,	Stewart, Charles
Bayne,	Ellis,	McMillan,	Stockslager,
Beach,	English,	Matson,	Storm,
Blackburn,	Fiedler,	Maybury,	Sumner, C. A.
Bland,	Findlay,	Miller, J. F.	Swope,
Blount,	Forney,	Money,	Taylor, J. M.
Boyle,	Fyan,	Morgan,	Throckmorton,
Buchanan,	Garrison,	Moulton,	Townshend,
Buckner,	Geddes,	Muller,	Tucker,
Budd,	Gibson,	Murphy,	Tully,
Burnes,	Glascock,	Murray,	Turner, H. G.
Cabell,	Goff,	Mutchler,	Turner, Oscar
Caldwell,	Green,	Neece,	Van Eaton,
Campbell, Felix	Halsell,	Nicholls,	Wallace,
Campbell, J. M.	Hammond,	Oates,	Warner, Richard
Cassidy,	Hardeman,	O'Ferrall,	Weaver,
Clardy,	Hardy,	Patton,	Wellborn,
Clements,	Hatch, W. H.	Payson,	Wemple,
Cobb,	Henley,	Pierce,	Wilkins,
Connolly,	Herbert,	Peel,	Williams,
Cook,	Hewitt, G. W.	Post,	Willis,
Cosgrove,	Holman,	Pryor,	Wilson, W. L.
Covington,	Hopkins,	Pusey,	Winans, E. B.
Cox, S. S.	Hunt,	Randall,	Winans, John
Cox, W. R.	James,	Reagan,	Wise, G. D.
Crisp,	Jones, B. W.	Riggs,	Wolford,
Curtin,	Jones, J. H.	Robertson,	Worthington,
Davidson,	Jones, J. T.	Rogers, J. H.	Yaple,
Davis, L. H.	Kleiner,	Rosecrans,	York.

NOT VOTING—99.

Arnot,	Ferrell,	Miller, S. H.	Shelley,
Barbour,	Finerty,	Milliken,	Skinner, C. R.
Belford,	Follett,	Mills,	Slocum,
Belmont,	Foran,	Morrison,	Smith, H. Y.
Bennett,	Graves,	Muldrow,	Spooner,
Blanchard,	Guenther,	Nelson,	Spriggs,
Breckinridge,	Hancock,	Nutting,	Springer,
Broadhead,	Hart,	Ochiltree,	Steele,
Burleigh,	Hatch, H. H.	O'Neill, J. J.	Stephenson,
Campbell, J. E.	Hill,	Paige,	Stevens,
Carleton,	Hiscock,	Parker,	Stewart, J. W.
Chalmers,	Holton,	Payne,	Stone,
Clay,	Hooper,	Pettibone,	Sumner, D. H.
Collins,	Houseman,	Phelps,	Talbott,
Converse,	Hurd,	Poland,	Thompson,
Culberson, D. B.	Hutchins,	Rankin,	Valentine,
Dargan,	Jones, J. K.	Ray, G. W.	Van Alstyne,
Dibble,	Jordan,	Ray, Ossian	Vance,
Dingley,	Kellogg,	Reese,	Wadsworth,
Dockery,	Laird,	Rice,	Ward,
Dunn,	Lamb,	Robinson, W. E.	Weller,
Eaton,	Lowry,	Rogers, W. F.	White, J. D.
Ellwood,	McAdoo,	Russell,	Wood,
Ermentrout,	McCoid,	Seney,	Young.
Evans,	McComas,	Shaw,	

So the motion was disagreed to.

During the roll-call the following additional pairs were announced from the Clerk's desk:

Mr. SENEY with Mr. VALENTINE, on all questions, for the remainder of the day.

Mr. MORRISON with Mr. HISCOCK, until further notice.

The vote was then announced as above recorded.

Mr. OATES. Mr. Speaker, I shall vote for the bill under consideration because I approve of the majority of the provisions contained in it. It strikes at abuses which ought to be corrected. But I am opposed to the provisions of the first section of the bill, relating to the transportation of passengers, as in my judgment there is no constitutional power in Congress to so legislate. The power to regulate commerce refers to and includes merchandise, the commodity transported, and has no reference to the vehicle, or carriage, or vessel in which it is transported. The carrying of passengers, in my judgment, can not by any fair interpretation be included within the power. I am also opposed to the clause restricting railroads to a charge of but 3 cents per mile for passengers. Some roads can better afford to carry passengers at 2 cents per mile than some others can for 5 cents per mile. But I vote for the bill as an experiment in the right direction, not free from doubts, but with hopes of beneficial results to all interests.

The SPEAKER. The question recurs on ordering the previous question on the passage of the bill.

The previous question was ordered.

Mr. O'NEILL, of Pennsylvania, demanded the yeas and nays on the passage of the bill.

The question was taken; and it was decided in the affirmative—yeas 161, nays 75, not voting 87; as follows:

YEAS—161.

Alexander,	Ferrell,	Matson,	Stewart, Charles
Anderson,	Fiedler,	Maybury,	Stockslager,
Bagley,	Findlay,	Miller, J. F.	Stone,
Ballentine,	Foran,	Money,	Storm,
Barksdale,	Forney,	Morgan,	Strait,
Bayne,	Funston,	Morrill,	Struble,
Beach,	Fyan,	Moulton,	Sumner, C. A.
Blackburn,	Garrison,	Muller,	Swope,
Blanchard,	Geddes,	Murphy,	Talbott,
Bland,	George,	Murray,	Taylor, J. D.
Blount,	Glascock,	Neece,	Taylor, J. M.
Brainerd,	Goff,	Nelson,	Throckmorton,
Breckinridge,	Green,	Nutting,	Townshend,
Brown, W. W.	Halsell,	Oates,	Tucker,
Browne, T. M.	Hanback,	O'Ferrall,	Tully,
Buchanan,	Hardy,	Patton,	Turner, H. G.
Budd,	Hatch, W. H.	Payson,	Turner, Oscar
Burnes,	Haynes,	Peel,	Van Eaton,
Cabell,	Henderson, D. B.	Perkins,	Wakefield,
Caldwell,	Henley,	Peters,	Wallace,
Campbell, Felix	Herbert,	Pettibone,	Warner, A. J.
Campbell, J. M.	Holman,	Pierce,	Warner, Richard
Cassidy,	Holmes,	Price,	Weaver,
Clardy,	Hopkins,	Pryor,	Wellborn,
Clements,	Houseman,	Pusey,	Wemple,
Cobb,	Hunt,	Randall,	White, Milo
Connolly,	James,	Reagan,	Wilkins,
Cook,	Jones, B. W.	Riggs,	Williams,
Cosgrove,	Jones, J. H.	Robertson,	Willis,
Covington,	Jones, J. T.	Robinson, J. S.	Wilson, James
Cox, S. S.	King,	Rogers, J. H.	Wilson, W. L.
Cox, W. R.	Kleiner,	Rogers, W. F.	Winans, E. B.
Crisp,	Lamb,	Rosecrans,	Winans, John
Cullen,	Lanham,	Rowell,	Wise, G. D.
Curtin,	Le Fevre,	Ryan,	Wolford,
Davidson,	Lewis,	Shively,	Worthington,
Davis, L. H.	Lore,	Singleton,	Yaple,
Dibrell,	Lovering,	Skinner, T. G.	York.
Eldredge,	McComas,	Smalls,	
English,	McCormick,	Snyder,	
Ermentrout,	McMillin,	Spriggs,	

NAYS—75.

Adams, G. E.	Davis, G. R.	Horr,	O'Neill, Charles
Adams, J. J.	Davis, R. T.	Houk,	Phelps,
Aiken,	Deuster,	Howey,	Post,
Atkinson,	Dowd,	Jeffords,	Potter,
Barr,	Dunham,	Johnson,	Ranney,
Bingham,	Eaton,	Kean,	Reed,
Bisbee,	Elliott,	Keifer,	Rockwell,
Boutelle,	Everhart,	Kelley,	Seymour,
Bowen,	Greenleaf,	Ketcham,	Smith, A. H.
Boyle,	Hammond,	Lacey,	Stevens,
Bratton,	Hardeman,	Libby,	Taylor, E. B.
Breitung,	Harmer,	Long,	Thomas,
Brewer, F. B.	Hemphill,	Lyman,	Tillman,
Brewer, J. H.	Henderson, T. J.	Millard,	Wait,
Brumm,	Hepburn,	Mitchell,	Washburn,
Candler,	Hewitt, A. S.	Morse,	Whiting,
Cannon,	Hewitt, G. W.	Mutchler,	Wise, J. S.
Chace,	Hitt,	Nicholls,	Woodward.
Cutcheon,	Hoblitzell,	O'Hara,	

NOT VOTING—87.

Arnot,	Ellis,	Lowry,	Shaw,
Barbour,	Ellwood,	McAdoo,	Shelley,
Belford,	Evans,	McCoid,	Skinner, C. R.
Belmont,	Finerty,	Miller, S. H.	Slocum,
Bennett,	Follett,	Milliken,	Smith, H. Y.
Broadhead,	Gibson,	Mills,	Spooner,
Buckner,	Graves,	Morrison,	Springer,
Burleigh,	Guenther,	Muldrow,	Steele,
Campbell, J. E.	Hancock,	Ochiltree,	Stephenson,
Carleton,	Hart,	O'Neill, J. J.	Stewart, J. W.
Chalmers,	Hatch, H. H.	Paige,	Sumner, D. H.
Clay,	Hill,	Parker,	Thompson,
Collins,	Hiscock,	Payne,	Valentine,
Converse,	Holton,	Poland,	Van Alstyne,
Culberson, D. B.	Hooper,	Rankin,	Vance,
Culbertson, W. W.	Hurd,	Ray, G. W.	Wadsworth,
Dargan,	Hutchins,	Ray, Ossian	Ward,
Dibble,	Jones, J. K.	Reese,	Weller,
Dingley,	Jordan,	Rice,	White, J. D.
Dockery,	Kellogg,	Robinson, W. E.	Wood,
Dorsheimer,	Laird,	Russell,	Young.
Dunn,	Lawrence,	Seney,	

So the bill was passed.

Mr. BAGLEY. I ask unanimous consent to dispense with the reading of the names.

Mr. BARR. I object.

The Clerk then recapitulated the names of those voting.

The following additional pairs were announced:

Mr. DORSHEIMER with Mr. THOMPSON, on the Reagan bill. If present, Mr. THOMPSON would vote "ay," Mr. DORSHEIMER "no."

Mr. GIBSON with Mr. REESE, on the Reagan bill, for this day. Mr. GIBSON would vote "ay," Mr. REESE "no."

Mr. FOLLETT with Mr. BURLEIGH, until further notice.

Mr. HISCOCK. I am paired, I believe, with the gentleman from Illinois [Mr. MORRISON]. Except for that I would vote "no."

The result of the vote was then announced as above recorded.

Mr. REAGAN. I move to reconsider——

The SPEAKER. The title of the bill has not yet been agreed to.

Mr. PETERS. I ask to amend the title of the bill.

Mr. REAGAN. Did not the adoption of the substitute carry with it the title?

The SPEAKER. The title is always the last thing adopted in the consideration of bills.

Mr. REAGAN. Then I shall call the previous question upon the adoption of the title.

Mr. PETERS. I ask to amend the title by adding to it the words "and for other purposes."

Mr. REAGAN. Instead of the title of the original bill, "to establish a board of commissioners of interstate commerce, and to regulate such commerce," I move the adoption of the substitute which the House has agreed to, namely, to regulate interstate commerce, and to prohibit unjust discrimination by common carriers; and on that I demand the previous question.

The SPEAKER. The Clerk will read the title proposed by the gentleman from Texas.

The Clerk read as follows:

A bill to regulate interstate commerce, and to prohibit unjust discriminations by common carriers.

Mr. REAGAN. Upon that I demand the previous question.

Mr. PETERS. I did not yield the floor.

Mr. REAGAN. I am on the floor myself.

The SPEAKER. The gentleman from Kansas proposed to amend the title, which is the title that was reported to the House by the committee with the original bill. Thereupon the gentleman from Texas obtained the floor and proposed as a substitute the title which has been read, and on that demanded the previous question.

Mr. PETERS. I ask to be heard upon my amendment.

The SPEAKER. The gentleman from Texas has demanded the previous question upon his motion. [Cries of "Regular order!"]

Mr. PETERS. I ask the gentleman from Texas to allow me a few moments. [Renewed cries of "Regular order!"]

The SPEAKER. The regular order is the demand for the previous question.

The previous question was ordered.

Mr. PETERS. I now propose my amendment as a substitute.

The SPEAKER. The Chair will state to the gentleman from Kansas that he proposed the amendment in the first instance, and then the gentleman from Texas took the floor and proposed a substitute for his amendment and the entire title, and immediately demanded the previous question.

Mr. PETERS. I now offer my amendment as a substitute for that of the gentleman from Texas.

The SPEAKER. But the previous question has been ordered.

Mr. PETERS. But I was on the floor.

The SPEAKER. The Chair will state again that the gentleman from Kansas moved to amend the original title, whereupon the gentleman from Texas moved a substitute for the proposition of the gentleman from Kansas, and suggested a title for the bill. On that the previous question was demanded and ordered. The only question now is on the adoption of the title proposed by the gentleman from Texas as a substitute for the motion of the gentleman from Kansas.

The substitute was agreed to.

The title as amended was agreed to.

Mr. REAGAN moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. REAGAN. I want to say that this is a fitting celebration for the 8th day of January.

ORDER OF BUSINESS.

Mr. TOWNSHEND. I move to dispense with the morning hour.

The SPEAKER. This will require a two-thirds vote.

The question was taken; and on a divison there were—ayes 40, noes 59.

A MEMBER. No quorum.

Mr. TOWNSHEND. Let us have tellers.

The SPEAKER. Some gentleman on the left of the Chair having made the point of order that no quorum had voted the Chair will appoint tellers.

Mr. TOWNSHEND and Mr. DAVIS, of Missouri, were appointed tellers.

The House again divided; and the tellers reported—ayes 67, noes 90.

So (no further count being demanded) the motion to dispense with the morning hour was not agreed to.

SARANAC RIVER.

The SPEAKER, by unanimous consent, laid before the House a letter from the Secretary of War, transmitting report from Lieut. Col. H. M. Roberts, Corps of Engineers, of results of survey of the mouth of the Saranac River, Plattsburg, N. Y.; which was referred to the Committee on Rivers and Harbors, and ordered to be printed.

CONTESTED ELECTION—CRAIG VS. SHELLEY.

Mr. DAVIS, of Missouri. I call up the contested-election case of George H. Craig *vs.* Charles M. Shelley, Fourth Congressional district of Alabama.

The SPEAKER. The Clerk will read the resolutions reported by the committee.

The Clerk read as follows:

Resolved, That Charles M. Shelley was not elected a Representative to the Forty-eighth Congress from the fourth district of Alabama, and is not entitled to a seat in said Congress.

Resolved, That George H. Craig was elected to the Forty-eighth Congress from the fourth district of Alabama, and is entitled to a seat in said Congress.

The SPEAKER. The gentleman from Missouri [Mr. DAVIS] is entitled to the floor.

Mr. ROBERTSON. I desire to make a statement in regard to this case before it is acted on by the House.

Mr. DAVIS, of Missouri. Does the gentleman propose to raise the question of consideration?

Mr. ROBERTSON. Yes, sir; and I do it on this ground: There is a minority report in this case. There was a dissenting opinion on the part of Judge BENNETT, of North Carolina. That gentleman is now at home sick. He wrote out a report and had it ready to be filed. The contestee, Mr. Shelley, is also absent. Therefore I do not think it is fair and right that this case should be called up at this particular time when both the contestee and the gentleman who prepared the minority report are absent and can not be heard.

The SPEAKER. Does the gentleman from Kentucky raise the question of consideration?

Mr. ROBERTSON. Yes, sir; I raise the question of consideration.

Mr. HART. Is not the contestee, Mr. Shelley, in the city?

Mr. ROBERTSON. If he is in the city I do not know it. I do not think he is.

Mr. PETTIBONE. The gentleman from North Carolina had six months in which to file his report.

Mr. REED. The trouble about Mr. Shelley's case is not that he is not in the city but that he is in the House. [Laughter.]

Mr. RORERTSON. Is Mr. Shelley here now? If he is in the House he has got here in a very short time, because I did not know it. [Laughter.] Does the gentleman from Maine say that Mr. Shelley is here in person?

Mr. REED. Oh, no.

Mr. ROBERTSON addressed the Chair.

The SPEAKER. The question of consideration is not debatable.

Mr. REED. If the gentleman from Kentucky will think the thing over I think he will understand it.

The SPEAKER. The question is not debatable.

Mr. VALENTINE. Admitting that the question is not debatable I think the other side of the question should be stated before the vote is taken. I think that is but fair. The gentleman from North Carolina has had more than six months to file the dissenting report, and he is the only dissenting member of the committee.

The SPEAKER. The Chair did not permit the gentleman from Kentucky [Mr. ROBERTSON] to proceed with any debate after he raised the question of consideration. The gentleman rose, the Chair supposed, to make an appeal to the gentleman from Missouri not to press the consideration of the report to-day. The question is, Will the House now consider the report of the Committee on Elections?

The question being taken, there were—ayes 115, noes 27.

Mr. ROBERTSON. I call for the yeas and nays.

The yeas and nays were not ordered, only 11 members voting therefor.

So the House determined to proceed with the consideration of the report of the Committee on Elections.

Mr. DAVIS, of Missouri. I believe there is no member of the Committee on Elections who desires to make a speech in this case. In reply to what the gentleman from Kentucky [Mr. ROBERTSON] has said about the case being called up prematurely in the absence of Mr. Shelley, I will state that this report was made at the last session of Congress, and its consideration has been delayed from day to day at the request of Mr. Shelley and Mr. BENNETT. I agreed to that with the understanding that at the beginning of the session of the House after the holidays the case should be disposed of.

All I have to say about the case is simply this: The official return made to the secretary of state of Alabama gave Mr. Shelley about 2,500 majority. But in order to secure this majority thirty-six voting precincts in that Congressional district were rejected. In a word, over 8,000 votes that had been returned for Mr. Craig were not counted.

These votes were rejected on technical grounds, such as that the polls did not open at 9 o'clock in the morning as required by law, and in other cases that the poll-list was not signed.

Mr. Craig gave notice of contest and took testimony; Mr. Shelley paid no attention to the contest, or but very little. The testimony shows that in, I believe, twenty-five or twenty-eight of the thirty-six townships that were rejected the election was held according to law and that most of the forms prescribed by law were complied with. At least the testimony shows this: that the people in those precincts attempted to have an honest and a fair election and that the votes were cast. Our conclusion is in accordance with the decision of the supreme court of Alabama, and in accordance with the rule on which we proceed in the Committee on Elections in all these cases.

If the testimony shows that Mr. Craig received a majority of votes, why of course he is entitled to the certificate and a seat in this House. The testimony clearly showed, notwithstanding all the forms of law were not complied with, that these votes were honestly cast, and I believe they should be honestly counted. And counting about twenty-eight of the rejected townships for Mr. Craig, he has a majority of something over 3,000. As has been stated, this was the almost unanimous opinion of the Committee on Elections. As I have said, I believe no member wishes to speak upon this question. If I am mistaken in this, I would like to be so informed.

Mr. PETTIBONE. No; nobody wants to discuss it. We are all united in opinion, and ready to vote.

Mr. DAVIS, of Missouri. Then I demand the previous question on the adoption of the resolutions reported by the Committee on Elections.

The previous question was ordered.

The question being taken on agreeing to the resolutions, it was declared that "the ayes seemed to have it."

Mr. NICHOLLS. I call for the yeas and nays.

The yeas and nays were not ordered, only 2 members voting in favor thereof.

So the resolutions reported by the Committee on Elections were adopted.

Mr. HART moved to reconsider the vote by which the resolutions were adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. GEORGE H. CRAIG then presented himself, and was duly qualified as a Representative from the fourth district of Alabama by taking the oath prescribed by law.

ORDER OF BUSINESS.

Mr. STOCKSLAGER. I move that the House resolve itself into Committee of the Whole on the state of the Union for the purpose of considering bills for the erection of public buildings, in accordance with the special order of the House.

Mr. TOWNSHEND. I raise the question of consideration.

The SPEAKER. No question of consideration can be raised. The motion of the gentleman from Indiana can only be opposed by voting against it.

Mr. TOWNSHEND. Then I give notice that if this motion be voted down, I shall call up from the Speaker's table the Mexican war pension bill.

Mr. SINGLETON. And I give notice that I shall endeavor to call up the bill for the erection of a Congressional Library building.

The SPEAKER. The Chair will state that the House has refused to dispense with the morning hour, and until that is done a motion to go into Committee of the Whole on the state of the Union is not in order.

Mr. STOCKSLAGER. Under the special order made in this case a motion to go into Committee of the Whole, I submit to the Chair, is in order now.

The SPEAKER. The Chair will not undertake to decide the point positively without looking at the order.

Mr. STOCKSLAGER. I think the Chair on a former occasion has so ruled.

The SPEAKER. Upon an examination of the order made by the House on the 7th of April last, the Chair finds that the motion of the gentleman from Indiana [Mr. STOCKSLAGER] may be made even before the morning hour has been occupied or dispensed with. The order made by the House in relation to business of the Committee on Public Buildings and Grounds is somewhat different from the order made on motion of the gentleman from Indiana [Mr. HOLMAN] in relation to bills reported from the Committee on Public Lands.

Mr. STOCKSLAGER. Yes, sir; it is different.

The SPEAKER. The question is upon the motion made by the gentleman from Indiana that the House resolve itself into Committee of the Whole on the state of the Union for the purpose of considering bills in relation to the erection of public buildings under the order made on the 7th of April last.

The question being taken, there were—ayes 61, noes 60.

Mr. STOCKSLAGER. I call for the yeas and nays.

Mr. RANDALL. Would it be appropriate to ask the gentleman from Indiana how many bills this order embraces?

Mr. STOCKSLAGER. It is not appropriate now.

Mr. RANDALL. Thirty-five, I understand.

The SPEAKER. The question is on ordering the yeas and nays upon the motion of the gentleman from Indiana.

The yeas and nays were ordered, 49 voting in favor thereof.

The question was taken; and it was decided in the affirmative—yeas 110, nays 102, not voting 111; as follows:

YEAS—110.

Adams, G. E.	Davis, R. T.	Kean,	Pusey,
Aiken,	Dibrell,	Keifer,	Ranney,
Anderson,	Dowd,	King,	Riggs,
Barr,	Elliott,	Kleiner,	Robertson,
Bayne,	Ermentrout,	Lacey,	Rockwell,
Bisbee,	Everhart,	Lanham,	Rogers, J. H.
Blackburn,	Ferrell,	Lawrence,	Rosecrans,
Blanchard,	Findlay,	Lewis,	Smalls,
Boutelle,	Funston,	Libbey,	Smith, A. H.
Bowen,	Glascock,	Lore,	Snyder,
Brainerd,	Goff,	McCormick,	Stewart, Charles
Bratton,	Green,	McMillin,	Stockslager,
Breitung,	Greenleaf,	Maybury,	Swope,
Brewer, F. B.	Hanback,	Miller, J. F.	Tillman,
Brewer, J. H.	Hancock,	Milliken,	Tucker,
Brown, W. W.	Hardeman,	Money,	Van Eaton,
Browne, T. M.	Hart,	Mutchler,	Wakefield,
Caldwell,	Hatch, W. H.	Nelson,	Washburn,
Cassidy,	Haynes,	Ochiltree,	Weaver,
Chace,	Hemphill,	O'Ferrall,	Wellborn,
Connolly,	Henderson, D. B.	O'Hara,	White, Milo
Craig,	Holton,	Paige,	Wilson, James
Culbertson, W. W.	Hopkins,	Payne,	Wilson, W. L.
Cullen,	Horr,	Peel,	Wise, G. D.
Curtin,	Houseman,	Perkins,	Woodward,
Cutcheon,	James,	Peters,	Worthington.
Davidson,	Jeffords,	Phelps,	
Davis, G. R.	Jones, J. H.	Pryor,	

NAYS—102.

Adams, J. J.	English,	Matson,	Storm,
Alexander,	Fiedler,	Millard,	Struble,
Atkinson,	Forney,	Morgan,	Talbott,
Ballentine,	Fyan,	Morse,	Taylor, J. D.
Barksdale,	Geddes,	Moulton,	Taylor, J. M.
Beach,	Halsell,	Muller,	Thomas,
Belmont,	Hammond,	Murray,	Thompson,
Bland,	Hardy,	Neece,	Throckmorton,
Boyle,	Henderson, T. J.	Nicholls,	Townshend,
Brumm,	Hepburn,	Oates,	Tully,
Buchanan,	Herbert,	Patton,	Turner, H. G.
Buckner,	Hewitt, A. S.	Payson,	Turner, Oscar
Cabell,	Hewitt, G. W.	Pierce,	Wait,
Campbell, Felix	Hill,	Pettibone,	Wallace,
Candler,	Hoblitzell,	Post,	Warner, A. J.
Cannon,	Holman,	Potter,	Warner, Richard
Clardy,	Holmes,	Randall,	White, J. D.
Clements,	Houk,	Reed,	Whiting,
Cobb,	Howey,	Rowell,	Wilkins,
Covington,	Hutchins,	Seney,	Williams,
Cox, W. R.	Jones, B. W.	Seymour,	Winans, E. B.
Crisp,	Lamb,	Shively,	Winans, John
Davis, L. H.	Le Fevre,	Singleton,	Yaple,
Deuster,	Lyman,	Skinner, T. G.	York.
Eaton,	McAdoo,	Stevens,	
Eldredge,	McComas,	Stone,	

NOT VOTING—111.

Arnot,	Dunham,	Laird,	Ryan,
Bagley,	Dunn,	Long,	Shaw,
Barbour,	Ellis,	Lovering,	Skinner, C. R.
Belford,	Ellwood,	Lowry,	Slocum,
Bennett,	Evans,	McCoid,	Smith, H. Y.
Bingham,	Finerty,	Miller, S. H.	Spooner,
Blount,	Follett,	Mills,	Spriggs,
Breckinridge,	Foran,	Mitchell,	Springer,
Broadhead,	Garrison,	Morrill,	Steele,
Budd,	George,	Morrison,	Stephenson,
Burleigh,	Gibson,	Muldrow,	Stewart, J. W.
Burnes,	Graves,	Murphy,	Strait,
Campbell, J. E.	Guenther,	Nutting,	Sumner, C. A.
Campbell, J. M.	Harmer,	O'Neill, Charles	Sumner, D. H.
Carleton,	Hatch, H. H.	O'Neill, J. J.	Taylor, E. B.
Chalmers,	Henley,	Parker,	Valentine,
Clay,	Hiscock,	Poland,	Van Alstyne,
Collins,	Hitt,	Price,	Vance,
Converse,	Hooper,	Rankin,	Wadsworth,
Cook,	Hunt,	Ray, G. W.	Ward,
Cosgrove,	Hurd,	Ray, Ossian	Weller,
Cox, S. S.	Johnson,	Reagan,	Wemple,
Culberson, D. B.	Jones, J. K.	Reese,	Willis,
Dargan,	Jones, J. T.	Rice,	Wise, J. S.
Dibble,	Jordan,	Robinson, J. S.	Wolford,
Dingley,	Kelley,	Robinson, W. E.	Wood,
Dockery,	Kellogg,	Rogers, W. F.	Young.
Dorsheimer,	Ketcham,	Russell,	

So the motion was agreed to.

During the roll-call the following additional pairs were announced from the Clerk's desk:

On all political questions, for this day only:

Mr. GIBSON with Mr. VALENTINE.

Mr. REESE with Mr. STEPHENSON.

Mr. MILLS with Mr. KELLEY.

Mr. REAGAN with Mr. O'NEILL, of Pennsylvania.

Mr. BARBOUR with Mr. ROCKWELL, on all political questions, until Monday next.

Mr. COX, of New York, with Mr. BINGHAM, on this vote.

Mr. STOCKSLAGER. I move, by unanimous consent, that the reading of the names be dispensed with.

Mr. RANDALL. I object.

The vote was then announced as above recorded.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. McCOOK, its Secretary, announced the adoption of a resolution that the official report of Lieut. Frederick Schwatka, United States Army, of his military reconnaissance be printed, and that 3,500 additional copies be printed, of which 1,000 copies shall be for the use of the Senate, 2,000 copies for the use of the House, and 500 copies for the use of the War Department; in which concurrence was requested.

It further announced the passage of a bill (H. R. 4539) to issue American papers to the lighter or barge Pirate, now at New York.

PUBLIC BUILDINGS.

Mr. McMILLIN. I move to reconsider the vote just taken.

Mr. STOCKSLAGER. And I move that that motion be laid upon the table.

Mr. McMILLIN. On that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 125, nays 77, not voting 121; as follows:

YEAS—125.

Adams, G. E.	Dowd,	Kean,	Rockwell,
Anderson,	Dunham,	Keifer,	Rogers, W. F.
Atkinson,	Elliott,	King,	Rosecrans,
Barr,	Ermentrout,	Kleiner,	Rowell,
Bayne,	Everhart,	Lacey,	Ryan,
Bingham,	Ferrell,	Lanham,	Shively,
Bisbee,	Funston,	Lawrence,	Smalls,
Blount,	George,	Lewis,	Smith, A. H.
Boutelle,	Glascock,	Libbey,	Stewart, Charles
Brainerd,	Goff,	Lore,	Stockslager,
Bratton,	Green,	McCormick,	Stone,
Breitung,	Greenleaf,	Maybury,	Strait,
Brewer, F. B.	Halsell,	Milliken,	Taylor, E. B.
Brewer, J. H.	Hammond,	Money,	Tillman,
Brown, W. W.	Hanback,	Morrill,	Tucker,
Budd,	Hancock,	Muller,	Van Eaton,
Burnes,	Hardeman,	Mutchler,	Wakefield,
Cabell,	Harmer,	Nelson,	Wallace,
Caldwell,	Hart,	Ochiltree,	Washburn,
Cannon,	Hatch, W. W.	O'Ferrall,	Weaver,
Cassidy,	Haynes,	O'Neill, J. J.	Wellborn,
Chace,	Hemphill,	Payne,	Wemple,
Connolly,	Henderson, D. B.	Peel,	White, Milo
Craig,	Hepburn,	Perkins,	Wilson, James
Crisp,	Hewitt, G. W.	Peters,	Wilson, W. L.
Culbertson, W. W.	Hopkins,	Pettibone,	Wise, G. D.
Cullen,	Houk,	Phelps,	Wise, J. S.
Cutcheon,	Houseman,	Post,	Woodward,
Davidson,	Jeffords,	Pryor,	Worthington.
Davis, G. R.	Johnson,	Pusey,	
Davis, R. T.	Jones, J. H.	Riggs,	
Dibrell,	Jones, J. T.	Robertson,	

NAYS—77.

Alexander,	Eldredge,	Moulton,	Taylor, J. M.
Bagley,	Fiedler,	Murray,	Thompson,
Ballentine,	Forney,	Neece,	Throckmorton,
Beach,	Fyan,	Nicholls,	Townshend,
Belmont,	Geddes,	Oates,	Tully,
Bland,	Hardy,	O'Hara,	Turner, H. G.
Boyle,	Herbert,	Patton,	Turner, Oscar
Brumm,	Hewitt, A. S.	Payson,	Warner, A. J.
Buchanan,	Hoblitzell,	Pierce,	Warner, Richard
Buckner,	Holman,	Potter,	White, J. D.
Candler,	Howey,	Randall,	Wilkins,
Clardy,	Jones, J. K.	Ranney,	Williams,
Clements,	Lamb,	Rogers, J. H.	Winans, E. B.
Cobb,	McAdoo,	Seney,	Winans, John
Cook,	McComas,	Singleton,	Wolford,
Cosgrove,	McMillin,	Skinner, T. G.	Yaple,
Cox, W. R.	Matson,	Storm,	York.
Davis, L. H.	Millard,	Swope,	
Deuster,	Miller, J. F.	Talbott,	
Eaton,	Morgan,	Taylor, J. D.	

NOT VOTING—121.

Adams, J. J.	Dunn,	Ketcham,	Seymour,
Aiken,	Ellis,	Laird,	Shaw,
Arnot,	Ellwood,	Le Fevre,	Skinner, C. R.
Barbour,	English,	Long,	Slocum,
Barksdale,	Evans,	Lovering,	Smith, H. Y.
Belford,	Findlay,	Lowry,	Snyder,
Bennett,	Finerty,	Lyman,	Spooner,
Blackburn,	Follett,	McCoid,	Spriggs,
Blanchard,	Foran,	Miller, S. H.	Springer,
Bowen,	Garrison,	Mills,	Steele,
Breckinridge,	Gibson,	Mitchell,	Stephenson,
Broadhead,	Graves,	Morrison,	Stevens,
Browne, T. M.	Guenther,	Morse,	Stewart, J. W.
Burleigh,	Hatch, H. H.	Muldrow,	Struble,
Campbell, Felix.	Henderson, T. J.	Murphy,	Sumner, C. A.
Campbell, J. E.	Henley,	Nutting,	Sumner, D. H.
Campbell, J. M.	Hill,	O'Neill, Charles	Thomas,
Carleton,	Hiscock,	Paige,	Valentine,
Chalmers,	Hitt,	Parker,	Van Alstyne,
Clay,	Holmes,	Poland,	Vance,
Collins,	Holton,	Price,	Wadsworth,
Converse,	Hooper,	Rankin,	Wait,
Covington,	Horr,	Ray, G. W.	Ward,
Cox, S. S.	Hunt,	Ray, Ossian	Weller,
Culberson, D. B.	Hurd,	Reagan,	Whiting,
Curtin,	Hutchins,	Reed,	Willis,
Dargan,	James,	Reese,	Wood,
Dibble,	Jones, B. W.	Rice,	Young.
Dingley,	Jordan,	Robinson, J. S.	
Dockery,	Kelley,	Robinson, W. E.	
Dorsheimer,	Kellogg,	Russell,	

So the motion to reconsider was laid on the table.

Mr. STOCKSLAGER. I ask, by unanimous consent, that the reading of the names be dispensed with.

Mr. STORM. I object.

Mr. STOCKSLAGER. If gentlemen wish to waste the day, very well.

The following additional pairs were announced from the Clerk's desk:

Mr. WILLIS with Mr. HENDERSON, of Illinois, on this vote.

Mr. AIKEN with Mr. WHITING, for the remainder of the day.

Mr. STONE with Mr. SUMNER, of California, for the remainder of the day.

Mr. GRAVES with Mr. STRUBLE, for this day.

The vote was then announced as above recorded.

Mr. RANDALL. I move that the House do now adjourn.

Mr. STOCKSLAGER. I hope the gentleman will not insist upon wasting the day in that way.

Mr. RANDALL. The motion to adjourn is not debatable, or else I would have something to say in reply to the gentleman's remark.

Mr. STOCKSLAGER. I thank the gentleman, and beg to inform him that I too would have something to say.

The SPEAKER. The question is on agreeing to the motion of the gentleman from Pennsylvania that the House do now adjourn.

The question was taken; and on a division there were—ayes 47, nays 72.

Mr. RANDALL. I ask for the yeas and nays.

The yeas and nays were ordered, 44 members voting in favor thereof.

The question was taken; and there were—yeas 63, nays 137, not voting 123; as follows:

YEAS—63.

Adams, J. J.	Geddes,	Moulton,	Swope,
Alexander,	Harmer,	Muller,	Talbott,
Bagley,	Henley,	Murray,	Taylor, J. M.
Ballentine,	Herbert,	Nicholls,	Thompson,
Barksdale,	Hewitt, A. S.	Oates,	Throckmorton,
Bland,	Hill,	Patton,	Townshend,
Boyle,	Holman,	Pettibone,	Tully,
Buchanan,	Howey,	Pierce,	Turner, H. G.
Buckner,	Hunt,	Potter,	Turner, Oscar
Clements,	Hutchins,	Randall,	Warner, A. J.
Cook,	McAdoo,	Robertson,	Warner, Richard
Covington,	McMillin,	Seymour,	Wilkins,
Deuster,	Matson,	Shively,	Williams,
Fiedler,	Millard,	Skinner, T. G.	Winans, John
Forney,	Miller, J. F.	Stevens,	Wolford.
Fyan,	Morgan,	Storm,	

NAYS—137.

Adams, G. E.	Dowd,	Jones, J. K.	Riggs,
Anderson,	Dunham,	Kean,	Rockwell,
Atkinson,	Eaton,	Keifer,	Rogers, W. F.
Barr,	Elliott,	King,	Rosecrans,
Bayne,	English,	Kleiner,	Rowell,
Beach,	Ermentrout,	Lamb,	Singleton,
Bingham,	Everhart,	Lanham,	Smalls,
Bisbee,	Ferrell,	Lawrence,	Smith, A. H.
Blount,	Findlay,	Le Fevre,	Snyder,
Boutelle,	Foran,	Libbey,	Stewart, Charles
Bowen,	Funston,	Long,	Stockslager,
Brainerd,	George,	Lore,	Strait,
Bratton,	Glascock,	Lovering,	Taylor, E. B.
Brewer, F. B.	Goff,	Maybury,	Taylor, J. D.
Brewer, J. H.	Green,	Milliken,	Tillman,
Brown, W. W.	Greenleaf,	Mitchell,	Tucker,
Brumm,	Halsell,	Money,	Van Eaton,
Budd,	Hammond,	Mutchler,	Wadsworth,
Burnes,	Hanback,	Neece,	Wakefield,
Cabell,	Hancock,	Nelson,	Wallace,
Caldwell,	Hardeman,	Ochiltree,	Washburn,
Campbell, J. M.	Hardy,	O'Ferrall,	Weaver,
Cannon,	Hart,	O'Hara,	Wellborn,
Cassidy,	Hatch, W. H.	O'Neill, J. J.	Wemple,
Connolly,	Haynes,	Paige,	White, J. D.
Cosgrove,	Hemphill,	Payne,	White, Milo
Cox, S. S.	Hewitt, G. W.	Payson,	Wilson, W. L.
Cox, W. R.	Holmes,	Peel,	Wise, G. D.
Craig,	Hopkins,	Perkins,	Wise, J. S.
Crisp,	Houk,	Peters,	Woodward,
Cullen,	James,	Price,	Worthington,
Davidson,	Jeffords,	Pryor,	York.
Davis, G. R.	Johnson,	Pusey,	
Davis, R. T.	Jones, B. W.	Ranney,	
Dibrell,	Jones, J. H.	Reed,	

NOT VOTING—123.

Aiken,	Converse,	Henderson, D. B.	McCormick,
Arnot,	Culberson, D. B.	Henderson, T. J.	Miller, S. H.
Barbour,	Culbertson, W. W.	Hepburn,	Mills,
Belford,	Curtin,	Hiscock,	Morrill,
Belmont,	Cutcheon,	Hitt,	Morrison,
Bennett,	Dargan,	Hoblitzell,	Morse,
Blackburn,	Davis, L. H.	Holton,	Muldrow,
Blanchard,	Dibble,	Hooper,	Murphy,
Breckinridge,	Dingley,	Horr,	Nutting,
Breitung,	Dockery,	Houseman,	O'Neill, Charles
Broadhead,	Dorsheimer,	Hurd,	Parker,
Browne, T. M.	Dunn,	Jones, J. K.	Phelps,
Burleigh,	Eldredge,	Jordan,	Poland,
Campbell, Felix	Ellis,	Kelley,	Post,
Campbell, J. E.	Ellwood,	Kellogg,	Rankin,
Candler,	Evans,	Ketcham,	Ray, G. W.
Carleton,	Finerty,	Lacey,	Ray, Ossian
Chace,	Follett,	Laird,	Reagan,
Chalmers,	Garrison,	Lewis,	Reese,
Clardy,	Gibson,	Lowry,	Rice,
Clay,	Graves,	Lyman,	Robinson, J. S.
Cobb,	Guenther,	McCoid,	Robinson, W. E.
Collins,	Hatch, H. H.	McComas,	Rogers, J. H.

Russell,	Spriggs,	Sumner, D. H.	Whiting,
Ryan,	Springer,	Thomas,	Willis,
Seney,	Steele,	Valentine,	Wilson, James
Shaw,	Stephenson,	Van Alstyne,	Winans, E. B.
Skinner, C. R.	Stewart, J. W.	Vance,	Wood,
Slocum,	Stone,	Wait,	Yaple,
Smith, H. Y.	Struble,	Ward,	Young.
Spooner,	Sumner, C. A.	Weller,	

So the House refused to adjourn.

Mr. STOCKSLAGER. Mr. Speaker, I ask to dispense with the reading of the names.

Mr. MCMILLIN, Mr. STORM, Mr. WARNER, of Ohio, and others objected.

The following additional pairs were announced:

Mr. SUMNER, of California, with Mr. STONE, for the balance of this day.

Mr. FERRELL with Mr. FIEDLER, for this day.

Mr. LEWIS with Mr. ROGERS, of Arkansas, on this question.

Mr. POST, of Pennsylvania, with Mr. WILSON, of Iowa, on all political questions, for the remainder of this day.

Mr. HOBLITZELL with Mr. MCCORMICK, on all political questions, for the remainder of this day.

The result of the vote was then announced as above recorded.

Mr. WARNER, of Ohio. Mr. Speaker, I move that when the House adjourn to-day it be to meet on Monday next.

Mr. KEIFER. I make the point of order that that motion is not in order.

The SPEAKER. The Chair will hear the gentleman on the point of order.

Mr. KEIFER. I do not care to discuss it further than to state that a motion was made and carried by which the House decided to go into Committee of the Whole House on the state of the Union for the purpose of considering such measures as were involved in a particular special order. After that motion was carried I submit, Mr. Speaker, that it is not in order for the Chair to entertain any motion of any kind, especially the motion to fix a time to which the House shall adjourn.

Mr. RANDALL. I ask for the reading of the rule.

The SPEAKER. The Chair will state that if this were an original question the Chair would probably have some doubt as to whether the motion to take a recess, or to adjourn, or to fix a day to which the House shall adjourn, would be in order after the House had resolved to go into Committee of the Whole House on the state of the Union.

The fifth paragraph of Rule XVI is as follows:

> A motion to fix the day to which the House shall adjourn, a motion to adjourn, and to take a recess shall always be in order, and the hour at which the House adjourns shall be entered on the Journal.

During the last Congress, while the gentleman who now makes the point of order was presiding in the House, this same question was raised on a motion to adjourn, which the House will observe is, under the rule, put upon precisely the same footing as a motion to take a recess, or to fix a day to which the House shall adjourn, and against which a similar point of order was raised. The point of order was overruled by the Chair and the motion was entertained after the House had resolved to go into Committee of the Whole House on the state of the Union. [Applause on the Democratic side.] And while the Chair would have great doubt as to whether such a motion could be entertained if it were an original question, after the motion to go into Committee of the Whole on the state of the Union had been adopted, the Chair thinks it is better to have uniformity in the rulings on the subject, and therefore overrules the point of order. [Laughter and applause on the Democratic side.]

Mr. KEIFER rose.

The SPEAKER. Does the gentleman from Ohio desire to be heard further?

Mr. KEIFER. I only desire to observe that while I am not familiar with the exact circumstances under which that question arose, I think that there is a distinction between the two cases. But perhaps the Chair is right and I am very thankful to it for following the precedent set.

Mr. RANDALL (from his seat). That is very gracefully done.

The SPEAKER. The question is on agreeing to the motion of the gentleman from Ohio that when the House adjourns to-day it be to meet on Monday next.

The question was taken; and on a division there were—ayes 57, noes 58.

Mr. WARNER, of Ohio. We had better have tellers.

Mr. STOCKSLAGER. Let us have the yeas and nays at once.

The yeas and nays were ordered, 48 members voting therefor.

The question was taken; and there were—yeas 41, nays 163; not voting 119, as follows:

YEAS—41.

Adams, G. E.	Davis, G. R.	Matson,	Robertson,
Atkinson,	Fyan,	Miller, J. F.	Skinner, T. G.
Ballentine,	Geddes,	Moulton,	Snyder,
Barksdale,	Herbert,	Murray,	Storm,
Bland,	Hewitt, A. S.	Patton,	Swope,
Browne, T. M.	Hill,	Payson,	Thompson,
Brumm,	Holman,	Pierce,	Throckmorton,
Chace,	Horr,	Pettibone,	Williams.
Cobb,	Hutchins,	Phelps,	
Cook,	Le Fevre,	Randall,	
Culbertson, W. W.	McAdoo,	Reed,	

NAYS—163.

Alexander,	Dunham,	Lanham,	Seymour,
Anderson,	Eldredge,	Lawrence,	Shively,
Bagley,	Elliott,	Lewis,	Singleton,
Barr,	English,	Libbey,	Smalls,
Bayne,	Ermentrout,	Long,	Smith, A. Herr
Beach,	Everhart,	Lore,	Stevens,
Bisbee,	Findlay,	Lovering,	Stewart, Charles
Blount,	Foran,	Lyman,	Stockslager,
Boutelle,	Forney,	McComas,	Strait,
Bowen,	Funston,	McMillin,	Taylor, E. B.
Boyle,	George,	Maybury,	Taylor, J. D.
Brainerd,	Glascock,	Millard,	Taylor, J. M.
Bratton,	Goff,	Milliken,	Tillman,
Breitung,	Green,	Money,	Townshend,
Brewer, F. B.	Greenleaf,	Morgan,	Tucker,
Brown, W. W.	Halsell,	Morrill,	Tully,
Buchanan,	Hammond,	Mutchler,	Turner, H. G.
Budd,	Hanback,	Neece,	Turner, Oscar
Burnes,	Hancock,	Nicholls,	Van Eaton,
Cabell,	Hardeman,	Nutting,	Wait,
Caldwell,	Hart,	Oates,	Wallace,
Campbell, J. M.	Hatch, W. H.	Ochiltree,	Warner, A. J.
Candler,	Haynes,	O'Ferrall,	Warner, Richard
Cannon,	Hemphill,	O'Hara,	Washburn,
Cassidy,	Hewitt, G. W.	O'Neill, J. J.	Weaver,
Clardy,	Holmes,	Paige,	Wellborn,
Clements,	Hopkins,	Payne,	Wemple,
Connolly,	Houk,	Peel,	White, J. D.
Cosgrove,	Houseman,	Perkins,	White, Milo
Covington,	Howey,	Peters,	Wilkins,
Cox, S. S.	Hunt,	Price,	Wilson, W. L.
Cox, W. R.	Jeffords,	Pryor,	Winans, E. B.
Crisp,	Johnson,	Pusey,	Winans, John
Cullen,	Jones, B. W.	Riggs,	Wise, G. D.
Curtin,	Jones, J. H.	Robinson, J. S.	Wise, J. S.
Cutcheon,	Kean,	Rockwell,	Wolford,
Davidson,	Keifer,	Rogers, J. H.	Woodward,
Davis, R. T.	King,	Rogers, W. F.	Worthington,
Deuster,	Kleiner,	Rosecrans,	Yaple,
Dibrell,	Lacey,	Rowell,	York.
Dowd,	Lamb,	Seney,	

NOT VOTING—119.

Adams, J. J.	Dunn,	Kelley,	Ryan,
Aiken,	Eaton,	Kellogg,	Shaw,
Arnot,	Ellis,	Ketcham,	Skinner, C. R.
Barbour,	Ellwood,	Laird,	Slocum,
Belford,	Evans,	Lowry,	Smith, H. Y.
Belmont,	Ferrell,	McCold,	Spooner,
Bennett,	Fiedler,	McCormick,	Spriggs,
Bingham,	Finerty,	Miller, S. H.	Springer,
Blackburn,	Follett,	Mills,	Steele,
Blanchard,	Garrison,	Mitchell,	Stephenson,
Breckinridge,	Gibson,	Morrison,	Stewart, J. W.
Brewer, J. H.	Graves,	Morse,	Stone,
Broadhead,	Guenther,	Muldrow,	Struble,
Buckner,	Hardy,	Muller,	Sumner, C. A.
Burleigh,	Harmer,	Murphy,	Sumner, D. H.
Campbell, Felix	Hatch, H. H.	Nelson,	Talbott,
Campbell, J. E.	Henderson, D. B.	O'Neill, Charles	Thomas,
Carleton,	Henderson, T. J.	Parker,	Valentine,
Chalmers,	Henley,	Poland,	Van Alstyne,
Clay,	Hepburn,	Post,	Vance,
Collins,	Hiscock,	Potter,	Wadsworth,
Converse,	Hitt,	Rankin,	Wakefield,
Craig,	Hoblitzell,	Ranney,	Ward,
Culberson, D. B.	Holton,	Ray, G. W.	Weller,
Dargan,	Hooper,	Ray, Ossian	Whiting,
Davis, L. H.	Hurd,	Reagan,	Willis,
Dibble,	James,	Reese,	Wilson, James
Dingley,	Jones, J. K.	Rice,	Wood,
Dockery,	Jones, J. T.	Robinson, W. E.	Young.
Dorsheimer,	Jordan,	Russell,	

So the motion to adjourn over was not agreed to.

Mr. STOCKSLAGER. I ask unanimous consent to dispense with the reading of the names.

Mr. MCMILLIN. I object.

The following additional pairs were announced:

Mr. HENLEY with Mr. BREWER, of New Jersey, for the remainder of the day.

Mr. TALBOTT with Mr. HOLTON, for the remainder of the day.

The result of the vote was then announced as above stated.

Mr. MCMILLIN. I move that the House do now adjourn.

Mr. STOCKSLAGER. I hope the House will not adjourn before 5 o'clock.

The question being taken on Mr. MCMILLIN's motion, there were—ayes 92, noes 52.

Mr. STOCKSLAGER. As the House seems disposed not to go on with the public business I shall not call for the yeas and nays.

So the motion was agreed to.

And accordingly (at 4 o'clock and 25 minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions and papers were laid on the Clerk's desk, under the rule, and referred as follows:

By Mr. BLOUNT: Papers relating to the claim of James Lord—to the Committee on War Claims.

By Mr. BARKSDALE: Bill making an appropriation for the repair of a certain levee on the Mississippi River, known as the "Bend," below Rodney, in Jefferson County, Mississippi—to the Committee on Rivers and Harbors.

Also, bill making an appropriation of $20,000 for the improvement of Big Black River, in the State of Mississippi—to the same committee.

By Mr. F. B. BREWER: Petition of citizens of Fredonia, N. Y., to increase widows' pensions—to the Committee on Invalid Pensions.

Also, petition of citizens of Ellington, N. Y., to increase widows' pensions—to the same committee.

By Mr. COVINGTON: Petition of citizens of Talbot County, Maryland, for the deepening of Dividing Creek—to the Committee on Rivers and Harbors.

By Mr. S. S. COX: Petition of W. M. Folger and 47 others, officers of the Navy, for relief from the stagnation in promotion, &c.—to the Committee on Naval Affairs.

By Mr. ENGLISH: Petition of merchants and business men of Indianapolis, against the bankrupt bill—to the Committee on the Judiciary.

By Mr. ERMENTROUT: Memorial of Philadelphia Board of Trade, favoring the Lowell bankrupt bill—to the same committee.

By Mr. FORAN: Petition of vessel-owners and merchants of Cleveland, Ohio, praying for the continuance of the improvement of the harbor of Grand Marais, Mich.—to the Committee on Rivers and Harbors.

By Mr. FORAN: Petition of leading merchants and citizens of Cleveland, Ohio, praying for the passage of the bill providing for the construction of the Hennepin Canal—to the Committee on Commerce.

By Mr. HALSELL: Petition of W. A. Meredith and 62 others, citizens of Edmonson County, Kentucky, for repeal of tax on whisky—to the Committee on Ways and Means.

By Mr. HOPKINS: Paper relating to the claim for relief of Joseph Snapp—to the Committee on War Claims

By Mr. JEFFORDS: Papers relating to the claim of Robert S. Woodbury and George W. Woodbury, jr.—to the same committee.

By Mr. LIBBEY: Petition and papers for increase of pension of Henry Barton, late Company C, First Regiment Virginia Light Artillery—to the Committee on Invalid Pensions.

Also, papers to accompany claim of the heirs of the late Joseph P. and Emily I. Tuttle—to the Committee on War Claims.

By Mr. LONG: Petition of W. F. Bradbury and others, asking the passage of the bill to establish the metric system of weights and measures in the Departments of the Government—to the Committee on Coinage, Weights, and Measures.

By Mr. MAYBURY: Petition of Mrs. A. E. Bartholomew, guardian of John Winchell, for allowance of arrearage of pension—to the Committee on Pensions.

By Mr. MORSE: Petition of manufacturers and merchants of Boston, Mass., asking for the ratification of the reciprocity convention with Spain—to the Committee on Foreign Affairs.

By Mr. CHARLES O'NEILL: Resolution of the Board of Trade of Philadelphia, urging the passage at an early day of the Lowell bankrupt bill—to the Committee on the Judiciary.

By Mr. PAIGE: Petition of Joseph Hugill and others, of Akron, Ohio, for the passage of the reciprocity treaty with Mexico—to the Committee on Ways and Means.

By Mr. ROGERS: Memorial of Margaret B. Harwood, widow of Admiral A. A. Harwood, asking for a pension—to the Committee on Pensions.

By Mr. SENEY: Petition of American Mask Company, asking 25 per cent. additional tariff on imported masks—to the Committee on Ways and Means.

By Mr. A. H. SMITH: Memorial of the Philadelphia Board of Trade, urging the passage of the Lowell bankrupt bill—to the Committee on the Judiciary.

Also, remonstrance of 105 citizens of Lancaster County, Pennsylvania, against the ratification of the Spanish treaty—to the Committee on Ways and Means.

By Mr. E. B. TAYLOR: Petition of Betay M. Taft, for increase of widows' pensions—to the Committee on Invalid Pensions.

Also, petition of Mrs. M. M. Milligan and others, for increase of widows' pensions—to same committee.

By Mr. A. J. WARNER: Petition of David H. Cunningham and others, citizens of Chauncey, Athens County, Ohio, asking for an increase of widows' pensions—to the Committee on Pensions.

Also, petition of William Kirk, asking for arrears of pension—to the Committee on Invalid Pensions.

By Mr. G. D. WISE: Memorial of the Richmond (Va.) public school board, asking the passage of the Blair educational bill—to the Committee on Education.

By Mr. YAPLE: Petition of Sarah Dowling and 20 others, citizens of Mendon, Mich., for increase of widows' pensions—to Committee on Invalid Pensions.

The following petitions for the passage of the Mexican war pension bill with Senate amendments were presented, and severally referred to the Committee on Pensions:

By Mr. BRAINERD: Of citizens of Warren County, Pennsylvania.

By Mr. BURLEIGH: Of citizens of Fort Ann, and of citizens of Fort Edward, N. Y.

By Mr. J. M. CAMPBELL: Of citizens of Woodbury, Pa.

By Mr. CONNOLLY: Of Thomas T. Morgan and 61 others, residents of Luzerne County, Pennsylvania.

By Mr. CULLEN: Of H. C. Stage and 89 others, citizens and ex-soldiers of Utica; and of A. H. Dale and others, citizens and ex-soldiers of Leland, Ill.

By Mr. CURTIN: Of citizens of Clearfield County, of Kylertown, of New Washington, and of Centre County, Pennsylvania.

By Mr. ELDREDGE: Of 63 citizens of Hudson, Mich.

By Mr. ENGLISH: Of George F. Walker, of Shelby County, Indiana.

By Mr. FORAN: Of 90 citizens of Guernsey County, Ohio.

By Mr. FUNSTON: Of citizens of Altamont; of Edgartown, Johnson County; of McCune; of Mulberry Grove, and of North Lawrence, Kans.

By Mr. GEDDES: Of E. S. Cleland and 150 others, citizens of Richland County, Ohio.

By Mr. HANBACK: Of 100 citizens of Portis, Osborne County, Kansas.

By Mr. HART: Of Elijah Davis and 124 others, citizens of Ohio.

By Mr. D. B. HENDERSON: Of 103 citizens of Butler County, Iowa.

By Mr. HUTCHINS: Of citizens of Westchester County, New York.

By Mr. JOHNSON: Of Warren H. Duell and others, of Johnsburg, N. Y.

By Mr. KEIFER: Of O. P. Crabb and 200 others, citizens of Madison County, Ohio.

By Mr. MILLIKEN: Of G. R. Barstow and others, of Newcastle; of Joseph G. Sawyer and others, of East Hampden, and of John Frisbee and others, of Winnegance, Me.

By Mr. MORRILL: Of R. L. Sturges and 126 others, of Kansas.

By Mr. MUTCHLER: Of citizens of Easton County, Pennsylvania.

By Mr. NUTTING: Of 124 citizens of Madison County; of 67 citizens of Oswego County, and of 53 citizens of Oswego County, New York.

By Mr. G. A. POST: Of citizens of Grover; of Fairdale; of Ariel; of 60 citizens of South Gibson; of 43 citizens of North Jackson; of 63 citizens of Milan, and of 125 citizens of Honesdale.

By Mr. A. H. SMITH: Of 120 citizens of Lancaster County, Pennsylvania.

My Mr. STRAIT: Of 283 citizens of Litchfield, Minn.

By Mr. STRUBLE: Of H. A. Scott and 125 others, of O'Brien County; of H. A. Jones and 100 others, citizens of Sac County; of A. R. Matfield and 43 others, citizens of Carroll County; of David Collins and 70 others, citizens of Calhoun County; of R. A. Horton and 62 others, of Calhoun County; of Joseph M. Richards and 41 others, of Clay County, and of Lewis Kinner and 63 others, of Madison County, Iowa.

By Mr. E. B. TAYLOR: Of citizens of Ashtabula County; of A. T. Crafts and others, of Portage County, and of M. D. Wilsey, of Denmark, Ohio.

By Mr. J. D. TAYLOR: Of William Russell and others, of Belmont County, Ohio.

By Mr. VALENTINE: Of J. A. Armour and 52 others, citizens of Custer County; of William D. Meeker and 35 others, of Custer County; of William Sexton and 62 others, of Genoa, Nance County; of W. T. McFarland and 62 others, of Stanton County; of A. V. Murphy and 110 others, of Shelton; of E. P. Drake and 75 others, of Cedar County; of M. V. Day and 121 others, of Ainsworth, Brown County, and of L. H. Harris and 124 others, of Saint Paul, Nebr.

By Mr. WILKINS: Of Simon B. Kersteter and 70 others, citizens of Coshocton County, Ohio.

By Mr. WINANS: Of M. S. Newman and 40 others, soldiers of De Witt, Clinton County, Michigan.

SENATE.

FRIDAY, *January* 9, 1885.

Prayer by Rev. A. J. KYNETT, D. D., of Philadelphia.

The Journal of yesterday's proceedings was read and approved.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of War, transmitting, in response to a resolution of the 8th ultimo, a letter from the Chief of Engineers and accompanying report of Lieut. Col. George W. Elliott, Corps of Engineers, showing the necessity for the enlargement of the basin at Block Island, R. I., for the proper accommodation of the shipping seeking refuge at that place, and submitting an estimate of the cost thereof; which, with the accompanying papers, on motion of Mr. SHEFFIELD, was referred to the Committee on Commerce, and ordered to be printed.

The PRESIDENT *pro tempore*. The Chair lays before the Senate a communication from the Secretary of the Navy, transmitting the report of the board of officers appointed to investigate the comparative merits of anthracite and bituminous coal for ordinary naval uses. If there be no objection the communication will be printed, and, together with the accompanying papers, referred to the Committee on Naval Affairs.

The accompanying papers are quite voluminous, and if the Committee on Naval Affairs should think it desirable to print them they can report a resolution for that purpose.

HOUSE BILLS REFERRED.

The bill (H. R. 4273) for the relief of Madison R. Calvert was read twice by its title, and referred to the Committee on Claims.

The bill (H. R. 7329) granting right of way to the Fremont, Elkhorn and Missouri Valley Railroad Company across the Fort Robinson military reservation, in the State of Nebraska, was read twice by its title, and referred to the Committee on Military Affairs.

The bill (H. R. 7871) to remove the political disabilities of W. H. Ward, and the bill (H. R. 7872) to remove the political disabilities of Gabriel H. Hill, of Virginia, were read twice by their titles, and referred to the Committee on the Judiciary.

The joint resolution (H. Res. 309) extending the permission granted Maj. William Ludlow by the act of February 28, 1883, to accept a civil position was read twice by its title, and referred to the Committee on Military Affairs.

PETITIONS AND MEMORIALS.

Mr. HARRISON. I present the petition of a large number of business men of Evansville, Ind., praying for the passage of the bill providing for the construction of the Hennepin Canal. I move that the petition be referred to the Committee on Commerce.

The motion was agreed to.

Mr. HARRISON. I also ask leave to present a communication from the cigar-makers' union of Union City, Ind., opposing any alteration of the tariff on imported cigars in the Mexican treaty. It is not quite in the form of a memorial, but I ask unanimous consent to present it, and move its reference to the Committee on Foreign Relations.

The PRESIDENT *pro tempore*. If there be no objection the paper will be received and referred to the Committee on Foreign Relations.

Mr. SAWYER presented memorials of the cigar-makers' unions of Milwaukee, Oshkosh, Eau Claire, and Watertown, Wis., remonstrating against the ratification of the proposed Spanish reciprocity treaty; which were referred to the Committee on Foreign Relations.

Mr. LAPHAM presented a memorial of Cigar-makers' Union No. 12, of Oneida, Madison County, New York, remonstrating against the ratification of the proposed Spanish reciprocity treaty; which was referred to the Committee on Foreign Relations.

Mr. SEWELL. I present a memorial of cigar-makers of Newark, N. J.; a memorial of the cigar-makers' union of Jersey City, N. J., and resolutions adopted by the Irish-American Union of Hudson County, New Jersey, remonstrating against the ratification of the proposed Spanish reciprocity treaty on the ground of its interference with the industrial interests of the country, particularly with regard to the iron-mining industry. I move that the memorials be referred to the Committee on Foreign Relations.

The motion was agreed to.

Mr. PALMER. I present memorials of citizens of forty-eight cities and towns of Michigan, remonstrating against the establishment of a Government monopoly of the telegraph business. I move that the memorial be referred to the Committee on Post-Offices and Post-Roads.

The motion was agreed to.

Mr. PLATT. I present a communication from the cigar-makers' union of Danbury, Conn., which, although addressed to me, is in the nature of a memorial, remonstrating against the ratification of the proposed Spanish treaty. I ask that it be received, and move its reference to the Committee on Foreign Relations.

The PRESIDENT *pro tempore*. The communication will be received and so referred if there be no objection.

Mr. COCKRELL presented a memorial of the Academy of Sciences of Saint Louis, Mo., in favor of the removal of the duty of 25 per cent. on foreign scientific books and 40 per cent. on foreign scientific apparatus, and that they be allowed to enter free of duty; which was referred to the Committee on Finance.

He also presented a memorial and resolutions adopted by the board of directors of the Merchants' Exchange of Saint Louis, held on the 5th of January, protesting against the ratification of the Spanish-American treaty, and giving their reasons therefor; which were referred to the Committee on Foreign Relations.

Mr. COCKRELL. I present certain evidence to accompany the bill (H. R. 5960) granting a pension to George Ziefle. The evidence includes the affidavits of Capt. A. J. Stewart, Dr. C. A. Williams, Dr. Thomas W. McArthur, and Lieut. Col. A. J. Swain; the petition of George Ziefle, and of many citizens of his residence; the affidavit of Lieutenant Hereford; the certificate of Dr. McArthur, and letter from the Secretary of War, transmitting official copies of orders made at the time referred to. I ask that these papers be received, and move their reference to the Committee on Pensions.

The motion was agreed to.

REPORTS OF COMMITTEES.

Mr. SHERMAN. I am directed by the Committee on the Library to report back a number of petitions praying for the purchase of the picture painted by Miss Ransom of General Thomas, and to report an amendment on the subject which will be offered to the sundry civil appropriation bill.

The PRESIDENT *pro tempore*. If there be no objection the amendment will be printed and referred to the Committee on Appropriations.

Mr. SHERMAN. I present the petition of Miss Caroline L. Ransom, of Washington, D. C., offering to sell to Congress her portrait of Maj. Gen. George H. Thomas, and ask that it be placed on file with the petitions on this subject just reported by me from the Committee on the Library.

The PRESIDENT *pro tempore*. That order will be made if there be no objection.

Mr. SHERMAN. I am also directed by the Committee on the Library to report an amendment to the sundry civil appropriation bill for the purchase of the picture of the electoral commission.

The PRESIDENT *pro tempore*. If there be no objection, the amendment will be printed and referred to the Committee on Appropriations.

Mr. JACKSON. I am instructed by the Committee on Pensions, to whom was referred the bill (H. R. 6328) granting a pension to Samuel W. Bowling, to submit an adverse report thereon.

Mr. COCKRELL. Let the bill be placed upon the Calendar.

The PRESIDENT *pro tempore*. The bill will be placed upon the Calendar with the adverse report of the committee.

Mr. JACKSON, from the Committee on Pensions, to whom was referred the bill (H. R. 4708) granting a pension to Moses Fullington, submitted an adverse report thereon, which was agreed to; and the bill was postponed indefinitely.

Mr. JACKSON. I am also instructed by the same committee, to whom was referred the bill (S. 2511) relating to claim agents and attorneys in pension cases, to report it favorably without amendment, and ask that it be placed upon the Calendar. I am also directed to give notice that I shall ask the Senate to take the bill up for consideration on Monday morning during the morning hour.

The PRESIDENT *pro tempore*. The bill will be placed on the Calendar.

Mr. HARRIS, from the Committee on the District of Columbia, to whom was referred the petition of George N. Marden, praying compensation for land alleged to have been taken by the Government for the distributing aqueduct in Washington, asked to be discharged from its further consideration, and that it be referred to the Committee on Claims; which was agreed to.

Mr. DOLPH, from the Committee on Public Lands, to whom was referred the bill (S. 2483) to amend section 2347 of the Revised Statutes, relating to the entry of coal lands, reported it without amendment, and submitted a report thereon.

He also, from the same committee, to whom was referred the bill (H. R. 27) to amend an act entitled "An act to exclude the public lands in Alabama from the operation of the laws relating to mineral lands," approved March 3, 1883, and to extend the provisions of said act and the amendments thereto to the public lands in the States of Mississippi, Arkansas, Louisiana, and Florida, reported it with amendments.

Mr. WILSON, from the Committee on Pensions, to whom was referred the bill (S. 2231) granting a pension to Mrs. Kate A. Drummond, reported it without amendment, and submitted a report thereon.

He also, from the same committee, to whom was referred the bill (H. R. 1256) increasing the pension of Ben Morgan, reported it without amendment, and submitted a report thereon.

He also, from the same committee, to whom was referred the bill (H. R. 5336) granting a pension to Maria C. McPherson, submitted an adverse report thereon, which was agreed to; and the bill was postponed indefinitely.

Mr. CULLOM, from the Committee on Pensions, to whom was referred the bill (H. R. 2920) for the relief of John Johnson, reported it without amendment, and submitted a report thereon.

He also, from the same committee to whom was referred the bill (S. 2282) for the relief of John Johnson, moved its indefinite postponement; which was agreed to.

He also, from the some committee, to whom was referred the bill (H. R. 6665) for the relief of James Stack, reported it without amendment, and submitted a report thereon.

Mr. MITCHELL, from the Committee on Pensions, to whom was referred the bill (H. R. 2987) restoring Rebecca Walcott to the pension-roll, reported it without amendment, and submitted a report thereon.

DISTRIBUTION OF DOCUMENTS.

Mr. SHERMAN. I am directed by the Committee on the Library, to whom was referred the bill (S. 2449) to provide for the distribution of the statutes of the United States and the CONGRESSIONAL RECORD to designated incorporated bodies, institutions, and associations within the several States and Territories, to report it without amendment. I ask for its immediate consideration, as it relates to the distribution of documents and should be acted upon.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill. It requires the Secretary of the Interior to furnish to incorporated bodies, institutions, and associations to be designated to him by Senators of the several States respectively, and by the Representatives in Congress, and by the Delegate from each

Territory, one bound copy of the statutes of the United States enacted by the Forty-eighth Congress and each succeeding Congress, and of the CONGRESSIONAL RECORD for that Congress and each future Congress, in the manner provided in sections 501 and 502 of the Revised Statutes of the United States for the distribution of other books and public documents therein mentioned.

Mr. MORGAN. I think we ought to amend the bill so as to furnish a copy of these papers, particularly the statutes, to the supreme courts of the Indian Territory, the Cherokee, Choctaw, Chickasaw, and Creek Nations. Those tribes have supreme courts well organized; they publish their decisions in very excellent form, and they are learned opinions, worthy of the bench in any part of the country. I attempted, some sessions ago, at the instance of a gentleman of the bar of the Creek Indian country, who is a full-blooded Indian, but a very accomplished lawyer, to have a similar provision made, and introduced a bill to that effect, which I believe the Senate passed, but at all events it never became a law. This being a good opportunity, I suggest to the Senator who reported the bill whether that would not be a good amendment to it.

Mr. SHERMAN. This bill does not increase or change the number of persons receiving public documents. It follows the language of the law. It simply provides that with the other documents that are distributed under the existing law a copy of the United States Statutes at Large and of the CONGRESSIONAL RECORD shall be sent. So I do not think the amendment the Senator suggests would answer the purpose. The bill does not increase, to any extent whatever, the number of persons to whom documents are sent. It only provides for sending them two other documents which they do not now receive.

I have no objection to the amendment of the Senator if he desires to frame it; but if he wishes to increase the number of persons entitled to documents, this bill does not do that; it does not change the law in that respect.

Mr. MORGAN. Of course if my amendment would not be effectual I do not wish to disturb the manner and form of the bill.

Mr. SHERMAN. I desire to say also that this measure is recommended by the Secretary of the Interior and is very much desired. Indeed, it seems to be absolutely necessary now, since the Statutes at Large are printed at the Public Printing Office and the RECORD is printed there, that these documents should be furnished in this way by the public authorities.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

VESSELS OF GREELY RELIEF EXPEDITION.

Mr. CAMERON, of Pennsylvania. I am instructed by the Committee on Naval Affairs to report back favorably the bill (S. 2379) to authorize the transfer of one of the vessels of the Greely relief expedition to the Treasury Department for a revenue-cutter and the retention of the other two for use in the Navy, and I ask for its immediate consideration.

The PRESIDENT *pro tempore*. Is there objection to the present consideration of the bill?

Mr. HOAR. If it leads to no debate I shall not object. If it leads to debate, I must object.

Mr. CAMERON, of Pennsylvania. If it leads to any debate, I shall withdraw it.

Mr. HOAR. I desire to reserve the right to object if the bill leads hereafter to discussion, except the Senator's explanation; I do not object to that.

The PRESIDENT *pro tempore*. The Senator from Massachusetts asks leave to object to the bill at any stage. Is there objection to that? The Chair hears none. The bill is before the Senate as in Committee of the Whole and will be read.

The Chief Clerk read the bill, as follows:

Be it enacted, &c., That the Secretary of the Navy be, and is hereby, directed to transfer to the Treasury Department, for use as a revenue-cutter in the waters of Alaska, one of the vessels of the late Greely relief expedition, and place the other two for use in the Navy, as surveying vessels or otherwise.

Mr. CAMERON, of Pennsylvania. I will state that under the laws which exist at present the Secretary of the Navy is compelled to offer these vessels at public sale. I will read an extract from a letter from C. L. Hooper, captain United States Marine Service, addressed to the Senator from Oregon [Mr. DOLPH]. The captain says:

For a number of years our vessels have been called upon to cruise in the Arctic regions, but no provision has been made to furnish us with suitable vessels. Our little cutters are all right for the purpose for which they were intended, but are unfit for the work which we now have to do on the coast of Alaska, being entirely too small and not sufficiently strong in their build. The Corwin, a little vessel intended for service on the Columbia River, has been five successive years cruising from May until October in the waters of Behring Sea and the Arctic Ocean; and this without any special fitting other than a thin sheathing of oak to protect the pine plank from chafe by the ice. She has accommodation, by packing close, for thirty-seven persons; but almost every year it is found necessary, in order to relieve persons actually in distress, to take on board many (sometimes as high as forty) in addition to her regular complement. Of course the condition of so many people confined in such small quarters is very bad, and there is constant danger of disease breaking out. Therefore there is nothing to do but end the voyage and return to San Francisco.

Then her capacity for carrying provisions is entirely too small. It is criminal to send a vessel into the Arctic Ocean to take her chances in the ice and run the risks our vessels run each year without sufficient food on board to sustain life during the winter should she become fast.

The coal capacity of the Corwin is also entirely too small, and going out of the Arctic to coal several times each summer occupies a good deal of time which can be poorly spared.

If the Revenue-Marine Service is to be required to send a vessel into the Arctic Ocean each year to protect the interests of commerce and enforce the laws, a suitable vessel should be furnished for the purpose. I am not sufficiently acquainted with the relative merits of the Bear and Thetis to decide which would be the more suitable. It is probable that either would answer the purpose. The Alert is perhaps a little larger than we need.

This subject was referred to the Secretary of the Navy, and a letter was received from him this morning, which is in these words:

NAVY DEPARTMENT, *Washington, January 9, 1884.*

SIR: In response to your letter of January 8, inclosing a copy of Senate bill No. 2379, in relation to the vessels of Greely relief expedition, I have the honor to reply that in the annual report of this Department of December 1, 1884, the following opinion is expressed:

"The joint resolution of February 13, 1884, directed the sale of the vessels which might be purchased for the Greely relief expedition. The sale has not yet been made, and it is recommended that the Thetis and Bear be retained for surveying vessels, or to cruise in the waters of Alaska, or for use in the training service."

The views above expressed are confirmed by further consideration of the subject. It is very desirable that the Thetis and Bear should be retained for that peculiar service of the Government for which they are specially and admirably adapted.

Very respectfully,

W. E. CHANDLER,
Secretary of the Navy.

Hon. J. D. CAMERON,
Chairman of the Committee on Naval Affairs, United States Senate.

From this letter it will be seen that one of the vessels will not be requisite for the service of the Navy, and it can be very readily transferred to the Revenue Marine. I hope the bill will be passed.

Mr. MCPHERSON. I should like to supplement the statement made by the Senator from Pennsylvania by stating what I understand to be the true condition of affairs respecting these vessels. The law, it will be remembered, authorized their purchase for a special purpose, and that purpose having been accomplished, the Secretary of the Navy was required to immediately dispose of the vessels. It is well known that owing to the very small demand for vessels of this class, or indeed of any class, at the present time, it would be impossible perhaps to sell them for anything like the value that they may have to the Government for other purposes. If I understand the Senator correctly, the bill simply authorizes the Secretary of the Navy either to sell the vessels or to retain them in the service, as is deemed to be for the best interests of the country.

Mr. CONGER. Let the bill be read again.

The PRESIDING OFFICER (Mr. GARLAND in the chair). The bill will be again read.

The Chief Clerk read the bill.

Mr. MCPHERSON. I should like to suggest to the Senator from Pennsylvania if it would not be wiser to use the word "authorized," so that if an offer should be made for one of these vessels the Secretary of the Navy would have full authority to sell it, or it could be diverted to the purpose spoken of if it was found to be available. The bill leaves him no option whatever; it simply directs him.

Mr. CAMERON, of Pennsylvania. I have no objection whatever to his being authorized to retain the two vessels in the service, but the other one, I think, should be directly transferred to the Treasury Department for the use of the Revenue-Marine Service. I will so modify the bill.

Mr. MCPHERSON. While the Senator from Pennsylvania is preparing an amendment, I should like to make an inquiry of him as to what action has been taken by the Government touching the vessel which was presented to us by Great Britain. I believe the bill of the Senator from Pennsylvania includes that too. I have heard it stated somewhere that it was the purpose of the Government to tender it back to the Government of Great Britain accompanied with thanks. I do not know but what we may complicate the situation if it should be the desire or purpose of the Government to send the ship back to Great Britain, and I ask whether we should not be legislating in such a way that it would be impossible to do that? I ask for information, as I am not thoroughly advised upon that question.

Mr. CAMERON, of Pennsylvania. In reply to the Senator from New Jersey I will state that from the letter of the Secretary of the Navy received this morning I am led to believe that he is compelled under the law to offer all these vessels for sale, including the one received from Great Britain. Whether there has been anything done by Congress relative to the return of that vessel to Great Britain with the thanks of Congress, I do not know; it has not been done since my return to the Senate; but I will put in an amendment, at the suggestion of the Senator, which I think will remedy his objection. The bill would read as amended:

That the Secretary of the Navy be, and is hereby, directed to transfer to the Treasury Department, for use as a revenue-cutter in the waters of Alaska, one of the vessels of the late Greely relief expedition, and is hereby authorized to place the other two for use in the Navy as surveying vessels or otherwise.

So that he need not place the two there unless he sees fit. I think the amendment covers the Senator's objection.

The PRESIDENT *pro tempore*. The amendment will be reported.

The CHIEF CLERK. In line 6, after the word "and," it is proposed to insert the words "is hereby authorized to;" so as to read:

And is hereby authorized to place the other two for use in the Navy as surveying vessels or otherwise.

The PRESIDENT *pro tempore*. The question is on agreeing to the amendment.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

LUTHER STATUE ASSOCIATION.

Mr. INGALLS. I am directed by the Committee on the District of Columbia, to which was referred the bill (H. R. 4088) to incorporate the Luther Statue Association, to erect and maintain a monument or statue in memory of Martin Luther in the District of Columbia, to report it with the recommendation that it do pass; and at the request of the gentlemen interested I will ask the indulgence of the Senate for the present consideration of the bill.

The PRESIDENT *pro tempore*. The Senator from Kansas asks unanimous consent that the bill be now considered.

Mr. COCKRELL. Let it be read for information.

The PRESIDENT *pro tempore*. The bill will be read for information.

The Chief Clerk read the bill.

Mr. CONGER. Mr. President——

The PRESIDENT *pro tempore*. Is there objection to the present consideration of the bill?

Mr. COCKRELL. I should like to ask one question of the Senator reporting it, and that is why this incorporation can not be brought into existence under the general laws of the District of Columbia without this special legislation?

The PRESIDENT *pro tempore*. Strictly the Chair must ask if there be objection to the present consideration of the bill.

Mr. COCKRELL. I object to it unless that explanation can be given.

The PRESIDENT *pro tempore*. If there be no objection the Chair will allow debate to go on by unanimous consent.

Mr. CONGER. The general law provides a limit to the powers of a corporation. In this case the Lutherans of the United States have erected a statue on the point of church property fronting the Thomas Circle, and the land is a part of a point of the church property on which the Lutheran church is. Under the general law there is a limitation of the continuance of the corporate powers, which would make it necessary to watch and have new laws passed. All they desire is that there shall be a number of gentlemen of that denomination who shall succeed perpetually to the control and keeping of this statue.

Mr. COCKRELL. Five thousand feet is the amount of land they are to have by the bill. Is not that not much more than is occupied by the statue?

Mr. CONGER. But the bill was introduced before the site was selected and before the statue was brought to this country from Germany. Since that time the Lutheran Memorial Church has agreed to donate and as far as it can do so has donated the little point of land fronting the Thomas Circle between Vermont avenue and Fourteenth street. The statue has arrived here and been erected and placed there, and the amount of land is limited to whatever of that little point has been given by the church association.

Mr. COCKRELL. Ought there not to be a limitation in the bill? I know where the statue is, and I have no objection in the world to the bill if you limit it to the actual amount of land used there, but do not make it sufficient to cover a square or block and exempt it from taxation.

Mr. CONGER. The report of the House committee says:

The only power given is to erect and keep up the monument, to procure 5,000 square feet or less of ground in the District of Columbia whereon to build the monument, and to exempt the land so held and the monument, &c., thereon from taxation. But the proposed site, the church lot, is already exempt from taxation.

Except that the bill has come from the House, and the gentlemen composing this association are very anxious to have their organization so that they can perfect their arrangements, there would be no objection to limiting the bill as to the amount of property that may be held.

Mr. COCKRELL. That is the only point in the world. It ought not to be 5,000 feet, which would cover a whole block of land they may acquire to be exempt from taxation for all time to come.

Mr. CONGER. If the Senator remembers that little point——

Mr. COCKRELL. I know where it is exactly.

Mr. CONGER. The street bounds it on two sides, and the church on the other. There can be no encroachment upon any other land.

Mr. GARLAND. Let the last section of the bill be read.

The PRESIDENT *pro tempore*. The Chief Clerk will report for information the last section of the bill, if there be no objection.

The Chief Clerk read as follows:

SEC. 4. That the lands acquired and held by said body corporate, and the statue erected thereon, and all the improvements and appurtenances thereto, shall be entirely exempt from taxation, and shall not be chargeable or assessed for any purpose whatever.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill.

Mr. GARLAND. I wish to offer an amendment to the fourth section by putting in the usual proviso, that this act may be modified, repealed, or amended at any time Congress may see fit.

Mr. CONGER. I have no objection except that the bill would have to go back to the House where it might not be reached this session.

Mr. GARLAND. It is a very important matter, however, because the omission of such a proviso has given trouble in every one of these cases. It gives rise to a great deal of trouble, and I think if the Senator will reflect for a moment he will agree that it should be put in here, although it may occasion some delay.

Mr. CONGER. For every other denomination in the country we have passed such laws, and this is for a little piece of land not thirty feet on a side and twenty feet across the base. The statue having been already erected there, a very numerous denomination having contributed to its erection, and it being left in the hands of gentlemen of that denomination, and being so small a piece of land, it seems to me that the Senate might run the risk of passing the bill without sending it back to the House, where very probably it would not be reached this session. I hope the Senator will not insist on his amendment, although I have no objection to it in the world except that it will cause delay.

Mr. GARLAND. The Senator from Missouri [Mr. COCKRELL] has already indicated some possible objection in the future or some difficulties that might arise in reference to the bill. It is the experience almost every day in this country that such acts give rise to trouble and confusion which w re not anticipated at the time of their passage. This is a safeguard that I think should be thrown around all such bills. I dislike very much to interfere in a matter the Senator from Michigan has so much at heart, but I think the amendment should be put on the bill.

Mr. CONGER. Is there any question but what Congress retains the power, if public occasion requires it, to alter, to amend, or repeal all such bills?

Mr. GARLAND. There is very great question, especially when intervening rights grow up or if in a subsequent transaction it should be undertaken to change or modify the status of the property involved. The right should be reserved at the time of the passage of the charter. I will state to the Senator from Michigan that in my experience and observation there is no question that has given rise to more serious controversies in the courts. I dislike to interfere with this matter at this time, but I think the amendment should be made.

Mr. CONGER. The Senator will bear in mind that this property is now, and will be until transferred under some agreement, actually in the occupancy of the church itself, exempt from all taxation, being a little point of land just large enough for the base and pedestal of the statue. Otherwise, if this right should not be given, it would be under the general laws exempt property. It seems to me there can be no risk about this little piece of land.

The PRESIDENT *pro tempore*. The Senator from Arkansas moves an amendment which will be read.

The CHIEF CLERK. It is proposed to add to section 4:

Provided, That this act may be modified, repealed, or amended whenever Congress may see fit to do so.

The PRESIDENT *pro tempore*. The question is on agreeing to the amendment.

Mr. CONGER. I will say that I would rather the amendment should be adopted than to have the bill go over and not have speedy consideration. Therefore, I do not object to it, hoping that it may be reached in the other House and passed there.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

BILLS INTRODUCED.

Mr. CULLOM introduced a bill (S. 2514) granting a pension to David T. Hoover; which was read twice by its title, and referred to the Committee on Pensions.

Mr. MCPHERSON introduced a bill (S. 2515) for the relief of Lanman & Kemp; which was read twice by its title, and referred to the Committee on Finance.

Mr. CAMERON, of Wisconsin, introduced a bill (S. 2516) to allow a pension to George F. West; which was read twice by its title, and referred to the Committee on Pensions.

Mr. MANDERSON introduced a bill (S. 2517) providing for the distribution of certain copies of the Official Register of the United States; which was read twice by its title, and referred to the Committee on Printing.

Mr. PALMER introduced a bill (S. 2518) to prevent the introduction and diffusion of contagious and infectious diseases in the United States, and to promote the general sanitary welfare of the people; which

was read twice by its title, and referred to the Committee on Epidemic Diseases.

Mr. SAWYER introduced a bill (S. 2519) to declare valid the titles to certain lands sold by the land officers of the United States, and for other purposes; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. COCKRELL introduced a bill (S. 2520) for the relief of the heirs of colored soldiers who served in the war of the rebellion; which was read twice by its title, and referred to the Committee on Pensions.

Mr. LAPHAM introduced a bill (S. 2521) for the relief of Mrs. Antonia B. Lynch, widow of Capt. Dominick Lynch, United States Navy, deceased; which was read twice by its title, and referred to the Committee on Pensions.

AMENDMENT ON APPROPRIATION BILL.

Mr. VOORHEES submitted an amendment intended to be proposed by him to the Indian appropriation bill; which was referred to the Committee on Appropriations, and ordered to be printed.

PUBLIC POLICY OF CONFEDERATE STATES EXECUTIVE DEPARTMENT.

The PRESIDENT *pro tempore*. "Concurrent and other resolutions" are in order. The Chair lays before the Senate a resolution which went over yesterday under objection.

Mr. MORGAN. Mr. President——

The PRESIDENT *pro tempore*. The resolution submitted yesterday by the Senator from Connecticut [Mr. HAWLEY] will first be reported.

The Chief Clerk read as follows:

Resolved, That the President of the United States be, and he is hereby, requested, if in his opinion it be not incompatible with the public interest, to communicate to the Senate a historical statement concerning the public policy of the executive department of the Confederate States during the late war of the rebellion, reported to have been lately filed in the War Department by General William T. Sherman.

Mr. HAWLEY. I have been requested by the senior Senator from Tennessee [Mr. HARRIS] to let this lie over until Monday. I am quite willing to do so, but I ask unanimous consent that it may be laid before the Senate on Monday as of to-day.

The PRESIDENT *pro tempore*. The Senator from Connecticut asks unanimous consent that the consideration of this resolution be postponed until Monday next and that it may be laid before the Senate then on the call for resolutions. Is there objection? The Chair hears none, and it is so ordered.

Mr. HOAR. That does not make it a special order, but gives the same right to object then as now, so as to have it go over one day.

The PRESIDENT *pro tempore*. The resolution was introduced yesterday and objected to, and under the practice adopted by the Chair, with the acquiescence of the Senate, a resolution that is objected to and goes over one day is the next day laid before the Senate when the order of resolutions is reached. That has now been done. The unanimous consent the Senator from Connecticut asked for is that it be again laid before the Senate on Monday as of to-day with the same rights. Is there objection? The Chair hears none, and it is so ordered.

TESTS OF IRON AND STEEL.

Mr. MANDERSON submitted the following resolution; which was referred to the Committee on Printing:

Resolved by the Senate (the House of Representatives concurring), That the report of tests of iron and steel and other materials for industrial purposes, by Maj. F. H. Parker, commanding the Watertown arsenal, transmitted to the Senate by the Secretary of War on the 3d of December, 1884, be printed, and that 3,500 additional copies be printed, of which 1,000 copies shall be for the use of the Senate, 2,000 copies for the use of the House, and 500 copies for the use of the War Department.

PRESIDENTIAL APPROVAL.

A message from the President of the United States, by Mr. PRUDEN, one of his secretaries, announced that the President had on the 8th instant approved and signed the act (S. 2393) to change the name of the Slater National Bank of North Providence, R. I.

UNION PACIFIC RAILROAD.

Mr. SLATER. I now move that the Senate proceed to the consideration of Order of Business 761, being House bill 181.

The PRESIDENT *pro tempore*. The Senator from Oregon asks unanimous consent ——

Mr. HOAR. What bill is that?

The PRESIDENT *pro tempore*. That the Senate now proceed to the consideration of the bill (H. R. 181) to declare forfeiture of certain lands granted to aid in the construction of a railroad in Oregon.

Mr. WILSON. Before that is done I desire to offer a resolution.

The PRESIDENT *pro tempore*. The Senator from Oregon will withhold his motion until the call for resolutions is gone through with. It will then be in order to move to take up the bill.

Mr. SLATER. Very well.

Mr. WILSON submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Interior be, and hereby is, directed to communicate to the Senate a copy of the report of the Government directors of the Union Pacific Railroad Company for the year 1884.

FORT GREENE.

Mr. SHEFFIELD submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of War be, and he hereby is, directed to report without unnecessary delay to the Senate whether any private person is in the possession and occupation of Fort Greene, in Newport, R. I., belonging to the United States, and, if so, under what authority does such person hold the same. Whether the said Fort Greene is of any present use to the Government of the United States, and, if not, will the United States probably have any future use for the said fort; and if there is no present or prospective use for the said fort, whether or not the same ought not to be sold, and the proceeds thereof be covered into the Treasury of the United States, and if the said Fort Greene is not of any present use to the United States but will probably be of use thereto hereafter, whether the said Fort Greene may not well be committed to the care and custody of the city of Newport, to be by the said city used as a public park until further action of Congress or of the Secretary of War is had in reference thereto.

FORFEITURE OF OREGON LAND GRANT.

The PRESIDENT *pro tempore*. Concurrent and other resolutions are still in order. If there be no further resolutions that order is closed.

Mr. SLATER. I now move that the Senate proceed to the consideration of House bill 181.

The PRESIDENT *pro tempore*. The Senator from Oregon moves that the Senate proceed to the consideration of the bill (H. R. 181) to declare forfeiture of certain lands granted to aid in the construction of a railroad in Oregon. This bill passed the Senate on the 6th of January. The Senator from Alabama [Mr. MORGAN] moved that the vote passing the bill be reconsidered.

Mr. HOAR. I desire to ask whether the Calendar should not be laid before the Senate before that motion is put?

The PRESIDENT *pro tempore*. The Calendar is before the Senate. The Chair regularly should have stated that the Calendar under Rule VIII was before the Senate after the call for resolutions was concluded.

Mr. HOAR. I desire to ask the Senator from Oregon to withhold his motion for a few minutes. The bill for the relief of the First National Bank of Newton, Mass., came before the Senate just before the holidays. The report was read; the bill was debated; and one Senator desired to make some further examination of the report. I think the bill would then have been disposed of and would now be disposed of very shortly, and if it is not disposed of the whole time of the Senate will have been wasted which was spent in considering it on that day. I am very desirous that the bill should be disposed of and passed if possible.

The PRESIDENT *pro tempore*. It is the duty of the Chair to state that debate on this motion is not in order, nor is debate on the motion to reconsider in order.

Mr. HOAR. I so understand the matter; but if the vote should be reconsidered then I suppose on reconsideration the bill would be open to debate as originally. I suppose that was the expectation of the Senator from Oregon.

Mr. SLATER. I should like very much to accommodate the Senator from Massachusetts, but I think under the circumstances I ought not to yield.

The PRESIDENT *pro tempore*. The motion is not open to debate except by unanimous consent. The question is on agreeing to the motion of the Senator from Oregon that the Senate now proceed to consider the motion to reconsider submitted by the Senator from Alabama.

Mr. MORGAN. I ask unanimous consent of the Senate to make a statement in regard to this motion.

The PRESIDENT *pro tempore*. The Senator from Alabama asks unanimous consent of the Senate to submit some remarks upon the motion. Is there objection?

Mr. HOAR. I think I ought to object under the circumstances.

Mr. MORGAN. I merely desire to make a statement which will occupy only a minute.

Mr. HOAR. Very well, then; I will not object.

Mr. MORGAN. That bill passed and I made the motion to reconsider the vote by which it was passed, not for the purpose of interfering with the bill or delaying any action upon it or for any other cause than this: The same question precisely was before the Senate on a conference report which has not yet been considered by the Senate, the two Houses having disagreed on the question. The committee of conference have reported, and I have not yet drawn the attention of the Senate to that report and asked them to take it up. That question ought to precede this. I made the motion to reconsider in order that I might have an opportunity to ascertain from Senators who voted against my amendment to the Oregon bill, and who had previously voted for that amendment to the other bill, whether they were influenced by the consideration that they had changed their opinion, or only by the fact that they supposed the amendment was not a necessary amendment under the existing state of facts on the Oregon bill. I have satisfied myself that some of the Senators at least who voted against the amendment took the ground that it was not a necessary amendment to that bill; that there was really practically no question in the Oregon case as between the holders of the bonds of the railroad company and the corporation or the Government of the United States.

Now, having satisfied myself, and being able to state that I am so satisfied, I propose to yield to the judgment of the Senate thus ex-

pressed, believing that the judgment of the Senate as so expressed by their vote was not a judgment against the merits of the amendment, but was a judgment against its practicability, or rather its being necessary upon this bill. I will therefore ask the unanimous consent of the Senate that I may withdraw my motion to reconsider. After the explanation I have made I ask the unanimous consent of the Senate that I may withdraw my motion to reconsider.

The PRESIDENT *pro tempore*. The Senator from Alabama asks leave to withdraw his motion to reconsider. Is there objection? The Chair hears none, and the motion is withdrawn. The bill stands passed with the amendments of the Senate. The Calendar, under Rule VIII, is before the Senate.

RIGHTS IN RAILROAD LAND GRANTS.

Mr. MILLER, of California. Mr. President——

The PRESIDENT *pro tempore*. The first case on the Calendar will be stated.

The bill (S. 1445) to provide for the settlement of the rights of the States and of the corporations and persons interested in any grant of lands in aid of railroads and canals which shall be declared forfeited by act of Congress was announced as first in order on the Calendar under Rule VIII.

Mr. MORGAN. I ask that that go over to the Calendar under Rule IX.

Mr. HOAR. What has become of the Newton National Bank bill?

The PRESIDENT *pro tempore*. It is not yet reached.

Mr. HOAR. I thought that was up before partly.

Mr. MORGAN. I ask that the bill announced from the Chair go over to the other Calendar.

The PRESIDENT *pro tempore*. The Senator from Alabama objects to the consideration of this bill; and it will be passed over and take its place under Rule IX.

FIRST NATIONAL BANK OF NEWTON, MASS.

The bill (S. 1331) making appropriation for the relief of the First National Bank of Newton, Mass., was announced as next in order.

Mr. CONGER. Is that under Rule VIII?

The PRESIDENT *pro tempore*. The Chair will state the question. The bill has been heretofore read and considered as in Committee of the Whole and the amendments reported agreed to. The bill is still open to amendment.

Mr. CONGER. Is it now to be considered under Rule VIII?

The PRESIDENT *pro tempore*. Now under Rule VIII.

Mr. CONGER. I think it ought to be considered under Rule IX, to give further opportunity of discussion and further opportunity of examination.

The PRESIDENT *pro tempore*. The Senator from Michigan objects to the consideration of this bill.

Mr. HOAR. I move to take up the bill for consideration at the present time notwithstanding the objection.

The PRESIDENT *pro tempore*. The Senator from Massachusetts moves that the Senate proceed to the consideration of the bill notwithstanding the objection. The question is on agreeing to that motion.

The motion was agreed to; and the consideration of the bill was resumed as in Committee of the Whole.

Mr. HOAR. Mr. President, the Senator from Michigan put a question the other day which might as well be answered now; it will take but one moment, if the Senate will give me its attention.

I can say that this whole case is in a nutshell. This is a bill authorizing the payment of interest to the First National Bank of Newton upon a claim against the Government. The teller of the bank and the cashier or teller in the United States subtreasury at Boston entered into a fraudulent arrangement by which certain property of the bank was delivered to this agent of the United States for the purpose of being exhibited to the examiners of the subtreasury to make the money in his hands apparently good.

After the transaction was discovered the United States seized these assets of the bank, which were interest-paying securities and cash, and $46,000 of them bonds of the United States bearing interest. The Supreme Court of the United States thereupon held that the United States was liable for that property; that the transaction did not make any change of property whatever; that the fraudulent knowledge by the United States teller was the knowledge of the United States, and of course—I do not know that the court said that, but it is apparent to everybody—that the teller was no agent of the bank for any purpose of disposing of this property either in that way or any other. So there had been no agency on the part of the bank. The principal sum has been paid, but this property was withheld from the bank for a large number of years, leaving the bank to fail, and the stockholders to be responsible for its debts, under the general statute, to the extent of their stock.

The committee examined the whole matter; the Senator from Tennessee [Mr. JACKSON] made a very thorough, patient, and faithful examination of the precedents, and he found that the precedents were very numerous, nearly uniform, in favor of paying interest in such cases. I can not see how any Senator can hesitate as to the duty of the United States. Here it seized upon its own interest-bearing securities, kept them cautiously from its creditor for thirteen or fourteen years, got the benefit of the interest which was due, and did not pay it, though the original seizure was a tort. That would apply to the $46,000 of its own securities. The entire property was withheld from the bank—the securities and the cash. Its debts were running on upon which it was bound to pay interest. The Supreme Court of the United States in the decision quoted by the Senator from Tennessee declared on a similar case, which was sent to the Court of Claims with a view to ascertaining what was the customary policy of the Government in like cases, that an examination of the legislation of this country showed that it is the established policy of the United States to pay interest in all such cases. That is the whole story.

Mr. CONGER. Mr. President, there has been no answer to the statement I made the other day, which ought to preclude at once, if true, the passage of this bill. There is no pretense in the answer just attempted that there is over $46,000 of the securities that were drawing interest which would have inured to the benefit either of the Government or of the party. There is an appropriation here, I am told, of $350,000, if that is the amount named in the bill.

Mr. INGALLS. Let the bill be read, that we may hear what it is.

The PRESIDING OFFICER (Mr. HARRIS in the chair). The bill will be read if the Senator from Michigan yields.

Mr. CONGER. I do yield, but this should not be taxed to my five minutes, and my time taken up in reading.

The PRESIDING OFFICER. The Senate has voted to consider the bill, notwithstanding the objection, which relieves it from the five-minute rule.

Mr. CONGER. All right, then.

The Secretary read the bill as amended.

Mr. CONGER. The original claim, all told, was $371,000, as found by the court after litigation, and after the whole matter had been placed in the hands of the court to determine between the United States and this bank, or these claimants, whoever they were, what, if anything, was due from the Government to the bank or to the persons interested in the assets of the bank. The court rendered a judgment of $371,025. That judgment was rendered October 25, 1881. On that date whatever was due by the decision of the court to these parties was for the first time ascertained and liquidated at $371,025. The question of interest I have a right to assume was considered, whatever was due either in principal or interest or value—whatever the General Government was under any legal obligation to repay entered into this account, interest, damages, everything. There can be no denial of that on the record.

Mr. HOAR. The Senator will pardon me. Withholding interest in the case was put by the court distinctly on the ground of the peculiar phraseology of the act giving jurisdiction.

Mr. CONGER. Where is the record of that? It does not appear in the report; it does not appear anywhere. There is nothing to show but that the court either in the nature of damages or interest gave all that was demandable; and I may here say it is not the original owners of this property who come here for it now——

Mr. JACKSON. Will the Senator from Michigan yield to me?

Mr. CONGER. Yes, sir; I will yield all around.

Mr. JACKSON. I have the report of the decision of the court before me, and the court only gave judgment for the principal, which was the ascertained, fixed, and definite amount of the bank's assets that had been appropriated. There was no consideration of damages or of interest either, for under the statute the Court of Claims is not allowed to award interest except where the contract expressly stipulates for the payment of interest.

Mr. CONGER. That reads well, and the Senator is generally very accurate. What was the ascertained value of those assets? Their value with interest or their value without interest? Who shall tell us? The court's report does not tell, and the report of the committee does not tell, or whether, if not as interest, yet in the nature of damages for withholding this property the matter was not considered, the committee do not tell us.

Mr. JACKSON. They do tell, and so does the decision of the Court of Claims, that the judgment was for the fixed amount of principal which was claimed, allowing no interest and no damages.

Mr. CONGER. That may be; and if the Senator says so I suppose it is so. Then interest is not included in the judgment. But this was a matter of dispute between this Government and a bank. The agents of the Government proved unfaithful and false, and undertook to rob the Government. The cashier and one of the directors of the bank, having power in this matter to do what they did do, undertook to defraud the Government of the United States, and place themselves in jeopardy of being punished by the securities they gave to the officers of the United States being retained. They gave those securities with the chance of their being retained. There is no doubt about that. The subtreasurer of the United States, when the day of reckoning came, needed money in his hands to settle his accounts as subtreasurer, and he went to the cashier of this bank and he went to the principal managing director of this bank and he asked them to place in his hands money or its equivalent, that he might the next day make a showing to the examiners and satisfy the authorities of the United States that

the subtreasury, with its accounts, with its money, with its payments, with its bills receivable and bills payable, and all its transactions, balanced even, and that he was a faithful servant of the Government in keeping his money and his accounts as they belonged in the subtreasury.

The cashier or teller of this bank and the managing director did this; so the report says; I do not assert it; I think it was the cashier. At any rate the report says that the acting officers of this bank took money and securities out of the bank, and went to the subtreasury and placed them in the hands of the subtreasurer of the United States, and took a receipt from him showing that these officers of the bank knew the fraud; they took a receipt from him that, after the examination on a given day, the first, second, or third after the day of the examination, he was to return them; but, in the mean time, the Government found that there was a connivance between the bank officers and the fraudulent subtreasurer, and it took this property which had been placed there to be the representative of property belonging to the Government, in fraud of the rights of the Government, and used it. How, on that statement, any Court of Claims ever could refund to the bank the money so placed there by the cashier and by the managing director of this bank to defraud the Government, if it was returned, or could open the way for such a payment, I can not see.

On what principle of equity, of justice, of law, of right, any court of the United States could decide against the right of the United States to hold this property handed over by the bank's officers in fraud of the rights of the Government for the express purpose of cheating the United States, expecting to get it back again and leave the subtreasury without assets, which it pretended to have, I can not see. But that is not my business here. It was a very proper question between the bank and the Government in my judgment, and a proper question to submit to the proper court, whether under all the circumstances the bank was not bound by the action of its cashier and its managing director, whether they had not forfeited the property by the attempt to defraud the Government on a temporary placement of it in the hands of an officer who they knew was in default and fraudulent. But by persistent effort, after years, Congress sent the case to the Court of Claims with at least the sanction of such a sending that there was some equity in it, and the Court of Claims decided that the Government should restore the value of the securities, as the Senator from Tennessee says. What was that value? What was it that the Government should restore? What does our own court say ought to be returned to this bank on a settlement and liquidation? It had no right until it had the judgment of that court, and it had no pretense of having a right until the matter was litigated before the court. On the 25th of October, 1881, and we do not know whose delay it was in not bringing the mattter sooner to a hearing, the court decided that there was due $371,025.

Mr. COCKRELL. Will the Senator permit me one suggestion there?

Mr. CONGER. Yes, sir.

Mr. COCKRELL. The bank never sued until within three days of six years after the right of action accrued.

Mr. HOAR. But there was another case which involved it.

Mr. COCKRELL. The right of action accrued on the 27th of February of one year and the suit was brought on the 24th of February of the sixth year thereafter, just three days before the six years expired.

Mr. CONGER. Yes. I thank the Senator for giving me that information.

Mr. JACKSON. The question was before the Department all that while. From the 28th of February, the day after the seizure, the bank was pressing this claim before the Department.

Mr. COCKRELL. The Department had no jurisdiction. I do not understand that it was pressing it. There was another suit pending, and these gentleman were lying back to see what would be the result of that other suit, and there is another bank now lying back with a claim to come in here for over $100,000. They did not get their bill into court within the six years, and they want the limitation removed. That has been up and has been reported adversely by one of the committees.

Mr. CONGER. I am very glad that I have done what I thought my duty to be in guarding the Treasury against false and improper claims, let them come from wherever they may. It has been my fortune generally to meet in the House and in the Senate what I thought were improper war claims, or claims for the loss of property during the civil war in the South, which, according to the law of nations and the rules which finally the House and Senate have adopted, were not proper subjects of compensation from the Government. This comes from the State of Massachusetts. It comes here the result of a fraudulent transaction between this bank, through its officers, and a defaulting officer of this Government in charge of the funds of the Government. If it be true, as the Senator from Missouri says, that for six long years the stockholders and managers of this bank went through all the loss caused by the failure of the bank and the destruction of their interests without even asking this Government to refund this money, that is a subject worthy of consideration by Senators in voting upon this question, and, with what I am stating here as to the dates and times and action of the Government and of the court and of these claimants, comes in very well to show why this claim of $249,000 of interest should be refused by Congress without a dissenting voice.

As I said, on the 25th of October, 1881, the Court of Claims decided that there was $371,025 which the Government ought to refund. Four days after that, October 29, 1881, without waiting for any appeal, without waiting to carry the case up to the Supreme Court, without any further litigation, somebody neglected the interests of the United States and let this judgment become final without appeal, contrary, as I think, to law. There is nothing to show but that the officers of the United States ought to and might at any time have appealed from the decision of the Court of Claims to the Supreme Court, but in four days the men claiming the right to the money came to the Treasury and drew out $260,000. That was pretty swift payment of the judgment. These men were eager enough after they got the judgment to get the money, although they had let the claim lie by for six years without going into court. Then, August 30, 1882, the remaining $111,025 was paid, making the whole amount of the judgment $371,025, and then the entire face value, as is claimed here, of these securities was paid back, when in my humble judgment there was no responsibility in fact, and as I believe with my knowledge, whatever it may be, of law, if the case had been taken to the Supreme Court, as it ought to have been by those who defended the interests of the United States, no recovery could have been had. The whole amount was paid, $260,000 of it in four days after the judgment, and $111,025 on August 30, 1882, in less than a year, some ten months after the judgment was obtained.

Now, sir, I say without fear of contradiction that if there was any right at all to recover interest it was on the judgment which was obtained and on the balance which was unpaid for those ten months, which amounts to a little over $40,000 instead of $249,000.

But, sir, who are these men that come to ask this money back? What is the character of the men who come here? The bank failed, its assets were sold—the securities, the possible indebtedness of this Government—to those who were willing to give a little to speculate upon this matter.

Mr. HOAR. Why does the Senator say that?

Mr. CONGER. Because the report says that the bank failed and its assets were sold. That is why I say it. I can not go beyond the report because I have not had the opportunity. "The creditors bought it in," one Senator from Massachusetts [Mr. DAWES] says. He knows more about it than I do. Now, who bought in this contingent, this erratic, this nebulous, this wandering claim that slept for six years without anybody thinking it was worth bringing forward at all? Who owned it?

Mr. JACKSON. Where does the Senator find the statement in the report that these assets were sold?

Mr. CONGER. I find the report says that the bank failed.

Mr. JACKSON. And the receiver took charge of these assets and applied them to the payment of the debts, so far as they went.

Mr. CONGER. That bears me out in all I want.

Mr. HOAR. The Senator will pardon me. I never heard the suggestion that this claim against the Government had been sold to anybody, and I do not believe there is the slightest foundation for it.

Mr. CONGER. It appears so in the report.

Mr. HOAR. I do not understand it so.

Mr. CONGER. A receiver was appointed and the assets went to pay the debts, and they were sold or turned out, each one to pay equally his debt. These were not turned out; the Government had them; so that whatever they were considered worth was sold.

Mr. HOAR. The Senator will pardon me. I understand that he is stating not that the general assets of this bank were sold, but that this particular claim against the Government, being assets, were sold. That I never heard of, and I do not believe it. It is not implied from anything stated in the report as I understand it, and it can not be, because the statute expressly prohibits the sale of claims against the Government. Any attempt to sell it on the part of the receiver would have been a violation of law and a nullity.

Mr. CONGER. He could sell the right of the bank. Now in whose interest is this claim brought before the Government? Is it the claim of the bank? Does the bank own it? The bank is broken down, dissolved long ago. In whose name is it? Who are to be the recipients of the $249,000 voted by the Senate to pay the Lord knows whom, and no Senator can say? We know the bank failed; we know a receiver was appointed; we know from the report that the assets went to pay the debts; we know that with a contingency like this the right to prosecute could be sold. It could be sold for one dollar, or it could be sold for one hundred dollars, or a thousand, or a hundred thousand. What would anybody have given for such a thing as that with full knowledge of the fraud and wrong of the leading officers of the bank in a contest against the United States who had secured it by the fraud of the bank and by the fraud of its own officer? There is too little known about this. Did the men who are to receive the money we vote to-day pay a dollar for the claim, or a thousand, or a hundred thousand dollars? Does it belong to the bank? Will it go to the individual stockholders of the bank, and if it does, then in case their creditors were not paid by the assignment and receivership and distribution, we give it to the

stockholders of the bank in fraud of the rights of the creditors; and inasmuch as this report says the stockholders of the bank were ruined by this transaction, we may well believe that whatever right there is in this claim belongs to the creditors of the bank. If the receiver had it in any shape, and sold it, he sold it unquestionably for a song, and it is to speculators perhaps that we are granting away the money of the people of the United States—speculators who bought this claim for a song.

I am not going to dwell upon this longer than to call the attention of Senators to some facts which are plain and indisputable. I have already shown, as I think, that within the utmost limit and extent of the proprieties of paying interest on anything due from the Government it should be on a liquidated account after it is determined and acknowledged by the Government, or acknowledged in obedience to the direction of a court, and the difference is over $200,000 of money, to go, as I said before, to some one whom no Senator can mention here, some speculator who for his thousand dollars or his hundred dollars got hold of this uncertain, and as I believe improper claim against the Government has, his money having been paid to the receiver and been distributed to the creditors. Or if this is for the stockholders or for the bank by any agreement by which it may have retained it after its failure, then it belongs to the bank's creditors. Let us know who is to be the recipient of the wonderful bounty and generosity of the Senate.

Now, sir, I will not dwell longer on this case. I have performed my duty when I have said enough and shown enough both from the report and from the statement which I have made here to put every Senator on his guard against allowing this bill to pass without further information, and I shall content myself when the proper time comes with asking for the yeas and nays, that we may all have an opportunity of making our record on this bill.

Mr. HOAR. Mr. President, I desire to interpose to the suggestion of the Senator from Michigan my absolute and unqualified denial of the imputation that this bill places in the hands of any speculative purchaser or other person who has acquired it since this claim against the Government. The character of the gentlemen who represented this bank, which is the very highest possible, the fact that no such thing ever has been suggested to me or heard of by any member of the committee or by my colleague, makes me feel entirely warranted in stating so far as I can have knowledge of such a thing, that the suggestion is totally without foundation.

This bank went into the hands of a receiver, and its stockholders, who were I suppose like stockholders of other banks, men of capital and trustees of widows and orphans and various sorts of people, had to pay in out of their funds a sum equal to the amount of the capital stock to make good the liabilities of the bank, which, instead of being a prosperous, thriving institution, was compelled to fail by reason of this transaction, and when the bill is passed the money will go to the receiver. If there are any creditors they will be paid. If the creditors are paid and there is anything left, it will go of course to the funds of the stockholders to reimburse what they paid in.

It is true, as the Senator from Missouri suggests, that this bank waited until within three days of the end of six years before it sued the United States; but there was another test case pending, and I do not understand that public policy requires that if there are a dozen persons whose claims depend on the same state of things they shall all proceed to incur the expense of a suit at once if they bring their suits in time to save the statute of limitations, and one creditor brings his suit promptly. An appeal was taken by the Attorney-General. He examined the matter, and within the six months withdrew his appeal, because he found the case could not be distinguished in principle from another case decided by the Supreme Court. The Court of Claims had no authority to allow interest; but in a like case, the case of Francis Vigo, cited at length by the committee in their report, where Congress referred a claim to the Court of Claims with authority to give judgment according to the policy of the United States in like cases, the Supreme Court of the United States on appeal from the Court of Claims, on full examination of the statutes, declared that it is the policy of the United States to pay interest in such cases, and over fifty statutes are cited by the committee establishing that proposition.

Now, I should like to ask whether there is a Senator in this body who, if one of his domestic servants had conspired with one of mine to get some property of mine into his possession, and apparently his, would not restore that property? He would not proceed to talk about the fact that my servant was a party to the fraud. Neither of these persons was agent of the United States or of the principal for the purpose of the fraudulent transaction, and no change of property took place, nothing vested in the United States by the transaction.

That being the case, the demand was made on the United States for this property in the possession of its Treasury, and it refused to give it up. It is not the case of an unliquidated claim, which the United States is presumed always to be ready to pay. It is the case of an express refusal to pay on demand and a claim of right to the property, and thereupon the ordinary rule of law applies; and my friend from Michigan, for whose integrity I have so much respect, would put his right hand into a brazier of burning coal and have it burned to the stump before he would act in his own case, if he were dealing with me or any other person, on the principles upon which he now asks the United States to act.

Mr. HARRISON. I wish to ask the Senator from Tennessee who reported the bill of what items in a general way the claim was made up, aside from the $46,000 of Government securities. How much was in cash?

Mr. JACKSON. They were the checks of the cashier for actual moneys that were collected and actual moneys deposited.

Mr. HARRISON. So that the balance of the claim besides the $46,000 was money?

Mr. JACKSON. Actual money; yes, sir. Forty-five thousand dollars or $46,000 was in Government interest-bearing securities and the balance in actual money; so that the claim was really ascertained, fixed, and determined, and was not unliquidated in its character.

Mr. HARRISON. I asked the question because as to a part of this claim it seems to me to be perfectly clear. If the Government by a method which was held by the court to be ineffectual to transfer the property of this bank secured $46,000 of its own securities that were interest-bearing and held them and in effect got the interest upon them because it did not pay the interest, I take it that in that case there can be no question in the world that in equity and good conscience, and as a matter of law between individuals, the Newton bank would be entitled to the interest received or withheld by the United States on that sum. But it seems to me as to the money the question might be quite different.

The rule as between individuals and one that is supposed to rest upon a basis of sound reason and justice is that one individual shall render interest to another for the use of money, first where he stipulates to do so, and secondly where in the judgment of the court trying the case he has unreasonably withheld money from another person. That is the rule applied in our courts to open accounts between individuals. There may be a demand, and the question is whether it has been unreasonably withheld. That is the question as between individuals. If it has been, the courts then award interest in the way of damages upon the debt.

Now, what are the facts in this case? The cashier and the managing director of this bank entered into a fraudulent arrangement with the officer of the United States in charge of its funds in the city of Boston, by which they put into his hands certain moneys. Suppose that he cashed these checks and that the proceeds are in the Treasury as actual money. When the Government comes to account with its officers he produces that as United States funds in his custody, and *pro tanto* settles his accounts with the Government and passes the examination by presenting them. The presence of that money there did involve the fraud and the fault of the men who were held out to the world as authorized to represent the Newton bank. If the United States had given a consideration for that money, undoubtedly the courts would have held that the acts of these two officers, though in fraud of the bank, were binding upon the bank, on the principle that where one of two innocent persons must suffer it must be the person least at fault.

Mr. JACKSON. Will the Senator allow me in that connection to call his attention to what the court has stated on that direct point?

Mr. HARRISON. Yes, sir.

Mr. JACKSON. I read from the opinion of the court.

Mr. HARRISON. The Court of Claims?

Mr. JACKSON. The Court of Claims, as approved by the Supreme Court in the case of Newton Bank *vs.* United States:

> Upon the case as thus outlined, the simple question of law is whether the claimant's property in the assets was, by the fraudulent acts of its cashier and one of its directors, divested out of it and vested in the defendants. There is not the least ground for answering these points in the affirmative, unless the claimant was privy to those transactions and allowed its assets to be so used. But there is nothing in the case justifying a remote supposition that any officer, director, or stockholder of the Newton Bank, except Dyer and Carter, the conspirators, had the least knowledge or the faintest suspicion of, or the least cause to suspect, any part of the villainous scheme. It was simply a case of a bank being robbed and of its stolen assets being put into the hands of the cashier of the subtreasury for a purpose which, by no possible view, could, in law, be held to effect a transfer of the bank's right of property in them, either to him or to the United States.

One word more:

> Such being the case, "it ought," in the language of the Supreme Court of the United States, "to require neither argument nor authority to support the proposition, that where the money or property of an innocent person has gone into the coffers of the nation by means of a fraud to which its agent was a party, such money or property can not be held by the United States against the claim of the wronged or injured party. The agent was agent for no such purpose. His doings were vitiated by the underlying dishonesty, and could confer no rights upon his principal." (United States *vs.* State Bank, *ut supra*.)

Mr. HARRISON. Certainly. What the Senator has read is exactly in line with what I have said. The United States did not put itself in the position of an innocent party who had parted with something upon the faith of the acts of these men who were held out to have authority to represent the bank, and therefore the bank could recover the securities; but this is the situation: The United States finds in its vaults money that has been placed there, as we learn now, by the fraudulent connivance of officers of this bank with its own officers. Now, the Newton bank comes and asks that money.

The PRESIDING OFFICER (Mr. HARRIS in the chair). The hour

of 2 o'clock having arrived, it is the duty of the Chair to lay before the Senate the unfinished business, which is the bill (S. 2112) to establish a commission to regulate interstate commerce, and for other purposes.

Mr. HOAR. I ask unanimous consent that the Senator from Indiana may finish his remarks, and then if there can be a vote that we may have it. If there can be no vote at that time and anybody else wishes to speak, I will not press the bill further now.

Mr. HARRISON. I am not asking the Senator from Illinois to give way to me. I will not do that myself.

The PRESIDING OFFICER. The Senator from Massachusetts asks the unanimous consent of the Senate that the unfinished business be informally laid aside in order that the Senate may proceed with the consideration of the bill from which it has just passed. Is there objection?

Mr. CULLOM. I have no objection to the Senator from Indiana finishing his remarks, and if then the Senate will vote upon the bill I shall waive, as far as I am concerned, the consideration of the special order until that is over; but I must insist that the Senate give attention to the interstate-commerce bill after the Senator from Indiana has finished his remarks if any body else wants to speak on the bill of the Senator from Massachusetts.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Massachusetts that the unfinished business be informally laid aside in order that the Senator from Indiana may conclude his remarks and that the bill may be finally disposed of?

Mr. CULLOM. I understand that other Senators desire to speak. If so, I shall have to object.

The PRESIDING OFFICER. There is objection.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. CLARK, its Clerk, announced that the House had passed the bill (S. 491) for the relief of John W. Franklin, executor of the last will of John Armfield, deceased.

The message also announced that the House had passed the following bills; in which it requested the concurrence of the Senate:

A bill (H. R. 754) for the relief of Nathan H. Dunphe, of Bridgewater, in the State of Massachusetts; and

A bill (H. R. 5461) to regulate interstate commerce and to prohibit unjust discriminations by common carriers.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills; and they were thereupon signed by the President *pro tempore:*

A bill (S. 737) to remove the political disabilities of J. R. Waddy, of Virginia; and

A bill (H. R. 4539) to issue American papers to the lighter or barge Pirate, now at New York.

ADJOURNMENT TO MONDAY.

On motion of Mr. SHERMAN, it was

Ordered, That when the Senate adjourn to-day it be to meet on Monday next.

INTERSTATE COMMERCE.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. 2112) to establish a commission to regulate interstate commerce, and for other purposes.

The PRESIDING OFFICER (Mr. HARRIS in the chair). The question is on the amendment of the Senator from Illinois [Mr. CULLOM].

Mr. GARLAND. Let the amendment be read.

The PRESIDING OFFICER. The amendment will be read.

Mr. CULLOM. I think the amendment before the Senate is that offered by the Senator from Iowa [Mr. WILSON].

The PRESIDING OFFICER. The Chair was informed that the pending question was upon the amendment of the Senator from Illinois, but he has subsequently been informed by the Secretary that it is upon the amendment of the Senator from Iowa [Mr. WILSON] to the amendment of the Senator from Illinois [Mr. CULLOM]. The amendment to the amendment will be read.

The CHIEF CLERK. It is proposed to amend the amendment so that it will read:

And said commission shall precede its first report with an investigation of the subject of interstate commerce, which shall embrace the subjects of establishing a system of both maximum and minimum charges for transportation, and for the preservation of free competition within the limits so fixed, for the prohibition of discriminations of any kind whatever, either in favor of or against cities, towns, or other localities, whether the same be competing or non-competing points, and for applying the same principle to transportation for individuals, firms, associations, or corporations in all matters relating to commerce among the States; for the preservation and enforcement of the right of shippers to select the lines and parts of lines over which their shipments shall pass, to the end that said commerce among the States may avail itself of the all-rail or part rail and part water routes of the country; for the prevention of such pooling arrangements and agreements to refrain from just competition as may tend to impose unreasonable burdens upon said commerce among the States, and for the protection of said commerce against unjust exactions based on a class of securities commonly denominated "watered stock;" and said commission, in conducting said investigation, shall be guided by such rules of action as will be fair, just, and equitable toward all of the interests involved, whether the same be private, public, or corporate, connected with the subject of commerce among the States.

Mr. GARLAND. I should like to have read now by title the bill that has just come from the House of Representatives.

Mr. HARRISON. I was going to inquire whether this stands as an amendment by the Senator from Iowa to the amendment offered by the Senator from Illinois.

The PRESIDING OFFICER. That is the question.

Mr. HARRISON. I thought the Senator from Illinois withdrew the amendment he had offered.

Mr. WILSON. The Senator from Illinois withdrew his amendment to his amendment, and then I offered this as an amendment in the nature of a substitute for the amendment of the Senator from Illinois.

Mr. CULLOM. Substantially the only amendment which is pending is that just read, offered by the Senator from Iowa [Mr. WILSON]. The amendment which I had offered was the same thing with a little change.

Mr. WILSON. The difference between this and the amendment originally offered by me, and subsequently in a modified form offered by the Senator from Illinois, was made in order to meet the objection of the Senator from Indiana, [Mr. HARRISON], by eliminating all that part of it which requires the reporting of a bill, and simply directing the investigation to be made on the several lines provided for in the amendment.

Mr. GARLAND. Now, Mr. President, I should like to have the bill reported by title that has come from the House to-day.

The PRESIDING OFFICER. If there be no objection the Chair now lays before the Senate a bill from the House of Representatives.

The bill (H. R. 5461) to regulate interstate commerce and to prohibit unjust discriminations by common carriers was read the first time by its title.

Mr. CULLOM. I move that that bill be referred to the Committee on Railroads.

Mr. GARLAND. I want to make a motion to commit the whole subject with the bill. That is the reason I had the title read, wishing to make a few remarks on that motion.

Mr. MCMILLAN. With regard to the bill now proposed to be referred to the Committee on Railroads I desire to say, representing the Committee on Commerce, that this subject is properly within the jurisdiction of that committee, but as the bill already before the Senate was introduced by the Senator from Illinois and referred to the Committee on Railroads, of which he is a member, I do not feel called upon at this time to insist upon a reference of the House bill to the Committee on Commerce, the matter having been reported from the Committee on Railroads in the shape of the bill already under consideration. For that reason I shall not insist upon any objection to the reference of the House bill to the Committee on Railroads, though the matter is properly within the jurisdiction of the Committee on Commerce.

Mr. CULLOM. I desire simply to say that when I introduced the bill, a part of which came back as a report from the Committee on Railroads, and which was, upon my motion, referred to the Committee on Railroads, I acted at that time without really knowing that the subject had heretofore been considered by the Committee on Commerce. Its reference to the Committee on Railroads was not for the purpose of in any way slighting the Committee on Commerce.

Mr. MCMILLAN. I so understood.

The PRESIDING OFFICER. Does the Chair understand the Senator from Arkansas as submitting a motion to refer the pending bill with the House bill?

Mr. GARLAND. The pending bill and all the amendments, with the House bill, to the Committee on Railroads.

The PRESIDING OFFICER. Does the Senator from Arkansas desire that the House bill should be read the second time and referred, or that it remain on its first reading?

Mr. GARLAND. Remain on its first reading for the present.

Mr. President, the Senator from Illinois [Mr. CULLOM], who has charge of the Senate bill, has labored with very commendable zeal in this matter, and has urged very properly the consideration of the subject from time to time before the Senate. The other day in answer to the remarks submitted by the Senator from Delaware [Mr. BAYARD] he made some complaints as to the delay that would occur in regard to the bill if a postponement of it was had at this time. The proposition the Senator from Delaware then had in his mind in reference to a bill which he mentioned is now made practical by the appearance of that bill from the House, in regard to which we had seen and heard a good deal through the papers and other sources of information.

Now, I am free to state to the Senator from Illinois that he is to be congratulated on making considerably more progress in this matter than is generally made before the Senate in matters of this importance. He reported this bill in April last, and at this time he is coming well-nigh to a final hearing of it. That, I say, is making much more progress than is generally made in measures of such importance before the Senate.

The first measure that ever I introduced into the Senate about eight years ago was a simple bill to revive an appropriation to pay some postmaster in the Southern country, and I have been urging it every session during the intervening time, but it is no nearer a final conclusion now than it was then. There was but one question involved in it and a very simple question, and I fear it will take twice eight years accord-

ing to that progress, if not three times eight, to get to the conclusion of it.

This measure of the Senator from Illinois involves half a dozen if not a dozen very intricate, very close, and very important questions. I do not know within my knowledge and within my reading a question which has been before the Senate in my time that is exactly as intricate as this is. In connection with the bill there are various propositions before the Senate, not merely propositions differing as to details or as to mere matters of arrangement, but propositions differing among themselves fundamentally and organically. Now for the first time we have all these propositions brought before us in one form. Every gentleman who has studied the question has had an opportunity to be heard and present by speech or by amendment his views upon it. This is a question that demands, I think above all others, that we shall go slowly indeed in solving it.

If the Senator from Illinois shall see the end of his bill at this session he will have made the most rapid progress of any gentleman who has been in the Senate, charged with any important measure, since I have been a member of it. Now, I propose to detain the Senate for a short time by going through some of the features of this bill and indicating what I think to be radical defects in it, defects that are to my mind perfectly obvious, but if Senators differ with me in that regard and have doubts as to it, the very doubts themselves should command a committal of this bill with the House bill, that the whole subject may be before the proper committee of the Senate so that they may report it back to the Senate after proper advice. I may say here, what escaped me a moment since, that the distinguished gentleman who is the father of the House bill which we received a few minutes ago has been working at it just eight years, I think, in the House; and now after these long years of toil he is congratulated upon a successful issue of the matter. So the Senator from Illinois has no just ground to complain of any particular delay, for there has been expedition plenty and I think a little too much when we come to consider the frame of the bill we are asked to indorse.

The first section of the bill speaks of the proposed commission, provides for its organization, and then the next section proceeds in this language:

SEC. 2. That the commission hereby created shall have supervision over all matters pertaining to the regulation of commerce among the several States.

The word "supervision" there is the strong word of the phrase, which carries with it the power of these commissioners. Supervision for what? Supervision to make, to change, or to alter the regulations of commerce; or is it a supervision merely to put them in a particular order and arrange them in a certain way to be presented to the community? The first of these propositions is the true one. They are to have "supervision," that is, the entire control of, not merely the overlooking of these regulations, but power to see that they are in proper shape and properly passed out, properly spelled, and properly written. They are to have full supervision of the regulations of commerce among the States.

Now, what do we understand by regulating commerce, according to the constitutional provision? It means no more nor less than the power to prescribe the rules by which commerce is governed. The word "regulation" there means the laws of commerce so far as Congress can prescribe them. This is a legislative power delegated by the Constitution to Congress, and it is one of those powers which are national in their character, and the want of which in the old Confederation was one of the reasons that necessitated the enlarging of the powers of the Union and making it in respect to this one feature a nation. But when Congress, in the exercise of a legislative power delegated to it by the Constitution, may do a thing, where do we find the power in Congress to delegate this authority delegated to it to a mere commission of seven or five or three, as the case may be? This is not like the case of heads of Departments or Secretaries, who are sometimes empowered by Congress with authority to make rules and regulations to carry into effect certain laws, for there is no law prescribed in this bill, as we shall see as we go on; and even in the laws which have heretofore delegated the power I speak of to commissioners or to Secretaries or heads of Departments, they are generally circumscribed by the power of revision in the President or some higher authority.

If the Senate get possession of the idea I am working at, it is that the Congress of the United States in this bill, in the very second section of it, is divesting itself of its legislative power as to regulating commerce among the States and putting it in the hands of a commission. It is a fundamental rule, outside of any constitutional question, that a power delegated can not be subdelegated; and it is an unheard-of thing that a legislative power can be transferred from the legislative body to any subordinate power. That has been tested repeatedly, and as many times in your State as any other in the Union [Mr. HARRISON in the chair], on propositions to submit laws to the people to be voted upon before they become operative. Senators may examine this section and see if I am correct that the commission provided in this bill has the supervision of the regulation of commerce. We get this power, so far as Congress is concerned, entirely from the Constitution, to regulate commerce among the States; that is, in other words, translated properly, to make rules to govern commerce among the States. But here we say we will not do this, but we will transfer it to a commission to make these laws, these regulations, and supervise them. That is the starting point of the bill. It takes a very large space. That is the legislative feature of the bill—delegating the regulation of commerce to the commission.

Now take section 3:

That if any transportation company engaged in interstate commerce shall collect, demand, or receive, in the transaction of the business of interstate commerce, more than a reasonable rate of compensation for the transportation of freight of any description, or for the use or transportation of any railroad-car upon its railroad, or on any of the branches thereof, or upon any railroad it has the right, license, or permission to use, operate, or control, said transportation company shall be deemed guilty of extortion.

And the matter then is to be passed upon by the commission, and the commission may make proper inquiry. We have gone from the legislature feature of this bill, and we now come to a court. We make the commission a court to try the question of extortion and to assess damages for it. The assessment of damages is essentially, in any way you consider it, a judicial proceeding. It is the application of law to a given state of facts, and that is what is called in law a judgment. Just now we had a case, the consideration of which has just passed from us, which is in the hands of the Senator from Tennessee [Mr. JACKSON], as to the allowance of interest upon a given sum of money that a bank has lost. Interest is damages in one sense of the word. The assessment of damages is a question of law and of facts. Here is an assessment of damages provided for in the fourth section of this bill, following section 3, and this commission, now grown from a legislative body into a judicial tribunal, is to exercise the most important judicial function in disposing of the rights of transportation companies.

Next comes section 5:

That whenever complaint is made to the commission, in such manner as it may prescribe, charging any transportation company engaged in interstate commerce with extortion or unjust discrimination in the transaction of such business, a statement of the charges thus made shall be forwarded to the transportation company, which shall be called upon to satisfy the complaint or to answer the same in writing within a reasonable given time.

Here you come to a hearing upon the case made before this court, before these commissioners. Then they are to proceed to assess the damages under section 6 of this bill. There is no avoiding the conclusion, Mr. President, that this erects a court in the country to try these most important questions, these most complicated questions, these questions in which every State in this Union and every Territory also has an interest. There are no more important questions and no more vexing questions, as I shall show after awhile, that have ever been before the courts of this country, from the Supreme Court to the lowest in the land, than the very questions this commission are empowered to try here. And they are to try these questions in somewhat of a summary proceeding, without jury, without appeal. Their assessment of damages is to stand; there is no appeal from it.

Why is not a body with such functions called a court? The name is nothing. It is clothed with all the essential features as well as all the paraphernalia of a court. You have to make your complaint; the party is to answer, and then he is to proceed to trial. That is a court; you may call it by any name you please. The power under the Constitution to make courts in this country is of course very large; it is almost unlimited to make courts for national purposes; but when you come, following this line of argument, to see in section 9 the winding up of the court feature of this bill there is something deserving the particular attention of the Senate:

SEC. 9. That in making any investigation required by this act the commission shall have power to summon and require the attendance of witnesses, to administer oaths, and to require the production of all books, papers, contracts, and documents, or properly certified abstracts thereof, relating to the matter under investigation and necessary for the information of the commission in connection therewith.

How has it been in the acts heretofore passed? Take the practice act, section 881 of the Revised Statutes, where provision is made for compelling the attendance of witnesses; no such power is given to a commissioner of the United States as is given here, or to any other officer, except a judge of the United States, who holds his position for life. That provision in the practice act requires the commissioner to certify the fact of the remaining away of a witness to the judges of the court, and they make the order issuing an attachment for him if necessary. Take the seventy-eighth rule of equity practice established by the Supreme Court of the United States. In the taking of depositions, where a witness is in contempt and fails to attend according to the subpœna, that fact must be certified to the judge of the court before he is compelled to attend. Take the institutions of inquiries in reference to revenue matters that are committed to subordinate officers over the country. Where they have power to administer oaths and examine witnesses, the power is expressly withheld from them to compel the production of books and papers and compel the attendance of witnesses by process such as is contemplated by this bill. It is true that in some of these statutes if the witness does not attend it is said he shall be liable to a penalty; but that is not the case here. The bill gives this commission the compulsory power at once to compel the production of books and papers and the attendance of parties, and subjects the companies to this investigation and witnesses to this compulsory process before this commission that is only to exist for a limited time.

Never before in the case of these mere outside commissions has the power to compel the attendance of witnesses been given. Congress sometimes seeks to compel such attendance through its own committees; but the Supreme Court in the recent Kilbourn case sheared this power down very materially.

Sir, this is a step which I do not think we are warranted under the Constitution in taking, and there has never been before anything of the sort attempted in this country, even in providing rules and regulations for the government of the Territories, over which it is conceded, as a general proposition, that Congress has unlimited legislative power. I ask Senators to pause and consider these propositions before they incorporate into our system this court to sit over these important matters with this unlimited jurisdiction, with no power of review, with the authority to compel a witness by attachment or other process to attend and subject himself to examination, as well as to require the production of the books and papers of the companies.

Mr. BAYARD. Will the Senator from Arkansas yield to me a moment?

Mr. GARLAND. Yes, sir.

Mr. BAYARD. I was not in when the Senator began his remarks. Has he considered the effect of section 9, which goes far beyond the books and papers?

Mr. GARLAND. I am on that now.

Mr. BAYARD. That compels any man's papers, whether he belongs to a transportation company or not, to be brought into court and subjected to examination.

Mr. GARLAND. Precisely. That is the part of the section I was considering. As the Senator from Delaware has suggested, it not only takes the party himself, but it gives the commission power to throw its lasso in every direction and to roam all over the country and bring in every person, every other man, so to speak, into this investigation. This is a power which I contend, under the Constitution, we can not put in the hands of this commission. We can not do it, though we have unlimited control over interstate commerce under the Constitution. When we understand what interstate commerce is, when we have prescribed what it is, yet we can not do this. There are other provisions of the Constitution which stand as high as that and are of as much importance, and as much sacredness, and as much dignity, that forbid the clothing of this commission with the power that is here proposed to be given.

Are not the courts of the country as at present organized competent to deal with these questions? It seems to me they are; but if they are not, and if it is proper, enlarge their jurisdiction as to this subject; but do not set up in the country an independent tribunal, with these vast powers, with no restraint upon them except their "discretion," as it is frequently mentioned in the bill.

To meet the case before us, what should be done? If I read this power of the Constitution aright, Congress should prescribe its regulations itself. It should not say if a company, in the judgment of the commission, charges extraordinary rates or practices extortion the commission shall prescribe regulations. That should not be left to any commission or person in the world to determine; but Congress should prescribe the rule itself, and that is what the Constitution means; that is one of the regulations contemplated by the Constitution.

One of the amendments pending to the bill, if I recollect aright—I do not know which it is in the multitude of them—goes so far as to provide that the commission shall prepare and report a code, an interstate-commerce code, you may call it. Now, where do we get the authority to delegate that power to the commission to make us a code of laws on the subject of interstate commerce? Congress itself may make a code, and Congress ought to make it, and after the code is made a commission might be organized by Congress, if it was necessary, to properly enforce and carry out the rules and regulations of the code. Our Revised Statutes were made by a committee of revision, but nobody ever contended that the action of that committee of revision was law until Congress adopted it.

We might organize a commission to investigate and report to us what, in their judgment, it was deemed best to do, and if we saw proper to adopt what it proposed and put it in the form of an enactment then it would be law, but nothing short of that could make it law. We had once in Arkansas a very interesting question of this character, running parallel with it. The constitution provided for a commission every few years to revise and digest the laws. The commissioners revised and digested them, and while they were at it they made twenty-five or thirty more laws. The first time the supreme court got hold of it they said, "This is no law at all, this extra work. You were authorized to revise and digest the statutes, but in addition to that you have gone to work and made laws. These we will expunge; we will blot these out of your report; and having done that, we will look at your digest of the laws that are existing and see what we will do with that." So the power that is here attempted to be conferred upon a commission simply provides that commission shall do what the Constitution says Congress has the power to do and which Congress can not delegate, that is, the power to make an interstate-commerce code. A commission to look into this immense business, collect information, and report facts and figures to Congress for legislation under its power to regulate commerce, is one thing and a very legitimate thing; but it is very essentially different from the power here given.

The bill proceeds in section 13 to determine what is meant by a transportation company engaged in interstate commerce. There the committee reporting the bill have struck the most dangerous precedent in the Government. There the committee in reporting the bill have struck, I say, the most important and the most intricate question that there is in the Government. The line of demarkation there is more difficult to run than anywhere else between the powers of the General Government and those of the States respectively; and we undertake to say here what that line is as a guide for the commission. I venture the assertion that Congress can not define what that is. Why? You can never define it except in the given case. You may take every case that has been reported in the Supreme Court of the United States, from Ogden *vs.* Gibbons down to the present day, and you will find no question upon which the judges differ so much as the one question, what is State commerce properly speaking, and what is interstate commerce as distinguished from it.

I have before me, in the twenty-first volume of Wallace's reports, the Maryland tax case, where Judge Bradley delivered the opinion of the court, in which there was a dissenting opinion upon this very question as to what was interstate commerce and what was State commerce properly speaking. Judge Bradley in language almost deplored the difficulty that the court had encountered in applying this doctrine and making this distinction. He finally decided, however, that it was a question entirely for the State, in which respect Judge Miller and others differed from him. Then Judge Bradley makes a dissertation upon the very difficulty upon which I am now dwelling, the fixing of landmarks, the proper plane to be seen and to be observed in regard to this distinction.

Here you undertake to do it in this bill. It is a question for the courts to pass upon, and no higher, no more difficult question comes before the courts than this. If I read the spirit of our institutions correctly, in a clash between the States and the Government of the United States the greatest danger under the Constitution arises upon this very question. The Senator from Illinois need not be in too big a hurry to encounter the question in all its length and breadth and call for a speedy settlement of it. He has made proper and legitimate and commendable expedition in this matter.

In making these objections to the bill of the Senator from Illinois I should in good faith attempt to give him, as we say in the courts, a "better writ." I do not like his, and now I will try to give him a better one in general. Looking over the amendments that have been offered here, there are some ten or twelve of them, the amendment of the Senator from Mississippi [Mr. GEORGE], according to my judgment, as well as the amendment of the Senator from Oregon [Mr. SLATER], looks in the proper direction; and from the cursory examination that I have been able to give the House bill that is now somewhat before the Senate for consideration, I am disposed to think that that is the best bill of all, because it undertakes to define exactly what we want done, and does not leave it for subordinate officers or agents to do the work.

It keeps to that extent within the Constitution. It does not attempt to delegate our legislative power to some one else. It does not attempt to delegate the power of making a code or making a law for interstate commerce to any one else; but we, the Congress, make it or attempt to make it in that bill. It leaves the question to the courts as the courts now are organized to enforce the law, and does not erect a court without any responsibility, a court without any appeal, a court without any review or any restraint to revise it. It leaves the courts to settle it as they are now organized, with the right of appeal according to the Constitution and the laws of the country. I think that is the better bill between the two, and I think, upon the cursory examination I have been able to give it, it is the best bill that has been offered upon the subject.

While I say the House bill appears to be more in the direction of what I think is needed, yet I do not commit myself to it, as I have not had an opportunity to examine it closely, and as this whole matter is one of peculiar difficulty to deal with.

With these general remarks, I ask the Senator from Illinois in good faith, because I want to accomplish what I think he is seeking, to let this matter go back to the committee, the House bill and all, with the benefit of the discussion that we have had upon it and the suggestions thrown out by the different amendments, and there let them prepare a bill that they in their judgment think will meet the exigency of the time. The House bill would necessarily go to the committee; but if the consideration of the Senate bill is still held up, unless I find some objectionable features in the House bill I shall offer it in the end, if the consideration of the Senate bill is pressed, as a substitute for the entire business. But let the House bill be printed and referred to the committee, let the whole subject be committed to the committee, and with the importance of this question, with the demand for making some changes in this great and important question, with the demand for legislation upon the subject, I, for one, will co-operate most heartily with the Senator from Illinois in getting final action at this session.

The Senator from Texas [Mr. MAXEY] suggests that there is no ne-

cessity for this matter to lose its hold upon the Senate, and I believe I speak for all Senators around me when I say that they will cheerfully aid in bringing the measure to a final close at this session. I can not give my sanction to this bill, or anything like it, for the reasons I have stated. I hope the whole matter will be committed to the committee, and let them, with all these details and amendments before them, frame a measure that they think will meet the exigency.

I submit the motion to refer the House bill, with the pending Senate bill and all the amendments, to the Committee on Railroads.

The PRESIDING OFFICER (Mr. HARRIS in the chair). The Chair will state to the Senator from Arkansas that a motion to refer the House bill until its second reading is not in order. If there be no objection, the House bill will be read by its title, when it will be considered as read the second time. Then a motion to refer will be in order.

The CHIEF CLERK. "A bill (H. R. 5461) to regulate interstate commerce and to prohibit unjust discriminations by common carriers."

The PRESIDING OFFICER. If there be no objection this will be considered the second reading of the House bill. The Chairs hears none, and it is so ordered.

Mr. CULLOM. I do not intend to take the time of the Senate more than a moment. I am certainly obliged to the honorable Senator from Arkansas for the compliment of having manifested some zeal in the effort that I have made in trying to get a bill on this subject passed by the Senate; but I was forced almost to believe that his remark that there had been very rapid progress made by the Senate upon the question was really meant as a joke. I have not been able to see that the Senate has made much progress. I have been almost induced to believe that the policy of the Senate was to get bills in here upon the Calendar from some committee and there let them sleep and die. I have supposed that the purpose of the Congress of the United States was to pass bills upon important questions; and while I am not disposed to press a bill beyond what seems to be propriety in the case or more rapidly than is consistent with due consideration, it does seem to me that if we are going to pass a bill upon this important question our duty is to consider it in the Senate, and to consider it as constantly as may be consistent with the other work of the Senate until we reach a vote and put it upon its passage.

While it may be proper to refer the bill to the committee before we take a final vote upon it, my desire has been to keep the bill before the Senate for consideration and discussion and amendment until we could learn what the views of Senators were upon it; so that if it finally was referred to the committee the committee would have some idea of the views of the Senate to guide them in the consideration of it in the committee. As it stands to-day we have merely, and but merely, entered upon the consideration of it by way of amendments. We have just come to that period of time. While I should be glad, indeed, to accommodate myself to the views of the distinguished Senator from Arkansas—because I regard him as one of the most eminent lawyers in this body or in the country—I would prefer that the bill should remain before the Senate for consideration and discussion and amendment until we can arrive at some understanding of what the views of the Senate may be upon these important and controverted points.

I have no personal ambition to have the bill that I have had the honor to bring to the Senate passed if it is not the best one. On the contrary, I am exceedingly anxious that this whole subject shall be discussed, shall be considered deliberately, and then that the very best bill in the interest of the public shall be passed by the Congress of the United States at the end. What I want to do is to get some bill passed. This subject, as was said a few days ago, has been considered now for ten years, mainly in the House of Representatives, but somewhat in the Senate of the United States. The people of this country have come to believe that it is a mere football for the Congress of the United States to kick at whenever they have an opportunity and nothing else to do. What I want to do is to convince the people that we are trying to do something in their interest, and that we are able to do it, and that we shall be able to pass some bill, so that if there is any need of giving them relief they shall have it.

I shall not stop at this moment to discuss the various constitutional questions that the honorable Senator has suggested, but I should like that both bills, if you please, shall remain where they are, and that we shall go forward in the discussion and amendment of the bill now before the Senate under consideration until we arrive at something near what we understand to be the best bill that can be passed. Then, if the bill seems to be in such condition that it would require a reference to the committee to be looked at more carefully, to consider the effect of one amendment upon another, so far as I am concerned if an understanding can be had by which we shall get the bill back again and finally reach a vote and pass it so that the two Houses can come together in favor of this important measure, I would not stand in the way. But for the present I must resist the motion of the Senator from Arkansas to refer the whole subject to the Committee on Railroads.

The PRESIDING OFFICER. The question is, Will the Senate recommit the bill?

Mr. BAYARD. Has the House bill been referred?

The PRESIDING OFFICER. The House bill has been read a second time and is now on the Secretary's table not referred.

Mr. BAYARD. Under the rule, ought it not to be referred to the appropriate committee now?

The PRESIDING OFFICER. A motion to refer it to the appropriate committee is in order. The Senator from Arkansas, however, has given a notice in regard to its disposition.

Mr. GARLAND. I asked that the House bill might lie on the table for the present, because if the motion to recommit the Senate bill is carried, then I desire the House bill to go too; but if the Senate bill is not recommitted, I wish to move the Senate to proceed to the consideration of the House bill, or I shall offer the House bill as a substitute for the whole matter. That is the position it is in.

Mr. BAYARD. The House bill is not yet printed. I do not know, nor do perhaps the members of the House know, precisely what bill they have passed. Certainly no member of the Senate does. It is in manuscript yet. It was variously amended in the House in the course of debate.

The proposition of the Senator from Arkansas is that the Senate bill shall be recommitted, and at the same time the House bill goes in the ordinary course of business to the same committee.

I submit to my friend from Illinois that it would rather facilitate the object he has in view to allow both bills (that is to say, the propositions heretofore made by the Senate, which we have now under consideration, and the result of the discussions in the House which has now come to us) to go to the committee of which he is a member, and from which we may therefore expect a very early report upon the subject.

My friend from Illinois is a practical man, eminently so, and his desire in this case is to have some practical result of the discussions in the Senate and the House. I submit to him that while it is perfectly proper and eminently wise that there shall be full discussion upon a subject of this kind, and that discussion must precede the vote of the Senate upon it, yet in order to discuss wisely there must be some definite proposition before the Senate. The Senate may not agree with the views of the House, but may take, as they have heretofore taken, a measure which I do not understand to be in accord with the suggestions of the House. I do not know fully what the measure of the House is, but I have the impression that it differs, and differs most importantly, differs upon principle as well as upon detail, from the measures and the propositions of the Senate. It is our first duty to come, if we can, into accord with the propositions of the House; and if we do so the propositions of the bill will take the form of law.

Mr. CULLOM. If the Senator from Delaware will allow me, I desire to say that I do not disagree with the honorable Senator. The situation of the subject is this: The Senate is now considering the Senate bill. Under the rules of the Senate, I understand it is the right of the Senate to proceed with the consideration of the Senate bill, the bill before the Senate, and perfect the text of that bill before any substitute can be offered. As a matter of fact the honorable Senator from Oregon has already offered substantially the House bill; it may be somewhat different in some particulars; but before the consideration and amendment of the Senate bill proper can be concluded the House bill which but a few moments ago came into the Senate will have been printed, and there will be an opportunity to offer it as a substitute for the Senate bill under consideration, after the Senate bill may have been discussed and considered and amended as the Senate sees proper to amend it.

So the purpose that the Senator from Delaware is seeking to accomplish and the purpose that I desire to accomplish are substantially the same; and I think if we go forward with the consideration of the Senate bill now and amend it as the Senate sees proper, the House bill will be in such a condition that Senators can see it and it may be offered as a substitute for the Senate bill, or the whole subject may be referred to the committee if it is the wish of the Senate to do so.

Mr. JONES, of Florida. I desire to ask the honorable Senator before he sits down whether under the definition given in the bill of transportation companies it is intended to include vessels engaged in the coasting trade.

Mr. CULLOM. Between the States?

Mr. JONES, of Florida. Yes; the coasting trade between the States. I ask if that is a subject of legitimate jurisdiction for the Committee on Railroads and whether the Committee on Commerce might not more properly consider it?

Mr. CULLOM. That question was discussed only a few moments ago. The honorable chairman of the Committee on Commerce has stated the reason why he did not seek to have the bill referred to that committee.

Mr. JONES, of Florida. The question of regulating the coasting trade is rather a complicated one and is entirely different from the railroad system.

The PRESIDING OFFICER. The question is on the motion of the Senator from Arkansas [Mr. GARLAND] to recommit the bill, with all pending amendments and amendments that have been received and printed.

Mr. INGALLS. Mr. President, I do not suppose that I contribute anything to the general stock of information on this subject when I say that if we are to have any bill regulating interstate commerce by this Congress it must be by action upon the bill just sent over from the House of Representatives. We may either adopt that with amend-

ments, or we may strike out all of it except the title and insert whatever the Senate pleases by way of amendment; but in any event we shall make no step of substantial progress by continuing further the consideration of the Senate bill. It is true that something might be accomplished by debate in reaching a concert of minds with regard to the subject-matter of the bill; but in a parliamentary sense, the bill of the House having reached us, there is no further step in advance that can be taken except by consideration of the House bill.

I have no desire to antagonize the wishes of the Senator from Illinois who has this measure in charge; I shall consider myself as a volunteer to follow his direction; but it appears to me, looking at it as a proposition of parliamentary procedure, and also from the standpoint of one sincerely desirous of having something done by the present Congress, that the wiser course would be to have the bill of the House referred promptly to the Committee on Railroads, if that is the committee from which the measure proceeds. Let it be accompanied also by the bill of the Senate with all of the amendments that have been made and offered thereto. Then let a meeting of the committee be called immediately to consider these propositions, to-morrow morning if need be. I assume that the importance of this subject would justify such action. If a majority of the committee see fit to report back the House bill with every word stricken out except the title and propose as an amendment the bill that has already been presented to us by the committee of the Senate, well and good; we have been advanced one step in parliamentary progress; we are so much nearer our goal if we are to reach it at all. I should hope that the Senator from Illinois would see his way clear to this conclusion, but if he does not of course I shall follow him.

I wish to say one word more before I sit down. I have understood that the Senator from Illinois apprehended that there might be some loss of position by reason of the fact that the bill having been assigned as a special order and then recommitted it could not be again made a special order without the assent of two-thirds of the Senate. My understanding of the rules is that if the House bill should be reported to-morrow morning from the Committee on Railroads, with whatever amendments they see fit to add thereto, immediately, without debate, upon a vote of a majority of the Senate to that end, the bill can be taken up for discussion, and having been taken up, the discussion can continue without limitation so long as the Senate pleases.

Mr. CULLOM. As against special orders?

Mr. INGALLS. As against all special orders.

Mr. CULLOM. I desire to repeat that my purpose is simply that the Senate shall consider the Senate bill sufficiently to draw from Senators whatever suggestions they may have in reference to it in the way of amendment. I know that one or two Senators at least have prepared amendments to the bill which the Senate is now considering, which amendments I would be glad to have offered so as to know exactly what they are, because they may be of that class of amendments which will be somewhat in harmony with the general idea of the bill under consideration and may be incorporated in the bill without very much discussion or delay. If the bill is to be recommitted I should like to have the benefit of those amendments before the Senate before the reference shall be made. Besides, I should like to know, as the honorable Senator from Kansas has suggested, when the bill is recommitted and the Committee on Railroads consider it and report it back, that we shall not be crowded out so that in the end there would be nothing further heard from the subject during this session of Congress. My purpose is, as I said awhile ago, that Congress shall not only consider the question as it has been periodically doing for the last ten or twelve years, but that something shall be accomplished in the interest of the people of this country in the way of legislation.

Mr. GARLAND. The amendments referred to by the Senator from Illinois can all be offered and sent to the committee along with what is now before the Senate. Now that we have reached a place to solve this matter for the time being, under the suggestion of the Senator from Kansas, let these amendments be sent in with the others, and let the whole subject be referred to the Committee on Railroads, and for one (I can only promise for myself) I shall do all I can to aid the Senator from Illinois in getting this matter up at any time and having a final conclusion upon it.

Mr. HARRISON. I think with the Senator from Illinois who is in charge of the bill that if we had employed the time that has been used this afternoon in discussing the methods by which to arrive at this matter upon the bill itself we should have made substantial progress.

Now, the measure is likely to come out of the committee in one of two ways, if it goes there under the motion of the Senator from Arkansas. I should say it would probably come back from the committee with the recommendation that the bill which our committee has already reported, modified perhaps by reason of suggestions which have been made since the discussion began, should be adopted as a substitute for the House bill.

Mr. INGALLS. As an amendment to the House bill.

Mr. HARRISON. Yes, as an amendment, but practically in common parlance a substitute, striking out all after the enacting clause and inserting. I do not profess to be possessed of prophetic power, but if the Senate bill with pending amendments and the House bill should be referred to the Committee on Railroads I think we should find that that would be the result. If that is to be the result, is it not better, while the subject is before the Senate, instead of having the matter discussed in the committee, that the Senate itself should discuss it, letting the House bill go to the committee? Thus we should get the judgment of the Senate upon the pending amendments, one of which, as has been said, is substantially the House bill, at least the original Reagan bill, and when we have reached a conclusion upon the amendments in the Senate, if the Committee on Railroads will then take the bill as the Senate has perfected it, if it shall please them, and report it as a substitute for the House bill, we should be ready to vote in all probability and bring it to a speedy issue.

The only interest I have is that having this subject before us I think the wisest policy of those who would like to see legislation would be to adhere to the discussion of it and to go on with the decision of the pending questions upon the amendments until we have obtained an expression of the Senate upon the whole subject. Of course final action should be upon the House bill, but I believe we should be nearer an end of this matter if the Senate perfects the bill and if the committee are advised in advance, as they would be instructed by votes of the Senate upon each one of these particular propositions, and then present a bill as an amendment to the House bill which will meet concurrence without much discussion.

Mr. JONES, of Florida. The popular opinion is that this measure relates only to transportation by railroads. Whatever abuses or extortions have given rise to this and kindred measures I think have originated in that description of transportation. I have no hesitation in saying that the provisions of this bill, if the subject may require special attention, applies to the whole commercial marine of the United States engaged in the coasting trade. We have been legislating for a year or two with a purpose of building up our miserable commerce, as it has been called—our poor commerce, on the seas, not on the land, because I believe it was said that the railroad corporations have been well able to take care of themselves. But when it came to our struggling mariners and our little shipping interests along the coast, the Senator from Maine not now in his seat [Mr. FRYE] I remember session after session has been struggling to get laws repealed and laws enacted to encourage and build up that. I am sure on reflection that so far as that species of trade and commerce is concerned there is no special necessity for appointing a commission to prescribe the rates of freight that go to the poor ship-owners on our coast or that consideration ought especially to be given by the Committee on Railroads to that subject.

Mr. DAWES. I can not quite understand the reluctance to discussing this question, but I must admire the different devices which are resorted to for its postponement. If we desire to come to a conclusion upon this matter, the way is so plain, and the only existing way, that the effort to keep out of it is admirable to me. We have here the House bill and we have the Senate bill. If we are to accomplish anything, what we determine in the Senate will ultimately be put as a substitute or amendment for the House bill. The ordinary rules take the House bill to a committee. The Senate bill is under discussion. What we propose to substitute for the House bill must be the result of long discussion here. We have had part of that discussion; we are approaching a decision; we are coming to a conclusion as to what is the desire of a majority of the Senate; and the moment that appears evident every device seems to be resorted to in order to give it the go-by.

If we desire that the result of the discussions of the two Houses shall be a law, the plain way is for us to go on with the discussion of our own measure until we determine what is the will of a majority of this body. We bring it into shape and form, and when we have brought it into shape and form we have the thing which we are to offer as an amendment to the House bill; our discussion has closed; our minds are brought together; that which we shall determine is the best possible form of legislation will have been effected, and we shall have accomplished something.

But if there is any particular reason why this measure shall have the go-by for this session and not seem to be killed, if there is any good reason why we shall appear to be anxious to have some interstate commerce law and yet not have such a law, the means resorted to and the suggestions which I have heard within two or three days in respect to the best method to consider this bill are admirably calculated to bring about just such a result. We shall seem to the country to be exceedingly anxious to have some measure of relief, some law, and yet we shall go on with entire safety and with confidence that no such law will be the result of our deliberations.

As was said by the Senator from Illinois, such has been the course for ten years. The people of this country have understood that the Congress of the United States has been deliberating, has been devising some measure of relief as to interstate commerce; yet the Congress of the United States has rested in perfect confidence that however much it may debate the measure, sometimes at one end of the Capitol and sometimes at the other end of the Capitol, nobody may take alarm, nothing will come of it in the shape of a law.

But now the Senate of the United States has it in its power to enact a law. It has got in its possession the will of the other branch. All it has to do is to determine what is its own will, and it has a bill be-

fore it for that purpose. It has been for weeks trying to ascertain what its own will is. As it approaches the point where its will shall be determined, I hear from different parts of the Senate suggestions that after all we had better rest awhile; we had better take this deliberately; we had better not act rashly. A bill has come over here from the House and it is to go to a committee. Let us quietly subside and let that bill take its ordinary course in committee. It will come back here, and then after this interim we shall go on with our debate as to what measure we shall offer, if any, as a substitute for it, or some one will suggest that it had better go over until the next Congress.

Sir, if the Senate desires legislation it has it in its power to effect that result now, and the plain, honest, straightforward way is to consider the measure now before it. I hope the Senator from Illinois will resist any motion to take his bill out of the hands of the Senate and send it back to the committee to sleep there alongside of the House bill, which so long as it is there is safe.

Mr. CULLOM. I desire to inquire whether the motion to refer was not withdrawn.

The PRESIDING OFFICER. The motion to recommit is pending, with notice that, if that motion shall be agreed to, the motion then will be made to refer the House bill.

Mr. CULLOM. I hope the motion to recommit will be voted down.

Mr. CONGER. If these bills are to be referred to committees and to await the action there, both the Senate bill and the House bill, it seems to me the House bill should take its proper and legitimate direction and be committed to the Committee on Commerce, which has always had the consideration of intercommercial affairs. In conversation with some members of that committee it was thought that as the House bill had come over here it would be better that that bill should be referred, a little out of its order, to the Committee on Railroads, in order to facilitate the examination of the House bill and permit the Committee on Railroads in that examination to determine what disposition they shall make of the pending bill.

Without committing myself to either of these bills, or to all the provisions of them, I am free to say that I think the country expects some legislation upon this subject during this session that will in some manner relieve the country from the complaints which are continually made in regard to the subject of interstate commerce. I have thought, and so the chairman of the Committee on Commerce has thought, although I was not present when he made his remarks, that it would be better to forego the control of the House bill to the proper committee, the Committee on Commerce, and let it go to the Committee on Railroads, who have had so much charge of this whole question, and let the discussion in the Senate go on, and, as has been very properly said by the Senator from Massachusetts, let the Senate by its discussions and by its amendments at least come to some conclusion in regard not only to the Senate bill but as to what should be done with the House bill, for every Senator has the opportunity of seeing at a glance, even while the discussion is going on, what the House bill contains, although it may have been referred to a committee.

I assent to the proposition that the bill shall be referred to the Committee on Railroads instead of going to the Committee on Commerce, where it would probably belong, and where from some of its provisions in regard to water navigation it ought by all means to go, except that we can meet those questions perhaps here in the Senate as well as before the committee. Let this discussion go on and let the Senate proceed with the consideration of the Senate bill, and let the House bill be referred to the Committee on Railroads and be as soon as possible reported back in accordance with the will of the Senate with such amendments or such substitution as they shall think the votes of the Senate and the will of the Senate shall demand.

Mr. CULLOM. I hope the motion to recommit will be voted down, but I wish to suggest to the honorable Senator from Michigan that if it is the wish or view of the Senate that water-routes or transportation by water should not be included in the bill a very few amendments to section 12 would take all that out of the bill, if in the judgment of the Senate it ought not to be there.

Mr. CONGER. It was in view of the opportunity of making such amendments here that, after consultation at least with some of the members of the Committee on Commerce and what we thought would be the natural proprieties of amendments to the bill, we did not ask that even that part of the Senate bill should be sent to the Committee on Commerce—at least as individuals we did not—but that whatever amendments we might see proper to propose as individuals or as members of the committee for the interest of the water navigation of the country should be made in the Senate.

Mr. SLATER. It is quite apparent that there is no real difference on the two sides of the Chamber in regard to the result to be reached, parliamentarily speaking, on the bill. I shall vote to recommit the bill now under consideration, and should the Senate decide not to recommit it I shall then vote against the reference of the House bill, as I desire to have the two bills considered in conjunction. I think the proper method is by unanimous consent to let the House bill be printed, and let the Senate bill be considered as pending as a substitute to it. That will reach the point precisely, as I understand it, that both sides of the Chamber desire.

Mr. MAXEY. The object which I have in view is by some means to have the House bill considered along with the Senate bill. This bill now has hold of the Senate. The subject-matter of the House bill being the same as that of the bill before the Senate, the course which would be best would be to have the House bill considered along with the Senate bill, so that we may have the whole question before us. That is what I want to do, and if that can be accomplished better by retaining the Senate bill before the Senate, let the House bill be considered along with it without a reference, and then we shall have the whole matter before us.

Mr. CULLOM. I am informed that the House bill, which has been passed by that body and is now on the table of the Senate, will be printed by to-morrow morning, so that every Senator may have a copy of it. So far as I am concerned I desire that the House bill shall lie on the table and that we may go forward with the consideration of the bill before the Senate.

Mr. MAXEY. I said what I did with the expectation that the House bill would be printed by to-morrow, and with the further expectation that it was impossibe to close the consideration of the Senate bill this evening, so that we should have the benefit of the House bill to-morrow.

Mr. ALLISON. I ask the Chair if the House bill will be printed unless there is an order to that effect?

Mr. MAXEY. I ask that it be printed.

The PRESIDING OFFICER. Under the rule when a House bill is referred it is printed. If it is not referred the Senate must order the printing.

Mr. ALLISON. I ask that it may be printed. Let that be understood.

The PRESIDING OFFICER. The Senator from Iowa asks the unanimous consent of the Senate to move at this time that the House bill be printed. Is there objection? The Chair hears none, and the order to print is made. The question now is on the motion of the Senator from Arkansas [Mr. GARLAND] to recommit the Senate bill.

The motion was not agreed to; there being, on a division—ayes 18, noes 24.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Iowa [Mr. WILSON] to the amendment of the Senator from Illinois [Mr. CULLOM].

Mr. GARLAND. I want to make a motion that we proceed to the consideration of the House bill, but the House bill has been ordered to be printed. I wish the Senator from Illinois, if he can see his way through, to consent to the proposition I submit. If we pass a bill of our own here and send it to the House it goes there as a Senate bill and may not be reached this session. If we take up the House bill and pass that, that ends it; or if we amend that bill and send it back to the House with amendment, we shall get a result sooner. Will not the Senator from Illinois consent to let this bill go over until to-morrow and then have us proceed to the consideration of the House bill and accomplish what he wants?

Mr. CULLOM. I should like exceedingly to accommodate the honorable Senator from Arkansas, but my purpose is to go forward with the discussion and consideration of the Senate bill until we get it as nearly perfected as possible, by which time I have no doubt the House bill will be printed and on our tables, and then, if the bill remains in the Senate, I propose to offer as a substitute, or rather as an amendmendment to the House bill, the bill of the Senate as perfected.

Mr. GARLAND. That is perfectly feasible, and then it will go back, if amended in that way, to the House with the amendment.

Mr. CULLOM. Certainly

Mr. GARLAND. And they will get on there much quicker than if we send them the Senate bill.

Mr. CULLOM. I have no expectation of pressing the Senate bill to a passage by the Senate. What I desire is to offer it, when it is perfected by the Senate, as an amendment to the House bill, so that the two bodies may come together.

Mr. GARLAND. With that understanding, that to-morrow we shall get to the consideration of the House bill, my purpose is reached.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Iowa [Mr. WILSON] to the amendment of the Senator from Illinois [Mr. CULLOM].

The amendment to the amendment was agreed to.

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from Illinois as amended.

Mr. INGALLS. Let it be read.

The PRESIDING OFFICER. The amendment as amended will be read.

The Chief Clerk read as follows:

And said commission shall precede its first report with an investigation of the subject of interstate commerce, which shall embrace the subjects of establishing a system of both maximum and minimum charges for transportation, and for the preservation of free competition within the limits so fixed, for the prohibition of discriminations of any kind whatever, either in favor of or against cities, towns, or other localities, whether the same be competing or non-competing points, and for applying the same principle to transportation for individuals, firms, associations, or corporations in all matters relating to commerce among the States; for the preservation and enforcement of the right of shippers to select the lines and parts of lines over which their shipments shall pass, to the end

that said commerce among the States may avail itself of the all-rail or part rail and part water routes of the country; for the prevention of such pooling arrangements and agreements to refrain from just competition as may tend to impose unreasonable burdens upon said commerce among the States, and for the protection of said commerce against unjust exactions based on a class of securities commonly denominated "watered stock;" and said commission, in conducting said investigation, shall be guided by such rules of action as will be fair, just, and equitable toward all of the interests involved, whether the same be private, public, or corporate, connected with the subject of commerce among the States.

The amendment as amended was agreed to.

Mr. HARRISON. There is, I believe, now no amendment pending.

The PRESIDING OFFICER. There is no amendment except the one in the nature of a substitute.

Mr. HARRISON. I believe it was agreed that that should be withheld until the text of the bill as reported by the committee was perfected.

The PRESIDING OFFICER. The question upon the amendment in the nature of a substitute is suspended. Any amendment to either the original text or to the substitute will take precedence.

Mr. HARRISON. So I supposed. I rose for the purpose of moving to strike out in the first section the words after the word "President," in line 19, to and including the word "representation," in line 22.

The PRESIDING OFFICER. The Secretary will report the amendment offered by the Senator from Indiana.

The CHIEF CLERK. In line 19 of section 1, after the word "President," it is proposed to strike out:

And the commissioners shall be appointed so that the different interests affected by this act shall have, as nearly as possible, proper representation.

Mr. HARRISON. I believe the Senator from Louisiana [Mr. GIBSON] has an amendment pending to strike out the whole of this section after the word "Senate," in line 8, and it is proper, I suppose, that the vote should be taken on this, which proposes to strike out a smaller part.

I desire simply to say that it seems to me this commission should not be composed of men who are supposed to represent interests. The words which I move to strike out would imply that there was to be a railroad man on the commission, perhaps a railroad president or officer, and that there was to be some one representing the agriculturists, some one representing the manufacturing interests, and so on. If this commission is to accomplish the good which is expected of it it should not be made up of men who represent particular interests. We should not have there some one who understands that he is there as the representative of the railroad companies, and some one else that he is there as the representative of the interests of shippers who desire lower rates. We shall have no wise consideration of this question and no useful recommendations, in my judgment, from such a commission. I believe the President should be left free to choose men who will represent the general interests of the whole country, rather than to choose men who will stand for special interests. Therefore I move to strike out these words.

Mr. CULLOM. I was interrupted at the time when the amendment was read, and I ask that it be read again.

The PRESIDING OFFICER. The amendment will be again read.

The Chief Clerk read the amendment of Mr. HARRISON.

Mr. CULLOM. I do not care to take up the time of the Senate further than to say a word. So far as I am concerned I am not very particular whether that language remains in the bill or not. The Senate has had the opportunity of seeing the various enactments of different States upon this subject of transportation, and they will find that in most of them there is a reference to the different business interests of the country being represented upon the board. I think myself with the Senator from Indiana that there is probably nothing to be gained by that sort of a clause in this bill, if the appointing power exercises that discretion and prudence and wisdom which he ought to do, and which I suppose would be done in the case of the President of the United States.

I do not care to take up the time of the Senate in discussing the provisions, and hope the vote will be taken.

The PRESIDING OFFICER. The question is on the amendment proposed by the Senator from Indiana.

Mr. MCPHERSON. I should like to suggest to the Senator from Indiana that while the original appointments are made by the President with the advice and consent of the Senate, in the case of vacancies occurring by removal, resignation, or other cause there is no provision here that the Senate must agree to the Presidential appointments. Does the Senator from Indiana consider that that is implied in the section?

Mr. HARRISON. I am not responsible for that phraseology, but I should think that it would be implied.

Mr. MCPHERSON. The original appointment, I see, must be by and with the advice and consent of the Senate; and in case of vacancy from any cause the provision is that the President shall fill it.

Mr. HARRISON. As this would be a public office, I suppose that without any such provision in the law the appointment could only be with the advice and consent of the Senate; but if the Senator has any doubt he can move to insert those words.

Mr. MCPHERSON. I am not particular about it.

The PRESIDING OFFICER. The question is on the amendment proposed by the Senator from Indiana.

A division was called for.

Mr. CULLOM. So far as I am concerned, I will withdraw any opposition to the amendment.

The question being put, there were on a division—ayes 17, noes 9; no quorum voting.

Mr. HARRISON. I call for the yeas and nays.

The yeas and nays were ordered.

Mr. GORMAN. I ask that the amendment may be read.

The PRESIDING OFFICER. The amendment will be read.

The Chief Clerk read the amendment proposed by Mr. HARRISON.

Mr. BLAIR. The words there are "proper representation." I suppose that they are used simply in the sense of intelligent representation. It can not be possible that the provisions of the bill are for the creation of a commission that is to be made up of men interested specially for the railroads that are to be supervised; and yet the bill ought to provide, it seems to me, that this commission be made up of those who are intelligent upon the subject, and it would be very difficult to find men competent to supervise the transportation of the country who have not had more or less connection with and experience in the management of railroads.

I do not believe, since this language is taken from the acts of the various States, as the Senator in charge of the bill has stated, that there can be any possible objection to the present language. The word "proper" can simply mean intelligent, competent representation.

The question being taken by yeas and nays, resulted—yeas 26, nays 24; as follows:

YEAS—26.

Bayard,	George,	Miller of Cal.,	Sewell,
Beck,	Hampton,	Mitchell,	Sheffield,
Cockrell,	Harrison,	Pike,	Slater,
Coke,	Hoar,	Platt,	Vance,
Colquitt,	McPherson,	Pugh,	Van Wyck.
Dawes,	Manderson,	Riddelberger,	
Garland,	Maxey,	Sabin,	

NAYS—24.

Allison,	Conger,	Hawley,	Morgan,
Blair,	Cullom,	Jackson,	Palmer,
Brown,	Dolph,	Jonas,	Pendleton,
Camden,	Edmunds,	Jones of Florida,	Sawyer,
Cameron of Pa.,	Gorman,	Lapham,	Williams
Cameron of Wis.,	Harris,	McMillan,	Wilson.

ABSENT—26.

Aldrich,	Gibson,	Lamar,	Saulsbury,
Bowen,	Groome,	Logan,	Sherman,
Butler,	Hale,	Mahone,	Vest,
Call,	Hill,	Miller of N. Y.,	Voorhees,
Fair,	Ingalls,	Morrill,	Walker.
Farley,	Jones of Nevada,	Plumb,	
Frye,	Kenna,	Ransom,	

So the amendment was agreed to.

Mr. HARRISON. I move to insert at the end of section 3 these words:

Which is hereby declared to be a misdemeanor.

So as to make the section read:

SEC. 3. That if any transportation company engaged in interstate commerce shall collect, demand, or receive, in the transaction of the business of interstate commerce, more than a reasonable rate of compensation for the transportation of freight of any description, or for the use or transportation of any railroad-car upon its railroad, or on any of the branches thereof, or upon any railroad it has the right, license, or permission to use, operate, or control, said transportation company shall be deemed guilty of extortion, which is hereby declared to be a misdemeanor.

This bill is framed to punish what is here defined and is described as extortion by a criminal prosecution, but it is not anywhere declared in the bill what the grade of the offense shall be; it is not declared to be a crime or a misdemeanor, but it is said that a certain thing shall constitute extortion, and then in another part of the bill there is some provision for punishing it. I think it ought to be described so that the statutes upon that subject would apply.

Mr. CULLOM. I have no objection to the amendment, but the statement that it is nowhere described to be an offense, I think, is a mistake. I acquiesce in the adoption of the amendment.

The amendment was agreed to.

Mr. VANCE. Mr. President, I offer the following amendment——

Mr. HARRISON. Will the Senator from North Carolina while we are about it permit me to propose a similar amendment to the next section?

Mr. VANCE. Certainly.

Mr. HARRISON. I move that the same words be added at the end of section 4 where the offense of unjust discrimination is described. I move to add to the section:

Which is hereby declared to be a misdemeanor.

Mr. CULLOM. I have no objection to that amendment.

The amendment was agreed to.

Mr. VANCE. I now offer my amendment.

The amendment was read, being to insert as a new section after section 4:

SEC. 5. That it shall be a discrimination prohibited by this act if any railroad company shall charge, demand, or receive more for any package when shipped singly than for each of a number of like packages when shipped by the car-load, or in any greater quantity or number or in any less quantity or number than a car-load, the design and intent of this act being to secure an absolute

equality in rates between small and large shippers and consignees; except that a greater rate may be charged and demanded of shippers or consignees for freight shipped in less quantities than a car-load when such freight consists of horses, cattle, hogs, sheep, or other live stock, or of wheat, oats, corn, barley, or other grain shipped in bulk, and not put up in sacks, barrels, boxes, or other packages, or of pig, or bar, or slab iron, or of iron ore or other mineral ore, or of coal, coke, or coal-oil in a single tank or package to the car-load, or of lumber, logs, or firewood, or of any other commodity usually shipped or transported in bulk and by the car-load; but there shall be no difference or discrimination in rate as between shippers and consignees of the above excepted articles, whether such shipment shall be made by a single car-load or by a greater number of car-loads: *Provided*, That 10 per cent. may be charged and received on freight when shipped in single packages, and less than a car-load, in addition to the established charge on the same kind of goods, wares, or merchandise when shipped in like packages by the car-load, if the freight on all the articles shipped to the same consignee, to be delivered at the same point and at the same time, shall be less than $20.

The PRESIDING OFFICER. The question is on the amendment of the Senator from North Carolina.

Mr. VANCE. Mr. President, the subject of the regulation of interstate commerce by the General Government was so ably and elaborately discussed by the Senator from Mississippi [Mr. GEORGE] a few days since that I do not deem it necessary to add anything more; but I desire to say a few words in the same line in relation to this amendment.

The tendency of our financial economy is toward the concentration of capital in a few hands; and capital concentrated in a few hands has a power of its own that enables it to tyrannize over capital that is scattered in many hands and in small amounts. Now, our laws forbid absolutely the tyranny of one man over another or of any kind of restraint whatever by one man over the personal freedom of another. Why should they not, as far as possible, also forbid the tyranny of superior means over inferior means?

The prime object of our free institutions is to secure the absolute equality of all the citizens before the law. Why not complete the idea and grant them all, rich and poor, an absolute equality in methods of acquiring wealth? You may say our laws already do this; that they apply alike to all men; and if one man is more shrewd, more zealous, more frugal and wise than another, and so gets ahead of his rival in business, it can not be helped, and it is not the function of legislation to remedy the disparity. Very true this is as between private citizen and private citizen. I would not have it otherwise if I could. It would indeed be an ill-arranged moral world if success was not the reward of diligence, frugality, and industry. And it would be quite as bad an arrangement perhaps if legislation were required or even permitted to step in and prescribe the dealings between the poor and the rich, between great dealers and small ones, between wholesale and retail bargainers.

If, therefore, a capitalist can by buying largely get goods at cheaper rates than the small dealer and thus undersell him and break him down, of course this is beyond the reach of legislation, for a man may lawfully do as he will with his own. He owes no duty to the public in this regard, and the law permits him to be selfish. But railroad carriers are public servants; they are created by the public for certain purposes, and to this end they are granted certain high powers and privileges. They are invested with a portion of public sovereignty; as the law expresses it, they are affected with a public interest and owe a duty to the public. In obtaining, therefore, a portion of the public sovereignty they necessarily relinquish a portion of the rights of private citizenship, notably that of exemption from the public control of their business methods within certain reasonable limits. To give them artificial life and perpetual existence, to give them power to condemn the private property of the citizen for their use, and to give them exclusive control of the highway for their vehicles, and then permit them to go uncontrolled as absolutely as though they were private citizens in the management of their business, would be a monstrous proceeding indeed. It would be the story of Frankenstein converted into actual fact.

Therefore when capital buys and sells by the quantity to the injury of small dealers we can, in either justice or wisdom, say nothing. But when capital obtains transportation for its wares over the railroad lines of the public carriers at cheaper rates than the small dealer, by reason of the wholesale character of the freights or for any other reason, to the injury of the poorer man, then the public, through the Government, becomes a party to this injury. It then becomes an injustice and a wrong, and not a mere misfortune inevitably resulting from the laws of trade. It then becomes the duty of the public by proper legislation to redress the wrong and to restrain its agents. In vain is the attempt to justify these discriminations on business principles; as well might a judge say that he is justified in imposing a light penalty on a criminal because he was a wholesale offender, and a heavy one on the unfortunate man who is honest enough to be brought into court only occasionally.

The function of the judge is to do justice impartially. The purpose of creating these carrying corporations was to carry goods for the citizens with like impartiality. Those acquainted with the details of the daily business of the people well know that the traders of small means are absolutely at the mercy of their rivals of greater capital in all traffic where freight charges enter considerably into the cost of the article. The big fish are constantly swallowing the little ones. It is bad enough that, in the nature of things, this must be so, but I submit that it becomes an iniquity when the law, through its chartered creatures, becomes a principal party to such a proceeding.

The subject to which this bill relates constitutes in my opinion the coming question of American politics. For the next twenty years it will be discussed and examined with ever-growing interest. Many mistakes will doubtless be made in the attempt to legislate upon it with justice to the people and the corporations. But a solution of the problem will be found. It may be that this bill is one of the mistakes, but it is a step in the direction of a much-desired object. I hail its appearance as proper tentative legislation.

One thing is very certain, indeed—that the people are not going to submit quietly to a condition of things which shall make the destiny of commerce and all other methods of acquiring wealth utterly dependent on either the caprice, the forbearance, or the greed of railroad corporations, uncontrolled and uncontrollable. I confess the difficulty of legislative interference in the practical details of railroad transportation without doing as much harm probably as good. It is a highly complicated and technical business, requiring both talent and experience to comprehend it aright. The experts are constantly throwing this into the teeth of legislators and defying their ignorant efforts at a remedy for the people's complaints. However little the average legislator may know about railroad transportation in contrast with an experienced official, he yet knows enough to understand that he should try to protect the people of little means against the extortions or discriminations of incorporated capital, and that effort will continue to be made until the proper remedy is found, for the genius of the people of the race to which we belong has always been found adequate to the proper redress of all grievances which have retarded their social and material progress.

This remedy would doubtless be found sooner, and at less cost to all parties, if the great body of the carrying corporations would co-operate, as some of them have done, with the people's representatives in procuring that just and wise legislation which is so much desired. In this way their experience and great abilities could not only be made of service to the country at large, but of greatest use to the interests of their own investments; for this is the safest and surest preventive of communism and the destruction of the mob. There are no reasons but mistakenly selfish ones why railroads should not be made as popular as they are beneficent in their general tendency as the chief implement of modern progress. Their recent management has created well-grounded fears both of their effect on the just distribution of public wealth and of their influence on the freedom and purity of our institutions. Let the wise among the many very able railroad men of the country look to it.

Mr. GEORGE. Mr. President, the amendment offered by the Senator from North Carolina [Mr. VANCE] is in my judgment very important, whether regarded with reference to the principle involved in it, or considered in reference to the practical effects to flow from its adoption. I am aware, sir, that it is not likely to meet the approbation of the Senate; yet my convictions are so clear both as to its abstract justice and the great good that would come from its adoption, that I should consider that I had failed in the discharge of my duty as a Senator if I were to allow any considerations as to its popularity or any motive connected with my personal fortunes or my personal comfort and convenience to influence me to omit any effort in my power in conjunction with the Senator from North Carolina to secure for it the favorable judgment of the Senate. While, sir, I think this as to the chances of its adoption now, I have the strongest conviction that in the near future the principle on which it is based will prevail.

In all the discussion on the subject of railroad supervision it seems to be conceded on all sides that if there be one evil in railroad administration which should be remedied it is the practice of discriminating between shippers. It seems to be acknowledged by all that these institutions, in discharging the functions for which they were created, should treat all alike; giving to none advantages denied to others, and imposing on none unequal burdens, so that these great and essential agencies of commerce would be equally the servants and benefactors of every class of our people. And with this conceded universally, it seems strange that the practice of charging for goods commonly shipped in separate parcels or packages a higher rate when one or a few parcels only are shipped than when a large number are the subject of the shipment should not be as universally recognized as an unjust discrimination against the small shipper. This must arise from the application of the commercial principle, as it is recognized and acted on in transactions strictly private, to the performance of public duties by an agency which, though private in its ownership and in the profits it may gain, is nevertheless in its essence, in its creation, and in its service a public instrumentality, and subject to the supervision and control of the State.

Certainly, sir, I need not prove that railroad companies are public institutions in the service they render, and are therefore subject to regulation and control in their methods by the State. If anything is settled in American law that is settled. These companies themselves acknowledge and act on this when favors are to be granted and exceptional privileges are to be bestowed. They have been the recipients of bounties and subsidies from the Federal, as well as from State and municipal treasuries. They are the donees of the power of eminent domain, by which they lay their tracks and erect their depots wherever they will, on whose land they please, without the consent of the

owner. On no other ground than that they are public institutions, created to perform a public work, useful and necessary for the public good, can these privileges or powers be claimed or granted. That is clear and undoubted law.

Then, sir, how are they to perform this service? We have assumed, sir—I believe nobody disputes that—that this service must be on reasonable charges. The bill reported by the committee assumes this and undertakes to enforce it. The bill also undertakes to prevent discriminating rates between shippers for a similar service under similar circumstances. We seem to be agreed on that. No bill, or substitute for a bill, has been introduced in either House of Congress, as far as I know, which does not provide against discrimination. The object of the amendment is solely to prevent discrimination. The question seems to be this, and this only—whether the fact that one man has a larger quantity of goods for shipment than another, but the goods of both being of the same kind and alike packed in separate parcels, and both received at the same place and shipped to the same destination, constitutes such a dissimilarity in the circumstances as will justify a railroad company in making discriminating rates, charging more per package to the smaller shipper than to the larger; or, to state the exact case in different language, whether the adoption of a rule by the railroad companies by which men of small capital shall habitually be made to pay more for the same service than is charged to their rivals in business who have larger capital is a just and proper mode of performing a public service. There seems to be but one answer to this proposition, unless we are prepared to say that a difference in wealth justifies a difference in charges, or burdens, by a public agent in favor of those who have the most of this world's goods. I do not think we are prepared to say this, nor is the country prepared to accept it as a just and proper rule of public service.

If it be said that a railroad company can transport goods more cheaply when a single person shall ship a car-load than when the car is filled by the goods of several shippers, I answer, if this be conceded, it is an argument which the railroad companies have no right to insist on, since they habitually refuse to regulate their charges by the cost of transportation. Their practice is to charge not according to the cost to them or the value to the shipper of the work done, but according to the rule of "what the traffic will bear." Cotton, corn, wheat, iron, coal, furniture, dry goods are charged different rates for the same amount of work. The division of freights into many different classes is based solely on the idea that these different classes are charged different rates for the same work. The rule of equal charges for equal work and equal cost on transportation is also habitually violated in the higher charges for short hauls between non-competitive points than for longer hauls where there is competition. This pretended rule has no existence whatever in railroad transportation. It is utterly repudiated in practice. I submit, sir, with confidence that an assumed rule, existing only in imagination, condemned and repudiated by the railroad companies in practice, can not be invoked by them to justify acts of injustice and wrong.

Sir, I am not bound to go further than to show that the railroad companies are estopped to make the argument what I have answered; yet I will do so. The amendment asks for positive interference with the business of railroad companies, and I admit that no such interference should take place for light or trivial causes, but only on grounds of great public good. I proceed now to demonstrate that the highest public good demands this interference.

No man who has given the slightest consideration to what is going on all over the civilized world can have failed to notice the centralization or concentration in commercial and industrial affairs which so strongly marks the present age, and no man who has reflected seriously on this subject has failed to perceive the great revolution it has wrought, and the still greater changes now daily going on as a consequence of it, not only in our economic system but in our social order, and even in our political institutions. A thoughtful English writer has said in a late number of McMillan's Magazine:

> Industrial concentration, above all, is the rule of the age. Steam has extinguished handicrafts, and as steam-power is most economically applied on the largest possible scale, its every development aggravates the general tendency to aggregation, to the concentration of business in larger and larger establishments, the extinction one after another of the smaller. Trade after trade is monopolized, not necessarily by great capitalists, but by great capitals. In every trade the standard of necessary size, the minimum establishment that can hold its own in competition is constantly raised. The little men are ground out, and the littleness that dooms men to destruction waxes year by year.

I regret, sir, that these uncomforting words are but too true. The condition of affairs they represent is sad and alarming. So evident is and has been their truth for years, at least to my mind, I shall beg the indulgence of the Senate to repeat what I said in this body in July, 1883, in advocacy of the proposition to remove all custom-house taxation from the tools of mechanics and implements of agriculture. I then said:

> Sir, I look with alarm at the modern tendency of affairs to destroy these independent laborers carrying on business for themselves and the absorption of all such in large workshops under a master. I fear that this tendency can not now be successfully resisted. The perfection of the many curious and useful machines to save human labor, the substitution of the steam-engine and machinery for human muscle and human intelligence, the greater efficiency of labor coming from its subdivision, all tend more and more to put all mechanical labor under the control of large capitalists in large shops. * * * We are in that era of the world's progress in which great capital employing large numbers of laborers is the rule.

I further said, on that occasion, that if this tendency to centralization in business affairs could not be successfully resisted, the evils, like all others, might be ameliorated, and the best means to do it was to foster and encourage independent workers in independent employments—small enterprises as against the overshadowing power of large establishments. I repeat that sentiment to day. I press this amendment with that object. I know, Mr. President, that large capital has a legitimate advantage over smaller means. This advantage is inherent in it. It can not be taken away. I have no wish to legislate against these advantages so far as they are legitimate and proper. They constitute the principal if not the sole incentive to the energy, enterprise, and self-denial necessary to the production of wealth. Without this enterprise, without this energy and self-denial, there can be no progress. It is the possession of these which makes the difference between an advancing and progressive people and the deadness of retrogression or the languor of a semi-civilization.

That a man will sell a million of bushels of corn or wheat, or a million yards of cloth, or a million pounds of meat, or of any other commodity, for a less sum per bushel, per yard, or per pound than he will sell a small quantity results from a necessary economic law—it is more beneficial to him. That he who is able to buy and does buy in these large quantities can buy cheaper than he who buys less results from the same law—it is more beneficial to the seller. This advantage, therefore, is inherent in the possession of large capital. No human law can take it away. The attempt to do so would be an unwarranted and, at the same time, unavailing invasion of private right—a despotic dictation in the private and personal affairs of mankind, inconsistent even with the enjoyment of private property. Nor, sir, can any human law regulate or fix the price to be paid for any commodities offered for sale in private trade, nor the price which one man may charge another for work or labor. All these must be left to the laws which govern and regulate trade and traffic among mankind, and the agreement of the parties, when they are on equal terms.

It is equally unavailing and equally violative of private and personal right to attempt to reverse by direct legislation, by positive enactments of repeal or destruction, the economic laws to which I have alluded, and which have produced the alarming tendency to concentration spoken of by the writer I have quoted and recognized as true by all thoughtful men. You can not, sir, by force of a statute decree that small enterprises, small establishments, shall be more profitable proportionately than larger ones. What has been evolved by the natural and normal operation of economic forces in the present condition of human progress and human conquest over the powers of nature must remain so until further progress, further conquest, shall produce different results.

But, sir, while we are thus impotent to reverse or repeal these economic laws and thereby arrest entirely or abrogate the present tendency to concentration and aggregation in industrial and business affairs, yet as human laws may and have increased this tendency human laws may retard it and lessen the hardships arising from it. If we can not fix the price of commodities as between private traders nor regulate the price of labor or service in private employments, we can and do accomplish this to a great extent in public employments. This bill now under consideration is an attempt to do this. The amendment is also an attempt to do this, with the superadded effect of counteracting this baneful tendency. If it be true, as we know it is, that under the present order of things the little men, little enterprises, are doomed to destruction, that the general tendency is to the aggregation and concentration of business in large and larger establishments, then it is also true that this tendency is increased and accelerated by the practice of these public institutions in adding to the weight of the already overburdened small enterprises a discriminating heavier rate in freight charges.

The little men, the little establishments, must not only contend with all the natural and inherent advantages arising from the possession by their rivals of larger capital, but they must also counteract an adventitious and inequitable superiority arising from the misuse of a public agency intended for the equal benefit of all. He who could but with difficulty stand the competition of larger capital, with its natural and inherent superior opportunities and greater equipments for the contest, is crushed by the superadded, differential burdens imposed by the railroad companies. Sir, there is no spectacle which ought to engender a warmer sympathy or a purer admiration than that field on which a man of high aspirations, yet undowered of fortune, wages with noble self-denial and tireless energy an unequal contest with inherited or acquired wealth for independence and success in life; and there is no sadder reflection than comes from the conviction that the conditions of life are such that the chances of such a man for success are diminishing more and more every year. I am not speaking now of those rare instances in which extraordinary talents and extraordinary natural endowments are seeking advancement, but of the general average of our people. What is good for them is good for the Republic; what is bad for them is bad for the Republic.

Mr. President, if society had so crystallized here into castes and classes that he who is born into one class must always remain in it, if a member of what is called the laboring classes—wage receiver—must always remain an employé receiving wages from others, I would admit that whatever would cheapen production, even this concentration and aggregation of capital, now favored if not compelled by the present system and the destruction of all smaller enterprises, would be a public good. For in that case the condition of the laboring classes would be improved in the opportunity furnished of providing comfort and necessaries at a cheaper rate. But, sir, we have not yet reached that state; it is the highest duty of statesmanship to devise measures which will prevent its coming. It has been our boast that under our institutions every child is born to all the possibilities of good fortune. We should take care that this boast is not idle.

We take a proper step in this direction when we make provision that at least in the administration of public institutions, the management of railroad companies, nothing shall be tolerated which shall make success more difficult to small enterprises, to men of small capital, in their struggle with larger establishments. We may well forego the utmost cheapness of production, possible only by the crushing out of all small enterprises, if we foster and encourage the manhood and independence of the American people by removing as far as we may the obstacles which bar success and advancement to most of them.

Mr. President, it will be a rueful day for America when the great mass of our people shall settle down in the belief that all improvement in their condition is impossible; that the prize of independence, at least, coming from the possession of that moderate degree of property necessary for the gratification of the tastes and domestic ambitions of men, can no longer be won by less than the most extraordinary abilities and the most tireless energy and the severest self-denial; which means that it is unattainable by the mass of the people. I quote from the author already referred to:

> Men covet what they may hope to win; they grudge what they are practically if not legally forbidden to attain. Hopeless intellect, despairing ambition, are dangerous in proportion to the greatness of the prizes, the insuperability of the obstacles before them. The more heavily the powder is loaded, the more probable and more destructive its explosion. Aspiring strength and courage never acquiesce in defeat. They will climb the mountain if they can; but if not, they will strive to level it.

These words are the more weighty if it shall also be accepted as true that these hard conditions result or have been hastened or fostered by the action of the Government or the practice of public instrumentalities subject to the control of the state.

Mr. President, the greater part of a frugal and laborious life has been devoted to the acquisition of that small share of capital necessary for comfort and independence. I desire to protect and shield it, not to destroy or endanger it. I know this can not be done by making or permitting it to be a despotic and unfeeling master instead of a useful servant of society. There ought to be such relations between capital and labor, between large capital and small capital, as would secure the harmonious co-operation of both and all for the common good. And in the end, in a free country with universal suffrage, this co-operation will be secured, or either capital or the free institutions will be destroyed. They can not coexist for any long period in irreconcilable antagonism.

So, sir, if I could forget the ills resulting from its misuse, if I could forget its aggressions or its failures, if I shut my eyes to the misery of the thousands of idle laborers who, from a want of harmony and co-operation between them and their employers, are suffering in penury, and would consider alone the interests of capital, I would support this or any other just measure which would tend to a greater harmony, a surer co-operation between these now antagonistic forces.

At this very moment when we are considering this important measure, these conditions which intensify this antagonism exist more generally than ever before in our history. Notwithstanding our high protective tariff, passed avowedly in the interest of American labor and the owners of small capital, our farmers, there never was more distress. Strikes, which are the protests of labor against what it considers its failure to receive a just share of the joint products of labor and capital, were never so numerous. Want, hunger, and pinching poverty have invaded the households of nearly all who depend on their labor for their daily support. Where men are not wholly without work their wages have been reduced from 20 to 30 per cent. The products of the farm have fallen to that point where they do not pay the cost of production. The farmers are unable to pay their debts; they are unable to make purchases. This reacts on the commercial and manufacturing interests of the country. The pressure is so great that only the greatest and the strongest establishments can stand.

We hear everywhere the cry of overproduction, which is but another name for underconsumption, caused by the inability of the great mass of consumers to purchase. Overproduction can not commence till all have an abundance.

I read from the New York Herald of the 21st December last the following, and ask for it the careful consideration of the Senate:

> Events have succeeded so fast in commercial and financial circles that it is difficult to keep pace with them. The universal clamor against the railroads, the continuance of business failures, the industrial depression, the disruption of the coal pool, and the general shake up in Wall street, all claim attention and are earnestly discussed.
>
> DEPRESSED TRADE AND IDLE WORKMEN.
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> Failures are numerous as ever, and with the possible exception of cottons no improvement is reported in any branch of trade. It is pleasant to note that several iron and steel works in Ohio and Pennsylvania are to resume to-morrow after several months of idleness; but the general situation is by no means cheerful. Statistics collected by Bradstreet's in twenty-one States, which represent 90 per cent. of the manufactures of the country, indicate that 350,000 workmen are idle, and in this city alone about 55,000 industrious workers, besides several thousand clerks and salesmen, are unemployed. Of those who are at work the wages of unskilled laborers have been cut down—taking the country at large—from 20 to 30 per cent. during the current year, and skilled laborers generally are receiving from 10 to 15 per cent. less than a year ago.
>
> LOW PRICES OF COMMODITIES.
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> Commodities have been reduced perhaps in proportion, and the "staff of life," in its crude form and at wholesale, touched the lowest price on record during the past week. Out West the farmers continue to cry out that they are not getting first cost for their crops, and the agitation against the railroads in that region is at white heat. Kansas farmers, who get but 12 cents a bushel for corn, while the railroads charge double that amount for carrying it to Chicago, are certainly confronted with a seeming injustice, and it is natural that they should call upon the roads to divide the pressure of hard times by reducing freights.

Now, Mr. President, I do not claim that all these ills come from the action of railroads in discriminating against small shippers. I call attention to these uncomforting facts more to show that our present condition is unsatisfactory and is of that sort that greatly tends to increase and intensify the antagonism between these belligerent forces. That some of these ills have been increased by this discrimination I do not doubt. It seems too clear to require argument that if there were more independent workers a fairer and more equal distribution of manufactures and business among the many, instead of this concentration in great establishments and under great capital, there would be a greater reserve fund for the community to fall back on in times of distress than there is now, or at all events this reserve fund would be more generally distributed and therefore more efficacious to ward off and remove distress.

Mr. President, if this amendment, or something like it in principle, should be adopted we might, I think, look with confidence to the following good results:

1. Small enterprises of all kinds would be encouraged and fostered, and the present tendency to divide the people of this country into two great classes, one of large or associated capital as employers and the remainder as employés, would be checked. That middle class of enterprising, energetic men, of little or no capital, who have done so much to advance our prosperity and to make our free institutions stable and orderly, and which under the present system are disappearing, would be increased not only in number but in influence and power.

2. There would be a great saving in the cost of distribution. Under the present system, as I fully pointed out on another occasion, our created wealth is largely concentrated in large cities, and from these centers both manufactures and agricultural products are distributed to the country tributary to them respectively. If small shippers were charged no more than the larger the agricultural produce of the West would go from the shipping point nearest to the place of production directly to the consumer in the South and in other States, and the expense and delay of shipping to the great cities and thence distributing to the consumer would be avoided. The producer and consumer would be brought nearer together and the profits of middlemen saved and divided between them. The producer would receive more and the consumer would pay less.

The present system of concentrating all agricultural products in the warehouses and elevators of a few large cities prior to distribution for consumption has begotten the great evil of dealing or gambling in futures, and enables a few men to make "corners," whereby the price of these products, after they have gone from the producer, is frequently raised inordinately to the consumer, and sometimes these prices are unduly depressed to the injury of the producer without corresponding benefit to the consumer. This would be checked by bringing the producer and consumer more directly together. My own State has been and is now the victim of the unequal charges sought to be remedied by the amendment, and of the higher charges for short over longer hauls, on which I commented a few days ago. The merchants and farmers of Mississippi are made to pay more on goods shipped from the North and West than consignees who receive their goods from railroads hauling them through the State. Freights from Cincinnati to New Orleans are lower than from Cincinnati to any point in Mississippi through which goods are carried on the longer trip. By the two evils combined the growth of her cities and towns and the advancement of her farmers have been sacrificed to the building up of other communities more favored in railroad transportation. While, as stated in the extract from the New York Herald, the farmers of Kansas get 12 cents a bushel for their corn the consumers in Mississippi pay for it from 75 cents to $1. This great difference, amounting to from 600 to 800 per cent., is wholly lost to the producer and is largely added to the burden of the consumer over a fair and reasonable price.

4. It would be a step in the direction of having legislation in favor of labor and small capital, and would tend to dissipate a feeling and sentiment existing in too many localities and among too many persons that legislation has been and will continue to be adverse to these interests. This, sir, will be one of the most beneficent effects of the amendment.

The large and prodigal land grants made to railroad companies, and the failure of Congress to restore them to the public domain when they

have become forfeited; the extra privileges granted to the banks, whereby they are said by their friends to be the "pets of Congress," the relieving them of most of the taxes once imposed on them, the effort likely to succeed to relieve them entirely, and the leaving to them the power to contract or expand the currency at will; the establishment of a gold standard, whereby the burden of debts has been greatly increased; the taxation of the commonest necessaries of life and of the implements and tools used by laborers; the extravagance and corruption in administration; the collection of a large surplus not needed for the support of the Government, are some of the things which have created the impression among the people that the Government is unduly neglectful of the interests of labor and small property-holders. This impression produces discontent; and especially is this discontent in some parts threatening to-day. The best way to remove discontent is to remove the cause. Where there is injustice and wrong there will be remonstrance and active opposition.

I quote without indorsing fully the words of a great preacher, spoken only a few days ago:

DANGERS OF ANARCHY.

Let us remember that the same social movement of the workingmen is running abreast of the new Christianity, as in the time of Wycliffe, and an old order is passing away. Liberty has degenerated into license; self-interest has turned out selfishness; natural law has left us no place for moral law; the right of might has legitimized a new tyranny; *laisses faire* has resulted in chronic crises. If my buggy is constantly breaking down, I know it is time to get a new one. So when our commercial system comes to a standstill every ten years it is time to have a new one. Bradstreet's is authority for the statement that 300,000 are out of work in our most favored land. There is danger of anarchy to-day, and any one who reads the wild and fiendish utterances at Chicago on Thanksgiving Day may see the danger.

Power and wealth may try repression. Now, there is nothing quite so sure of creating an explosion as to pile the weights on the safety-valve when there is a furious pressure of steam on. That may come in the nineteenth century, as in the fourteenth. That will come unless relief is found for the forces of discontent.

And you large-minded men of business, see to it that no irritation springing out of the intolerant and disagreeable attitude which labor may assume to-day in its consciousness of power shall prevent you from doing your duty. See to it that the standard of the age which is held up before the advancing army of humanity is none other than the form of the Carpenter's Son.

He sees danger more imminent than I do, yet I confess there is that in the present condition of affairs which ought to make us pause and reflect whether in our rapid strides to and eager pursuit of great wealth we are not sacrificing to magnificence and splendor in outward appearances the real interests of the great mass of the people, upon whose labor, intelligence, and thrift all substantial progress depends.

I am sure, sir, that nothing can do more to remove discontent and to break down any incipient spirit of anarchic socialism than the conviction, if it should prevail, that the American Congress is doing and is disposed to do all that may rightly and constitutionally be done to make the operations of the Government equal to all in its benefits and in its burdens. The adoption of this amendment would aid in producing this conviction, and it would aid also the struggling weak in their unequal contest with the strong, by establishing a just equality in a public service.

I hope the amendment will be adopted.

Mr. BROWN. Mr. President, I desire to offer the following amendment to the amendment of the Senator from North Carolina:

And be it further enacted, That no merchant shall sell a larger package or quantity of goods at a smaller per cent. than he charges for a smaller package of goods of like quality if the goods have been produced in or transported from another State so as to fall within the power of Congress to regulate interstate commerce.

The PRESIDENT, *pro tempore*. The Senator from Georgia proposes an amendment to the amendment offered by the Senator from North Carolina. The amendment to the amendment will be read.

The Chief Clerk read as follows:

And be it further enacted, That no merchant shall sell a larger package or quantity of goods at a smaller per cent. than he charges for a smaller package of goods of like quality, if the goods have been produced or transported from another State so as to fall within the power of Congress to regulate interstate commerce.

Mr HOAR. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After ten minutes spent in executive session the doors were reopened, and (at 5 o'clock p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, *January* 9, 1885.

The House met at 12 o'clock m. Prayer by the Right Rev. H. A. NEELY, D. D., Bishop of Maine.

The Journal of yesterday's proceedings was read and approved.

ORDER OF BUSINESS.

Mr. HUTCHINS. I rise for the purpose of moving to dispense with the morning hour, so as to bring before the House for consideration the naval appropriation bill.

Mr. TALBOTT. I ask the gentleman to yield to me for one moment.

Mr. HUTCHINS. I yield to the gentleman from Maryland.

JOHN W. FRANKLIN.

Mr. TALBOTT. I ask unanimous consent to take from the Speaker's table for present consideration the bill (S. 491) for the relief of John W. Franklin, executor of the last will of John Armfield, deceased.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Treasury be, and he is hereby, authorized to pay John W. Franklin, executor of the estate of John Armfield, late of the county of Grundy and State of Tennessee, $18,000.21, out of any money in the Treasury not otherwise appropriated; it being the proceeds of $30,000.36 in legal money taken from the Bank of Louisiana, at New Orleans, La., by Capt. J. W. McClure, assistant quartermaster, under military order No. 202, and by him turned over to Col. S. B. Holabird, chief quartermaster of that department, and by him disbursed; and such payment shall be in full of all claims from any source upon the Government for repayment of said moneys.

Mr. HOLMAN. I suggest that the report should be read.

Mr. TALBOTT. I will state that the report in this case is quite a lengthy one. The bill has been twice reported and passed in the Senate. It has been unanimously reported by the Committee on War Claims of this House, and a similar bill is pending before the House.

Mr. DIBRELL. The bill simply proposes to give to a lady money captured from her husband and paid into the Treasury of the United States.

Mr. McMILLIN. I wish to state that I have examined the claim and I think it is correct.

The SPEAKER. Is there objection to the present consideration of the bill?

There being no objection, the bill was taken from the Speaker's table, read three times, and passed.

Mr. TALBOTT moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

NATHAN H. DUNPHE.

Mr. LONG. I ask unanimous consent that the Committee of the Whole House be discharged from the further consideration of the bill (H. R. 754) for the relief of Nathan Y. Dunphe, of Bridgewater, in the State of Massachusetts, and that it be now put upon its passage.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Treasury be, and he hereby is, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Nathan Y. Dunphe, of Bridgewater, in the State of Massachusetts, the sum of $9,370, in full compensation for fifty hogsheads of sugar which were seized in the State of Louisiana, in the year 1862, by the military authorities of the United States, turned over to the Quartermaster's Department, and properly accounted for by that department.

The following amendments were reported by the Committee on War Claims:

In line 5, strike out "Y" and insert "H."
In line 6, strike out "$9,370" and insert "$2,400."
In line 8, strike out "50" and insert "25."
In line 10, strike out "1862" and insert "1863."
Amend the title so as to read: "A bill for the relief of Nathan H. Dunphe, of Bridgewater, in the State of Massachusetts."

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. RANDALL. Is there a report accompanying it?

Mr. LONG. There is a report. The bill is reported unanimously by the committee. If it is desired the report may be read.

Mr. HOLMAN. Let the report be read.

The report (by Mr. ROWELL) was read, as follows:

The Committee on War Claims, to whom was referred the bill (H. R. 754) for the relief of Nathan H. Dunphe, have had the same under consideration, and report as follows:

Nathan H. Dunphe, a citizen of Massachusetts, engaged in trade in Louisiana at the breaking out of the war, and was the owner of two lots of sugar of fifty hogsheads each. One lot has already been paid for by the Government, but owing to a lack of evidence as regards the other lot, until after the passage of a bill for his relief, the second lot was not included under the evidence before us. It is now certain that twenty-five hogsheads, weighing upon an average 1,200 pounds, and worth at the lowest price 7¾ cents per pound, were taken by the proper seizing officer of the Army, under command of Maj. Gen. N. P. Banks, in May, 1863, and sent to New Orleans and turned over to the proper officer.

This sugar was in a public warehouse at Port Barre, La. All sugar in that vicinity appears to have been seized under orders.

Dunphe was a loyal citizen, and ought to be paid.

The remainder of his sugar was destroyed in a storm, so as not to be marketable, and was not sent to New Orleans, but was taken and used by the soldiers. This we do not allow.

We therefore recommend that the bill do pass, with the following amendments:

In lines 6 and 7 strike out the words "nine thousand three hundred and seventy" and insert in lieu thereof the words "two thousand four hundred;" and in line 8 strike out the word "fifty" and insert the word "twenty-five;" and in lines 9 and 10 strike out the word "sixty-two" and insert the word "sixty-three."

Mr. HOLMAN. I wish to ask a single question, whether it appears from the testimony that the proceeds of this sugar sent to New Orleans were paid into the Treasury.

Mr. LONG. It appears from the report that it was accounted for by the Quartermaster's Department.

Mr. HOLMAN. It is desirable that that fact should clearly appear.

Mr. LONG. The gentleman from Illinois [Mr. ROWELL], who reported the bill, can state what is the fact.

Mr. ROWELL. The sugar was turned over and accounted for at New Orleans, and used by the proper officers for the use of the Army.

Mr. McMILLIN. Was there a portion of this given as a reward for information at the time of the seizure?

Mr. ROWELL. Not in any way. It was only applied for the use of the Army.

Mr. TOWNSHEND. This bill is of the nature of a number of similar cases now pending.

Mr. HUNT. All of the same nature ought to pass.

Mr. TOWNSHEND. It is of the nature of a great many claims, some of which are from my own section, and not one of them has received the attention of the committee.

Mr. HOLMAN. I do not wish to object, but as to all this class of claims the fundamental principle has prevailed that in passing bills to refund money it should be made clear that the money has gone into the Treasury. The fact that here it has been accounted for does not appear definitely. I do not, however, wish to object.

The SPEAKER. The question is on concurring in the amendments.

The amendments were agreed to.

The bill as amended was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

The title was amended so as to read "A bill for the relief of Nathan H. Dunphe."

PERSONAL EXPLANATION.

Mr. POTTER. Mr. Speaker, I rise to a matter of privilege. The gentleman from Pennsylvania [Mr. EVANS] is stated in the RECORD of Wednesday last as having been paired with myself upon the pension appropriation bill. I was present and voted in favor of that measure, not understanding the pair to extend beyond last week. The gentleman from Pennsylvania understood otherwise. If he had been present he would have voted for the pension appropriation bill, and desires to have it so stated.

ENROLLED BILLS SIGNED.

Mr PERKINS, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

A bill (S. 737) to remove the political disabilities of J. R. Waddy, of Virginia; and

A bill (H. R. 4539) to issue American papers to the lighter, or barge, Pirate, now at New York.

HARBOR OF REFUGE AT LUDINGTON, MICH.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of War, transmitting a letter from the Chief of Engineers, inclosing report of board of engineers of a preliminary survey for a harbor of refuge at Ludington, Mich.; which was referred to the Committee on Rivers and Harbors, and ordered to be printed.

COMMITTEE APPOINTMENT.

The SPEAKER announced the appointment of Mr. THOMAS WILLIAMS, of Alabama, in place of Mr. Shelley, as a member of the Select Committee on Ventilation and Acoustics.

COLUMBIAN INSTITUTION FOR DEAF AND DUMB.

The SPEAKER also announced the appointment, under statutory provision, of Mr. TUCKER and Mr. RYAN to fill vacancies in the offices of directors on the part of the House of Representatives of the Columbian Institution for the Deaf and Dumb.

LEAVE OF ABSENCE.

Mr. SUMNER, of California, by unanimous consent, obtained leave of absence until Monday next, on account of important business.

ORDER OF BUSINESS.

Mr. HOLMAN. I call for the regular order.

The SPEAKER. The gentleman from Indiana calls for the regular order, which, this being Friday, is the call of committees for reports of a private nature.

Mr. HUTCHINS. I move to dispense with that order for the present. If this motion be adopted I shall move to go into the Committee of the Whole on the bill making appropriations for the naval service for the fiscal year which will expire the 1st of next July. I need not state to the House that the appropriations for the naval service expired on the 1st of the present month, and the Naval Department to-day is unable to expend a dollar for any purpose. This bill, I apprehend, will take but a very few moments for its consideration, and I hope there will be no objection to my motion.

Mr. McMILLIN. I will ask the indulgence of the House to say in response to the gentleman from New York [Mr. HUTCHINS] that during this session no part of any private bill day has been devoted to the consideration of private bills. There are hundreds of reports——

Mr. HUTCHINS. The gentleman will allow me to make a suggestion. I appreciate his objection, and under the circumstances of the case I will ask that unanimous consent be given to proceed with private business to-morrow, devoting that day to this business if the order of private business should be dispensed with to-day. I think there will be no objection to that.

Mr. McMILLIN. I believe it is indicated that one gentleman will object.

Mr. HUTCHINS. No; there is no objection.

Mr. McMILLIN. I have made a similar arrangement once or twice before, and it has come to naught. My only desire is to obtain consideration of these private measures. I think we ought to consider them. The Appropriations Committee can occupy to-morrow as well as they can to-day. I fear that if private business be dispensed with to-day we may have an adjournment over or some other difficulty, as we have had in the past, to prevent the consideration of these private claims. There are hundreds of them upon the Calendar. Either these claimants are to have no consideration of their cases at all by this Congress, or they must have it soon. It is for this House to determine whether it will lend an ear at all to these claimants.

Mr. RANDALL. Mr. Speaker, it is desirable that the naval appropriation bill should be passed to-day. I do not think it will occupy half an hour—certainly not an hour. The bill represents the unanimous judgment of the Committee on Appropriations, so far as I am able to learn. For one I shall be glad if the time taken from the consideration of private business to-day by reason of the consideration of the naval bill be given to the Private Calendar to-morrow. There will not, I think, be an adjournment over, because the consular and diplomatic appropriation bill is now ready to be called up.

Mr. McMILLIN. I will ask the gentleman from Pennsylvania whether the bill he desires to bring up is not the bill making appropriations for the Navy for the residue of the fiscal year?

Mr. RANDALL. Yes, sir.

Mr. McMILLIN. Have we not already pending in the Senate two bills making such appropriations?

Mr. RANDALL. There are three.

Mr. McMILLIN. And now we are to have a quartet, it seems.

Mr. REED. They want to make the appropriations in slices.

Mr. RANDALL. We think that the bill now presented as a new measure in a spirit of harmony, and in order to bring about co-operation between the two Houses, will meet the concurrence of the Senate; at least we hope so.

The SPEAKER. The Chair understood the gentleman from New York [Mr. HUTCHINS] to ask the postponement of private business for the purpose merely of considering and passing the appropriation bill. The Chair did not understand that the gentleman's motion sought to dispense entirely with the consideration of private business to-day.

Mr. HUTCHINS. That was not my intention.

The SPEAKER. The Chair so understood.

Mr. McMILLIN. I do not like to be unreasonable in this matter, but it seems to me that this appropriation bill could as well go over until to-morrow for consideration.

Mr. RANDALL. The idea was to have it passed to-day so as to go over to the Senate, where it could be passed to-morrow; otherwise it will have to go over until Monday next.

Mr. McMILLIN. If the House is willing to give unanimous consent and will agree also to substitute to-morrow for to-day for the consideration of business of the Private Calendar, with the further understanding that there shall be a session to-morrow, I do not feel disposed to interpose further objection to the consideration of the appropriation bill suggested by the gentlemen from New York; but I give notice, Mr. Speaker, that I shall hereafter insist that at least one day in the week shall be devoted, as the rules have provided, for the consideration of business of the Private Calendar.

Mr. STOCKSLAGER. I give notice, Mr. Speaker, that I shall object to any such arrangement. I am chairman of a committee which has had no proper consideration for the business which has been reported from it.

Mr. McMILLIN. Very well then; I shall insist on going on with the private business, which under the rules has been set apart for this day, and then will leave the matter to the determination of the best judgment of the House.

Mr. HUTCHINS. This bill will take but little time.

Mr. McMILLIN. But the gentleman from New York forgets that at 5 o'clock we take a recess until 8 this evening for the consideration of pension bills.

Mr. HUTCHINS. The time consumed in this discussion would have sufficed to have disposed of this naval appropriation bill.

The SPEAKER. Objection having been made, there is nothing before the House.

Mr. HUTCHINS. I move to dispense with the private business for to-day, giving notice that it is my intention to call up the naval appropriation bill.

Mr. McMILLIN. The motion to dispense with the morning hour will require a vote of two-thirds?

The SPEAKER. It will.

The House divided; and there were—ayes 67, noes 80.

So the motion was disagreed to.

Mr. HUTCHINS. I will not call for tellers, but will give notice, Mr. Speaker, that to-morrow, immediately after the reading of the Journal,

I shall ask the House to proceed to the consideration of the naval appropriation bill.

The SPEAKER. The regular order having been called for, committees will now be called for reports of a private nature.

NATIONAL BANK, BLOOMINGTON, ILL.

Mr. ADAMS, of Illinois, reported back with amendments the bill (H. R. 7768) to authorize the National Bank of Bloomington, Ill., to change its name to the First National Bank of Bloomington, Ill.; which was referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying Senate report, ordered to be printed.

RICHARD C. RIDGWAY.

Mr. HERBERT, from the Committee on Ways and Means, reported back, as a substitute for H. R. 4598, a bill (H. R. 7875) for the relief of Richard C. Ridgway and others; which was read a first and second time, and referred to the Committee of the Whole House on the Private Calendar.

SAM C. REID.

Mr. CLEMENTS, from the Committee on Foreign Affairs, reported back adversely the joint resolution (H. Res. 76) to authorize the Secretary of State to reimburse Sam C. Reid for certain expenditures; which was laid on the table, and the accompanying report ordered to be printed.

WILLIAM H. RANDLE.

Mr. TAYLOR of Tennessee, from the Committee on the Post-Office and Post-Roads, reported back the bill (H. R. 6836) for the relief of William H. Randle; which was referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

ELIZABETH C. CREIGHTON.

Mr. BAGLEY, from the Committee on Invalid Pensions, reported back the bill (H. R. 5086) for the relief of Elizabeth C. Creighton; which was referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

EDWARD P. QUINN.

Mr. BAGLEY, from the Committee on Invalid Pensions, also reported back with an amendment the bill (H. R. 7732) granting increase of pension to Edward P. Quinn; which was referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

PARTEN H. MOREY.

Mr. BAGLEY, from the Committee on Invalid Pensions, also reported back with an amendment the bill (H. R. 7728) for the relief of Parten H. Morey; which was referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

LOUIS B. SMITH.

Mr. BAGLEY, from the Committee on Invalid Pensions, also reported back with an amendment the bill (H. R. 7731) granting a pension to Louis B. Smith; which was referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

ADVERSE REPORTS.

Mr. BAGLEY, from the Committee on Invalid Pensions, also reported back adversely the following cases; which were severally laid on the table, and the accompanying reports ordered to be printed:

A bill (H. R. 7727) for the relief of Sally C. Mulligan;
A bill (H. R. 7639) granting an increase of pension to John Kimmerling;
A bill (H. R. 5988) for the relief of Hamilton Boughton;
A bill (H. R. 6932) for the relief of Horace H. Burbank;
A bill (H. R. 7103) for the relief of Francis Daniels;
A bill (H. R. 6815) to rerate the pension of Philo Beardsley;
A bill (H. R. 7339) granting a pension to Newton O. Baker;
A bill (H. R. 7636) for the relief of S. S. Eighmy;
A bill (H. R. 5788) for the relief of Elizabeth C. Deutscher;
A bill (H. R. 6900) for the relief of Daniel M. Dill;
A bill (H. R. 5984) granting a pension to Mary A. Samuels;
A bill (H. R. 7341) granting a pension to Luther Spencer;
A bill (H. R. 7335) for the relief of Nicholas I. Campbell;
A bill (H. R. 6972) for the relief of George H. Lawrence;
A bill (H. R. 1096) granting a pension to Mary Abbott, widow of William Abbott;
A bill (H. R. 6807) for the relief of Margaret Regan;
A bill (H. R. 7733) for the relief of Robert Nelson;
A bill (H. R. 7257) granting a pension to William F. Randolph;
A bill (H. R. 7199) for the relief of the heirs of Maj. Andrew J. Grover, deceased;
A bill (H. R. 7332) for the relief of Jeanie H. Griffin; and
A bill (H. R. 3735) granting a pension to Mary A. Grennon.

SYLVESTER GREENOUGH.

Mr. HOLMES, from the Committee on Invalid Pensions, reported back the bill (H. R. 7434) granting a pension to Sylvester Greenough; which was referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

STEPHEN SAUER.

Mr. HOLMES, from the Committee on Invalid Pensions, also reported back with amendments the bill (H. R. 7417) for the relief of Stephen Sauer; which was referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

ANTHONY BEYER.

Mr. HOLMES, from the Committee on Invalid Pensions, also reported back with amendments the bill (H. R. 7092) for the relief of Anthony Beyer; which was referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

SEBERT TONY.

Mr. HOLMES, from the Committee on Invalid Pensions, also reported back the bill (H. R. 7447) granting a pension to Sebert Tony; which was referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

MARIA SPELLEN.

Mr. HOLMES, from the Committee on Invalid Pensions, also reported back the bill (H. R. 7418) for the relief of Maria Spellen; which was referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

JOHN OTIS.

Mr. HOLMES, from the Committee on Invalid Pensions, also reported back with amendments the bill (H. R. 6882) granting a pension to John Otis; which was referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

CHANGE OF REFERENCE OF A BILL.

On motion of Mr. HOLMES, by unanimous consent, the Committee on Invalid Pensions was discharged from the further consideration of the bill (H. R. 2005) granting a pension to Samuel P. Glenn; and the same was referred to the Committee on Pensions.

ADVERSE REPORTS.

Mr. HOLMES, from the Committee on Invalid Pensions, also reported back with adverse recommendations bills of the following titles; which were severally ordered to be laid on the table, and the accompanying reports printed, namely:

A bill (H. R. 1999) for the relief of Thomas Brockett;
A bill (H. R. 7364) granting a pension to Mary A. Keime;
A bill (H. R. 7423) for the relief of Samuel D. Harper;
A bill (H. R. 7415) for the relief of Jabez Chamberlin;
A bill (H. R. 7241) granting a pension to Edward Hogan, and for other purposes;
A bill (H. R. 7416) for the relief of Helen Chabot;
A bill (H. R. 2001) for the relief of Charles S. Moore;
A bill (H. R. 5739) for the relief of George W. Mills;
A bill (H. R. 7365) granting a pension to Thomas G. Allen; and
A bill (H. R. 478) for the relief of Baldwin B. Shafer.

JOHN C. CLARK.

Mr. MORRILL, from the Committee on Invalid Pensions, reported back the bill (H. R. 3052) for the relief of John C. Clark; which was read a first and second time, referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

ADVERSE REPORT.

Mr. MORRILL, from the Committee on Invalid Pensions, also reported back with an adverse recommendation the bill (H. R. 6166) for the relief of David Stonecypher; which was ordered to be laid on the table, and the accompanying report printed.

DANIEL S. LAY.

Mr. GEDDES, from the Committee on War Claims, reported back with amendments the bill (H. R. 740) for the relief of Daniel S. Lay; which was referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

R. G. P. WHITE AND OTHERS.

Mr. ROGERS, of New York, from the Committee on War Claims, reported back the bill (H. R. 7274) for the relief of R. G. P. White, Peter Hanger, and L. T. Green; which was referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

MRS. J. P. WILLIAMS.

Mr. ROGERS, of New York, from the Committee on War Claims, also reported a bill (H. R. 7876) for the relief of Mrs. J. P. Williams; which

was read a first and second time, referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

J. A. HENRY AND OTHERS.

Mr. ROGERS, of New York, from the Committee on War Claims, also reported a bill (H. R. 7877) for the relief of J. A. Henry and others; which was read a first and second time, referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

ORDER OF BUSINESS.

The SPEAKER. This completes the call of standing and select committees. If there be no objection, the Chair will recognize gentlemen who were not in their seats when their committees were called.

HENRIETTA H. COLE.

Mr. MITCHELL, from the Committee on Patents, reported back with amendments the bill (H. R. 4206) for the relief of Henrietta H. Cole; which was referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

ADVERSE REPORTS.

Mr. THOMAS, from the Committee on Naval Affairs, reported back with adverse recommendation bills of the following titles; which were severally ordered to be laid on the table, and the accompanying reports printed, namely:

The bill (H. R. 1787) to carry into effect the recommendation of the board of admirals convened under the joint resolution approved February 5, 1879, in the case of Commander Henry Glass, United States Navy;

The bill (H. R. 1789) to carry into effect the recommendation of the board of admirals convened under the joint resolution approved February 9, 1879, in the case of Commander Charles B. Sigsby United States Navy; and

The bill (H. R. 1788) to carry into effect the recommendation of the board of admirals convened under the joint resolution approved February 5, 1879, in the case of Commander James H. Sands, United States Navy.

PAY OF NAVAL ACADEMY GRADUATES.

Mr. THOMAS. I also ask unanimous consent to report at this time a public bill.

There being no objection,

Mr. THOMAS, from the Committee on Naval Affairs, reported back with a favorable recommendation the bill (H. R. 7752) to equalize the pay of graduates of the Naval Academy; which was referred to the Committee of the Whole House on the state of the Union, and the accompanying report ordered to be printed.

MOBILE AND OHIO RAILROAD COMPANY.

Mr. TUCKER, from the Committee on the Judiciary, reported back with a favorable recommendation the joint resolution (H. Res. 293) to provide for the settlement of the accounts of the Mobile and Ohio Railroad Company; which was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

SURVIVORS OF JEANNETTE EXPEDITION.

Mr. McADOO, from the Committee on Naval Affairs, reported back with a favorable recommendation the bill (S. 1039) for the relief of the survivors of the exploring steamer Jeannette and the widows and orphans of those who perished in the retreat from the wreck of that vessel in the Arctic seas; which was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

REPORT OF COMPTROLLER OF CURRENCY.

Mr. BUCKNER, by unanimous consent, submitted the following resolution; which was read, and referred to the Committee on Printing:

Resolved, That 500 additional copies of the report of the Comptroller of the Currency be printed for the use of the said Comptroller.

ALLOTMENT OF LANDS IN SEVERALTY TO INDIANS.

Mr. STEVENS. I ask unanimous consent to report a public bill from the Committee on Indian Affairs.

There being no objection,

Mr. STEVENS, from the Committee on Indian Affairs, reported back with a favorable recommendation the bill (S. 48) to provide for the allotment of lands in severalty to Indians on the various reservations, and to extend the protection of the laws of the States and Territories over the Indians, and for other purposes; which was referred to the Committee of the Whole House on the state of the Union, and the accompanying report ordered to be printed.

THOMAS R. MONAHAN.

Mr. CURTIN. I desire to make a privileged report from the Committee on Foreign Affairs. I am instructed by that committee to report back with a favorable recommendation the resolution which I send to the desk.

The Clerk read as follows:

Whereas it is reported that Thomas R. Monahan, an American citizen, has been arrested by officers of the Republic of Mexico, and incarcerated in a Mexican prison and denied a trial:

Resolved, That the Secretary of State be requested to communicate to this House any correspondence he may have upon the subject of said arrest and imprisonment.

The resolution was adopted.

Mr. CURTIN moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

THE CONGO CONFERENCE AT BERLIN.

Mr. CURTIN. I am also instructed by the Committee on Foreign Affairs to report back, with the recommendation that it be adopted, the resolution which I send to the desk.

The Clerk read as follows:

Resolved, That the President be requested to inform this House in respect to all the negotiations or arrangements (if in his opinion such information will not be incompatible with the public interests) between this Government and any other government or governments which led up to the Congo conference at Berlin, and the motives or purposes with which this Government consented to participate therein. And also that the President cause to be transmitted to this House a copy of all correspondence between this Government and other governments relating to the Congo conference, together with the names of those who have been authorized by this Government to act as its delegates or plenipotentiaries thereat, the text of the credentials or powers given to such representatives of the United States, and a copy of all dispatches, reports, or other communications received by this Government from its representatives at the conference. And that the President, if he shall inform this House of the precise objects and purposes with which this Government was represented in the conference, will also inform the House which, if any, of those objects or purposes have been accomplished, and also whether or not any of the opinions or purposes of this Government, or its delegates or plenipotentiaries, as set forth in such conference, was resisted in the conference by any of the governments represented there; and, if so, by which of the governments, on what points, for what reasons, and with what results.

The following is the committee's report:

The Committee on Foreign Affairs, to which was referred the resolutions of Mr. HERBERT and Mr. BELMONT, calling for information concerning the participation of representatives of the Government of the United States in what is known as the Congo conference, have considered the same, and deeming the information referred to as of great importance, report back the resolution of Mr. BELMONT and recommend its passage.

The resolution was adopted.

Mr. CURTIN moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

FRENCH AND AMERICAN CLAIMS COMMISSION.

Mr. CURTIN. I present another privileged report from the Committee on Foreign Affairs. I am directed to report back with the recommendation that it be adopted the resolution which I send to the desk.

The Clerk read as follows:

Be it resolved by the House of Representatives, That the President be, and he is hereby, requested to furnish to this House, if not incompatible with the public service, a copy of all correspondence had with the Government of France in relation to the French and American Claims Commission since the 23d day of November, 1881, the date of the first meeting of said commission, up to the present time.

Second. Also a copy of the communication or communications made by the two remaining commissioners to the Secretary of State on the resignation of Mr. L. de Geofroy, July 11, 1881, the date when he withdrew as commissioner on the part of the French Republic, and the 15th day of October following, in relation to the resignation of said commissioner; and a copy of the correspondence between the two governments relating to the same subject, and of the notice of the Government of France reappointing said commissioner.

Third. Also a statement giving the name and number of each and every claim which was withdrawn by the agent of either government after the same had been duly filed before said commission and the reasons for such withdrawal, and a copy of all correspondence between the two governments relating thereto.

Fourth. Also a copy of all reports or other communications made by the American commissioner, Hon. A. O. Aldis, to the Secretary of State relating to the business of said commission or to any matter or thing pending before said commission from the 23d day of November, 1881, to the present date

Fifth. And also a copy of the report or other communications pertaining to the French and American Claims Commission or any matter pending therein made by Hon. George S. Boutwell, the agent and counsel for the United States, to the Secretary of State from the 23d day of November, 1881, to the present date. Also, a copy of the correspondence between the two governments relating to the recall of said Mr. L. de Geofroy, and the appointment and substitution by the Government of France of Mr. Alexis Albert Lafaive as commissioner, on or about May 22, 1883.

The resolution was adopted.

Mr. CURTIN moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. CURTIN. I am also instructed by the Committee on Foreign Affairs to report back with the recommendation that it be adopted the resolution which I send to the desk.

The Clerk read as follows:

Whereas this House, by resolution of the 7th day of June, 1884, requested the Secretary of State to inform this House of the mode and manner, in detail, of the expenditure of the amounts appropriated by Congress for the expenses of the French and American Claims Commission, stating when, where, to what persons, and for what purposes the moneys so appropriated had been paid, and also what amounts had been paid by the French Government for the expenses of said commission; and

Whereas on the 25th day of June, 1884, there was laid before this House a mes-

sage from the President of the United States, transmitting a report from the Secretary of State inclosing a statement of the expenditures of said commission under general headings, without stating the details of said expenditures and without any statement as to the times when, places where, and persons to whom the moneys appropriated had been paid, as was required by the said resolution: Therefore,

Be it resolved, That the Secretary of State be directed to inform this House of the mode and manner, in full detail, of the expenditure of the sums, amounting in all to $325,000, appropriated by Congress for the expenses of said French and American Claims Commission, stating specifically when, where, to what persons, and for what purposes the moneys so appropriated have been paid, giving in each case the date and amount of the payment, the name of the person to whom such amount was paid, and the object for which the payment was made; and also whether the officers of said commission, or any of them, continued in the exercise of their functions after the date fixed by treaty for the conclusion of such commission, and of the labors thereof; and, if so, how long and by what authority of law they so continued, what services they performed, and what payments were made them for the same.

The resolution was adopted.

Mr. CURTIN moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

Mr. McMILLIN. I move that the House resolve itself into Committee of the Whole House for the purpose of considering bills on the Private Calendar.

The motion was agreed to.

The House accordingly resolved itself into Committee of the Whole House, Mr. COX, of New York, in the chair.

Mr. McMILLIN. Mr. Chairman, if there be no objection, I desire that we begin, on page 28 of the Calendar, with the bill (H. R. 4679) for the relief of Sarah E. Webster.

Mr. HOLMAN. I wish to inquire whether that is the first bill in order.

Mr. McMILLIN. I desire that the bills standing before this on the Calendar be passed over informally for various reasons—absence of members interested or on similar grounds.

The CHAIRMAN. Is there objection to taking up first for consideration the bill indicated by the gentleman from Tennessee [Mr. McMILLIN]?

There was no objection.

SARAH E. WEBSTER.

The Committee of the Whole House on the Private Calendar proceeded accordingly to the consideration of the bill (H. R. 4679) for the relief of Sarah E. Webster, administratrix.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay Sarah E. Webster, of the city of Buffalo, N. Y., administratrix, &c., of Isaac A. Verplank, deceased, late a judge of the superior court of Buffalo, out of any money in the Treasury not otherwise appropriated, the sum of money which was assessed as the income tax and was collected from and paid by said Isaac A. Verplank, now deceased, to the Government of the United States, upon his salary as a judge of the superior court of Buffalo, N. Y., such tax having been declared unconstitutional by the Supreme Court.

Mr. HOLMAN. For the purpose of avoiding interruption of the current business, I suggest that the report in each case be read without it being particularly called for.

The CHAIRMAN. The gentleman from Indiana calls for the reading of the report in this case.

Mr. HOLMAN. I was suggesting the propriety of having the report read in all cases without a special call being made for the reading.

Mr. McMILLIN. Some of these reports are very long, and time might be saved by a statement of the case in lieu of the reading of the report.

Mr. HOLMAN. In such cases, if it be desired, the reading can be specially waived.

The CHAIRMAN. The gentleman from Indiana calls for the reading of this report.

The Clerk read as follows:

Mr. TUCKER, from the Committee on the Judiciary, submitted the following report, to accompany bill H. R. 4679:

The Committee on the Judiciary, to whom has been referred H. R. 1038, respectfully report:

It appears that under the law of the United States assessing a tax upon incomes the tax was assessed on the income of Isaac A. Verplank arising out of his salary as a judge of the State of New York. The tax was paid.

After the payment the Supreme Court of the United States, in the case of Collector *vs.* Day (11 Wallace, 113), decided such tax upon the salary of a judge of a State to be unconstitutional. The tax was therefore unconstitutionally exacted from a citizen, and should be refunded.

The committee therefore report a substitute for the bill referred authorizing and directing the Secretary of the Treasury to refund so much to the administratrix of said Verplank as shall appear to have been paid upon an assessment of the income tax upon his salary as a judge of the State of New York.

All of which is respectfully submitted.

Mr. HOLMAN. I am very reluctant to interrupt the progress of business on this Calendar; but I wish to call the attention of the gentleman from Virginia [Mr. TUCKER], who I believe reported the bill, to two considerations which the case suggests. In the first place, it does not appear from this report that at the time of the payment of this money any objection was made to the payment. In other words, there is presented here at best but an equitable claim, not a legal one. Even if the Government of the United States were subject without special authority to be sued, or if this citizen had authority of law to go into the Federal courts with his claim, the action, as my friend from Virginia is well aware, could not be maintained, as the money was not paid under such circumstances as would entitle the party to a refund.

My second suggestion is this: If I remember correctly, an act was passed a number of years ago providing for refunding, within a definite period of time, money assessed upon and collected from State officers as tax upon income. That act, I think, prescribed some period within which claims should be made, and that time, of course, has expired. I am not able at this moment to refer to that act or to state when it was enacted, how long it remained in force, and whether the expiration of the time limited by the statute was declared to constitute a complete bar. But according to my recollection there was such a statute; and if there was, does my friend from Virginia think it proper that the bar created by a Congressional enactment should be overridden in every successive case presented without any particular reason being given for it? It is to this matter that I wish to call the attention of my friend.

Mr. TUCKER rose.

Mr. HOLMAN. I wish to say, however, before my friend takes the floor, that I do not think this Government should be held responsible and necessarily bound even in equity to make an appropriation for the purpose of refunding in all cases taxes improperly paid. No government, so far as I am aware, does that. I venture to say that the government of Virginia, bound to as high a faith to its citizens as the Government of the United States to its citizens, does not under similar circumstances refund money paid by a citizen in the form of tax.

Questions of this kind are constantly springing up under the interpretation of our customs laws. The law being construed as imposing a given duty upon an article, that duty is paid; but by a subsequent decision the article is declared not subject to the payment of such duty, and the party comes to Congress asking that the money be refunded. I think that in all this class of cases the Federal Government, if it makes repayment, should do so under exactly the same conditions that a State government or an individual citizen would make repayment. Where money is paid to the Government, not under protest, but voluntarily, I do not see any reason why the time of Congress should be constantly occupied to a large extent in the consideration of measures for the refund of the money. But in this case there is the further point that there was a day in court for this claimant. I think the time fixed by a general statute for the presentation of claims of this description has elapsed; and if I am correct as to this, there is now a complete bar to this claim, and I insist that the statute should not be disturbed.

Mr. TUCKER. Mr. Chairman, I am surprised that my friend from Indiana should make any objection to the passage of this bill. I supposed that all parties are agreed that the Government ought not to collect any more from the people of the country than it needs, and I had supposed that my friend from Indiana especially would agree with me that the Government has no right to exact from a citizen what the Constitution forbids. Now, this tax was paid, if I mistake not, some time in the year 1868. At that time there had been no decision made on the question of the unconstitutionality of such a tax. It is a tax on a State officer. It had long ago been decided that no State should tax any of the State officers or any of the officers of the Federal Government. In the case of Collector *vs.* Day it was decided for the first time that the Federal Government should not tax any State officer, that it could not impair the functions of the State by taxing any of its instrumentalities. Now, at the time of the payment of this tax that decision had not been made. It was made in 1871. There was no day in court for the party to object or protest, and it was only after that decision that the application was made. The question for the House to decide is this, whether they will refund that money held for sixteen years; whether they will pay back the principal of the money taken without interest; whether they will refund money unconstitutionally exacted according to the decision of the Supreme Court of the United States. And that is the whole question.

Mr. HOLMAN. My friend from Virginia has not met the point which is the important one in this case, and upon which I have dwelt in the remarks submitted by me in the House.

Mr. TUCKER. So far as the protest is concerned, I understand that is only a customs regulation. I do not think there is any such provision in reference to internal-revenue taxes. But even, sir, if there were, I hold, when the question is presented where the Government has put its hands into the pockets of a citizen against the Constitution of the country, Congress is bound to refund it whether there was a protest at the time or not.

Mr. HOLMAN. My friend has not met the main objection I have raised on this bill, and that is that this claim is barred by statute.

Mr. TUCKER. There is no statute against it.

Mr. HOLMAN. The point I have raised is this: That there is now by statute a bar against the payment of any such claim, and that if it is right to open that bar as to one case it is right to open it up as to all citizens who have similar claims.

Mr. TUCKER. I think so, too.

Mr. HOLMAN. And my friend from Virginia must know there are

a number of such claims pending before the House, and have been pending for years.

Mr. TUCKER. Yes; I know that.

Mr. HOLMAN. Then if it is proper to remove the bar under the statute as to one case it is certainly only equitable and just the bar should be removed as to all other like cases. Now, my friend has protested as much as, if not more than, any other member upon this floor against class legislation.

Mr. TUCKER. Yes; against class legislation.

Mr. HOLMAN. Not special, but class legislation; that is, legislation affecting a single party and not applying to a general class of persons. If it be proper that this bill should pass removing the bar as to this one special case, then it is proper and right to remove the bar as to all the other similar cases.

I hold in my hand the statute to which I referred. It is not the statute to which I thought I was referring at the time. My impression has always been that Congress, after the court decided it could not impose an income tax on the salaries of State officers, passed an act providing for the refunding of the amounts collected, provided the claims therefor were made within a given time. I believe the time fixed was two years. I may be mistaken. The statute to which I wish to call attention now may be the one to which I have referred. It is section 3228, as follows:

All claims for the refunding of any internal tax alleged to have been erroneously or illegally assessed or collected, or of any penalty alleged to have been collected without authority, or of any sum alleged to have been excessive, or in any manner wrongfully collected, must be presented to the Commissioner of Internal Revenue within two years next after the cause of action accrued: *Provided*, That claims which accrued prior to June 6, 1872, may be presented to the Commissioner at any time within one year from said date. But nothing in this section shall be construed to revive any right of action which was already barred by any statute on that date.

That statute of course set up a bar against all these claims some time in the year 1870. I believe that none of these assessments were made later than 1868, although I may be wrong about that. After some thirteen or fourteen years have elapsed since the statute became a bar to these claims, I submit to my friend whether it is right to remove that bar against a particular case when it stands upon the same footing as the other cases? He does not pretend to show some special reason why Congress in equity should disregard the bar of the statute; he has assigned no special reason for it, but simply states that the assessment was paid by a State officer, and the law under which that assessment was made has been declared to be unconstitutional. He gives no special reason why the limitation of the statute should be set aside. I submit, therefore, Congress should not go on year after year enacting statutes of limitation, and then in every single case, without assigning any special reason, disregard the bar of the statute. If it is to be disregarded in this case it ought to be in every other. I expected when the report was read it would assign some good reason why in this case the bar should be removed, but nothing of that kind has been presented.

Mr. TUCKER. The views of the gentleman from Indiana are very technical, to be sure. He would plead the statute of limitations against a claim made by a citizen for the refunding of an unconstitutional tax. The statute of limitations to which he refers is one in reference to applications to the Internal-Revenue Department, which must have been made within two years in order to enable the party to bring suit for recovery under that particular statute. The statute of limitations, however, according to his own statement, ran out in 1870, and before the decision was made by the Supreme Court covering the case in point. Therefore the bar of limitation does not apply in the present instance.

The decision I have before me, Mr. Chairman, is one of the most remarkable that has ever been made by the Supreme Court—a decision that was delivered with great unanimity, one judge only dissenting. The opinion delivered by Judge Nelson declares in the most unequivocal terms that it is utterly beyond the power of Congress to lay a tax upon a judicial officer of a State. This case now before us relates to a judicial officer of the eighth district of New York. It was an effort on the part of the Government to impair the power of the State to carry on its judicial functions; and now when the administrator of that officer comes and asks that this tax, unconstitutionally collected, be refunded, the Government pleads the statute of limitations. Well, that is all I have to say about it. I think that is enough. I will not plead the statute of limitations against the claim of a citizen, a claim that he makes for money wrung from him against the Constitution of the United States.

Mr. HOLMAN. I trust that I will now be indulged for a few moments.

Mr. TUCKER. By the way, my friend says that I am much opposed to class legislation, and I wish to say a word in response to that. I answer, yes, I am, where it is for the benefit of a class; but where such legislation is to relieve a class against an unconstitutional exaction I favor it.

The gentleman says why not make the bill applicable to all these classes; why not make it broader? Will he vote for the bill if I do make it broader? I ask the gentleman for an answer.

Mr. HOLMAN (from his seat). I will answer in due time.

Mr. TUCKER. Yes, sir; I hope so. I would like to have an answer. Now, sir, I will pass any bill, I will report any bill in behalf of any citizen of this country for the refunding to him of an unconstitutional exaction; but I did not propose a general bill because there was no application for it. I only reported upon the bill which was referred to the committee.

Mr. HOLMAN. I trust I will be indulged for a few moments, because this question is not now for the first time before the House. There are thousands, I may say in bounds tens of thousands, of just such claims throughout the country, for, if I am correct in my remembrance, the assessment was made under the act of 1862, which was the act embracing the income tax, and applied to and embraced all State officers, whether judicial, legislative, or executive. Of course in a vast number of cases the amount paid under the act was small. But as a matter of course the salaries were taken only into account in making up the amount of income tax paid.

A comparatively small amount of the money thus collected has been refunded up to this time; and the great body of the claims were refunded perhaps for the reason mentioned by my friend from Virginia, that is, that the law has not been declared unconstitutional until a comparatively late date, and few claims had been presented, and if they had been the statute of two years' limitation constituted a complete bar.

This case is exactly analogous to the cotton-claims cases except in reference to its magnitude. Does my friend take the position of refunding the cotton claims? I do not understand him to occupy that position. That tax was illegally collected, as everybody knows, or as is generally understood. No law has been ever enacted to provide for its refunding, and I presume none ever will be; and yet here we are asked to take up a single case—a case selected out of the great body of men who paid the tax—and let Congress afford him relief. This I regard as certainly not the part of wisdom on the part of Congress. It is bad legislation. If there is to be legislation to affect large bodies of men let it be general in its character and not special. I do not believe that it would be a wise policy on the part of Congress now, after the lapse of fourteen years, to make provision for the refunding of this tax. I do not think that the public interests would be promoted. The tax has been paid. The objection to it is that the Constitution did not authorize Congress to levy such a tax. But if Congress attempts to correct all the mistakes which were made, and the errors committed in regard to revenue and taxation during the period of the war and afterward, your Treasury can not bear the drain, or any other treasury that we have ever had. So far as I know, the great body of persons who paid the tax did not claim this refund.

I believe there is a bill pending in the Senate to extend the bar one or two years; and if any law is to be passed upon the subject it should be some such provision as that and not a special case selected such as this from the great body of such claims.

Besides, my friend must remember that his committee did not properly have cognizance of this subject. It belongs to the Committee on Claims, not to the Committee on the Judiciary. It only went to the Judiciary Committee by a special order of the House and not under the rules of the House; and for the reason that it is a single case, a solitary exception referred to that committee, it has been taken up and reported upon, when possibly under other circumstances some general provision might have been formulated. Had this bill gone to one of the committees overburdened with business of the same character, it would not probably have been taken up and made a special exception to the mass of such cases, leaving the rest of them unacted upon to sleep the sleep that knows no waking. Let us have something like uniformity in our legislation and let us adopt wise business principles in dealing with a subject of this character.

Mr. HAMMOND. Let me ask the gentleman from Indiana, Will you vote for this bill if it is amended by making it general, so as to cover all such cases?

Mr. HOLMAN. I attempted to express the reasons why I do not think it would be to the public interest, or even to the interest of the claimants themselves, to do so.

Mr. HAMMOND. You think it honest to pay the debt, but not politic?

Mr. HOLMAN. I do not think that we can undertake to correct all the mistakes of legislation enacted under the revenue laws during the war; and I think if you attempt it by legislation you will find raids will be made on the Treasury far beyond what the benefit possibly could be to individual citizens by the refunding of amounts that would be demanded. These matters have been acquiesced in for so many years that it does not now appear to me to be the part of wisdom to open them up.

Mr. TUCKER. Only one word. My friend from Indiana has introduced a new plea, a plea in abatement—that this case ought not to have been referred to the Judiciary Committee. I will say to the gentleman as the cause is now at issue it is too late to allow the plea in abatement.

Mr. HOLMAN. I admit that.

Mr. TUCKER. The gentleman, of course, as a good lawyer, knows that. Therefore that is out of the case. I put the issue where I put it before, that no just government will hold on not only to an unjust tax but a tax which its own courts decided it had no right to exact, even

though there be a statute of limitations to protect it. And I want the gentleman to stand up here and say that he is willing to hold on to what the government had no right to exact under the Constitution, though it is proved you have it in your pocket and you have held it there all that time. And we only ask the principal, not the interest.

Mr. HOLMAN. This is not the only instance where that occurs. Will the gentleman allow me another moment?

Mr. TUCKER. I want to close the case, but I yield to the gentleman for a moment longer.

Mr. HOLMAN. The gentleman alluded to my suggestion that this case went to his committee instead of the proper committee, the Committee on Claims. I made that remark for the purpose of suggesting to my friend from Virginia that he was treating this as if it was the only claim of the kind. If it was the only one no member would occupy time in objecting to its consideration. But let me inquire of the gentleman from Tennessee [Mr. MCMILLIN], the chairman of the Committee on Claims, how many of these cases are pending before his committee?

Mr. MCMILLIN. I do not remember that we have had occasion to consider any of this class of claims.

Mr. TUCKER (to Mr. HOLMAN). You have had your answer.

Mr. HOLMAN. And how many are pending before the Committee on Ways and Means?

Mr. MCMILLIN. I do not know about that. There may be some cases of this kind pending before the Committee on Claims. There have been nearly a thousand bills referred to that committee. We have been able to report on probably half of them—I do not remember the exact number. But I do not remember one involving this question. There is a bill pending there for returning to the States taxes collected from individuals in the States, but that is not the question involved here.

Mr. HOLMAN. No; that is not the question. It is very possible that the practice has been to refer these bills to the Committee on Ways and Means. That would seem to be the appropriate committee to consider questions growing out of the revenue. I do not at this moment see any gentleman whom I recognize as belonging to that committee. But I know from former experience on the committee of which my friend from Tennessee is chairman that a very large number of these cases have been pending for many years.

Mr. MCMILLIN. My attention having been called to it, I desire to state that we have a claim of this kind in favor of a party who was at the time a resident of Louisiana, where a sum of about $12,000 was involved. Mrs. Adelicia Cheatham now, then Mrs. Acklen, paid illegally assessed taxes, and paid them under protest. She went to the Court of Claims, and the court decided she was entitled to the relief and ought to have had it. But following the advice of her attorney, probably, she had been a few days late in commencing her action. That claim we thought was eminently proper to be paid, and we have recommended the payment; and I shall be surprised if this House does not stand by the action of the committee under the circumstances. It was an illegally collected tax upon cotton, cotton that had already paid 11 per cent. taxes. Then there was an illegal tax assessed in addition to that. The Court of Claims held, I think, that the taxes ought to have been returned, but that the remedy was not sought in time, and she shows a reason for not having sought it in time.

Mr. HOLMAN. I think when it comes to be a question of bar, whether the statute of limitations shall act upon Congress or not, then it is equitable to consider the circumstances under which the claim is presented. And I have called attention to the fact that no excuse in this case is given for the failure to present it in reasonable time. If we are to enact bars to operate on our courts of justice, I insist the same bars should operate on Congress. But where a case of equity is presented, that bar should be waived.

Mr. TUCKER. I am willing to leave the issue to the jury on the plea of the statute of limitations. If the House is willing to put in what, without disrespect to my friend from Indiana, I must call the dishonest plea of the statute of limitations to the claim of a party who comes forward and says, "You have exacted a tax which your own courts declare to be unconstitutional," I am willing to leave the House to take that course.

Mr. MCMILLIN. Let us have a vote on it.

Mr. HAMMOND. Mr. Chairman, before the vote is taken I desire to call the attention of the committee to the fact that recently in this House a majority of members voted in favor of the payment of untold millions to a certain numerous class of voters in this country; and to the further fact that the main objection urged to the payment of this debt to-day is that the United States Government is not able to pay what it honestly owes.

The CHAIRMAN. The question is, Shall this bill be laid aside to be reported to the House with a recommendation that it pass?

The question was decided in the affirmative; there being—ayes 99, noes 14.

Mr. HOLMAN. As a very large majority of the House has voted in favor of this measure, I will not insist on a quorum.

ORDER OF BUSINESS.

The CHAIRMAN. The Clerk will read the title of the next bill in order.

The Clerk read as follows:

A bill (H. R. 130) to confirm a certain private land claim in the Territory of New Mexico.

Mr. MCMILLIN. That is one of the bills which by consent were passed over informally not to lose their place on the Calendar. There were six such bills passed over under the agreement.

The CHAIRMAN. It will require unanimous consent to pass over this bill.

Mr. MCMILLIN. I make the point, Mr. Chairman, that by consent we commenced to-day with the bill just acted on, passing over informally the six preceding bills, so that we should now go forward with the other bills on the Calendar.

The CHAIRMAN. The gentleman is mistaken as to the order agreed to by the committee.

Mr. MCMILLIN. That was the motion I made; the Chair may have misunderstood it.

The CHAIRMAN. The Chair put the request as to one bill only.

Mr. MCMILLIN. Then I ask unanimous consent that the six bills preceding the one just acted on be laid aside informally without losing their place.

There being no objection, it was ordered accordingly.

CAMP DOUGLAS MILITARY RESERVATION.

The next business on the Private Calendar was the bill (H. R. 1782) to authorize the Secretary of War to relinquish and turn over to the Interior Department certain parts of the Camp Douglas military reservation, in the Territory of Utah.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of War be, and he is hereby, authorized and directed to relinquish and turn over to the Department of the Interior, for restoration to the public domain, such parts of what is known as the Camp Douglas military reservation, in the Territory of Utah, as are embraced in the claim of Mr. Charles Popper; the same being in accordance with the recommendations of the board of officers, comprised of I. N. Palmer, colonel Second Cavalry, president of the board; F. F. Flint, colonel Fourth Cavalry; and George O. Weber, first lieutenant Fourth Infantry, recorder, constituted for the purpose of examining the claim of the said Charles Popper, by order of Brigadier-General Crook, dated Omaha, Nebr., May 7, 1875, and approved by the Secretary of War, and described as follows, namely: The northwest quarter of the southeast quarter, and the northeast quarter of the southwest quarter, and the northwest fractional quarter of the southwest fractional quarter, and the norht half of the southeast quarter of the southwest fractional quarter, and the north fractional half of the southwest fractional quarter of the southwest fractional quarter of section 33, township 1 north, range 1 east of the Salt Lake meridian, containing in all one hundred and fifty-one and eighty one-hundredths acres, more or less, and all lying within the said Camp Douglas military reservation.

SEC. 2. That the Secretary of the Interior, after said restoration, shall, at the expense of said Charles Popper, cause the lands to be surveyed and segregated from the reservation by the surveyor-general of Utah; and that at any time within ninety days after the restoration of the lands the said Charles Popper shall be permitted to make a private entry of the said lands at the rate of $1.25 per acre; and during the ninety days no other person or persons shall be permitted to make an entry of the same, or to commence any proceedings to obtain title thereto under the homestead law or any other laws by which the lands of the United States are disposed of: *Provided*, That the money paid by Charles Popper for the survey of the land, as hereinbefore provided for, shall be deducted from the cost of the entry thereof.

Mr. DIBRELL. The report in this case is quite lengthy, and I desire to make a statement which I think may obviate the necessity for reading it. This bill was reported favorably by me in the Forty-sixth Congress and passed the House. In the Forty-fifth Congress it had passed the Senate. At the last session of the present Congress a similar bill passed the Senate, and it is now upon the Speaker's table. This man Popper had bought a head-right, and when the Camp Douglas military reservation was surveyed the survey included his head-right. He had previously expended $15,000 or $20,000 in making improvements with a view to establishing a dairy near Salt Lake City. Every officer who has been in command of that department, including General Sheridan and others, has recommended the passage of this bill. It has also been recommended by the Secretary of War. The measure has been unanimously reported by the Committee on Military Affairs. I presume under these circumstances the reading of the report will not be insisted upon.

The CHAIRMAN. If there be no objection, this bill will be laid aside to be reported to the House with a recommendation that it do pass.

There being no objection, it was ordered accordingly.

EDWARD BYRNE.

The next business on the Private Calendar was the bill (H. R. 75) for the relief of Edward Byrne.

Mr. ROSECRANS. The gentleman [Mr. LAIRD] who, as a member of the Committee on Military Affairs, has this bill in charge is now confined to his room in consequence of a severe accident. I ask, therefore, that this bill be passed over informally without losing its place on the Calendar.

Mr. MCMILLIN. I hope that will be done.

The CHAIRMAN. If there be no objection, this bill will be laid aside informally without losing its place.

There was no objection.

JOHN M. DORSEY AND WILLIAM F. SHEPARD.

The next business on the Private Calendar was the bill (H. R. 948) for the relief of John M. Dorsey and William F. Shepard.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Treasury be, and he hereby is, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, the sum of $9,021.33 to John M. Dorsey, and the sum of $3,746.66 to William F. Shepard, in full settlement for beef and supplies furnished certain volunteer troops by said Dorsey, Shepard, and one S. B. Wallace, while said troops were engaged in quelling the Indian disturbances in the Territory of Utah, now the State of Nevada, in the year 1860.

Mr. HOLMAN. I think the report in this case had better be read.

The Clerk read as follows:

Mr. LORE, from the Committee on Claims, submitted the following report:

This bill has been five times favorably reported in the Senate and passed the Senate three times. It has also been three times favorably reported in the House of Representatives. No adverse report has ever been made upon it.

The bill directs the payment to John M. Dorsey of $9,021.33, and to William F. Shepard $3,746.66, in full settlement for beef and supplies furnished the troops by Wallace, Dorsey, and Shepard in quelling the Indian disturbances in the Territory of Utah, now the State of Nevada, in the year 1860.

In the spring of 1860 the Piute Indians murdered several citizens in Carson Valley, and had assembled a large hostile force, threatening the various towns in that vicinity. An irregular force of the best citizens of Virginia and Carson cities was organized and proceeded against the Indians, but they were ambushed and defeated, and about sixty of their number, including Major Dunsby, their commander, and many other prominent citizens, were killed, and the others dispersed. Great alarm followed among the citizens of these and neighboring towns from attack by the hostile Indians, who had assembled in large force. The citizens were without arms or supplies. There were no troops, arms, or Government stores or supplies nearer than Salt Lake, five or six hundred miles distant. Under the circumstances the governor of California and the United States officer in command of the Department of the Pacific sent forward to Virginia City arms and ammunition in charge of proper officers, together with one company of infantry. Several hundred volunteers were organized, armed, and equipped, and placed under the command of Col. John C. Hayes, who, in conjunction with the company of United States troops, marched against the Indians, and after some severe fighting defeated them and conquered a peace.

Upon the organization of these forces they were without stores or supplies, and were unable to move without them. Colonel Hayes and the commissary of his command made contracts with Jordan & McPike to furnish beef, and with Dorsey and Shepard and S. B. Wallace to furnish and transport for the command flour, sugar, coffee, and other stores. Three vouchers were issued by the commissary of the expedition: one to S. B. Wallace for $1,528; one to Dorsey, Wallace, and Shepard for $5,050; and the third to the same parties for $6,190. Wallace assigned all his interests to Dorsey in 1861 and died in 1862; and there is due said Dorsey the sum of $9,021.33 and to said Shepard $3,746.66. It is claimed that the prices charged were the lowest cash prices at the time and places, and the goods were furnished in good faith. The United States received the benefit of these supplies, and the Government was probably saved hundreds of thousands of dollars by the prompt and patriotic action of these claimants.

The facts are all clearly proven by the evidence of Colonel Hayes and others.

On June 17, 1874, an act was approved directing the Secretary of the Treasury to pay John M. McPike the sum of $19,473.50 for beef and supplies furnished the troops by Jordan & McPike, and this bill is for the payment of Dorsey and Shepard for the flour, coffee, bacon, and other supplies furnished by them to the same troops and at the same times as those furnished by Jordan & McPike. The claims of Dorsey and Shepard appear to be just and proper, and ought, in justice, to have been paid years ago.

The committee recommend the passage of the bill.

Mr. LORE. I move that this bill be laid aside, to be reported to, the House with a favorable recommendation.

The motion was agreed to.

O. L. COCHRAN.

The next business on the Private Calendar was the bill (H. R. 1566) for the relief of O. L. Cochran, late postmaster at Houston, Tex., reimbursing him for money erroneously collected from him by the Post-Office Department.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to O. L. Cochran, out of any moneys in the Treasury not otherwise appropriated, the sum of $422.85, collected from him by the Post-Office Department on the 29th day of November, A. D. 1867, and which amount is in excess of what he was indebted to said Department.

Mr. STEWART, of Texas. I move that this bill be laid aside to be reported to the House with a favorable recommendation.

Mr. HOLMAN. The report in this case, I believe, is short?

Mr. STEWART, of Texas. Yes, sir.

Mr. HOLMAN. I suggest it had better be read.

The Clerk read as follows:

Mr. TILLMAN, from the Committee on Claims, submitted the following report:

This claim is based upon the following facts: O. L. Cochran was postmaster at Houston, Tex., in the year 1861. His account with the Government was settled in 1867, when he was found indebted to the United States in the sum of $568.71, which he paid under protest that he was not indebted.

In this settlement he did not receive any compensation for his services as postmaster at Houston for the months of April and May, 1861, for the reason that if his returns had been rendered they were never received by the Auditor's office or by the Post-Office Department for the months named.

Subsequent to this payment under protest Cochran submitted a duplicate return as postmaster for the months of April and May, 1861, which would have reduced his indebtedness in the settlement made in 1867 from $568.71 to $145.86, showing an overpayment made by him of $422.85, which is now justly due him.

All this is certified by the Auditor of the Treasury for the Post-Office Department.

Your committee, therefore, recommend the passage of the bill.

OFFICE OF THE AUDITOR OF THE TREASURY
FOR THE POST-OFFICE DEPARTMENT,
Washington, D. C., January 30, 1884.

SIR: In answer to your inquiry for the facts in the case of Owen L. Cochran, who was postmaster at Houston, Tex., I have the honor to submit the following statement:

A settlement was made in this office of Mr. Cochran's account in the year 1867, when he was found indebted to the United States in the sum of $568.71, which he paid under protest that he was not indebted.

In the above settlement Mr. Cochran did not receive any compensation for his services as postmaster at Houston for the months of April and May, 1861, for the reason that if the returns had been rendered they were never received by the Auditor's office or by the Post-Office Department for the months named.

Subsequent to this payment under protest Mr. Cochran submitted a duplicate return as postmaster for the months of April and May, 1861, which would have reduced his indebtedness in the settlement made in 1867 from $568.71 to $145.86, showing an overpayment made by him of $422.85, and the sum of $422.85 is justly due to Mr. Cochran.

Respectfully,

J. H. ELA, *Auditor.*

Hon. CHARLES STEWART,
House of Representatives.

There being no objection, the bill was laid aside to be reported to the House with a recommendation that it do pass.

ALEXANDER D. SCHENCK.

The next business on the Private Calendar was the bill (H. R. 1266) for the relief of Alexander D. Schenck.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Treasury be, and he hereby is, authorized and directed to pay, out of any moneys in the Treasury not otherwise appropriated, to Alexander D. Schenck, a first lieutenant in the Second Artillery, the sum of $107.65, being the amount he has been required to deposit with the Treasurer of the United States to make good the loss of certain subsistence stores pertaining to the Commissary Department of the United States Army, and for which he was responsible, as acting commissary of subsistence at Fort Johnston, North Carolina, in the fiscal year ending June 30, 1880; said stores having been stolen or otherwise unlawfully disposed of by John V. Seyton, late a commissary-sergeant in the United States Army, without the knowledge, consent, fault, or neglect of said Schenck.

Mr. McMILLIN. I move that this bill be laid aside to be reported to the House with a favorable recommendation.

The motion was agreed to.

YOST HARBAUGH.

The next business on the Private Calendar was the bill (H. R. 4681) for the relief of Yost Harbaugh.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Treasury be, and he is hereby, directed, out of any money in the Treasury not otherwise appropriated, to pay to Yost Harbaugh the sum of $70, for his services as messenger in the office of the Third Auditor of the Treasury from October 10 to November 10, 1876.

Mr. McMILLIN. I move that this bill be laid aside to be reported favorably to the House.

The motion was agreed to.

WILLIAM W. THOMAS.

The next business on the Private Calendar was the bill (H. R. 691) for the relief of William W. Thomas.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Treasury be authorized and directed to pay to William W. Thomas, of Portland, in the State of Maine, the sum of $309 (being the amount of coupons of United States bonds lost by him, and now unpaid, namely: Coupons due December 15, 1867, of five-hundred-dollar seven-thirty notes numbered 132909, 132911, 142262, 142268, act of June 30, 1864, dated June 15, 1865; also coupons due January 15, 1868, of one-thousand-dollar seven-thirty notes numbered 24199, 24204, 39406, and 64136, act of June 30, 1864, dated July 15, 1865; and coupons due January 1, 1868, of bonds numbered 1437, 86826, and 86827, for $1,000 each, act of July 17, 1861), upon said Thomas giving a bond of indemnity in double the amount to be paid, with sureties satisfactory to the Secretary of the Treasury.

Mr. HOLMAN. Let the report in this case be read.

The Clerk read as follows:

Mr. ELLWOOD, from the Committee on Claims, submitted the following report:

Mr. W. W. Thomas was the owner of coupons of United States bonds of the value of $309. They were due, as stated in the bill, in December, 1867, and January, 1868. In some way Mr. Thomas lost the coupons after they were severed from the bonds. The Treasury Department reports that the coupons in question have never been presented for payment. While the law allows the Department to replace lost bonds, it does not allow it to replace lost coupons.

The bill provides that Mr. Thomas shall protect the Treasury by giving a bond in double the amount to repay the sum in the improbable event of any future presentation of the coupons.

The committee recommend the passage of the bill as amended, striking out "$450" and inserting "$309."

Mr. McMILLIN. I move that the amendment be adopted.

The amendment was adopted.

Mr. McMILLIN. I move that the bill as amended be laid aside to be reported to the House with the recommendation that it do pass.

The motion was agreed to; and the bill was accordingly laid aside to be reported to the House with the recommendation that it do pass.

A. J. GUTHRIE.

The next business on the Private Calendar was the bill (H. R. 2154) for the relief of the legal representatives of A. J. Guthrie, deceased.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to the legal representatives of A. J. Guthrie, deceased, of Louisville, Ky., out of any moneys in the Treasury not otherwise appropriated, the sum of $302.20, being for services rendered and money advanced in taking care of property of the United States.

The report (by Mr. BROWN, of Pennsylvania) was read, as follows:

That said Guthrie was made custodian of certain property seized by the Government, and had possession thereof from January 16 to April 20, 1867, at the agreed price of $2.50 per day. Upon the last-named day the movable property (consisting of whisky) was shipped from Carrollton, Ky., to Louisville, Ky., but Mr. Guthrie, under orders of the collector, continued in charge of the distillery, at the rate of $2 per day, from April 21 to July 9, 1867. That Mr. Guthrie filed

separate bills for his service, &c., both of which were approved. The first bill was:

For 95 days' time, from January 16 to April 20, at $2.50	$237 50
For 22 whisky-barrels furnished by him, at a price agreed upon, to wit, $2.75	60 50
Drayage and labor paid by him	4 20
Aggregating the sum of	302 20

The second bill being for the time while in charge of the distillery after the removal of the whisky, being eighty days, at $2 per day, from April 2 to July 9, amounting to $160.

The amount first mentioned was mislaid or lost, and the second bill was paid, as part of the costs in the case.

After finding that this first account had not been allowed by the court Mr. Guthrie placed the claim in the hands of a claim agent, as appears from affidavits filed, who soon died, leaving the claim uncollected.

The evidence of the collector, James Hudnall, United States Marshal W. A. Merriwether, and others, fully set forth the above facts, and your committee, therefore, report back the bill with the recommendation that it do pass.

On motion of Mr. MCMILLIN, the bill was laid aside to be reported to the House with the recommendation that it do pass.

JOHN F. SEVERANCE.

The next business on the Private Calendar was the bill (H. R. 2268) for the relief of John F. Severance.

The bill was read, as follows:

Be it enacted, &c., That there be appropriated, out of any money in the Treasury not otherwise appropriated, the sum of $85, to be placed to the credit of the Post-Office Department; and the proper accounting officers of the Post-Office Department are hereby directed to credit John F. Severance, of Shelburne, Mass., in his account as postmaster with the same, it being for loss by robbery of his post-office on the night of the 19th day of June, 1878, but without fault or neglect on the part of said postmaster.

The report (by Mr. VAN ALSTYNE) was read, as follows:

The files of the House of Representatives show that this claim was investigated and reported favorably by the Committee on Claims of the Forty-sixth Congress (Report No. 913) and also by the Committee on Claims of the Forty-seventh Congress (Report No. 158). The report first mentioned embodied a statement of facts relied upon, which was adopted by the last-named committee, and was as follows:

"This is a claim for relief by the said Severance, as postmaster at Shelburne Falls, in Franklin County, in the State of Massachusetts, from loss occasioned by the robbery of his office on the night of June 19, 1878. The claimant was appointed as postmaster at Shelburne Falls, and entered upon the duties of his office March 1, 1878. On the night of June 19, between 12 and 3 o'clock, burglars forced open the windows of the office, blew open the safe with gunpowder, and carried away all the stamps therein, of the aggregate value of $435, and all the money therein, of the value of $100, which money had been received from the sale of stamps and postal cards and from postage. At the same time the burglars broke open the jewelry store of J. G. Brown, in the next building to the post-office, and blew open the safe therein, and rifled it of jewelry and $375 in money, the loss of said Brown amounting in all to from $2,000 to $2,500. Early the next morning it was discovered that the post-office and jewelry store had been robbed. The post-office was separated by a partition from the express office, and the outer door of the express office and the partition door between that and the post-office had been forced open. The safe door was badly torn by powder and the inside door blown off. It was a fire-proof safe of the usual construction, and made by E. R. Morse, a manufacturer of good reputation. Pursuit was immediately made of the burglars. The same evening the said Brown and Mr. Bartlett overtook a man eight miles from the said village with a valise, and on asking to see it he emptied two revolvers at his pursuers, hitting Mr. Bartlett, and then ran into the woods. They followed his trail, but lost it. The next night the bridges over which he might escape were guarded and a similar man was seen on the railroad bridge near by. The patrol opened fire with revolvers, which the man returned. They fired away all their cartridges, but the man escaped into the woods. The next morning a man who lived near by found on the spot where this affray had occurred blood on the timbers and a bundle dropped on the abutments of the bridge. It contained the jewelry of the said Brown and specie belonging to him, and a package with $13 in silver change and all the postage-stamps which the postmaster had lost. Some weeks after, an old valise was found near the supposed trail of the burglars with $2 in pennies.

"The postmaster's account of his loss is, then, as follows:

Stamps stolen from the office		$435 00
Money stolen from the office		100 00
Total		535 00
Recovered:		
Silver	$13 00	
Pennies	2 00	
Stamps	435 00	
		450 00
Making the balance lost by the postmaster		85 00

"Full affidavits of all the facts were represented to the committee by the claimant and by other reputable citizens who are acquainted with the circumstances of the case, and some of whom joined in the hunt for the burglars.

"A report in the said case was made by the special agent of the Post-Office Department to said Department, which report is as follows:

"'BOSTON, *March* 5, 1879.

"'SIR: I have the honor to return ordinary case No. 11381, and to inform you that after investigation I found that the office was entered by burglars on the night of June 18, 1878; that $435 worth of stamps and $100 of postal money was stolen; and that the day following there was found all of the stamps and $13 of the money by the roadside, leaving a loss of $87 to the postmaster.

"'Up to this time no trace of the depredators has been found, although the town officers have been on the constant hunt and have offered a reward of $250 for their apprehension.

"'Very respectfully,

"'CHARLES FIELD,
"'*Special Agent Post-Office Department.*

"'DAVID B. PARKER,
"'*Chief Special Agent Post-Office Department, Washington, D. C.*'

"The testimony satisfies the committee beyond a doubt that the claimant and the officials connected with the office have always borne the highest character, and that they used due diligence in the care of the property intrusted to their charge. They did all that any man could reasonably have been expected to do in order to secure the property in the post-office. It is also evident from the circumstances, as reported, that everything was done that was possible to secure the burglars and the property which they had stolen, and it was owing to the diligence and perseverance of the pursuers that so large a portion of the stolen property was recovered, and the loss of the postmaster was reduced from the sum of $535 to the sum of $85. The committee believe that the claimant ought to be relieved of the loss, and therefore report back the accompanying bill, and recommend its passage."

Your committee find, from the testimony submitted, that the statement of facts in said report is true and correct, adopt the same as their own, concur in the conclusions therein expressed, and report the said bill back, and recommend that the same do pass.

Mr. MCMILLIN. I move that the bill be laid aside to be reported to the House with the recommendation that it do pass.

Mr. HOLMAN. I should like to know why recovery could not be obtained under the general law.

Mr. BROWNE, of Indiana. If I understand it, the general law does not allow a recovery for money lost.

Mr. MCMILLIN. That is correct.

Mr. BROWNE, of Indiana. But only for stamps.

Now, the inquiry I desire to make of the chairman of the committee is this: Why is it when we come to legislate in general statutes we prohibit allowances covering money lost and then proceed to make them by special legislation?

Mr. MCMILLIN. I know of no reason for it. I see no reason why in one case it can not be recovered as well as in any other. It was an inadvertence, perhaps, on the part of those framing the general law in leaving out this special class of claims.

Mr. BROWNE, of Indiana. No; for a reason was given by the committee why a general law was not drawn covering the loss of money. It was because it was not always possible to distinguish money which had been accumulated in due course of trade, and money which properly belonged to the Post-Office Department, and received in exchange for stamps.

Mr. MCMILLIN. That difficulty, I think the gentleman will observe from the report here in this case, has been removed.

Mr. BROWNE, of Indiana. It was the policy of the Congress, then, not to allow recovery for money lost in any instance. I did not see any propriety in that legislation then, but we ought to pursue a general course in reference to these matters. A general law will be of little consequence if we are required in every case to pass a special act.

Mr. MCMILLIN. If the gentleman will remember the difficulty of getting to any private bill he must admit the general law is not entirely inoperative. It was the opinion of the committee that this officer had exercised all due diligence in the custody of these funds. The safe which had been provided for the funds of the postal department was as secure as that in which he kept his own money. His personal funds and those of the Post-Office Department were kept separate, in order that there might be no confusion between the two accounts. I make this statement only to show that the character of the safe in which the public funds were kept proved that this officer had exercised due diligence, that diligence which any business man would exercise over his own funds.

Mr. BROWNE, of Indiana. I hope the gentleman will not understand me as objecting to the passage of this bill.

Mr. MCMILLIN. No; I do not.

Mr. BROWNE, of Indiana. The reason why I mentioned it is this: At the time the general law was passed a bill was pending for the relief of the postmaster in my city who had lost money under circumstances similar to those in this case. His office was entered in the night-time and his safe blown open by gunpowder. He lost stamps, and also money which he had received in exchange for stamps. He pursued the burglar and captured him at very considerable expense, securing the return of most of the postage-stamps which had been stolen, but no part of the money. He was compelled under the general law after it had been passed to withdraw his claim, going to the Auditor of the Treasury for the Post-Office Department, where he recovered simply for the residue of the stamps not secured at the time of the capture of the burglar and lost every penny of the money which had been stolen. Now, I do not understand why there should be fish of one and flesh of another.

Mr. MCMILLIN. Does the gentleman think this presents a meritorious case? If so, I suggest that failure of justice in a former case does not excuse us from failing to do justice in this.

Mr. TILLMAN. Mr. Chairman, the United States Government does not want its faithful officers to lose money in the discharge of their duties where everything has been done that can reasonably be required of a functionary to protect the trusts confided to his charge. Now, sir, from the very foundation of the Government down to the present hour just such claims as the one we are considering have been paid almost without question when they were brought to the attention of this body, each claim standing upon its individual merits and upon the facts as developed. I am surprised that the gentleman from Indiana should object to the passage of this bill. Surely he is not in favor of making a public official work for nothing and pay for the privilege of doing it.

Congress, when it framed a general law for making good all losses by postmasters, where the loss occurred without fault of their own, in omitting to provide for the reimbursement of money losses, did not intend to deny all relief.

If such had been the case it would force postmasters not only to take extraordinary precautions in the care of public property, but would compel them to run extraordinary risks; in fact, to run greater risks than any other class of officers under the Government.

In excluding money losses from adjustment at the Post-Office Department the purpose was to prevent either fraud or collusion by postmasters or Department officials. A second reason for forcing postmasters to come to Congress for recovery of money losses was to compel scrutiny of all the facts and require the claimant to show that he had exercised due diligence and done his whole duty.

I submit, sir, that this is a meritorious claim. The case has been thoroughly inquired into and unanimously reported by the committee, and it ought to be passed by this House as hundreds of similar claims have been passed in the history of the Government.

Mr. BROWNE, of Indiana. Mr. Chairman, I wish to state again that I have not objected to the passage of this bill. I believe it ought to pass. The reason I referred to the matter at all was in order to bring to the attention of Congress some recollection of the character of legislation in which we sometimes indulge. I assert that at the time the general law was passed the question of excluding from its operation money losses by postmasters was to prevent frauds against the Government. It was the policy of Congress at that time to prohibit the allowance of money losses. That reason for adopting such a policy was then clearly stated, and the provision seemed to have been adopted almost unanimously. I refer to it, as I stated a moment ago, because it applies directly to a case affecting one of my immediate constituents.

It is true he may now come into the Congress, perhaps, and secure a favorable report on a bill allowing him all the balance of his loss; but every man of experience in legislative matters knows that he would rather put his hand in his pocket and reimburse a constituent out of his own funds to the extent of a hundred or two dollars than to attempt to take upon himself the burden of the passage of a special bill for his relief through Congress, where every Representative is peculiarly the guardian of the national Treasury, and where, under our peculiar system of rules, any captious gentleman, by the interposition of a single objection, may prevent the doing of justice to a private citizen. The manner in which we reach the consideration of these private claims would be disreputable if indulged in by any other body of less prominence than the American Congress. If we were to treat our neighbors in our dealings with them as citizens as the Government treats those to whom it becomes indebted, it is doubtful whether one of us, after a year or two, would be able to secure credit for a pound of soap at a corner grocery. That is all I desire to say.

Mr. MCMILLIN. I move that the bill be laid aside to be reported to the House with a favorable recommendation.

The motion was agreed to.

PAY OF CERTAIN OFFICERS.

The next business on the Private Calendar was the bill (H. R. 4688) to pay certain officers of the Army for services actually rendered during the late war.

Mr. MCMILLIN. Mr. Chairman, this bill is a general bill in its nature. There has been already a similar bill passed by the House, as I am informed by the Chairman of the Committee on War Claims. I therefore move that this bill be reported back to the House with the recommendation that it lie on the table.

The motion was agreed to.

CITIZENS OF MARION COUNTY, TENNESSEE.

The next business on the Private Calendar was the bill (H. R. 4684) for the relief of certain citizens of Marion County, Tennessee, reported by Mr. GEDDES from the Committee on War Claims.

The bill was read, as follows:

Be it enacted, &c., That the claims of certain citizens of Marion County, Tennessee, for quartermaster's stores and commissary supplies alleged to have been taken from them by United States troops during the late war, and known as claims filed before the "Jasper board," so called, be, and they are hereby, referred the Quartermaster-General of the United States Army, who shall have full jurisdiction to examine and consider said claims, and make report thereon to Congress as in cases provided for in the second and third sections of the act to restrict the jurisdiction of the Court of Claims, &c., approved July 4, 1864.

Mr. DIBRELL. I move that the bill be laid aside to be reported to the House with the recommendation that it do pass.

The motion was agreed to.

ELIZABETH CARSON.

The next business on the Private Calendar was the bill (S. 12) for the relief of Elizabeth Carson.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Treasury of the United States, out of any money in the Treasury not otherwise appropriated do pay to Elizabeth Carson, of Bourbon County, Kentucky, the sum of $2,630.50, in full satisfaction for subsistence, use of jail, fuel, fire, care and attention furnished by her to conscripts, deserters, and rebel prisoners confined in the jail of Bourbon County, Kentucky, by the military authorities of the United States in the years 1862, 1863, 1864, and 1865.

The report (by Mr. GEDDES) was read, as follows:

The Committee on War Claims, to whom was referred the bill (S. 12) for the relief of Elizabeth Carson, submit the following report:

It is alleged that in the years 1862, 1863, 1864, and 1865 the petitioner furnished subsistence, fuel, fires, &c., to conscripts, deserters, and rebel prisoners confined in the jail of Bourbon County, Kentucky, by order of the military authorities of the United States. Claim stated at $4,618.70.

The claimant made no complaint to the War Department, and the very statement of her case is vague and uncertain, and the proof submitted would not warrant the committee in passing it.

It seems to your committee that an investigation by the Secretary of War, or under his direction, is a matter of necessity before intelligent action can be had upon this case.

The committee therefore report herewith an amendment, in the nature of a substitute for Senate bill, conferring power upon the Secretary of War to have the case investigated through the Quartermaster's Department, and to report the result, with his recommendation thereon, to Congress for its action in the premises.

Mr. GEDDES. I move that the bill be laid aside to be reported favorably to the House.

The CHAIRMAN. The Clerk informs the Chair that the substitute has not been sent to the desk.

Mr. MCMILLIN. Do I understand that there is no substitute accompanying the bill?

The CHAIRMAN. There is no substitute on file at the desk.

Mr. MCMILLIN. I suggest to the gentleman from Ohio [Mr. GEDDES] the propriety, in the absence of the substitute, of passing over this bill informally.

Mr. GEDDES. I think the substitute will be found in the papers.

The CHAIRMAN. The Chair has sent to the file-room to ascertain if a substitute be pending or not.

Mr. GEDDES. I ask that for the present the case be passed over informally.

There was no objection.

NICHOLAS J. BIGLEY.

The next business on the Private Calendar was the bill (H. R. 1347) for the relief of Capt. Nicholas J. Bigley.

The bill was read, as follows:

Be it enacted, &c., That the sum of —— dollars be, and the same is hereby, appropriated, out of the funds in the Treasury not otherwise appropriated, to pay Capt. Nicholas J. Bigley for the value of the steamer Hercules and tow of coal, destroyed at Memphis, Tenn., in the month of February, 1863.

The report (by Mr. GEDDES) was read, as follows:

The Committee on War Claims, to whom was referred the bill (H. R. 1347) for the relief of Capt. Nicholas S. Bigley, submit the following report:

The claimant in this case asks compensation for the alleged price and value of the following property destroyed during the late war: Four barge-loads of coal, aggregating 70,538 bushels, at 30 cents per bushel, $21,211.40; the value of the steam towboat Hercules, $25,000; total, $46,211.40.

This case is somewhat exceptional in not exciting much doubt or uncertainty as to the facts of the case. The evidence is very full, but not materially conflicting. The claimant has presented his case supported in all its important points by the most satisfactory testimony. The questions to be decided are therefore less difficult.

1. The loyalty of the claimant is clearly established.

2. His ownership of the property when destroyed and of the claim at this time can not be questioned.

3. The value of the property and the extent of the claimant's loss at the time it occurred must be conceded.

4. The remaining question is, whether, admitting the facts claimed, the Government is under any legal or equitable obligation to remunerate him for the loss.

A very brief review of the facts will be necessary in order to present the questions on which the right to compensation depends.

In the month of January, 1863, the United States military authorities occupied Memphis, Tenn., and, being in need of supplies for the Army, offered extraordinary inducements to parties who were willing to engage in such hazardous enterprises. At that time the quartermaster of the Army at that city sent the following order by telegraph:

DEPARTMENT QUARTERMASTER'S OFFICE,
Memphis, January 24, 1863.

E. R. BLASDEL, Esq.:

Furnish to this department 75,000 to 100,000 bushels of Youghiogheny coal; also 2,000 tons of hay, for which a good market price will be paid; coal at 30 cents per bushel, and hay at $27.50 per ton.

A. R. EDDY.
Per DAN. W. SENBE,
Chief Clerk.

This order by telegraph addressed to Mr. Blasdel was received by him. He at the time resided at Lawrenceburg, Ind., a point on the Ohio River 130 miles above the city of Louisville, and he was at the time engaged in the produce business.

The claimant then resided in Pittsburgh, Pa. It does not appear, nor is it material, where Mr. Blasdel met claimant and delivered to him the telegraphic order.

There is no evidence tending to show that either Mr. Blasdel or claimant answered the telegram accepting the proposition made in it.

The military authorities at Memphis had no notice that this particular order would be complied with. Claimant appears to have relied on the well-known necessities of Government for such supplies at that time and place, or felt unwilling to incur the absolute obligation to deliver under the circumstances. The proof is clear that he fully realized the risks involved in the undertaking. He had before frequently undertaken such ventures that proved successful and profitable. He was engaged in a business of the most hazardous character, and voluntarily assumed the responsibility. He entered upon the performance of it without notice that he would perform it, and without demanding protection. Tempted doubtless by the prices offered and the profits of a successful voyage, he engaged in it.

The evidence clearly establishes the fact that claimant started on the expedition with about 100,000 bushels of coal of the description designated in the order mentioned, which was carried in six coal-boats towed by the steamer Hercules, Capt. Thomas McCloskey being in command. The claimant accompanied the expedition in person. They started down the river early in the month of February, 1863. They met with no serious obstacles until Memphis was reached. Claimant, in his affidavit in reference to the trip, among other things, says:

"That he hastened to Memphis with the towboat Hercules and seven full boats, containing about 100,000 bushels of coal, knowing the Government was much in

need of coal at that time; that fearing an attack from guerrillas, he made an application to the commanding officer at Cairo for a convoy, which was refused, and he was assured by that officer that there was no danger."

He then proceeded to Memphis, and makes the following statement in his affidavit as to the condition of things found to exist there and the reason for not landing at Memphis:

"That said steamer arrived off Memphis, Tenn., at 8 o'clock and 30 minutes on the morning of 18th of February, 1863. There was a heavy, dense fog prevailing at the time the steamer arrived at said point; the fog was so heavy and dense we could not see the Memphis shore. Owing to the circumstances by which we were surrounded at the time it was, after consultation together, deemed imprudent and unsafe by the captain and pilots of the vessel to attempt to land the vessel and tow at the Memphis wharf for fear of sinking some of the vessels and craft lying at and alongside that wharf."

Captain McCloskey, of the tugboat, in his affidavit, states the circumstances at Memphis on their arrival there:

"That when landing at Memphis, and just above the city, a heavy fog set in, and the current being strong and the wharf somewhat crowded with other craft, the officers of the boat deemed it unsafe just then to attempt a landing at the city wharf, and landed temporarily on the Arkansas side, nearly opposite the city. Soon after the steamer was attacked by a guerrilla band and taken possession of, burned, and destroyed."

One of the crew was killed; claimant, captain, and the rest taken prisoners.

The next day they were released and returned to the landing about 1 o'clock, and found six of the coal-boats still afloat. They procured another towboat and succeeded in delivering three of the coal-barges, but that night the remaining three coal-barges were destroyed. The Government paid for the coal delivered at the price designated in the order mentioned. It is clearly established by the evidence in this case that no Government officer knew when this party would arrive with their supplies. No effort was made to advise the military authorities at Memphis of the approach of this party with coal. No one, on behalf of the Government, was consulted as to the propriety of landing, temporarily, on the Arkansas side of the river. The place where they landed was not considered by claimant as the place of delivery, but only a *temporary* landing until a more convenient time.

It is insisted on behalf of claimant that his acts constituted a delivery, and the affidavits of several rivermen engaged in the trade at that time have been submitted. They do not strengthen the claimant's case. One of them, Holmes Harger, says:

"As a riverman, knowing the usages and customs of the trade, I would say that if this coal in tow of the steamer Hercules had been sunk or lost in transit by reason of the dangers of navigation in storms, striking on a bar in the river or a snag, or striking against the shore, or by other incidents of navigation, then in that case the loss would undoubtedly have been Mr. Bigley's."

Here certainly there was no delivery, or what should in law be considered equivalent to delivery. The order was dated at Memphis. The military authorities were stationed at Memphis. Claimant regarded Memphis as the place of delivery, and would have landed there for that purpose if the obstacles mentioned had not intervened. The Government was evidently prepared to, and ready to, receive the coal at the time, for when notified of the landing of the three barges of coal at Memphis the quartermaster received the same and paid for it.

Thus was there no delivery of this property to the Government. It was destroyed when in the possession and under the exclusive control of the claimant. He followed his own judgment and the judgment of his men as to the safety of the course adopted.

In the absence of any legal liability of the Government, your committee do not consider the facts as warranting any such generosity. The loss was heavy, it is true. It was a great misfortune. But losses, hardships, and misfortunes occur in peace and in war. The loss of life and limb, health and property, and other innumerable sacrifices entailed by the war can not be compensated for in money. Many of such losses and sacrifices resulted from pure patriotism, without hope of pecuniary reward, and the sufferers come to Congress asking for relief. Such cases often appeal with great force to our sympathy.

But this case is not of that character. There is no equitable consideration calling upon the Government to make compensation. It is a case of a contractor seeking to make money during the war. He was availing himself of the opportunities afforded by the necessities of the Government. He was influenced by the high prices paid for such services. It was fortunate for the Government that men of capital were found ready to risk their property in such hazardous enterprises. If he had been continuously successful throughout the war, and a great fortune had been accumulated by him, he would hardly appreciate the force of an argument that he was under a moral and equitable obligation to the Government to contribute liberally of his gain to relieve the country of the burden imposed by the war. He would doubtless then feel that he took his chances, made money, and, as it was a matter of *fair contract* in open market, he should be allowed to keep and enjoy his profits.

This claim has in years past been fully considered by the Government and payment refused. In a report of the War Department in 1870 the following statement appears:

"Reports adverse to the allowance of this claim have been made by the Quartermaster-General, the Judge-Advocate-General, and the Third Auditor, the latter report being concurred in by the Second Comptroller. The ground of the rejection is that the property was not delivered to the Government, but was destroyed while it was in the ownership and possession of the claimant."

Adverse report was also submitted by the Committee on War Claims to the Forty-eighth Congress.

In view of all the facts of this case and the considerations bearing upon it your committee feel called upon to report adversely to the allowance of the claim, and therefore recommend that it lie upon the table, and that the report be printed.

Mr. ROWELL. I call for the reading of the minority report.

The views of the minority were read, as follows:

This claim was before the last Congress, and was favorably reported from the Senate Committee on Claims for the value of the coal destroyed, $21,211.40, and the bill, as thus reported, passed the Senate. A similar bill was reported favorably from the House Committee on War Claims, but for want of time failed of consideration.

In reporting this claim to the last Congress the two committees stated the facts to be as follows:

"It appears from the evidence in this case that in the winter of 1862 and 1863 about 45,000 troops were stationed at Memphis, Tenn., under the command of General Hurlbut, and that there was a great scarcity of and demand for coal, with which to move the immense quantities of supply stores that were required to supply the Army of the Tennessee, and in order to supply this demand Capt. A. R. Eddy, post-quartermaster at Memphis, sent the following telegram to one E. S. Blasdel:

DEPOT QUARTERMASTER'S OFFICE,
Memphis, January 24, 1863.

E. S. BLASDEL, Esq.:

Furnish to this depot from (75,000) seventy-five thousand to one hundred thousand (100,000) bushels of Youghiogheny coal; also (2,000) two thousand tons of hay, for which a good market price will be paid.

Coal at 30 cents per bushel.
Hay at 27½ dollars per ton.

A. R. EDDY,
Per DAN. W. SENBE, *Chief Clerk.*

Upon the receipt of this telegram Mr. Blasdel immediately transferred the order to the claimant, N. J. Bigley, who was then furnishing large quantities of Youghiogheny coal to the Government at other points, who accepted the order and at once undertook to fill it. He had seven barges gauged by the proper officers, and forwarded his certificates to the post-quartermaster at Memphis, and notified him that he was *en route* with the coal, the seven barges being towed by the towboat Hercules to Memphis, reaching that point on the morning of February 17, 1863.

On reaching Memphis claimant notified General McPherson, then in command, that he had delivered the coal as per contract, but owing to the crowded condition of the wharves he was directed to land his towboat and barges on the opposite (Arkansas) shore, which order he obeyed. Claimant states that he was advised that a guard was detailed to protect the boat and coal, but they never reported for duty. Soon after the boat landed it was attacked by the guerrillas and burned, and four of the barges and their contents were sunk. The other three were paid for by the depot quartermaster at the contract price and according to the certificate of the gaugers which had been previously forwarded to him. Claimant presented his bill to the depot quartermaster for the other four barges and contents and for the value of his towboat, which had been destroyed by the neglect of the agents of the Government, but payment was refused because of a want of jurisdiction of the depot quartermaster over such claims. The claim was afterward presented to the Quartermaster-General of the United States Army for allowance and payment, and was by him rejected for the same reason, but was by him recommended to the favorable consideration and action of Congress.

Claimant now comes to Congress and asks compensation for the coal contained in the four barges that were sunk, at the contract price, and for the amounts as shown by the gauger's certificates, and for the loss of the towboat Hercules, at a price fully shown by the testimony to have been a fair and reasonable valuation. The items may be more definitely expressed as follows:

70,638 bushels of coal, at 30 cents	$21,211 40
Value of towboat Hercules	25,000 00
	46,211 40

The evidence shows conclusively that the claimant was acting under the direct and positive orders of the agent of the Government, and that the loss of the property above mentioned was in no way chargeable to his neglect or carelessness; that the claimant had always been loyal to the Government, and had given liberally of his own private means to aid the Government in its days of sore trial and dire necessity. This claim has been considered by the Quartermaster-General, the Judge-Advocate-General, the Third Auditor, and the Second Comptroller, respectively, and by them rejected for the reason that the property "was destroyed while it was in the possession of the claimant." Your committee can not see that this should be a bar to the claimant's right to recovery, as he was acting under the special and positive orders of the Government through its recognized agents. This opinion seems to have been shown by Quartermaster-General Meigs, who, in the conclusion of his decision rejecting the claim, under date of May 11, 1869, uses these words:

"Congress alone, it seems to me, can give relief. The loss was a heavy one, and the circumstances are such as, I think, should commend the case to the favorable consideration of Congress."

In reviewing the report of the Quartermaster-General on this case the Inspector-General, Hardie, uses these words:

"The views of the Quartermaster-General are concurred in by the undersigned. The loss was heavy and the circumstances such as entitle the claimant to such favorable consideration as can legally be granted."

Judge-Advocate-General W. M. Dunn concludes his final review of the entire case, under date November 22, 1870, with these words:

"I concur in the conclusions of the reports rejecting this claim, and also in the foregoing recommendations thereof to the favorable consideration of Congress."

There is every reason to believe that while these departmental officials could not legally allow the said claim, yet they fully recognized and candidly acknowledged its justice.

Your committee are of opinion that the claimant is entitled to the relief he seeks to the extent of the value of the coal.

Your committee are of opinion that claimant should not receive payment from the Government for the towboat Hercules, by which said coal was transported, for the reason that it was a loss incident to natural risks which he assumed in delivering the coal, and for the further reason that the boat formed no part of the goods contracted for by the Government to be delivered; but your committee are clearly of opinion that claimant is entitled to recover the value of the coal destroyed, at the contract price of 30 cents per bushel, amounting to $21,211.40, and accordingly report back said bill with this amendment, and recommend its passage.

In the Forty-seventh Congress three members of the House Committee on War Claims dissented from the report of the majority upon the ground that the coal was not delivered at the wharf at Memphis, and hence could not be held to be such a delivery as was contemplated in the order for the furnishing of the coal, and that therefore the Government was not liable for the loss.

The claimant has filed additional testimony in this Congress, in which at least eight old river men testify that they are acquainted with the coal trade and the customs governing the delivery of coal at the various landings on the Ohio and Mississippi Rivers at the time this loss was sustained, and they unanimously agree that the delivery of the coal by Captain Bigley at the point opposite the city of Memphis was a good and sufficient delivery under his contract, and that the Government did accept such deliveries as deliveries at the "Memphis depot," and that it was not customary to deliver coal at the usual wharfs, but at some convenient landing within a reasonable distance of the point where it is to be received.

The testimony all goes to show conclusively that Captain Bigley made a reasonable compliance with the contract, and that the loss is in no way chargeable to his negligence, and the officers and agents of the Government at Memphis so understood it at the time. As an evidence of this fact, they received and paid for the three barges of coal that were spared by the rebels, and received it at the landing opposite Memphis, where the entire cargo was delivered, thereby admitting that the delivery of the coal was good and sufficient under the contract.

We are of the opinion that Captain Bigley ought to recover the amount of the loss he sustained. As the claim for the recovery of the value of the steamer Hercules rests upon an entirely different basis to that for the recovery of the value of the coal delivered and destroyed, we recommend that he be paid for the 70,638 bushels of coal at 30 cents per bushel, amounting to the sum of $21,211.40, and herewith report a bill for that amount as a substitute for H. R. 1347, and recommend that it do pass. The substitute is identical with the bill that passed the Senate in the Forty-seventh Congress and to the bill now pending in that branch of Congress.

JNO. B. STORM.
THOS. M. FERRELL.
J. H. ROWELL.
L. H. WELLER.

A bill for the relief of Nicholas J. Bigley.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not other-

wise appropriated, to Nicholas J. Bigley the sum of $21,211.40 for 70,638 bushels of coal lost at Memphis, Tenn., in the month of February, 1863.

Mr. GEDDES. I move that the bill and substitute submitted be reported to the House with the recommendation that they do lie upon the table.

Mr. ROWELL. I move to amend that motion so that the substitute reported by the minority of the committee shall be reported back to the House with the recommendation that it do pass.

The CHAIRMAN. The first question is on the motion of the gentleman from Illinois [Mr. ROWELL]. The question is, Shall the substitute be adopted?

Mr. STORM. I suppose the question is debatable.

The CHAIRMAN. It is.

MESSAGE FROM THE SENATE.

Here the committee informally rose, and Mr. NICHOLLS took the chair as Speaker *pro tempore*.

A message from the Senate, by Mr. SYMPSON, one of its clerks, informed the House that the Senate had passed bills of the House of the following titles, with amendments; in which the concurrence of the House was requested:

A bill (H. R. 181) to declare forfeiture of certain lands granted to aid in the construction of a railroad in Oregon; and

A bill (H. R. 4088) to incorporate the Luther Statue Association to erect and maintain a monument or statue in memory of Martin Luther in the District of Columbia.

The message further announced that the Senate had passed bills of the following titles; in which the concurrence of the House was requested:

A bill (S. 2379) to authorize the transfer of one of the vessels of the Greely relief expedition to the Treasury Department for a revenue-cutter, and the retention of the other two for use in the Navy; and

A bill (S. 2449) to provide for the distribution of the Statutes of the United States and the CONGRESSIONAL RECORD to designated incorporated bodies, institutions, and associations, within the several States and Territories.

The Committee of the Whole resumed its session.

NICHOLAS J. BIGLEY.

Mr. STORM. I desire to be heard upon this case. I was one of the Committee on War Claims who signed the minority report, and I desire to be heard in support of the motion of my colleague on the committee, the gentleman from Illinois [Mr. ROWELL].

There is no dispute in this case about the main facts. The whole controversy is at best about a bald technicality—a simple, sharp, legal question about what constitutes a delivery of property under the contract in this case. The facts are that the applicant in this case, Mr. Bigley, on a telegram received from the military authorities at Memphis to fulfill a large order for coal of which the Government was at that time in pressing need—in pursuance of that order loaded seven barges of coal and with a steamboat of which he was the owner commenced to take this coal down the Ohio River to Memphis, the point of shipment. There is no dispute about the quantity of coal or about the price of the coal. There is no dispute about the fact that three of the barges of coal were delivered to the Government and accepted. There is no dispute about the fact that he delivered the remaining four barges as near the point of delivery as possible, being the amount of coal for which this bill seeks to pay the claimant the sum of about $21,000.

The facts as I recollect them, and as they are set forth in the report, are these: The claimant received this telegram, or some other gentleman received it who delivered it to Mr. Bigley for fulfillment, and he commenced to fulfill the order. He went down the river with this convoy of barges and reached a point opposite Cairo. There was a heavy fog in the river, and some report about the dangers of navigation from the presence of rebels in that neighborhood. At that place Mr. Bigley made application to an officer of the United States Government, asking him to protect his boats while going down the river. He was assured by the officer that everything was all right and there was no necessity for that. He proceeded down the river with his barges of coal, arriving at Memphis; and being informed that the wharf there—the general place of delivery—was so crowded that it was dangerous to land there, he communicated this fact to General McPherson, at that time the officer in command.

Thinking it better, in view of the crowded condition of the wharf, he landed this convoy of coal upon the opposite side of the river—upon the Arkansas shore. While there with these seven barges he was attacked by some guerrillas, who came from the Arkansas side. He was captured and taken some thirteen miles into the country; he was robbed and subjected to very brutal and cruel treatment. One of the crew was killed. Being released the next morning, and returning to his boats, Mr. Bigley discovered that the United States Government had taken three of the boats and landed them on the Memphis side of the river, and for those three boat-loads of coal he received his pay from the Government. The other four boats were destroyed and sunk in the river—became a complete loss.

These are the facts, about which I think there can be no dispute. He landed the coal as near to the place of shipment as the condition of the wharf would allow, and I claim, as a matter of law (and this seems to be the point on which this whole question hangs), that there was a complete, absolute delivery of that property to the Government of the United States. It was a more complete delivery than that which the law says constitutes a good delivery; for, as gentlemen are aware, the mere delivery of the key of a warehouse passes the goods in it. Here was an actual taking of possession by the United States to the extent of three of the seven barges. Further than that, the United States sent a party of men over to protect the remaining barges, which were at that time within range of the guns of a United States war vessel then in those waters. The United States sent a guard there, which for some unexplained reason was subsequently withdrawn. I contend, Mr. Chairman, that upon every principle of law there was a good, valid, legal, actual delivery of this property by Mr. Bigley, the claimant, to the United States, and that the Government accepted it. These facts, I say, can not be disputed.

But there are still further considerations in favor of this claim. This case was favorably considered and reported by the Senate committee in the Forty-seventh Congress, and a bill similar to this passed the Senate. It also received a favorable report in this House from a majority of the Committee on War Claims in the Forty-seventh Congress.

Since that time, Mr. Chairman, there has been additional evidence taken upon the question as to the actual delivery of this property. Some eight or nine old rivermen on that river, having knowledge of the customs concerning the delivery of coal at this very point, Memphis, and other points along the river, testify that according to the customs prevailing on that river and the circumstances in this case the delivery is a good one. Whether or not the Government actually received this coal on the Arkansas shore as a good delivery, we claim that according to the customs prevailing on that river as proved in this case there was an actual delivery of the coal at the place called for.

The telegram requested that the coal be delivered at "the military depot" at Memphis. What was that military depot? Was it simply a wharf three or four squares long, which, as the testimony in this case shows, was already crowded by other vessels, or was it the point nearest that wharf where the coal could be safely landed? It is shown by the facts in this case that the coal was landed as near the wharf as possible. The telegram did not call for the delivery of the coal at the wharf, but at this "military depot," which occupied the whole river at that point.

Now, Mr. Chairman, there is a fallacy running all the way through the report of the able chairman of the Committee on War Claims [Mr. GEDDES] in this case. I know how hard it is to oppose a report made by that gentleman or by a majority of the committee. I know how hard it always is to overcome an adverse report of the Committee on War Claims, that committee being usually very careful in its reports. Yet there runs through this whole report the remarkable fallacy of assuming—what there is not a single particle of evidence in the whole case to show—that the price offered by the Government for this coal was not the ordinary price for coal at that place, but that Mr. Bigley, the claimant, was, by reason of an extraordinary price, induced to take upon himself these risks or hazards. It is assumed that the war risks and the risks of navigation were voluntarily taken by Mr. Bigley in view of the large price the Government was offering for coal. If you strike out of the report this assumption (which is entirely without foundation in the evidence), there is nothing to support the reasoning of the majority report; and that report stands at best, as I have stated, upon a mere technicality. The price offered by the Government was the ordinary price, as any one acquainted with the price of coal at the time knows.

This man was loyal to his country and its cause in the late war. Apart from his losses in this case he suffered greatly in the loss of his property during the war. He comes here now and asks the Government to pay him for these four barges of coal which he delivered at the nearest point practicable under the circumstances. The Government had taken actual possession of three of the barges and was legally in possession of the others; and the subsequent loss of the four remaining barges must fall upon the Government.

The Quartermaster-General of the Army in passing upon this claim and officers of other Departments have said that while technically they could not allow the claim, it was a proper case for Congressional action. And Congress ought to grant this relief. We are the only tribunal in which such relief can be given; and I believe the sense of fairness and justice prevailing in this House will sustain this minority report.

I yield the remainder of my time to my colleague on the committee [Mr. ROWELL].

Mr. ROWELL. Mr. Chairman, I do not desire to detain the House with any lengthy statement, but it does seem to me that a fair consideration of the facts and law in this case will induce a unanimous vote in favor of the minority report. The mistake made by the majority of the committee is both a mistake of fact and of law. If this coal was delivered to the United States Government, then it will be admitted that it ought to pay for it. Now, under the facts in this case, I insist upon it a legal delivery was made to the United States. Under the evidence by rivermen, the coal depot at Memphis for barge-loads of coal was anywhere in the neighborhood at coal wharves where the boat could

get into shore. With a convoy and a large number of barges they could not be taken into some particular wharf, but there were three or four places in the neighborhood of Memphis where coal was wont to be landed.

When this convoy and these barges reached the neighborhood of Memphis they landed this coal at one of the coal landings and notified one of the Government officers that the coal was there. They were afterward attacked by guerrillas, and the captain, the proprietor, and the crew captured. Subsequent to the capture and before the coal-barges were destroyed the city of Memphis took possession of all these barges and placed a guard over them and continued that guard for some length of time. While the owner was a prisoner, without any orders and in violation of its duty, this guard was withdrawn, and because the guard was withdrawn the enemy's force was subsequently enabled to destroy this coal.

Now, I undertake to say in any court of law a notice of the arrival of coal at the point of destination, at the depot of Memphis, at any coal wharf recognized as a coal depot, subsequently taking possession of that coal by the forces of the United States, was a delivery. The abandonment of the coal by the same forces did not change the fact nor the law that this was an absolute delivery of the coal.

For that reason the Government of the United States owes the money for this coal.

Not speculative prices. That is a mistake. In looking at the evidence it will be ascertained that this man was not selling the Government coal at exorbitant prices. He was selling to the Government coal at the market price. He delivered the coal to the extent proposed by this substitute, and the Government has refused to pay for it. For that reason I joined in the minority report, and I hope this House will have sense of justice enough to see to it that this man is not any longer delayed in the collection of his just debt.

He lost his barges and he lost his steam convoy as well, but this report does not allow him pay for them, because he was not to deliver to the Government a steamboat, nor was he to deliver to the Government barges. It was coal he was to deliver. He took the risk of his own property, and the Government took the risk of the coal after it had been landed at the depot at Memphis, and especially after the Government forces had been put in charge of it.

Mr. GEDDES. Mr. Chairman, I feel it is not a pleasant duty or responsibility to resist any claim which makes a strong appeal to one's sympathy, but I have become so accustomed to this class of work, involving one, two, three, or five hundred millions of dollars in amount, claims pending before the War Claims Committee, where we feel uniformly compelled to report on them adversely, that I feel constrained now to resist the approval by the House of this claim. I am gratified in being able to state to any who may listen in regard to it that the facts of the case are not complicated. There is no such conflict as will cause any embarrassment of mind in regard to it. Although in our statements of it here we may not exactly agree in regard to the substance of the case, nevertheless it will be found on comparison of views of gentlemen favoring as well as those opposing the claim that we do not differ materially in regard to the facts.

Now, this claimant was a resident of Pennsylvania, and the claim would naturally arouse greater sympathy on the part of the gentlemen from Pennsylvania than on my part. It is true, the Ohio River is only between us; and finding my own sympathies were aroused, I was put more on my guard in regard to its legal and equitable merits.

This gentleman, being a citizen of Pennsylvania, at the time a man of large means, engaged extensively in river traffic during the war, making large profits, accumulating large gains, becoming immensely wealthy by fortunate ventures of this and other kinds, also took upon himself what will be manifest upon casual investigation as not only a hazardous but profitable enterprise if he won. If he failed in this, he would only lose some of the profits which he had so frequently gained in his early and fortunate adventures during the war.

Gentlemen speak of it as if a contract had been made between the officers of the Government and this claimant, and argue it as though it was simply a question of the delivery of this property.

No contract was made between any officer of the Government and this party at any time from the beginning up to the time of the loss or at any other time.

The facts of the case are briefly these: The telegram, which will be found embodied in the report, upon which this party acted, was not addressed to him at all. It is a telegram addressed to E. S. Blasdel, another man accustomed to ventures of this description, residing at another point in the North.

How this telegram came into the possession of this claimant is not disclosed in the proof; how he was induced to act upon this telegram is not disclosed in the testimony before the committee. But he had the telegram in his possession, and he purchased the coal and undertook to transmit it to the Government without notifying the Government of his intention so to do. Now, observe; the Government gives out a general notice in the form of a telegram to a particular party, and it is the most liberal view that can be taken of it that any man would have the right to act upon that. They sent the telegram to this party that they were in need of certain supplies, and that if delivered they would be paid for upon delivery. That telegram is dated at Memphis, as will be seen by examining it. This party, the claimant in this case, obtained possession in some way of that telegram, and undertook to fill the demand referred to by it. How does he do it?

By telegraphing to any official at Memphis, any Government officer at Memphis, that he stood ready to deliver, or that he would undertake to deliver, or that he desired to perform that contract, or that they might expect him at any particular day, or at any future time? Not at all. He was so unwilling to enter into the contract in the sense of a contract that would bind him as well as the Government had he failed to meet or been unable to perform it, that he gave no information of any intention to do anything in the matter. He did not undertake to accept the proposition of the Government. It was an unaccepted proposition on the part of the officers at Memphis. But he did undertake to do something, and in that effort he met with the disaster upon which this claim is based. He starts down the river with a cargo of coal.

Mr. COSGROVE. May I ask the gentleman from Ohio a question?

Mr. GEDDES. Certainly.

Mr. COSGROVE. To whom was this telegram addressed to which you have referred?

Mr. GEDDES. To E. S. Blasdel.

Mr. COSGROVE. Who is the claimant in this case?

Mr. GEDDES. He is one Nicholas J. Bigley.

Blasdel lived at Lawrenceburg, Ind., a point on the Ohio River, as gentlemen well know. Now, coming to the more important point, and the very essence, I think, of this claim, to which I will invite the closer attention of gentlemen otherwise engaged, we find that in due time this party arrived at Memphis with the coal. No military officer had any knowledge or notice of his approach. He approached and found a dense fog on the Memphis side of the river. He made no application to any military officer to take the judgment of that officer as to what action he should pursue. He consulted no man representing the Government of the United States as to what he should do in reference to the coal. He was accustomed to act on his own judgment. He was there in person, with his own officers in charge of the boats, and declined to consult any military authority of the Government as to what should be done. Finding this dense fog on the river, instead of attempting to deliver the coal at Memphis or consulting any one as to the place of delivery, in the exercise of his own judgment and choice, and to which he was fairly entitled, he shipped over to the opposite shore and there landed. There he met with guerrillas. There the misfortune came. That is what produced his loss. He was captured and some of his crew were captured with him.

Now, subsequent to that time three of those barges with the coal were delivered. How? By whom? By this claimant. He procured another boat and succeeded in delivering to the Government, and that was the first notice that any military officer at Memphis had that any coal was approaching for delivery. This claimant procured a boat and secured the delivery of three of these barges with their contents to the Government of the United States. There is no controversy as to that. The Government promptly paid for the contents of these boats and for the coal thus delivered.

Mr. BUCKNER. Will the gentleman permit me to ask him a question just there?

Mr. GEDDES. Certainly.

Mr. BUCKNER. The gentleman from Illinois [Mr. ROWELL] stated, as I understood him, that the Government sent guards across to take possession of the seven boats. Do I understand the gentleman from Ohio to say that there is no evidence of that fact?

Mr. GEDDES. I do. My claim is—and I will read as bearing upon that point the testimony of one of the officers. Here is the testimony of one that I see before me on first opening this book:

> Captain McCloskey and others got the towboat Wisconsin, on the evening of the 18th, to tow over to Memphis three of the coal-boats that the Hercules had charge of. Night coming on, it was deemed unsafe for the Wisconsin to make a second trip same day, and during that night the guerrillas destroyed the remaining four coal-boats with their contents. Three coal-boats were as many as the Wisconsin could tow at once. On reflection one of the coal-boats was sunk at the time of the burning of the Hercules. Only three were carried to Memphis, and further says not.

Mr. HOPKINS. Will the gentleman permit me one question?

Mr. GEDDES. In a moment. In that same connection I will read the statement of the claimant himself in regard to the circumstances under which he landed on the opposite shore and as to why he did not land on the Memphis side. He says:

> That the steamer Hercules with her tow reached Memphis on the morning of the 17th of February, 1863, and was, owing to a fog, and the crowded condition of the wharf at Memphis landing just opposite—temporarily—

"Temporarily." I emphasize that as being significant in law, in fact, and in equity. It shows the judgment of the claimant at that time right at the turning point that he had no right to deliver this coal on the shore opposite to Memphis and that the order contemplated no such thing. It shows that in his judgment he had no right to deliver this coal where he now claims it was delivered in fact and in law; because he says he moved to the opposite bank temporarily on account of the fog on the Memphis shore. And then he adds:

> And directly after landing was attacked by guerrillas, and set on fire and destroyed, as detailed in the affidavits of Thomas J. Collins (Exhibit C), Mike Myers (Exhibit D), John Bigley, and Thomas McCloskey (Exhibit E).

Another of the crew says:

Immediately on reaching Memphis, Peter G. Bigley, myself, and others got a towboat, the Wisconsin, and succeeded in towing over three coal-barges, which lay near where the Hercules had been destroyed. Darkness came on, and the captain of the towboat Wisconsin refused to go over again, considering it dangerous.

Mark you, they were acting under the orders of this claimant. They were in his employment.

Mr. HOPKINS. There is the point at which I would like to ask the gentleman the question whether it is not the fact that the steamship Wisconsin was a Government boat, owned by the United States and directed by the officers of the United States Army.

Mr. GEDDES. I am not prepared to answer that question.

Mr. HOPKINS. The testimony shows it.

Mr. GEDDES. I am under the contrary impression. But whether it was or not it was procured at the instance of this party, and the delivery at that boat was not regarded as a delivery to the Government. That night the remaining three coal-barges, he says, were destroyed.

Now, it is said, testimony has been taken tending to show that a delivery on the opposite side was by rivermen regarded as a delivery at Memphis. As I have already said the circumstances of this case clearly show that under this telegram this party did not so regard his duty, but an examination of the testimony of those rivermen, I think, instead of aiding this claimant, materially damages his claim as it stood before that testimony was submitted. As an illustration of that I will read from one of the affidavits a single paragraph as showing to my mind that the evidence does not strengthen his claim. This is the affidavit of Holmes Harger:

As a riverman, knowing the usages and customs of the trade, I would say that if this coal in tow of the steamer Hercules had been sunk or lost in transit by reason of the dangers of navigation in storms, striking on a bar in the river or a snag, or striking against the shore, or by other incidents of navigation, then in that case the loss would undoubtedly have been Mr. Bigley's.

Now, here clearly the loss was the result of one of the incidents of nagivation. Therefore as it strikes my mind there is but one thing that can be said in regard to this claim, and that is as to the equitable considerations on which gentlemen base their support of it. Unpleasant as the duty may be to state it, it seems to me that is a proposition easily answered.

We can not in our legislation at this day, twenty years after the close of the war, undertake to meet all the losses, compensate for all the sacrifices, make whole every man who from a patriotic sense of duty undertook to aid the Government in that hour of danger. And to select out one of this class and override thousands and tens of thousands of other claims, running up into hundreds of millions of dollars, can not secure the approval of my judgment. For of all the men who sustained losses, good though they may be, commendable as their acts were, a man of this class is to my mind the least deserving, and should be deferred until many others are compensated at the hands of a liberal Government.

No man appreciates more highly than I do the value of the services of men of wealth who stepped to the front and tendered of their means and capital during the war. But where a man goes in to make profit—not to turn over his property expecting nothing back, but always expending in the hope of greater returns—when this class of men appeal to me for sympathy, I will not say to them, what may seem harsh and unreasonable, that they are undeserving; I only say that they belong to a class whose claims can not now be met at the hands of this Government.

Mr. BROWN, of Pennsylvania. If the gentleman will allow me a moment——

Mr. GEDDES. With pleasure.

Mr. BROWN, of Pennsylvania. It seems to me that the point in this case is, whether the Government officers with a Government vessel were undertaking to take the barges across the river. On this point I think the gentleman now on the floor failed to answer the question proposed by my friend from Missouri.

Mr. GEDDES. I have before me one item of proof on that very point; and I say, on a careful investigation of all the proof in the case, it will be found that the Government assumed no responsibility as to the delivery of this property, did not undertake to accept the property. Upon this point I read from the evidence:

This affiant called upon Captain Lewis, assistant-quartermaster of transportation, for a guard to protect the three boats then remaining on the Arkansas shore—

After the others had been delivered—

and upon his order the provost-marshal detailed a guard of thirty men, commanded by an officer, for that purpose—

Now, mark you—

The guard so detailed went to the river to be crossed over, and while they were there they were recalled by the order of some officer—for what reason the affiant does not know.

Thus it appears that these three remaining boats had been placed by the claimant, on his own judgment, voluntarily, at this place as a temporary resort until they could be delivered on the other side. His own boat having been destroyed as the result of his own folly, or of the condition of things then surrounding him, there could be nothing more natural than that on his appeal the Government should afford such assistance as was within its reach.

Mr. BROWN, of Pennsylvania. Then there was a guard sent to take charge of the boats?

Mr. GEDDES. No, sir.

Mr. BROWN, of Pennsylvania. I so understood the gentleman.

Mr. GEDDES. A guard started but was recalled.

Mr. BROWN, of Pennsylvania. Recalled by whom?

Mr. GEDDES. That does not appear; the presumption is that the guard was recalled by the same authority that sent it.

Mr. BROWN, of Pennsylvania. And that was the Government?

Mr. GEDDES. I presume by the authorities there on that side.

Mr. FINDLAY. How far had the guard proceeded before being recalled?

Mr. GEDDES. To the river.

Mr. FINDLAY. Did they get on the other side?

Mr. GEDDES. No, sir; here is the plain statement:

The guard so detailed went to the river to be crossed over, and while there they were recalled.

Mr. FINDLAY. Were they recalled after they had crossed the river or before?

Mr. GEDDES. Before—as they approached the river. Now, I do not desire to detain the committee further——

Mr. HOLMAN. Will the gentleman from Ohio allow me to ask a question touching the guard?

Mr. GEDDES. Mr. Chairman, what time have I left?

The CHAIRMAN. The gentleman has twenty-five minutes of his time remaining.

Mr. GEDDES. Very well; then I will yield any portion of that time which the gentleman from Indiana may desire.

Mr. HOLMAN. I do not care to occupy the time of the gentleman unnecessarily, but have merely risen for the purpose of asking him a question. The question I wish to ask is this: Whether or not any further attempt was made to protect this property by the Government than it was exercising all over the country to protect all other property from being destroyed; whether it was doing more than it was everywhere else to protect as far as it could property from being destroyed by the forces of the enemy? It does not appear on the face of the papers, although it has been a great many years since I looked over them; it does not appear on the face of the papers, so far as I remember them, when that consideration was presented to the Third Auditor or some other officer connected with the Treasury Department, that the Government was not making the same effort to protect this property that it was to protect all other property, not because it was the property of the United States or because it had been accepted by the United States, to protect it as it was the purpose and duty of the Government to protect the property everywhere.

Mr. GEDDES. I so understand the evidence in this case.

Mr. ROWELL. Was it not true there was a guard put aboard these barges, and is it not further true that that guard was afterward withdrawn?

Mr. GEDDES. No, sir; I do not understand such to be the case.

Mr. ROWELL. Is it not true that the gunboats put a guard aboard these boats and afterward withdrew that guard?

Mr. GEDDES. I am not aware any testimony was presented showing that fact.

Mr. ROWELL. Did not the gunboats put a guard on board those barges? I do not refer to any guard coming from Memphis, but to the guard coming from the gunboats.

Mr. FINDLAY. There were two sorts of guards.

Mr. ROWELL. That is it, and the testimony shows guards were put on board these barges from the gunboats, which guards were afterward withdrawn.

Mr. GEDDES. I do not remember that there was any active participation on the part of the Government to take possession of this property or to protect it or to have anything to do with it except as I have read from the testimony.

Mr. BAYNE. I scarcely think, Mr. Chairman, that the argument of the chairman of the Committee on War Claims is a fair one. He has done injustice to a citizen of my State of Pennsylvania, at all events in many of the things which he has said. He has endeavored to create an impression in the minds of the members of the House that Captain Bigley, who makes this claim, is a rich man. Now, to my certain knowledge Captain Bigley is not a rich man. He is not worth a dollar. I do not know what difference it makes, but I simply meet that man of straw with that statement on my part.

He has also attempted to create the impression that perhaps the reason why certain gentlemen favored this claim is because Captain Bigley is a citizen of Pennsylvania. It is scarcely fair to the Representatives of Pennsylvania to attempt to create any such impression. Captain Bigley is no more to me than any other citizen of this country. Captain Bigley is a man whom I casually know. Captain Bigley is an active member of a political party to which I do not belong.

Mr. GEDDES. The gentleman will permit me, I hope, to read from the testimony. The question was raised at the close of what I had to say, and now in reply I will read from the minority report. I did not

suppose that any claim would be made in that respect, but in response to that claim I will read from the minority report indorsing the report of the Senate, where it is stated on page 4 that "the claimant supposes he was advised a guard was detailed to protect the coal, but they never reported for duty." That is just as I claimed it.

Mr. BAYNE. The appeal I wish to make in this case is simply based on what I believe to be justice and fairness to this citizen of the country. The fact is very obvious that the Government wanted at Memphis 70,000 bushels of Youghiogheny coal; that an order was sent for that coal; that that order on the part of the Government reached Captain Bigley, and that Captain Bigley delivered that coal at Memphis. Those facts stand out indisputably, and no amount of quibbling or technicality will do away with them. The order for 70,000 bushels of coal was directed to Mr. Blasdel. Mr. Blasdel was also the man who was asked to deliver so many tons of hay. Who Mr. Blasdel was or is I do not know, nor do I care, but the fact is the order came into the possession of Captain Bigley. Captain Bigley provided the coal. He had the order in his pocket when he reached Cairo. He sought the Government officers and told them that it was unsafe to carry that coal to Memphis without a convoy. The Government furnished the convoy to protect that coal in its transit from Cairo to Memphis. The captain of the convoy, fearing to run one night when it was very dark, refused to go on farther and directed Captain Bigley to land. Captain Bigley, or the officer in command of the boat, said that he could not land at the point indicated by the officer in charge of the convoy. The difficulty, Mr. Chairman, of landing a fleet of that sort, some of them containing as much as 600,000 bushels of coal, over 20,000 tons and upward of 42,000,000 pounds in weight—I say the difficulty in controlling a fleet of that kind can not be measured or imagined except by those familiar with the navigation of these large streams under such circumstances—two and a half or three acres of coal floating on the surface of the water in barges and boats, and all of them controlled by one little steamer at the rear of the barges. So when the captain of the convoy required him to land the fleet that night, and he failed because he could not, he went on, and without the aid of the convoy succeeded in taking that coal and landing it on the Arkansas side of the river, two or three miles I believe only from the Memphis wharf proper.

Now, sir, what occurred? He took that coal there and landed it. He encountered a fog when he got there, which prevented him from landing on the Memphis side of the river. He found it impossible to take the coal to any other point than to the identical point to which he did take it. He could not take it to the Memphis wharf proper; it was too large a fleet to be taken there; and more than that, there were boats and barges lying at the wharf at Memphis, and to have attempted to land the fleet at the wharf proper would have resulted in the destruction of a number of boats and barges lying there at the time. But what more have we? He landed the fleet on the Arkansas side of the river, two miles proper from the wharf at Memphis, and there are eight old rivermen, captains and pilots of boats that navigate the Ohio River, experts in this business, who came before the Committee on War Claims, and every one of them swears that according to the customs and rules and practice in the delivery of coal on the Ohio River this was a good delivery. And there is not one tittle of evidence to controvert that fact.

No man comes before the Committee on War Claims and presents an affidavit or alleges in any manner that it was not a good delivery in accordance with the rules governing that traffic. These things must be taken into consideration as indicating the reasons which governed this claimant in the transaction now before us. It must be apparent to any man who will consider the matter and understands the facts that Captain Bigley was authorized to land at that point, because such a fleet as that which conveyed this coal could not be controlled as a skiff or an ordinary boat or a canal-boat or any other small craft, and that such a landing was a good delivery. He had to do the best he could, as all the rivermen have had to do the best they could before and since, and eight of these men testify that that was a good delivery.

And now what further? Just as soon as the fleet was landed, just the moment that it arrived at that point, Captain Bigley or his officers went over to the Memphis side of the river and notified the Government authorities that the coal was there.

Mr. COSGROVE. Let me ask the gentleman from Pennsylvania a question.

Mr. BAYNE. Yes.

Mr. COSGROVE. Is there anything in the testimony to show that under such circumstances similar freight had been delivered at this point and was considered as a good delivery by the Government officials in charge?

Mr. BAYNE. I do not know whether there has been or not, but there is evidence to that effect from others. There is evidence by six or eight old rivermen that they regarded it as a valid and good delivery at the point.

Mr. HOPKINS. If my colleague from Pennsylvania will permit me a moment, I can answer that question by referring to the testimony of John Moore, who was a riverman, and for forty years engaged in this business. He says:

I never delivered any coal to the Government at New Orleans. I delivered coal to the Government at Memphis in 1863. I did not land at the city wharf with any of it. I landed above the mouth of Wolf River, a mile or a mile and a half above the city wharf, where the Government always took charge of the coal upon its arrival and protected it.

Mr. ROGERS, of Arkansas. But that is on the Tennessee side of the river.

Mr. COSGROVE. Let me ask were the Federal authorities in possession of the place where the landing of this coal was effected?

Mr. GEDDES. That is just the point of trouble.

Mr. BAYNE. They were in possession of it. The Government gunboats were traversing the river constantly. They had control of that entire shore, and were expected to protect the property of citizens of the United States when they went there, independently of any contract on the part of this man for the delivery of this coal at that point.

My friend, the gentleman from Ohio [Mr. GEDDES] says that this was not a delivery. If that ground be taken away from his argument, if that proposition be eliminated from the report of the majority of the committee, then there is nothing in the world left to stand on. Now, was it delivered?

As I have said, six or eight old rivermen, captains, pilots, and others on the river, who were accustomed to the rules and regulations for the delivery of goods on that river, have all testified that it was a substantial compliance with the order to furnish the coal at Memphis.

It was taken there. The next step that was taken, as I have said, was for Captain Bigley to go over to the city of Memphis and notify the Government that the coal was there. The next thing that was done was for the Government to send over there and take away three of those barges of coal, taking them over separately to the wharf at Memphis. Why did not the Government take over the whole seven? Why did it not take them all over when it took the three? Why did it not prosecute that business and work of taking all these barges over at that time instead of taking only three of them over; and if it was not a delivery why did it take them over at all?

The reason why they did not take the whole seven barges over during that day was because, as testified by one of the witnesses, the whole seven barges could not be landed at the Memphis wharf without imperiling the other craft lying at that wharf. Then what more was done? The Government sent a number of men down to the river edge on the Memphis side to go over and protect those boats against guerrillas or any other interference that might be made with them.

What does the chairman of the Committee on War Claims admit? Why, he admits that after the Government had taken this step to that extent that very same Government ordered these men to the rendezvous or their barracks, and prevented this protection which it had insured by accepting the order to protect them. And yet he says the Government did not take possession of them. Guerrillas came in there and sunk those boats. Bigley was incapable of protecting them. But suppose that the force which went right down to the water's edge on the Memphis side had gone on those boats with rifles and bayonets and stood guard over those boats that night, would they have been destroyed? They would have been protected, and this loss to this citizen would have been averted.

I am amazed to hear anybody say that this was not a contract; and I am amazed to hear anybody say this was not a delivery; I am amazed to hear anybody say that the Government had not actually taken possession of this coal. The transaction was complete in all its parts. It lacked no essential of an executed contract. And the Government, on the strictest legal principles, apart from all the equities, is bound to pay that man that money.

Captain Bigley, as I have said, is a citizen of Pennsylvania. He is a reputable citizen of that State. He has raised a large family in that State, and they are all honorable people. He is a poor man, and the very poverty he is now enduring was brought upon him by the refusal of the Government to pay him what no honest man would withhold from another man under similar circumstances.

I ask Congress as a matter of simple justice, and with no other motive, for I have no interest in the case except to do what is fair and right by this man—I ask the House to pass this bill reported by the minority of the committee as a substitute.

Mr. HOPKINS. The gentleman from Ohio [Mr. GEDDES] attempted to create the impression that this was an appeal to the sympathy of this House. It is an appeal to the sense of justice of this House, and nothing else. The speech of the gentleman was very good as an appeal to a common jury. But I apprehend it will not be of equal effect upon intelligent members of this House.

The gentleman from Ohio was unfortunate in not having his memory refreshed as to the facts in this case. He said there was a telegram to Blasdel to furnish this quantity of coal, but it did not appear how this telegram came into the possession of this claimant. If the gentleman had been careful enough to read the next sentence after the telegram itself he would have found this:

That after receiving the said order this affiant [Blasdel] immediately proceeded North for the purpose of fulfilling the same, and in pursuance thereof obtained from N. J. Bigley, of Pittsburgh, 100,000 bushels of coal.

Now, I hope gentlemen will remember Blasdel was the agent of the Government. He was the man authorized to procure and forward this coal. Blasdel testifies that, acting as agent of the Government, he went

North and procured from Bigley that quantity of coal. Therefore that answers the statement as to the position of Mr. Bigley. It also answers the further statement that this was a volunteer assumption on the part of Bigley for speculative purposes.

There is nothing to sustain that assertion. The Government officer himself in his telegram fixes the price at 30 cents a bushel. The price is fixed by the Government. The Government agent then goes and seeks out Bigley. Bigley is not a volunteer. He does not carry the coal to Memphis at his own risk. He goes in pursuance of an agreement made with him at Louisville by the agent of the Government authorized to pay him 30 cents a bushel, which price he is willing to take.

The gentleman from Ohio is equally unfortunate in not remembering the facts in connection with the burning of the steamtug Hercules. I quote from the testimony of Daniel Pollard:

We, that is myself and Captain Langthorne, talked over the fact of the steamer that was then burning, and Captain Langthorne ordered a steamtug of the United States, having on board about twenty or more armed men, to proceed to the burning boat. United States Officer Moorehead was the officer commanding the United States steamtug that went over, and I went on board of her.

When we reached the place we found she, the steamtug Hercules, was not quite done burning, and that one coal-boat of her tow had been scuttled and sunk, leaving six coal-boats, laden with coal, that were safe; one of these six boats was afire aft, and the hose of the steamtug Captain Moorehead, put out the fire on said coal-boat.

There was the Government gunboat with Government soldiers in charge of the remainder of these boats, six in number. Another towboat, the Cricket, went over; and the boat already referred to, the Wisconsin, owned and controlled by the Government, carried three of these barges across, but it was too late at night to carry over the remaining three, and they were burned.

Now, gentlemen will remember that this was a contract for the delivery of this entire quantity of coal, not one barge, or two barges, or three barges; and I leave it to any lawyer whether under such circumstances the acceptance of a part is not the acceptance of the whole. The Government assumed control and custody of this entire cargo; the Government carried three of the barges across to its own wharf, intending to take the remaining three the same night, but failed to do so because night came on.

Mr. GIBSON (in his seat). The gentleman's law is not good.

Mr. HOPKINS. It is good. I assert that where there is a contract to deliver an entire quantity of coal, and the Government, by its officers, takes charge of six barges containing that coal and carries away three of them to the other side of the river, it assumes control and jurisdiction of the property and accepts a delivery of the whole. The Government in this case had taken all this coal into its custody, and had taken a part of it to another landing, leaving the residue in charge of its own officers.

Mr. HOLMAN. Upon that point—whether the Government did take possession of a part of this coal or not—I would like to read a few words from the evidence. On page 11 of the testimony I find the following statement made by the commander of the Hercules, which boat had this cargo in tow.

They then returned to the river—

He is speaking of the men after they had been captured and paroled—

They then returned to the river, which they reached about midday on the 18th of February, and were then taken on board the gunboat Cricket, after displaying a white flag, and carried over to Memphis. Immediately on reaching Memphis Peter G. Bigley, myself, and others got a towboat, the Wisconsin, and succeeded in towing over three coal-barges which lay near where the Hercules had been destroyed. Darkness came on, and the captain of the towboat Wisconsin refused to go over again, considering it dangerous.

Now my friend will perceive that the three boats which were towed across the river to Memphis and whose cargo was paid for by the Government were towed over for Mr. Bigley and at his instance—not as an act of the Government.

Mr. HOPKINS. No, sir; the testimony elsewhere shows that the Wisconsin was a Government boat; and on page 21 we have this evidence:

We were taken out about thirteen miles in the country; the next day we were paroled and permitted to return; found six of the seven boats still afloat, guarded by the United States gunboat Cricket, I believe.

These boats were guarded by the United States gunboat Cricket upon the motion of the Government itself. And before Mr. Bigley or any of his men had an opportunity to confer with any officers of the Government they were captured and carried thirteen miles into the country; and when they returned they found that these boats had been taken possession of by the Government, and were in charge of the gunboat Cricket.

Mr. GEDDES. I would like to have this made clear to me, a plain countryman: If there had already been a delivery complete and perfect on the Arkansas side of the river, how would a subsequent acceptance of three of the boats constitute a new delivery?

Mr. HOPKINS. I say it was in pursuance of the first acceptance and delivery that these boats were then in possession of the Government, whose officers, without consulting Mr. Bigley, took them to another landing. We do not contend that there was a new delivery at all.

Mr. BAYNE. And it was the Government boat that took them across?

Mr. HOPKINS. I have stated that the barges were carried across in charge of the Government; when these men returned from their captivity they found the Government in charge of these boats.

Mr. GEDDES. Would the effort of the Government to relieve those men from the guerrillas on the other side of the river make the Government responsible in this case? Both parties knew that the Arkansas side of the river was in the possession and under the control of the confederates.

Mr. HOPKINS. These coal-boats were landed under the charge of the Government gunboats and under the range of the Government batteries on the Memphis shore, as is proved by the testimony. The opposite side of the river, the Arkansas shore, was in effect in charge of the Federal forces, but a raid was made by guerrillas from the interior, who captured these men and carried them into the country.

Now, there is one other point which I must not overlook. Gentlemen will find upon page 19 a telegram from the colonel and quartermaster to N. J. Bigley:

Hurry on with your coal to Memphis. We must have it anyhow.

I have already, in answer to a question, referred to the testimony of one of the rivermen. Here is the evidence of eight of them, who, as my colleague [Mr. BAYNE] has said, are reputable men, men experienced in this coal business, and their uniform testimony is that a delivery within a mile or two of the wharf was a legal delivery in accordance with the customs of the coal trade, because it was often impossible to land a fleet of coal-boats at the ordinary landing of a city or town.

Mr. PETERS. What was the distance of the wharf at Memphis to the point where the boats delivered the coal?

Mr. HOPKINS. Simply the width of the river.

Mr. McMILLIN. Mr. Chairman, if there be no other gentleman desiring to speak on the pending question I shall move that the final vote be taken on the bill at once; otherwise I shall be compelled to move that the committee rise and go to the House for the purpose of closing debate, so that we may get through with this case before the hour of adjournment is reached. [Cries of "Vote!"]

Mr. HOLMAN. I wish to occupy a few minutes of time on this bill before the vote is reached.

Mr. McMILLIN. How much?

Mr. HOLMAN. Inside of ten minutes.

Mr. McMILLIN. I ask by unanimous consent that all further debate be closed on this case in ten minutes.

Mr. HOLMAN. That will not do.

Mr. McMILLIN. I will move, then, that the committee rise for the purpose of going into the House to limit debate.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. COX, of New York, reported that the Committee of the Whole House on the state of the Union had had under consideration the bill (H. R. 1347) for the relief of Capt. Nicholas J. Bigley, reported adversely by the Committee on War Claims, and had come to no resolution thereon.

Mr. McMILLIN. I now move that all debate on the pending bill and amendment be closed in ten minutes after their consideration shall be resumed.

Mr. HOLMAN. Does the gentleman mean general debate on the amendment?

Mr. McMILLIN. I wish to close general debate on the pending amendment and bill in ten minutes.

Mr. HOLMAN. I would suggest to my friend to make it thirty minutes. The chairman of the Committee on War Claims, reporting adversely, wishes to be heard, and I also wish to say a word or two, as I have had some familiarity with the question.

Mr. McMILLIN. I fear if we go on for half an hour longer in debating this bill we will not be able to get through with it this evening.

Mr. HOLMAN. Why not dispose of the bills already reported from the committee?

The SPEAKER. The question is on the motion that all general debate be closed in ten minutes on the bill and pending amendments.

Mr. HOLMAN. I must insist on there being a longer time for debate.

The SPEAKER. Does the gentleman from Indiana move an amendment?

Mr. HOLMAN. Yes, I do; I move as an amendment that the debate be allowed to proceed for thirty minutes longer.

The SPEAKER. The question is on the amendment.

Mr. HOLMAN. I demand a division.

The House divided; and there were—ayes 60.

Mr. HOLMAN. In view of the fact that no quorum seems to be present, I think the gentleman from Tennessee will agree that thirty minutes is not unreasonable. [Laughter.]

Mr. McMILLIN. Then I will make it twenty minutes.

Mr. HOLMAN. All right, then; that will be acceptable.

The SPEAKER. The Chair, then, understands that the time to which debate is limited is twenty minutes.

There was no objection, and it was ordered accordingly.

Mr. McMILLIN. I move that the House resolve itself into the Committee of the Whole House on the Private Calendar.

The motion was agreed to; and the House accordingly resolved itself into Committee of the Whole House on the Private Calendar (Mr. COX, of New York, in the chair).

The CHAIRMAN. The House resumes the consideration of the bill (H. R. 1347) for the relief of Capt. Nicholas J. Bigley, and by order of the House all general debate on the pending bill and amendments thereto is limited to twenty minutes. The gentleman from Indiana is entitled to the floor.

Mr. HOLMAN. Mr. Chairman, I hope I will have the ear of the committee on two points involved in this discussion, both of which are based on the report of the minority. I trust, too, I shall have the ear of the gentlemen who have joined in this minority report.

Now, Mr. Chairman, it is stated in the report made by the minority that Quartermaster Eddy, at Memphis, sent a telegram to one E. S. Blasdel, esq. That telegram is as follows:

DEPOT QUARTERMASTER'S OFFICE,
Memphis, January 24, 1863.

E. S. BLASDEL, Esq.:

Furnish to this depot 75,000 to 100,000 bushels of Youghiogheny coal; also 2,000 tons of hay, for which a good market price will be paid; coal at 30 cents, and hay at $27.50 per ton.

A. R. EDDY,
Per DAN. W. SENBE,
Chief Clerk.

Now, no such telegram was sent, and my friend must know that. Mr. Blasdel was at Memphis at the time. He was not engaged in the coal business; he never had been engaged in the coal business. This was a mere order to him to furnish facilities for speculation. The price was a handsome price.

Mr. STORM rose.

Mr. HOLMAN. I have only ten minutes.

Mr. STORM. But if the gentleman wishes the matter to be understood he must allow us to ask him questions.

Mr. HOLMAN. Certainly.

Mr. STORM. I wish to ask the gentleman a question, and it is this: Although there may be no direct proof of any special contract between the Government and the claimant, is not the Government by agreeing to take three barge-loads of coal and to pay for them estopped from claiming that there was no contract on that point?

Mr. HOLMAN. Is not my friend from Pennsylvania going far ahead of the point I am discussing? Blasdel started up the river with this order, and, according to the testimony, he delivered one of these at Louisville to the present claimant. There was no relation between the present claimant, Captain Bigley, and the quartermaster at Memphis. It was purely an order given to Blasdel that if he should deliver coal it should be at so much per bushel. There was no obligation resting on Blasdel or anybody else to deliver to the Government a pound of coal. The order was that if they should deliver coal to the Government it would be at that price.

I say upon my own responsibility that the party to whom the order was delivered was in no wise connected with the coal business in any manner, shape, or form. I do not say so much upon examination of the papers in connection with the present case as upon a thorough examination of this subject which I had occasion to give to it some years ago, perhaps some ten or twelve years since. However, as soon as Mr. Bigley obtained this order or telegram addressed to E. S. Blasdel he procured the coal and proceeded on his way to Memphis. The testimony shows conclusively that this extraordinary paragraph of the report of the minority is entirely a misapprehension. It says:

The evidence shows conclusively that the claimant was acting under the direct and positive orders of the agent of the Government, and that the loss of the property above mentioned was in no way chargeable to his neglect or carelessness.

Mr. STORM. It is a fact nevertheless.

Mr. HOLMAN. Nobody pretends to say that it was the result of his neglect or carelessness, and even if it had been said, it is a matter that is entirely unimportant in connection with this case. My friend from Pennsylvania knows that he was not acting under the orders of the Government at all. The captain of the steamer Hercules claims, and most of the testimony states the fact, that before reaching Memphis a heavy fog arose, and it was not deemed safe to land upon the Tennessee side of the river; consequently he concluded to land the fleet on the Arkansas side. Immediately on landing this guerrilla raid was made upon the party, and boats and men were captured and taken possession of by the raiders. It seems, however, that somebody connected with the fleet got across the river and came back the next day, when it is alleged that a Government vessel transported them across the river. Now, the facts in the case are that they did not apply to the Government at all.

No application was made to the Government to take control of that fleet. They applied to the steamer Wisconsin, and when they next crossed the river it was in this steamer, which succeeded in procuring three of the barges of coal and delivering them upon the Memphis side, where they were accepted by the Government and paid for. It has been stated as an argument in support of this claim that the delivery of a portion of the coal—the partial delivery—constituted a delivery of the whole. But this delivery, this partial delivery, for which payment was made, was made in Memphis, not on the Arkansas side of the river. Gentlemen will perceive the distinction. There was no mutual contract at all. There was no agreement on the part of Captain Bigley to deliver so many boat-loads of coal to the Government, and on delivery to receive so many dollars for the service. But there was simply a proposition on the part of the Government that if you will deliver to us so many bushels of coal at Memphis you shall receive a good price for it; and, of course, so much of the coal as was actually delivered should be paid for, and I think to the extent of the three boat-loads actually delivered it was paid for. Unhappily, however, that very night the other boats were destroyed by guerrillas, which had possession of the opposite shore.

Gentlemen attempt in this argument to assume by way of support of this claim that the Government made efforts to protect this property and protected it as a part of the Government property. I must confess that when I first examined this case I was rather inclined to that opinion myself and thought it was entitled to some force, but after a more careful examination of the matter, on examining the reports of the Treasury officials, or perhaps some officer of the Quartermaster's Department, I find that it has no weight at all. It is a fact which will be verified by persons who are familiar with the circumstances existing there that the Government was engaged at this particular period in protecting property of its citizens on both sides of the river, and it protected this property of this citizen the same as if it had been the property of the Government. But it must be remembered also that it recognized the property as the property of Mr. Bigley, and just as it recognized and protected the property of other citizens. For Mr. Bigley was not bound to deliver that coal to the Government if he did not think proper. He was under no obligation to the Government to do so. If he did not deliver it he would have received no pay; that was all. But if he did deliver it, he would have received pay according to the terms of the order issued a month or more before.

I therefore submit the fact that the steamboat Wisconsin having taken the three barges of coal across the river proves nothing except the mere fact. It is not the act of the Government, and even if so it would prove nothing but that the Government was pursuing its general policy in protecting the property of loyal citizens as far as possible.

Mr. BROWN, of Pennsylvania. Let me ask the gentleman a question.

Mr. HOLMAN. Certainly.

Mr. BROWN, of Pennsylvania. Is it not true that before the steamer Wisconsin had anything to do with the boats, even before these people got them back from the possession of the guerrillas, when they returned they found these barges in possession—six of them—of United States soldiers and before the steamship Wisconsin had anything to do with the matter?

Mr. HOLMAN. I will say this: The captain of the steamboat Hercules—and any gentleman who reads this testimony will attach much importance to his statement, for he seems to have been a careful, impartial person; I refer to the officer of the vessel which was burnt, although he makes no reference to that—but it is undoubtedly true, as he testifies, that the Government had in front of Memphis at that time and for a long time before and afterward more or less of vessels constantly patrolling the river to protect under their guns as far as possible the property of citizens on both sides of the river. Any gentleman who happened to be at Memphis at that time will remember the fact, for it was notorious. This very vessel, the Cricket, to which reference has been made in this testimony, was engaged, and had been for a long time, protecting the property of loyal citizens on either shore, especially that within the reach of the guerrillas on the left side of the river. But the mere fact that the Government sent a gunboat or sent men or sent a whole regiment of men, if you please, to protect this property from the guerrillas on the Arkansas side of the river proves nothing in support of this claim, for it was just such an act as the Government was doing constantly with reference to the property of loyal citizens there, and was an act done in the exercise of its general powers to protect private property from destruction. That and nothing else.

Mr. Chairman, from the time I first examined this claim, a good many years ago——

Mr. STORM. How many?

Mr. HOLMAN. Ten or twelve.

Mr. STORM. The first I see anything of its appearance is in the Forty-seventh Congress.

Mr. HOLMAN. I think you will find it extends away back beyond that. I will not be certain, but I think it is several years since I reported on this measure myself. While this measure was in the hands of a bank at Baltimore, which was perhaps three or four years ago——

Mr. STORM. That is nearer it.

Mr. HOLMAN. The bank was pressing this claim on Congress, and I felt then, as I have always felt when the measure was under the control of Bigley, that it was one which required and demanded a careful examination. And I must say that during the time it has been under Bigley's control, as it is now, and as it was when it first came into Con-

gress, I thought he was himself entitled, as an amiable gentleman who had been manifestly eager to aid the Government as far as he could by furnishing coal at various points—he was entitled, I say, to every consideration. He had been employed by the Government and had executed such contracts time and again on express orders or telegrams from the Government. So far as I know, this was the only instance where he had attempted to make a shipment except on contract with the Government itself. Here he was dealing with Mr. Blasdel and not with the Government. He got a mere permission to ship the coal; nothing less, nothing more.

It will be observed that until Mr. Bigley and his men crossed the river and employed the Wisconsin to go over and tow the three boats the Government had no notice whatever even of Blasdel's transaction. It had no notice of it up to the time the Wisconsin crossed the river and towed the three boats over——

Mr. HOPKINS. I am sure the gentleman does not desire to misrepresent the facts.

Mr. HOLMAN. Certainly not.

Mr. HOPKINS. And therefore I call his attention to the testimony of Daniel Pollard, who was an officer on the United States boat V. F. Wilson, in which he says:

I wish to add to the above statement that Captain Langthorne said he was aware that the coal was for United States Government use, that is, for the United States Army department.

Mr. HOLMAN. How could he have known it that evening? Why, the very moment the boats landed it was boarded by guerrillas.

Mr. HOPKINS. Oh, no!

Mr. HOLMAN. The first notice the Government had was when the three boats were delivered on the other side.

Mr. GEDDES. I yield ten minutes to the gentleman from Kentucky [Mr. WOLFORD].

The CHAIRMAN. The gentleman has only six minutes remaining.

Mr. GEDDES. Then I yield what time I have to the gentleman from Kentucky.

Mr. WOLFORD. My distinguished friend from Pennsylvania [Mr. BAYNE] says there was an order. Now I assert there is no sense in which this telegraphic dispatch can be called a military order. An order delivered to whom and by whom? I say there is no sense in that claim; it is not an order.

The gentleman from Pennsylvania and other gentlemen have argued that it was a contract. I take it that there is not anything in this case that shows a contract. There was a proposition to receive so many bushels of coal, and to pay 30 cents a bushel for it. There is no proof in this case, and nobody pretends that that proposition was accepted. Neither by letter nor by telegraphic dispatch nor by messenger nor by any other way was there an acceptance. It is what we understand in our country to be a simple proposition, that may be accepted or may not be accepted. That is the way lawyers understand it in Kentucky.

I presume every lawyer understands an unaccepted proposition is not a contract. The gentleman from Pennsylvania, then, is mistaken about the order; he is mistaken about the contract. There was neither an order nor a contract. But a man voluntarily, for the purpose of making money, undertakes, of his own volition and according to his own mind, to make money out of the Government; he undertakes to deliver a certain amount of coal. He starts with it; sends word that he is unable to get through. Gentlemen say the Government sent assistance. But it seems to me the claimant violated the instruction of the Government officer who requested him to land, and whenever he refused to land he took out of the power of the Government any assistance that the Government offered him. He took his own risk. He says, "I know better than you." The officer commanding the gunboat says, "I will not go into that danger, I will not risk loss to my command and to the country, and therefore I will not go." Thereupon the claimant of his own accord voluntarily says, "I will go;" and he did go.

Now, that is the state of facts in this case. That is the statement of the gentlemen as they make it themselves.

But where does he land the coal? Gentlemen say there is proof here by experts that he landed it at a place where it was common to land it in time of war. Arkansas was then in the hands of the confederates; Tennessee in the hands of Union forces under McPherson; both parties were contending for the mastery; both parties were watching vigilantly for an opportunity to get anything they could that the others were grasping at. If the confederates could get this coal and destroy that much of our power they had a right under the rules of war to do it.

The claimant then chooses to land not on the side where it had been the custom heretofore to land supplies. He landed the coal on the confederate side. The great Mississippi rolls between the two forces. On his own authority this man lands this coal on the confederate side; and now he comes here and modestly asks the Government to pay him for the consequences of his own mistake. The guerrillas, it appears, captured and robbed him. He has my sympathies for what he suffered from the guerrillas; but if he had staid under the protection of the United States gunboats would the guerrillas have captured and robbed him? No. Believing that he was competent to take care of himself, he went to the other side of the river and was captured, and some of his boats were sunk. The Government undertook to protect him so far as it could. But is there a man in this Congress that had anything to do with the war who does not know that both parties did all they could to protect the men on their own side? It matters not about the contract. Here was coal which the Government wanted, and they sent men to protect it. I have seen similar things done a hundred times.

The CHAIRMAN. The time allowed for debate has expired. The first question is upon the amendment submitted by the gentleman from Illinois [Mr. ROWELL] as a substitute for the bill. The proposed substitute will be read.

The Clerk read as follows:

Strike out all after the enacting clause and insert:

"That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Nicholas J. Bigley the sum of $21,211.40 for 70,638 bushels of coal lost at Memphis, Tenn., in the month of February, 1863."

The question being taken on agreeing to the substitute, there were—ayes 63, noes 78

Mr. BAYNE. I make the point that no quorum has voted, and call for tellers.

Tellers were ordered; and Mr. GEDDES and Mr. BAYNE were appointed.

The committee again divided; and the tellers reported—ayes 71, noes 79.

Mr. BAYNE. I have proposed to the gentleman from Ohio [Mr. GEDDES], who is ready to accept the proposition, that a vote on this question be taken by yeas and nays in the House.

Mr. HOLMAN. I suggest that by unanimous consent it be agreed that the bill with the pending amendment be reported by the Committee of the Whole without recommendation for the action of the House.

The CHAIRMAN. Is there unanimous consent that this bill with the proposed substitute be reported to the House without recommendation for the action of the House? The Chair hears no objection.

Mr. MCMILLIN. I move that the committee do now rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. COX, of New York, reported that the Committee of the Whole House, having had under consideration the Private Calendar, had directed him to report sundry bills with various recommendations.

A. H. HERR.

Mr. MCMILLIN. I ask that the House now take up the bills reported from the Committee of the Whole House on the Private Calendar.

The SPEAKER. The Clerk will first report the title of a bill coming up under this order as unfinished business, having been pending at the adjournment of the House on the 27th of June last.

The Clerk read as follows:

A bill (H. R. 4380) for the relief of A. H. Herr.

The SPEAKER. The question is on the passage of this bill, the previous question having been ordered.

The bill was passed.

Mr. MCMILLIN moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

SARAH E. WEBSTER.

The House proceeded to consider as the first bill reported to-day from the Committee of the Whole House on the Private Calendar the bill (H. R. 4679) for the relief of Sarah E. Webster, administratrix.

The SPEAKER. This bill has been reported with a recommendation that it pass.

The bill was ordered to be engrossed for a third reading; and was accordingly read the third time, and passed.

Mr. MCMILLIN moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

CAMP DOUGLAS MILITARY RESERVATION.

The next business in order, having been reported from the Committee of the Whole House on the Private Calendar with a recommendation that it pass, was the bill (H. R. 1782) to authorize the Secretary of War to relinquish and turn over to the Interior Department certain parts of the Camp Douglas military reservation, in the Territory of Utah.

Mr. DIBRELL. I ask unanimous consent that Senate bill 478, which is now on the Speaker's table, and is precisely like this bill of the House, be taken up and considered in lieu of the House bill.

The SPEAKER. The gentleman from Tennessee asks unanimous consent that this House bill be laid aside and a Senate bill of similar purport be taken from the Speaker's table for consideration. Is there objection? The Chair hears none.

The bill (S. 478) to authorize the Secretary of War to relinquish and turn over to the Interior Department certain parts of the Camp Douglas

military reservation, in the Territory of Utah, was accordingly taken from the Speaker's table, read three times, and passed.

Mr. McMILLIN moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

BILLS PASSED.

Bills of the following titles, reported from the Committee of the Whole House on the Private Calendar, with the recommendation that they do pass, were severally ordered to be engrossed and read a third time; and being engrossed, they were accordingly read the third time, and passed:

A bill (H. R. 948) for the relief of John M. Dorsey and William F. Shepard;

A bill (H. R. 1566) for the relief of O. L. Cochran, late postmaster at Houston, Tex., reimbursing him for money erroneously collected from him by the Post-Office Department;

A bill (H. R. 1266) for the relief of Alexander D. Schenck;

A bill (H. R. 4681) for the relief of Yost Harbaugh;

A bill (H. R. 2154) for the benefit of the legal representatives of A. J. Guthrie, deceased;

A bill (H. R. 2268) for the relief of John F. Severance; and

A bill (H. R. 4684) for the relief of certain citizens of Marion County, Tennessee.

The amendment reported by the Committee of the Whole House on the Private Calendar to the bill (H. R. 691) for the relief of William W. Thomas was agreed to, and the bill as amended was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

ADVERSE REPORT.

The bill (H. R. 4683) to pay certain officers of the Army for services actually rendered during the late war, reported from the Committee of the Whole House on the Private Calendar adversely, was laid on the table.

ELIZABETH CARSON.

Mr. WILLIS. What has become of the bill (S. 12) for the relief of Elizabeth Carson.

The SPEAKER. The Chair is advised that it was not reported, but informally passed over in the Committee of the Whole House on the Private Calendar and not again taken up.

Mr. McMILLIN. I think the House, after I have made a statement, will be willing to pass this bill. It was considered in the Committee of the Whole House and the question was raised as to whether or not the substitute had been printed. It was passed over informally until examination could be made. The substitute was found to have been printed, and the remedy of the gentleman from Kentucky is to discharge the Committee of the Whole from the further consideration of the bill and put it upon its passage.

The SPEAKER. That can be done by unanimous consent.

Mr. WILLIS. I ask then, by unanimous consent, that the Committee of the Whole House on the Private Calendar be discharged from the further consideration of the bill and that it be put upon its passage.

There was no objection, and the motion was agreed to.

Mr. HOLMAN. Let the bill be read.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Treasury of the United States, out of any money in the Treasury not otherwise appropriated, do pay to Elizabeth Carson, of Bourbon County, Kentucky, the sum of $2,630.50, in full satisfaction for subsistence, use of jail, fuel, fire, care, and attention furnished by her to conscripts, deserters, and rebel prisoners confined in the jail of Bourbon County, Kentucky, by the military authorities of the United States, in the years 1862, 1863, 1864, and 1865.

Mr. WILLIS. Now let the Clerk read the substitute reported from the Committee on War Claims.

The Clerk read as follows:

Be it enacted, &c., That the Secretary of War be, and he is hereby, authorized and directed to cause to be investigated by the Quartermaster's Department of the United States Army the claim of Elizabeth Carson, of Bourbon County, State of Kentucky, for subsistence, use of jail, fuel, fire, care, and attention alleged to have been furnished by her to conscripts, deserters, and rebel prisoners confined in the jail of Bourbon County, Kentucky, by the military authorities of the United States, in the years 1862, 1863, 1864, and 1865; such investigation to extend to the status of the claimant, whether loyal or not, the value of the supplies furnished, the actual rental value of the property for the time it was occupied and used by the United States authorities, the circumstances of the use of the jail and by whose authority or direction it was so used, and the reasons for the neglect to file her claim in the War Department; and when such investigation shall be completed the Secretary of War shall report the result thereof, with his recommendation thereon, to Congress, for its action in the premises.

The substitute was agreed to.

The bill as amended was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. McMILLIN moved to reconsider the several votes which had been taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

CAPT. NICHOLAS J. BIGLEY.

The SPEAKER. The question next recurs on the bill (H. R. 1347) for the relief of Capt. Nicholas J. Bigley, reported from the Committee of the Whole House on the Private Calendar with amendments.

Mr. BAYNE. I move to take a recess until 8 o'clock this evening.

Mr. McMILLIN. The bill was reported back without any recommendation and was to be passed over until a yea-and-nay vote could be taken when a quorum was present.

Mr. HOLMAN. I think in accordance with the understanding that the yeas and nays ought to be ordered now on the substitute proposed to the bill.

Mr. McMILLIN. I have no objection to that.

The yeas and nays were ordered.

ORDER OF BUSINESS.

Mr. McMILLIN. I move that the House now take a recess until 8 o'clock to-night, under the prior order of the House.

The SPEAKER. Several gentlemen have bills and resolutions which they desire to offer for reference; if there be no objection the Chair will entertain such requests at this time.

Mr. McMILLIN. I have no objection to that, and withdraw the motion for that purpose.

GUN-FOUNDRY BOARD REPORT.

Mr. REED submitted the following resolution; which was read, and referred to the Committee on Printing:

Resolved by the House of Representatives, That there be printed for the use of the House 1,000 additional copies of the gun foundry board report, transmitted to the Senate by the President of the United States on the 22d of December last.

TITLES TO CERTAIN PUBLIC LANDS.

Mr. MAYBURY, by unanimous consent, introduced a bill (H. R. 7878) to validate the title to certain entries, locations, and selections of public lands, and confirm the certificates and patents issued thereon; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

PUBLIC BUILDING, NEWPORT, KY.

Mr. MAYBURY (by request), by unanimous consent, also introduced a bill (H. R. 7879) to provide for the erection of a public building in the city of Newport, Ky.; which was read a first and second time, referred to the Committee on Public Buildings and Grounds, and ordered to be printed.

PROSECUTION OF PENSION CLAIMS.

Mr. WARNER, of Ohio, by unanimous consent, introduced a bill (H. R. 7880) to regulate the prosecution of pension claims; which was read a first and second time, referred to the Select Committee on Payment of Pensions, Bounty, and Back Pay, and ordered to be printed.

JOHN KEEPERS.

Mr. ENGLISH, by unanimous consent, introduced a bill (H. R. 7881) granting a pension to John Keepers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

SALARY OF CLERK OF SUPREME COURT.

Mr. SENEY (by request) introduced a bill (H. R. 7882) to fix the salary of the clerk of the Supreme Court, and to provide for the printing of records in suits in that court; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

FRANK G. MIX.

Mr. BAGLEY, by unanimous consent, introduced a bill (H. R. 7883) for the relief of Frank G. Mix; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

SOUTHWESTERN RIVER COMMISSION.

Mr. BRECKINRIDGE introduced a bill (H. R. 7884) to provide for the creation of a southwestern river commission, and for other purposes; which was read a first and second time, referred to the Committee on Rivers and Harbors, and ordered to be printed.

PHILIP HACK.

Mr. HALSELL, by unanimous consent, introduced a bill (H. R. 7885) granting Philip Hack a pension; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JEREMIAH CLINE.

Mr. HALSELL also, by unanimous consent, introduced a bill (H. R. 7886) granting a pension to Jeremiah Cline; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

WILLIAM W. TADDER.

Mr. BROWN, of Pennsylvania, by unanimous consent, introduced a bill (H. R. 7887) granting a pension to William W. Tadder; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

CHRISTIAN HEBLE.

Mr. DEUSTER introduced a bill (H. R. 7888) to restore Christian

Heble to the pension-rolls; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

ANN J. EATON, ADMINISTRATRIX.

Mr. LONG, by unanimous consent, introduced a bill (H. R. 7889) for the relief of Ann J. Eaton, administratrix of the estate of Jacob F. Eaton; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

JOHN DOLAN.

Mr. LONG, by unanimous consent, also introduced a bill (H. R. 7890) for the relief of John Dolan; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

LOUISVILLE AND PORTLAND CANAL, ETC.

Mr. WILLIS, by unanimous consent, introduced a bill (H. R. 7891) confirming the contract between the Louisville and Portland Canal and John P. Byrne; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

WILLIAM H. RAWLEY & SONS.

Mr. COVINGTON, by unanimous consent, introduced a bill (H. R. 7892) for the relief of William H. Rawley & Sons; which was read a first and second time, referred to the Committee on Ways and Means, and ordered to be printed.

BUSINESS OF THE COMMITTEE ON MILITARY AFFAIRS.

Mr. ROSECRANS. Mr. Speaker, I ask unanimous consent to present for consideration the resolution which I send to the desk.

The SPEAKER. The resolution will be read subject to objection.

The Clerk read as follows:

Resolved, That House resolution of December 16, 1884, ordering that January 6, 1885, be devoted to the consideration of business reported from the Committee on Military Affairs and on the Calendar, be continued for January 13, 1885, or for the first day thereafter not taken for the consideration of appropriation or revenue bills or by prior orders, including the reports from the Committee on Public Lands under the order of January 21, 1884.

Mr. PETERS. I would like to make inquiry as to whether that includes an exception with reference to the bills from the Committee on Public Buildings and Grounds.

The SPEAKER. All prior orders are excepted. If there be no objection the question will be taken on the adoption of the resolution.

There was no objection.

The resolution was agreed to.

Mr. ROSECRANS moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The SPEAKER. The hour of 5 o'clock having arrived, in accordance with the prior order of the House a recess will now be taken until 8 o'clock, for the consideration of pension bills.

EVENING SESSION.

The recess having expired, the House reassembled at 8 o'clock p. m.

The Clerk read the following communication:

SPEAKER'S ROOM, HOUSE OF REPRESENTATIVES,
Washington, January 9, 1885.

Hon. J. B. CLARK,
Clerk House of Representatives:

Hon. BENTON MCMILLIN is designated to preside as Speaker *pro tempore* during the session of the House this evening.

J. G. CARLISLE,
Speaker House of Representatives.

ORDER OF BUSINESS.

Mr. MCMILLIN, having taken the chair as Speaker *pro tempore*, directed the Clerk to read the special order of the House in relation to the business for this evening.

The Clerk read as follows:

That until the further order of this House, on each Friday the House will take a recess at 5 o'clock until 8 p. m., at which evening sessions bills on the Private Calendar reported from the Committee on Pensions and the Committee on Invalid Pensions shall be considered.

Mr. MATSON. I move that the House resolve itself into Committee of the Whole House for the consideration of bills on the Private Calendar.

The motion was agreed to.

The House accordingly resolved itself into Committee of the Whole House, Mr. HATCH, of Missouri, in the chair.

The CHAIRMAN. The House is in Committee of the Whole for the consideration of pension bills on the Private Calendar under the special order of the House which has just been read.

Mr. MATSON. I ask unanimous consent that the business of this evening may begin with the Calendar at the top of page 45.

There was no objection, and it was so ordered.

DANIEL W. ADAMS.

The first business on the Private Calendar, beginning on page 45, was the bill (H. R. 7141) granting a pension to Daniel W. Adams.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and is hereby, authorized and directed to place on the pension-roll the name of Daniel W. Adams, late of Company A, Ninety-third Indiana Volunteers, subject to the provisions and limitations of the pension laws.

Mr. HEWITT, of Alabama. I ask for the reading of the report. I shall ask for the reading of the reports in all the cases to be considered this evening.

The report (by Mr. MATSON) was read, as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 7141) granting a pension to Daniel W. Adams, respectfully report:

That claimant enlisted in the military service of the United States as a private in Company A, Ninety-third Regiment Indiana Volunteers, August 9, 1862, and was discharged on surgeon's certificate of disability February 11, 1863.

June 23, 1880, he filed a declaration for pension (alleging that a cold contracted at Madison, Ind., November 10, 1862, resulted in disease of heart and lungs), which was rejected May 5, 1883, on the ground that disability is not due to military service.

It is shown by both medical and lay testimony that claimant was a sound, healthy man prior to and at the time of his enlistment in the military service of the United States.

It is disclosed by the evidence of two of the commissioned officers of claimant's company and three or four comrades of the soldier that while in camp at Indianapolis, Ind., soldier contracted disease of heart and lungs, and that at Madison, Ind., he was compelled, by reason of his disability, to go to hospital, where he was treated; but the character of disability is not disclosed by the record.

The surgeon's certificate of disability for the discharge of the soldier says the disability existed prior to enlistment.

The existence of disease of heart and lungs, for which the soldier was discharged, is shown to have continued from the time of its incurrence while in the military service and in line of duty to the present time. And the United States examining surgeon, Columbus, Ind., in an examination of the soldier, January 12, 1882, reports him totally disabled from this disability.

His case was investigated in March, 1883, by a special examiner of the Pension Office. In this examination Dr. John S. Arwine, of Columbus, Ind., testifies to an acquaintance with claimant from 1856 to the date of his enlistment, and that he was a sound man at the time of his said enlistment.

Daniel H. Sharp, of Columbus, Ind., testifies, March 23, 1883:

"That he has known claimant since 1857; lived about one-half mile from him from 1857 to July, 1861; saw him almost every day; he was then as stout a young fellow as there was in the neighborhood, and was so up to July, 1861, when I enlisted in the Army; saw him at log-rollings, and he was as good a lifter as we had; but at jumping he was never behind; I have often seen him run, jump, and lift; never knew him to be sick in any way."

John White, of Columbus, Ind., testifies, April 2, 1883:

"That he has known claimant since August, 1861; lived within three-fourths of a mile of him, and in the fall of 1861 shucked corn with him in the same field, and knew him well from that time until after harvest, 1862; saw him every two or three days; worked together about two months of that time, chopped wood together, and I helped him in harvest time 1862; he was then a good, sound man, did a good, fair day's work; and I never knew or heard of his being sick any of that time."

James E. Hammond, of Columbus, Ind., says:

"I first knew claimant in 1860, and have known him ever since; worked with him from August, 1860, to March, 1861. During part of the time we eat together and slept and worked together; he was then a stout, able-bodied man."

This testimony given above is very fully corroborated by all the witnesses examined by the special examiner from the Pension Office; all were neighbors and intimate acquaintances of claimant prior to and at the time of his enlistment, and the testimony as to the soundness of the soldier at the time of his enlistment is conclusive.

There is no doubt in the case as to the right of this soldier to a pension, and your committee recommend the passage of the accompanying bill.

The bill was laid aside to be reported to the House with the recommendation that it do pass.

MARGARET A. MAGUIRE.

The next business on the Private Calendar was the bill (H. R. 6726) granting a pension to Margaret A. Maguire.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Margaret A. Maguire, of Philadelphia, Pa., widow of George R. Maguire, deceased, late a lieutenant in the Thirteenth Pennsylvania Cavalry, United States Volunteers.

The report (by Mr. PATTON) was read, as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 6726) granting a pension to Margaret A. Maguire, have had the same under consideration, and beg leave to submit the following report:

Margaret A. Maguire is the widow of George R. Maguire, who served as first lieutenant and captain, respectively, in the Thirteenth Regiment Pennsylvania Cavalry, from October 20, 1862, to July 14, 1865. At the date of his death, June 8, 1879, he was in receipt of total pension for varicose veins of left leg, the result of typhoid fever contracted about June 1, 1863.

The claim of the widow has been rejected on the ground that the soldier's fatal disease, cancer of the bowels, was not chargeable to the military service.

It appears that Maguire came under the medical treatment of Dr. J. A. Holton, of Centreville, Md., March 22, 1879, for cerebro-spinal trouble and partial paralysis of entire right side, which, in the opinion of the physician, was caused by blood poisoning, the result of healing up of the ulcers of the leg, by which the drain from said ulcers was thrown back into the circulation, and general marasmus was produced. Previous to that time the soldier was confined to his room for weeks at a time by reason of the diseased condition of the leg, during which periods he was unable to retain anything in the stomach, as shown by the affidavit of Dr. Eugene Wiley. Recovering somewhat after three or four weeks' treatment by Dr. Holton, the soldier was removed to his home at Philadelphia, where he came under treatment by Dr. F. H. Gitchell, who testifies that when Maguire first came in his charge he was much broken down from the trouble with his leg, and, in the opinion of the affiant, would have recovered from the cancer of the bowels, which caused death, had it not been for the general impairment of his health by reason of the diseased leg.

The medical referee of the Pension Office admits that cancer is held to be referable to a blood taint, and implies the existence of such a cause necessarily, but denies that death in this case was caused by the condition of the soldier's leg.

The question to be decided by this committee is whether the opinion of that officer, who has had no personal knowledge of the case, should be accepted in opposition to the sworn statement of the attending physicians, who, from a professional knowledge of the case, are better able to judge that the cancer was caused by blood poisoning, superinduced by the too rapid healing of the ulcers of the leg.

The committee are clearly of opinion that the latter should govern its action in the determination of claimant's rights, and that whatever doubts may exist should be solved in her favor, and therefore report favorably on the bill and ask that it do pass.

The bill was laid aside to be reported to the House with the recommendation that it do pass.

MARGARET A. RINGWALT.

The next business on the Private Calendar was the bill (H. R. 4266) granting a pension to Margaret A. Ringwalt.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Margaret A. Ringwalt, sister of Lewis Ringwalt, late of Company F, Seventeenth Pennsylvania Cavalry, and to pay her the pension allowed by law to the dependent relatives of deceased soldiers.

The report (by Mr. PATTON) was read, as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 4266) granting a pension to Margaret Ringwalt, having duly considered the evidence in the case, report:

That Margaret A. Ringwalt is the dependent sister of Lewis Ringwalt, who enlisted in the military service of the United States as a private in Company F, Seventeenth Regiment Pennsylvania Volunteers, September 15, 1862, and was killed in action near Newtown, Va., by guerrillas October 11, 1864.

It appears that claimant is the sister of the deceased soldier, and lived with and was supported wholly by the soldier prior to his enlistment in the military service of the United States, and the fact that he contributed his pay as a soldier for the support of claimant is shown by the letters written to claimant at the time of sending the money, and by the testimony of the neighbors of claimant.

It is shown that claimant was never married, leaves neither father nor mother surviving, and that when 9 years of age she lost the sight of the left eye, and that she is now unable to perform any labor, as she has been an invalid for years, and is now over 71 years of age and without any means, and entirely dependent upon the charity of neighbors and friends for her maintenance.

The manner of the death of the soldier is shown by the following extract from a special correspondent of the New York Tribune, writing from Sheridan's army near Strasburg, Va., October 11, 1864, and which was published in the New York Tribune of October 18, 1864:

"A courier, arrived at headquarters at an early hour this morning, brings a report that the chief quartermaster of the Army, Lieutenant-Colonel Tolles, and Dr. Ohlenberger, medical inspector of the Army, had been shot by guerrillas on the road near Newtown. About 9 o'clock p. m. two ambulances came in, bringing both these gentlemen, mortally wounded. A brave old soldier named Lewis Ringwalt, belonging to Company F, Seventeenth Pennsylvania Cavalry, one of the escort, was also brought in. Colonel Tolles had a bullet wound in the back of his head, and one in his body. His face was also badly scarified, as if he had fallen from his horse or had been dragged over the rough pikes. The officers were returning from Martinsburg, with an escort of twenty-five men, and when about half way between Newtown and Middletown a company of guerrillas, led by 'White,' numbering from fifty to seventy-five, suddenly charged out of a belt of woods from the left of the road, firing as they came, and calling out to the officers to surrender. Seeing they were outnumbered, the escort endeavored to escape, but being well mounted the rebels overtook or cut them off, the officers being left in the rear. For some distance it was a running fight, in which the guerrillas had the advantage in numbers, being the pursuing party.

"The escort evidently did more running than fighting, only a portion of them using their carbines to any advantage. Ringwalt evidently fought with desperation, as he had one finger shot off, a serious scalp wound, and a mortal wound through the body. Ringwalt says the officers surrendered. Colonel Tolles's orderly says the same. Dr. Ohlenberger also surrendered; but the rebels rode close up to them, and putting their pistols to their heads fired, inflicting mortal wounds. One of our men was killed, named Samuel Deardorp, and seven were wounded. Ringwalt shot one of the guerrillas, and with the assistance of a part of the escort six or seven were wounded. The officers and men were robbed of money and watches. While the rebels were engaged in stripping their victims a party of infantry, who were accompanying a train, were seen coming up, and the guerrillas made off, taking one of our ambulances for their wounded. They carried off about half of the escort as prisoners.

"Colonel Tolles and Dr. Ohlenberger, with the wounded private, Ringwalt, were placed in ambulances and brought to General Sheridan's headquarters, where their wounds were dressed. Both officers were pronounced to be mortally wounded.

"The event has produced a sentiment of profound grief at the headquarters of the Army. Colonel Tolles was a most valuable officer, and a gentleman who had become greatly endeared to the officers during a long connection with the service. It is the general remark that he had no superior in the Army as an able and efficient quartermaster. He was a captain in the Fifteenth Infantry.

"Dr. Ohlenberger was also an officer of rare ability, and a gentleman who enjoyed the esteem and affection of a wide circle in the Army. They will be a great loss to the Army.

"*October* 12.—Lewis Ringwalt died early this morning. His family live near Carlisle, Pa. His faithful and soldierly conduct during this treacherous and overpowering attack upon the officers whom he was guarding entitles his memory to respect and his dependent family to the clemency of the Government.

"E. S."

The Philadelphia Press of Wednesday, October 26, 1864, says:

"DEATH OF A GALLANT SOLDIER.

"Lewis Ringwalt, a sergeant in Company F, of the Seventeenth Pennsylvania Cavalry, died on the 12th instant, near Strasburg, Va., from the effects of wounds received from guerrillas on the day previous, while gallantly guarding the medical inspector of Sheridan's army. As we have before stated, Lewis Ringwalt died on the 12th instant. The case of this brave soldier is entitled to more than ordinary notice. Surrounded by a large and influential circle of relatives and friends, residing near Carlisle, Pa., he was early impressed with the conviction that it was his religious duty to go forth and battle for his country, and while he had frequent opportunities for promotion, he declined them all, and preferred remaining in a humble position. The writer of this article knew him well, and has frequently heard of the valor he displayed on more than one occasion. His death will be deeply deplored, not only by his immediate family and a large number of our citizens in the locality where he lived, but by his fellow-soldiers, to whom he endeared himself by his kind and genial manner, and by the coolness and bravery he manifested in many perilous engagements."

December 17, 1883, General P. H. Sheridan certifies to the death of Lewis Ringwalt by wounds received from guerrillas between Winchester and Fisher's Hill, in October, 1864.

December 31, 1879, claimant filed her declaration for pension, which was rejected June 20, 1883, on the ground that the evidence filed by claimant shows that at date of soldier's death she was over sixteen years of ago, therefore not entitled under the law.

Your committee find claimant was dependent on the deceased soldier for maintenance and support, and is now in her old age deprived of her means of support by the casualties of the late war, and therefore recommend the passage of the accompanying bill.

Mr. HEWITT, of Alabama. I wish to call the attention of the committee to the simple fact that this is adding a new class to the pension-rolls. The law gives to the dependent father or mother of a soldier who died in the service from wounds received or diseases contracted in the service a pension. That is the general law. It does not include a sister or a brother. This bill extends that provision of the law in this particular case upon strong grounds. I admit there are strong reasons for it, and that there are strong equities arising out of the circumstances of this case. I simply wish to call the attention of the House to the fact that it is a departure from the general law on this subject.

The bill was laid aside to be reported to the House with the recommendation that it do pass.

ESTHER HUDSON.

The next business on the Private Calendar was the bill (H. R. 2645) granting a pension to Esther Hudson, mother of William H. Hudson, deceased, late of Company G, Twenty-sixth Regiment Pennsylvania Volunteers, and Company E, One hundred and ninety-first Regiment Pennsylvania Volunteers.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place the name of Esther Hudson, mother of William H. Hudson, deceased, late a private in Company G, Twenty-sixth Regiment of Pennsylvania Volunteers, and afterward a sergeant of Company E, One hundred and ninety-first Regiment of Pennsylvania Volunteers, on the pension-roll, at the rate of $8 per month, and to pay her, or cause to be paid her, a pension at said rate from the death of her said son, subject to the general laws should she again marry or her dependence upon her son cease.

The bill was reported with the following amendment:

In line 10 strike out these words: "At said rate from the death of her said son, subject to the general laws should she again marry or her dependence upon her son cease."

The report (by Mr. PATTON) was read, as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 2645) granting a pension to Esther Hudson, have had the same under consideration, and submit the following report:

That Esther Hudson was the mother of William H. Hudson, who enlisted as a private in Company G, Twenty-sixth Regiment Pennsylvania Volunteers, and afterward a sergeant of Company E, One hundred and ninety-first Regiment of Pennsylvania Volunteers, serving from the year 1861 to the close of the war.

At the time he enlisted and some years prior he lived with and aided his mother in obtaining a living, and during the time of his service in the Army sent her part of his wages.

It appears on file in Pension Department that the said soldier, in the month of November, 1861, prior to his entering the service of the United States, made a will, in which he bequeaths to his mother all his pay, bounty, or money in any way due him; and as evidence that the said mother did receive support from her son, the committee find on file in Pension Department letter from Second Auditor's Office, dated February 19, 1870, notifying Esther Hudson, mother, that certificate had been issued for money due William H. Hudson.

The committee also find from the evidence on file in department that the Commissioner of Pensions rejected the claim of Esther Hudson because of the marriage of said William H. Hudson some time prior to enlistment, and it is alleged that he never lived with his wife; and it also appears on file in Pension Department that an application for divorce was granted at Philadelphia, Pa., May 7, 1864.

In view of the facts, your committee believe that Esther Hudson was dependent on her son for support, and recommend that the bill (H. R. 2645) do pass as amended, namely:

Strike out all of line 10 after the word "pension," and also strike out lines 11 and 12 of said bill.

The amendment reported by the committee was adopted.

The CHAIRMAN. The question is, Shall the bill as amended be laid aside to be reported to the House with the recommendation that it do pass?

Mr. HEWITT, of Alabama. I wish to call attention of the Committee of the Whole to the fact that it is nowhere stated in this report that this soldier is dead. I suppose that you might infer that he was dead, for the report states that his mother had applied for a pension and her application was rejected on the ground that the soldier had a wife or a widow.

If it should appear that the soldier is dead the report fails to show that his death had any connection whatever with his services in the war. It is not every dependent mother or every dependent father of a soldier that is entitled to a pension upon the death of a soldier under the general law. Under the general law the dependent father or dependent mother is entitled to a pension provided the death of the soldier was caused by his service in the war. Now if this soldier's death was caused by his service in the war, the House, so far as this report is concerned, is in ignorance of that fact; and if the gentleman making this report is not in his seat, if any gentleman upon the committee can remember the facts in relation to this matter I would like to hear them before we are called upon to vote.

Mr. MATSON. My impression, and I think I may say my recollection, is that the question of the death of this soldier was not at issue at all. If I remember correctly, the death of the soldier was upon the

field of battle. At any rate, I am very sure there was no question and no dispute of that kind in this case.

The only question was as to the right of this mother to a pension, the soldier having been married and subsequently divorced. She seemed to show that she was in a dependent condition, and wholly dependent upon this soldier. Hence the committee did not hesitate to recommend the passage of the bill. I feel perfectly safe in saying there was no question at all as to the cause of the soldier's death being connected with the service.

Mr. HEWITT, of Alabama. I wish to call the attention of the chairman of the Committee on Invalid Pensions [Mr. MATSON] to the very first clause of the report in this case, showing that this soldier was not killed in battle during the war. The report states that he served from 1861 to the close of the war, that he was a sergeant in Company E, One hundred and ninety-first Regiment of Pennsylvania Volunteers, serving from the year 1861 to the close of the war.

I think this case had better be passed over. If the death of the soldier was caused by service in the war that fact ought to be stated in the report, so as to go on record. If the gentleman from Pennsylvania [Mr. PATTON] who reported this bill is not now in the House, let it go over till he comes in.

Mr. MATSON. I have no objection to allowing the bill to be passed over informally if the gentleman from Alabama so desires.

Mr. PATTON. My impression is that this soldier, William H. Hudson, died soon after coming home, and from wounds received while in the service. The question raised in the Pension Department was whether his mother was dependent. He had been married and his wife had obtained a divorce. It appears, as stated in the report, that there is on file in the Pension Department a letter from the Second Auditor's Office, dated February 19, 1870, notifying the mother that a certificate had been issued to her for money due Hudson, who had made a will bequeathing to his mother all his pay, bounty, or money in any way due him.

Mr. MCMILLIN. The gentlemen speaks of his "impression" concerning the cause of the soldier's death. Is he satisfied of the fact?

Mr. PATTON. No, I am not.

Mr. MCMILLIN. Then this bill ought to be passed over till the question can be examined. The point is one on which of course the House ought to be satisfied.

The CHAIRMAN. The gentleman from Alabama [Mr. HEWITT] asks unanimous consent that this bill be laid aside informally. Is there objection? The Chair hears none, and it is so ordered.

PLEASANT MINET.

The next business on the Private Calendar was the bill (H. R. 4751) granting a pension to Pleasant Minet.

Mr. MATSON. I ask unanimous consent that this bill be reported to the House with a recommendation that it lie on the table, as the man has, since the bill was reported, received a pension through the ordinary channel.

The CHAIRMAN. If there be no objection, this bill will be laid aside to be reported to the House with a recommendation that it lie on the table.

There was no objection, and it was ordered accordingly.

HENRY DAVIS.

The next business on the Private Calendar was the bill (H. R. 6997) granting a pension to Henry Davis.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place the name of Henry Davis, late lieutenant-colonel of the Eighty-second Regiment Indiana Volunteer Infantry, on the pension-roll, subject to the limitations and conditions of the pension laws.

The report was read, as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 6997) granting a pension to Henry Davis, report:

That claimant enlisted in the military service of the United States as lieutenant-colonel of the Eighty-second Regiment Indiana Volunteers, August 27, 1862, and resigned October 1, 1863, on account of inability to stand the hardships of the service.

June 11, 1883, he filed an application for pension, alleging that at the battle of Chickamauga, September 20, 1863, he contracted hernia, which was rejected January 30, 1884, on the ground that claimant did not mention the disability in his resignation from the service.

Dr. John W. Newland, of Bedford, Ind., testifies, June 11, 1883, that he has known claimant for twenty-five years or more; was his family physician while he lived at Bedford before enlistment; he was then a sound, healthy man, free from hernia. About ten years ago he consulted affiant in reference to the use of the Egelson truss. At that time I made a personal examination of him, and found that he was ruptured on both sides at the lower extremities of the abdomen.

Dr. Addison W. Bare, Bryantsville, Ind., testifies, "that about September 20, 1863, the date of claimant's enlistment, and prior thereto, I was his family physician, and consequently very intimately acquainted with him; that he was then a sound man, in good health, and free from hernia."

Charles D. Briggs, Isola, Kans., testifies:

"At the battle of Chickamauga, September 20, 1863, I saw claimant at the time he received his injury. He was serving on foot with the regiment. I saw him fall during the heat of the battle, and supposed he was killed, and it was so understood along the line. He, however, only received an injury from which hernia of both sides ensued. Knows this from personal knowledge and being present at the time."

In answer to a letter from the Pension Office, the witness further says:

"I believe his hernia was received from an accident on the battlefield of Chickamauga. Companies A, B, and C, of the Eighty-second Indiana, were detailed with Churche's Fourth Michigan Battery to act as skirmishers, and while upon said line the rebel forces attempted to take said battery. Lieutenant-Colonel Davis started to that point to rally some of the men, when his foot caught in a root or his saber, and he fell heavily upon the same, which I think penetrated the groin and produced hernia, as I understood at the time."

Calvin E. Pearson, of Alaska, Ind., testifies to substantially the same as above witness.

Morton C. Hunter, colonel of claimant's regiment, testifies:

"At the battle of Chickamauga we were dismounted on account of the nearness of the enemy, and we were in the woods. My regiment formed the second line of the Third Brigade, Third Division, Fourteenth Army Corps. The first line was driven back and passed over my regiment, which at the time was lying down. After they had passed over I ordered my regiment to fire; then ordered a charge, which drove the enemy back and regained the breastwork from which the first line had been driven. I ordered Col. Henry Davis to deploy the two right companies and protect my right flank. This order he promptly obeyed. Colonel Davis with his line of skirmishers was driven back slowly, fighting from tree to tree. While going back his sword-scabbard was struck by a ball, the former getting between his legs, throwing him down. From this fall Colonel Davis was injured. I saw his saber-scabbard a few minutes afterward, and it was bent from having been struck by a ball."

In addition to the evidence specifically referred to above, it is clearly shown that the soldier was free from disease at the time of his enlistment, and that his disability has continued from the time of his discharge from the service, being given by the United States examining board of Mitchell, Ind., in an examination made September 5, 1883, at three-fourths total. In view of these facts your committee recommend the passage of the accompanying bill.

There being no objection, the bill was laid aside to be reported to the House with a recommendation that it do pass.

SAMUEL W. TRACEY.

The next business on the Private Calendar was the bill (H. R. 435) granting a pension to Samuel W. Tracey.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and is hereby, authorized and directed to place the name of Samuel W. Tracey, late of Company E, Twenty-fifth Regiment of Indiana Volunteers, on the pension-roll, subject to the provisions and limitations of the pension laws, from and after the passage of this act.

The report was read, as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 435) granting a pension to Samuel W. Tracey, having considered the evidence, respectfully report:

That claimaint was mustered into the military service of the United States as a private in Company E, Twenty-fifth Regiment Indiana Volunteers, September 19, 1864, and honorably discharged June 4, 1865.

October 16, 1878, he filed a declaration for pension, alleging that, about December, 1864, about forty miles from Savannah, Ga., while tearing up a railroad, he received an injury to his back, causing disease of kidneys, which was rejected April 10, 1879, on the ground that no disability exists from cause alleged.

William K. Stewart, of Spencer County, Indiana, testifies that he was second lieutenant of claimant's company and regiment, and that the soldier was severely injured at the place, at the time, and in the manner stated in his declaration for pension.

Dr. E. S. Arwine, of Bedford, Ind., testifies that soldier came under his professional treatment in 1875 for disease of the kidneys, and that he continued to treat him for said disability until the year 1882, when affiant moved to Texas; that during the time he so treated him he was one-half disabled from the performance of manual labor.

Dr. U. N. Mellette, of Johnson County, Indiana, testifies to having treated claimant for disease of the kidneys during the year 1874.

Dr. J. T. Mattock, of Harisburg, Logan County, Illinois, testifies that he treated claimant for kidney disease from September, 1865, until January, 1867, and that the soldier was unable to get out of bed or help himself during that period.

Joseph M. Young and Robert H. Fowler, of Brown County, Indiana, in a joint affidavit, testify, October 2, 1882, that they have been near neighbors and intimate acquaintances of claimant from the year 1867, and that during that time he has been suffering from kidney disease, and has been disabled for the performance of manual labor at least one-half of said time by reason of his disability.

Claimant is shown to have been a sound, healthy man at the time of entering the military service of the United States.

Manly Mead and Alexander Condon, of Brown County, Indiana, whose reputation as citizens is shown to be of a high character by a number of the county officers in the county in which they reside, testify to an intimate acquaintance with claimant and a personal knowledge of his condition since he came home from the Army in June, 1865, and that during this time he has been suffering from disease of the kidneys and back, and that he has been disabled at least one-half from the performance of manual labor by reason of the same.

The United States examining board of Indianapolis, Ind., in an examination of claimant, September 27, 1882, rate him at one-fourth.

Your committee are of the opinion that it is clearly shown that the disability of the soldier was contracted in the military service of the United States and in line of duty, and therefore recommend the passage of the accompanying bill.

There being no objection, the bill was laid aside to be reported to the House with a recommendation that it do pass.

ABRAHAM COVER.

The next business on the Private Calendar was the bill (H. R. 4021) granting a pension to Abraham Cover.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Abraham Cover, late first lieutenant of Company M, Sixth Regiment Illinois Cavalry Volunteers.

The report was read, as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 4021) granting a pension to Abraham Cover, report:

That claimant enlisted in the military service of the United States as first lieutentant Company M, Sixth Illinois Cavalry Volunteers, January 9, 1863, and resigned January 3, 1863, on surgeon's certificate of disability.

August 30, 1876, he filed a declaration for pension, alleging "chronic rheumatism and chronic nephritis, resulting in epilepsy, contracted during the winter

of 1861 and 1862, while on the road between Camp Butler and Shawneetown, Ill.," which was rejected November 28, 1876, on the ground that the disability existed prior to service.

It is shown that soldier went into camp with his company October 20, 1861, but was not commissioned until January 9, 1862.

Capt. Isaiah M. Sperry, of Cobden, Ill., testifies March 31, 1882: That he was captain of claimant's company, which was enrolled October 12, 1861, and mustered January 9, 1862; that about December 1, 1861, claimant incurred an attack of rheumatism from exposure to rain and cold; was in hospital several weeks; again, about September 16, 1862, while in line of duty was attacked with rheumatism and sent to hospital at Cairo, Ill., where he remained until November, 1862; in December, 1862, from exposure to rain, was again attacked with rheumatism. Claimant remained with the company until it reached Holly Springs, Miss., when he was discharged on surgeon's certificate for rheumatism and nephritis; that soldier was sound at time of enlistment; that from the date of his discharge to present time claimant has been entirely unable to perform manual labor, from disease contracted in the Army.

Dr. A. G. Agnew, assistant surgeon of claimant's regiment, testifies March 31, 1882, that claimant came home on a sick leave of absence, suffering from rheumatism and nephritis. As soon as sufficiently recovered he returned to his command. In December, 1862, claimant was again attacked with above-named diseases, in consequence of exposure, and it became necessary for him to go home to save his life. Affiant was claimant's family physician before his enlistment, and the soldier was then a sound man.

Dr. James S. Whitmer, surgeon of claimant's regiment, testifies March 31, 1882, that claimant was attacked with acute rheumatism in December, 1861, on the march from Duquoin to Shawneetown, Ill., and was in the hospital about two months; during a part of the time affiant attended him.

R. Loomis, major of claimant's regiment, in accepting the resignation of the soldier, January 2, 1863, indorses on said resignation a statement that the disability existed before entering the service.

Dr. J. C. Allen, in an affidavit in his own handwriting, testifies March 31, 1882, that he knew claimant from 1853 to the time of his enlistment, and he was then well and hearty; that he was claimant's family physician from 1864 to April, 1873, during which time soldier was totally unable to perform any kind of manual labor, suffering from rheumatism and other diseases.

Dr. J. Bentley testifies, March 31, 1882, that he was claimant's family physician for nine years prior to his enlistment, and that he was a sound, healthy man at enlistment, free from all symptoms of rheumatism of the heart, or angina pectoris, with which he has suffered since his military service.

This medical testimony is substantially corroborated by that of Dr. James H. Hall.

A number of witnesses, all near neighbors and intimate associates of claimant prior to his enlistment, testify to his good health prior to and at the time of his enlistment.

The United States examining board at Carbondale, Jackson County, Illinois, examined claimant May 3, 1882, and report his disability at one-half.

Your committee are of the opinion that the soldier was free from disease at the time of his enlistment, and that his present disability is due to his military service, and therefore recommend the passage of the accompanying bill.

There being no objection, the bill was laid aside to be reported to the House with a recommendation that it do pass.

JAMES STOCKTON.

The next business on the Private Calendar was the bill (H. R. 2377) granting a pension to James Stockton.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, directed to place the name of James Stockton, formerly of Company D, Thirty-first Regiment Missouri State Militia, on the pension-roll, subject to the provisions and limitations of the pension laws.

The report was read, as follows:

The Committee on Invalid Pensions, to whom was referred bill H. R. 2377, beg leave to submit the following report:

Your committee report that under the call of Hamilton R. Gamble, governor of Missouri, James Stockton organized Company D, Thirty-first Regiment Enrolled Missouri Militia, and that on the 19th day of September, 1861, said Stockton was commissioned and mustered in as captain of said company.

While in active service and on the 15th day of October, 1862, and in pursuit of a guerrilla band near Platte City, in Platte County, Missouri, the guerrillas turned and fired on said company, and at the flash of the guns the horse of Captain Stockton was killed, and in falling threw Stockton to the ground, injuring his arm so seriously that shortly thereafter it was amputated.

The only ground on which the Pension Bureau rejected the application of claimant is, to use the language of the Pension Commissioner, because "the claimant was not in the military service of the United States, the Thirty-first Enlisted Missouri Militia being a State organization, and therefore not pensionable under existing laws."

But said Stockton was acting under orders of officers in the Federal Army, and was co-operating with the troops of the United States in aiding to restore the supremacy of the Government, when he received the injury that resulted in the loss of his arm.

He is now perfectly impecunious and 35 years of age, and your committee recommend that the bill do pass.

There being no objection, the bill was laid aside to be reported to the House with a recommendation that it do pass.

DAVID WHITTINGTON.

The next business on the Private Calendar was the bill (H. R. 6692) granting a pension to David Whittington.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of David Whittington, late a private in Company K, Sixtieth Regiment Enrolled Missouri Militia.

The report of the committee was read, as follows:

That David Whittington enlisted in Company K, Sixtieth Regiment Enrolled Missouri Militia, August 10, 1862.

There is any quantity of evidence to the fact that prior and up to date of enlistment said Whittington was a hale, hearty, able-bodied man. That on or about the 1st day of February, 1863, near Germantown, Mo., and while in service, he was attacked by heart disease that so prostrated him he was unfit for duty, and on 21st of March, 1863, he was discharged from service on surgeon's certificate of disability. These facts are testified to by Jonathan Eskew, William Tuttle, and C. S. Tuttle. That from February, 1863, to present time he has almost all the time been disabled for labor one-half the time, and is now totally disabled for labor.

These facts are testified to by Dr. D. M. King, Dr. W. F. Baren, Dr. John Blockburn, Dr. A. H. May, D. C. Boyer, S. W. Calvert, and J. T. Vogan, some of whom lived in the same house, others at a distance of from one-fourth of a mile to five miles, and who saw and were in the company of said Whittington frequently every day. He is very poor, disabled from labor, and will be dependent on the charity of his neighbors if not relieved by the Government in whose service he incurred his disability. The only ground upon which the Pension Department rejected his claim is that the organization to which he belonged was not in regular United States service, and therefore not pensionable.

Your committee therefore recommend that the bill do pass.

There was no objection, and the bill was laid aside to be reported to the House with a recommendation that it do pass.

CLARK G. MAINE.

The next business on the Private Calendar was the bill (H. R. 7000) for the relief of Clark G. Maine.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Clark G. Maine, late a private in Battery E, First New York Light Artillery.

The report (by Mr. BAGLEY) was read, as follows:

The basis of the petitioner's claim is that on the Weldon Railroad, Virginia, February 25, 1865, he was thrown from a horse, and sustained an injury to his right shoulder and side. The committee find from the claimant's affidavit that he was injured while riding toward City Point, Va., alone, about 10 o'clock at night; that he was ordered to go by a sergeant, and thinks none of his officers knew when he started or returned; that he does not know and can not learn the address of the sergeant who ordered him to go; that only Lieutenants Matherson and Humphrey were with the company at the time, and he is confident he saw neither of them; that Lieutenant Matherson has informed him that he can not recollect the facts definitely enough to testify, and that he has no other means of proving the facts except by his tent-mates, Seymour Lloyd and William E. Haskell.

The testimony of these two men, Haskell and Lloyd, who were tent-mates of claimant, is substantially as follows: That about March 1, 1865, in front of Petersburg, Va., in the night-time, petitioner was sent on horseback to ascertain the cause of artillery firing in the direction of City Point; saw the next day that his face and mouth were badly bruised, and complained of great injury to his right shoulder; stated the horse threw him, and struck or fell on him; the surgeon examined and directed him to go to the hospital, but he urged to be excused from the hospital, and was allowed to remain with the regiment. When he attempted to do anything requiring the use of his shoulder great pain was evident, and he was finally released from duty as No. 1 on the piece, and given charge of a team. His shoulder appeared to remain substantially the same until he was discharged.

James H. Graham, another comrade, testifies same as Haskell and Lloyd.

To show the continuance of the disability, Seymour Lloyd says, under oath, dated December 3, 1883, that after discharge he worked for claimant frequently for several years, and also worked with him; that claimant could not do heavy work that required a strain on his shoulder, and in his opinion he was disabled from the performance of manual labor one-half by reason of the injury.

Elbridge G. Seymour, M. D., testifies, April 19, 1883, that claimant called on him in July, 1865, for advice and surgical treatment of right shoulder joint. On elevation of arm distinct crepitus could be felt and heard at quite a distance, crepitus being in the shoulder-joint; felt most distinctly on upper anterior surface, giving a feeling of loose cartilage. Came to affiant's office at different times, with only temporary relief.

David S. Sayles testifies, April 19, 1883, that after claimant's discharge from the Army in 1865 he was very lame in his right shoulder. Lived near, and labored with, for, and on lands adjoining claimant the greater part of thirteen years. That during all that time claimant was lame and showed great suffering from injury to right shoulder. Thinks the labor done with the right arm for fourteen years was with great pain and suffering. Mary Lizzy Maine, who is not related to petitioner, corroborates and indorses the affidavit of Sayles.

Benjamin F. Dump, examining surgeon, says he finds the applicant in good physical condition, except the results of a fracture of the right scapula, involving all the scapula above the spine. There is strongly-marked crepitus upon rotation or any motion of the head of the humerus. Injury said by claimant to have been caused by the fall of his horse. The action and usefulness of the shoulder greatly impaired. Fully three-fourths disability.

The claimant's service was as a private in Company E, First New York State Artillery, in which he enlisted August 31, 1864, and from which he was discharged June 16, 1865. Declaration for pension was filed June 30, 1880, and rejected on the ground of claimant's inability to furnish any satisfactory evidence that injury was received in line of duty.

The committee, however, believe the statements made, and that the claimant is justly entitled to a pension, and therefore recommend the passage of the bill.

Mr. HEWITT, of Alabama. Mr. Chairman, I shall have to object to the passage of this bill. I do not think it is good policy for the House to pass bills which have been rejected by the Pension Bureau, not on account of any technical objection, but upon the ground that the evidence failed to sustain the application. Now, here is a claim for a pension which was not filed nor the claim made until about eighteen years after the close of the war. That very fact, the long delay in applying for a pension, while it is not conclusive, and I do not pretend to say that it is, nevertheless it is presumptive evidence at least against the fact that he was injured or had a pensionable disability at the time he was discharged from the service. I am aware there are many good men and good soldiers who have had pensionable disabilities at the time of their discharge who probably have not yet applied for a pension, but there are not many of them.

There is another fact connected with this case, and it is this: This soldier says he was sent by an order from his sergeant after night from Petersburg to some point in Virginia near there, and that in making that ride his horse fell and he was injured in the shoulder, but he says that he can not remember the name of the sergeant. The sergeant of his company gives him an order, and yet he says he can not remember the name of that sergeant!

Mr. BAGLEY. Let me correct the gentleman from Alabama. What he said was that he could not learn the address of the sergeant who had ordered him to make that night ride.

Mr. HEWITT, of Alabama. Now let us see about that.

Mr. BAGLEY. You are mistaken about his not remembering the the name of the sergeant.

Mr. HEWITT, of Alabama. He said that he can not remember the address. Well, he ought to have at least given the name of the sergeant, which is part of the address. The address is the name and the place of residence of the sergeant. So I was correct in my statement, as the report shows.

He says another thing, or at least this report states, that he did not believe that any of his officers knew of his being sent out.

Mr. BROWN, of Pennsylvania. They did not know when he went or when he returned.

Mr. HEWITT, of Alabama. Ah! The order, if issued regularly, would have to pass through these officers. It is therefore a strange thing to me that his officers did not know within a few hours or at least within a day of the time when he returned. If he was injured they must have known of it. It must have been reported to them.

Mr. MATSON. Will the gentleman from Alabama [Mr. HEWITT] permit me to ask him a question?

Mr. HEWITT, of Alabama. With pleasure.

Mr. MATSON. Does the gentleman intend to insist upon his objection to this case?

Mr. HEWITT, of Alabama. I do.

Mr. MATSON. Then I ask by unanimous consent that the case be informally passed over.

There was no objection, and it was ordered accordingly.

JOHN F. CHASE.

The next business on the Private Calendar was the bill (H. R. 6904) for the relief of John F. Chase.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of John F. Chase, formerly a member of Company B, Eighteenth Regiment New York State Infantry Volunteers.

The report of the committee was read, as follows:

The petitioner was mustered into the service of the United States on May 17, 1861, and discharged July 12, 1861. His service was that of a private in Company B, Eighteenth Regiment New York Volunteers. Declaration for pension made March 20, 1879, and the basis of the claim is as follows:

"At Jersey City, N. J., about May 10, 1861, was ruptured in the right groin, caused by removing baggage from steamer to railroad, under orders of his captain."

In another declaration, made November 18, 1879, he says that about May 15, 1861, in lifting a large trunk, slipped and fell, causing a severe rupture.

Claim was rejected on the ground of claimant's inability to show the incurrence of rupture of the right side in the service and the line of duty.

Certificate of disability for discharge shows that claimant was discharged on the 12th day of July, 1861, at Washington, D. C., because of scrotal hernia of the right side, caused by extra exertion, on the 19th June, 1861. Certificate is signed by W. A. Jackson, colonel commanding the Eighteenth Regiment New York Volunteers, and is approved by A. N. McLaven, surgeon, United States Army, and medical director.

Claimant, in his affidavit filed May 4, 1881, says that while at Jersey City, *en route* for Washington, was injured in the following manner: He was ordered by an officer of his company to lift a large, heavy trunk from the barge to the dock; at that moment a steamer commenced moving off, causing the barge to rock, and throwing him off his balance; felt a severe strain in his right side as of something giving way, and he let the trunk fall and fell forward on its corner, injuring himself just above the right groin. When the regiment arrived at Meridian Hill, District of Columbia, he called on Surgeon Van Ingen, who examined him and pronounced it scrotal hernia. The surgeon told him, as the regiment was about to move, that he could go to hospital or be discharged, and he accepted the latter. After discharge he returned to his home, and in a few days called on Dr. Chambers, who advised him what kind of a truss to get. Dr. Chambers has since died. Claimant also swears that he has been unable to procure the testimony of an officer of his regiment as to incurrence of injury for the reason that the colonel and surgeon are dead. Other officers he has been unable to find and others do not remember circumstances.

Abram D. Fox and Charles C. Philips testify that they were boys with claimant, and frequently went in bathing, and know claimant was sound at enlistment. In addition to the above, Fox testifies that he saw claimant about a week after his discharge; he was then weak and emaciated, and complained of pain in his groin, and in walking put his hand on his bowels on his right side, and walked in a stooping position. Was not able to perform any labor for five or six months, and afterward but very light labor.

Robert B. Whitlock says he and claimant were drafted into the service during the year 1863, and were examined at Schenectady, N. Y., and affiant was present when claimant was rejected on the ground of being ruptured. Claimant then stated that he was ruptured while in the service of the Government.

The claimant is unable to furnish any affidavits of officers or comrades, which is, of course, unfortunate; but his own affidavit bears upon it the impress of truth, and his reputation is good in the community in which he lives. His prior condition is supported by testimony of those who always knew him, and his debilitated condition immediately after his return from the Army are facts indicating disability received while in the service.

The committee think him entitled to a pension, and recommend the passage of the bill.

Mr. HEWITT, of Alabama. I have not had an opportunity to read the report, but I wish to ask the gentleman who reported the bill whether he favors the pension upon the unsupported affidavit of this soldier? I would infer so.

Mr. BAGLEY. The certificate of disability shows he was injured and the character of his injury. It is signed by W. A. Jackson, colonel commanding, and is approved by A. N. McLaven, surgeon United States Army. It was on that ground the favorable report was made, and that is good evidence.

Mr. HEWITT, of Alabama. Did he file an affidavit for a pension at the bureau?

Mr. BAGLEY. He did, but his claim was rejected, as he was unable to prove the rupture.

Mr. HEWITT, of Alabama. Does the discharge show that he was injured?

Mr. BAGLEY. It does; and it is signed, as I have already stated, by Colonel Jackson, the colonel commanding the regiment.

There was no objection, and the bill was laid aside to be reported to the House with a recommendation that it do pass.

MARY MULHOLLAND.

The next business on the Private Calendar was the bill (H. R. 3355) for the relief of Mary Mulholland.

The bill was read, as follows:

Be it enacted, &c., That the certificate of pension heretofore granted Mary Mulholland, No. 193403, dated September 19, 1881, be, and the same is hereby, approved and confirmed; and the Commissioner of Pensions is authorized and directed to restore the said Mary Mulholland to the pension-roll, and to pay her all arrearages of pension that have been heretofore withheld.

The amendment reported by the committee is as follows:

Strike out and insert the following:

"That the Secretary of the Interior be, and he is hereby, authorized and directed to restore to the pension-roll the name of Mary Mulholland, under certificate No. 193403.

The report (by Mr. LE FEVRE) was read, as follows:

Mary Mulholland is the stepmother of Robert Mulholland, of the One hundred and eighty-third Ohio Volunteer Infantry, and had the entire care, custody, and control of said Robert from his infancy, and supported him, by her own hard labor, until he was grown to manhood, when he became her sole support until and at the time he enlisted in the Army, and thereafter until he was taken prisoner at Franklin, Tenn., and died in prison at Andersonville, Ga. She applied for a pension, which was granted to her, as the mother of said Robert, to whom she had always sustained that relation, and in the belief that she was entitled to such pension as the mother of said Robert. Her claim to pension was allowed and a certificate therefor was issued, but before it was delivered to her, the fact that she was a stepmother becoming known, the certificate was withheld.

That the claimant was dependent upon her own labor after the death of her husband, the soldier's father, in 1852; and that the stepson, as soon as he became old enough to earn a living, did aid very materially in the support of his stepmother, was clearly shown by the evidence originally in the case, and fully confirmed by the testimony taken by the special examiner in 1882.

The general pension laws, although providing for pension in case of mothers and other near relatives, who were dependent upon a soldier, exclude stepmothers, no matter how much they may have been dependent upon a soldier stepson, and therefore the action of the Pension Office in refusing a pension to the claimant was proper. But your committee are of opinion that in cases like the one under consideration the relief denied by the general law should be granted, and therefore report favorably on the bill, amended, however, by striking out all after the word "assembled," in line 2, and insert therein instead the following words: "That the Secretary of the Interior be, and he is hereby, authorized and directed to restore to the pension-rolls the name of Mary Mulholland, under certificate 193403," and thus amended ask that it do pass.

The amendment was agreed to; and the bill as amended was laid aside to be reported to the House with the recommendation that it do pass.

CHRISTIANA ALMIER.

The next business on the Private Calendar was the bill (H. R. 2538) granting a pension to Christiana Almier.

The bill is as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Christiana Eldermeier, mother of Frederick Eldermeier, deceased, late a member of Company I, Forty-ninth Regiment Ohio Volunteer Infantry.

The report (by Mr. LE FEVRE) is as follows:

The committee find that Christiana Almier is the mother of Frederick Almier, who was a private soldier in Company I, Forty-ninth Regiment Ohio Volunteer Infantry, and died January 17, 1875. The claim for pension in this case is "gunshot wound in right knee, received at the battle of Chickamauga, Ga., on September 19, 1863, and was finally discharged from the service June 29, 1864, by reason of said wounds."

The claim was rejected by the Pension Department on the ground that the soldier's death was not the result of gunshot wound for which he was pensioned, as alleged. The testimony is clear in this case that Frederick Almier was disabled to a pensionable degree, and as long as he lived he received a pension of $4 a month. Frederick Almier enlisted August 26, 1861, and was discharged from the service June 29, 1864, by reason of wound received as stated.

The question is, did Frederick Almier die from the effects of the wound of knee received at Chickamauga, Ga.? The following affidavit of Dr. Anton Shiebenzuber, of Dayton, Ohio, made July 31, 1880, reads as follows:

"I am a practicing physician, and have been for fifteen years, and was well acquainted with Frederick Almier, late a private in Company I, of the Forty-ninth Regiment Ohio Volunteer Infantry. I attended him four months previous to his death, and found him suffering from disease of the spinal cord, caused by a gunshot wound through the right knee, effecting destruction of the nervus cruralis, and in consequence of the constant irritation of the scar a chronic inflammation of this nerve and finally of the spinal cord, ending in the destruction of the vitality of this cord, and was, in my opinion, the only and last cause of the death of said Frederick Almier. I have no interest in the case, and am not concerned in its prosecution."

Christiana Almier has made several affidavits to the effect that her son was a strong, healthy man previous to enlistment, and there was no evidence of any other trouble, except his wound, at the time of his death. She is corroborated by many witnesses as to his condition previous to enlistment, and several express the non-professional opinion that nothing else could have been the matter at the time of his death but the wound received while in the service of the

United States. Dr. Anton Shiebenzuber is vouched for as being a man of excellent professional standing and personal reliability. Frederick W. Beck, on the 18th day of August, 1882, made affidavit as follows:

"In my business of undertaker I laid out the body of Frederick Almier preparatory to burial, and found that the right leg at the knee was very much swollen and of black and blue color. Further than that at this time the attending physician, Dr. Anton Shiebenzuber, said to me that the death of said Almier was caused by a gunshot wound of the knee received while in the service of the United States."

The testimony is clear that the claimant was entirely dependent upon her son for support, and is now very poor. There is no testimony to contradict the testimony of Dr. Anton Shiebenzuber, and all testimony is favorable to the claimant. The last examination of surgeons certifies that—

"Frederick Almier is totally disabled. Inflammation exists, with periodical swelling and constant pain, together with weakness of knee-joint, rendering him unable to perform manual labor."

Your committee recommend the passage of the accompanying bill, with the following amendments:

In lines 6 and 7 strike out the name "Eldromeir" and insert "Almier."

Amend the title so as to read: "A bill granting a pension to Christiana Almier."

Mr. HEWITT, of Alabama. Mr. Chairman, I would like to ask the gentleman who reports this bill whether or not this soldier left a widow.

Mr. LE FEVRE. No, sir; he did not. It is his mother who seeks the relief here. There is no question on that point at all.

The CHAIRMAN. The question is on agreeing to the amendments recommended by the committee.

The amendments were agreed to.

The bill as amended was laid aside to be reported to the House with the recommendation that it do pass.

ALONZO CORNWELL.

The next business on the Private Calendar was the bill (H. R. 7046) granting a pension to Alonzo Cornwell.

The bill is as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Alonzo Cornwell, late a private in Company F, Sixty-seventh Regiment Ohio Volunteer Infantry.

The report (by Mr. LE FEVRE) is as follows:

Your committee, having examined the evidence in above case, respectfully report that Alonzo Cornwell enlisted in Company F, Sixty-seventh Regiment Ohio Volunteer Infantry, October 27, 1861, and was discharged July 21, 1862, on surgeon's certificate of general debility of three months' duration, following typhoid fever, "with no prospect of recovery."

The claim for pension in this case is—

"That on or about February 15, 1862, while on the march up the Shenandoah Valley, Virginia, he was disabled by reason of ruptured veins of both legs below the knees; also by exposure and wading the Little Cacapon River, Virginia, he contracted rheumatism and chronic diarrhea, from which he has ever since been disabled."

The claim was rejected by the Pension Department on the ground that "no disability from alleged causes exists."

After examining the testimony carefully your committee is at a loss to understand how the department arrived at the conclusion that no disability exists.

Mrs. Elizabeth Cornwell, of Toledo, Ohio, May 22, 1882, testified as follows:

"I have been well and intimately acquainted with claimant for the past fifty-eight years. I well know that at the date of his enlistment he was a sound and healthy man, and free from varicose veins, rheumatism, and diarrhea; did all kinds of manual labor. I raised the claimant from a mere child to manhood."

Mrs. Harriet J. Johnson, of Toledo, Ohio, November 29, testified:

"I knew the claimant for about fifteen years prior to his enlistment; he worked for me and I paid him $20 per month, and I know that at the date of his enlistment he was a sound and hearty man."

Dewitt C. Dewey, of Toledo, Ohio, November 29, 1882, testified:

"For ten or fifteen years prior to his enlistment the claimant was a near neighbor of mine. I saw him very often, and considered him a sound, hearty man, free from the diseases for which he claims pension."

The same witness, Dewitt C. Dewey, in another affidavit, testifies:

"I know from personal observation, being captain of Company E, Sixty-seventh Regiment Ohio Volunteer Infantry, that while the claimant was a member of said company, and in line of duty on a forced march from Pawpaw Tunnel and Winchester, he had to ford with the regiment the Little Cacapon River, and in consequence of his being heated at the time and immersion in cold water, I believe he contracted rheumatism and varicose veins, because he was unable to march farther, and was conveyed to a hospital at Cumberland, Md., and remained there one month, after which he was sent to Mount Pleasant Hospital, Washington, D. C. About June 19, 1862, I observed varicose veins on his legs before he was transferred to the Mount Pleasant Hospital."

The above witness is vouched for as reliable and worthy of credit.

Two more reliable witnesses testify to claimaint's soundness prior to enlistment. S. F. Forbes, surgeon of the Sixty-seventh Regiment Ohio Volunteer Infantry, states that claimant has bad varicose veins, but can not swear that the trouble was contracted while in the service. W. H. Kief, captain in the Sixty-seventh Ohio Volunteer Infantry, in an affidavit made May 22, 1882, corroborates the testimony of Captain Dewitt C. Dewey.

Harriet J. Johnston, Dewitt C. Dewey, and Elizabeth Cornwell all testify to the existence of rheumatism and varicose veins ever since claimant's discharge from the Army.

Examining Surgeons J. S. Beck, J. M. Weaver, and A. S. Dunlap certify under date of January 23, 1884:

"The deep veins on both legs from knees to feet are very considerably enlarged. The internal saphenous vein has been ruptured, as indicated by a deep purple tint; rate, three-quarters, $6. Says he has no chronic diarrhea now; has had none since the summer of 1865."

The testimony as quoted seems to your committee sufficient to establish the claimant's case. The testimony is abundant as to his having been a sound man previous to enlistment. The witnesses to his disability (having originated while in the service) are not numerous, but very respectable and worthy of credit, while the testimony of his helplessness from date of discharge to the present time is perfectly conclusive.

Therefore your committee without hesitation recommend the passage of the bill.

Mr. HEWITT, of Alabama. Mr. Chairman, I would like to ask the gentleman reporting this bill when the application for a pension in this case was filed in the Pension Bureau?

Mr. LE FEVRE. I do not remember; perhaps my colleague [Mr. MURRAY] can give you the information.

Mr. HEWITT, of Alabama. I would like to know if it is of recent date?

Mr. MURRAY. It is of old standing. I can not give the exact date.

Mr. HEWITT, of Alabama. I would like to ask the gentleman making the report another question, whether these affidavits are *ex parte*, or whether the testimony was taken before a special examiner?

Mr. LE FEVRE. Part of it was taken before a special examiner and part of it *ex parte* testimony.

Mr. HEWITT, of Alabama. Then they are mere *ex parte* affidavits. Was any new testimony or any additional testimony taken before the committee that was not before the examiners of the Pension Bureau?

Mr. LE FEVRE. Mr. Chairman, these affidavits were taken in the usual way, as all the affidavits that are filed in the Pension Office are taken. There is no difference in that respect between this case and all other cases filed in that office.

Mr. HEWITT, of Alabama. This case, I suppose then, was rejected by the Pension Bureau on the ground that the proof did not support the allegations in the claim, and this is simply an appeal from the Pension Bureau to Congress. That being the case, if we pass this bill it is a reversal simply of the decision of the examiners in the Pension Bureau. It amounts to that and that only.

Mr. MURRAY. I would like to state, by way of explanation, that notwithstanding the decision of the Pension Department, the examining surgeons, Weaver and Beck, of Dayton, testify that the disability on the part of this claimant is fully three-fourths, and reputable witnesses have testified that the disease from which he suffers did not exist until after he went into the service. They are very reliable witnesses.

Mr. HEWITT, of Alabama. I would like to ask the gentleman if he knows of his own personal knowledge as to their reputation?

Mr. MURRAY. I know the person who makes the claim and many of the witnesses; not all of them.

There being no objection, the bill was laid aside to be reported to the House with the recommendation that it do pass.

JOHN HAZLEWOOD.

The next business on the Private Calendar was the bill (H. R. 6596) granting a pension to John Hazlewood.

The bill is as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of John Hazlewood, late a private in Company F, Seventh Regiment West Virginia Cavalry.

The report by (Mr. LE FEVRE) is as follows:

Your committee, having carefully considered this case, find that John Hazlewood enlisted in Company F, Seventh Regiment of West Virginia Cavalry, September 17, 1861, and was discharged from the service January 26, 1865. The claim for pension is that he "contracted piles at New Creek, Va., about May 15, 1862, and asthma at Culpeper, Va., about July 20, 1862."

The claim was rejected by the Pension Department on the ground of "inability to furnish medical evidence to show condition in the service or at date of discharge." It is true that he has been unable to furnish medical evidence of treatment for his disabilities while in the Army, because his regimental surgeon, Dr. James Putney, who treated him, has no record of said treatment, and can not remember the facts, but he does state the following, which dates the existence of the disease for which claimant asks for pension to within six months of the date of the discharge:

"Mr. John Hazlewood presented himself to me for medical treatment in July, 1865. I diagnosed his disease 'humoral asthma;' he had been but recently discharged from the United States service, and informed me, upon inquiry, that he had been affected for several months; that he had contracted the disease while in the service. I had no doubt as to the truth of his statement, as the disease appeared to be chronic, which has proven to be so, not having yielded to any treatment from that time to the present (February 12, 1878). He tells me that I ought to be able to state that he was sound when he entered the service; that I knew him before the war. Perhaps I did, but I can not remember him prior to July, 1865. I have treated him several times since then."

Thomas Martin, Joseph Quenby, and Darius Henry, all neighbors, testify under oath that John Hazlewood was a sound and able-bodied man prior to and at the date of enlistment. John McComb, late first lieutenant of the claimant's company, under oath, May 29, 1876, says:

"Claimant contracted asthma at or near Culpeper, Va., about the middle of July, 1862, and frequently complained of being unwell."

Fletcher C. Lanham, second lieutenant of claimant's company, under oath, November 5, 1875, testifies that claimant—

"Contracted piles near New Creek, Va., in May, 1862, and asthma in July, 1862."

Thomas J. Tucker, corporal in claimant's company, says that—

"Claimant contracted piles at or near New Creek, Va., about the middle of May, 1862, and asthma in July, 1862."

Robert W. Jones, first sergeant of claimant's company, under oath, November 15, 1877, says:

"Claimant contracted piles at or near New Castle, Va., and asthma at Culpeper, Va., in the year 1862."

Thomas Martin, Dr. A. L. Knight, Darius Henry, and Joseph Quenby, in separate affidavits, all testify that claimant has suffered from asthma and piles ever since he came home from the Army.

The examining surgeon says:

"Hemorrhoids are found protruding from anus in masses equal in the aggregate to the size of a hen-egg, and presenting the appearance of a ripe raw tomato. The evidences of asthma are well marked, the breathing being labored and accompanied by moist rales. I rate the piles as disabling him one-half total, the asthma as disabling him one-half total."

In view of the fact that three neighbors testify to the complete soundness of the claimant previous to enlistment, the first lieutenant, second lieutenant, first sergeant, and a corporal all swearing to the fact that the diseases from which

the claimant suffers were contracted while in the Army, with time and place stated; the surgeon, six months after discharge of the claimant, testifying to the existence of the disease in a chronic form, and four neighbors swearing to the existence of the disease from the time of leaving the service to the present time, ought to be, in the judgment of your committee, sufficient to overcome the fact that the claimant has been unable to furnish medical testimony of the existence of disability while in the service, and your committee recommend the passage of the bill.

The bill was laid aside to be reported to the House with the recommendation that it do pass.

R. D. LAWRENCE.

The next business on the Private Calendar was the bill (H. R. 6196) granting a pension to R. D. Lawrence.

The bill is as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll the name of R. D. Lawrence, late a private in Company E, First Regiment Michigan Light Artillery, subject to the provisions and limitations of the pension laws.

The report (by Mr. LE FEVRE) is as follows:

Your committee, having under consideration the bill H. R. 6196, respectfully report that R. D. Lawrence was a private soldier in Company E, First Regiment Michigan Light Artillery. He enlisted December 24, 1863, and was discharged May 20, 1865. The basis of his claim for pension is that he was attacked by lumbago and piles while at Nashville, Tenn. After the original declaration was made he stated that he did not intend to apply for pension on account of lumbago, but that he had the disease and was much distressed in the back on entering the hospital, but when the piles appeared and bled the lumbago disappeared. The claim was rejected by the Pension Department on the ground that—

"There is no record of piles, and claimant's inability to furnish satisfactory testimony connecting said disease with the service."

The report of the Adjutant-General shows that the claimant was in hospital three times in the year 1864, but does not state with what disease he was afflicted, but the report shows that he was in hospital most of the time after first admission, in 1864, to May 20, 1865.

Sanford Birtz, a comrade, testifies to claimant's soundness prior to enlistment. He is unable to furnish the testimony of a commissioned officer as to the origin of his disability while in the service, but he does furnish the testimony of Surgeon Myers, who was in charge of post hospital, Nashville, Tenn., to the effect that—

"Claimant had charge of the linen-room of said hospital, and conducted his duty as faithfully as his condition would permit, as during that time he was suffering from lumbago, from which he had not recovered at the date of his discharge."

John H. Evans swears, July 21, 1882—

"That he is well acquainted with the claimant, and in 1866 he came to his brother's house quite sick with piles, for which he was attended by Dr. Hycoff for some time, and then went to Buffalo general hospital, and was still suffering from the same disease when he left the hospital. Was a great sufferer from piles while he knew him in 1866."

The standing of this witness is good.

The claimant has been unable to furnish medical testimony showing continuance of the disease from 1866 because his parents are dead, as is also his family physician. August Mellon testifies that he has been acquainted with the claimant during the past sixteen years, and swears that he has been afflicted with piles during the whole time. Dr. J. L. Bicknell, superintendent of the Buffalo general hospital, furnishes a certificate, dated March 26, 1879, in which he says:

"According to our hospital record, R. D. Lawrence entered the Buffalo general hospital April 18, 1866, was treated for triple lesions and for hemorrhoids, and was honorably discharged May 15, 1866. He again entered the hospital August 20, 1867, and was discharged the 27th of the same month. Treated for hemorrhoids."

The surgeon at the hospital at the National Military Home, Dayton, Ohio, says that the claimant was admitted for treatment August 30, 1867.

The examining surgeons, Drs. J. S. Beck, H. S. Jewett, and A. S. Dunlap, at Dayton, Ohio, December 29, 1880, report that—

"He has hemorrhoids external; they come down very badly and bleed profusely at times. They are now down, forming an external tumor about the size of a walnut. There are now also two small fistulous openings that discharge slightly."

There seems to be no room for doubt but that the claimant has been a constant sufferer from the time of his being in the service down to the present time with the disease for which he claims a pension, and your committee recommend the passage of the accompanying bill.

Mr. HEWITT, of Alabama. Mr. Chairman, this is another case that has been rejected by the Pension Bureau upon the ground that the testimony which was filed there did not support the allegations of the petition, and there is nothing in the report to show that any additional testimony was brought before the committee of this House.

It seems from this report that this soldier was considerable of a "hospital rat," and that he had spent most of his time in the hospitals. We all know that this class of soldiers was not the best in the world, and I think we had better pass this over.

Mr. BAGLEY. In reply to the suggestion of the gentleman from Alabama in reference to this and the preceding case to which objection was made by the office, I wish to state that every case that comes down to the Committee on Invalid Pensions is a case that has been rejected by the Pension Office. We do not pretend to examine a case unless it has been rejected. Therefore the claim that he makes against this case and the preceding one is not good. If it was a good case, or if the proof complied with the technical requirements of the law, it would not come to us at all. It comes to us simply because of the fact that there is some little discrepancy in the case or in the evidence whereby the law does not reach it—some technical defect perhaps in the proof which does not allow it to come strictly within the provisions of the law so as to be allowed by the Department; and it comes here upon its equities for us to do justice to the man on the merits of the claim irrespective of the technicalities of the law. And the gentleman from Alabama must remember that these cases must be rejected by the office before the Committee on Invalid Pensions could take any control of them or have any cognizance whatever of them.

Mr. HEWITT, of Alabama. If Congress is to investigate all these cases that have been rejected by the Pension Bureau, it will take pretty much all the time of Congress to do it. We have seen proper and I think very wisely to create a bureau with officers and with capable men to examine into all these claims for pensions upon the facts that are presented; and I believe, sir, that they are better capable of judging of the facts submitted—I mean they have a better opportunity of judging—I do not mean to say they are abler men or more capable of judging of the effect or of the weight of evidence than members of the House; but I say they have a better opportunity to do it than we have, a better opportunity than the House can possibly have or any member of the Committee on Invalid Pensions or of the Committee on Pensions or of any other committee of this House.

Mr. BROWN, of Pennsylvania. May I ask the gentleman a question?

Mr. HEWITT, of Alabama. I am always ready to yield with pleasure to my friend from Pennsylvania.

Mr. BROWN, of Pennsylvania. What the gentleman states is very true as to the law of the case. But the Pension Office has not the power of examining into the equities of a case unless they are covered by the law.

Mr. HEWITT, of Alabama. I am not speaking now of cases that present equities. There are cases that come from the Pension Bureau here that are proper cases for us to consider. Those are cases that are rejected there on technical grounds; not on the ground that the evidence does not support the application, not on the ground that the man did not contract the disease or receive the wound in the service; but on some technical ground as to the bar of the statute of limitation or something of that sort. Such a case presents an equity, and the House ought to hear it.

But this is a mere appeal presenting no equities. It is only a question as to whether this soldier contracted in the service the disease which disables him; and that is a question which I say the bureau which we have established here can better inquire into than any committee of this House or any member of it. And when the claim is rejected upon the merits by the Pension Bureau I contend that that ought to be an end of it; because if all those cases which have been rejected upon the merits are to come here, there will be no end to your special legislation upon these pension claims. At the same time I think it is right and proper that where a claim is rejected not upon its merits but upon some technical ground then the House ought to take jurisdiction, and if it presents a meritorious case that the House ought to pass the bill.

Mr. MURRAY. Mr. Chairman, I examined this case very carefully. It is true there was not much testimony showing that the claimant was disabled in the service simply because he had no hospital record. But the testimony is clear, dating from early in the year 1866, that he was afflicted with the disability for which he claims a pension, and from that time down to the date of the filing or rejection of his claim there is no question of the existence of the disability. It seemed to me to be a clear case that this man was entitled to a pension, though he was unable to furnish the technical evidence that was required by the Department.

Mr. HEWITT, of Alabama. The only evidence required by the Department is not technical. All the Department asks for is satisfactory evidence that the soldier had received his disability in the line of duty and in the service; and when that is proven, when that is satisfactorily proven, it is the duty of the Pension Bureau to grant a pension.

Mr. BAGLEY. May I ask the gentleman from Alabama one question?

Mr. HEWITT, of Alabama. Yes, sir.

Mr. BAGLEY. Is the gentleman from Alabama not aware of this fact, that frequently cases are sent here to the Committee on Invalid Pensions for consideration or adjudication that have been rejected by the Pension Office, with the recommendation that a bill be passed for the relief of the claimant.

Mr. HEWITT, of Alabama. Yes, sir; and every one of those cases has been rejected on some technical ground. They are never sent here when they are tried upon their merits; when the Pension Bureau has full jurisdiction to try a case upon its merits, and when it has tried it upon its merits and rejected it upon its merits. It is only in those cases where the claim has been rejected upon some technical ground that there is any such recommendation as the gentleman from New York alludes to.

Mr. MATSON. I desire to ask the gentleman from Alabama a question.

Mr. HEWITT, of Alabama. I will hear the question with pleasure.

Mr. MATSON. The gentleman from Alabama states to the House that the Pension Office only requires satisfactory evidence of the allegations filed with the claim. I wish to ask him if he does not know that two kinds of evidence are required, the evidence of the comrades of the soldier and then the evidence of medical treatment in the service or immediately after the discharge; and that sometimes that kind of evidence is very difficult to obtain? Does the gentleman not know that we have acted upon such cases repeatedly? I may ask, making

the question broader than that, if he does not know in his experience in Congress, covering ten years I believe, whether during that time it has not been the habit of the House to act upon cases of that kind where the only question turned upon the merits of the case because of the man's failure to produce certain kinds of proof required by the law?

Mr. HEWITT, of Alabama. I answer my friend from Indiana by saying that the Pension Bureau requires medical evidence of a disability in the service where it can be furnished or satisfactory reasons showing why it can not be furnished. I admit that we have been here for years taking up cases that are mere appeals from the Pension Bureau to the House upon the merits of the cases involved. I think we have been doing that ever since I have been in Congress. But it is a bad practice, and I think it is time to quit it. It is never too late to stop doing wrong.

Mr. CUTCHEON. Mr. Chairman, I desire to call the attention of the gentleman from Alabama [Mr. HEWITT] to the fact that this case has been rejected at the Pension Office for a technical reason—the want of medical testimony as to the treatment of this man in the hospital for hemorrhoids and lumbago. That this man was in the hospital repeatedly, and for a considerable length of time with some disease, there is no doubt. From his own testimony there is no doubt that he was suffering from lumbago and hemorrhoids; but upon the hospital records it is not shown that he was treated for hemorrhoids, and for this reason, as the disability for which he claims a pension is hemorrhoids, this case was rejected.

Now that is a purely technical rejection. It is not denied that he was sick; it is not denied that he was in the hospital. The proof is here—competent proof that would be good in any court of record anywhere under heaven—that this man had hemorrhoids, that he contracted this disease in the Army, suffered from it after his discharge, and has suffered from it ever since. The bare technical reason for the rejection of his claim in the Pension Office is that there is no written record of his having been treated for this disease while in the service. The surgeon of the hospital neglected to do his duty and make a written record that this man was suffering from hemorrhoids and was treated for that disease in the hospital.

Right here I want to make a remark or two in regard to these rejections of claims at the Pension Office. We talk a great deal here as though these rejections were made by the Commissioner in person or by some officer high in authority, when the simple truth is that in ninety-nine cases out of a hundred the Commissioner never knows anything about these rejected cases or the reasons for which they are rejected.

Mr. HEWITT, of Alabama. Does not the law allow in every case where a case is rejected an appeal——

Mr. CUTCHEON. Yes, sir; and an appeal to the Commissioner of Pensions and an appeal to the Secretary of the Interior.

Mr. FUNSTON. And an appeal to Congress.

Mr. CUTCHEON. Yes; and an appeal to Congress. But there is nothing in this case, there is nothing in any of these cases we have been considering, from which it appears that the case ever went beyond the examiner. The cases as a rule go simply to an examiner in the Pension Bureau. These examiners are not men of legal learning; they are not accustomed by previous training to weighing evidence and determining questions of law. They are simply clerks; that is all; and I undertake to say from my experience and observation that many of them are more anxious to run through a list of cases and make a record upon the number of cases they submit than they are to do justice to the claimants.

Mr. BROWN, of Pennsylvania. Is it not true also that they are advanced on account of——

Mr. CUTCHEON. On account of the number of cases they submit.

Mr. BROWN, of Pennsylvania. And the objections they find to claims.

Mr. CUTCHEON. Yes, sir. The result is, as I said, that many of these examiners, I fear, are more anxious to "skin the files," as they call it, picking out the easy cases and running them through, and thus "making a record" for themselves, than they are to do justice to claimants.

I want to say that I have a great deal of confidence in these fifteen gentlemen constituting the Committee on Invalid Pensions. I believe they are equal in soundness of judgment not only to any one examiner of the Pension Office, but to any fifteen examiners, and equal in soundness of judgment to any board of review in the Pension Office. Now, when a case comes from this committee with a favorable recommendation, that recommendation is sufficient in any ordinary case to satisfy me that the bill should have the approval of this House.

In this case the objection of the gentleman from Alabama has no force. This is not an appeal simply upon the weight of evidence; it is an appeal "upon a technical ground." This case was rejected at the Pension Office for want of medical evidence of the treatment of this man in the hospital for hemorrhoids. The evidence is submitted here. It is competent evidence, although not technical medical evidence. In other words, it is not "record evidence." It is not written in the hospital register by the surgeon in charge that this man was treated for hemorrhoids. Yet there does not remain in your mind, Mr. Chairman, or in my mind, or in the mind of any gentleman on this floor, a doubt that this man was in the hospital with hemorrhoids, was treated for that disease, and that the surgeon in charge, whoever he may have been, failed to do his duty in making the necessary report. That wrong we are here to right. That wrong I hope we shall right, and right it speedily.

Mr. HEWITT, of Alabama. Mr. Chairman, I am very sorry to hear the serious charges made by the gentleman from Michigan [Mr. CUTCHEON] against the examiners in the Pension Bureau. I had hoped that when Mr. Cleveland shall come into office these men, under the civil-service regulations, might be continued in office; but if they have been doing as the gentleman from Michigan states, they ought to be turned out and better men put in their places. [Laughter.]

Mr. CUTCHEON. Some of them.

Mr. HEWITT, of Alabama. Now, I am sorry indeed to hear that under the Republican administration of the Pension Bureau men are there who in order to make a record of running through a great many cases reject meritorious pension claims.

I have confidence that when a change of administration takes place in that Pension Bureau all these men, if these charges be true, will then under the civil-service law be turned out and men put in their places who will do the soldiers of this country justice; who will give to every soldier who has a meritorious claim proper consideration; who will carefully examine to see whether a case is meritorious and the party entitled to a pension under the law.

Mr. Chairman, in all the charges which have been brought against the Republican party and its administration I have never heard a more serious one than that which has been made here to-night by the gentleman from Michigan, that the professed friends of the Union soldier who have had the administration of this Pension Bureau so long have done as he has indicated. It must be that he is in error; for I think that if such had been the case and the gentleman from Michigan had known of it he would have brought the fact to the notice of the Executive, who had the power to remove these unfaithful—I would say wicked servants, who would do such gross injustice to the soldiers of this country.

Mr. CUTCHEON. Mr. Chairman, I desire not to take up the time of this committee by prolonging this discussion, because we can do much more good by continuing the work of passing bills and relieving much distress. If I had supposed I would open the flood-gates of party harangue by reference to the fact that not every one of the 1,500 clerks engaged in the Pension Office is always faithful to the dictates of patriotism and reason I would have made no such allusion. I merely stated that in my examination of the files I had been led to believe that some of these examiners did neglect cases in order to make a record and secure promotion. I trust if any of these men are caught at it either the present administration or the succeeding one will find better or more faithful men for their places. I beg my friend from Alabama to remember that in the civil-service organization of the last two years quite a number of Democrats have stolen into places in this Pension Bureau, and that will probably explain the fact there are some unfaithful men there. [Laughter and applause.]

Mr. O'NEILL, of Missouri. The gentleman from Michigan is correct, for if any Democrats have gotten in there they must have stolen their way into the Pension Bureau. [Laughter and applause.] I do not know but it is the only thing a Democrat would steal. [Renewed laughter.] It is probably about all they will have the opportunity to steal when your party goes out of office. [Laughter and applause.]

I do not know, sir, but there will be some benefit from turning this session into a kind of experience meeting in regard to our efforts to secure for pensioners substantial justice from the Pension Department. It may be that the laws are too rigid, that the requirements in the collection of claims are too severe, but in the operations of the law as administered by that department I have myself found many instances where the barrier set up against the collection of claims against the Government resulted in the most flagrant wrong to claimants, whereby justice had been so long delayed that before they received the slightest benefit at the hands of the Government which they had helped to save great suffering resulted to them and their families.

I hold in my hand a paper received to-day in regard to a man who has been an applicant for a pension in consequence of injuries received in the service prior to 1860—an application which has gone through all the various rounds of rejection, having the rejection set aside and new testimony offered, &c. I have followed it up regularly for the reason that the poor, unfortunate fellow is blind; has a wife and children living in a cellar in Oak street, in Kansas City. I went to the department recently and appealed to them to try to do something for this poor fellow, who has been seeking a pension for years. He had forwarded the testimony of his comrades and others concerning the origin of his disability and its continuance, ample, I think, to have satisfied a court. It may be he did not comply with some technical rule, but I would give any officer more credit for integrity who would ignore rules in the

interest of substantial justice to a man who is suffering as this poor fellow is. Let me read the letter:

DEPARTMENT OF THE INTERIOR, PENSION OFFICE,
Washington, D. C., January 7, 1885.

SIR: In answer to your personal inquiry of recent date, I have the honor to state that it has been found necessary to have pension claim No. 20971 of John Tobin further examined in Salt Lake County, Utah, the first examination not containing evidence sufficient to fairly and intelligently adjudicate the claim.

This is to be regretted, but as soon as examiner is located in that district the papers will be forwarded to him and the examination of this claim will be made without any unnecessary delay.

Very respectfully, O. P. G. CLARKE, *Commissioner.*

Hon. J. J. O'NEILL,
House of Representatives.

After a delay of years it is now referred to a blank district without a commissioner whose appointment and consideration of the papers remain a conundrum for the future. What a beautiful example of circumlocution!

Mr. BROWN, of Pennsylvania. I would like to ask the gentleman a question.

Mr. O'NEILL, of Missouri. And this, sir, too, after many years of effort to complete the case.

I will hear the question of the gentleman with pleasure.

Mr. BROWN, of Pennsylvania. I only wanted to ask what is the number of the report in your case.

Mr. O'NEILL, of Missouri. My dear sir, I am replying to the speech of the gentleman from Alabama in connection with the remarks of the gentleman from Michigan. It is in that spirit I am replying. I do not choose to find fault with the officers of the department; but if they find that public sentiment and public opinion do not indorse their cold-blooded construction of rules and demand a little more heart and soul in the settlement of these claims, you would have fewer cases here to be subjected to criticism and discussion both in the committees and in this House.

Mr. WARNER, of Ohio. Mr. Chairman, a few words in reference to the question of evidence in the settlement of these claims pending before the House. I agree to a certain extent with the remarks of the gentleman from Alabama, that in general cases coming here should be limited to those where there are technical difficulties in the Pension Office in the application of the law which prevent the granting of the claim. But it should not be forgotten that in a case like this now before us in the Pension Office the claimant must prove in the first place that his disability was incurred in the service at a particular time and under particular circumstances, and also that it has continued as a disability down to the date of the application, connecting his present disability all the way back to the service, and then if his claim is allowed it carries arrears with it.

I am in favor myself of a regulation, or rather of a relaxation, of the rules of evidence in cases where arrears are not granted, as in special acts of Congress. If the claim does not carry arrears it should not be subject to the same restrictions, in my opinion, that are thrown around those applications where arrears follow. So in cases that come here to the House—a bill that passes Congress does not carry arrears with it, and consequently the same testimony, the same rigid, inflexible rule that is required in the Pension Office in cases that do carry arrears ought not to govern here. I think that many cases may be allowed on evidence here in the House that could not be allowed rightly in the Pension Office, where, if allowed, arrears would follow. [Cries of "Vote!" "Vote!"]

Mr. WOLFORD. Mr. Chairman, I only want to say a few words in relation to this matter. I submit to gentlemen on this floor the question as to whether this is a court or a Congress. If it is a court, then we ought to be, and must be, very particular in construing the law, as well as the rules of evidence, but if it is the Congress of the United States, for the purpose of passing laws, a body which has power to frame laws for the relief of the wronged and injured citizen, I care not whether he has been wronged by the ignorance, the carelessness, the hurry, the error, or in any other way by the officers of the Government, whether it be through their mistakes, the mistakes of a pure and honest man, or through the carelessness of incompetent men, then this is the body to right the wrong. The best men, sir, in the world and the purest judges have erred. Error is common to all men; none are free from it.

Now, all men have the right to come to the Congress of the United States by petition for the redress of grievances. That is the constitutional prerogative. Surely there is not a man in this House who would for a moment think of depriving a worthy, honest, wounded, or sick soldier, that got his wound or contracted his disease in the service of the country, of a pension, if he can not get it and has not gotten it through the channels provided by the law when it is right and proper for him to have it. I care not for the civil service of the Government; I care not who rejected it, whether it was a clerk in the office or the Commissioner himself; whether it was examined and rejected by the purest and wisest and best man on the earth, or whether it was an ignoramus who did it; if he has been wronged then this Congress in their wisdom, when justice and equity demand it, should come forward and rectify the wrong. They ought to be estopped from setting up the plea that the man is not entitled to it if his wound was received or his disease was contracted in the service of the country.

Now, sir, I appeal to my friend from Alabama if there is anything in this case, regarding it by the strictest rule, which under that law of justice to all would enable him to claim that this man should not be allowed by the law-making power the relief he seeks? I ask him if this body, the greatest body on earth, the Congress of the United States—for it ought to be if it is not one of the greatest bodies on earth—if this body can not take into consideration all of the facts and all of the circumstances and all the law, all the equities, in order to do justice to its citizens? If it can not, then it seems to me there ought to be an amendment to the Constitution, an amendment to enable us to act as the American Congress ought to act.

Let us consider for a moment. What are we doing here to-night? Are we adjudging about laws that have been enacted? The Pension Department ought to do that. They are the judges of the law; but when we come to make laws, I am sure my warm-hearted friend from Alabama will not insist upon applying the strict rules of testimony to the case of a poor disabled soldier to preclude him from his rights. Then if it is right for the applicant to be pensioned, the bill ought to be passed without hesitation. I am tired, sir, of hearing in Congress this idea of acting according to rules and precedents. We need no precedent. We rise higher than all precedents. All the equities of the law, all the facts, all the justice, and all of the mercy belong to us, and it becomes us to act in the premises as men possessed of their attributes.

I hope we will not seek for precedents in such cases, but that we will act as becomes patriots and lawmakers in the premises. [Applause.]

The CHAIRMAN. Without objection the bill will be laid aside to be reported to the House with the recommendation that it do pass.

There was no objection, and it was ordered accordingly.

ORDER OF BUSINESS.

Mr. PETTIBONE rose.

The CHAIRMAN. For what purpose does the gentleman from Tennessee rise?

Mr. PETTIBONE. I ask to have a bill passed for the benefit of one of my constituents. It is the bill (H. R. 4626) for the relief of David N. Harrison. It is a case where a pension has been granted but the check has been destroyed or lost in the mail.

Mr. HEWITT, of Alabama. Is that bill reported by the Committee on Invalid Pensions?

The CHAIRMAN. What is the number of the bill?

Mr. PETTIBONE. It is bill H. R. 4626; report No. 1421.

Mr. BAGLEY. What committee reports the bill?

Mr. PETTIBONE. I hope the gentleman will not insist on asking that question.

The CHAIRMAN. What is the title of the bill?

Mr. PETTIBONE. It is "A bill for the relief of David N. Harrison." The gentleman from Missouri [Mr. DOCKERY] reported it. It will be found on page 41 of the Private Calendar.

The CHAIRMAN. The Chair will cause the special order of the House, governing the business of this evening, to be read.

The Clerk read as follows:

That until the further order of this House, on each Friday the House will take a recess at 5 o'clock until 8 p. m., at which evening sessions bills on the Private Calender reported from the Committee on Pensions and the Committee on Invalid Pensions shall be considered.

Mr. PETTIBONE. I am quite well aware that that is the rule.

The CHAIRMAN. The Chair can not entertain the motion of the gentleman from Tennessee.

Mr. PETTIBONE. I hope common consent will be given to taking up this bill. This House by common consent is always equal to the occasion, and I want relief for this constituent.

The CHAIRMAN. The House is in Committee of the Whole under the special order which has been read, and it is the duty of the Chair to see that the special order of the House is not violated.

Mr. PETTIBONE. Then I have got to sit down. [Laughter.] I shall ask for unanimous consent of the House.

Mr. MATSON. I ask for the regular order.

The CHAIRMAN. The Clerk will report the next bill on the Calendar.

Mr. HOLMES. On last Friday evening the bill (H. R. 1981) was under consideration and was passed over for the evening. I ask unanimous consent that that bill be now taken up.

Mr. MATSON. We want to get through to the bottom of the page, and the committee can then take up other cases.

FRANCIS CURRAN.

The next business on the Private Calendar was the bill (H. R. 3751) granting a pension to Francis Curran.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Francis Curran, late a sergeant of Company E, Thirteenth Regiment of Indiana Volunteer Cavalry.

The report (by Mr. LE FEVRE) was read, as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 3751) granting a pension to Francis Curran, submit the following report:

That Francis Curran enlisted in the Thirteenth Regiment Indiana Cavalry December 25, 1863, and was discharged from the Army November 18, 1865.

His claim for pension is sore eyes, resulting in total blindness, contracted at Huntsville, Ala., on picket duty, August 20, 1864.

The claim was rejected by the Pension Department on the ground that disability was contracted previous to enlistment in the Union service. The testimony shows that claimant first served in the rebel army. Your committee has been unable to find any satisfactory evidence that the claimant's eyes became diseased before joining the Union Army in December, 1863.

The Adjutant-General's report shows him present for duty most of the time while in the Union Army. The principal difficulty with the case is, that he was, previous to entering the United States Army, a soldier in the confederate army, and after being mustered out of the United States service, traveled through the South collecting charity, and used the following card in order to obtain assistance:

To a benevolent public:

The bearer of this, Francis Curran, having joined the confederate army at Senatobia, Miss., and as a good soldier served his time faithfully, having lost his eyesight while a prisoner of war at Louisville, Ky.

Sergeant Company B, Ninth Mississippi Regiment.

Any help will never be forgotten.

J. P. HOULIGHAN, *Captain.*
T. W. WHITE,
Colonel Ninth Mississippi Regiment.

The following testimony shows clearly that the statement that claimant lost his eyes while in the confederate service is not true.

Capt. Charles F. Bender, of Company E, Thirteenth Indiana Cavalry, states under oath that "claimant was sound in every respect at date of enlistment." Owen Maguire and John Tighe both state in separate affidavits—

"That they became acquainted with claimant about March, 1863, at New Albany, Ind., and said acquaintance continued until his enlistment, and they never knew him to complain of having sore eyes or being afflicted in any manner whatever, and always believed him sound in every respect."

Capt. C. F. Bender made oath in affidavit June 15, 1875:

"The claimant was attacked with disease of the eyes in line of duty on picket just near Huntsville about August 20, 1864."

Elisha Weakly, lieutenant of Company E, Thirteenth Regiment Indiana Volunteer Infantry, makes oath, under date of November 17, 1877:

"In the summer of 1865 I was doing provost duty near Columbus, Miss., and claimant was suffering from disease of the eyes during that time, which continued until the date of his discharge. He was a good and obedient soldier."

The following affidavit, signed by the surgeon of claimant's regiment, is sufficient to substantiate the loss of sight soon after leaving the United States service:

"NEW ORLEANS, *September 3*, 1872.

"I certify that the records of Charity Hospital, New Orleans, show that Francis Curran was admitted to this institution on the 19th day of March, 1866, and discharged the 11th day of June, 1866. He was suffering from total loss of sight."

A special examination conducted by Charles R. Connor, special agent, September 28, 1878, reads as follows:

"This is a very peculiar case, and I have been unable to find any satisfactoy evidence that the claimant's eyes became diseased while he was in the confederate army. It is possible, but highly improbable, that his eyes were diseased at the time of his enlistment, December 25, 1863."

The fact that the claimant served in the confederate army ought not of itself to bar him from receiving a pension, and the testimony seems conclusive that he served faithfully nearly two years in the Army of the United States, and has been totally blind ever since his discharge.

The passage of the bill is recommended.

Mr. HEWITT, of Alabama. I desire to say just one word about this bill. It is proposed to give a pension of $72 a month to an applicant who was at one time a confederate soldier.

The bill was laid aside to be reported to the House with the recommendation that it do pass.

PATRICK MURPHY.

The next business on the Private Calendar was the bill (H. R. 7047) granting a pension to Patrick Murphy.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Patrick Murphy, late a private in the Second Independent Battery, Ohio Light Artillery.

Mr. HEWITT, of Alabama. I ask that the report be printed in the RECORD.

There was no objection, and it was so ordered.

The report (by Mr. LE FEVRE) is as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 7047) granting a pension to Patrick Murphy, submit the following report:

The claimant in this case enlisted September 1, 1864, as a private soldier in the Second Independent Battery, Ohio Light Artillery, and was discharged August 10, 1865. The claim for pension is that—

"While encamped at Carrollton, La., in the fall of 1864, he became afflicted with sore eyes, and after moving with the battery to Ship Island, in the Gulf, they became worse, attributable to the glare of the sun upon the sand; was also from time to time while on the island threatened with brain disease, and before his discharge had one or two fits."

The claim was rejected January 8, 1883, on the ground that there is—

"no medical evidence of origin of disease or existence at discharge, and claimant's inability to furnish satisfactory evidence of origin in the service and line of duty and continuance since discharge."

The claimant says he can not furnish the affidavit of a surgeon for treatment for sore eyes in the Army for the reason that—

"he was not treated by any physician while in the service, but that he was treated for said disease immediately after he returned from the Army, and has made every effort possible to procure testimony from the surgeon who treated him, but can not find him."

John B. and Mary Moore, of Conneaut, Ohio, testify to having—

"known the claimant for ten years before the war; that he boarded a large part of the time at their house; that he was a sound, healthy man, and that his eyes were in a sound and good condition."

Hiram J. and Stephen W. Marsh, of Conneaut, Ohio, comrades and members of the same battery with him, testify that—

"in February, 1865, at Ship Island, Mississippi, claimant contracted disease of eyes."

In an affidavit given June 13, 1882, John B. and Mary Ann Moore again testify that—

"at the time of his return from the Army, in 1865, his eyes were badly diseased and the right one almost completely lost; that they often saw him between 1865 and 1878, and during that time his eyes were badly diseased, and that he could do but little manual labor and was almost wholly dependent upon others for support."

Dr. A. H. Stephens makes affidavit that "claimant was admitted to the National Soldiers' Home, Dayton, Ohio, in Febuary, 1878, with partial loss of sight from diseased retina, pulmonary phthisis, hemorrhage of lungs, and cough, and that he is partially blind, and is still under treatment there."

Fery Quinn and Thaddeus S. Young, neighbors in Conneaut, Ohio, both testify that "claimant was a sound, healthy man previous to enlistment," and Young, being in same battery with claimant, testifies that "claimant contracted inflamed and weak eyes while at Ship Island, Mississippi, and in the line of his duty;" and he remembers, in a general way, that there were others of the command afflicted in the same manner while at Ship Island.

Dr. L. P. Sturtevant, of Conneaut, Ohio, in affidavit made March 23, 1883, swears that he "attended claimant professionally in 1875 and 1876 for sore eyes; that they were weak and the sight nearly gone. The claimant said that the cause of his eyes being affected was the reflection of the sun's rays from the sand on Ship Island, Mississippi, while in the service; his disability was at the time of treatment such as to prevent his doing any manual labor."

John Gaffney, Mary Moore, and Maggie Trimble, of Conneaut, Ohio, all testify that they knew claimant previous to enlistment, and that he had no disease of eyes, and was able to do all kinds of manual labor done on a farm; they further state that upon his return home from the Army his eyes were badly inflamed and his sight greatly impaired, and from that time until his admission to the Soldiers' Home at Dayton he was so afflicted as not to be able to perform manual labor.

These witnesses last named are vouched for as being persons of credibility and integrity. The examining surgeons at Dayton certify as follows, under date of February 1, 1882:

"He has a cataract of right eye and one partially formed in left eye. He can barely discern enough to get around the ward. He is disabled from all manual labor."

The testimony is sufficient as above given to lead your committee to the conviction that the claimant ought to have had a pension long ago, and the passage of the bill is cheerfully recommended.

The bill was laid aside to be reported to the House with the recommendation that it do pass.

RUSSELL F. DIMMICK.

The next business on the Private Calendar was the bill (H. R. 6594) granting a pension to Russell F. Dimmick.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Russell F. Dimmick, late a private in Company E, First Regiment Wisconsin Volunteer Infantry.

The report (by Mr. LE FEVRE) was ordered to be printed in the RECORD. It is as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 6594) granting a pension to Russell F. Dimmick, submit the following report:

Your committee, having examined all the papers in this case, find that Russell F. Dimmick, the claimant, enlisted January 20, 1863, in Company E, First Regiment Wisconsin Volunteer Infantry, and was discharged June 15, 1865. The claim for pension is—

"That at Chickamauga, Tenn., September 19, 1863, he was struck in the right eye by a fragment of a shell."

In another declaration made December 24, 1877, he states:

"On the march from Nashville, Tenn., to Hoover's Gap, Tenn., from the middle of July to August 15, 1863, had his eyes continually filled with dust, which caused inflammation and injury of the optic nerve, also affecting the eyelids, which became granulated, all of which caused partial blindness of both eyes, the right eye being now almost totally blind, and the other gradually becoming so; that he was also hit with a splinter of a shell in the right eye at the battle of Chickamauga on the 19th day of September, 1863, which has also helped to cause the blindness as herein stated."

A pension in this claim was allowed by the Pension Department January 6, 1880, but was suspended September 4 of the same year. The pension was discontinued on the ground that the disability of the claimant existed previous to enlistment.

Philip Fay, under date of February 12, 1878, swore as follows:

"Have known the claimant for over twenty years—ever since he was a little boy. Never knew or heard of his eyesight being impaired prior to his enlistment in the Army."

Michael Malone, under date of February 12, 1884, also swore:

"Have known claimant nearly all his life, and never heard of his being troubled with any disease of his eyes."

Charles C. Kimball, late captain of Company E, First Wisconsin Volunteer Infantry, March 7, 1877, made oath as follows:

"The claimant was with me at the battle of Chickamauga, Tenn., September 19, 1863, and was there wounded in the eye with the splinter of a shell."

William Colter, late private Company E, First Wisconsin Volunteers, under date of February 12, 1878, makes oath:

"Claimant was disabled on the line of march from Nashville, Tenn., to Hoover's Gap, in 1863, by getting nearly blind in both eyes on account of dust and sand and a splinter of shell in his eye."

John Fitzgerald, under date of June 3, 1879, makes oath as follows:

"I know that claimant was disabled in eyesight on line of march to Hoover's Gap, from Nashville, Tenn., about July 2, 1863, by getting sand and dust in his eyes, and causing him to be sent back to hospital."

Benjamin F. Dieman, late private Company E, First Wisconsin Volunteer Infantry, under date of June 24, 1879, makes oath:

"Claimant got his eyes injured on the march from Nashville to Hoover's Gap, Tenn., in July, 1863, which was the cause of his being sent back to hospital."

Joseph Hoskin and D. C. McVean testify substantially as the last two affiants.

Norman Barnes, Patrick Murphy, Dr. I. H. Stevens, and Michael Malone all testify to the condition of claimant's sight since discharge from the Army, and agree that the disability has existed continuously from the date of his discharge.

The surgeon's certificate of discharge, June 16, 1865, reads as follows:

"I find him incapable of performing the duties of a soldier because of loss of right eye, caused by explosion of another soldier's gun, and powder being blown into the eye, incurred while in the line of his duty as a soldier."

The statement of the surgeon seems to differ from the claim of Dimmick that he was hit by a splinter of a shell, but in the haste of making out such reports it is not strange that there should be a slight variance.

At a special examination, conducted in November, 1880, by James H. Clements, special agent, several witnesses swear that claimant had sore eyes previous to enlistment; but the fact remains abundantly proven that he was struck in the right eye with fragment of a shell. The examining surgeons certify that "he sees but little with right eye."

Considering all the testimony, your committee recommend the passage of the accompanying bill.

The bill was laid aside to be reported to the House with the recommendation that it do pass.

ORDER OF BUSINESS.

The CHAIRMAN. The Chair calls the attention of the gentleman from Indiana [Mr. MATSON] to the fact that the next bill on the Calendar, the bill (S. 315) granting a pension to William Reinhardt, has been returned to the Senate in accordance with their request.

Mr. MORRILL. I wish to state that the House bill for the benefit of the same person passed the Senate and became a law at the last session. I was to make the motion that the bill be reported with the recommendation that it do lie on the table; but if the bill is in the hands of the Senate, of course that motion can not be made.

The CHAIRMAN. The bill is not here.

Mr. MATSON. Under the circumstances I think it should go off the Calendar.

FREDERICK P. DEARTH.

Mr. MORRILL. I desire to call up a bill on page 49 of the Calendar, the bill (H. R. 7315) granting a pension to Frederick P. Dearth. Mr. Dearth is 81 years old, and is in the poor-house in one of the counties of my district. He gave his son to the cause of the Union. The son died at Corinth of typhoid fever. The old man is quite feeble, and it is hardly likely that he will be alive at another session of Congress. I ask the indulgence of the House to take up the bill and pass it that he may derive some benefit from it.

The bill (H. R. 7315) granting a pension to Frederick P. Dearth was read, as follows:

Be it enacted, &c., That the Secretary of the Interior is hereby directed to place on the pension-roll, subject to the restrictions and limitations of the pension laws, the name of Frederick P. Dearth, dependent father of Edwin P. Dearth, late of the Fifty-second Illinois Volunteers.

The report is as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 7315) granting a pension to Frederick P. Dearth, submit the following report:

The claimant was the father of Edwin D. Dearth, a private in Company H, Fifty-second Regiment of Illinois Volunteers. The soldier enlisted September 24, 1861. He served faithfully until the battle of Corinth, October 3, 1863, when he was taken prisoner. Near the close of that month he was paroled and sent to Benton Barracks. The following March he was returned to his regiment, near Corinth, Miss., and on the 21st of August, 1863, he died in the military hospital of dysentery. The soldier's mother died in 1850. The trustee of Louisville Township, Pottawatomie County, testifies:

"That by virtue of his office he is overseer of the poor; that Frederick P. Dearth for more than one year past to date (May 29, 1883) has been a pauper and supported at the public expense; that I have been for several years acquainted with Mr. Dearth, and know him to be a worthy man; and that he has not property of any kind out of which he can support himself."

The claimant testifies that he had property to the value of $300 when his son died; that he was in part dependent on his son for support, and that his son died leaving no wife or child. Claimant is now in his eighty-first year, old and decrepit, and unable to furnish the evidence required by the Pension Department showing his dependence on the soldier at the time of the latter's death.

While the evidence furnished establishes the facts stated above, they are not sufficient to justify the Pension Department in granting a pension, but it makes a case which Congress ought to act upon promptly by the immediate passage of the bill.

The bill was laid aside to be reported to the House with the recommendation that it do pass.

DANIEL M'ALPIN.

Mr. PETERS. Mr. Chairman, I ask consent to make a statement. I met yesterday a soldier of the war of 1812, now 90 years old. I am satisfied that he can live but thirty or sixty days longer. A bill granting him a pension has been reported favorably by the Committee on Pensions, and is on page 52 of the Calendar. I ask the indulgence of the Committee of the Whole that his case may be taken up and passed to-night.

There being no objection, the Committee of the Whole House proceeded to the consideration of the bill (H. R. 7503) for the relief of Daniel McAlpin.

The bill was read, as follows:

Be it enacted, &c., That the charge of desertion against Daniel McAlpin, Sixteenth United States Infantry, war of 1812, be, and it is hereby, removed.

SEC. 2. That the Secretary of the Interior be, and he is hereby, authorized to place on the pension-roll, subject to the rules and limitations of the pension laws, the name of Daniel McAlpin, formerly of the Sixteenth United States Infantry, war of 1812.

The report (by Mr. LAIRD) was read, as follows:

The Committee on Pensions, to whom was referred the bill for the relief of Daniel McAlpin, respectfully report:

The records show that Daniel McAlpin enlisted on the 25th day of May, 1814, in the Sixteenth United States Infantry, for five years, war of 1812. He was present for duty up to February 28, 1815. On the April rolls he is reported as having deserted March 15, 1815. His claim was rejected by the Pension Office on that ground. Claimant says that he enlisted for five years or the war; that the war being over in March, 1815, he applied for leave to go home to see his sick mother; that his captain granted the furlough, and told him he could stay home until he called for him, and that he was never called upon, and had no knowledge that he was reported a deserter until he was so informed when he made his application for pension.

Your committee recommend that the charge of desertion be removed from this old soldier, and that he be allowed a pension for his few remaining years. They therefore offer a bill as a substitute for H. R. 6950, and recommend that it do pass.

There being no objection, the bill was laid aside to be reported to the House with a recommendation that it do pass.

THOMAS SIMPSON.

Mr. MATSON. I have a request to make. I have received several letters from Indiana—one from a member of our State senate—in relation to the case of Thomas Simpson. The bill for his relief is on page 50 of the Calendar, having been reported favorably by the Committee on Invalid Pensions. This man is in extremely indigent circumstances, and relief in his case ought to be granted immediately. I ask unanimous consent that the bill be taken up out of its order and passed.

There being no objection, the Committee of the Whole House proceeded to the consideration of the bill (H. R. 1924) granting a pension to Thomas Simpson.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Thomas Simpson, late a private in the Seventh Indiana Battery in the war of the rebellion.

The report (by Mr. MATSON) was read, as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 1924) granting a pension to Thomas Simpson, late of the Seventh Indiana Battery, beg to offer the following report:

The claimant, Simpson, enlisted January 2, 1864, as a private in the Seventh Indiana Battery. At that time the evidence is conclusive that he was a strong and healthy man.

George C. Masterman, who was second lieutenant of the battery, testifies that on or about the 22d of July, 1864, at Atlanta, Ga., the battery was ordered into position; that the claimant, with others, was ordered in front of the battery to carry rails to build breastworks; while so engaged the order was given to fire; Simpson, not being aware of the order, came immediately in range of one of the guns, the concussion of the shell or the powder knocking him down, rendering him insensible for fifteen or twenty minutes, he being so close to the gun that his face was blackened by the powder; that after this occurrence he was never able to do full duty again during the remainder of his term of service; that before this he had always been able to do duty at all times.

Comrades Fletcher, Johnson, and Deford all testify substantially to the foregoing, saying they were present and witnessed the occurrence and that they can not be mistaken about it.

The evidence is that there was no surgeon with the battery regularly; that occasionally one would be detailed, but would remain only a short time. The records of the Surgeon-General's Office show that Simpson was admitted to general hospital at Jeffersonville, Ind., May 23, 1865, from New Albany, Ind., as convalescent (no other diagnosis), and returned to duty June 8, 1865. That the regimental records are not on file. Claimant was discharged July 13, 1865, under provisions of General Order No. 27, Department of Kentucky. His neighbors who were acquainted with him before he entered the service testify that since discharge he has not been able to perform labor for at least two-thirds to three-fourths of the time.

The claimant filed application for a pension in June, 1866, and alleged partial deafness and blindness. Also incapacity to do manual labor, caused by concussion. This has been rejected by the Pension Office for the reason that the medical examination does not disclose the fact that applicant was injured to the extent of preventing him from obtaining a living by manual labor. Against this, however, is the testimony of his neighbors, who all unite in saying that they knew him before he entered the service to be a strong, healthy man, and since discharge that he is a broken-down man and not able to do manual labor; that his injury has developed into epilepsy, and at the present time that he is totally incapacitated from earning a living by manual labor.

Your committee recommend the passage of the accompanying bill.

There being no objection, the bill was laid aside to be reported to the House with a recommendation that it do pass.

RELIEF OF CERTAIN PENSIONERS.

Mr. HOLMES. I ask unanimous consent that the Committee of the Whole House take up for consideration out of its order the bill (H. R. 1981) for the relief of certain pensioners enrolled by special acts of Congress.

This bill applies to a small class of pensioners. It provides substantially that where a special act has been passed by Congress the Pension Office may increase the rate of pension if the disability has increased since the date of the passage of such special act.

Mr. HEWITT, of Alabama. I must object to the consideration of that bill, because it is not a private bill, but ought to be on the Public Calendar.

Mr. HOLMES. I will say to the gentleman from Alabama that if consent be given that the bill be taken up and favorably considered to-night in Committee of the Whole I will not press it to a vote in the House to-night, but it may go over to be voted upon by a full House.

Mr. HEWITT, of Alabama. Is it on the Private Calendar?

Mr. PERKINS. The order under which we are acting does not confine us to the Private Calendar.

Mr. CUTCHEON. But this bill is on the Private Calendar.

Mr. HEWITT, of Alabama. This, I understand, is a public bill, not a private bill. It applies to a class of pensioners. It is a general bill, and ought to be on the Public Calendar.

Mr. HOLMES. This bill has been placed by the Speaker of the House upon the Private Calendar; and I suppose he considered it a proper bill to be placed there. It relates to a small class of pensioners.

Mr. HEWITT, of Alabama. It may have gone to the Private Calendar because the attention of the Speaker was not called to the fact that it was not a private bill.

The CHAIRMAN. The Chair understands the gentleman from Alabama as objecting to the request of the gentleman from Iowa [Mr. HOLMES].

Mr. MATSON. I move that the committee now rise.

The motion was agreed to.

The committee accordingly rose; and Mr. MCMILLIN having resumed the Chair as Speaker *pro tempore*, Mr. HATCH, of Missouri, reported that the Committee of the Whole House on the Private Calendar had had under consideration, pursuant to order, sundry bills on the Private Calendar reported by the Committee on Pensions and the Committee on Invalid Pensions, and had directed him to report the same back to the House with sundry recommendations.

The SPEAKER *pro tempore*. The Chair is informed there are two bills coming over from the session of last Friday night.

Mr. MATSON. I ask unanimous consent that they be passed over informally not losing their place.

There being no objection, it was so ordered.

BILLS PASSED.

The following bills reported from the Committee of the Whole House without amendment were severally ordered to be engrossed and read a third time; and being engrossed, they were accordingly read the third time, and passed.

A bill (H. R. 7141) granting a pension to Daniel W. Adams;
A bill (H. R. 6726) granting a pension to Margaret A. Maguire;
A bill (H. R. 4266) granting a pension to Margaret A. Ringwalt;
A bill (H. R. 6997) granting a pension to Henry Davis;
A bill (H. R. 435) granting a pension to Samuel W. Tracey;
A bill (H. R. 4021) granting a pension to Abraham Cover;
A bill (H. R. 2377) granting a pension to James Stockton;
A bill (H. R. 6692) granting a pension to David Whittington;
A bill (H. R. 6904) for the relief of John F. Chase;
A bill (H. R. 7046) granting a pension to Alonzo Cornwell;
A bill (H. R. 6596) granting a pension to John Hazlewood;
A bill (H. R. 6196) granting a pension to R. D. Lawrence;
A bill (H. R. 3751) granting a pension to Francis Curran;
A bill (H. R. 7047) granting a pension to Patrick Murphy;
A bill (H. R. 6594) granting a pension to Russell F. Dimmick;
A bill (H. R. 7315) granting a pension to Frederick P. Dearth;
A bill (H. R. 7503) for the relief of Daniel McAlpin; and
A bill (H. R. 1924) granting a pension to Thomas Simpson.

Amendments reported from the Committee of the Whole House to bills of the following titles were severally agreed to, and the bills as amended were respectively ordered to be engrossed and read a third time; and being engrossed, were accordingly read the third time, and passed:

A bill (H. R. 3355) for the relief of Mary Mulholland; and
A bill (H. R. 2538) granting a pension to Christiana Almier.

PLEASANT MINET.

A bill (H. R. 4751) granting a pension to Pleasant Minet, reported from the Committee of the Whole House with a recommendation that it lie on the table, was accordingly laid on the table.

Mr. MATSON moved to reconsider the various votes by which bills reported from the Committee of the Whole House were passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

And then, on motion of Mr. MATSON (at 10 o'clock and 25 minutes p. m.), the House adjourned.

PETITIONS, ETC.

The following petitions and papers were laid on the Clerk's desk, under the rule, and referred as follows:

By Mr. BAGLEY: Papers relating to the claim of Frank G. Mix—to the Committee on War Claims.

By Mr. B. W. JONES: Petition and papers to accompany House bill 4954, for relief of Orin L. Dodd—to the same committee.

By Mr. BELMONT: Petition of J. J. Harris and 275 others, ship owners, builders, and residents of Port Jefferson, Suffolk County, New York, asking an appropriation for a harbor of refuge at Long Island Sound—to the Committee on Rivers and Harbors.

Also, petition of F. F. Darling and 64 others, citizens of Port Jefferson, Suffolk County, New York, asking an appropriation for a harbor of refuge at Long Island Sound—to the same committee.

By Mr. J. M. CAMPBELL: Petition of D. R. Smith, of Bedford County, Pennsylvania, and others, asking an increase in widows' pensions—to the Committee on Pensions.

By Mr. CURTIN: Petition of citizens of Forest County, Pennsylvania, asking an appropriation for improvement of navigation of Timesta Creek—to Committee on Rivers and Harbors.

By Mr. DUNHAM: Petition of vessel-owners and merchants of Chicago, favoring an increase of appropriations for the Signal Service work, so as to improve its efficiency—to the Committee on Appropriations.

By Mr. ENGLISH: Petition of merchants and business men of Indianapolis, Ind., against the passage of the pending bankrupt bill—to the Committee on the Judiciary.

By Mr. EVERHART: Petition of the Pennsylvania Club, praying for the passage of Senate bill 398, in aid of common schools—to the Committee on Education.

By Mr. ERMENTROUT: Petition of Hon. John C. Myers, for reimbursement of moneys expended by him while consul-general to Shanghai, China—to the Committee on Claims.

By Mr. EVERHART: Petition of Philadelphia Board of Trade, in favor of Lowell bankrupt bill—to the Committee on the Judiciary.

By Mr. GIBSON: Petition of Thomas Hutchinson and others, asking an increase in widows' pensions—to the Committee on Pensions.

By Mr. D. B. HENDERSON: Petition of Ellen M. Brown and others, of Buchanan County, Iowa, urging increase of widows' pensions—to the same committee.

By Mr. HENLEY: Petition of John J. Krieg, of California, praying for an investigation of the French and American Claims Commission—to the Committee on Foreign Affairs.

By Mr. HOPKINS: Memorial of James B. Hayden, relative to cholera in swine—to the Committee on Agriculture.

By Mr. HILL: Petition of Elizabeth Mallett and others, of Paulding County, Ohio, asking for increase of widows' pensions—to the Committee on Pensions.

By Mr. LYMAN: Memorial of Arnold A. Rand and Albert Ordway, relative to a collection of photographic negatives illustrating the war of the rebellion—to the Committee on Military Affairs.

By Mr. CHARLES O'NEILL: Memorial of the Pennsylvania Club, of Philadelphia, urging the passage of Senate bill 398, in aid of common schools—to the Committee on Education.

By Mr. SENEY: Resolutions of New York Tobacco Board of Trade, against the Spanish treaty—to Committee on Ways and Means.

By Mr. E. B. TAYLOR: Petitions of C. E. Williams and others, and also of Jane Barr and others, for increase of widows' pensions—to the Committee on Pensions.

By Mr. WORTHINGTON: Petition of Fanny Goodman and 39 others, for increase of widows' pensions—to the same committee.

By Mr. WILLIS: Petition of Maurice Power, for pension—to the Committee on Invalid Pensions.

The following petitions for the passage of the Mexican war pension bill with Senate amendments were presented and severally referred to the Committee on Pensions:

By Mr. ARNOT: Of citizens of Steuben County, New York.

By Mr. BOUTELLE: Of Otis Martin and others, citizens of Guilford, Me.

By Mr. CANNON: Of Daniel Long and others, citizens of Urbana, Ill.

By Mr. FUNSTON: Of citizens of Memphis, Kans.

By Mr. GUENTHER: Of citizens of Lodi and of Briggsville, Wis.

By Mr. HORR: Of citizens of Saginaw County; of Montcalm County; of Henry W. Bancroft and others, citizens of Vestaburg; of J. M. D. Tucker and others, citizens of Howard City; of citizens of Gratiot, of South Saginaw, of Midland County, of Greenville, of Saginaw, of Byron; and of Andrew J. French and others, citizens of Saginaw, Mich.

By Mr. LOWRY: Of 100 citizens of Cromwell, Noble County, Indiana.

By Mr. POLAND: Of Joseph O. Freeman and others, of Waterbury, Vt.; and of E. W. Goddard and others, of Reading, Vt.

By Mr. PARKER: Of citizens of Edwards, N. Y.

By Mr. PAYNE: Of C. H. Wood and others, of Scipio, N. Y.

By Mr. PATTEN: Of citizens of Indiana County, Pennsylvania.

By Mr. SPRIGGS: Of citizens of Forestport, Oneida County, and of Camden, Oneida County, New York.

By Mr. VANCE: Of citizens of Polk County, North Carolina.

HOUSE OF REPRESENTATIVES.

SATURDAY, *January* 10, 1885.

The House met at 12 o'clock m. Prayer by the Chaplain, Rev. JOHN S. LINDSAY, D. D.

The Journal of yesterday's proceedings was read and approved.

ORDER OF BUSINESS.

Mr. RANDALL. Mr. Speaker, I call for the regular order of business, and move that the morning hour be dispensed with. My purpose is to go on with the naval appropriation bill.

Mr. STORM. I rise, Mr. Speaker, to a parliamentary question.

The SPEAKER. The gentleman will state it.

Mr. STORM. At the adjournment of the House yesterday, or rather at the time of taking a recess, the yeas and nays were ordered on a substitute to a bill then pending for the relief of Capt. Nicholas J. Bigley. I desire to know whether that comes up this morning as the unfinished business.

The SPEAKER. It is the unfinished business of the class to which it belongs; that is to say, of private bills. Under the practice of the House, when the previous question is ordered on the passage of a bill at the time of the adjournment it comes up the next day as unfinished business. But in this case the previous question was not ordered, nor was the pending question on the passage of the bill, but on an amendment. It will come up next Friday as unfinished business.

Pending the consideration of the motion of the gentleman from Pennsylvania to dispense with the morning hour, the Chair by unanimous consent will lay before the House personal requests of members.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted in the following cases:

To Mr. WOOD, for ten days, on account of important business.
To Mr. DIBBLE, for five days.
To Mr. RANKIN, indefinitely, on account of illness.
To Mr. ADAMS, of New York, until Tuesday next.

RELIEF OF EX-ARMY OFFICERS.

The SPEAKER. The Committee on Military Affairs, by unanimous consent, asks leave to have printed for its use testimony taken referring to sundry bills for the relief of various ex-officers of the Army. If there be no objection it will be ordered accordingly.

There was no objection.

ORDER OF BUSINESS.

Mr. STOCKSLAGER. Mr. Speaker, I desire to give notice that if the House shall not be disposed to dispense with the morning hour and take up the naval appropriation bill, I will ask the favor of the House to proceed to the consideration of the bills reported from the Committee on Public Buildings and Grounds under the special order of the House. If the House shall take up the naval appropriation bill, as the gentleman from Pennsylvania has assured the House it would not take longer than half an hour, I now give notice that when that bill has been disposed of I will call up the special order which I have indicated, which, under the order, takes precedence even of the morning hour.

Mr. RANDALL. Mr. Speaker, I wish to say that the special order to which the gentleman refers was made subject to the consideration of appropriation bills. Yet that special order is an extraordinary one, the like of which I never saw before during my entire Congressional career. It provides that it shall be in order until the many bills which the Committee on Public Buildings and Grounds have designated or may designate shall be considered and disposed of, and that this special order continue from day to day until all such bills on the House Calendar and the Speaker's table shall have been considered and acted upon by the House.

In the next place, I wish the House to understand that unless it is ready to co-operate in the passage of general appropriation bills there may be danger of an extra session of the next Congress, which I consider will be of much injury to the country, and still more to the party to which I belong.

Mr. STOCKSLAGER. I desire to say, Mr. Speaker, a few words in reply to what has fallen from the gentleman from Pennsylvania. He speaks of the special order providing for the consideration of bills reported from the Committee on Public Buildings as an extraordinary one. Will he be good enough to point out in what respect it is extraordinary?

Mr. RANDALL. It is most extraordinary in this, that it combines all these public buildings bills together, and provides that it shall be continuous until every single one of the public buildings bills embraced in the long list of those reported from the Committee on Public Buildings and Grounds on the Calendars of the House and on the Speaker's table shall be considered and disposed of. I stated the other day that there were thirty-five of them, but since then I find there are very many more. That special order is peculiar in the fact that it specially provides that every one of those public buildings bills shall be considered and disposed of, and that that special order shall be operative until that takes place. It provides that the House shall consider every bill that the committee may present for consideration.

Mr. STOCKSLAGER. I say it is no such thing.

Mr. RANDALL. Read the order.

Mr. STOCKSLAGER. I have read it time and again.

Mr. RANDALL. Let it be read.

Mr. STOCKSLAGER. I have the floor, and when I get through the gentleman can have it for any purpose he desires.

I wish to state further, Mr. Speaker, that however extraordinary it may be in the opinion of the gentleman from Pennsylvania, it nevertheless received much more than a two-thirds vote in this House on the 9th day of last April. A gentleman suggests that he did not understand it; it was read at the time, and if that be so he may not be able to understand it, I will say with due deference to my friend.

Now, the only difference between this special order and going into Committee of the Whole upon the Calendar in the ordinary way, without such order, is, that instead of having these bills all considered in the Committee of the Whole House on the state of the Union, open to unlimited debate, it is provided that the debate on each bill shall be limited to thirty minutes—fifteen minutes on each side—with unlimited amendment. It also provides in the second place that the Committee on Public Buildings and Grounds shall have the power to designate what particular bills they shall call up for consideration. Those are the only two points of difference between this special order and proceeding in the ordinary way without it.

Mr. TOWNSHEND. Mr. Speaker, is this debate in order?

The SPEAKER. It is not.

Mr. TOWNSHEND. Then I object.

Mr. STOCKSLAGER. I hope that will not be done, after the remarks which have been made by the gentleman from Pennsylvania. [Cries of "Regular order!"]

Mr. TOWNSHEND. I wish to make a speech on the bill granting pensions to Mexican soldiers, and can not be heard.

Mr. STOCKSLAGER. I hope the gentleman will have an opportunity to be heard on that bill, and that he will not object to my proceeding.

Mr. TOWNSHEND. I withdraw my objection.

Mr. RANDALL. I hope the gentleman from Indiana will be permitted to go on and make his speech, although I do not think he can answer the objection I have made.

Mr. STOCKSLAGER. I will leave that to the House and the country if I can be heard.

Now, Mr. Speaker, a word in response to what the gentleman has said about having an extra session.

Mr. COX, of North Carolina. Mr. Speaker, I renew the objection to this debate.

Mr. STOCKSLAGER. I hope my friend from North Carolina will not make the objection now, in view of what has been said by the gentleman from Pennsylvania. What he has said demands some notice on my part. The gentleman has said that this proceeding would force an extra session. I want to show that he is the gentleman himself who led the filibustering against the order of the House made by a large majority of the House, and which proceeding if kept up by him may force an extra session.

Mr. TURNER, of Kentucky. Regular order!

The SPEAKER. The regular order is on the motion of the gentleman from Pennsylvania——

Mr. HOLMAN. Mr. Speaker, I submit that my colleague ought to have an opportunity of saying a word at least in response to what has been said by the gentleman from Pennsylvania, if he desires it.

Mr. TOWNSHEND. A great deal has already been said. The gentleman has made quite a long speech, and, as I have said, I would like to be heard on the Mexican pension bill. [Cries of "Regular order!"]

Mr. STOCKSLAGER. Then if the House will not permit me to be heard, I wish to state that I will take the opportunity to make a fitting response at some future time. I wish gentlemen to understand that I have some rights on this floor, and my constituents have also, and I shall endeavor to maintain them.

The SPEAKER. The question is on agreeing to the motion of the gentleman from Pennsylvania to dispense with the morning hour.

The question was taken; and the Speaker decided that by the sound the noes appeared to prevail.

Mr. RANDALL. I demand the yeas and nays on the motion to dispense with the morning hour.

The yeas and nays were ordered.

The question was taken; and there were—yeas 135, nays 83, not voting 105; as follows:

YEAS—135.

Alexander,	Dibrell,	Le Fevre,	Ryan,
Anderson,	Dorsheimer,	Long,	Seney,
Atkinson,	Dowd,	Lyman,	Seymour,
Bagley,	Eaton,	McAdoo,	Shively,
Ballentine,	Eldredge,	McMillin,	Singleton,
Barksdale,	Elliott,	Matson,	Skinner, T. G.
Beach,	Ellis,	Millard,	Stevens,
Bisbee,	English,	Miller, J. F.	Stewart, Charles
Bland,	Ermentrout,	Mitchell,	Storm,
Breckinridge,	Everhart,	Morgan,	Strait,
Broadhead,	Fiedler,	Morse,	Struble,
Buchanan,	Foran,	Moulton,	Swope,
Buckner,	Forney,	Muller,	Taylor, J. M.
Budd,	Fyan,	Mutchler,	Thompson,
Cabell,	Garrison,	Neece,	Townshend,
Caldwell,	Geddes,	Nicholls,	Tully,
Campbell, Felix	Glascock,	Oates,	Turner, H. G.
Campbell, J. M.	Greenleaf,	Ochiltree,	Turner, Oscar
Candler,	Halsell,	O'Ferrall,	Valentine,
Cannon,	Hammond,	O'Neill, J. J.	Van Eaton,
Cassidy,	Hancock,	Patton,	Wakefield,
Clardy,	Hardeman,	Peel,	Wallace,
Clements,	Hatch, W. H.	Pierce,	Warner, A. J.
Cobb,	Henderson, D. B.	Post,	Warner, Richard
Connolly,	Henderson, T. J.	Potter,	Wellborn,
Cook,	Herbert,	Price,	Whiting,
Cosgrove,	Hewitt, G. W.	Pryor,	Wilkins,
Covington,	Hill,	Randall,	Williams,
Cox, S. S.	Holman,	Reagan,	Willis,
Cox, W. R	Hunt,	Reese,	Wilson, James
Crisp,	Hutchins,	Robertson,	Winans, E. B.
Curtin,	Jones, B. W.	Robinson, W. E.	Wolford,
Davis, L. H.	Keifer,	Rogers, J. H.	Yaple.
Deuster,	Lanham,	Rosecrans,	

NAYS—83.

Aiken,	Green,	McCormick,	Smith, A. H.
Bayne,	Hanback,	Maybury,	Smith, H. Y.
Blackburn,	Hart,	Milliken,	Stephenson,
Blanchard,	Haynes,	Mills,	Stockslager,
Boutelle,	Hemphill,	Murphy,	Sumner, D. H.
Bowen,	Hepburn,	Nelson,	Taylor, E. B.
Brainerd,	Hitt,	O'Hara,	Taylor, J. D.
Breitung,	Holmes,	Paige,	Thomas,
Brown, W. W.	Hopkins	Payne,	Tillman,
Browne, T. M.	Houk,	Perkins,	Tucker,
Chace,	Houseman,	Peters,	Vance,
Culbertson, W. W.	James,	Pettibone,	Wait,
Cullen,	Jeffords,	Phelps,	Wemple,
Cutcheon,	Johnson,	Poland,	White, Milo
Davidson,	Kean,	Pusey,	Wilson, W. L.
Davis, G. R.	Kleiner,	Ranney,	Wise, G. D.
Dunham,	Lacey,	Ray, Ossian	Wise, J. S.
Ferrell,	Lawrence,	Reed,	Woodward,
Funston,	Libbey,	Rockwell,	Worthington,
George,	Lowry,	Rowell,	York.
Goff,	McCold,	Smalls,	

NOT VOTING—105.

Adams, G. E.	Dibble,	Jordan,	Russell,
Adams, J. J.	Dingley,	Kelley,	Shaw,
Arnot,	Dockery,	Kellogg,	Skinner, C. R.
Barbour,	Dunn,	Ketcham,	Slocum,
Barr,	Ellwood,	King,	Snyder,
Belford,	Evans,	Laird,	Spooner,
Belmont,	Findlay,	Lamb,	Spriggs,
Bennett,	Finerty,	Lewis,	Springer,
Bingham,	Follett,	Lore,	Steele,
Blount,	Gibson,	Lovering,	Stewart, J. W.
Boyle,	Graves,	McComas,	Stone,
Bratton,	Guenther,	Miller, S. H.	Sumner, C. A.
Brewer, F. B.	Hardy,	Money,	Talbott,
Brewer, J. H.	Harmer,	Morrill,	Throckmorton,
Brumm,	Hatch, H. H.	Morrison,	Van Alstyne,
Burleigh,	Henley,	Muldrow,	Wadsworth,
Burnes,	Hewitt, A. S.	Murray,	Ward,
Campbell, J. E.	Hiscock,	Nutting,	Washburn,
Carleton,	Hoblitzell,	O'Neill, Charles	Weaver,
Chalmers,	Holton,	Parker,	Weller,
Clay,	Hooper,	Payson,	White, J. D.
Collins,	Horr,	Rankin,	Winans, John
Converse,	Howey,	Ray, G. W.	Wood,
Craig,	Hurd,	Rice,	Young.
Culberson, D. B.	Jones, J. H.	Riggs,	
Dargan,	Jones, J. K.	Robinson, J. S.	
Davis, R. T.	Jones, J. T.	Rogers, W. F.	

So (two-thirds not voting in favor thereof) the motion was not agreed to.

Mr. HARDEMAN. I wish to state, Mr. Speaker, that my colleague, Mr. BLOUNT, is detained at home on account of sickness.

Mr. STOCKSLAGER. I ask unanimous consent to dispense with the reading of the names.

Mr. RANDALL. I object.

The Clerk then recapitulated the names of those voting.

The following pairs on all political questions, until further notice, were announced from the desk:

Mr. RANKIN with Mr. HOWEY?
Mr. MORRISON with Mr. HISCOCK.
Mr. FOLLETT with Mr. BURLEIGH.
Mr. DARGAN with Mr. KELLOGG.
Mr. SHAW with Mr. FINERTY.
Mr. JONES, of Arkansas, with Mr. RUSSELL.
Mr. CARLETON with Mr. DINGLEY.
Mr. JORDAN with Mr. LAIRD.
Mr. CULBERSON, of Texas, with Mr. STEWART, of Vermont.
Mr. HURD with Mr. HATCH, of Michigan.
Mr. ARNOT with Mr. BELFORD.
Mr. MULDROW with Mr. EVANS.
Mr. BENNETT with Mr. SPOONER.
Mr. WELLER with Mr. MILLER, of Pennsylvania.
Mr. DOCKERY with Mr. HOOPER.
Mr. SPRINGER with Mr. GUENTHER.
Mr. CONVERSE with Mr. CHALMERS.
Mr. CLAY with Mr. STEELE.
Mr. VAN ALSTYNE with Mr. ELLWOOD.
Mr. DUNN with Mr. RAY, of New York.
Mr. WARD with Mr. RICE.
Mr. DIBBLE with Mr. BRUMM.
Mr. GREEN with Mr. ADAMS, of Illinois.
Mr. BARBOUR with Mr. ROCKWELL, until January 12.
Mr. CAMPBELL, of Ohio, with Mr. SKINNER, of New York, until January 12.
Mr. LEWIS with Mr. KETCHAM, until January 12.
Mr. ERMENTROUT with Mr. HARMER, until January 12.
Mr. ADAMS, of New York, with Mr. WADSWORTH, on all political questions, for this day.
Mr. BLOUNT with Mr. O'NEILL, of Pennsylvania, on all political questions, for this day.
Mr. JONES, of Alabama, with Mr. KELLEY, on all political questions, for to-day.
Mr. RIGGS with Mr. WASHBURN, on this vote.
Mr. LOVERING with Mr. MCCOMAS, on political questions, for this day.

Mr. WEAVER. Mr. Speaker, I ask unanimons consent to have my vote recorded.

The SPEAKER. Was the gentleman in his seat when the roll was called?

Mr. WEAVER. I was not in my seat, but I ask unanimous consent to record my vote.

The SPEAKER. The Chair can not, under the rules of the House, entertain that request.

The result of the vote was then announced as above recorded.

Mr. STOCKSLAGER. I now move that the House resolve itself into Committee of the Whole House on the state of the Union for the purpose of considering bills reported from the Committee on Public Buildings and Grounds under the special order. I should like to have unanimous consent for three or five minutes to make a statement.

Mr. RANDALL. I have no objection to that if we shall be allowed the same time in reply.

The SPEAKER. If there be no objection the gentleman from Indiana will be permitted to proceed for five minutes.

Mr. THOMPSON. Unless it is understood we shall have equal time to reply to the statement of the gentleman, I shall object.

Mr. HUTCHINS. I object. The Navy Department is without an appropriation to-day, and we ought to proceed to business. I object.

Mr. STOCKSLAGER. Will my friend from New York [Mr. HUTCHINS] allow me to ask him a question?

Mr. HUTCHINS. I object to that.

Mr. RANDALL. I ask for a division on the motion of the gentleman from Indiana, which I hope will be voted down at least by a majority.

Mr. STOCKSLAGER. If debate is not in order, I object to debate.

The SPEAKER. The question is on the motion of the gentleman from Indiana [Mr. STOCKSLAGER].

The House divided; and there were—ayes 72, noes 91.

So the motion was not agreed to.

Mr. RANDALL. I call for the regular order.

The SPEAKER. The regular order is the call of committees for reports.

Mr. HUTCHINS. I move to dispense with the morning hour for the call of committees.

The SPEAKER. The House has just refused by a yea-and-nay vote to dispense with the morning hour. But the gentleman from New York [Mr. HUTCHINS] may ask unanimous consent to dispense with the morning hour.

Mr. HUTCHINS. I withdraw the motion.

Mr. STOCKSLAGER. I desire to be more gracious to the gentleman from New York than he was to me, and shall not object to his request.

Mr. HUTCHINS. I withdraw the request.

The SPEAKER. The regular order is the call of committees for reports.

LANDS IN DETROIT.

Mr. MAYBURY, from the Committee on the Judicary, reported back with a favorable recommendation the bill (H. R. 7619) to release the reversionary right of the Government of the United States to certain lands in the city of Detroit and State of Michigan; which was referred to the Committee of the Whole House on the state of the Union, and the accompanying report ordered to be printed.

EVIDENCE TO QUIET TITLES.

Mr. POLAND, from the Committee on the Judiciary, reported, as a substitute for H. R. 7765, a bill (H. R. 7893) in relation to evidence to quiet titles. The bill (H. R. 7765) was laid on the table; and the substitute bill was read a first and second time, referred to the House Calendar, and, with the accompanying report, ordered to be printed.

LIGHTING NAVIGABLE WATERS BY ELECTRICITY.

Mr. CLARDY, from the Committee on Commerce, reported, as a substitute for H. R. 6852, a bill (H. R. 7894) to authorize experiments upon the practicability of lighting the navigable waters of the United States by electricity. The bill (H. R. 6852) was laid on the table; and the substitute bill was read a first and second time, referred to the Committee of the Whole House on the state of the Union, and, with the accompanying report, ordered to be printed.

UNITED STATES JURISDICTION ABROAD.

Mr. HITT, from the Committee on Foreign Affairs, reported back with a favorable recommendation the bill (H. R. 1867) to provide for the exercise of the jurisdiction conferred upon the United States in places out of their territory and dominion, and to repeal the Revised Statutes from section 4083 to section 4130 inclusive; which was referred to the House Calendar, and the accompanying report ordered to be printed.

VOLUNTEER FORCES.

Mr. MURRAY, from the Committee on Military Affairs, reported back with a favorable recommendation the bill (H. R. 7827) to provide for the muster and pay of certain officers and enlisted men of the volunteer forces; which was referred to the Committee of the Whole House on the state of the Union, and the accompanying report ordered to be printed.

ACCOUNT FOR ARMS—SOUTH CAROLINA.

Mr. DIBRELL, from the Committee on Military Affairs, reported back with a favorable recommendation the bill (H. R. 5159) authorizing the Secretary of War to adjust and settle the account for arms between the State of South Carolina and the Government of the United States; which was referred to the Committee of the Whole House on the state of the Union, and the accompanying report ordered to be printed.

PUBLIC BUILDING, NEW BEDFORD, MASS.

Mr. HOPKINS, from the Committee on Public Buildings and Grounds, reported back with a favorable recommendation the bill (H. R. 7035) to provide for the purchase of additional land for the uses of a public building in the city of New Bedford, State of Massachusetts; which was referred to the Committee of the Whole House on the state of the Union, and the accompanying report ordered to be printed.

PUBLIC BUILDINGS AT FORTRESS MONROE, VA.

Mr. LIBBEY, from the Committee on Public Buildings and Grounds, reported back with a favorable recommendation the bill (H. R. 4649) to provide for the erection of a post-office at Fortress Monroe, Va.; which was referred to the Committee of the Whole House on the state of the Union, and the accompanying report ordered to be printed.

PUBLIC BUILDING AT MARQUETTE, MICH.

Mr. BREITUNG, from the Committee on Public Buildings and Grounds, reported back with a favorable recommendation the bill (H. R. 7847) to increase the appropriation for the erection of a public building at Marquette, Mich.; which was referred to the Committee of the Whole House on the state of the Union, and the accompanying report ordered to be printed.

REPORT ON LABOR ABROAD

Mr. HOPKINS, from the Committee on Labor, reported the following resolution; which was referred to the Committee on Printing:

Resolved, That there shall be printed 20,000 copies of the communication of the Secretary of State upon the condition of labor abroad, of which number 5,000 copies shall be for the use of the Senate and 15,000 copies shall be for the use of the House of Representatives.

HEIRS OF JOSEPH H. NICKELL.

Mr. LE FEVRE, from the Committee on Invalid Pensions, reported back the bill (H. R. 6289) for the relief of the widow and heirs of Joseph H. Nickell; when the Committee on Invalid Pensions was discharged from the further consideration of the bill, and it was referred to the Committee on Military Affairs.

DESECRATION OF GRAVES.

Mr. WILSON, of West Virginia, from the Committee on the District of Columbia, reported back with a favorable recommendation the bill (H. R. 5656) for the promotion of anatomical science and to prevent the desecration of graves; which was referred to the House Calendar, and the accompanying report ordered to be printed.

DENTISTRY IN THE DISTRICT OF COLUMBIA.

Mr. WORTHINGTON, from the Committee on the District of Columbia, reported, as a substitute for H. R. 6968, a bill (H. R. 7895) for the regulation of the practice of dentistry in the District of Columbia, and for the protection of the people of said District from empiricism in relation thereto; which was read a first and second time, referred to the House Calendar, and, with the accompanying report, ordered to be printed. By unanimous consent, House bill No. 6968 was laid on the table.

STATUE OF LIBERTY ENLIGHTENING THE WORLD.

Mr. NUTTING, from the Committee on the Library, reported back with a favorable recommendation the joint resolution (H. Res. 296) to aid in the completion of the pedestal for the statue of Liberty enlightening the world; which, with the accompanying report, was ordered to be printed and recommitted.

RIGHT OF WAY THROUGH INDIAN LANDS.

Mr. PEEL, from the Committee on Indian Affairs, reported back with a favorable recommendation the bill (H. R. 7458) to amend an act entitled "An act to grant a right of way for a railroad and telegraph line through the lands of the Choctaw and Chickasaw Nations of Indians to the Saint Louis and San Francisco Railway Company, and for other purposes;" which was referred to the Committee of the Whole House on the state of the Union, and the accompanying report ordered to be printed.

THANKS OF CONGRESS TO COL. CHARLES C. LONG.

Mr. COX, of North Carolina. I desire to make a privileged report from the Committee on Foreign Affairs.

The SPEAKER. The Clerk will report the title of the joint resolution which the gentleman from North Carolina presents as a privileged report.

The Clerk read as follows:

Joint resolution (H. R. 86) tendering the thanks of Congress to Col. Charles C. Long.

The SPEAKER. This is not a privileged report.

Mr. COX, of North Carolina. I understand it to be so.

The SPEAKER. The Chair is not aware of any rule or practice making resolutions of this character privileged. Resolutions of inquiry addressed to heads of Departments are privileged under the rules. But if there be no objection, this joint resolution, upon which the Committee on Foreign Affairs report adversely, will be laid on the table and the accompanying report ordered to be printed.

There was no objection, and it was ordered accordingly.

DAVID L. BRAINARD AND OTHERS.

Mr. COX, of New York. I desire that a bill which has been referred by mistake to the Committee on Naval Affairs may be referred to the Committee on Appropriations.

There being no objection, the Committee on Naval Affairs was discharged from the further consideration of the bill (H. R. 7767) for the relief of David L. Brainard and others, non commissioned officers and privates of the Greely expedition; and it was referred to the Committee on Appropriations.

ORDER OF BUSINESS.

The SPEAKER. The call of the committees has now been completed.

Mr. RANDALL. I move that the House resolve itself into Committee of the Whole House on the state of the Union.

The motion was agreed to.

The House accordingly resolved itself into Committee of the Whole, Mr. WELLBORN in the chair.

The CHAIRMAN. The House is now in Committee of the Whole on the state of the Union for the consideration of revenue and general appropriation bills. The Clerk will report the title of the bill first in order.

The Clerk read as follows:

A bill (H. R. 7857) making appropriations for the consular and diplomatic service of the Government for the fiscal year ending June 30, 1886, and for other purposes.

Mr. BURNES. I ask unanimous consent that the bill be passed over for the present.

The CHAIRMAN. If there be no objection that order will be made.

There was no objection, and it was ordered accordingly.

NAVAL APPROPRIATION BILL.

The next bill in order was the bill (H. R. 7874) making additional appropriations for the naval service for the fiscal year ending June 30, 1885, and for other purposes.

Mr. HUTCHINS. I ask that the first reading of this bill be dispensed with, and that the Committee of the Whole now proceed to consider the bill by paragraphs.

The CHAIRMAN. If there be no objection the first reading of the bill will be dispensed with. The Chair hears none. The Clerk will now proceed to read the bill by paragraphs.

Mr. HUTCHINS. Before that is done I desire to state that this bill makes appropriations for the naval service for the fiscal year ending June 30, 1885; that is, for the six months beginning on the 1st of January last, at which time the appropriations made at the last session for this service expired. I ask that the Clerk read the report of the Committee on Appropriations which accompanies this bill and explains in detail its provisions. I think the reading of this report will better inform the Committee of the Whole in regard to the measure than any remarks I might be able to make on the subject.

The Clerk proceeded to read the report, which is as follows:

The Committee on Appropriations, in presenting the accompanying bill making additional appropriations for the naval service for the fiscal year ending June 30, 1885, and for other purposes, submit the following report in explanation thereof:

The bill makes provision for the naval service for the six months ending June 30, 1885, on the basis of the bill which passed the House during the first session of this Congress, giving for each item of expenditure just one-half of the amount contained in said bill, with the following exceptions:

For current expenses Bureau of Yards and Docks, in lieu of one-half, or $100,000, there is given $90,000.

For necessary repairs under Bureau of Medicine and Surgery, in lieu of one-half, or $5,000, there is given $2,500.

For current expenses Bureau of Construction and Repair, in lieu of one-half, or $500,000, there is given $450,000.

For current expenses Bureau of Steam-Engineering, in lieu of one-half, or $375,000, there is given $280,000, together with the unexpended balance, $140,000, from the appropriation in 1884 for the monitors.

For pay of the Navy and the Marine Corps there is given, in lieu of one-half the amount contained in said bill, a sum equal to the balance remaining after deducting the appropriations for the first six months from the whole sum proposed in said bill.

There is nothing in the bill for the steel cruisers, appropriations to complete them having already been made.

The bill appropriates in all $6,120,155.48, which, added to the sum appropriated for the first six months which ended December 31, 1884, $8,860,317.11, makes the total appropriation for the Navy for the entire fiscal year of 1885 $14,980,472.59, or $913,961.64 less than was appropriated for the fiscal year 1884.

The bill as now proposed contains the same features of new legislation that were embodied in the bill which passed the House at the last session, except that the following is excluded:

"And all officers of the Navy shall be credited with the actual time they may have served as officers, clerks, or enlisted men in the regular or volunteer Army or Navy, or both, and shall receive all the benefits of such actual service, in all respects in the same manner as if all said service had been continuous and in the regular Navy, in the grade having graduated pay held by such officer at the

time of the passage of this act; and the record of all service of such officer shall be entered in full, opposite his name, in the appropriate columns of the Navy Register, in the same manner as service in the regular Navy is credited: *Provided*, That nothing in this clause shall be so construed as to authorize any change in the dates of commission or in the relative rank of such officers: *Provided further*, That nothing herein contained shall be so construed as to give any additional or longevity pay to any such officer during the time of his service in the volunteer Army or Navy."

The unexpended balances of the appropriations made for the first six months of the year are reappropriated and made available for expenditure during the last half of the year.

Following is a table which shows by items the appropriations for the Navy for 1884; the amounts proposed by the House in the bill passed during the first session; the amounts proposed by the Senate by its amendments to said bill, and the amounts appropriated for the first half of the year 1885; the amounts proposed by the House for the last half of the year 1885; the first and second propositions of the Senate for that period; and the amounts now proposed by the accompanying bill.

Objects.	Appropriations for 1884.	Bill as passed House, 1885.	Bill as amended by Senate, 1885.	Appropriated first six months of 1885.	Bill as passed House for the second six months of 1885.	First proposed by Senate amendment for second six months of 1885.	Second proposed by Senate amendment for second six months of 1885.	Now proposed by House for second six months of 1885.
Pay of the Navy	$7,133,980 00	$6,917,605 00	$6,917,605 00	$3,566,990 00	$3,566,990 00	$3,350,615 00	$3,350,615 00	$3,350,615 00
Miscellaneous pay and contingent	400,000 00	390,000 00	435,000 00	200,000 00	200,000 00	235,000 00	190,000 00	195,000 00
BUREAU OF NAVIGATION.								
Current expenses	100,000 00	75,000 00	100,000 00	50,000 00	50,000 00	50,000 00	25,000 00	37,500 00
Special ocean surveys	10,000 00							
Compass-testing house		7,000 00	7,000 00			7,000 00	7,000 00	7,000 00
Contingent expenses	4,000 00	3,000 00	4,000 00	2,000 00	2,000 00	2,000 00	1,000 00	1,500 00
Civil establishment	5,000 00	5,000 00	5,000 00	2,500 00	2,500 00	2,500 00	2,500 00	2,500 00
BUREAU OF ORDNANCE.								
Current expenses	150,000 00	100,000 00	140,000 00	75,000 00	75,000 00	65,000 00	25,000 00	50,000 00
Manufacture of modern guns			175,980 00		25,000 00	175,980 00		
Necessary repairs, &c	15,000 00	15,000 00	15,000 00	7,500 00	7,500 00	7,500 00	7,500 00	7,500 00
Miscellaneous items	3,000 00	3,000 00	3,000 00	1,500 00	1,500 00	1,500 00	1,500 00	1,500 00
Civil establishment	5,000 00	5,000 00	5,000 00	2,500 00	2,500 00	2,500 00	2,500 00	2,500 00
Torpedo corps	50,000 00	50,000 00	50,000 00	25,000 00	25,000 00	25,000 00	25,000 00	25,000 00
Torpedoes	100,000 00		55,000 00			55,000 00		
BUREAU OF EQUIPMENT AND RECRUITING.								
Current expenses	800,000 00	700,000 00	850,000 00	400,000 00	400,000 00	450,000 00	298,000 00	350,000 00
Expenses of recruiting	25,000 00	25,000 00	25,000 00	12,500 00	12,500 00	12,500 00	12,500 00	12,500 00
Contingent expenses	10,000 00	10,000 00	10,000 00	5,000 00	5,000 00	5,000 00	5,000 00	5,000 00
Civil establishment	9,000 00	7,000 00	9,000 00	4,500 00	4,500 00	4,500 00	4,500 00	4,500 00
BUREAU OF YARDS AND DOCKS.								
Current expenses	264,000 00	200,000 00	250,000 00	110,000 00	110,000 00	140,000 00	80,000 00	90,000 00
Contingent expenses	20,000 00	10,000 00	20,000 00	10,000 00	10,000 00	10,000 00	5,000 00	5,000 00
Civil establishment	24,000 00	20,000 00	24,000 00	12,000 00	12,000 00	12,000 00	12,000 00	12,000 00
BUREAU OF MEDICINE AND SURGERY.								
Current and contingent expenses	115,000 00	115,000 00	115,000 00	57,500 00	57,500 00	57,500 00	57,500 00	57,500 00
Necessary repairs, &c	15,000 00	10,000 00	20,000 00	7,500 00	7,500 00	12,500 00	2,500 00	2,500 00
BUREAU OF PROVISIONS AND CLOTHING.								
Provisions	1,100,000 00	1,100,000 00	1,100,000 00	550,000 00	550,000 00	550,000 00	550,000 00	550,000 00
Contingent expenses	40,000 00	30,000 00	40,000 00	20,000 00	20,000 00	20,000 00	10,000 00	15,000 00
Civil establishment	6,000 00		6,000 00	3,000 00	3,000 00	3,000 00	3,000 00	3,000 00
BUREAU OF CONSTRUCTION AND REPAIR.								
Current expenses	1,100,000 00	1,000,000 00	1,500,000 00	550,000 00	550,000 00	850,000 00	450,000 00	450,000 00
Civil establishment	20,000 00	20,000 00	20,000 00	10,000 00	10,000 00	10,000 00	10,000 00	10,000 00
BUREAU OF STEAM-ENGINEERING.								
Current expenses	1,000,000 00	750,000 00	1,050,000 00	500,000 00	500,000 00	550,000 00	*250,000 00	*280,000 00
Contingent expenses	1,000 00	1,000 00	1,000 00	500 00	500 00	500 00	500 00	500 00
Civil establishment	10,000 00	10,000 00	10,000 00	5,000 00	5,000 00	5,000 00	5,000 00	5,000 00
Increase of the Navy	2,329,000 00	1,705,100 00	6,850,100 00	2,150,100 00		4,700,000 00	55,000 00	55,000 00
Naval Academy	181,282 73	181,229 45	181,229 45	90,641 36	90,641 36	90,588 08	90,588 08	90,614 73
Marine Corps	858,171 50	869,761 50	869,761 50	429,085 75	429,085 75	441,675 75	441,675 75	441,425 75
Total	15,894,434 23	14,334,695 95	20,863,675 95	8,860,317 11	6,735,217 11	11,904,358 83	5,986,378 83	6,120,155 48

* Also reappropriates an unexpended balance of $140,000 from appropriations for 1884 for the monitors.

Mr. HUTCHINS (before the Clerk had completed the reading). I think it unnecessary that the Clerk should read the remainder of the report, embracing merely a tabulated statement showing items of expenditure for 1884, which has been printed for the information of the House, and for comparison with the appropriations proposed in the pending bill.

Mr. RANDALL. I wish to say that, so far as I am advised, this bill has the unanimous concurrence of the Committee on Appropriations.

The Clerk proceeded to read the bill by paragraphs for amendment.

The Clerk read as follows:

For the pay of the Navy, for the active-list, namely: For one Admiral, one Vice-Admiral, eight rear-admirals, seven chiefs of bureaus, twenty-one commodores, forty-five captains, eighty-seven commanders, seventy-eight lieutenant-commanders, two hundred and seventy-two lieutenants, ninety-five junior lieutenants, ninety-five ensigns, ninety-eight junior ensigns, fourteen medical directors, fifteen medical inspectors, fifty surgeons, seventy-nine passed assistant surgeons, eight assistant surgeons, two assistant surgeons not in the line of promotion (who shall hereafter, after fifteen years' service, be entitled to receive, as annual pay, when at sea, $2,100, when on shore duty $1,800, and when on leave or waiting orders $1,600), thirteen pay-directors, twelve pay-inspectors, forty-nine paymasters, twenty-nine passed assistant paymasters, twenty assistant paymasters, sixty-nine chief engineers, ninety-three passed assistant engineers, seventy-eight assistant engineers, twenty-four chaplains, eleven professors of mathematics, ten naval constructors, nine assistant naval constructors, ten civil engineers, one hundred and eighty-eight warrant officers, thirty-eight mates, two hundred and ninety-five naval cadets; in all, $1,743,750. Naval line officers may be detailed as instructors in mathematics or other branches of learning in any schools or colleges, according to the act of February 26, 1879; but the total number of all naval officers so detailed shall not exceed forty.

Mr. GLASCOCK. Mr. Chairman, I make the point of order on that part of the paragraph from line 32 to line 36, which is in these words:

Naval line officers may be detailed as instructors in mathematics or other branches of learning in any schools or colleges, according to the act of February 26, 1879; but the total number of all naval officers so detailed shall not exceed forty.

My point of order is that that is new legislation and not in the direction of economy.

Mr. HUTCHINS. That provision in the bill undoubtedly is subject to the point of order made by the gentleman from California, but I will state that the same provision passed the House at the last session of Congress, although the bill failed to become a law. If the gentleman insists upon his point of order I think it is well taken.

The CHAIRMAN. The point of order is sustained and the portion of the paragraph indicated is ruled out.

The Clerk read as follows:

For two secretaries, one to the Admiral and one to the Vice-Admiral, clerks to paymasters, clerks at inspections, navy-yards, and stations, and extra pay to men enlisted under honorable discharge; commission and interest, transportation of funds, exchange; mileage to officers while traveling under orders in the United States, and for actual personal expenses of officers while traveling abroad under orders, and for traveling expenses of apothecaries, yeomen, and civilian employés, and for actual and necessary traveling expenses of naval cadets while proceeding from their homes to the Naval Academy for examination and appointment as cadets, and for the payment of any such officers as may be in service, either upon the active or retired list, during the year ending June 30, 1885, in excess of the numbers of each class provided for in this act, and for any increase of pay arising from different duty, as the needs of the service may require; for rent and furniture of buildings and offices not in navy-yards; ex-

penses of courts-martial and courts of inquiry, boards of investigation, examining boards, with clerks' and witnesses' fees, and traveling expenses and costs; stationery and recording; expenses of purchasing-paymasters' offices at the various cities, including clerks, furniture, fuel, stationery, and incidental expenses; newspapers and advertising; foreign postage; telegraphing, foreign and domestic; telephones; copying; care of library; mail and express wagons, and livery and express fees; costs of suits; commissions, warrants, diplomas, and discharges; relief of vessels in distress, and pilotage; recovery of valuables from shipwrecks; quarantine expenses; care and transportation of the dead; reports, professional investigation, cost of special instruction, and information from abroad, and the collection and classification thereof, $187,500.

Mr. MORSE. I move, after the word "dollars," in line 88, to insert the following:

And all officers of the Navy shall be credited with the actual time they may have served as officers, clerks, or enlisted men in the regular or volunteer Army or Navy, or both, and shall receive all the benefits of such actual service in all respects in the same manner as if all said service had been continuous and in the regular Navy, in the grade having graduated pay held by such officer at the time of the passage of this act; and the record of all service of every such officer shall be entered in full, opposite his name, in the appropriate columns of the Naval Register, in the same manner as service in the regular Navy is credited: *Provided*, That nothing in this clause shall be so construed as to authorize any change in the dates of commission or in the relative rank of such officers: *Provided further*, That nothing herein contained shall be so construed as to give any additional or longevity pay to any such officer during the time of his service in the volunteer army or navy.

Mr. HUTCHINS. I make the point of order that that is new legislation and not in the line of retrenchment.

The CHAIRMAN. Does the gentleman from Massachusetts wish to be heard on the point of order?

Mr. MORSE. I do not. If the point of order is insisted upon I have no doubt it will hold good as against my amendment. However, I would like to state that this provision was offered in the House before the bill went to the Senate, and that there was an almost unanimous vote in its favor. I regret, of course, that my friend from New York should deem it to be his duty to make the point of order against the amendment, because if the provision be not allowed to come into the naval appropriation bill it will be impossible otherwise to establish any such regulation in the law.

Mr. HUTCHINS. In reply to the gentleman from Massachusetts I will state that it is the desire on the part of the Committee on Appropriations if possible to have this bill passed as it has been reported, as the gentleman knows there has been a conflict between the House and Senate on this subject.

The regular annual appropriation bill for 1886 will come in in a short while, and to that bill the gentleman can move his amendment. At present we have not the time to consider it. I do not know what the effect will be, and I am therefore compelled to interpose the point of order.

Mr. MORSE. I will withdraw my amendment for the present.

The reading of the bill was concluded.

Mr. HUTCHINS. I move that the committee rise for the purpose of reporting the bill to the House with the recommendation that it do pass.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. WELLBORN reported that the Committee of the Whole House on the state of the Union had, according to order, had under consideration the bill (H. R. 7874) making additional appropriations for the naval service for the fiscal year ending June 30, 1885, and for other purposes, and had directed him to report the same back to the House with the recommendation that it do pass.

Mr. HUTCHINS. I demand the previous question.

The previous question was ordered, and under the operation thereof the bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

The SPEAKER. Under the rule the vote on the passage of the bill must be taken by yeas and nays.

Mr. RANDALL. Certainly.

The SPEAKER. This bill is based upon estimates of the Department, and as a general appropriation bill the rule requires the vote on its passage shall be taken by yeas and nays.

Mr. RANDALL. It is based upon the estimates of the Department and is a reappropriation of all moneys unexpended during the first six months, and then in another of its features it runs the two periods together so as to cover the fiscal year.

Mr. REED. I ask if we can not have unanimous consent to dispense with taking the yeas and nays?

The SPEAKER. The gentleman from Pennsylvania insists on the vote being taken by yeas and nays.

Mr. REED. Of course he must have his amusement.

Mr. RANDALL. I must have the rules of the House executed.

Mr. REED. But the rules can be dispensed with always by unanimous consent.

The question was taken; and it was decided in the affirmative—yeas 209, nays 0, not voting 114; as follows:

YEAS—209.

Adams, G. E.	Bayne,	Brainerd,	Brown, W. W.
Aiken,	Beach,	Bratton,	Browne, T. M.
Alexander,	Blackburn,	Breckinridge,	Buchanan,
Anderson,	Blanchard,	Breitung,	Buckner,
Atkinson,	Boutelle,	Brewer, F. B.	Budd,
Bagley,	Bowen,	Brewer, J. H.	Burnes,
Barksdale,	Boyle,	Broadhead,	Cabell,
Caldwell,	Hemphill,	Moulton,	Storm,
Campbell, Felix	Henderson, D. B.	Muller,	Struble,
Campbell, J. M.	Henderson, T. J.	Murphy,	Sumner, D. H.
Candler,	Henley,	Murray,	Swope,
Cannon,	Herbert,	Necce,	Taylor, E. B.
Clardy,	Hewitt, A. S.	Nelson,	Taylor, J. D.
Clements,	Hewitt, G. W.	Nicholls,	Taylor, J. M.
Cobb,	Hiscock,	Nutting,	Thomas,
Cook,	Hitt,	Oates,	Thompson,
Cosgrove,	Hoblitzell,	Ochiltree,	Throckmorton,
Covington,	Holman,	O'Ferrall,	Tillman,
Cox, S. S.	Holmes,	O'Hara,	Townshend,
Crisp,	Hopkins,	O'Neill, J. J.	Tucker,
Culbertson, W. W.	Horr,	Paige,	Tully,
Cullen,	Houk,	Patton,	Turner, H. G.
Cutcheon,	Houseman,	Payne,	Turner, Oscar
Davidson,	Hunt,	Peel,	Vance,
Davis, G. R.	Hurd,	Perkins,	Van Eaton,
Davis, L. H.	Hutchins,	Pettibone,	Wait,
Davis, R. T.	James,	Phelps,	Wakefield,
Dibrell,	Johnson,	Pierce,	Wallace,
Dorsheimer,	Jones, B. W.	Post,	Warner, A. J.
Dowd,	Jones, J. H.	Price,	Warner, Richard
Dunham,	Kean,	Pryor,	Washburn,
Eldredge,	Keifer,	Randall,	Weaver,
Elliott,	Kleiner,	Ranney,	Wellborn,
English,	Lacey,	Ray, Ossian	Wemple,
Everhart,	Lamb,	Reagan,	White, Milo
Ferrell,	Lanham,	Reed,	Whiting,
Fiedler,	Lawrence,	Reese,	Wilkins,
Finerty,	Le Fvere,	Riggs,	Williams,
Foran,	Libbey,	Rockwell,	Willis,
Forney,	Long,	Rosecrans,	Wilson, James
Funston,	Lyman,	Rowell,	Wilson, W. L.
Garrison,	McAdoo,	Ryan,	Winans, E. B.
Geddes,	McCormick,	Seney,	Winans, John
Glascock,	McMillin,	Seymour,	Wise, G. D.
Green,	Matson,	Shively,	Wise, J. S.
Greenleaf,	Maybury,	Singleton,	Wolford,
Halsell,	Millard,	Skinner, T. G.	Woodward,
Hammond,	Miller, J. F.	Smith, H. Y.	Worthington,
Hanback,	Milliken,	Spriggs,	Yaple,
Hancock,	Mills,	Stephenson,	York.
Hardeman,	Mitchell,	Stevens,	
Hatch, W. H.	Morgan,	Stewart, Charles	
Haynes,	Morse,	Stone,	

NAYS—0.

NOT VOTING—114.

Adams, J. J.	Dibble,	Jordan,	Robinson, J. S.
Arnot,	Dingley,	Kelley,	Robinson, W. E.
Ballentine,	Dockery,	Kellogg,	Rogers, J. H.
Barbour,	Dunn,	Ketcham,	Rogers, W. F.
Barr,	Eaton,	King,	Russell,
Belford,	Ellis,	Laird,	Shaw,
Belmont,	Ellwood,	Lewis,	Skinner, C. R.
Bennett,	Ermentrout,	Lore,	Slocum,
Bingham,	Evans,	Lovering,	Smalls,
Bisbee,	Findlay,	Lowry,	Smith, A. H.
Bland,	Follett,	McCoid,	Snyder,
Blount,	Fyan,	McComas,	Spooner,
Brumm,	George,	Miller, S. H.	Springer,
Burleigh,	Gibson,	Money,	Steele,
Campbell, J. E.	Goff,	Morrill,	Stewart, J. W.
Carleton,	Graves,	Morrison,	Stockslager,
Cassidy,	Guenther,	Muldrow,	Strait,
Chace,	Hardy,	Mutchler,	Sumner, C. A.
Chalmers,	Harmer,	O'Neill, Charles	Talbott,
Clay,	Hart,	Parker,	Valentine,
Collins,	Hatch, H. H.	Payson,	Van Alstyne,
Connolly,	Hepburn,	Peters,	Wadsworth,
Converse,	Hill,	Poland,	Ward,
Cox, W. R.	Holton,	Potter,	Weller,
Craig,	Hooper,	Pusey,	White, J. D.
Culberson, D. B.	Howey,	Rankin,	Wood,
Curtin,	Jeffords,	Ray, G. W.	Young.
Dargan,	Jones, J. K.	Rice,	
Deuster,	Jones, J. T.	Robertson,	

So the bill was passed.

Mr. RANDALL moved to dispense with the reading of the names.

Mr. REED. I would like to hear the names of the negative side read. [Laughter.]

The SPEAKER. Does the gentleman object?

Mr. REED. No; only I would like to hear the names in the negative.

The following additional pairs were announced:

Mr. NICHOLLS with Mr. ROBINSON, of Ohio, on all political questions, for this day.

Mr. SNYDER with Mr. GOFF, on political questions, for this day.

Mr. TOWNSHEND with Mr. SMITH, of Pennsylvania, for this day.

Mr. GEORGE with Mr. ROGERS, of Arkansas, on political questions, for this day.

Mr. PUSEY with Mr. MCCOID, for the remainder of this day.

Mr. LOWRY with Mr. PETERS.

The result of the vote was then announced as above recorded.

Mr. HUTCHENS moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

Mr. BURNES. Mr. Speaker, I move that the House do now resolve itself into Committee of the Whole House on the state of the Union for the further consideration of general appropriation bills.

Mr. THOMPSON rose.

The SPEAKER. For what purpose does the gentleman rise?

Mr. THOMPSON. I desire to ask unanimous consent——

The SPEAKER. The gentleman from Missouri has submitted a motion.

Mr. SINGLETON. I appeal to the gentleman from Missouri to allow this bill to pass over until Monday next, and give the balance of this day and part of Monday for the consideration of the Library bill. I am sure it can be disposed of in that time; and I think the House will agree that I have exercised a patience almost equal to that of Job himself in giving way as I have done to the consideration of other measures, knowing as I do that a majority of the House want the bill to pass.

Mr. HEWITT, of Alabama. Permit me to suggest that we had better take up the educational bill. [Laughter.]

Mr. SINGLETON. I will ask the gentleman to show some magnanimity in this matter.

The SPEAKER. The question is on the motion of the gentleman from Missouri.

Mr. SINGLETON. I give notice, then, that I shall next week press this bill for consideration in season and out of season until it is disposed of.

Mr. TOWNSHEND. I would like to give notice to my friend from Mississippi that I shall antagonize his bill with the Mexican war pension bill.

Mr. WILLIS. The educational bill will probably take precedence.

The motion of Mr. BURNES was then agreed to.

CONSULAR AND DIPLOMATIC APPROPRIATION BILL.

The House accordingly resolved itself into Committee of the Whole House on the state of the Union, Mr. WILSON, of Iowa, in the chair.

The CHAIRMAN. The House is now in Committee of the Whole House on the state of the Union for the consideration of the general appropriation bills.

The Clerk will report the title of the first bill.

The Clerk read as follows:

A bill (H. R. 7857) making appropriations for the consular and diplomatic service of the Government for the fiscal year ending June 30, 1886, and for other purposes.

The CHAIRMAN. If there be no objection, the first formal reading of the bill will be dispensed with, and it will be read by paragraphs for amendment and debate.

The Clerk read the first section of the bill.

Mr. BURNES. I move that the first reading of the bill be dispensed with.

The CHAIRMAN. That has already been done by consent. The Clerk will now read the bill by paragraphs.

Mr. BURNES. I do not think it was the intention to proceed with the consideration of the bill by sections until after some general debate had taken place.

The CHAIRMAN. The Chair will recognize anybody who desires to debate the bill.

Mr. BURNES. I have nothing special to offer in the way of general debate upon the bill, but perhaps a brief explanation of some of its provisions ought to be made; and in view of the fact that some gentlemen upon the floor have expressed a desire to present some views with reference to certain features of the bill before it is read by sections, I have asked that general debate be allowed. I will state simply and generally that I think the bill now pending meets the approbation of the large majority of the members of both sides of the House. I also think it substantially meets the views of the State Department, although it does not materially differ from the legislation of the last session of Congress. The differences are so slight that it is perhaps unnecessary to call specific attention to them. There are one or two items, however, to which I shall refer and ask the attention of the House.

One item especially, with reference to an estimate of $224,000, which is omitted from the bill was recommended for the purpose of resurveying and re-establishing the boundary line between Mexico and the United States. Upon a careful investigation of the treaty with regard to this subject it is beyond all question in my mind—and I need not detain the committee by going over it entirely—but it is beyond all question in my mind that we are not yet in a position to make an appropriation for that survey, and there are a great many antecedent acts that have got to be done and performed before we will be in a condition to undertake the re-establishing of this boundary line.

It may be sufficient to state that the treaty provides for a reconnaissance, which shall be made by the representatives of the two governments; and necessarily we could not undertake to establish this line as it ought to be established or re-establish it without the approbation and the sanction of the Mexican Government. The treaty provided that representatives of that government should meet the representatives of this Government in the preliminary survey and reconnaissance. They were not present. They have made no report to their government as provided for by the treaty, and no international boundary commission as required by the treaty has been organized; nor have any estimates of the cost been made by this commission, as required by that treaty. In short, so many things remain undone that that treaty requires to be done before the Mexican Government would be bound to us for one-half of the cost of the work that I apprehend there can be no question as to the propriety at this time of not making an appropriation for that purpose. I may say in addition, sir, that if the appropriation should be deemed necessary it would be properly and more properly placed in the sundry civil bill than in this, so that it may be considered in that bill, if it is desired by the House or by the committee at any time hereafter to do so.

The reductions from the current law amount to $29,080; that is to say, the reductions made by the committee. Some $46,000—I mean of the current law—have been omitted at the suggestion and the instance of the State Department; so that it may be said the bill now pending reduces the current law but $29,000. It increases in the way of additional consuls and clerks to consulates and in an appropriation under the neutrality act of $12,000. The aggregate increase is $41,000; so that you perceive while the reduction is $29,000 the increase amounts to $41,000.

Mr. CHACE. Is the gentleman from Missouri speaking now of the gross appropriation of the bill?

Mr. BURNES. Yes, sir.

Mr. CHACE. I read at the end of the bill, in the recapitulation, that you have made a reduction.

Mr. BURNES. There is an apparent discrepancy, for the reason that the $224,000 appropriated for the Mexican boundary commission are not mentioned in these figures which I have given. That would increase the reduction. But I am speaking of the reduction and increase from the current law and not the estimates.

Mr. CHACE. As I understand the statement at the end of the bill, the amount of the law for 1885 was $1,225,140. The amount of this bill is $1,190,885. Am I right?

Mr. BURNES. That is right.

Mr. CHACE. Is not that a reduction of $34,255?

Mr. BURNES. There is a net reduction, including these items which have been dropped out at the instance of the Secretary of State and which have led to this confusion. There is a net decrease of $34,000.

I may say, Mr. Chairman, that the committee were by no means unanimous concerning the appropriation of $12,000 under the neutrality act. So far as I am individually concerned I am opposed to that appropriation. But I shall not undertake now to go over ground that was so thoroughly argued at the last session of Congress.

I yield now to my colleague on the committee, the gentleman from Illinois [Mr. TOWNSHEND].

Mr. TOWNSHEND addressed the House. [See Appendix.]

Mr. BURNES rose.

Mr. ROBINSON, of New York. I ask the gentleman to yield to me.

Mr. BURNES. I will yield to the gentleman for any time he may desire.

Mr. ROBINSON, of New York. Mr. Chairman, when a bill similar to the one now before the committee was under discussion, making appropriations for the diplomatic service for the current fiscal year, I expressed my opinion of it more fully than I shall attempt to do now. It is the same old subject of taxing the toilers at home to enable the fops and dandies of our diplomacy to make fools of themselves and of us abroad. It is not likely that I shall be here a year hence when the next grab upon the Treasury shall be made for this purpose, and therefore I venture a very few remarks now.

If I were preaching a sermon upon this subject I should choose for my text the question, "Who shall deliver us from the body of this death?" What Congress will have the courage to free us from the disgrace of our diplomacy abroad by abolishing the system altogether, as was suggested by Albert Gallatin and other illustrious statesmen of an earlier and better day? It is an eyesore to mankind and an ulcer on the body of republicanism. It is a school of snobbery, to which we send such dandy politicians as are of no use at home to disgrace themselves and degrade republicanism in the circles of the effete monarchies of the Old World. No longing eye or heavy heart of any republican in foreign countries ever caught a ray of hope from any act or word of any of our modern American ministers. All their ambition seems to be to curry favor with despotism and to find themselves at the table of some profligate lord. No member of this House can point to any service rendered by any of our recent ministers abroad worth the paper on which this bill is printed. Every penny we appropriate for this service is devoted to the task of teaching Americans to forget Americanism and to imitate, as far as they can, the follies of the aristocracy.

We have several times passed laws that our diplomatists abroad should not wear any dress but that which any plain American citizen would wear in common life at home, and yet I will venture to say that scarcely one member of our diplomatic corps obeys them. I have seen it stated in the columns of the Washington Republican of December 19, 1883, that a member of this House, visiting London, called upon our envoy extraordinary to the Court of St. James, and that he found him arrayed in court dress, with knee-breeches not too well adapted to his attenuated legs, ready to represent the workingmen of the United States at the Queen's drawing-room, and that our democratic member came away with the impression that Mr. Lowell was the best nickel-plated Englishman he had ever seen.

Now, what are we to do with this system? Here we are from year to year voting away about $2,000,000 for this not only useless but deleterious purpose. Why? Because we did it last year. Why then?

Because we did it the year before. And so it will be; the abuse has become chronic, and we go on making the useless and corrupting appropriation. If you want to spend so much money why not devote it to some useful purpose? The twenty or thirty millions we have thrown away in the last dozen years would have built and endowed a magnificent hospital in each State and Territory in the Union, where our sick and suffering soldiers or their widows and orphans, now begging for pensions, would have found a comfortable home. Why not rather in the future give it to the suffering poor at home than send it to our profligates abroad—to a lot of snobs, incurable snobs, who are trying to perpetuate their kind and enhance their value abroad? I protest against the whole system.

Imagine a poor fellow from Hocking Valley, an American workingman, where he and his companions are on a strike against monopolies in trying to get a reward for his labor sufficient to support his wife and family, going to Europe to see how the taxes which he is compelled to pay to support his Government are spent. In London he finds our minister, dressed up in the style to which I have referred, with his dear Lord Granville and other democrats around him, holding forth and illustrating in his person the beneficence and beauties of American diplomacy. In Paris he sees our amiable and gentlemanly minister, who misrepresents him and his fellow-workingmen at that gay capital, in the midst of the society which calls itself the American colony, who were described by the lady correspondent of the Washington Post, Mrs. Lucy H. Hooper, in that paper of June 22, 1884, as snobs, who were ashamed of their native land and of their nationality; who "scorn the society of chaste women and high-minded men, because, forsooth, those personages have been born in the United States and are undecorated with titles, while they welcome to their houses all the 'spotted peaches' of the Parisian society basket"—women who would not be admitted into any decent society in New York, if New York society knows herself, "and she thinks she do." What report do you suppose this American workingman would make as to the value or services of our ministers abroad?

As this bill appropriates money for the support of our ministers for the fiscal year commencing next July, the appointment of those ministers will most likely be made by a Democratic President. I hope for a change for the better, but if our ministers are more than useless under one party, they can hardly be expected to prove useful under another. Whichever party may be in power, I think the best thing to do would be to abolish the offices of ministers abroad and depend entirely on our consuls and commercial agents, by whom all the interests of the country could be properly cared for, or in case of any emergency special ministers could be appointed for the occasion.

I understand that already two men have been prominently mentioned for the English mission, each of whom feels confident of success and is spoken of with approbation by Democratic papers and politicians, and yet, sir, I have no hesitation in saying that I would infinitely prefer Mr. Lowell to either of them. Deeply as I despise his conduct and abhor his acts as our minister, I should greatly prefer his continuance in the office which he has disgraced than have a Democratic dude take his place to disgrace it and to disgrace the Democratic party, which as yet stands guiltless in this respect. Indeed, I think the venerable Dr. Burchard would be preferable to either of them. Dr. Burchard is not a snob and would not represent snobbery. He is a man of express ideas and runs into the alliterative. I do not say he should be appointed our representative either at home or abroad, but he would be preferable to either of the two gentlemen mentioned, from one of whom he learned his lesson of "Rum, Romanism, and Rebellion." It was not original with him, but copied from one of those who expect to succeed Mr. Lowell.

And here I take occasion to repeat, what I have often already stated, that I do not believe Dr. Burchard's famous alliterative speech at the Fifth Avenue Hotel reception changed the vote of one single citizen from Mr. Blaine to Mr. Cleveland; or if a single voter may have been influenced by it I feel quite certain that the number is very small, and that very few would apply for any reward that might be offered for the discovery of Irish-Americans whose votes were changed by that speech. The election did not turn upon any such nonsense. The American people will always frown upon bigotry from whichever side it comes, but they never permit the casual remark of any person to work detriment to those who are nowise responsible for it.

This diplomatic service is working our ruin by creating a desire for foreign customs and foreign follies. The disease is imported by our returning diplomatists and by the foreign embassadors sent here by monarchs and despots to corrupt and destroy our American ideas. They should both be quarantined as we quarantine foreign rags through fear of cholera. I find in the Boston Pilot of to-day a letter from the patriot Archbishop Croke, of Ireland, which expresses my opinion on our adopting English customs and habits so well, that I can quote a paragraph from it as my own, simply changing the word "Irishman" to "American." It is written to the secretary of the Gaelic athletic association, and is accompanied by a letter of similar import from Mr. Parnell. The paragraph reads thus:

One of the most painful, let me assure you, and, at the same time one of the most frequently recurring reflections that as an Irishman (American) I am compelled to make, in connection with the present aspect of things in this country, is derived from the ugly and irritating fact that we are daily importing from England not only her manufactured goods, which we can not help doing, since she has practically strangled our own manufacturing appliances, but together with her fashions, her accent, her vicious literature, her music, her dances, and her manifold mannerisms, her games, also, and her pastimes, to the utter discredit of our own grand, national sports, and to the sore humiliation, as I believe, of every genuine son and daughter of the land.

And then he goes on to designate as foreign and fantastic field-sports, lawn-tennis, polo, croquet, cricket, and the like.

Our Revolutionary fathers saw the danger we were in and provided, as well as they could, against it, both in the Constitution and by the law. In the Fifth Congress Mr. Tazewell, of Virginia, introduced into the Senate of the United States a resolution that no Senator should receive or give any visit to or from any agent or embassador of any foreign country without asking leave of the Senate; and when, in last May, I introduced a similar resolution in this House, it was denounced in a leading paper of this country as "rampant and unapproachable absurdity." The writer for that paper was an Englishman, and of course looked upon this American idea as absurd. And upon another occasion, when I introduced some very sensible resolutions to be acted upon by this House against these foreign influences, the gentleman from Chicago [Mr. DUNHAM], whom I see before me, building better than he knew, had it referred to the Committee on Public Health. A very proper reference, seeing that all this English craze is becoming a stench in the nostrils of the American people, and requires some powerful disinfectant to purify the American mind and the American atmosphere from these offensive and polluting influences.

Our Revolutionary fathers also wisely provided by constitutional enactment that no person holding office under the United States should receive any gift from any foreign power. They were afraid that any gifts thus received would weaken our hatred of monarchical institutions, and they took care that every subject of these monarchies seeking citizenship here should renounce and abjure all allegiance to such monarchy. All these provisions and precautions were intended to guard us from any influence which monarchs or their agents should attempt to exercise upon us. Now what is a present? The Queen of England sent a present of flowers to be thrown upon the coffin of our lamented dead President. Who received it? If he held office under the Government he violated the Constitution and should have been impeached. This present was a bid for our gratitude toward the giver, and that was the very thing the Constitution intended to prevent. It intended that we should not be under any gratitude or have any friendly feeling for any monarch or despot, and the more the gift is intended to evoke gratitude the greater the violation of the Constitution. The value of the present is not to be considered. The fear of our fathers was that it might excite gratitude to those to whom as republicans we should owe no gratitude. Embassadors of foreign countries come here to elevate and magnify monarchy above republicanism. Already they dominate society in Washington, and American republicanism is endangered.

If a Senator or Representative or officer of the Government finds gratification at receptions given to them by foreign embassadors, if they accept their dinners or drink their champagne, are they not violating the Constitution, which intended to prevent any who had sworn to support it from putting themselves under any obligation to monarchy? If our Congressmen and Secretaries are dining and wining with the agents of despotic governments, what chance has our citizens who languish in prisons under these despots of speedy deliverance or honest remonstrance in their behalf? These outrages on our citizenship we are enduring from all nations. It was only yesterday that the distinguished gentleman at the head of our Foreign Affairs Committee [Mr. CURTIN] had reported a case of this kind to the House. We want no presents nor social blandishments to dull the temper of our indignant demand against these outrages, and it might be well if we had such a rule as was proposed in 1798 against any member of Congress making calls upon or receiving any presents or favors, even a glass of wine, from the agents of powers inimical to republicanism. The framers of our Government intended that we should be guarded against all encroachments from foreign despots, and particularly against all presents and bribes, whether in liquid or floral form, that might induce us to cringe or fawn to monarchy or its representatives.

I fear that no remonstrance from me or from any other lover of American simplicity will stay or stem the current that is carrying us so swiftly toward monarchical ideas. I said some time ago, in a speech delivered in this House, that we were going to the devil very fast, if we had not already arrived there. Our duty—my duty—is, while we are here intrusted with the fate of the nation, to raise our voices against the vices that beset us and in favor of the American ideas of the fathers of the Republic.

Upon the floor of this House I have said many things that were considered foolish, yet if you will judge me fairly you will see that they all tend in one direction—to magnify republicanism and to repress monarchy. I have frequently had difficulty in obtaining the floor to express my views upon these subjects. I observe my friend from Ohio [Mr. KEIFER] near me who occupied that chair in the last Congress, and he seemed from the beginning to be determined that I should not be heard. No commander in any battle between Bull Run and Richmond ever ex-

ercised such care to resist the enemy's approaches as my distinguished friend did to keep me from being heard in this House. I, however, harbor no ill-will toward him. He and I are both going to a higher plane of civilization. We are shortly to shake from our feet the dust of this degenerate House of Representatives, to soar into the higher region of private citizenship and to enjoy the honors of those who despise office and its perquisites. I therefore harbor no animosity toward him, and I think as we have known each other better we have come to esteem each other more.

I remember how another gentleman, now no longer in Congress, kept guard around that chair that I should not be heard on this floor. Still, however, I persevered, and whether in order or out of order accomplished my purpose. In doing so I incurred the enmity of a portion of the press, which for some purpose to me unknown either suppressed all mention of my name or perverted and misrepresented what I had said and done. It was the same in the Fortieth Congress, when in 1867-'69 I met similar abuse and misrepresentation in doing what twelve or thirteen years afterward secured for me from my distinguished friend from New York [Mr. HEWITT] the eulogy which he so kindly bestowed on me in this House, which I so kindly appreciated, coming from one so distinguished as a scholar, a statesman, and a gentleman. In that eulogy he gave me credit for carrying through the Fortieth Congress the law of July 27, 1868, second only to the Declaration of Independence, amid abuse and misrepresentation similar to that which I have met in the same field of labor and under similar circumstances in the Forty-seventh and Forty-eighth.

I am now near the end of a long and checkered and somewhat eventful life. There are many things in it that might as well be blotted out. But taking it altogether, I have nothing to regret and nothing to apologize for. The sins I have committed will be forgiven. The follies I have been accused of will be forgotten. But I believe the efforts I have made to vindicate the sanctity of American citizenship, its dignity and glory, by inculcating the duty of the Government to exercise its power over all its citizens, native or naturalized, to protect them from insult in foreign countries, will be remembered to my credit. I believe that with all my faults many friends will remember me kindly when I am not here and will express regret for my absence.

But whatever fate may betide me, whether in this city or elsewhere, in prosperity or adversity, as a member of this House or in some humbler position, it will always be my pride to have it stated to my children, whom I love, and to all men whose good opinion it was my ambition to deserve, that I stood up here for American principles against the dominating influence of monarchy and despotism. [Loud applause.]

Mr. BURNES. Mr. Chairman, I apprehend that I meet the wish of the House in now asking that general debate be closed, and that we proceed to the reading of the bill by paragraphs.

Mr. KEIFER. I understand the gentleman from Rhode Island [Mr. CHACE] desires to be heard a brief time. I suppose there will be no objection to that.

Mr. BURNES. None at all.

Mr. CHACE. Mr. Chairman, I had not expected that this bill would be called up at this time. I had prepared myself with some comparative tables, showing the difference between our manner of treating this diplomatic and consular service and the methods pursued by some foreign countries. Those figures are at my rooms; I shall therefore necessarily be very brief.

The gentleman from Illinois [Mr. TOWNSHEND], in the course of his remarks, spoke of the importance of extending our foreign trade, of opening markets for the products of our farms, our factories, and our workshops. As to the desirability of such a result I join him most heartily; but from his methods I dissent as heartily. But I shall not attempt to-day to take up the general discussion on that subject. I wish, however, to make briefly a comparison between the policy and methods of this country and those of Great Britain.

Mr. TOWNSHEND. Will the gentleman allow me a moment?

Mr. CHACE. Certainly.

Mr. TOWNSHEND. I do not know that the gentleman fully understood the nature of the proposition which I advocated. If it were carried out it would give us a protected market in the countries of South America, Central America, and Mexico for our products. A barrier would be put up against England, France, and Germany, while we would have a free market there for our manufactured products. Would the gentleman object to the extension of the line of protection so as to embrace those southern countries with the States of this Union?

Mr. CHACE. Oh, no; but that is only a very small part of the gentleman's proposition.

Mr. TOWNSHEND. That is the principal feature of the proposition—its main purpose.

Mr. CHACE. If that is the case, I am very glad that such is the gentleman's object; but I thought I saw in the tenor of his remarks a very different object set forth. If I am mistaken, I am very glad to be corrected.

Mr. TOWNSHEND. I argued, in order to avoid any conflict with gentlemen claiming to be free-traders, that my proposition would extend the area of free trade to those countries. At the same time it would open up a new market for us, a market protected against our only competitors—Germany, France, and England.

Mr. CHACE. Well, if the gentleman has seen the error of his ways and come around to be a protectionist, I congratulate him.

Mr. TOWNSHEND. Not by any means.

Mr. CHACE. I shall be very glad to welcome the gentleman into our ranks; but I am a little suspicious of the genuineness of his conversion.

Mr. TOWNSHEND. The gentleman misapprehends me now more than ever. I have never been converted in the slightest degree to the doctrine of protection. I have only said this—that we ought to have as free trade with those countries as we have among our own States; and this policy will result in as great benefit to the manufacturers of this country as any doctrine of any of the protectionists.

Mr. CHACE. The gentleman is doing very well if he has reached a point where he can look even with complacency on protection, and I would remind him of the passage from Watts—

While the lamp holds out to burn, &c.

Now, we hear a great deal about overproduction and the extension of our markets. We hear it particularly from gentlemen on the other side, who are in favor of breaking down American industry and throwing open the markets of our country to the competition of foreign manufacturers. But I am sorry to say that whenever they are brought to the test we see by their actions, if I judge them aright, that they are as circumscribed in their policy in regard to our diplomatic service abroad as they are in regard to building up the industries of this country.

Now, the Government of Great Britain is wiser than we are in this respect. The English nation sees and realizes the importance of extending its foreign trade; and it acts accordingly. In order to illustrate the difference between the policies of the two countries in regard to the consular and diplomatic service, I desire to call attention to the contrast between the appropriations of the two countries for purposes such as are embraced in this bill.

The bill now before us appropriates, in gross, $1,190,885. This is for our whole consular and diplomatic service. Now, what do we find the Government of Great Britain appropriating in the year 1883, the last year of which I have any report? For that year Great Britain appropriated $2,769,658 for salaries in the diplomatic and consular service. Beyond this it should be borne in mind that the British Government constantly appropriates very large sums for the purpose of purchasing and maintaining offices, residences, telegraphic and mail connections, and other facilities in assisting the mercantile and manufacturing interests of Great Britain to extend their trade. More than that, Great Britain is constantly increasing her appropriations in this direction. Her appropriations for the consular service alone for the year 1883 were $1,290,000 against our appropriation of $1,190,000 for the whole diplomatic and consular service. Beside that, their consuls and consular agents collect large sums in the shape of fees.

Now what is the result of this? All over the world, in every trading country, wherever you find a mercantile center, you will find a representative of British interests, who is a competent man, thoroughly conversant with all the affairs pertinent to his position, who can afford to give his time to the service of the interests of his country, who is constantly alert, who is giving advice constantly to his home government how the trade of that country may be extended and improved, who is notifying them constantly of every step of every other nation which will tend to encroach upon their trade. And wherever an agent is found to be a valuable and successful man he is promoted in the service. It is the constant hope and expectation of these agents that, beginning as subordinates, they may work themselves up from agents to consuls and from consuls to legations. There is no limit except the limit of their ability to serve the country.

Whenever a change of administration occurs in Great Britain these men know that no change will take place in regard to their positions, but all over the world to-day every man in the diplomatic or consular service of the United States is packing his trunk and engaging his passage preparatory to returning home. [Laughter.] As long as this rule shall continue, this rule of poverty-pay and restrictions in regard to the outlay for this service and for its accommodation, we shall have poor service, and so long as we have poor service of this kind we shall have great difficulty in extending our trade.

I believe if gentlemen will examine this subject with care they would find it more far-reaching than they had supposed. The whole thing is in a nutshell. You can not get good service for a low price. I have before me the report of the consular and diplomatic service of Great Britain, and I will read a few of the items of appropriation. They appropriate for the diplomatic service a little over $1,000,000. They appropriate for the consular service, as I stated a short time ago, over a million and a quarter of dollars. They appropriate for subsidies to telegraph companies $165,000. They also appropriate large sums amounting to nearly $600,000 for wages of couriers, for postage, for fuel, for extra rent, for law charges, special missions, and for law advice.

Now, in view of this and in view of the importance of this subject to the material interests of this country, I submit it is no time for us,

under the false sentiment of economy, to be reducing this consular and diplomatic appropriation. I find it is reduced in reality about $200,000.

Mr. TOWNSHEND. Does not the gentleman know the reduction in the bill is owing to a failure to carry out the survey of the border between Mexico and the United States? He will find but a small reduction in the salaries of the consular service.

Mr. CHACE. In the consular service there is a reduction.

Mr. TOWNSHEND. There is but a slight reduction.

Mr. CHACE. I have the items of reduction, which I will give the gentleman if he wishes to know them.

Mr. TOWNSHEND. Reduction below the appropriation of last year?

Mr. CHACE. Undoubtedly.

Mr. TOWNSHEND. Very few instances and only small reductions.

Mr. CHACE. Not by any means. I will read some of them.

Mr. TOWNSHEND. We have increased the salaries above those appropriated for last year in several instances. The reduction of the bill arises from a failure to appropriate money, for the reasons given by the gentleman from Missouri [Mr. BURNES], to make the survey, or rather to establish the monuments marking the boundary line between the United States and Mexico.

Mr. CHACE. The gentleman from Illinois is a member of the Committee on Appropriations, and I do not wish to contradict him. I have not had time to analyze the bill as much as I would like, but I think the gentleman is mistaken. I will read a few of the items and then let him explain.

I find a reduction in clerks in the legation to Spain of $1,200. Am I right or wrong there?

Mr. WASHBURN. There is really an increase of $500 more than last year, as an assistant secretary of legation is provided.

Mr. CHACE. Why the reduction?

Mr. WASHBURN. The assistant secretary of legation has rendered that clerk unnecessary.

Mr. CHACE. Why then does not the committee vouchsafe the proper explanation of the matter?

Mr. TOWNSHEND. The committee found it would be better to provide an assistant secretary of legation.

Mr. BURNES. I will state for the benefit of my friend from Rhode Island that he is laboring under a mistake. There is an actual increase of appropriation for the consular service.

Mr. CHACE. How much?

Mr. BURNES. I can tell the gentleman in a moment. I can not do it now.

Mr. CHACE. I find several other items here, among them the salary of the secretary of the legation at Turkey has been reduced $300. That is quite a matter of economy for this great country, no doubt.

The rent of legation buildings in China is stricken out entirely, amounting to $3,100. Why should that be so? Great Britain is constantly buying and building homes for her foreign legations, and takes the best care always of her consuls.

Mr. BURNES. Let me answer the gentleman. The $3,100 to which he alludes is an unnecessary, or, rather, I may say an abnormal, appropriation, differing from the appropriations for all other legations in the world; that is to say, we make no such appropriation for any other legation.

Mr. CHACE. That may be all very true, but it does not alter the fact that it ought to be done.

Mr. BURNES. But I hope the gentleman will confine himself, if he pleases, to the point that he is making. He is referring to the consular service, as I understand him. Now, this is not an appropriation for the consular service, but an appropriation for incidental expenses in connection with our diplomatic service.

Mr. CHACE. Why is not that for our consular service abroad? That is exactly the point that I am making.

Mr. BURNES. It has relation to the legation.

Mr. CHACE. That is true, but are not our foreign legations of service to the country, and should they not be upheld?

Mr. BURNES. Very well, when the gentleman comes to talk of the legations I shall have something to say on that subject; but when he is speaking of the consular service I hope he will not confound the two.

Mr. CHACE. Now, these are the items which I have selected at hap-hazard from this bill, and if I had time I am sure I could find numerous others of the same kind. But perhaps one item that the gentleman will deem applies to the consular service is this alteration or reduction of the pay of thirteen consular clerks, who are reduced from $1,200 to $1,000 per annum, making a reduction of $2,600.

Mr. BURNES. If the gentleman from Rhode Island will permit me a moment I will state that by inadvertence in making up this bill there should have been a subsequent section incorporated in it which would operate as a provision for the pay of these clerks.

My colleague from Illinois [Mr. HITT] will offer an amendment to the bill to increase their salaries to the statute law. They will be increased by amendment, and have all been provided for.

My HITT. I will offer an amendment at the proper time to carry out that suggestion.

Mr. CHACE. And I hope when the gentleman from Illinois, who is more competent I believe to deal with this subject than any other gentleman on the floor, when he does offer his amendment, it will be so comprehensive in its scope and character that it will not only remedy this pitiful little error but that it will embrace the whole subject.

I hope that it will take a step toward putting us in a respectable condition in regard to our consular and diplomatic service. I feel like saying unparliamentary things about this matter when I examine this bill. I think it is a great shame for a great nation to be so parsimonious. Here are thirteen clerks reduced $200 each. There have been a great many reductions made in wages since the last election which have been charged to the result of the election. I do not know whether gentlemen have done this for the same reason or not.

Here is a consul at Ningpo abolished, I believe. Is not that so?

Mr. BURNES. I will say that this would properly come up when we are reading the bill for consideration by sections, and thereby save time. But in regard to Ningpo, that is abandoned, not provided for, with the full knowledge and approbation of the State Department and all the members of the committee, of both parties, for reasons that may be given if desired.

Mr. CHACE. Here is a consul at Hankow reduced from $3,500 to $1,500, a reduction of $2,000.

Mr. RYAN. And our commerce increasing at that point.

Mr. CHACE. Yes; as suggested by my friend from Kansas, and our commerce increasing there very much. Here is another item, a large saving, the allowance of clerks at consulates, $80!

Again, you have stricken out $1,000 for interpreters in China and Japan. The interpreter at Bangkok reduced $300. I am reading this simply because the gentleman from Illinois stated that there was no reduction.

Mr. TOWNSHEND. What was the reduction at Bangkok

Mr. CHACE. Three hundred dollars, I make it.

Mr. TOWNSHEND. For what purpose?

Mr. CHACE. Interpreter.

Mr. TOWNSHEND. The gentleman from Missouri can, I am satisfied, give the gentleman full information as to the necessity for that. I may say to him, however, that it is entirely unnecessary to have an interpreter at that point.

Mr. CHACE. And so on through sundry other items which I will not take the time to read now but reserve until we discuss the bill by sections. I only brought this up to answer the gentleman from Illinois at the time in regard to the matter of reduction to which I referred.

Mr. TOWNSHEND. My friend from Rhode Island, if he will examine the bill further, will admit that we have left out an item of over $200,000 for the international boundary survey of the United States and Mexico, and that is the only reduction of the estimates of the Department.

Mr. CHACE. I understand there are certain other items which are very properly left out. But instead of this reduction there should have been an increase, and a very large increase. These salaries are all too small. We can not employ competent talent for the price we pay these consuls, and it is time for the Government of the United States to reverse its policy in regard to this important matter.

Mr. BURNES. I beg to say to my friend from Rhode Island [Mr. CHACE] that I should like him some day to tell us why it is he prefers the commercial system of England as against the commercial system of this country. But that is unnecessary now. I beg to state to that gentleman, in all kindness, that when the American people have a commercial system similar to that of England we may not be driven to such straits of economy as to save $80 here, $500 there, $1,000 somewhere else, and the other pitiful sums to which he has alluded. But under the commercial system which we have at present and which has been in force in this country for many years we are compelled to economize with a due regard to that republican simplicity which should govern our legislation and which does govern our people.

If no other gentleman desires to speak I shall ask unanimous consent to close this debate.

Mr. WASHBURN. I desire to say a word in answer to the gentleman from Rhode Island [Mr. CHACE]. The bill we are now considering appropriates substantially the same as the bill of last year. In some instances the amount has been increased and in some it has been decreased; but in the main it is substantially the same bill as was reported and passed last year.

So far as the expense of the consular service is concerned, I desire to say briefly that I agree with my friend from Rhode Island that no expense should be spared to extend our trade and commerce and to furnish markets for our different productions, both agricultural and manufacturing. I would spare nothing to make this thing complete and effective. But to do this I do not believe it is necessary to ape the governments of the Old World. I do not believe in order to have efficient consular service that it is necessary to ape England. With the same propriety you might call for enormous appropriations in the same line as those in England to support the royal family. Those appropriations do not add anything to the efficiency of the English Government. And I believe that to-day, with the moderate conservative appropriations

made by this country, we have substantially in point of fact, and practically, as efficient a consular service as England has; and I hope it is not a part of the future of this country that it shall drift off into that kind of extravagant appropriations in connection either with our diplomatic or our consular service. I simply desire from this side of the House to enter a protest against this doctrine.

Mr. CURTIN. Mr. Chairman, you can not measure the diplomatic or the consular service by any economy of the Government. You can not add to the commerce of the country by increasing salaries, nor take from the trade of the country by decreasing them. I am in favor of the consular service, and of making it efficient and strong; and I would relieve the American merchant and mariner from the payment of consular fees and pay every consul abroad a salary, so that the system shall not be a tax upon the trade of the country.

Neither those clothed with diplomatic agencies nor those in the consular service can increase your trade or your commerce. Nor can you by increasing salaries get American citizens better qualified for the discharge of duties abroad than those now in the service.

I say, Mr. Chairman, the American ministers abroad get salaries large enough now with a proper consideration of the economy of this Government. I would not have this great country fall into the rut of any foreign government in the payment of salaries. The minister of the United States in London receives a salary of $17,500. It is the same at Paris and at Berlin and at St. Petersburg. An American minister living at either of these great courts can maintain himself respectably and represent this country on his salary. For while he may not make the ostentatious display of the ministers or embassadors of other nations which pay higher salaries, still he will always be treated with profound respect either in the courts or in the social circles which he may frequent, if he never fails to remember that behind him stand sixty millions of freemen and the strongest government in the world.

And we will always find men qualified to fill the consular service if the Government is careful in the selection of the men. It is not the ministers who should be paid high salaries. It is the consuls who should be compensated to the full extent of their labors. We should have proper men in that service wherever the American merchant goes or the mariner goes, wherever we have trade and commerce and the exchange of commodities. We should pay the consuls ample and full and handsome salaries that the Government may have the service of men competent to fulfill their duties.

Mr. CHACE. Will the gentleman yield to me a moment?

Mr. CURTIN. Yes, sir.

Mr. CHACE. I would like to ask the gentleman from Pennsylvania whether or not he has ever understood that several of our ministers to St. Petersburg have left that post because the compensation was too small—because they could not afford it?

Mr. CURTIN. I do not know whether that is true or not. I was there for four years and was always treated with respect; and I will say to my friend from New York [Mr. ROBINSON] that I wore the plain dress of an American citizen—as plain as that of a Quaker from Rhode Island [laughter], and I lived on my salary.

Mr. BURNES. What was the salary at that time?

Mr. CURTIN. I went there upon a salary of $12,500.

Mr. BURNES. The salary is now $17,500.

Mr. CURTIN. After I had gone there some gentlemen in this House from the State of Pennsylvania, in a spirit creditable to the State and complimentary to the minister, refused to vote for the consular and diplomatic bill unless my salary should be raised to $17,500.

I always had my *entrée* at court. I had my place in social circles at St. Petersburgh. I lived on my salary; and I had enough. I did not go there to make money, but while there I tried to protect myself from the cold of that frozen region and to represent this great republican people.

I say the present salary of our minister to Russia is enough. I will not vote for a dollar more; but I will go with my friend from Rhode Island in voting money for the support and extension of our consular system, to encourage trade and commerce and to protect the American merchant and mariner. More than that, wherever our flag goes all over the world, wherever it flies in commerce and trade, I would have there for the protection of that commerce a gunboat of the American Navy, with a big gun upon it. [Applause.]

Mr. BURNES. I now ask unanimous consent that general debate be closed and that we proceed to the reading of the bill by paragraphs.

There being no objection, it was ordered accordingly.

The Clerk proceeded to read the bill by paragraphs for amendment.

The following paragraphs were read:

For salary of consuls-general at Constantinople, Madrid, and Rome, at $2,000 each, $6,000.

For salaries of the agents and consuls-general at London, Paris, Havana, and Rio de Janeiro, at $6,000 each, $24,000.

For salaries of the consuls-general at Calcutta and Shanghai, at $5,000 each, $10,000.

Mr. HOLMAN. I desire to raise a question of order on the paragraph appropriating for salaries of consuls-general at Constantinople, Madrid, and Rome. My point of order is that the office of consul-general at Madrid is provided for in this bill without authority of previous legislation. In other words, this is new legislation on an appropriation bill. The appropriation law for this service for the present year provides for consuls-general at Constantinople and Rome at $2,000 each; the pending bill adds "Madrid" to the list at $2,000 per year.

Mr. BURNES. If the gentleman from Indiana will suspend a moment, I desire to suggest (though I am not familiar with these questions of order) that the paragraph against which this point of order is sought to be made had been read, and the Clerk was engaged in reading the second paragraph. I submit, therefore, that the gentleman from Indiana is too late in making his objection—for the first time, perhaps, in his life.

The CHAIRMAN. The Chair will state in fairness to the gentleman from Indiana [Mr. HOLMAN] that he was on the floor when the Clerk concluded the reading of the paragraph to which the point of order applies.

Mr. HOLMAN. I rose at the time for the purpose of making the point, but the Clerk continued the reading.

The CHAIRMAN. That is the understanding of the Chair.

Mr. HOLMAN. Upon the point of order I wish to state for the information of the Chair that the present law provides as follows:

For salaries of consuls-general at Constantinople and Rome, $2,000 each, $4,000.

This bill proposes to change that provision, so as to read:

For salary of consuls-general at Constantinople, Madrid, and Rome, at $2,000 each, $6,000.

In other words, a consul-general is now, without previous authority of law, authorized at Madrid.

The CHAIRMAN. The gentleman from Indiana will please state what the salary of this consular officer at Madrid has been heretofore.

Mr. HOLMAN. We have no consul-general at Madrid now provided for by law nor one provided for by law prior to this time. This office in its present classification is a new office, created by this appropriation bill.

Mr. BURNES. I venture to suggest in answer to my esteemed colleague on the committee, the gentleman from Indiana, that he is mistaken in saying that this consul-general is not provided for in any law. In the first place, a consulate is established by the action of the President and Senate. We have nothing to do in the establishment or abolition of consulates or legations. These, under the Constitution, are established by the act of the President with the assent of the Senate.

In this case we are not undertaking to make law in regard to this matter. We do not make law of this character. We simply appropriate in accordance with law made by the Executive and the Senate under the Constitution.

Under a law established by the action of the President, with the assent of the Senate, we have been appropriating year after year for this consul-general. But by oversight or for some other reason—no matter what—we failed to make the appropriation last year. This may be said to create a deficiency, and we might have been called upon to provide for this deficiency if the President had continued the consul-general at Madrid. Therefore it seems to me, Mr. Chairman, with my limited experience here, that as we have nothing to do with the making of the law establishing consuls, it can not be said we are changing any law or making any provision further than to appropriate the money for that which the law-making power has established by affirmative action.

Mr. HOLMAN. The only provision of the Constitution of the United States bearing on this subject is to be found on page 14 of the Manual, and I will send it up to the Clerk's desk to be read. It is the clause enumerating the powers of the President of the United States.

The Clerk read as follows:

He shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur; and he shall nominate, and by and with the advice and consent of the Senate, shall appoint embassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law; but the Congress may by law vest the appointment of such inferior officers as they think proper in the President alone, in the courts of law, or in the heads of Departments.

Mr. HOLMAN. From that provision of the Constitution it will be seen that exactly the same powers are vested in the President of the United States with reference to foreign ministers, consuls-general, and other like officers as are provided in regard to judges of the Supreme Court and other like officers of the Government, "such as are provided for by law." I quote the language of the Constitution.

My friend from Missouri assumes the President of the United States has the power of appointment of foreign ministers and consuls under the Constitution of the United States without any preliminary legislation on the part of Congress, without legislative authority, and that all Congress has to do as to such public officers is merely to appropriate the money necessary to pay salaries. I submit that view is not and can not be correct, and that the President can not appoint a minister or consul-general except in pursuance with law. The law must not only provide the office but the salary.

It seems to me clear that no distinction has been made by the Constitution between a consul-general as an office under the Constitution and a judgeship in the Supreme Court. In both instances the President of the United States appoints where the office is created by law,

and not otherwise; and whether it be a minister, consul-general, or judge of the Supreme Court, the office must be created "in pursuance of law." That is the language of the Constitution. The Constitution simply creates here, as my friend from Kansas [Mr. RYAN] suggests, the appointing power, but the creation of the office still rests with Congress.

Permit me to add further that the office of consul-general at Madrid has never existed, so far as I am informed, by express provision of law at any time.

Mr. BURNES. In the law for the year ending June 30, 1884, I find that appropriation was made for secretaries of legations and consuls-general at Vienna, Rome, and Constantinople at $3,000 each, and for secretary of legation and consul-general at Madrid $3,000. Now, this looks to me a little as though there was a law establishing a consul-general at Madrid.

Mr. HOLMAN. What does my friend read from?

Mr. BURNES. I read from the appropriation bill of last year.

Mr. HOLMAN. I had not observed that fact, and if it is true I concede, if this office was provided for and appropriated for during the present fiscal year, it is, according to former rulings, to be regarded as authorized by law for the time being.

Mr. BURNES. Here is the law which I hold in my hands.

Mr. HOLMAN. Then it is, according to the former rulings of the Chair, to be considered the law of the land for that year. But do I understand correctly? Do I understand the gentleman to say that the appropriation was made for the present fiscal year?

Mr. RYAN. No; he said it was the law for 1884.

Mr. BURNES. It is not the current law, but an appropriation in the law for 1884.

Mr. HOLMAN. Then it seems that by a former appropriation bill an appropriation was made for a secretary of legation and consul-general for a former year now already expired. The gentleman does not assume the office was created in any other way than by making an appropriation for it during a former fiscal year. It is not assumed that this office was ever created by other provision of law than an appropriation. As a legislative rule for that period, the current year, I concede an appropriation for an office is to have full force for the period named; but submit that a mere appropriation of money for an office for a given year, say last year or any preceding year, if afterward it shall be discontinued, does not perpetuate that office, for the office is not created by law, it is but a temporary provision; in other words, suppose it was shown that ten years ago an appropriation was made for a consul-general at Madrid, and that from then on until now no appropriation had been made, can it be argued there was any such office as consul-general existing by virtue of law?

I think I have heard the gentleman from Iowa [Mr. WILSON] who now occupies the chair hold heretofore, when occupying the same position, on other bills, that where the office is to be created by specific law an appropriation made during a previous year can not be taken as creating such office so as under the rule to support an appropriation of money. There is no law now authorizing an appropriation of money for such an office as consul-general at Madrid. There was an appropriation for such an office combined with a secretaryship of legation, as my friend [Mr. BURNES] has shown, for a former fiscal year, but none for the present year. There is therefore no existing law which would justify an appropriation in accordance with the requirements of the rule of the House. In other words, there is not now and never has been, so far as we are informed, an independent provision of law creating the office of consul-general at Madrid.

Mr. LONG. Mr. Chairman, I understand that two years ago, as stated by the gentleman from Missouri, there was an appropriation for the consul-general at Madrid. There was at that time, therefore, some provision or some warrant of law for the appointment of a consular officer there. It now turns out that there was no appropriation made for this officer last year.

I would like to ask the gentleman from Indiana on these facts if he understands that the failure to appropriate for the consul-general last year repealed whatever law there was in existence authorizing the appointment of such officer at Madrid?

Mr. HOLMAN. I think, sir, if it was an appointment of a consular officer simply by virtue of an appropriation, that it existed as such during the period for which the appropriation was made; that is to say, for the current year. It was simply a law for that year, and when that year terminated there was no law on the statute-books providing for the continuance of the office; it was the law of the year only.

Now, if my friend from Massachusetts will allow me a little further, I will call his attention to the Statutes at Large, which contain the provisions in regard to consuls-general. They are provided for, as the gentleman will find by reference to the statutes, in Great Britain, British America, British India, France, Cuba, Mexico, the North German Union, Italy, the Turkish Dominions, and China.

These are the consuls-general provided for by statutory enactment, and this provision has gone into and become a part of the Revised Statutes of the United States. It will be observed that this consul-general at Madrid has not been provided for in this statute, and on the strength of that examination I assumed that such an office had not heretofore existed, my attention not being called to the provision in the bill of 1884 referred to by the gentleman from Missouri. I submit, however, I repeat, that the office existed only by virtue of an appropriation bill; that it was simply a law for the current year, or it was not a subsisting law which would operate from time to time until repealed.

Mr. LONG. Does the gentleman claim that the mere insertion of a clause in an appropriation bill providing for the salary of an officer constitutes or creates the office?

Mr. HOLMAN. For the period covered by the appropriation, the current year, undoubtedly.

Mr. LONG. That would apply to every office provided for in this bill for which a salary is appropriated.

Mr HOLMAN. It does; that is the very thing you are doing. You are legislating on this bill by providing a salary and thus creating an office, at least for the time being, but no more. If this bill should become a law, undoubtedly each office named would be a subsisting office, to be filled by appointment for the current year. The bill provides in effect that these officers shall be continued in service during that period, that is, the period for which you appropriate. So, if you provide a salary for the consul-general at Madrid you create the office for the time, and the President might appoint an officer there; but such an appointment would be subject to the provisions of the appropriation bill, and extend only during the current year. I admit that if the Revised Statutes and current general laws, in the classification of the consuls-general and the consuls and other foreign representatives, had made provision for this officer at Madrid, then it would have been a statutory provision; but the facts of the matter are that the statutes are silent on that subject, and the only provision is that incidental one in an appropriation bill of two years ago, which exhausted itself with the then current year.

The Chair will discover, I think, that except on a mere appropriation bill there has not been any legislation on this subject at all since the present Revised Statutes came into force, and it was upon the Revised Statutes, which designates the foreign officers of this Government and their salaries, that I made the suggestion; that is to say, that there is no law except the law of the current year, or rather an appropriation bill of a former year, providing for the consul-general at Madrid. Now that appropriation bill has ceased to be longer in force. It was an appropriation for the year 1884, and has ceased to be in force as a legislative provision, not being continuous in its character.

Mr. LONG. Mr. Chairman, if I understand the gentleman from Indiana, he claims that the office exists only by force of the appropriation for the current year. If that be the case, then the office expires with the appropriation for the current year. If that be the case, further, every consulship that is provided for in this bill is a new office created by the appropriation bill of this year, and the point of order lies against every such appropriation. That is the *reductio ad absurdum*.

Now, the fact is that this office had been provided for in former years by law. Two years ago there certainly must have been warrant of law for the establishment of a consul-generalship at Madrid. Last year there was a failure to appropriate. That failure to appropriate did not repeal the law any more than the appropriation this year would create it. In other words, a simple appropriation to pay the consul can neither create nor repeal the office; and therefore I can not see that this provision is obnoxious to the point of order, because it does not make a law at all. It simply provides a salary for the payment of an officer who has heretofore existed by virtue of law.

Mr. HEWITT, of New York. But it creates an office.

Mr. HOLMAN. If my friend from New York will permit me a moment, I desire to send to the Chair for his information in relation to what is the existing law on this subject the Revised Statutes, specifying where consul-generals shall be established to represent this Government.

Mr. BURNES. Referring back to the argument of the gentleman upon the Constitution, I desire to call his attention to the fact, and your attention, Mr. Chairman, to the fact, that the fathers of the Constitution were groping in great darkness from the adoption of the Constitution until 1856, because I undertake to say, after limited investigation, however, that you will not find any consulate or any legation was established from the time of the adoption of the Constitution until the year 1856.

So the Presidents, from Washington down to Mr. Buchanan, were constantly nominating, and the Senate confirming, and there was no law in existence defining or creating these offices. Now, why did they do that? I say that it was simply from their construction of this provision of the Constitution, which provides that the President shall appoint—

All other officers of the United States whose appointments are not herein otherwise provided for and which shall be established by law.

That has no reference to the class of officers named in the first subdivision of this provision of the Constitution. When you come to construe this provision of the Constitution you will find that this qualification has reference to other offices and not to those offices which were never established until 1856.

Mr. TOWNSHEND. I think my friend from Missouri is clearly right. The last clause of this provision of the Constitution relates only

to such offices not enumerated as may be established by law, and has no reference to those referred to in the preceding clause.

Mr. HAMMOND. Does the gentleman from Illinois mean that the President of the United States could nominate a judge of the Supreme Court before Congress had organized a supreme court?

Mr. TOWNSHEND. No, sir.

Mr. HAMMOND. That is in the same clause.

Mr. TOWNSHEND. I was about to give the explanation that this stands on a different footing. The appointment of a consul or embassador is the exercise of the treaty-making power of the President, and it stands upon a different footing from the appointment of any executive officer or judicial officer or any officer whose appointment is prescribed by law.

Mr. HAMMOND. Will the gentleman read the whole clause?

Mr. TOWNSHEND. I have read it. It has already been read to the House.

I make this point, in addition to the point made by my friend from Missouri [Mr. BURNES], that the power of the appointment of embassadors and other public ministers and consuls is the exercise of the treaty-making power of the President. Congress could not prevent the President from appointing a representative of the United States Government abroad if Congress failed to appropriate his salary.

Mr. HOLMAN. Does the gentleman from Illinois know of any treaty between the United States and Spain providing for a consul-general at Madrid?

Mr. TOWNSHEND. No, sir; but the Constitution of the United States has conferred upon the President full power to appoint such representatives of the United States Government abroad as in his judgment he may deem proper.

Mr. HOLMAN. By this provision?

Mr. TOWNSHEND. By this provision of the Constitution.

Mr. HOLMAN. By this provision of the law?

Mr. TOWNSHEND. He is empowered to appoint such representatives, be they embassadors or consuls-general or other agents of the Government, consular or diplomatic. I wish to throw in the suggestion that this stands on a different footing from the appointment of the other officers of the Government.

Mr. WASHBURN. It appears to me the logic of the gentleman from Massachusetts [Mr. LONG] is irresistible. There was a law in 1884 authorizing that appropriation, or the appropriation itself created the law. Certainly there was a law at that time. Now, that law has never since been repealed. The fact of failure to make an appropriation last year in compliance with the law certainly could not operate as in effect to repeal it.

Now, we have had for years and years an appropriation for a consul-general at Cairo. But the last Congress failed to make an appropriation. The gentleman did not make the point of order in that case, as he certainly should have done, because it would be a parallel case.

Mr. HOLMAN. What case?

Mr. WASHBURN. That of the consul-general of Cairo.

Mr. HOLMAN. I did not make the point of order on that.

Mr. WASHBURN. That was the same case as here. The law under which that appropriation has been made every year to pay the consul-general at Cairo certainly was not repealed because we failed to make the appropriation in accordance with law. And it seems to me this is a parallel case.

Mr. BURNES. I desire now, that the Chair may have time to investigate this point, to move that the committee rise.

Mr. BAYNE. Is the point of order pending?

The CHAIRMAN. It is.

Mr. BAYNE. The point of order will be considered in the committee?

The CHAIRMAN. Of course.

Mr. BAYNE. Is not this debate directed to the point of order.

The CHAIRMAN. Entirely so.

Mr. BAYNE. I want to say a word on the point of order.

Mr. BURNES. Can the gentleman not say it when the bill again comes up?

Mr. BAYNE. I do not see how you are going to limit debate on the point of order.

The CHAIRMAN. The Chair is ready to decide the point of order, but will submit the motion that the committee rise.

Mr. BURNES. I withdraw that motion.

Mr. BAYNE. The motion being withdrawn, I desire to say a word. I want to enter, here and now, a solemn protest, and an earnest one, against the assumption that the President may appoint any officer without the authority of Congress. I want to stand upon the declaration that this is a government of law, and that it is a government regulated by the will of the people, and that the will of the people must be reduced to law before the President can act with reference to a single appointment or a single duty pertaining to his office. As I read the law, and as I have reviewed hastily the acts of Congress on this subject, the appropriation for this office at Madrid is liable to the point of order, because there is no law now in existence creating that consulship.

Mr. WASHBURN. I desire to ask the gentleman from Pennsylvania how the appropriation was made in 1884 if there was no law?

Mr. BAYNE. You can make the appropriation now if nobody raises the point of order against it, or you can make it now if the Chair overrules the point of order and the Treasury will pay it. But I do not feel because the thing was done last year or the year before that it is right now.

The fact is, there is not now a solitary law on the statute-book authorizing the President to make this appointment. We have presented upon this appropriation bill new legislation creating this office of consul-general at Madrid. There is no way of escaping this conclusion.

It was assumed here a little while ago by some gentleman that the President, by virtue of his authority under the Constitution, has power to make these appointments. But, sir, the law has never been so regarded. The act of 1856 enumerates various places at which consuls are authorized; and a provision contained in the Supplement to the Revised Statutes enumerates specifically the places at which consuls-general, consuls, and commercial agents shall be appointed and what their salaries shall be. By the act of 1856 a discretionary power was vested in the President with reference to changing the grade of a consul to a consul-general, or a consul-general to a consul; a commercial agent to a consul, or a consul to a commercial agent. This discretion was vested in the President with reference to fixing the grade of these particular officers established by law. But we did not confer upon the President power to go further and say that he would create a new office by establishing a consulate at Madrid or some other point. Such an exercise of authority by the President was never authorized by law. I submit, therefore, that the provision embraced in this bill is liable to the point of order, and the point ought to be sustained by the Chair, because there is no law authorizing the office of a consul-general at the place designated.

Mr. HISCOCK. I desire to say a word on this point of order, because I regard it as very important I believe that when there is inserted in an appropriation bill an item providing for a salary to be paid to any officer the effect of that provision is to create that officer; and, on the other hand, the moment you refuse to make an appropriation for the office, it having been created only for the year, the refusal to make such an appropriation is tantamount to a repeal of the statute creating the office. The appropriation in the first instance having authorized the existence of the office for only one year, the office ceases to exist when that statute expires and Congress fails to make a new appropriation.

Now, this is not an unimportant question. I believe there has not been made by any chairman of any Committee of the Whole a ruling in favor of retaining in an appropriation bill legislation of this kind. Certainly, with some little experience in these matters, I do not remember a case in which upon an appropriation bill Congress has authorized the creation of an office where the point of order has been raised.

I have said that I regard this as a question of a good deal of importance. I believe that the extension of our consular and diplomatic service should be by general law. The party about to go out of power has been held to this rule; and I object to the establishment of any precedent by which the party about to come into power shall create offices in any other way. I only make this remark, Mr. Chairman, for the purpose of impressing upon your mind the importance of this question. If we can by new legislation upon an appropriation bill create this office of consul-general at Madrid, we can do the same thing all along the line—in reference, for instance, to officers in the Territories, &c. Such has not been the practice; and I believe this point of order is well taken.

Mr. HOLMAN. I will detain the committee but a moment further upon the point of order. Looking back through our legislation, a great many instances may be found in which we authorized ministers to foreign countries by a simple appropriation, notably in the cases of South America, Greece, and other countries to which we formerly accredited ministers. But because in former years we appropriated money for a minister, for instance to Greece or to any of the various South American States, could it be assumed now, after the lapse of years, that there is a subsisting law upon which an appropriation might be made? And if an appropriation can not be made under our present rules on the strength of such former legislation, even though the legislation were contained in an appropriation bill for the current year, can such an appropriation be made on the basis of a law which has already expired?

Mr. TOWNSHEND. Does not the gentleman recollect that several years ago Congress refused to make an appropriation to pay the salary of the minister to Greece?

Mr. HOLMAN. Yes, sir.

Mr. TOWNSHEND. Yet he was continued in office.

Mr. HOLMAN. But we did not abolish the office. The office was created by the very law now lying before the present occupant of the chair.

Mr. TOWNSHEND. I do not think that is the reason the minister was continued in office. He was continued simply because the President claimed the right to send a representative to that country, although no provision had been made for the payment of his salary.

Mr. HOLMAN. Oh, no. The law creating that office was not repealed until afterward.

The CHAIRMAN. This point of order is to be decided by refer-

ence to the Constitution of the United States, the Revised Statutes, and the rules of the House. It is provided, in a part of article 2 of the Constitution, that the President "shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur; and he shall nominate, and by and with the advice and consent of the Senate shall appoint, embassadors, other public ministers, and consuls, judges of the Supreme Court, and all other officers of the United States whose appointments are not herein otherwise provided for, and which shall be established by law."

The Chair finds in the Revised Statutes no provision for the office now under discussion. Consequently, as the Chair believes, no provision is made by the general law of the land for this appropriation. The fact that Congress made an appropriation for this office in 1883 and did not do so in 1884 raises a presumption that it was only a temporary appointment. The only law to guide the Chair in the application of Rule XXI to the present case is the appropriation bill for the current year. If provision had been made for this office in the appropriation bill for the year ending June 30, 1885, the Chair would have been compelled to hold that the office was authorized under existing law. But clause 3 of Rule XXI provides:

> No appropriation shall be reported in any general appropriation bill, or be in order as an amendment thereto, for any expenditure not previously authorized by law, unless in continuation of appropriations for such public works and objects as are already in progress. Nor shall any provision in any such bill or amendment thereto changing existing law be in order, except such as, being germane to the subject-matter of the bill, shall retrench expenditures by the reduction of the number and salary of the officers of the United States, by the reduction of the compensation of any person paid out of the Treasury of the United States, or by the reduction of amounts of money covered by the bill.

All right to object to such features having been reserved in the House, the Chair sustains the point of order.

Mr. BURNES. I move the committee rise.

The motion was agreed to.

The House accordingly rose; and the Speaker having resumed the chair, Mr. WILSON, of Iowa, reported that the Committee of the Whole House on the state of the Union had, according to order, had under consideration the bill (H. R. 7857) making appropriations for the consular and diplomatic service of the Government for the fiscal year ending June 30, 1886, and for other purposes, and had come to no resolution thereon.

JOHN DARDIS.

Mr. ROBINSON, of Ohio, by unanimous consent, introduced a bill (H. R. 7896) granting a pension to John Dardis; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

DAVID HARRINGTON.

Mr. ROBINSON, of Ohio, by unanimous consent, also introduced a bill (H. R. 7897) for the relief of David Harrington; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

REBELLION RECORD.

Mr. DUNHAM, by unanimous consent, submitted the following resolution; which was agreed to:

> *Resolved*, That the Secretary of War be, and is hereby, requested to inform this House of the number of copies of Annals of the War remaining undistributed at this date, and whether said copies are required for the future use of the War Department.

TRANSPORTATION OF DUTIABLE GOODS.

Mr. HEWITT, of New York, by unanimous consent, submitted a report from the Committee on Ways and Means in favor of House bill 7586, to amend section 5 of an act entitled "An act to amend the statutes in relation to the immediate transportation of dutiable goods, and for other purposes," approved June 10, 1880; which was referred to the House Calendar, and ordered to be printed.

MAIL FINES.

The SPEAKER, by unanimous consent, laid before the House a letter from the Postmaster-General, transmitting report of the fines imposed on mail contractors for the fiscal year ending June 30, 1884; which was referred to the Committee on the Post-Office and Post-Roads.

COASTER'S HARBOR ISLAND, RHODE ISLAND.

The SPEAKER, by unanimous consent, also laid before the House a letter from the Secretary of the Treasury, submitting estimates from the Secretary of the Navy for the erection of house on Coaster's Harbor Island, Rhode Island, for the fiscal year ending June 30, 1886, $2,500; and also for hire of quarters for Marine Corps for the current fiscal year, $4,500; which was referred to the Committee on Appropriations, and ordered to be printed.

RED RIVER.

The SPEAKER, by unanimous consent, also laid before the House a letter from the Secretary of War, transmitting report from the Chief of Engineers of the preliminary survey and examination of Red River above Fulton, and of Little Red River and of Petit Jean River, Arkansas; which was referred to the Committee on Rivers and Harbors, and ordered to be printed.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted in the following cases:

To Mr. FINDLAY, for this day, on account of sickness.

To Mr. ROBINSON, of Ohio, on account of private business, until Friday next.

To Mr. BRAINERD, for one week, on account of important business.

To Mr. FYAN, indefinitely, on account of sickness.

And then, on motion of Mr. RANDALL (at 4 o'clock and 44 minutes p. m.), the House adjourned.

PETITIONS, ETC.

The following petitions and papers were laid on the Clerk's desk, under the rule, and referred as follows:

By Mr. ALEXANDER: Petition of First National Bank of Milan, Mo., in favor of the McPherson national-bank bill—to the Committee on Banking and Currency.

By Mr. BLANCHARD; Petition of mayor, town council, and citizens of Baton Rouge, La., for building of shell road from Mississippi River, at that town, to national cemetery, near the town—to the Committee on Military Affairs.

By Mr. BREITUNG: Petitions of citizens of Milwaukee, Wis., and Chicago, Ill., asking an appropriation for the harbor of Grand Marais, Mich.—to the Committee on Rivers and Harbors.

Also, petition for light-house on Pipe Island, Saint Mary's River—to the Committee on Appropriations.

By Mr. CHACE: Petition of W. G. Sampson and others, relating to promotions in the Navy—to the Committee on Naval Affairs.

By Mr. FORAN: Petition and memorial of leading manufacturers and merchants of Cleveland, Ohio, protesting against the ratification of the Spanish treaty—to the Committee on Foreign Affairs.

By Mr. W. H. HATCH: Petition of Elizabeth A. Vars and others, asking an increase of widows' pensions—to the Committee on Pensions.

By Mr. HART: Petition of Richard G. Lewis and 29 others, asking for change in patent laws so as to prevent unjust and oppressive charges—to the Committee on Patents.

By Mr. D. B. HENDERSON: Petition of Esther H. Schenk and others, of Cedar Falls, Iowa, asking for increase of widows' pensions—to the Committee on Pensions.

By Mr. LIBBEY: Petition of the board of pilot commissioners and others, citizens of Norfolk, Va., asking an appropriation for the improvement of Norfolk Harbor—to the Committee on Rivers and Harbors.

By Mr. MORSE: Memorial of A. A. Rand and Albert Ordway, relative to a collection of photographic negatives illustrating the war of the rebellion—to the Committee on Appropriations.

By Mr. NUTTING: Petition of M. L. Wright and others, of Oswego County, New York, asking increase of widows' pensions—to the Committee on Pensions.

By Mr. J. J. O'NEILL: Petition of Trades and Labor Assembly of Saint Louis, in favor of bill prohibiting importation of contract labor and protesting against Spanish reciprocity treaty—to the Committee on Ways and Means.

By Mr. PERKINS: Petition of Col. Percy Daniel and others, citizens of Crawford County, Kansas, asking for an appropriation of 20 cents per capita of population and $20 per square mile of territory contained in the organized counties of the United States, to be expended toward the establishment and construction of a system of highways to be called national roads—to the Committee on Appropriations.

By Mr. PETTIBONE: Petition of William S. Pangle, late of the Eighth Tennessee Cavalry Volunteers—to the Committee on Invalid Pensions.

Also, petition of S. H. Walker and 102 others, citizens of East Tennessee, asking the aid of Congress to improve the navigation of Clinch River—to the Committee on Rivers and Harbors.

By Mr. POLAND: Petition of Mrs. Clara Skinner, of Chelsea, Vt., for increase of widows' pensions—to the Committee on Invalid Pensions.

Also, petition of Mrs. Margaret Wright, of Ryegate, Vt., for increase of widows' pensions, and also of dependent relatives—to the same committee.

By Mr. RICE: Memorial of Supervisor Peter Hawkins, of Saint Croix County, Wisconsin, on the tariff question—to the Committee on Ways and Means.

By Mr. RANDALL: Petition of Samuel W. Randall, asking a pension for disability incurred in service—to the Committee on Invalid Pensions.

By Mr. RIGGS: Petition of Alice A. Hughes and others, of Burton, Ill., asking increase of widows' pensions—to the Committee on Pensions.

By Mr. J. S. ROBINSON: Claim of Robert C. Kirk, for loss of goods occasioned by the Alabama—to the Committee on War Claims.

By Mr. J. H. ROGERS: Papers relating to the claim of Pryor N. Lea, of Arkansas—to the same committee.

By Mr. SENEY: Memorial of H. H. Boody and others, asking national aid to common schools—to the Committee on Education.

By Mr. VANCE: Papers relating to the claim of Eugene Tercuit, of Pointe Coupée Parish, Louisiana—to the Committee on War Claims.

By Mr. J. D. WHITE: Petition for the relief of M. V. B. Sutton, postmaster of Williamsburg, Ky.—to Committee on the Post-Office and Post-Roads.

By Mr. WORTHINGTON: Petition of James Cowper and 45 others, citizens of Abingdon, Ill., for increase of widows' pensions—to the Committee on Pensions.

The following petitions for the passage of the Mexican war pension bill with Senate amendments were presented, and severally referred to the Committee on Pensions:

By Mr. FUNSTON: Of citizens of Fort Scott, Kans.

By Mr. FYAN: Of J. S. Moody and others, of Polk County, Missouri.

By Mr. KLEINER: Of soldiers and citizens of Pike County, Indiana.

By Mr. McCOID: Of T. P. Reynolds and 44 others, soldiers at Wellman; of 115 at Brighton; of Alex. Fix and 82 others, at Cantril; of 108 at Letts; and of 183 at Montrose, Iowa.

By Mr. MORGAN: Of 92 citizens of Golden City; of 20 citizens of Dublin; of Thomas Waldron and 104 others, of Cass County; of 125 of Papinsville; and of 35 of Bates County, Missouri.

By Mr. MURPHY: Of Frank M. Slade and others, of Miles, Jackson County, Iowa.

By Mr. PATTON: Of citizens of Templeton, of North Buffalo, of Black Lick, of Reynoldsville, and of Saltsburg, Pa.

By Mr. RAY: Of E. G. Jackman and 35 others, of Lisbon, N. H., and of Phidelia M. Coffin and 17 others.

By Mr. REED: Of 126 citizens of Oxford County, of 76 of Lewiston, of 59 of Monroe, and of 64 of Hancock, Me.

By Mr. SHIVELY: Of D. P. Stevens and 58 others, citizens of Marshall County, Indiana.

By Mr. STEVENS: Of citizens of Niagara County, New York.

By Mr. YAPLE: Of C. H. Beardslee and 64 others, citizens of Gobles, Mich.

SENATE.

MONDAY, *January* 12, 1885.

Prayer by the Chaplain, Rev. E. D. HUNTLEY, D. D.

The Journal of the proceedings of Friday last was read and approved.

WILLIAM MAHONE, a Senator from the State of Virginia, appeared in his seat to-day.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of the Navy, transmitting a chart, to accompany a previous communication from his Department of the 8th instant, relative to the use of coal in the Navy; which was ordered to be printed, and, with the accompanying chart, referred to the Committee on Naval Affairs.

HOUSE BILL REFERRED.

The bill (H. R. 754) for the relief of Nathan H. Dunphe, of Bridgewater, in the State of Massachusetts, was read twice by its title, and referred to the Committee on Claims.

VISITORS TO WEST POINT.

The PRESIDENT *pro tempore*. Pursuant to the thirteen hundred and twenty-seventh section of the Revised Statutes of the United States, the President *pro tempore* of the Senate announces the appointment of the Senator from Connecticut [Mr. HAWLEY] and the Senator from Kentucky [Mr. BECK] to be Visitors at the next annual examination of the Military Academy at West Point, New York.

PETITIONS AND MEMORIALS.

Mr. MILLER, of California, presented a petition of citizens of Stockton, San Joaquin County, California, praying that House bill No. 100, in relation to railroad land patents, may be amended before its passage by the Senate; which was referred to the Committee on Public Lands.

He also presented a memorial of the Board of Trade of San Francisco, Cal., remonstrating against the ratification of the proposed Spanish reciprocity treaty; which was referred to the Committee on Foreign Relations.

Mr. SAWYER presented a memorial of the cigar-makers' union of Chippewa Falls, Wis., and a memorial of the iron manufacturers of Northern Wisconsin and the Upper Peninsula of Michigan, remonstrating against the ratification of the Spanish reciprocity treaty; which were referred to the Committee on Foreign Relations.

Mr. McMILLAN. I present a petition signed by a large number of wholesale merchants and business men of Saint Paul, Minn., in favor of early action upon the bankruptcy bill. As that bill has already passed the Senate and is awaiting the action of the House of Representatives, I move that the petition lie upon the table.

The motion was agreed to.

Mr. ALDRICH presented a petition of residents of Woonsocket, R. I., praying for an increase of the monthly rate of widows' pensions to $12; which was referred to the Committee on Pensions.

He also presented a petition of naval officers attached to the torpedo station at Newport, R. I., praying for legislation in regard to promotion in the Navy; which was referred to the Committee on Naval Affairs.

Mr. LAPHAM presented a memorial of tea-dealers and cigar manufacturers of Onondaga County, New York; a memorial of Cigar-makers' Union No. 159, of Dunkirk, N. Y., and a memorial of Cigar-makers' Union No. 142, of Lockport, N. Y., remonstrating against the ratification of the proposed Spanish reciprocity treaty; which were referred to the Committee on Foreign Relations.

He also presented a petition of citizens of Canandaigua, N. Y., praying for an increase of the pensions granted to widows and dependent relatives of persons formerly in the military service of the United States; which was ordered to lie on the table.

He also presented a petition of letter-carriers of Philadelphia, Pa., praying compensation for additional hours' work in excess of a legal day's labor; which was referred to the Committee on Post-Offices and Post-Roads.

He also presented a memorial of Margaret F. Rawdon, widow of the late Freeman Rawdon, of Little Falls, Herkimer County, New York, in reference to the distribution of the moneys embraced in the Geneva award; which was referred to the Committee on Foreign Relations.

Mr. PALMER presented a memorial of 262 citizens of Michigan, representing iron-ore producing and transporting interests, remonstrating against certain provisions of the proposed Spanish reciprocity treaty; which was referred to the Committee on Foreign Relations.

Mr. WILSON. I have received a memorial of William Mowthorpe, chairman of the board of supervisors of Osceola County, Iowa, and of several other members of that board of county officers and other citizens of the county, remonstrating against the enactment of any legislation by Congress tending to disturb the title to land within the limits of the grant of land to the Sioux City and Saint Paul Railroad Company, but not objecting to a resumption of the unearned lands of said grant. The memorial is addressed to the Senators from Iowa, but is evidently intended for the consideration of the Senate. I ask that it may be received and referred to the Committee on Public Lands.

The PRESIDENT *pro tempore*. If there be no objection the paper will be received and referred to the Committee on Public Lands.

Mr. FRYE presented a petition of Walter F. Marston and others, citizens of Hallowell, Me.; a petition of Randlett & Co. and others of Richmond, Me.; a petition of F. C. Curtis and others, citizens of Bath, Me.; a petition of E. D. Haley & Co. and others of Gardner, Me., and a petition of W. S. Badger and others of Augusta, Me., praying for an appropriation for the improvement of the Kennebec River; which were referred to the Committee on Commerce.

He also presented the petition of Nutter, Kimball & Co., of Portland, Me., praying for the ratification of the proposed Spanish reciprocity treaty; which was referred to the Committee on Foreign Relations.

Mr. SHERMAN. I am requested to present a petition, signed by about 300 citizens of Ohio engaged in the leaf-tobacco trade and manufacturers of cigars, remonstrating against the ratification of the proposed Spanish reciprocity treaty. I move that it be referred to the Committee on Foreign Relations.

The motion was agreed to.

Mr. CULLOM presented a memorial of the Illinois State Horticultural Society, urging the passage of the bill (H. R. 7498) to establish agricultural experimental stations in connection with the agricultural colleges established in the several States; which was referred to the Committee on Agriculture and Forestry.

Mr. HOAR. I present the petition of Belva A. Lockwood, late nominee of the Equal Rights party for President, asking that the ballots cast for her in the several States shall be counted, and that the electoral vote of the State of Indiana be adjudged to her. I am a little uncertain as to the proper committee to which the petition should be sent. I do not know but it would be proper to send it to the presiding officer of the Senate as a special committee, by reason of his constitutional relation to that question and his eminent fitness to deal with it; but, on the whole, I will move that it be referred to the Committee on Woman Suffrage.

The motion was agreed to.

Mr. CAMERON, of Wisconsin, presented a petition of the board of supervisors of Saint Croix County, Wisconsin, praying that Congress may enact a law providing that railroads engaged in the transportation of commodities from one State to another shall not charge more for shorter distances than the same company charges for a longer distance; which was ordered to lie on the table.

He also presented a memorial of the Cigar-makers' Union of Eau Claire, Wis., remonstrating against the ratification of the proposed Spanish reciprocity treaty; which was referred to the Committee on Foreign Relations.

Mr. PENDLETON presented a memorial of the Cigar-workers' Mutual Protective Union of Cincinnati; a memorial of the Cigar-packers' Union of Cincinnati, and a memorial of the Seed Leaf Tobacco Board of Trade of Cincinnati, remonstrating against the ratification of the proposed Spanish reciprocity treaty; which were referred to the Committee on Foreign Relations.

MESSAGE FROM THE HOUSE.

A message from the House, by Mr. CLARK, its Clerk, announced that the House had passed the following bills; in which it requested the concurrence of the Senate:

A bill (H. R. 691) for the relief of William W. Thomas;

A bill (H. R. 948) for the relief of John M. Dorsey and William F. Shepard;

A bill (H. R. 1266) for the relief of Alexander D. Schenck;

A bill (H. R. 1566) for the relief of O. L. Cochran, late postmaster at Houston, Tex., reimbursing him for money erroneously collected from him by the Post-Office Department;

A bill (H. R. 2154) for the benefit of the legal representatives of A. J. Guthrie, deceased;

A bill (H. R. 2268) for the relief of John F. Severance;

A bill (H. R. 4380) for the relief of A. H. Herr;

A bill (H. R. 4679) for the relief of Sarah E. Webster, administratrix;

A bill (H. R. 4681) for the relief of Yost Harbaugh;

A bill (H. R. 4684) for the relief of certain citizens of Marion County, Tennessee;

A bill (H. R. 435) granting a pension to Samuel W. Tracey;

A bill (H. R. 1924) granting a pension to Thomas Simpson;

A bill (H. R. 2377) granting a pension to James Stockton;

A bill (H. R. 2538) granting a pension to Christiana Almier;

A bill (H. R. 3355) for the relief of Mary Mulholland;

A bill (H. R. 3751) granting a pension to Francis Curran;

A bill (H. R. 4021) granting a pension to Abraham Cover;

A bill (H. R. 4266) granting a pension to Margaret A. Ringwalt;

A bill (H. R. 6196) granting a pension to R. D. Lawrence;

A bill (H. R. 6594) granting a pension to Russell F. Dimmick;

A bill (H. R. 6596) granting a pension to John Hazlewood;

A bill (H. R. 6692) granting a pension to David Whittington;

A bill (H. R. 6726) granting a pension to Margaret A. Maguire;

A bill (H. R. 6904) for the relief of John F. Chase;

A bill (H. R. 6997) granting a pension to Henry Davis;

A bill (H. R. 7046) granting a pension to Alonzo Cornwell;

A bill (H. R. 7047) granting a pension to Patrick Murphy;

A bill (H. R. 7141) granting a pension to Daniel W. Adams;

A bill (H. R. 7315) granting a pension to Frederick P. Dearth;

A bill (H. R. 7503) for the relief of Daniel McAlpin; and

A bill (H. R. 7874) making additional appropriations for the naval service for the fiscal year ending June 30, 1885, and for other purposes.

The message also announced that the House had passed the bill (S. 12) for the relief of Elizabeth Carson, with an amendment, in which it requested the concurrence of the Senate.

The message further announced that the House had passed the bill (S. 478) to authorize the Secretary of War to relinquish and turn over to the Interior Department certain parts of the Camp Douglas military reservation, in the Territory of Utah.

ENROLLED BILL SIGNED.

The message also announced that the Speaker of the House had signed the enrolled bill (S. 491) for the relief of John W. Franklin, executor of the last will of John Armfield, deceased; and it was thereupon signed by the President *pro tempore*.

REPORTS OF COMMITTEES.

Mr. VAN WYCK. I am directed by the Committee on Public Lands, to whom was referred the bill (H. R. 5479) to prevent unlawful occupancy of the public lands, to report it with sundry amendments. I will state that at a very early opportunity I shall ask the indulgence of the Senate to have the bill considered. The principal amendment reported by the committee is the re-establishment of the vitality of the law of 1870, authorizing the President of the United States to use the civil and military forces, if necessary, to remove illegal obstructions upon the public domain.

The PRESIDENT *pro tempore*. The bill will be placed on the Calendar.

Mr. DOLPH, from the Committee on Public Lands, to whom was referred the bill (S. 2482) to amend sections 1 and 2 of an act of Congress entitled "An act for the sale of timber lands in the States of California, Oregon, Nevada, and in Washington Territory," approved June 3, 1878, reported it without amendment, and submitted a report thereon.

Mr. DOLPH. I am directed by the Committee on Public Lands, to whom was referred the bill (H. R. 100) for the relief of certain pre-emption and homestead settlers in California, to report it adversely.

Mr. MILLER, of California. Let the bill be placed on the Calendar.

The PRESIDENT *pro tempore*. The bill will be placed on the Calendar with the adverse report of the Committee.

Mr. PLUMB, from the Committee on Public Lands, to whom was referred the bill (H. R. 847) for the relief of Francis B. Van Hoesen, reported it with an amendment.

He also, from the same committee, to whom was referred the bill (S. 2487) to establish an additional land district in Dakota, reported it with an amendment.

BILLS INTRODUCED.

Mr. CONGER introduced a bill (S. 2522) to provide for the purchase of the two canals known as the Portage Lake and River Improvement Company Canal and the Lake Superior Ship-Canal Railway and Iron Company Canal, being the water communication across Keweenaw Point, Lake Superior, from Keweenaw Bay to Lake Superior by way of Portage River and Lake, in the State of Michigan; which was read twice by its title, and referred to the Committee on Commerce.

Mr. MITCHELL introduced a bill (S. 2523) to increase pensions of widows, minor children, and dependent parents from eight to twelve dollars per month, and providing that muster into service shall be *prima facie* evidence of soundness at enlistment; which was read twice by its title, and referred to the Committee on Pensions.

He also introduced a bill (S. 2524) granting a pension to Harriet A. B. Corts; which was read twice by its title, and referred to the Committee on Pensions.

Mr. SAWYER introduced a bill (S. 2525) for the relief of Ann Annis; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. WILSON introduced a bill (S. 2526) to increase the pension of widows and minor children; which was read twice by its title.

Mr. WILSON. I wish to state, in moving the reference of the bill to the Committee on Pensions, that it embraces but one of the subjects of the bill introduced by the Senator from Pennsylvania [Mr. MITCHELL]. I have therefore thought it proper to introduce a separate bill. I move that it be referred to the Committee on Pensions.

The motion was agreed to.

Mr. ALDRICH introduced a bill (S. 2527) granting a pension to Robert Sheridan; which was read twice by its title, and referred to the Committee on Pensions.

Mr. PALMER (by request) introduced a bill (S. 2528) for the relief of James McKinley; which was read twice by its title, and referred to the Committee on Pensions.

Mr. BECK introduced bill (S. 2529) for the relief of J. M. Lobban; which was read twice by its title, and referred to the Committee on Finance.

Mr. HARRIS introduced a joint resolution (S. R. 109) authorizing the loan of certain flags and bunting to the committee on inauguration ceremonies; which was read twice by its title, and referred to the Committee on Military Affairs.

COUNTING OF THE ELECTORAL VOTE.

Mr. HOAR submitted the following resolution; which was referred to the Committee on Privileges and Elections, and ordered to be printed:

Resolved by the Senate (the House of Representatives concurring), That the two Houses of Congress shall assemble in the Hall of the House of Representatives the 11th of February, 1885, at 12 o'clock noon, pursuant to the requirement of the Constitution and laws relating to the election of President and Vice-President of the United States, and the President of the Senate shall be the presiding officer; that two persons be appointed tellers on the part of the Senate and two on the part of the House of Representatives, to make a list of the votes as they shall be declared; that the result shall be delivered to the President of the Senate, who shall announce the state of the vote and the persons elected to the two Houses assembled as aforesaid, which shall be deemed a declaration of the persons elected President and Vice-President of the United States, and, together with a list of the votes, be entered on the Journals of the two Houses.

PUBLIC POLICY OF CONFEDERATE STATES EXECUTIVE DEPARTMENT.

The PRESIDING OFFICER (Mr. SHERMAN in the chair). "Concurrent or other resolutions" being in order, the Chair lays before the Senate the resolution submitted by the Senator from Connecticut [Mr. HAWLEY] on the 8th of January, which will be read.

The Chief Clerk read the resolution, as follows:

Resolved, That the President of the United States be, and he is hereby, requested, if in his opinion it be not incompatible with the public interest, to communicate to the Senate a historical statement concerning the public policy of the executive department of the Confederate States during the late war of the rebellion, reported to have been lately filed in the War Department by General William T. Sherman.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

Mr. HARRIS. I desire to ask the Senator from Connecticut if he thinks there is anything contained in the paper to which his resolution refers requiring or rendering necessary any action upon the part of the Senate; and if he does not, I desire to inquire of him why the Senate should ask to have the paper communicated to it.

I called at the War Department on Saturday and examined the paper. It is a somewhat voluminous argument upon the part of General Sherman of his side of a personal issue made a short time since through the newspapers between himself and Mr. Jefferson Davis, the argument being based upon various records and documents, most of which have already gone into history—all of them, with perhaps the exception of one or two, and those documents are contained in the paper referred to and now a public record in the War Department, to which the Bureau of War Records has full access, and from which paper that bureau can draw the documents referred to if there be such as have not already gone into history.

I have no objection to the broadest publication of every fact that the paper contains; but, unless the Senator thinks the paper contains some

matter demanding the action of the Senate, I ask him why the Senate should ask to have a copy of the document sent here and assume the simple form of an executive document to be pigeon-holed and slumber here forever? If there is in the opinion of the Senator any action that the Senate ought to take in respect to that paper, then I shall interpose not the slightest objection to the adoption of his resolution and the transmittal of the paper to the Senate.

Mr. HAWLEY. When I first heard that such a paper had been filed by General Sherman I was told there was some new historical statement or document contained therein. I also on Saturday went to the War Department and looked the paper over. There is a very important and a very interesting paper in that communication which has never been before the public, and which, undoubtedly, will be exceedingly interesting to every man who cares anything about the history of the late war. It was on the supposition that there were such statements and papers in it that I submitted the resolution. I find there is at least one such document, whether there is anything more or not. I presume there are facts and allegations there that are new beside those in the document to which I refer, but there is one official document that is entirely new.

When I offered the resolution I desired to have this document in some authentic shape. I thought probably the whole matter would get into the newspapers some time or other, but very likely, being a long document, only in the way of extracts and mutilations, taking out that which the correspondent of the newspaper might think more interesting reading than any other portion; wherefore, I desired to have the entire document in an authentic shape from the Government Printing Office as a very important part of the history of the country. I still think it is worth while to do that, not for the sake of reviving any controversy or anything of that sort or taking any part in any personal quarrel, but because of its historical importance.

The Senator from Tennessee says very truly that the document is now in the archives of the War Department and will eventually come under the consideration of the officer who is preparing the Rebellion Records. That is true, but the paper I refer to pertains to the very closing year and months of the war, and will not come out in the Rebellion Records under two or three or four years; and as it is not a formidable pamphlet to print, I presume making twenty-five or thirty pages of the size of the ordinary miscellaneous document, I hope the Senator will make no objection to our printing it.

Mr. HARRIS. I shall not be understood as objecting to the printing if the Senator desires that it shall be printed in the form of an executive document. I think it is a somewhat unsafe if not a dangerous precedent. The United States Senate is in no sense a bureau for the collection or perpetuation of historical facts or a bureau for the purpose of printing history. We have a bureau organized for that purpose. The paper referred to is now on file under the very fingers of that bureau, and perhaps it is, or ought to be, on file in its pigeon-holes.

Now, exactly why we should ask for the sending to the Senate of every paper that we may regard as of historic interest in order that it may be printed as an executive document and encumber the files of the Senate, if it be upon a subject that no Senator will say demands the action of the Senate, I doubt very much the policy; and if it were not for considerations that I do not care to open or to even refer to here, I should very earnestly protest against the making of such a precedent where no higher object is even suggested by the Senator asking that the paper be brought here than the one he does suggest, simply in order that we may print it in the form of an executive document when it is already a public record in the archives of the Government and in the hands of the historical bureau, and will go into history in its proper place and through the proper channel. I doubt very much the propriety, but I shall interpose no objection if the Senator insists upon the adoption of his resolution.

Mr. VEST. I very much regret the introduction of this resolution, not that as an ex-confederate I have the slightest objection to the largest amount of publicity to the political history of the late Confederate States, but I regret it for the reason that it places the Senate of the United States in the attitude of becoming indirectly at least a party to a personal controversy in the public papers of the country. The Senate of the United States has over and over again refused to make investigation even when a member of this body rose and called attention to libels upon him in the public press; but the rule of the Senate has been, and I presume it will be adhered to in the future, to remand any Senator who has complaint of this sort to the remedies furnished by the laws of the country and by an appeal to public opinion through the same medium of communication by which the libel was inflicted.

My feeling toward General Sherman is personally of the kindest description. He is my constituent and I believe my personal friend; I have every reason to think so; but it is simple justice (and justice to a man of whom there may be great diversity of opinion, but who is still entitled to a fair and honest trial before this or any other tribunal) to say that the passage of this resolution commits the Senate of the United States, indirectly at least, to the side of this personal controversy, which belongs to General Sherman and his friends.

Without going into the history of this matter, I state what is known to the whole country, that in October last, at a meeting of Frank P. Blair Post, No. 1, of the Grand Army of the Republic, in the city of Saint Louis, General Sherman stated that the late war, or the last war, originated in a systematic conspiracy, and that he had seen a letter, he is reported to have said, from Mr. Davis to a gentleman once the governor of a confederate State and now a member of this body, which stated that Jefferson Davis as president of the late confederacy had threatened to coerce any one of the Southern States which attempted to secede from the confederacy, thereby giving the lie to his expression of belief in State rights, and falsifying the very issue upon which the Southern States had gone into the war.

This statement was published and wide-spread through the newspapers of the country. Mr. Davis responded by stating that no such letter had ever existed, and that he challenged its production, and in the absence of that letter he pronounced it a deliberate slander. The issue was made up, and General Sherman publicly avowed to all persons who approached him that he proposed to make his answer to Mr. Davis through the War Department at Washington. That answer has been made. It has been made in the shape of a letter not to a member of this body and late the governor of a confederate State, but a letter from Alexander H. Stephens, vice-president of the confederacy, to Herschel V. Johnson, in which he expressed his distrust and suspicion of Mr. Davis and his ultimate designs in the war. Another one of these documents to which I presume the Senator from Connecticut refers is a message sent by Jefferson Davis to the confederate congress, or to the confederate senate in secret session, in which he recommended the suspension of the writ of habeas corpus. Both these documents have been published in the public press; they are found in the New York papers of yesterday, and the letter of Mr. Stephens to Mr. Johnson is also found in the Washington city papers of to-day.

Is it fair, is it right, is it manly now, when Mr. Davis can not be heard upon this floor unless it be through the mouth of some one who chooses to espouse and advocate his side of this controversy—is it right now to use the Government of the United States and its instrumentalities in a personal controversy, no matter what may be its merits, no matter what may be the position of the parties to it?

Sir, there can come no good from this investigation. Its only result will be—I charge it not as the object—to arouse the bitter memories of the war. It will add nothing to the political history of the Confederate States. Jefferson Davis to-day is an old man, broken in fortune and in health, and living among the people who honor and love him. If the resolution be passed it will necessitate, upon my part at least, the public avowal (I was a member of the Confederate States senate) that I opposed with all my force measures which were advocated by Mr. Davis and which I thought were not for the public welfare of the confederacy, and it will necessitate the avowal also that I believe, as an overwhelming majority of the Southern people who risked and lost all in that terrible struggle to-day believe and will always believe, that Jefferson Davis was as true and loyal to the cause which he espoused as ever was wife to husband, as ever was religious votary to the God he worshiped. He made mistakes unquestionably, and who would not? Met and surrounded by unparalleled difficulties and dangers, arrayed against him the highest talent of the Confederate States in the persons of political leaders, who would not have been mistaken in the terrible ordeal through which he passed? But I should hold myself to be recreant and dastard, false to the memories of the past, all that is left to us, false to my hopes in the future as an honorable man, if I did not state here and now that General Sherman is mistaken in the assertion that the people of the Confederate States did not sympathize with their leader in that terrible conflict. I say nothing of its merits, I say nothing of its history, I simply make an avowal here in behalf of an absent man, who has suffered much, whatever may be thought of his past history, and who is entitled to this avowal from one who shares with him to-day the responsibility of that struggle and its results.

Sir, this investigation can do no good, it adds nothing to history. There are before us to-day great issues pressing upon us in the short time left of the life of this Congress; and in the language of a distinguished lecturer, a resident of this city, we have no more use for these personal opinions of General Sherman, for these documents which are already on file in the archives of the Government, than a shroud has for a pocket.

Mr. GEORGE. Mr. President, I was absent when this resolution was called up, and my object in rising now is not to asperse any individual, and certainly not General Sherman. I shall have accomplished my object when I say that this is purely a private and personal controversy between private citizens of this country, and I can see no occasion for the intervention of the Senate in the way this resolution proposes.

As I understand the controversy, General Sherman has made certain charges against Mr. Davis, made them not in an official communication, made them in a speech to his comrades. Mr. Davis replied, denying the charge. General Sherman has filed, as I understand—and I speak from the press—in the War Department what he conceives to be the proof of his charge. I do not see what the Senate has to do with this question. It is a matter that must be decided by the public whether or not General Sherman is right; but I do not think that this Senate in this private and person quarrel ought to lend its influence or

its aid to the one side or the other. It is for these reasons, sir, that I oppose the passage of the resolution.

Mr. CONGER. Mr. President, I do not quite understand that this is a contest between two private citizens of this country. I do not quite understand by what authority Mr. Davis is called a citizen of the United States. I think there is something for Mr. Davis to do and for Congress to do before Mr. Davis can be brought by his friends or anybody else into equality of relation of citizenship with General Sherman; he has some application to make to Congress, he has some action by Congress to get before he can be restored to the position in which the Senator from Mississippi has placed him as a citizen of the United States entitled to the protection of our laws or the rights of citizenship.

Mr. GEORGE. Mr. President, I presume it is unnecessary for me to answer the legal position taken by the Senator from Michigan. Although Mr. Davis may suffer or lie under the disabilities imposed by the fourteenth amendment, he is still a citizen, subject to the laws of the United States. I have not heard before that the fourteenth amendment had the effect, or was designed to have the effect, to destroy the citizenship of any person who came within its purview. But however that may be, the suggestions that I made would be just as potential whether the Senator from Michigan regards Mr. Davis as a citizen or not. It is certainly a quarrel between private persons, private individuals, and I can not see that there is any propriety in the Senate taking official action upon one side or the other.

If it be asserted that the documents which General Sherman has filed in the War Department ought to be known by the public, then I answer that they are already known. I saw them all published this morning in one of the papers of this city. I do not see how their being published through the agency of the Senate can give them more force or more effect than they now already have.

Allow me, Mr. President, to say again I will express no opinion here on the merits of this controversy. I have an opinion and a very decided one, but I do not believe that it accords with my duty to my constituents, to the State which I have the honor in part to represent on this floor, or to the good of this whole country, that I should express that opinion. But whatever opinion I may entertain, whatever opinion the Senator from Michigan may entertain, can not be enforced or strengthened by the action of the Senate. That controversy between these two eminent men must go down to history and must be settled as all other questions are settled, according to the truth and the merits of the case; and allow me to say, sir, that with that judgment I shall be perfectly satisfied. I have no fear that anything in that judgment will be adverse to the honor or patriotism of Jefferson Davis.

Mr. HAWLEY. I have spoken once. Can I speak again?

The PRESIDENT *pro tempore*. This resolution is not under the eighth rule

Mr. HAWLEY. I do not assent to the proposition that the proposed action of the Senate is an interference in a mere private quarrel or taking sides in a mere private quarrel. I do not know, nor for my present purpose do I care, how much of personal animosity there may be between Mr. Davis and the distinguished general. It has nothing to do with what I am after now. I desire to get in official form laid before the country a very interesting statement from a great general in the war, now on the retired-list, who has lately been the head of the Army, which statement contains in it information, and arguments if you choose, that I consider important to a proper understanding of all the great questions that have lately divided the country. Personally I do not care about the expression committing me to the side of General Sherman, for I am on that side with the greatest pleasure, with all my powers of mind and body. I believe him right in the personal and in the political and in the military side of that controversy; and now I am seeking to add authentically to the historic knowledge of the country. I do not care to go into the details of the communication, though since I offered the resolution I have read it.

Mr. HARRIS. Will the Senator allow me to put a question?

Mr. HAWLEY. Yes.

Mr. HARRIS. I simply desire to ask if the Senator thinks from what he knows of the paper under discussion that there is any action the Senate can take if the paper comes here except to print it as an executive document?

Mr. HAWLEY. I do not know what the other Senators might say about that, nor do I know that it is an essential question. We have not been in the habit always of weighing the value of a request for communications from the Executive Departments by the consideration whether we were going to take any action upon them or not. We desire the information. In a certain and broad sense you may say this historical statement might have to do with the action of the Senate. I do not think it would, but I do not think that is essential. We have a right to any information concerning the war or any thing that has happened since that we may think of value to us as legislators or to the public.

Mr. HARRIS. Unquestionably. There is no question about that, nor would any one, I imagine, desire to suppress a single fact or a single paper referred to in the communication submitted by General Sherman; but my point is, that it is already in the archives of the Government. It is already as authentic as it can be made; it is already public not only in the newspapers, but filed in one of the Executive Departments and within the hand of the War Records Office for whatever use history may demand or it may be proper that it should be appropriated to. If the Senate proposes to take no action except to print it, the printing by the Senate will give no additional authenticity or additional publicity to the paper referred to. It seems to me the action proposed is wholly unnecessary.

Mr. HAWLEY. I think it would add an additional authenticity, it certainly would an additional publicity. In that paper is a statement which establishes beyond all question to my mind the fact that there was a deliberate conspiracy in this city of Washington as early as the beginning of 1861 by which certain Senators decided upon a confederate government, upon the location of its headquarters at Montgomery, and appointed a committee of Messrs. Davis and Slidell to attend to this, the agreement being made that other Senators should remain here to prevent any legislation that might interfere with the success of the secession.

This is not a matter of personal quarrel between Mr. Davis and General Sherman, any further than it is true that many millions of us had a personal quarrel for four years, a personal quarrel of the most terrible character; and everything that pertains to that war and that may hurt the feelings of one man or another on this side or the other is not to be called a personal matter because his feelings were engaged in it.

Mr. DAWES. I should like to make an inquiry of the Senator from Connecticut. How will this paper be published among the war records? This is a recent paper in the Department, and it can not be covered by the authority under which those records are published. If published at all, it must be published by some order such as the one the Senator has submitted.

Mr. HAWLEY. I think that is true of the paper as a whole, although there is one document in it, a message from Mr. Davis to the confederate congress, that might come within the records to be compiled.

Mr. DAWES. All the rest is outside of the functions of that publication.

Mr. HAWLEY. I think the Senator is correct in that.

Mr. VEST. I only wish to supplement what I said before by a single remark. General Sherman states in this paper that it is a contribution to the war records; that he desires it should go down to history as a portion of the political history of the confederacy. I wish to call the attention especially of the Senator from Connecticut to this single fact, which it seems to me determines the nature of this paper and whether it is a portion of a personal controversy or not: When Mr. Davis distinctly and emphatically denied that he had ever written any such letter as General Sherman stated he had seen and read and challenged its production, General Sherman stated that he would make his reply to Mr. Davis through the War Department at Washington. This is then a reply to the letter of Mr. Davis, and, as a matter of course, is part and parcel of the personal controversy between them.

The PRESIDENT *pro tempore*. The question is on agreeing to the resolution.

Mr. HAWLEY. I call for the yeas and nays.

The yeas and nays were ordered.

Mr. MORGAN. Mr. President, as the yeas and nays have been called for on this resolution by the Senator from Connecticut, I think that it would be well that I should state my reasons for opposing it.

The Senator from Missouri has already informed the Senate, as they have been informed through the public prints, that this is a controversy between two gentlemen, both of whom were formerly members of this Government, holding distinguished positions, one Secretary of War and the other holding the position of General of the Army. A controversy unfortunately arose between them, possibly by some misrepresentation in its outset, as to the conduct of one of these gentlemen in the management of the affairs of a government which has passed out of existence and has no longer any recognition whatever except in history.

A controversy arose between them which found its way into the newspapers, an acrimonious controversy, one that was unpleasant in every respect, not agreeable I dare say to the general sentiment of the people of the United States, having no beneficial effect upon the future prosperity of this country, out of which there is no prospect of any advancement of the public good. It was the disposition, I think, of the press and the people of the United States to allow these gentlemen to have this matter out between themselves, without their becoming very much involved in it. It was stated, however, that one of these gentlemen, because of his merely nominal attachment at present to the Army of the United States, would take occasion to make a report, somewhat historical in its nature I suppose, to the Department of War, and that he would ask that that report should be taken as his defense against what Mr. Davis had had to say about General Sherman.

General Sherman assumes that because he has a nominal connection with the Army of the United States he has access to the War Department for the purpose of conducting his private quarrels. There is nothing public in this quarrel except its publicity and the fact that it relates to some matters that were once public, once matters of public concern, but are no longer so. Take out of it these elements, and it is particularly a private quarrel between two private gentlemen.

Now, sir, what shall we do after this paper has been ordered by the

Senate of the United States and printed and made an executive document? Shall we deny to Jefferson Davis, in the name of common humanity, the right to make his statement and send it to the War Department and have it sent to the Senate of the United States in the same form? For while it may be true that one of these citizens is under a disability in respect of his civil rights and powers, it is not true that he is any less a man than General Sherman because of that. While it may be true that he is under the reprobation of a very large portion of the people of the United States because of his connection with the rebellion, it is none the less true that he is yet beloved by millions in the United States. While it may be that he was actively concerned against the Government of the United States in open warfare, and as the president of the confederacy during the time of the rebellion and the terrible struggles that were made between that and the Government of the United States, it is not true that he was any more particularly the enemy of the United States than I was or than many Senators on this floor to-day were.

We are here representing sovereign States; we are here by the consent of the Constitution of this country; we are here by the action of State Legislatures; we are here by the votes of this body seating us as Senators; we are here exercising powers equal to those exercised by any men on this floor; and we are here to stay. Now, sir, how could we be called upon to vote that Jefferson Davis should have no chance to reply through the War Department to this accusation of General Sherman through the War Department? What connection has General Sherman with the Army of the United States to-day that authorizes him to make reports to that Department to become reports of an official character? He is a retired Army officer. Captain Armes in this city has just as much right to make his reports and report his private correspondence and quarrels with officers, if he ever had any, to the War Department, and have them brought before the Senate as papers of an official character or papers that may find their way into the rebellion records, as General Sherman has.

It is true General Sherman was a much greater man than Captain Armes, held very much more important and influential positions; but they are both retired officers of the Army of the United States, and the Senate of the United States would stultify itself to make a distinction between those two men. But you would do it in a moment if Captain Armes should undertake to thrust into the War Department some quarrel which he may have had with some officers of the United States Army, or with Belknap, in whose impeachment he was very efficient, and for which reason Captain Armes was no longer in favor. If he were to push his statement of his interference with that matter and of Belknap's conspiracy with other people, Senators if you please, in respect to the abuse of the powers of the office he held then as the director of the War Department of the United States, you would refuse to receive it, and you would do it simply because Armes was not an important man. That would be all.

Now, sir, are we required to take this ground? Are we so much men-worshipers and are we so much men-haters, too, as that we should receive from General Sherman because of his great eminence and ability as a soldier his statement of what occurred in a government that we have had no connection with as a government here except to fight it, and then we can turn around and refuse to receive the defense or plea of the man thus assailed through the Senate or by the Senate of the United States, whichever you choose to have it? When you have received this communication and put it among your executive documents you have given to it the stamp of your approval, and you will cut off Jefferson Davis from any right to make a defense against it. That will be the attitude.

Now, Mr. President, do not let us get into that condition. This is an unfortunate movement. There seems to be some disposition even to make it a party movement. Why, sir, the Democratic party of the United States can not be involved in this; but if the Democratic party of the United States are compelled to take ground about it, they will certainly take the ground that you shall treat all men alike, and that when the Senate of the United States, this august body, undertakes to call for information which may have the effect to wound the character or the reputation of any man in the United States he shall have an equal right to reply. We will not confer upon him the right to reply; we will shut our doors against this. It will be said that he is not a citizen of the United States, and he is not entitled to be heard by the Senate of the United States in any respect; that he is fit for nothing on earth but to be abused. We will indorse the statement made by General Sherman by putting it among our files, and we will close our doors to a reply from Jefferson Davis.

Mr. INGALLS. Mr. President, whenever any question arises in which Jefferson Davis is involved the Democratic party can always be found on the side of Jefferson Davis. I have heard the Senator from Alabama repeatedly air the same sentiments he has expressed to-day.

Mr. MORGAN. If the Senator will pardon me a moment, I should like him to present one occasion in which I have ever alluded to him. Now as a matter of history I wish to know it.

Mr. INGALLS. The Senator from Alabama says he would like specifically to have some reference made to the time when he as a member of the Democratic party has indorsed Jefferson Davis. There never has been an occasion in debate in this body, and the occasions have been frequent since I have been a member of it, when the Senator from Alabama and his associates have not always taken sides with Jefferson Davis, always indorsed him, always approved his course, and, as they have done to-day, risen in their places and declared that there was nothing in his record that would convince posterity that he was not a man of honor and a patriot; yes, a man of honor and a patriot! And the Senator from Alabama and the Senator from Missouri take occasion to inform the Senate of the United States that there are millions of people to-day who love Jefferson Davis, to whom Jefferson Davis is endeared by the memory of common hardships and common privations and common calamities.

Mr. President, we have just witnessed the spectacle of the election of a President of the United States by the votes of men who declare to-day that Jefferson Davis is a man of honor and a patriot; by the votes of men who loved Jefferson Davis, we are informed by the Senator from Alabama, by reason of the sufferings and privations and calamities that they have endured together. Sir, so long as men are found to stand on this floor and declare that Jefferson Davis was a man of honor and a patriot, and that there are millions of men in this country who love him to-day, it will be in vain to stand upon the rostrum, upon the political forum, and declare to the people of this country that the animosities engendered by the war are buried forever. It does not sound pleasantly to loyal ears, it is not an agreeable statement to men who were upon the other side of this controversy, to hear that Jefferson Davis was an honorable man and a patriot. It does not sound well to be told either that among those people whom we are called upon to recognize as brothers united by the bonds of a cemented Union there are millions of people to-day who love Jefferson Davis, and to have that continually flaunted in our faces and paraded upon this floor, and announced to the people of this country by members of this body who have taken the oath of allegiance, who have been relieved of their political disabilities, and upon every occasion repeat this story that Jefferson Davis was a man of honor and a patriot.

Sir, I have heard the Senator from Missouri upon more than one occasion allude with something of pride and something, it seemed to me, of satisfaction, to the part he had played in the political fortunes of the Southern confederacy. There is no occasion that I know of for a man who is a member of this body to continually dwell upon the fact that he was a member of the Confederate States senate. It is not a matter that concerns the argument of questions here; nor is it desirable, it appears to me, in a discussion of this kind, when no appeal was made to partisan passions, for one Senator after another to rise in his place and dwell upon the fact that he was a member of the Southern confederacy, that he was a member of the Confederate States senate, and that he believed that Jefferson Davis was beloved by the Southern people, and that he was actuated by the sentiments of a man of honor and a patriot.

I beg leave to say to the Senator from Missouri that if the memories of the war are to be forgotten, if a review of the transactions of the past is not desirable, if any reference to the passions of that epoch is to be reprobated, it is not desirable that a member of this body should repeat so often as the Senator from Missouri does that he was a member of the Confederate States senate; and inasmuch as he has on many occasions seen fit to make that statement, I beg leave to state to him that so far as the State of Missouri is concerned he never was accredited to the Confederate States senate. The State of Missouri was never out of the Union; there never was a governor that could accredit him, there never was a Legislature that could elect him; and in the name of the loyal people of that State, for whom I have a right to speak, I protest against the continual repetition here of the sentiments that I have heard the Senator from Missouri so often make.

Mr. President, I have no desire, so far as I am concerned, to take any part in any partisan discussion. I have sedulously refrained from it. I have never upon any occasion referred to these subjects during this session of Congress. Here is a simple question as to whether a certain resolution shall be adopted permitting the printing of material that has been transmitted to the War Department.

Mr. HAWLEY. Allow me to correct the Senator. So far as it has gone it does not even say it shall be printed. It asks the President, if not in his judgment incompatible with the public interest, to send it to us.

Mr. INGALLS. So that it may be printed.

Mr. HAWLEY. The printing will be a subsequent consideration.

Mr. INGALLS. This has been alluded to as an unfortunate controversy between two private citizens. It is in no sense whatever a controversy between two private citizens. It reaches the dignity of a great political question, of a great political discussion, and the Senators upon the other side of this Chamber have made it so by declaring that in a controversy between William T. Sherman and Jefferson Davis they are for Jefferson Davis. Well, sir, as between William T. Sherman and Jefferson Davis I am for William T. Sherman; and whenever this question is raised before the Senate, or before the people of the United States, the loyal men of this country, the loyal men of the North particularly, will always be in favor of William T. Sherman as against Jefferson Davis. And if the Senator from Alabama, the Senator from

Mississippi, and the Senator from Missouri think that they can afford to invite a renewal of that controversy, let them do it. We are as ready to meet that issue as we ever have been.

Now, sir, the allegation, I understand, is made that General Sherman—it may be upon a private occasion, upon a festive occasion, before a Grand Army post, an occasion when soldiers get together and renew the memories of that contest in which they were engaged—made a certain statement with regard to the part that Jefferson Davis took during the controversy between the States. There was a publication of his remarks. It was replied to by Jefferson Davis, who declared in effect that William T. Sherman was a liar—I suppose that is the plain English of it; that upon this question that involved not merely the personal relations of these two gentlemen to each other or the personal relations of Jefferson Davis to the confederacy, but his official relations, Mr. Sherman had made a statement that was willfully and knowingly false. General Sherman replied; he has made a public statement that it is desirable the people of this country should possess; and the Senator from Connecticut now asks a resolution that this may be transmitted to the Senate, not for the purpose of being printed, but that it may be ascertained whether it should be printed or not; and Senator after Senator arises upon the Democratic side of this Chamber and objects to it because it will involve the honor or the patriotism of Jefferson Davis!

Mr. SHERMAN. Mr. President, I should not have said a word about this matter, being restrained by a sense of personal delicacy on account of my relation with one of the gentlemen named in the resolution, but for the fact that Senators on the other side of the House seem to regard this as a mere personal controversy between two citizens. I know it will be very much a matter of surprise to General Sherman to learn that this is a controversy between himself and Jefferson Davis. He says in the correspondence that he does not know Jefferson Davis; he did not see him when he was Secretary of War, he was then not in the Army, and he never has had any personal relations with him whatever. Therefore there was no controversy of a personal character between them. On the other hand General Sherman, a citizen of Saint Louis, attends by invitation the Frank Blair Grand Army post, composed of soldiers, their wives and families. In the course of that meeting, entirely *impromptu*, without any preparation, he is called upon in pursuance of their customs to make a speech, and he does so, a brief speech, the contents of which were substantially stated in the public prints in Saint Louis.

The allegations contained in that speech as published in the papers and as mentioned in the statement by General Sherman now in the War Department are that he regarded Jefferson Davis not only as a rebel but as a conspirator, and that he saw not only letters but papers captured during the war, and especially while he was marching in his well-known march through Georgia, which tended to show that Jefferson Davis while the war was progressing had abandoned his State-rights doctrines and had become practically a dictator in the South. That was in substance the statement made by General Sherman without the slightest personal reference to Jefferson Davis as a man, but only referring to him as the leader of the great army and the great cause which these soldiers had endeavored to overthrow by superior force. That was the statement. As to any personal controversy between these two persons, there was nothing of the kind evinced, except General Sherman did insist that he had the historical right to class Jefferson Davis as a conspirator and a traitor. Did that make a personal quarrel between Jefferson Davis and W. T. Sherman? Far from it. I might in the same way make a personal quarrel with all the descendants of Benedict Arnold by stating the historical fact about him.

What followed? Mr. Davis, seeing this and becoming angered by it, writes a very bitter article, not to General Sherman, but to some newspaper in which he saw the publication, in which, as the Senator from Kansas very properly remarks, he said substantially General Sherman makes a false statement—stronger language even, substantially that General Sherman lied; gives him the lie. This was not addressed to General Sherman. General Sherman, who had the honor to command the Army of the United States and had been, to say the least, a conspicuous actor in the great military events of the war, and who was still in every sense an officer of the Army subject to the orders of the President of the United States at any time, who may be court-martialed and subject to the laws of war, did not respond by a letter to Jefferson Davis, or by sending his views to a public print and thus getting into a newspaper wrangle. He did exactly the opposite of that. As an officer of the Army he gave to his military superior the reasons and evidence, which justified every observation that he had made, and deposited this in the public records, as he was bound to do.

If an officer of the Army of the United States, whether retired or not, has put upon him any insult whatever, which among gentlemen would be regarded as a matter of reproach, he is bound in honor and by his military rank to make an explanation to the proper authorities to show that the imputation upon his honor is not correct, and that he only did what he was justified in doing in speaking of a historical character. That is what General Sherman did. That is the letter that he sent, after careful preparation, to the Department. I have read that letter. There is not a word of personal unkindness to Jefferson Davis or to mortal man in it, but there are statements there and letters of a striking character, which in my judgment ought to be published, so that they may become a part not of the newspaper literature of the day, but of the public records. The first is—and I think it is the first time I ever saw it, though it may have been published before—he produces resolutions adopted by a meeting of Democratic Senators and members from the Southern States who were about to participate in the rebellion, in which they resolved that they would organize a separate government, called the confederate government, at Montgomery, Ala., and fixed the day, the same day that was subsequently adopted.

They also resolved that a committee of three persons—not of two, as the Senator from Connecticut erroneously stated—consisting of Jefferson Davis and Mr. Slidell and Mr. Mallory, should be appointed to carry into execution the resolutions adopted, and that a portion of them should remain in Congress so as by their votes to prevent Congress from taking measures to defeat or delay their operations in the South. If that is not a conspiracy, in the name of God what is? Think of it! That members of this body should conspire together when under the same oath and sanction all of us are under, should go to a private chamber and there, with others resolve that they will not only break up this Government of ours but actually prevent the Government from arming itself and defending its life! That is a conspiracy. If that is not a conspiracy God knows what is.

That justified General Sherman in one of the remarks that he made. The other was that a certain letter he had seen himself from Jefferson Davis to a gentleman since a member of the Senate of the United States tended to show that Jefferson Davis had changed his opinions in 1864; that instead of being a State-rights democrat he was practically intending to subvert even the government that had been established in the Southern States.

Mr. HAWLEY. Does the Senator mean a letter to a Senator of the United States or of the Confederate States?

Mr. SHERMAN. A letter from Jefferson Davis to one who, I think, has since been a Senator of the United States. General Sherman insists that he did see such a letter, states the circumstances when and where, and that this paper either came to Washington into the general collection here, where it is in the mass of unassorted documents difficult to find, or else it went to General Sherman's headquarters and thence to the headquarters of General Sheridan, where it was destroyed by the great Chicago fire, but that he did see it and remembers its contents. To show that the opinions avowed in the letter were entertained and acted upon by Jefferson Davis he produces a letter from Alexander H Stephens, then an associate with Jefferson Davis in the government of the rebel confederacy, in which Mr. Stephens says of Jefferson Davis that he has abandoned his State-rights doctrine, that he was then in his opinion seeking to subvert the very government that had been established by the Confederate States. That letter has been recently published. It has never gone into the public archives until presented on this occasion. It is a very interesting letter, which was captured in the hands of the person to whom it was addressed, a person scarcely less distinguished than Mr. Stephens—Herschel V. Johnson.

That letter was captured at the house of Johnson. I have seen the original of that letter. I know Mr. Stephens's handwriting both before the war and since. I know that it is his handwriting, and it will not be disputed by any one. In that Mr. Stephens justifies every word that was said by General Sherman in respect to the change of mind in Jefferson Davis in the condition of affairs as they existed in 1864.

That is not all. He produces a message of Jefferson Davis himself, dated in January, 1864, addressed to the confederate congress, marked "secret," and kept in the rebel archives, and found there by an officer of the United States Army when Richmond was taken by the United States troops. In this official message, which has never heretofore been published, Jefferson Davis says that the movements in the South, but especially in North Carolina, would tend to subvert the confederate government and must be resisted by every means possible, and demands the suspension of the habeas corpus. The indorsements on the back of that paper show that in the confederate congress such a bill was introduced and was reported by a committee to that congress. Whether that bill passed or not is not known unless it is shown by the confederate records; but it is probably not shown by these records, because it was a secret document. That original document is now in the hands of an officer of the Army with the name of Jefferson Davis in his own handwriting—I am not familiar with it at all, I can not recognize it, but it is said to be so, and it has all the earmarks of an official document precisely such as the documents we have here shown.

Now, Mr. President, the question is at this time, twenty years after the war is over, when these documents are first presented to the public, when they are filed in the War Department, whether it is beyond a reasonable rule for the Senate of the United States to call for their publication. Publications in the newspapers scatter and disappear. This paper is filed in the war records, but it may not be printed in the war records, it may be excluded for the technical reason stated by the Senator from Massachusetts. Why should we not print it, why should there be a single objection to it? Are these papers mere random documents or are they official testimony of the aims, objects, and tendencies of the confederate congress at the time stated? Do they not show the origin of this great civil war through which we have passed? Do they not show the probable termination of the confederate government

even if the rebellion had not been borne down by the United States Army? Do they not show that in all human probability the termination of the rebellion, if successful, would have been an absolute despotism in the Southern States?

These are official documents and should be discussed without feeling. I have none and show none, I hope. All I desire is to prove that the general named in the resolution has only done what is becoming an officer and a gentleman. When his word to his fellow-soldiers was disputed he did not reply by writing to Jefferson Davis and calling him names or sending to any public print and entering into a contest with Mr. Davis. Mr. Davis is an old man. I do not desire to say anything personally unkind of him; I do not desire to wound his feelings; but, great God! will it ever be disputed in this country of ours at any time, even a thousand years hence, that Jefferson Davis in the war and before the war was a conspirator and a traitor to his country? Never, I trust. And while all these events have passed away, while we here from opposite sides are standing with each other making laws for our common people, yet, sir, we do not and I can not while I live at least see that great truth and fact in history challenged, and Jefferson Davis praised as a patriot any more than our Revolutionary fathers would have allowed in their time and their day the name of Benedict Arnold to be praised at least without entering their most solemn protest.

I am sorry this debate has sprung up. I was in hopes with the Senator from Connecticut, who introduced the resolution, that these papers would be published and nothing more would be said about them here, but let the people determine the issue and let this matter go down into history. But, sir, whenever, in my presence, in a public assemblage, Jefferson Davis shall be treated as a patriot, I must enter my solemn protest. Whenever the motives and causes of the war, the beginning and the end of which I have seen, are brought in question, I must stand, as I have always stood, upon the firm conviction that it was a causeless rebellion, made with bad motives, and that all the men who led in that movement were traitors to their country.

Mr. LAMAR. Mr. President, I have just stepped into the Senate, and have not yet heard the resolution which is under discussion. I presume it refers to a publication of some papers relating to the war of secession that are now on file in the War Department. Without knowing the position occupied by my friends on this side or upon the part of Senators on the other side, I desire here to say that I have no objection to any publication which will throw light upon the true character of that movement for the separation of the States of the South from the States of the North, and I should not have made any remarks except to have followed and to have given my vote silently upon this question but for the speech I have listened to of the Senator from Ohio. That speech, sir, is marked by flagrant inaccuracies in his statements of the issue between General Sherman and Mr. Davis. The issue between those two distinguished gentlemen is not the issue which the Senator from Ohio represents, and the issue which does exist between them he has not brought to the attention of the Senate.

Now, sir, according to the publication in the press, and which went not only to the extremities of this nation but to the extremities of civilization, it was not merely that the secession of the Southern States was the result of a conspiracy. That is a question, as the Senator properly remarked, of historical truth, and is to be ascertained by the facts of history as read in future generations. Whether it was a conspiracy of a few ambitious individuals, or whether it was the uprising of a whole people to preserve, as they thought, their autonomy and their institutions, is a question which I am willing shall be remitted to the verdict of posterity.

But, sir, General Sherman went further; and I wish to here say that there is no man on this floor who personally has kinder feelings for General Sherman than myself. No Senator here entertains a higher admiration for his military sagacity and genius. But General Sherman was betrayed by his feelings and by misinformation into an allegation and charge against Jefferson Davis that he can not sustain and that no man can ever sustain, and which is not the truth; and that is that he saw a letter from Jefferson Davis asserting that if a Southern State should secede from the confederacy he would put that down by military coercion of the Confederate Government. That is the statement which General Sherman made. There is no question of historical fact in relation to the character of that movement between General Sherman and Mr. Davis. It is outside of the record, and when he says that there is no personal controversy between these two distinguished gentlemen his statement comes in direct conflict with the assertion of General Sherman himself, for, when he was interviewed by the press of Saint Louis as to Mr. Davis's denial he refused to make a statement, and said, "This is not for the press of the country; it is a personal matter between me and Mr. Davis." The personality of it is made by General Sherman himself.

And, sir, the discussion which is brought out here can throw no light whatever on that naked, bald issue of fact, whether or not General Sherman saw a letter written by Jefferson Davis to a Senator now in the United States Senate, saying he would coerce a Southern State if it should secede from the confederacy. I assert that no such letter is in existence, and, in my opinion, no such letter was ever written; and in saying that, sir, I wish to disclaim here any reflection whatever upon the veracity of General Sherman. That is not my purpose. What I do mean to say is that he has been misled and misinformed; and when the proof comes before him that he has made an assertion, even against a political enemy, which he can not sustain, it would comport better with his high character and high position to acknowledge the inadvertent and unintentional injustice than to change the issue before the American people and raise a question as to the character of the secession of the Southern States.

Now, sir, I have a reason for saying this: Not more intimate than other gentlemen but still a friend of Mr. Davis and often in consultation with him, if he changed his opinion, if he varied one hair's-breadth from the beginning of that controversy to its close as to the importance of maintaining that government upon the consent of the people engaged in it and not upon any force to be brought upon them, his most intimate friends were ignorant of any such revolution of sentiment. No man stood by the doctrine that it should be a government based upon consent and not upon force through all the eventful scenes of the struggle than Mr. Davis did; and General Sherman was simply mistaken, he was misinformed. No such letter was written by Mr. Davis, for no such letter could have been written, entertaining the views he did.

Sir, I have made these remarks very unexpectedly to myself, for I was not aware that the simple issue of fact, whether or not General Sherman saw such a letter, was to be remitted to the arena of the United States Senate.

One other thing. We of the South have surrendered upon all the questions which divided the two sides in that controversy. We have given up the right of the people to secede from this Union; we have given up the right of each State to judge for itself of the infractions of the Constitution and the mode of redress; we have given up the right to control our own domestic institutions. We fought for all these, and we lost in that controversy; but no man shall in my presence call Jefferson Davis a traitor without my responding with a stern and emphatic denial.

Mr. VEST. Mr. President, I have very few words to say.

The Senator from Kansas can indulge in no debate that arises in this body without being personal. The character of debate in which the Senator from Kansas always indulges is impressed most emphatically upon the records of the Senate. The Senator is a verbal horror and an oral terror. In the old common law there was an offense called that of being a common scold, or *communis rixatrix*, which was punished under the old English statute with the ducking-stool. I would not, of course, prescribe any such punishment to the Senator from Kansas, but no occasion is permitted by him to pass by without reading lectures to his peers upon this floor in regard to every subject that comes up for discussion.

Mr. President, by no legitimate course of argument can the issues of the late war be brought into this question to-day. The Confederate States are dead. The soldiers that fought for the confederacy and for the Union sleep side by side, having illustrated by matchless deeds of valor the heroism of both sections. The epitaph could be put upon them to-day as was put by the old chroniclers over the chivalry of the feudal ages:

> The knights are dust,
> And their good swords are rust,
> Their souls are with the saints, we trust.

With that declaration there should be an end of any acrimonious discussion upon the issues involved in that terrible conflict. But the Senator from Kansas seeks now by his lectures to Senators on this side of the Chamber to impute disloyalty to the oath that we have taken to support the Constitution of the United States.

The Senator says that I have been in the habit of alluding to the fact in a spirit of boastfulness that I had been a member of the confederate senate. It is not true. The records of this Senate show that upon two occasions only have I ever alluded—and then from the nature of the debate—to the fact that I had occupied that position in the confederacy; once when I delivered a eulogy upon Mr. Hill, with whom I had served in the confederate senate—every Senator will recognize the appropriateness of the allusion at that time—and again to-day, when in order to assume the full share of responsibility which is sought now in certain quarters to be put upon Mr. Davis for the war and its results, I alluded, in passing, to the fact that I had occupied the position in the confederate senate that I occupy here to-day.

The Senator says I was never accredited to the Senate of the confederacy; that there was no governor, no legislature from whom I could receive my credentials. Mr. President, I received my credentials from the governor of the State of Missouri, elected by 25,000 majority at a time of profound peace. I received my election to the provisional congress of the confederacy from a legislature elected by the people of Missouri in a time of profound peace, and before there was war flagrant in the State. I know that technically no State could secede; it is not my disposition to-day to go back into that question; and but for this personal allusion I should not have done so. And let me say now to the Senator from Kansas that my credentials to the confederate senate or to the United States Senate were never disputed by my own constituency, and he knows what I refer to.

The PRESIDING OFFICER (Mr. ALLISON in the chair). It is the duty of the Chair to lay before the Senate the unfinished business, the hour of 2 o'clock having arrived.

Mr. MILLER, of California. I move that the Senate proceed to the consideration of executive business.

The PRESIDING OFFICER. Will the Senator suspend a moment until the regular order is laid before the Senate, being the bill (S. 2112) to establish a commission to regulate interstate commerce, and for other purposes.

HOUSE BILL REFERRED.

The bill (H. R. 7874) making additional appropriations for the naval service for the fiscal year ending June 30, 1885, and for other purposes, was read twice by its title, and referred to the Committee on Appropriations.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. CLARK, its Clerk, announced that the House had passed the following bills:

A bill (S. 862) for the relief of Uriel Crocker;

A bill (S. 1625) for the relief of William Bowen;

A bill (S. 1758) for the relief of Charles M. Blake, a chaplain in the United States Army;

A bill (S. 1821) to authorize the Secretary of the Interior to examine and adjust the claim of O. W. Streeter for moneys expended and services performed in taking the census of Dakota in 1860;

A bill (S. 2045) for the relief of the Eastern Presbyterian church, in the District of Columbia; and

A bill (S. 2061) to authorize the construction of bridges across the Mississippi River, one within the State of Minnesota, and one between the States of Minnesota and Wisconsin.

The message also announced that the House had passed the bill (S. 729) for the protection of children in the District of Columbia, and for other purposes, with amendments; in which it requested the concurrence of the Senate.

The message further announced that the House had passed the following bills; in which it requested the concurrence of the Senate:

A bill (H. R. 3593) for the erection of a public building at Chicago, Ill.;

A bill (H. R. 5322) for the benefit of William H. Wheeler;

A bill (H. R. 5249) to provide a criminal code for the District of Columbia;

A bill (H. R. 5650) for the promotion of anatomical science and to prevent the desecration of graves; and

A bill (H. R. 7768) to authorize the National Bank of Bloomington, Ill., to change its name to the First National Bank of Bloomington.

The message also announced that the House had disagreed to the amendment of the Senate to the bill (H. R. 3108) to protect fish in the Potomac River in the District of Columbia, and to provide a spawning-ground for shad and herring in the said Potomac River; asked a conference with the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. J. S. BARBOUR of Virginia, Mr. J. T. SPRIGGS of New York, and Mr. L. E. MCCOMAS of Maryland managers at the conference on its part.

DEATH OF SENATOR ANTHONY.

The PRESIDING OFFICER. The Senator from California moves that the Senate proceed to the consideration of executive business.

Mr. ALDRICH. Before that motion is put I ask the Senator to allow me to give a notice.

Mr. MILLER, of California. I withdraw the motion.

Mr. ALDRICH. I desire to give notice that on Monday next, the 19th instant, after the reading of the Journal, I shall ask the Senate to consider resolutions of respect to the memory of the late Senator ANTHONY.

EXECUTIVE SESSION.

Mr. MILLER, of California. I renew my motion.

The PRESIDING OFFICER. The Senator from California moves that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After three hours spent in executive session the doors were reopened, and (at 5 o'clock and 5 minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, *January* 12, 1885.

The House met at 12 o'clock m. Prayer by the Chaplain, Rev. JOHN S. LINDSAY, D. D.

CORRECTION OF JOURNAL.

The Journal of Saturday's proceedings was read.

Mr. HOPKINS. Mr. Speaker, I rise to move a correction in the Journal. The Journal reports the Committee on Labor as having reported back a resolution referred to them. It should read a communication from the Secretary of State was referred to that committee which resulted in a report of that committee recommending the passage of a resolution to print an additional number of copies.

The SPEAKER. The Chair will have the Journal examined and the proper correction made.

The Journal as corrected was then approved.

CLEPHANE AND BOSWELL.

The SPEAKER laid before the House a letter from the Attorney-General, transmitting the account of Clephane and Boswell for stenographic work in the case of Kilbourn against Thompson, $139.75.

Mr. RANDALL. The subject connected with the Thompson case has gone to the Judiciary Committee. This I think should take the same course. It is a mere claim against the Government, and perhaps should go to the Committee on Claims.

The SPEAKER. The Chair thinks so, too. But a part of the subject has gone to the Committee on the Judiciary, which relates to the compensation of the late Sergeant-at-Arms of the House. There was also a communication a week or two ago from the Attorney-General of the United States in relation to the compensation of stenographers, which went to the Committee on Appropriations. Now if the Committee on Appropriations can be discharged from the further consideration of that subject both of them might go together to the Committee on the Judiciary.

Mr. RANDALL. I think at any rate the papers relate to a claim rather than to an appropriation in obedience to law. I will ask the Speaker to examine and see if I am not right in this impression.

The SPEAKER. The Chair thinks, on an examination of the papers, that this is simply a claim for compensation. If there be no objection, the Committee on Appropriations will be discharged from the further consideration of the former communication upon the same subject and both referred to the Committee on Claims.

Mr. RANDALL. One committee had better have entire charge of that branch of the subject.

The SPEAKER. If there be no objection that order will be made.

There was no objection, and it was ordered accordingly.

OSAGE INDIANS OF KANSAS.

The SPEAKER also laid before the House a letter from the Secretary of the Treasury, transmitting a letter from the Secretary of the Interior, with inclosures relative to the claim of Captain & Co. for supplies furnished the Osage Indians in Kansas in 1871–'72—$1,416.10; which was referred to the Committee on Appropriations, and ordered to be printed.

IMPROVEMENT OF NEW YORK HARBOR.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting a communication from the Chief of Engineers inclosing a map of survey and report upon the work of deepening Gedney's Channel through Sandy Hook Bar, N. Y.; and also inclosing a report from the board of fortifications upon the plan for the permanent improvement of the entrance of New York Harbor; which was referred to the Committee on Rivers and Harbors, and ordered to be printed.

ENROLLED BILLS SIGNED.

Mr. PETERS, from the Committee on Enrolled Bills, reported that they had examined and found duly enrolled a bill of the following title; when the Speaker signed the same, namely:

A bill (S. 491) for the relief of J. H. Franklin, executor of the last will of John Armfield, deceased.

COMMITTEE APPOINTMENT.

The SPEAKER announced the appointment of Mr. PERKINS, of Kansas, in place of Mr. ROBINSON, of Ohio, resigned, as a member of the Committee on Rivers and Harbors.

O. W. STREETER.

Mr. WHITE, of Minnesota. Mr. Speaker, I ask unanimous consent to take from the Speaker's table Senate bill 1821, for present consideration.

The SPEAKER. The bill will be read, subject to objection.

The bill is as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to examine and adjust the claim of O. W. Streeter for moneys expended and services performed by him in the year 1860 as special agent of the United States to take the census of the country west of Minnesota, then known as Dakota, allowing to the said O. W. Streeter, in addition to the amount heretofore received by him, reimbursement for reasonable and necessary expenditures shown to have been made by him and reasonable compensation for his time and services, settling the same on principles of justice and equity; and that he be, and is hereby, further authorized and directed to draw his requisition in favor of said claimant, O. W. Streeter, for the amount which he may find justly due said claimant, on the Secretary of the Treasury, who is authorized and directed to pay the same out of any money in the Treasury not otherwise appropriated: *Provided*, That the amount allowed and to be paid hereunder shall in no event exceed the sum of $10,000.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. HOLMAN. I believe there has been a report from the Committee on Claims of this House on this subject.

Mr. WHITE, of Minnesota. There is a unanimous report from the Committee on Claims of the House, and also a report accompanying the Senate bill. The bills, I will state, are identical, word for word.

There being no objection, the bill was taken from the Speaker's table, read a first and second time, ordered to a third reading, read the third time, and passed.

Mr. WHITE, of Minnesota, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

WILLIAM H. WHEELER.

Mr. HALSELL. Mr. Speaker, I ask unanimous consent that the bill (H. R. 5322) on the Private Calendar be taken up for present consideration. It is a bill for the benefit of William H. Wheeler.

The SPEAKER. The bill will be read subject to objection.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Treasury be, and he is hereby, authorized and directed, out of any money in the Treasury not otherwise appropriated, to pay to William H. Wheeler, of Warren County, Kentucky, the sum of $1,278, for quartermaster stores furnished the United States Army in the year 1862, and used by said Army.

The committee recommend the striking out of the words "one thousand two hundred and seventy-eight dollars," and the insertion of "six hundred and thirty-three dollars and fifty cents."

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. HOLMAN. Has this subject been considered by the Committee on War Claims?

Mr. HALSELL. Yes, sir. Here is the report.

Mr. HOLMAN. I hope the report will be read.

The SPEAKER. The Clerk will read the report.

Mr. KEIFER. Let the report be read subject to the right to object.

The SPEAKER. The right to object is reserved.

The Clerk read the report, as follows:

Mr. FERRELL, from the Committee on War Claims, submitted the following report, to accompany bill H. R. 5322.

The Committee on War Claims, to whom was referred the bill (H. R. 5322) for the relief of William H. Wheeler, submit the following report:

This claim is for corn and fodder taken by the Union Army from the claimant, at or near Bowling Green, Ky., in the year 1862.

The claim was duly presented to the Quartermaster-General for settlement, and was referred by the Quartermaster-General to an agent for investigation and report. On November 22, 1881, the agent submitted a report, recommending that claimant be paid the sum of $633.50. General James A. Ekin, deputy quartermaster-general, United States Army, indorsed the agent's report as follows:

"The proof supplied appears to be of a reliable nature, and the claim, to a certain extent is, no doubt, meritorious. The estimate made by the investigating agent of corn and fodder taken in this instance, as a result of his investigation, is considered reasonable and just—placing its valuation at $633.50 unpaid for—and which sum he recommends be allowed claimant in full of claim. I concur in the agent's recommendation. Claimant was loyal."

The case was considered September 9, 1882, and no allowance recommended by the Quartermaster-General.

The loyalty of the claimant and the taking of the property and its value are proven to the satisfaction of the committee; and they report back the bill with the recommendation that it do pass with an amendment, as follows:

Insert in lines 6 and 7, in place of "one thousand two hundred and seventy-eight dollars," the words "six hundred and thirty-three dollars and fifty cents."

Mr. HOLMAN. I wish to ask a single question. This claim was subject to adjustment through the Quartermaster's Department. It would have gone to the Third Auditor in regular course under the law of 1864 and then would have been reported to the House. Will the gentleman from Kentucky state the reason why this was not done? Was this claim allowed by the Quartermaster-General?

Mr. HALSELL. Yes, sir; there was a mistake. The claim went to the Quartermaster's Department. It seems they had informed Mr. Wheeler that they were not satisfied as to his loyalty, and proof was taken as to that. When I investigated the papers I found it had been settled on a different question. The claimant had thus been thrown off his guard on the merits of the case. He took the necessary proof afterward. The Quartermaster-General sent out his agent and that agent makes the report in favor of the claim.

Mr. HOLMAN. This report was made after the time for allowing the claim?

Mr. HALSELL. Yes, sir; the proof was taken upon the claim after it was found the man had been thrown off his guard by reason of the fact that his attention was called all the time to the question of loyalty.

Mr. HOLMAN. There is a large body of those claims and a great many of them have been disallowed. I do not, however, interpose an objection.

Mr. BLACKBURN. The Quartermaster-General says there was a mistake which prevented the proper proof being taken at the time.

Mr. HOLMAN. I do not object.

The amendment was agreed to.

The bill as amended was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. HALSELL moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

NATIONAL BANK OF BLOOMINGTON.

Mr. ROWELL. I ask unanimous consent that the Committee of the Whole House be discharged from the further consideration of the bill (H. R. 7768) to authorize the National Bank of Bloomington, Ill., to change its name to the First National Bank of Bloomington, Ill., and that it be put upon its passage.

The bill was read, as follows:

Be it enacted, &c., That the name of the National Bank of Bloomington, Ill., shall be changed to the First National Bank of Bloomington, Ill., whenever the board of directors of said bank shall accept the new name by resolutions of the board, and cause a copy of such resolutions, duly authenticated, to be filed with the Comptroller of the Currency: *Provided*, That such acceptance be made within six months after the passage of this act.

SEC. 2. That all debts, demands, liabilities, rights, privileges, and powers of the National Bank of Bloomington, Ill., shall devolve upon and inure to the First National Bank of Bloomington, Ill., whenever such change of name is effected.

The bill was reported by the Committee on Banking and Currency with the following amendments:

After the word "Bloomington," in the third line, insert the words "located at Bloomington."

In line 5, strike out "Illinois."

In line 3, section 2, strike out "Illinois."

In line 4, section 2, strike out "Illinois."

Mr. WELLER. I object to the present consideration of the bill.

Mr. HENDERSON, of Iowa. The gentleman is just back; he is just in time to save the nation.

Some time subsequently,

Mr. WELLER said: I withdraw my objection on the ground that the bill only makes a change as to the name and does not affect the bank otherwise.

The SPEAKER. Is there further objection to the present consideration of the bill?

There being no objection, the amendments were agreed to, and the bill as amended was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. ROWELL moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. ROWELL. The title should be amended by striking out the word "Illinois."

There was no objection, and it was so ordered.

URIEL CROCKER.

Mr. MORSE. I ask unanimous consent to take from the Speaker's table for present consideration the bill (S. 862) for the relief of Uriel Crocker.

The bill was read, as follows:

Be it enacted, &c., That the proper officer of the United States Treasury be, and he hereby is, authorized and directed to pay to Uriel Crocker, of Boston, in the State of Massachusetts, or to his proper attorney or legal representatives, the sum of $386, being the amount due upon four coupon bonds of the United States of the denomination of $50 each, and upon the coupons belonging thereto, which were payable from July 1, 1866, to July 1, 1881, both inclusive, which said bonds were of the loan of July 17, 1861, payable after June 30, 1881, were numbered 2519, 2520, 2521, 2522, and have been lost and are believed to have been destroyed: *Provided*, That he or they shall first file with the proper officer of the Treasury Department a satisfactory bond of indemnity in double the amount so authorized to be paid as aforesaid.

Mr. HOLMAN. I hope the report will be read.

Mr. MORSE. I send to the desk the Senate report.

The SPEAKER. The Clerk will read the report made in the Senate.

Mr. HOLMAN. Has not the bill been considered by the House committee?

Mr. MORSE. The House committee had the bill under consideration several times. The only objection they had to it was that they would prefer at some time or other to have a general bill passed to meet all such cases. But the members of the committee individually gave me to understand that they had no objection to my offering this bill.

Mr. HOLMAN. The gentleman alludes to the Ways and Means Committee?

Mr. MORSE. Yes, sir.

The Senate report was read, as follows:

The Committee on Finance, to whom was referred the bill (S. 862) for the relief of Uriel Crocker, have considered the same, and respectfully report:

On the 5th of July, 1866, Uriel Crocker gave notice to the Treasury Department of the loss of the bonds described in the bill, and notified the Treasurer not to pay the coupons. Similar notifications were sent to the Treasurer from this date until the year 1880.

Mr. Crocker is unable to account for the loss of the bonds, save only that they were put in a box, which was locked and kept in a bank vault, he having the key to the box, and, on the date indicated, after an examination of the box, he was unable to find them. He believes that they were at some time dropped, and with waste papers swept up and burned.

A letter from the Secretary of the Treasury, of date of February 7, 1884, states that these bonds appear as oustanding on the books of the Department, and that none of the coupons have been presented for payment since July, 1866. From this it would appear that the bonds have not been found since July 5, 1866, or during a period of eighteen years, so that it is probable that they are not now in existence. Existing law does not authorize the Treasurer to pay these bonds, for the reason that there is no evidence that they have been actually destroyed.

The committee is of opinion that the lapse of eighteen years is a sufficient time to create strong presumption that the bonds have been destroyed, especially as the bonds matured in 1881, and had been previously called and no sign or trace of them appears in any way, and during all this time no coupons have been presented.

Mr. Crocker, the claimant, is a man of undoubted respectability both as to character and means, and has persistently made his claim at the Treasury Department for many years.

The bill requires a bond of indemnity to be filed with the Treasurer in double

the amount authorized to be paid, which in any event would protect the Government in case the bonds should be hereafter found, which is not probable.

The committee recommend the passage of the bill.

The bill was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. MORSE moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PUBLIC BUILDING AT CHICAGO, ILL.

Mr. DAVIS, of Illinois. I ask unanimous consent to discharge the Committee of the Whole House on the state of the Union from the further consideration of the bill (H. R. 3593) for the erection of a public building at Chicago, Ill., and to bring it before the House for present action.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Treasury be, and hereby is, authorized and directed to cause the erection of a substantial and commodious building, upon ground owned by the United States on the corner of Fifth avenue and Polk street, and known as the "Old Bridewell and dock property," in the city of Chicago, Ill., for the use of the United States local appraiser and other Government uses; the building, when completed upon plans and specifications to be previously made and approved by the Secretary of the Treasury, not to exceed the cost of $50,000.

SEC. 2. That the sum of $50,000 be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, to be used and expended in the erection of said building.

Mr. RANDALL. Let it be stated that that amount of money shall complete the building.

Mr. DAVIS, of Illinois. That is precisely what the bill does.

Mr. RANDALL. I do not understand that it quite says so.

Mr. DAVIS, of Illinois. That is all that is required, and the bill says so.

Mr. RANDALL. Let that part of the bill be read again.

The Clerk read as follows:

The building, when completed upon plans and specifications to be previously made and approved by the Secretary of the Treasury, not to exceed the cost of $50,000.

Mr. HOLMAN. I suppose the bill makes an appropriation of money, does it not?

The SPEAKER. It does.

Mr. HOLMAN. Is it reported by the Committee on Public Buildings and Grounds?

The SPEAKER. It is.

Mr. HOLMAN. I wish it to be noticed that the passage of this bill is recommended by the Treasury Department.

Mr. DAVIS, of Illinois. Yes, sir; it is recommended by the Secretary of the Treasury.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. DAVIS, of Illinois, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

CHARLES M. BLAKE.

Mr. ROSECRANS. I ask unanimous consent to have taken from the Speaker's table for present consideration the bill (S. 1758) for the relief of Charles M. Blake, a chaplain in the United States Army.

The bill was read, as follows:

Be it enacted, &c., That the proper accounting officers of the Treasury be, and they are hereby, authorized and directed in the settlement of the accounts of Charles M. Blake, a post-chaplain in the United States Army, to allow him credit for all pay and allowances paid to or received by him as a post-chaplain in the United States Army from May 14, 1878, to May 20, 1881; *Provided*, That no pay shall be allowed or credit given for service for any purpose for the period from July 2, 1870, to May 14, 1878; and that said Blake shall accept the terms of this act in full satisfaction and discharge of any and all claims of every kind on his part against the United States growing out of his connection or alleged connection as chaplain or post-chaplain.

There being no objection, the bill was taken from the Speaker's table, read three times, and passed.

Mr. ROSECRANS moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

BRIDGES ACROSS MISSISSIPPI RIVER.

Mr. HENDERSON, of Iowa. I ask unanimous consent to have taken from the Speaker's table for present consideration the bill (S. 2061) to authorize the construction of bridges across the Mississippi River, one within the State of Minnesota and one between the States of Minnesota and Wisconsin.

Mr. HOLMAN. I do not wish to object to this measure, but there has been for a long time an understanding that the Committee on Commerce would report a general measure embracing all this class of legislation.

Mr. HENDERSON, of Iowa. I hope the gentleman will not object to this bill. The Committee on Commerce have thus far reported no general bill on this subject, and we have no assurance that they will report any bill of the character indicated by the gentleman. I submit to him that it will not do to have the business of the country suspended waiting for the possible or probable action of that committee.

This bill provides for the erection of bridges on a line of road running up the Wisconsin and Illinois side of the Mississippi River, and is of great interest to the commerce and transportation of Iowa and Minnesota. For these reasons I sincerely trust the gentleman from Indiana will make no objection to the passage of the bill.

Mr. HOLMAN. I will not interpose objection at this time.

The bill was read, as follows:

Be it enacted, &c., That the Chicago, Saint Paul and Saint Louis Railroad Company, its successors and assigns, be, and they are hereby, authorized to construct and maintain a railroad bridge across the Mississippi River at the most suitable point between the cities of Hastings and Red Wing: *Provided*, That Congress may at any time prescribe such rules and regulations in regard to toll and otherwise as may be deemed reasonable.

SEC. 2. That any bridge built under this act may, at the option of the company building the same, be built as a pivot drawbridge or with unbroken or continuous spans: *Provided*, That if made with continuous or unbroken spans, it shall not be of less elevation in any case than fifty-five and one-half feet above extreme high-water mark, as understood at the point of location, to the bottom chord of the bridge, nor shall the spans give a clear width of water way of less than two hundred and fifty feet; and the main span shall be over the main channel of the river, and give a clear width of water way of not less than three hundred feet: *And provided also*, That any bridge built under this act as a pivot drawbridge shall have a draw over the main channel at an accessible and navigable point, and with spans giving a clear width of water way of not less than one hundred and sixty feet on each side of the central pivot pier of the draw, and the next adjoining span or spans shall give a clear width of water way of not less than two hundred and fifty feet, and said spans shall not be less than thirty feet above low-water mark and not less than ten feet above extreme high-water mark, measured to the bottom chord of the bridge: *Provided*, That said draw shall always be opened promptly upon reasonable signal; and said company, or its successors and assigns, shall at all proper times keep and maintain such lights as the Light-House Board may direct; and all plans for the construction of said bridge and approaches thereto must first be submitted to the Secretary of War for his approval, and when the same shall be approved by the said Secretary the work thereon may be commenced and prosecuted to completion: *And provided further*, That as nearly as practicable the said bridge shall be at right angles to and the piers parallel with the current of said river: *And provided further*, That any change in the mode of construction of said bridge shall be first submitted to the said Secretary for his approval, and when approved the said company may then proceed with the construction in accordance with said change: *And provided further*, That if said bridge when constructed shall, in the opinion of the Secretary of War, be a substantial obstruction to the navigation of said river, the said Secretary shall require said company to change the construction thereof so as to avoid any serious and substantial obstruction to the navigation of said river, at the expense of the owners of said bridge.

SEC. 3. That the bridge hereby authorized shall be a lawful structure, and shall be a post-route, upon which no higher charge shall be made for the transportation of the mails of the United States, and the troops and munitions of war, or for passengers or freight passing over said bridge, than the rate per mile paid to railroads and transportation companies lending to said bridge.

SEC. 4. That all railroad companies desiring the use of said bridge shall have and be entitled to equal rights and privileges relative to the passage of railway trains or cars over the same, and over the approaches thereto, upon payment of a reasonable compensation for such use; and in case the owner or owners of said bridge and the several railroad companies, or any one of them, desiring such use shall fail to agree upon the sum or sums to be paid, and upon rules and conditions to which each shall conform in using said bridge, all matters at issue between them shall be decided by the Secretary of War, upon a hearing of the allegations and proofs of the parties: *Provided*, That the provisions of section 3 in regard to charges for passengers and freight across said bridge shall not govern the Secretary of War in determining any question arising as to the sum or sums to be paid to the owners of said bridge by said companies for the use of said bridge.

SEC. 5. That this act shall be subject, except as above mentioned, to the limitations and provisions of an act entitled "An act to authorize the construction of a bridge across the Mississippi River at or near the town of Clinton, in the State of Iowa, and other bridges across said river, and to establish them as post-roads," approved April 1, 1872.

SEC. 6. That it shall be the duty of the Secretary of War, on satisfactory proof that a necessity exists therefor, to require the company or persons owning said bridge to cause such aids to the passage of said bridge to be constructed, placed, and maintained, at their own cost and expense, in the form of booms, dikes, piers, or other suitable and proper structures for confining the flow of water to a permanent channel and for the guiding of rafts, steamboats, and other water craft safely through the draw and raft spans, as shall be specified in his order in that behalf.

SEC. 7. That the United States shall have the right of way for postal telegraph across said bridge.

SEC. 8. That the right to alter, amend, or repeal this act is hereby expressly reserved; and the right to require any changes in such structure, or its entire removal, at the expense of the owners thereof, whenever Congress shall decide that the public interest requires it, is also expressly reserved.

SEC. 9. That said company, its successors and assigns, may construct and maintain a bridge across the Mississippi River at a suitable point between the western limits of Hastings, Minn., and the western limits of Saint Paul, Minn.: *Provided*, That the bridge authorized by this section shall have all the privileges and be subject to all the terms, restrictions, reservations of power, and requirements contained in the foregoing sections of this act.

There being no objection, the bill was taken from the Speaker's table, read three times, and passed.

Mr. HENDERSON, of Iowa, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

LEAVE OF ABSENCE.

Mr. STEWART, of Texas, by unanimous consent, obtained leave of absence for this day, on account of important business.

ORDER OF BUSINESS.

Mr. BARBOUR. I call for the regular order.

The SPEAKER. This being Monday, the regular order is the call of States and Territories for the introduction of bills and joint resolutions for reference to appropriate committees. Under this call resolutions and memorials from State and Territorial Legislatures and also resolutions of inquiry addressed to the heads of Departments may be presented for reference.

SOLDIERS' HOME IN CALIFORNIA.

Mr. ROSECRANS introduced a bill (H. R. 7898) to provide for the establishment of a branch soldiers' home in the State of California; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

MATILDA CALDWELL.

Mr. LORE introduced a bill (H. R. 7899) for the relief of Matilda Caldwell, late Matilda Sparks, widow of Joseph Sparks, late private of Company E, Third Regiment Delaware Volunteers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

CARRABELLE, FLA., A PORT OF DELIVERY.

Mr. DAVIDSON introduced a bill (H. R. 7900) making the port of Carrabelle, in the State of Florida, a port of delivery; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

WILLIAM A. PLUMB.

Mr. TOWNSHEND introduced a bill (H. R. 7901) granting a pension to William A. Plumb, late of Company D, Thirty-third Regiment Ohio Volunteers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

PUBLIC BUILDING AT MADISON, IND.

Mr. HOLMAN introduced a bill (H. R. 7902) to provide for the erection of a public building for the use of the post-office and other Government offices at the city of Madison, in the State of Indiana; which was read a first and second time, referred to the Committee on Public Buildings and Grounds, and ordered to be printed.

VENEZUELAN AWARDS.

Mr. BROWNE, of Indiana, introduced a joint resolution (H. Res. 310) referring the controversy between the United States and Venezuela in respect to the award at Caracas of 1868 to the President; which was read a first and second time, referred to the Committee on Foreign Affairs, and ordered to be printed.

DANIEL B. RANDALL.

Mr. FUNSTON introduced a bill (H. R. 7903) granting a pension to Daniel B. Randall; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JEPTHA L. WILKE.

Mr. PERKINS introduced a bill (H. R. 7904) granting a pension to Jeptha L. Wilke; which was read a first and second time, referred to the Committee on Pensions, and ordered to be printed.

A. J. RYAN.

Mr. PERKINS also introduced a bill (H. R. 7905) granting a pension to A. J. Ryan; which was read a first and second time, referred to the Committee on Pensions, and ordered to be printed.

CHARLES W. SAUNDERS.

Mr. PERKINS also introduced a bill (H. R. 7906) granting a pension to Charles W. Saunders; which was read a first and second time, referred to the Committee on Pensions, and ordered to be printed.

MATILDA CODY.

Mr. WHITE, of Kentucky, introduced a bill (H. R. 7907) granting a pension to Matilda Cody; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JOSEPH CLARK.

Mr. WHITE, of Kentucky, introduced a bill (H. R. 7908) granting a pension to Joseph Clark; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

NANCY M'DANIELS.

Mr. WHITE, of Kentucky, also introduced a bill (H. R. 7909) granting a pension to Nancy McDaniels; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

THOMAS DEAN.

Mr. WHITE, of Kentucky, also introduced a bill (H. R. 7910) to increase the pension of Thomas Dean; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

SUSAN FUGATE.

Mr. WHITE, of Kentucky, also introduced a bill (H. R. 7911) granting a pension to Susan Fugate; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

NASBY MILLS.

Mr. WHITE, of Kentucky, also introduced a bill (H. R. 7912) granting a pension to Nasby Mills; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JOHN SANDLIN.

Mr. WHITE, of Kentucky, also introduced a bill (H. R. 7913) granting a pension to John Sandlin; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

LEWIS A. THORNBURY.

Mr. WHITE, of Kentucky, also introduced a bill (H. R. 7914) granting a pension to Lewis A. Thornbury; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

ANDREW HOWARD, SR.

Mr. WHITE, of Kentucky, also introduced a bill (H. R. 7915) for the benefit of Andrew Howard, sr.; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

SAMUEL STERNBERG.

Mr. WHITE, of Kentucky, also introduced a bill (H. R. 7916) for the relief of Samuel Sternberg; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

JACOB J. WILLIAMS.

Mr. WHITE, of Kentucky, also introduced a bill (H. R. 7917) for the relief of Jacob J. Williams; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

PROTECTION OF UNITED STATES MAILS.

Mr. ELLIS introduced a bill (H. R. 7918) to prescribe a penalty for the embezzlement of key-deposit funds, to provide for the better protection of mails placed in the post-office letter-boxes, and for other purposes; which was read a first and second time, referred to the Committee on the Post-Office and Post-Roads, and ordered to be printed.

WAR CLAIMS OF THE STATES.

Mr. BOUTELLE introduced a bill (H. R. 7919) to settle and adjust the claims of any State for expenses incurred by it in defense of the United States; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

CAPITOL, NORTH O STREET AND SOUTH WASHINGTON RAILROAD.

Mr. TALBOTT introduced a bill (H. R. 7920) authorizing the Capitol, North O Street and South Washington Railway Company to extend their tracks; which was read a first and second time, referred to the Committee on the District of Columbia, and ordered to be printed.

GREELY RELIEF EXPEDITION.

Mr. McCOMAS introduced a joint resolution (H. Res. 311) tendering the thanks of Congress to Commander Winfield Scott Schley, Commander G. W. Coffin, and Lieut. William H. Emory, jr., of the United States Navy, and to the officers and men under their command, for the rescue of Lieut. A. W. Greely and his surviving comrades of the Lady Franklin Bay expedition; which was read a first and second time, referred to the Committee on Naval Affairs, and ordered to be printed.

WITNESSES IN UNITED STATES COURTS.

Mr. HORR introduced a bill (H. R. 7921) to amend section 858 of the Revised Statutes of the United States; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

ORLANDO S. PEARCE.

Mr. LACEY introduced a bill (H. R. 7922) granting a pension to Orlando S. Pearce; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

GEORGE W. BOWKER.

Mr. LACEY also introduced a bill (H. R. 7923) granting a pension to George W. Bowker; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

DUTY ON CERTAIN CHURCH PAINTINGS.

Mr. BREITUNG introduced a bill (H. R. 7924) to admit free of duty certain oil paintings for Saint Mary's Catholic Church at Sault de Ste. Marie, Mich.; which was read a first and second time, referred to the Committee on Ways and Means, and ordered to be printed.

MINNEAPOLIS BAR ASSOCIATION.

Mr. WASHBURN introduced a joint resolution (H. Res. 312) granting certain publications to the Minneapolis Bar Association Library; which was read a first and second time, referred to the Committee on Printing, and ordered to be printed.

WILLIAM CLOSE.

Mr. STRAIT introduced a bill (H. R. 7925) for the relief of William Close; which was read a first and second time, referred to the Committee on Claims, and ordered to be printed.

SUSAN M. HOUGHTON.

Mr. MURRAY introduced a bill (H. R. 7926) granting a pension to Susan M. Houghton; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JAMES F. HOGAN.

Mr. JEFFORDS (by request) introduced a bill (H. R. 7927) for the relief of James F. Hogan; which was read a first and second time, referred to the Committee on Claims, and ordered to be printed.

ANNA M. ROHR, ADMINISTRATRIX.

Mr. JEFFORDS (by request) also introduced a bill (H. R. 7928) for the relief of Anna M. Rohr, administratrix of Frederick G. Rohr, deceased; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

ELIZABETH W. ADAIR.

Mr. CLARDY introduced a bill (H. R. 7929) granting a pension to Elizabeth W. Adair, widow of William P. Adair, late captain in Company F, Forty-seventh Missouri Infantry Volunteers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

SILAS S. WHITE.

Mr. WEAVER introduced a bill (H. R. 7930) granting a pension to Silas S. White; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

DUTY ON PEARL BUTTONS.

Mr. FIEDLER introduced a bill (H. R. 7931) to amend the customs-revenue laws relative to pearl buttons; which was read a first and second time, referred to the Committee on Ways and Means, and ordered to be printed.

NATHANIEL M'KAY AND OTHERS.

Mr. FERRELL introduced a bill (H. R. 7932) for the relief of Nathaniel McKay, George M. Clapp, George W. Lawrance, Snowden & Mason, the executors of Donald McKay; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

HENRY BEIDERBICK.

Mr. MULLER introduced a bill (H. R. 7933) granting a pension to Henry Beiderbick; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

MUSTER AND PAY OF CERTAIN OFFICERS AND ENLISTED MEN.

Mr. RAY, of New York, introduced a bill (H. R. 7934) amending an act entitled "An act to provide for the muster and pay of certain officers and enlisted men of the volunteer forces," approved June 3, 1884; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

CHURCH OF THE ASCENSION, WASHINGTON, D. C.

Mr. SPRIGGS introduced a bill (H. R. 7935) for the relief of the Church of the Ascension of the District of Columbia; which was read a first and second time, referred to the Committee on the District of Columbia, and ordered to be printed.

PROTECTION OF THE NORTHERN AND NORTHWESTERN FRONTIER.

Mr. ROGERS, of New York, introduced a bill (H. R. 7936) to provide for the better protection of the northern and northwestern frontier and to facilitate commerce and diminish the expense of the exchange between the States; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

DISTRIBUTION OF THE SENATE AND HOUSE JOURNAL.

Mr. ROGERS, of New York, also introduced a joint resolution (H. Res. 313) to distribute Senate and House Journals; which was read a first and second time, referred to the Committee on Printing, and ordered to be printed.

DISTRIBUTION OF OFFICIAL REGISTER OF UNITED STATES.

Mr. ROGERS, of New York, also introduced a joint resolution (H. Res. 314) to distribute the Blue Book, &c.; which was read a first and second time, referred to the Committee on Printing, and ordered to be printed.

SEVENTH REGIMENT NEW YORK VOLUNTEERS.

Mr. WEMPLE introduced a bill (H. R. 7937) for the relief of the Seventh Regiment New York Volunteers; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

AMANDA ALLEN.

Mr. BREWER, of New York, introduced a bill (H. R. 7938) granting a pension to Amanda Allen; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

RESTAURANTS AND OTHER PUBLIC PLACES, DISTRICT OF COLUMBIA.

Mr. O'HARA introduced a bill (H. R. 7939) regulating restaurants and other public places in the District of Columbia, and for other purposes; which was read a first and second time, referred to the Committee on the District of Columbia, and ordered to be printed.

JOHN HOLLINS M'BLAIR.

Mr. MURRAY introduced a bill (H. R. 7940) for the relief of John Hollins McBlair; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

MECHANICS' LIENS IN THE DISTRICT OF COLUMBIA.

Mr. WILKINS (by request) introduced a bill (H. R. 7941) to amend the law concerning mechanics' liens in the District of Columbia; which was read a first and second time, referred to the Committee on the District of Columbia, and ordered to be printed.

JOHN FERGUSON.

Mr. JOSEPH D. TAYLOR introduced a bill (H. R. 7942) removing certain charges against John Ferguson, late colonel Sixty-fourth Ohio Volunteer Infantry; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

VESSELS OF GREELY RELIEF EXPEDITION.

Mr. GEORGE introduced a bill (H. R. 7943) to authorize the transfer of one of the vessels of the Greely relief expedition to the Treasury Department for a revenue-cutter and the retention of the other two for use in the Navy; which was read a first and second time, referred to the Committee on Naval Affairs, and ordered to be printed.

ALLISON LOUDERBACH.

Mr. LAWRENCE introduced a bill (H. R. 7944) granting a pension to Allison Louderbach; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

EDITH WILSON.

Mr. EVERHART (by request) introduced a bill (H. R. 7945) granting a pension to Edith Wilson, widowed mother of Charles P. Wilson, late a private in Company A, Twenty-sixth Regiment Pennsylvania Volunteers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

ESTATE OF ABNER M'COLLUM.

Mr. PIERCE introduced a bill (H. R. 7946) for the relief of the estate of Abner McCollum, deceased; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

ADOLPH CARBY.

Mr. MILLER, of Texas, introduced a bill (H. R. 7947) granting a pension to Adolph Carby, late a private in Company C, First Texas Cavalry; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

ESTATE OF THOMAS H. LEE.

Mr. MILLER, of Texas, also introduced a bill (H. R. 7948) for the relief of the estate of Thomas H. Lee, deceased; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

JAMES C. DAGGETT.

Mr. POLAND introduced a bill (H. R. 7949) to increase the pension of James C. Daggett, of Company E, Second Regiment United States Sharpshooters; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

INCREASE OF UNITED STATES JUDICIAL FORCE.

Mr. TUCKER introduced (by request) a bill (H. R. 7950) to increase the judicial force of the United States and prevent delays in the administration of justice in the courts; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

PUBLIC BUILDING AT ABINGDON, VA.

Mr. O'FERRALL submitted (by request) the following resolution of inquiry; which was referred to the Committee on Public Buildings and Grounds:

Resolved, That the Secretary of the Treasury be, and he is hereby, directed to report to this House as follows:

First. Whether a site has been purchased for a suitable building for the accommodation of the United States courts, post-office, and other Government offices at Abingdon, State of Virginia, as authorized by an act entitled "An act for the erection of a public building at Harrisonburg and Abingdon, State of Virginia," approved July 7, 1882.

Second. What price was paid for said site, if purchased, and whether a valid title has been vested in the United States, and whether the State of Virginia has ceded to the United States exclusive jurisdiction over the same during the time the United States shall be or remain the owner thereof, for all purposes except the administration of the criminal laws of said State and the service of civil process therein.

Third. What amount of the money appropriated for the purchase of said site and the commencement of the erection of a suitable building has been expended, and how and for what expended.

Fourth. The estimated cost, including site, of said building, and the amount necessary to be appropriated, if any, in addition to the sum already appropriated, to complete the same.

Fifth. What progress has been made with the work of erecting said building, and, if little or no progress, the cause of it.

Sixth. Whether the progress of said work has been arrested through the influence or by the advice of any person or persons; if so, whom.

LEGAL REPRESENTATIVES OF W. ELLIOTT.

Mr. WILSON, of West Virginia, introduced a bill (H. R. 7951) for the relief of the legal representatives of W. Elliott, deceased, late of Barbour County, West Virginia; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

MRS. JULIA HARTLEY.

Mr. MAGINNIS introduced a bill (H. R. 7952) granting a pension to Mrs. Julia Hartley; which was read a first and second time, referred to the Committee on Pensions, and ordered to be printed.

JOSÉ ALBINO BACA AND OTHERS.

Mr. MANZANARES introduced a bill (H. R. 7953) for the relief of José Albino Baca, Romualdo Baca, and the heirs of Simon Baca, deceased; which was read a first and second time, referred to the Committee on Indian Affairs, and ordered to be printed.

THOMAS COOPER AND OTHERS.

Mr. MANZANARES also introduced a bill (H. R. 7954) for the relief of Thomas Cooper and others; which was read a first and second time, referred to the Committee on Indian Affairs, and ordered to be printed.

FRANCISCO LOPEZ & SON.

Mr. MANZANARES also introduced a bill (H. R. 7955) for the relief of Francisco Lopez & Son; which was read a first and second time, referred to the Committee on Indian Affairs, and ordered to be printed.

ANTONIO Y M. ABEYTA.

Mr. MANZANARES also introduced a bill (H. R. 7956) for the relief of Antonio y M. Abeyta; which was read a first and second time, referred to the Committee on Indian Affairs, and ordered to be printed.

PASCUAL BACA AND OTHERS.

Mr. MANZANARES also introduced a bill (H. R. 7957) for the relief of Pascual Baca and others; which was read a first and second time, referred to the Committee on Indian Affairs, and ordered to be printed.

HEIRS OF ANTONIO BACA Y BACA AND OTHERS.

Mr. MANZANARES also introduced a bill (H. R. 7958) for the relief of the heirs of Antonio Baca y Baca and others; which was read a first and second time, referred to the Committee on Indian Affairs, and ordered to be printed.

CHANGE OF NAME OF NATIONAL BANK.

Mr. RAYMOND introduced a bill (H. R. 7959) authorizing the Citizens' National Bank of Grand Forks, Dak., to change its name; which was read a first and second time, referred to the Committee on Banking and Currency, and ordered to be printed.

LAND DISTRICT IN DAKOTA.

Mr. RAYMOND also introduced a bill (H. R. 7960) to create an additional land district in the Territory of Dakota; which was read a first and second time, referred to the Committee on the Public Lands, and ordered to be printed.

The SPEAKER. The call of States and Territories is now concluded; but if there be no objection the Chair will recognize, for the introduction and reference of bills and resolutions, gentlemen who were not in their seats when their States were called. The Chair hears no objection.

EIGHT-HOUR LAW.

Mr. McADOO submitted the following resolution; which was referred to the Committee on Labor:

Resolved, That the Postmaster-General of the United States be respectfully requested to report to this House whether in his opinion section 3738 of the Revised Statutes, with reference to eight hours' employment constituting a day's labor for all laborers, &c., employed on behalf of the United States, applies to letter-carriers of the United States.

JETTY SYSTEM OF HARBOR IMPROVEMENTS.

Mr. BRECKINRIDGE introduced a bill (H. R. 7961) to secure special examination into the location and methods of harbor improvements by means of jetties as now being conducted by the United States Government, and for other purposes; which was read a first and second time, referred to the Committee on Rivers and Harbors, and ordered to be printed.

CHARLOTTE E. MYER.

Mr. KEIFER introduced a bill (H. R. 7962) granting a pension to Charlotte E. Myer; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

LAND TITLES IN THE DISTRICT OF COLUMBIA.

The SPEAKER. This being the second Monday of the month, business presented by the Committee on the District of Columbia is now in order.

Mr. BARBOUR. I call up from the House Calendar the bill (H. R. 7375) to amend the laws relating to land titles in the District of Columbia.

The bill was read, as follows:

Be it enacted, &c., That the term "heirs," or other words of like import, shall not be requisite, in any deed or will hereafter made of land in the District of Columbia, to convey or create an estate in fee-simple, but every grant or devise of land in said District hereafter made shall vest in the grantee or devisee all the interest and estate, legal and equitable, of the grantor or devisor in the premises granted or devised, unless an intent to pass a less estate or interest is expressed or necessarily implied.

SEC. 2. That a general devise in any will hereafter made, and remaining in force at the date of the decease of the testator, shall be deemed and held to pass all the interest and estate, legal and equitable, which the testator had therein at the time of his death, whether acquired before or after the making of the will, unless a contrary intent is expressed or necessarily implied.

SEC. 3. That where two or more persons are named as grantees or devisees in any deed or will hereafter made, except when named or taking as trustees, such persons shall be deemed and held to take as tenants in common and not as joint tenants, unless a contrary intent is expressed.

SEC. 4. That any instrument of writing hereafter signed, acknowledged, and recorded in said District, and in the following form or to the like effect, namely: "This deed, made this —— day of ——, A. D. ——, between —— [the grantor] and —— [the grantee], witnesseth: That in consideration of —— [here state the consideration] the said —— —— [the grantor] conveys unto the said —— —— [the grantee] the following property situate in the District of Columbia: —— [here describe the property]. Witness the following signature," shall be deemed and held sufficient, in law and in equity, to vest in the grantee or grantees therein named, his, her, or their heirs and assigns, all the interest and estate, legal and equitable, of the grantor or grantors therein named and signing the same, in and to the land therein described, with all the improvements thereon and all easements, hereditaments, appurtenances, and rights thereunto belonging.

SEC. 5. That if in any such instrument as aforesaid the words "and warrants" (or "warrant") shall be used after the word "conveys" or "convey," the grantor or grantors shall be deemed and held to covenant, for himself, herself, or themselves, his, her, or their heirs and legal representatives, with the grantee or grantees, his, her, or their heirs and assigns, to forever warrant and defend the title to the premises conveyed unto the grantee or grantees, his, her, or their heirs and assigns, from and against the lawful claims of all persons whomsoever.

SEC. 6. That if in any such instrument as aforesaid the words "and warrants" (or "warrant") "specially" shall be used after the word "conveys" or "convey," the grantor or grantors shall be deemed and held to covenant, for himself, herself, or themselves, his, her, or their heirs and legal representatives, with the grantee or grantees, his, her, or their heirs and assigns, to forever warrant and defend the title to the granted premises, unto the grantee or grantees, his, her, or their heirs and assigns, from and against all persons claiming by, through, or under the grantor or grantors, his, her, or their heirs and assigns.

SEC. 7. That any person claiming title to land in the District of Columbia by descent, or having acquired title from or through any person or persons who claimed the same by descent, may file a petition on the equity side of the supreme court of the District of Columbia, verified by the oath of the petitioner, setting forth the name of the intestate, the date and place of his or her decease, as nearly as can be ascertained, a full description of the land and premises of which the intestate died seized, in law or in equity, and the manner in which the intestate acquired title to the same, the name or names of the person or persons claiming or who claimed to be the sole or only heir or heirs of the intestate, and the relationship of such person or persons to the intestate, and praying the court to decree that the person or persons so named is or are the sole or only heir or heirs of the intestate; and thereupon an order may issue, as of course, setting forth the substance of the petition, and warning all persons interested to appear by a day therein to be named, not less than thirty days from the date of the filing of such petition, and show cause against the granting of the prayer thereof, a duly certified copy of which order shall be published daily, Sundays excepted, for twenty days, in some newspaper of general circulation printed and published in said District; and if the intestate was at the date of decease domiciled outside of said District, like publication shall be made in such issue of some newspaper printed or published at the city, town, or county where he or she was so domiciled, for the period of at least twenty days.

SEC. 8. That on proof to the satisfaction of the court of publication being made as aforesaid, the court may direct evidence to be taken, by commission or otherwise, in support of the allegations of the petition, and in case of conflicting claims of heirship may direct an issue to be framed, and refer the same to the law side of the court for trial by jury; and on hearing and considering the proceedings the court may pass a decree declaring who were or are the only heirs at law of the intestate; and when a copy of such decree, certified by the clerk under his hand and the seal of the court, is recorded in the office of the recorder of deeds of said District, the record thereof shall be *prima facie* evidence in all courts of law and equity of the fact therein stated. The court shall have power to adopt such rules as in its judgment may seem requisite in the premises.

SEC. 9. That adverse possession of land in said District, heretofore or hereafter obtained without fraud or collusion, under a record claim of title, and held for fifteen years by any person and those under whom he claims, shall be deemed and taken in all courts of law or equity to vest such possessor with a fee-simple title to such land: *Provided*, That any claimant legally disabled from suing shall be entitled to one year after the removal of the disability within which to bring suit: *And provided further*, That no possession heretofore commenced and continuing for less than twenty years shall be a bar to any suit begun within one year from the passage of this act: *And provided further*, That as to unoccupied lands, they shall be deemed in the constructive possession of the person having a record claim of title thereto, and in whose name the same are assessed and who pays the taxes thereon, and such constructive possession shall be deemed an adverse possession under this act.

SEC. 10. That no conveyance of land, or any interest in land, whereof the grantor, at the date of such conveyance, shall not be in possession, actual or constructive, except when made by a person claiming under the person in possession, or those under whom he claims, or by a reversioner or remainderman, or by a trustee or officer executing a writ, order, or decree against the person in possession, or those under whom he claims, or by a public officer or officers in the discharge of official duty, or between persons claiming as co-tenants, shall invest the grantee or grantees, his, her, or their heirs or assigns, with any right to have or maintain any suit or action at law or in equity, in respect of or concerning the land or interest granted, against any person or persons in the peaceable possession, actual or constructive, of such land or interest, claiming adversely to the grantor or grantors in any such conveyance.

SEC. 11. That when possession has been acquired, and has existed as set forth in the ninth section of this act, and the person in possession, actual or constructive, desires to perpetuate record proof thereof, such person may file a petition on the equity side of the supreme court of the District of Columbia, verified by the oath of the petitioner, setting forth the fact of such possession, a full description of the property, and the manner in which the petitioner, or those under whom the petitioner claims, acquired title; and thereupon an order may issue, as of course, reciting in brief the substance of the petition, and warning all persons interested to appear by a day therein named, which shall be not less than thirty days after the filing of the petition, and show cause against the granting of the relief prayed, a copy of which order shall be published daily, Sundays and legal holidays excepted, for at least twenty days in some newspaper printed and published in said District and of general circulation therein. On proof to the satisfaction of the court of such publication being made, evidence may be taken in such manner and upon such terms as the court may prescribe; and on hearing the petition and proofs the court may, by decree, declare that the petitioner is vested with a fee-simple title to the land in question against every claimant; and when a duly certified copy of such decree is recorded in the office of the recorder of deeds of said District, the record thereof shall be *prima facie* evidence of the contents thereof, subject, nevertheless, to the exceptions in favor of persons laboring under disabilities mentioned in the ninth section of this act.

SEC. 12. That if in the proceedings aforesaid any person claiming an interest in the premises shall intervene and traverse the averments of the petition, the court may direct such proceedings to be had and such proofs to be taken as the nature of the case may require; and if upon a final hearing the court shall be satisfied that the petitioner is not entitled to the relief prayed, the petition shall be dismissed, but without prejudice to the rights of any of the parties in any suit or action thereafter brought to recover possession of the premises in question.

SEC. 13. That on the trial of any action of ejectment heretofore or hereafter

brought in said District, where the possession of the defendant, or those under whom he claims, is shown to have been obtained peaceably and in good faith, it shall be competent for the parties to make proof of—

First. The amount of taxes paid by the defendant, or those under whom he claims, during the period of his, her, or their possession, actual or constructive, on account of the land sued for, including all assessments, general or special.

Second. The value of all valuable, useful, and lasting improvements made or erected on the land sued for by the defendant, or those under whom he claims, prior to the commencement of the action.

Third. The rental value of the land sued for, without the improvements, during the period of the actual occupation thereof by the defendant, or those under whom he claims, or by his or their tenants.

Fourth. The value of the lands sued for without the improvements.

The certificate of the collector of taxes for the time being, and which he shall furnish on demand of the party interested, showing the assessment and payment of taxes during the period in which the defendant or those under whom he claims held possession, actual or constructive, shall be *prima facie* evidence that the taxes certified as paid were paid by the person in whose name the land sued for is shown by the certificate to have been assessed.

SEC. 14. That if, upon the trial as aforesaid, the jury, under the instructions of the court, shall find for the plaintiff for the possession of the land sued for, they shall return as part of their verdict and in such form as the court may prescribe, the amount of taxes and assessments, if any, found to have been paid as aforesaid; the value of the useful, valuable, and lasting improvements, if any, made as aforesaid; the rental value, if any, of the land sued for without the improvements, and the value of said land without the improvements, all which shall be entered upon the minutes of the court; and if the verdict shall show an amount for improvements and taxes in excess of the amount returned as the rental value of the land, no judgment shall be entered upon such verdict or execution awarded until the plaintiff, or his legal representatives, shall have paid or tendered in current money to the defendant, or his legal representatives, the amount of said excess as aforesaid, less the costs of suit, to be taxed by the clerk; or until the plaintiff, or his legal representatives, shall have tendered to the defendant, or his heirs or assigns, a good and sufficient deed of release and acquittance of all interest and estate in the land sued for, and demanded of the defendant, or his legal representatives, the value of the land sued for so as aforesaid found, and the rental value, if any, so as aforesaid found, and costs, in excess of the amount of taxes and assessments, if any, so as aforesaid found to have been paid, and the defendant, or his heirs or assigns, shall have refused or failed, for a period of ten days from and after such tender and demand, to accept the deed so tendered and to pay the sum so demanded: *Provided*, That nothing herein contained shall be deemed to affect the right of appeal or the right to a writ of error; and for that purpose judgment may be entered upon such verdict *pro forma*.

SEC. 15. That within thirty days from and after the rendition of a verdict as hereinbefore provided for, should no proceedings be taken to set aside the same, or if any such proceedings shall be entered within thirty days after the same are disposed of, should the verdict be sustained, the plaintiff, or his heirs or legal representatives, may pay or tender, in current money, to the defendant, or his heirs or legal representatives, the value of the improvements so as aforesaid found, and the amount of taxes so as aforesaid found to have been paid, less the rental value so as aforesaid found and less the costs of suit as taxed by the clerk, and on filing with the clerk an affidavit of such payment or tender, or in case the defendant shall evade or refuse such tender, on payment of such sum into the registry of the court, to the order of the defendant, his heirs or legal representatives, judgment shall be forthwith entered, as of course, in favor of the plaintiff, for possession of the premises sued for, and costs, and for any rental value found as aforesaid in excess of the taxes found to have been paid as aforesaid, and execution shall issue accordingly; or, within the period aforesaid the plaintiff, or his heirs or legal representatives, may tender to the defendant, or his heirs or legal representatives, a good and sufficient release and conveyance of all interest and estate in the premises sued for, and demand of the defendant, or his heirs or legal representatives, payment, in current money, of the value of the land sued for without the improvements so as aforesaid found, and the rental value of the land without the improvements, if any, found as aforesaid, and costs taxed as aforesaid, less the amount of taxes, if any, so as aforesaid found to have been paid; and if the defendant shall fail, for the space of ten days, to accept such release and pay said sums, or in case the defendant, or his heirs or legal representatives, shall evade such tender or demand, the plaintiff, or his heirs or legal representatives, may file with the clerk a notice in writing of such tender and demand; and on failure of the defendant, or his heirs or legal representatives, for the space of ten days thereafter, to accept such tender and pay such demand, judgment shall be entered, as of course, in favor of the plaintiff, for the possession of the premises sued for, and improvements, and costs, and for the rental value of the land so as aforesaid found, if any, in excess of the amount of taxes, if any, so as aforesaid found, and execution may issue accordingly.

SEC. 16. That on neglect or failure of the plaintiff, or his heirs or legal representatives, to comply with the provisions of the fifteenth section of this act, the defendant, his heirs or legal representatives, may pay or tender to the plaintiff, his heirs or legal representatives, in current money, the value of the land without the improvements so as aforesaid found, and the costs of suit, taxed as aforesaid, together with the rental value so as aforesaid found, if any, in excess of the amount of taxes paid, if any, so as aforesaid found, and may demand of the plaintiff, or his heirs, a release and acquittance of all interest in the premises sued for; and should the plaintiff, or his heirs, refuse or neglect, for the space of ten days, to accept such tender and to comply with such demand, on the filing in the clerk's office by the defendant, or his heirs or legal representatives, of an affidavit of such tender, demand, and refusal, the plaintiff, his heirs and legal representatives, shall thereupon be forever barred from having or maintaining any other or further proceedings, suits, or actions of or concerning the premises in question, or for any rents and profits thereof.

SEC. 17. That the record of any will or codicil, or certified copy of any will or codicil, heretofore or hereafter recorded in the office of the register of wills of said District, and which shall have been admitted to probate, shall be received in all courts of law or equity as *prima facie* evidence of the contents and due execution of such wills or codicils, or certified copies. Any will hereafter made shall be deemed sufficiently executed to pass the title to real estate in said District if in writing, signed by the testator or testatrix, and attested and subscribed in the presence of the testator or testatrix by two or more credible witnesses.

SEC. 18. That the recitals in any trustee's deed, executor's deed, guardian's deed, or marshal's deed heretofore or hereafter recorded in the proper office in said District shall be *prima facie* evidence in all courts of law or equity of the facts recited.

SEC. 19. That the provisions of sections 450 and 451 of the Revised Statutes of the United States relating to the District of Columbia shall not be taken or held to apply to the acknowledgment of any conveyance heretofore made by a married woman of any estate or property referred to or contemplated by the provisions of sections 727 and 728 of said Revised Statutes, but every such acknowledgment shall be deemed and held sufficient, in law and in equity, if made agreeably to the provisions of section 442 of said Revised Statutes; and hereafter the examination of any married woman privily and apart from her husband shall not be deemed requisite to the validity of her execution or acknowledgment of any deed, deed of trust, or other instrument conveying or relinquishing her right or interest, vested, contingent, or inchoate, in any lands and tenements, whether executed and acknowledged by such married woman separately or conjointly with her husband; but every deed, deed of trust, mortgage, or other instrument of writing hereafter made by any person or persons, whether married or unmarried, shall be deemed entitled to be recorded, and the record thereof shall be deemed valid, if the same shall have annexed thereto a certificate of the proper acknowledging officer, his name and official title being thereunto subscribed, in the following form or to the like effect, namely:

"District of Columbia, ——, to wit:

"I, —— ——, a —— in and for said ——, hereby certify that —— ——, well known to me [or satisfactorily proven to me] to be the person who executed the aforegoing and annexed deed [or other instrument], personally appeared before me, in said ——, and acknowledged the same to be — act and deed."

Subject, nevertheless, to the requirements of sections 443 and 445 of the Revised Statutes of the United States relating to the District of Columbia, when such acknowledgments are taken in the places therein mentioned.

SEC. 20. That equitable interests in lands, tenements, and hereditaments in said District existing of record at the date of this act, or hereafter acquired of record, shall be subject to seizure and sale on execution on any final judgment or decree for the payment of money hereafter rendered in the supreme court of said District, or on any judgment of a justice of the peace hereafter filed and docketed in the clerk's office of said court as required by law, and shall also be subject to attachment by mesne process; but as to purchasers for value and mortgagees of the judgment debtor, the title to lands and tenements in said District, or any interest therein, shall not be affected by the lien of any such final judgment or decree after the expiration of five years from the time when such lien shall have attached; and any judgment or decree hereafter rendered or docketed as aforesaid shall be deemed and taken to be fully satisfied after the expiration of ten years from the date of rendition or docketing thereof, unless the same shall be revived by scire facias before the expiration of that period, in which event it shall continue in force for ten years longer, subject to the preceding provision respecting the lien thereof as to purchasers and mortgagees. Execution may issue on any such judgment or decree at any time within the period of ten years from the rendition, or docketing, or revival thereof, without a scire facias. No execution shall lie against lands and tenements, or any interest therein, upon a judgment of a justice of the peace, nor shall any lien be thereby created, until such judgment shall have been filed and docketed in the clerk's office, as required by the provisions of section 1022 of the Revised Statutes of the United States relating to the District of Columbia. Nothing in this section shall be construed as depriving any judgment creditor of the right to enforce his lien upon an equitable interest in land by bill in equity without first making out a fieri facias.

SEC. 21. That the clerk of the supreme court of the District of Columbia shall keep an attachment docket, in which, as well as in the regular docket, all attachments against real estate hereafter issued, whether in cases heretofore or hereafter commenced, shall be entered; and said clerk shall also enter in such attachment docket, in brief, the description of the property seized under any such attachment. The lien of any such attachment shall take effect, as to purchasers and creditors, without actual notice, only from the time of the entry in the attachment docket of the marshal's return. All attachments so entered shall be indexed in the name of the defendant; and for keeping said docket the clerk shall be entitled to the same fees as are now allowed by law for keeping the record of mechanics' liens.

SEC. 22. That hereafter all tax deeds executed by the officer designated by law to execute the same, of land hereafter sold for taxes, shall vest in the grantee all the right and estate of the former owner in and to the land conveyed, and shall be presumptive evidence in all courts of the District of Columbia in all controversies and suits in relation to the rights of such grantee, his heirs and assigns, of the following facts:

First. That the property so conveyed was subject to taxation for the year or years stated in the deed.

Second. That the taxes were not paid before the sale, nor the property redeemed before the said deed was executed.

Third. That the property had been duly listed and assessed; that the taxes were levied according to law, and that the property was duly advertised for sale and sold for taxes as stated in the deed.

And shall be conclusive evidence of the following:

First. That the manner in which the listing, assessment, levy, notice, and sale were conducted were in all respects as the law directed, and that the grantee was the purchaser.

Second. That all the prerequisites of the law were complied with by all the officers who had or whose duty it was to have had any part or action relating to or affecting said property, or the title so conveyed, necessary and proper to make a good and valid sale and to vest the title in the purchaser, except in regard to the foregoing points, of which said deed is declared to be presumptive evidence only.

SEC. 23. That the supreme court of the District of Columbia shall have general jurisdiction, in equity, of the interest of infants and lunatics in real estate in said District; and on petition of the guardian of any infant or committee of any lunatic having an estate or interest in any lands or tenements in said District, may decree the sale or mortgage of the whole or any part thereof, or may authorize or confirm such contracts in respect of the same as, in its discretion, having regard to the interest and advantage of such infant or lunatic, it may deem proper. The proceedings on such petition shall conform as nearly as may be to the provisions of sections 958 to 960, both inclusive, of the Revised Statutes of the United States relating to the District of Columbia, except that it shall not be necessary to make parties defendant those who would be heirs to the estate if the infant or lunatic were dead.

SEC. 24. That section 3 of the act of Congress approved August 15, 1876, chapter 297, entitled "An act relating to partition of real estate in the District of Columbia," be, and the same is hereby, repealed; and all sales of lands and tenements hereafter made under any decree or order in chancery shall be upon terms prescribed by the court; and the court may, by general rule, prescribe the manner and mode in which chancery sales may be made by a trustee or trustees appointed for that purpose, and the terms upon which such sales shall be made, and, unless otherwise in the decree prescribed, all sales under decree shall be in accordance with such general rule; and to that end a decree of sale may be in the following form, or to the like effect, namely:

"On consideration, it is by the court, this —— of ——, A. D. ——, ordered and decreed, that sale be made of the following real estate mentioned in the proceedings, namely: —— [description of the property to be sold]; and that —— —— [the trustee] be, and he is hereby, appointed trustee to execute this decree, in accordance with the rule of the court in such case made and provided."

No title to lands and tenements sold under any decree or order of court shall vest in the purchaser until the whole of the purchase-money is paid, or secured to the satisfaction of the court, and a conveyance ordered.

SEC. 25. That the term "land," wherever used in this act, shall be held to embrace tracts, lots, original lots, subdivision lots, or parts of lots; and the term "person," wherever used in this act, shall be held to embrace bodies corporate as well as natural persons, the plural as well as singular number and feminine as well as masculine gender.

SEC. 26. That all laws or parts of laws inconsistent with any of the provisions of this act be, and the same are hereby, repealed.

Mr. BARBOUR. I ask that the report accompanying this bill be read.

The Clerk read the report (by Mr. MULDROW) as follows:

The Committee on the District of Columbia, to whom was referred H. R. 4958, report the accompanying substitute and recommend its passage.

The object of this bill, "to amend the laws relating to land titles in the District of Columbia" (bill H. R. 4958), is intended to simplify the present laws of the District in that respect and bring them more in harmony with modern legislation on that subject in the States.

The laws of the District on the subject of land titles are to be found partly in the common law and partly in old Maryland statutes, and require forms that are cumbersome, and include some rules unusual, not retained in modern legislation, and there seems to be a general opinion that both to make the law more simple and clear the provisions such as are embodied in this bill should be enacted.

The SPEAKER *pro tempore* (Mr. HAMMOND in the chair). The question is on ordering this bill to be engrossed and read a third time.

Mr. STORM. This bill proposes to change in some very important particulars the land laws of the District of Columbia. I desire to know whether it contains any suitable provision that existing vested titles shall not be disturbed, and whether the bill as drawn applies to deeds and wills which may have been executed before the passage of the bill.

Mr. BARBOUR. I understand that this bill came from the Bar Association of this District. It was referred to the Committee on the District of Columbia and received the unanimous recommendation of the legal gentlemen on that committee, constituting what we call the "Subcommittee on the Judiciary."

I am not lawyer enough to answer the gentleman's questions. The gentleman from Mississippi [Mr. MULDROW] who reported the bill is absent; but other gentlemen of the committee who are lawyers will make any explanations that may be necessary. I yield so much of my time as may be desired to the gentleman from Maryland [Mr. MCCOMAS] and the gentleman from Mississippi [Mr. JEFFORDS], who will no doubt answer the gentleman's questions satisfactorily.

Mr. HEWITT, of Alabama. This is a very important bill; and it seems to me best that we take it up and go through with it by sections in the House as in Committee of the Whole.

Mr. BARBOUR. I have no objection to that course.

Mr. HEWITT, of Alabama. The bill makes important changes in regard to the law of land titles and modifies the rules of evidence.

Mr. MCCOMAS. Mr. Speaker, the gentleman from Mississippi [Mr. MULDROW] who reported this bill, and who, if present, would take charge of it, is unavoidably absent. It is a long bill, and the suggestion that it be considered by sections would be reasonable enough if that course were really necessary. But I apprehend that such treatment of the bill would consume the remainder of this day, and I think gentlemen who will look at the bill will find there is no real need of considering it by sections. For instance, the first and second sections propose simply to adopt in this District what is the law perhaps in almost every State of the Union—that the word "heirs" shall not be required hereafter in any deed or will in order to pass a fee-simple title.

Mr. STORM. The question is not so much as to the law in the various States of the Union as in regard to the present law in this District which the bill proposes to change.

Mr. MCCOMAS. I can answer my friend on that subject satisfactorily, I think. The laws of this District on the general question involved in this bill are the common law of England as it stood at the time of the Revolution, with the addition of Maryland statutes up to 1801. Just there the law of Maryland is lopped off; and the stump has scarcely had any growth since.

The first and second sections of the bill provide that the word "heirs" shall not be required in a will or deed in order to pass a fee-simple title. By the third section the old common-law doctrine of joint tenancy with the right of survivorship is abolished; and it is provided in accordance with the law of Maryland, and perhaps most of the States of the Union, that where property is conveyed to two or more persons they shall take as tenants in common, unless joint tenancy be expressly provided for.

And so on with the fourth section. There is a short form of a deed in modern shape and not in the old form. Sections 5 and 6 only provide that there shall be, as is usual in most of the States, short forms of general and special warranty.

Now, Mr. Speaker, I hope if to that extent and to illustrate the general object of the bill my friend on the other side of the House should find no section which he thinks ought to be considered separately, then after looking over the whole bill, which has been on the Calendar and printed since June last, together with the accompanying report, it would hardly be necessary in my judgment that the House should go over the bill section by section.

Mr. PERKINS. Let the general debate be closed in five minutes.

Mr. MCCOMAS. Do I understand the gentleman from Pennsylvania [Mr. STORM] as insisting upon his suggestion or his desire of having the bill debated section by section?

Mr. STORM. That was not my suggestion. I only rose for the purpose of asking for some explanation. I infer from what the gentleman has said, and from reading the bill and the report, that the existing law of this District is the old common law and that the use of the word "heir" is necessary to convey title in fee-simple.

Now, the question which I wish to ask the gentleman from Maryland further is whether there is a saving clause in the bill so as to not disturb existing titles in this District, or whether it would be retroactive, so as to apply to deeds and wills executed before its passage.

I am favorable, Mr. Speaker, to the purpose of the bill. I know that the tendency of modern legislation is to simplify these matters. The question for us carefully to consider is what is the law we change in this District, and whether in making the change we interfere with vested rights and titles.

Mr. MCCOMAS. I agree with the gentleman from Pennsylvania in what he has said, but in the opinion of the committee reporting this bill it does not interfere with vested rights or titles in this District. I therefore ask unanimous consent, Mr. Speaker, that the bill be considered as a whole.

The SPEAKER *pro tempore*. That is not required. The bill having been read, it will require unanimous consent to have it read by sections.

Mr. BARBOUR. As it is suggested by several gentlemen that the bill should be temporarily passed over so that members may look into its provisions, and especially as the gentleman from Mississippi [Mr. MULDROW] who is the author of the bill is not present in the House to-day, I am willing, as chairman of the committee, to move that the bill be informally passed over not to lose its right upon the Calendar.

The SPEAKER *pro tempore*. The Chair hears no objection, and it is ordered accordingly.

PROTECTION OF CHILDREN.

Mr. BARBOUR. I now move to take from the House Calendar the bill (S. 729) for the protection of children in the District of Columbia, and for other purposes, and reported from the Committee on the District of Columbia with amendments.

The bill was read, as follows:

Be it enacted, &c., That from and after the passage of this act the Association for the Prevention of Cruelty to Animals for the District of Columbia shall be known as the "Washington Humane Society," and shall be authorized to extend its operations under this act to the protection of children as well as animals from cruelty and abuse. In pursuance thereof the said society may cause its proper officers or agents to prefer complaints, before any court in the District of Columbia having jurisdiction, for the violation of any law relating to or affecting the protection of children in said District, and by its proper attorney may aid in bringing the facts before such court in any proceeding taken.

SEC. 2. That the commissioners of the District of Columbia shall, by the police force of said District, aid the said society, its officers and agents, in the enforcement of all laws relating to or affecting the protection of children; and the commissioners of the said District, and their successors, are authorized, in their discretion, to detail, from time to time, an officer or officers to aid specially in the work of said society, or they may commission any duly appointed agents of said society special police officers, without compensation; and such agents or officers shall have power to arrest, without warrant, all persons violating in their presence any law relating to or affecting the protection of children, or other parties so offending by virtue of a warrant issued by the police court of the District of Columbia, which offenders shall be taken by such agents or officers before the said police court of the District of Columbia for trial. Said agents or officers are also hereby empowered to bring before the said court any child who is subjected to cruel treatment, willful abuse, or neglect, or any child under 16 years of age found in a house of ill-fame; and said court may commit such child to an orphan asylum or other public charitable institution in the District of Columbia, with the consent of the constituted authorities of such asylum or institution, or make such other disposition thereof as now is or may hereafter be provided by law in cases of vagrant, destitute, or abandoned children: *Provided*, That any parent, guardian, or near relative who may feel aggrieved by any order of said court in the premises may appeal therefrom to the criminal court of the District of Columbia.

SEC. 3. That any person in the District of Columbia who shall torture, cruelly beat, abuse, or otherwise willfully maltreat any child under the age of 18 years; or any person, having the custody and possession of a child under the age of 14 years, who shall expose, or aid and abet in exposing, such child in any highway, street, field, house, outhouse, or other place, with intent to abandon it; or any person, having in his custody or control a child under the age of 14 years, who shall in any way dispose of it with a view to its being employed as an acrobat, or a gymnast, or a contortionist, or a circus-rider, or a rope-walker, or in any exhibition of like dangerous character, or as a beggar, or mendicant, or pauper, or street-singer, or street-musician; or any person who shall take, receive, hire, employ, use, exhibit, or have in custody any child of the age last named for any of the purposes last enumerated, shall be deemed guilty of a misdemeanor, and, when convicted thereof, shall be subject to punishment by a fine of not more than $250, or by imprisonment for a term not exceeding two years, or both.

SEC. 4. That any person who shall entice, decoy, place, take, or receive any female child under the age of 16 years into any house of ill-fame or disorderly house, for the purpose of prostitution, or any person who, having in his custody or control such child, shall dispose of it to be so received, or to be received in or for any obscene, indecent, or immoral purpose, exhibition, or practice, shall be deemed guilty of a misdemeanor, and, when convicted thereof, shall be subject to punishment by a fine of not more than $1,000, or by imprisonment for a term not exceeding ten years, or both.

The amendments of the committee were read, as follows:

In section 2, line 11, strike out the words "within their view," and insert "in their presence;" and in section 4 strike out "twenty-one" and insert "sixteen."

Mr. WARNER, of Ohio. I hope we shall have some explanation of this bill.

Mr. WILSON, of West Virginia. The bill, I think, explains itself. It is not intended to interfere with personal liberty, but on the contrary to secure it. It is not in derogation of the rights of parents or guardians, but recognizes those rights to be possessed not for the benefit of the parents or guardians, but for the protection of their children and to supply their wants.

The bill is designed to embody in the statutes of the District of Columbia legislation which is found to be necessary and which has been adopted in many of the States of the Union. This bill has been prepared after careful examination of the statutory laws of the several States and especially of those of the State of New York.

The bill came from the Senate and has been reported back from the Committee on the District of Columbia with two amendments, one of them unimportant, merely correcting the verbiage in order to prevent what the committee thought might lead to ambiguity of interpretation of the law, and the other, in the fourth section, diminishing the age from 21 to 16 years. The committee supposed if the law was left at 21 it might afford opportunity for blackmail, and that there was danger that the object of the bill might be foiled or the bill rendered less successful.

I demand the previous question on the bill and amendments.

The previous question was ordered, and under the operation thereof the amendments were agreed to, and the bill as amended was ordered to be read a third time; and it was accordingly read the third time, and passed.

Mr. WILSON, of West Virginia, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

CRIMINAL CODE FOR THE DISTRICT.

Mr. BARBOUR. I move next to take from the House Calendar the bill (H. R. 5249) to provide a criminal code for the District of Columbia; which was reported back from the Committee on the District of Columbia with amendments.

The bill was read, as follows:

Be it enacted, &c., That the justices of the supreme court of the District of Columbia be, and they are hereby, authorized to appoint one person learned in the law to prepare a code of criminal law for the said District of Columbia, to be submitted to Congress at its next session for approval.

SEC. 2. That the sum of ——— thousand dollars, or so much thereof as may be necessary, be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, to pay for the same.

SEC. 3. That said commissioner or codifier so appointed is hereby authorized to cause his work to be printed, and the Public Printer is hereby directed to do such printing; and said code shall be reported to Congress as soon as practicable.

The amendments were read, as follows:

In section 1, line 5, after the word "law," insert the words "who shall receive a compensation not to exceed $3,000;" and in section 2, line 1, before the word "thousand," insert the word "three;" and also by adding the following as a new section:

SEC. 4. That 50 per cent. of the amount hereby appropriated shall be paid by the District of Columbia.

Mr. BARBOUR. This bill was reported from the Committee on the District of Columbia by the gentleman from Maryland [Mr. MCCOMAS], and I will yield the floor to him.

Mr. MCCOMAS. I ask for the reading of the report.

The report (by Mr. MCCOMAS) was read, as follows:

The condition of the statute law of the District of Columbia is deplorable. Congress has never found time to give to the subject the attention absolutely necessary. Repeated attempts to provide a code have resulted in repeated failures. The chance of success grows less as the volume of Congressional legislation increases. To attempt at this time to pass a code would surely fail. But something may yet be done which will meet present needs and serve as a basis for a code in the future. The condition of the criminal laws in force here is a public scandal. The laws of England prior to July 4, 1776, and the laws of Maryland as they existed February 27, 1801, constitute the body of the laws for the punishment of crime in this District. Congress at times has spasmodically patched the system. Substantially there has been no development or improvement upon the laws of Maryland in force in 1801. During eighty-three years some penalties and even crimes have become obsolete. New crimes have been frequent that are difficult to punish under existing statutes. Confusion and delay result which an able and upright bench can not prevent.

We are told that unusual difficulties arise in classifying offenses as misdemeanors or felonies, uncertainties as to the results of conviction respecting disabilities and forfeitures, the right of defendants and the Government to challenge the qualification of jurors, the selection of talesmen, the process for witnesses beyond the jurisdiction and their compensation. The laws respecting lotteries and gambling are very loose. There are no degrees in murder. A jury is compelled to find murder or manslaughter, and a criminal thus escapes with inadequate punishment. There is no penalty for incest. Adultery escapes with the slight penalty of four hundred pounds of tobacco, while for blasphemy the law prescribes boring through the tongue with a red-hot iron.

Arson in the daytime and arson at night are not differently punished. It was long doubted whether the appalling crime of Guiteau could be tried and punished in this District.

Enough instances have been cited to show the need of a criminal code, which is one step in the right direction. Others will follow. This reform should not be delayed.

This bill (No. 5249), as amended by the committee, provides that—

(1) The judges of the supreme court of the District shall appoint one competent lawyer as a commissioner to prepare a criminal code to [be submitted to] Congress for its approval. It does not limit the time to the duration of the present Congress, though it is believed that the limited scope of this undertaking will enable the codifier to report at the next session of Congress.

(2) The Public Printer is authorized to do the printing.

(3) The compensation is limited to $3,000.

(4) It is provided that 50 per cent. of the sum expended be paid by the District.

Mr. MCCOMAS. Now, Mr. Speaker, that report, which I had the honor to submit, as will be perceived, is a very brief one and a very matter-of-fact statement of the many reasons why some such legislation should be enacted. The bill empowers the court—the supreme court of the District—to appoint some one to frame a criminal code for the District.

There have been many times in the history of this District when efforts were made to get up a criminal as well as a civil code; but failure has always followed such efforts, as is stated in the report. Such efforts have always fallen still-born. That would be the case again, no doubt, in this effort but for the fact that because the criminal laws in this District are at this time in some respects barbarous, obsolete, and inadequate, it has grown to be a public sentiment, a clamor in favor of some such measure.

More than a year ago the Committee on the District of Columbia had this matter brought to its attention, and finally decided that the supreme court of the District could properly appoint a suitable person who, for a moderately reasonable sum or compensation, could take up the criminal code, which is now such a crying necessity, and that the other larger work which is so much demanded here should be left to the future. After a careful inquiry the committee believe that, with the basis of the code in the State from which this law has been largely derived, aided by codifications of the criminal laws of other States of this country, by the recent criminal act, for instance, in the State of New York, if you please, or Stephen's English Criminal Code, in the course of a year such a proper person could report to Congress a criminal code, not as an experiment, but one based upon existing law—the only way in which a code could and should properly be made—and that it may be done and done promptly and well, and when so done this law, which has been so long wanted and which has never heretofore been provided, notwithstanding the repeated efforts to have such a measure in this District, will meet the requirements of the people and afford relief where now there is none. It provides also that it shall remain for the consideration of Congress until approved or rejected.

I reserve the remainder of my time, Mr. Speaker, and unless some gentleman is opposed to this provision I shall move the previous question upon the adoption of the bill.

Mr. COX, of New York. May I ask the gentleman from Maryland a question?

Mr. MCCOMAS. Certainly.

Mr. COX, of New York. The publication of this code will cost a good deal of money. It is provided that it shall be done by the Public Printer. Is it proposed to divide that expense with the District also?

Mr. MCCOMAS. The act itself provides that the Public Printer shall print this code. But I will say to the gentleman from New York that as it is simply a criminal code, it will necessarily be brief. It does not undertake to embrace the civil provisions of the law within it. It is simply a criminal code, and the Public Printer, as the bill provides, shall do the printing of it.

Mr. COX, of New York. But there is another provision, which provides that the cost of carrying out the bill shall be defrayed equally by the Government and the District of Columbia.

Mr. MCCOMAS. Yes, sir.

Mr. COX, of New York. Now, does that provision apply also to the printing?

Mr. MCCOMAS. I think not to the printing.

Mr. COX, of New York. Suppose you amend it in that way.

Mr. MCCOMAS. I will accept that amendment.

Mr. HOPKINS. Will the gentleman from Maryland permit me to ask him a question?

Mr. MCCOMAS. Certainly.

Mr. HOPKINS. Is there any special reason why this appointing power shall be conferred upon the judges of the supreme court of the District of Columbia rather than upon the President of the United States?

Mr. MCCOMAS. If the gentleman will look at the bill, and at the time of its introduction, he will see that it was presented several months ago, and the committee thought it better that no political consideration should govern or hamper it. It was the desire of the committee not to create any claim of partisanship in connection with the appointment. It was expressly the sense of the committee that, being purely a local matter, it would be better for the judges of the supreme court of the District, those who are to administer the criminal law, to make the appointment of some person who in their judgment would be qualified to perform the labor assigned to him; and I think my friend from Pennsylvania will agree with me that it does seem wise to have the provision remain just as it is.

Mr. HOPKINS. Inasmuch as the President of the United States selects these very judges with a view to their fitness, he is certainly competent to select the subordinate officers. I move, therefore, to amend by striking out in the third and fourth lines the words "justices of the supreme court of the District of Columbia" and insert "President of the United States."

The SPEAKER. Does the Chair understand the gentleman from Maryland to have yielded the floor so that an amendment can be offered at this time?

Mr. MCCOMAS. No, sir; I retain the floor and yielded simply to any gentleman who desires to make an inquiry.

I will say to the gentleman from Pennsylvania that the committee would not consent to any amendment affecting the mode of appointment. The purpose was, as I have said, one year or more ago, to avoid any political appointment, the object being to avoid making a place for some political favorite, and the judgment of the committee being that the court might find some member of the bar who would be competent to at once proceed to the discharge of the duty, that thereby the work

would be done systematically and rapidly. It is desirable that this shall be brought before Congress at its next session.

I will assent to the amendment proposed by the gentleman from New York [Mr. COX]. But really, Mr. Speaker, in looking at the bill, it does seem to me that the bill itself provides for the printing in the form in which the gentleman from New York would have it done.

I ask the attention of the gentleman from New York [Mr. COX]. I find on looking at the bill that my statement was not quite broad enough. The third section already provides, as the distinguished gentleman suggests, that the Public Printer shall do the printing. Therefore the amendment will not be required. The printing is only for Congress, because the work has to be submitted to Congress; and that is the usual mode. I hope that is satisfactory to the gentleman from New York.

Mr. COX, of New York. It is not satisfactory at all. The printing to be done inures to the benefit of the District, and the rule has been applied to all expenditures for the District that one moiety shall be borne by the District and one moiety by the United States. I have prepared an amendment providing that the expense of one-half the printing also shall be paid by the District.

Mr. McCOMAS. I do not object to that amendment.

Mr. KEIFER. That will be, I think, a very unusual provision We have bills printed every day relating to the District, the expense of which is not charged to the District.

Mr. COX, of New York. But this may be a very large code.

Mr. KEIFER. It will be in the nature of a bill when brought before Congress. The Public Printer is ready to print bills relating to the District of Columbia or anything else.

Mr. COX, of New York. I remember a code relating to the District of Columbia which covered some five or six hundred pages; and that code, I believe, eventuated in nothing.

Mr. McCOMAS. I assent to the amendment of the gentleman from New York, and upon that and the bill I move the previous question.

Mr. OATES. I ask the gentleman to withhold the motion for the previous question for a moment.

Mr. McCOMAS. I yield to the gentleman from Alabama [Mr. OATES].

Mr. OATES. I desire to ask the gentleman from Maryland if this commissioner, for whose appointment the bill provides, is not a mere compiler of existing law. Is that the intention of the bill?

Mr. McCOMAS. That is the intention of the bill.

Mr. OATES. Then, it seems to me, the bill should be amended. The language is:

To prepare a code of criminal law for the said District of Columbia.

It does not say to compile the existing criminal law, or the criminal law at present in force in the District of Columbia.

Mr. McCOMAS. I now understand the gentleman from Alabama. This is to enable the codifier to prepare a criminal code for the District of Columbia, taking the old laws with whatever additions may seem wise. That is the purpose of the bill.

Mr. OATES. That seems not exactly consistent with the third section:

That said commissioner or codifier so appointed, &c.

Mr. McCOMAS. He is to prepare a code. The bill authorizes some one to be appointed to prepare a code, and if my friend from Alabama will look at the first section he will find that ambiguity can not occur, because the commissioner is authorized to prepare a code of criminal law for the District of Columbia.

The previous question was ordered.

The amendments reported by the committee were adopted.

The following amendment, offered by Mr. COX, of New York, was also adopted:

Add to the bill the following:

"*Provided further*, That one-half of the expense of printing said code shall be paid by the District of Columbia."

The bill as amended was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. McCOMAS moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PROMOTION OF ANATOMICAL SCIENCE, ETC.

Mr. BARBOUR. I now call up from the House Calendar the bill (H. R. 5650) for the promotion of anatomical science, and to prevent the desecration of graves.

The bill was read, as follows:

Be it enacted, &c., That any public officer or officers, whether directors, trustees, superintendents, wardens, keepers, or managers, having lawful charge of or control over any hospital, prison, almshouse, jail, morgue, or asylum within the District of Columbia, may deliver to the duly-authorized agent of any medical college or colleges in the said District of Columbia the bodies of such deceased persons as are required to be buried at the public expense, said bodies to be distributed among the several colleges equitably, the number assigned to each being proportioned to that of its students: *Provided, however*, That if the deceased person, during his last illness, of his own accord, requested to be buried, or if, within twenty-four hours after his death, any person claiming to be, and satisfying the authorities that he is, of kindred to the deceased, asks to have the body buried, or if such deceased person was a stranger or traveler who suddenly died, the body shall not be so delivered, but shall be buried.

SEC. 2. That every physician or surgeon, before receiving such dead body, shall give to the officers surrendering the same to him a sufficient bond that each body shall be used only for the promotion of anatomical and surgical knowledge within the District of Columbia, and that after having been so used the remains thereof shall be decently buried; and whosoever shall use such body or bodies for any purpose other than that aforesaid, or shall remove the same beyond the limits of the said District of Columbia, and whosoever shall sell or buy such body or bodies, or in any way traffic in the same, or who shall disturb or remove bodies from graves in which they have been buried, shall be deemed guilty of a misdemeanor, and shall on conviction be imprisoned for a term not exceeding three years, at hard labor, in the District (or city) jail.

Mr. WILSON, of West Virginia. I ask the previous question.

The previous question was ordered, and under the operation thereof the bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. WILSON, of West Virginia, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. WILSON, of West Virginia. I ask unanimous consent to have printed in the RECORD the committee's report upon the bill just passed.

There was no objection, and it was so ordered.

The report is as follows:

The Committee on the District of Columbia, to whom was referred House bill 5650, entitled "A bill for the promotion of anatomical science and to prevent the desecration of graves," having had the same under consideration, report it back with a favorable recommendation.

The object of the bill is twofold: First, and chiefly, to provide sufficient dissecting material for the medical colleges of the District of Columbia; and secondly, and indirectly, to afford better protection to the graves of the dead from desecration.

There are now several flourishing medical schools in Washington well established, and one or more of them of long standing. It is known to all that such institutions can not be carried on or proper training for the practice of medicine and surgery be given without ample experience in the dissection of the human cadaver. This fact is recognized and approved by all, and yet public opinion as strongly approves and demands stringent laws for the punishment of the desecration of graves in order to procure the necessary dissecting material. Hence the laws of the District are very severe, and properly so, against the crime of grave-robbing. With such laws in operation and such necessities for the schools of medicine, the authorities of the District are compelled either to wink at this offense or seriously to cripple, if not to destroy, the efficiency and success of these schools. Furthermore, the heads of these institutions, professors and students of science, are compelled to supply their admitted necessities by confederating with and employing professional grave-robbers, and constantly to incur the risk of detection and criminal prosecution; and it being known in a community that the trade of resurrecting bodies for dissection is a common one, kindred and friends are frequently tortured with anxiety lest the hand of the resurrectionist shall remove the bodies of their dead.

This bill is intended to relieve from such fears—to do away with the necessity or temptation for violating the laws, and at the same time in an open and legal way to provide the requisite dissecting material for the study and advancement of anatomical science in the District. A careful comparison with the statutes of some of the States shows its provisions to be prudently and aptly framed, and intended to accomplish the purpose in view in a manner as little repellant to public sentiment and sensibility as practicable.

DENTISTRY IN THE DISTRICT.

Mr. BARBOUR. I now call up from the House Calendar the bill (H. R. 7895) for the regulation of the practice of dentistry in the District of Columbia, and for the protection of the people of said District from empiricism in relation thereto.

The bill was read, as follows:

Be it enacted, &c., That it shall be unlawful for any person to practice dentistry for compensation in the District of Columbia unless such person shall have received a certificate from the board of examiners hereinafter established, granted upon examination or upon presentation to said board of a diploma from the faculty or other proper persons of a dental college duly and legally incorporated in the United States, in which college there was, at the time of the issue of such diploma, a full course of lectures and instructions in dental surgery: *Provided*, That nothing in this section shall apply to persons now engaged in the practice of dentistry in this District who shall be registered as hereinafter provided.

SEC. 2. That the commissioners of the District of Columbia shall, immediately on the passage of this act, and in December of each and every year thereafter, appoint a board of examiners, who shall at the time of their appointment be practicing dentists in the District of Columbia, and who shall serve until their successors are appointed. That said examiners at their first meeting shall organize by electing one of their number president, and one secretary, and one treasurer; that they shall hold at least two regular meetings each year, and as much oftener as may be necessary; that a majority of their number shall constitute a quorum, and that a full record of their proceedings shall be kept in a bound book procured for that purpose, which shall be at all proper times open for public inspection.

SEC. 3. That it shall be the duty of said examiners to issue certificates to all applicants who shall present diplomas of the character and kind described in section 1 of this act, and to all others who shall, in the judgment of a majority of said examiners, upon examination of the applicants, be found competent to practice dentistry.

SEC. 4. That it shall be the duty of every person who is engaged in the practice of dentistry in this District, within ninety days from the date of the taking effect of this act, to cause his name, residence, and place of business to be registered by said board of examiners in a book kept for that purpose, naming the length of time he or she has been engaged in the practice in this District, and, if a graduate of a dental college, the college where graduating, for which a fee of 50 cents shall be paid by the person so registering. Every person so registering who is engaged in the practice of dentistry in the District aforesaid at the date of the passage of this act may continue to practice without incurring the penalties or liabilities of this act.

SEC. 5. That no person whose name is not registered as prescribed in the preceding section shall be permitted to practice dentistry in this District until such person shall have received from said board of examiners a certificate based upon an examination or upon a diploma as before defined.

SEC. 6. That the board of examiners shall receive from each practitioner of dentistry registering under this act a fee of 50 cents, and from each person having no diploma and receiving a certificate upon examination a fee of $5, and from

each person receiving a certificate upon a diploma a fee of $3, all of which fees so received shall be paid to the secretary of the board and entered of record, and shall be applied to the payment of the actual expenses incurred under this act upon order of the board. The members of the board shall receive no compensation for their time or services in the discharge of the duties prescribed by this act.

SEC. 7. That any person who shall practice dentistry in the District of Columbia without having complied with the provisions of this act shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than $50 nor more than $200, and in default of the payment of such fine shall be imprisoned not less than thirty days nor more than ninety days, said fines, when collected, to be paid into the public-school fund of the District of Columbia: *Provided*, That nothing in this act shall be construed to prevent surgeons and physicians from extracting teeth and prescribing or treating diseases of the mouth.

Mr. WORTHINGTON. If there be no explanation desired, I move the previous question.

Mr. STORM. As I understand, this bill does not interfere with dentists now practicing in the District of Columbia without a diploma?

Mr. WORTHINGTON. It does not. It provides, however, for their registering.

The previous question was ordered.

Mr. WORTHINGTON. In the last line I desire to make a verbal correction. The word "for" should be inserted after the word "prescribing."

There being no objection, the amendment was made.

The bill as amended was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. WORTHINGTON moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MESSAGE FROM THE PRESIDENT.

A message in writing from the President of the United States was communicated to the House by Mr. PRUDEN, one of his secretaries, who also announced that the President had approved and signed bills of the following titles:

An act (H. R. 5735) granting a pension to Margaret Daily;
An act (H. R. 3382) granting a pension to Albert Brant;
An act (H. R. 4094) granting a pension to Henry Alden;
An act (H. R. 2440) granting a pension to Usebus Sweet;
An act (H. R. 452) granting a pension to Frederick Corfe;
An act (H. R. 3177) granting a pension to Charles F. Paris; and
An act (H. R. 3210) for the relief of Jacob Hoerth.

WILLIAM B. MOSES.

Mr. BARBOUR. I move that the Committee of the Whole House on the Private Calendar be discharged from the further consideration of the bill (S. 1148) for the relief of William B. Moses, and that the House proceed to consider the same.

The motion was agreed to.

The bill was read, as follows:

Be it enacted, &c., That the claim of William B. Moses, of Washington, D. C., for certain goods and merchandise furnished for the use of the orphans' court of said District, under authority of the act of Congress approved July 28, 1866, entitled "An act making appropriations for sundry civil expenses of the Government for the year ending June 30, 1867, and for other purposes," be, and the same is hereby, referred to the commissioners of the District of Columbia, with authority to examine and audit said claim; and if any amount is found to be justly due the said Moses, such amount, not exceeding the sum of $313, shall be included in the estimates to be submitted to Congress for the expenditures of the District of Columbia for the next fiscal year, and paid out of such moneys as may be appropriated therefor.

Mr. BARBOUR. This bill has been reported adversely by the Committee on the District of Columbia. I move that it be laid on the table.

The motion was agreed to.

WILLIAM BOWEN.

Mr. BARBOUR. I move that the Committee of the Whole House on the Private Calendar be discharged from the further consideration of the bill (H. R. 1785) for the relief of William Bowen, and that the bill be now taken up for consideration in the House.

The motion was agreed to.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to William Bowen, out of any money in the Treasury not otherwise appropriated, the sum of $3,749.80, the same being the amount of the balance due him for filling up and draining certain lots in the city of Washington, under contract with the board of health of the District of Columbia, during the years 1871, 1872, and 1873, the said lots being located in the squares numbered 549, 849, and in the square north of square 853, and in square 996, the filling and draining thereof being ordered by said board to abate a public nuisance, and in the interest of the public health.

The amendment reported by the Committee on the District of Columbia was read, as follows:

Strike out all after the enacting clause and insert the following:

"That the claim of William Bowen for $3,749.80, as a balance due him for abating certain nuisances under authority of the late board of health of the District of Columbia, be referred to the Court of Claims for its decision and adjudication upon the merits of the claim according to law and the practice of said court, without regard to the statute of limitations or the conclusiveness of a certain receipt signed by said Bowen, in 1875, in full settlement for all claims against the District of Columbia for said work."

Mr. WORTHINGTON. Mr. Speaker, the Senate has passed a bill identical in terms with the substitute just read.

Mr. WARNER, of Ohio. The proposition, as I understand, is to refer this claim to the Court of Claims.

Mr. WORTHINGTON. Yes, sir. The committee now asks that the House bill be laid on the table, and that the House proceed to consider Senate bill 1625.

There being no objection, it was ordered accordingly; and the bill (S. 1625) was taken from the Speaker's table and read, as follows:

Be it enacted, &c., That the claim of William Bowen for $3,749.80, as a balance due him for abating certain nuisances under authority of the late board of health of the District of Columbia, be referred to the Court of Claims for its decision and adjudication upon the merits of the claim according to law and the practice of said court, without regard to the statute of limitations or the conclusiveness of a certain receipt signed by said Bowen, in 1875, in full settlement for all claims against the District of Columbia for said work.

The bill was read three times, and passed.

Mr. WORTHINGTON moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. BARBOUR. I move to take from the Speaker's table the bill (H. R. 3108) in order that we may act upon an amendment of the Senate. It is a bill to protect fish in the Potomac River in the District of Columbia, and to provide a spawning-ground for shad and herring in the said Potomac River.

The amendment of the Senate was read, as follows:

At the end of the bill add the following:

"SEC. 3. That from and after two months from the date of the passage of this act it shall be unlawful to allow any tar, oil, or other waste products of any gas-works, or of works engaged in using such products, to flow into or to be deposited in Rock Creek or the Potomac River, or into any pipe or conduit leading to the same; and any one guilty of violating this section shall be fined not less than $10 nor more than $100 for each and every offense, to be prosecuted for and recovered as provided in the preceding section."

Mr. BARBOUR. I understand, Mr. Speaker, that the amendment proposed by the Senate to this bill is objectionable. It is represented by the commissioners of the District of Columbia that the provision for cutting off the flow of certain matters from the gas-works might operate to shut up the works or to interfere materially with the lighting of the city. I move, therefore, that the House non-concur in the amendment, and ask a conference with the Senate.

The motion of Mr. BARBOUR was agreed to.

The SPEAKER *pro tempore* (Mr. HAMMOND) announced the appointment of Mr. BARBOUR, Mr. SPRIGGS, and Mr. MCCOMAS as conferees upon the part of the House.

EASTERN PRESBYTERIAN CHURCH.

Mr. BARBOUR. I move to take from the Speaker's table for present consideration the bill (S. 2045) for the relief of the Eastern Presbyterian Church, in the District of Columbia.

The motion was agreed to.

The bill was read, as follows:

Be it enacted, &c., That all taxes, together with the interest and penalties, now due and unpaid, for the years 1875, 1876, 1877, 1878, 1879, 1880, 1881, 1882, and 1883, upon lots 34, 35, 36, 37, and 38, in square 821, in the city of Washington, D. C., now occupied by the frame church known as the Eastern Presbyterian church, be, and the same are hereby, remitted.

The bill was read three times, and passed.

Mr. BARBOUR moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. BARBOUR. I believe this concludes the business that the Committee on the District of Columbia desires to offer to-day.

CONSULAR AND DIPLOMATIC APPROPRIATION BILL.

Mr. RANDALL. I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the purpose of proceeding with the consideration of the consular and diplomatic appropriation bill. The gentleman from Missouri [Mr. BURNES] who has charge of the bill was here until a moment ago, but as he does not happen to be here at this instant, I have taken the floor to make this motion.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole House on the state of the Union, Mr. WILSON, of Iowa, in the chair.

The CHAIRMAN. The committee resumes the consideration of the bill (H. R. 7857) making appropriations for the consular and diplomatic service of the Government for the fiscal year ending June 30, 1886, and for other purposes.

The Clerk read as follows:

For salary of the consul-general at Melbourne, $4,500.

Mr. HITT. Mr. Chairman, when this bill was under consideration on Saturday last, at the time the committee rose we were occupied with the second paragraph under Schedule B. The Chair had recognized the gentleman from Indiana [Mr. HOLMAN], who made the point of order upon the provision for consul-general at Madrid in the first paragraph under Schedule B.

The CHAIRMAN. The gentleman is correct, and the Clerk will read the second paragraph under Schedule B.

The Clerk read as follows:

For salaries of the agents and consuls-general at London, Paris, Havana, and Rio de Janeiro, at $6,000 each, $24,000.

Mr. HITT. I desire to offer an amendment: in line 130 to strike out the words "agents and." The word "agents," as here employed, I understand is intended to mean diplomatic agents; that is to say, our consuls at London, Paris, and Rio de Janeiro, where we have now ministers, are to be made quasi-ministers; and the ordinarily recognized commercial agents of this Government, or consuls, it is now proposed shall be placed beside our ministers and clothed with diplomatic powers. It will be certain to produce confusion. Diplomatic agents have been appointed heretofore, but never in such positions as these. Diplomatic agents, under that name and title, have been sent by our Government to countries which were semi-independent, like Egypt. By custom this title has come to mean this class of officers, not quite ministers, accredited to governments not quite independent; but the proposition here is to put near our minister at London and by his side a commercial agent accredited as a diplomatic officer, authorized to hold communication with a minister of foreign affairs in England, France, or Brazil. It can only result in conflict of authority, confusion of functions, perhaps quarrels. The words mean nothing or they mean mischief, and I hope, therefore, they will be stricken out.

Mr. RANDALL. The gentleman from Missouri who has charge of the bill is not present. He has been here all day in the expectation of calling up this bill and proceeding with its consideration. Now, this amendment affects a part of the bill which, in the subcommittee as well as in the general committee, was adopted after most careful consideration. I hope, therefore, that the words will not be stricken out.

Mr. BURNES. I trust the amendment of my friend from Illinois will not be sustained by the committee. Due consideration has been given to this subject not only by the members of the subcommittee but by the members of the committee generally and by many of the most experienced diplomats in the House and out of it. No difficulty, it is apprehended, can arise in consequence of the insertion of these words. I trust that the committee will see the propriety of retaining them.

Mr. HITT's amendment was rejected.

The Clerk read as follows:

For salaries of thirteen consular clerks, to be appointed under section 1704 of the Revised Statutes, $13,000.

Mr. HITT. I move to strike out "thirteen," in line 149, and to insert "in pursuance of the provision of section 1704 of the Revised Statutes and section 5 of the consular and diplomatic act approved June 11, 1874, of eight;" and, in lines 150 and 151, to strike out "to be appointed under section 1704 of the Revised States, $13,000," and insert "at $1,200 each per annum, and five consular clerks at $1,000 per annum, $14,600;" so it will read:

For salaries in pursuance of the provisions of section 1704 of the Revised Statutes and section 5 of the consular and diplomatic appropriation act approved June 11, 1874, of eight consular clerks at $1,200 each per annum, and five consular clerks at $1,000 each per annum, $14,600.

Mr. HOLMAN. So far as that amendment is predicated on the appropriation act of 1874 I make the point of order that it is new legislation; so far as it applies to the consular offices provided by the Revised Statutes I presume the point of order will not lie.

Mr. HITT. The act of 1874 provides that clerks who have served five years creditably shall thereafter receive $1,200 instead of $1,000 per annum. It is general legislation incorporated in an appropriation bill, and has been followed ever since. This provision for their pay is made in view of the fact that although at this time there are only seven clerks entitled on account of five years' service to the additional pay of $200, yet during the fiscal year another will reach that term of service, and so eight are provided for in the amendment.

Mr. HOLMAN. I will concede the gentleman may be right if the appropriation act of 1874 contains independent legislation and provides for these offices.

Mr. HITT. It does in that paragraph provide general legislation.

The CHAIRMAN. The Chair wants to see the act of 1874.

Mr. BURNES. I am satisfied the gentleman from Illinois is right as to this amendment. I hope it will be agreed to.

The CHAIRMAN. Does the gentleman from Indiana insist on his point of order?

Mr. HOLMAN. If the salaries were simply provided by way of appropriation I do insist on my point of order, but if, as stated by the gentleman from Illinois, there is an independent legislative provision in that act, I will not do so.

Mr. HITT. I have not the text before me, but the words contained in the appropriation act are in terms of general legislation.

Mr. HOLMAN. I suggest the paragraph be passed over for the present.

The CHAIRMAN. The Chair hears no objection, and it is ordered accordingly.

The clerk read as follows:

CHINA.

Foochow; Canton; Amoy; Tien-Tsin; Chin-Kiang.

Mr. HITT. Mr. Chairman, I move to amend by inserting after the word "Foochow," the word "Hankow." Then you make this bill conform to the current law.

Mr. HOLMAN. Is that provided by law?

Mr. HITT. As I have said, it will make the bill coincide with the law as we passed it last year.

Mr. HOLMAN. I think that is subject to the point of order.

Mr. RYAN. That is the law for the current year. Hankow is simply provided for in this amendment as it is provided for in the current law. It is the existing law.

The CHAIRMAN. The Chair understands that the appropriation for the current year contained the proposed amendment. If that is the case the point of order is not well taken, and the motion will be submitted to the committee.

The Clerk will again report the amendment proposed by the gentleman from Illinois.

The amendment was again read.

Mr. RYAN. I think, Mr. Chairman, that the committee ought to be a little better informed, and should understand the amendment proposed by the gentleman from Illinois and the reason for it before being called to vote upon it. I do not know who the consul is at Hankow. I do not know his name; but I do know that the committee has taken Hankow from the thirty-five-hundred-dollar class and put it in the fifteen-hundred-dollar class. I do not believe we acted wisely in doing so. We have made this change in the face of the fact that Hankow is a place of growing commercial importance. Recently a large line of steamers—twenty-six in number—engaged in the river and coastwise commerce between Hankow and the coast, have passed into American hands and are now flying the American flag. It is the duty of the consul at this point to attend to all clearances and entries and all matters incident thereto in addition to his other duties as consul.

Mr. HITT. May I suggest to my friend from Kansas whether it is not true that that line of steamers to which he refers runs directly from Hankow to Shanghai?

Mr. RYAN. Yes, sir; and, as I stated a moment ago, since the last appropriation bill was passed, and within the last six months, in fact, that line of steamers has passed into the hands of American citizens, and they are running under the American flag.

But, as I have said, it is a place of growing importance and second only, in point of commercial magnitude, to Shanghai itself. I can not understand, with all of these facts confronting us, why it is that this consulship should be degraded, that the consulship at that point should be reduced from $3,500 per annum to $1,500 per annum.

Mr. REED. Why, it makes the appropriation bill $2,000 less, and that seems to be a sound reason. [Laughter.]

Mr. RYAN. That is the only reason that I know of, but I do not believe the House will regard it as a sufficient one. I think it important that the House should know of all these facts before we are called to vote upon the proposition.

Mr. HITT. Mr. Chairman, the Department of State recommended that this post, instead of being reduced, should be raised to $4,000 per annum. That recommendation is contained in a recent communication from the Secretary of State to this body.

Mr. BURNES. Mr. Chairman, I desire to state to the committee that I can not share the opinion as expressed by my distinguished colleague from Kansas, for the reason that the record from the State Department shows that instead of a gradually increasing commerce there, it appears to be a gradually diminishing commerce at Hankow. At all events, the returns from that point show the enormous sum of $716 in 1883, and in the past year $556. Against these receipts we pay a salary of $3,500. We lost by exchange $59.83, and we lost by contingent expenses for three-quarters of the year; and although the year expired on the 30th of June last, the consul at that point has not been able to complete his report for that year. But with receipts of $556, a diminished amount of receipts, there is an increase in the amount of expenditures, and I apprehend that it will be found there is a gradual diminishing of the volume of business.

In addition, sir, this is not all that we pay for the luxury of a consul-general at Hankow. There are $1,750 more that that gentleman receives, as will be found on page 28 of the report of the Fifth Auditor. Seven hundred and fifty dollars of that is for an interpreter, and $1,000 for a consular court. Now, I undertake to say, sir, that it is within the knowledge of my friend from Illinois that this consul has been incurring these expenses at a time when neither business at his consulate nor his own official action justify the wisdom of the maintenance of a consulate there at all. I will go further and show, with reference to the recommendations of the Department, and I apprehend it will not be denied by those who have communication with the Department, that it has been known, well-known, in official circles that this consul has received this $1,000 a year extra by the use of the name of a woman, who supplanted the consul's wife and took her place, and whose receipt is in the State Department for the $1,000 appropriated for the marshal of the consular court. That marshal, in short, was a woman, who supplanted the wife of the consul, his wife having been returned to this country.

But now, sir, we come to the most serious consideration, and that is with regard to this line of steamers. I would like my esteemed friend

from Kansas to show us why it is that so suddenly a line of steamers is established between Shanghai and Hankow? Does not my colleague know that a state of war existing between France and China has led to the sudden transformation or the sudden uprising of the American flag as a means of protection to a foreign bottom and a foreign interest? We have no interest in the line of steamers, either in its commerce, its ownership, or its business. And I would like my friend to explain to us why it is we should be so anxious to protect and preserve interests that seek our flag in a cowardly manner in the hour of danger and abandon it at the earliest moment when it can be of some service to our commerce.

Mr. REED. How do they get our flag over foreign-built ships?

Mr. BURNES. I believe I can not answer my friend's question now.

Mr. REED. I was afraid you could not.

Mr. CHACE. Allow me to supplement that question. Here is a statement made on the floor of the House that a foreign navigation company are sailing their ships under the American flag. I think it is really due to the committee that it be explained how that is done. Where do they get their register? I hope the gentleman from Missouri will not stop here with this statement, which is a very remarkable one.

Mr. BURNES. I will explain to the gentleman from Rhode Island, who seems to be anxious to understand this question, that I do not make this statement; but the statement has been made and has gone the rounds of the country; and I ask my friend from Kansas, as he brought in this line of steamers as a reason why we should continue this consulate on its present footing—I ask him to explain whether or not it is true, as alleged in the public press of the country and believed to be a fact, that the American flag is used in some way or other—how I shall not stop now to inquire—for the purpose of protecting interests not our own.

Mr. RYAN. I assume that the commercial transaction by which this line of steamers passed into American hands and is now sailing under the American flag was made in good faith until I have some better evidence of the contrary than mere rumor. I assume it is an honest commercial transaction and not done for any such purpose as indicated or intimated by the gentleman from Missouri. Whether it is for a dishonest purpose or not I know not; but I do know that there has been no evidence adduced other than mere newspaper rumor, upon which a committee of this House should not rely, nor should this House rely upon such for one moment in considering any legislation.

Mr. RANDALL. Will my friend from Kansas allow me to ask him a question?

Mr. RYAN. Yes, sir.

Mr. RANDALL. I wish to ask the gentleman whether the transfer of these vessels to Russell & Co. did not take place immediately prior to or immediately after the breaking out of the war between France and China.

Mr. RYAN. Very likely; but that does not imply any bad faith. It may be that those who were engaged in that commerce found it to their interest, in view of embarrassments growing out of the war, to sell out, and to sell out in good faith; and the circumstances may have been such that Americans could have made the purchase by reason of such facts to their great advantage, and for that reason made the purchase. But that does not detract from the honesty and good faith of the transaction.

I do undertake to say here that we ought to legislate with reference to the character and importance of this consulate, not with regard to the character of the incumbent. It may be that the insinuation that the gentleman from Missouri has made here is correct. It may be that this officer has been guilty of immorality. I do not know it. I have never heard his name. I care no more about him than I do about any other American citizen.

But I have it from the State Department that it is not true in any respect that he has been guilty of the immoral conduct charged here against him; that it is a calumny. Whether it is or not I know not, and for the purpose of this motion I care not. If he be an improper person, it is the duty of the Department to remove him and put a competent and suitable man in his place, for this officer holds in his trust some of the most important interests of mankind. He has jurisdiction, judicial power, judicial functions of the greatest magnitude to perform, involving the private rights of American citizens as between themselves and as between them and citizens of China. And he has not only those powers, but he has criminal jurisdiction to try for offenses from the least to the highest, involving the penalty of even death itself. I say that a person occupying such an exalted position, who has such high trusts in his charge, ought to be competent for the position; and I doubt not, if he is an improper person, inasmuch as the millennium of the civil service is about to dawn upon us, we shall have a change, and a competent and proper man will take the place, and such a one will not be overcompensated if the motion of my friend from Illinois shall prevail.

Mr. RANDALL. I do not propose to vote against the amendment for any reason connected with this line of steamers or for any reason connected with the immorality or alleged immorality of the present incumbent. But the gentleman from Missouri [Mr. BURNES] has shown that there is no occasion for the continuation of this consulate in the first class; that instead of the business, as shown by the fees, having increased at that point, it has actually decreased, and therefore the consulate can safely be placed where the committee has placed it, in the other class.

Mr. HITT. As the gentleman from Missouri [Mr. BURNES] referred to me as knowing that the disbursements made at this consulate were not justified in any degree by the business of the office or the duties of the consul, I will say, on the contrary, that I have had knowledge in the past of the great importance of this consulate, where the business of half a million of people with this country has to be conducted through one officer. The number of invoices and the amount of fees, as cited by the gentleman, constitute no test whatever of the quantity of business. One invoice for tea may amount to hundreds of thousands of dollars in value, while an invoice from Paris or Brussels may cover a few dollars' worth of trivial articles—toys, ornaments, &c., and the fee is the same in both cases.

I remember, too, that in that far-away place, in that semi-barbarous country, our consul is clothed with powers which require intelligence, discretion, and experience that you can not buy with $1,500, the salary for Hankow fixed in another part of this bill. It is no vain declamation when my friend from Kansas [Mr. RYAN] says that this consul has power of life and death. The consul has this power; it has been exercised. The consuls in repeated instances there in that Chinese world have tried and condemned American citizens. I could name cases where the consul tried a man, sentenced him to death, and hanged him at the consulate till he was dead. Will you clothe an officer with such terrible judicial powers when you know that with the pay allowed it is utterly impossible to obtain a man versed in jurisprudence, a man of experience as a judge, or even intelligent in the most elementary principles of law. If the duties require a man of ability and knowledge, the pay should command such a man. This consul, too, exercises his duties in an expensive and remote country. Abolish the office altogether, or allow a salary that will enable the President to send a man there who will know enough not to blunder; and a blunder in such a man, from whose action by our law there is no appeal, is a crime somewhere.

[Here the hammer fell.]

Mr. BURNES. I desire, in justice to myself, to say a single word of explanation, and then I will yield the floor. In reply to my friend from Kansas I will not say anything more than I deem absolutely indispensable in justice to myself.

The gentleman says he has been informed by the State Department that it is not true that a woman received this salary of $1,000.

Mr. RYAN. No, sir; I do not wish to be misrepresented.

Mr. BURNES. I understood the gentleman that way.

Mr. RYAN. I said I had been informed at the State Department that the statement that this officer was guilty of any immorality was not true.

Mr. BURNES. Oh, well, it makes no difference——

Mr. RANDALL. The gentleman from Missouri never alleged that.

Mr. BURNES. So far as the play on words is concerned, a thing may not be immoral in China but may be immoral elsewhere. But I desire to state what is well known to gentlemen on this floor, that officers high in the diplomatic service of the Government and members of the State Department themselves have conceded the fact that this woman of bad character has been maintained and did receive this sum of $1,000.

Mr. CANNON. Right there I would like to ask my friend from Missouri a simple question. I do not know this consul, not even his name, nor his wife, nor the other woman. [Laughter.] But I would like to know where in the record there is any proof of what the gentleman states concerning the private affairs of this consul.

Mr. BURNES. Well, sir, it is unwritten evidence. Such things are not usually committed to print.

Mr. REED. I should like to know how a foreign ship gets an American flag under our statutes. The circumstance is curious to me after all the fighting we have been doing here about it.

Mr. CURTIN. Mr. Chairman, I will eliminate from the question now before the committee the immorality of the consul and the woman who seems to be connected with it, and will accept the declaration of the gentleman who has charge of this bill as to what occurred at this consulate. Since I have been a member of this House I have constantly heard entreaties for legislation to increase our commerce and trade with foreign countries.

Having lived abroad for four years of my life, I came back to my country with the impression that our trade, commerce, and market for our surplus productions must grow up under the fostering care of this central Government. Appointing a consul in China, however moral, or taking a woman, however pure, as a marshal of a court which is clothed with the power to try men, deprive them of their personal rights, and even to hang them at their doors, as is asserted and not contradicted, will not make you markets for your surplus products. Great Britain understands this question perfectly, and has pursued this policy for centuries to unexampled wealth and power through all the legislation of that great country. Through the woof and web of her policy is woven, as a golden thread, the idea of securing a market for British products, until every country, every state, every corporation in the

world that needs money is held under the mortgage of that great commercial power and people.

Now, Mr. Chairman, what did they do in order to make markets for their products? They seized Malta and Gibraltar, and the Cape of Good Hope when it was on the highway to the commerce of the East, the keys to the commerce of the Mediterranean, and when French energy and science, under the lead of De Lesseps, built the Suez Canal to shorten communication between the Mediterranean and the Red Seas, Beaconsfield, the most distinguished prime minister of Great Britain since the age of William Pitt, by British money took the canal into British possession. And so they have acted until they have gathered up into their hands the trade of the Orient and of the far away isles of the sea. They take care, sir, that their merchants and their mercantile marine shall be protected wherever they may go.

Why, Mr. Chairman, from Quebec to the uttermost parts of this continent lines of steamers run as regularly as they do between Liverpool and New York. They have established markets everywhere for their trade. They trade with the people in every portion of the North and South American continents. They give their consuls power, and there is a British man-of-war always in the neighborhood where their trade is carried on.

Why, sir, they get more than one-half of the trade of South America, the total of which amounts to $694,793,000, when we ought to have the whole of it. We get, on the contrary, only 5 per cent. of it all.

I like the Monroe doctrine very much, but I would like that doctrine better if it gave us markets for the sale of our surplus products, the ingenuity of our people, our improvements in machinery, which we have improved to such an extent that seven-tenths of the productions of Rhode Island, Connecticut, and Massachusetts to-day need no protection while they do need a market. [Applause.]

How does England secure these markets, and how does it maintain its trade? By subsidizing lines of steamers; by securing the carriage and quick transmission of mails; by protecting British merchants and marine everywhere.

It has become the habit of the South American people to trade with Great Britain and not with us. We pay Brazil $48,000,000 a year, and yet we do not sell $9,000,000 a year to her. A man who goes to the store for supplies for his family soon gets into the habit of going to a particular store where he knows the merchant and is satisfied that trade is carried on fairly. So with communities and nations. The South American people have been in the habit of trading with Great Britain. The British have that trade to-day. Now let us see if we can not manage to take it out of their hands. [Applause.]

The CHAIRMAN. The gentleman's time has expired.

Mr. McMILLIN. I will take the floor and yield my time to the gentleman from Pennsylvania.

Mr. CURTIN. Very well; I am much obliged to my friend, because that is the way it seems to me in parliamentary language gentlemen are approached; but inasmuch as the gentleman is my friend I will call him that, and I do not call friends of mine who are not my friends. [Laughter and applause.]

Now, Mr. Chairman, I do not think that appointing consuls or increasing their salaries will increase our trade. I approve fully of the legislation which sent a commission to ascertain whether we could not extend railroads into South America on either side of the Andes, so that we might get increased production and offer to the world its riches as they come from labor, while at the same time we might secure that market.

When I lived in Russia, holding the commission of my Government, the cholera prevailed at Cronstadt, and I was informed that American sailors were dying. I applied in order to get American sailors put into British hospitals, but it was refused. A noble-hearted Scotchman, Sir Andrew Buchanan, who had lived in our country and was then ambassador at St. Petersburg, had imbibed some of our ideas, went down to Cronstadt and succeeded in having American sailors admitted into the British hospitals. Not one of our American sailors died afterward.

Wherever there is commerce of Great Britain you will find hospitals. Wherever they trade you will find means afforded for the succor and protection of their subjects. You will find lines of steamers touching in the Orient and away off in the isles of the sea and in our own country at stated intervals. The habit of trade becomes to be such that they absorb it all. If you want trade you can not make it by taking from the salary of a little consulate or by increasing a salary, or by frittering away the time of the House in a struggle as to an immoral man or an improper woman who happens to be in office. [Laughter and applause.]

The great question is the question of trade for this great people. [Applause.] It is a question of giving the nation what it desires. It is extension and protection of our commerce and trade throughout the world.

Henry Clay, that immortal man, whose great heart always beat in sympathy with the American people, that great leader of the American sentiment, once said in the Senate of the United States that if this great Government could protect the person of an American citizen under the Constitution and the teachings of the apostles of liberty of the Revolution, of the men who framed our Constitution, they had the right and it was their duty to protect his interest and his business. [Applause.] That is the true sentiment of the American people.

You talk about jobs! Let them make a job. The Suez Canal belongs to Great Britain. She has the trade of the East. She has most of our trade. We are decaying on the high seas. We need legislation to protect our trade and to extend it. We should have the trade of South America, of which we have to-day less than 6 per cent. Of all things I would strengthen the consular service of the country, not because a needy politician requires an office, but I would elevate men who are qualified for such places and who would creditably represent the commerce of our people. I would put there the very best men in the country so as to secure for our people the control of commerce and trade of the countries to which they are accredited. No one should be appointed as a consul who can not speak the language of commerce in the country or city where he is to serve.

Now, I have expressed these sentiments not so much on the section of the bill under consideration but for the reason that I desire to express them at some time in this House in this debate; and having expressed them, whether I make any impression on the enlightened audience to which I have the honor to speak or not, at least I will be accredited with giving my experience and my belief as to the duty of the American Congress in enlarging the power of the Government and in promoting the general welfare of the people. [Great applause.]

Mr. RANDALL. I join very heartily in the patriotic sentiments just expressed by my colleague from Pennsylvania, and think he has but expressed the views of the country. But still I join in the doubt that he has uttered as to the appropriateness of his language in connection with the amendment proposed. This is a proposition not to destroy any consulate but to regulate the salary. The committee have deemed that the salary now received is too much, and have therefore lowered it; that is all.

Mr. CURTIN. I beg my friend's pardon; I do agree with the committee on that point.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Illinois.

The question was taken; and on a division there were—ayes 44, noes 67.

So the amendment was not agreed to.

The Clerk read as follows:

PERU.

Callao.

Class III.—At $3,000 per annum:

GREAT BRITAIN.

Ottawa; Manchester; Glasgow; Bradford; Demerara; Belfast; Singapore.

FRENCH DOMINIONS.

Havre.

SPANISH DOMINIONS.

Matanzas (Cuba).

MEXICO.

Vera Cruz.

Mr. HOLMAN. Mr. Chairman, I desired to make a question of order on line 164 of this bill. There was so much confusion during the reading of this paragraph by the Clerk that I confess I was not able to follow it.

The CHAIRMAN. The Chair will hear the point of order of the gentleman in view of the statement which he makes.

Mr. HOLMAN. In line 164 of the bill Singapore is increased in this appropriation by the sum of $500. That consulate has heretofore belonged to the fourth class, with a salary of $2,500 a year. The effect of the change, the placing of the consulate in the other class, where it now stands on the bill, is simply to increase the salary $500. I believe that Singapore is provided in the present law as of the fourth class.

Mr. BURNES. Will my friend yield to me for a moment?

Mr. HOLMAN. Yes, sir.

Mr. BURNES. I desire simply to say the amount we have raised the fee of the consulate at that point is saved by the allowance of clerk-hire, for reasons which were plain to the committee. I suggest, therefore, that if the gentleman insists upon the point of order I shall be compelled to move to make the appropriation for clerk-hire the same in amount as the last appropriation bill, which will not be so beneficial to the country and certainly will not save anything in that direction.

Mr. HOLMAN. I agree to that; but the clerk-hire is a less item than this. However, upon the statement of the gentleman from Missouri, I do not think that I shall press the point of order.

The Clerk read as follows:

UNITED STATES OF COLOMBIA.

Colon (Aspinwall).

JAPAN.

Nagasaki; Osaka and Hiogo.

CHILI.

Valparaiso.

BELGIUM.

Antwerp.

Class IV.—At $2,500 per annum:

GREAT BRITAIN.

Tunstall; Birmingham; Sheffield; Dundee; Leith; Nottingham; Victoria (British Columbia).

Mr. HOLMAN. Mr. Chairman, I can hardly keep the run of this reading. I had intended to make a point of order on line 178, the con-

sulate at Antwerp. That consul has been heretofore placed in the fourth class, at $2,500 a year.

Mr. BURNES. I must insist that the gentleman made the point of order too late. My friend did not rise at the time this provision was read by the Clerk, and the next section had been commenced and was nearly half through before he made the point of order.

The CHAIRMAN. The gentleman from Indiana claims, however, that he could not hear the reading by the Clerk. The Chair will endeavor to get order upon the floor.

Mr. HOLMAN. My friend will observe that this is simply an increase of the salary by transposing this consul from the third to the fourth class. Now, I tried to keep up with the run of this particular bill with a view of calling attention to such paragraphs as I have marked, but in the confusion I was unable to do so.

The CHAIRMAN. The Chair thinks, in view of the fact that there was some confusion on the floor, that the gentleman from Indiana should be allowed to make the point of order now.

Mr. HOLMAN. I make the point of order that this is new legislation and works an increase of the salary of $500.

Mr. BURNES. I have no desire to argue the proposition except to call attention to the point of order I have submitted. We had passed through the third class of consuls; the clerk had read the beginning of the fourth class, and had read the names of three or four different consulates without objection on the part of anybody that there was confusion on the floor and without any suggestion on the part of the Chair that there was any disorder in the committee. We had progressed to a new order of consulates, and the clerk had read three or four different names marking a distinct difference between the two grades. After he had commenced this reading my friend from Indiana rose in his seat and made a point of order on something that has been already passed over by the committee.

Mr. HOLMAN. In answer to the gentleman from Missouri I will simply say that I was watching the reading of this bill with a view to this item and several others which I have marked, but I did not catch the reading of the provision owing to the confusion.

The CHAIRMAN. In view of the fact stated by the gentleman from Indiana the Chair will entertain the point of order.

The Chair will hold, in view of the statement that this is new legislation and increases the salary, that the point of order is well taken.

Mr. HOLMAN. If I can get the ear of the gentleman from Missouri I will move that the words stricken out, "Belgium" and "Antwerp," be added immediately after the clause last read by the Clerk.

Mr. RANDALL. That will come in afterward at another point.

Mr. HOLMAN. It can come in here.

Mr. RANDALL. There is a proper place for Antwerp to come in further on in the bill.

Mr. HOLMAN. Very well. I shall not insist.

The Clerk read the following paragraph:

VENEZUELA.

Maricaibo.

Mr. HOLMAN. The same point of order applies there; this being a transfer from the fifth class to the fourth.

The CHAIRMAN. The point of order is well taken. The paragraph will be stricken out.

The Clerk read the following paragraph:

SPANISH DOMINIONS.

Cienfuegos; Santiago de Cuba; Sagua la Grande (Cuba).

Mr. HOLMAN. Sagua la Grande is transferred from the fifth class to the fourth, making an increase of salary of $500. I make the point of order.

The CHAIRMAN. The point of order is sustained.

The Clerk read the following paragraph:

BELGIUM.

Brussels.

Mr. HOLMAN. Antwerp, stricken out from the third class, should be inserted here under the fourth class.

The CHAIRMAN. If there be no objection, "Antwerp" will be inserted at this point.

There was no objection.

The Clerk read the following paragraph:

TURKISH DOMINIONS.

Smyrna; Beirut.

Mr. HOLMAN. Beirut is transferred from the fifth class to the fourth, with an increase of salary of $500. I make the point of order.

The CHAIRMAN. The point of order is well taken.

The Clerk read the following paragraph under Class V, consuls at $2,000 per annum:

SWITZERLAND.

Basle; Zurich; Horgen.

Mr. HOLMAN. Horgen is a new consulate. It is not in the last law. I make the point of order.

Mr. BURNES. I desire to be indulged a moment while I make this remark: If the rules are to be construed and enforced, as it seems they are, then how can we ever get a consul at Horgen or any other place, however meritorious? The rule it seems would prevent us from establishing any new consulate.

This is now a feed consulate. It is a very important one. The records of the consulate show that it is a valuable one; that it is one not only in the very line of commerce, but that its promotion to a salaried consulate is in the line of economy. As a feed consul, the record shows that the consul received $2,780 of fees for 1883, and $3,360 for 1884. Under the statute he is entitled to retain $2,500 of those fees and the balance is paid over into the Treasury. The law requires him to report all his fees, and the report shows there is a gradually increasing business there. Instead of his receiving $2,500 salary out of $3,300 fees we place him in the fourth class at $2,000. If that is not in the line of economy, I ask what would be in the line of economy?

Does the gentleman from Indiana desire that this consul shall continue to receive $2,500, not as a salaried consul but as a feed consul? Or does he desire to retrench, to be economical, and to reduce the salary to $2,000? He is really getting $2,800, counting all the fees. I suggest, therefore, if my friend from Indiana is in the spirit of economy this evening he should withdraw his point of order.

Mr. HOLMAN. I shall have to insist on the point of order.

The CHAIRMAN. The Chair sustains the point of order.

The Clerk read under Class VI, consuls at $1,500 per annum, the following:

GREAT BRITAIN.

Bristol; Newcastle; Auckland; Gibraltar; Cape Town; Saint Helena; Charlottetown (Prince Edward Island); Port Stanley; Clifton; Pictou; Winnipeg; Mahe; Kingston; Prescott; Port Sarnia; Quebec; Saint John's (Canada); Barbadoes; Bermuda; Fort Erie; Goderich (Canada West); Amherstburg (Canada West); Windsor (Canada West); Southampton; Ceylon; Antigua; Saint Stephen's; Malta.

Mr. HITT. I offer the amendment which I send to the desk.

The Clerk read as follows:

After the words "Port Stanley," line 249, add the words "(Falkland Islands)."

Mr. HITT. There are two consulates of that name, one in Ontario, in the Dominion of Canada, and the other in the Falkland Islands, off the coast of South America.

The amendment was agreed to.

The Clerk read the following paragraph:

BELGIUM.

Verviers and Liege; Ghent.

Mr. HOLMAN. I make the point of order on "Ghent," which is transposed from Class VII to Class VI, with an increase of $500.

The CHAIRMAN. The Chair sustains the point of order.

The Clerk read, under Class VII, consuls at $1,000 per annum, the following:

GERMANY.

Stettin.

Mr. RANDALL. I ask that by consent there be inserted at this point the words "Belgium: Ghent," that consulate having been taken on the point of order out of Class VI. It should now be inserted in Class VII. I think the gentleman in charge of the bill will concur in this suggestion.

There being no objection, the words indicated were inserted.

The Clerk read the following paragraph:

For allowance for clerks at consulates, $17,840; as follows:

Mr. TOWNSHEND. I offer the amendment which I send to the desk.

The Clerk read as follows:

After line 329 insert:
"For salary of a clerk to the legation in Spain, $1,200."

Mr. HOLMAN. I must insist on the point of order that this is new legislation.

Mr. TOWNSHEND. The gentleman from Indiana at this time is counting without his host. This appropriation was made in the bill of last year, and the reason it was omitted from the present bill is this: When we were preparing this bill in the subcommittee we had created a consul-general at Madrid and had discontinued the appropriation for the clerk at that legation, supposing the consul-general would be of sufficient assistance to the minister there to render it unnecessary to employ a clerk.

In the debate last Saturday my colleague on the committee [Mr. WASHBURN] and myself supposed that the salary of the assistant secretary of legation had also been increased, which might have been a reason for not making this appropriation; but we were not correct in that supposition. No increase whatever has been made in the salary of the assistant secretary; and the provision for consul-general has been omitted from the bill upon a point of order made by the gentleman from Indiana. Now, all I desire to do is to restore the clerk which this minister has had under the bill of the current year, and, so far as I know, for a number of years.

I am informed that this clerk is very necessary for the convenient dispatch of business at the legation. It is necessary to have the assistance of a man who can write as well as speak Spanish. Ordinarily the legation has employed as clerk a Spaniard able to speak and write the language. The amendment proposes to give the legation nothing more than it has had under the bill of the current year. The point of order is not good, for the reason that a similar appropriation was made last

year and has been made perhaps for many years. It has been omitted from the present bill only because of the facts I have stated.

Mr. HOLMAN. I do not find this appropriation in the bill providing for the present fiscal year, but I am willing to take the statement of my friend from Illinois.

Mr. TOWNSHEND. The gentleman will find it on the first page of the bill of last year, under the clause appropriating salaries of secretaries of legation.

Mr. HOLMAN. Upon the statement of the gentleman I withdraw the point of order.

Mr. BURNES. I suggest to the gentleman from Illinois [Mr. TOWNSHEND] that the amendment be inserted after line 327.

Mr. TOWNSHEND. I have no objection to modifying my amendment in that way.

The CHAIRMAN (having put the question on agreeing to the amendment of Mr. TOWNSHEND). In the opinion of the Chair the amendment is adopted.

Mr. HOLMAN. I will not insist upon a division, though I do not believe this clerk to be necessary.

So the amendment of Mr. TOWNSHEND was agreed to.

The Clerk read as follows:

For an additional allowance for clerks at consulates, to be expended at the above-named places in the discretion of the Secretary of State, $4,000.

Mr. RANDALL. I make the point of order that the paragraph just read is new legislation, and not in the interest of economy. I am willing to withdraw the point if the gentleman from Missouri [Mr. BURNES] can show any necessity for the provision.

Mr. BURNES. I call upon my friend the distinguished chairman of the Committee on Appropriations [Mr. RANDALL] to bear testimony to the fact that I am as reasonably economical as I think anybody ought to be.

Mr. RANDALL. I have only made the point of order so that the gentleman may show, if he can, the necessity for the provision.

Mr. BURNES. I am advised by a great many gentlemen that the allowances under the head of clerk-hire are very scant; hence this general provision recommended by the State Department is believed to be but a proper supplement to the reduction of clerk-hire.

Mr. RANDALL. Does the appropriation in this paragraph exceed the aggregate amount of the reduction to which the gentleman alludes?

Mr. BURNES. My impression is that this is about $3,200 more than the current law allows for clerk-hire all told.

The CHAIRMAN. Does the gentleman from Pennsylvania insist on the point of order?

Mr. RANDALL. I do.

The CHAIRMAN. What is the point of order?

Mr. RANDALL. That this is new legislation, and not in the interest of economy.

The CHAIRMAN. Does the gentleman from Missouri concede that this provision is not in the present law?

Mr. BURNES. I concede that this particular provision is not; but the point of order would certainly not lie as to more than $3,200; and, indeed, I do not see that the point of order would lie at all.

The CHAIRMAN. If this appropriation exceeds the amount allowed by the present law the whole paragraph must go out; but an amendment can afterward be moved to insert the amount authorized by law.

Mr. BURNES. My impression is there is a general provision authorizing clerical assistance to consulates; but I have not been able to find it. I will, however, call the attention of the Chair to the fact that a thousand years from now, when we may have a thousand millions of people, we can not, if the present doctrine is to prevail, add a single clerk to our list.

Mr. RANDALL. If there is any clerk necessary at any particular point let such a provision be put in the bill; but I am opposed to giving this general allowance of $4,000, leaving its expenditure to the discretion of the Department. I have not been able to find any law authorizing this allowance. If the gentleman from Missouri will show me the law I will yield the point, of course.

The CHAIRMAN. The Chair will be compelled to sustain the point of order unless the law can be produced.

Mr. BURNES. Very well.

The CHAIRMAN. The Chair sustains the point.

The Clerk read as follows:

To meet the necessary expenses attendant upon the execution of the neutrality act, to be expended under direction of the President, pursuant to the requirement of section 291 of the Revised Statutes, $12,000, or so much thereof as may be necessary.

Mr. HOLMAN. I raise the question of order against that paragraph.

Mr. BURNES. I am opposed to this provision of the bill, but I will not make the question of order against it. It is the old question we argued at the last session of Congress as to whether or not the President should have a fund which he should expend without accounting for it to the people. I am opposed to the provision.

Mr. RANDALL. The point of order has been made against it by the gentleman from Indiana [Mr. HOLMAN].

Mr. HOLMAN. I rose in time and made the point of order.

Mr. BURNES. I do not think the point of order lies against it, as it is provided for by section 291 of the Revised Statutes.

Mr. HOLMAN. That provision is sought to be put onto this bill in pursuance of the following statute, to which I wish to ask the attention of the Chair. It is section 291 of the Revised Statutes. I submit that section of the statutes referred to by this paragraph is not a law providing for a public expenditure. It does not provide for a public service requiring the expenditure of money. It is a mere method of accounting in the event appropriation is made, as the Chair will see when the section is read.

The Clerk read as follows:

SEC. 291. Whenever any sum of money has been or shall be issued, from the Treasury, for the purposes of intercourse or treaty with foreign nations, in pursuance of any law, the President is authorized to cause the same to be duly settled annually with the proper accounting officers of the Treasury, by causing the same to be accounted for, specifically, if the expenditure may, in his judgment, be made public; and by making or causing the Secretary of State to make a certificate of the amount of such expenditure as he may think it advisable not to specify; and every such certificate shall be deemed a sufficient voucher for the sum therein expressed to have been expended.

Mr. HOLMAN. The first portion is the portion which controls this question of order, which I will proceed to state. The substance of that is, that where, in pursuance of a law, a sum of money shall be withdrawn from the Treasury; where, in pursuance of law—I do not quote the language but merely refer to the substance of it—that where a sum of money shall be drawn from the Treasury it shall be accounted for in a certain manner. It does not provide for a public service requiring an appropriation of money, but simply that if an appropriation shall be made according to law or made by the law, then it determines the manner in which the account shall be made. [Cries of "Vote!"]

Mr. CANNON. I wish to be heard for a moment on the point of order. The gentleman from Indiana has had read section 291 of the Revised Statutes. But this appropriation is not made under that section at all. When expended the account is to be settled in the way there indicated.

Mr. HOLMAN. If it is not under that section, then I hope the gentleman will furnish the law under which this does come.

Mr. CANNON. I will satisfy the gentleman on that point I think. This fund is to meet the execution of the neutrality act, and is to be expended under the direction of the President pursuant to the mode prescribed in section 291.

Mr. HOLMAN. Where is the law providing for the appropriation of money to enforce the neutrality act?

Mr. CANNON. The neutrality act, passed in the first place in 1818, has been in force ever since in precisely the way here provided. It has been appropriated for almost every year since its enactment.

Mr. RANDALL. There is none for the current year.

Mr. CANNON. I claim it makes no difference whether it is there or not.

Mr. RANDALL. It does, according to the decision of the Chair.

Mr. CANNON. The Chair will decide after he has heard my point of order.

The CHAIRMAN. The Chair will hear the gentleman from Illinois.

Mr. CANNON. Now, if the Chair will turn to section 5281 of the Revised Statutes, on page 1001, he will find the neutrality act. It covers sections 5281 to 5291. One section gives the President power to prohibit military expeditions against people with whom the United States is at peace. Another gives power to compel foreign vessels to depart from our ports in certain cases. It provides for armed vessels giving bonds under certain circumstances. There are various other matters referred to in that neutrality act which I need not mention at this time. Now, this fund is given to the President of the United States for the purpose of enforcing the neutrality act. The accounts are to be settled in pursuance of the mode prescribed in section 291. In other words, Mr. Chairman, this is a confidential fund which has always been given to the President of the United States, and is settled and adjusted on his certificate.

Mr. HOLMAN. I submit that the neutrality act, like all other acts, does not execute itself. It is to be executed, and the question is simply presented whether an appropriation of a specific sum of money for the execution of that law is an appropriation of money in conformity with law. The general theory that we have indulged in, I think, is where the law has provided for expenditure, as, for instance, has provided a salary, provided an expenditure in connection with foreign ministers or any other branch of the public service—that where the law has provided for an expenditure, then that expenditure of money is in conformity with law.

But here the law is shown (the neutrality act), and stands on the same footing as any of the body of the laws which, under the Constitution, the President shall take care to be faithfully executed, using the language of the Constitution. Nor can you support the proposition that an appropriation of money is proper upon the simple basis that here is a legal enactment which, in common with all the other laws of the land, is to be enforced. The object of specific appropriations for the enforcement of law is to provide for the meeting of the current expenses of the channels or agencies through which the laws are to be enforced. But

here is a general statute, embracing many provisions, imposing certain duties upon the Executive of the Government. Does the fact that these powers are conferred upon the President by the provisions of the Constitution or the law authorize the appropriation of this money? That is the question.

Mr. RANDALL. And in addition to that I make the point that it is not in the existing law.

Mr. HOLMAN. No; there is no such provision in the present law nor in the present appropriation bill. I submit that law stands upon the same footing as any other law, and the specific sum of money for its enforcement is not an appropriation in conformity with such law. That is to say, there is no law requiring the appropriation of money for this purpose.

All the powers of the Government are used in support of the laws of the land, whether it be the appropriations for the support of the Army or the appropriations for the support of the Navy, and such appropriations are for the purpose of carrying into effect the body of the laws of the land and securing their enforcement. But here is a specific, definite appropriation of money for the purpose of carrying out a particular provision of law. If that principle prevails the Chair will perceive that there is no limit to the power of appropriation, because every appropriation of money you can mention affects the carrying into execution of some existing law. If there are exceptions, the general rule would be that they are merely for the purpose of carrying into effect some general or specific law.

The CHAIRMAN. Does the gentleman from Illinois desire to be heard further?

Mr. CANNON. Only to call the attention of the Chair again to the fact that here is a public law that has rested upon the statute-books for half a century and that appropriations have been made all that time for the enforcement of it. Now, if it is possible for any appropriation to be in order in pursuance of existing law I suppose this would be.

It may be that the gentleman from Indiana knows some provision of law, or knows some way that the law will enforce itself. If so, I am only sorry that we have not had the benefit of his information throughout the general run of these appropriation bills.

Mr. HOLMAN. Why, here is a power imposed upon the President of the United States. The Constitution itself provides that he shall take care the laws are faithfully executed; and I apprehend that that constitutional provision refers to this as well as to the other laws or the same terms and conditions. But I submit under this general power, meaning the power to see that the laws are faithfully executed, if you can appropriate money for the execution of each specific law there is no limit to the extent of the appropriations.

The CHAIRMAN. The Chair will hold that the limitations imposed by the rules of the House themselves require specific existing law pointing out the way in which money shall be expended. The neutrality act is general in its provisions, and hence the Chair thinks the point of order is well taken.

Mr. CANNON. I shall be compelled, Mr. Chairman, to appeal from the decision of the Chair.

The CHAIRMAN. The Chair will entertain the appeal of the gentleman and will recognize him if he desires to be heard.

Mr. CANNON. Now, sir, I take this appeal for the purpose of saying that it occurs to me the chairman has given a construction of this rule not contemplated by the rules of the House. The rules are strict enough in themselves without receiving a construction by the Chair that would prohibit in a large majority of cases the making of an appropriation at all.

But, Mr. Chairman, pending this appeal, it being a matter of very considerable importance, I will be glad if the committee will rise; and therefore, if no other gentleman will do so, I will make the motion.

Mr. RANDALL. I hope that will not be done. I am under a sort of partial obligation to the gentleman from Virginia who has charge of the Judiciary Committee to make every proper effort to get rid of this bill to-day, so that the committee may have all to-morrow for the consideration of its bills.

A MEMBER. Then let us take a vote on the appeal at once.

Mr. CANNON. It is now five minutes to 5 o'clock. I am entitled to the floor. I have the floor upon an appeal.

Mr. RANDALL. Well, let the gentleman go on. [Cries of "Vote!" "Vote!"]

Mr. CANNON. If gentlemen will make less noise around me I will make much better progress.

Mr. RANDALL. Let the gentleman go on.

Mr. CANNON. I will proceed under the rules of this House by the recognition of the Chair, and not by direction of the gentleman from Pennsylvania.

Mr. RANDALL. I do not mean to direct the gentleman at all.

The CHAIRMAN. The gentleman from Illinois [Mr. CANNON] has the floor.

Mr. CANNON. I will state again, I believe this question is of sufficient importance, the usual hour of adjournment being already upon us, that the committee should rise, so that we may see what the point of order is and the decision of the Chair in to-morrow morning's RECORD, and if some gentleman will make the motion that the committee rise, I shall be glad to yield for that purpose.

Mr. BURNES. I would like to accommodate my colleague on the committee, but I must dispose of this bill to-night if I can have my will.

Mr. CANNON. I will take the sense of the committee upon it anyhow. I move that the committee rise.

The question being taken, there were—ayes 17, noes 60.

So the committee refused to rise.

The CHAIRMAN (putting the question). As many as are of opinion that the decision of the Chair shall stand as the judgment of the committee will say "ay."

Mr. CANNON. I have the floor.

The CHAIRMAN. For what purpose does the gentleman from Illinois rise?

Mr. CANNON. I have not yielded the floor.

The CHAIRMAN. When the gentleman from Illinois made another motion he yielded the floor.

Mr. CANNON. I beg the Chair's pardon; I did not yield the floor.

The CHAIRMAN. Does the gentleman desire to appeal from the decision of the Chair?

Mr. CANNON. I did appeal from the decision of the Chair and had the floor, and in my own time I made the motion that the committee rise.

The CHAIRMAN. The Chair holds that the gentleman from Illinois, having appealed from the decision of the Chair, yielded the floor upon that appeal for another motion.

Mr. CANNON. I beg the Chair's pardon; nobody made the motion but myself.

The CHAIRMAN. That is the reason why the gentleman lost the floor. He yielded it when he made his motion.

Mr. CANNON. But I made the motion that the committee rise. I do not understand that that took me off my feet. I distinctly stated in my remarks that I expected to occupy the time to which I was entitled; but while I was occupying my time, and was entitled to the floor, I made that motion, stating I wanted to take the sense of the committee on the question of the committee rising.

The CHAIRMAN. The present occupant of the chair never knew the sense of the committee or the sense of the House to be taken by a gentleman entitled to the floor during his hour. Can the gentleman point the Chair to a precedent?

Mr. CANNON. Oh, yes. The Chair asks if I can point to a precedent. [Cries of "Regular order!"]

Mr. CANNON. If gentlemen will possess their souls in patience I will reply to the Chair.

The CHAIRMAN. The gentleman from Illinois has not the floor at present. The Chair will again put the question: As many as are of opinion that the decision of the Chair shall stand as the judgment of the committee will say "ay."

Mr. CANNON. I want to discuss that question.

The CHAIRMAN, having completed putting the question, stated that the "ayes" seemed to have it.

Mr. CANNON. I call for a division.

The committee divided; and there were—ayes 66, no 1.

Mr. CANNON. No quorum.

The CHAIRMAN. A quorum not having voted, the Chair will order tellers; and appoints the gentleman from Illinois, Mr. CANNON, and the gentleman from Pennsylvania, Mr. RANDALL.

Mr. CANNON. Pending that, I move the committee do now rise.

The question being taken, the Chair stated that the "noes" appeared to have it.

Mr. CANNON. I call for a division.

The committee divided; and there were—ayes 0, noes 47.

The CHAIRMAN. The committee refuses to rise.

The Clerk began to read the next paragraph.

Mr. CANNON. Is it in order for the Clerk to proceed to read? The Chair made a ruling. The judgment of the Chair not agreeing with mine, I appealed from the decision of the Chair, made, I think, improperly and by mistake. I was taken off my feet. Then upon the vote I called for a division, and as I understand tellers were ordered, and the vote by tellers should now proceed.

The CHAIRMAN. The gentleman is right. The gentleman from Illinois, Mr. CANNON, and the gentleman from Pennsylvania, Mr. RANDALL, will take their places as tellers. The question is, Shall the decision of the Chair stand as the judgment of the committee?

After the count by tellers had proceeded for some time,

Mr. CANNON said: As one of the tellers I make my report. There seems no one else coming forward to vote.

The CHAIRMAN. The tellers report—ayes 99, noes 3.

Mr. RANDALL (one of the tellers). One more has just voted in the affirmative. That gives an even hundred.

Mr. CANNON. I make the point that a quorum has not voted.

Mr. HAMMOND. I call for the regular order.

The CHAIRMAN. The regular order is the calling of the roll when the committee finds itself without a quorum.

The Clerk proceeded to call the roll, when the following members failed to answer:

Adams, J. J.	Dockery,	Jordan,	Rice,
Aiken,	Dorsheimer,	Keifer,	Robertson,
Anderson,	Dowd,	Kelley,	Robinson, J. S.
Arnot,	Dunn,	Kellogg,	Robinson, W. E.
Atkinson,	Eaton,	Ketcham,	Rosecrans,
Barksdale,	Elliott,	Lacey,	Rowell,
Barr,	Ellwood,	Laird,	Russell,
Belford,	Ermentrout,	Lamb,	Seney,
Belmont,	Evans,	Lawrence,	Shaw,
Bennett,	Findlay,	Le Fevre,	Singleton,
Bingham,	Finerty,	Lewis,	Skinner, C. R.
Bisbee,	Follett,	Libbey,	Slocum,
Blount,	Foran,	Lovering,	Smith, A. H.
Bowen,	Funston,	McCoid,	Smith, H. Y.
Boyle,	Fyan,	Millard,	Snyder,
Brainerd,	George,	Miller, S. H.	Spriggs,
Brewer, J. H.	Gibson,	Mills,	Springer,
Broadhead,	Goff,	Mitchell,	Stewart, Charles
Brumm,	Graves,	Money,	Stewart, J. W.
Buckner,	Guenther,	Morgan,	Stockslager,
Burleigh,	Hanback,	Morrill,	Struble,
Cabell,	Hardeman,	Morrison,	Sumner, D. H.
Campbell, Felix	Hardy,	Morse,	Talbott,
Campbell, J. E.	Harmer,	Moulton,	Taylor, E. B.
Campbell, J. M.	Hart,	Muldrow,	Taylor, J. D.
Carleton,	Henderson, D. B.	Muller,	Throckmorton,
Chalmers,	Hepburn,	Murray,	Van Alstyne,
Ciardy,	Herbert,	Mutchler,	Vance,
Collins,	Hewitt, A. S.	Nicholls,	Wadsworth,
Connolly,	Hiscock,	Oates,	Wait,
Cook,	Holmes,	Ochiltree,	Wakefield,
Covington,	Holton,	O'Neill, Charles	Ward,
Cox, S. S.	Hooper,	O'Neill, J. J.	Wemple,
Craig,	Hopkins,	Paige,	Whiting,
Crisp,	Houk,	Payson,	Winans, John
Culbertson, W. W.	Howby,	Pettibone,	Wise, G. D.
Dargan,	Hutchins,	Phelps,	Wise, J. S.
Davis, G. R.	Jeffords,	Potter,	Wood,
Davis, L. H.	Johnson,	Price,	Worthington,
Davis, R. T.	Jones, B. W.	Pusey,	York,
Deuster,	Jones, J. K.	Rankin,	Young.
Dingley,	Jones, J. T.	Reese,	

The roll-call being concluded, the committee rose; and the Speaker having resumed the chair, Mr. WILSON, of Iowa, reported that the Committee of the Whole House on the state of the Union, having had under consideration the consular and diplomatic appropriation bill, had found itself without a quorum; whereupon the chairman, in accordance with the rule, had directed the roll to be called, and now reported the names of the absentees to the House.

Mr. RANDALL. It was not announced in the Committee of the Whole how many members had answered to their names. Perhaps that may be stated now as a matter of information.

The SPEAKER. The Clerk will read the names of the absentees, after which the Chair will announce the number of members present upon the roll-call.

Mr. BAYNE. I move that the House do now adjourn.

The SPEAKER. That motion is not in order at the present time; the list of absentees, as reported by the chairman of the Committee of the Whole, has not yet been read to the House.

Mr. RANDALL. I am advised that we are within a small number of having a quorum.

Mr. BAYNE. I move to dispense with further proceedings under the call.

The SPEAKER. There is no call of the House. The rule requires that when the Committee of the Whole finds itself without a quorum the names of the absentees shall be reported to the House. That report, as submitted by the chairman of the Committee of the Whole, will now be read.

The Clerk read the names of the absentees as already stated.

The SPEAKER. From the report of the chairman of the Committee of the Whole House on the state of the Union it appears that one hundred and fifty-six members (not including the Speaker) have answered to their names, being less than a quorum.

Mr. RANDALL. I move a call of the House. This seems to be a question between public duty and dinner. [Laughter.]

The motion of Mr. RANDALL was not agreed to.

Mr. DUNHAM. I move that the House now adjourn.

The motion was agreed to; and accordingly (at 5 o'clock and 35 minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions and papers were laid on the Clerk's desk, under the rule, and referred as follows:

By Mr. BARBOUR (by request): Petition of J. H. Murdough, for relief of disabilities imposed upon him by the fourteenth amendment to the Constitution of the United States, and asking that the same may be removed by Congress—to the Committee on the Judiciary.

By Mr. BAYNE: Memorial of the Chamber of Commerce of Pittsburgh, Pa., for the purchase of the franchises of the Monongahela Navigation Company—to the Committee on Rivers and Harbors.

By Mr. ENGLISH: Petition of merchants and business men of Indianapolis, Ind., against the passage of the bankrupt bill—to the Committee on the Judiciary.

By Mr. FIEDLER: Petition for increasing duties on pearl buttons—to the Committee on Ways and Means.

By Mr. FORAN: Petition of John Cassidy, of Cleveland, Ohio, asking for compensation for loss of property by reason of the action of the courts of the Dominion of Canada—to the Committee on Foreign Affairs.

By Mr. HAMMOND: Petition of W. J. Kincaid and others, citizens of Griffin, Ga., urging the passage of the McPherson banking bill—to the Committee on Banking and Currency.

By Mr. W. H. HATCH: Papers relating to the bill for the relief of W. A. Dorner—to the Committee on Claims.

By Mr. HILL: Petition of Mary J. Beckford and others, of Belmore, Ohio, for increase of widows' pensions—to the Committee on Pensions.

By Mr. HOLMAN: Memorial and argument of citizens of Madison, Ind., in favor of the erection of a public building in that city for a post-office and other public offices—to the Committee on Public Buildings and Grounds.

Also, petition of Martin Thompson and 50 others, citizens of Ohio County, Indiana, urging the passage of a law to equalize the bounties of the Union soldiers of the late war—to the Committee on the Payment of Pensions, Bounty, and Back Pay.

By Mr. HOUK: Petition of Mary Worley, asking increase of widows' pensions—to the Committee on Pensions.

Also, petition asking for the continued improvements of Clinch River—to the Committee on Rivers and Harbors.

By Mr. JORDAN: Petition of citizens of Cincinnati, urging the passage of the reciprocity treaty with Mexico—to the Committee on Ways and Means.

By Mr. KLEINER: Petition and memorial of citizens of Evansville, Ind., favoring the building of the Hennepin Canal—to the Committee on Rivers and Harbors.

By Mr. LONG: Petition of Alonzo Thomas and others of Plymouth County, Massachusetts, urging increase of widows' pensions—to the Committee on Pensions.

By Mr. LORE: Petition of Matilda Caldwell, formerly Matilda Sparks, widow of Joseph Sparks, Company E, Third Regiment Delaware Volunteers, for arrears of pensions, with accompanying papers—to the Committee on Invalid Pensions.

By Mr. LOVERING: Petition of 6,300 citizens and ex-soldiers of the United States, asking for the passage of bill (H. R. 6463) granting a pension of $8 per month to every honorably discharged officer, soldier, sailor, and marine of sixty days' service in the late war of the rebellion—to the same committee.

By Mr. LYMAN: Petition of managers of houses of refuge and reformatories for children, asking an appropriation for additional clerical labor and cost of printing for annual reports of said institutions—to the Committee on Appropriations.

By Mr. MATSON: Petition of General Thomas A. McNought and 75 others, ex-Union soldiers of Owen County, Indiana, asking for the repeal of the act limiting the time in which arrears of pensions may be obtained—to the Committee on Invalid Pensions.

By Mr. MAYBURY: Petition of Henry H. Smith, praying the proper construction of an act of Congress—to the Committee on the Judiciary.

By Mr. MILLIKEN: Petition of Abner F. Ward, guardian of Willie Ward, for pension—to the Committee on Invalid Pensions.

Also, petition of Thomas M. Hopkins and others, praying that a pension be granted said Hopkins—to the same committee.

By Mr. NICHOLLS: Memorial of G. A. Mattelle, school commissioner of Camden County, Georgia, urging the passage of the Blair educational bill—to the Committee on Education.

By Mr. NUTTING: Petition of the letter-carriers of Oswego, N. Y., in regard to number of hours of labor—to the Committee on the Post-Office and Post-Roads.

By Mr. J. J. O'NEILL: Petition of F. A. Meysinburg, president Tudor Iron Works, asking for passage of the reciprocity treaty with Mexico—to the Committee on Ways and Means.

Also, papers relating to the claim of Dr. F. Hercher—to the Committee on Invalid Pensions.

By Mr. PAIGE: Petition of J. B. Yoder and others, of Wardsworth, Ohio, against the passage of H. R. 5892, known as the Dingley pilot bill—to the Committee on Commerce.

By Mr. POLAND: Petition of James C. Daggett, Company E, Second Regiment United States Sharpshooters, for increase of pensions—to the Committee on Invalid Pensions.

By Mr. G. W. RAY: Petition of citizens of Otsego County, New York, urging an amendment to the Lowell bankrupt bill—to the Committee on the Judiciary.

By Mr. OSSIAN RAY: Petition of Mrs. Louise Butler, for increase of pension—to the Committee on Invalid Pensions.

Also, petition of W. D. Caldwell and others, of Nashua, N. H., urging speedy legislation to put in force the reciprocity treaty with Mexico—to the Committee on Ways and Means.

By Mr. ROCKWELL: Petition of Harriet Crumb and another citizen, of Williamstown, Mass., urging increase of widows' pensions—to the Committee on Pensions.

By Mr. W. F. ROGERS: Petition of Nannie S. Cushman, widow of Commander Charles H. Cushman, for increase of pension—to the Committee on Invalid Pensions.

By Mr. TOWNSHEND: Papers relating to bill granting pension to William A. Plumb, Company D, Thirty third Regiment Ohio Volunteers—to the same committee.

By Mr. TUCKER: Petition of J. Pembroke Jones, of Virginia, for removal of political disabilities—to the Committee on the Judiciary.

By Mr. J. D. WHITE: Petition for the relief of Jacob J. Williams, and for relief of Andrew Howard, sr.—to the Committee on War Claims.

Also, petition for the relief of Mrs. Susan Fugate and Mrs. Matilda Cody—to the Committee on Invalid Pensions.

By Mr. WOODWARD: Petitions of citizens of La Crosse and Monroe Counties, Wisconsin, in favor of increasing widows' pensions—to the Committee on pensions.

The following petitions for the passage of the Mexican war pension bill, with Senate amendments, were presented and severally referred to the Committee on Pensions:

By Mr. ALEXANDER: Of citizens of Mooresville, and of Clifton Hill, Mo.

By Mr. ARNOT: Of 200 ex-Union soldiers and others, citizens of the State of New York.

By Mr. BOUTELLE: Of George Colson and 253 others, citizens of Bangor, Me.; of 63 citizens of Albany County, Wyoming Territory; of Alonzo Moring and 63 others, of Lubec, Me.; of John Stewart and 63 others, of Smyrna, Me.

By Mr. F. B. BREWER: Of citizens of Chautauqua County, New York; of Forestville, N. Y., and of Cattaraugus County, New York.

By Mr. BURNES: Of Richard Horigan and others, of Saint Joseph, Mo.

By Mr. CONVERSE: Of L. S. Craig and 177 others, citizens of Perry County, Ohio.

By Mr. CUTCHEON: Of citizens of Clarion, of Lake, of Marble, and of Big Rapids, Mich.

By Mr. ELDREDGE: Of B. C. Randall and 150 others, of Lenawee County, Michigan.

By Mr. FERRELL: Of citizens of Salem County, New Jersey, and of Clayton, N. J.

By Mr. FORAN: Of 60 citizens of Staunton, Ohio; of 65 of Wayne County, and 154 of Clinton County.

By Mr. GEORGE: Of citizens of Forest Grove, Oreg.

By Mr. HALSELL: Of Richard Dickens and 124 others, of Cumberland and Clinton Counties, Kentucky; of W. T. Wilkins and 40 others, of Warren County, Kentucky.

By Mr. HEPBURN: Of G. W. Herbert and 52 others, of Seymour; of William B. Tannon and 56 others, of Clearfield; of R. C. Henry and 106 others, of Mount Ayr, and of H. M. Howard and 46 others, of Gravity, Iowa.

By Mr. HART: Of Frank Mank and 180 other Union soldiers of Ohio.

By Mr. HOUK: Of David Ley and others, citizens of the State of Tennessee.

By Mr. HOUSEMAN: Of H. B. Oliver and 63 others, of Allegan County; of S. B. Carlis and 55 others, of Kent County; of Royal S. Hiar, McMullen, and 176 others, of Portland; of John Henzelman and 46 others, of Grand Rapids; of C. V. Nash and 73 others, of Allegan County, and of H. S. Warner and 43 others, of Ottawa County, Michigan.

By Mr. W. H. HATCH: Of 252 citizens of Macon County; of 63 of Schuyler County; of 34 of Shelby County; of 64 of Green Top, Schuyler County, and of 103 of Clarence, Shelby County, Missouri.

By Mr. JAMES: Of John Lefferts and 58 others, of Flatbush, N. Y.; of John W. Warner and 59 others, of Flatbush, N. Y.

By Mr. LAWRENCE: Of citizens of Washington County, Pennsylvania.

By Mr. MILLIKEN: Of G. W. McAlister and 168 others, of Hancock County; of G. W. Hutchins and 115 others, of Somerset County; of A. L. Kerney and 62 others, of Oxford County; of W. G. Sargent and 121 others, of Hancock County, and of R. F. Campbell and 110 others, of Washington County, Maine.

By Mr. MOULTON: Of 1,000 citizens of Macoupin County, Illinois.

By Mr. NELSON: Of J. B. Ashelman and 100 others, of Morrison County, Minnesota.

By Mr. O'FERRALL: Of John Southwick and others, of Harrison County, Virginia.

By Mr. J. J. O'NEILL: Of John Desoline and others, of Saint Louis County, Missouri.

By Mr. PERKINS: Of C. Sandbury and others, of Mound Valley, Kans.

By Mr. PUSEY: Of F. P. Spencer and 85 others, of Fremont County, Iowa.

By Mr. PAYNE: Of 122 citizens of Seneca Falls, N. Y.

By Mr. PATTON: Of citizens of Templeton, Armstrong County; of Kellersburg, Armstrong County, and of Clarion County, Pennsylvania.

By Mr. G. W. RAY: Of citizens of Bainbridge, Chenango County; of 103 citizens of Andes; of citizens of Plymouth; of 48 citizens of Delaware County; of citizens of Sherburne; and of 63 citizens of Delaware County, New York.

By Mr. OSSIAN RAY: Of A. C. Emerson and 106 others, of Rumney; of A. G. W. Dudley and 118 others, of Hanover; of J. H. Foster and 98 others, of Hanover, and of Mrs. A. Perry and others, of Andover, N. H.

By Mr. W. F. ROGERS: Of ex-soldiers of Buffalo, N. Y.; of ex-soldiers and citizens of Erie County, and of Collins Centre, Erie County, New York.

By Mr. ROBERTSON: Of citizens of Breckinridge County, Kentucky.

By Mr. STRUBLE: Of R. H. Johnson and 56 others, of Adair County; of William Price and 64 others, of Marion County; of Joseph Martin and 109 others, of Guthrie County; of M. C. True and 140 others, of Washington County; of B. F. Tabler and 122 others, of Osceola County; and of B. E. Allen and 49 others, of Pocahontas County, Iowa.

By Mr. SHIVELY: Of J. A. Rovenstine and 93 others, of Kosciusko County, Indiana.

By Mr. STEVENS: Of citizens of Niagara and Wyoming Counties, New York.

By Mr. TALBOTT: Of Seymour Smith and 200 others, citizens of Maryland.

By Mr. WEAVER: Of D. H. Graham and 127 others, of Rulo; of A. F. Davis and 75 others, of Table Rock; of W. H. H. Meyers and 230 others, of Falls City; and of William Tyler and 125 others, of Blue Springs, Nebr.

By Mr. WEMPLE: Of 62 citizens and ex-soldiers of Saratoga Springs; of 35 citizens and ex-soldiers of Saratoga County; of 110 citizens and ex-soldiers of Saratoga County; of 63 citizens and ex-soldiers of Fulton County, and of 53 citizens and ex-soldiers of Gloversville, N. Y.

By Mr. J. D. WHITE: Of citizens of Clark County, Kentucky.

By Mr. WILKINS: Of Thomas McLees and 200 others, citizens of Muskingum County, Ohio.

By Mr. WILSON: Of John C. Ross and 63 others, of Marion County, and of 62 citizens of Berkeley County, West Virginia.

By Mr. YAPLE: Of Judson Shears and 99 others, citizens of Hartford, Mich.

SENATE.

TUESDAY, *January* 13, 1885.

Prayer by the Chaplain, Rev. E. D. HUNTLEY, D. D.

The Journal of yesterday's proceedings was read and approved.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a report from the Secretary of the Treasury, in response to a resolution of the 10th of January, 1884, regarding the collection of tonnage duties since January 1 from foreign steamships; which, on motion of Mr. VOORHEES, was referred to the Committee on Finance, and ordered to be printed.

He also laid before the Senate a communication from the Secretary of War, transmitting reports made to his Department in regard to carrying into effect the provisions of the act of July 7, 1884, for the establishment of signal stations upon the island of Nantucket, Massachusetts, and of submarine telegraphic communication from such stations to the mainland; which, together with the accompanying papers, was referred to the Committee on Military Affairs, and ordered to be printed.

He also laid before the Senate a letter from the Secretary of the Interior stating, in answer to a resolution of the 9th instant, that a copy of the report of the Government directors of the Union Pacific Railroad Company for the year 1884 had been on the 9th instant submitted by his Department to the President for transmission to Congress; which was ordered to lie on the table and be printed.

HOUSE BILLS REFERRED.

The following bills received yesterday from the House of Representatives were severally read twice by their titles, and referred to the Committee on Pensions:

A bill (H. R. 435) granting a pension to Samuel W. Tracey;
A bill (H. R. 1924) granting a pension to Thomas Simpson;
A bill (H. R. 2377) granting a pension to James Stockton;
A bill (H. R. 2538) granting a pension to Christiana Almier;
A bill (H. R. 3355) for the relief of Mary Mulholland;
A bill (H. R. 3751) granting a pension to Francis Curran;
A bill (H. R. 4021) granting a pension to Abraham Cover;
A bill (H. R. 4266) granting a pension to Margaret A. Ringwalt;
A bill (H. R. 6196) granting a pension to R. D. Lawrence;
A bill (H. R. 6594) granting a pension to Russell F. Dimmick;
A bill (H. R. 6596) granting a pension to John Hazlewood;
A bill (H. R. 6692) granting a pension to David Whittington;
A bill (H. R. 6726) granting a pension to Margaret A. Maguire;
A bill (H. R. 6904) for the relief of John F. Chase;
A bill (H. R. 6997) granting a pension to Henry Davis;

A bill (H. R. 7046) granting a pension to Alonzo Cornwell;
A bill (H. R. 7047) granting a pension to Patrick Murphy;
A bill (H. R. 7141) granting a pension to Daniel W. Adams;
A bill (H. R. 7315) granting a pension to Frederick P. Dearth; and
A bill (H. R. 7503) for the relief of Daniel McAlpin.

The following bills were severally read twice by their titles and referred to the Committee on Finance:

A bill (H. R. 691) for the relief of William W. Thomas;
A bill (H. R. 4679) for the relief of Sarah E. Webster, administratrix; and
A bill (H. R. 7768) to authorize the National Bank of Bloomington, Ill., to change its name to the First National Bank of Bloomington.

The following bills were severally read twice by their titles and referred to the Committee on Claims:

A bill (H. R. 948) for the relief of John M. Dorsey and William F. Shepard;
A bill (H. R. 1266) for the relief of Alexander D. Schenck;
A bill (H. R. 1566) for the relief of O. L. Cochran, late postmaster at Houston, Tex., reimbursing him for money erroneously collected from him by the Post-Office Department;
A bill (H. R. 2154) for the benefit of the legal representatives of A. J. Guthrie, deceased;
A bill (H. R. 4681) for the relief of Yost Harbaugh;
A bill (H. R. 4380) for the relief of A. H. Herr; and
A bill (H. R. 5322) for the benefit of William H. Wheeler.

The following bills were severally read twice by their titles and referred to the Committee on the District of Columbia:

A bill (H. R. 5249) to provide a criminal code for the District of Columbia; and
A bill (H. R. 5650) for the promotion of anatomical science and to prevent the desecration of graves.

The bill (H. R. 3593) for the erection of a public building at Chicago, Ill., was read twice by its title, and referred to the Committee on Public Buildings and Grounds.

The bill (H. R. 2268) for the relief of John F. Severance was read twice by its title, and referred to the Committee on Post-Offices and Post-Roads.

The bill (H. R. 4684) for the relief of certain citizens of Marion County, Tennessee, was read twice by its title, and referred to the Committee on Military Affairs.

PROTECTION OF CHILDREN.

The PRESIDENT *pro tempore* laid before the Senate the amendments of the House of Representatives to the bill (S. 729) for the protection of children in the District of Columbia, and for other purposes; which were in line 20, page 1, to strike out the words "within their view" and insert the words "in their presence;" and in line 27, page 2, to strike out "twenty-one" and insert "sixteen."

Mr. INGALLS. I should like to have the bill lie on the table until I can examine the amendments made to it by the House of Representatives.

The PRESIDENT *pro tempore*. If there be no objection, the bill will be laid upon the table.

ELIZABETH CARSON.

The PRESIDENT *pro tempore* laid before the Senate the amendment of the House of Representatives to the bill (S. 12) for the relief of Elizabeth Carson; which was to strike out all after the enacting clause and to insert:

That the Secretary of War be, and he is hereby, authorized and directed to cause to be investigated by the Quartermaster's Department of the United States Army the claim of Elizabeth Carson, of Bourbon County, State of Kentucky, for subsistence, use of jail, fuel, fire, care, and attention alleged to have been furnished by her to conscripts, deserters, and rebel prisoners confined in the jail of Bourbon County, Kentucky, by the military authorities of the United States, in the years 1862, 1863, 1864, and 1865; such investigation to extend to the status of the claimant, whether loyal or not, the value of the supplies furnished, the actual rental value of the property for the time it was occupied and used by United States authorities, the circumstances of the use of the jail and by whose authority or direction it was so used, and the reasons for the neglect to file her claim in the War Department; and when such investigation shall be completed the Secretary of War shall report the result thereof, with his recommendation thereon, to Congress, for its action in the premises.

The PRESIDENT *pro tempore*. The Chair understands that the Senator from Nebraska [Mr. MANDERSON] reported this bill to the Senate from the Committe on Claims.

Mr. MANDERSON. As a member of the Committee on Claims I reported the bill for which this is a substitute. I move that the bill and amendment be referred to the Committee on Claims.

The motion was agreed to.

FISH IN POTOMAC RIVER.

The PRESIDENT *pro tempore*. The Chair lays before the Senate a House bill which was passed by the Senate and sent to the House of Representatives with an amendment. The House returns the bill with a message which will be read with the title of the bill.

The Chief Clerk read as follows:

IN THE HOUSE OF REPRESENTATIVES, *January* 12, 1885.

Resolved, That the House non-concur in the amendment of the Senate to the bill (H. R. 3108) to protect fish in the Potomac River in the District of Columbia, and to provide a spawning-ground for shad and herring in the said Potomac River, and ask a conference with the Senate on the disagreeing votes of the two Houses thereon.

Ordered, That Mr. J. S. BARBOUR of Virginia, Mr. J. T. SPRIGGS of New York, and Mr. L. E. MCCOMAS of Maryland be the managers of the said conference on the part of the House.

Mr. LAPHAM. The amendment of the Senate to the House bill was a provision simply preventing the gas companies of the District from depositing their refuse in the waters of the Potomac. It was recommended to us by Professor Baird, who informed us that he had seen the officers of the gas companies and that they assented to the propriety of such legislation. Professor Baird said that without that provision the original bill would be useless for the purposes for which it was designed. I move, therefore, that the Senate concur in the request of the House for a conference.

The PRESIDENT *pro tempore*. The Senator from New York moves that the Senate insist upon its amendment to the bill, and agree to the conference asked for by the House of Representatives.

The motion was agreed to.

By unanimous consent, the President *pro tempore* was authorized to appoint the conferees on the part of the Senate; and Messrs. LAPHAM, SEWELL, and GROOME were appointed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. CLARK, its Clerk, announced that the House had passed a bill (H. R. 7895) for the regulation of the practice of dentistry in the District of Columbia, and for the protection of the people of said District from empiricism in relation thereto; in which it requested the concurrence of the Senate.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented a petition of E. J. Ormsbee, Henry R. Start, J. N. North, and W. G. Fairbank, trustees and superintendent of the Vermont Reform School, praying for such appropriation as will enable the Bureau of Education to make an annual report of the work done in reforming children intrusted to institutions for the care of neglected and criminal minors; which was referred to the Committee on Education and Labor.

Mr. JACKSON presented the petition of Emanuel Mason, of Washington, D. C., praying compensation for the services of his son in the Interior Department between the years 1861 and 1866; which was referred to the Committee on Claims.

Mr. PLUMB presented a petition of citizens of Augusta, Kans., praying that pensions granted widows and dependent relatives of persons in the military service be increased to $12 per month; which was referred to the Committee on Pensions.

He also presented additional papers to accompany the bill (S. 488) for the relief of Alexander J. Mueller; which were referred to the Committee on Claims.

Mr. MANDERSON presented a memorial of the Cigar-makers' Union of Lincoln, Nebr., remonstrating against the ratification of the proposed Spanish-American reciprocity treaty; which was referred to the Committee on Foreign Relations.

Mr. SEWELL. I present a memorial of the Glen Cove Manufacturing Company, New York; the American Glucose Company, Buffalo, N. Y.; the Peoria Grape Sugar Company, Peoria, Ill.; the Geneva Grape Sugar Company, Geneva, Ill.; the Marshall Sugar Refining Company, Marshalltown, Iowa; the Danville Refining Company, Danville, Ill.; the Saint Joseph Refinery, Saint Joseph, Mo., and the Davenport Glucose Company, Davenport, Iowa, remonstrating against the ratification of the Spanish reciprocity treaty. These establishments have a capital of about $10,000,000, and grind the product of about 700,000 acres of corn. I move that the memorial be referred to the Committee on Foreign Relations.

The motion was agreed to.

Mr. SEWELL presented a petition of the Jarvis Engineering Company, of Boston, Mass.; a petition of Motley & Sterling, of New York, and a petition of the Jersey City Wheel Foundery and Machine Works, of Jersey City, N. J., praying for the ratification of the proposed Spanish reciprocity treaty; which were referred to the Committee on Foreign Relations.

Mr. MILLER, of California, presented a memorial of the Chamber of Commerce of Eureka, Cal., urging further appropriations for the improvement of Humboldt Bay, California; which was referred to the Committee on Commerce.

He also presented the petition of Charles Murphy, of California, praying that his claim for compensation for certain work done on the dry-dock at Mare Island may be referred to the Court of Claims; which was referred to the Committee on Claims.

Mr. WILSON presented a petition of G. W. Alexander and 200 other citizens of Iowa, praying for the passage of an act of Congress for the resumption of certain lands within the limits of the grant to the Sioux City and Saint Paul Railroad Company, and that settlers on said lands be protected in their rights; which was referred to the Committee on Public Lands.

Mr. CAMERON, of Wisconsin, presented a memorial of the Cigar-makers' Union of La Crosse, Wis., remonstrating against the ratification of the proposed Spanish reciprocity treaty; which was referred to the Committee on Foreign Relations.

Mr. MITCHELL presented memorials of the cigar-makers' unions of Erie, Bradford, and Pittsburgh, Pa., remonstrating against the ratification of the proposed Spanish reciprocity treaty; which were referred to the Committee on Foreign Relations.

He also presented a petition of the Chamber of Commerce of Pittsburgh, Pa., praying that Congress provide for such a system of improvements on the Monongahela River as will meet the requirements of commerce and enable the resources of the Monongahela Valley to be fully developed; which was referred to the Committee on Commerce.

He also presented a petition of citizens of Mansfield, Pa., praying that the pensions of widows and dependent relatives be increased from $8 to $12 a month; which was referred to the Committee on Pensions.

He also presented a petition of the American Philosophical Society, praying that certain scientific books and apparatus be placed on the free-list; which was referred to the Committee on Finance.

Mr. SAWYER presented a memorial of the Rock County (Wisconsin) Tobacco Dealers and Growers' Association, representing $5,000,000, remonstrating against the ratification of the Spanish reciprocity treaty; which was referred to the Committee on Foreign Relations.

Mr. CONGER presented a memorial of the iron-mining companies and citizens of Negaunee, Mich., remonstrating against the ratification of the proposed Spanish reciprocity treaty; which was referred to the Committee on Foreign Relations.

REPORTS OF COMMITTEES.

Mr. HALE. I am directed by the Committee on Appropriations, to whom was referred the bill (H. R. 7874) making additional appropriations for the naval service for the fiscal year ending June 30, 1885, and for other purposes, to report it with sundry amendments. I ask that the bill be printed with the proposed amendments, and I give notice that I shall call it up to-morrow morning.

The PRESIDING OFFICER (Mr. INGALLS in the chair). The bill will be so printed and placed upon the Calendar.

Mr. CULLOM, from the Committee on Pensions, to whom was referred the bill (S. 1546) granting a pension to Orin R. McDaniel, reported it without amendment, and submitted a report thereon.

Mr. CAMERON, of Wisconsin, from the Committee on Claims, to whom was referred the bill (S. 884) directing the Secretary of the Treasury to refund money wrongfully paid for duties on imports by Daniel Marcy, asked to be discharged from its further consideration, and that it be referred to the Committee on Finance; which was agreed to.

Mr. DOLPH, from the Committee on Claims, to whom was referred the bill (S. 656) for the benefit of the States of California, Oregon, and Nevada (and Nevada when a Territory), reported it with amendments, and submitted a report thereon.

He also, from the Committee on Public Lands, to whom was referred the bill (H. R. 7004) to repeal all laws providing for the pre-emption of the public lands and the laws allowing entries for timber culture, reported it with amendments, and submitted a report thereon.

He also, from the same committee, to whom were referred the following bills, asked to be discharged from their further consideration, and moved their indefinite postponement; which was agreed to:

A bill (S. 77) for the disposal of the public lands; and

A bill (S. 426) to amend the homestead laws.

Mr. WILSON, from the Committee on Pensions, to whom was referred the bill (S. 1571) granting a pension to James McCallen, reported it without amendment, and submitted a report thereon.

He also, from the same committee, to whom was referred the petition of James McCallen, praying to be allowed a pension, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred the bill (S. 1162) granting a pension to Francis A. Liebschutz, submitted an adverse report thereon; which was agreed to, and the bill was postponed indefinitely.

Mr. CAMDEN, from the Committee on Pensions, to whom was referred the bill (H. R. 6816) for the relief of Nathan J. Sharp, reported it with an amendment, and submitted a report thereon.

He also, from the same committee, to whom was referred the petition of Mrs. Kate Morgan Smith, widow of Edward W. Smith, late major of the Twenty-second United States Infantry, of Buffalo, N. Y., praying to be allowed a pension, submitted an adverse report thereon, which was agreed to; and the committee were discharged from the further consideration of the petition.

Mr. JACKSON, from the Committee on Pensions, to whom was referred the bill (S. 760) for extension of pension of Mrs. Ann Leddy, submitted an adverse report thereon, which was agreed to; and the bill was postponed indefinitely.

Mr. JACKSON. I am directed by the Committee on Pensions, to whom was referred the bill (S. 362) granting a pension to Abraham H. Burkholder, to report it adversely.

Mr. COCKRELL. Is the bill reported adversely because the case is pending in the Pension Office?

Mr. JACKSON. It is reported adversely because the pension has been granted. He asks for arrears, and the committee do not propose to grant arrears.

Mr. COCKRELL. I should have withdrawn the bill if I had thought the committee was going to act upon it so soon. I was aware of the fact that he had not applied and presented his papers to the Pension Office, and so advised him, and he then applied to the Pension Office.

Mr. JACKSON. The pension has been allowed since the presentation of the bill.

The PRESIDING OFFICER. If there is no objection, the report will be agreed to and the bill postponed indefinitely.

Mr. HAWLEY. From the Committee on Military Affairs I report favorably, without amendment, the bill (H. R. 78) to provide for the retirement of Col. Henry J. Hunt as a major-general in the United States Army. With the consent of the Senate I shall file a written report within a brief time.

The PRESIDING OFFICER. The bill will be placed on the Calendar, and the report will be filed hereafter.

Mr. SLATER, from the Committee on Pensions, to whom was referred the bill (H. R. 5960) granting a pension to George Zieflе, reported it without amendment, and submitted a report thereon.

Mr. COCKRELL, from the Committee on Military Affairs, to whom was referred the joint resolution (S. R. 99) directing copies of the official letter-books of the executive department of the State of North Carolina to be furnished to said State, reported it without amendment, and submitted a report thereon.

Mr. COCKRELL submitted a report to accompany the bill (S. 2495) for the relief of John Hollins McBlair, reported by him from the Committee on Military Affairs on the 6th of January, 1885.

REPORT ON LABOR IN EUROPE.

Mr. MANDERSON. I am instructed by the Committee on Printing to report back favorably a concurrent resolution providing for printing the letter of the Secretary of State of December 12, 1884, and the accompanying reports of United States consuls on labor in Europe. I ask consent to state that this concurrent resolution has received the cordial approval of the Committee on Foreign Relations; the printing is strongly urged by the State Department, and it seems to the Committee on Printing that the document should be printed. I ask on behalf of that committee that the resolution be now considered.

The PRESIDING OFFICER. The Senator from Nebraska asks that the resolution be now considered. Is there objection?

Mr. COCKRELL. Let it be read for information.

The PRESIDING OFFICER. The resolution will be read.

The Chief Clerk read the resolution, as follows:

Resolved by the Senate (the House of Representatives concurring), That the letter of the Secretary of State dated December 12, 1884, and the accompanying reports of United States consuls on labor in Europe, be printed, and that 1,000 additional copies be printed for the use of the Senate, 2,000 copies for the use of the House of Representatives; and for the use of the Department of State, 5,000 copies, and 10,000 copies of the Secretary's letter.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

Mr. COCKRELL. I should like to know of the Senator from Nebraska why the committee provide for printing a larger number of the letter of the Secretary of State than of the consuls' reports.

Mr. MANDERSON. The letter of the Secretary of State, I understand, contains a synopsis or digest of these consular reports, and it seemed important to the committee that it should be printed as a separate document, the printing of the letter being quite inexpensive.

Mr. COCKRELL. By the resolution there is allotted to the Senate only 1,000 copies and 2,000 copies to the House of the letter of the Secretary of State and the reports of the consuls printed together. It seems to me that the Senate and House should be furnished with some copies at least of the letter of the Secretary of State printed separately. We have a large number of applications for that class of publications, and the number, 1,000, allowed the Senate, which would be only about twelve apiece, would amount to very little. I think the number allowed to the Senate is too small.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

Mr. COCKRELL. Let it lie on the table for a while. I shall object to its consideration until I can have time to examine it.

The PRESIDING OFFICER. The resolution will lie on the table.

LUCY LE G. JEFFERS.

Mr. CULLOM. I report favorably from the Committee on Pensions the bill (H. R. 3661) granting an increase of pension to Lucy Le G. Jeffers. I should like to make a statement, and then ask the Senate to consider the bill. The Senate during the last session passed a bill similar to the one which I have now reported and it went to the House. The House during the same session passed this bill just like it, and it came here. I ask now that the Senate consider the House bill, which is a precise copy of the one heretofore passed by the Senate, so that I may then ask the House to return the bill of the Senate which the Senate heretofore passed, and there may not be two bills passed on the same subject. I ask for the immediate consideration of the House bill.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill. It authorizes the Secretary of the Interior to increase the pension of Lucy Le G. Jeffers, widow of the late

Commodore William N. Jeffers, United States Navy, from $25 to $50 per month.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

Mr. CULLOM. I move that the Senate request the House to return to the Senate the bill (S. 1337) granting an increase of pension to Lucy Le G. Jeffers.

The PRESIDING OFFICER. That order will be made, if there is no objection.

BILLS INTRODUCED.

Mr. GARLAND introduced a bill (S. 2531) granting an increase of pension to Sophia Brooke Taylor; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

Mr. PLUMB introduced a bill (S. 2532) granting an increase of pension to Prudence Bond; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Pensions.

He also introduced a bill (S. 2533) granting a pension to Jesse Stewart; which was read twice by its title, and referred to the Committee on Pensions.

Mr. SABIN introduced a bill (S. 2534) to grant the right of way to the Pierre and Southeastern Railroad Company across the Old Winnebago Indian reservation in Dakota Territory; which was read twice by its title, and referred to the Committee on Railroads.

He also introduced a bill (S. 2535) granting a pension to Mrs. Julia Hartley; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

Mr. HARRISON introduced a bill (S. 2536) to provide for the erection of a public building at Madison, Ind.; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Public Buildings and Grounds.

Mr. VAN WYCK introduced a bill (S. 2537) making railroad corporations organized by acts of Congress subject to the control of legislation of the States and Territories in which such roads may be constructed; which was read twice by its title, and referred to the Committee on Railroads.

Mr. PALMER (by request) introduced a bill (S. 2538) granting a pension to George T. Lloyd, late of Company I, Fortieth Massachusetts Volunteers; which was read twice by its title, and referred to the Committee on Pensions.

Mr. SLATER introduced a bill (S. 2539) to create a new land district in the State of Oregon; which was read twice by its title, and referred to the Committee on Public Lands.

RETIRED GENERAL OF THE ARMY.

Mr. EDMUNDS. I offer a bill, which I ask may be read at length the first time.

The bill (S. 2530) to authorize an additional appointment on the retired-list of the Army was read the first time at length, as follows:

Be it enacted, &c., That the President of the United States be, and he hereby is, authorized, by and with the advice and consent of the Senate, to appoint on the retired-list of the Army of the United States, from among those who have been generals commanding the armies of the United States, or generals-in-chief of said Army, one person, and the total number now allowed by law to compose said retired-list shall be, on such appointment, increased accordingly.

The bill was read the second time by its title.

Mr. EDMUNDS. I ask unanimous consent that the bill be now considered. Every Senator will see the object and purpose and application of the bill. It will authorize the President of the United States to appoint Ulysses S. Grant on the retired-list of the Army, and in its form it obviates the difficulty which we have observed in an executive message on another question in respect to such matters. It is in such a shape that the President of the United States may appoint General Grant, or he may appoint General McClellan; I do not remember whether there are any others, but I think there are some others who would fall within it. It gets rid of the constitutional difficulty which the President had with the Fitz-John Porter bill, and enables the United States to pay this act of gratitude and justice to General Grant. I ask unanimous consent that the bill be now considered.

The PRESIDING OFFICER. The bill having been read the second time, the Senator from Vermont asks that the bill may be further considered at this time.

Mr. COCKRELL. I ask that the bill be printed and laid on the table until we can read it. I do not think it is fair or just to ask this body to pass a bill simply upon one reading. I think we are entitled to the courtesy of having an opportunity to read the bill.

The PRESIDING OFFICER. Objection being made, the bill will go over.

Mr. EDMUNDS. I ask that it be printed and placed on the Calendar.

The PRESIDING OFFICER. The bill will be printed and placed on the Calendar.

Mr. EDMUNDS. I give notice that to-morrow morning I shall ask the Senate to consider it.

DISTILLED SPIRITS FOR EXPORTATION.

Mr. PLATT submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Treasury is hereby directed to communicate to the Senate copies of all orders, regulations, decisions, and correspondence made or approved by him since the 20th of December, 1884, relating to the collection, postponement, or remission of the tax upon distilled spirits intended to be exported.

PRINTING OF DOCUMENTS.

Mr. MILLER, of California, submitted the following resolution; which was referred to the Committee on Printing:

Resolved, That there be printed for the use of the Senate 500 copies of each of the following documents, the same to be included in one document, namely:

1. Senate Executive Document No. 112, Forty-sixth Congress, second session.
2. Senate Executive Document No. 194, Forty-seventh Congress, first session.
3. Senate Executive Document No. 26, Forty-eighth Congress, first session.

PUBLIC POLICY OF CONFEDERATE STATES EXECUTIVE DEPARTMENT.

Mr. HAWLEY. I move that the Senate proceed to the consideration of the resolution I had the honor to offer on the 8th of January calling upon the President to communicate a certain report by General Sherman.

The PRESIDING OFFICER. The Senator from Connecticut moves that the Senate now proceed to the consideration of the resolution which will be read.

The Chief Clerk read the resolution, as follows:

Resolved, That the President of the United States be, and he is hereby, requested, if in his opinion it be not incompatible with the public interest, to communicate to the Senate a historical statement concerning the public policy of the executive department of the Confederate States during the late war of the rebellion, reported to have been lately filed in the War Department by General William T. Sherman.

Mr. HAWLEY. I do this, Mr. President, because——

The PRESIDING OFFICER. Debate on this motion is not in order under the rule. Is the Senate ready for the question?

Mr. CONGER. The yeas and nays were ordered.

The PRESIDING OFFICER. This is a motion made this morning to take up the resolution. The yeas and nays were ordered on agreeing to the resolution.

Mr. VANCE. Do I understand the Chair to announce that debate is not in order?

The PRESIDING OFFICER. Upon the motion to proceed to the consideration of the resolution debate is not in order. The question is on agreeing to the motion.

The motion was agreed to.

The PRESIDING OFFICER. The resolution is before the Senate. The question now is on agreeing to the resolution, on which question the yeas and nays have been ordered.

Mr. VANCE. Mr. President, as the Senate will probably pass this resolution and place upon its records an unofficial paper, filed in the War Department by General W. T. Sherman, which contains statements affecting certain persons, it is but right and proper that all persons so affected should be heard in the same forum. As one thus interested, I desire to notice some statements made in that communication to the War Department. In order that I may not be misinterpreted I have placed in writing the material portions of what I desire to say, which shall be very brief.

It is understood and, I believe, not denied that in a speech made not long since in Saint Louis, Mo., General Sherman said he had seen a letter written by Mr. Jefferson Davis to a governor of a Southern State during the war, now a Senator, in which Mr. Davis threatened the coercion of any Southern State that should attempt to secede from the confederacy. As there are, I believe, three Senators at least on this floor who were governors of Southern States during the war, myself being one, I immediately on the appearance of that statement denied through the Post of this city that any such letter had ever been received by me. The newspapers soon afterward stated that General Sherman had been interviewed as to my denial, and had stated that he had not alluded to me as the person to whom the alleged letter had been addressed. I very naturally thought that this denial at both ends of the line had concluded the matter so far as I was concerned; but it seems not. In the statement filed in the War Department, as published in the papers of the country, I find the following assertion:

At Raleigh, though the mass of the public records had been carried off, yet a number were left behind at the state-house and at the governor's mansion, called the "palace," which we occupied as headquarters during our stay there, namely, from April 13 to April 29, 1865.

These records and papers were overhauled by provost-marshals and clerks, who delivered to Adjutant-General Sawyer such as contained material information, and my personal attention was only drawn to such as were deemed of sufficient importance. Among the books collected at the palace in Raleigh was a clerk's or secretary's "copy-book," containing loose sheets and letters, among which was the particular letter of Mr. Davis to which I referred in my Saint Louis "speech." I gave it little attention at the time, because Mr. Davis was then himself a fugitive, and his opinions had little or no importance, but it explained to my mind why Governor Vance, after sending to me commissioners to treat for his State separately, had not awaited my answer. It was the subject of common talk about my headquarters at the time, or, as stated by Colonel Dayton in a recent letter to me from Cincinnati, "I am quite sure that we generally talked [that] it was the desire of Governor Vance and the State officials to take North Carolina out of the confederacy, as I have stated, but they were afraid of Jefferson Davis and wanted protection."

Concerning this I have the following observations to make:

1. That no letters or documents of a public character were ever left at my residence in the governor's mansion, while I was governor, at any time.

2. No clerk or secretary of mine ever used as a repository for my cor-

respondence a "copy-book;" all official or public letters being first copied in the letter-book required by law to be kept in the executive office, and then bound into bundles and placed in the files, where they remain to this day.

3. General Sherman did *not* find in that copy-book "the particular letter of Mr. Davis to which he referred in his Saint Louis speech," for the simple reason that there was no such letter there.

4. I aver most positively, on the honor of a gentleman and an American Senator, that no letter containing such a threat was ever received by me from Mr. Jefferson Davis. All letters from him to me of any nature are to be found copied in the letter-books of the executive department of North Carolina, now in the War Department in this city.

The reasons given by General Sherman by way of corroborating his statement are such as would scarcely be relied upon by a respectable lawyer. He says he paid "little attention to it at the time," and does not say that he ever saw it afterward; and further, that Mr. Davis was then himself a fugitive, and his opinions had little or no importance! It was, perhaps, the little attention given to the opinions of an unimportant man that enabled him to remember so well the contents of the letter in which they were expressed after the lapse of nearly twenty years! The suggestion as to the probable fate of that mysterious letter, that it was burned in the great fire in Chicago, is a mere apology for its nonproduction, which at the same time contradicts the idea of its importance; for had it been such as he says it was, it would certainly have found its way to the public files.

But there is another matter averred by General Sherman that more nearly concerns me, and to which I shall very briefly ask the attention of the Senate.

It may be that Northern gentlemen who were on the victorious side during the civil war can not properly appreciate the feelings and sentiments of those who were on the side of misfortune and defeat. They seem to regard it as quite a sin that we do not readily join in the denunciations of him who was our leader in the war, and hasten to condemn him on all occasions as the surest way of excusing our conduct and commending ourselves to the good opinion of our late opponents. Surely no man of even the slightest sense of honor could respect a Southern man who would thus debase himself. Surely the most flagrant and rampant trafficker in the issues of sectional hatred would prefer an adversary who walked upright on his feet to the one who crawled upon his belly. If not, what must be thought of his own manhood?

Now, sirs, be it known to you, that those of us who pledged our faith to each other for the establishment of the confederacy gave up all for which we contended when it failed, retaining to ourselves only one solitary satisfying reflection, and that was that we had at least served our country faithfully, honestly, and devotedly, as we understood it.

This satisfaction General Sherman's statement would to some extent take from me, and this it is, sir, which I resent. It is well known that I was drawn into secession unwillingly; it is also well known that in regard to many of the details of administration I was at variance with the authorities of the confederate government; but it is equally well known, I hope, that, after my own honor was engaged and the honor of my native State, there never was an hour during all that unhappy time in which I did not give every energy of my body, mind, and soul to the success of the cause to which I had pledged my allegiance. General Sherman, professing high respect for me, for which I thank him, thinks, perhaps, that he does me a kindness and commends me to the people of the country by holding out the idea that I was disaffected while Governor toward the cause for which I was ostensibly fighting, and that I was anxious to separate myself and State from the confederacy, but was restrained by fear. Sir, I want no man's respect or good-will based on the supposed virtues of treason to my country and the desertion of my associates. The good-will of a man who would respect these traits in another is not worth picking up from the dust of the common highways. General Sherman says that the commissioners whom I sent to meet him as he approached Raleigh, to wit, ex-Governor Swain and ex-Governor Graham and Surgeon-General Warren, told him that I wanted to make separate terms for the State, but was afraid of "Jeff Davis." I do not believe it. It can not be true. The two gentlemen first named are dead; they were eminent North Carolinians, of most exalted character in all respects, and most especially for truth. They *knew* I was faithful to the confederacy; they *knew* that I was not afraid of opposing Mr. Davis when I differed from him, because they had seen me constantly doing it, and they *never* told General Sherman or any other living man the contrary of what they knew to be true as perfectly as any men in North Carolina.

The other commissioner, Dr. Edward Warren, was surgeon-general of the State of North Carolina, is now living, and is an eminent physician in Paris. His statement would surely carry as much proof of what was said there as that of the witness cited to prove that there was talk about camp of "the desire of Governor Vance and other State officials to take North Carolina out of the confederacy, but they were afraid of Jeff. Davis and wanted protection." True it is that I sent a commission to him under a flag of truce to ask protection, not separate terms for the people of my State, but at that moment the war was virtually ended. Lee had surrendered, Richmond had fallen, President Davis and his official household were fugitives, and General Johnston, commanding the last remnant of an army devoted to the South, was about to march westward, no one knew whither, and uncover the capital of the State. With his consent and approbation that embassy was sent, and through his lines under his permit it went. Before its return Raleigh was uncovered and I had left to join Mr. Davis, at Charlotte, where the surrender of General Johnston was authorized and the finality of things brought about. Then and there I took my leave of Mr. Davis and of the confederacy, and went back with his full approbation to share the fate of my people.

General Sherman finds an explanation of my failure to await the return of my embassy in the contents of the mysterious letter—that I was afraid of Davis, then a fugitive without an army. Bold enough he says I was to send an embassy to the enemy, but I was afraid to await its return! Was ever conclusion more absurd? The reason why I did not wait was that I had been told my embassy after passing through the confederate lines had been captured by Kilpatrick's cavalry, promptly robbed of their personal effects, and taken before General Sherman as prisoners. Not returning up to midnight of the day on which they were sent, I concluded this to be true, and left with the retreating troops.

How well and how faithfully I served the lost cause the country knows. My own people, sir, about whose opinion I am most concerned, will wonder that anybody can be found to question it.

Mr. HAWLEY. Mr. President, when I offered this resolution on the 8th instant I certainly did not anticipate a debate, surely not a lengthened debate upon it. It was a simple call for information. I decline to be drawn into the question as to whether there is here merely a personal quarrel between General Sherman and Mr. Davis. I say there is not. I say inquiry concerns important facts of history which throw light upon the great dispute concerning the theories of our Government.

The Senator from North Carolina [Mr. VANCE] misapprehends the people who were on the side of the Union, I am sure, if he thinks that they expect those men who were associated in a mistaken struggle in favor of what I consider vicious theories of society and of government to turn now and rend each other. We expect of them the ordinary elements of manhood—that they shall stand by one another. They pledged their lives and their fortunes in that desperate struggle. No man expects one or another of them, in decency, honor, or fair play, to turn and villify his associates and throw blame on them, especially to seek favor by so doing. There is no such spirit in the North. On the other hand, those who won in that fight may be expected to assert and stand by precisely what they did win. They declared that secession was not known as a theory of government; they declared that the causes of secession were weak and unsatisfactory, existing chiefly in the imagination. So far as the system of slavery was at the bottom of it, they declared it was not worth support, it did not deserve the support of a democratic or a Christian people; they declared that the Union could not be dissolved by the voluntary secession of its members. All these things they made good on the battlefield. They are recorded in the legislation of the country. The characterization of that effort as a rebellion has gone into the Constitution of the country.

While I have no disposition to exult over those who lost, or to make their situation unnecessarily uncomfortable, whenever the question arises in any form or shape or by the provocation of whomsoever, I must stand absolutely by those principles as I did in the very heat of the war. I must vehemently assert their justice and stand ready to defend them at any moment. Those who were engaged upon the other side can expect nothing else. They can never ask us to speak of Jefferson Davis in public or political debate as anything but a conspirator and a traitor.

I did not seek this debate; I do not care to prolong it. I did hope this morning it would end with a simple vote on the resolution itself. If gentlemen desire—the provocation came from that side—if they really wish to obtain further debate, they know perfectly well of what character it must be. They can go back twenty or twenty-five years and find it in the records of Congress, and they will hear to-day the same vehement assertion of our belief on our side that they find recorded then.

I learned long ago to apply this rule to similar cases, to say that we must judge of men by the light they had and of measures by the light we have. The measure of disfavor or personal condemnation which shall be visited upon any man who was engaged in the confederacy is a matter outside of law and legislation; it is a matter for the favor of Heaven and the kind charity and consideration of his fellow-men as private citizens; but our judgment of their principles and measures is absolute, final, severe, crushing, as made good in the highest court to which mankind ever appealed.

There were certain political theories of great consequence advocated upon either side. Those who went out declared that a State had a right to secede under provocation of which it must be the judge. They asserted certain rights for what they called sovereign and independent States, which we denied to them. This chapter of history which we are now discussing goes to show that their avowed theories exhibited in a short time their inherent weakness; that they themselves found themselves unable to live by them in the attempt to maintain their own confederacy, and that Mr. Davis was disposed to resort to, intended resorting

to, and did resort to substantial measures beyond any powers that were assumed by the United States Government in the attempt to preserve its life. None know this better than two distinguished members of this body upon whom I am now looking, who were governors of States in the confederacy during the war.

I know the history of the distinguished Senator from North Carolina. I know that his heart did not go with this war. I know that thirty or forty thousand majority of the people of North Carolina were opposed to the thought of secession up to a certain period when they supposed their hearts were fired by the proclamation of Abraham Lincoln. I know that war on the part of the confederacy could not have been carried on if it had not been for the support ultimately rendered by the Union men of North Carolina, among whom was that Senator. I venture to say that he knows also that, in the judgment of those Union men and of others who were not classed with them, Mr. Davis did go beyond his rightful powers as president of the confederacy under the confederate constitution; that he did abandon theories which they considered essential to a free government; that they rebuked him therefor, and that one of them at least told him absolutely and directly and positively, in a formal written communication, that he would not obey him. One of those governors absolutely refused to obey a command of Mr. Davis to turn over the State troops of Georgia to the confederacy, and used language which admits of no question or argument as to what he considered the political character of Mr. Davis and his character as an executive officer.

Now, not to embarrass the Senator from North Carolina—for I think after his statement he need not be embarrassed, and can not be by it—but in order to justify these statements concerning the political history of that wonderful struggle, I venture to read a part of a communication from Governor Vance of North Carolina to Mr. Davis, dated February 9, 1864, and a small portion of the response made by Mr. Davis. The governor of North Carolina said:

> I hear with deep regret that a bill is certainly expected to pass the congress suspending the writ of habeas corpus throughout the confederacy, and that certain arrests will immediately be made in North Carolina. Of course, if congress and your excellency be resolved upon this, as the only means of repressing disaffection in this State, it would be a mere waste of time for me to argue the matter. And yet I should not hold myself guiltless of the consequences which I fear will follow did I not add yet another word of expostulation to the many which I have already spoken. If the bill referred to, about which I can form no opinion until I see it, be strictly within the limits of the constitution, I imagine the people of this State will submit to it, so great is their regard for law. If it be adjudged, on the contrary, to be in violation of that instrument, and revolutionary in itself, it will be resisted.

That is the doctrine of secession substantially, for the State of North Carolina assumed the right to itself to judge of the constitutionality and propriety of a measure of its federal government and promised resistance. Governor Vance continued:

> Should it become a law soon, I earnestly advise you to be chary of exercising the powers with which it will invest you. Be content to try, at least for a while, the moral effect of holding this power over the heads of discontented men before shocking all worshipers of the common law throughout the world by hurling freemen into sheriffless dungeons for opinion's sake. I do not speak this factiously, or by way of a flourish, nor do I believe that, as an enlightened lawyer, and a Christian statesman, you could feel any pleasure in the performance of such an ungracious task. I am, on the contrary, convinced that you believe it to be the only way to secure North Carolina in the performance of her obligations to her confederates. The misfortune of this belief is yours; the shame will light upon those unworthy sons who have thus sought to stab their mother because she cast them off. If our citizens are left untouched by the arm of military violence I do not despair of an appeal to the reason and patriotism of the people at the ballot-box.

Upon the theories held by the Senator from North Carolina, I say that is a manly letter, but my point is that the theories of the secessionists were failing them in their hour of need. Mr. Davis responded at considerable length. I do not care to read his whole letter; I will read the concluding paragraph of it:

> In respect to your general recommendations touching the exercise of any extraordinary powers conferred on me by Congress, I can only say that they will be used, if at all, with a due regard to the rights of the citizen as well as to the public safety.
>
> Arbitrary measures are not more congenial to my nature than to the spirit of our institutions. But should the occasion unhappily arrive when the public safety demands their employment, I would be derelict in duty if I hesitated to use them to the extent required by the exigency.

Mr. Davis declares virtually that he will do whatever he thinks necessary to the salvation of the confederacy.

I might prolong this by extracts from other similar correspondence, including something from the then governor of Georgia somewhat more decided, because it was a distinct defiance and refusal to obey. These things certainly tend to justify General Sherman and General Sherman's remarks. But the document in question is not before us; there is no authorized copy before us. I have not compared them with the original, and I can not say whether the copies in the newspapers are correct or not. It seemed to Senators with whom I consulted eminently proper that we should call for this historical statement made by that distinguished and honorable and truthful gentleman and soldier, that it might be laid before us in authentic shape and given to the country thus.

There is a wide chapter of history that opens at this point, but I did not consider this resolution a proper opportunity to go into it. I mention a fact, however, in conclusion, which I think has never been brought to the attention of the country, certainly not as it might have been. Notwithstanding the secession by reason of the alleged tendency of the Federal Government to improperly interfere with slavery in the States, toward the close of the war the Southern confederacy itself sent an authorized messenger to the British Government offering to abandon wholly, to abolish forever, the system of slavery if it could be assured of English countenance and assistance. There is no question in the world of that.

What becomes, then, of their own theories, upon which they so fiercely denounced us and Mr. Lincoln and all who were concerned in emancipation, or in the maintenance of the Union, when we, waiting, waiting in violence to our moral sentiments, waiting with a certain tenderness toward some which was a cruelty to others, till near the close of that great controversy, only finally as a last resort and as a military measure abolished slavery, the wicked cause of all this awful evil and crime, when, finding themselves in an emergency, they offered to Great Britain the destruction, the entire abolition of the system of slavery? By what means it was to be abolished I do not know. They had not obtained the consent of their individual States; we are not informed that there had been legislation by the States in that direction. It must have been, I suppose, under the war power; but that the offer was made is beyond question. It came too late; it reached Great Britain too late. I do not know how history might have been written if it had gone there one or two or three years earlier; it is quite useless to speculate; but the proposition was made, action under it was declined, the confederacy failed, slavery was abolished, and for thousands of years to come, and so long as history is written, the world will rejoice, including among those who rejoice the descendants of those who engaged in that war upon the wrong side.

Mr. BROWN. Mr. President, I have no disposition to reopen the correspondence that took place between the president of the Confederate States and the then governor of Georgia, on the questions of difference of opinion which existed between them. That record is made up; it has passed into history; and I am willing to stand upon my part of it. I will not therefore reopen it, nor will I discuss it in this presence. I think it proper, however, that I should make a short response to a part of the remarks made by the honorable Senator from Connecticut [Mr. HAWLEY] as the remarks made by him without some explanation do not put a proper construction upon my conduct at the time.

I never disobeyed any legal order that the president of the Confederate States had a right to make, if he had any right to order the governor of a State. In the case referred to by the Senator from Connecticut, the facts were these: The Confederate States statutes prescribed who should be subject to confederate military duty, and who might be called into the field by the president of the Confederate States. There had been a wide difference of opinion between him and me on the constitutionality of what was known as the conscript act. The male population of Georgia between certain ages had been ordered into the service under that act, as in the case of the other States. While I entertained certain views against the constitutionality of the act, I put no obstacles in the way of its execution by confederate officers in the State, nor did I do any act that could in any way cripple the military operations of the confederacy. But when General Sherman's army invaded Georgia, I then called into the field a class of old men and boys who were not subject to duty under the confederate statutes; including also the officers of the different counties of the State, such as sheriffs, clerks, ordinaries, and officers of that character. And I ordered the whole of them into service; permitting them to form themselves into companies and regiments, and elect their own officers. And as testified by General Johnston, under whose command they were first placed, and afterward by General Hood, who saw them under fire, they were a gallant and reliable body of soldiery. While they were in the trenches defending Atlanta, the secretary of war of the Confederate States made a requisition upon me to turn over those troops to the confederate government, a portion of them who lived below a certain line to report to the commander at Charleston, General Jones I believe at the time; and the others to report to General Hood at Atlanta.

By some mistake, as we must now suppose, the president of the Confederate States had not informed himself correctly as to the then status of those troops. While his order would have divided them and sent part of them out of my State when they were defending her growing young city in the trenches, I refused to turn over those troops and comply with that requisition, because the president of the Confederate States had no right to order into service any class of troops that the laws of the Confederate States did not make subject to military service. I held those troops as State troops for the exigency—men up to 55 and boys down to 16, both above and below the age prescribed by the statutes of the Confederate States. I stood upon that, and refused to turn them over, but kept them under the command of General Hood, who then commanded the confederate forces, and threw no obstacle whatever in the way of their use as part of the confederate army while he remained with his army in the State. I will state here that though they were furloughed after the operations at Atlanta, to go home and gather the crops, they were called back into the field, and as their supreme commander I surrendered them to General Wilson of the Federal cavalry after Lee and Johnston had surrendered.

I make this statement because I think it due to the truth of history in this connection, and to show that there had been a mistake made by the government of the confederacy in calling for a class of troops that the president, as I construed the law, had no right to call into service. But they were continued in the service during the operations at Atlanta, subject to my command, but in fact under the confederate general in command. And they did gallant service as State troops to the end of the war. That is the history of that transaction.

I have already stated that I differed with Mr. Davis very fundamentally and materially on several questions that came up during the war; I discussed those differences with him frankly and independently; but I threw no obstacle at any time in the way of any of the military operations of the confederacy. To show the position I took at that time, I will read two or three sentences from my message to the Legislature of Georgia in March, 1864. In that message I said:

> When did Georgia embarrass the confederate government in any matter pertaining to the vigorous prosecution of the war? When did she fail to furnish more than her full quota of troops, when she was called upon as a State by the proper confederate authority? And when did her gallant sons ever quail before the enemy, or fail nobly to illustrate her character upon the battlefield?
>
> She can not only repel the attacks of her enemies on the field of deadly conflict, but she can as proudly repel the assaults of those who, ready to bend the knee to power for position and patronage, set themselves up to criticise her conduct, and she can confidently challenge them to point to a single instance in which she has failed to fill a legal requisition for troops made upon her through the regular constitutional channel. To the very last requisition made she responded with over double the number required.
>
> She stands ready at all times to do her whole duty to the cause, and to the confederacy; but while she does this, she will never cease to require that her constitutional rights be respected, and the liberties of her people preserved.

This is all I desire to say on the general subject. Before I take my seat, however, I wish to call attention to one statement in General Sherman's letter which I think does me injustice. I do not deny that the statement made is substantially true as far as it goes, but it does not state the whole truth. I have no doubt that the mistake was an inadvertence. I have no idea that General Sherman intended to do me an injustice, but he does I think do injustice by omitting a fact which it was important to state. In his letter, as I find it published in the New York Herald, he uses this language:

> On the 15th of September, 1864, I telegraphed to General Halleck, in Washington: "Governor Brown has disbanded his militia to gather the corn and sorghum of the State. I have reason to believe he and Stephens want to visit me, and have sent them a hearty invitation." Two days after I received from President Lincoln this dispatch:
>
> "I feel great interest in the subjects of your dispatch, mentioning corn and sorghum and the contemplated visit to you." On the same day I answered him direct, by telegram: "I will keep the department fully advised of all developments connected with the subjects in which you feel interested. Mr. Wright, former member of Congress from Rome, Ga., and Mr. King, of Marietta, are now going between Governor Brown and myself. I have said to them that some of the people of Georgia are engaged in rebellion, begun in error and perpetuated in pride; but that Georgia can now save herself from the devastations of war, preparing for her, only by withdrawing her quota of the confederate army and aiding me to expel Hood from the borders of the State; in which event, instead of devastating the land as we progress, I will keep our men to the high roads and commons, and pay for the corn and meat we need."

That would seem to imply that Mr. Stephens, now deceased, and myself had indicated some wish to have a personal conference with General Sherman with a view to separate State accommodation for Georgia. So far as I am concerned, and I know it is true as to Mr. Stephens, neither of us entertained any such purpose, nor would either of us have entertained any such proposition. We should have been very glad to have seen negotiations opened between the Federal Government and the confederate government, but neither of us was the authorized agent of the confederate government to negotiate for terms of peace, and therefore neither of us could indicate any such desire to General Sherman.

I never heard that General Sherman entertained any such view, or contemplated a mission, or the sending of an agent to either of us, until Mr. William King—for Judge Wright never came—came to Milledgeville, to the executive mansion, and told me that General Sherman had sent him to invite me to an interview in Atlanta, to invite me to visit his headquarters, with the assurance of safe conduct, &c. I asked him what was the purpose of the interview, and was informed that he desired to confer with reference to terms of peace so far as Georgia was concerned.

Mr. King presented no written communication from General Sherman, but simply said he had come as a messenger at the request of General Sherman. I at once replied that I had no power to negotiate for terms of peace. So far as Georgia was concerned, I claimed no such right for her, and that the trip to General Sherman's headquarters would be entirely useless, as I could conduct no negotiations with him. It was a conversation, as there was no written communication, as already stated; but I had notes of the interview taken, and that there might be no misapprehension (for I knew there would be excitement when it was heard that a messenger from General Sherman had visited me at Milledgeville) I at once published in the newspapers of the State my reply to Mr. King and the message which I sent to General Sherman.

I was not like a great many other persons who are still living and were very active and very faithful confederates; I was not an original Union man; I was a secessionist. I am aware that there are but few of the original panel now alive, but still *I was a secessionist*, and the movement was with my consent, and Georgia went into the compact with the other Confederate States with my consent, for I was her executive at the time and a citizen of the State. Therefore there was no state of the case under which I could permit her to negotiate in any manner that might carry with it even implied bad faith to the other confederates. I closed my message to General Sherman which I sent by Mr. King in this language:

> Say to General Sherman that Georgia has entered into a confederation with her Southern sisters for the maintenance of the same sovereignty, of each, severally, which she claims for herself, and her public faith thus pledged shall never be violated by me. Come weal or come woe, the State of Georgia shall never, by my consent, withdraw from the confederation in dishonor. She will never make separate terms with the enemy which may free her territory from invasion and leave her confederates in the lurch.

That was the concluding part of my reply to General Sherman. The only complaint I make of this publication is that I think he should have stated that I did not entertain any such propositions. The inference from his letter might be that I was inviting it, and the communication does not tell what was the result.

I wished to make these statements that they might go along with the statements of General Sherman. As already said, I do not believe he desires to do me any injustice, and I certainly desire to do him none. This is all I care to remark on the subject at this time.

Mr. HAWLEY. I beg pardon of the Senate for trespassing a short time longer, but these historical statements would not be quite complete without the addition of what I propose to read. I do not do this for the purpose of introducing or implying any personal reflection on the Senator from Georgia. I am simply talking about the action of the governor of Georgia during the confederacy, and the bearing that action had upon the question whether the executive government of the confederacy adhered to its doctrines of State rights.

The governor of Georgia received in 1864 an order from the war department of the confederacy dated August 30, 1864:

> SIR: The condition of your State, subjected to formidable invasion and menaced with destructive raids in different directions by the enemy, requires the command of all the forces that can be summoned for defense. From recent official correspondence submitted to the department, it appears, on your statement, that you have organized 10,000 or more of the militia of your State, and I am instructed by the president to make requisition on you for that number, and such further force of militia, to repel invasion, as you may be able to organize for confederate service. Those within the limits of General Hood's department will report to him; those outside to the commandant of the department of South Carolina and Georgia.
>
> Very respectfully, your obedient servant,
>
> JAMES A. SEDDON,
> *Secretary of War.*
>
> His Excellency J. E. BROWN,
> *Governor of Georgia, Milledgeville, Ga.*

The governor of Georgia, under date of September 12, 1864, responds at some length; I quote the paragraphs essential to my argument fairly here, I think. Reciting some of the preliminary facts, the governor of Georgia proceeds to say:

> Another remarkable fact deserves attention. During the whole march of the enemy upon Atlanta, and for more than a month after it was closely invested and shelled by the enemy, it never seems to have occurred to the president to make requisition upon me for the militia of Georgia to aid in repelling this formidable invasion, or these "destructive raids," and it is only when he is informed that I have an organization of gallant, fearless men, *ready to defend the State against usurpations of power*, as well as invasions by the enemy, that he makes requisition upon me for this force and all others I can organize.
>
> * * * * * * *
>
> In making this requisition it is quite clear that it was no part of the president's purpose to get these brave men into service. They were there at the time, in the trenches, among those who were nearest to the enemy, where they never faltered in a single instance.

Again:

> The president must have some other motive in making the requisition, and I think it not uncharitable under all the circumstances to conclude that *the object was to grasp into his own hands* the entire control of the whole reserve militia of the State.
>
> * * * * * * *
>
> If I am asked to trust the sound judgment and good faith of the president for their discharge and return to their homes at such times as their services are not indispensable in the military field, I can not forget the faith that was violated last fall to thousands of Georgians.
>
> The constitution of the Confederate States authorizes the States, as well as the confederacy, to keep troops in time of war, when actually invaded, as Georgia now is. Her militia have been organized and called into active service, under her own laws, for her own defense; and I do not feel that I am authorized to destroy her military organization at the behest of the president, or to surrender to him the command of the troops organized and retained by her by virtue of her reserved power for her own defense, when greatly needed for that purpose, and which are *her only remaining protection against the encroachments of centralized power. I therefore decline to comply with or fill this extraordinary requisition.* While I refuse to gratify the president's ambition in this particular, *and to surrender the last vestige of the sovereignty of the State* by placing the remainder of her militia under his control for the war, I beg to assure you that I shall not hesitate to order them to the front, and they will not shun the thickest of the fight, when the enemy is to be met upon the soil of their beloved State.

And he called attention to the fact that Georgia had then fifty regiments in Virginia.

> If, however, I should be informed that the president will send no re-enforcements, and make no further efforts to strengthen our defenses, *I then demand that he permit all the sons of Georgia to return to their own State*, and within her own limits to rally around her glorious flag, &c.

The confederate secretary of war, under date of October 8, 1864, responded somewhat at length. I make an extract. After summarizing Governor Brown's letter, Mr. Seddon said:

> On analyzing your excellency's letter it is apparent that the prominent and influencing reasons of your action spring from a spirit of opposition to the gov-

ernment of the Confederate States and animosity to the chief magistrate whom the people of the confederacy have honored by their choice and confidence. Your reasons may be reduced to the following:

* * * * * * *

Fourth. That these troops, besides being necessary to a defense against invasion, are also necessary to defend the State against usurpation of power, and as "a protection against the encroachments of centralized power," and that the knowledge of the president's of their ability and disposition to do this was the motive for the call on you.

* * * * * * *

To your last reason I refrain from replying as its character would justify. I can not think the significancy of the language quoted has been duly appreciated by your excellency. I prefer to consider them as inconsiderate utterances rather than the foreshadowing of a guilty purpose to array your State in armed antagonism against the confederacy, and so to betray the cause of herself and sister States.

Governor Brown responded again at length, in the course of which response he said:

A word as to the use I shall make of this militia, and of all the troops at the command of the State. No sentence in my former letter is an "inconsiderate utterance." No word in it justifies the construction that I will array my State in "armed antagonism against the confederacy." On the contrary, I will use the troops to support all the just rights and constitutional powers of the confederacy to the fullest extent. No State is truer to the *confederacy* than Georgia, and none will make greater sacrifices to maintain its rights, its just powers, and its independence. * * * But while I will employ all the force at my command to maintain all the constitutional rights of the confederacy and of my State, *I shall not hesitate to use the same force to protect the same rights against external assaults and internal usurpations.* Those who imagine themselves to be the confederacy, and consider only loyalty to themselves loyalty to it, and who recognise in neither the people nor the States any rights which conflict with their purposes or future designs, doubtless see in this the "foreshadowing of a guilty purpose." It is, to say the least of it, a fixed purpose.

It is not only my right but my duty to uphold the constitutional rights of the people of Georgia, by force if necessary, against usurpation and abuses of power by the central government. The militia is, under the constitution, one of the proper instrumentalities for that purpose.

Again:

No military authority, State or confederate, can be lawfully used for any other purpose than to uphold the civil authorities, and so much of it as the constitution of my country has confided to my hands shall be used for that purpose, whether civil society, its constitution and laws, shall be invaded from without or from within. Measured by your standard, this is doubtless disloyalty. Tested by mine, it is a high duty to my country.

* * * * * * *

Doubtless you are right, as this is unquestionably the first instance in the annals of either the old or new confederacy of such a call made by the president. It presents the isolated case of an attempt by the president to single out a particular State, and, by grasping into his own hands its whole military strength, to divest it of its last vestige of power to maintain its sovereignty; not only denying to it the right (plainly reserved in the constitution) to keep troops in time of war when actually invaded, but claiming the power to deprive it of its whole militia, and leave it not a man to aid in the execution of its laws, or to suppress servile insurrection in its midst. As no such requisition was ever before made upon any State, and it probably never entered into the mind of any statesman that such a call ever would be made, it never became necessary to question the right to make it.

Mind, I am reading this to show that the extreme doctrines of the seceders failed in their own time of need, and they found themselves upon the very verge of civil war in defense of the doctrines of State rights and secession, against their own confederacy. And the statement filed by General Sherman in the War Department goes in the same direction. It is not a personal matter. It is a matter of serious interest to which the Senate has a right.

Mr. BROWN. Mr. President, the extracts which the Senator from Connecticut has read from the correspondence between President Davis and myself I will not say are garbled, but they are selected extracts. The correspondence is a very voluminous one, and when it is all read it shows that the president of the Confederate States and the governor of Georgia differed about some important questions; and they had a pretty sharp correspondence, which, as I stated in my remarks a while ago, I do not propose to reopen. I stand upon that correspondence as it is. It is too long to read to the Senate that it may be fully understood; but it has passed into history, and I am willing to be judged by it.

I can again state (for the Senator from Connecticut did not seem to understand me) the reason why I did not turn over those troops. It was, as the point is made clearly in the correspondence, if it were all read, that they were a class of troops that the president of the Confederate States had no right to call out—a class for which he made requisition on no other State. They had been organized by the State for State defense; they had been placed under the command of General Johnston, and when he was removed under the command of General Hood; they were in the trenches defending Atlanta at the time requisition was made upon me for them, and, as I stated, with the exception of the short furlough they got they remained in service until they were surrendered to General Wilson after the surrender of Lee and Johnston. In the mean time they had, with my consent, crossed into South Carolina and fought the battle of Honey Hill under General Gustavus W. Smith, where they gained an important victory. Everywhere on the field they were gallant men and good soldiers; but they were composed of State officers, county officers, old men above 50 years of age and boys under 17, and therefore they were a class not embraced in any statute of the Confederate States. I confess I thought the requisition very extraordinary at the time, and as they were doing good service I let them remain where they were till General Hood left the State, and refused to turn them over to be sent at the will of the president to another State or another command.

That is about all I desire to say. I wish the Senator from Connecticut had time to read the whole correspondence, but I would not wish the Senate to be burdened with it at present as it is quite lengthy.

Mr. HAWLEY. A single word. As an original secessionist in theory, the Senator from Georgia ought not to avoid the precise issue here. He then as governor of Georgia acted upon his own doctrines, his own theories of the sovereignty of the States. It was not, bear in mind, a difference of opinions as to military policy, not a question as to whether he should retain his troops for the defense of the soil of Georgia. He retained them distinctly that he might have a weapon of defense against the usurpations of centralized power, and he gave that to be understood by the confederate government in language that is unmistakable. I do no injustice to his whole letter in quoting these paragraphs, for they stand by themselves and are virtually the syllabus of columns of argument. He said to them:

I have an organization of gallant, fearless men, ready to defend the State against usurpations of power as well as invasions by the enemy.

* * * * * * *

The president must have had some other motive in making the requisition, and I think it not uncharitable under all the circumstances to conclude that the object was to grasp into his own hands the entire control of the whole reserve militia of the State.

Is it necessary that I read several columns of preliminary and subsequent explanation and argument? That is sufficient of itself.

The troops—

He says again—

are her only remaining protection against the encroachments of centralized power. I therefore decline to comply with or fill this extraordinary requisition

Mr. BROWN. I do not see that the Senator throws any new light on the question. I have already stated that I was a secessionist, and I stood by all the doctrines of the secessionists at that time, and I meant all that I said in this correspondence; but, as I have already stated, I do not propose to reopen that discussion. I am on the record, and I am willing to be judged by the record.

The PRESIDENT *pro tempore*. The question is on agreeing to the resolution, upon which the yeas and nays have been ordered.

The Secretary proceeded to call the roll.

The PRESIDENT *pro tempore* (when the name of Mr. EDMUNDS was called). The Senator from Vermont [Mr. EDMUNDS] is paired with the Senator from North Carolina [Mr. RANSOM]. If that Senator were present, the Senator from Vermont would vote "yea."

Mr. GROOME (when his name was called). I am paired on all political questions with the Senator from New York [Mr. MILLER]. If he were here, I should vote "yea."

Mr. CULLOM (when Mr. LOGAN's name was called). My colleague [Mr. LOGAN] is paired with the Senator from Florida [Mr. CALL]. If my colleague were present, he would vote for this resolution.

The roll-call having been concluded, the result was announced—yeas 52, nays 10; as follows:

YEAS—52.

Aldrich,	Dolph,	Jones of Florida,	Plumb,
Allison,	Fair,	Lamar,	Pugh,
Bayard,	Frye,	Lapham,	Sabin,
Beck,	Garland,	McMillan,	Sawyer,
Blair,	Gibson,	McPherson,	Sewell,
Bowen,	Gorman,	Manderson,	Sheffield,
Camden,	Hale,	Miller of Cal.,	Sherman,
Cameron of Wis.,	Harrison,	Mitchell,	Vance,
Cockrell,	Hawley,	Morrill,	Van Wyck,
Coke,	Hoar,	Palmer,	Voorhees,
Conger,	Ingalls,	Pendleton,	Walker,
Cullom,	Jackson,	Pike,	Williams,
Dawes,	Jonas,	Platt,	Wilson.

NAYS—10.

Brown,	Harris,	Morgan,	Vest.
Colquitt,	Kenna,	Saulsbury,	
Hampton,	Maxey,	Slater,	

ABSENT—14.

Butler,	Farley,	Jones of Nevada,	Ransom,
Call,	George,	Logan,	Riddleberger.
Cameron of Pa.,	Groome,	Mahone,	
Edmunds,	Hill,	Miller of N. Y.,	

So the resolution was agreed to.

PRESIDENTIAL APPROVALS.

A message from the President of the United States, by Mr. O. L. PRUDEN, one of his secretaries, announced that the President had on the 10th instant approved and signed the act (S. 2348) to authorize the increase of the capital stock of the First National Bank of Omaha, Nebr.

The message also announced that the President had on the 12th instant approved and signed the act (S. 737) to remove the political disabilities of J. R. Waddy, of Virginia.

The message further announced that the President had this day approved and signed the following acts:

An act (S. 52) providing for the erection of a public building at Waco, Tex.; and

An act (S. 55) to provide for the erection of a public building for the use of the United States courts, post-office, and other Government offices in the city of Carson City, in the State of Nevada.

COMPENSATION OF ELECTORAL MESSENGERS.

The PRESIDENT *pro tempore* laid before the Senate the following

message from the President of the United States; which was referred to the Committee on Appropriations, and ordered to be printed:

To the Senate:

I transmit herewith a communication from the Secretary of State, respecting the compensation for special electoral messengers to be appointed under the provisions of existing law.

I earnestly invite the attention of Congress to this communication, and recommend that an appropriation be made without delay to be immediately available for the purposes indicated.

CHESTER A. ARTHUR.

EXECUTIVE MANSION, *January* 13, 1885.

UNION PACIFIC RAILWAY.

The PRESIDENT *pro tempore* laid before the Senate the following message from the President of the United States; which was ordered to lie on the table and be printed:

To the Senate and House of Representatives:

I transmit herewith for the consideration of Congress the annual report of the Government directors of the Union Pacific Railway Company for the year 1884.

The report accompanies the message to the House of Representatives.

CHESTER A. ARTHUR.

EXECUTIVE MANSION, *January* 12, 1885.

THE YORKTOWN MONUMENT.

The PRESIDENT *pro tempore* laid before the Senate the following message from the President of the United States; which, on motion of Mr. SHERMAN, was referred to the Committee on Appropriations, and ordered to be printed:

To the Senate and House of Representatives:

I transmit herewith a communication from the Secretary of War, dated January 9, 1885, inclosing a copy of one dated January 5, 1885, from Lieut. Col. William P. Craighill, Corps of Engineers, who was charged with the building of the monument at Yorktown, reporting the completion of the monument and recommending that the balance of the appropriation for building the same be used in paying the wages of a watchman and erecting a suitable keeper's dwelling on the site.

The matter is commended to the consideration of Congress.

CHESTER A. ARTHUR.

EXECUTIVE MANSION, *January* 13, 1885.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. CLARK, its Clerk, announced that the House had passed the bill (S. 1422) for the relief of the Metropolitan police force of the District of Columbia.

The message also announced that the House had passed the following bills; in which it requested the concurrence of the Senate:

A bill (H. R. 489) to extend the laws of the United States over certain unorganized territory south of the State of Kansas;

A bill (H. R. 2576) to repeal section 840 of the Revised Statutes of the United States, and a portion of section 839;

A bill (H. R. 3058) to amend section 1889 of chapter 1, title 23, of the Revised Statutes of the United States, relative to general incorporation acts of Territories;

A bill (H. R. 3714) to amend section 1000 of the Revised Statutes of the United States;

A bill (H. R. 4407) to relieve private soldiers in the United States Army from the disabilities imposed by section 1218 of the Revised Statutes;

A bill (H. R. 4409) to amend section 643 of the Revised Statutes of the United States;

A bill (H. R. 6076) to authorize terms of the circuit court of the United States for the eastern district of the State of North Carolina at the city of Wilmington, in said district;

A bill (H. R. 7131) to authorize suits for damages where death results from the wrongful act or neglect of any person or corporation in the District of Columbia;

A bill (H. R. 7584) for the relief of A. B. Montgomery;

A bill (H. R. 7585) for the relief of M. Gardner.

A bill (H. R. 7619) to release the reversionary right of the Government of the United States to certain lands in the city of Detroit, and State of Michigan; and

A bill (H. R. 7963) to remove the political disabilities of J. Pembroke Jones, of Virginia.

PRINTING OF DOCUMENTS.

Mr. MANDERSON, from the Committee on Printing, to whom was referred the following resolution, reported it without amendment:

Resolved, That there be printed for the use of the Senate 500 copies of each of the following documents, the same to be included in one document, namely:

1. Senate Executive Document No. 112, Forty-sixth Congress, second session.
2. Senate Executive Document No. 194, Forty-seventh Congress, first session.
3. Senate Executive Document No. 26, Forty-eighth Congress, first session.

Mr. MANDERSON. The Committee on Foreign Relations are very anxious to have these documents printed at once, and at their request I ask for the present consideration of the resolution.

The resolution was considered by unanimous consent, and agreed to.

INTERSTATE COMMERCE.

The PRESIDENT *pro tempore*. The hour of 2 o'clock having arrived, it becomes the duty of the Chair to lay before the Senate the unfinished business of yesterday, being the bill (S. 2112) to establish a commission to regulate interstate commerce, and for other purposes. The bill is before the Senate as in Committee of the Whole. The question is on agreeing to the amendment proposed by the Senator from Georgia [Mr. BROWN] to the amendment proposed as section 5 by the Senator from North Carolina [Mr. VANCE].

Mr. CULLOM. If there is nothing further to be said in favor of the two amendments before the Senate, I hope the Senate will vote both of them down.

Mr. PLATT. I should like to have both the amendments proposed by the Senator from North Carolina and the amendment proposed by the Senator from Georgia read.

The PRESIDENT *pro tempore*. The amendments will be read for information.

The CHIEF CLERK. The amendment proposed by the Senator from North Carolina is, after section 4, to insert as an additional section the following:

SEC. 5. That it shall be a discrimination prohibited by this act if any railroad company shall charge, demand, or receive more for any package when shipped singly than for each of a number of like packages when shipped by the car-load, or in any greater quantity or number or in any less quantity or number than a car-load, the design and intent of this act being to secure an absolute equality in rates between small and large shippers and consignees; except that a greater rate may be charged and demanded of shippers or consignees for freight shipped in less quantities than a car-load when such freight consists of horses, cattle, hogs, sheep, or other live-stock, or of wheat, oats, corn, barley, or other grain shipped in bulk and not put up in sacks, barrels, boxes, or other packages, or of pig, or bar, or slab iron, or of iron ore or other mineral ore, or of coal, coke, or coal-oil in a single tank or package to the car-load, or of lumber, logs, or fire-wood, or of any other commodity usually shipped or transported in bulk and by the car-load; but there shall be no difference or discrimination in rate as between shippers and consignees of the above-excepted articles, whether such shipment shall be made by a single car-load or by a greater number of car-loads: *Provided*, That 10 per cent. may be charged and received for the same amount of freight when shipped in single packages, and less than a car-load, in addition to the established charge on the same kind of goods, wares, or merchandise when shipped in like packages by the car-load, if the freight on all the articles shipped to the same consignee, to be delivered at the same point and at the same time, shall be less than $30.

The amendment to the amendment is to strike out the proposed section and insert the following in lieu thereof:

And be it further enacted, That no merchant shall sell a larger package or quantity of goods at a smaller per cent. than he charges for a smaller package of goods of like quality, if the goods have been produced or transported from another State so as to fall within the power of Congress to regulate interstate commerce.

Mr. VANCE. Mr. President, when the Senator from Georgia first offered that amendment to the amendment I was nonplussed to ascertain what his motive really was. I was inclined in the first instance to consider it a piece of rudeness toward a brother Senator, but I reflected upon his well-known character for suavity and kindness of heart, and I came to the conclusion that I was wrong in that. I then thought it must be intended as a joke. I reflected, however, and came to the conclusion that I was wrong, for whatever may be said of the Senator's career as a public man, I do not believe that a successful joke has ever been attributed to him, and I thought that I would as soon suspect him of dancing a jig on the floor of the Senate as of undertaking the perpetration of a joke upon a brother Senator. So, having viewed the whole ground over, I was forced to the conclusion that the Senator was in dead earnest; that he would not trifle with the Senate by a joke; that he would not do anything disrespectful or discourteous to a brother Senator, and that he was doing his level best to remedy the grievances of which the people complain in regard to railroad transportation.

I am satisfied that he really does believe that there is no difference between the relation which a private individual holds to the public in trade and that which is due from an official of the public in the shape of a railroad corporation. I am satisfied that he really believes that the power given by the Constitution to regulate commerce between the States applies to the sale of a pair of shoes at a Georgia cross-roads after the shoes have come from Massachusetts into Georgia, and as such I am compelled to treat the amendment with seriousness.

Now, sir, what is there in the amendment which I had the honor to offer that would call for an attempt to cumber it in this way for the purpose of defeating it? Was not the Senator already satisfied that the amendment which I offered could not pass this body? If he was not, I can not give him credit for the penetration which I supposed him to possess.

What is the matter with the amendment which I have offered? Wherein is it subject to such an assault as is made upon it in the amendment of the Senator from Georgia? Is there really and in good faith a desire to remove the grievances of which the people complain in regard to railroad transportation? If so, why shut one door of the building and leave all the others open? You propose by the bill, and I presume it meets the approbation of the Senator from Georgia, to close one important door in providing that a carrier shall not discriminate between persons for whom the like service is rendered; that is to say, as to freights carried over the same road between the same points, and in the same amount, one shall not have the advantage over the other. As long as you leave it in the power and discretion of the railroad corporations to prescribe the unit of quantity in the classification of their freights, as to what is wholesale and what is retail, you may pass all the bills like this that our statute-book can be loaded with, and they will evade them by increasing the unit of quantity so as to give their friends favors, and to discriminate against those they dislike, just the same as though no law were passed.

To make myself understood: Suppose the unit be a single package, as a barrel of flour; the amendment which I propose is to the effect that a carrier shall not charge more in proportion for that one barrel of flour carried between two given points than he shall charge the shipper of a thousand barrels of flour carried between the same points; that the barrel shall bear the same charge, the one or the thousand, and no more. It will be in the power of the operators, if this bill shall pass, to make the car-load the unit of quantity and to discriminate against the man who ships only a car-load and in favor of the man who ships a whole train-load. So I say it is patent that so long as you leave railroad corporations acting as carriers the power to classify as they please and the discretion to nominate the unit of quantity which shall distinguish wholesale from retail shipping, you might as well abandon the bill altogether if you reject the amendment which I offer.

I put forth my amendment I thought modestly. I admitted, as I always do when discussing this great subject, the great difficulty of legislating intelligently without doing as much harm as good. I acknowledged that. I went on to say that on business principles my amendment could not be justified. I went on to say that a private individual had a right to sell cheaper by the wholesale than he did by retail. He has the right not only to do that, but he has the right to give away his goods to those he favors; he owes no duty to the public; but I undertook to show a distinction between him and a railroad official, who is a public servant. Is that denied? Why, sir, it is held by the greatest legal minds in this country that the railroad companies and their agents are public servants. They are created for public purposes; they have extraordinary powers and privileges granted to them, and they do not have even proprietary rights in the roads which they operate, for they would revert to the State if they ceased to be used for the purposes of their incorporation.

That being so, why can we not regulate with propriety the charges of a railroad corporation as much as we can regulate the conduct of a municipal corporation? Who would bear the idea of a municipal corporation providing that citizens who dealt by the wholesale with that corporation should receive favors not granted to those who dealt by the retail? Suppose, sir, that the proposition was made to pave the streets of a city by charging the cost of that paving to the owners of the property in front of which it passed; and suppose the city should pass an ordinance that the rich man who owned a dozen lots on that street and whose property was worth ten times that of any of his neighbors should be charged upon his property at one-half or at wholesale rates while one of the small tenants in front of which the pavement passed should be compelled to pay the very highest rate. Who would bear such a discrimination as that?

I say to you, Mr. President, and to all who in good faith desire to meet the wishes of the people, to inaugurate a reform in the respect of transportation by the railroads of the country, that they will not believe you if you tinker at this great subject and leave the abuses to go on in the shape of evasion and through the doors which legislation leaves open for them to pass. It is time, or if not now the time will soon be, when the legislators of the country will be compelled to respond to the wishes of the people in this respect. It will not do to say it is not proper for a railroad to be compelled to do differently and to conduct itself differently from that which is required of the private citizen. It will not do, because that is not the law and that was not the object of the creation of these corporations. I want to read to the Senate a short extract from the opinion of one of the greatest lawyers this country has ever produced in regard to this question of operating railroad corporations on strictly business principles; that is, such business principles as control the affairs of private individuals.

I am able to maintain—

Said Judge Black—

I am able to maintain that all the corruption and misgovernment with which the earth is cursed grows out of this fatal proclivity of public servants to make a business of their duty. Recall the worst cases that have occurred in our history and see if every one of them does not finally resolve itself into that. Tweed and his associates in New York; the Philadelphia rings; the carpet-bag thieves; the star-route conspirators; all went into business for themselves while pretending to be engaged in the public service. Oakes Ames distributed the stock of the Credit Mobilier where he thought it would do the most good to himself and others with whom he was connected, and that was business in him who gave and in them that took his bribes. Madison Wells, when he proposed to Mr. Kenner that he would make a true return of the election if he could be assured of getting "$200,000 apiece for himself and Jim Anderson and a less sum for the niggers," had as keen an eye to business as if he had been president of a railroad company instead of a returning board. Certain greedy adventurers made it a business to rob the nation of its lands, and, uniting with Congress, carried it on so magnificently that they got away with an area nearly equal to nine States as large as Pennsylvania. The imposition of the whisky tax, excluding what was held on speculation, was business to the officers and legislators who were sharp enough to anticipate their own votes. You will see on reflection that every base combination which officers have made with one another, or with outside parties, has been a business arrangement, precisely like that which the railroads justify on the sole ground that it *is* business. The effect is not only to corrupt those who engage in such transactions, but to demoralize all who are tempted by personal and party attachments to apologize for it.

Again he says:

But on the other hand the corporations deny that they owe any responsibility to the State more than individuals engaged in private business. They assert that the management of the railroads, being a mere speculation of their own, these thoroughfares of trade and travel must be run for their interest without regard to public right. If they take advantage of their power to oppress the labor and overtax the lands of the State; if they crush the industry of one man or place to build up the prosperity of another; if they plunder the rich by extortion, or deepen the distress of the poor by discriminating against them, they justify themselves by showing that all this was in the way of business; that their interest required them to do it; that if they had done otherwise their fortunes would not have been so great as they are; that it was the prudent, proper, and successful method of managing their own affairs. This is their universal answer to all complaints. Their protests against legislative intervention to protect the public always take this shape with more or less distinctness of outline. In whatever language they clothe their argument it is the same in substance as that with which Demetrius, the silversmith, defended the sanctity of the temple for which he made shrines: "Sirs, ye know that by this craft we have our wealth."

Now, sir, I have abandoned any hope of seeing this amendment passed; I do not know that it will receive more than one vote besides my own; but it is in the right direction, and twenty years from now, if not sooner, some man will rise in this Senate when I am here no longer perhaps, and will point to this amendment as the beginning of the proper application of the remedy to the complaints of the people.

With these remarks, sir, I submit my amendment to its untimely fate.

Mr. BAYARD. Mr. President, I wish to treat with respect the amendment of the Senator from North Carolina. I always listen respectfully to the ideas put forward by him. Sometimes the Senator, however, says things that are only to be met by a sympathetic chord of laughter, but this is not one of them. He has said one thing in which I most heartily concur, and that is that the subject he is dealing with is one not only of great importance but of the greatest difficulty, and the difficulty is lest in righting one admitted wrong we shall commit another and perhaps far greater, and whether in righting a wrong we shall trench upon a field fraught with danger to the rights of property and the rights of labor; in other words, to all rights that laws are intended to secure.

It is true that, common carriers as constituted being incorporated transportation companies, usually the railways are termed quasi-public corporations, and you may call them public contractors, and their duty of carrying a public duty; but is it not also true that this public duty is created by their assumption of the business of common carriage of merchandise and by the aggregation of the property of many individuals under the name of a corporation? Is not the corporation as a political entity based on separate subscriptions of their private property by individuals? If therefore it be an employment of the property of a number of individuals acting in combination as an agency for the use of the public and for the benefit of themselves, the natural and essential laws of property and the laws of its employment can not be disregarded. If it be true that a man can afford, as my friend says, to take a smaller percentage of profit by increasing the scale of his operations, or to use his own phrase, to make a wholesale profit at a less rate than he can a retail profit, can that fact and that principle in the use of property be denied or disregarded whether the ownership of the property so employed is in one man, or in the hands of ten, or in the hands of an aggregate of owners acting under a corporation? It seems to me we deal always with the same thing in the end and the same laws for the profitable or unprofitable employment of capital will necessarily prevail.

It may be that for the safety of the public there should be freedom of contract, which is permitted between individuals and which in my judgment is the very soul and essence of liberty; for if a man be not free to contract as he pleases for his labor and for its fruits, for his property, or for aught that belongs to him, it is idle to call him a freeman. Public policy has restricted and does restrict the powers of corporations more than it ventures to do in the case of an individual, for the common definition of corporate powers found in every hornbook of the law is that a corporation may do only those things that it is authorized by its special charter to do, and may not act *ultra vires;* it may not act outside of the letter of its creation. Not so with the individual. He may do anything that the law does not forbid him to do. But when we come to the laws of property acting for its own increase, acting as an agent for private or for public benefit, it seems to me that its laws of existence, of profit and loss, must be the same, and that which will destroy and bankrupt the individual carrier will destroy and bankrupt the aggregation of carriers under the name and title of a corporation. Is not this so? I put it to my friend from North Carolina, whose sympathy with those who are weaker and poorer and have but the single barrel and the single package to be carried I greatly admire; but I do not think it in his power or in my power, or in the power of the Congress of the United States, to deprive property of its natural strength and advantages.

If my friend from North Carolina shall show me that the laws which control the profitable employment of property are changed, when they are applied to the aggregated property of individuals or to a great amount of property, or a less amount in a single individual's hands, he will have shed a new light on my mind and he will have gone far to control me in the vote I shall cast on these questions; but I confess that I do not see how the principle is altered by dealing with smaller or larger amounts of property engaged in the same business. I do not see how the principle that controls profit and loss is altered by simply collecting a number of men and applying to their property under joint action and control a different rule than we apply to single individuals.

My friend's illustration, I say with due respect to him, is not sound. He likens the question of common carriage and transportation of merchandise, the single barrel or the single trunk or the 10,000 barrels or the 10,000 trunks, as being the same thing with the square yards of pavement which by law are laid in front of a man's property. That is scarcely a just simile. In one case it is true that the individual is involuntarily burdened by the cost and lien of the improvement, but that is not the case in the carriage of his merchandise. A pavement laid down in front of my house or his is used and traversed at will by every other citizen of the community. The pavement in front of his house is as much open to me for my use as that in front of my own. It is therefore a public work; it is not meant for him alone. It attaches as a burden to the land that he owns, and it is a public tax that must be equal under the terms of a general public law. They must be applied equally; if not they are certainly not justified in law or under any system of republican government. It is said that similes are very apt to mislead, and in this case the comparison is not sound nor the simile applicable.

The contract between the owner of merchandise and the carrier is a voluntary contract between those two. It is not a question of a law laying a tax for the use of others as well as for the person who is compelled to pay it. You can not divest it of the nature of a voluntary contract, which is a very different thing from a tax. A tax is the involuntary payment of the property of the individual, for what? For public use; and so the pavement is laid for public use. When you come to the question of transportation a very different and another element comes in; first the contract is voluntary, and next it is for private and not for public purposes, although one of the contracting parties may have certain public duties and functions attached to the performance of his duty of transportation. But I submit to the Senator whether he does not think that in the end the laws which naturally and necessarily control in the employment of property will prevail, so that if a contract or system of business which would beggar and bankrupt an individual was attempted to be pursued by an aggregation of individuals acting under the name of a corporation, the end of the corporation, as sure as the night follows the day, would be the same as that of the individual, unless there be something which I have yet failed to hear and am not able in my mind to comprehend to show the difference between the two.

It certainly can not be intended in the desire to reform abuses to disturb meritorious and lawful investment and, by the imposition of ruinous conditions, to destroy it, because it would be unjust to the loser, nor would it in any way be beneficial to the public. I can not understand how it can be to the benefit of the public to demand conditions for the execution of any business that must end in the ruin of the agency employed in it. The public Treasury might stand it for awhile, and we see in this country that the public Treasury stands a great deal of loss and for a long time; but I am speaking now not of the public Treasury, I am speaking of private treasuries—of the treasuries of the corporations created by the laws of the States or of the United States. Unless my friend can show that there is a difference in the laws of property, separate and aggregate, and that that which would be unfavorable and which will not permit one to exist will permit the other to exist, then I submit to him that his amendment is in violation of what he himself has stated to be the common consent and opinion of men, that a man can perform wholesale at a scale and rate of profit that would beggar him if he attempted to apply the same rate to retail transactions.

I remember it was stated once, probably for a different purpose, that the father of perhaps the greatest statesman that England ever produced, Sir Robert Peel, was a very wealthy manufacturer, and that his profit per yard upon the cotton cloth he manufactured was not more than the eighth part of a farthing. Who could pretend upon a retail and restricted manufacture to maintain such business at all? How was it to be maintained? Only by the enormous scale of manufacture to which that fraction of a farthing applied upon every yard, and by multiplying the yards from tens to tens of thousands he obtained a profit that enabled a great business to be conducted of vast proportions. But shrink those proportions to the measure of a retail trade and the business would be absolutely impossible. It is equally so in regard to the business of transportation. I know that I pay and my friend pays more to the carman who carries a barrel of sugar from the grocery store to our residence than the profit of the capitalist who refined and manufactured that sugar. How is it done? It is not unreasonable that the man who hauls the barrel should charge 25 cents for carrying a small amount of sugar a short distance to my residence. The sum is small; and by private contract all that is arranged. But if I have not a single barrel but 10,000 barrels to be carted, the cost or the rate of transportation will be reduced in proportion to the extent of the transaction.

There is reason in all things, and there is reason in this; and much as we may desire to relieve inequities we can not forget in the enactment of legislation that it must be conducted upon general and sound principles. If the principles invade the rights of private contract, if the principles invade the natural and necessary laws of property, depend upon it we had better not move in the affirmation of a false principle, nor attempt by such a proposition as this to overthrow laws of trade and industry which will prove themselves to be beyond our control, and for which no statute can ever prove a satisfactory equivalent.

Mr. VANCE. Mr. President, the concluding proposition of the Senator from Delaware seems to me to amount to this, that if in attempting to adjust the equities between the great corporations of the country and the people we find that the laws we should enact for that purpose would interfere with the profits of the railroads we must stop and go no further. He asks me if I can show that the laws of property which are applicable in the segregate are any ways different from those which are applicable to property in the aggregate. I tell him yes, most undoubtedly—that is, with reference to the purpose to which that property is applied.

Property in the segregate or property in the hands of private citizens has one law applicable to its use. When property is aggregated and then devoted to the service of the public under an incorporation and a contract with the State as to how the public shall be served by that property, then a different law is applicable to that property. If it were not so, there would be an end to the whole subject of regulating railroads or any other public corporations.

Understand what I mean, sir. Here is a coil of rope lying in the storehouse of a merchant. There is one kind of law applicable to the ownership and to the uses of that rope that all private men may avail themselves of. But when that rope passes into the hands of the hangman and it is encircled around the neck of a culprit, then an entirely different law is applicable to the uses which may be made of that rope. My friend himself, when walking through these corridors or on the street, can have my hand placed upon him kindly and his progress impeded without any violation of law; we are private citizens; but if he was armed with the power of the Government in some official capacity and approached me and I laid my hands on him the law would be very different immediately. That is what I mean by the laws of property with relation to the question whether it is owned by private individuals or whether it is dedicated to the public.

He says that my simile about the paving of the streets is not sound and not applicable in this case. I want to ask him, supposing a man was engaged to grade a road at so much per square yard for all earth removed and for all earth filled in, would he have a right under that contract without a stipulation therefor in the contract itself to charge more for the hard places in the road than he did for the soft ones?

Now, sir, a company of men aggregate themselves together and contribute their means and apply to the legislature for a charter of incorporation, giving them perpetual existence and making them a corporate identity, and giving them the sovereign power of the State to condemn the private property of citizens for their use in the face of the Constitution, which says that private property shall only be condemned for public use, and in return for all these privileges they enter into a contract to do the carrying of all the freights of all the citizens between the points embraced in the scope of their proposed road. A citizen comes up with a thousand barrels of flour or bales of cotton to be transported. The corporations say, "We will transport that flour for $1 a barrel over our highway." Another citizen comes up with one barrel of flour or bale of cotton to be transported, and they say, "Inasmuch as you have only one bale this is one of the hard cases in our contract, and we will charge you $2." Would that be right or equitable? Would that be permitted in a public servant?

A private individual would have the right to say that, but here is a corporation that has entered into a contract, a *lump contract*, if I may borrow an expression used by Judge Black, to carry all the freight of all the citizens offered to them. Have they any right to draw back from the small or hard portions of the contract because there is not so much profit in the one bale as there is in the thousand? That would be, it seems to me, a violation of the ordinary and well-understood principles of equity. The Senator says that the great distinction to be drawn in this case is that a contract with a railroad for the shipment of goods over it is a voluntary contract between the railroad and the shipper.

Mr. President, how much is there that is voluntary between the shipper and the railroad carrier where there is but the one railroad, and where he has no possible means of getting his article to market or of having himself transported unless he takes that one railroad? You step to the office of one of these railroads, the one leading from here South, for instance, which has from the starting point in this city no competition. You look through the window at the agent and you say, "I want a ticket to Columbia, S. C." He hands you out a ticket on which is printed in such close print that no man can read it without magnifying glasses under a very strong light a long list of contracts and terms and conditions on which it will carry you to Columbia, S. C. The train is waiting for you and it is important to go on that train or wait for twenty-four hours. You pay the money for the ticket; you put it in your pocket and you start, and that is called a voluntary contract between the passenger and the railroad company, and they hold him to all the conditions printed on that ticket. So it is with freight. The conditions and stipulations in a bill of freight upon the railroads are so long, some of them, that it is a job almost equal to reading for a law license to go through with them; and the shipper has no earthly means of transporting his freight to market except by that road; and he therefore swallows his objections and his indignation and makes a voluntary contract with the road to get that freight carried rather than to walk and carry it on his shoulders! That is what is called voluntary! Why, Mr. President, looking at it in its proper light, there is no greater in-

stance of compulsion, of tyranny exercised over the citizen, known to our Government than this very thing of railroad transportation. You have to take their conditions, or you can stay at home and let your freight rot, because you can not help yourself.

It is true the law does give the privilege of taking your freight in your hand and walking where you choose to go. The law does not force you to take it by pains and penalties, it is very true, in a free country like this. It is said that a man has the right to go barefooted if he can not buy a pair of shoes. Precisely in the same way are all these contracts voluntary.

I hope, Mr. President, I shall never hear the exactions of railroad companies justified again on the ground that there is a voluntary contract between them and their patrons. If that is voluntary, may the Lord preserve me from that which is compulsory! [Laughter.]

Mr. MAXEY. Will the Senator from North Carolina permit me to suggest one thought in connection with the argument of the Senator from Delaware?

If there were but one wholesale house having a monopoly of sales of particular merchandise the analogy might have some force; but in the case of railroads in some portions of the country, and in mine certainly, the roads have an absolute monopoly of transportation. It is an utter impossibility for us to get anything from the State of Texas North, except under the Gould system, which has the absolute control of every line leaving the State.

Mr. VANCE. Of course I thank the Senator from Texas for the suggestion. That is, however, upon a branch of the subject that I was not undertaking to discuss. The general scope of the bill, as well as what has been said in favor of its general features here, all seem to admit on the part of everybody that legislation is competent, and that some legislation is necessary. I have just undertaken to show, in my disconnected way, that if we are really in good faith to stop the flow of grievances and exactions that pour out from these corporations upon the people we must stop all the doors and outlets, and not a few.

I refer again to the principle of my amendment, that if you can forbid discriminations as between man and man who ship the same distance you can forbid discriminations between the great shipper and the poor shipper, between the one who ships largely and the one who ships singly according to his means; and of all discriminations of which the people complain I say that is the worst, because it is a discrimination against a man simply because he is poor. If he is rich enough to fill a car or to lade a train with his products, he is favored by the system of the railroad corporations which the Senator from Delaware says is the law of business. I say, if the man whose poverty only enabled him to produce a small amount of freight to be carried is to be discriminated against because of that inability to do better, it would be the very worst and the most shameful of all the discriminations which our law permits these corporations to make. It would be bringing to the actual test the truth of the proverb of Scripture, that "the destruction of the poor is their poverty."

Sir, it is always understood in all governments which protect property that the rich and the great can take care of themselves, and that the first object of the Government is, or should be, to protect the weak. With that view I am not ashamed to stand here and advocate the cause of the small dealers and small shippers of the country as against the advantages which our laws confer upon the great traffickers and dealers.

If we are to be told that the laws of property, like those of the Medes and Persians, are immutable and can not be changed; if we are to be told that what is writ is writ; that we must not interfere, and that we must pass no laws whatsoever which will interfere with the business arrangements of the corporations, then we might as well give this thing up in fact, as we really do by our shilly-shally legislation. We might as well say that the corporations of this country are beyond human control. We might as well say that a State Legislature has created an incorporeal something and given it "a local habitation and a name," if it could not give it any soul, that thereafter could set the Legislature and its laws forever at defiance. We might as well say that it is in the power of men to create a thing that is greater than its creator; and we might as well confess the inability of human legislation to protect human weakness.

Mr. BAYARD. I am sure that my friend from North Carolina is really a very modest man, but no one would imagine it who considered the effect of his last declarations to the Senate, because it comes to this, that if the amendment he has now offered is not accepted, then there is to be a delivery over of this country to the unchecked rapacity of corporate power, for which no remedy can ever be found.

Although the amendment may not be adopted, I suspect that there would still be a great reserve of wisdom yet left in the mind of the Senator who offered it, and that he may be able to present an amendment that will obviate the difficulties and not be open to the objections which I respectfully submitted for his consideration.

I think when my friend comes to read the debate to-morrow as it is published, he will find that the propositions I submitted to him have not been answered by him. I know that the question is one of grave importance. I know that it is one in regard to which popular feeling is much interested. If I have learned one thing about the Government of this country, one thing that makes that Government possible of permanent success, it is just this, that where a public representative has a clear and distinct conviction upon a public subject he can perform no public duty so valuable as frankly to declare it, and that the people of this country will be served far more by the faithful delivery of independent and actual judgments than they can ever be by any advocacy, however eloquent or plausible, which takes the side of numbers, or of what seems to be the side of popular power, or power under any name or in any shape it may appear.

I was not discussing this great question in the interests of the transportation companies. I was not discussing the question in the interests of the retail shipper. I was trying to discover the safe and true principle upon which we safely could proceed to lay down general laws for the government of a vast amount of property, for it is with property in countless shapes and almost limitless value that we are proposing to deal, and it is with private property, not the property of the public, that we are proposing to deal. I asked the question (it was not answered) whether you do change the essential laws of property by increasing the amount or changing the ownership of the property in relation to which those laws are to be exercised. It is not the question of the poverty or the wealth of the shipper. It is not the question of the wealth of the corporation or of the individual opposing it. That is not the question. It is whether or not property in all its various shapes can be made subservient to human interest in violation of those economical laws that attach themselves to its use and are commonly recognized as essential to its preservation and increase.

My friend drew a picture—*ad captandum vulgus*—that the shipment of the single bale by the poor farmer should be treated differently as to rates of transportation from the shipment of the five hundred bales by his wealthier neighbor, and he said it was not a voluntary contract. Certainly my friend was not just in stating my position on that point. He had likened the dealings with a railroad company or any other transportation company with a payment of a tax upon the pavement in front of a man's house. I said that one was a public exaction for public use only, in which the convenience or the wishes of the individual were not regarded, a tax prescribed by general law, enforced by general law upon an equal scale of payment, in which all the citizens of the community, rich and poor, black and white, male and female, stood alike, in regard to the execution of which they were not consulted; and I said that laying a tax which was to build the public pavements in a city and laying that by a general law that made it an equal tax on all was a very different thing from prescribing rates for the carriage and transportation of property without the regard to the laws of traffic that control the capacity to carry more or less at a profit or at a loss—to carry a larger amount of merchandise at a lower rate proportionately than a smaller amount.

Now, let us suppose that the Senator from North Carolina and others of his friends should desire to ship, not in great quantities, but by small quantities, along the lines of railway, or the honorable Senator from Texas [Mr. MAXEY], who made a suggestion to him in the course of this discussion. Suppose they went to the Legislature of Texas or of North Carolina and they said, "We desire to build a railway through a certain section of country which we think will be profitable; carve out for us from the eminent domain of the State the right to condemn certain private lands along the route, and give us a charter that will enable us to build this road." Suppose the Legislature said to them, "We will give you this charter, and we will grant you the right of way through the lands of all these private parties, but you must take it on condition that you will carry a single basket or package or bale or barrel for the same rate and the lowest rate you charge for the greatest number of packages," what would be the answer to that? Both the gentlemen to whom I have referred are men of strong practical sense, accustomed to the care and management of property. They would know that they could conduct that business of transportation only by following the laws which control that business. I mean by the laws of economical management essential to the profitable management of that business, the laws of profit and of loss. If they were compelled to carry these things by retail at the same prices they would carry them by wholesale they would know that bankruptcy awaited their enterprise. No one would perceive it quicker; no one would sooner advise stockholders not to put their money in such an enterprise, and the railroad would never be constructed.

That is what I meant by the laws of property, that you can not change the principles upon which men make and lose money in their occupations by changing the person who is to exercise the occupation. That which a man can afford to do wholesale at a low scale of profit and rely upon the extent of his business as the source of his remuneration, he can not do if his occupation is diminished to a small scale. That is of every-day proof. The profit of the great manufacturer is but the fraction of a penny per yard. It has been stated by distinguished economists who are worthy of influence that one-half of 1 cent a yard upon cotton cloth will give the control of the markets of the world to the nation that can manufacture it that one-half cent per yard cheaper. Yet what is such a profit as that half cent in ratio compared to the ordinary profit of retail? A retail shopkeeper will starve and die upon such a ratio of profits. Such a per centum can not and will not satisfy the necessities of his life And yet increase the scale of the manufacturer

and you may bring in enormous fortune, as I have endeavored to illustrate in the case of Sir Robert Peel's father, and instances of which our own country is full every day. That is what I mean.

I have nothing to say in the way of defense of the transporting companies. I am not here defending any abuse. I am not the less sensible of the abuses and inequities that may be perpetrated by those who have the control or monopoly as has been suggested. That is not the question. I am asking Senators how can you make some general law which will do away with this power? You do not mean to do away with the roads themselves, and therefore, when you propose a measure, I ask you only to look to it that you do not reach results unjust and disastrous that you have not contemplated. It is not your intention to destroy property; it is your intention to regulate property; and if you seek to put upon property a regulation that will be destructive of it, you have reached a result that you certainly have not intended.

We are dealing with a subject that is not to be met by the question of its popularity or its unpopularity. He will serve the people best who tells the people the truth. I hold that a man's right to have the truth told to him is not to be controlled by his poverty or by his wealth. I was tempted to come unprepared into this debate by asking a respectful question of my friend from North Carolina as to whether property changed its laws by changing the amount in which it was held or the hands that held it.

Mr. VANCE. If the Senator will permit me, I think I answered that question. I said that the laws did change when the function of the property was changed, when the property was devoted to the service of the public instead of the private citizen who owned it.

Mr. BAYARD. Then must not the property be the property of the public? If we are to impose such regulations upon it as are now proposed it must be in some way the property of the public, else we will be coming near confiscation. I agree that you can and ought to regulate the powers of public corporations. I have said so distinctly. I have endeavored to state what is a mere hornbook definition, that you restrict corporations necessarily to the powers contained in their charter, and outside they are without power to act. However, I do mean to say you may let wealth stand in single hands or you may incorporate it, but you can not make an individual or an aggregation of individuals pursue a business on principles that will result in loss without producing the same result in the case of individual or corporation alike.

That is what I mean. And I here state in the presence of my two friends from Texas and North Carolina that they themselves could not and would not embark their capital, nor permit their friends to embark their private fortunes, upon a business that was not to be conducted according to those sound rules of profit and loss which the business itself declares to be essential, and that is, that much may be carried and always will be carried at a lower proportion than little. I need not illustrate the question of a single car running half full or wholly full. It is plain that if the car is to be filled or if the train is to be filled, the same expense and power of traction that will carry the many would practically carry the few, and of course they could afford to carry many packages at a less ratio of price than they could carry a few. We can not get rid of those facts. No discussion about whether it is the case of the poor man who sends the single bale of cotton, or the larger shipper who sends down a multitude of wagons and carts loaded with produce, can change the fact.

I suspect that my heart would respond just as quickly as that of my friend from North Carolina to the fact that the one man was very poor, and that he was put to a great disadvantage; but I am afraid we never shall be able to rectify the inequalities of fortune. The poor always will be with us, and I do not think we shall help them by breaking down those laws of property which every poor man hopes to procure, and which the institutions of this country are intended to facilitate him in procuring. Thrift, industry, and enterprise we encourage; the history of this country proves that they have encouragement.

We scarcely have a hereditary millionaire in the country. Almost all our men of greatest fortune are those who earned their first dollars by the toil of their hands. All over the country this is so.

I am not one who looks with any satisfaction upon the great and growing disparity of fortune. I regret it, and I recognize some of the causes for it. But will that induce me to vote for an amendment or to vote for a law which I think will make the possession of property insecure and the use of property impracticable? Oh, no.

I know the subject is difficult, but I do not think this amendment makes it less so. On the contrary, it is a step, as I think, in a dangerous direction. I shall be glad to vote for something that shall remedy, if we can, the inequities of this system of rebates, discriminations, and other monopolistic features. I have sometimes thought, and I think I am pretty nearly right about it, that the best cure for many of these inequities and for much of this monopoly and for much of this extortion is the competition and the free competition, to aid in which corporate power is to be granted for the purpose of lowering rates and creating that wholesome struggle for the same object which will result in the cheapening of the service. All that I recognize; and I confess that in regard to this bill, not having been a member of any committee charged with it, not having essayed the very difficult task of framing it, I have the fullest sympathies in opposition to those who create these abuses and inequities and all the other things that tend to strain the laws of property and the law that makes property possible at all. I read an article the other day upon the dangerous classes of this country, and they were not those who were poor or who were personally turbulent; they were those who, holding great estates and vast wealth and consequent power, forgot the ties of humanity for the responsibilities that are due by its possessors, and have ceased to remember that there is a justice between man and man that must be respected, or laws without it, and institutions without it, will fail.

Mr. SHEFFIELD. Mr. President, I am opposed to the amendment of the Senator from Georgia to the amendment of the Senator from North Carolina, because I believe it is one that Congress has no right to pass. I am opposed also to the amendment of the Senator from North Carolina, and for reasons which I will state in a moment. I favor the bill which was reported by the Senator from Illinois. I should not favor it if I believed it constituted a supplemental Congress, as was suggested by the honorable Senator from Arkansas, for the purpose of legislating for railroads, or a supplemental judiciary to determine the rights of railroads or the relative transactions of business between them and their customers. But I believe the bill is the exercise of a police power on the part of Congress to superintend the carrying on of interstate commerce by these great corporations, and I consent to support it because it affects corporations which, unless they are controlled by Congress, I fear will override the nation.

They are private corporations, created for private profit and gain. Although the railroads were constructed for private profit, according to my conception of their duty and their relations to the State they are charged with public uses, and it is the public use with which they are charged that authorizes them to take private property for their purposes. These corporations are created by the States, and over their charters I apprehend Congress has no power. They lie beyond its control and rest secure in the grants upon the conditions on which they have received them, within the territory of the respective States. Congress has no power, though I might apprehend it had from what I have heard since I have listened to this dissussion, over their private charters. They hold them by a tenure which has been granted them by the States from which they derive their existence. The only power which Congress has over these corporations is in regard to the execution of the public duties with which they are charged, to wit, their duty as common carriers; and Congress has precisely the same rights over any other person who holds the relation of common carrier to the public as over these corporations.

The bill as presented by the honorable Senator from Illinois undertakes to superintend the carrying out of the public duty with which the corporations are charged. The amendment of the honorable Senator from North Carolina does not propose, perhaps, directly to pass a bill of altainder (a bill of attainder, as I understand it, is to take away a man's property without process of law), but it undertakes to do the same thing by indirection; and what is that indirection? It is to render that property in the hands of its owners entirely valueless. That is the aim, that is the end, it seems to me, of the amendment which is proposed. To that, sir, I am opposed.

I do not wish, under the circumstances of this case, to occupy much of the attention of the Senate; but other questions lie behind this, I apprehend. Many of these railroads have certain chartered rights. If I mistake not—and I appeal to the honorable Senator from Massachusetts [Mr. HOAR] to correct me if I am in error—some of the charters of that Commonwealth granted to railroad companies are limited. In other words, the State has reserved the right to control the prices, the charges, of the corporations when their profits rise to a certain amount which is named in their charters.

Mr. HOAR. My impression is that the legislation goes a little further than that. Of course that right exists in our general power to amend, alter, or repeal the charters, but we also provide that the State may take a road when by the running of the road the profits on the capital stock reach a certain amount.

Mr. SHEFFIELD. Certainly; and then the State pays the original capital with a certain profit on it. That is the case, I think, with the charter of the Boston and Albany road and, perhaps, the Boston and Providence road. In the case of the charters of some of the roads in Rhode Island the Legislature is to interfere when the profits amount to a particular percentage. I think when they amount to 10 per cent. on the capital the Legislature has the power to interfere to reduce the fares, expressly in so many words. That being the case, it would be impairing the contract upon the faith of which the companies built the roads to undertake to interfere with those corporations in the way proposed by the Senator from North Carolina. By a police power to regulate merely, to superintend the carrying on of interstate commerce, to see that they do no injustice between individuals, between A and B, or between the village of A and the village of B, places which are on the line or individuals on the line, is a very different thing from the amendment proposed by the honorable Senator from North Carolina. I am opposed to that amendment, and, without taking more of the time of the Senate, I express the hope that the amendment will be voted down.

Mr. VANCE. Mr. President, just a word more before my bantling

is consigned to the dust of the valley, and I will cease to vex the Senate. I want to say that the general proposition so vehemently urged and insisted upon by the Senator from Delaware is not a correct one, to wit, that it is impossible for men on business principles to carry a single package for the same price that they carry one of a number of packages of the like kind. I want to say that in fact there is no such thing; it is not true. The number of small shippers is infinitely greater than the number of great shippers, and in the aggregate their products amount to more than those of the great shippers. It is just as easy for a railroad corporation to carry fifty barrels of flour for fifty men as it is to carry fifty barrels of flour for one man, and there is just as great profit in the transaction.

If the general propositions laid down by the Senator from Delaware are correct we are wasting the time of the Senate and of the country in talking about a bill regulating interstate railroads, because he says that a corporation can not be conducted by different laws from those which control private property. Now, private property seeks whatever investment it desires in any conceivable direction, uncontrolled and unregulated by law, and if we are to invest corporations with the same privilege we announce to the country that corporations can use their property in any manner and in any direction that they see proper uncontrolled by the law. If that be so, why do we undertake to deceive the people and to soothe their complaints and irritations by tinkering with the subject at all?

I say, sir, that I did answer the Senator's question when I showed him, or undertook to show him at least, that the law applicable to property when it was devoted to the service of the public and controlled by public agents was different from property in the hands of private persons. If that proposition is not true, again I say there is an end of the question.

The Senator says that business can not be conducted on other principles than those eliminated by the experience of private capital. I say that it can be; that one of the greatest businesses of this country is now conducted upon precisely the same principle advocated by the amendment, and successfully conducted, to wit, the carrying of the mails of the country. The Senators here and other public functionaries who are receiving about this time, at least those on this side of the Chamber are, and sending off perhaps a hundred letters a day, to say nothing of other mail matter, receive no rebate from the Government on account of the wholesale character of their correspondence; and while they are charged the full amount of the postage as fixed by our statute, the boy who is writing from the prairies of the West home to his mother a single solitary letter once a year to let her know how he is getting on pays the same price, to wit, 2 cents per letter. That business is conducted on precisely the same principles on which I propose to have the carrying business of this country conducted—absolute equality to all. Does any Senator advocate a reduction in price to the wholesale patron of the mails? Does any Senator advocate that the writer of a single letter in a week, a month, or a year shall be charged twice or quadruple or ten times as much as the one who writes four or five letters a day? That is the business principle. Notwithstanding our mail service is conducted on this principle of absolute equality, and notwithstanding the jobbery and the corruption that is sometimes seen to attend its administration and the enormously extravagant methods that we employ to carry mail facilities into all parts of the country the most remote—notwithstanding that, one year with another the Post-Office Department of this country is self-supporting.

Now, why could not the corporations that carry for the public packages of merchandise instead of packages of letters be compelled to observe the same absolute equality? Is there any Senator on this floor who will deny that equality is the rule of right? If equality is the rule of right, do we not violate it when we say to a man, "If you ship only a hundred pounds of freight you shall be charged twice as much as your neighbor who ships a thousand pounds?"

I say to you, Mr. President, as I said but a little while ago, that the time is coming when this question will be considered in quite a different spirit from that in which it is considered now. There are mutterings now to be heard in every quarter of the community. There is a firm and a fixed determination in the hearts of the great body of the American people that the corporations of this country shall not become their masters. They were created to be their servants, and the people are determined that they shall not change that relation. They may be bamboozled for a while. It is a highly technical subject; we all admit that. We must not change the laws of property, it is said; we would do more harm than we would do good, and therefore the only thing to do is to let it alone, or pass bills that will appear to give relief. Shut one door, but leave a dozen open. Stop one leak in the dike, but leave another open through which you could drive a coach-and-six. We may, I say, stave off this discontent a while by those means, but ultimately we will be compelled to see whether the tendency of this age toward the concentration of capital and the exercise of all the power that that confers, shall master this country or whether the people shall rule it.

As I have said before, I am for one not ashamed to stand up here and advocate the rights of the man who has only one bale of cotton to ship as against the privileges granted to the man who has a thousand bales. It subjects me, perhaps, to the imputation of demagogy, my arguments may be called *ad captandum vulgus;* but, sir, I shall do it nevertheless. If to try to do justice between man and man is to be laughed at, then, sir, like Falstaff, I am not only merry but willing to be a subject of merriment to others. If to try to do something for the weak in the community and to strengthen their hands in the battle of life against those who have been blessed with greater fortune and greater power is a subject of contempt, then I am like the Arkansas judge who was also an auctioneer, who fined a man for contempt of court while selling a mare and colt during a recess of the court, and said in answer to the application to remit the fine on the ground that a contempt could not be committed against him in his private capacity, that whether on or off the bench he was always an object of contempt. [Laughter.] At least I am so informed by the Senator.

I say, therefore, that if it is contemptible and to be laughed at to advocate the rights of the weak against the strong, I shall bare my bosom to the shafts and welcome them, and console myself as Saint Paul did with the reflection, "It is for the hope of Israel I am bound with this chain." And now I am done.

Mr. SEWELL. The Senator from North Carolina, in illustrating by the mail service of the country at the present time, thinks that equality is the rule of right. In connection with that service I would amend his statement by saying that equality is the rule of might. He forgets that the way lines of this country are required practically to carry the mails on the same basis that is fixed for through lines with large quantities of mail matter. The through lines probably get an ordinarily fair compensation, but the way lines, which make up the great portion of the railroad mileage in the country to-day, are carrying mails under the rule of might, the *fiat* of the Government that they shall have just so much and no more, and rather than kick and throw the mails out, believing that they ought to accommodate the public, they take the pittance that they get. There is no justice about that.

The proposition of the Senator from North Carolina in relation to the transportation of one package at the rate at which fifty or one hundred or five thousand packages would be carried may be illustrated in this way. He is not probably familiar with the system of railroad accounts: A man goes to a station in North Carolina and asks for ten cars for peanuts. It costs just the same and no more to make a way-bill for those ten cars as it does to make a way-bill in the case of the man who totes a bag on his back and asks to have it shipped. That waybill has to go through the same clerks' hands, it costs the same for stationery, it goes to the auditing department of the road, it goes through different hands, goes to the auditing department of the continuous line, and there may be a dozen of them to make up under this interstate commerce bill, and finally is adjusted at the head office; and while the freight on that bag, in proportion to the charges on fifty car-loads, may not amount to five cents, it costs five cents to make up that waybill.

Mr. VANCE. I admit the hardship of the case which the Senator from New Jersey has put, but let us look at it a little further. Suppose a man from New Jersey wanted to ship ten bushels of peanuts from North Carolina, and suppose the Legislature of New Jersey was assembled and waiting for those peanuts to organize, and could not be held together without their accustomed legislative aliment to console the weary hours of law-making, and suppose the hard-hearted railroad should impose a lot of conditions entirely extortionate because of the size of the freight, and tell the shipper that he might do better if he pleased, that it was an entirely voluntary contract, what would become of the Legislature of New Jersey?

Mr. SEWELL. I will simply say that the Legislature of North Carolina may be held together with peanuts but that of New Jersey could not be.

Mr. BROWN. Mr. President, I want to examine for a moment the amendment of the Senator from North Carolina [Mr. VANCE]. It does not seem to me that he accomplishes the object by the amendment which he has in view or the object which he has stated in his argument. The first portion of his amendment puts small packages upon an equality with larger shipments or car-loads, and provides that no more shall be charged for one sack shipped separately than shall be charged each for a hundred sacks shipped by the car-load. It provides that no discrimination shall be made in favor of large shipments or for the large amount of business tendered; but at the same time the Senator whittles away his amendment until he leaves so little of it that I am not sure but the legal maxim *de minimis non curat lex* might be applied to it. Let us look a little at it. First, the broad proposition is laid down to which I have referred. Then there is a class of exceptions that come in that is rather a large one, I think:

> Except that a greater rate may be charged and demanded of shippers or consignees for freight shipped in less quantities than a car-load when such freight consists of horses, cattle, hogs, sheep, or other live-stock, or of wheat, oats, corn, barley, or other grain shipped in bulk and not put up in sacks, barrels, boxes, or other packages, or of pig, or bar, or slab iron, or of iron ore or other mineral ore, or of coal, coke, or coal-oil in a single tank or package to the car-load, or of lumber, logs, or firewood, or of any other commodity usually shipped or transported in bulk and by the car-load.

Now, in the first place, you shall not ship a package and charge more for it than you charge for each of a hundred packages shipped in a car-load, but if the car-load is of a character that is shipped in car-loads,

then the Senator says his amendment shall not apply. As suggested by the Senator from Maine [Mr. FRYE], it does not apply to peanuts. It excepts from its operation the other commodities of North Carolina to a great extent, but it does fail to except the peanut. Then, after excepting all the live-stock he can mention, and the different productions of the farm, and excepting everything else that is usually shipped by car-load, the amendment contains the further provision that if the freight on the package is less than $20 there may be 10 per cent. added to the usual freight. I do not know exactly what is left, and especially when we take into the account another thing, that this can not apply to any shipments made from one point in North Carolina to another, for that is not interstate commerce, and the bill does not apply to any case where the package is sent by express, for we are not legislating for the express companies.

How many packages or what sort of packages would be left for the poor people to get the benefit of them here? All the exceptions I have mentioned, which cover almost everything, are made. Everything that is shipped from one point in North Carolina to another is excepted by the Constitution; everything that is shipped by express of course is excepted; and then every other thing where the freight is less than $20 on the shipment is subject to have 10 per cent. added, which destroys the equality. Then what is left? To what does the amendment apply? There may be a few things, it is true, to which it would apply, but I confess it seems to me the Senator has eliminated the whole force of his amendment by the exceptions he has made to the rule.

While on the amendment I desire most respectfully to call the attention of my friend to another objection. As his amendment stands I think it is subject to as strong a constitutional objection as he makes to my amendment. The language is:

> That it shall be a discrimination prohibited by this act if *any railroad* company shall charge, &c.

Is it very clear to the Senator from North Carolina that the Senate has any right to legislate to that extent by any kind of bill we can pass? That embraces the Central road of North Carolina or any other road that begins in North Carolina and ends in North Carolina—"any railroad." If he had said "any railroad engaged in interstate commerce," or "any railroad running into another State, shipping goods across the line," or anything of that character, his amendment might be constitutional; but as it stands it is broad and sweeping; it makes no exception whatever, but applies to any railroad company, it does not matter where the railroad company does business or whether it ships packages across the line or not. Therefore, I think he has a constitutional objection to get around in his amendment as well as I have in mine.

The Senator from North Carolina rather convinced me that there was some constitutional objection to my amendment, but I still thought it was as good as his, and that it was as free from constitutional objection as his was; and now if he will withdraw his I will withdraw mine, because I believe there is some constitutional objection to each. But if he insists on his, unless he will amend it so as not to embrace the railroads that are confined within the limits of North Carolina, I shall be obliged to insist on mine as being quite as constitutional as his.

Mr. VANCE. Mr. President——

The PRESIDENT *pro tempore*. Does the Senator from Georgia yield?

Mr. BROWN. With great pleasure.

Mr. VANCE. If the Senator is in earnest in his objection, he will see at once that the previous sections of the bill confine its operation entirely to roads that run from one State into another, and that the amendment will have no greater operation than the body of the bill to which it is an amendment.

Mr. BROWN. I reply to that that there are no previous sections to the bill. We have not legislated at all on this question. I do not know in what shape any section of the bill is going to be passed. It may be that the previous sections of the bill, when we come to pass upon them, will do nothing to aid this amendment. Therefore it is better to have the amendment constitutional as we go along, unless we had agreed on what should be the other sections of the bill, so that we may bring it within the rule contended for by the Senator from North Carolina.

Therefore, I must still put my amendment against his on constitutional grounds. I say mine is as constitutional as his is. He thought I was disposed to treat his amendment as a joke or in some other such way. I confess that I had a little of that idea at the time, as I know my friend is always fond of a joke; but he very well rebukes me by saying that I never was successful with a joke, and I believe he is right about it.

So it is, I make the proposition that if he will withdraw his amendment I will withdraw mine. I think, probably, the whole thing is rather a joke. It seems to me it is something of a joke to undertake to relieve the people of North Carolina, or of any other State of the Union, by making provision that a small package shall be shipped as cheap separately as a like package in a car-load, and then excepting nearly everything you can think of from the benefit of it, and then making the sweeping provision that if the freights are under $20 there may be 10 per cent. added, which puts the small shipper again upon an inequality with the large shipper.

It seems to me that we ought to do one of two things. We ought to make the bill apply to all cases where we have any constitutional power or we ought not to apply it to any. The fact is that the Senator from North Carolina rather excited my sympathies on this question, and that is one of the reasons why I introduced my amendment. I heard his speech, which was an able one, well delivered. He said:

> If therefore a capitalist can by buying largely get goods at cheaper rates than the small dealer and thus undersell him and break him down, of course this is beyond the reach of legislation, for a man may lawfully do as he will with his own. He owes no duty to the public in this regard, and the law permits him to be selfish.

That is pretty hard, but the Senator from North Carolina did not see any remedy for it, and if there is a constitutional objection to my amendment I do not know whether there is any remedy. Still, I thought I would offer the amendment. Then again he said:

> Those acquainted with the details of the daily business of the people well know that the traders of small means are absolutely at the mercy of their rivals of greater capital in all traffic where freight charges enter considerably into the cost of the article. The big fish are constantly swallowing the little ones.

That excited my sympathy, for I sympathize with the mass of the people as much as the Senator from North Carolina does; but if my amendment will not remedy the difficulty I do not see exactly what other one will. It seems to me his amendment, with all the exceptions he has loaded it with, can not remedy it. Then, again, I did not quite so well understand this phrase of the Senator's speech:

> Therefore when capital buys and sells by the quantity to the injury of small dealers, we can, in either justice or wisdom, say nothing.

It seems to me, if it is an injury, if it is grossly wrong, as in the other case, we can in justice and wisdom say something, whether we can do anything or not. We can hardly admit the justice and equity of it or the justice and wisdom of it. Therefore I can not go as far as my friend from North Carolina goes on that part of it. I do not know that it is entirely just. At least if it is just in that case I do not see why it is not just in all other cases; and under the rule that has been drawn so often, that railroads are corporations and therefore are partly under the control of the public with some of the delegated powers of sovereignty, &c., I do not see what good it does. If the rule is a just one and a wise one as applied to commerce, then I do not see how it can be an outrageous and nefarious rule as applied to small transactions of the character to which the Senator refers. That much I state rather seriously.

My amendment, it seems to me, ought to pass, if the amendment of the Senator from North Carolina passes. If his is to be voted down, then I do not care to insist on mine.

The PRESIDENT *pro tempore*. The question is on agreeing to the amendment of the Senator from Georgia [Mr. BROWN] to the amendment proposed by the Senator from North Carolina [Mr. VANCE].

Mr. BROWN. In the hope that the Senator from North Carolina will withdraw his amendment, I shall vote in the negative on mine.

The amendment to the amendment was rejected.

The PRESIDENT *pro tempore*. The question now is on agreeing to the amendment of the Senator from North Carolina.

Mr. INGALLS. Mr. President, the people whom I represent are very largely interested in this question, and the products of their industry will be found largely in the exceptions to the amendment offered by the Senator from North Carolina. The farmers and graziers of Kansas export annually large numbers of horses, cattle, hogs, and sheep, and a very large amount of wheat, corn, barley, and other grains. I wish the Senator from North Carolina would be good enough to explain to me upon what theory in his amendment the man who wants to ship one horse should not have the same advantage compared with the man who ships a car-load of horses as the man who ships a tub of butter is to have as compared with the man who ships a car-load of butter in firkins. I ask the Senator in entire seriousness, because if there is any method of rectifying by legislation the evils that we all admit to exist, I certainly wish to act with him.

Mr. VANCE. Does the Senator wish an answer now?

Mr. INGALLS. Yes, sir.

Mr. VANCE. I have not my amendment before me, but if the Senator from Kansas will read the amendment which he has in his hand he will see that the exception is made in favor of those large, bulky articles that are usually shipped by the car-load. The Senator will also know, perhaps much better than I do about such things, that the shipment of live-stock ordinarily can not be as the shipment of other freight in this respect; and that it takes at least a car to transport one horse or one head of cattle, while in the case of packages of inanimate freight, as flour, grain, dry goods, &c., one man's package can be as easily placed in a car that is not yet full as it could go in a car by itself; while it would take at least a half car for one or an entire car to accommodate two strange animals; that is, animals strange to each other. A man shipping a number of animals accustomed to each other and reared together could perhaps fill a car with them, whereas in the case of a man shipping another animal in with strange animals they would damage each other—as horses, for instance. For those reasons, whether correct or not, I inserted the exception in the amendment.

The PRESIDENT *pro tempore*. The question is on agreeing to the amendment proposed by the Senator from North Carolina.

Mr. VANCE. Let us have the yeas and nays upon the amendment. There is an important principle involved in it.

The yeas and nays were ordered; and the Secretary proceeded to call the roll.

Mr. GROOME (when his name was called). I am paired with the Senator from New York [Mr. MILLER].

Mr. CULLOM (when Mr. KENNA'S name was called). The Senator from West Virginia [Mr. KENNA] informed me that he was called away on account of sickness in his family, and that he is paired with the Senator from Minnesota [Mr. SABIN].

The roll-call having been concluded, the result was announced—yeas 4, nays 44; as follows:

YEAS—4.

George,	Vance,	Van Wyck,	Vest.

NAYS—44.

Aldrich,	Frye,	Lapham,	Pike,
Bayard,	Garland,	McMillan,	Platt,
Bowen,	Gorman,	McPherson,	Pugh,
Brown,	Hale,	Mahone,	Sawyer,
Camden,	Hampton,	Manderson,	Sewell,
Cameron of Wis.,	Harris,	Miller of Cal.,	Sheffield,
Colquitt,	Harrison,	Mitchell,	Sherman,
Conger,	Hawley,	Morgan,	Slater,
Cullom,	Ingalls,	Morrill,	Walker,
Dawes,	Jackson,	Palmer,	Williams,
Dolph,	Jonas,	Pendleton,	Wilson.

ABSENT—28.

Allison,	Coke,	Hoar,	Miller of N. Y.,
Beck,	Edmunds,	Jones of Florida,	Plumb,
Blair,	Fair,	Jones of Nevada,	Ransom,
Butler,	Farley,	Kenna,	Riddleberger,
Call,	Gibson,	Lamar,	Sabin,
Cameron of Pa.,	Groome,	Logan,	Saulsbury,
Cockrell,	Hill,	Maxey,	Voorhees.

So the amendment was rejected.

The PRESIDENT *pro tempore*. The question now recurs on the amendment proposed by the Senator from Oregon [Mr. SLATER].

Mr. SLATER. I desire, before the amendment in the nature of a substitute is put to a vote, to offer two amendments to section 4 of the bill. I move to strike out, in line 1 of section 4, the words "if any transportation company" and insert what I send to the desk.

The PRESIDENT *pro tempore*. Pending the amendment proposed by the Senator from Oregon on a former occasion to strike out all after the enacting clause and insert his proposed amendment, he moves to amend the text of the bill as will now be read from the desk.

The CHIEF CLERK. In section 4, line 1, it is proposed to strike out the words "if any transportation company" and to insert in lieu thereof:

It shall be unlawful for any transportation company engaged in interstate commerce, directly or indirectly to allow any rebate, drawback, or other advantage in any form upon shipments made or services rendered either in the receiving, handling, storing, or transportation of freight, such freight being classified as interstate commerce, and if any such company so.

So as to make the section read:

SEC. 4. That it shall be unlawful for any transportation company engaged in interstate commerce, directly or indirectly to allow any rebate, drawback, or other advantage in any form upon shipments made or services rendered either in the receiving, handling, storing, or transportation of freight, such freight being classified as interstate commerce, and if any such company so engaged in interstate commerce shall, directly or indirectly, by any rebate, drawback, or other device, charge, demand, collect, or receive from any person a greater compensation for any service it may render in its transaction of interstate commerce than it charges, demands, collects, or receives from any other person for doing for him, in a like business and under similar circumstances and conditions, a like service, and if any such transportation company shall neglect or refuse to furnish the same facilities for the carriage, receiving, delivery, storage, and handling of interstate-commerce freights to one person that is at the same time furnished to any other person for the carriage, receiving, delivery, storage, and handling of such freights of the same class, such transportation company shall be deemed guilty of unjust discrimination.

The PRESIDENT *pro tempore*. The question is on agreeing to this amendment.

Mr. SLATER. Mr. President, section 4 relates to discriminations, and by the terms of it it would seem to interdict anything in the nature of drawbacks or rebates, but on examination it will be found that it only prohibits the use of drawbacks and rebates where they are in such form that an inequality exists. Now, it occurs to me that this door of rebates and drawbacks is one of the fruitful avenues through which discrimination enters. It would be better to phrase our legislation in such form and in such terms as to be an absolute prohibition, to make the language distinct and effective, and this is the purpose and office of the amendment I have now offered, so that all rebates, all drawbacks, all devices which shall operate in any form to make a discrimination shall be illegal and unlawful; and, if I understand the amendment that was attached to the end of this bill, it will be found punishable under another section of the bill, it being declared at the end of the section, I think, to be a misdemeanor. I think it will be better that we put it in this form than leave the opening here for a question to arise whether in a given case a drawback or a rebate is or is not a discrimination. The foundation that I want to put it upon is that all drawbacks, all rebates, are unlawful and prohibited.

Mr. CULLOM. Mr. President, I hope that the amendment of the Senator from Oregon will not be adopted. The question that he seems to reach in this amendment he can reach just as well when the substitute which comes before the Senate is up for discussion. This section simply has reference to the question of unjust discrimination, and undertakes to guard against unjust discrimination by whatever means it may be undertaken to be exercised. I hope that the section will remain in the bill as it is written, as I think it reaches the question of discrimination, and is designed to reach that and nothing else.

If it is the judgment of the Senate hereafter that we shall put in statutory form a declaration that there shall under no circumstances be any rebates or any pooling or any drawback, that is a question for consideration that can come up in the discussion of the substitute which the Senator desires to offer, or on the bill known as the Reagan bill, which is now in the Senate, and which will be offered for consideration hereafter.

Mr. SLATER. Mr. President, it is true that if the substitute which I have offered should be adopted in preference to the bill now pending this amendment is there included in terms. It is also in terms, I believe, in the House bill, which, as I now believe the understanding to be, shall take the place, and the bill now being perfected in the Senate will be offered as a substitute for that bill. Therefore I desire to test the sense of the Senate in putting this provision into this bill, so that if it shall come to pass that this bill shall be substituted for the House bill we shall have the provision in the bill as it shall pass.

Mr. HARRISON. Mr. President, the section of the bill as reported by our committee, to which the amendment of the Senator from Oregon is proposed, declares in the broadest terms for an absolutely equal rate to all shippers. It prohibits under penalties any discriminations between shippers who may make consignments of freight at substantially the same time and of substantially the same class. Now, it may be possible for the managers of railway companies to avoid this, to evade it, and to conceal their evasion so as to escape the penalties of the bill; but that is equally possible under the amendment which the Senator from Oregon offers. So it seems to me that we avoid a question about which there may be some division whether there may not be circumstances under which it might be just for a railroad company to pay back to its shippers some part of the charges which it had received from them. If competition was prevailing between different lines, and it was ascertained after a shipment had been received and the freight paid, as for instance from Chicago to New York, that some other railroad had been carrying freight for its shippers of the same kind and at the same time for a less rate, I do not think it would be immoral. I do not think it would be a transaction that we should make penal, if the railroad company having received the higher rate which turned out to be a discrimination against its patrons should equally and to all who had shipped about the same time refund some part of the charges which it had received. I would not be willing to declare for one as a member of the Senate that it ought to be treated as a misdemeanor.

I am not very well skilled in these matters; perhaps those that are might suggest other cases where with reference to shipments abroad—I have seen that suggestion—it was necessary that some allowance should be made from the freights that had been received in order to enable the shippers to meet the foreign prices and to send their grains abroad.

It seems to me we should be adopting, perhaps, a rule that had too much iron in it if we were to say absolutely that in no case should a railroad company that had received a given rate for the shipment of merchandise return any part of it to the person who had paid it, even if that return was made upon an equal basis to everybody who had shipped at the same time so as to preserve an absolute equality between the shippers. Does the Senator from Oregon think that such a rebate, if it is allowed to all under circumstances which may seem to justify it, such as I have described, ought to be prohibited?

Mr. SLATER. I can not conceive why the case presented by the Senator from Indiana could not be as justly met by a direct reduction of the rate to the point which would be left after a part of the freight had been returned. In case of freight being shipped for foreign ports it would not relieve other shippers, for instance, in shipping from Chicago or other western points to New York, unless the freight shipped from New York on foreign account was at a different rate to some foreign port. There would be still a discrimination, and they can evade this point constantly by means of shipments from Chicago or Saint Louis through to Liverpool, making one charge for all. The reason why I object to the form in which the bill leaves it is because I believe it is simply a trap that will be left to the companies to practice deception upon those who ship by their lines.

Mr. HARRISON. The section as we find it in the bill explicitly and in the very plainest language declares that any discrimination by rebate or otherwise is made illegal. Now what can any one ask more than that? I think that is the great desideratum in this question of interstate commerce—an absolute equality between shippers. This section of the bill requires it. If the Senator says that because rebates are not explicitly prohibited the section may be evaded by a rebate, I answer that it may be evaded in the original charges by giving discriminating rates; and if discriminating rates are given originally, they may be just as difficult to find out as a discrimination by rebates. This section makes it illegal to discriminate in the original rate or to effect that discrimination by paying back any of the price which has been paid. It seems to me to cover the whole ground. All that we should need to know under this section would be to find out that the rebate had been

paid resulting in a discrimination, or to find out that a discrimination had been made in the original waybill or express charge for freight, and in either such case the transportation company doing the thing would be made amenable to the penalties of this law.

Mr. SLATER. But the Senator does not seem, as I understand him, to grasp the difference between the amendment as I offer it and the language of the bill. The bill is clear, so far as discrimination is concerned, if it be discrimination by drawback or rebate or other device; but if the drawback be uniform, if all are affected alike, then there is no breach of the law. That is the law to-day. If any shipper finds that he has been discriminated against, that he has been charged more than is the customary rate to other freighters, he may recover the excess with which he has been charged on showing it. Now, make drawbacks and rebates illegal in and of themselves, whether they effect a discrimination or not, and we have shut the door, if the door can be shut at all. It becomes a criminal offense then. It seems to me that the distinction is a very plain and a very broad one.

The PRESIDING OFFICER (Mr. HARRIS in the chair). The question is on the amendment proposed by the Senator from Oregon [Mr. SLATER].

The amendment was rejected.

Mr. SHERMAN. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After twenty-five minutes spent in executive session the doors were reopened, and (at 4 o'clock and 47 minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, *January* 13, 1885.

The House met at 12 o'clock m. Prayer by the Chaplain, Rev. JOHN S. LINDSAY, D. D.

The Clerk proceeded to read the Journal of yesterday's proceedings.

Mr. TOWNSHEND. I ask unanimous consent that so much of the Journal as relates to the introduction of bills and joint resolutions be dispensed with.

There being no objection, it was ordered accordingly.

The Clerk resumed the reading of the Journal, which was then approved.

APPOINTMENT OF MR. DEVINE.

The SPEAKER announced the appointment of Mr. Andrew Devine as one of the Official Reporters of the debates and proceedings of the House, to fill the vacancy on the corps occasioned by the death of William Blair Lord.

PERSONAL EXPLANATION.

Mr. STOCKSLAGER. I rise to a question of personal privilege.

The SPEAKER. The gentleman will state it.

Mr. STOCKSLAGER. I send to the desk a copy of the New York Sun of yesterday, and ask the Clerk to read a short paragraph which I have marked.

The Clerk read as follows:

LOGROLLING FOR $15,000,000—MR. RANDALL LETS DAYLIGHT IN UPON THE BIG PUBLIC-BUILDINGS JOB.

WASHINGTON, *January* 11.

The extraordinary logrolling scheme of members of the House for getting about fifteen millions out of the Treasury for new public buildings has received two hard blows from Mr. RANDALL in the past week, and its defeat for the session is probable. There was a sharp parliamentary tussle Saturday between Mr. STOCKSLAGER, of Indiana, and Mr. RANDALL, in which the latter came off victorious. He let daylight in upon the job in these words:

"That special order is an extraordinary one, the like of which I never saw before during my entire Congressional career. It provides that until the many bills which the Committee on Public Buildings and Grounds have designated, or may designate, shall be considered and disposed of, this special order may continue from day to day until all such bills on the House Calendar shall have been acted upon. It is most extraordinary in this, that it combines all these public buildings together, and provides that it shall be continuous until every single one of the public-buildings bills in the long list reported from the committee shall be disposed of."

STOCKSLAGER's motion to take up the bill got 72 votes, and 91 were cast against it. The vote was not taken by yeas and nays, so that the appropriation-seekers were not put on record. The organization of the logrollers is complete, and they still hope to drive their scheme ahead. The chances that they will catch Mr. RANDALL asleep, however, are very slim indeed.

Mr. KEIFER. I make the point that this does not present any question of personal privilege.

The SPEAKER. The gentleman from Ohio makes the point of order that there is no question of personal privilege involved in this matter.

Mr. STOCKSLAGER. Does the gentleman wish to be heard on that point?

Mr. KEIFER. If the gentleman wants unanimous consent to make a statement——

The SPEAKER. The Chair does not see in what has been read anything involving a question of personal privilege. If the gentleman desires unanimous consent to make a statement the Chair will submit the request.

Mr. RANDALL. As this matter has proceeded partially, I think it should be concluded. I therefore ask unanimous consent that the gentleman be allowed to proceed.

The SPEAKER. If there be no objection, the gentleman from Indiana [Mr. STOCKSLAGER] will be allowed to make a personal explanation. The Chair hears none.

Mr. STOCKSLAGER. Mr. Speaker, under ordinary circumstances it would be very remarkable that a great public journal like the New York Sun should have a correspondent here who would be so reckless in the statement of fact as to what transpired in the House and as to the facts connected with the public records of the House as the correspondent of the New York Sun has been in the article which has just been read in the hearing of the House. But, sir, when we consider that statements almost as reckless have been made on this floor, and when we consider further that in interviews published in the newspapers of this city with members of this House, and notably with my friend from Ohio [Mr. WARNER], who I regret is not in his chair, who, in an interview published in the Post a few days ago, is reported to have stated that these bills reported from the Committee on Public Buildings and Grounds involved over $20,000,000, and who, when I called his attention to it, did not deny having made the statement, I say, Mr. Speaker, when such reckless statements are made by members of the House it is not to be wondered at that newspaper reporters should repeat them. I doubt whether they are much to blame for doing so.

Now, what are the facts as to the amount involved in the bills reported by this committee, for that is the first charge? All the bills reported by the Committee on Public Buildings and Grounds in this House, taking every single one of them, including also the three which have been passed, amounting to fifty-one or fifty-two in number, I am not exactly positive, taking them all, the cost will be $6,327,400 as against the statement made in this paper of $15,000,000.

A MEMBER. But that is only the amount to begin with.

Mr. STOCKSLAGER. It is less than one-half of the amount stated. It is less than one-third of the amount involved in the statement referred to as having been made by the gentleman from Ohio [Mr. WARNER].

Mr. STORM. Can the gentleman from Indiana state how much will be required to complete all these public buildings after they have been once commenced.

Mr. STOCKSLAGER. Yes, sir; I can say that each bill authorizing a building limits the total cost of the building proposed to be erected to the amount stated in the bill. The amount of total cost is specified in each case. And we have in addition a general law which prohibits the architect from making plans for a building which will cost more than the amount specified in the bill. If the House shall pass every single bill reported from the Committee on Public Buildings and Grounds, the total cost of all of them when completed will be only $6,327,400. That includes three bills already passed by the House, and it also includes $200,000 for a building for the Army Medical Museum and Library to be erected in this city.

Mr. YOUNG. And it also includes the extension of buildings which have already been commenced.

Mr. STOCKSLAGER. As suggested by my friend from Tennessee [Mr. YOUNG], it also includes appropriations to continue and extend buildings which have already been commenced by previous Congresses. Two million three hundred and seventy-five thousand dollars of the sum which I have mentioned is for the purpose of extending the limit of the cost of buildings already commenced.

Now, this is a moderate sum when you consider the amounts which have been appropriated by preceding Congresses.

From a digest of appropriations prepared by the Treasury Department for each fiscal year, it appears that the aggregate appropriation for public buildings and grounds during the Forty-fourth Congress was $5,731,632.78; Forty-fifth Congress, $8,037,475.97; Forty-sixth Congress, $8,252,047.17.

From Senate Executive Document No. 12, Forty-third Congress, first session, in response to a resolution of the Senate, a letter of the Secretary of the Treasury gives the aggregate amounts expended for public buildings and grounds from June 30, 1865, to June 30, 1873; from which it appears that the total expenditures, covering four Congresses, were $28,348,389.52, or an average expenditure during the Thirty-eighth, Thirty-ninth, Fortieth, and Forty-first Congresses of $7,062,097.38; the average for the Forty-fourth, Forty-fifth, and Forty-sixth Congresses is $7,340,384.64; the aggregate appropriations for the Forty-seventh Congress, $8,636,000.

So far as my individual judgment is concerned, I would have been in favor of limiting the number of bills and have provided for a much smaller number than has been reported by the committee. But in view of the fact that it has been three years since any bill has been passed by Congress authorizing the erection of public buildings, the committee, in its wisdom, believed that the public interests required more than I, as an individual, would have been willing to report to the House. The committee, by its own action and for the reason that I have already stated, have reported some fifty-odd bills, as against sixty-five reported in the last Congress.

Now, that is the fact as to the amount involved and as to the number of bills reported. Even if the bills passed by the Senate and now on the Speaker's table, which are not duplicates of those reported by the

House, should all be passed, it would increase the amount to about eight millions and three-quarters. Then we come to the second proposition contained in the paragraph, that this is a log-rolling scheme and an extraordinary special order.

In the first place, Mr. Speaker, the assertion, from whatever source it may emanate, that there is any combination, that there is any log-rolling, that there is any tying together of these bills in any conceivable way so far as it applies to me personally and individually, so far as it applies to the committee of which I have the honor of being chairman—and in my judgment so far as it applies to any individual member of that committee—is wholly gratuitous, entirely uncalled for, and utterly false. There has been nothing in the action of the committee from beginning to end which would justify any gentleman upon this floor or anywhere else in making any such assertion. If this committee had desired or intended to combine these bills, as charged by the chairman of the Committee on Appropriations, they would have brought them all in in one omnibus bill, as the river and harbor appropriation bill comes from the Committee on Rivers and Harbors. That would have been the method if that had been the purpose they wished to accomplish. But, on the contrary, the committee studiously avoided any pretext for any charge of that kind by providing that each bill should stand upon its own merits; that each bill should stand alone, separately and apart from all the others.

Now, as to the remarkable statement that under the order these bills are to be all considered and all passed. What is the difference between this special order and other special orders, or indeed what is the difference between this special order and going into the Committeee of the Whole House on the state of the Union and taking up these bills in the ordinary way for consideration? Without the operation of the special order all bills upon the Calendar of the Committee of the Whole House, upon which these bills are, numbering hundreds and interspersed between them, would have to be taken up and laid aside, so these bills could be reached. And in case of objection the committee would have to rise in each instance and go back into the House, and thus consume much time. This is avoided by the provision in the special order, that the Committee on Public Buildings and Grounds shall have power to designate the bills which shall be taken up and considered. This has been done when the committee has had a hearing, and the order in which these bills are found upon the Calendar has been strictly followed

Second, the debate is limited to thirty minutes—fifteen minutes on each side. Does any gentleman pretend to say that that is not enough? We spent two days in the consideration of these bills and succeeded in getting through with seven of them. There were not fifteen minutes spent in the discussion of either bill upon its merits, and simply because nobody desired to occupy time in the discussion of the merits of any one proposition. I therefore infer naturally that that length of time is amply sufficient, and besides, Mr. Speaker, it should be remembered that we consider and sometimes pass, under a suspension of the rules, where only the same length of time is allowed for debate, great revenue bills—bills involving the enactment of a bankrupt law, important public measures of all kinds, and yet in all such cases only fifteen minutes on each side is allowed. Under such circumstances no amendments are admitted, while here unlimited amendments may be permitted.

But my friend says further that if this is to be done at all—that is to say, if we take up the special order—we must proceed with the consideration until all of these bills are passed. I ask, is that borne out by the facts? Is it true as a matter of fact? As I have said, we considered seven of these bills after spending two days upon them. We considered seven in Committee of the Whole House and then stopped. Now, what is there extraordinary about that? You set apart one day in each week for the Committee on Private Claims. You set apart two days in each month for business from the Committee on the District of Columbia. You set apart one night in each week for the Committee on Pensions. We do not ask anything of that kind, and the House would not have given it to us if we had asked it. What, then, is the order under which we are operating? Simply a continuing special order for a specific purpose, just such orders as are usually made; nothing more, nothing less. The House, or a majority of the House, can take up the bills, consider, and pass such of them as are meritorious and refuse to pass such as are not meritorious, as the majority may decide, and this statement will be borne out by every member who knows the facts of which I speak. The House has made such orders time and again, and it may rescind this order or may carry it out, just as it pleases. There is nothing in the order differing from continuing special orders; nothing whatever.

Now, as to the general policy of the erection of public buildings. If the House would permit a discussion of that subject I might have something to say. I may say, however, that when there is a large surplus of $200,000,000 or more in the Treasury, and when this Congress has demonstrated clearly that it will not reduce taxation, I believe that wherever the interests of the public service require public buildings to be erected it is not only sound policy but wise statesmanship to spend a reasonable portion of the money in the Treasury for their erection. Especially is this true when there are perhaps half a million of idle men walking up and down the length and breadth of this great land, and when 90 per cent. of the appropriations for these buildings go into the pockets of the laboring men. I make this remark simply as to the question of public policy.

I have already shown that there is less than seven millions covered by all of the bills which have been reported or that the House is asked to consider; and I desire to repeat that if you take up the special order the House may consider them until the majority refuse to entertain it further. The House may pass such bills as it desires and then quit. There is nothing in the order of the House to continue the consideration when it does not desire to do so.

Mr. EZRA B. TAYLOR and Mr. TUCKER demanded the regular order.

Mr. RANDALL. I think the regular order will not be called under the circumstances.

Mr. STOCKSLAGER. I hope the demand will be withdrawn. My friend from Pennsylvania was kind enough to insist that I should have a hearing.

The SPEAKER. The regular order has been demanded by two gentlemen. Is the demand insisted upon?

Mr. EZRA B. TAYLOR. I have no interest in the matter which has been under discussion; but I have an interest in the public business for to-day. In the interest of such business I demand the regular order.

The SPEAKER. The gentleman from Ohio insists upon the demand for the regular order.

Mr. RANDALL. Then I will proceed in some other way, that is certain.

Mr. STOCKSLAGER. It will be a very remarkable spectacle if the chairman of the Committee on Appropriations can not proceed.

The SPEAKER. But the Chair understands that the gentleman from Ohio insists upon the demand for the regular order.

Mr. STOCKSLAGER. I hope the House will not treat the gentleman from Pennsylvania ungraciously, although I think I was treated in that manner a few days ago.

The SPEAKER. The regular order is demanded.

Mr. RANDALL. I rise to a question of privilege.

The SPEAKER. The gentleman will state it.

Mr. RANDALL. I want to say, in the first instance, that I never had knowledge of the article, or any of the facts connected with the article in the New York Sun, until it was shown to me yesterday afternoon.

The material point in controversy between the gentleman from Indiana and myself is, and I propose to take the bull right by the horns, whether there is a combination. I do not charge, and never did, that gentlemen were guilty of forming an improper combination, but I do say that the very effect of the resolution is combination—naturally and necessarily so.

The gentleman from Indiana says that there are fifty-one of these bills. I only stated that there were thirty-one. There were four more which came in at a later period; and I am advised by what I deem to be good authority that there are ninety-six bills in all, though some of course are duplicates. I have never said or heard about the amount involved.

But a step further as to the combination. After I presented my objections, as I was entitled to do, to the consideration of this horde of bills, since I have made those objections I have been appealed to on all sides to withdraw my opposition.

Mr. STOCKSLAGER. Did I appeal to the gentleman?

Mr. RANDALL. Oh, no; the gentleman never spoke to me about it nor I to him. When I stated that the House I believed were unanimous in the opinion that some of these bills should be passed and that if the committee would go into conference and say what bills should be selected from this great number, then we could proceed understandingly, say as to ten or twelve or fifteen of these bills, what was the answer made to me? The answer was that the moment you go to pick out ten or twelve or fifteen of these bills the gentlemen representing the bills not selected would turn against the proposition. That is the natural effect and the necessary result coming from it.

Now, I am willing so far as the public at least are concerned to let them judge between the statements of the gentleman from Indiana and my statements in connection with this matter whether there has been necessarily a combination or not. That this is an extraordinary order hardly any fair-minded man in this House will deny. It gives in the first instance a discretion to the chairman to discriminate among these fifty-odd or sixty or seventy bills which bills shall be considered.

Mr. HEWITT, of Alabama. That discretion is given to the committee.

Mr. RANDALL. I beg pardon; it is given the committee. Next, the very words of the resolution say that this thing shall continue from day to day until the whole of these bills have been considered and disposed of.

Mr. STOCKSLAGER. Will my friend allow me——

Mr. RANDALL. Not now. The gentleman will keep his seat. And, further, it says a half-hour shall be occupied in the consideration and discussion of each; and then, if we are to have the yeas and nays called, it will take another half-hour. And what time would it take of this session to complete and execute this order? It would take from

three to four weeks. I want to know if that is not an extraordinary proposition. And in this particular I am willing, so far as the public are concerned, that the gentleman's statements and mine shall go together as to whether it is extraordinary or not. That is all I have got to say.

Mr. TUCKER. I demand the regular order.

Mr. STOCKSLAGER. Just one word in answer to the gentleman from Pennsylvania.

The SPEAKER. The regular order is demanded.

Mr. STOCKSLAGER. The gentleman has referred to some matters that were not public at all.

Mr. RANDALL. I will give the gentleman my authority. He is a member of his own committee.

Mr. STOCKSLAGER. I give that as a reason why I want to say a single word.

Mr. TUCKER. I insist on the regular order.

REPORT OF GOVERNMENT DIRECTORS, UNION PACIFIC RAILROAD.

The SPEAKER. The Chair lays before the House a message from the President of the United States.

The Clerk read as follows:

To the Senate and House of Representatives:

I transmit herewith, for the consideration of Congress, the annual report of the Government directors of the Union Pacific Railway Company for the year 1884.

CHESTER A. ARTHUR.

EXECUTIVE MANSION, *January* 12, 1885.

The message was referred to the Committee on Pacific Railroads, and ordered to be printed.

DEATH OF CADET FREDERICK S. STRANG.

The SPEAKER also laid before the House a letter from the Secretary of the Navy in response to resolution of the House calling for information as to the cause of the death of Cadet Frederick S. Strang, of the Naval Academy.

Mr. HISCOCK. I ask that that communication be printed in the RECORD. I think we all want to read it.

Mr. MORSE. I object.

The SPEAKER. The gentleman from New York [Mr. HISCOCK] asks unanimous consent to have this communication from the Secretary of the Navy printed in the RECORD.

Mr. MORSE. I object.

Mr. HISCOCK. We all want to see it.

Mr. MORSE. I do not want you to see it.

Mr. ANDERSON. Is it in order to call for the reading of the communication?

The SPEAKER. It is.

Mr. ANDERSON. Then I call for the reading. I do not know what it is.

Mr. HISCOCK. Do I understand the gentleman from Massachusetts to say that he does not want us to see this communication?

The SPEAKER. The gentleman from Massachusetts objects to the communication being printed in the RECORD. The gentleman from Kansas [Mr. ANDERSON] calls for its reading. That is in order.

Mr. MORSE. I withdraw my objection.

Mr. COX, of New York. I have no objection to having the communication printed, provided I can make a statement of two minutes to go with it. The report is based on misstatements, as I can prove by documents. I do not think it decent to the House even to have it read here.

Mr. HISCOCK. I am willing either that it shall be read or that it shall be printed in the RECORD.

Mr. COX, of New York. I object to its being read unless I am permitted to make a statement to go with it.

Mr. ANDERSON. I believe we have a right to have it read.

The SPEAKER. The Chair has so stated. The gentleman is entitled to have the communication read.

Mr. COX, of New York. It does not go into the RECORD because it is read.

The SPEAKER. That is another matter.

Mr. HISCOCK. I will consent that the communication be printed and that my colleague [Mr. COX, of New York] have two minutes—I believe that is the time he wants—and that two minutes be allowed to some gentleman on this side if it be wanted.

A MEMBER. What is the proposition?

The SPEAKER. The Chair has laid before the House a communication from the Secretary of the Navy, which must be referred of course, under the rules of the House, to the appropriate committee. The gentleman from New York [Mr. HISCOCK] has demanded the reading of the communication, but withdraws the demand and asks to have the communication printed in the RECORD; and the gentleman from New York [Mr. COX] states that he will not object to the printing in the RECORD provided he can occupy two minutes in debate.

Mr. RANDALL. What is the subject of the communication?

The SPEAKER. It is a communication from the Navy Department in relation to the death of Naval Cadet Strang at the Naval Academy.

Mr. THOMAS. I give notice that if this communication is to be printed I shall ask to occupy five minutes.

Mr. WASHBURN. Mr. Speaker, I would like to know whether this is all by unanimous consent?

The SPEAKER. That is what is asked.

Mr. WASHBURN. Then I object.

Mr. HISCOCK. Is there objection to allowing the communication to be printed in the RECORD with the understanding that my colleague [Mr. COX] shall be allowed five minutes and some one on this side five minutes? This would only take ten minutes, and the reading would occupy that time.

The SPEAKER. Objection is made to that arrangement, as the Chair understands, by the gentleman from Wisconsin [Mr. WASHBURN].

Mr. HAMMOND. I rise to a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. HAMMOND. The regular order was called for, and this communication was put in by the Speaker without the request for unanimous consent having been submitted. Can it not be withdrawn for the present?

The SPEAKER. It can be.

Mr. HAMMOND. I am very anxious that the Judiciary Committee shall get to their business, to-day having been assigned to them.

Mr. THOMAS. I wish to know, as a parliamentary question, whether on the motion to refer this communication to the Committee on Naval Affairs I am not entitled to occupy five minutes?

The SPEAKER. If there were debate on the question, the gentleman, if he obtained the floor, would be entitled to one hour under the rules.

Mr. THOMAS. I ask to be heard on the question.

Mr. HISCOCK. I suggest this arrangement: That the communication be printed in the RECORD and that any gentleman may print in connection with it such remarks as he wishes.

Mr. THOMAS. I object to that. I do not print remarks unless I make them on the floor. I am conscientiously opposed to that. I would rather make my statement now. If the communication is to be printed, I want to make my statement to go with it.

Mr. HISCOCK. I did not understand the gentleman from Illinois.

Mr. THOMAS. I say I do not desire to print any statements not made on the floor. I am ready to make my statement now if this communication is to be printed in the RECORD.

The SPEAKER. How much time does the gentleman desire?

Mr. THOMAS. Five minutes.

Mr. HISCOCK. To allow five minutes on each side for debate seems to me the easiest way to dispose of the question.

The SPEAKER. The gentleman from New York [Mr. COX] and the gentleman from Illinois [Mr. THOMAS] request permission to address the House for five minutes each on the motion to refer this communication.

Mr. TUCKER. And dispense with the reading?

The SPEAKER. And dispense with the reading; the communication to be printed in the RECORD instead of being read. Is there objection? The Chair hears none.

The communication of the Secretary of the Navy is as follows:

NAVY DEPARTMENT, *Washington, January* 12, 1885.

SIR: I have the honor to acknowledge the receipt of the resolution of the House adopted January 7, as follows:

"Whereas it has been reported that Frederick S. Strang, late a cadet at the Naval Academy at Annapolis, has died in consequence of cruelties practiced upon him by senior cadets:

"*Resolved*, That the Secretary of the Navy be, and he is hereby, requested to communicate to this House any information he may have obtained in relation to the cause of death of the said Cadet Frederick S. Strang."

From information received by the Department from Capt. F. M. Ramsay, the Superintendent of the Naval Academy, it appears that Naval Cadet Frederick Schwatka Strang, of Salem, Oreg., reported at the Naval Academy for admission September 15, 1884, was examined physically September 20, and was admitted and entered September 25.

On September 27 he was placed in hospital and October 3 died there from peritonitis following an operation for the reduction of strangulated hernia. There had been doubt about the expediency of his admission on account of a predisposition to hernia, but the doubt had been resolved by the medical examiners in favor of his admission. His exercises at the first infantry drills, followed by exertion in getting out of his hammock, brought on the fatal hernia, which was judiciously and skillfully treated, although unsuccessfully.

There is no reason to believe that Cadet Strang died in consequence of cruelties practiced upon him by senior cadets, for the conclusive reason that there were no senior cadets at the academy at the time; and he had seen no cadets except his own classmates. There is no reason to believe that he experienced any ill-treatment from any of his own class or from any other person or persons, or that any such ill-treatment produced the hernia from which he died. On the contrary, the full surrounding circumstances dispel and negative any such idea and prove that the cause of the hernia was that above stated. The details, however, are not suitable for publication and should not be further explored. The unfortunate and blameless dead cadet should be allowed to rest in peace.

On October 1 the Superintendent telegraphed Mr. Thomas Strang, father of the cadet, at Salem, Oreg., that his son was very ill of strangulated hernia, and that the only hope was in an operation to be performed that morning. On the same day Mr. A. E. Strang replied from Salem, asking that his brother's exact condition should be telegraphed to him every day; and his request was complied with. Lieut. Frederick Schwatka, at 12 East Twenty-eighth street, New York city, in reply to an inquiry from him, was also informed of the cadet's condition, and went to Annapolis, arriving shortly after his death, and gave directions concerning the disposition of his remains.

Mr. A. E. Strang also sent two letters to the Superintendent, dated October 26 and November 5, the latter written after the newspaper rumors that the cadet had been injured by an encounter with senior cadets and had been rolled in a barrel; and Mr. Strang asked the "particulars concerning his illness and death, and especially the actual cause of the same."

In reply, the Superintendent, under date of November 22, gave a full account

of all the circumstances of the cadet's death, showing clearly that there were no grounds for the newspaper suppositions concerning the cause; and he offered to furnish any other information which might be desired. No further inquiry, however, was made.

The resolution of inquiry to which reply is now being made was introduced into the House December 15, 1884, and referred to the Committee on Naval Affairs.

No inquiry, either in writing or oral, was made of the Navy Department concerning the subject-matter of the resolution; but on January 7, 1885, it was reported back to the House and adopted and printed in the CONGRESSIONAL RECORD, accompanied by a report of the Committee on Naval Affairs, in which, in addition to the averments that Cadet Strang's death "is said to have been" the effect of "horse play," and that "his friends believe" that he was "fatally hurt" by being "put in a barrel and rolled around," are the following charges:

First. That "those interested have said that they could get no response from the authorities;"

Second. That some cases of hazing have been "simply diabolical at Annapolis, in spite of all denials to the contrary;"

Third. That there are at the academy "a great many young ruffians;"

Fourth. That there have been mock religious meetings among the cadets and that piety is ridiculed and discouraged;

Fifth. That some of the scenes at the academy are "simply horrible," that boys have "to battle with sin and vice in all its forms of hideousness;" and

Sixth. That hazing still goes on at the academy when "any man of ordinary skill and discipline might stop it."

Without intending any disrespect toward the House or any member, I deem it my imperative duty to state that in my belief there is no just foundation for such grave public condemnations of the management of the Naval Academy.

1. All inquiries concerning Cadet Strang's death have been promptly and fully answered. None have, in fact, been made, either of the Superintendent or the Department, except that of the brother, Mr. A. E. Strang, above mentioned, and that of a cousin of Mr. Strang, addressed to the surgeon of the academy, which was immediately answered.

2. There have been no "diabolical" cases of hazing. Every offense of hazing or annoying cadets that has come to the knowledge of the authorities during the past three years has been promptly punished, and thirteen cadets have been dismissed for this offense during the past two years. Complaints have been made to the Department that the authorities have dealt too severely with hazers; never that they have treated such offenders too leniently.

3. The cadets are, as a rule, orderly and well-behaved, and will compare favorably with any similar body of young men in the world. To stigmatize them as young ruffians is a gross wrong.

4. The cadets are required to attend divine service on Sundays. The chaplain is assiduous in the performance of his duties. A number of the cadets belong to a religious society which meets in the chapel every Sunday morning. The attendance is voluntary, and the chaplain states that it has been larger this year than usual.

5. To charge that sin and vice in all its forms of hideousness exists at the Naval Academy is an accusation which it seems impossible should have been made without some facts to apparently justify it. If such are within the possession of the House of Representatives I respectfully request that they may be immediately communicated to the Navy Department.

6. The Superintendent has been unremitting in his efforts to elevate the character and discipline of the academy, and has been so successful as to deserve the full approval of the Department and of Congress.

The last Board of Visitors was composed of the following: Rear-Admiral R. W. Shufeldt, General Robert C. Schenck, Senator GEORGE H. PENDLETON, Senator ANGUS CAMERON, Commissioner Dorman B. Eaton, Professor Edward S. Joynes, Representative NATHAN GOFF, jr., Representative SAMUEL S. COX, Stephen M. Allen, esq., E. S. Jouett, esq., and W. H. Upham, esq.

In their report of June 7, 1884, signed by all, they state as follows:

"The discipline of the academy seems all that could be desired and the many social privileges gained by the good conduct of the cadets is the best proof of the discipline maintained. The most remarkable illustration is the average of demerit for 1882 and 1883, as exhibited against the average to each cadet during the year just passed. The fall in demerit was as follows: The first class, from 50 demerit to 3; the second class, from 71 demerit to 38; the third class, from 94 demerit to 58; and the fourth class, from 90 demerit to 48, an improvement without a parallel in the history of the academy. The board highly commends the course of discipline adopted by the Superintendent in producing such results. The last four years the average number of demerit marks has been reduced 50 per cent. against the average number to each cadet for the preceding ten years. The board is satisfied that the cadets receive severe discipline in case of any infraction of the regulations, while accorded liberal privileges in case of good conduct."

Besides newspaper paragraphs from unknown authors, which certainly ought not to be adopted as sufficient reasons for formulating and placing upon the records of Congress charges of malfeasance against public officers, the only source known to the Department from whence could proceed so many railing accusations against the management of the Naval Academy is Mr. P. W. Moeller, principal of a young ladies' school in New York city, whose son was dismissed from the Naval Academy for hazing, and who has published a pamphlet on the subject and is persistent and malignant in his misrepresentations.

On the 27th of October, 1884, Mr. Moeller wrote to Captain Ramsay the following letter:

"NEW YORK, *October* 27, 1884.

"SIR: In the course of last week I forwarded to you some of our New York papers containing an article on the Naval Academy, showing you that we still remember the institution. Herewith I send you also a copy of a letter bearing on the finding of the court-martial by which my son was convicted of hazing, and whose verdict you approved of. Be assured that I shall avail myself of every opportunity to improve the school of which you are the head.

"Yours,

"P. W. MOELLER."

"Capt. F. M. RAMSAY."

On the 20th of December, 1884, Mr. Moeller wrote Captain Ramsay another letter, as follows:

"[Confidential.]

"NEW YORK, *December* 20, 1884.

"SIR: Yesterday I received a letter from Washington to the effect that you are opposed to an investigation in regard to Cadet Strang's death. I am sorry that I am obliged to apologize to you for the remark in my pamphlet where I say, 'The Superintendent may be a good soldier,' since you now seem to be afraid of a little questioning. Further I wish to say, so that you may not suspect anybody else, that through my exertions the case has been called up in Congress. Ever since you and your court-martial have chased my son away from the academy you have kept serenely quiet, and you may imagine how jubilant I now feel over your loquacity. My friend, Lieutenant Eaton, acted quite differently, for when he had read the pamphlet he excused himself before the class for having chased my son like a dog out of the mess-room, by saying that it had been his duty. There is a nice article on the academy in the New York Sun of the 17th instant, which I recommend to your attention. By the help of the newspapers and Congress I hope to achieve something good for your school.

"Yours,

"P. W. MOELLER.

"Capt. F. M. RAMSAY."

After Mr. Moeller's pamphlet had been published, in which he made the same accusations contained in the above letter against Lieut. J. G. Eaton, the following statement was made by that officer:

"As officer in charge last September, it was part of my duty to be present at mess formations of the cadets and preserve order in the mess-hall. After Mr. Moeller had received his dismissal and was no longer under my orders he came to dinner formation, not falling in ranks with the other cadets but loitering in the vicinity, and then entered the mess-hall and dined with the other cadets. At supper formation he was also present, not in ranks, and when he started to enter the mess-hall I called him aside and, as far as I can now remember, said to him, 'Mr. Moeller, you have now no connection with the Naval Academy; I have freely permitted you to dine with your class-mates, but I am sorry that under the regulations I can not allow you to come to supper.' I would further state that this conversation was entirely private, and that my words were kindly spoken, as I felt sorry for him."

The Superintendent also adds:

"When cadets resign or are dismissed they are always given a reasonable time in which to make preparations for their departure; as a rule they are asked how long they wish to remain."

Some method of investigation should be devised which will prevent malicious conspirators like Mr. Moeller and his associates from procuring by deception the utterance of their charges against public officials and institutions as parts of the reports of committees of Congress adopted without notice to the persons assailed or any hearing in their behalf.

Very respectfully,

W. E. CHANDLER,
Secretary of the Navy.

The Hon. JOHN G. CARLISLE,
Speaker of the House of Representatives.

Mr. COX, of New York. Mr. Speaker, I would not have objected to having this communication of the Secretary of the Navy spread upon the RECORD if it were not for a mistake into which he seems to have fallen after it had been thoroughly corrected. The other evening when the House was about adjourning——

Mr. HISCOCK. Do I understand that my colleague is to have five minutes, and that then five minutes are to be allowed to some gentleman on this side?

The SPEAKER. Five minutes to the gentleman from Illinois [Mr. THOMAS].

Mr. HISCOCK. Which he is to divide, I understand, with the gentleman from West Virginia [Mr. GOFF].

Mr. THOMAS. I will arrange that. I will yield a part of my time.

Mr. COX, of New York. Mr. Speaker, I do not think there is a member here who would not for humane as well as other motives stop this pernicious practice of hazing at Annapolis.

A MEMBER. Or hazing anywhere else.

Mr. COX, of New York. Or anywhere else. Our committee reported back this resolution. Thereupon I made my statement. I said that I had certain letters; some from the parents of those who had been more or less associated with this academy. These letters gave information. Upon this I predicated the resolution.

The other evening when I reported it back to the House as a question of privilege I asked that I might have "a statement" printed. It was not a report of the committee. I asked that the "committee's report," which was the resolution only, might be adopted; and afterward I also said that I had a statement which would go with it. If there was any error in the RECORD to mislead the honorable Secretary it was not of much consequence, as a reading of the RECORD shows what my "statement" really was. But I took pains to correct the error into which the Secretary had fallen.

By some little mistake of the printer, in a hurried moment the word "report" was inserted instead of "statement." The gentleman from Oregon [Mr. GEORGE] followed by saying:

I wish also to make a statement on this subject to go into the RECORD.

Thus our "statements" went into the RECORD. Thereupon the Secretary of the Navy, on the 8th of January, writes me this letter:

There is printed in the CONGRESSIONAL RECORD of January 8, 1885, in connection with the resolution of inquiry concerning the death of Naval Cadet Frederick S. Strang, a paper of which you are reported as saying, as follows:

"I ask by unanimous consent to print in the RECORD the report of the Committee on Naval Affairs on this subject, as it contains a statement of the facts."

This paper, which I can hardly believe is a deliberate report of the Committee on Naval Affairs, contains many extraordinary statements and charges concerning the Naval Academy.

It will thus be seen that the Secretary desired the letters upon which my statements were predicated. This was adroit. I declined the invitation; and on the 9th of January—three days before he makes the report now submitted—I wrote him a letter, in which I corrected his assumption that my statements had the dignity and importance of a report. This is the letter:

You have evidently misunderstood the matter. It was not a report of the committee, except in so far as the resolution as to Strang was a report. The matter in which you seem to be interested was simply a statement of mine, as will be seen by reading it, for which I am responsible individually. When you say that you can hardly believe it a deliberate report of the Committee on Naval Affairs, you make rather peculiar language. There are no statements which are extraordinary that are not placed under proper conditions. I have a great many statements, upon which my statement was made. You shall have them at the proper time. I would like very much to see your answer to the resolution, and I will see whether it is worth while to go on with the business. I will send some gentlemen who are interested in this hazing business to you, if they come along.

This letter was sent to the Secretary. If he never received it my remarks will lose much of their cogency. But is it not strange that three days after I thus told the Secretary that my statement was no report of the committee, he sends us this answer in which he perversely

insists all the way through that it is the report of the committee, and this after knowing to the contrary?

This report is intended in great part as an arraignment of the committee, if not of Congress, for their presumption in not first consulting the honorable Secretary, and, secondly, in not believing that the institution is absolutely immaculate.

The criticism I make on this report is that it pretends—

First. To criticise a member's remarks as a report of a committee when he knew the statement to be otherwise than such report. Hence it does not deserve much courtesy.

Second. That he assumes that certain references and quotations from a newspaper, the Hartford Courant (General HAWLEY's journal), in my remarks, were made by the committee.

The third and fourth specifications, which the honorable Secretary himself makes in his own way, were not in my remarks except as quotations. The expression "great many young ruffians" is from the newspaper. The statement as to the mock religious meetings, &c., where piety was ridiculed, was from the same source, as changed by the Secretary somewhat.

I desire, also, liberty to state, in response to the elaborate remarks of the honorable Secretary, as to a Mr. Moeller, that, so far as I know, he did not instigate the resolution. I do not know him. The papers upon which the resolution of inquiry was founded were sent to me by an excellent citizen of German descent—an ex-member of Congress. Whatever claim this gentleman, Mr. Moeller, may present as the author of this investigation in the future may redound to his credit. Any remarks on his motives are neither responsive to the resolution of inquiry nor proper to be considered in connection with the discipline and value of the academy.

It is my impression, sir, that all inquiries of the Department or academy as to the death of young Strang were not fully answered, if answered at all. But if they were, it does not follow that Congress should not make inquiry in a matter concerning one of our own institutions.

In other respects the honorable Secretary undertakes to do something more than respond to the resolution; but, as in all such cases, there is sure to be discrepancies, if not confession. In one of his statements he says that there is "no just foundation for such grave public condemnation" of the academy such as he had rehearsed, including hazing; and he further says, on the same page, that there have been no "diabolical cases of hazing;" and then confesses "that every offense of hazing or annoying cadets that has come to the knowledge of the authorities during the past three years has been promptly punished, and thirteen cadets have been dismissed for this offense during the past two years."

Gentlemen will thus see that I made all my statements conditional as to the truth of the allegations. I refrained from assuming that the statements were true. They were statements on which to found an investigation as to their truth. Of course, Mr. Speaker, I can not throw any reproach on the academy, unless to improve the institution by closer scrutiny.

We have heard and I believe that cadets have been compelled to eat soap, to drink ink, suffer indignities of many kinds, and even compelled to mock at their religion. No one has been able to stop it altogether. It should be stopped absolutely. I think any man of skill, firmness, and discipline might stop it.

The other day we noticed in the public prints that a cadet was dismissed for getting drunk in this city and attempting to shoot another cadet. I think that occurrence or the dismissal was after my resolution of inquiry came to the House. Perhaps we have done some good. Let us prosecute the inquiry until we succeed in getting at the facts and getting rid of the evils of hazing. Thus we may make the Naval Academy an institution fit in its highest sense for the education of our ambitious young men.

[Here the hammer fell.]

Mr. GOFF rose.

Mr. THOMAS. I will yield to the gentleman from West Virginia for two minutes and a half.

Mr. GOFF. Mr. Chairman, the committee, or at least this member of the Committee on Naval Affairs, desires it understood that the report or statement, call it what you please, made by the chairman of the committee, so far as it is considered by any one to be a statement of the facts in the Strang case, was not so reported by the Committee on Naval Affairs. It seems to me, in justice to the Secretary of the Navy, that the statement now made by the chairman of that committee, if it had been made in open House at or after the time he wrote the Secretary, as stated by him, and made part of the RECORD, why then it would have obviated that portion of the reply of the Secretary of the Navy to which the gentleman from New York takes exception. I call the attention of the House to this language, as reported on page 605 of the RECORD:

> Mr. COX, of New York. Mr. Speaker, I ask by unanimous consent to print in the RECORD the report of the Committee on Naval Affairs on this subject, as it contains a statement of the facts.

Then follows the statement which the Secretary of the Navy explains and alludes to in the reply now laid before us, and which the chairman of the Committee on Naval Affairs now states was not intended as a report but as his individual statement. I say it necessarily followed, when it was so printed in the RECORD, that which the distinguished chairman of the committee now states he intended as his personal language, it did and has gone before the country as the statement of the Committee on Naval Affairs and as a statement of facts when it was not so intended by the committee nor its chairman.

Mr. COX, of New York. I wrote to the Secretary three days before that it was my personal language.

Mr. GOFF. That was a private letter to the Secretary and did not go before the country.

Mr. COX, of New York. But the Secretary knew it.

Mr. GOFF. But the RECORD was not corrected, and has gone to the country that these diabolical acts have been committed at the Naval Academy, when in fact the committee has made no such report as my friend has stated.

Mr. COX, of New York. The RECORD shows that it was only my personal statement.

Mr. GOFF. I have only two and a half minutes.

Mr. COX, of New York. I will not interrupt you further.

The SPEAKER. The gentleman's two and a half minutes have expired.

Mr. THOMAS. Mr. Speaker, I regret that so little time is allowed, and I specially regret that I am not able to yield further to the gentleman from West Virginia, my colleague on the Committee on Naval Affairs. I only demanded a hearing in order that the facts in this case might come out in connection with the Secretary's letter or report, which is based upon a false hypothesis.

The resolution reported by the Committee on Naval Affairs and adopted by the House of Representatives was considered by the committee. It was adopted by the House in conformity with the recommendations of the Committee on Naval Affairs. The statement which follows, and which purports in the RECORD to be a report from the Committee on Naval Affairs, is, as the chairman has stated, an error.

As to whether these charges are true or false I can not say, as they have never been investigated by the committee at all. There were certain facts brought to the attention of the committee by the chairman which justified us, we thought at the time, in reporting a resolution of inquiry, and it was accordingly done.

In order that I may be placed right as a member of the committee, and straight before the House and the world, I make this statement: This was not the report of the committee, and our chairman, recognizing that it was a misprint, very frankly stated to the Secretary in his letter of the 8th instant, as well as to the committee, that it was an error; that it was a statement of his own, for which he was himself responsible.

The question has never been considered by the Committee on Naval Affairs as to whether the statements in this statement are true or false. As I have said before, there was nothing before us to justify us in making any such report. I hope, with the chairman, upon the representations we have before us, that this House will not hesitate to probe this matter to its very depths, and that the sunlight of truth may shine in upon it; for I am as convinced as I am that I live that hazing goes on in that institution in every imaginable degree—from the mildest type to what may be denominated simply as diabolical. [Applause.]

ORDER OF BUSINESS.

Mr. TUCKER. I now call up the regular order.

Mr. WASHBURN. I will inquire if this resolution is to be printed in the RECORD?

The SPEAKER. It will be printed as a document, and referred to the Committee on Naval Affairs.

Does the gentleman from Virginia call for the regular order or the special order?

Mr. TUCKER. I call for the special order assigning this day to the Committee on the Judiciary.

The SPEAKER. The order of the House will be read.

The Clerk read as follows:

IN THE HOUSE, *January* 7, 1875.

Resolved, That Tuesday, January 13, be assigned to the Committee on the Judiciary for the consideration of such business as may be presented by said committee; this order not to interfere with the consideration of general appropriation and revenue bills, and the special order adopted January 21 last, relating to reports from the Committee on Public Lands; and in case this order shall be interfered with on that day, it shall be continued in force until one day thereafter has been occupied by the Committee on the Judiciary.

A. B. MONTGOMERY.

Mr. TUCKER. I yield to the gentleman from Georgia [Mr. HAMMOND].

Mr. HAMMOND. Mr. Speaker, the first bill which the Committee on the Judiciary presents is the bill (H. R. 7584) for the relief of A. B. Montgomery.

The SPEAKER. That bill is in the Committee of the Whole House on the Private Calendar.

Mr. HAMMOND. I ask unanimous consent to discharge the Committee of the Whole House on the Private Calendar from the further consideration of this bill, and that it be considered in the House at this time.

Mr. HOLMAN. Let the bill be reported.

The SPEAKER. The Clerk will report the title of the bill.

The Clerk read as follows:

A bill (H. R. 7584) for the relief of A. B. Montgomery.

Mr. HATCH, of Missouri. I rise to a point of order.

The SPEAKER. The gentleman will state it.

Mr. HATCH, of Missouri. I make the point of order that the first business in order under this special order of the House is the unfinished business of the Committee on the Judiciary coming over from a former day, which is also the first bill on the House Calendar. That bill has been under consideration in the House. It is the bill relating to the redistricting of the State of Missouri, or the dividing of the districts of the State into several divisions.

The SPEAKER. The bill to which the gentleman from Missouri refers was left as unfinished business at the close of the business to which it belonged—that is, the business on the House Calendar. But on the 7th day of this month the House, on motion of the gentleman from Virginia, made the special order which has just been read, an order which provides that this day, January 13, shall be assigned to the Committee on the Judiciary for the consideration of such business as may be presented by said committee, thereby changing the regular order of business in the House by placing it in the power of the committee to indicate such bills as it chooses to call up.

Mr. HATCH, of Missouri. I desire to call the attention of the Chair to the fact, however, that when the bill in question was under consideration before the House it was under a special order similar to the one now in operation, and was called up by the Committee on the Judiciary. The bill was being considered by the House when we adjourned on that day, and was left as unfinished business.

The SPEAKER. That was an order fixing a certain specified day for the consideration of such business as the Committee on the Judiciary might choose to present, but did not extend beyond that day.

Mr. HATCH, of Missouri. Yes; similar to the order under which the committee now calls up the bill before us.

The SPEAKER. The committee presented that bill at the time referred to by the gentleman from Missouri under the order then being executed. But it will be observed that that order simply fixed a particular day for the consideration of bills reported from that committee, and did not continue from day to day, or to another day, it not being a continuing order. Of course, when that day expired all such business expired with it; and the House has now made a new order giving the control of this day to the Committee on the Judiciary for the presentation of such business as it may choose to present. That has been the ruling of the Chair heretofore on similar occasions, and the Chair sees no reason to modify it now.

Mr. HATCH, of Missouri. In connection with the present order, then, I desire to state that several of my colleagues and myself have been under the impression clearly that this bill, the unfinished business, and the first bill reported from the Committee on the Judiciary, as well as the first bill on the House Calendar, would be first called up by the committee to-day under this special order. We have so understood the special order. It was so understood by us when it passed the House by unanimous consent.

The SPEAKER. The gentleman from Georgia asks unanimous consent to discharge the Committee of the Whole House on the Private Calendar from the further consideration of the bill which the Clerk will now read.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That all political disabilities imposed upon A. B. Montgomery, a citizen of Georgia, by the fourteenth article of amendments to the Constitution of the United States, be, and the same are hereby, removed.

The SPEAKER. Is there objection to the request of the gentleman from Georgia?

There being no objection, the bill was taken from the Private Calendar, ordered to be engrossed for a third reading, read the third time, and passed (two-thirds voting in favor thereof).

WILLIAM GARDNER.

Mr. HAMMOND. Mr. Speaker, I ask unanimous consent to discharge the Committee of the Whole House on the Private Calendar from the further consideration of the bill (H. R. 7585) for the relief of William Gardner, and put the same upon its passage.

The bill was read, and is as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That all political disabilities imposed upon William M. Gardner, a citizen of the State of Georgia, by the fourteenth article of amendments to the Constitution of the United States, be, and the same are hereby, removed.

Amend the title so as to read: "A bill for the relief of William M. Gardner."

The SPEAKER. Is there objection to the request of the gentleman from Georgia to discharge the Committee of the Whole House on the Private Calendar from the further consideration of the bill which has just been read?

There was no objection.

Mr. HAMMOND. Before this bill is ordered to be engrossed and read the third time, I wish to state that the committee are not certain as to the name being "William." The initials are "W. M.," and therefore I move to amend the bill by striking out the word "William" and inserting "W.;" so that it will read "W. M. Gardner."

The amendment was agreed to.

The bill as amended was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed (two-thirds voting in favor thereof).

The title was amended to conform to the text of the bill.

REMOVAL OF ACTIONS IN STATE COURTS.

Mr. HAMMOND. I am instructed by the Committee on the Judiciary to call up the bill (H. R. 4409) to amend section 643 of the Revised Statutes of the United States.

The bill was read, as follows:

Be it enacted, &c., That section 643 of the Revised Statutes of the United States be amended by inserting therein after the word "void," in the fourth sentence thereof, the following:

"*Provided, however*, That when any criminal prosecution shall be removed from a State court to a United States court before a presentment by a grand jury or indictment shall have been made and filed against the defendants in the State court, it shall be lawful for the State court to proceed in such case so far as to have such presentment or indictment made and filed in said State court; and after the same is so made and filed the clerk of the United States court shall issue a writ of certiorari to the State court for like purposes and with like effect as if the case had been so removed after such presentment or indictment was made and filed in such State court."

Mr. HAMMOND. I call for the reading of the report.

The Clerk commenced to read the report.

Mr. HAMMOND. It has been suggested that perhaps the reading of the report is unnecessary, and I do not wish to consume time. I ask that it be printed in the RECORD as the reason for the unanimous recommendation of the Judiciary Committee.

Mr. HENDERSON, of Iowa. Is the report unanimous?

Mr. HAMMOND. It is the unanimous report of the whole committee.

The SPEAKER. The gentleman from Georgia asks unanimous consent that the report be printed in the RECORD.

There was no objection.

The report is as follows:

The Committee on the Judiciary, having had the subject under consideration, submit the following report:

Section 643 of the Revised Statutes of the United States has for its basis the act of March 2, 1833, "An act further to provide for the collection of duties on imports" (U. S. Stat., vol. 4, p. 632). It provided for the removal of actions in State courts against revenue officers on petition, &c., of defendant to circuit court. It declared that when the required proceedings had been had by filing affidavit, &c., "thereupon it shall be the duty of the said State court to stay all further proceedings in such cause, and the said suit or prosecution, upon delivery of such process (from the United States court) or leaving the same as aforesaid, shall be deemed and taken to be removed to the said circuit court, and any further proceedings, trial, or judgment therein in the State court shall be wholly null and void."

By acts of July 13, 1866 (U. S. Stat., vol. 14, p. 171), February 28, 1871 (U. S. Stat., vol. 16, p. 438), and March 3, 1875 (U. S. Stat., vol. 18, p. 401), the act was so amended that the law now covers "removal of suits and prosecutions against revenue officers and officers acting under registration laws."

The language of the act of 1833 above quoted is still the language of section 643. The bill under consideration proposes after said sentence to add these words:

"*Provided, however*, That when any criminal prosecution shall be removed from a State court to a United States court before a presentment by a grand jury or indictment shall have been made and filed against the defendants in the State court, it shall be lawful for the State courts to proceed in such case so far as to have such presentment or indictment made and filed in said State; and after the same is so made and filed the clerk of the United States court shall issue a writ of certiorari to the State court for like purposes and with like effect as if the case had been so removed after such presentment or indictment was made and filed in such State court."

The judges of the United States courts have differed as to the construction of the clause of the act of 1833, and section 643, above quoted. Some have held that no removal could be had under the same until there was a case made by presentment or indictment and its filing in the office of clerk of a court of record, upon whom service could be made, and who could certify and send up such record.

On the other hand, it has been held that a removal may be had when naught had been done by the State authorities except the issuance of a warrant for arrest by some committing magistrate. In many States these magistrates have no clerk, and keep no record.

If that trouble be out of the way when a removal occurs at that stage of affairs, the State courts are enjoined from further proceedings, and the case is between the two jurisdictions suspended.

Who shall draw the indictment in the United States court? The United States attorney then is, by the statute, made the defendants' counsel. Can the grand jury of the United States court find a presentment or true bill for a State offense? That would seem to require express grant of authority, at least.

If the United States grand jury can so act it is more expensive to take witnesses to them than to the courts of the State and county in which the crime is alleged to have been committed, and let them determine whether the defendants should be put upon trial. Without deciding which of the two constructions of the act is correct, it seeming sufficient that the offered protection of the United States should attach only after formal and more serious charge of a crime, we recommend the passage of the bill.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. HAMMOND moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

J. PEMBROKE JONES.

Mr. TUCKER, from the Committee on the Judiciary, reported a bill (H. R. 7963) to remove the political disabilities of J. Pembroke Jones, of Virginia; which was read a first and second time.

The bill was read, as follows:

Be it enacted, &c. (two-thirds of each House concurring), That the political disabilities of J. Pembroke Jones, of Virginia, incurred under the fourteenth amendment of the Constitution of the United States, be, and the same are hereby, removed.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed (two-thirds voting in favor thereof).

CALIFORNIA JUDICIAL DISTRICTS.

Mr. TUCKER. I call up from the House Calendar the bill (H. R. 1808) to detach certain counties from the United States judicial district of California, and create the United States judicial district of Southern California; and yield to the gentleman from Missouri [Mr. BROADHEAD] who reported the bill.

The bill was read, as follows:

Be it enacted, &c., That all that portion of the State of California now comprised in the counties of San Diego, Los Angeles, San Bernardino, Ventura, San Luis Obispo, Santa Barbara, and Kern is hereby detached from the United States judicial district of California and made a separate judicial district, called the United States judicial district of Southern California.

SEC. 2. That the regular terms of the circuit and district courts of the United States shall be held at Los Angeles, in said district of Southern California, beginning on the first Monday in April, the second Monday in August, and the first Monday in December in each year.

SEC. 3. That the district of California shall hereafter consist of all of the counties of said State not named in this act, and shall hereafter be called the district of Northern California; and the circuit and district courts shall be held therein as follows: Beginning on the first Monday in April, the second Monday in August, and the first Monday of December in each year, at San Francisco.

SEC. 4. That the circuit or district court for either of said districts may, in its discretion, order special terms, and order a grand or petit jury, or both, to attend the same, by an order to be entered of record twenty days before the day at which said special term shall be ordered to convene; and said courts, respectively, at such special terms shall have all the powers that they have at a regular term appointed by law: *Provided, however*, That no special term of said circuit court for either district shall be appointed except by and with the concurrence and consent of the circuit judge.

SEC. 5. That all suits and other proceedings of every kind and nature now pending in the circuit or district court of the United States for the district of California shall be tried and disposed of in the circuit and district courts, respectively, for said district of Northern California as the same would have been if this act had not been passed, and for that purpose jurisdiction is reserved to said courts in the said district of Northern California; and the clerks of the circuit and district courts of the present district of California shall retain the records and files of said courts at the city of San Francisco, and do and perform all the duties appertaining to the said offices, respectively, within said northern district, except as hereinafter provided; and all process returnable to or proceedings noticed for any term of the present circuit or district court of California shall be deemed returnable to the next term of said courts, respectively, in the said northern district as fixed by this act.

SEC. 6. That upon application of any party to any suit or proceeding now pending in the present circuit or district court of the present district of California which would have been commenced in the proper court for the district of Southern California if this act had been in force at the time of the commencement thereof, the proper court shall order that the same be removed for further proceedings to the proper court for said southern district; and thereupon the clerk shall transmit certified copies of all the papers and of all orders made therein to the clerk of the court to which such suit or proceeding shall be removed, and all other proceedings shall be had in said court to which the same shall be removed, as if said suit or proceeding had originally been commenced therein.

SEC. 7. That the passage of this act shall not have the effect to destroy or impair the lien of any judgment or decree rendered in the circuit or district court of the United States for the present district of California prior to this act taking effect; and final process on any judgment or decree entered in the circuit or district court of the United States for the district of California, or which shall be entered therein prior to this act taking effect, and all other process for the enforcement of any order of said courts, respectively, in any cause or proceeding now pending therein, except causes or proceedings removed as herein provided, shall be issued and made returnable to the proper court for the said district of Northern California, and may be directed to and executed by the marshal of the United States for the said northern district in any part of the State of California.

SEC. 8. That there shall be appointed a district judge for said district of Southern California, who shall reside therein, and who shall receive an annual salary of $5,000, payable quarterly from the Treasury; and there shall also be appointed a marshal and a district attorney of the United States for said district of Southern California, who shall respectively receive such fees and compensation and exercise such powers and duties as are now fixed and enjoined by law.

SEC. 9. That the circuit and district judges of said district of Southern California shall appoint two clerks, each of whom shall be clerks of both the circuit and district courts for said southern district, who shall reside and keep their office at Los Angeles, in said district, and who shall receive such fees and compensation for services performed by them, respectively, as are now fixed by law.

SEC. 10. That either of the clerks of the circuit and district courts for said district of Southern California is hereby authorized, under the direction of the district judge of said southern district, to make transcripts of any of the records, files, or papers of the district and circuit courts of the United States remaining in the office of the clerks of the present district of California, and of all matters and proceedings which relate to or concern liens upon or titles to real estate situated in said southern district, and for that purpose shall have access to said records in the office of said clerks in the district of California; and such transcripts, when so made by either of said clerks, shall be certified to be true and correct by the clerk making the same, and the same, when so made and certified, shall be evidence in all courts and places equally with said originals.

SEC. 11. That nothing in this act shall in any manner affect the tenure of office of the judge, marshal, district attorney, or other officers of the present district of California, who shall respectively be entitled to the same salaries, fees, and emoluments now received by them.

Mr. BROADHEAD. I offer the amendment which I send to the desk.

The Clerk read as follows:

Amend section 2 as follows: Strike out the words "circuit and" where they occur in the first line of said section and add the following at the end of said section:

"And the regular terms of the circuit court for said district of Southern California shall be held at Los Angeles, beginning on the first Monday of May, the second Monday of July, and the first Monday of November of each year."

The amendment was agreed to.

Mr. BROADHEAD. I offer also another amendment, which I send to the desk.

The Clerk read as follows:

Amend section 3 as follows: Strike out the words "circuit and" in the fourth line of said section.

The amendment was agreed to.

Mr. BROADHEAD. I propose also another amendment.

The Clerk read as follows:

Amend by adding the following section:

"This act shall take effect on the 1st day of June, A. D. 1885."

The amendment was agreed to.

The bill as amended was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. BROADHEAD moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

SECURITY IN WRITS OF ERROR.

Mr. TUCKER. I call up the bill (H. R. 3714) and yield to the gentleman from New York [Mr. DORSHEIMER].

Mr. DORSHEIMER. I ask for the present consideration of the bill (H. R. 3714) to amend section 1000 of the Revised Statutes of the United States.

The bill was read, as follows:

Be it enacted, &c., That section 1000 of the Revised Statutes of the United States of America be amended so as to read as follows:

"SEC. 1000. Every justice or judge signing a citation on any writ of error shall, except in cases brought up by the United States, or by direction of any Department of the Government, take good and sufficient security that the plaintiff in error or the appellant shall prosecute his writ or appeal to effect, and, if he fail to make his plea good, shall answer all damages and costs where the writ is a supersedeas and stays execution, or all costs only where it is not a supersedeas as aforesaid. But the security shall not be approved by any such justice or judge except upon reasonable notice to the adverse party, nor until the sureties thereon, if excepted to, have justified in such manner as the rules of the court shall provide, or if no provision therefor is made by such rules, as the justice or judge may direct."

The committee recommended the following amendment:

In line 16, after the words "adverse party," insert the words "or his attorney."

The amendment was adopted.

The bill as amended was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. DORSHEIMER moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

GENERAL INCORPORATION ACTS OF TERRITORIES.

Mr. TUCKER. I call up the bill (H. R. 3058) and yield the floor to the gentleman from Ohio [Mr. SENEY].

Mr. SENEY. I am directed by the Committee on the Judiciary to call up the bill (H. R. 3058) to amend section 1889 of chapter 1, title 23, of the Revised Statutes of the United States, relative to general incorporation acts of Territories.

The bill was read, as follows:

Be it enacted, &c., That section 1889 of chapter 1, title 23, of the Revised Statutes of the United States be amended so as to read as follows:

"SEC. 1889. The Legislative Assemblies of the several Territories shall not grant private charters or special privileges, but they may, by general incorporation acts, permit persons to associate themselves together as bodies corporate for mining, manufacturing, or other industrial pursuits, or the construction and operation of railroads, wagon-roads, canals, or irrigating-ditches, and the colonization and improvement of lands in connection therewith, or for colleges, seminaries, churches, libraries, or any benevolent, charitable, or scientific association."

Mr. MAGINNIS. I suggest to the gentleman from Ohio that the word "banking" should be inserted.

Mr. SENEY. The gentleman can offer that as an amendment.

Mr. MAGINNIS. I ask the Clerk to read my amendment.

The Clerk read as follows:

In line 10, after the word "mining," insert the word "banking."

The amendment was agreed to.

The bill as amended was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. SENEY moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

TERMS OF COURT IN NORTH CAROLINA.

Mr. TUCKER. I call up the bill (H. R. 6076) and yield to the gentleman from Texas [Mr. CULBERSON].

Mr. CULBERSON, of Texas. I call up the bill (H. R. 6076) to au-

thorize terms of the circuit court of the United States for the eastern district of the State of North Carolina, at the city of Wilmington, in said district.

The bill was read, as follows:

Be it enacted, &c., That terms of the circuit court of the United States for the eastern judicial district of the State of North Carolina shall be held at the city of Wilmington, in said district, at the times now fixed by law for holding the terms of the district court of the United States at said place.

SEC. 2. That this act shall take effect and be in force from and after its passage.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. CULBERSON, of Texas, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

FEES OF CLERKS UNITED STATES COURTS.

Mr. EZRA B. TAYLOR. I call up House bill No. 2576, reported by the committee with an amendment, being a bill to repeal section 840 of the Revised Statutes of the United States.

The Clerk read the bill as proposed to be amended, as follows:

Be it enacted, &c., That section No. 840 of the Revised Statutes of the United States be, and the same is hereby, repealed.

SEC. 2. That so much of section 839 of the Revised Statutes of the United States as is contained in the words "except as provided in the next section," in lines 2 and 3 of said section, be, and the same is hereby, repealed.

Mr. EZRA B. TAYLOR. In order to explain the object of this bill, I call for the reading of the very brief report which accompanies it.

The Clerk read the report (by Mr. EZRA B. TAYLOR), as follows:

That section 840 of the Revised Statutes of the United States, sought to be repealed by this bill, was enacted in 1853, and provided that the clerks of the several circuit and district courts in California, Oregon, and Nevada should be entitled to charge and receive double the fees allowed to clerks by general law, not to exceed $7,000 per year.

While your committee are aware that reasons may have existed formerly for the passage and continuance of this law, they are of the opinion that they are no longer operative, and that said section ought to be repealed.

The repeal of section 840 requires a modification of section 839 of the Revised Statutes by striking out the words "except as provided in the next section," in lines 2 and 3 of said section 839, and therefore they report an amendment to that effect.

The committee recommend the passage of the bill so amended.

The SPEAKER *pro tempore* (Mr. COX, of New York, in the chair). The question is upon agreeing to the amendment proposed by the committee, which is the second section of the bill as reported.

The amendment was agreed to.

Mr. EZRA B. TAYLOR. I move to amend the title by adding the words "and a portion of section 839."

The amendment was agreed to.

The bill as amended was ordered to be engrossed and read a third time; and being engrossed, it was read the third time, and passed.

Mr. EZRA B. TAYLOR moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

LIMITATION OF TIME FOR PRESENTATION OF CLAIMS.

Mr. TUCKER. I call up House bill No. 5849, limiting the time for the presentation and payment of claims against the United States.

The bill has been reported with amendments.

The bill was read, as follows:

Be it enacted, &c., That all claims for back pay or bounty due to officers, soldiers, or to any other person, for services in the late civil war, or any previous war, shall be presented to the accounting officers of the Treasury Department, or other proper tribunal, for adjustment or payment, within two years after the passage of this act, and all other existing claims against the United States, excepting claims for pension, shall be presented within six years from the passage of this act; and all claims against the United States originating hereafter shall be presented, within six years from the time they originate, to the accounting officers of the Treasury Department, or other proper tribunal, for settlement and payment. No claim shall be acted upon or paid unless presented within the time herein named. In computing the years of limitation herein fixed no time shall be included when the person entitled to present the claim shall be a lunatic, a minor, or under any other legal disability: *Provided*, That the claims herein mentioned shall not be construed to include the accounts of paymasters or disbursing officers, or other persons disbursing money or accountable to the United States for property.

The amendment reported by the committee was read, as follows:

In line 7, strike out "two" and insert "three."

Mr. KEIFER. I do not rise to discuss this bill, but simply to make an inquiry as to what is to be its effect—whether it is to revive claims of any kind which are already barred by the statute of limitations.

Mr. TUCKER. I do not think it will have that effect. I will say to the gentleman from Ohio that the bill was drawn by an eminent officer of the Treasury Department upon the suggestion that it would give important aid in disposing of a large number of claims. The purpose of the bill is to make a limitation upon the officers of the Department. The bill makes the limit three years in certain cases and in other cases six years, and, according to the view of the gentleman who drew the bill, it will have no such effect as that feared by the gentleman from Ohio.

Mr. KEIFER. No doubt the gentlemen of the committee have looked into this question; but I think it is very important that we should not enact any law which will revive claims already barred. We all know that there is a large class of cases that have been barred for years by the statute of limitations, although I am not able to describe or specify them distinctly at this moment.

Mr. MOULTON. This bill removes no limitation whatever.

Mr. KEIFER. Then ought there not to be a provision in the bill, in clear and precise language, to the effect that nothing herein contained shall revive any claims that are now barred by the statute of limitations? I wish that such a provision could be inserted in the bill before it is passed.

Mr. HISCOCK. I desire to make this suggestion to the gentleman from Virginia, and the bill has been drawn with reference to the facts that I am about to state. Under legislation heretofore enacted the Treasury Department has been authorized to audit claims up to a certain period of time, where there were unexpended balances of appropriations to pay those claims which had been covered into the Treasury. That period of time has expired, unless it has been extended by some legislation of which I am unaware. The question then is whether the effect of this bill will not be to give the auditing officers power to pass upon and audit bills or claims as to which they have no such power to-day? The gentleman from Virginia must remember that in the Forty-fifth Congress, I think, a bill was passed, or an amendment was adopted upon an appropriation bill, which continued up to a certain period of time the power to audit claims for the payment of which unexpended balances had been covered into the Treasury, and I think that a subsequent Congress extended the time.

Mr. KEIFER. Is not the gentleman mistaken?

Mr. HISCOCK. The power was to audit claims, and those claims were to be reported to Congress. None of them can be paid by the Treasury Department, the unexpended balances having been covered into the Treasury. I am not mistaken about it.

Mr. TUCKER. I do not think, Mr. Speaker, that this act in its terms covers any cases of that character. I do not think it would cover any application to Congress, but only applications to the Department. Claims heretofore presented do not come within the terms of this act. It provides that "all claims against the United States originating hereafter shall be presented within six years from the time they originate to the accounting officers of the Treasury Department, or other proper tribunal, for settlement and payment."

Mr. KEIFER. Then, according to the statement of the gentleman from Virginia, this is to open the Department for the presentation of claims that have not been presented, and that have been barred from presentation long ago. That, I presume, is not the intention of the draughtsman of this bill or of the committee, and I am only seeking to have a provision put in the bill that will prevent the opening up of those old claims, many of which have not been presented. I do not understand, of course, that this bill undertakes to fix any limitation upon the Congress of the United States, for I have time and again denied that one Congress can by law fix a limitation against the presentation of claims to a succeeding Congress. In other words, I have held that the right of petition which is given by the Constitution to every citizen continues from Congress to Congress, and that each Congress as it assembles has the right, within the limits of the Constitution, to grant whatever relief it pleases.

Mr. TUCKER. Would it meet the objection of the gentleman if we should insert the words: "And all other existing claims not already barred?"

Mr. KEIFER. Yes; that would cover my main objection, I think.

Mr. TUCKER. I have no objection to making that amendment.

Mr. KEIFER. I would prefer, however, that it should be put in such a form as to provide that this act shall not have the effect to revive any claims now barred by the statute of limitations.

Mr. HISCOCK. But the point that I make—and I believe I am right in it—is this: that there is now no warrant for the auditing of any claims whatever of the character indicated by this bill, unless they have been already presented to Congress.

Mr. POLAND. This does not give any such right.

Mr. HISCOCK. I beg your pardon. This bill will probably be construed to mean that claims can be presented at any time within three years. I desire a distinct understanding on the part of the committee as to the effect of the bill. The period of time within which those claims could be presented has already expired, and the point I desire to call to the gentleman's attention is that this bill which he presses here will have the effect to extend that period.

Mr. TUCKER. The amendment which I have suggested meets that point.

Mr. HISCOCK. The question is whether you want to give claimants that chance.

Mr. TUCKER. We do not. I send to the Clerk's desk a proviso which I offer by way of amendment.

Mr. HISCOCK. The gentleman from Virginia will appreciate the point I make, that the period has expired within which any of these claims can be presented——

Mr. LONG. What claims?

Mr. HISCOCK. Claims for bounty and back pay, and claims of that class; and that this bill revives them.

Mr. MOULTON. I do not think the bill admits of any such construc-

tion; but the amendment which the gentleman from Virginia has just sent up will obviate that difficulty at any rate.

The Clerk read as follows:

Add to the bill the following:

"*Provided*, That nothing herein contained shall be construed to revive any claim now barred by the statute of limitations."

Mr. KEIFER. I certainly have no objection to that.

Mr. HISCOCK. I will ask the gentleman from Virginia this question: If it is true that these claims are barred to-day, do you wish to revive the right to present them to the Department?

Mr. TUCKER. Of course if they are barred to-day this proviso will prevent their being revived.

Mr. HISCOCK. They are not barred by any statute of limitations, but the power of the Treasury Department to receive and audit them has expired.

Mr. TUCKER. If the Department has no power to audit the claims, of course the question is *coram non judice*.

Mr. HISCOCK. Now some claims of this character were audited and allowed by the First Comptroller; but under section 4 of the act of 1878 there is now no power of the Department to receive and audit such claims. In my opinion, the effect of this bill will be to give the Department power to receive and audit them.

Mr. POLAND. The proviso cuts that off.

Mr. HISCOCK. I have sent for the act of 1878, and will read it in a moment.

The SPEAKER *pro tempore*. The question is on the adoption of the amendment offered by the gentleman from Virginia [Mr. TUCKER] to come in as a proviso at the end of the bill.

The amendment was agreed to.

Mr. HISCOCK. Now, Mr. Speaker, there is a class of claims from the Quartermaster's Department which will be covered by this bill—claims of a character which have heretofore been allowed by the Second Comptroller. Under section 4 of the act approved June 14, 1878, the time has expired within which these claims can be received and audited. We are now asked to extend that time.

Mr. POLAND. Not at all. This proviso cuts them off.

Mr. HISCOCK. I read section 4 of the act of June 14, 1878:

That so much of section 5 of the act approved June 20, 1874, as directs the Secretary of the Treasury at the beginning of each session to report to Congress with his annual estimates any balances of appropriations for specific objects affected by said section that may need to be reappropriated, be, and hereby is, repealed. And it shall be the duty of the several accounting officers of the Treasury to continue to receive, examine, and consider the justice and validity of all claims under appropriations, the balances of which have been exhausted or carried to the surplus fund under the provisions of said section, that may be brought before them within a period of five years. And the Secretary of the Treasury will report the amount due each claimant at the commencement of each session, to the Speaker of the House of Representatives, who shall lay the same before Congress for consideration: *Provided*, That nothing in this act shall be construed to authorize the re-examination and payment of any claim or account which has once been examined and rejected unless reopened in accordance with existing law.

Now, the point I make is that this bill will extend the period which has expired for the presentation of these claims. A gentleman asks me why the proposition submitted, upon the suggestion of the gentleman from Ohio, does not meet this point? That is merely a limitation of the right of action; but we are not dealing with claims which can be sued upon. This is a mere question of audit.

Mr. TUCKER. The statute of limitations applies to auditing.

Mr. HISCOCK. I beg the gentleman's pardon. Now, the provision I have just read covers claims contemplated by this bill. The bill provides that—

All claims for back pay or bounty due to officers, soldiers, or to other persons for services in the late civil war or any previous war shall be presented to the accounting officers of the Treasury Department or other proper tribunal for adjustment and payment within two years after the passage of this act.

Now, I say the period of five years originally allowed having expired, you propose to extend it for two, or, as the amendment of the committee proposes, three years. I want the House to know precisely what it is doing. The gentleman from Virginia has now added to the bill a proviso to the effect that nothing in this act shall revive any claim now barred under existing law. This proviso refers to the bar of the statute of limitations. But the question is as to the right of presentation and auditing at the Department, and it will be found that under this bill parties will continue to bring in such claims as those to which I have referred. I wish to have it distinctly understood what is being done. I really thought the gentleman from Virginia was not aware of the section of the statutes which I have read. My friend from Georgia [Mr. BLOUNT] understands this question fully, I have no doubt.

Mr. BROWNE, of Indiana. I do not understand this section 4 which has been read by the gentleman from New York contains any limitation at all. The first part provides that so much of section 5 of the act approved June 30, 1874, as directs the Secretary of the Treasury at the beginning of each session of Congress to report with his annual estimates any balances of appropriations for specific objects affected by said section which may need to be appropriated be, and is hereby, repealed. That is the first clause of the section. It simply provides that this shall not be any longer in the annual report of the officer. It then proceeds: "And it shall be the duty of the several accounting officers of the Treasury to continue to receive, examine, and consider the justice and validity of the claims under appropriations, the balances of which have been exhausted or carried to the surplus fund under the provisions of said section as may be brought before them within a period of five years." The second clause simply provides——

Mr. HISCOCK. Let me say to the gentleman from Indiana, if he appreciates my point it is this: That five years has expired. This bill extends it two years more.

Mr. BROWNE, of Indiana. Now, the five years only applies to this character of claims. It only applies to the duty of the Secretary of the Treasury to continue to receive, examine, and consider certain claims under appropriations which have been exhausted.

Mr. HISCOCK. Well, go on.

Mr. BROWNE, of Indiana. The balances of which have been exhausted or carried to the surplus fund, under the provision of said section, as may be brought before them within the period of five years.

Mr. HISCOCK. What I say is this, that the claims indicated in this bill are covered by that description, every one of them.

Mr. BROWNE, of Indiana. I do not so understand it. It does nothing more than prescribe the time within which the Secretary of the Treasury may perform with reference to a certain specific class of claims a certain duty; that is all. It does not prohibit the payment subsequently to five years of a claim against the United States. It contains no limitation whatever against the liability of the Government for the payment of this class of claims, but it does limit the time within which the Secretary of the Treasury may perform with reference to them a particular duty.

Mr. HISCOCK. I think you will find a further fact in reference to this, that Secretary Folger made a report to Congress in which he recommended that this extension should be made for twelve months. This bill makes it for a much longer period of time. In the report which he submitted he indicated the language to be employed. I believe he submitted the provision himself, and he surrounded it with every safeguard and restriction. That provision was put on the deficiency bill by the Appropriations Committee, but it was stricken off in the Senate, they refusing to extend it at all. The present Secretary, Mr. McCulloch, you will find in his report in reference to that recommendation of his predecessor, approves of it, but he does not go to the extent of this bill.

The bill as amended was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. JACKSON moved to reconsider the vote by which the bill as amended was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

INDIAN RESERVATION IN YELLOWSTONE PARK.

Mr. TUCKER called up from the House Calendar a bill (H. R. 6404) to authorize the service of civil and criminal process issued by Territorial courts within military and Indian reservations and the Yellowstone National Park.

The bill was read, as follows:

Be it enacted, &c., That the provisions of the laws now in force relating to the Territorial courts of any of the United States Territories shall be so construed as to authorize the execution and service of any process, civil or criminal, issued out of or by any of said courts, by the officer or person to whom the same may be addressed, within any military or Indian reservation or within the Yellowstone National Park: *Provided*, That such reservation or park is situated within the exterior limits or bounds of the county or district over which said court has jurisdiction; and when said process, civil or criminal, is executed or served, it shall be with like effect as though such reservation or park was a part of the county or district within which such process is served.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. TUCKER moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

APPEALS FROM SUPREME COURT OF THE DISTRICT OF COLUMBIA.

Mr. POLAND called up from the House Calendar a bill (H. R. 6220) regulating appeals from the supreme court of the District of Columbia and the supreme courts of the several Territories.

The bill was read, as follows:

Be it enacted, &c., That no appeal or writ of error shall hereafter be allowed from any judgment or decree in any suit at law or in equity in the supreme court of the District of Columbia, or in the supreme court of any of the Territories of the United States, unless the matter in dispute, exclusive of costs, shall exceed the sum of $5,000.

SEC. 2. That the preceding section shall not apply to any case wherein is involved the validity of any patent or copyright, or in which is drawn in question the validity of a treaty or statute of or an authority exercised under the United States, but in all such cases an appeal or writ of error may be brought without regard to the sum or value in dispute.

Mr. POLAND. I call for the reading of the report accompanying that bill.

The report (by Mr. POLAND) was read, as follows:

The Committee on the Judiciary, to whom was referred the bill (H. R. 6220) to regulate appeals from the supreme court of the District of Columbia, and from the supreme courts of the several Territories, have considered the same and recommend the passage of the same.

The committee deem it advisable to state the existing condition of the statutes governing appeals from said courts to the Supreme Court of the United States.

Appeals and writs of error are now allowed from the supreme court of the District of Columbia in cases where the matter in dispute, exclusive of costs, exceeds the sum of $2,500. (20 Statutes at Large, 320.)

From the final decisions of the supreme court of the Territory of Washington appeals and writs of error are allowed when the amount in controversy exceeds the sum of $2,000. (Revised Statutes, section 702.)

From the final decision of the supreme court in each of the other Territories an appeal or writ of error lies when the amount in controversy exceeds $1,000. (Revised Statutes, section 702.)

All cases involving the validity of patent rights or copyrights in any of said courts may be taken to the Supreme Court of the United States without regard to the amount involved. (Revised Statutes, section 699.)

Any judgment or decree of the supreme court of the Territory of Washington, wherein the "Constitution, or a statute, or treaty of the United States is brought in question," may be reviewed by appeal or writ of error. (Revised Statutes, section 702.)

This provision does not apply to the courts of the other Territories or of the District of Columbia.

No case can now be taken by appeal or writ of error from a circuit court of the United States to the Supreme Court (except where certain special questions are involved) unless the matter in dispute exceeds the sum of $5,000. (18 Statutes at Large, 315.)

In the judgment of the committee there is neither necessity nor propriety for this disparity in the right of appeal from the highest local tribunals.

Cases in the circuit court are tried before the circuit and district judge, and may be, and very often are, tried before a single judge, without right of appeal or review, except by the same court.

In the District of Columbia and the Territories their judicial systems are substantially the same as those in the several States; the cases are tried before a single judge sitting at *nisi prius*, with or without a jury, as the parties agree, and all questions of law raised upon the trial are heard and determined by a full court after argument at a law term.

There is no apparent reason why parties who have had an opportunity to have all questions of law involved in their cases deliberately determined by an appellate court should be allowed an appeal in a smaller class of cases than parties in the circuit courts who have no opportunity of review by another distinct tribunal.

It may be that the judges holding the circuit courts are as a rule more experienced and learned judges than the judges of the Territories, but if there be this difference the committee believe it is more than compensated by the advantage of a deliberate review by another court.

The committee do not feel that great evils would arise if the jurisdiction of the highest courts of the District and Territories were made final to the same extent as the courts of the several States, and that appeals and writs of error should be allowed only in cases where Federal questions are involved. But this would produce a change so great and radical as very likely would arouse opposition.

The committee therefore content themselves with reporting the bill as introduced, making the right of appeal uniform from all the courts which seem to stand upon the same legal basis, and to make that uniform with the right of appeal from the circuit courts.

It is well known that the business of the Supreme Court is now largely in arrear, and beyond the power of that court to accomplish, and that the evil is steadily growing.

For years efforts have been made in Congress to devise some remedy, but thus far without success. We fear that all efforts for relief in any of the ways attempted is far distant.

Wisdom seems to dictate effort in the direction of relieving the court of such classes of unimportant litigation, involving no important questions, as may be safely left to the final adjudication of the highest local courts.

This restriction of the right of appeal we believe to be in the real interest of parties as well as the country.

It will be seen that the bill provides for a review of all that class of questions national in character and which ought to be subject to the decision of the national court for national uniformity.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. POLAND moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

SUITS FOR DAMAGES IN THE DISTRICT OF COLUMBIA.

Mr. POLAND called up from the House Calendar the bill (H. R. 7131) to authorize suits for damages where death results from the wrongful act or neglect of any person or corporation in the District of Columbia.

The bill was read, as follows:

Be it enacted, &c., That when the death of a person is caused in the District of Columbia by the wrongful act or neglect of any person or corporation, and the act, neglect, or default is such as would, if death had not ensued, have entitled the party injured to maintain an action and recover damages in respect thereof, the person or corporation liable to such action if death had not ensued shall be liable to an action for damages notwithstanding the death of the person injured, and although the death is caused under such circumstances as amount in law to a felony.

SEC. 2. That such action shall be brought in the name of the personal representative of such deceased person, and commenced within two years from the decease of such person; and the court or jury before whom the issue is tried may give such damages as are just, with reference to the pecuniary injury resulting from such death to the wife and next of kin; and the amount recovered shall be for the benefit of such wife and next of kin, who shall receive the same proportions as in the distribution of the personal estate of persons dying intestate.

The report (by Mr. POLAND) was read, as follows:

The Committee on the Judiciary, to whom was referred House bill 7131, have considered the same, and unanimously recommend that the same do pass.

At common law no action would lie for injury to a person, caused by the unlawful act or neglect of another, if the injury resulted in death.

Statutes have been in force in England for many years giving an action for damages in such case. Nearly every State has now such statutes, and so just is the principle involved as to now command universal approval.

The statutes of the several States are substantially alike, except that some have and others have not a limitation on the amount of the recovery.

In adopting such a statute for the District of Columbia it was manifest to the committee that a limitation should be fixed for reasons upon which it is not needful to enlarge.

The amendment from the Committee on the Judiciary was read, as follows:

After the word "kin," in line 6, section 2, insert "but not to exceed $10,000."

The amendment was agreed to.

The bill as amended was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. POLAND moved to reconsider the vote by which the bill as amended was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

RELEASE OF GOVERNMENT'S REVERSIONARY RIGHTS.

On motion of Mr. MAYBURY, by unanimous consent the Committee of the Whole House on the state of the Union was discharged from the further consideration of the bill (H. R. 7619) to release the reversionary right of the Government of the United States to certain lands in the city of Decroit and State of Michigan, and the bill was brought before the House for present consideration.

By an act of Congress approved April 1, 1806 (Statutes at Large, vol. 2, p. 398), the governor and judges of the then Territory of Michigan were authorized to lay out a town upon a site embraced by the old town of Detroit and certain adjacent territory mentioned in said act, and to dispose of the same at their discretion. The purposes of the act were carried out, and, after donating certain lots to citizens who had suffered losses by the fire of 1805, the proceeds accrued from the sale of lots were to be applied under the provisions of the act toward the erection of a court-house and jail within the limits of the town.

In laying out the town in streets, squares, and public spaces certain of these latter were set apart for defined public uses, including public schools. In May, 1807, the governor and judges adopted a series of regulations concerning the uses to which the various public grounds and spaces should be devoted. On one of these public spaces, and being the one now in controversy, there was erected in 1823 a public building known as a court-house, which was afterward used as a Territorial and State capitol building, and continued to be so used until the removal of the State capitol to the present city of Lansing. A county jail was erected upon another of the public spaces so designated. By an act of Congress, approved August 27, 1842, supplementary to the act of 1806 heretofore cited, all the property mentioned in the act of 1806 not disposed of was vested in the city of Detroit, excepting the spaces then occupied by the capitol and county jail, and the residuary powers of the governor and judges passed to the authority of the said city. In 1847 the State capitol was removed from Detroit and the possession of the space mentioned in the memorial and the building erected thereon were surrendered to the city of Detroit by action of the State government.

On the 5th of October, 1847, the common council of the city of Detroit passed a resolution that as soon as the capitol should be vacated by the State authorities the same should be set apart and, under the sole direction of the board of education, should be used for the purposes of the several schools of the city in such manner as said board might direct. By virtue of this resolution the board of education, which is a corporation separate and distinct from that of the city, immediately took possession of said space, establishing first a common school and afterward the high school, which they have since and still maintain, having enlarged and improved the original building by expending thereon the sum of $100,000. In 1874 the city of Detroit, in the exercise of its municipal power, attempted to extend a public street through the space in question; this attempt on the part of the city was resisted on the part of the board of education upon the ground that the action of the city would completely change the nature of the public use to which this space was originally devoted, and that the title and possession of the board of education could not be disturbed. The controversy was terminated by a decision rendered in the supreme court of the State of Michigan (see Board of Education *vs.* City of Detroit, 30 Mich., 507); the position of the board was sustained, and since that time the city has made no claim to the proprietorship of the premises.

While there is no question of the title of the board of education to the premises so long as used by them for school purposes, yet the question is raised whether, if the interest of education should require a change in the location of the high school, through the encroachment of business interests, the General Government might not claim that under and by virtue of the reservation cited in the act of 1842 the title had reverted to it. It is against this contingency and for the cession of any such reversionary right on the part of the Government that the action of Congress is now invoked.

It is evident to us that the only valid reason that can be assigned for the reservation made in the act of 1842 was that the court-house, as it was then termed, was in the possession of the State, and that Congress did not desire nor deem it expedient to disturb the rights of the State in the premises in favor of the city. In a controversy originating in relation to the site of the jail, which was the other space reserved in the act of 1842, the supreme court of the State of Michigan held that after the removal of the jail the space it had occupied was under the control of the city of Detroit, and sustained the action of the city in granting said space to the board of education for the erection of a public library building. It is clear to your committee that Congress did not intend in the act of 1842 to reserve to the General Government the title or any other interest in the premises, except so far as it was necessary to protect the authorities of the State therein, and when the interest of the State in the premises ceased every reason for the reservation was terminated.

Your committee see no reason why the effect of this reservation should not be dispelled by the legislation requested, that the title to the space in controversy might be as absolute in the board of education as is its title to other public grounds and spaces whereon the schools of the city are erected.

Your committee would therefore recommend the adoption of the bill herewith submitted.

The bill was read, as follows:

Be it enacted, &c., That any right of reversion or otherwise which the United States may be supposed to have in the space on which the high-school building belonging to the board of education of the city of Detroit is situated, being a part of the old town of Detroit, laid out by the governor and judges of the Territory of Michigan, under an act of Congress approved April 21, 1806, entitled "An act to provide for the adjustment of the titles of land in the town of Detroit and Territory of Michigan, and for other purposes," be, and the same is hereby, granted and released to the said board of education.

Mr. ANDERSON. I should like to make an inquiry. Is this the same bill which was before the Public Lands Committee this morning?

Mr. MAYBURY. It was not.

Mr. ANDERSON. Nor on the same subject?

Mr. MAYBURY. No, sir.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. MAYBURY moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

EXTENSION OF UNITED STATES LAWS OVER UNORGANIZED TERRITORY.

Mr. TUCKER. I call up from the Calendar the bill (H. R. 489) to extend the laws of the United States over certain unorganized territory south of the State of Kansas.

The bill was read, as follows:

Be it enacted, &c., That the laws of the United States are hereby extended over the unorganized territory south of the States of Kansas and Colorado and between the Indian Territory and the Territory of New Mexico, known as the public-land strip; and that for the purpose of the execution of said laws said public-land strip is annexed to the judicial district of Kansas and to the southwestern land district in said State; and the Secretary of the Interior is authorized to cause the subdivisional lines of townships in said public-land strip to be surveyed, under current appropriations for the surveying service.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. TUCKER moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PROMOTION OF PRIVATE SOLDIERS.

Mr. TUCKER. I now call up House bill 4407 to relieve private soldiers in the United States Army from the disabilities imposed by section 1218 of the Revised Statutes.

The bill was read, as follows:

Be it enacted, &c., That section 1218 of the Revised Statutes of the United States, in so far as it now operates to prohibit the promotion to the positions of commissioned and non-commissioned officers in the regular Army of the United States of any private soldier in said Army, or who may hereafter enlist therein, and who has served, or shall have served, as such private soldier for the period of two years since September 1, A. D. 1866, be, and the same is hereby, repealed.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

EFFECT OF JUDGMENTS, UNITED STATES COURTS.

Mr. TUCKER. I now call up the bill (H. R. 7013) to regulate the effect of judgments and decrees of the courts of the United States in the several States.

The bill was read, as follows:

Be it enacted, &c., That judgments and decrees rendered in a circuit or district court of the United States within any State, shall take effect, by way of lien or otherwise, to the same extent and in like manner, and not otherwise, as judgments and decrees of the courts of such State: *Provided, however*, That whenever, by the laws of any State, judgments and decrees rendered in the courts thereof are made to depend for their effect, as liens or otherwise, upon the docketing, registry of the same, or upon any other requirement of law, the same shall not be held to apply to the judgments and decrees of the circuit and district courts of the United States, unless now, or until hereafter, the laws of such State shall authorize them to be docketed or registered, or compliance with any other of said requirements, in the same manner as judgments and decrees of the courts of such State: *Provided, however*, That ninety days from the rendition of any judgment or decree of said courts of the United States hereafter rendered, or from the passage of this act as to any such judgment or decree heretofore rendered, be allowed to any party for compliance with the laws of any State as to the docketing or registry, or other requirements relating to judgments and decrees of the courts thereof; and such compliance shall be held sufficient to give full effect thereto according to said laws, anything therein to the contrary notwithstanding.

SEC. 2. That in all other respects the judgments and decrees of the said courts of the United States shall be enforced and carried into effect according to the laws of said State as if they were rendered in the courts of said State.

SEC. 3. That all laws and parts of laws inconsistent here with be, and are hereby, repealed.

The SPEAKER *pro tempore*. The question is on the engrossment and third reading of the bill.

Mr. ROGERS, of Arkansas. Mr. Speaker, I would like to ask the gentleman from Virginia whether or not the provisions of this bill apply to sales of real estate under decrees of the Federal courts? As he is aware, it is not infrequently the case that levies are made under executions, issued out of the Federal courts, on real estate lying in two or more or even several counties. The question is, whether or not the marshal shall conform to the requirements of the laws of the States in disposing of such property under decrees and judgments in the United States courts; in other words, must the sales be had at the several county seats instead of the place where the United States court is held, or in case of decrees at such time and place as the court may designate? The gentleman, of course, is aware of the fact that there are statutory enactments in many of the States requiring all sales to be made at the county seat.

Mr. TUCKER. The language of the second section of the bill is:

That in all other respects the judgments and decrees of the said courts of the United States shall be enforced and carried into effect according to the laws of said State as if they were rendered in the courts of said State.

In other words, this is to conform the proceedings under judgments and decrees of the Federal courts to the laws of the several States.

Mr. ROGERS, of Arkansas. But one of the laws of the States for the enforcement of judgments and decrees of the State courts is, that property levied upon under an execution shall be sold at the county seats. Now, the question is, whether the marshal in executing the process of a Federal court would not be compelled to make the sale at the several county seats wherein the lands are situated in compliance with the State laws?

Mr. TUCKER. Upon execution?

Mr. ROGERS, of Arkansas. Yes; or under a decree of the court.

Mr. TUCKER. I suppose it would.

Mr. ROGERS, of Arkansas. Then in the enforcement of a single judgment it might be that you would find it necessary to have sales at a dozen different county seats in which the lands are situated, instead of making the sale from the front door of the Federal court from which the writ issued. I refer to this simply to show that difficulties may arise in the execution of such a provision of law; and whether or not it would be well, in view of that fact, to pass such a bill.

Mr. TUCKER. The Committee on the Judiciary, after mature consideration of the subject, are satisfied that such a provision of law should pass. I do not see why under the Federal judgment any other process should be adopted than under the State courts. They could make a better sale of the property if compelled to sell at the court-house door than at a distant point, where the Federal court is held. I think we are right about it.

Mr. ROGERS, of Arkansas. That may be true in some cases; but I doubt if in all cases it would be a wise provision. I have grave doubts about the correctness of the principle involved. Especially do I think it wiser that we do not disturb the chancery practice as it has obtained in the Federal courts since the foundation of the Government. We ought either to preserve it in its purity, or else conform the entire practice to that of the States. The two systems will not work harmoniously together. I defer greatly in all these matters to the judgment of the Judiciary Committee, but I felt it my duty to mention this matter for its consideration.

Mr. CANNON. It occurs to me that this would impose unnecessary hardships upon the plaintiff without any corresponding benefit to the defendant. In most, if not all, of the States the defendant has from twelve to eighteen months for redemption. In practice there is no competition at such sales, the plaintiff being compelled ordinarily to purchase himself.

Mr. HANCOCK. But we do not have redemption everywhere.

Mr. ROGERS, of Arkansas. As I understand the gentleman from Illinois, his mind and mine run in the same channel as to this provision. I know as a matter of fact that it must increase the expenses, and I think will operate unsatisfactorily in a great many cases, and will probably be utterly impracticable in others, in many of the States, depending upon the peculiar legislation that exists in them.

The SPEAKER *pro tempore*. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read the third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. TUCKER moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

METROPOLITAN POLICE FORCE.

Mr. POLAND. Mr. Speaker, I desire to call up the bill H. R. 5668. This bill, I will say, is identical in all respects with a bill now on the Speaker's table passed by the Senate. I ask, therefore, unanimous consent to take from the table the Senate bill and substitute it for the House bill.

The SPEAKER *pro tempore*. Under the special order the gentleman can call up either bill. The Clerk will report the Senate bill.

The Clerk read as follows:

A bill (S. 1432) for the relief of the Metropolitan police force of the District of Columbia.

Be it enacted, &c., That the proper accounting officers of the Treasury Department are hereby directed to allow, and pay, out of any money in the Treasury not otherwise appropriated, to each of such persons, or their legal representatives, who were officers, clerks, and employés of the Metropolitan police force of the District of Columbia on the 28th of February, 1867, a sum equal to 20 per cent. on the salary of such persons as fixed by law, for the time stated in said resolution of the 28th of February, 1867.

Mr. POLAND. The committee have examined this subject very thoroughly, and there is a report of some length accompanying the House bill. I shall not ask to have it read unless some gentleman desires it, but will ask that it be printed in the RECORD.

The SPEAKER *pro tempore*. Without objection the report will be printed in the RECORD.

There was no objection, and it was ordered accordingly.

The report is as follows:

The joint resolution of 1867 provided for the payment of an additional compensation of 20 per cent. on their respective salaries as fixed by law, or where no salary was fixed by law upon their pay respectively, for one year from and after the 30th day of June, 1866, to (among others) "all employés, male and female, in the Executive Mansion, and in any of the following-named Departments, or any bureau or division thereof, namely: State, Treasury, War, Navy, Interior, Post-Office, Attorney-General," &c.

The great point is whether the Metropolitan police force of the city of Washington were, in the sense of the joint resolution, "employés in the Department of the Interior," as they claim. Under the law requiring "the head of each Department to make an annual report to Congress the names of all of the clerks and other persons that have been employed in his Department," &c., the Sec-

retary of the Interior has always reported to Congress the Metropolitan police as a part of his Department, together with the report of the police board, required to be made to the Interior Department.

It is not important to recite all the instances of such reports. They appear to have been regular and uniform. The supervision of the police force has been exercised by the Interior Department, and estimates for appropriations for its payment have been made to Congress by the same Department.

The connection of the police force with the Interior Department, and the right of supervision of that Department over it, has been recognized by the Attorney-General on several occasions when occasion arose to obtain some legal opinion in regard to it.

The police force has always been given in the official register as under the Interior Department.

The First Comptroller of the Treasury rejected the claim of the Metropolitan police to be paid the 20 per cent. under the joint resolution, and also rejected the claims of many other persons of various classes, on the ground that they did not come within the terms of the resolution. Certain claimants, under the joint resolution, commenced suits in the Court of Claims. Some of them were employed under the Commissioner of Public Buildings in various capacities, one was an employé in the office of the Capitol extension, and one (Manning) was a watchman at the jail. These cases were appealed to the Supreme Court of the United States, where the judgment of the Court of Claims in favor of all the claimants was affirmed. (The case is reported in 13 Wallace, 568.)

In an appropriation bill passed July 12, 1870, a provision was inserted:

"That all acts and joint resolutions or parts thereof, and all resolutions of either House of Congress granting extra compensation or pay be, and the same are hereby, repealed, to take effect on the 1st day of July, 1870."

After the passage of this act of 1870 the First Comptroller of the Treasury ruled that it precluded any further payments under the joint resolution of 1867, even if the persons claiming were included within the terms of the joint resolution.

Another suit was brought in the Court of Claims by a large number of claimants employed in various services under the Government in Washington. It is not needful to specify them in detail. The claims were allowed in that court, and the case appealed to the Supreme Court. That court adhered to the liberal view of the proper interpretation of the joint resolution of 1867, announced in the case in 13 Wallace, and also decided that the act of July 12, 1870, above referred to, did not affect the rights given by the joint resolution. (This case is reported in 20 Wallace, 179.)

After the First Comptroller had refused to recognize the claim of the police force, and suits had been brought by other claimants, the counsel of the police force advised them not to commence suit, as the suits commenced would probably settle the questions involved, and save them the expense of litigation.

Before the first suit was decided in the Supreme Court, the act of 1870 had been passed, and that was given as a further reason for refusing payment by the First Comptroller.

The second suit involved the determination of this question with others, and the police force were again advised to await the result of that case, and did so.

After the second decision, the police force again applied for payment, but were refused on the ground that the appropriation to pay this class of claims had been covered into the Treasury, and was not available. In the time of these delays the right to sue in the Court of Claims had expired. The committee are satisfied that the police force were "employés in the Department of the Interior" by law and long and uniform usage, and so entitled to the provision of the joint resolution. The decision of the Supreme Court as to the right of the watchmen and guards at the jail seems to establish the precise ground on which their claim stands.

This claim has been before Congress for several years. It was favorably reported in the Forty-third Congress, but not acted upon. It was passed in the Senate in the Forty-fifth Congress, but not reached in the House. It was favorably reported in the Senate in the Forty-seventh Congress, but not acted upon. It has again been favorably reported by a committee of the Senate at this session.

The right of these petitioners to be paid under the joint resolution seems to have been fully established by the decisions of the Supreme Court.

The reasons for delay on their part to enforce their claim by suit seems to the committee to have been not only reasonable but laudable.

The committee therefore recommend the passage of the bill reported herewith for their relief.

There being no objection, the Senate bill was taken from the Speaker's table, read by its title a first and second time, ordered to a third reading, read the third time, and passed.

Mr. POLAND moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The SPEAKER *pro tempore*. Without objection, the bill of the House, No. 5668, will be laid upon the table.

There was no objection, and it was ordered accordingly.

STATE NATIONAL BANK OF BOSTON, MASS.

Mr. TUCKER. I call up the bill (H. R. 2263) and yield to the gentleman from Massachusetts [Mr. COLLINS].

Mr. COLLINS. I ask unanimous consent that the Committee of the Whole House be discharged from the further consideration of the bill (H. R. 2263) for the relief of the State National Bank of Boston, Mass., and that it be brought before the House for present consideration.

Mr. WELLER. I object.

Mr. COLLINS. Then I move that the House resolve itself into Committee of the Whole House.

The motion was agreed to.

The House accordingly resolved itself into Committee of the Whole House, Mr. ROGERS, of Arkansas, in the chair.

The CHAIRMAN. The House is in Committee of the Whole House for the consideration of such business as may be brought before it by the Committee on the Judiciary.

Mr. COLLINS. I call up the bill (H. R. 2263) for the relief of the State National Bank of Boston, Mass.

The bill was read, as follows:

Be it enacted, &c., That the claim of the State National Bank of Boston for the sum of $100,000, in gold, deposited by said bank in the subtreasury of the United States at Boston, Mass., February 28, 1867, be, and hereby is, referred to the Court of Claims for its decision and adjudication, upon the merits thereof, as a court of equity and justice, without regard to the statute of limitations or to any technical defense, according to the practice of said court.

SEC. 2. That said claim may be heard and determined by said Court of Claims on the petition of said bank now pending therein. And such portions of the records and findings of fact in case No. 6408, The State National Bank of Boston *vs.* The United States of America, filed in said Court of Claims January 11, 1872, as are relevant and pertinent to the claim hereby authorized to be heard and adjudicated, may be used as evidence by either party if otherwise competent.

SEC. 3. That there shall be the right of appeal from the finding and judgment of the said Court of Claims to the Supreme Court of the United States, as in other cases.

The bill was reported with the following amendments:

In section 1, line 10, strike out "or any technical defense."

In section 2 strike out all after the word "therein," namely, these words:

"And such portions of the records and findings of fact in case No. 6408, The State National Bank of Boston *vs.* The United States of America, filed in said Court of Claims January 11, 1872, as are relevant and pertinent to the claim hereby authorized to be heard and adjudicated, may be used as evidence by either party if otherwise competent."

Mr. WELLER. I call for the reading of the report of the committee on this bill.

Mr. COLLINS. I make the point of order that the reading of the report can not be called for as a right unless the gentleman desires to debate the question and makes it a part of his remarks.

The CHAIRMAN. The point made by the gentleman from Massachusetts is well taken.

Mr. WELLER. Then I desire to make the report a part of my remarks while contending against the correctness of the report.

The report (by Mr. COLLINS) was read, as follows:

The Committee on the Judiciary, to whom was referred the bill (H. R. 2263) for the relief of the State National Bank of Boston, Mass., submit the following report:

The State National Bank of Boston is a banking corporation, duly established and organized prior to February 28, 1867, under the laws of the United States, and having its place of business in the city of Boston, in the State of Massachusetts.

On that day, February 28, 1867, $725,000 in currency of the money of the State National Bank was abstracted from its possession by a fraudulent conspiracy between the firm of Mellen, Ward & Co., brokers, of Boston, and Julius F. Hartwell, the cashier of the subtreasury at Boston, acting as "the agent of the United States," exchanged for gold coin certificates of the United States, and these certificates deposited in the office of the assistant treasurer at Boston, where they were canceled and then forwarded to the Treasurer of the United States at Washington.

The manner in which this was accomplished has been found by the Court of Claims to be as follows, namely:

About a week before February 28, 1867, Mr. Carter, a member of the firm of Mellen, Ward & Co., went to the banking house of the State Bank, and said to the cashier, Mr. Smith, that he had been employed by the United States Treasurer to make an exchange of gold certificates for gold coin; that the gold certificates would be in the Merchants' National Bank of Boston; that he wished Smith to certify Mellen, Ward & Co.'s checks, drawn on the State Bank, as good at the rate of $125 in currency for every $100 in gold, on receiving the gold certificates; that Mellen, Ward & Co. had no funds in the State Bank, but that he, Carter, had made arrangements with the Merchants' Bank to have the certified checks paid from the proceeds of the sale of gold coin, and that they would not be presented to the State Bank nor go through the clearing-house; Smith agreed to certify the checks, and on February 28 Carter came to him and said that he wished to carry out the arrangement that day; Smith and Carter went to the Merchants' Bank, where Smith certified two checks of Mellen, Ward & Co. as good, one for $250,000 and one for $275,000, drawn on the State National Bank, and received gold certificates of the United States to the amount of $420,000. Carter said that it would be necessary to deposit the gold certificates in the subtreasury for examination, and that Smith would receive a receipt for the amount redeemable on demand; Smith having the gold certificates in his possession, went with Carter to the office of the subtreasury, where they were handed to Hartwell by Smith, who gave in return a receipt as follows:

"UNITED STATES TREASURY, BOSTON.

"Deposited by Mellen, Ward & Co., of Boston, on account of deposits of gold c't'f's, amount four-and-twenty thousand dollars, the same to be exchanged for gold c't'f's, or its equivalent, upon their order or demand.

"Date, February 28, 1867.

"J. F. HARTWELL, *Cr.*"

When Smith asked why the receipt was not made to him, Carter replied, because he, Carter, was the party employed to make the transaction; and he thereupon indorsed upon the certificate:

"Pay only to the order of C. H. Smith, cashier."

Smith took the certificate with him to the State Bank. Later, on the same day, Carter went a second time to the State Bank and said that a further amount was at the Merchants' Bank which he wished to arrange for in the same way. Smith went with him again to the Merchants' Bank, where another check, drawn on the State Bank by Mellen, Ward & Co., was certified as good by Smith for $75,000, and he received in exchange for it $10,000 in gold certificates and $50,000 in gold coin. The gold coin was afterward exchanged for gold certificates, and the two proceeded to the Second National Bank of Boston, where Smith certified another like check for $125,000, and received in exchange gold certificates to the amount of $100,000. He then had in his possession $160,000 of gold certificates; these were taken by Smith to the subtreasury, to be deposited as the others had been, and they were given to Hartwell, who gave the following receipt for them:

"UNITED STATES TREASURY, BOSTON.

"Deposited by Mellen, Ward & Co., of Boston, on acc't of gold certificates deposited, amount $160,000, to be exchanged for gold c't'f's, or its equivalent, on demand.

"Boston, February 28, 1867.

"J. F. HARTWELL, *Cr.*"

This was indorsed:

"Pay only to the order of C. H. Smith, cashier."

These receipts were taken by Smith to the State Bank. The next day he took them to the subtreasury, and was told that they would not be paid.

The purpose of this scheme of fraud was to screen Hartwell, who was an embezzler. Some time prior to February 28, 1867, Hartwell had embezzled the money of the United States, he, as an officer of the Government, having access to and more or less control over the money in the subtreasury belonging to the Government, and placed it in the hands of Carter, who knew that he embezzled it for the use of Mellen, Ward & Co. as a loan. It was known to both Hartwell and Carter that an examination of the assets in the hands of the assistant treasurer at Boston would be made February 28 or March 1, 1867, and Hartwell's guilt discovered. It was to conceal his guilt that the plan was devised and carried into effect, as above stated, and the $580,000 of gold certificates procured and lodged in the subtreasury. Hartwell and Carter intended that after the examination the gold

certificates should be returned to Smith; this was not done. After the close of business on February 28, 1867, Hartwell confessed his guilt to Whittle, a clerk in the office of the assistant treasurer, and told him that he had the gold certificates, and how he obtained them. After the office was closed, and while Hartwell and Whittle were on their way home, Whittle learned that Hartwell had the gold certificates with him, about his person, and Whittle induced him to give them to him, and they both returned to the office of the assistant treasurer, where they were canceled and forwarded to the Treasurer at Washington. It will thus be seen that Hartwell, one agent of the United States, fraudulently obtained these certificates, and another agent, with full knowledge of the fraud, and that the certificates did not belong to the Government, consummated the fraud on the rightful owners by canceling the certificates, and turning them into the Treasury Department in settlement of Hartwell's embezzlement.

This was the state of facts March 1, 1867. The Merchants' Bank held Mellen, Ward & Co.'s checks in the State Bank, in which they had no funds, for $600,000, certified as good by Smith, the cashier of the State Bank.

The Second National Bank had a like check for $125,000.

The cashier of the State Bank held the two receipts for $580,000 in gold, or its equivalent, payable on demand.

The United States held the gold certificates for which those receipts were given, knowing that they had been obtained by the fraud of their own agent, and refused to give them up because one of its officers engaged in the fraud had embezzled the funds of the Government.

From these facts many novel and important legal questions arose; among them, the reality of the sales of the gold certificates and the true ownership of them. The Merchants' Bank brought suit against the State Bank to recover $600,000 on the certified checks of Mellen, Ward & Co. it held. This suit was tried before the late Mr. Justice Clifford, of the United States Supreme Court, who, at a second trial, ruled that the Merchants' Bank could not recover. This ruling was ultimately reversed by the full bench, and the State Bank paid the full amount with interest and costs. (See 10 Wall., 604.)

After paying this, the State Bank filed its petition in the Court of Claims to recover the $480,000, without costs or interest. The claim was persistently resisted by the Government; and even after the decision of the Court of Claims in favor of the bank, took the case to the full bench, where, in 1877, ten years after the seizure of the funds, the judgment was affirmed, and the Government paid the bank the sum of $480,000, without interest. This left $100,000 unpaid, which the United States then held and still holds. In their opinion (6 Otto, 30) the court say:

"The finding of the court shows clearly that Hartwell knew when he received the certificates that they did not belong to Mellen, Ward & Co., and that they did belong to the State Bank, represented by Smith as its agent. Hartwell was privy to the entire fraud from the beginning to the end, and was a participant in its consummation. It is not denied that Smith acted in entire good faith; what he did was honestly done, and it was according to the settled and usual course of business. Hartwell was the agent of the United States. He was appointed by them and acted for them. He did, so far as Smith knew, only what it was his duty to do, and what he did constantly for others, and it is not denied that it was according to the law of the land. Smith no more suspected fraud, and had no more reason to suspect it than any other of the countless parties who dealt with the subtreasury in like manner. There could hardly be a stronger equity than that in favor of the plaintiff. * * * But surely it ought to require neither argument nor authority to support the proposition that where the money or property of an innocent person has gone into the coffers of the nation by means of fraud to which its agent was a party, such money or property can not be held by the United States against the claim of the wronged and injured party. The agent was agent for no such purpose. His doings were vitiated by the underlying dishonesty, and could confer no rights upon his principal."

The check for $125,000 given to the Second National Bank was by it transmitted to Jay Cooke & Co., of New York, to whom the gold certificates for $100,000 received through that bank originally belonged. Pitt Cooke, to whom the check was finally passed, commenced suit in New York on that check. This suit involved not only some of the same questions which were embraced in the Merchants' Bank case, but the nature of the original transaction and the title to $100,000 of gold certificates. The case was tried, taken to the general term, and then to the court of appeals, and judgment entered against the State Bank, February 10, 1873. This judgment was paid by the State Bank, and the title to all the gold certificates obtained by Hartwell and seized to pay for his embezzlements was fixed in the State Bank.

The opinion in the case reported in 6 Otto, 20, was not rendered by the United States Supreme Court until 1877, but it settles every question of fact or law that can arise on the merits of the case.

After the Government had paid the $480,000 in accordance with the judgment entered under the mandate of the Supreme Court, there was remaining in the hands of the Government of the United States $100,000 for which the State Bank, under the decision in the Pitt Cooke case, had paid $125,000 and interest from February 28, 1867. To this $100,000 the Government had no legal or equitable right; it had been obtained by the fraud of the agent of the United States, seized by another agent with full knowledge of the fraud, and turned into the Treasury of the United States. It belonged to the State Bank, and in January, 1879, after having made demand on the Secretary of the Treasury, that bank filed its petition for the recovery of the amount in the Court of Claims. The United States filed a general denial and pleaded the statute of limitations. As to the effect of this plea of the statute of limitations, your committee make the following quotation from the very able report of the Committee on the Judiciary presented to the House of Representatives of the Forty-seventh Congress, by Hon. George D. Robinson, the present governor of Massachusetts, to be found in the CONGRESSIONAL RECORD of January 28, 1882, page 8:

"Your committee suggest that if the right of action accrued at the time of the original deposit, to wit, February 28, 1867, the statute would seem to be well pleaded, but if it did not accrue until the rights of the parties were determined by decisions in the several suits hereinbefore referred to, or if, as the court intimates in 6 Otto, the United States were trustees for the true owners of the certificates, in which latter case a right of action might not accrue until a demand and refusal, the statute is not well pleaded. But under the language of the act creating the Court of Claims, and a construction recently given (see 99 United States, 493), the statute might be held to bar the claim.

"In view of the fact that the State Bank was constantly engaged for more than ten years in litigation required to determine the facts and to settle the difficult and novel questions of law involved, your committee are of the opinion that the case should be allowed a hearing before the Court of Claims upon its merits."

Your committee suggest that in defending the Pitt Cooke case the State Bank acted as much in the interest of the United States as of itself; for if successful in defending that suit, it would have placed the title to the $100,000 of gold certificates in Mellen, Ward & Co., who were *particeps criminis* with Hartwell in his embezzlements, and could not have made any claim on the United States.

A simple presentation of dates will justify the statement that the State Bank has not slept on its rights.

The transaction took place February 28, 1867. The United States, without right, and by the fraud of its agents, became possessed of the gold certificates on the same day.

The case of The Merchants' Bank vs. The State Bank, which settled the title to $480,000 of the gold certificates, was decided by the Supreme Court of the United States, December term, 1870.

The petition to recover the $480,000 was filed in the Court of Claims in 1872. The final decision on this petition was rendered by the Supreme Court in 1877, ten years after the conversion by the United States of the gold certificates.

The decision in the Pitt Cooke case against the State Bank was rendered by the court of appeals in 1873.

The relief proposed in the present bill has frequently been granted by Congress in similar cases. The attention of your committee has been called to the following instances:

An act approved March 3, 1873, for the relief of Leonidas Haskell.

An act passed by the Forty-second Congress, second session, chapter 89, authorizing the circuit court to hear and determine the claim of Thomas B. Valentine on its merits.

An act for the relief of Robert Tillson & Co., Forty-third Congress, first session, chapter 515, June 23, 1884.

An act by the Forty-fourth Congress, first session, chapter 279, August 14, 1876, for the relief of Harvey & Livesey.

An act by the Forty-fifth Congress, second session, chapter 166, June 7, 1878, directing the Court of Claims to hear the claim of Nannie Hall, "without regard to the statutes of limitation."

An act by the Forty-seventh Congress, March 3, 1883, for the relief of Sterling T. Austin, authorizing the Court of Claims to enter judgment, "any statute of limitations to the contrary notwithstanding."

On the facts presented to your committee, and following the law as laid down in 6 Otto, 30, it seems settled beyond dispute that the United States now holds $109,000 of the money of the State National Bank of Boston; that it obtained this money nearly seventeen years ago by means of a fraud to which its agent was a party, and that it has no equitable or moral right to retain it longer. To deprive the lawful owner of this money by insisting on the statute of limitations, under the facts presented to your committee, would be a violation of the simplest rule of common honesty.

A bill corresponding to the present bill was unanimously approved by the Committee on the Judiciary of the Forty-sixth and Forty-seventh Congresses, and was passed by the House of Representatives of the last-named Congress by a vote of 128 yeas to 22 nays.

Your committee recommend the passage of the bill as amended.

During the reading of the report,

Mr. WELLER said: I rise to a question of order. I inquire if the reading clerk has not omitted to read the finding of the court.

The CHAIRMAN. The Clerk advises the Chair that he inadvertently turned over two pages.

The Clerk resumed and concluded the reading of the report as printed above.

Mr. WELLER. How much time have I remaining?

The CHAIRMAN. The gentleman has thirty-five minutes of his time remaining.

MESSAGE FROM THE PRESIDENT.

The Committee of the Whole informally rose, and the Speaker took the chair.

Several messages in writing from the President of the United States were communicated to the House, by Mr. PRUDEN, one of his secretaries, who also informed the House that the President had approved and signed a joint resolution and bill of the following titles:

Joint resolution (H. Res. 308) appropriating $50,000 for the support of certain destitute Indians; and

An act (H. R. 4539) to issue American papers to the lighter or barge Pirate, now at New York.

STATE NATIONAL BANK, BOSTON, MASS.

The Committee of the Whole resumed its session.

Mr. WELLER. It seems, Mr. Chairman, that this bill covers matters largely that have already been adjudicated by the courts; $480,000 have already been paid by the Government on an adjudication by the Supreme Court of the United States.

This bill, as it now stands, involves the mere question of having the Court of Claims take full and complete jurisdiction of the amount that is still in abeyance, and provides that the statute of limitations shall be waived. It seems, Mr. Chairman, that in 1867 this transaction occurred—the time that has elapsed being almost twice the statute of limitations. These parties certainly have been sleeping upon their rights.

Mr. STORM. If they have any.

Mr. WELLER. The gentleman from Pennsylvania well says, "if they have any." They have been sleeping upon their rights since 1867 to the present time, which is evidenced by the fact that they request a waiver of the statute of limitations. These parties were engaged in a transaction that was purely personal, or at least in a very large degree personal, between individuals outside of United States authorities. So far as it came within the jurisdiction of United States authority it has been adjudicated, and the judgment of $480,000 has already been paid; $100,000 still remains. And as I have followed the report of the committee, it seems that this is asking the United States Government to come in and out of its Treasury to reimburse private parties because of their dereliction of duty. They certainly could have commenced the case in the proper court within these years. Independently of what might have been or of what was their action in other particulars, there was nothing in the case that barred them from a commencement of a proper suit. And yet they come at this hour and ask that the statute of limitations be waived and that this case go to the Court of Claims upon its merits, and, as I understand, that they shall also be permitted to take testimony, that heretofore has been introduced, as a part of their testimony. It seems to me to be wholly unwarranted by the facts in the case.

I have looked this matter over very carefully, and my belief from the standpoint of mature and deliberate investigation is that the bill ought not to pass.

I will yield to the gentleman from Indiana [Mr. HOLMAN] for ten minutes.

Mr. HOLMAN. Mr. Speaker, I do not know whether any motion has been made in regard to this bill, but if not I shall move to strike out in the first section all after the word "adjudication" in the eighth line down to the end of the paragraph. That portion of the bill referring to the records and other proceeding has, I see, been already stricken out by the Judiciary Committee.

When a bill in regard to this transaction was pending in the last Congress it seemed to me there were grave doubts as to the liability of the United States for any portion of this $580,000. But $480,000 have been paid by the Government, and the question now remains whether the $100,000 shall be paid. To my mind the circumstances presented in regard to the relations of the bank and the partnership named and the officers of the subtreasury suggest grave doubts as to whether in this brief statement of the case the full facts are now before us—whether there are not other facts which ought to be known before there can be a proper and fair adjudication of this matter. I do not think, therefore, there could be reasonable objection to referring this bill to the Court of Claims for the purpose of ascertaining the facts, especially if it should be so referred by the ordinary action of the House or the committee under the provisions of the Bowman bill. Indeed, sir, it seems to me it should have occurred to the Judiciary Committee at the very outset that this was an appropriate case to go to the Court of Claims for the purpose of ascertaining the facts, for it seems impossible to read carefully the decision of the Supreme Court without being apprehensive that the real case was not fully before the court, especially as to the personal relations of the parties through whom it is alleged this fraud was perpetrated.

I know nothing about the character of these gentlemen, of course, and nothing about their reputation for integrity; but I know that in reading the decision of the Supreme Court, it seemed to me there was not a full presentation of the case in all its various steps.

Mr. STORM. Does the report in this case disclose that there are any facts in dispute?

Mr. HAMMOND. No.

Mr. HOLMAN. No, sir; as to the facts stated here there is no intimation that there are any matters in dispute.

Mr. STORM. The object of the Bowman bill was simply to refer matters of fact to the court, not matters of law.

Mr. HOLMAN. Certainly. But the question here is whether we have all the facts as to the relations which existed between the officers of the bank and this partnership and the officers of the subtreasury.

Mr. STORM. The gentleman will allow me to ask whether the liability of the Government in this case does not depend upon the action of this agent Hartwell?

Mr. HOLMAN. It does very largely; and that is the very point of embarrassment—to determine whether this fraud was perpetrated by him and his associates connected with the Government, or whether other persons participated and permitted the thing to be done for the purpose of shielding Hartwell from the charge of embezzlement.

Mr. STORM. Upon what principle could the Government be held liable for the criminal acts of its agent?

Mr. HOLMAN. My friend now makes a suggestion which has great force in it, and which of course has sprung up in the minds of all gentlemen who have had occasion to consider to what extent the fraud of this agent of the Government should deprive the Government of the right to hold even equitable property coming into its possession in the ordinary course of proceedings between these banks and the subtreasury at Boston.

But I rose to say a word in regard to the amendment which I desire to offer to the bill. If this matter be referred to the Court of Claims, it seems to me it should be for the purpose of ascertaining and determining the legal rights of this bank. These transactions occurred in February, 1867. It is not pretended that so far as concerns this sum of $100,000 any proceedings were instituted until 1877; and now, when we have reached the year 1885, I think this bank, at the very best, should claim no more against the United States growing out of this transaction than one citizen has a right to claim against another in a court of justice.

In other words, I think the Government of the United States is in a position to take advantage of all legitimate defenses that have sprung up in the course of these transactions from February, 1867, when they arose, up to the present time. I do not see why you should enforce the statute of limitations in your judicial tribunals rigidly and remorselessly against the citizen, and yet waive that statute when you approach a transaction like this involving large sums of money and affecting gentlemen amply able to protect their rights. This statute has been regarded as necessary for the safety of the Government and the protection of its Treasury. In all the States of this Union it is regarded with favor because, in the language of the old writers, it is a statute of repose. The bar of this statute should not be removed, I submit, except where a case of unanswerable equity presents itself. Such cases may arise, especially in the dealings of the Government with its uninformed citizens, those whose circumstances in life do not enable them to be vigilant. Where the rights of the orphan, the widow, the uninformed are involved cases may arise and do constantly arise where no government should interpose the bar of the statute of limitations. But if there can be presented a case where the bar of the statute is proper and just it is such a transaction as this where persons, who have had dealings with the Government and now seek to draw from the Treasury money which has gone there in the regular course of business, allege that in their dealings with a subordinate of the Government, where some duty rested upon them to secure the integrity of the transaction a fraud had interposed.

I see no grounds, sir, upon which this bank can claim that the bar of the statute shall be removed. If this case must go to the Court of Claims let it go there as other demands against the Government go, subject to all the just defenses which the Government of the United States is able to interpose.

Mr. BROWN, of Pennsylvania. May I ask the gentleman a question?

Mr. HOLMAN. Certainly.

Mr. BROWN, of Pennsylvania. If the statute has run, why send the case to the Court of Claims at all?

Mr. HOLMAN. I think it has run, sir. I think that any gentleman who examines the act organizing the Court of Claims, and all the subsequent legislation, must reach that conclusion; but out of abundant caution I have made my motion.

MESSAGE FROM THE SENATE.

The committee informally rose, and the Speaker took the chair.

A message from the Senate, by Mr. SYMPSON, one of its clerks, announced the passage, without amendment, of a bill (H. R. 3661) granting an increase of pension to Lucy L. G. Jeffers.

It further announced that the President *pro tempore* of the Senate had appointed Messrs. HAWLEY and BECK as members of the Board of Visitors to West Point.

It further requested the return of a bill (S. 1337) granting an increase of pension to Lucy L. G. Jeffers.

It further announced the passage, with amendment, in which concurrence was requested, of a bill (H. R. 3108) to protect fish in the Potomac River in the District of Columbia, and to provide a spawning-ground for shad and herring in the said Potomac River.

STATE NATIONAL BANK, BOSTON, MASS.

The Committee of the Whole resumed its session.

Mr. WELLER. Mr. Chairman, how much time have I remaining?

The CHAIRMAN. Twenty minutes.

Mr. WELLER. I will reserve my time until remarks are made on the other side.

Mr. COLLINS. Mr. Chairman, I rise to a parliamentary inquiry. Having taken the floor I believe I am entitled to an hour after the gentleman from Iowa closes. The gentleman speaks in his own time. I do not desire to occupy the time of the House in anticipating him, when I can reply to him by and by.

The CHAIRMAN. The gentleman from Iowa has the floor.

Mr. WELLER. Mr. Chairman, I can hardly add anything to the remarks that have been made on this subject by the gentleman from Indiana [Mr. HOLMAN]. I can only emphasize his statement by calling attention to the fact that this transaction occurred in 1867, as shown by the report of the committee. That the statute of limitations has run is very clear, as further shown by the report of the committee. Now, sir, here is a corporation, which is evidently quite able to protect itself, coming to the Congress of the United States and asking favors that are rarely, if ever, granted to the common citizen in any State of the Union. These parties ask that there shall be a waiver of the statute of limitations, and that this case shall be taken to the Court of Claims without regard to the loss of their rights, if any they ever had, by reason of the statute of limitations, or other bar under the law.

Now, I appeal to my friends the Republicans, and to my friends the Democrats, and to you all as friends of the people—I appeal to you to allow this corporation no rights but such as are commonly granted to the people of the United States in the courts in the several States. I think, Mr. Chairman, that if we are to grant special rights and favors to any person or class of persons, it should be to the common people instead of to corporations, which, as I have already said, are well able to protect themselves. We are on the eve of an incoming administration in the line of reform, and I would like to see a change from the system that has been in operation for at least the last fifteen years—I would like to see a change in the order of things, so as to let the great mass of the common people be protected and have their interests aided and abetted by this House, rather than that its powers should be exercised in behalf of corporations or powerful individuals that are abundantly able to care for themselves.

As to my own State I doubt whether any individual in Iowa in the whole history of the State has come before the court to ask them to waive in his behalf the statute of limitations. That statute is very rigidly enforced, and I understand that, as the gentleman from Indiana [Mr. HOLMAN] has well stated, it is the rule in all the States to enforce the statute of limitations as a means of promoting repose between parties. In this case nearly twenty years have elapsed, the case has been adjudicated by the highest judicial tribunals in the land; they

have made an award; that award has been paid, and now these parties are coming in appealing to the representatives of the people for favors and advantages that they can not get in any court, but can get only, if at all, through the House of Representatives. I trust that my Republican friends and my Democratic friends and all the members of this House, as friends of the people, will see to it that this bill does not pass; or at least that if in any particular it does pass this House it be only in such form as to refer the matter to the Court of Claims, that they may report to the House all the facts in the case. It may be that these parties, with their abundant wealth, have in some way presented a fair *prima facie* case; it may be that they have withheld important facts which, if they could be brought to light by the Court of Claims and brought to the attention of this House, would entirely alter the aspect of the case, so that thereafter the House of Representatives would spurn the idea of further considering this bill or any of the features embodied in it. I trust that that will be the action of the House.

Mr. COLLINS. Mr. Chairman, I understand there is a general agreement that after a very short reply the committee will rise. If not I shall move to have the committee rise now to limit the debate.

Mr. WELLER. I make no such agreement as that.

Mr. COLLINS. Mr. Speaker, I move that the committee rise for the purpose of closing the general debate on the pending bill.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. ROGERS, of Arkansas, reported that the Committee of the Whole House on the Private Calendar had, according to order, had under consideration the bill (H. R. 2263) for the relief of the State National Bank of Boston, Mass., and had come to no resolution thereon.

Mr. COLLINS. I move that the House resolve itself into Committee of the Whole House on the Private Calendar, and pending that motion I move that all general debate on the pending bill in the committee shall be closed in ten minutes after its consideration shall have been resumed.

Mr. WELLER. Say thirty minutes—fifteen minutes to each side.

Mr. HOLMAN. There will be left the debate on the amendments under the five-miuute rule.

The SPEAKER. The motion of the gentleman from Massachusetts is to limit the general debate.

Mr. HOLMAN. I presume so.

The SPEAKER. That is all that can be done at this stage of the proceedings.

Mr. WELLER. I will modify my motion so as to make it twenty minutes—ten minutes on each side.

Mr. HOLMAN. Inasmuch as the five-minute debate is left, I think the gentleman from Iowa will agree with me that will be ample.

Mr. WELLER. I do not think gentlemen ought to object to making it twenty minutes—ten minutes to each side.

The SPEAKER. The question is on the amendment. [Putting the question.] The noes seem to have it.

Mr. WELLER. I ask for a division.

The House divided; and there were—ayes 3, noes 64.

Mr. WELLER. No quorum has voted.

The SPEAKER appointed as tellers Mr. COLLINS and Mr. WELLER.

Mr. COLLINS. I am willing to give the gentleman twenty minutes if he wishes that time.

Mr. WELLER. It will be agreeable to me.

The SPEAKER. The Chair understands the gentleman from Massachusetts to modify his motion so as to limit general debate to twenty minutes.

The motion was agreed to.

The question recurred on the motion to go into Committee of the Whole, and it was agreed to.

The House accordingly resolved itself into Committee of the Whole House on the state of the Union, Mr. ROGERS, of Arkansas, in the chair.

The CHAIRMAN. The House resumes the consideration of the bill (H. R. 2263) for the relief of the State National Bank of Boston, Mass., and by order of the House all general debate is limited to twenty minutes.

Mr. COLLINS. Mr. Chairman unless the rules which prevail between man and man of common honesty are set aside in considering this question, and unless a bank is to be pilloried whenever it is seen, then this bill should pass.

The proposition made by the gentleman from Indiana [Mr. HOLMAN] that this bill be referred to the committee under the Bowman act is an utterly useless thing to do, inasmuch as the Court of Claims have passed on every fact involved in this litigation in case No. 6887. There is no pretense here on the part of any human being that every fact in this case is not known. The amendment is intended therefore to have the effect to kill the bill.

The gentleman from Indiana says this money was received into the United States Treasury in the ordinary business way. I never knew before it had been claimed by an American legislator that stolen money—money stolen by an agent of the United States and put into the Treasury—was received in the ordinary business way. The fact is the Court of Claims, the United States being defendant and this bank the plaintiff, found the fact to be that $580,000 in gold belonging to this bank was then in the Treasury of the United States without any right on the part of the holder. The United States appealed to the Supreme Court, and by the decree and mandate of the Supreme Court this State Bank of Boston received this $480,000. My friend the gentleman from Iowa [Mr. WELLER] says it was a large sum of money. It was indeed a large sum of money for an agent of the United States to steal from one party.

It is now asked why the $480,000 was paid and this was not paid. It was because the suit in which the State Bank had litigated defending the checks drawn against it covering $480,000 was decided before the statute of limitations had run. Then they filed their petition against the United States. They defended against this $100,000 check which we seek to settle. They defended against that, but the statute of limitations had run before the matter was decided. They defended, as the report shows, in the interest of the United States, and had they won their case they would not be suitors here to-day.

Now, then, the United States hold, as the Forty-sixth, Forty-seventh, and Forty-eighth Congresses through their Judiciary Committees have held unanimously, as also the Court of Claims and the Supreme Court of the United States, that $100,000 of this money belongs to the State Bank of Boston, and the question is whether we shall raise the technical defense or permit it to be raised that one honest man in this country, whether he be from Indiana or from Iowa, would not raise against his neighbor whose servant had stolen his money. The United States of America is large enough to be honest and too mighty, I think, to be technical. Its attorneys in the courts are obliged to raise these technical defenses just as the attorney of any man in this House would raise a technical defense if he were not instructed to waive it by his principal or employer. The people who lost this $100,000 nearly twenty years ago now ask you to give them back the money without interest, and that is all they ask.

And in addition, Mr. Chairman, I want to say that the Government of the United States does not lay any claim to this money at all.

Mr. COSGROVE. The money is in the Treasury, is it?

Mr. COLLINS. Yes, sir.

Mr. COSGROVE. Acknowledged to be the money of the bank?

Mr. COLLINS. Yes, sir.

Mr. WELLER. Mr. Chairman, I wish to make one or two other suggestions in connection with my opposition to this bill.

The pensioners of the United States when they apply for their pensions, if they have permitted the legal period to elapse, are referred to the statute of limitation. You apply that same principle in the consideration of war claims, hundreds and thousands of dollars of which are due all over the country, and your statute of limitation has been allowed to run strictly against them. There is no redress of grievances anywhere, and yet when a corporation comes here for relief you are prompt to render it. I do not know, Mr. Chairman, but that I may have an undue feeling in this case, not so much, perhaps, because this is a corporation as that it is one of those infamous, undemocratic, unrepublican, and unconstitutional corporations—a national bank corporation. I do not know but that I have undue prejudice; but I say, sir, we are asked to consider claims here that would not for a moment be considered outside of the Congress of the United States of America. Now, for my part, I desire to have an overturning of the present régime, and the policy that has been pursued in these matters. Instead of letting everything go through I want to hold these men, when they come to this court of last resort, to the very same strict rule that you apply to the private citizen. [Cries of "Vote!" "Vote!"]

Mr. HAMMOND. Mr. Chairman, there is one fact in reference to this case that I am not quite sure is understood by the committee, as the debate has not been generally heard.

There were originally $580,000 in dispute with this bank, $480,000 of which was in the hands of certain holders in Massachusetts. Suits were brought and the bank demanded, as in duty it should have done, that these parties should show whether or not there was a liability. The Massachusetts court decided that there was. They recovered that sum through the Court of Claims, the decision of which was affirmed subsequently by the Supreme Court of the United States.

The other $100,000 had fallen into the hands of some New York party, Jay Cooke, I believe. The courts of New York operated more slowly than the courts of Massachusetts. The decision of the Massachusetts court came in time for the suits to be brought for the recovery of the $480,000, which sum, as I have said, was recovered. But the recovery on the claims in the hands of the parties in New York was so slow, owing to the process in the courts, that when the bank had to pay, the statutory bar for time for suit between it and the United States had run. Now, our court having decided that the $480,000 ought to be paid, and the facts being exactly the same in both cases, for the swindling was by the same officer, at the same time, and out of the same bank, the Committee on the Judiciary, after mature consideration, have come to the conclusion that we should pay the principal of this debt.

The CHAIRMAN. The Clerk will now read the first section of the bill for debate and amendment under the five-minute rule.

The Clerk read as follows:

Be it enacted, &c., That the claim of the State National Bank of Boston for the sum of $100,000, in gold, deposited by said bank in the subtreasury of the United States at Boston, Mass., February 28, 1867, be, and hereby is, referred to the

Court of Claims for its decision and adjudication, upon the merits thereof, as a court of equity and justice, without regard to the statute of limitations or to any technical defense, according to the practice of said court.

The committee recommend the adoption of the following amendment:

In line 10, strike out the words "or to any technical defense."

The CHAIRMAN. The question is on agreeing to the amendment proposed by the committee.

Mr. HOLMAN. Mr. Chairman, inasmuch as an amendment which I propose covers the amendment of the committee, I suppose the question will first be taken upon that.

The CHAIRMAN. The Chair will hear the amendment of the gentleman.

Mr. HOLMAN. My amendment is to strike out all after the word "adjudication," in the eighth line, which embraces the words proposed to be stricken out by the committee.

The CHAIRMAN. The first question will be taken upon the amendment of the committee, after which the amendment of the gentleman from Indiana will be in order.

Mr. HOLMAN. But where two propositions are pending, one to strike out the whole of a paragraph and the other a part, I ask if the motion to strike out the whole paragraph is not first in order? It may be, however, that the Chair is right.

The CHAIRMAN. The question will first be taken upon the amendment proposed by the committee.

The amendment was agreed to.

Mr. HOLMAN. Now, I move to strike out all after the word "adjudication," in the eighth line, being the following words:

Upon the merits thereof, as a court of equity and justice, without regard to the statute of limitations as to any technical defense, according to the practice of said court.

Mr. HOLMAN. If the subject-matter is referred to the Court of Claims for adjudication that covers the whole ground, of course, and there is no necessity for the incorporation of the words which I have proposed to strike out. That is to say, this bank ought to be put in no better condition than any other citizen seeking redress through the Court of Claims in a case of which that court had jurisdiction.

We confer the jurisdiction upon the court to determine this case, but I insist it shall go no further than the law of the land would go in allowing this bank to go into the court and have its rights established under the law.

I have said all I desire to say in regard to the impropriety of extending peculiar favors to this bank which we refuse to the great body of our people. I have sought to suggest that to enforce the statute of limitations against the uninformed citizens of the country in general, and to open it up in favor of those possessing full information and full ability to act would be a discrimination scarcely worthy of Congress.

Mr. COLLINS. Of course it is understood, Mr. Chairman, if this amendment should pass the bill is dead. The Court of Claims has already done in this very case what the gentleman from Indiana suggests may be done. Now he says, and repeats what he said before, that we are undertaking to treat this bank as a specially favored subject, and not favored alike with the rest of our citizens. Not at all. The same law runs for the United States as for any defendant who goes into court to defend a suit. But an honest man whose clerk had stolen money which was a subject of litigation would certainly waive the statute of limitations if he merely held the money as trustee for the honest owner of it; and nobody but a dishonest man and no government but a dishonest government would keep stolen money when it admits that the ownership lies elsewhere.

Mr. HOLMAN. The Government of the United States does not admit this is stolen money the ownership of which lies elsewhere. On the contrary I undertake to say there is great doubt about the liability of this Government to refund this money, and that there has been great doubt of it from the beginning. The discussions heretofore indulged in on this floor which have been careful and extensive have demonstrated the fact of its being exceedingly questionable whether this bank has any claim on the Government whatever, and exceedingly doubtful whether the agent of the Government was the only party in complicity with this fraud.

Mr. MORSE. He was the only one convicted.

Mr. HOLMAN. I concede that he was the only one convicted; but it was always a question of doubt who the persons really were for whose benefit the fraud was committed.

Mr. RANNEY. It was not committed for the benefit of the Government.

Mr. HOLMAN. It is said to have been committed to cover up a defalcation of an officer of the subtreasury. What I insist is that the same law shall apply to this corporation as applies to every citizen of the United States. You say to your citizens the statute of limitations may be pleaded by the Government just as it is in every State of this Union. There is not a State of this Union but has found it wise on the ground of high public policy that a statute of limitations should be rigidly enforced in the interest of justice as well as in the interest of peace. What I object to specially here is discrimination in favor of one class of our citizens as against the great body of our people.

Last session Congress passed a bill opening up the statute of limitations for the benefit of certain banks in the city of New York. I think no gentleman read the views of the President of the United States upon that subject without feeling that it was not well for Congress to single out here and there in the interest of well-informed persons cases where the statute should be raised and keep it down steadily against the great body of our people. The statute of limitations is a wise provision, and is so considered by every State of the Union, and Congress ought not to remove it except in cases where justice imperatively demands it.

I admit that in the case of a widow, for example, not informed of her rights, or in the case of an orphan child, not supposed to have knowledge of claims against the Government, it would be a hardship and an impropriety for Congress to insist that the limitations should be enforced. But in cases between parties having large and extensive dealings with the Government, out of which dealings this difficulty arose some twenty years ago, it does seem to me if the statutes of limitations is proper in any case it is proper here.

Mr. WELLER. I desire as a part of my remarks to address an inquiry to the gentleman from Massachusetts [Mr. COLLINS]. If the amendment offered by the gentleman from Indiana shall prevail and this case goes to the Court of Claims, and they take all the testimony and return the testimony to this House for its consideration thereafter, will not the gentleman having the bill in charge have just as much right and all of his rights with the House thus informed as he has to-day?

Mr. COLLINS. I will answer that question by saying that when the Court of Claims gets through with this case, if the amendment prevails, we shall simply have this returned to us in the same position as we have to-day. That is all we shall ever know about it.

Mr. WELLER. I assume, Mr. Chairman, that the gentleman from Massachusetts is in error in regard to this matter. I apprehend if this case goes to the Court of Claims with the amendment offered by the gentleman from Indiana, and the Court of Claims, taking all of the testimony, as it will be its duty to do, returns the testimony to this House for its consideration, there will be developments made that are not observed by the members of this House to-day, and which, being observed, will change their opinions as to the merits of this bill.

I assume that; and I assume another thing—that every right which the gentleman has, every right which every party under this bill has to-day will be as good then as now; while the House will have the advantage of being fully advised. Nothing can be lost but the mere matter of time, while there may be great advantage in the protection of the rights of this House and the people, who by this means might be so fully advised that there would not be on this floor a vote in favor of this bill as now framed without the amendment.

I trust the amendment will be adopted in the interest of fair play and of equity. I do not wish to be considered as desiring that the Government shall retain any money that has been stolen from anybody; but I do say that the circumstances of this case, as disclosed in the report of the committee, convince me that further investigation should be had before this bill shall pass.

The CHAIRMAN. Does the gentleman from Indiana [Mr. HOLMAN] withdraw his formal amendment?

Mr. HOLMAN. I do.

Mr. MORSE. I renew the formal amendment. I feel it my duty to say that there is one particular point in this case which I think has not been generally understood by members of the House. At the subtreasury in Boston there was employed a man named Hartwell, who had access to the money of the Government. He speculated with it, and lost a very large amount in his speculations. One day he was informed that the agents of the Government were coming to Boston to investigate the condition of the treasury. Knowing that there was a large deficit, he went, among other places, to this very bank that is now applying here for its money, and by fraud obtained the money, with which he tried to make good his accounts in the treasury. His fraud being discovered, he was tried, convicted, and sentenced, and served out his entire term of imprisonment. Before serving out his term he appealed to the United States court, claiming that the court which tried him had no jurisdiction over him, denying that he was an employé of the subtreasury at Boston. The court overruled his appeal; and, as I have said, he served out his entire time, as the records will show, for having obtained by fraud this money now in the Treasury. These people now simply say, "Give us back the money which a court of the United States decided was taken from us by fraud." That, I understand, is the entire case in a nutshell.

Mr. WEAVER. What position did Hartwell hold?

Mr. MORSE. He was a clerk in the subtreasury at Boston, holding his position by the approval of the Government here at Washington. He was tried, convicted, and sentenced in a United States court. He appealed, claiming that the United States court had no jurisdiction in his case; but his appeal was overruled upon the ground that he was an employé of the Government.

Mr. COLLINS. He was cashier of the United States subtreasury.

Mr. HENDERSON, of Iowa. Does the Government claim that this money in fact belonged to the Government?

Mr. COLLINS and Mr. MORSE. No, sir.

Mr. HOLMAN. The officers of the Government have insisted over

and over again that there was no fraud for which the United States should be liable.

Mr. HENDERSON, of Iowa. Does the gentleman from Indiana claim that the Government has a right to retain this money?

Mr. HOLMAN. Certainly.

Mr. MILLIKEN. Does the Government claim that this money belongs to it?

Mr. HOLMAN. All I can say is that officials of the Government have never conceded, so far as I am advised, that a dollar of this money went wrongfully into the Treasury. I have never seen an intimation from any source that the Government did not resist the payment of the whole of this money from the beginning through all the courts.

Mr. COLLINS. The Supreme Court has said the Government does not own the money.

Mr. HOLMAN. The money is now claimed by the officials of the Treasury.

Mr. COLLINS. Oh, they claim everything.

The CHAIRMAN. The question is on the amendment of the gentleman from Indiana [Mr. HOLMAN].

The question being taken on the amendment of Mr. HOLMAN, to strike out all of the first section after the word "adjudication," in the eighth line, there were—ayes 46, noes 61.

Mr. HOLMAN. I make the point that no quorum has voted.

Tellers were ordered; and Mr. HOLMAN and Mr. COLLINS were appointed.

The committee again divided; and the tellers reported—ayes 58, noes 105.

So the amendment was rejected.

The next section of the bill was read, as follows:

SEC. 2. That said claim may be heard and determined by said Court of Claims on the petition of said bank now pending therein. And such portions of the records and findings of fact in case numbered 6408, The State National Bank of Boston vs. The United States of America, filed in said Court of Claims January 11, 1872, as are relevant and pertinent to the claim hereby authorized to be heard and adjudicated, may be used as evidence by either party if otherwise competent.

The committee recommend the adoption of the following amendment:

Strike out, in section 2, the following:

"And such portions of the records and findings of facts in case numbered 6408, The State National Bank of Boston vs. The United States of America, filed in said Court of Claims January 11, 1872, as are relevant and pertinent to the claim hereby authorized to be heard and adjudicated, may be used as evidence by either party if otherwise competent."

The amendment was agreed to.

The next section of the bill was read, as follows:

SEC. 3. That there shall be the right of appeal from the finding and judgment of the said Court of Claims to the Supreme Court of the United States, as in other cases.

Mr. COLLINS. I now move that the committee rise and report this bill to the House with a recommendation that it be passed as amended.

The question being taken, there were—ayes 95, noes 26.

Mr. HOLMAN. Mr. Chairman, it is obvious that there is no quorum voting. If the committee reporting this bill will consent that a yea-and-nay vote shall be taken upon the main proposition with reference to the statute of limitations, I will agree that the bill may be reported to the House.

Mr. HAMMOND. I object.

The CHAIRMAN. The point of order being made that no quorum has voted, the Chair will appoint tellers.

Mr. HOLMAN and Mr. COLLINS were appointed tellers.

The committee again divided; and the tellers reported—ayes 128, noes 35.

So the motion was agreed to.

JAMES HOOPER.

Mr. MOULTON. I desire to call up House bill No. 736, being a bill for the relief of James Hooper. This bill involves the payment of no money out of the Treasury. It simply provides to refer the claim to the Court of Alabama Claims. The money for the payment of this claim is already in the hands of the Government, and this bill merely refers it to the Court of Alabama Claims for adjudication. If no one asks for the reading of the report, I will move that the bill be laid aside to be reported favorably to the House.

Mr. MCMILLIN. I ask that the report be read.

Mr. MOULTON. Mr. Chairman, before the report is read, if the committee will give their attention, I will make a brief statement so that gentlemen may understand the point in this case. The claimant was the owner of the bark General Berry, which was in the employ of the Government in 1864 for the purpose of transporting supplies from the city of New York to Fortress Monroe. The Government had insured the vessel to the extent of $16,000, which was only a small part of her value. The vessel was captured and destroyed. Subsequently the matter was adjudicated and passed upon by the court, but they simply allowed the claimant $16,000; allowing nothing for the additional value of the vessel and its equipments, amounting to some $30,000. Later the whole amount was put in under a statement and went in among the other Alabama claims, and the claim was recognized and the money for its payment is now in the hands of the Government. By reason of the adjudication to which I have referred the claimant has been unable to get any more than the $16,000. This was one of the very first cases adjudicated, and the rules that were applied to subsequent cases were not applied to this.

In the very next case passed upon by the same tribunal, the case of another vessel lost a few days afterward, they made an allowance of the whole value of the vessel over and above the war risk. The report in this case sets out the facts, and, as it is very short, and as its reading has been asked for, I think it had better be read. The committee will understand that this claim is only for the difference between the amount received and the total value of the property.

A MEMBER. How much is it in money?

Mr. MOULTON. It is about $30,000. The whole value of the vessel was about $41,000.

The CHAIRMAN. Does the gentleman from Tennessee [Mr. MCMILLIN] insist upon the reading of the report?

Mr. MCMILLIN. My only object in calling for the reading was to find out something about the claim.

The Clerk read the report, as follows:

The Committee on the Judiciary, to whom was referred the bill (H. R. 736) for the relief of James Hooper, having considered the same, make the following report:

The object of this bill is to authorize and require the Court of Alabama Claims to reopen the case of James Hooper vs. The United States, decided in December term, 1874, of said court, and to allow the claimant to be reheard in regard to his claim, as provided by said bill.

This claim grows out of the loss of the bark General Berry, owned by James Hooper, and destroyed by a confederate cruiser while chartered and in the service of the United States.

Your committee deem it proper to state that the case referred to was one of the very first decided by the said court, and the rules of decisions afterward adopted in cases of this character were not applied in the decisions of the case of Mr. Hooper. By this decision no allowance was made for the difference between the war risk of the bark assumed and paid by the Government and the real value of the vessel, the same being $28,150.20. This last sum has never been paid Mr. Hooper.

The following is a short statement of the case, as it fully appears from the proof and papers on file, and submitted with the case:

"STATEMENT.

"The claimant, James Hooper, in June, 1864, chartered to the United States the bark General Berry, owned by him, for the transportation of quartermaster's stores from New York to Fortress Monroe, for the use of the Union Army. On the 10th day of July, 1864, she was captured and destroyed off Cape May, N. J., by the confederate steamer Florida.

"Four years afterward, it having been shown that the claimant had not insured the vessel in any private insurance company, for the reason that the understanding was that the United States assumed the war risk on the vessel, Congress appropriated $16,000 as an indemnity to him for the risk so assumed by the Government.

"Subsequently, during the negotiations between the Government of Great Britain and the United States in reference to the depredations of the Alabama and other confederate cruisers, advertisement was made for claimants to send to the State Department their claims for losses sustained by them through these cruisers, the intention being to submit these claims to the 'Geneva arbitrators,' as the basis of the indemnity demanded by the United States from Great Britain. Mr. Hooper accordingly filed his claim for the loss of the General Berry, and the statement of his claim was as follows:

Vessel, 462.78 tons, valued at $90 per ton		$41,650 20
Deduct amount received from United States (July 15, 1868)	$16,000 00	
Less costs and expenses of collection (if allowable)	2,500 00	
		13,500 00
Net balance due for vessel		28,150 20
Freight and primage on board	1,014 07	
One chronometer	250 00	
Hicks & Bell, ship stores and provisions	445 89	
Bentz & Co., advance to crew	600 50	
Hugh & Murry, ballast	300 00	
		2,610 46
Total due		30,760 66
William B. Hooper (master), personal effects	845 00	
Thomas J. Hooper (officer), personal effects	422 50	
Aaron Ring, Bath, Me. (chain-cable)	815 32	
		2,082 82
		32,843 48

"This sum of $32,843.48 was included in the list of claims sent to Geneva. Increased by a claim for the wages of seamen, the amount finally presented was $35,918, and the arbitrators allowed $40,737, and that last-mentioned sum was included in the final award. (See CONGRESSIONAL RECORD, vol. 2, part 5, first session Forty-third Congress; also Executive Documents, third session Forty-second Congress, Foreign Relations, part 2; Geneva Arbitrators, vol. 3, page 625.)

"Subsequently the Court of Commissioners of Alabama Claims was established by act of June 23, 1874 (18 Statutes at Large, page 245), by the twelfth section of which it was provided as follows:

"'No claim shall be admissible or allowed by said court for any loss or damage for or in respect to which the party injured, his assignees or legal representatives, shall have received compensation or indemnity from any insurance company, insurer, or otherwise; but if such compensation or indemnity so received shall not have been equal to the loss or damage so actually suffered, allowance may be made for the difference.'

"Under this section the claimant brought suit before that court, and all the foregoing amounts were allowed, except the claim for the vessel itself, $28,150.20, which was rejected.

"This decision is unintelligible to the claimant, inasmuch as the amount of the claim was actually collected and received by the United States from Great Britain, and the money is in the Treasury in trust for him; and inasmuch, also, as shortly afterward allowance was made for the bark Greenland, destroyed under precisely similar circumstances, and for which a similar part payment had been made by the United States. (See CONGRESSIONAL RECORD, &c., *ibid.*)

"It will be perceived that the sum of $16,000, paid by the United States as insurers of the vessel, does not enter at all into the claim forwarded by the Government to Geneva as the award finally allowed by the arbitrators, and that the award was for a balance due the claimant. This balance is payable to him independently of the $16,000 allowed by the Government.

"The mistake of the commissioners seems to have resulted from their having regarded the payment by the Government as a payment in full for the vessel,

whereas, on the contrary, the Government itself did not regard it as any such payment in full. Yet they fell into no such mistake in reference to the Greenland.

"That the payment of $16,000 by the Government was a payment on account of the war risk, and as agreed insurance upon the vessel, is evident from the report made by the Senate Committee on Claims on March 13, 1868, upon which the claim for $16,000 was allowed and paid, after refusal, in the first instance, by the accounting officers of the Treasury, who took the view that the Government had not assumed the war risk. The payment was for the insurance of the vessel, and not payment, either in part or in whole, for the vessel.

"There is yet in the Treasury of the United States upwards of $32,000 paid by the British Government to the United States on account of the loss of the General Berry; and it is to establish his right to this sum, and to review what seems to have been a hasty and ill-considered, and certainly erroneous, decision of the Court of Alabama Claims Commissioners, that the claimant now seeks the intervention of Congress."

Therefore your committee report said bill to the House and recommend its passage.

Mr. MOULTON. Mr. Chairman, I think gentlemen must see that this is an eminently just claim, and I move that the bill be laid aside to be reported favorably to the House.

Mr. HOLMAN. I desire to make a suggestion to the gentleman from Illinois. I notice that the last clause of this bill assumes that judgment will be rendered for the plaintiff, and provides for its payment. Ought not the provision to be that in the event of judgment being rendered for the plaintiff it shall be paid in such and such a manner?

Mr. MOULTON. This is the last clause of the bill:

And thereupon to render such judgment in the premises as may be just and proper, with interest at the rate of 4 per cent. per annum from the time the loss occurred, on such sum as may be due the said James Hooper.

Mr. HOLMAN. That assumes that judgment is to be rendered for the plaintiff.

Mr. MOULTON. No. The bill provides that the court shall consider the whole case and render such judgment as may be just and proper, and then it provides that if any allowance is made it shall be upon these terms.

Mr. HOLMAN. It provides that the court shall "render such judgment in the premises as may be just and proper."

Mr. MOULTON. Certainly; taking the facts of the case into consideration.

Mr. HOLMAN. "Such judgment in the premises as may be just and proper, with interest at the rate of 4 per cent. per annum"—that certainly assumes that judgment is to be rendered for the plaintiff.

Mr. MOULTON. I make the motion that the bill be laid aside to be reported favorably to the House.

The motion was agreed to.

L. A. MORRIS.

Mr. CULBERSON, of Texas. Mr. Chairman, I call up House bill No. 3196, being a bill for the relief of L. A. Morris.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Treasury be, and he is hereby, authorized and directed to remit a judgment obtained in the Federal court at Fort Smith, Ark., against L. A. Morris, upon his bond as an Indian trader, for the sum of $5,000, in favor of the United States, upon the payment of all the costs accrued in the prosecution of the cause.

Mr. CULBERSON, of Texas. I move that the bill be laid aside to be reported favorably to the House.

Mr. WHITE, of Kentucky. I think we ought to have some explanation of that bill, and I ask that the report be read.

The Clerk read the report, as follows:

The Committee on the Judiciary, to whom was referred the bill (H. R. 3196) for the relief of L. A. Morris, have considered the same, and make the following report:

On the 25th day of September, 1875, suit was instituted in the district court of the United States for the western district of Arkansas, at Fort Smith, in behalf of the United States, against T. T. Maxwell and L. A. Morris, under the name and style of Maxwell & Morris, partners in trade, John A. Fitch, and John Dorchester, to recover the penalty of a bond executed by the said Maxwell & Morris, as traders in the Choctaw Nation. The breach alleged in the complaint consisted in a violation of that provision of the bond which obligated the said Maxwell & Morris to obtain a license from the local authorities of the Choctaw Nation before offering or exposing their goods for sale.

On the 11th day of November, 1878, the suit was dismissed as to all the defendants except L. A. Morris, and judgment was recovered against him for the sum of $5,000, the penalty of the bond.

The facts in the case appear to be as follows: In 1875 Maxwell & Morris, having been appointed Indian traders, executed the bond declared upon, and the same was presented to and approved by E. P. Smith, Indian Commissioner. Upon the execution and approval of the bond license was duly issued to said Maxwell & Morris to trade in the Choctaw Nation.

L. A. Morris applied to George W. Ingalls, agent for the five civilized tribes of Indians, to ascertain if it was necessary to obtain a permit to trade from the local authorities of the Choctaw Nation, and was informed by him that it was not necessary. He was advised by Ingalls, the Indian agent, to get up a petition signed by a number of leading or prominent men, asking for the privilege of trading with the Indians. The petition was prepared and the signatures of several persons obtained, but was never presented, as, under the advice of the Indian agent, a permit was not believed to be necessary. One condition of the bond recites that "the principal shall faithfully conform to and observe all the laws and regulations made, or which shall be made, for the government of trade and intercourse with the Indian tribes." By reference to the treaty existing between the United States and the Choctaw Nation it will be seen that, in addition to the license granted by the Government, permission must be obtained from the local authorities of the nation before it shall be lawful to sell or expose for sale goods in the Territory.

It was also in proof before the court that shortly after Maxwell & Morris commenced selling the goods their store was closed by order of the authorities of the nation, and considerable damage resulted to the stock of goods on account of the seizure.

Upon this statement of facts the court gave judgment against L. A. Morris for the sum of $5,000, the penalty of the bond.

In view of the facts in the case, the committee believe that Morris did not intend to violate the law, and if such violation was established before the court it was merely technical.

The committee recommend the passage of the bill.

Mr. CULBERSON, of Texas. I move that the bill be laid aside to be reported to the House with the recommendation that it do pass.

The motion was agreed to.

Mr. TUCKER moved that the committee rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. ROGERS, of Arkansas, reported that the Committee of the Whole House on the Private Calendar had, according to order, had under consideration bills coming from the Judiciary Committee under the special order, and had directed him to report back sundry bills.

STATE NATIONAL BANK OF BOSTON.

The SPEAKER. The first bill reported from the Committee of the Whole House on the Private Calendar is the bill (H. R. 2263) for the relief of the State National Bank of Boston, Mass.

The amendments of the committee were agreed to, and the bill as amended was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. HOLMAN demanded the yeas and nays on the passage of the bill.

The House divided; and there were—ayes 33, noes 93.

So (one-fifth of those present having voted in the affirmative) the yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 116, nays 63, not voting 144; as follows:

YEAS—116.

Adams, G. E.	Dibble,	Jordan,	Rice,
Aiken,	Dorsheimer,	Kean,	Robertson,
Atkinson,	Dunham,	Lacey,	Rockwell,
Bagley,	Eaton,	Lanham,	Rogers, W. F.
Belmont,	Elliott,	Libbey,	Seney,
Blount,	Everhart,	Long,	Seymour,
Boutelle,	Ferrell,	Lore,	Slocum,
Bowen,	Findlay,	Lovering,	Smith, H. Y.
Bratton,	Finerty,	McCoid,	Spooner,
Brewer, J. H.	Foran,	McComas,	Stephenson,
Broadhead,	Garrison,	McCormick,	Stevens,
Browne, T. M.	George,	Maybury,	Stone,
Buchanan,	Greenleaf,	Millard,	Strait,
Caldwell,	Guenther,	Milliken,	Struble,
Campbell, Felix	Hammond,	Morrill,	Thomas,
Candler,	Hancock,	Morse,	Tillman,
Cannon,	Hatch, H. H.	Moulton,	Tucker,
Cassidy,	Hatch, W. H.	Mutchler,	Turner, H. G.
Chace,	Herbert,	Nelson,	Valentine,
Clardy,	Hewitt, A. S.	Nutting,	Van Eaton,
Clements,	Hiscock,	O'Hara,	Wallace,
Collins,	Hitt,	O'Neill, Charles	Wellborn,
Cosgrove,	Holmes,	Parker,	Wemple,
Covington,	Horr,	Payne,	White, J. D.
Craig,	Houseman,	Pettibone,	White, Milo
Crisp,	Hunt,	Poland,	Whiting,
Culberson, D. B.	James,	Post,	Wilson, W. L.
Davis, G. R.	Jeffords,	Pryor,	Wolford,
Davis, R. T.	Johnson,	Ray, Ossian	Woodward.

NAYS—63.

Alexander,	Eldredge,	Patton,	Swope,
Anderson,	English,	Peel,	Taylor, J. M.
Beach,	Forney,	Pierce,	Townshend,
Bennett,	Graves,	Perkins,	Turner, Oscar
Bland,	Hardy,	Peters,	Warner, A. J.
Brown, W. W.	Hemphill,	Randall,	Warner, Richard
Cabell,	Hepburn,	Reese,	Weaver,
Clay,	Hewitt, G. W.	Rogers, J. H.	Weller,
Cobb,	Hill,	Shively,	Williams,
Converse,	Holman,	Singleton,	Winans, E. B.
Cox, W. R.	Lowry,	Skinner, T. G.	Wise, G. D.
Curtin,	McMillin,	Smith, A. H.	Wood,
Davis, L. H.	Matson,	Spriggs,	Worthington,
Deuster,	Miller, J. F.	Stewart, Charles	Yaple,
Dibrell,	Neece,	Stockslager,	York.
Dowd,	O'Ferrall,	Storm,	

NOT VOTING—144.

Adams, J. J.	Chalmers,	Halsell,	King,
Arnot,	Connolly,	Hanback,	Kleiner,
Ballentine,	Cook,	Hardeman,	Laird,
Barbour,	Cox, S. S.	Harmer,	Lamb,
Barksdale,	Culbertson, W. W.	Hart,	Lawrence,
Barr,	Cullen,	Haynes,	Le Fevre,
Bayne,	Cutcheon,	Henderson, D. B.	Lewis,
Belford,	Dargan,	Henderson, T. J.	Lyman,
Bingham,	Davidson,	Henley,	McAdoo,
Bisbee,	Dingley,	Hoblitzell,	Miller, S. H.
Blackburn,	Dockery,	Holton,	Mills,
Blanchard,	Dunn,	Hooper,	Mitchell,
Boyle,	Ellis,	Hopkins,	Money,
Brainerd,	Ellwood,	Houk,	Morgan,
Breckinridge,	Ermentrout,	Howey,	Morrison,
Breitung,	Evans,	Hurd,	Muldrow,
Brewer, F. B.	Fiedler,	Hutchins,	Muller,
Brumm,	Follett,	Jones, B. W.	Murphy,
Buckner,	Funston,	Jones, J. H.	Murray,
Budd,	Fyan,	Jones, J. K.	Nicholls,
Burleigh,	Geddes,	Jones, J. T.	Oates,
Burnes,	Gibson,	Keifer,	Ochiltree,
Campbell, J. E.	Glascock,	Kelley,	O'Neill, J. J.
Campbell, J. M.	Goff,	Kellogg,	Paige,
Carleton,	Green,	Ketcham,	Payson,

Phelps,	Robinson, W. E.	Stewart, J. W.	Wadsworth,
Potter,	Rosecrans,	Sumner, C. A.	Wait,
Price,	Rowell,	Sumner, D. H.	Wakefield,
Pusey,	Russell,	Talbott,	Ward,
Rankin,	Ryan,	Taylor, E. B.	Washburn,
Ranney,	Shaw,	Taylor, J. D.	Wilkins,
Ray, G. W.	Skinner, C. R.	Thompson,	Willis,
Reagan,	Smalls,	Throckmorton,	Wilson, James
Reed,	Snyder,	Tully,	Winans, John
Riggs,	Springer,	Van Alstyne,	Wise, J. S.
Robinson, J. S.	Steele,	Vance,	Young.

So the bill was passed.

During the roll-call the following pairs were announced from the Clerk's desk:

Until further notice on all political questions:

Mr. RANKIN with Mr. HOWEY.

Mr. MORRISON with Mr. HISCOCK.

Mr. FOLLETT with Mr. BURLEIGH.

Mr. DARGAN with Mr. KELLOGG.

Mr. SHAW with Mr. LAIRD.

Mr. JONES, of Arkansas, with Mr. RUSSELL.

Mr. CARLETON with Mr. DINGLEY.

Mr. SPRINGER with Mr. STEWART, of Vermont.

Mr. ARNOT with Mr. BELFORD.

Mr. MULDROW with Mr. EVANS.

Mr. FYAN with Mr. MILLER, of Pennsylvania.

Mr. DOCKERY with Mr. HOOPER.

Mr. DUNN with Mr. CHALMERS.

Mr. VAN ALSTYNE with Mr. ELLWOOD.

Mr. WARD with Mr. LYMAN.

Mr. SNYDER with Mr. GOFF.

Mr. ADAMS, of New York, with Mr. WADSWORTH.

For this day:

Mr. PAIGE with Mr. HART.

Mr. SINGLETON with Mr. JOHN S. WISE.

Mr. TALBOTT with Mr. HOLTON.

Mr. GIBSON with Mr. REED.

Mr. O'NEILL, of Missouri, with Mr. RYAN.

Mr. KLEINER with Mr. PRICE.

Mr. YOUNG with Mr. WILSON, of Iowa.

Mr. THROCKMORTON with Mr. FUNSTON.

Mr. VANCE with Mr. WAKEFIELD.

Mr. JONES, of Texas, with Mr. BARR.

Mr. DAVIDSON with Mr. CULBERTSON, of Kentucky.

Mr. OATES with RANNEY.

Mr. THOMPSON with Mr. JOSEPH D. TAYLOR.

Mr. NICHOLLS with Mr. OCHILTREE.

Mr. BUCKNER with Mr. HENDERSON, of Iowa.

Mr. HALSELL with Mr. ATKINSON.

Mr. STEELE with Mr. LAMB.

Mr. ERMENTROUT with Mr. HARMER.

Mr. ROSECRANS with Mr. PHELPS.

Mr. BALLENTINE with Mr. HOUK.

Mr. HANCOCK with Mr. HANBACK.

Mr. MCADOO with Mr. BREITUNG.

Mr. GREEN with Mr. KELLEY.

Mr. REAGAN with Mr. BINGHAM.

The vote was then announced as above recorded.

Mr. TUCKER moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

JAMES HOOPER.

The next business reported from the Committee of the Whole House on the Private Calendar was the bill (H. R. 736) for the relief of James Hooper.

Mr. TUCKER. I demand the previous question upon the engrossment and third reading of the bill.

The previous question was ordered.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. TUCKER moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

Mr. TOWNSHEND. Can we not adjourn now and take a vote on these bills in the morning just as well as to-night?

Mr. HAMMOND. I hope the House will not adjourn now, as we have only one other bill to act upon.

Mr. WELLER. I move that the House do now adjourn.

Mr. TUCKER. There is but one other bill remaining to be disposed of.

Mr. WELLER. I withdraw the motion.

L. A. MORRIS.

The next business reported from the Committee of the Whole House on the Private Calendar was the bill (H. R. 3196) for the relief of L. A. Morris.

The bill was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

Mr. TUCKER moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ENROLLED BILLS SIGNED.

Mr. NEECE, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

A bill (S. 478) to authorize the Secretary of War to relinquish and turn over to the Interior Department certain parts of the Camp Douglas military reservation, in the Territory of Utah;

A bill (S. 862) for the relief of Uriel Crocker;

A bill (S. 1625) for the relief of William Bower;

A bill (S. 1758) for the relief of Charles M. Blake, a chaplain in the United States Army;

A bill (S. 1821) to authorize the Secretary of the Interior to examine and adjust the claim of O. W. Streeter for moneys expended and services performed in taking the census of Dakota in 1860;

A bill (S. 2045) for the relief of the Eastern Presbyterian Church in the District of Columbia; and

A bill (S. 2061) to authorize the construction of bridges across the Mississippi River, one within the State of Minnesota, and one between the States of Minnesota and Wisconsin.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted as follows:

To Mr. GEORGE D. WISE, for three days, on account of important business.

To Mr. GIBSON, for four days, on account of important business.

To Mr. HARDEMAN, indefinitely, on account of sickness.

DEATH OF HON. SCHUYLER COLFAX.

Mr. BROWNE, of Indiana. Mr. Speaker, I perform a sad office by announcing to the House the death of Hon. Schuyler Colfax, at one time the Speaker of this body, and late Vice-President of the United States. A telegram was received through the Associated Press this afternoon at about 2 o'clock announcing this sad fact. I desire that this telegram be read by the Clerk.

The Clerk read as follows:

[Received at 2.45 p. m.]

Schuyler Colfax dropped dead in the depot at Mankato, Minn., a few moments ago.

Mr. BROWNE, of Indiana. I wish to send to the Clerk's desk for adoption by the House a resolution upon this subject.

The SPEAKER. The resolution will be read.

The Clerk read as follows:

Whereas the intelligence has just reached this House that Schuyler Colfax, for many years a member of this body and its Speaker, and late Vice-President of the United States, died this day at Mankato, Minn.; and

Whereas the deceased was a distinguished citizen of the Republic and a conspicuous figure in its history; and

Whereas it is fit that this House, in which he so long served, and over which he presided as Speaker, should give expression of its sorrow for his loss, its regard for his memory, and its sympathy for his bereaved family: Therefore,

Be it resolved, That the House do now adjourn.

The resolution was agreed to; and accordingly (at 5 o'clock and 15 minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions and papers were laid on the Clerk's desk, under the rule, and referred as follows:

By Mr. ATKINSON: Petitions of 100 citizens and of 80 citizens, of Huntingdon County, Pennsylvania, asking for the allowance of arrears of pensions—to the Committee on Invalid Pensions.

Also, two petitions of 100 citizens each, of Huntingdon County, Pennsylvania, asking for an allowance of land to each honorably discharged soldier—to the Select Committee on the Payment of Pensions, Bounty, and Back Pay.

By Mr. CURTIN: Petition of Ralph S. Demarest, for indemnity for moneys invested in the purchase of certificates on the faith of the act of Congress of February 25, 1873, relating to Venezuelan awards—to the Committee on Foreign Affairs.

By Mr. ERMENTROUT: Petition of American Philosophical Society, of Pennsylvania, for placing on free-list books on natural and medical science and apparatus—to the Committee on Ways and Means.

Also, petition of the committee of the Maritime Association of the port of New York, for modification and ratification of Spanish treaty—to the Committee on Foreign Affairs.

By Mr. HEMPHILL: Petition of E. Mullen Boykin and 70 others, members of the General Assembly of South Carolina, asking for an appropriation of $25,000 for work on the Wateree River—to the Committee on Rivers and Harbors.

By Mr. HOPKINS: Memorial of the Chamber of Commerce of Pitta-

burgh, Pa., relative to the improvement of navigation and removal of toll burdens on the Monongahela River—to the same committee.

By Mr. KING: Petition of E. K. Converse and others, for public building at New Orleans, La.—to the Committee on Public Buildings and Grounds.

By Mr. MILLARD: Petition of Harriet Conklin, for increase of widows' pensions—to the Committee on Pensions.

By Mr. MURPHY: Petitions of Hon. Hugh H. Osgood, ex-mayor, and 14 others, business firms of Norwich; of Hon. H. B. Bigelow, ex-governor of Connecticut, and 24 others, leading business men of New Haven; of Jewell Belting Company and 92 other of the largest business firms of Hartford; and of E. J. Doolittle, mayor, and others, business firms of Meriden, Conn., asking Congress to construct the Hennepin Canal—to the Committee on Rivers and Harbors.

By Mr. NELSON: Petition for the improvement of the Red River of the North, with letter from Governor L. F. Hubbard—to the same committee.

By Mr. NICHOLLS: Memorial of W. W. Gerger, Joseph S. Haymans, and A. G. Smith, of the board of education of Bryan County, Georgia, asking the passage of the educational bill—to the Committee on Education.

By Mr. SENEY: Petition of Erastus Winans, for passage of Senate bill 1447 and House bill 7165—to the Committee on Commerce.

By Mr. A. H. SMITH: A remonstrance from H. H. Miller and 155 others, citizens of Rock Hill, Pa., against the ratification of the reciprocity treaty with Spain—to the Committee on Ways and Means.

By Mr. STOCKSLAGER: Petition of citizens of Zenas, Ind., for increase of widows' pensions—to the Committee on Pensions.

By Mr. TUCKER: Petition of George Corpenning, and papers relating thereto—to the Committee on the Judiciary.

By Mr. J. D. WHITE: Petition of Thomas Dean, for increase of pension—to the Committee on Invalid Pensions.

The following petitions for the passage of the Mexican war pension bill, with Senate amendments, were presented and severally referred to the Committee on Pensions:

By Mr. ANDERSON: Of 210 citizens of Washington, of 64 citizens of Clyde, and of Frank Sager and 600 others, citizens of Republic County, Kansas.

By Mr. ATKINSON: Of 75 citizens of Perry County and of 72 citizens of Juniata County, Pa.

By Mr. BEACH: Of citizens of Liberty, N. Y.

By Mr. F. B. BREWER: Of citizens of Chautauqua County, New York, and of Vandalia, N. Y.

By Mr. CURTIN: Of citizens of Elk County, Pennsylvania.

By Mr. DEUSTER: Of August Klabunde and 29 others, of Milwaukee, Wis.

By Mr. DINGLEY: Of G. M. Knight and others, of Oxford County, Maine.

By Mr. FUNSTON: Of citizens of Earlton, of Vermillion, of Hedric, and of Girard, Kans.

By Mr. HANBACK: Of 93 citizens of Lebanon, Kans.

By Mr. D. B. HENDERSON: Of A. H. McCracken and 55 others, of Waverly, Iowa.

By Mr. JOHNSON: Of J. E. Barnes and others, of Westport, and of Charles W. Knot and others, of Schroon Lake, N. Y.

By Mr. KEAN: Of citizens of Freehold, Monmouth County, New Jersey.

By Mr. McCORMICK: Of James Eckley, of Wellston, Ohio, and 220 others, of Jackson County, Ohio; of Francis Downey and 75 others, of Jackson, Ohio.

By Mr. MILLIKEN: Of Irving Osgood and others, of Hancock County; of Edwin A. Pratt and others, of Somerset County, Maine.

By Mr. MORRILL: Of citizens of Jackson County, Kansas, and of Lancaster and Leavenworth, Kans.

By Mr. W. L. WILSON: Of 34 citizens of Taylor County, West Virginia.

By Mr. PERKINS: Of Henry Welty and 120 others, citizens of Elk County, Kansas.

By Mr. PETERS: Of 58 citizens of Edwards County, Kansas.

By Mr. POLAND: Of Albert Snow and others, of Pomfret; of John Ord and others, of Irasburg; of Philander Baily and others, of Proctorsville, and of W. B. Crane and others, of Concord, Vt.

By Mr. RYAN: Of George W. Reed and 130 others, of Morris County, Kansas.

By Mr. SPOONER: Of 147 citizens of Burrillville and of 64 citizens of Bristol, R. I.

By Mr. SPRINGER: Of 50 soldiers and citizens of Bolivia, Christian County; of 40 citizens of Mason County; of 80 citizens and soldiers of Christian County, and of 60 citizens of Mason County, Illinois.

By Mr. SPRIGGS: Of citizens of Oneida County, New York.

By Mr. STRAIT: Of 63 citizens of Olivia, of Dundas, and of Montevidio, Minn.

By Mr. WEAVER: Of J. Vandevoort and 60 others, of Salem, Nebr.

By Mr. MILO WHITE: Of citizens of Rochester; of 151 citizens of Austin, and of 132 citizens of Kasson, Minn.

By Mr. JAMES WILSON: Of 132 citizens of Iowa County; of 64 citizens of Marshall County, Iowa, and of 200 citizens of Gilman, Iowa.

By Mr. E. B. WINANS: Of F. W. Redfern and 181 others, citizens, and of Gabriel Anderson and 62 others, citizens and soldiers of Clinton County, Michigan.

SENATE.

WEDNESDAY, *January* 14, 1885.

Prayer by the Chaplain, Rev. E. D. HUNTLEY, D. D.

The Journal of yesterday's proceedings was read and approved.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore*. The Chair lays before the Senate a communication from the Secretary of War, transmitting, in compliance with section 194 of the Revised Statutes, a report of the names of the clerks and other persons employed in the War Department, and the officials thereof, from December 1, 1883, to November 30, 1884. If there be no objection the letter will be printed, and, with the accompanying report, referred to the Committee on Printing for the time being.

HOUSE BILLS REFERRED.

The following bills received yesterday from the House of Representatives were severally read twice by their titles, and referred to the Committee on Territories:

A bill (H. R. 489) to extend the laws of the United States over certain unorganized territory south of the State of Kansas; and

A bill (H. R. 3058) to amend section 1889 of chapter 1, title 23, of the Revised Statutes of the United States, relative to general incorporation acts of Territories.

The following bills were severally read twice by their titles, and referred to the Committee on the Judiciary:

A bill (H. R. 2576) to repeal section 840 of the Revised Statutes of the United States and a portion of section 839;

A bill (H. R. 3714) to amend section 1000 of the Revised Statutes of the United States;

A bill (H. R. 4409) to amend section 643 of the Revised Statutes of the United States;

A bill (H. R. 6076) to authorize terms of the circuit court of the United States for the eastern district of the State of North Carolina at the city of Wilmington, in said district;

A bill (H. R. 7584) for the relief of A. B. Montgomery;

A bill (H. R. 7585) for the relief of M. Gardner; and

A bill (H. R. 7963) to remove the political disabilities of J. Pembroke Jones, of Virginia.

The following bills were severally read twice by their titles, and referred to the Committee on the District of Columbia:

A bill (H. R. 7131) to authorize suits for damages where death results from the wrongful act or neglect of any person or corporation in the District of Columbia; and

A bill (H. R. 7895) for the regulation of the practice of dentistry in the District of Columbia, and for the protection of the people of said District from empiricism in relation thereto.

The bill (H. R. 4407) to relieve private soldiers of the United States Army from the disabilities imposed by section 1218 of the Revised Statutes was read twice by its title, and referred to the Committee on Military Affairs.

The bill (H. R. 7619) to release the reversionary right of the Government of the United States to certain lands in the city of Detroit, and State of Michigan, was read twice by its title, and referred to the Committee on Public Buildings and Grounds.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore*. The Chair presents the memorial of the Pennsylvania Academy of Fine Arts, remonstrating against the purchase of the portrait of General George H. Thomas named therein. The Chair understands that the Committee on the Library reported on the subject an amendment to an appropriation bill, which was referred to the Committee on Appropriations. The Chair will therefore refer the memorial to the Committee on Appropriations.

Mr. McPHERSON. I present the petition of Ralph S. Demarest, of Demarest, N. J., praying that no review of the Venezuela awards shall be had until provision shall have been made for him and for all those citizens of the United States who like him purchased the certificates of the Caracas commission on the faith of the treaty and of the act of Congress declaring that the awards were final and conclusive and were to be held as valid and subsisting against the Republic of Venezuela. I move that the petition be referred to the Committee on Foreign Relations.

The motion was agreed to.

Mr. GORMAN. I ask unanimous consent to present a communication from the Baltimore Corn and Flour Exchange, remonstrating against the ratification of the proposed Spanish reciprocity treaty. It is a letter addressed to me, but evidently intended for presentation to the Senate. I ask that it may be received and referred to the Committee on Foreign Relations.

The PRESIDENT *pro tempore*. If there be no objection the paper will be received and referred to the Committee on Foreign Relations.

Mr. HALE presented the petition of Arthur P. Nazro, lieutenant, United States Navy, and other officers of the Navy, praying for legislation in relation to rank and promotion in the Navy; which was referred to the Committee on Naval Affairs.

Mr. WILSON presented the petition of Lewis Countryman and 100 other citizens of Iowa, praying for the passage of an act of Congress for the resumption of certain lands within the limits of the grant to the Sioux City and Saint Paul Railroad Company, and that settlers on those lands shall be protected in their rights; which was referred to the Committee on Public Lands.

REPORTS OF COMMITTEES.

Mr. DOLPH. I am instructed by the Committee on Claims, to whom was referred the petition of Charles Murphy, of California, praying compensation for certain work done by him on the dry-dock at Mare Island, California, to report it adversely. I beg the indulgence of the Senate to say that no other claim has been so earnestly and persistently pressed upon the consideration of the committee at the present Congress as this claim, and no other claim has been so carefully considered by the committee. The committee, desiring to be right and fully informed, gave the claimant and his attorneys at the last session a hearing and at the present session a rehearing; and this report is the unanimous report of the committee.

The PRESIDENT *pro tempore*. If there be no objection, the report of the committee will be agreed to and the prayer of the petitioner denied. The Chair hears none, and it is so ordered.

Mr. SHEFFIELD, from the Committee on Claims, to whom was referred the bill (S. 2046) for the relief of Rittenhouse Moore, of Alabama, submitted an adverse report thereon, which was agreed to; and the bill was postponed indefinitely.

Mr. WILSON. I am instructed by the Committee on Pensions, to whom was referred the bill (H. R. 3691) for the relief of Joshua Shepard, to report it adversely.

Mr. COCKRELL. Let the bill be placed upon the Calendar.

The PRESIDENT *pro tempore*. The bill will be placed on the Calendar with the adverse report of the committee.

Mr. CAMERON, of Wisconsin, from the Committee on Claims, to whom was referred the bill (S. 164) for the relief of John C. Herndon, reported it without amendment, and submitted a report thereon.

He also, from the same committee, to whom was referred the bill (H. R. 1566) for the relief of O. L. Cochran, late postmaster at Houston, Tex., reimbursing him for money erroneously collected from him by the Post-Office Department, asked to be discharged from its further consideration, and that it be referred to the Committee on Post-Offices and Post-Roads; which was agreed to.

CAPTAIN WHEELER'S REPORT.

Mr. GORMAN. I am directed by the Committee on Printing, to whom was referred a resolution to print the report of Capt. George M. Wheeler, to report it back with an amendment in the nature of a substitute, and I ask for its immediate consideration.

The PRESIDENT *pro tempore*. The resolution will be first read for information.

The Chief Clerk read the resolution, as follows:

Resolved, That the report of Capt. George M. Wheeler, Corps of Engineers, United States Army, on the Third International Geographical Congress and Exhibition at Venice, Italy, with the accompanying illustrations, transmitted to the Senate by the Secretary of War on December 10, 1883, be printed for the use of the Senate.

The PRESIDENT *pro tempore*. The Senator from Maryland asks unanimous consent that the resolution be now considered. Is there objection? The Chair hears none. The amendment reported by the committee will be read.

The Chief Clerk read the substitute, as follows:

Resolved by the Senate (the House of Representatives concurring), That the report of Capt. George M. Wheeler, Corps of Engineers, United States Army, on the Third International Geographical Congress and Exhibition at Venice, Italy, with the accompanying illustrations, transmitted to the Senate by the Secretary of War on the 10th of December, 1883, be printed in quarto form, and that 3,500 additional copies be printed; of which 1,000 copies shall be for the use of the Senate, 2,000 copies for the use of the House, and 500 copies for the Department of War.

The PRESIDENT *pro tempore*. The question is on agreeing to the amendment.

The amendment was agreed to.

The resolution as amended was agreed to.

ELECTORAL-VOTE MESSENGERS.

Mr. ALLISON. The Committee on Appropriations instruct me to report an original bill in response to the message of the President of yesterday, and I ask unanimous consent that it may be put upon its passage.

The bill (S. 2540) to provide for the expense and compensation of special messengers to be sent by the Secretary of State to the States respectively of Iowa and Oregon for the certificates of the electoral vote of 1884 for President and Vice-President of the United States, in pursuance of the provisions of section 141 of the Revised Statutes of the United States, was read twice by its title.

The PRESIDENT *pro tempore*. The Senator from Iowa asks unanimous consent that the bill be now considered. Is there objection? The Chair hears none. The bill is before the Senate as in Committee of the Whole, and will be read at length.

The Chief Clerk read the bill, as follows:

Be it enacted, &c., That the sum of $1,500 be, and the same is hereby, appropriated, out of any moneys in the Treasury not otherwise appropriated, to pay the compensation, expenses, or mileage, as the case may be, of two messengers, one to the State of Iowa and one to the State of Oregon, to receive from the United States district judge in each of said States the certificate of the electoral vote of November, 1884, for President and Vice-President of the United States, deposited with such judges under the provisions of section 140 of the Revised Statutes of the United States, and called for by the Secretary of State under the provisions of section 141 of the Revised Statutes of the United States.

SEC. 2. The sum hereby appropriated shall be immediately available and shall be disbursed under the direction of the Secretary of State.

Mr. ALLISON. I did not quite hear the reading. I understood from the Chief Clerk that the word "November" was inserted at a certain place.

The PRESIDENT *pro tempore*. The bill describes the electoral vote as having been given in November instead of December.

Mr. ALLISON. I move an amendment to cure that defect.

The PRESIDENT *pro tempore*. The Senator from Iowa moves to strike out the word "November," where it occurs, and insert the word "December." If there be no objection that amendment will be considered as agreed to.

The bill was reported to the Senate as amended.

Mr. COCKRELL. I should like to have the Senator from Iowa make some explanation of the bill. Why is it that we have to send to these States for the electoral returns?

Mr. ALLISON. I understand the reason to be that the returns have not been deposited as the law requires.

Mr. COCKRELL. Would it not then be well to send a copy of the laws and regulations to these two respective States, in order that their electors may know what to do in future, and that we may not have to send special messengers at great expense to bring in the votes that they cast for President and Vice-President?

Mr. ALLISON. It is hardly worth while to put that in the statute. It might be well enough to intimate to the messenger that a copy of the laws should be sent. I understand that these returns are not here as the law requires, and therefore that this action is necessary. I hope the bill will pass.

Mr. DOLPH. If I understand the case correctly, although I did not catch the reading of the bill at the moment and do not know exactly what it is intended to accomplish, the certificate has been received in due form from Oregon by messenger, but the certificate required to be sent by mail has not been received in due form. Without looking at the law, as I recollect its provisions, if the certificate sent by mail is not received within a given time it is made the duty of the Secretary of State to send for the certificate which is required to be deposited with the district judge. The return from Oregon, by mail as well as the one sent by messenger, would have been here in time had it not been for an unusual detention of the mails. The fact is, however, that the first return which came by mail was without the necessary indorsement upon the outside of the package, but another return in due form would have been received by mail had it not been for a snow blockade upon the line of the Oregon Railway and Navigation Company's road, which prevented its arrival in Washington.

The PRESIDENT *pro tempore*. The question is on concurring in the amendment made as in Committee of the Whole.

The amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

MADISON R. CALVERT.

Mr. SHEFFIELD. I am instructed by the Committee on Claims, to whom was referred the bill (H. R. 4273) for the relief of Madison R. Calvert, to report it favorably. The committee have adopted the House report, which contains about twelve lines, and if the Senate will permit it to be read I ask for the present consideration of the bill, as I am sure there will be no objection.

By unanimous consent the Senate, as in Committee of the Whole, proceeded to consider the bill. It directs the Secretary of the Treasury to pay to Madison R. Calvert, an assistant paymaster in the United States Navy, $501, to reimburse him for a like amount stolen from his paymaster's safe on the United States steamer Mayflower, and made good by him.

Mr. SHEFFIELD. I ask for the reading of the House report, which the Senate Committee have adopted.

The Chief Clerk read the following report, submitted by Mr. DOWD June 26, 1884:

The Committee on Claims, to whom was referred the bill (H. R. 4273) for the relief of Madison R. Calvert, having examined the same, respectfully report:

The money ($501) which is the basis of this claim was stolen from the safe of the paymaster, then in charge of said Calvert as assistant, on board the United States steamer Mayflower, while the said Calvert was on shore by permission.

The facts show that the safe was entered by the use of a key; that there had been two keys for the safe, only one of which ever came into the possession of the present claimant. As soon as the theft was discovered the claimant promptly made good the loss. The Paymaster-General has given the opinion upon in-

vestigation that Mr. Calvert, the assistant in charge, was not to blame at all, and the Secretary of the Navy, under date October 11, 1883, says:

"The Department concurs in the opinion of the Paymaster-General that on a review of the whole case no charge of carelessness against Mr. Calvert in connection with the loss of the money is sustained."

Your committee are likewise of this opinion, and recommend that the bill (H. R. 4273) for the relief of the said Madison R. Calvert be passed by the House.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

REPORT ON LABOR IN EUROPE.

Mr. MANDERSON. Yesterday, under the direction of the Committee on Printing, I reported favorably a concurrent resolution having reference to the printing of the letter of the Secretary of State, with the accompanying reports of United States consuls, on labor in Europe. I then asked for its consideration, but it went over on objection. By direction of the committee I have, without changing the number of copies to be printed, increased the number to be distributed by Congress and lessened the number to be distributed through the State Department. It seems to be important that this matter should be considered and acted upon. I ask unanimous consent that the resolution may be now considered.

The PRESIDENT *pro tempore*. The resolution will be read for information.

The Chief Clerk read the resolution, as follows:

Resolved by the Senate (the House of Representatives concurring), That the letter of the Secretary of State, dated December 12, 1884, and the accompanying reports of United States consuls, on labor in Europe, be printed, and that 1,000 additional copies be printed for the use of the Senate, 2,000 copies for the use of the House of Representatives; and for the use of the Department of State 5,000 copies, and 10,000 copies of the Secretary's letter.

The PRESIDENT *pro tempore*. Is there objection to the present consideration of the resolution? The Chair hears none. The resolution is before the Senate, and the Senator from Nebraska, by direction of the Committee on Printing, moves sundry amendments to the resolution, which will be announced in their order.

The CHIEF CLERK. In line 7 the committee propose to strike out "1,000" and insert "1,500;" so as to read:

And that 1,500 additional copies be printed for the use of the Senate.

The amendment was agreed to.

The next amendment was, in line 9, to strike out "2,000" and insert "2,500;" so as to read:

Two thousand five hundred copies for the use of the House of Representatives.

The amendment was agreed to.

The next amendment was, in line 12, to strike out "5,000" and insert "4,000;" so as to read:

And for the use of the Department of State 4,000 copies.

The amendment was agreed to.

The next amendment was to insert, at the end of line 12, the word "additional;" so as to read:

And 10,000 additional copies of the Secretary's letter.

The amendment was agreed to.

The next amendment was to add to the resolution:

Of which 1,500 shall be for the use of the Senate, 2,500 for the House of Representatives, and 6,000 for the use of the Department of State.

The amendment was agreed to.

The resolution as amended was agreed to, as follows:

Resolved by the Senate (the House of Representatives concurring), That the letter of the Secretary of State dated December 12, 1884, and the accompanying reports of United States consuls on labor in Europe, be printed; and that 1,500 additional copies be printed for the use of the Senate, 2,500 copies for the use of the House of Representatives; and for the use of the Department of State 4,000 copies; and 10,000 additional copies of the Secretary's letter, of which 1,500 shall be for the use of the Senate, 2,500 for the House of Representatives, and 6,000 for the use of the Department of State.

FORT ROBINSON MILITARY RESERVATION.

Mr. HAMPTON. I am instructed by the Committee on Military Affairs, to whom was referred the bill (H. R. 7329) granting right of way to the Fremont, Elkhorn and Missouri Valley Railroad Company across the Fort Robinson military reservation, in the State of Nebraska, to report it favorably. As it is a matter of some consequence that action should be taken upon the bill immediately, and as it involves no disputed question, I ask consent that it may be considered now.

The PRESIDING OFFICER (Mr. FRYE in the chair). Is there objection to the present consideration of the bill?

Mr. HOAR. If it requires no debate I shall not object.

Mr. SAWYER. Is there a letter from the Secretary of War approving it?

Mr. HAMPTON. There is. I ask for the reading of the letter of the Secretary of War.

The PRESIDING OFFICER. The Chief Clerk will read the letter of the Secretary of War.

The Chief Clerk read as follows:

WAR DEPARTMENT, *Washington City, January 13, 1885.*

SIR: In reply to your communication of January 12, instant, asking an expression of my views upon House bill 7329, granting a right of way specified in the bill across the Fort Robinson military reservation, I have the honor to advise you that there is no objection to the passage of the bill, containing as it does a provision that the right of way shall not interfere with any buildings or improvements on the reservation, and that the location of the railroad shall be subject to the approval of the Secretary of War.

The bill inclosed with your letter is herewith returned.

Very respectfully, your obedient servant,

ROBERT T. LINCOLN,
Secretary of War.

Hon. BENJAMIN HARRISON,
Acting Chairman of Committee on Military Affairs,
United States Senate.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill. It grants to the Fremont, Elkhorn and Missouri Valley Railroad Company, a corporation duly organized under the laws of the State of Nebraska, the right of way, one hundred feet in width, for their railroad, across and through the Fort Robinson military reservation, located in the State of Nebraska, not to interfere with any buildings or improvements thereon, and the location thereof to be subject to the approval of the Secretary of War.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. CLARK, its Clerk, announced that the House had passed the following bills; in which it requested the concurrence of the Senate:

A bill (H. R. 736) for the relief of James Hooper;

A bill (H. R. 1808) to detach certain counties from the United States judicial district of California and create the United States judicial district of Southern California;

A bill (H. R. 2263) for the relief of the State National Bank of Boston, Mass.;

A bill (H. R. 3196) for the relief of L. A. Morris;

A bill (H. R. 5849) limiting the time for the presentation and payment of claims against the United States;

A bill (H. R. 6220) regulating appeals from the supreme court of the District of Columbia and the supreme courts of the several Territories;

A bill (H. R. 6404) to authorize the service of civil and criminal process issued by Territorial courts within military and Indian reservations and the Yellowstone National Park; and

A bill (H. R. 7013) to regulate the effect of judgments and decrees of the courts of the United States in the several States.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills; and they were thereupon signed by the President *pro tempore*:

A bill (S. 478) to authorize the Secretary of War to relinquish and turn over to the Interior Department certain parts of the Camp Douglas military reservation, in the Territory of Utah;

A bill (S. 862) for the relief of Uriel Crocker;

A bill (S. 1625) for the relief of William Bowen;

A bill (S. 1758) for the relief of Charles M. Blake, a chaplain in the United States Army;

A bill (S. 1821) to authorize the Secretary of the Interior to examine and adjust the claim of O. W. Streeter for moneys expended and services performed in taking the census of Dakota in 1860;

A bill (S. 2045) for the relief of the Eastern Presbyterian Church in the District of Columbia; and

A bill (S. 2061) to authorize the construction of bridges across the Mississippi River, one within the State of Minnesota, and one between the States of Minnesota and Wisconsin.

BILLS INTRODUCED.

Mr. MITCHELL introduced a bill (S. 2541) granting a pension to Margaret A. Blake; which was read twice by its title, and referred to the Committee on Pensions.

Mr. CULLOM introduced a bill (S. 2542) to amend an act entitled "An act for the erection of a public building at Quincy, Ill.," approved May 9, 1882; which was read twice by its title, and referred to the Committee on Public Buildings and Grounds.

Mr. MANDERSON introduced a bill (S. 2543) for the relief of the heirs of Charles B. Smith, deceased, late lieutenant Fifth Iowa Cavalry; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Military Affairs.

Mr. VAN WYCK introduced a bill (S. 2544) authorizing the Secretary of the Interior to extend the time of payment of installments to be paid by actual settlers of Omaha and Otoe Indian lands in the States of Nebraska and Kansas; which was read twice by its title, and referred to the Committee on Indian Affairs.

Mr. HARRIS introduced joint resolution (S. R. 110) authorizing the printing of 2,500 extra copies of the annual report of the health officer of the District of Columbia; which was read twice by its title, and referred to the Committee on Printing.

PRINTING OF DOCUMENTS.

Mr. MILLER, of California, submitted the following resolution; which was referred to the Committee on Printing:

Resolved, That Senate Executive Document No. 78, Forty-seventh Congress, first session, parts 1, 2, and 3, be included in the publication of the 500 copies of

Senate Executive Documents No. 112, Forty-sixth Congress, No. 194, Forty-seventh Congress, and No. 26, Forty-eighth Congress, ordered printed by resolution of the Senate on the 13th instant.

RETIRED GENERAL OF THE ARMY.

Mr. EDMUNDS. The order of resolutions being gone through with, I move that the Senate proceed to the consideration of the bill (S. 2530) to authorize an additional appointment on the retired-list of the Army.

The PRESIDING OFFICER (Mr. FRYE in the chair). Is there objection? The Chair hears none. The bill is before the Senate as in Committee of the Whole and open to amendment. It will be read at length.

The bill was read.

Mr. EDMUNDS. I move to amend the bill. I do not think it necessary, but to make it perfectly clear I move, after the word "person," in line 8, to insert the words "with the rank and full pay of such general or general-in-chief, as the case may be."

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

Mr. COCKRELL. Mr. President, I desire to record my vote against the bill, not knowing whether the yeas and nays will be called upon its passage or not. I think there is neither justice nor propriety in it. The retired-list of the Army was created expressly for officers of the Army in the service who, by reason of age or disabilities incident to the service, have become unfit for that service and must either be discharged from the Army or must continue in the Army, an incubus and burden to it, and drawing their full pay, or be in some other manner provided for. We have provided the retired-list for those persons, and with my consent no one occupying a civil position, no matter what military position he may have heretofore occupied, shall ever be placed upon that retired-list. It is not the place for persons who are not in the Army and serving in the line of duty, and I think there is no reason for this proposed action.

It is perfectly understood what is the object of the bill, as it was avowed by the Senator from Vermont yesterday. It is to place a distinguished American citizen and soldier, General Grant, upon the retired-list, who is now, as the public press informs us, drawing annually the small sum of $15,000, which the average American citizen will believe is a sufficient amount to support any American citizen in comfort.

Mr. EDMUNDS. Mr. President, I agree with the policy that my distinguished friend from Missouri has stated, that it is not good policy as a rule to place private citizens on the retired-list of the Army, or to give them pensions, or to do anything for them that we do not do for all private citizens. I am a democrat of democrats on that point; and yet as one citizen of the United States and one Senator of the Senate of the United States I am glad to have the opportunity to urge the passage of this bill.

General Grant was educated at West Point. He served his country faithfully and gallantly in the Mexican war while a young lieutenant; I believe that was his rank at that time. He became General of the armies of the United States on an occasion of very considerable importance and interest. I state it mildly in order not to excite the temperament of anybody on either side of the Chamber. He was removed from the office of General of the armies of the United States from which he would have been retired when he reached the proper age and put on this very list, to assume again command of the armies of the United States as Commander-in-Chief under its Constitution. He did not seek it; he obeyed the call of duty. That removed him from the technical place that he held in the Army as an officer of it to a higher place, as the constitutional commander of it instead of the commander of it under the law. When his term expired he became, it is true, a private citizen.

In that state of the case, with the circumstances that we know and with the honor and the respect and the gratitude and the duty that we owe to him as *primus inter illustres* in the history of this country, I should be glad to have a unanimous vote in favor of the passage of this bill. I hope I shall get very nearly it.

The PRESIDING OFFICER. The question is on the engrossment and third reading of this bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

The PRESIDING OFFICER. The question is on the passage of the bill.

Mr. HARRIS. I call for the yeas and nays.

The yeas and nays were ordered.

Mr. MAXEY. The yeas and nays having been called for, I wish to say a few words before the vote is taken.

I once opposed a measure of this kind because then General Grant was in a position pecuniarily which placed him beyond the necessity of aid from the Government. I was not willing to break over the rule which we had adopted, and which I believe to be right, of not taking civilians and putting them on the retired-list. But there have been great and recent changes in the worldly affairs of General Grant as we all know. By the misfortunes of business all the fortune that General Grant possessed has been swept away. It was sudden and to him, as we believe, startling and unexpected. A movement was made—inaugurated by General Sherman, honorable to that gentleman—to raise a sum to relieve General Grant of his embarrassment. General Grant declined that. Subsequently, a proposition was made by Mr. Vanderbilt to Mrs. Grant to relieve General Grant of his indebtedness of $150,000 to him. That was declined by General Grant and also by Mrs. Grant. In the mean time he has suffered greatly from a fall which threatens to cripple him for life. Now this is the condition. All of us know that a President of the United States many years ago of extraordinary popularity was in his old age reduced almost to poverty, being dependent upon his relations for support. It did not speak well for the American people. All felt that it was not right, and I do not doubt that had Congress made ample provision for President Monroe, as we have since done for Mrs. Polk, Mrs. Tyler, and Mrs. Garfield, the manly, generous American people would have applauded the act.

Now, Mr. President, as a Southern man, one who to the extent of his ability aided the confederacy while General Grant led the armies of the Union, I do but justice to General Grant when I say that when the supreme hour came with the Southern States, when we had to abandon all hope and yield up everything save honor, no man in the wide world ever acted with more magnanimity and generosity than Ulysses S. Grant did at Appomattox. I remember that, and it is remembered by the people among whom I live, who sympathize with him in his misfortunes; and I do not believe there is a man in the South who would begrudge a reasonable and fair support for him during his declining years. It is for these reasons I vote for the bill, and I add that whatever others may think—having known that man for forty-odd years—I do not believe that in any possible or conceivable way he was blamable for the stupendous failure of Grant & Ward in New York save and except that he put too much confidence in others and left to others what he had better have done himself; it is simply because of his well-known supreme confidence in friends that he was led to his financial ruin.

So looking at these matters, Mr. President, for one I shall vote for the bill offered by the Senator from Vermont.

Mr. GIBSON. Mr. President, it may be that the form of this bill does not commend itself altogether to my judgment, but the purpose of the bill does. I respect the military character of General Grant, and I sympathize with the people of the country who desire to testify their appreciation of his services. I feel, therefore, that it is incumbent upon me as a Senator from Louisiana to vote for this bill as an evidence on the part of the people of that State of their good-will as well as of their manly sympathy for General Grant himself.

Mr. GEORGE. Mr. President, in the late unhappy conflict I was with my section; I belonged to the vanquished party; I desired at one time that the Union should be dissolved; I voted for the secession of the State of Mississippi. I tried to make that declaration good by all the means in my power. I deplored the loss of the cause to which I was attached. The Union has been restored. I am now here a Senator from Mississippi in a restored Union. I determined when I took my seat on this floor that on all questions of mere sentiment connected with the late civil strife not adverse to the honor or substantial interest of the people whom I represent I would vote exactly as if I had been a Union man during the war. I believe the people of this country who were in favor of the war for the Union, who prosecuted the war, and who triumphed in the war desire to give this testimonial to their great leader, and, believing so, I shall give my vote to that end.

Mr. JONAS. Mr. President, when a bill was reported here some two years ago to put General Grant upon the retired-list of the Army I voted against it and gave my reasons for so doing. General Grant was then in the full enjoyment of honors and of wealth. The bill proposed to take him as a citizen and restore him to the Army; it proposed to reward him, not for his great services to the country in time of war, but, as it appeared to me, for such services as he had rendered in civil office. I disapproved of his conduct as a civilian, and I would not give my vote to reward him; but I said on that occasion that if the time should ever come when the great soldier to whom the people of this country I admitted owed so much for his military services should need the aid of this people, to be accorded to him through legislation by Congress, it would be my pleasure to vote for any bill to give him the needed aid and assistance.

General Grant has fallen into misfortune, whether through his own fault and negligence or otherwise I care not now to inquire. It appears he is in distressed circumstances. It is the duty of the people of this country to provide for him. I shall therefore vote for this bill.

Mr. JONES, of Florida. Mr. President, when a measure similar to this was before the Senate a few years ago I think I was one of three on this side of the Chamber who voted for that bill. I did so feeling that I was discharging my duty in the matter, without regard to the pecuniary condition of this man. I did not put it on the ground of his poverty or his wealth. I said so very distinctly in the few remarks that I then addressed to the Senate. Having voted that way at that time, I shall certainly not contradict myself and vote contrary to my former vote.

Mr. VOORHEES. Mr. President, I intend to vote for this bill, and

would have preferred to do so without a word, but for the remarks that fell from the Senator from Missouri.

A statement that a man is in receipt of an income of $15,000 a year will have its effect on the public mind. The true state of facts, however, in regard to General Grant do not justify such a statement applied to him. He is not worth a dollar in property; everything is swept away, and he is in a condition never to own property because of the enormous losses occasioned by the failure of the firm of which he was a member. The trust fund heretofore raised for him is invested in railroad stocks, the interest on which is guaranteed for a certain number of years, and at the end of that time that fund will be of little, if of any, value. Therefore he is virtually destitute of property and will soon be without support.

Aside from considerations of this kind, however, there are others which have caused me to look with favor on a proposition to place General Grant on the retired-list of the Army. And were I a Southern man as I am a Northern and a Western man, I would embrace it with even more favor than I ever have heretofore. I was here in this Capitol when a good many on this side of the Chamber were not, and I well remember when Edwin M. Stanton proposed to arrest and imprison General Robert E. Lee after the surrender at Appomattox that General Grant interposed General Lee's parole as a prisoner of war, and said he should not be touched, nor a hair of his head harmed. This was General Lee's protection and it availed him in the hour of distress and danger.

General Grant has shown higher courage in civil life than even upon the battlefield. The one instance I have mentioned is supplemented by another that has fallen under the observation of all of us. Perhaps the other side of the Chamber will not approve what I now say, but when General Grant became convinced within the last two years that a great act of cruel injustice had been done to a brother Army officer in the person of General Porter, how fearless, how prompt, how courageous was his action!

I will not dwell upon these things, however, or be betrayed into any extended remarks. I rose wholly for the purpose of dissipating the idea which the remarks of the Senator from Missouri will impress upon the public mind, that General Grant is provided for now. He is not, and it is becoming this Government that he should be, and I know no better way than by the measure proposed by the Senator from Vermont. It interferes with the rights of no one, and the great heart of the country will not complain that General Grant's old age is put beyond the reach of want.

Mr. COCKRELL. Will the Senator please state when the guarantee expires?

Mr. VOORHEES. I will.

Mr. COCKRELL. I made a statement, and it is mathematically and morally correct. He is drawing now $15,000 a year. There is no mistake about that.

Mr. VOORHEES. That is true, but the sufficiency of that income depends on its duration. I think it is now about four years—if some Senator has a better recollection than mine I should be glad if he would interpose it—since his friends in New York raised the fund to which we are alluding. If I am correct in that, then there is yet about six years' duration to this income. This fund was invested in certain railroad stocks, and the interest at a certain rate on them was guaranteed by Governor Morgan and then by his estate for ten years. Four or five of those years have passed away, and when the last of them expires the reliability of that income will be destroyed. These stocks are now greatly depreciated, and they will never constitute a safe source of income nor a safe reliance for support.

Mr. COCKRELL. The generation then living will administer the affairs of this Government and do equal and exact justice to all its citizens.

The Secretary proceeded to call the roll.

Mr. GROOME (when his name was called). I am paired with the Senator from New York [Mr. MILLER], and hence withhold my vote.

Mr. CULLOM (when Mr. LOGAN'S name was called). My colleague [Mr. LOGAN] is paired with the Senator from Florida [Mr. CALL]. If he were here, I am sure my colleague would vote for this bill.

Mr. LAPHAM (when the name of Mr. MILLER, of New York, was called). I desire to say that my colleague is paired, but I can assure the Senator from Maryland [Mr. GROOME] that my colleague if he were here would vote for the bill.

Mr. GROOME. I have no doubt about it, but I withhold my vote.

Mr. INGALLS (when Mr. PLUMB'S name was called). My colleague [Mr. PLUMB] is detained to-day by illness. He is paired with the Senator from North Carolina [Mr. RANSOM].

The roll-call was concluded.

Mr. ALLISON (after having voted in the affirmative). The Senator from Delaware [Mr. BAYARD] is absent to-day, and I agreed to pair with him on political questions. I do not know how he would vote upon this question, and therefore perhaps I should withhold my vote.

Mr. HARRIS. I do not think this can be regarded as a political question in any case.

Mr. ALLISON. Very well; with that explanation I shall allow my vote to stand.

The result was announced—yeas 49, nays 9; as follows:

YEAS—49.

Aldrich,	Frye,	Jones of Florida,	Pugh,
Allison,	Garland,	Kenna,	Riddleberger,
Blair,	George,	Lapham,	Sabin,
Brown,	Gibson,	McMillan,	Sawyer,
Camden,	Gorman,	McPherson,	Sewell,
Cameron of Wis.,	Hale,	Manderson,	Sheffield,
Colquitt,	Hampton,	Maxey,	Sherman,
Conger,	Harrison,	Miller of Cal.,	Voorhees,
Cullom,	Hawley,	Mitchell,	Williams,
Dawes,	Hoar,	Morgan,	Wilson.
Dolph,	Ingalls,	Morrill,	
Edmunds,	Jackson,	Palmer,	
Fair,	Jonas,	Platt,	

NAYS—9.

Beck,	Harris,	Saulsbury,	Vance,
Cockrell,	Pendleton,	Slater.	Walker.
Coke,			

ABSENT—18.

Bayard,	Farley,	Logan,	Ransom,
Bowen,	Groome,	Mahone,	Van Wyck,
Butler,	Hill,	Miller of N. Y.,	Vest.
Call,	Jones of Nevada,	Pike,	
Cameron of Pa.,	Lamar,	Plumb,	

So the bill was passed.

Mr. VEST subsequently said: I was unfortunately absent from the Senate this morning when the vote was taken on the bill placing General Grant on the retired-list, and I understand that the senior Senator from Kansas [Mr. INGALLS] announced a pair between the Senator from North Carolina [Mr. RANSOM] and his colleague [Mr. PLUMB]. That is a mistake. The pair was between the Senator from Kansas [Mr. PLUMB] and myself. I suppose probably the Senator from North Carolina would have voted for the bill, as he had voted for its passage before. I should have voted against it.

Mr. CAMERON, of Wisconsin. The senior Senator from Kansas [Mr. INGALLS] requested me this morning to obtain a pair for his colleague [Mr. PLUMB], the latter being confined to his house by sickness. I did not at that time recollect that there was a standing pair between the Senator from Kansas [Mr. PLUMB] and the Senator from Missouri [Mr. VEST], though I had known that such a general understanding did exist, and thereupon, with the consent of the Senator from North Carolina [Mr. VANCE], I did arrange a pair between his colleague [Mr. RANSOM] and the Senator from Kansas [Mr. PLUMB]. The mistake arose as I have stated.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. CLARK, its Clerk, returned to the Senate, agreeably to its request, the bill (S. 1337) granting an increase of pension to Lucy Le G. Jeffers.

ENROLLED BILL SIGNED.

The message also announced that the Speaker of the House had signed the enrolled bill (H. R. 3661) granting an increase of pension to Lucy Le G. Jeffers; and it was thereupon signed by the President *pro tempore*.

NAVAL APPROPRIATIONS.

Mr. HALE. I move to take up the House bill making appropriations for the service of the Navy Department for the residue of the current fiscal year.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. 7874) making additional appropriations for the naval service for the fiscal year ending June 30, 1885, and for other purposes.

Mr. HALE. I ask unanimous consent to dispense with the first or formal reading of the bill, and that it then be read for amendment.

The PRESIDING OFFICER (Mr. FRYE). The Senator from Maine asks unanimous consent to dispense with the formal reading of the bill, and that it may be read for amendment clause by clause. The Chair hears no objection.

The Chief Clerk proceeded to read the bill.

The first amendment reported by the Committee on Appropriations was, in section 1, line 14, to strike out "ninety-five" and insert "one hundred and ninety-three;" so as to read:

One hundred and ninety-three ensigns.

The amendment was agreed to.

The next amendment was, in section 1, line 15, to strike out "ninety-eight junior ensigns."

The amendment was agreed to.

The next amendment was, in section 1, line 59, after the word "orders," to strike out "and for traveling expenses of apothecaries, yeomen, and civilian employés;" so as to read:

Mileage to officers while traveling under orders in the United States, and for actual personal expenses of officers while traveling abroad under orders, and for actual and necessary traveling expenses of naval cadets while proceeding from their homes to the Naval Academy for examination and appointment as cadets, &c.

The amendment was agreed to.

The next amendment was, in section 1, in the appropriations for "Bu-

reau of Provisions and Clothing," after the word "dollars," in line 242, to strike out the following proviso:

Provided, That all enlisted men and boys in the Navy, attached to any United States vessel or station and doing duty thereon, and naval cadets, shall be allowed a ration, or commutation thereof in money, under such limitations and regulations as the Secretary of the Navy may prescribe.

The amendment was agreed to.

The next amendment was, in section 1, in the appropriations for "Bureau of Construction and Repair," in line 269, after the word "exceed," to strike out "thirty" and insert "twenty;" so as to read:

Provided, That no part of this sum shall be applied to the repairs of any wooden ship when the estimated cost of such repairs, to be appraised by a competent board of naval officers, shall exceed 20 per cent. of the estimated cost, appraised in like manner, of a new ship of the same size and like material.

The amendment was agreed to.

The next amendment was, in section 1, in the appropriations for the "Bureau of Steam-Engineering," in line 297, before the words "per centum," to strike out "thirty" and insert "twenty;" so as to read:

Provided, That no part of said sum shall be applied to the repair of engines and machinery of wooden ships where the estimated costs of such repair shall exceed 20 per cent. of the estimated cost of new engines and machinery of the same character and power.

The amendment was agreed to.

The next amendment was, in the same section and clause, after the word "power," in line 298, to insert—

But nothing herein contained shall prevent the repair or building of boilers for wooden ships the hulls of which can be fully repaired for 20 per cent. of the estimated cost of a new ship of the same size and material.

The amendment was agreed to.

The PRESIDING OFFICER. The Chair will call the attention of the Senator in charge of the bill to line 314. Should not the word "other" have an "s" added to it?

Mr. HALE. Yes; so as to read:

For pay of professors and others.

The PRESIDING OFFICER. That amendment will be made unless there be objection. The Chair would also inquire if there should not be a comma after the word "stores," in line 281; so as to read:

Purchase and preservation of all materials and stores, purchase and repair of machinery, &c.

Mr. HALE. Yes.

The PRESIDING OFFICER. The bill will be so amended if no objection be made.

The reading of the bill was resumed. The next amendment of the Committee on Appropriations was, in section 1, in the appropriations for the "Naval Academy," before the word "library," in line 355, to strike out "reception-rooms" and insert "recitation-rooms."

The amendment was agreed to.

The PRESIDING OFFICER. The Chair will call the attention of the Senator in charge of the bill to line 402.

Mr. HALE. The word "constructed" should be "construed."

The PRESIDING OFFICER. That amendment will be made if there be no objection.

The reading of the bill was resumed. The next amendment was, in section 1, in the appropriations for the Marine Corps, after the word "dollars," at the end of line 435, to strike out the following clause:

And from and after the passage of this act there shall be no appointments, except by promotion, to fill vacancies occurring in the list of commissioned officers of the Marine Corps until the number of such officers shall have been reduced, by casualties or otherwise, below seventy-five; and after the number of officers shall be reduced as above provided, the whole number of commissioned officers on the active-list in the Marine Corps shall not exceed seventy-five.

The amendment was agreed to.

The next amendment was to strike out section 4, in the following words:

SEC. 4. That no officer whose name is borne on the retired-list of the Army, Navy, or Marine Corps shall hold position in the civil service or other employment of the Government, and draw the salary or compensation thereof together with his pay as a retired officer of the Army, Navy, or Marine Corps: *Provided*, That any such retired officer accepting a position in the civil service or other employment of the Government may, at the time of acceptance, elect to take the salary of such position or in lieu to retain his pay as a retired officer: *Provided further*, That the restrictions of this section shall not apply to any officer below the rank of major in the Army or Marine Corps, or commander in the Navy, who has been retired by reason of wounds received in service.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

LUCY LE G. JEFFERS.

The PRESIDING OFFICER. The bill (S. 1337) granting an increase of pension to Lucy Le G. Jeffers, has been returned from the House of Representatives in accordance with the request of the Senate.

Mr. CULLOM. I ask unanimous consent to have the vote of the Senate heretofore taken upon the passage of that bill reconsidered, so that the bill may be indefinitely postponed. Both Houses have passed a bill, which is on your table, I believe, ready for the signature of the presiding officer, so that the bill referred to by the Chair is not needed. I ask unanimous consent to reconsider the vote by which the Senate bill was passed heretofore, and then I shall ask that it be indefinitely postponed.

The PRESIDING OFFICER. The Senator moves a reconsideration of the vote by which the Senate passed the bill (S. 1337) granting an increase of pension to Lucy Le G. Jeffers. Is there objection? The Chair hears none, and the motion to reconsider is agreed to.

Mr. CULLOM. Now I move that the bill be indefinitely postponed.

The motion was agreed to.

FORFEITURE OF MICHIGAN LAND GRANT.

Mr. MORGAN. I desire to call up Order of Business 934, being the bill (S. 2363) to declare a forfeiture of a land grant to the State of Michigan to aid in the construction of a railroad.

I wish to make a motion to recommit that bill to the Committee on Public Lands, and, in support of it, I beg the Senate to indulge me in saying that I made the report of this bill on the 4th of July last, about the time we were breaking up our session here. I find, upon an examination of it, that the description of the railroad and the application of this forfeiture to it is entirely inaccurate. This bill, as reported here, does not express the views of the committee. The committee did not intend to forfeit the entire land grant, but only so much of it as is called unearned land, but the bill as reported does forfeit the entire land grant, there having been ninety miles of excellent road built, on which there are large towns and a number of villages, and where all the lands within the limits, I believe, have been disposed of. I ask, therefore, that the bill be recommitted to the Committee on Public Lands.

The PRESIDING OFFICER. The Senator from Alabama asks unanimous consent to take up, out of order, the bill (S. 2363) to declare a forfeiture of a land grant to the State of Michigan to aid in the construction of a railroad. Is there objection? The Chair hears none. The bill is before the Senate, and the Senator from Alabama now moves that it be recommitted to the Committee on Public Lands.

The motion was agreed to.

PROTECTION OF CHILDREN.

Mr. RIDDLEBERGER. I ask unanimous consent to take up Senate bill 729. The only purpose of asking it is to move to disagree to the House amendments and have a committee of conference.

The PRESIDING OFFICER. The Senator from Virginia asks unanimous consent to take up the bill (S. 729) for the protection of children in the District of Columbia, and for other purposes, now on the President's table. The Chair hears no objection.

Mr. RIDDLEBERGER. I move that the Senate disagree to the House amendments and ask for a conference on the disagreeing votes of the two Houses. It is suggested by the Committee on the District of Columbia that I make that request.

Mr. SAULSBURY. Had not the amendments better be read, so that we may know what we are acting on?

Mr. RIDDLEBERGER. I can explain in less time than it will take to read them. One is to strike out the words "within their view" and insert "in their presence," and the other is to strike out "21" and insert "16," so as to make it apply to those of 16 years. That is all.

The PRESIDING OFFICER. The question is on the motion of the Senator from Virginia to disagree to the amendments of the House of Representatives and ask for a conference on the disagreeing votes of the two Houses.

The motion was agreed to.

By unanimous consent the PRESIDENT *pro tempore* was authorized to appoint the committee on the part of the Senate; and Messrs. RIDDLEBERGER, PIKE, and BROWN were appointed.

INTERSTATE COMMERCE.

Mr. CULLOM. I hope the regular order will now be taken up.

The PRESIDING OFFICER (Mr. FRYE). The unfinished business will now be laid before the Senate.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. 2112) to establish a commission to regulate interstate commerce, and for other purposes.

The PRESIDING OFFICER. The pending question is on the amendment of the Senator from Oregon [Mr. SLATER], proposed in the nature of a substitute.

Mr. SLATER. At the proper time I shall ask unanimous consent of the Senate to withdraw that amendment; but before that I desire to offer an amendment to the text of the bill. In line 14 of section 4 of the bill, after the word "class," I move to insert:

Or shall charge, or receive, any greater compensation for transporting a similar amount and kind of property a shorter distance than for a longer distance over the same line of road and in the same direction.

Mr. SLATER. Under the system of charging a larger price for a short haul than for a longer haul there have grown up greater abuses in the Western and Pacific States than under any other particular feature of the transportation system; and the amendment proposes to make it unlawful and to prohibit the charging of a greater price for transporting freight a shorter distance than similar freight of the same quantity a longer distance on the same line of road and in the same direction.

To illustrate the evil at which this amendment is intended to strike, I will refer to an instance brought to my attention by a constituent

living in my own county. Soon after the completion of the Northern Pacific Railroad a combination was made with the Oregon Railway and Navigation Company, making a through line. A merchant in my county desired to transport hardware from Chicago, I think it was, westward to a point on the Blue Mountains, known as Lincoln Station, a distance probably one hundred miles shorter than from Chicago to the city of Portland. He was asked $200 to send the freight to Portland and then ship it back some three hundred miles, or nearly that, to the point where he desired it; but if he shipped it direct to the point he desired to ship it he was asked $400. In other words, he was asked $400 for shipping a car-load of freight something like one hundred miles less distance than if he sent it direct to Portland. So it is on all the Pacific roads, as I understand, and it is so largely in all the Western States on other lines; the charges to any given central point are at certain rates per ton; and if a party ships on the same line of road in the direction of the central point, for instance Portland, not wishing to ship all the way to the central point, but to stop off one or two hundred miles short of that point, he is charged the through rates and in addition the local rates back to the point where he desires his freight to go. Hence, men are compelled to ship their freight one hundred, two hundred, or three hundred miles farther than they want it to go, and then back again to the point where they desire it to stop, paying the through freight and then the local freight back.

It is to cure this evil that this amendment is intended; and I think it will affect and reach a greater amount of discrimination that is now practiced by railroad companies than any one proposition that can be brought to the attention of the Senate and incorporated in this bill.

The PRESIDING OFFICER (Mr. MANDERSON in the chair). The question is on the amendment proposed by the Senator from Oregon.

Mr. CULLOM. I do not propose to take up the time of the Senate further than to say that the proposition offered by the Senator from Oregon is a very important one, and one of the vital questions of difference between the House bill and the bill now under consideration. So far as I am concerned I think it would be very seriously detrimental to the business of this country, and especially of the Northwest, that such an amendment should be attached to any bill we may pass.

Mr. SAULSBURY. Why, Mr. President, it seems to me if the statement of the Senator from Oregon is correct as to the practice which obtains on the road to which he refers there certainly can be no objection to putting on the amendment if the principle of the bill is in itself right.

My difficulty has been in considering this measure to know in the first place whether Congress has any power to do this; whether it has any right or authority to take charge of and regulate the tolls and charges upon railroads that are incorporated by State authority and which do not owe their existence to the National Government. That is one of the objections which have been pressing upon my mind. I am satisfied that there are many grave outrages perpetrated by these corporations on the people, and I would be very glad to correct, as far as I can, any of them. But if this bill is correct in principle, then the amendment of the Senator from Oregon most unquestionably is correct. If a railroad company for the same amount of freight, a car-load of freight, charges a less price for a long haul than it does for a short haul there is no justice, there is no equity in it; and if Congress has the power to deal with the question at all I think the amendment of the Senator from Oregon is eminently proper and right. I shall vote for that amendment, without, however, committing myself to the support of the bill.

Mr. VAN WYCK. Mr. President, I should like to have the amendment reported again.

The PRESIDING OFFICER. The amendment will be read.

The Secretary read the amendment of Mr. SLATER.

Mr. VAN WYCK. Mr. President, I was at a loss to understand the force of the objection of the Senator from Illinois in charge of this bill, that the amendment would defeat the purpose and object of the bill we now have under consideration. I supposed the practice prohibited by the amendment was one of the evils which were sought to be rectified by this legislation in some way.

The case given by the Senator from Oregon is paralleled by very many cases on all the Pacific railways. The Central Pacific has done this very thing for years, and now the Northern Pacific is doing precisely the same thing. In the case of a car-load shipped from New York city to San Francisco, where these roads have absolute control of the designating of the through rates, the through rate is fixed from New York to San Francisco, and if a car stops six hundred miles east of San Francisco, precisely the same thing is done with that as is done by the Northern Pacific Railroad, and this has been going on for years. For instance, $300 is the through rate to San Francisco from New York city; and if a car stops six hundred miles this side of San Francisco it is charged $300, the through rate to San Francisco, though it is carried six hundred miles less distance. That, in all conscience, ought to be sufficient; that is discrimination enough against a town or city or business man who lives six hundred miles east of San Francisco, that he is compelled to pay precisely the same rate of freight as a man in San Francisco six hundred miles beyond. But they do not stop there. Not only do they charge a man $300 for his car-load, but they charge also the local freight back from San Francisco six hundred miles east. The local freight is $500. So the man who lives six hundred miles this side of San Francisco is actually punished by being compelled to pay not only the rate which the San Francisco merchant pays, but $500 more.

That mere statement ought to be enough to condemn the practice. Could anything more call for the interposition of legislation than that statement? When the Northern Pacific Railroad was finished it was to be a competing road, we were told. We have been amused, Congress and the American people have been amused, by the statement that these were competing roads; and yet after this Government had given millions of acres of land to build a competing road, its managers come in and exercise precisely the same acts of tyranny, of despotism and outrage upon the people living along the line of the road, and in the end they make a combination to keep up the through rates. The Central Pacific, which was supposed to be in competition with the water ways around the cape, actually made a combination, and pays out the proceeds of its earnings to the Pacific Mail Steamship line. When the Northern Pacific comes in competition, it is said that it actually contributes a proportion—what was supposed to be between the railroads an equitable proportion—of money to pay the bonus given to the Pacific Mail Steamship Company!

I merely allude to that in connection with the allegation that these are competing roads. But here is an acknowledged evil. My friend from Delaware [Mr. SAULSBURY] says it is an acknowledged evil. I presume nobody will pretend that it is not an evil which should be met; and how are we to meet it except by such an amendment as is proposed by the Senator from Oregon? We can scarcely conceive, I take it, any sort of justice in tolerating a railroad corporation which exercises that despotism anywhere within the length and breadth of this country.

Mr. CULLOM. The Senator from Nebraska says he is unable to see what I mean by opposing the amendment. I desire to say that the theory of the bill is not to undertake to legislate upon all points of difference that may exist between shippers and railroad men and to make a statute to fit every case. Upon the other hand, the theory of the bill is that we shall have a commission appointed who shall look into all these questions and ascertain whether the railroads are guilty of the charges that are made against them or not, and, if they are, to report to the Congress of the United States the facts and their view of such additional legislation as may be necessary in the premises.

So far as I am concerned I am not here to say that it is right that the Pacific railroads or any railroads shall charge more for a shorter distance than a longer one, or as much; but I am here to say that I do not believe it is wise, in the interest of the business of this country, to make an iron-bound law that will work possibly, I may say, at least, an injustice not only to the corporations of the country but to the business interests of the country as well.

The amendment offered by the Senator from Oregon undertakes to specifically make it unlawful for a railroad under any circumstances to charge more for a short haul than it does for a long one. Such a law was some years ago enacted in the State of Illinois, which I have the honor in part to represent. It was almost exactly in the terms of the amendment proposed by the Senator from Oregon. The supreme court of our State decided that the Legislature could not constitutionally make such a law—that there might be cases where a railroad would be justified in charging as much or more for a short haul than it did for a long one.

I have sought to get around these controverted questions, which are, to say the least, difficult for us here as legislators to decide upon, and to place the duty upon a commission to look into these questions and at a future Congress to report to us what the facts are and what the remedy ought to be in their judgment. In the mean time the bill provides against extortion, against unjust discrimination. There is an amendment prepared to be offered providing that discriminations shall apply as well to places as to persons; and with those declarations upon those broad principles we authorize a commission to be appointed and then wait for another Congress to see what they will have to say upon these questions about which Congress differs and about which the people of the country are differing.

So far as my State is concerned, for the city of Chicago, and I may say for the whole Western country, we could not afford to allow a provision of that kind to be incorporated in a bill if we could prevent it, because to-day flour is being shipped from Chicago to New York for a less sum than it costs a man who buys it in the market at New York to carry it from the depot to his residence in that city.

Whenever you touch the subject in such a way as to cripple the efforts of those corporations in transporting the freights of the country to the Eastern markets and from there on across the ocean, to that extent you affect injuriously the whole people of the country, not only the producers but the consumers as well. I desire in perfect good faith to so shape whatever law we may pass as to protect the people of this country from being imposed upon by the corporations of the country. I admit there is liability to the imposition mentioned in the amendment and that it is practiced upon the people; but while I am trying to curb the conduct of these corporations and protect the people, I do not want to do it in such a manner as to injure the people and possibly break down the corporations as well.

There is the difference between the bills that are before the Congress

of the United States. One idea is to make a cast-iron law to fit every little instance of imposition that anybody knows about, and the other is to legislate upon some broader principle, and steer between the danger of injuring the people and of injuring the corporations of the country. My judgment is that the bill which the Committee on Railroads of the Senate has reported to this body is likely to work to the benefit of the public, and at the same time not cripple the corporations in any just operation that they are undertaking to carry out in the transaction of their business.

I might go on, and I am half inclined to go further in the discussion of this question, and show the difference between these two ideas or lines of legislation as proposed by the different Houses of Congress; but I shall desist from doing so at this time. I insist that if you ingraft such an amendment upon the bill you will injure hundreds and thousands of people who are the large consumers of the country, as well as the great agricultural West, who are trying to get their produce to the East so that they may get it into the markets of the world.

Mr. VAN WYCK. I have heard a great many times of the dangers to the West from a provision in any law such as the Senator from Oregon proposes in his amendment, but as yet I have been unable to see how it could injuriously affect the section of country which the Senator from Illinois so ably represents. The Senator states how cheaply flour is carried from Chicago to New York city. Undoubtedly; but suppose the Pennsylvania or any other railroad running out of Chicago should carry a car-load of flour from Chicago to New York for $50 per car-load, and then undertake to charge $75 per car-load for carrying a car-load of flour from Chicago to some point in the State of Illinois twenty-five miles distant from Chicago?

Mr. CULLOM. I will answer the Senator. In the first place, the bill before the Senate declares against extortion and makes extortion a misdemeanor. Then it declares against unjust discrimination, and makes that a misdemeanor. If a corporation is guilty of either, at any place or at any time, it is liable to a prosecution under the law.

Mr. VAN WYCK. The bill speaks of extortion. Does it define it?

Mr. CULLOM. Look and see.

Mr. VAN WYCK. I have read it. The bill speaks of discrimination. Does it define it? The Senator has not yet answered my question. We have been told that it would be injurious to the West if we should require a provision of this kind, and I have been industriously endeavoring to ascertain just where the hardship would come in to the section of country which the Senator and myself represent. I should again like to ask the Senator the question I propounded a moment ago.

The PRESIDING OFFICER. The Senator from Nebraska calls the attention of the Senator from Illinois.

Mr. CULLOM. If the Senator will go on and make his speech I can reply when he concludes.

Mr. VAN WYCK. No; I am not making a speech. The time has not arrived for that. I am simply propounding a question. I only desire information. We have been threatened in the West, our Legislatures have been threatened, our people have been threatened, their representatives in the national Capitol have been threatened that if they dare put a provision in either of these bills which they believe to be right, then they are to suffer injury from it, and it is precisely upon that point that I wish information. I desire to know, it is important for me, it is important for the people whom I represent, as it is for the people whom the Senator represents, to know whether a provision of this kind in the proposed law is going to work a hardship upon them. The Senator says we could not get our grain to New York out of the West if we had a provision of this kind in the law. He states the fact that flour is carried so cheaply from Chicago to New York, and he asks if they shall not have the privilege of transporting flour at cheap rates from Chicago to New York. Certainly; but the Senator fails to answer my question. Suppose the rate for a car-load of flour from Chicago to New York is $50 and the same railroad corporation should carry a car-load of flour of the same weight from Chicago to some town or village in the State of Illinois twenty-five miles distant from the city of Chicago and should charge $75, while they carry a car-load of flour from Chicago to New York city for $50, will my friend tell me what he would say of that proposition? Will he explain that? If he will do so, it will help solve this problem in my mind.

Mr. CULLOM. If the Senator will allow me, he has a way of getting the floor and cross-examining witnesses in the Senate, but I wish to say to him once for all that I think the fact that a railroad charges $75 a car for a shorter distance and $50 for a long one raises a presumption that the railroad is extorting from the man with whom the contract was made for the short haul, and would be unjustly discriminating against that man, and ought to be prosecuted for doing it. But there are circumstances surrounding these transactions whereby it might appear after all that there was neither extortion nor unjust discrimination. The Senator knows very well that there are a great many circumstances connected with the transaction of business in the transportation of freights that enter into the considerations which result in a contract, and that neither he nor I, with all the wisdom that we may think we possess upon the question, is able to determine whether the railroad is extorting or unjustly discriminating. The presumption is, as the supreme court of the State of Illinois decided, that if a corporation charges more for a short haul than for a long one, the corporation is extorting from the shipper, that it is unjustly discriminating against the shipper; and yet that supreme court decided that the mere fact that it was so was not absolute proof that it might be so, and that a law passed declaring it to be so would not stand in the courts of the country. Does the Senator want anything further on the subject?

Mr. VAN WYCK. I am always pleased to hear from the Senator from Illinois, but I can not yet see that he has resolved the doubt. He says that it would be evidence that there was extortion, and yet when you come into court to establish the fact of extortion, under this law or any other, the attorney would rise and say that it was unjust to the people of the great West that a great public corporation should be controlled in what they were doing, because I understand the Senator here at one time to justify it and say that a thing may be necessary, that it may be proper, that there may be circumstances where it would be eminently proper for a railroad in justice to a great section of country to do this thing. Where would be the possibility of obtaining a conviction of extortion if it should prove to be true in the courts, as it is claimed to be true in Congress, that on the part of the railroad companies it may be a virtue, absolutely a virtue, it may be promoting the prosperity of this great country, or sections of it, that they should be allowed to exercise this power of discrimination? Where would be your indictments for extortion when the legitimate basis of crime is the intent to do wrong, when attorneys could go into court and say just what is said on the floor of the American Senate and in the House of Representatives, that it is a virtue and not a wrong? There can be no doubt upon that part of the proposition, I take it.

The Senator says that some Senators have been combating the extortions of railroad companies for ten years and we are at a loss to know what to do just at this juncture. He says we want a commission. A commission to ascertain what? Here is a statement of facts that is undisputed. My friend from Oregon has stated it, I have stated it in regard to the Central Pacific Railroad, and we say we can state it in regard to a number of other railroads. No one is here to dispute any of the facts stated. My friend from New Jersey would not do that. Nobody rises to defend them. I have not heard a state of facts whereby these things can be justified. That is all that is asked; and here is an attempt to mislead the public mind of the State my friend represents, that there is to be an injury worked to the great West when we seek to make a provision of this kind. No; there can not possibly be any injury there. We know it. I say to my friend that his people in Illinois and the people of my friend from Iowa [Mr. ALLISON], and those of the State which I have the honor to represent, feel the exactions, the hardships, and the extortion of this outrage. I should be pleased if the Senator from Illinois, or any other Senator, would rise in his place and show us the beneficence of this exacting power of a railroad company. Will you show us where it has benefited a community, a State, a whole people, that a railroad company shall have the power to charge $800 for a car-load delivered six hundred miles east of San Francisco while it charges $300 for a car-load of the same merchandise delivered at San Francisco, six hundred miles beyond? The Senator's people have felt this discrimination in his State; they have felt it in the State of my friend from Iowa and in my own State. We know day after day of hardships repeated, long continued, by reason of these exactions, and until these gentlemen can show us where there is some beneficence arising from it we claim that we ought to meet the proposition. We have been grappling with it for ten years; these things have been suffered for longer than ten years by the American people, and now my friend says we must not do a little because we can not do it all. We have waited long enough. Let us do a little something by adopting the provision which my friend from Oregon suggests, and now and then another provision which may be suggested. Let us count this something in the direction, and not continue to make to ourselves obstacles, because, forsooth, there are many things which we ought to reach in the end.

Mr. HOAR. Mr. President, I understand the pending proposition is to impose a penalty upon any railroad engaged in the transportation of merchandise from one State to another which shall demand or take any greater compensation in proportion (although that word is not in the amendment, but I understand that is the meaning of the amendment) for transporting any merchandise of the same amount and kind a shorter distance than it does for a longer distance over the same line of road and in the same direction.

Mr. ALLISON. The Senator will allow me to say that I do not understand the amendment to import the words the Senator from Massachusetts injects into it.

Mr. HOAR. I should like to ask the author of the amendment to explain whether that is not the meaning. I will ask the Senator from Oregon what it does mean. Suppose, for instance, a railroad charges $100 for a certain amount and kind of merchandise transported a thousand miles, does he not mean to prohibit by this amendment the charging more than $50 for making the same transportation five hundred miles?

Mr. SLATER. No, sir; that is not the effect at all. I will state the object. Take as an illustration the cities of Chicago and New York. Suppose for transporting wheat from Chicago to New York over a through line of road that is bearing interstate commerce a charge of $50 per car-

load is made from Chicago to New York. One hundred miles east of Chicago there is another city where freight is received, and from there they charge $60 to New York. The effect of the amendment is to say that when they charge $100 for a car-load of wheat from Chicago to New York they shall not charge more than $100 from any point east of that to New York. They may charge all the way up to $100; it gives them that margin and discrimination; but they shall not charge more. Then all points east of Chicago to New York would be upon an equality with Chicago.

Mr. HOAR. And that entirely independent of the fact whether at the longer distance the cars go back full and whether from the point of the shorter distance they go back empty? It is entirely without regard to the question whether there are several competing routes at the longer distance that do not exist at the shorter.

Mr. SLATER. Certainly.

Mr. HOAR. I now understand the Senator.

Mr. MITCHELL. Will the Senator from Massachusetts allow me to ask that the amendment of the Senator from Oregon be read?

Mr. HOAR. I will send the amendment to the desk and have it read at the request of the Senator from Pennsylvania.

The PRESIDING OFFICER. The amendment proposed by the Senator from Oregon [Mr. SLATER] will be again reported by the Chief Clerk.

The CHIEF CLERK. The amendment is, in section 4, line 14, after the word "class," to insert:

Or shall charge or receive any greater compensation for transporting a similar amount and kind of property a shorter distance than for a longer distance over the same line of road and in the same direction.

Mr. HOAR. I do not propose to enter into a general discussion of the railroad policy, or even into a discussion of the problem in railroad administration upon which the pending amendment bears, but rather to state the present condition of my own mind upon the general subject. Some eight or ten years ago I had occasion to study as thoroughly and faithfully as I could at that time this problem. I lived in a city forty-five miles westward of Boston, a large and rapidly growing manufacturing city, making machinery of many kinds, and textile fabrics and boots and shoes, almost all of which had a market at the West, and it was dependent for its supplies of raw material and of food on the West and for its supplies of lumber on the North and Northeast. The evil which the Western communities that are growing so rapidly into life now complain of was complained of then. Our manufacturers had to compete with Boston and the cities in the immediate neighborhood of Boston, and had to pay a larger sum to have their freights, their food, and supplies of material brought from the West stop at Worcester than in many cases they would pay if they were carried clear through Worcester, forty-five miles west of Boston, and brought back again over the same road forty-five miles at the local rate. Our manufacturers used to pack their machinery, send it to Boston, bill it to the West from Boston, and look out of the windows of their manufacturing establishments and see it go by westward on its way from a point forty-five miles east, having that extra ninety miles of transportation.

I thought then that a measure of this kind was required, and wrote a letter to my constituents urging the taking up this railroad policy and establishing the principle which is now sought to be established here. Just about the same time we also chartered a railroad running to the north out of our city on the principle that the stock should be owned by the various towns through which it passed, the idea being that each town owning a share of the stock would be represented in the direction, and that would compel the management of the railroad with reference to local convenience. They would run trains out of the city on which workingmen living in the country could go in and out. I suppose most of the people in that community, who had the exact and only the exact interest which is represented by the Senator from Nebraska and the Senator from Oregon, were in favor of both those schemes regulating the imposition of railroad freights and the price of freights by law, so that in all cases the shorter freights should pay no more than the longer, and giving to the communities through which the road passed a voice and control in the management of the road, a semi-political control.

I have to say now that I believe that entire community, having no interest but a business interest, having very little interest as owners of railroads, having no business interest but that which the Senators who advocate this legislation represent here, has changed its mind. The road which we committed to the local management has been the least fortunate of the six or seven roads which run out of that city, and it has been able on the whole to give the least accommodation to the public. The Boston and Albany Railroad, of which we complained, being a profitable and successful road, has by reason of its success and the profit of its administration been constantly increasing for the local communities through which it passes railroad facilities, and has been constantly diminishing its prices. We are now probably as well accommodated a city with railroad facilities as exists on the continent, and it has been due not to the policy which I have described; but the laws of business and trade induced the railroads which passed there by a regard to their own interests operating through a series of years to find their account in developing the local interests by increasing the local conveniences and advantages. That has been done, let me say further, under the control and influence of a Massachusetts board of railroad commissioners. The State of Massachusetts established some twelve or fifteen years ago, about the time I speak of, a board of railroad commissioners. It gave them no judicial authority whatever. Perhaps some trifling matters have been added more recently; but when that commission was established it was established simply without giving the board any power to make or enforce a decree, but they were simply authorized to inquire into the administration of any railroad or of all railroads in the State, to hear every local or individual complaint, and to report their judgment to the Legislature from time to time, so that any complaint well founded might be redressed by the Legislature if the board of railroad commissioners should recommend it. I believe in no instance has there been a resistance to a recommendation of that board by the railroads concerned so that the authority of the Legislature has been necessarily invoked.

Under that system the railroad administration of Massachusetts has most marvelously and wonderfully improved. My belief, and I think I state the belief of the business men who, as I said, have the same interests that the Senator from Oregon represents, is that you can not undertake to regulate or control the railroads of this country successfully by undertaking to interfere with the ordinary laws of business or the ordinary laws of supply and demand by what my friend from Illinois speaks of as cast-iron legislation. The first thing to be done is to let the daylight into every one of their transactions, to see that nothing is done by a railroad company in dealing with the community or in dealing with any locality or individual which is not absolutely known to all mankind, so that the power of public sentiment will come in; in the next place, to have the railroads subjected to a most rigid and strict accountability in the matter of having their stock represent the actual cost of the road and no factitious cost by reason of watering stock; and in the third place, which is, perhaps, merely another way of stating the first proposition that I made, to require of them as simple, exact, and clear system of keeping accounts as possible, and to compel their accounts to be submitted to the scrutiny of the public and to the scrutiny of some public authority.

I believe that with those three principles in operation the railroad system of the United States will be improved as the railroad system of Massachusetts has been improved. I believe that these attempts to prescribe exact laws which are to interfere with the contract between the railroad and the freighter and shipper will fail. We have had in Massachusetts one or two. There is a short-haul law on our statute-book now, but it was so drawn that it never accomplished any useful purpose. I do not think any railroad was ever held under it.

Mr. COKE. I will ask the Senator from Massachusetts if he believes it possible that a commission of five individuals can supervise the railroad system of the United States as a similar commission could supervise the railroad system of the State of Massachusetts? I ask him if it would be possible for a railroad commission to hear and intelligently determine all the complaints against railroads throughout the entire country?

Mr. HOAR. Of course the railroad commission appointed by the National Government could not deal with interstate commerce carried on by rail with that minuteness of oversight and inspection which the commission of a small State of 1,700,000 or 1,800,000 inhabitants would, a State so small in territory as that of Massachusetts, although we have a very large number of miles of railroad, as the Senator knows. But I think practically they could deal with the system. They could deal with the system of freights, fares, and charges which was administered by any railroad. They could report whether there were reasonable or unreasonable discriminations practiced. I believe that a railroad commission such as is proposed in the original bill here would very largely cure this evil.

Mr. VAN WYCK. Right there, if the Senator from Massachusetts will allow me, he has expressed his view from a large experience in the matter we are discussing at this moment in regard to the subject of long hauls and short hauls. Does he think from the experience he has had in the last few years that any commission, whatever they might report in regard to that matter, would change or affect his judgment of the propriety of the thing?

Mr. HOAR. It would depend upon who the commissioners were and what they said. If the commissioners were men who talked wildly and rashly and heatedly, not looking for justice, they would not have any effect; but if the commissioners made a grave and serious argument, such as my honorable friend from Nebraska would make if he were on the commission, I have no doubt my judgment would be affected very much and my mind might be changed.

Mr. SLATER. The Senator from Illinois [Mr. CULLOM] seems to be very much concerned as to the effect of the amendment upon the movement of the products of the West eastward. I think a moment's reflection will show him and any other Senator who is cognizant of the situation that that could not possibly be so. The great freights moving from the West to the East are controlled by laws and markets not entirely within the United States. They are controlled by the prices of commodities in other countries, and the shipments are controlled by the prices that these commodities can command for export at New York

to Liverpool or some other foreign market. Hence the rate of freight is limited and put in such a form as will facilitate the movement of the wheat and the flour of the West to New York for the export trade.

But the great and marked effect of the amendment will be upon the westward-bound trade, and its influence will be felt and the opposition will come from the great central cities of the West. It will tend to build up many small towns that are now tributary to the great cities of the West, as Chicago, Saint Louis, Kansas City, and other places. I am one of those who believe that the prosperity of this country will be better served, its interests further advanced, by such a system of railroad control as will induce the building up of one hundred cities or towns of 10,000 population each, instead of building up one city of 100,000 population. The tendency of the United States is to centralization. The effect of the amendment will be to a very large extent to decentralize population, and will make many localities instead of a few localities that will prosper by trade and commerce.

The effect upon the Pacific States and Territories is far beyond what will ever be felt by any of the so-called Western States; for six, seven, or eight hundred miles eastward of San Francisco and eastward of the city of Portland the effect of the present rates is to make all towns, all localities, all manufactures, all business tributary to those centers, and this is what we object to. The people must either go to San Francisco or to Portland for all their merchandise, and as everything of that kind must necessarily come from the East, they must pay for the transportation right by their doors of the very merchandise they need upon their counters, the very machinery they need in their mills or upon their farms, two, three, four, five, six hundred miles, and await its return and pay the local freights back in addition to the through freights.

It will not do to say that the great through lines can not subsist without this system, because it does not increase the rate of the through line. It is proposed to allow the through line to charge as much for a short distance as it does for a longer distance on the same line of road and in the same direction and at the same time; but it is because an effort is made to build up centers, because it is intended to give an unnatural growth to particular localities, because it is intended to enrich one locality at the expense of many other localities, because in fact it is intended by this system to build up particular lines of local transfer at the expense of the people who reside upon the lines of local transfer. The effect of that, as I have said, is to build up a few great commercial centers at the expense and to the detriment of all interior portions of the particular section and vicinity of these centers, to dwarf the smaller interior towns and absorb them in the larger seaport towns, and this is the reason why it is generally objected to.

The case I have instanced, immediately after the completion of the North Pacific, its combination with the Oregon system, is an illustration and a fair one. They proposed to charge the merchant who desired to conduct business in an interior town four hundred miles for transporting one car-load of freight one hundred miles less in distance when he could have sent it to the city of Portland for $200, and then must probably pay $200 or $300 to have it go back to the point where he wanted it. The purpose and effect was to compel the man to purchase his merchandise in the city of Portland. The purpose of it was to make him contribute of his business, of his accumulation, of the wealth that he would create, to sustain the city of Portland. So it is upon the Central Pacific and all the other Pacific lines reaching out to the Pacific coast. As soon as the Northern Pacific was completed it was pooled with the Central Pacific and the Southern Pacific, so that we received no benefit whatever from it as a competing line.

The railroads completely destroy competition; and where there can be no competition I say it is the province of Congress to step in and fix the rule and the extent of discrimination, and this is the purpose of the amendment. The bill is very properly worded, and says, "if there is unjust discrimination;" and the amendment proposes to point out and make emphatic a class of elements that can be introduced into court to show that there is unjust discrimination. It proposes that if there shall be charged on an interstate line for hauling a given amount of freight of the same class and amount on the same line of road and in the same direction at the same time a greater price for a shorter haul than a longer one, that shall constitute an unjust discrimination. There is more to be effected, there are greater evils to be eradicated by the amendment than all the other provisions of the bill can possibly effectuate in any direction whatever.

Mr. MITCHELL. The Senator says "at the same time." I observe there is nothing in his amendment in relation to the time.

Mr. SLATER. That will be the effect of it. Of course that is understood. It is true, as far as the mere verbal wording of the amendment is concerned, it does not express "the same time," but that is a necessary part of it.

Mr. McPHERSON. I should like to ask the Senator from Oregon a question for information. The complaint, as I understand it, made by the Senator, and in short a majority of the complaints with respect to these extortions, come from the West on the line of the Pacific railroads, roads chartered by the United States Government. Extensive land grants have been given them to aid in the construction of the roads in order that the public benefit of having those roads might be received by the people. What is there to hinder the Government from so amending the charters of the so-called Pacific railroads as to compel them to charge reasonable rates and not to discriminate as to distance? Why does the Senator make his amendment applicable to all railroads in the country when it is averred by nine-tenths of all the railroads that such a provision means universal bankruptcy to the railroad system? I am not taking that side of the question; I am not committing myself to either of the bills. I only present and ask the Senator for an answer to that question. Why does he not propose to so amend the charters of the Pacific railroads under which these extortions are practiced, and from which quarters complaints have mainly come, they being roads of the United States Government? Why not compel them to accept reasonable and fair rates either for long or for short distances?

Mr. SLATER. The answer is a very easy one. We are now proposing to put upon the statute-book a statute controlling and regulating interstate commerce. When the railroad grants referred to by the Senator were made provisions of that character were not incorporated in the grants, and now when we come to legislate for the entire United States for interstate freight or traffic passing over other lines, as well as land-grant lines, it would be a strange exception to except land-grant roads, and it would be perhaps as strenuously fought if we were to attempt to amend their charters; it would lead to a long litigation in all probability, contesting the right of Congress to put amendments of that character upon the charters after the roads had been built and gone into operation. We are now dealing with the subject with which these roads are connected, as well as all other interstate roads and interstate lines of communication, and it is proper that this provision should be incorporated in this bill.

I do not apprehend that this provision will be ruinous to the railroad lines by any means. It may cause them to readjust their methods of business, it may cause them to readjust their scales of prices, it may compel them to charge greater prices to some places than they have been charging formerly in order to run out some other line of communication; it may do all that, but it is not going to produce insolvency in these railroads by any means. We do not undertake to fix the price at which freight shall be moved upon any of the roads, but we undertake to say that certain evils which now exist shall cease to exist, and put upon them the force of statutory prohibition.

Mr. HARRISON. Will the Senator from Oregon allow me to ask him a question?

Mr. SLATER. Certainly.

Mr. HARRISON. Does not the Senator think that the rates charged in cases he has used as illustrations were unreasonable and extortionate?

Mr. SLATER. I do not like to venture upon that line. I am not a railroad man; I have not been engaged in the transportation of freight.

Mr. HARRISON. If the Senator has not made up his mind as to whether they are fair or extortionate rates, I wonder that he denounces them so. I have no doubt in my own mind that the rates which he has described were extortionate and unreasonable and that any court in the land would hold them so, and I wonder that he doubts it.

Mr. SLATER. I am not denouncing the rates; I am denouncing the discrimination and the method of discrimination.

Mr. HARRISON. In other words, it amounts to this, that if a rate from one point, say from Portland, to some point on his line is a reasonable rate considered in itself, he would prohibit the charging of that reasonable rate because an unreasonable rate was charged somewhere else. This bill prohibits all unreasonable rates; it makes certain charges extortions; and if the instances to which the Senator has referred are instances of unreasonable charges, as I have no doubt they are, inexcusable and extortionate, then the bill in its present shape meets exactly the evils of which he complains.

Mr. SLATER. But does not the Senator see that before we go into the courts to establish the fact that a particular discrimination is unjust or a particular rate unreasonable, we must establish some standard to which the party when he goes to court can refer as a factor as evidence?

Mr. HARRISON. What further evidence would the Senator want than the evidence that they hauled it for a much longer distance for a less rate?

Mr. SLATER. That certainly is a very forcible proposition as put by the Senator from Indiana, and it is exactly at that thing that I desire to strike. I am willing to take the $200 a car-load as a reasonable rate and judge of the $400, supposed to be charged in the instance I gave, as an unreasonable demand; but I want to put it into the statute in such a way that it will be prohibited, and being prohibited it will not be exacted.

That is all I wish to say.

Mr. ALLISON. Mr. President, I desire to occupy a moment on the amendment proposed by the Senator from Oregon. In one respect, if not in many respects, this is a vital amendment. It is a departure in the first place from the theory, if I may use that word, of the Senate bill which we are considering. It has been said in the debate, and truthfully said, that the amount of capital invested in railway corporations in the United States reaches to thousands of millions of dollars, and the receipts of these corporations run far into the hundreds of millions. The mileage of our railroads amounts now to 125,000 miles. So then the interest involved as respects the capital invested in railways is a

vast interest and would admonish us to legislate with care, having reference only to that interest if we only had that to look to; but when we come to estimate the vast interests that lie behind these railroads, and that are compelled to use them for their purposes, we ought to be admonished especially to legislate with care lest we do injury to that class of people; and it is that class of people, as I understand, that we are intending to legislate for chiefly in the bill now before the Senate.

We have proposed in this bill, and the Senate I believe with unanimity has already agreed, that if this commission shall be appointed it shall investigate and report at the next session of Congress on the very questions which are involved in this amendment; and yet the Senator from Oregon proposes to incorporate this feature in the bill *in limine*, without examination on the part of these men whose duty it will be under the law as already agreed to make this investigation. If I felt perfectly clear, as the Senator from Oregon seems to feel, that this is an amendment which will operate beneficially to the great commercial interests and agricultural interests of the country, I would not hesitate to vote with him in planting it in this bill. But, Mr. President, if I understand this amendment correctly, it may do great injury to the interests which he and I in common seek to protect.

What is the principle which he endeavors to incorporate in this bill? It is that there shall be no competition and no advantage resulting from competition, because he lays down an iron-clad rule that there shall not be paid more for a shorter than for a longer distance, thus eliminating entirely the idea of competition, because if at a competitive point a certain rate is charged, that controls the entire charge from that competitive point to the point of destination; does it not? Is that a just rule as applied to all this country? Let me illustrate for a moment by some instances that have come under my own observation. The Senator from Oregon illustrates by instances that have come under his observation with reference to the charges made by the Northern Pacific Railway. If the statements made by the Senator from Oregon be true, as I have no doubt they are, then *prima facie* there is a case of extortion. But let us see how his rule would operate in other respects.

I see the Senator from Georgia [Mr. BROWN] before me. I noticed the other day in some debate upon this question that the rate of transportation from New York to New Orleans by way of Atlanta, Ga., was 75 cents per one hundred pounds, while the rate from New York to Atlanta—a distance of how many miles this side of New Orleans? Four hundred or five hundred miles?

Mr. BROWN. Five hundred miles.

Mr. ALLISON. To Atlanta, five hundred miles this side of New Orleans, the rate was a dollar per hundred. Of course, under the rule laid down by the Senator from Oregon, if the rate from New Orleans to New York city was fixed at 75 cents per hundred the rate all the way between New Orleans and New York must be 75 cents per hundred. That would appear to be a reasonable rule. But that is not the question. The question is, in the first place, is the rate of $1 per hundred from New York to Atlanta a reasonable compensation for the service rendered? If it be so, then another element enters into the question: why is it that 75 cents a hundred is charged from New Orleans? It is because at the city of New Orleans the railroads come into competition with ocean navigation, and the railways in order to meet that competition are willing to transport cotton or other articles that require transportation from New Orleans to New York at merely the cost of transportation, or perhaps a shade above that cost. They can only get the business by a charge which merely allows a shade of profit; or otherwise the ocean transportation will take the business wholly.

Mr. MCPHERSON. May I ask the Senator from Iowa, does not the fact that the railroads charge $1.50 a hundred for a shorter distance and 75 cents a hundred for a longer distance imply unreasonableness in the rate somewhere?

Mr. ALLISON. That is precisely what I am endeavoring to elucidate, and the rate named by the Senator being an extreme rate probably would constitute a *prima facie* case. The cases between Atlanta and New Orleans as compared with each other were as 75 cents to a dollar. I say that does not constitute a *prima facie* case of extortion or unreasonable discrimination, because the presumption is, or at least the fact is, that at New Orleans the railways are compelled to come in active competition and severe competition with the ocean communication from New Orleans to New York.

Now, take the case of Chicago, if you please. Why is it that Chicago has a radiating system of railways to the Northwest and Southwest and to the East? It is because she has lake navigation and because there are railways connecting there which do not even pass through our own country. The result of that is, as every one of us knows, that at certain seasons of the year property is transported from Chicago at a rate sometimes less than cost and sometimes barely at a shade above cost. Now, are we required by law in the beginning—I am speaking now of the very beginning of this legislation—to unsettle all the relations that have grown up in our Western country, if you please, arising from the fact that there is lake navigation from Chicago to New York, including water navigation by the Erie Canal, and from the fact that there are eight or nine railways there competing for freight, and to compel these railways either to lose all local business on the various lines between Chicago and New York or to increase their charges from Chicago to New York?

I have an illustration in reference to this that came under my own immediate observation. I happened to be in an interior town in the State of Pennsylvania some years ago, when some gentlemen inquired of me with reference to the bill which was then as now known by the name of a distinguished member of the House of Representatives, as the Reagan bill, and I asked them what they wanted to cure by the bill. They said that from the town where we were the charges for cattle or live-stock—it being in a live-stock region—were $55 per car-load to New York from that point in Western Pennsylvania, and that the charges from Chicago to New York were only $50 per car-load. I said, "That looks unreasonable, because you are five or six hundred miles nearer New York than is Chicago," and yet I said, "what will be the effect of this proposed change in the system? One of two effects will occur: Either the rate between Chicago and New York will be increased or the rate between the point where we were and New York will be reduced. If the rate is increased from Chicago it affects the people of all the West; and unless the railways are receiving a larger compensation than they deserve, taking their whole traffic together, the chances are that the rates between Chicago and New York will be increased."

Now, my judgment is that upon a matter so material as this we had better not jump into action without examination and consideration and care; and especially do I believe this representing as I do a people who transport millions upon millions of property from the places of production to the places of consumption in the Eastern States. I do not care to have railroads add to the cost of transportation of one hundred pounds of wheat from Chicago 3, 4, or 5 cents, and to give me as an answer and to give the people of this country as an answer that they have been compelled to do so because we have laid down an iron-clad rule that makes the rate from Chicago to New York control the rates for all the local traffic between Chicago and New York. That may be just; but with my imperfect information as a Senator upon that question, and with my inexpertness in running railway trains over the many thousand miles of this country, I am not prepared yet to put upon the statute-book a provision which shall so radically and so severely cripple and confine the great through commerce of this country. I will not do it, especially when I am willing to put upon the statute-book here and now a provision that all these charges, whether they be over the mountain-tops or in the valleys without gradients, shall be reasonable, and that any charges which are not reasonable shall be properly punished; that they shall not only be reasonable, but that they shall be without unjust discrimination in favor of one locality or another locality or in favor of one section as against another section.

As was stated here the other day by some Senator in this debate, the relations of this country are so diverse, that what is a proper rule for one section of it may be an improper rule for another. Take the productions of the great Northwestern region in which I live, and they are cereal products largely if not chiefly; they are the products that are either used in the Eastern part of our country or transported abroad; take the Southwest and you have a production of cotton especially and almost exclusively; and when you come to the Eastern portion of the country the transportation is largely of manufactured articles. Now, it may be that you can establish a uniform rule which will apply equally to all these conditions and all these relations existing in these different parts of our country; but I for one—and I shall do that at some risk perhaps of criticism—propose to go slowly in respect to radical legislation upon this question. I want the proposition of the Committee on Railroads to be adopted, so that we shall have a commission of eminent men whose duty it shall be to investigate these questions and to give us their combined judgment and opinion, not the judgment of one man with respect to these great questions affecting not the railroads, but affecting the great interests of the people of this country, who are themselves compelled to rely upon the railroads largely for the transportation of their products and the articles they consume.

Therefore it is, Mr. President, that I deprecate the introduction of this amendment, which is a radical proposition with regard to the management of railroads, and in that differs from the proposition of the committee which we are now considering in the Senate, which is to examine, to in the first place lay down general rules whereby extortion shall be prohibited, whereby unjust discrimination shall be prohibited, and whereby reasonable rates only shall be charged, and then to have a commission that shall investigate these practical questions and report to us their action.

But, Mr. President, I wish to say one further thing in regard to this amendment of the Senator from Oregon. If the evils which it proposes to cure are existing evils universal in their character, this is a lame and impotent remedy. The Senator from Nebraska inquired awhile ago of the Senator from Illinois what he would think of a railroad corporation that charged $50 for a car-load from Chicago to New York and charged $75 for a car-load from Chicago to a little village twenty-five miles distant from Chicago. That would to me look like extortion. But what would the Senator from Nebraska think of a railway that would charge $50 from Chicago to New York, and $50 for a car-load from Chicago to a village twenty-five miles distant with no grade and upon an easy track? What would that be under the rule laid down by the Senator from Nebraska or by this bill, or by the common sense and judgment of all of us? That would be extortion too, would it not?

If a railway can charge $50 to carry a car-load a thousand miles from Chicago to New York, crossing the mountains it may be, and then charge $50 for the same freight, for a car-load from Chicago to a village twenty-five miles distant from Chicago, what would that be? Would it not be extortion? Yet under this amendment that can be done. That is exactly what this amendment says ought to be done practically, because it says a greater rate shall not be charged for a shorter than a longer distance. Therefore, notwithstanding a commission may come in and say that this is an unjust rate and too high a rate, yet the railway can turn to this amendment and say, "Here is the adoption of a principle by Congress that has practically settled this question, because they say a greater rate shall not be charged, thereby practically saying the same rate may be charged."

Those gentlemen who seek to regulate railway rates by act of Congress ought not to bring forward so lame and impotent a remedy. If they propose that we here shall fix rates that shall control all the railway corporations of this country, let them bring in their bill looking to that end, and then bring in a bill that will be just to the railroads, and especially just to the shippers, because I have shown you certainly one instance, and I might give you a hundred, wherein under the very provision of the Senator from Oregon a railroad could practice injustice.

Suppose the point named by the Senator from Oregon instead of an interior town in the State had been the city of Portland, and that $400 was the rate from Saint Paul to Portland. Under his amendment and his bill, if that was the rate the railroad company could charge $400 for a car-load twenty miles out of Saint Paul. Do you tell me that that is a remedy for a great evil? It is an impotent remedy, because it only touches the question here and there; and therefore it is that I for one desire to proceed carefully and slowly in this matter, relying upon the investigations that may be made by an intelligent and well-paid commission.

Why do I do that? I do it because that has been successful in many of the States of this Union; and, although there has been some complaint of the commissions here and there in the different States, yet in the main they have remedied great evils in the local transportation in the several States. I want to experiment at least for one session of Congress before I undertake to upturn and upheave the railway system of our country as it affects the men who produce things and transport things. I want to understand the question more before I cast my vote for an iron-clad proposition such as is proposed by the Senator from Oregon.

Mr. VAN WYCK. Mr. President, there seems to be a strange conflict between Senators who favor the same proposition. One Senator, the Senator from New Jersey, says the fact that a railroad discriminates is evidence of extortion, and by reason thereof it should become the subject of enactment.

Mr. McPHERSON. If the Senator will bear with me I will say that when he undertakes to quote me I wish he would quote me exactly as I state my proposition. I inquired of the Senator from Iowa if the simple fact of charging for a less distance, for instance, $1.50 per hundred and charging for a greater distance only 75 cents per hundred was not evidence of extortion in the rates somewhere.

Mr. VAN WYCK. Then I infer from that that it was the Senator's opinion that it was an unreasonable discrimination. My position was that the advocates of this proposition on one side intimate that the fact of this discrimination is evidence of extortion, and therefore wrong; and another Senator, the Senator from Iowa, says that if this thing is not allowed, this kind of discrimination which the Senator from New Jersey says is evidence of extortion in his judgment, you will bankrupt the railroads.

Mr. ALLISON. No; I did not.

Mr. VAN WYCK. Well, would make them insolvent.

Mr. ALLISON. No.

Mr. VAN WYCK. Cripple them. That I think the Senator said. "Cripple the railroads;" let us stand on that. If they are crippled, it is nearly as bad as bankruptcy or insolvency. One Senator says it is evidence of their extortion; the other Senator says if they are not allowed to do it they will be crippled.

Mr. ALLISON. No; I did not say that.

Mr. VAN WYCK. We will examine the RECORD in the morning. I will say, then, that for this purpose the Senator from Iowa did not say that; but I should like to have the liberty to state in a word that he was arguing, as I understood him, the injustice of not allowing railroads to make this discrimination. Am I correct about that?

Mr. ALLISON. Oh, no.

Mr. McPHERSON. Will the Senator yield to me just a moment for a question?

Mr. VAN WYCK. Certainly.

Mr. McPHERSON. Because I think I can give him a subject for discussion that will last him an hour. ["Oh, no!" "Oh, no!"]

Mr. VAN WYCK. I shall have to object to the gentleman's suggestion.

Mr. FRYE. So do I.

Mr. McPHERSON. The Senator need not take an hour to answer it. I should like to have the Senator's view of the suggestion I am about to make. There are several great lines of railroad leading from Chicago, which is a great distributing point, so to speak, of the grain and products of the West to New York, the great export city of the United States. In this bill which is proposed by the Senator from Illinois it is said that no less shall be charged for transportation from any station east of Chicago than the rate charged from the city of Chicago. A short time ago we found the elevators along the New York and New Jersey shores filled with grain. The export demand had not enabled the grain to be shipped abroad, so that the elevators were filled. The continuance of that state of things, would, of course, stop the transportation from Chicago to the elevators. The elevators were filled with grain. The railroad companies could bring no more because there was no receptacle for it. The owners of the grain would not transport it, because they could not get its cost abroad. They appealed to the railroad companies to know what share of the loss the railroads would sustain by reason of the shipments already made to the elevators.

The Western producers stepped in and said to the railroads, "What share will you suffer of this loss in order that we may move our grain to market, knowing that we have no market at home, that it is supplied, and in order that the grain may find a market at all it must be shipped at a loss to producers and transportation companies alike?" Under this bill, supposing it to be the law of the land, could a railroad company have reduced its charges between Chicago and New York without reducing the charges on every local shipment that might be made at any points between Chicago and New York? If the railway companies had not stepped in and given an unreasonably low rate, a rate below the cost of doing the labor in transportation, the grain would not have been shipped.

Now, will the Senator tell me what he wants to have done? Does he desire that that grain shall not find a market, that it shall remain in this country; that if the railway companies will agree to carry it for less than cost they must make a corresponding reduction on all other transportation to all other stations? Does the Senator insist that the railroad companies shall not have the privilege of doing that?

Mr. VAN WYCK. I will not take so much time to answer the question as the Senator did in propounding it. The Senator thought a state of facts existed whereby the railroads, in order to be transacting some business—there being no market for grain—in order to make an inducement to use their motive power, proposed to transport grain from Chicago to New York at a cheaper rate. That is what I understood. The necessities of the case were such that it was impossible for them to carry on business unless they had a great deal of through freight.

Mr. McPHERSON. Is it any object for them to get it at a loss?

Mr. VAN WYCK. I am not arguing that.

Mr. McPHERSON. Has a railroad corporation, has a transport line, any particular object in suffering a loss?

Mr. VAN WYCK. No; but the Senator's proposition was that they proposed to do business at greatly reduced rates, as I understood. Now, we start at Chicago with our elevators full, with no market anywhere, and the railroads in their liberality and generosity to the people under this state of facts, which facts exist over the whole country, perhaps, reduce the rate per car from Chicago to New York $50, if you please. My friend comes to me in the western part of Pennsylvania, or the eastern part of Ohio, in a city five hundred miles nearer New York than Chicago, and the same state of facts exists there precisely: their elevators are full, they have no market for their grain, business is depressed, and it is just as much a matter of public necessity to get the grain there to market. These are public carriers, and the spirit of justice in the railroad company should allow the same rates from this nearer point.

Then I ask my friend if he thinks it right, where another city is five hundred miles nearer New York under the same circumstances than Chicago is, for the railroad which charges $50 per car-load from Chicago to New York to charge $25 a car-load from this nearer point to New York? Does he believe that to be right?

Mr. McPHERSON. I believe that if the rate charged from any given point, be it less or more, is a reasonable rate—one that the railroad company is entitled to by reason of the service rendered—it can make no difference whatever in the principle of the thing if it agrees to do the work for nothing from a different point. It is no injury particularly to the man who pays a reasonable compensation for reasonable service that it should agree to do service for a less sum for a longer distance. I do not see any unreasonableness in that.

But the Senator will bear with me a moment longer, because I do not wish to interfere with his speech. The simple claim has been made here, and it is found in the amendment of the Senator from Oregon, and any fair-minded and candid man would say at the start, "Yes, that seems to be right; there is no reason why such a principle should not be incorporated in the legislation of the country." I say to Senators that the particular bill to which it belongs, the bill that came to us from the House of Representatives, contains within itself the iron-bound condition making requirements upon the railroads. The provision can be properly found there; but it will be remembered that the bill of the Senator from Illinois goes upon an entirely different idea. That idea is that it is better to appoint a commission, who shall have full supervision over all the business of railways, may hear complaints, may listen to cases of extortion and discrimination; in short, it places the power of adjudication in the hands of the commission. The House bill proposes to do by legislation what the amendment proposes to do by indirection.

Now I submit to the Senator from Oregon that the amendment he

proposes, while very proper (and I believe it is already found in the body of the bill which he has given notice of his intention to move as a substitute), does not belong upon the Senate bill at all, and that the vote of the Senate is to be taken distinctly on the two propositions, each one standing by itself, without injecting into the body of the Senate bill a proposition which has no place there at all. The idea of the Senate bill is to give the proposed commission the power to adjust and adjudge. This proposition proposes to restrict them in the exercise of that power. One part of their duty is fixed by the language contained in the amendment of the Senator from Oregon. The other part of their powers is the power given by the bill of the Senator from Illinois. Now, sir, without committing myself to either proposition, for I do not know which one I shall prefer, certainly the amendment of the Senator from Oregon has no place upon the Senate bill, because those Senators who wish to vote distinctly upon the proposition to create a commission and confer upon them the power to adjust these differences do not want to see the commission fettered by such an amendment as this.

Mr. VAN WYCK. I might argue with the Senator from New Jersey indefinitely.

Mr. President, the Senator from Iowa starts another objection to this proposition, and he desires to know whether if a company charges $50 a car-load from Chicago to New York it would be right for the same company to charge $50 for a car-load from Chicago to a place fifty miles distant? Certainly it would not be right, but I apprehend it is not in his mouth to undertake to antagonize this proposition because it does not do enough. That is the position of the Senator from Iowa, that this proposition does not do enough. This proposition leaves power in the hands of the railroads to charge as much to a shorter point. It is strange for him to propound an objection of that kind for the purpose of showing that this measure is not all it should be. It is, however, a movement in the right direction, and it remedies this wrong which is conceded and admitted to be a wrong and an extortion.

My friend from Iowa says we ought to deal with this matter gently, by slow means; and he undertook to show that unless we allowed the system of competition on the part of railroads, which was so dangerous at the extreme, it would cripple them to a certain extent. That is another strange proposition at this stage of the debate. I suppose my friend from Iowa is in favor of the Hennepin Canal; so is my friend from Illinois in favor of the Hennepin Canal; yet they are so solicitous about the welfare of railroad corporations that they are unwilling to place an act of justice in this bill.

My friend from New Jersey says a railroad company executing a public trust has a right to carry from Chicago to New York for nothing, as I understand him to say, and then the other part of the proposition must follow, that the expense of their road, the interest on their bonds, and their dividends must be made and taken from people living between Chicago and New York.

Mr. McPHERSON. The Senator will bear with me one moment. The Government of the United States, if I remember aright the laws, allows the manufacturer of spirits when he exports the spirits to a foreign consumer to do so without paying any tax on the spirits. Is there anything wrong in that principle, I should like to ask the Senator?

Mr. VAN WYCK. I do not suppose there is to a man who believes in spirits.

Mr. McPHERSON. Then, if a railway company, for goods transported out of the country in order to reach a market, chooses to allow a rebate, is there anything wrong in that?

Mr. VAN WYCK. Just the same as there is in a rebate on any other branch of business. The whole people are equally interested. Going back to the proposition of the Senator from New Jersey, that the railroads have a right to transport from Chicago to New York free, as I understood him to say, if they choose to do so, I follow it up by saying, if that be so, the business between New York and Chicago must bear the expense of transportation and interest on bonds and dividends on stock, must it not?

Mr. McPHERSON. I did not say they had the right, but had the power.

Mr. VAN WYCK. I understood the Senator to say that they had the right to do it. They have the power. Then he does not believe they have a right to do that thing. What is the force of the proposition the Senator made if he does not believe a railroad company has a right to do that? I want to say here that I deny that right. A railroad company, a creature of law, made by the people, has no right to become an engine of oppression and wrong. It has no right to carry grain and flour from Chicago to New York for nothing, and then require all the business that goes on the line of the road between Chicago and New York to pay not only its legitimate cost, but also the cost of the transportation of the grain from Chicago to New York. That is the very point where we take issue. I can not understand the willingness of some Senators to extend the power of railroad companies.

But to go back. My friend from Illinois is in favor of the Hennepin Canal; my friend from Iowa is in favor of the Hennepin Canal. They are opposed to placing a just principle in this bill because it will cripple railroads. They say it will hurt us in the West if you do not allow railroads to have different rates at competing points. And yet my friend from Iowa who is from the West is willing to contribute the money taken from the pockets of the people either by internal-revenue laws or tariffs and appropriate that in building a canal through the State of Illinois which will have the necessary effect to injure railroads so that they can not have the absolute control to fix their own rates and charge what they choose. These seem to me to be antagonistic propositions.

I only rose, however, for the purpose of calling attention to the position of the Senator from New Jersey as well as the attitude of the Senator from Iowa. There is nothing in conflict. I have desired these gentlemen to show the beneficence of this power on the part of the railroad companies. If my friend from Iowa would commune with his people at home on this subject he would learn more from them than he can learn from any commission created by any act of Congress.

Mr. JACKSON. Mr. President, I shall detain the Senate but a moment.

If I understand the amendment offered by the Senator from Oregon, as explained by him, it permits the charging of as much for a short haul as for a longer one by a transportation company. That is offered in a section which is intended to prohibit discriminations and to afford the same facilities to all shippers. It is in a bill defining by Congress what shall and what shall not be discrimination. What is to be the effect of that legislation if adopted? Assuming for a moment that there is an evil in charging more for a shorter than a longer haul from competing points, what is to be the effect of that legislation? It will result in infinitely more evils than it is seeking to correct. What will be the result? Two consequences will follow: through rates will be advanced, and local rates, without reference to distance, will be advanced with the through rates. It permits to be charged for transportation ten miles distance what is permitted on the through line for a thousand. There is no escape from it. You are incorporating a rule that works the most outrageous, the most ruinous, and the most destructive effects upon local freights. No other legitimate conclusion can be reached, because the amendment permits as much for the short haul as for the through without reference to distance. It gives the sanction of Congress that carrying companies may charge for ten miles what they charge on through trips for a thousand. The result would be destructive to all local interests, and would at the same time (even if it did not affect local interests) advance through rates to a ruinous degree.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. CLARK, its Clerk, announced that the House had passed a bill (H. R. 7964) to provide for the expense and compensation of special messengers to be sent by the Secretary of State to the States, respectively, of Iowa and Oregon for the certificates of the electoral vote of 1884 for President and Vice-President of the United States, in pursuance of the provisions of section 141 of the Revised Statutes of the United States; in which it requested the concurrence of the Senate.

SPECIAL ELECTORAL MESSENGERS.

The PRESIDENT *pro tempore* laid before the Senate the bill (H. R. 7964) to provide for the expense and compensation of special messengers to be sent by the Secretary of State to the States, respectively, of Iowa and Oregon for the certificates of the electoral vote of 1884 for President and Vice-President of the United States, in pursuance of the provisions of section 141 of the Revised Statutes of the United States; which was read twice by its title.

Mr. ALLISON. That is the same bill which was passed by the Senate this morning, except that there is a word "November" to be changed to the word "December." I move that amendment and ask that this bill be now put on its passage.

The PRESIDENT *pro tempore*. The Senator from Iowa asks unanimous consent that this bill be now considered. Is there objection? The Chair hears none.

The Senate, as in Committee of the Whole, proceeded to consider the bill.

Mr. ALLISON. I move to strike out "November" and insert "December," in line 9; so as to read:

Electoral vote of December, 1884.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

HOUSE BILLS REFERRED.

The following bills from the House of Representatives were severally read twice by their titles, and referred to the Committee on the Judiciary:

A bill (H. R. 736) for the relief of James Hooper;

A bill (H. R. 1808) to detach certain counties from the United States judicial district of California and create the United States judicial district of Southern California;

A bill (H. R. 6220) regulating appeals from the supreme court of the District of Columbia and the supreme courts of the several Territories;

A bill (H. R. 6404) to authorize the service of civil and criminal process issued by Territorial courts within military and Indian reservations and the Yellowstone National Park; and

A bill (H. R. 7013) to regulate the effect of judgments and decrees of the courts of the United States in the several States.

The bill (H. R. 2263) for the relief of the State National Bank of Boston, Mass., was read twice by its title.

The PRESIDENT *pro tempore*. The bill will be referred to the Committee on the Judiciary.

Mr. HOAR. I think that should go to the Committee on Claims. The Committee on Claims has had several questions growing out of the same matter, and although one bill of this kind went to the Committee on the Judiciary, I believe it was afterward sent to the Committee on Claims.

Mr. JACKSON. The Committee on Claims have actually reported on that case. The bill ought to go to that committee.

The PRESIDENT *pro tempore*. The Chair was under the impression that it provided for a suit in the Court of Claims on a controverted question and that it should be thus referred. The Senator from Massachusetts moves that the bill be referred to the Committee on Claims.

The motion was agreed to.

The bill (H. R. 3196) for the relief of L. A. Morris was read twice by its title, and referred to the Committee on Indian Affairs.

The bill (H. R. 5849) limiting the time for the presentation and payment of claims against the United States was read twice by its title, and referred to the Committee on Claims.

INTERSTATE COMMERCE.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. 2112) to establish a commission to regulate interstate commerce, and for other purposes.

The PRESIDENT *pro tempore*. The question is on agreeing to the amendment proposed by the Senator from Oregon [Mr. SLATER].

Mr. SLATER. I do not wish to continue the debate, but I am not quite ready to let some arguments that have been made here pass entirely without reply.

The Senator from New Jersey at my right seems to think that this amendment has no place in this bill; that it is foreign to the line of policy adopted in the bill; that while it may properly belong to and form a part of the House bill, to which he understands this bill will be moved as a substitute, it should not be introduced into this bill. Now, I fail to see the force of the objection of the Senator when the very section which is proposed to be amended is precisely on the subject that the amendment relates to; that is, discrimination. The amendment proposes to make the doing of certain things unlawful as a matter of discrimination. In other words, it gives point and force and effect to the section. It gets something into the section that will be valuable to the country and to the people who are interested in transportation.

It is objected to by the Senator from Iowa and also by the Senator from Tennessee that there are possible objections to this amendment, that it is not a complete remedy for all the evils that may be imagined or conjured up in relation to transportation. It is true, sir, as suggested by the Senator from Iowa, that a railroad company transporting interstate traffic would have the right from one point to another given point to charge the same rate for the shorter haul, and for a very short part of the haul in some instances that it charged for the longer haul. The roads have that right now, and they are practicing that right. It is true this only goes to a certain extent; it does not propose to cover the entire ground; and I presume if we should formulate it so as to even cover that we should find that in some way or other the railroads would in some instance find a means of evading the statute; but that, it seems to me, is no reason why we shall not meet the obvious discriminations that are known to the country, and instances of which have been given here, have been known for years, and have been the subject of consideration.

I will not undertake to say that even if this provision should become a law there would not be instances of very great injustice perpetrated under the forms of law notwithstanding the prohibition. I anticipate that there will be; but this will certainly cure a very large part of the evils complained of. It is no objection that because some possible evils may be imagined that may come up under this statute if it shall pass, therefore we should not legislate upon the subject at all. That is the do-nothing principle. Simply because the subject is one of difficulty, is one where we may not readily and easily meet all the objections that may be presented to a particular form of legislation, it does not therefore follow that we shall do nothing. That will not satisfy the country.

I think I have said all I desire to say in relation to this matter.

The PRESIDENT *pro tempore*. The question is on agreeing to the amendment proposed by the Senator from Oregon.

Mr. CAMDEN. Mr. President, I desire to make a practical suggestion in connection with this amendment.

I recognize the great difficulties and the great dangers of regulating and governing by statutary legislation the business interests, and especially the large transportation interests, of this country. I recognize the fact that these interests can be better regulated by competition and by the rules that govern other business transactions than they can be by arbitrary rules enacted by Congress. But, sir, it appears to me that there is more in this amendment of the Senator from Oregon to satisfy the demands of the people who make complaint of the discriminations of railroads than perhaps in all the bills that could be passed by this body.

The reason why competition does not remedy the evils complained of is because competition does not exist in very large sections of the country that will be affected by this amendment. For instance, there are only a few through lines of trunk road between the great West and the East. On these trunk lines there are large sections of country between the West and the seaboard dependent upon each of these roads as their sole mode of transportation to reach the seaboard markets. Take points like Chicago, Saint Louis, Cincinnati, and other large centers in the West: competition itself regulates the prices of the transportation of commodities from these great centers to the seaboard. That fact alone always insures to the great competing centers the lowest rates of transportation.

Now, take the several hundreds of miles in each of the States of Ohio, West Virginia, Pennsylvania, and other States lying between these great western points and the seaboard, and they, as I say, are dependent, respectively, upon single trunk lines of transportation to reach a market. The competition induces the railroads in very many instances to haul freight from these great western points to the seaboard cheaper than the roads can actually afford to do the business, and in order to make up for those losses they levy a higher rate than is reasonable upon the intermediate sections of country that are dependent upon them and are at their mercy. This produces a condition of feeling in the people along the lines of these roads antagonistic to the railroads, and they are demanding from Congress legislation to control the inequalities and injustices that affect them so seriously.

Take, for instance, a point in West Virginia two or three hundred miles from Baltimore, or the same proportionate distance from any other market, and there is a flouring mill there or any other manufacturing interest or live-stock gathered, the shippers there will be charged double the rate from that point to any of the eastern seaboard cities that would be charged from Cincinnati, or perhaps from Chicago, or a distance twice as great as that from the point in West Virginia to the seaboard. There is not only a glaring inconsistency in the rate itself, but there is a positive injury to those living on this interior line by allowing the products of the West to get to market at one-half the price they can get their own products, thereby enabling the West to undersell them in the very same market by this discrimination in transportation.

I could multiply these instances, but I simply give this as an illustration of what I know does exist. It happens every day in large sections of country, covering three hundred or four hundred miles along trunk lines, that a manufacturer or a flouring mill or person engaged in the live-stock industry will see car-loads of freight passing right by his door and going to the same market he wants to reach at one-half the rate at which he can ship from that point to the market, enabling those who have the cheaper rate of freight to undersell those nearer to market, without in my judgment any good reason for it.

Mr. President, I declare that in my humble judgment I believe the railroads have themselves made a very great mistake. There is no good reason that can be given why a railroad may not be enabled to haul a car-load of freight three hundred miles over the same line as cheaply as it can six hundred miles, taking it over the same line of road three hundred miles both ways. It is a mistake, in my judgment, in the policy of the railroads, and it has gotten up an unnecessary prejudice against that character of investment; and I believe the passage of this amendment will do more to satisfy the feelings of the country, while doing no harm to the railroads, than any or all other legislation upon this subject that we can pass.

Mr. ALLISON. I desire to ask the Senator from West Virginia a question. I understand the Senator from West Virginia to favor the amendment because he thinks the effect of it will be to compel railroads to reduce their rates at all points between Chicago and Cincinnati and New York, for instance.

Mr. CAMDEN. My idea is that it will compel the railroads, if they choose to take freight from a greater distance at a specific price, to reduce it to the same price for intermediate points.

Mr. ALLISON. I understand the reason the Senator gives for that is that the system which now permits railways to charge certain rates from Chicago, Cincinnati, &c., is a system which discriminates in favor of the agriculturist or manufacturer who lives west of those points as against the agriculturist or manufacturer who lives between those points and the seaboard.

Mr. CAMDEN. That is true.

Mr. ALLISON. Then I ask the Senator if in his judgment the effect of this will not be to increase the rates at the two competing points for through freights?

Mr. CAMDEN. My answer to that is that if competition forces the railroads to haul products long distances at a less rate than they can afford to carry them they shall not make up the loss off their local shippers on shorter distances.

Mr. ALLISON. Because the effect of the system as it now exists is to give the distant shippers the advantage of the local shippers?

Mr. CAMDEN. Yes, sir.

DEATH OF SCHUYLER COLFAX.

Mr. HARRISON. Mr. President, late yesterday afternoon a report was circulated upon the floor of the Senate that the honorable Schuyler Colfax, of Indiana, late Vice-President of the United States and President of the Senate, had suddenly fallen dead at Mankato, in the State of Minnesota. My colleague and I conferred together about this distressing news, but hoping that there might be in the report some element of mistaken identity, and deeming it proper that we should have absolute knowledge of the fact before calling the matter to the attention of the Senate, we did not yesterday make any announcement of the fact.

I do not know what the precedents of this body may be, but it seems to me to be eminently proper that when one who has occupied so conspicuous a place in this country as Schuyler Colfax has, and one who has been associated with this body as its presiding officer, is thus suddenly called away, the Senate should take some notice of the sad event.

Mr. Colfax was for many years in public life, first in the Legislature of his own State, then in the national House of Representatives, and then as Vice-President of the United States. He was greatly endeared to the people of his own State, and was especially held in respect and confidence by the people of that district in his State which he so long and so ably represented in the House of Representatives. He held this affection and this confidence unabated to the hour of his death.

In view of this sudden calamity, and as expressive of the sympathy and sorrow of the Senate, I move the adoption of the resolution which I send to the desk.

The PRESIDENT *pro tempore*. The Senator from Indiana asks unanimous consent to offer a resolution at this time. Is there objection? The Chair hears none. The resolution will be read.

The Chief Clerk read the resolution, as follows:

Resolved, That the Senate has heard with great sorrow of the sudden death of Hon. Schuyler Colfax, late Vice-President of the United States, and that out of respect to his memory the Senate do now adjourn.

Mr. SHERMAN. Mr. President, I can not allow even this formal announcement of the death of an old friend whom I have known for many years to be entered upon the Journals of the Senate without adding one word to his memory.

It so happened that Schuyler Colfax and I entered Congress together, served for several years in the House of Representatives, were members of the same national conventions, were born in the same year, were of the same politics, and were thus intimately associated together both in public and in private life. He is now dead, suddenly carried away in the apparent vigor of life. I knew him well, and can say of him that he was generous, social, and friendly with every one. Sagacious and able in the management and control of men, industrious always in everything he undertook, faithful to his people and to the cause which he espoused, a good husband and affectionate father, and true always to his country.

For twenty years he enjoyed the full measure of public honors, repeatedly elected by his constituents, and three times honored by being chosen as Speaker of the House of Representatives, and then elected by the people of the United States as Vice-President. He was known in the Senate chiefly as its presiding officer. All who remember him here will bear witness to his impartial courtesy.

I wish simply to add my word of kindness to what has been said by his distinguished Senator. My respect, confidence, and friendship go with him to his grave. Honor to his memory. Peace and happiness in the future life to come.

The PRESIDENT *pro tempore*. The question is on agreeing to the resolution.

The resolution was agreed to unanimously; and (at 4 o'clock and 21 minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *January* 14, 1885.

The House met at 12 o'clock m. Prayer by the Chaplain, Rev. JOHN S. LINDSAY, D. D.

The Journal of yesterday's proceedings was read.

CORRECTION OF JOURNAL.

Mr. ROGERS, of Arkansas. I do not know that I followed the reading of the Journal precisely, but I understood the Clerk to read that the gentleman from Virginia [Mr. TUCKER] and myself moved to reconsider certain votes. That is a mistake, if such be the entry on the Journal, so far as I am concerned. I made no motion of any description on yesterday.

The SPEAKER. The name of the gentleman from Massachusetts, Mr. COLLINS, should have appeared in place of the name of the gentleman from Arkansas, Mr. ROGERS. The correction will be made.

Mr. TUCKER. There was something in the Journal about the bill for the relief of the Metropolitan police force that I think was incorrect.

The SPEAKER. The Clerk will again read the entry in the Journal.

The Clerk read as follows:

On motion of Mr. TUCKER, by unanimous consent, the Committee of the Whole House was discharged from the further consideration of the bill of the House (H. R. 5668) for the relief of the Metropolitan police force of the District of Columbia; and the same was ordered to lie on the table.

On motion of Mr. POLAND, the bill of the Senate (S. 1432) for the relief of the Metropolitan police force of the District of Columbia was taken from the Speaker's table, read three times, and passed.

Mr. TUCKER moved to reconsider, &c.

Mr. TUCKER. I think the motion to discharge the Committee of the Whole House was made by the gentleman from Vermont [Mr. POLAND].

The SPEAKER. It is probable the motion was made by the gentleman from Vermont, but in each case the gentleman from Virginia, [Mr. TUCKER] was recognized in the first instance and afterward yielded. If there be no further correction, the Journal will be approved as read.

ORDER OF BUSINESS.

Mr. THOMPSON. I ask unanimous consent to call up for present consideration the bill (H. R. 7081) to amend section 17 of an act approved July 2, 1864, entitled "An act to amend an act entitled 'An act to aid in the construction of a railroad and telegraph line from the Missouri River to the Pacific Ocean, and to secure to the Government the use of the same for postal, military, and other purposes,' approved July 1, 1862." This bill is in relation to the Niobrara Valley Railroad. I will state to the House it is a unanimous report of the Committee on Pacific Railroads. It grants no land and makes no concession of any kind save that of the right of way.

The SPEAKER. The gentleman from Kentucky [Mr. THOMPSON] asks unanimous consent to take from the House Calendar the bill he has indicated for present consideration. The bill will be read, after which the Chair will ask for objections.

The bill was read.

Mr. HOLMAN. In the confusion which prevailed on the floor it was utterly impossible to follow the reading of the bill.

Mr. CURTIN. This day having been assigned for the consideration of bills and resolutions of the Committee on Foreign Affairs, I must call for the regular order.

The SPEAKER. The gentleman from Pennsylvania demands the regular order.

Mr. THOMPSON. I should like to appeal to the gentleman from Pennsylvania to allow me just a minute to explain this bill and the attitude it occupies. It is somewhat long and I have no doubt many members did not hear distinctly the reading and could not understand it.

The SPEAKER. Does the gentleman from Pennsylvania [Mr. CURTIN] yield?

Mr. RANDALL. I rise to what I believe to be a privileged question.

The SPEAKER. The gentleman will state it.

Mr. RANDALL. The subject certainly has connection with executing the Constitution of the United States. I ask that the letter which I send to the desk may be read.

Mr. VALENTINE. Is the bill called up by the gentleman from Kentucky [Mr. THOMPSON] objected to?

The SPEAKER. The regular order is called for, which is equivalent to an objection.

Mr. REAGAN. I should object to unanimous consent at any time for the passage of that bill, because of the danger of Congress giving its consent in advance when it does not know what it is consenting to, and because the Territories should not be allowed to grant charters to railroads. The legislation of the Territory of New Mexico and of the Territory of Arizona on the subject of railroad charters ought to be a standing warning to the American people against such legislation.

EXPENSES OF SPECIAL ELECTORAL MESSENGERS.

The SPEAKER. The gentleman from Pennsylvania [Mr. RANDALL] has risen to what he states to be a privileged question. The letter which the gentleman has sent to the desk will be read.

The Clerk read as follows:

DEPARTMENT OF STATE, *Washington*, *January* 12, 1885.

SIR: A message from the President, inclosing a communication from me, will be sent to Congress to-day, informing that body in substance that one of the certificates of the electoral vote of Oregon and one of the certificates of the electoral vote of Iowa, not having been received by the President *pro tempore* of the Senate, it becomes incumbent upon me to send a special messenger to each of these States, pursuant to section 141 of the Revised Statutes, and asking that an appropriation therefor, to be immediately available, be made without delay.

I have taken the personal responsibility of sending the messenger to Oregon, as the distance is so great that any delay might possibly prevent his return in time for the count of the electoral votes on the second Wednesday in February. I have the honor to draw your personal attention to the matter, requesting that the appropriation be made, if possible, to-day, or at least to-morrow.

I inclose for your convenience a draught bill, adding that the estimate of $1,500 is thought to be reasonable considering the distance of the two points, the season of the year, and the possibility of a snow blockade, which may require the Oregon messenger to incur unusual expense in order to return before the second Wednesday in February.

I have the honor to be, sir, your obedient servant,

FRED'K T. FRELINGHUYSEN.

Hon. SAMUEL J. RANDALL,
Chairman Committee on Appropriations,
House of Representatives.

The SPEAKER. The Chair will lay before the House a message from the President of the United States on the same subject.

The Clerk read as follows:

To the House of Representatives:

I transmit herewith a communication from the Secretary of State, respecting the compensation for special electoral messengers to be appointed under the provisions of existing law. I earnestly invite the attention of Congress to this communication, and recommend that an appropriation be made without delay, to be immediately available, for the purposes indicated.

CHESTER A. ARTHUR.

EXECUTIVE MANSION, *January* 13, 1885.

Mr. RANDALL. I ask to have read the one hundred and forty-first section of the Revised Statutes. It will be seen that the Secretary of State is required by law to do just what he has done.

The Clerk read as follows:

SEC. 141. Whenever a certificate of votes from any State has not been received at the seat of Government on the first Wednesday of January indicated by the preceding section, the Secretary of State shall send a special messenger to the district judge in whose custody one certificate of the votes from that State has been lodged, and such judge shall forthwith transmit that list to the seat of Government.

Mr. RANDALL. I have not had the opportunity of conferring with all the members of the Committee on Appropriations, but I have conferred with the gentleman from Connecticut [Mr. EATON], who is chairman of the Committee on the Law respecting Election of President and Vice-President, and I submit in my individual representative capacity the bill which I send to the desk.

The Clerk read as follows:

A bill to provide for the expenses and compensation of special messengers to be sent by the Secretary of State to the States, respectively, of Iowa and Oregon, for the certificates of the electoral vote of 1884 for President and Vice-President of the United States, in pursuance of the provisions of section 141 of the Revised Statutes of the United States.

Be it enacted, &c., That the sum of $1,500, or so much thereof as may be necessary, be, and the same is hereby, appropriated out of any moneys in the Treasury not otherwise appropriated to pay the compensation, expenses, or mileage, as the case may be, of two messengers, one to the State of Iowa and one to the State of Oregon, to receive from the United States district judge in each of said States the certificate of the electoral vote of November, 1884, for President and Vice-President of the United States, deposited with such judges under the provisions of section 140 of the Revised Statutes of the United States, and called for by the Secretary of State under the provisions of section 141 of the Revised Statutes of the United States.

The sum hereby appropriated shall be immediately available, and shall be disbursed under the direction of the Secretary of State.

Mr. RANDALL. Unless there be some one who desires to make some remarks touching this matter I demand the previous question upon the passage of the bill.

Mr. MILLS. I would like to ask the gentleman a question.

Mr. RANDALL. I yield to the gentleman from Texas.

Mr. MILLS. What I want to ask is whether there is any penalty provided in the law for the enforcement of that law. If the Government is bound to meet the failure of these parties by making a fifteen-hundred-dollar appropriation, it seems to me that if there is any penalty provided in the law it ought to be inflicted on the delinquents, and if there is no penalty I think we ought to amend the law.

Mr. RANDALL. My recollection as to that point is not very distinct. The officer concerned is rather a State than a Federal officer, but I have no doubt that the President and the Secretary of State will take notice of the question asked by the gentleman from Texas.

There being no objection, the bill (H. R. 7964) was introduced and read a first and second time.

The SPEAKER. If there be no objection the bill will be considered in the House without reference to the Committee of the Whole on the state of the Union, and this will be considered the second reading of the bill. The Chair hears no objection. The gentleman from Pennsylvania [Mr. RANDALL] demands the previous question upon ordering this bill to be engrossed and read a third time.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. RANDALL moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MONUMENT AT YORKTOWN.

The SPEAKER laid before the House the following message from the President of the United States; which, with the accompanying papers, was referred to the Committee on Appropriations, and ordered to be printed:

To the Senate and House of Representatives:

I transmit herewith a communication from the Secretary of War, dated January 9, 1885, inclosing one dated January 5, 1885, from Lieut. Col. William P. Craighill, Corps of Engineers, who was charged with the building of the monument at Yorktown, reporting the completion of the monument, and recommending that the balance of the appropriation for building the same be used in paying the wages of a watchman and erecting a suitable keeper's dwelling on the site.

The matter is commended to the consideration of Congress.

CHESTER A. ARTHUR.

EXECUTIVE MANSION, *January* 13, 1885.

SIGNAL STATIONS AT NANTUCKET, MASS.

The SPEAKER also laid before the House a communication from the Secretary of War, inclosing a report of the Chief Signal Officer on the establishment of signal stations on the island of Nantucket, Massachusetts, and declaring the appropriation for that purpose insufficient; which was referred to the Committee on Appropriations, and ordered to be printed.

CLAIMS FOR INDIAN DEPREDATIONS.

The SPEAKER also laid before the House a communication from the Acting Secretary of the Interior, transmitting an abstract of sixteen claims for Indian depredations reported to the Department since December 10, 1884; which was referred to the Committee on Indian Affairs.

ENROLLED BILL SIGNED.

Mr. GLASCOCK, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a bill (H. R. 3661) granting an increase of pension to Mrs. Lucy Le G. Jeffers; when the Speaker signed the same.

WITHDRAWAL OF PAPERS.

By unanimous consent, leave was granted for the withdrawal of papers in the following cases:

To Mr. STRUBLE, in the case of W. W. Norris; no adverse report having been made.

To Mr. LORE, in the case of John W. Thompson; no adverse report having been made thereon.

PROPOSED REVENUE COMMISSION.

Mr. MILLS, by unanimous consent, introduced a bill (H. R. 7965) to create a revenue commission; which was read a first and second time, referred to the Committee on Ways and Means, and ordered to be printed.

REDUCTION OF BONDED DEBT.

Mr. WELLER, by unanimous consent, introduced a bill (H. R. 7966) to refund the bonded debt of the United States at 2½ per cent. interest, to reduce taxation upon circulating bank-note currency, and to secure such currency against unnecessary disturbances and fluctuations by applying the national revenues economically to payment of the national debt; which was read a first and second time, referred to the Committee on Ways and Means, and ordered to be printed.

RETURN OF A BILL TO SENATE.

In compliance with request of the Senate the bill (S. 1337) granting an increase of pension to Lucy Le G. Jeffers was by unanimous consent ordered to be returned to the Senate.

FRENCH SPOLIATION CLAIMS.

Mr. CURTIN. I call for the regular order.

The SPEAKER. By the order of the House, this day is assigned to the consideration of such bills as may be presented by the Committee on Foreign Affairs.

Mr. TOWNSHEND. Mr. Speaker, does that take precedence of the morning hour?

The SPEAKER. The whole day is assigned to that business.

Mr. HENLEY. Mr. Speaker, I desire to give notice that at the earliest opportunity I shall call up the bill for the forfeiture of the land grants to the Northern Pacific Railway Company.

Mr. COX, of North Carolina. I call up House bill 745, and ask unanimous consent to lay it aside to take up for consideration in lieu thereof a bill (S. 1820) to provide for the ascertainment of the claims of American citizens for spoliations committed by the French prior to the 31st day of July, 1801.

The Clerk began to read the bill, but was interrupted by

Mr. HOLMAN, who said: Must not this bill receive its first consideration in Committee of the Whole on the state of the Union.

The SPEAKER. That point has not been made, and therefore the Chair has not decided it. The Senate bill is on the Speaker's table. The gentleman from North Carolina, under the special order, has called up for consideration the House bill, but asks that the House bill may then be laid aside and the Senate bill taken up. The gentleman asks unanimous consent. He has a right, under the order of the House, to move to take this bill from the Speaker's table, and then if the point of order were made the Chair would be called upon to decide it.

The Clerk resumed and concluded the reading of the bill, which is as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That such citizens of the United States, or their legal representatives, as had valid claims to indemnity upon the French Government arising out of illegal captures, detentions, seizures, condemnations, and confiscations prior to the ratification of the convention between the United States and the French Republic concluded on the 30th day of September, 1800, the ratifications of which were exchanged on the 31st day of July following, may apply by petition to the Court of Claims, within two years from the passage of this act, as hereinafter provided: *Provided*, That the provisions of this act shall not extend to such claims as were embraced in the convention between the United States and the French Republic concluded on the 30th day of April, 1803; nor to such claims growing out of the acts of France as were allowed and paid, in whole or in part, under the provisions of the treaty between the United States and Spain concluded on the 22d day of February, 1819; nor to such claims as were allowed, in whole or in part, under the provisions of the treaty between the United States and France concluded on the 4th day of July, 1831.

SEC. 2. That the court is hereby authorized to make all needful rules and regulations, not contravening the laws of the land or the provisions of this act, for executing the provisions hereof.

SEC. 3. That the court shall examine and determine the validity and amount of all the claims included within the description above mentioned, together with

their present ownership, and, if by assignee, the date of the assignment, with the consideration paid therefor: *Provided*, That in the course of their proceedings they shall receive all suitable testimony on oath or affirmation, and all other proper evidence, historic and documentary, concerning the same; and they shall decide upon the validity of said claims according to the rules of law, municipal and international, and the treaties of the United States applicable to the same, and shall report all such conclusions of fact and law as in their judgment may affect the liability of the United States therefor.

SEC. 4. That the court shall cause notice of all petitions presented under this act to be served on the Attorney-General of the United States, who shall be authorized, by himself or his assistant, to examine witnesses, to cause testimony to be taken, to have access to all testimony taken under this act, and to be heard by the court. He shall resist all claims presented under this act by all proper legal defenses.

SEC. 5. That it shall be the duty of the Secretary of State to procure, as soon as possible after the passage of this act, through the American minister at Paris or otherwise, all such evidence and documents relating to the claims above mentioned as can be obtained from abroad; which, together with the like evidence and documents on file in the Department of State, or which may be filed in the Department, may be used before the court by the claimants interested therein or by the United States, but the same shall not be removed from the files of the court; and after the hearings are closed the records of the proceedings of the court and documents produced before them shall be deposited in the Department of State.

SEC. 6. That on the first Monday of December in each year the court shall report to Congress, for final action, the facts found by it, and its conclusions in all cases which it has disposed of and not previously reported. Such finding and report of the court shall be taken to be merely advisory as to the law and facts found, and shall not conclude either the claimant or Congress; and all claims not finally presented to said court within the period of two years limited by this act shall be forever barred; and nothing in this act shall be construed as committing the United States to the payment of any such claims.

Mr. HOLMAN. Mr. Speaker, without having had an opportunity to examine this bill carefully I raise the question of order under Rule XXIII, clause 3, that the bill involves a charge upon the Government and must receive its first consideration in the Committee of the Whole House on the state of the Union. I base this point of order upon the general scope and purpose of the bill rather than on any special clause.

Mr. CHACE. I did not hear the point of the gentleman from Indiana. I would like to hear him state it again.

The SPEAKER. The gentleman from Indiana makes the point of order that under the rules of the House this bill must receive its first consideration in the Committee of the Whole House on the state of the Union.

Mr. CHACE. Upon what ground?

The SPEAKER. Upon the ground that it authorizes the examination of these claims by the Court of Claims, and will require hereafter an appropriation to be made to comply with the provisions of the bill if passed.

Mr. CHACE. I wish the gentleman from Indiana would point out what part of the bill requires an appropriation.

Mr. HOLMAN. Mr. Speaker, the language of Rule XXIII enumerates, as matters which must receive their first consideration in Committee of the Whole:

All motions or propositions involving a tax or charge upon the people; all proceedings touching appropriations of money, or bills making appropriations of money or property, or requiring such appropriation to be made, or authorizing payments out of appropriations already made, or releasing any liability to the United States for money or property.

It seems to me this measure is subject to the point of order I seek to raise, on the ground that it is a preliminary procedure upon which must be based hereafter an appropriation of money out of the Treasury.

Mr. MORSE. I would like to have the gentleman from Indiana point out any word in this bill which calls for a dollar of appropriation.

The SPEAKER. Will it not create a liability on the part of the Government?

Mr. MORSE. Not at all. The bill simply provides that these claimants may go before the Court of Claims and the court may ascertain what, if anything, is due to them. The bill contemplates nothing more.

Mr. WARNER, of Ohio. But that, Mr. Speaker, involves, of course, payment if anything should be found to be due.

Mr. MORSE. Not at all.

Mr. HOLMAN. I submit that the very first clause of the third paragraph of Rule XXIII seems to cover this case. I admit that the bill is very carefully drawn for the purpose of avoiding this question of order. But the language of the rule is:

All motions or propositions involving a tax or charge upon the people.

That this measure does "involve" or contemplate an expenditure of public money would seem to be an inevitable conclusion from the scope and character of the bill.

Mr. CHACE. I desire to call the attention of the Chair to the last three lines of the last section of this bill:

And nothing in this act shall be construed as committing the United States to the payment of any such claim.

Mr. MOULTON. That appears to be conclusive.

Mr. CHACE. If that does not settle the point of order I can hardly imagine any form of language that would do it.

Mr. RICE. I desire to present to the Chair distinctly this question: Is there anything in the bill which without further legislation would justify an expenditure of a single dollar of money by the United States? I believe there is nothing of the kind. The bill simply contemplates the auditing of these claims.

Mr. COX, of North Carolina. The bill expressly provides that the action of the court shall be limited to an ascertainment of the law and the facts, and that "such finding and report of the court shall be taken to be merely advisory as to the law and facts found." The bill makes no appropriation at all, and does not contemplate any unless Congress shall see proper hereafter to make one in pursuance of the finding of the court.

Mr. COX, of New York. I think it has been held heretofore that any bill looking toward an appropriation of money, anything tending to lessen the value of property of the United States, lands, money, or anything else, is obnoxious to the point of order, under the third clause of Rule XXIII.

Mr. DINGLEY. I desire to call the attention of the Chair——

The SPEAKER. The gentleman from New York has the floor.

Mr. COX, of New York. That is all I desire to say.

Mr. DINGLEY. Under the ruling in the Forty-fourth Congress, where a bill may involve the expenditure of money but does not directly require an appropriation it does not necessarily go to the Committee of the Whole.

Mr. HOLMAN. I wish to remark in regard to the last clause of the bill, the language of which is "and nothing in this act shall be construed as committing the United States to the payment of any such claim," that it is inoperative and means nothing so far as this question is concerned if the general scope of the bill involves or contemplates a public expenditure.

The SPEAKER. The Chair, upon examination of this bill, does not see that it makes any appropriation or requires any appropriation to be made by Congress, but it simply provides for an investigation of these claims by the court, leaving it, as the Chair understands the provisions of the bill, to Congress hereafter to say whether or not appropriation shall be made even where a claim is held to be just by the court. The Chair thinks the point of order is not, therefore, well taken.

Mr. COX, of North Carolina. Mr. Speaker, in advocating the passage of the pending bill, I do not propose to consume the time of the House by giving more than a brief historical outline of the origin of these claims, the action of our Government in regard to them, and the nature of the provisions of the bill it is proposed to adopt. If I should fail to be understood by any member I would be pleased if at the close of my remarks he would propound any questions which might tend to shed additional light on the subject.

It is a matter of familiar learning that in our Revolutionary struggle the United Colonies were sorely pressed for all the necessaries of successful war. Amid the hardships and discouragements at Valley Forge even Washington all but despaired, and emphatically declared that unless something was speedily done our little army must "starve, dissolve, or disperse." In this emergency France came to the rescue, and entered into a treaty of amity and "perpetual friendship." She supplied us with men and money, and gave us that moral and active support which infused new life into our waning cause. With this change Cornwallis began his retreat across the continent, soon was cooped up at Yorktown, where he was compelled to surrender his forces to the allies; then the blessings of a coveted peace followed, and the independence of our young Republic was assured.

It is also known that in the latter part of the last century nearly all the nations of Europe were engaged in war. France and England were at war. France claimed, or her friends claimed for her, that she was involved in war with Great Britain in consequence of the part she had taken in aiding us to achieve our independence. I will spend no time in pursuing that inquiry; it is not material to the present investigation. It is sufficient to know that our merchants, availing themselves of their neutral position, engaged largely in providing the belligerents of the Old World with supplies, chiefly of provisions.

Soon the war upon the continent assumed such violence and magnitude that all rules of civilized warfare and international law were set at defiance.

Our commerce became the prey to rapine and plunder; ships were seized, their contents appropriated, and our sailors detained. France was especially regardless of our rights, and the consequence was that our commerce was almost swept from the seas.

In this emergency Mr. Jefferson, then Secretary of State, addressed a circular letter to the merchants of the United States, in which he gave them this promise:

I have it in charge from the President of the United States to assure the merchants engaged in foreign commerce that due attention will be paid for any injuries they may suffer on the high seas or in foreign countries contrary to the law of nations or existing treaties, and that on their forwarding well-authenticated evidence of the same proper proceedings will be adopted for their relief. (Doc. 102, page 216.)

This, emanating from such a distinguished source, gave new impulse to our commercial enterprises and many captures and great losses ensued. As was to be expected, our Government did not fail to attempt to fulfill her obligations to her citizens, but at the earliest practicable moment made her demands on all who were engaged in these spoliations. England paid over $10,000,000 for her depredations, while Spain and other nations paid lesser sums.

When France was called on for indemnity she did not deny her liability, but sought to extenuate her conduct by declaring that, inasmuch as we and the people of Great Britain spoke the same language and

had much the same appearance, captures often occurred by mistake; that with the combined forces against her she was sorely pressed, and that necessity compelled her to get supplies when and where she could. While

THUS ACKNOWLEDGING HER LIABILITY,

she claimed that our Government had violated its treaty stipulations with her and thereby incurred responsibilities which must be taken into consideration in adjusting these claims. These treaty stipulations are so admirably summarized by Mr. Sumner, I can not do better than quote from his report to the Senate in 1870 the following:

The treaty of amity and commerce contained a succession of mutual stipulations, by which the United States undertook, first, to protect and defend by their ships of war, or convoy any or all vessels belonging to French subjects, so long as they hold the same course, "against all attacks, force, and violence, in the same manner as they ought to protect and defend" the vessels of citizens of the United States. (Articles 6 and 7.) Secondly, to open their ports to French ships of war and privateers with their prizes and to close them against those of any power at war with France, except when driven by stress of weather; and then "all proper means shall be vigorously used that they go out and retire as soon as possible." (Article 17.) Thirdly, to allow French privateers "to fit their ships, to sell what they had taken, or in any other manner whatsoever to exchange their ships, merchandise, or any other lading;" but privateers in enmity with France are forbidden even to victual in ports of the United States. (Statutes at Large, vol. 8, p. 13.) As if to round and complete these engagements it was further stipulated on the part of the United States, in a consular convention which, after many perplexities of diplomacy, baffling the tried skill of Franklin, was finally signed by Mr. Jefferson, in 1788, as a postscript to the earlier treaties, that French consuls and vice-consuls in the United States should have power and jurisdiction on board French vessels in civil matters, with the entire inspection over such vessels, their crews, and the changes and substitutions there to be made. (Article 7, *Ibid.*, p. 112.)

In addition, France had been guaranteed her possessions in America, which might at any time expose us to the hazards of war. Such was the price we paid for that alliance, which was a potential factor in our contest for freedom.

During the progress of the complications of the European powers a secret treaty was entered into between the United States and Great Britain which greatly exasperated France, especially when Washington issued his proclamation of neutrality and impartiality between the belligerent powers; and when this treaty was finally divulged there was an outburst against us, and our policy was openly branded as a violation of our engagement with France and was declared to be a "condescension of the American Government to the wishes of its ancient tyrant." The Directory refused to receive our ministers, and by a succession of edicts declared that it would treat our neutral vessels either as to confiscations or searches in the same manner in which they suffered the English to treat them.

In pursuance of this spirit, unjust and lawless spoliations continued to be committed against our vessels until it became necessary to authorize vessels of the United States to arm and retaliate. In this hour of perplexity our Government appointed a special mission, composed of three of her most eminent citizens, to visit France and see if they could not by treaty secure an adjustment. Mr. Pickering, Secretary of State, in his letter of instructions to them, employs the following language:

In respect to the depredations on our commerce the principal object will be to decide upon an equitable mode of examining the claims of our citizens and the manner and mode of making compensation. The proposed mode of adjusting the claims by commissioners appointed on each side is so perfectly fair we can not imagine that it will be refused.

Yet the plenipotentiaries were enjoined not to renounce the claims of our citizens nor to stipulate that they be assumed by the United States Government.

Our commissioners found the Republic in no condition to treat, for Napoleon was then victorious and Talleyrand was at the height of his power. They were therefore compelled to return without accomplishing the object they had in view. Subsequent causes of exasperation arose, when Congress suspended all commercial intercourse between the two countries until France should refrain from aggressions and depredations against the vessels and property of the citizens of the United States. Our Government even went further than asserting the rights of the claimants, by putting herself in an attitude of defense. The Directory of France thereupon invited negotiations, and Mr. Adams, for the sake of peace, appointed a new commission, to whom he gave explicit directions in regard to demanding indemnity. Upon our plenipotentiaries reaching Paris the Directory had ceased to exist. They were cordially received by Talleyrand, who presented them to the First Consul. Negotiations were at once commenced, which resulted in the treaty about which there has been an unending controversy.

France demanded that she should be allowed to

OFFSET HER CLAIM

for our violation of the treaty stipulations against those of citizens of the United States for spoliations of our commerce, but proposed to surrender the advantages secured to her on condition that our Government would yield its claims, as may be seen from the concluding paragraph of the basis suggested by her plenipotentiaries, which is as follows:

The indemnities which shall be due by France to the citizens of the United States shall be paid by the United States. And, in return for which, France yields the exclusive privilege resulting from the seventeenth and twenty-second articles of the treaty of commerce, and from the rights of guarantee of the eleventh article of the treaty of alliance.

BONAPARTE.
C. P. CLARET FLEURIEU.
ROEDERER.

The American plenipotentiaries on the contrary declared this proposition inadmissible. The claims of France were national while ours were individual, and the commissioners were not empowered to make any such negotiation. It therefore appeared as if no good could eventuate from this conference and a deadlock was inevitable. There were other provisions about which the commissioners could treat, and after meeting day after day, on the 30th of September, 1800, they agreed upon what is known as a provisional treaty, the most important stipulation of which is as follows:

ARTICLE II. The ministers plenipotentiary of the two parties not being able to agree at present respecting the treaty of alliance of February 6, 1778, the treaty of amity and commerce of the same date, and the convention of 14th of November, 1788, nor upon the indemnities mutually due or claimed, the parties will negotiate further on these subjects at a convenient time, and until they may have agreed upon these points the said treaties and convention shall have no operation, and the relations of the two countries shall be regulated as follows.

Thus was this harassing and annoying subject, after eight years' controversy,

BROUGHT TO A CLOSE;

and so gratifying was it to all parties in France, that it was made the cause of general rejoicing and feasting, and at a grand banquet held in its honor, the First Consul was present and participating.

The result in the United States was not regarded with favor, and when the matter was brought before the American Senate, the second section was stricken out. On the 8th of February, 1801, President Adams, through the Secretary of State, proclaimed the convention duly ratified, save and except the second article, which was declared to be of no validity.

The question here arises whether our claims were abandoned? From the correspondence of the American minister and the plenipotentiaries of France it may be readily seen that this was a matter which each side feared and sought to evade. On the 31st of July, 1801, the convention was ratified by the First Consul with the second article eliminated, to which, however, he appended the following proviso: "That by this retrenchment the two states renounce the respective pretensions which are the object of the said article." The convention with this modification was submitted to the Senate by President Jefferson and again ratified. On the 21st of December, 1801, it was promulgated by the President in the usual form with the supplementary proviso, and all persons were enjoined to respect and obey every provision of the same.

From this time forward the Government of the United States

CEASED TO PRESS

the claims of her citizens against France. Was this a final settlement of the question? It appears to have been so regarded by each of the contracting parties, for we hear no more of claims and counter-claims.

Now the question arises, did our Government consider that she had offset the claims of her private citizens against the claims of France, or did she consider that she had done all that she peaceably could to enforce their just claims, and had thereby discharged her obligations to them?

No one will hesitate in determining that this treaty was of great public advantage, for it was a treaty of peace with a cherished ally. But was it not purchased through the claims held by our private citizens against the Government of France? The testimony of contemporary statesmen and concurring events all lead to this conclusion. Mr. Pickering, who was Secretary of State under Washington and Adams, and who wrote the instructions of our plenipotentiaries, in speaking of this treaty employs the following language:

Thus the Government bartered the just claim of our merchants on France to obtain a relinquishment of the French claim for a restoration of the old treaties, especially the burdensome treaty of alliance, by which we were bound to guarantee the French territories in America. On this view of the case it would seem that the merchants have an equitable claim for indemnity from the United States. * * * It follows, then, that if the relinquishment had not been made the present French Government would be responsible; consequently the relinquishment by our own Government having been made in consideration that the French Government relinquished its demands for a renewal of the old treaties, then it seems clear that, as our Government applied the merchants' property to buy off those old treaties, the sums so applied should be reimbursed.

Chief-Justice Marshall, in conversation with Mr. Preston, of South Carolina, said that "having been connected with the events of the period and conversant with the circumstances under which the claims arose, he was, from his own knowledge, satisfied that there was the strongest obligation on the Government to compensate the sufferers by the French spoliations."

Madison, while Secretary of State, in his instructions to Mr. Pinckney, then minister to the court of Spain, bears testimony to the justness of these claims in the following words:

The claims from which France was released were admitted by France, and the release was for a valuable consideration in a correspondent release of the United States for certain claims on them.

This was written in 1804, some time after the adjustment.

I might cite other testimony of a similar character, both French and American. But it is not necessary for the approval of the measure now before the House to pass upon the validity of these claims, for it is insisted that if the petitioners have but the color of claim, or right, it is incumbent on our Government to

GIVE THEM AT LEAST A HEARING.

and this bill provides for no more.

We now come to the action of our Government in relation to this mat-

ter subsequent to the treaty of 1801. There have been, Mr. Speaker, altogether forty-six reports from committees of the two Houses of Congress on this subject. Three of these were made prior to 1824, and were adverse to the claimants. They were, however, made before the testimony then in the archives of the Government was accessible to members of Congress. They are necessarily incomplete and unsatisfactory. In 1824, by a resolution of the Senate, the Secretary of State laid before that body all the testimony in his Department in regard to the matter, which is embraced in these two large volumes I hold in my hand, which from their size must make it apparent to the mind of every member present that it is absolutely impossible for members to examine them with that care and deliberation, which the subject demands in order to arrive at a satisfactory conclusion as to the merits of the claimants.

After these reports were presented in 1826—for it took the Secretary of State two years to compile and arrange them—until the present time there never has been an adverse report to either House of the American Congress against the justness and validity of these claims; and it is a remarkable fact that to-day we have reports from two committees of this House, made to this Congress, unanimously recommending the passage of this bill, to wit, the Committee on the Judiciary and the Committee on Foreign Affairs. At the time these committees acted I do not suppose either was aware of the action of the other. Since 1836 there have been forty-three reports in favor of the petitioners, and the committees presenting them have numbered among their members some of the most eminent and distinguished statesmen of the nation. Among them I need only mention Messrs. Webster, Everett, Choate, Crittenden, Sumner, and others, who, after careful consideration and examination of the testimony, have all reported in their favor. Each of the thirteen original States of this Union have petitioned time and again in behalf of their settlement.

It is true, sir, that during this time only two bills have passed the House. One originated in the Senate, which was vetoed by Mr. Polk, chiefly on the ground that we were at war with Mexico, the condition of the Treasury was not such as to authorize an appropriation, and that the bill, passed so near to the close of the session, it could not receive that consideration to which it was entitled. Notwithstanding the veto, the Senate voted 27 ayes to 15 nays—not two-thirds—to pass it over the veto, which, though a large majority, was not sufficient to prevent its failure. Gentlemen will perceive that the present bill simply proposes to transfer the consideration of these claims

TO THE COURT OF CLAIMS,

where there will be ample time to judicially determine all questions of law and fact, which are to be reported to Congress for final action. Hence it is not obnoxious to the objections contained in this veto message.

In 1855 a second bill passed the House, which was vetoed by Mr. Pierce. In his message he entered elaborately into the discussion of the question. He argued that to recognize the validity of the claims at that day would be a reflection on the good faith of the Government, inasmuch as it had failed to adjust them theretofore. Why, Mr. Speaker, it was not the fault of the claimants that they had been so long postponed, for they had ever been vigilant, active, and urgent in their demands. So early as in 1803 they secured a report of the facts, which were in their favor. In 1807, in a report submitted to Congress, occurs this language:

That this Government by expunging the second article of our convention with France of the 20th of September, 1800, became bound to indemnify the memorialists for these just claims which they otherwise would have rightfully had on the Government of France.

Furthermore, it is no apology for the Government to seek to avoid its responsibility by declaring that the claims are stale, when they may have become so by its own action. And not only this, Mr. Speaker, it would be a greater reflection upon the distinguished men who, after careful examination, have made reports in their favor to the respective Houses to declare that they had been inconsiderate and negligent in arriving at their conclusions. I repeat, it would be an unjustifiable reflection upon these men to say they had not bestowed sufficient care and thought upon the reports which they submitted, leaving out the fact that there were 113 yeas to 81 nays in the House, in which it originated, in favor of passing the bill over the veto of the President. There are some five or six objections urged against these claims to which I will now invite your attention.

The first is, that the claim is stale. That I have answered. The second is that the state of the Treasury was not in a condition to warrant an appropriation. That is not the case to-day, and was never a valid objection provided the claims are just. The third, that there was a state of war between France and the United States during the time these depredations were committed upon our commerce. That is a question of fact which can be more thoroughly investigated in a court of law than by this body, pressed as it is for want of time. Hence it should be referred to the Court of Claims. Fourth, it is said these claims were embraced in the Louisiana convention. That is a question of law and fact which the Court of Claims is peculiarly suited to determine. Fifth, that they were embraced in the convention of 1831. That is a question of law and fact, and should have a similar reference. Sixth, Congress annulled the French treaty, and thereby vacated these claims. A mixed question of law and fact eminently appropriate for this court. There are, therefore, shown to be several objections which, should the court determine either one in favor of the Government, would put an end to the claims. Be that as it may, as a citizen can not sue his government, it is but just and equitable that she should at least give him a hearing.

When we consider, Mr. Speaker, how these claims arose, that they originated in the days of our weakness and amidst our early struggles for independence; when we consider that the original claimants were the hardy pioneers of our commerce, and stood by our ancestors in their struggle for those liberties we to-day enjoy, and that their claims were the probable means of amicable adjustment of difficulties that might not only have continued our Government in entangling alliances abroad, but eventually involved us in war with the very government that had contributed so much to our independence—I repeat, when we consider these things, and that all the Revolutionary soldiers and their descendants have been provided for, and that we have recently completed and are to dedicate with impressing ceremonies one of the highest monuments in the world to the memory of the Father of his Country, justice, equity, and good faith alike demand that we should at least grant these claimants an impartial hearing. That is all that is proposed by this bill. After the court shall have determined the law and the facts, and ascertained whether the original claimants had good cause of action, and whether the present claimants are their descendants or assignees for a valuable consideration, then, and not until then, will Congress be called upon to determine what is its duty in the premises.

We ask for no appropriation, as the Speaker has ruled. But all we ask is that this tribunal may act as a commission to advise the conscience of Congress, in the same way that a chancellor may call upon his clerk and master, or a jury to aid him in ascertaining the merits of a cause, or, in other words, to advise his conscience. I have called attention to the documentary evidence in this case and the impossibility of a body of legislative character, changing, as it does, every two years in this House, giving that careful consideration in regard to the law and the facts which this case so imperatively demands. And I call attention to another fact. Of the forty-six reports heretofore made forty-three of them contemplated an appropriation by this Government to pay these claims. I repeat it, they contemplated an appropriation, whereas the present bill contemplates nothing of the kind. Furthermore the bill protects the interests of the Government of the United States in this respect: It provides that every claim that shall be presented, or a list of all the claims that shall be presented, shall be handed to the Attorney-General of the United States, and that either he or his assistant may appear before that court, examine the testimony, examine the witnesses, make arguments, and interpose legal barriers. Also that after

THE COURT HAS PASSED UPON THEM,

they shall from time to time report to Congress the law and the facts as ascertained by them. And it not only does this but goes further and excludes a conclusion. It says that the Government shall not be bound by the finding of this court; and, therefore, before any act can be placed upon our statute-books, calling for an appropriation, Congress must provide at a future session for whatever amount, if any, it sees proper to apply for the benefit of the claimants.

The question has been asked what amount the Government will have to pay, if it ever pays anything to these claimants. There are various estimates. I have a statement from the honorable Secretary of State, Mr. Frelinghuysen, predicated on the estimate of Mr. Sumner, which is published in connection with this bill, which estimates the probable amount to be between twelve and thirteen million dollars. But he says he has no accurate data by which he can ascertain the amount. It has been estimated that it will range from five to seven million dollars. We know that all of the original claimants have long since passed away, and many claims with them. Another generation has risen up and most of them have crossed the river. All that the present claimants ask of this Congress, and they have a right to make that demand, is that they may go before a tribunal established by the American Government and have their rights inquired into, for it is well known that no citizens can sue our Government. They must, therefore, appeal to the honor and magnanimity of their great Government to allow them to go before a tribunal of its own creation, peculiarly appropriate to the ascertainment of claims of this character, that it may pass upon them and say whether they have any claim to indemnity.

If it be true that they were embraced in the treaty of 1803 that is the end of the litigation. If they were embraced in the convention of Louisiana that is the end of it. But the law and the facts should be ascertained before some such tribunal as this. If they are not concluded by the conventions and treaties I have adverted to then this court is to ascertain

WHETHER THESE CLAIMS ARE WELL-FOUNDED,

and, if so, then whether the claimants now before Congress are entitled to the relief they ask for.

I know it may be said, and it sometimes is said, that these claims have fallen into the hands of speculators, insurance companies, or others. Suppose they have? Why, in the Alabama Claims Commission insurers were allowed out of the fund the amount of the losses they had sustained. Why? Because, according to all well recognized principles

of law, they were entitled to be subrogated to all the rights of the insured. But that is not material.

Mr. MILLIKEN (in his seat). It is not true, either.

Mr. COX, of North Carolina. That is not material, because this bill goes on and provides that this court shall ascertain who are the *bona fide* owners of these claims; whether any have been assigned, and, if they are in the hands of assignees, the court will so report. And they will not only do that, but they will ascertain further the amount which the assignees paid for the claims. The bill is guarded in every respect, and no injury, but much good, will result to this Government in preserving its good faith toward its citizens by complying with the reasonable request of those who can only, I repeat, appeal to its magnanimity and sense of justice for a redress of their alleged grievances. We are not required to pass upon the justice of the claims. We need only to inquire whether they have a color of right, and surely forty-three reports by able and distinguished committees are enough to establish that; and if these claimants have a color of right, it is insisted that this Government is bound at least to give them a hearing, especially when they are asking for no appropriation. It may be insisted, as I judge it will, that this would be the first step toward an appropriation. Ah! if that should be so it is right that this Government should meet the question and not seek to avoid her responsibility because she fears that a proper examination of these claims will disclose the fact that she is justly and honestly indebted to these claimants! I say, therefore, that if gentlemen will carefully examine the provisions of this bill they will see that there is nothing in it to cause any member of the House to hesitate to comply with the reasonable request made by these claimants.

Mr. COX, of North Carolina, by unanimous consent, was granted leave to extend his remarks in the RECORD.

Mr. MCMILLIN. Will the gentleman allow me to ask him one question?

Mr. COX, of North Carolina. With great pleasure.

Mr. MCMILLIN. If I understand the gentleman correctly, the bill does not seek an appropriation to carry out any opinion that may be delivered by the court?

Mr. COX, of North Carolina. No, sir; it does not.

Mr. MCMILLIN. Then why is it that such an opinion as is desired could not be obtained by the committee under what is known as the Bowman act?

Mr. COX, of North Carolina. I am not familiar with the Bowman act.

Mr. MCMILLIN. The Bowman act provides that any Department or any committee of Congress may call for an opinion upon the facts and the law in any case pending in the Department or before the committee.

Mr. LONG. Not in all cases.

Mr. MCMILLIN. Not in all cases, it is true; but in all cases provided for in the Bowman act.

Mr. COX, of North Carolina. I will say, in reply to the gentleman from Tennessee, that this act provides for a judicial examination in the presence of the Attorney-General, who shall protect the United States Government. The questions will be argued, the testimony will be inquired into, and all the facts will be laid before this House; whereas such would not be the case if an opinion were simply asked for by a committee, unless the committee should see proper to print all the facts, which would not be convenient. In fact, the objects of this bill could not be accomplished under the Bowman act, because this bill provides for the presentation of claims.

Mr. MCMILLIN. I made the suggestion in regard to the Bowman act because that is the simpler method wherever it can be resorted to.

Mr. JONES, of Wisconsin. Mr. Speaker, these claims have had a wonderful career. The original claimants, their children, and their grandchildren have long since gone the way of all the earth. But the hoary claims themselves are immortal. They appear before us this January morning in the year 1885 as fresh and vigorous as when in the last century they commenced their journey to the nation's Treasury.

I know of only two possible grounds on which the liability of the United States to these claimants can be based. It has been suggested, not by the gentleman who has just taken his seat [Mr. COX, of North Carolina], but elsewhere, that between the years 1793 and 1800 our Government failed to do its whole duty to the merchants and others who met with losses on the high seas; that there was some negligence in failing to press with zeal these claims upon the French Government. There is a suggestion, though it hardly takes the form of argument, that because the French Government allowed its cruisers to prey upon our commerce, and because our merchants were unable to obtain redress, there arose in some way a claim for redress against the home government.

But I am satisfied that it will not be contended by the lawyers upon this floor or anywhere that there is any validity in such a claim. A good government is always eager to protect the rights of its citizens from foreign aggression. But there is no rule of law which compels a government to reimburse its citizens for the losses they may incur in the hazards of commerce. Moreover, it can be confidently asserted that no government ever struggled more assiduously to obtain redress for the wrongs of its citizens than did our struggling Republic in those eventful years between 1793 and 1800. If time permitted I could review the long series of acts which brought our Government to the very verge of war in its attempts to enforce these claims.

But I pass at once to what I conceive to be the only plausible ground on which these claims can be based. It is alleged that when the final treaty of 1800 was made between France and the United States our Government traded off these private claims of its own citizens, growing out of the losses I have mentioned, for a claim which France held against us, and that thereby in law and in justice our Government assumed the payment of these claims. On that basis rest all these claims. On that assumption is founded this whole argument. I admit, sir, that the argument is ingenious. I regard the argument made by Mr. Sumner in that famous report of 1870 as one of the ablest productions of that remarkable man. But, with all deference to the distinguished gentlemen who assert the validity of these claims, it seems to me that their argument rests upon this false assumption that France had a valid claim against our Government.

It has been argued with much earnestness and force by Thomas H. Benton, by Silas Wright, and by other eminent statesmen that when the treaty of 1800 was made it was the settlement of actual war between France and the United States. If that view be correct, under the laws of nations these claims were no longer valid against any government. But without stopping to press this argument, I may admit for the purposes of the discussion that our citizens did hold valid claims against France, growing out of the depredations upon our commerce.

The more serious question is, did France have any valid claim against our Government? If there was such a claim existing and valid under the laws of nations there is some solid foundation upon which the ingenious arguments of gentlemen can rest.

Now, sir, out of what did this pretended claim of France arise? There is but one answer. Out of the old treaty of alliance between France and the Colonies, made in 1778, and the alleged violation of that treaty by the United States. When the French monarchy passed away and the new republic arose from its ruins the visionaries of France were disposed to draw our young Republic into the great struggle which was convulsing all Europe.

It seemed to be the opinion of the impetuous French Minister Genet that the treaty of 1778 bound our Government to enter upon any war in which France might be engaged, offensive or defensive. He claimed that French privateers had not only the right to enter our ports, but to enlist American seamen for foreign war and to build on our soil ships for foreign aggression. In fact, that they had the right to make America the theatre of this great war between England and France. But the gentlemen who composed the administration of the Government of the United States in 1793 and between that time and 1800 never for one moment yielded to any such absurd pretensions. At the head of that Government was the Father of his Country. The Cabinet was composed of such men as Jefferson, Hamilton, and Edmund Randolph—men who knew something of international law, who knew something of that treaty and the force of its obligations. The history of that time shows that these great men carefully considered the provisions of that memorable treaty. They concluded that it imposed no obligation upon our Government to enter upon that offensive warfare which France was entering upon and which not long afterward indulged the ambition of Napoleon.

I must not trespass upon the time of the House to read even extracts from that treaty. For one, I am willing to accept the construction placed upon it by the sages and the fathers of the Republic. No one will contend that Jefferson can be accused of any leaning toward England or any prejudice against France. It is enough to say, without entering into elaborate argument upon this treaty, that the great statesmen of that day never failed to insist that our Government was under no obligation to engage in this great European war.

Do gentlemen understand the full meaning of this claim, that our Government, under the administration of Washington, violated its treaty? It means that we must reject the views of the men who formed that treaty and who bore so conspicuous a part in those memorable events. Not only that. The suggestion imputes a breach of faith, a violation of solemn obligations made with France on the part of those very men who, of all others, were likely to be animated by sentiments of gratitude toward their old ally.

At this distance from those events gentlemen flippantly assert that our Government violated this solemn treaty. I appeal from these claimants and their advocates to the opinions of Washington, of Jefferson, and of Hamilton. They always insisted that our Government had kept its faith and that France had been the first and constant violator of this treaty. And they were right. It was one of the vital and most valuable provisions of that treaty that free ships should make free goods. In 1793, at the very outset of these difficulties between France and the United States, the French Government issued a proclamation renouncing this principle. From the day that France gave this stab to the treaty of 1778 it had no worth or vitality to the United States; but from that day on until 1798 France was violating every month, I think it safe to say every day, the provisions of the treaty.

What was our Government doing between 1793 and 1800? American ships were being driven from the seas, preyed on to-day by the

French cruisers, to-morrow by the English cruisers, both France and England violating not only their treaties but every rule of international law. Did our Government fail in any way in its duty toward these claimants? Not at all. From the very beginning our Government was carrying on negotiations for the redress of these wrongs. She sent commissioners and envoys repeatedly to France to secure for these claimants their rights. She exhausted every art of diplomacy. Not only that, our Government was not only negotiating in a peaceable way, but went to the very verge of war. Preparations were made for war. Expenditures for troops and the building of vessels were authorized. American vessels were authorized to retaliate and to bring into port for condemnation vessels bearing the flag of France. Finally Washington, after he had ceased to be President, was called from private life to take command of the American Army. He gave as one of the reasons for responding to the call that the aggressions of France had become unbearable, and he referred to her repeated violations of the treaty.

How can it be claimed that France could make this treaty which she had persistently violated and spurned for years a basis of a claim for damages? Will gentleman contend on this floor that France was not the contracting party which first broke the compact? Could France violate and ignore the treaty for seven long years and then invoke its aid and seek indemnity?

When did France discover that she had a claim against the United States? When our commissioners in 1800 went to France to negotiate concerning these claims, and also to secure future peace to American commerce, then, for the first time, as I remember the facts, arose this most remarkable pretension upon the part of France. Then it was that France put forward the claim that we were indebted to her. In the first instance the French commissioners scouted the idea that private citizens had claims against France. They asserted that there had been war between France and the United States, and that our citizens like other must accept the hazards of war. But, as I will show presently, Talleyrand came to their relief with a more diplomatic if not more plausible defense.

What was the condition of France? Her armies were scattered; her treasury was exhausted; she had not a sou with which to pay these claims of $20,000,000 or more. What did she do? Her minister of foreign affairs, Talleyrand, was equal to the emergency. With sublime audacity he trumps up this pretension that our Government was indebted to France in a far greater sum; and upon what ground? Because we had failed to keep our treaty, the very treaty which France had despised; the treaty which she had been breaking from 1793 to 1800; the treaty which had long since ceased to be in effect between the two nations. Then they brought forward this claim. What could our commissioners do? They could not say to Talleyrand or his commissioners, "You are a pack of knaves and rascals. The claim you present is a pretense and a sham." That would not have been diplomatic language. [Laughter.] They were obliged to consider and treat with apparent respect this claim among the many other questions presented. Now I shall not stop here to follow these negotiations.

Mr. BLOUNT. The gentleman speaks of that treaty being of no effect. I do not now remember the history of the matter. I would like to know on what ground the treaty became of no effect.

Mr. JONES, of Wisconsin. I should have referred to the formal renunciation of the treaty by our Government. Of course I have not the time to go into details. After our Congress had taken various steps, some of which I have mentioned, to secure the rights of its citizens, in the year 1798 they declared formally this treaty null and void. It had long before ceased to be regarded by the French Government. For five long years they had been violating it every month.

I will pass over the history of the negotiations between these various commissioners. I will only say that finally the test came. The time came when our Government had to decide whether it would prolong the fruitless negotiations or whether it would have peace. However the situation may have been described in technical language, we were then practically in a state of war with France. Blood had been shed upon the seas, provision had been made for the calling forth of armies, and, as I have said, Washington had been called forth from his retirement to command them. The great question presented itself to our Government, Should it longer press these private claims? Should it press them to the extent of involving our young and feeble nation in war once more—in this great continental war? Our Government decided, and decided wisely in my judgment, not to continue further negotiations. Our Government simply refused to enforce these claims at the point of the bayonet. Anxious though the Government had been to secure their payment, it was not willing to pay the fearful price of plunging into this great struggle in which all Europe was engaged.

Mr. MILLIKEN. I would like to ask the gentleman a question.

Mr. JONES, of Wisconsin. Certainly.

Mr. MILLIKEN. Suppose it be true, as the gentleman contends, that these claims were not originally valid against the Government of the United States, but were merely trumped up by Talleyrand, and that this Government, for the sake of peace or for the sake of meeting trumped up claims, used the property of private individuals for that purpose, would the Goverment be relieved from the duty of reimbursing such private individuals for what it had taken from them for its own use? Did not the Government become in that way responsible by its own act for these claims as claims against this Government, whether those claims were originally void or not?

Mr. JONES, of Wisconsin. In my judgment our Government did no such thing.

Mr. MILLIKEN. That seems to be the position.

Mr. JONES, of Wisconsin. I know that is the position taken by the gentleman.

Mr. MILLIKEN. That is the position I get from the gentleman's argument.

Mr. JONES, of Wisconsin. That is not the position I take. I start out with the statement that you are wrong in assuming that our Government traded claims with France. That is the assumption the friends of this bill always make, and that is where your argument, in my judgment, is weak.

Mr. MILLIKEN. With what did our Government purchase peace?

Mr. JONES, of Wisconsin. I do not think our Government did purchase peace. We were in that condition which I have described.

Mr. MILLIKEN. I must have very much misunderstood the gentleman if he did not so state.

Mr. JONES, of Wisconsin. We were in that condition I have described. If it were not open war and manifest war, it certainly was quasi-war. In my judgment the claims of France never would have been presented against our Government except as a sham defense against the just claims we had against them. They were false claims.

Mr. LONG. What then has become of our just claims against France?

Mr. JONES, of Wisconsin. Our Government simply refused to carry on this contention so far as to engage in war against France.

Mr. ADAMS, of Illinois. Allow me to ask the gentleman a question so I may understand his position accurately.

Mr. JONES, of Wisconsin. Certainly.

Mr. ADAMS, of Illinois. Does the gentleman from Wisconsin say that our Government simply ceased to press the claims, or does he admit that our Government expressly abandoned them and did not any further press them?

Mr. JONES, of Wisconsin. It did that precise thing; and no citizen of this Government or any other government, under the rules of international law, can require its government to press private claims until war ensues.

Mr. ADAMS, of Illinois. Did our Government expressly, by the terms of the ratification of the convention exchanged in July, 1800—did our Government and the French Government not expressly declare they would not press these claims on either side?

Mr. JONES, of Wisconsin. They did.

Mr. ADAMS, of Illinois. The gentleman says they did.

Mr. CHACE. Permit me for one moment. Now, the gentleman from Wisconsin having said that the two governments did not trade claims, I will read to him a clause of the treaty and ask how the gentleman explains it in connection with his remarks. It is as follows:

> The Government of the United States, having added in its ratification that the convention should be in force for the space of eight years, and having omitted the second article, the Government of the French Republic consents to accept, ratify, and confirm the above convention, with the addition importing that the convention shall be in force for the space of eight years, and with the retrenchment of the second article: *Provided*, That by this retrenchment the two states renounce the respective pretensions which are the object of the said article.

How can the gentleman say, then, that the Government did not trade claims when we have here a specific declaration that they did make that very convention on that precise basis?

Mr. JONES, of Wisconsin. But that is not the final convention between these two governments. I grant you there was every phase of negotiation during the pendency of these claims. France made her pretensions to our Government, but unless you can establish the fact that France had a valid claim against our Government, then you can not hold our Government liable to these claimants; and why not? The whole argument rests on this assumption: that our Government had a valid consideration for assuming the payment of these claims. If this claim of France against our Government was a false one; if our Government had kept its faith and its treaties; if France was the guilty party, then whatever might have been claimed there was in fact, in justice, and in law no claim against our Government.

Mr. MILLIKEN. Let me ask the gentlemen whether a disputed consideration is not a valid consideration.

Mr. REED. When accepted.

Mr. MILLIKEN. Is it not true that the two governments considered and pressed their claim against each other?

Mr. JONES, of Wisconsin. Our Government would have ceased to press these claims in any event. Our Government would not have plunged its people into war in order to secure these private claims. It had gone, as I have repeated, to the brink of warfare during these years. It had led to bloodshed upon the seas and to commotion and alarm upon land. It had expended more money than is involved in these claims in protecting the claimants during these years. It had gone far enough in sacrificing the public good to the interests of private claimants.

These claims were not the only or the principal subject of negotia-

tions. It was, of course, desirable to secure indemnity for these losses of the past. But it was infinitely more desirable to protect our commerce from future outrage. Our Government simply decided, and decided wisely, that it would not allow its advocacy of these claims to bar forever its peace with France.

And now what is the spectacle which we behold? The claimants and their friends now torture the kindness of the Government in their behalf as a covenant to pay their claims.

The gentleman from Illinois [Mr. ADAMS] intimated a moment ago by his question that when our Government expressly declared it would no longer press these claims it thereby undertook to pay them. The gentleman forgets that this is not the first time our Government has declined to press similar claims.

The French Government was not the only government which allowed its cruisers to prey upon our commerce. During the same years British cruisers were vying with the French in the same work. They too were capturing our vessels, taking them into their ports, and unlawfully condemning them as prizes of war.

The Government lent to its citizens its aid to secure compensation for those losses, yet years afterward our Government made a treaty with Great Britain and abandoned those claims, and Great Britain has never paid them to this day. I repeat, there is no rule of international law which imposes upon a government any liability to pay such losses as these to its citizens, nor does a government become the guarantor of the collection of such losses by reason of attempting to collect them.

Mr. Speaker, I have thus far spoken purely upon the legal questions involved in this proposition. I grant you, sir, that if these claims are strictly legal, if there is a strict liability—a legal liability—on the part of the Government of the United States to pay them we must pay them, no matter what the cost may be; but, on the other hand, if they appear to be of doubtful legality we are justified in considering other facts which bear upon the equities of the case.

In that view I call attention to the fact that during the period between 1793 and 1800 our merchants were pre-eminently prosperous. That period marked an era of extraordinary prosperity in American commerce. The merchants of this country made money more rapidly than those of any other nation. American products were shipped by them and sold abroad for unprecedented prices. They took great risks, it is true, but they made marvelous gains. They lost a cargo now and then it is true, but still it was the golden era of mercantile prosperity. American ships carried not only the products of our own country but those of all the world, while the vessels of Great Britain and France were being swept from the seas.

Not only that, it was also a golden harvest for the insurers and underwriters. I do not now remember the authority for the statement, but I have read somewhere that the rates of insurance ranged from 15 to 50 per cent. upon these mercantile risks. These insurers assumed for no mean consideration the hazards of these ventures.

And now what are we asked to do? I hold in my hand a book purporting to contain a list of these claims. It is a book containing 275 pages. In looking over the list of claimants I should judge that at least four-fifths of these claimants are designated as underwriters. It would doubtless be safe to say that of the remaining one-fifth of the claims the greater number have gone into the hands of speculators, who have bought them for a few cents or a few mills on the dollar.

Mr. WELLER. I think it is most likely that that is true.

Mr. CURTIN. That is altogether a mistake.

Mr. MORSE. You can not show a single instance where one of these claims has changed hands.

Mr. JONES, of Wisconsin. There are so many interrupting me that I scarcely know to whom I ought to reply.

Mr. CURTIN. I will state to the gentleman that few, if any, of these claims have passed out of the hands of the original parties or their heirs. It is safe to assume that nineteen-twentieths of them are in the hands of the legal representatives of the original claimants.

Mr. JONES, of Wisconsin. The gentleman from Pennsylvania [Mr. CURTIN] will hardly deny the authority of this document which I hold in my hand. It was printed at the instance of these claimants by public money and as a public document. It bears the authority of the Secretary of State. It shows that the great mass of the claims are owned by the insurance companies. I only judge from the usual history of such claims that they have mostly passed into the hands of the brokers and speculators. I will leave the public to decide between us upon that issue.

I hear some one asking, What difference does it make? No difference, I grant you, if there is a strict legal liability to pay. But, sir, gentlemen are invoking the equities in favor of these claims. It is frequently suggested that widows and orphans are among the claimants. How many of these insurance companies are widowed and orphaned I will not venture to guess. But I can predict with safety that the passage of this bill will bring a long-expected harvest to the corporations and speculators and attorneys who are interested in these claims.

Perhaps I may venture the suggestion that the every-day tax-payers of the country are entitled to quite as much sympathy as this class of widows and orphans.

The gentleman from North Carolina [Mr. COX], in the course of his discussion, tells us of the eminent men who have favored the payment of these claims. It is very true, sir, that many distinguished citizens of this country have favored these claims. The commercial classes of New England have always espoused them, and not even the great men of New England have been beyond that influence. But it is equally true that many distinguished citizens have been opposed to them. Among those who have been prominent in their opposition were Thomas H. Benton and Silas Wright. Among eminent living statesmen who have also opposed them are Mr. Thurman and Mr. SHERMAN.

But, sir, is it not a significant fact that during the lifetime of the men who best understood the question in controversy and the history of these claims, during the years from 1800 to 1826, although these claims were pending before Congress, not one favorable report was made in either branch of Congress. But there was a change when there came a surplus in the Treasury, along in 1833 and 1834 and 1835. When our Treasury was plethoric then the claims came into life and activity. They were then pressed with the same zeal with which they are pressed to-day. But it is most significant that these claims never found favor in the American Congress until they had outlived the men who knew them best.

Mr. COX, of New York. They were never recommended by any President in the early days.

Mr. JONES, of Wisconsin. The gentleman from New York is usually correct, and I have no doubt he is in this instance.

Now, sir, I come to other features of this bill. It is a most harmless looking measure. The gentleman from North Carolina says that all we ask is to let us go into the Court of Claims and adjudicate the question; all we ask is that you shall give us our day in court. Mr. Speaker and gentlemen, has it occurred to you that there are tens of thousands of claimants in this country to-day who are making that same modest, humble request? Does it occur to you that if it be the true principle that we should open the Court of Claims to these parties that it will also be right and proper to open it to the tens of thousands of claims against the Government, rebel claims, so called, and all.

That is all they ask, and they could prove their claims, too, in the courts to-day. And why? Our Government has not been keeping track of these claims during the years that have been slipping by. The claimants have. They have been tenderly nursing and guarding them. They have their affidavits filed away. They have their *ex parte* testimony. And thousands, I might say without exaggeration tens of thousands, of claims are quietly biding their time to enter the Court of Claims. These same *ex parte* affidavits are strong enough to place these so-called rebel claims on impregnable grounds if that rule is to be applied and if our courts are to be thrown open whenever, as the gentleman from North Carolina [Mr. COX] says, there is the color of right.

Mr. MILLIKEN. May I ask the gentleman another question?

Mr. JONES, of Wisconsin. Yes, sir.

Mr. MILLIKEN. If a man can put his claim on impregnable grounds against this Government, whether he has been a rebel or not, does the gentleman say he should not have the opportunity to do it? Should the Government deny to its own citizens an opportunity to show it owes them?

Mr. JONES, of Wisconsin. Go down to the room of the Committee on War Claims——

Mr. MILLIKEN. I do not care if there be a hundred million dollars of claims pending. If a government owes an honest claim, I do not care whether the man fought on the one side or the other, he ought to have a hearing, and ought to be paid if the government owes it.

Mr. JONES, of Wisconsin. Go down to the room of the Committee on War Claims and you will find innumerable cases. I believe about 3,000 bills of that character have been introduced in this Congress. Some of them are honest claims. Probably the majority of them are without merit, and yet the affidavits are fair on their face.

Establish the rule that this *ex parte* evidence is to be received, open the courts to these claims, and any court would be compelled to allow the claims, false and perjured though many of the affidavits are.

Mr. MILLIKEN. Can not the courts settle their validity?

Mr. JONES, of Wisconsin. The trouble is the courts would have only one side of the controversy. The rule should be this: Our Government should not open its doors to old, stale claims unless Congress is satisfied those claims are just. The effect of any other rule would be the depletion of the national Treasury.

Mr. MILLIKEN. The gentleman talks of "stale" claims. I ask him shall this Government plead the statute of limitations?

Mr. JONES, of Wisconsin. This Government does plead the statute of limitations, and any government that protects the rights of its citizens will do it.

Mr. MILLIKEN. In my country we consider a man pretty mean who pleads the statute of limitations.

Mr. JONES, of Wisconsin. Why, sir, your own State pleads it. Every State in this Union pleads it. This Government pleads it to protect its Treasury from false and trumped-up claims.

Now, what are the rules of evidence provided in this bill? Not the rules of evidence of common law; not at all. It gives to the Court of Claims the widest discretion as to how it shall treat these claims. All "suitable" testimony—that is the word which is used; a new word

in legal phraseology. They shall receive "all other proper evidence, historic and documentary," old newspapers or old affidavits. All this testimony is *ex parte*. Therein lies the danger of opening the doors to these claims. Our Government has no testimony. These claimants have carefully preserved and filed theirs.

Now, let me refer to one other feature. I regard this bill as a worse bill by far than those which have been introduced and sometimes passed Congress to meet the veto of the President, appropriating $5,000,000. And why? Because this bill is utterly unlimited in its scope. There is no end to the amount of claims that might be allowed against the Government. There is no sort of limit.

And what is the amount of these claims? The gentleman from North Carolina estimates it at about $12,000,000. He says that is the estimate of the Secretary of State. I have no doubt that is about correct. I know that in 1870 the estimate of Mr. Sumner, who investigated this subject carefully, was twelve and a half million dollars. It was the judgment of Mr. Sumner, too, that if these claims should be allowed, then our Government justly owed interest on them. And I confess I see no answer to that proposition. If they are valid, if they are so valid that they should be paid, then they should draw interest, and the interest on those claims, even at 4 per cent., would bring them to a sum exceeding $50,000,000.

Now I would rather pay $5,000,000 and be done with this business with one appropriation than to open the Court of Claims and allow these claimants to come before it for the next twenty years. They may file their claims for two years, but there is no limit to the time they may pursue them. I would rather pay some given sum than $1,000,000, $2,000,000, or $3,000,000 per year for the next twenty years.

Mr. Speaker, I know the many influences that are at work to secure the passage of this bill. It will probably become a law. But as time shall develop the amount of the expenditures to be incurred by this legislation it may be that the warning which we now give may be remembered, even though not heeded to-day.

Mr. RICE. I desire to occupy a very few moments in considering the remarks which have been made by the gentleman who has just taken his seat.

These claims have been before the Congress and the Government too long and have been urged too prominently to be now disregarded or brushed aside as unimportant and worthless, or as "perjured" claims, as the gentleman has called them. If they are valid claims against the Government they ought to have the opportunity, which this bill seeks to afford them, of having their day in court, and being audited, that it may be ascertained upon what they rest, what is their amount, and to whom, if to anybody, they are due. That is all that this bill provides. If these claims, or any of them, be just claims against the United States (which we seek to ascertain), then the United States ought in the first place to allow the claimants to produce their testimony and make manifest their claims, and if the validity of the claims is sustained, then the United States ought to provide for their payment whether they amount to $5,000,000, $15,000,000, or even $50,000,000.

The gentleman from Wisconsin says that the question is whether the United States ever used these claims for its own benefit; and he says, properly—so I understand him—that if that be the fact, then he admits that the United States ought to meet, liquidate, and settle them.

Now, sir, we go back to the close of the Revolutionary war, and we find that that war was won by this country by the aid of the French Government. We made a treaty with France at that time, the provisions of which were a guarantee on the part of France to the struggling young Republic of the United States—not then the United States, but this American Republic—and a guarantee in return by the Republic to France. France guaranteed to this country liberty. France said: We will send you money, our fleets shall go out upon the ocean to fight for you, our soldiers shall join with your soldiers, we will fight out your contests until you have won your freedom, and we will guarantee that freedom to you thenceforward. And the United States said to France: In return for these great favors to us, we, the United States, will guarantee to France from this time and forever, against all hostile powers, her possessions in America as well as those to which she shall obtain title by a treaty of peace. In addition, we gave to the ships of France certain rights in our ports.

These were the mutual guarantees of France to the United States and, in return, of the United States to France. In performance of the guarantee of France she spent $250,000,000. Her ships were sunk; her soldiers shed their blood on land and on the ocean that we might be free in fulfillment of her pledge. We obtained our freedom, and we obtained it at the cost of these great outlays and sacrifices by France. Then, not long after, the hour of France's need came. Stimulated by our example she flung to the breeze the banner of a free republic and sought to maintain it against the embattled powers of Europe. Then England, the power against which France had guaranteed our liberty, joined those that were seeking to crush the young French Republic, and sent out her fleets to conquer, one after another, the remaining possessions of France upon this continent and around it which we had guaranteed forever to France.

England also established severe provisions against neutral commerce and forced France to adopt like provisions for her own protection. Thus the claims arise for the violation of the treaty made between us and France. France broke that treaty, being forced to do it by England; by seizing our ships, which under the treaty should have been protected, and it was for the seizure of those ships and the damages to their owners—those who, as the gentleman says, were building up the young commerce of our country—it was out of those seizures and those spoliations that the claims arose which Washington sought to enforce against the French Republic. Those are the claims which are the subject of this bill to-day. During the decade from 1790 to 1800 our commerce was despoiled upon the waters by Spain and by England and by France—by France in violation of this treaty which she had made with us, and which by the necessities of her position she was forced to violate. Our ship-owners, the men engaged in commerce, trusted to the promises of the Government to protect them and to obtain them compensation for the injuries that they received from the powers which were contending with each other in Europe. That reparation was obtained from England and from Spain, and the only American merchants who suffered during those years and to whom compensation has not yet been made were those who suffered from the French spoliations committed in violation of the treaty to which I have referred. Now, why have not those men been paid as well as the others? That is the question. They had valid claims. Their claims were under the protection of our Government, under a guarantee that they should be remunerated. Why have not those claims been paid? Why has not the merchant of Georgia, of Massachusetts, of Connecticut, or of Maryland, who lost his property by the spoliations of French cruisers between 1790 and 1800—why has not he been paid as well as those who lost their property through the depredations committed by Great Britain or by Spain?

Mr. BLOUNT. Will the gentleman allow me to ask him a question?

Mr. RICE. Certainly.

Mr. BLOUNT. I have in my hand the message of the President of the United States transmitting these claims, and, opening the list of claims casually at page 185, I find that every single claim upon the page is the claim of an underwriter; and the same appears to be true of almost any page you look at. In view of this fact I want to ask the gentleman if it is not a fair inference that the merchants depended upon underwriters rather than upon the Government?

Mr. MORSE. If the claims are right they ought to be paid.

Mr. BLOUNT. I am not now arguing the question of subrogation; but the gentleman [Mr. RICE] has insisted that these are claims of merchants, and that they ought to be paid because they are the claims of merchants who have been relying upon this Government; whereas it appears from this document that they are largely the claims of underwriters.

Mr. RICE. In the first place, it does not affect the justice of the claims——

Mr. BLOUNT. I am not discussing the legality of the claims; I am not raising any question as to the doctrine of subrogation, which I did not understand the gentleman to be discussing. I understood him to be stating by way of persuasion, as a matter of fact, that these claims were the *bona fide* claims of merchants and their heirs.

Mr. MORSE. If my colleague [Mr. RICE] will allow me, I would like to state to the gentleman from Georgia that, having taken a little interest in this bill, I have received personally more than three hundred letters from individual claimants, and not a single one from any corporation. I state that upon my honor.

Mr. BLOUNT. If the gentleman will allow me——

Mr. RICE. I think I must object to further interruption.

The SPEAKER *pro tempore*. Does the gentleman yield further?

Mr. RICE. I do not want to have an outside discussion "injected into the belly" of my speech; that is all. [Laughter.] But the gentleman may proceed.

Mr. BLOUNT. I do not care to interrupt the gentleman further. I was simply about to say, as the gentleman from Massachusetts [Mr. MORSE] has received a great many letters urging the claims of individuals, that the document from which I read came from the highest source, the President of the United States; and by that document it appears that these are not all claims of merchants.

Mr. RICE. Mr. Speaker, I hold in my hand, I suppose, the same document to which the gentleman refers. I see here some pages of claims of underwriters. I see also many pages of claims of individuals not underwriters. The bill provides that the court shall report who are the holders of the claims—whether underwriters or those individuals whose ancestors suffered the losses. I care not whether some of these claims come from individuals or not. Hundreds of them are held by the descendants of men who owned the ships, these claims having been kept in attics or elsewhere from that time to this in the hope that some time or other the Government would redeem its faith and pay to these people what their forefathers lost for the sake of the country. I speak for that class. Let the few underwriters over whom my friend from Georgia [Mr. BLOUNT] stumbles so badly pass. Congress may set these claims aside, if it sees fit, after the report of the court is made.

Mr. COX, of North Carolina. And this bill provides that it shall be ascertained who are the holders of these claims.

Mr. RICE. But let us do justice to the grandsons and the granddaughters of the men who kept our flag afloat from 1790 to 1800 at the sacrifice in many cases of their entire fortunes.

Now, Mr. Speaker, to come back to the point of my argument, I say

these were valid claims against France; that the losses were honestly sustained; that the claims should have been cared for by the Government in seeking remuneration from France. Did this Government do that? It sent commissioners, one board after another, to France—to what purpose? To secure payment of these very claims. Our Government deemed them of importance; it deemed them just; and it sought to collect them. Why, then, did it not collect them? Because these commissioners were met by France with this counter-guarantee on our part in the treaty; and the representatives of the French Government said to our representatives, "Now, gentlemen, are you willing to perform your part of this agreement? If you are, we will talk with you about performing our part. We agreed that your ships should be free, that they should be protected on the seas by us as the ships of a friendly power. We have been obliged by our necessities to violate that agreement, and you have suffered loss at our hands. You agreed that the islands along your coast and all the American possessions of France should be protected to France, by your Treasury, by your armies, and by your fleets. Are you ready to do it? There are the fleets of England sweeping down upon Antigua and the other islands belonging to France; are you ready to send out your fleets to protect those islands to us? If so, then let us talk it over and see how many millions we owe your despoiled claimants and how much you shall do to protect us in that which you guaranteed to us."

Our representatives wrote back to the Government which had accredited them, "We do not dare to enter upon that discussion; it will cost us more to perform our part of the guarantee than we lose by the violation on the part of France. We did not dare to measure the damages by our breach with the damages by the breach on the part of France."

But when at last the agreement was reached Napoleon wrote as a condition of agreement that France should be relieved from the payment of these claims and that the United States should pay them. That was the agreement Bonaparte required as the ground of his consenting to the arrangement, and the treaty with that provision was returned to this country.

The Senate struck it out and said we will not make the exchange, we will not assume to pay those claims; and the treaty went back to France with the provision which Bonaparte had incorporated upon it stricken out. But Bonaparte had just come from Marengo and he would not withdraw the proposition which he had made. He wrote again on the treaty that the guarantees must be offset one against the other, and with that renewed condition the treaty was returned to the United States and was ratified by the Senate. And thus these claims of our merchants were made to offset the claims of France against the United States to carry out the guarantee she had made in the treaty to protect the possessions of France on this continent and about this continent forever against all comers.

Now, Mr. Speaker, that is all I have to say. These claimants suffered loss from France by the violation of France of her treaty stipulations with this country. Their claims against France were waived by this country, which had recognized their validity and their justice and were used by this country to buy itself off from performing very important duties on its part, duties which would have cost millions of treasure and thousands of lives. The one was offset against the other. Our nation availed itself of the claims of these merchants and business men. It used them for its own profit; and now, after the lapse of three-quarters of a century, the representatives of these claims come and simply ask, "Give us an opportunity to show the basis upon which the claims we make against the United States rest. At this late day permit us at least to show in the face of the world what our fathers sacrificed and upon what grounds they made the sacrifice, whether in the interest or at the expense of the country on its pledge to remunerate them or not."

I now yield the remainder of my time to the gentleman from Missouri [Mr. BROADHEAD].

Mr. BROADHEAD. Mr. Speaker, this same subject was before the Judiciary Committee, and I was instructed unanimously to make report by that committee in favor of a similar bill. I, therefore, am glad of the opportunity of saying a few words in favor of the bill now under consideration which has passed the Senate, and which contains with one exception substantially the provisions reported in the bill from the Judiciary Committee.

The gentleman from Wisconsin [Mr. JONES], who has made the first objection to the provisions of this bill and the adjustment of these claims, presses his chief objection upon the ground that when the treaty of 1800 was ratified between the United States and the French Republic, France had no valid claim for indemnity against the Government of the United States. I am not here, Mr. Speaker, for the purpose of defending the claims of France against our own Government arising during the period between 1793 and 1800. It is not necessary to do so. It is begging the whole question to say there were no valid claims in favor of the French Government against the United States; but whether valid or invalid, there were claims which became the subject of negotiation between the plenipotentiaries of the two powers. And the gentleman forgets, when he says there is no valid claim, that by the treaty with Great Britain, adopted under the negotiations of Mr. Jay in 1794, there was a provision opening the ports of this Republic to the prizes of Great Britain taken in the war then waging between the two governments of France and Great Britain.

The gentleman forgets there is a provision in the treaty of 1778 by which it was stipulated that no such privileges should be given to the British nation. The gentleman forgets that prior to the adoption of the treaty of 1800 the West India Islands were lost to the Republic of France, although by the provisions of the treaty of 1778 it was guaranteed on the part of the American Republic that she would aid and assist the French Republic; in other words, that she would guarantee, to use the language of the treaty of 1778, the French possessions in America, including the West India Islands.

That these were valid claims we can see by reference to these facts that came under consideration in the negotiations which took place between the plenipotentiaries of the two powers in Paris when the terms of the treaty were being discussed; that these claims were set up against our Government, that they were urged against the Government of the United States at the same time that we urged against the French people the payment of the damages which our citizens had suffered by reason of the decree of the French Republic renouncing the doctrine which France and the United States had announced and maintained, that free ships made free goods, to the effect that they could no longer be enforced by the French Republic, because she was then beset by all the powers of Europe, and it was necessary she should exercise the same power over the commerce upon the high seas which the British Government exercised by claiming the right to seize goods destined to the enemy's port, whether contraband of war or not. By the provisions of the treaty of 1778 they could not have been taken. Free ships made free goods according to the conditions of that treaty, and it was not legitimate according to the liberal policy first announced by these two governments, France and the United States, in 1778, that free ships made free goods; a principle promotive of commercial prosperity and civilization the world over, and which had been announced by them for the first time in that treaty; I say it was not according to that liberal policy that such seizures were permissible.

I say then, Mr. Speaker, that there were claims against the Government; and to show you, sir, that these claims were urged by both powers when the negotiations were going on in regard to the treaty of 1800, I call the attention of the House to the instructions given by Mr. Pickering, then Secretary of State, to our commissioners at Paris, and to the further instructions on the part of the French Republic to the commissioners representing that government at the conference, to show that these claims were to be taken into consideration in the pending negotiations. The very first instruction given by Mr. Pickering to Oliver Ellsworth, William Richardson Davie, and William Vans Murray is in the following words:

> First. At the opening of the negotiation you will inform the French ministers that the United States expects from France, as an indispensable condition of the treaty, a stipulation to make the citizens of the United States full compensation for all losses and damages which they shall have sustained by reason of irregular or illegal captures or condemnations of their vessels and other property, under color of authority or commissions from the French Republic or its agents. And all captures and condemnations are deemed irregular or illegal when contrary to the law of nations generally received and acknowledged in Europe, and to the stipulations in the treaty of amity and commerce of the 6th of February, 1778, fairly and ingenuously interpreted, while that treaty remained in force.

These are the instructions given to our plenipotentiaries. Now, a letter dated Paris, 23d *Thermidor*, in the year 8 (August 11, 1800), addressed by the French plenipotentiaries, Bonaparte, Fleurieu, and Roederer, to our ministers, Messrs. Ellsworth, Davie, and Murray, stated that they had received the following instructions from their government:

> In the first place they will insist upon the principle already laid down in their former note, namely, that the treaties which united France and the United States are not broken; that even war could not have broken them. But that the state of misunderstanding which has existed for some time between France and the United States by the act of some agents rather than by the will of the respective governments has not been a state of war, at least on the side of France. * * * Thus the first proposition of the ministers of France is to stipulate a full and entire recognition of the treaties and the reciprocal engagement of compensation for damages resulting on both sides for their infraction.

So that the main subject of consideration between these ministers was the question not simply as to whether they should adopt the other provisions of the treaty, but whether these claims for indemnity before them of one government against the other should be considered and adjusted; and it was the first proposition to be considered, according to the instructions given by the two governments to their representatives intrusted with the negotiations.

That I say was the main subject under consideration, and it will not do to say that the claim of France was not a good or valid claim. It was a claim that was the subject of negotiations between the two governments at this conference—a claim which she would not remit or surrender except upon condition of the surrender by the Government of the United States of the claims of Americans against France by reason of spoliations upon their commerce between the years 1793 and 1800, for these were the claims, the just and valid claims, of our Government on behalf of American citizens against the French Republic.

But, sir, let us see what was done after these instructions were given. But before calling the attention of the House to that I want to show another fact. This treaty was submitted to the Senate in February, 1801,

during the last month of the administration of Mr. Adams. The Senate refusing to agree to the second article, it was again referred to our commissioners at Paris, and fully ratified by them on the 31st day of July, 1801, and was not promulgated by the President until the 19th day of December, 1801, during Mr. Jefferson's administration. But just before its final adoption and ratification between the ministers plenipotentiary, and before the negotiations in regard to this matter had been completed in France, Mr. Murray, one of our commissioners, wrote to Mr. Madison, the Secretary of State, the following letter:

PARIS, *July* 15, 1801.

SIR: From a conversation which I had two days since with one of the French ministers, I understand that they are deliberating upon the choice of one of the two following modes of ratification:

To ratify on condition of reciprocal abandonment of pretensions under the second article, or to ratify on our terms, but with a declaration incorporated in the language, that they consider the suppression of that article as an abandonment of all claims and pretensions under it. I can answer for the substance only, as it is from conversation that I learn it.

I believe, sir, and wish that they will pursue the last mode. Nothing will be done on my part to affirm their construction of the motives which led the United States to the suppression.

Then on the next week Mr. Murray writes:

PARIS, *July* 23, 1801.

SIR: At length they will ratify, but with a declaration in the body of their act that the omission of the second article, and the addition of the new one of limitation, to both of which they will formally assent, are to be considered as an abandonment respectively of the pretensions under the second article.

Convinced, sir, as I am that nothing better can be gained, and confiding in a liberal judgment in Government upon the situation in which I am placed, I shall exchange upon these terms.

In a very few days I trust I shall be able to inclose to you the instrument exchanged.

I am, &c.,

W. V. MURRAY.

Hon. Mr. MADISON, *Secretary of State.*

And thereupon they did on the 21st of July exchange ratifications at Paris. Here is the treaty. The second article is the article in dispute, and the question is whether under the provisions of the second article of the treaty, or rather because of its suppression, these claims have any legitimate existence. Here is the final ratification to which Mr. Murray referred in his letter of July 23, signed by the First Consul of France:

Bonaparte, First Consul, in the name of the French people: The Consuls of the Republic, having seen and examined the convention, concluded, agreed to, and signed at Paris, the 8th Vendémiaire, ninth year of the French Republic (30th September, 1800), by the citizens Joseph Bonaparte, Fleurieu, and Roederer, counsellors of state, in virtue of the full powers which have been given to them to this effect, with Messieurs Ellsworth, Davie, and Murray, ministers plenipotentiary of the United States, equally furnished with full powers, the tenor of which convention follows. (Here follows the treaty):

Approves the above convention in all and each of the articles which are therein contained; declares that it is accepted, ratified, and confirmed, and promises that it shall be inviolably observed.

The Government of the United States, having added, in its ratification, that the convention should be in force for the space of eight years, and having omitted the second article, the Government of the French Republic consents to accept, ratify, and confirm the above convention with the addition, importing that the convention shall be in force for the space of eight years and with the retrenchment of the second article: *Provided*, That by this retrenchment the two states renounce the respective pretensions which are the object of the said article.

Now that second article is as follows:

ARTICLE II. The ministers plenipotentiary of the two parties not being able to agree at present respecting the treaty of alliance of February 6, 1778, the treaty of amity and commerce, of the same date, and the convention of 14th of November, 1788, nor upon the indemnities mutually due or claimed, the parties will negotiate further on these subjects at a convenient time, and until they may have agreed upon these points the said treaties and convention shall have no operation, and the relations of the two countries shall be regulated as follows.

And then it goes on to state these regulations in the other articles of the treaty. When the treaty which was ratified by the ministers plenipotentiary had been first submitted to the Senate of the United States they approved the treaty, except the second article, which they insisted should be stricken out. Of course that required the approval of the French nation, because it was a change of the treaty as originally agreed upon; and it was resubmitted to France, and agreed to finally by the representatives of the Federal Republic at that time upon the condition that there should be a mutual renunciation of the claims arising under the treaty of 1788.

What were those claims? Why the claims on the part of the French Government against the United States Government for its violation of the treaty of 1788 and the counter-claim of the United States Government against the French Government for acts committed since the treaty of 1788 and during the wars which were waged from 1793 to 1800 with the monarchs of Europe on the part of the French Republic. Of these claims there was then a mutual renunciation.

The Government of the United States had in its hands as trustee for the merchants and other claimants of indemnity for depredations committed on their property by the French nation the prosecution and recognition of those claims. If an individual or a nation has in its hands claims belonging to another, and it settles those claims by giving up claims of its own in consideration of that settlement, by the plainest principles of law, whatever may be the amount of those legitimate claims thus settled, the party who has used them as a means for satisfying obligations of his own is under the highest duty, according to the principles of law and morals, to reimburse to the party for whom those claims were preferred the amounts so settled. Our Government holds the position of trustee for those claimants, and it is their bounden duty to see that these claims are paid. And that is all that this bill asks. I do not put it on the ground that this is a mere inquiry; that they may be ascertained by the Court of Claims and then paid or not at our discretion. I put it on the ground that these are just and equitable claims, due by the plainest principles of law and justice.

Now, as to these pretensions referred to in the second article of the treaty, I would like to call the attention of the House more particularly to their nature. What were the pretensions or claims thus renounced? As to their relative value to the two nations it is not necessary to inquire. But if the claims preferred by the United States against France were for indemnities for losses sustained by private citizens of the United States by reason of the wrongful action of the French Government, and our Government surrendered these claims for a consideration deemed at that time sufficient, the obligation rests on our Government to make good those losses to its own citizens, and no lapse of time can weaken the force of the obligation.

Mr. WARNER, of Ohio. Will the gentleman permit me to ask him a question?

Mr. BROADHEAD. Yes, sir.

Mr. WARNER, of Ohio. I ask the question for information, as I am seeking information on this question. Does the evidence sustain the claim now made, and made in the report of the committee, that the claims included in this bill were among the claims assumed or intended to be assumed by this Government in the treaty of 1800?

Mr. BROADHEAD. The gentleman's question, as I understand it, is, Were the claims intended to be assumed——

Mr. WARNER, of Ohio. Were these a part of the claims assumed or intended to be assumed by the treaty of 1800?

Mr. BROADHEAD. That is the proposition I am undertaking to demonstrate. There were no other claims on the part of the United States except the claims for spoliations committed on its citizens.

Mr. WARNER, of Ohio. Certain of those claims I understood were allowed and certain others have not been allowed.

Mr. BROADHEAD. By the fifth article of the treaty of 1800 there was a provision made for the settlement of certain debts, not claims, but debts between the Government of France and citizens of the United States.

Mr. WARNER, of Ohio. They were simply adjudicated claims, were they not?

Mr. BROADHEAD. Yes, sir; they were adjudicated claims or debts. The fifth article of the treaty expressly excepts any other claims from its operation.

Mr. WARNER, of Ohio. But did not that treaty include all claims which France had ever admitted to be just claims against her?

Mr. BROADHEAD. Admitted to be just?

Mr. WARNER, of Ohio. Yes. Did not that treaty include all the claims which France had ever admitted to be just claims against the Republic of France?

Mr. BROADHEAD. It included all claims for indemnities for seizures which had not been adjusted, as the language of the second article which I have just read shows, and by the fifth article which was retained it included all debts due to private citizens.

Mr. WARNER, of Ohio. Not all claims; but all claims that France admitted to be just.

Mr. BROADHEAD. France agreed to adjust them, and they were in process of adjustment when the treaty was made.

Mr. WARNER, of Ohio. But my question is, Did not that treaty include all the claims that France admitted to be just?

Mr. BROADHEAD. What treaty do you mean?

Mr. WARNER, of Ohio. The treaty of 1803.

Mr. BROADHEAD. By the provisions of the Louisiana treaty these claims are expressly excluded, and nothing was provided for by that treaty except debts, the whole of which had not been paid, and judgments for captures where the council of prizes had ordered restitution. It did not include pending claims for spoliation.

Mr. EATON (in his seat). Entirely. It has nothing to do with them.

Mr. BROADHEAD. I know that Mr. Pierce in his veto message uses the argument that the gentleman now uses; but I think it is easily answered, and I think he failed to refer to that article of the treaty and relied simply on the preamble. The fifth section of the treaty of 1800 expressly excludes all these claims. I will read it for the gentleman's satisfaction. It is as follows:

The debts contracted by one of the two nations with individuals of the other, or by the individuals of one with the individuals of the other, shall be paid, or the payment may be prosecuted in the same manner as if there had been no misunderstanding between the two states. But this clause shall not extend to indemnities claimed on account of captures or confiscations.

Mr. HUNT. Is that in the treaty of 1800? It is in the treaty of 1802 or 1803, is it not?

Mr. BROADHEAD. There is a similar provision in the treaty of 1803. I understand that the gentleman from Ohio means to make the argument that these claims were settled by the treaty of 1803.

Mr. WARNER, of Ohio. I was not referring to the treaty of 1803.

Mr. BROADHEAD. You mean the Louisiana purchase?

Mr. WARNER, of Ohio. No, sir; the treaty of September 30, 1800.

Mr. BROADHEAD. Well, I have read the fifth article of the treaty, which shows that those claims were expressly excepted. When that treaty was submitted to the Senate of the United States they agreed to ratify it, with the exception of the second article, which they proposed to strike out, and it was sent back. Bonaparte agreed to the proposal of the Senate to strike out the second article, provided it was understood that the claims of the respective nations were mutually abandoned. This fifth article was still in the treaty in regard to debts, and remained in full force, excluding these claims, because they were undertaken to be provided for by the second article, which was expunged, and in lieu of it was adopted the stipulation made between France and the United States that they should be mutually abandoned. The fact was that there were indemnities mutually due by the two governments, so conceded by their ministers plenipotentiary when they agreed to the adoption of the second article, as will be seen by reading that article. In 1826, when for the first time the history of these claims was fully investigated and made public, and when was first made public the correspondence which took place between the two governments between the years 1793 and 1800; in other words, when the first public light was thrown upon the history of these transactions, then it was that Mr. Clay made his report as Secretary of State.

As Mr. Clay says in his communication as Secretary of State of the date of May 20, 1826:

> The two contracting parties thus agreed, by the retrenchment of the second article, mutually to renounce the respective pretensions which were the object of that article. The pretensions of the United States to which allusion is thus made arose out of the spoliations, under color of French authority, in contravention to law and existing treaties. Those of France sprung from the treaty of alliance of the 6th of February, 1778, the treaty of amity and commerce of the same date, and the convention of the 14th of November, 1788.

Each of these pretensions for indemnities mutually due and mutually claimed.

> The amount of the indemnities due to citizens of the United States was very large, and on the other hand the obligation was great (to specify no other French pretensions) under which the United States were placed in the eleventh article of the treaty of alliance of the 6th of February, 1778, by which they were bound forever to guarantee from that time the then possessions of the Crown of France in America, as well as those which it might acquire by the future treaty of peace with Great Britain, all these possessions having been, it is believed, conquered at, or not long after, the exchange of ratifications by the arms of Great Britain from France.

Of course I have no censure to pass upon our own Government. The Republic was then in its infancy. It was but shortly after the Revolution, and it was not thought politic, because self-preservation is the first law of nature among nations as well as among individuals—it was not thought politic that the Republic should by any act of hers seem to become a party to the gigantic war then raging on the continent of Europe, and she would have done so if she had undertaken to carry out the provisions under which she was bound by the treaty of 1778 with France.

Let us see what were those pretensions which became the subject of negotiation between the two states and were referred to in the second article in the convention of 1800:

The treaty of 1788 between France and the United States provides as follows:

> The two parties guarantee mutually, from the present time and forever, against all other powers, to wit, the United States to his most Christian Majesty, the present possessions of the Crown of France in America, as well as those which it may acquire by the future treaty of peace. And his most Christian Majesty guarantees on his part to the United States their liberty, sovereignty, and independence, absolute and unlimited, as well in matters of government as commerce; and also their possessions and the additions or conquests that their Confederation may obtain during the war from any of the domains now or heretofore possessed by Great Britain in North America.

It was further stipulated that "in case of a rupture between France and England the reciprocal guarantee shall have full force and effect the moment such war shall break out."

At the same time a treaty of amity and commerce was entered into between France and the United States, by which the United States undertook, first, to protect and defend by their ships of war and convoy any and all vessels belonging to French subjects, so long as they hold the same course, against all attacks, force, and violence, in the same manner as they ought to protect and defend the vessels of the citizens of the United States (Articles 6, 7). Secondly. To open their ports to French ships of war and privateers with their prizes, and to close them against those of any power at war with France, except when driven by stress of weather. Thirdly. To allow French privateers to fit their ships, to sell what they had taken, or in any other manner whatsoever to exchange their ships, merchandise, or any other lading; but privateers at enmity with France are forbidden even to victual in the ports of the United States.

Now, there is no question of our having violated those provisions of the treaty. I do not think that it was unwise to do it. France by her own act had renounced one of the provisions of the treaty, having been forced to do it by the conduct of Great Britain at that time. She had renounced the doctrine that "free ships make free goods;" and we had suffered by reason of that renunciation. There were violations on both sides; and it was because of this that those negotiations were carried on at Paris in 1800. The obligations assumed by France and the United States were onerous, but so far as the United States were concerned they were a part of the price paid for American independence. But for this treaty and the aid given by France to the suffering and struggling soldiers of the war of Independence the cause of American liberty and of popular government might indeed have perished from the earth.

In the light of the events which followed it would not be possible to estimate the value of this treaty to the American people and to the cause of free government throughout the world. Lafayette stood by the side of Washington, the blood of the French people mingled with that of our own illustrious soldiers, and the treasures of France were freely offered and given in aid of our suffering countrymen until the army of Cornwallis surrendered at Yorktown and the war closed by a recognition of our national independence.

No event in modern history is marked with more significance or has had a greater influence upon the destinies of our race.

Let us glance briefly at the events which followed. Not many years after the recognition of our national independence, and the establishment of our system of popular government upon a sure foundation, the French people, following our example, also established a republic, and then it was that monarchical Europe arrayed itself against republican France; in 1793 Great Britain joined the alliance. It was a war of gigantic proportions—such as the world had not seen for centuries preceding it. And it was natural that our infant Republic, weighed down by the debts of the Revolution, should have desired, if possible, to keep aloof from the conflict. The proclamation of neutrality on the part of the United States was adopted on the 22d of April, 1793. The English navy swept the seas, and France was deprived of her West India possessions. France claimed privileges in American ports which it was held were in conflict with obligations due to other belligerent powers. This our Government could not assent to without making it a party to the conflict which was then shaking Europe to its center. The principle announced in the twenty-third article of the treaty of 1778, that free ships make free goods and that subsistence and supplies were not contraband of war unless destined for a blockaded port, was found to operate disadvantageously to France, because Great Britain, one of her chief enemies, asserted under the law of nations the right to capture as contraband supplies destined for an enemy's port.

The Government of France thereupon issued a decree on the 9th of May, 1793, to the effect that "the French people are no longer permitted to fulfill toward the neutral powers in general the vows they have so often manifested, and which they constantly make for the full and entire liberty of commerce and navigation," and that nation authorized the seizure of neutral vessels bound to an enemy's port in the same manner as was done by Great Britain, and this decree was to continue in force until the enemies of France should desist from depredations on neutral vessels bound to the ports of France. Then followed the embargo, by which a large number of our vessels were detained at Bordeaux, the seizure of British goods on board of American vessels and of the property of American citizens under the claim that it belonged to English subjects, and even the imprisonment of American citizens captured on the high seas. From 1793 to 1797 our Government used every means to obtain redress by negotiation. The controversy went so far that for a time diplomatic relations between France and the United States were suspended. On the 28th of May, 1798, an act of Congress was passed for the employment of the American Navy against the armed vessels of France hovering on our coast, and another act in June prohibiting commercial intercourse between the two nations; another on July 27, 1798, abrogating the treaties between France and the United States. There was no declaration of war by which every citizen of one nation becomes the enemy of every citizen of the other, but there was in fact a partial maritime war, and this condition of things was only terminated by the treaty of Paris of September 30, 1800.

Certainly the claims which originated prior to the abrogation of the treaty of 1778, which abrogation did not occur until 1798, have nothing to do with the claims originating prior to the passage of the act of Congress abolishing those treaties, even if one party to a contract can by its voluntary act deprive the other of their rights under that contract.

The claims now under consideration originated between 1793 and 1800. They were originally claims against the French Government. They were the subject of negotiation between the plenipotentiaries of the two powers which preceded the ratification of the treaty. As between the two nations they were adjusted by that treaty, and the citizens of the United States who were the sufferers from the spoliations of France upon American commerce have lost all claim upon the government of that country, and by the plainest principles of law and justice the United States became liable to indemnify them for their losses. So thought some of the most illustrious statesmen and jurists of that day.

I could refer to their statements, but it is unnecessary. Under the provisions of this bill the whole subject must undergo a full investigation before anything can be allowed, and even then it is subject to the final action of Congress. By the first section of the bill the claimant is authorized to apply by petition to the Court of Claims within two years from the passage of the act.

Notice of all petitions presented under the act are to be served on the Attorney-General of the United States, who is authorized to attend to these claims on the part of the Government, and to resist all claims presented by all proper legal defenses, and the court is to decide upon the validity of the claims according to the rules of law, municipal and international, and the treaties of the United States applicable to the same, and to report to Congress all conclusions of fact and law as in their judgment may affect the liability of the United States therefor.

Gentlemen say that these claims have slept for a long period of time. They were first presented in 1802, when Mr. Giles made a report in their favor; but no action was taken, and it was not proposed to take any action They were presented again by Mr. Marion, of South Carolina, in 1807, who referred to the report of Mr. Giles and the facts contained therein; but as he was instructed merely to inquire into the equity of those claims against the United States, no bill was introduced for the purpose of adjusting the claims. But he did report in the strongest terms that the claims were valid against the Government of the United States. I have here his report, made in 1807; and the language is as strong as it can be in holding that by virtue of the abrogation of the treaty of 1800 and the substitution of the proviso inserted by Talleyrand, the minister of Napoleon, and adopted by him, the claims of the two nations were mutually released, and that the Government of the United States became liable to pay them to her own citizens.

I shall not refer to them again. I say that the subject of these claims never met with thorough investigation until 1826. I hold in my hand the report made upon them at that time to the Senate of the United States after this thorough investigation.

Mr. Holmes made a report in their favor to the Senate of the date of February 8, 1827. Then it was that the origin and history of the claims and all the correspondence between the two governments from 1793 to 1800, and the instructions to our ministers and the notes of their proceedings, were published and preserved in the fifth volume of the Executive Documents, first session Nineteenth Congress, which I have before me.

Mr. Holmes had all these documents before him. He gave a history of the claims; and appended to his report is a list of the claimants whose claims had been filed in the Department.

Gentlemen make the objection, "Why have not these claims been allowed?" I asked why have not a great many claims which every man must admit to be just been allowed by the Congress of the United States? Has Congress time to pass upon all these claims? Does it pass upon one-half of those presented? And are not the half which fail to receive action just as meritorious as those passed upon? I have shown by a plain statement of historical facts that the claims are founded in justice, and surely the claims of justice upon an honorable and honest government preferred by its own citizens can never die so long as the government itself is permitted to exist; and so far as the objections are concerned there is not one of them which can not be presented and passed upon by the Court of Claims when the petitions of the claimants are presented before that court; for all that this bill proposes to do is to open the tribunals of the country to these claimants for a hearing upon the principles of law, municipal and international, and under the provisions of the treaties to which I have referred, and surely this can not be denied them. This much is due not only to our own citizens, but to this Government and to the people of France also, whose government has long since paid to ours the indemnities due to its citizens—not in money, it is true—but in a mutual release of obligations.

The treaty of 1800 was to our people a most important event and of almost inestimable value. It relieved us from the enormous obligations of the treaties of 1778 and the convention of 1788; it relieved our commerce from the dangers of further spoliation on the part of France in the gigantic war then raging on land and sea between the French Republic and the allied powers; but, above all, it established a permanent peace between the two nations and a restoration of that friendship which had been so instrumental in the establishment of our national independence. And permit me here to say that it must be gratifying to us to know that although for a period of seven years, from 1793 to 1800, there were serious dissensions between the two nations—a suspension of diplomatic intercourse, a recall of ministers, embargoes, and acts of spoliation on the part of France by which millions of property of our citizens were destroyed, and acts of hostility between the armed vessels of the two nations amounting almost to a state of war—yet after the treaty of peace and for a period of now more than three-quarters of a century, with one slight interruption, the utmost cordiality and friendship have prevailed, a friendship which has but recently manifested itself on the part of the French people in another act destined not only to perpetuate the memory of their early friendship for us, but to assure the world that republican France recognizes the fact that here in this free land of ours the light of true liberty was first enkindled; for at the entrance to the harbor of the great commercial metropolis of our country is within a few weeks to be erected a colossal statue of Liberty enlightening the world, a gift of the French people to the people of the United States. It will be a beacon-light to the storm-tossed mariner, assuring him of a safe harbor; it will shine afar among the nations, showing to the oppressed of other lands the pathway to the land where freedom has found a home.

Mr. COX, of North Carolina. I desire to ascertain how long the opponents of this bill desire to discuss it. I propose at the end of one hour to call the previous question.

Mr. CURTIN. Why not call it now?

Mr. BLOUNT. I hope the gentleman from North Carolina will not call the previous question at this time.

Mr. COX, of North Carolina. How much time does the gentleman want?

Mr. BLOUNT. I do not know that I wish to occupy the floor at all; but there are other gentlemen who may want to speak.

Mr. HUNT. There will be an hour for debate after the previous question is called.

Mr. BLOUNT. An hour belonging to the gentleman from North Carolina.

Mr. EATON. The gentleman from Wisconsin [Mr. JONES], who is opposed to the bill, has some time remaining which he can yield.

Mr. JONES, of Wisconsin. I have agreed to yield it to other gentlemen.

Mr. COX, of North Carolina. Well, I give notice that I shall call the previous question at the expiration of half an hour.

Mr. HUNT. Say one hour.

Mr. WARNER, of Ohio. I hope this limitation of debate will not be insisted upon.

Mr. CURTIN (to Mr. COX, of North Carolina). Call the previous question now.

Mr. COX, of North Carolina. I do not want to press this matter with unnecessary haste; but I desire to ascertain the wishes of gentlemen in regard to the debate.

The SPEAKER *pro tempore*. The gentleman from Wisconsin [Mr. JONES] has twenty-three minutes.

Mr. CURTIN (to Mr. COX, of North Carolina). At the end of that time call the previous question.

Mr. COX, of North Carolina. I will call it at the end of twenty-three minutes.

Several MEMBERS. Say one hour.

Mr. CURTIN. I do not consent to one hour. If the disposition of the House is to pass this bill, we must not fritter time away.

The SPEAKER *pro tempore*. The gentleman from Wisconsin has twenty-three minutes remaining.

Mr. BLOUNT. I hope gentlemen on the other side will not insist on limiting the debate to twenty-three minutes.

Mr. CURTIN. There will be an hour allowed after the previous question has been called.

Mr. BLOUNT. But that will be given to those who favor the passage of the bill.

Mr. CURTIN. It will be divided equally between the two sides.

Mr. BLOUNT. It is important that the House should determine whether it is proper to order the previous question in the first place.

Mr. CURTIN. When this time is exhausted it will be soon enough.

The SPEAKER *pro tempore*. The gentleman from Wisconsin is entitled to the floor for twenty-three minutes.

Mr. JONES, of Wisconsin. I will yield five minutes to the gentleman from New York [Mr. COX].

Mr. COX, of New York. Mr. Speaker, the gentlemen who have charge of this bill seem to be anxious to pass it this afternoon. Considering this measure has been in the American Congress off and on since 1802, we might perhaps claim a little more time in opposition, especially as it has had on two occasions, in the time of the Presidency of Mr. Polk and in the time of the Presidency of Mr. Pierce, on both occasions very stringent and rational vetoes.

Now, this bill involves how much? It was stated in the veto of President Polk that it involved then five millions of money. That was in 1846.

Mr. CHACE rose.

Mr. COX, of New York. No; I have only five minutes.

Mr. CHACE. Has this bill ever been vetoed?

The SPEAKER *pro tempore*. The gentleman declines to yield.

Mr. COX, of New York. This bill involves $5,000,000 ultimately. I know what the gentleman from Rhode Island means.

Mr. CHACE. Certainly.

Mr. COX, of New York. This bill is to draw all the cases into the Court of Claims.

Mr. CHACE. And that is a material difference.

Mr. COX, of New York. Oh, yes! The Germans have a proverb that if the devil gets hold of a hair of your head he will drag in the whole of your body. [Laughter and applause.]

Mr. CHACE. And that is what the gentleman is trying to do now.

Mr. COX, of New York. It is an entering-wedge. If you begin with this bill, referring these claims to the Court of Claims, I know, although there may be an appeal from the Court of Claims to the Supreme Court, it is always fixed in appropriation bills to pay these judgments. And I appeal from the lack of sincerity on behalf of my Quaker friend from Rhode Island to the fidelity and earnestness of my friend from Missouri, who says outright that he does not place his argumentation on any such ground as that. He says that he argues it on the legality, on the equity of the cases, and not upon any presumed power over it in

the Court of Claims. Why, I believe the State Department has said that this involves $12,000,000, and more than that if you add the interest, and I know, in some cases at least, the Committee on Foreign Affairs——

Mr. HUNT rose.

Mr. COX, of New York. Do not disturb me, as I only have five minutes. I say the Committee on Foreign Affairs have allowed interest on large claims against the Government in bills pending.

But, sir, one rule against allowing these stale claims is well grounded in reason. There is a necessity that all litigation should cease. There is the old proverb: There is greater reason in government why time should run against claims where the evidence is liable to be destroyed by the lapse of time. That is the very reason for a statute of limitations; and the only reason why there is no statute of limitations in this case is because there never has been a claim crystallized and fixed against the Government. I think that the statute of limitations could not be better defined by any lawyer, not even by my distinguished friend from Missouri, than it was by Plunkett, the great Irish lawyer, when he said that—

Time is the great destroyer of evidence, but the great protector of titles. With one hand he cuts down the muniments of our possessions, while with the other he measures out those periods of duration which render those muniments no longer necessary.

[Applause.]

It is our duty as individuals to observe such proper limitations, and time stands in states as a plea against these old claims which come down from the remote past. That the title to the Treasury was in the people of this country; it was a part of our possessions. Time may destroy evidence upon which to destroy a portion of these treasures of the people. The periods of duration referred to by Mr. Plunkett render those muniments no longer necessary to protect the resources of the United States which are gathered in our Treasury.

I might read to you in answer to what has fallen from my friend from Missouri [Mr. BROADHEAD], who has argued this question so well, but I say the result will show that there is no claim on the Treasury. If there were a claim there is no reproach connected with France or the United States for the non-adjustment of it.

The SPEAKER *pro tempore*. The gentleman's time has expired.

Mr. COX, of New York. There are some clauses in the veto message of President Polk which I would like to append to the remarks I have submitted if there be no objection.

There was no objection, and it was ordered accordingly. They are as follows:

Now, from the provisions of the treaties thus collated the following deductions undeniably follow, namely:

First. Neither the second article of the convention of 1800, as it originally stood, nor the retrenchment of that article, nor the proviso in the ratification by the First Consul, nor the action of the Senate of the United States thereon, was regarded by either France or the United States as the renouncement of any claims of American citizens against France.

Second. On the contrary, in the treaties of 1803, the two governments took up the question precisely where it was left on the day of the signature of that of 1800, without suggestion on the part of France, that the claims of our citizens were excluded by the retrenchment of the second article, or the note of the First Consul, and proceeded to make ample provision for such as France could be induced to admit were justly due, and they were accordingly discharged in full, with interest, by the United States in the stead and behalf of France.

Third. The United States, not having admitted in the convention of 1800 that they were under any obligations to France, by reason of the abrogation of the treaties of 1778 and 1788, persevered in this view of the question by the tenor of the treaties of 1803, and, therefore, had no such national obligation to discharge; and did not, either in purpose or in fact, at any time, undertake to discharge themselves from any such obligation at the expense and with the property of individual citizens of the United States.

Fourth. By the treaties of 1803 the United States obtained from France the acknowledgment and payment, as part of the indemnity for the cession of Louisiana, of claims of citizens of the United States for spoliations, so far as France would admit her liability in the premises; but even then the United States did not relinquish any claim of American citizens not provided for by those treaties; so far from it, to the honor of France be it remembered, she expressly reserved to herself the right to reconsider any rejected claims of citizens of the United States.

Fifth. As to claims of citizens of the United States against France, which had been the subject of controversy between the two countries prior to the signature of the convention of 1800, and the further consideration of which was reserved for a more convenient time by the second article of that convention, for these claims, and these only, provision was made in the treaties of 1803, all other claims being expressly excluded by them from their scope and purview. It is not to be overlooked, though not necessary to the conclusion, that by the convention between France and the United States of the 4th of July, 1831, complete provision was made for the liquidation, discharge, and payment on both sides of all claims of citizens of either against the other for unlawful seizures, captures, sequestrations, or destructions of the vessels, cargoes, or other property, without any limitation of time, so as in terms to run back to the date of the last preceding settlement, at least to that of 1803, if not to the commencement of our national relations with France.

This review of the successive treaties between France and the United States has brought my mind to the undoubting conviction that while the United States have, in the most ample and completest manner, discharged their duty toward such of their citizens as may have been at any time aggrieved by acts of the French Government, so also France has honorably discharged herself of all obligations in the premises toward the United States. To concede what this bill assumes would be to impute undeserved reproach both to France and to the United States.

I am, of course, aware that the bill proposes only to provide indemnification for such valid claims of citizens of the United States against France as shall not have been stipulated for and embraced in any of the treaties enumerated. But in excluding all such claims it excludes all in fact for which, during the negotiations, France could be persuaded to agree that she was in any wise liable to the United States or our citizens. What remains? And for what is five millions appropriated? In view of what has been said, there would seem to be no ground on which to raise a liability of the United States, unless it be the assumption that the United States are to be considered the insurer and the grantor of all claims of whatever nature which any individual citizen may have against a foreign nation.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, announced that the Senate had passed with amendments House bills of the following titles:

A bill (H. R. 4273) for the relief of William R. Calvert; and

A bill (H. R. 7329) granting the right of way to the Fremont, Elkhorn and Missouri Valley Railroad Company across the Fort Robinson military reservation, in the State of Nebraska.

The message also announced that the Senate had passed bills and joint resolution of the following titles; in which the concurrence of the House was requested:

A bill (S. 2530) to authorize an additional appointment on the retired-list of the Army;

A bill (S. 2540) to provide for the expense and compensation of special messengers, to be sent by the Secretary of State to the States respectively of Iowa and Oregon, for the certificates of the electoral votes of 1884, for President and Vice-President of the United States, in pursuance of the provisions of section 141 of the Revised Statutes of the United States; and

Joint resolution to print the letter of the Secretary of State of December 12, 1884, with accompanying reports of United States consuls, on labor in Europe; and the report of Capt. George M. Wheeler, United States Army, of the Third International Geographical Congress and Exhibition at Vienna, with accompanying illustrations.

The message further announced that the Senate had passed with amendments, in which the concurrence of the House was requested, a bill (H. R. 7874) making additional appropriations for the naval service for the fiscal year ending June 30, 1885, and for other purposes.

FRENCH SPOLIATION CLAIMS.

The House resumed the consideration of the bill (S. 1820).

Mr. JONES, of Wisconsin. I yield now fifteen minutes to the gentleman from Indiana [Mr. HOLMAN].

Mr. HOLMAN. Mr. Speaker, our experience here leads to the conclusion that where reference of demands against the Government of the character named in the pending bill are made either to a commission or to a judicial tribunal, the probabilities are the demand will be sustained, the act of Congress making such a reference itself indicating to the court or tribunal somewhat the favorable views of Congress in reference to the justice of the demand. The results have almost uniformly been favorable to the demand and to the views of Congress as expressed in the enactment of the law, and Congress has uniformly appropriated the money to carry into effect the report of the tribunal to which the reference was made. So I should hesitate as much to vote for this bill making this reference as I should for an appropriation of money to pay the large sums involved in these claims, aggregating many millions of dollars.

Without intending the least disrespect to any judicial tribunal, I am compelled to believe that the passage of this bill means the payment of these claims. I do not insist that the antiquity of these claims should of itself absolutely exclude them from consideration and absolutely control the action of the House of Representatives, but I do insist that the long period of time which has elapsed since those claims originated, and the refusal of Congress to recognize them at all for nearly half a century, ought to have great weight in deciding this question. It is certainly a strong argument against these claims that nearly half a century had elapsed before any bills at all passed Congress either recognizing their validity or proposing their payment, and that bill was promptly vetoed by the President. I think the argument in favor of the claims—in favor of their validity as against the United States—if I understand it correctly, is based upon the proposition that the Government of the United States in the treaty of 1800 with France yielded away to France, in consideration of the concession by France to the Government of the United States of certain French claims against the United States, claims belonging to citizens of the United States against the French Government, and therefore the Government of the United States ought to pay the citizens of the United States the claims they held against France, in view of the benefits to the United States arising from the concessions made by France. That, I repeat, sir, seems to be the basis of the argument. I submit that if the papers laid before the House are to be trusted, that view of it, although supported by plausible suggestions and arguments, can not in fact be sustained.

I hold in my hand a document published by the authority of the House to which I shall refer. It seems to be conceded that the second article of the treaty of 1800 between France and the United States was stricken out by the Senate of the United States. That second article was as follows:

ART. II. The ministers plenipotentiaries of the two parties not being able to agree at present respecting the treaty of alliance of the 6th February, 1778, the treaty of amity and commerce of the same date, and the convention of the 14th November, 1788, nor upon the indemnities mutually due or claimed, the parties will negotiate further on these subjects at a convenient time; and until they

may have agreed upon these points the said treaties and convention shall have no operation, and the relations of the two countries shall be regulated as follows.

* * * * * * *

Mr. ADAMS, of Illinois. By Bonaparte I.

Mr. HOLMAN. By the Senate of the United States, as I understand these papers, and in lieu of it the following was adopted by the Senate:

Provided, That the second article be expunged and that the following article be inserted: "It is decreed that the present convention shall be in force for a term of eight years from the time of the exchange of ratifications."

And thus amended the Senate of the United States ratified or proposed to ratify the treaty.

In that form the measure went back to the French Government. That government ratified the treaty, appending, however, to it a note which was designed, as now alleged, to modify the treaty. That notice is in the following words:

The Government of the United States having added in its ratification that the convention should be in force for the space of eight years, and having omitted the second article, the Government of the French Republic consents to accept, ratify, and confirm the above convention, with the addition importing that the convention shall be in force for the space of eight years, and with the retrenchment of the second article: *Provided*, That by this retrenchment the two states renounce the respective pretensions which are the object of the said article.

Here is the hinge upon which the whole argument seems to turn: "That by this retrenchment (of this second article) the two states renounce the respective pretensions (that is, claims of citizens of respective governments against each government) which are the object of the said article." That is, the respective pretensions of the citizens of each state respectively against the other. That note added by France to the treaty and the effect would naturally suggest just the argument which President Pierce indulged in when he vetoed the bill to pay these claims in 1855. That veto message in its statement and analysis of this question is absolutely exhaustive of the subject.

Mr. BROADHEAD. Let me ask the gentleman from Indiana if he is not aware of the fact that Mr. Jefferson submitted that question to the Senate in 1801 and action was taken upon it. It was not regarded as a part of the convention.

Mr. HOLMAN. After so long a lapse of time even history becomes obscure where it is presented from different standpoints. Mr. Pierce presented the following view of that subject:

The convention, as thus ratified by the First Consul, having been again submitted to the Senate of the United States, that body resolved that "they considered the convention as fully ratified," and returned the same to the President for promulgation, and it was accordingly promulgated in the usual form by President Jefferson.

But I will present further on the views of President Pierce as to the effect of that French note.

Now, the question presented is whether that treaty as ratified also embraced the note of the French Emperor. President Pierce's argument is so full and complete upon this subject, and so unanswerable as I think, that I desire to present it to the consideration of the House. He says:

Now, it is clear that in simply resolving that "they considered the convention as fully ratified" the Senate did, in fact, abstain from any express declaration of dissent or assent to the construction put by the First Consul on the retrenchment of the second article.

* * * * * * *

By the second article, as it originally stood, neither republic had relinquished its existing rights or pretensions, either as to other previous treaties or the indemnities mutually due or claimed, but only deferred the consideration of them to a convenient time. By the amendment of the Senate of the United States, that convenient time, instead of being left indefinite, was fixed at eight years; but no right or pretension of either party was surrendered or abandoned.

If the Senate erred in assuming that the proviso added by the First Consul did not affect the question, then the transaction would amount to nothing more than to have raised a new question to be disposed of on resuming the negotiations, namely, the question whether the proviso of the First Consul did or did not modify or impair the effect of the convention, as it had been ratified by the Senate.

That such, and such only, was the true meaning and effect of the transaction; that it was not, and was not intended to be, a relinquishment by the United States of any existing claim on France, and especially that it was not an abandonment of any claims of individual citizens, nor the set-off of these against any conceded national obligations of France is shown by the fact that President Jefferson did at once resume and prosecute to successful conclusion negotiations to obtain from France indemnification for the claims of citizens of the United States existing at the date of that convention; for, on the 30th of April, 1803, three treaties were concluded at Paris between the United States of America and the French Republic, one of which embraced the cession of Louisiana, another stipulated for the payment of sixty millions of francs by the United States to France, and a third provided that for the satisfaction of sums due by France to citizens of the United States at the conclusion of the convention of September 30, 1800, and in express compliance with the second and fifth articles thereof, a further sum of twenty millions of francs should be appropriated and paid by the United States.

Just that and nothing more.

But, Mr. Speaker, let us see whether the treaty of 1803, three years later, does not fully sustain the argument made by the President of the United States in his veto message of 1855. The treaty of 1803 contains, among other articles, the following:

ARTICLE I. The debts due by France to citizens of the United States, contracted before the eighth Vendémiaire, ninth year of the French Republic (30th September, 1800), shall be paid according to the following regulations, with interest at 6 per cent., to commence from the periods when the accounts and vouchers were presented to the French Government.

ART. II. The debts provided for by the preceding article are those whose result is comprised in the conjectural note annexed to the present convention, and which, with the interest, can not exceed the sum of 20,000,000 of francs. The claims comprised in the said note which fall within the exceptions of the following articles shall not be admitted to the benefits of this provision.

* * * * * * *

ART. IV. It is expressly agreed that the preceding articles shall comprehend no debts but such as are due to citizens of the United States who have been and are yet creditors of France for supplies for embargoes and prizes made at sea, in which the appeal has been properly lodged within the time mentioned in the said convention, eighth Vendémiaire, ninth year (30th September, 1800)."

Now, Mr. Speaker, what follows? Under that provision, the 20,000,000 francs were paid by the United States to the creditors named. President Pierce, in that message, says the United States did not abandon the claim of their citizens on France, and adds:

On the contrary, in the treaties of 1803 the two governments took up the question precisely where it was left on the day of the signature of that of 1800, without suggestion on the part of France that the claims of our citizens were excluded by the retrenchment of the second article or the note of the First Consul, and proceeded to make ample provision for such as France could be induced to admit were just, and they were accordingly discharged in full, with interest, by the United States in the stead and behalf of France.

Third. The United States, not having admitted in the convention of 1800 that they were under any obligations to France, by reason of the abrogation of the treaties of 1778 and 1788, persevered in this view of the question by the tenor of the treaties of 1803, and therefore had no such national obligation to discharge, and did not, either in purpose or in fact, at any time undertake to discharge themselves from any such obligation at the expense and with the property of individual citizens of the United States.

Mr. BROADHEAD. Does the gentleman consider the word "debts" as synonymous with claims?

Mr. HOLMAN. Yes; the terms used seem to compel that conclusion, for the terms used, "for supplies for embargoes and prizes made at sea," in which the appeal has been properly lodged within the time mentioned in the said convention of 1800, show the meaning of the term. I have not read the whole of article 4, and I should be very glad if I had the time to read the whole article, which is a long one, but it excludes claims of citizens of the United States who were in partnership with citizens of England and other specified claims.

Now, how is it possible if the note affixed to the treaty by the French Government is to be regarded as a part of the treaty, or that note is regarded as an interpretation of that treaty—how is it possible that by the first and second articles of this treaty of 1803 a part at least of the very claims are provided for, and to the extent of 20,000,000 francs were paid to our citizens by the United States, which my friend insists the Government of the United States became responsible for because the Government of the United States had obtained a corresponding benefit from France by France waiving her claims against the Government of the United States?

Mr. BROADHEAD. Will the gentleman permit me to read the fifth article?

Mr. HOLMAN. I regret that I have only fifteen minutes. I would be glad to yield to the gentleman if I had time. That article, I think, does not change the case. It is clear the treaty of 1803 is absolutely unintelligible if the claims of American citizens against France were waived by the treaty of 1800. If the views expressed by Mr. Pierce are correct, the treaty of 1800 settled nothing as to claims of American citizens against France and the note of the French consul was never regarded either by France or the United States as a part of the treaty. The exclusion by the fourth article of large claims of American citizens from participating in the distribution of the 20,000,000 francs shows conclusively that either the treaty of 1800 was entirely lost sight of when that of 1803 was made or else that treaty of 1800 does not bear the interpretation which gentlemen have thought proper to impose upon it.

A word further. I have said all I am able to say in the few minutes allowed me on the argument of this case; but let me inquire whether there is not force in this argument of the President of the United States in the veto of 1855:

If new facts, not known or not accessible during the administration of Mr. Jefferson, Mr. Madison, or Mr. Monroe, had since been brought to light, or new sources of information discovered, this would greatly relieve the subject of embarrassment. But nothing of this nature has occurred.

That these eminent statesmen had the best means of arriving at a correct conclusion no one will deny. That they never recognized the alleged obligations on the part of the Government is shown by the history of their respective administrations. Indeed it stands, not as a matter of controlling authority, but as a fact of history, that these claims have never, since our existence as a nation, been deemed by any President worthy of recommendation to Congress.

Have any new facts been brought to light since that message was delivered? I think President Polk in his message vetoing this measure, in 1846, presents the subject with equal force, when he says:

I can perceive no legal or equitable ground upon which this large appropriation can rest. A portion of the claims have been more than half a century before the Government, in its executive or legislative departments, and all of them had their origin in events which occurred prior to the year 1800. Since 1802 they have been from time to time before Congress. No greater necessity or propriety exists for providing for these claims at this time than has existed for near half a century, during all of which period this questionable measure has never until now received the favorable consideration of Congress.

That was forty-six years after the origin of these claims! President Polk proceeds as follows:

It is scarcely probable, if the claim had been regarded as obligatory upon the Government, or constituting an equitable demand upon the Treasury, that those who were contemporaneous with the events which gave rise to it should not long since have done justice to the claimants. The Treasury has often been in a condition to enable the Government to do so without inconvenience, if these claims had been considered just. Mr. Jefferson, who was fully cognizant of the

early dissensions between the Government of the United States and France, out of which the claims arose, in his annual message in 1808—

Only five years after the convention of 1803—

adverted to the large surplus then in the Treasury, and its "probable accumulation," and inquired whether it should "lie unproductive in the public vaults;" and yet these claims, though then before Congress, were not recognized or paid. Since that time the public debt of the Revolution and of the war of 1812 has been extinguished, and at several periods since the Treasury has been in possession of large surpluses over the demands upon it. In 1836 the surplus amounted to many millions of dollars, and for want of proper objects to which to apply it it was directed by Congress to be deposited with the States.

During this extended course of time, embracing periods eminently favorable for satisfying all just demands upon the Government, the claims embraced in this bill met with no favor in Congress beyond reports of committees in one or the other branch. These circumstances alone are calculated to raise strong doubts in respect to these claims; more especially as all the information necessary to a correct judgment concerning them has been long before the public. These doubts are strengthened in my mind by the examination I have been enabled to give the transactions in which they originated.

This argument was made against these claims forty-six years after the treaty of 1800 was made on which this claim is based against the United States, and now after eighty-four years have elapsed and the facts have become more obscure by the lapse of time, these ancient claims are sought to be fastened upon the Treasury through the skillful expedient of a judicial proceeding. The facts of history are against the measure, and the argument addressed to Congress by a President of the United States thirty-eight years ago ought to be potential in averting action on this bill.

[Here the hammer fell.]

Mr. JONES, of Wisconsin. I yield three minutes to the gentleman from Louisiana [Mr. HUNT].

Mr. HUNT. I have also ten minutes from the gentleman from North Carolina [Mr. COX].

Mr. COX, of North Carolina. We have agreed with the other side not to call the previous question at this time. When the gentleman from Georgia [Mr. BLOUNT] shall have occupied twenty minutes I will resume the floor in my own right, and I will yield to my friend from Louisiana after I take the floor in my own right.

Mr. HUNT. I will reserve, then, the three minutes I have received from the gentleman from Wisconsin, and take the thirteen minutes together.

Mr. COX, of North Carolina. The gentleman from Georgia [Mr. BLOUNT] will occupy twenty minutes, and I will then resume the floor.

Mr. BLOUNT. I regret, Mr. Chairman, that the circumstances under which this bill comes before the House precludes that full consideration which the subject ought to receive. It has been a long while since I have gone over the history of these claims as it has been presented from time to time before the Congress of the United States, and I say I regret that the circumstances under which this bill comes before us are such that, like other gentlemen, I have been unable to refresh my memory as to the occurrences connected with the origin of these claims.

It has been urged before the House by gentlemen in favor of this bill that the United States Government, in consideration of being released from the obligations under the treaty of 1778, to guarantee the title of the French to their territory on this continent and the West Indies and the various other provisions of the treaty, had agreed to renounce the claims of private citizens of this country whose property had been destroyed by French vessels. If that was true, if those were the real facts of the case, if it rested simply upon that proposition, it would be, as urged by a distinguished gentleman on this side of the House, a matter that could be stated in a nutshell.

But, sir, I do not so regard it. These claims had been pressed time and again on the part of the United States Government but to no effect. Other claims had been adjusted. The French Government never set up its claim for damages except as a set-off by reason of failure on our part to comply with the treaty of 1778. It never invited the attention of the Government of the United States to the violation of that treaty or asked damages for it. The United States Government had expressly declared that it was not so bound; that even under the terms of that treaty we were simply bound to aid France in her own defense when she was engaged in a purely defensive war, and the action of the Government and the opinion of the times indicate, and the answer to that French claim has always been, that the war in which France was then engaged was not a purely defensive war. Whenever we brought up claims for depredations committed by France on the commerce of our citizens we were met by the diplomats of France with this claim, but under such circumstances only was it ever presented. We were a weak power; we were few in number; there were certain things that we as a nation might safely attempt; there were other things that we as a nation were unable to do or to assert.

I undertake to say that no man at that time would have justified the United States Government in attempting to enforce these claims by any act of aggression. We found ourselves, when we were in negotiation with the French Government, discussing not the subject of our release from the guarantee obligation of treaty of 1778. That was not the subject uppermost in the minds of our negotiators. There were other important articles in the treaty and it was to them that public attention was most directed. I have the treaty before me. In the time at my command I can not examine its provisions in detail, but I will rapidly run over some of the subjects to which it relates: Article III refers to the restoration of captured public ships; Article IV to captured property not definitely condemned to be restored. Other subjects dealt with are form of passports to merchant ships; payment of debts due by individuals of either nation; freedom of commerce; acquirement and disposal of property, &c.

There were various important questions—live questions about which there might be dispute—about which there was necessarily trouble, and those were the questions that were interesting this Government. Incidentally there came up this question about our obligations under the treaty of 1778. The Government of the United States did, it is true, bring forward these spoliation claims, but that was not the important subject of the treaty. Was our weak, feeble nation in its then existing attitude in any condition to renounce the interests of the balance of the people of the United States and to insist upon the payment of this class of claims? I say there is no principle of morals, there is no principle of common sense or justice, upon which this Government could be expected under such circumstances to stand and demand payment of these claims, to the injury and the sacrifice of the interests of the country in regard to many other commercial questions out of which great troubles were likely to arise. When the Government had done what it could for these claimants; when it had negotiated; when negotiation had ceased and had been renewed in their interest; and when it was finally represented to this Government on the part of the American minister that nothing could be done with the proposed treaty unless we ceased to press these claims upon the French Government, then it was and not till then that the acceptance of the proviso of Napoleon Bonaparte was agreed to.

Now it seems to me that these facts do give answer to the question, why did not the public men who then controlled the Government see fit to insist upon the payment of these claims? Why did they not insist that the Government of the United States should pay these claims?

I hold in my hand the only document, so far as I know, illustrating the character of these claims. It comes from the President of the United States. I refer to it for the purpose of showing that the persons interested in these claims are small in number as compared with the population that was then located all over this land and interested in the other provisions of the treaty. I turn casually to page 185 of this document, on which I find the names of about twenty claimants, all of whom are underwriters; I turn to another page and find that the claimants, with one exception, are of the same class. If you take up this document and examine it, you will find that nine out of ten of these claims are the claims of underwriters. These people who were paid for the risks they undertook by the merchants of this country are insisting that the Government of the United States shall take the consequences of a failure to negotiate a great treaty of this kind in order that their claims might be effectually asserted.

These are the gentlemen behind this measure who have been agitating it from the beginning, and I suppose the men who lived in the days to which I have referred and exercised then the functions of government understood well who these claimants were—better than we do now; and that in this rests a part of the reasons for their refusal to provide for payment. These men were doubtless paid for all the risks that they undertook by the merchants.

Gentlemen here continually talk about American merchants who are put forward as the people who were conducting our commerce and whose interests were destroyed; and this is done with the view of persuading this House that these claimants are in general a class entitled to consideration, rather than a lot of underwriters who have been once fully and amply paid by the men who conducted American commerce at that time.

The gentleman from Massachusetts [Mr. MORSE], when I read to-day from this document furnished by the President of the United States as containing information from the highest source, did not deny my assertion as to the general character of these claims, but stated that a number of gentlemen interested had written to him and that these gentlemen did not belong to corporations. I do not know to what class those gentlemen belong. It may be that they belong to the merchant class. If those claims are claims which originated in the losses of merchants, then that class of men did not follow the general policy of insuring which we have found to obtain elsewhere.

Mr. Speaker, the statement which has been made on this point is important in another point of view. President Polk, in his veto message, estimated these claims as amounting at the time of his veto to $5,000,000. Now they are estimated by this administration, as I am informed by the honorable gentleman from Wisconsin and others who have examined the matter, to amount without interest to $12,000,000; so that since Mr. Polk vetoed the bill for the payment of these claims the amount has increased, on the part largely of these underwriters, from $5,000,000 to $12,000,000. The gentleman from Massachusetts [Mr. MORSE] has stated that quite a number of these claims—I believe his language was "hundreds"—are unreported; and the gentleman from Maine [Mr. MILLIKEN] came to my desk and said that he represented citizens who he thought had hundreds of these claims.

Mr. MILLIKEN. You put it too high. I did not say "hundreds."

Mr. BLOUNT. My friend may make his statement again. I understood him to say hundreds.

Mr. MILLIKEN. I did not name any number. I said that there were claims that were not reported. And I desire to say now, inasmuch as the gentleman has called me out——

Mr. BLOUNT. Mr. Speaker, I can not yield except for a correction.

Mr. MILLIKEN. Well, I claim that the gentleman has no right to call my name out in the House and then refuse me a chance to reply.

Mr. BLOUNT. I am entitled to the floor; and I insist that the gentleman has no right under any such sophism as that to take me off the floor.

Mr. MILLIKEN. The gentleman should not undertake to quote me unless he allows an answer.

Mr. BLOUNT. The gentleman can not dictate to me. When he has made an announcement, I think I have a right to criticise it as a member of the House.

Mr. MILLIKEN. And when the gentleman states my remarks erroneously I have a right to correct him.

Mr. BLOUNT. But the gentleman wanted to go further and make remarks. I do not insist that the gentleman shall not correct me. But my recollection of the conversation was that the gentleman at first said there were cases in his district, and when I asked him how many, I understood him to say a great many; perhaps hundreds.

Mr. MILLIKEN. You made a mistake; you did not hear correctly; that is all.

Mr. BLOUNT. Well, it matters not. There are two gentlemen at all events whose constituents have such claims. They are coming from every quarter. They are held by myriads of people, but they are all to go before this court, and all on *ex parte* showing as to their character.

Mr. MILLIKEN. There is nothing *ex parte* about it.

Mr. BLOUNT. The gentleman says there is nothing *ex parte* about it. I would like to know how he would be able to go in and take care of the Government under the circumstances proposed by this bill any better than we are able to take care of it in the matter of claims pending before this House.

Mr. MILLIKEN. The bill itself provides for that.

Mr. BLOUNT. Well, there is a difference of opinion upon that subject, and I do not wish to be interrupted. Our own experience teaches us how much reliance is to be placed in the argument that we shall be able to guard the interests of the United States in investigations of that character.

Mr. MILLIKEN. Read the bill.

Mr. BLOUNT. I wish to say to the gentleman that I have carefully read the bill, and I am not able to observe that there is any better feature in it which protects the Government than is to be found in investigations in this House.

The SPEAKER *pro tempore*. The time of the gentleman from Georgia has expired.

Mr. COX, of North Carolina. How much time have I remaining?

The SPEAKER *pro tempore*. The gentleman has twenty minutes.

Mr. COX, of North Carolina. I yield ten minutes to the gentleman from Louisiana [Mr. HUNT].

The SPEAKER *pro tempore*. The Chair will recognize the gentleman from Louisiana for thirteen minutes, three minutes having been yielded to him by another gentleman.

Mr. HUNT. Mr. Speaker, assuming the knowledge upon this subject which faithful readers of American history have, it suffices for me to say that there was between France and the United States a treaty of alliance, a treaty of commerce, and a convention known as the convention of November, 1778.

In the stormy period of the French revolution the commerce of the United States was swept from the seas, in violation of our conventional rights, secured by the treaty with France.

When the plenipotentiaries of the United States resorted to Paris for the purpose of negotiating in reference to the spoliations thus committed upom American citizens they were unable to agree with the French plenipotentiaries, and it is so stated in the following language of the second article of the treaty of 1800:

> The parties will negotiate further on these subjects—
>
> The indemnities mutually claimed by the two countries—
>
> at a convenient time, and until they may have agreed upon the points the said treaties and convention shall have no operation, and the relation of the two countries shall be regulated as follows, &c.

This convention was returned to the United States, and the Senate amended it to the effect "that it is agreed that the provision should be in force for the term of eight years." So stood the matter when it was brought to the attention of the First Consul, who was willing to ratify the convention as amended by the Senate of the United States:

> *Provided*, That by this retrenchment the two states renounce their respective pretensions which are the objects of the said article.

The amendment of the First Consul was accepted by the Senate, and the treaty as amended was promulgated and became the law of the land.

Mr. HEWITT, of Alabama. I would like to ask the gentleman from Louisiana a question.

Mr. HUNT. I must beg my friend to excuse me, as I have but a very brief time.

The Constitution of the United States provides, article 5 of the amendments to the Constitution, that private property shall not be taken for public use without just compensation. Now, the citizens of the United States had these claims for spoliations committed upon the commerce of the United States by French vessels. They had property in the claims.

Property implies exclusive dominion. It can be given *inter vivos*. It can be bequeathed *mortis causa*. It may be transferred by deed or otherwise. It may be corporeal or tangible, or incorporeal and intangible as a claim. The richest property is frequently in claims. The richest hopes that are bequeathed are often those which are vested in claims, and the property in claims was that kind of property which was the subject of consideration and of final settlement by the convention between the high contracting parties; and it is property like this which, as well as other kinds of property, under the Constitution of the United States can not be taken except for just compensation.

Gentlemen here have dwelt upon the claims of France against the United States as of no account in this controversy. That great government deliberated upon them, not by the Emperor, as the gentleman from Indiana has erroneously called him, but by the First Consul, who took his stand upon them. They must be, he held, taken into consideration in the agreement about to be concluded, or he would not go into the convention at all.

The First Consul considered them as good claims and was willing to negotiate upon them, and provided they were received as a *quid pro quo* by the United States. Our plenipotentiaries could not treat except by way of mutual concessions of the claims of both governments. Now, what were our claims against France? They were for our commerce spoliated upon every sea. These were claims for damages inflicted upon a gainful, prosperous people, and whom unjust spoliation finally impoverished. By executing the treaty with France the Government of the United States gave up the claims. As against France they no longer existed; but they survived evidently in favor of the citizens interested against their own Government, which had parted with them for a valuable consideration.

Now, sir, it is only left for me to comment briefly upon the sentimental reading which the gentleman from New York [Mr. COX] has given us from Plunkett upon the doctrine of limitations. That gentleman tells of the beauties of this doctrine—the repose which comes from the oblivion which gathers about old claims. But he has forgotten altogether to tell us of the reason for the doctrine, and the application of it to the matter in hand.

Who ever heard of the doctrine of limitations being applied to parties always in court? Who ever heard that the doctrine could be applied to parties who like those here involved for one hundred years have been knocking at the gates of the Capitol. Who ever heard that the statute of limitations or law of prescription could have any such application?

Mr. Speaker, says Senator Sumner, a learned international jurist, who reflected honor upon his great State by his proficiency in that branch of law:

> Memorials and petitions from the beginning testify to the sleeplessness of these claims. On the 5th of February, 1802, only forty-six days after the promulgation of the convention of 1800, they began, and they have continued from that early day down to this very session of Congress, making in all 3,293. Of these, 1,489 were in the Senate, 1,804 in the House. They are chiefly from original sufferers, their executors, administrators, assigns, widows, and heirs, residing in the large seaports from which the despoiled vessels originally sailed; but there are some from all parts of the country, where, in the vicissitudes of life, the representatives of original sufferers have been carried—all of which may be seen in a list of these petitioners.

Who does not know that unliquidated claims are hardly ever transferred from the nature of the case, because the transferee does not know the price he ought to pay? Who does not know, and none better than the gentleman from Georgia [Mr. BLOUNT], that if an underwriter pays a claim he is subrogated of right and ought to be to the claim? The truth is, this bill only gives to these people a *persona standi in judicio;* only a right to come into the courts of the country and promote their suits; only a right to say to the judges: We have had these claims pending before the country for a hundred years; allow us now to make due proof of them.

National honor is made up of an aggregation of individual consciences. The same sentiment that ought to lead the gentleman from Indiana [Mr. HOLMAN], and does lead him to be prompt in the payment of his debts, to refuse gratuities at the hands of others and to keep his promises, must apply *a fortiori* in the instant case to a country so great, so powerful, so wealthy as our country is.

And this brings me to the last remark I have time to make. I am sorry that a statesman, for the gentleman from Indiana holds that position, has been willing to say here that the Louisiana convention of 1803 provided for the payment of these claims. Says Senator Sumner:

> The objection that these claims were provided for in the convention of 1803, for the purchase of Louisiana, is equally untenable. It is difficult to understand how such an objection was ever made; but the history of this question shows the strange shifts of opposition, especially when without any restraint from a knowledge of the subject.

I commend that language to the distinguished gentleman from Indiana, and also the language with which the report of Senator Sumner, as chairman of the Committee on Foreign Relations in the Senate of the United States, concludes, in which he says that Mr. Livingston,

then in Paris, and than whom nobody was perhaps more fully able to decide properly, had declared it to be beyond doubt, I might say *luce clarior*, that the convention of 1803 included no provision whatever for the claims under consideration; that the claims included in the convention of 1803 and known as the Louisiana compact were *dehors* the treaty of 1800.

And has it come to this, that claims of the magnitude of those provided for in the bill before the House concerning persons so deserving, and touching the national sentiment connected with our public history as a people, intimately interwoven with the administration of Washington, consecrated by the approval of Madison, depending on the construction of a strong, great, and powerful international compact, the other party to which was the First Consul of France—has it come to this, I ask, that such claims are to be dismissed on assertions which are trampled under foot on the best authority? Are we to be governed in a matter so high and important by the sentimental excursion of the gentleman from New York [Mr. COX] and his loose quotation from Mr. Plunkett on the doctrine of limitations, entirely inapplicable to the condition of the parties in interest? [Applause.]

Mr. COX, of North Carolina. I yield six minutes to the gentleman from New Jersey [Mr. PHELPS].

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, informed the House that the Senate disagreed to the amendments of the House of Representatives to the bill (S. 729) for the protection of children in the District of Columbia, and for other purposes, asked a conference with the House on the disagreeing votes of the two Houses thereon, and had appointed Mr. RIDDLEBERGER, Mr. PIKE, and Mr. BROWN to be the conferees on the part of the Senate.

FRENCH SPOLIATION CLAIMS.

Mr. PHELPS. This is certainly a piece of ancient history, but none the worse for its age, if it be a true piece. We are now at the end of the nineteenth century providing for the debts of the eighteenth. If they are just this delay is the strongest reason for our action; and that they are just I honestly believe, and to that conclusion public opinion has at last settled. Fortunately the origin of these claims is so simple that the obscurity of the past can not becloud it.

In our Revolutionary war we very generously but very foolishly guaranteed to France the security of her West Indian power. When the war grew fierce between France and England we of course did not make good our guarantee. We could not; so we were not to blame for this.

But we went further; we said we would not, and in official document we declared that our status should be one of absolute neutrality between the two contesting powers. For this we were to blame, and the French marine, hostile before to the English-speaking sailors who came from Great Britain, grew hostile to the English-speaking sailors from America. In their fury they set out on a career of destruction against every craft that was manned by Anglo-Saxon men. They destroyed many merchant vessels. The owners of these are the claimants in this case. Their government promptly demanded redress of the French Republic. We talked of $20,000,000. We were met by a counter-claim of two hundred and eighty millions damage which the French Republic had suffered because we had broken our treaty of guarantee.

Twenty millions against two hundred and eighty millions! The gentleman from Wisconsin would have hesitated. Not so our commissioners. They jumped at the bargain, and were too happy to call it quits. And their treaty was ratified more quickly than will be any of those now pending in the Senate.

By this convention the United States became the debtor in place of France to all who suffered from French spoliation. Nor did these claimants sleep on their claims. They followed down the centuries—I beg pardon, the century, although they may need to follow down the centuries. They followed the different Congresses down the century, and got what? Forty reports, of which thirty-eight were favorable and the other two decidedly unfavorable. They got committed in the reports which they prepared the greatest lawyers of the age—Webster, Clayton, Choate, Everett, Sumner, Cushing, each preparing one or more reports indorsing the legality of the case. Their minds were too robust to find in the ingenious but minute objection of my young friend from Wisconsin any obstacle to bar.

But these waking claimants got no money. It is time now that they did; and our committee to-day are taking a first step, not a long one, in the direction of giving them some. We are sending their claims to the Court of Claims, that they may there be judicially examined and judicially stated. And when they come out in legal shape I hope, and I hope that the House wishes, that the moral claim which they will have to payment may be promptly recognized. There are but two substantial objections. They tell us the claims are stale and assigned. Mr. Speaker, will there ever be a private claim against this Government which will not be so delayed as to be stale? Will there ever be a number of citizens, owning claims, who will not in this delay be forced by their necessities to sell their rights? But delay when the Government only is at fault and assignment are no bars to legal claimants. And these claims have the rights of law, not the charities of equity.

I trust, Mr. Speaker, this bill, the first step toward paying these old debts, may pass. It must if there is much chance that these claims of the eighteenth century shall be paid in the nineteenth, and not have to wait for the twentieth.

Mr. COX, of North Carolina. I yield one minute to the gentleman from Maine [Mr. MILLIKEN].

Mr. MILLIKEN. I do not propose, in the course of one minute, to discuss the merits of this question. I desire simply to call the attention of the House to the character of the bill which is before us, and upon which we are to pass.

This, I think, is the last claim growing out of the struggle of this country for its independence. These claimants have been knocking at the doors of Congress for a period of eighty years. This bill, it is true, does not provide that these claims shall be paid; it does not settle the merits of the question at all; it simply provides that these claimants who have been so long seeking redress shall have an opportunity to go into court and have their claims investigated and have the result of that investigation reported to Congress, leaving Congress entirely free to act in the matter as it shall deem best. Shall these claimants have an opportunity to go into court and establish their claims if they have any? Shall they have an opportunity to go into court and have their claims adjudicated so far as it can be done, leaving the court to give to Congress the information which it obtains in the course of that adjudication? That is the only question before this House.

[Here the hammer fell.]

The bill was ordered to a third reading; and it was accordingly read the third time.

Mr. COX, of North Carolina. I move the previous question on the passage of the bill.

The previous question was ordered.

Mr. WARNER, of Ohio. I move that this bill be referred to the Court of Claims under the Bowman act, if that motion be in order.

The CHAIRMAN. It is not in order.

Mr. WARNER, of Ohio. Then I move to commit the bill to the Committee on Claims without instructions.

The motion was not agreed to.

The question was taken; and it was decided in the affirmative—yeas 181, nays 71, not voting 71; as follows:

YEAS—181.

Adams, G. E.	Dibrell,	Ketcham,	Robinson, W. E.
Aiken,	Dingley,	King,	Rockwell,
Alexander,	Dorsheimer,	Kleiner,	Rogers, W. F.
Atkinson,	Dunham,	Lacey,	Rowell,
Bagley,	Eaton,	Lamb,	Russell,
Barbour,	Elliott,	Lewis,	Seney,
Barr,	Ellis,	Libbey,	Seymour.
Bayne,	Evans,	Long,	Shively,
Belmont,	Everhart,	Lore,	Skinner, T. G.
Bennett,	Ferrell,	Lovering,	Slocum,
Bingham,	Findlay,	Lyman,	Smalls,
Blackburn,	Finerty,	McAdoo,	Smith, A. H.
Blanchard,	Foran,	McComas,	Smith, H. Y.
Boutelle,	Funston,	McCormick,	Spooner,
Bowen,	Garrison,	Maybury,	Stephenson,
Boyle,	George,	Milliken,	Stewart, Charles
Bratton,	Glascock,	Mitchell,	Stone,
Breckinridge,	Green,	Money,	Strait,
Breitung,	Greenleaf,	Morrill,	Talbott,
Brewer, F. B.	Guenther,	Morse,	Taylor, E. B.
Brewer, J. H.	Hanback,	Moulton,	Taylor, J. D.
Broadhead,	Hancock,	Murphy,	Thomas,
Brumm,	Harmer,	Mutchler,	Thompson,
Budd,	Hart,	Nicholls,	Throckmorton,
Cabell,	Hatch, H. H.	Nutting,	Tillman,
Caldwell,	Hatch, W. H.	Oates,	Tucker,
Campbell, J. M.	Haynes,	Ochiltree,	Valentine,
Cannon,	Hemphill,	O'Ferrall,	Vance,
Chace,	Henderson, T. J.	O'Hara,	Van Eaton,
Clardy,	Herbert,	O'Neill, Charles	Wait,
Clay,	Hewitt, A. S.	O'Neill, J. J.	Wakefield,
Collins,	Hitt,	Patton,	Wallace,
Covington,	Hoblitzell,	Payson,	Washburn,
Cox, W. R.	Hopkins,	Perkins,	Wellborn,
Culberson, D. B.	Horr,	Pettibone,	Wemple,
Culbertson, W. W.	Houk,	Phelps,	White, Milo
Cullen,	Houseman,	Pierce,	Whiting,
Curtin,	Hunt,	Poland,	Willis,
Cutcheon,	Hurd,	Post,	Wilson, W. L.
Dargan,	James,	Potter,	Wise, J. S.
Davidson,	Johnson,	Price,	Wolford,
Davis, G. R.	Jones, J. T.	Ranney,	Worthington.
Davis, L. H.	Jordan,	Ray, Ossian	Young.
Davis, R. T.	Kean,	Reed,	
Deuster,	Keifer,	Reese,	
Dibble,	Kelley,	Rice,	

NAYS—71.

Ballentine,	Eldredge,	Matson,	Swope,
Beach,	English,	Miller, J. F.	Taylor, J. M.
Bland,	Forney,	Mills,	Townshend,
Blount,	Geddes,	Muller,	Tully,
Browne, T. M.	Graves,	Murray,	Turner, H. G.
Brown, W. W.	Halsell,	Neece,	Warner, A. J.
Buchanan,	Hammond,	Nelson,	Warner, Richard
Campbell, Felix	Hardy,	Peel,	Weaver,
Candler,	Hepburn,	Peters,	Welker,
Cassidy,	Hewitt, G. W.	Pryor,	White, J. D.
Clements,	Hill,	Randall,	Williams,
Cobb,	Holman,	Reagan,	Wilson, James
Converse,	Holmes,	Rogers, J. H.	Winans, E. B.
Cosgrove,	Jones, B. W.	Singleton,	Winans, John
Cox, S. S.	Jones, J. H.	Stockslager,	Wood,
Craig,	Le Fevre,	Storm,	Yaple,
Crisp,	Lowry,	Struble,	York.
Dowd,	McMillin,	Sumner, D. H	

NOT VOTING—71.

Adams, J. J.	Ermentrout,	Lanham,	Ryan,
Anderson,	Fiedler,	Lawrence,	Shaw,
Arnot,	Follett,	McCoid,	Skinner, C. R.
Barksdale,	Fyan,	Millard,	Snyder,
Belford,	Gibson,	Miller, S. H.	Spriggs,
Bisbee,	Goff,	Morgan,	Springer,
Brainerd,	Hardeman,	Morrison,	Steele,
Buckner,	Henderson, D. B.	Muldrow,	Stevens,
Burleigh,	Henley,	Paige,	Stewart, J. W.
Burnes,	Hiscock,	Parker,	Sumner, C. A.
Campbell, J. E.	Holton,	Payne,	Turner, Oscar
Carleton,	Hooper,	Pusey,	Van Alstyne,
Chalmers,	Howey,	Rankin,	Wadsworth,
Connolly,	Hutchins,	Ray, G. W.	Ward,
Cook,	Jeffords,	Riggs,	Wilkins,
Dockery,	Jones, J. K.	Robertson,	Wise, G. D.
Dunn,	Kellogg,	Robinson, J. S.	Woodward.
Ellwood,	Laird,	Rosecrans,	

So the bill was passed.

The following pairs were announced:

Mr. TURNER, of Kentucky, with Mr. GEORGE D. WISE, on this bill. Mr. TURNER would vote "no" and Mr. WISE "ay."

Mr. ROSECRANS with Mr. COOK, on this bill. Mr. ROSECRANS would vote "ay" Mr. COOK "no."

Mr. BARKSDALE with Mr. WOODWARD, on this bill. Mr. BARKSDALE would vote "no" and Mr. WOODWARD "ay."

The following were announced as paired on all political questions until further notice:

Mr. RANKIN with Mr. HOWEY.
Mr. MORRISON with Mr. HISCOCK.
Mr. FOLLETT with Mr. BURLEIGH.
Mr. SHAW with Mr. LAIRD.
Mr. JONES, of Arkansas, with Mr. KELLOGG.
Mr. CARLETON with Mr. DINGLEY.
Mr. SPRINGER with Mr. STEWART, of Vermont.
Mr. ARNOT with Mr. BELFORD.
Mr. MULDROW with Mr. EVANS.
Mr. FYAN with Mr. MILLER, of Pennsylvania.
Mr. DOCKERY with Mr. HOOPER.
Mr. DUNN with Mr. CHALMERS.
Mr. VAN ALSTYNE with Mr. ELLWOOD.
Mr. WARD with Mr. STEELE.
Mr. SNYDER with Mr. GOFF.
Mr. ADAMS, of New York, with Mr. WADSWORTH.

The following were announced as paired for the day:

Mr. ROBERTSON with Mr. RAY, of New York.
Mr. FIEDLER with Mr. MILLARD.
Mr. GIBSON with Mr. JEFFORDS.
Mr. ERMENTROUT with Mr. ANDERSON.
Mr. LAWRENCE with Mr. LANHAM.
Mr. STEVENS with Mr. HENDERSON, of Iowa.
Mr. WILKINS with Mr. BRAINERD.
Mr. PAIGE with Mr. PARKER.

The result of the vote was announced as above stated.

Mr. COX, of North Carolina, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, announced that the Senate had passed with amendments, in which the concurrence of the House was requested, the bill (H. R. 7964) to provide for the expenses and compensation of special messengers to be sent by the Secretary of State to the States respectively of Iowa and Oregon for the certificates of the electoral vote of 1884 for President and Vice-President of the United States in pursuance of the provisions of section 141 of the Revised Statutes of the United States.

CHINESE INDEMNITY FUND.

Mr. WAIT. On behalf of the Committee on Foreign Affairs I call up for consideration at the present time the bill (H. R. 1004) relative to the Chinese indemnity fund. The bill has been reported from the committee with amendments.

The SPEAKER. The bill referred to by the gentleman is in the Committee of the Whole House on the state of the Union. Does the gentleman move to go into Committee of the Whole or ask that the committee be discharged from the further consideration of the bill?

Mr. WAIT. I ask unanimous consent that the Committee of the Whole House on the state of the Union be discharged from its further consideration and that the House now proceed to its consideration.

There being no objection, the House proceeded to the consideration of the bill; which was read, as follows:

Be it enacted, &c., That the President be, and he is hereby, authorized and directed to cause the residue of the indemnity received from China, which is now in the custody of the Secretary of State, and is known and designated in the accounts and reports of the Department of State as the Chinese indemnity fund, to be returned to the Chinese Government.

The amendments reported by the Committee on Foreign Affairs were read, as follows:

At the end of the bill strike out the words "returned to the Chinese Government" and insert "converted into coin, and the sum of $583,400.90 be returned to the Chinese Government, and the balance of said fund, if any, be covered into the Treasury of the United States."

Add the following proviso:

"*Provided*, That before the payment to China, the Secretary of State shall pay from said fund to the executors of Charles E. Hill the sum of $130,000, upon receipt of a release in full for all claims upon China for the use and loss of the steamer Kenjeor, in or about the year 1863.

Mr. WAIT. Mr. Speaker, I will detain the House no longer than is necessary to state the reasons which the Committee on Foreign Affairs believe call for the prompt passage of this bill and the pending amendments.

The bill now under consideration provides for the return, to the Government of China, of certain funds, now in the hands of the Secretary of State, known as the "Chinese indemnity fund."

In order that the House may fully understand the reasons which influenced the Committee on Foreign Affairs to report the bill with a favorable recommendation, I will, as briefly as possible, review the circumstances under which this money came into the custody of the United States. Under the privileges granted by the treaty of 1844, between the United States and China, known as the "Treaty of Wanghia," a large number of American citizens took up their residences in China, and engaged in various pursuits.

The opening of the Empire to foreigners, under the provisions of the various treaties with foreign countries, created a very hostile feeling among a large class of the Chinese people.

Between the years 1844 and 1858 numerous losses were sustained by American residents of China by reason of the destruction of their property through the acts of lawless bands of Chinese; the greatest number and the heaviest losses occurring after the year 1850, when the powerful revolt known as the Taeping rebellion broke out, which continued to render the power of the central government nugatory in a large section of the country for a number of years.

In 1858 these losses were scheduled by the United States minister in China, and a demand was made by him upon the Chinese Government for their payment. After some delay, and a reduction of the amount demanded to 500,000 taels ($735,258.97), a treaty was concluded between the two governments providing for the payment of this sum from the customs receipts at the three principal open ports of the Chinese Empire.

Under the provisions of an act of Congress two commissioners, Messrs. Charles W. Bradley, United States consul at Ningpo, and O. E. Roberts, United States vice-consul at Hong-Kong, were appointed to adjust the claims and award such sums as might be found to be justly due; their decisions to be final.

The commissioners appointed were both at the time residents of China, and familiar with all the circumstances under which the claims arose.

They met at Macao, in China, November 18, 1859, and concluded their labors on the 13th day of January, 1860.

Upon examination all the claims were found to be more or less exaggerated, and some to be entirely groundless; while others were presented by persons not citizens of the United States.

After paying all the claims to the apparent satisfaction of the claimants—no protest being filed in any case—with interest for five years at the rate of 12 per cent. per annum, there remained a surplus of more than one-third of the gross sum received from China.

As the money was paid upon the representations of the United States Government that it was required to cover losses arising from the destruction of private property of Americans resident in China which occurred prior to 1858, and as the terms of the treaty expressly specified that it was to be applied to that purpose, it followed as a matter of right and justice that the surplus should have been returned to China as soon as its amount had been ascertained. This course was recommended by President Buchanan, and has been repeatedly urged by every succeeding Executive, including President Arthur, yet no conclusive action has been taken by Congress to carry these recommendations into effect.

In consequence of this inaction on the part of Congress, the Secretary of State was constrained to direct the money to be sent to the United States for safe-keeping, and it was deposited in the vaults of the State Department.

In the exigency of the stringent money market during the civil war the money was used by the United States Government, and bonds of the Government were deposited with the Secretary of State to represent it.

The facts, as here outlined, clearly show that this "fund," which is still in the custody of the Secretary of State in the form of United States bonds, should be returned to the Chinese Government without further delay.

The fund having always been regarded and treated as the property of China—as it manifestly is—any increase in the nature of earnings which may have accrued during the pendency of its return attaches to the principal under the clearest construction of law and the simplest rules of justice and equity.

The question presented by the bill (H. R. 3766) is the claim of the owners and insurers of the bark Caldera, pillaged and destroyed by Chinese pirates in October, 1854, to five years' interest, at the rate of

12 per cent. per annum on the 60 per cent. of their original claim, which was disallowed by the board of commissioners in making their awards, with interest thereon at the rate of 5 per cent. per annum from January 26, 1860, to date.

After a careful review of all the evidence in this case the committee find, from the protest of the master of the Caldera, filed with the French consul at Hong-Kong immediately after the occurrence, and from other conclusive testimony, that the bark encountered a severe typhoon on her first day out from Hong-Kong bound for San Francisco with a cargo of tea; that the sails were "torn into shreds" and the vessel was so severely strained by the force of the gale and the heavy sea that she leaked very badly, necessitating the constant working of the pumps to keep her free; that after driving before the gale for two days she grounded while endeavoring to take shelter in a bay on the coast of the Five Islands, suffering considerable damage to her hull. After working off the bar upon which she had struck she anchored in the bay, the men being kept continually at work at the pumps to keep the water in the hold from gaining upon them; that while thus engaged the crew were surprised and overpowered by Chinese pirates and the cargo plundered; that at that time there was four feet of water in the hold, immersing about one-third of the cargo; that the vessel proved a total loss, and a large part of the cargo was carried away by the pirates; that upon being informed of this outrage the Chinese Government sent several war junks, in conjunction with war vessels of foreign powers, and dispersed the pirates, recovering a small portion of the stolen property. That both the hull of the vessel and her cargo had been seriously damaged by the elements and her rigging almost totally destroyed before she entered the harbor where the robbery was committed is placed beyond all question by the testimony of the master of the Caldera and others.

In considering this case the board of commissioners in China had recourse to the aid of experts, who testified as to the amount of damage sustained previous to the piratical attack, and reached the conclusion that it was 60 per cent. of the first cost, and they therefore allowed 40 per cent. of the claims, with five years' interest at the rate of 12 per cent. per annum, making a sum equal to two-thirds of the gross amount of the claim without interest.

As the rate of interest which prevailed in China at that time was 5 per cent., that rate should have controlled the commissioners in making their awards. By disregarding this rule, which governs all judicial tribunals, they actually gave to the claimants about 50 per cent. of their claims, with the lawful rate of 5 per cent. interest per annum for the five years contemplated in the awards, leaving but about 50 per cent. unpaid.

Under authority of an act of Congress approved June 19, 1878, the United States Court of Claims reviewed the Caldera claims and awarded to the claimants the disallowed 60 per cent., with interest thereon at 5 per cent. per annum from January 26, 1860, to the date of the findings of the court, amounting to $113,077.11, and that award was paid by the Secretary of State.

As the total amount of these claims, presented and scheduled by the United States minister in China, was but $90,009.60, they have been paid to date a sum about equal to the full amount of their entire claim, with 5 per cent. interest from the date of the loss to the date of the final payment made by the Secretary of State. This makes no deduction whatever for the damage previously done to the vessel by the elements, which, from the testimony adduced before the board of commissioners, was about 15 per cent. of her first cost, nor for the value of the portion of the cargo recovered, amounting to several thousand dollars.

The sum awarded by China was, in gross, to cover an entire list of claims; and the Court of Claims was right in finding for 60 per cent. of the claim with simple interest, instead of 60 per cent. with the interest prior to the payment of the fund compounded.

In view of all these facts the committee are of the opinion that these claimants have been paid every dollar to which they can possibly lay claim, and more than the merits of the case seem to have demanded.

To summarize: The United States Government, in making a statement of account against China, overcharged that government nearly 100 per cent. through inadvertence. This excess, with its earnings while withheld from China, should be returned forthwith.

The Caldera claimants have received their utmost equitable demands.

The sum received from China under the provisions of the treaty was $735,238.97. After paying all the claims there remained $239,165.77 in gold, which, when transferred to the United States and deposited in the State Department, yielded the sum of $390,223.72. This fund has been invested in United States securities, and at this time, with interest at the rate of 5 per cent. per annum added, amounts to $583,400.90, after having paid from it the Caldera claims, awarded by the Court of Claims.

The Secretary of State, writing to the chairman of the subcommittee under date of March 18, 1884, in answer to an inquiry, says: "The Department of State knows of no just claim against this fund."

The excess having been in reality the property of China from the day of its payment into the hands of the United States by every rule of justice, whatever it may have earned while in the custody of the Government of the United States is also the property of China by the strictest construction of law.

The committee therefore report the bill (H. R. 3766) adversely, and recommend that it lie upon the table; and the bill (H. R. 1004) favorably, with an amendment, and recommend its passage.

Mr. WARNER, of Ohio. I would like to know whether this claim for $130,000 which it is proposed to deduct has ever been adjudicated?

Mr. WAIT. It has been adjudicated in this way: This claim, the justice of which has been contended for by the representatives of the United States at the court of China and by the several Secretaries of State, has been virtually admitted by China to be just, and some of her prominent officials have said that when this fund was returned the amount of that claim with interest such as Congress should allow should be deducted.

Mr. WARNER, of Ohio. That is satisfactory.

Mr. WAIT. The Committee on Foreign Affairs have, after consideration of the whole matter, allowed on the loss of the steamer seized, &c., 5 per cent. interest from that time to the present. In round numbers it is $130,000, which we propose Congress should deduct from the sum to be returned to China.

I demand the previous question on the bill and amendments.

The previous question was ordered.

The amendments of the committee were agreed to.

The bill as amended was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. WELLER demanded the yeas and nays on the passage of the bill.

The yeas and nays were not ordered.

The bill was passed.

Mr. WAIT moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

SPECIAL MESSENGER TO GET ELECTORAL VOTE.

On motion of Mr. RANDALL, by unanimous consent the bill (H. R. 7964) to provide for the expense and compensation of special messengers to be sent by the Secretary of State to the States respectively of Iowa and Oregon for the certificates of the electoral vote of 1884 for President and Vice-President of the United States, in pursuance of the provisions of section 141 of the Revised Statutes of the United States, returned from the Senate with an amendment, was taken from the Speaker's table and the amendment read, as follows:

In line 9, strike out "November" and insert "December."

Mr. RANDALL. The bill as introduced by me this morning was an exact transcript of the draught furnished by the Secretary of State. However, I think the Senate amendment is correct, and will move that it be concurred in.

The amendment of the Senate was agreed to.

Mr. RANDALL moved to reconsider the vote by which the amendment was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

NAVAL APPROPRIATION BILL.

On motion of Mr. RANDALL, by unanimous consent the bill (H. R. 7874) making additional appropriations for the naval service for the fiscal year ending June 30, 1885, and for other purposes, with amendments of the Senate, was taken from the Speaker's table, referred to the Committee on Appropriations, and ordered to be printed with Senate amendments.

PUBLIC BUILDING, TERRE HAUTE, IND.

Mr. LAMB, by unanimous consent, introduced a bill (H. R. 7967) to change the limit of the appropriation for the public building at Terre Haute, Ind.; which was read a first and second time, referred to the Committee on Public Buildings and Grounds, and ordered to be printed.

ORDER OF BUSINESS.

Mr. HITT. I am instructed by the Committee on Foreign Affairs to move to take from the Speaker's table Senate bill 343 and ask its immediate consideration.

Mr. COX, of New York. I move that the House do now adjourn.

The question was taken; and on a division there were—ayes 77, noes 78.

Mr. WELLER. I demand the yeas and nays.

Mr. RANDALL. Let us take the vote by tellers.

Mr. HITT. I will not ask consideration of this bill to-night, but only that it be brought before the House and remain as unfinished business.

The SPEAKER. The Chair will state that the mere fact of bringing it before the House to-night would not give it any priority over other business. If the consideration of the bill should not be concluded to-day it would not come up as unfinished business, the day alone being set apart for the consideration of business reported from the Committee on Foreign Affairs.

Mr. HITT. The committee have unanimously instructed me to ask the consideration of this bill.

The SPEAKER. The question is on the demand of the gentleman from Iowa for the yeas and nays on the motion to adjourn.

The yeas and nays were not ordered.

Mr. STORM. I ask for tellers on the motion.

Tellers were ordered, 45 members voting in favor thereof.

AMENDMENT TO THE M'PHERSON BILL.

Mr. BRUMM. Pending the vote by tellers, I ask unanimous consent of the House to introduce and have printed in the RECORD a proposed substitute for the McPherson bill.

Mr. WELLER. I rise to a parliamentary inquiry. I desire to know, consent being given for the introduction and reference of that bill proposed by the gentleman from Pennsylvania, if it cuts off on to-morrow the presentation of a substitute for the bill?

The SPEAKER. The Chair will state that the gentleman from Pennsylvania proposes simply to have printed in the RECORD a proposed amendment to the bill. It is not yet a pending amendment.

There being no objection, the proposed amendment of Mr. BRUMM was ordered to be printed.

It is as follows:

Substitute for a bill to provide for the issue of circulating notes to national banking associations.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, SECTION 1. Strike out all of section 5224 of the Revised Statutes of the United States after the word "business," in the third line, and insert the following: "Or retire its circulation, or any part thereof has been made, the bonds deposited by the association to secure payment of its notes shall be reassigned to it in the manner prescribed by section 5162. And thereafter the association and its shareholders shall stand discharged from all liabilities upon the circulating notes, and those notes shall be redeemed and canceled at the Treasury of the United States. And if any such bank shall fail to make the deposit and take up its bonds for thirty days after the expiration of the time specified, the Comptroller of the Currency shall cancel the bonds pledged for the circulation of said bank, and after providing for the redemption and cancellation of said circulation pay over any balance remaining to the bank or its legal representative."

SEC. 2. That any association organized under this act, or any of the acts of which this is an amendment, shall, upon the expiration of its charter, return to the Treasurer of the United States its circulating notes, or make a sufficient deposit of lawful money to redeem its outstanding circulation, whereupon the bonds deposited by the association to secure payment of its notes shall be reassigned to it in the manner prescribed by section 5162; and thereafter the association and its shareholders shall stand discharged from all liabilities upon the circulating notes, and said notes shall be redeemed and canceled at the Treasury of the United States. And if any such association shall fail to make the deposit and take up its bonds for three years after the expiration of its charter, the Comptroller of the Currency shall cancel the bonds pledged for the circulation of said association; and after providing for the redemption and cancellation of said circulation he shall pay over any balance remaining to the association or its legal representatives.

SEC. 3. That from and after the passage of this act the Treasurer shall not be permitted to issue or sell any United States bonds.

SEC. 4. That the Secretary of the Treasury be, and is hereby, authorized and directed to cause to be printed and engraved notes of the United States, in addition to those heretofore authorized, and of the same kind and character as those now in circulation, in denominations of one, two, five, ten, twenty, fifty, and one hundred dollars, to an amount not exceeding the aggregate national-bank-note circulation.

SEC. 5. That it shall be the duty of the Secretary of the Treasury to substitute and pay out the notes hereby authorized, in lieu of the national-bank notes now outstanding and in circulation, as soon as said bank notes are redeemed.

SEC. 6. That for the purpose of carrying into effect the objects of this act the Secretary of the Treasury is authorized to make such rules and regulations as he may deem necessary and proper. And all acts and parts of acts inconsistent or in conflict with the provisions of this act are hereby repealed.

ORDER OF BUSINESS.

The SPEAKER. The House having ordered tellers, the Chair will appoint the gentleman from New York, Mr. COX, and the gentleman from Illinois, Mr. HITT.

The House again divided; and the tellers reported—ayes 104, noes 43.

So the motion was agreed to; and the House accordingly (at 5 o'clock p. m.) adjourned.

PETITIONS, ETC.

The following petitions and papers were laid on the Clerk's desk, under the rule, and referred as follows:

By Mr. BINGHAM: Petition of the Pennsylvania Club, of Philadelphia, favoring the Senate bill in aid of common schools—to the Committee on Education.

Also, petition of persons interested in tobacco industry in Philadelphia, against the ratification of the Spanish treaty—to the Committee on Ways and Means.

By Mr. COLLINS: Memorial of Daniel Sheehan and other seamen, asking modification of the Dingley shipping bill—to the Select Committee on American Ship-building and Ship-owning Interests.

By Mr. S. S. COX: Petition, with draught of bill, to reduce the expenditures of the Government in lighting its public buildings and grounds—to the Committee on Public Buildings and Grounds.

Also, petition of Louis P. Moros, to be appointed boatswain on the retired-list of the Navy—to the Committee on Naval Affairs.

By Mr. DEUSTER: Memorial of Chamber of Commerce of the City of Milwaukee, urging the necessity of much larger appropriations for improvement of the harbors of Ludington, Grand Haven, and Manistee, Mich.—to the Committee on Rivers and Harbors.

By Mr. ERMENTROUT: Petition of the tobacco industry of Philadelphia, against the ratification of the Spanish treaty—to the Committee on Ways and Means.

By Mr. EVANS: Petition of citizens of Philadelphia interested in the tobacco industry, against the Spanish treaty—to the same committee.

Also, resolutions of the Philadelphia Board of Trade, urging the passage of the Lowell bankruptcy bill—to the Committee on the Judiciary.

Also, petition of citizens of Montogmery County, Pennsylvania, asking for increase in widows' pensions—to the Committee on Pensions.

By Mr. EVERHART: Petition for relief of Michael Connelly—to the Committee on War Claims.

Also, petition of citizens of Philadelphia interested in tobacco, protesting against the Spanish treaty—to the Committee on Ways and Means.

By Mr. JOHNSON: Petition of Van Buren Miller and others, of Franklin County, New York, asking for increase of widows' pension—to the Committee on Pensions.

By Mr. MILLARD: Petition of the Pennsylvania Club, favoring the passage of the Senate bill in aid of common schools—to the Committee on Education.

Also, petition of the Maritime Association of the port of New York, favoring the passage of the Potter refunding bill.

By Mr. MITCHELL: Petition of B. V. Hawkins and others, of East Wallingford, Conn., urging increase of widows' pensions—to the Committee on Pensions.

By Mr. MURPHY: Petition of Hon. Moody Courrier, governor-elect of New Hampshire, and others, asking Congress to construct the Hennepin Canal—to the Committee on Rivers and Harbors.

By Mr. NICHOLLS: Memorial of W. H. Roberson, county school commissioner of Wayne County, Georgia, urging the passage of the educational bill—to the Committee on Education.

By Mr. PARKER: Petition of Maritime Association of New York, in favor of the Potter refunding bill—to the Committee on Ways and Means.

By Mr. PETERS: Paper relating to the claim of G. W. Veale—to the Committee on War Claims.

By Mr. PRICE: Petition of the Maritime Association of New York city, asking for the passage of the Potter refunding bill—to the Committee on Ways and Means.

Also, memorial of the Chamber of Commerce of the city of Milwaukee, in relation to the harbors of Grand Haven, Ludington, and Manistee, Mich.—to the Committee on Rivers and Harbors.

By Mr. RANDALL: Petition of persons engaged in the tobacco industry in Philadelphia, asking the rejection of the Spanish-American treaty—to the Committee on Ways and Means.

Also, petition of trustees, &c., of Church Orphanage of 525 Twentieth street, Washington, D. C., for $10,000—to the Committee on Appropriations.

By Mr. J. H. ROGERS: Memorial of citizens and visitors at Hot Springs, Ark., urging the passage of the bill regulating the Hot Springs reservation—to the Committee on the Public Lands.

By Mr. SENEY: Petition of the board of directors of the Merchants' Exchange of Saint Louis, against the Spanish treaty—to the Committee on Ways and Means.

By Mr. SLOCUM: Memorial of Charles A. Van Bokkelen, relative to the injustice done him by the Government of Hayti—to the Committee on Foreign Affairs.

By Mr. A. H. SMITH: Petition of 95 citizens of Lancaster County, Pennsylvania, against the ratification of the Spanish treaty—to the Committee on Ways and Means.

By Mr. STEELE: Petition of National Temperance Union, asking favorable action on the sixteenth amendment—to the Committee on the Judiciary.

By Mr. STOCKSLAGER: Papers to accompany bill for the relief of Louisa Heath, widow of Milford S. Heath—to the Committee on Invalid Pensions.

By Mr. STORM: Petition of Bridget Smith and others, of Luzerne County, Pennsylvania, asking for increase of widows' pensions—to the Committee on Pensions.

By Mr. J. D. TAYLOR: Petition of Ann Grundy and 10 others, of Bowentown, Ohio, asking increase of widows' pensions—to the same committee.

By Mr. WOODWARD: Memorial of the Chamber of Commerce of the city of Milwaukee, Wis., urging an increase of appropriations for the improvement of the harbors of Grand Haven, Ludington, and Manistee, in the State of Michigan—to the Committee on Rivers and Harbors.

The following petitions for the passage of the Mexican war pension bill with Senate amendments were presented, and severally referred to the Committee on Pensions:

By Mr. ANDERSON: Of 152 citizens of Waterville, Kans.

By Mr. ATKINSON: Of 80 citizens of Perry County, Pennsylvania.

By Mr. J. H. BREWER: Of citizens of Pennington, of Brown's Mills, of Mount Holly, and of Hammonton, N. J.

By Mr. BOYLE: Of citizens of West Newton, Westmoreland County, Pennsylvania.

By Mr. T. M. BROWNE: Of 61 citizens and ex-soldiers of Henry County, Indiana.

By Mr. W. W. BROWN: Of 126 citizens of Tioga County, of 23 citizens of McKean County, of 22 citizens of Tioga County, of 60 citizens of Tioga County, and of 100 citizens of Tioga County, Pennsylvania.

By Mr. CONNELLY: Of John G. Benden and 51 others, ex-soldiers,

and of H. C. Magee and 110 ex-soldiers, all of Luzerne County, Pennsylvania.

By Mr. CONVERSE: Of A. L. Gierhart and 52 others, of Fairfield County; of Owen Roberts and 144 others, of Franklin County; of J. E. Crooks and 64 others, of Perry County; of James M. Nye and 64 others, of Perry County; of R. O. Kittsmiller and 63 others, of Hocking County; of Walter Mundell and 186 others, of Franklin County; and of Solomon Perry and 116 others, of Fairfield County, Ohio.

By Mr. COOK: Of William Spencer and 50 others, of Eddyville; of C. H. Mackey and 100 others, of Sigourney; of John Morrison and 60 others, of Sigourney; of T. Safflegate and 100 others, of Searsborough; and of W. H. Percy and 100 others, of Marion County, Iowa.

By Mr. W. W. CULBERTSON: Of 127 voters of Olive Hill, Ky.

By Mr. ELLWOOD: Of 150 citizens of McHenry County, Illinois.

By Mr. EVANS: Of citizens of Tullytown, Pa.

By Mr. FORAN; Of 136 citizens of Adams County, Ohio.

By Mr. H. H. HATCH: Of citizens of Emmet County, and of Harbor Springs, Emmet County, Michigan.

By Mr. W. H. HATCH: Of citizens of Putnam County and of Macon County, Missouri.

By Mr. HEPBURN: Of W. O. Parish and 122 others, citizens of Hopeville, Iowa.

By Mr. HOLMAN: Of H. K. Rector and 47 others, of Switzerland County, Indiana.

By Mr. HOUSEMAN: Of F. N. Headly and 32 others, of Ottawa Station; of James Quick and 16 others, of Allegan County; of P. H. McBride and 24 others, of Holland; of Milton Chase and 60 others, of Otsego; and of J. E. Rice and 106 others, of Coopersville, Mich.

By Mr. HURD: Of Francis Kleinegger and others, of Ottawa County; of E. R. Furgeson and others, of Erie County; of William L. Crosby and others, of Ottawa County, Ohio.

By. Mr. KLEINER: Of 100 citizens and ex-soldiers of Evansville, Ind.

By Mr. LAMB: Of 110 citizens of Fountain County; of 64 of Warren County; of 52 of State Line, Warren County, and of 122 of Clay County, Indiana.

By Mr. LEFEVRE: Of A. O. French and 62 others, citizens and ex-soldiers of Mercer County; of Warren Clark and 127 others, citizens and ex-soldiers of Allen County; of Frank J. Lovett and 63 others, citizens and ex-soldiers of Auglaize County, Ohio.

By Mr. MILLARD: Of 20 citizens of Tioga County, New York.

By Mr. MORGAN: Of 90 citizens of Calhoun County, Missouri.

By Mr. MOULTON: Of 500 citizens of Raymond; of 500 citizens of Fayette County; of 500 citizens of Montgomery County, Illinois.

By Mr. MURPHY: Of 202 citizens of Monticello; of 108 citizens of Lyons; of 28 citizens of West Branch; of 64 citizens of Calamus; and of 156 citizens of Andrew Jackson County, Iowa.

By Mr. MURRAY: Of G. W. Ely and 200 others, citizens of Montgomery County, Ohio.

By Mr. PATTON: Of citizens of Smicksburg, Indiana County, Pennsylvania, and of citizens of Herman, N. Y.

By Mr. PAYSON: Of A. Goodell and others, citizens of Iroquois, Ill.

By Mr. PRICE: Of W. W. Wiman and 21 others, of Buffalo County; of William Rosenbush and 30 others, of Barron County; of W. E. Markham and 90 others, of Independence; and of Henry Glasspool and 91 others, of Dunn County, Wisconsin.

By Mr. PUSEY: Of C. O. King and others, of Hancock, Iowa.

By Mr. REED: Of Charles W. Keyes and others, of Franklin County, Maine.

By Mr. RIGGS: Of T. J. Musgrave and 62 others, of Lima, and of L. C. Carico and 114 others, of Elsah, Ill.

By Mr. SENEY: Of Joel W. Gibson and 123 others, of Wyandot, Ohio.

By Mr. STEELE: Of Joseph Gardner and 63 others, of Wabash; of John A. Lymons and 54 others; of Daniel Schuster and 103 others; of R. E. Torrence and 62 others; of John H. Barr and 74 others, of Roanoke; of William Scott and 185 others, Howard County, Indiana.

By Mr. STEPHENSON: Of John Fetzer and others, of Door County; of John Stumpf and others, of Stevens Point, Wis.

By Mr. D. M. SUMNER: Of citizens of Fond du Lac County, Wisconsin.

By Mr. J. D. TAYLOR: Of W. C. Hedges and 139 others, of Belmont County; and of C. F. De Long and 94 others, of Noble County, Ohio.

By Mr. TOWNSHEND: Of 125 citizens of Macedonia, Ill.

By Mr. WAKEFIELD: Of 60 ex-soldiers and citizens of Le Sueur County; and of 41 ex-soldiers and citizens of Redwood County, Minnesota.

By Mr. WELLER: Of William M. Dill and 104 others, of Volga; of Dr. R. C. Ambler and 105 others, of New Albin; of Hon. N. C. Deering and 60 others, of Osage; of E. J. Weisner and 86 others, of Decorah; and of C. J. Stilwell and 62 others, of Brush Creek, Iowa

By Mr. JOHN WINANS: Of C. M. Davis and 17 others, of Evansville; of Albert Stillman and 45 others, of Rock County; of F. A. Ames and 78 others, of Clinton; of R. M. Boyd and 52 others, of Racine; and of D. B. Devendorf and 38 others, of Delavan, Wis.

By Mr. WORTHINGTON: Of Hermann Abraham and 306 others, citizens of Knox County, Illinois.

SENATE.

THURSDAY, *January* 15, 1885.

Prayer by the Chaplain, Rev. E. D. HUNTLEY, D. D.

The Journal of yesterday's proceeding was read and approved.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. CLARK, its Clerk, announced that the House had passed the bill (S. 1829) to provide for the ascertainment of claims of American citizens for spoliations committed by the French prior to the 31st day of July, 1801.

The message also announced that the House had passed a bill (H. R. 1004) relative to the Chinese indemnity fund; in which it requested the concurrence of the Senate.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled bills; and they were thereupon signed by the President *pro tempore:*

A bill (S. 1432) for the relief of the Metropolitan police force of the District of Columbia;

A bill (H. R. 4273) for the relief of Madison R. Calvert; and

A bill (H. R. 7329) granting right of way to the Fremont, Elkhorn and Missouri Valley Railroad Company across the Fort Robinson military reservation, in the State of Nebraska.

PETITIONS AND MEMORIALS.

Mr. CONGER presented a memorial of the Chamber of Commerce of Milwaukee, Wis., in favor of increased appropriations for the improvements of the harbors at Grand Haven, Ludington, and Manistee, in the State of Michican; which was referred to the Committee on Commerce.

He also presented the memorial of Neal Sawyer, president, and Harry Beitler, secretary, in behalf of the Cigar-makers' Union, No. 209, of Coldwater, Mich., and the memorial of William Warner, president, and Nelson T. Fueher, secretary, in behalf of the Cigar-makers' Union, No. 130, of Saginaw, Mich., remonstrating against the tobacco clause in the proposed Spanish reciprocity treaty; which were referred to the Committee on Foreign Relations.

Mr. CAMERON, of Wisconsin, presented a memorial of the Cigar-makers' Union, No. 162, of Green Bay, Wis., remonstrating against the ratification of the proposed Spanish reciprocity treaty; which was referred to the Committee on Foreign Relations.

Mr. JONAS presented a memorial of the Board of Trade of San Francisco, Cal., remonstrating against the ratification of the proposed Spanish reciprocity treaty; which was referred to the Committee on Foreign Relations.

Mr. INGALLS presented the petition of Prudence Bond, widow of Richard Bond, a soldier of the war of 1812, praying for an increase of pension; which was referred to the Committee on Pensions.

Mr. PENDLETON presented a memorial of the Cigar-makers' Union, No. 182, of Eaton, Ohio, remonstrating against the ratification of the proposed Spanish reciprocity treaty; which was referred to the Committee on Foreign Relations.

He also presented a memorial of the Chamber of Commerce of Cincinnati, Ohio, remonstrating against the passage of the bill (S. 2374) to authorize the lighting of the navigable rivers of the United States with electricity; which was referred to the Committee on Commerce.

Mr. WILSON. I present a memorial of the Cigar-makers' Union, No. 72, of Burlington, Iowa, and a memorial of the Cigar-makers' Union, No. 60, of Keokuk, Iowa, remonstrating against the ratification of the proposed Spanish reciprocity treaty. These memorials were addressed to me personally, but are evidently intended for the consideration of the Senate. I ask that they may be received, and referred to the Committee on Foreign Relations.

The PRESIDENT *pro tempore*. If there be no objection, the papers will be received and referred to the Committee on Foreign Relations.

Mr. FAIR presented a memorial of the Board of Trade of San Francisco, Cal., remonstrating against the ratification of the proposed Spanish reciprocity treaty; which was referred to the Committee on Foreign Relations.

Mr. SHERMAN presented a memorial of the Cigar-makers' Union, No. 182, of Eaton, Ohio, remonstrating against the ratification of the proposed Spanish reciprocity treaty; which was referred to the Committee on Foreign Relations.

Mr. SAWYER presented a petition of the Chamber of Commerce of Milwaukee, Wis., praying that an immediate appropriation be made for the improvement of the harbors of Grand Haven, Ludington, and Manistee, in the State of Michigan; which was referred to the Committee on Commerce.

REPORTS OF COMMITTEES

Mr. JACKSON. I am directed by the Committee on Claims, to whom was referred the bill (S. 1189) for the relief of the heirs at law of John Graham, to submit an adverse report thereon. The Senator from Oregon [Mr. DOLPH] desires to present the views of the minority, which will place the case on the Calendar.

Mr. DOLPH. I desire to present the views of the minority.

The PRESIDENT *pro tempore*. The Senator from Oregon asks leave

to present the views of the minority on the bill just reported from the Committee on Claims. If there be no objection the views of the minority will be received and printed in connection with the report of the committee.

Mr. JACKSON, from the Committee on Post-Offices and Post-Roads, to whom was referred the bill (H. R. 5452) for the relief of John W. Martin, reported it without amendment, and submitted a report thereon.

Mr. CAMERON, of Wisconsin, from the Committee on Claims, to whom was referred the bill (H. R. 1266) for the relief of Alexander D. Schenck, asked to be discharged from its further consideration, and that it be referred to the Committee on Military Affairs; which was agreed to.

Mr. HALE, from the Committee on Naval Affairs, to whom was referred the bill (S. 2387) for the relief of the sufferers by the wreck of the United States steamer Tallapoosa, reported it with an amendment.

TESTS OF IRON AND STEEL.

Mr. HAWLEY. The Committee on Printing, to whom was referred a concurrent resolution to print the annual report of tests of iron and steel and other materials for industrial purposes, by Maj. F. H. Parker, United States Army, instruct me to report it favorably and without amendment. I ask for its present consideration.

The resolution was considered by unanimous consent, and agreed to, as follows:

Resolved by the Senate (the House of Representatives concurring), That the report of tests of iron and steel and other materials for industrial purposes, by Maj. F. H. Parker, commanding the Watertown arsenal, transmitted to the Senate by the Secretary of War on the 3d of December, 1884, be printed, and that 3,500 additional copies be printed, of which 1,000 copies shall be for the use of the Senate, 2,000 copies for the use of the House, and 500 copies for the use of the War Department.

STATEMENTS BEFORE SELECT COMMITTEE ON ORDNANCE.

Mr. HAWLEY. The Select Committee on Ordnance and War Ships instruct me to ask authority to print certain statements and papers which will accompany their report for the use of the committee. I therefore offer the following resolution and beg its immediate consideration:

Resolved, That the Public Printer be, and he is hereby, directed to print for the use of the Select Committee on Ordnance and War Ships, and under the direction thereof, the statements and tables prepared to accompany the report of said committee.

The resolution was considered by unanimous consent, and agreed to.

BILLS INTRODUCED.

Mr. HALE introduced a bill (S. 2545) allowing the widow of William H. Hunt, late minister to Russia, one year's salary; which was read twice by its title, and referred to the Committee on Foreign Relations.

Mr. McMILLAN introduced a bill (S. 2546) granting a pension to Charlotte C. B. Hatch; which was read twice by its title, and referred to the Committee on Pensions.

Mr. MILLER, of California, introduced a bill (S. 2547) granting an increase of pension to Mrs. Frances L. Thomas, widow of Maj. Gen. George H. Thomas; which was read twice by its title.

Mr. MILLER, of California. I wish to respectfully call the attention of the Committee on Pensions to the bill. The widow of this officer, who was one of the great commanders in our late war, is now receiving a pension of $30 a month, which is totally inadequate to her necessities. The bill I introduce proposes to increase it to the same amount that the widow of Admiral Farragut receives, $2,000 a year. That I believe to be just, and I am sure it will meet the approbation of everybody in the country. I ask the Committee on Pensions to be good enough to consider the bill as soon as possible. I move its reference to that committee.

The motion was agreed to.

Mr. BAYARD introduced a bill (S. 2548) to amend section 1000 of the Revised Statutes of the United States; which was read twice by its title, and referred to the Committee on the Judiciary.

WITHDRAWAL OF PAPERS.

On motion of Mr. CAMERON, of Wisconsin, it was

Ordered, That Adolph Feininger have leave to withdraw his papers from the files of the Senate, no adverse report having been made upon his claim.

FORT BRADY MILITARY RESERVATION.

The PRESIDENT *pro tempore*. If there be no further "concurrent or other resolutions" that order is closed. The Chair lays before the Senate the Calendar under Rule VIII.

Mr. CONGER. Before we go to the Calendar I desire to ask unanimous consent to take up Senate bill 1374, Order of Business 982, for present consideration.

The PRESIDENT *pro tempore*. The Senator from Michigan has the right at this time to move that the Senate proceed to the consideration of any bill on the Calendar.

Mr. CONGER. Then I make the motion to take up the bill indicated.

The PRESIDENT *pro tempore*. The Senator from Michigan moves that the Senate proceed to the consideration of the bill (S. 1374) to provide for the sale of the old site of Fort Brady, Michigan, and for a new site, and the construction of suitable buildings thereon. The question is on agreeing to the motion that the bill be now considered.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill.

The PRESIDENT *pro tempore*. The bill will be read.

The Chief Clerk proceeded to read the bill.

Mr. MAXEY. In order to save time I will state that the Committee on Military Affairs report a substitute for the bill which is being read, which fills the blank, and which is somewhat different. It will save time to simply read the substitute reported by the committee.

The PRESIDENT *pro tempore*. The Senator from Texas asks unanimous consent that the further reading of the text of the bill be dispensed with and that the amendment recommended by the committee be read. Is there objection? The Chair hears none, and the amendment reported from the committee will be read.

The Chief Clerk read the amendment reported by the Committee on Military Affairs, which was to strike out all after the enacting clause of the bill and to insert:

That the Secretary of War is hereby authorized to sell the military reservation known as Fort Brady, in the village of Sault Sainte Marie, in the State of Michigan, except that portion lying north of Water street extended, which shall be reserved for canal and wharf purposes, and except the plat of ground now occupied as a military cemetery, which shall also be reserved. In disposing of said property the Secretary of War shall cause the grounds to be platted in blocks, streets, and alleys, corresponding as near as may be with the plat of the village of Sault Sainte Marie, and in lots not exceeding one-quarter of an acre in each, unless with due reference to the requirements of the houses and buildings now located on said grounds. The Secretary of War shall also cause the lots to be appraised and sold at public or private sale, at not less than the appraised value, having first been offered at public sale. The expense of advertising appraisement, survey, and sale shall be paid out of the proceeds of said sale, and the balance paid into the Treasury of the United States.

SEC. 2. That the Secretary of War is also authorized to purchase suitable grounds in or near the village of Sault Sainte Marie, and construct thereon necessary buildings, with appurtenances, sufficient for a four-company military post, to be known as Fort Brady, in accordance with estimates to be prepared by the War Department; and a sufficient sum of money, not exceeding $120,000, is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to enable the Secretary of War to comply with the provisions of this act.

SEC. 3. That in platting these grounds the Secretary of War, in his discretion, may reserve all that part of the reservation lying south of Portage street, to be set apart and kept by the municipal authorities of Sault Sainte Marie as a public park for its citizens and the people of the United States.

SEC. 4. That section 1 of this act shall be of effect when the purchase of a new site provided for in section 2 shall have been effected.

The PRESIDING OFFICER (Mr. HARRIS in the chair). The question is on agreeing to the amendment reported by the Committee on Military Affairs.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. MAXEY. I ask as a parliamentary question whether, now that the substitute proposed by the committee has been passed, it will be necessary to postpone indefinitely the original bill?

The PRESIDING OFFICER. The original bill is already disposed of by the substitute being agreed to.

INVITATIONS TO INTERNATIONAL EXHIBITIONS.

Mr. MILLER, of California. I move to take up the bill (S. 2436) to enable the President to accept invitations of foreign governments to international exhibitions and to appoint commissioners thereto, and for other purposes.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from California.

Mr. HOAR. Has the Calendar been laid before the Senate?

The PRESIDING OFFICER. It has been.

Mr. HOAR. I want very much to dispose of a matter pending on the Calendar which has been heretofore debated and discussed.

Mr. MILLER, of California. It will take but a few minutes to dispose of this bill. The Committee on Foreign Relations have directed me to ask the Senate to take up the bill.

The PRESIDING OFFICER. The Chair will state to both Senators that the question before the Senate is not debatable, unless by unanimous consent.

Mr. HOAR. I so understand, but I suppose the usages of the Senate permit the inquiry for an explanation when a bill is asked to be taken up, as to what the desire of the Senator is, and his expectation about the length of time which it will take. I understand that debate on such a motion must proceed by unanimous consent.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from California.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. It provides that whenever the Government of the United States receives official intimation from any foreign government that it is proposed to hold an international exhibition whereat the representation of the United States is invited, the President may, in his discretion, accept such invitation, and appoint honorary commissioners, without salary, to represent the United States at such exhibition. In order to defray the reasonable and necessary expenses of such commissions and such exhibit as the President may au-

thorize to be made, the bill appropriates $25,000, or so much thereof as may be required, to be immediately available, and to be expended under the direction of the Secretary of State.

Mr. SEWELL. I now offer the amendment which I heretofore proposed to the bill, and which is in print.

The PRESIDING OFFICER. The amendment offered by the Senator from New Jersey will be reported.

The CHIEF CLERK. It is proposed to strike out all after the title and insert:

Whereas the Government of the United States has received official intimation from that of Belgium that it is proposed to hold an international exhibition, which will embrace all industrial products, all goods forming objects of commercial transactions, and all objects and appliances of interest to navigation, to be opened at Antwerp, May 2, 1885, and will have a duration of at least five months, whereat the representation of the United States is invited; and

Whereas also, by its action as a government and by the active enterprise of merchants, the United States has attained and holds a prominent place in all that relates to the development of all industrial products, the extension of the great commercial relationship with other countries, based on the exportation of goods forming objects of commercial transactions, which now form an important factor in the national wealth, and it is expedient that the industries and interests thus concerned should be adequately represented on the occasion: Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the invitation of the Belgium Government be accepted; and that, under the auspices of the Department of State, the United States commissioners to the World's Industrial and Cotton Centennial Exposition at New Orleans be, and they hereby are, instructed to prepare or cause to be prepared, upon the termination of said World's Industrial and Cotton Centennial Exposition, a complete and systematic representative exhibition of the Government exhibits at the exposition at New Orleans, and to take such further measures as may be necessary in order to secure a proper representation of the productions of our industry and of the nature of the natural resources of the country at the international exhibition to be held at Antwerp in 1885.

SEC. 2. That the President, by and with the advice and consent of the Senate, shall appoint three commissioners to represent the United States in the proposed exhibition at Antwerp, and, under the general direction of the Secretary of State, to make all needful rules and regulations in reference to the exhibits and contributions from this country, and to control the expenditures incident to the proper installation and exhibition thereof, and to the preparation of reports on the exposition.

SEC. 3. That the President be authorized, in his discretion, to assign one or more public vessels to transport to and from Antwerp, free of cost, under regulations to be prescribed by the commissioners to the Antwerp exposition, such articles of the Government exhibit as may be selected and prepared for transportation by the commissioners to the New Orleans exposition, and such other articles as may be offered for exhibition by the citizens of the United States.

SEC. 4. That in order to defray the necessary expenses above authorized, and for the proper installation of the exhibition, and the expenditures of the commissioners, made under the direction of the Secretary of State and with his approval, and not otherwise, there be, and hereby is, appropriated, out of any money in the Treasury of the United States not otherwise appropriated, the sum of $25,000, or so much thereof as may be necessary, for the purpose herein specified, which sum shall be expended under the direction of the Secretary of State.

Mr. MILLER, of California. There are quite a number of invitations from various governments that come in from time to time, requesting the United States to participate in international exhibitions. The first one about to occur, I think, is that in May or June at Antwerp. There is also to be an inventions exhibition in London this year, opening in May, and there have been other invitations extended. The committee thought that a general bill giving the President of the United States the authority to accept these invitations and have this Government properly represented would be the best course to pursue. The Senator from New Jersey and some other Senators think that such a bill as that goes a little too far, and he has offered a substitute, which relates solely to the exhibition at Antwerp.

I am not tenacious about the bill. Of course the Government ought to be represented at Antwerp. We have been invited by Belgium and urged to participate in that exhibition. A place has been kept open for the United States. The Belgian Government is very anxious that this nation shall be represented there; so there is a reason for the substitute; and there are reasons for passing such a measure even if the general bill should not be passed, but if the general bill should be passed it would provide for all cases, the London exhibition of inventions and all other international exhibitions. However, it would apply to none but those held under the auspices of some government. There is to be an exhibition in London next year which seems to be a private one. The general bill which I ask to have considered this morning would not include that exhibition. It is for the Senate to decide which of these courses it will pursue; but something ought to be done in reference to the subject immediately.

Mr. SEWELL. The only great international exhibition undisposed of at present, so far as we are concerned, I believe is the one at Antwerp, under the auspices of the Belgian Government. That exposition opens in May. It is extremely desirable that we should be represented there. Our merchants and manufacturers can there find one of the best and most central outlets in Europe for our products. Antwerp is the best located outlet with a view to railroad and water transportation that there is in Europe. The Belgian Government is very anxious that we should be represented there.

King Leopold of Belgium takes a great interest in the manufacturing interests of his own country. There is no other such level-headed, industrious business man in Europe as he is, occupying a similar position. He has even gone so far as to suggest to gentlemen interested that he would keep the American allotment boarded up until July, until the exhibits could be removed from New Orleans, and also that we could ship them from there direct to Antwerp. Belgium was represented at our great Centennial Exhibition, and is now represented by quite an exhibit at New Orleans.

I should not have any objection to the general bill if I thought it would not give rise to a discussion not alone here but at the other end of the Capitol, which would endanger the passage of any bill on the subject during this session. I trust that the substitute will be adopted.

Mr. PLATT. I wish that the Senator from New Jersey as well as the chairman of the Committee on Foreign Relations would consent that this matter may go over until to-morrow without prejudice, with a tacit understanding that it shall be taken up then, and for these reasons: There is to be held in London next May an international inventions exhibition, to which attention was specially called in the message of the President of the United States communicated to Congress at this session. I will read from the President's message what he says:

An international inventions exhibition is to be held in London next May. This will cover a field of special importance, in which our country holds a foremost rank; but the Executive is at present powerless to organize a proper representation of our vast national interests in this direction.

The inventors of this country have been very anxious that some bill should be passed by Congress which should enable the inventive progress of this country to be displayed at that exhibition, and I had supposed that under the general bill which it was proposed to pass something might be done.

It will be remembered that the Patent Office is the only branch of this Government which yields a revenue to the Government over and above the expenditures necessary to carry it on. There is in the Treasury of the United States to-day a fund amounting to something like $3,000,000 which has been derived from the Patent Office. It has been paid to this Government by inventors who have made applications for patents and to whom patents have been granted or whose applications have been rejected.

Certainly it is a matter of as much importance for this country to show what progress has been made in the art of invention as to show what progress has been made in any other direction by our people. The inventors feel that there can be no exhibition which can be more properly patronized by this Government than the exhibition which is to take place in London next May.

I am not prepared to submit any amendment and am not prepared to say exactly what I desire to do with reference to the matter before the Senate. Therefore I suggest that the bill may lie on the table until to-morrow morning, when it may be taken up and pressed to a conclusion. I hope the suggestion will be satisfactory to the Senators who are promoting and in charge of the bill.

Mr. SEWELL. If the chairman of the Committee on Foreign Relations will consent I have no objection to the bill lying over until to-morrow morning so that it may be amended to cover the views of the Senator from Connecticut, provided we have general consent to take it up to-morrow morning. It is very important that we should have early action upon it.

Mr. PLATT. We can take it up to-morrow.

Mr. COCKRELL. Mr. President, I simply rise to correct what I believe to be a very grave mistake of my distinguished friend from Connecticut; and he is not in the habit of making mistakes. I understood him to say that there was a surplus now in the United States Treasury of some $3,000,000 arising from the Patent Office fees paid into the Government over and above all the expenditures of that office. That statement has often been made, and it has long been claimed that the Patent Office was yielding a clear net surplus to the Government over and above all its expenses. I took some occasion last winter to have the matter thoroughly investigated and to have the figures revised, and when they were revised by the present Commissioner, General Butterworth, they showed a different state of facts from what had been represented. There is no $3,000,000 in the Treasury arising from that source, and it has only been within the last year or two that the office has been self-sustaining.

Mr. PLATT. Will the Senator from Missouri refer me to the document in which this revision of the figures has been made?

Mr. COCKRELL. I will refer the Senator to the distinguished chairman of the Committee on Appropriations, at whose instance the Commissioner was requested last session to revise and examine the report which he had already made and which had been printed, showing the immense surplus. The Senator from Kansas who is not now in his seat [Mr. PLUMB] (the Senator from Massachusetts [Mr. DAWES] was also present) and a number of us had doubted the correctness of these figures. We told the Commissioner we doubted them and asked him to go back to his office and revise and correct them and report to us the exact status, which he did, confessing that his printed report was incorrect, and he gave us the real figures.

Mr. PLATT. What is the amount which had been derived from the Patent Office over and above its expenditures?

Mr. COCKRELL. I do not remember exactly now. He gave it to us, however; but I do not know whether it has ever been printed in a document or not.

Mr. ALLISON. I will say to the Senator that the statement of the Commissioner of Patents to our committee only covered a single year

or two years. We did not ask him to go back, as my recollection is now.

Mr. COCKRELL. But the Senator will remember that the Commissioner told us he made his estimates on the estimates of his predecessors, and when he examined he found that his predecessors had left off a very large item of expense.

Mr. ALLISON. So I remember; but I think the Commissioner of Patents for the year 1883 stated to us that the excess of fees over expenditures, including all expenses for printing and everything connected with the expenditures of the office, amounted to $175,000 in round numbers.

Mr. COCKRELL. Last year?

Mr. ALLISON. That is my recollection.

Mr. PLATT. Of course, Mr. President, I have had no means of determining this question from conferences which have been had between the Commissioner and the Committee on Appropriations. The published documents of the Commissioner and all the official documents set forth that the fund amounts to about $3,000,000. I gave the figures in a speech which I had the honor to deliver here during the last session. I never heard any question made until to-day. Of course I have had no opportunity to investigate this new claim, but I venture to say that whatever revision the Commissioner may have put upon his former figures and estimates, there is still a very large surplus in the Treasury derived from the operations of the Patent Office.

Mr. ALLISON. There is no doubt of that, but what the amount is I would not like to state from the information given us by the Commissioner.

Mr. DAWES. Has this matter gone over?

The PRESIDING OFFICER (Mr. HARRIS in the chair). It has not. The Senator from Connecticut ask unanimous consent that the further consideration of the bill be postponed until to-morrow. Is there objection?

Mr. COCKRELL. Has the amendment of the Senator from New Jersey been printed?

The PRESIDING OFFICER. It has been.

Mr. MILLER, of California. There is no objection to the bill going over, retaining its place.

The PRESIDING OFFICER. The Chair hears no objection, and the further consideration of the bill is postponed until to-morrow.

FIRST NATIONAL BANK OF NEWTON, MASS.

Mr. DAWES. What is the pending business now, Mr. President?

The PRESIDING OFFICER. The Calendar under the eighth rule.

Mr. DAWES. I call for the unfinished business under that rule.

The PRESIDING OFFICER. There is no unfinished business during the morning hour.

Mr. DAWES. There was a bill before the Senate when the Calendar was last considered.

The PRESIDING OFFICER. The Secretary will report the bill referred to by the Senator from Massachusetts by title.

The CHIEF CLERK. Order of Business 378, being the bill (S. 1331) making appropriation for the relief of the First National Bank of Newton, Mass.

The Senate, as in Committee of the Whole, resumed the consideration of the bill.

Mr. DAWES. The Senator from Indiana [Mr. HARRISON] had the floor when 2 o'clock arrived the last time the bill was under consideration.

Mr. HARRISON. Perhaps it is due to the Senate that I should complete the remarks which were interrupted by the arrival of 2 o'clock, when this bill was previously under discussion.

I had stated then as to $43,000 of this claim which was represented by Government interest-bearing bonds belonging to the Newton bank which were transferred by the fraudulent combination between the officers of that bank and the officer of the United States at Boston. I thought it was clear that the bank was entitled to interest; to pay interest to that extent would be simply returning what the Government received; but I think it is quite a different question whether the Government should pay interest on money that has come into its Treasury, and whether it is to return all the money that did come into its Treasury. As to the interest-bearing bonds, the principal as well as the interest did come into the Treasury of the United States, and in making restitution the interest as well as the principal should be repaid. I stated before that I thought it was quite a different question as to the money, the currency that came into the Treasury in the method which has been several times described.

It can not be said that the bank was without fault. Its managing officers, those who were held out to the world as authorized to deal with the public in its transactions were *participes criminis* in this fraud; they combined with the officer of the United States to enable him to practice a fraud upon the Government of the United States upon its Treasury.

Now it may be that the bank under the circumstances is not to be held bound by their act; that is, the United States having parted with no valuable thing on the faith of their act, as matter of law the bank is now entitled to say, "You pay us back that money." The courts of the United States have so held, and the doctrine of course is not to be impeached here by us, for I take it, as it was held in this case, that it is strictly *res adjudicata*. But what was the duty of the officer at Boston who attempted this fraud? What was the duty of the Secretary of the Treasury? Here is a claim made by this bank to have the currency put in the subtreasury returned. I take it that it must be admitted even by all who support this claim that the case was one where the officers in charge of the public funds of the United States might well challenge proof; that it was not a case where the United States Treasury at Boston, or the Secretary of the Treasury, the honorable Senator from Ohio [Mr. SHERMAN], I believe, at that time, upon this claim being made, could say "The money must be returned." It was plainly the duty of those officers to have that matter judicially investigated, to require proof to be made of the circumstances under which the money came into the Treasury. That proof, when it was made, disclosed fraudulent participation on the part of the officers of this bank, but not to a degree to hold the bank answerable for their act. Now it seems to me that when the principal is returned as to that sum, it is making an exception in a weak case rather than a strong one for the Government to pay interest upon that money.

I have not felt interest enough in this case to attempt to search out all the precedents that have relation to it or that might be thought to be in line with it or to throw light upon it; but, so far as I recollect, whenever the question of paying interest upon money refunded by the Government has arisen in any committee of this body of which I have been a member, and so far as I know has arisen on the floor of the Senate, in every case since I have been here interest has been refused. We are frequently having cases here where money has been taken illegally by a tax officer of the United States in good faith but upon erroneous construction of the customs or internal-revenue laws of the country. The money is levied under duress, under stress of law; it is paid under protest; the party paying it is in no manner in fault; he is asserting his rights, but he yields to the power of the Government and pays the money in. I do not believe that in any case where the judgment of the collector has been reversed by the courts, and Congress has been appealed to to repay that money, we have paid interest. Perhaps we ought to pay it; perhaps in all such cases we ought to adopt on the part of the Government precisely the rule that would prevail between individuals. The Senator from Massachusetts [Mr. HOAR] may be right when he insists upon such a rule; but as to that I make this point, that if such a rule is to be established, it ought to be established by a general law, which would authorize the Court of Claims or any other tribunal having jurisdiction of a claim against the Government that appoints it to award it, and it ought to be made applicable to all cases of persons whose property is wrongfully taken or withheld by the Government, of all persons to whom the United States is indebted.

I object that in a particular case, contrary to the practice of the Senate, at least so far as my observation goes, interest should be allowed without any attempt to make general the rule which is applied here in the case of a bank that was not without fault, that had commissioned and introduced to the public officers who were corrupt men and whose participation brought about this very trouble—I object that in a case like that the rule should be applied when it is not applied in cases where there is absolutely no fault on the part of the claimant, but the money is exacted from him by the Government. I think in this case if this is to be the rule—and it may be the just rule—it should be made the rule by general provision of law, and not adopted in exceptional cases. So far as I recollect there never has been a claim passed in the Senate since I have been here upon which interest has been allowed.

Mr. DAWES. Mr. President, this bill has consumed so much of the time of the Senate that I should not feel justified in asking their attention to anything I might add to what has already been said upon the subject, did I not feel that the Senators who have opposed the passage of the bill have failed to understand the legal condition of this question, arising from their want of opportunity to understand all the facts of the case. I am quite sure the Senator from Michigan and the Senator from Missouri who have opposed this bill, just men as they are, although disposed as they are to guard the Treasury of the United States, if they really understood the facts as they exist and their legal bearing on this case, would be the last men in the Senate to oppose the passage of the bill.

The character of the transaction out of which this bill has arisen has been before the Supreme Court of the United States, and they have declared what is the legal condition of this case, and have declared that the funds of the Newton bank were stolen from that bank, that the United States was the receiver of the stolen goods with the guilty knowledge of its agent, who deposited them in its Treasury; I do not mean to say the guilty knowledge of anybody who has had the management of this affair except that agent. I agree with the Senator from Indiana, that the circumstances presented a case which called for investigation; but if the Senate desire to know what the Supreme Court of the United States say in reference to the facts in this case it is easily accessible. There were two banks robbed, both at the same time, and by the same men, and by the same process. One case had gone through

all the courts to the Supreme Court, and in the ninety-sixth United States Reports, The United States *vs.* The State Bank, the facts came before the court, and they declared that by a fraudulent conspiracy between two officers of the bank and an officer of the Government the bank was robbed of its securities and they were deposited in the United States Treasury by one of the guilty parties; and having been so robbed, the property, the title to the securities, still remained in the Newton bank, the securities and moneys were its property when they were deposited in the subtreasury by the guilty officer of the United States. The transaction itself is defined in the Massachusetts statutes as larceny. It could not be otherwise than larceny. A secret conspiracy to obtain clandestinely the funds of the bank and convert them fraudulently to the use of a third person is defined by the Supreme Court of the United States as larceny. The United States, then, without the moral guilt of anybody but the first party participating in it, received these bonds as receivers of stolen goods. With full knowledge of the facts communicated to them they prosecuted the offender and sent him to the penitentiary, and after that full knowledge the Newton bank demanded the return of its securities.

Mr. HARRISON. Will the Senator allow me to ask him, simply by way of information, what became of the officers of the bank?

Mr. DAWES. I shall not omit to discuss the fact that one of them was equally in the fraud and wrong, just as much a party to this larceny as the officer of the Government.

The Newton bank demanded its securities. The United States officers declined to give them up. The State Bank, which was robbed at the same time, commenced a suit against the United States to recover its securities. The Newton bank waited until within three days of six years for that suit to be decided, and it not being decided, and it not being able to wait any longer without losing its opportunity, commenced its suit. That suit was, by order of court, continued until the decision of the first case. In the decision of the first case by the Supreme Court it was held that the property in these securities continued in the bank, and that the United States in receiving them, stolen as they were, was holding them against right, and they must be delivered up.

The United States continued to resist the case of the Newton bank, and it was compelled to carry its case to judgment. In 1882, fifteen years after the transaction, which happened on the 28th day of February, 1867, after fifteen years of struggle to get the United States to deliver up what the law said were stolen goods in its hands, the bank got a judgment for the goods, and the United States then appealed that case to the Supreme Court as it had the other. Six months afterward the Attorney-General, upon examining the case, finding it to be precisely the case that had already been decided in the Supreme Court, withdrew his appeal, and then the Newton bank obtained its securities after the lapse of a little over fifteen years. It is now seventeen years since the transaction. What were the securities? Forty-seven thousand dollars of them were interest-bearing bonds of the United States, and the United States cut the coupons from those bonds that it knew—for the facts were all before it—were stolen from our bank, and the Supreme Court had declared that the property in those bonds was in the Newton bank. For fifteen years the United States cut the coupons from those bonds and put their proceeds into the Treasury; it took the other securities and sold them for cash, and the cash was either used to buy in its own interest-bearing bonds or was put in the place of money in the Treasury that was used for that purpose. The United States used the funds. The United States used our property fifteen long years before it delivered it up to us, and having had that use fifteen years—having put into its own Treasury our coupons and had the use of our money—at last under a judgment of court it says: "We will deliver you back your securities, but we will keep in our Treasury all they have earned." If these securities were at 6 per cent., they have more than earned in that time the full amount of the securities themselves. So the United States was able, if the position taken by my friend is correct, to hold property which the United States had declared it had no right to use until it had earned from it enough to pay for it. That is the legal position of this thing.

Of course I am charging no moral guilt upon any official of the United States except the one who stole the goods and deposited them in the United States Treasury. It was right and proper that the United States should, before it delivered them up, take the opinion of the highest tribunal, and it was right and proper and fair when it did obtain that opinion to make restitution not only of the principal which it had held all that time, but of all it had earned. It is precisely the same as if the United States during the war, or under any other circumstances, had taken possession of some building in this city for its uses, and held it against the owner and compelled the owner to resort to the courts to recover possession and at the end of fifteen years and under a judgment of the courts had come and said: "We will deliver up to you possession of this building of yours, but we will not pay you anything for the use of it." It is precisely the same thing as if A had stolen B's horse, and put it into C's hands with the guilty knowledge on the part of C that this was a stolen horse, and C resists the return of that horse for fifteen long years, and when the court compels him to return the horse he is to pay nothing for the use of it! That is the legal aspect of this case.

My friend from Missouri says it is a stale claim. It is, I am sorry to say, seventeen years old. But why is it seventeen years old? Is it from any omission on the part of the Newton bank to press its claim? The Newton bank made demand for the return of its securities immediately upon the disclosure of the facts and after the United States had indicted and sent to the penitentiary the guilty agent, and it waited six years within three days, and my friend from Missouri thought that was against it. I take it that instead of that being against the bank, it showed a disposition on its part to meet the United States fairly in an investigation. There was a suit pending all this time involving precisely the same facts, and when the bank's representatives commenced their suit at the end of the six years it was by the court continued until the other case could be decided; and when the other case was decided the United States instead of taking that decision to govern itself in this case continued its resistance in the Court of Claims, and it was several years then before judgment was obtained in the Court of Claims, and when it was had in the Court of Claims the United States appealed it to the Supreme Court, and it was six months after the appeal before the Attorney-General here on examination of the case found that it was precisely the same case decided already by the Supreme Court and withdrew his appeal.

Mr. SAULSBURY. The Senator will allow me to ask him whether any of the proceedings taken on the part of the United States in regard to this bank were intended for delay, or whether it was not action absolutely necessary to protect the Government from a claim that was made upon it? Was not the action of the officers of the Government perfectly legitimate?

Mr. DAWES. The Senator from Delaware is aware that, as I have already stated, I lay no charge of complaint against these officers. It was proper for them to make a fair, thorough investigation. If there is any ground of complaint against them on account of the delay, it is that after having had the decision in the first case they did not consider themselves as governed in this case by it. That they caused it to be delayed in the courts for the sake of delay I do not charge; and I do not charge that it was on the whole, according to the sense of duty of the officers, an unreasonable delay on their part; but it put us in such a position that the Senator from Missouri ought not to have charged upon us that this is a stale case. That was what I was meeting.

Then the Senator from Michigan said he could not understand how it was possible that the Supreme Court could have decided that the restitution should be made when the bank's officers were just as much in the fraud as the officer of the United States. Now, Mr. President, I think I can make that perfectly plain. It is under a principle of law that the Senator from Michigan will as quickly recognize as anybody else. The officers of the bank and the United States officer conspired and were equally guilty in the robbery and the reception of the stolen goods. The United States wants to hold on to the goods obtained by means of the fraud; it wants to ratify and adopt the fraud in order to hold on to the goods. The Newton bank repudiates the fraud. The United States can not claim any title or right whatever except through the fraud. The Newton bank, however, repudiates the fraud, goes into court and says: "You have through fraud our funds;" and the United States answers thus: "We have your funds through fraud, a fraud in which your officer participated as well as ours; now we will ratify and adopt the fraud and hold on to the funds." The Newton bank says: "No; you hold them by and through a fraud which can not give you any title;" and the United States Supreme Court discuss and decide that very point, and it seems to me to be as sound law as could possibly be enunciated. That is my answer to my friend from Indiana a moment ago. He says the bank was not without fault. The bank was without fault. It was an officer of the bank, like the officer of the United States Treasury, that was in fault. The bank was not responsible because one of its officers turned thief, and the bank is not to lose its title to its property because two thieves got together and put it somewhere else; and it can not be held by the person having it unless he ratifies and adopts the fraud itself.

One other objection on the part of the Senator from Michigan was that this was in the hands of speculators; that the claim to these securities had been sold by the receiver of the bank and sold for a farthing, and that speculators were prosecuting this claim in their interest. When asked for his proof, for the evidence, the Senator said that that must be so, although there was no evidence of it, and he finally in the argument put it "in the hands of speculators, perhaps," and thereupon argued "shall we pay interest to those who held it as speculators?" In the absence of all proof that this was in the hands of anybody except the real owners, my friend from Michigan ought to have abstained from that remark. My colleague is upon the committee which reported this bill, and he knows more thoroughly than I do all the facts in the case. But I happen to know of it, for it is a case which attracted so much attention in Massachusetts that every one had some knowledge of it. This statement was news to me, as it was to my colleague on that day, and we searched in vain in the record for anything to justify my friend in that remark, and my colleague has since put in my hands a letter written to him by the counsel in this case before the discussion came up, a gentleman of as high character as lives in Massachusetts, who, writing to him about the points in this case, without any disposition to cover any point in it, uses this language, which I desire to read as a statement of

a responsible member of the bar of Massachusetts, above possibility of reproach:

This case is most meritorious in this, that the original sufferers will receive the money. The beneficial interest in not a single share of the stock has been transferred, I believe, from the beginning; and the stockholders and creditors at the time will receive the amount granted.

So that I think unless my friend can produce some evidence that this statement is not correct, he ought to give up that point. Now, sir, why should the United States——

Mr. CONGER. Will the Senator allow me a word about that?

Mr. DAWES. Certainly.

Mr. CONGER. The report shows that there was a receiver appointed for the bank who received the assets of the bank. There is nothing to show whether they were sold and whether this claim goes to one class or another. It is the duty of a party presenting his claim here to make a clean case, not for me or for any other Senator to make it for him.

One other thing I call the attention of the Senator to. There is nothing in this bill that tells to whom this money shall be paid. It does not say to the Newton bank. There is no such clause in the bill. I will not detain the Senate now, but I call the Senator's attention to that.

Mr. DAWES. Is it not a sufficient answer to the Senator from Michigan, as my colleague and the chairman of the Committee on Claims have suggested to me, in the absence of all evidence that this has been sold, that the statute prohibits the sale? In point of fact the receiver held these assets for the benefit of the bank. They have not been sold. From my personal knowledge I am justified in saying they have not been sold. If the Senator has any evidence that they have, let him present it and I will take back the statement. I put upon the record the statement of a member of the Massachusetts bar, than whose no name would go further in the assertion of a fact.

I was about to inquire why the United States should pay interest. It is true that when men deal with the United States they do not expect interest as between them and the United States unless there is an agreement to pay interest, because they deal with the United States on the cash principle. When they have contracts with the United States they expect cash down and get no interest, unless they stipulate for interest, and the United States does not in those cases pay interest. But this bank did not deal with the United States. The United States has held for fifteen years the securities of this bank, not with the consent of the bank but against its will. They were taken without right from us and were held by the United States for these fifteen years without right. They earned in that time more than the principal, and the United States has it in its Treasury at this moment. In all such cases interest should be paid. The Senator from Tennessee [Mr. JACKSON] has recited fifty cases, my colleague says. Look in the report and see the list of acts of the United States where the United States have given interest in cases where they had the property of a citizen without the citizen's consent; and look at the right of it. Is the United States to say to one of its citizens, "We have got into our Treasury, against your consent, your funds; we will keep them in our Treasury until their earnings will more than amount to the principal, and then we will turn them over to you and keep the benefit of their earnings." Nobody would put the United States in that position, but that is the position in this case.

Here was a small bank of $150,000 capital robbed of more than twice its capital in securities, and those securities came into the possession of the United States under circumstances that the Supreme Court say, at the end of fifteen years, "You should have returned them in the beginning." Without moral fault, in keeping them so long the United States has nevertheless kept them out of the possession of their rightful owner so long and they have earned to the United States more than the principal itself; and does the United States seek to put that in its pocket and deliver over the securities? That is why this bill should pass. It secures that end; and I do not think that the sense of justice of my friend from Michigan, as high and as keen as that of any other Senator, notwithstanding his proper and just zeal in defending the United States against unjust claims, can prompt him to put the United States in such a position as with one hand gathering without right property of the citizen and with the other reaping the profits of it until they amount to more than the principal, and then quieting itself and contenting itself with delivering up the principal.

Mr. CONGER. Mr. President, I should be very glad if any of the arguments which have been made by the two Senators from Massachusetts upon this bill relating to a claim of their constituents could satisfy me of the propriety of paying this $300,000 and over of interest on a claim where, it seems to me, the moral wrong of the initiation of the whole transaction was with the officers of this bank.

It is well enough for a Senator here to arraign the United States as a robber and its officers as thieves and villains, and quote the opinion of the Supreme Court in another case that in the case they were speaking of there was villainy and robbery on the part of the United States through its officers. But the Senator forgets that there was drawn out of the Treasury of the United States the very money in dispute by the officers of this bank. One of the officers of the bank, who procured this money to be taken from the bank and placed in the subtreasury to make the accounts balance when the examiner came along, was the man who drew out of the subtreasury by connivance with the subtreasurer this whole amount of money. A member of the firm of Mellon, Ward & Co., this report says, got the money out of the Treasury by collusion with the subtreasurer, and when his accounts were to be investigated by the examiner sent to see how the money in that subtreasury stood and to examine the accounts of the subtreasurer, the subtreasurer very naturally said to this officer of the bank, "Bring back that money that contrary to law I have taken out of my deposit of United States moneys and given to you for your use; put it back so that I can be saved." The obligation to return the money to the United States was above all this villainous transaction which, with that peculiar choice of language, the Senator from Massachusetts sees fit to charge against the United States as a whole and its officers as a part.

Mr. DAWES. Why, Mr. President, I did not make that statement. The opinion of the court says that it was "a villainous scheme;" I used the words of the Supreme Court.

Mr. CONGER. I said so; I said that in another case——

Mr. DAWES. No; in this case.

Mr. CONGER. In another case the Senator read a decision of the Supreme Court. Does he contend that this case ever went to the Supreme Court? The Senator says it was an analogous case; and because in that particular case on its own facts the court said a transaction was villainous——

Mr. DAWES. The chief-justice of the Court of Claims, in delivering the opinion of the court in this case, uses the words, "It was a villainous scheme."

Mr. CONGER. Yes.

Mr. DAWES. I did not use it quite as strong as that. I said that I acquitted every officer of the Government, except the original thief, of any moral guilt in this matter. The Senator knows that I did not lay to the charge of the Government any unreasonable delay. In answer to the Senator from Delaware I said that I could not say that there was unreasonable delay, but it nevertheless was a delay.

Mr. CONGER. Yes, the Senator said that. I am not speaking of that part of it.

Mr. DAWES. The Senator must not accuse me of calling the United States a robber. I did not do that.

Mr. CONGER. I did not talk about that part of the case at all. As usual the Senator has shielded himself behind the decision of the Supreme Court quoted here. He did not read from it but quoted it from memory with that remarkable tenacity of memory which can hit upon the very thing desired for his remarks.

Mr. DAWES. Here is the report made by the Senator from Tennessee in this case which shows the language of the court.

Mr. CONGER. I have the report before me. The Supreme Court never passed an opinion in this case, and never characterized it as I understood the Senator to say they had; but he says that in an analogous case they said that the other fellow was a scoundrel and a thief who dealt with the bank and that the Government justified the fraud by resisting it. Well, sir, I will not engage in a discussion with the Senator as to whether that be a proper observation to make against the Government of the United States, a great part of which the Senator is.

I was saying, and I ask attention to it because it has a bearing on this case, that the report showed on its very first page that a person by the name of Hartwell was cashier of the United States subtreasury in Boston, and that—

While acting as such cashier he embezzled a large amount of the Government's money by lending the same to the firm of Mellon, Ward & Co., who were extensively engaged in stock speculations.

That is the first history, I think, of this transaction. The money in the subtreasury was loaned by Hartwell, the subtreasurer, to Mellon, Ward & Co. for stock purposes. As I said, when the examiner of the Treasury was coming around for his examination Hartwell very naturally went to the managing director of the bank, who was the managing man of Mellon, Ward & Co., and said: "Restore here, that I may be saved, the money I loaned you." He brought back these securities. Whether they were the exact securities and moneys which Hartwell, the subtreasurer, had loaned to the director of the bank, I do not know The probability is that they were. First they had been stolen from the Government and delivered over to Mellon, Ward & Co.; second, when the subtreasurer was in danger of an examination and of being found in the wrong, he asked Mellon, Ward & Co., or the manager of the bank who was manager of that firm, to place back in the subtreasury the securities he had let them have, and they did it. Up to that time then in justice and in equity, in law and in right, the manager of the bank and its cashier merely took out of the bank securities and moneys which came from the subtreasury and put them back into the subtreasury.

That is the history of this case undisputed on the record and on the first page of the report. The officer of the bank committed the first wrong and got the Government money into the bank's possession, and, as it was bound to do with its accomplice in iniquity, it restored it or its equivalent to the subtreasury, and there it was at the time of the examination, and thus the accounts were made good. When it had served the purpose of making the subtreasurer's accounts good the bank

wanted the securities shifted back again to the manager and cashier of this bank. From the beginning until the end, from the best reading that I can find and from all the testimony, this money or its equivalent was first loaned from the United States by the partner of Mellon, Ward & Co., or borrowed, and it was put back to cover up the fraud and to save Hartwell, the subtreasurer; and then it was to go back again. Here was this money floating back and forth between the Treasury of the United States and this bank with the connivance and consent of its manager, for the purposes of fraud all the way through. That is what makes me wonder how any court, when the case was properly presented as it is in the report, could have decided, the first wrong being the possession of the Government property to this amount by a fraudulent connivance of its officer, that when it was restored, although it may have been in fraud of some right, it could be claimed that it belonged to the bank or anybody else but the Government.

But I will not dwell upon that. I think this case lacks so much evidence and the bill is drawn in such a way that the report throws no light upon it. This property and all the property of the bank, with all its rights, went into the hands of a receiver, as the report shows. I have a right to conclude that all that did belong to the bank then belonged to the receiver and went to pay the debts of the bank, for it is said it was robbed, and in order to keep the bank going the old stockholders had to renew their subscriptions and make a new deposit.

I say there is nothing before the Senate to show that the deficit of the subtreasurer was not caused by the loans of the subtreasurer to the officers of the bank. There is nothing in the report or in the bill to show who will receive this interest; what estate. The bill says that interest shall be paid upon a judgment rendered. Rendered to whom? Who received the proceeds of the former judgment? The bill is worded so carefully that it does not even tell to whom the money shall go, either by implication or directly, and there is nothing to show who will receive this interest. It is the duty of those coming here to demand this three hundred or more thousand dollars of interest on money that the bank officers have stolen from the Government, and which these same iniquitous bank officers for an iniquitous purpose restored to the subtreasury, to show to whom the money is to go. There is nothing in the bill or in any of the proceedings here to show that any one of the innocent sufferers of the bank will receive one cent of this amount if it is returned.

I think this report lacks having given attention to the *prima facie* considerations which the report itself sets up. Commence with the fraud of the officers of this bank in robbing the subtreasury, and then follow it with the connivance of the subtreasurer and of Mellon, Ward & Co., and the general manager of the bank and the cashier of it, these securities finally got back into the subtreasury where they belonged, where they should have been. It was the money of the Government that was stolen; it was the money of the United States that was returned. But for the managing director, both of the bank and of the firm of Mellon, Ward & Co., with the connivance of the cashier, who, the report says, was under his influence and direction, the Government never would have been robbed in the first instance; there never would have been any occasion for carrying on this drama of iniquity between the officers of this bank and an unfaithful officer of the Government. If Senators can see how the Treasury of the United States can be protected against ten thousand times ten thousand claims that can be brought up in Congress on all the innumerable matters which have been settled and the judgments paid and the cases disposed of years after the occurrences took place—if Senators can see how they can protect the money of the people of the United States by the passage of such a bill as this, be it so; but I can not. Here the officers of this bank engaged in the first iniquity, and took the money in the first instance from the United States; and afterward, for a temporary purpose, for the sake of their colleague in complicity, they tried to make good the United States, temporarily, and the United States got possession of its own money. I do not see how a court would ever return it to the bank, and, least of all can I see with what kind of propriety any man who has examined even this report can come here and accuse the United States and its honorable officers, who have kept the money in the Treasury, of villainy and robbery up to this time, and defend a bank whose principal officers first stole from the United States, and then placed the money they had stolen back, temporarily, to conceal their fraud, and then came and got a judgment against the United States and received back the whole of what they had first stolen from the United States, and now, years afterward, come in here and demand more than the principal to be paid in interest.

Sir, I have done what I conceive to be my duty in thus calling the attention of Senators to a case which has not been investigated enough; and if the Senate shall pass this bill it will open the way for a long army, a long line of claims, innumerable in number and overshadowing in importance, which will gather around the Treasury of the United States and demand compensation. So far as I remember the cases and have had an opportunity to know them, I venture to say that there is not one single case of the great array which have been submitted here in the course of the administration of this Government, which is on all fours with this, where interest has been paid. Questions of public policy in our treaty stipulations, questions of public right and of public demand enter into many of the cases cited in the report, like the Alabama claims treaty questions, which do not affect the general course of the United States. In regard to many of those cited interest has been paid, not to those who first stole the money from the United States and then got it again, not to the original trespassers, but where there was in equity and right a reason why the Government should not only restore the value of the property taken, but also should make remuneration for its use

Mr. HARRISON. Will the Senator from Michigan allow me to ask him a question?

Mr. CONGER. Yes, sir.

Mr. HARRISON. I understand from his statement that the managing director of the bank was concerned in the original fraud.

Mr. CONGER. Yes, sir; and the managing director of the firm which took the original money out of the Treasury.

Mr. HARRISON. I wish to follow that with a suggestion. If that be true, that director was undoubtedly a stockholder in the bank, and the bill would then return to him his share as a stockholder in the bank of this very money, notwithstanding that he was the party who originally got the money which was extracted from the United States Treasury. Unless he is excepted from the benefits of this proposed act he as a stockholder of the bank would be getting a share of this very money.

Mr. CONGER. I should like to read from the report, so that it shall not be, as the Senator from Massachusetts says, with some little undercurrent of malignity, that——

Mr. HOAR. Will my friend allow me to interrupt him?

The PRESIDENT *pro tempore*. Does the Senator from Michigan yield to the Senator from Massachusetts?

Mr. CONGER. For what purpose?

Mr. HOAR. The Senator will permit me to say in reference to what——

The PRESIDENT *pro tempore*. The Senator from Massachusetts will please address the Chair. Does the Senator from Michigan yield to the Senator from Massachusetts?

Mr. CONGER. I will yield as soon as I read from the report.

The PRESIDENT *pro tempore*. The Senator from Michigan declines to yield.

Mr. CONGER. I call the attention of Senators to the beginning of the report. It begins in this way:

That on and prior to February 28, 1867, Julius F. Hartwell was cashier of the United States subtreasury in Boston, Mass. While acting as such cashier he embezzled a large amount of the Government's money by lending the same to the firm of Mellon, Ward & Co., who were extensively engaged in stock speculations. As the time for the examination of the funds in the subtreasury approached, March 1, 1867, when Hartwell's accounts would have to be passed, some plan had to be devised by the guilty parties to prevent or delay exposure. The device resorted to and put in operation was to procure funds and assets of innocent third parties to be placed temporarily on deposit in the subtreasury till the examination was had, and then to be immediately withdrawn again, and thus tide Hartwell and his associates in the embezzlement over the crisis. Edward Carter, the active financial member of said firm of Mellon, Ward & Co., who concocted this scheme with Hartwell, was a director in the First National Bank of Newton, and seems to have possessed not only the confidence of, but unlimited influence over, E. Porter Dyer, the cashier of said bank. By means of this confidence and influence, and in execution of his and Hartwell's fraudulent conspiracy, Carter procured from Dyer the money, bonds, securities, and checks of the First National Bank of Newton, to the amount of $371,025, which were deposited in the subtreasury on February 28, 1867, Hartwell giving a receipt therefor, as cashier, that the deposit was "to be returned on demand in Governments, or bills, or its equivalent"—

Not this money—

This receipt, being in the name of Mellon, Ward & Co., was immediately indorsed by Carter, as follows: "Pay only to the order of E. Porter Dyer, jr., cashier"—

The cashier of the Newton bank—

and signed, Mellon, Ward & Co.

That is the condition of the case, and I have expressed it as plainly as language can, that the paying of this money back into the bank by Dyer, the cashier, by Carter, the director, and by Mellon, Ward & Co., who had received this money, or Carter had received it from Mellon, Ward, & Co., of which firm he was the manager, shows that it was the second transfer. When this got back into the Treasury of the United States it was the third transfer of money: first, from Hartwell to Carter, the managing director of the bank; second, the return by Carter of this or other proceeds in equivalent amount to make Hartwell good; and third, the decree of the court, which found that this money belonged to the officers and stockholders of the bank on account of the fraud of Hartwell and of Dyer. There can not be a plainer case.

If it had been a clear case on the other side it did not need fifteen or twenty pages of report to show it. There were many other things which ought to have come in, to which I have alluded. There is no notice taken of the obligation of the bank to make good the fraud or the borrowing of these officers, of Carter, the director, from the subtreasury in violation of all law. There is no attempt to make the United States good, but the company come and get back the money which belongs in right and in law and in equity to the United States, and when they got money enough to pay back this which I say they never had the right to, they have the effrontery to come into this Congress and ask to be paid over $300,000 of interest on these securities while they were in litigation.

Now, sir, I think the precedent to be established for such a payment of interest on such a claim as this, crimsoned all over with iniquity and fraud and wrong and treachery against the Government of the United States, will be very unfortunate on future claims that may come before Congress; and that is why I oppose the bill more than that I know or care anything about the persons in this case. I know and care nothing in regard to who this money goes to as a matter of fact. It seems as if a large part of it would go to the principal actor in these frauds.

INTERSTATE COMMERCE.

The PRESIDENT *pro tempore*. The Senator from Michigan will suspend. The hour of 2 o'clock having arrived, it becomes the duty of the Chair to lay before the Senate the unfinished business of yesterday, being the bill (S. 2112) to establish a commission to regulate interstate commerce, and for other purposes. The bill is before the Senate as in Committee of the Whole, and the question is on agreeing to the amendment proposed by the Senator from Oregon [Mr. SLATER] to the text of the bill.

Mr. MILLER, of California. I move that the Senate proceed to the consideration of executive business.

Mr. CULLOM. I should like to make a remark before that motion is put.

The PRESIDENT *pro tempore*. Does the Senator from California withdraw the motion?

Mr. MILLER, of California. I do, to enable the Senator from Illinois to make a remark.

Mr. CULLOM. I do not feel disposed to resist the motion of the Senator from California to go into executive session, for the reason that, as I am informed, there are some important considerations why there should be an executive session to-day; but I desire to say that when the interstate-commerce bill, which now goes upon the Calendar as unfinished business, is again taken up, I hope that the Senate will allow the consideration of it to go forward until it is concluded.

HOUSE BILL REFERRED.

The bill (H. R. 1004) relative to the Chinese indemnity fund was read twice by its title, and referred to the Committee on Foreign Relations.

PRINTING OF DOCUMENTS.

Mr. MILLER, of California. I renew my motion that the Senate proceed to the consideration of executive business.

Mr. MANDERSON. I hope the Senator from California will allow me to make a report from the Committee on Printing.

Mr. MILLER, of California. I will yield for that purpose.

The PRESIDENT *pro tempore*. Does the Senator from California withdraw his motion?

Mr. MILLER, of California. For the present.

Mr. MANDERSON. I report back from the Committee on Printing without amendment a resolution to print certain documents, and I ask for its present consideration.

The PRESIDENT *pro tempore*. The Senator from California withdraws his motion, and the Senator from Nebraska asks unanimous consent to make a report from the Committee on Printing at this time. Is there objection? The Chair hears none. The resolution reported by the Senator from Nebraska will be read.

The resolution was read, as follows:

Resolved, That Senate Executive Document No. 78, Forty-seventh Congress, first session, parts 1, 2, and 3, be included in the publication of the 500 copies of Senate Executive Documents No. 112, Forty-sixth Congress, No. 194, Forty-seventh Congress, and No. 26, Forty-eighth Congress, ordered printed by resolution of the Senate on the 13th instant.

The PRESIDENT *pro tempore*. Is there objection to the present consideration of the resolution. The Chair hears none. The question is on agreeing to it.

The resolution was agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. CLARK, its Clerk, announced that the House had concurred in the amendment of the Senate to the bill (H. R. 7964) to provide for the expense and compensation of special messengers to be sent by the Secretary of State to the States, respectively, of Iowa and Oregon for the certificates of the electoral vote of 1884 for President and Vice-President of the United States, in pursuance of the provisions of section 141 of the Revised Statutes of the United States.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills; and they were thereupon signed by the President *pro tempore:*

A bill (H. R. 7964) to provide for the expense and compensation of special messengers to be sent by the Secretary of State to the States, respectively, of Iowa and Oregon for the certificates of the electoral vote of 1884 for President and Vice-President of the United States, in pursuance of the provisions of section 141 of the Revised Statutes of the United States; and

A bill (S. 1820) to provide for the ascertainment of claims of American citizens for spoliations committed by the French prior to the 31st day of July, 1801.

EXECUTIVE SESSION.

Mr. MILLER, of California. I renew my motion.

The PRESIDENT *pro tempore*. The Senator from California moves that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After three hours spent in executive session the doors were reopened, and (at 5 o'clock and 5 minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, *January* 15, 1885.

The House met at 12 o'clock m. Prayer by the Chaplain, Rev. JOHN S. LINDSAY, D. D.

The Journal of yesterday's proceedings was read and approved.

ORDER OF BUSINESS.

Mr. WILKINS. I demand the consideration of the special order.

The SPEAKER. The Chair will first, if there be no objection, lay before the House certain executive communications.

PURCHASE OF PRIVATE DIE STAMPS.

The SPEAKER laid before the House a letter from the Secretary of the Treasury, transmitting letters from the Commissioner of Internal Revenue relative to a proposed appropriation to pay purchasers of private die stamps commissions erroneously withheld; which was referred to the Committee on Appropriations, and ordered to be printed.

PUBLIC ORDER DURING INAUGURATION.

The SPEAKER also laid before the House a letter from the Secretary of the Treasury, transmitting an estimate from the commissioners of the District of Columbia for an appropriation of $10,000 to enable them to maintain public order during the ceremonies attending the dedication of the Washington Monument and the inauguration of the next President; which was referred to the Committee on Appropriations, and ordered to be printed.

MILITARY RESERVATION, FORT MONROE.

The SPEAKER also laid before the House a letter from the Secretary of the Treasury, transmitting an estimate from the Secretary of War of an appropriation of $21,600 for the purchase of land required to enlarge the military reservation at Fort Monroe, Va.; which was referred to the Committee on Appropriations, and ordered to be printed.

CARE OF IRONCLADS.

The SPEAKER also laid before the House a letter from the Secretary of the Treasury, transmitting estimates from the Secretary of the Navy of appropriations to pay contractors for the use of their yards by the ironclads Puritan, Amphitrite, and Terror; which was referred to the Committee on Appropriations, and ordered to be printed.

NEZ PERCÉ INDIANS.

The SPEAKER also laid before the House a letter from the Secretary of the Treasury, transmitting estimates from the Secretary of the Interior of an appropriation for the removal of the Nez Percé Indians from the Indian Territory; which was referred to the Committee on Appropriations, and ordered to be printed.

CONTINGENT EXPENSES, MILITARY ESTABLISHMENT.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting a statement of expenditures from the appropriations for the contingent expenses of the military establishment for the fiscal year ending June 30, 1884; which was referred to the Committee on Expenditures in the War Department.

BREAKWATER, FALKNER'S ISLAND.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting a report from the Chief of Engineers concerning preliminary survey for breakwater at Falkner's Island, Connecticut, and the river and harbor at Niantic; which was referred to the Committee on Rivers and Harbors.

CUYAHOGA RIVER.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting a report from the Chief of Engineers on preliminary examination of the channel known as the Old River Bed in Cuyahoga River; which was referred to the Committee on Rivers and Harbors.

SURVEY OF LAC LA BELLE HARBOR.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting a report of the Chief of Engineers on surveys of Lac la Belle Harbor, Wisconsin; which was referred to the Committee on Rivers and Harbors.

ENROLLED BILLS SIGNED.

Mr. YAPLE, from the Committee on Enrolled Bills, reported that

the committee had examined and found duly enrolled a bill of the following title; when the Speaker signed the same:

A bill (S. 1432) for the relief of the Metropolitan police force of the District of Columbia.

Mr. PETERS, from the Committee on Enrolled Bills, reported that the committee had examined and found duly enrolled bills of the following titles; when the Speaker signed the same:

A bill (H. R. 4273) for the relief of Madison R. Calvert; and

A bill (H. R. 7329) granting right of way to the Fremont, Elkhorn and Missouri Valley Railroad Company across the Fort Robinson military reservation, in the State of Nebraska.

WHIPPLE CREEK, ILLINOIS.

The SPEAKER laid before the House a letter from the Secretary of War, transmitting report from the Chief of Engineers of preliminary examination of Whipple Creek, in Quincy Bay, Illinois; which was referred to the Committee on Rivers and Harbors, and ordered to be printed.

LIEUTENANT SCHWATKA'S REPORT.

The SPEAKER. Under the statute the Chair lays before the House the following concurrent resolution of the Senate for reference to the Committee on Printing.

The Clerk read as follows:

IN THE SENATE OF THE UNITED STATES, *January* 8, 1885.

Resolved by the Senate (the House of Representatives concurring), That the official report of Lieut. Frederick Schwatka, United States Army, of his military reconnaissance be printed, and that 3,500 additional copies be printed; of which 1,000 copies shall be for the use of the Senate, 2,000 copies for the use of the House, and 500 copies for the use of the War Department.

The resolution was referred to the Committee on Printing.

REPORT ON GEOGRAPHICAL CONGRESS AT VENICE.

The SPEAKER also laid before the House the following concurrent resolution of the Senate; which was read, and referred to the Committee on Printing:

IN THE SENATE OF THE UNITED STATES, *January* 14, 1885.

Resolved by the Senate (the House of Representatives concurring), That the report of Capt. George M. Wheeler, United States Army, on the Third International Geographical Congress and Exhibition at Venice, Italy, with the accompanying illustrations, transmitted to the Senate by the Secretary of War on the 10th of December, 1883, be printed in quarto form, and that 3,500 additional copies be printed; of which 1,000 copies shall be for the use of the Senate, 2,000 copies for the use of the House, and 500 copies for the Department of War.

REPORTS ON LABOR IN EUROPE.

The SPEAKER also laid before the House the following concurrent resolution of the Senate; which was read, and referred to the Committee on Printing:

IN THE SENATE OF THE UNITED STATES, *January* 14, 1885.

Resolved by the Senate (the House of Representatives concurring), That the letter of the Secretary of State dated December 12, 1884, and the accompanying reports of the United States consuls on labor in Europe, be printed; and that 1,500 additional copies be printed for the use of the Senate, 2,500 copies for the use of the House of Representatives; and for the use of the Department of State 4,000 copies; and 10,000 additional copies of the Secretary's letter, of which 1,500 shall be for the use of the Senate, 2,500 for the House of Representatives, and 6,000 for the use of the Department of State.

CONTINGENT EXPENSES OF WAR DEPARTMENT.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting a statement of the expenditures from the appropriations for contingent expenses of the War Department for the fiscal year ending June 30, 1884; which was referred to the Committee on Expenditures in the War Department, and ordered to be printed.

HARBOR AT PORTSMOUTH, N. H.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting a report from the Chief of Engineers on the preliminary examination of Little Harbor at Portsmouth, N. H.; which was referred to the Committee on Rivers and Harbors, and ordered to be printed.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted to Mr. BRAINERD, from Monday morning, for five days, on account of important business.

LEAVE TO PRINT.

By unanimous consent, Mr. ROBINSON, of New York, obtained leave to have printed in the RECORD some remarks on the French spoliation bill.

WITHDRAWAL OF PAPERS.

On motion of Mr. BROWNE, of Indiana, by unanimous consent leave was given to withdraw from the files of the House, without leaving a copy, the papers in the case of Nimrod D. Kineaster; there having been no adverse report thereon.

NATIONAL-BANK CIRCULATION.

Mr. WILKINS. I call for the regular order, and ask to take from the Speaker's table the bill (S. 1155) to provide for the issue of circulating notes to national banking associations.

The SPEAKER. The gentleman from Ohio [Mr. WILKINS], under the special order made on the 15th of December last, calls up for consideration the bill S. 1155. The bill will be read.

The Clerk read as follows:

A bill (S. 1155) to provide for the issue of circulating notes to national banking associations.

Be it enacted, &c., That upon any deposit already or hereafter made of any United States bonds bearing interest in the manner required by law, any national banking association making the same shall be entitled to receive from the Comptroller of the Currency circulating notes of different denominations, in blank, registered and countersigned as provided by law, not exceeding in the whole amount the par value of the bonds deposited: *Provided*, That at no time shall the total amount of such notes issued to any such association exceed the amount at such time actually paid in of its capital stock. And that all laws and parts of laws inconsistent with the provisions of this act be, and the same are hereby, repealed.

SEC. 2. That associations organized for the purpose of issuing notes payable in gold, under the provisions of section 5185 of the Revised Statutes of the United States, upon the deposit of any United States bonds bearing interest with the Treasurer of the United States, shall be entitled to receive circulating notes to the amount and in the manner prescribed in this act for other national banking associations.

Mr. WELLER. I rise to a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. WELLER. There has been so much confusion that, although paying the most careful attention, I have been unable to gather the drift of the bill as read by the reading clerk. I desire to inquire if the bill as read is what is known as the McPherson bill.

The SPEAKER. It is.

Mr. WELLER. Then I desire to inquire if it be proper at this time to offer a substitute for that bill?

The SPEAKER. The gentleman from Ohio [Mr. WILKINS] has the floor. The gentleman in charge of the bill under the rules of the House is entitled to the floor.

Mr. WILKINS. I only desire to take a moment this morning in making a brief statement of the object of this bill.

Mr. HENLEY addressed the Chair.

Mr. WILKINS. I decline to yield to the gentleman. As I have stated, I desire only to take a moment in explaining the object of the bill, and will yield the balance of my time.

Mr. HENLEY. I rise to a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. HENLEY. There was a great deal of tumult and confusion in the Hall at the time the gentleman from Ohio took the floor to call up the bill to which he is just about to speak. I did not know he had done that. I supposed when he opened his mouth just now he was on the floor for the purpose of calling up for consideration that measure. I intended to antagonize it with another matter which I have in charge.

The SPEAKER. That could not be done, because this day is set apart or dedicated by order of the House for the consideration of the two bills mentioned in the order.

Mr. MILLS. Could we not raise the question of consideration?

The SPEAKER. The House has set apart this day immediately after the reading of the Journal for the consideration of the bills. The order differs from a case in which a bill is made a special order merely. In that case the question of consideration can always be raised.

Mr. HENLEY. The Chair then rules that the question of consideration can not be raised?

The SPEAKER. The Chair thinks not when the House has dedicated the day to the consideration of measures.

Mr. HENLEY. Then I beg to state that the notice I gave the other day will be rescinded on account of the condition of other business, and on Saturday I will call up the bill for the forfeiture of land grants to the Northern Pacific Railroad.

Mr. MILLS. What arrangement is to be made about the discussion of this bill? How much time is to be given for its discussion? We desire that both sides shall have an opportunity to be heard.

Mr. WILKINS. I was just about to proceed to make a statement to the House when I was interrupted by the gentleman from California.

It is not my purpose, Mr. Speaker, to take up the time of the House this morning in discussing this bill. I shall content myself with making a plain statement of the substance of the bill, and leave discussion to others; and I do this in order that other gentlemen who desire to be heard may have an opportunity, and that there may be full and fair discussion of this measure for a little while to-day.

Mr. MILLS. How long?

Mr. WILKINS. I expect that we shall call the previous question perhaps about half past 2 o'clock, thus giving two hours for the discussion of the bill.

Mr. MILLS. We desire to have an opportunity for a fair and full discussion of this bill.

Mr. WARNER, of Ohio. I trust that the previous question will not be called in an hour and a half from this time.

The SPEAKER. The gentleman from Ohio [Mr. WILKINS] has the floor.

Mr. MILLS. But we want to know what opportunity our side is going to have to be heard on this bill?

Mr. WILKINS. The gentleman has no right to assume that I am upon the one side or upon the other, except that I am in favor of this bill.

Mr. MILLS. And I am against it.

Mr. WILKINS. I have no right to assume that the gentleman is on the other side.

Mr. MILLS. I think the gentleman from Ohio owes it to those who are opposed to this bill to give them some reasonable time to discuss it and not attempt to put it through under the gag law. And he will find it much easier to pass the bill by giving a fair opportunity for discussion than in the other way.

Mr. WILKINS. That is no doubt true.

The SPEAKER. The gentleman from Ohio [Mr. WILKINS] now has the floor to discuss this bill. When the proper time comes the Chair will, of course, recognize other gentlemen to make appeals to the gentleman in charge of the bill.

Mr. WILKINS. The fact is, Mr. Speaker, that our committee has but this afternoon for the discussion of two measures. Since the beginning of the Forty-eighth Congress the Committee on Banking and Currency have been endeavoring to be heard upon this floor, but not until we got this special order have we had an opportunity. I desire to extend to every gentleman upon this floor the opportunity of being heard for a short time—necessarily for a short time—upon this bill.

Now, Mr. Speaker, I desire to state the reasons why this bill is before Congress. At the assembling of this Forty-eighth Congress, in December, 1883, when the reports from the Departments were received, the Secretary of the Treasury, in his annual report, says:

The Secretary of the Treasury has been compelled, on account of the large receipts of revenue in excess of expenditures, to call in rapidly for payment that portion of the bonded debt which is payable at the pleasure of the United States. During the year ending November 1 more than one hundred and five millions ($105,322,450) of the public debt has been paid, and all of the remaining 3½ per cent. bonds, amounting to $91,596,250, have been called for payment, and ceased to bear interest on November 1. Notwithstanding the fact that two hundred and sixty-two new banks were organized during the past year, with a capital of $28,654,350, depositing $9,375,550 of bonds as a security for circulating notes, the aggregate amount on deposit for that purpose has diminished from $362,490,650 to $352,907,300, a reduction of $9,583,350. More than forty millions of 3½ percents held by the banks on November 1, 1882, have been withdrawn or called for payment; the threes have increased less than twenty-two millions, and the fours and four-and-a-halfs less than nine millions.

Unless there shall be legislation by the present Congress which shall reduce the receipts of the Government it is probable that the United States bonds will continue to be paid at the same rate as during the past year, in which event all the threes will be called for redemption within the next three years. This will reduce the bonds held by the banks from three hundred and fifty-three millions to one hundred and fifty-one millions, and cause a contraction in the national-bank circulation of about sixty millions per annum.

And further on in his report he recommended that his Department be authorized to issue circulating notes to national banks to the amount of 90 per cent. of the market value, the average market value of the bonds, for the twelve months prior to the deposit of bonds deposited as security. And, sir, in conformity with these views and recommendations a bill was introduced in the Senate by the Senator from Ohio, Mr. SHERMAN, and another by the Senator from Vermont, Mr. MORRILL. Other bills, no less than five in the Senate and possibly as many in the House, have been introduced, each embodying the views of its particular author although widely different in general plan, yet with the same end in view, namely, "to prevent undue contraction of the currency."

There was a funding bill introduced by Senator ALDRICH, and upon this floor two funding bills were introduced by my colleague [Mr. POTTER, of New York] because of this recommendation of the Secretary of the Treasury. Senator MCPHERSON, of New Jersey, introduced a bill in the Senate which received the consideration of that body—I hope I am not transcending the rules of this House in stating that fact. The bill introduced by Senator MCPHERSON received the consideration of the Senate as against all other funding bills and as against all other measures of relief presented in that body, and it passed there and has come to us for consideration.

This bill provides for an increase of the circulation of national banks from 90 per cent. of the par value of all classes of Government bonds deposited with the Treasury to secure such circulation to 100 per cent. or the par value of the bonds so deposited, but not to exceed the then actually paid-up capital. That is to say, the circulation based upon the bond is limited to the par value of the bond and to the sum the Government promises to pay the holder of the bond.

This, sir, is in brief the substance of the bill we are called upon to consider to-day. It is so simple, so comprehensive, that discussion seems a waste of time.

Mr. YAPLE obtained the floor.

Mr. HENDERSON, of Iowa. I suggest to the gentleman in charge of this bill that an effort be made to reach an understanding as to the length of time to be occupied in debate.

Mr. WILKINS. I am perfectly willing to arrive at some understanding. I am quite ready to give the gentlemen opposed to the bill an hour and fifteen minutes, and we will occupy the same length of time.

Mr. MILLS. Say one hour and a half on each side.

Mr. YAPLE. Mr. Speaker, this interruption does not come out of my time?

The SPEAKER. It does not. The Chair understands that an effort is being made to arrive at some understanding as to the time to be occupied on the bill.

Mr. WELLER. This is too important a measure to be discussed on either side in an hour and a half.

Mr. HENDERSON, of Iowa. I suggest to the gentleman from Ohio that an hour be given to each side.

Mr. WILKINS. I would be very willing to do so; but, unfortunately, the other side will not consent.

Mr. MCMILLIN. Permit me to suggest that one or two hours' consideration for a measure making a vital change in our banking system is too short, and such a limitation ought not to be contemplated. I will suggest that the discussion for the present run on, and later in the debate we can better tell how much time is needed.

Mr. WILKINS. If the House will consent that after occupying to-day the bill go over till to-morrow, we are perfectly willing the discussion shall continue as long as gentlemen may desire.

Mr. BUCKNER. Mr. Speaker, there are only two measures from this committee to be considered—the pending bill and the bill known as the "Dingley bill." If we confine ourselves in this discussion to the matters which really relate to the bills, if we do not run off into irrelevant and extraneous discussion, an hour on each side ought to be sufficient, and should enable members to discuss the question, and the House to decide it; but if general debate affecting everything connected with the national banks and legal-tenders is to go on, I presume two weeks would not satisfy the demands of gentlemen who would wish to engage in such discussion. I suggest, therefore, that my friends and the House ought to be satisfied with an hour on each side. I am opposed to this bill, and shall speak against it.

Mr. WARNER, of Ohio. I hope the House will not assent to having the discussion on this bill cut off with a single hour's debate on each side. I regard this bill as the most important measure before this House, and a fitting discussion of it cannot be had in one hour on either side. There should not be less than three hours allowed; and then the speakers must confine themselves strictly to the questions at issue.

Mr. WELLER. May I be permitted to make a suggestion? This is a bill, as I understand, changing in a large degree the financial policy of the Government; and it does seem to me to involve matters of so much importance that there should be a full and free discussion of the merits of the bill, so as to make but little consideration necessary upon the bill which is to succeed it. I hope, therefore, that the time for discussion will not be limited even to two hours or two hours and a half. I desire that there shall be at least three hours' discussion—an hour and a half on each side.

Several members called for the regular order.

The SPEAKER. The regular order is demanded.

Mr. WILKINS. I desire only to give notice to the House that we propose to call the previous question at 3 o'clock, and will give half the time to gentlemen opposed to the bill.

The SPEAKER. The gentleman from Michigan [Mr. YAPLE] is entitled to the floor. The House will be in order so that the gentleman may be heard.

Mr. YAPLE. Mr. Speaker, the real question before the House is how to make it profitable to the national banks to furnish the people a currency adequate to the demands of business. The Government is at the feet of Shylock. It is thought bysome that the passage of this bill will induce the banks to increase their circulation. Will this gift of $32,000,000 be a sufficient inducement? We have no assurance from the banks, and therefore we do not know. They are not compelled to take out another dollar of circulation. Will they do so? We do not know. Would it not be better to appoint a committee to ascertain just what their terms are? This appropriation may not be large enough. We are groping in the dark; the result is uncertain. Even the friends of the banks disagree. One gentleman says that if we do not pass this bill the banks will surrender their circulation. Another gentleman says that if we do pass this bill it will have the effect to increase the premium on the bonds so high as to tempt the banks to sell their bonds and go out of the banking business. The same result will follow—contraction of the currency—whether we pass the bill or not. What are we to do? What can we do to induce these gods who preside over the world of finance to save us from the evils of contraction? We are in their hands, and all we pray for is mercy. This is a Government of the banks, for the banks, and by the banks. Nobody denies that. If anybody ever did deny it, the spectacle of Congress making this bargain with them for a sufficient volume of currency would be conclusive evidence.

I think, sir, that the people have made sufficient offerings to these gods, and I shall vote against this proposition. I shall vote against any measure that tends to increase or perpetuate this national-bank currency. The ultimate object to be secured by this legislation is the perpetuity of the national banking system. That involves a perpetual national debt. There is no other basis for the system.

There can be no credit—

Says the Secretary of the Treasury—

reliable enough for the basis of a national paper currency except the national credit. Nothing, therefore, but the bonds of the Government can perfectly secure a national-bank note circulation. Nothing else will answer the purpose.

No one seriously proposes any other security. Now, it is the duty of the Government to do the best thing it can with its debt, and that is to pay it. No one in this discussion will dare to openly advocate the perpetuation of our debt for the purpose of having it as basis for the national banking system, and yet unless it is to be continued this

measure will only breed greater evils. It will increase the volume of bank currency to be retired with the payment of the bonds and in the end produce greater contraction. As a measure of relief from the evils of contraction it will be worse than a failure. As a means to fasten upon the people the burden of a permanent debt it will have dangerous force and effect. Every vote cast in favor of this bill will be a vote cast in favor of continuing a bond-based circulating medium. The bank note has no other source of life than the debt. To preserve the one you must continue the other.

It is not necessary that the nation continue in debt in order that it may possess itself of a sound currency, and it will not. The debt will be paid, and the national-bank currency must give way to some other. What will it be? It ought to be a currency cheap, convenient, and safe. It ought to be a legal tender for the payment of debts; or, in other words, possess the quality of money. The Government should never allow anything to pass as substitute for money. The legal tender should be equal in amount to the wants of business. It should be issued and its volume be controlled by the Government. Every argument which can be urged against a currency issued and controlled by the Government is equally good as against the currency issued and controlled by the banks. The bank currency is not an elastic, flexible currency. It does not increase and diminish in volume in answer to the demands of business. Its volume is not regulated by the requirements of trade. It depends on the profit it yields to the banks. In order to secure a dollar of it the Government must first guarantee a profit to the banks. In order to keep it in circulation it must continually increase that profit.

We have never had a more dangerous, treacherous currency, not even the wild-cat State-bank currency of former years. It is a political currency. It contracts under the prospect of Democratic success. It expands when the returns show a Republican victory. It was contracted $22,000,000 in the year 1876 and $15,000,000 in the year 1877 for no other reason in the world than to secure the success of the Republican party. It was contracted during the year 1881 and during the last year for no other purpose than to influence national legislation. The national banking association is a huge political machine at work in every township and village of the Union, subsidizing the press and corrupting the ballot.

There is nothing which can be said in favor of this currency which can not be said in favor of Government currency. The Treasury note has every virtue possessed by the bank note. It bears the impress of nationality. It circulates in every part of the Union. It does not stop at State lines. The bill-holder is perfectly secured.

It possesses virtues which the bank note does not. The profit on its circulation inures to the people. It saves interest. It is lawful money for the redemption of the bank note. It is legal tender.

We have always been compelled to resort to Government currency in emergencies. Banks of issue are banks of failure in every crisis of war or peace. It was the Treasury note that furnished the sinews of war when "liberty hung trembling in the balance." It armed and equipped the mightiest army that ever trod the earth. It built the strongest navy that ever floated the waters. It lighted the fires in our furnaces. It turned our rivers to weaving, carving, and grinding. It won the battle for freedom and saved the nation. It ought to be as sacred to us as the flag. [Applause.]

The banks instead of rendering any service to the Government are, like mendicants, always clamoring for aid from the Government. Already there have been introduced in this Congress, in their interest, bills to repeal the tax on their circulation, to give them the privilege of loaning money on real estate security, to suspend the coinage of silver, to refund the debt, and the bill under consideration to increase the profits on their circulation.

On what ground is this kind of legislation—increasing the profits of the business of a certain class by an act of Congress—justified? Is it on the ground that the people derive a benefit from the existence of the business? That is the ground on which the protective tariff and every other system of robbery is defended. That is the ground on which the invasion of the rights of the people by railroad corporations is justified. That is the ground on which every monopoly is built. The people derive a benefit from the existence of any legitimate business, and we have no right to discriminate and say that one business shall have a profit secured to it by the Government and that another must take care of itself.

Is it on the ground of necessity? There is no necessity. The Government is independent of the banks if it will but use its rightful powers. The plea of necessity is a confession that the Government is a failure.

Is it on the ground of expediency? Class legislation is the expedient of despotisms. Democracy knows no class but the whole people. This is the kind of legislation against which Lincoln warned us, legislation "placing capital above labor in the structure of the Government." It is the sickle with which capital harvests the fruits of labor.

It is a matter of regret that any one professing to be a Democrat should be the advocate and defender of a measure like this. A Democrat should vote favoritism and monopoly out of our laws; a Democrat should represent the people.

Sir, it is not bread that the banks are begging for; it is power. The purpose of all these measures is to give them increased power over the currency. They are seeking the control of all property and values which power over the currency gives. Where should this power rest? That is the supreme question. I oppose this bill because it helps to determine this question in favor of the banks. We are told that it would be unsafe, that it would be a dangerous experiment, to trust the exercise of this power to Congress. The theory of popular government can not exclude the exercise of sovereign powers from the representatives of the people. You can not lodge this power elsewhere without changing the nature of the Government. If the credit of the Government is a thing of value, is property, it is the property of the whole people, and we have no right to allow any individual or combination of individuals to appropriate it to their own private use and emolument. The constitutionality of the national bank can not be claimed except upon the theory that it is the fiscal agent of the Government to do the will of the Government with respect to the currency. That is the theory of its existence, but it is only a theory.

These moneyed corporations tremble at the idea of the people taking possession of the Government. Why should they? Is democracy a peril to capital?

What is democracy but justice enacted into law? The argument used to sustain the policy of delegating the control of the currency to national banking associations would end in delegating all the powers of Government to corporations. It would end in the destruction of the representative principle of our Government. History shows that this old argument against popular government, that it is unsafe to trust the people with power, has no foundation in fact. The experiment which all the world predicted would fail, the Republic of America, is proving a magnificent success. We need not fear the people. The more power they exercise the more democratic will be the Government. We have not yet half realized the idea of democracy.

The national banks for a long time found shelter behind the Constitution. That has been the fortress of every great wrong. That was the instrument with which treason first armed itself to destroy the Union. Logic failed and the sword was drawn. The issue of the battle was that the Constitution established a nation. It would seem that there are a few relics of the ante-national period. During the debate upon this very bill in the department of the Government "where wealth accumulates and men decay" [laughter] the Constitution was the weapon used to kill all measures to substitute Government currency for the notes of the banks. The same weapon was then used for the purpose of cutting down the Government.

Every national banker is an ultra-strict constructionist. He denied the constitutional right of the Government to issue paper money, even as a war measure. He acquiesced in the course taken by the Government during the war, because he was a patriot (?) and was willing that anything should be done to save the Union. But when the Supreme Court decided that the Constitution was not the grave of popular government, and that not only a "war" but a "peace" greenback was constitutional, he begun war on the Constitution. That decision will stand, however, and the Constitution will never be amended so as to limit the rights of the people. "A throne," said Napoleon, "is a mere block of wood covered with velvet." Yet kings exercise the very power which is here sought to be taken from the sovereign—the people. The national banker would make our Constitution mean less than the block of wood stripped of its velvet covering. He would even convert it into a guillotine to behead the sovereign.

Why should the United States be deprived of this function of government? What is the argument in favor of the exercise of this function by corporations, creatures of the Government? That its exercise by Congress would be a dangerous centralization of power. Where should power be centralized? In the creature instead of the creator? Power centralized in a single man gives us a king. Power centralized in a class gives us an aristocracy. Power centralized in the hands of the people gives us democracy. [Applause.] A proper centralization of the powers is necessary to a just distribution of the benefits of government. When the Secretary of the Treasury says that the recent legal-tender decision of the Supreme Court casts a "dark cloud over the financial outlook" he speaks against democracy. He speaks in favor of an aristocracy of wealth. That decision is simply a declaration of our national independence in money matters as well as in other matters. The tories in Wall street may rail at it, but the people welcome it as their shield and protection against the incoming flood of the power of national banks. To one who believes in panics as a means of grace I have no doubt it bodes evil.

This is a currency question, not a banking question. I am not opposed to banks. I recognize their necessity. As institutions for loaning money, receiving deposits, and buying and selling exchanges they render an essential service to commerce. As an agency of trade they are second in importance only to money itself. Our civilization can not dispense with them any more than it can dispense with merchants and railroads. But the issue of currency is not a function of banking. It is a function superadded to banking. Banking is a private business.

The issue of currency for the people is a public act; it covers the whole nation; it is the business of the nation. Even England has outgrown the dogma of Wall street—that there should be a union of banking functions with those of issue. The issue department of the Bank of England is an office of the state, and Prof. Bonamy Price tells us that the nation receives twice as much profit from the issue as the

bank. We are not keeping pace with monarchies, and so long as New York makes our laws we will be in the rear. If we must get our financial policy from England, let us not go to her graveyards for it. Let us not adopt a system which she has outgrown and thrown aside. Let us not wear her old clothes. That is toryism gone to seed. [Laughter.]

The advocates of this measure urge it as a remedy for the contraction of the national-bank circulation. Is it a remedy? What is the cause of this contraction? It has been well answered, the high premium value of the bonds. What will be the effect of the passage of this bill? To increase the premium value of the bonds. Will not that aggravate the difficulty? "No," answer these homeopathic doctors of finance, "like cures like." The evils of a currency whose movements depend on the fluctuations of the bond market can not be cured or mitigated by any such treatment as this. The only sure cure is death. The national banks are simply private money-making institutions, and the currency which they furnish to the people must first yield a harvest of wealth to them. If we depend upon them we must make it more profitable for them to take out circulation than to sell their bonds. In so far as the appreciation of the value of the bonds neutralizes the benefits conferred by this bill, so far will they, regardless of the public welfare, feel coerced by their own interest to sell their bonds and retire their circulation. This is a "public-be-damned" kind of currency. [Laughter.] Its movements are regulated wholly in the interests of greedy, grasping corporations. Their concern for the people is the concern of the wolf for the lamb.

Suppose, however, these homeopathic doctors are correct in their opinion, and the bill has the effect predicted by them, how will it affect the tax-payer, the man who pays the bonds? He might properly be called the forgotten man in every act of Congress. These bonds constitute a mortgage on his property. To increase the premium value of the bonds is to add so much to his mortgage. Is this right? Is it honest? Was this nominated in the bond? No; this is blood-money, every dollar of it "coined infamy." Is this apple of Sodom to be your New Year's gift to the people already overburdened with taxation? Are the tax-payers criminals that they should be subjected to this fine? Who are they? They are the knights of labor, the producers of wealth. They are the builders and supporters of the nation. Every dollar paid by them in taxes is the frozen sweat of labor. You have just struck out the enacting clause of a bill for the relief of the tax-payers, and now, as a crowning act of injustice, you propose to pass this bill for the benefit of the tax-eaters.

This bill has many of the qualities of a credit-strengthening act. It has been the policy of the Republican party to strengthen the credit of the Government every little while, not by the payment of its debt, but by increasing the value of its bonds to the holders of them. Every dollar legislated into bonds is legislated out of the pockets of the people. The bondholders have been enriched and the people have been impoverished long enough by this species of robbery.

This question of currency is a question of privilege, of prerogative. Our Constitution, sir, is not the coffin, but an ordinance of national sovereignty. To institute and regulate the medium of exchange is the prerogative of sovereignty. It is a right which belongs to the people, and they will sooner or later take possession of their own. They are coming into power. Free society is the greatest educator in the world, and education is the kind of dynamite with which to blow up false systems. Thought is freedom. Thought is the builder of republics and destroyer of despotisms. When the people begin to think, kings tremble and thrones totter. When the people begin to think, new and better laws are made. When the people begin to think, a fire begins to burn that will turn to ashes every page of our statutes blotted and desecrated with unholy class laws. [Applause.]

The Democratic party is under no political obligations to these corporations. It has been lifted into power, not by them, but in spite of them. It has been lifted into power by the people. Its triumph is a victory over monopolies. Let it be a party for the people and the days of its life are not numbered.

Mr. Speaker, during the debate upon the bill for the relief of Fitz-John Porter certain members of this House were urged to refrain from taking any part in the decision of that question, not that they had any pecuniary interest in the event of it, but because, as was alleged, the condition of their minds was such that they could not cast a fair and impartial vote. [Laughter.] If there was any reason in that argument, when there was no pecuniary interest involved, how much greater the reason that no member should vote upon any question in the event of which he has a pecuniary interest. It is a rule of this House, and a wise one, that "every member shall vote upon each question put, unless he has a direct personal or pecuniary interest in the event of such question."

Now, I say to gentlemen who are presidents and stockholders of national banks, if there are any, that good faith, good taste, and your own pecuniary interest in the event of this question should cause you to refrain from voting or speaking upon it. It is a matter of vital importance to the corporations to which you belong. You are beneficiaries of this bill. [Applause.] John Quincy Adams had such a fine sense of honor that he sold his stock in the United States Bank in order that he might be qualified as a member of Congress to vote upon the bill to recharter that institution. I commend his example as worthy of imitation. I do not expect, sir, that any word of mine will defeat this measure. The bill will pass. The master outside has given the order and the only question here is, "Who will be the first to obey?" I now offer the amendment which I send to the Clerk's desk, to be considered at the proper time, and yield the balance of my time to the gentleman from Pennsylvania [Mr. BRUMM].

The Clerk read the amendment, as follows:

After the word "repealed" in the fourteenth line insert the following:

"The Comptroller of the Currency is hereby directed to require, at such times as he may think proper, all national banks to report to him whether or not they receive standard silver dollars on deposit and receive and pay the same over their counters on the same terms as gold. And all national banks that refuse to receive standard silver dollars on deposit and to receive and pay the same over their counters on the same terms as gold are hereby denied the privileges of this act. And the Secretary of the Treasury is hereby directed, in calling bonds for payment, to call first the bonds of those banks which refuse the standard silver dollars, as aforesaid."

Mr. DINGLEY. I make the point of order that this amendment is not germane to the pending bill.

The SPEAKER. That point of order will be considered as reserved. The gentleman from Michigan [Mr. YAPLE] has yielded to the gentleman from Pennsylvania [Mr. BRUMM], who has yielded fifteen minutes to the gentleman from Iowa [Mr. COOK].

Mr. COOK. Mr. Speaker, I regret that the consideration of measures so important as the two bills brought before the House under this special order should be limited to one half day. I trust I may have the attention of the House while I endeavor to point out my objections to the present bill, attempting to address myself to the judgment of those who are expected to vote upon the measure.

I believe that among the most important questions before the two Houses of Congress are the financial questions. We are having throughout the length and breadth of the land a business depression that is to be attributed in my judgment largely to the unsettled condition of the finances. I have before me here a communication addressed to Bradstreet, in which the writer says:

Among other causes to account for the existing depression in all departments of business there is ever arising the question of the extent and effect of the contraction of the bank-note currency that is to ensue, &c.

I believe that the uncertain condition, the elastic condition of our currency system lies at the root of our financial trouble. The currency in my judgment should be inelastic. It should be fixed in its volume, and the elasticity of the finances should depend upon the coin that comes and goes.

The avowed object of this bill is to prevent contraction of the bank-note currency, or rather to induce the banks to issue more paper.

Now, Mr. Speaker, as has been said by the gentleman from Michigan [Mr. YAPLE], we have no assurance that this bill will accomplish its purpose. To-day the national banks of this country under their charters and capital have the right to issue currency to the amount of $471,500,000. As a matter of fact they are supplying the country with only $286,500,000. If they do not see fit to avail themselves of the privileges of the limit now allowed them by law, what assurance have we that this bill will accomplish anything?

The great objection to the national banking system is that it takes from the Government the duty of controlling the volume of currency, of giving to the country its currency, and transfers this duty to the banks, under whose operations the currency may be contracted and expanded at their pleasure.

I believe, Mr. Speaker, that we shall have no rest from this continuous meddling with the currency until Congress shall put its foot down upon all interference by private corporations, stop all this temporizing with the question, and assert the power and dignity of this nation with its boundless resources, and say, "We will give the country a currency of so many hundred million dollars; we will pledge the faith of the country that this currency shall not be depreciated in its purchasing power or its value; that it shall be maintained side by side and at par with coin, if you choose; that its volume shall be neither diminished nor expanded to any dangerous degree."

Every session Congress is appealed to by the banking and bond interests for legislation in their favor, with the threat that the currency will be reduced or contracted if we do not comply with their demands. Business is disturbed and confidence is shaken. I am not an alarmist. I am addressing you as one business man may address another, and looking to the future only.

The legislation of the past twenty years has been outrageously in the interest of the money-changers and schemers, who fatten at the expense of the masses, and the country has suffered because Congress has yielded to the advice and the demands of the money centers and those who seek by national laws to secure an advantage over their fellow-men.

Though we are powerless to undo what has been done in the past, there is no excuse for us if we refuse to profit now and in the future by the lessons which the past has taught us.

It is no longer a question of coin or currency. The business wants of our people and the condition of the country require a paper currency. It is immaterial whether there is coin in the world or in this country sufficient to meet the demands of commerce and trade. Our people can not use it to a great extent. The countries of Europe, with their small area, dense population, of settled habits and habitation, are no guide to us and our wants.

The habits of a people come of these conditions, necessities, and convenience. Our habits require paper money. We travel over vast distances and handle money freely. By Government estimate there is now about $610,000,000 of gold in the country, while of paper currency we have:

Treasury notes, or greenbacks	$346,681,016
National-bank notes, about	286,500,000
Silver certificates	131,556,531
Gold certificates	120,343,320

From this it will be seen that, after making proper allowance for the gold and currency held in the vaults of the Treasury, there is in nominal circulation in the United States about two-thirds as much gold coin as there is of paper money and currency of all descriptions. Yet I feel that I am safe in saying that we find in actual use by the people one thousand dollars in currency to one dollar in gold. And thus we have an actual demonstration that coin is not adapted to the wants of our people and business.

No one disputes that we must have a national currency of some kind. It is the duty of Congress to supply this medium of exchange; and if the Forty-eighth Congress expires without meeting this responsibility and discharging this duty it shows itself recreant to the trust reposed in it. The Democratic party is now the dominant party of the country and is chargeable with the results of action or inaction.

The first thing necessary is to settle once and for all the future of the paper money. No man will deny that we should have a settled, sound, and honest fiscal policy and monetary system; one that requires no tinkering and no expedients. One objection to the McPherson bill is that it is an expedient; it is a makeshift only. No man pretends here that it supplies a permanent system. I believe we have come to the time when this House should have the courage to choose one of two schemes, and it should make that a permanent one. Either we should have as the permanent system of this country the national banking system, or we should have as a permanent currency the Treasury note. We should have the courage here to adopt a system that shall last for all time; that shall supply a currency of sufficient volume and of a character that will give the country confidence in it.

Mr. Speaker, I want to say here that I shall vote for the motion which I understand is to be made by the gentleman from New York [Mr. POTTER], to recommit this bill with instructions, not because I favor his bill, but because I believe we ought now to choose between the two systems and fix upon one or the other. We should say either we will have a Treasury note that is a legal tender for all debts, public and private, with a fixed volume and with reasonable measures by the Government to maintain that note side by side with coin, or we will give the country a permanent national debt and issue bonds designed exclusively for use by national banks as a basis for notes to be by them supplied to the country. Between the two we must choose. There should be no hesitation on this point. As I said before, the volume of currency should be fixed at a point sufficient to meet the requirements of trade and business.

The banks can at any time contract the currency or expand it as they choose. This is a dangerous prerogative. Is it safer to trust this to the Government, that is interested in the welfare of the people, or in the banks, that are interested in making money off the people? But beyond this it is impossible in the very nature of things that under the national banking system we can have a fixed volume of currency. And, I repeat, this is essential to stability.

Here and there I hear it said that it is dangerous to intrust Congress with the power of regulating the currency. Fear is expressed that too much money would be issued; an excess of currency would depreciate its purchasing power; it would be to the advantage of the poor man as against the rich, and in favor of the debtor as against the creditor. I may be pardoned for saying what every man in this assembly knows to be truth, that there is no danger of the poor man getting any advantage here. The strong are always here. Nine-tenths of the legislation here is in the interest of the strong and wealthy. If the poor man gets his just share of attention here it will be after a wonderful change has come over the legislation of the past and far beyond my most sanguine hopes of the future.

Mr. BRUMM. Mr. Speaker, I prefer to reserve my time until I have heard gentlemen on the other side. I hope those gentlemen on the other side will do us the justice to consume some of their time before we are asked further to proceed.

Mr. WILKINS. Consume your hour and we will take the next hour. If no person desires to be heard further on the question then, Mr. Speaker, I will call for the previous question. I do not wish to do it if there are other gentlemen who desire to be heard.

Mr. DINGLEY. There are other gentlemen who wish to be heard.

The SPEAKER. The gentleman from Pennsylvania is entitled to the floor unless he yields it.

Mr. WILKINS. Then let him proceed.

Mr. BRUMM. Mr. Speaker, I do not know that I shall delay the House for more than a few minutes on this subject, as we have been warned heretofore that we will be allowed only an hour on each side of the question, a time so short that it is hardly worth while starting out to discuss the general merits of this bill, without going into the general merits of the question at all. The fact that this House refused at the last session to consider this bill or any other bill touching the question of finance is to me a very humiliating spectacle. You take up hours in discussing the question of the election of individual members, as was done in the Taylor and Warner case. You consumed almost the whole of the last session in the discussion of your horizontal nonsense, but when it comes to the question which in my judgment is more important than all the other questions you tell us we will give you a few hours for its discussion.

I do not know but this bill should be entitled a bill to offer a premium to the present bondholders and to perpetuate the national debt, for that is the only practical result that will be reached by the passage of this bill. It is merely a makeshift on the general question of finance. It is simply postponing the day when you must act upon some permanent measure for the relief of the country. Of all the bills which have been offered in both branches of Congress, of all the arguments that have been advanced, not one has been shown which does not involve the idea of basing the national banks upon the national debt. If that be true, then the days of the issuing functions of the national banks are numbered, and can not possibly last beyond the payment of the national debt. Why is it that Congress, assuming to be statesmen, will not at once give us some bill, some remedy that will be permanent in its nature, and settle this question for a reasonable time at least.

The refunding bill which is proposed to be offered by the gentleman from New York [Mr. POTTER] is only a makeshift. It is only putting off the final day. The day of judgment will come, and inasmuch as the Democratic party is now starting out as the party in power, why then, gentlemen, have you not the courage to take up something which will be a permanent measure, which will give permanent relief, and which will settle this question at least for a reasonable time? You may attempt to shift it for a moment, for a day, for a session, for a year; but you must meet it eventually, and you ought to meet it now.

Gentlemen tell us it will not do to substitute for this national-bank currency the legal-tender note. Gentlemen tell us that although the Supreme Court has settled the question as to the constitutionality of it, that that decision will be reversed, that that decision is an erroneous one, and attempts even are made by gentlemen—all Democrats—in both branches of Congress to change the Constitution so as to nullify and vitiate that decision. Do you mean to wait and let the country call all these financial horrors upon its head and pass on with this troubled question unsettled until you have changed the Constitution? Do you mean to wait until you have reversed the decision of the Supreme Court? Let me tell you if you had any hope because your own member of that court gave his dissenting opinion, I wish to say in that even he was greatly in error as to the fact—for I have not time and will not undertake to discuss the legal status and constitutionality of that decision in its general scope—but when he says that Chief-Justice Chase as Justice of the Supreme Court reversed his decision as Secretary of the Treasury he says that which is not correct.

But I say here, and I challenge contradiction, that there is not a decision in the books which does not establish the absolute power of the National Government to issue Treasury notes and make them legal-tender. Take the cases in Wallace and read them. They only say that for the payment of antecedent debts, contracted to be paid for in gold, you can not pass a law declaring any other currency a legal tender in which you can pay that antecedent debt.

That is the full extent of the dissenting opinion in every case except one case—by Justice Field. There is a uniform line of decisions running down from the foundation of the Government—decisions of the Supreme Court of the United States and of the several States—all of which agree upon the right of the National Government to issue legal-tender notes; and I ask you gentlemen why will you not now exercise that function? It is your right, it is your duty to do so, and if you will exercise that right it is a permanent relief; it is the establishment of a permanent system. It is the practical wiping out of the national-bank currency, and you will have the honor of doing to-day what must be done in the near future.

I intend offering a substitute that I had printed in the RECORD yesterday, which embraces the idea of issuing legal-tender notes just as fast as the national-bank notes are surrendered. It is not revolutionary in any of its conditions or in any sense. It is not so radical as to create any difficulty in the finances of the country. It will act slowly but surely until it has replaced every national-bank note that is redeemed either by the bank asking a reduction of its circulation by going into liquidation or by the expiration of its charter by authorizing the Secretary of the Treasury to issue legal-tender notes to destroy the bonds as soon as they are paid, and in that way furnishing a substitute for the national-bank note as a circulating medium. It will place in the Government the power that justly belongs to it. It will act, as I have said, slowly just as these notes are brought in. It will give a circulating medium just as fast as it is required by the withdrawal of the national-bank notes.

Mr. Speaker, I shall now ask to offer my substitute for this bill.

Mr. WILKINS. I rise to a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. WILKINS. Is it proper to reserve the point of order upon that amendment?

The SPEAKER. It will be. The amendment can be read for information.

The Clerk read as follows:

Substitute for a bill to provide for the issue of circulating notes to national banking associations.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, SECTION 1. Strike out all of section 5224 of the Revised Statutes of the United States after the word "business," in the third line, and insert the following: "Or retire its circulation, or any part thereof has been made, the bonds deposited by the association to secure payment of its notes shall be reassigned to it in the manner prescribed by section 5162. And thereafter the association and its shareholders shall stand discharged from all liabilities upon the circulating notes, and those notes shall be redeemed and canceled at the Treasury of the United States. And if any such bank shall fail to make the deposit and take up its bonds for thirty days after the expiration of the time specified, the Comptroller of the Currency shall cancel the bonds pledged for the circulation of said bank, and after providing for the redemption and cancellation of said circulation pay over any balance remaining to the bank or its legal representative."

SEC. 2. That any association organized under this act, or any of the acts of which this is an amendment, shall, upon the expiration of its charter, return to the Treasurer of the United States its circulating notes, or make a sufficient deposit of lawful money to redeem its outstanding circulation, whereupon the bonds deposited by the association to secure payment of its notes shall be reassigned to it in the manner prescribed by section 5162; and thereafter the association and its shareholders shall stand discharged from all liabilities upon the circulating notes, and said notes shall be redeemed and canceled at the Treasury of the United States. And if any such association shall fail to make the deposit and take up its bonds for three years after the expiration of its charter, the Comptroller of the Currency shall cancel the bonds pledged for the circulation of said association; and after providing for the redemption and cancellation of said circulation he shall pay over any balance remaining to the association or its legal representatives.

SEC. 3. That from and after the passage of this act the Treasurer shall not be permitted to issue or sell any United States bonds.

SEC. 4. That the Secretary of the Treasury be, and is hereby, authorized and directed to cause to be printed and engraved notes of the United States, in addition to those heretofore authorized, and of the same kind and character as those now in circulation, in denominations of one, two, five, ten, twenty, fifty, and one hundred dollars, to an amount not exceeding the aggregate national-bank-note circulation.

SEC. 5. That it shall be the duty of the Secretary of the Treasury to substitute and pay out the notes hereby authorized, in lieu of the national-bank notes now outstanding and in circulation, as soon as said bank notes are redeemed.

SEC. 6. That for the purpose of carrying into effect the objects of this act the Secretary of the Treasury is authorized to make such rules and regulations as he may deem necessary and proper. And all acts and parts of acts inconsistent or in conflict with the provisions of this act are hereby repealed.

Mr. DINGLEY. I desire to ask if this amendment is offered now to be considered as a pending amendment.

The SPEAKER. The gentleman from Pennsylvania proposed to offer it as a substitute, and the gentleman from Ohio [Mr. WILKINS] has made the point of order against it. The point of order will be considered as pending against the substitute.

Mr. BRUMM. I now yield the remainder of my time to the gentleman from Indiana [Mr. SHIVELY].

The SPEAKER. The time of the gentleman from Pennsylvania has expired.

Mr. HENDERSON, of Iowa. Mr. Speaker, the sole purpose of the McPherson bill, so-called, now under consideration, is to increase the amount of money as a circulating medium in the hands of the people.

It proposes to do this by permitting the national banks to issue notes up to the par value of the United States bonds deposited by them with the Government. The present law only allows an issue of national-bank notes up to 90 per cent. of the par value of the bonds so deposited. This bill, therefore, permits an increased issue of 10 per cent. upon the bonds deposited by a national bank to secure its circulation.

NO NEW PLAN OF BANKING PROPOSED.

This bill offers no new system of banking, no new kind of money for the people, nor is it intended to perpetuate our national banking system. It should have no terrors for the most extreme Greenbacker even if he belong to that volcanic few who suffer from an eruption of words when any measure is proposed that may have in it the to them startling words "national banks." The Greenbacker, pure and simple, above all men, claims to desire a large amount of money in circulation among the people. This bill ought not to meet the hostility of this class; for, as I have before stated, its purpose is to give the people more money, and a safe, a well-secured money.

I may here state that the brainiest Greenbacker in Iowa, and he never was a candidate for office, told me in October last that he was strongly in favor of this legislation. The questions to be answered before acting upon this measure are few and simple, as it seems to me. The first one to be considered is this:

IS THERE A CONTRACTION OF THE CURRENCY GOING ON AND IS IT LIKELY TO CONTINUE?

The Secretary of the Treasury and the Comptroller of the Currency answer this question.

In his last report the Secretary says:

Inasmuch as about $135,000,000 of the circulation of banks is based upon our 3 per cent. bonds, which are now redeemable and being rapidly redeemed, remedial action can not be postponed beyond the present session if a rapid reduction of our bank-note circulation is to be avoided. The subject is a very important one, and should receive immediate attention.

The foregoing calls attention to the fact of a reduction, and also states some of the reasons for it. The following from the same report gives more light:

The market prices of the 4 per cent. and 4½ per cent. bonds of the United States have declined somewhat during the past year; but that these bonds are still too high to enable banks to base circulation upon them at a profit is plain, from the fact that the circulation has been voluntarily decreased more than $25,000,000 during the year.

The Comptroller of the Currency puts the decrease in circulation for the year ending November 1, 1883, at $8,284,017, and for the year ending November 1, 1884, the decrease is $24,170,676. As to the probable reduction in the future I quote his own words:

Unless legislation shall shortly be had which will enable the banks to issue currency at a fair profit, circulation will from the present time be reduced at the rate of at least $40,000,000 per annum.

There is, then, a contraction of the national-bank currency going on, and it is rapidly on the increase. We all know it. The country knows it; and there is danger that the pepole may soon feel it, if they are not now feeling it.

I am not an alarmist, nor do I forget that on October 1, 1884, we had in this country a total circulating medium of $1,806,412,324, and giving a per capita circulation of $17.41 in paper and $19.39 in specie, based on our census returns of 1880. I note the fact that our monetary system gives to each individual a larger proportion of money than is given to the people of Great Britain, Canada, Germany—in brief, every government on earth save France.

But these facts may deceive us. Our people need greater facilities in this regard than any other people. Our extended domain, our varied industries, our tremendous system of railroads making rapid transits and changes of persons and products—these, combined with the wonderful mental activity of our people in all business matters, make necessary a larger amount of money in this country than is needed in any other land.

The next question that naturally comes up is:

WILL THIS LEGISLATION INCREASE THE CURRENCY OF THE COUNTRY?

It will, and to an extent that will prove a safe antidote to the decrease now going on.

On September 30, 1884, there were 2,664 national banks in the United States, holding on that date Government bonds amounting to the sum of $327,435,000. On that amount, under this bill, they would be entitled to increase their circulation $32,743,500 without the deposit of another bond. This amount we are sure of. The Comptroller in his last report gives the "increase by the McPherson bill on maximum of bonds" as $229,574,845. This must be understood as the possibilities under the McPherson bill, and not as the probabilities. But there can be little doubt that with the increased inducement presented by this bill a very large increase in the issue by the banks must follow.

I will here give the Comptroller's table, which shows the increase by States under this bill:

Table, by States, Territories, and reserve cities, exhibiting the number of banks in each, with their capital, minimum amount of bonds required by law, bonds actually held and circulation issued thereon September 30, 1884, and showing the increase of circulation authorized under the McPherson bill.

States and Territories.	Number of banks.	Capital.	United States bonds.		Circulation.		
			Minimum.	Held September 30, 1884.	On bonds held September 30, 1884.	Increase by McPherson bill on bonds held.	Increase by McPherson bill on maximum of bonds.
Maine	71	$10,300,000	$1,950,000	$8,897,300	$8,007,570	$889,730	$2,292,430
New Hampshire	48	6,105,000	1,476,250	5,820,000	5,238,000	582,000	867,000
Vermont	49	8,011,000	1,550,250	6,478,000	5,830,200	647,800	2,180,800
Massachusetts	195	45,727,500	8,125,625	40,471,950	36,424,755	4,047,195	9,302,745
Boston	54	50,950,000	2,700,000	27,156,150	24,440,535	2,715,615	26,509,465
Rhode Island	63	20,540,050	2,503,250	15,323,600	13,791,240	1,532,360	6,748,810
Connecticut	88	25,956,820	3,696,437	18,575,100	16,717,590	1,857,510	9,239,230
New England States	568	107,590,370	22,001,812	122,722,100	110,449,890	12,272,210	57,140,480

Table, by States, Territories, and reserve cities, exhibiting the number of banks in each, with their capital, minimum amount of bonds, &c.—Continued.

States and Territories.	Number of banks.	Capital.	United States bonds.		Circulation.		
			Minimum.	Held September 30, 1864.	On bonds held September 30, 1864.	Increase by McPherson bill on bonds held.	Increase by McPherson bill on maximum of bonds.
New York	267	35,223,360	7,878,815	28,450,650	25,605,585	2,845,065	9,617,775
New York city	44	46,250,000	2,187,500	15,602,500	14,042,250	1,560,250	32,207,750
Albany	7	1,800,000	350,000	1,518,000	1,366,200	151,800	433,800
New Jersey	71	$12,253,350	$2,410,837	$9,506,850	$8,556,165	$950,685	$3,697,185
Pennsylvania	225	32,213,840	6,744,718	27,364,600	24,628,140	2,736,460	7,585,700
Philadelphia	33	18,058,000	1,637,500	9,652,800	8,687,520	965,280	9,370,480
Pittsburgh	23	10,150,000	1,125,000	7,080,500	6,372,450	708,050	3,777,550
Delaware	15	1,823,985	380,200	1,763,200	1,586,880	176,320	237,105
Maryland	27	2,679,200	656,875	2,479,000	2,231,100	247,900	448,100
Baltimore	17	11,713,260	850,000	6,201,000	5,580,900	620,100	6,132,360
District of Columbia	1	252,000	50,000	250,000	225,000	25,000	27,000
Washington	5	1,125,000	225,000	730,000	657,000	73,000	468,000
Middle States	785	173,541,995	24,496,445	110,599,100	99,539,190	11,059,910	74,002,805
Virginia	24	3,536,700	732,850	2,558,350	2,302,515	255,835	1,234,185
West Virginia	21	2,601,000	511,250	1,544,450	1,390,005	154,445	610,995
North Carolina	15	2,401,000	519,000	1,279,000	1,151,100	127,900	1,249,900
South Carolina	14	1,935,000	396,250	1,247,600	1,122,840	124,760	802,160
Georgia	15	2,436,000	434,000	1,861,000	1,674,900	186,100	761,100
Florida	3	150,000	37,500	92,500	83,250	9,250	66,750
Alabama	10	1,735,000	352,500	1,033,800	930,420	103,380	804,580
Mississippi	4	305,000	76,250	180,000	162,000	18,000	143,000
Louisiana	1	100,000	25,000	100,000	90,000	10,000	10,000
New Orleans	8	3,525,000	400,000	2,325,000	2,092,500	232,500	1,432,500
Texas	59	5,970,000	1,327,500	1,960,250	1,674,225	186,025	4,295,775
Arkansas	4	405,000	88,750	277,500	249,750	27,750	155,250
Kentucky	58	9,458,900	2,018,475	7,230,300	6,507,270	723,030	2,951,630
Louisville	9	3,551,500	450,000	3,033,700	2,730,330	303,370	821,170
Tennessee	33	5,005,300	845,000	2,571,500	2,314,350	257,150	2,690,950
Southern States	278	42,515,400	8,214,325	27,194,950	24,475,455	2,719,495	18,039,945
Ohio	184	22,939,000	4,981,250	16,038,250	14,434,425	1,603,825	7,604,575
Cincinnati	12	8,600,000	600,000	6,384,500	5,746,050	638,450	2,853,950
Cleveland	8	5,664,100	400,000	1,405,000	1,264,500	140,500	4,399,600
Indiana	95	13,828,500	2,787,125	8,540,300	7,686,270	854,030	6,142,230
Illinois	155	13,549,600	3,299,900	7,808,750	7,027,875	780,875	6,521,725
Chicago	12	10,550,000	600,000	933,500	840,150	93,350	9,709,850
Michigan	93	9,794,800	2,148,500	4,183,000	3,764,700	418,300	6,029,900
Detroit	5	2,950,000	250,000	883,400	795,060	88,340	1,854,940
Wisconsin	47	5,750,000	925,000	1,885,500	1,696,950	188,550	2,053,050
Milwaukee	3	650,000	150,000	610,000	549,000	61,000	101,000
Iowa	123	10,145,360	2,411,375	4,674,000	4,206,600	467,400	5,938,900
Minnesota	50	11,357,700	1,330,000	2,231,500	2,008,350	223,150	9,349,350
Missouri	34	3,065,000	691,250	1,358,600	1,222,740	135,860	1,842,260
Saint Louis	6	3,250,000	300,000	760,000	684,000	76,000	2,566,000
Kansas	59	3,844,580	961,145	1,487,250	1,338,525	148,725	2,506,055
Nebraska	63	4,735,000	1,133,750	1,907,750	1,716,975	190,775	3,018,025
Western States	949	127,473,580	22,969,295	61,091,300	54,982,170	6,109,130	72,491,410
Colorado	23	1,807,000	451,750	1,097,500	987,750	109,750	819,250
Nevada	1	75,000	18,750	40,000	36,000	4,000	39,000
California	14	2,050,000	412,500	972,500	875,250	97,250	1,174,750
San Francisco	1	1,500,000	50,000	600,000	540,000	60,000	960,000
Oregon	8	695,000	161,250	410,900	369,810	41,090	325,190
Arizona	2	150,000	37,500	46,500	41,850	4,650	108,150
Dakota	36	2,258,000	564,500	703,000	632,700	70,300	1,625,300
Idaho	4	250,000	62,500	67,800	61,020	6,780	188,980
Montana	13	1,650,000	325,000	474,350	426,915	47,435	1,223,085
New Mexico	8	630,000	157,500	467,500	420,750	46,750	209,250
Utah	5	600,000	150,000	462,500	416,250	46,250	183,750
Washington	15	955,000	238,750	325,000	202,500	32,500	662,500
Wyoming	4	525,000	131,250	160,000	144,000	16,000	381,000
Pacific States and Territories	134	13,145,000	2,761,250	5,827,550	5,244,795	582,755	7,900,205
United States	2,664	524,266,345	80,443,127	327,435,000	294,691,500	32,743,500	229,574,845

Touching the effect of this bill as an inducement to the banks to keep up and to increase their circulation the views of the Comptroller will be of interest. He says:

The bill introduced by Senator MCPHERSON provided that any national banking association shall be entitled to receive from the Comptroller of the Currency circulating notes not exceeding in amount the par value of the bonds deposited, and further provides that the total amounts of such notes issued to any association shall not exceed the amount of its paid-in capital stock. The bill passed the Senate and was favorably reported to the House by the Banking and Currency Committee, and is now upon the regular Calendar of the House. In case it should become a law, it would increase the aggregate circulation of national banks upon the basis of the present deposit of United States bonds with the Treasurer in trust to the amount of about $32,000,000, and would increase the profit to the banks on circulation from two-fifths to three-fifths of 1 per cent. per annum. No doubt the increased profits which by this bill would inure to the banks would induce those holding fours to continue to hold them, and the profits would probably be sufficient to induce banks who hold threes to replace them when called for redemption with 4 percents. The passage of this bill seems a simple and feasible measure of relief to the banks, and while it is possible that some bill which provided for the funding of the high-rate bonds into bonds bearing a lower rate of interest would afford more permanent relief, the bill of Senator MCPHERSON is regarded as an excellent measure by the Comptroller, and would not interfere with any funding bill which might hereafter become a law.

In another place he says:

Whatever course may be deemed expedient by Congress in regard to the funding or future payment of the public debt, the Comptroller is of the opinion that it is perfectly safe and will afford great benefit to the public to permit an issue by the national banks of circulation to the extent of 100 per cent. of the par value of the bonds deposited instead of 90 per cent., as under the present law.

If, sir, it is clear that there is a rapid decrease in the national currency and that the proposed legislation will stop that decrease, then it seems to me that there is but one question remaining, namely,

WILL THE BILL-HOLDER BE PERFECTLY SAFE UNDER THIS LAW?

I believe, sir, that he will be absolutely safe. I have shown that the Comptroller so believes. Briefly let us consider the protection given to the holder of the bills.

First. The bond of the Government is good. It must be paid in full at its face value.

Second. Should the market value of the bonds fall below their face value the law steps promptly in with this iron-clad provision:

Whenever the market or cash value of any bonds thus deposited with the Treasurer is reduced below the amount of the circulation issued for the same, the Comptroller may demand and receive the amount of such depreciation in other United States bonds at cash value, or in money, from the association, to be deposited with the Treasurer as long as such depreciation continues.

Third. If a bank fail to pay its notes, the law promptly forfeits the bonds deposited as security and the Comptroller may cancel the same, the Government paying the notes in full.

Fourth. Therefore the bill-holder has the Government back of his bills, making him absolutely safe.

Fifth. Then the law gives a paramount lien on all the assets of the association in favor of the bills.

Sixth. The stockholders are personally liable to the amount of their stock for the debts of the association.

Seventh. The 5 per cent. deposited for redemption is also a protection.

Mr. Speaker, safeguard after safeguard is left to protect the bill-holder. I repeat, he is absolutely safe. Did I believe that there was even a doubt upon this point I would oppose the bill, for I want the currency of the country absolutely safe in the hands of our people.

If I am correct in my conclusions thus far, I find my duty clear to vote for the pending bill. It is a measure in the interests of the people and not in the interests of the banks.

LARGE CITIES WILL OPPOSE.

I expect that the opposition to this measure will come mostly from the largest cities or great money centers, especially if they have before them the hope that they can secure legislation peculiarly favorable to them, as I believe that the Potter bill, so called, is.

The large cities are not the places where national-bank circulation is most liberally given to the people. This circulation comes more largely from the country banks.

Let us see what the increase under this bill will be to the eleven large cities of the country and consider this in connection with the capital of their banks. I will demonstrate that in proportion to their bank capital they do not get the increase of circulation that the country banks will receive:

Cities.	Bank capital.	Increase.
New York	$46,250,000	$1,560,250
Boston	50,950,000	2,715,615
Chicago	10,550,000	93,350
Cincinnati	8,000,000	638,450
Cleveland	5,064,100	140,500
Saint Louis	3,250,000	76,000
Philadelphia	18,058,000	965,280
Pittsburgh	10,150,000	708,050
Baltimore	11,713,260	620,100
New Orleans	3,525,000	232,500
San Francisco	1,500,000	60,000
Total	170,210,360	7,810,095

The total bank capital of the country is $524,266,345. Take from this the total capital of the cities just named, and it leaves $354,055,985 as the bank capital outside of these great centers. The total increase to the country of circulation under this bill is $32,743,500. Subtract the increase going to said cities, and it leaves $24,933,405 increased circulation to the outside banks. So that while the country banks, with a capital of $354,055,985, give the country an increased circulation of $24,933,405, these great money and business centers, with their bank capital of $170,210,360, give only an increased circulation of $7,810,095. With these facts before us we can understand perhaps why this bill does not meet such generous support from the great cities as from other quarters.

But I can see still another reason why some of the banks, at least of one great city, New York, should oppose this bill while they have a hope that the Potter bill may pass. The Potter bill contains a scheme for the refunding of the $250,000,000 4½ per cent. bonds and the $737,691,550 4 per cent. bonds into 2½ per cent. bonds, the Government to pay the premium on the fours and four-and-a-halfs. This, if made a law, would involve very large bond transactions, and the city of New York, with her ever keen eye for "a good thing," would become the rich field for these gigantic bond transactions. Even now, I doubt not, more than one far-seeing banker is casting over in his mind for congenial spirits with whom to form a syndicate to reap the harvest ripening in the Potter bill. In these remarks I do not include the respected author of said bill in this House. I believe that he is full of an honest purpose in advocating it. I only regret that he is so in love with his own bill that I fear he can not see the good that is in any other.

And here let me add a few words concerning

THE POTTER BILL,

which we have been told will be offered as a substitute. I am opposed to it now certainly because—

First. I am certain that if this House does pass it, still it will not become a law at this session.

Second. It is being used to destroy the McPherson bill, which, after full debate, if I may refer to this, has passed the Senate, and if passed here the country is assured of relief from the danger of contraction that is now upon us.

Third. I believe the Potter bill to be most largely in the interest of the banks, while the McPherson bill will best serve the public.

In support of—as proof of this view I quote from the report signed by Mr. George S. Coe, president of the American Exchange National Bank of New York, said report being to the "Chamber of Commerce of the State of New York," and circulated in support of the Potter bill. Mr. Coe's third reason for favoring the Potter bill is as follows:

Third. For the national banks, this opportunity to capitalize the premium cost of the long-date bonds, when purchased, would make these bonds available for note issue at a margin of profit in all sections of the country, *i. e.*, in all localities where ordinary rates for money do not exceed 18 per cent. per annum. As a result of the enactment, therefore, it might reasonably be expected that the national banks would gradually, in time, become possessed of 4 per cent. bonds, or their substitute, 2½ per cent. bonds, and these are not redeemable for twenty-two and a half years. In this respect the proposition is superior to the measure known as the McPherson bill, which, without further legislation, would not serve to make note issue profitable in localities where current rates for money exceed 7 per cent. per annum.

Here we have an admission, boldly made, that the Potter plan will let banks operate even in a field giving a profit of 18 per cent. It means this or nothing. It is also stated that the McPherson bill holds forth no such captivating inducements to the national banks.

Fourth. I am afraid of the Potter bill for the reason that I believe the bonds to be bought can be secured by the Government at a lower rate than that fixed in the second section of that bill.

But the friends of the Potter bill tell us that

THE M'PHERSON BILL IS BUT A TEMPORARY MEASURE.

This is true. It is equally true of the Potter bill. Both aim at keeping up the circulation until some system can be wisely chosen, some system that will outlive our national debt, finally maturing in 1907. The McPherson bill insures relief for many years to come, but not beyond 1907, and Mr. POTTER'S plan, he admits, dies in 1907.

We have no plan before us proposing a security for national-bank notes after our bonds all mature. Our ablest financers thus far are silent in the presence of this great problem.

This being true, it only remains for this House to say whether it will pass the McPherson bill now, giving safety at a time when all business is uneasy, or whether it will kill the McPherson bill by substituting the Potter bill, knowing as we do that the latter can not become a law at this session of Congress and probably never will.

THE NATIONAL BANKING SYSTEM.

Some may oppose the present measure because they are opposed to the national banking system. If such are patriotic and desire the prosperity of their country they will not make this the time to strike at the system, even though they may find the occasion tempting for the usual abuse with which some enjoy feeding the minds of those with kindred views.

Before closing my remarks I desire to submit a table, prepared at my request by the honorable Comptroller of the Currency, giving the dividends paid by the national banks since September, 1869, as far back as the Government has data on this point. I include this as a complete answer to the stale and unwarranted charge that these banks are robbing the people. Here are the facts:

Percentage to capital of semi-annual dividends paid to stockholders of national banks from September, 1869, to September, 1884, inclusive, by geographical divisions of the country and for the whole United States, as shown by reports made to the Comptroller of the Currency, with general averages for fifteen years.*

Dividends declared—	New England States.	Middle States.	Southern States.	Western States.	United States.
September, 1869	5.2	5.3	5.8	6.1	5.4
March, 1870	5.0	5.1	6.3	5.4	5.2
September, 1870	4.9	4.9	5.6	4.9	5.0
March, 1871	5.0	5.0	6.0	5.7	5.2
September, 1871	4.9	4.9	5.2	5.2	5.0
March, 1872	5.0	5.1	5.0	5.3	5.1
September, 1872	4.9	4.9	5.3	5.8	5.1
March, 1873	5.1	5.1	5.1	5.5	5.2
September, 1873	5.1	5.0	4.6	5.5	5.1
March, 1874	4.8	4.8	4.3	4.9	4.8
September, 1874	4.9	5.0	4.8	5.6	5.1
March, 1875	4.8	5.0	4.3	5.4	5.0
September, 1875	4.8	4.8	4.4	5.3	4.9
March, 1876	4.4	5.2	4.5	5.2	4.9
September, 1876	4.0	4.6	4.3	5.1	4.5
March, 1877	3.9	4.4	4.3	5.3	4.4
September, 1877	3.7	4.1	4.0	6.9	4.5
March, 1878	3.5	4.1	3.8	4.7	4.0
September, 1878	3.3	3.8	3.5	4.9	3.8
March, 1879	3.2	4.0	3.5	4.6	3.8
September, 1879	3.2	3.9	3.5	4.8	3.8
March, 1880	3.3	4.2	4.1	4.8	4.0
September, 1880	3.5	4.2	3.7	4.7	4.0
March, 1881	3.6	4.1	4.2	5.3	4.1
September, 1881	3.6	4.4	4.1	5.1	4.3
March, 1882	3.7	4.3	4.2	5.6	4.3
September, 1882	3.5	4.1	4.0	6.5	4.4
March, 1883	3.5	4.3	4.1	5.1	4.2
September, 1883	3.5	4.3	4.0	4.7	4.1
March, 1884	3.4	4.4	4.4	4.7	4.1
September, 1884	3.3	4.0	4.2	4.3	3.9
General average	4.1	4.6	4.5	5.2	†4.6

* Dividend reports were first required by the act of March 3, 1869, and there are no data on file earlier than the dates given.

† General average of the whole country for fifteen years.

Do these dividends show the system to be one giving unreasonable profits? What business man will be content with such low profits on the capital invested in his business? Let us here contrast these divivends with those paid by the banks in other countries, and it will be found that the rates are lower here than in nearly all the other countries on earth.

In the Bankers' Magazine, Journal of the Money Market, and Commercial Digest, for December, 1884, published in London, I find that the Bank of England pays 9½ per cent., and that the London and partly provincial banks pay dividends ranging mostly from 10 per cent. to 22 per cent. The Yorkshire and northern banks pay mostly from 10 per cent. to 20 per cent. The Bank of Scotland pays 14 per cent., and the Scotch banks mostly pay from 12 per cent. to 16 per cent. The Irish banks pay about 12 per cent., some running to 20 per cent. The Bank of France pays 29½ per cent., and the French banks mostly pay from 10 per cent. to 19 per cent. The German banks, like our own, pay low dividends.

In conclusion, I am frank to say that I care nothing for the national banks excepting as they are instruments of convenience to the people and as they are a part of the business interests of the country which have the same rights here, and no more, than the citizen whose only capital is in his head and hands.

Certain it is, however, that our monetary system of the past decade has given and is still giving the greatest satisfaction to the people, and he must be a very thoughtless or reckless man who, in the light of the past and the present of our financial experiences and in the light coming from other and older governments, is prepared to strike down the national banking system of this country.

To this system I am committed until such time as a better is offered, a time that has not yet come.

Mr. ERMENTROUT was recognized.

Mr. BRUMM. I rise to a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. BRUMM. I desire to ask, Mr. Speaker, if the five minutes which were occupied in the discussion with reference to the proposition to call the previous question were taken out of the time of the gentleman from Michigan [Mr. YAPLE]. If so, he was thereby deprived of five minutes of his time which he subsequently yielded to me. I was informed of this by a gentleman who kept the time. That being the case, I desire to ask if after having yielded the remainder of my time to Mr. SHIVELY he is not now entitled to five minutes.

The SPEAKER. Undoubtedly, if there was a mistake in the computation of the time. The Chair will cheerfully correct any such mistake, as it was not the intention that there should be any reduction from the time of the gentleman from Michigan on account of the remarks made with reference to the limitation of the debate.

Mr. BRUMM. I was satisfied that the time so occupied should not have been deducted from the time allowed the gentleman from Michigan.

The SPEAKER. It should not have been.

Mr. ERMENTROUT. I believe I have the floor.

Mr. BRUMM. I understand I have five minutes remaining, and this I yield to the gentleman from Indiana [Mr. SHIVELY].

Mr. ERMENTROUT. Am I recognized?

The SPEAKER. The gentleman will be recognized at the expiration of the remaining five minutes which the gentleman from Pennsylvania [Mr. BRUMM] now yields to the gentleman from Indiana.

Mr. SHIVELY. Mr. Speaker, the pending measure, known as the "McPherson currency bill," together with the amendment submitted by the gentleman from Pennsylvania [Mr. BRUMM], clearly illustrates the two antagonistic ideas struggling for supremacy in the financial legislation of the country. The discussion of these propositions develops and sharpens the real issue which the liquidation of the national debt is thrusting on the attention of Congress. The issue does not lie between a metal currency and a paper currency. The issue does not lie between a redeemable and an irredeemable currency. The issue does not lie between a State-bank currency and a national-bank currency. On the contrary, the issue does lie, clearly and distinctly, between a corporation currency on one hand and a Government currency on the other. Here the issue is drawn, broad, plain, and deep, and on this line this controversy will proceed until it is settled in the interest of the Government, and settled forever.

The gentleman from Iowa [Mr. HENDERSON], who just resumed his seat, insists that the provisions of this bill are "very simple," and adds that it is only designed to "get more money into the hands of the people." Indeed, sir, the provisions of the bill are very simple, and so far from getting "more money into the hands of the people," it involves a plain, broad, explicit proposition to appropriate $32,743,500 to the national banks without requiring a single farthing of compensation to the Government in return. The people, through the Government, are to furnish all the funds and bear all the burdens, while the banks are only required to monopolize the profits and harvest all the benefits. Such is the delicate partnership contemplated by this measure; such the philanthropic impulse inviting its adoption.

But, sir, we have not the slightest assurance that this measure will arrest the contraction of the currency. Even the distinguished gentleman from New York [Mr. POTTER], who is not only friendly to the banks but claims partial authorship of the present system, admits that it must produce the opposite effect. This gratuity to the banks would certainly enhance the value of their issue franchise; to enhance the value of their issue franchise is to increase the premium on their bonds; to increase the premium on their bonds is to render the stockholders more clamorous than ever for the retirement of the notes and the sale of the bonds to secure the benefits of the premium. So this measure, while containing a rich morsel for the banks, would only aggravate and intensify the evils which threaten the people.

Moreover, it does not appear that the contraction by the banks during the past year has been at all compulsory. On the contrary, the report of the Comptroller of the Currency shows conclusively that the banks can avail themselves of over $196,000,000 additional circulation under existing law. In spite of this, however, the Comptroller, in substance, distinctly avows that Congress must by legal enactment increase their profits or they will still further deplete the volume of currency. These facts clearly demonstrate not only that the contraction by the banks is entirely voluntary, not in any sense compulsory, but also that profit is their only object, whether sponged from the fields of prosperity or gathered from the wrecks of insolvency. Profit points the compass, and greed, armed by the Government with the power of expansion and contraction of the currency, leads the way, careless alike of outraged patriotism and bankrupted industry.

Such, Mr. Speaker, are the difficulties that must arise from every experiment of associating a public function with private enterprise. Such are the inevitable results of transforming a prerogative of sovereignty into an instrument of individual profit. As well, sir, might Congress lodge the right to "declare war and make treaties of peace," to sit in judgment on the issues of life and death, to a corporation of manufacturers of gunpowder and fire-arms and expect uninterrupted peace, as to lodge the purse-strings of society in a symposium of credit corporations and expect uninterrupted prosperity. As well delegate the power of collecting and disbursing the public revenues to a junta of prohibitory tariff enthusiasts and expect justice to the consumer, as to transfer the power of issuing and controlling the volume of currency to twenty-six hundred non-producing corporations and expect safety and stability to the productive and distributive interests of the country. Every transfer of public power to private control for private gain quickens into activity the most selfish instincts in human nature, and breeds disaster to the people and danger to the Government.

The present attitude of the national banks toward the Government and the business interests of the country presents a striking illustration of this truth. Within the past eighteen months the lines of credit have been drawn with constantly increasing tension, caused by contraction, from manufacturer to wholesaler, from wholesaler to retailer, and from retailer to consumer. And now these 2,600 children of privilege demand that Congress accede to their terms and grant this gratuity, or by further contraction they will snap these lines and ripen a harvest of foreclosure and confiscation. Even this accession to the banks would be no guarantee to the people. Privilege acknowledges no reciprocal obligation. It knows no friendships. It claims tribute of all. It feels grateful to none. It has no heart to touch, no sympathies to arouse, no conscience to awaken. Privilege would lay the whole world under contribution, but stand sponsor to nothing.

Then, sir, shall we seek a remedy by increasing the power of privilege? Why, alternate expansion and contraction, appreciation and depreciation, prosperity and bankruptcy, are the unfailing fruits of banks of issue. Neither regard for the Government nor solicitude for the people can be imparted to them by legal enactment. Said Mirabeau, "Banks of issue support governments as ropes support criminals." Their guardianship over the business interests of a country is the guardianship vouchsafed by the highwayman to his victim. This is no impeachment of national bankers. I distinctly disclaim the slightest hostility toward any class of men for availing themselves of the advantages conferred by the laws of their country. It is not a question of men, but of systems. It is not a question of individuals, but of institutions. It is not a question of private profit, but of sovereign prerogative. National bankers are but the beneficiaries of a system granted to them by the highest law-making power in the land. Congress has only been taken at its own word. He who hoists the floodgates should not complain of the deluge.

In their capacity as banks of exchange, discount, and deposit the national banks are useful and necessary factors in the business economy of the country. In their capacity as banks of issue they are the source of constant annoyance to the Government and menace to the people. As the former their business stands on its own merits, as does that of the merchant, the manufacturer, and the farmer. As the latter they exercise a public power only for private gain and utterly regardless of the public welfare. As the former they take equal chances with all other forms of private enterprise. As the latter they hold despotic sway over the producing and distributing forces of the country. As the former they are useful servants. As the latter they are despotic masters. The defects shown by these distinctions clearly indicate the proper remedy. Leave their exchange, discount, and deposit functions, all clearly private and local in character, intact, and let the national

banks do business on their own capital, with no more and no less protection under the law than is granted to other forms of private business. Let the issue function, entirely public and national in character, revert to the Government, where it belongs. Such a divorce of the proper from the improper functions of the national banks will destroy none of their power for good, and will remove all their power and temptation to harm. The temptation is removed by the repeal of the law which confers the power. That a law tempts only the selfishness of human nature is conclusive evidence of its injustice and abundant cause for its repeal.

The economic world is subject to laws as immutable in their character and as universal in their application as are the laws of nature. Violation of these economic laws is followed by commercial distress as certainly as the violation of natural law is visited with physical distress. Violent expansion and contraction of the volume of currency are a clear violation of one of these economic laws, and business bankruptcy and commercial paralysis are the inevitable penalties. To increase the temptation of private corporations to ignore these laws is suicidal policy. The proposed measure will not only provoke a further contravention of these principles, but also delay a permanent solution of the financial problem.

Want of time, sir, forbids me to dwell on the comparative merits of a corporation currency and a government currency. Suffice it to say that beyond all points of similarity as between the two the latter must ever possess substantial and conclusive advantages over the former. Every element of strength and safety inhering in our national-bank currency is lent to it by the Government, while all its defects arise from private control of its volume. Gentlemen who question the wisdom and expediency of trusting the control of the volume of currency to the Government are left to their skepticism in popular institutions; for the last analysis of every objection to such a currency demonstrates that it is founded on a lurking doubt in the ability of the people for self-government. Professing faith in free institutions, I leave such objections to others. They are the excuse of kings, the only plea of tyrants, the first and last argument of despotism. If the chosen and instructed representatives of fifty million people must abdicate the sovereign prerogative of issuing and controlling the volume of currency to private corporations, as a means of self-defense, the problem of popular government is yet unsolved. That only is a pure democracy, a perfect republic, where all the essential prerogatives of sovereignty are lodged in and exercised by the whole people in their collective capacity, through their representatives, for the common good of all. That government under which such prerogatives are farmed out to private corporations, to be prostituted to the individual gain of the few, is unworthy of the name democracy.

Again, sir, I respectfully suggest, in the interest of candor and fairness, that the substance of this measure should have been clothed in different form, submitted to the House, referred to the Committee on Appropriations, and reported back here, to stand on its own merits as an appropriation bill. It is certainly nothing more nor less. We deceive neither the public nor the banks; why humbug ourselves? Why present a gift and seek to obscure its value? Why tender the banks a tray of diamonds labeled "cobble-stones?"

Mr. Speaker, in the few minutes allotted me I have sought to emphasize the folly of this measure, which is as unjust in principle as it is vicious in policy. It would relieve the distress of the many by granting gratuities to the few. It is privilege seeking by additional legal enactment to fortify itself against the processes of natural justice. No candidate for public position would dare go before the people advocating such a measure as this. Its friends may steal a march on public opinion, but can it form a truce with fate. My vote shall be cast in favor of settling the question that this House is the exalted refuge of the people, not the paradise of class legislation.

Mr. ERMENTROUT. In the brief argument I propose to make in advocacy of this bill it is not my intention to follow the gentlemen who have already spoken in a discussion of the various theories advanced by them. I propose to pay my attention directly to the matter in hand, making only this preliminary remark: The gentleman from Michigan [Mr. YAPLE] has shown a disposition to arouse antagonism to this bill by appealing to party spirit. He says that the measure is anti-Democratic. In all that has been said by gentlemen in that line I beg leave to disagree with them.

We have heard a good deal of Bourbon Democracy and progressive Democracy and the Old South and the New South. I think if the gentleman who has thus appealed to the Democratic side of this House will take the Chicago platform as his guide on this question his doubts would vanish. That platform declares:

> We believe in honest money, the gold and silver coinage of the Constitution, and a circulating medium convertible into such money without loss.

And they announced another principle as a guide for legislative action and as a matter of policy:

> That legislation affecting the occupations of the people should be cautious and conservative in method, not in advance of public opinion, but responsive to public demands.

Mr. BRUMM. Will the gentleman permit me——

Mr. ERMENTROUT. I decline to be interrupted. If the gentleman can not find his answer in my general remarks on this subject I do not propose to fritter away my time in any colloquy.

If there is one section in the Union which has become notorious, whether truthfully or falsely, for upholding the banner of Bourbonism, whether truthfully or not, it is, by common report, the State of Kentucky. And yet even a Senator, a Democratic Senator from the State of Kentucky, in some remarks made before the Senate, used the following language in regard to the national banking system:

> National banks are out of politics. There is nobody making war upon them; nor are they as such interfering in political affairs. We need their circulation for a growing country, and therefore it will be a benefit for us all to maintain it.

I read the above from Money in Politics, a work lately published by J. K. Upton. You may call this new Democracy if you will; that is the Democracy which I follow.

Now, the argument for this bill is in a nutshell. Briefly stated, it is as follows: The President of the United States in his message, the Secretary of the Treasury and the Comptroller of the Currency in their reports, have told us that in consequence of the rapid payment of the 3 per cent. bonds and their withdrawal as a basis for the issue of national-bank currency there has been an inconvenient contraction of the currency. This amount is stated by the Comptroller of the Currency to have been for the year ending November 1, 1883, $8,284,017, and for the year ending November 1, 1884, $24,170,676, aggregating for the two years $32,454,693. It is also said by these authorities that of the two hundred million of these bonds outstanding one-fourth will be retired by the operations of the sinking fund during the coming year; that, if this state of things is allowed to continue and no appropriate legislation had, this process of contraction will proceed at the rate of $40,000,000 per annum. Because it is well understood that the high rates at which the 4 and 4½ per cent. bonds rate preclude their profitable use by the banks as a basis of circulation. All these authorities unite in a recommendation, almost universally approved by the business community, that something be done to retard contraction and maintain circulation. Of all the bills having this for their object but two are presented for the consideration of this House. They are, in all likelihood, the only bills which the House will have an opportunity to act upon, if action is to be had in the present Congress. The one is known as the McPherson bill. It has already passed the Senate and is the one immediately before us for discussion. It is a measure which has also the approval of all the authorities I have named. The opposition to the measure comes from a very incongruous combination indeed. It is composed of two classes of persons:

First. Those who denounce national banks as burglars, robbers, and everything diabolical, and who are bent on expediting the approaching extinction, real or supposed, of the national banking system, by refusing to broaden the basis for the issuing of the national banking currency, and by substituting greenbacks in its place.

Second. Those who have proclaimed themselves, in season and out, as the progenitors, protectors, and defenders of the system, and who now profess to be actuated by a desire to make a more permanent basis for the issue of the national-bank notes by a refunding of the national debt in a bond bearing 2½ per cent. interest.

It is a sufficient answer to the opposition embraced in the first class to say that the action of the Forty-seventh Congress in passing the bill for the rechartering of national banks was a declaration on the part of the representatives of the people that the national banking system should be maintained for the present. It would be superfluous to enter into the reasons for this conclusion. They still exist and are as potent as ever. For obvious reasons the large majority of the people do not wish any disturbance or change in the system unless it be unavoidable. Believing this, it is my intention to support any and all proper measures looking to the maintenance of the present system. I do not mean that I would seek to perpetuate the public debt, or even extend the time of payment to subserve such a purpose. But, subject to that limitation, with my present lights, I am in favor of using the national debt as long as it may exist for national banking purposes.

Exclusive of all other bonds representing the debt there are $738,000,000, nearly two-thirds of our bonded indebtedness, that can not be liquidated under existing laws till July 1, 1907, more than twenty-two years. Certainly a sufficient basis for banking purposes for years to come. It needs only appropriate legislation. So that in my judgment the time is not yet on us when it has become a pressing duty "to provide for the retirement of the national banking system with the payment of the public debt," nor for the settlement of the other proposition, what currency shall take its place in the future?

To the opposition embraced in the second class I say that the funding of the public debt in bonds bearing a lower rate of interest is at all times desirable when it can be accomplished. But believing that there is no likelihood of Congress agreeing upon any such measure at this time, I think it wiser to support such measures as are more easily comprehended, as will give rise to less discussion, and are more likely to become law. Therefore, I am not disposed at this time to undertake any such legislation.

I am well aware that much effort has been made to forward the success of the particular project advocated by my distinguished colleague from New York [Mr. POTTER] through the press, by private correspond-

ence, and the action of public bodies. I confess that the representations thus made are entitled to great consideration. In all probability if I saw daylight I would yield the measure at the present time my hearty support. But my conclusion as to its unfeasibility is more than fortified by the fact that the funding scheme presented in Mr. Potter's bill, though introduced into this House as early as January 16, 1884, just one year ago, has up to this hour failed to receive the *imprimatur* of the intelligent committee to which it was referred.

It is but just to Mr. BUCKNER, the chairman of the Committee on Banking and Currency, who may probably join the ranks of the opposition, that I should say that he is not identified with either class, but has a project of his own, embraced in a bill he has introduced in the present session, which he will no doubt take occasion to explain, and which may prove a useful measure. It is obnoxious to the objection made to the Potter bill. I believe that legislation of so comprehensive a nature on so important a subject as is embraced by both these bills should come before the House through regular and appointed channels, and after due consideration by your committees. Such a course affords the surest guarantee against unwise action.

The only bills having for their object the maintenance of circulation which I see any hope of passing, and which the Committee on Banking and Currency propose to consider to-day, are the McPherson bill and the Dingley bill. If it appear that they will accomplish their purpose, I should consider their passage the best possible thing at present feasible.

The McPherson bill, by allowing the issue of notes to the par value of the national bond, instead of 90 per cent., would allow an additional circulation upon the bonds at present deposited of $32,000,000, a sum of itself sufficient to fill up within nearly half a million the decrease in circulation of the past two years. If, in addition to this, we should pass the bill introduced by my colleague on the committee [Mr. DINGLEY], authorizing the Secretary to invest in United States bonds the fund deposited by national banks for the redemption of their outstanding circulating notes, an additional amount of $42,837,408 would be put into circulation. Both bills together would be instrumental at this time in increasing the circulation nearly $75,000,000, or, in exact figures, $74,837,408—more than twice the net decrease circulation of 1883 and 1884. These measures will not only remedy a present evil, but will also prevent future mischief. Should we fail to legislate on this subject, the decrease in circulation, it is estimated, will be at the rate of $40,000,000 per annum—an estimate by some believed below the mark.

The fund which the Dingley bill aims to loosen up, as explained by its author, would increase at the rate of about $15,000,000 per annum. The result of these bills is, therefore, to relieve present and prevent future contraction. If the figures of those who ought to know are correct, and there is no reason to doubt them, these bills would restore and keep in circulation for the next two years $187,000,000, as follows:

McPherson bill	$32,000,000
Dingley bill	42,837,408
Present operation of the bills	74,837,408

In absence of legislation, estimated decrease in bank circulation:

Two years	$80,000,000
Increase of redemption fund, two years, from $42,837,408 to $75,000,000	32,162,592
Total	112,162,592
Present operation of the bills	74,837,408
Total	187,000,000

I do not understand any one yet to have found fault with the bill touching the redemption fund, and yet in results the action of the McPherson bill seems to me to be far more effective, by restoring and keeping in circulation a greater amount. It is objected to because it is a makeshift, and we are told that it is discredited and dishonored by its own author and friends because of this admission. I make nothing of this argument, because it is an objection that applies to both bills proposed and to the national banking system. It was a makeshift and is a makeshift to-day so far as its circulation is concerned. There are few laws which are not makeshifts. I am not going too far in saying that all legislation, whether it be contained in your constitutions or your enactments, are makeshifts, measures calculated for given times and given circumstances, all liable to change and abolition with changing times and circumstances. But a makeshift which produces the results that I have shown in financial matters is a makeshift which rises to the dignity of wise and judicious legislation.

It is objected that this is a step in the direction of the perpetuation of the debt. There is no provision in either of these bills affecting that question. The committee I have the honor in part to represent, by the passage of a resolution early in the first session of the present Congress, while declaring their desire to continue the benefits of the national banking system, expressly protest against the perpetuation of the national debt for any such purpose. A point is attempted to be made against the bill because it is said that if you give the banks the additional 10 per cent. of circulation when they go out of business the contraction will be greater to that extent. This argument goes upon the presumption that the banks go into business to go out of it again. It does not take into account the inclination that men have to adhere to a business in which they are engaged, which they understand, and for which there is a call in the community in which they reside. No man changes his business, particularly the business affected by this legislation, so long as there is a safe and reasonable profit.

Gentlemen speak of all legislation touching the national banking system as being in the interests and to the profit and advantage of national banks exclusively. I do not so regard it. Have the people, the community, no interest in having a safe, sound, and universal currency, and in maintaining its circulation to the point called for by the business of the country?

If this legislation were not, in my judgment, of reciprocal and mutual advantage to all concerned and all affected by it it would not have my support. It is because I believe that the universal sentiment is for legislation of this kind that I am here to advocate it to-day. It would be a difficult thing indeed always to construct legislation in such a way that its benefits could be meted out in equal and exact proportions to all men. It is our province to enact just and wise laws of whose provisions all may avail themselves. That this man or that man may sometimes get more out of legislation is a result against which no human foresight can provide.

I make nothing of the argument that the passage of the McPherson bill will appreciate the bonds. To whom and why will it appreciate the bonds? It will appreciate them simply because of their use as the basis of circulation. The party that desires to go into the banking business will buy them and he will pay the price. They will be affected in the market simply by their value for these purposes. I see very little, if any, increased temptation in this for the banks to withdraw from business. If, as alleged, the banks by reason of the high premium will sell their bonds and retire, then investors will also largely sell. They can only find their purchasers in those who wish to go into banking or other investors. These parties will meet each other in the market, and at the end this matter will square itself. Under the present system the banks will remain in as long as it is profitable and no longer. The case will be no different in the future.

This argument seems to be singularly inconsistent with the argument made in the same breath that the McPherson bill in wiping away the 10 per cent. wipes away conservatism and prudence in banking. The gentlemen assert that by the passage of this bill the bonds will go up, away up, as high or higher than the difference between 90 and 100. I submit that under these circumstances the inducement for the banks to avoid mismanagement, for the purpose of holding on to these valuable bonds, will be no less persuasive than at present with the 10 per cent. margin. And the Government will be just as securely protected against fluctuations and risks arising from bank mismanagement. Under this law there will be about as much conservatism and prudence in banking as there has been in the past. I think experience has shown that this depends more upon the character of the people who are engaged in the business than upon legislative fines, penalties, and restrictions. Finding nothing in the objections made to this bill to change my convictions, I propose to give it my support.

[During the delivery of the above remarks, when the ten minutes yielded by Mr. HENDERSON, of Iowa, had expired,

Mr. ERMENTROUT said: I should like to have five minutes longer.

Mr. HENDERSON, of Iowa. As the gentlemen in favor of this bill are anxious to get to a vote, I yield the remainder of my time.

The SPEAKER. The gentleman from Pennsylvania [Mr. ERMENTROUT] asks the extension of his time for five minutes.

Mr. HENDERSON, of Iowa. I yield the gentleman five minutes more.

Mr. ERMENTROUT then resumed and concluded the delivery of the remarks printed above.]

Mr. POTTER addressed the House. [See Appendix.]

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, informed the House that the Senate had passed a resolution, in which the concurrence of the House was requested, for printing the report of tests of iron and steel and other materials for industrial purposes by Maj. F. H. Parker.

The message further announced that the Senate had passed a bill of the following title; in which the concurrence of the House was requested:

A bill (S. 1374) to provide for the sale of the old site of Fort Brady, Michigan, and for a new site and the construction of suitable buildings thereon.

NATIONAL-BANK CIRCULATION.

Mr. HEWITT, of New York. Mr. Speaker, in the singularly felicitous and very eloquent presentation of the argument against this bill made by the gentleman from Michigan [Mr. YAPLE], he was pleased to refer to New York and, when he predicted the passage of the bill, to read out of the Democratic party the Representatives of that State who might vote for this measure. Now, I know him to be an earnest Democrat, and I know he appreciates the fact that the party is not yet large

enough to spare any of its members, even in the State of New York, where we did not get through with a majority of the popular vote. He will be relieved, therefore, when he discovers that the vote of the city of New York, so far as I have been able to canvass it, will be found to be cast against this bill.

I am opposed to this measure, and I am opposed to it not because I am either the friend or the enemy of the banks or the banking system. I look upon banks as a part of the machinery with which the business of the country is carried on. They would not exist if they were not useful; and my only concern in regard to the banks is that the machinery shall be kept in good order so that it will run. But this bill will not, in my judgment, contribute to the public welfare, although it may add to the profits of the banks, in regard to which we have no other concern than not to deprive them of the opportunity of making enough profit to induce them to serve the public, so long as the public shall require their services.

I have no concern in these profits. This House has no concern in these profits. The only question is whether the operations of commerce will be promoted or damaged by the passage of this bill. I think they will be damaged. Therefore I am against the bill. It proceeds upon a false assumption, which has been repeated many times in the course of this debate. It proceeds upon the idea that there has been during the last year a contraction of the currency. There has been no such contraction. I hold in my hand the report of the Comptroller of the Currency. On page 14 he estimates that the net decrease of bank circulation has been $24,170,676. But it is a remarkable fact that the increase in the coinage of silver represented by silver certificates (which are currency) during the same period was exactly $24,000,000. The bank currency, therefore, that has been retired was driven out of circulation by a currency of superior circulating power, and it lost its place in the circulation of the country because there was no use for it. We want circulation when we have an active business. The circulation of this country prior to the past fiscal year was adjusted to a very large volume of business.

Naturally, in time of depression, when prices are low, the amount of money required to make the exchanges is reduced. And not only were the twenty-four millions driven out by another currency which took its place, but by the last bank statement in the city of New York it appears there were $47,000,000 over and above the legal reserve required for the security of the bill-holders of this country; $47,000,000 lying idle because the productive power of the country has been paralyzed and is standing still.

This bill, if you pass it, will authorize the issue of $32,000,000 of additional currency to be added to the $47,000,000 for which to-day there is no profitable use. You will say it will not be issued if there is no use for it. But that is a mistake. It does not cost the banks who have got the bonds lodged in the Treasury as security one dollar to take this $30,000,000 into their possession; and it is more than you can ask of human nature to resist the temptation to take possession of $30,000,000 which, if it can not be loaned at 6 per cent., can be loaned at 5 per cent. or at 3 per cent. or at 2 or even 1 per cent., as it is to-day being loaned at call in the city of New York.

This bill then gives us expansion when we need contraction. Will it give us expansion when we need expansion? The test of the merit of this bill is then to be applied. When shall we need this expansion? When business revives? Heaven knows when that will be; certainly not until many obstructions created by the existing tariff laws to the free course of trade shall be removed. But when this revival comes, whether it be in two years or in three years hence, will the passage of this bill have prevented the payment and retirement of the bonds upon which the bank circulation is based? No, sir; the surplus in the Treasury under the McPherson bill must be invested day by day and month by month in retiring the principal of these bonds. And hence when the time comes that we shall need bonds to get new issues of money the bonds will have been paid off and canceled, and the injury we have been seeking to avoid will have been accomplished beyond redemption. It is for that reason that I oppose this bill.

I confess that I advocate the substitute offered by my colleague from New York [Mr. POTTER], not because I think either of the bills is of such immediate or transcendant consequence as the banks contend and as the advocates of these measures in this House would try to have us believe. But what the Potter bill accomplishes is this: It takes the surplus money in the Treasury and uses it for reducing the rate of interest. In other words, it anticipates a portion of the interest for which it gets full compensation in the reduced interest on the debt, instead of using it for paying off the principal of the bonds. The mathematical calculation shows that the Government will be the gainer by this process. But the great advantage which this plan offers to the mercantile community is that the principal of the bonds will still remain as the basis for circulation when needed. The debt consists of the principal and the interest. We shall have discharged the interest, and the principal will remain as the basis for banking.

The SPEAKER *pro tempore*. The ten minutes yielded to the gentleman from New York [Mr. HEWITT] have expired.

Mr. POTTER. I have four minutes still remaining. I yield that time to my colleague.

Mr. HEWITT, of New York. My colleague [Mr. COX] asks me to explain a little more fully—I certainly had not intended to explain it at all—the process by which the United States, in anticipating the interest on the bonds—that is, the reduction from 4½ per cent. and 4 per cent. to 2½ per cent. by the Potter bill—would make a profit. The reason is this: When you pay a debt before it is due, and the interest is a debt which the Potter bill proposes to pay before it is due to the extent of 2 per cent., we get a discount. That discount is realized by the Government in the shape of a reduced rate of interest thereafter payable on bonds. The saving in interest thus made leaves in the Treasury a sum in cash which otherwise would have been paid out for interest. The sum thus saved, if invested quarterly at the rate of 3 per cent. per annum, will produce an amount equal to the compensation paid to the holders of the bonds for reducing the rate of interest to 2½ per cent. Practically the Government gets 3 per cent. upon its advances and pays 2½ per cent. on its debts, and thus makes a profit.

Now, when my time expired I was about to call the attention of the House to the contingency when contractions, severe and griping, will come upon this country. That day I can not predict, but within one year, within two years, within three years at latest, it will come without notice like a thief in the night. That day will be when, by the steady coinage of silver and the issue of silver certificates, this country shall pass from a gold basis to a silver basis in the commercial transactions of its citizens. That day is as inevitable as the Day of Judgment, and when it comes then every dollar of gold in the Treasury and in the banks and in the possession of private individuals will be hoarded. It is estimated that the gold of the country amounts to $610,000,000. In one day that six hundred and ten millions of gold will disappear from the circulating medium of this country. It will not be lost; it will not be stolen. It will cease to be money.

Mr. WARNER, of Ohio. Where will prices go then? Will not prices shrink?

Mr. HEWITT, of New York. Prices will shrink, fortunes will shrink, a financial earthquake will open gaps greater than those that Spain has just seen, and we shall be plunged, rich and poor alike, into a common ruin.

Mr. WARNER, of Ohio. Will not gold come in then? If prices fall to the degree which the gentleman predicts, will not gold come in from other countries as fast as ships can bring it?

Mr. HEWITT, of New York. The difference between the commercial value of gold and silver will make silver the standard of value, and the ships of which the gentleman from Ohio speaks will come back loaded with the silver of all the world to be tumbled into our reservoir in exchange for the gold thus driven from circulation. Our greenbacks will then be redeemable in silver, the interest on our debt be payable in silver, and all private obligations not by contract expressly made solvable in gold will be discharged in silver.

The losses will be terrific, and business will for a time come to a standstill. Then will come from every quarter of the land a wail of distress and a demand for more money. Congress will respond to the public demand, and, exercising its new-found power of issuing legal-tender notes in times of peace, will supply circulation equal to the wants of trade. No deliberative body can convert itself into a bank of issue without bringing on a suspension of specie payments. It was so during the Revolution. It was so during the war of the rebellion. It was so in France, in Germany, Austria, Italy, wherever the issue of paper money has depended upon the will of the legislature responsive to the clamor and the sufferings of the people.

Thus it ever will be; and when the gentleman from Michigan invites the Democratic party to accept the doctrine that the issue of paper money is to be made dependent upon the will of Congress he invites it to its downfall and the country to its ruin.

[Here the hammer fell.]

Mr. HEWITT, of New York. I ask unanimous consent to append to my remarks the resolutions of the New York Chamber of Commerce, of the New York Board of Trade and Transportation, and of the leading bank officers in the city of New York.

The SPEAKER. Is there objection? The Chair hears none. Leave is granted.

Resolved, That the Chamber of Commerce of the State of New York views with anxiety the existing doubts and uncertainties as to the extent and effect of the continued contraction of national-bank notes and concurrent disturbance of the national banking system.

Resolved, That, for the general welfare in all the varied business interests of the country, these doubts and uncertainties ought to be dispelled. And, in conformity with the report of its committee on finance and currency,

Resolved, That, for remedial legislation, this chamber approves and hereby urgently appeals to Representatives and Senators in Congress to promptly enact the measure known as the Potter refunding bill, amended as now proposed, and of which a copy is hereto annexed.

Resolved, That copies of these resolutions, together with copies of the amended bill and committee's report, be forwarded at once to kindred organizations of the merchants and business men of other cities, in suggestion of like action on their part if they approve.

Resolved, That like copies be forwarded at once to the Representatives and Senators in Congress from this city and State of New York.

We have the honor to transmit herewith copy of preamble and resolution adopted at the annual meeting of the New York Board of Trade and Transportation yesterday:

Whereas any considerable contraction of national-bank notes, such as is justly apprehended by the continued redemption by the Government of the bonds

which are pledged by the banks as security for their notes of issue is reasonably calculated to excite financial distrust and consequent embarrassment to all business interests throughout our country: Therefore,

Resolved, That the Board of Trade and Transportation of the City of New York regards the measure known as the "Potter refunding bill," amended as now proposed, a copy of which is hereto annexed, as being skillfully devised to promote and protect the public interests, and, to the end that existing fears and doubts be allayed and public confidence restored, would respectfully but firmly urge upon Congress the immediate passage of the bill.

AMBROSE SNOW, *President*.
FRANK S. GARDNER, *Acting Secretary*.

Being asked to express our opinion of the measure known as the Potter refunding bill, amended to read as per copy hereto attached, we, the undersigned officers of the associated banks of New York city, hereby reply that we approve and heartily recommend its prompt enactment:

National Bank of Commerce in N. Y., by Rich'd King, prest.; Bank of New York, N. B. A., in N. Y., by Chas. M. Fry, pt.; Mechanics' National Bank, by O. H. Cox, pt.; Union National Bank, by Wm. H. Male, prest.; Continental Nat'l Bank, by E. D. Randolph, pt.; Third National Bank, by Wm. D. Booth, pt.; The Importers and Traders' Nat. Bank, by E. H. Perkins, jr., pt.; The Nat. Park Bank of New York, Geo. H. Potts, prest.; The Amer. Exchange Nat. Bank, Geo. S. Coe, prest.; The Hanover Nat. Bank, by Jas. T. Woodward, prest.; The Merchants' Nat'l Bank of New York, by J. D. Vermilye, prest.; The Phenix Nat'l Bank of New York, by Eugene Dutilly, presdt.; The Leather Manufts. Nat. Bk. of New York, N. F. Palmer, pt.; The Mercantile Nat'l Bank of the City of N. Y., Wm. R. St. John, pt.; National Broadway Bank, L. A. Palmer, prest.; The Merchants' Exchange Nat'l Bank of the City of New York, Wm. A. Thomson, prest.; The Chemical Nat'l Bank of New York, G. G. Williams, pt.; The Tradesmen's National Bank of the City of New York, Nathaniel Niles, pt.; The Central National Bank, by Wm. M. Bliss, pt.; The Ninth National Bank, John T. Hill, pt.; National Shoe and Leather Bank, by J. M. Crane, pt.; The Chatham National Bank, by G. M. Hunt, pt.; Seventh Ward Nat. Bank, H. Shreiner, pt.; Chase National Bank, J. Thompson, pt.; Gallatin Nat. Bank, F. D. Tappen, pt.; Bank of North America, by Wm. Dowd, pt.; Corn Exchange Bk., W. D. Nash, pt.; Bank of America, Wm. L. Jenkins, pres.; The Germ. Amer. Bk., H. Rerhale, pt.; Bank of the Manhattan Co., D. A. Hays, prest.; Saint Nicholas Bank, Arthur B. Graves, prest.; U. S. Nat. Bank, S. C. Murray, pt.; Oriental Bank, Washington A. Hall, prt.; The National Butchers and Drovers' Bank, by G. G. Brinckerhoff, pt.; Pacific Bank, H. B. Brandreth, v. pt.; The National Citizen's Bank, W. H. Oakley, pt.; New York Nat'l Exchange; Bank, L. B. Halstead, pt.; Irving Nat. Bank of New York, C. J. Snow, pt.; Fulton Nat. Bank, Thos. Monahan, pt.; Market Nat'l Bank, R. Bayles, pres.

Mr. LYMAN. I ask unanimous consent that the time of the gentleman from New York [Mr. HEWITT] be extended.

Mr. WILKINS. The opposition to this bill has occupied two hours and fifteen minutes.

The SPEAKER. Does the gentleman from Ohio [Mr. WILKINS] yield to the gentleman from Massachusetts to ask unanimous consent that the gentleman from New York [Mr. HEWITT] may be permitted to proceed with his remarks?

Mr. REAGAN. That can only be consented to in case an opportunity is allowed to answer the gentleman.

Mr. WILKINS. I would be very glad indeed to yield to the gentleman from New York, but our time is limited. I regret that I can not do it and I ask his pardon for not doing it, but under the circumstances I can not consent.

I send to the Clerk's desk to be read a letter touching this question which I have received from Hon. John J. Knox, late Comptroller of the Currency.

Mr. HEWITT, of New York. I ask the gentleman from Ohio [Mr. WILKINS] to yield to me to make a request.

Mr. WILKINS. I will do that.

Mr. HEWITT, of New York. I ask permission to attach to my remarks the resolutions and report of the chamber of commerce, to which, if I had had more time, I would have referred, and also a statement signed by all the banks in the city of New York, in regard to the operations of the Potter bill as compared with the McPherson bill.

The SPEAKER. If there be no objection the request of the gentleman from New York will be granted. The Clerk will report the letter sent up by the gentleman from Ohio [Mr. WILKINS].

The Clerk read as follows:

THE NATIONAL BANK OF THE REPUBLIC,
New York, January 13, 1885.

MY DEAR SIR: I have received your letter of the 30th ultimo asking for my views in reference to the passage of the McPherson bill which is now pending in the House. This bill passed the Senate during last session by nearly a unanimous vote, many Senators who had previously opposed similar measures voting in favor of this. Other bills providing for the funding of the 4 and 4½ per cent. bonds into 2½ or 3 percents have been under discussion in the Finance Committee of the Senate for more than two years, and have failed to obtain a favorable report. One other measure providing for a greater rate of issue than par upon bonds deposited was debated in the Senate and defeated, the McPherson bill afterward passing the Senate by a non-partisan vote. This bill authorizes either an increase of circulation upon United States bonds deposited with the Treasurer of 10 per cent. or authorizes the withdrawal of 10 per cent. of the bonds at the option of the banks. Thus a bank having $100,000 of United States bonds on deposit with the Treasurer may increase its circulation from $90,000 to $100,000, or it may withdraw $10,000 of its bonds and dispose of them, still retaining the same amount of circulation as at present.

The whole amount of 3 percents outstanding on the 1st January, 1885, was one hundred and ninety-six millions, of which the banks hold one hundred and forty-seven millions as security for circulation. As these bonds are called, fours or four-and-a-halfs must be substituted or the circulation reduced. The banks hesitate to buy other bonds at the present high rates, and are therefore rapidly reducing their circulation to the minimum point; that is, to an amount equal to one-fourth of their capital or less, as provided by law; but if the McPherson bill shall pass increasing the amount of circulation from 90 to 100 cents on the dollar, the banks will generally substitute other bonds for those which are called. It is not probable that the circulation will be largely increased, but the passage of the bill will have the effect to prevent any rapid reduction in national-bank circulation. Some of the banks will dispose of 10 per cent. of their bonds which are released by the operation of the bill, while others will increase their circulation. The price of the bonds in the market will not therefore be materially changed nor the aggregate bank circulation be largely increased at present. The bill will, however, do much good in the future, for as the time for payment of the fours and four-and-a-halfs diminishes the value of the bonds will also diminish, and they will be purchased by new banks as well as by those already organized, for the reason that the premium will not be large and that circulation can be obtained upon them for the par value thereof. The banks will thus probably come into possession of a sufficient amount of the fours to maintain their circulation for the next twenty years, thus perpetuating the national banking system with a slightly increased circulation and without much inconvenience to the banks.

The prompt passage of the bill will have a good effect upon the business of the country. Many of the banks have suffered losses during the present financial crisis, and such institutions will appreciate the relief afforded by the provision of the bill adding 10 per cent. of the amount of bonds held by them to their available funds. The passage of the bill by the House by a non-partisan majority like that which it received in the Senate will reassure the country that the policy of the new administration toward the banks is not to undergo any sudden change. During the present depression such an assurance is needed, and can not fail to have a beneficial effect upon every business interest. The pending measure, which is simple in its provisions, originated with a leading Senator in the Finance Committee of the Senate, who is an influential member of the party which is to control the incoming administration, and is the only financial measure now before Congress which is likely to pass during the present session, and its passage will be hailed by the business men of the country as one step toward furnishing the relief needed to remove the business depression, and its future effect will be much greater than is generally supposed.

You request me to inform you if the banks in this city are in favor of the passage of the McPherson bill. I have met many of the officers of the leading banks, and with but one or two exceptions they are heartily in favor of the bill. Many of the banks would as a matter of choice prefer a refunding bill, and have affixed their signatures to a paper recommending the passage of such a bill, but it is generally believed that such a measure can not pass during the present year, and it was not their intention in signing such a recommendation to obstruct or interfere with the passage of the McPherson bill, but simply to express a preference for a bill of that kind as an independent measure.

The banks in this city hold but a small amount of bonds upon which circulation is issued, and are not therefore interested directly in the question; but they are the correspondents of all the smaller banks in the country, and it would be an ungrateful act upon their part to oppose a measure now pending in Congress which will afford but moderate relief to their correspondents.

A similar bill to the refunding measure now pending was recommended by the Comptroller in his report for 1882, and has been fully discussed by the Finance Committee, and I am informed by members of that committee that there is no probability of such a measure, even if it should pass the House, being reported by the committee during the present session. The McPherson bill, on the other hand, has already passed the Senate and been reported upon by the Committee on Banking and Currency. It has been repeatedly recommended by the President, Secretary of the Treasury, and other officers of the Government, and a day has been fixed for its consideration, and it now only requires the vote of the House to insure its enactment.

The two bills should not be allowed to antagonize. They are not inconsistent with each other. If the Potter bill should be adopted as a substitute for the McPherson bill, the defeat of both measures is certain. Let each bill stand upon its own merits.

I earnestly hope that the McPherson bill, which is the only measure which has a reasonable chance of becoming law during the year upon which we have just entered, will receive the vote of the House, and that the Potter refunding bill will receive favorable consideration from the next Congress.

Very truly, yours,

JOHN JAY KNOX.

Hon. BERIAH WILKINS,
Committee on Banking and Currency,
House of Representatives, Washington, D. C.

Mr. WILKINS. I yield ten minutes of my time to the gentleman from Louisiana [Mr. HUNT].

The SPEAKER. The gentleman from Louisiana does not appear to be in the Hall.

Mr. WILKINS. Then I yield ten minutes to the gentleman from Texas [Mr. MILLS].

Mr. MILLS. I want more than ten minutes. My side of this question has not had a fair opportunity to be heard. The gentleman from New York who opposes this bill advocates one infinitely worse. The views which I wish to present to the House, my own and the views of those who are associated with me in opposition to the bill, have not had a fair chance to get a hearing to-day, and I want something more than ten minutes, and it must be accorded.

ENROLLED BILLS SIGNED.

Mr. NEECE, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a bill (H. R. 7964) to provide for the expenses and compensation of special messengers to be sent by the Secretary of State to the States, respectively, of Iowa and Oregon, for the certificates of the electoral vote of 1884 for President and Vice-President of the United States, in pursuance of the provisions of section 141 of the Revised Statutes of the United States; when the Speaker signed the same.

Mr. PETERS, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a bill (S. 1820) to provide for the ascertainment of the claims of American citizens for spoliations committed by the French prior to the 31st day of July, 1801; when the Speaker signed the same.

NATIONAL BANKS.

Mr. WILKINS. I observe that the gentleman from Louisiana [Mr. HUNT] is now in his seat. I yield to him ten minutes of my time.

Mr. HUNT. Mr. Speaker, we are warned by the officers of the Government of the reduction in the national-bank circulation, which is occasioned by the redundant revenue of the country. We know that the warning rests upon a proper foundation, because a large part of the indebtedness of the Government is in bonds redeemable at its own pleasure, and the revenue available therefor is appropriated as it comes in to the payment of the bonds. In the reports which were placed last session upon the desks of members it is stated by the Secretary of the

Treasury that so rapid is the reduction going on that a contraction in the banking currency of the country amounting, say, to some $60,000,000, will have taken place in a very brief period of time.

Now then, Mr. Speaker, what are we called on to say in the present bill? Simply whether in our belief the increase of circulation called for can be furnished with safety. I do not address myself to the bill of the gentleman from New York [Mr. POTTER], because I apprehend that under the rules it will be found impracticable to have a vote on that bill, and that it will be found practicable at the present session to determine little else than the issue presented in the bill reported from the Committee on Banking and Currency now before the House.

Now, then, how can the circulation which seems to be required by the country be properly utilized through the instrumentality of the national banks? At present the banks are allowed to receive currency to the amount of 90 per cent. of the face of the bonds deposited by them, and besides they have to lodge in the Treasury a reserve of 5 per cent.; so that really they are under a restraint amounting to 15 per cent. The present bill proposes as a measure of relief to permit the banks to receive currency to the amount of the par value of their bonds. But, Mr. Speaker, it ought to be noted the banks, under this bill, would still be subject to the restraint of depositing 5 per cent. for the redemption fund. So that in reality there is a margin of 5 per cent. for security other than has been generally understood or generally insisted on, at least in the present debate.

The gentleman from New York [Mr. POTTER] argues that there will be great danger in allowing the banks, as is proposed, to receive in currency the par value of their bonds. If he has that apprehension regarding the United States bonds to be deposited when it is brought to his notice that there is a reserve in the redemption fund of 5 per cent., so that the banks would really handle only 95 per cent.—if he thinks it unsafe to trust the banks with circulation to that extent, I undertake to say he is one of a very limited number of persons. I venture to add, too, that the apprehension he has expressed has not found expression in the consideration which has been given this topic elsewhere and in the best-informed quarters.

But, Mr. Speaker, the gentleman from New York, having indulged in this one apprehension, goes on to another, and says the measure before the House will be unwise because the bonds in question will be necessarily enhanced in value in the hands of the banks, will rise in the market, and the Government be thus obliged in the end to pay a great premium in the redemption of its debt. The gentleman then proceeded to indulge in a prophecy of evils. I submit we have no business with speculations here. This proposition involved in the bill under discussion has been before the country at least one year. It passed the Senate with the approval of those in that body who are best informed on financial topics, and no such rise as the gentleman now predicts ever came with the improving prospects for the final passage of the measure. If we are to occupy ourselves with speculations, we may as well take the speculations of some other gentleman who may be thought equally sound in judgment with the gentleman from New York. I think this is not a proper, not a statesmanlike course. The true and only question before us is, I submit, Can we not give the banking currency security, and do we not give it security when it is based by us upon United States bonds, the banks receiving only 95 per cent. thereof in circulating notes?

But, says the other gentleman from New York [Mr. HEWITT], the banks have directors and officers, who are human; and the entire currency to be authorized will be issued at once, and the country afflicted with a redundant circulation. Are the banks then going to give away their funds? Are they going to loan money unless they get interest on it? Are the channels of trade going to be overflowed in violation of the laws of demand and supply? Will the banks take out circulation if it is not to their interest to do so? And will the people call on the banks for loans unless the conditions of trade require it? These questions, Mr. Speaker, I think answer themselves.

One great advantage which the country has enjoyed under the national banking system has been a good circulation. Thirty years ago a traveler leaving the Mississippi River and going East lost upon his bank-bills from the time he left his point of departure until he reached his destination; and the increase in the loss was in proportion to the distance he traveled. Under the national-bank system the circulation has been stable and satisfactory; by it nobody has suffered loss. Besides the security upon which this bank circulation rests, and which I have endeavored to explain, it is secured by the guarantee of the Government. It is morally impossible, therefore, that any holder of a national-bank note shall lose one cent.; and it is familiar, as a matter of fact, that no note-holder ever has lost.

Will you then authorize this additional amount of currency to go into circulation to be used if the demands of trade exact it, or to be left unused if not needed—to respond to the demands of the time, to answer the varied requirements of business? Or are you to listen to the proposition which, with so much astonishment, I have heard presented to-day, that the United States shall issue legal-tender notes, and the amount of the issue become matter for political consideration and action in Congress——

[Here the hammer fell.]

Mr. WILKINS. Mr. Speaker, how much time have I left?

The SPEAKER. Thirty-three minutes.

Mr. WILKINS. I yield fifteen minutes to the gentleman from Ohio [Mr. WARNER].

Mr. WARNER, of Ohio. If I could be permitted to take the floor in my own right I would much prefer it.

The SPEAKER. The gentleman from Ohio [Mr. WILKINS] now holds the floor.

Mr. WARNER, of Ohio. If I can not obtain the floor in my own right I will take it for what time I can get, but would like at least twenty minutes.

I send to the Clerk's desk to be read an amendment which I propose as an additional section, and which I desire may be considered as pending.

The Clerk read as follows:

SEC. 3. That whenever the volume of circulating notes of national banks shall fall below $303,318,984 by the redemption of national-bank notes, as provided by section 4 of the act of June 20, 1874, and of section 6 of the act of July 12, 1882, the Secretary of the Treasury is authorized and directed to issue United States notes redeemable in lawful money, in denominations as nearly as may be of the bank notes redeemed, in sufficient amount to keep the volume of paper currency at all times up to a total of $650,000,000, including national-bank notes, greenbacks, and notes issued under this act; and such shall have the same legal-tender power as is now given by law to national-bank notes, and they may be deposited by national banks with the Treasurer of the United States as lawful money for the redemption of their outstanding circulation.

Mr. DINGLEY. Mr. Speaker, are there not two amendments already pending?

The SPEAKER. The Chair was about to state the situation of the bill. The gentleman from Michigan [Mr. YAPLE] while holding the floor in his own right proposed an amendment to the bill, after which the gentleman from Pennsylvania [Mr. BRUMM] while holding the floor offered a substitute for the bill. Under the rules of the House there may be pending at the same time an amendment to the bill with an amendment to that amendment, and a substitute for the bill with an amendment to that substitute.

Mr. WARNER, of Ohio. Then I will offer this as an amendment to the amendment of the gentleman from Michigan.

Mr. DINGLEY. If it is offered I desire to reserve all points of order on it.

Mr. WARNER, of Ohio. Mr. Speaker, this country is undergoing one of those periods of depression which so frequently visit modern nations. In the midst of plenty there is want. The granaries of the farmers are overflowing with abundance; the shelves of the merchants are loaded with manufactured products; yet trade is stagnant; industries are broken down; labor is out of employment; exchanges are obstructed; business is paralyzed, and money, as the gentleman from New York [Mr. HEWITT] has just said, is gathered in money centers and lies idle, while failures in business have increased from $65,000,000 in 1880 to $250,000,000 in 1884.

There must be some cause for all this. I believe there are two principal causes. The first is, disproportionate production; not general overproduction—that is a condition that cannot exist; there can not be a surplus of everything. That is, a surplus or overproduction of some things as compared with others often takes place and is always followed by more or less disturbance of business, and not unfrequently by great suffering.

For as modern society is constituted and as civilization advances the dependence of man upon his fellow-man increases.

Capital and labor must go together. Machinery becomes as necessary to the laborer as are his own hands. When industries break down and the machinery of production stops the laborer is deprived of the very means of earning bread. This is the condition now over a large part of the country. I do not, however, propose to enter into a discussion of the question of overproduction. But to refute an error that seems so widely to prevail I will print with my remarks some things which have been said on that subject by men who have more ably discussed it than I can.

Among the first to combat the theory of overproduction was James Mill, one of the clearest and ablest writers on political economy. He says:

A commodity which is the instrument of demand is always at the same time a commodity added to the stock of supply. Of two men who perform an exchange, the one does not come with only a supply, the other with only a demand; each of them comes with both a demand and a supply. The supply which one brings is the instrument of his demand, and his demand and supply are, of course, exactly equal to one another. But if the demand and supply of every individual are always equal to one another, the demand and supply of all the individuals in the nation, taken aggregately, must be equal. Whatever, therefore, be the amount of the annual produce, it can never exceed the annual demand.

Professor Nicholson, late of Trinity College, Oxford, by three questions and answers completely overthrows the doctrine of overproduction.

What is demand? Demand is the offering a commodity which we have in exchange for one which we want.

What is supply? Supply is the commodity itself which we offer in exchange.

Can demand, as we define it, exist without supply, or supply without demand? Certainly not; for we must furnish a supply of some sort or other in order to offer it for the commodity which we want.

John Stuart Mill discusses the question at greater length, but with the same conclusion. He says:

The argument against the possibility of general overproduction is quite conclusive, so far as it applies to the doctrine that a country may accumulate capital too fast; that produce in general may, by increasing faster than the demand for it, reduce all producers to distress. This proposition, strange to say, was almost a received doctrine so late as thirty years ago.

Is it not almost a received doctrine now in this country? One would think so from what is said not only in the public press but on this floor.

And the merit of those who have exploded it is much greater than might be inferred from the extreme obviousness of its absurdity when it is stated in its native simplicity. It is true that if all the wants of all the inhabitants of a country were fully satisfied, no further capital could find useful employment; but in that case none would be accumulated. So long as there remain any persons not possessed—we do not say of subsistence, but of the most refined luxuries, and who would work to possess them—there is employment for capital; and if the commodities which these persons want are not produced and placed at their disposal, it can only be because capital does not exist disposable for the purpose of employing, if not any other laborers, those very laborers themselves, in producing the articles for their own consumption. Nothing can be more chimerical than the fear that the accumulation of capital should produce poverty and not wealth, or that it will ever take place too fast for its own end. Nothing is more true than that it is produce which constitutes the market for produce, and that every increase of production, if distributed without miscalculation among all kinds of produce in the proportion which private interest would dictate, creates, or rather constitutes, its own demand.

And again:

A want of market for one article may rise from excessive production of that article, but when commodities in general become unsalable it is from a very different cause; there can not be excessive production of commodities in general. * * * What a country wants to make it richer is never consumption, but production. Where there is the latter we may be sure there is no want of the former.

A German writer of distinction, Rodbertus, has undertaken to show that the equilibrium of production, as modern industries are carried on, is necessarily destroyed periodically.

The following figures will serve to illustrate this theory of periodical disproportion in production. According to the census of 1880 there were employed in the United States—

In agriculture	7,670,000
Average earnings, each	$289
Total earnings	$2,220,000,000
In manufacturing and mining	3,800,000
Average earnings, each	$570
Total earnings	$1,380,000,000
In trade and transportation	1,800,000
Average earnings, each	$500
Total earnings	$900,000,000
In professional and personal service	4,000,000
Average earnings, each	$400
Total earnings	$1,600,000,000
Aggregate earnings or share of total production of the industrial and professional classes	$6,100,000,000
Gross products of the country, say	$10,000,000,000
Left for capital and the non-producing classes	$3,900,000,000

Now, if the production of things consumed by the different classes here given be in the proportion of the earnings of the different classes, then the equilibrium of production and consumption would continue. But changes are ever taking place; improvements in production are constantly being made, and the quantity of things produced increases much faster than population. Suppose, for illustration, that production per capita doubles in a given time. Then it is clear that unless the share that falls to the different classes, that is, the wages of labor and earnings of all classes, is doubled, the power of consumption of the different classes would not increase with the increase of production. Production in some lines would then become excessive, and such industries must shut down. Idleness is then forced at first upon a small class; but as the wages of one class is cut off their power to consume, that is to buy, is taken away, and this in turn affects other industries, until the disturbance has its run through all; when a readjustment takes place and a new equilibrium is established.

CONTRACTION OF THE CURRENCY.

Another cause of the depression we are now undergoing, and the one I propose more particularly to discuss, is the contraction of the currency not only in this country, but throughout the world. For the first time since the discovery of this continent the production of gold has fallen below consumption in the arts, for ornaments and dentistry. And it is a startling fact that we are now actually encroaching upon the world's stock of coined gold for other uses than for money. By the stoppage of the coinage of silver in other countries and its restriction in this money supply from the silver mines is limited or cut off entirely. Then, in this country there is added to this general stringency a contraction of the paper currency of from three to four millions of dollars a month, with the danger of a still greater contraction in the near future. That cloud hangs over us. In my judgment, therefore, the most important thing before Congress is to stop this contraction of the currency. I wish it were the duty of the Speaker every morning when he takes the gavel to warn the House that its first duty is to stop the contraction of the currency, as in the Roman senate it was declared that Carthage must be destroyed.

It must be stopped if we would have a resumption of prosperity. It must be stopped if we would see our industries in a healthful state of activity again and the suffering hopelessness of the laboring classes relieved.

But the gentleman from New York [Mr. HEWITT] who has just spoken says that money is too abundant, that there is no profitable use for it. Is it strange that money is idle? Does the gentleman not know that when the volume of money in any country is undergoing contraction prices necessarily fall, and that money in consequence is withdrawn from business? A fall of prices is the necessary effect of a contraction of the currency. It can not be otherwise.

A contraction of the money volume changes the relations between money and other things, and necessarily affects prices. John Locke long ago laid down the true law relating to the value of money, as follows:

Money, while the same quantity of it is passing up and down the kingdom in trade, is really a standing measure of the falling and rising value of other things in reference to one another, and the alteration in price is truly in them only. But if you increase or lessen the quantity of money current in traffic in any place, then the alteration of value is in the money.

That is, with a stable volume of money for a given population with given wealth, which determines the volume of business, variation in the price of commodities is a variation in the goods themselves as compared one thing with another; but when the volume of money is changed, then the measure itself is changed, and we have what is taking place now, a double effect—that is, both a change in the commodities under the law of supply and demand, as above stated, and a change in the measure itself affecting the price of everything. In fact, it is an admitted doctrine of political economy that there can not be a general rise or a general fall of prices except by a change in the value of money. A general fall or a general rise of prices, when properly understood, means simply that there has been a change in the measure itself.

Nor is this law affected by the use of checks, drafts, or other means of economizing money, any more than the law of supply and demand is set aside in relation to coal because of improved means of economizing fuel. The effect of economizing the use of money or lessening the need of money amounts simply to this. In England £20 per capita, with the use of checks, drafts, clearing-houses, &c., answers the purpose of £40 per capita in France without these appliances.

I repeat, then, that prices will always fall when the money volume is undergoing contraction, and as prices begin to fall money is withdrawn from investment and hoarded in idleness. Why? Because investment is not safe. It is neither profitable nor safe to put money into property that is falling in value nor to employ it in business. Production is therefore checked or stopped. For if what is produced one month is worth less the next, who wants to invest money in production? That road need only be followed long enough to carry any one into bankruptcy. It has already carried thousands there, and has just carried the great firm of Oliver Bros. & Phillips, of Pittsburgh, into that pitfall.

No, money is not invested, because when prices are falling it is not profitable or safe to invest it. It is profitable at such times to lock up money, because although it may draw no interest it is increasing in purchasing power. It is gaining in its power of command over property. In short, to use it is to lose, to lock it up is to gain. It is the buried talent that, under such circumstances, gains other talents, and the active talent that loses. Hence it is that a contraction of $10,000,000 leads to locking up two, three, or five times as much, which reacts to reduce prices still lower. And this operation will continue just so long as contraction continues, whether it be one year or ten years.

Instinct as to money is always acute. In 1874 I heard a gentleman of wealth say he had placed in the Bank of England a million dollars at 2 per cent.—just as money is now being sent to England to be loaned. When I asked him "why he did not invest it here," he replied, "Why, I expect to be able to buy next year for $900,000 more property than I can buy now for a million." He was right. But people say there is a want of confidence. Certainly; but how can there be confidence in investments or in business when prices are falling? And if one having money of his own will not invest it, who will want to borrow on "good security" to invest?

Is it to be wondered, then, that interest is low? Interest is always low at such times, and always will be. Interest in the long run depends on profits, and if there is no profit there can not long be interest. Interest is highest and surest when business is prosperous, and is usually high too at the beginning of a decline in prices, for then everybody is trying to save himself; but when prices have fallen and business in consequence has become stagnant, then interest falls for the reason I have given. George Ward Norman, in his evidence before the parliamentary committee of 1857, stated that rate of interest did not depend on the amount of currency. He said (see page 318, question 3522):

There is no doubt that all over Europe, in the last few years, there has been a great increase in the quantity of money. The currencies of all countries have expanded, but the rate of interest has been very high. The very reverse would be the case if the rate of interest depended on the amount of currency.

Taken all in all there is nothing so far-reaching, or so ruinous in its

consequences, as a shrinking volume of money. Money is the life-blood of all industrial activity, and when it is taken away it is felt in every vein and artery of trade. Stop contraction and business will revive and industries will show new life.

I have spoken only of the effect of contraction when wealth and population are at a stand. It is easy, however, to see the double effect of contraction if, on the contrary, population is on the increase as it now is in this country. In fact, in order to keep the money volume to its proper relation to population and wealth there should be at this time an annual increase of from forty to fifty millions of currency of some kind.

Hence, even if there was no actual contraction, the increase of population itself would produce all the consequences of contraction. But in fact we have now both a contraction of the currency and an increase of population.

Hence, Mr. Speaker, the importance of stopping the contraction of the currency now. Unfortunately, perhaps, that can be done only by Congress. It is the operation of law upon national banks that has brought on contraction, and it is only by law that it can be stopped; and I repeat that it is idle to hope for a return of prosperity as long as contraction continues.

How shall we stop the contraction of the currency? There are three plans before the House. One is the McPherson bill now under consideration; another the Potter funding bill, and the third the amendment which I have sent to the Clerk's desk. I see no objection to allowing banks to take out currency equal to the face value of the bonds they deposit to secure their circulation. At the time the national-bank act was passed there was, perhaps, good reason for restricting circulation to 90 per cent. of the bonds; but that reason no longer exists. If banks were permitted to take out currency equal to the face value of their bonds it would operate as a temporary inflation of some twenty to thirty millions of dollars; but this would be followed by a more rapid contraction. In other words, the fall would be from a higher level. The reason is simple. Now, when the Government pays a $1,000 bond and a bank surrenders its circulation it surrenders $900. After the passage of the McPherson bill the bank would surrender $1,000 on the payment of a $1,000 bond; so there would be a contraction of $100 more in the one case than in the other.

I can not, however, agree with my friend from New York [Mr. POTTER] when he claims that under the McPherson bill bonds would rise in value, and that on this rise bankers would sell their bonds rather than take out new circulation. His proposition, it seems to me, is subject to a *reductio ad absurdum*. Bonds, he says, will go up in the market under the demand for them by banks for the additional 10 per cent. circulation, and on this rise banks will sell out! That is, banks will make the demand, and then sell out on the demand they themselves make! That would be like a man lifting himself up by his boot-straps.

There are some features, however, of the proposed Potter funding bill that I should favor, especially the reduction of interest, which is really a reduction of the debt itself.

CURRENCY REGULATIONS.

But the question we must meet sooner or later, and might as well meet now, is, Shall we continue to subject the paper currency of this country to regulation by private corporations and as private interests may dictate, or shall it be subjected to such regulation by law as shall secure stability of volume and thereby uniformity of value?

It has been well said by the gentleman from Michigan [Mr. YAPLE] that banks now put out currency when it is profitable for them to do so, and they retire it when it is not profitable. The quantity and regulation of the volume of money is now determined by private interests alone—the private interests of a few hundred men controlling national banks—and in permitting this we subject the value of all property, the prices of commodities and wages of labor, the relations of debtor and creditor, in no small degree to the control of private interests; for in the regulation of the currency banks are governed by no other principle. Now, I say this principle of currency regulation in which is involved such vast interests is unsound and indefensible.

Sir Robert Peel in his great speech of May 6 and 20, 1844, on the British act regulating the issue of currency, said:

> There is no contract, public or private; no engagement, national or individual, which is unaffected by it. The enterprises of commerce, the profits of trade, the arrangements made in all the domestic relations of society, the wages of labor, pecuniary transactions of the highest amount and of the lowest, the payment of the national debt, the provision for the national expenditure, the command which the coin of the smallest denomination has over the necessaries of life, are all affected by the decision to which we may come on that great question which I am about to submit to the consideration of the committee.

Is it wise or safe, I ask, to submit the control of the paper currency to private interests? Is this to become the established policy of this country? If not, now is the time to meet the question. I know we are told that national-bank notes are abundantly secured. That is all true, but there is a very great difference between security of final payment and such regulation of quantity as will insure stability of volume, and consequently stability in the value of the whole currency. Notes might be issued on the whole $1,200,000,000 of bonds, and the final payment of the notes would be amply secured; but is it not apparent enough that the value of the whole volume would be depreciated by such an issue? If you would allow national banks now, as during the war, to have bonds at par bearing 6 per cent. interest, does anybody doubt that they would put out currency by the hundreds of millions? There would be no suspension of issues until the inflation ended in collapse. The security of the final payment of notes by deposit of Government bonds, if only the profit were large enough, would not prevent the sort of expansion and contraction which took place under State banks.

On the other hand, take away the profits on issuing currency, and the banks will take away the currency itself. This is the condition of things now. It comes to this then: If you make it their interest to do so the banks will put out an abundance of currency, even to the wildest inflation; but if it is not made their interest to do it they will not put out any.

And this is the principle on which the currency volume is now regulated in this country, and on this volume, I say, depends in a large degree the business concerns of the country, as well as the value of everything that enters into commerce. For, say what you will, the truth is such currency, for the great purposes of trade, has the same influence on prices as so much gold and silver would have, and by placing in the hands of these corporations the power at will, or as their interests may prompt them, to change the volume of circulation, you place in their hands the power to control the value of all property and the obligations of every existing contract.

I attack, therefore, the very principle of bank regulation of currency. It is unsound. It is Lawism, and nothing else. John Law proposed to issue money on land. Why not on land as well as on bonds? It would seem that land, which is by nature limited, ought to be as secure as bonds, that may be unlimited. The error lies in accepting security for final payment as such regulation of quantity as is necessary to secure at all times stability of value. Value depends on quantity as compared with use; final payment upon the assets of the issuers; and this is true whether the issuers be the banks or the Government.

I come now to the principle on which those who favor bank regulation of currency lay greatest stress. The banks, they claim, adjust the volume of currency to the demands of business; that they give out and take up circulation in response to the wants of trade, so that there will always be just as much currency as business requires and no more. The real contest is over this principle, for if such an adjustment were possible there would be great force in the argument in favor of bank regulation of currency. But, even if this principle were ever operative, it certainly does not apply to national banks. National banks take out circulating notes equal to 90 per cent. of the bonds they deposit. When once taken out they are out to stay. In this respect there is no difference between national-bank notes and greenbacks. The banks do not even pretend now to be governed by any such principle as is claimed for them.

But if they did, the principle itself is deceptive. The old State banks claimed to act on this principle, but the result was always alternate inflation and collapse. The truth is there is no such relation existing between business and the money volume as admits of automatic adjustment through banks or in any other way. Such a relation or adjustment, from the nature of things, is impossible. No doubt there is greater business activity at one time than another; a greater number of exchanges at one time than at another, and if the demand for money grew only out of this relation there might be some ground for supporting the elastic principle, as this principle is called, in currency regulation. But no sooner is currency issued in abundance than a rise of prices takes place; and every rise of price is a new demand for currency. When prices are doubled the demand for two dollars to make an exchange is as great as the demand for one was before the rise.

In short, this is a demand that is never satiated. You might as well talk of adjusting fuel to the flames. The demand for more money was never greater than in times of greatest inflation during and at the close of the war. Lord Overstone said in his evidence before the parliamentary committee of 1857 (page 365), "I have no hesitation in saying that the Bank of England can put out any quantity of its notes that it thinks proper." I think this is enough to show that the elastic principle in currency regulation is a fallacy. Indeed it is a notion long ago exploded, but nevertheless one of those persistent errors that are all the time coming up anew.

The object of the amendment I have offered, Mr. Speaker, is to make fixed the existing volume of the paper currency and stop contraction. It does not propose to compel banks to give up any part of their circulating notes, nor to take from them a single privilege. I shall vote to allow them to take out circulation equal to the face of their bonds, and would vote to reduce the tax on circulation. But I want to have go along with these provisions the provision I have offered, so that if after the bill passes the banks voluntarily surrender circulation so as to reduce the total volume of paper below what it now is—about $650,000,000—the Secretary of the Treasury shall be required to issue Treasury notes having the same legal-tender power the retired bank notes possessed, in sufficient quantity to keep the volume of paper permanently up to $650,000,000.

The proposed amendment is as follows:

> SEC. 3. That whenever the volume of circulating notes of national banks shall fall below $303,318,984 by the redemption of national-bank notes, as provided by

section 4 of the act of June 20, 1874, and amendments thereto, the Secretary of the Treasury is authorized and required to issue United States notes redeemable in lawful money, in denominations as nearly as may be of the bank notes redeemed, in sufficient amount to keep the volume of paper currency at all times up to a total of $650,000,000, including national-bank notes, greenbacks, and notes issued under this act; and such notes shall have the same legal-tender power that is now given by law to national-bank notes, and they may be deposited by national banks with the Treasurer of the United States as lawful money for the redemption of their outstanding circulation.

This will prevent further contraction and hold the whole currency volume fast at the level at which it now stands, at the same time leaving to banks every right and privilege they now possess.

This is substantially the principle of Peel's act of 1844. That act recognized a given volume of paper as forever constituting a part of the money volume of England. To get more paper, coin or bullion must be deposited in the issue department of the bank, which, by the act of 1844, was put under the exclusive control of the Government. So it is proposed here to make the $650,000,000 of paper currency a permanent part of the money volume of this country, and then if a larger part of the whole money volume is required to be in paper, let gold or silver be deposited with the Treasurer for certificates. This principle is sound and perfectly safe. It prevents contraction; it permits no inflation; it looks only to stability. The principles on which this proposition rests are safe and incontestable. They may be stated thus:

First. If the volume of paper in any country be less than the whole volume of money required to maintain prices in that country up to the international level of prices, then coin will flow to such country and remain in such amount as, together with the paper currency, will suffice to sustain prices generally at the international level. For instance, if $1,200,000,000 of active currency is necessary to maintain prices in this country up to the international level of prices under our tariff system, and we have but $650,000,000 in paper, then $550,000,000 of the world's money will come here.

Second. If the paper currency, as above stated, be kept below the volume necessary to maintain prices at the international level, then such paper, if it have general acceptance as money, can not become depreciated; that is, can not fall below the coin level.

Third. A currency, part paper and part coin, will be regulated by the influx and efflux of the coin part, precisely as a purely metallic currency would be self-regulating.

I state these principles to show the perfect safety of the proposition I submit.

Mr. Speaker, these principles are not new or novel. They are deductions made after thorough investigation of the subject by as able men as any country has ever produced, In no country, perhaps, has this subject been subjected to as many crucial examinations as in England, beginning with the bullion report of 1819, and continuing down to 1857, and even to the present day. The act of 1844 was the result of an investigation by the parliamentary committee of 1840.

In 1857, again, a commission, composed, I believe, of as able men as ever sat on any commission, heard evidence on the operations of the act of 1844. At the head of that commission was the chancellor of the exchequer, and on it were such men as Gladstone, Disraeli, Sir James Graham, Sir James Wilson—both distinguished writers on economic questions—Sir Francis Baring, of banking fame, Sir Charles Wood, and others hardly less distinguished. Such witnesses as John Stuart Mill, Lord Overstone, George Ward Norman, also Weguelin and Twells, who were or had been presidents of the Bank of England, and others, were heard by the commission.

The one question before this commission was, Should the right to issue circulating notes be restored to the banks, or should it be kept under the control of the government, as provided in the act of 1844? I will read a part of Lord Overstone's examination by that commission. It should be remembered that Lord Overstone, besides being a distinguished writer on currency questions, was also a great banker; and I have thought it a misfortune that bankers in this country did not more of them study this question as he studied it.

At the beginning of the examination of Lord Overstone this question was asked him (question 3647, page 328):

Do you consider the separation of the issue and banking departments of the Bank of England to be founded upon the principle that the business of issue and the business of banking are in their nature distinct?—Undoubtedly; it is impossible to entertain any other view of the matter.

Again he says:

I certainly think it quite essential that the issue of paper money should be kept entirely separate and distinct from everything connected with the banking business (page 336, question 3664).

Again (page 337):

The present system of country issues which exists in this United Kingdom is undoubtedly a complete anomaly. We have it, and we do not very well know how to get rid of it; but I apprehend that no rational and intelligent person can say that he likes the system or that he approves of it.

Again (page 338):

First, the supply of the current coin, that is, the money of the realm, ought to be entirely separated from banking business, which is simply trading in money, borrowing at a low rate and lending at a higher rate. * * * Notes or certificates ought to be issued as the money, whether copper, silver, or gold, is coined, under strict provisions of law, and by an authority, such as the mint, established by law, and subject to strict regulations laid down in that law.

He then quotes this from Daniel Webster:

The circulation of paper tends to displace coin; it may banish it altogether. At this very moment it has banished it.

I would ask the committee—

Continues Lord Overstone—

to mark well that fact. There is a distinct statement of the entire banishment of coin from the United States by paper money, payable to the bearer on demand, and issued in obedience to what were deemed to be the wants of the public.

Then he continues his quotation from Webster:

If others may drive out the coin and fill the country with paper which does not represent coin, of what use is that exclusive power over coins and coinage which is given to Congress by the Constitution? Wherever paper is to circulate as subsidiary to coin, or as performing in a greater or less degree the functions of coin, its regulation naturally belongs to the hands which hold the power over the coinage. This is an admitted maxim by all writers; it has been admitted and acted upon on all necessary occasions by our own Government throughout its whole history.

Again, on page 329, Lord Overstone says:

The sole privilege of coining money, whether copper, silver, gold, or paper, ought to be vested in one institution, established for that exclusive purpose, and subject to strict regulations of law. No share of such privilege ought to be conceded in any form to banks or to private individuals.

Again, on the same page:

Perfect freedom of competition should be established in the business of banking, correctly understood, and effectually distinguished from the function of coining or from that of issuing paper tokens or representatives of coins, that is, bank notes, which, in fact, is coining under a form peculiarly susceptible of abuse, because the undue issue of paper notes is not restricted by that intrinsic value which effectually regulates the issue of metallic money.

Then he quotes Tooke as follows:

The privilege of issuing paper money is a delegation of that which is universally considered as a privilege residing in the state.

Sir Robert Peel, in the speech before referred to, said:

We might, I think, infer from reasoning, without the aid of experience, that an unlimited competition in respect to issues will not afford a security for the proper regulation of the paper currency.

But I need not multiply evidence on this point. The literature of political economy, and especially of that period extending from 1797 to 1857, covering the period of suspension and resumption in England, and of the discussions that led to the act of 1844, are full of evidence all pointing to the same conclusion, and that is, that the issue of currency should be separate and distinct from the business of banking, and that the regulation of the volume of money can not be safely left to private interests. The business of banking is to deal in money, not to create money. It would be as reasonable to leave the control of coinage to the goldsmiths as the creation of paper money to banks.

I say, in conclusion, Mr. Speaker, that enlightened statesmanship throughout the world has discarded the practice of bank regulation of currency, and we must give it up too. What other country would turn over the issue of currency to twenty-five hundred banking corporations to be put out or taken up only as their own interests might dictate? No nation in Europe to-day, not one, intrusts the issue and regulation of currency to private interests or to a bank, unless the bank is a state institution and the issue of its circulation is under the direct control of the state and subject to strict regulation by law. The right to issue circulating notes is not necessary to the existence of banks, nor to the existence of the national banking system. As the public debt is paid bank notes must be retired. And the people demand that the debt shall be extinguished, and the sooner provision is made to supply the place of retired bank notes the better for the country.

Mr. WILKINS. I ask unanimous consent that the leave to gentlemen to extend and publish their remarks on this bill be made general.

The SPEAKER. The gentleman from Ohio asks unanimous consent that all gentlemen who desire to do so may print in the RECORD remarks on this bill. Is there objection? The Chair hears none.

Mr. BUCKNER. As a member of the committee I had some desire to express my views in opposition to this bill. But I am very anxious to get another bill to final action, and therefore will not assert my right. I hope the gentleman from Ohio will call the previous question.

Mr. MILLS. If the gentleman from Ohio has yielded the floor, I move that the House do now adjourn.

Mr. WILKINS. I have not yielded the floor. I move the previous question on the engrossment and third reading of the bill.

Mr. MILLS. I rise to a privileged question.

The SPEAKER. The Chair will state the question and will then recognize the gentleman from Texas. The gentleman from Ohio demands the previous question upon the amendments and upon ordering the bill to be engrossed and read a third time. Pending that the gentleman from Texas desires to submit a motion.

Mr. MILLS. I move that the House do now adjourn; and pending that I move that when the House adjourns to-day it be to meet on Saturday next.

The question being taken on the motion to adjourn, there were—ayes 47, noes 107.

Mr. MILLS. I make the point that a quorum has not voted.

The SPEAKER. A quorum not having voted the Chair will order tellers, and appoints the gentleman from Texas, Mr. MILLS, and the gentleman from Ohio, Mr. WILKINS.

The House again divided; and the tellers reported—ayes 31, noes 139.

Mr. YAPLE and Mr. MILLS called for the yeas and nays.

The yeas and nays were ordered.

Mr. MILLS. I move to reconsider the vote ordering the yeas and nays, in order that the House may adjourn on account of the proposed caucus.

Mr. WILKINS. I object.

The SPEAKER. The Clerk will call the roll.

Mr. MILLS. I move to reconsider the vote by which the yeas and nays were ordered. [Cries of "Too late!" "Too late!"]

The SPEAKER. That is a privileged motion. The gentleman from Texas moves to reconsider the vote by which the yeas and nays were ordered.

Mr. WILKINS. I move to lay the motion to reconsider on the table.

The motion was disagreed to.

The question recurred on the motion to reconsider the vote by which the yeas and nays were ordered.

The House divided; and there were—ayes 104, noes 6.

So the motion was agreed to.

Mr. MILLS. I now withdraw the demand for the yeas and nays.

Mr. WILKINS. Mr. Speaker, I rise to a parliamentary inquiry. The gentleman from Texas made the motion to reconsider, and I moved to lay that motion on the table. Thereupon there was a division of the House, and his motion was laid upon the table.

The SPEAKER. The House refused to lay the motion of the gentleman from Texas on the table, and thereupon the Chair submitted the question of reconsideration, and the House determined to reconsider. Now the gentleman from Texas withdraws his demand for the yeas and nays.

Upon the motion that when the House adjourn to-day it adjourn until Saturday next, there were ayes 31, noes 139.

So the motion was not agreed to.

Mr. MILLS. I move that the House do now adjourn.

The House divided; and there were—ayes 131, noes 57.

Mr. HENDERSON, of Iowa, demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 130, nays 112, not voting 81; as follows:

YEAS—130.

Adams, J. J.	Dorsheimer,	Lovering,	Shively,
Aiken,	Dowd,	Lowry,	Singleton,
Alexander,	Eaton,	McAdoo,	Skinner, T. G,
Anderson,	Eldredge,	McCormick,	Spriggs,
Bagley,	Elliott,	McMillin,	Stewart, Charles
Ballentine,	English,	Matson,	Stockslager,
Barbour,	Finerty,	Maybury,	Sumner, C. A.
Bland,	Foran,	Mills,	Taylor, J. M.
Blount,	Forney,	Mitchell,	Thompson,
Bratton,	Garrison,	Morrill,	Throckmorton,
Broadhead,	Geddes,	Moulton,	Tillman,
Brumm,	Glascock,	Muldrow,	Townshend,
Buchanan,	Graves,	Neece,	Tucker,
Budd,	Greenleaf,	Nicholls,	Tully,
Cabell,	Halsell,	Oates,	Turner, H. G.
Caldwell,	Hancock,	Ochiltree,	Turner, Oscar
Cassidy,	Hatch, W. H.	O'Ferrall,	Vance,
Clardy,	Hemphill,	O'Neill, J. J.	Wallace,
Clay,	Henley,	Paige,	Warner, Richard
Clements,	Herbert,	Patton,	Wellborn,
Cobb,	Hewitt, A. S.	Peel,	Weller,
Collins,	Hewitt, G. W.	Pierce,	Wemple,
Connolly,	Hill,	Potter,	Williams,
Cook,	Hoblitzell,	Price,	Wilson, W. L.
Cosgrove,	Holman,	Pryor,	Winans, E. B.
Crisp,	Jones, B. W.	Pusey,	Wise, G. D.
Culberson, D. B.	Jones, J. H.	Reagan,	Wolford,
Culbertson, W. W.	Kelley,	Reese,	Wood,
Curtin,	King,	Robertson,	Worthington,
Dargan,	Kleiner,	Rogers, J. H.	Yaple,
Davis, L. H.	Lanham,	Rogers, W. F.	Young.
Dibble,	Le Fevre,	Rosecrans,	
Dibrell,	Lewis,	Seney,	

NAYS—112.

Adams, G. E.	Dingley,	Keifer,	Rice,
Barr,	Dunham,	Ketcham,	Rockwell,
Beach,	Ermentrout,	Lawrence,	Rowell,
Bennett,	Everhart,	Libbey,	Russell,
Bingham,	Fiedler,	Long,	Ryan,
Bisbee,	Findlay,	Lore,	Seymour,
Boutelle,	George,	Lyman,	Smalls,
Bowen,	Guenther,	McCoid,	Smith, A. H.
Boyle,	Hammond,	McComas,	Smith, H. Y.
Breitung,	Hanback,	Millard,	Spooner,
Brewer, F. B.	Hardy,	Miller, S. H.	Stephenson,
Brewer, J. H.	Harmer,	Milliken,	Stevens,
Brown, W. W.	Hart,	Morse,	Storm,
Browne, T. M.	Hatch, H. H.	Murray,	Strait,
Buckner,	Henderson, D. B.	Nelson,	Swope,
Campbell, J. M.	Hepburn,	O'Hara,	Talbott,
Candler,	Hiscock,	O'Neill, Charles	Taylor, J. D.
Cannon,	Hitt,	Parker,	Valentine,
Chace,	Holmes,	Payson,	Wait,
Converse,	Hopkins,	Peters,	Wakefield,
Cox, S. S.	Horr,	Pettibone,	Warner, A. J.
Cox, W. R.	Houk,	Phelps,	Washburn,
Craig,	Howey,	Poland,	Weaver,
Cullen,	Hunt,	Post,	White, J. D.
Cutcheon,	James,	Randall,	Whiting,
Davis, G. R.	Jeffords,	Ranney,	Wilkins,
Davis, R. T.	Johnson,	Ray, Ossian	Woodward,
Deuster,	Kean,	Reed,	York.

NOT VOTING—81.

Arnot,	Ellwood,	Lacey,	Snyder,
Atkinson,	Evans,	Laird,	Springer,
Barksdale,	Ferrell,	Lamb,	Steele,
Bayne,	Follett,	Miller, J. F.	Stewart, J. W.
Belford,	Funston,	Money,	Stone,
Belmont,	Fyan,	Morgan,	Struble,
Blackburn,	Gibson,	Morrison,	Sumner, D. H.
Blanchard,	Goff,	Muller,	Taylor, E. B.
Brainerd,	Green,	Murphy,	Thomas,
Breckinridge,	Hardeman,	Mutchler,	Van Alstyne,
Burleigh,	Haynes,	Nutting,	Van Eaton,
Burnes,	Henderson, T. J.	Payne,	Wadsworth,
Campbell, Felix	Holton,	Perkins,	Ward,
Campbell, J. E.	Hooper,	Rankin,	White, Milo
Carleton,	Houseman,	Ray, G. W.	Willis,
Chalmers,	Hurd,	Riggs,	Wilson, James
Covington,	Hutchins,	Robinson, J. S.	Winans, John
Davidson,	Jones, J. K.	Robinson, W. E.	Wise, J. S.
Dockery,	Jones, J. T.	Shaw,	
Dunn,	Jordan,	Skinner, C. R.	
Ellis,	Kellogg,	Slocum,	

So the motion was agreed to.

The following pairs were announced from the Clerk's desk, on all political questions, until further notice:

Mr. RANKIN with Mr. BRAINERD.

Mr. MORRISON with Mr. PAYNE.

Mr. FOLLETT with Mr. BURLEIGH.

Mr. SHAW with Mr. LAIRD.

Mr. JONES, of Arkansas, with Mr. KELLOGG.

Mr. SPRINGER with Mr. STEWART, of Vermont.

Mr. ARNOT with Mr. BELFORD.

Mr. FYAN with Mr. WILSON, of Iowa.

Mr. DOCKERY with Mr. HOOPER.

Mr. DUNN with Mr. CHALMERS.

Mr. VAN ALSTYNE with Mr. ELLWOOD.

Mr. WARD with Mr. EVANS.

Mr. SNYDER with Mr. GOFF.

Mr. GIBSON with Mr. WADSWORTH.

Mr. CAMPBELL, of Ohio, with Mr. SKINNER, of New York.

The following were announced as paired for the day:

Mr. LAMB with Mr. STONE.

Mr. BRECKINRIDGE with Mr. WHITE, of Minnesota.

Mr. CARLETON with Mr. THOMAS.

Mr. JONES, of Alabama, with Mr. FUNSTON.

Mr. BARKSDALE with Mr. PERKINS.

Mr. HARDEMAN with Mr. BAYNE.

Mr. COVINGTON with Mr. JOHN S. WISE.

Mr. CAMPBELL, of New York, with Mr. HOLTON.

Mr. GREEN with Mr. RAY, of New York.

Mr. MULLER with Mr. NUTTING.

Mr. FERRELL with Mr. STRUBLE.

Mr. PUSEY with Mr. LACEY.

Mr. DAVIDSON with Mr. ATKINSON.

Mr. WILLIS with Mr. HAYNES.

Before the result of the vote was announced the following business was transacted:

BEACON-LIGHTS ON MOOSEHEAD LAKE.

Mr. BOUTELLE, by unanimous consent, introduced a bill (H. R. 7968) for the erection of beacon-lights on islands in Moosehead Lake, Maine; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

NAVAL APPROPRIATION BILL.

Mr. RANDALL. I ask unanimous consent to make a report. The Committee on Appropriations, to whom was referred, with the amendments of the Senate, the bill (H. R. 7874) making additional appropriations for the naval service for the fiscal year ending June 30, 1885, and for other purposes, have directed me to report the same back with a recommendation that the House non-concur in the amendments, and ask a conference with the Senate. I make that motion.

There being no objection, the motion was agreed to.

The SPEAKER announced the appointment of Mr. RANDALL, Mr. HOLMAN, and Mr. LONG as conferees on the part of the House.

The result of the vote on the motion to adjourn was then announced; and accordingly (at 4 o'clock and 30 minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions and papers were laid on the Clerk's desk, under the rule, and referred as follows:

By Mr. BEACH: Petition of citizens of Orange County, New York, for increase of widows' pensions—to the Committee on Pensions.

By Mr. COLLINS: Petition of James Johnson and others, seamen of Massachusetts, for the modification of the Dingley shipping bill—to the Committee on American Ship-building and Ship-owning Interests.

By Mr. CONVERSE: Petition of C. E. West and 3 others, asking increase of widows' pensions—to the Committee on Pensions.

By Mr. A. S. HEWITT: Petition of the president and professors of the College of the City of New York, asking Congress to establish the metric system of weights and measures in the Departments of the Government—to the Committee on Coinage, Weights, and Measures.

By Mr. B. W. JONES: Petition and memorial of Milwaukee Chamber of Commerce, urging increased appropriations for the harbor of Ludington, Grand Haven, and Manistee, in the State of Michigan—to the Committee on Rivers and Harbors.

By Mr. KETCHAM: Petition of citizens of Wappinger's Falls, N. Y., asking for an increase in widows' pensions—to the Committee on Pensions.

By Mr. LE FEVRE: Petition of H. Weible and 47 others, leading citizens of Delphos, Allen, and Van Wert Counties, Ohio, asking for increase of widows' pensions—to the same committee.

By Mr. McCOMAS: Petition of Thomas Barnum, of Washington County, Maryland, for payment of war claim—to the Committee on War Claims.

Also, petition for the relief of Samuel Emmert, of Washington County, Maryland—to the same committee.

By Mr. MURPHY: Petition of Holyoke Paper Company and 13 other large manufacturing firms of Holyoke, Mass.; of Washburn & Mones and 16 other large manufacturing firms of Worcester, Mass.; of Putnam Machine Company and 7 other firms of Richfield, Mass.; of Phœnix Mills and other firms of Pittsfield and North Adams, Mass.; and of Business Mens' Association and other business and manufacturing firms of Springfield, Mass., asking Congress to construct the Hennepin Canal—to the Committee on Rivers and Harbors.

By Mr. NICHOLLS: Memorial of Joseph S. Hagin, county school commissioner of Bullock County, Georgia, praying for the passage of the Blair educational bill—to the Committee on Education.

By Mr. PATTON: Petition of citizens of Parker's Landing, Armstrong County, Pennsylvania, asking for an appropriation of $300,000 for the improvement of the Allegheny River—to the Committee on Rivers and Harbors.

By Mr. ROSECRANS: Petitions for the purchase of Miss C. L. Ransom's life-size portrait of General George H. Thomas and placing same in the Capitol at Washington from the following Grand Army Posts, namely: From the Department of Arkansas, Posts Nos. 1 and 21; from the Department of California, Posts Nos. 1 and 6; from the Department of Colorado, Post No. 20; from the Department of Connecticut, Post No. 2; from the Department of Dakota Territory, Post No. 16; from the Department of District of Columbia, Lincoln Post; from the Department of Florida, Posts Nos. 1 and 6; from the Department of Illinois, Posts Nos. 152 and 204; from the Department of Indiana, Posts Nos. 106, 107, 136, 176, 266, 292, 344, and A. D. Sholtz Post; from the Department of Iowa, Posts Nos. 6 and 256; from the Department of Kansas, posts at Florence, Wier, Halsted, Prescott, Winchester, Cheney, Milan, and one signed by A. R. Wilkin and others; from the Department of Maine, Post No. 2; from the Department of Massachusetts, Posts Nos. 35, 41, and 48; from the Department of Michigan, Nos. 22 and 97; from the Department of Minnesota, Post No. 37; from the Department of Missouri, Posts Nos. 84, 126, and 156; from the Department of New Jersey, Post No. 23; from the Department of New York, Posts Nos. 4, 29, 129, 179, 240, 344, and 498; from the Department of Ohio, Posts Nos. 10, 12, 25, 141, 229, 258, 289, 307, 445, 456, and one at Toledo; from the Department of Pennsylvania, Posts Nos. 2, 112, 116, and one at Huntingdon; from the Department of Virginia, Posts Nos. 11 and 13; from the Department of Wisconsin, posts at Dorchester, De Soto, East Troy, and Stevens Point; and one from officers at San Antonio, Department of Texas; also one signed by W. F. Ford and 31 other war veterans—to the Committee on the Library.

Also, petition of William Dewand & Co. and 8 other large business firms, urging the speedy enactment of all necessary legislation to carry into effect the Mexican reciprocity treaty—to the Committee on Ways and Means.

By Mr. SENEY: Petition of Mary F. Nigh and 54 others, asking an increase of widows' pensions—to the Committee on Pensions.

By Mr. A. H. SMITH: Petition of the National Woman's Christian Temperance Union for an amendment to the United States Constitution prohibiting the disfranchisement of any citizen on account of sex—to the Committee on the Judiciary.

By Mr. STEPHENSON: Memorial of the Chamber of Commerce of Milwaukee, Wis., urging an increase of appropriations for the improvement of the harbors of Grand Haven, Ludington, and Manistee, in the State of Michigan—to the Committee on Rivers and Harbors.

By Mr. STRUBLE: Petition of C. H. Butts and 16 others, of Cherokee County, Iowa, asking for an increase of widows' pensions—to the Committee on Pensions.

By Mr. TOWNSHEND: Resolutions of the City Council of Grayville, Ill., asking for an appropriation for repairing the breaks by levees, wing-dams, &c., to protect the river banks of said city—to the Committee on Rivers and Harbors.

By Mr. YAPLE: Memorial of Milwaukee Chamber of Commerce, relative to appropriations for harbor improvements at Grand Haven, Ludington, and Manistee, in the State of Michigan—to the same committee.

The following petitions for the passage of the Mexican war pension bill with Senate amendments were presented and severally referred to the Committee on Pensions:

By Mr. CULLEN: Of C. J. Murray and 223 others, citizens and ex-soldiers of Morris, and of Floyd Clendenen and 405 ex-soldiers and citizens of La Salle, Ill.

By Mr. DINGLEY: Of 945 citizens of Lewiston and Auburn, Me.

By Mr. FUNSTON: Of citizens of Goodrich, of Olathe, of Barnard, and of Eudora, Kans.

By Mr. HOWEY: Of Ellis Newman and 116 others, of Phillipsburg, N. J., and of William R. Call and 63 others, of Oxford, N. J.

By Mr. B. W. JONES: Of Amos Mills and 102 others, of Black Earth, and of M. M. Hangerford and 53 others, of Blue River, Wis.

By Mr. KLEINER: Of 300 citizens and ex-soldiers of Warrick County, Indiana.

By Mr. LOWRY: Of 38 citizens of Noble County, of 61 citizens of De Kalb County, and of 206 citizens of Waterloo, De Kalb County, Indiana.

By Mr. McCORMICK: Of H. D. Workman and 126 others, of Vinton County, and of A. Rankin and 112 others, of Jackson County, Ohio.

By Mr. S. H. MILLER: Of citizens of Sharpsville, and of Miller's Station, Pa.

By Mr. OSSIAN RAY: Of William A. Smith, M. D., and 40 others, of Campton, N. H.

By Mr. W. F. ROGERS: Of citizens of Erie County, New York.

By Mr. SENEY: Of M. L. Lindwood and 48 others, of Wyandot County, Ohio.

By Mr. STEVENS: Of soldiers and widows of soldiers of Niagara County, New York.

By Mr. STEPHENSON: Of A. R. Laing and others, of Marinette, Wis.; of Morgan Riley and others, of Wood County; of Cyrus B. Barnes and others, of Waupaca County; of Joseph B. Hunton, of Oconto County; of H. K. Moore and others, of Portage County; of Augustus Atkins and others, of Oconto County; of H. T. Treadwell and others, of Wood County, and of Moses H. Ducate and others, of Marathon County, Wisconsin.

By Mr. W. L. WILSON: Of 31 citizens of Preston County, and of B. F. Minear and 89 others, of Preston County, West Virginia.

SENATE.

FRIDAY, *January* 16, 1885.

Prayer by the Chaplain, Rev. E. D. HUNTLEY, D. D.

The Journal of yesterday's proceedings was read and approved.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of the Interior, transmitting the report of the surveyor-general of New Mexico in the case of private land claim No. 134, in the Territory of New Mexico, known as the San Mateo Springs tract; which was ordered to be printed, and, with the accompanying papers, referred to the Committee on Private Land Claims.

He also laid before the Senate a communication from the Secretary of the Interior, transmitting the report of the surveyor-general of New Mexico in the case of private land claim No. 136, in the Territory of New Mexico, known as the Santiago Ramirez grant; which was ordered to be printed, and, with the accompanying papers, referred to the Committee on Private Land Claims.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. CLARK, its Clerk, announced that the House had non-concurred in the amendment of the Senate to the bill (H. R. 7874) making additional appropriations for the naval service for the fiscal year ending June 30, 1885, and for other purposes, asked a conference with the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. SAMUEL J. RANDALL of Pennsylvania, Mr. WILLIAM S. HOLMAN of Indiana, and Mr. JOHN D. LONG of Massachusetts managers of the conference on the part of the House.

PETITIONS AND MEMORIALS.

Mr. MITCHELL presented a memorial of the Cigar-makers' Union, No. 108, of Farrandsville, Pa., and a memorial of cigar manufacturers and cigar-makers of Philadelphia, Pa., remonstrating against the ratification of the proposed Spanish reciprocity treaty; which were referred to the Committee on Foreign Relations.

He also presented a memorial of the Maritime Association of New York city, favoring the passage of the so-called Potter refunding bill; which was referred to the Committee on Finance.

Mr. LAPHAM. I have a communication in the nature of a memorial, addressed to me, from iron manufacturers of Northern New York, remonstrating against the ratification of the proposed Spanish reciprocity treaty. I ask that the communication may be received and referred to the Committee on Foreign Relations.

The PRESIDENT *pro tempore*. If there be no objection the paper will be received and so referred.

Mr. McMILLAN. I present the memorial of George H. and S. P. Ely, for the Minnesota Iron Company, and a large number of business

men and firms representing the iron-ore producing and transporting interests of the Northwest, remonstrating against the ratification of the proposed Spanish reciprocity treaty. I move that the memorial be referred to the Committee on Foreign Relations.

The motion was agreed to.

Mr. McMILLAN presented a petition of citizens of Red Wing, Minn., praying for the repeal of the act of May 15, 1820, and acts supplementary thereto, fixing the tenure of certain administrative offices at four years; which was referred to the Committee on Civil Service and Retrenchment.

He also presented resolutions adopted by the Chamber of Commerce of Saint Paul, Minn., in favor of an appropriation of $50,000 for the improvement of the channel of the Mississippi River along its westerly bank in the city of Saint Paul; which were referred to the Committee on Commerce.

Mr. PIKE presented the petition of W. G. R. Mellen and 13 other citizens of Dover, N. H., praying for the passage of a bill repealing the act of May 15, 1820, and acts supplementary thereto, fixing the terms of certain administrative officers; which was referred to the Committee on Civil Service and Retrenchment.

Mr. SEWELL presented a petition of the board of agriculture of Trenton, N. J., praying for an appropriation for the establishment of experimental stations for the improvement of agriculture; which was referred to the Committee on Agriculture and Forestry.

He also presented the memorial of Ralph S. Demarest, of Demarest, N. J., remonstrating against a review of the Venezuelan awards until provision is made for certain claimants under certificates of the Caracas commission; which was referred to the Committee on Foreign Relations.

He also presented the petition of Samuel Hufty, receiver of the Gloucester City (N. J.) Savings Institution, praying for legislation restoring the value of the trade-dollar; which was referred to the Committee on Finance.

Mr. CAMERON, of Pennsylvania. I present the petition of the Chamber of Commerce of Pittsburgh, Pa., signed by John F. Dravo, president, and S. L. McHenry, secretary, praying—

First. That Congress, by appropriate action, provide for such a system of improvements, by the erection of dams and other works on the Monongahela River, as will meet the requirements of commerce, and enable the resources of the Monongahela Valley to be fully developed.

Second. That Congress will take such action looking to the purchase of said works as will at once secure the navigation of the Monongahela River free to all persons desiring to use its waters.

I commend this petition to the favorable consideration of the Committee on Commerce, to whom I move its reference.

The motion was agreed to.

Mr. CAMERON, of Pennsylvania. I present resolutions adopted at a meeting of the cigar manufacturers of Philadelphia, appended to which are the signatures of 3,000 cigar manufacturers and their employés, against the ratification of the proposed Spanish reciprocity treaty. As the resolutions are short, I ask that they may be read by the Chief Clerk.

The PRESIDENT *pro tempore*. The Senator from Pennsylvania presents a memorial of those interested in the tobacco industry in the city of Philadelphia, and asks that it be read. Is there objection? The Chair hears none, and the memorial will be read.

The Chief Clerk read as follows:

To the honorable Senators and Representatives of Pennsylvania:

The following preamble and resolutions, adopted at a meeting of those interested in the tobacco industry in Philadelphia, are respectfully submitted for your consideration and support:

Whereas there is now pending a reciprocity treaty between the United States and Spain, which we consider in general unjust and unequal in its terms and provisions to the entire population of the United States; and

Whereas if the said treaty is adopted it will remove from the United States one of its most thriving industries, and with it millions of dollars of capital invested in the growth and manufacture of American leaf-tobacco, and throw out of employment almost as many American citizens in this particular industry as there are inhabitants in the provinces to which the treaty is to apply, and reduce the value of the labor of the few who may be able to find employment here to a par with pauper, slave, and cooly labor: Therefore,

Be it resolved, That we, cigar manufacturers and cigar-makers of Philadelphia, do most earnestly protest especially against the ratification of that part of the treaty relating to tobacco and cigars, and do respectfully urge and request the United States Senators from Pennsylvania, and through them their colleagues in the Senate, to use all honorable means and their best efforts to defeat the ratification of said treaty.

Be it further resolved, That a copy of these resolutions be forwarded to the honorable Senators Cameron and Mitchell, and to every Representative in Congress from Pennsylvania.

The PRESIDENT *pro tempore*. The Chair will state that this paper is not in the form of a memorial to Congress; but if there be no objection it will be received and referred to the Committee on Foreign Relations.

Mr. CAMERON, of Pennsylvania, presented a petition of the American Philosophical Society, praying that books relating to the physical, natural, and medical sciences be placed on the free-list; which was referred to the Committee on Finance.

He also presented memorials of the cigar-makers' unions of Erie, Meadville, Bradford, Williamsport, and Farrandsville, in the State of Pennsylvania, remonstrating against the ratification of the proposed Spanish reciprocity treaty; which were referred to the Committee on Foreign Relations.

Mr. PALMER presented the petition of Bert Berry and 14 other citizens of Detroit, Mich., praying for the repeal of the four years' term acts of 1820 and later years; which was referred to the Committee on Civil Service and Retrenchment.

He also presented a memorial of the Chamber of Commerce of Milwaukee, Wis., urging the necessity of larger appropriations for the improvement of the harbors of Ludington, Grand Haven, and Manistee, Mich.; which was referred to the Committee on Commerce.

Mr. CAMERON, of Wisconsin, presented the petition of William B. Faulds, of Burnside, Wis., praying for the repeal of the act of May 15, 1820, and acts supplementary thereto, by which the constitutional term of many administrative offices was changed and fixed at four years; which was referred to the Committee on Civil Service and Retrenchment.

Mr. HOAR. I present the petition of W. W. Newton and other citizens of Pittsfield, Mass., praying for the repeal of what is called the four years' tenure act. I understand that a bill to that effect is before the Committee on Civil Service and Retrenchment, and I hope that committee will be able to report upon the subject, so that the work which has been begun in that direction may be completed by the present Congress. I move the reference of the petition to the Committee on Civil Service and Retrenchment.

The motion was agreed to.

Mr. CULLOM presented a memorial of the cigar-makers of Rock Island, Ill., remonstrating against the ratification of the proposed Spanish reciprocity treaty; which was referred to the Committee on Foreign Relations.

Mr. WILSON. I present resolutions adopted by the Cigar-makers' Union, No. 198, of Avoca, Iowa, remonstrating against the ratification of the proposed reciprocity treaty between the United States and Spain. While this communication is addressed to me, it is evidently intended for the consideration of the Senate. I therefore present it, and ask that it be referred to the Committee on Foreign Relations.

The PRESIDING OFFICER (Mr. INGALLS in the chair). The paper will be received and referred to the Committee on Foreign Relations, if there is no objection. The Chair hears none.

Mr. PLATT. I present the petition of Jennette Chollar, a resident of Granby, Conn., praying that pensions granted to widows and dependent relatives of persons in the military service at a less rate than $12 per month be increased to that rate. I wish to say that the petition commends itself to my judgment. I move that it be referred to the Committee on Pensions.

The motion was agreed to.

REPORTS OF COMMITTEES.

Mr. PIKE, from the Committee on the District of Columbia, to whom was referred the bill (S. 1941) declaratory of the meaning of section 3 of the act of June 16, 1882, for the relief of Howard University, reported it without amendment, and submitted a report thereon.

Mr. SEWELL, from the Committee on Military Affairs, to whom was referred the bill (S. 790) to authorize Col. George W. Getty, United States Army (retired), to be placed upon the retired-list of the Army with the rank and pay of a major-general, reported it with an amendment, and submitted a report thereon.

He also, from the same committee, to whom was referred the bill (S. 2383) in relation to chaplains in the Army who served one year or more in the war of the rebellion as officers or privates, submitted an adverse report thereon, which was agreed to; and the bill was postponed indefinitely.

Mr. WILSON, from the Committee on Pensions, to whom was referred the petition of C. B. Searle and various other citizens of Iowa, praying for the passage of a special act of Congress granting a pension to Isabella Higgins, late hospital matron of the Eighth Regiment Iowa Volunteer Infantry, submitted a report thereon, accompanied by a bill (S. 2549) granting a pension to Isabella Higgins; which was read twice by its title.

Mr. WILSON. From the Committee on Pensions I report adversely the bill (S. 1854) granting a pension to William D. Esley. I wish to state that the report is based upon the fact that a pension has been granted to the person named since the matter has been brought to the attention of the Senate. I move that the bill be indefinitely postponed.

The motion was agreed to.

Mr. WILSON. I also report adversely from the Committee on Pensions the petition of David Frazier, praying for an increase of pension, and the petition of sundry citizens of Ohio making the same prayer. The adverse report is based on the fact that the increase, if the petitioner is entitled to one, may be obtained under the present law.

The PRESIDING OFFICER. The committee will be discharged from the further consideration of the petition, and it will lie on the table.

Mr. WILSON. I also report adversely from the same committee the petition of William S. Pardee, late private of Company C, One hundred and twenty-ninth Indiana Volunteers, praying for an increase of pen-

sion. The report is also based upon the ground that the petitioner may obtain an increase, if he is entitled to it, under the existing law.

The PRESIDING OFFICER. The committee will be discharged from the further consideration of the petition, and it will lie on the table.

Mr. WILSON. I report also from the same committee adversely the petition of Martha A. F. Terrett, widow of Colville Terrett, late a lieutenant in the United States Navy, praying for an increase of pension. Inasmuch as this belongs to a class of cases concerning which there is a diversity of view in the committee as well as in the Senate, I ask that the case may be placed on the Calendar.

The PRESIDING OFFICER. Does the Chair understand this to be a petition?

Mr. WILSON. It is a petition. I ask that the report be placed on the Calendar.

The PRESIDING OFFICER. There is nothing in the rules, as the Chair understands, which authorizes the placing of a petition on the Calendar. The petition may lie on the table subject to be called up at any time.

Mr. WILSON. It is a contested case, and I desire to have the report printed.

The PRESIDING OFFICER. The report will be printed, and the petition will lie upon the table.

Mr. HOAR. I ask leave respectfully to make an observation in regard to the intimation just made from the Chair. The Chair's intimation was entirely correct, that there is no provision in our rules for putting a petition upon the Calendar. It seems to me, therefore, that when a committee differs about the disposition of a petition and desires to have the question taken up in order on the Calendar, as if it were a question upon a bill, the true way is for the committee to report an original resolution that the petition be indefinitely postponed, or that the petition lie upon the table, in which case the resolution would go upon the Calendar under the rule, it being a calendar of bills and resolutions. I suggest to my honorable friend from Iowa that if he would put the order that the petition lie on the table or be indefinitely postponed, or whatever disposition he chooses to make, in the form of a written resolution to that effect, it would come within the rule.

Mr. WILSON. Very well.

Mr. BLAIR. From the Committee on Pensions I report back adversely the bill (H. R. 1813) granting an increase of pension to Ann Cornelia Lanman. This is one of those controverted cases which the majority of the committee reports adversely. The minority is in favor of the passage of the bill and submits its views, and asks that they may be printed along with the report.

The PRESIDING OFFICER. The bill will be indefinitely postponed, if there be no objection.

Mr. BLAIR. I ask that the bill go on the Calendar, and that the views of the minority be printed.

The PRESIDING OFFICER. That order will be made.

Mr. BLAIR. I also, by direction of the same committee, report adversely the bill (H. R. 3065) granting a pension to Emma De Long, the widow of Lieutenant-Commander De Long, recommending its indefinite postponement. Along with it I also submit the views of the minority of the committee, which I ask to have printed, and that the bill be placed on the Calendar.

The PRESIDING OFFICER. The bill reported by the Senator from New Hampshire will be placed on the Calendar with the adverse report, and the views of the minority will be printed.

Mr. BLAIR. I am also directed by the Committee on Pensions, to whom was referred the bill (H. R. 4822) for the relief of Frances McNeil Potter, to report it adversely. I ask that it be placed upon the Calendar, and will state that the views of the minority of the committee are in favor of the passage of the bill.

The PRESIDING OFFICER. The bill will be placed on the Calendar with the adverse report, and the views of the minority will be printed.

Mr. BLAIR, from the Committee on Pensions, to whom was referred the bill (H. R. 3703) granting a pension to James W. Brown, reported it without amendment, and submitted a report thereon.

He also, from the same committee, to whom was referred the bill (H. R. 6461) granting a pension to Nelson Gammons, reported it without amendment, and submitted a report thereon.

He also, from the same committee, to whom was referred the bill (S. 2204) granting arrears of pension to Nancy B. Leech, reported it without amendment, and submitted a report thereon.

He also, from the same committee, to whom was referred the bill (S. 1336) granting an increase of pension to Ann Cornelia Lanman, reported adversely thereon; and the bill was postponed indefinitely.

Mr. JACKSON, from the Committee on Pensions, to whom was referred the bill (H. R. 1504) for the relief of Millia Staples, reported it without amendment, and submitted a report thereon.

He also, from the same committee, to whom was referred the bill (S. 751) granting a pension to Emma Martin and Harry E. Martin, submitted an adverse report thereon, which was agreed to; and the bill was postponed indefinitely.

Mr. JACKSON. I am also instructed by the Committee on Pensions, to whom was referred the bill (S. 2083) for the relief of Fannie B Giltner, to submit an adverse report thereon.

Mr. COCKRELL. Let that bill go on the Calendar, please.

The PRESIDING OFFICER. The bill will be placed on the Calendar with the adverse report of the committee.

Mr. JACKSON, from the Committee on Pensions, to whom was referred the bill (S. 342) to increase the pension of Mrs. Margaret R. Jones, widow of Col. James H. Jones, late of the United States Marine Corps, submitted an adverse report thereon, which was agreed to; and the bill was postponed indefinitely.

Mr. MITCHELL, from the Committee on Pensions, to whom was referred the bill (S. 2520) for the relief of the heirs of colored soldiers who served in the war of the rebellion, asked to be discharged from its further consideration, and that it be referred to the Committee on Military Affairs; which was agreed to.

He also, from the same committee, to whom was referred the bill (H. R. 3370) to amend an act entitled "An act granting a pension to A. Schuyler Sutton," approved June 4, 1872, reported it with amendments, and submitted a report thereon.

He also, from the same committee, to whom was referred the bill (H. R. 760) granting an additional pension to Watson S. Bentley, reported it without amendment, and submitted a report thereon.

Mr. CONGER, from the Committee on Territories, to whom was referred a petition of the board of supervisors and others, of the county of Mono, State of California, praying that an error in running the boundary line between the States of California and Nevada, by which the counties of Mono, El Dorado, and Alpine, of the former State, suffered a loss of territory, may be corrected, and a new survey of the boundary line made by the proper officers of the United States Government, reported it without recommendation, and asked that the committee be discharged from its further consideration; which was agreed to.

PORT OF ENTRY AT MOUNT DESERT FERRY.

Mr. FRYE. I am instructed by the Committee on Commerce, to whom was referred the bill (S. 2470) providing for the establishment of a port of entry at Mount Desert Ferry, in the town of Hancock, in the State of Maine, to report it favorably with an amendment.

The Maine Central Railroad corporation extended its road last season to Mount Desert Ferry, built extensive wharves and other erections, and commenced to receive at that port a very large amount of business from the Dominion of Canada and from other sections of the world. The port of entry is at Ellsworth, forty miles above, at the head of a river. The harbor at Mount Desert Ferry is one of the best on the coast, and it is absolutely necessary that some facilities for business shall be given at that port.

This bill was referred to the Secretary of the Treasury, and by him approved with the amendment which the committee has reported. It is important that the bill should become a law in readiness for the approaching season, and therefore I am very anxious that it shall pass the Senate now and go to the other branch. The Committee on Commerce authorized me to ask unanimous consent for its consideration.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The amendment reported by the Committee on Commerce was to add the following proviso:

Provided, That the official duties of said port shall be performed under the direction of the collector of customs for the district of Frenchman's Bay and by a deputy detailed by him for that purpose.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

ELIZABETH CARSON.

Mr. CAMERON, of Wisconsin. The Committee on Claims, to whom was referred the bill (S. 12) for the relief of Elizabeth Carson, with an amendment of the House of Representatives thereto, have instructed me to report the bill back with a recommendation that the Senate concur in the amendment of the House. If there is no objection I should like to have it considered at this time.

The PRESIDING OFFICER. If there be no objection the bill will be regarded as before the Senate, and the question is on concurring in the amendment of the House of Representatives.

Mr. SHERMAN. I should like to have the amendment of the House read.

Mr. CAMERON, of Wisconsin. I will state that this is the claim of a woman residing in Kentucky, who, during the war, was the keeper of a county jail in that State. She was required by the military authorities to furnish rations, lodgings, &c., to confederate prisoners and also to Union soldiers. She made a claim for rations furnished, also for her personal services, and also, I think, for rent. The Senate Committee on Claims, after considering her petition and claim, reported in favor of allowing 60 cents a day for the rations which she actually furnished by order of the military authorities. That bill was favorably

considered by the Senate and passed and went to the House of Representatives.

Mr. SHERMAN. Was the order made by the Union authorities?

Mr. CAMERON, of Wisconsin. Yes; by the national military authorities. The House amended the bill by striking out all after the enacting clause and providing that her whole claim should be investigated by the War Department, and that the Secretary of War after such investigation should report to Congress his conclusions. That is all there is of it. The committee recommend concurrence in the House amendment.

The PRESIDING OFFICER. The question is on concurring in the amendment of the House of Representatives.

The amendment was concurred in.

JUSTICES OF THE PEACE IN WYOMING.

Mr. HARRISON. I am directed by the Committee on Territories to report favorably and without amendment the bill (H. R. 5639) extending the jurisdiction of justices of the peace in Wyoming Territory. As it is a House bill, consisting of only five or six lines, I ask for its present consideration.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill. It provides that justices of the peace in the Territory of Wyoming shall not have jurisdiction of any matter in controversy where the debt or sum claimed exceeds $300.

Mr. HOAR. What is the present law?

Mr. HARRISON. The amount fixed in the present law is $300 in several Territories and $100 in some others. The Legislative Assembly of Wyoming has petitioned to have the jurisdiction of the justices of the peace in that Territory fixed in the same way as in other Territories, not to exceed $300.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

BILLS INTRODUCED.

Mr. BECK introduced a bill (S. 2550) to settle and adjust the claims of any State for expenses incurred by it in the defense of the United States; which was read twice by its title, and referred to the Committee on Claims.

Mr. SAULSBURY (by request) introduced a bill (S. 2551) for the relief of George E. Moore, of the District of Columbia; which was read twice by its title, and, with the accompanying papers, referred to the Committee on the District of Columbia.

Mr. DOLPH introduced a bill (S. 2552) for the relief of P. C. Davis; which was read twice by its title, and referred to the Committee on Indian Affairs.

He also introduced a bill (S. 2553) to grant an increase of pension to Frederick Beno; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

Mr. DAWES (by request) introduced a bill (S. 2554) to equalize the pay of graduates of the Naval Academy; which was read twice by its title, and referred to the Committee on Naval Affairs.

Mr. HOAR introduced a bill (S. 2555) granting a pension to Van Buren Dorr; which was read twice by its title, and referred to the Committee on Pensions.

Mr. SABIN introduced a bill (S. 2556) for relief of settlers under the homestead laws; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. COCKRELL (by request) introduced a bill (S. 2557) for the relief of William Wolfe, of Shelbina, Shelby County, Missouri; which was read twice by its title.

Mr. COCKRELL. I move that the bill be referred to the Committee on Claims, and express the hope that the committee will refer the same to the Court of Claims under the so-called Bowman act.

The motion was agreed to.

Mr. BUTLER introduced a bill (S. 2558) for the relief of Theodore De Hou; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Claims.

Mr. SEWELL introduced a joint resolution (S. R. 111) referring the controversy between the United States and Venezuela in respect to the awards of the mixed commission to the President; which was read twice by its title, and referred to the Committee on Foreign Relations.

Mr. MANDERSON introduced a joint resolution (S. R. 112) providing for the sale of public documents; which was read twice by its title, and, with the accompanying letter from the superintendent of the Senate document-room, referred to the Committee on Printing.

AMENDMENTS TO BILLS.

Mr. MILLER, of California, submitted an amendment intended to be proposed by him to the sundry civil appropriation bill; which was referred to the Committee on Appropriations, and, together with the accompanying paper, ordered to be printed.

Mr. SEWELL submitted an amendment intended to be proposed by him to the bill (S. 2112) to establish a commission to regulate interstate commerce, and for other purposes; which was ordered to lie on the table and be printed.

MEMORIAL TABLET TO HENRY WILSON.

Mr. HOAR. I offer the following resolution, and ask for its present consideration:

Resolved, That the Architect of the Capitol, under the direction of the Committee on the Library, place a neat marble tablet in the room in the Senate wing of the Capitol where Vice-President Henry Wilson died, appropriately recording the fact and date.

The Senate, by unanimous consent, proceeded to consider the resolution.

Mr. HOAR. I suppose there will be no objection on the part of any Senator to the passage of this resolution. The eminent citizen to whom it relates ended a very brilliant and distinguished public service in this Chamber of more than twenty years by his death in the Vice-President's room. His wife and children had preceded him to the grave, and for many years this Chamber, more than any other place on earth, was his home.

He was an eminent instance of the opportunity afforded by American institutions to the humblest person, without early advantages, struggling against poverty, to raise himself to the highest station. He was at the time of his death one of the most beloved citizens of the Republic. He held the second office within the gift of the people, and a large number of his fellow-citizens were looking to him as likely to be elevated to the first office within the gift of the people if his life had been spared.

It will be agreeable to his friends and fellow-citizens of Massachusetts, and I think to every American who visits the Capitol, to have this simple record of the spot where he closed his distinguished and useful life.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution was agreed to.

INVITATIONS TO INTERNATIONAL EXHIBITIONS.

The PRESIDING OFFICER. If there are no further resolutions the order of morning business is closed, and the Chief Clerk will report the first bill on the Calendar under Rule VIII.

The CHIEF CLERK. "A bill (S. 1331) making appropriation for the relief of the First National Bank of Newton, Mass."

Mr. PLATT. I thought that the bill relating to the appointment of commissioners to international exhibitions was the unfinished business for this morning by general consent.

The PRESIDING OFFICER. There is no unfinished business of the morning hour.

Mr. MILLER, of California. Then it will be necessary to move to take up that bill.

Mr. HOAR. I understand there was unanimous consent asked for and obtained that the bill referred to might come over to this morning from yesterday.

Mr. PLATT. The bill was postponed until to-day. However, I shall move to proceed to the consideration of the bill.

The PRESIDING OFFICER. The Senator from Connecticut moves that the Senate proceed to the consideration of the bill (S. 2436) to enable the President to accept invitations of foreign governments to international exhibitions and to appoint commissioners thereto, and for other purposes. The question is on agreeing to the motion.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill.

The PRESIDING OFFICER. The question is on agreeing to the substitute proposed by the Senator from New Jersey [Mr. SEWELL].

Mr. PLATT. I move as an amendment to the amendment of the Senator from New Jersey to add a new section, as follows:

SEC. 5. *And be it further enacted*, That the President, by and with the advice and consent of the Senate, shall appoint a commissioner to represent the United States in the international inventions exhibition to be held in London in May next, and, under the direction of the Secretary of State, make all needful rules and regulations in reference to the exhibits and contributions from this country, and control the expenditures incident to the proper installation and exhibition thereof, and to the preparation of reports upon the exhibition. That under like direction exhibits may be prepared in the Patent Office, and with appropriate letters patent, models, and drawings therefrom, transmitted to such exhibition, and under like direction all exhibits authorized by the commissioner may, when practicable, be transmitted to such exhibition in public vessels free of cost. And in order to defray the necessary expenses authorized by this section, and for the proper installation of the exhibition and the expenditures of the commissioner made under the direction of the Secretary of State, and with his approval and not otherwise, there be, and hereby is, appropriated, out of any money in the Treasury of the United States not otherwise appropriated, the sum of $25,000, or so much thereof as may be necessary for the purpose herein specified, which sum shall be expended under the direction of the Secretary of State.

The PRESIDING OFFICER. The question is on agreeing to the amendment proposed by the Senator from Connecticut to the amendment of the Senator from New Jersey.

The amendment to the amendment was agreed to.

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from New Jersey as amended.

Mr. COCKRELL. Let it be read as amended.

The PRESIDING OFFICER. It will be read.

The CHIEF CLERK. It is proposed to strike out all after the title of the bill and to insert:

Whereas the Government of the United States has received official intimation from that of Belgium that it is proposed to hold an international exhibition, which

will embrace all industrial products, all goods forming objects of commercial transactions, and all objects and appliances of interest to navigation, to be opened at Antwerp, May 2, 1885, and will have a duration of at least five months, whereat the representation of the United States is invited; and

Whereas also, by its action as a government and by the active enterprise of merchants, the United States has attained and holds a prominent place in all that relates to the development of all industrial products, the extension of the great commercial relationship with other countries, based on the exportation of goods forming objects of commercial transactions, which now form an important factor in the national wealth, and it is expedient that the industries and interests thus concerned should be adequately represented on the occasion: Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the invitation of the Belgium Government be accepted; and that, under the auspices of the Department of State, the United States commissioners to the World's Industrial and Cotton Centennial Exposition at New Orleans be, and they hereby are, instructed to prepare or cause to be prepared, upon the termination of said World's Industrial and Cotton Centennial Exposition, a complete and systematic representative exhibition of the Government exhibits at the exposition at New Orleans, and to take such further measures as may be necessary in order to secure a proper representation of the productions of our industry and of the nature of the natural resources of the country at the international exhibition to be held at Antwerp in 1885.

SEC. 2. That the President, by and with the advice and consent of the Senate, shall appoint three commissioners to represent the United States in the proposed exhibition at Antwerp, and, under the general direction of the Secretary of State, to make all needful rules and regulations in reference to the exhibits and contributions from this country, and to control the expenditures incident to the proper installation and exhibition thereof, and to the preparation of reports on the exposition.

SEC. 3. That the President be authorized, in his discretion, to assign one or more public vessels to transport to and from Antwerp, free of cost, under regulations to be prescribed by the commissioners to the Antwerp exposition, such articles of the Government exhibit as may be selected and prepared for transportation by the commissioners to the New Orleans Exposition, and such other articles as may be offered for exhibition by the citizens of the United States.

SEC. 4. That in order to defray the necessary expenses above authorized, and for the proper installation of the exhibition, and the expenditures of the commissioners, made under the direction of the Secretary of State and with his approval, and not otherwise, there be, and hereby is, appropriated, out of any money in the Treasury of the United States not otherwise appropriated, the sum of $25,000, or so much thereof as may be necessary, for the purpose herein specified, which sum shall be expended under the direction of the Secretary of State.

SEC. 5. *And be it further enacted*, That the President, by and with the advice and consent of the Senate, shall appoint a commissioner to represent the United States in the international inventions exhibition to be held in London in May next, and, under the direction of the Secretary of State, make all needful rules and regulations in reference to the exhibits and contributions from this country, and control the expenditures incident to the proper installation and exhibition thereof, and to the preparation of reports upon the exhibition. That under like direction exhibits may be prepared in the Patent Office, and, with appropriate letters patent, models, and drawings therefrom, transmitted to such exhibition; and under like direction all exhibits authorized by the commissioner may, when practicable, be transmitted to such exhibition in public vessels free of cost. And in order to defray the necessary expenses authorized by this section, and for the proper installation of the exhibition and the expenditures of the commissioner, made under the direction of the Secretary of State and with his approval, and not otherwise, there be, and hereby is, appropriated, out of any money in the Treasury of the United States not otherwise appropriated, the sum of $25,000, or so much thereof as may be necessary, for the purpose herein specified, which sum shall be expended under the direction of the Secretary of State.

Mr. PLATT. It did not occur to me when I drew my amendment that there is a public statute which provides that the words "And be it further enacted" shall not be put at the head of sections. I ask, therefore, that by unanimous consent those words be stricken out, and that the section begin with the word "That."

The PRESIDING OFFICER. If there be no objection that order will be made. The question is on agreeing to the amendment as amended.

Mr. COCKRELL. I wish to call the attention of the Senator from New Jersey to his amendment. The preamble reads:

Whereas the Government of the United States has received official "intimation," &c.

The bill then says, "the invitation." I suggest that the word "intimation" ought to be stricken out and "invitation" inserted, unless there has not been any invitation extended; and if there has not been, the bill ought not to be passed.

Mr. SEWELL. The Senator from Missouri is correct. The Government has received an official invitation. It ought to read "official invitation."

Mr. COCKRELL. Then I move to amend in the second line of the first whereas by striking out the word "intimation" and inserting "invitation." Probably "information" would be better in that connection. Let it read "official information."

The PRESIDING OFFICER. Does the Senator from Missouri move that amendment?

Mr. COCKRELL. Yes, sir.

The PRESIDING OFFICER. The Chief Clerk will report the amendment to the amendment.

The CHIEF CLERK. In line 2 of the first division of the preamble it is proposed to strike out "intimation" and insert "information;" so as to read:

Whereas the Government of the United States has received official information from that of Belgium that it is proposed to hold an international exhibition, &c.

The amendment to the amendment was agreed to.

The PRESIDING OFFICER. The question recurs on agreeing to the amendment as amended.

The amendment as amended was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

On motion of Mr. SEWELL, the title was amended to read: "A bill to authorize the President to appoint commissioners to the Belgium international exhibition at Antwerp, and for other purposes."

NAVAL APPROPRIATIONS.

Mr. HALE. I ask the Chair to lay the message from the House of Representatives in regard to the naval appropriation bill before the Senate.

The PRESIDING OFFICER laid before the Senate the action of the House of Representatives non-concurring in the amendments of the Senate to the bill (H. R. 7874) making additional appropriations for the naval service for the fiscal year ending June 30, 1885, and for other purposes.

Mr. HALE. I move that the Senate insist on its amendments and agree to the conference asked for by the House.

The motion was agreed to.

By unanimous consent, the presiding officer was authorized to appoint the conferees on the part of the Senate; and Messrs. HALE, ALLISON, and BECK were appointed.

FIRST NATIONAL BANK OF NEWTON, MASS.

The PRESIDING OFFICER. The Secretary will report the first bill on the Calendar under Rule VIII.

The bill (S. 1331) making appropriation for the relief of the First National Bank of Newton, Mass., was announced as first in order, and the Senate, as in Committee of the Whole, resumed its consideration.

Mr. PLATT. I do not remember that during this discussion any attention has been called to a report made in the other House upon this subject. I should like to inquire, if it be in order, whether a report has been made in the House on this subject, and if so, whether it is for the full amount of this interest or for a less sum?

Mr. JACKSON. My impression is that there has been a House report for a less amount, though I am not entirely sure.

Mr. PLATT. I do not think I can vote for the payment of interest to the extent which the bill provides. It seems to me that it is equitable that the amount of interest which has accrued upon that portion of the securities which were Government bonds, upon which the United States was relieved from the payment of interest while the bonds were in its possession, should be paid; or perhaps it is equitable and proper, and I do not know but that it is according to law, that interest should be paid since the date of the judgment in the Court of Claims.

Mr. COCKRELL. That has been paid.

Mr. PLATT. I think that has not been paid, and it is my impression that the committee of the House has reported a bill fixing the amount of interest to be paid as that which has accrued since the date of the judgment of the Court of Claims. I have not had an opportunity to send for the House report, but I think that is the sum which is reported by the House committee. It is not for me to propose amendments to this bill, but on the bill in its present shape I think I shall be obliged to vote in the negative.

Mr. COCKRELL. If there were no interest paid on this judgment after its rendition by the Court of Claims it was the fault of the claimants, not of the law; and I should like to know why it is that they did not follow the law and secure the payment of interest upon the judgment.

Mr. SHERMAN. As a matter of course the judgment itself and the interest accruing thereon was paid, because the judgment drew interest.

Mr. COCKRELL. But they claim that they did not get any interest after the rendition of the judgment on the amount of the judgment.

Mr. JACKSON. The Senator will allow me to say that after the rendition of the judgment in the Court of Claims the Attorney-General took an appeal to the Supreme Court in the spring of 1881, and in the fall of 1881 he dismissed that appeal, so that no judgment was rendered in the Supreme Court and no interest was awarded or paid, not a cent.

Mr. COCKRELL. That is an explanation which does not explain anything, I must confess. I read the law, section 1089 of the Revised Statutes:

SEC. 1089. In all cases of final judgments by the Court of Claims, or, on appeal, by the Supreme Court, where the same are affirmed in favor of the claimant, the sum due thereby shall be paid out of any general appropriation made by law for the payment and satisfaction of private claims, on presentation to the Secretary of the Treasury of a copy of said judgment, certified by the clerk of the Court of Claims, and signed by the chief-justice, or, in his absence, by the presiding judge of said court.

Section 1090 provides:

In cases where the judgment appealed from is in favor of the claimant, and the same is affirmed by the Supreme Court, interest thereon at the rate of 5 per cent. shall be allowed from the date of its presentation to the Secretary of the Treasury for payment as aforesaid, but no interest shall be allowed subsequent to the affirmance, unless presented for payment to the Secretary of the Treasury as aforesaid.

If when this judgment was rendered and the Attorney-General brought an appeal they had presented a transcript of the judgment to the Secretary of the Treasury, as the law provided, they would have been entitled to 5 per cent. interest upon it. Section 1091 provides:

No interest shall be allowed on any claim up to the time of the rendition of judgment thereon by the Court of Claims, unless upon a contract expressly stipulating for the payment of interest.

Under the general law no interest can be allowed by the Court of Claims upon any judgment rendered therein prior to the rendition of the judgment unless the contract upon which suit has been brought expressly provides for the payment of interest; but just as soon as judgment has been rendered the claimant then has a right to file a certified copy of it with the Secretary of the Treasury, and then that judgment draws 5 per cent. per annum interest thereon from that time. I read section 1092:

SEC. 1092. The payment of the amount due by any judgment of the Court of Claims and of any interest thereon allowed by law as hereinbefore provided, shall be a full discharge to the United States of all claim and demand touching any of the matters involved in the controversy.

Mr. President, this is to my mind a very peculiar case, and it is to me remarkably strange how it is proposed to pay to these claimants an amount of interest greater than the original claim.

Mr. JACKSON. Oh, no.

Mr. COCKRELL. What was the original claim?

Mr. JACKSON. Three hundred and seventy-one thousand and twenty-five dollars.

Mr. COCKRELL. And what is the amount here?

Mr. JACKSON. Two hundred and forty-nine thousand dollars.

Mr. COCKRELL. Lacking then about $125,000 of being the amount. Now, Mr. President, what are the facts in this case?

The PRESIDING OFFICER. The Senator from Missouri has spoken five minutes.

Mr. COCKRELL. This is not under that rule, I will inform the presiding officer with all due deference.

Mr. HARRIS. It has been relieved from the five-minute rule by a vote of the Senate.

The PRESIDING OFFICER. Not this morning.

Mr. COCKRELL. Then I object to its consideration.

Mr. PLATT. At the last sitting of the Senate the suggestion was made that some Senator had spoken five minutes or more than once on this bill, and my recollection is that the President *pro tempore*, then occupying the chair, ruled that this discussion did not proceed under Rule VIII, and the person speaking was permitted to go on and conclude his remarks.

Mr. HOAR. This bill was taken up by vote of the Senate.

The PRESIDING OFFICER. The bill came up this morning regularly under Rule VIII as the first bill on the Calendar.

Mr. COCKRELL. I object to its consideration. Now let the Senator from Massachusetts move to take it up.

Mr. HOAR. I want to state to the Chair that the Senator from Tennessee [Mr. HARRIS] was in the chair at the time this bill was considered under Rule VIII. Thereupon, objection being made, the Senate voted to proceed to its consideration notwithstanding the objection. Upon that question I consulted the President of the Senate *pro tempore*, and the eminent parliamentarian who is now upon his feet [Mr. HARRIS], and I think I am warranted in saying that they both were of opinion that taking it up notwithstanding the objection still left it under Rule VIII, but took away the right of any Senator to object to it, and removed it from the operation of the five-minute restriction of debate.

Mr. HARRIS. I simply desire to say, Mr. President, that the very question that is now raised occurred to me yesterday when I chanced to be in the chair when this bill was taken up. I indulged unlimited debate because the Senate had by vote proceeded with the consideration of this bill notwithstanding the objection, and the debate proceeded without limit because of that order. That was my construction. But when the President *pro tempore* of the Senate returned to the chair, not being absolutely certain as to the correctness of my construction of the rule, I presented the question to him, and he is decidedly of opinion that the consideration of this bill is relieved from the five-minute limit of debate, just as I held it to be by indulging the debate yesterday morning.

The PRESIDING OFFICER. Debate can proceed by unanimous consent only unless a motion is made to proceed with the consideration of the bill notwithstanding the objection.

Mr. HOAR. I will not of course appeal from the decision of the Chair under the circumstances, but I will move to proceed with the consideration of the bill.

The PRESIDING OFFICER. The Senator from Massachusetts moves that the Senate proceed with the consideration of the bill notwithstanding the objection of the Senator from Missouri.

The motion was agreed to.

The PRESIDING OFFICER. The bill is before the Senate as in Committee of the Whole.

Mr. COCKRELL. Now, Mr. President, I want to make a simple statement of the facts in this case from the record in the Court of Claims. I now read from the sixteenth volume of Court of Claims Reports, 1880, page 55, the following:

At the same time there was in Boston a firm of brokers doing business under the name and style of Mellon, Ward & Co., of which firm the Edward Carter above named was the junior member.

Edward Carter was a member of the firm of Mellon, Ward & Co. He was at the same time the agent of the First National Bank of Newton, stationed in Boston. He was the agent of the bank, and he was also a member of the firm of Mellon, Ward & Co., and he it was who induced Mr. Julius F. Hartwell, the disbursing clerk in the office of the assistant treasurer of the United States in Boston, to take money belonging to the United States, upon which they engaged in a speculation. Now I read from page 56:

Prior to the 1st day of March, 1867, the said Mellon, Ward & Co., acting by and through the said Carter, had succeeded in inducing the said Hartwell to take out of the subtreasury in Boston, at various times, and place in Carter's hands large amounts of money belonging to the United States.

I read again from page 57:

Carter told Hartwell that he saw no way but to go on, and make his money whole on the 1st of March.

Carter was the agent of this bank and he was a member of the firm of Mellon, Ward & Co., and he seduced Hartwell, a Government employé, and induced him to loan them money to operate upon in stock speculations. That is the position of the bank; its trusted agent, the man who did its business, and a Government employé take the money of the United States and it is squandered and stolen. Now why should the United States be liable for interest upon this claim any more than upon thousands and hundreds of thousands of other claims? It languished for years, and judgment was finally rendered, but not a dollar of interest is allowable until after the rendition of the judgment and its presentation to the Secretary of the Treasury. Take the Sugar-rebate cases, where millions of dollars were paid into the Treasury and applied to the extinguishment of the interest-bearing debt of the United States. Afterward a decision of the proper court declared that these payments were not required to be made by law. In other words, the interpretation of the Secretary of the Treasury was not justified, and an excessive tax had been exacted. Those who had paid the money sued, and they got judgment in the proper court. Was any interest paid to them? Their money went into the Treasury; their money extinguished the interest-bearing debt of the United States; but no interest has been paid to them; and are their equities not just as strong as the equities of this bank, whose own trusted agent seduced and induced an official of the Government to betray his trust and take the sacred fund from the Treasury and use it for his private speculations?

There are thousands of cases where money has gone into the Treasury, been applied to the payment of the interest-bearing debt, and the party has recovered it afterward, but no interest has been allowed. I say there is no reason why an exception should be made in this case.

Mr. HOAR. Will the Senator allow me to correct him as to a matter of fact?

Mr. COCKRELL. Certainly.

Mr. HOAR. I do not understand that it is true that any person occupying the relation of a trusted agent of the bank did what the Senator says.

Mr. COCKRELL. I was only reading what the Court of Claims said, that Mr. Carter was the trusted agent of the First National Bank of Newton.

Mr. HOAR. "The trusted agent?" Where do you find that?

Mr. COCKRELL. He was intrusted with large sums of money and with delicate and intricate business transactions, and unless he had been trusted he would not have been the agent. Therefore, he was the trusted agent.

Mr. HOAR. If the Senator will pardon me, this person was one of the directors of the bank. He had no agency whatever as an individual. He was one of the board of directors. He had an influence. Somebody said the other day in debate that the managing director of the bank did this thing and therefore the bank was responsible. You might as well say that a leading Senator of this body did something and therefore the Senate was responsible. He had no agency, no power to bind the bank.

Mr. COCKRELL. Then who is responsible on the part of the United States? Here is a humble financial clerk in the Boston subtreasury, and he is seduced by the agent of this bank; and the people of the United States, who seem to have no representatives here, are to be mulct in the payment of $249,000 because some insignificant employé in the Boston subtreasury was seduced and bribed to betray his trust.

Where is the equity and justice in this case now? This money comes out of the pockets of the tax-payers of the United States. This man was no more their agent than was any other employé of the Government. He was not the Government of the United States, he was an insignificant officer of theirs, who by reason of the seductive influences held out by this man Carter, the agent of the Newton bank, betrayed his trust and perverted the funds of the people placed in his hands from a legitimate to an illegitimate object, and now the people of the United States are to be held as indorsing the thefts and larcencies of this scoundrel Hartwell, and be made to pay $249,000 for his dereliction of duty when it was superinduced and caused by the agent of this bank.

Mr. President, I fail to see any justice or equity in such a case as this. Mr. Carter was a member of the firm of Mellon, Ward & Co.; he was the agent in Boston of the Newton bank, and he transacted its important business, as the records of the Court of Claims show:

At the same time the said Carter was a special agent, in Boston, of the Newton bank, appointed by the directors thereof to transact the business of the bank connected with Government, and to assist the cashier of the bank in matters pertaining to the bank which required attention in Boston.

He was the agent of the bank appointed by the directors for the express purpose of transacting business with the officers of the United States. They trusted him. He was their trusted agent to confer and transact business with the officers of the United States, and he, for illegitimate gains and profits, seduced and led astray the officer of the United States; and now the people of the United States, the Government, the men who pay all the taxes, are to be mulct $249,000 to this bank for the action of its trusted agent and representative!

Mr. President, I can see no justice in allowing this interest. The greatest amount that could possibly be allowed would be the amount suggested by the Senator from Connecticut, the amount due upon the bonds which were taken and converted. There is pending elsewhere a bill (H. R. 5669) making appropriation for the relief of the First National Bank of Newton, Mass., and that bill, in its second section, appropriates the sum of $36,746.15 "for the purposes set forth in section 1 hereof, out of any money in the Treasury not otherwise appropriated;" and section 1 reads thus:

That the Secretary of the Treasury be, and he hereby is, authorized and directed to pay interest at the rate of 5 per cent. per annum on the judgment rendered in favor of the First National Bank of Newton, Mass., against the United States, in the sum of $371,025, from January 24, 1881, to the date of payment of said judgment; also the sum of $17,949, interest on $25,000 in United States bonds and $20,000 in United States interest-bearing notes taken from said bank and deposited in the United States subtreasury at Boston, Mass., on the 28th day of February, 1867.

In other words, the House bill proposes to pay interest upon the judgment from the day of its rendition in the Court of Claims, and then proposes to pay interest on the Government bonds which were canceled and which were found in the subtreasury, and interest on which the Government thereby saved. It was the laches of the claimants that no interest was paid upon the judgment of the Court of Claims, but so far as I am concerned it may have been excusable, and I will not raise that point. It may have been excusable, and therefore I should join with the Senator from Connecticut in saying that I would offer no further opposition to the passage of a bill making the allowance indicated in the House bill. I shall offer that as a substitute for the pending bill.

Mr. CONGER. Will the Senator allow me to ask him whether in the last of his remarks he refers to the interest on the unpaid portion of the judgment for about ten months?

Mr. COCKRELL. Yes, sir.

Mr. CONGER. There was a large part, two-thirds of the judgment or more, paid within four days after the rendition of the judgment, and the balance of it, one hundred and odd thousand dollars, within ten months.

Mr. COCKRELL. This sets forth the amount. I move now to strike out all after the enacting clause and insert what I send to the Chair.

The matter proposed to be inserted was read, as follows:

That the Secretary of the Treasury be, and he hereby is, authorized and directed to pay interest at the rate of 5 per cent. per annum on the judgment rendered in favor of the First National Bank of Newton, Mass., against the United States, in the sum of $371,025, from January 24, 1881, to the date of payment of said judgment; also the sum of $17,949, interest on $25,000 in United States bonds and $20,000 in United States interest-bearing notes taken from said bank and deposited in the United States subtreasury at Boston, Mass., on the 28th day of February, 1867.

SEC. 2. That the sum of $36,746.15 is hereby appropriated for the purposes set forth in section 1 hereof, out of any money in the Treasury not otherwise appropriated.

Mr. COCKRELL. I now ask for the reading of a report which I hold in my hand, and in that report I will call attention to one or two facts which were not elicited, or I did not observe them, in the report of the Senate committee.

On the 24th of January, 1881, the First National Bank of Newton obtained in said court a final judgment against the United States in said cause for the principal claimed, namely, $371,025. (See thirteenth Court of Claims Reports.)

On the 28th of April, 1881, it served a copy of the judgment upon the Secretary of the Treasury—

That was three months after the rendition of the judgment—

as is prescribed by section 1090, Revised Statues of the United States. In March, 1881, the incoming Attorney-General of the United States appealed from said judgment to the Supreme Court of the United States, and on the 25th of October, 1881, withdrew the appeal.

On the 29th of October, 1881, the Treasurer of the United States paid $260,000 of said judgment, and waits only for an appropriation to pay the balance.

But it is claimed that the judgment bears no interest, because it is not within the letter of the section 1090 of the Revised Statutes of the United States, and the bill under consideration is to obtain such interest and have an appropriation made for paying the balance of the judgment.

The act of March 3, 1863, ch. 92, sec. 7 (12 U. S. Stat., 766), provided as follows:

"In all cases of final judgments by said court, or on appeal by the said Supreme Court where the same shall be affirmed in favor of the claimant, the sum due thereby shall be paid out of any general appropriation made by law for the payment and satisfaction of private claims on presentation to the Secretary of the Treasury of a copy of said judgment, certified by the clerk of said Court of Claims, and signed by the chief-justice, or, in his absence, by the presiding judge of said court.

"And in cases where the judgment appealed from is in favor of said claimant, or the same is affirmed by the said Supreme Court, interest thereon at the rate of 5 per cent. shall be allowed from the date of its presentation to the Secretary of the Treasury for payment as aforesaid."

Now I ask that the whole report may be read, as sustaining the amendment which I have offered.

The Secretary read the following report, submitted by Mr. COLLINS in the House of Representatives March 4, 1884:

The Committee on the Judiciary, to whom was referred bill H. R. 751, having considered the same, beg leave to make the following report:

This case was fully investigated by the Committee on the Judiciary of the House of Representatives of the Forty-seventh Congress, whose favorable report we quote from and make a part of our report, as follows:

"[H. Report No. 353, Forty-seventh Congress, first session.]

"The State National Bank of Boston was swindled by Hartwell, a United States subtreasury agent, at Boston, Mass., in 1867. It sued the Government, obtained final judgment therefor, and was paid. For the facts, see 10 Court of Claims Reports, 519, and 96 U. S. S. C. Reports, 30.

"The First National Bank of Newton was also swindled by Hartwell at the same time, and substantially in the same way. It brought suit against the United States in the Court of Claims in February, 1873, but allowed its cause to await the final judgment in the suit of the State National Bank *vs.* The United States, above mentioned. On the 24th of January, 1881, the First National Bank of Newton obtained in said court a final judgment against the United States in said cause for the principal claimed, namely, $371,025. (See 13 Court of Claims Reports.)

"On the 28th of April, 1881, it served a copy of the judgment upon the Secretary of the Treasury, as is prescribed by section 1090, Revised Statutes of the United States. In March, 1881, the incoming Attorney-General of the United States appealed from said judgment to the Supreme Court of the United States, and on the 25th of October, 1881, withdrew the appeal.

"On the 29th of October, 1881, the Treasurer of the United States paid $260,000 of said judgment, and waits only for an appropriation to pay the balance.

"But it is claimed that the judgment bears no interest, because it is not within the letter of the section 1090 of the Revised Statutes of the United States, and the bill under consideration is to obtain such interest and have an appropriation made for paying the balance of the judgment.

"The act of March 3, 1863, chapter 92, section 7 (12 U. S. Stat., 766), provided as follows:

"'In all cases of final judgments by said court, or on appeal by the said Supreme Court where the same shall be affirmed in favor of the claimant, the sum due thereby shall be paid out of any general appropriation made by law for the payment and satisfaction of private claims on presentation to the Secretary of the Treasury of a copy of said judgment, certified by the clerk of said Court of Claims, and signed by the chief-justice, or, in his absence, by the presiding judge of said court.

"'And in cases where the judgment appealed from is in favor of said claimant, or the same is affirmed by the said Supreme Court, interest thereon at the rate of 5 per cent. shall be allowed from the date of its presentation to the Secretary of the Treasury for payment as aforesaid; but no interest shall be allowed subsequent to the affirmance, unless presented for payment to the Secretary of the Treasury as aforesaid.'

"Section 1090 of the Revised Statutes of the United States is as follows:

"'In cases where the judgment appealed from is in favor of the claimant, and the same is affirmed by the Supreme Court, interest thereon at the rate of 5 per cent. shall be allowed from the date of its presentation to the Secretary of the Treasury for payment as aforesaid; but no interest shall be allowed subsequent to the affirmance, unless presented for payment to the Secretary of the Treasury as aforesaid.'

"The first sentence in the act of 1863, quoted above, provides for payment of judgments against the United States, whenever final, either in the Court of Claims (of which that statute was the basis), or if appealed from by the United States, made final by affirmance in the Supreme Court of the United States, and makes the mode of payment simple and prompt.

"The second sentence of the act of 1863, above quoted, provided for payment of interest upon and after notice of either of those facts duly served upon the Secretary of the Treasury. In transferring the quoted law into the Revised Statutes of the United States it was made sections 1089 and 1090. But in section 1090 the 'or' after claimant was changed to 'and.' This changed the law, in the letter, so that no interest can be collected on a final judgment against the United States in said court unless, if it be appealed from, it is also affirmed by the Supreme Court. At least this is the construction of the Treasury Department. Under that construction the United States may simply appeal in every case with or without meritorious ground for appeal, put the claimant to the delay and expense of having the cause docketed and dismissed by the claimant under rule of the Supreme Court, or, worse, wait till the cause is about to be heard and withdraw the appeal and save interest *ad interim*. For there is no concurrence of final judgment below and affirmance by the Supreme Court, as there is no judgment of the Supreme Court affirming the judgment below. Such a construction manifestly does violence to the intention of the law and to justice between the Government and claimants who obtain judgments against it on its contracts. After any final judgment by its own Court of Claims, and notice thereof served upon the Secretary of the Treasury, it is right for the Government to pay interest unless it shows that judgment below to be wrong. It may be perfectly right for the disbursing officers to stick thus to the letter, for they should pay out no money without plain statutory authority.

"We suppose that the revisers did not intend to produce such an absurdity, but meant to say, 'In cases where the judgment appealed from is in favor of the claimant, and in cases where the same is affirmed by the Supreme Court, interest thereon at the rate of 5 per cent. shall be allowed,' &c.; that is, on the original judgment."

Among the funds taken from said bank were $25,000 in United States coupon bonds, and $20,000 in United States compound-interest-bearing notes. The interest upon these bonds and notes, of which the Government received the benefit, and of which the bank was deprived by the conversion, amounts to $17,949.

The bill calls for and the counsel for the bank claim interest upon the whole amount ($371,025) from the date of conversion to the date of payment. Many precedents and authorities were cited in support of the claim.

But your committee are of the opinion that while this is an exceptional case, and one of extreme hardship, the general policy of the Government is fixed and declared to be that—

"No interest shall be allowed on any claim up to the time of the rendition of judgment thereon by the Court of Claims, unless upon a contract expressly stipulating for the payment of interest." (Revised Statutes, section 1091.)

The bonds and compound-interest notes are such contracts. The Court of Claims did not allow this interest, and your committee believe that good faith, justice, and equity require the payment thereof.

They therefore report the accompanying bill as a substitute for the one referred to them, and recommend its passage.

The PRESIDING OFFICER. The question is on the amendment proposed by the Senator from Missouri [Mr. COCKRELL].

Mr. SHEFFIELD. Mr. President, it seems to me that this is a very narrow question and depends on very narrow principles, principles that are well settled. The powers of this Government are distributed into three departments. The judiciary department has determined that

this debt is due. Out of comity to that department we should regard that judgment as a final judgment, as the end of the matter, and not undertake to go behind it. When the court determined that question it determined at the same time that the United States was the tort debtor of this bank. It is well settled as a matter of law in questions of this character, the court being deprived of the power to grant interest or damages by way of interest, that where the United States are tort debtors interest should be allowed. If that is the case, it seems to me that is the end of the argument; it is a mere cold question of law; and on these principles it seems to me that the whole matter would be easily settled. I may be in error about this, but this is the way the question strikes my mind.

Mr. JACKSON. Mr. President, I wish to say a word or two in reference to the objections which have been urged by the Senator from Missouri and the Senator from Michigan.

It is a very unusual proceding to me, and could have been objected to as out of order, to bring in a House bill and a House report here to defeat the action of a committee of this body. Here is a unanimous report from a committee of this body who have gone over the whole subject. But let that pass.

What is the position taken by these gentlemen? Let me briefly state the facts, so that the Senate will have its recollection of them refreshed for a moment. Hartwell was the cashier of the subtreasury at Boston. Mellon, Ward & Co. were stock speculators in the city of Boston. Carter was a member of the firm of Mellon, Ward & Co., and he was also a director of the First National Bank of Newton, some distance out from Boston. The firm of Mellon, Ward & Co., with Hartwell's consent, got possession of the Government funds; they used them, and lost them in stock speculations. Subsequently, after the loss of those funds, after the Government had sustained this loss, in order to make it good Carter assisted in robbing the Newton bank, and took the stolen assets and placed them in the subtreasury with the knowledge of the Government agent. He did this to make good that loss. Mr. Whittle, the chief clerk, was told by Hartwell himself at the very time he took and appropriated these assets that they were the assets of the First National Bank of Newton. That is the fact disclosed by the record in the court and by the proof before our committee.

The gentlemen are in the position of asserting that because of the accidental circumstances of Carter being a member of the firm of Mellon, Ward & Co., and at the same time a director of the bank, he was justified in making good Hartwell's default by stealing the assets of the bank of Newton! Why, suppose the case of a director of a national bank in the city of Washington conniving and colluding with a paymaster to get possession of Government funds, by which that paymaster becomes a defaulter, and after that money is lost, not a dollar of which ever gets into the bank, as was intimated by the Senator from Michigan in regard to this case—and after that money is lost the man who has thus colluded with the paymaster of the Government to obtain these funds and squander them then robs the bank of which he is a director and places that money there to make good the default, would it be said that that justified the robbery?

The case does not admit of discussion when the facts are understood; but there is no committee of this body and there is no committee report that can answer objections when they are developed from gentlemen's own imaginations. There is not, as argued by the Senator from Michigan, an iota of proof to warrant the idea that the assets which were stolen from the Government by Hartwell ever found their way to the First National Bank of Newton—not a dollar, not a cent, not a single item of the securities, and yet he argues this case as though the same funds came back from the Newton bank which went out of the subtreasury by the default of Hartwell and of Mellon, Ward & Co. That is not the fact.

Mr. CONGER. The Senator will allow me to say that I did not argue that they were the same funds. I did not intend to say that they were the same funds, but I said that they came back through exactly the same source, and from the same person who took out of the subtreasury the money. The transaction was by the same person.

Mr. JACKSON. The RECORD shows that the Senator did say what I have stated. But let me go on. The bank had nothing to do with the original embezzlement, and the highest courts in the land have ascertained every fact in this case, and have stated that by no possibility could the act of Dyer, the cashier, and Carter, the director, have transferred the title either to Hartwell or to the United States in those assets placed there to make good the previous robbery. The United States is first robbed, and after that the money is squandered and lost in speculation, and then the three parties robbed the bank and it is proposed to say that that robbery in favor of the United States is valid and should be sustained.

Mr. President, no interest was allowed in this case as I have stated before; none was allowed after the rendition of the judgment, though every compliance was made with the law, and a committee of the House under some report and under some bill are seeking to give interest from the date of the rendition of the judgment; and that is appealed to here to break down this meritorious claim.

I think it would be a shame for this Government to shield itself behind the fraud and rascality of agents to make a profit out of other people's money, use it to sink and satisfy its own interest, to cancel its own interest-bearing obligation, and employ that money to stay and stop interest on its other obligations, and then to say "we will profit by that fraud" and deny to the private citizens the relief which every court in the land would grant as between private individuals.

How does the fact that the statute forbids jurisdiction to the Court of Claims to allow interest except in cases where it is expressly stipulated for bear on this case? That does not meet the obligation of the Government in a case like this where the private relation of debtor and creditor was not voluntarily assumed. Here is a case where it was involuntarily assumed. The bank was robbed, in the language of the court, and its stolen assets used to make good the previous default of the Government's agent; and at the time of the appropriation the chief clerk was told by Hartwell that these were the assets of the bank of Newton. That is the whole case. If there ever was a case that called for the payment of interest for the honor of the Government this is one.

Mr. COCKRELL. Mr. President, it is remarkably strange to me why it is that the distinguished Senators advocating the payment of interest in this case will not come down to the plain, naked fact that Carter was the special agent of the bank of Newton. My friend from Tennessee spoke of Mr. Carter as a member of the firm of Mellon, Ward & Co.

Mr. CAMERON, of Wisconsin. If he were a special agent he was a special agent for some purpose. What purpose was that?

Mr. COCKRELL. I will read what the court says. I never heard of the case until I found the facts stated in the Court of Claims report, upon which you rely. I will read it:

At the same time the said Carter was a special agent, in Boston, of the Newton bank, appointed by the directors thereof, to transact the business of the bank connected with Government, and to assist the cashier of the bank in matters pertaining to the bank which required attention in Boston.

He was the general agent of the bank of Newton in Boston. Let me read a little further. Finding 7 is:

At the same time the Newton bank had been appointed, and was, a depository of United States moneys; and received also deposits of collectors of internal revenue; and received from the Government of the United States fractional currency and revenue stamps, ordered by it from the Treasury at Washington, in which said bank did a large business, often sending orders to the Treasury to the amount of $30,000 a week.

Then I read the eighth finding:

At the same time the said Carter was a special agent, in Boston, of the Newton bank, appointed by the directors thereof, to transact the business of the bank connected with Government, and to assist the cashier of the bank in matters pertaining to the bank which required attention in Boston. The Newton bank ordered the fractional currency and revenue stamps to be delivered, for the sake of convenience, to Carter, in Boston, by mail or express, for they were to be used in that city; and he disposed of the stamps to banks, stationers, and other parties requiring them, and the fractional currency to banks and manufacturing corporations, and returned to the bank the funds derived from such disposition, and those funds were placed by the bank to the credit of the United States Treasury. The stamps were usually sent by mail to Carter by the Internal Revenue Department, and the currency was sent by the Treasury Department to him by express—usually $10,000 at a time—packed in sealed paper boxes.

There he was the general special financial agent in the city of Boston of the bank of Newton, receiving money from the United States, appointed to transact business with the officers of the United States. And now what did he do? Let us see:

Prior to the 1st day of March, 1867, the said Mellon, Ward & Co., acting by and through the said Carter, had succeeded in inducing the said Hartwell to take out of the subtreasury in Boston, at various times, and place in Carter's hands large amounts of money belonging to the United States, until, first and last, the sums which Hartwell so let Carter have aggregated a million to a million and a quarter dollars.

They were speculating upon these funds and there had been no adjustment of the account. About the last day of February it became necessary to have an account and settlement; the funds in the subtreasury had to be counted, and this man Carter, the special agent of the Newton bank, was the man who went to Hartwell and told him how he could arrange the whole thing; that he would get these drafts and certificates of deposit, and he would take them and place them in the subtreasury, and they would be counted, and the moment they were counted then Hartwell was to deliver them back to him, and he would put them in the bank; and in that way would tide the matter over until they could have a settlement of their transactions. Hartwell was the only living man in the subtreasury (and he was merely the disbursing clerk) who knew anything about it. The Senator from Tennessee speaks about the chief clerk, Mr. Whittle, knowing about this matter. That was after all the larceny and stealing had been committed.

Mr. JACKSON. I beg your pardon.

Mr. COCKRELL. I beg your pardon. I speak by the record as it is, and I challenge the Senator to show one solitary thing contrary to this statement in the record in the Court of Claims.

Mr. JACKSON. It was the 28th of February.

Mr. COCKRELL. Everything was done then; the assets were there; and Hartwell saw that the storm was coming, and he went and made a confession. That was all there was about it. Hartwell told Whittle and the subtreasurer that he and Carter had been speculating with the Government funds and they had lost, and these things had been put there by Carter, and thereupon the officers of the United States did their duty: they refused to let the thief, Carter, have the securities; they refused to let the principal of the thief Carter take away the stolen goods which he had obtained from the bank as its trusted

agent and placed in the hands of the innocent officer of the Government. They did exactly right; and now because the officers of the United States would not recognize the stealing by the scoundrel Carter and his seduction of an employé of the Government by leading him astray and inducing him to permit him to use the funds of the people for speculation, doubtless with the intention of dividing the profits, the tax-payers are to be made to pay $249,000, in violation of the acknowledged and well-established principle of law that no claim against the Government draws any interest until it is in the form of a judgment of a court of competent jurisdiction; and there is no reason why that principle of law ingrafted upon our statutes and maintained there for half a century or more shall be set aside in this case. The committee recommend the absolute repeal of that law in this case.

I have been here now nearly ten years, and it is the first instance in the history of the United States Senate in the last ten years that an attempt has been made to override that well-established principle of law, of the statutes, that the United States shall not be made responsible for interest. Here is a case where the principals, who employed a thief and enabled him to seduce and lead astray a poor Government clerk, are trying to take advantage of the larcenies of their own trusted agent, and advantage of the seduction of a mere clerk in the subtreasury, and make the tax-payers of the United States responsible in $249,000; and the Senator from Tennessee thinks that it is a strange thing that a Senator should speak in behalf of the tax-payers of the United States to prevent the payment of this $249,000 as interest on what was stolen by their agent.

Mr. JACKSON. Mr. President——

The PRESIDING OFFICER. The hour of 2 o'clock having arrived, the Chair lays before the Senate the unfinished business.

Mr. JACKSON. I wish simply to say that I was not talking about the tax-payers or anything but the justice of this claim.

PRESIDENTIAL APPROVAL.

A message from the President of the United States, by Mr. O. L. PRUDEN, one of his secretaries, announced that the President had this day approved and signed the act (S. 491) for the relief of John W. Franklin, executor of the last will of John Armfield, deceased.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. CLARK, its Clerk, announced that the House had passed a bill (H. R. 2799) to authorize the construction of a bridge across the Mississippi River at Memphis, Tenn.; in which it requested the concurrence of the Senate.

INTERSTATE COMMERCE.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. 2112) to establish a commission to regulate interstate commerce, and for other purposes, the pending question being on the amendment proposed by Mr. SLATER in section 4, line 14, after the word "class," to insert:

Or shall charge or receive any greater compensation for transporting a similar amount and kind of property a shorter distance than for a longer distance over the same line of road and in the same direction.

Mr. HOAR. I have but a word to say to correct a statement I made the other day. In speaking the other day of the railroad commission and the railroad policy of my own State, I said that while there was a short haul law, so called upon our statute-book, the railroads were not held by it. I think I ought to qualify that statement by stating a fact which has since been called to my attention by a friend in the other House, though I had myself proposed to make the statement before he called the matter to my notice.

There has been no enforcement of that law by the courts so far as I am aware; on the contrary, the only attempt to enforce it failed in consequence of a decision that it was not applicable to the particular case before the court; but the railroad commissioners have certainly in one instance, if not in more than one, called the attention of the railroads to the fact that complaint was made of their charging a larger sum for short distances than for long distances, and the railroads have yielded to the expostulation of the railroad commissioners and reformed their practice in the particular case. I have no doubt that the existence of the law upon the statute-book, and the fact that if the suggestion of the railroad commissioners was not complied with further action might be had, had considerable effect in causing their recommendations to be acceded to; and to that extent I ought to modify what I said the other day, supporting so far as it did go the argument on the other side.

Mr. VAN WYCK. Mr. President, I suppose the Senator from Massachusetts will concede that an enactment of that kind by the Congress of the United States might have a similar effect upon the railroad system throughout the country.

Mr. President, the position of the Senator from Iowa [Mr. ALLISON] that this act of justice proposed in the amendment of the Senator from Oregon will necessarily increase the through rates can not be sustained. The through rate is controlled entirely by other considerations. He says competition from Chicago east is on account of the great lakes and Erie Canal. The railroads now charge up to the highest point water competition allows, and justice to the local shippers could not increase it.

West of Chicago we have no water, therefore no real competition; instead, a system of discrimination and pooling, which the Senator [Mr. ALLISON] alleges is just the thing to protect railroad property.

Mr. ALLISON. Will the Senator allow me to interrupt him?

Mr. VAN WYCK. Certainly.

Mr. ALLISON. I desire that the Senator in making his remarks shall not address himself personally to me and put words in my mouth which I have not uttered. I have said no such thing as is now quoted by the Senator from Nebraska anywhere in any remarks that I have made upon this question.

Mr. VAN WYCK. If the Senator has not used the words his whole line of remark spoke them distinctly. The Senator was arguing substantially from beginning to end that injustice would be done commerce, and when he speaks of commerce he necessarily means the railroads, the channels of commerce, by the amendment proposed by the Senator from Oregon. He said it would be injustice to the people in his State and in mine, because when you decrease the local rates you necessarily force the railroad companies to increase the through rates where competition exists, and, therefore, it was that the proposition to provide that the local rates should not extend beyond the through rates would drive corporations to the necessity of increasing the through rates. That was the argument of my friend. And is that not saying by argument as strong as the Senator could make it that the system we have now is just the thing to protect railroad property and to protect commerce?

The Senator spoke of the water routes being in competition with railroads. So it is from Chicago east; and the rates from Chicago to New York—I think no one will deny that—are fixed on the basis of the water communication by lake and canal; and, therefore, it is no matter what may be the local rates between Chicago and points intermediate to New York; they do not control the through rates, but they are settled by the water communication and the water competition. The Senator well knows that west of Chicago there is no real competition. It is true we have now through his own State and reaching the Missouri River from Chicago no less than six railroads. The through rate from Chicago to Omaha and Council Bluffs is established, because the roads pool and do not compete. Under no circumstances would the roads think to raise it even though compelled to stop extortion on local shippers.

Years ago there were three roads from Chicago to Council Bluffs. Now six or more. Are the rates lower now than when three roads were running? Every new road forces itself into the pool and carries on competition only to secure that end. The great elevators at Council Bluffs, Des Moines, and other cities in Iowa, owned or controlled by a railroad ring, can reach the ears of the Senator from Iowa and assure him the present management is complete, but the multitude of business men and small operators, if enjoying his confidence, could illustrate the extortions which injure business and paralyze trade.

Mr. President, since 1872 all political parties in national and State conventions with great unanimity have demanded redress from grievances in transportation—that no more grants of public lands be given to corporations and that lands not earned be restored to the public domain. Since 1872 the great corporations have stifled the cry of the people, have paralyzed Legislatures and Congress so that but little of redress and no forfeitures have resulted.

WHY?

Jay Gould in his testimony before a committee of the New York Legislature, and Huntington in his wonderful letters, giving historical and biographical sketches of legislators in Congress, make mysterious revelations as to how they claim this work of infamous betrayal of the people is accomplished. So often deceived, their sufferings yearly more intense and bitter, power of corporations more aggressive and defiant, the people have become more in earnest, even to the sundering of party ties.

WARNINGS.

Warnings of the great men long since passed away seem like inspirations. The teachings of Jefferson, discarded by his own party when he declared that in the contest on account of slavery there was no attribute of Deity that could side with them, were made the corner-stone of the Republican platform, and in a hundred battlefields his truths became historic. His other great denunciation of the injustice and despotism of monopoly will become equally so. Had we in our legislation made that the keystone of the arch, as the other the corner-stone, the legions of Democracy had never prevailed against us. Politicans may have a blind man's holiday searching for the reasons of our overthrow, but to the people there is no mystery. So Jackson's proclamation that the Union must be preserved, denounced by his own, became the shibboleth of the party the people spoke into existence and continued for a quarter of a century—became history in the hour of the nation's victory. Had we as devoutly followed and drawn inspiration when he denounced the machinations of monopoly, not now, at the demand of the enemy, would we surrender our baggage and camp equipage

DISASTER.

We seem to learn no lesson from disaster, and are still trying to amuse and cajole the people, forced to seem to do something or go into still greater retirement in the expiring days of great achievements, when the people have emphasized their determination by the defeat of

an organization to which they are still attached. Party managers seem determined their cry shall remain unheeded. They ask for forfeiture. You would give it with such conditions and limitations as will not secure it in another quarter of a century; this through the specious amendment of the Senator from Alabama under the claim of a worshipful respect for the Supreme Court, when the same court in the decisions to which he refers expressly hold that Congress has the power to declare forfeitures which are so absolute that the courts can not disturb them.

POPULAR CLAMOR.

The Senator from Alabama thanked God he had the courage to disregard popular clamor. Many men have done the same without feeling the necessity of thanking God. They had sufficient respect for the Almighty not to hold Him responsible for any such performance.

Politicians not even Senators do not always have that contempt for popular clamor—not when themselves or party seek position. How earnestly they excite, and how gracefully they glide into place and power by, popular clamor!

There were men in the days of the Revolution who boasted they yielded not to popular clamor, but after seven years of privation and war the birth of a new republic showed that in popular clamor the voice of the people was the voice of God.

So in 1860 there were men in the North who boasted they had the courage to despise popular clamor, which grew deeper and more in earnest to resist the aggressions of slavery; still they boasted of their contempt for it, even when that popular clamor was the voice of the nation. And when in the nation's triumph came the second birth of freedom, and the fire-bells in the night, referred to by Jefferson, were sounding the ring of victory, and this country had become in fact as well as in name the land of the free, the voice of the people was the voice of God.

So, to-day, Senators from the Northwest, while the dwellers on the plains of Iowa, Kansas, and Nebraska are suffering with granaries full to overflowing and compelled to burn corn as fuel, while the toilers in Wisconsin and Minnesota are selling wheat below the cost of production and secure but a fraction above what the pauper labor of India receives; the Senators from Pennsylvania, where the dependent and unemployed are denied the privilege of increasing production of coal and are suffering for the corn consumed on the prairies; the Senators from New York, where, with bended head, sorrowing heart, and weary fingers, women stitch, stitch their famishing lives into shirts at 3 cents each while perishing for wheat, which the Western farmer produces at an actual loss; the Senators from New England, where thousands of men and women with haggard faces and children of tender years, prematurely grown old, stand, begging to toil, at the closed doors of her factories, where tariff protection had promised immunity from suffering and the privilege to labor at fair recompense—they can all unite in the proud boast of the Senator from Alabama that they have the courage to oppose popular clamor.

But through suffering and gloom, but not through blood and prison-pen, the final victory will again come when, as in '76 and '60, the day of final rejoicing will demonstrate that the voice of the people is the voice of God.

RAILWAY REGULATION.

Now, the people are demanding—and most of the Senators are here on that platform—the regulation of railways and protection from their extortions, and while they "ask for bread you give them a stone."

You propose to amuse them with a commission without power, which really gives the citizen less redress than he has at common law, furnishing an expensive association of five men with a salary to each of $7,500 per annum, much greater than members of Congress receive, and with necessary expenses while traveling, which, by the practices of the Treasury Department, mean expenses for railroad fare, sleeping-car and porter, hotel and laundry bills, wine and lager-beer; so that the salary exceeds that of a Cabinet minister or judge of the Supreme Court. With all this they are given no power to correct abuses or redress wrongs. The only thing required is to write essays.

The bill passed in the House known as the Reagan bill is infinitely better. It declares offenses, affixes penalties, directs the prosecution, and allows the citizen to select attorneys and a State or Federal tribunal. The Senate bill denies all these privileges, and makes the latter end worse than the first. The people only demand reasonable rates, no discrimination, no pooling, no rebates, no greater charge for a short than a long haul.

THE REAGAN BILL.

All these are in the bill passed by the House. And if the Senate is in earnest to redeem pledges solemnly made by leaders of both parties, ostentatiously proclaimed in all platforms, to obey the resolutions of nearly all the Legislatures of the Union to rescue the people from the grinding of the upper and nether millstone—if we desire to rescue the Senate from the suspicions of the nation that it is controlled in the interest of railroads, we have now the opportunity. The Reagan bill enuncinates a few principles which the entire nation believes, furnishes a simple remedy; true, only a beginning, but the entering of the wedge that will in the end rend extortion and discrimination.

This is no time to delay. The work of deception can not longer be carried on. You can not pretend a willingness to do something, and that an obstinate or unwilling House of Representatives refuses. If the Senate falters now to accept the House bill, an indignant people will believe that it "palters in a double sense" and is seeking by disagreement to prevent the legislation so long sought and long denied.

The Senate bill promises nothing, not even a slight veneering; the people are in no mood to be trifled with or deceived. It will be an unfortunate day when a Republican Senate declines to accept a measure adopted by a Democratic House in the interest of the people. Our hesitancy now will be our voluntary accusation and will prove in the end our condemnation by the people.

NATURAL LAWS OF TRADE.

The Senator from New Jersey [Mr. SEWELL] innocently believes that railroad corporations, like kings, can do no wrong; that stocks and bonds represent actual money expended; that pooling is one of the sources of our national prosperity, and under that we can never be miserable. I commend to his careful consideration the decision of an Ohio court that a railroad had actually wronged a citizen of that State by discriminating against him in favor of the Standard Oil Company, a gigantic corporation, into which railroad magnates had entered; wronged the State by driving honest men out of business, the extent of which may be imagined when it is reported that this company has received in rebates from railroads $10,000,000 in sixteen months.

This adjudicated case is only one of thousands establishing the injustice and robbery of discrimination extending to all branches of commerce, to grain and meats. They own and control elevators, and the farmer, if he desires, can not possibly ship his own grain and cattle, for he can obtain no rebates. Then, that no greater sum shall be charged for a short haul than a long one, the West is to be frightened by the threat that no more grain can be shipped to the East. The proposition does not affect the through rate, only this—no more shall be charged for hauling a car from New York to Philadelphia than from New York to Chicago; no pretense that the charge should be a pro rata of the through rate; only, no more should be charged for carrying a car fifty miles than five hundred miles. No farmer in the West is opposing this. Only railways see a lion in the path.

The power of absolute control by railroads is not always exercised in a saintly manner by the saints certified by the Senator from New Jersey [Mr. SEWELL]. Let me illustrate: The Union Pacific became incensed at Columbus, an active interior city of Nebraska, whose citizens were enterprising and aided to secure another road, thinking the natural laws of trade would promote their prosperity. But the Union Pacific became indignant at this attempt on the part of a public-spirited community for the development of the natural laws of trade, and determined they should be punished for such temerity and rebellion, for Columbus was called, in the vernacular of railroads, "in their territory." So rates were changed, and more was charged per car-load from Omaha than to Kearney and points farther West.

So, the Central Pacific, without the excuse of revenge or punishing rebellious subjects in their territory, actually charge to points east of San Francisco through rates to San Francisco and then local rates back. For instance, from New York to San Francisco a car is charged $300. That must be considered according to railroad honesty a fair rate, for they fixed it without competition. Then to a point six hundred miles east of San Francisco, where the car is stopped, they charge $300, the rate to San Francisco, and $500 back, the local rate, making that car cost $800, while the one carried six hundred miles farther is only charged $300. Is it not evident railroads should be restricted from exacting more for the short haul than the long one? Will some Senator defend this, and then show how the natural laws of trade can stop such outrages? The same is practiced on the Northern Pacific.

STOCK-WATERING.

The Senator from New Jersey [Mr. SEWELL] also says, with apparent earnestness and innocence, that he thinks the stock is not much watered, very slightly diluted. Poor's Manual, an acknowledged authority with rail oad men, shows that nearly two-thirds is watered. If that does not satisfy the Senator I beg to refer him to a letter written April 23, 1884, by a distinguished statesman from his own State, in which he says:

> By purchase on the same terms as they were sold on the Boston market to all applicants; sold to * * * and to other reputable merchants. He negotiated for a block of the securities, which were divided as usual in such enterprises into three kinds—first-mortgage bonds, second-mortgage bonds, and stock. The price, I think, was 3 for 1. That is, the purchaser got first-mortgage bonds for his money and an equal amount of second-mortgage or land-grant bonds, and of stock thrown in as the basis of possible profits. * * * I went myself at this time into several adventures of the kind on that ratio, and have always understood that Senator —— and his friends got their interest in the Burlington and Missouri road on the same basis of 3 for 1. * * * I know of my own knowledge that Governor ——, Mr. ——, and Senator ——, and many of my friends while in Congress acquired and held interest in such enterprises.

He says that he made his investments on that basis, and that the men of Boston do this. That, of course, is the end of the law and testimony. Boston does it approvingly; that probably accounts for the disregard of popular clamor by New England Senators.

Certainly, stocks and bonds according to this evidence are owned in this Chamber and the other end of the Capitol on that basis; that is, you put down one dollar and take up three. So it would appear even members of Congress learn where the little joker is.

No wonder there is here manifested the same contempt for public clamor as Vanderbilt is said to have exhibited in language more forcible but not so reverential as by distinguished Senators.

According to the written and printed statement of one New Jersey statesman and Poor's Manual $4,000,000,000 fictitious watered stock is represented in the stocks and bonds of railroads. On this, interest and dividends are collected from the people, made a mortgage on every acre of land in the Republic—an inflation paralyzing industry, laying a tax upon the producer and consumer; yet we must remand all this to the natural laws of trade.

Who are the railroad corporations for which so much sympathy is expressed in this Chamber? Mainly a half score of syndicates of millionaires, made millionaires by the manipulation of these same roads. We are asked to further submit to extortion and stock-watering on the plea of the "innocent purchasers." For the last ten years there have been few innocent purchasers without notice. Whoever buys railroad stocks well knows the hazard he runs. The whole world is advised of the suspicions and fraud attending. The Senator from Massachusetts [Mr. HOAR] must well know that since the report he in part made as Representative in the House denouncing the frauds of the Union Pacific, frauds which he and his colleagues said were sufficient to have the charter forfeited, the crimes and frauds which he denounced not only were continued, but increased and made public, so there could be really few innocent purchasers; but the small holders of stock, supposed to be innocent, are only used as a breastwork behind which the managers can hide and inveigle Senators into their service.

JEFFERSON AND JACKSON ON MONOPOLIES.

Pardon a sentiment from Jefferson:

The truth is that capital may be produced by industry and accumulated by economy, but jugglers only will propose to create it by legerdemain and tricks with paper. * * * Our citizens will be overtaken by the crash of this baseless fabric without other satisfaction than that of execrations on the heads of those functionaries who from ignorance, pusillanimity, or corruption have betrayed the fruits of their industry into the hand of projectors and swindlers. * * * It is raising up a moneyed aristocracy in our country which has already set the Government at defiance. * * * These have taken deep root in the hearts of that class from which our legislators are drawn. * * * And thus those whom the Constitution have placed as guards to its portals are suborned from their duties. * * * A general demoralization, a filching from industry its honest earnings wherewith to build up palaces and raise gambling stock for swindlers who are to close their career of piracies by fraudulent bankruptcies. * * * My dependence for a remedy, however, is with the wisdom which grows with time and suffering.

So Jackson, whom the 8th day of January keeps in grateful remembrance, said:

It is to be regretted that the rich and powerful too often bend the acts of government to their selfish purposes. Distinctions in society will always exist under every just government. * * * In the full enjoyments of the gifts of Heaven and the fruits of superior industry, economy, and virtue every man is equally entitled to protection by law. But when the laws undertake to add to these natural and just advantages artificial distinctions, to grant titles, gratuities, and exclusive privileges, to make the rich richer and the potent more powerful, the humble members of society, the farmers, mechanics, and laborers, who have neither the time nor the means of securing like favors to themselves, have a right to complain of the injustice of their government. There are no necessary evils in government; its evils exist only in its abuses. * * * Many of our rich men have not been content with equal protection and equal benefits, but have besought us to make them richer by acts of Congress.

At this day Jefferson and Jackson would be stigmatized as cranks and demagogues. They did not evidently bless God that they "were not as other men," and take courage to repel popular clamor. So did not the great Lincoln, who boasted that he did not create, but followed and was guided, by popular clamor.

CORN AND COAL.

In Kansas and Nebraska fifty bushels of corn will not purchase one ton of soft coal; one hundred and fifty bushels will not buy one ton of hard coal. Your sympathy expands for the pauper labor of Europe and India, while your hearts seem steeled against the cry for bread from the Americans who are forced to work at starvation wages or have their places supplied in the mines, by the specially protected mine-owners, by pauper and convict labor imported under contract from Europe.

You see an embargo placed upon the transportation of corn to the East and coal to the West—and you relegate to the tender mercies of Gould and Vanderbilt the problem of the natural laws of trade, to the uncontrolled avarice and extortion of stock gamblers, who are as merciless in demanding interest and dividends on 4,000,000,000 watered stocks and bonds as English landlords, who would take bread from the mouths of the Irish tenants. Possibly a Representative or Senator might be as unwilling as either to forego any legislation that would depreciate the three dollars for one actually expended, and to consent to any legislation which would prevent the usual dividends on stocks and bonds for which he paid nothing. So, too, in Minnesota and Wisconsin, the men who elect Representatives and Senators on the theory they will represent them and protect their interest must give nearly twenty bushels of wheat for a ton of soft coal or forty for a ton of hard.

In the CONGRESSIONAL RECORD of December 20 last, "The railways will elude, evade, and openly transgress the restrictions;" "The railways, if these restrictions should become laws, will ostentatiously break them all;" said to have been uttered on the floor of the House of Representatives.

A Senator from New Jersey [Mr. SEWELL] blandly gives them saintly attributes—a New Jersey Representative refers to them as despotic as masters, and gives notice that the laws will not be obeyed; still this property goes on capitalized on the basis of 3 to 1.

MORAL SUASION.

The Senate bill is gentle moral suasion very much watered.

This is the bill the railroads have been begging from Congress, just as the amendment of the Senator from Alabama is providing the panacea they have been desiring to administer to the American people, not only begging but denouncing Congress for not creating a commission. Only yesterday, in the city of New York, where her merchants before the railroad commission were seeking the redress given by that State, the New York Central and Vanderbilt appeared and by counsel, substantially admitted the grievances, and claimed that it was an interstate grievance, and any action there could only affect New York roads. Said the eloquent attorney, "What is needed is the appointment of a national commission, having powers similar to those of the New York and Massachusetts boards. If the idiots at Washington would establish such a board much could be done to rectify whatever grievances exist, and which are conceded." This was more unkind than the gentle suggestion of the Senator from Kansas [Mr. INGALLS], who intimated the Senate was only "suspected," whereas the New York Central insists it is idiotic. The public at large will accept one or the other of the conclusions suggested.

We trust, now that Vanderbilt has given his approval of some power in a commission, that the Railroad Committee will consent to insert in their bill that quantum of power which Vanderbilt kindly assures us in advance he will accept.

The Senator from Iowa [Mr. WILSON] is fearful we will do too much. Pass this bill, he need have no anxiety; it will be as near nothing as legislative dexterity can make it. Here is a great and acknowledged wrong. The people of every State understand it if Senators do not. The remedy is simple. Make extortion, discrimination, and pooling a crime, provide penalties, and make the State and Federal courts open, and you will then have made a beginning. There should be no dread in that even for a Senator from Iowa.

The modesty and meekness and confession of ignorance is amazing. This body claims to be fully informed on every subject of legislation—about Japan, China, India; as to the sufferings of the nations from the exactions of England, Russia and Turkey, Congo and Africa; even willing to grasp the great problem of a commercial treaty with Spain and a treaty for building a canal with Nicaragua, if correctly reported in the newspapers; but the entrance of the railway problem strikes consternation and paralyzes this great body into a protestation of weakness and ignorance, and they try to conceal each and distract the nation by seeking refuge in a commission.

To-day the farmers in the West are working their own farms on shares, the railroads taking the lion's share; they receive not a dollar profit or interest on money invested in land, teams, and machinery. Other industries are equally depressed. Yet the American Senate seem intent on how not to do it; determined, at whatever sacrifice, that railroad stocks and bonds shall secure liberal interest and dividends, and great lamentation is made if stock gamblers, who have stolen $4,000,000,000 from the industries of the nation, shall be disturbed in wringing interest on the same from an overburdened people. You stand apologizing for the swindlers who are wrecking still more the prosperity of the people.

THE CONTRAST.

Look at Kansas and Nebraska, great and rich in the wealth of their soil, the energy and intelligence of their people; yet Jay Gould, who neither toils nor spins, has greater wealth than the assessed property, real and personal, of both States. And Vanderbilt could buy both States, their farms and lands, villages and cities, hotels, banks, manufactories, and railroads, and have a snug fortune of $40,000,000 left for the necessaries of life and to keep the wolf from the door.

NO NEED FOR APOLOGIES.

Do you believe these millions were acquired honestly and by legitimate means? Yet the Senator from Iowa [Mr. WILSON] trembles lest we shall do too much, and before these worse than feudal robbers we must seem to apologize and indicate the awe with which these colossal wrongs are approached and the great risk we are assuming, and disclaim our hearty disinclination to rend the spoiler of his prey. In the language of the Senator from Kansas [Mr. INGALLS]:

I do not stand here in any sense whatever as the advocate or champion of that cheap system of demagogy that appeals to public opinion against railroads. I would as much resist injustice to railroads as I would resist injustice to the humblest settler in the remotest dugout upon the frontier of the West. Railway corporations are the creatures of the law. They are entitled to the protection of the law.

The two men who each can purchase the States of Kansas and Nebraska certainly need no proffer of assistance. No possible danger of injustice can come to them. It is the dweller in the dugout who with raised hands is appealing to the protection of the law. The Senator never believed strong and arrogant slavery in the days of its control of Congress and the judiciary needed sympathy and proffers of assistance as did the slave manacled and cringing beneath the lash. Cor-

porations behind four billions of stolen property, for years controlling State Legislatures, the national Congress, the judiciary as remorselessly as did slavery, need not the sympathy or active support of Senators. It is the toiler seeking labor in the furnace heat, in the underground labyrinth, the settler in the dugout on the frontier of Kansas and Nebraska, whose wives and children are drawing warmth from corn because great corporations refuse to reduce the rates of freight so the coal of Pennsylvania may be exchanged for the corn of the West.

This position is sustained by an authority which will not be questioned by any Senator. Charles Francis Adams, jr., now the president of the Union Paific Railroad, in his chapters on Erie years ago, spoke of the great State of New York as enslaved by two great corporations, the New York Central and Erie:

> Vanderbilt, embodying the autocratic power of Cæsarism, introduced into corporate life the Erie ring, representing the combination of a corporation and the hired proletariat of a great city. The system of corporate life as applied to industrial development is yet in its infancy. It always tends to development, always to consolidation. It is ever grasping new powers or insidiously exercising covert influences. Even now the system threatens the General Government.
>
> In a few years more we shall see corporations as much exceeding the Erie and the New York Central both in ability and will for corruption as they will exceed these roads in wealth and length of iron track. We shall see these great corporations spanning the continent from ocean to ocean. Now their power is in its infancy. In a very few years they will re-enact in a larger theater and on a grander scale, with every feature magnified, the scenes which were lately witnessed on the narrow scale of a single State.

His prophecy of fifteen years ago is history to-day. Does the Senator from Kansas [Mr. INGALLS] believe that Mr. Adams at that time "stood as the advocate or champion of that cheap system of demagogy that appeals to public opinion against railroads?"

For twenty years these corporations have grown rich, strong, and defiant, in violation of law, and now let us see to it that the protection of the law shall be given to those who are the victims of their extortion.

The PRESIDING OFFICER (Mr. CAMERON, of Wisconsin). The question is on the amendment offered by the Senator from Oregon.

Mr. COCKRELL. Let the amendment be read.

The PRESIDING OFFICER. The amendment will be read.

Mr. MCPHERSON. I should like to have the amendment read.

The PRESIDING OFFICER. The amendment will be read.

The SECRETARY. In section 4, line 14, after the word "class," it is proposed to insert:

> Or shall charge, or receive, any greater compensation for transporting a similar amount and kind of property a shorter distance than for a longer distance over the same line of road and in the same direction.

Mr. MCPHERSON. Before proceeding to discuss the amendment, which I shall do very briefly, I wish to state that I did not correctly understand or hear the references made by the Senator from Nebraska to the position I had taken upon this question. If there is anything for me to answer in what he has said, when I see his speech in print I will undertake to answer it then. But I should like to have the Senator from Oregon give me a little attention in order that I may vote intelligently on the amendment which he has offered.

It seems to me it can not be possible that the framers of the Constitution ever intended any such exercise of Congressional power as is embodied in the amendment he proposes. As there is no way of presenting a subject so forcibly as by illustration, if the Senator from Oregon will permit me to illustrate my argument, I will then wait for an answer. It is well known to the Senator that there are different stages of transportation. There is a line of railroad, say, starting from New York that runs to a certain great distributing point, as Buffalo or Pittsburgh, and there ends. There are other lines of railroad separate and distinct in their organization, yet perhaps composing in a measure parts of the eastern trunk lines reaching from Pittsburgh and Buffalo to Chicago. I name Chicago because it is the greatest distributing point in the West.

I will now mention two railroads whose tonnage is greater than that of any two other railroads in the world, the New York Central Railroad and the Pennsylvania Railroad. The New York Central is within the territory of a single State in which the laws of that State are supreme, and is entirely beyond the grasp of the amendment of the Senator from Oregon which he proposes to this bill. It runs for four hundred and fifty miles, or one-half the distance from New York to Chicago, in one State. The Pennsylvania Railroad, in like manner starting from the city of Philadelphia, is within the territory of a single State, subject not to this law but to the supreme control and power of that State, and it runs almost an equal distance toward Chicago, the great point of distribution, in one State. These two railroads, subject only to State control and beyond the reach or grasp of this bill, make such local rates as the State laws permit. As to the other lines starting from both Buffalo and Pittsburgh as objective points, these roads make such rates to Chicago as will best tend to destroy their adversaries. Who are the adversaries? Let me name them.

The West Shore Railroad is an interstate road under the provisions of this bill. It runs through the States of New York and New Jersey. The Delaware, Lackawanna and Western, another competing line, runs through the territory of three States, to wit, New York, Pennsylvania, and New Jersey. The New York and Erie Railroad, another great trunk line, runs through the territory of three States, New York, Pennsylvania, and New Jersey, yet it has both ends of its line in the State of New York. The Baltimore and Ohio Railway between Pittsburgh and Baltimore runs within the territory of three States, Pennsylvania, West Virginia, and Maryland. Two of the railroads I have named therefore as to every act and thing within the power or control of the corporation are within the territory of a single State; they make such rates as the State laws permit, while the other lines, the West Shore, the Delaware and Lackawanna, the New York and Erie, the Baltimore and Ohio, the Lehigh Valley, and such other lines as may connect with them, are interstate railroads within the meaning of this bill.

The New York Central may take freights at Buffalo low for the purpose of driving a rival out of the city of Buffalo, say at $10 a car for through freight between Buffalo and New York, and that will not interfere with or in any manner control the rates for local traffic on that road, while if the Erie, the West Shore, the Delaware and Lackawanna, and other competing lines reduce the through rate to $10 a car they will be required to reduce the rate on local traffic in the same proportion. Thus it is within the power of the two great corporations to absolutely bankrupt the others and to drive them out of the market entirely. Is not that plain? The others, being interstate railroads, would be forced to make their local rates proportionate to the through rates; while the two stronger corporations, located as I have named, would have the power to earn sufficient on local freights, added to the rates on the through business, to give them a reasonable compensation for the whole. So it is made the interest of both these great roads to drive off every rival, and when that is done they can make such rates as they please.

Mr. President, I do not believe it was the intention of the framers of the Constitution to put in the power of any body by legislation here, however just and fair and equitable it may seem upon its face, to destroy capital in that way. The bonds of the Erie Railway, the West Shore, the Delaware and Lackawanna, and the Baltimore and Ohio are held by whom? Very largely by trust companies, fiduciary trusts, the property of the widow and the orphan in very many cases; and I believe it is as much the duty of Congress, if it can be done without violation of the great public interests of all the people, to refrain from legislation which absolutely, in effect, destroys the property of those unable to defend themselves. When you come to add together the vast amounts of money dependent upon fair and equitable rates of transportation which are held in investments by parties entirely unable to defend themselves, it certainly seems to me a proper subject for the Senate to consider that interest.

Now, sir, I can not myself subscribe to a doctrine which permits a condition of things to exist that absolutely prevents all competition entirely. The result of the pending amendment added to this bill will simply be to enable the New York Central and the Pennsylvania Railroads, happily located as they are with respect to the terms of the bill, to bankrupt every competing company and at the same time lay such rates as will enable themselves to profit. That is my objection to the amendment. I based my objection to it the other day principally upon the ground that I thought the Senator from Oregon should permit the two main propositions to stand as they appeared before the Senate. When he presents his substitute, as I understand he proposes to do, in the form substantially of the Reagan bill from the House of Representatives, then you will find a bill consistent in all its parts for a practical working machinery; but to ingraft this amendment upon the present Senate bill would be to destroy absolutely its effect and at the same time to destroy the Senate bill. I would rather vote upon the two distinct propositions separately than undertake to revise and reform this bill by the adoption of the amendment offered by the Senator from Oregon, and I submit to that Senator, if I am correct in my view, whether he himself would then vote for a proposition which is so damaging in its results. I should like to have the Senator from Oregon answer the case I have stated.

Mr. SLATER. The Senator's practice is like that of some individuals I have heard of. He imagines a case that suits the purposes of his argument, and then asks some one to meet it. However, I will endeavor to answer some of the points as I have gathered them from the Senator.

He has presented, as illustrations of his meaning, certain railroads having their centers on the east in New York and on the west in Buffalo, and another road in Pennsylvania, from Philadelphia to Pittsburgh, as contrasted with roads that are interstate roads; but more particularly does he draw attention to the case of the New York and Erie as a competitor to other roads whose western terminus is Buffalo and eastern terminus New York, they passing through two or more States and being interstate roads, while the New York and Erie is a road entirely within the jurisdiction of a single State, as I understood him.

Mr. MITCHELL. The Senator will allow me to say that as a matter of fact the Erie road is not wholly within the State of New York, but passes through a small portion of the State of Pennsylvania.

Mr. SLATER. I understand that to be correct; but the question was whether in moving freight from Buffalo to the city of New York the Erie road had not the advantage and could make the charge $10 per car-load.

Mr. MCPHERSON. The New York Central.

Mr. SLATER. The New York Central, I should have said. I understand the pith of the inquiry to be that the New York Central is a

road entirely within the jurisdiction of New York, and the question is asked whether in hauling freight from Buffalo to New York by the Erie or by some of the interstate roads that pass portions of the way through other States with the same class of freight to New York city the New York Central would not have power under this amendment to destroy these other roads.

I do not undertake to say but that it might have some power to damage the other roads. But there is another question that would attach to the freight, and that is what we are trying to reach as controlling this matter. We are not reaching links of railroad, but endeavoring to reach streams of commerce. There are classes of commerce classified as State commerce within one State which are excluded from the operation of our bill. That which comes within its provisions is interstate commerce. The question would be whether a car-load of freight shipped from Buffalo to New York city, both being within the same State, over a line of road that might pass somewhere through some other State or part of some other State, would be interstate commerce or State commerce. My impression is that the place of its original starting and the place of its destination would determine its character as interstate or State commerce if it came from a point outside of New York, and although it might pass through other States in its transit, it would be interstate commerce. What constitutes interstate commerce is that it is commerce that passes from a starting-point in one State to a destination in another State; and in this instance the starting-point and the destination of the freight would be in the same State The fact that it passed through other States would be an immaterial matter.

Mr. McPHERSON. According to the Senator's own statement, then, I suppose he admits that as to freight taken by the New York Central between New York and Buffalo as local freight it would have to pay local rates.

Mr. SLATER. Certainly; within the limits of one State.

Mr. McPHERSON. The Senator very well knows that more than 75 per cent. of the grain that leaves Chicago goes to Buffalo by lake. It goes into elevators there for a market, and either for consumption throughout the country or for shipment in this direction or any other direction as occasion may require; and the New York Central as to that freight is not hampered by this bill.

Still further, let me ask the Senator how will this bill reach this condition of things? The main line and the property of the New York Central Railway are within the State of New York. It is also the owner, so to speak, or we will say the lessee, of a line of railroad running to Chicago, or has intimate connection with some railroad running to Chicago. Grain is shipped from Chicago to Buffalo on a separate waybill, without any knowledge, we will assume, on the part of the shipper of what is to be done with it after it reaches Buffalo. It is then taken on another waybill by the New York Central Railroad to New York. It is the habit of the New York Central Railroad and of the Pennsylvania Railroad to make a separate waybill for all property over those distinctive lines of road. The first bill is from Chicago to Buffalo, the second from Buffalo to New York, and to avoid and evade the whole bill, if these railroads should so determine, they could provide that a shipper who shipped his goods from Chicago to Buffalo could then by telegraph order them further, and I wish to know under that condition of affairs if your bill could be made effective?

Mr. SLATER. It would be a matter of very extreme doubt whether that class of freight could be reached by any bill Congress might pass. That course would seem to so affect that class of freight as to make it State commerce and not interstate commerce. Therefore we need not worry ourselves about that class of freight; we need not bring up phantoms here of possible danger or doors of possible evasion to meet a plain proposition that is intended to correct the evils that the country is now suffering from.

Another point. The Senator, it seemed to me, asked if it would not be better that the direct question should come between the House bill and the amendment which is now pending as a subsittute, known as the Reagan bill, instead of this clause being interpolated into the Senate bill, it being, as he said, a different system or framed on a different line of policy. That is a point with me. As was stated by the Senator who preceded the Senator from New Jersey and myself, the Senator from Nebraska [Mr. VAN WYCK], I regard the Senate committee bill now under consideration as the nearest step to nothing in the form of legislation that a bill could be proposed in this body. I want to get something into it that will have some merit in the way of striking at some of the evils; and, unless we can get something of this character into it, it is but a shadow and it will prove to be worthless, so far as regards remedying any of the evils that are now complained of. It may turn out, and very likely it will turn out when the vote shall come between the Senate committee bill now under consideration and the House bill for which it is to be offered as a substitute, that a majority will sustain the present bill and make that the action of the Senate; and if that should be so, I desire in that contingency that we shall have so much at least of the Reagan bill as I have now offered in the bill that shall receive the sanction of the Senate.

I do not apprehend the difficulty that the Senator from New Jersey speaks of in destroying these railroads, or any of them. Suppose his position is correct, and suppose it should turn out when these cases come before the courts that freight shipped from Chicago to New York by a route of transportation that passes through more than one State should be held to be interstate commerce and not State commerce, and that the route of transportation shall determine the character of the freight, not the points of shipment and destination as I think. Suppose I am incorrect in my view, what then? The result is simply that it would devolve upon the State of New York and the State of Pennsylvania to see that injustice was not done within their States. Congress will have done its duty, and it will then devolve upon the State of New York and the State of Pennsylvania to meet Congress and correct the evils within those States and make the system harmonious.

I think I have now answered the Senator's question.

Mr. MITCHELL. Mr. President, I call the Senator's attention to the peculiar wording and connection of this amendment with the fourth section of this bill. As I understand, if the amendment were to be adopted it would be an effort on the part of Congress to undertake to regulate not interstate commerce, but the commerce of the respective States, and I do not suppose the Senator will undertake to say that we have any such authority as that here. This amendment, taken in connection with the operative words of the section to which it relates, would read as follows:

> That if any transportation company engaged in interstate commerce shall charge, or receive, any greater compensation for transporting a similar amount and kind of property a shorter distance than for a longer distance over the same line of road and in the same direction * * * it shall be deemed guilty of unjust discrimination.

The Senate will observe that in the fourth section of the bill as it stands the words "in its transaction of interstate commerce" occur in connection with what is declared to be prohibited or provided for in both instances; that is to say, it reads in respect to one of these clauses as follows:

> That if any transportation company engaged in interstate commerce shall, directly or indirectly, by any rebate, drawback, or other device, charge, demand, collect, or receive from any person a greater compensation for any service it may render in its transaction of interstate commerce than it charges, &c.

And in the other case it says:

> And if any such transportation company shall neglect or refuse to furnish the same facilities for the carriage, receiving, delivery, storage, and handling of interstate commerce freights, &c.

So that the section of the bill now under consideration very carefully provides that the action here proposed shall relate only to interstate commerce, while, as I understand the effect of this amendment, it would relate not only to that, but to the commerce of every State of the Union. It would, therefore, as I have stated, be doing what I think we have clearly no power whatever to do; and, so far as my own State is concerned, if we had the power I could not consent to the doing of that thing, because the people of that State, by the adoption of the constitution of 1873, have regulated that subject for themselves. In the third section of the seventeenth article of that constitution I find the following:

> Persons and property transported over any railroad shall be delivered at any station at charges not exceeding the charges for transportation of persons and property of the same class in the same direction to any more distant station; but excursion and commutation tickets may be issued at special rates.

Therefore I find myself compelled, if I am disposed to observe what the people of my own State have done upon this subject, to vote against the amendment as proposed by the Senator from Oregon.

But I am not able to bring my judgment to favor this proposition even if it were properly worded. It will be observed, by careful attention to this provision of the constitution of Pennsylvania, that the State convention which framed that instrument employed words very carefully to guard against any possible misconstruction or trouble in relation to this subject.

It will be seen that the prohibition against charging more for a shorter than for a longer distance does not, according to the terms of the amendment now proposed, relate to every case of a shorter distance, but it only relates to cases of shorter hauls where the freights shall be taken up contemporaneously, in the same train of cars, if you please, at the same time and place. The reasons in the one case might be strongly in favor of such a proposition, while in the other, to my mind, they might be and in many instances would be strongly against it. It is entirely a different thing to say, as the Senator proposes by the amendment, that you shall stop at every way station along a great line of railroad to take up freight as well as to deliver it, and that you shall not consider the inconveniences and the increased expense which would attend the adoption of such a rule in regard to the transportation of freight over it.

But, Mr. President, I did not intend and do not intend to speak at any length upon this proposition. Possibly when the bill shall reach a further stage, and the measure which is so radical, known as the Reagan bill, is proposed to be substituted for this bill, I may avail myself of the opportunity to say something further. I take it that the amendment as proposed by the Senator from Oregon does not carefully guard and secure precisely what he endeavors to reach.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Oregon [Mr. SLATER].

Mr. SLATER. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. INGALLS. I should like the Senator from Oregon to state whether in his opinion it is right that the railroad corporations should receive the same compensation for transporting a similar amount and kind of property a shorter distance than for a longer distance over the same line of road and in the same direction?

Mr. SLATER. I think there are many instances in which that may be justified. I think I could state a good many instances where it is a very common practice, especially in transporting bulky freight for export and the purpose is to get it to a market where it may be exported, to make common points on the line of the road.

Mr. INGALLS. Suppose it were not more than half the distance? I can readily understand that if the difference was a mile or five miles in a haul of a thousand miles, it might perhaps be *de minimis* to say that the transporters should make a discrimination between nine hundred and niney-five miles and one thousand miles; but suppose the respective distances are five hundred miles and a thousand miles, does the Senator then think it would be right to charge the same amount for five hundred miles that is charged for a thousand miles?

Mr. SLATER. That would be perhaps an extreme case.

Mr. INGALLS. But a possible case.

Mr. SLATER. Under the law as it would be it might be a possible case.

Mr. INGALLS. Is it not a case that occurs every day?

Mr. SLATER. I do not think it is a case that we could properly deal with.

Mr. INGALLS. But now let us come down to the practical aspect of the case. Suppose a railroad company should do that, does the Senator think it would be justifiable; that is to say, if it should charge the same for five hundred miles that it would charge for a thousand miles on the same road, and for carrying similar property, and in the same direction?

Mr. SLATER. I must answer the Senator by making a statement of the case that will show his position to be that because we can not remedy in this provision all the possible evils, because we can not reach all we must not try to reach any. Take the case that I gave the other day, where $200 was asked for a car-load to Portland, Oreg., and $400 was asked for the same car-load to be carried one hundred miles short of Portland. Under the provisions of the amendment the company would have been entitled to charge $200 for the shorter haul. We propose by the amendment to say that it shall not in a case like that charge $400; but now the Senator supposes a case, for instance, five hundred miles farther east of Portland, where the company proposes to charge the same price that it does at Portland. As a matter of course there would be an apparent, at least, if not a real, discrimination, one that perhaps in time we may find some means of remedying or preventing, but they are doing precisely that on the Union and Central Pacific and on the Northern Pacific roads now. All the roads beyond a certain point, I do not now remember where, in the western part of Montana are charging these extortionate rates. Shippers must pay all the way to Portland and then back again, which makes the rate more than double; and because the amendment does not reach a possible danger—the logic of the Senator's question and argument is that—therefore we must do nothing at all. I admit that the amendment will not reach the case that the Senator supposes; I admit that the supposed case would be one of wrong; but the amendment does not propose to reach that class of wrong.

Mr. INGALLS. Does not the amendment justify and permit that wrong?

Mr. SLATER. Not at all. It is possible now.

Mr. INGALLS. Then there is no possible interpretation that can be put upon language. *Expressio unius est exclusio alterius.* It says that the company shall not charge a greater amount, therefore it may charge the same amount, and you leave this whole subject open to the most odious and invidious discrimination about which complaint has existed. That is to say, take shipments of grain from Chicago to New York; if this provision shall be adopted, suppose it costs $100, for example, to ship a car-load of wheat from Chicago to New York city. The amendment, if adopted, will allow the railroad corporation to charge $100 for shipping a car-load of wheat to Fort Wayne, to Cleveland, to Buffalo, and to every intermediate point. That is exactly the evil that is complained of, and when the Senator puts in his amendment the declaration that they shall not charge a greater amount he simply gives away the whole principle.

The amendment is a Trojan horse. It introduces into legislation the worst elements that have ever been complained of in practice and gives them the sanction of law.

Mr. SLATER. The answer to all that is that the railroads practice these very extortions now; and because the amendment does not propose to extirpate all the extortions at once the argument is that we shall not extirpate any of them.

Mr. INGALLS. No, sir; you do not propose to correct any of them. That is where the Senator leaves this question by his amendment. By saying that they shall not charge a greater amount for a short haul than they do for a long haul he leaves it lawful for them to charge the same amount. Therefore the railroad corporation that charges a hundred dollars for a car from Chicago to New York is permitted by the amendment to charge a hundred dollars for a car to a point ten miles east of Chicago. If the Senator from Oregon regards that as an adequate correction of the evil which has existed by way of discrimination by railroad corporations I think he has been excessively unfortunate in his choice of terms.

Mr. SLATER. For years the Central Pacific and the Union Pacific have charged $700 per car for freight to Reno and other points east of the Cascade Mountains, while they only charge $300 per car to San Francisco. Under the provisions of the amendment they could not charge a greater price to Reno or to Virginia City or other points eastward of San Francisco than they charge to San Francisco; but because it does not go so far as to say that they shall prorate, and does not extirpate all the evils that come in there, the argument is that we must do nothing because we can not make a complete equitable arrangement.

Mr. WILLIAMS. Mr. President, this is a very complex and difficult question, but it is perfectly apparent to my mind that there is no justice in the world in charging more for a short haul than for a long one. It can not be justified upon any principle of right or justice.

Mr. INGALLS. Is it right to charge the same for a short haul as for a long one?

Mr. WILLIAMS. No, sir; it is not right to do that. The amendment allows that to be done, but forbids charging any more.

It has been in proof before a committee of the other House that from Omaha city to San Francisco a railroad company would charge $300 for a through trip, and to Virginia City, or a point upon the same road, $800 would be charged. Before the same committee it appeared that from Cincinnati to New York, by a road running through Pittsburgh, nearly twice as much was charged upon a car-load of wheat and flour to Pittsburgh as to New York from Cincinnati. Will any man say that is just or right? Will any man say that the intermediate shippers are to be taxed, that they are to contribute to make up the losses which the railroads may sustain at terminal points by being compelled by competition with other roads to carry at a less rate than will pay a fair and just compensation?

All the railroads do not practice this extortion, let me say. There is a railroad running through my State which does not practice it. The Chesapeake and Ohio Railroad runs from Louisville through Richmond, Va., to Newport News, and has running connections to New York and to Baltimore. The rate from Louisville through for a car-load of cattle, or tobacco, or freight of any kind, is one price, and then they make divisions. At Lexington it is another price, at Mount Sterling it is another price, at Big Sandy it is another price, and so on through; and I have never heard any man complain of any injustice or discrimination on the part of that road. The freights are high, it is true, but nobody complains and everybody is friendly to the road, because its management is conducted upon principles of equity and justice to the people along the whole line.

But we hear complaints on other lines, and what is the occasion? You start a car-load of wheat from Cincinnati or Chicago to New York. The roads pass through Clarksville, Wheeling, and Pittsburgh. If the shipper of flour at one of these points on the road is compelled to pay twice as much as the shipper at Chicago what does it amount to? It amounts to a contribution by the way-shipper of so much money to save the Chicago merchant from any loss that he might sustain by shipping over the longer route. Is there any justice in taxing the man for that purpose at Columbus, Ohio, at Pittsburgh, at Clarksville, or anywhere along the road? These people send their commodities to the same market, and if the shipper living at an intermediate point is compelled to pay a larger amount of freight on his grain or his flour, when he gets to New York he comes in competition there with the merchant who has shipped his grain or flour from Chicago, and as that man gets it carried for half the freight, he must reduce the price or be undersold by the other man, or he can not sell at all.

Mr. ALLISON. Does it not amount to still another thing, if the Senator will allow me to interrupt him? It amounts to enabling the producer of the flour or the wheat, or whatever, at Chicago or beyond Chicago to receive the same price that is allowed to the producer at Pittsburgh.

Mr. WILLIAMS. Yes, and the intermediate man is taxed in order to give him that price which he is not justly entitled to. It is unjust, it is inequitable, it is wrong. His wheat and his flour, and my wheat and my flour, at an intermediate point go to the same market, and if you charge me more freight than he is charged, I help to pay the railroads their losses, and I help to make up to him in the New York market the price of his wheat or his flour.

Sir, railroads are great things for the country. They are great institutions. They have aided in the development of the country more than any other material cause. I am a friend of the railroads. I look upon them as the great instrumentality in the development of our country. I think the Gospel, the common school, and the railroad have been the three great agencies under Almighty God in the progress and the civilization of the world. The railroads have equalized things everywhere. They have afforded means of transportation and of distribution of the fruits of the earth, so that the humble, the poor, the laborer in every civilized country is enabled to enjoy not only the necessaries but the comforts and many of the luxuries of life by their means. I would do nothing to discourage them, but I would have them do jus-

tice. I would have all roads do the same justice that some I know of do. The railroads have rendered a famine throughout the civilized world an impossibility in modern times by providing ready means for the distribution of the fruits of the earth from one part to another. The people are not disposed to be hostile to the railroads, and should be their friends; and if the railroads were justly and properly managed they would be the most popular institutions in the whole country.

One thing I know. The cause of complaint is not on account of high freights, because everybody knows that from year to year freights are coming down and down all the time, but it is because of the unjust discriminations, such as have been mentioned in this discussion, which have rendered the railroads odious to the people. We all know that where there is no railroad everybody is anxious to have one. Individual men, counties, towns, and States contribute liberally of their means to encourage the building of railroads, but the moment they are constructed they become odious and hateful to the people. Why is it? It is because they are not managed upon the principles of justice and right.

The railroads have rights as well as the people. They are entitled to a fair and just compensation, a fair and reasonable profit upon the capital invested in them, and they ought to have it. Everybody will agree to that. But they should by law be restrained from improper discriminations and unjust extortions upon the country. Every man will agree to that. I do not know how that is to be done. I confess there are so many difficulties and complications about the question that I do not see my way clear to do it. We need more light. We need more special and technical information on this subject before we shall be prepared to legislate and fix the rates of freight and passage-money for the railroads.

I think the law settles the fact that railroads are common highways; that the companies are common carriers, and as such are subject to law, the same as turnpikes and toll-bridges and ferries are; but when you come to fix all these things there comes the difficulty. I do not know how to do it. We can not say what the rates on the railroads ought to be for freight or for passage-money. We can not pass a general law. We can not appoint a commission and give them power to regulate it, because that would be delegating to the commission legislative power, which Congress has no right to confer. We can not do that ourselves.

If the pending amendment does not go far enough it certainly meets some of the grievances of which the country complains. The great grievance is unjust discrimination in favor of particular cities and towns and particular individuals at terminal points and against way-freight stations. That is the trouble in the country. The present system is an admirable one, I admit, to build up great cities and populous and powerful towns at the terminal points, but what is the effect upon the intermediate towns? You see hundreds of little villages all along the line of a railroad, but you do not see a great town anywhere. The effect is to throw into the terminal points from all the country about everything that is to be transported out of a State.

I saw an authentic statement recently of the amount of interstate commerce and the proportion it bore to all the internal trade of this country. It was more than 75 per cent. More than 75 per cent. of all the trade of the American States is interstate commerce, and when you consider that much of the State commerce consists in sending to terminal points their own productions to be shipped into other States, I think it will amount to 95 per cent. Hence you see that interstate commerce is far more important than State commerce. There is very little shipped from one town in my State to another town in the State. Every county raises around about the towns everything that the towns want; and the surplus is shipped elsewhere to be distributed over the broad land and to be sent to foreign markets.

I am unwilling to hamper the railroads. I want them built in my State. We have not half enough. We have immense wealth in my State. We have far more iron, coal, and timber undeveloped than has yet appeared upon the surface, and we must look to railroads to develop them: I would not hamper or cripple them, but I would make them deal justly with the people. I would make all railroads do as some of them do now. Why do the railroads claim these privileges to build up great cities at the termini of the roads and gut the whole country between? It is unjust, it is unfair, it is not right; and with all my friendly disposition toward railroads as the great instrumentality in developing the wealth and resources of our country I am unwilling to give them absolute power over the taxation of the people of this land. We have to-day 125,000 miles of completed railroad, estimated at the value of $7,000,000,000, carrying freight of the people annually to the amount of $1,700,000,000 of their property. This is a tremendous power. The railroads have a revenue to-day larger than that of the Government of the United States. The question is whether we shall take control of them or not.

I confess that the inclinations of my own mind are in favor of a commission. We had a commission in my own State partly through my instrumentality. The roads had all sorts of rates and extortionate charges. A commission was appointed merely with a supervisory power, and the very first year of its existence the roads all came to terms, not by any coercion, but they got together and settled their fares and freights upon such terms of equity and justice that the people were satisfied. They reduced the maximum charges upon all the roads to 3 cents a mile for passenger travel, and some of them carried for much less, and upon coal and other heavy commodities the charge was reduced so as to divide traffic in grain and open coal mines through the State everywhere along the line of the roads. Now why can not that be done? But after the first year the roads got over their scare and nothing else has been done, and the commission is not now worth a cent.

Mr. VAN WYCK. The position seems to me a strange one that the amendment does not go far enough and therefore ought to be opposed. I understood the Senator from Kansas [Mr. INGALLS] to propound an inquiry to the Senator from Oregon [Mr. SLATER], desiring to know whether it was right to charge as much for carrying freight 500 miles as for carrying it 1,000 miles. I should like to ask the Senator from Kansas if he thinks it is right to charge as much for transporting a car from Leavenworth or Kansas City to Topeka or Lawrence as to the city of Denver? Does the Senator from Kansas think it is right to charge as much for transporting a car from Kansas City or Leavenworth to Lawrence or Topeka as to Denver? The Senator may not understand and I will repeat the question. I should like the Senator to answer whether there should be as much charged for transporting a car from Kansas City or Leavenworth to Topeka or Lawrence as to Denver. That is the point embraced in the amendment of the Senator from Oregon.

Some one suggests the Senator is thinking. Then while the Senator from Kansas is thinking upon that question I will propound one to the Senator from Iowa [Mr. ALLISON]. Does he think it is right for a railroad to charge for transporting a car from Chicago to Des Moines as much as for transporting a car from Chicago to Council Bluffs? I will repeat the question. If he thinks it right to charge more for transporting a car from Chicago to Des Moines than for transporting a car from Chicago to Council Bluffs? Does the Senator think that is just?

Mr. ALLISON. Which Senator from Iowa is asked?

Mr. VAN WYCK. The one before me.

Mr. ALLISON. I will answer the question put by the Senator from Nebraska by propounding one to him. I will ask him if he thinks it is right to charge as much for a car from Chicago to Des Moines as to Council Bluffs?

Mr. VAN WYCK. No, sir. Now answer me, please.

Mr. ALLISON. That is what your amendment authorizes to be done.

Mr. VAN WYCK. The Senator seeks to get behind another question to evade an answer to mine. I have answered his question. I say I do not believe it is right. Now, will he answer mine, whether he believes it is right for a railroad company to charge as much for transporting a car-load from Chicago to Des Moines as from Chicago to Council Bluffs? Will you answer?

Mr. ALLISON. That would depend, of course, upon the circumstances. Ordinarily it would not be right.

Mr. VAN WYCK. Under what circumstances would it be justified? Ordinarily it would not be right, he says. Now, what circumstances would justify it? Will the Senator explain?

Mr. ALLISON. I do not want to get into a colloquy with my friend.

Mr. VAN WYCK. No, I should think not.

Mr. ALLISON. The rate from Chicago to Des Moines ought to be a reasonable rate. The rate from Chicago to Council Bluffs ought to be a reasonable one. If they are both reasonable and on the same line and in the same direction the rate from Chicago to Council Bluffs should be greater than that from Chicago to Des Moines. I do not know that it would, but it might occur that at Council Bluffs some time the pool which my friend from Nebraska spoke of this morning, which he says operates so injuriously to Council Bluffs and Omaha, would be broken, and in that case severe competition might arise at Council Bluffs between the railroads, and they would charge between those points less than cost. In that event, to use it as an illustration, I will ask the Senator if he thinks it would be right to charge less than cost also from Chicago to Des Moines?

Mr. VAN WYCK. I should not think it right to charge less than the cost to Des Moines; neither would I think it by any means right to charge less than the cost to Council Bluffs. We are dealing with facts as they are furnished by the experience of years past. There have been the same railroads running across the Senator's State from ten to fifteen years from Chicago to Council Bluffs. There has not been during these fifteen years a single state of facts that has occurred since those roads have been running that would justify the thing that the Senator says would be justified by these peculiar circumstances. It has not happened in fifteen years, nor would it happen in fifty years to come. Is not that a remarkable attitude? The Senator has finally admitted that ordinarily he does not think it right, neither does he think it right that the railroad company should charge as much, and he is right about that. Ought it not really to charge less from Chicago to Des Moines than from Chicago to Council Bluffs? What I desire in propounding these questions is to see upon what ground certain Senators who are finding fault with and antagonizing the amendment put their opposition, with a view of showing really that they want to do nothing. They step forward and oppose the amendment; they say the amendment does not go far enough; and yet there is an extreme unwillingness on the part of Senators to explain just what they do think upon a given state of facts.

My friend from Iowa did finally assent to the proposition that this thing is wrong.

Let there be no misunderstanding about this matter. Here are two admitted evils. The Senator from Iowa admits that there are two evils, one where a railroad charges the same amount for a shorter haul that is charged for a longer haul, and the other where it charges actually more. The attitude of Senators is that the amendment does not go far enough, that while it seeks to strike down one evil it refuses to put its hand upon the other; yet when they are asked for an explanation they are unwilling to admit that either is wrong. When they are desirous to be understood by their people they will seem to be out-Heroding Herod. They say that they want more, and they can not go for this proposition because it does not go the length they desire, when they do not desire to go any length at all.

Here are two acknowledged evils. One is that a railroad charges more for a short haul than a long one, and the other is that it also charges as much for a short haul as for a long one, both of which are wrong. Now, what are we to do? We are here seeking to accomplish something. The Senator says these evils have been existing for years. So they have. No serious attempt has been made by the American Congress to right them, and now we start, and what are we to do? We seek to get the most we can in this measure. If it be the Reagan bill, we will take the Reagan bill. If it be only the little commission bill of the Senator from Illinois, then we will take that. We will take what we can get; but when we stand here asking for this amendment which strikes at an acknowledged evil, an acknowledged wrong, I apprehend the people will not recognize it as a good excuse for voting against the amendment that it does not go far enough and strike at another evil which they also desire to have remedied.

It is not true that forbidding the charge of more for a short than long haul is impliedly legalizing a charge of the same amount for a short as long haul. If Congress says this state of facts shall not be tolerated, it by no means goes the length of saying that the railroads may do other things. One Senator [Mr. INGALLS] says it is giving the whole thing away if we pass this amendment striking at this acknowledged wrong. Oh, no! The judiciary power will be as operative the day after the passage of the amendment as it was before. The law never has taken hold of this wrong. The law never has struck at it. The railroad companies claim that they are right in making these discriminations, and some of their friends upon this floor claim that they are right also. There is no excuse to be found in a refusal to vote for the amendment by saying that there is another state of facts which ought to be included. Let the Senators who believe that insist on amending the amendment. I will follow, and I think the Senator from Oregon will go as far as they will lead in that direction. If these Senators think the amendment does not cover all the cases, we shall be most happy to have them introduce amendments which will cover them.

Mr. INGALLS. Compensation should always be equivalent to service. If it were possible to establish railroad rates for freight transportation and passenger traffic so that the pay should be pro rata in accordance with the distance of the carriage, that would meet my approbation.

There are two evils, both of which are admitted, and one is just as much an evil as the other. I am opposed to both. I believe it is wrong to charge a larger amount for a short haul than for a long haul. I believe it is wrong to charge the same amount for a short haul that is charged for a long haul. I desire if possible to obtain some legislation that will prevent both, so that competition in each case shall be as nearly as possible exactly equal to the service.

The fault that I find with the amendment is not that it goes too far, and not that it does not go far enough, but that in denying the right of the corporations to charge more for a short haul than they do for a long haul, it legalizes the wrong of charging as much for a short haul as for a long haul.

I am unwilling to adopt any legislation that shall legalize an admitted wrong. I am not in charge of this measure; I am not proposing any amendments; it is a subject with which I am not familiar; but so far as these wrongs are concerned I want to right all of them, and I do not propose by my vote to legalize any of them.

Mr. PLATT. I think I must vote against the amendment, and I wish in a few words to state the reasons why I shall do so.

I think a great deal of abuse has been perpetrated by railroads by charging more for a short haul than for a long haul, or by charging more at points along the line to which freight was carried than at the terminus of the railroad beyond those points. But the subject is full of difficulties, and I doubt myself very much whether any rule which may be established by legislation to cover all cases can work justice. It may remedy injustice in some particular cases, but I think it will scarcely work justice in all cases.

My hope is that the commission which the bill provides for, to which such subjects are to be committed and by which all such topics must be passed upon, will result in at least partially remedying the abuses which I know have prevailed. I am, therefore, disposed to take the commission as a tentative measure, hoping that justice will result from that, and waiting a little to see what its effect shall be.

Mr. GEORGE. I do not believe that the amendment offered by the Senator from Oregon is liable justly to the criticism that it legalizes and authorizes an equal charge for a short haul as for a long haul; but some Senators on this floor for whose judgment I have respect seem to think that that is the proper construction of the amendment. In order to obviate an objection which I do not think justly lies, but to remove all doubt upon that subject, I move to add to the amendment of the Senator from Oregon the following:

But this provision shall not be construed to authorize the charging as much for a shorter as for a longer distance in any case where such charge would be unlawful prior to the passage of this act.

Mr. INGALLS. If it is "unlawful prior to the passage of this act" how could it be enforced in any event?

Mr. GEORGE. I do not understand the Senator.

Mr. INGALLS. If it is unlawful now before the passage of the act, how could it be made effective in any event?

Mr. GEORGE. I assume that the objection is that this provision would legalize the charging of as much for a shorter as for a longer haul, and that that could not now be done, because if it could not now be done then the effect charged to the amendment of the Senator from Oregon could not follow. I may not have been fortunate in the language which I have used in my amendment, though I submitted it to several Senators around me. I propose simply to obviate the objection which has been urged, neither more nor less. I will change the amendment verbally so as to meet the objection of the Senator.

The PRESIDING OFFICER. The Senator from Mississippi modifies his amendment to the amendment. It will be read as modified.

The CHIEF CLERK. It is proposed to add to the amendment:

But this provision shall not be construed to legalize the charging as much for a shorter as for a longer distance in any case.

The PRESIDING OFFICER. The question is on agreeing to the amendment to the amendment.

The amendment to the amendment was agreed to.

The PRESIDING OFFICER. The question now is on agreeing to the amendment offered by the Senator from Oregon as amended.

Mr. INGALLS. Let it be read as amended.

The PRESIDING OFFICER. The amendment will be read.

The CHIEF CLERK. In section 4, line 14, after the word "class," it is proposed to insert:

Or shall charge or receive any greater compensation for transporting a similar amount and kind of property a shorter distance than for a longer distance over the same line of road and in the same direction; but this provision shall not be construed to legalize the charging as much for a shorter as for a longer distance in any case.

The PRESIDING OFFICER. The question is on agreeing to the amendment as amended, on which the yeas and nays have been ordered.

Mr. SAULSBURY. Mr. President, I shall vote for the amendment, but I confess that I do not expect it to remedy the evil which it is intended to meet. The provision of the amendment is that the railroad companies shall charge no more for the same quantity for a short haul than a long one. It is intended to provide against that; but it is well known that the companies can alter the number of pounds to be carried from one point to another, and under the amendment the freight would have to be the same quantity and over the same road precisely. However, the amendment is in the right direction.

While I am on my feet I will say that I do not suppose we can enact any law which will entirely remedy the evils that are complained of. There are great complaints in the country about the exorbitant charges made by transportation and railroad companies, but I do not know how we can remedy them. In my opinion the provisions of the bill which propose a commission will utterly fail to correct the evils complained of, and I doubt exceedingly whether anything we can do will take from the companies the power to evade our legislation and carry out their own purposes. A commission, in my opinion, is about the only thing that can correct the evil.

The amendment is in the right direction. It proposes to curtail one of the evils complained of, and that is that for a shorter haul greater charges are made than for a longer haul. That is so evidently unjust that it strikes me the amendment ought to meet the approbation of every Senator.

Objection was made to the amendment by the Senator from Kansas because, as he alleged, it authorizes taking as much for a short haul as for a long one. It will be seen by the construction of the language of the amendment that it does not authorize anything, but only prohibits a certain wrong. The amendment of the Senator from Mississippi [Mr. GEORGE] has obviated that supposed defect in the amendment. I shall vote for the amendment, but in doing so I confess I have very little hope that it will accomplish the object in view.

Mr. CULLOM. I do not care to occupy the attention of the Senate for more than a few moments. I think the discussion which has been had upon this question has proved the proposition that the Congress of the United States is not prepared with that sort of definite information which would justify it in passing a law and making it apply to every possible supposed condition of affairs connected with railroad operations. The purpose I had in view was not to legislate in favor of long hauls as against short hauls, or upon any of the questions that were controverted among the people, about which the public differed, but to leave these questions so that the commission which might be created by

the bill, after thorough and deliberate investigation, would report to us what should be done upon those controverted points.

I do not stand here to insist upon the proposition that a railroad should charge as much for a short haul as for a long one, or more. My judgment is that in nine cases out of ten a railroad or transportation company does wrong when it charges as much for a short haul as for a long one; but I am not prepared to say that we ought to put that sort of provision in the bill, so that under no circumstances that might arise in the operation of a transportation company could the company charge as much for a short haul as for a long haul.

I hold in my hand a volume of Illinois Reports, in which there is a case decided by the supreme court of that State where the Legislature of our State had passed a law declaring that there should not be as great a charge for a short haul as for a long one. The supreme court decided in an able opinion that under the constitution of the State such a law against unjust discrimination and extortion could not stand in the courts of the country. The law was decided to be unconstitutional. The court said that the Legislature under that provision of the constitution might have the power to declare that such an act was *prima facie* evidence of unjust discrimination where they charged as much for a short haul as for a long one, but that the Legislature could not go further in legislating upon the question than simply to declare that it would be *prima facie* evidence in the courts of the country that the corporation was extorting or unjustly discriminating.

I think that it is our duty if we are going to get anything done by Congress on this question to pass a bill that will avoid an explicit declaration upon all these controverted questions, so that we may be able to take the first step and get a commission to investigate these questions about which we are in doubt and about which we differ, and then at a future Congress we shall be better able to meet the questions and determine what sort of law we can pass consistently with the interests of the people of this country.

I do not stand here to advocate the cause of the corporations of the country. The bill was drawn in part by me with the sole purpose of protecting the interests of the people against the transportation companies; but while I was doing that I did not desire to come into Congress with a bill simply to run a raid against the corporations without a reason. On the contrary, I want to do that which is fair between the people and the transportation companies; and if we are going to get a bill passed in this Congress, which I hope we shall be able to do, we must go forward in the consideration of this bill and get something through the Senate of the United States.

While I am on the floor I wish to say that I intend to insist upon the consideration of the bill, and I shall resist an adjournment over to-morrow until Monday unless we progress and conclude the consideration of the bill to-day. I give notice to the Senate now that if the consideration of the bill is not completed to-day and a motion shall be made for an adjournment over until Monday I shall resist it as strongly as I may be able to do and shall call for the yeas and nays upon it, because, while I realize that the consideration of the bill is obstructing other important legislation, I realize at the same time that the consideration of the bill is important to the people of this country, and I do not propose to let go of it until I am voted down by the Senate, before we accomplish something in the direction of legislation in behalf of the people and in the control of the corporations of the country.

I hope that the amendment will be voted down, and that the Senate will proceed with the further consideration of the bill.

Mr. SLATER. If I understand the Senator correctly and understand the decision of the supreme court of his State, it does not properly meet the case here. Although the supreme court of Illinois decided that under the peculiar constitution of that State the Legislature could not provide that no greater price could be charged for a short haul than is charged for a long haul by its railroads, that decision does not meet the case here, because there is in the constitution of the State of Illinois a direct provision that there shall be no discrimination (I do not quote the language but the purport) in the rates charged among railroads, and that the Legislature shall provide against those discriminations. In allowing possible discriminations within certain limits, under the provisions of the Constitution of the United States, we are not limited in the way that the Legislature of the State of Illinois is limited by its constitution. Hence the decision of that court does not apply here in any manner.

Mr. INGALLS. Before voting on the amendment as subsequently amended by the suggestion of the Senator from Mississippi I will venture to call the attention of the Senate to the way in which the section will read in case the Senate should vote affirmatively:

SEC. 4. That if any transportation company engaged in interstate commerce shall, &c.; and if any such transportation company shall neglect or refuse to furnish the same facilities for the carriage, receiving, delivery, storage, and handling of interstate-commerce freights to one person that is at the same time furnished to any other person for the carriage, receiving, delivery, storage, and handling of such freights of the same class, or shall charge, or receive, any greater compensation for transporting a similar amount and kind of property a shorter distance than for a longer distance over the same line of road and in the same direction, but this provision shall not be construed to legalize the charging as much for a shorter as for a longer distance in any case, such transportation company shall be deemed guilty of unjust discrimination.

If any Senator thinks that the Senate can afford to place itself in the attitude that will be occupied by the adoption of such provisions in that connection he ought to vote in the affirmative.

Mr. CULLOM. If there is to be no further debate I shall not make the motion, but I rose to move to lay the amendment on the table.

Mr. BROWN. I beg the Senator from Illinois to withhold the motion.

Mr. CULLOM. I will do so, if the Senator desires to address the Senate upon the pending question.

Mr. BROWN. I desire to make some remarks on this question before the vote is taken, and they will be of some length, perhaps. I prefer to say what I have to say in this connection, because I shall devote a portion of my speech to the subject-matter of the pending amendment.

Mr. CULLOM. I withdraw the motion, as the Senator gives notice that he desires to speak.

The PRESIDING OFFICER. The motion is withdrawn.

Mr. BROWN proceeded to address the Senate. Having spoken for some time,

PROPOSED ADJOURNMENT TO MONDAY.

Mr. HARRIS. If the Senator from Georgia will yield to me for a moment, I move that when the Senate adjourn to-day it be to meet on Monday next.

Mr. BROWN. I yield.

Mr. HARRIS. I make that motion.

Mr. CULLOM. I hope that motion will not prevail. I hope there will be a session to-morrow for the consideration of this bill.

The PRESIDING OFFICER. The Senator from Tennessee moves that when the Senate adjourn to-day it be to Monday next. The question is on that motion.

Mr. CULLOM. I call for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 26, nays 31, as follows:

YEAS—26.

Bayard,	Garland,	Jonas,	Ransom,
Beck,	George,	Jones of Florida,	Saulsbury,
Brown,	Gibson,	Kenna,	Vance,
Camden,	Gorman,	Maxey,	Vest,
Cockrell,	Hampton,	Pendleton,	Walker.
Coke,	Harris,	Platt,	
Colquitt,	Jackson,	Pugh,	

NAYS—31.

Aldrich,	Dolph,	McMillan,	Riddleberger,
Allison,	Edmunds,	Mahone,	Sawyer,
Bowen,	Frye,	Manderson,	Sheffield,
Cameron of Pa.,	Harrison,	Miller of Cal.,	Sherman,
Cameron of Wis.,	Hawley,	Mitchell,	Slater,
Conger,	Hoar,	Morgan,	Van Wyck,
Cullom,	Ingalls,	Morrill,	Wilson.
Dawes,	Lapham,	Pike,	

ABSENT—19.

Blair,	Groome,	Logan,	Sabin,
Butler,	Hale,	McPherson,	Sewell,
Call,	Hill,	Miller of N. Y.,	Voorhees,
Fair,	Jones of Nevada,	Palmer,	Williams.
Farley,	Lamar,	Plumb,	

So the motion was not agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. CLARK, its Clerk, announced that the House insisted on its amendments to the bill (S. 729) for the protection of children in the District of Columbia, agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. W. L. WILSON of West Virginia, Mr. J. T. SPRIGGS of New York, and Mr. ELZA JEFFORDS of Mississippi managers at the conference on the part of the House.

INTERSTATE COMMERCE.

Mr. BROWN. Mr. President, I desire to submit some remarks on the general subject of railroads, and on the enormous loss which has been sustained by those who put their capital into the roads, while the capital invested in that manner has immensely increased the wealth and power of the whole country.

I shall also have something to say about the effect of unlimited competition between railroad companies which results in consolidation. I shall also discuss briefly the pooling system, and the provision of the bill which proposes to prohibit any railroad company from carrying through freight of the same quantity and quality a longer distance for less money than the same quantity and quality of freight is carried a shorter distance as local freight.

The first railroad that was completed and made an excursion trip upon the face of the earth was the road between Liverpool and Manchester, in England; and that trial trip was made in September, 1830, a little over half a century ago.

Mr. Charles Francis Adams, in his book, says there is some reason for saying that South Carolina was the first State in the world that commenced to put into operation a portion of a railroad to be run successfully by steam or by engine power. He disclaims the honor for the Quincy road of his own State, Massachusetts, which is generally claimed for Quincy, as it seems it was but little more than a tramway.

Probably next to South Carolina come the States of New York and

Maryland, so that South Carolina, England, New York, and Maryland may be said to be the first four states on earth that ran trains of cars propelled or carried by engines with steam power, and that as late as the year 1829, when the first experiments were made, and in 1830 when the first grand trial excursion was run. To warn men of the danger of railroading, an accident occurred during the excursion between Liverpool and Manchester by which a man lost his life. The Duke of Wellington, then premier and very unpopular, attended and gave his sanction on the occasion of the trial trip. What has been the result of these experiments? It is wonderful! Within half a century the whole world has been revolutionized—its cities, its transportation, its commerce. Formerly the cities were built only at the mouths of rivers which penetrated the country. Now they are built where the greatest concentration of railroad power happens to be.

Take our own country. What has been the result? There are now in round numbers about 125,000 miles of railroad in the United States in operation. Counting all that as having cost $25,000 per mile, and counting the equipment and all, it has cost more than that, no doubt largely more, and we have as the result $3,125,000,000 invested in railroads in the United States. That investment has doubled and in many cases trebled the value of real estate and other property, and especially the real estate of the sections traversed by the railroads, while a very large proportion of this enormous sum has been lost by those who invested it in railroads for the benefit of the public. Take my own State as an illustration. I have been informed that since the year 1830, since the first railroad train ran on earth, a lot of two hundred and two and one-half acres of land in the very center of Atlanta sold for a horse, bridle, and saddle. Railroads have made Atlanta what she is. There are probably more than $15,000,000 worth of property now upon that lot of land besides the large improvements on adjoining lots. Had it not been for the railroads there would probably have been none of that property there, and that lot of two hundred and two and one-half acres would still have sold for a few hundred dollars. This is no isolated case. There are numerous cases like it all over the country. Railroads, then, I say, have revolutionized the country, built cities, great commercial centers, where formerly none existed, nor could exist under the old system, vastly added to the value of real estate and property of every character, and given new life and new energy to everything, not only upon this continent, but upon all the continents of the world, for they now have railroads in Europe, Asia, and Africa as well as in America.

That is not all. The invention of the telegraph seems to have been either directed by Providence or to have happened just when it was needed in connection with the railroads. And while the trains now sweep over the face of the earth with a velocity of from twenty to fifty miles an hour, men converse with each other from one side of the continent to the other, and flash their thoughts across the ocean instantaneously. A wonderful age this we live in. The system that has produced this great result is worthy of human consideration. It is worthy of the consideration of the ablest statesman, as well as the profoundest political economist. It is a gigantic system, however, and while it has made this country what it never could have been without it, I do not think it should be left entirely unbridled, without regulation, which should be done wisely and constitutionally if done at all. But I do say that those who seek to control it should not do gross injustice to a system that does so much for our whole people.

A few years ago they burned corn in the West for fuel. Why? The lands were exceedingly fertile, and the people made vast quantities of corn. They had no means of transportation. They could use only what they fed to their stock and their families, and the rest was left in that prairie country as the cheapest fuel they had. Before railroads penetrated the great West 10 cents a bushel was high for corn; many times it would not command that. In that day your exchanges were conducted mainly upon our cotton crop. What has happened since the days of railroads? These long steel-rail lines that so much has been said against have penetrated the great West, and by thousands of miles go upon the plains and prairies; and by combining and placing long lines under one management have been able to carry productions rapidly to the Eastern cities, and then, by the aid of steamships, speedily to land them on the other side of the ocean, to fill any vacuum there, so as to make the teeming productions of the West a great auxiliary to those of the South in conducting commerce and the exchanges of the Government and people of this country.

Look at the statistics, and you will see that the meat and the flour and other productions of the West figure very largely now in the account.

We have had commercial depression and periods of inflation, and we shall continue to have them. Whether at as regular intervals as in the past I can not say, but we shall have them. How has it been, however, for the last few years? The balance of trade has run in our favor as high as $260,000,000 in round numbers in one year. In other words, in trading with foreign powers we have shipped to them of our productions and manufactures $260,000,000 in a year more than we have received of their productions in return, and they have had to pay us that large balance in gold and silver. This poured in the lap of our country an immense amount of the precious metals, creating what is called "the great business boom." Would it have been but for these railroad facilities? Clearly not. Why, we have even pressed England to the point where some of her people held meetings and demanded a protective tariff to keep the productions of the United States at such low prices out of their markets, as the English farmer can not compete with us raising grain on the free-trade basis.

Well, now, I say any great interest or development that men have put their money into that has produced such a result as this is entitled to the consideration and protection of statesmen everywhere. I know how easy it is to excite popular prejudice against corporations and monopolies, as they are called. It is an easy task to excite the people, as it would be easy to influence many of them by the doctrines of agrarianism, and make them believe it would be better every ten years to divide out the property equally among everybody. Many of them would shout and throw up their caps at such a doctrine; and it is easy enough to have followers when you say, "Let other people build railroads and let us take charge of them and run them for our own benefit without having cost us anything." But is it just? I address cool-headed, sensible men, grave Senators, who were sent here to represent the people. I ask for no privileges for the railroads that are unreasonable, but I do ask that you do something like justice by them, and deal with them upon principles of fair play.

So much for the history of railroads and the results that have been produced by them. But this new state of things, this great revolutionizing element that has come into existence, that has revolutionized commerce and changed the basis of your exchanges and the balance of trade, has brought about a grave problem for the economist and the statesman. How are these great interests to be managed so as to do justice to the people and at the same time do no injustice to those who have invested their means in constructing them, thereby building up society and commerce? That is a problem that every civilized nation has had more or less to do with. It has been found a very difficult one to deal with. It is claimed that the great law of trade is "encourage competition—the more competition the better for the people." And yet the experience of the world has already shown most conclusively that that system applied to railroads ends inevitably in consolidation, and does the greatest injustice while it is working out that result. The competitive system has been virtually abandoned in England. It was never tolerated to any great extent in France. In Belgium the government owns interest enough in the railroads to keep, as Mr. Adams says, the thumb upon the regulator all the time and regulate the competition. In Germany the government is taking hold of it, so as to control the competition.

It is worth while to inquire into the system England has adopted. There was the first successful railroad on earth, and there are statesmen there competent to deal with the problem. Indeed, I may justly say that the statesmanship of England towers like a vast pyramid upon the plain of time. This question has there been agitated more, I think, than anywhere else; it has received a fuller investigation, and they have finally reached a solution. And that solution is that in railroading consolidation is the rule, and not competition. They tried various experiments, but have finally settled down upon a railroad commission, whose powers are mainly judicial, and in most cases their decision is final and conclusive. This commission is one of the high courts of the realm, possessing great ability and great dignity; and it is said that they have to a great extent so regulated matters by the commission taking judicial cognizance that there is now but little trouble in working the railroad system in England.

But it is said there are abuses in the railroad system which can not be justified. That is doubtless so; abuses will creep into every great system where great interests are at stake, and it is the duty of wise legislators as far as it lies in their power to correct such abuses.

It is said the railroads have oppressed the people. There may be instances of this character, but the people in turn have often oppressed the railroads. The whole tenor of our legislation looks to establishing rules in reference to railroads that are more onerous to them than the rules applied to people generally. Legislation often discriminates against them; courts and juries do them injustice. A jury of citizens acting under the solemnity of an oath frequently gives five or ten times as much damage to a citizen against a railroad company as they would give in a case between citizen and citizen where the injury was the same.

The people are always ready to encourage bankers, merchants, or anybody else who has capital to put into railroads. Let a new railroad enterprise be started, and public meetings are held and patriotic speeches are made, the men applaud and the ladies throw up their handkerchiefs when heavy subscriptions are made, and every possible inducement is held out to the company to put its money in and build the road; but no sooner is it completed and in condition to conduct the business of transportation than the whole tone of popular sentiment is changed, and those who put not a dollar into its construction are often foremost in the crusade for its confiscation—not by an act of the Legislature, not by a decree of a court, but by putting down freights and passenger fares to a point where the capital invested can never be remunerative, and with a view to giving the people who invested nothing in the road the almost free use of the road and its rolling-stock for their accommodation. Railroad commissions or any one having con-

trol over the railroads are expected to favor constant reduction in rates and in fares, until the company is driven to bankruptcy and the road sold to pay its indebtedness. And in this manner the money put into the road by the original stockholders is entirely lost, their property having been virtually confiscated by the popular clamor for low rates, which drove them into bankruptcy and resulted in their ruin.

Take my own State as an illustration. There are two great rival corporations whose interests are now consolidated—the Georgia Railroad and Banking Company and the Central Railroad and Banking Company. They have not gone into bankruptcy, and during a very considerable proportion of the time since they have been built they have paid reasonable dividends to the stockholders; but not so with most other companies. Go to the northern part of the State, and there is the road formerly known as the Alabama and Chattanooga. A large amount of its stock was paid in by citizens of Georgia, and every dollar of it was lost, and the company went into bankruptcy and the road has been sold a time or two since.

Next is the Selma, Rome and Dalton, running from Dalton into Alabama. The part of this road that lies in Georgia was sold under a decree of the superior court of Floyd County and purchased by a company, and the stockholders lost every dollar. I believe the part in Alabama shared about the same fate. The road did not even pay all the bonds which had been issued.

Next comes the Cherokee road. That, too, has gone into bankruptcy and has been sold and the stock lost to the original holders. Then take the Air Line, from Atlanta through the Carolinas, which cost some $13,000,000, which sold under the marshal's hammer for about one-third of the amount, and the original stock and a large percentage on the bonds were entirely lost.

Then comes the road from Griffin to Carrollton, which has shared the same fate. The road from Macon to Augusta has also gone through the insolvent court and been sold for the benefit of the bondholders. Go to Columbus, and there you will find that the North and South road shared the same fate, and the stockholders lost all they had put into it. Then take the Macon and Brunswick; that, too, has been sold, and all the stock put into it by citizens lost. And the road from Brunswick to Albany has been treated in like manner.

Again we have the great line from Savannah into Florida and Alabama, known as the Savannah, Florida and Western. This, too, passed through the court of bankruptcy, and the original stockholders lost their capital.

Of the sixty-odd millions of dollars invested in railroads in my own State much the larger half of the capital has been absolutely lost to the stockholders, and in many cases the bondholders received only a percentage upon the amount invested, and much of this has been the result of the popular clamor for reduced rates.

I know some patriotic citizens and officials who do not practically understand this question are of opinion that all railroad companies should be put under about the same iron rule as to freights and passage; each should only be permitted to charge the same that another charges.

Now, it is very obvious that this rule is grossly unjust and oppressive to weaker companies, where they have but little business as compared with the stronger companies that have large business. Let me illustrate what I mean. The great line controlled by the Pennsylvania Railroad Company between the two great cities of New York and Philadelphia runs trains at very short intervals between these great cities well loaded with freights or passengers. They can afford to carry at a very low rate, on account of the vast quantity of freight and the vast number of passengers, and still make money. Take a place in the rural districts where there are not freight and passengers enough to load one train each way per day, and if they are compelled to carry at the same rate that the Pennsylvania road carries they can not pay fixed expenses. They can not keep the road in repair or in safe running order; and still the citizens who are served by the road through the rural districts expect their freights and passage as low as railroads in any section of the Union can carry like freight and passengers.

Whenever a road is run through a section that has little business to do, the people of that section must expect to pay a higher freight than those who live along the line of a road where there is much to do and where there are long through connections which serve as feeders. Let me again illustrate:

There is a vast quantity of valuable pine timber in my State between Savannah and Montgomery County that is worth large fortunes if there was any way to get it to market. The people there are too poor to build railroads. Suppose a company of capitalists were to say, "We propose to build you a railroad from Savannah into Montgomery County, say a hundred miles, and give you an outlet for your timber;" what would be the increase in the value of lands and property in that section? Would not the property be worth four times as much as it now is? The tract covered by the pine timber would be worth a large sum that is now not worth a dollar an acre in the market. In such cases it would be simply absurd for the people of that section to say you must charge as low a rate as the Central charges, which does a heavy business.

Rather than do without a railroad the people of Montgomery County could well afford to pay three times as much as the freights on the Central, which does a heavy business. No company of capitalists, with the present lights before them, and with the railroad commission over them, would think of building such a road without some guarantee that the freights would be kept constantly up to a point where the capital invested might pay dividends. What man of sense will put his money into a railroad between Savannah and Montgomery County for the accommodation of the people there without some such guarantee? But if the capitalists could be induced to make such an investment there would be a clamor all along the line for lower rates, rates as low as the Central.

Of course such a reduction in rates would soon drive the company into bankruptcy, but after the railroad is built what do the people care for that? True, the stockholders would lose their capital, but the people along the line would have the benefit of a railroad for the development of their section, which would cost them nothing and would enable them to make fortunes by the increased value of their lands and the sale of their timber.

This character of legislation, if persisted in, will soon stop the building of railroads.

In the North and West you may have enough of railroads; the people may have game enough in the trap that they can afford to pull the trigger and be content to rob those that now have capital invested. This is not our condition in the South. We have great need of other railroads, and until we get more capitalists to put their money in the construction of our railroads I think we had better wait and let more game go in the trap before we pull it down upon them.

The constant cry is that the railroads are oppressing the people—that they are great monopolies, growing rich by their oppression. The fact is that a very large proportion of them have gone and are going into bankruptcy, and those who are weak enough to put their capital in them are losing the amount invested on account of the clamor of the populace for the control and use of the railroads without anything like just compensation to the owners.

But great stress is put by the advocates of stronger measures of reform upon the fact that railroad companies often carry through freights longer distances for less money than they carry local freights for shorter distances. That practice is vehemently condemned by the advocates of virtual confiscation of railroad property. If we should pass the interstate-commerce bill and should prevent that practice the people, when they saw the workings of it, would very soon be clamorous for the repeal of the obnoxious law. You must permit through freights to be carried longer distances for less money than local freights are carried shorter distances, or you exclude through freights from your lines of road entirely, and then the railroad companies must fall back upon their home productions, and make their money, if they make any, out of local freights. The same rate of freight per mile will not do.

Let me again illustrate. Suppose a farmer brings ten tons of corn to the railroad depot at Marietta, twenty miles from Atlanta, which he desires transported to Atlanta. The railroad company takes charge of it, receives the corn into the depot, the employés take the trucks, roll it to the car, and load it in at Marietta; then the company hauls it to Atlanta, takes the trucks, runs it out, unloads it, and delivers it to the consignees. What would be a reasonable charge for the transportation? Would any reasonable man object to $5 for carrying the ten tons of corn twenty miles and $2 for loading and unloading? I presume not. It would be less than a cent and a half a bushel. It would be 2½ cents per ton per mile. None can question that the freight for so short a distance is reasonable.

Now, suppose another farmer brings ten tons of corn and delivers it at the depot of the same road at Dalton, one hundred miles from Atlanta. It must be carried at the same rate per mile from Dalton to Atlanta at which it was carried from Marietta to Atlanta, which is 2½ cents per ton per mile. This would make a car-load of ten tons cost the shipper $25 between Dalton and Atlanta.

Now, suppose another farmer in Kansas City, Mo., delivers ten tons of corn to the railroad to be shipped to Atlanta. The same rate per ton per mile must be charged for the longer distance which is charged for the shorter distance. What would be the freight between Kansas City and Atlanta, which is in round numbers a thousand miles? It would be $250 on a car-load of ten tons or three hundred and fifty bushels. This would be a fraction over 71 cents per bushel freight from Kansas City, Mo., to Atlanta. What say the Western planters to this rule as applied to the transportation of their produce to market, and what say the cotton-planters of Georgia to the application of the rule as applied to the productions of the West which they purchase for home consumption? No one will complain that the rate charged between Marietta and Atlanta in the case supposed is unreasonable, and yet if we apply the same rule to freights for longer distances it soon reaches a point where it amounts to a prohibition to carry it at all. In the case supposed the freight on a bushel of corn between Kansas City, Mo., and Atlanta, Ga., would be more than the corn would bring in either market. The rule which produces this sort of inconvenience, this sort of absurdity and injustice, can not be a wholesome or wise rule.

But other patriotic persons engaged in the regulation of interstate commerce will disavow this rule, and will declare that it is not their purpose to require the same rate of freight per mile on local and through

shipments, but that they only intend to prevent the carrying of the same quantity and quality of through freight a longer distance for less money than is charged on the same line for a like quantity and quality of local freights for a shorter distance. On first presentation the reasonableness and equity of this rule seem to be apparent, but when we apply to it the test of practical experience it will not bear examination, and its absurdity becomes obvious.

As already stated, a large majority of the railroad companies who have built the railroads in this country have gone into bankruptcy, and the railroads when sold have been purcharsed at prices greatly below the cost of construction by companies which have consolidated them into a few long trunk lines, which now run in competition with each other, and which have become necessary in conducting the business of transportation. And many of them purchased at prices far below cost do not pay dividends on the purchase-price.

As long as competition can be maintained without ending in consolidation, which point I will discuss further on, competition seems to be conducive to public prosperity, but if you apply the rule that railroads shall in no case carry freights of like quantity and quality a longer distance for less money than they carry similar freights a shorter distance, you will soon check and destroy a great deal of the competition which now exists.

The position amounts to this: that a car-load of corn when conveyed as through freight shall not be carried twenty-five miles for less money than a like car-load of corn conveyed as local freight is required to pay for twenty miles. Now, if you will fix a reasonable rate of local freight for twenty miles, such as will enable any railroad company to pay even the fixed expense of keeping its road in repair and running it, and you will then fix a through rate for the same car-load for twenty-five miles at the same rate charged for twenty miles of local transportation and extend that rate of 1,000 miles, you will find in every instance that the rate of freight will amount to a prohibition and you can not transport the goods and pay the rate. To maintain the rule you must either fix the local rate below the point absolutely necessary to pay the running expenses or you must fix the through rate so high it will prohibit the transportation of the commodity.

Take the case already supposed of a car-load of corn shipped from Marietta to Atlanta, charging a local rate of $5 per car-load for twenty miles. Then suppose a through shipment over the same road at a rate that would carry the car-load of corn twenty-five miles for $4. This would be a violation of the proposed legislation, as it would be a case where a like commodity is shipped a longer distance for less money. Or if you discriminate even more than this between local and through freight, carrying the through freight a still greater distance for less money than you carry the local, unless you extend it very materially it will amount to a prohibition and you can not ship through freight at all.

In the case supposed we carry a car-load of local freight for twenty miles for $5 and a car-load of through freight twenty-five miles for $4. For a hundred miles this would be $16, and from Kansas City, Mo., to Atlanta, a thousand miles, it would be $160 for transporting a car-load of three hundred and fifty bushels of corn. This would be about 45 cents a bushel on the corn for freight. What say the farmers of Missouri and Kansas? Would their corn bear this freight? Clearly not. A great deal of corn is now shipped from Kansas City into Georgia. Such a law would at once prohibit further shipments of corn for so long a distance.

But to meet the objection of the hypercritical as to rates, let us suppose the case that the local rate on a car-load of corn from Marietta to Atlanta, twenty miles, is only two dollars and a half—and no railroad can keep long out of the insolvent court which carries its local freights as low as that; then suppose the rate on a car-load of through freight between Kansas City and Atlanta should be $2 for every twenty-five miles. This again would violate the law if the proposed legislation should be enacted. The car-load of corn carried as local freight from Marietta to Atlanta being charged two dollars and a half for twenty miles, and the car-load of through freight being charged only $2 for twenty-five miles, we would be carrying the same commodity a longer distance for less money, but even the low rate of two dollars and a half per car-load for twenty miles of local freight would, when we apply the rule to through freight, be prohibitory. If we charge $2 for twenty-five miles on a car of through freight this would be $8 per hundred miles and $80 for a thousand miles. This would be a fraction over 22 cents a bushel freight on corn from Kansas City, Mo., to Atlanta.

Now, if we may credit the newspapers, I believe a bushel of corn is worth but little more than that in Kansas City at the present time. Even at this ruinously low rate of local freight (which no railroad company can afford to charge and continue to do business) the rule applied to through freight makes it prohibitory before it reaches a thousand miles distance. It would probably be prohibitory in the case supposed at five hundred miles distance.

If you enact such a law as this you will derange the whole transportation of the country, and you will either drive the railroads generally into bankruptcy on account of the low rate you permit them to charge for their local freights, upon which they rely mainly for their support, or you will prohibit the interchange of commodities at a greater distance than five or six hundred miles. As the figures plainly show it could not possibly stand the rate for a thousand miles.

Under such a rate of freight how would the farmers of the teeming West ever reach European markets with their productions? It would be simply an impossibility.

Such a law would destroy not only the interstate commerce of the country, but utterly ruin our foreign commerce, by prohibiting the exportation of our productions to foreign markets. I take it that wise men will not be guilty of enacting into a law a proposition so manifestly absurd.

Some of the Southern lines of railroad and steamships are trying to build up competition with the Northern roads for the Western business.

For a long time the Northern roads have had a monopoly of that business. They run four trunk lines, as you are aware, from the Eastern cities into the great West—the Baltimore and Ohio, the Pennsylvania, the Erie, and the New York Central. These are the four great trunk lines that penetrate the West in every direction, going to Chicago, Saint Louis, and other central points in that section, and they do the business between the East and the West.

They frequently, while at war with each other, carry freights for almost nominal prices from the West through to New York and thence by steamer to Charleston and Savannah. Then they load their steamers with cotton and other productions back to New York, and load their cars in New York with Western-bound freights. Now that freight landed in Savannah by the steamers from New York can be taken and carried to Louisville, Ky., at a very low rate, and the railroads still make money on it.

This shows the feasibility of opening another great trunk line between New York and the other Eastern cities and the great West. In prorating freights railroad men count one mile of rail equal to three miles of water. Why so? The company has to secure the right of way, grade the road, lay down the track and prepare it for the cars, which is a heavy expense for each mile.

God has prepared the ocean, and it is ready to receive the burden of transportation without the construction of a track, and all man has to do is to put on the rolling-stock. In other words, build the ship, and the road is already prepared for use.

It is very evident, therefore, that freight can be transported three miles by water as cheaply as it can be carried one mile by rail. Now we have a splendid line of steamers running between New York and Savannah, which make their trips with great regularity and carry passengers and cargoes of freight. Then we have a line of railroad from Savannah through to Louisville, Ky., connecting at different points with other roads penetrating the West and reaching Saint Louis, Chicago, and Kansas City, and other commercial centers. Now apply the prorating rule to the portion of the distance which includes conveyance by water, and counting three miles of water for one of rail, and the line from New York to Louisville is shorter by way of Savannah than any one of the four great Western trunk lines from New York to Louisville. The same is true as to Memphis, Saint Louis, Kansas City, and in fact to all cities of any importance west of Cincinnati and Chicago.

There is an immense section of the West which should have the benefit of a competing line between that section and the Eastern cities which is the shortest of the five competitors. Then it has this additional advantage so far as the transportation of freight from the East to the West is concerned: Of the immense number of trains which run from the West into Georgia and the South Atlantic States to supply the cotton planters with Western productions, seven out of every ten of the cars go back empty when they return to the West for another load. Now, a cargo of goods in New York intended for Saint Louis has the advantage of the shortest line by Savannah; it has the advantage of transportation by ocean from New York to Savannah, and of transportation from Savannah to Saint Louis in cars that would otherwise go back empty.

There are four links, composed of different companies, in the line of rail between Savannah and Saint Louis. Now, suppose each of these receives but $5 on a car-load of goods going from New York to Saint Louis; it makes money on the shipment, because the car would go empty if it were not permitted to carry the goods.

It is nearly three hundred miles from Savannah to Atlanta Suppose the Central road receives but $5 for the car-load for that distance. As the car was going back empty, it is $5 made. But if you lay down the rule that the Central shall charge $5 a car only for carrying the local freights three hundred miles, it ceases to be able to pay fixed expenses and goes into bankruptcy in a single year.

Therefore you can not reduce the rate of local freight on the Central to $5 a car; but if the Central undertakes to carry a car-load of goods in transit between New York and Saint Louis from Savannah to Atlanta for $5 when the car would otherwise go empty, you prohibit it by establishing the rule that no company shall carry on its own road the same freight for a longer distance for less money than like freight is carried for a shorter distance, and the Central is excluded from carrying this freight at all. The people of the West are deprived of the competition while it lasts of a fifth great line between them and the Eastern cities, and deprived of a cheaper rate of freight which they could secure by the shipment over the line referred to.

Now, what good, let me ask, does it do any one, except the great trunk lines, to prohibit the opening and operating of a fifth great line between the East and the West?

And what good does it do any one but the trunk lines to drive this freight around upon the trunk lines by establishing the rule that you can not carry the like freight a longer distance for less money? In this case you must carry this great through business a longer distance for less money than you carry local freights a shorter distance, or you must prohibit the use of the line for the purpose of carrying through freights.

Mr. MORGAN. If the Senator from Georgia will yield to me, as I see he has still considerable material before him, I move that the Senate do now adjourn.

The PRESIDING OFFICER. Does the Senator from Georgia yield to that motion?

Mr. BROWN. Yes, sir.

Mr. CULLOM. Will the Senator allow me before the motion is put to make a statement?

Mr. MORGAN. Certainly.

Mr. CULLOM. I propose when this interstate-commerce bill comes up for consideration to-morrow to ask the Senate to remain here until the discussion and consideration of it shall be concluded. I give that notice now, so that Senators may understand that it is my purpose to press the bill to a conclusion to-morrow, if possible.

Mr. BECK. Will the Senator from Illinois state what he means by the conclusion of the bill?

Mr. CULLOM. Yes, sir. My purpose is and has been all the time, as I have stated once or twice before, to have the bill under consideration considered and amended as the Senate sees proper to amend it, and when we get through with amendments I propose to ask the Senate to take up the House bill, and then I shall offer the bill that is now under consideration as an amendment to that bill, proposing to strike out all after the enacting clause and insert this as a substitute.

Mr. BECK. All that is proposed now therefore is to finish the amendments of this bill. Is that all?

Mr. CULLOM. No, sir; I want to finish the whole subject.

Mr. BECK. Oh, Mr. President, I shall object to that, and for this reason, if I may be allowed——

The PRESIDING OFFICER. The Senator from Illinois has merely given a notice.

Mr. CULLOM. Of course it will be in the power of the Senate to take its own course.

Mr. BECK. Allow me to make a statement. I have regarded the discussion of this bill, the Senate bill which has been under discussion for two or three weeks, after the avowal made that there was no expectation of sending it to the House to be passed there, as simply a waste of time. If we are to pass any bill at all it must be the House bill amended as the Senate shall see fit to amend it. There will be, there can be, no serious, earnest discussion of any practical measure on this subject until the House bill is taken up. When the House bill is once taken up and proper amendments suggested then there will be some discussion looking to the accomplishment of something; to tell us that we are to close all that to-morrow is not reasonable. By taking up the House bill there will be some chance of securing concurrent action on a measure that may become a law; but for us to go on talking upon a bill that nobody supposes means anything, and then to close the whole subject up to-morrow, seems to me to be a proposition that can hardly be seriously thought of. I hope this bill will be finished and finished now.

Mr. HOAR. Mr. President, I should like to inquire of the Senator from Kentucky whether, in his judgment, it is not the best way, as we have gone so far with this bill, which has been the basis of discussion and amendment and is the draught of the Senate committee to whom the subject was referred, to perfect this bill, which will be then the opinion of the Senate, and when we have done that to take up the House bill and make this perfected bill a substitute for it? That will put it in the position of an amendment to the House bill, and a committee of conference will have jurisdiction.

Mr. BECK. When the proposition was made to send the House bill and this bill to the Committee on Railroads, and that committee refused to take it, I regarded that as a confession on the part of that committee that they had nothing to offer us or to enlighten the Senate about. I may be mistaken as to what was the meaning of their objection, but that was the way I construed it, and I was waiting for the House bill to come up so that we could look at something that meant something.

Mr. CULLOM. If the Senator will allow me, I think that the bill which is now under consideration means something, so far as that is concerned; but, as I have said over and over again, the Committee on Railroads reported the bill which is now under consideration as their deliberate judgment of what ought to be done upon this question, and it has been before the Senate for its consideration. I have been anxious to have the Senate discuss it and amend it in the line of the theory of the bill under consideration as it thought it best to do, and I have said all the time, and say now, that when that is concluded I shall make the motion to take up the House bill, and then move to strike out all after the enacting clause of that bill and insert the bill which is now before the Senate under consideration as perfected by the Senate.

I have felt and believe that in that way we would accomplish the work that the Senate desires to do in the passage of a bill quicker than by referring the subject back to the committee and then having the committee report the whole thing again, because inevitably the discussion will come up upon the two lines of thought and the two policies, whether it comes from the committee by being referred to it again or whether it remains here in the Senate. My idea has been that if we could perfect the bill now before the Senate, then the substitution of it for the House bill would enable those who were in favor of the House bill to give their views upon it, if they wanted to do so, and then to vote upon the question of which measure or line of legislation they were in favor of, and that we should get the two Houses together eventually, as the Senator from Massachusetts says, either by a concurrence on the part of the House in the bill as perfected by the Senate or by a conference committee that the two Houses could finally agree upon. The only object I have had is to accomplish some legislation upon the question as quickly as possible.

Mr. MORGAN. I renew my motion to adjourn.

The motion was agreed to; and (at 5 o'clock and 10 minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, *January* 16, 1885.

The House met at 12 o'clock m. Prayer by the Chaplain, Rev. JOHN S. LINDSAY, D. D.

The Journal of yesterday's proceedings was read and approved.

ENTRY AND WITHDRAWAL OF DISTILLED SPIRITS.

The SPEAKER, by unanimous consent, laid before the House a letter from the Secretary of the Treasury, submitting draught and recommending the passage of a bill to amend the laws relating to the entry of distilled spirits in distillery and special bonded warehouses and the withdrawal of the same therefrom; which was referred to the Committee on Ways and Means, and ordered to be printed.

PURCHASE OF PAINTINGS BY THE GOVERNMENT.

The SPEAKER, by unanimous consent, also laid before the House a protest of the board of directors of the Pennsylvania Academy of Fine Arts against the purchase of a portrait of General George H. Thomas by Miss Ransom and a picture of the Electoral Commission by Mrs. Fassett; which was referred to the Committee on the Library.

ARRANGEMENT OF THE HALL OF THE HOUSE.

Mr. HARDY. I rise to make a privileged report from the Select Committee on Ventilation and Acoustics. I ask that it be read.

The Clerk read as follows:

The Committee on Ventilation and Acoustics, having had under consideration the subject of improving the acoustics of the Hall of the House of Representatives, have come to the conclusion that the proper transaction of the business of the House will be greatly facilitated by the removal of such parts of the railing and screen in the rear of the members' desks as are not required for the comfort and convenience of the members, and accordingly recommend the adoption of the following resolution:

Resolved, That the Architect of the Capitol be authorized and directed to remove such parts of the railing and screen in the rear of the members' desks as may not be required for the comfort and convenience of the members, under the direction of the Committee on Ventilation and Acoustics.

The resolution was adopted.

Mr. HARDY moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

BRIDGE OVER MISSISSIPPI AT MEMPHIS.

Mr. YOUNG. I ask unanimous consent to have taken from the House Calendar and put on its passage now the bill (H. R. 2799) to authorize the construction of a bridge across the Mississippi River at Memphis, Tenn.

The SPEAKER. The bill will be read, subject to the right of objection.

The Clerk read as follows:

Be it enacted, &c., That the Tennessee and Arkansas Bridge Company, a corporation organized and created under and by virtue of the laws of the State of Arkansas, and the Tennessee Construction and Contracting Company, a corporation organized and created under and by virtue of the laws of Tennessee, be, and the same are hereby, jointly authorized and empowered to erect, construct, and maintain a bridge over the Mississippi River from or near Memphis, in the State of Tennessee, to or near the town of Hopefield, in the State of Arkansas. Said bridge shall be constructed to provide for the passage of railway trains, and, at the option of the corporations by which it may be built, may be used for the passage of wagons and vehicles of all kinds, for the transit of animals, and for foot passengers, for such reasonable rates of toll as may be approved from time to time by the Secretary of War.

SEC. 2. That any bridge built under this act and subject to its limitations shall be a lawful structure, and shall be recognized and known as a post-route, upon which also no higher charge shall be made for the transmission over the same of the mails, the troops, and the munitions of war of the United States, or for passengers or freight passing over said bridge, than the rate per mile paid for the transportation over the railroad or public highways leading to the said bridge; and it shall enjoy the rights and privileges of other post-roads in the United States.

SEC. 3. That said bridge shall be made with unbroken and continuous spans; two spans thereof shall not be less than five hundred and fifty feet in length in

the clear, and no span shall be less than three hundred feet in the clear. The lowest part of the superstructure of said bridge shall be at least sixty-five feet above extreme high-water mark, as understood at the point of location, and the bridge shall be at right angles to and its piers parallel with the current of the river. No bridge shall be erected or maintained under the authority of this act which shall at any time substantially or materially obstruct the free navigation of said river; and if any bridge erected under such authority shall, in the opinion of the Secretary of War, obstruct such navigation, he is hereby authorized to cause such change or alteration of said bridge to be made as will effectually obviate such obstruction; and all such alterations shall be made and all such obstructions be removed at the expense of the owner or owners of said bridge. And in case of any litigation arising from any obstruction or alleged obstruction to the free navigation of said river, caused or alleged to be caused by said bridge, the case may be brought in the district court of the United States in which any portion of said obstruction or bridge may be located: *Provided further*, That nothing in this act shall be so construed as to repeal or modify any of the provisions of law now existing in reference to the protection of the navigation of rivers, or to exempt this bridge from the operation of the same.

SEC. 4. That all railroad companies desiring the use of said bridge shall have and be entitled to equal rights and privileges relative to the passage of railway trains or cars over the same, and over the approaches thereto, upon payment of a reasonable compensation for such use; and in case the owner or owners of said bridge and the several railroad companies, or any one of them, desiring such use shall fail to agree upon the sum or sums to be paid, and upon rules and conditions to which each shall conform in using said bridge, all matters at issue between them shall be decided by the Secretary of War, upon a hearing of the allegations and proofs of the parties: *Provided*, That the provisions of section 2 in regard to charges for passengers and freight across said bridge shall not govern the Secretary of War in determining any question arising as to the sum or sums to be paid to the owners of said bridge by said railroad companies for the use of said bridge.

SEC. 5. That any bridge authorized to be constructed under this act shall be built and located under and subject to such regulations for the security of navigation of said river as the Secretary of War shall prescribe; and to secure that object the said companies or corporations shall submit to the Secretary of War, for his examination and approval, a design and drawings of the bridge, and a map of the location, giving, for the space of two miles above and two miles below the proposed location, the topography of the banks of the river, the shore-lines at extreme high and low water, the direction and strength of the currents at all stages, and the soundings, accurately showing the bed of the stream, the location of any other bridge or bridges, and shall furnish such other information as may be required for a full and satisfactory understanding of the subject; and until the said plan and location of the bridge are approved by the Secretary of War the bridge shall not be built; and should any change be made in the plan of said bridge during the progress of construction, such change shall be subject to the approval of the Secretary of War.

SEC. 6. That the right to alter, amend, or repeal this act is hereby expressly reserved; and the right to require any changes in said structure, or its entire removal, at the expense of the owners thereof, whenever Congress shall decide the public interests require it, is also expressly reserved.

SEC. 7. That it shall be the duty of the Secretary of War, on satisfactory proof that a necessity exists therefor, to require the companies or persons owning said bridge to cause such aids to the passage of said bridge to be constructed, placed, and maintained, at their own cost and expense, in the form of booms, dikes, piers, or other suitable and proper structures for the guiding of rafts, steamboats, and other water craft safely through the passage-way, as shall be specified in his order in that behalf; and on failure of the company or persons aforesaid to make and establish such additional structures within a reasonable time, the said Secretary shall proceed to cause the same to be built or made at the expense of the United States, and shall refer the matter without delay to the Attorney-General of the United States, whose duty it shall be to institute, in the name of the United States, proceedings in any district court of the United States in which such bridge, or any part thereof, is located, for the recovery of the cost thereof; and all moneys accruing from such proceedings shall be covered into the Treasury of the United States.

The SPEAKER. Is there objection to the present consideration of this bill?

Mr. WELLER. I hope the gentleman from Tennessee [Mr. YOUNG] will, subject to the right to object, make a brief explanation in regard to having the free navigation of the Mississippi at the point where this bridge is contemplated protected by proper sheer-booms, dikes, &c.

Mr. YOUNG. Mr. Speaker——

Mr. HOLMAN. Is it understood that the right to object is reserved?

The SPEAKER. That right is reserved.

Mr. YOUNG. In drafting this bill, Mr. Speaker, I undertook to guard against every possible danger to the free navigation of the river, and I endeavored also to avoid every objection that could be suggested to its passage by any one. If there is anything in it that ought not to be there I am willing that it should be stricken out, or if there is anything omitted that ought to be in it I am willing it should be so amended.

It is an important measure, one I have been trying to get considered by the House for several years, but have never been able to reach on the Calendar. There are seven railroads now centering in Memphis, and all the trains have to connect from east to west and *vice versa* by crossing the Mississippi River. Three transfer boats are now used to cross these trains, and not unfrequently there is great delay in transporting freight and passengers from one side of the river to the other. I know of no crossing of the Mississippi River where a bridge is more urgently demanded in the interest of commerce and travel than at the city of Memphis. If there is any objection to it I am willing to have it amended so as to conform to the views of any gentleman who thinks any part is objectionable.

Mr. HOLMAN. I wish to ask the gentleman a question.

Mr. YOUNG. Certainly.

Mr. HOLMAN. It was impossible to hear the reading of the bill on account of the confusion in the House. Inasmuch as up to this time no bridge has been allowed on the Mississippi River below Cairo, of course the importance of this measure is apparent. Now, I wish to ask the gentleman from Tennessee whether this bill has been reported from the Committee on Commerce.

Mr. YOUNG. It has been reported from the Committee on Commerce, and I have the report of that committee now in my hand.

Mr. HOLMAN. What is to be the number of the spans, and what is to be the length of the span?

Mr. YOUNG. I do not remember now, but the bill was drafted after consultation with the best-informed men and two or three officers of the Government, and I think it is free from any reasonable objection.

Mr. HOLMAN. It provides for the same length of the main spans.

Mr. YOUNG. It does. I consulted one of the supervising inspectors of steamboats in reference to that matter, and followed his suggestions.

Mr. HOLMAN. It is to be necessarily a drawbridge?

Mr. YOUNG. Yes, sir.

Mr. HOLMAN. One or more?

Mr. REED. I can not hear the discussion.

The SPEAKER. There are a great many discussions going on.

Mr. HOLMAN. I do not wish to object.

The SPEAKER. Is there objection to the consideration of the bill?

Mr. WELLER. The gentleman from Tennessee is willing to entertain the amendment which I offered. In line 5, section 7, after the word "maintained," insert "at the time of erection of said bridge."

Mr. YOUNG. I am willing to let it go in.

The SPEAKER. The Chair hears no objection to the consideration of the bill, and the question will first be on the amendment of the gentleman from Iowa.

Mr. WELLER'S amendment was agreed to.

The bill as amended was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. YOUNG moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ATLANTIC AND PACIFIC LAND GRANT.

Mr. MILLIKEN rose.

Mr. MCMILLIN. I demand the regular order of business.

Mr. COBB. I rise to a question of privilege.

The SPEAKER. The gentleman will state it.

Mr. COBB. I desire to submit a conference report.

The Clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill of the House (H. R. 7162) to forfeit the unearned lands granted to the Atlantic and Pacific Railroad Company to aid in the construction of a railroad and telegraph line from the States of Missouri and Arkansas to the Pacific coast and to restore the same to settlement, after full and free conference have been unable to agree.

THOMAS R. COBB,
BARCLAY HENLEY,
L. E. PAYSON,
Conferees on the part of the House.

JOHN T. MORGAN,
H. W. BLAIR,
P. B. PLUMB,
Conferees on the part of the Senate.

Mr. COBB. I desire to call the attention of the House specially to the conference report. I do not care to discuss it myself. But I trust if there are any members on the floor who desire to discuss it they will do so. This is a report coming from the committee of conference having in charge the Atlantic and Pacific land-grant bill. The committee of conference have failed to agree, the difference growing out of the amendment which was placed on the bill by the Senate, commonly known as the Morgan amendment.

The reason why I call the attention of the House to it is that we want a full and fair expression of the opinion of the House with reference to that amendment. I may say this: that I believe that the committee will be able to agree in the future; that the committee of conference on the part of the House will be able to sustain the views your committee have already expressed; that the Senate, in other words, will recede from its amendment. The Senate has done so to the extent of rejecting this amendment, when offered by the Senator from Alabama, to the Oregon Central land-grant bill. They refused to place that amendment upon that bill; and for greater reasons the amendment ought not to be placed upon the Atlantic and Pacific land-grant bill. There are no good reasons to my mind which ought to cause the Senate to insist on this amendment to the Atlantic and Pacific land-grant bill. There are no intervening rights known to your committee which would warrant us, in my judgment, concurring in the Morgan amendment.

What we do desire is to have as full an expression of the opinion of the House as possible upon this report, whether or not we will insist upon our position and stand by it, whether the House will sustain us in that or not. I do not care to discuss the question myself as it was pretty fully discussed by members of the Committee on Public Lands when the bill was before the House before. The facts were then stated fully in detail, and the law in the case was generally discussed. I do not care, therefore, to go over that ground again unless it is desired by some gentleman to have a fuller discussion of the subject; or if any gentleman has any suggestion to make in regard to these amendments of the Senate I shall be glad to hear him, and the committee of which I am a member will be pleased to hear any suggestions which are calculated to throw light upon the subject. We think we are in possession of all

the facts and all the laws governing the case, but we are ready and anxious to hear any one who may have anything to say upon the subject.

The SPEAKER. What motion does the gentleman from Indiana submit?

Mr. COBB. To insist upon the disagreement, and ask a further conference.

Mr. HISCOCK. Has the Senate amendment been read?

Mr. COBB. It has been read; not this morning, however.

Mr. HISCOCK. I think the Senate amendment ought to be read.

The SPEAKER. The gentleman has the right to have the amendments of the Senate read, for the motion is to insist upon the disagreement and ask a further conference.

Mr. COBB. I have not the bill before me, but I have the amendments as printed in the RECORD.

The SPEAKER. The bill itself ought to be in the possession of the conferees when they make their report.

The Chair will ask the gentleman from Indiana whether the House conferees disagree as to all of the Senate amendments to that bill, or only to one of them?

Mr. COBB. We disagree to all of them.

The SPEAKER. The Clerk will read the amendments of the Senate.

The Clerk read as follows:

Strike out after the word "forfeited," in line 17, down to and including line 24, as follows:

"And the title thereto resumed by the United States, and said lands restored to the public domain, and made subject to disposal under the general laws of the United States as though said grant had never been made; but nothing in this act shall be construed to recognize the right of said company to any land in the Indian Territory, or claim thereto, on condition or otherwise, except the right of way and land for stations."

And insert:

"And the title thereto resumed by the United States, and said lands declared to be part of the public domain, but not subject to disposal under the general laws of the United States until after the termination of the legal proceedings prescribed by this act: *Provided*, That the price of the lands so forfeited and restored shall be the same as heretofore fixed for the even-numbered sections within said grant.

"SEC. 2. That jurisdiction is hereby conferred on the circuit court of the United States for the western district of Missouri to hear and determine all questions and controversies concerning the rights and equities in said forfeited land that are claimed or asserted by the United States, or by any person or corporation claiming the same under or in consequence of any law of the United States, or any act of its lawfully authorized agents, and to enforce any judgment or decree, either interlocutory or final, that said court shall render in respect of said lands or any interest therein.

"SEC. 3. That it shall be the duty of the district attorney of the United States for the western district of Missouri, under the direction of the Department of Justice, immediately to proceed in the circuit court of the United States for the said district, by bill in equity, in the name of the United States of America as plaintiff, against any corporations or persons that claim any interest in the lands hereby declared forfeited, arising under said act of Congress approved July 27, 1866, or under this act, so as to bring before said court for its determination the validity of such claim, whether the same be legal or equitable.

"SEC. 4. That any person or corporation not made a party defendant in said proceeding, but claiming any interest under the laws of the United States in the lands, or any part thereof, which are declared forfeited by this act, may present such claim by petition in said cause, duly verified by oath; and if the court, upon consideration thereof, shall decide that the adjudication and settlement of such claim are necessary to do complete justice in said cause, the court shall direct that such further proceedings be had upon such petition as that the same may be fully heard and determined, and shall proceed to decree upon the same as fully as if such petitioner had been made a party defendant in said suit: *Provided*, That no such petition shall be filed after twelve months from the date of the filing of the bill in said cause.

"SEC. 5. That the court, if it shall see fit, may tax all the costs of the suit under the third section of this act against the United States, and shall apportion the costs of any proceeding under the fourth section of this act between the parties according to justice and equity. Any party to the suit instituted under this act shall have the right of appeal from any final decree thereon to the Supreme Court of the United States, in the same manner and under the same conditions as are prescribed by law and the rules of said court for appeals in equity cases; and the Supreme Court shall cause said appeal to be advanced on the docket so that the same shall be speedily determined; but no right of appeal shall exist after six months from the time when said final decree is entered on the records of the circuit court of the United States.

"SEC. 6. That nothing in this act shall be construed to recognize the right of said company to any land in the Indian Territory, or claim thereto, on condition or otherwise, except the right of way and land for stations."

Mr. HISCOCK. I would like to inquire of the gentleman from Indiana as to the purport of these amendments of the Senate. From the reading of the amendments, as I understand them, it would seem that they hold in abeyance the disposition of these lands, and provide for a judicial determination of the rights of the parties—that is to say, it opens the courts for all parties, and in the mean time it holds in abeyance the title, as far as any disposition may be made of the lands.

Mr. COBB. That is the effect of the amendment. It provides further that the Attorney-General shall commence suit and have the matter judicially determined by the courts, making the United States the plaintiff, and requiring the institution of these suits by the Attorney-General for the purpose of settling the question of forfeiture, as well as such other questions as may intervene with reference to the lands covered by this bill.

Mr. HISCOCK. I desire to inquire whether there is any objection to providing a way in which the rights of these parties may be promptly determined, getting the matter before the courts at once.

Mr. COBB. We think so.

Mr. HISCOCK. I would like that the House should be advised upon that subject as to what objection there can be to providing some speedy way for the determination of the rights of parties to this land. Of course I assume that the Senate, from its amendments, has grave doubts as to what these rights are; or at least that there is serious doubt with reference to the matter; and that it is wise to reach a conclusion speedily. I would like therefore to have the ground of the objection fully stated.

Mr. OATES. Mr. Speaker, the first part of the first amendment, relating to the forfeiture in this case, is perhaps an improvement of the verbiage of the bill, and the second portion of the first part of the amendment is only to make that part of the bill in accordance with the Senate amendment.

The second amendment not only sends any controversy that may arise to the courts of the United States, but compels the district attorney of the United States in the district named to commence proceedings, and in that way makes the Government the actor, whether it desires to enter into the controversy or whether there be just cause to enter into the controversy or not. I therefore concur with my colleague from Indiana [Mr. COBB] in the opinion that this amendment is improper; and while I would favor any provision that would give either party in interest the right, if they have it not under the general law, to go into the courts of the United States for the purpose of adjusting their rights, I do not and would not favor the second amendment, which compels the Government to go into the courts.

Mr. HISCOCK. Will the gentleman from Alabama yield to me for a question, as I wish the House to be fully informed upon this subject? Would the gentleman do this: would he open these lands to entry under the homestead or pre-emption law with this question of title undetermined? I desire to make this suggestion, whether it is wise for the Government to turn this land back into the public domain subject to entry under these laws, the homestead and pre-emption laws, leaving the question of legal ownership undetermined?

Now, then, is it not wise to provide the Government shall go ahead and have this question determined, to the end that a period may be soon fixed and the rights settled of these parties in these lands with reference to their going back into the public domain?

Mr. OATES. I think the bill settles the question of law, subject, of course, to the adjudication of the court. But I would not compel the Government to inaugurate proceedings for the purpose of adjusting any claims of other parties.

Mr. HISCOCK. Suppose this land is turned over immediately and becomes a part of the public domain under this act, it is made subject to entry under the homestead law. Now suppose you do go to the court and the court should perchance hold this railroad company had some right or title to this land, then of course claimants to this land, parties that have entered upon it, will come here with their claims for indemnity. Now the point on which I wish information is whether it is not best to have that question settled with reference to the future before this land becomes a part of the public domain, and if that is wise whether the Government should not proceed promptly to have it settled.

Mr. OATES. The gentleman from New York certainly knows it has been frequently adjudicated by the highest courts that he who purchases land from the Government takes it under the maxim *caveat emptor*.

Mr. HISCOCK. I concede that to be true. But since I have been here I believe I know of instances where the parties making entries went upon the land and made improvements upon it and we gave compensation. I believe, notwithstanding that technical rule, when by an act of Congress we have turned over land and invited people to enter on it they are entitled to the sympathy of Congress.

Mr. OATES. The measure of relief to which such parties are entitled, having entered upon the land under the maxim I have alluded to, is the amount of money they paid for it. And sufficient unto the day is the evil thereof. I think we can wait until the exigency arises.

The SPEAKER. The gentleman from Indiana [Mr. COBB] moves that the House insist on its disagreement to the Senate amendment and ask for a further conference.

Mr. HISCOCK. I move that the House recede from its disagreement to the Senate amendment.

The SPEAKER. The motion to recede has preference over the other.

The question being taken on Mr. HISCOCK'S motion, there were—ayes 45, noes 85.

So (further count not being called for) the motion was not agreed to.

The SPEAKER. The question recurs on the motion of the gentleman from Indiana [Mr. COBB].

The motion was agreed to.

The SPEAKER. The Chair appoints as managers of the conference on the part of the House the gentleman from Indiana, Mr. COBB, the gentleman from California, Mr. HENLEY, and the gentleman from Illinois, Mr. PAYSON.

PROTECTION OF CHILDREN IN THE DISTRICT.

Mr. WILSON, of West Virginia. I ask unanimous consent to take from the Speaker's table the bill (S. 729) for the protection of children in the District of Columbia, and for other purposes, desiring to move that the House insist on its amendments to the bill disagreed to by the Senate and agree to the conference asked by the Senate.

Mr. HOLMAN. I ask that the amendments be read.

The amendments were read, as follows:

In line 20, page 1, strike out the words "within their view" and insert the words "in the presence."

In line 27, page 2, strike out "twenty-one" and insert "sixteen."

The SPEAKER. The gentleman from West Virginia [Mr. WILSON] moves that the House insist on its amendments and agree to the conference requested by the Senate.

The motion was agreed to.

The SPEAKER. The Chair appoints as managers of the conference on the part of the House the gentleman from West Virginia, Mr. WILSON, the gentleman from New York, Mr. SPRIGGS, and the gentleman from Mississippi, Mr. JEFFORDS.

ORDER OF BUSINESS.

Mr. McMILLIN. I call for the regular order.

The SPEAKER. This being Friday, the regular order is the call of committees for reports of a private nature.

Mr. McMILLIN. I move to dispense with the morning hour for the call of committees for reports.

The question being taken, there were—ayes 79, noes 45.

So (two-thirds not having voted in favor thereof) the motion was not agreed to.

THOMAS F. PURNELL.

Mr. TUCKER, from the Committee on the Judiciary, reported back with a favorable recommendation the bill (H. R. 7411) for the relief of Thomas F. Purnell; which was referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

HARRY W. MARTIN.

Mr. CUTCHEON, from the Committee on Military Affairs, reported back with an adverse recommendation the bill (H. R. 5590) for the relief of Harry W. Martin; which was laid on the table, and the accompanying report ordered to be printed.

HARRIET ARMSTRONG.

Mr. MATSON, from the Committee on Invalid Pensions, reported back with amendments the bill (H. R. 1898) granting a pension to Harriet Armstrong; which was referred to the Committee of the Whole House on the Private Calendar, and, with the amendments and accompanying report, ordered to be printed.

WILLIAM HAZLE.

Mr. MATSON, from the Committee on Invalid Pensions, also reported back with an adverse recommendation the bill (H. R. 7090) for the relief of William Hazle; which was laid on the table, and the accompanying report ordered to be printed.

LOUISA A. ESTES.

Mr. MORRILL, from the Committee on Invalid Pensions, reported back with a favorable recommendation the bill (H. R. 7709) granting a pension to Louisa A. Estes; which was referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

CORNELIA V. BLACKMAN.

Mr. MORRILL, from the Committee on Invalid Pensions, also reported back favorably the bill (H. R. 7571) granting a pension to Cornelia V. Blackman; which was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

AMOS M'DOWELL.

Mr. MORRILL, from the Committee on Invalid Pensions, also reported back favorably the bill (H. R. 7572) granting a pension to Amos McDowell; which was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

HOLDEN COOK.

Mr. MORRILL, from the Committee on Invalid Pensions, also reported back favorably the bill (H. R. 7707) granting a pension to Holden Cook; which was referred.

CAROLINE TRECKELL.

Mr. MORRILL, from the Committee on Invalid Pensions, also reported back favorably the bill (S. 929) granting a pension to Caroline Treckell; which was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

ADVERSE REPORTS.

Mr. MORRILL, from the Committee on Invalid Pensions, also reported back adversely bills of the following titles; which were severally laid on the table, and the accompanying reports ordered to be printed:

A bill (H. R. 7601) granting a pension to James Dye;
A bill (H. R. 7599) granting a pension to Eli W. Campbell;
A bill (H. R. 7330) for the relief of Henry Van Blaricom;
A bill (H. R. 540) granting a pension to Henry C. Williams;
A bill (H. R. 7782) granting a pension to John Benson;
A bill (H. R. 7435) granting a pension to L. A. Davis;
A bill (H. R. 7487) granting a pension to James Brown; and
A bill (H. R. 7448) to increase the pension of Robert M. Forsythe.

ABBY P. ARNOLD.

Mr. LOVERING, from the Committee on Invalid Pensions, reported back favorably the bill (S. 764) granting an increase of pension to Abby P. Arnold; which was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

ABBY S. SLOCUM.

Mr. LOVERING, from the Committee on Invalid Pensions, also reported back adversely the bill (S. 1427) granting an increase of pension to Abby S. Slocum; which was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

HONORA M'CARTHY.

Mr. LOVERING, from the Committee on Invalid Pensions, also reported back adversely the bill (H. R. 764) granting a pension to Honora McCarthy; which was laid on the table, and the accompanying report ordered to be printed.

ANN E. GRIDLEY.

Mr. WINANS, of Michigan, from the Committee on Invalid Pensions, reported back favorably the bill (H. R. 7617) granting a pension to Mrs. Ann E. Gridley; which was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

MRS. ADELINE E. CHADBOURNE.

Mr. RAY, of New Hampshire, from the Committee on Invalid Pensions, reported back favorably the bill (H. R. 7673) granting a pension to Mrs. Adeline E. Chadbourne; which was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

SARAH S. SAMPSON.

Mr. RAY, of New Hampshire, from the Committee on Invalid Pensions, also reported back, with an amendment,, H. R. 6311 granting a pension to Mrs. Sarah S. Sampson; which was read a first and second time, referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

EBENEZER K. MARDEN.

Mr. RAY, of New Hampshire, from the Committee on Invalid Pensions, also reported back favorably the bill (S. 1823) granting a pension to Ebenezer K. Marden; which was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

JOHN SWEENEY.

Mr. RAY, of New Hampshire, from the Committee on Invalid Pensions, also reported back favorably the bill (S. 1112) granting a pension to John Sweeney; which was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

ALBERT D. SIMMONS.

Mr. PATTON, from the Committee on Invalid Pensions, also reported back favorably the bill (H. R. 7295) granting a pension to Albert D. Simmons; which was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

SARAH KENNEDY.

Mr. PATTON, from the Committee on Invalid Pensions, also reported back favorably the bill (H. R. 2692) granting a pension to Sarah Kennedy; which was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

HENRIETTA A. LEWIS.

Mr. PATTON, from the Committee on Invalid Pensions, also reported back adversely the bill (S. 1858) to increase the pension of Henrietta A. Lewis, widow of Capt. Robert F. A. Lewis; which was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

MRS. LOU GOBRIGHT M'FALLS.

Mr. BAGLEY, from the Committee on Invalid Pensions, reported back adversely the bill (S. 1446) granting an increase of pension to Mrs. Lou Gobright McFalls; which was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

WILLIAM E. AYERS.

Mr. BAGLEY, from the Committee on Invalid Pensions, also reported back favorably the bill (H. R. 7773) granting a pension to William E. Ayers; which was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

MARY F. BLAKE.

Mr. BAGLEY, from the Committee on Invalid Pensions, also reported back favorably the bill (H. R. 7538) granting an increase of pension to Mary F. Blake; which was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

JOSIAH SCOTT.

Mr. BAGLEY, from the Committee on Invalid Pensions, also reported back adversely the bill (H. R. 7637) granting a pension to Josiah Scott;

which was laid on the table, and the accompanying report ordered to be printed.

ADVERSE REPORTS.

Mr. BAGLEY, from the Committee on Invalid Pensions, also reported back adversely bills of the following titles; which were severally laid on the table, and the accompanying reports ordered to be printed:

A bill (H. R. 7734) for the relief of James H. Horton;

A bill (H. R. 7777) granting a pension to William Christie; and

A bill (H. R. 7195) for the relief of Stephen Sauer.

WIDOW OF COMMANDER S. DANA GREENE.

Mr. ROBINSON, of New York, from the Committee on Invalid Pensions, reported back favorably the bill (H. R. 7830) granting a pension to the widow of the late Commander S. Dana Greene, United States Navy; which was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

MRS. EMILY L. ALVORD.

Mr. WOLFORD, from the Committee on Pensions, reported back favorably the bill (H. R. 7659) granting a pension to Mrs. Emily L. Alvord; which was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

HEIRS OF MARY JANE VEAZIE.

Mr. GEDDES, from the Committee on War Claims, reported back with amendments the bill (H. R. 851) for the relief of the heirs of Mary Jane Veazie, deceased; which was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

STEPHEN G. DORSEY.

Mr. ROGERS, of New York, from the Committee on War Claims, reported back adversely the petition of Stephen G. Dorsey, accompanied with a report of the Court of Claims in the case of Stephen G. Dorsey *vs.* The United States; which was laid on the table, and the report of the committee, together with the accompanying report of the Court of Claims, ordered to be printed.

SAMUEL CONES.

Mr. JONES, of Wisconsin, from the Committee on War Claims, reported back with amendments the bill (H. R. 3276) for the relief of Samuel Cones; which was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

JAMES M. MASON.

Mr. PRICE, from the Committee on Claims, reported, as a substitute for H. R. 3824, a bill (H. R. 7969) for the relief of James M. Mason; which was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed; and, by unanimous consent, the bill H. R. 3824 was laid on the table.

ANN ANNIS.

Mr. MORGAN, from the Committee on Military Affairs, reported back with amendments the bill (H. R. 2906) for the relief of Ann Annis; which was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

TENTH CENSUS.

Mr. COX, of New York, by unanimous consent, submitted from the Select Committee on the Tenth Census a report upon the bill (H. R. 4843) to further carry out an act entitled "An act to provide for the taking of the tenth and subsequent censuses," approved March 3, 1879; when the report was ordered to be printed, and recommitted.

FORFEITURE OF RAILROAD LAND GRANT IN OREGON.

Mr. COBB. I ask unanimous consent that the bill (H. R. 181) to declare the forfeiture of certain lands granted to aid in the construction of a railroad in Oregon be taken from the Speaker's table for non-concurrence in the amendments of the Senate.

There being no objection, the bill was taken from the Speaker's table, and the House proceeded to consider the same.

Mr. COBB. I move that the House non-concur in the amendment of the Senate, and ask a conference.

The motion was agreed to.

The SPEAKER. The Chair will announce hereafter the conferees on the part of the House.

MARY A. GRENNON.

Mr. PARKER. I ask unanimous consent that a bill reported adversely from the Committee on Invalid Pensions and laid on the table may be placed on the Private Calendar. It is the bill (H. R. 3735) for the relief of Mary A. Grennon.

The SPEAKER. Was the bill reported this morning?

Mr. PARKER. No, sir; it was reported heretofore, when I was not present, so that I did not know of its being reported adversely.

The SPEAKER. The Chair will direct that the bill be placed on the Calendar of the Committee of the Whole House. Any gentleman has the right to have placed on the Calendar a bill reported adversely. Such bills are laid on the table only by unanimous consent.

ORDER OF BUSINESS.

Mr. MCMILLIN. I move that the House resolve itself into Committee of the Whole for the purpose of proceeding with business on the Private Calendar.

Mr. TOWNSHEND. Mr. Speaker, I wish to know whether I can raise the question of consideration as between the Mexican pension bill and the motion of the gentleman from Tennessee [Mr. MCMILLIN].

The SPEAKER. The gentleman from Illinois [Mr. TOWNSHEND] can oppose the motion made by the gentleman from Tennessee to go into Committee of the Whole House; but there can be no question of consideration raised against such a motion.

Mr. TOWNSHEND. Then I hope the motion will be voted down, in order that we may take up the Mexican pension bill to-day.

The SPEAKER. The Chair will state to the gentleman that this is private bill day.

Mr. TOWNSHEND. But a majority vote, as I understand, will enable us to take up the Mexican pension bill.

The question being taken on the motion of Mr. MCMILLIN, there were—ayes 107, nays 15.

Mr. TOWNSHEND. I make the point that no quorum has voted.

Mr. MCMILLIN. I hope the gentleman will not press that point. This day is assigned by the rules to private business; and if any business of that sort is to be done this session, it must be done now.

The SPEAKER. The question is not debatable.

Mr. MCMILLIN. I know that, Mr. Speaker, but believed the House would indulge me to make this statement.

Mr. TOWNSHEND. If we can have a vote upon this question by yea and nay, I will withdraw the point as to a quorum. I want gentlemen to go on record as to whether they are in favor of the Mexican pension bill or not.

The SPEAKER. No quorum having voted, the Chair will appoint tellers.

Mr. TOWNSHEND. I make the proposition that we have the yeas and nays.

The SPEAKER. No one has demanded the yeas and nays.

Mr. HEWITT, of Alabama. We would have no objection to going on record upon the Mexican pension bill; but the bill to which the gentleman from Illinois [Mr. TOWNSHEND] refers is not the Mexican pension bill, but the Senate's amendments, which are against the Mexican pensions.

The SPEAKER appointed as tellers Mr. MCMILLIN and Mr. TOWNSHEND.

[The tellers proceeded to take their places, but some disagreement arose between them as to the places they should respectively occupy.]

Mr. KELLEY. Mr. Speaker, I understand that tellers have been appointed; but members who desire to vote can not find them. [Laughter.]

Mr. MCMILLIN. I have taken the position usually assigned to those appointed to act as tellers, and am ready to act as teller.

Mr. TOWNSHEND. And so have I.

Mr. BROWNE, of Indiana. If the tellers can not agree upon their respective places——

Mr. KELLEY. I ask that, as tellers have been ordered, the gentlemen may take their places, so that the vote may be counted. If they cannot find their positions, I ask——

Mr. MCMILLIN. I am occupying the accustomed position for the tellers. I insist that the gentleman from Illinois ought not to undertake to change the method that has been adopted here for nearly a century.

Mr. TOWNSHEND. I ask that the Speaker appoint some other member to take my place.

The SPEAKER. The Chair appoints as a teller the gentleman from Indiana [Mr. HOLMAN].

Mr. TOWNSHEND. I shall ask for the yeas and nays.

The SPEAKER. Does the gentleman demand them?

Mr. TOWNSHEND. I will demand the yeas and nays if I can do so at this time without waiving the right of insisting on the point that there is no quorum.

The SPEAKER. The gentleman's proposition can not be entertained, as the tellers have not yet reported.

The tellers reported—ayes 137, noes 34.

Mr. TOWNSHEND. I demand the yeas and nays. I have made an effort to see how many friends there are of the Mexican pension bill, and I see only thirteen on the other side.

On the demand for the yeas and nays there were—ayes 23.

Mr. HOLMAN. Count the other side.

The other side was counted; and there were—noes 122.

Mr. TOWNSHEND. No quorum.

The SPEAKER. No quorum is required for the yeas and nays and one-fifth of those present have not voted for them, and they are therefore not ordered. On the motion of the gentleman from Tennessee [Mr. MCMILLIN] there were ayes 127, noes 34. So the ayes have it, and the motion is agreed to.

The House accordingly resolved itself into the Committee of the Whole House on the Private Calendar, Mr. COX, of New York, in the chair.

HIRAM JOHNSON.

The CHAIRMAN. The first business on the Private Calendar is the bill (H. R. 1477) to pay Hiram Johnson and other persons herein named the several sums of money herein specified, being the surplus of a military assessment paid by them and accounted for to the United States in excess of the amount required for the indemnity for which it was levied and collected.

Mr. TALBOTT. I move that all the bills upon the Private Calendar be set aside or informally passed over until we reach the bill (H. R. 2158) for the benefit of John C. Herndon.

The CHAIRMAN. That can only be done by unanimous consent.

Mr. GEDDES. I object. In reference to the Hiram Johnson bill, I think it is improperly on the Calendar. It was disposed of at the last session of the House by a reference of it to the Committee on War Claims, where it is now pending.

Mr. MCMILLIN. I think the gentleman from Ohio on examination of the RECORD will find there was an agreement that this bill should retain its place on the Calendar, and that is how it came to be here, so that when it was reported back it should not go to the heel of the Calendar.

Mr. GEDDES. That may be the case.

Mr. MCMILLIN. I am not sure, as I speak from a memory six months old. I ask that the bill be passed over informally.

There was no objection, and it was ordered accordingly.

PRIVATE LAND CLAIM.

The next business on the Private Calendar was the bill (H. R. 130) to confirm a certain private land claim in the Territory of New Mexico.

Mr. MCMILLIN. The gentleman from Kentucky [Mr. HALSELL] who has reported this bill has requested me to move that it be passed over informally, and I make that motion.

There was no objection, and it was ordered accordingly.

INDIAN APPROPRIATION BILL.

The committee informally rose; and the Speaker having resumed the chair, Mr. ELLIS, from the Committee on Appropriations, reported a bill (H. R. 7970) making appropriations for the current and contingent expenses of the Indian Department and for the fulfillment of treaty stipulations with various Indian tribes for the year ending June 30, 1886, and for other purposes; which was read a first and second time, referred to the Committee of the Whole House, and, with the accompanying report, ordered to be printed.

Mr. ELLIS. I give notice that I shall ask for its consideration tomorrow.

WILLIAM H. DAVIS.

The committee resumed its session.

The next business on the Private Calendar was the bill (H. R. 4382) for the relief of William H. Davis.

The bill was read, as follows:

Be it enacted, &c., That the sum of $3,000 be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, to indemnify William H. Davis for the destruction of his wharf and warehouse at San Diego, in the State of California, by the United States troops, during the winter of 1861 and 1862. That the sum hereby appropriated is made immediately available.

The report (by Mr. GEDDES) was read, as follows:

The claimant in this case asks to be allowed and paid the sum of $60,000 to indemnify him for the destruction of his wharf and warehouse at San Diego, in the State of California, by United States troops, during the winter of 1861 and 1862. He avers that in the year of 1861 and 1862 he was the lawful owner and in the actual peaceable possession of said property, in what was then known as the New San Diego. The wharf was constructed of wood, 550 feet in length and 50 feet in width, with an addition adjoining the same at right angles 225 feet in length, the whole being constructed of piles of redwood of from 30 to 75 feet in length, and from 15 to 28 inches in diameter, driven into the soil six feet apart, and braced together with plank, and covered with imported spruce plank. The warehouse stood contiguous to and was used in connection with the said wharf for the storage of goods. It was constructed of heavy timbers and planks, and being 50 feet in length by 32 feet in width, and two stories high. The alleged cost of the construction of said property was the sum of $60,000; that at the time the same was destroyed by the United States troops it was in a good state of preservation, as he claims, and worth the sum of $60,000.

It is further claimed that said property was appropriated and rendered useless by the United States troops in active service, under the command of Maj. G. O. Haller and other officers; that the material of said wharf was used for fuel, building, and for other purposes by said soldiers.

It is further claimed that it was the only wharf then existing at said town of San Diego; that from the time of its construction in 1851 until its destruction in 1861 the claimant had received wharfage affording a net average profit of $150 per month.

This claim was first presented to Congress in 1872, where it has been upon the files of the committees of the two Houses without action until the Forty-fifth Congress, when it was reported favorably by the Claims Committee of the Senate and the Committee on War Claims of the House. It was not reached on the Calendar of Private Business, and was again re-referred in the Forty-sixth Congress, when an act was passed approved March 3, 1881, as follows:

"An act for the relief of William H. Davis.

"*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of War be, and he is hereby, authorized and directed to cause to be investigated by the Quartermaster's Department of the United States Army the alleged taking by the United States authorities, for the use of the United States troops, during the years 1861 and 1862, of a certain wharf and warehouse property, formerly situated in San Diego, Cal., alleged to have been the property of William H. Davis, of Oakland, Cal., and to have been used by troops of the United States for fuel; such investigation to extend to the title of the property and the incumbrances thereon the status of the owner, whether loyal or not, the value of the property destroyed, the circumstances of the destruction, and by whose direction, authority, or permission it was destroyed, and the reasons for the neglect to give notice to the War Department at or soon after the destruction occurred; and when such investigation shall be completed the Secretary of War shall report the result thereof, with his recommendation thereon, to Congress for action in the premises.

"Approved March 3, 1881."

In pursuance of the above act the Secretary of War authorized and directed an investigation of said claim by the Quartermaster's Department of the United States Army, and report the conclusions to which the Quartermaster-General would arrive after consideration of the evidence upon the questions submitted. The case was referred by the War Department to the Quartermaster-General's Department, April 5, 1881, and immediately re-referred to Colonel Saxton for investigation. A thorough investigation followed and was returned by him to the Quartermaster's Department November 12, 1881, as follows:

"PHILADELPHIA, PA., *November* 12, 1881.

"GENERAL: I have the honor to return herewith your reference of the 8th of April, 1881, directing me to investigate, in compliance with private act No. 106 [chap. 200], approved March 3, 1881, the claim of William H. Davis, of Oakland, Cal., *vs.* The United States, for use of certain wharf and warehouse property at San Diego, Cal., alleged to have been used by troops of the United States in 1861–'62.

"No papers connected with the claim were referred to me, but putting myself in communication with Mr. Davis, he placed at my disposal copies of his original petition to Congress and affidavits before Congress, and also presented new evidence in the case, as well as other papers bearing upon the subject.

"Learning from some articles published in the San Francisco Chronicle early in 1880 that the claim had been denounced a fraud, I called upon the editor of that journal, and obtained from him a list of persons whose evidence he advised taking. He also gave me the address of the writer of the articles in his paper against the claim, Mr. B. F. Catlin, a clerk in the San Francisco naval office. Messrs. Catlin and Davis also furnished me the names of a number of persons who were supposed to have knowledge of the facts in the case, and on May 18, 1881, I sent to each of these parties, whom I could not see personally, a letter (copy inclosed, marked 1), requesting their testimony in the form of an affidavit as to their knowledge of the matter. I received but very few responses to this letter.

"Desiring to verify the testimony of as many of the witnesses who had already testified as possible, and to place the evidence I could gather bearing upon the case in a convenient form for reference, I constituted myself a committee of investigation, employing one of my clerks as recorder. I held sessions at San Francisco, on May 2, 7, 8, and 9; at San Diego, June 7, 8, and 9; and again at San Francisco July 21, August 25, September 1, 17, and 28, 1881.

"In the case of all the previous witnesses who were yet alive, whose presence could be obtained, they verified their previous testimony, except in a few unimportant instances, where slight corrections were made.

"There came also before the commission other witnesses, testifying both for and against the claim.

"The fact that the witnesses were so widely scattered has made the investigation occupy a period of several months, but it was at last concluded on the 28th of September, 1881. At this time Surgeon Baily, U. S. A., having ordered a change of climate as necessary to my recovery from a severe attack of rheumatism, I went on leave of absence, and this has delayed my final report until the present time.

"I inclose herewith a full report of the proceedings of the commission (see inclosure marked 2), together with affidavits pro and con (marked Exhibits A to W, inclusive). I inclose also a tracing made in my office of a map of San Diego, on file in the engineer's office, headquarters Military Division of the Pacific. This map shows the location of Davis's wharf and warehouse, as well as the location of the block now occupied by the United States military barracks and the Government wharf site, which were given by Mr. Davis to the United States. It does not, however, show the location of another block given by Mr. Davis to the United States, and which is now used as a quartermaster's corral and stables. (See inclosure marked 3.)

"In addition to my report of the proceedings of the commission of investigation, I submit the following as replies to the questions embraced in the act of relief, answering them *seriatim*:

"1. The title to the property and the incumbrances thereon?

"The title is not questioned. It is partially proved by the testimony taken, and the records of the assessor's office at San Diego, which I saw, showed the property to have been assessed in Mr. Davis's name for taxes for several years past before 1861.

"2. The status of the owner, whether loyal or not?

"The testimony is full and explicit on this point, and I have not heard Mr. Davis's loyalty questioned.

"3. The value of the property destroyed?

"The testimony shows the property to have been worth from sixty to eighty thousand dollars when built, and for some time thereafter, but it is greatly at variance as to its value in the winter of 1861–'62.

"4. The circumstances of the destruction and by whose direction or permission it was destroyed?

"The evidence on this point is voluminous and is very contradictory. A large number of witnesses, including several ex-Army officials, testify to the destruction of the property; while others, also including ex-officers and soldiers, testify to the reverse. A charitable explanation of this discrepancy in the evidence is that men's memories are not always to be relied upon after a lapse of eighteen years.

"5. The reasons for the neglect to give notice to the War Department at the time or soon after the destruction occurred?

"This point is fully answered by the testimony taken.

"The sessions of the commission of investigation were open, and the most of the testimony was given orally, and recorded by my clerk. Mr. Davis did not employ a clerk or stenographer, and shortly before the labors of the commission closed, his attorney, Mr. Metcalfe, asked me to furnish him, at his expense, a copy of the testimony taken and of all the affidavits printed, in order that he might make up his argument in the case. I was not certain that I had the authority to grant his request, and advised him to apply to the War Department for permission, which he did. In the mean time I allowed him to read my record and complete his argument in my office, and to have the paper printed under the supervision of my chief clerk, no copies to be delivered until the Secretary of War should give the necessary authority. This has since been given, and printed copies similar to the one inclosed have been furnished the claimant's attorney, to which he has appended his own argument. I inclose this in addition as convenient for reference in making up your report on the case. In conducting this examination it has been my earnest endeavor to collect all the evidence possible bearing on the case, and to put it in such a form as to enable the Department to come to a correct judgment.

"In the hope that I have been in a measure successful,

"I am, very respectfully, your obedient servant,

"RUFUS SAXTON,

"*Deputy Quartermaster-General,*
Chief Quartermaster Military Division of the Pacific.

"The QUARTERMASTER-GENERAL, U. S. A."

On the above report of Col. Rufus Saxton, as above given, the Quartermaster-General made a report December 5, 1881, in which, among other things, he says:

"As a result of the investigation, I am of opinion that—

"First. The title of the property is in W. H. Davis, the claimant. No incumbrances thereon have been discovered.

"Second. The owner was loyal.

"Third. The value of the lumber taken for fuel did not exceed $3,000 as material.

"Fourth. There was an unusual rainfall in December, 1861, and January, 1862, which probably rendered it difficult to haul fuel for the garrison, and this led the garrison to use a portion of the material on the wharf for fuel. The wharf being thus injured, they may have used a small quantity also for fencing, and one or two shallow wells may have been supplied with wooden curbs from the same source.

"Fifth. The commanding officers, Capts. Thomas E. Roberts and W. F. French, California Volunteers, were present, and as the wharf material could not have been taken up and burned in the barracks and quarters without their knowledge, they must be held accountable for whatever depredation was actually committed by the troops.

"Sixth. The reasons for not notifying the War Department at or soon after the injury was done are to be found in the impoverished condition of the claimant; his absence at a long distance from San Diego, the slow communication by mail between San Diego and that part of California in which he then resided, and also in the fact that the War Department when the mischief was done had no power to relieve him by payment of damages."

Thereupon the Secretary of War reported to Congress as follows:

"WAR DEPARTMENT,

"*Washington City, December* 13, 1881.

"SIR: In pursuance of the act of Congress approved March 3, 1881, entitled "An act for the relief of William H. Davis," I have the honor to report that the investigation thereby directed to be made has been completed, and that the result thereof is embodied in a report of the Quartermaster-General of the United States Army, a copy of which is herewith transmitted, together with copies of the papers on which it is based.

"In further pursuance of the above-mentioned act, I have the honor to recommend that the authority of Congress be given for the payment to said William H. Davis of the sum of $3,000, with interest thereon from the 1st day of February, 1862, at the rate of 6 per cent. per annum, in full satisfaction of his claim arising out of the matters referred to in the said act.

"Very respectfully, your obedient servant,

"ROBERT T. LINCOLN,

"*Secretary of War.*

"The SPEAKER *of the House of Representatives.*"

The principal and most difficult question involved in this case from the beginning has been the measure of compensation to which the claimant was entitled. The unsatisfactory character of the testimony submitted prior to the act of March 3, 1881, led the Committee on War Claims to submit to this House a report which induced said legislation. In that report, Mr. Colwell, among other things, says:

"Other proof as to their value is wanting, and your committee is of opinion that even if affidavits of experts were presented it would not be entirely fair to the Government to have this point left entirely to *ex parte* testimony. They have thought better to let the damages be assessed by a sworn officer of the Government; and as the facilities at the command of the Secretary of War for determining this point are better and can be applied more readily than perhaps those of any of the officers of the Government, they report in favor of leaving this task to him."

Congress having submitted to the War Department for investigation and to report on all the questions involved in this case, your committee, after a careful examination of the evidence taken and the reports made thereon, see no reason for overruling the findings submitted. Your committee therefore recommend the passage of the accompanying substitute for the bill (H. R. 107) filed herein.

Mr. GLASCOCK. I move a substitute for the pending bill.

The Clerk read as follows:

Strike out and insert as follows:

"SECTION 1. That the claim of William H. Davis, of Oakland, Cal., for the alleged destruction of his wharf and warehouse at San Diego, in said State, during the winter of 1861–'62, by Union troops, be, and the same is hereby, referred to the Court of Claims for adjudication, with jurisdiction to ascertain and render judgment for the actual value only of the aforesaid property so destroyed, without interest: *Provided*, That the testimony taken pursuant to an act of Congress entitled 'An act for the relief of William H. Davis,' approved March 3, 1881, or filed before the commissioner, Col. Rufus Saxton, designated to make the investigation directed by said act, or true copies of said testimony, may be used on trial before the Court of Claims by either party, together with such competent evidence as may be introduced by either party: *And provided further*, That the said Davis shall begin his action to recover said claim within one year from the passage of this act."

Mr. GLASCOCK. Mr. Chairman, as the report of the committee, read at the Clerk's desk, has been so full in this statement pertaining to the history of this matter, I have no desire to detain the House by making any unnecessary or tedious relation of the facts involved. However, as these reports as read by the Clerk are rarely listened to by members I desire to make a brief statement, after which I am satisfied the merits of this case will become so apparent to the House that the modest measure we ask will be adopted—that is, reference to the Court of Claims, so it may be determined by a competent tribunal.

In 1850–'51 a wharf was constructed at the town of San Deigo, in California, by the claimant, William H. Davis. In 1861–'62 the testimony taken, to which I will subsequently refer, shows that that wharf was in good condition. The testimony is conflicting, I will admit, but the finding of Col. Rufus Saxton was that the wharf was in good condition at that time, not having suffered at that time from the toredo or other destroying insect. In 1861–'62 we had in California an unexampled bad winter. Rains fell. San Diego was practically cut off from the surrounding country. No teams could be run over the roads, as the horses would mire. No fuel could be obtained for the United States military post established at that place, and they were compelled to rely, I will state in passing, upon wood hauled a distance of twenty or thirty miles to afford fuel for the post. In that condition of affairs, fuel being needed, the soldiers, under and by, I submit, the instructions of their superior officers, acting upon a military necessity, I admit, took a portion of this wharf and consumed it for fuel, besides that which went into the making of fences and other Government improvements required about the post. I will admit also that the testimony is conflicting as to the amount of this wharf taken, and the warehouse, for there is a warehouse as well as a wharf embraced in the claim; but the evidence of Col. Rufus Saxton shows the work of demolition was commenced by the United States troops, and the testimony further shows that one hundred feet at least of that wharf were removed during the time when one officer was in charge of that post.

Now it is a well-known fact that when a work of demolition of this kind is commenced as a military necessity—I will admit under and by the advice and with the consent of those in charge of that post—I say as soon as this work is once begun it does not take very long for the ordinary people of the town, the laymen, to find some authority for the further demolition of the structure. Be this as it may, I submit that the Government has determined its liability in the findings adopted by the Secretary of War, and by the report rendered by him. The Secretary of War finds in his report that $3,000 worth of damage has been done to the property of this claimant, and he reports that as the extent of the liability of the United States, as admitted damages for the work of demolition. It makes no difference to us whether or not the wharf had been entirely demolished or the warehouse torn down by the authority of the United States. When its authority is once admitted, then we say this House can not refuse at least to go behind that admission on the part of the United States and ascertain the full extent of the damages.

That this was a valuable improvement is shown conclusively by the testimony of all the witnesses in the case. That it cost from sixty to eighty thousand dollars to construct it is admitted. It was bringing in a yearly revenue of $1,800 to its owner, which at a 6 per cent. rate would represent a capitalized value of $30,000 at least.

When this large and valuable improvement was attached, when the first work of demolition was begun by the authority of the soldiers of the United States, when that is admitted, we say that this House can not go behind that evidence, can not claim that the United States was not liable, or that that evidence is so conflicting that the citizen whose property has been so destroyed should be allowed only the smallest or minimum damages. We submit, sir, if the testimony is gone through with by every member of this House, if gentlemen will sit down and read it carefully, there is not a well-minded man on the floor of the House who will not come to the conclusion that Mr. Davis should have the full amount of his claim, $60,000 at least.

The committee of the Forty-seventh Congress, by whom the matter was passed upon, rendered a report through Mr. HOUK, the chairman of that committee, and advocated the payment of $20,000 as an act of partial justice at least. If this committee had presented a report giving $15,000 or $20,000 there would have been no opposition on our part, for though we believe the full amount would be just, we know how tedious matters are of this sort before this and its kindred body. But, sir, this matter being in this condition, this report having been rendered by Mr. HOUK in the Forty-seventh Congress, and having been rendered in the present case by the present Committee on War Claims, and the House, seeing the difference, on the statement of facts, between the conclusions arrived at by the present committee and that of the last House, is as well prepared to pass upon it as we ourselves who have examined it so carefully. We submit that the Secretary of War, in rendering his report advocating the payment of $3,000 as an adequate measure of damages for the destruction of this property, is entirely wrong in the basis upon which he founds his opinion. They have taken the claim and assessed the property as a claim for so much cord-wood; and valuable property, which cost from $60,000 to $80,000, which was bringing in a yearly rental of $1,800, has been destroyed by the instrumentality of the United States Government, and the damages in the case are fixed on the same basis as if it had been so much cord-wood consumed by the United States post at that time. If they had taken into consideration the value of the franchise, the value of the property, of the investment, and then arrived at a conclusion, there would have been some justice in the matter. But evidently that has not been done; and in support of that I desire to read a few words from the report of the Quartermaster-General, M. C. Meigs, rendered to the Secretary of War. He says:

The wharf was so important to the town, being apparently at the time and for many years the only wharf in its harbor, that any injury done to it by tearing up its roadway and using it for fuel or for any other purpose would make a great impression upon the town's people, and they would be liable to exaggerate the injury done.

The testimony shows that the wharf was entirely dismantled in course of time, the greater part of the injury having been done in December and January:

As the quantity of fuel needed for a month's supply appears to have been about twenty-two cords, which is equal to 23,792 feet, board measure, of timber, it appears that if the troops depended entirely upon this source of supply for their fuel during the month of December and one-half the month of January, they would have used 46,688 feet of timber, board measure.

Of 3-inch plank covering the wharf, I found that there were in place, if the covering was all there, 204,500 feet, board measure, and therefore taking up one-fifth of this covering would have furnished all the fuel that was probably needed in that time.

Soldiers do not undertake severe labor for purposes of wanton destruction, and the least laborious method of getting fuel from the wharf was to take up

the planking. I do not, therefore, think it probable that any great injury was done by them to the capping, bracing, and piles, all of heavy timber, and more securely fastened than the plank covering and more difficult to take away.

The testimony shows that the piles were sawn off even with the water.

The removal of one-fifth of the plank covering would have made a part of the wharf impassable for carts and horses. But it would not have destroyed the wharf.

At $30 per M, 46,688 feet of plank cost only $1,400. Its cost laid on the wharf at a place where skilled labor was scarce and costly may have been $2,800, and I think that the value of the material taken from the wharf by the troops for fuel can not have exceeded this sum. The wharf has disappeared, except some piles.

"I think," he says, "the value can not have exceeded this sum arrived at in this manner." I submit that no court or competent tribunal could base a conclusion of that sort upon competent evidence. There is no conclusion arrived at. There is a mere hypothesis, a guess, that the same may reach $2,800, and therefore $3,000 is given as being a large and munificent sum for this Government to tender for a total damage and destruction done to a building that cost from $60,000 to $80,000, and which was bringing in $1,800 a year revenue.

It can not be seen, Mr. Chairman, that this report is based as he has stated it. The measure of damages is board measure for a valuable franchise, so many dollars per thousand feet for a valuable wharf and warehouse. Why, sir, suppose a piano had been destroyed and used for fuel under those circumstances, the honorable Secretary would have given so many dollars for board measure for that valuable instrument. I submit it is all wrong and that this House should not countenance anything of that sort.

In conclusion, I want to state that we do not ask this House to give any $60,000 now. We do not ask this House to give any $20,000, as was advocated by the last Committee on War Claims in the Forty-seventh Congress. All we ask this House to do in justice to this man is to send the case to the Court of Claims and let it be adjudicated by a competent tribunal upon competent evidence introduced before that tribunal. That is the full extent of our claim. We say let the Court of Claims take the claim; let the testimony already collected under the law of Congress under which Colonel Saxton acted as commissioner and before whom this evidence was collected, let that evidence be considered as legal evidence before this court, and let the parties have the additional privilege of introducing any other competent testimony that they may require. And further we place a limitation upon this; we say that unless Mr. Davis prosecutes his claim before that tribunal within one year from the time of the passage of this act he shall be barred from all further claim for relief.

I reserve the balance of my time.

Mr. GEDDES. In submitting a few words in vindication of the action of the Committee on War Claims in this case, I think it proper to advert briefly in the first place to the order of proceeding in the case before I make any reference to its merits.

The damages alleged to have been sustained by this claimant are said to have occurred in the winter of 1861–'62. No claim was made by him to any department of the Government; and no appeal was ever made by him to Congress for remuneration until, perhaps, the Forty-sixth Congress, or it may have been a little earlier, certainly not until 1872, ten years after the damage is said to have accrued to him.

He then laid his claim before Congress, and on investigation of it in the War Claims Committee I find that committee concluded that the case was imperfectly prepared; that there was no such evidence, either *ex parte* or otherwise, before them as to warrant any finding of the committee. And the Committee on War Claims of this House in the Forty-sixth Congress, appreciating manifestly that the case was thus imperfectly prepared, made a report. I desire to read a single paragraph from that report as indicating the considerations that induced a reference of the case to the War Department for investigation. In that report they say:

They have thought better to let the damages be assessed by a sworn officer of the Government; and as the facilities at the command of the Secretary of War for determining this point are better, and can be applied more readily than perhaps those of any other officers of the Government, they report in favor of leaving this task to him.

Thereupon an act was passed based upon that report, approved March 3, 1881, referring the subject-matter of this claim to the War Department for investigation. That investigation followed, and was full, complete, and thorough. The officers of the Government, visiting San Francisco and San Diego and the homes of the witnesses, took a large amount of testimony, such proof as the parties representing the Government and representing the claimant had within their power and saw proper to submit.

I will read a single paragraph from the report based on that thorough investigation, and which indicates the thoroughness of the investigation:

In conducting this examination it has been my earnest endeavor to collect all the evidence possible bearing on the case, and to put it in such a form as to enable the Department to come to a correct judgment.

That certainly was done. There will be found here a mass of testimony exceedingly voluminous. It would be unjustifiable to undertake to repeat it here, or any portion of it. But upon that this report of the War Department was made.

Now, we come to the report itself based upon the investigation of Colonel Saxton, who represented the War Department in the case. The War Department recommend, as has already been stated, the payment of $3,000. I am not going to stop now to discuss whether they overrate or underrate the damages sustained by this party. I am not here to discuss the question of damages, or to controvert the claim made by those representing this claimant on the floor of the House.

I only say that a reinvestigation of this case, although by a judicial tribunal, will not perhaps afford any more thorough opportunity to get at the facts than has already been had. I will submit one or two statements in regard to the merits of this case in order to justify the resistance which our committee is now making to a reference of the case to the Court of Claims. A proposition to refer a claim of this kind always impresses me favorably. I always feel that this House as a body does not constitute the safest tribunal for the investigation of judicial questions or the ascertainment of matters of fact upon which the law is to be applied. I know the difficulty of obtaining the attention of gentlemen representing other sections of the country and overburdened with other matters of importance to each individual claim as it comes up, and therefore I always feel willing to refer these cases to the Court of Claims wherever it can be safely done. I ought to say at this point that, under the Bowman act, committees can refer cases to the Court of Claims; this House may refer cases to the Court of Claims under the Bowman act; and so far as my observation and experience go our committees are very liberal in that respect. Many cases have been referred from the Committee on War Claims, and some of them are now being decided by the Court of Claims and being reported back to the committee. So that, so far as regards a reference of these cases to the Court of Claims, there is abundant opportunity for it and great liberality in that direction; but the Committee on War Claims did not consider this to be a proper case for reference at this stage.

In justification of the action of the committee, let me read from the report of Colonel Saxton to the War Department. Under the fourth proposition he says:

The evidence on this point as to the destruction of the property is very voluminous and very unsatisfactory. A large number of witnesses, including several ex-Army officers, testify to the destruction of the property, while others, also including ex-officers and soldiers, testify to the reverse. A charitable explanation of this discrepancy in the evidence is that men's memories are not always to be relied upon after a lapse of eighteen years.

I think he might very pertinently have added there that the weight of testimony often turns upon the opportunity that the witnesses have had to obtain knowledge of the facts to which they testify. The testimony of an Army officer who was in charge at the time, who occupied these grounds in the winter of 1861–'62, and who had abundant opportunity to know the extent of the damage done, if any damage was done, would be entitled to more weight as a witness in any tribunal than the testimony of a mere casual observer, having a more imperfect opportunity to know the facts. To illustrate this view, let me read a statement which appears in a report in regard to the testimony: November 28, 1881, Colonel Saxton forwards for filing with his report two affidavits made by Pascal Margry and John Baker, dated, respectively, October 28 and November 1, 1881. In these affidavits the affiants substantially testify that in January, 1862, they were members of Company D, Fifth California Infantry; that they went with their company to San Diego and were stationed there about ten months from January, 1862—covering the very period within which it is claimed this damage occurred.

They further state that when they arrived at that place there was an old wharf, in a dilapidated condition, near the buildings occupied by the troops, and that while they were there part of it fell down from natural decay and was carried out to sea by the tide. They further state that neither the wharf nor any part of it was destroyed by United States troops; that a quantity of wood was on hand, corded up and in the quartermaster's charge, when they came to the post, which wood was used by the troops as fuel, and that, moreover, a quantity of wood for the use of the garrison was cut on the island near San Diego and boated over by the troops for their use.

Now that is an illustration of the character of the testimony in this case, which abundantly justifies the statement of Colonel Saxton that, after full and liberal investigation as regards the rights of this claimant, it was found that there was a serious and irreconcilable conflict in the testimony in the case. Acting, doubtless, upon the well-known legal rule that a claim like this need not be established beyond a reasonable doubt, but that a mere preponderance of evidence in favor of the claim ought to prevail, not merely gave this claimant the benefit of the doubt, but found, upon the preponderance of evidence, that some damage had been sustained, and recommended $3,000 as the proper amount of compensation, and that amount is allowed by the Quartermaster and by the Secretary of War. I beg the attention of the committee to the fact that it is proposed that this case shall be heard in the Court of Claims on this same testimony. The claimant would hardly desire a reinvestigation of the case and the taking of the testimony in chief and on cross-examination according to the rules of the court to which it is to be sent. Doubtless, also, many of the witnesses are dead, some of them beyond the reach of the Government, many of them probably beyond the reach of this claimant; so that to get this case to the Court of Claims it is necessary to override the ordinary practice in referring

cases to that court, and to ask that this case shall be heard there upon this same testimony, with all its uncertainties, with all its doubts, with all its indistinctness, that was before the War Department and before the Committee on War Claims.

Now, I submit that that may be an exceedingly dangerous thing to the Government, or possibly it may be exceedingly dangerous to this claimant. It is a question of the thoroughness of the investigation. If our committee, or if this House, should, under the Bowman act, refer a case to the Court of Claims, that court will not consider the *ex parte* testimony that is to be found in the case; the court will not take up the case and base its decision upon an *ex parte* showing; but the case will be thoroughly prepared by the examination and cross-examination of witnesses in the way which has been found to be most effective in eliciting truth, in the interest of claimants as well as for the protection of the Government.

Mr. JOSEPH D. TAYLOR. I desire to ask the gentleman a question.

The CHAIRMAN. Does the gentleman from Ohio [Mr. GEDDES] yield for a question?

Mr. GEDDES. I do.

Mr. JOSEPH D. TAYLOR. Was this property in charge of any person? Was there anybody in possession of it and caring for it at the time?

Mr. GEDDES. No, sir; I believe not—though I am not certain, and I desire to be very careful in any statement that I make here. My friend from California [Mr. GLASCOCK], representing the claimant, will not state, I think, that the property was in possession of any one. It had been abandoned.

Mr. GLASCOCK. We deny that it had been abandoned.

Mr. GEDDES. They deny that; but the property was not in actual use, I believe, during the winter of 1861–'62.

Mr. GLASCOCK. It was in actual use.

Mr. JOSEPH D. TAYLOR. Is the franchise of any value?

Mr. GLASCOCK. Mr. Davis, the owner of the property, was not there at the time; he was somewhere in the northern part of the State, and all this transaction occurred in his absence. The franchise was still in Mr. Davis.

Mr. JOSEPH D. TAYLOR. My question was whether the franchise was of any value.

Mr. GLASCOCK. It was, as a matter of course. The testimony in the case shows that.

Mr. GEDDES. Let me say, as bearing upon the point raised by the gentleman from Ohio [Mr. JOSEPH D. TAYLOR], that, judging from what I have learned in regard to this case, at a particular time the franchise was perhaps of value to the claimant, but after the wharf went into decay and was no longer used, other parties built a wharf adjacent to it and this became comparatively worthless. And the claimant gives that as an additional reason why he did not return to his property and guard it.

I believe that I have said all that I feel called upon to say in vindication of the action of the Committee on War Claims. It is not asserted that there is any newly discovered evidence in the case or that any evidence not within the reach of the party when this matter was investigated has since been found and can be produced.

I am not compelled, therefore, to say that it would not be such evidence even then as would warrant opening up the case, for I have not heard that there is any claim of that kind. I have supposed that it is sought to readjudicate this case in the Court of Claims substantially upon the testimony taken by Colonel Saxton and submitted to the War Department, and if we assent to a reference of the case to the Court of Claims, it must certainly be because we conclude it is safer that such a tribunal should pass upon this claim than that it should be finally determined by us or by the War Department, or by such other tribunals as have had connection with it.

Mr. HISCOCK. I desire to ask whether the War Department has approved this claim.

Mr. GEDDES. Yes, sir.

Mr. GLASCOCK. The War Department has approved it to the extent of allowing $3,000 and interest.

Mr. GEDDES. Perhaps the earlier statements in this debate were not heard by the gentleman from New York; and I will say that this is a favorable report from the committee based upon the investigation of the War Department, and allowing the amount allowed by that Department.

Mr. GLASCOCK. But without the interest allowed by the Department.

Mr. GEDDES. Yes, sir; we allow no interest; that is never done here in any claim. Now, from the report of the committee, the gentlemen representing the interests of this claimant dissent, thinking that a larger amount should be allowed; and they now ask action on the substitute proposing to refer the case to the Court of Claims.

Mr. HISCOCK. I wish to ask a single question. In sending this case to the Court of Claims do you propose to send it there upon a different rule as to the measure of damage from that adopted by the War Department, or do you limit the Court of Claims to the amount found due by the War Department?

Mr. GLASCOCK. We propose that the court shall allow an amount corresponding with the injury actually done, if any.

Mr. HISCOCK. But a certain measure of damages was adopted in this case by the War Department in determining the amount which should be allowed.

Mr. GLASCOCK. We do not endeavor to put any limitation upon that court. Assuming it to be a competent tribunal, we simply say to the court——

Mr. GEDDES. I do not understand that the substitute proposes any new measure of damages. It simply refers the case to the Court of Claims that the amount of the damage may be ascertained.

Mr. HISCOCK. But there is a question in this case as to the measure of damages.

Mr. STORM. Yes, sir.

Mr. GEDDES. That is the sole question.

Mr. STORM. The War Department has adopted the rule that where lumber has been taken and used for fuel, the Department will not allow for it on the basis of lumber, but will only make compensation upon the basis of fuel. Of course this basis of estimation is admittedly incorrect and unjust. If the case were in the Court of Claims, I take it the court would not be bound by this practice of the Quartermaster's Department of only allowing for lumber as cordwood if it was consumed by the Army as fuel. If the case were in the Court of Claims, the court would have to do justice between the parties and allow the actual amount of damage.

Mr. HISCOCK. What would probably be the difference in the amount?

Mr. STORM. The gentleman can imagine what would be the difference between allowing for red cedar, as cord-wood at $4 a cord, and allowing the value as lumber sawed into planks.

Mr. HISCOCK. Has there been an investigation, so that this House can be apprised——

Mr. GEDDES. Oh, yes; but only in this way: it must be borne in mind that there is a serious conflict in the evidence, first, as to whether the Government did any damage——

Mr. GLASCOCK. That is admitted.

Mr. GEDDES. That is found by the report, based upon the preponderance of evidence, I admit. It does not appear in the testimony or in the report that the War Department made its estimate of damages on the theory suggested by my colleague on the committee [Mr. STORM]. Our understanding in the committee was that the Department adopted in this case the ordinary method of making their estimates for damages. I think that if gentlemen had an opportunity to examine the evidence in this case they would find that the War Department had no special rule upon which to make that estimate; that it made in this case a kind of liberal allowance based upon all the evidence in favor of a citizen against the Government, finding, first, that there was some damage, and then guessing as to the amount upon the basis of the proof, and saying, "We will give the claimant $3,000." That is all there is of it.

Mr. GLASCOCK rose.

Mr. SPRIGGS. What is the amount claimed?

Mr. GEDDES. The amount reported by the committee is $3,000, but I understand the gentleman representing it would take $20.

Mr. GLASCOCK. I know the gentleman from Ohio does not desire to misstate, and I therefore now ask to correct an error into which he has fallen. The wharf referred to by the gentleman from Ohio was not constructed, nor indeed the construction commenced, until after the work of demolition was begun on this wharf and it was entirely dismantled.

Mr. GEDDES. That is so.

Mr. GLASCOCK. I understood the gentleman to say, at that time they were taking in the lumber from the wharf and that there was not a wharf in good condition in San Diego.

Mr. GEDDES. I do not wish to be so understood.

Mr. GLASCOCK. The report of Colonel Saxton shows that the wharf at that time was in a good, serviceable condition.

Mr. RAY, of New Hampshire. Mr. Chairman, there seems to be no question that something should be paid to the claimant in this case. In the first place, the Secretary of War recommends that he be paid the sum of $3,000 with interest from the 1st day of February, 1862. Now, if we follow the recommendation of the Secretary of War the sum to be allowed the claimant is about $7,000 instead of the amount reported. In the Forty-seventh Congress a unanimous report from the War Claims Committee recommended the allowance of $20,000, and that only as a partial measure of relief. For some reason or other the present War Claims Committee go back not only upon the former report, but also upon the recommendation of Mr. Lincoln, the Secretary of War, allowing the interest, and recommend that only $3,000 be allowed as full compensation for the destruction of a large warehouse and wharf at San Diego, Cal., which more than thirty citizens in the vicinity, testifying under oath, have estimated to have been worth $60,000 and upward at or near the time they were destroyed.

Mr. HISCOCK. Is it not true that the expectation of the builders when they constructed this wharf was not realized and this wharf therefore was only valuable for the lumber that was in it?

Mr. RAY, of New Hampshire. Yet; it was valuable as a wharf.

Mr. HISCOCK. This city was laid out. There was no commerce there, no use for a wharf, and was only valuable for the lumber in it for fire-wood or to be transported somewhere else.

Mr. RAY, of New Hampshire. Not so. The property may have depreciated somewhat from decay.

Mr. HISCOCK. Is it not true that the wharf had gone into decay from non-use?

Mr. RAY, of New Hampshire. I do not undertake to represent that it may not have decayed to some extent, but the weight of the evidence makes it quite clear the property was worth much more than $3,000.

Mr. HISCOCK. It was not kept in repair because of the decay of the commerce of the town.

Mr. RAY, of New Hampshire. Probably the property had decayed somewhat. It was not in perfect repair, but that it had become of no value, that it had been abandoned as a piece of worthless property, no one pretends.

Now, then, I wish to call the attention of the committee, in reply to the question of the gentleman from New York [Mr. HISCOCK], to the finding made by the chief quartermaster, Colonel Saxton, detailed by the War Department to make the investigation under the act of March 3, 1881. He says that the testimony shows the property to have been worth from sixty to eighty thousand dollars when built and for some time thereafter, but that its value was less in 1861 and 1862 when destroyed. The difficulty with this case, like every other where the damages are unliquidated, is that no one can tell precisely how much ought to be allowed. It appears by an overwhelming weight of evidence that this property was at one time worth from sixty to eighty thousand dollars. Undoubtedly it was well worth the amount reported by the distinguished chairman of the Committee on War Claims in the Forty-seventh Congress [Mr. HOUK], namely, $20,000. Indeed, he may not have set the value of the property at the time of its destruction high enough. I can not tell. I do not believe any member of the House can tell.

Now the substitute proposed by my friend from California [Mr. GLASCOCK] is—what? To send the whole thing with the evidence, not the unsatisfactory evidence alluded to in the report made by Mr. Caldwell, of the Committee on War Claims in a former Congress, but the testimony since taken pursuant to the act of Congress passed March 3, 1881, already allnded to, whereby the War Department was authorized to take the testimony on both sides, to examine and cross-examine the witnesses, and under which Colonel Saxton acted. That testimony is of value now because it was taken in a quasi-judicial proceeding, and the record shows that some seventy-five or one hundred witnesses have given evidence bearing on this question. The findings of Colonel Saxton are all in favor of the claimant, that his title to the property was perfect, that he was a loyal citizen during the war.

But I wish to call the attention of the House, and particularly of my friend from New York [Mr. HISCOCK], to a most singular finding of the Chief Quartermaster in reference to the rule of damages adopted by him in estimating the value of the property when destroyed. The Secretary of War and the present Committee on War Claims seem to have fallen into the same error:

As a result of the investigation—

Colonel Saxton says—

I am of the opinion that the value of the lumber taken for fuel did not exceed $3,000 as material.

Now I think that is a most remarkable principle to adopt in determining the value of a man's warehouse or similar property taken by the Government. He simply appraised its value for a particular purpose only, namely, as so much wood or fuel, and not its value as a wharf and warehouse. Let me illustrate: The coat that I have on, although it may not be very good or very valuable, costing possibly not more than $2 a yard, answers my purpose very well. Still, I do not want anybody to take eight inches square out of the back of it and then propose to settle the damages by paying me at the rate of $2 a yard for the size of the hole. [Laughter.] That would not satisfy me at all. The trouble is, it spoils the coat. I think, therefore, that the chairman of the Committee on War Claims failed to realize the absurd principle involved in the recommendation made by the War Department and adopted by his committee in this case. The quartermaster who made the investigation tells us that the warehouse and wharf, as such, are destroyed, but for the purpose of fuel the material of which they were made is worth only $3,000, and therefore he recommends the payment of that sum only.

Mr. JOSEPH D. TAYLOR. Let me ask the gentleman if that wharf was standing there to-day reconstructed, as it then stood, whether it would be worth any more than the mere material of which it is built?

Mr. RAY, of New Hampshire. I do not know what it would be worth. I can not tell anything about it. That is exactly the trouble we all have in cases of this character. Therefore, my friend from California proposes by his substitute to send the matter to the Court of Claims for a final adjudication. We have six judges there whose business it is to investigate and decide upon just such a question as has arisen here. The Court of Claims can do this far more carefully and intelligently than Congress can. Look at this substitute bill for a moment. The Committee on War Claims fixes the amount of compensation for the damage done at $3,000. They ignore altogether the recommendation of the Secretary of War that interest should be allowed, which, if done, would just about double the amount.

I do not know what the claimant ought to have for the destruction of his property, but it is apparent to me he should receive something substantial, and by reason of the erroneous rule of damages recommended by Quartermaster Saxton and by the Committee on War Claims I am inclined to the opinion that the House ought to adopt the substitute as a more just and equitable measure than the committee's bill. The substitute provides that the claim shall be referred to the Court of Claims for adjudication. Jurisdiction is given to that court to ascertain the facts and render judgment for the actual value of the property which was destroyed, without interest. I recognize the doctrine that we can not pay interest ordinarily on these claims; but if we are to give this man only the fuel or firewood value of his buildings I think he should certainly have interest.

The substitute bill contains a provision that the court shall have the benefit of all the testimony taken under the act of March 3, 1881; that the same may be used by either party, together with such additional competent evidence as may be offered by either party, and further provides that the claimant shall begin suit within a year from the passage of the act. Now, sir, if the Court of Claims is to be of any value to Congress, it would seem to be in a matter of unliquidated damages, like the present case. How can any man justly say that Mr. Davis ought not to have more than $3,000? Perhaps he ought not to have even that sum; but from my examination of the case, from the fact that three committees of Congress have reported that something is due him, and from the further fact that the Secretary of War recommends the payment of $3,000 with interest from February 1, 1862, I assume that something is really and honestly due, and I would be much better satisfied to have the decision of a tribunal appointed to sit in judgment, between the citizen on the one hand and the Government on the other, and whose especial business it is to do equal and exact justice to both. It is almost impossible to investigate a claim of this character with that care and attention it ought to receive, and hence I hope the substitute will be adopted.

Mr. ROWELL. Mr. Speaker, I hope this House will not forget how this bill comes here for our consideration. The Forty-seventh Congress by enactment provided a forum in which this claim should be tried. They provided that the Secretary of War should investigate the facts connected with the claim of Mr. Davis, and report them to Congress. He did investigate the facts by his quartermaster; evidence was taken in accordance with rules in judicial proceedings; witnesses were examined; a large body of testimony was taken, and a report made in accordance therewith. The War Claims Committee have made a report confirming the action of the Secretary of War, and have provided in this bill the payment to this claimant of the amount found due by the Secretary of War.

The real question is whether we shall provide a forum, have that forum, the court we provide, determine the facts, and then ignore that determination and seek another forum.

The facts in this case, out of which this claim grows, are these: In 1851 Mr. Davis built a wharf at San Diego, in California, at a cost of some $60,000 or $80,000. Eleven years thereafter United States troops occupied that town. Mr. Davis in the mean time had become financially in trouble. He was not then staying in San Diego. He had left a custodian in possession of that wharf, and that custodian, as I recollect, had afterward died, so that at the time of the occupancy of this town by troops there was nobody in custody. Now, the question determined by the quartermaster was whether or not the troops had destroyed a wharf worth $60,000 or $80,000, or whether they had simply taken for wood the lumber of that wharf, which had already been substantially destroyed. One of the questions at issue was whether or not the worms which destroy the piles of wharfing on the Pacific coast had entered the harbor of San Diego. If they had, then by all the testimony the piling in ten years' time would have been utterly destroyed, eaten off; so that the wharf would have ceased to be of any value except for the lumber that was in it. Some witnesses insisted that these worms had not entered that harbor, and that the timber out of which the piles were made was of that kind of cedar that the worms would not work in, and that, therefore, ten years after the construction of the wharf it was just as good as when constructed. Other witnesses, and large numbers of them, testified that these worms had entered the harbor, that the piles had been eaten off and numbers of them had dropped into the water, and a portion of the wharf had fallen away, so that at the time the troops occupied San Diego one portion of it had been entirely swept away, and the other portion was simply standing there, not strong enough to be safe for wagons to go out upon it.

This was the conflict of the testimony, and this claimant claims on the one hand that a good wharf worth $60,000 had been destroyed by the troops. The report of the Quartermaster-General finds upon the other hand that no such destruction had taken place. Now, while I am not satisfied with the method of ascertaining the value of the property taken by the quartermaster—that is to say, reducing lumber or planking to firewood—yet because the tribunal to which Congress re-

ferred this claim so determined, I am in favor of sustaining that determination. In my judgment, upon all the evidence I believe that this wharf had become substantially destroyed; that the life of a wharf in that harbor was not over ten years; that one portion of it previous to 1861 had been washed away by a wave of the sea; that another portion of it had been destroyed when a vessel approached the dock, and that it was no longer serviceable for a wharf except that as it was the only one there such vessels as entered San Diego had to make use of it. In my judgment, under this evidence all the Government could be responsible for would be the value of the material taken, because I do not think that taking the planking off the wharf and taking such piles as had been eaten away for fuel would have caused the destruction of any other portion of the wharf.

I am opposed to having an act passed by this Congress providing a forum, and then when we have the decision of that court passing another act providing another forum. That is giving a claimant before Congress larger rights than claimants get in private life.

And I think there ought to be an end to this claim. The Secretary of War having ascertained upon all this evidence that $3,000 ought to be paid, I think we ought to confirm that decision, thereby carrying out the act passed by the Forty-seventh Congress.

It is very hard to ascertain whether there was that amount of lumber taken. Some of the officers stationed at that point insist upon it that there was not any lumber taken. They insist upon it and show details that the wood used for that post was obtained on an island near by. They insist that the lumber taken from that wharf was taken by citizens, and not by soldiers; and one witness at least testifies that he, by consent of the custodian of the wharf, took a large amount of the planking away for his own purposes for building and making fences before the occupancy by the United States troops. The surgeon in charge testifies that by his order these planks were taken for use in the hospital for walling up wells, &c. It appears, therefore, from the testimony that some lumber was taken. The Secretary of War estimates the value at $3,000. The committee report a bill to pay the claimant $3,000; and, to make an end of this claim, I am in favor of carrying out the recommendation of the Secretary of War.

Mr. JOSEPH D. TAYLOR. Does not the Secretary of War recommend the payment of interest from a certain date?

Mr. ROWELL. He does.

Mr. McMILLIN. Let us have a vote.

The CHAIRMAN. The first question is on agreeing to the substitute offered by the gentleman from California [Mr. GLASCOCK].

The question being taken, there were—ayes 35, noes 57.

So (further count not being called for) the substitute was not agreed to.

Mr. GLASCOCK. I offer an amendment which I send to the desk, and which I understand the committee will not oppose.

The Clerk read as follows:

Strike out "$3,000" and insert "$6,000;" so that it will read: "That the sum of $6,000 be, and the same is hereby, appropriated."

The amendment was agreed to.

The bill as amended was laid aside to be reported to the House with the recommendation that it do pass.

JOHN C. HERNDON.

Mr. McMILLIN. Mr. Chairman, I have been requested to ask the committee to pass over informally a number of bills in order to take up House bill 2158, which was reached on last Friday. I ask unanimous consent that that may be done.

There being no objection, the committee proceeded to consider the bill (H. R. 2158) for the benefit of John C. Herndon.

The Clerk read the bill, as follows:

Be it enacted, &c., That the Secretary of the Treasury be, and he hereby is, authorized and directed to pay to John C. Herndon, late of Mason County, now of Louisville, Ky., out of any moneys in the Treasury not otherwise appropriated, the sum of $1,785, in full compensation for 105,000 pounds of hay furnished, under verbal contract, to Capt. D. W. McClung, assistant quartermaster, United States volunteers, for the use of the Government of the United States, in March, 1865, and which was swept away by a flood in the Ohio River and lost in consequence of the failure of the Government to remove said hay after due notice had been given to its authorized agents so to do.

Mr. McMILLIN. Mr. Chairman, I move that this bill be laid aside to be reported favorably to the House.

Mr. O'HARA. I call for the reading of the report.

The report (by Mr. FERRELL) was read, as follows:

This is a claim for 105,000 pounds of hay sold to Capt. D. W. McClung, assistant quartermaster, United States volunteers, for the use of the United States Government, in March, 1865, at an agreed price of $1.70 per hundred, amounting to $1,785.

It was sold under a verbal contract, to be delivered on the banks of the Ohio River, at any point between Cincinnati, Ohio, and Maysville, Ky., and the same was delivered about March 3, accordingly, near Moscow, Ohio, on the banks of the river, in order for shipment, and the Government officers were duly notified thereof. Captain McClung gave written orders for boats to take it away on the part of the Government, but it was not done because no boats came except those which were already too full, and none others could be got by the officers of the Army.

When the river opened and the thaw begun the river was rising, and Mr. Herndon, fearing that it might rise so high as to reach the hay, proposed to Captain McClung that he would remove it from the banks, but was not permitted to do so, the captain saying that he had made arrangements for its removal with the captain of the boat, and that it would be removed at once; that by reason of this statement the hay was allowed to remain on the bank of the river where it had been placed in delivery. The captain of the boat failed to stop, and a rapid rise of the river occurred during the nights of March 14 and 15, 1865, and the hay was swept away and entirely lost. Mr. Herndon claimed the agreed price of the hay, to wit, $1,785.

The claim was duly presented to the proper department, fully investigated, and disallowed. The facts, as above stated, are proved beyond doubt, and appear conceded in official documents, and are proven to the satisfaction of the Government and the committee; and the disallowance of the claim was based on two grounds: First, that the hay not having been inspected by the Government, as was usual and according to an invariable rule, it could not be said to have been accepted and the title to have passed; second, that the purchase by the quartermaster in an emergency (in case of which it would be authorized by law) should have been filed with the accounts of the disbursement, and the order of the commanding officer directing the purchase, or a certified copy thereof, and also a statement of the particular facts and circumstances constituting the emergency; and it not appearing that any such order was made, or that the statement required was filed, or that any such emergency existed, the purchase and sale were null and void.

It is, however, said by Henry C. Hodges, assistant quartermaster United States Army, that there may be a case in equity. It seems to me that there was either a manifest error in this decision or that it is a case where the Government on every principle of justice should pay this claim.

It was the duty of the Government officers to have the hay inspected within a reasonable time after the delivery and notice of the same, and either to accept or reject it; that if this was not done it was the fault of the Government, and they would be bound by the purchase; that the purchasing officer being duly notified, and not having rejected it, and besides, having told the vendor not to remove it when he proposed to do it in anticipation of the threatened rise of the river, saying that he had made arrangements for its being taken by the boats that night, was an acceptance, and either passed the title, or the Government became responsible, and took the risk of its remaining, and must bear the loss.

As to the second objection, it appears that Captain McClung did propose to do what was required, but concluded not to do it, lest he should render himself personally liable. He was the proper purchasing officer. His papers were destroyed, and he did not furnish items. His failure to do his duty in rendering proper accounts, &c., can not operate to the prejudice of the vendor and throw the loss on him, for Mr. Herndon had no power to compel the officer to do his duty, and was not responsible for his failure to do subsequently what he was required to do. It were not a thing to be done before the hay was accepted and taken as essential to the completion and the sale. It does not appear that there were no proper orders, and if it must be assumed or presumed, that the assistant quartermaster was acting rightfully. But in any event the committee are of the opinion that the Government should pay for this hay as a matter of justice, if not that of law; and they accordingly recommend that the bill do pass.

The CHAIRMAN. If there be no objection, this bill will be laid aside to be reported to the House with the recommendation that it do pass.

Mr. WARNER, of Ohio. One important element in this case is the question of the delivery of this property, and I desire to ask my colleague [Mr. GEDDES] whether this property was delivered at the place where under the contract it was required to be delivered.

Mr. GEDDES. It was. There is no question about that. The only point made in regard to the delivery is that the hay had not been accepted by the officers of the Government. Although it was delivered at the point at which it was agreed to be delivered, and was there ready for inspection, the claim of the Department, when payment was demanded, was that the hay had not been inspected and therefore had not been technically delivered.

Mr. WARNER, of Ohio. In that case the inspection, of course, was the duty of the officers of the Government, and if there was any fault in the matter it was the fault of the Government.

Mr. GEDDES. Yes. I ought to state further in that connection that this claimant did all he possibly could in the matter. He was there insisting that the hay should be removed; he was there guarding it even after it had reached its destination; and when he saw that there was to be a rise of the river, and that this property would be in danger, he insisted that he should be allowed to move it out of danger at his own expense; but the Government officer refused to allow him to do so, saying that a boat would be along and that the hay would be removed. The consequence was that the boat did not come until after the water had come; the water came first and took off the property.

Mr. WARNER, of Ohio. Then the fault was on the part of the Government?

Mr. GEDDES. Yes.

There being no objection, the bill was laid aside to be reported to the House with a recommendation that it do pass.

ROBERT TALLY.

The next business on the Private Calendar was the bill (H. R. 4685) for the relief of Robert Tally, colored.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to Robert Tally, colored, of Memphis, Tenn., the sum of $325, out of any money in the Treasury not otherwise appropriated, for two horses taken from him by the Army of the United States during the late war.

There being no objection, the bill was laid aside to be reported to the House with a recommendation that it do pass.

MRS. ELIZA E. HEBERT.

The next business on the Private Calendar was the bill (H. R. 684) for the relief of Mrs. Eliza E. Hebert.

The CHAIRMAN. There is an adverse report from the Committee on War Claims upon this bill.

Mr. ELLIS. There is also a minority report, and if the matter were to be determined by numbers that would be the majority report, because in point of fact it has the support of the majority of the members who actually considered the case in committee.

The CHAIRMAN. The question is, Shall this bill be laid aside to be reported to the House with a recommendation that it do pass?

Mr. STORM. I move that the bill reported by the minority be laid aside to be reported to the House with the recommendation that it do pass.

Mr. HOLMAN. I call for the reading of both reports.

The CHAIRMAN. The gentleman from Indiana [Mr. HOLMAN] calls for the reading of both reports. The majority report will be read first.

The report (by Mr. JONES, of Wisconsin) was read, as follows:

This claim grows out of this alleged taking of property by the United States troops in Louisiana, under command of General Halbert E. Paine, in 1863. The amount now demanded is $21,090. The claim has been before each Congress since the Forty-third, and has generally been favorably reported, although there has been one or two adverse reports. It is now unnecessary to recite at length the facts and proofs as they may be found in the numerous printed reports. (See Senate report 527, Forty-third Congress; report No. 309, Forty-fourth Congress; report No. 216, Forty-fifth Congress; report No. 936, Forty-sixth Congress; report No. 1683, Forty-seventh Congress.

Your committee have examined the various reports and have carefully examined all of the testimony in the case. The claimant has supplemented her proofs from time to time by adding new affidavits to meet the objections which have arisen, and there is now a large amount of evidence bearing upon the alleged taking of the property and the loyalty of the claimant. If it were not for the features in the case alluded to further on in the report, your committee might feel bound to say that the preponderance of evidence is with the claimant on these issues. But in the view which we take it becomes unnecessary to decide whether the witnesses for the claimant or those for the Government are the more credible. The claimant is herself a witness in her own behalf, and on numerous occasions has given in writing her sworn statements as to the grounds of her claim.

In claims of this character your committee understand it to be their duty to scrutinize very carefully the statements of claimants made under oath, and that in cases where those statements are evidently fraudulent or probably incorrect, the entire claim should be regarded with great suspicion. The reasons for applying such a rule are obvious. The testimony is usually *ex parte*. No opportunity is given those passing upon the weight of the testimony to see the witnesses or to cross-examine them. Again these claims are often ancient before they make their appearance in public. In this instance the claimant rested about ten years before she made it known to the authorities that she claimed the Government was indebted to her in the sum of many thousands of dollars. After such a lapse of time it is necessarily very difficult for the Government to obtain proofs, and it is no injustice to hold such dilatory claimants to the rule of stating, at least with reasonable accuracy, the facts constituting their claims.

Your committee now call attention to the two accounts which claimant has filed, as showing the items of her claim. The first was filed before the Southern Claims Commission January 24, 1873, and was as follows:

8,000 barrels corn, at $1.50	$12,000
500 cords wood, at $6	3,000
100 chickens, at $1	100
200 turkeys, $2	400
30 hogs, $10	300
5 milch cows, $100	500
8 oxen, $50	400
5 horses, $160	800
4 mules, $125	500
Unknown quantity of lumber, consisting of hogsheads, staves, pickets, and posts, estimated	5,000
Total	23,000

The other was the claim subsequently filed before Congress, and is as follows:

8,000 barrels corn, at $2.50	$20,000
1,500 cords wood, at $4.46⅔	7,000
1 lot lumber, consisting of staves, headings, pickets, &c.	10,000
1 pair carriage horses	1,000
3 riding horses	900
4 mules, at $300	1,200
30 hogs, at $30	900
5 choice milch cows	375
20 head beeves	500
1 lot poultry	100
Fencing on plantation	6,000
	47,975

We do not overlook the fact that it is now argued that, in making the first claim, Mrs. Hebert was only seeking one-half of the property taken, on the theory that the other half belonged to her husband, and that before making the second statement she had obtained an assignment from her husband, from whom she had been divorced.

If it should be conceded that the assignment from Jules Hebert to the claimant was made at the time she now alleges, and that she has never made any misstatements or fraudulent concealment respecting it (a matter about which there have been differences of opinion in former committees), still the fact remains that the two statements are so utterly unlike that they can not possibly be reconciled to each other.

The corn is alleged to be worth $1.50 per barrel in the first statement and $2.50 in the second. In the first, 500 cords of wood are charged for, and alleged to be worth $6 per cord; in the second statement we are told there were 1,500 cords of wood, worth $4.66⅔ per cord. In the second statement is a charge for fencing of $6,000, which seems to have been forgotten in the first. It is unnecessary to call attention in greater detail to the remarkable discrepancies which appear throughout the accounts. The discrepancies are too glaring to be explained by the mere statements that claimant had forgotten, or that she was unaccustomed to business transactions.

It is, perhaps, not necessary to place our judgment against the validity of the claim upon the ground that the claimant has made fraudulent statements, within the meaning of that statute which forbids the payment of any claim wherein the claimant has knowingly made a false statement thereof. It is enough to say that we find those statements upon which the whole claim rests so utterly unreliable that we can not make them the basis of a favorable decision.

But there is another objection to the allowance of this demand to claimant, which seems to your committee insuperable. The legal title to the land and to the personal property was in Jules Hebert, and not in the claimant. It appears from the evidence that she had no separate estate. Your committee can not adopt the theory of Mrs. Hebert that one-half of the property in question belonged to her as the wife of Jules Hebert.

It appears, from recitals in claimant's brief, that judgment of divorce was entered November 10, 1871, between the said parties, but that no alimony was given, and the judgment did not decree any division of the estate or property of Jules Hebert, but this subject was left open for the future determination of the court.

Your committee are of the opinion that the claimant had no authority or right to prosecute this claim, except such as might have been conferred by the assignment made in 1874 by Jules Hebert to herself. But assignments of this character are clearly and expressly made null and void by section 3477 of the Revised Statutes. We are asked to hold that this statute only applies to assignments made to claim agents. But that would be ingrafting an exception upon the statute which is not mentioned therein. It is to be presumed, so long as this section remains upon the statute-books, that there is good reason for its existence, and your committee have no inclination to treat the statute as of no effect.

The committee, therefore, report adversely and recommend that the petition do lie on the table.

The Clerk also read the minority report, as follows:

Mr. TULLY, from the Committee on War Claims, submitted the following as the views of the minority:

The adverse report of this committee upon this claim is based not upon the demerits of the claim, but on the following grounds:

First. That the statements, made by the claimant in her petition, presented to the Southern Claims Commission, and the statement of the account presented to Congress are irreconcilable and so conflicting that they can not be made the basis of a favorable decision.

Second. That the legal title to the land and the personal property was in Jules J. Hebert, her husband, and not in the claimant, and that she had no separate estate, and the committee refuse to adopt the theory that one-half of the personal property belonged to her as the wife of Jules J. Hebert.

As to the first objection, we can not adopt the views of the committee as expressed in the adverse report.

We do not think that the discrepancies in the two accounts, namely, the one presented to the Southern Claims Commission and the one presented to Congress after she had procured the assignment from her husband, are such as to convict this claimant of an intention to commit or perpetrate a fraud upon the Government, and therefore to discredit her. On the contrary, we think that they are such as might have occurred, under the circumstances of this case, with persons far more conversant with the business affairs of life than this claimant can be supposed to have been.

But it is not necessary to rely upon the statement of the claimant in this case. The taking of the property and its use by the Army are conclusively proved by the officers in command of troops, who ordered the seizure, and the quantity, kind, and value are all satisfactorily proven by parties who had personal knowledge of the same.

The loyalty of the claimant and her husband is also proven beyond controversy, and we are clearly of opinion that upon the merits of the case the claimant ought to be paid for the property which the Government has had the benefit of.

As to the second ground of objection named in the adverse report, we have to say that we do not think this case comes within the spirit of section 3477 of the Revised Statutes. That act was evidently passed to prevent persons who were well advised as to the status of a claim from taking advantage of the ignorance of the claimant and purchasing it for much less than the real value, as known to the would-be purchaser, and this is not only our view, but it has been so held by Congress in several instances; in fact, this same question has been passed upon in this case at six different times by different committees in the House and Senate, and the bill passed the House once after a full discussion of this question.

Again, in the case of the claim of Dodd, Brown & Co., assignees, reported by Mr. HOAR, of the Committee on Claims in the Senate, in the second session of the Forty-sixth Congress, report No. 714, the question was directly made, and the assignment was allowed, and the claim paid to the assignees, amounting to some $40,000. But it is not necessary to get rid of this statute to establish the right of this claimant to prosecute this claim before Congress or elsewhere; and to show that we are right and that the grounds taken in the adverse report are wrong upon this question, we quote substantially from the laws of Louisiana bearing directly upon this question, as follows:

"Every marriage contracted in the State of Louisiana superinduces a right of partnership, or community of acquets or gains, if there be no stipulation to the contrary. (See Voorhies, Rev. Civil Code, page 440, art. 2399.)

"This partnership or community consists of the profits of all the effects of which the husband has the administration and enjoyment, either of right or in fact, of the produce of the reciprocal industry and labor of both husband and wife, and of the estates which they acquire during the marriage, either by donation made jointly to them both or by purchase, or in any other similar way, even though the purchase be only in the name of one of the two, and not of both." (See Voorhies, Rev. Civil Code, page 441, art. 2402.)

Again:

"The effects which compose the partnership or community of gains are divided into two equal portions between the husband and the wife, or between their heirs, at the dissolution of the marriage; and it is the same with respect to profits arising from the effects which both husband and wife brought reciprocally in marriage, and which are administered by the husband or by husband and wife conjointly, although what has been brought in marriage by either the husband or the wife be more considerable than what has been brought by the other, or even although one of the two did not bring anything at all." (See same authority as above, page 442, art. 2406.)

And further:

"The fruits hanging by the roots on the land belonging separately to either the husband or the wife at the time of the dissolution of the marriage are equally divided between the husband and the wife or their heirs; it 'is the same with respect to the young of cattle yet in gestation.'" (See same authority, article 2407, same page as above.)

Again:

"The woman separated from bed and board, or absolutely divorced, has no need in any case of the authorization of her husband, as this separation or dissolution of the marriage carries with it not only a separation of property, but a disolution of acquets and gains." (See same code, page 65, article 123, and page 72, article 159.

Under these laws it is difficult to see how it can properly be said that the claimant had no authority or right to prosecute this claim except such as might have been conferred by the assignment made in 1874, and that that assignment was void.

It seems to us that she clearly had the absolute right to half of this property when she presented her petition to the Southern Claims Commission in 1873, by the laws of her State, and that she subsequently acquired the right to the other half by the assignment from her husband, from whom she was divorced in 1871, and had the clerk of the Southern Claims Commission understood the laws of the State of Louisiana on this subject he would not have sent her away to procure an assignment from her husband, telling her that she had no right to prosecute the claim without it, even for one-half.

Under his direction, however, she returned home, and not until a year had elapsed did she succeed in procuring the assignment, and then the time for filing claims before the Southern Claims Commission had expired, and she came to Congress, and, of course, asked for the whole amount of the claim.

Since that time there has been no less than six favorable reports from committees of both Houses of Congress upon this claim, varying in amounts from $21,090 to $31,700.

It seems to us, from the evidence before us, that there can be no question about the merits of this claim or the loyalty of the claimant, the only question being as to the amount, and that asked for in the bill is the least amount for which the case was ever reported by the several committees that have personally examined the claim, to wit, the sum of $21,090, and that sum we think she ought to be paid.

P. B. TULLY.
L. H. WELLER.
WM. P. KELLOGG.

From facts and information acquired since the majority report was made, I agree to the above report.

JNO. B. STORM.

I concur in the above.

WM. F. ROGERS.

Mr. STORM. Mr. Speaker, I feel no personal interest in this case, and am conscious of no feeling whatever growing out of my connection with the minority report. The claimant is to me an entire stranger. In the first consideration of this case I agreed with the majority of the committee in the report that was first read, but after that report was printed I discovered that we had made a mistake, and subsequently I was led to join the minority of the committee in making the report last read.

There was not much difference in the committee, I think, as to the fact that the Government took the property as claimed in this case; but there was a question about the legal capacity of the claimant, Mrs. Hebert, to prosecute this claim, in view of her disability under the married woman's law of the State of Louisiana. But learning subsequently that we were clearly mistaken with regard to the law of that State upon this subject, a number of us reconsidered our assent to the majority report and joined in making the minority report.

Permit me to say, Mr. Chairman, that although this is styled the report of the minority, yet it has the support of a majority of the members who considered the case. There were nine members of the committee present during the consideration, and five of them have now signed the minority report.

Mr. Chairman, the report of the majority is based largely upon the fact that there is a discrepancy between the statement made by this claimant when her claim was originally presented to the Southern Claims Commission and her claim as she subsequently made it to Congress. This discrepancy is relied upon as evidence of fraud; and the majority of the committee say it ought to work the defeat of the entire claim. But when we consider the unfortunate condition of the claimant in this case, living at the time the property was taken far away from the place where it was taken—living in the city of Saint Louis while this property was taken from a plantation in a parish in Louisiana—and when we consider also that these claims are usually made through the assistance of attorneys or claim agents, it would certainly seem to be unjust to scrutinize the claim presented by this woman under the circumstances of this case by the same rules which we would apply to cases where the parties were in a situation to know all the circumstances surrounding their claim and had the means of obtaining all the information necessary upon which to base a full and complete claim.

This lady when she made her claim before the Southern Claims Commission did not know the whole amount of the property which had been taken by the Government; and afterward, when she made her claim to Congress, this subsequent claim embraced property which had been omitted in the former claim, because the fact that such property was taken had not come to her knowledge when the first claim was presented.

It is a rule of law that a plaintiff may recover a smaller sum than that claimed in his declaration, but not a larger sum; and we do not propose now to pay this claim to the extent of the amount set forth in the second claim. Indeed the amount which the minority of the committee have recommended to be paid—and the amount proposed to be paid by the bill which the minority ask the House to adopt—is smaller than the amount named by this lady either in her claim before the Southern Claims Commission or her claim as presented to Congress. It is less by several thousand dollars than the smaller claim, and much less than one-half of the larger claim. I am sure no gentleman of this House will say that if this claimant did lose property to the amount of $21,900 she ought to be deprived of all compensation because she at one time filed a statement claiming a much larger sum.

The Government of the United States, having taken this property and rendered no vouchers for it, having taken it when the claimant was a thousand miles away from the place where the property was taken, ought not now to say that because the claimant is obliged to rely upon the testimony of some colored people who lived upon the plantation and such Army officers as may recollect the transactions and give their statements or affidavits in support of the claim therefore this testimony ought to be regarded with great suspicion. Colonel Allcot, who was present, testifies to the taking of the property, says that some 4,000 Government troops were in the immediate neighborhood of this plantation, and states that it was his intention to issue the proper vouchers for the property taken, but owing to a sudden order for the troops to move from that neighborhood there was not time to make out the vouchers.

This claimant, now some twenty or twenty-three years after the occurrence of the facts, presents the best testimony she can, and all that she can. Some twenty or twenty-five witnesses have testified to their recollection of the quantity of property—the corn, the wood, the poultry, the fencing, &c., that were taken and used by the Army. I take it that it ought to be considered conclusive of the fact that the Government did take her property and use it to the extent of $21,900; and indeed I understand the majority goes to that length. It states:

Your committee have examined the various reports and have carefully examined all of the testimony in the case. The claimant has supplemented her proofs from time to time by adding new affidavits to meet the objections which have arisen, and there is now a large amount of evidence bearing upon the alleged taking of the property and the loyalty of the claimant.

And further on in the report it is stated that—

If it were not for the features alluded to further on in the report your committee might feel bound to say that the preponderance of evidence is with the claimant on these issues.

I may say there is no evidence here against this claim. There is not a counter-statement or affidavit anywhere in the case contradicting this testimony. It is only that general way of carping over it, of picking at it, because the statements are more or less indefinite—not specific, gathered some time after the property was taken, and not satisfactory; that it is *ex parte*, and so on. I believe the evidence which comes into this House to support claims, as a rule, is *ex parte*, and, of necessity, must be such.

Then what is the ground by which the majority of the committee seek to avoid paying this claim for the amount of property they admit in their report was really taken?

Mr. HOLMAN. Before the gentleman answers the question which he now asks, I would like to inquire of him whether or not this claim was presented to the Southern Claims Commission, and, if so, what explanation is given of that matter, if any.

Mr. STORM. I will say in answer to the gentleman from Indiana [Mr. HOLMAN] that this claim was presented to the Southern Claims Commission. It is in the testimony that the clerk of the Southern Claims Commission stated that the claimant, Mrs. Hebert, being at that time a married woman, had no standing in that court and could not make the claim herself; that she must go and get an assignment of the interest or right of her husband before she could have any standing in that court. She testifies that she proceeded to do so, but before she was able to get that assignment from her husband that commission itself expired by limitation of time and was no longer in existence as a tribunal before which she could present her claim. But I will discuss that subject further on, because the question involves further discussion under the second head of this case.

I think at the time when Mrs. Hebert presented this claim to the Southern Claims Commission her husband was living. Whether she was at that time divorced from him or not by decree of the court of Louisiana I am not sure. I believe the decree of divorce had been issued from the court in Louisiana, but that no decree of alimony had been made in the case. Believing the clerk of the Court of Claims was properly advising her, she went to get that which I will argue it was not necessary at all for her to have. For we claim under the law of Louisiana such authorization or assignment from the husband was unnecessary. In fact, as I understand the report of the majority, they say they are of the opinion that the claimant had no authority or right to prosecute this claim, except on the ground of the assignment in 1874 by Jules J. Hebert to herself. He was her husband.

It is upon that mistaken assumption of the law that the majority of the committee have reached the conclusion they have. I desire now to call the attention of the committee to what the law of Louisiana is on that subject. It was read by the Clerk, but I desire again to call the attention of the committee to it, because upon the proper understanding of that law you will have to decide the case. The law of Louisiana differs from the laws of many States, and especially from the laws of my own State, where the right of a married woman to acquire an estate in the joint earnings of husband and wife during coverture is very limited. Indeed, married women are not permitted under the laws of Pennsylvania to have any estate in their earnings; but that is not the law in Louisiana:

Every marriage contracted in the State of Louisiana superinduces a right of partnership, or community of acquets or gains, if there be no stipulation to the contrary. (See Voorhies, Rev. Civil Code, page 440, art. 2399.)

This partnership or community consists of the profits of all the effects of which the husband has the administration and enjoyment, either of right or in fact, of the produce of the reciprocal industry and labor of both husband and wife and of the estates which they acquire during the marriage, either by donation made jointly to them both or by purchase, or in any other similar way, even though the purchase be only in the name of one of the two and not of both. (See Voorhies, Rev. Civil Code, page 441, art. 2402.)

Again:

The woman separated from bed and board, or absolutely divorced, has no need in any case of the authorization of her husband, as this separation or dissolution of the marriage carries with it not only a separation of property, but a dissolution of acquets and gains. (See same Code, page 65, art. 123, and page 72, art. 150.)

So in this case there was no necessity for the authorization; there was no necessity for the assignment to her, because the divorce *ipso facto* restored her to all the rights of what I would call in my State a *feme sole* trader.

That being the case, and discovering with many others that I was mistaken as to the laws of Louisiana governing the right of the claimant in this case, we have done what we could to prevent any wrong to

this claimant by submitting a minority report, putting ourselves right not only upon the facts, but the law applicable to those facts.

Since then the husband of this claimant has died, and all possible claims against the estate, as I am informed by gentlemen learned in the law in that State who sit on either side of me, would be barred. There can be no one to question the right of this claimant in this case not only to have a standing in court, were such a tribunal in existence before which she could appear to assert her right to one-half of the property, but she has the right to claim the whole because of the good and valid assignment of her husband either before or subsequent to the divorce, and by virtue of the laws of the State of Louisiana, by which she acquires a good title to all of the property claimed in the bill. So that she has a complete legal right in the case, and no one, except it be the creditors of the estate of the husband—who do not appear, and who have no standing here as I understand it, for they would be barred by the statute of limitation—would have any right as against her in the premises. She is here the sole claimant and owner of this claim and is the only person entitled to full compensation for the property taken or destroyed.

As far as the loyalty of this claimant is concerned it is fully proved by competent testimony and will not be questioned in the debate, whatever else may be said about her. And I submit that after some twenty-two years' waiting, having all the personal property on a large plantation utterly destroyed and she reduced to want and penury—when she has been before this Congress these many years seeking a hearing and redress, it is our duty to listen patiently to her appeal and give full consideration to the facts presented. She has had already two favorable reports from the Claims Committee of the Senate. She has had two favorable reports from committees of this House as against one adverse report—I think in one case made by General Bragg, of Wisconsin; but five times out of six the reports have been favorable to the allowance of this claim, and this bill once passed the House.

Mr. ELLIS. Twice.

Mr. STORM. Yes, I recollect, twice passed the House; and I do think, therefore, that there ought to be an end to this contest and delay, and that this woman who has been dancing attendance in the halls of this House for twenty years ought now to receive a just compensation, which I assert here is equitably due her. I hope the relief will be granted.

Mr. JONES, of Wisconsin. Mr. Chairman, it is only fair to the Government of the United States that there should be some short presentation of the other side of this case. In the Committee on War Claims this case was referred to me as a subcommittee. I gave it as careful and as attentive consideration as I could, and it seems to me, after a full investigation, that there are various grounds on which it ought not to be allowed.

I call the attention of the committee in the first place to the fact that ten years slipped away before the claimant found out that she had any claim whatever, of either $20,000 or $40,000, against the Government, and before it was presented to any court or to any Congress, in fact before it was heard of in any shape. Where her husband was I know not. It is only fair to presume that if he had a claim of $20,000 or $47,000 against the Government he would have presented his claim at an earlier period. But finally in 1873 the claim was first heard of. It was then presented to the Southern Claims Commission. Not succeeding in that court, the claimant comes to this last resort of claimants, the Congress of the United States, and presents her claim here, and we are called on to examine the testimony and pass judgment upon it. Ten years had passed away. The Government had had no opportunity to gather testimony to defend against this claim. Under such circumstances it is only fair to the Government of the United States that we should look with careful scrutiny upon the *ex parte* evidence thus produced.

It seemed only fair that the plaintiff should have presented a statement of the facts on which she bases her claim such as would bear upon its face at least a semblance of accuracy and truthfulness. But instead of that the claimant has presented statements of so remarkable a character that I wish to call them to your attention. I may say, briefly, that the testimony she presents is highly contradictory. There are witnesses swearing that this claimant lost a considerable amount of property. But General Halbert E. Paine, then in command of the troops at that point, and who ought to know something of the merits of the claim, has a statement in the papers on file in the case in which he says that it was his custom to give vouchers for all goods and supplies used for the troops at that time. He states that he has no recollection whatever of any such dealings as are claimed in this particular case. The claimant in this case, instead of being a thousand miles away, as suggested by the gentleman from Pennsylvania [Mr. STORM], testifies herself to having several times had communication with General Paine. She claims that he knew the facts concerning the amount of the claim and the character of the property taken. He says that he did not.

He says that there were ample supplies for his troops and that there was not any reason why this large amount of property should have been taken under these circumstances. And not only that, but the Government of the United States appointed a special agent to go and examine into the facts and merits of the claim. That special agent went down there and examined witnesses, looked carefully over the ground, and gave as his opinion that the whole plantation, if in cultivation, could not have produced or supported the amount of property the claimant said had been taken. He states further that in the year in question only a very small portion of the plantation was in cultivation. His statement is to the effect that the cribs on the plantation would not have contained half the corn claimed to have been taken. In fact, I should infer from his statement that her claim is one tissue of exaggeration, if not of absolute falsehood. I should infer from it that she charges as much for fencing, for example, as the whole plantation was worth.

Now we come to the testimony of the claimant herself in support of her claim. She has made two or three sworn statements. She came first to the Southern Claims Commission and made her statement, stating her claim in the first instance against the Government at $23,000. Years afterward she makes another sworn statement before Congress. She doubtless then assumed that the old statement was forgotten. I say she assumed that, for she must have known that the two statements could not have looked each other in the face. That each would have straightway stared the other out of countenance. There are the most glaring misstatements, discrepancies, and differences between them; such discrepancies as can not possibly be reconciled.

In the first statement, for example, she swears that she lost five hundred cords of wood, and puts a price upon it; in the second statement these five hundred cords of wood had grown to 1,500. Both statements were sworn to by the claimant. Which will you accept?

In the one statement she charges for poultry to the amount of $500; in the other statement she had forgotten her long-lost chickens and turkeys or the most of them; at least she charges only $100. In one statement she charges for eight oxen; in the next statement those eight oxen had propagated their kind with such success that they had become twenty beeves. [Laughter.] In one statement she charges lumber to the amount of $5,000 against the Government; in the other she thinks the Government can afford to double the amount, and she swears that it was worth $10,000. Then we come to another item, a trifling item, a mere bagatelle, which she had forgotten entirely in the first statement—only $6,000 for fencing. In one statement she omits this; in the other she claims it.

When our committee came to look over those statements and pass upon them they seemed to us such statements as no jury in Christendom ought to be asked to accept. It seemed to us that those statements must be reckless, and, to put it mildly, utterly unreliable, and we had to disregard them. The specious pretext is now made that in the first claim she was simply demanding the value of one-half of the property taken, and that before the second claim an assignment had been made. These two statements quarrel too bitterly to be reconciled by any such theory. In the one the claim for lumber is three times what it is in the other; not one-half. The claim for mules, in one statement, is $1,200; in the other, $500; not one-half. In the one statement hogs are worth $30 each; in the other, $10; ten is not one-half of thirty. In the one statement she charges for twenty beeves and in the other for eight oxen. There is no arithmetic or process of logic which can make eight oxen the half of twenty beeves or $100 worth of poultry the half of $600. The two statements are utterly inconsistent. They can not be reconciled with each other.

We do not need therefore to discuss the law of the State of Louisiana. I say, with all deference however, I think the gentleman from Pennsylvania [Mr. STORM] is mistaken as to that law. I do not profess to be learned in the civil law of Louisiana, but my impression is that the civil law of Louisiana does not give to a wife on her marriage one-half of all her husband's estate.

Mr. HUNT rose.

Mr. JONES, of Wisconsin. I will tell you what I think it does do. I think it gives the wife one-half of the gains, one-half of the accumulations subsequent to marriage. The gentleman from Louisiana takes his seat. I think he will not dissent from that proposition. He concedes that I am right in that view. Now, search this evidence and you will find no evidence whatever which shows that this property was accumulated after the marriage of these parties.

Mr. HUNT. Will the gentleman allow me to correct him there? He is not exactly right. The law of Louisiana presupposes a partnership in the absence of a contract between husband and wife, which they call a community of acquets and gains.

Mr. JONES, of Wisconsin. Do you claim that on a marriage the real estate belonging to the husband at once becomes in half the property of the wife?

Mr. HUNT. No, sir; nobody ever claimed that.

Mr. ELLIS. But the presumption is that in the absence of a contract this community exists.

Mr. JONES, of Wisconsin. As to property subsequently acquired?

Mr. ELLIS. Yes; and this property was acquired long after the marriage.

Mr. JONES, of Wisconsin. As to that you are mistaken.

Mr. ELLIS. I am not mistaken.

Mr. JONES, of Wisconsin. If I remember rightly this property belonged to Hebert before the marriage.

Mr. STORM. The gentleman from Wisconsin claims these rights

apply only to acquisitions subsequent to the marriage. How does he explain this in the code?

The effects which compose the partnership or community of gains are divided into two equal portions between the husband and the wife, or between their heirs, at the dissolution of the marriage; and it is the same with respect to profits arising from the effects which both husband and wife brought reciprocally in marriage—

Now mark—

and which are administered by the husband, or by husband and wife conjointly, although what has been brought in marriage by either the husband or the wife be more considerable than what has been brought by the other, or even although one of the two did not bring anything at all.

That must refer to property acquired before they were married.

Mr. JONES, of Wisconsin. I have before me Kent's Commentaries, and I think it will bear out my statement. I have not time to stop to discuss this question at length. I do not regard it as a material question in this case. And the gentlemen from Louisiana do not seem to materially differ from me on this subject.

I leave these two statements of the claimant to any man who will weigh evidence, and let him say if he could with any degree of certainty find what property was taken by this Government from this woman. The statements are so utterly contradictory, it is so impossible to reconcile them, that it is useless to quibble about the laws of Louisiana on that subject. I discredit these statements, or, to be more accurate, they discredit themselves.

Mr. HUNT. The gentleman will not question that property which is the separate property of one of the spouses may *post* marriage produce fruits, which fruits by virtue of contract will form part of the community of acquets and gains?

Mr. JONES, of Wisconsin. I do not dispute that. I think the gentleman from Louisiana [Mr. HUNT] and myself more nearly agree than I do with the gentleman from Pennsylvania [Mr. STORM]. I think the gentleman from Louisiana [Mr. HUNT] is right in his view of the law of his State. My claim is that the evidence shows this property not to have been the accumulations made after marriage, but the separate property of Jules Hebert. This farm belonged to him before marriage. What right had the wife to compensation for this fencing, for instance?

Now, let me refer for a moment to this assignment. The gentlemen who are advocating this claim assert that a plain statute of our Government ought to be disregarded. They argue in their report that when our statute prescribes that certain assignments are null and void, Congress should exercise its discretion and treat them as valid. If these assignments are invalid under the statute of the United States, then this Congress has no right to disregard the law. If we disregard it in this case we will be asked to ignore it in others. We should repeal it or respect it.

I have tried, Mr. Chairman, to be brief in presenting the objections to this claim. I will say also that neither in my report nor in my remarks have I been severe upon this claimant. There has been another report filed previously in another Congress which was far more severe in its strictures upon these two remarkable statements which have been made by this claimant.

MESSAGE FROM THE SENATE.

The committee rose informally; and the Speaker having resumed the chair, a message from the Senate, by Mr. SYMPSON, one of its clerks, announced that the Senate had passed without amendment the bill (H. R. 5639) extending the jurisdiction of justices of the peace in Wyoming Territory.

Also, that the Senate had passed bills of the following titles; in which concurrence was requested:

A bill (S. 2470) providing for the establishment of a port of entry at Mount Desert ferry, in the town of Hancock, in the State of Maine; and

A bill (S. 2436) to authorize the President to appoint commissioners to the Belgium international exhibition at Antwerp, and for other purposes.

Also, that the Senate had agreed to the amendment of the House to the bill (S. 12) for the relief of Elizabeth Carson.

The message further announced that the Senate insisted upon its amendments disagreed to by the House of Representatives to the bill (H. R. 7874) making additional appropriations for the naval service for the fiscal year ending June 30, 1885, and for other purposes, and agreed to the conference asked by the House on the disagreeing votes of the two Houses thereon; and further, that it had appointed Mr. HALE, Mr. ALLISON, and Mr. BECK as conferees on the part of the Senate.

MRS. ELIZA E. HEBERT.

The Committee of the Whole House on the Private Calendar resumed its session.

Mr. ELLIS. Mr. Chairman, for twelve years, in summer's heat and winter's snows, this claimant has knocked at the doors of Congress, the great ultimate court for everybody who has a claim against this Government, for justice. This claim was presented to the Forty-third Congress, was reported favorably, and passed this House almost unanimously.

A MEMBER. Under a suspension of the rules.

Mr. ELLIS. It was reported in the Forty-fourth Congress by the present distinguished Senator from Michigan, then a member of this House [Mr. CONGER], and we all know that if there was any one who was prejudiced against claims of this class it was he. It was easier, of course, for a camel to pass through the eye of a needle than for a claim to pass favorably the rigid inspection of OMAR D. CONGER; yet he reported this claim favorably and was active in favor of its passage in the Forty-fourth Congress.

In the Forty-fifth Congress it was again reported favorably, but it died, as so many of our bills die, on the Calendar. In the Forty-sixth Congress it was again reported favorably, and finally it fell into the hands of a member from Wisconsin, General Bragg, and was by him reported to the House in a characteristic way—adversely. Passed twice by the House, five times favorably reported by committees of this House, twice passed in the Senate, it comes to us with the indorsement of committees and of Congresses. I take it, Mr. Chairman, that all we want to do is justice.

Let us see, then, in the first place, if this lady is the proper claimant. This House will require that it be proven and shown, first, that she is the proper claimant. In the second place, the House will demand that it be shown that she and her husband were loyal to the Government of the United States. In the third place, it will be demanded that it shall appear that this property was taken for the use of the troops of the United States. If these three propositions be maintained, then there is not a man in this House who will vote againt this claim.

The first question is, Is this the proper claimant? My friend from Louisiana [Mr. HUNT], long a learned professor in our law institution there, has correctly stated the law. The law of Louisiana presupposes, from the very act of marriage, in the absence of contract, a community of acquets and gains. It is established by virtue of the marriage. The husband may bring in separate property; it remains his separate property. The wife may bring in separate property; it remains her separate property. But whatever is acquired after the marriage by the common economy, the effort of both, enters into the community of acquets and gains, in which the wife is entitled to share equally with the husband.

A MEMBER. The testimony utterly fails to show that this property was acquired subsequent to their marriage.

Mr. ELLIS. Mr. Chairman, it was not real property that was taken; it was personal property; it was poultry, animals, stock, cords of wood—property of the kind that is accumulated in a year or in two years or sometimes in a month. It was not real property, it was personal property that was taken, and the burden is upon the Government to show that it was the separate property of the husband; for the presumption of the Louisiana law is that it was acquired after marriage and belonged to the community of acquets.

Now, what about the assignment? Sir, the provision of the code is textual, that the husband may give his wife anything that he could give to a stranger. The exception is that he can not give her anything in fraud of creditors. He may assign to her during the marriage not in fraud of creditors; but if he is out of debt and there is no fraud upon any creditor, then the husband may give to the wife whatever he could give to anybody else. So in that view of the case the assignment is legal.

But the truth is that the community was dissolved prior to the presentation of this claim by divorce in 1871; and whenever the community of acquets and gains is dissolved, whether by death, marriage, or divorce, that moment the rights of the parties are fixed and at that very moment the wife becomes entitled to one-half of the property. So that, whether you take it in view of the assignment, or whether you take it in view of the divorce, or whether you take it in view of the recent demise of the late husband, the rights of this claimant have become fixed, and she is entitled to one-half the claim. But the committee have guarded the bill so as to require her to produce the receipt of the late husband or of his legal representatives, and to take the amount in full and final payment of the entire claim. She is the guardian of their children, some of whom are minors. She is the guardian of the children, and as such is constituted, by the law of Louisiana, the administratrix of the estate. So that in every view of this case she is the proper party in court.

But the gentleman says that there was an assignment in fraud or in violation of law. Why, Mr. Chairman, the provision of the United States statute which prohibits the assignment of claims is made for this purpose only, to prevent parties who are well informed as to the value of claims from taking advantage of the ignorance of the parties in interest and buying up valuable claims for a mere song. That is the intendment of the statute.

Mr. Chairman, I think I have succeeded in showing the House beyond peradventure of a doubt that the proper party is in court, and that there has been no violation of any statute of the United States in the assignment in this case. Why, sir, what led to that assignment? Coming here a woman, ignorant of the law, she went to the Commissioners of Southern Claims and was informed that she was not the proper party to present the claim. Ignorant of the law at her home, ignorant of the law here, she took the word of the clerk, who was himself an ignoramus in the civil law, in the common law, and in the law of justice, and she went off to obey what she thought was the *ex ca-*

thedra judgment of the commissioners of Southern claims to get the assignment, and her husband gave it. Therefore she is the proper party in court.

In the second place, was she loyal to the Government of the United States? Why, Mr. Speaker, there can be no question of that fact. She and her husband remained loyal to the United States throughout all that long and dismal period of the civil war. Her home and her outbuildings were the hospitals and the home of Union soldiers; she herself was the nurse of Union soldiers. Her house was the headquarters of Federal officers. General Banks testifies to this; General Halbert E. Paine testifies to it; Captain Allcot testifies to it; Governor Wiltz testifies to it; Mr. KELLOGG, now a member of this House, who was then down in Louisiana, has testified to it. Ay, out of the lips of a hundred witnesses her loyalty and the loyalty of her husband to the Government of the United States have been perfectly established. I take it, then, that my friend from Wisconsin [Mr. JONES] will not controvert the second point in the controversy.

This lady, then, is the proper party in court, and she was loyal to the Government of the United States. It remains but to see whether this property was taken. Here is the testimony. My friend from Wisconsin certainly has not read General Paine's testimony recently. He says General Paine does not know anything about this matter. Now let us see whether he does or not. General Paine, now a well-known lawyer of this city, was in command of the troops who were encamped upon the plantation of the claimant. Of course the general in command of the troops was not supposed to know minutely or particularly what was or what was not impressed for the service of the troops; but here is his own statement:

DISTRICT OF COLUMBIA:

Halbert E. Paine, having been duly sworn, on his said oath deposes and says, that on the 7th day of February, 1863, the Second Brigade, Third Division, Nineteenth Army Corps, arrived at Indian Village, on Bayou Plaquemine, in the State of Louisiana, under his command, and remained there until the 22d of the same month; that on the 8th of that month he detailed Captain Craig—

The gentleman from Wisconsin says there were plenty of provisions there, plenty of supplies; that there was no need of impressing anything. Here is what the general in command says, and there is a difference between his statement and that of my friend from Wisconsin on this point—

On the 8th of that month he detailed Captain Craig, of the Fourth Wisconsin Regiment, and Allcot, of the One hundred and thirty-third New York Regiment, to seize necessary mules, horses, carts, wagons, forage, wood, and boats for the quartermaster's department, and sugar, beef, and pork for commissary department of his command.

If the statement of my friend from Wisconsin is true, that there were ample supplies there and no need of impressing any, upon what reason was this order of General Paine based?

That he required them to give receipts in a prescribed form for all property so taken and to turn the same over to Lieutenants Wooster and Brevorts, brigade quartermaster and commissary; that he required said Wooster and Brevorts to take up the property so turned over to them on their returns and to dispose of it according to law. That he required Captains Craig and Allcot to inquire and report concerning the loyalty of all persons whose property they should seize, and to avoid as far as they could the seizure of any property of loyal persons. That under this order so issued said officers, with the assistance of non-commissioned officers and privates detailed for that duty, made numerous seizures of property, which was used by affiant's said command. That affiant has no particular recollection as to the amount of the several kinds of property seized as aforesaid. And affiant further says that he stationed a detachment of troops at Plaquemine, on the Mississippi River, and another at a point on the Bayou Plaquemine, between Indian Village and Plaquemine, which points were mentioned, as affiant believes, until his command left that part of the country on the 22d of February. That he remembers Mr. and Mrs. Hebert, whom he saw at their residence on the road between Indian Village and Plaquemine. That he supposes his troops, of course, used the wood which they found most convenient for fuel.

The troops were encamped on the plantation of the claimant, and this wood was piled up on the bank of the bayou—

and that which was seized also by the officers detailed as aforesaid to seize wood and other property. That he has no personal knowledge of the taking of any such. That he has no doubt that all the forage, fuel, corn, and wood used by his command, which consisted of the Fourth Wisconsin, Eighth New Hampshire, One hundred and thirty-third New York, One hundred and seventy-fifth New York Regiments, and a battery of artillery of the regular Army, during the time they remained at Indian Village and Plaquemine, and at the intermediate post mentioned, were taken from the neighborhood.

Now, let us see why General Paine's order to these officers to give receipts to parties whose property they impressed was not obeyed. I turn to the testimony of one of the seizing officers, Captain Allcot, of New York. I invite attention to the testimony of the impressing officer himself:

CITY AND COUNTY OF NEW YORK,
State of New York:

John H. Allcot, of said city and State, being duly sworn, doth depose and say as follows: That he resides at No. 102 East One hundred and fourth street, in said city; that in the year 1863 he was captain in the One hundred and thirty-third Regiment New York Volunteers, and in the brigade commanded by General H. E. Paine, while in camp at Indian Village, Iberville Parish, Louisiana, near the plantation and house of Mr. and Mrs. Jules J. Hebert; that he was detailed as forage-master of the brigade at the time, his command comprising one captain besides himself and, as near as he can now recollect, some twenty enlisted men; that he visited the plantation of Mr. and Mrs. Hebert, and found thereon large quantities of cordwood, lumber, corn, and other articles; said wood, lumber, corn, &c., was seized by him and his command stationed at Indian Village. Further, said wood, corn, lumber, &c., were taken to camp in quantities as required, with the understanding that a receipt for the same should be given before the troops left. Said receipt was not given in consequence of the brigade being suddenly ordered away.

That is the reason this lady does not come here with the receipt of the impressing officer in her possession.

Further, that the place where the property was seized was known as Jules J. Hebert's plantation. That the stock, comprising cattle, sheep, mules, and hogs, were taken from the plantation of Mr. John A. Darden, and were claimed by Mrs. Hebert as her property while on our way to the camp; the cows were given up to her, but the remainder were refused and driven to camp. Further, that it has been represented to him that a certain Jules O. Neraux (who was at that time about 16 years of age), has made a statement to the effect that quantities of flour, pork, sugar, coffee, &c., were taken from the commissary stores by General Paine and his officers and given to Mr. and Mrs. Hebert in exchange for articles taken from them. Said statement deponent knows to be untrue, as no such transaction took place, or could have taken place, without his knowledge.

Thus we have from the lips of the impressing officer himself the story of this impressment of supplies for the service of the troops of the United States.

Then in another affidavit this impressing officer gives the following testimony:

STATE OF NEW YORK,
City and County of New York, ss:

John H. Allcot, of said city and county, being duly sworn, deposes and says, that in the year 1863 he was captain in the One hundred and thirty-third Regiment New York Volunteers, and was in the brigade commanded by Col. H. E. Paine while in camp at Indian Village, near the plantation and home of Mr. and Mrs. J. J. Hebert, and that as well as he can now recollect there were quite a number of troops encamped there in the spring of 1863, probably about 4,000, and that these troops were there for some considerable time, and while there cordwood and lumber were taken from their plantation and premises, Mr. and Mrs. Hebert's, by the Army, for the use of the Army, and the cordwood was used by the Army for fuel, and was necessary, and the lumber was used by the Army for flooring in the tents, the ground being very damp from overflow, and was necessary, and the said wood and lumber was so taken and used by officers and soldiers with the knowledge and authority of the officers, and was necessary at the time. The wood was used in the camp-fires to cook and wash by and was indispensable, as neither officers or soldiers could do without some fire. And further, that from all he could learn Mr. J. J. Hebert was always a loyal man and devoted to the cause of the Union from the beginning of the war.

Now, gentlemen of the committee, this testimony of the impressing officer is upborne by twenty-five or thirty witnesses, some of them black, some of them white, some of them soldiers, some of them civilians, who in one concurrent strain testify that the plantation and home of this loyal woman were devastated as only troops can devastate a place. Poultry, hogs, horses, mules, wood, lumber, were all taken with the knowledge and authority of the Federal officers, some by the direct order of the officer in command, for the use of the Army—taken from a loyal person. Then by what right under the law does any man say that this claim shall not be paid?

But my friend here, for whose ability and character I have so high a respect, declares that he can not support this bill because there is a discrepancy in the two statements presented.

Now let us see. These statements do conflict. But how? She presented her first claim to the Southern Claims Commission. Bear in mind that she was a lady, that she was unused to business matters, that she made out to the best of her knowledge and belief a true statement and fixed the prices thereto, that she was not a merchant, she was not in business, she was not a dealer in produce, poultry, cordwood, or anything of that sort, and was not supposed to know, and could not be supposed to know, the correct value of these things. She got some of her ideas from the state of affairs which existed in the South during the war when a cord of wood was worth $30 or $40, when a man would give all he had for a turkey and almost bankrupt his very soul for a chicken—she got some of these ideas from the war. That was in her first statement, but in her second statement these things are all moderated. They are cut down. The original claim, when these extravagant estimates were made, was in 1873 for $47,000, but it has been trimmed down, and the claim presented to-day, and which we believe to be just, is for $21,000.

I think, without detaining the committee any further, I have shown, first, that she is the proper party in court; in the second place, she was loyal to the union of the States, and in the third place the property was seized. I trust the committee will proceed at the proper time to do justice to this party. I reserve the balance of my time.

Mr. JONES, of Wisconsin. The gentleman from Louisiana thinks that I have made some mistake as to the letter of General Paine, and I will send to the Clerk's desk, to have read, his statement, so that the House may judge for itself.

Mr. ELLIS. I have read it.

Mr. JONES, of Wisconsin. Let the Clerk read it.

The Clerk read as follows:

WASHINGTON, D. C., *January* 28, 1880.

DEAR SIR: Your favor inquiring respecting an alleged seizure of quartermaster's and commissary's stores by my order in Iberville Parish, Louisiana, during the war (the property of Mr. or Mrs. Hebert), was duly received.

I have on several occasions answered the same inquiry, addressed to me by committees of Congress and by agents of the Southern Claims Commission, and perhaps of other tribunals; and in answering have been able, availing myself of my order-books, to give more precise information than I shall be able to give now, without any memoranda to refresh my recollection.

During the winter of 1862-'63 I was sent from Baton Rouge with my brigade (then the Second Brigade, Third Division, Nineteenth Army Corps), a squadron of cavalry, and one or two light batteries, to a place called Indian Village, on the Bayou Plaquemine, about nine miles distant from the village of Plaquemine, at

which the bayou makes its exit from the Mississippi River. I was sent to observe a force of the enemy then encamped at Rosedale, on the Bayou Grossetete, not far from Indian Village, and easily accessible from that point.

I established my headquarters at Indian Village, but also established posts at the village of Plaquemine and at a point about half-way between Plaquemine and Indian Village.

One day I was returning from an inspection of these posts, accompanied by your friend George W. Carter, then a captain in the Fourth Wisconsin Regiment, and at a point not far distant from this middle post was accosted by a gentleman at the road-side, apparently in feeble health, who said that his wife, who he said was sitting on the porch of his house, would be glad to see me. I alighted and went with him to the house, which was but a few feet from the road-side, where he introduced me to a lady whom I suppose to have been Mrs. Hebert, respecting the seizure of whose property you inquire. I think Captain Carter alighted also and heard our conversation, but I am not sure on this point. This lady said to me that her husband was sick and suffering for want of wheat flour, that the soldiers had taken her poultry, and that it would be a great favor to her if I would furnish her some flour. On my arrival in camp I sent her a barrel of flour. This was the first and last I ever heard of this lady, until I saw many years afterward in the city of Washington a lady whom I understand to be, but did not recognize as, the lady whom I saw that day.

Now I have no personal knowledge whether any property belonging to Mr. or Mrs. Hebert was or was not taken by my troops, but the facts which I am about to state will enable you to judge as well as I can as to the probabilities on this subject. Our supplies furnished by the Government at that time were abundant and excellent. A steamboat transported them to our camps. Immediately on my arrival at Indian Village I detailed a party, consisting of several commissioned officers and a considerable number of enlisted men (one of the officers being Colonel Craig, the last commander of the Fourth Wisconsin Regiment), whose duty it was, as defined in the order making the detail, to make seizures of corn, sugar, molasses, forage, beef, mules, and other supplies of which the country was then full, and to give to the owners of all property seized written receipts therefor. The party so detailed satisfactorily performed their duty, and no complaint ever reached me that they made any seizure without giving the voucher as my order required.

In view of the abundant supplies furnished by the Government and the large quantity seized by this party, I can imagine no temptation for the soldiers to incur the trouble of making seizures themselves of any of these articles except poultry.

I think that Colonel Craig is now in the mining region of Michigan, and that, if you desire it, I could procure his address and that of the officers who were associated with him in this business, and that from them you may be able to obtain information which is more definite and tangible than any I am able to give.

Regretting that my memoranda are not at hand to enable me to give you a more satisfactory answer to your inquiry,

I am, yours, truly,

H. E. PAINE.

Hon. E. S. BRAGG, M. C.,
House of Representatives.

Mr. ELLIS. May I inquire what is the date of that letter?

Mr. JONES, of Wisconsin. January 28, 1880.

Mr. ELLIS. Seven years before General Paine made the affidavit I read from, when his memory was better.

Mr. JONES, of Wisconsin. The affidavit does not state anything differently.

Mr. ELLIS. The affidavit states that he ordered the property to be taken, and the report of the officers shows that they went and took it. There is the issue, and I must ask again, in my own time, to show what there is in it.

Mr. JONES, of Wisconsin. You are mistaken, I think.

Mr. ELLIS. No; I am not mistaken. Let me read it:

DISTRICT OF COLUMBIA:

Halbert E. Paine, having been duly sworn, on his said oath deposes and says, that on the 7th day of February, 1863, the Second Brigade, Third Division, Nineteenth Army Corps, arrived at Indian Village, on Bayou Plaquemine, in the State of Louisiana, under his command, and remained there until the 22d of the same month; that on the 8th of that month he detailed Captain Craig, of the Fourth Wisconsin Regiment, and Allcot, of the One hundred and thirty-third New York Regiment, to seize necessary mules, horses, carts, wagons, forage, wood, and boats for the quartermaster's department, and sugar, beef, and pork for the commissary department of his command; that he required them to give receipts in a prescribed form for all property so taken and to turn the same over to Lieutenants Wooster and Brevorts, brigade quartermaster and commissary; that he required said Wooster and Brevorts to take up the property so turned over to them on their returns and to dispose of it according to law.

That was General Paine's order, and Captain Allcot's statement, which I have read, shows he took the property. If that paper be sent to me I will recur to it again.

Mr. STORM. The reporters have taken it.

Mr. ELLIS. He ordered the property to be taken, and the officers say that they took Mrs. Hebert's property.

The CHAIRMAN. The bill is reported from the committee with an adverse recommendation.

Mr. ELLIS. I move that the adverse report be non-concurred in.

The motion was agreed to.

The question was taken on ordering the bill to be laid aside to be reported to the House with a favorable recommendation.

The House divided; and there were—ayes 54, nays 17.

Mr. THOMAS. No quorum.

The CHAIRMAN. The point of order being made that no quorum has voted, the Chair will appoint tellers.

Mr. THOMAS. I withdraw the demand for tellers.

Mr. BREWER, of New York. I renew the demand.

The CHAIRMAN. The Chair will appoint tellers.

Mr. BREWER, of New York, and Mr. ELLIS were appointed tellers.

The committee again divided; and the tellers reported—ayes 138, noes 27.

So the bill was laid aside to be reported to the House with the recommendation that it do pass.

ORDER OF BUSINESS.

Mr. McMILLIN. I move that the committee do now rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. COX, of New York, reported that the Committee of the Whole House, having had under consideration the Private Calendar, had directed him to report sundry bills to the House with various recommendations.

PAPERS ON FILE IN THE STATE DEPARTMENT.

Mr. HITT, by unanimous consent, introduced a joint resolution (H. Res. 315) relative to certain papers in the State Department; which was read a first and second time, referred to the Committee on Foreign Affairs, and ordered to be printed.

LEAVE OF ABSENCE.

By unanimous consent, indefinite leave of absence was granted to Mr. MILLER, of Texas.

ORDER OF BUSINESS.

The SPEAKER. The first bill reported from the Committee of the Whole House on the Private Calendar is a bill coming over from last Friday.

Mr. McMILLIN. Mr. Speaker, upon that bill the yeas and nays were ordered. I suggest that by consent, as within about five minutes the House will take its usual Friday recess, we pass that bill over informally and take up the bills reported by the committee to-day, to which there is no objection, and which may be passed before the recess.

Mr. VALENTINE. Will the gentleman allow me a moment?

Mr. McMILLIN. I wish to state that I have no interest in the matter except to further the business of the House.

Mr. VALENTINE. I ask the gentleman to allow me to make a brief statement in reference to a bill which I hold in my hand.

Mr. McMILLIN. I have no objection to the gentleman making a statement.

Mr. VALENTINE. I have a bill here upon which I desire immediate action. It is a very important measure, and I am satisfied a brief statement will convince gentlemen of the propriety of its adoption.

This bill if passed will relieve the Private Calendar of more bills than have been taken from it during the present session of Congress, although it is general in its nature. It is a bill for the purpose of extending the jurisdiction to the Secretary of the Treasury to issue certified copies of lost checks.

Mr. STORM. Regular order!

Mr. VALENTINE. I hope the gentleman will not call for the regular order.

The SPEAKER. The regular order is the call of the roll on the adoption of the amendment reported from the Committee of the Whole House on last Friday. On that amendment it will be remembered the yeas and nays were ordered.

Mr. BAYNE. I ask unanimous consent that inasmuch as it is within a very few minutes of the recess, the previous question be considered as ordered and then let it go over to come up as unfinished business to-morrow.

The SPEAKER. The question is on the adoption of the amendment, upon which the yeas and nays have been ordered.

Mr. BAYNE. I ask unanimous consent that the previous question be considered as ordered on the bill and amendments, and then I will accept the proposition of the gentleman from Tennessee and let it go over.

Mr. McMILLIN. It will be too late for the gentleman to accept the proposition in a moment, the time having about arrived for the recess. [Cries of "Regular order!"]

The SPEAKER. The regular order is the call of the roll. The Clerk will call the roll.

Mr. BAYNE. I hope my request will be submitted to the House.

Mr. STORM. I withdraw the demand for the regular order.

The SPEAKER. The gentleman from Pennsylvania requests that the previous question may be considered as ordered upon the adoption of the amendment reported from the Committee of the Whole House on the Private Calendar and upon ordering the bill to be engrossed and read a third time and also upon its passage, for unless that is done it will not come up as unfinished business except on Friday.

Mr. WARNER, of Ohio. And if that is done will it come up to-morrow?

The SPEAKER. It will.

Mr. WARNER, of Ohio. What bill is that?

The SPEAKER. It is the Bigley bill—the bill for the relief of Nicholas Bigley, coming over from last Friday. Is there objection to the request of the gentleman from Pennsylvania?

Mr. HOLMAN. I hope the bill will be read.

Mr. BAYNE. I hope the gentleman from Indiana will not insist on having the bill read now, but will consent to the request I made.

Mr. WARNER, of Ohio. Let the vote be taken upon it on Friday next.

The SPEAKER. Objection being made, the regular order is the

question on the adoption of the amendment to this bill, and upon that the yeas and nays have been ordered. The Clerk will proceed to call the roll.

Mr. HEWITT, of Alabama. It only lacks a minute and a half of the time for recess. I move that the House do now adjourn. [Cries of "No!" "No!"]

The question was taken; and on a division there were—ayes 34, noes 61.

So the motion was not agreed to.

Mr. VALENTINE. I make the point of order that the hour has now arrived when under a previous order of the House we must take a recess.

The SPEAKER. The gentleman from Tennessee [Mr. MCMILLIN] will preside as Speaker *pro tempore* at the evening session.

The hour having now arrived when by order of the House a recess is to be taken, the Chair declares the House in recess until 8 o'clock.

EVENING SESSION.

The recess having expired, the House reassembled at 8 o'clock p. m., Mr. MCMILLIN in the chair as Speaker *pro tempore*.

ORDER OF BUSINESS.

The SPEAKER *pro tempore*. The Clerk will read the order under which the session is held this evening.

The Clerk read as follows:

That until the further order of this House, on each Friday the House will take a recess at 5 o'clock until 8 p. m., at which evening sessions bills on the Private Calendar reported from the Committee on Pensions and the Committee on Invalid Pensions shall be considered.

Mr. MATSON. Mr. Speaker, I move that the House resolve itself into Committee of the Whole House on the Private Calendar for the consideration of business under the order just read.

The motion was agreed to; and the House accordingly resolved itself into Committee of the Whole House on the Private Calendar, Mr. STOCKSLAGER in the chair.

Mr. MATSON. I ask unanimous consent that the business of this evening may begin, on page 45 of the Calendar, with the case of David T. Dudley. There are some cases preceding it on the Calendar which have been disputed. I ask that these be passed over informally.

There was no objection.

DAVID T. DUDLEY.

The Clerk read the bill (H. R. 6965) granting a pension to David T. Dudley, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of David T. Dudley, late a private in Company C, Fourth Regiment Michigan Volunteers.

Mr. HEWITT, of Alabama. I ask that the report be read, and to save time I ask now that in each case after the reading of the bill the report be read.

The report (by Mr. MORRILL) was read, as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 6965) granting a pension to David T. Dudley, submit the following report:

We find that this soldier enlisted in Company C, Fourth Michigan Volunteers, June 20, 1861, and was discharged June 13, 1864. He was taken prisoner at the battle of Gettysburg, July 2, 1863, and was confined at Richmond until August 29, when he was paroled. He claims to have contracted rheumatism and diarrhea while a prisoner of war. Two of his comrades, S. Morse and W. J. Munroe, testify that he was sound and well up to the time of his capture; that when returned to his command he was sent to the hospital to be treated for rheumatism and diarrhea. The hospital records show that he was treated for intermittent fever, which is not inconsistent with the testimony of the comrades above referred to.

Orderly Sergeant F. G. Halstead testifies:

"He was taken prisoner with me while in line of duty; was well while on the march to prison, and was stricken down with the rheumatism about the last of July, 1863, and was very bad off from the first, and grew worse, until he was unable to help himself. That I did take care of him the most of the time until his release, which I think was in August, 1863. This disease was contracted while in Belle Isle, Virginia, a prisoner of war, taken in the battle of Gettysburg, July 3, 1863."

He further says his knowledge of the above facts is obtained from the following source, namely:

"That I was with him most of the time during his service in our company, and having the care of him while sick on Belle Isle. That I saw him in 1865, and he was suffering from the same disease."

November 28, 1881, Dr. M. M. Butler testifies that he has been claimant's family physician since 1872, and that he has been and still is suffering with rheumatism and diarrhea.

July 20, 1881, the examining surgeon at Plattsmouth, Nebr., certifies that he finds the right leg smaller than the other, measuring two inches less in circumference. That he finds his disability from rheumatism to be one-half, his disability from diarrhea nothing. The case was rejected in the Pension Office on the ground "that there was no record of alleged disease," &c.

Your committee, after a careful examination of the papers in the case, find that he has clearly proven that he was taken prisoner at Gettysburg; that he contracted rheumatism and diarrhea while confined at Belle Isle, and that it has continued ever since, and therefore recommend the passage of the bill.

The bill was laid aside to be reported to the House with the recommendation that it do pass.

SARAH TYLER.

The next business on the Private Calendar was the bill (H. R. 4055) granting a pension to Sarah Tyler.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized to place the name of Sarah Tyler, dependent mother of William Tyler, deceased, late of Company B, Fifty-second Indiana Volunteer Infantry, to date from January 1, 1863, on the pension-roll, subject to the restrictions and limitations of the pension laws.

The committee recommend the following amendment:

In line 6, strike out the words "to date from January 1, 1863," and insert in lieu thereof "on the pension-roll."

The report (by Mr. MORRILL) was read, as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 4055) granting a pension to Sarah Tyler, submit the following report:

We find that Sarah Tyler was the mother of William Tyler, who enlisted in Company B, Fifty-second Regiment Indiana Volunteers, December 26, 1861. The Adjutant-General's report says: "Frozen to death near Fort Pillow, Tennessee, December 31, 1863."

Claimant seems to have been unable to satisfy the Pension Department that she was dependent on her son at the time of his death. The evidence shows that Allen Tyler, the husband of claimant, was 75 years old at the time of his death in 1883, and for past sixteen years has been unable to work, and the aged couple have been supported by the charity of their neighbors. The claimant is 64 years old, feeble, and penniless. The affidavits of six of her neighbors, whose good character is certified to by the postmaster, are offered to substantiate the foregoing statements. The evidence is entirely satisfactory. The case is a very strong one, and your committee without hesitation recommend the passage of the bill with amendment striking out the words "to date from January 1, 1863," and inserting in lieu thereof the words "on the pension-roll."

The amendment was adopted.

Mr. HEWITT, of Alabama. Does this bill put the applicant on the pension-roll subject to the provisions and limitations of the pension laws?

Mr. MATSON. Yes, sir.

The bill as amended was laid aside to be reported to the House with the recommendation that it do pass.

JEREMIAH P. SWARTZELL.

The next business on the Private Calender was the bill (H. R. 7026) granting a pension to Jeremiah P. Swartzell.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Jeremiah P. Swatzell, late first sergeant of Company I, Seventeenth Regiment Kentucky Volunteer Cavalry.

The report (by Mr. MORRILL) was read, as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 7026) granting a pension to Jeremiah P. Swatzell, submit the following report:

Your committee find that this man was enrolled and was taken into actual service September 20, 1864, though not mustered until April 9, 1865, in Company I, Seventeenth Kentucky Cavalry. That he served faithfully as first sergeant of his company until October 4, 1865, though his discharge is dated September 20, 1865. On the 8th of October, four days after his discharge reached him, he was taken down with a severe attack of rheumatism and disease of the liver, confining him to his home for nearly six months and from which he has never recovered. J. W. Freeman, Dr. N. S. Johnson, J. T. Clark, R. R. Morgan, and Martha J. Hunt all testify that they knew claimant intimately before and at time of enlistment, and that he was a sound, able-bodied man. Charles E. Van Pelt, captain of Company I, Seventeenth Kentucky Cavalry, testifies:

"Claimant was a faithful soldier, and stout and able-bodied in every particular during his service; and that if he was disabled immediately after discharge on account of rheumatism, it was certainly the result of or caused by his service, and that his habits were correct and temperate."

Several witnesses testify as to his severe sickness, commencing October 8 and continuing until the next spring, and also as to his condition until 1869. Dr. W. W. Woodring testifies to treatment from 1871 to 1881 for chronic hepatitis, and that he has been frequently prostrated, and for the last three years of the time he has been compelled to abandon his occupation as a carpenter. Robert L. Brooking and J. W. Duston testify to the same effect from 1874 to 1881. Six or eight other witnesses testify as to his condition during the years from 1865 to 1881. Dr. B. F. Mastaman, examining surgeon at Independence, Kans., reports in 1882:

"I find him suffering from chronic rheumatism, affecting the right side, but more especially the right shoulder, hip, and knee; I find slight enlargement of the knee-joint; at times he suffers from this trouble very severely. He also suffers from chronic hepatitis; there is enlargement of the liver, and well-marked tenderness. At times he is confined to his bed for several days. He is unable to perform any manual labor."

The case was rejected in the Pension Office for the reason that the sickness did not manifest itself until after claimant had left the service. But it seems very improbable to suppose that the severe sickness that prostrated him four days after his discharge did not originate in the service. Your committee recommend the passage of the bill.

The bill was laid aside to be reported to the House with the recommendation that it do pass.

WILLIAM H. KINMAN.

The next business on the Private Calendar was the bill (H. R. 7177) granting a pension to William H. Kinman.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the restrictions and limitations of the pension laws, the name of William H. Kinman, formerly of Company F, Thirty-fourth Ohio Volunteers.

The report (by Mr. MORRILL) was read, as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 7177) granting a pension to William H. Kinman, submit the following report:

This soldier enlisted July 25, 1861, in Company F, Thirty-fourth Regiment of Ohio Volunteers, and was discharged March 27, 1862, for disability. March 3, 1876, application was made for a pension on the ground that at Barboursville, W. Va., he contracted lung fever on or about November 1, which resulted in disease of the lungs. The application was rejected on the ground that the disability existed prior to enlistment, the only evidence of disability being the statement of the captain of the company in his certificate of disability that "he has been afflicted for about eighteen months with lung disease." On the other hand, Mrs. Miriam Williamson, M. D., says:

"I was claimant's family physician and was frequently in attendance upon the different members of the family (especially on the father); that she had good and frequent opportunity to know of condition of claimant prior to and at the date of his enlistment in the Army; that he was to all appearance and from her

knowledge of him at that time a sound and able-bodied man, free from lung disease; that had he had any lung trouble she would have known it."

The postmaster at Waynesville, Warren County, Ohio, says:

"Mrs. Williams is an excellent lady, who is a regular physician, having studied with her husband, and her character is unimpeachable."

A. H. Dodge testifies that he had known the claimant from 1857 to time of enlisment and considered him a strong, healthy man. The postmaster says, "He is a good, truthful man." Mary and J. A. Malony say they had known claimant for four years before enlistment, boarded in the same family with him, and to the best of their knowledge he was not troubled with lung disease. The postmaster speaks in high terms of the character for truth and sincerity of these witnesses. W. F. Rosenboyer, a comrade in the same company, says claimant was taken down with lung fever at Barboursville, in December, 1861, and he was left under treatment of Dr. Clark, one of the regimental surgeons. G. W. Ebright, another comrade, testifies that they had made a long, hard march of over one hundred miles, and that in consequence of the exposure and hardship of this march claimant was taken sick and that he never recovered.

Dr. Ayers, assistant surgeon in charge, testifies to having treated him during his sickness. The testimony is full and complete that he never fully recovered; that he was unable to do any further service in his command; that he was discharged the following March, has been an invalid ever since, and that he is now sick and poor. The case would doubtless be allowed without hesitation in the Pension Department were it not for the unfavorable statement of the captain of the company in the certificate of disability.

Your committee believe that the strong evidence by unimpeachable witnesses to the contrary ought to have been received and the pension allowed. But admitting that the claimant's lungs were weak when he enlisted, it is evident that the long marches and exposure to inclement weather severely injured his health, and he is clearly entitled to relief during the very few years yet remaining to him. Your committee heartily recommend the passage of the bill.

The bill was laid aside to be reported to the House with the recommendation that it do pass.

HARLAN JACKSON.

The next business on the Private Calendar was the bill (H. R. 4458) granting a pension to Harlan Jackson.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Harlan Jackson, late of Company L, Sixth Regiment Kansas Militia.

The report (by Mr. MORRILL) was read, as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 4458) granting a pension to Harlan Jackson, would submit the following report:

The evidence shows that claimant was an enlisted man in Company L, Sixth Kansas State Militia; that the company was called into the United States service to repel the invasion of the State by the rebel forces under the command of General Sterling Price; that on the 24th of October, 1864, an engagement took place in Linn County, Kansas, known as the "Battle of Mine Creek," in which claimant received a gunshot wound in the left shoulder and arm. Capt. John H. Belding, Lieuts. John M. Seright and William A. Baugh testify that they know the above statements to be true from personal knowledge. The Pension Department can not grant a pension, because the law provides that all claims for pensions filed by militiamen must be proved up before July 4, 1874. It has been the universal custom to grant pensions by act of Congress to members of the State militia wounded in action in line of duty while under the command of officers of the United States Army. Your committee therefore recommend the passage of the bill.

Mr. HEWITT, of Alabama. I desire to say just one word. I do not think that Congress, the House or the Senate either, has ever failed to pass one of these bills. It does seem to me there ought to be a general law repealing the limitation as to the militia. If that were done it would relieve the Private Calendar of a great many of those cases.

The bill was laid aside to be reported to the House with the recommendation that it do pass.

MARTHA ANGELL.

The next business on the Private Calendar was the bill (H. R. 2138) granting a pension to Martha Angell.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, directed to place on the pension-roll the name of Martha Angell, widow of Lieut. John C. Angell, late of Company B, Ninth Regiment West Virginia Volunteer Infantry, subject to the limitations and provisions of the pension laws.

The Clerk commenced to read the report.

Mr. BAGLEY (interrupting the reading). I ask unanimous consent that the further reading of the report be dispensed with.

Mr. HEWITT, of Alabama. Let it be printed in full in the RECORD.

There being no objection, the further reading of the report was dispensed with, and it was ordered to be printed in the RECORD.

The report (by Mr. MORRILL) is as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 2138) granting a pension to Martha Angell, submit the following report:

Claimant is the widow of John C. Angell, who enlisted September 10, 1861, in Company F, Benton Cadets Infantry Volunteers, and who was at time of his discharge, December 23, 1864, a lieutenant of Company B, Ninth Regiment West Virginia Volunteers. Lieutenant Angell died September 3, 1876, from St. Vitus's dance, produced by overexertion during hard marching in the mountains of West Virginia. Samuel Bell, first sergeant of Company B, Second Virginia Veterans, testifies that he knew Lieut. John C. Angell from 1860 until the time of his death, and was present when he died and knew him during the war and after. Was in the same brigade with him when he was assigned to the ambulance corps on account of a nervous, tottering step. He had no bodily ailment such as would cause him to require medical attendance. The same nervous disease terminated his life at Laclede, Mo., September 3, 1876. He was unable to perform any manual labor from the time of his discharge until his death. That Drs. John R. Philson and J. C. Griffith, who treated him, are dead. We believe the disease of which Lieutenant Angell died was contracted or produced by the heavy mountain campaigns of West Virginia during the three years of service.

J. H. Lowhead, late first lieutenant of Company E, same regiment as Angell, says:

"I have known the late Lieut. John C. Angell since 1857, during the war, and for two years after the war intimately. When he joined the Ninth Regiment West Virginia, early in 1862, he was in good health and always with his command in all the arduous marches to Cayd's Mountain, under General Crook, to Lynchburg, under General Hunter, and the campaign in the valley of Virginia. I repeatedly said to him, 'Lieutenant, you are killing yourself by your excessively hard duty.' I knew him in the Army as one of the bravest soldiers; always doing duty, many times physically unable. After the war I knew him as a broken and wrecked man, physically and mentally. I would further say that the disability seemed to be excessive nervousness. I might say he was suffering from nervous prostration. I solemnly say that from the time he began to fail while in the service up to the last time I saw him, probably in 1867, he gradually and rapidly failed physically and mentally, and was in such a helpless condition that he had to be waited on by his friends."

Professor Lowhead is superintendent of schools of Bourbon County, Kansas, and a man of unquestioned integrity. Hiram Curtis, a man of undoubted veracity, testifies:

"He knew Lieutenant Angell before enlistment; that he was a healthy man when he entered the service. I participated in some of the battles in which Lieutenant Angell was engaged up the Valley, Hunter's raid and retreat, and battle of Winchester. I believe the rigid mountain campaigns of Virginia produced the nervous debility from which he suffered. I knew him after the war, and that he was not capable of performiug manual labor, and that the nervous debility grew on him and affected his mind until he died; that he left a family of wife and six children with nothing whatever, homeless, and dependent on friends; that his wife and children are still dependent."

W. A. Ellis and J. C. McElroy testify in strong terms to his high character and good health during the five years preceding his enlistment.

I. Malloy, captain Company A, One hundred and sixth Ohio Volunteers, says:

"Lieutenant Angell was in the full sense of the term a No. 1 soldier. I was personally associated with him in many battles in the valley of Virginia, also on the Hunter raid, which was one of the hardest of the war. I knew him before and after the service, and believed him to be a healthy man when he enlisted. The disease of which he died, St. Vitus's dance, was due to the many long marches made by his command in the campaigns of West Virginia."

A. Campbell, captain Company A, Second Virginia Volunteers, testifies:

"He knew Lieutenant Angell from childhood to time of enlistment; that he attended school with him, worked in the same mill with him, and was especially intimate with him. That prior to the war he was always well and sound; that he entered service about the same time and saw him frequently in the service. Up to beginning of the Hunter raid know he was in good health. During that raid I observed that his strength failed and his mind became flighty. At that time I thought the hardships and exposure of that campaign had broken him down, and still believe so. Met him again after my own discharge at Racine, Ohio, and found him unfit for any mental or physical labor. His condition was the subject of common conversation among his acquaintances, every one considering him 'out of his mind.' At that time suggested that he apply for a pension, but he refused, as he had an insane idea that he was sound in body and mind. He was strictly temperate, and his moral character was excellent."

T. J. and B. A. Elliot, men of excellent character, make full and strong affidavits to the same effect.

Dr. Z. T. Stanley says:

"I attended Lieutenant Angell in his last illness, and that he died at Laclede, Mo., September 3, 1876, of a nervous disease commonly known as St. Vitus's dance. Excessive overexertion and exposure of a long and fatiguing march in a mountainous district would produce the disease of which he died."

While from the nature of the disease it seems impossible to secure the rigid proof required in the Pension Office, yet your committee feel that considering the amount of the evidence and the high character of the affiants there can not be the slightest doubt but what this soldier's death was caused by his severe and arduous service, and unhesitatingly recommend the passage of the bill.

The bill was laid aside to be reported to the House with the recommendation that it do pass.

SAMUEL HANSON.

The next business on the Private Calendar was the bill (H. R. 542) granting a pension to Samuel Hanson.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Samuel Hanson, late a private in Company D, Thirty-fourth Regiment of Iowa Volunteer Infantry.

The Clerk read the report in part.

Mr. PERKINS (interrupting the reading.) This is a long report. I ask that the further reading be dispensed with, and that the report be printed in the RECORD.

There was no objection.

The report (by Mr. MORRILL) is as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 542) granting a pension to Samuel Hanson, submit the following report:

This soldier enlisted January 16, 1864, in Company D, Thirty-third Regiment Iowa Volunteers, and was mustered out with his company August 15, 1865. In 1870 he applied for a pension, alleging disability from lung disease; that in March, 1864, at Little Rock, Ark., he was attacked with lung fever from exposure while in service, which seriously affected his lungs and from which he never recovered. The Adjutant-General's report shows that he was left sick at Little Rock March 23, 1864. The Surgeon-General's report shows that he was admitted to general hospital at Little Rock March 22, 1864, for treatment for "pleuropneumonia," and returned to duty April 11, 1864.

Riley Jessup, late captain of Company D, in affidavit made September 23, 1870, states:

"At Little Rock, March, 1864, while in the line of duty, claimant was attacked by lung fever, brought on by exposure in the service; said disease affected his lungs, and that they continued affected until discharge; that his lungs were not affected at the time of enlistment or prior to said attack of lung fever; that claimant was of good habits while in the service, and, in affiant's opinion, the disease was the result of unavoidable exposure."

Dr. D. A. Hoffman states:

"Claimant was examined by me before he enlisted, for the purpose of ascertaining whether he was a sound man physically. That at that time he was not affected with any disease of the lungs. On his return from the service, immediately after his discharge, I treated him for disease of the lungs, which was the result of acute inflammation of the lungs, contracted while he was in service. I have treated him for the said disease at various times since September, 1865, to the present time (December, 1870), and that his disease still continues."

The testimony is ample and undisputed that his disease has continued ever since, excepting that Dr. Huntsman, of Oskaloosa, the examining surgeon, said in 1772 that he found no disease of the lungs. A few months later another examining surgeon says:

"I find upon examination that the applicant has a deep, hollow cough, ex-

pectorating purulent and muco-purulent matter, night-sweats, and emaciation; auscultation shows in the upper portion of the left lung; cavernous râle; respiration and voice amphoric; dullness on percussion over the whole left lung; the lower portion very dull, and can not ascertain that air passes into that portion of it. He is physically unable to perform manual labor."

A few months later Dr. W. S. Orr, examining surgeon at Ottumwa, reports him totally incapacitated from obtaining a sustenance by manual labor, and says the disability is probably permanent.

It would seem as though nothing was wanting to establish a case in the Pension Department, but two special examiners were sent out and a mass of contradictory evidence was submitted, and the case was finally rejected on the ground that claimant's lungs were affected when he went into the service. If the evidence submitted by the special examiners proves anything, it proves that the soldier was a weak man, physically unfit for the service when he was accepted; that he was a hale, hearty man after his discharge, working at heavy work in a stone-quarry and receiving full wages; that he was before enlistment a sound, rugged young man, of excellent habits, and at the same time a confirmed drunkard; that he had a severe consumptive cough; and by other witnesses equally reliable it is proven that he "never had the least symptoms of anything being the matter with his lungs prior to his going into the Army; that he was frequently employed to chop wood and split rails, and was noted as a first-rate wood-chopper." The Commissioner of Pensions in 1878 was evidently bewildered by this mass of contradictory evidence, for in a letter to claimant's agent he says:

"The invalid pension claim No. 162081, of Samuel Hanson, was rejected September 16, 1875, upon competent evidence (medical and lay) elicited by special examinations, showing that the alleged disease was not due to the service; in other words, that his lungs were diseased at the time he enlisted, and that the principal cause of his disability was due to an attack of lung fever since his discharge. It is proper to add that an examination made March 2, 1872, fails to discover any disease of the lungs."

This is certainly being equal to the occasion. The disability existed before enlistment, the disability was caused by lung fever after enlistment, and finally the disability never existed at all.

The simple facts seem to be that some two months after enlistment the soldier had an acute attack of lung fever from which he has never recovered, and that he is now totally incapacitated from performing manual labor. By the passage of this bill his few remaining years will be made comparatively comfortable. He loses the twenty years of arrears to which he seems to have been as clearly entitled as his more fortunate comrades who received them. Believing that simple justice requires that the Government should care for this soldier, your committee recommend the passage of this bill.

The bill was laid aside to be reported to the House with the recommendation that it do pass.

SAMUEL M. BARTLETT.

The next business on the Private Calendar was the bill (H. R. 7094) granting a pension to Lemuel M. Bartlett.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Lemuel M. Bartlett, late a private in Company K, Thirty-fourth Regiment Illinois Volunteers.

The Committee on Invalid Pensions recommended the following amendments:

In line 6, strike out "Lemuel" and insert "Samuel."

Amend the title so as to read:

"A bill granting a pension to Samuel M. Bartlett."

The report (by Mr. LOVERING) was read, as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 7094) for the relief of Samuel M. Bartlett, submit the following report:

Samuel M. Bartlett enlisted in Company K, Thirty-fourth Illinois Regiment, December 2, 1861, and was discharged December 20, 1862, for disability. He filed an application for pension June 28, 1880, basing his claim on injuries received in line of duty while on detached service, guarding baggage trains, by jumping hastily from wagon, the train at the time being suddenly attacked by guerrillas; in jumping he struck on his right foot and ankle, turning same under and crushing and disabling it. He also claims to have ruptured himself at the same time, which rupture has since developed into an aggravated hernia. His claim was rejected by the Pension Department, the reason being "claimant discharged for old fracture of right ankle."

The evidence in the claim is strong and conclusive that prior to enlistment he was a sound, healthy, able-bodied man, with no apparent disabilities.

Elijah Hubbard testifies:

"Knew claimant years before he enlisted; he was sound, wholly free from lameness of right ankle and foot, and affiant believes claimant had no hernia; was well known for his prowess in athletic sports and at hard labor; lived near him much of his life; never knew of his being ill before his enlistment."

T. E. Stockwell testifies:

"Knows claimant was sound at and before enlistment, doing hard labor, with no lameness of right ankle and foot, and to best of belief was free from hernia; knew claimant a number of years before enlistment."

John Thompson, comrade, testifies:

"I knew claimant about a year before enlistment; lived near him; saw him almost daily; enlisted with him the same day, and believe he was sound and free from hernia, lameness of right foot and ankle, and varicose veins."

D. C. Wagner, captain of claimant's company, says:

"Claimant was sound, with no lameness of right foot and ankle or hernia prior to being detailed during the fall of 1862 for guard duty over the mountains between Tennessee and Kentucky; had previously been able to perform any duty assigned him; never saw claimant after he went on said duty."

John Thompson, comrade, says:

"He was in hospital at Louisville, Ky., when claimant was brought in with injuries of right foot and ankle and great soreness and pain in pit of stomach. After discharge saw claimant at his home in Portland, Ill.; he was quite lame from injury to foot and ankle, and his stomach trouble had developed into an aggravated hernia."

Benjamin Woodwood, surgeon Twenty-second Illinois Volunteers, in charge of Park barracks in November and December, 1862, testifies that there was a man who was injured as claimant alleges to have been, but can not swear to his identity.

C. L. Fisk, examining surgeon, Franklin, Mass., certifies:

"Applicant received an injury to right ankle-joint by jumping from a train-wagon, which has resulted in permanent lameness, attended with fearful swelling and varicose veins of the leg. He also has a hernia midway of the lower portion of the sternum, and the umbilicus as large as a small orange, or about three inches in diameter. I rate one-half on ankle and results and one-half on hernia and results."

S. K. Field, R. A. Dudley, E. O. Dickenson, selectmen of Leverett, Mass., certify that claimant is old, in poor health, totally disabled for manual labor, and a charge upon the town, being in its poor-house.

In view of all the facts, your committee think a case is made and well established by all the evidence; they therefore recommend the passage of the accompanying bill, with the following amendments: Substituting "Samuel," in the title and also in the sixth line, for the word "Lemuel."

Mr. HEWITT, of Alabama. I would like to make an inquiry of the gentleman who reports this bill. I did not catch in the reading whether the report states what this soldier was doing in the wagon.

Mr. MATSON. The gentleman from Massachusetts [Mr. LOVERING], who reported the bill I believe is not present. The report distinctly states that this soldier was injured, while on detached service guarding baggage trains, by jumping hastily from wagon, the train at the time being suddenly attacked by guerrillas.

Mr. HEWITT, of Alabama. When the guard of a wagon is discharging his duty is his place inside the wagon? Is that the soldier's place?

Mr. MATSON. I suppose it may sometimes be right for the soldier in such a case to ride on the wagon. I have heard of officers riding on wagons.

Mr. HEWITT, of Alabama. But that is not the place for them.

The amendments were adopted.

The bill as amended was laid aside to be reported to the House with the recommendation that it do pass.

LLOYD W. HIXON.

The next business on the Private Calendar was the bill (H. R. 6798) to grant a pension to Lloyd W. Hixon.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior is hereby authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Lloyd W. Hixon, late an assistant surgeon in the service of the United States of the Thirteenth Regiment of the Massachusetts Volunteers.

The report (by Mr. LOVERING) was read, as follows:

That claimant was mustered into the military service of the United States as assistant surgeon, Thirteenth Regiment Massachusetts Volunteers, March 3, 1862, and honorably discharged August 1, 1864.

November 6, 1882, he filed a declaration for pension, alleging that he contracted deafness while in the service and in line of duty, which was rejected January 18, 1884, on the ground of existence of disability prior to enlistment.

Charles W. Hovey, inspector of customs, Boston, Mass., testifies:

"That he was a lieutenant-colonel of claimant's regiment in the service; remembers that he was troubled with deafness at Belle Plain, Va., in the winter of 1862-'63, which was greatly increased by exposure; at discharge was seriously troubled, and believes it was the result of exposure in the service."

A. W. Whiting, M. D., of Newton, Mass., says he was surgeon of claimant's regiment:

"That the exposure incident to the service was such as to seriously affect claimant's hearing, and his deafness was increased to such an extent as to incapacitate him from practicing his profession, which resulted, in his opinion, from the exposure and hardships of the service."

Dr. J. O. Green, of Boston, Mass., testifies, December 3, 1881:

"Known claimant since 1863, but first treated him in 1873 and during each year to 1876 for catarrhal deafness of an aggravated type, which made gradual progress, producing more and more thickening of the tympanum, mucous membrane, and secondary disease of auditory nerve, until now (May, 1883) he can not distinguish words through the most powerful ear-trumpet nor hear a vibrating tuning-fork when placed on the skull and mastoids, and there is no question about the disease being hypertrophic inflammation of the mucous membrane, aggravated in character and progress."

Oliver E. Cushing, of Lowell, Mass., testifies April 21, 1884:

"I have known Lloyd W. Hixon for many years, and at no time prior to his enlistment in the United States service in 1861 was he incapacitated from the discharge of any professional duties by his inability to hear."

Artemus S. Tyler, of Lowell, Mass., testifies April 21, 1884:

"I have known Lloyd W. Hixon for many years, and at no time prior to his enlistment in the United States service was he incapacitated for the discharge of any professional duties by his inability to hear."

In addition to the testimony specially cited above, it is clearly shown by a preponderance of the evidence that the claimant was free from the disability at the time of his enlistment in the military service; that the disease had its origin in the service and while in line of duty; that the disability so incurred has continued to increase in severity until the soldier is now shown by the report of the United States examining surgeon to be totally disabled.

Your committee, in view of the facts, unhesitatingly recommend the passage of the accompanying bill.

There being no objection, the bill was laid aside to be reported to the House with a recommendation that it do pass.

EDWARD WILCOX.

The next business on the Private Calendar was the bill (H. R. 6775) granting a pension to Edward Wilcox:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll the name of Edward Wilcox, an imbecile son of Leonard Wilcox, late of Company A, Twenty-first Regiment Connecticut Volunteer Infantry, and pay his legally appointed conservator a pension of $25 per month from and after the passage of this act.

The report (by Mr. LOVERING) was read, as follows:

Edward Wilcox is the orphan imbecile son of Leonard Wilcox, late of Company A, Twenty-first Regiment Connecticut Volunteers, who died at Falmouth, Va., December 16, 1862, the mother of Edward having died prior to the enlistment of the father, or on June 16, 1859. Edward Wilcox was born March 11, 1858, an idiot, and is now 26 years of age.

After the death of his father he drew a pension as a minor child until he was 16 years of age, when, under the law, his pension ceased. He has lived with an uncle and aunt, who have done what they could for him, which at best was not much, as they themselves were very poor, being often helped, as the records of the town of Stonington, Conn., frequently show, by its authorities, in the matter of food and supplies. The uncle is now dead, and the poor unfortunate is left in the keeping of the aunt, who is poor in purse and feeble in health, and is scarcely able to maintain herself except by assistance above quoted.

Herewith is appended the sworn affidavit of Dr. E. Frank Coats, of Mystic Bridge, Conn., namely:

"That he has known Edward Wilcox, of Mystic Bridge, Conn., only son and child of Leonard Wilcox, since the time of his birth, March 11, 1858, and that he is now and always has been an idiot, incapable of taking care of himself, and is wholly dependent upon an aunt, who is feeble and dependent upon her own hands for support. His mother died of hemorrhage of the lungs in 1859, and his father died in the Army of the late war in the service of his country. I have been physician to the family ever since the birth of the said unfortunate child."

Inasmuch as Congress has power to grant the relief asked, and have in several like instances granted its aid to those who, like the beneficiary in this bill, are more helpless than a minor child, your committee are of opinion that the relief sought should be granted, and would therefore recommend the passage of the accompanying bill with an amendment striking out the words "twenty-five," in the eighth line, and substituting the word "eighteen" therefor; so it shall read, "a pension of $18 per month," &c.

The amendment reported by the committee is as follows:

In line 8, strike out the word "twenty-five" and insert "eighteen."

The amendment was agreed to.

Mr. MATSON. Mr. Chairman, I offer another amendment. After the word "conservator," in line 7, insert the words "for his use and benefit;" so that it will read: "and pay his legally appointed conservator, for his use and benefit, a pension," &c.

The amendment was agreed to.

There being no objection, the bill as amended was laid aside to be reported to the House with a recommendation that it do pass.

Mr. CULBERTSON, of Kentucky. Mr. Chairman, two weeks ago House bill No. 4079, for the relief of James B. Kirk, was laid aside informally, as some of the gentlemen present may remember, and I desire to have it taken up and disposed of.

Mr. MATSON. Mr. Chairman, I will say to the gentleman from Kentucky that I will yield to him after we shall have gone through with the bills on the page on which we are now working, as I think it is the desire of the House to give all the members present an opportunity to call up such bills as they see fit.

WEALTHY H. SEAVEY.

The next business on the Private Calendar was the bill (H. R. 6966) granting a pension to Wealthy H. Seavey.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of Interior is authorized and directed to restore to the pension-roll the name of Wealthy H. Seavey, of Erroll, N. H., as dependent foster-mother of Charles W. Seavey, late a private in Company I, Seventh Regiment Maine Volunteers, subject to the provisions and limitations of the pension laws.

The report (by Mr. RAY) was read, as follows:

That Charles W. Seavey, when an infant, was adopted by the claimant as her own child. She brought him up and he always resided with her till his enlistment as a private in Company I, Seventh Regiment Maine Volunteers, in 1861. Mrs. Seavey had the benefit of his earnings before his enlistment, and he frequently sent her money from his earnings after going to the war—at one time $5, at another $30, and at another $100. Mrs. Seavey was a widow when her adopted son enlisted, and is a widow now. The son died while in the service and in the line of duty. There is no question about her dependence upon the deceased for support. A pension was allowed her at the Pension Office, but was shortly afterward stopped, because the deceased was not her own son. The correspondence of the soldier with Mrs. Seavey during his Army service has been produced, and shows clearly that the deceased called the claimant his mother, and it is clear that he treated her as such from infancy to his death.

Mrs. Seavey now is an old lady, in feeble health, and entirely without means of support. The deceased left no near relatives who ever took any interest in him during his lifetime or since his decease. The only reason for disallowing the pension at the Pension Office was because the claimant was not his natural mother. Your committee recommend the passage of the bill.

There being no objection, the bill was laid aside to be reported to the House with a recommendation that it do pass.

SARAH A. BURCHFIELD.

The next business on the Private Calendar was the bill (H. R. 7373) for the relief of Sarah A. Burchfield.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior is hereby authorized and directed to adjudicate the pension claim of Sarah A. Burchfield, widow of Robert L. D. Burchfield, who was a lieutenant of Company D, Third North Carolina Mounted Infantry, as though he had been regularly mustered into the service of the United States at the time of his being wounded.

The report (by Mr. J. S. WISE) was read, as follows:

That Robert L. Burchfield was a second lieutenant in Company D, Third North Carolina Mounted Infantry, and was appointed as such on the 1st of January, 1865, and served to 8th August, 1865, as appears by act of Congress of March 13, 1872.

By the above act of Congress the said Burchfield was paid for services as such officer for the period above mentioned. But this private act failed to direct that his name should be placed on the rolls of said regiment as a second lieutenant, for which reason the Pension Office refuses to grant the relief asked by the widow of said Burchfield.

Not only does this act of Congress recognize the fact of his being such officer, but the proof from persons having actual knowledge shows that said R. L. D. Burchfield was a second lieutenant in Company D, Third Regiment of North Carolina Mounted Volunteers, and that he served faithfully as such soldier and officer.

That said Burchfield, while in line of his duty, was severely wounded by the enemy in Cherokee County, North Carolina, which rendered his left leg entirely useless, the ball taking effect in the left thigh, near the hip-joint, and passing through and coming out near the knee-joint, and unfitting the left leg for any kind of use.

The said Burchfield filed his application for pension in consequence of disability on the 3d day of January, 1873, which was rejected on 20th July, 1874, for the reason hereinbefore stated.

The said Burchfield was honorably discharged on the 8th day of August, 1865, at Knoxville, Tenn. The said Burchfield has since died, and Sarah A. Burchfield is his widow, now surviving.

Under the holding of the Pension Office the widow could not obtain a pension. The committee, being of opinion that her claim is meritorious and that she is entitled to prosecute her claim for a pension free from obstructions, do recommend the passage of the accompanying bill as a substitute for H. R. 1135.

There being no objection, the bill was laid aside to be reported to the House with a recommendation that it do pass.

WILLIAM S. RAY.

The next business on the Private Calendar was the bill (H. R. 7374) to restore William S. Ray to the pension-roll.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior is hereby directed to restore William S. Ray, late a private in Company G, Third Regiment North Carolina Mounted Infantry, to the pension roll.

The report (by Mr. JOHN S. WISE) was read, as follows:

William S. Ray was duly enlisted as a private in Company G, Third North Carolina Mounted Infantry. He was placed on the pension-rolls on account of wounds received which totally disabled him, receiving at the time $18 per month. He was dropped from the rolls the 26th of May, 1877, on a report from G. H. Ragsdale, special agent from Pension Department, on a charge that he was not in the line of duty when wounded. The affidavits of comrades show that the soldier came through the lines from his regiment in Madison County, North Carolina, on the special duty of piloting recruits for the Federal service, which he often did, and was fired upon by rebel scouts while so employed, receiving his severe wound at the time. This testimony is corroborated by that of soldiers in the confederate army who were eye-witnesses to the whole affair.

The committee think that the testimony is sufficient to restore the soldier, and we recommend the passage of a substitute for the original bill.

The CHAIRMAN. If there be no objection, this bill will be laid aside to be reported to the House with a favorable recommendation.

Mr. HEWITT, of Alabama. Mr. Chairman, I desire to make one or two observations in relation to this matter. It appears that in this case a special examiner was sent out, I suppose to the home of this soldier, to inquire into his title to a pension. That examiner must have had the witnesses before him and must have had an opportunity to examine them face to face. Obviously, therefore, he could better tell whether or not they were testifying truly than this House possibly can from mere *ex parte* affidavits—none of us having even seen any of the witnesses. This man was dropped from the rolls upon the report of that special agent. If that agent was a bad man, or if he was an incompetent man, this report fails to so state. Now the point I desire to make is this, that wherever there has been an examination by a special examiner of the Pension Office who has had the witnesses before him, he certainly has had at least a better opportunity of getting at the facts than any committee of this House, any dozen men in this House, or the whole House together, can possibly have upon mere *ex parte* affidavits.

One other remark I wish to make. There is a general law that has stood upon our statute-book for many years, which requires the Commissioner of Pensions in all cases where a pension claim has been rejected in his bureau, and where he deems the case a meritorious one in regard to which Congress should act, to report the facts to this House, together with the evidence upon record in the bureau, with his recommendation that Congress shall take action upon it. I do not wish to take up the time of the House with this matter, because I despair of preventing the passage of these measures except by filibustering—which I do not propose to do; but I wish to say that in my opinion a case that can not be made out before the Commissioner of Pensions or before the Pension Bureau upon *ex parte* affidavits is certainly a very poor case to come before Congress.

Mr. KETCHAM. Mr. Chairman, I would like to ask the gentleman from Alabama [Mr. HEWITT] if he can tell us whether this special examination was held under the new system, which gives the claimant the privilege of cross-examining the witnesses, or under the old system where the inquiry was wholly *ex parte*?

Mr. HEWITT. I do not know. I do not suppose that the report gives that information. I will say, however, that I approve of the new system, for I do not believe in sending out spies to make secret examination into these cases. I will ask the gentleman from Indiana [Mr. MATSON] whether this is one of the old cases?

Mr. MATSON. It is.

Mr. HEWITT, of Alabama. Well, the observations that I have been making upon this subject are general and are not meant to apply specially to this particular case; but I do say that this House ought to lay down the rule that it will not receive or consider a case coming from the Pension Bureau that has been investigated there and finally adjudicated, unless it is accompanied by a recommendation from the Commissioner of Pensions under the general law.

Mr. MATSON. Mr. Chairman, the objections made by the gentleman from Alabama, in relation to this case, are not without force. However, as to the point that this case has been investigated by a special examiner of the Pension Office, I desire to call the gentleman's attention to the date of that examination. It appears from the report that the examination was made in May, 1877. At that time the practice of the Pension Office was to send out secret agents to examine into cases pending, or cases that had been adjudicated in the office, giving no notice whatever to the claimant, but examining the witnesses without his knowledge, taking the testimony of persons who were opposed to him, and giving him no opportunity to meet and cross-examine those witnesses. The examination in this case was probably of that kind, because that was the practice at the time it was made.

Then, as to the objection that pension bills ought not to be passed by this House unless in cases recommended by the Commissioner of Pensions, that is to be answered by the fact that if the Commissioner of Pensions and the clerks in the Pension Office are to be required to perform that additional labor, to examine not only into the legal features of each case, but also into its equitable merits, then the adjudication of claims in that office will necessarily be even slower than at present. I think the gentleman would hardly propose to put that additional labor on the Pension Office, because it would, of course, necessitate the employment of a large additional number of clerks.

Mr. HEWITT, of Alabama. I will ask the gentleman whether there is not a number of cases that come before his committee with the recommendation of the Commissioner of Pensions under the general law?

Mr. MATSON. There are cases of that kind, and we have reported, I suppose, as many as twenty or thirty of them, or possibly more than that, during this Congress. I believe that all the cases that have been recommended by the Commissioner have been reported favorably by the committee. But the fact that some cases have been recommended in that way is no reason for assuming that they are the only meritorious ones. Those cases were recommended because it happened that the parties prosecuted them and followed them up and brought them to the special attention of the Commissioner, who therefore recommended them to Congress under the resolution of 1830.

Mr. HEWITT, of Alabama. I would further ask the gentleman whether or not it is the duty of the examiners of the Pension Office, wherever they think a case has equitable merits, although it does not meet the requirements of the law, to call the attention of the Commissioner of Pensions to it?

Mr. MATSON. I do not remember the exact language of the resolution of 1830, but my impression is that it applies only to the Commissioner of Pensions.

Mr. HEWITT, of Alabama. Of course it applies to the Commissioner of Pensions, but it is the Commissioner who passes upon all these cases. The clerks and other employés of the department are merely his agents.

Mr. MATSON. I am quite sure that the practice of the office is not such as to require the examiners to call the attention of the Commissioner to the fact that in their opinion Congress ought to intervene in particular cases, and I am quite sure also that those cases in which the Commissioner has made recommendations have been cases to which his attention was specially called.

Mr. WOLFORD. As I understand the report in this case, the Commissioner of Pensions rejected this claim because he held that conducting recruits to the Army was not in the line of this soldier's duty.

Mr. HEWITT, of Alabama. I think the claim was rejected because the man was considered to have been a deserter.

Mr. MATSON. I will say in reply to the gentleman from Kentucky [Mr. WOLFORD] that the rejection by the Commissioner of Pensions, as I understand, was not upon the ground that conducting recruits was not a part of the soldier's duty; the Commissioner did not say that; but in rejecting the case he said it appeared from the evidence taken by this secret special detective that the man was not in the line of duty when wounded.

Mr. WOLFORD. Another question: Does not the report state that the proof shows the man was conducting recruits at the time he was wounded?

Mr. MATSON. Yes, sir; the report so states.

Mr. HEWITT, of Alabama. But suppose he had no order to be conducting recruits; that he left his command and engaged in this service on his own responsibility, what do you say about that kind of a case? A man might much prefer to go out and bring in recruits than to be engaged in fighting battles.

Mr. MATSON. I think that if the soldier was engaged in that kind of occupation, whether he had the command of an officer to do so or not, he was serving his country in a military capacity, and if wounded while so engaged ought to be pensioned.

Mr. HEWITT, of Alabama. Though he had left his command without orders and without leave?

Mr. MATSON. I do not say that if he was absent without leave or was a deserter he would be entitled to a pension; but I do say that in the absence of any proof on that point, if at the time he was wounded he was engaged in his military service, which was for the benefit of his country, he ought to be pensioned.

Mr. HEWITT, of Alabama. If he had been regularly detailed by a proper officer having authority to detail him for that purpose and was performing that service under a lawful order, and was wounded while so engaged, he would be entitled to a pension, because he would have been in the line of duty.

Mr. MATSON. In that case he could get a pension through the Pension Office.

Mr. HEWITT, of Alabama. But if he had left his command without orders and entered of his own choice upon this kind of service, and had been killed while so engaged, he would not have been killed in the line of duty; and neither his widow nor any one else who had been dependent on him would be entitled to a pension under the law.

Mr. MATSON. This soldier might not have been in the line of duty in the strict meaning of the term, and at the same time might not have been a deserter or absent without leave. He might have had the right to be absent from his command, might not have been a deserter in any sense of the word, and I repeat, if he was not a deserter, was not absent without leave, and was engaged in this business, I think he ought to be pensioned if he was wounded while in the performance of such service.

Mr. O'HARA. Mr. Chairman, in regard to the objection raised by the gentleman from Alabama [Mr. HEWITT] as to the *ex parte* statement in behalf of the petitioner, it is clearly shown by the report of the committee that the information upon which this soldier was dropped from the pension-roll was purely *ex parte;* so that in this respect the case is equally balanced. But, as shown in the report, disinterested parties, the soldier's comrades, men who were with him at the time, testify that he was in the line of duty.

The gentleman from Alabama makes a further objection that perchance the soldier engaged in this particular line of service without a command from some superior officer. This objection is also met by the affidavits of his comrades, who state that he was there in the line of duty; and as has been said by the chairman of the committee, whether he was or was not there by express command, he was doing a service to his country, which was then imperiled. He was discharging a duty for which every loyal citizen of the Government would commend him; and I think the mass of the American people will indorse the action of Congress in giving him a pension under circumstances of this kind.

Mr. WOLFORD. Only a few words in relation to this case, for I do not want to occupy the time of the House.

It occurs to me that if ever there was a case where a man was fairly, justly, and honestly entitled to a pension, this is such a case, if we can believe the facts as stated in the report. I am not talking about the man being entitled to a pension according to the rules and regulations made by the Pension Department under authority of law, but I am talking about his being entitled to a pension from the Congress of the United States on account of having been wounded in the service of his country.

Now, I want to call the particular attention of my friend from Alabama and of the House to a few facts in relation to this case as reported.

It is in proof according to the report that he was in the line of his duty. Not only that, but it is in proof he was in the line of his duty. How in the line of his duty? Why, sir, that he was conducting recruits. He was then in a country which was in possession of the enemy, and in order to conduct recruits to our Army he had a very dangerous and difficult task to perform. The man who stood in battle face to face with the enemy, on equal terms, with equal numbers, was not in the danger, nothing like the danger, and was not doing the same service to his country in the highest sense of a dangerous service as the man who undertook to conduct recruits through the enemy's country, through the enemy's lines into the lines of our Army.

I know something about it from experience and observation. I know something about the difficulty of such a service. Here is a man that the law presumes, every single principle of common sense presumes, did not undertake this difficult and dangerous service in order to evade his duty, but the presumption arises and ought to arise in this Congress, and will in the mind of my distinguished friend from Alabama [Mr. HEWITT], and in the mind of everybody else who will pay attention to it—the presumption arises from the proof that he was ordered there. That is the legal presumption, the sensible presumption. And why? Because the proof according to the report is that he had previously been engaged in that very service of which no complaint was made. He was not arrested as a deserter when he brought, perhaps, many companies of recruits to our armies and did great service to it. If, then, the presumption is that he was previously engaged in doing that duty, would a deserter, would a man who had gone without authority, have selected this dangerous service; would he have repeated it without reprimand or arrest or punishment from his officers?

The legal presumption, the sensible presumption, the fair presumption for this Congress to make is that he was ordered there, or at least if not ordered, I will put it upon the ground where it is more credit and honor to him—if he was not ordered there he was permitted to go. His love of country, his desire to serve a cause which nobody could tell whether it would be triumphant or not, at a time when it was doubtful how the scale of war would turn, how the issue would eventuate; this man, from love of country, from the desire to get more men into our Army, that we might be stronger, that we might be more powerful, that we might preserve and maintain the nation in its glory and beauty, that we might be triumphant—this man, actuated by the highest motive of patriotism, by the greatest desire to see his country victorious, may have requested time and again that he should be allowed to go and get more men. If he did, it was commendable, and his pension ought to be passed that much sooner.

That is all, and the very worst phase which can be put upon it, that this man, who loved his country, desiring to go, and who did go, and did a great deal more good than he could have done as an individual standing alone in the ranks of battle. But I go further than that. I wish to say a word or two more. There are now thousands and tens of thousands of most worthy individuals, most loyal soldiers of our Army,

who are debarred from receiving a pension. The rule in the Pension Department, the law, may not give them ample protection.

I go further and say, now that the war is over, that the effort to divide and make two governments in a territory where there was but one—and that was the real issue—when that is all over we ought to do justice to the men who stood so bravely by us. [Applause.] There are of those who were in the confederate army none now but Union men. Every soldier who fought against us in the war is now for perpetuating this Government. The Government should be kind and just to its soldiers. It ought to make the soldiers love it. If you wish to perpetuate the Government in its glory and beauty—and every man does; my friend from Alabama [Mr. HEWITT] does; every man on this floor does; if you wish to perpetuate it in its glory and beauty and power and dignity, so as to hand it down as long as time shall last; if you would hand it down in its integrity, in prosperity and in honor, you must encourage the idea that this great Government will be grateful to those patriotic soldiers who fought to maintain it in the hour when its existence was imperiled. [Applause.]

Indeed, I will vote to pension every soldier of every war who has an honorable discharge. I am for doing that out of the love of liberty and to make the soldiers grateful to the country. I would do it because they have loved their country. [Applause.] I am for pensioning every one who can bring a case as meritorious as the one now presented. In every case where a man did most dangerous duty which could be done in the army, as was the case with this man, I never would forgive myself, nor would my distinguished friend from Alabama, if I voted against it. [Applause.]

The bill was laid aside to be reported to the House with the recommendation that it do pass.

W. H. H. COLEMAN.

The next business on the Private Calendar was the bill (H. R. 6982) granting a pension to W. H. Coleman.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, directed and authorized to place on the pension-roll the name of W. H. H. Coleman, late a private of Company B, Eleventh Regiment Pennsylvania Reserve Corps, and pay him a pension from and after the passage of this act.

The report (by MR. PATTON) is as follows:

The committee find by the report of the Adjutant-General that H. Coleman, a private of Company B, Eleventh Regiment Pennsylvania Reserves, was enrolled on the 10th day of June, 1861; three years at Camp Wright, and reported to February 28, 1862; present up to June 30, 1863, to August 31, 1863; absent sick in general hospital since August 10, 1863; transferred to Company B October 31, 1863; absent sick February 29, 1864, to April 30, then present; mustered out with company June 30, 1864, as William H. H. Coleman.

Surgeon-General's Office reports W. Coleman, Eleventh Pennsylvania Reserves, was sent from regimental hospital to Alexandria March 29, 1862—date of admission—and returned to duty May 26, 1862.

Examining Surgeon J. M. Torrence certifies May 31, 1882:

"William H. H. Coleman is one-fourth incapacitated from obtaining his subsistence by manual labor. Claimant's disability, so far as I can judge at present, is due to the so-called muscular rheumatism; symptomatic features, tongue slightly furred; some stiffness in motion."

Examining surgeon board at Kittanning, Pa., in March 7, 1883, find—

"William H. H. Coleman's disability was possibly incurred in the service as he claimed, and he is entitled to one-eighth total rating. Also find the affidavit of Dr. Thomas St. Clair, who says, "I have known William H. H. Coleman before his enlistment and since childhood; was the family physician of his father, and believe him to have been sound when he entered the Army."

Also the affidavits of Henry Miller and Frank Hamers that—

"They were well acquainted with William H. H. Coleman, and have known him since the year 1860; that they knew at the time said claimant enlisted in the Army in the year 1861 he was a sound, able-bodied young man, and have known him since his discharge in the year 1864, and that he has been suffering with rheumatism, and they have often visited said Coleman at his residence and found him confined to his bed with rheumatism, and that he has been afflicted with said disease during all the time since he came home until the present time, and have often seen him so badly crippled with said disease as to be unable to move around."

And the sworn statement of D. H. Lucas, similar to that of the above affiants, Miller and Hamers.

Also comrades J. T. Gibson and G. A. McLain testify that—

"William H. H. Coleman was left in camp, can not remember date, but was in the fall of 1863 or spring of 1864, and affiants knew that at the time said Coleman was left in camp he was suffering with rheumatism, and affiant G. A. McLain saith that Coleman at the time he enlisted in the Army was a sound, able-bodied man and free from rheumatism. Also affiants further say that said Coleman was detailed from the company into the commissary department, and that John F. McClain, the regimental postmaster, and Joseph Hoffman, who acted as butcher for commissary department, messed and tented with said Coleman; that they are both dead."

The committee also find twelve letters from prominent citizens of Indiana, Pa., the home of William H. H. Coleman, recommending him for a pension, which letters we would add to this report.

The committee are of the opinion, after considering all the facts in the case, that the claimant is entitled to a pension, and they therefore recommend the passage of the accompanying bill.

Mr. MATSON. Mr. Chairman, I desire to offer an amendment to that bill. The form of the bill, it will be observed, is as follows:

That the Secretary of the Interior be, and is hereby, directed and authorized to place on the pension-roll the name of W. H. H. Coleman, late a private of Company B, Eleventh Regiment Pennsylvania Reserve Corps, and pay him a pension from and after the passage of this act.

I move to strike out all after the word "corps," in line 6, and add the words "subject to the provisions and limitations of the pension laws."

The amendment was agreed to.

The bill as amended was laid aside to be reported to the House with the recommendation that it do pass.

ELLEN EDMISTON.

The next business on the Private Calendar was the bill (H. R. 4605) granting a pension to Ellen Edmiston.

The bill is as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Ellen Edmiston, widow of Elias Edmiston, late of Company —, —— Regiment Volunteers.

The committee recommend the following amendment:

Fill the blank in line 7 by the words "A, Fifty-fifth;" so that it will read: "Company A, Fifty-fifth Regiment Volunteers."

The report (by Mr. PATTON) is as follows:

That claimant is the widow of Elias Edmiston, who enlisted in the military service of the United States as a private in Company A, Fifty-fifth Regiment Pennsylvania Volunteers, November 30, 1863, and was honorably discharged June 19, 1865.

The soldier was pensioned in his lifetime at $14 per month, for gunshot wound of both thighs, left shoulder, and head, and died March 4, 1875.

The application of the widow was rejected on the ground that the death of the soldier was not due to his military service.

It is shown by both medical and lay testimony that the soldier was a constant sufferer from his wounds, and that for a short time before his death his mind was affected by the wound of his head. He wandered from his home on the night of the 3d of March, 1875, and on the following day was found dead in the woods. It is shown by the report of the inquest held upon his dead body that he came to his death "by exposure and cold."

Your committee are of the opinion that the death of the soldier was due to wounds he received in defense of his country, and that his widow should receive a pension, and therefore recommend the passage of the accompanying bill, amended, however, by inserting after the word "Company," in line 7 of said bill, the words "A, Fifty-fifth."

Mr. HEWITT, of Alabama. I would like to ask as to what, in the opinion of the medical board who examined this case, is the ground for granting a pension?

Mr. PATTON. I do not remember distinctly without again looking over the papers, but the facts are stated in the report. He lost his mind for some cause, supposed on account of his wounds, and while wandering in the woods died, and was found dead the next morning. He was shot three times.

The amendment proposed by the committee was agreed to.

Mr. MATSON. I move a further amendment: to insert in line 7, after the word "regiment," the word "Pennsylvania."

The amendment was agreed to.

The bill as amended was laid aside to be reported to the House with the recommendation that it do pass.

ELIZA WARR.

The next business on the Private Calendar was the bill (H. R. 2646) granting a pension to Eliza Warr, widow of Isaac Warr, late of Company F, One hundred and fourteenth Regiment Pennsylvania Volunteers.

The bill is as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place the name of Eliza Warr, widow of Isaac Warr, late of Company F, of the One hundred and fourteenth Regiment of Pennsylvania Volunteers, on the pension-roll, and to pay her a pension at the rate of $8 a month from the date of the death of her husband, November 14, 1879, to continue during life, or until she should again marry.

The committee recommend the following amendment:

Strike out in lines 7, 8, 9, and 10 the words "and to pay her a pension at the rate of $8 a month from the date of the death of her husband, November 14, 1879, to continue during life, or until she should again marry," and insert "subject to the provisions and limitations of the pension laws."

The report (by Mr. PATTON) is as follows:

The committee report that it appears from the claim for pension and evidence filed in the Pension Office in the case of Eliza Warr, widow of Isaac Warr, late private of Company F, One hundred and fourteenth Regiment of Pennsylvania Volunteers, that said soldier enlisted in said service as a private August 21, 1862, and served (when not under treatment for disabilities) until July 1, 1865, when he was honorably discharged; that while in said service and line of duty in action he was wounded at Petersburg, Va., April 2, 1865, and that also from exposure in like line of duty he contracted a severe cold, which resulted in disease of lungs, of which he died November 14, 1879; that soon after his death the widow made her claim for pension, and based her claim upon the belief that her husband's death resulted solely from his wound by depletion of the system, and the evidence of the doctors who attended him tended at first to that conclusion, but by the evidence afterward that the soldier also contracted a cold, which caused affection of the lungs, in said service; that his family doctor testified lastly more specifically as to his disease of the lungs from the time of his arrival home at the time of his discharge, showing that the consumption of which he died, although it did not originate from his wound, did result from his lung disease, which originated from cold contracted in said service. At the first the claimant had no regular attorney, and believing that she was entitled to a pension on account of her husband's wound alone (which was, it appears, a bad one), she at first omitted to state anything about her husband's disease of lungs, which she subsequently did.

The evidence filed in the case in support of the fact that consumption of the lungs, which was the immediate cause of the soldier's death, originated in the service named, is to the following effect:

Samuel Dentel and John Butcher testify that they knew the soldier from 1847; that they saw him a few weeks or a few months after his discharge and return from the Army in 1865, and he was then thin in flesh and much changed in appearance from what he was when he enlisted in August, 1862; that he had a cough and was never free from it afterward, and got worse from year to year, and died of consumption, the result of his army life; that he was sound when he enlisted, and came home broken down, and was never well afterward and not able to do laborious work; that he was also wounded and suffered from that as well as from his disease of lungs. He was energetic and never complained, and worked and attended to business when he was not able; that they lived near neighbors to him both before and after the war, and witness Butcher helped him at his work sometimes, which was that of a florist, he not being able to do it.

John I. Shuster and William France testify that they were in his company in the Army, the first named as sergeant of the company, and the last named as private, and that about the middle of December, 1864, near Petersburg, Va., from exposure in cold weather without shelter, the said soldier contracted a cold, which troubled him while in the service afterwards; that the enemy, under Wade Hampton, made a raid on the cattle of the Union Army, and the One hundred and fourteenth Regiment, to which the soldier and witnesses belonged, was sent out after the enemy, and were out all night, and spent part of the night in a temporary fort, which they called that night "Fort Freeze to Death;" that the weather was cold and they were without shelter, and the said Isaac Warr caught cold, from which he never recovered; that he was a kind of man who would not give up, and kept on duty afterward until he was sent away wounded; that up to the time he contracted his sickness he was a strong man and free from cold or cough; that witness, France, saw him several times after the war and he was still troubled with cough, and grew worse from year to year.

Peter Devereux testified that he knew the soldier from 1855, and saw him often before he enlisted in 1862, and after his discharge in 1865, and that before his enlistment he was a strong, healthy, vigorous man, and had been a soldier in the Mexican war; that the witness saw him a few weeks after his discharge from the Army in the summer of 1865, and then formed the opinion that a strong, vigorous man had been broken down by army life. Witness saw him often each year afterward, and he gradually wasted away until he died; that he had a cough after his return from the Army which resulted in consumption, of which he died.

A. W. Given testifies that he was first lieutenant and brevet captain of the soldier's company, and remembers him being off duty on account of sickness about the first of 1865. Witness could not remember the exact time nor the nature of his sickness, but is almost certain it was from cold contracted from exposure in line of duty; that he had a cough after, about December, 1864; that he was a man who would not give up, and kept on duty when not able, and after December, 1864, he got thin in flesh and had a hectic flush on his face.

Dr. James M. Leedom testifies (after the claimant better understood her rights, and based her claim on her husband's disease as well as his wound) that he attended the soldier from about August, 1865, after his return from the Army, to the fall of 1870f or disease of lungs; that when he first called to attend him in August, 1865, he was confined to his bed and had a cough and incipient phthisis, and also suffered from a wound in his left hip, which was suppurating very much, and so continued for about six months; that the witness attended him more or less every year for his lung trouble, and he had the cough during the whole time, and toward the last of said treatment his expectoration was of that nature peculiar to phthisis, and he had tubercles in the lungs when he first attended him after his discharge; that the witness has no doubt and believed that his lung disease was caused by exposure incurred in the Army, and that his wound contributed to said disease from the drain on his system; that witness knew him for three years before he enlisted and was his family physician and never had occasion to attend him then. He was then in sound health and free from lung disease.

Dr. Jacob H. Wehner testifies that he attended him from October 16, 1878, till November 14, 1879; the date of his death, for phthisis pulmonalis (consumption), and the disease was in the third or last stage; that he believes exposure while he was in the Army was the exciting cause; that he also had a wound on his left hip which had left a large cicatrice, and that the drain on his system from the wound might have contributed, and probably did contribute, to his disease.

The claim was rejected by the Pension Office before the widow filed the additional evidence as to the origin of the soldier's lung disease in the military service from cold and exposure, and notwithstanding the nature of the evidence as herein reported the Pension Office refused, under their strict ruling, to reopen or reconsider the case.

The conclusion arrived at in this case by the committee from the evidence recited is that the soldier was a remarkably strong, healthy man before and at the time he entered the service; that while in the service he contracted a severe cold, which resulted in disease of the lungs; that he was also badly wounded in one of his hips, and that from these disabilities his death resulted. We therefore report the bill favorably, and recommend its passage, amended, however, by striking out all after the words "pension-roll," in line 7 of said bill, and insert in lieu thereof "subject to the provisions and limitations of the pension laws."

The amendment was agreed to; and the bill as amended was laid aside to be reported to the House with the recommendation that it do pass.

JESSE C. BUCK.

The next business on the Private Calander was the bill (H. R. 5146) granting a pension to Jesse C. Buck.

The bill is as follows:

Be it enacted &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll of the United States, subject to the provisions and limitations of the pension laws, the name of Jesse C. Buck, late a private in the Third Pennsylvania Heavy Artillery (One hundred and fifty-second Regiment Pennsylvania Volunteers), at the rate of $8 per month.

The committee recommend the adoption of the following amendment:

Strike out in lines 8 and 9 the words "at the rate of $8 a month."

The report (by Mr. PATTON) is as follows:

Jesse C. Buck enlisted as a private in the One hundred and fifty-second Regiment (Third Artillery) Pennsylvania Volunteers, February 29, 1864, and was honorably discharged July 5, 1865, and filed his declaration for pension November 27, 1868.

That in July, 1864, while stationed at Fortress Monroe, Va., as an unassigned recruit, he was injured by a blow on his left leg from the toe of his comrade's boot while marching at a double-quick; that the rest of the company passed over him and he was severely injured. The fact is fully established by four of his comrades, who also testified to his being sound before his enlistment and free from all lameness; also to the fact of his being lame and entirely disabled since the time of his injury.

The medical testimony is to the same effect. The doctors show that the injured limb is shorter and smaller than the other; that the injury to the tendon of the muscle has caused atrophy of the said lower left leg, severe pain, and a permanent lameness. He must use a crutch and cane in order to move.

Against all this is the certificate of the examining surgeons, who say:

"The man is now in good general health, with the exception of extreme obesity—three hundred and sixteen pounds—now really a disease, which he claims is a sequence of his enforced inactivity. That this statement and conclusions are not true and legitimate we are not prepared to assert. He claims his army weight was one hundred and sixty pounds."

They find all the signs of an injury claimed by the soldier; find him wholly unfitted for manual labor, and rate him at three-fourths. The committee find that he has properly and satisfactorily accounted for his inability to furnish any other kind of proof of his injury; that the proof by his comrades and physicians must be accepted as fully establishing his claim. The committee agree that he should be allowed a pension, and recommend the passage of the accompanying bill with the following amendment: Strike out, in lines 8 and 9, the words "at the rate of $8 per month."

Mr. HEWITT, of Alabama. I would like to ask my friend from Pennsylvania who makes this report if there has been any application to the Pension Bureau in this case?

Mr. STORM. Yes, sir.

Mr. HEWITT, of Alabama. On what ground was it rejected?

Mr. STORM. On the ground that he had not sufficiently proven, or had not proven to the satisfaction of the office, the fact that the injury was received in the service. We show here by the testimony of four of his comrades, men who were with him at the time that the injury was received, as set forth in the report, the facts in connection with his disability.

Mr. HEWITT, of Alabama. How is that stated in the report? I did not catch the reading.

Mr. STORM. The fact as set forth in the report is as follows:

The fact is fully established by four of his comrades, who also testified to his being sound before his enlistment and free from all lameness; also to the fact of his being lame and entirely disabled since the time of his injury.

Mr. HEWITT, of Alabama. I want to know the manner in which he was lamed originally.

Mr. STORM. That is also set forth in the report:

That in July, 1864, while stationed at Fortress Monroe, Va., as an unassigned recruit, he was injured by a blow on his left leg from the toe of his comrade's boot while marching at a double-quick; that the rest of the company passed over him, and he was severely injured.

Mr. HEWITT, of Alabama. He now weighs about 300 pounds, I believe.

Mr. STORM. Three hundred and sixteen; but that ought not to weigh against him now. [Laughter.]

Mr. HEWITT, of Alabama. I think he had better have a pension.

The amendment reported from the committee was agreed to.

The bill as amended was laid aside to be reported to the House with the recommendation that it do pass.

WILLIAM PAUGH.

The next business on the Private Calendar was the bill (H. R. 5581) granting a pension to William Paugh.

Mr. STORM. I ask unanimous consent that this bill be passed over informally without prejudice.

There being no objection, it was ordered accordingly.

AMOS STROH.

The next business on the Private Calendar was the bill (H. R. 5387) granting a pension to Amos Stroh.

The bill is as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll the name of Amos Stroh, late lieutenant-colonel of the Eighty-first Regiment Pennsylvania Volunteers, on account of disease contracted in the military service of the United States, while captain of Company G, in said regiment, at the rate of $15 per month from the 1st day of August, 1863.

The committee recommend the adoption of the following amendment:

Strike out, in lines 8 and 9, the words "at the rate of $15 per month from the 1st day of August, 1863," and insert "subject to the provisions and limitations of the pension laws."

The report (by Mr. PATTON) is as follows:

That Amos Stroh was mustered into the service of the United States on the 16th day of September, 1861, as captain of Company G, Eighty-first Regiment Pennsylvania Volunteers, for three years, and was promoted to lieutenant-colonel of same regiment April 17, 1863. He claims that while in the military service of the United States and in the line of his duty he contracted a disease of the kidneys, from which he is now totally disabled.

This claim was originally filed ——, and was rejected upon a final hearing on the 11th day of December, 1879, on the ground that claimant was not disabled by disease of kidneys before or since his resignation from the Army. Additional evidence was filed, and the case reopened. On October 2, 1882, the claim was again rejected on the ground that the additional evidence filed did not change the status of the case. It is in evidence that claimant was in perfect health when he entered the service, and that he took sick on or about the close of the seven days' fight, in July, 1862, on the Peninsula, Virginia, and that in view of said sickness he was sent home on recruiting service; that after his arrival home he was confined to his room for over two weeks, and that during his stay home, a period of three months, he was treated for disease of the kidneys by Dr. A. C. Smith, his family physician; that, though only partially restored to health, at the expiration of said period he returned to his command, and, as shown, was as soon after promoted to the rank of lieutenant-colonel of the regiment. In this capacity he served until the day of his resignation; and though it is not shown that he resigned on account of sickness, it is shown that his kidney trouble had not left him. The medical testimony of Drs. Bowman, R. B. Kirby, A. C. Smith, R. Leonard, De Young, B. S. Erwin, and J. G. Zern, who have treated him from time of discharge to the present time, clearly and fully establishes the fact that he was treated for kidney disease, and no other.

Since the rejection of the claim by the Commissioner of Pensions the certificate of six physicians of Carbon County, Pennsylvania, where Colonel Stroh resides, setting forth his soundness before going into the Army, and his impaired physical condition after his return from the Army, and at the present time. They all unite in saying that he has chronic affection of the kidneys and bladder; some of these physicians knew him personally before he went into the Army.

Also a certificate of seven of his fellow-laborers (the applicant being an iron-molder), setting forth the physical condition of the soldier before and since his military service, and his inability now to pursue manual labor as a means of securing a livelihood.

Also a statement signed by twenty-eight of the officers and privates of the said Eighty-first Regiment, showing that claimant was a sound man when he entered the service, and that he became disabled in the line of his duty while on the Peninsula in 1862, from disease, which the regimental surgeon, Dr. Gardner, pronounced kidney trouble, caused by exposure, and on this account was off of duty for about four weeks, and was afterward sent home on recruiting service

in order to allow him an opportunity to regain his health. That he has suffered from the same disease since his return; that he is now sixty-three years old, and is unable to earn a livelihood by manual labor, and that a pension be allowed him. Taking all the evidence, both before and after rejection of this claim, and it makes a very strong case, and on its showing the soldier is clearly entitled to relief.

Your committee therefore recommend the passage of the accompanying bill as amended, by striking out in line 8 all of said line after the word "regiment," and strike out lines 9 and 10. And add to the bill "subject to the provisions and limitations of the pension laws."

The amendment was agreed to.

The bill as amended was laid aside to be reported to the House with the recommendation that it do pass.

GEORGE TAPP.

The next business on the Private Calendar was the bill (H. R. 6018) increasing the pension of George Tapp.

The bill is as follows:

Be it enacted &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to cause the pension of George Tapp, late a lieutenant of Company B, Eleventh Regiment Pennsylvania Volunteers, now on the pension-roll of the United States as certificate numbered 72534, to be increased, and to pay him a pension at the rate of fifty dollars per month.

SEC. 2. That this act shall be in force from its passage.

The committee recommended the striking out of the word "fifty," in line 9, and the insertion of "forty-five."

Mr. MATSON. I ask unanimous consent that, for manifest reasons, the reading of the report be dispensed with, and that it be printed in the RECORD.

There was no objection, and it was ordered accordingly.

The report (by Mr. PATTON) is as follows:

From the papers presented to your committee we find the petitioner, George Tapp, served honorably in Company B, Eleventh Pennsylvania Infantry Volunteers, from December 11, 1861, to November 21, 1863, and subsequently in the Veteran Reserve Corps.

In the first-named service he received three gunshot wounds, viz: August 28, 1862, a bullet entered his left arm just above the elbow-joint, and he is now, as a result of this wound, unable to extend this arm, but carries it in a horizontal position. On the same date his right forearm was pierced by a bullet, which cut into the bone and caused sloughing off of an artery, leaving this arm useless where weight is concerned.

At Gettysburg, Pa., July 1, 1863, a bullet cut the cord of right testicle in such manner that amputation of the testicle resulted; the same ball continued through the adductor muscles of the thigh. The wounds enumerated have steadily grown worse since they were received, and his left arm is practically useless, as also is his left leg for locomotion, being but a partial prop when placed in position, and it is dragged by a serpentine or semi-circular movement when the claimant tries to move over short distances by aid of a cane in his partially disabled right arm. The loss of testicle has resulted in impotence, and, deserted by his wife, he has for years existed, by means of his pension, in a hut.

Your committee are of the opinion that such disabilities as this officer has received demand that a pension sufficient to relieve him from want or dependence upon others should be granted. We therefore report favorably upon his claim and recommend the passage of bill 6018, granting a pension of $45 per month to said George Tapp, amended by striking out of bill, in line 9, "fifty dollars" and insert "forty-five dollars."

Mr. HEWITT, of Alabama. I would like to ask the gentleman from Indiana if, from his own knowledge, this is a case where the pension ought to be increased?

Mr. MATSON. It is undoubtedly such a case. The testimony is conclusive.

The amendment was agreed to.

The bill as amended was laid aside to be reported to the House with the recommendation that it do pass.

ROBERT PATTERSON.

The next business on the Private Calendar was the bill (H. R. 1759) granting a pension to Robert Patterson.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Robert Patterson, late a private in Company F, Thirty-seventh Regiment Wisconsin Volunteers.

The report (by Mr. SUMNER, of Wisconsin) was read, as follows:

The Committee on Invalid Pensions, to which was referred the bill (H. R. 1759) granting a pension to Robert Patterson, having had the same under consideration, hereby submit the following:

The claimant, Robert Patterson, enlisted and was mustered into the United States military service on the 19th day of April, 1864, as a private in Company F, Thirty-seventh Wisconsin Volunteers, and served until May 24, 1865, when he was honorably discharged.

He made application for a pension upon the 4th day of February, 1876, upon the ground that he was disabled on account of rheumatism and erysipelas contracted in said military service, which was rejected by the Pension Office upon the 8th day of September, 1877, upon the ground that there was "no record of alleged disability, and inability of the claimant to furnish medical evidence connecting the alleged disability with the military service."

The proof is clear that he was a sound and healthy man when he entered the service. The testimony is also satisfactory that he contracted the diseases alleged at White House Landing, in August, 1864, in the State of Virginia, and while in the line of duty. It is also fully established that he was suffering from the effects of those diseases when he was discharged from the service, and that he has continued to suffer therefrom ever since that until the present time. That his disability is the result of diseases contracted in the service seems to be fully established. Examining Surgeon F. V. Burroughs, of Mauston, Wis., testifies:

"In my opinion the said Robert Patterson is one-half incapacitated for obtaining his subsistence by manual labor from disability resulting from erysipelas and chronic rheumatism."

The foregoing findings and conclusions are supported by the testimony of six witnesses besides the examining surgeon. Your committee therefore report in favor of the passage of said bill.

The bill was laid aside to be reported to the House with the recommendation that it do pass.

LEWIS J. BLAIR.

Mr. LOWRY. I crave the indulgence of the committee to allow me to call up a short bill unanimously reported by the Committee on Invalid Pensions. It is the bill (H. R. 7500) to restore the name of Lewis J. Blair to the pension-roll, and will be found on page 49 of the Calendar.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to restore to the pension-roll the name of Lewis J. Blair, late lieutenant-colonel of the Eighty-eighth Regiment Indiana Volunteers, subject to the provisions and limitations of the pension laws.

The bill was reported with the following amendment:

In line 4 strike out the word "restore to" and insert in lieu thereof the words "reinstate on."

Mr. LOWRY. Perhaps it will be in the interest of expedition and will allow other gentlemen to come in if I am permitted briefly to state the facts in the case in place of having the report read. This is a bill to reinstate General Blair as lieutenant-colonel on the pension-roll he having heretofore been allowed a pension. His name was dropped in consequence of a special examination and a report of a special examiner, *ex parte* in its character, where no opportunity was afforded the pensioner of being heard. That report was to the effect that his wounds had not been contracted in the service. On a full examination of the case the committee find the facts to be quite otherwise. They state that the evidence is full and satisfactory as to the fact that the injuries were received in the service, and that they are fully satisfied his name should not have been dropped from the pension-roll. They recommend his restoration. The amendment proposed is simply a slight verbal alteration.

The amendment was adopted.

The bill as amended was laid aside to be reported to the House with the recommendation that it do pass.

The report (by Mr. MATSON) in this case is as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 372) to restore Lewis J. Blair to the pension-roll, having considered the evidence in the case, beg leave to report:

That claimant was mustered into the military service of the United States as captain of Company H, Eighty-eighth Regiment Indiana Volunteers, August 29, 1862; was subsequently commissioned major and lieutenant-colonel, and was honorably discharged June 7, 1865.

July 14, 1870, he was granted a pension of $20 per month for injuries of left side and ankle, received at the battle of Missionary Ridge, November 25, 1863.

November 29, 1876, his name was dropped from the pension-roll by order of the Secretary of the Interior, on the report of a special examiner of the Pension Office, on the ground that the disability for which the soldier was pensioned was not due to his military service.

The committee have examined this case very carefully, and find from the evidence of the colonel commanding the regiment at the battle of Missionary Ridge, and other officers present at this engagement, that Lieutenant-Colonel Blair was injured in his left breast, arm, side, and leg, by a bursting shell, and by being struck on the ankle by a spent ball; that he was treated in hospital for these injuries. The assistant surgeon of the regiment certifies to treatment for these injuries at the battle. The continuance of the disability from these injuries is shown by the testimony of the physicians who have treated him since his discharge. He is also shown to have been free from any disability prior to and at the time of being mustered into the military service of the United States.

The pension was originally granted by Commissioner of Pensions Bentley, after a personal examination of the evidence on file.

Your committee find in the evidence on file in this case, as well as that taken by the special examiner of the Pension Office, no sufficient reason for the action of the Commissioner in dropping the name of this soldier from the pension-roll, and therefore recommend the passage of the accompanying substitute bill.

MRS. ANN E. GRIDLEY.

Mr. WINANS, of Michigan. I ask unanimous consent to call up out of its order the bill (H. R. 7617) granting a pension to Mrs. Ann E. Gridley.

There being no objection, the bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll the name of Ann E. Gridley, a volunteer nurse in the late war, and pay her the sum of $25 per month from and after the passage of this act.

The Clerk commenced the reading of the report.

Mr. HEWITT, of Alabama [interrupting the reading]. I do not think it is necessary to read any more of the report. It may be printed in full in the RECORD. It presents only one question, whether or not we shall put nurses in the Army on the pension-roll. It is a new class.

Mr. BAGLEY. The gentleman will remember that we had several precedents of that kind last year.

Mr. HEWITT, of Alabama. Oh, yes.

The report (by Mr. WINANS, of Michigan) is as follows:

The Committee on Invalid Pensions, to whom was referred H. R. 7617, granting a pension to Mrs. Ann E. Gridley, report:

That said Mrs. Ann E. Gridley is a resident of Hillsdale, in the State of Michigan; that she commenced her work under the auspices of the Soldiers' Relief Association as a volunteer nurse in the spring of 1864, and was continuous in her patriotic services until the close of the war. She was not only an Army nurse but a disbursing agent of the association to aid the sick, wounded, and dying soldier, and provide special articles needed for his immediate relief.

The secretary of the association, Mr. T. Moses, says: "She was especially systematic and energetic in her methods, carefully examining her reports, as she came to me for funds and stores with which to prosecute her work."

And further: "I was personally cognizant of her work in the field and hospitals after the great battle of Cold Harbor. Perhaps her most important work was for the Andersonville prisoners as they languished in hospitals at Annapolis, after exchange. Her devotion to this most exacting and laborious duty nearly cost her her life. She contracted a fever from the contagion brought from Andersonville, from the effects of which she may never fully recover."

Dr. G. S. Palmer, late surgeon United States Volunteers, says: "She did

most excellent work among the sick soldiers at Annapolis. She contracted a severe fever and came near losing her life while in hospital service."

Dr. Bliss, brevet colonel (late surgeon), United States Army, says of her:

"As a volunteer nurse during the late war she was an efficient and faithful worker in the field and hospital. Her services were directed by good judgment and accomplished great good to the sick and wounded soldier."

Dr. Radcliff says:

"She served with efficiency at the United States general hospital at Annapolis during 1864 and 1865, especially during a severe outbreak of hospital fever, where she came near sacrificing her own life."

Dr. Heden Densmore says:

"Mrs. A. E. Gridley worked untiringly for the soldiers in the capacity of nurse during the war without compensation. Her labor was given over a large portion of time in various places with a heroism I have seldom seen equaled."

Dr. J. E. Dexter says:

"I knew Mrs. A. E. Gridley both in field and hospital as a volunteer nurse in the late war; none were more devoted and faithful. She merits special consideration from the Government."

D. T. Pierce, a member of the Michigan Relief Association, says:

"I can of my own personal knowledge state that no one rendered more valuable service than Mrs. Ann E. Gridley. Her present impaired health is undoubtedly the result of continual labor in the field and hospital."

E. W. Barber, reading clerk for several Congresses, and late Assistant Postmaster-General, says:

"She gave her whole time to the nursing and care of sick and wounded soldiers. No person from Michigan was more faithful, earnest, and devoted. Besides her personal and unpaid service she gave two boys to the service of her country—one to the Navy and the other to the Army, the latter entering the service at the age of 15 years, and remaining during the entire war. If there is anything on earth or in the loyal North that deserves consideration from the hands of the agents of the Government, it is Mrs. Gridley. She needs it to keep the wolf away from her door."

Harry H. Smith, the present efficient journal clerk of the House, says:

"I made the acquaintance of Mrs. Gridley in 1864, while a private in the Twenty-sixth Regiment of Michigan Infantry, on detail in this city, while assisting Dr. Tunnercliff, then Michigan military agent, looking after sick and wounded Michigan soldiers. Mrs. Gridley was similarly engaged; but did not confine her labors solely to Michigan soldiers, but assisted all sick and wounded Union soldiers to the extent of her ability."

Considering the above testimony, and in view of the further fact that her services were gratuitous, and that she has never received any compensation and is now poor and in ill-health, we recommend the bill do pass.

The bill was laid aside to be reported to the House with the recommendation that it do pass.

CAROLINE TRECKELL.

Mr. PERKINS. I ask unanimous consent to take up out of its order the bill S. 929.

There being no objection, the bill (S. 929) granting a pension to Caroline Treckell was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and is hereby, authorized to place on the pension-roll, subject to the limitations of the pension laws, the name of Caroline Treckell, widow of Lieut. Greenbury Treckell, deceased, late of the Aubrey Cavalry Company, Kansas Militia.

Mr. PERKINS. I desire to make a brief statement in connection with this bill as the report of the House committee has not been published.

Mr. HEWITT, of Alabama. Is that bill on the Calendar?

Mr. PERKINS. It has passed the Senate, and was reported by the House committee this morning, but the report has not been printed.

Mr. MATSON. I understand that the bills reported this morning are now at the Printing Office as well as the reports accompanying them.

The CHAIRMAN. The bill is in the hands of the Clerk.

Mr. PERKINS. I will make a brief statement. This is an old widow lady. I desire to say a word to explain why she has not obtained a pension through the Department. Her husband had undertaken to organize a company, and had been commissioned lieutenant of the company by the governor of Kansas. But he was killed by Quantrell's guerrilla organization before he was mustered into the United States service. For that reason the widow has not been able to obtain her pension through the Pension Bureau. There is no question as to the facts, and they are as I have stated.

The bill has passed the Senate, and has been unanimously reported by the committee to this House. This claimant is an old lady, now supported by the charity of her friends, and I ask that the bill pass.

There being no objection, the bill was laid aside to be reported to the House with a recommendation that it do pass.

MRS. JENNIE E. JOHNSON.

Mr. HEPBURN. Mr. Chairman, I ask unanimous consent that the bill (H. R. 2002) for the relief of Mrs. Jennie E. Johnson be taken up.

There being no objection, the committee proceeded to consider the bill; which was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll the name of Mrs. Jennie E. Johnson, the mother of Capt. Charles P. Johnson, deceased, late a captain on the retired-list of the Army of the United States, as a pensioner at the rate of $25 per month.

The report (by Mr. HOLMES) was read, as follows:

That claimant is the mother of Charles P. Johnson, who enlisted in the military service of the United States as a private in Company A, Seventeenth Regiment Iowa Volunteers, February 25, 1862, and was promoted successively first lieutenant and captain, and who was by special act of Congress approved February 21, 1868, retired as a captain, and died April 12, 1879, from the effect of wounds received at the battle of Big Black River.

The evidence in the case discloses the following facts:

He enlisted at Leon as a private in Company A, Seventeenth Volunteer Regiment of Iowa Infantry, and was mustered into United States service March 21, 1862, as first sergeant. Through natural efficiency and strict attention to duty he was promoted to the rank of second lieutenant September 4, 1862, and was commissioned as captain June 3, 1863, and was the only officer in the regular Army commissioned by special act of Congress.

In the same year, while leading his company in a charge at the Big Black River in the rear at Vicksburg, he was wounded by a minnie-ball passing horizontally from side to side through the body, between the rectum and the spinal column, tearing away a part of the former, fracturing a vertebræ of the latter, and injuring the spinal cord to such an extent as to paralyze the lower extremities. The hospital surgeon thought the case hopeless, but by request, and also thinking to perform the last kind act for a friend, the regimental surgeon came and dressed his wounds by drawing a silk handkerchief, one-half at a time, entirely through his body.

The next day he fell into the hands of the rebels and was transported in a cattle-car to Atlanta, where his mother, having heard of his condition, reached him some time afterward. He remained here until the occupation of the city by General Sherman, when he, with his mother, was sent to Saint Louis, Mo. The nature of his wounds finds no parallel in the medical records of either Europe or America. The only position he could assume was that of lying on his face, and for sixteen years he could not find relief from his sufferings in any other position. For years, upon eating tomatoes, blackberries, or any fruit having fine seeds, these would tear open his wounds afresh and the natural excrement of the body find three avenues of escape.

After the death of Captain Johnson his widow was granted a pension, which she continued to receive up to the time of her death.

The soldier left no children, and with the death of his widow there was no one left with a legal claim against the Government for pension.

It is shown by the evidence that the mother, who is the claimant in this case, nursed the soldier back to life; cared for and watched over him as only a mother could, and in her care and attention exhausted all her means in ministering to his wants. She is now old and infirm from the long years of constant watching over her soldier son, and is left without any means of support, and with no one to look to for support in her declining years. She is shown to be an estimable lady, and a pension is asked for her by Governor Sherman, governor of Iowa, and many other leading men of the State, and by all who are familiar with the long years of laborious devotion to and the great sacrifices of health and means made for her son, who by reason of his wounds received in battle for his country was more than a child again.

Your committee think this claim appeals with peculiar force to the equities of Congress, and confidently believe that a pension should be given claimant for the sacrifices she has made, not only of her health, but of the means that otherwise would have been ample for her maintenance in her old age, and therefore recommend the passage of the accompanying bill, amended, however, by striking out all after the words "United States," in line 7 of said bill, and inserting the following: "subject to the provisions and limitations of the pension laws."

The amendment reported by the committee was as follows:

In lines 7 and 8, strike out the words "as a pensioner at the rate of $25 per month" and insert the words "subject to the provisions and limitations of the pension laws."

The amendment was agreed to.

There being no objection, the bill as amended was laid aside to be reported to the House with a recommendation that it do pass.

EMMA O. ZEIGLER.

Mr. HILL. I ask unanimous consent for the consideration of the bill (H. R. 4878) granting a pension to Mrs. Emma O. Zeigler. General Robinson, the author of the bill, is no longer upon this floor, and I ask that the bill be considered now.

There being no objection, the committee proceeded to consider the bill; which was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Emma O. Zeigler, widow of W. A. Zeigler, late captain of Company —, First Regiment West Virginia Infantry Veteran Volunteers.

The report (by Mr. LE FEVRE) was read, as follows:

That claimant is the widow of William A. Zeigler, who enlisted in the military service of the United States as a private in Company B, First West Virginia Light Artillery Volunteers, August 5, 1861; was commissioned second lieutenant in Company I, Fifth Regiment West Virginia Volunteers, January 13, 1863; first lieutenant West Virginia Veteran Infantry Volunteers, September 5, 1864, and captain March 29, 1865, and was honorably discharged July 21, 1865.

September 20, 1869, soldier filed a declaration for pension, alleging that on or about August 5, 1864, near Middleburg, Md., while retreating from the enemy, and in command of Company I, Fifth West Virginia Volunteers, he received sunstroke.

April 20, 1876, the soldier died, pending the final adjudication of his claim. After the death of the soldier, Emma O. Zeigler, the widow, completed the claim, and was granted a pension up to the date of her husband's death. But her claim for pension as the widow of said soldier was rejected on the ground that the fatal disease of which the soldier died was not due to and was not a result of his military service.

Surgeon Hysell, of the Ninth Regiment West Virginia Volunteers, testifies, November 3, 1879:

"That he frequently prescribed for the soldier in the summer of 1864 for hemorrhoids, or piles, and chronic diarrhea, and as surgeon of the First West Virginia Volunteers he prescribed for the said officer on several different occasions during the winter of 1864 and 1865 for the same trouble, together with ulceration of the rectum; that after both officers were discharged from its service in 1865 they settled about ten miles apart, affiant at Wyandotte, W. Va., and the officer at Catlettsburg, Ky.; and that he frequently saw and prescribed for the said Zeigler during the following winter and the summer of 1866 for what he called his old trouble, and the officer appeared to be suffering with the same disease for which he had treated him while in the service."

A. Robb, M. D., testifies, May 27, 1876:

"That he attended soldier in his last illness; had been his family physician for three years; he died April 20, 1876, of what he supposed was hemorrhoids, or piles, but shown by *post mortem* examination to be cancer of rectum, involving lower part of spinal cord, sciatic nerve of left side and the bladder; that he treated soldier March 17, 1876, for what he considered piles; soldier died April 20, 1876; a *post mortem* examination made eight hours after death showed the disease to be of a cancerous nature."

Captain Ewing swears to an intimate acquaintance with the soldier from 1856 to 1870; they occupied the same room as an office from 1865 to 1870, and knows soldier was frequently complaining of piles and under treatment for the same by Dr. Pugh, who was a physician boarding in the soldier's father's family; affiant filed soldier's application for pension and did not allege piles because Dr. Pugh was dead and they could not prove medical treatment.

Alcinous Carnahan swears he was ward-master in the regimental hospital of the Fifth West Virginia Volunteers, and had a personal knowledge of the fact

that Lieutenant Zeigler was afflicted while in the service with piles, and that from 1865 to 1870 soldier complained of piles.

Colonel Enochs, of soldier's regiment, swears that soldier was treated for piles in 1864, during the summer campaign in the Shenandoah Valley of Virginia, and from that time on to the date of his discharge in 1865.

James C. Ely testifies that he is a druggist in the town of Catlettsburg, Ky., and sold medicines to the soldier frequently during the year 1865, and on to 1870, which he desired for piles.

This case was investigated by a special examiner of the Pension Office in 1882, and the testimony thus taken is very voluminous and conflicting. In submitting the evidence in the case the special examiner says:

"I also believe that William A. Zeigler contracted piles in service, and that they continued to slightly affect him up to death."

It is shown by the evidence that the widow has not remarried, and that the soldier abandoned her a few years before his death, being at the time in fear of arrest for having used money belonging to an insurance company. The soldier located at Blanchester, Ohio, where he assumed the name of Avery, and July 19, 1871, was married to Miss Alice Jerrall, with whom he lived until the date of his death, April 20, 1876; and that ten children were the result of this marriage. During the time he was living with this woman at Blanchester, Ohio, he kept up a correspondence with and sent small sums of money to his lawful wife at the town of Catlettsburg, Ky., in which he impressed her he could not return home by reason of his liability to arrest for the use of money belonging to the insurance company as aforesaid. It is shown conclusively that no divorce proceedings were ever had by the soldier or claimant, and the legal marriage of claimant is fully established. Your committee find from the evidence in the case that the soldier's death was due to the disability contracted in the military service, and that his legal widow, which is the claimant in this case, is entitled to a pension, and therefore recommend the passage of the accompanying bill.

Mr. MATSON. Mr. Chairman, I ask that this bill be laid aside to be reported favorably to the House. I wish to state the reason why I make that request. When the bill was up before General Gibson made some objection to it, but he came to me last Friday night, after the committee had risen and we had gone into the House, and stated that he had investigated the matter, and that after that investigation instead of having any objection to the bill he wished to have it pass.

There being no objection, the bill was laid aside to be reported to the House with the recommendation that it do pass.

ELIZABETH DAVIS.

Mr. WILSON, of Iowa. I ask unanimous consent to call up the bill (H. R. 457) granting a pension to Elizabeth Davis.

There being no objection, the committee proceeded to consider the bill; which was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Elizabeth Davis, widow of Hannibal B. Davis, late captain of Company K, Fourth Regiment Missouri State Militia, to date from the death of said Hannibal B. Davis.

The report (by Mr. HOLMES) was read, as follows:

The claimant, Elizabeth Davis, is the widow of Capt. Hannibal B. Davis, late a captain of Company K, Fourth Regiment of Missouri State Militia. This bill was favorably reported by the Committee on Invalid Pensions in the Forty-seventh Congress. As the report referred to is a very fair résumé of the points in the case, your committee herewith incorporate the same into their report, namely:

[House report No. 593, Forty-seventh Congress, first session.]

The Committee on Invalid Pensions, to whom was referred the (bill H. R. 315) granting a pension to Elizabeth Davis, having had the same under consideration, respectfully report:

We find from the papers on file in the original case at the Pension Office, and those presented to your committee, that the petitioner is the widow of Hannibal B. Davis, who was a captain of Company K, Fourth Regiment Cavalry, Missouri State Militia; that he was mustered September 10, 1862, and resigned April 8, 1864. He was killed by a band of guerrillas at Tipton, Mo., September 1, 1864, a few months after his resignation from the service. The evidence shows that Captain Davis had made himself particularly obnoxious to the guerrilla forces in the State of Missouri during his service as captain of the Fourth Cavalry, and threats had been made repeatedly that when opportunity occurred he should be killed.

Having resigned from the service and located at Tipton, he was pursuing his avocation when notice was given of an impending raid by guerrillas upon the town. A force of home-guards was quickly organized and placed in charge of the captain, who did valiant service in repelling the invasion of the guerrilla band, but was unsuccessful in staying its progress. He, with others, was captured, and as soon as he was identified was placed in close custody, his comrades being released. He was carried across the county line into Cooper County, Missouri, where he was shot and killed. This case was rejected by the Pension Office on the ground that the officer was not in the service of the United States and in line of duty at the time of his death.

Your committee understand that under the law this widow is not pensionable, but there are equities of the case deserving of attention and recognition by Congress. The deceased officer for two years had been a gallant soldier in the service of the Government, and in that service had incurred the displeasure of the many bands of the enemy which were prowling through the State of Missouri at the time. The homes of himself and other Union men were threatened with attack on account of the action he had taken in the past, and hastily donning his former uniform he led his neighbors to repel the incursion of the enemy in defense of his home, and on account of his former service to the United States he was killed, and his services were forever lost to his wife. She claims, and your committee is of the opinion justly and equitably, the recognition of his services by the Government in the payment to her of a pension, the same as if he had been regularly upon the muster-rolls of the United States Army. An act granting him a pension passed the House in February, 1881, but failed to be reached in the Senate.

Your committee recommend that the bill be passed.

Your committee indorse all the statements of the foregoing report as fully borne out by the record proofs, and therefore recommend that the pending bill do pass.

There being no objection, the bill was laid aside to be reported to the House with the recommendation that it do pass.

SARAH M. BISSELL.

Mr. HEWITT, of Alabama. I ask unanimous consent to take up the bill (H. R. 6940) granting a pension to Sarah M. Bissell.

There being no objection, the committee proceeded to consider the bill; which was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Sarah M. Bissell, widow of Commodore Simon B. Bissell, late of the United States Navy, and pay her a pension of $50 per month from and after the passage of this act.

The report (by Mr. HEWITT, of Alabama) was read, as follows:

The committee have given Mrs. Bissell's case thoughtful consideration, and are convinced that no more deserving claim has come before Congress. Mrs. Bissell is the widow of the late Commodore Simon B. Bissell, who gallantly and faithfully served his country through a long and honorable career in the Navy, and now in utter helplessness she appeals for a pension barely sufficient to keep her from actual want. And in this connection the committee calls attention to the following letter from that gallant patriot Admiral David D. Porter; it tells its own eloquent story. The committee makes the said letter a part of this report:

OFFICE OF THE ADMIRAL, *Washington, D. C., June* 19, 1884.

MY DEAR SIR: Please accept my warmest thanks for your kind and encouraging letter regarding the pension of Mrs. Bissell.

I regret very much to hear that there is not a prospect of getting a bill through for the relief of Mrs. Bissell during the present session. The distress of this interesting family is the most dreadful that has come to my knowledge for many years.

It can scarcely be conceived that a person once holding Mrs. Bissell's position as the wife of a commodore in the Navy could be reduced to such poverty. Mrs. Bissell and her daughter have not a cent in the world. They have been obliged to sell every little article of value to purchase food. Fortunately they have a small house of their own in which they can hide their grief and their poverty.

I never knew until day before yesterday their actual destitute condition, and I yesterday sent them the first square meal they have had for two weeks.

Commodore Bissell, when he was retired, took his family abroad to a cheap place, where he was enabled to lay up a little from year to year. He put the money in the hands of a relative of his wife's to invest for her. After the commodore's death his family returned to America to find that all their savings which they had sent home had been made way with, and that absolute poverty stared them in the face. Their own relatives are unwilling to help them by the loan of even a dollar.

How they will get along God only knows, unless they can get this pension.

It is not right that the family of an officer who so faithfully performed his duty as did Commodore Bissell should be suffering such extreme poverty from no fault of their own.

I hope you will excuse me for troubling you with this long story; but as you have interested yourself in the matter, and it comes under your cognizance, I thought it my duty to state to you the exact condition of this family. If anything could be done for them this session, it would be an act of mercy.

I am sure you have sympathy enough for this case to excuse my intrusion on your time, and I am glad to know that you consider the claim of Mrs. Bissell a just one.

I am about the only one who interests himself in the cases of the wives of old officers left by the death of their husbands in distress. I do so because I know their merits and demerits, and must be the last one to recommend any person for a pension who did not actually deserve it. These good people, Mrs. Bissell and her daughter, deserve more than ordinary consideration. Thanking you for your courtesy in finding time to write and give me such encouraging news for the future,

I have the honor to remain, very respectfully and truly yours,

DAVID D. PORTER, *Admiral.*

Hon. G. W. HEWITT, M. C.,
Chairman Committee on Pensions,
United States House of Representatives.

The committee earnestly recommend the passage of the bill.

There being no objection, the bill was laid aside to be reported to the House with a recommendation that it do pass.

HECTOR W. SUMMERS.

Mr. HALSELL. I ask unanimous consent to take up for present consideration the bill (H. R. 7501) granting a pension to Hector W. Summers.

There being no objection, the committee proceeded to consider the bill; which was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place the name of Hector W. Summers, of Bucksville, Logan County, Ky., late a private in the Twenty-sixth Regiment Kentucky Volunteers, on the pension-roll, subject to the provisions and limitations of the pension laws.

The report (by Mr. LE FEVRE) was read, as follows:

That claimant enlisted in the military service of the United States as a private in the Twenty-sixth Regiment Kentucky Volunteers the latter part of December, 1861, at Calhoun, McLean County, Kentucky. He was regularly enrolled and was paid one month's pay by John MacMorton, and was furnished a uniform and arms and assigned to duty. Colonel Burbridge was in charge of the camp of rendezvous, and Major Davidson of the Twenty-sixth Kentucky Regiment. In a few days after being enrolled he was detailed for recruiting service and ordered to Bouyer's Ferry, on Green River. While on duty at this place he was captured by a party of confederate soldiers, under command of John M. Porter, late Commonwealth's attorney for the third judicial district of Kentucky, and now deceased. He was taken to Bowling Green, Ky., and confined for about six weeks, when, on the evacuation of that place by the confederates, he was removed to Salisbury, N. C., where he was confined in prison for more than six months, at the expiration of which time he was paroled and sent home, and reported to Colonel Maxwell, then in command of the Twenty-sixth Regiment Kentucky Volunteers. On reporting to the colonel of his regiment for duty he was told by that officer to go home, as he could not live in camp; to live at home if he could.

It is shown that the soldier was suffering from chronic diarrhea at the time of his release from confinement in the confederate prison, and from heart disease, with which disabilities he has continued to suffer ever since; that he is now an old man, being 67 years of age, and broken down in health, as a result of his confinement in rebel prisons.

The fact of his military service is clearly established, as well as that of his capture in the line of duty; the latter being shown by the testimony of John M. Porter, commanding the confederate forces who captured him.

His application was rejected by the Pension Office solely on the ground of his not being mustered into the military service.

Your committee find from the evidence that the soldier was regularly enrolled

and assigned to duty, and that he was detailed as a recruiting officer and was on duty as such at the time of being captured, and that his long confinement in confederate prisons was the cause of the permanent disability from which he is now suffering, and that he should be pensioned by the Government in whose service he lost his health, and therefore report a bill to place him on the pension-roll, and recommend its passage.

There being no objection, the bill was laid aside to be reported to the House with a recommendation that it do pass.

RACHEL SMITH.

Mr. JOSEPH D. TAYLOR. I ask unanimous consent to take up for present consideration the bill (H. R. 5813) granting a pension to Rachel Smith.

There being no objection, the committee proceeded to consider the bill; which was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Rachel Smith, dependent mother of Andrew M. Smith, late a private in Company E, Twenty-sixth Regiment Ohio Volunteer Infantry.

The report (by Mr. LE FEVRE) was read, as follows:

Mrs. Rachel Smith, as appears from the papers accompanying said bill, was the dependent mother of Andrew M. Smith, who enlisted in Company E, Twenty-sixth Ohio Volunteer Infantry, on the 19th day of June, 1861, and served until July 25, 1865, when he was honorably discharged from the service; that during the entire term of his said service he was the sole and only support of his mother, said Rachel Smith, as he had been before he enlisted in the service; that after his discharge from the service he continued to support his mother until he was intermarried with Miss Mary E. Work, when she became an inmate of his family, and so continued until his death; that on the 8th day of February, 1873, a pension at the rate of $4 per month, beginning from the 9th day of December, 1872, was granted to said Andrew M. Smith by the Commissioner of Pensions, Hon. J. H. Baker; that on the 9th day of February, 1872, said pension was increased to $24 per month upon the order of said Commissioner of Pensions; that on the 5th day of May, 1876, said Andrew M. Smith died; that thereupon his widow, Mary E. Smith, applied for a widow's pension, which was granted to her from and after the death of her said husband, which pension she divided with the said Andrew M. Smith's mother, said Rachel Smith; that on the 17th day of July, 1880, the widow of said Andrew M. Smith, Mary E. Smith, remarried, in consequence whereof said pension lapsed. Therefore, the said dependent mother, Rachel Smith, prays that she may be granted a pension as said dependent mother.

Your committee, in view of the above-recited facts, as shown by the papers, recommend the passage of said bill.

There being no objection, the bill was laid aside to be reported to the House with a recommendation that it do pass.

ELIZA SLUSS.

Mr. WOLFORD. I ask unanimous consent to take up for present consideration the bill (H. R. 3605) granting a pension to Eliza Sluss.

There being no objection, the committee proceeded to consider the bill; which was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and is hereby, authorized and directed to place on the pension-roll the name of Eliza Sluss, widow of John M. Sluss, late captain of Company A, Third Indiana Volunteers (serving in the war with Mexico), subject to the provisions and limitations of the pension laws.

The report (by Mr. STOCKSLAGER) was read, as follows:

Eliza Sluss, the claimant, is the lawful widow of John M. Sluss, deceased, who was captain of Company A, Third Infantry Indiana Volunteers, in the war with Mexico, and who was pensioned for injuries received in the line of duty, said pension bearing date of August 14, 1849, at the rate of $13.33½ per month. That his pension was suspended in 1850, reinstated, and increased to $20 per month in 1855, and again suspended in 1864. The case was referred to Dr. Hood, medical referee of the Pension Office, in 1874, who went to the home of Captain Sluss, and made a personal examination of the case.

Dr. Hood, after a careful consideration of the evidence and an examination of the physical condition of Captain Sluss, says:

"I declare it to be most unqualifiedly my opinion that wrong was done to Captain Sluss when payment of his pension was suspended. I recommend resumption of payment at the rate paid at date of suspension, for injury to lower part of abdomen and results. I may be permitted to add that I entertain no doubt at all as to the perfect justice of this recommendation, something which I can not always say."

On this recommendation of the medical referee of the Pension Office, Hon. Columbus Delano, then Secretary of the Interior, says:

"In view of this opinion, I deem it my duty to direct the restoration of Captain Sluss's name to the pension-roll, and hereby authorize the same to be done. His pension will be resumed from the date of suspension in 1864, and at the rate formerly paid."

On this order from the Secretary of the Interior, Captain Sluss's name was again placed on the pension-roll, he being paid for the full time that he was unjustifiably deprived of his rights, and he continued to draw a pension of $20 per month until his death, February 25, 1879. The immediate cause of his death was (in the opinion of Dr. Maxwell, the attendant physician) acute bronchitis.

He says, however, that:

"I have no doubt but that the general debility resulting from the disease for which he was drawing a pension and that as well as debility from age were important factors in bringing about the fatal termination."

The claimant, Eliza Sluss, widow aforesaid, is now old and feeble and is in need, and we deem it but just and right that her name be placed on the pension-roll; therefore recommend the passage of the accompanying bill.

There being no objection, the bill was laid aside to be reported to the House with the recommendation that it do pass.

HOLDEN COOK.

Mr. MORRILL. I ask unanimous consent to take up the bill (H. R. 7707) to pension Holden Cook. The report in this case is in the hands of the Printer; but if any gentleman desires I can state briefly the circumstances of the case.

There being no objection, the committee proceeded to consider the bill; which was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Holden Cook, late a private in Company A, Thirty-first United States Infantry.

There being no objection, the bill was laid aside to be reported to the House with a recommendation that it do pass.

JASPER J. HENRY.

Mr. PEEL. I ask unanimous consent to take up the bill (H. R. 3074) granting a pension to Jasper J. Henry.

There being no objection, the committee proceeded to consider the bill; which was read, as follows:

Be it enacted, &c., That the name of Jasper J. Henry be placed on the pension-roll of invalid persons, on account of wounds received while acting as guide and pilot for the First Arkansas Cavalry Volunteers in the war of the rebellion, subject to the restrictions and limitations of the pension laws of the United States.

There being no objection, the bill was laid aside to be reported to the House with a recommendation that it do pass.

MARGARET A. BERRY.

Mr. BAGLEY. I ask unanimous consent to take up the bill (H. R. 5925) granting a pension to Margaret A. Berry.

There being no objection, the committee proceeded to consider the bill; which was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Margaret A. Berry, widow of William M. Berry, late a private in Company I, Tenth Indiana Cavalry.

The report (by Mr. MATSON) was read, as follows:

The claimant, Margaret A. Berry, is the lawful widow of William M. Berry, who enlisted as a private soldier in the Eighteenth Indiana Infantry in the year 1861, and afterward was promoted to a lieutenant, and resigned in 1864, returning to his home and family only to remain a short time (about sixty days), when he again enlisted, this time in Company I, Tenth Indiana Cavalry. His captain, James E. Mathers, testifies—

"That the said Berry was a man somewhat addicted to drink, but nevertheless was an excellent soldier and a man of fine business qualifications, and with kind treatment seemed to be very manageable. On account of superior business tact and qualifications, he was detailed by George R. Swallow, colonel commanding the regiment, as acting commissary sergeant of the regiment, the duties of which post he discharged with credit to himself and regiment while Colonel Swallow retained command."

Afterward Maj. Thomas G. Williamson had temporary command, and he reduced Berry to the ranks by a public order. The disgrace from this seemed to bear so heavily on the soldier's mind that he never seemed the same man afterward.

The evidence declares the fact that about 4 o'clock on the morning of the 25th of July, 1865, Berry was found dead about twenty feet from his tent with a gunshot wound through the head. The evidence also discloses the fact that for about ten days previous to this time Berry was insane, and the said wound was supposed to have been inflicted by his own hand.

Captain Mathers further testifies in the following language:

"While I believe that strong drink may have been one of the causes leading him to insanity, I at the same time believe that the mortification and disgrace felt on account of the public order referred to had much more to do with bringing on insanity than anything else."

The evidence shows that the said Berry was a sound man when he entered the service, and that he was a good soldier, and that he served faithfully for about four years. The claimant is very poor and oftentimes in want for the necessaries of life, and is now well along in years.

In view of all the circumstances, your committee think this a deserving case, and recommend the passage of the bill.

There being no objection, the bill was laid aside to be reported to the House with a recommendation that it do pass.

JACOB FUNKHOUSER.

Mr. WILSON, of West Virginia. I ask unanimous consent to take up the bill (H. R. 2872) granting a pension to Jacob Funkhouser.

There being no objection, the committee proceeded to consider the bill; which was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and instructed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Jacob Funkhouser, of the county of Preston, West Virginia, a private soldier of the war of 1812.

The report (by Mr. JONES, of Texas) was read, as follows:

The said Jacob Funkhouser is shown by the records of the Interior Department to have enlisted in Capt. Christian Core's company, Virginia Militia, and served therein from February 20 to March 4, 1815. He received a land-warrant for one hundred and sixty acres under the act of 1855, but his claim for pension was rejected July 30, 1878, by the Pension Office, on the ground that his service was rendered subsequent to the treaty of peace. Applicant is now in his ninety-fifth year, poor and dependent. While excluded from a pension by a strict construction of the law, yet inasmuch as he enlisted, and doubtless served part of his time before the news of the treaty of peace was received in the remote northwestern section of Virginia, in which he then resided, the committee deem his case a meritorious one, and recommend that the above bill pass.

There being no objection, the bill was laid aside to be reported to the House with the recommendation that it do pass.

CORNELIA V. BLACKMAN.

Mr. PETERS. I ask unanimous consent to take up out of its order the bill (H. R. 7571) granting a pension to Cornelia V. Blackman. This bill has been reported by the Committee on Invalid Pensions, and is on the Calendar, but the report is still in the hands of the Printer.

There being no objection, the committee proceeded to consider the bill; which was read, as follows:

Be it enacted, &c., That the Secretary of the Interior is hereby authorized to place the name of Cornelia V. Blackman, widow of Harvey C. Blackman, late a second lieutenant in the Eighth Kansas Volunteer Infantry, on the pension-roll, and grant her a pension from the date of the passage of this act, subject to the pension laws.

There being no objection, the bill was laid aside to be reported to the House with a recommendation that it do pass.

ABBY P. ARNOLD.

Mr. MATSON. I ask unanimous consent to take up for present consideration a Senate bill reported to-day from the Committee on Invalid Pensions—the bill (S. 764) granting an increase of pension to Abby P. Arnold. This bill, like a great many others which we have passed, proposes to increase the pension of the widow of a general officer.

There being no objection, the committee proceeded to consider the bill; which was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed, subject to the provisions and limitations of the pension laws, to increase the pension of Abby P. Arnold, widow of the late General Richard Arnold, United States Army, from $20 to $50 per month; said increase to take effect from and after the passage of this act.

There being no objection, the bill was laid aside to be reported to the House with a recommendation that it do pass.

MARION D. EGBERT.

Mr. MATSON. I ask unanimous consent to have taken up for consideration at this time the bill (H. R. 2975) granting a pension to Marion D. Egbert. This bill has been once considered, when objection was made by the gentleman from Virginia [Mr. GEORGE D. WISE]. The bill was introduced by the Delegate from Washington Territory [Mr. BRENTS], from whom I have received a letter stating that he is confined to his house by reason of a fractured ankle, and asking that the bill be passed. I am also requested by the Delegate-elect from Washington Territory, Mr. Voorhees, to look after this matter. Both of these gentlemen assure me that the beneficiary is a very worthy person and the claim a very meritorious one.

I will also state that the gentleman from Virginia [Mr. GEORGE D. WISE] desires to withdraw any opposition he may have manifested heretofore to the bill.

There being no objection, the committee proceeded to consider the bill; which was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Marion D. Egbert, late of Company K, Eighty-sixth Regiment Ohio Volunteers, for pension.

The report (by Mr. JOHN S. WISE) was read, as follows:

Marion D. Egbert was a corporal in Company K, Eighty-sixth Regiment Ohio Volunteer Infantry, and in service in September, 1863, at Cumberland Gap. He was detailed to act as ordnance-sergeant. One day in the latter part of November, 1863, while he and the men working under his orders were sunning the ammunition in the magazine, a comrade lit a port-fire, which communicated with damp powder on the ground, and would in a moment have produced a fatal explosion of a large amount of cannon ammunition. Egbert, seeing the danger, and that he could not flee from the explosion, threw himself across the line of burning powder and broke the trail, thus preventing the explosion. The fire burnt his blouse and pants quite severely, and the fright, shock, and fire produced a partial deafness, loss of sight, and paralysis in the left side.

The Pension Office required proof of the soldier's condition from a surgeon and two comrades. These Egbert frankly states he can not furnish, because, as the ill effects of the fright and burning did not culminate at once, he was not treated in hospital, and because those present when the accident occurred were men detailed from a Tennessee regiment, whose names he did not know and does not now know. But he does prove by a comrade that he saw him a few days after the explosion suffering severely. He proves by many of his acquaintances that he was sound prior to his going into the service, and has not been sound since. He proves a good character as a man, and his physician testifies that he has been attending him off and on since 1864 for partial paralysis of his tongue and left side.

We are satisfied of the merits of this case, although it falls short of the degree and character of testimony required at the Pension Office. We recommend passage of the bill.

There being no objection, the bill was laid aside to be reported to the House with a recommendation that it do pass.

JOHN W. ROBSON.

Mr. JONES, of Wisconsin. I ask unanimous consent to take up for present consideration the bill (H. R. 3833) for the relief of John W. Robson.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and is hereby, authorized and directed to place on the pension-roll, subject to the limitations and provisions of the pension laws, arrearages included, the name of John W. Robson, late a private in the Sixth Wisconsin Battery, at the same rate as other soldiers of similar disability.

Mr. BAGLEY. Has this bill been reported by the Committee on Invalid Pensions?

Mr. JONES, of Wisconsin. It has been.

Mr. BAGLEY. With arrears?

Mr. JONES, of Wisconsin. I think not with arrears.

Mr. HEWITT, of Alabama. I am oppposed to this bill, and can not allow it to go through. I object to its consideration.

The CHAIRMAN. The request of the gentleman from Wisconsin is objected to.

JOHN O. GARDNER.

Mr. MORRILL. I ask unanimous consent to take up out of its order the bill (H. R. 7178) granting an increase of pension to John O. Gardner.

There being no objection, the committee proceeded to consider the bill; which was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorised and directed to increase the pension of John O. Gardner, formerly of Company A, Ninth Maine Volunteers, to $30 per month.

The report (by Mr. MORRILL) was read, as follows:

Claimant enlisted September 22, 1861, in Company A, Ninth Maine Infantry, and was honorably discharged August 4, 1865, having served faithfully for nearly four years. December, 1879, he applied for a pension, alleging that about the 18th of July, 1863, he was injured and wounded by a ball from the enemy's lines, which struck in his cartridge-box and threw him violently to the ground, causing injury to his spine and back. This occurred near Fort Wagner during the siege of that fort. Also wounded in the hand August 22, 1863; also on the 20th day of May, 1864, he was wounded in the shoulder by a ball during an attack by the confederate forces at Bermuda Hundred, Va.

On account of these wounds he was transferred to the Veteran Reserve Corps. He was allowed pension for the gunshot wound of right shoulder at rate of $2 per month, but his claims for the other and far more serious injuries were not allowed, because he was unable to show medical treatment in service and at time of discharge.

Dr. A. G. Peabody, who treated the soldier from 1865 to 1867, is dead, and his testimony can not be had. The hospital records say, "was wounded severely in shoulder at Bermuda Hundred, May 20, 1864," but do not mention his other injuries.

Lieut. S. A. Doten testifies:

"The army was retreating, and a bullet from the enemy's gun struck the cartridge-box of applicant, which he had thrown back across the small of the back where the injury was received. This was, as near as affiant can recollect, about July 18, 1863."

Affiant says he was personally present and speaks from personal knowledge of the facts.

Several of claimant's old neighbors testify that when he returned from the service he was so injured in the back that he was unable to resume his work in the mills. Claimant testifies that he was treated for the wound in the back by Surgeon Delon H. Abbott. Dr. Abbot says he remembers treating applicant, but can not recall the particulars, and is unable to state what he treated him for.

Dr. D. W. Lewis testifies:

"That he has known applicant intimately since 1871; that during all that time he was suffering more or less from affection of the spine, and was disabled at least three-fourths. Have treated said John Gardner for injury to the spine, said to be caused by gunshot striking the cartridge-box, which seems to have caused concussion of the spine. Has been entirely unable to work at his trade for seven weeks."

Dr. A. M. Vail testifies that he treated applicant from 1878 to 1880, for weak back, which he diagnosed as "chronic spinal congestion," and that he was disabled at least three-fourths.

Dr. E. W. Bliss, examining surgeon at Hiawatha, also speaks of the injury to the back, and rates it at one-half disability.

There seems to be little reason to doubt the origin and continuance of the disability, and yet it is not as clearly established as the rigid rules of the Pension Office require. The soldier was three times wounded on the battlefield. He is unable to perform manual labor, and has a family dependent upon his daily labor for support. Your committee recommend the passage of the bill.

There being no objection, the bill was laid aside to be reported to the House with a recommendation that it do pass.

Mr. MATSON. I move that the committee now rise.

The motion was agreed to.

The committee accordingly rose; and Mr. BAGLEY having taken the chair as Speaker *pro tempore*, Mr. STOCKSLAGER reported that the Committee of the Whole House on the Private Calendar had had under consideration, pursuant to order, sundry bills on the Private Calendar reported by the Committee on Pensions and the Committee on Invalid Pensions, and had directed him to report the same back to the House with various recommendations.

BILLS PASSED.

The following bills reported from the Committee of the Whole House without amendment were severally ordered to be engrossed and read a third time; and being engrossed, they were accordingly read the third time, and passed:

A bill (H. R. 6965) granting a pension to David T. Dudley;
A bill (H. R. 7026) granting a pension to Jeremiah P. Swatzell;
A bill (H. R. 7177) granting a pension to William H. Kinman;
A bill (H. R. 4458) granting a pension to Harlan Jackson;
A bill (H. R. 2138) granting a pension to Martha Angell;
A bill (H. R. 542) granting a pension to Samuel Hanson;
A bill (H. R. 6798) granting a pension to Lloyd W. Hixon;
A bill (H. R. 6966) granting a pension to Wealthy W. Seavey;
A bill (H. R. 7373) for the relief of Sarah A. Burchfield;
A bill (H. R. 7374) to restore William S. Ray to the pension-roll;
A bill (H. R. 6018) increasing the pension of George Tapp;
A bill (H. R. 1759) granting a pension to Robert Patterson;
A bill (H. R. 7617) granting a pension to Mrs. Ann E. Gridley;
A bill (H. R. 4878) granting a pension to Emma O. Zeigler;
A bill (H. R. 457) granting a pension to Elizabeth Davis;
A bill (H. R. 6940) granting a pension to Sarah M. Bissell;
A bill (H. R. 7501) granting a pension to Hector W. Summers;
A bill (H. R. 5813) granting a pension to Rachel Smith;
A bill (H. R. 3605) granting a pension to Eliza Sluss;
A bill (H. R. 7707) to pension Holden Cook;
A bill (H. R. 3074) to grant a pension to Jasper J. Henry on account of wounds received while acting as guide for the First Arkansas Cavalry Volunteers in the war of the rebellion;
A bill (H. R. 5925) granting a pension to Margaret A. Berry;
A bill (H. R. 2872) granting a pension to Jacob Funkhouser;
A bill (H. R. 7571) granting a pension to Cornelia V. Blackman;
A bill (H. R. 2975) granting a pension to Marion D. Egbert; and
A bill (H. R. 7178) granting an increase of pension to John O. Gardner.

Amendments reported from the Committee of the Whole House to bills of the following titles were severally agreed to, and the bills as amended were respectively ordered to be engrossed and read a third

time; and being engrossed, were accordingly read the third time, and passed:

A bill (H. R. 4055) granting a pension to Sarah Tyler;

A bill (H. R. 6775) granting a pension to Edward Wilcox;

A bill (H. R. 6982) granting a pension to W. H. H. Coleman;

A bill (H. R. 4605) granting a pension to Ellen Edmiston;

A bill (H. R. 2646) granting a pension to Eliza Warr, widow of Isaac Warr, late of Company F, One hundred and fourteenth Regiment Pennsylvania Volunteers;

A bill (H. R. 5146) granting a pension to Jesse C. Buck;

A bill (H. R. 5387) granting a pension to Amos Stroh;

A bill (H. R. 7500) to restore the name of Lewis J. Blair to the pension-roll;

A bill (H. R. 2002) for the relief of Mrs. Jennie E. Johnson; and

A bill (H. R. 7094) granting a pension to Lemuel M. Bartlett (title amended by striking out "Lemuel" and inserting "Samuel").

Senate bills of the following titles, reported from the Committee of the Whole House without amendment, were severally ordered to a third reading, read the third time, and passed:

A bill (S. 764) granting an increase of pension to Abby P. Arnold; and

A bill (S. 929) granting a pension to Caroline Treckell.

Mr. MATSON moved to reconsider the various votes by which bills reported from the Committee of the Whole House were passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

And then, on motion of Mr. MATSON (at 10 o'clock and 40 minutes p. m.), the House adjourned.

PETITIONS, ETC.

The following petitions and papers were laid on the Clerk's desk, under the rule, and referred as follows:

By Mr. BAYNE: Petition for the speedy passage of Senate bill 2169—to the Committee on Military Affairs.

By Mr. BALLENTINE: Petition of Joseph Townsend, of Giles County, Tennessee, asking for compensation for property taken and used by the United States Army during the late war—to the Committee on War Claims.

By Mr. CARLETON: Petition of citizens of Louisiana, for appropriation for a public building at New Orleans—to the Committee on Appropriations.

By Mr. FINDLAY: Memorial of business men of Baltimore, Md., in behalf of the Potter refunding bill—to the Committee on Ways and Means.

By Mr. GUENTHER: Petition of citizens of Lodi, Wis., praying for the immediate passage of House bill 6990, granting a pension to John Mortar, jr.—to the Committee on Invalid Pensions.

By Mr. HOLMAN: Petition of W. H. Quin and 39 others, merchants of Boston and other cities, praying for the passage of the Brewer bill to regulate the commerce between the States, pertaining to commercial travelers—to the Committee on Commerce.

By Mr. HOWEY: Resolutions of the executive committee of the State board of agriculture of New Jersey, asking for the passage of House bill for the establishment of agricultural experiment stations—to the Committee on Agriculture.

By Mr. LIBBEY: Petition of Virginius Freeman, asking that his political disabilities be removed—to the Committee on the Judiciary.

By Mr. B. W. JONES: Petition of O. S. Montz and others, compositors on the CONGRESSIONAL RECORD, asking relief—to the Committee on Labor.

Also, petition of John Bascom, president, and of the faculty of the Wisconsin State University, in favor of bill establishing national experiment stations—to the Committee on Agriculture.

Also, memorial of the Maritime Association of the port of New York, in favor of the Potter refunding bill—to the Committee on Ways and Means.

By Mr. KING: A bill appropriating $5,000 for a survey of Little River, in the State of Louisiana—to the Committee on Rivers and Harbors.

By Mr. McMILLIN: Petition of O. S. Montz, R. P. Fithian, and 64 others, laborers on the RECORD work of the Government Printing Office, for relief—to the Committee on Labor.

By Mr. MILLARD: Petition of O. S. Montz and others, laborers on the RECORD work of the Government Printing Office, for relief—to the same committee.

Also, petition of T. G. Rich and others, in favor of the Potter refunding bill—to the Committee on Ways and Means.

Also, petition of 23 business men and firms, representing the iron-ore producing and transporting interests of the East, against the Spanish treaty—to the same committee.

By Mr. MILLER: Petition of citizens of the Allegheny Valley, Pennsylvania, in favor of liberal appropriations for the improvement of the Allegheny River—to the Committee on Rivers and Harbors.

By Mr. MITCHELL: Petition of Sherman B. Warne and others, asking for increase of widows' pensions—to the Committee on Pensions.

By Mr. MURPHY: Petition of citizens of Jackson County, Iowa, asking for increase of widows' pensions—to the same committee.

By Mr. PARKER: Petition of Sumner L. Hazen and others, of Franklin County, New York, for increase of widows' pensions—to the same committee.

By Mr. PAYNE: Petition of 325 citizens of Allegheny, Pa., in favor of the improvement of the Alleghany River and its tributaries—to the Committee on Rivers and Harbors.

Also, petition of 649 business men of Allegheny, Pa., in favor of the improvement of the Alleghany River and its tributaries—to the same committee.

By Mr. PIERCE: Petition of G. C. Ferris, of Gibson County, Tennessee; of William Erwin, of Gibson County; of L. K. Gillespie, heir of John C. Gillespie, deceased, of Gibson County; of W. W. Hutchinson, administrator of Gillam Jackson, deceased, of Obion County; of N. J. Heathcock, of Gibson County; and of Margaret A. Talley, Joseph M. Talley, H. A. Talley, heirs of Benjamin F. Talley, deceased, of Gibson County, asking compensation for property taken and used by the United States Army during the late war—to the Committee on War Claims.

By Mr. OSSIAN RAY: Petition of James W. Sanders and 20 others, for removal of charge of desertion from Sewell W. Piper, late private in Company C, Twelfth New Hampshire Volunteers—to the Committee on Military Affairs.

By Mr. SENEY: Memorial of A. N. Zevely & Son on letting of mail contracts—to the Committee on the Post-Office and Post-Roads.

By Mr. SPOONER: Petition of Manufacturing Jewelers' Board of Trade of Providence, R. I., for passage of Lowell bankruptcy bill as amended by Senate—to the Committee on the Judiciary.

By Mr. TUCKER: Petition of James Albert Bonrack—to the Committee on Patents.

By Mr. WILLIS: Petition of Merchants' National Bank of Louisville and others, in favor of the Potter refunding bill—to the Committee on Ways and Means.

By Mr. E. B. WINANS: Memorial of the Milwaukee Chamber of Commerce relative to harbor improvements at Grand Haven, Ludington, and Manistee, in the State of Michigan—to the Committee on Rivers and Harbors.

By Mr. YOUNG: Petition of Indiana E. Hughes, of Shelby County, Tennessee, and of George T. Taylor, of Tipton County, Tennessee, asking compensation for property taken and used by the United States Army during the late war—to the Committee on War Claims.

The following petitions for the passage of the Mexican war pension bill with Senate amendments were presented, and severally referred to the Committee on Pensions:

By Mr. ALEXANDER: Of citizens of Sullivan County, Missouri.

By Mr. BAGLEY: Of citizens of Ulster and Greene Counties, New York.

By Mr. BOYLE: Of citizens of Greene County, of Westmoreland County, of Fayette County, and of Greene County, Pennsylvania.

By Mr. W. W. BROWN: Of 121 citizens of McKeon County, of 132 citizens of Tioga County, and of 72 citizens of Rixford, Pa.

By Mr. J. M. CAMPBELL: Of citizens of Somerset County, Pennsylvania.

By Mr. COOK: Of C. P. Kintz, and 150 others, of Clyde, Iowa.

By Mr. CURTIN: Of citizens of Centre County, Pennsylvania.

By Mr. CUTCHEON: Of citizens of Reed City, of Fremont, and of Bailey, Mich.

By Mr. ELLWOOD: Of 9 citizens of Boone County, of 94 citizens of Cary Station, McHenry County; of 63 citizens of Hebron, McHenry County, and of 63 citizens of De Kalb County, Illinois.

By Mr. FUNSTON: Of citizens of Gardner, Kans.

By Mr. T. J. HENDERSON: Of Silas F. Thayer and 71 others, of Lee County; of N. A. Lathrop and 91 others, of Bureau County; of Truman Culver and 73 others, of Whitesides County, Illinois.

By Mr. HILL: Of Thomas Clague and 42 others, and of W. J. Bailey and 133 others, of Wood County, Ohio.

By Mr. HOUK: Of 130 citizens of Jefferson County, Tennessee.

By Mr. KLEINER: Of 125 citizens and ex-soldiers of Perry County, Indiana.

By Mr. LAMB: Of citizens of Waynetown, of Harmony, of Terre Haute, of Martz, of Bowling Green, and of Independence, Ind.

By Mr. LE FEVRE: Of Enos Betchel and 104 others, ex-soldiers and citizens of Herring; and of J. N. Heitzler and 124 others, ex-soldiers and citizens of Celina, Ohio.

By Mr. MATSON: Of C. D. Holdren and 15 others, of Johnson County, Indiana.

By Mr. S. H. MILLER: Of citizens of Cochranton, of Sonora, of Denny, and of Harrisville, Pa.

By Mr. MOULTON: Of 500 citizens of Edgewood, Effington County, Illinois.

By Mr. NELSON: Of citizens of Douglas County, of Stearns County, and of Fair Haven, Minn.

By Mr. PATTON: Of citizens of Clarion County, Pennsylvania.

By Mr. PERKINS: Of Adam Dietz and 144 others, of Elk County, and of George G. Curtis and 45 others, of Cherry Vale, Kans.

By Mr. PRICE: Of John W. Brown and 33 others, of Clark County, and of S. P. Johnson and 100 others, of Knapp, Wis.

By Mr. OSSIAN RAY: Of Edwin E. Shattuck and 171 others, of West Lebanon, N. H.

By Mr. ROBERTSON: Of 115 citizens of Grayson County, Kentucky.

By Mr. SENEY: Of C. S. Burton and 162 others, of Seneca County, Ohio.

By Mr. SHIVELY: Of A. J. McCarter and 83 others, of Warsaw, Ind.

By Mr. SNYDER: Of John H. Davis and others, of Kanawha County, West Virginia.

By Mr. STEVENS: Of 154 citizens of Warsaw, of 96 citizens of Castile, of Arcade, of Cawlerville, of Hartland, and of Linden, N. Y.

By Mr. STRUBLE: Of J. W. Hovey and 100 others, of Palo Alto County, Iowa.

By Mr. TOWNSHEND: Of 64 citizens of Equality, of 62 citizens of Burnt Prairie, of 62 citizens of Gallatia, of 34 citizens of Effingham, of 167 citizens of McLeansborough, of 63 citizens of McLeansborough, and of 49 citizens of Carlyle, Ill.

By Mr. A. J. WARNER: Of citizens of Otis Hill, Washington County; of S. J. Sharp and others, citizens and ex-soldiers of Athens County; of Elizabeth Rowles and others, of New Matamoras; of George M. Fultz and 62 others, of Meigs County; of William Elliott and 43 others, of Morgan County; of John Wheeler and 39 others, of Murphy's, and of Charles E. Hull and others, of Hull, Athens County, Ohio.

By Mr. WEAVER: Of Joseph Malcolm and 63 others, of Avoca, Nebr.

By Mr. WOOD: Of citizens of Fowler, of Hammond, of Valparaiso, of Lowell, of Star City, of Fulton, and of Delphi, Ind.

By Mr. WORTHINGTON: Of A. M. B. Wilson and others, of Fulton County, and of J. M. Campbell and others, of Saint Augustine, Ill.

SENATE.

SATURDAY, *January* 17, 1885.

Prayer by the Chaplain, Rev. E. D. HUNTLEY, D. D.

NAMING A PRESIDING OFFICER.

Mr. ALLISON called the Senate to order, and the Secretary read the following letter:

WASHINGTON, *January* 17, 1885.

To the Senate:

Pursuant to the rules I do hereby designate Hon. WILLIAM B. ALLISON, a Senator from the State of Iowa, to preside in the Senate during my absence this day.

GEO. F. EDMUNDS,
President pro tempore.

Thereupon Mr. ALLISON took the chair as presiding officer for to-day.

THE JOURNAL.

The Journal of yesterday's proceedings was read and approved.

PUBLIC POLICY OF CONFEDERATE STATES EXECUTIVE DEPARTMENT.

The PRESIDING OFFICER (Mr. ALLISON in the chair) laid before the Senate the following message from the President of the United States; which was read, and, with the accompanying papers, on motion of Mr. MORRILL, ordered to lie on the table and be printed:

To the United States Senate:

I transmit herewith a copy of a letter addressed to the Secretary of War by General W. T. Sherman under date of January 6, 1885, as called for by resolutions of the Senate of January 13, 1885, as follows:

"That the President of the United States be, and he is hereby, requested, if in his opinion it be not incompatible with the public interest, to communicate to the Senate a historical statement concerning the public policy of the executive department of the Confederate States during the late war of the rebellion, reported to have been lately filed in the War Department by General William T. Sherman."

CHESTER A. ARTHUR.

EXECUTIVE MANSION, *January* 16, 1885.

EXECUTIVE COMMUNICATION.

The PRESIDING OFFICER laid before the Senate a communication from the Secretary of War, transmitting a letter of the Chief of Ordnance inviting the special attention of the Committee on Appropriations to the estimates for the fiscal year 1886 for a milling-shop at Springfield armory, Massachusetts, and for a set of officers' quarters at New York arsenal; which, with the accompanying papers, was ordered to be printed, and referred to the Committee on Appropriations.

HOUSE BILL REFERRED.

The bill (H. R. 2799) to authorize the construction of a bridge across the Mississippi River at Memphis, Tenn., was read twice by its title, and referred to the Committee on Commerce.

PETITIONS AND MEMORIALS.

Mr. LAPHAM presented memorials of the cigar-makers' unions of Ithaca and Hornellsville, in the State of New York, remonstrating against the ratification of the Spanish reciprocity treaty; which were referred to the Committee on Foreign Relations.

He also presented a resolution of the Maritime Association of the port of New York, urging speedy action for the establishment of a permanent United States hospital at that port; which was referred to the Committee on Commerce.

He also presented a memorial of the Maritime Association of the port of New York, favoring the passage of the so-called Potter refunding bill; which was referred to the Committee on Finance.

He also presented the petition of Miss Frances T. Willard, president of the National Woman's Christian Temperance Union, and others, praying for the passage of a sixteenth amendment to the Constitution of the United States prohibiting the disfranchisement of any citizen on account of sex; which was referred to the Select Committee on Woman Suffrage.

Mr. SAWYER presented a memorial of the cigar-makers' union of Oshkosh, Wis., remonstrating against the ratification of the proposed Spanish reciprocity treaty; which was referred to the Committee on Foreign Relations.

Mr. MAXEY presented the petition of Edward Braden and Job W. Angus, of Washington city, praying to be paid compensation claimed to be due them on a contract for a public building at San Antonio, Tex.; which was referred to the Committee on Claims.

Mr. VEST presented the petition of Herman Nagel and 53 other citizens of Missouri, praying for the repeal of the law fixing the terms of United States collectors, district attorneys, and other Federal officers at four years; which was referred to the Committee on Civil Service and Retrenchment.

Mr. PENDLETON presented a petition of the citizens of Milan, Ohio, praying for the repeal of the law fixing the terms of office of collectors, marshals, district attorneys, and other Federal officers at four years; which was referred to the Committee on Civil Service and Retrenchment.

Mr. INGALLS presented a petition of citizens of Kansas, praying for the passage of a bill repealing the limitation of four years in the term of certain Federal offices; which was referred to the Committee on Civil Service and Retrenchment.

He also presented the memorial of William McIlvaine, president, and George M. Steinmiller, corresponding secretary, of Cigar-makers' Union No. 36, of Topeka, Kans., remonstrating against the ratification of the proposed Spanish reciprocity treaty; which was referred to the Committee on Foreign Relations.

Mr. INGALLS. I also present a petition, numerously signed by citizens of the District of Columbia, praying for the passage of a bill to incorporate the North Capitol and Glenwood Cemetery Horse Railroad Company. I move that the petition be referred to the Committee on the District of Columbia.

The motion was agreed to.

Mr. MITCHELL presented a petition of citizens of Pittsburgh and Allegheny, Pa., praying for the passage of a bill repealing sections 769, 1864, 2217, 2244, and 3830 of the Revised Statutes of the United States, relative to the terms of certain administrative officers; which was referred to the Committee on Civil Service and Retrenchment.

He also presented a petition of 602 business men of Pittsburgh, Pa., praying for an appropriation for the improvement of the Allegheny River and its tributaries; which was referred to the Committee on Commerce.

Mr. CONGER presented a memorial of iron-mining companies and citizens of Iron River, Mich., and a memorial of a large number of iron manufacturers of different States, protesting against the ratification of the proposed Spanish treaty; which were referred to the Committee on Foreign Relations.

Mr. PLUMB. I have certain petitions which, while addressed to me, are evidently designed for the Senate. I ask unanimous consent that they may be received. They are two petitions of citizens of Wichita, Kans., in regard to the opening of a certain portion of the Indian Territory known as Oklahoma. I move that they be received and referred to the Committee on Indian Affairs.

The motion was agreed to.

PRINTING OF DOCUMENTS.

Mr. CAMERON, of Pennsylvania. I am directed by the Committee on Military Affairs to ask that there be printed for the use of that committee the letter of the Secretary of War and accompanying documents concerning the bill (S. 2492) to prevent the discharge from the military service of the United States of graduates from the Military Academy under the provisions of section 3, chapter 181, of the Supplement to the Revised Statutes, and for the repeal of the said section.

The PRESIDING OFFICER. That order will be made if there be no objection.

WILLIAM H. M'BRIDE.

Mr. CAMERON, of Pennsylvania. I am directed by the Committee on Military Affairs, to whom was referred the bill (S. 2488) to remove the charge of desertion against William H. McBride, late a private in Company F, Seventeenth Pennsylvania Cavalry, to report it with an

amendment in the nature of a substitute. I ask that the bill may be put upon its passage at this time.

By unanimous consent the Senate, as in Committee of the Whole, proceeded to consider the bill.

The amendment reported by the Committee on Military Affairs was, to strike out all after the title, and to insert:

Whereas William H. McBride did, while a minor, enlist in Company I, First Pennsylvania Reserves, on the 10th day of June, 1861, and served in the same until the 2d day of October, 1862, when he returned to his home; and

Whereas he enlisted on the 13th day of October, 1862, in Company F, Seventeenth Pennsylvania Cavalry, and served until the 7th day of August, 1865, when he was mustered out with that company; and

Whereas his name now stands upon the rolls of the War Department as a deserter: Therefore,

Be it enacted, &c., That the Secretary of War be, and he is hereby, authorized to remove the charge of desertion standing against the name of William H. McBride, Company I, First Pennsylvania Reserves, on the records of the Adjutant-General's Office.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

On motion of Mr. CAMERON, of Pennsylvania, the title was amended to read: "A bill to remove the charge of desertion from the military record of William H. McBride."

BILLS INTRODUCED.

Mr. FRYE introduced a bill (S. 2559) for the encouragement of the American merchant marine and to promote postal and commercial relations with foreign countries; which was read twice by its title, and referred to the Committee on Commerce.

Mr. LAPHAM introduced a bill (S. 2560) for the relief of the sufferers by the wreck of the United States steamer Ashuelot; which was read twice by its title, and referred to the Committee on Naval Affairs.

Mr. HOAR introduced a bill (S. 2561) granting a pension to Sarah Ann Waters; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. CLARK, its Clerk, announced that the House had passed the following bills; in which it requested the concurrence of the Senate:

A bill (H. R. 457) granting a pension to Elizabeth Davis;

A bill (H. R. 2002) for the relief of Mrs. Jennie E. Johnson;

A bill (H. R. 2646) granting a pension to Eliza Warr, widow of Isaac Warr, late of Company F, One hundred and fourteenth Regiment Pennsylvania Volunteers;

A bill (H. R. 4055) granting a pension to Sarah Tyler;

A bill (H. R. 4605) granting a pension to Ellen Edmiston;

A bill (H. R. 4878) granting a pension to Emma O. Zeigler;

A bill (H. R. 5146) granting a pension to Jesse C. Buck;

A bill (H. R. 5387) granting a pension to Amos Stroh;

A bill (H. R. 6775) granting a pension to Edward Wilcox;

A bill (H. R. 6940) granting a pension to Sarah M. Bissell;

A bill (H. R. 6982) granting a pension to W. H. H. Coleman;

A bill (H. R. 7094) granting a pension to Samuel M. Bartlett;

A bill (H. R. 7500) to restore the name of Lewis J. Blair to the pension-roll; and

A bill (H. R. 7617) granting a pension to Mrs. Ann E. Gridley.

The message also announced that the House had passed the following bills:

A bill (S. 764) granting an increase of pension to Abby P. Arnold; and

A bill (S. 929) granting a pension to Caroline Treckell.

FIRST NATIONAL BANK OF NEWTON, MASS.

The PRESIDING OFFICER. If there be no further morning business, the Calendar under Rule VIII is now in order.

The bill (S. 1331) making appropriation for the relief of the First National Bank of Newton, Mass., was announced as first in order; and the Senate, as in Committee of the Whole, resumed its consideration.

The PRESIDING OFFICER. The pending question is on the amendment proposed by the Senator from Missouri [Mr. COCKRELL].

Mr. PENDLETON. Let the amendment be reported.

The PRESIDING OFFICER. The Chief Clerk will report the amendment.

The CHIEF CLERK. It is proposed to strike out all after the enacting clause of the bill and to insert:

That the Secretary of the Treasury be, and he hereby is, authorized and directed to pay interest at the rate of 5 per cent. per annum on the judgment rendered in favor of the First National Bank of Newton, Mass., against the United States, in the sum of $371,025, from January 24, 1881, to the date of payment of said judgment; also the sum of $17,949, interest on $25,000 in United States bonds and $20,000 in United States interest-bearing notes taken from said bank and deposited in the United States subtreasury at Boston, Mass., on the 28th day of February, 1867.

SEC. 2. That the sum of $36,746.15 is hereby appropriated for the purposes set forth in section 1 hereof, out of any money in the Treasury not otherwise appropriated.

The PRESIDING OFFICER put the question on the amendment and declared that the noes appeared to prevail.

Mr. COCKRELL. Let us have the yeas and nays on it.

The yeas and nays were ordered.

Mr. INGALLS. Will not the Senator from Missouri now be good enough to state succinctly what the difference is between these two propositions?

Mr. COCKRELL. One proposition is to pay $249,000, interest upon the whole amount.

Mr. INGALLS. What is the other?

Mr COCKRELL. The other is to pay $36,000, the interest upon the Government bonds and some compound-interest notes that were deposited in the subtreasury and used by the United States.

Mr. INGALLS. What is the difference between the two amounts to be paid under the separate propositions?

Mr. COCKRELL. One is $249,000 and the other is $36,000.

Mr. INGALLS. Is $36,000 the entire amount to be paid under the Senator's amendment?

Mr. COCKRELL. It is the entire amount. The amendment proposes to pay interest upon the Government bonds and the compound-interest notes.

Mr. SHERMAN. I should like to ask the Senator from Missouri a question. I ask whether the deposit, apart from the securities mentioned, was in money? Besides the bonds and interest-bearing notes of the United States deposited in the Treasury, was the balance entirely in money?

Mr. COCKRELL. Money and certificates of deposit or certified checks—or something of that kind. The bonds and compound-interest notes named were the only securities of the United States that were bearing interest by the cancellation of which the United States saved interest.

Mr. SHERMAN. The other was money, or matters that could be converted into money immediately?

Mr. COCKRELL. Yes, sir.

Mr. HOAR. In other words, it increased the surplus of the United States upon which the United States authorities based the amount of the public debt they should pay in each year, and went to pay the public debt of the United States and stop its interest. The United States got the interest on one just as much as on the other.

Mr. INGALLS. That is a very important statement; and I suppose, of course, there can be no doubt but that the Senator believes it.

Mr. HOAR. I do.

Mr. INGALLS. If it were fully substantiated by the facts I should vote for the original proposition; but if the statement of the Senator from Missouri is correct, I think his amendment ought to prevail. That is to say, if there were interest-bearing securities of the United States by reason of which the United States only saved that amount of interest, I do not think we ought to be called upon to pay this enormous excess upon the balance of the securities. The general idea, of course, as everybody understands, is that the Government does not pay interest; but if the Government saved interest, it ought to reimburse it or return it. If the facts are as the Senator from Missouri states, and this is the only amount of interest that the United States saved, of course that is all we ought to repay.

Mr COCKRELL. When I state facts they are facts.

Mr. INGALLS. I did not doubt that.

Mr. COCKRELL. Here is the record in this case that no Senator will deny. Here is the receipt given by Hartwell to Carter, and here are the various items composing the $371,000. The only items in the statement of the character referred to by the Senator from Kansas are compound-interest notes, $20,000, and Government bonds, $25,000. Here are all the items. The first item is the proceeds of Dyer's check of February 21 on the First National Bank of Boston, and then the compound-interest notes.

The Senator from Massachusetts says that the balance of these funds went to the extinguishment of the interest-bearing indebtedness, and thereby the United States saved interest on that amount. The balance of these funds went just like all the Treasury funds go. Any surplus of the general amount in the Treasury was applied to the extinguishment of the debt.

Mr. HOAR. That is what I said.

Mr. COCKRELL. That is all. This particular fund did not go to extinguishing the interest-bearing debt any more than the tariff taxes collected on sugar went. There are millions of such taxes that have to be refunded. Are you going to pay interest on those? Every dollar that is collected in the customs revenue goes into the general Treasury and aids in the extinguishment of the debt. Millions of dollars are paid as rebates almost every year. There is a large amount of rebate on sugar. The Senator from Ohio [Mr. SHERMAN] can probably state the amount of rebate on sugar. According to the theory in this case the Government had interest stopped on that amount. Are we going to pay those claimants interest? They have just the same claim to interest that this claimant has.

Mr. FRYE. I wish to ask the Senator from Missouri a question, if he will allow me.

Mr. COCKRELL. Certainly.

Mr. FRYE. The Government, according to the court and its findings, took money belonging to the Newton bank, kept it some seven or

eight years, when a judgment was rendered for the exact amount of money taken without interest. Is not that true?

Mr. COCKRELL. No; that is not true.

Mr. JACKSON. That is true.

Mr. FRYE. So I understand.

Mr. COCKRELL. I beg pardon; the Government of the United States did not do it. A little clerk, a disbursing officer in the subtreasury, was seduced and led astray by the agent of the Newton bank and bribed into letting the agent of the bank have $371,000 of the people's money out of the subtreasury, and he was speculating upon it. He undertook to put it back into the bank, and he put certain funds there in the bank. It was then, when the disclosure came, that the agent confessed what Mr. Carter and he had been doing. The Government had nothing more to do with it than the Senator had—not a particle. The idea that a little disbursing clerk in Boston is the Government of he United States!

Mr. FRYE. I did not intend to take any part in this discussion, but I confess I can not see the distinction which the Senator from Missouri makes. The court held beyond any manner of question that the Government of the United States did wrongfully take and convert to its own use money belonging to the Newton bank—there is no question about that—and the Government of the United States had the use of that money for seven or eight years.

Mr. COCKRELL. The same as it has the use of money on all rebates.

Mr. FRYE. It had the use of that money. I do not care whether it has the use of it on rebates or not; I am looking to this question alone. The Government had the use of that money seven or eight years. Of course the Government received interest on that money, because it extinguished a certain portion of its liabilities which otherwise would be bearing interest if the Secretary of the Treasury did his duty.

The Newton bank recovered judgment some seven or eight years subsequent to that, and a judgment only for the amount of money taken. I say I see no reason on earth why the United States Government should not return 5 per cent. or whatever per cent. interest it received on the use of that money during the seven or eight years. I say as between individuals no such question would ever be made. I say no honorable man receiving money under like circumstances would ever make the question that he ought not to pay interest for those seven or eight years.

Mr. President, I do not believe in the doctrine of the United States that it never shall pay interest. It is a custom. It is a bad custom.

Mr. COCKRELL. It is the law.

Mr. FRYE. The United States does not pay interest, and yet it claims interest on every default that is ever made to it. It demands limitations of liability against itself; it claims it shall have no limitations of liability when itself is the claimant. I have known instance after instance reported by the Committee on Claims where a perfectly just claim was awarded against the United States Government which had been subsisting in full justice for years and years, and yet no interest was allowed.

Pray, why should not the United States pay interest under the same circumstances that I should be compelled to pay interest? No good reason can be given why a citizen of the United States should not be permitted to go to the United States courts, if he has a claim against the United States. My recollection is that no civilized nation on this earth, except the United States of America, prevents its citizens from exercising that right. If they could go to the courts of the United States and recover judgment they would recover judgment under the rules of the court and under the laws of the country, and would receive the interest under the judgment of the court which is claimed here and which is reported favorably by the Committee on Claims.

Sir, I see no justice in the position taken by the Senator from Missouri, but I see entire justice in the report made by the Committee on Claims.

Mr. HARRISON. If the Senator from Maine is right in the position which he has argued with so much warmth, then I ask him to make his theory practical by submitting to the appropriate committee and to the Senate some general law that will give interest to everybody. He has just stated himself that it is the constant habit of the Committee on Claims to report for the repayment without interest of moneys which the Government has received without the sanction of law. So it has been done and is being done session after session; and yet we are asked to pay interest in this case, which is not as strong a case as many of the others. Here is a case where the bank officers were *participes criminis* in this fraud, and we are asked to pay interest, and yet we are to go on adhering to that rule which the Senator says is dishonest. If such a rule should be established, let us meet it by a general law instead of taking exceptional cases and giving interest and then adhering in the long run to our rule, which he says is not honest, not to pay interest.

Mr. FRYE. Will the Senator allow me to interrupt him?

Mr. HARRISON. Certainly.

Mr. FRYE. I stated, or intended to state, that in my opinion this is an exceptional case, but that I myself went a great way beyond the claim made in this exceptional case, and believe that where the United States withholds payment of a just claim it should pay interest in all cases.

Mr. HARRISON. If this case is exceptional it is exceptional against the claimant. Does the Senator from Maine think this is as strong a case as where a tax-collector of the Government has, over the protest of a citizen, wrung from him illegal taxes, and after ten years it is decided that there was no authority of law for the collection, and absolutely without any fault he asserts his rights all the time, and the Government refuses to pay interest on the money so held? Does not the Senator think that that is a stronger case than the case here, where a man connected with the bank was the person who got the money from the Treasury originally and another officer of the bank combined with him to put it back there, but under circumstances that did not bind the bank?

I am inclined to agree with the Senator from Maine in thinking that in a great class of cases the Government should pay interest, but my point is that it should be done under some provision of law that makes the payment of interest equal and honest all around to its citizens, humble as well as influential, poor as well as rich.

Mr. HOAR. I do not wish to prolong this debate, but I wish to restate the point once more. The matter of taxation stands on its own footing, and this Government, as all governments, has to commit to executive officers, often humble officers, the duty of assessing and collecting a tax and holding it, and it is held until the United States can settle the question, if there is any question about the liability of the Government. But this case stands upon the ground which the Supreme Court of the United States have solemnly affirmed in the case of Francis Vigo, cited by the report. Here is a case where it is the uninterrupted policy of the Government to pay interest.

The case of Francis Vigo was a case referred to the Court of Claims by an act of Congress to be settled according to the usual policy of the Government. It went from the Court of Claims to the Supreme Court, and they say that, aside from the tax policy, which is otherwise, in other cases which are familiar to us, where the United States has seized upon the property of a citizen and wrongfully converted it to its own use, as it did in this case, it is the policy of the United States to pay interest, and fifty cases are cited in the report of the committee which establish that policy.

Mr. HARRIS. I desire to ask the Senator from Massachusetts, if he will allow me, in order that I may distinctly understand the facts upon which this claim is based, if I am right when I say that certain interest-bearing securities owned by the First National Bank of Newton, and certain cash funds so owned, were illegally transferred to the possession of the United States Treasury.

Mr. HOAR. Yes, sir.

Mr. HARRIS. Then the claim for interest is based, if I understand it, purely upon the fact that the United States Treasury was in possession of these interest-bearing securities and these cash funds for a number of years.

Mr. HOAR. No, sir. The claim for interest is based upon the fact that after the facts were all known to the United States officials by the confession of the parties implicated, a demand was made and a refusal to pay over, which would have made any citizen in the world under similar circumstances liable to interest.

Mr. HARRIS. Still, if I understand it, however, it depends upon the fact that moneys of a private citizen or corporation were wrongfully held——

Mr. HOAR. Yes, sir.

Mr. HARRIS. By the Treasury, and not restored to the rightful owner.

Mr. HOAR. That is true.

Mr. HARRIS. In principle I desire to know how that differs from every other case where the moneys of a citizen or private corporation have found their way into the United States Treasury and are wrongfully held there, and whether in such cases the invariable rule has not been to refuse to pay interest and simply to restore the principal, when it was restored at all.

Mr. HOAR. I can answer the Senator. It is the invariable policy of this Government to pay interest except in two classes of cases; one in cases of property taken during war under the war power, where the whole theory goes on the ground that the repayment of the property is made as a gratuity and bounty of the Government and not as of strict right, and the other being the case alluded to by the Senator from Indiana, which is the case of a tax. Taxation is in its nature unequal; it is in its nature clumsy; it is in its nature purely artificial; and the policy of the Government, as of every State, is to commit the power to certain officers, a large number of officers, many of them persons in a humble place in life, officers low down in the scale of official life, who assess as well as they can in the first instance the tax, take the property into the possession of the Government by the processes of tax collection, and then the Government examines any case if there is a case of injustice or illegality, and restores to the citizen what he has paid; and the man who gets the money back without interest after three or four years in court, when it has been wrongfully seized by a tax-collector, is no more wronged than I should be if I were compelled to pay taxes on a large sum of money when my neighbor, who perhaps is worth four times as much as I am, under the unequal arrangements of the tax laws pays nothing. That stands on its own footing. With

these two exceptions the principle is as the Supreme Court of the United States has stated it.

Mr. HARRISON. Will the Senator allow me to ask as to the French spoliation claims?

Mr. HOAR. They do not draw interest.

Mr. HARRISON. They ought to have it, I should think, according to the doctrine we laid down.

Mr. HOAR. I do not think so. Now, Mr. President, another thing I wish to state before I sit down. I wish to repeat what I said when the Senator from Missouri was on his feet before in regard to the equity of making any distinction between the interest-bearing securities to the Government and the money or cash which was received. The Government received $46,000, which it was bound to pay to the owner of the property with interest. It stopped paying that interest because it had the muniment of the debt in its own possession. That, it is agreed, ought to be paid back. But it also took a quantity of funds needed to pay to the creditors of this bank the money for which its stockholders were personally liable to the extent of their capital stock, and they were obliged to make the payment under the statute obligation. That money swelled the surplus of the United States in its Treasury, and the amount of that surplus determined the question how much of the public debt from time to time should be paid by the Government each year; and therefore the Government got, in the one case just as much as in the other, the benefit in the saving of interest on its public debt with these funds. That is my proposition.

Mr. BAYARD. Mr. President, I have listened to this debate for several days, apparently involving some important questions as to the liability of the Government to pay interest upon money adjudged to be due from it; but I do not think this case is so technical a question as that. If it were a case of voluntary contract with the Government, if it were a case of an ordinary claim for loss or damage against the Government, then the rule as to the payment of interest would be adjusted according to the many precedents of which the volumes of Opinions of the Attorneys-General are so full. But it is not a technical case. It is a case sounding rather to my mind in what is the honorable and the moral obligation of the Government to one of its own citizens. Here is the case proven to us where there was a breach of trust, amounting perhaps to a felony, committed by the agent of one of the banks, and the result of that breach of trust and felony was to transfer the property of that institution into the custody of the Government of the United States, one of whose agents accepted it. Why, sir, there is an old saying and a strong one, that seems to me to cover this case, that the receiver is as bad as the thief, when the receiver, knowing the origin of the property, consents to take and keep it and enjoy the fruits of another's crime.

Mr. President, if between any two Senators in this body a case similar in its general facts could be supposed, that one Senator should be robbed by his trusted servant and the property received by the servant of the other and converted to his use—I do not think that the analogy is unsound between that case and the present, where the trusted servant and agent of one member of this body should take his private property and place it in the hands of the agent of another member of this body who had also been equally delinquent. Is it possible that if I went to one of my friends on this side or the other side of the Chamber and showed him that his balance in bank had been made good by the delinquency of a clerk in my employment and that his loss had been made good by my loss, can there be a doubt but such loss would be suffered to fall upon the individual who was the primary loser and not the one to whom that loss had been transferred by collusion and the commission of a second fraud?

If this be so, it seems to me simply just and right that this Government would only be setting the example that an honorable citizen irrespective of legal obligation would set to the community in which he lived, if it refused to let the Treasury of the United States become the beneficiary of a fraud, or to gain money, either principal or interest, by a transaction founded upon that which was in substance a felony.

The proposition of the bill reported by the Senator from Tennessee, which he has so carefully and elaborately reported and discussed here with so much ability and fairness, is simply this: That from the time the property of this bank was converted through these dishonest channels to the use of the United States and they began to gather the fruits of that conversion those fruits should be paid back; that is to say, the fruit called interest should be paid back with the fruit called principal.

I do not think, with all respect to my friend from Missouri, whose care for the public interests so constantly excites my respect and admiration, there ought to be a distinction between an interest-bearing bond and a fund that bore no interest, and yet the use and benefit of which went into the Treasury of the United States. Was it honest? Was it right? Does this Government propose to fatten upon stolen property? No, sir; no, sir. If an honest agent of the Government had been there knowing the origin of these bonds, he never would have permitted either the cash or the bonds or anything else, interest-bearing or not, to be received at all. But is the case changed because the Government also had in its employ another dishonest agent who should collude with the first culprit in the employment of the bank, and the Government receive and retain any advantage from their combined dishonesty? It seems to me not. If it were a question of contract; if it were a question sounding in pecuniary damages; if it were a question of tort, or a question of contract, then I should be disposed to consider this matter of interest upon the amount more closely. But it is not so. The whole of this transaction is bottomed in fraud; it is bottomed in crime; and I ask ought we to shelter the Government of the United States by a technical defense when we know that fraud in one of its worst forms brought that money and converted it to the use of the Government, and that the Government has had its profitable use from that time to this?

The example to be set by the Government of the United States to its people always should be the highest good faith, of honesty, of honor in its transactions; and when we who are the agents of the Government to give expression to these views have it in our power by a practical act of this kind to show our hostility to fraud, our unwillingness to profit by the fruits of fraud, it seems to me that technical questions and defenses should give way to the robust and honest and true question, Can the public Treasury profit and can the American people wish to profit by stolen goods, whether it be in principal or interest? I say not, and therefore it is not a question for the technical application of a rule that the Government does not pay interest upon a sum ascertained to be due, although there are exceptions and they have been fully set out in this report; but this case goes far below it. This is not a case of contract, or quasi-contract, or of damages in tort or contract. But here is a case that grows out of a felony, and the question is whether the Government ought to pocket either principal or interest by that felony? It seems to me it ought not, and that everything received into the Treasury from a source so tainted ought to be restored to the orignal owner, who was robbed of his property and never lost his title to it.

Mr. MORRILL. Mr. President, if this case can be made an exceptional case, I see no objection to the passage of the bill; but the Senator from Delaware admits at the outset of his remarks that this is not a technical exception from other cases, but he places it upon broader grounds. Now what I very much fear is that the report of the Senator from Tennessee on this case and the speech of the Senator from Delaware as well as that of the Senator from Maine may make this a precedent for any case that may hereafter arise for the payment of interest. I do not myself wish to reverse the past action of Congress in relation to denying interest upon all claims, or nearly all claims, except those with peculiar and exceptional conditions.

The Senator from Delaware admits that this is a case of fraud. I think the case in this respect is very much in the condition of the woman that made a confession in a conference meeting, which was that she had never done wrong but once, and then Mr. So-and-so was as much agin to blame as she was. [Laughter.] In this case the Government of the United States has done wrong, but the bank of Newton was as much agin to blame as the Government itself.

Now the question that arises is whether in this instance the bank comes here entirely with a clear conscience in demanding that the Government should sustain all the loss.

Then in relation to the computation of interest; if any interest is to be allowed, the question arises whether interest ought to be computed before even the bank had made any claim or instituted any suit for recovery of the amount of loss. I understand it by the report to have been about six years before the bank even pretended to have any claim against the Government.

Then another question arises whether the interest ought to be computed prior to the date of judgment in the suit.

Under these circumstances it seems to me there is some danger that if this case be passed upon favorably, it may stand as a precedent for any case that may hereafter arise in the payment of interest.

Mr. MORGAN. Mr. President, I concur with the Senator from Vermont that this matter is getting to be rather in danger of being drawn into precedent hereafter; and I am not willing to subscribe to the doctrine stated by the Senator from Maine and the Senator from Delaware as being applicable to the Government of the United States. Both the Senators cite the cases of dealings between private individuals, and attempt to draw an analogy from those dealings which they say would bind the Government to pay interest in a case like this. There is no analogy really between transactions or dealings or torts perpetrated by one individual upon another and like transactions occurring between individuals and the Government of the United States. The Government of the United States is here merely for the purpose of conducting the Government, preserving the public property, collecting the public revenues, and disbursing them for public objects. It is not engaged in commercial pursuits, in banking, or anything else out of which it can make money, or if it is it is very improperly at work at it. If I obtain money of a citizen, whether I do it by a tort or upon a contract, I am supposed to put it into my own private business and make profit out of it; I am supposed to have used that with all the advantage that the other party, to whom it rightfully belonged, could have used it in the event I had allowed him to retain it. Consequently I am made liable for interest; and that, it must be remembered, is not a common-law rule; it has its origin in statute, which undertook to impose this matter of justice upon the private consciences of men. But when the Government of the United

States receives from a private individual, tortiously, if you please, or by contract, or by accident, by finding, or in any other manner, money, and it goes into the common treasury, while it is there there is no presumption that that money is being used for the purpose of profit. On the contrary, the money is there as public money, and only for public uses, liable to be paid out in that way and only in that way.

There is no expressed or implied obligation that arises in such a case as that against the Government that it should pay interest. If the Government is so situated as that it can make interest out of the money, or (as is true of a part of this claim) so situated that it can save interest as against itself upon some of its obligations, then it is right enough that it should pay interest; but it would never do to apply the rule of interest which obtains between individuals for the rectification and balancing of their transactions and dealings, between any creditor and the Government unless the Government is under an express obligation to pay interest. It would never do. We should bankrupt the coming generations by the accumulation of claims that we allow to lie over from year to year if as a rule they were to bear interest because we had committed some tort which deprived a man of his property or because we had the use of a man's money in some way and deprived him of it so that we kept him from making the interest which he says we are liable for.

Take the claims for French spoliation that occurred in 1800; put interest upon them as a court of equity or a court of law would permit interest upon individuals in cases of that kind, and we should never get out of paying the debt. Take all of the claims that lie back now in the musty records of the Congress of the United States and of the Departments and commence to pay interest upon them; we should never get done paying the interest upon them. No government ever yet bound itself, unless it was by an express legislative agreement, to the payment of interest to its creditors. I remember the case of the claims under the Spanish treaty of 1819, called the "Florida claims." They were very numerous. The judges of the Territorial courts first and afterward of the district courts of the United States were empowered by an act of Congress pursuant to the treaty of 1819 to consider claims that were allowed in that treaty. That was between Spain and the United States. These judges put interest upon those claims as a part of the debt, and they were reported to Mr. Levi Woodbury, Secretary of the Treasury at the time, in combination—the principal debt and the interest as one sum charged up by the judgment and decree of the court; and the question arose then whether Mr. Woodbury, having the ultimate power of decision upon questions of the kind, and acting as upon an appeal from the decision of the judge as a commissioner, would commit the Government of the United States to the payment of interest upon that debt. He decided against it, decided correctly what has been sustained by every Secretary of the Treasury from that time to this and by every Attorney-General but one. That claim is still here demanding that we shall pay the back interest upon it. The Government has uniformly refused to do it, and rightfully refused to do it, and in so acting it has called into pretty wide and loud clamor what Spain had to say about our conduct on that occasion.

There is another case that must be fresh in the memory of Senators. We received during our war, about the year 1862, I think, from the Government of Japan $750,000, in the nature of an indemnity for certain wrongs that were alleged to have been committed by the Japanese against our flag and against our ships. Mr. Seward, at the time that money was received, declared distinctly and put it on record and sent it to both Houses of Congress, that there was no sound, conscientious ground upon which the Government of the United States could receive that money; hence he never put it into the Treasury at all; he kept it in the State Department; he put it to work by investing it in bonds and reinvesting the proceeds, from time to time, until the accumulations upon that sum of money amounted to very nearly $2,000,000. The Government of the United States never refused to pay that back to Japan upon the ground that she was not entitled to it; but yet there was a good long delay about it. Congress could not get its consent as to the form in which that money was to be sent back to Japan.

What was the result? The Committee on Foreign Relations reported a bill here to pay the money back to Japan with the accumulated interest upon it; not upon the ground that the Government of the United States had committed itself to the payment of interest by the receipt of the money merely, but that it had been kept out of the Treasury; had never been converted into the Treasury; had been used by the Secretary of State in speculations, we may call them, or investments and reinvestments in our own bonds, and that amount of money which had been accumulated in bonds of the United States—nearly $2,000,000—was more than half of it the result of interest that we had saved ourselves from paying to other parties. When we came to pay this acknowledged debt the Congress of the United States refused to pay to this friendly government the interest upon that money.

Mr. FRYE. Do you think it did right?

Mr. MORGAN. I did not think so at the time because the case was different from any other that I know of. I thought we put the case on a wrong principle. If the case had been liable to be put on the principle that Congress decided it on the decision was wrong; but I think Congress put it on the wrong principle. But suppose that, instead of having received the money from Japan as we did we had received it under the belief of its being rightfully received, being our own money, without any demur on our side at all as to the nature of our claim upon it, and then suppose we had put it into the Treasury and we had expended it in the public service, the principle would have been entirely different and the action of Congress would have been justified by the highest morals.

There is no analogy, I maintain, between the dealings of private individuals with each other and the dealings of a private individual with the Government of the United States, simply because the Government is not here for the purpose of making interest out of money that is put into its Treasury. That is not one of its functions or purposes.

There is more than that in this case. Interest is not a debt of justice for a tort; it may be upon a contract; and I was a little surprised to hear the Senator from Delaware say that if this had been a contract perhaps he would not have been willing to pay interest, but it being a tort, or rather a crime, as he denominated it, he was. In an action of trover for the conversion of property, in an action of replevin or detinue for the wrongful detention of property, interest when given is given only as in the nature of damages, and entirely in the discretion of the jury. They may impose it or they may not impose it, according to the circumstances of the case.

If I go along the highway and I find a pocket-book that contains a thousand dollars in money and the name of the individual is marked upon that pocket-book, that identifies the ownership of the money, and I take it to my house and lock it in my safe and keep it there for three, four, or five years; I am trying to find out who is the owner of that money. The owner comes to me within ten days and makes proof before me, not satisfactory to me, however, but he makes proof before me that that is his thousand dollars and his pocket-book, and that is his name, and that he is the man who is there described. I say to him, "Still, sir, you must excuse me; go into court and prove it; I do not know you; I want a judgment to defend me in this matter; I am acting honestly and sincerely about it." Would it be expected that a jury would give interest against me upon that money when I had locked it in my safe and had made no use of it? Surely not. And hence it is that in the action of replevin or of trover or of detinue interest, I repeat, is not a debt of justice; it is merely a privilege given to a jury to assess it in the nature of damages so as to do justice between men and men according to their own conduct.

Here we got a sum of money, it is said, that was stolen from a bank in Massachusetts, and through the connivance of a subordinate officer of the Treasury of the United States was carried into the Treasury of the United States, and it is asked that the people of the United States shall be required to pay interest upon that sum of money. What profit have the people made out of it? Have they ever refused to pay it? They have never refused to pay it, and they have never put this money to any use which would increase its amount in the Treasury of the United States. Hence I say that we are about to set a precedent here which I concur with the Senator from Vermont in believing would be a very dangerous one, and one that would violate some very well-established precedents which have been adopted by the Congress of the United States after very full and learned debate upon this question.

The PRESIDING OFFICER. The question is on the amendment proposed by the Senator from Missouri [Mr. COCKRELL], upon which the yeas and nays have been ordered.

The yeas and nays were taken, and resulted—yeas 18, nays 37; as follows:

YEAS—18.

Cameron of Pa.,	Harrison,	Morrill,	Vest,
Cockrell,	Hawley,	Platt,	Voorhees,
Coke,	Ingalls,	Ransom,	Williams.
Conger,	McMillan,	Saulsbury,	
Harris,	Morgan,	Sherman,	

NAYS—37.

Allison,	Dolph,	Hoar,	Pugh,
Bayard,	Fair,	Jackson,	Sawyer,
Beck,	Frye,	Jonas,	Sheffield,
Blair,	Garland,	Kenna,	Vance,
Bowen,	George,	Lapham,	Van Wyck,
Brown,	Gibson,	Maxey,	Walker,
Butler,	Gorman,	Miller of Cal.,	Wilson.
Cameron of Wis.,	Groome,	Mitchell,	
Cullom,	Hale,	Pike,	
Dawes,	Hampton,	Plumb,	

ABSENT—21.

Aldrich,	Hill,	Mahone,	Sabin,
Call,	Jones of Florida,	Manderson,	Sewell,
Camden,	Jones of Nevada,	Miller of N. Y.,	Slater.
Colquitt,	Lamar,	Palmer,	
Edmunds,	Logan,	Pendleton,	
Farley,	McPherson,	Riddleberger,	

So the amendment was rejected.

The bill was reported to the Senate as amended, and the amendments made as in Committee of the Whole were concurred in.

Mr. SHERMAN. Before the bill passes I desire to say that if I supposed this bill would receive the sanction of the House of Representatives and become a law I certainly would resist it; and I think I could bring a great many forcible considerations to bear, most of which, however, have been stated by Senators who have debated the question.

I believe the establishment of the proposition of this bill as a principle of legislation in regard to claims would involve the sacrifice of millions upon millions of dollars. There are classes of claims depending now where very great sums of money are involved, so large that we can hardly measure them.

I believe the principle of the bill is altogether wrong. The Government of the United States did no harm to these parties. They had the full measure of redress according to the law. They have received back the principal sum. The original money stolen was from the Treasury of the United States. Afterward, from other money taken from this bank wrongfully and placed in the Treasury of the United States and there found, that money has been refunded. The only loser of the principal sum is the United States, which has lost the principal of the money taken by its cashier from its Treasury and placed under the control of persons who managed or controlled this bank. To pay interest on this sum of money now, it seems to me, is a very dangerous and doubtful principle. I do not propose to discuss it any further, but simply to record my vote against the passage of the bill.

Mr. COCKRELL. Let us have the yeas and nays on the passage of the bill.

Mr. SAULSBURY. I shall vote against this bill, and I desire to say that I shall do so not because I do not think there is not some merit in the bill, and that a portion of the claim ought not to be paid, but as I understand this case it is entirely a departure from the precedents which have heretofore obtained protecting the Government against the payment of interest upon claims against it. In my opinion it will come home to plague us hereafter, and perhaps some of the very cases we have passed refusing interest will be back here asking for the payment of interest which has already been refused.

As I understand, the case is this: An agent of the Newton bank induced an officer in the subtreasury at Boston to let him have for his firm the assets or money of the Government of the United States which he lost; and to indemnify the Government he placed in the possession of the subtreasury bonds and other assets belonging to the bank. After those assets belonging to the bank were in the hands of the Government they could not be paid out. What officer of the Government could take those bonds that had been delivered to the Government and hand them over to the bank? The Government only pursued the proper course in keeping them until a final judgment was obtained. There is no charge here that there was any unnecessary delay on the part of the officers of the Government. They were compelled for their own protection to let the matter go to judgment.

I repeat that as I understand the case the agents of the Government, the officers of the Government, were guilty of no delay; that every step they took was necessary for their own protection; that as soon as the matter could be properly adjudicated the Government paid a large proportion of the demand of the bank; and on the remaining portion I should be perfectly willing to see the Government pay, from the date of that judgment, interest, as also to pay back the interest it saved on the bonds that belonged to the bank which were handed over to the agent of the Government in Boston. But I am not willing to go beyond that. I am not willing to go beyond the judgment obtained against the Government and pay anything more whatever to this bank, because it is a departure from the policy that has heretofore obtained and which is expressed in our statutes upon this subject.

If we make this innovation upon the part of the Government, how many claims will come here, just as proper and valid claims against the Government, for the interest which has been refused heretofore? How many claimants of that character will come back to ask us to indemnify them by paying them the interest which has heretofore been refused? It is a precedent that I do not think we ought to establish, and, therefore, I shall vote against this bill, at the same time believing that there is some merit in the bill, and that a portion of the money ought to be paid.

Mr. CONGER. Mr. President, in the commencement of the discussion of this bill I stated that I thought it might be proper enough for the Government to pay interest on the interest-bearing bonds while they were held by the Government. I computed and stated to the Senate the amount of interest on the balance of the money between the rendition of the judgment and the final payment of the balance, $111,000. I computed it and stated it to the Senate. An amendment has been introduced by the Senator from Missouri to pay that amount, the only amount that there is any possible right, or equity, or decency for the bank or these men to demand of the Government at all. The Senate has refused to incorporate that amendment in the bill, and goes for the $249,000 of interest.

Sir, in the sixteen years that I have served in Congress in the other House and this, having been six or seven years of that time upon the Committee on Claims in the House and in this body, I state here publicly that no such claim for interest has ever been allowed on any bill presented in either House. I defy contradiction by anybody. We have both in the House and in the Senate stood refusing bills ever since the war closed, where the equities, where the sympathies, where the rights of individuals were infinitely stronger than the right of this bank, or of Carter, a large stockholder of this bank, or of its cashier. We have been compelled to refuse claimants even the principal, to say nothing of interest, on account of the precedent which would bring in demands against the Treasury of the United States to the extent of millions and hundreds of millions of dollars.

The House and the Senate passed a bill called the Best bill which appealed to the sympathy and to a kind of native sense of justice of Congress, where the residence and adjoining property of a loyal citizen of the United States was destroyed to make room for fortifications, when there was no war in the neighborhood and no immediate threatening of war at that point, and where it would seem as if the property of that loyal citizen might have been saved, as the result proved that it might. Congress passed that bill; and the President of the United States, seeing to what an extent that would be used as a precedent in this unfortunate class of cases, where good men and loyal men had suffered from the circumstances surrounding their cases and from the laws of war, vetoed the bill; and from that day to this that class of cases, stronger in their merits, more just in the enforcement of law in favor of the sufferer than this is or can possibly be made to be, have been rejected, both principal and interest.

As I said before, I have no knowledge except from the record of this case. I have no feeling in regard to it. It would be more agreeable to my feelings, where there was a seeming equity, to vote in favor of the Government doing more than was necessary to an individual sufferer, a citizen or citizens of the United States, than a private citizen would be required to do. Yet I say to you, sir, and to the Senators here that there are piled up in the room of the Committee on Claims of the House and in the room of the Committee on Claims of the Senate amounts aggregating hundreds of millions of dollars equally defensible and equally proper to pass both as to principal and as to interest with this claim. That is why I oppose the passage of it.

I have as carefully as I was able to do, during all the course of my Congressional life, sought to pay honest and just claims where it was possible that they should be paid even where there were only equities in the matter, unless to do so would establish a precedent which if followed out would ruin the Treasury, would impose a burden of taxation upon the people beyond what they could possibly bear; but we might as well give up the Government in the beginning as try to allow interest in all the classes of claims equally meritorious with this.

It makes no difference to me that this claim comes from New England; it makes no difference to me that it comes from Massachusetts. If it came from any other State, North or South, if it came from any Southern State connected with all the changes and the diversities of opinion and the conflicting views in regard to war claims, or those which might be classed with the general ruin and conflagration which accompanies the marching of troops and the collections of war, I feel my duty to be just as great to meet this case from Massachusetts or Michigan as I should if it came from Louisiana or North Carolina.

I shall have performed my duty, sir, in voting to the extreme extent which I think proper, and to which I brought myself to coincide with the views of this last amendment offered and rejected, in the first remarks I made on this bill; and now I desire to have the opportunity of recording my vote against the passage of this precedent, which I think the most dangerous of any bill which has been under consideration in the House or in the Senate since I have been a member of either body.

The PRESIDING OFFICER. The question is on the passage of the bill, on which the Senator from Missouri has demanded the yeas and nays. Is there a second?

The yeas and nays were ordered; and being taken, resulted—yeas 31, nays 16; as follows:

YEAS—31.

Bayard,	Dolph,	Jackson,	Plumb,
Blair,	Fair,	Jonas,	Sawyer,
Bowen,	Frye,	Jones of Florida,	Sheffield,
Brown,	Gibson,	Manderson,	Slater,
Camden,	Gorman,	Maxey,	Van Wyck,
Cameron of Wis.,	Groome,	Miller of Cal.,	Walker,
Cullom,	Hampton,	Mitchell,	Wilson.
Dawes,	Hoar,	Pike,	

NAYS—16.

Cameron of Pa.,	Harris,	Morgan,	Saulsbury,
Cockrell,	Harrison,	Morrill,	Sherman,
Coke,	Hawley,	Platt,	Vance,
Conger,	McMillan,	Pugh,	Vest.

ABSENT—29.

Aldrich,	Garland,	Lapham,	Riddleberger,
Allison,	George,	Logan,	Sabin,
Beck,	Hale,	McPherson,	Sewell,
Butler,	Hill,	Mahone,	Voorhees,
Call,	Ingalls,	Miller of N. Y.,	Williams.
Colquitt,	Jones of Nevada,	Palmer,	
Edmunds,	Kenna,	Pendleton,	
Farley,	Lamar,	Ransom,	

So the bill was passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. CLARK, its Clerk, announced that the House requested the return of the bill (H. R. 1004) relative to the Chinese indemnity fund.

The message also announced that the House had non-concurred in the amendment of the Senate to the bill (H. R. 181) to declare forfeiture

of certain lands granted to aid in the construction of a railroad in Oregon, asked a conference with the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. T. R. COBB of Indiana, Mr. BARCLAY HENLEY of California, and Mr. L. E. PAYSON of Illinois the conferees on the part of the House.

EFFICIENCY OF THE ARMY.

Mr. CULLOM. The morning hour has nearly expired, and I ask that the Senate proceed to the consideration of Senate bill 2112.

Mr. CAMERON, of Wisconsin. I hope the Senator from Illinois will allow the Senate to proceed with the Calendar at least until 2 o'clock.

Mr. CULLOM. Very well; I withdraw the motion.

The bill (S. 1420) to increase the efficiency of the Army of the United States was announced as next in order on the Calendar.

The PRESIDING OFFICER. This bill is to be passed over by request of the Senator from Illinois [Mr. LOGAN], the Chair understands.

Mr. HARRISON. The Senator from Illinois who reported that bill and has it in charge is absent, and I ask that it be passed over without prejudice.

The PRESIDING OFFICER. It will be so done.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. CLARK, its Clerk, announced that the House had non-concurred in the amendments of the Senate to the bill (H. R. 7577) making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1886, and for other purposes.

The message also announced that the House had passed the following bills; in which it requested the concurrence of the Senate:

A bill (H. R. 2872) granting a pension to Jacob Funkhouser;

A bill (H. R. 2975) granting a pension to Marion D. Egbert;

A bill (H. R. 3074) to grant a pension to Jasper J. Henry on account of wounds received while acting as guide for the First Arkansas Cavalry Volunteers in the war of the rebellion;

A bill (H. R. 3605) granting a pension to Eliza Sluss;

A bill (H. R. 5813) granting a pension to Rachel Smith;

A bill (H. R. 5925) granting a pension to Margaret A. Berry;

A bill (H. R. 7178) granting an increase of pension to John O. Gardner;

A bill (H. R. 7501) granting a pension to Hector W. Summers;

A bill (H. R. 7571) granting a pension to Cornelia V. Blackman; and

A bill (H. R. 7707) to pension Holden Cook.

DES MOINES RIVER LANDS.

The bill (S. 1886) to quiet titles of settlers on the Des Moines River lands in the State of Iowa, and for other purposes, was announced as next in order.

Mr. BAYARD. Is there a report connected with this case?

The PRESIDING OFFICER. There is; but it is quite lengthy.

Mr. LAPHAM. I suppose it is very plain that this bill can not be considered under the five-minute rule. I was not in when it was called up. Of course it is a bill that can not be discussed under this rule.

The PRESIDING OFFICER. Does the Senator object to its consideration under Rule VIII?

Mr. LAPHAM. I see the Senator from Arkansas [Mr. GARLAND] is not here. I do not want the questions in reference to it disposed of in his absence.

The PRESIDING OFFICER. Does the Senator object to its consideration?

Mr. LAPHAM. I ask that it may stand over without prejudice, as it did before, until the Senator from Arkansas is here.

Mr. PLUMB. It is now within ten minutes of the time when the regular order of the Senate, the bill in regard to interstate commerce, will come up. I shall not now make the motion which I have designed to make to take up this bill, the objection of the Senator from New York to the contrary notwithstanding, but I will do so at the time the bill is next reached on the Calendar. I desire to say that this bill is a bill which, if it is ever disposed of, ought to be disposed of now. It has been in Congress in one shape or another for a long time.

Mr. HOAR. Will the Senator pardon me a moment? I think I can relieve the difficulty. I understand that the Senator from Arkansas has given notice publicly to the Senate that he expects to be absent, after Monday, for some time. He is staying here until Monday only to take part in the eulogies on Senator ANTHONY. The Senator from New York will probably not secure his presence by postponement. This bill might as well come up to-day as next week, for any expectation of the Senator from Arkansas being present.

Mr. LAPHAM. There will be no business done on Monday, I understand.

Mr. HOAR. But after that the Senator from Arkansas expects to be absent for some time.

Mr. PLUMB. I think I will, notwithstanding what I said at the beginning, make the motion now to proceed with the consideration of this bill, the objection of the Senator from New York to the contrary notwithstanding.

Mr. LAPHAM. I hope it will not be taken up.

Mr. PLUMB. When it comes up in this way it is not under the limitation of the five-minute rule of debate. The Senator from New York can certainly express himself on the subject at length, if not now, the next time the bill comes up; but I am unwilling, so far as I am concerned, that the consideration of this bill shall be longer postponed, without in any way detracting from the importance of the position which the Senator from New York assumes in regard to it. I therefore move that the Senate proceed with the consideration of the bill in question, notwithstanding the objection.

Mr. LAPHAM. That motion is not in order.

The PRESIDING OFFICER. The motion is in order.

Mr. LAPHAM. How is it? I have not objected.

Mr. MORGAN. I object.

Mr. PLUMB. I understood the Senator from New York to object.

Mr. LAPHAM. No; I asked to have the bill stand over without prejudice.

Mr. PLUMB. Very well; objection is now interposed.

Mr. LAPHAM. I do not want a vote taken upon the bill now.

The PRESIDING OFFICER. The Senator from Kansas moves that this bill now be taken up notwithstanding the objection.

Mr. LAPHAM. I ask for the yeas and nays on this motion.

The yeas and nays were ordered; and being taken, resulted—yeas 32, nays 13; as follows:

YEAS—32.

Allison,	Conger,	Jonas,	Saulsbury,
Bayard,	Cullom,	Kenna,	Sawyer,
Beck,	Dawes,	Manderson,	Slater,
Bowen,	Dolph,	Miller of Cal.,	Vance,
Brown,	George,	Mitchell,	Van Wyck,
Camden,	Gorman,	Morgan,	Vest,
Cameron of Wis.,	Hampton,	Plumb,	Voorhees,
Coke,	Jackson,	Pugh,	Wilson.

NAYS—13.

Cameron of Pa.,	Hawley,	Maxey,	Walker.
Frye,	Hoar,	Morrill,	
Garland,	Lapham,	Sheffield,	
Groome,	McMillan,	Sherman,	

ABSENT—31.

Aldrich,	Farley,	Jones of Nevada,	Pike,
Blair,	Gibson,	Lamar,	Platt,
Butler,	Hale,	Logan,	Ransom,
Call,	Harris,	McPherson,	Riddleberger,
Cockrell,	Harrison,	Mahone,	Sabin,
Colquitt,	Hill,	Miller of N. Y.,	Sewell,
Edmunds,	Ingalls,	Palmer,	Williams.
Fair,	Jones of Florida,	Pendleton,	

So the motion was agreed to.

The PRESIDING OFFICER. The hour of 2 o'clock having arrived, it is the duty of the Chair to lay before the Senate the unfinished business of yesterday; pending which the Chair asks leave to lay before the Senate some messages from the House of Representatives.

Mr. CULLOM. That can be done by unanimous consent.

CHINESE INDEMNITY FUND.

The PRESIDING OFFICER laid before the Senate the following resolution of the House of Representatives:

Resolved, That the Senate be requested to return to the House the bill (H. R. 1004) relative to the Chinese indemnity fund.

The PRESIDING OFFICER. Will the Senate agree to the request of the House of Representatives?

The bill was ordered to be returned to the House of Representatives.

FORFEITURE OF OREGON LAND GRANT.

The PRESIDING OFFICER laid before the Senate the action of the House of Representatives non-concurring in the amendments of the Senate to the bill (H. R. 181) to declare forfeiture of certain lands granted to aid in the construction of a railroad in Oregon, and asking a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. SLATER. I move that the Senate insist on its amendments and agree to the conference asked by the House.

The motion was agreed to.

By unanimous consent, the presiding officer was authorized to appoint the conferees on the part of the Senate; and Messrs. SLATER, DOLPH, and PLUMB were appointed.

HOUSE BILLS REFERRED.

The following bills from the House of Representatives were severally read twice by their titles, and referred to the Committee on Pensions:

A bill (H. R. 457) granting a pension to Elizabeth Davis;

A bill (H. R. 2002) for the relief of Mrs. Jennie E. Johnson;

A bill (H. R. 2646) granting a pension to Eliza Warr, widow of Isaac Warr, late of Company F, One hundred and fourteenth Regiment Pennsylvania Volunteers;

A bill (H. R. 4055) granting a pension to Sarah Tyler;

A bill (H. R. 4605) granting a pension to Ellen Edmiston;

A bill (H. R. 4878) granting a pension to Emma O. Zeigler;

A bill (H. R. 5146) granting a pension to Jesse C. Buck;

A bill (H. R. 5387) granting a pension to Amos Stroh;
A bill (H. R. 6775) granting a pension to Edward Wilcox;
A bill (H. R. 6940) granting a pension to Sarah M. Bissell;
A bill (H. R. 6982) granting a pension to W. H. H. Coleman;
A bill (H. R. 7094) granting a pension to Samuel M. Bartlett;
A bill (H. R. 7500) to restore the name of Lewis J. Blair to the pension-roll;
A bill (H. R. 7617) granting a pension to Mrs. Ann E. Gridley;
A bill (H. R. 2872) granting a pension to Jacob Funkhouser;
A bill (H. R. 2975) granting a pension to Marion D. Egbert;
A bill (H. R. 3074) to grant a pension to Jasper J. Henry on account of wounds received while acting as guide for the First Arkansas Cavalry Volunteers in the war of the rebellion;
A bill (H. R. 3605) granting a pension to Eliza Sluss;
A bill (H. R. 5813) granting a pension to Rachel Smith;
A bill (H. R. 5925) granting a pension to Margaret A. Berry;
A bill (H. R. 7178) granting an increase of pension to John O. Gardner;
A bill (H. R. 7501) granting a pension to Hector W. Summers;
A bill (H. R. 7571) granting a pension to Cornelia V. Blackman; and
A bill (H. R. 7707) to pension Holden Cook.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. CLARK, its Clerk, announced that the House had passed the following bills; in which it requested the concurrence of the Senate:
A bill (H. R. 542) granting a pension to Samuel Hanson;
A bill (H. R. 1759) granting a pension to Robert Patterson;
A bill (H. R. 2138) granting a pension to Martha Angell;
A bill (H. R. 4458) granting a pension to Harlan Jackson;
A bill (H. R. 6018) increasing the pension of George Tapp;
A bill (H. R. 6798) granting a pension to Lloyd W. Hixon;
A bill (H. R. 6965) granting a pension to David T. Dudley;
A bill (H. R. 6966) granting a pension to Wealthy H. Seavey;
A bill (H. R. 7026) granting a pension to Jeremiah P. Swatzell;
A bill (H. R. 7177) granting a pension to William H. Kinman;
A bill (H. R. 7373) for the relief of Sarah A. Burchfield; and
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INTERSTATE COMMERCE.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. 2112) to establish a commission to regulate interstate commerce, and for other purposes.

The PRESIDING OFFICER. The pending question is on the amendment proposed by the Senator from Oregon [Mr. SLATER] as amended, which will be read.

The CHIEF CLERK. The proposed amendment is, in line 14 of section 4, after the word "class," to insert:

Or shall charge or receive any greater compensation for transporting a similar amount and kind of property a shorter distance than for a longer distance over the same line of road and in the same direction; but this provision shall not be construed to legalize the charging as much for a shorter as for a longer distance in any case.

The PRESIDING OFFICER. The Senator from Georgia [Mr. BROWN] is entitled to the floor.

Mr. BROWN. Mr. President, when the Senate adjourned last evening I was discussing the question of the transportation of through freights going from New York to Saint Louis over the Central Railroad of Georgia, a longer distance for less money than the company charges for carrying its local freights a shorter distance. I now propose to resume the discussion where I left it.

But you may say it is unjust to the people of Georgia to permit this through business going from New York to Saint Louis to pass over the railroads in Georgia a longer distance at less rates than they pay for the shorter distance. What harm, let me ask, does this do any citizen of Georgia?

The freight goes to Savannah by steamer; it is loaded on a car that would otherwise go empty to Saint Louis, and it passes rapidly over the soil of Georgia, doing nobody any harm, but really doing a service to the people of Georgia. But you may ask how. I reply that the railroads of Georgia must make out of some business money enough to keep them in good condition and run them, to say nothing of the justice of paying dividends to their stockholders.

Now if we can not conduct through business over these long lines as cheaply as it is done in other sections, or can not be permitted to compete with other long lines for the business, then we must levy the amount that we would make on through freight as an additional charge on the local business.

In other words, each $1,000 that the through line makes in carrying return freights on cars that would otherwise go empty is that much that goes into the support of the railroads forming the line, and that much which must be levied upon the local business, if we are not permitted to collect it on this class of through business.

What good sense, let me ask, what sound policy, what statesmanship, would justify the exclusion of this freight from the soil of Georgia, driving it around on some other line, because it must pass through the State, if at all, on account of the great distance it has to travel, at a lower rate than we can charge for local freights and continue to live. These freights between New York and Saint Louis must go over some line.

What injury does it do any man, woman, or child in Georgia for it to pass on a Western and Atlantic Green Line car loaded in Savannah across the soil of the State to Saint Louis, which car would otherwise go back empty? None possibly that I can perceive.

If the freight does not go in a car that would otherwise go empty over the line between Savannah and Saint Louis it will go in a car that runs between New York and Saint Louis over one of the trunk lines. If it goes in a car over our Southern line that would otherwise go back empty, and we make $5 for each company on it, it is that much clear profit to the people of Georgia. Then why should it be prohibited?

But you may say that an act of Congress prohibiting transportation of that character will apply as well to the other trunk lines. True; and if so, then it would disturb the whole through business between Eastern cities and the West, and the people would be clamorous for its repeal as soon as they saw the mischievous and injurious impediments which the rule throws in the way of the business of the country.

But it may be said in the case supposed, in carrying the through freight from New York to Saint Louis over the Central road of Georgia, if the company carries it from Savannah to Atlanta for $5 in its transit across the territory the company should not charge more than $5 if the consignee should require it to be taken off the train and delivered at Jonesborough, twenty miles before reaching Atlanta.

In other words, that a car-load of the same character of freight going from New York to Jonesborough, Ga., should only be charged $5 if the company carries a like car-load of through freight consigned to Saint Louis from Savannah to Atlanta, which is twenty miles farther, for $5. In the one case the freight shipped from New York by steamer to Savannah and then shipped by the Central road from Savannah to Jonesborough would be local freight, so far as the Central road is concerned; and if the Central road should be required to transport like freight by car-load from Savannah to Jonesborough, and to put all its local freights at the same rate, its income would not pay one-half of the fixed expense of maintaining and running the road, and bankruptcy would follow.

Then no reasonable man would insist that the Central road should be required to put its local freight at $5 a car-load between Savannah and Jonesborough, as all must admit that the railroad could not run and charge such rates. In the other case the through consignment from New York to Saint Louis reaches Savannah by steamer, and it is put upon a car that is going by the next train from Savannah to Saint Louis for a load of bacon. The car is going empty, as the company has no freight with which to load it. By receiving the consignment from New York to Saint Louis on board the car and charging $5 for transporting it to Atlanta and delivering it to the Western and Atlantic road the company makes $5 clear money, which goes into its general income for its support, and of course charges $5 less on account of local freights. Where is the injustice? Where is the wrong?

But, says the objector, if the company only charges $5 on the through freight from Savannah to Atlanta, three hundred miles, it should not be permitted to charge more than $5 on a car-load of local freight from Savannah to Jonesborough, twenty miles less distance. Why not? It actually costs the company more to deliver it at Jonesborough than at Atlanta.

You may ask me, how? I reply that a car-load of through freight hitched on by the Central at Savannah to a train going to Atlanta is carried through without any necessary stoppage at Jonesborough, and when it reaches Atlanta it is simply uncoupled from the Central train and is coupled to a Western and Atlantic train, which takes it in charge and carries it to Chattanooga and there delivers it to the Nashville, Chattanooga and Saint Louis Railroad. The transfer is made by the simple operation of uncoupling it from one train and coupling it to the other, and the Central road in that case has no delay or stoppage at Jonesborough, and no trouble or expense of switching off the car and delivering the freight; but if it is required to deliver the freight at Jonesborough instead of Atlanta, the train must be stopped at Jonesborough and the car must be switched off from the track to a side track, causing several minutes' delay and consequent expense; for every minute of time lost by a train costs something in the salaries of persons managing the train, in the fuel consumed, in the engine, and other necessary expense.

Then the agent at Jonesborough must take the car in hand, and unload the freight upon a platform, place it in the depot, and roll it out again, and deliver it to the consignee when it is called for.

In the case supposed it actually costs the Central Railway decidedly more to deliver the car at Jonesborough than it would to run the train through to Atlanta, uncouple the car, and turn it over to the Western and Atlantic, which couples it to its train and carries it along. But the more important point is that the Central can not maintain itself and put its local freights as low as $5 a car-load from Savannah to Jonesborough, and it must break down and go into the hands of a receiver if it attempts it, while in the case supposed it can take the car-load of through freight consigned to Saint Louis in a car that would otherwise go empty from Savannah to Atlanta and carry it for $5 and make money on it, and all the money it makes by carrying freight of that character goes to aid in supporting the road and paying its expenses, and to that extent lightens the burdens which have to be put upon local freights for its support.

No citizen of Georgia is injured in the slightest particular by the action of the Central Railroad in loading the Saint Louis freight into the car that would otherwise go empty and transporting it across the territory of the State; while, on the other hand, every citizen who is a patron of the Central Railroad, and has to pay local freights upon it, is to that extent relieved, as his local freights can to that extent be placed at a lower rate; while, therefore, the rule that you shall not carry the same quality and quantity of through freights a longer distance for less money than you carry the like quality and quantity of local freight for a shorter distance is plausible and appears to be right in itself, all railroad experience shows it to be impracticable, seriously disturbing the operations of through transportation, and to be highly detrimental to the commerce of the country.

Many things connected with railroading that seem plausible and right when submitted in the abstract will not work in practice. For instance, the general rule recognized in almost all business transactions that competition, unlimited and uncontrolled competition, is best for the community and for the trade, does not always work, and frequently will not work at all, in railroading.

This proposition may seem to Senators somewhat startling, but it is nevertheless strictly true. As I have already stated, when there is unlimited and uncontrolled competition between different railroad companies in a State, or section of the country of anything like limited boundaries, competition becoming sharp soon results in the failure of the weakest competitor.

Say, for instance, there are three railroad companies competing for the freight of the same section of country, all in condition to serve that section, and competition becomes sharp; they begin to underbid each other for freights; the result is that they soon get the freight so low that the three roads can not support themselves on what each receives as its share of the business at the low rate to which each is driven by the competition, and the result is that the weaker one of the three breaks down and goes into bankruptcy and is sold out, and generally purchased by the strongest of the three. Then the competition is intensified between the remaining two roads, and they cut rates and put down there until they finally reach the point where the weaker of the two gives way and goes under the marshal's hammer. That is generally purchased by the stronger company, and the three are then consolidated into one and go under one management, and consolidation, as usual, results from unbridled competition in railroading.

So many Southern railroads have gone into bankruptcy by the workings of this system of competition that about ten years ago the remaining companies formed an association known as the Southern Railway and Steamship Association. I had the honor to aid in its organization and to be elected its president, which position I have held ever since. I have had an opportunity, therefore, to watch something of the general workings of the organization, and can speak with some knowledge on the subject. The organization is frequently denominated the pool, because the different companies undertake to pool the business so as to maintain something like reasonable rates, at least rates which will enable them to keep their roads in fair condition to serve the public, whether the stockholders get dividends or not.

Our plan has been in the main to divide the freights and not cut each other's throats by ruinous competition. Take the cotton freights of Atlanta as an illustration. There are seven railroads centering in Atlanta. If we undertook to compete actively and to cut rates every day for the control of the cotton none of the companies would make a dollar by the transportation of it. Instead of that, we agree between ourselves that each company shall have a certain per cent. of the whole amount of cotton to be shipped out. The railroad which has the best facilities for the business, and which has usually carried the most cotton, gets a larger per cent. than the road having inferior facilities that has carried less.

In practice we try each to carry our proportion of the cotton at the rate agreed upon. If one of the companies gets more than its proportion the general commissioner gives notice of that fact, and the company being in excess at once advances its rate to a higher point and the shippers drop over to the other roads that are carrying at the agreed rate. In this way we get a reasonable but really a low rate upon cotton which is sent to Eastern and foreign markets from Atlanta—a rate at which our shippers do not complain.

But it may be said that this places the shipper at the mercy of the pool, and that they may put up the prices to any extent they please and make them exorbitant. The reply is that in practice there has been no such difficulty, and I have never heard a complaint during the ten years that the association has been in existence that the rates fixed were exorbitant. The tendency of all railroad business is to constant reduction of freights; and notwithstanding our efforts to keep freights at a reasonable rate from Atlanta, and from all the other Southern cities, the freights charged by the pool are about one-third lower than they were ten years ago, and nobody complains of them as exorbitant. The association covers the territory between the Ohio and the Atlantic and reaches to the Potomac, and includes all the steamship lines between the Southern cities and the Eastern cities. Assaults have been made upon it on the ground that the association tends to monopoly, but in practice the results have been so favorable that opposition to it from merchants and other interested parties has well-nigh ceased.

I state to the Senate and to the country very frankly that the very object had in view by the companies in the formation of the association was to prevent destructive competition. And just in this connection let me say that unbridled competition, frequent railroad wars, and the cutting of rates at short periods are most detrimental to the merchants and to the business men of the country generally. You may dissolve the Southern Railway and Steamship Association and say that the railroads shall keep up unrestricted competition with one another as long as they are able to fight. While you may have the power to put penalties on us by law to prevent pooling, you have not the power to prevent us from meeting and saying each to the other, we will not charge more than a certain rate, or we will not charge, say, on first-class freights from New York to Atlanta less than a reasonable rate, say $1 per hundred pounds. While we could make this agreement as to maintaining rates, somebody would frequently violate it, as members of the Southern Railway and Steamship Association may do, though it has seldom been done.

But if there is no association and no common arbiter to which the different companies can appeal, the result would frequently be a railroad war and a cut of rates. How will this work? Will it be best for the interest of our merchants and traders and business men generally, or will the wars unsettle business and discriminate most unjustly between different companies engaged in the same branch of business?

Let me show you how it works in practice.

We have two large wholesale dry-goods houses in Atlanta. The Messrs. Moore & Marsh and the Messrs. Kiser. Frequently there is a dispute among their friends as to which firm sells the most. They are all very honorable, high-toned gentlemen. They are the leading houses of our city in their line and do a large business.

We will suppose the Southern Railway and Steamship Association to have been dissolved, and that the railroad lines are left to settle the question between themselves by the rule of unrestricted competition, which will result in frequent wars of rates.

The Messrs. Kiser go to New York at a time when all the roads, by agreement among themselves, are maintaining rates. They buy largely and lay in a very heavy stock of goods for their wholesale house in Atlanta. They then go around to see the different railroad agents in New York, and inquire what they will carry the goods to Atlanta for. It happens to be a time when all the lines are maintaining the rates agreed on among themselves, and the agent of each line answers, the rate on your goods will be a dollar a hundred pounds from New York to Atlanta. Being unable to get the freight for less, they pay the $1 per hundred pounds and their goods are shipped. Two weeks later the railroads disagree; some one has not acted fairly; a war of rates breaks out, and cutting begins.

At this time the agent of the Messrs. Moore & Marsh goes on to buy a large stock for that house. Having made the purchase, he goes around to the office of one of the transportation lines and asks the agent what he will charge to carry his goods to Atlanta.

The agent replies, "We are now cutting rates. The regular rate of freight agreed on would be a dollar a hundred, but I will take your goods for 75 cents a hundred." The merchant then goes to the next agent and he agrees to carry them at 60 cents. The third agrees to carry at 50 cents per hundred pounds, and the trade is closed with him and the goods are shipped, and the Messrs. Moore & Marsh receive their freight from New York paying 50 cents per hundred pounds, while two weeks before the Messrs. Kiser, who bought at a time when the railroads happened to be maintaining rates, were compelled to pay $1 a hundred.

Now the Messrs. Kiser have paid on their large stock from New York to Atlanta just double the amount that the Messrs. Moore & Marsh paid upon theirs.

This is certainly not a desirable state of things when both houses are selling at close profits. It tends to derange business, it is inequitable and unjust as between the different commercial houses; it keeps everything in a feverish state of excitement; merchants do not know when to buy or how heavily to buy, as they do not know when the railroads will maintain the rates and when they will not. But it is a state of things you can not prevent by any law you can pass as long as the system of

unbridled competition exists, any more than you can prevent Messrs. Moore & Marsh from selling calico at 8 cents per yard. I presume you will not make it penal for a railroad company to carry goods for less than reasonable charges; you can not make it penal for the railroads to charge a reasonable rate of freight; you can not by law regulate the fluctuations and uncertainties that must always follow competition, resulting as it does frequently in wars of rates between the different companies.

This system works injustice both to the merchant and the purchaser. What the merchant wants is a uniform system, where every man will be charged reasonable prices and no more, and where everybody is charged alike, and that is right. But, as matters now stand in the transportation world, you can get that only under the pooling system. There is no other possible way to reach it in practice. As there has been some sharp criticism of the Southern Railway and Steamship Association, as there must be about the management of all great interests of that character, I want to read here what a very wise and very able man, who is no way connected with the South or with the association, says on the subject—a gentleman who has spent many years of his life in studying the railroad problem, a gentleman who is one of the oldest railroad commissioners in America, a man of high character and distinguished ability as well as of a distinguished family. I refer to Hon. Charles Francis Adams, of Massachusetts. But before I quote his remarks, I beg to state that he is a member of the railroad commission of Massachusetts, which I think has the best system as administered in that regard of any State in the Union. The main object of the Massachusetts system, as stated by her able Senator the other day, seems to be to throw everything open to the light of day, and when that is done the system regulates itself, and the commission, which has very little power except the power to report to the Legislature, has no trouble in keeping the peace between the railroad companies and the people. Mr. Adams and the commission to which he is attached have, I think, managed the system admirably well in that State.

But I was about to quote the remarks of Mr. Adams in his book on the origin and problem of railroads, in which he discusses the merits of the Southern Railway and Steamship Association, the pooling system, and the system of unbridled competition. I will ask the Secretary to read his remarks, with my comments made on another occasion and in a different forum.

The PRESIDING OFFICER (Mr. CAMERON, of Wisconsin, in the chair). The Secretary will read as indicated.

The Chief Clerk read as follows:

He discusses the railroad problems ably, looks into the whole question, reviews the French system, the English system, the Belgian system, and the German system, and then the American system. Then he refers to the many devices that have existed in the North to prevent the cutting of rates, by those in the West also, and everywhere in the United States, in fact; and he sums it all up by saying in substance that the Southern Railway and Steamship Association has come nearer solving the railroad problem than any other device on earth. After discussing the Vanderbilt power, the Jay Gould power, and the different powers and systems that have been devised to solve the railroad problem, he says (page 197, Railroads: their origin and problems):

"But however this may be, it is a question of the future, and certainly has no immediate bearing on the existing combinations. Of these, the only one that seems entitled to any thoughtful consideration is the Southern Railroad and Steamship Association. So far as the public is concerned, everything essential as a safeguard against abuse seems in the case of that association to be provided. It is a complete, but not a secret combination. It exists in the full light of publicity. The purposes for which it was organized are openly avowed, and its every transaction is, or may easily be made, matter of general observation. To secure this result it would only be necessary to give it legal recognition. By its originator it is confidently claimed that if properly developed and recognized by legislation, it would afford a complete and practical solution of the American railroad problem. Whether it would or not, it is certainly a great advance on any other form of solution which has yet been suggested. It is at once far more philosophical, more practical, and more in consonance with American political usages and modes of thought. Indeed, it is not easy to point out any respect in which it might not fairly be accepted as the natural outgrowth of American railroad development as it has gone on up to this time. The difficulty with all of the many other solutions which have from time to time been suggested has been that they disregarded what had gone before; they were none of them in the nature of a logical sequence or natural outgrowth."

Thus, Mr. President, you see that Mr. Adams gives his sanction to our association as the very best that has been devised, and pronounces it as entitled to more favor than all the rest of the combinations or associations he has discussed; and says it is confidently claimed that it only needs legal recognition to solve the problem. In other words, we meet and agree that we will not cut rates; that we will carry freights at a reasonable price, and that one merchant buying in New York shall have his goods delivered in Atlanta as cheaply as another. There is no legal sanction for that contract. What he means by legal sanction is that the law should come in and say when we make this agreement among ourselves we shall carry it out.

The Massachusetts railroad commissioner, probably the ablest and most distinguished in America, gives us the credit of having devised the wisest solution on earth, needing only legal sanction to make it as nearly perfect as it is possible for it to be.

But Mr. Adams goes further and discusses the questions of combination and competition with a great deal of force. He says (*Ibid.*, page 199):

"Irresponsible and secret combinations among railroads always have existed, and so long as the railroad system continues as it now is they unquestionably always will exist. No law can make two corporations, any more than two individuals, actively undersell each other in any market if they do not wish to do so. But they can only cease to do so by agreeing in public or private on a price below which neither will sell. If they can not do this publicly they assuredly do it secretly. This is what, with all alterations of conflict, the railroad companies always have done in one way or another; and this is what they are now doing and must always continue to do until a complete change of conditions is brought about.

"Against this practice, the moment it begins to assume any character of responsibility or permanence, statutes innumerable have been aimed, and clauses strictly interdicting it have of late been incorporated into several State constitutions. The experience of the last few years, if it has proved nothing else, has conclusively demonstrated how utterly impotent and futile such enactments and provisions necessarily are. Starting, then, from this point—accepting what is and what must continue to be—the fundamental idea of the Southern Steamship and Railroad Association is to legalize a practice which the law can not prevent, and by so doing to enable the railroads to confederate themselves in a manner which shall be at once both public and responsible. This is the railroad side of the question. The other side of the question—that of the public—admits of a statement equally clear. Its essential point, however, is that through this process, and this process only, can the railroad system, as an organized whole, be brought face to face with any public and controlling force, whether of law or public opinion.

"Once let railroad companies confederate in accordance with law, and the process through which this all-important confronting result would be brought about is apparent. The confederation would be a responsible one, with power to enforce its own decisions upon its own members. The principles upon which it could act, as a creature of the law, would be formulated in the law. It could compel obedience, but obedience only to legal decrees, and the question in each case would be whether the decree was legal. At exactly this point the machinery for State supervision would come into play in the form of a special tribunal, like those which have already been provided in England and France or that now being matured in the Prussian Parliament. The field of discussion before this tribunal would be commensurate with the whole subject of transportation by rail, including questions not only of law but of economy. Then at last the correct principles governing railroad traffic would be in course of rapid development. The essential features of what constitutes discrimination and extortion would gradually be formulated into rules; and the moment that is accomplished competition will work equitably."

As I had occasion to say in the earlier part of this argument, this question has undergone a great deal of investigation in England. There is a road there called the Northeastern. The competition was very strong between that and other roads that traverse the same territory.

That competition produced the usual results that follow unbridled competition. What are they? Suppose you provide by law that nothing shall interfere, that it shall go on unbridled. What is the result? That state of things can not last long till the weakest road will become insolvent and will go into bankruptcy and be sold under the marshal's hammer and the strongest road buys it. The strong road is then still stronger, for it has absorbed that competitor and turns it into a feeder. That gun is spiked. The competition goes on and the next weaker one goes under, and so on, and so on, till all the weaker ones have gone under. The last trial of strength has to be between the two strongest, and when one of these goes under the other is left supreme. Then where is your competition? On that subject Mr. Adams says (*Ibid*, page 207):

"The Northeastern Railway is composed of thirty-seven lines, several of which formerly competed with each other. Before their amalgamation they had, generally speaking, high rates and fares and low dividends. The system is now the most complete monopoly in the United Kingdom. From Tyne to the Humber, with one local exception, it has the country to itself, and it has the lowest rates and highest dividends of any large English railway. It has had little or no litigation with other companies. While complaints have been heard from Lancashire and Yorkshire, where there are so-called competing lines, no witness has appeared to complain of the Northeastern, and the general feeling in the district it serves appears favorable to its management."

Again Mr. Adams says (*Ibid*, page 208): "There is scarcely a section of the United States which could not tell of an experience very like the English one just referred to. Massachusetts, for instance, could supply a well-known case in point. Of two sections of that State, lying north and south of the city of Boston—the one known as the Cape Ann and the other as the Cape Cod district—the first has from the beginning been served by two rival lines, whose whole history has been one long trial of strength, resulting at last in the absolute ruin of one and in the severe crippling of the other. How many millions of dollars were recklessly squandered in the long course of the struggle it is impossible to compute. While the Cape Ann district has thus enjoyed the benefits of the railroad competition, the southern, or Cape Cod, district has, on the other hand, been served by a single consolidated corporation, the cardinal principle with which has been monopoly. It appropriated to itself a certain district, and that district it undertook to furnish with all reasonable railroad facilities; but within the limits of its own territory it did not propose to tolerate any rival. The result in these two cases, whether in accordance with theory or not, is confirmatory of experience."

Again he says (*Ibid*, page 210): "The reliance on competition seems to give throughout a false direction to public opinion as respects railroads. They are looked upon as something alien, if not hostile. The public welfare is associated in the popular mind with their misfortunes. On the other hand, the intelligent and peaceful operation of a consolidated company is generally followed by a sense of responsibility on the one side and of ultimate friendliness on the other."

Again he says (on page 214): "Owing to the extremely complicated character of the American railroad system, rendering anything like a territorial division among corporations impossible, results here work their way out slowly. When they do work their way out, however, it is apt to be on a large scale and in a way not easily susceptible of change. So far as any progress has yet been made it is obviously in the direction indicated—the development of Government supervision on the one side and the concentration of railroads to escape competition on the other. The manner, indeed, in which, starting from different standpoints of interest and opposite sections of the country, the Massachusetts commission and the Southern Railway and Steamship Association have unconsciously worked toward a common ground is noticeable. On the one hand, the whole effort of the commission has been to develop a tribunal which, in all questions affecting the relations of the railroad system to the community, should secure publicity and that correct understanding of the principles upon which only legislation of any permanent value can be based, and which is reached through intelligent public investigation. That secured, all else might safely be left to take its own course. A sufficient responsibility would be secured to afford a guarantee against abuse. On the other hand, the fundamental idea of the association, without the realization of which it remains incomplete, is to so confederate the railroad system that the members of it should be amenable to control, and that responsibility should attach to it. Could the two results be brought about the machinery would be complete. The confederated railroad system would confront the Government tribunal, and be directly responsible to public opinion. This is almost precisely the result arrived at in France and in Great Britain, and is that contemplated in Germany."

This, then, is the Southern Railway and Steamship Association, and these are the comments made by one of the ablest men in the United States, who has been longer a railroad commissioner, probably, than any other man connected with the system. And I must say, with all due deference to my friends here, that Mr. Adams's remarks and their speeches are very unlike each other. He shows that unbridled competition leads to the bankruptcy of all the weaker companies and to ultimate consolidation, and that the Southern Railway and Steamship Association would be, with legal sanction, the very best solution of the railroad problem.

Mr. BROWN. Mr. President, I have had read these extracts from the writings of a very able man, who has probably studied the railroad

problem with as much or more care than any other man in this country, who understands the practical workings of it, and whose high character entitles him to respectful consideration.

I have now gone through the argument which I desired to submit, and before I take my seat I wish to say in conclusion that a great many good people in this country, as well in the Northern and Western States as in the Southern States, feel that the tendency of the times is to a constant enlargement of the powers of the Federal Government, both in theory and in practice. From year to year we are organizing commissions on various subjects filled by gentlemen who receive from the Treasury of the United States large salaries. We are enlarging the powers and the practice of the Government greatly beyond the point which was recognized as proper for the exercise of these powers by all sections of the Union twenty-five years ago, and we now propose by this legislation to take one of the most far-reaching steps of any that has yet been taken.

As very properly stated by the Senator from Delaware [Mr. BAYARD] a few days since, the internal and interstate commerce of the United States is probably eight or ten times as large as the whole of our foreign commerce, and that runs to an enormous sum.

Now we propose by this legislation that the United States Government, under the plea of regulating interstate commerce, shall take charge of, or supervision over, this immense business.

We may first appoint a commission composed of a small number of persons. In practice it will soon be found that they need numerous assistants and subagents scattered all over this country. The job we are undertaking will be entirely too large for any five, or seven, or ten men, without an enormous retinue of subalterns. What commission at Washington can grasp this whole subject and look into all the details of railroad transportation? It is simply out of the question, and in practice it will soon be found so, and the position will then be taken that it is absolutely necessary to increase the force, and it will grow from one point to another, until the agents of the Government in a few years will be found located in all parts of the Union supervising this immense interest.

At present we propose only to take charge of the railroads. What just reason exists for regulating them that does not apply as well to the internal commerce of the country conducted on the rivers by steamers? And if we regulate all that, then why not appoint a commission to regulate our foreign commerce, over which we have the same power?

While I think a commission with limited powers, as in the case of Massachusetts and Great Britain, the best regulation that the subject is susceptible of, still there is great risk even in that. As between that, however, and more radical legislation, I have no hesitation in favoring the commission. But I think we should consider very maturely before we act whether we are not, in attempting to regulate some evils which now exist, taking steps that will in the end produce greater evils by interruptions and impediments to be thrown in the way of the legitimate commerce of the country. The bill passed by the House of Representatives will, in my opinion, if it becomes a law, result most disastrously to the whole internal commerce and carrying business of the country.

I could under no circumstances give my sanction to a measure fraught with the innumerable evils which I see must result from such legislation as is proposed in that bill. But while I can not support that bill under any circumstances as it now stands, I am prepared to vote for a commission with proper powers of investigation and report, leaving the true regulation of this great class of common carriers where the common law leaves it, which indeed, after all, is the wisest solution; or if that will not do, let us then arm the commission with powers to lay down and enforce some general and just rules as a solution of this great problem. We can never regulate all the details of our internal transportation by legal enactments. If we do we, will cripple our internal commerce to an extent that will be most disastrous to all the great interests of the country.

The PRESIDING OFFICER (Mr. CAMERON, of Wisconsin, in the chair). The question is upon the amendment offered by the Senator from Oregon [Mr. SLATER] as amended, upon which the yeas and nays have been ordered.

Mr. SLATER. I think the amendment offered by the Senator from Mississippi [Mr. GEORGE] is the one pending.

The PRESIDING OFFICER. That has been agreed to as an amendment to the amendment offered by the Senator from Oregon.

Mr. WILSON. Mr. President, it seems like a reasonable thing to say that a railroad company shall not charge more for a shorter distance than for a greater distance for hauling freight, and yet I can not bring my mind to an approval of the amendment upon which we are about to vote. Briefly, I wish to put a practical test of the amendment and its results before the Senate.

Let me take as an illustration a train-load of wheat to be transported 1,000 miles at a rate of 40 cents per hundred pounds, which all agree would be a low rate. A car-load of wheat at that rate transported a thousand miles would earn $80. That is the low rate on the long haul. Now, it is said that no greater rate shall be charged for a short haul than for a long one. The train conveying that wheat would earn for each hundred miles $8 per car. This would be at the rate of eight-tenths of 1 cent per ton per mile of haul. That, it seems to me, is a very low rate, yet the amendment upon which we are about to vote would authorize the same aggregate rate to be charged for a short haul.

Now, let us take the short haul of one hundred miles. The train conveying wheat for one hundred miles would earn $80 per car, which would be 8 cents a ton per mile; and if it should convey that wheat but ten miles, which would be a still shorter distance, the amendment would allow a charge of 80 cents a ton per mile for transporting that freight.

It seems to me that we can not afford to put into the laws of the United States an authorization to the transporting companies to make any such charges or lay any such burdens upon the interstate commerce of the country. It is an easy thing to discuss a question of this character in general terms, but when we come to apply it to the practical operation of commerce we find very many difficulties in the way.

I said in some remarks that I made on this subject on the 5th of this month, that while I should be very glad to get rid of the principle that is here involved to a reasonable extent, I can see no way at this time to apply the rule of the amendment, inasmuch as our present system as established and enforced compels a general centralization, which requires the surplus products of this country, either manufactures or agriculture, to be transported over great distances. I said further on that occasion that until we change this system by proper legislation and its administration in such manner as to shorten the haul between producers and consumers, the people of the country residing in the remote interior must have the advantage of the lower rate on the long haul.

On another occasion I made some remarks on this subject, from which I will read an extract or two. I then said:

> Another has well said that the unit of profit in railroad management is a car-wheel in motion, and that the unit of loss is a car-wheel at rest. Each represents a proportionate amount of fixed capital. The fixed capital is the total cost of the road. The wheel in motion is a worker, earning money to pay interest and meet expenses. The wheel at rest earns nothing, and, consequently, increases the burden that the worker carries. Here we have the entire philosophy of successful railroad management, both as regards the corporations themselves and the people and sections of country which they serve. The wheel which carries freight 1,000 miles has more steady employment than the one that traverses ten miles.

And yet I may say that the pending amendment proposes to give to the wheel working for ten miles the same compensation that is given to the one working a thousand miles.

> Therefore it can afford to work for a lower rate of wages. This means a low rate for a long haul and a higher rate for a short haul. This is the whole story. It discloses the principle that develops regions remote from market and converts waste places into gardens.

Pursuing this subject further, I said:

> Who has been wronged by the application of the low rate to the long haul? Has harm come to the East by it? Why, the millions of people of the Western States, who depend on the practice of this rule to get their vast products to the world's markets, are most generous contributors to the prosperity of the East. They are liberal consumers of everything which the East manufactures. The low rate for a long haul of the manufactured articles of the East promotes consumption in the West. This keeps the Eastern spindles in motion, and they consume the cotton of the South. It keeps the looms in action, and they use the wool of all sections of the country. It fills the furnaces and forges and rolling-mills with orders. It deepens and extends the mines, and creates a market for the product. It fills manufacturing localities with dense populations, and thus secures to the Eastern agriculturist a home market and good prices for all of the products of his farm. In every way it benefits the East. Does it harm the country at large? Look at the balance of trade against Europe in our favor—

Which was larger at the time I made these remarks than now—

> What would it have been but for the enormous crops of the West and the low rate for the long haul which carries them to market? This it was that brought the cattle, sheep, hogs, wheat, flour, corn, and other products from the remote West, and sent them abroad to feed the people of the Old World. This it was that largely made up for our balance of trade, and brought home your bonds and gave us the coin of Europe. No such results would have been realized but for the wondrous development of the West, and that development could not have occurred under the fourth section of this bill—

which section contained the proposition embraced in this amendment.

Now, Mr. President, apply to the conditions of the country the change which I advocated in my former remarks, it will bring about a shortening of the haul and a change of the system which now centralizes everything in a few centers, and then let your low rate on the long haul apply to the surplus that must go abroad, and you will have a very complete and perfect system of transportation.

I do not care at this time to occupy longer the attention of the Senate, but I felt that I could not vote upon the pending amendment without explaining in some degree the reasons which will control my vote against it.

Mr. CAMDEN. Mr. President, in the remarks I shall make upon the amendment under consideration I will not attempt to go into the history and growth of railroads further than to repeat in substance what was said by the Senator from Georgia [Mr. BROWN], that it has been only about fifty years since railroad transportation by steam was first known, and within that time the business of the world has been revolutionized, and the history of that revolution has been more marked in the United States than in any other country. Within that fifty years there has been built in this country 125,000 miles of railroad, and the wealth of production and development created would have occupied centuries at any other period of the world's history. These 125,000 miles of railroad have cost, at a low estimate, for construction, equipment, double tracks, sidings, shops, terminal facilities, &c., at least $40,000 per mile, making five billions of money actually invested. This enormous sum of

five billions, or $5,000,000,000, is held by all classes and conditions of people scattered over the whole country, and is not owned and controlled by those engaged in operating and controlling the management of railroads, as is assumed by many. It is true that there are a few noted instances of immense fortunes accumulated in the hands of individuals by the manipulation of railroad interests and railroad stocks, but the number of these conspicuous fortunes, which stand out as finger-boards pointing to mismanagement and oppression in railroad management, are exceptional, and point only to Wall street speculations, and not to fortunes made by earnings in operating railroads.

As a rule railroad investments have not paid well on the money actually invested. It is safe to say that there has been as much unremunerative money invested in railroads as there have been exceptionally remunerative investments, based upon the actual cost of the roads, but the exceptionally remunerative investments attract attention, while the vast amount invested which is either lost entirely through bankruptcy or fails to pay dividends is lost sight of. Just as the few large fortunes made in mining stand out in bold relief, while the thousands who fail and lose all they have are forgotten. As I stated before, the development on this continent in the last half century, or, in fact, I may say in the last thirty years, has been unprecedented; and the wealth created to the people of this country by this railroad development has been greatly in excess of the wealth created to the railroads themselves and to the investors in them. Occupying the position of a Senator on this floor, I recognize the fact that it is just as much the duty of Congress to protect the property of the people of this country represented by one species of property as of another, and to protect property represented by railroad securities as it is to protect the interests of the people invested in any other property, whether it be in lands, in manufactories, in mines, or in the bonds of the Government, for very large amounts of these railroad securities are held by those who may not be able to protect themselves—by families, by minors, by trust estates, and charitable institutions.

The few conspicuous instances of overgrown fortunes resulting from railroad manipulation and railroad mismanagement have tended to create a prejudice in the minds of the people against the whole railroad management of the country, and I do not hesitate to say that in my judgment there are evils existing that ought to be corrected, but it should be done wisely and carefully. The system has grown up gradually under the care and best attention of the very ablest men in the country, men who have devoted themselves faithfully and honestly to the study of these railroad problems, and while this study was directed mainly to the interests of the railroads they meant to study and advance also the interests of the people who were their patrons, because, on general principles, it was their interest to do so. As this railroad system and its management has grown and perfected itself gradually without legislative restrictions, so must we arrive at a system of legislative restrictions and control gradually and carefully, otherwise we might disarrange and confuse the greatest and most largely distributed property interest of this country.

Entertaining these views I favor a railroad commission, with a few general rules laid down for their guidance, as a starting point in this undertaking, rather than any legislation prescribing arbitrary and inflexible rules of law to be applied to their government all at once. It is not reasonable to suppose that Congress could safely overturn at once, with its imperfect knowledge of railroading, the rules and principles that able men who have devoted a lifetime to the practical study and operation of railroads have established, without doing more or less violence to the railroad system and to the people.

In my judgment, many of the evils complained of against the railroads are the result of unwise and undue competition between the roads, which forces them to do things which are unnatural and unhealthy in a business point of view, and I believe that careful and progressive legislation will result in great advantage to the railroads as well as to the people by protecting the roads from the necessities of their own errors, for in nine cases out of ten the unwise action of one road in making undue discrimination forces all the other competing roads not only to do the same thing and to adopt for the time being the same policy, but even at times to go to a further extreme in the same direction.

It is now a well-established principle in railroading that the movement of car-loads of freight costs the railroad so much per ton per mile on the average. This amount is ascertained and known by each road with almost mathematical exactness. We may assume, if you please, for illustration, that this cost is at the average rate of 1 cent per ton per mile for all the freight hauled over the whole line of road, and it is equally well known that long hauls can be made at somewhat less cost in proportion than short hauls. It is, therefore, a fundamental principle in railroading that the average rates of tonnage per mile must be kept up to a point necessary to yield the road a fair profit on its capital from its gross business. Now, when a road takes its through freight from competitive points on a long haul at less than it can afford to do the business per mile and make a profit, or at less than it can afford to do the business and pay actual expenses, it must make up the deficiency on its average business from non-competitive points between the starting place and the market to be reached, and the lower it is forced to take through freight the higher it must charge on its local freight.

This is the result of competition forced upon railroads by themselves rather than their voluntary action. For it is fair to presume that railroads as a matter of business would not of choice discriminate unjustly between shippers, but would equalize rates to a reasonable extent to produce the average earnings per mile required if they could follow out their own judgment of what would be equitable and fair and their own inclinations to do it.

Among the rules that may be safely laid down for the guidance of the commission I favor the amendment of the Senator from Oregon, which embodies the principle that railroads shall not charge a greater amount for a short haul over the same road in the same direction than it does for a longer haul. And I do it not only in the interest of the people, but in the interest of the railroads themselves, as a means of enabling the railroads to do the very thing they would do from choice if they had the power to regulate it. This amendment seems to have been misunderstood by the Senator from Georgia or is misunderstood by me and, I think, by the Senate. The Senator from Georgia assumes that the amendment means that it shall be so much per mile instead of so much per hundred pounds or so much by the car-load, and the illustrations given by the Senator with so much force are not applicable to the meaning of this amendment or to the same provision in the Reagan bill.

This amendment means, as illustrated by the Senator from Georgia, that if a car-load of freight was shipped from a hundred miles north of Marietta, Ga., to Atlanta, at $40 per car, the rate from Marietta to Atlanta, which is less than one-half the distance, shall not be more than $40. Or, if a car-load of freight was shipped from twenty miles north of Marietta to Atlanta at $20, that the rate on a car-load shipped from Marietta to Atlanta should not exceed $20. And so on from Atlanta, Ga., via Marietta, to the farthest point on the through line. Or, taking Atlanta as the point to be reached, a point twenty miles distant shall not be charged a greater rate for a car-load than is charged on a car-load from a point thirty miles distant, and the point thirty miles distant shall not be charged a higher rate on a car-load than is charged from a point fifty miles distant, and so on to the end of the line.

To illustrate it more forcibly: If the seat of the Senator from Georgia [Mr. BROWN], which is on the middle aisle of this Chamber, represent a distant competing point for freight which is to be transported to a market represented by the seat of the Senator from Indiana [Mr. VOORHEES], which is on the extreme left of the Chamber, and the seat of the Senator from Missouri [Mr. COCKRELL] represents one-third of the distance between the two points, and the seat of the Senator from Tennessee [Mr. HARRIS] represents another one-third of the distance between the two points, then a car-load of grain, or flour, or live-stock starting from a point represented by the seat of the Senator from Georgia comes up one-third of the distance to the point represented by the seat of the Senator from Missouri and there another car-load is taken on, it shall not be charged a greater amount for the two-thirds of the distance than was charged for the whole distance; and passing on up another one-third of the distance to a point represented by the seat of the Senator from Tennessee and there takes on another car-load, it shall not be charged a greater amount for the one-third of the remaining distance than was charged for the last car taken at two-thirds of the distance, which would be transported double the distance of the last car.

This gives the railroad a very large margin of discretion in fixing their local rates. As was stated by the Senator from Tennessee [Mr. JACKSON], and by other Senators, it would enable railroads to charge as much for one-half the distance as for double the distance. But this is not complained of to any great extent by shippers; the people are willing to pay the roads fair prices. As a general thing complaints are not that rates are too high. But what is complained of, and what shippers consider unfair discrimination, is the fact that in some instances shippers engaged in the same business, situated at points more distant from market than those nearer the same market, should have freight pass by their own doors at a lower rate than they are paying to reach the same point of destination. This, too, is of vital importance to many shippers, as many heavy articles which are produced at close margins of profit might enable the more distant shipper to undersell and drive from the market the manufacturer or shipper who is nearer the market.

This also results in driving manufactories to the important centers of railroad competition in order to get cheap freights, to the detriment of the towns better suited for the same manufactories, but lacking in railroad competition, to insure better rates given to more favored points by competition.

I desire here to say in reply to the Senator from Iowa [Mr. WILSON] that shippers do not complain of the cheap rates given to the long hauls from the West. They have no objection to that. What shippers occupying a middle position do object to is that the far-distant shipper shall ship the same class of freight past their doors at a less rate than is given the nearer shipper.

In my judgment there can be no good reason assigned to justify railroads in making these discriminations, and I do not think they do make them from choice, but from necessity, to bring up their average earnings.

There can be no more reason for a railroad charging more for half the labor than for twice the amount of labor than there would be for any other interest governed by the rules affected by machinery and labor, or than there would be for charging more for making one plow than for making

two plows, or for a cart to charge more for carrying a load half a mile than it would for a mile over the same road; or for a hod-carrier to charge more to carry brick to the first story of a house than he would to carry the same brick to the second story over the same ladder by which he reached the first story. The cost of transportation to a railroad is measured by the wear and tear of the road and equipment and the expenses per mile for fuel and labor in moving the train; and there is no theory that I have ever seen advanced that satisfies my mind that these physical conditions are varied to any great extent per mile in proportion to the distance.

I am, therefore, fully persuaded that this is a wise provision to be inserted as one of the rules to govern the action of the commission, and I shall vote for it.

I believe this amendment will go further to correct the evils complained of by the people than everything else that can be placed in a bill regulating interstate commerce, and it is also in the interest of the railroads. What the people want is an approximate uniformity in rates. They do not care to the same extent about what the rates are. They are willing that the railroads shall have paying rates; but they do complain of one section getting cheaper rates at the expense of another section, which is charged higher rates to make up the deficiency produced by the cheaper rates.

The criticism of the Senator from New Jersey, that this amendment can only reach railroads that pass into or through more than one State and can not affect freights carried by roads wholly in one State is true, but the argument does not furnish a reason why Congress should not pass rules regulating interstate commerce. The argument of the Senator means that the New York Central or the Erie Railroad might carry freight coming from beyond their State lines through the State to New York at nominal rates, and make the shippers along the line of its road in New York pay the transportation for shippers outside of the State. This is a very extreme view to be taken, and it is not to be presumed that railroads would voluntarily brave public opinion to do such acts of injustice or that the Legislature of the State of New York would permit it. It is rather to be presumed that if the Congress of the United States makes fair and just rules governing interstate commerce to be carried out by a railroad commission, the roads not controlled by the laws relating to interstate commerce would adopt the same principle as applied to their local shippers. Public opinion would require it, and the Legislatures of the States would, when necessary, place their States in accord with the national legislation affecting interstate commerce.

Mr. BROWN. My friend the honorable Senator from West Virginia states that either he does not understand the amendment of the Senator from Oregon [Mr. SLATER] as amended by the Senator from Mississippi [Mr. GEORGE] or that I do not. It is very true we do not understand it alike.

I wish to refer to the bill passed by the House of Representatives and see what its language is; also to the language of the amendment offered by the Senator from Oregon to the bill now pending. It seems to me there is scarcely any reason for dispute about this question. It is very true, if it should pass into a law, that the amendment of the Senator from Oregon would embrace the cases suggested by my friend from West Virginia; but it is not true, I think, that those are all the class of cases that it would embrace. It would also embrace the class of cases mentioned by me in my remarks yesterday evening.

The fourth section of what is known as the Reagan bill reads as follows:

> That it shall be unlawful for any person or persons engaged in the transportation of property as provided in the first section of this act to charge or receive any greater compensation for a similar amount and kind of property, for carrying, receiving, storing, forwarding, or handling the same, for a shorter than for a longer distance, which includes the shorter, on any one railroad or pipe-line; and the road of a corporation shall include all the road or pipe-line in use by such corporation, whether owned or operated by it under a contract, agreement, or lease by such corporation.

It seems to me if that provision means anything it means that a railroad company engaged in the transportation of property shall in no case charge or receive a greater compensation for carrying the same kind and quality of freight a shorter distance than it charges for carrying a longer distance. Now let us see what the amendment of the Senator from Oregon is. It reads:

> Or shall charge or receive any greater compensation for transporting a similar amount and kind of property a shorter distance than for a longer distance over the same line of road and in the same direction.

And then the amendment of the Senator from Mississippi has been added:

> But this provision shall not be construed to legalize the charging as much for a shorter as for a longer distance in any case.

That clearly, if I understand it, prohibits any railroad company from receiving a greater compensation for carrying a similar amount and kind of property a shorter distance than it charges for a longer distance, and in every case where the same property is carried a shorter distance and more charged upon it than is charged for a longer distance, or where it is carried a longer distance and less charged than is charged for a shorter distance, it is a violation of the rule.

As I have stated, I admit that the instances mentioned by my friend from West Virginia fall within the rule of prohibition, should it become a law, but the case that I supposed falls equally within it, and there are hundreds of other cases that have not been enumerated here which fall within it and the range of the whole transportation business of this country.

I supposed this case: A cargo of corn carried from Marietta to Atlanta, Ga., twenty miles, on the Western and Atlantic Railroad, to be put at the rate of $5 for the local freight. Then I supposed a like cargo of corn carried from Kansas City, Mo., to Atlanta, a thousand miles, for a lower rate of freight; and I showed that if you charged the same rate on the car-load of corn from Kansas City to Atlanta that you charged from Marietta to Atlanta it would cost $250 freight to carry three hundred and fifty bushels of corn a thousand miles. Then I supposed that a car-load of freight be carried twenty-five miles, or at the rate of twenty-five miles, for $4, the distance between Kansas City and Atlanta being a thousand miles, and the carrying the car-load at $4 for every twenty-five miles, when it reached a point five miles above Marietta on the Western and Atlantic Railroad it would travel the last twenty-five miles over the Western and Atlantic for $4, while the car-load of local freight from Marietta to Atlanta, five miles less, would pay $5. If that does not violate this provision of both the Reagan bill as passed by the House and the amendment offered by the Senator from Oregon then I confess I do not understand the meaning of the English language. If you carry the same car-load of corn twenty-five miles from a point five miles above Marietta to Atlanta for $4, and charge $5 for carrying it from Marietta to Atlanta, twenty miles, you would surely have charged a less rate for carrying the like freight a longer distance.

I cited this to illustrate the numerous instances that might be mentioned where the passage of such a law as this would be extremely mischievous. The trouble is it embraces so much more than its advocates seem to understand it to embrace that they fall into the error of supposing that the construction put upon it would only embrace the extreme cases they mention. For these extreme cases neither my friend from Oregon nor my friend from West Virginia needs this amendment at all.

I believe my friend from Oregon mentioned an incident where the Union Pacific carried a car-load the whole length of the road for $200, and charged $400 for carrying it a shorter distance than the whole length. He does not need his amendment to meet that case, because the body of either of these bills, if passed, declares that such a charge for a short haul would be an unreasonable charge. It is true it would fall within the amendment if the amendment should prevail; but the case I put would also fall under it. While it would not be the glaring case of injustice mentioned by the Senator in the instance stated by him, still it would be a case of carrying a car-load of corn for a greater rate for a shorter than for a longer distance. I think he would accomplish his object by proceeding against the company under the provision that the company shall not charge unreasonable rates, without embarrassing the through commerce of the country in the case supposed by him.

I believe this is all the reply I desire to make to my friend from West Virginia.

Mr. HAWLEY. I have no purpose to make any extended remarks, but as I intend to vote against this amendment I desire briefly to state the reasons why.

I have no delicacy whatever in voting to undertake—I do not precisely say to what extent—the regulation of commerce between the States by rail as well as otherwise. These great corporations are a product of modern civilization and an immense factor in the progress of the race; but we are to remember that they have extraordinary powers. They have eternal life given them by the law, the power to acquire, and the right to hold to all eternity what they may acquire, in which respects they surpass any power held by private individuals or any power ever held by the nobility of any nation.

I do not accede to the apparent claim of some gentlemen that they may be trusted so always to govern themselves as to act in harmony with the rights and best interests of the people. I believe they are quite as likely to trespass as individuals are. We have precedent enough for the regulation of them in the conduct of many of the States. In my own State we have a railroad commission, which has given great satisfaction and been of very great use there. Its duties cover a multitude of details with regard to the construction and management of railways, the manner of crossing highways, for example, the manner of crossing streams, the nature of their bridges, the sufficient accommodation for passengers in their cars, the nature of the signals to be put up at the crossing of highways and the crossing of other railways, the manner in which they shall cross navigable streams, halting before drawbridges. Scores of provisions in our statutes show that our Legislature has undertaken to assist in the government of railways notwithstanding the assumption of supreme wisdom on their part, and it has been for the good of the people. Some years ago a railway train plunged into an abyss there, through a drawbridge being left carelessly open, and twenty, thirty, or forty lives were lost. That led to the beginning of legislation in our State on the subject, and the work has proved beneficial to the people and satisfactory.

Now, there prevails throughout the country a very considerable de-

gree of uneasiness in regard to what are alleged to be the encroachments of railways. It is, I take it from reading and observation, the general judgment of the men wisest in these matters that it is time for the Federal Government to take some position with regard to the regulation of commerce between the States. It is useless, however, in my judgment, to undertake to go into details, as some seem to desire; it is unwise to attempt to cover the whole ground now; and therefore, as a member of the Railroad Committee, and I might say perhaps of the subcommittee that assisted in preparing this bill, I accepted for myself the general judgment of the men wisest in these matters, who decided that we should begin with what we are generally agreed upon; that is, that there should be a national commission, and that we should progress slowly, tentatively, acquiring whatever information is necessary to wise legislation that it may be possible to get through that commission.

It is possible we may proceed some time or other—yes, we must proceed to consider the matters proposed in what is known as the Reagan bill; but we are not agreed upon that; we are very far from being agreed upon it. We shall perhaps come nearer to a unanimous judgment, or there will be a decided majority for something or other, it may be, within two or three or four years after we shall have thoroughly informed ourselves through a commission. Some gentlemen will say the commission has too limited powers and is likely to be of little practical use. Anything that affords a vent for the popular dissatisfaction, or a tribunal to which it may appeal, before which it may lay its grievances, and by which commission those grievances may be formulated and well stated to the public, is a relief and is wise legislation; and some things, it is possible, that are now matters of common complaint and criticism may be dissipated entirely by such thorough investigation and collation of facts as a commission might be able to lay before us.

Many who now, without any such relief and in the continued silence of the Federal Government, would continue to organize and agitate, could then go before the commission and make their arguments, present their facts, and make their appeals, and insist that they be laid before the Federal Government. That of itself, supposing the object of the commission to be nothing but the collation of facts and the giving of advice, will provide a popular relief and a popular satisfaction.

What I might do with regard to the pending amendment offered by the Senator from Oregon, if driven to a final conclusion upon it now, I do not say; I am not quite able to say. I can not for my life, however, see why a railroad company which gets its enormous powers for the benefit of the people has a moral right to charge less for carrying goods 1,200 miles than it charges for carrying them a thousand miles. I do not see how it can be made just that goods shall be carried past my town of Hartford to Boston for less than they can be carried to Hartford, and that the cheapest way shall be to let the goods be carried first to Boston and then brought back to Hartford. It is very difficult to make us concede that there is no possible remedy for this.

So, then, while I perceive that our Western friends are willing that we shall suffer in this way, we do not feel quite as they do about it. I say, however, that I am not ready to take up, consider, and vote upon some or at present any of the various remedies proposed, some of which are contained in the Reagan bill. I would rather wait for such information as the commission might be able to lay before us.

Let me say, speaking in regard to the short-haul matter, that it is practically within the power of great railroads and combinations of railroads now, I may say, to depopulate certain localities, to carry business around them, to destroy them as centers of manufacturing and business in general. I have known in my own town a large wholesale concern compelled by the railroad necessities to transfer its main office of business to the city of Boston. I am not willing to concede that these great servants of ours, beneficial as they are to modern civilization, shall have within their power the possibility of crushing out a man or a locality. I do not think it demanded by any of the supposed necessities of trade. I think we are likely to carry to an excess the doctrine of *laissez faire*—let it go; let them slide; leave all to competition; competition is the solvent of everything. We know, sir, that it is not by any manner of means.

These great corporations assume to themselves a power which in my opinion abstractly they have no right to exercise. But I shall be led off into a general discussion of matters that I would rather wait for until this commission shall have had a year to act. That we shall be compelled to do something, I have no manner of doubt; that we ought as a Federal Government to do something, I have no manner of doubt; and that we have the constitntional power to do something—I do not say how much—no man can possibly question. We have barely touched the exercise of it, but we have done enough to show that we assume the power, as the Government did in the case of the New Jersey railroads, where it provided for the right of a railroad to carry passengers, freight, &c., upon reasonable terms, and conferred the right to make connection with railroads outside of the State, which destroyed the famous New Jersey monopoly, by which all of us in the East paid a dollar to the support of the State of New Jersey every time we came in this direction. And again, we have virtually asserted our right to a certain control over interstate commerce by the law concerning the transportation of cattle.

For the present I coincide with the Railroad Committee in saying that we ought to begin with what is very generally demanded by the best students of this great question, a commission with comparatively limited powers to study the subject carefully, and proceed as may seem best afterward. So I shall be compelled now, standing by my committee, to vote against this amendment of the Senator from Oregon, without committing myself precisely to what I might do if I considered it in place now.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Oregon as amended on the motion of the Senator from Mississippi. Upon this question the yeas and nays have been ordered.

The Secretary proceeded to call the roll.

Mr. GARLAND (when his name was called). I am paired with the Senator from Vermont [Mr. EDMUNDS]. If he were here, I should vote "yea" and he would vote "nay."

Mr. GEORGE (when his name was called). On this amendment I am paired with the Senator from New Jersey [Mr. MCPHERSON]. If he were here, I should vote "yea."

The roll-call having been concluded, the result was announced—yeas 11, nays 32; as follows:

YEAS—11.

Camden,	Fair,	Slater,	Vest,
Cockrell,	Kenna,	Vance,	Voorhees.
Coke,	Maxey,	Van Wyck,	

NAYS—32.

Allison,	Frye,	Jackson,	Platt,
Brown,	Gorman,	Jonas,	Pugh,
Butler,	Hale,	Lapham,	Ransom,
Cameron of Pa.,	Harris,	Manderson,	Sawyer,
Cameron of Wis.,	Harrison,	Mitchell,	Sheffield,
Conger,	Hawley,	Morgan,	Sherman,
Cullom,	Hoar,	Morrill,	Walker,
Dolph,	Ingalls,	Pike,	Wilson.

ABSENT—33.

Aldrich,	Farley,	Lamar,	Plumb,
Bayard,	Garland,	Logan,	Riddleberger,
Beck,	George,	McMillan,	Sabin,
Blair,	Gibson,	McPherson,	Saulsbury,
Bowen,	Groome,	Mahone,	Sewell,
Call,	Hampton,	Miller of Cal.,	Williams.
Colquitt,	Hill,	Miller of N. Y.,	
Dawes,	Jones of Florida,	Palmer,	
Edmunds,	Jones of Nevada,	Pendleton,	

So the amendment was rejected.

Mr. HARRISON. Mr. President, I move to amend, in line 7, section 4—I am using the original print of the bill; I do not know whether the print before the Secretary is the same—after the word "under," by inserting "substantially;" so as to read, "in a like business, and under substantially similar circumstances and conditions."

Mr. CULLOM. I have no objection to that amendment.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Indiana [Mr. HARRISON].

The amendment was agreed to.

Mr. HARRISON. In the next line, after the word "conditions," it seems to me there ought to be some word introducing the element of time. The clause as it now reads is:

> For doing for him, in a like business and under substantially similar circumstances and conditions, a like service.

It does not seem to have any limit as to time. That is, if a greater charge were made for a like service rendered next week than was made for one rendered to-day, it might be subject to the restrictions of the bill. That certainly is not the intention. I move therefore to insert the word, for want of a better one, "contemporaneously" after the word "conditions," in line 8 of section 4; so as to read, "under substantially similar circumstances and conditions and contemporaneously, a like service."

Mr. ALLISON. That is, at a particular time.

Mr. HARRISON. About the same time, I would intend to mean; not that they should be punished for adopting a different rate a week apart. Unless there is some objection suggested to the use of that word, I move that amendment.

The PRESIDING OFFICER. The amendment of the Senator from Indiana will be read.

The CHIEF CLERK. In section 4, line 8, after the word "conditions," it is proposed to insert "contemporaneously."

Mr. CULLOM. I believe I have no objection to that.

The amendment was agreed to.

Mr. HARRISON. In the same line the conjunction "and" is used. I think it should be "or." The intention of the bill evidently was to describe two offenses here. The first is "directly or indirectly, by any rebate, drawback, or other device," collecting a greater compensation; and the second is——

Mr. CULLOM. The Senator is correct.

Mr. HARRISON. I move to strike out the word "and" and insert the word "or."

The PRESIDING OFFICER. The question is on the amendment of the Senator from Indiana, to strike out, on line 8, the second word

"and" and insert "or;" so as to read, "or if any such transportation company shall neglect," &c.

The amendment was agreed to.

Mr. HARRISON. In the same section, in line 8, it will be noticed that the provision reads as follows:

If any such transportation company shall neglect or refuse to furnish the same facilities for the carriage, receiving, delivery, storage, and handling of interstate commerce freights to one person that is at the same time furnished to any other person for the carriage, receiving, delivery, storage, and handling of such freights of the same class.

I move to insert, after the word "class," the words "and under substantially similar circumstances."

The PRESIDING OFFICER. The question is on the amendment of the Senator from Indiana.

The amendment was agreed to.

Mr. ALLISON. In the first section of the bill, line 6, I move to strike out "five" and insert "nine;" and in line 8, after the word "Senate," to insert "one of whom shall be selected from each judicial circuit in the United States."

The object of my amendment is that these commissioners shall be distributed over every portion of our country, in order that they may properly listen to, hear, and correct inequalities and injustice in each particular locality. I think it will be almost impossible for this to be done with five commissioners. Necessarily a portion of these commissioners will be compelled to remain here in Washington nearly all the time, and it seems to me that if this matter is worth regulating at all it is worth having a sufficient number of men to compose the *personnel* of the commission, to hear and decide all the complaints that may come before them. It is certainly the most important question that can be placed in the hands of any number of men. Then, as provided under this bill, they will have very large powers, at least compared with the existing laws on our statute-book in reference to interstate commerce. Therefore I think the number ought to be increased, and I am rather fortified in this by observing that the bill which was passed by the House of Representatives, I think in the Forty-third Congress, provided for nine commissioners.

I submit these suggestions to the Committee on Railroads, and to the chairman of that committee, with a view to ascertain what particular reasons led the committee to limit the number to five persons.

Mr. CULLOM. The committee in the consideration of the question of number only arrived at the number specified in the bill as a sort of compromise between the number fixed in the House committee bill, which was finally voted down, which provided for only three commissioners, and the number nine that had been suggested in previous bills, as the Senator from Iowa has stated. We believed that five commissioners, with the sort of clerical force that might be needed to carry on the work, would be able to do the work of the commission fairly well.

So far as I am concerned, as one member of the committee, I am not very particular which number is selected. I appreciate the suggestion of the Senator from Iowa that it is a very important work, and we have a very large country over which the work has to be supervised. We considered the question of expense somewhat in the determination of the number. This and the other considerations I have mentioned were the only ones that entered into determining the number specified in the bill.

I am willing, without taking up the time of the Senate, to leave it to the judgment of the Senate to fix whatever number may be deemed proper.

The PRESIDING OFFICER. The amendment of the Senator from Iowa will be reported.

The CHIEF CLERK. In line 6 of section 1 it is proposed to strike out "five" and insert "nine."

Mr. INGALLS. Let the remainder of the amendment be read.

The PRESIDING OFFICER. The remainder of the amendment will be read.

The CHIEF CLERK. In line 8, after the word "Senate," it is proposed to insert:

One of whom shall be selected from each judicial circuit of the United States.

So as to read:

To be known as the Interstate-commerce Commission, which shall be composed of nine commissioners, who shall be appointed by the President, by and with the advice and consent of the Senate, one of whom shall be selected from each judicial circuit of the United States.

Mr. INGALLS. I hope the amendment suggested by the Senator from Iowa will be adopted. Considering the magnitude of the interests which are involved and the vast relations which are to be adjusted it is evident that a commission of nine would be quite small enough for the objects that are contemplated by the proposed statute. The distribution also meets with my approval. I can think of no arrangement that would be more satisfactory to all the interests that are involved. It appears to me, however, that it might be well to provide that one or two of the commissioners should be men practically familiar with the operation of railroads, but upon that I have no further suggestion to make.

Mr. HAWLEY. I doubt the wisdom of the amendment. I think it will be considered that we are making an unnecessary, cumbersome, and expensive commission. We shall be dividing responsibility. They will not be able to act as a body very often. You can get five men together—everybody knows how it is with committees—much more easily than you can nine. I do not believe that the commission will be as effective. I do not care from what section of the country they may come; I care more about what the character of the men shall be.

There is some wisdom in the suggestion of the Senator from Kansas that one should be a man familiar with railroad affairs; but I think we can trust something to whatever Executive will have the appointment of the commission. In my State, where we have three, it is provided by law that one shall be an engineer, one shall be a lawyer, and one shall be a business man, but none of them shall have any pecuniary interest in railways, as stockholder, officer, or in any other way whatever. It is possible that some provision of a similar character in regard to the five might be useful; but, as I say, I am quite willing to leave the appointment to such Executive as may have it in charge. However, I distrust very much the wisdom of a commission of nine. The expense will be some objection to it.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Iowa [Mr. ALLISON].

The question being put, there were on a division—ayes 15, noes 18; not a quorum voting.

Mr. BECK. There is no quorum, I believe.

The PRESIDING OFFICER. There is no quorum present.

Mr. BECK. I move that the Senate adjourn.

Mr. CULLOM. I ask for the yeas and nays on the question of agreeing to the amendment. I hope we shall get the bill a little further along before we adjourn so that I can ask to take up the House bill. I will state to the Senator from Kentucky that if the Senate will remain here long enough to complete this bill so that I can ask to take up the House bill from the table I shall not be disposed to ask the Senate to stay longer; but I should like to do that much, so that the bill may be printed as amended before we consider it again.

Mr. BECK. I have no objection to going through with this so-called bill. I should be very glad to stay until we can perfect it, as it is called, and have it printed, so that we can see it Monday morning, so that the motion may be acted upon to take up the House bill and have that bill open to amendment. I am one of those who propose to vote for a good deal that is in the Reagan bill. I expect to offer some amendments to that measure; but I do not care anything about this thing, which I regard as nothing. Let it be made as perfect as it can be made to-night. I withdraw the motion to adjourn.

The PRESIDING OFFICER. The motion to adjourn is withdrawn, and the yeas and nays are called for upon the amendment offered by the Senator from Iowa. Is the call seconded?

The yeas and nays were ordered; and the Secretary proceeded to call the roll.

Mr. GEORGE (when his name was called). I am paired with the Senator from New Jersey [Mr. MCPHERSON].

Mr. VEST (when his name was called). I am paired with the Senator from Kansas [Mr. PLUMB]. I do not know how he would vote if he were present.

The roll-call was concluded.

Mr. GROOME. I am paired with the Senator from New York [Mr. MILLER].

The result was announced—yeas 22, nays 20; as follows:

YEAS—22.

Allison,	Conger,	Jackson,	Ransom,
Beck,	Garland,	Kenna,	Slater,
Brown,	Gibson,	Manderson,	Walker,
Cameron of Pa.,	Harris,	Mitchell,	Wilson.
Cameron of Wis.,	Harrison,	Morgan,	
Cockrell,	Ingalls,	Pugh,	

NAYS—20.

Blair,	Frye,	Maxey,	Sawyer,
Camden,	Hampton,	Morrill,	Sheffield,
Coke,	Hoar,	Pike,	Sherman,
Cullom,	Jonas,	Platt,	Vance,
Dolph,	Lapham,	Saulsbury,	Van Wyck.

ABSENT—34.

Aldrich,	Farley,	Lamar,	Plumb,
Bayard,	George,	Logan,	Riddleberger,
Bowen,	Gorman,	McMillan,	Sabin,
Butler,	Groome,	McPherson,	Sewell,
Call,	Hale,	Mahone,	Vest,
Colquitt,	Hawley,	Miller of Cal.,	Voorhees,
Dawes,	Hill,	Miller of N. Y.,	Williams.
Edmunds,	Jones of Florida,	Palmer,	
Fair,	Jones of Nevada,	Pendleton,	

So the amendment was agreed to.

Mr. ALLISON. It will be necessary for some changes, which I have indicated to the clerks at the desk, to be made in the following lines, to correspond with the amendment just agreed to. I ask that the amendment I now offer may be read.

The PRESIDING OFFICER. The Senator from Iowa further moves to amend the first section of the bill. The amendment will be reported.

The CHIEF CLERK. In section 1, line 10, it is proposed to strike out the words "one," "three," "and five," and to insert in lieu of the word "five" the word "six;" so as to read:

The commissioners first appointed under this act shall be appointed for and continue in office for terms of two, four, and six years, respectively.

Mr. INGALLS. Let that be reported once more. It sounds a little obscure.

The PRESIDING OFFICER. The amendment will be again reported.

The CHIEF CLERK. In section 1, line 9, after the word "shall," it is proposed to insert the words "be appointed for and;" so as to read:

The commissioners first appointed under this act shall be appointed for and continue in office

And in line 10 it is proposed to strike out the words "one," "three," "and five," and in lieu of the word "five" to insert the word "six;" so as to read:

Shall continue in office for terms of two, four, and six years, respectively.

Mr. ALLISON. That is, three of them will be appointed for two years, three for four, and three for six.

Mr. INGALLS. The bill does not say so as amended. The commissioners first appointed under this act will be nine. They are to continue in office under the terms of the amendment offered by the Senator from Iowa for two, four, and six years, respectively.

Mr. ALLISON. Three of whom.

Mr. INGALLS. Let it read, "three of whom shall be appointed for two years, three for four years, and three for six."

Mr. ALLISON. I accept the suggestion of the Senator from Kansas.

The PRESIDING OFFICER. The Senator from Iowa modifies his amendment.

Mr. ALLISON. Let it read, "three of whom shall be appointed for two years, three for four, and three for six years, respectively."

Mr. INGALLS. Now how does it read, Mr. President?

The PRESIDING OFFICER. It does not read yet.

Mr. ALLISON. I shall prepare a further amendment in a moment.

Mr. INGALLS. I suppose that "1884," in line 12, should be changed to "1885."

Mr. HARRISON. That has been done.

The PRESIDING OFFICER. That was done.

Mr. INGALLS. Lines 22 and 23, at the end of the section, provide:

And not more than three shall belong to the same political party.

Has that been changed?

The PRESIDING OFFICER. That has not been changed.

Mr. INGALLS. Under this provision of the bill we should be obliged to have three Republicans, three Democrats, and three Prohibitionists or three Independent Republicans.

Mr. ALLISON. In the first section, line 8, after the word "Senate," I move to strike out all down to and including the word "years," in line 14, as follows:

The commissioners first appointed under this act shall continue in office for terms of one, two, three, four, and five years, respectively, the term of each to be designated by the President; but their successors shall be appointed for terms of five years.

And to insert in lieu thereof the following:

Three of the commissioners first appointed under this act shall continue in office for terms of two years, three for four years, and three for six years, the respective terms to be designated by the President; but their successors shall be appointed for terms of six years.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Iowa as modified.

The amendment was agreed to.

Mr. INGALLS. There is one other amendment to be made in line 22.

Mr. ALLISON. In line 22, I move to strike out "three" and insert "five;" so as to read:

And not more than five shall belong to the same political party.

That is, I move that provision, if it is a wise thing to put in at all.

Mr. CONGER. I should like to inquire why not put in "when appointed?" Would a change of politics in the estimation of the Senator work a forfeiture *per se?*

Mr. ALLISON. I shall have to remand the Senator from Michigan for information on that point to the committee who have inserted this provision. I merely change the provision in order to make it conform to the amendment already agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Iowa.

The amendment was agreed to.

Mr. HARRISON. I wish to propose an amendment to section 6. It will be noticed that by section 6, if any transportation company neglects to pay the damages which the commission may find to have accrued to an individual or to desist from further violation of this proposed act, it is made the duty of the commission "to certify the facts to the district attorney of the United States for the judicial district in which the act complained of occurred." The section then provides that it shall be the duty of the district attorney, at the request of the complainant, to commence proceedings in the name of the complainant to recover any damages he may have sustained.

In the first place, the district where these acts occur may happen to be a district where the United States circuit court would not have any jurisdiction unless it is affirmatively conferred. That jurisdiction might depend upon the question of citizenship. It might be that the difficulty occurred in the State of Indiana as between a corporation of Indiana and a citizen of Indiana. There is nothing in the bill which gives jurisdiction, and yet it requires the report to be sent to the district attorney, while it may turn out to be a case where if the district attorney were to begin the proceedings provided for in the bill he would be sent out of court on a question of jurisdiction. If it is right that the proceedings should be begun there, then we ought by an amendment to confer jurisdiction without regard to citizenship upon that court.

Senators will notice that there are two things spoken of in the introductory part of the section, namely, a failure to pay damages which are found, and a failure to comply with the request or a persistency in continuing the transgression. The district attorney is only authorized to bring a suit for damages under the section as it stands. He is not authorized in the name of the complainant to bring a suit for a mandatory injunction, or for an injunction, or for some process that will compel the transportation company to cease from some illegal discrimination.

I therefore propose the amendment which I send to the desk. It is intended to give the district attorney discretion to commence a suit in the nature of an injunction simply, or a mandatory injunction, or any other form of equitable relief that may be necessary. It is intended to confer jurisdiction upon the court to whom the report is required to be made without regard to citizenship, and it contains a further provision that the district attorney shall have some compensation for what he does. I have believed that to load upon the district attorneys of the United States all this litigation without any provision of law in the world for giving them any compensation for it would result in having a very slipshod and inefficient prosecution of these cases.

In the amendments I have proposed, as well as in this one, I have tried to follow the general scope of the bill. I thought at one time of suggesting some more important charges, but waived that suggestion with a view of assisting in perfecting the bill, thinking it was probably the best we could do.

The PRESIDING OFFICER. The amendment offered by the Senator from Indiana will be reported.

The CHIEF CLERK. In section 6, line 11, after the word "him," it is proposed to insert:

Or to compel the transportation company to comply with the provisions of this act, or both; and the circuit court of the United States for said district shall have jurisdiction to try said cause without regard to the citizenship of the party. Costs shall be awarded as in other cases, but in case judgment is rendered against the defendant the court may, in its discretion, allow to the district attorney a reasonable fee for prosecuting said cause, to be taxed as part of the costs.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Indiana.

The amendment was agreed to.

Mr. SLATER. I now ask leave to withdraw the amendment that I offered by way of substitute, so as not to encumber the proceedings, with a view of offering as a substitute the House bill.

The PRESIDING OFFICER. The yeas and nays not having been ordered upon the amendment the Senator has a right to withdraw it. The Senator from Oregon withdraws the amendment indicated by him.

Mr. VAN WYCK. At the end of section 8 it is provided that "a majority of the commission shall constitute a quorum for the transaction of business." I move to amend by adding "except as hereinafter provided," because at the end of section 9 it is provided:

The commission is hereby authorized to conduct investigations in such portions of the United States as it may deem necessary, and for that purpose may delegate the powers conferred by this section to any member or members of the commission.

Mr. CULLOM. I have no objection to the addition of those words.

The PRESIDING OFFICER. Is there objection to the amendment?

Mr. DOLPH. I should like to hear again what is supposed to be the exception.

The PRESIDING OFFICER. The amendment will be reported.

The Chief Clerk read the amendment of Mr. VAN WYCK.

Mr. DOLPH. I should like to ask the Senator from Nebraska what the exception is supposed to be.

Mr. VAN WYCK. At the end of section 9 it is provided that—

The commission is hereby authorized to conduct investigations in such portions of the United States as it may deem necessary, and for that purpose may delegate the powers conferred by this section on any member or members of the commission.

I have no doubt that means that less than a quorum may transact business.

Mr. DOLPH. That is not to be the action of the commission. That is merely a commission to take testimony which is to be submitted finally to the whole commission. I am opposed to the amendment, because it seems to suppose a case where a minority of the commission may act.

Mr. VAN WYCK. Is not such an investigation, to be made under the direction of the commission, a part of its business? You first provide in section 8 that a majority of the commission shall be necessary to constitute a quorum for the transaction of business.

Mr. DOLPH. No action of the commission is contemplated in section 9, any more than taking testimony before a notary public or a subcommittee.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Nebraska.

The amendment was agreed to—ayes 23, noes not counted.

Mr. HARRISON. In line 29 of section 6 there is an inaccurate expression, which ought to be corrected:

Any such transportation company or any person or persons that shall violate any of the provisions of this act not herein specified, or that shall in any manner attempt to obstruct the enforcement of its provisions, shall be deemed guilty of, &c.

The "not herein specified" evidently refers to the section, and I move to strike out the word "herein" and insert "not in this section;" so as to read, "any of the provisions of this act not in this section specified," &c.

Mr. CULLOM. What does the Senator want to strike out?

Mr. HARRISON. You have here the words "herein specified." What does the Senator understand them to refer to; to the whole act?

Mr. CULLOM. They are intended to refer to the section.

Mr. HARRISON. Then the amendment I propose "not in this section specified" would be better language.

Mr. CULLOM. I accept that amendment.

The PRESIDING OFFICER. The Senator from Indiana moves to amend by striking out "herein" and inserting "in this section;" so as to read, "that shall violate any of the provisions of this act not in this section specified."

The amendment was agreed to.

Mr. HARRIS. I rise for the purpose of suggesting to the Senator from Illinois, if there be no other amendments to the Senate bill to be acted upon this evening, that he ask for an order that the Senate bill as amended be printed. There are no copies of the original bill that I can obtain from the document-room, nor have I one in my files, but I desire to see the bill in print as amended by the Senate, and I suggest to him the propriety of having it so printed by Monday morning.

Mr. PUGH. Before the vote is taken on that motion I desire to offer an amendment to the second section, to which, I suppose, there will be no objection.

It will be remembered that in the beginning of the debate upon this bill the Senator from Arkansas [Mr. GARLAND] objected to the second section because it amounted to a delegation of all the power Congress had over commerce between the States. I have an amendment that I have shown to the Senator in charge of this bill and the Senator from Arkansas and they say it meets the objection, and I now offer it. It is to amend section 2 by striking out all after the word "have," in the first line down to and including the word "power" in line 7, and inserting other words, so that the first paragraph will read:

That the commission hereby created shall have and exercise the powers and discharge the duties defined and granted in this act pertaining to the methods of regulating the operation of all transportation companies engaged in interstate commerce.

That limits the powers of the commissioners to those defined in the act itself, and does not leave it open to the objection of the Senator from Arkansas, that under the second section their powers go beyond those defined in the act and amount to all the powers Congress has over commerce between the States.

The PRESIDING OFFICER. The Senator from Alabama moves an amendment, which will be read.

The CHIEF CLERK. In section 2, after the word "have" in line 1, it is proposed to strike out:

Supervision over all matters pertaining to the regulation of commerce among the several States and Territories and the methods of operation of all transportation companies engaged in interstate commerce, and it is hereby made the duty of said commission to enforce the provisions of this act by all lawful means within its power.

And in lieu thereof to insert:

And exercise the powers and discharge the duties defined and granted in this act pertaining to the methods of regulating the operation of all transportation companies engaged in interstate commerce.

Mr. CONGER. That may be giving a power that the bill I suppose does not contemplate giving—the power to regulate all transportation companies, including companies owning vessels on our rivers and lakes. I do not propose to vote for any proposition that will give control to this railroad commission of all persons engaged in the transportation of commerce between the States. It does not need any such provision for transportation companies on the water, and it would be a very serious thing if any such powers should be given to control companies or individuals conducting water transportation. The power is already given in this bill, I am told. If the amendment does not give the commissioners any power that the bill already contains, it is useless; and if it does give any, it extends to water transportation.

Mr. HOAR. Every section of the bill provides for "transportation companies," not for railroads, so that the Senator's objection applies apparently to the whole bill.

Mr. CONGER. If it relates to water transportation the bill needs considerable revision. It relates, I know, to that kind of transportation which is part water and part land; but transportation companies by water, pure and simple, I had not supposed anybody believed were embraced within the provisions of this or any like bill.

Mr. ALLISON. It provides for all transportation companies in the United States engaged in interstate commerce.

Mr. CONGER. It purports to appoint railroad commissioners. Every analogy and every reference has been to the system in the States of railroad commissioners.

Mr. CULLOM. The thirteenth section of the bill defines what the term "transportation company" means, and it includes railroads and vessels that may be used for transporting freight in connection with railroads. This is its language:

That the term "transportation company engaged in interstate commerce," as used in this act, shall be deemed and taken to mean any corporation, company, or individual now owning, operating, or using any railroad or railroads, or any vessel or vessels, in whole or in part, or that may have the right, license, or permission to operate, use, or control any railroad or railroads, or any vessel or vessels, in whole or in part, provided said corporation, company, or individual is engaged in the business of transporting freights or property of any description by railroad, or partly by railroad and partly by water, from one State into another State or Territory of the United States, or from any Territory into any State or any other Territory.

Mr. CONGER. For the present let the amendment be printed, and I propose now that the Senate adjourn. If this bill is intended to give power or control over water transportation on rivers and lakes independent of railroad connections, to cover our whole coasting trade, it is time we came to a halt and strangled the bill or amended it. I have voted for different provisions of this bill with the understanding that it applied only to railroad transportation or where railroad companies had vessels of their own forming part of the same through route by land and water, and therefore belonged to the same company, the communication being part water and part rail.

Mr. CULLOM. I can not see that the amendment now proposed covers the point suggested by the Senator from Michigan. If the Senator will look at sections 12 and 13 of the bill, he will see that they are the only ones which have any reference to carriage by water in any way, and it depends on whether those sections remain as they are whether the point he makes can be sustained.

The PRESIDING OFFICER. The question is on the amendment offered by the Senator from Alabama [Mr. PUGH].

Mr. HARRISON. I would suggest to the Senator from Michigan that this amendment does not affect the question that is in his mind in the smallest degree. It simply takes out of the bill those general terms which profess to confer on this commission the general supervision of the subject, and says they shall exercise such powers as are conferred by the bill. It uses the words "transportation companies," but that is the term used throughout the whole bill, and we have a definition of it—section 13. So if this amendment is adopted and the Senator thinks the scope of the bill includes some case he would want to leave out, his amendment should be addressed to section 13, the definition. This does not affect that question in the smallest degree.

Mr. CONGER. Where is this amendment proposed to come in?

Mr. HARRISON. In section 2.

Mr. CONGER. Section 12 provides:

That the route of any transportation company engaged in interstate commerce shall include all the railroad and water routes in use by such company, whether owned by said company or used by it under license, lease, or permission otherwise given.

That makes what water communication there is a part of the route, a means of transportation, and property which a railway company acquires by putting boats on the water as part of its through communication from one point to another. As I understand the amendment, it confers absolute power on this commission over any transportation company which may be entirely by water.

Mr. PUGH. The power of the commissioners——

Mr. CONGER. I should like to have the amendment printed with the others. I understand a motion will be made to print, and I will wait for that motion.

The PRESIDING OFFICER. The Senator from Alabama has the floor.

Mr. PUGH. The subject-matter of the jurisdiction of the commission is stated in the second section, as originally framed, to be railroads or transportation companies. If the Senate desire to enlarge that subject-matter so as to embrace water ways it can do so, as suggested by the Senator from Indiana, in another section, which defines the extent of the jurisdiction. My amendment to the second section simply confines the commissioners to the powers and duties granted and defined in the act wherever found. It is no grant of power except the powers specified in the different sections of the act. It is a limitation of the powers of the commission. If it is desired to restrict or enlarge the powers, it must be done by amending other sections.

Mr. HOAR. I want before the Senate adjourns to-night to call the attention of the Senate and the Senator who has the bill in charge to a question which may possibly have been discussed; but I wish to understand more distinctly than I do what is the Senator's answer to the proposition that he has given judicial power to a commission not appointed for the constitutional tenure of good behavior. I understand that the fifth section of the bill authorizes this commission to inquire into extortion or unjust discrimination and then to assess the damages, and the damages when they are assessed are found to be absolutely due; but while the payment of those damages is only enforced by a de-

cree of a court, the finding of the commission is conclusive upon the court.

Mr. CULLOM. The bill does not give the commission any absolute power whatever so far as the finality of any finding that they may make is concerned. It runs upon the theory that if a shipper makes a complaint against a transportation company to the commission, the commission is called upon by the bill to inform the corporation or transportation company of the fact and ask it to settle. If the corporation or transportation company fails to do so, the commission are authorized under this bill to proceed to investigate the question and determine so far as they have any power to do it the amount of damage, if any, that the shipper has sustained by virtue of any extortion or unjust discrimination. When they have done that, it is their duty under this bill to notify the transportation company that they are expected to settle that damage within a given time specified by the commission; but there is nothing in the bill anywhere that requires the transportation company to do so unless it chooses; and there is nothing in the bill anywhere that makes their finding as a matter of fact evidence in the court if the transportation company refuse to settle; but the shipper is to go to court finally for the adjudication of the case.

Mr. SHEFFIELD. The Senator will allow me to ask if when the action is brought by the district attorney the finding of the commission would not be assumed to be substantive facts? It is a condition precedent to sustaining the action that the shipper has proceeded before the railroad commission; and in that way the finding of the railroad commission goes before the jury as persuasive evidence of the facts alleged in it.

Mr. CULLOM. I do not understand that under this bill the findings could go before the court at all, but it is the duty of the commission to turn the subject over to the district attorney, and the presumption is that the testimony taken by the commission in the investigation that the commission has made, when placed in the hands of the district attorney, will be of great service to him in the prosecution of the case, he thus having a knowledge of the witnesses and what they have testified to. But the testimony before and the finding of the commission would not absolutely be evidence before the court at all under the rules of evidence.

Mr. SHEFFIELD. I do not think the Senator has met the point precisely which I stated; and that is, that going before the commission and the commissioners investigating the case and making a finding upon the facts and assessing the damages are conditions precedent to going to the district attorney and having him institute legal proceedings. These being conditions precedent, when he came into court he would have to show those facts to entitle him to maintain his action. The showing of those facts in court coming to the knowledge of the jury would operate to influence the minds of the jury whether the facts as so presented were or were not strictly legal evidence.

Mr. CULLOM. Mr. President, I do not think I understand the point of the Senator. At the same time I do not understand that under the provisions of this bill the district attorney would be controlled by what the commission had done; neither would the facts found by the commission necessarily go before the jury. Probably the finding of the commission would not be allowed to go before the jury under the rules that govern the admission of testimony.

The PRESIDING OFFICER. The question is on the amendment offered by the Senator from Alabama [Mr. PUGH].

The question being put, a division was called for, and the ayes were 33.

Mr. CONGER. May I make a parliamentary inquiry? If this be now inserted by a vote of the Senate, can it be afterward stricken out?

The PRESIDING OFFICER. When the bill reaches the Senate the question then will be on agreeing to the amendments adopted in Committee of the Whole.

Mr. CONGER. There are several amendments that I think should be made to sections 1, 2, and 3, and they may modify and correct my idea on this question. I will not call for a further count now.

The PRESIDING OFFICER. No further count being insisted on, the amendment is agreed to. If there be no further amendment the bill will be reported to the Senate.

Mr. CONGER. I move that the bill as amended be printed for the use of the Senate.

Mr. CULLOM. If there are no other amendments to be made to this bill, I desire now to ask leave to take the House bill from the table.

The PRESIDING OFFICER. The bill is still in Committee of the Whole.

Mr. CULLOM. I am not very well advised as to the rules of the Senate either in Committee of the Whole or out of it, but I think it is in order for me to move to take up the House bill, and then I shall ask to offer this bill as an amendment to it, striking out all after the enacting clause, and then I want to have the Senate bill printed.

Mr. HARRIS. The Senator will have to pass from the consideration of the Senate bill when he asks the Senate to consider the House bill. Hence I was going to suggest to him that he ask the Senate now to order the Senate bill as amended to be printed, so that it will be on our desks on Monday morning. Then the Senate can, by unanimous consent or by a majority of the Senate, take up the House bill for consideration.

Mr. CULLOM. I desire to make the motion that the bill as amended be printed.

The PRESIDING OFFICER. The Senator from Illinois asks for an order that the bill as amended may be printed for the use of the Senate, so that it will be on the desks of Senators on Monday next. Is there objection? The Chair hears none, and that order is made.

Mr. CULLOM. Now I move to take up the House bill.

Mr. HAWLEY. I rise to a parliamentary inquiry. This bill is still in committee. When it is reported to the Senate some of us, I presume, will ask for further action on some of these amendments. I know there is one amendment that has been made upon which I desire another vote. The bill is not complete yet. We can not tell precisely what shape it will be in. Let the bill be reported to the Senate, and give us a chance to look at the various amendments.

Mr. HOAR. The Senator from Connecticut will allow me to make a suggestion. The Senator from Illinois, as I understand, proposes to take up the House bill, so that that will be the unfinished business on Monday. It is this bill he proposes to move as an amendment to the House bill. It will stand in parliamentary consideration just as if anything else was proposed. All this has merely enabled the Senator from Illinois to get the general sense of the Senate about the frame of this bill; but it being in the Senate or out of the Senate, and having been amended again or not amended, will make no difference—it will stand just as if the Senator had written in his room a bill which we had not amended at all, which we had never heard of, and bring that in as an amendment. Then it would be in order to move to amend the substitute by striking out, or by striking out and inserting, or by adding. So the whole matter will be before the Senate just as much as it would be if the Senate bill had been carried further.

Mr. MITCHELL. And the original House bill also will be open to amendment.

Mr. HOAR. Certainly.

Mr. CULLOM. I ask unanimous consent to take up the House bill, so that it may be left as the unfinished business of the Senate.

Mr. ALLISON. I desire to ask the Senator from Illinois what he proposes to do after we take up the House bill, because if the House bill—at least I so understand our rules—is substituted for this bill——

Mr. CULLOM. No; I want to substitute this bill for the House bill.

Mr. ALLISON. I mean if the consideration of the House bill is substituted for the consideration of this bill, then, unless we have some understanding, every provision of the House bill will be open to amendment and consideration in the Senate before we reach the substitute which we have already perfected now in Committee of the Whole.

Mr. CULLOM. I so understand it, and I do not know any possible way to prevent it if I wanted to do so.

Mr. HARRIS. There is none.

Mr. ALLISON. There is none unless we have some understanding about it.

Mr. HOAR. You can not get that.

Mr. ALLISON. Very well.

Mr. HARRIS. There can be no difficulty about this question. It is perfectly competent for the Senator from Illinois to move that the Senate do now proceed to the consideration of the House bill or any bill upon the Calendar. When it is taken up it is certainly amendable, and the Senator from Illinois, or any other Senator, can move the Senate bill as a substitute for the House bill. When he has so moved, then it is competent for any Senator to move any amendment to the text of the House bill, or any amendment to the amendment proposed by the Senator from Illinois as a substitute; and these amendments, whether offered to the House bill or the Senate bill, will have to be acted upon before the question can be taken upon adopting the substitute for the House bill.

Mr. CULLOM. I so understand.

Mr. HARRIS. There can be no difficulty about it, and it is perfectly in order for the Senator from Illinois to move now, if he chooses to do so, that the Senate proceed to the consideration of the House bill.

Mr. BECK. Will the Senator from Tennessee allow me to ask him a thing I have been endeavoring to get at for some time? I ask what progress then have we made with the last bill?

Mr. HARRIS. We have been arriving at the conclusions of the majority of the Senate as to the merits of the various propositions contained in the Senate bill.

Mr. BECK. But that bill is now to be withdrawn from the consideration of the Senate as if it had never been up, as I understand, before the House bill can be taken up.

Mr. HARRIS. I can only repeat that if the Senator from Illinois or any other Senator chooses to move to take up the House bill and proceed to its consideration it is in order to do so, and then——

Mr. BECK. But he can not get it up without a vote.

Mr. HARRIS. A majority of the Senate can take it up. The result is that the Senate bill will lose its right of way as unfinished business, and then the Senate bill may be offered, if any Senator chooses to offer it, as a substitute for the House bill.

Mr. FRYE. That is precisely what I did last session with the bill touching the merchant marine.

The PRESIDING OFFICER. What is the motion of the Senator from Illinois?

Mr. CULLOM. I have two motions; one is to print the bill that the Senate has been considering as amended——

The PRESIDING OFFICER. That order has been made.

Mr. CULLOM. Then the motion now is to take from the table the House bill for consideration, so that it may be left as the unfinished business of the Senate. I ask unanimous consent to do that.

The PRESIDING OFIFCER. The Chair is informed by the Chief Clerk that the bill is not on the table, but is on the Calendar. Then the motion is to proceed to the consideration of the House bill.

Mr. CULLOM. I ask unanimous consent.

Mr. HARRIS. It is perfectly competent for a majority to order it, but I have no doubt that the Senator can get unanimous consent.

The PRESIDING OFFICER. The Senator from Illinois asks unanimous consent of the Senate that the Senate now proceed to the consideration of the bill (H. R. 5461) to regulate interstate commerce, and to prohibit unjust discrimination by common carriers. Is there objection? The Chair hears none.

Mr. CULLOM. Now allow me to say a word, Mr. President.

The PRESIDING OFFICER. The bill is now before the Senate as in Committee of the Whole, and open to amendment.

Mr. CULLOM. Some honorable Senators have seemed to feel that I have been consuming the time of the Senate unnecessarily or insisting upon doing so. This has been a source of some embarassment to me; but I have felt that it was my duty to pursue the course I have taken, for the reason that the Committee on Railroads reported the Senate bill as its best judgment upon the subject. As has been said by many distinguished Senators it is an exceedingly important subject, and one involving a great many important questions. I have felt that a reference of the bill back to the committee with the House bill would, when the time came for the consideration of the two bills together, not facilitate a final disposition. The committee would be just as much in the dark as to the sense of the Senate upon very many of these questions as they were before the original report was made. My purpose has been to hold to the consideration of the bill we reported until, as the honorable Senator from Tennessee says, we could get the sense of the Senate upon these important questions, so that we might know where we were. That is my excuse, if any is needed, for asking the Senate to proceed with the consideration of the Senate bill as long as we have done.

Now, Mr. President, I move that the Senate bill, as amended, be made an amendment to the House bill, striking out all after the enacting clause of the House bill and inserting it as a substitute.

The PRESIDING OFFICER. When the House bill was taken up the Senate bill dropped back to its place on the Calendar. The Senator from Illinois now moves that the House bill be amended by striking out all after the enacting clause and inserting the Senate bill.

Mr. INGALLS. No, not that. He can not insert the Senate bill after the title of a House bill.

Mr. CULLOM. Inserting the following words, being the words of the Senate bill.

Mr. HOAR. I suppose the Senate will give unanimous consent that that document with which we are so familiar shall not be read from the desk at this time, but that the motion may be treated as pending.

Mr. CULLOM. That is all I desire to-night.

Mr. HOAR. The motion is that these words be substituted for the House bill.

Mr. CULLOM. I ask unanimous consent that the reading of the amendment I offered be dispensed with for the present, so that it may be printed.

Mr. COCKRELL. Has there been any order made to print it?

Mr. CULLOM. Yes, sir.

Mr. COCKRELL. Let the Senate bill be printed together with the House bill and the amendment.

Mr. CULLOM. The House bill has been printed.

Mr. HARRISON. I move that the Senate do now adjourn.

The motion was agreed to; and (at 5 o'clock and 10 minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

SATURDAY, *January* 17, 1885.

The House met at 12 o'clock m. Prayer by the Chaplain, Rev. JOHN S. LINDSAY, D. D.

The Journal of yesterday's proceedings was read.

ORDER OF BUSINESS.

Mr. RANDALL. I do not desire to interfere with the morning hour, but I call for the regular order, as my object is after the morning hour to proceed to the consideration of the appropriation bill.

PERSONAL EXPLANATION.

Mr. GIBSON. Mr. Speaker, I rise to a question of privilege.

The SPEAKER. The gentleman will state it.

Mr. GIBSON. My attention has been called to a series of telegraphic publications in the morning papers this morning and yesterday morning, which report me as having indulged in a number of very harsh and unjust criticisms of a member of this House, as well as having made other foolish speeches in connection with the legislation of this body. I do not desire to be put in such a position nor to do any gentleman in this House injustice.

Those publications have reference to a conference held between a few of my friends and myself in the city of Wheeling, the capital of our State, at which we undertook to advise with one another in reference to legislation now before this body. At that conference the question of tariff was spoken of, and, as a matter of course, the name of the distinguished gentleman from Pennsylvania was mentioned. To talk of the tariff without mentioning his name would be like the play of Hamlet with the name of the melancholy Dane left out.

Mr. GEORGE D. WISE. I rise to a point of order.

The SPEAKER. The gentleman will state it.

Mr. GEORGE D. WISE. It is that the gentleman from West Virginia is not discussing a question of privilege. He states that he is speaking in reference to a communication made to sundry papers not affecting the integrity of any member of this House.

The SPEAKER. The Chair has not discovered anything in the statement which entitles the gentleman to take the floor on a question of privilege.

Mr. ELLIS. The gentleman is proceeding to state it.

The SPEAKER. It seems to be a personal explanation, which the gentleman has the right to make with the consent of the House.

Mr. GIBSON. I hope no gentleman will dissent to my doing justice to a member of the House as well as myself.

The SPEAKER. If there be no objection the gentleman will proceed to make his explanation. The House will please be in order. Does the gentleman from Maine object?

Mr. REED. Not at all. I said it was important we should hear. [Laughter.]

Mr. GIBSON. I desire to say when the name of the gentleman from Pennsylvania was mentioned, so far from making any unjust or unkind allusion to him I declared on that occasion however much I might differ from him in his political views on some things, that his long record had taught us to respect his capacity and integrity. [Applause.] The papers published in Wheeling on the next morning declared that so far from attacking him, one said I had defended him and the other that I had no war to make upon him.

Further than that I desire to make another correction. Some of these reports undertook to state that I said in that conference I had had an interview with Mr. Cleveland in which our views had clashed. [Cries of "Hear!" Hear!" on the Republican side.] I want to say in that connection that I referred to the fact of the fight made in West Virginia, and that I believed if our Democrats there were harmonious the State would be recognized by Mr. Cleveland in his incoming administration.

DISTRIBUTION OF PUBLIC DOCUMENTS.

The SPEAKER, by unanimous consent, laid before the House the annual report of the receipt and distribution of public documents by the Department of the Interior; which was referred to the Committee on Printing, and ordered to be printed.

SANTIAGO RAMIREZ GRANT.

The SPEAKER also, by unanimous consent, laid before the House a letter from the Acting Secretary of the Interior, transmitting the report of the United States surveyor-general for New Mexico in the case of private land claim No. 136, in the Territory of New Mexico, known as the Santiago Ramirez grant, Harvey E. Easterday, claimant; which was referred to the Committee on Private Land Claims, and ordered to be printed.

SAN MATEO SPRINGS.

The SPEAKER also, by unanimous consent, laid before the House a letter from the Acting Secretary of the Interior, transmitting a report of the surveyor-general of New Mexico, known as the San Mateo Springs tract, the heirs and legal representatives of Santiago Duran y Chaves, claimants; which was referred to the Committee on Private Land Claims, and ordered to be printed.

MOVABLE DAMS.

The SPEAKER also, by unanimous consent, laid before the House a report of the board of engineers in regard to examination at Pittsburgh, Pa., of models, plans, &c., for movable dams and other purposes; which was referred to the Committee on Rivers and Harbors, and ordered to be printed.

MILLING-SHOP, SPRINGFIELD ARMORY.

The SPEAKER also, by unanimous consent, laid before the House a letter from the Secretary of War, forwarding communication of the Chief of Ordnance in relation to estimates of appropriations for the fiscal year 1886 for a milling-shop at Springfield armory, Massachusetts, and for a set of officers' quarters at New York arsenal; which was referred to the Committee on Appropriations, and ordered to be printed.

PASQUOTANK RIVER, NORTH CAROLINA.

The SPEAKER also, by unanimous consent, laid before the House a letter from the Secretary of War, transmitting a report of the Chief of Engineers in relation to the results of a preliminary examination of

Pasquotank River, North Carolina; which was referred to the Committee on Rivers and Harbors, and ordered to be printed.

HARBOR AT HYANNIS, MASS.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting a report of the Chief of Engineers in relation to the results of a survey of the harbor at Hyannis, Mass.; which was referred to the Committee on Rivers and Harbors, and ordered to be printed.

IRON AND STEEL TESTS.

The SPEAKER, as required by section 3795 of the Revised Statutes of the United States, laid before the House the following resolution of the Senate; which was referred to the Committee on Printing:

Resolved by the Senate (the House of Representatives concurring), That the report of the tests of iron and steel and other materials for industrial purposes by Maj. F. H. Parker, commanding the Watertown arsenal, transmitted to the Senate by the Secretary of War on the 3d of December, 1884, be printed, and that 3,500 additional copies be printed, of which 1,000 copies shall be for the use of the Senate, 2,000 copies for the use of the House, and 500 copies for the use of the War Department.

BOEUF RIVER, LOUISIANA.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting a report from the Chief of Engineers in relation to a preliminary examination of the outlet of Boeuf River, in Louisiana; which was referred to the Committee on Rivers and Harbors.

AGATE AND BURLINGTON BAYS, MINNESOTA.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting a report from the Chief of Engineers in relation to the results of a survey of Agate and Burlington Bays, Minnesota; which was referred to the Committee on Rivers and Harbors.

INDIAN SCHOOLS.

The SPEAKER also laid before the House a letter from the Secretary of the Treasury, in relation to an appropriation of $25,000 to purchase property for Indian school purposes; which was referred to the Committee on Appropriations.

RETURN OF A BILL FROM THE SENATE.

The SPEAKER. The Chair will also ask the House to consider at this time a resolution in relation to the return of a bill from the Senate.

The Clerk read as follows:

Resolved, That the Senate be requested to return to the House the bill (H. R. 1004) relative to the Chinese indemnity fund.

The SPEAKER. The Chair will state that there is an error in the engrossment of the bill, and this request for its return is made with a view to its correction.

The resolution was agreed to.

OREGON LAND-GRANT FORFEITURE.

The SPEAKER announced as the conferees on the part of the House on the disagreeing votes of the two Houses on the bill (H. R. 181) to declare the forfeiture of certain lands granted to aid in the construction of a railroad in Oregon, Mr. COBB, Mr. HENLEY, and Mr. PAYSON.

QUARANTINED NATIONAL LIVE-STOCK TRAIL.

Mr. MILLER, of Texas, by unanimous consent, introduced a bill (H. R. 7971) to establish a quarantined national live-stock trail, and to regulate commerce between the States as to live-stock; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

APPLICATION OF EIGHT-HOUR LAW TO LETTER-CARRIERS.

Mr. HOPKINS. Mr. Speaker, I rise to submit a privileged report from the Committee on Labor.

The SPEAKER. The Clerk will read the report.

The Clerk read as follows:

The Committee on Labor, to whom was referred the following resolution—

"*Resolved*, That the Postmaster-General of the United States be respectfully requested to report to this House whether in his opinion section 3738 of the Revised Statutes, with reference to eight hours' employment constituting a day's labor for all laborers, &c., employed on behalf of the United States, applies to letter-carriers of the United States—

respectfully report that on December 15, A. D. 1884, the House passed a resolution asking the Attorney-General to give his opinion as to the application of section 3738 of the Revised Statutes to letter-carriers. The Attorney-General replied that his authority for giving official opinions is limited to calls made by the President or the head of an Executive Department. This is, no doubt, the correct view of the law governing the office of Attorney-General.

In order to secure an official legal opinion upon the important question as to whether letter-carriers came within the provisions of the eight-hour law your committee recommend the passage of the resolution above recited with an amendment. The resolution calls for the opinion of the Postmaster-General. Your committee think a legal opinion by the law officer of the Government would be more satisfactory and conclusive, and believing that the Attorney-General would promptly reply to a request for such an opinion made by the Postmaster-General, recommend the adoption of the resolution in the following form:

Resolved, That the Postmaster-General be respectfully requested to ask the Attorney-General for his opinion whether section 3738 of the Revised Statutes, with reference to eight hours' employment constituting a day's labor for all laborers, &c., employed on behalf of the United States, applies to letter-carriers of the United States.

Mr. HOLMAN. Permit me to suggest to the gentleman from Pennsylvania that the language uniformly used when attention is called to a subject of this character is that this officer be directed to make the application.

Mr. HOPKINS. The committee adopted the phraseology of the resolution reported to them.

Mr. COX, of New York. That was my mistake in the original resolution, and I hope it will be corrected here.

The SPEAKER. Without objection the word "directed" will be substituted for the words "respectfully requested."

There was no objection.

The SPEAKER. The question is on the adoption of the amendment proposed by the committee on the original resolution.

The question was taken; and upon a division there were—ayes 38, noes 3.

So the amendment was agreed to.

The resolution as amended was agreed to.

Mr. HOPKINS moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PERSONAL EXPLANATION.

Mr. YOUNG. Mr. Speaker, I rise to a question of personal privilege.

The SPEAKER. The gentleman will state it.

Mr. YOUNG. I do not know whether the House will listen very patiently to another explanation under a question of personal privilege this morning, but in justice to myself I deem it proper that I should make a very brief one. I wish to state, however, in the outset, that I have not held any conference with President Cleveland nor been discussing the tariff, as has been charged against the gentleman from West Virginia [Mr. GIBSON]. [Laughter.] It is a less important matter than that; but it is of interest to me and of some concern too, I think, to this House and the country.

In a newspaper published in this city on yesterday there appears an article under the head of "Queer purchases—how the contingent expenses of the House are created," &c., containing a paragraph which upon its face does me the greatest injustice; for, although it embraces no direct charge against me, it does give reasonable ground for an inference that I had improperly expended public money in the performance of an official duty. I wish the Clerk to read so much of this article as is marked in the paper which I now send to his desk.

The Clerk read as follows:

QUEER PURCHASES—HOW THE CONTINGENT EXPENSES OF THE HOUSE ARE CREATED—A PENCHANT FOR PAPERS—THE KIND OF LITERATURE DEVOURED BY THE LEGISLATIVE SOLONS—THE POPULARITY OF FARMERS' ALMANACS—OPERA-GLASSES GALORE AND PLUSH BOXES IN PROFUSION.

The report of the contingent expenses of the House shows a number of curious purchases during the last session. For instance, when the remains of the late Representative Haskell, of Kansas, were taken home the Congressional escort spent more than $7 for newspapers with which to while away the tedium of travel. They had any number of lunches and extra meals. They also soothed their nerves with the fragrant weed, a bill of $14 for cigars being paid.

Fruit was also bought to please their palates. In addition to numerous specified purchases of the committee going and coming there is one which for convenience, perhaps, is worded this way: "Expense account from Indianapolis to Washington, $43.37." The way that outlay is worded would seem to suggest that some members of the funeral party were thirsty. An undertaker's firm charged $3 for opening and closing the glass case of the coffin. A number of clocks were bought during the session. They must have been good ones. The prices paid were between $20 and $40, the latter being most frequently paid.

A terrestrial globe was bought for $75, but it is not stated to what use it was put. Perhaps it was purchased because of its being symbolic of a desire on the part of members of the House to possess the earth. A Colton's General Atlas came into the possession of the House in consideration of the sum of $20. At the funeral of the late E. W. Mackey twelve sashes were bought for $108, ten pairs of cotton gloves for $5, and twenty-four pairs of kid gloves for $48. Similar expenses attend all the Congressional funerals. James Wormley got $202 for furnishing a lunch at one of the funerals.

For one month there were fifty-two dozen towels washed for the bath-rooms at an expense of $26. The charge for laying out a body at a Congressional funeral was $10. Hon. CASEY YOUNG's expenses as a member of the committee that investigated the Hot Springs, outside his transportation there and back, amounted to $125.

Mr. YOUNG. I have no knowledge, Mr. Speaker, of the items of expenditure alluded to in that article outside of so much of it as refers to those alleged to have been made by me. It may be true in that respect or it may not. I do not undertake to say how that is, but so far as it refers to me there is nothing connected with the Hot Springs investigation that authorizes any such statement. When I first saw the article I was of course surprised, and this morning I called upon the proprietor of the paper which contains it, and with him went to the office, and had a conversation with the reporter who wrote the article. I was informed by him that he ascertained the facts upon which it was based in relation to myself from the Clerk's report of the expenditures of the contingent fund of the House. I then called at the Clerk's office and obtained the report referred to, which I now have before me. In it I find nothing that could by any possibility, as I think, authorize a statement of this character.

I was under the impression at first, and I am still of that opinion, that it was not the purpose of the reporter to do me any injustice. It is one of those mistakes, I must conclude, into which gentlemen of the press, in the hurry of their vocation, sometimes quite naturally fall. I ask that the Clerk read so much of the report as is embraced in pen marks, with this explanation: When the resolution passed the House

authorizing the committee to proceed to Hot Springs to investigate the Government work at that place, thanks to the vigilant guardianship of the gentleman from Indiana [Mr. HOLMAN], who always looks carefully to the expenditure of the public money, only $1,000 was appropriated to pay the expenses of the committee in the prosecution of the investigation with which they were charged by the House.

The investigation was made by a subcommittee of three of the Committee on Expenditures in the Interior Department; and we took with us a Government engineer, a stenographer, and a clerk of the committee, making in all six persons. We proceeded to Hot Springs, remained there for one week, or nearly that length of time, in the investigation of the matters embraced in the resolution under which we were acting. My colleagues on the committee, Mr. STORM, of Pennsylvania, and Mr. PAYNE, of New York, had some important matters before the House that they expected to come up which necessitated their immediate return. The investigation was not completed. It was important, to enable us to make an intelligent report, that a resurvey and a measurement of the work should be made. I was requested by the committee to remain at Hot Springs with the clerk long enough after the departture of my colleagues to have that done. I accordingly remained for two and a half days after the committee left, having the work remeasured and the estimates made over again.

In order that the expenses of the committee might not exceed the appropriation we took with us no sergeant-at-arms, and the money was placed by the clerk in the hands of my colleague, Mr. STORM, who superintended and directed all the expenditures. When he left he placed in my hands the sum of $150 to pay my own expenses and those of the clerk back to Washington. Out of that, for hotel bills, transportation on the cars, and other absolutely necessary expenses, I expended $125.50. The remainder I turned over to Mr. STORM when I returned to Washington. And this statement published in the report of the Clerk of expenditures of the contingent fund shows that every dollar that went into my hands was expended legitimately and properly in the prosecution of the work with which I had been charged by the House and the committee. I now ask the Clerk to read so much of the report as refers to the expenditures made by me.

The Clerk read as follows:

Casey Young, for investigating public works at Hot Springs, Ark.:

March 24.	
Hotel bill at Hot Springs for self and clerk while completing investigation	$12 00
Tickets for two to Malvern, $4; carriage to depot, $1	5 00
Tickets for two, Malvern to Little Rock, $2.60; dinner, $1.50	4 10
Tickets for two, Little Rock to Saint Louis, $20.70; sleeping-car, $5.50	26 20
Breakfast, Saint Louis, $1.50; railroad tickets, Saint Louis to Washington (2), $40.50	42 00
Sleeping-car, Saint Louis to Washington, $10.50; porter, $1	11 50
Two dinners, Terre Haute, $1.50; supper on cars, $2.20	3 70
Breakfast at Pittsburgh, $1.50; dinner on cars, $2.50	4 00
Carriage at Washington, $1; baggage, 25 cents	1 25
Telegrams on business of investigation to M. C. Harris, $2.10; answer of Harris, $5.90	8 00
To M. C. Harris, 75; to J. M. Keller, 75	1 50
From F. L. Linse, $1.25; to M. McKeogh, 75 cents	2 00
Answer of McKeogh, $1.25; to M. McKeogh, 75 cents	2 00
Answer of McKeogh, $1.25; to M. H. Hanbury, 50 cents	1 75
From J. W. Brewer	50
	125 50

Mr. YOUNG. I have never found it necessary before in a public service extending over a period of more than ten years to trouble the House with any personal explanation. Perhaps it was not absolutely necessary that I should have done so now, but I thought it was due to myself and due to the House that I should say something in refutation of this article to which I have called attention. I have always been treated with great kindness by the gentlemen of the press; often they have done me more than justice. And I am satisfied in this instance it was not intended to misrepresent any fact to my prejudice. Yet by this statement going abroad the inference would be fully authorized that I had been guilty of some improper conduct.

I desire to say further, in justice to my colleagues on the committee and myself, that I venture to say no investigation ever ordered by this House was so cheaply done as that by the committee sent to investigate the Government work at Hot Springs. There is not a charge for a lunch, for a boquet, for a pair of gloves, for a bottle of wine, for a cigar, or even for a drink of whisky or a glass of beer. [Laughter.]

I hope I shall be pardoned for calling attention to the fact that we traveled twenty-five hundred miles in going to and returning from Hot Springs, where we remained for nearly a week, remaining in session until late at night every day we were there; that there were six persons in the party, and the total expenses of the trip only amounted to $580 exclusive of the pay of the stenographer, a matter with which the committee had nothing to do, he being appointed by the Speaker to attend us.

ORDER OF BUSINESS.

Mr. RANDALL. There has been too much time occupied this morning, and I feel like testing the sense of the House as to whether it is desired to dispense with the morning hour, so that we may proceed immediately to the consideration of appropriation bills.

The SPEAKER. The gentleman from Pennsylvania [Mr. RANDALL] moves to dispense with the morning hour.

The motion was agreed to (two-thirds voting in favor thereof).

Mr. BURNES. I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the purpose of considering general appropriation bills.

Mr. KEIFER. Will my colleague on the committee allow me to dispose of a short matter from the Appropriations Committee?

Mr. BURNES. I yield to my colleague.

MILITARY ACADEMY APPROPRIATION BILL.

Mr. KEIFER. I report back from the Committee on Appropriations the bill (H. R. 7577) making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1886, and for other purposes, with Senate amendments; and I shall move, as instructed by the committee, that the House non-concur in those amendments.

The Clerk read the amendments of the Senate, as follows:

On page 2, line 12, strike out "and officers on increased rank."
On page 2, line 13, strike out "$9,525," and insert "$8,898.50."

Mr. KEIFER. These amendments should go together. If one is concurred in the other ought to be concurred in. If one is non-concurred in the other should be non-concurred in. The pay of professors at the Military Academy is fixed by law. If these amendments are adopted it will have the effect, as I understand it, of carving out of the pay of each professor about $60 a year. In other words, the bill would not appropriate as much money, as we understand it, as the law would give those professors; and not being appropriated, of course it would not be paid.

Section 1336 of the Revised Statutes is as follows:

SEC. 1336. Each of the professors of the Military Academy whose service at the academy exceeds ten years shall have the pay and allowances of colonel, and all other professors shall have the pay and allowances of lieutenant-colonels; and the instructors of ordnance and science of gunnery and of practical engineering shall have the pay and allowances of major; and hereafter there shall be allowed and paid to the said professors 10 per cent. of their current yearly pay for each and every term of five years' service in the Army and at the academy: *Provided*, That such addition shall in no case exceed 40 per cent. of said yearly pay; and said professors are hereby placed upon the same footing, as regards restrictions upon pay and retirement from active service, as officers of the Army.

In other words, Mr. Speaker, this law provides for officers of increased rank receiving the longevity pay of that rank. This being the law, it was the judgment of the committee that it was best to non-concur in this amendment and to ascertain if there was any reason why we should undertake to affect a law that has been a long time in operation by merely refusing to appropriate the sum of money necessary to carry it out. My motion is to non-concur in the Senate amendment.

The motion was agreed to.

Mr. KEIFER moved to reconsider the vote by which the Senate amendments were non-concurred in; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

CONSULAR AND DIPLOMATIC APPROPRIATION BILL.

Mr. BURNES. I move that the House resolve itself into the Committee of the Whole on the state of the Union, to resume the consideration of the consular and diplomatic appropriation bill.

The motion was agreed to.

The House accordingly resolved itself into Committee of the Whole on the state of the Union (Mr. WILSON, of Iowa, in the chair) and resumed the consideration of the bill (H. R. 7857) making appropriations for the consular and diplomatic service of the Government for the fiscal year ending June 30, 1886, and for other purposes.

The CHAIRMAN. When the House was last in committee it rose, not having a quorum present. Does the gentleman from Illinois [Mr. CANNON] insist on a further count?

Mr. RANDALL. Oh, let us pass on from that.

The CHAIRMAN. If a further count is not insisted upon the Clerk will read the pending bill.

The Clerk read the last paragraph of the bill, as follows:

For expenses which may be incurred in the acknowledgment of the services of masters and crews of foreign vessels in rescuing American seamen or citizens from shipwreck, $4,500.

To meet the necessary expenses attendant upon the execution of the neutrality act, to be expended under the direction of the President, pursuant to the requirement of section 291 of the Revised Statutes, $12,000, or so much thereof as may be necessary.

For the payment, under the provisions of section 1749 of the Revised Statutes of the United States, of the widows or heirs at law of diplomatic or consular officers of the United States dying in foreign countries in the discharge of their duties, $5,000.

Mr. TOWNSHEND. Mr. Chairman, I offer the following amendment:

That the President of the United States be, and he is hereby, requested to invite the co-operation of the Governments of the American nations in securing the establishment of a commercial league by and between the said nations, to be known as the "Customs Union of America," the arrangement of a common basis of import duties from other countries than those which may compose said league, and that the commercial intercourse among the people of all the American States may be freed from the payment of any customs or other dues whatever; and that a common system of weights and measures may be also established for the purpose of facilitating such intercourse.

Mr. HOLMAN. I suggest to the gentleman from Illinois [Mr. TOWNSHEND] that that amendment had better be reserved until we can have an opportunity to understand fully what it means.

Mr. TOWNSHEND. Does the gentleman make the point of order?

Mr. HOLMAN. No; but I suggest that the amendment had better be reserved for the present.

Mr. RANDALL. Mr. Chairman, in the interest of a speedy passage of the appropriation bills I feel called upon to make the point of order upon this amendment. The subject itself may be a very proper one to receive the attention of the House, but the Senate have deliberately advised us that they will agree to nothing on the appropriation bills in the nature of legislation, and any attempt of this kind will only lead to a controversy which we ought to try as far as possible to avoid. I am perfectly willing to hear the gentleman for a brief time upon his amendment, but I feel that we ought to try to dispose of two of these appropriation bills to-day.

Mr. TOWNSHEND. Mr. Chairman, this proposition does not involve the expenditure of a single dollar. The sole purpose of it is to enable us to obtain more extended foreign markets for our own products. Almost every one who has thought upon the question has reached the conclusion that it is absolutely essential, in order to bring about the prosperity of this country again, to secure employment to idle hands, to put our mills and factories in operation, and in order to increase the present low price of farm products that we shall find additional foreign markets. Every one who alludes to this subject in debate on this floor avows himself emphatically in favor of devising means for the extension of our commerce. Yet, strange as it may seem, measures presented for the accomplishment of that object are often strangled in committees to which they are referred by non-action, and when we do get a measure before the House, no matter how faultless it may be, efforts are made to strike it down by points of order. This is amazing. Here is a proposition which, in my judgment, will more effectually accomplish the end we have in view than any other plan that can be devised, much more effectually than reciprocity treaties, for the reason that under the most favored nations clauses of existing treaties between the southern and European countries the same advantages offered us can be secured by them, thereby lessening the value of the privileges obtained by means of such reciprocity treaties. It is contended by some that we can not compete with Europe in the South American markets because of the low wages and the abundance of capital in European countries. Now, here is a proposition which secures to American products a free market protected against European competition. If the southern countries will enter into such a commercial league as I propose, a union similar in its nature to the German Zollverein, we shall secure such exclusive privileges and advantages as will give us control of the rich southern markets.

If you will look at the statistics for 1883 you will find that England is sending to Peru ten times as much of her manufactured products as this country sends there; yet the principal seaport of Peru (Callao) is on the coast-line with San Francisco, at a distance of about 2,100 miles, while England, in order to reach that market, has to brave the perils of the Atlantic and around Cape Horn for a distance of 11,604 miles, or else break bulk and pass across the Isthmus of Panama at a distance of about 6,000 miles, yet she monopolizes that market. I mention but one of the southern countries as an illustration of the situation with reference to all. This proposition simply authorizes the President to invite the co-operation of Mexico, Central and South American states for the purpose of establishing a commercial union between them and the United States with common customs duties against all other countries. I hope the gentleman from Pennsylvania [Mr. RANDALL] will withdraw his point of order. If the proposition does no good it can not possibly do any harm.

Mr. RANDALL. The idea that the carrying out of the proposition is not going to cost the Government any money is a curious one to my mind. I have never known any proposition of this character that did not cost a good deal of money. But the cost is not the controlling consideration with me in this case——

Mr. TOWNSHEND. I say again that it will cost nothing—nothing but a few postage-stamps.

Mr. RANDALL. Well, Mr. Chairman, if it were to cost thousands of dollars I would not object to it if I believed it was going to accomplish the desired result. But a proposition of this sort ought not to come from the Committee on Appropriations. There is a committee in this House—there are more committees than one—charged with matters relating to this general subject, and, for my part, my present desire is to get the appropriation bills passed. The gentleman from Illinois [Mr. TOWNSHEND] can, I believe, get unanimous consent at any time to consider his proposition in the House. I make my point of order because I do not want to create a difficulty on the appropriation bill by raising the question of new legislation if it can possibly be avoided. I must therefore insist upon the point of order.

Mr. TOWNSHEND. I wish to say to the gentleman that I am satisfied that his point of order is well taken, but I trusted that his desire to extend the markets for our manufactured products as well as our other products might induce him to withdraw the point.

Mr. RANDALL. I have already told the gentleman that, so far as I am concerned, he shall have unanimous consent at any time for the consideration of his proposition in the House.

Mr. HUNT. Mr. Chairman, I feel it my duty to correct the statement which has been made by the gentleman from Illinois [Mr. TOWNSHEND] that legislation relating to the encouragement of our commercial and postal facilities has been strangled in committee. The first bill on the special Calendar for the encouragement of the American merchant marine provides for that object, and is ready to be called up.

Mr. TOWNSHEND. I made no remark applicable to the bill the gentleman [Mr. HUNT] mentions. The gentleman from Louisiana misunderstood me. I intended no reference to the committee he represents.

Mr. BURNES. The gentleman from Illinois having conceded that the point of order is properly taken, I apprehend there is nothing before the committee, and therefore we might as well proceed with the bill.

The CHAIRMAN. The Chair is ready to decide the question, but dislikes to cut off gentlemen who desire to have a hearing.

Mr. RANDALL. I want the point of order decided.

The CHAIRMAN. The Chair desires to state very briefly that, with regard to these points upon which he has been called to decide, he has had in view the prerogatives of the House as against the executive department that trenches upon our rights to fix customs duties, as against the Senate that is grasping the power over the national purse, and as against the privileged committees of the House that have been rendering unnecessary all other committees. If gentlemen who preside in the Committees of the Whole will rigorously sustain points of order preventing privileged Appropriation Committees from bringing in legislation on any, on all questions not authorized by law on appropriation bills properly belonging to other committees, the dignity of the legislative committees of the House will be preserved, and they will have a hearing upon their reports instead of having those reports gorging our calendars and the work of a large majority of members made thereby useless. This is the spirit in which the present occupant of the chair has acted in making rulings which seem to have caused some gentlemen some astonishment. The Chair has been ruling with regard to the prerogatives of the House and with regard to the dignity of its committees not privileged. The Chair sustains the point of order, and rules out the amendment.

Mr. BURNES. I desire now, by unanimous consent, to offer amendments to be inserted in lines 208 and 210, on page 9 of the bill. I send my amendments to the desk to be read.

The Clerk read as follows:

In line 208 insert the following: "Venezuela, Maracaybo; Turkish dominions, Beirut."

After Porto Rico, in line 210, insert the words, "Sagua la Grande (Cuba)."

Mr. BURNES. It will be remembered that by reason of points of order made by the gentleman from Indiana [Mr. HOLMAN] these consulates were dropped out from the portions of the bill in which they had been inserted, and I desire now to place them in the bill in such a way as to correspond with the current law.

The CHAIRMAN. The gentleman from Missouri [Mr. BURNES] asks leave to recur to lines 208 and 210 to restore provisions for some consulates which have been dropped out of the bill on points of order.

Mr. HOLMAN. In line 220 should not the gentleman from Missouri insert "Beirut, Turkish Dominions?"

Mr. BURNES. That is included in my amendment.

Mr. TOWNSHEND. Will the gentleman from Missouri state why he offers this amendment?

Mr. BURNES. Yes, sir; with pleasure. By reason of points of order made upon these consulates as reported in the bill, upon the ground that there was an advance in the salaries, the bill now contains no provisions for these consulates even as they exist under the law for the current year. I apprehend that this Committee of the Whole desires to provide for these consulates to the extent at least that they were provided for last year.

Mr. CANNON. Mr. Chairman, I rise to oppose the amendment. To my mind the rules under which we proceed touching appropriations, especially Rule XXI, and the constructions from time to time given it by the chairmen of the Committees of the Whole, instead of tending to broaden the privileges of the other committees and of the House, tend to strengthen certain gentlemen who see proper to make points of order against certain amendments and not against others of the same nature nor of superior merit. In other words, it is conceded, I apprehend, by a large majority of the members of this committee that the amendment now offered by the gentleman from Missouri and many others which were ruled out upon points of order were in themselves proper, yet all subject to a point of order under the ruling of the chairman. Now it suits the gentleman from Indiana [Mr. HOLMAN] and the gentleman from Pennsylvania [Mr. RANDALL] not to make points of order against certain amendments and to make them against certain others. It is true other members of the committee may make points of order against provisions that these gentlemen do not so antagonize, but the fact is they regard all the provisions as proper, those antagonized and those not antagonized by these gentlemen; so that in fact where appropriations are made for consulships not provided for in the

appropriation act for the current year they are made by the grace of one or two gentlemen who are willing in particular cases to withhold points of order—a very unsatisfactory way to proceed, in my opinion. And I will add further that the construction given to Rule XXI greatly narrows an already very narrow rule.

I want, however, upon the merits of this bill, to congratulate the Committee of the Whole and my friend from Missouri that some errors of judgment which, in my opinion at the time, were committed during the last session of Congress touching these appropriations, under the lead of the Committee on Appropriations, have been corrected in this bill. For instance, I notice in particular that the provision for consul-general at Cairo, which was dropped out entirely in the appropriations for the current year after a very sharp fight, is in the present bill, no point of order having been made against it; yet that consul-generalship is just as important for the current year as for the coming year.

Now I want to be charitable about this matter, and will say that I presume it is some new light and further information coming upon the minds of the Appropriations Committee that has enabled them to provide in this bill for the consul-general at Cairo and for similar positions at various other places—positions which were not provided for in the last bill. I would not intimate for a moment that the change of administration under which these expenditures are to be made had anything to do with the recommendations embraced in the present bill.

Now I believe my five minutes are about out. I did want to say one or two other things——

Mr. LONG. If the Chair will recognize me I will give my time to the gentleman from Illinois.

The CHAIRMAN. If no gentleman objects, the gentleman from Illinois will be recognized as proceeding in the time of the gentleman from Massachusetts. The Chair hears no objection.

Mr. CANNON. I wish to say further that I do not think this is a very extravagant bill. I think other amendments might well have been made for the benefit of the service; yet it is true that the bill is more liberal than the bill appropriating for the current year. While it does not rest on my shoulders or on the shoulders of gentlemen on this side of the House to champion this bill, the expenditures under which are to be made by the incoming administration, yet I believe that the minority here are now ready, as I believe they will be in the future, to meet gentlemen on the other side in support of apt and proper provision for the public service.

Mr. COX, of New York. I desire, Mr. Chairman, *pro forma* to move to strike out the last word.

I do this for a purpose. The purpose may not be germane to this bill or in conformity with the parliamentary suggestions just delivered from the chair. But, sir, I would re-enforce, if possible, here and now the idea of my most valued friend from Illinois [Mr. TOWNSHEND]. I feel more like doing this, as he is compelled to withdraw his "continental" amendment by the point of order. It is about time this Congress should understand one thing. It is this: That the times are hard; that enterprising men are breaking; that industry is paralyzed; that labor is unhappily unemployed; and that even the best "protected" industries, like that of iron and steel, are going down, down to the depths of financial despair.

Sir, the best judgment of the best men in this country should be heeded. I will voice that sentiment.

It will be conceded, Mr. Chairman, by all business men that the present condition of the country is not very happy and hopeful. It has not been brought about by political successes or reverses. It is conditioned on economic reasons. We have been told by those who are absorbed in their special instead of general objects that the paralysis will pass away; but, sir, in the judgment of some of our statesmen who trust to general thought and principle and not to the specific bias of their own occupations, these hard times are likely to grow worse. If that be the case, it should put us on our best caution and courage in our legislation. All times and occasions, therefore, are opportune for such a discussion as my remarks will provoke.

Our bills as to currency and bonds have failed. Our fiscal troubles are not only those pertaining to commerce between our States and communities, but between our own and other nations.

The balance of trade grows less favorable to us day by day. This can not be disregarded. France, Germany, and other countries have adopted what I might call the Republican platform. They hold that it is the duty of government to "protect" industries. The chief thought in my opinion should be to allow the laws of trade to operate without disturbing them by legislation. If we would enhance our industries, dispose of our surplus production, or make more valuable that surplus by increasing our markets, either at home or abroad, or enable people at home or people abroad to buy more, and thus once more start the wheels of industry, we should practice more upon the doctrine of just reciprocity. One illustration will suffice. It is this: When in Paris, some years ago, I learned that a certain class of petitions were filling a certain room in the French Chambers. They were petitions to prohibit American imports of bread and meat stuffs. Since then the anti-corn-law party in France has grown to be a potential factor in her economies. The doctrine of M. Chevelier, who made with Cobden the great reciprocity treaty with England, is being discarded to our disadvantage. His tenets are unheeded. The Bastiats of France are dead. Her selfishness is immortal.

Other countries by absolute prohibitions and by customs duty of a prohibitory kind are cutting us off from their markets. It is not a question of pork with Germany, nor of wheat with France and Russia, nor of cotton from India and Egypt. It is a question of prices for Wisconsin, Iowa, Illinois—prices for the labor results of our millions of farming men.

Our platform—I will not say the Democratic platform, but the platform of the Republican party—is being followed in Germany by your blood-and-iron statesmen who dislike republics, emigration, and America. In England Gladstone's liberal administration to-day stands trembling in the balance, almost ready to fall, not so much before her Egyptian or Indian policies as before what is called the "fair-trade" policy.

What, then, is our remedy? Every one will say here—reciprocity. With whom? I mean genuine reciprocity, not any one-sided reciprocity, but real reciprocity. With whom? Why, with the republics and neighbors in our own hemisphere.

Let us learn to reconcile the differences of soil, climate and production by amicable and prosperous interchanges and methods. Let us open the markets of these countries, as the gentleman from Illinois [Mr. TOWNSHEND] proposes, to the domestic products, whether of growth or manufacture, of other countries on our continent and elsewhere, to fair and free competition.

In doing this, sir, is there any violence to the great idea of allowing every man to dispose of the avails of his own labor to the best advantage? Where is the disadvantage of allowing him to buy under treaty or other conditions where his interests can be best subserved? Where in this policy is the inequality of taxation? Where is the immoderate gauge of taxation, if arranged for the needs of honest government only? Is there any hateful retaliation in such a system?

Here is our opportunity. I favor the treaty with Mexico. It is an old, familiar, and favorite theme of mine. I do not say what should be done with the treaty with Spain; but whatever this House has to do about it should be heedfully done, and must be done to aid our largest industry—agriculture. This Congress will be derelict unless it take notice that we should begin with such enterprise as to make our markets abroad for our surplus products. For, sir, is not the law of economy irreversible and irrefragable? Oh, you can sell, can you, when you can not buy? One or the other of the parties to the trade will be bankrupt unless you barter. Barter is business. You must have a market for our produce or your produce will be burned at home. It does not involve your tariff. It only involves what Germany once had. I mean the Zollverein. It only involves what we once had with Canada—reciprocity. Now, alas, that mutuality is murdered by "protection," and New England mourns. It only involves what Pennsylvania has with New York. It involves what every State in our federation has with every other State.

The CHAIRMAN. The gentleman's time has expired.

Mr. HISCOCK. I will take the floor, Mr. Chairman, and yield my time to my colleague.

Mr. COX, of New York. I thank my colleague. On this theme I am pursuing the thought suggested to me by the most distinguished statesman in New York, except perhaps himself. [Laughter.] I mean Horatio Seymour.

This most conspicuous Democratic statesman in America, a citizen of New York, in a letter which I have of the 14th of this month, says:

If Gladstone's administration shall go down, the "fair-trade" party in Great Britain will modify their laws so that free trade will be confined to those countries which give free trade. In this event we shall suffer for a long time. I think hard times are to last some years unless a European war shall make a demand for our breadstuffs and provisions. The Western States are quarreling with the railroads on account of their charges, although their members of Congress have increased the cost of the roads by the tariff on iron, &c. I do not think there is any hurry about tariff reform. It is best to let the public suffer some, so that our people will learn the causes of hard times.

There is a great change going on in the strong Republican States of the Northwest. The present tariff is teaching our people great truths more rapidly than an improved tariff will.

Now let the Clerk read what Governor Seymour has again said in a public journal.

The Clerk read as follows:

The Republican platform gave offense to European countries where the West seeks to find markets for its products, and they are taking active measures to get their supplies of breadstuffs and provisions from other quarters. For a number of years past the crops of Europe have been poor. This year they are good. The West, and particularly the Northwest, are forced to sell at prices which do not pay them. The future looks dark for those regions, for recent facts show that European governments have adopted the Republican platform and mean to fence out our products by duties upon them and by other measures, such as building railroads, which will open up new sources for supplies. It is clear that the question that concerns the interests of the West will attract public attention hereafter. The States lying west of the Alleghanies now have a controlling power in Congress, and this power will be felt hereafter.

Mr. COX, of New York. My colleague is doubtless proud and pleased to know that his courtesy to me has called forth such rare wisdom from our State.

But, sir, Governor Seymour is not merely a New York statesman. He has interests in the West. He has interests connected with transportation. He is bound up with agriculture. His head is as clear to-day as

it was in the earliest days of his chivalric service to the State and Republic. He gives a warning to those that are heedless most prophetic—one that rises higher than these mere wrangles on this floor, higher far than our discussions in economy from party standpoints. What is the warning? It is this: we must seek markets abroad. If we would enhance our prosperity we must open new realms of trade. If we would have markets for our plethoric trade, if we would lay down the foundations of future commercial prosperity, we must go out upon the seas and adventure with other nations into strange lands, even into Ethiopia and India. We must sell and buy, buy and sell.

Gentlemen from the great West know, gentlemen from Minnesota with its flour know, gentlemen from Chicago with its commerce know what we in New York and other places know, that there is a sentiment born of self-interest now dominating in the Northwest, in the South, and in portions of the East which will compel us to make a market for this great and embarrassing surplus production caused by an iniquitous tariff which has produced more than it should by reason of the unnatural, heating, and forcing processes of our legislation. Let commerce be unhampered except for honest revenue, and we will leap out of our present troubles wise and full armed to contend with the new elements which are seeking fresh fields for colonization and commerce.

Mr. THOMAS. Mr. Chairman, in answer to the remarks of the gentleman from New York [Mr. COX] in reference to the Republican platform giving offense to Germany, I desire to have read an extract from one of to-day's papers which has a direct bearing upon the subject.

The Clerk read as follows:

PROTECTION IN GERMANY.

Prince Bismarck adopted free trade as the economic rule of the German Empire, and was not satisfied with the results. Since 1880 he has been experimenting with protection, and he now finds reason to congratulate the Reichstag upon the change of policy. He asserts that the new tariff schedules have had a favorable effect upon home industries, and that the condition of the people has steadily improved. This is undoubtedly true. New factories have been built, an impulse has been imparted to manufacturing enterprises, wages have been nearly doubled in many branches of industry, emigration has been diminished, and a policy of commercial extension has been entered upon with vigor and confidence. Under free trade there were continuous shrinkages of values, reductions of wages, and failures of industrial enterprises. English competition closed German factories and reduced the number of employments open to an impoverished people. Under protection the factories have been reopened, and the Fatherland is more prosperous.

Instead of reducing the tariff schedules, which were admitted in 1879 to be only tentative, Prince Bismarck is now anxious to raise the rates on certain articles and also to impose a duty on corn as a means of protecting German agriculture. This last suggestion is ridiculed by Herr Richter and the liberal deputies, whose policy of free trade proved ruinous to Germany. It will also be derided in London as a crowning exhibition of Prince Bismarck's incapacity to govern Germany in accordance with English ideas. Mr. Bright will declaim against the barbarism of high-tariff legislation, and Mr. Chamberlain will lament over an economic delusion that may carry the Fatherland back a long way toward mediæval ignorance. It is not likely, however, that Prince Bismarck will be deterred by English strictures from following out this policy if the Reichstag will allow him to do so.

During the reading of the above the following proceedings took place:

Mr. COBB. Mr. Chairman, there is so much confusion in the Hall that it is impossible to hear what the Clerk is reading.

The CHAIRMAN. The Clerk will suspend the reading until order is restored upon the floor.

Mr. BURNES. Mr. Chairman, I feel it my duty to interpose at this point to inquire what is before the committee to justify the continuation of this debate? The bill has been read through; the last section has been agreed upon——

Mr. REED. What justified the beginning of it?

Mr. HAMMOND. Nothing.

Mr. BURNES. Nothing that I am aware of, and I propose to stop it now if I can.

I submit that the last section of the bill has been agreed upon; a few formal amendments had been offered by unanimous consent; and I can see nothing to justify the reading of extracts from newspapers in reference to the tariff question.

Mr. DUNHAM. Why not let both sides be heard since one has been?

Mr. THOMAS. I apprehend that no attempt will be made to cut off a reply to the gentleman from New York. The subject-matter under discussion is the providing for the diplomatic and consular service of this Government, having as its object the honor of the country, its political relations with foreign governments, and providing an outlet for its commerce. I therefore ask that the remainder of the article be read.

The CHAIRMAN. The gentleman has two minutes of his time remaining.

Mr. THOMAS. It can be read in that time.

The Clerk resumed and concluded the reading as above.

Mr. DORSHEIMER. Mr. Chairman, I venture to trespass upon the patience of the committee for a moment to say that I agree in the opinions expressed by my colleague [Mr. COX], but not precisely for the reasons assigned by him. I think that the most important gift that it is in the power of the Government of the United States to give to the people of this country is freer trade with foreign countries.

I believe in reciprocal trade—not reciprocal trade growing out of special treaties alone, although I would be indulgent and liberal in the consideration of such treaties, but such reciprocal and liberal arrangements of trade as will secure to our people the great markets of the world.

What are the great markets of the world? Are they in the West India Islands or in South America? Not at all. Notwithstanding our present imperfect trade arrangements, England takes from us more of our products than all the South American states could take if they received their whole supply from us. It is impossible for South America and the West Indies to make up in any degree that is appreciable fo the loss of the great European markets we so long have had and which have been the foundations of the commercial prosperity of this country.

I am in favor of a liberal commercial policy toward the other communities in this hemisphere, to use the largest applicable phrase; but I would not press that policy upon the attention of the world as growing out of any spirit of retaliation, much less from any spirit of hostility toward the European people. I do not wish the enterprise, the capital, and the intelligence of Europe to be occupied with the problem of how to get along without American productions; and the danger in the policy on which we seem to be setting out, especially the danger in avowals like those made upon this floor, is that we will excite against us all the power of these communities in an endeavor to find out how they can get along without the cotton and the wheat and the corn of the United States.

Reciprocal and liberal arrangements! Yes; but let them be with all the world; and while I for one shall favor the proposed treaty with Mexico if I have any power to act upon it, while I frankly say that with certain modifications I shall favor the treaty with Spain, my action will not grow out of any hostility to European governments or any desire to retaliate upon them.

[Here the hammer fell.]

Mr. HISCOCK. I move to strike out the three last words.

Mr. BURNES. Mr. Chairman, I trust that some understanding by which the distinguished gentleman from New York may occupy five minutes of time may be reached without continuing this debate any further.

Mr. CHACE. I hope the gentleman will not object to a few moments of debate.

Mr. BURNES. I think some conclusion ought to be reached, and unless we can make some arrangement as to the limit of debate I shall feel it my duty to move that the committee rise for that purpose.

Mr. HISCOCK. I desire to say to the gentleman from Missouri, if he means fair play in this matter, that this had better go on for a little while and we will get through without any unnecessary delay. I think the shortest way is to let it run for a few minutes, and there will be no more time occupied, as far as I am concerned, than is necessary to make fitting response to what has been said on the other side.

Mr. DORSHEIMER. Do I understand that my colleague when he speaks of "letting it run" proposes to yield his time to me?

Mr. HISCOCK. I am entirely willing to yield my five minutes to my colleague if he will reciprocate. I expect also to have five minutes yielded to me by my other colleague [Mr. COX]; and with the five minutes of my own I will have fifteen. That is all I wish for.

Mr. BURNES. I would like to know what gentlemen want.

Mr. HISCOCK. I yield my five minutes to my colleague [Mr. DORSHEIMER].

The CHAIRMAN. The gentleman from Missouri [Mr. BURNES] has the floor.

Mr. HISCOCK. I was recognized before the gentleman from Missouri was and I have not resumed my seat.

The CHAIRMAN. But the gentleman from Missouri rose to make a proposition to the committee and had the floor.

Mr. HISCOCK. The gentleman could not take me off my feet to make a motion.

The CHAIRMAN. The gentleman from New York will proceed.

Mr. HISCOCK. I yield my five minutes to the gentleman from New York [Mr. DORSHEIMER].

The CHAIRMAN. Is there objection? The Chair hears none.

Mr. DORSHEIMER. I was proceeding to say when my time expired that with certain modifications I was disposed to entertain favorably the proposed treaty with the Spanish Government; and inasmuch as the whole subject is before us, I hope I may be excused for taking this opportunity to say that the treaty with Nicaragua in my judgment furnishes to this country a method for avoiding a great peril in the future as well as securing an important present advantage.

The peril in the future which I have in my mind is this: I find that by the construction of the canal through the Isthmus of Suez European politics have been changed. It must be remembered that that canal was built against the wishes of the power most interested in the construction of such a highway, and which has since come into the control of the canal and substantially into the control of the country through which the canal is built. But no sooner was it built than it became the pivotal question in European politics, and it now presents the only subject which threatens to disturb the peace of the European continent.

I do not believe it to be possible that a canal shall be built through the Isthmus of Panama by any foreign government without giving to this people, to use a most temperate phrase, causes for serious disqui-

etude. How would it be when to the fleets of some foreign power there was a direct way open to the Pacific coast, while our fleets were required to make the long passage around Cape Horn? Is there not sufficient reason to say that under such circumstances, in some possible exigencies of the future, the people of the United States would not permit that highway to remain in foreign hands, but would take it in their own, by the exercise, if need be, of all the power they possess?

[Here the hammer fell.]

Mr. BURNES rose.

Mr. HISCOCK. I move to strike out the last four words.

The CHAIRMAN. The Chair recognizes the gentleman from Missouri [Mr. BURNES], who is in charge of the bill.

Mr. MCMILLIN. I hope the gentleman from Missouri will not insist on asking to limit debate; at least till the gentleman from New York [Mr. HISCOCK] has been heard, inasmuch as he yielded to his colleague [Mr. DORSHEIMER].

Mr. HISCOCK. There are two or three gentlemen on this side who desire to speak.

Mr. BURNES. Will you be content with fifteen minutes on each side?

Mr. HISCOCK. Suppose we take twenty minutes.

Mr. BURNES. Very well.

Mr. HISCOCK. I understand from gentlemen around me that twenty-five minutes will be satisfactory to this side.

Mr. BURNES. I understand unanimous consent is given that debate shall be limited to twenty minutes on each side.

Mr. HISCOCK. Twenty-five minutes on this side. All the time hitherto has been taken on the other side.

Mr. BRUMM. All except five minutes.

Mr. BLOUNT. I want to know on what subject debate is to be limited.

Mr. HISCOCK. On the tariff. [Laughter.]

The CHAIRMAN. The gentleman from Missouri [Mr. BURNES] asks unanimous consent that debate shall terminate after twenty minutes have been occupied on each side.

Mr. HISCOCK. Say twenty-five minutes.

Mr. HOLMAN. I object to twenty-five minutes, but will agree to twenty minutes on each side.

The CHAIRMAN. Is there objection to limiting the debate to twenty minutes on each side? The Chair hears no objection.

Mr. REED. I objected to twenty minutes. I think twenty-five minutes should be allowed.

The CHAIRMAN. Objection has now been made both to twenty-five minutes and to twenty minutes.

Mr. BURNES. Make it twenty-two and a half minutes. [Laughter.]

The CHAIRMAN. The gentleman from Missouri [Mr. BURNES] asks unanimous consent that debate shall be limited to twenty-two and a half minutes on each side. The Chair hears no objection. The gentleman from New York [Mr. HISCOCK] is entitled to the floor.

Mr. HISCOCK. I listened to my colleague from New York [Mr. COX], and also to the reading of the profession or declaration of political faith on the part of the distinguished Democratic statesman Mr. Seymour, and to my colleague from New York [Mr. DORSHEIMER], as they enunciated the old Democratic doctrine that this country should be a purely agricultural country. Jefferson taught it that we ought to have free trade and interchange of commodities with other nations, we selling them the fruits of the earth and buying their goods, and will either of my colleagues state what we have to exchange but agricultural products—our cotton, our wheat, our corn? Yes, it is again the old Jeffersonian doctrine that my colleagues proclaim: that with cheap farm labor we should confine ourselves to tilling the soil, sell our surplus abroad, and buy all except our food abroad; and that the vast mineral resources of our country, the boundless facilities for manufacture, the market of 55,000,000 of people engaged in or supported by our various industries should all be surrendered, and we shall become a nation of farmers and nothing else.

Are we to understand this is to be the policy, too, of the next administration? Is the country to understand such to be the policy of the next administration? The country expecting, fearing that, we hear the sad news from Pittsburgh of the failure of a great iron and steel enterprise. Expecting that this is to be the policy of the next administration, a great banking house in New York, having their capital invested in railroad bonds and seeing nothing but disaster and depression in business in the future, is compelled into insolvency.

And while I am not a prophet, I have no hesitation in declaring that before this Congress adjourns, from other manufacturing centers and from other business centers we shall hear of greater distress and more failures, all precipitated by the agitation that is threatening this country on the part of the next administration. [Derisive laughter on the Democratic side.]

It is idle, Mr. Chairman, to talk about making this a purely agricultural country. Do gentlemen think that other lands would not have developed their agricultural interests—that India would not have extended her production of wheat; that Australia would not have become a great producer of wheat and wool, even if it had been the policy of this country to remain purely agricultural? Who will say that enterprise would not have gone into the wheat fields of Australia and of India and would not have developed them, and those and other countries would not compete with the American farmer, even though we had confined ourselves to agriculture alone? This country has been compelled to build up her manufacturing interests. She has been compelled to establish the forge and the factory in juxtaposition with the farm, because in other countries and in other lands the agricultural areas were being extended, and our farmers were being forced to find a market at home for their products.

Mr. Chairman, one word in regard to this proposed scheme for the promotion of trade with the South American states, and with reference to the suggestion made by my colleague from New York in favor of certain treaties that are pending. I ask that gentleman what there is that we can sell in those countries even if those treaties be ratified? Do you propose to degrade the manufacturing industries of this country, or those engaged in them—do you propose to degrade American labor down to that point where we can compete with the English manufacturer? We can have nothing to sell in those markets. We can have nothing to send to them, except you are prepared to reduce the price of labor in this country so low that we shall be able to compete with England in the manufacture of those goods South America and Mexico consume. What is to come to us from the treaties then? What benefit are we to have from them? Can we grasp those markets simply because we make these treaties? Those nations will still buy where they can buy cheapest; and if they can buy in England cheaper than they can buy of us, they will buy from England instead of from us. And is there any way in the world for us to compete with England except by reducing the wages of labor in the United States to the same rates that exist in England?

[Here the hammer fell.]

Mr. WHITE, of Kentucky, and Mr. BURNES both addressed the Chair.

The CHAIRMAN. On the understanding that a gentleman on the other side of the House is next entitled to the floor, the Chair will recognize the gentleman from Missouri [Mr. BURNES].

Mr. CHACE. Mr. Chairman, I hope that that rule will not be rigidly enforced.

Mr. HISCOCK. There are several gentlemen on this side that desire to speak, and I prefer to hear them. [Laughter.]

The CHAIRMAN. The only question is whether the two sides of the House are to be heard alternately.

Mr. COX, of New York. That is the rule.

The CHAIRMAN. The Chair recognizes the gentleman from Missouri [Mr. BURNES].

Mr. BURNES. I yield a portion of my time to my friend from New York [Mr. COX].

Mr. COX, of New York. Mr. Chairman, I think it is a little more vivacious if not dramatic for both sides of the House to alternate in these five-minute debates.

Mr. HISCOCK. I expect that at the proper time my friend from New York [Mr. COX] will yield me five minutes—either he or Mr. DORSHEIMER.

Mr. COX, of New York. The gentleman is a member of the next Congress and I shall be happy then to accommodate him. [Laughter.]

Mr. HISCOCK. Then I shall appeal to my friend, Mr. DORSHEIMER.

Mr. COX, of New York. Very well. My distinguished friend from New York, who is perhaps the leader of the Republican side of the House——

Mr. HISCOCK. Oh, no!

Mr. COX, of New York. My distinguished friend undertakes to say that this country ought to be in some sense a manufacturing country, but that we ought not to send our manufactures abroad.

Mr. HISCOCK. I am quite sure that my colleague does not intend to misrepresent me. What I did say is this: that we can not send our manufactured products abroad unless we can manufacture as cheaply as other nations can.

Mr. COX, of New York. I did not yield, Mr. Chairman, and I trust this does not come out of my time.

I did not misinterpret my friend in the inference I drew from his remarks, because I have heard him debate before on these economic questions. He believes in drawing a line, in building a wall of restriction around this country. He said in debate here once, when we had this same subject up in connection with the consular and diplomatic bill, that he was opposed to certain liberalities in our commercial relations with foreign countries.

We come forward now to discuss a question of reciprocity. It is one of diplomacy. It is not altogether a question of tariff, and the gentleman misrepresents us when he says that the Democratic party, or the incoming administration, or Governor Seymour, or somebody, is in favor of making this country altogether agricultural. We are not. This country has grown up under enormous and unnatural fostering influences for manufactures, but, sir, is not the farm itself an adjunct to the factory? In fact the farm itself is a great factory.

But are gentlemen consistent in this tirade against liberal commercial policies? Why, sir, this Republican party, after many years of protection, have come forward all at once with a lot of reciprocal treaties, free-trade treaties.

Mr. HISCOCK. I beg the gentleman's pardon—not the Republican party.

Mr. COX, of New York. Well, at least the Republican administration. Bismarck once said of Napoleon, after the battle of Sedan: "Napoleon has a great future *behind* him." That is the condition of our Republican friends. [Laughter on the Democratic side.] They have made these unconfirmed treaties through their administration, and now, when trouble and ruin are coming upon the industries of the country, when even the great petted industry of all—iron—is breaking up in Pittsburgh, its very seat and center, the gentleman says it is all owing to Democratic success.

Why, is it not under these very laws passed by Republicans that this calamity has come upon the country? You, gentlemen [addressing the Republican side of the House] are reponsible for that sort of hotbed growth which gave us our surplus and which has brought on us bankruptcy. You are responsible, for your laws still remain. And is it not a sad commentary or is it a vengeful Nemesis that the very man who as a member of the Tariff Commission did the most to cook up your last tariff revision is among the first to fall as a five-million victim before the blow of your vicious legislation?

We may as well have this thing understood now as in the future. What authority has my friend and colleague [Mr. HISCOCK] to speak for Governor Cleveland? Where did he get the power to read the policy of the administration not yet in power which was elected in November last? Who told him what would be done by that administration? All that he can find out about that future is written in our platform; and if our platform be ambiguous he must wait for the future in the legislation of Congress. We promise nothing as to a future We only say, as was said so well by my colleague behind me [Mr. DORSHEIMER], that when it comes to reciprocity, when it comes to building up trade with republican nations of our own hemisphere, we will do by them what our fathers wisely did as between the States of this Union. They adopted the principle of *laissez faire*. [Here the hammer fell.] With that French phrase I will stop. [Laughter.]

Mr. REED. Mr. Chairman, I wonder that the gentleman from New York [Mr. DORSHEIMER] does not for a moment consider what would be the sole result of the action which he advocates. It surely can not be he is ignorant that to-day we have the most perfect access to all the markets of the world. The difficulty is that we can not sell our goods in the markets of the world, because we can not produce them as cheaply as other nations can produce theirs. And what is the reason? It is one and simple: because for every dollar that competing nations pay to their laboring men the United States pay $1.60. How can we compete? Again the answer is simple: take the 60 cents from the laboring man. Does the gentleman from New York dare to avow that this is his purpose? Yet it must be his purpose, because in no other way can the markets of the world be opened to us for the sale in them of our products to any greater extent than they are sold there to-day. There is the whole subject in a nutshell.

And when the gentleman talks about throwing open to us the markets of the world, that is not the real meaning of what he says. What he means is to throw open the markets of the United States to the outside world—to give the cheap labor of other nations free course against our more costly labor; in other words, to cut down by that action the wages of our laboring men. Thereby he will achieve that splendid result which is to-day the dream of the free-trader, of having our goods jostling in the markets of the world with the products of the cheap labor of Europe at the expense of cheaper wages for our mechanics and our laboring men.

There is another paradise of the unwise which is perpetually being urged here, and that is "free raw material." "The markets of the world" and "free raw material" are what delight the Democratic heart. "Free raw material" means what a Democrat wants to introduce into his mill; what goes out at the other end he wants protected. What he means by "free raw material" is that he shall get at the lowest prices the work of such men as are not strong enough to come here and see that they are protected.

It is the constant repetition of these mistaken ideas that is liable to do damage, unless people go right down to the bottom of these matters and recognize the great fact that labor is the cause of all wealth, and that we can not make discrimination between one class of labor and another, but all must be sustained by the same American system.

[Here the hammer fell.]

Mr. BURNES. I yield five minutes to my friend from New York [Mr. ADAMS].

Mr. ADAMS, of New York. I yield to my colleague [Mr. DORSHEIMER].

Mr. DORSHEIMER. Mr. Chairman, perhaps the House apprehended my meaning when I was interrupted before, and therefore I shall not resume the line of comment I was then making, but which I would have been glad to have finished. I turn to the more tempting fields which have been opened by my colleague from New York [Mr. HISCOCK] and by the distinguished gentleman from Maine [Mr. REED].

My colleague says that manufacturing establishments are closing their doors and bankers failing because of the public apprehensions as to the effect of Democratic administration. Did the failures of 1873 grow out of apprehensions of Democratic administration? Did the disasters of last April and May grow out of such apprehensions? Is there any man in this country who eats less, wears less, uses less, than he would have done if Governor Cleveland had not been elected?

No; it is perfectly clear what the reason of the present distresses is. It is the result of Republican administration, which has taken a hundred millions a year more than was needed out of the pockets of the people [applause on the Democratic side], and which has caused a large part of the laborers of this country to be employed in unprofitable occupations.

I say now to my colleague and to the distinguished gentleman from Maine that we are not to be frightened at all by any suggestion about the labor question, and we distinctly avow that it is neither to the interest of the country nor to the interest of the laborer that the workingman should be employed at unprofitable occupations. Let our people seek, as they well can, the employments which the country with its natural aptitudes and resources will furnish them for profitable employment, and let an end come to that mistaken policy which gives the workingman high wages for his summer work, but which during the winter months sends him to starve in the streets and highways.

It is no time now, with our cities filled with discharged workmen, with the highways frequented by tramps going from house to house asking for food—it is no time, I say, to talk about the higher wages in this country. You make statistics on the wages which are paid; you take into no account whatever all the long months of no work. Your policy has brought upon the workingmen the affliction of no work, and that policy has been the cause of the distresses which my friend from New York jestingly perhaps attributes to an apprehension of the consequences of Democratic rule.

The workingmen are not scared into idleness; they are idle because you have ground them down by taxation, taking from them savings which might have supported them in periods of distress by a policy which has set them at unprofitable occupations which have disappeared with the first blast of adverse winds. [Applause on the Democratic side.]

Mr. HISCOCK. Mr. Chairman, my colleague [Mr. DORSHEIMER] and myself disagree as to the causes of the failures in the past year. When the people of this country made the mistake of electing this Congress and it was understood that the tariff agitation was reopened failures commenced, the business of the country was unsettled; and when this House convened, when it was organized by the elevation to the Speaker's chair of a distinguished gentleman from Kentucky, and the gentleman from Pennsylvania was deposed and the gentleman from Illinois [Mr. MORRISON] was put at the head of the Committee on Ways and Means and the 20 per cent. reduction scheme was proposed here the list of insolvents and the bankruptcies in this country increased. Mr. Chairman, the agitation which was begun by this House in my judgment is the sole and only cause of the financial distress of the past year.

Mr. HERBERT. Does not the gentleman know——

Mr. HISCOCK. And looking forward to the policy of the next administration, with the utterances ringing in my ears of my friend from New York—"the friend" of Grover Cleveland from New York—who seems almost authorized to speak for it on this floor, I fear there is nothing but financial distress for us in the future.

Mr. HERBERT. Does not the gentleman know this late panic did not begin until after the defeat of the Morrison bill and until the agitation had ceased?

Mr. HISCOCK. Mr. Chairman, I will answer that suggestion. In the late Presidential canvass the parties quite openly announced that for which they were fighting, and during that contest everything was held in abeyance, and now that it was decided in favor of Grover Cleveland and a Democratic administration the whole country pauses and waits to see what will be the outcome of it all. I regret, Mr. Chairman, that two Representatives from New York, one understood to hold close relations to the next President, have taken occasion on this floor, seemingly by authority, to indicate what the policy of that administration is to be. Mr. Chairman, I believe that the only security of this country for the next four years will be found in certain Democrats on the other side of the House, some twenty-five or thirty in number, who will be found uniting with this side of the House and standing by the laborers of the country, with the manufacturers of the country, and in support of that policy which has so grandly developed our industries and prospered the nation.

Mr. Chairman, one word more in reference to this labor question. My colleague from New York [Mr. COX] has alluded to the past of the Republican party; he said truly we can look back upon a glorious past, considering my country, not my party. I have no hope his party has in front of it so glorious a future. In the past we have given remunerative profits to manufacturers, we have given remunerative wages to laborers, but as was well said by the gentleman from Maine, as was most tersely said by that gentleman, it is utterly impossible for us to build up this commerce with South American states or with any other states unless you reduce the prices of the wages in this country from

33 to 50 per cent. And when gentlemen urge those treaties upon us, I must assume they intend to legislate for cheap labor and the ignorance, vice, poverty, and degradation incident to it.

It is true the two great parties went before the country upon the issue. I regret, and so will this country regret, that the platform of the Democratic party looked in both directions upon this great question. And a cheated, defrauded country for four years will wait in the distress, in the poverty, in the bankruptcy of its industries and the pauperism of its people to right the wrong.

[Here the hammer fell.]

Mr. BURNES. I yield five minutes to the gentleman from Texas [Mr. MILLS].

Mr. MILLS. Mr. Chairman, the old idea that a low rate of wages makes low cost of production is a relic of barbarism. It has long been exploded in politico-economic science. The law is precisely to the contrary, that high rates of wages make low cost of production.

If the gentleman—my friend from Maine—who has been predicting such ruinous consequences to follow by opening up our trade with the world had read carefully the articles in this volume of the census manufactures, being a tabulated statement of the cotton and woolen manufactures and the iron as well as other different branches of manufactures in this country, he would have seen by all the authorities that the rate of wages has been constantly on the increase in the United States while the cost of production has been constantly on the decline.

What is the cause of the change? It is because the people of the United States, sir, more largely than any other people in the world, produce by the great and multiplied power of machinery. Why, by the process of machine labor to-day we turn out by hundreds and thousands per cent. more of our products than by the manual labor of fifty or sixty years ago. It has multiplied the productive power of labor a thousand-fold; and if the gentleman will take the article on cotton manufactures, an article written by Mr. Edward Atkinson, and which I read this morning before I came up here to the House, he will find a multitude of facts to show the constant and largely increased reduction in the cost of production of this branch of manufacture, while in the last fifty years the wages of the operatives employed in the cotton mills have grown higher and higher, until they are to-day at least 100 per cent. in advance of what they were at that time.

Let me ask how are these facts to be reconciled? It is so also in great measure with Great Britain.

Mr. HISCOCK. May I ask the gentleman a question?

Mr. MILLS. Certainly.

Mr. HISCOCK. Does not the gentleman from Texas understand that so far as this is concerned it applies exclusively or mostly to the cheaper fabrics?

Mr. MILLS. I do not so understand it; it applies to all.

Mr. HISCOCK. But in larger part it applies to the cheaper fabrics.

Mr. MILLS. But the gentleman will perceive that it applies to iron as well as to cotton goods. It applies to all branches of manufacture where machinery has been largely introduced. Everything produced by machinery shows the same increase, an increase exceeding 20 per cent. and 100 per cent. or a thousand per cent. more than mere manual labor can do.

Take the old spinning-jenny and the weaving-machine, the hand-loom of our ancestors, and compare it with the process of to-day. One weaver on a power-loom to-day will turn out a thousand times more work than could possibly have been done by the hand-loom; and just in proportion as that man has the capacity to turn out more profit for his employer are his wages increased, because it is an invariable rule of political economy that the price of the wage measures the value of the labor, just as the price of the interest measures the value of money.

Why, it is perfectly preposterous to talk of low wages entering into and forming an important factor in the low cost of production. It must be evident that such an idea is preposterous; for if it be true, how is it that Germany does not drive Great Britain out of the markets of the world? I ask gentlemen to answer me that question. Germany pays wages 50 per cent. lower than Great Britain does—yes, more than 50 per cent. So also with France. France pays lower wages than Great Britain, and yet both France and Germany are clamoring for protection against the free-trade labor of England. Why, if Great Britain could make larger profits by cheapening her labor, does she not follow the example of France and Germany? Why is it that France and Germany do not give fairer wages to their laborers. The answer is, simply because they still continue to work at the old hand system in labor; and the laborer is not worth the tenth or the twentieth as much to his employer as the laborer who sits down and acquires the capacity to understand the machinery intrusted to his care, and can run six power-looms, with all their immense capacity for turning out work.

[Here the hammer fell.]

Mr. HORR. Mr. Chairman, it seems to be exceedingly proper that this question should be exhaustively discussed on the consular and diplomatic appropriation bill; and I am not surprised at the position taken by gentlemen who have spoken already on the other side of the House. The only thing that confuses me is this—we have only heard from one branch or wing of that side. Why this quietness, this silence on the part of the other wing? What is the cause of this remarkable stillness on the part of the other branch of the Democratic party? Where is the distinguished leader whose voice has been heard throughout the South during the holiday vacation converting you gentlemen, at least so said the Democratic press. Where are the converts? I would like to have them stand up and be counted. [Laughter.] I had been led to suppose that the entire South had been revolutionized on this great tariff question by the gentleman from Pennsylvania, but to my astonishment the ignorance seems to be as deep and dark as ever over there. [Great laughter.]

As to the position taken by the gentleman from Texas and my friend from New York, Mr. DORSHEIMER, they claim and have been for years claiming that the manufacturers of this country are growing rich beyond all measure out of the enormous profits they are gobbling up from the laborers of this land aided by the Republican tariff system. Explain, if you can, why Mr. Oliver, of Pittsburgh, has had to succumb, one of the most able and careful business men living in the United States. Why have so many other able and upright business men gone down in the same way during the past eight months?

Was it because the Republican party has heaped wealth, as we have been repeatedly told, into the coffers of these manufacturers? Ah! by no means. The trouble with business to-day arises from the fact that you gentlemen are continually tinkering and meddling with laws that ought to be left alone. When business gets established and people are doing it in a prosperous way your party comes into power in Congress, and the first thing you seek is to hunt out somebody who is making something somewhere, and then go for him. [Laughter.] The policy of the Democratic party has been for the last fifteen years to prevent as much as possible anybody from having a prosperous business, to deprive every one who has anything of what he has, and then arrange the law so that no one can hereafter find any profitable enterprise to engage in. That seems to be your policy to-day.

Mr. Chairman, this country needs two or three years for its business to become stable. First let it be well settled that we are not seeking to rob the workingmen of this country, that we believe in higher wages for them in the United States than they can get in any other nation on the face of the earth, and then let the tariff laws alone. The Republican party believes in so administering the laws of this land as to everywhere protect labor. To do that you must build up those industries that furnish employment. The diversity of industries is necessary to furnish work for all our people and to enable fair prices for their work to be maintained.

I am very glad that this question has come up, because I had supposed that our Democratic friends had gone to sleep in the security of their success, and I had hoped they were going to permit the wiser counsels of the minority of their party to prevail for at least this session. But I find I am mistaken. The old element has——

Mr. BROWN, of Pennsylvania. Broken loose.

Mr. HORR. Yes; as my friend suggests, the old element has broken loose again. The country will understand—it is no revelation to me; I have sat here long enough to have learned the fact—that the majority of the Democratic party at heart are free-traders. I have known this for some time. Many of you actually believe in free trade. A few of you only have the courage to say so. I desire the country to know just where you do stand.

[Here the hammer fell.]

Mr. WARNER, of Ohio. I hope some gentleman on that side will have time to answer the present administration—the Secretary of the Treasury and the President—on the tariff question.

Mr. WHITE, of Kentucky. Does the gentleman refer to the present Secretary of the Treasury extending the bonded period seven months after this House refused to do it? Free whisky is what you want.

Mr. BURNES. I yield five minutes to the gentleman from Georgia [Mr. BLOUNT].

Mr. HISCOCK. I would inquire of the Chair how much time we have on this side?

The CHAIRMAN. After the gentleman from Georgia [Mr. BLOUNT] finishes there will be two and a half minutes left for debate on each side.

Mr. BLOUNT. The gentleman from Michigan seeks to adjust the Democratic party to what he conceives to be right political thought. Before we see fit to take up any issue with him on that subject we will remit him to work that has to be done in his own Congressional district. The people there seem to be needing education as well as here. [Laughter.]

I regret very much, Mr. Chairman, that it so happens that we have taken upon ourselves, in a debate of thirty minutes, to deal with various subjects which it is impossible for us to discuss in that time. One gentleman thrusts upon us the treaty with Mexico; and then comes the Spanish treaty; and then comes the Nicaragua Canal question, and the Monroe doctrine, &c.

Mr. HISCOCK. Who thrust those questions upon you?

Mr. BLOUNT. I do not care to be interrupted. The witnesses are all about. I am complaining of no particular person. But I say that any speeches which may have been made on this side of the House on these questions do not bind every one on this side, I trust. There are likely to be diversities of opinion on these questions not marked at all

by the differences which grow out of views upon the tariff, or internal taxation, or any questions of taxation.

Then again, sir, we have thrust upon us the question of the tariff, and the gentleman from New York [Mr. HISCOCK], forgetting the accuracy that belongs to this floor, rehearses to us the campaign speeches which failed so notably in November last in effect upon the people. He tells us that the election of Grover Cleveland brought about the great distress in the manufacturing establishments. Sir, the people of this country are too intelligent to accept that statement. The men conducting the business of those establishments are announcing day by day, as the cause of their failure, that they are producing more than the people of this country can consume. And the gentleman from Maine [Mr. REED] tells us in this attitude of affairs this truth which I can not believe can be questioned by any fair-minded man, that we have no hope of unloading this overproduction on foreign markets. Then they have a class of laborers engaged in the manufacturing industries of this country that are doomed to the great severities and hardships which, by reason of overstimulation of production, the policy of the Republican party has brought upon them.

[Here the hammer fell.]

Mr. HORR. I desire just half a minute, and I will then yield to the gentleman from Maine [Mr. REED].

Mr. BURNES. My understanding is that five minutes still remain for debate on each side.

The CHAIRMAN. Only two and a half minutes.

Mr. CHACE. Did not the gentleman from Missouri [Mr. BURNES] propose that twenty-five minutes should be allowed on each side?

Mr. BURNES. That was my understanding.

Mr. CHACE. That will leave five minutes still to each side.

The CHAIRMAN. The Chair put the question on twenty minutes and on twenty-five minutes, and objection was made to both propositions. Then the proposition for twenty-two and a half minutes on each side was submitted and was agreed to.

Mr. HISCOCK. Let us have it understood now that the whole time for each side shall be twenty-five minutes.

The CHAIRMAN. Is there objection to the proposition of the gentleman from New York?

Objection was made.

Mr. HORR. I have merely one word to say, and that is to express my astonishment that my friend from Georgia [Mr. BLOUNT] should have the impression that because in the last election there was a majority of votes in my district for another man, therefore our argument on this question falls to the ground. It would not, perhaps, be polite for me to say that that is a kind of reasoning that I have heard before on this floor, and that always up to this time it has come from men of very small caliber. Heretofore it has never struck me as meaning anything.

I want to say to him further, that he is not the man who should throw that in my face, for I find from the Directory that he holds his seat in this House on a vote of only a little over 3,000; and let me tell him that over 17,000 voters tried to send me back here at the last election; so that I have got more votes even now than he has ever had in four long years, put them all together. [Laughter.] With such a vote as that I submit he should be slow to put on airs.

Mr. BLOUNT. Mr. Chairman, I should like to know what time there is remaining?

The CHAIRMAN. There was an understanding that five minutes should be allowed on each side. That leaves two minutes and a half on the Republican side, and five minutes on the Democratic side.

Mr. BLOUNT. I prefer to take my time at the conclusion of the debate.

Mr. REED. Mr. Chairman, have I four minutes left?

The CHAIRMAN. No. The gentleman from Maine has only two minutes and a half.

Mr. BURNES. I understood the Chair to say awhile ago that there was five minutes left on this side.

The CHAIRMAN. Yes.

Mr. BURNES. Well, as a matter of course, the five minutes on the other side should be consumed——

Mr. REED. Mr. Chairman, the gentleman from Missouri concedes that I have four minutes, and he is on the other side. Can not the chairman do as well for us as that? [Laughter.]

The CHAIRMAN. The gentleman from Maine has only two minutes and a half left. The Chair can not go beyond the agreement.

Mr. REED. But a gentleman on the other side says that we have four minutes.

Mr. BURNES. The gentleman from Michigan [Mr. HORR] used up half of the time on that side.

The CHAIRMAN. The gentleman from Maine [Mr. REED] will proceed. He has only two minutes and a half left, unless more time is allowed.

Mr. REED. Mr. Chairman, it is utterly impossible to take up the thread of this discussion in that time, so I propose only to make one or two suggestions. I was very anxious that my colleague [Mr. DINGLEY] should have taken my place, for he could have given the figures. It will not do to permit this discussion to go on under the impression that during the last twenty years our foreign trade has decreased. The fact is that our foreign trade has increased, and it has more than doubled during the prevalence of the system to which the gentleman from New York has so great an objection.

I have also a suggestion to make to the gentleman from Georgia [Mr. BLOUNT]. He says there is overproduction of the various manufactures in this country. That is true in the sense that now our markets are glutted. He says that there is no remedy for it, no means by which we can find markets abroad. Now, why is that? Our products are selling at starvation prices to-day. Why is it that we can not sell them abroad? Simply because under free trade there has been precisely the same so-called overproduction in other nations and the markets of the world have become crowded, so that manufactured products in other countries are selling at what are starvation prices even with reference to the low wages that are paid in England.

Mr. Chairman, I want to say to this House, in my judgment we are suffering from a depression which does not have so much to do with the subject in controversy here as it does with the eternal laws of human nature. If you look abroad you will find failures and commercial distress all over the world, and you are going to have in the future, in due time, recuperation. The foundation for that recuperation is to be the return of general confidence, and that can only come by stability in our legislation and by letting the tariff alone.

[Here the hammer fell.]

Mr. BURNES. I yield half of my remaining time to the gentleman from Georgia [Mr. BLOUNT], and the other half to the gentleman from Ohio [Mr. CONVERSE].

Mr. CURTIN. I ask the gentleman to yield to me for a moment. I want to say that all the business centers are becoming more prosperous, confidence is reviving, labor is better paid, everything is improving. I do not wish this debate to go out to depress the people. I desire rather to dissipate the clouds that have been hanging over the business interests of the country. Gentlemen on the other side ought to have made their speeches before the election instead of now. It is all humbug. [Laughter.]

The CHAIRMAN. The gentleman from Georgia [Mr. BLOUNT] is entitled to the floor for two minutes and a half.

Mr. BLOUNT. Mr. Chairman, the gentleman from Michigan [Mr. HORR] in his irritation took occasion to say substantially that the remark I made came from a small source.

Several MEMBERS. Oh, no.

Mr. MILLER, of Pennsylvania (to Mr. BLOUNT). He excepted you.

Mr. HORR. I said "the remarks up to this time." I made you an exception. [Laughter.]

Mr. BLOUNT. Mr. Chairman, the gentleman is happier now than he was when he made his speech; and he gives a better tone to his voice. I trust that his happiness may continue from now on, and that we shall have no more of his asperity.

But it is proper, sir, that I should say something in reply to his statement of the vote for myself as shown by the Congressional Directory. The gentleman states it as about 3,000.

Mr. HORR. A little bit over 3,000.

Mr. BLOUNT. "A little bit over 3,000." Now, Mr. Chairman, the whole explanation of the case is that I represent a population largely agricultural, and I happen not to have had opposition in my canvass. On the earlier occasions when I ran for Congress I had a contest, and there was a full vote. An examination of the record discloses the fact that in the Congressional districts of other gentlemen from Georgia where for many years there was a hot contest there was a full vote. This is an entire explanation. And this accounts for the full vote of my friend from Michigan. He had a hot contest, I am told, and there was a full vote polled—enough, sir, to bring about the election of his opponent, notwithstanding the enormous vote that my friend received. Perhaps, however, I ought not to refer to that again, as I wish to say nothing unpleasant.

But so far as concerns my own vote and the vote of some other gentlemen of my State, the condition of things pointed out by the gentleman grows entirely out of the fact that there happened to be no opposition. I may add that in my district and in others this state of affairs has grown oftentimes out of suggestions on the part of the Republicans that they should have no candidate. The policy of the Republican party was to make their fights in other directions. Again, there is the further fact that in that section of the country that party has hardly anybody agitating elections except the men who want offices; and these men fight each other, not wanting anybody else nominated, because they come here and claim office by reason of their candidacy.

The CHAIRMAN. The time of the gentleman from Georgia [Mr. BLOUNT] has expired. The gentleman from Ohio [Mr. CONVERSE] is now entitled to the floor for the remainder of the time of the gentleman from Missouri [Mr. BURNES].

Mr. CONVERSE. Mr. Chairman, it must be a matter of profound regret to the country that on this important question we have heard from but one wing of the Republican party to-day, and that does not happen to be the administration portion of the party. We have not

heard from the gentlemen who represent on this floor the views of the President, or the gentlemen who represent Secretary McCulloch. [Laughter and applause on the Democratic side.]

Gentlemen who have spoken upon the opposite side of the Chamber have no authority to state the present position, and they do not correctly state the past position, of the Democratic party upon the questions of tariff, taxation, revenue, protection, or the various questions affecting the industries of the country. The position which Jefferson and Madison and Jackson occupied was not that ascribed to them by the gentleman from New York [Mr. HISCOCK]; but I can say to him and to other gentlemen on that side that the Democratic party to-day does occupy precisely the position occupied by Jefferson, by Madison, by Jackson upon those important questions. We are all in favor of a reduction of taxation. We are all in favor of administrative reform.

Gentlemen need not undertake to say that the country is frightened by the prospect of the Democratic party coming into power. Have you not a Republican Senate? Can there be any radical changes in the laws without the consent of a Republican Senate? There will not probably be any change in the political complexion of the Senate for the next two, three, or four years. The Democracy have made no changes in the laws which could bring about the present embarrassed condition of the industries, and no such changes are comtemplated. But there is a prospect of effecting some reform in the administration of the Government; and upon this question our party is united as one man. The central and most pressing thought in the late political canvass was administrative reform, and I hope it will be such in the incoming administration. If gentlemen desire to look into the cause of the hard times and the business failures, they will find it in the fact that the people have been robbed by excessive taxation, and those taxes have been to the extent of hundreds of millions withdrawn from the productive industries and the channels of trade to be piled up in the Treasury. That vast sum unjustly exacted from the people and hoarded by the Government excites the cupidity of the dishonest and serves as a temptation to the weak to induce them to sustain all sorts of extravagant enterprises. An overflowing Treasury has led to a multiplication of offices, to an increase of salaries, and to vast appropriations for various improper objects. These things at least, it is to be hoped, the Democratic party will reform in a measure during the next four years. No more money ought to be collected than is sufficient to carry on the Government, economically administered, and pay its debts. All beyond that necessity of the Government should be left in the channels of industry and the pockets of the people.

But certain it is that our party will be united upon the doctrine expressed in the platform adopted at Chicago. Gentlemen suggest that that platform may look two ways. It does not look two ways.

Mr. MILLIKEN. Which way does it look?

Mr. GIBSON. It looks to the White House.

Mr. CONVERSE. It looks exactly where Jefferson looked, where Madison looked, where Jackson looked. The incoming President will give it interpretation by his acts and his administration.

Mr. MILLIKEN (while the chairman rapped loudly) addressed to Mr. CONVERSE a question which could not be heard.

Mr. CONVERSE. I can not hear the gentleman's inquiry; but I can say to him that that platform looks to reform in all the Departments of the Government; it looks to a more rigid accountability and a more exacting economy; it looks to the stopping of stealing; it looks to stopping the attempt to carry elections by "bull-dogs" or by money sent from New York. [Applause on the Democratic side.] We propose to have honest government and honest elections, North as well as South.

[Here the hammer fell.]

The CHAIRMAN. The time allowed for this debate has now expired. The question recurs on the amendments moved by the gentleman from Missouri [Mr. BURNES].

The amendments were adopted.

The CHAIRMAN. Under agreement we will now return to dispose of the amendment offered by the gentleman from Illinois [Mr. HITT], which the Clerk will read.

The Clerk read as follows:

On page 7, line 149, strike out "of thirteen" and insert "(in pursuance of the provisions of section 1704 of the Revised Statutes and section 5 of the consular and diplomatic appropriation act, approved June 11, 1874,) of eight," and same line and lines 150 and 151, strike out "to be appointed under section 1704 of the Revised Statutes, $13,000" and insert "at $1,200 each per annum, and five consular clerks at $1,000 each per annum, $14,600;" so that it will read:

"For salaries (in pursuance of the provisions of section 1704 of the Revised Statutes and section 5 of the consular and diplomatic appropriation act, approved June 11, 1874,) of eight consular clerks at $1,200 each per annum, and five consular clerks at $1,000 each per annum, $14,600."

The CHAIRMAN. The appropriation bill referred to, in the opinion of the Chair, is directory for the appropriation of that year. The amendment contemplates more money than the Revised Statutes, and the Chair sustains the point of order and rules the amendment out.

Mr. BURNES moved that the committee rise and report the bill and amendments to the House.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the Chair, Mr. WILSON, of Iowa, reported that the Committee of the Whole House on the state of the Union had, according to order, had under consideration the bill (H. R. 7857) making appropriations for the consular and diplomatic service of the Government for the fiscal year ending June 30, 1886, and for other purposes; and had directed him to report the same back to the House with sundry amendments.

Mr. BURNES demanded the previous question on the bill and amendments.

The previous question was ordered.

By unanimous consent the amendments were agreed to in gross, and the bill as amended was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

The SPEAKER. Under the rule the vote on the passage of the bill will be taken by yeas and nays.

The question was taken; and it was decided in the affirmative—yeas 240, nays 0, not voting 83; as follows:

YEAS—240.

Adams, G. E.	Dingley,	Ketcham,	Russell,
Adams, J. J.	Dockery,	Kleiner,	Ryan,
Alexander,	Dorsheimer,	Lamb,	Seymour,
Anderson,	Dowd,	Lanham,	Shively,
Atkinson,	Dunham,	Lawrence,	Skinner, T. G.
Bagley,	Eaton,	Le Fevre,	Smalls,
Ballentine,	Eldredge,	Lewis,	Smith, A. H.
Barbour,	Elliott,	Long,	Smith, H. Y.
Barksdale,	Ellis,	Lovering,	Snyder,
Bayne,	English,	Lowry,	Spooner,
Beach,	Ermentrout,	Lyman,	Spriggs,
Bennett,	Evans,	McAdoo,	Steele,
Bisbee,	Everhart,	McComas,	Stephenson,
Blackburn,	Ferrell,	McCormick,	Stevens,
Bland,	Findlay,	McMillin,	Stewart, Charles
Blount,	Finerty,	Matson,	Stockslager,
Boutelle,	Foran,	Maybury,	Stone,
Bowen,	Forney,	Miller, J. F.	Strait,
Boyle,	Funston,	Miller, S. H.	Swope,
Bratton,	Garrison,	Mills,	Taylor, E. B.
Breckinridge,	Geddes,	Mitchell,	Taylor, J. D.
Breitung,	George,	Money,	Taylor, J. M.
Brewer, F. B.	Gibson,	Morgan,	Thomas,
Brewer, J. H.	Glascock,	Morrill,	Thompson,
Brown, W. W.	Goff,	Morse,	Throckmorton,
Brumm,	Graves,	Moulton,	Tillman,
Buchanan,	Green,	Muldrow,	Townshend,
Buckner,	Greenleaf,	Muller,	Tully,
Budd,	Guenther,	Murphy,	Turner, H. G.
Burnes,	Halsell,	Mutchler,	Turner, Oscar
Cabell,	Hammond,	Neece,	Valentine,
Caldwell,	Hanback,	Nelson,	Vance,
Campbell, J. M.	Harmer,	Nicholls,	Van Eaton,
Candler,	Hatch, H. H.	Oates,	Wait,
Cannon,	Hatch, W. H.	O'Ferrall,	Wakefield,
Chace,	Haynes,	O'Neill, J. J.	Wallace,
Clardy,	Hemphill,	Paige,	Ward,
Clay,	Henderson, D. B.	Parker,	Warner, A. J.
Clements,	Henderson, T. J.	Patton,	Warner, Richard
Cobb,	Henley,	Pierce,	Weaver,
Collins,	Herbert,	Peters,	Wellborn,
Connolly,	Hewitt, G. W.	Pettibone,	Weller,
Converse,	Hill,	Phelps,	White, J. D.
Cook,	Hiscock,	Poland,	White, Milo
Cosgrove,	Hoblitzell,	Price,	Whiting,
Cox, S. S.	Holman,	Pryor,	Wilkins,
Cox, W. R.	Holmes,	Pusey,	Williams,
Craig,	Hopkins,	Randall,	Willis,
Crisp,	Horr,	Ranney,	Wilson, James
Culberson, D. B.	Houk,	Ray, Ossian	Wilson, W. L.
Cullen,	Houseman,	Reagan,	Winans, E. B.
Curtin,	Howey,	Reed,	Winans, John
Cutcheon,	Hunt,	Reese,	Wise, G. D.
Dargan,	James,	Rice,	Wise, J. S.
Davidson,	Jeffords,	Riggs,	Wolford,
Davis, L. H.	Johnson,	Robertson,	Woodward,
Davis, R. T.	Jones, J. H.	Rockwell,	Worthington,
Deuster,	Jones, J. T.	Rogers, J. H.	Yaple,
Dibble,	Jordan,	Rogers, W. F.	York,
Dibrell,	Keifer,	Rowell,	Young.

NAYS—0.

NOT VOTING—83.

Aiken,	Fiedler,	Laird,	Robinson, W. E.
Arnot,	Follett,	Libbey,	Rosecrans,
Barr,	Fyan,	Lore,	Seney,
Belford,	Hancock,	McCoid,	Shaw,
Belmont,	Hardeman,	Millard,	Singleton,
Bingham,	Hardy,	Milliken,	Skinner, C. R.
Blanchard,	Hart,	Morrison,	Slocum,
Brainerd,	Hepburn,	Murray,	Springer,
Broadhead,	Hewitt, A. S.	Nutting,	Stewart, J. W.
Browne, T. M.	Hitt,	Ochiltree,	Storm,
Burleigh,	Holton,	O'Hara,	Struble,
Campbell, Felix	Hooper,	O'Neill, Charles	Sumner, C. A.
Campbell, J. E.	Hurd,	Payne,	Sumner, D. H.
Carleton,	Hutchins,	Payson,	Talbott,
Cassidy,	Jones, B. W.	Peel,	Tucker,
Chalmers,	Jones, J. K.	Perkins,	Van Alstyne,
Covington,	Kean,	Post,	Wadsworth,
Culbertson, W. W.	Kelley,	Potter,	Washburn,
Davis, G. R.	Kellogg,	Rankin,	Wemple,
Dunn,	King,	Ray, G. W.	Wood.
Ellwood,	Lacey,	Robinson, J. S.	

So the bill was passed.

The following were announced as paired on all political questions until further notice:

Mr. RANKIN with Mr. BRAINERD.

Mr. MORRISON with Mr. PAYNE.

Mr. FOLLETT with Mr. BURLEIGH.

Mr. SHAW with Mr. LAIRD.
Mr. JONES, of Arkansas, with Mr. KELLOGG.
Mr. SPRINGER with Mr. STEWART, of Vermont.
Mr. ARNOT with Mr. BELFORD.
Mr. FYAN with Mr. HOOPER.
Mr. DUNN with Mr. CHALMERS.
Mr. VAN ALSTYNE with Mr. ELLWOOD.
Mr. LORE with Mr. WADSWORTH.
Mr. CAMPBELL, of Ohio, with Mr. SKINNER, of New York.
The following were announced as paired for this day:
Mr. SENEY with Mr. LIBBEY.
Mr. MURRAY with Mr. RAY, of New York.
Mr. STORM with Mr. O'HARA.
Mr. HARDY with Mr. BINGHAM.
Mr. CARLETON with Mr. HITT.
Mr. COVINGTON with Mr. DAVIS, of Illinois.
Mr. POTTER with Mr. STRUBLE.
Mr. MCMILLIN with Mr. KELLEY.
Mr. TOWNSHEND with Mr. WASHBURN.
Mr. PEEL with Mr. PERKINS.
Mr. JONES, of Wisconsin, with Mr. LACEY.
Mr. FIEDLER with Mr. OCHILTREE.
Mr. KING with Mr. CULBERTSON, of Kentucky.
Mr. TALBOTT with Mr. HOLTON.
Mr. AIKEN with Mr. BROWNE, of Indiana, till January 19.

Mr. MCMILLIN. I am paired with Mr. KELLEY, but he has given me the right to vote on appropriation bills and other things.

The vote was then announced as above recorded.

Mr. BURNES moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

RIVER AND HARBOR APPROPRIATION BILL.

Mr. WILLIS. Mr. Speaker, under instructions from the Committee on Rivers and Harbors I submit a bill and report, what is commonly known as the river and harbor bill, making appropriations for the construction, repair, and preservation of certain works on rivers and harbors, and for other purposes. I ask that the bill be printed and recommitted to the committee.

Mr. HOLMAN. All points of order being reserved.

The SPEAKER. The reservation of points of order will be noted.

Mr. WILLIS. It is proper to say that there is an item on which the committee is divided. I refer to the Hennepin Canal. The minority believe it is not within the jurisdiction of the committee; the majority think otherwise.

Mr. RANDALL. Will a separate vote be allowed on the two reports?

Mr. WILLIS. That is for the House to say.

The SPEAKER. The Clerk will report the title of the bill.

The Clerk read as follows:

A bill (H. R. 7972) making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes.

The bill was read a first and second time, ordered to be printed, and recommitted to the Committee on Rivers and Harbors.

Mr. WILLIS. I believe a member of the committee, Mr. BRECKINRIDGE, desires consent to file a minority report.

Mr. BRECKINRIDGE. If it be necessary, I ask consent of the House to submit the report of the minority on this bill.

The SPEAKER. Without objection, the views of the minority will be printed to accompany the report of the committee.

There was no objection, and it was ordered accordingly.

Mr. WARNER, of Ohio. It is understood that points of order are reserved?

The SPEAKER. Points of order have been reserved by the gentleman from Indiana [Mr. HOLMAN].

ENROLLED BILLS SIGNED.

Mr. NEECE, from the Committee on Enrolled Bills, reported that they had examined and found duly enrolled bills of the following titles; when the Speaker signed the same, namely:

A bill (S. 929) granting a pension to Caroline Treckell; and
A bill (S. 764) granting an increase of pension to Abbie P. Arnold.

KICKAPOO INDIANS.

The SPEAKER laid before the House a letter from the Secretary of the Interior, transmitting a communication from the Commissioner of Indian Affairs, recommending legislation on behalf of members of the Kickapoo tribe of Indians; which was referred to the Committee on Indian Affairs.

HENRY C. FRAZIER.

The SPEAKER also laid before the House a letter from the Secretary of the Interior, transmitting papers in the claim of Henry C. Frazier on account of depredations by Chiricahua Indians; which was referred to the Committee on Indian Affairs.

INDIAN APPROPRIATION BILL.

Mr. ELLIS. I move that the House resolve itself into Committee of the Whole House on the state of the Union, my object being to reach the consideration of the bill making appropriations for the Indian service.

Mr. CHACE. I would suggest to the gentleman from Louisiana that it is only within the last hour that members of the House have been able to get printed copies of this bill. It is late in the afternoon, and there are a number of little matters that gentlemen want to have taken up and which they have been trying to get before the House for a long time. There are also some bills that members would like to have passed by unanimous consent. I suggest to the gentleman from Louisiana, therefore, that he allow this bill to go over and give members the opportunity to do some little things that are pressing very much indeed.

Mr. RANDALL. There is nothing pressing so much as the annual appropriation bills.

Mr. CHACE. We have had no opportunity to examine the bill.

Mr. BLOUNT. I would like to ask the gentleman from Rhode Island if this is allowed to go over if he will promise to read the bill through? [Laughter.]

Mr. CHACE. The bill is a very long one, and would not be more than read through this evening; and gentlemen will probably have until Tuesday to examine it if it is allowed to go over this evening.

Mr. ELLIS. I must insist upon the motion.

The motion was agreed to.

The House accordingly resolved itself into Committee of the Whole House on the state of the Union, Mr. WELLBORN in the chair.

The CHAIRMAN. The House is now in Committee of the Whole on the state of the Union for the purpose of considering general appropriation bills.

The Clerk will read the title of the first bill.

The Clerk read as follows:

A bill (H. R. 7970) making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1886, and for other purposes.

Mr. HOLMAN. Mr. Chairman, this is a very long bill and its consideration will probably extend over until next Tuesday. I therefore suggest that by unanimous consent the first formal reading of the bill be dispensed with, and that——

Mr. CHACE. Mr. Chairman, I shall object, and insist upon the reading of the bill.

Mr. HOLMAN. Mr. Chairman, perhaps it would be wholly beneficial to the views of the gentleman from Rhode Island if he will listen to the proposition that I desire to offer. The gentleman from Louisiana, as I understand it, does not desire to proceed with the argument this evening.

Mr. CHACE. Will he make way then for these little matters to which I have referred?

Mr. RANDALL. I shall object to that. If we are not to go on with this bill we had better adjourn.

Mr. KEIFER. Let the first formal reading of the bill be dispensed with, with the understanding that we do not go on to-day with the general discussion of the bill.

Mr. ELLIS. I am willing to agree to a general understanding that the committee rise and the House adjourn. On that agreement we will dispense with the first formal reading of the bill.

Mr. REED. I think there will be no objection to that.

The CHAIRMAN. The Chair will submit the request. The gentleman from Indiana asks unanimous consent that the first reading of the bill be dispensed with. Is there objection?

Mr. ADAMS, of Illinois. I object.

The CHAIRMAN. The Clerk will read the bill.

The Clerk proceeded to read the bill.

Mr. KEIFER. Mr. Chairman, I understand the gentleman who made the objection did it under a misapprehension and is willing to withdraw it.

Mr. REED. It is understood that we are to adjourn at once on going back into the House?

Mr. RANDALL. There will be no objection to that.

Mr. ELLIS. Then I make that proposition.

The CHAIRMAN. Does the gentleman from Illinois withdraw his objection?

Mr. ADAMS, of Illinois. I withdraw the objection to the reading of the bill.

The CHAIRMAN. The objection being withdrawn, the first formal reading of the bill is dispensed with.

Mr. ELLIS. I move that the committee do now rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. WELLBORN reported that the Committee of the Whole House on the state of the Union had had under consideration the bill (H. R. 7970) making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1886, and for other purposes, and had come to no resolution thereon.

ORDER OF BUSINESS.

Mr. ELLIS. I move that the House do now adjourn.

Mr. BAYNE. I hope the gentleman will yield to me that I may introduce a bill for reference.

Several members demanded the regular order.

The SPEAKER. The regular order is the question on the motion to adjourn.

The motion was agreed to; and accordingly (at 3 o'clock and 25 minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions and papers were laid on the Clerk's desk, under the rule, and referred as follows:

By Mr. CLAY: Petition of O. S. Parker, for increase of pension—to the Committee on Invalid Pensions.

By Mr. DIBRELL: Petition of W. E. Clark, of Monroe County, Tennessee, for relief—to the Committee on War Claims.

By Mr. FUNSTON: Petition of citizens of Stanley, Kans., asking increase of widows' pensions—to the Committee on Pensions.

By Mr. GOFF: Petition of Dr. Samuel Mayfield and 57 others, asking for a pension for Joshua L. Sturm—to the Committee on Invalid Pensions.

Also, petition of James G. Marshall and 7 others, of Fairview, W. Va., asking for increase of widows' pensions—to the Committee on Pensions.

By Mr. HALSELL: Petition of G. W. Long and others, citizens of Kentucky, asking for improvement of Green and Barren Rivers, in said State—to the Committee on Rivers and Harbors.

By Mr. B. W. JONES: Petition of Francis E. Willard and others, in favor of female suffrage—to the Committee on the Judiciary.

Also, petition of the Maritime Association of the port of New York, in favor of the Spanish treaty, with modification of Article XIX—to the Committee on Ways and Means.

Also, petition of N. Olmsted and others, asking for increase of widows' pensions—to the Committee on Pensions.

By Mr. LAMB: Petition of James F. Murphy and other ex-soldiers, asking an equalization of date of arrearages of pensions—to the Committee on Invalid Pensions.

By Mr. LYMAN: Petition of Mrs. Ruth Adams and others, for an increase of widows' pensions—to the Committee on Pensions.

By Mr. W. F. ROGERS: Petition of citizens of Buffalo, N. Y., for the passage of a national bankrupt act—to the Committee on the Judiciary.

By Mr. A. H. SMITH: Resolutions of parties interested in the tobacco interests in Philadelphia, Pa., against the ratification of the Spanish treaty—to the Committee on Ways and Means.

By Mr. STRAIT: Petition of Sarah Cates and 24 others, of Prior Lake, Minn., asking for increase of widows' pensions—to the Committee on Pensions.

By Mr. W. L. WILSON: Of Howard Fleming and others, of Marion County, West Virginia, for the passage of the Potter refunding bill.

The following petitions for the passage of the Mexican war pension bill with Senate amendments were presented, and severally referred to the Committee on Pensions:

By Mr. ANDERSON: Of 111 citizens of Wakefield, Clay County, Kansas.

By Mr. ARNOT: Of 63 ex-Union soldiers and others, citizens of Steuben County; of 93 of Allegany County; of 60 of Chemung; of 124 of Whiteville; of 60 of Orumel; of 38 of Greenwood; of 121 of Wellsburg; and of 98 of Wallace, N. Y.

By Mr. BOYLE: Of citizens of Fayette County and of Greene County, Pennsylvania.

By Mr. BURLEIGH: Of 59 ex-soldiers of Sandy Hill; of 51 ex-soldiers of Hoosick Falls, and of 63 citizens of Whitehall, N. Y.

By Mr. W. W. CULBERTSON: Of 82 voters of Ashland County, Kentucky.

By Mr. DOCKERY: Of citizens of Harrison County, of Bethany, of Worth County, and of Gentry County, Missouri.

By Mr. EATON: Of citizens of Tolland, of Plainville, and of Hartford, Conn.

By Mr. ELDREDGE: Of W. W. Crabbs and 157 others, of Morenci, Mich.

By Mr. FERRELL: Of citizens of Paulsborough, N. J.

By Mr. FUNSTON: Of citizens of Star Valley, of Barnesville, of Baxter Springs, of Salina, of White Church, and of Stanley, Kans.

By Mr. GIBSON: Of citizens of Ritchie County; of Mole Hill, Ritchie County, and of Jackson County, West Virginia.

By Mr. HANBACK: Of J. M. Jones and 100 others, of Lincoln County; of Thomas B. Smith and 50 others, of Osborne County, and of James Pain and 40 others, of Portis, Osborne County, Kansas.

By Mr. D. B. HENDERSON: Of L. D. Anthony and 63 others, of Waterloo, Iowa.

By Mr. W. H. HATCH: Of citizens of Tuscola County, of Emmet County, of Watrousville, of Alpena, of Otsego County, Michigan.

By Mr. HOLMES: Of 64 ex-soldiers and citizens of Humboldt and Kossuth Counties; of 63 ex-soldiers and citizens of Story County, and of John W. Mahoney and 63 others, of Winne County, Iowa.

By Mr. B. W. JONES: Of J. B. Treat and 34 others, of Monroe; of Richard Noble and 61 others, of Fayette County; of 106 citizens of Avoca and Muscoda, Iowa County, and of John Swan and 86 others, of Green County, Wisconsin.

By Mr. KETCHAM: Of 63 citizens of Washington; of 60 citizens of Philmont, and of 59 citizens of Stamford, N. Y.

By Mr. KLEINER: Of 50 citizens and ex-soldiers of Reno, Ind.

By Mr. McCORMICK: Of 63 citizens of Scioto County and of 59 citizens of Vinton County, Ohio.

By Mr. MORRILL: Of F. H. Russell and 60 others, of Garrison, Kans.

By Mr. PERKINS: Of J. E. Snow and 102 others, of Linn County, Kansas.

By Mr. POLAND: Of Marvin W. Ball and others, of Newark; of Sumner Rowell and others, of Canaan, and of C. C. Gokey and others, of Rochester, Vt.

By Mr. W. F. ROGERS: Of ex-soldiers and citizens of Erie County; of citizens of Marilla, Erie County, and of ex-soldiers of Buffalo, N. Y.

By Mr. STEELE: Of Daniel Strauss and 144 others, of Wabash County; of W. M. Thompson and 20 others, of Howard County; of B. F. Williams and 72 others, of Wabash County; and of Peter Armantrout and 100 others, of Miami County, Indiana.

By Mr. SHIVELY: Of Andrew J. Bates and 95 others, of Kosciusko County, Indiana.

By Mr. SEYMOUR: Of P. T. Barnum, jr., and others, of Greenfield Hill; of Henry Howard and others, of Litchfield County, and of A. M. Warden and others, of Stamford, Conn.

By Mr. J. D. TAYLOR: Of Cyrus Caldwell and 79 others, of Jefferson County, Ohio.

By Mr. E. B. TAYLOR: Of N. L. Badger and 38 others, ex-soldiers, of Lake County; of J. B. Burrows and 58 others, ex-soldiers, of Painesville; and of E. H. Butler and 65 others, of Ashtabula County, Ohio.

By Mr. WELLER: Of J. Charlesworth and 90 others, of Osage, and of Wm. Wright and 67 others, of Waucoma, Iowa.

SENATE.

MONDAY, *January* 19, 1885.

THE PRAYER.

The Chaplain, Rev. E. D. HUNTLEY, D. D., offered the following prayer:

Let us pray. Almighty God, our Heavenly Father, we come again to worship before Thee; and we pray that Thou wilt so dispose our minds that the words of our mouth and the meditation of our hearts may be acceptable in Thy sight. Our iniquities have separated between us and our God; and that we are at all tolerated as worshipers in Thy presence is another proof of that long suffering which ages ago was proclaimed as one of the distinguishing characteristics of Thy nature.

Thou art He by whom kings reign and princes decree justice. Thou art pleased to carry out Thy purposes in no small part by the governments which men, under the direction of God-implanted impulses, have established throughout the earth. One of these governments is represented in this Chamber, and we pray that the legislation of this body may be so under Thy control that the history of the nation, so far as may be learned by the proceedings here, may show us striving to become a people whose God shall be the Lord.

We are this day to be reminded of the uncertainties of life. Members of the Senate shall rise in their places to honor the memory of the distinguished dead. They shall recount his virtues; they shall emphasize the intellectual and moral characteristics which eminently fitted him for the high position he occupied so long and with such credit to himself and to the country; and we humbly pray that this recital may stir us up to such a consecration of our talents as shall develop an absolutely faithful service to the nation for the days that are to come.

And do Thou help us so to spend the few days which remain to us upon the earth that the discriminating eulogist may pronounce upon our personal and political career, as he in candor must this day pronounce upon the career of him we mourn, the benedictions of a grateful and appreciative country.

And, more than this, may the services we shall be able humbly to render to the nation be impelled by such a desire to please the nation's God that, while men shall speak well of what has been, it shall please Thee to pronounce blessings upon us during the ages yet to be. We ask it in the name of Him who is the resurrection and the life. Amen.

THE JOURNAL.

The Journal of the proceedings of Saturday last was read and approved.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of the Treasury, transmitting, in compliance with a resolution of the 13th instant, Circular No. 282, regarding the assessment and exportation of distilled spirits; which, with the accompanying papers, was laid on the table, and ordered to be printed.

REPORT OF PUBLIC PRINTER.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Public Printer, transmitting his annual report, showing the condition of the public printing, binding, &c., for the fiscal year ending June 30, 1884; which was ordered to be printed, and referred to the Committee on Printing.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented the petition of John H. Williams and 12 other citizens of Arkansas, praying compensation for services rendered by them as United States soldiers under Col. A. H. Ryan, in the State of Arkansas, during the late war, and for the use and loss of their horses while thus engaged; which was referred to the Committee on Military Affairs.

Mr. HARRIS. I hold in my hand a paper addressed to myself, to my colleague [Mr. JACKSON], and to my colleague in the House, the member from the Memphis district [Mr. YOUNG], signed by a committee of the city government, a committee of the Cotton Exchange, and a committee of the Merchants' Exchange, of Memphis, Tenn., praying for an appropriation for the protection of Memphis Harbor. It is evidently intended as a petition to the Senate, although addressed to us personally. I ask the unanimous consent of the Senate that it be received as a petition, and referred to the Committee on Commerce.

The PRESIDENT *pro tempore*. If there be no objection the paper will be received, and so referred.

Mr. SHERMAN presented a joint resolution of the General Assembly of the State of Ohio; which was read, and referred to the Committee on Finance, as follows:

Joint resolution requesting our Senators and Representatives in Congress to procure the passage of a law "to adjust certain accounts between the United States and the several States and Territories and the District of Columbia, as set forth in House bill 110 and dated December 10, 1883.

Whereas on December 10, 1883, Hon. BARCLAY HENLEY, of California, introduced in the House House bill 110, which was referred to the House Committee on Claims; and on December 18, 1883, Hon. JOHN F. MILLER, of California, introduced in the Senate Senate bill 795, which was referred to the Senate Committee on Finance, as follows, namely:

"A bill to adjust certain accounts between the United States and Territories and the District of Columbia.

"*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of the Treasury be, and he is hereby, authorized and directed to credit each of the several States and Territories, and the District of Columbia, with the amounts of money heretofore laid upon and apportioned to said States, Territories, and District of Columbia, respectively, levied as a direct tax under the provisions of the eighth section of the act of Congress, approved August 5, 1861, entitled 'An act to provide increased revenue from imports to pay interest on the public debt, and other purposes;' and he shall thereafter state an account between the United States and each of said States, Territories, and District, respectively, and he shall pay to each thereof, out of any money in the Treasury not otherwise appropriated, such sums of money as may appear to the credit of each thereof upon the books of the Treasury arising from such settlement."

The foregoing bill provides that the Secretary of the Treasury shall credit each State with the amount of money assessed against it for direct taxes under the act of August 5, 1861.

The effect of the passage by Congress of said bill will be to refund to those States which have paid the amounts of such assessments to the extent of the sums by them so paid, and to release those States which have not paid, from hereafter paying all said taxes, and also from all future liability to pay the same. While the right of the General Government to raise revenue by direct taxation is unquestioned, it is patent that this direct tax was in the nature of an enforced loan; and it was made in this form only because it was required to meet the great exigency then upon the country; and

Whereas several of the States now owe the General Government from a quarter to a half million dollars each, on account of this direct tax, while others have paid their full quota: Therefore,

Be it resolved by the General Assembly of the State of Ohio, That our Senators and Representatives in Congress be requested to urge the passage of the bill hereinbefore referred to, and use their best endeavors to secure to the State the amount paid to the United States by this forced tax.

Resolved, That a copy of this resolution be forwarded to each of the Senators and Representatives by the governor of Ohio.

A. D. MARSH,
Speaker of the House of Representatives.
JOHN G. WARWICK,
President of the Senate.

Adopted January 14, 1885.

UNITED STATES OF AMERICA, OHIO,
Office of the Secretary of State.

I, James S. Robinson, secretary of state of the State of Ohio, do hereby certify that the foregoing is a true copy of house joint resolution No. 66, adopted by the General Assembly of the State of Ohio, on the 14th day of January, A. D. 1885, taken from the original rolls filed in this office.

In testimony whereof, I have hereunto subscribed my name, and affixed my official seal, at Columbus, the 15th day of January, A. D. 1885.

[SEAL.] J. S. ROBINSON, *Secretary of State.*

Mr. HOAR. I present the petition of John J. Smith and other citizens of Massachusetts, saying that they have seen with pleasure the passage of a bill through the House relating to interstate commerce, containing a clause forbidding any discrimination in passenger traffic on account of race or color; and they desire that in any bill which may be passed by the Senate on the subject a similar provision may be inserted. I move that the petition lie upon the table, as the bill is now pending.

The motion was agreed to.

Mr. HOAR presented the petition of George H. Maintien Post, No. 133, Department of Massachusetts, Grand Army of the Republic, praying for the publication of certain photographic illustrations in the Official Records of the War of the Rebellion; which was referred to the Committee on Printing.

Mr. MILLER, of California. I present a statement, in the nature of a memorial to Congress, signed by merchants of New York city, setting forth their opinion "that the proposed Spanish treaty is as a whole against the interest of the people of the United States, and ought not to be ratified." I present the paper and ask that it be received as a memorial and referred to the Committee on Foreign Relations.

The PRESIDENT *pro tempore*. If there be no objection the paper will be received and so referred.

Mr. MILLER, of California, presented resolutions adopted by the Blue and Grey Veterans of Fresno, Cal., urging that General U. S. Grant be placed on the retired-list of the Army with the rank of General; and stating that the ex-confederates belonging to that organization especially desire that this may be done in gratitude for his determined stand in protection of their paroles of honor; which were ordered to lie on the table.

Mr. MITCHELL presented a petition of 301 business men, officials, and workmen of Allegheny, Pa., praying for an appropriation for the improvement of the Allegheny River; which was referred to the Committee on Commerce.

REPORTS OF COMMITTEES.

Mr. WILSON, from the Committee on Post-Offices and Post-Roads, to whom was referred the bill (S. 1684) for the relief of Clement A. Lounsberry, reported it without amendment, and submitted a report thereon.

Mr. HAMPTON, from the Committee on Military Affairs, to whom was referred the bill (S. 2399) for the relief of Maj. Michael P. Small, submitted an adverse report thereon; which was agreed to, and the bill was postponed indefinitely.

JOHN E. WHEELOCK.

Mr. LAPHAM. The Committee on Foreign Relations have instructed me to report back with amendments the joint resolution (H. Res. 237) for the relief of John E. Wheelock, and I ask for its present consideration.

The PRESIDING OFFICER (Mr. SHERMAN in the chair). Is there objection to the present consideration of the joint resolution?

Mr. COCKRELL. Let it be read for information.

The Chief Clerk read the joint resolution; and, by unanimous consent, the Senate, as in Committee of the Whole, proceeded to its consideration.

The amendments reported from the Committee on Foreign Relations were, in line 5, to strike out the word "gross" and insert "alleged;" and in lines 7 and 8 to strike out the words "demand and enforce in such manner as he may deem best, an immediate" and to insert "urge an early;" so as to make the joint resolution read:

That the President be directed to bring to the attention of the Government of Venezuela the claim of John E. Wheelock, a citizen of the United States, for indemnity for alleged outrages and tortures inflicted upon him by an officer of said Venezuelan Government, and to urge an early settlement of said claim.

The amendments were agreed to.

The joint resolution was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed and the joint resolution to be read a third time.

The joint resolution was read the third time, and passed.

BILL INTRODUCED.

Mr. COKE introduced a bill (S. 2562) to establish a quarantined live-stock trail, and to regulate commerce between the States as to live-stock; which was read twice by its title, and referred to the Committee on Commerce.

RAILWAY MAIL SERVICE.

Mr. WILSON submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Postmaster-General be, and he hereby is, directed to communicate to the Senate a document prepared in his Department containing a documentary history of the railway mail service from its origin in 1834 to the present time.

DEATH OF SENATOR ANTHONY.

Mr. ALDRICH. According to previous notice, I offer the following resolutions and ask for their present consideration:

Resolved, That the Senate has heard with profound sorrow of the death of HENRY B. ANTHONY, late a Senator from the State of Rhode Island.

Resolved, That the business of the Senate be now suspended, to enable his associates to pay proper tribute of regard to his high character and distinguished public services.

Resolved, That the Secretary of the Senate communicate these resolutions to the House of Representatives.

Resolved, That, as an additional mark of respect to the memory of the deceased, the Senate do now adjourn.

Mr. ALDRICH. Mr. President, he who was here the senior in service, and first in the affections of his associates, rests in

The lone couch of his everlasting sleep.

His great heart with all its attractive qualities has ceased to beat. His stalwart form, so recently instinct with strength and life, is crumbling in the dust.

He who has so often lighted up with the touches of his matchless eloquence the character of others is no more. Oppressed by a sense of

personal loss which is beyond expression, and by the sorrow of separation from a wise counsellor and faithful friend, I despair of rightly interpreting the story of his honorable life and rendering an adequate tribute of praise to his memory.

HENRY BOWEN ANTHONY was born at Coventry, R. I., April 1, 1815. His ancestors had for more than a century and a half resided on Rhode Island soil. His father, William Anthony, and his maternal grandfather, James Greene, were Quakers. His father was a cotton manufacturer, and the establishment of which he was manager was the third of its kind erected in the State.

William Anthony was a man of strong character, greatly respected by his neighbors, and it is easy to trace the influence of his wise teachings and watchful care in the future character of the son. The latter was, in his early life, imbued with the doctrines of the Society of Friends, which left their impress on his nature, developing that gentleness of manner and love of peaceful methods, that strict integrity and conscientious devotion to duty, which were the most striking traits of his character.

He received a preparatory education in a private school at Providence and entered Brown University in 1829. At college he had the benefit of the teachings of the distinguished Dr. Wayland, then president of the university. After his graduation, in 1833, he entered the office of his brother in Providence with the intention of engaging with him in the business of manufacturing. He remained there five years, spending, however, a portion of his time in the prosecution of his business at Savannah, Ga. At this time he was a casual contributor to newspapers and magazines; and a poem written by him during his stay in Savannah attracted considerable attention. We can readily imagine that he found literary work more congenial to his tastes than the exacting demands of a business life.

Mr. ANTHONY first became connected with public affairs as a journalist. In 1838, at the age of twenty-three, without previous training, except as an occasional contributor of literary articles, he assumed the editorial charge of the Providence Journal. He accepted the position at the request of a kinsman, who was then the proprietor of that paper, to fill a vacancy, and with the understanding that the arrangement was to continue only for a few weeks; but the connection thus made did not cease until the day of his death. His success as an editor was instant and marked. The time at which he took charge of the Journal was one of great political excitement in Rhode Island. The bitter struggle which was then going on to change the government of the State for the avowed purpose of securing an enlargement of the suffrage brought the contestants to the verge of civil war.

In this contest, Mr. ANTHONY, who when a young man, as in later years, was conservative in his instincts, naturally took the side of "law and order." The triumph of the party to which he was attached was largely due to the vigorous and incisive advocacy of the Journal under his control. His brilliant leadership attracted some of the brightest and best men of his State to his support. The members of the party which he led with such consummate ability, were prompt to acknowledge and to show their appreciation of the invaluable service which he rendered their cause at this period. The conduct of the Journal in this controversy established Mr. ANTHONY'S reputation as a journalist, which then, and as long as he was actively engaged in the exercise of the profession, extended far beyond the limits of his own State. In the midst of a political contention of unsurpassed virulence he was never tempted by the impetuosity of youth nor driven by the malevolence of personal attacks to write a sentence or utter a sentiment which would not bear the test of his maturer judgment, or which his friends would prefer should be erased or forgotten.

He was best known for the vigor and ability with which he wrote of political affairs, both State and national, and for his brilliant and genial satire; but the native dignity and courtesy of the man were manifested in the grace of style and ornate eloquence which distinguished all his literary workmanship. With a strong love for his profession, he had all the faculties of the ideal journalist—that of ready, clear, and forcible writing; of prompt decision in emergencies, combined with fair and temperate judgment; of wise choice in his associates and subordinates, with the cordial and friendly spirit of appreciation which secured their warm zeal and co-operation.

There was nothing labored in his work. He was an exceedingly rapid as well as an industrious writer, and has been known to keep four expert compositors busy in setting his editorial manuscript. For years he performed the greater part of the editorial writing for the Journal, and even after his election to the Senate was for a long time in the habit of sending to the paper his daily editorial contribution. To his latest day he kept up the habit of writing for its columns, and did not abandon it even under the pressure of enfeebling illness. The last paragraph, contributed a few days before his death, was a friendly notice of an acquaintance, and his last suggestion in its management was a request to spare a political enemy. The Journal was always the object of his affectionate care. His supervision of its columns was constant and close, and the suggestion that he should relieve himself of its responsibility, after the sudden death of his trusted associate, Mr. Danielson, under whose editorial management its reputation had been ably sustained and its sphere of usefulness enlarged, moved him to the expression that he would as soon think of parting with a child.

As a journalist Mr. ANTHONY was vigorous in controversy and dealt in hard and sharp blows when he felt they were needed; but it was a characteristic of his temper as well as the secret of his success that he never indulged in unnecessary controversy or yielded to the temptation of being satirical merely for the sake of showing his skill. He never descended to abuse, and there was a kindly element in his keenest satire which robbed it of half its severity. His opponents always felt that they were dealing with an antagonist who would take no unfair advantage. His style of argument in the discussion of important subjects was remarkably clear and simple, and no one was ever at a loss to understand what he meant, or was at fault in following his train of thought.

In his later years he took special delight in writing on local topics in a spirit of genial humor and with all the graces of a true Addisonian style. His simple tributes to the memory of friends were marked with the same feeling eloquence which distinguished his elegiac orations in this Chamber. For many years Mr. ANTHONY was the Providence Journal. His individuality and his intellectual not less than his political influence made it the center of the intellectual life of Rhode Island and attracted to it the contributions of the highest minds in the State.

It is perhaps not too much to say that no paper in the country outside of the metropolitan journals had a higher reputation than the Providence Journal while Mr. ANTHONY was its editor; and that it was merely the limitation of its sphere that prevented him from being ranked in influence as a journalist with his great contemporaries of that remarkable era in American journalism. The volumes of the Journal while under his direction constitute his most conspicuous monument.

In 1849 Mr. ANTHONY was the nominee of the Whig party for governor of Rhode Island and was elected. His administration was successful, and he was re-elected in 1850 but declined the nomination for a third term.

Governor ANTHONY'S position as a political leader in Rhode Island was then assured. The confidence of her people in his capacity and sagacity continued in a marked degree, and it was manifested in 1858 by his election to represent the State in the United States Senate. This office he assumed on the 4th of March, 1859, and by the uninterrupted favor and generous faith of his constituency, shown by five successive elections, he retained it for more than twenty-five years, until he was the oldest Senator in service and long after all his early associates had left this chamber.

Entering the Senate in the full vigor of early manhood, he was splendidly equipped, by nature and education, by a careful study of political history, and by an intimate knowledge of the science of government, for the responsible duties of his high station. At this time the shadows of the approaching "irrepressible conflict" which was soon to involve the country in war had fallen upon the Capitol. Elected as a Republican, the first who was not openly allied with the Abolitionists, his conservative tendencies did not prevent his taking the earliest opportunity to attest his devotion to the cause of liberty.

To recount the events in which Senator ANTHONY during the years of his service was a participant, or of which he was a witness, would be to recite the history of the country for its most interesting and important period. I can not, however, forbear an allusion to his valuable services during the critical years of the late civil war. In this momentous crisis he brought to the discharge of his important duties in the Senate, and as a trusted counselor of the Executive, great good sense, sound nerves, a clear, cool judgment, a courage never dismayed by disaster, and a loyalty and patriotism equal to any sacrifice or emergency. We have, as a people, justly bestowed our highest honors upon the military heroes who at that time rendered conspicuous service to the country, but it may be doubted whether we have properly estimated the influence and services of those who in the national councils shared the responsibilities of the great contest.

Measured by the length of time employed, Senator ANTHONY'S greatest labors while a member of this body were on the Committee on Public Printing, of which he was the chairman for more than twenty-two years. During this period, and largely through his influence, the extravagant and corrupt system of contract printing was abolished, a national printing office established, the publication of debates transferred from private hands to the Public Printer, and economical reforms in the manner of purchasing paper and other supplies were initiated. He sought, unsuccessfully, to restrict the public printing to the legitimate demands of the various Governmental Departments, and to prevent the publication for popular distribution of large and expensive editions of works of questionable value. He also endeavored, with equal lack of success, to make the CONGRESSIONAL RECORD what it purports to be, a faithful transcript of Congressional proceedings, and to prevent its "leaden columns" from being weighed down by the insertion of speeches which were never spoken.

Senator ANTHONY served from 1863 to his death on the Committee on Naval Affairs, of which he was for many years the senior member. He was familiar with the condition and wants of the Navy, and was greatly interested in promoting all measures which promised to add to

its efficiency. Meritorious officers always found in him an earnest advocate and firm friend.

Senator ANTHONY was elected President *pro tempore* of this body in March, 1863, and re-elected in March, 1871, serving for four years. In this position he displayed rare abilities as a parliamentarian and presided over the Senate with grace and dignity. In January, 1884, he was again elected, but "with a heart overflowing with gratitude" felt obliged to decline, as the state of his health warned him not to assume any labors that he could honorably avoid.

Senator ANTHONY never consumed the time of the Senate in useless discussions, but on the rare occasions when he participated in debate his remarks were characterized by both clearness of statement and soundness and force of argument. His memorial addresses, in which he rendered graceful and grateful tribute to the memory of departed Senators, are accepted as models of perfect taste, and are marked by an elegance of style and a spirit of kindly but just criticism which command universal admiration. Ranking with these in grace of style are his address at the completion of the equestrian statue of General Greene near the Capitol, which owes its existence to his exertions; his speeches on the occasion of the presentation by the State of Rhode Island to the National Government of the statues of Roger Williams and General Greene, and his remarks in favor of an appropriation for the restoration of the monument which marks the last resting-place of the Chevalier De Ternay, at Newport.

As a Senator he applied himself steadfastly to the absorbing duties which crowd a senatorial life, never neglecting any appeal or demand from his constituents. No man had a more exalted idea of the dignity and importance of the senatorial office than he; and none was more careful to preserve intact its time-honored privileges and prerogatives. He was inflexibly opposed to all innovations on established precedents in modes of procedure, and was accepted as authority on all matters pertaining to senatorial etiquette. He held a position of honorable and commanding influence among his associates in the Senate and in the councils of his party.

He was by nature incapable of doing a mean act. With a high sense of political and personal honor, no narrow influences ever controlled his political action. Living at a time when few reputations escaped attack, it is a matter for congratulation that his long public career closed without a stain upon his honor and without the breath of suspicion resting on any of his official acts. Neither foes nor rivals ever ventured to question his uprightness or his strict integrity.

Senator ANTHONY was a devoted son of Rhode Island, proud of her institutions, fond of her traditions, and familiar with every phase of her not unglorious history. With uncommon solicitude he had watched her wonderful industrial growth and intellectual development. For half a century he had been more influential than any other of her citizens in molding public sentiment and directing the policy of her people; and as the acknowledged leader of the dominant party in the State, his influence in political matters was, for a large portion of this time, controlling. He implanted and nurtured a patriotic spirit in the hearts of her sons which will continue to bear fruit in perpetual remembrance of his example.

In every forum and on every occasion, whenever her institutions were assailed or any principle dear to her people brought in question, he became her advocate and defender, using every weapon of offensive or defensive warfare with all the skill of a veteran and all the enthusiastic ardor of a youthful recruit. He was impelled to this service rather by the promptings of affection than the demands of duty. This engrossing love for his native State was his grand passion, and to serve her interests with fidelity was the one undeviating purpose of his life, dominating all circumstances and surroundings. He never, however, found his intense loyalty to his State in conflict with his duty as a Senator of the United States.

His exceptional success as a political leader, in a community where many ambitious and able men were disposed to dispute his ascendency, did not depend alone upon that esteem and confidence of his fellow-citizens, which is the natural reward for devoted services. He had the faculty of forming a correct judgment of the character and capacity of those with whom he came in contact, and there was a subtle charm in his nature which appealed strongly to the sensibilities of others, attracting men of the most diverse characteristics and attaching them firmly to himself and his fortunes. His manner was always conciliatory; his temper was never impulsive, and his persistence rarely assumed an aggressive form. He persuaded and prevailed more by the moderation of his spirit than by the vigor and comprehensiveness of his understanding. He was faithful to his friends, clinging fondly to old companions and associations; but this did not prevent his prompt recognition and appreciation of the new men, with special qualities for leadership, whom changing circumstances brought into prominence.

He was a zealous party man, but he never used the patronage or power of official station to advance his personal interests. When required to decide, as he often was, upon the comparative merit of aspirants for political preferment, he invariably made fitness and a capacity to advance the public welfare the only standard of judgment.

His associates here can hardly fail to speak with warmth of his striking personal characteristics; of his genial and gracious presence—in manner and essence that of a gentleman—which has so long adorned this Chamber. Here he was faithful in his attachments, tolerant of his opponents; and the unusual sweetness and uniformity of his temper endeared him to all with whom he came in contact. He never practiced the arts of the demagogue, but he had a strong attraction for all that was real, genuine, and manly, and an instinctive dislike for shams and everything like cant or hypocrisy. He detested display and pretension, and shrank from notoriety. He had an inexhaustible fund of human gentleness, which made him naturally courteous and amiable; but his courtesy and politeness never offended by taking the form of condescension. He was considerate of the feelings and comfort of others; quick to discover and commend merit. His nature was cast in the finest mold—

> His life was gentle, and the elements
> So mix'd in him, that Nature might stand up
> And say to all the world, This was a man!

He was a strong man mentally and physically, but no disproportion marred the symmetry of his character, and no irregular outlines called attention to the strength and beauty of the structure.

His conversation abounded in simple and delightful charms, and he was a favorite in every social circle. His hospitality had all the elegance of that of a gentleman of the old school, and his house in Providence was always the attractive centre of a circle of brilliant men and women.

It was painfully evident when Senator ANTHONY last attended the sessions of the Senate that death had marked him for its victim; and no one knew this better than himself, for he had been informed by his physician as early as April, 1883, of the fatal character of the disease from which he was suffering. Returning to his home in April last, he proceeded with perfect composure to set his house in order for the great change. During the months which followed he awaited the dread summons with a patience and philosophic calmness which deeply impressed all those who were about him. With the slow wasting of his physical powers there was no visible impairment of his mental faculties. The letters written by his own hand during this period had all the peculiar grace and charm of style which made him master of the epistolary art.

He was singularly reticent even to his most intimate friends in regard to his inner being, but whenever the uncertain tenure of his life was mentioned he always manifested a spirit of humble submission to Divine will, and would say, "God's time is best." In the face of death his courage never faltered; and the lessons of faith which had been taught him by a Christian mother were never forgotten. "He had," to use the words of his friend, Rev. Mr. Woodbury, in his eloquent funeral discourse, "schooled himself to that serenity of soul which could not be disturbed either in life or death." At his home devoted friends and relatives ministered to his comfort, and the ablest medical skill sought by the use of every remedy known to science to stay the progress of the disease, but all their efforts were in vain. On the 2d of September last he peacefully sank to rest. He was buried from the neighboring church where the funeral rites of his beloved colleague, General Burnside, had been so recently solemnized. "Twin heirs of fame," their precious dust reposes in the same cemetery, and their memories are together graven on the hearts of the people of Rhode Island.

His funeral, without pageantry or display, was an appropriate tribute of honor to the distinguished dead. It was attended by the President of the United States, a large number of Senators, and the official representatives of his State and city.

In the history of the Senate others have served as faithfully and as honorably as he whom we mourn, but it is rare that length of service unite with a high order of intellect and a spotless reputation to form a senatorial career as impressive, as instructive, and as patriotic as that which is now closed in the grave of HENRY B. ANTHONY.

Mr. EDMUNDS. Again, Mr. President, we pause in our consideration of measures affecting the material welfare of millions of living beings and give the hour to our recollections of our departed friend and associate and to lay upon his tomb our glad tributes to his worth and our sad memories of his loss to his friends and his countrymen.

Scenes like this, common as they are, never over the wide world lose their interest. Infidel, and pagan, and Christian, alike celebrate them, and in varying forms, and with differing hopes and aspirations, come to weep over the graves of their fellow-men. To all alike the veil that separates the present of life from its future is equally impenetrable to the natural eye; but to the eye of faith and hope, and, as I think, to the philosophic vision as well, there opens a field of view which should lead us not to mourn at the death in the fullness of accomplished years of those we have loved and respected, but rather to be soberly glad for them, who, having faithfully filled their space and appointed time and having borne the last trial of humanity, have been admitted to the life of the mysterious future. We see "through a glass darkly," indeed, but our friend and all who have gone before and with him do I believe see and feel clearly the peace that belongs to them who with pure hearts and faithful endeavor have, in whatever station, run the race that was set before them.

The almost twenty years of close intimacy with which Mr. ANTHONY honored me filled me more and more, as time went on, with admiration

of his character and with strong personal affection. A gentleman of more perfect honor and of more perfect kindness of heart, of more catholicity of spirit, of less bigotry, of less envy or uncharitableness, or of less self-seeking I have never known. So knowing him I could not choose but love him.

> He never made a brow look dark,
> Nor caused a tear but when he died.

His public life was one embracing a period of events as stupendous and important as any that can occur in the history of nations. Through it all in the respects I have mentioned he was almost peerless among his peers. His close associates were among the pillars of the nation's fortune. Many of them have gone to their reward before him. There were Sumner, and Wilson, and Collamer, and Foot, and Johnson, and Wade, and Fessenden, and Chandler, and Howard, and Grimes, and Howe—these were they who chiefly in the Senate carried the nation triumphantly through its great struggle and restored it to its broad foundations with the bright, new corner-stone of liberty, and they honored him in his place in his party and in the Senate, as I now do his gracious memory, as with a constant benediction.

Strongly devoted to his party he yet always stood for the liberty of individual senatorial opinion and action, and in all conferences, when needful, he reminded his colleagues of the rule of his party in the Senate that preserves to each Senator the full liberty to follow his honest convictions without reproach from his fellows. He desired unity of action, but he desired still more to "follow right because right is right in scorn of consequence." He could not believe that "dissimulation in political action was to be regarded as a public virtue, or that when men asserted the dignity of truth their candor was to be charged against them as a heinous crime." In all the long trials of the war and in all the time of the difficulties and bitterness that followed it I have never heard that he had wounded the feelings or incurred the resentment of any gentleman of either party in the Senate. In all contests and disputes his gentleness of feeling and manner and his strict observance of every courtesy in debate compelled the sympathy and good will of his opponents, if they did not secure their adhesion to his views.

As a speaker his voice was clear and sweet, but his real diffidence of himself and his fear of consuming time sometimes produced a faulty and too rapid utterance. As a writer he had marked excellence, and in some departments of composition his writings have seemed to me as perfect as any in the English language with which I am acquainted.

The same qualities of mind and heart to which I have alluded made him a favorite in the wide social circles of the capital. He was everywhere a welcome visitor. He was neither scandal-monger nor tale-bearer. He never indulged in coarseness or vulgarity, but his conversation ran pleasantly along on topics of history, biography, anecdote, and poetry, for which last he had a particular fondness. I have often heard him repeat favorite passages with a tenderness of feeling and a grace of expression that showed how perfectly he sympathized with the inmost sentiment of the writer.

As he has here so often done for the memory of his departed friends, we now make our last formal memorial of him. In the years that are to come I can only hope for our country that all her Senators may have his fidelity and worth, and that those who hereafter celebrate similar occasions in the Senate may be able to speak as truly and kindly of the departed as we now do of him.

> He leaves behind him, freed from grief and years,
> Far worthier things than tears.
> The love of friends without a single foe:
> Unequaled lot below!

Mr. BAYARD. Mr. President, the list has grown to be long indeed which records the deaths of those who have been my associates in this Chamber, and among them all, the living as well as the dead, I know not one more sedulous, considerate, and impressive in the payment of the last marks of sorrowing respect and brotherhood to his deceased associates than the worthy gentleman whose death induces these remarks.

To "weep with them that weep" was an injunction little needed by Mr. ANTHONY, whose kindly and sympathetic nature found frequent, eloquent, and admirable expression in the elegiac addresses delivered by him in the Senate as one after another his friends and associates passed in melancholy procession before him to the tomb. And now, at last, he also, ripe in years and wisdom, has been gathered in the harvest of mortality by the inevitable hand of the grim reaper.

As a Senator from the State of Rhode Island Mr. ANTHONY sat in this council chamber for nearly twenty-six years, and seldom has any one served so long and so worthily.

Without the wish or probably the faculty to impress himself as a leader among men, yet he was recognized and sought by those who were and are leaders as a wise and safe counselor. While not participating frequently in debate, few were so intelligently observant of the course of public business or wiser or juster in their judgments respecting it.

As a parliamentarian Mr. ANTHONY excelled, and elected, as he frequently was, to be the President *pro tempore* of the body, his skill in parliamentary law and procedure and in the dispatch of business, accompanied by unfailing courtesy and impartiality, gave him a hold upon the respect of all parties that always remained unbroken.

The spirit of comity, courtesy, and thoughtful consideration of others animated him and marked his conduct in the performance of his duties in this Chamber; and while we who were the beneficiaries of these admirable qualities felt our indebtedness, there can be no doubt that his usefulness and capability as a representative to render successful and important services to his constituents was in turn greatly increased.

Mr. ANTHONY was strict and tenacious as a party man, and was largely controlled here by his party allegiance, but I never knew it to take the form of offense or imputation of a political opponent, and I may truly say that in sixteen years of association here I never saw his face darkened by a frown, much less disfigured by a sneer.

A touching and impressive instance of the feeling he had inspired among his associates was afforded when, at the commencement of his fifth term of senatorial service as he advanced to take the constitutional oath, the entire Senate rose and remained standing during its administration.

I knew him well, and relations of steady friendliness subsisted between us, unbroken by differences of opinion and political association, and it was as a sincere mourner that I followed his body to its last resting-place, in the State of his nativity which he had served so long and well.

We had been sorrowful witnesses here of the gradual decline in his health for several years, and the final summons was not unexpected by him nor by those who surrounded him.

In the death of Mr. ANTHONY the United States have lost one of their most experienced and respected public servants, the State of Rhode Island a distinguished, valued, and faithful representative, and every member of this Senate a genial and well-beloved friend.

Mr. PENDLETON. Mr. President, I bring my tribute of respect and affection for our dead brother.

Senators who had the pleasure of long association with him in this body, and that intimate acquaintance which the public and private proceedings of the Senate seem always to promote, have done and others still will do justice to his life and character, to his qualities of head and heart, to his principles and methods. Although not always in the association of the Senate Chamber, I knew Senator ANTHONY long and well.

When he came to the Senate I was a member of the House of Representatives. The stirring events which soon followed in 1860-'61 brought us into contact. The differences of our party associations and modes of thought as to the impending struggle were very great. They did not divide us; indeed, they seemed to bind us closer together, so soon as we fully understood that each of us honestly cherished and faithfully supported a common purpose to preserve by whatever variant methods an "indissoluble Union of indestructible States."

I soon learned to know how decided were his convictions, how resolute his assertion of them, how unbending his will in carrying them into execution. And yet how courteous his manners and gentle his judgment of opinions and actions differing from his own! I soon learned to appreciate those genial qualities of temper and manner which soften the asperities of thought and action dealing with the fate of nations in flagrant civil war.

Time passed. Our intercourse as members of Congress ceased. A most agreeable companionship followed, when for many years the heats of long, exhaustive summers were escaped in the delights of an unequaled climate at Newport, or on the shores of his native Narragansett. There he threw off the cares of public life, the harness of party, and was the genial, friendly, cultivated, agreeable gentleman, administering to the enjoyment of many friends who gathered in that most favored region of Rhode Island.

Again we met as members of this body. The favor of our respective party friends assigned us corresponding positions in our party conferences; and then I came to know him still better. His fidelity to party obligation was inflexible and pronounced. His appreciation of a like fidelity among his opponents, his candor, and suavity, and honor were equally conspicuous.

His intellect was strong; his information was large; his culture was wide and generous; his views of public duty were fixed; his aims were lofty; his methods were honorable; his heart was true and kind; his courtesy never failed. I think he never willingly wounded the feelings of any one. He was faithful and wise as a committeeman. He was fully conversant with the current business of the Senate. He was an admirable presiding officer; the very master—*facile princeps*—in all questions of ceremonial and dignified propriety.

The little volume of addresses in which Senator ANTHONY commemorated the qualities of his friends who had died in the Senate testifies to the truth of all I have said.

The style is rich but simple. The taste is faultless. The fountain of sympathetic appreciation is exhaustless. The judgment is just but kindly. The philosophy is of that calm and patient and hopeful faith in which he was born. "There is One that doeth all things well" was the pervading thought as the great dead fell around him. Even as early as 1874, "musing on the transitory nature of all sublunary things," he recalls with touching pathos that since his entrance to this Chamber every other seat save one had changed its occupant and into

the vacant places had stepped others, who had put on the armor which those who had gone before had worn, lifted the weapons which they had wielded, and marched to the work which they had inaugurated.'

And thus—

He exclaimed—

I am filled with reverent wonder at the beneficent ordering of nature, and inspired with a loftier faith in that almighty Power without whose guidance and direction all human effort is vain, and with whose blessing the humblest instruments He selects are equal to the mightiest work that He designs.

For twenty-five years he served well his State; and, with faculties unimpaired, with the duties of life discharged, the trusts of life fulfilled, died at the age allowed by the wisdom of God and the experience of man as the most fortunate for translation to other spheres of existence and duty; even to the last the recipient of the highest honors, political and social, which the respect and confidence and affection of its citizens could confer.

In his own language I repeat:

To complain at the close of such a life is to complain that the ripened fruit drops from the overloaded bough, that the golden harvest bends to the sickle; it is to complain of the law of our existence, and to accuse the Creator that He did not make man immortal on the earth.

To him the wondrous portals of the unseen world have opened; and perhaps the mysteries of death, revealing "what was and is and is to come," have solved the mysteries of life. Faith may disclose to our grateful eyes glimpses of heaven's beatitudes, yet when his associates here realize that we shall see his face again no more forever "one human tear shall fall and be forgiven."

Mr. MORRILL. Mr. President, called, as we so often are, to lament the departure of one of our fellow-members, we are prone to feel the lesson less bitter from its frequent recurrence, and forget it as "a tale that is told;" but the prominence here of the late Senator ANTHONY, for a quarter of a century of continuous service, lends to the present occasion exceptional interest. To me, his senior in age, and attached to him by all the ligaments which bind associates in public and private life, the event brings a message of admonition peculiarly impressive. In the common course of nature the scene would have been reversed and my labors should have earliest ended, while he should now be here. Truly "we know not what a day may bring forth." Almost from my first entrance to the Senate it was my good fortune to sit by the side of him whose decease we now mourn, and it is almost unnecessary to say that I found my near neighbor not only a delightful talker but a patient listener, and his occasional wayside conversation, with its full flow of spirits and store of anecdote, indulged in tones not drowning senatorial debate, made his presence welcome by the same abounding attractions which everywhere made him so general a favorite in society. His empty chair proclaims the Senate's loss, and I feel sure many longing hearts are ready with me to exclaim:

Oh, for a touch of a vanished hand,
And the sound of a voice that is still.

HENRY B. ANTHONY was a man beloved. His character, as well as his person, was attractive, and his bearing manly. Even those who chanced to differ with him in opinion, found nothing repulsive in his manner. His ambition was fully satisfied with being an American Senator, and, having befitting intellectual tastes and aptitudes, having a high ideal standard for the service, he was careful to maintain the prestige and to preserve the traditions and prerogatives of the Senate. He was familiar with all of its parliamentary usages and forms, and the proprieties of its proceedings, when guided by him, lost nothing of grace and dignity. As the President *pro tempore* of the Senate he was thoroughly the master of the rules, wholly impartial, and largely contributed to the correct and brisk dispatch of business. His handiwork, known as "the Anthony rule," is likely to be long approved as a method of forwarding the daily work of the Senate. In the chair, as everywhere, he was a ready man. His mind moved with the same electric swiftness that characterized his spoken words. Questions of order did not hang fire, and from his prompt decisions an appeal was seldom or never taken.

As the chairman of the Joint Committee on Printing, the late Senator, from his practical knowledge, exercised a constant and commanding influence, and, though not always able to restrain the vote to print documents—the value of which often disappears with the revolving year—within the limits he judged proper, yet his conservative action was ever deeply rooted in the line of economy. The art of printing he esteemed as really the "art preservative of all arts," and he had some pride in having Government printing done by the Government, and better done than it could be elsewhere. This he believed to have been successfully accomplished, and we are indebted to the late chairman as the promoter of many improvements, until at length, more or less under his promptings, the Government commands the skill and machinery to produce work in the foremost style of typography.

The services of Senator ANTHONY upon the Committee on Naval Affairs were long and conspicuous. With the exception of the late Senator Grimes, of Iowa, whose mastery of all naval matters was simply marvelous, I think he had a more precise and thorough knowledge of every vessel and of every officer of the Navy than any person not officially connected with its service. He was proud of the "old sea dogs" and of their heroic exploits. He could name those competent to command a fleet or a squadron, or those whose genius and blood could be trusted to conduct a naval battle, and he looked upon a proper navy in a large measure as the custodian of the national honor, as well as the chief if not all-sufficient arm of national defense. He was alert in guarding the high reputation of the *personnel* of the Navy, or in keeping it clear of epauletted barnacles, and no officer, when dismissed from the service for worshiping Bacchus instead of Neptune, ever had a fresh opportunity to lose a ship or the lives of men by being restored to place through his aid. He was full of reverence for our national flag, and to his eye the starry banner when waving from "the mast of some great admiral" appeared in its highest splendor.

Senator ANTHONY did not often venture upon *extempore* speaking, though upon emergencies he appeared to lack neither fluency nor effectiveness; but his prepared speeches were marked by abundant research, vigor of thought, and were clothed with all the graces of classical culture. His speech in defense of some peculiar features of the constitution of his native State, inherited from its colonial origin, displayed the full forces of his learning, logic, and loyalty, and Rhode Island will look in vain for a defender more intrepid or better equipped.

His memorial addresses, of which years ago he reprinted a collected edition, were models of beauty and pathos. Few more impressive and appropriate tributes to deceased associates will be found in the records of the Senate than the felicitous eulogiums pronounced here by him whose long and honorable career has just closed, and whose decease brings us all together here as a band of brothers. His discourses on these sad occasions sometimes seemed to me almost to rob death of its terrors, and that, heralded to the "unseen world" covered by his gracious mantle of testimonials, one would "even dare to die." These utterances were the throbbings of a generous heart, eloquently and conscientiously spoken, and delicately perfumed. Thinking no evil, and incapable of malice, he could not have a "sterile admiration" for his friends, and when he bid them an everlasting farewell he did not fail to decorate them with *immortelles*.

His brief address to the governor of Massachusetts, as chairman of the committee accompanying the remains of Charles Sumner, was worthy of the "illustrious dead," and will live as a happy specimen of spontaneous and genuine eloquence.

The late Senator ANTHONY was void of all conceit; did not "think of himself more highly than he ought to think;" never attempted to offer instruction upon questions he had not fully studied; and never pretended to that intuitive genius which comprehends all subjects, but he aimed to do thoroughly well the work that fell to his lot. Without surrendering cardinal principles, he was outspoken and generous in his appreciation of the merits of others, whether they were arrayed on this side of the Chamber or the other. Though affectionately attached to his friends, no asperities of political life invaded his personal or social relations. Eloquence in the Senate or a great debate, equally with the foremost examples of ancient history, lingered long in his memory, and was accounted by him as an appropriate and enduring contribution to the renown of his country.

Senator ANTHONY was one of the proprietors, and for many years the chief editor, of the Providence Journal, the leading Republican paper of Rhode Island, with an enviable reputation throughout the country. The editorials of the Journal were bright and scholarly, but, somewhat like those of Thurlow Weed, George D. Prentice, and Horace Greeley, generally rather short, and noted, as well as extensively copied, for their sterling good sense. The editorial profession, which he so early adorned, did not fail to tincture his later career, nor fail to largely contribute to his public usefulness. In his copartner, Mr. Danielson, so long as he lived, he found also a gifted and most valuable editorial associate, and the Journal securely maintained its position as one of the most prosperous and influential papers in New England.

As a man he never seemed to be deserted by his good genius, and never to do or say a foolish thing. All of his speeches, therefore, were scarcely less than models of good taste. They were never dull, but always crisp and without redundant words. His calm judgment, undisturbed by crotchets, together with his transparent sincerity, gave to his opinions positive weight, and to any discussion, where he was a participant, he brought visible and valuable contributions.

He was in the first year of his fifth term of service in the Senate. This remarkably protracted distinction emphasized the abiding confidence and affection of the people of his State, and was in harmony with the almost equal love and respect of the people of the country at large. It will not be too much to say that it was thoroughly merited by his high-toned integrity, by his conceded ability, and by his unselfish devotion to every public duty. Throughout the long and historic career of this distinguished son of Rhode Island, who here survived all of his early associates, the world has ever recognized the bearing and just proportions of an American Senator, and virtues most worthy of imitation. He leaves us without a word he could wish to blot. He leaves us with the completed record of a useful and blameless life. He faithfully bore his part in the Senate during an era of great national events, and history will lovingly guard his memory.

Mr. GARLAND. Mr. President, in the accurate sketch of the life and character of Senator ANTHONY just now presented by his former

colleague on this floor we have a beautiful picture of a life noiseless and of even tenor, but industrious and laborious, devoted to good private acts and great public service, and a character simple, amiable, affectionate, yet commanding.

Educated for that most jealous and exacting of all professions, the law, his health failing, he embarked in the business of newspaper editing. In this broad field of influence and of usefulness, in which so many of the first men of our country have figured, he maintained, as he did in all things he undertook, a high and prominent rank. From this sphere he went to the governorship of his State, where he served her so well and so faithfully she became not merely attached to him, but devoted to him, from that time till he was laid away for the long sleep in the dark chamber, in her own bosom.

Coming to this body as her Senator in 1859, when such men as Fessenden, Douglas, Seward, Hunter, Sumner, Toombs, Trumbull, Jefferson Davis, Crittenden, and Benjamin were honored members of this Chamber, he soon took rank with them as a most able and valuable co-laborer. Elected for five consecutive terms, he rendered longer unbroken service here than any Senator in our history save Mr. Benton, of Missouri. Mr. King, of Alabama, served longer, but his terms were not continuous, while Mr. Sumner had twenty-three years of consecutive service. .

While this compliment is so rare, in this case it was well merited, for Mr. ANTHONY was industrious in his Senatorial work, well instructed in all its details, and faithful to the last.

He rarely engaged in what are called purely political debates, but when he did he showed he was equal to the demands of the occasion.

His speeches, made generally with a view of throwing light on questions of public policy and aiding in their solution, were plain and simple in their style—"neither affected nor elaborate, and remarkable for the absence of all words of questionable authority."

Well versed in parliamentary law, he was a stickler for the enforcement of the rules of the Senate as a means for the preservation of order and the transaction of business; and his usefulness in this way was on several occasions fully recognized by his brother Senators in their selection of him to preside over the deliberations of this body.

Almost from the time I began to take an interest in Congressional proceedings Mr. ANTHONY was a well-known and distinguished actor in them. From then till very recently, to read these deliberations was to become somewhat familiar with him. Eight years ago, when I became a member of the Senate, he was here, conspicuous and leading, and was then, except for the presence of the venerable Hamlin, the father of the Senate, as he was so affectionately called by his brothers here in the latter days of his service. To me, therefore, the Senate seems unnatural without him; it is most difficult to realize his absence, and by us all and the country his loss is deeply deplored.

His conduct in life was without parade or ostentation. Without pretensions, his movements and acts spoke for themselves, a full exemplification of what Sallust said of Cato: "Esse, quam videri."

His manners were attractive to the last degree to those who associated with him, and to be thrown with him was to sincerely admire him.

He merited by his public works and by his private virtues the respect and affection of his countrymen, and the best wish for his country and his office is that his mantle may fall upon his successor.

Mr. HOAR. Mr. President, in paying the tribute of the Senate to our senior, the eminent Senator from Rhode Island, it is fitting that his State and those who were nearest to him in friendship and in length of service should have been first heard. But it would be unjust to Massachusetts if her profound sympathy with her neighbor and her own sense of public loss did not also find expression. No two States in the Union are bound together by closer ties than Massachusetts and Rhode Island. Their affection was never broken. When Roger Williams went out to lay for the first time in human history the foundation of a State in religious liberty, he retained, undiminished, his love for the people he had left behind. He earnestly desired that the younger Winthrop should become the governor of his infant Commonwealth. From that day to this the occasions have been few and unimportant and temporary in which there has been any considerable difference of opinion between these sister States. Their character, their interests, their employments have been the same. Together their soldiers and sailors met danger and victory under Perry and Greene, the illustrious captains of Rhode Island. William Ellery Channing, who, beyond all other men, has influenced the character of Massachusetts in later times was the gift to her of Rhode Island. When the whole structure of her civil society was in danger, Rhode Island sought and found her successful champion in Daniel Webster. There were no sincerer mourners at the grave of Burnside than the citizen soldiers of Massachusetts. No voice spoke the universal sorrow for the death of Sumner more affectionately and tenderly than that we miss to-day.

Mr. ANTHONY, after having been twice governor of his own State, was five times chosen to the Senate for a full term. If his life had been spared, he would have had a longer period of unbroken service here than any other person since the Senate was organized. Owing to the delay in the admission of Missouri, Mr. Benton was not elected until late in 1821. His first term ended March 4, 1827. Mr. ANTHONY served in the Senate, in fact, longer than any other person, except Mr. Benton.

I think we may offer him to the judgment of history as the model of the character of the Senator as our fathers conceived it. Superior, by the length of his constitutional term of office, and by his own personal weight, to what is fluctuating and temporary in the popular sentiment of his State, yet representing what is best and most permanent in its character and opinion—member of a body whose organization has continued and is to continue without a break from the time the Constitution was inaugurated until it shall perish, the never broken chain binding the remote past to the far remoter future—the Senator alone, as his name implies, stands for the principle of seniority in the Republic. Mr. ANTHONY was the depositary of the unwritten traditions of this body. He never failed to maintain, so far as in him lay, its authority and dignity. He had a wide circle of friends, and was above all others the one most welcome guest in the hospitable circles of Washington. But his only home was the Senate Chamber. It can not be doubted that he was thinking of his own lot when he uttered that touching passsage in his eulogy on Wilson:

Home he had none. No man shared more largely in the affections of the American people; no man was more beloved by his immediate constituency; but those pleasures which the greatest of American orators placed above all the other immeasurable blessings of rational existence, above the treasures of science and the delights of learning and the aspects of nature, even above good government and religious liberty, "the transcendent sweets of domestic life" were no more for him. Those relations which nature intended for the joy and the rapture of our youth, for the happiness and the embellishment of our maturer years, for the comfort and consolation of age, had been severed by the remorseless shears of fate. No eye grew brighter when he raised the latch that held his lonely dwelling; no outstretched arms of wife, no ringing laughter of children, welcomed his returning footsteps, when he crossed the threshold over which all that had given life, and joy, and beauty to that simple abode, and had lighted it up with a glory not of palaces, had been borne never to return. He had nothing left to love but his country.

He was fully able to defend himself and his State and any cause which he espoused. No man would attack either with impunity under circumstances which called on him for reply, as he showed on some memorable occasions. But he was of a most gracious and sweet nature. He was a lover and maker of peace. When an indignity was by his own political associates put upon the great leader of emancipation in the Senate which had been the scene of his illustrious service, no man regretted the occurrence more than Mr. ANTHONY.

And straight Patroclus rose,
The genial comrade, who, amid the strife
Of kings, and war of angry utterance,
Held even balance, to his outraged friend
Heart-true, yet ever strove with kindly words
To hush the jarring discord, urging peace.

Mr. ANTHONY was a learned man; learned in the history of the Senate and in parliamentary law; learned in the history of his country and of foreign countries; learned in the resources of a full, accurate, and graceful scholarship. Since Sumner died I suppose none of us can be compared with him in this respect. Some passages in an almost forgotten political satire show that he possessed a vein which, if he had cultivated it, might have placed him high in the rôle of satiric poets. But he never launched a shaft that he might inflict a sting. His collection of memorial addresses is unsurpassed in its kind of literature. He was absolutely simple, modest, courteous, and without pretense. He was content to do his share in accomplishing public results, and to leave to others whatever of fame or glory might result from having accomplished them.

—— to be, and not to seem,
Was this man's wisdom.

Gentle and kindly in his judgments he could be firm and stern when public duty required. He steadfastly resisted everything which seemed to him to relax the discipline or lower the standard of character in the Navy to whose glory his State has so largely contributed.

He was fortunate in life. He lived and took a great part in great historic events in a great age. His Senatorial service corresponded almost exactly with the term of power enjoyed by the great party to which he belonged. He saw the beginning and the final triumph of the political movement to which a race, that, within two generations, will number more than thirty millions in this country, owes its emancipation. He had his full share in advising and framing the measures by which rebellion was subdued and his country saved. He had his full share, also, in that great self-control by which the restored nation manifested alike its unparalleled clemency and its unparalleled integrity, greater in ruling its own spirit than in conquering states or taking cities. Through all this, I can not think of an utterance he would wish to blot, or a vote he would desire to recall. *Recte, te, Cyre, beatum ferunt, quoniam virtuti tuæ fortuna conjuncta est.*

He was fortunate also in death. He escaped that sudden and unprepared parting against which the church offers her prayers. He escaped, also, the weakness and decay of age. Death came to him, without pain, and without a shock, while his intellectual forces were unimpaired. His life had been stainless, honored, useful, happy. He was beloved by his associates here, beloved by the people of the State of which he was the citizen first in honor and in station, beloved by his whole reunited country.

The great orator and philosopher of Rome declared, in his youth, and repeated, in his age, that death could not come prematurely to a man who had been consul. Cicero spake to a Senate to whom Christianity was unknown, and immortality but a dream. Surely we can not mourn as untimely the ending of the life of a man who has been five times Senator. To us, to whom Christianity holds out its promise of an existence continued somewhere, where the virtues developed here shall continue and grow, it is matter of high exultation that a soul so pure, so lofty, so fortunate, has passed on safely, and without a stain, to another stage of being, where—

——— that, which lived
True life, lives on.

Mr. BUTLER. Mr. President, my friendly regard and high respect for Governor ANTHONY began soon after I became a member of this body and continued uninterruptedly to his death. Though one of the oldest veterans in the service, and many years my senior, he was nevertheless accessible at all times to younger men, and invariably courteous and kindly. His personal qualities were so attractive that we were instinctively drawn to him. His equanimity of temper, amiability of disposition, dignified and affable demeanor, and cordial social virtues were uniform and almost exceptional, so that he was always a welcome guest in social life, a genial, companionable gentleman.

Simple, unaffected, unpretending in his professions, he was a most faithful, trustworthy, and devoted friend. We all remember how devotedly attached he was to his life-long friend and colleague, General Burnside; how devotedly this attachment was reciprocated, and what a touching eulogy he pronounced upon that friend in this Chamber. During my term of service here with Governor ANTHONY we have passed through some of the most exciting, acrimonious debates ever known in the Senate, and yet I do not remember that one expression of bitterness or one word of personal reproach toward his political opponents ever escaped his lips. This is a great deal to be said of any man, Mr. President, who has passed through such trying ordeals and irritating scenes, but I am sure every one of his brethren of this body will bear me out and that it is sustained by the record. I can pronounce no higher encomium upon his character as a Senator and gentleman. His mental qualities and intellectual attainments were as marked and high as his personal attractions. In a word, sir, his whole make-up, moral, mental, intellectual, and physical, was as completely rounded off with uniform symmetry as any man I have ever known. As gentle and kindly in his sympathies as a woman, he was nevertheless as stern, as earnest, and unyielding in the discharge of what he conceived to be his duty as the most robust nature.

Our party affiliations and associations threw us on opposing political lines; and while he was regarded by his political opponents as a staunch and faithful adherent to the party of his faith, his partisanship never became so intense or unreasonable as to become offensive to those who differed with him or to forfeit their personal regard. I do not think that Governor ANTHONY, in a popular sense, could have been considered a party leader. His mental and intellectual organization rather led him to the literary and scholarly side of politics. And yet it was generally understood by those of us not in the councils of his party that in consultation his judgment exercised a commanding influence in determining party policy. In questions before the Senate of a non-partisan character, in the conduct of business, in the real work of legislation, his well-earned experience, faithful, conscientious attention to the duties of his high station carried great weight with his brother Senators of all parties.

He rarely participated in general debate, but was always at his post of duty and when he did speak he commanded the respectful attention of the Senate and always spoke with effect. His last elaborate effort that I remember was in defense of his State, whose institutions and rights he thought had been unfairly criticised and unjustly assailed, and I question if there is on record a clearer and more convincing exposition of the rights and reserved powers of the States of the Union than is given in this speech. If he had done no other public service, this speech would entitle him to take rank among the ablest expounders of the constitutional powers of the State and Federal Governments.

It was my fortune, Mr. President, to attend the funeral ceremonies of this venerable and distinguished Senator at his home in Providence, and the large attendance from other States, the outpouring on that occasion of all classes and conditions in that community to do honor to their fellow-citizen and dead statesman, bore evidence of how much he was beloved by his neighbors and how highly he was esteemed by his fellow-countrymen. It is drawing no invidious distinction to say that no Senator has ever gone out of this Chamber to his last account more universally respected and lamented than Governor ANTHONY; few Senators ever served a constituency longer, and none more faithfully. His long and distinguished public career is closed without a shadow to dim its luster, or a suspicion upon his integrity to mar its completeness.

Mr. INGALLS. The service of Senator ANTHONY in this body exceeded the entire period of Republican ascendency, from Lincoln to Garfield—a momentous interval, characterized by unprecedented activity of the material, intellectual, and moral energies of the nation, and resulting in structural changes in government and society.

It was an epoch of tremendous passions; of vague and indefinite morality; of frenzied debate; of anomalous statesmanship. There were giants in those days, and when the Macaulay of another age shall turn to rehearse their history, he will find little in our recorded annals to explain the remarkable and long-continued prominence of Senator ANTHONY in his State and the country, or the extraordinary influence he exercised upon all his contemporaries.

Without the learning and eloquence of Sumner, the logic of Fessenden, the restless industry of Wilson, or the intense and relentless energy of Chandler and Morton, he was the trusted counselor and companion of all, and was accorded the highest positions of confidence and honor to which a Senator can aspire.

For twenty-five years Senator ANTHONY uttered no word in debate in this Chamber that is not recorded, but how faint and unsatisfactory is the portrait that this will present to posterity. Those who recall the melody of his diction and the dignity of his delivery will always wonder with regret that he so seldom spoke who spoke so well; but no printed page could record the gentle and benignant courtesy which shone in his demeanor and lent a nameless but irresistible charm to his deportment and bearing; the confident courage that despised the paltry arts and the hollow clamors of the demagogue; the stainless honor that knew no taint of perfidy or guile.

He was a minister of grace. He never made an enemy and never lost a friend. The envy that might have been aroused by his early success was averted by the sensitive delicacy of his nature; and the jealousy that might have been excited by his long supremacy was disarmed by his loyalty to his friends; by his fidelity to his convictions; by his unsullied integrity, by the temperate restraint of his spirit which no heat of controversy could disturb, nor any rancor of partisanship provoke to retaliation unworthy of a Christian and a gentleman.

The entire career of Senator ANTHONY was one of unique and singular felicity. For him fate spared its irony. Nemesis was propitiated. Fortune favored him. Time denied him none of those possessions that are regarded as the chief requisites of human happiness. He escaped calumny, and detraction passed him by. There was no winter in his years. He had length of days without infirmity. His ambition was satisfied. Honor, health, love, friendship, affluence, which so often with capricious disdain elude the most strenuous pursuit, attended him as courtiers surround a monarch. His life was not fragmentary and unfinished, but full-orbed and complete. Death was not an interruption, but a climax. His sun was neither obscured nor eclipsed, but followed its appointed path to the western horizon. So he departed, and above his spirit and his fame abides the enduring covenant of peace:

His memory, like a cloudless sky;
His conscience, like a sea at rest.

Mr. HAWLEY. Mr. President, so much has been said by many who knew Mr. ANTHONY long and well that much speaking by me is neither needed nor becoming.

He was a most devoted, reverent, and obedient servant of his State. He was very proud of the trust Rhode Island reposed in him. He was an American, a patriot, a lover of liberty and union in every fiber of his being. Submissive to the Divine will and fearless of death, he yet wished to live, and I think he longed to complete thirty years of Senatorship. During the last few months of his life he earnestly desired to return to Washington, and could he have chosen the place of departure I believe he would have selected this Capitol.

In speaking to the memory of Henry Wilson he said:

Nor was the occasion of his death inappropriate to his life. It has been lamented that the inevitable hour found him away from his home and without the tender ministrations of woman. In this regret I do not share. * * * Where should the patriot statesman whose life has been devoted to freedom die, rather than in the Capitol, whose uplifted Dome bears aloft the vindicated statue of Liberty?

In the succeeding paragraph, which the Senator from Massachusetts has already quoted, Mr. ANTHONY refers in lines of exquisite delicacy and feeling to the circumstances of domestic bereavement and loneliness in which his own domestic life was a parallel to Mr. Wilson's, and adds.

He had nothing left to love but his country. It was proper then that he should die here, where his greatest work had been wrought; here, where his greatest triumphs had been achieved.

Mr. ANTHONY possessed a strong, deep, loving nature, though not demonstrative or careless of choice, and he grappled his friends with hooks of steel. Senators who heard it can not forget the fervor and profound pathos of his lamentation over the loss of his beloved and inseperable friend Burnside.

In some characteristics he gave evidence of the teachings of Quaker ancestry, molding a congenial nature. His courtesy and gentleness, his pleasing tone of voice, his love of peace, his refined wit and humor, his tender poetic sentiment, his fund of literary, historical, and political reminiscences made him most welcome in many circles of admiring and attached friends, here and elsewhere.

His classical education, his reading, and his more than twenty years of successful experience as an editor, beginning at the age of 23, gave him a charming and polished style as a writer, of which he has left

admirable illustrations in many addresses. Of his varied services, and especially of his zealous and effective labors during the stormy years of war, my seniors in this Hall have spoken. Personally I was nearly four years associated with him in that committee, of which he was twenty-one years the chairman. His society made labor agreeable. All sense of drudgery was lost in the pleasure of social intercourse.

Connecticut will join her neighbor of two hundred and fifty years of unbroken friendship in tributes of respect to the memory of the distinguished and honored citizen who has gone to "the sublime equality and sacred fraternity of the tomb."

When all things move in what we imagine to be the due course of nature, as year after year hurries along, the Divine Father greatly mitigates the dread of death. Before one reaches the allotted three score and ten, the time comes when he feels that the majority of all whom he could know well and love well have gone over to the other side. The sound of a tree that has fallen in the forest becomes a familiar sound, no longer alarming. The multitude of old and dear friends, who are invisible but still very real, occupy more and more of our thoughts. Calling our faith and philosophy to our aid, we try to believe that it is not death we dread, but dying. We get so weary of eternal turmoil, that in despondent hours we fancy that we can almost envy that brilliant soldier of the late war whose last words were, "Let us cross the river and rest in the shade."

Our friend could not have been surprised by his summons. It is a comforting belief, and let us try to indulge it, that he is fully at peace in the society of the host of his friends and colaborers who have preceded him.

Said a Greek poet:

> Little it imports
> The dead, I think, if any shall obtain
> Magnificent and costly obsequies;
> Vain affectation of the living, this.

But no one has gone from us who would feel a richer joy to know that all men speak of him kindly and lovingly.

Mr. MANDERSON. Mr. President, the eloquent tributes to the noble dead whose virtues we extol to-day from those who have been his coworkers in the Senate during the eventful years when HENRY B. ANTHONY did his full duty here would seem to have so fully met the demands of reverence and affection, that it was not needed that one who so lately came to full personal appreciation of his noble qualities should be heard in words of eulogy. Yet I can not resist the opportunity offered me to speak of the high esteem in which I held him during the many years when to me he was simply one of the most prominent of public men, and of how much I came to revere and love him when it became my great privilege to know him personally.

I can never forget the cordiality of the welcome extended when I became his associate in the public work to which he had brought such high appreciation and advantageous effort; the encouraging words and valuable aid given me by the noble son of Rhode Island will ever remain in my memory as one of its most valued treasures. The mere acquaintance of the latter part of the Forty-seventh Congress ripened into something stronger during the winter of 1883–'84, and when, during the last summer, it was my fortune to spend a few delightful days with him at Block Island, in the State he loved so dearly, and when I saw him surrounded by his neighbors, relatives, and friends, an admiring acquaintanceship became a warm friendship.

Coming to the United States Senate in 1859, and serving there for the next quarter of a century, Governor ANTHONY was an active participant, if not a leader, in the most important legislative affairs during those eventful years of the Republic. He took his seat at the time when partisan spirit and sectional politics were at the flood. During the dark and gloomy days of the war of rebellion he did his full duty to the country he had sworn to protect and serve. His voice was ever raised for the cause of the right. He could find no excuses for rebellion and did not attempt to palliate treason. Too gentle in nature to be fiercely denunciatory of the misguided and misled men who were engaged in that which he deemed to be an unholy and inexcusable crusade against the dearest and best interests of the Republic and a base attack upon the rights of man, yet he had none but words of condemnation for their course and of strong support and hearty help for the soldiers of the nation. Those who wore the blue ever found in him a friend.

The dreadful conflict over, his shaping hand and controlling brain may be seen in the measures of reconstruction and the important laws designed to cement a divided nation and bring again together the warring States that they might once more dwell in unity and peace.

Twenty-five years of intelligent, active, painstaking, appreciative performance of his arduous and perplexing duties! How grand the record! There was much during the time to perplex and annoy, a great deal of a nature calculated to change the patient, loving spirit into one impatient and petulant, but no colleague in the Senate, constituent in his State, or fellow-citizen of HENRY B. ANTHONY ever found such change.

The poet of the early English, grand Geoffrey Chaucer, says, "He is a gentleman who does gentle deeds;" and the life of our departed friend is so full of the constant performance of such deeds that he made himself of the true gentry and issued his own patent of nobility. He did not seem to tire of such well-doing; the passing of the years and the coming on of old age brought physical change, but "that good gray head which all men knew" was ever the servant of the kind heart. He seemed to have followed the sound advice of the old philosopher, and to be able "to resist with success the frigidity of old age by combining the body, the mind, and the heart, keeping these in parallel vigor by exercise, study, and love."

But I do not propose any review of the noble life that has gone or to comment upon the valuable lessons that it teaches. Others have done it far more profitably than I could hope to do. In one official capacity, however, it seems fitting that I should speak of the lamented dead. At an early period in his life Mr. ANTHONY assumed editorial charge of the leading newspaper of his native State and made the Providence Journal a power for good. It was a fitting recognition of his intimate knowledge of the printer's craft that prompted the Senate in December, 1859, to place him upon the Committee on Printing. He served continuously upon this committee for nearly twenty-five years, and for twenty years of this period he was its alert, attentive, accommodating, and efficient chairman.

During the first year of Senator ANTHONY'S service upon the committee, at a time when the political party with which he acted was in the minority, investigations were made of the contract system under which the printing and binding for the Government had been performed. This investigation showed so many abuses, so much of favoritism and fraud, that the result was the purchase of a printing office, of small size and insufficient in its appointments, which grew with the country's needs and growth to its present immense proportions. In the management of this office, and in its gradual enlargement as the work done there has increased, Senator ANTHONY took a deep interest.

The busy hive, with its thousands of industrious, intelligent employés, whose active brains and deft fingers furnish to the world the best public literature it has ever read; with its mighty forces, steam and electricity, giving life and motion to delicate machinery that seems to think and reason as it performs its allotted task; this great Printing Office, throbbing and pulsating day and night for the public good, stands as a mighty monument to the dead ANTHONY.

The record of the proceedings in the Senate bear testimony to his repeated efforts (unfortunately not often crowned with success) to diminish the cost of the public printing by curtailing the amount and dispensing with masses of official verbiage, which now swell too many of the public documents. He had a true man's hatred of "shams," and made bold assaults upon many of the works of deceit where they lay strongly entrenched.

One of the abuses which he sought persistently to do away with was the cumbering of the CONGRESSIONAL RECORD with remarks alleged to have been made but never delivered in Congress. Permit me to give an extract from one of the latest speeches made by him, and which, listened to with great interest in the Senate, should have brought forth abundant legislative fruit:

> Whatever may be said of the unimportant character of too much of the debates of Congress, as of other deliberative bodies, the importance of the proceedings can hardly be overestimated, and upon these the debates throw great light. They are the proceedings which establish and modify the Government of 40,000,000 of free, active, adventurous people, and whatever makes these proceedings plainer is of high value to the people, by whose servants they are transacted.

Further on he said:

> The CONGRESSIONAL RECORD should be what it purports to be. Its phonographic accuracy and completeness should mirror exactly what is said and done. It should speak, like a credible witness, "the truth, the whole truth, and nothing but the truth." Its correctness is the essential quality of its value. If not correct it is not only useless but injurious, it deceives instead of informing, it misleads instead of guiding, and throws confusion upon what it undertakes to enlighten.

Words of wisdom these, and abundantly worthy of the man who uttered them.

Another matter is well worthy of note as shewing the sense of fairness that characterized the late chairman of the Committee on Printing. In the early days of his service investigation showed that many scandalous frauds had attended the purchase of paper and other material used in the public printing. These were done away with by changes in the law conceived and carried into execution by Governor ANTHONY. Purchases made in open market from favorites were no longer countenanced. Advertisements are now made for sealed proposals to supply according to samples furnished to each bidder, and bids are opened in public by the Joint Committee on Printing, and awards made to the lowest bidder who will best subserve the interests of the Government.

But I need not deal in further detail. Our brother's life was open as the day; he knew not concealments. So many were his virtues that "none knew him but to love him."

A life of virtue and well-doing prepared him for the great end. As his life had been so was his death. It was most fitting that it should come to him quietly, gently, and without shock.

He was to all of us most excellent example, and like him

> So may'st thou live till like ripe fruit thou drop
> Into thy mother's lap, or be with ease
> Gathered, not harshly plucked, for death mature.

Mr. SHEFFIELD. Mr. President, as I recall the intimate personal relations which existed between the late Senator ANTHONY and myself for a period of forty years and upwards, the pleasure I have felt from his society, the wisdom I have derived from his counsel, the many acts of kindness I have received at his hands, and my attachment to his person, I hardly dare to trust myself to review his life and character in the presence of so many reminders of his death. This Chamber was the scene of his long-continued and useful service to his country. The presence of his honored associates to pay a tribute to his exalted worth, and my own entry here to occupy the place his death made vacant, bring before my mind in bold outline the genial man whom I could have wished would have lived always.

No Senator long acquainted with Mr. ANTHONY will arise to address the Senate on this occasion without having in mind the eulogies pronounced upon deceased Senators by him, eulogies which welled up from a mind and heart filled with human sympathy, as pure water from a natural spring, and expressed in language as pure as the fountain in which those eulogies originated; and especially will each Senator recall the burning words with which Mr. ANTHONY, as the representative of the Senate, delivered to the authorities of Massachusetts under the dome of its capitol the dead body of a great Senator; but the voice then so eloquent over the remains of Sumner is now hushed in death. The brilliant imagination which then mingled sadness and triumph has now been put out forever.

Well may we say:

> Who would not sing for Lycidas? He knew
> Himself to sing, and build the lofty rhyme;
> He must not float upon his watery bier
> Unwept, and welter to the parching wind
> Without the meed of some melodious tear.

Mr. ANTHONY was a lineal descendant of John Anthony, a native of Hempstead in England, who came to Boston in the Hercules in 1634, and to Rhode Island soon after 1640. Gilbert Stuart, the artist, whose mother was an Anthony, who has preserved on canvas so faithfully the features of Washington, descended from the same ancestor. William Anthony was the father of Senator ANTHONY, and his mother was a daughter of James Greene, of Warwick. The Warwick Greenes have been a conspicuous family in Rhode Island from the foundation of the Colony. General Nathanael Greene, whose statue adorns a place in a hall of this Capitol, and Col. Ray Greene, who commanded at the battle of Red Bank, were members of this family, and two of its representatives have been members of the Senate. The ancestors of Governor ANTHONY belonged to the Society of Friends, which for a considerable time in our colonial history was the most influential denomination of Christians in the Colony. After Mr. ANTHONY graduated from college, he went to reside for a time and engaged in some mercantile pursuit at Savannah. He returned to Rhode Island, and was there married to Sarah Aborn, daughter of the late Christopher Rhodes, in 1837. In 1838, at the age of 23, he assumed the editorial control of the Providence Journal.

At that time, and for more than a score of years thereafter, he was surrounded by a coterie of young men, mostly college friends, of learning, wit, and of marked ability as writers, who aided him more or less in the conduct of his paper. But while his associates contributed to its success, his was the critical judgment, the controlling mind which carried the Journal to the front rank of the New England press, a standing which it yet maintains. In the heated contests which preceded the insurrection in the State in 1842, and during and subsequent to that event, while a constitution for the State was being framed and adopted, the Journal was the organ of the government, and the distinguished ability with which it was conducted brought Mr. ANTHONY prominently before the people of the State, and in 1849 he was presented by the young Whigs as their candidate for governor, an office to which he was elected that year, and re-elected in 1850, when he declined to be further a candidate for the office. In 1854 the great sorrow which ever after shadowed somewhat the life of Governor ANTHONY fell upon him. On the 12th of July of that year his wife died. I might pause here to dwell upon the tenderness of his nature as developed by that affliction, but the theme is too sacred—I will not sully it. Burdened with this great sorrow, early in 1855 he visited Europe for rest and relief. Upon his return he resumed control of his paper.

Governor ANTHONY inherited from his father an interest in a manufacturing establishment located in his native town of Coventry. Though for a time he was interested in carrying on business at this establishment, he retired from it when he went abroad, but omitted to give notice of his withdrawal. In 1857 the company became involved in the financial distress of that time. The creditors claimed that Governor ANTHONY was liable for the debts of the company. He did not stop to have the question of his liability for these debts settled in the courts, but manfully came forward and met them, and honorably settled the claims made upon him. This added to his popularity, and in 1859, after a sharp contest, he was elected to the Senate of the United States, and to this office he was four times re-elected. This shows alike the stability of the character of the Senator and of the people of the State who elected him. While in the Senate during this most interesting period of our national history the conduct of Senator ANTHONY was seen and known of all men.

As an editor, Mr. ANTHONY clearly comprehended the rights and duties of his office. He understood the wants and necessities of the industrial interests of New England, of which Providence is a great center, and it was his laudable ambition to make his paper a leading advocate and organ of those interests. He thought clearly and selected with rapidity the words which could best express his thoughts in the most forcible manner. There was no room left for construction in what he wrote. His style was direct, clear, and forcible, without excess of verbiage—it needed no interpreter. When he entered the Senate he had no superior in New England in writing effective editorial paragraphs, and though his Senatorial career was correct and very creditable to himself, it may be well doubted if he had continued in his profession whether his fame as an editor would not have been as desirable as it is as a Senator.

As a politician Mr. ANTHONY stood by his party, seeking to correct its errors and to improve its policy within and not without its lines. He always adhered with fidelity to his convictions of duty, yet he always treated his opponents with a generous justice, while that treatment was duly appreciated, and when it was not he was yet just. He won the respect and regard of the opposing party by tempering the expression of his convictions with evidences of good-nature and with an address which conciliated rather than repelled them.

The secret of Mr. ANTHONY'S influence was an entire frankness, the natural outcome of his character, with his absolute integrity of purpose, which prevented him from supporting any measure which he believed to be prejudicial to the best interests of the public. In the Senate he never made the most of himself, for he always underrated his own capabilities in comparison with the capabilities of others. He was careful never to undertake what he feared he might not be able to accomplish.

Mr. ANTHONY was a man of amiable and even of fascinating manners, deferential to those about him, and mindful of all the proprieties of life; he was well calculated to impress with a sense of regard and respect all with whom he was brought into close relations; never obtrusive, full of conversational resources, endowed with a ready wit and a rich fund of pleasing anecdotes always at command to illustrate a point without encumbering it; strong in his friendships, tender in his sensibilities, yet with absolute self-control. That he was a student of the science of government apart from his observation of the practice of that science in the Senate, no one will pretend; and while he could state a point which would expose a defect in the argument of an adversary as clearly and as effectively as any of his compeers, he was not the man to present by public address a subject involving complicated details. He rather directed his force against an adversary by isolated assaults at his weak points than by an attack upon his entire line—by sortie, rather than by siege. He was a conciliatory man, and was possessed of great forbearance. He would go to the very verge of propriety to avoid the giving of offense, and would exhaust the resources of a very charitable disposition before he would believe that cause for offense was intended to be given to him. But there was a line which his self-respect would not allow him to pass or an adversary to cross, and when forced to resistance he was a vigorous and unyielding adversary.

Mr. ANTHONY loved his native State. He was devoted to its institutions and thoroughly imbued with the spirit of its history. He believed with Lord Coleridge that the character of a state was not to be determined by the number of acres of ground it contained or by the number of its population, but rather by the characters and achievements of its people. In quiet retirement, in company with men of kindred thoughts, in conversation Mr. ANTHONY dwelt with admiration upon the fortitude and self-denial of those exiles of exiles who settled the Rhode Island Colony; upon their sufferings and hardships, and withal upon the Christian charity which they exhibited in planting and maintaining the great ideas upon which the Colony was founded. Then he would trace the progress of the colonial history, the growth of the Colony, and its development into a State; the rise of its commerce until its canvas whitened every sea; and that commerce alone, and the commercial enterprise of its people, merited the glowing eulogy of Burke in the House of Commons upon the commercial enterprise of all the Colonies. Then he would describe how wars and the adverse policy of the Government drove that commerce from the ocean, and forced upon reluctant New England a blessing in disguise, that wiser policy, which the great commoner of Kentucky called "the American system" of fostering and protecting American industries; and how Rhode Island, upon the ruins of its commercial industries, reared factories and workshops and operated them, until their handiwork under the operation of this benign system won for them a place among the foremost industries of the country. At these times he would also delight to dwell upon the men who had illustrated Rhode Island history and their achievements, to show the claims of Rhode Island upon the National Union, a part of which achievements he appeared to feel to be his by inheritance from a line of ancestors who had borne an important part in settling, developing, and maintaining the Colony and State during every period of its history.

The grave has closed over him and shut in his mortal remains. Throughout his life he anticipated the harvest of a good name, and he did nothing to blight it. His end did not come until after a long career of useful public service, when his physical energies had been exhausted and the ends of life had been attained. It is a sad thought; but it will not be long before "our lighted torches will pass to other hands."

Senator ANTHONY was a fortunate man; fortunate in his moral and intellectual endowments; fortunate in his friends and in his surroundings; fortunate in his life, fortunate in his death in his own house with kind friends around him. He has left no stain upon his good name; his finished course covers nothing to be regretted, leaves undone nothing desired, but that his career could have been prolonged and that his usefulness could have been continued. But it has been otherwise ordered, and his friends should be thankful for the blessings which his life has conferred, rather than to murmur at the Providence which has determined it.

Mr. President, I second the resolutions on your table.

The PRESIDENT *pro tempore*. The question is on agreeing to the resolutions.

The resolutions were agreed to unanimously; and (at 2 o'clock and 50 minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, *January* 19, 1885.

The House met at 12 o'clock m. Prayer by the Chaplain, Rev. JOHN S. LINDSAY, D. D.

The Journal of the proceedings of Saturday last was read and approved.

PRIVATE LAND CLAIM IN NEW MEXICO.

The SPEAKER, by unanimous consent, laid before the House a letter from the Secretary of the Interior, transmitting a tracing of the plat of the preliminary survey of the unconfirmed private land claim No. 132, New Mexico; which was referred to the Committee on Private Land Claims.

UNITED STATES NAVAL VESSELS—NEW ORLEANS EXPEDITION.

The SPEAKER also laid before the House a letter from the Secretary of the Treasury, transmitting estimates for appropriation for incidental expenses of vessels of the United States Navy in attendance upon the World's Industrial and Cotton Centennial Exhibition at New Orleans; which was referred to the Committee on Appropriations, and ordered to be printed.

PUBLIC BUILDING AT AUGUSTA, ME.

Mr. MILLIKEN. I ask unanimous consent to take from the Speaker's table for present consideration the bill (S. 235) providing for the erection of a public building at Augusta, Me. It is the same as the House bill that has been reported favorably by the Committee of the Whole, and is for the erection of a public building at the capital of the State.

Mr. RANDALL. I ask if there is a report accompanying this bill?

Mr. MILLIKEN. There is a report.

Mr. RANDALL. I think that in reference to all these public buildings, when consent is asked for the passage of a bill, very full information should be given.

The SPEAKER. The bill will be read, subject to objection.

The bill was read.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. RANDALL. I ask that the report be read; and I ask further if the report is not full the gentleman from Maine shall then be permitted to make a statement.

The SPEAKER. The Senate report is not here. If there be no objection the report made by the House Committee on Public Buildings and Grounds will be read.

Mr. COOK. I object to the present consideration of the bill.

ROAD TO NATIONAL CEMETERY AT NATCHEZ, MISS.

Mr. VAN EATON. I ask unanimous consent to discharge the Committee of the Whole from the further consideration of the bill (H R. 3268) to construct a road to the national cemetery at Natchez, Miss., and to put the bill on its passage.

The bill was read.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. DUNHAM. I do not know that I want to object, but I would like to know something about this. What is the length of the road?

Mr. VAN EATON. The report of the Committee on Military Affairs gives every information. It is in the hands of the Clerk.

Mr. DUNHAM. Let the report be read.

The SPEAKER. If there be no objection the report will be read.

The report was read.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. PETTIBONE and Mr. BUCHANAN called for the regular order.

ORDER OF BUSINESS.

The SPEAKER. The demand for the regular order is equivalent to an objection to the consideration of the bill. This being Monday, the regular order is the call of States and Territories for the introduction and reference of bills and joint resolutions. Under this call resolutions and memorials from State and Territorial Legislatures are in order; also resolutions of inquiry addressed to the heads of Departments for reference to the appropriate committees, and resolutions for amendment of the rules for reference to the Committee on Rules.

Mr. PETTIBONE. I withdraw the demand for the regular order.

The SPEAKER. The gentleman from Georgia [Mr. BUCHANAN] demanded the regular order.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, informed the House that the Senate insisted on its amendments to the bill (H. R. 181) to declare forfeiture of certain lands granted to aid in the construction of a railroad in Oregon disagreed to by the House of Representatives, agreed to the conference asked by the House on the disagreeing votes of the two Houses thereon, and had appointed Mr. SLATER, Mr. DOLPH, and Mr. PLUMB the conferees on the part of the Senate.

The message further announced that the Senate had passed bills of the following titles; in which the concurrence of the House was requested:

A bill (S. 1331) making appropriations for the relief of the First National Bank of Newton, Mass.; and

A bill (S. 2488) to remove the charge of desertion from the military record of William McBride.

The message further announced that the Senate had returned, in compliance with the request of the House, the bill (H. R. 1004) relative to the Chinese indemnity fund.

FIRST NATIONAL BANK OF LITTLE ROCK.

Mr. ROGERS, of Arkansas, introduced a bill (H. R. 7973) to change the name of the Merchants' National Bank of Little Rock to the First National Bank of Little Rock; which was read a first and second time, referred to the Committee on Banking and Currency, and ordered to be printed.

TO PRINT THE UNITED STATES CONSTITUTION AND STATUTES.

Mr. HENLEY introduced a bill (H. R. 7974) to print the Constitution of the United States and amendments thereto with the United States Statutes at every session of Congress; which was read a first and second time, referred to the Committee on Printing, and ordered to be printed.

CALIFORNIA INDIAN WAR DEBT.

Mr. HENLEY also introduced a bill (H. R. 7975) to indemnify the State of California on account of indebtedness incurred in the Indian wars therein, and which has heretofore been paid by said State; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

BARNEY LUDDY.

Mr. HENLEY also introduced a bill (H. R. 7976) granting a pension to Barney Luddy; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

CALIFORNIA INDIAN WAR DEBT.

Mr. HENLEY also presented a joint resolution of the Legislature of California, requesting Congress to pay the California Indian war debt; which was referred to the Committee on War Claims.

Mr. HENLEY also presented a concurrent resolution of the Legislature of California, requesting Congress to pay California Indian war debt; which was referred to the Committee on War Claims.

Mr. GLASCOCK presented a concurrent resolution of the Legislature of California, requesting Congress to pay California Indian war debt, &c.; which was referred to the Committee on War Claims.

Mr. GLASCOCK also presented a joint resolution of the Legislature of California, requesting Congress to pay California Indian war debt, &c.; which was referred to the Committee on War Claims.

Mr. TULLY presented a joint resolution of the Legislature of California, requesting Congress to pay Indian war debt, &c.; which was referred to the Committee on War Claims.

Mr. TULLY also presented a concurrent resolution of the Legislature of California, requesting Congress to pay California Indian war debt; which was referred to the Committee on War Claims.

MRS. E. A. BENHAM.

Mr. SEYMOUR introduced a bill (H. R. 7977) for the relief of Mrs. E. A. Benham, widow of Bvt. Maj. Gen. Henry W. Benham, deceased; which was read a first and second time, referred to the Commitee on Pensions, and ordered to be printed.

OKLAHOMA LANDS.

Mr. TOWNSHEND offered the following resolution; which was read, and referred to the Committee on Indian Affairs:

Resolved, That, if compatible with the public interest, the President be requested to furnish this House with all papers and correspondence with any of the Departments of the Government relative to the so-called "Oklahoma lands," in the Indian Territory, together with any official action which has been taken by the Government relating thereto, and the present condition of the controversy, if any there be, between any officers of the United States thereof, growing out of the occupation or attempted occupation of said lands.

O. C. CARPENTER.

Mr. CANNON (by request) introduced a bill (H. R. 7978) granting a pension to O. C. Carpenter; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

CLARK HERON.

Mr. RIGGS introduced a bill (H. R. 7979) to restore the name of Clark Heron to the pension-rolls; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

CONTAGIOUS DISEASES.

Mr. WARD introduced a bill (H. R. 7980) to amend an act entitled "An act to prevent the introduction of contagious diseases;" which was read a first and second time, referred to the Select Committee on the Public Health, and ordered to be printed.

JAMES T. WEBB.

Mr. ENGLISH introduced a bill (H. R. 7981) granting a pension to James T. Webb; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

PETER CURRAN.

Mr. ENGLISH also introduced a bill (H. R. 7982) granting a pension to Peter Curran; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

WILLIAM ROBINSON.

Mr. ENGLISH also introduced a bill (H. R. 7983) granting a pension to William Robinson; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

ALISON KINSLEY.

Mr. ENGLISH also introduced a bill (H. R. 7984) granting a pension to Alison Kinsley; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JOSEPH BALDWIN.

Mr. ENGLISH also introduced a bill (H. R. 7985) granting a pension to Joseph Baldwin; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

MICHAEL KAIN.

Mr. ENGLISH also introduced a bill (H. R. 7986) granting a pension to Michael Kain; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

AMENDMENT OF RULES.

Mr. COOK submitted a resolution; which was read, as follows:

Resolved, That the order of business be so changed for the remainder of the present session that pending a motion to proceed to the House Calendar or to go into the Committee of the Whole House on the state of the Union, it shall be in order to amend said motion by designating a bill for consideration.

Mr. COOK. If it is in order at this time I will ask the immediate consideration of this resolution.

The SPEAKER. That is not in order. The resolution will be referred to the Committee on Rules.

The resolution was referred accordingly

N. B. M'KAY.

Mr. MORRILL introduced a bill (H. R. 7987) granting a pension to N. B. McKay; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JURISDICTION OF UNITED STATES COURTS.

Mr. PERKINS introduced a bill (H. R. 7988) to limit the jurisdiction of the circuit and district courts of the United States; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

DANIEL T. FERGUSON.

Mr. HALSELL introduced a bill (H. R. 7989) granting a pension to Daniel T. Ferguson; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JOSEPH SANSOM.

Mr. HALSELL also introduced a bill (H. R. 7990) granting a pension to Joseph Sansom; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

AMENDMENT OF RULES.

Mr. KING submitted the following resolution; which was referred to the Committee on Rules:

Resolved, That during the remainder of the present session motions to suspend the rules shall be in order on the second and fourth Mondays of each month, immediately after the call of States and Territories, preference being given to individuals.

WILLIAM E. CHRISTIAN.

Mr. HATCH, of Michigan, introduced a bill (H. R. 7991) for the relief of William E. Christian; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

CHRISTIAN ARNDT.

Mr. STRAIT introduced a bill (H. R. 7992) for the relief of Christian Arndt; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

WILLIAM STANSBERRY.

Mr. STRAIT also introduced a bill (H. R. 7993) for the relief of William Stansberry; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

BRIDGE ACROSS BAYOU BARNARD, MISSISSIPPI.

Mr. VAN EATON introduced a bill (H. R. 7994) to authorize the construction of a bridge over Bayou Barnard, in the State of Mississippi; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

PILOTS OF UNITED STATES GUNBOATS.

Mr. BROADHEAD introduced a bill (H. R. 7995) to establish a uniform grade of office and rate of pension for pilots who served on the United States gunboats during the war; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

TRANSPORTATION OF DUTIABLE GOODS.

Mr. WEAVER introduced a bill (H. R. 7996) to extend the provisions of the act of June 10, 1880, entitled "An act to amend the statutes in relation to immediate transportation of dutiable goods, and for other purposes," to the port of Omaha, in the State of Nebraska; which was read a first and second time, referred to the Committee on Ways and Means, and ordered to be printed.

CHARLES A. VAN BOKKELEN.

Mr. PHELPS submitted the following resolution; which was referred to the Committee on Foreign Affairs:

Resolved, That the President of the United States be requested to furnish to this House, if not incompatible with the public interest, all the correspondence and other papers in the hands of the Government relating to the case of Charles A. Van Bokkelen, a citizen of the United States, imprisoned for a year past, as alleged, at Port au Prince, Hayti.

MARY E. FILLEBROWN.

Mr. BAGLEY introduced a bill (H. R. 7997) to increase the pension of Mary E. Fillebrown, widow of the late Commodore Thomas Scott Fillebrown; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

FITZ-JOHN PORTER.

Mr. SLOCUM submitted the following resolution; which was referred to the Committee on Military Affairs:

Resolved, That the President be respectfully requested to transmit to this House a copy of the recent appeal of Fitz-John Porter, together with the accompanying papers.

STEEL GUNBOAT.

Mr. COX, of New York, introduced a bill (H. R. 7998) to authorize the construction of one steel gunboat; which was read a first and second time.

Mr. COX, of New York. I ask the reference of this bill to the Committee on Appropriations.

The SPEAKER. It would not go there under the rules.

Mr. COX, of New York. This subject has already been referred to that committee; and I prefer the bill should go there.

The SPEAKER. If there be no objection, the bill will take that course.

There being no objection, the bill was referred to the Committee on Appropriations, and ordered to be printed.

RETIRED-LIST, UNITED STATES ARMY.

Mr. COX, of New York, also introduced a bill (H. R. 7999) to promote the efficiency of the line of the Army by affording an opportunity for lieutenants and captains of a certain age to be placed upon the retired-list; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

MRS. ANTONIA B. LYNCH.

Mr. CAMPBELL, of New York, introduced a bill (H. R. 8000) for the relief of Mrs. Antonia B. Lynch, widow of Captain Dominick Lynch, United States Navy, deceased; which was read a first and second time, referred to the Committee on Pensions, and ordered to be printed.

DONATION OF GROUND FOR MONUMENT TO GENERAL WARREN.

Mr. KETCHAM introduced a joint resolution (H. Res. 316) for the appointment of a committee to investigate and report upon the advisability of accepting grounds donated by citizens of Cold Spring, N. Y., upon which to erect a monument to the memory of the late General G. K. Warren; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

JOHN MINGUS.

Mr. VANCE introduced a bill (H. R. 8001) for the relief of John Mingus, a soldier of 1812; which was read a first and second time, referred to the Committee on Pensions, and ordered to be printed.

WILSON RICE.

Mr. VANCE also introduced a bill (H. R. 8002) for the relief of Wilson Rice, a blind soldier of Thirty-fifth New Jersey troops; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

ISAAC F. MOORE.

Mr. VANCE also introduced a bill (H. R. 8003) for the relief of Isaac F. Moore; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JAMES I. ALGOOD.

Mr. YORK introduced a bill (H. R. 8004) for the relief of James I. Algood; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

ADAM STALEY.

Mr. YORK also introduced a bill (H. R. 8005) for the relief of Adam Staley; which was read a first and second time, referred to the Committee on Claims, and ordered to be printed.

SAMUEL MAXWELL.

Mr. JOSEPH D. TAYLOR introduced a bill (H. R. 8006) granting a pension to Samuel Maxwell, deaf and dumb son of John B. Maxwell, late private Company G, Thirtieth Ohio Volunteer Infantry; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

CHARLES J. BISHARD.

Mr. JOSEPH D. TAYLOR also introduced a bill (H. R. 8007) granting a pension to Charles J. Bishard, late private Company B, Ninety-seventh Ohio Volunteer Infantry; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

J. M. DALZELL.

Mr. JOSEPH D. TAYLOR also introduced a bill (H. R. 8008) granting an increase of pension to J. M. Dalzell, late sergeant-major One hundred and sixteenth Ohio Volunteers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JAMES B. KENNEDY.

Mr. JOSEPH D. TAYLOR also introduced a bill (H. R. 8009) granting a pension to James B. Kennedy, late private Company D, Twelfth Regiment West Virginia Volunteers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

ADJUSTMENT OF ACCOUNTS.

Mr. WARNER, of Ohio, presented joint resolution of the General Assembly of Ohio, requesting its Senators and Representatives in Congress to procure the passage of a law "to adjust certain accounts between the United States and the several States and Territories and the District of Columbia," as set forth in House bill 110, and dated December 10, 1883; which was referred to the Committee on Claims, and ordered to be printed.

FRANCIS M. HENRY.

Mr. KEIFER introduced a bill (H. R. 8010) granting a pension to Francis M. Henry, of Mechanicsburg, Ohio; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

CATHERINE M'CARRON.

Mr. WALLACE introduced a bill (H. R. 8011) granting a pension to Catherine McCarron, widow of Hugh McCarron, alias Logue; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

WILLIAM H. BRAMLETT.

Mr. GEORGE introduced a bill (H. R. 8012) granting an increase of pension to William H. Bramlett; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

H. W. SHIPLEY.

Mr. GEORGE also intoduced a bill (H. R. 8013) for the relief of H. W. Shipley; which was read a first and second time, referred to the Committee on Indian Affairs, and ordered to be printed.

TELEGRAPHIC COMMUNICATION BETWEEN AMERICA AND ASIA.

Mr. CURTIN introduced a bill (H. R. 8014) to revive and amend the act of Congress of August 15, 1876, to encourage and promote telegraphic communications between America and Asia; which was read a first and second time, referred to the Committee on Foreign Affairs, and ordered to be printed.

EDWARD G. PENDLETON.

Mr. BINGHAM introduced a bill (H. R. 8015) for the relief of Edward G. Pendleton; which was read a first and second time, referred to the Committee on Claims, and ordered to be printed.

MRS. MARY W. JOHN.

Mr. EVERHART (by request) introduced a bill (H. R. 8016) granting an increase of pension to Mrs. Mary W. John; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

COMMISSIONS TO ARMY AND NAVY APOTHECARIES.

Mr. RANDALL introduced a bill (H. R. 8017) to authorize the President of the United States, by and with the consent of the Senate, to grant to apothecaries both of the Army and Navy a commission; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

PETER LYLE.

Mr. RANDALL also introduced a bill (H. R. 8018) for the relief of the legal representatives of Peter Lyle, deceased; which was read a first and second time, referred to the Select Committee on Payment of Pensions, Bounty, and Back Pay, and ordered to be printed.

AMENDMENTS TO THE RULES.

Mr. MILLS submitted the following proposed amendments to the Rules of the House; which were read, and referred to the Committee on Rules.

That Rule XXIV be so amended as to read as follows:

"6. Business on the Speaker's table having been disposed of, it shall be in order to entertain motions in the following order, namely: First, that the House resolve itself into the Committee of the Whole House on the state of the Union to consider, first, any designated bill relating to the revenue and any designated general appropriation bill, and then other business on its Calendar."

Also amend Rule XXVIII as follows, to come in at the end of the first paragraph:

"*Provided*, That a vote of the majority of the members present may suspend the rules and pass any bill relating to the revenue."

JAMES CARLIN.

Mr. POLAND introduced a bill (H. R. 8019) to increase the pension of James Carlin, private in Company I, Third Regiment Vermont Volunteers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

PUBLIC BUILDING MONTPELIER, VT.

Mr. POLAND also introduced a bill (H. R. 8020) to provide for the erection of a public building at Montpelier, Vt.; which was read a first and second time, referred to the Committee on Public Buildings and Grounds, and ordered to be printed.

DR. W. LEIGH BURTON.

Mr. GEORGE D. WISE introduced a bill (H. R. 8021) authorizing the Commissioner of Patents to grant an extension of letters patent upon the application of Dr. W. Leigh Burton; which was read a first and second time, referred to the Committee on Patents, and ordered to be printed.

SAMUEL B. COE.

Mr. RAYMOND introduced a bill (H. R. 8022) granting a pension to Samuel B. Coe; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

ASSOCIATE JUSTICES, DAKOTA, ETC.

Mr. RAYMOND also introduced a bill (H. R. 8023) to amend an act entitled "An act providing for two additional associate justices of the supreme court of the Territory of Dakota, one additional associate justice of the supreme court of the Territory of Washington, and for other purposes," approved July 4, 1884; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

INSANE ASYLUM, DAKOTA.

Mr. RAYMOND also introduced a bill (H. R. 8024) to amend an act granting to the Territory of Dakota section 36, township 56, range 94 west, in the county of Yankton, in said Territory, for the purposes of an asylum for the insane, &c., approved June 16, 1880; which was read a first and second time, referred to the Committee on the Public Lands, and ordered to be printed.

CHRISTIAN R. PURDUM AND OTHERS.

Mr. SINGISER introduced a bill (H. R. 8025) for the relief of Christian R. Purdum, Hervey E. Clark and John M. Lamb, and Julius Shainwald; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

ORDER OF BUSINESS.

The SPEAKER. This completes the call of States and Territories.

If there be no objection, the Chair will now recognize gentlemen who were not in their seats when their States were called for the introduction and reference of bills and joint resolutions.

There was no objection.

THANKS TO OFFICERS AND CREW REVENUE-STEAMER CORWIN.

Mr. COLLINS introduced a joint resolution (H. Res. 317) proposing the thanks of Congress to Capt. M. A. Healy and the officers and crew of the revenue-marine steamer Corwin; which was read a first and second time.

The resolution was read, as follows:

Resolved, &c., That the thanks of Congress are due, and they are hereby tendered, to Capt. Michael A. Healy, of the United States Revenue-Marine Service, and the officers and crew of the revenue-marine steamer Corwin, under his command, for their humane and heroic conduct in cruising with that vessel among the ice-floes and in the dangerous seas of the Northwestern Arctic Ocean for the relief of persons in distress and for their successful efforts in rescuing and bringing away within the last thirty months ninety-seven persons, who were either shipwrecked or in destitution and distress in that region.

The joint resolution was referred to the Committee on the Library, and ordered to be printed.

TAXES ON DISTILLED SPIRITS IN BONDED WAREHOUSES.

Mr. BLOUNT introduced a bill (H. R. 8026) to enforce the collection of taxes on distilled spirits in bonded warehouses; which was read a first and second time, referred to the Committee on Ways and Means, and ordered to be printed.

PRINTING A PETITION.

Mr. WOLFORD. Mr. Speaker, I ask unanimous consent that the petition I now send to the desk be printed in the RECORD and appropriately referred.

The SPEAKER. The Chair will state to the gentleman that that request is not in order at this time.

Mr. WOLFORD. Can it not be printed?

The SPEAKER. The Chair is simply recognizing gentlemen for the introduction and reference of bills and joint resolutions by unanimous consent.

This petition will be referred through the petition-box.

SOLOMON R. BENHAM.

Mr. PARKER introduced a bill (H. R. 8027) for the relief of Solomon R. Benham; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JAMES L. SCOTT.

Mr. PERKINS introduced a bill (H. R. 8028) granting a pension to James L. Scott; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

ORDER OF BUSINESS.

The SPEAKER. This being the third Monday in the month, the regular order is the call of committees for motions to suspend the rules. The call rests with the Committee on Foreign Affairs.

CONSULAR COURTS, ETC.

Mr. HITT. Mr. Speaker, by direction of the Committee on Foreign Affairs I move to suspend the rules, take from the Speaker's table Senate bill 343 to provide for the exercise of the jurisdiction conferred upon the United States in places out of their territory and dominion, and to repeal the Revised Statutes from section 4083 to section 4130 inclusive, and put the same upon its passage.

Mr. COX, of New York. Mr. Speaker, that is a very long bill, some fifty pages——

Mr. RANDALL. I object to any bill passing this House without being first read.

Mr. COX, of New York. The gentleman from Pennsylvania simply anticipates my purpose. It was my object to insist upon the reading, and also that the other side might be heard.

Mr. RANDALL. This is a very important bill.

Mr. COX, of New York. That is exactly my opinion, and I want to have some debate on the other side of the question. For that reason I want to have the bill read, and demand a second upon the motion.

The SPEAKER. The Clerk will read the bill.

Mr. HITT. Mr. Speaker, with the consent of the House, I will state that this Senate bill coincides, word for word, with House bill No. 1867, which is printed; so that any gentleman by using House bill No. 1867 can follow the reading.

Mr. RANDALL. I insist upon the reading of the bill. I have seen in my legislative experience great injury done by the passage of bills without having them read.

The SPEAKER. The gentleman from Illinois [Mr. HITT] does not ask to dispense with the reading, but simply states that there is a House bill identical with the Senate bill.

The Clerk read the bill, as follows:

A bill (S. 343) to provide for the exercise of the jurisdiction conferred upon the United States in places out of their territory and dominion, and to repeal the Revised Statutes from section 4083 to section 4130, inclusive.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the jurisdiction which the United States now have or hereafter may have and enjoy, by treaty, custom, usage, or otherwise, in countries or places out of their territory or dominion, so far as the same is judicial, shall be exercised through and by the courts herein provided for, each of which shall be a court of record and have a seal. In China and Japan it shall be exercised through and by consular courts, district courts, and one supreme court. In all other such places out of the territory and domain of the United States such jurisdiction shall be exercised through and by consular courts in manner as provided in this act.

And the consuls authorized hereby to hold such courts shall be responsible to the United States and amenable to the laws thereof not only as consular officers but as judicial officers when they perform judicial duties.

The several provisions of this act shall apply and be enforced in the several countries herein named, in whole or in part, to the extent to which the United States are authorized by treaties and capitulations of the said countries, respectively, to exercise jurisdiction.

SEC. 2. That the sections of the Revised Statutes from and including section 4083 to and including section 4130 be, and the same are hereby, repealed: *Provided*, That the said sections, and every part thereof, shall be and remain in force so far as may be necessary for the purpose of defining, prosecuting, and punishing crimes committed before this act takes effect, and of saving and enforcing civil actions pending at that time.

BORNEO, COREA, EGYPT, MADAGASCAR, MOROCCO, MUSCAT, PERSIA, SAMOA, SIAM, TRIPOLI, TUNIS, AND TURKEY.

SEC. 3. That to carry into full effect the provisions of the treaties of the United States with Borneo, Corea, Egypt, Madagascar, Morocco, Muscat, Persia, Samoa, Siam, Tripoli, Tunis, and Turkey, respectively, and any capitulations of either of said countries, the consuls of the United States duly appointed to reside in each of those countries shall, in addition to other powers and duties imposed upon them respectively by the provisions of such treaties and capitulations, be invested with the judicial authority herein described, which shall appertain to the office of consul, and be a part of the duties belonging thereto, so far as the same is allowed by treaty or capitulation.

SEC. 4. That such officers are invested with all the judicial authority necessary to execute the provisions of such treaties and capitulations in respect to crimes charged to have been committed by or against citizens of the United States, and to issue all necessary processes to carry this authority into execution as hereinafter provided.

SEC. 5. That such officers are also invested with all the judicial authority necessary to execute the provisions of such treaties or capitulations, respectively, in regard to civil rights, whether of property or person; and in all matters of contract or of other controversy, the consul at the port where, or nearest to which, the contract was made, or at the port at which, or nearest to which, it was to be executed, or the cause of controversy arose, or the damage complained of was sustained, shall entertain jurisdiction. Such jurisdiction shall embrace all controversies provided for by this act or by such treaties and capitulations, respectively.

SEC. 6. That jurisdiction in both criminal and civil matters shall in all cases be exercised and enforced in conformity with the laws of the United States heretofore enacted or hereafter to be enacted, which are hereby, so far as is necessary to execute such treaties, respectively, and so far as they are suitable to carry the same into effect, extended over all citizens of the United States in those countries, and over all others to the extent that the terms of the treaties, respectively, justify or require. But in all cases where such laws are not adapted to the object, or are deficient in the provisions necessary to furnish suitable remedies, the common law and the law of equity and admiralty shall be extended in like manner over such citizens and others in those countries; and if neither the common law, nor the law of equity or admiralty, nor the statutes of the United States furnish appropriate and sufficient remedies, the Secretary of State and the Attorney-General shall prepare a code to supply such defects, which shall be submitted to Congress by the President.

SEC. 7. That the consul of the United States in either of the countries mentioned in section 3 of this act, within the consular district for which he is appointed, is authorized, upon facts within his knowledge, or which he has good reason to believe true, or upon complaint made or information filed in writing and authenticated in such way as shall be prescribed by the code of practice hereinafter provided, to issue his warrant for the arrest of any citizen of the United States charged with committing in the country any criminal offense against law, and to arraign and try any such offender, and to sentence him to punishment in the manner herein prescribed. If the offense is punishable with death or imprisonment, and there be a diplomatic representative of the United States in the country in which the consulate is situated, the consular officer shall report the proceedings in full, without delay, to him, calling attention to any palliating circumstances. The consular officer shall at the same time report such proceedings in full, with the palliating circumstances, to the Secretary of State, to be submitted by him to the President. Execution of the sentence of death shall be suspended until the approval of such sentence by the President. When it appears that the offense has been committed within another consular jurisdiction, such consul may, on the application of the consul of the district in which the crime was committed, send the offender in custody to the consul making the requisition, or require him to give security for his appearance there. In civil cases, wherein judgment is rendered for more than $200, appeals on questions of law, according to the forms of the code of practice hereinafter provided for, shall be allowed as follows: From the consular courts of Borneo, Corea, Madagascar, Muscat, Persia, Samoa, and Siam, to the supreme court of Japan; from the consular courts of Egypt, Morocco, Tripoli, Tunis, and Turkey, to the circuit court of the United States for the eastern district of New York. Execution shall not be stayed by reason of such appeal unless the appellant shall execute a bond to the appellee, in such sum as shall be fixed by the consular court, with sureties approved by it, conditioned to pay any final judgment that may be rendered against him.

SEC. 8. That the consuls in the countries mentioned in section 3 of this act are hereby authorized, under the direction of the Secretary of State, to provide suitable prisons for the safe-keeping and confinement of persons under arrest or conviction, and for their suitable support.

SEC. 9. That in criminal cases in all consular courts, except those of China and Japan, the Supreme Court of the United States, or any judge thereof, shall have jurisdiction to issue writs of habeas corpus and suspend execution of sentence in said consular courts, upon petition of the accused, stating in detail the errors committed in said courts, for the purposes of a review of the decision of the consular courts in the Supreme Court; and the said Supreme Court shall have power, upon such application, to render final judgment or to remand the case for further execution. In such proceedings the appearance of the accused in person shall not be deemed necessary to confer jurisdiction unless ordered by the court or judge allowing the writ.

CHINA AND JAPAN.

SEC. 10. That the consular courts in China and Japan, and the grades and ranks of the officers thereof, shall be as now established, except as changed hereby. The acting consular officer of the district is authorized to hold such court. The Secretary of State may assign to each consulate in China and Japan a consular clerk, who shall also act as clerk of the court and as a master in chancery; and for this purpose the number of consular clerks authorized by section 1704 of the Revised Statutes is increased to twenty-five. Such consular clerk shall have the custody of the seal and records, with the usual powers and duties of the clerk of a court of record, and shall also be under the consul in his consular capacity, and shall execute a bond to the United States for the faithful discharge of his

duties, in such amount as shall be fixed by the Secretary of State, and with sureties who shall be approved by the court.

SEC. 11. That the consular officers authorized to hold such courts shall continue to have the power, as fully as they now have, to issue warrants and cause to be arrested citizens of the United States charged with the commission of misdemeanors, offenses, or crimes. When it appears that the offense or crime has been committed within another consular district, they may, on the requisition of the consul of the district within which the crime was committed, send the offender in custody to the consul making the requisition, or require him to give security for his appearance there. When it is charged that the misdemeanor, offense, or crime was committed within the consul's district, the consular court may take jurisdiction of, try, and punish citizens of the United States so charged when the offense is not punishable with death; and a review may be had in the proper district court on the rulings of the consular court on questions of law. It shall be the duty of the judge in the consular court to certify for review in the proper district court any ruling of law adverse to the accused which he may wish to have reviewed and to which exception has been taken during the trial.

Said consular courts shall have original jurisdiction in civil cases arising under such treaties wherein the matter in controversy does not exceed the sum of $500.

All provisions authorizing appeals from consular courts to a minister or other diplomatic officer, or to the circuit court for the district of California, are hereby repealed. The rulings of a consular court in civil cases on questions of law may be reviewed in the district court within which the consular district is situated when the amount in controversy, exclusive of costs, exceeds $200, or when the court certifies that the case should be so reviewed.

CHINA AND JAPAN—DISTRICT COURTS.

SEC. 12. That, for the purposes of this act, there shall be appointed by the President, by and with the advice and consent of the Senate, two judges for China, and a judge for Japan, whose term of office shall be eight years, respectively; and in case of vacancies, the persons appointed to the place from time to time shall hold office for like terms. Each judge shall receive compensation at the rate of $5,000 a year, payable monthly, and his necessary traveling expenses in the discharge of his duty, payable on his own voucher, at the rate of 8 cents a mile.

The consular districts of Canton, Amoy, Foo-Chow, Ningpoo, and Swatow shall constitute the first judicial district, with the seat of the court at Canton; the consular districts of Shanghai, Hankow, Chin-Kiang, Tien-Tsin, and New-Chwang shall constitute the second judicial district, with the seat of the court at Shanghai; and the consular districts within the Empire of Japan shall constitute a judicial district, with the seat of the court at Yokahama. But the Secretary of State may from time to time change these districts as convenience may require.

The President may also, by and with the advice and consent of the Senate, appoint a clerk for each district court in China, one of whom shall have his principal office at Canton and the other at Shanghai, and shall also be the clerk of the supreme court for China, and a clerk for the district courts held by the judge for Japan, who shall have his principal office at Yokahama, and shall also be the clerk of the supreme court for Japan. Each of said clerks shall have power to appoint a deputy, and shall give bond to the United States for the faithful discharge of his duties in such amount as shall be fixed by the Secretary of State, with such sureties as shall be approved by the court. Each clerk and deputy, before entering on the duties of his office, shall take and subscribe an oath before the judge to faithfully observe the laws of the United States in force in China or Japan (as the case may be), and to discharge the duties of his office. Each of these clerks shall also be a master in chancery, and receive an annual salary of $2,500 and his fees as master in chancery, such portion of his fees as clerk as he is entitled to retain under the provisions of this act, and his necessary traveling expenses in the discharge of his duties, payable on the voucher of the judge at the rate of 8 cents per mile.

The judges for China may appoint an interpreter for the district courts in China, and the judge for Japan may appoint an interpreter for the district courts in Japan. Each of these interpreters shall be also a translator, and shall receive a salary at the rate of $2,000 a year, payable monthly, and his necessary traveling expenses in attending court, to be computed and certified as in the case of the district clerks. The interpreter for the second judicial district of China and the interpreter for Japan shall also be the interpreter and translator for the supreme court of the country for which he is appointed. Before entering upon the duties of his office each shall subscribe and take an oath before the district judge faithfully to observe the laws of the United States in force in China or Japan (as the case may be) and the rules of the court of which he is an officer, and truly to interpret and translate in all causes, civil or criminal, in which he may be required to act, which oath shall be filed in the archives of the court. A willful failure to so interpret and translate truly shall make the offender guilty of perjury, for which he may be tried and convicted by the proper consular court, although he be not a citizen of the United States.

The said district courts may appoint temporary officers when necessary to the proper conduct of their business, and fix a reasonable compensation for their services, which shall be paid by the clerk out of any funds in his hands applicable to that purpose, or by the consul of the district on the certificate of the clerk that he has no such funds.

A term of court in each district shall commence on the second Monday in January in each year and end on the last Wednesday in December. The judges for China shall hold the district courts in China, and the judge for Japan shall hold the district court in Japan; but either judge may sit in a district of the other if desired to do so. If no judge is present at the opening of term, court shall be opened by the clerk, or, in his absence, by the principal consular officer of the district or by the clerk of the consular court of the district, and shall be adjourned to some time to suit the convenience of the judge; but court shall be held at least once a year in each district, and as much oftener as the necessities of business require and the convenience of the court permits.

Each district court within its own district shall have power to issue writs of habeas corpus.

Said district court shall have original exclusive jurisdiction in all cases in equity and admiralty, and original jurisdiction concurrently with consular courts in all civil suits where the amount involved exceeds $200, exclusive of costs. They shall also have appellate jurisdiction in civil and criminal causes, according to the provisions of section 11.

Persons charged with offenses punishable by death shall be tried in a district court held in the consular district where the offense was committed. This court shall be held by a district judge, as presiding judge, and the person authorized to hold the consular court in the district. In case of difference of opinion, the ruling of the district judge shall stand as the ruling of the court.

If the judge of the district certifies in writing to the consul that neither judge can be present, the court shall be held as a district court by the consul, as presiding judge, together with four impartial citizens of the United States selected by the district judge from the leading citizens residing in the consular district. In case of difference of opinion between the consul and his associates, the ruling of the consul shall prevail on questions of law. The proceedings shall be prosecuted in such court to final judgment, and sentence in case of conviction. All rulings of law adverse to the accused in a court not presided over by a judge shall be subject to review in the district court.

It shall be the duty of the presiding judge at all convictions for capital offenses to report immediately the proceedings in full to the principal diplomatic representative of the United States in the country, with a statement of any palliating circumstances, if there be such. If the diplomatic representative thinks the case a proper subject for pardon or commutation, he may grant a reprieve not exceeding six months, and shall at once forward the papers to the Secretary of State, in order that they may be submitted to the President.

On any final judgment of said district court in a case brought up for review from a consular court, where the matter in controversy, exclusive of costs, exceeds the sum of $2,500, and on questions of law in suits originally begun and prosecuted to final judgment in said courts, where the matter in controversy is of like amount, an appeal shall be allowed to the supreme court for China or Japan, as the case may be.

It shall also be the duty of the judge to certify for review in the proper supreme court any rulings of law adverse to the accused in a capital trial which the accused shall desire to have reviewed.

CHINA AND JAPAN—SUPREME COURTS.

SEC. 13. That the said judges sitting together at Shanghai shall constitute and be styled the supreme court for China; and the said judges sitting together at Yokahama shall constitute and be styled the supreme court for Japan. The senior judge for China shall be the presiding judge at Shanghai, and the judge for Japan shall be the presiding judge at Yokahama.

The supreme court may also, during sessions of court, appoint temporary officers when necessary for the proper conduct of the business in the supreme court, and may fix a reasonable compensation for their services, which shall be paid by the clerk out of any funds in his hands applicable to the purpose, or by the consul-general out of the appropriations for contingent expenses of consulates on the certificate of the clerk that he has no such funds.

The supreme court for China shall have appellate jurisdiction to hear and determine all causes, whether civil or criminal, decided in China, and brought before it for review under the foregoing provisions; and the supreme court for Japan shall have like jurisdiction as to cases decided in Japan and brought before it for review.

The said judges jointly shall make rules for the conduct of causes in the consular and district courts in China and Japan, and for regulating the forms of pleadings in all the courts, and the manner of granting new trials, removing causes to the appellate courts, and of defining the points to be reviewed, and for the taxation of costs in those courts and in the supreme court, not inconsistent with the provisions of this act and rules for governing proceedings in the supreme courts and the transmission of causes to and from them.

The said supreme courts may affirm, modify, or reverse any judgment, decree, or order lawfully brought before them for review, and may direct such judgment, decree, or order to be rendered or such further proceedings to be had by the inferior court as the justice of the case may require. They may enter final judgment or decree and issue executions thereon.

In all civil cases in the consular and district courts where a judgment for money is rendered, if the party against whom such judgment is rendered appeals and desires to have execution stayed, he shall execute a bond to the appellee, in such sum as may be fixed by the court, with sureties to be approved by the court, which bond shall be filed with the clerk, conditioned to pay any final judgment that may be rendered against him. The appellant may prosecute his appeal without bond, but in such case execution shall not be stayed.

In all criminal causes in the consular or district courts which may be taken for review to a higher court, execution of judgment may be stayed, and in case of judgment of death, shall be stayed, by the court rendering judgment, until the order of the reviewing court.

REVIEW IN SUPREME COURT OF THE UNITED STATES.

SEC. 14. That a final judgment or decree in any suit in the supreme court of China or Japan, or in any of the consular courts named in this act, where is drawn in question the construction of any clause of the Constitution or of a treaty or statute of or commission held under the United States, and the decision is against the title, right, privilege, or exemption specially set up or claimed by either party, under such clause of the Constitution, treaty, statute, or commission, may be re-examined and reversed or affirmed in the Supreme Court of the United States upon a writ of error, the citation being signed by the presiding judge of the court rendering or passing the judgment or decree complained of, or by a justice of the Supreme Court of the United States, in the same manner and under the same regulations, and the writ shall have the same effect, as if the judgment or decree complained of had been rendered or passed in a circuit court of the United States; and the proceedings upon the reversal shall also be the same, except that the Supreme Court, instead of remanding the cause for a final decision, may, at its discretion, proceed to a final decision of the same, and award execution.

MARSHALS.

SEC. 15. That the President is authorized to appoint one marshal for each of the judicial districts in China and Japan, and one for Turkey and one for Siam, each of whom shall receive a salary of $1,000 a year, in addition to the fees allowed under this act. Each such marshal may appoint one or more deputies, who shall be compensated from the fees under this act, and for whose official acts the marshal shall be responsible.

It shall be the duty of the marshals to execute all process issued by the courts of the United States in those countries, respectively, and to make due return thereof to the officer by whom it was issued, and to conform in all respects to the regulations prescribed in regard to their duties.

Each marshal, before entering upon the duties of his office, shall give bond for the faithful performance thereof, in a penal sum not to exceed $10,000, with two sureties to be approved by the judge of the district or the consul-general at Constantinople, or the consul-general at Bangkok, as the case may be. Such bond shall be transmitted to the Secretary of the Treasury, and a certified copy thereof be lodged in the office of the clerk of the court of the district, or of the consul-general at Constantinople, or of the consul-general at Bangkok.

Whenever any person desires to bring suit upon the bond of any such marshal, it shall be the duty of the Secretary of the Treasury, or of the clerk, consul-general, or consul having custody of a copy of the same, to give to the person so applying a certified copy thereof; and in any action upon the official bond of the marshal such certified copy shall be received in evidence with the same force and effect as the original bond.

Upon a plea of non est factum, verified upon oath, or any other good cause shown, the court trying the cause may require the original bond of the marshal to be produced; and it shall be the duty of the Secretary of the Treasury to forward the original bond to the court requiring the same.

All rules, orders, writs, and processes of every kind which are intended to operate or be enforced against any of the said marshals shall be directed to and executed by such persons as may be appointed for that purpose by the court issuing the same.

COURT-HOUSES AND PRISONS.

SEC. 16. That the minister of the United States in China shall, under directions of the Secretary of State, as soon as possible after the passage of this act, purchase or lease for a term of not less than ten years, with privilege of renewal for ten years more, a suitable building or buildings for court-house, with convenient rooms for the offices of the clerk, marshal, janitors, and other attendants of the court, and also a suitable, safe, and convenient room for a prison, which shall be used for the confinement of persons undergoing sentence, after conviction, and of such accused persons as may be held awaiting trial, at each of the following places in China, namely: Canton, Shanghai, and Tien-Tsin.

The minister of the United States in Japan shall, under like directions, purchase or lease for a similar period, and upon the same conditions, suitable buildings for such court-house and offices, and a suitable building for a prison at Yokahama; and the minister of the United States for the Ottoman Empire shall purchase or lease for a similar period, and under like conditions, suitable buildings for prisons at Constantinople and Smyrna; and the consul-general at Siam may, under the direction of the Secretary of State, purchase or lease for a similar period, and under like conditions, a suitable building for a prison at Bangkok. The contracts in each case shall be submitted to the Secretary of State, and be approved by him and the President before being concluded.

SEC. 17. That the President is authorized to allow, in the adjustment of the accounts of consuls-general or consuls within whose districts a prison is situated, the necessary wages of the keepers of the prison and the necessary expenses of the care of offenders, not exceeding $3,000 a year in all at Shanghai, or $2,500 a year at Yokahama, or $1,500 a year at any other place.

SEC. 18. That any consular officer of the United States, under direction of the Secretary of State, may assist in establishing and maintaining municipal governments in settlements occupied by Americans, Europeans, and other foreigners in any such place out of the territory and dominion of the United States, by the concessions of the government in which it is situate. Citizens of the United States residing in such municipalities, either already or hereafter to be organized, are and shall continue to be subject to such regulations as fully as if the same were imposed by due authority of law within the domains of the United States. The consular courts of the United States shall take jurisdiction of and enforce the regulations issued by such municipal bodies of which a consular officer of the United States is a member, and render judgment for fines and penalties imposed by the same, and cause such judgments to be enforced and make such disposition of such fines and penalties when collected as may be provided by the municipal regulations.

SEC. 19. That in the event that any consul is interested, as party or witness, in any case before him, such fact shall be entered of record, and the consul of the next adjoining district shall preside at the trial thereof.

SEC. 20. That it shall be the duty of the consuls to encourage the settlement of controversies of a civil character by mutual agreement, or to submit them to the decision of referees agreed upon by the parties. The Secretary of State and the Attorney-General shall, as part of the code herein provided for, prepare and issue a general form for such submission, to be signed by the parties and acknowledged before the consular court. When parties have so agreed to refer, the referees may, after suitable notice of the time and place of meeting for the trial, proceed to hear the case, and a majority of them shall have power to decide the matter. If either party refuses or neglects to appear, the referees may proceed *ex parte*. After hearing any case, such referees may deliver their award, sealed, to the consul, who, in court, shall open the same; and if he shall not for cause set it aside he shall confirm it, and judgment shall be rendered thereon, and execution issue in compliance with the terms thereof. The parties, however, may always settle the same before return thereof is made to the consul.

SEC. 21. That in all cases of misdemeanor it shall be lawful for the parties aggrieved or concerned therein, with the assent of the consul of the district, to adjust and settle the same among themselves, upon pecuniary or other considerations.

SEC. 22. That on the representation of any diplomatic or naval officer of the United States, any court under this act may issue all proper writs to prevent the citizens of the United States from enlisting in the military or naval service of either of the said countries to make war upon any foreign power with whom the United States are at peace, or in the service of one portion of the people against any other portion of the same people; and he may carry out this power by a resort to such force belonging to the United States as may at the time be within his reach.

SEC. 23. That whenever, by custom, usage, capitulation, treaty, or otherwise, a consular officer of the United States has the right to sit in or be present at a sitting of a mixed court which takes jurisdiction of the rights of citizens of the United States, such officers are hereby required to be present at such sittings, and to do or perform such official acts with respect thereto as may be necessary or proper under such custom, usage, capitulation, treaty, or otherwise, in conformity with such regulations as the code of practice may from time to time prescribe.

SEC. 24. That the ministers and consuls shall be fully authorized to call upon the local authorities to sustain and support them in the execution of the powers confided to them by treaty, and on their part to do and perform whatever is necessary to carry the provisions of the treaties into full effect, so far as they are to be executed in the countries respectively.

SEC. 25. That the provisions of this act relating to the jurisdiction of consular and diplomatic officers over civil and criminal cases in the countries therein named shall extend to any country of like character with which the United States may hereafter enter into treaty relations.

SEC. 26. That the powers conferred upon consuls by this act, not specially relating to China, Japan, or the dominions of the Ottoman Porte, are also extended to consuls and commercial agents of the United States at islands or in countries not inhabited by any civilized people or recognized by any treaty with the United States.

SEC. 27. That whenever it shall be made to appear to any court of the United States under this act that a similar court of any other power within the limits of the country within which the court is held denies to citizens of the United States the right to sue therein the citizens or subjects of such power, it shall be the duty of the court to suspend action in all suits pending therein in favor of the citizens or subjects of such power against citizens of the United States until the disability of the citizens of the United States is removed. With this exception, said courts of the United States are open to citizens and subjects of all nations to sue and prosecute to judgment suits against citizens of the United States within the judicial district of the court in which the suit is brought, subject to such rules and regulations regarding the conduct of such suits and security for costs as may be made by the provisions of the code aforesaid.

SEC. 28. That no person shall be arrested or imprisoned on any civil process issuing out of any court provided for or referred to in this act, or on any execution issuing out of such court in any suit or proceeding instituted for the recovery of any money due upon any judgment or decree founded on contract, or due on any contract, express or implied, or for the recovery of any damages for the non-performance of any contract. The following property shall be exempt from being taken on execution issuing out of any of the courts established by this act: His necessary household and kitchen furniture, according to his station in life, but to an amount not exceeding $500; the necessary wearing apparel of himself, his wife, and children; family portraits; watches usually worn by himself and his wife; library and books, not exceeding in value $200; implements of his trade; and sufficient food for himself and family for ninety days.

SEC. 29. That no fine imposed by a consul for a contempt committed in presence of the court, or for failing to obey a summons from the same, shall exceed $50; nor shall the imprisonment exceed twenty-four hours for the same contempt.

EVIDENCE—DEPOSITIONS.

SEC. 30. That in all cases, criminal and civil, the evidence shall be taken down in writing, in open court, under such regulations as may be made for that purpose; and all objections to the competency or character of testimony shall be noted, with the ruling in all such cases, and the evidence shall be part of the case.

SEC. 31. That whenever the evidence of a citizen of the United States within any of the consular districts of the United States referred to in this act shall be desired to be used before the consular or other court of some other power within the same district, the consular officer of the United States may, on request of the proper court, issue a writ of subpœna, and, if desired a writ of subpœna duces tecum, requiring him to appear and testify before the said consular or other court; and on the failure of the witness so to appear, the consular officer may cause the offender to be arrested, and may punish him for contempt as fully as he might do if the witness had been summoned to appear before the consular court of the United States and had failed to do so. The provisions of this section shall not be applied in favor of consular courts of other powers which deny similar favors to the consular and other courts of the United States.

SEC. 32. That depositions of citizens of the United States, or of other persons submitting voluntarily to the jurisdiction, to be used in any civil cause pending in any court hereby established, may be taken before such court, or the clerk thereof, or before any judge or consular officer, or the clerk of any court in the country in which the cause is pending. The proceedings in taking and returning depositions shall be conducted according to the provisions of the Revised Statutes, so far as applicable thereto and of the said code to be prepared by the Secretary of State and the Attorney-General, and, in China and Japan, of the rules which may be prescribed therefor by the respective supreme courts in those countries.

LIMITATION OF ACTIONS.

SEC. 33. That the following provisions relating to limitations of actions shall be in force as to all actions in the courts of the United States in any and all the said places out of the territory or domain of the United States:

No action for the recovery of real property, or for the recovery of the possession thereof, shall be maintained unless it appear that the plaintiff, his ancestor, predecessor, or grantor, was seized or possessed of the premises in question within twenty years before the commencement of such action, unless the person entitled to commence such action be, at the time the title to the property shall first descend or accrue, either within the age of 21 years, or insane, or a married woman. In case of either such disability, such action may be commenced within ten years after the disability has ceased, but not after that period.

The periods prescribed for the commencement of actions other than for the recovery of real estate are as follows:

On a judgment of a court of the United States, including the courts established hereby, or of any State or Territory, or on a sealed instrument, within ten years after the cause of action accrues.

Actions on contracts, and all actions for torts, except as hereinafter provided, within six years after the cause of action accrues.

Actions against an officer of any of the said courts, in any of the said places, for alleged liability by reason of the doing of any act in his official capacity or the omission of an official duty, actions for the recovery of fines and penalties, actions for libel, slander, or false imprisonment, seduction, or breach of promise of marriage, within two years after the cause of action accrues.

But if the person entitled to bring any of the said actions, other than for the recovery of real estate, be, at the time the cause of action accrues, within the age of twenty-one years, or insane, or a married woman, such action may be commenced within two years after such disability has ceased, but not after that period.

In construing these provisions, and all the provisions of this act, the courts of the United States hereby authorized shall be governed by the decisions and rulings of the Supreme Court of the United States when there is found to be a conflict of opinion between that court and any other courts; but this shall not be construed as preventing any such court from enforcing any universally recognized commercial custom and usage at the port or place where such court is established, even though the same may differ from a commercial usage prevailing in the United States.

STATUTE OF FRAUDS.

SEC. 34. That the following provisions relating to fraudulent conveyances, and to assignments, and to chattel mortgages shall be in force as between citizens of the United States in all the said places out of the territory and dominion of the United States, and in all the courts of the United States therein:

All deeds, conveyances, transfers, or assignments, verbal or written, of goods, chattels, or things in action, made in trust for the use of the person or persons making the same, shall be void as against creditors existing or subsequent.

Every agreement that by its terms is not to be performed within one year from the making thereof, and every special promise to answer for the debt, default, or miscarriage of another, shall be void unless such agreement, or some note or memorandum thereof expressing the consideration, be in writing, and subscribed by the party to be charged thereby.

Every contract for the sale of any goods, chattels, or things in action, for the price of $50 or more, shall be void unless a note or memorandum of such contract be made in writing, and be subscribed by the parties to be charged thereby, or unless the buyer shall accept and receive part of said goods, or the evidences, or some of them, of such things in action, or unless the buyer shall at the time pay some part of the purchase-money.

Every assignment of goods and chattels by way of mortgage or security, or upon any condition whatever, shall be presumed to be fraudulent and void, as against the creditors of the person making such assignment, or subsequent purchasers in good faith, unless the same be accompanied by immediate delivery and be followed by an actual and continued change of possession, or unless the mortgage, or a true copy thereof, be filed with the clerk of the consular court of the district in which the property is situated; and the clerks of said courts are hereby required to receive such papers when offered for filing, and to keep them where they can be seen and examined, and to keep a register, wherein shall be noted all such mortgages or copies filed, and the date of each filing.

Every conveyance of every estate or interest in lands, or the rents and profits of lands, made or created with intent to defraud prior or subsequent purchasers for a valuable consideration, as against such purchasers, shall be void.

Every contract for releasing real estate for a longer period than one year, or for the sale of any lands or interests in lands, shall be void unless the contract, or some note or memorandum thereof expressing the consideration, shall be in writing, and be subscribed by the party by whom the lease or sale is to be made.

Every instrument required by any of the provisions of this section to be subscribed by any party may be subscribed by the lawful agent of such party.

MARRIAGE.

SEC. 35. That the following provisions in regard to marriage and divorces and the rights of married women shall be in force as to citizens of the United States in all the said places out of the territory and dominion of the United States:

Marriages celebrated by any consul, or by any minister of the gospel in presence of any consular officer of the United States in a foreign country, between persons authorized to marry under the provisions of this act, or under the provisions of section 18 of this act, shall be valid to all intents and purposes, and shall have the same effect as if solemnized within the United States. When the laws of the country in which a consulate is situated require marriages to be celebrated before a civil officer of the country, the presence of the consul at the civil ceremony shall be taken to be a compliance with the provisions of this act. And such consular officers shall, in all cases, give to the parties married before them a certificate of such marriage, and shall send another certificate thereof to the Department of State, there to be kept. Such certificates shall specify the names of the parties, their ages, places of birth, and residence.

Marriages between parents and children, and grandparents and grandchildren of every degree, ascending and descending, and between brothers and sisters of the half as well as the whole blood, are declared to be incestuous and void, whether the children and relatives are legitimate or illegitimate.

The real and personal property of any married woman a citizen of the United States, within any of the said places out of the territory and dominion of the United States, which she shall own at the time of a marriage in such place, or shall thereafter acquire, except by gift from her husband, and the rents, issues, and profits thereof, shall not be subject to the disposal of her husband nor liable for his debts, and shall continue her sole and separate property as if she were a single woman, and she shall be entitled to the control and disposition of her own earnings.

WILLS—GUARDIANS—SUCCESSION.

SEC. 36. That the following provisions respecting probate of wills, settlement of estates of deceased persons, succession to property, guardians of minors, and other similar matters shall be in force, in all said places out of the territory and dominion of the United States, as to citizens of the United States and their property and estates:

All such citizens, including married women, not being idiots or persons of unsound mind, or infants, may devise real estate and bequeath personal property by will, made in writing, subscribed and published by the testator as his or her last will and testament, in the presence of at least one person, who, in the testator's presence and at his request, affixes his name thereto as a subscribing witness.

Power is hereby conferred upon the Secretary of State and the Attorney-General to frame, as part of the code hereinafter provided for, full provisions respecting the mode of proof of wills, all necessary proceedings in the settlement and distribution of the estates both of testates and intestates, and the care and custody of the estates of minors during proceedings in probate.

The consular courts are hereby made courts of probate with respect to the property of citizens of the United States dying in their respective consular districts, with full power, in the manner which may be provided by such code, to cause probate of wills, to issue letters testamentary or letters of administration, to cause the estates of deceased persons to be settled, and, after payment of just debts and expenses, to distribute the surplus, to appoint guardians of minor children, to fix the amount of security to be required of executors, administrators, and guardians, to pass upon their accounts, and generally to do any and all acts usually done by a court of probate in such cases.

Under such rules regulating appeals as may be made by the supreme court for China and Japan, appeals may be taken from consular courts to the proper district court from decrees approving or rejecting a will, or on any interlocutory proceeding affecting private rights to the extent of $500, or from a decree of distribution when any one distributive share amounts to $500. The district court may, when justice requires it, order proceedings in the consular court stayed pending proceedings in the district court.

In case it becomes necessary to sell real estate, or an interest therein, in order to pay the just debts or settle the estate of a deceased person, the probate court may order the sale, taking such steps with reference thereto as may be prescribed in such code.

The distribution of such surplus estate shall be made as follows: One-third part thereof to the widow, and all the residue, by equal portions, among the children, and such persons as shall legally represent such children if any of them have died before the deceased. If there be no children nor any legal representatives of them, the whole surplus shall be allotted to the widow.

If the deceased leave no widow, the whole surplus shall be distributed among the children, in equal parts, and the representatives of any child that may have died before the deceased shall take the share of such child.

Real estate owned by citizens of the United States, in such places out of the territory and dominion of the United States, who shall die without devising the same, shall descend in manner following: First, subject to the right of dower of the widow, to his lineal descendants; second, to the widow; third, to his father; fourth, to his mother; fifth, to his next of kin.

If the intestate shall have several descendants in the direct line of lineal descent, and all of equal degree of consanguinity to such intestate, the inheritance shall descend to such persons in equal parts, however remote from the intestate the common degree of consanguinity may be; and if any of such persons shall have died before the intestate, leaving children, such children shall take his or her share, in equal parts.

But the consular court as a court of probate may, on petition of any party interested, order any or all such real estate to be sold for the purpose of distribution, and in that event the proceeds shall be distributed in the same way and to the same persons to whom the real estate would have fallen by descent.

PARTNERSHIPS.

SEC. 37. That the following provisions as to partnerships shall be in force in all the said places out of the territory and dominion of the United States, so far as concerns the citizens of the United States and the consular and other said courts hereby provided for:

A copartnership of which a citizen of the United States is a general partner may sue and be sued in said courts, and proceeding had in any such suit as if all the parties were citizens, except that execution shall not issue against the separate property of a member who is not a citizen of the United States, unless permitted by treaty or capitulation.

Persons desiring to form a partnership in any consular district for the transaction of business with a limited liability may do so under the rules and regulations of the code of practice herein directed to be made: *Provided*, That such rules and regulations shall provide for making public, in the consular district where the business is to be transacted, a certificate, to be signed by all the proposed partners, wherein shall be stated the names of all the partners, the amount of the cash capital contributed by each, the nature of the business, the duration of the partnership, and the interest and liability of each partner. Any false statement in such certificate shall cause a general liability of each and every partner for all the debts of the partnership.

ATTACHMENT.

SEC. 38. That in a civil action for the recovery of money the plaintiff may, at or after the commencement thereof, have an attachment against the property of the defendant upon the grounds herein stated:

First, when the defendant or one of several defendants is a foreign corporation or a non-resident, and the cause of action has arisen in the country wherein the consular district is situate; or,

Second, when the defendant has absconded with the intent to defraud his creditors; or,

Third, has left the jurisdiction to avoid the service of a summons, or,

Fourth, so conceals himself that a summons can not be served upon him; or,

Fifth, is about to remove his property, or a part thereof, out of the jurisdiction of the court, with the intent to defraud his creditors; or,

Sixth, is about to convert his property, or a part thereof, into money, for the purpose of placing it beyond the reach of his creditors; or,

Seventh, has assigned, removed, disposed of, or is about to dispose of his property, or a part thereof, or conceals it with the intent to defraud his creditors; or,

Eighth, has fraudulently or criminally incurred the obligation for which suit is about to be or has been brought.

The said remedy of attachment shall be obtained and enforced according to the regulations and forms prescribed by the code of practice, which shall include the making of an affidavit and the giving of a bond, with sufficient security, on or in behalf of the plaintiff.

JURIES.

SEC. 39. That a grand jury for each consular district shall be impaneled and sworn, to inquire into and take cognizance of all crimes and offenses committed therein. The number of members, the number necessary to find an indictment, the selection, summoning, rules, and forms of proceedings of such grand juries shall be regulated by the code of practice herein directed to be made.

No one shall be held to answer for a capital crime or other felony except on indictment of a grand jury, or for any other offense except on such information as may be prescribed by said code of practice, unless, after being duly advised by the court, the accused shall waive such indictment or information and consent to be tried upon such charge as the court may enter of record against him.

In all criminal prosecutions the accused shall have the right of trial by jury; but he may waive the same and submit to be tried by the court alone, or he may plead guilty to the charge.

In all civil actions according to the course of the common law, where the value in controversy shall exceed $20, the right of trial by jury shall be preserved, but the parties may waive the same and submit the cause to trial by the court.

SEC. 40. That every male citizen of the United States resident or temporarily sojourning in any of the places covered by the provisions of this act, of the age of 21 years and upward, being able to speak and read English, not having been convicted of any infamous crime, shall be qualified to serve on a jury. All persons so qualified shall be liable to serve on a jury, except persons in the diplomatic service, officers and employés of the courts and prisons, officers in the Army or Navy on duty, attorneys in actual practice, and persons disabled by mental or bodily infirmity.

On or before the second Monday of January in each year a list shall be made out by the consul of persons residing in the district and qualified to serve as jurors. This list shall be conspicuously posted in the court-room and consulate until the 31st of the same month. As soon thereafter as it can conveniently be done, the consul shall, in open court, revise and settle the list for the current year, and until the next list shall be settled.

Whenever a jury is required, the court shall summon at least fifteen persons from the said list. Any one failing to appear when so summoned shall be liable to such fine, not exceeding $50, as the court may see fit to impose, to be collected in such manner as the court may direct.

A trial jury shall consist of five jurors, and shall be required to give a unanimous verdict. No person interested in the result shall sit as juror. In cases tried before a jury the rule of challenge shall be as follows: Challenges for cause shall be unlimited in civil and criminal cases, and all challenges for cause shall be tried by the court. In civil actions there shall be no peremptory challenges. In criminal prosecutions peremptory challenges shall be allowed; if the case is capital, the defendant nine and the Government three, to be exercised alternately, the defendant challenging three and the prosecution one. In all other criminal cases the defendant shall have five peremptory challenges and the Government two, to be made in the same manner.

Jurors shall receive for their subsistence while in attendance at court $2 each per day, and shall also be entitled to traveling expenses, at the rate of 8 cents per mile, from their homes to the place of holding court, and from such place to their homes, respectively.

The clerk shall pay the jurors' fees and mileage from a roll which shall be provided by him for each term of the district court, and be known as "the court pay-roll for the term of 18—," out of any funds in his hands from which court expenses are payable, as hereafter provided. Each juror on receiving his per diem and mileage fees shall sign such roll; and the court pay-roll thus signed and approved by the signature of the district judge shall be the clerk's sufficient voucher.

SEC. 41. That if it shall be found impossible to obtain a trial jury of five competent persons among all the citizens of the United States in the consular district, the consul shall enter that fact on the record of his court, and proceed with a jury of three such citizens; and if it should be impossible to obtain a jury of three, he shall call on three disinterested persons not citizens of the United States, but otherwise qualified to act as jurors.

CRIMES—PUNISHMENTS.

SEC. 42. That the following provisions as to punishments and penalties for crimes and offenses committed by citizens of the United States shall be in force in all of said places out of the territory and dominion of the United States.

In all cases, except as herein otherwise provided, the punishment of crimes and offenses shall be by fine or imprisonment, or both.

Every person convicted of murder shall be condemned and sentenced to suffer death, but the President shall have the power to commute such sentence to imprisonment.

Every person convicted of manslaughter or of assault with intent to kill shall be sentenced to suffer imprisonment for not less than two nor more than twenty years.

Every person convicted of rape, or of being accessory thereto before the fact, shall be sentenced to suffer imprisonment for not less than ten nor more than twenty years.

Every person convicted of assault with intent to commit a rape shall be sentenced to suffer imprisonment for not less than five nor more than ten years.

Every person convicted of burning, or setting fire to with intent to burn, any dwelling-house, or any other house, barn, or stable adjoining thereto and belonging to such dwelling, or any store-house, warehouse, or shop, or any church, meeting-house, chapel, school-house, public library, public hall, theater, or other building, or any ship or vessel, shall be sentenced to imprisonment for not less than one nor more than twenty years.

Every person convicted of burglary, or of robbery, or of mayhem, or of being accessory before the fact to either of those crimes, shall be sentenced to suffer imprisonment for not less than three nor more than fifteen years.

Every person convicted of perjury or subornation of perjury shall be sentenced to suffer imprisonment for not less than two nor more than twenty years.

Every person convicted of having, within any of the consular judicial districts, falsely forged and counterfeited any gold or silver coin which now is or shall hereafter be passing or in circulation within any of the countries mentioned in this act; or of having falsely uttered, paid, or tendered in payment any such counterfeit or forged coin, knowing the same to be false and counterfeit; or of having aided, abetted, or commanded the perpetration of either of the said offenses; or of having falsely made, altered, forged, or counterfeited, or caused or procured to be falsely made, altered, forged, or counterfeited, or having willingly aided or assisted in falsely making, altering, forging, or counterfeiting, any paper, writing, or printed paper, to the prejudice of the right of any other person, body politic or corporate, or voluntary association, with intent to defraud such person, body politic or corporate, or voluntary association, or of having passed, uttered, or published, or attempted to pass, utter, or publish, as true, any such falsely made, altered, forged, or counterfeited paper, writing, or printed paper, to the prejudice of the right of any other person, body politic or corporate, or voluntary association, knowing the same to be falsely made, altered, forged, or counterfeited, with intent to defraud such person, body politic or corporate, or voluntary association, shall be sentenced to suffer imprisonment for not less than one nor more than seven years.

Every person convicted of larceny where the value of the property stolen shall be $50 or more shall be sentenced to suffer imprisonment for not less than one nor more than five years.

Every person convicted of larceny where the value of the property stolen shall be less than $50 shall be deemed guilty of a misdemeanor, and shall be punished by a fine of not more than $250, or by imprisonment for not more than six months, or both such fine and imprisonment.

Every person who shall be convicted of receiving or buying stolen goods or money, knowing the same to have been stolen, with intent to defraud the owners thereof, shall be deemed guilty of a misdemeanor, and be punished by fine not exceeding double the value of the property received or bought, and by imprisonment for not more than six months, or both such fine and imprisonment.

Every person convicted of obtaining by false pretenses any goods or chattels, money, bank note, promissory note, or any other instrument in writing for the payment or delivery of money or other valuable thing, shall be sentenced to suffer imprisonment for not less than one nor more than five years.

Every person convicted of assault, or assault and battery, with intent to inflict a great bodily injury, shall be sentenced to suffer imprisonment for not less than one nor more than three years.

Every person convicted of assault, or of assault and battery, shall be punished by a fine of not less than five nor more than fifty dollars, or by imprisonment for not more than thirty days.

In all cases of conviction by a consular court for a breach of any municipal, city, or town ordinance, the punishment shall be such as may be provided for the offense by such municipal, city, or town ordinances, but the punishment imposed in any such case shall not exceed a fine of $100, or imprisonment for ninety days.

When the sentence or punishment is, in whole or in part, by fine, the court may, in its discretion, add to the sentence that the person so fined shall stand committed until the fine is paid, but such commitment shall in no case exceed six months.

In all cases of conviction for crime where the punishment provided by this section is by imprisonment for one year or more, the person sentenced may, in the discretion of the court, be condemned to labor at such work, if any, as may be provided for prisoners in the prison or place in which the sentence is to be carried out.

FEES.

SEC. 43. That the following provisions relating to clerks' fees, marshals' fees, and fees of interpreters shall apply to all of said places out of the territory and dominion of the United States.

The clerk shall tax and collect as a docket fee—

First. In all cases where the amount in controversy is not more than $500, $5.

Second. Where the amount is over $500 and not more than $1,000, $10.

Third. Where the amount is over $1,000, $15.

Fourth. Where no specific damages are sought, the fee shall be graduated according to the nature of the case, not less than $5 nor more than $15, to be determined by the court.

The clerk's fee shall be, for—

Fifth. Issuing all writs, warrants, or other compulsory process, $1.50.

Sixth. Docketing every suit commenced, $1.

Seventh. Issuing executions, 50 cents.

Eighth. Issuing summons, subpœnas, and notices, 25 cents.

Ninth. All records and transcripts in appeals or for other purposes, for each hundred words, 15 cents.

Tenth. Seal and certificate to such record or transcript, $1.

Eleventh. Drawing any notice, paper, order, or process, on the request of any party to a suit or one interested therein, and which is not otherwise provided for, $2. If such notice, paper, order, or process exceed two hundred words, for each additional hundred words, $1.

Twelfth. Filing each paper upon the return of the marshal, and all other papers filed in court, 10 cents.

The marshal's fees shall be, for—

Thirteenth. Serving any writ, warrant, or other compulsory processes, for each person included in said writ or process, 25 cents.

Fourteenth. Serving summons, 25 cents.

Fifteenth. Each bail bond, $1.

Sixteenth. Subpœnas, for each witness summoned, 25 cents.

Seventeenth. Levying execution, $1.

Eighteenth. Advertising property for sale, $2.

Nineteenth. Releasing property under execution, by order of plaintiff, $1.

Twentieth. Selling property under execution, when the amount collected does not exceed $1,000, 5 per cent.; if over one and not exceeding three thousand dollars, 3 per cent.; if over $3,000, 2 per cent.

Twenty-first. Traveling fees in serving all process, per mile, 8 cents.

Twenty-second. Serving any notice not herein provided for, exclusive of mileage, 50 cents.

For extraordinary services performed by the marshal, or any deputy, or bailiff appointed by order of the court, a reasonable allowance may be made by the presiding judge, which shall be paid by the clerk out of the fund for court expenses.

The interpreter's fees shall be, for—

Twenty-third. Each day's attendance on court, $5.

Twenty-fourth. Making special translations, $3.

Twenty-fifth. If more than two hundred words, for each additional hundred words, $1.

The witness's fees shall be, for—

Twenty-sixth. Each day's attendance at court, $1.50.

Twenty-seventh. Each mile traveled in going to and returning from court, 8 cents.

Appeal fees shall be, for—

Twenty-eighth. Docketing case in the district court on appeal, $5.

Twenty-ninth. Entering judgment on appeal in the district court, $5.

Thirtieth. Docketing case on appeal in the supreme court, $10.

Thirty-first. Entering final judgment in the supreme court, $5.

Thirty-second. Recording opinion of the court in either the district or supreme court, for the first two hundred words, $3.

Thirty-third. Each additional hundred words, $1.

Thirty-fourth. Any intermediate or interlocutory order of the district or supreme court in appeal cases, $1.

Thirty-fifth. Mandate or order of the appeal court to the court from which the appeal was taken, $2.

The fees prescribed for marshals and interpreters shall be retained by them, respectively, as official emoluments.

Fee No. 11 in this schedule shall be the personal emolument of the clerk. All other docket, court, and clerk fees shall be paid to the clerk and by him safely kept as a part of the court-expense fund, from which the said clerk is authorized to pay any bills or accounts, fees, or mileage which shall be presented to him, having indorsed thereon the approval in writing of the district judge.

All fines and penalties imposed by the provisions of this act, except those imposed for a violation of municipal regulations, shall be paid to the clerk, by whomsoever collected, for the use of the United States, and the proceeds of the fees, fines, and penalties thus collected by or paid to the clerk shall constitute the expense fund of the court; and the clerk shall, on or before the 1st day of February of each year, transmit to the Secretary of State a detailed account of all moneys received and all disbursements made by him, which account shall, before transmission, be submitted to the district judge, who, if he finds it correct, shall indorse his approval thereof on the account. Any surplus in the hands of the clerk shall be held by him, subject to the order of the Secretary of State, on behalf of the United States; and if the moneys thus received in any one year shall be found insufficient to meet the expenses of the court, the deficiency shall be paid from the contingent fund for diplomatic and consular expenses, on the order and by the direction of the Secretary of State; and in case there shall not be in the hands of the clerk sufficient money for that purpose, he shall be authorized, on the approval of the district judge and Secretary of State, at any time during the year in which such deficiency shall occur, to draw on the Secretary of State for the necessary amount to meet such deficiency, which shall be paid by the Secretary of State out of the said contingent fund for diplomatic and consular expenses.

SEC. 44. That the Secretary of State and the Attorney-General shall, as soon as possible after the passage of this act, prepare a code of practice sufficient to carry into effect all the provisions of this act, for the use of the said courts and of parties practicing therein. The said code shall provide for proceedings which shall be simple and direct, so as to enable all persons to obtain speedy justice from said courts. It shall contain suitable forms for the principal business; but no advantage shall be taken in said courts of defects in form. Free liberty of amendment shall be allowed by such courts, to the end that justice may not be denied for defects which do not go to the merits.

The said code shall also contain suitable directions for proceedings in probate, for the formation of limited partnerships, and for all other matters hereinbefore provided for. The said code shall first be approved by the President, and shall then take effect in six months thereafter. It may be changed, amended, or modified from time to time by the Secretary of State and the Attorney-General, with the approval of the President.

SEC. 45. That whenever in this act a duty is imposed upon a consul, the duty, unless otherwise specially provided, shall be performed by the principal consular officer at the port or place where the consulate is situated; and in his absence or inability to act, by the vice-consul-general or vice-consul; and in his absence or inability to act, by the deputy consul, if there shall be a deputy consul, or, if not, by such person as the principal diplomatic representative of the United States in the country may authorize in writing.

Nothing in this act contained shall be construed to affect in any way the powers conferred upon consuls of the United States by sections 1709, 1710, and 1711 of the Revised Statutes, except as herein expressly provided.

SEC. 46. That the word "minister," when used in this title, shall be understood to mean the person invested with, and exercising, the principal diplomatic functions. The word "consul" shall be understood to mean any person invested by the United States with and exercising the functions of consul, whether named consul-general, vice-consul-general, deputy consul-general, consul, vice-consul, deputy consul.

SEC. 47. That as to directions to the Secretary of State and the Attorney-General to prepare a code, and the authority conferred upon the President to approve the same, contained in section 41, and as to the provisions for the purchase or leasing of buildings, contained in sections 8 and 15, this act shall take effect immediately. As to all other provisions it shall take effect in six months from the approval of such code by the President.

The SPEAKER. Is a second demanded?

Mr. HOLMAN and Mr. COX, of New York, demanded a second.

Mr. HITT. I ask that the second be considered as ordered.

Mr. HOLMAN. I think we had better have a count by tellers, as required by the rule.

The SPEAKER. A second being demanded, the Chair appoints as tellers the gentleman from Indiana [Mr. HOLMAN] and the gentleman from Illinois [Mr. HITT].

The House divided; and there were—ayes 97, noes 54.

Mr. HOLMAN (one of the tellers). I do not insist on further count.

So (further count not being called for) the motion to suspend the rules was seconded.

The SPEAKER. Under the rules of the House thirty minutes are allowed for debate, fifteen minutes in support of the motion and fifteen minutes in opposition to it. The Chair will recognize the gentleman from Illinois [Mr. HITT] to control the time in support of the motion, and the gentleman from Indiana [Mr. HOLMAN] to control the time in opposition to it.

Mr. HITT. In the few moments of time given for discussion it will hardly be possible to even explain the provisions of the bill, much less to make an argument in their support. It is a long bill, although it is much shorter than the law of which it takes the place, for it is a revision of many laws enacted at many times concerning the extraterritorial jurisdiction of the United States. Those laws have in the course of time been amended, and it is believed that they need further amendment, and that they need to be methodized and perfected.

This bill is one aiming at that purpose. It was prepared with great care in the department of the Government specially charged with our foreign affairs. It has been considered by the committees of both Houses for two Congresses and many modifications made. It has received their continuous attention for several years. It has been the subject of two messages from the President, of several executive communications, of extended discussion elsewhere, and very full discussion in the Committee on Foreign Affairs of the House.

The need for this kind of legislation need not be explained to any one who is familiar with the condition of our citizens abroad, their rights, and their affairs. No one among us would be willing in Pagan or Mahommedan countries to be subjected to their fantastic laws and cruel punishments, and inefficient, ignorant, corrupt courts. Our Government, from the beginning of our national history, has taken vigilant care to protect its citizens everywhere around the world, providing in its treaties with Oriental, far Asiatic, and island countries of half-civilized peoples, that they shall not be subjected to the jurisdiction of local law and local tribunals. And when gentlemen ask, as they may, where is the authority in the Constitution for exercising this jurisdiction or for establishing a judicial authority in a foreign country, I may

remind them that this was done by nearly all Christian governments under public law, in treaties centuries ago, and by our own Government in its earliest existence. This system of establishing and exercising judicial power outside of our country began even before the Constitution, and at the very moment that the Constitution was framed, when by the treaty with Morocco, in 1787, judicial power over our citizens in that country was confined to courts authorized by our Government.

A long series of similar treaties made since have received the assent of our wisest and most eminent statesmen. These treaties withdraw our countrymen from the local laws of Eastern countries; we are bound by reason and necessity to supply their place. The laws that have extended, perfected, and methodized this system are, it is believed, where conflicting, reconciled, abbreviated, and in some things extended in the elaborate measure which is now presented to the House. I may say briefly that this bill is a digest and arrangement of the present statutes on this subject, with some things omitted which were deemed superfluous or unwise, with many limitations put upon the judicial powers of our consuls as they are now exercised under the law. It also greatly abridges the present extraordinary, almost uncontrolled, judicial authority of our ministers. The powers of the consuls, acting as consular courts, through the countries of Northern Africa and the islands and the East are more sharply defined, and in cases of importance an appeal is given to the United States court for the eastern district of New York.

In China and Japan, where the American interest is so large and increasing so fast, where our merchants in single cities, our fellow-citizens, can be counted by hundreds, where their transactions amount to millions upon millions, it has been deemed necessary to establish courts purely judicial, and to take away from the consuls and from the ministers the power of life and death which they now have and have long held. Our consuls can now try a man for his life. There is no appeal save to the minister. If the minister is away it is to the gentleman who is exercising the functions of *chargé*, perhaps a young man of little experience. If he does not see fit to send it to the President the man is executed. Several times in cases the records of which lie before me have citizens been tried there for their lives, and have perished under this law. It is time that our citizens have a more adequate, systematic protection in accordance with the spirit of our laws and our institutions.

It was remarked to me a day or two ago by a gentleman long in China that we have not had a minister of the United States in that empire since the time of Mr. Burlingame who had read law. The gentleman who made the remark was himself an ex-minister. Yet the minister is the appellate court for that great multitude of Americans in China, and for that enormous body of property which passes through the hands of the American merchants, dealers, and workers, whose brain and muscle are carrying such a mighty American influence into China. Therefore it has been deemed by the Department and by the committee wise that independent judicial tribunals be established. This will cause, of course, an additional expense. That is the item in the bill that will undoubtedly subject it to the criticism of some gentlemen upon this floor. The bill provides for two judges in China and one judge in Japan, at $5,000 each, who are to take the place of our minister in his capacity as judge and of the consul in many cases, which are defined very carefully in the bill. These judges and the *personnel* of their courts altogether, in China and Japan, will not entail as much cost upon our Government as one of the numerous English courts established in those remote countries for the protection of British subjects, the security of their lives and property, by that great and wise government, chiefly with a view to the extension of its commerce and its power; and we, seeking to-day by every means that legislation can compass to extend American commerce, can hardly find a more immediate and practical way of doing it than by protecting American life and property everywhere throughout the world by our flag and by our laws.

Mr. Speaker, I reserve the remainder of my time.

The SPEAKER. The gentleman has six minutes remaining.

Mr. HOLMAN. I yield ten minutes of my time to the gentleman from New York [Mr. COX].

Mr. COX, of New York. Mr. Speaker, at the present time we have what are called consular courts in these heathen lands. I mean the Mohammedan countries and the pagan countries, such as Japan and China. This bill proposes to extend the jurisdiction of our courts there beyond the consular business. It makes somebody else besides the consul a judge. It creates a district court in China and Japan, with two judges for China and one for Japan, and a supreme court to be held by all the judges.

Now, my friend from Illinois [Mr. HITT] very properly says that the basis and the authority for legislation of this kind is to be found in the Constitution under the treaty-making power. It has been sometimes alleged to be a power connected with commerce. It is sometimes alleged to be a power arising under the second section of the third article of the Constitution, the general judicial power; but I think all hands agree, especially since the argument of Mr. Cushing, when he was our minister to China and made the treaty there—I think all hands now agree that if there is any authority in Congress to carry the body of our judicial power beyond the limits of our own nation it comes from the treaty-making power, and is to be found there and nowhere else. It has been doubted by men of ability whether or not we can lift up the body of our judicature and bear it into a foreign country; whether we can give it extraterritoriality; whether we can carry our constitutional requirements as to evidence and as to trial by jury and kindred subjects to a foreign land.

But there comes in the condition, and in so far as the treaty makes it conditional we may do so. If these foreign countries agree to it we may do so, but it is a matter of very grave doubt. Can we, merely by the consent of another party, expand our Constitution? Can we do it so as to set up a judicial system in a foreign country?

I need not argue that question. It seems to be taken for granted that we have the power to make a consular court, and *a fortiori* to make these other courts. I may deny the latter according to my present lights.

I agree with my friend from Illinois [Mr. HITT] that there is no time in a half hour's debate for the proper discussion of a subject of this magnitude. It is a bill covering fifty-two printed pages. It is a bill involving a code for human society. It is a code relating to partnerships, to the laws of evidence, to marriage, wills, and successions, and to the laws as to attachments. It involves crimes and punishments. It creates juries. It concerns life and death itself.

Mr. Speaker, if the Constitution of the United States allows us to set up our judiciary in a foreign country, should we not have our jury system there? What provision is there in this bill for a jury? The jury is sacred to Anglo-Saxon traditions.

Here, sir, is a provision for a jury of five American citizens, if so many can be found, or of three, if only so many can be found within the bailiwick; but if three Americans can not be found, then the jurors are to be selected from whom? Why, from your Chinese, or your Japanese, or your Samoan or Siamese friends. You may select the whole five from any of the peoples where these courts are to be established.

Mr. LONG. Do not our consuls at present exercise judicial powers?

Mr. COX, of New York. They do.

Mr. LONG. Where do they obtain them?

Mr. COX, of New York. They obtain them under the present law of Congress. But this bill proposes to set up regular courts.

Mr. LONG. Will not the power exercised by those courts be the same judicial power that is now exercised by the consular courts?

Mr. COX, of New York. I doubt our right to establish regular courts outside of consular and commercial relations. It has been doubted by those who know more than I do. I merely throw out the doubt now. We have no time to discuss the question in this brief debate. Here, sir, is a bill which repeals forty-eight sections of our Revised Statutes. Very likely it has ameliorating clauses in it. It is so framed, however, that no one can tell, in the hurry of to-day and in view of the reform going on in our own and other countries, what particular code is the best for the emergency or what is needed for the protection of our citizens and their property and persons in these barbaric realms.

Mr. Speaker, these courts of ours in foreign countries have grown, as the gentleman from Illinois [Mr. HITT] has well said, out of our first treaty with Morocco. That treaty was made shortly after the organization of our Government.

At that time these Mohammedan and pagan countries were governed by bigotry. They were prejudiced against foreigners. They were ruled by their caprices, and restrained only by their own rules of evidence and trial. Many of these rules were drawn, as the gentleman reminded us, from the Koran. But since that time there have been marvelous changes. Consider what has been transpiring in the world since. We can truthfully say, "We have changed all that." In China, wherever we can reach it, in Algiers, in Morocco, in Siam, in the Corea—in all these remote and so-called barbaric nations there has been progress. They regard such courts as these as irksome. They are a sort of wheel within a wheel—an *imperium in imperio*. In Egypt, but for its distractions, our court would long since have been abolished. These abnormal and extraterritorial courts are the remnant of the bigoted and unprogressive past. They are provoking; they are odious, just as all creations of foreigners in defiance of home rule. They should not be encouraged. Nor should we, in view of their unpopularity and in the new "light of Asia" and new enterprise in Africa, and under the dawn of a new century, extend these alien institutions into those remote countries. We would not suffer them. We should not inflict and certainly should not extend them in defiance of our own organic order. If the Constitution be sacred to us; if its ungranted powers are reserved; if we would reserve our powers and not push them too far federally, not push them into the far-off and jealous Orient, then let us be heedful about passing a bill of this nature. If we must repeal our statutes let the repeal be under liberal and just conditions.

Besides, this bill encourages the creation of many new offices. There are already coming to the front many men of many minds, if not of many tongues, to be appointed marshals and clerks and judges of the courts to be established under this bill.

Why not wait a little? Let this be considered in Committee of the Whole—perhaps in the next Congress. Perhaps we may then see what the wisdom of the State Department has not seen.

There may be many defects in a bill of this nature which can be cured by more considerate deliberation. Until that time, and in view

of a general reform of our consular system under the new processes of our era of steam, electricity, interchange, and intelligence, we may perfect closer and happier relations with this Moslem and pagan world, some of whose institutions and customs are so much finer and better than our boasted policies and politics that we may well hesitate before reproaching their advancement by such bills as this.

Mr. HOLMAN. I now yield four minutes to the gentleman from New Jersey [Mr. McADOO].

Mr. McADOO. Mr. Speaker, if we are to build and support in the very heart of the Orient an American state, I think we should proceed with great deliberation and caution in planning the edifice. Here is an elaborate code which in its civil aspects is almost as large and intricate as that of the Empire State of New York; and incorporated in this bill is also a criminal code. In other words, this bill creates several ready-made American states, both as to civil and criminal jurisdiction, with two supreme courts, one in China and one in Japan. Now I ask, is it right that in the half-hour allowed for its discussion in this House we should hastily pass a bill to create an American government in a foreign country? I would respectfully suggest to the gentleman from Illinois [Mr. HITT] that the title of this bill should properly read somewhat as follows: "An act to create small experimental American states in China, Turkey, Japan, and other remote countries, and to provide offices abroad for home statesmen." It will never do for us to begin our administration of the Government in this way.

I call attention to another feature of this bill. It not alone deals with the question of partnership, the question of marriage, the entire social and legal relations of Americans residing in those countries, but it deals with the question of life; and the American citizen abroad finds himself under this code tried by what? By a jury of his countrymen? By a jury of twelve men, in accordance with our Constitution? No; he may be tried for his life under this bill by a mongrel jury of three men—something unknown to the laws and Constitution of the country which he has left and of which he is a citizen.

Mr. HITT. That is the law now, or, rather, it is worse now.

Mr. McADOO. No; the gentleman is in error. The present law provides that the consul shall conduct the trial, with a right of appeal to the minister; and I say that a citizen of this country had better be tried by a consul or a minister than by a jury of three men, as provided in this bill. Say, as may be the case, three Chinamen, who can very imperfectly speak English. Trial by an intelligent consul seems to me superior to this novel jury of three pigeon-English-speaking Chinamen or Japanese.

Moreover, under this bill there is a discretionary power as to the creation of offices. There is provision for an increased number of interpreters; and, in this bill, after the foreign interpreter takes the oath he is for the time being a sort of temporary American citizen. This bill gives leave, so long as the funds hold out, so long as the clerk has any unexpended portion of the appropriation, to create temporary offices; and it gives to the Secretary of State the right to make an elaborate code regulating the practice of these courts.

I protest, sir, against this exportation of an American state, a mongrel state at that, to a foreign country under the flag of the United States. Why, it will involve us in all kinds of international difficulty. We do not know, speaking facetiously, but that, following the example of our history, this American state in China may want to secede from that government, and so involve us in all manner of international trouble.

I hope, sir, that this bill will not pass, and am sorry that in the short time allotted me I can not point out the many other defects it contains. We have here at home a great continent to develop and absorbing problems of free government to work out without embroiling ourselves in Africa or Asia.

Mr. HOLMAN. Mr. Speaker, it seems to me a very perilous proceeding to pass a bill of this magnitude, a bill of fifty-two pages, involving the highest questions of government, with no opportunity for amendment and only half an hour's debate. There are many provisions of this bill which are embraced in the present law; but the bill proposes to create many new offices—judges, consular clerks, marshals. Innumerable provisions are made under which public expenditures will be very largely increased.

But, sir, there is one new feature in this bill to which I wish especially to call the attention of the House. I ask the Clerk to read the eighteenth section. Its extraordinary character may have been overlooked in the hasty reading which has occurred.

The Clerk read as follows:

SEC. 18. That any consular officer of the United States, under directions of the Secretary of State, may assist in establishing and maintaining municipal governments in settlements occupied by Americans, Europeans, and other foreigners in any such place out of the territory and dominion of the United States, by the concessions of the government in which it is situate. Citizens of the United States residing in such municipalities, either already or hereafter to be organized, are and shall continue to be subject to such regulations as fully as if the same were imposed by due authority of law within the domains of the United States. The consular courts of the United States shall take jurisdiction of and enforce the regulations issued by such municipal bodies of which a consular officer of the United States is a member, and render judgment for fines and penalties imposed by the same, and cause such judgments to be enforced and make such disposition of such fines and penalties when collected as may be provided by the municipal regulations.

Mr. HOLMAN. Mr. Speaker, that provision is a new one, and it seems to me confers extraordinary powers on the Secretary of State, powers hitherto never conferred upon an officer of this Government. The consul, with the approval of the Secretary of State, may absolutely organize municipal governments within the limits of any outlying dominion. To what extent the Government of the United States in the progress of years might, by the single action of the Secretary of State, become involved in the affairs of foreign governments no human foresight could predict. If there were an opportunity to move to strike out this section I would then call attention to others which I consider equally objectionable. I am opposed to passing a bill containing so broad a power as this confers upon a consular officer and the Secretary of State.

The SPEAKER. The gentleman's time has expired. The gentleman from Illinois has six minutes remaining.

Mr. HITT. I desire to occupy only three minutes; the remaining three minutes I yield to the gentleman from Pennsylvania [Mr. CURTIN], the chairman of the Committee on Foreign Affairs. Will the gentleman take his time now?

Mr. CURTIN. I will, and will ask the gentleman to notify me when the three minutes have expired.

Now, Mr. Speaker, this bill is not intended to acquire foreign property in foreign territories, or to establish new nationalities. It is intended essentially to protect, to foster, and to extend the trade and commerce of the people of the United States; to give our citizens in foreign countries the just protection they deserve.

Here on this floor I continually hear gentlemen say we need the extension of our commerce—we need new markets for our surplus products. This is an effort, sir, in that direction.

The gentleman has stated to you that out in these countries they put men to death without the form or semblance of law.

Now as to the question of the right to establish these courts and appoint all the officers provided under it, why our Government has exercised it from the very beginning—before the formation of the Constitution. There is scarcely anything in this bill new except that which goes to strengthen the hands of officials abroad for the protection of our people. It is merely the putting together of the various acts of legislation on this subject—digesting, arranging, codifying them into one bill. For years the subject has been under the consideration of Congress, of the Executive, of the State Department, and whatever is here provided has been on ample information from abroad and after most careful investigation of the law as it is. The bill was fully considered in the Senate Committee, unanimously reported, and was passed by that body. It has received the deliberate consideration of the Committee on Foreign Affairs of this House, and that committee has unanimously recommended its passage to this House.

As I have said already, it is no new power; it is only an enlargement of the present powers for the purpose of protecting our citizens, as well as the interests and commerce of the country. If such legislation be required would it not be better to pass this bill rather than it should fail, and have a new bill commenced at the next session? It might be amended hereafter, and limited to suit gentlemen.

Mr. EATON. Read the last clause.

Mr. CURTIN. I will call the attention of the House to the last clause of the last section: "As to all other provisions, it shall take effect in six months from the approval of such code by the President."

Mr. HOLMAN. Very important powers are given to the courts.

Mr. CURTIN. I know there are. But if we are to secure trade and commerce, to extend the interests of American citizens in foreign countries, we must protect them.

The SPEAKER. The gentleman's time has expired.

Mr. HITT. I will yield the remaining portion of my time to the gentleman from Pennsylvania if he desires it.

Mr. CURTIN. No; I am obliged to the gentleman, but I have said all I desire to.

Mr. HITT. The gentleman from New Jersey [Mr. McADOO] urged against this bill that it gave arbitrary and despotic power apparently over human life, and that the consul has the appointment of a jury of only three, and they not necessarily Americans, in certain possible cases which might arise under the bill. That may be true, but it is even worse as the law now stands. This bill is an effort to supply defects in the present law, a law which gives such enormous powers to the consul. By this measure he is required to have a jury, and in view of the small number of Americans there obtainable, the jury is to be of five men, and he must get them if he can. That is better than it is now when he passes on human life by himself—a man, too, it may be in some cases, who never read law, and who has perhaps one hundred American citizens doing business in the town where his office is located. The gentleman's fear of the eighteenth section, which might be used to found new governments, is simply to regulate and legalize the action of our consuls in barbarous places like the Samoan Islands, where all the consuls unite in a sort of municipal council to preserve order and have some sort of government. Their action in such cases has long been recognized by the Department of State.

It is true the bill is not absolutely perfect, but it is as perfect as can be made in its methods with the material that must be employed to

procure juries. It is all in the direction of a limitation of arbitrary power. It is all in the direction of the protection of the lives and property of our citizens abroad from arbitrary dealings by the officers in charge. It aims to place power into the hands of those who are supposed to have knowledge and experience to enable them to exercise such powers in conformity with law and justice.

The code of general law, crimes, and punishments which is embodied in this bill—very brief it is true, and I wish it could have been more extensive—is necessary for a reason that I wonder should have escaped the acuteness of that gentleman; and that is, that our Federal laws do not and can not touch the most numerous and ordinary questions of municipal law, and the rights of our citizens in person and property which are governed by State laws. But this is not the case with reference to the English, French, Italians, and others whose whole body of law is one; and therefore this code is provided as a guide to our consuls, containing as it does the elementary principles of our law, so as to guide them with reference to those questions which may and probably will come before them under the operation of this bill.

Mr. MCADOO. May I ask the gentleman a question?

Mr. HITT. I hope the gentleman will excuse me, as I have but a moment. The defects or omissions of this bill, by a code which it expressly provides, shall be supplied by the Attorney-General and the Secretary of State, and before it goes into effect must be passed upon by this body.

Mr. MCADOO. I wanted to ask the gentleman a question in reference to this very subject of jury trial as provided in this bill.

Mr. HITT. I must decline to yield to an interruption, having but a very brief time to answer the arguments which have been made against the bill.

Mr. MCADOO. I will yield such time as I had left to the gentleman.

The SPEAKER. The time of the gentleman has expired.

Mr. HITT. And as to the question of offices and their multiplication, the creation of new offices, especially the numerous marshals to which reference has been made, the gentleman should remember that those marshals already exist. They are now provided for the consulates under our present statutes, and this only provides that they shall aid these judicial officers in the exercise of their duty.

[Here the hammer fell.]

The SPEAKER. The question is on the motion of the gentleman from Illinois to suspend the rules and pass the bill.

The question was taken.

Mr. HOLMAN. I ask the yeas and nays.

The yeas and nays were ordered, 66 members voting in favor thereof.

The question was taken; and there were—yeas 148, nays 104, not voting 71; as follows:

YEAS—148.

Adams, G. E.	Elliott,	Kean,	Rogers, W. F.
Aiken,	Ellis,	Keifer,	Rosecrans,
Atkinson,	Ermentrout,	Kelley,	Rowell,
Bagley,	Evans,	Kellogg,	Russell,
Barbour,	Everhart,	Ketcham,	Ryan,
Barksdale,	Finerty,	King,	Slocum,
Bayne,	Garrison,	Lacey,	Smalls,
Beach,	George,	Lamb,	Smith, A. H.
Bingham,	Gibson,	Lawrence,	Smith, H. Y.
Blount,	Goff,	Le Fevre,	Snyder,
Boutelle,	Greenleaf,	Lewis,	Steele,
Bratton,	Guenther,	Long,	Stephenson,
Breckinridge,	Hammond,	Lyman,	Stewart, Charles
Breitung,	Hanback,	McCoid,	Stewart, J. W.
Brewer, F. B.	Harmer,	McComas,	Stone,
Brewer, J. H.	Hart,	McCormick,	Strait,
Brown, W. W.	Hatch, H. H.	Millard,	Struble,
Browne, T. M.	Hemphill,	Miller, S. H.	Taylor, E. B.
Brumm,	Henderson, D. B.	Morgan,	Taylor, J. D.
Campbell, J. M.	Henderson, T. J.	Morrill,	Thomas,
Candler,	Hepburn,	Moulton,	Tillman,
Cannon,	Herbert,	Nelson,	Valentine,
Chace,	Hill,	Oates,	Vance,
Clements,	Hiscock,	O'Hara,	Van Eaton,
Cox, W. R.	Hitt,	O'Neill, Charles	Wait,
Craig,	Holmes,	Payson,	Wakefield,
Culbertson, W. W.	Holton,	Perkins,	Ward,
Cullen,	Hopkins,	Peters,	Washburn,
Curtin,	Horr,	Pettibone,	Weaver,
Cutcheon,	Houk,	Phelps,	Wemple,
Dargan,	Howey,	Poland,	White, Milo
Davis, G. R.	Hunt,	Post,	Whiting,
Davis, R. T.	Hurd,	Price,	Wilson, W. L.
Dingley,	James,	Ray, Ossian	Winans, John
Dorsheimer,	Jeffords,	Reed,	Wise, J. S.
Dunham,	Jones, B. W.	Rice,	Wolford,
Eaton,	Jordan,	Rockwell,	Woodward.

NAYS—104.

Alexander,	Clay,	Dockery,	Henley,
Ballentine,	Cobb,	Dowd,	Hewitt, G. W.
Bennett,	Collins,	Eldredge,	Holman,
Bisbee,	Connolly,	English,	Jones, J. H.
Blackburn,	Converse,	Ferrell,	Jones, J. T.
Bland,	Cook,	Follett,	Lanham,
Boyle,	Cosgrove,	Forney,	Lowry,
Buchanan,	Cox, S. S.	Geddes,	McAdoo,
Budd,	Crisp,	Glascock,	McMillin,
Cabell,	Culberson, D. B.	Graves,	Matson,
Caldwell,	Davidson,	Green,	Maybury,
Campbell, Felix	Davis, L. H.	Halsell,	Miller, J. F.
Campbell, J. E.	Dibble,	Hardeman,	Mills,
Clardy,	Dibrell,	Hatch, W. H.	Muldrow,
Muller,	Ranney,	Stockslager,	Warner, A. J.
Mutchler,	Reagan,	Sumner, C. A.	Warner, Richard
Neece,	Reese,	Sumner, D. H.	Wellborn,
Nicholls,	Riggs,	Swope,	Weller,
O'Ferrall,	Robertson,	Talbott,	Wilkins,
Paige,	Rogers, J. H.	Taylor, J. M.	Williams,
Patton,	Seney,	Throckmorton,	Willis,
Peel,	Singleton,	Tully,	Winans, E. B.
Pierce,	Skinner, T. G.	Turner, H. G.	Wise, G. D.
Pryor,	Spriggs,	Turner, Oscar	Wood,
Pusey,	Springer,	Van Alstyne,	Yaple,
Randall,	Stevens,	Wallace,	York.

NOT VOTING—71.

Adams, J. J.	Dunn,	Laird,	Ray, G. W.
Anderson,	Ellwood,	Libbey,	Robinson, J. S.
Arnot,	Fiedler,	Lore,	Robinson, W. E.
Barr,	Findlay,	Lovering,	Seymour,
Belford,	Foran,	Milliken,	Shaw,
Belmont,	Funston,	Mitchell,	Shively,
Blanchard,	Fyan,	Money,	Skinner, C. R.
Bowen,	Hancock,	Morrison,	Spooner,
Brainerd,	Hardy,	Morse,	Storm,
Broadhead,	Haynes,	Murphy,	Thompson,
Buckner,	Hewitt, A. S.	Murray,	Townshend,
Burleigh,	Hoblitzell,	Nutting,	Tucker,
Burnes,	Hooper,	Ochiltree,	Wadsworth,
Carleton,	Houseman,	O'Neill, J. J.	White, J. D.
Cassidy,	Hutchins,	Parker,	Wilson, James
Chalmers,	Johnson,	Payne,	Worthington,
Covington,	Jones, J. K.	Potter,	Young.
Deuster,	Kleiner,	Rankin,	

So (two-thirds not voting in favor thereof) the motion to suspend the rules was not agreed to.

Mr. COX, of New York. I move to dispense with the reading of the names.

Mr. MCMILLIN. I object.

The Clerk then recapitulated the names of those voting.

The following gentlemen were announced as being paired on all political questions until further notice:

Mr. RANKIN with Mr. BRAINERD.

Mr. SHAW with Mr. LAIRD.

Mr. ARNOT with Mr. BELFORD.

Mr. DUNN with Mr. CHALMERS.

Mr. FIEDLER with Mr. ELLWOOD.

Mr. COVINGTON with Mr. JOHNSON, until January 21.

Mr. MORRISON with Mr. PAYNE.

Mr. JONES, of Arkansas, with Mr. KELLOGG.

Mr. FYAN with Mr. HOOPER.

Mr. HARDY with Mr. WADSWORTH.

Mr. CARLETON with Mr. SKINNER, of New York.

The following were announced as being paired for to-day:

Mr. BURNES with Mr. WILSON, of Iowa.

Mr. O'NEILL, of Missouri, with Mr. HAYNES.

Mr. CASSIDY with Mr. MORGAN.

Mr. HOBLITZELL with Mr. BOWEN.

Mr. BELMONT with Mr. SPOONER.

Mr. FORAN with Mr. NUTTING.

Mr. THOMPSON with Mr. WHITE, of Kentucky.

Mr. KLEINER with Mr. RAY, of New York.

Mr. TOWNSHEND with Mr. OCHILTREE.

Mr. TUCKER with Mr. FUNSTON.

Mr. YOUNG with Mr. LIBBEY.

Mr. POTTER with Mr. BURLEIGH.

Mr. WHITE, of Kentuky. I desire to withdraw my vote. I am announced as being paired. If voting, I should vote in the affirmative on this proposition.

The result of the vote was then announced as above recorded.

ENROLLED BILLS SIGNED.

Mr. NEECE, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

A bill (H. R. 5639) extending the jurisdiction of justices of the peace in Wyoming Territory; and

A bill (S. 12) for the relief of Elizabeth Carson.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted as follows:

To Mr. BURNES, for this day.

To Mr. BROADHEAD, for ten days, on account of important business.

ORDER OF BUSINESS.

Mr. LOWRY. I move that the House do now adjourn.

Mr. WILLIS. I hope my friend from Indiana will not insist upon that motion.

Mr. KELLEY. Permit me to say that this day has been fixed for eulogies on the late Senator ANTHONY. The resolutions are probably at this time on their way from the Senate here.

Mr. MCMILLIN. I understand the message will not come over till 5 o'clock, if at all.

Mr. KEIFER. It is expected at half past 4.

The SPEAKER. The question is on the motion of the gentleman from Indiana [Mr. LOWRY] that the House do now adjourn.

The question being taken, there were—ayes 79, noes 96.

Mr. LOWRY. I ask for tellers.

Tellers were ordered, 58 members voting therefor—more than one-fifth of a quorum.

The SPEAKER appointed as tellers Mr. BROWNE, of Indiana, and Mr. LOWRY.

The House again divided; and the tellers reported—ayes 79, noes 107.

Mr. McMILLIN. I call for the yeas and nays.

The yeas and nays were ordered, 54 members voting therefor.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, informed the House that the Senate had passed with amendments, in which the concurrence of the House was requested, the joint resolution (H. Res. 237) for the relief of John E. Wheelock.

The message further communicated to the House resolutions of the Senate on the announcement of the death of HENRY B. ANTHONY, late a Senator from the State of Rhode Island.

ORDER OF BUSINESS.

Mr. CHACE. I ask unanimous consent to dispense with the roll-call on the motion to adjourn, and that the House proceed to take up for immediate consideration the resolutions as to the death of the late Senator ANTHONY.

Mr. BAYNE. I object.

Mr. McMILLIN. I hope that will be done.

The SPEAKER. Objection is made by the gentleman from Pennsylvania [Mr. BAYNE]. The Clerk will call the roll.

The question was taken; and there were—yeas 60, nays 192, not voting 71; as follows:

YEAS—60.

Alexander,	Dibrell,	Le Fevre,	Seney,
Barksdale,	Dockery,	Matson,	Singleton,
Bennett,	Eldredge,	Miller, J. F.	Skinner, T. G.
Blackburn,	Follett,	Mills,	Snyder,
Blanchard,	Geddes,	Moulton,	Springer,
Buchanan,	Gibson,	Ochiltree,	Stewart, Charles
Caldwell,	Graves,	Patton,	Stone,
Clay,	Green,	Peters,	Sumner, D. H.
Cobb,	Halsell,	Pryor,	Taylor, J. M.
Converse,	Hancock,	Reagan,	Throckmorton,
Cox, W. R.	Hatch, W. H.	Reese,	Turner, H. G.
Crisp,	Hill,	Riggs,	Van Eaton,
Davidson,	Houseman,	Robertson,	Warner, Richard
Davis, L. H.	Jones, J. T.	Robinson, W. E.	Weller,
Deuster,	King,	Rosecrans,	Wood.

NAYS—192.

Adams, G. E.	Dunham,	Laird,	Shively,
Aiken,	Eaton,	Lanham,	Slocum,
Atkinson,	Elliott,	Lawrence,	Smalls,
Bagley,	Ellis,	Long,	Smith, A. H.
Barbour,	English,	Lovering,	Smith, H. Y.
Bayne,	Ermentrout,	Lowry,	Spooner,
Beach,	Evans,	McAdoo,	Spriggs,
Bingham,	Everhart,	McCoid,	Steele,
Bisbee,	Ferrell,	McComas,	Stephenson,
Blount,	Finerty,	McCormick,	Stevens,
Boutelle,	Forney,	McMillin,	Stockslager,
Boyle,	Garrison,	Maybury,	Strait,
Bratton,	George,	Millard,	Struble,
Breckinridge,	Glascock,	Miller, S. H.	Swope,
Breitung,	Goff,	Milliken,	Talbott,
Brewer, F. B.	Greenleaf,	Mitchell,	Taylor, E. B.
Brewer, J. H.	Guenther,	Morgan,	Taylor, J. D.
Brown, W. W.	Hammond,	Muldrow,	Thomas,
Browne, T. M.	Hanback,	Muller,	Tillman,
Brumm,	Hardeman,	Mutchler,	Tully,
Buckner,	Harmer,	Neece,	Valentine,
Budd,	Hart,	Nicholls,	Van Alstyne,
Cabell,	Hatch, H. H.	Oates,	Vance,
Campbell, Felix	Haynes,	O'Ferrall,	Wait,
Campbell, J. E.	Henderson, D. B.	O'Hara,	Wakefield,
Campbell, J. M.	Henderson, T. J.	O'Neill, Charles	Wallace,
Candler,	Henley,	O'Neill, J. J.	Ward,
Cannon,	Herbert,	Paige,	Warner, A. J.
Chace,	Hewitt, G. W.	Parker,	Washburn,
Clardy,	Hiscock,	Payson,	Weaver,
Clements,	Hitt,	Peel,	Wellborn,
Collins,	Holman,	Perkins,	Wempie,
Connolly,	Holmes,	Phelps,	White, J. D.
Cook,	Hopkins,	Pierce,	White, Milo
Cosgrove,	Horr,	Poland,	Whiting,
Cox, S. S.	Houk,	Post,	Wilkins,
Craig,	Howey,	Price,	Williams,
Culbertson, W. W.	Hunt,	Pusey,	Willis,
Cullen,	James,	Randall,	Wilson, W. L.
Curtin,	Jeffords,	Ranney,	Winans, E. B.
Cutcheon,	Jones, B. W.	Reed,	Winans, John
Dargan,	Jones, J. H.	Rockwell,	Wise, G. D.
Davis, G. R.	Jordan,	Rogers, J. H.	Wise, J. S.
Davis, R. T.	Kean,	Rogers, W. F.	Wolford,
Dibble,	Keifer,	Rowell,	Woodward,
Dingley,	Kelley,	Russell,	Worthington,
Dorsheimer,	Ketcham,	Ryan,	Yaple,
Dowd,	Lacey,	Seymour,	York.

NOT VOTING—71.

Adams, J. J.	Broadhead,	Fiedler,	Holton,
Anderson,	Burleigh,	Findlay,	Hooper,
Arnot,	Burnes,	Foran,	Hurd,
Ballentine,	Carleton,	Funston,	Hutchins,
Barr,	Cassidy,	Fyan,	Johnson,
Belford,	Chalmers,	Hardy,	Jones, J. K.
Belmont,	Covington,	Hemphill,	Kellogg,
Bland,	Culberson, D. B.	Hepburn,	Kleiner,
Bowen,	Dunn,	Hewitt, A. S.	Lamb,
Brainerd,	Ellwood,	Hoblitzell,	Lewis,
Libbey,	Murray,	Ray, Ossian	Thompson,
Lore,	Nelson,	Rice,	Townshend,
Lyman,	Nutting,	Robinson, J. S.	Tucker,
Money,	Payne,	Shaw,	Turner, Oscar
Morrill,	Peltibone,	Skinner, C. R.	Wadsworth,
Morrison,	Potter,	Stewart, J. W.	Wilson, James
Morse,	Rankin,	Storm,	Young.
Murphy,	Ray, G. W.	Sumner, C. A.	

So the motion was not agreed to.

On motion of Mr. BAYNE, by unanimous consent the reading of the names of members voting was dispensed with.

The following additional pair was announced:

Mr. HURD with Mr. RAY, of New Hampshire, on this vote.

The result of the vote was then announced as above stated.

Mr. CHACE. I have no desire to antagonize the bill which gentlemen desire to have called up, or any other; but in order that the House may have an opportunity to express its feelings in regard to this matter, I now ask that unanimous consent be given for the consideration of the resolutions in regard to the death of the late Senator ANTHONY.

The SPEAKER. The gentleman from Rhode Island asks unanimous consent to take up for consideration at this time the resolutions received from the Senate in relation to the death of the late Senator ANTHONY.

Mr. SLOCUM. I object.

The SPEAKER, as the next committee in order for motions to suspend the rules, called the Committee on Military Affairs.

Mr. LOWRY. I move that the House take a recess till half past 11 o'clock to-morrow.

Mr. RANDALL. Another committee has been called.

The SPEAKER. The gentleman from Indiana [Mr. LOWRY] moves that the House take a recess until half past 11 o'clock to-morrow.

Mr. WILLIS. Mr. Speaker, I rise to a parliamentary inquiry. If the House take a recess until to-morrow morning will not the order in regard to the suspension of the rules continue?

The SPEAKER. It will.

Mr. WILLIS. Then I hope the recess will be taken, because I want to reach the education bill.

Mr. HAMMOND. How long will it continue, Mr. Speaker?

The SPEAKER. Until the House adjourn, whether it be one day or three days.

Mr. WASHBURN. If it is in order, Mr. Speaker, I move that the House do now adjourn.

Mr. COX, of New York. Mr. Speaker, would it be in order to move to amend the motion for a recess so as to fix another hour?

The SPEAKER. Certainly.

Mr. SLOCUM. I move to amend by making the hour 8 o'clock this evening.

Mr. MILLS. Is a motion to adjourn in order?

The SPEAKER. The House has transacted no business since the motion to adjourn was rejected.

Mr. WELLBORN. Was not asking unanimous consent the transaction of business?

The SPEAKER. The gentleman from Rhode Island asked unanimous consent, which was objected to.

Mr. WELLBORN. Was not that business?

The SPEAKER. It was objected to by a single member; not by any action of the House.

Mr. PAYSON. Mr. Speaker, is not the calling of the Committee on Military Affairs the transaction of business?

The SPEAKER. The Chair thinks not. It is not the transaction of business by the House. The House has taken no action on any question since the motion to adjourn was rejected. The question is on the amendment proposed by the gentleman from New York [Mr. COX] to the motion of the gentleman from Indiana [Mr. LOWRY] to take a recess.

Mr. MILLS. Mr. Speaker, is it in order to move that when the House adjourn to-day it adjourn to meet the day after to-morrow?

The SPEAKER. The Chair will cause the Clerk to read the rule which states the order in which these motions can be made.

The Clerk read as follows:

RULE XVI.

4. When a question is under debate, no motion shall be received but to fix the day to which the House shall adjourn, to adjourn, to take a recess, to lay on the table, for the previous question (which motions shall be decided without debate), to postpone to a day certain, to refer or amend, or to postpone indefinitely.

The SPEAKER. The House will see that the motion to fix the day to which the House shall adjourn has precedence over the motion to adjourn, and also over the motion to take a recess. Therefore the motion, if made, to fix the day to which the House shall adjourn, is in order.

Mr. MILLS. I move that when the House adjourn to-day it adjourn to meet on Wednesday next.

The motion was not agreed to.

Mr. MILLS. Mr. Speaker, I move that the House do now adjourn.

The question was taken; and the Speaker decided that by the sound the noes seemed to have it.

Mr. MILLS. I demand a division.

The House divided; and there were—yeas 101, noes 85.

Mr. SLOCUM. I demand tellers.

Mr. BAYNE. Let us have the yeas and nays.

The yeas and nays were ordered, 38 members voting in favor thereof; being more than one-fifth of the last vote.

The question was taken; and there were—yeas 119, nays 137, not voting 67; as follows:

YEAS—119.

Adams, G. E.	Eldredge,	Lewis,	Seney,
Alexander,	Ferrell,	Lovering,	Shively,
Barbour,	Follett,	Lowry,	Singleton,
Barksdale,	Forney,	McMillin,	Skinner, T. G.
Belmont,	Garrison,	Matson,	Snyder,
Bennett,	Geddes,	Maybury,	Springer,
Blackburn,	George,	Miller, J. F.	Steele,
Blanchard,	Gibson,	Mills,	Stewart, Charles
Bland,	Glascock,	Mitchell,	Stockslager,
Blount,	Green,	Money,	Sumner, D. H.
Buchanan,	Halsell,	Muldrow,	Taylor, J. M.
Buckner,	Hammond,	Muller,	Throckmorton,
Cabell,	Hancock,	Neece,	Tillman,
Caldwell,	Hardeman,	Nelson,	Turner, H. G.
Candler,	Hatch, W. H.	Oates,	Turner, Oscar
Clardy,	Henderson, D. B.	Ochiltree,	Van Alstyne,
Clay,	Hepburn,	Patton,	Van Eaton,
Clements,	Herbert,	Payson,	Wakefield,
Cobb,	Hewitt, G. W.	Peel,	Warner, A. J.
Connolly,	Hill,	Peters,	Warner, Richard
Converse,	Hiscock,	Pierce,	Washburn,
Cosgrove,	Holman,	Pryor,	Wellborn,
Crisp,	Horr,	Reagan,	Weller,
Dargan,	Houseman,	Reed,	Wemple,
Davidson,	Jones, J. H.	Reese,	Williams,
Davis, L. H.	Jones, J. T.	Riggs,	Wilson, W. L.
Dibrell,	King,	Robertson,	Winans, E. B.
Dockery,	Lamb,	Robinson, W. E.	Wood,
Dowd,	Lanham,	Rogers, J. H.	Yaple.
Eaton,	Le Fevre,	Rosecrans,	

NAYS—137.

Aiken,	Dingley,	McAdoo,	Smith, H. Y.
Atkinson,	Dunham,	McCoid,	Spooner,
Bagley,	Elliott,	McComas,	Spriggs,
Bayne,	Ellis,	McCormick,	Stephenson,
Beach,	English,	Millard,	Stevens,
Bingham,	Everhart,	Miller, S. H.	Stewart, J. W.
Bisbee,	Finerty,	Milliken,	Stone,
Boutelle,	Goff,	Morgan,	Strait,
Boyle,	Graves,	Morrill,	Struble,
Bratton,	Greenleaf,	Morse,	Swope,
Breckinridge,	Guenther,	Mutchler,	Talbott,
Breitung,	Hanback,	Nicholls,	Taylor, J. D.
Brewer, J. H.	Harmer,	O'Ferrall,	Thomas,
Brown, W. W.	Hart,	O'Hara,	Tully,
Browne, T. M.	Hatch, H. H.	O'Neill, Charles	Valentine,
Brumm,	Haynes,	Paige,	Vance,
Budd,	Hemphill,	Parker,	Wait,
Campbell, Felix	Henderson, T. J.	Perkins,	Wallace,
Campbell, J. M.	Henley,	Phelps,	Ward,
Cannon,	Hitt,	Poland,	Weaver,
Chace,	Holmes,	Post,	White, J. D.
Collins,	Hopkins,	Price,	White, Milo
Cook,	Houk,	Pusey,	Whiting,
Cox, S. S.	Howey,	Randall,	Wilkins,
Cox, W. R.	Hunt,	Ray, Ossian	Willis,
Craig,	James,	Rice,	Winans, John
Culberson, D. B.	Jeffords,	Rockwell,	Wise, G. D.
Culbertson, W. W.	Jones, B. W.	Rogers, W. F.	Wise, J. S.
Cullen,	Kean,	Rowell,	Wolford,
Curtin,	Keifer,	Russell,	Woodward,
Cutcheon,	Kelley,	Ryan,	Worthington,
Davis, G. R.	Ketcham,	Seymour,	York.
Davis, R. T.	Lawrence,	Slocum,	
Deuster,	Long,	Smalls,	
Dibble,	Lyman,	Smith, A. H.	

NOT VOTING—67.

Adams, J. J.	Dorsheimer,	Johnson,	Potter,
Anderson,	Dunn,	Jones, J. K.	Rankin,
Arnot,	Ellwood,	Jordan,	Ranney,
Ballentine,	Ermentrout,	Kellogg,	Ray, G. W.
Barr,	Evans,	Kleiner,	Robinson, J. S.
Belford,	Fiedler,	Lacey,	Shaw,
Bowen,	Findlay,	Laird,	Skinner, C. R.
Brainerd,	Foran,	Libbey,	Storm,
Brewer, F. B.	Funston,	Lore,	Sumner, C. A.
Broadhead,	Fyan,	Morrison,	Taylor, E. B.
Burleigh,	Hardy,	Moulton,	Thompson,
Burnes,	Hewitt, A. S.	Murphy,	Townshend,
Campbell, J. E.	Hoblitzell,	Murray,	Tucker,
Carleton,	Holton,	Nutting,	Wadsworth,
Cassidy,	Hooper,	O'Neill, J. J.	Wilson, James
Chalmers,	Hurd,	Payne,	Young.
Covington,	Hutchins,	Pettibone,	

So the motion that the House adjourn was not agreed to.

The following additional pair was announced:

Mr. ADAMS, of New York, with Mr. HOLTON, on this vote.

The result of the vote was announced as above stated.

Mr. MILLS. I move that when the House adjourn to-day it adjourn to meet on Wednesday next.

Mr. TALBOTT. And I move that when we adjourn to-day it be to meet to-morrow morning at 10 o'clock.

Mr. MILLS. That would be a recess.

Mr. TALBOTT. Very well; then I move a recess until 10 o'clock to-morrow morning.

The SPEAKER. The Chair thinks a motion to adjourn over is not amendable by a motion to take a recess. The question is on the motion of the gentleman from Texas, that when the House shall adjourn to-day it adjourn to meet on Wednesday next.

Mr. BAYNE. I make the point that the proposition is not in order, the same question having been already submitted to the House and voted down.

Mr. MILLS. But business has intervened since.

The SPEAKER. The gentleman from Pennsylvania [Mr. BAYNE] makes the point of order that this motion is not in order, because it is precisely the same as one which the House has already refused to adopt.

Mr. MILLS. But under the rules of the House we may alternate indefinitely these two motions, first to adjourn, and then to fix a time to which the House shall adjourn.

The SPEAKER. But the point of order which the gentleman from Pennsylvania makes is that the motion of the gentleman from Texas is precisely the same motion which the House has already refused to adopt.

Mr. MILLS. But since that time the House has voted directly on a motion to adjourn, and that is intervening business.

The SPEAKER. The gentleman from Pennsylvania does not make the point that no business has intervened since this proposition was voted upon; he makes the point that the gentleman can not make precisely the same motion which the House has rejected.

Mr. MILLS. Why, sir, I stood here when those two motions were alternated at one time for about seventy hours.

The SPEAKER. The Chair thinks that a motion to fix as the time to which the House shall adjourn precisely the same time to which the House has already refused to agree, is not in order.

Mr. WELLBORN. Suppose, Mr. Speaker, that two hours ago the House had voted down a proposition to adjourn, and that now the identical motion should be repeated, does the Chair say that would not be in order?

The SPEAKER. That is a very different proposition. But the gentleman from Texas can reach precisely the same end which he seeks to accomplish by moving to reconsider the vote by which the House refused to make the order that when the House adjourn to-day it adjourn to meet on Wednesday next. The motion to reconsider being in order, it is not in order to make over again the original motion.

Mr. MILLS. Then I make the motion to reconsider.

Mr. COX, of New York. I move to lay that motion on the table.

Mr. MILLS. On that question I call for the yeas and nays.

The SPEAKER. The gentleman from Texas moves to reconsider the vote by which the House refused to order that when the House adjourns to-day it will adjourn to meet on Wednesday next. The gentleman from New York [Mr. COX] moves to lay on the table the motion to reconsider; and on this question the gentleman from Texas calls for the yeas and nays.

Mr. MILLS. I withdraw the demand for the yeas and nays.

The question being taken on the motion of Mr. COX, of New York, there were—ayes 80, noes 65.

Mr. MILLS. I make the point that no quorum has voted.

Mr. SPRINGER. I move that the House do now adjourn.

The SPEAKER. The point is made that no quorum has voted.

Mr. MILLS. I withdraw the point.

The SPEAKER. The point being withdrawn, the motion of the gentleman from New York is agreed to, and the motion to reconsider is laid on the table. The gentleman from Illinois [Mr. SPRINGER] moves that the House adjourn.

Mr. KEIFER. If I can be allowed to make a suggestion, representing the friends—— [Cries of "Regular order!"]

The SPEAKER. The regular order is demanded.

Mr. KEIFER. I wish to make a suggestion which I think will solve this whole question. [Cries of "Regular order!"]

The SPEAKER. The question is on the motion of the gentleman from Illinois [Mr. SPRINGER] that the House adjourn.

The motion was agreed to; and accordingly (at 5 o'clock p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions and papers were laid on the Clerk's desk, under the rule, and referred as follows:

By Mr. ATKINSON: Two petitions of citizens of Perry County, Pennsylvania, praying for an increase of widows' pensions—to the Committee on Pensions.

By Mr. BAYNE: Bill to provide for a survey and examination of the Galveston Harbor, its approaches and entrance—to the Committee on Rivers and Harbors.

By Mr. BRECKINRIDGE: Papers relating to the claim of Peter Cook, of Lonoke County, Arkansas—to the Committee on War Claims.

By Mr. BOUTELLE: Petition of the selectmen and others, citizens of the town of Veazie, Me., asking for an increase of widows' pensions—to the Committee on Pensions.

By Mr. BROADHEAD: Petition of citizens of Saint Louis, in favor of the Mexican reciprocity treaty—to the Committee on Ways and Means.

Also, petition of the Academy of Science of Saint Louis, Mo., for the abolition of the duty on scientific books and apparatus—to the same committee.

By Mr. T. M. BROWNE: Petition of Munk, Roberts & Co. and others, manufacturers of Connersville, Ind., for the consideration of the bankruptcy bill—to the Committee on the Judiciary.

By Mr. BUDD: Joint and concurrent resolutions of the California Legislature, requesting Congress to pay the California Indian war debt, &c.—to the Committee on War Claims.

By Mr. CANNON: Petition of Henry Gross and others, of Atwood, Ill., asking for a pension for Clarkson Tryon—to the Committee on Invalid Pensions.

By Mr. CURTIN: Petition of Margaret F. Rawdon, relative to her claim against Venezuela—to the Committee on Foreign Affairs.

By Mr. DARGAN: Petition for additional appropriation for the improvement of the Waccamaw River—to the Committee on Rivers and Harbors.

By Mr. R. T. DAVIS: Petition of New Bedford Indian Rights Association in behalf of the Indians—to the Committee on Indian Affairs.

By Mr. DINGLEY: Petition of William C. Sprague and others, of Madrid, Me., asking for an increase of widows' pensions—to the Committee on Pensions.

By Mr. D. B. HENDERSON: Letter from W. S. Robertson, president Iowa State board of health, urging an appropriation for National Board of Health—to the Committee on Appropriations.

By Mr. HOLMAN: Petition of Lewis P. Noble, for compensation for his services in saving from destruction the steamer Forest Queen while running the blockade on the Mississippi River in front of Vicksburg, on the 16th of April, 1863—to the Committee on War Claims.

By Mr. HOPKINS: Petition of citizens of Pittsburgh, Pa., in favor of improvement of the Allegheny River—to the Committee on Rivers and Harbors.

By Mr. HUNT: Recommendation to Congress of the board of health of the State of Louisiana—to the Select Committee on the Public Health.

By Mr. B. W. JONES: Memorial of the Milwaukee Chamber of Commerce, recommending the purchase of the Portage Lake and Lake Superior Ship-Canals by the United States Government—to the Committee on Rivers and Harbors.

By Mr. KETCHAM: Petition of Susan J. Dinger and 21 others, of Dover Plains, N. Y., asking increase of widows' pensions—to the Committee on Pensions.

By Mr. LAMB: Petition of citizens of Vermillion County, Indiana, for an appropriation of $100,000 for the improvement of the Wabash River—to the Committee on Rivers and Harbors.

Also, petition of Isabella Ransom and others, asking increase of widows' pensions—to the Committee on Pensions.

By Mr. MULDROW: Petition of William Surratt, of Alcorn County, Mississippi, for reference of claim to Court of Claims for review of decision of Southern Claims Commission—to the Committee on War Claims.

By Mr MURPHY: Petition of John A. Wood & Sons and 23 other firms, with Committee of the Chamber of Commerce of Pittsburgh, Pa., asking Congress to construct the Hennepin Canal—to the Committee on Rivers and Harbors.

By Mr. NELSON: Petition of the Board of Trade of Duluth, Minn., urging the purchase by the United States Government of the Portage Lake and Lake Superior Ship-Canals—to the same committee.

By Mr. O'NEILL: Petition of aged and disabled seamen and mariners of the United States Naval Asylum at Philadelphia, asking that their pensions be not forfeited when they enter a naval asylum—to the Committee on Pensions.

By Mr. PETTIBONE: Petition for the relief of Asbury Fowler, of Cocke County, Tennessee—to the Committee on Invalid Pensions.

By Mr. POLAND: Papers relating to the claim of James Carlin, Third Regiment Vermont Volunteers, for increase of pension—to the same committee.

By Mr. ROCKWELL: Papers relating to the claim of George N. Mardin—to the Committee on the District of Columbia.

By Mr. J. H. ROGERS: Resolutions of the city council of Hot Springs, Ark., relating to the Hot Springs reservation—to the Committee on the Public Lands.

By Mr. ROSECRANS: Joint resolution of the California Legislature, requesting Congress to pay the California Indian war debt, &c.—to the Committee on War Claims.

Also, memorial of Caroline L. Ransom to Congress explaining the design of her historic picture of General George H. Thomas at Chickamauga, and praying that the picture may be purchased and placed in a suitable position in the Capitol—to the Committee on the Library.

By Mr. RUSSELL: Petition of Frank S. Hart and others, of Lowell, Mass., to establish the metric system—to the Committee on Coinage, Weights, and Measures.

By Mr. SENEY: Petition of the Louisiana Educational Society, for national aid for educational purposes—to the Committee on Education.

By Mr. SEYMOUR: Petition of J. H. Randall and others, of David M. Read and others, and of P. T. Barnum and others, of Bridgeport, Conn., asking for an appropriation to improve the harbor of Port Jefferson, N. Y.—to the Committee on Rivers and Harbors.

By Mr. SPRIGGS: Petition of Margaret F. Rawdon, relative to her claim against Venezuela—to the Committee on Foreign Affairs.

By Mr. STEELE: Petition of Mary Young, asking to be restored to the pension-roll—to the Committee on Invalid Pensions.

By Mr. VAN ALSTYNE: Petition of William Stanton and John B. Doyle, for relief—to the Committee on Claims.

By Mr. WAIT: Papers relating to the claim of Rebecca A. Minion, of Adams County, Mississippi—to the Committee on War Claims.

By Mr. WHITE: Petition of 400 citizens of Minnesota, favoring a sixteenth amendment to the Constitution—to the Committee on the Judiciary.

By Mr. WOLFORD: Petition of William H. Frear and others, against the awards of the French-American Claims Commission—to the Committee on Appropriations.

By Mr. WOOD: Petitions of ex-soldiers of Star City, Ind., asking for an increase of widows' pensions—to the Committee on Pensions.

The following petitions for the passage of the Mexican war pension bill with Senate amendments were presented, and severally referred to the Committee on Pensions:

By Mr. BOUTELLE: Of Randall Gallison and others, of Sherman Mills, and of Thomas H. Wentworth and others, of Bradford, Me.

By Mr. T. M. BROWNE: Of 237 citizens of Fayette, Delaware, and Wayne Counties, Indiana.

By Mr. CANNON: Of T. Anderson and others, of Oakwood, and of H. H. Jeter and others, of Douglas County, Illinois.

By Mr. J. E. CAMPBELL: Of citizens of Clermont County, of Butler County, of College Corner, Butler County, and of Hamilton, Butler County, Ohio.

By Mr. W. W. CULBERTSON: Of 251 voters of Lewis County, Kentucky.

By Mr. CURTIN: Of citizens of Centre County, of Clearfield County, and of Clinton County, Pennsylvania.

By Mr. R. T. DAVIS: Of L. E. Chamberlain and 503 others, of Plymouth County, Massachusetts.

By Mr. HEPBURN: Of J. B. W. Davis and 140 others, of Hopeville; of Henry Muchmore and 90 others, of Osceola, and of C. O. Conger and 61 others, of Seymour, Iowa.

By Mr. KLEINER: Of 100 ex-soldiers and citizens of Cynthiana, Ind.

By Mr. MURRAY: Of William M. Williamson and 87 others, of Marion County; of Charles R. Fessenden and 123 others, of Morning Sun; of A. K. Miller and 100 others, of Preble County; of Thomas Carmichael and 55 others, members of the Soldiers' National Home, Montgomery County, and of Alexander A. Cooper and 59 others, of Camden, Ohio.

By Mr. PATTON: Of 64 citizens of Pine Flats, Indiana County, and of 150 citizens of Armstrong County, Pennsylvania.

By Mr. PETTIBONE: Of J. A. February and 185 others, of Washington County, Tennessee.

By Mr. RUSSELL: Of John Nichols and 38 others, of North Uxbridge, and of Joseph O. Parker and 164 others, of Essex County, Massachusetts.

By Mr. SENEY: Of Henry Flates and 80 others, of Hancock County, Ohio.

By Mr. A. H. SMITH: Of 97 citizens of Pleasant Grove, Lancaster County, and of 63 citizens of Chester and Lancaster Counties, Pennsylvania.

By Mr. STEELE: Of O. Elliott and 100 others, of Wells County, Indiana.

By Mr. WASHBURN: Of 112 citizens and ex-soldiers of Becker and Sherburne Counties, Minnesota.

By Mr. WOOD: Of Grand Army Post, No. 14, Department of Indiana.

SENATE.

TUESDAY, *January* 20, 1885.

Prayer by the Chaplain, Rev. E. D. HUNTLEY, D. D.

The Journal of yesterday's proceedings was read and approved.

JOHN P. JONES, a Senator from the State of Nevada, appeared in his seat to-day.

CREDENTIALS.

Mr. COLQUITT presented the credentials of JOSEPH E. BROWN, chosen by the Legislature of Georgia a Senator from that State for the term commencing March 4, 1885; which were read and ordered to be filed.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of the Interior, transmitting a tracing of the plat of the preliminary survey of the unconfirmed private land claim No. 132, in the Territory of New Mexico, known as the Antonio de Salazar grant; which was ordered to be printed, and, with the accompanying paper, referred to the Committee on Private Land Claims.

PETITIONS AND MEMORIALS.

Mr. COKE. I present the petition of F. Barnard, R. M. Garrett, D. Tooke, W. H. Strahan, C. C. Herberts, J. G. Newsom, J. B. Stalyard,

W. J. Herbert, and others, of Colorado County, Texas, respecting a large amount of cotton said to have been seized in that county after the war by the authorities of the Government, for which they set up a claim. I move the reference of the petition to the Committee on Claims.

The motion was agreed to.

Mr. HARRISON presented a petition of the judges of the supreme court of the Territories of Montana, Washington, Utah, Arizona, and Wyoming, praying for an increase of salary; which was referred to the Committee on the Judiciary.

Mr. CONGER. I present a petition of the American Association of the Red Cross, through its president, Miss Clara Barton, praying for a further print of a document which was ordered to be printed heretofore by the Senate, giving the history of the treaty arrangements between this and other governments in regard to the Red Cross Association, the edition of which has been entirely exhausted. A reprint is asked at this time because the Red Cross Associations of the United States have on exhibit at the New Orleans Exposition such things as belong to that association which are illustrative of its objects and uses. They have also been made the depository of all exhibits sent from similar organizations by the different governments of the Old World, as from Germany, England, and France. There is a great demand for this document to be distributed at the New Orleans Exposition, and all the numbers have been exhausted.

I ask that the petition may be printed in the RECORD, as it is brief, and that it be referred, with the document in question, to the Committee on Printing.

The PRESIDENT *pro tempore*. The Senator from Michigan asks unanimous consent that the petition presented by him may be printed in the RECORD. Is there objection? The Chair hears none.

The petition is as follows:

WASHINGTON, *January* 1885.

SENATOR: Availing myself of your kind permission, I beg to present through you to the honorable body of which you are a member the following requests, namely:

That leave be given to extend the printing of the History of the Red Cross of Geneva to the number of 20,000 copies for general circulation among the people at the exposition of New Orleans, where that international and national organization will hold an exhibit.

Two thousand copies of this pamphlet were printed by order of Congress early in the spring of 1883. This copy is in stereotype at the Government Printing Office, and its reproduction will incur only the cost of material and labor of printing, which will be comparatively small.

As this pamphlet was printed at the request of the Senate, in order to inform the country of the adoption of the treaty of Geneva in 1882 by this Government, is largely official in character, and by its date can not contain the reports of the legitimate work performed by the national association acting under the treaty since that period, nor that of the international conference of last year, which information is earnestly sought for by the people, I would ask further that an appropriation of $5,000 be applied through the Government printing department for the purpose of bringing the history of the treaty of the Red Cross down to present date.

When I shall recall the facts that this association, in almost constant activity in the national relief work of the great calamities of the country, and, as we believe, performing its part with credit to the nation, draws nothing from the Government; that through four months' work in the floods of the Ohio and Mississippi of last year, running its relief boats side by side with those of the Government, not a dollar of the munificent appropriation made by your honorable body for that relief came to this association for distribution or otherwise, and that of the million and a half so generously and so well appropriated for the exposition at New Orleans still not a dollar has been passed to the use of this association; that the Red Cross must make its own exhibit and receive and care for the foreign Red Cross exhibits as well; that the $1,000 appropriated by Congress to print the history of the treaty of Geneva and the official relation of our Government to it is all the cost the organization has been to the Government; that the treaty was without cost to it, we feel warranted in believing that your honorable body will not unwillingly accord the favor we have dared to name.

CLARA BARTON,
President American Association Red Cross.

Hon. OMAR D. CONGER,
United States Senate.

Mr. CONGER. I should have said that although the petition is directed to me it is accompanied with a request that I shall present it to the Senate as a petition.

The PRESIDENT *pro tempore*. If there be no objection the paper will be so received and referred to the Committee on Printing.

Mr. HARRIS. I present the petition of Frank Rives and his brothers and sisters, praying that the Government may purchase what is known as the Congressional Globe building, in the city of Washington. As the building is used by the Public Printing Office, having been rented by the Government for some years, I move the reference of the petition to the Committee on Printing.

The motion was agreed to.

Mr. MCMILLAN presented a petition of the Chamber of Commerce of Minneapolis, Minn., praying such legislation as will result in the United States acquiring the title to the canals and waterways connecting Kewenaw Bay with the waters of Lake Superior, in the Upper Peninsula of Michigan; which was referred to the Committee on Commerce.

He also presented a memorial of the Chamber of Commerce of Minneapolis, Minn., representing that the appropriations for harbor improvements at Grand Haven, Ludington, and Manistee, in the State of Michigan, are inadequate to the needs of commerce passing through those ports, and praying for sufficient appropriations for such improvements; which was referred to the Committee on Commerce.

He also presented a memorial of the Cigar-makers' Union of Saint Peters, Minn., remonstrating against the ratification of the proposed Spanish reciprocity treaty; which was referred to the Committee on Foreign Relations.

Mr. SAWYER presented a resolution of the Chamber of Commerce of the city of Milwaukee, Wis., praying for the purchase of the Portage Lake and Lake Superior Ship-Canal, in the State of Michigan, and that it be opened to commerce; which was referred to the Committee on Commerce.

Mr. WILLIAMS presented a memorial of cigar-makers of Henderson, Ky., a memorial of cigar-makers of New York city, and a memorial of citizens of New York city, remonstrating against the ratification of the proposed Spanish reciprocity treaty; which were referred to the Committee on Foreign Relations.

He also presented a petition of the Board of Trade of Eureka, Cal., praying further appropriations for the improvement of the harbor of Humboldt Bay; which was referred to the Committee on Commerce.

Mr. VOORHEES. I present the memorial of Knights of Labor, District Assembly No. 66, of Washington, D. C., remonstrating against the passage of the bill (S. 2507) to amend the law concerning mechanics' liens in the District of Columbia. As it is a matter of importance, I move that the memorial be printed and referred to the Committee on the District of Columbia.

The motion was agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. CLARK, its Clerk, announced that the House had passed a bill (H. R. 7857) making appropriations for the consular and diplomatic service of the Government for the fiscal year ending June 30, 1886, and for other purposes; in which it requested the concurrence of the Senate.

The message also announced that the House returned to the Senate the bill (H. R. 1004) relative to the Chinese indemnity fund.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled bills; and they were thereupon signed by the President *pro tempore:*

A bill (S. 12) for the relief of Elizabeth Carson;

A bill (S. 764) granting an increase of pension to Abby P. Arnold;

A bill (S. 929) granting a pension to Caroline Treckell; and

A bill (S. 5639) extending the jurisdiction of justices of the peace in Wyoming Territory.

REPORTS OF COMMITTEES.

Mr. MORRILL, from the Committee on Finance, to whom was referred the bill (S. 600) to refund internal-revenue tax illegally collected, reported adversely thereon; and the bill was postponed indefinitely.

Mr. HARRISON. I am directed by the Committee on Military Affairs, to whom was referred the bill (S. 692) for the relief of Michael Reynolds, to report it adversely, upon the ground that the relief which is asked for can be obtained under existing general legislation. I move the indefinite postponement of the bill.

The motion was agreed to.

Mr. DOLPH, from the Committee on Public Lands, to whom was referred the bill (S. 2509) to confirm titles to lands in certain cases, reported it with amendments, and submitted a report thereon.

He also, from the same committee, to whom was referred the bill (S. 2519) to declare valid the titles to certain lands sold by the land officers of the United States, and for other purposes, reported adversely thereon; and the bill was postponed indefinitely.

Mr. DOLPH. I give notice that on some morning in the near future I shall ask unanimous consent to take up the bill (H. R. 7004) to repeal all laws providing for the pre-emption of the public lands and the laws allowing entries for timber-culture. In this connection I will say that the bill as reported from the Senate Committee on Public Lands proposes material changes in the bill as it came from the House. Those changes are all explained in the printed report which has been laid on the desks of Senators. This being a House bill, the opportunity is offered to secure much-needed legislation in regard to laws for the disposition of public land, legislation which has been recommended by the Secretary of the Interior and the Commissioner of the General Land Office for years past. If that bill should pass the Senate, a measure just reported favorably, and some other measures of general importance which have been reported favorably, may be attached to it, if the Senate should concur in the judgment of the committee to so amend the bill of the House, and they would thus become a law.

Mr. HARRIS, from the Committee on Finance, to whom was referred the bill (H. R. 652) for the relief of Brannin, Summers & Co., reported it without amendment, and submitted a report thereon.

Mr. JACKSON, from the Committee on Pensions, to whom was referred the bill (S. 1628) granting a pension to Elizabeth Howard, submitted an adverse report thereon, which was agreed to; and the bill was postponed indefinitely.

Mr. JACKSON. I am also directed by the Committee on Pensions, to whom was referred the bill (S. 1594) granting a pension to Mrs. Elizabeth F. Asper, to submit an adverse report thereon.

Mr. COCKRELL. Let the bill be placed on the Calendar.

The PRESIDENT *pro tempore*. The bill will be placed on the Calendar with the adverse report of the committee.

Mr. JACKSON. I am also directed by the Committee on Pensions, to whom was referred the bill (S. 586) granting an increase of pension to Samuel S. Hite, to submit an adverse report thereon. I call the attention of the Senator from Kansas [Mr. INGALLS] to this report. I wish to know whether he desires that the bill shall be placed on the Calendar.

Mr. INGALLS. Let it go on the Calendar.

The PRESIDENT *pro tempore*. The bill will be placed on the Calendar with the adverse report of the committee.

Mr. JACKSON, from the Committee on Pensions, to whom was referred the bill (S. 1334) granting arrears of pension to Mary Ringgold Archer, widow of Robert H. Archer, deceased, submitted an adverse report thereon, which was agreed to; and the bill was postponed indefinitely.

Mr. JACKSON. I am also directed by the Committee on Pensions, to whom was referred the bill (S. 2082) granting a pension to George W. Nokes, to submit an adverse report.

Mr. COCKRELL. Let that bill be placed on the Calendar.

The PRESIDENT *pro tempore*. Upon the suggestion of the Senator from Missouri the bill will be placed upon the Calendar with the adverse report of the committee.

Mr. SLATER. I am directed by the Committee on Pensions, to whom was referred the bill (S. 1654) granting a pension to Selinda E. Smith, to report it adversely. By request of the Senator from Indiana [Mr. HARRISON], I ask that the bill be placed on the Calendar.

The PRESIDENT *pro tempore*. The bill will be placed on the Calendar with the adverse report of the committee.

Mr. HOAR, from the Committee on the Judiciary, to whom was referred the bill (H. R. 2576) to repeal section 840 of the Revised Statutes of the United States and a portion of section 839, reported it with an amendment, and submitted a report thereon.

Mr. MITCHELL, from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (H. R. 6480) granting a pension to Margaret G. Halpine;

A bill (H. R. 3663) granting a pension to John T. Marshall; and

A bill (H. R. 4379) for the relief of Maj. W. W. Frybarger.

Mr. VAN WYCK, from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (H. R. 5776) granting a pension to Louis D. Petty; and

A bill (H. R. 2399) granting a pension to Clarissa McKee.

Mr. WILSON, from the Committee on Pensions, to whom was referred the bill (H. R. 6927) granting a pension to Merit M. Oakley, reported it without amendment, and submitted a report thereon.

He also, from the same committee, to whom was referred the bill (S. 1790) granting an increase of pension to Edgar L. Dutton, reported it with an amendment, and submitted a report thereon.

He also, from the same committee, to whom was referred the bill (H. R. 320) granting a pension to Kate Amann, submitted an adverse report thereon, which was agreed to; and the bill was postponed indefinitely.

Mr. CULLOM. I am directed by the Committee on Pensions, to whom was referred the bill (S. 2535) granting a pension to Mrs. Julia Hartley, to report it adversely.

Mr. McMILLAN. I ask that the bill be placed on the Calendar.

The PRESIDENT *pro tempore*. The bill will be placed on the Calendar with the adverse report of the committee.

Mr. CULLOM, from the Committee on Pensions, to whom was referred the bill (H. R. 5951) granting a pension to Abel J. Lewis, reported adversely thereon; and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the bill (S. 2263) granting a pension to Abel J. Lewis, submitted an adverse report thereon, which was agreed to; and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the bill (H. R. 4059) granting a pension to Isaac Demaranville, reported it without amendment, and submitted a report thereon.

He also, from the same committee, to whom was referred the bill (S. 2398) granting a pension to Cyrus Reeser, reported it without amendment, and submitted a report thereon.

HEIRS OF CHARLES B. SMITH.

Mr. MAXEY. I am instructed by the Committee on Military Affairs, to which was referred the bill (S. 2543) for the relief of the heirs of Charles B. Smith, deceased, late a lieutenant in the Fifth Iowa Cavalry, to report it favorably without amendment. I am further instructed by the committee to ask unanimous consent for the immediate consideration of the bill. It is simply to heal an incompleteness in an act of Congress passed June 8, 1880.

By unanimous consent the Senate, as in Committee of the Whole, proceeded to consider the bill. It directs the proper accounting officers of the Treasury to close the subsistence and quartermaster's accounts upon the books of the Treasury of Charles B. Smith, deceased, late a first lieutenant in the Fifth Iowa Cavalry.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

USES OF COAL IN THE NAVY.

Mr. HALE. Certain papers, accompanying the letter of the Secretary of the Navy of January 8, 1885, transmitting the report of the board of officers appointed to investigate and report upon the comparative merits of anthracite and bituminous coal for ordinary naval uses, were referred to the Committee on Naval Affairs, in order that that committee might examine and see what are needed to be printed. I now report them back, and ask that the documents accompanying the letter, together with the letter, be printed.

The PRESIDENT *pro tempore*. The motion of the Senator from Maine, with the accompanying papers, will be referred to the Committee on Printing. The rule requires such a reference.

Mr. HALE. I do not think that such a reference will be needed. It is not anything that will be beyond the rules of the Senate.

The PRESIDENT *pro tempore*. It is competent for the Senate to order the printing without another reference. The rule requires that such motions shall be referred "unless otherwise ordered." If there be no objection, the question will be put on agreeing to the motion of the Senator from Maine that the papers returned by him from the Committee on Naval Affairs be printed for the use of the Senate.

The motion was agreed to.

NATIONAL BANK OF BLOOMINGTON.

Mr. MORRILL. I am directed by the Committee on Finance, to whom was referred the bill (H. R. 7768) to authorize the National Bank of Bloomington, Ill., to change its name to the First National Bank of Bloomington, to report it favorably and without amendment. The Senator from Illinois [Mr. CULLOM] is very anxious to have the bill acted upon at once, and, as it will take no more time than to read the bill, I ask for its present consideration.

By unanimous consent the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

J. M. LOBBAN.

Mr. BECK. I am instructed by the Committee on Finance to report back favorably the bill (S. 2529) for the relief of J. M. Lobban. I do not know whether the Senate will grant unanimous consent to act upon the bill at present, but I should like to state why it ought to be done. The bill authorizes the issuing of a duplicate check, in place of one that was lost, above the amount where the Secretary of the Treasury can authorize it to be reissued. The officer who drew the check can not settle his accounts until this is done. The bank to which the check is payable was a national depository, but is no longer so; the funds have been transferred to Omaha, and its affairs can not be closed until the account is settled. For these reasons I ask unanimous consent that the bill may be considered now. I do not think it will take more than a moment.

By unanimous consent the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported from the Committee on Finance with amendments: in line 3 to strike out "War" and insert "the Treasury;" in line 8 to change the name to "James M. Lobban;" in line 11 to strike out "War" and insert "the Treasury;" in line 12 to change the name to "James M. Lobban;" and in line 14 to strike out "War" and insert "the Treasury;" so as to make the bill read:

That the Secretary of the Treasury be, and he is hereby, instructed to direct Maj. G. B. Dandy, quartermaster, United States Army, to issue duplicate check No. 20, for $4,608.50, dated April 26, 1884, in favor of James M. Lobban, on the the Stock-Growers' National Bank, Cheyenne, Wyo., in place of one lost on or about May 3, 1884: *Provided*, That the Secretary of the Treasury be satisfied the same has not been paid: *And provided further*, That said James M. Lobban shall first execute a bond, with sureties to be approved by the Secretary of the Treasury in due form, to save the United States harmless against any loss or injury by reason of such duplicate check or the payment of the original.

The amendments were agreed to.

Mr. SHERMAN. The report has been filed, I presume.

Mr. BECK. All the papers accompanying the bill have been sent to the desk.

Mr. SHERMAN. It is all right. The report ought to be printed so as to show the circumstances, as this is a case of the issuance of a duplicate check.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time and passed.

The title was amended to read, "A bill for the relief of James M. Lobban."

The PRESIDENT *pro tempore*. The Chair understands that no report has been sent up with the papers accompanying the bill.

Mr. BECK. I have the report, which I will furnish to the Secretary. It is embodied in a single letter. I was ordered to write it this morning, but after carefully reading the letter I did not have time to copy it.

Mr. SHERMAN. There ought to be a report in all cases where du-

plicate checks are issued in order to have an accurate statement of the facts.

Mr. BECK. I will furnish a copy of the letter in the form of a report.

DESCRIPTIVE CATALOGUE OF GOVERNMENT PUBLICATIONS.

Mr. MANDERSON. I am instructed by the Committee on Printing to report back favorably with certain amendments the joint resolution (S. R. 104) providing for the printing and distribution of the Descriptive Catalogue of Government Publications. I wish to state that this material, ordered to be compiled by former Congresses, is now ready for the Printer. It is considered a very important publication, and I am directed by the committee to ask for the immediate consideration of the joint resolution.

By unanimous consent the Senate, as in Committee of the Whole, proceeded to consider the joint resolution.

The amendments of the Committee on Printing were: in line 5, to strike out "5,780" and insert "6,600;" in line 21, to add the letter "s" to the word "it;" in line 22, after the word "Office," to insert:

Eight hundred and eighteen copies to be delivered to the Secretary of the Interior for distribution to such libraries not depositories of public documents as shall be named for this purpose by each Senator, Representative, and Delegate in Congress.

And in line 27, after the word "Institution," to insert:

Two copies for the Government Printing Office.

So as to make the joint resolution read:

That there be printed and half-bound in leather, with the exception of the reserve sets, which shall be full-bound in leather, 6,600 copies of the Descriptive Catalogue of Government Publications, of which 1,500 copies shall be for the use of the Senate; 3,000 copies for the use of the House of Representatives; 4 copies for the library of the Senate; 12 copies for the library of the House; 60 copies, 50 of which shall be for foreign exchanges, for the Library of Congress; 2 copies for the library of the Executive Mansion; 40 copies for the Department of State; a copy to be sent to each legation of the United States abroad; 25 copies for the Treasury Department, including its bureaus; 20 copies for the War Department, including 1 for the library of the Military Academy at West Point; 20 copies for the Navy Department, including 1 for the library of the Naval Academy at Annapolis, and 1 copy for the Naval Observatory at Washington; 25 copies for the Department of the Interior, including its bureaus, the Railroad Commission, the Geological Survey, and the Census Office; 818 copies to be delivered to the Secretary of the Interior for distribution to such libraries not depositories of public documents as shall be named for this purpose by each Senator, Representative, and Delegate in Congress; 10 copies for the Post-Office Department and its bureaus; 10 copies for the Department of Justice, including a copy for the library of the Supreme Court and a copy for the library of the Court of Claims; 2 copies for the Department of Agriculture; 2 copies for the Smithsonian Institution; 2 copies for the Government Printing Office; 1,000 copies to be bound and distributed with the reserved documents; and 50 copies for the use of the Joint Committee on Public Printing, to be distributed among those who have aided in the compilation of the work.

SEC. 2. That the Public Printer shall print 500 additional copies of the above-named work, to be half-bound in leather, and sold at 10 per cent. advance on cost price to any person applying for the same, a notice stating the price to be inserted at least once a week in the daily edition of the CONGRESSIONAL RECORD until the edition shall have been disposed of.

SEC. 3. That all provisions of law under which any additional copies of the above-named work might be printed are, so far as they apply to the above-named work, repealed.

The amendments were agreed to.

Mr. CONGER. There is no provision, I think, in the joint resolution for distribution to the libraries of the different States and Territories, and if it pleases the Senator I shall move in the first section to provide that one copy shall be delivered to each library of the respective States and Territories.

Mr. MANDERSON. I will state for the information of the Senator from Michigan that that is already provided for in the joint resolution. The provision with reference to reserved documents, over a thousand in number, is for that purpose.

Mr. CONGER. If that is so, I have no more to say. I noticed that omission, as I thought.

Mr. MANDERSON. The joint resolution is carefully guarded. I will state further that it carefully guards against cases of omission. It is carefully provided, and I think will meet all cases.

The joint resolution was reported to the Senate as amended, and the amendments were concurred in.

The joint resolution was ordered to be engrossed for a third reading, read the third time, and passed.

PRESIDENTIAL APPROVAL.

A message from the President of the United States, by Mr. O. L. PRUDEN, one of his secretaries, announced that the President had, on the 17th instant, approved and signed the act (S. 1432) for the relief of the Metropolitan police force of the District of Columbia.

BILLS INTRODUCED.

Mr. WILLIAMS introduced a bill (S. 2563) granting a pension to Eliza Francesco; which was read twice by its title, and referred to the Committee on Pensions.

Mr. BAYARD introduced a bill (S. 2564) relating to improved signal side lights for sail vessels under way in the inland and lake waters; which was read twice by its title, and referred to the Committee on Commerce.

Mr. VOORHEES introduced a bill (S. 2565) to change the limit of appropriation for the public building at Terre Haute, Ind.; which was read twice by its title, and referred to the Committee on Public Buildings and Grounds.

Mr. DAWES introduced a bill (S. 2566) to provide for the sale of the United States court-house at Boston, Mass.; which was read twice by its title, and referred to the Committee on the Judiciary.

PORTRAITS OF WASHINGTON.

Mr. VOORHEES submitted the following resolution; which was referred to the Committee on the Library:

Resolved, That the Committee on the Library be instructed to inquire into the expediency and propriety of purchasing 1,000 copies of the work entitled "The Portraits of Washington," by Elizabeth Bryant Johnson, for distribution to the public libraries of the country.

COMMITTEE ON TRANSPORTATION ROUTES.

Mr. ALDRICH. I offer the following resolution, and ask for its present consideration:

Resolved, That the Committee on Transportation Routes to the Seaboard be authorized to sit during this session of Congress, by a subcommittee or otherwise, with the same authority given the committee under resolution of July 5, 1884.

Mr. INGALLS. What was that resolution?

Mr. ALDRICH. A resolution authorizing and directing the committee to collect certain statistics in regard to the cost of transportation; practically a continuation of the Windom report published in 1873.

The resolution was considered by unanimous consent, and agreed to.

LANDS IN INDIAN TERRITORY.

Mr. PLUMB submitted the following resolution, and asked for its present consideration:

Whereas the United States in 1866 acquired from the Creek and Seminole Indians, by treaty, certain lands situate in the Indian Territory, a portion of which have remained unoccupied until the present time; and

Whereas a widely extended belief exists that such unoccupied lands are public lands of the United States, and as such subject to homestead and pre-emption settlement, and pursuant to such belief a large number of citizens of the United States have gone upon them claiming the right to settle and acquire title thereto under the general land laws of the United States; and

Whereas it is understood that the President of the United States does not regard said lands as open to settlement, and believes it to be his duty to remove all persons who go upon the same claiming the right to settle thereon, and for that purpose has directed the expulsion of the persons now on said lands by the use of military force, and there seems to be a probability of a conflict growing out of the attempt to expel said persons so claiming right and attempting to settle: Therefore,

Resolved, That the President be requested to advise the Senate as to the status of the lands in question as viewed by the Executive, the action taken, if any, to expel persons seeking to settle thereon, and the reason for the same, together with any other information in his possession bearing upon the existing controversy.

Mr. HOAR. I should like to have that printed.

The PRESIDENT *pro tempore*. The Senator from Kansas asks unanimous consent to have this resolution now considered.

Mr. HOAR. I should like to have it go over for a day so that we may see it in print.

The PRESIDENT *pro tempore*. The resolution will go over until to-morrow and be printed.

WASHINGTON WATER-SUPPLY.

Mr. INGALLS submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Attorney-General is hereby directed to report to the Senate whether any of the claimants of lands taken by the Government under the act of Congress passed July 15, 1882, for increasing the water-supply of the city of Washington remain unpaid, and what obstacle, if any, exists that prevents payment for lands taken for the purpose in said act provided.

HOUSE BILLS REFERRED.

The bill (H. R. 7857) making appropriations for the consular and diplomatic service of the Government for the fiscal year ending June 30, 1886, and for other purposes, was read twice by its title, and referred to the Committee on Appropriations.

The PRESIDENT *pro tempore*. The Chair lays before the Senate the bill (H. R. 1004) relative to the Chinese indemnity fund. A bill of that number passed the House of Representatives and was sent to the Senate. Afterward, on request of the House of Representatives, it was returned to the House. Apparently the same bill is again returned to the Senate with one word in it changed. The Chair thinks it must be treated now as an original bill, it not being the same bill that was read twice before. The Chair therefore lays it before the Senate as an original bill from the House of Representatives.

The bill (H. R. 1004) relative to the Chinese indemnity fund was read twice by its title, and referred to the Committee on Foreign Relations.

FRENCH SPOLIATION CLAIMS.

Mr. HALE. I ask for the passage of the following order:

Ordered, That there be printed, for the use of the Senate, 1,000 copies of Senate bill No. 1839 to provide for the ascertainment of claims of American citizens for spoliations committed by the French prior to the 31st day of July, 1801, as passed by the Senate December 9, 1884, and by the House of Representatives, without amendment, January 14, 1885, and that the said copies be furnished to the Senate document-room.

There is a great demand from all parts of the country for a copy of the French spoliation bill as passed by the two Houses, and I have introduced this order and ask for its present consideration in order that Senators may have these copies to send out.

The order was considered by unanimous consent, and agreed to.

Mr. HOAR. I should like in connection with that same subject to introduce for reference to the Committee on Printing a resolve that 5,000 extra copies of the communication of the Secretary of State giving a list of the spoliation claimants be printed. If the Secretary will take that down, I shall be obliged to him.

Mr. HAWLEY. Allow me to ask the Senator how much of a document that is?

Mr. HOAR. It is a document twice as big as that [exhibiting]. I presume one hundred pages will cover it.

The PRESIDENT *pro tempore*. The Senator from Massachusetts will repeat his resolution so that the Secretary may take it down.

Mr. HOAR. I will change the number to 3,000 and offer the resolution in this form:

Resolved, That 3,000 additional copies of the communication of the Secretary of State, containing a list of claimants against France by reason of spoliations committed prior to 1801, be printed.

Mr. HAWLEY. My object in making the inquiry was to suggest to the Senator from Maine whether, as these things will both be called for, it might not be as well to put the act in with that pamphlet. The act is not very long.

Mr. HALE. My object only was to answer the needs for a few days. After the bill has become a law undoubtedly there will be a larger number printed than I have called for here, and then I should think it would be very proper that all of these lists should go with it.

Mr. HOAR. I propose to refer my resolution to the Committee on Printing; and that committee will report a resolution to print the bill with it, I presume.

Mr. HALE. My resolution went through, I believe.

The PRESIDENT *pro tempore*. The Senator from Massachusetts asks unanimous consent for the consideration of a resolution which will be read.

The Chief Clerk read as follows:

Resolved, That 3,000 additional copies of the communication of the Secretary of State, containing a list of claimants against France by reason of the spoliations prior to the 31st day of July, 1801, be printed.

Mr. HOAR. Let it be referred to the Committee on Printing.

The PRESIDENT *pro tempore*. The resolution will be referred to the Committee on Printing.

BILL RECOMMITTED.

Mr. PIKE. I desire unanimous consent to take up Senate bill 1501, Order of Business 736, for the purpose of moving its recommitment.

The PRESIDENT *pro tempore*. The Senator from New Hampshire moves that the Senate proceed to the consideration of the bill (S. 1501) for the relief of Robert Strachan, John H. Johnson, Samuel M. Bryan, George Combs, Annie Botts, and George A. Hawkins, with the object, as he states, of moving its recommitment to the Committee on the District of Columbia. If there be no objection the bill will be considered before the Senate for that purpose. The Chair hears none. The Senator from New Hampshire moves that the bill be recommitted to the Committee on the District of Columbia.

The motion was agreed to.

ARMY INSPECTOR-GENERAL'S DEPARTMENT.

Mr. SEWELL. I move to take up Order of Business 904, being House bill 1017.

The PRESIDENT *pro tempore*. The Senator from New Jersey moves that the Senate proceed to the consideration of the bill (H. R. 1017) relative to the Inspector-General's Department of the Army.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill.

Mr. INGALLS. Is there a report?

The PRESIDING OFFICER (Mr. SHERMAN in the chair). There is. The report will be read.

The Secretary read the following report, submitted by Mr. SEWELL July 2, 1884, down to the portion of the report which embodies the report of the House committee:

The Committee on Military Affairs, to whom was referred the bill (H. R. 1017) in relation to the Inspector-General's Department of the Army, respectfully report:

The Inspector-General's Department is constituted, under existing law, as follows:

One senior inspector-general with the rank of brigadier-general; one inspector-general with the rank of colonel; one assistant inspector-general with the rank of lieutenant-colonel; two assistant inspectors-general with the rank of major.

The present bill proposes to reorganize the department as follows: One Inspector-General, with rank, pay, and emoluments of brigadier-general; two inspectors-general, with the rank, pay, and emoluments of colonel; two inspectors-general, with the rank, pay, and emoluments of lieutenant-colonel; and two inspectors-general, with the rank, pay, and emoluments of major.

This increases the number of inspectors-general of the Army by two.

The number of officers, in addition to those now belonging to this department, which has been needful to detail for the performance of the necessary duties of the department, is given in the letter, hereto appended, of the Acting Adjutant-General of the Army.

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
Washington, July 1, 1884.

SIR: I have the honor to acknowledge the receipt of your letter of this date, inclosing a copy of a bill (H. R. 1017) to reorganize the Inspector-General's Department of the Army, and requesting information as to the officers now detailed as inspectors, &c., and to state in reply that there are four officers regularly detailed as acting assistant inspectors-general under the act of Congress approved June 23, 1874, namely, Lieut. Col. E. C. Mason, Fourth Infantry, in the Department of the Platte; Capt. Thomas Ward, First Artillery, in the Department of the East; Capt. R. P. Hughes, Third Infantry, in the Department of Dakota; Capt. J. B. Russell, Ninth Infantry, in the Department of the Missouri.

In addition to these the following-named officers are on inspection duty, though not regularly detailed as acting assistant inspectors-general: Lieut. Col. H. M. Lazelle, Twenty-third Infantry, in the Department of California; Maj. A. K. Arnold, Sixth Cavalry, in the Department of Arizona; Maj. S. S. Sumner, Eighth Cavalry, in the Department of Texas.

Very respectfully, your obedient servant,

CHAUNCEY McKEEVER,
Acting Adjutant-General.

Hon. WILLIAM J. SEWELL,
United States Senate, Washington, D. C.

It will be seen by the foregoing communication that there is one lieutenant-colonel and three captains of the line doing duty, under regular detail, with the department, in addition to which there are three field officers on temporary detail.

The Committee on Military Affairs of the House of Representatives made a report on this bill, and were in favor of permanently increasing the number of officers in this department to a number sufficient for the performance of all its duties without making details from the line of the Army.

Mr. SEWELL. It is not necessary to read the full House report. Let the Secretary read the conclusions of our committee.

The PRESIDING OFFICER. The Senator from New Jersey asks that the report of the House Committee be omitted from the reading of the report.

Mr. INGALLS. Does the report of the Senate Committee contain all the facts that appear in the report of the House committee?

Mr. SEWELL. Yes; only in a much more concise manner.

Mr. INGALLS. That is satisfactory.

The Secretary resumed and concluded the reading, as follows:

The committee are of the opinion that, in view of the necessity for a strict investigation and inspection of all the accounts appertaining to the administration of the Army, besides the ordinary military duties of the inspectors-general, that the increase proposed in this department is necessary to the service, and therefore recommend the passage of the bill.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

EFFICIENCY OF THE ARMY.

The PRESIDING OFFICER. The Calendar, under Rule VIII, is now in order. The first case will be reported.

The bill (S. 1420) to increase the efficiency of the Army of the United States, was announced as first in order.

The PRESIDING OFFICER. This bill has been laid aside informally heretofore to await the return of the Senator from Illinois [Mr. LOGAN]. That will be considered as the order to-day.

DES MOINES RIVER LANDS.

The bill (S. 1886) to quiet title of settlers on the Des Moines River lands, in the State of Iowa, and for other purposes, was announced as next in order.

The PRESIDING OFFICER. This bill having been objected to was taken up by vote of the Senate, and is now pending, free from the five minutes' limitation of debate.

Mr. LAPHAM. Mr. President, the Senator from Arkansas [Mr. GARLAND] is absent to-day, and he requested that this bill be passed over for the day without prejudice, retaining its place.

The PRESIDING OFFICER. The Senator from New York asks that this bill be passed over, retaining its place upon the Calendar. Is there objection?

Mr. PLUMB. I rise to inquire if that changes it from the position it is in now?

The PRESIDING OFFICER. The Chair thinks not.

Mr. PLUMB. I will not object to the bill going over to-day, the Senator calling my attention to the fact that the Senator from Arkansas [Mr. GARLAND], who desires to discuss the bill, is absent to-day. I have no objection therefore to the bill going over as requested.

The PRESIDING OFFICER. The bill goes over, retaining its place on the Calendar.

Mr. LAPHAM. I desire to say that, if the Senator from Arkansas is not here to-morrow, I shall make a motion to send the bill over again, because this whole subject was under his special charge in the Judiciary Committee, and there are very important considerations involved.

Mr. PLUMB. No one would go further than I to meet any wish of the Senator from Arkansas, or the Senator from New York, or any other Senator on this floor. But this bill is in somewhat of a chronic condition. It ought to be passed, or the Senate ought to say that it will not pass it, at a very early day. The Senator from New York is posted in regard to all that has preceded it, all the circumstances surrounding it, and can enlighten the Senate, I have no doubt, as well as any one on the subject. While I am willing to have the bill go over to-day, I do not wish by silence to seem to acquiesce in any suggestion that it may go over any other day if the convenience of the Senate should be consistent with its coming up.

Mr. LAPHAM. We shall see what a day will bring forth.

FRAUDULENT ISSUE OF PASSPORTS.

Mr. MILLER, of California. I move to take up Order of Business

519, being the bill (S. 2098) to amend section 4078 of the Revised Statutes.

The PRESIDING OFFICER. Pending the Calendar the Senator from California moves to take up the bill indicated by him.

Mr. CAMERON, of Wisconsin. I know the motion made by the Senator from California is not debatable, but I hope no one will object while I say that I sincerely hope the Senate will go on with the Calendar. I presume the bill to which he refers is a meritorious bill, but it has its place on the Calendar and will be acted upon when reached.

The PRESIDING OFFICER. The Chair must remind Senators that the motion is not debatable.

Mr. CAMERON, of Wisconsin. I object to the motion.

The PRESIDING OFFICER. The Senator from California moves that the bill named by him be taken up. The question is on that motion.

Mr. CAMERON, of Wisconsin. The title of the bill does not explain anything.

The PRESIDING OFFICER. The section of the Revised Statutes referred to will be read.

Mr. ALLISON. Let the bill be read.

The PRESIDING OFFICER. The bill will be read.

The Chief Clerk read the bill.

The PRESIDING OFFICER. The Senator from California moves that the Senate proceed to the consideration of the bill.

The question being put, a division was called for; and the ayes were 9.

Mr. MILLER, of California. Although this is an important bill and ought to be passed at once, I will not insist on it now as there is objection made to it, and I do not wish to break up a quorum.

The PRESIDING OFFICER. The motion is withdrawn. The Chair is satisfied that a quorum is present and will proceed with business unless objection is made.

RAILROAD MAIL TRANSPORTATION.

The bill (S. 1450) for the readjustment of compensation for the transportation of the mails on railroad routes was announced as next in order.

Mr. ALLISON. That can not be considered under this rule.

The PRESIDING OFFICER. The consideration of the bill is objected to and it goes over.

JURISDICTION OF DISTRICT JUSTICES.

The bill (S. 880) to extend the jurisdiction of justices of the peace in the District of Columbia, and to regulate proceedings before them, was announced as next in order; and the Senate, as in Committee of the Whole, resumed its consideration.

The PRESIDING OFFICER. This bill has been read in full and the amendments of the Committee on the District of Columbia have been agreed to. The bill is still open to amendment. The Chair is informed that one amendment has been once acted upon but has been reconsidered. It will be now read.

The CHIEF CLERK. In section 3, line 4, the Committee on the District of Columbia reported an amendment to insert after the word "dollars" the words:

Nor unless the appellant enters into an undertaking, with sufficient surety, approved by the justice, to pay and satisfy whatever final judgment may be recovered in the appellate court, and costs.

So as to make the section read:

SEC. 3. That no appeal shall be allowed from the judgment of a justice of the peace in any common-law action unless the matter in demand in such action or pleaded in set-off thereto shall exceed the sum of $20, nor unless the appellant enters into an undertaking, with sufficient surety, approved by the justice, to pay and satisfy whatever final judgment may be recovered in the appellate court, and costs.

The PRESIDING OFFICER. The question is upon this amendment reported by the Committee on the District of Columbia.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. CONGER subsequently moved to reconsider the vote by which the bill was passed, and the motion to reconsider was entered.

WOMAN SUFFRAGE.

The joint resolution (S. Res. 19) proposing an amendment to the Constitution of the United States was announced as next in order.

Mr. COCKRELL. Let that be passed over.

The PRESIDING OFFICER. Objection being made, the joint resolution will be passed over.

GABRIEL NEUDECKER'S PATENT.

The Senate, as in Committee of the Whole, proceeded to consider the bill (S. 1417) to enable Martrom D. Lewis, public administrator of the city of Saint Louis, in the county of Saint Louis and State of Missouri, having charge of the estate of Gabriel Neudecker, deceased, to make application to the Commissioner of Patents for the extension of letters patent No. 70012, for a process of preparing tobacco, granted October 22, 1867, to said Gabriel Neudecker, deceased.

Mr. MCMILLAN. Is there a report accompanying that bill?

The PRESIDING OFFICER. There is a report.

Mr. MCMILLAN. Let the report be read.

The Chief Clerk read the following report, submitted by Mr. PLATT March 28, 1884:

The Committee on Patents, to whom was referred Senate bill 1417, to empower the Commissioner of Patents to extend letters patent numbered 70012, granted to Gabriel Neudecker, October 22, 1867, to Martrom D. Lewis, administrator of said Neudecker, deceased, respectfully report:

That they have duly considered said bill and the reasons in its support, adopt as their report the following report of the House Committee on Patents made thereon, and recommend the passage of the bill:

"On the 22d day of October, 1867, letters patent No. 70012, for an improvement in process of preparing tobacco, were granted to Gabriel Neudecker, of Richmond, Va.

"It appears from the memorial in this case, which is sworn to by the widow of the said Neudecker, that he was engaged in experimenting and developing the invention, for which said patent was granted, during the years of 1863, 1864, 1865, 1866, and a part of 1867. The value of his labor during such period is estimated as reasonably worth $1,000 per annum, making a total of $5,000. It further shows that the inventor expended in materials not less than $350; that he paid out for hired assistance not less than $800; that he consumed and wasted tobacco amounting in value to not less than $350; that he paid the Government fees required by law for a patent, namely, $35; and that he paid out, in the way of professional fees, about $50. These several sums aggregate $6,685, expended in money and time on account of the said invention.

"It also appears, from the sworn memorial, that after the patent issued in October, 1867, the patentee used the process covered thereby in Richmond, Va., in the works of Neudecker Brothers, with which firm he was then connected. This user of the invention continued for about one year, when a failure of that firm, in November, 1868, terminated such user.

"The profits derived from this user of the invention are set down as not exceeding from $400 to $600. Allowing that $600 was the actual gain derived therefrom during this period, it thus appears that $6,085 have been expended in time and money on the invention in excess of the profits derived therefrom.

"It also appears from this sworn memorial that Neudecker was taken sick in 1869; that he moved from Richmond, Va., to Baltimore, Md., where he resided for about a year, when he moved to Saint Louis, Mo.

"At this latter place he and his family were, in the main, supported by relatives, he continuing in sickness and gradually declining, until he met his death in January, 1877, in consequence of consumption. He left a wife, Elizabeth, and four children, unprovided for.

"It is averred that in consequence of this long sickness and the financial condition of Neudecker the patent was not further introduced.

"So far, the facts in this case are strongly in favor of the prayer of the memorial. It appears, from a number of affidavits filed with the papers, that the invention is of great practical value, and that it is a benefit to the consumer, the tobacco laborer, and the manufacturer.

"Two hundred and eighty-one citizens, from several States, have signed petitions strongly urging the passage of this bill.

"In view of these facts, and the further fact that no opposition has appeared against the passage of the bill in question, your committee favorably recommend the same."

Mr. MCMILLAN. I am unable to see any reason why this patent should be extended from the facts stated in the report. However, I have no special feeling in regard to it, and shall content myself with voting against the bill.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

APPORTIONMENT OF IDAHO TERRITORY.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. 1021) to authorize the reapportionment of the Territory of Idaho into council and representative districts.

The PRESIDING OFFICER. This bill has been read and certain amendments reported by the Committee on Territories have been agreed to, and one is still pending. It will be read.

The CHIEF CLERK. In section 4, line 3, the Committee on Territories report, before the word "Monday," to strike out "first" and insert "fifth;" so as to read:

SEC. 4. That the members constituting such board of apportionment shall assemble at the capital of said Territory and complete their work on or before the fifth Monday in September, 1884.

The amendment was agreed to.

Mr. PLATT. I wish that that bill may be laid aside informally for a few moments.

The PRESIDING OFFICER. The bill will be passed over informally for the present, if there be no objection.

CITIZENS' BANK OF LOUISIANA.

The bill (S. 85) for the relief of the Citizens' Bank of Louisiana was announced as next in order.

Mr. MCMILLAN. That had better be laid over.

The PRESIDING OFFICER. The bill is objected to.

Mr. CAMERON, of Wisconsin. Let it go over.

RAILROAD TO KEY WEST.

The bill (S. 779) for a survey and estimates for a railroad from the mainland to Key West, Fla., and for a canal connecting the same with the Saint John's River, for military and naval purposes, was announced as next in order.

Mr. COCKRELL. That is reported adversely. I object to it.

Mr. CAMERON, of Wisconsin. Let it go on the other Calendar.

The PRESIDING OFFICER. Objection is made and the bill goes over.

MINA M. GWYNN.

The bill (S. 1360) giving a pension to Mina M. Gwynn, of Kansas City, Mo., was announced as next in order.

Mr. COCKRELL. Let that go on the other Calendar.

The PRESIDING OFFICER. The bill will be passed over, and the next bill reported adversely will be passed over in the same way.

TENEDORE TEN EYCK.

The bill (S. 1300) to authorize the President to restore Tenedore Ten Eyck to his former rank in the Army, and to place him upon the retired-list of Army officers, was announced as next in order.

Mr. COCKRELL. I object to that.

The PRESIDING OFFICER. The bill goes over, objection being made.

Mr. CONGER. I ask that that bill hold its place under Rule VIII.

The PRESIDING OFFICER. The Senator from Michigan asks unanimous consent of the Senate that the bill just mentioned may retain its place on the Calendar. Does the Senator from Missouri object?

Mr. COCKRELL. I do not.

The PRESIDING OFFICER. No objection being made, the bill will retain its place on the Calendar.

JOHN G. ROSE.

The bill (S. 717) for the relief of John G. Rose was announced as next in order.

Mr. CAMERON, of Wisconsin. I object.

The PRESIDING OFFICER. The bill will be passed over.

TEXAS AND INDIAN TERRITORY BOUNDARY.

The bill (S. 1947) to authorize the appointment of a commission by the President of the United States to run and mark the boundary lines between a portion of the Indian Territory and the State of Texas in connection with a similar commission to be appointed by the State of Texas was announced as next in order.

Mr. HARRISON. I call the attention of the Senator from Missouri [Mr. VEST]. This is a Senate bill that is now reached as Order of Business 465. Order of Business 633 is a House bill on the same subject; and if this bill is disposed of, that bill should be called up in connection with it.

Mr. VEST. I call the attention of the Senator from Texas to this bill.

The PRESIDING OFFICER. The bill will be read, unless objection is made.

Mr. HARRISON. I do object to that bill. We have on the Calendar, at Order of Business 633, a House bill on this same subject, and if any legislation is to be had it ought to be the House bill.

Mr. MCMILLAN. Let this go over.

The PRESIDING OFFICER. The bill being objected to goes over.

Mr. HARRISON. I am entirely willing that the friends of the measure shall substitute the House bill for consideration. That would be the right thing to do.

Mr. VEST. So far as I am personally concerned I should prefer to have the House bill taken up. The Senator from Texas who is now absent [Mr. MAXEY] requested that the bill should not come up in his absence.

Mr. HARRISON. Let it go over informally without losing its place.

Mr. COKE. I ask that the bill go over informally until to-morrow, my colleague being now absent.

The PRESIDING OFFICER. If there be no objection the bill will be passed over informally, retaining its place under Rule VIII.

W. H. TIBBITS.

The bill (S. 2004) for the relief of W. H. Tibbits was considered as in Committee of the Whole.

The preamble recites that it appears from the records of the General Land Office that W. H. Tibbits did, in good faith, on the 4th of January, 1872, make homestead entry of the northeast quarter of section 21, township 9 north, range 11 east, in the State of Nebraska, and resided thereon for the full period of time required by existing statutes, and improved and cultivated the same; and that the same tract was patented to the Burlington and Missouri River Railroad at a time subsequent to the homestead entry, and sold by the railroad company to other parties.

The bill proposes to authorize W. H. Tibbits to locate one hundred and sixty acres of surveyed land which may be subject to pre-emption entry, his right not to be assignable, or to make homestead entry, without residence or payment of fee or commissions, for one hundred and sixty acres of land subject to such entry; or, if Tibbits shall make application to the Secretary of the Interior within one year, the Secretary may make payment to him in cash, at the rate of $2.50 per acre, for the number of acres of lands embraced in his canceled homestead entry, in full satisfaction of his rights and claims, in the same manner as in cases of repayment under existing laws.

Mr. CONGER. I ask the Senator who reported the bill whether that limits the new location to the State in which the entry was made.

Mr. PLUMB. It does not limit it to the State.

Mr. CONGER. I think it should. In the proper place—I can not tell where it is from merely hearing the bill read—I shall move to amend by providing that the new location shall be within the State of Nebraska.

The PRESIDING OFFICER. The Senator from Michigan proposes an amendment, which will be read.

Mr. CONGER. The Secretary will find the proper place to insert it.

The PRESIDING OFFICER. The Senator will please restate it.

Mr. CONGER. It is:

That such new location shall be on public lands within the State of Nebraska.

Mr. VAN WYCK. What is the point of the amendment? The bill refers to a homestead claim on Government lands, free from objections which have been heretofore made to issuing scrip. Why should it be limited to Nebraska? It would seem to be an act of injustice to restrict it to Nebraska.

Mr. CONGER. The objection to a general clause is that it makes it floating scrip.

Mr. VAN WYCK. I think the Senator is mistaken about that.

Mr. CONGER. It would be like the Valentine scrip. I oppose giving permission to anybody to go around and hunt up lands in an old-settled State, and in the hearts of villages pick out land that by mistake has not been properly disposed of, and locate on it under such provisions as this. In Nebraska, a new State, there is no objection to that, perhaps; but I have seen great wrong done by such scrip being located on lands. In my own county a man had lived twenty-five years on a tract of forest land, made a home, expended the labor of himself and family for twenty-five years in making that home, and it came out finally that by virtue of a grant by Congress of swamp lands the land had become State land; and this gentleman with his family, the State selling the land, was driven from his home by the decree of the United States court, with the patent of the United States in his hand to the land paid for twenty-five years before. He was without remedy. I tried in vain in the House, and my friends did in the Senate, to give some relief to a man who, with the patent of the United States in his hand, was driven from his home and from his land.

Such kind of opportunities of seizing upon land that has some defect in the title occur all over the older Western States, and this is another class which might be located as land-scrip on school lands. I think there should be a guard against permitting that class of rights of location or selection.

Mr. VAN WYCK. There may have been injustice in denying relief in the case to which the Senator refers, but that is no reason why justice should be denied in this case. Undoubtedly settlers are those who suffer most at the hands of the Government. They lose their homesteads, and when they lose them they lose all. They have no chance against a large railroad corporation or even a small one; and, therefore, it becomes a matter of absolute necessity, in order to do stern justice between the Government and its citizens, to grant relief in cases of this kind. There is no hardship in doing it.

This man years ago located his claim, but it was taken away from him by a railroad company. He located under the authority of the land officers of the General Government. He merely asks now the privilege to enter the public domain and occupy a quarter-section and become the owner of one hundred and sixty acres. The right conveyed by this bill is not assignable. It is a mere personal right. There is no reason why the claimant should be restricted to Nebraska any more than a citizen of Michigan should be restricted to Michigan. True, Nebraska is young in years, but her agricultural land is exhausted to-day; and when you give him land there you give him nothing; all the agricultural land is taken up, and he is driven to the arid lands, which now are almost valueless except by the expenditure of a large sum of money. He is in the situation to-day of a humble homesteader who has been robbed by an agent of the Government, and he seeks the mere privilege, which is all the bill proposes to give him, for himself to go and occupy and make himself a home, and as I have said before, his interest under this bill is not assignable.

Mr. CONGER. I have spoken on the amendment, and with the leave of the Chair I will now speak to the bill.

The PRESIDING OFFICER. The rule limits the Senator to one five minutes, the Chair thinks.

Mr. CONGER. Upon each question.

The PRESIDING OFFICER. If there be no objection, the Senator may proceed.

Mr. CONGER. I reserved my right by saying that I would speak to the bill now, and not to the amendment.

The PRESIDING OFFICER. The pending amendment is the question before the Senate; but the Chair hears no objection, and the Senator will proceed.

Mr. CONGER. In regard to the bill which I had presented in behalf of one of my own people, the Senator from Nebraska, the chairman of the Committee on Public Lands, and every one of the gentlemen who have recommended the passage of this bill, and every other Senator on this floor, so far as I could get their opinions, either publicly expressed or by their votes, refused to consider that extreme case of hardship where the bill proposed merely provided for the right of selection.

Now, this man had a homestead and was driven from it. I propose that he may select other land in the same State of Nebraska. It is ridiculous for the Senator from Nebraska to pretend or intimate before this august assembly, or in the hearing of the world, that it is possible that any Nebraska citizen could be tempted to go to any other of the

inferior States to find a home after he has once lived in the State which the Senator from Nebraska so ably represents; and I am afraid, in his desire to show his love for his State and its institutions and its people, he will unwittingly find that he has overstepped the mark and lost some things that he has gained by a consistent, continual, bold, and heroic opposition to all corporations and all interests except that of the dear people of his State. I warn him against losing the advantages he has acquired by so much labor and so much pains.

Mr. PLUMB. This bill does touch upon a class of cases which has attracted a good deal of attention and probably has received as little consideration at the hands of Congress as any other that has in any way been brought to their attention.

The facts in this case, as they were found by the committee, are that Mr. Tibbits went upon a piece of land shown upon the Government plats at the proper land office to be Government land; that he received besides the assurance of the officers of the land office that it was Government land and subject to pre-emption entry. He made valuable improvements upon it, and lived there for a number of years. The improvements he put upon the land were probably worth more than the land itself at any time up to the time when he was evicted. It is not worse nor harder in its aspects than the case the Senator from Michigan has announced or many others that have come under my attention. I have given a great deal of thought to this question as to what the Government should do to meet what I consider to be its fair obligation in regard to persons who have been misled by its officers into entering upon the public domain and who have afterward been put off by reason of what was then found to be the superior claim of a railroad company. But so far as I have been able to give the matter attention, I have not arrived at any conclusion as to general legislation which it would be proper to enter upon. The committee, therefore, has taken up the cases as they have come and dealt with them as separate cases.

I do not remember the case that the Senator from Michigan has spoken of. I do not think that it was brought to my attention or that I in any wise opposed legislation in behalf of the person he mentions. But whether I did or not, this case I think has merit in it, and should receive the favorable consideration of the Senate.

The committee in reporting this bill inserted words in the fifth line which, as they thought, take this right out of the category of all the scrip which the Senator has so justly anathematized, and puts this party in a class by himself. This right of his is not assignable. He is simply authorized to locate one hundred and sixty acres of surveyed land which may be subject to pre-emption entry, and the right is not to be assignable. Consequently he can not receive a paper from the Land Office, or a piece of scrip which he may transfer to any one else by delivery or by assignment or otherwise, and this transaction therefore has no relation, as I think, to the scrip which has been issued under various acts of Congress and which has gone into the market and been sold and used for the purposes which the Senator from Michigan has very justly characterized.

We simply give to this party the right to take one hundred and sixty acres of land, and by reason of the fact that he has already lived on one hundred and sixty acres of land the requisite time under the law, and made the requisite improvements upon it, and paid the requisite fees, and done everything he could to acquire a perfect title, and did it in good faith, and did it relying upon the representations made to him by the Government officers, we thought he might very properly be relieved from the necessity of making any further settlement, or of paying any further fees in the completion of an entry of one hundred and sixty acres of land, which should, in some measure at least, be compensation to him for the loss sustained by reason of the misrepresentations of the Government officials on which he relied.

Mr. CONGER. Will the Senator allow me a word? With that explanation and this being but one case and not a general law, I withdraw the amendment which I offered to the bill. I can see some reason why there would not be the injury in this case that there might be from scrip, the right not being assignable and there being but one individual provided for in the bill. I withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

The PRESIDING OFFICER. The question now is on agreeing to the preamble.

The preamble was agreed to.

TEXAS AND INDIAN TERRITORY BOUNDARY.

Mr. MAXEY. Order of Business 465, being the bill (S. 1947) to authorize the appointment of a commission by the President of the United States to run and mark the boundary lines between a portion of the Indian Territory and the State of Texas in connection with a similar commission to be appointed by the State of Texas was informally passed over on account of my momentary absence. I ask that that bill be taken up.

The PRESIDING OFFICER. If there be no objection the bill referred to will now be taken up, having been passed over informally a few minutes ago.

Mr. MAXEY. I want to make a motion in that case. Order of Business 633 on the Calendar, being House bill 1655, relates to exactly the same subject-matter as Senate bill 1947. I ask that the House bill be taken up.

The PRESIDING OFFICER. If there be no objection the House bill relating to the same subject-matter as the pending bill will now be taken up.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. 1565) to authorize the appointment of a commission by the President of the United States to run and mark the boundary lines between a portion of the Indian Territory and the State of Texas in connection with a similar commission to be appointed by the State of Texas.

The amendment reported by the Committee on Territories was to strike out all after the title of the bill and in lieu thereof to insert:

Whereas the treaty between the United States and Spain executed February 22, 1819, fixed the boundary line between the two countries west of the Mississippi River as follows: Beginning on the Gulf of Mexico at the mouth of the Sabine River, in the sea, and continuing north along the western bank of that river to the thirty-second degree of latitude; thence by a line due north to the degree of latitude where it strikes the Rio Roxo of Nachitoches or Red River; thence following the course of the Rio Roxo westward to the one hundredth degree of longitude west from London and the twenty-third from Washington; thence crossing the said Red River and running thence by a line due north to the river Arkansas; thence following the course of the southern bank of the Arkansas to its source in latitude 42 degrees north; and thence by that parallel of latitude to the South Sea; the whole being as laid down in Melish's map of the United States, published at Philadelphia, improved to the 1st of January, 1818; and

Whereas a controversy exists between the United States and Texas as to the point where the one hundredth degree of longitude crosses the Red River, as described in the treaty; and

Whereas the point of crossing has never been ascertained and fixed by any authority competent to bind the United States and Texas; and

Whereas it is desirable that a settlement of this controversy should be had, to the end that the question of boundary, now in dispute because of a difference of opinion as to said crossing, may also be settled: Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States be, and he is hereby, authorized to detail one or more officers of the Army who, in conjunction with such person or persons as may be appointed by the State of Texas, shall ascertain and mark the point where the one hundredth meridian of longitude crosses Red River, in accordance with the terms of the treaty aforesaid; and the person or persons appointed by virtue of this act shall make report of his or their action in the premises to the Secretary of the Interior, who shall transmit the same to Congress at the next session thereof after such report may be made for action by Congress.

SEC. 2. That the sum of $10,000, or so much thereof as may be necessary, to be expended under the direction of the War Department, be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, to pay the expenses of the United States in carrying out the provisions of this act.

The PRESIDING OFFICER. The hour of 2 o'clock having arrived——

Mr. MAXEY. I ask unanimous consent that we be permitted to continue the consideration of this bill until we get through with it.

The PRESIDING OFFICER. The Chair will first announce the order of business and then put the question on the Senator's request.

The hour of 2 o'clock having arrived, it is the duty of the Chair to lay before the Senate the unfinished business, which is the bill (H. R. 5461) to regulate interstate commerce and to prohibit unjust discriminations by common carriers. The Senator from Texas asks unanimous consent of the Senate to proceed with the bill which was under consideration at the close of the morning hour.

Mr. MAXEY. I will state to the Senator from Illinois that this is a very important bill to settle a matter which ought to be settled promptly, and I do not think it will require five minutes to dispose of it.

Mr. CULLOM. If the bill will only take a few minutes for its disposition I shall not stand in the way of it. I hope it will not take long, and I will reserve the right to call up the unfinished business at any time.

The PRESIDING OFFICER. The unfinished business will be passed over informally, and the Senate, as in Committee of the Whole, resumes the consideration of House bill 1565.

Mr. MAXEY. I wish to say in a very few words that the bill as it passed the House was the result of very mature consideration, and is in substance and essence the bill which at a former Congress passed the Senate without objection and without a dissenting voice. The House bill was referred to the Committee on Territories of the Senate, who reported it with a substitute; but in the mean time the same committee had reported Senate bill 1947, being No. 465 in the order of business, which is in terms the same as the House bill. Now, my purpose is to have the bill of the House passed, so as to get the survey made between Texas and the territory of the United States, and I will state that the House bill pursues the precedents, as I know, from 1823 without a single break, the precedents in the cases between the State of Georgia and the Territory of Florida, the State of Louisiana and the Territory of Arkansas, the State of Illinois and the Territory of Michigan. Beginning in 1823, there is not a single break in that bill from the precedents. The only object of the bill is to carry out the unfinished work contemplated by the act of 1858, a part of the boundary having been defined, but the rest was not done, and it is important to the United States and important to Texas that that boundary should be settled.

Mr. CONGER. The Committee on Territories in charge of this bill

objected to the House bill on two points, and it could not have been reported by that committee with the feelings there entertained. One objection was that by the bill the boundary line between the Indian Territory and the State of Texas would be determined by the proposed commission; the landmarks determining which branch of the Red River, or what was the Red River, would be fixed by a commission without further action by Congress, and that it would be fixed by a commission consisting of the same number of persons appointed by the President of the United States and by one of the parties in interest, the State of Texas.

That objection, to my mind, was insuperable. The Government itself may make the proper inquiry. It is capable of ascertaining what the terms of the treaty mean, as far as they depend upon a survey and examination and the construction of the language in the treaty, independently of any joint commission between the State of Texas and the United States. It savors a little too much, without any umpire, of putting a party interested on one side to decide a question in his own favor, which I think is objectionable, and I think it is unnecessary.

On these two points—first, that one of the parties in interest is to have an equal voice in the decision, and next, that the final result is to be determined by the commission without reference again to Congress—the committee thought that the House bill was objectionable. We considered that the only matter to be settled was the geographical question as to the point mentioned in the treaty and designed to be the guiding point where the particular degree of longitude crossed the Red River, and by questions which have arisen since there is a dispute as to what stream, in the view of the treaty and of those who made the treaty, is to be considered the Red River for the purpose of ascertaining this crossing.

The amendment reported by the Committee on Territories, the chairman of the committee not being present, I will state is tentative. It is to ascertain by all the means which a commission might have—the treaty, correspondence, maps, views, anything that throws light on the question—which of two or three particular streams is referred to in the treaty, that region then being comparatively unexplored or somewhat unexplored. The result is to be reported to the Secretary of War, and by him, with all the information obtained, to be reported to Congress. I think that is the proper way in which the bill should pass, if it pass at all.

The Government of the United States has set apart a portion of this territory as an Indian territory for the benefit of tribes which are the wards of the United States; and there should certainly be the same care and watchfulness in regard to the territory appropriated to the Indians as if it was a neighboring Territory or State. For myself I should be unwilling to vote for the bill as it came from the House, but I am willing to support the amendment as reported by the Committee on Territories.

I regret that the chairman of the Committee on Territories, who investigated this subject more particularly, is not present to state in addition to what I have said the reasons which influenced the committee.

Mr. MAXEY. As I said before, the bill as it came from the House once before, on the report of this very committee, passed the Senate unanimously. The same bill in substance and essence as it came from the House was at the last session reported by the same committee without dissent, so far as I know, by the Senator from Missouri, and stands on the Calendar to-day. Subsequently the House bill came over, and after the House bill came over for the first time in this body the substitute now proposed by the committee was offered. Now, I say this to the Senator, so far from wanting the slightest privilege, all I ask or desire is that the line between the territory of the United States and the territory of Texas be fairly and honestly ascertained and found. When the Senator states that one of the parties in interest, to wit, Texas, is represented on the commission, I only reply that both parties in interest are represented on the commission, because on one side of the one hundredth degree of west longitude Texas has an interest, and on the other side the United States. The precedents which I consulted in drawing the bill were all the precedents from 1823 down. But as I see the Senator from Michigan thinks there is some advantage somewhere, I will withdraw my objection to the substitute and permit that to be adopted by the Senate, because I know that this thing ought to be settled some way, and I would rather have a settlement by the substitute, which is not as good as the bill, than have no settlement at all. Therefore I withdraw any objection I have to the substitute.

The PRESIDING OFFICER. The question is on the amendment, in the nature of a substitute, reported by the Committee on Territories.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time, and passed.

The preamble was agreed to.

Mr. CONGER. Let the title be read. It ought to be amended.

The Secretary read the title, as follows:

To authorize the appointment of a commission by the President of the United States to run and mark the boundary lines between a portion of the Indian Territory and the State of Texas in connection with a similar commission to be appointed by the State of Texas.

Mr. CONGER. I move to strike out the last clause.

Mr. MAXEY. I can not see the point in that. If a line is to be run, if a commission is appointed on behalf of the United States and of the State of Texas, which is a fact, as the whole bill shows, why not state the fact in the title? The title recites the fact that commissioners on the part of the United States and of Texas are joined in the matter.

Mr. CONGER. But the amendment of the committee does not provide for a commission from Texas, but authorizes this examination to be made by the United States.

Mr. MAXEY. The committee has not changed the title, I understand.

Mr. CONGER. I say the amendment excludes the idea of a commission to be appointed by the State of Texas. Therefore it should not be recited in the title.

Mr. MAXEY. I do not understand that the United States is to run a dividing line between its own territory and a State without having the other party represented.

Mr. CONGER. The amendment which the Senate has adopted provides for an examination by the United States authorities.

The PRESIDING OFFICER. It is the duty of the Chair to say that the same words are used in the amendment that has been adopted which are used in the original bill.

Mr. MAXEY. The enacting clause of the bill shows that Texas is to be represented. I ask the Secretary to read it.

Mr. CONGER. My recollection was that the examination was to be made by the authorities of the United States and reported to Congress.

Mr. MAXEY. Not at all.

Mr. CONGER. If it is a joint commission in the bill——

Mr. MAXEY. It is a joint commission in the bill.

Mr. CONGER. Then I have no objection to its being in the title, although I was not aware that the State of Texas was to have a commission.

Mr. MAXEY. If the Senator will look at the enacting clause of the bill he will see that that is the fact.

The PRESIDING OFFICER. The title will stand unless objection be made. The Senate bill on the same subject-matter will be indefinitely postponed if there be no objection. The Chair hears none, and that order will be made.

PRESIDENTIAL APPROVAL.

A message from the President of the United States, by Mr. O. L. PRUDEN, one of his secretaries, announced that the President had this day approved and signed the act (S. 1820) to provide for the ascertainment of claims of American citizens for spoliations committed by the French prior to the 31st day of July, 1801.

SPANISH-AMERICAN TRADE.

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States; which was referred to the Committee on Commerce, and ordered to be printed:

To the Senate:

In response to the resolution of the Senate, passed December 16, 1884, I transmit herewith a letter of the Secretary of State, of the 19th instant, submitting a report containing certain information in the Department of State in relation to the foreign trade of Mexico, Central and South America, the Spanish West Indies, Hayti, and San Domingo, and also in relation to the share of the United States to the trade in question.

CHESTER A. ARTHUR.

EXECUTIVE MANSION, *Washington, January 20, 1885.*

INTERSTATE COMMERCE.

Mr. CULLOM. I call for the regular order of business.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 5461) to regulate interstate commerce and to prohibit unjust discriminations by common carriers.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Illinois [Mr. CULLOM] in the nature of a substitute for the House bill.

Mr. CULLOM. The first thing I suppose is to read the House bill, which has not yet been read. I do not ask for it myself, however.

The PRESIDING OFFICER. The House bill will now be read.

Mr. INGALLS. The House bill was read the first and second time by title, I think, and then ordered to lie on the table. It is now called up for action.

Mr. HARRIS. The House bill went to the Calendar after being read the first and second time by title.

Mr. INGALLS. It should be read once at length.

The PRESIDING OFFICER. The bill will now be read as of course.

The Chief Clerk read the bill:

The PRESIDING OFFICER. The question is on the amendment proposed by the Senator from Illinois [Mr. CULLOM] in the nature of a substitute for the bill.

Mr. INGALLS. That had better be read.

The PRESIDING OFFICER. The amendment proposed by the Senator from Illinois will be read.

The Chief Clerk proceeded to read the substitute, and read to the end of the twelfth section.

Mr. CONGER. Is the bill being read for amendment by sections?

The PRESIDING OFFICER (Mr. FRYE in the chair). It is not now being read for amendment.

Mr. BECK. I desire to ask the Senator from Illinois whether his substitute proposes to deal with all the water ways of the country as well as the railways of the country? I understand from the reading of it that it does, while the House bill is confined to the railways of the country and the pipe-lines. Am I correct in that?

Mr. CULLOM. The substitute offered by me as it came from the committee does propose legislation in regard to water ways as well as railways. The Senator from Michigan [Mr. CONGER] has some amendments which he proposes to offer upon that particular point.

Mr. BECK. I expect to agree with him in that respect, but I suppose that the bill as it came from the House is now the bill before the Senate, and is first open to amendment before the substitute will be considered or amendments offered to it. After the text of the House bill is perfected, I suppose the substitute will then be offered to the House bill as perfected by the Senate amendments, and will itself be open to amendment, at which time the amendments of the Senator from Michigan would more properly apply, I assume.

Mr. CONGER. It seems to me, if the Senator will allow me——

The PRESIDING OFFICER. If Senators will suspend a few moments, the Chief Clerk had not quite finished the reading of the substitute.

Mr. BECK. I beg pardon; I thought he had.

Mr. CONGER. On that very point I wish to remark that I understood the bill was being read now for amendments, having been read on other occasions.

The PRESIDING OFFICER. No; the amendment is being read for information on the demand of the Senator from Kansas [Mr. INGALLS].

Mr. CONGER. I give notice now that I have prepared amendments by which, in sections 12 and 13, the provisions relating to water carriage shall be striken from the bill.

Mr. BECK. I expect to agree with the Senator from Michigan that those sections should be stricken out, but it is not the time now to act upon the question.

Mr. CONGER. I supposed the proper time to offer those amendments would be on this full reading of the bill by sections. I do not understand that amendments must necessarily come to the House bill, the body of the bill now under consideration, before the substitute is amended. The substitute being offered for it, the substitute may be first amended, and then the original bill can be amended before the substitute is voted upon.

Mr. BECK. I do not so understand it.

The PRESIDING OFFICER. The reading of the substitute will be resumed.

The Chief Clerk resumed and concluded the reading of the amendment of Mr. CULLOM, which was to strike out all after the enacting clause of the bill and to insert:

That for the purpose of providing for the regulation of commerce among the several States and Territories a commission is hereby created and established, to be known as the Interstate Commerce Commission, which shall be composed of nine commissioners, who shall be appointed by the President, by and with the advice and consent of the Senate, one of whom shall be selected from each judicial circuit of the United States. Three of the commissioners first appointed under this act shall continue in office for terms of two years, three for four years, and three for six years, the respective terms to be designated by the President; but their successors shall be appointed for terms of six years, except that any person chosen to fill a vacancy shall be appointed only for the unexpired term of the commissioner whom he shall succeed. Any commissioner may be removed by the President for incompetency or malfeasance in office. Vacancies occasioned by removal, resignation, or other cause shall be filled by the President. And not more than five shall belong to the same political party.

SEC. 2. That the commission hereby created shall have and exercise the powers and discharge the duties defined and granted in this act pertaining to the methods and regulating the operation of all transportation companies engaged in interstate commerce, and to take into consideration and to thoroughly investigate all the various questions relating to commerce between the States, and especially in the matter of the transportation thereof, so far as may be necessary to the establishment of a just system of regulations for the government of the same.

SEC. 3. That if any transportation company engaged in interstate commerce shall collect, demand, or receive, in the transaction of the business of interstate commerce, more than a reasonable rate of compensation for the transportation of freight of any description, or for the receiving, delivery, storage, or handling of property, or for the use or transportation of any railroad car upon its railroad, or on any of the branches thereof, or upon any railroad it has the right, license, or permission to use, operate, or control, said transportation company shall be deemed guilty of extortion, which is hereby declared to be a misdemeanor.

SEC. 4. That if any transportation company engaged in interstate commerce shall, directly or indirectly, by any rebate, drawback, or other device, charge, demand, collect, or receive from any person a greater compensation for any service it may render in its transaction of interstate commerce than it charges, demands, collects, or receives from any other person for doing for him, in a like business and under substantially similar circumstances and conditions, contemporaneously, a like service, or if any such transportation company shall neglect or refuse to furnish the same facilities for the carriage, receiving, delivery, storage, and handling of interstate commerce freights to one person that is at the same time furnished to any other person for the carriage, receiving, delivery, storage, and handling of such freights of the same class, and under substantially similar circumstances, such transportation company shall be deemed guilty of unjust discrimination, which is hereby declared to be a misdemeanor.

SEC. 5. That whenever complaint is made to the commission, in such manner as it may prescribe, charging any transportation company engaged in interstate commerce with extortion or unjust discrimination in the transaction of such business, a statement of the charges thus made shall be forwarded to the transportation company, which shall be called upon to satisfy the complaint or to answer the same in writing within a reasonable given time.

If such transportation company shall within the time specified make reparation for the injury done, and the complaint shall be withdrawn, the case shall be dismissed, and the transportation company shall be relieved of liability for any other penalty for the particular violation of this act thus complained of.

If such transportation company shall not satisfy the complaint within the time specified, or if it shall neglect or refuse to answer the same as required, or if either party to the proceeding shall demand a hearing, and there shall appear to be any reasonable ground for investigating said complaint, it shall be the duty of the commission to investigate the matters complained of, to determine all questions of fact at issue, to record its finding, and to furnish a report thereof to both parties.

And if it shall appear that the transportation company has been guilty of either extortion or unjust discrimination as charged, it shall be the duty of the commission to give notice to such company to discontinue the practice thereof forthwith, and to pay the complainant within a reasonable given time the damages, if any, to which the commission may find the complainant justly entitled in consequence thereof.

And if such damages shall be paid as required, and the commission shall be satisfied that the transportation company has ceased to practice the extortion or unjust discrimination complained of, an order to that effect shall be entered of record by the commission, and the transportation company shall be relieved of liability for any other penalty for the particular act complained of.

SEC. 6. That if any transportation company engaged in interstate commerce shall neglect or refuse to pay the damages assessed against it by the interstate commerce commission, and to desist from the further violation of this act, it shall be the duty of the commission to certify the facts to the district attorney of the United States for the judicial district in which the act complained of occurred; and it shall be the duty of the district attorney, at the request of the complainant, to forthwith commence such proceedings, in the name of the complainant, as may be necessary to recover any damages sustained by him, or to compel the transportation company to comply with the provisions of this act, or both; and the circuit court of the United States for said district shall have jurisdiction to try said cause, without regard to the citizenship of the parties. Costs shall be awarded as in other cases; but in case judgment is rendered against the defendant, the court may, in its discretion, allow to the district attorney a reasonable fee for prosecuting said cause, to be taxed as part of the costs; and in case of failure to recover, the complainant shall pay the cost of suit, attorney's fees excepted.

Any such transportation company that shall be convicted under the provisions of this act of either extortion or unjust discrimination shall forfeit and pay for each offense a fine of not exceeding $1,000.

Any such transportation company that shall neglect or refuse to make such annual reports as the commission may require, or that shall neglect or refuse to answer any question or to produce any book, paper, contract, or other document, or properly certified abstract thereof, called for by the commission in making any investigation under the authority of this act, shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be fined in a sum not exceeding $1,000 for each offense herein described.

Any such transportation company or any person or persons that shall violate any of the provisions of this act not in this section specified, or that shall in any manner attempt to obstruct the enforcement of its provisions, shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be fined in a sum not exceeding $1,000.

SEC. 7. That each commissioner shall receive an annual salary of $7,500, payable in the same manner as the salaries of judges of the courts of the United States. The commission shall appoint a secretary, who shall receive an annual salary of $3,500, payable in like manner. The commission shall have authority to employ and fix the compensation of such other employés as it may find necessary to the proper performance of its duties, subject to the approval of the Secretary of the Interior. All necessary expenses incurred by the commissioners, or by their employés under their orders, in making any investigation in any other place than in the city of Washington, shall be allowed and paid on the approval by the Secretary of the Interior of itemized vouchers therefor. The commission shall be furnished by the Secretary of the Interior with suitable offices and all necessary office supplies. Witnesses summoned before the commission shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States. All of the expenses of the commission shall be paid on the presentation of vouchers approved by the president of the commission and by the Secretary of the Interior.

SEC. 8. That the commission may make such orders as it may deem necessary for the regulation of its business, and prescribe the forms to be used therein. A majority of the commission shall constitute a quorum for the transaction of business, except as hereinafter provided.

SEC. 9. That in making any investigation required by this act the commission shall have power to summon and require the attendance of witnesses, to administer oaths, and to require the production of all books, papers, contracts, and documents, or properly certified abstracts thereof, relating to the matter under investigation and necessary for the information of the commission in connection therewith. The commission is hereby authorized to conduct investigations in such portions of the United States as it may deem necessary, and for that purpose may delegate the powers conferred by this section to any member or members of the commission.

SEC. 10. That the commission is hereby authorized to require annual reports from all transportation companies engaged in interstate commerce, to fix the time and prescribe the manner in which such reports shall be made, and to require from such companies specific answers to all questions upon which the commission may need information. Such annual reports will show in detail the amount of capital stock issued and the amounts paid therefor; the dividends paid; the number of stockholders; the funded and floating debts and the interest paid thereon; the cost and value of the company's property, franchises, and equipment, with a complete description of the same; the number of employés and the salaries paid each class; the amounts expended for improvements each year, and how expended; the monthly earnings and receipts from each branch of business and from all sources; the monthly operating and other expenses; the balances of profit and loss, and a complete exhibit of the financial operations of the company each year. Such reports shall also contain such information in relation to rates or regulations concerning fares or freights, or agreements, arrangements, or contracts with other companies, as the commission may require.

SEC. 11. That the commission shall, on or before the 1st day in December in each year, make a report to the Secretary of the Interior, which shall be by him transmitted to Congress, and copies of which shall be distributed as are the other reports issued from the Interior Department. This report shall contain such information and data collected by the commission as may be considered of value in the determination of questions connected with the regulation of interstate commerce, together with such recommendations as to additional legislation for the regulation of interstate commerce as the commission may deem necessary. And said commission shall precede its first report with an investigation of the subject of interstate commerce, which shall embrace the subjects of establishing a system of both maximum and minimum charges for transportation, and for the preservation of free competition within the limits so fixed; for the prohibition of discriminations of any kind whatever, either in favor of or against cities,

towns, or other localities, whether the same be competing or non-competing points, and for applying the same principle to transportation for individuals, firms, associations, or corporations in all matters relating to commerce among the States; for the preservation and enforcement of the right of shippers to select the lines and parts of lines over which their shipments shall pass, to the end that said commerce among the States may avail itself of the all-rail or part rail and part water routes of the country; for the prevention of such pooling arrangements and agreements to refrain from just competition as may tend to impose unreasonable burdens upon said commerce among the States, and for the protection of said commerce against unjust exactions based on a class of securities commonly denominated "watered stock;" and said commission, in conducting said investigation, shall be guided by such rules of action as will be fair, just, and equitable toward all of the interests involved, whether the same be private, public, or corporate, connected with the subject of commerce among the States.

SEC. 12. That the route of any transportation company engaged in interstate commerce shall include all the railroad and water routes in use by such company, whether owned by said company or used by it under license, lease, or permission otherwise given. And it shall be unlawful for any transportation company as aforesaid to enter into any combination, contract, or agreement, expressed or implied, to prevent, by change of time schedule, carriage in different cars, or by other means or devices, the carriage of interstate-commerce freights from being continuous from the place of shipment to the place of destination, whether said freight is carried on one or several railroads, or partly by rail and partly by vessel. And no break of bulk, stoppage, or interruption made by said transportation company shall prevent the carriage of any interstate-commerce freights from being and being treated as one continuous carriage from the place of shipment to the place of destination, unless such break, stoppage, or interruption was made in good faith for some necessary purpose, and without any intent to avoid or unnecessarily interrupt such continuous carriage or to evade any of the provisions of this act.

SEC. 13. That the term "transportation company engaged in interstate commerce," as used in this act, shall be deemed and taken to mean any corporation, company, or individual now owning, operating, or using any railroad or railroads, or any vessel or vessels, in whole or in part, or that they may have the right, license, or permission to operate, use, or control any railroad or railroads, or any vessel or vessels, in whole or in part, provided said corporation, company, or individual is engaged in the business of transporting freights or property of any description by railroad, or partly by railroad and partly by water, from one State into another State or Territory of the United States, or from any Territory into any State or any other Territory; and the provisions of this act shall apply to all persons, firms, and companies, and to all associations of persons or companies, whether incorporated or not, and to all associations of corporations engaged in thus transporting freights or property of any description, in the manner above set forth, from one State into any other State or Territory, or from any Territory into any State or any other Territory.

SEC. 14. That the sum of $60,000 is hereby appropriated for the use and purposes of this act for the fiscal year ending June 30, A. D. 1885, and the intervening time anterior thereto; and it is expressly provided that no pending litigation between railroad companies shall in any way be affected by this act.

The PRESIDING OFFICER. The question before the Senate is on the amendment offered by the Senator from Illinois [Mr. CULLOM], which has just been read.

Mr. BECK. Mr. President, I desire to offer some amendments to the original House bill in order to perfect the text of that bill before the amendment in the nature of a substitute is passed upon, and I suppose my amendments to be in order first.

The PRESIDING OFFICER. They are.

Mr. BECK. The first amendment I offer will be to strike out all after the word "reasonable," in line 14 of the first section of the House bill, down to and including the word "person," in line 31, in the following words:

And any person or persons having purchased a ticket to be conveyed from one State to another, or paid the required fare, shall receive the same treatment and be afforded equal facilities and accommodations as are furnished all other persons holding tickets of the same class, without discrimination; but nothing in this act shall be construed to deny to railroads the right to provide separate accommodations for passengers as they may deem best for the public comfort or safety or to relate to transportation relating to points wholly within the limits of one State: *Provided*, That no discrimination is made on account of race or color; and that furnishing separate accommodations, with equal facilities and equal comforts at the same charges, shall not be considered a discrimination. Nor shall any railroad company or its officers charge to or receive from any person who is to be conveyed from one State or Territory into another any sum exceeding 3 cents per mile for the distance to be traveled by such person.

May I suggest one or two other amendments, so that I may make a few remarks in reference to all of them at the same time?

The PRESIDING OFFICER. Without objection they may be stated for information.

Mr. BECK. In section 4, line 5, after the word "same," I move to strike out the words "for a shorter than for a longer distance, which includes the shorter" and to insert "for any distance less than the whole length of the line than is charged for similar service over the whole length of the line;" so that the section will read:

That it shall be unlawful for any person or persons engaged in the transportation of property as provided in the first section of this act to charge or receive any greater compensation for a similar amount and kind of property, for carrying, receiving, storing, forwarding, or handling the same, for any distance less than the whole length of the line than is charged for similar service over the whole length of the line, on any one railroad or pipe-line; and the road of a corporation shall include all the road or pipe-line in use by such corporation, whether owned or operated by it under a contract, agreement, or lease by such corporation.

I propose also to amend, when the proper time comes, in section 5 of the bill, line 19, by inserting after the word "changed" the words "so as to increase the rates or charges;" so as to read:

And no such schedule shall be changed so as to increase the rates or charges in any particular except by the substitution of another schedule containing the specifications above required.

The object of this amendment is to allow the roads, if they desire it, to reduce their rates without giving five days' notice. The public will not complain of that, so that they publish the schedule afterward. One of the grounds of complaint now is that there is a fixed rate and that the companies can not accommodate themselves to change with other roads. The provision is that they shall not increase the rates without five days' notice, but they may reduce them, so they put the schedule up. There may be other amendments that I shall propose, but I indicate these for the purpose of saying a few words.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Kentucky [Mr. BECK] first offered.

Mr. BECK. Mr. President, I feel that we are now for the first time really considering how far and in what way Congress can and ought to regulate interstate commerce over the great railroads of the country. It has been confessed for weeks by the managers of the Senate bill that there was not only no hope of passing it through the House, but that there was no intention of even asking the Senate to vote on it as an original proposition. It is now abandoned and returned to the Calendar to die. All that can be said in favor of the long debate we have had on it is that Senators may be better prepared to vote on the propositions involved in the bill of the House and on the amendments or substitutes that may be offered to or for it than they would have been if the debate had not taken place, and perhaps some consolation may be drawn from the fact that if we had not been engaged in that we might have been doing something worse.

It has been conceded all along that if we intend to do anything practical it must be by taking action on the bill sent to us by the House. Of course every section and line of the House bill is subject to amendment before any substitute for it, or, rather, any amendment in the nature of a substitute, can be considered, and when the substitute or amendment of that character is taken up every section and line of it is subject to amendment before a vote can be reached on the proposition as a whole. The Senate will depart from its usual mode of proceeding if it does not exercise its rights in all these regards freely. Never having observed that a debate in this body on any proposition convinced those who were in a minority when the vote was against them or either exhausted or curtailed debate when like questions were presented in another form, I have insisted that the debate on the Senate bill which has for weeks blocked all other business was useless.

Another suggestion which I regard as of value is (assuming that we really desire to pass a law of some sort on this subject) that we are far more likely to reach an agreement with the House by retaining the provisions of the bill sent here as the result of long and careful deliberation by that body, amended, if you please, as the majority of the Senate desires, than we can if we, without consideration, as the motion so promptly made by the Senator from Illinois [Mr. CULLOM] indicates, substitute bodily the proposition which he will call the Senate bill, striking out and ignoring bodily the bill of the House. If that is done, it simply leaves the conferees of the two Houses, when they meet to consult, in direct and absolute antagonism, each presenting a different system, with no sort of chance for the conferees of either to accede to the propositions of the other without an absolute abandonment of the action taken by one or the other of the co-ordinate bodies.

Of course, when I hear the managers of the Senate bill proclaim on this floor their anxiety to pass some law, to do something practical on this great question before we adjourn, I am bound to give them credit for sincerity; but I can not help believing that every movement that has been made, every step that has been taken so far, has been in the direction of making an agreement with the House more and more improbable, if not impossible. The railroad managers and their attorneys, with the same knowledge we have in regard to the action and temper of the House, could not have devised a plan to secure no legislation during this short session more likely to be successful, and at the same time induce the country to believe that an earnest effort to do something was being made, than the course that has been and is being pursued here. More than a week has passed since the House bill was laid before us; it is now for the first time looked at, and had not even been read at the Clerk's desk before a motion to strike it all out and substitute totally different propositions was made and a vote asked upon it.

The Committee on Railroads was urged a week ago to take the House bill and all the Senate propositions, and, after consultation and deliberation with all the bills and amendments before them, advise the Senate what course to take in order to secure some practical legislation. The chairman of that committee and his friends defeated that proposition, and a week has been spent in debate on propositions—I will not say *intended*, but the obvious effect of the adoption of which, as now proposed, is to render any agreement between the two Houses on any measure almost if not absolutely an impossibility. Thirty-eight working days only remain before this Congress dies. If we are not deceiving ourselves or deluding our constituents, ought we not to try to agree with the House as far as possible, and not ruthlessly strike down all their carefully considered work? Both the House bill and the Senate's substitute assume that we have jurisdiction over the subject-matter under the power of Congress to regulate commerce among the States, and no one will deny that whatever Congress may authorize to be done by or through a commission it has power to do directly by its own authority; while some of us, of whom I am one, believe that there are many things in regard to prescribing the rules and regulations by which interstate commerce shall be governed which Congress can direct un-

der its delegated power and enforce through the courts of the country which it can not transfer to any commission.

If the argument made on last Friday week on this floor in that regard by the honorable Senator from Arkansas [Mr. GARLAND] has ever been answered by any advocate of any of the Senate propositions for a commission I have failed to observe it. Surely it was worthy of serious consideration by the advocates of such a commission as the Senate proposes to substitute for the House bill. I have regarded their failure to respond as a confession of the truth of the positions assumed by the Senator from Arkansas, to which I need not add anything. The House bill obviates all these difficulties; it deals directly with the subject; it opens the courts to all who are aggrieved, and submits all constitutional questions which may be raised in regard to its action to the tribunals organized and empowered to pass upon them. It does not undertake to decide what roads are under State control, or which of them come under the jurisdiction of Congress; it asserts the right and the duty of Congress, prescribes the rules and regulations under which railroads may engage in commerce among the States; it assumes that railroads are public highways and their managers common carriers; that all the people have equal rights in regard to the transportation of their goods over them; and that whenever the managers of these roads undertake to extort unreasonable charges from or make unjust discriminations between men engaged in transporting goods over their roads from one State to another they shall be punished.

The Constitutions of many of the States and the laws in nearly all of them contain provisions, in one form or other, almost identical with the provisions of the House bill in regard to the local railways and the commerce which they carry exclusively within their several jurisdictions, all assuming an undoubted right to do so without infringing the vested rights of the railroad companies, and all the States concede that as to interstate commerce the exclusive jurisdiction to enact laws, prescribe and enforce rules and regulations governing it is vested by the Constitution in the Congress of the United States. Obviously the several States have no power over the commerce which is moving from New York to San Francisco, and *vice versa*, through numerous States and Territories. If Congress has not, the strange anomaly is presented of State commerce being protected against extortion and discrimination by local State authority, while the immense interstate commerce, which covers perhaps nine-tenths of all our exports that can not be taxed, is left without protection against the rapacity of railroad managers, who may impose taxes in the form of charges for transportation far in excess of any tax Congress would ever venture to impose; thus destroying the right of our citizens to export their products more effectually than by any other means. Not only so, but by discriminations in favor of one set of men or of favorite localities the railroad managers can enrich and build up men and places as they please, and impoverish or break them down to suit their interest or caprice.

The distinguished gentleman from Texas, Judge REAGAN, after whom the House bill is properly named because of the energy, ability, and earnestness with which he has pressed it, gave a very striking illustration of the absolute necessity of Congressional control to prevent ruinous discriminations in favor of influential shippers of freight, to the ruin of their competitors, when he said in a debate elsewhere:

> In the legislative investigation in New York three years ago it was shown that the railroad companies had allowed and paid rebates to the Standard Oil Company to the amount of $10,000,000 in sixteen months, and yet we have no legislation to prevent or to punish these great wrongs committed by this vast power. In the world's history there is no instance of the exercise of such powers affecting so many people and such great interests as these which is not controlled and regulated by law except alone the American railway system. Assumptions have been made that the common law furnishes remedies for these evils. I will show as I proceed that it does not.

The House bill declares that a repetition of such conduct as that developed before the legislative committee of New York in granting to the Standard Oil Company or anybody else rebates or drawbacks or reduced charges in any form not given to every other citizen transporting the same things at the same time shall be a misdemeanor, punishable by fine and imprisonment, and the courts of the country are opened to all who complain on either side. There can be no question that if Congress has the power it ought to be exercised to the fullest extent. The House bill presents the direct mode of doing it.

Let it be borne in mind that the position taken by the railroad companies all through the progress of these measures, in their arguments before the committees and everywhere else, has been that Congress has no power over them and no authority to control them; that it has no right to punish them even for extortions and unjust discriminations such as the Standard Oil Company transactions illustrate. I have before me the argument of one of the ablest lawyers, representing leading railroads, sent to me the other night, perhaps to convince me that I was wrong in the views I entertain—an argument made by Hon. John C. Brown, general solicitor of the Missouri Pacific, Texas and Pacific, and Saint Louis, Iron Mountain and Southern Railway Companies, before the House Committee on Commerce on the 26th of January, 1884, in which he begins by saying:

> I beg to say that I am here as the accredited representative of over 6,000 miles of railway in the Southwest, which pay taxes upon values amounting to over $100,000,000 and employ between 40,000 and 50,000 men.

On page 16 of his printed argument he makes this statement:

> But for Congress to declare that it is unlawful for a railway company to charge one citizen of a State more than another citizen of the same State for contemporaneous transportation into another State of like commodities, I apprehend will not be seriously insisted upon. Certainly no warrant can be found for it in the Constitution.

That is the position taken by all of them, not in debate in either House, perhaps, but taken by all the railroad companies, so far as I know, who have been heard before our committee. Proceeding with his argument, on page 22 he puts the following interrogatories:

> Has Congress the constitutional authority—
> 1. To make it unlawful and fix a penalty for a railway company to charge one shipper in a State more than another shipper in the same State for the transportation of property from that State into another?
> 2. To make it unlawful for any discrimination to be made by a railway company between shippers of the same State, either in facilities to be furnished, or manner of shipment, or expedition of the service from that State into another?

He contended before that committee elaborately and learnedly that no such constitutional power exists in Congress. That is the question that I desire to have settled now in the promptest and most emphatic manner. If the States have the right, as the Supreme Court has decided they have, and all their constitutions and laws are based upon their now unquestioned power to regulate commerce within their respective borders, surely all that great body of commerce which passes from one State to another which the States do not pretend to have any power to regulate or pass laws for the government of must be vested in Congress. If the Congress of the United States has not authority, then the railroads are masters of the situation, and both the bill of the House and the substitute presented by the Senate committee fall to the ground. The simplest way to test it and to settle it is to test the question in the direct form in which the House has put it, and let the aggrieved party go to the courts and settle these vital questions without being entangled by any question as to the legality or illegality of an intermediate commission.

It being conceded that it is only through the House bill that any action can be taken which will be available for any purpose at this session, surely the Senate will be only playing into the hands of the railroads by preventing any legislation at all if we strike out these provisions of the House and substitute a new bill of our own, the provisions of which the House have by an immense majority rejected. It would be the merest farce to send it to them and ask them to abandon all their action, which the Senate knows now they will not do and their conferees can not consent to.

What harm, I ask Senators, can come from adopting the first and second sections of the bill of the House instead of the provisions proposed in the Senate in regard to discriminations, rebates, drawbacks, and those things which both bills denounce as illegal? None. Are Senators in earnest? Nobody will be deceived by specious talk about desiring to do through a commission this, that, and the other thing, when we know now that nothing will be in fact done unless we approach it substantially in the same manner as the House has done, especially when the mode prescribed by the House is better, simpler, clearer, and beyond all doubt constitutional as to its method of enforcing its mandates. If we have the power at all why should we avoid an agreement by seeking to adopt another system which we know the other House has rejected and will never look at? It can not be the purpose of Senators to pretend to want to do something and at the same time to make sure that they will do nothing. Yet the effect of their action is just as absolutely certain to end in no legislation as if they intended that it should do so.

It is no use to say that the House is as responsible as the Senate for the disagreement. That amounts to nothing, even if true. But it is not true. They have sent us a bill in the usual form of legislation to cure admitted evils. We agree that the evils exist, but we refuse to consider the remedy proposed unless the House places the power in the hands of a commission and departs from all the forms usually adopted by Congress in the passage of laws.

Can there be any question that a direct, positive law ought to be passed without reference to a commission or any other sort of circumlocution, making it impossible for any railroad to repeat the offense shown, as I have read, before the Legislature of New York—that $10,000,000 had been given in the form of rebate or drawback to the Standard Oil Company in eighteen months?

I have no doubt that nine-tenths of it was given back to that company when it was in direct competition with citizens of the same State who were shipping oil over the same roads and at the same time into another State. Yet we are told by the railroad lawyers that we have no power over that subject and that no man will seriously assert that we have. I assert it very seriously. The House of Representatives have asserted it more seriously, and I assert that the absurdity is too great to be seriously argued that freight passing from New York to San Francisco and *vice versa* through States and Territories must be left forever absolutely to the mercy of any body of men who may be controlling the railroads of the country and that Congress has no power to interfere with them. No matter what extortions they may exact or what discriminations they may make, no matter though they do give the Standard Oil Company $10,000,000 advantage over its competitors in

eighteen months, we are told that we shall not, and can not, and it is unconstitutional for us to attempt to say that equal justice shall be done by those roads to all men who are doing business over their lines, and that no class of our people shall be driven from the markets of the world with their products through the favoritism shown by railroad managers to their competitors.

If we settle nothing but that and leave all the rest for a commission to report and advise us what else we ought to do, we will have taken a great step forward in the assertion of our power to regulate the railroads of the country. If we can not do that much, there is no use in trying to do anything. I have no doubt the courts will sustain us and decide that the railroads of this country are public highways, that their officers are managers or trustees over a great public trust. Will it be contended that the Congress of the United States would have given millions and millions of acres of public lands to the States long before 1860 to aid them in building their railroads and enough for a great empire through our States and Territories to railroad companies since 1860 to build railways—lands belonging to all the people; lands upon which the poor men of the country would have a right to settle as homesteads and take up as pre-emptions—but for the fact that it was given by Congress to great railway corporations, or to the States to aid them in building railroads for public highways, or unless those public highways were to be maintained and carried on for the common and equal use and general good of the whole people? Can it be successfully maintained that a railroad has the right to condemn private property and take it for any other than for public use when they get control of it? Will any one contend that they can lawfully say to one farmer, "You may transport your grain by paying us a dollar a ton," and to his neighbor, "You shall not transport your grain over this road unless you pay $5 a ton," although both are going from Dakota to New York, or both may be seeking a market in Liverpool, if you please?

That is the claim of the railroads. That has been their conduct in regard to the Standard Oil Company. Ten million dollars was given back in eighteen months to that single corporation. I use it as an illustration, but that illustrates all. If they have the power to do that and Congress is powerless to prevent them, they have the power to say, "Our roads are private corporations; we will run them as we please; charge one citizen double what we charge another;" or say to any one, "You shall not haul over our road unless you give us half the profit you make, or you shall not run over it unless you first sell your produce to us at our own price; then, and then only, we will haul it." They have a right to do all these things if their view of their power and our want of authority over them is correct.

I repeat, the first question to settle is the authority of Congress to see to it that the public highways thus built by the condemnation of private property, by the donation of lands, and by bonds and money given by the United States or by taxes levied on the people, are operated in the interest of all the people equally, and that justice is done to all and to all alike. That is what I desire to settle first.

To show that even the railroad companies have no great respect for commissions, I observe, in the same argument from which I have read, Mr. BARKSDALE, of Mississippi, put a question to the distinguished gentleman who was arguing the case. Mr. BARKSDALE said:

> Admitting, for the sake of argument, which I do not, that the case you gave of the roads in Louisiana and Texas illustrates objections to Judge REAGAN'S bill, is the proposition to establish a commission to regulate freights amenable to the same objections?
>
> Governor BROWN. To appoint a commission, and give them power to fix rates, would be just as objectionable. I would rather that Congress do it.

Even the railroads say, Let Congress act directly when they assert their constitutional power; let them make the test as to their right under direct laws, as they seem willing to do. Much more might be said on that question, but I must hurry on, as I do not propose to make an elaborate speech or a constitutional argument.

One reason why I offered the amendment I did to the first section of the House bill is, because that section introduces a number of subjects not necessary to the test of the question of power. Here is one provision found in the section:

> Nor shall any railroad company or its officers charge to or receive from any person who is to be conveyed from one State or Territory into another any sum exceeding 3 cents per mile for the distance to be traveled by such person.

I do not care to go into that question at all. Here is another provision:

> *Provided*, That no discrimination is made on account of race or color.

I do not care about going into that. The first section of the bill would read, after the matter is stricken out as I propose, just as it was presented by Judge REAGAN to the House of Representatives. I have the original draught in my hand, and the clause would remain as he first presented it, clear of all these embarrassing questions if the words I suggest are stricken out. Another reason why I suggested that these clauses should be stricken out is that the question might be met fairly and distinctly without embarrassment from doubtful provisions. The other amendments I suggest to other sections will, I think, get clear of one class of evils, if we do not reach all; that should not prevent us from trying to get rid of some, and assert our right to deal with others hereafter if it should be found necessary to do so.

The bill as it passed the House provides that there shall be no greater charge for a shorter than for a longer haul over the same part of the roads. We have heard arguments time and again to the effect that some parts of a road are very difficult and some parts of a road are very easy to haul over, and many complain that such a provision would embarrass the roads. But the suggestion I make by way of amendment, and it is merely a suggestion, is that they shall not charge for any distance less than the whole length of the line more than is charged for similar service over the whole length of it.

I remember that some years ago Mr. Daggett made a very elaborate argument in the House of Representatives, in which he proved, and the same facts have been stated on this floor time and again—I have heard it from the Senator from Nevada [Mr. FAIR], and I have never heard it contradicted—that it is very usual for the Pacific roads to charge, say, $300 a car from Omaha to San Francisco and $800 for a car-load precisely like it run on the same train from Omaha to Virginia City, which is six hundred or eight hundred miles nearer Omaha than San Francisco. That is either extortion or unjust discrimination, or both, and ought not to be allowed. If the road is allowed to charge as much to Virginia City from Omaha as its charges to San Francisco, that is all that ought to be permitted. My proposition can work no injustice when the rights of all sides are looked to.

It was stated in a very able argument, which I have before me, by Judge Black, of Pennsylvania, that it was no uncommon thing at that time for the Northern Central road, running from coal mines in Pennsylvania to Baltimore, to charge from $1 to $1.50 a ton more to carry coal to York, sixty miles north of Baltimore, than to carry the same amount of coal to Baltimore on the same train and in the same class of cars. That destroys all competition in any business depending on coal. It was proven before the committee of the House that a railroad would haul a bale of cotton from Memphis to New Orleans for $1 a bale, and charge $3 per bale from Winona to New Orleans, which is one hundred and twenty miles south of Memphis and nearer to New Orleans, on the same line. I am seeking to guard against that class of discriminations without going into any other questions now. There can be no injustice in saying that no railroad shall charge for hauling over a part of its line more than it charges for hauling over the whole length of the line.

It will not do to say they have to haul more cheaply from Memphis because of competition, as will be contended in the Winona case, for example, because there is competition with the river, and therefore they are compelled to make up a profitable through haul by charging enormous rates to the people of Winona, who can not reach the river. The very evil I propose to provide against is that a railroad shall not be permitted to reduce its rates below the cost of hauling at the end of a line in order to run off some competing line or water way, so that they may absorb the trade; and the moment they run off their competitors put up the price to what they please, and in the mean time make up the loss they incur on the through hauls by doubling, trebling, and quadrupling the charges upon the products of the people along the line, as they do, by charging $3 a bale from Winona to New Orleans, while only $1 a bale is charged from Memphis to New Orleans.

If they can not run in fair competition with the river from Memphis, let the river take the freight and let the roads take what they are legitimately entitled to; but to give them power to tax double, and treble, and quadruple, what the carriage is worth to the people all along the line to pay them the losses they see fit to make by hauling too cheaply from the end of the line in order to run off a competing line ought not to be tolerated. If they are common carriers on public highways, as I assert they are, all the people of this country ought to be treated with decent if not exactly equal fairness; and no body of men should have the right to lay unjust tribute on the people along the line who can not help themselves to make up for losses that they have sustained by their gambling at the end of the line in order to drive off competition, because they only haul for less than they can afford to haul for in order to get control of the trade and thus destroy competition, so that they may charge what they please after the competitor is driven out of the business. I will not speak of the evils of the pooling system now; others will discuss that; it would take too much time, and I do not desire to weary the Senate.

There are serious questions about many other things, but when we allow the railroads to charge as much for hauling over any part of the road, as my amendment proposes, as they see fit to charge for hauling over the whole line, that ought to satisfy any body of men who profess to be dealing with anything like decent fairness in transporting goods.

The other amendment I suggest is in line 19 of section 5, where they are required to keep schedules. Where it is provided that no such schedule shall be changed without five days' notice, I propose to add: "So as to increase the rates or charges in any particular except by the substitution of another schedule." That gets clear of a difficulty which they claim this legislation would impose upon them. It has been argued by their attorneys and agents everywhere that if we require them to fix a schedule and to hold to it until notice of change has been given for five days, some competing railroad not carrying on interstate commerce, or some competing steamboat company, will put down their freights not being covered by this law and take their trade away from them.

My amendment will allow them, if that is attempted at any time, to

reduce their rates without giving any notice. The country will not be injured by that, and there is no danger of their freight being taken away from them by any competing line increasing its charges. They will not be hurt by their competitors putting up their rates, but I propose to give them the right to reduce without notice, provided they publish the reduced schedule afterward and give the people notice of what they intend to charge them thereafter. I think my friend from Mississippi [Mr. GEORGE] has that amendment in a better shape than I proposed it, but it embraces I believe the same idea, does it not?

Mr. GEORGE. Yes, the same idea exactly.

Mr. BECK. The language of the Senator's amendment, to which he now calls my attention, is:

Provided, That there may be a reduction of rates prior to the posting of such new schedule; but in such case the new schedule shall be posted as aforesaid within five days after such reduction shall be made; and said schedule shall also specify the date at which the reduction commenced.

That is better language; it has been more carefully considered. I insist that that is a proper amendment and is just legislation. Why? The men of this country who are purchasing wheat or hogs or cattle or anything else have a right to know by looking at the schedule of a road what is going to be the cost of transportation. They can not buy safely unless they do know, and they can only know through the printed schedules posted up what rate is going to be charged them. Suppose I am a merchant in New York and desire to buy a car-load or a train-load or any number of train-loads of wheat from farmers in Minnesota, Dakota, or anywhere else, that I wish to sell in Liverpool, the first thing I must do is to ascertain what the Liverpool price is, then what will be the cost across the ocean; then what will be the rate of transportation from Saint Paul or the Red River of the North to New York. I can see all that by the printed schedules of the railroads.

But if those railroads have a right at any moment without notice, after I have bought my wheat, to double or treble the cost of transportation without warning, they may bankrupt me in an honest effort to buy at a fair price the crop of that country. That ought not to be allowed; no manager of a public highway ought to be allowed to do it. He may do it just at the very moment the merchant had made the purchase and was about to ship it at the rate published; he might have made money at the advertised rate, but when the road doubles or quadruples its charges, and there is no other way of shipping it, and no competing railroad that can be reached, and makes the purchaser pay $500 a car where he only expected to pay $200, the man may be bankrupted if the transaction is a large one; he is injured no matter how small it is.

We all know that Congress can impose no tax upon exports. The Constitution prohibits that from being done. But if we allow the railroads to do as they please and to charge what they please and discriminate as they please, and put up their rates of tariff charges for hauling whenever they please, they can by increasing the cost of transportation impose a tax upon the exports of this country far beyond what any Congress would venture to do. If Congress could impose a tax it would necessarily be a uniform tax, bearing equally upon all men and well known and understood of all men, and the representatives of the people would be instructed to get clear of it if it was intolerable; but when the railroads act under the powers they assert and now have they can discriminate in favor of one man and against another. They can double their rates without any notice. In short, they can make or break men in their legitimate business; they can build up or tear down towns and villages, even cities, just as they please, and they will very soon, unless they are checked, control both Houses of Congress, if they have not got the power to do it now.

It is a question whether Congress has the power and whether it has the courage to exercise that power to say to these corporations, "You are our agents when engaged in carrying on interstate commerce; your roads are public highways, authorized to be built and carried on for the benefit of the people; we gave you lands, we gave you bonds, we gave you the right to condemn private property, we gave you all proper facilities; we desire you to be prosperous and make reasonable profits; all your possessions shall be protected, but all the people of the United States shall have equal rights and privileges over your roads, and you shall give them fair notice before you attempt to make any charges whereby they could be injured or bankrupted in their honest ventures."

Mr. President, I do not desire to go a step further than is necessary to take fair control over the roads and require them to do justice. I do not seek to cripple any of them. I do not speak of them as extortioners or in any other disrespectful way. They have built up the country and rendered long hauls possible; but I want them to be regulated as all men engaged in public trusts are, and to require them as common carriers to do equal justice to all men. The House bill, as far as I see, in declaring that they shall not discriminate between one man or one set of men and another, that they shall not by rebate, drawback, or anything else give anybody an advantage, surely does no injustice. When it says that they shall charge no more for hauling over a part of their road than they do for a haul along the whole line, surely it gives them the right to charge all that they ought to have for the short haul; and when it says, "You may reduce your schedule but you shall not without notice increase the rates, because traders and business men can not operate if they are at your mercy," no harm can be done by that.

When these things are done, or something like them, then I am willing to have a commission appointed—not a commission to legislate, not a commission to try causes, not a commission to meddle with railroads or their business, but a commission to investigate, to ascertain whether in the laws we have passed we have done the roads injustice, and if so, advise us so that we may correct them. If there are still other things to be done, let the commission advise us, so that we may proceed still further in the direction of regulating the commerce over these roads.

When I voted the other day for a commission of nine instead of a commission of five, it was with the idea that we would so amend these bills as to make it a commission to give Congress information, and nothing else. Let it be a commission of able and learned men; let them be well paid (I do not care what it costs, so the work is well done); one residing in each United States judicial circuit within the United States, who can consult in his own neighborhood relative to the evils growing up there. For example, I believe Ohio, Kentucky, Indiana, and perhaps Illinois, form a circuit. I am not very sure. The Senator from Indiana will correct me if I am wrong.

Mr. CULLOM. It is Michigan instead of Illinois.

Mr. HARRISON. We have not the pleasure of having Illinois associated with Kentucky.

Mr. BECK. I am wrong, I suppose, as to the boundaries of that circuit. No matter, I will put it this way: Two or three or four States form that circuit. If we appoint a commissioner who resides there he will be in close proximity, and in a position to consult with the State commissions that have been appointed, I believe, by all those States. Kentucky has its commission, the other States have their commissions, to look after their State commerce. If we appoint a United States commissioner who resides in the circuit they can meet at Chicago or Louisville or anywhere else, and our commissioner can hear the grievances that are complained of in respect to State commerce, and compare them with the grievances in regard to interstate commerce. That commissioner thus consulting with the local commissions inside of the circuit, and each commissioner consulting with the local commissioners inside of his circuit, can get together at Washington, or somewhere else, three or four times a year, and they can report all the facts and lay all the grievances before Congress, and we can see what ought to be done to remedy them. If we have done anything in this bill that we ought not to have done, if we have gone a step too far in regard to regulating the railroads, the commissioners consulting with the State commissioners can report to us, from time to time, wherein we ought to modify our law.

That is the sort of commission I desire to see inaugurated. That is the kind of commission that is clearly constitutional; but more good will be done by taking jurisdiction by this bill, by giving the railroads to understand that we have the power and we intend to exercise it in regard to flagrant wrongs, and that we have appointed a commission to look into their conduct and to investigate. It is said that an ounce of prevention is worth a pound of cure. The prevention of wrong will be more valuable than all the cures of the evils, for the evils will never occur to one-tenth part of the extent they have occurred when jurisdiction is once assumed. Do you think, under a law like this, punishing men by fines and imprisonment, the Standard Oil Company could ever have received $10,000,000 in eighteen months by way of drawback against competitors? The very fact that we have assumed jurisdiction over them, and that we have appointed commissioners to act in conjunction with the State commissioners to watch and to report their action, will make all the managers of these roads infinitely more careful than they have been. So long as they are taught to believe, as they are by all their counsel and all their agents, that they are beyond our control and above us and can defy us and that we can not interfere with them no matter what they may do, the first question to settle is to get that idea out of their heads, and the House bill settles it directly, makes its determination easy, sends them to the courts, so that no troublesome constitutional question intervenes.

I said to the Senator from Michigan that I expect to vote with him in regard to the water ways. This question is big enough now in dealing with the railways of the country. These railways are highways, upon which nobody can go except the owners and controllers of the corporations. They have a monopoly of their use and the right to charge what they please unless we regulate them in that regard, and they claim the right to make discriminations against anybody who may be obliged to use them. They may have destroyed the only other highways the people had before the railroad was built, as they have done virtually in my State, as my colleague knows, thereby destroying the means men had before of getting their crops to market, and then by discrimination and other favoritism or extortion, if you please, placed the country at their mercy. I am not charging any of these things upon railroad managers in Kentucky, but the power they have to do these things makes it important to control them everywhere by legislation, so as to obtain equality and justice. The water ways bear no such relation to the people. They are free.

Every man at Louisville or Cincinnati or anywhere else, if he has

money enough, can put his barge with goods on the Ohio or Mississippi, can float it down to New Orleans, land at any public wharf, and ask no favor of any railroad or steamboat corporation. Nobody can exclude him from the use of that water way. Therein lies the distinction, if there were no other, between the railroad and the river and lake and other transportation by water. The one is a free highway; the other is a highway granted to a corporation with the exclusive right to use it, and it is very proper that we should in this bill seek to regulate the use of that highway of which we have given any body of men the exclusive use, without bringing up the question further of regulating free water ways of which everybody has the use and from which nobody can be excluded.

Let us deal with one thing at a time. This, as I said, is a beginning, is going to be resisted earnestly enough. I seek to go just as far as it is perfectly safe and proper to go without injuring the roads, and am willing to postpone further action till a commission is appointed to investigate and consult and report to Congress what they learn in regard to what ought to be done further, or what ought to be undone that has been done. I seek to inaugurate a system that will work harmoniously. That done, the good relations that ought to exist between great corporations of this sort and the people all along their lines will be brought about, and it will restore confidence. Then good feeling will prevail, and it will not be two years before the railroads will thank Congress for having taken it in hand and stopped a great many evils that they in their contests with each other bring about and are often unable to avert.

As I said, I had not prepared myself to argue these great questions as I ought, but I am prepared to say that those of us who earnestly desire to do something will do great injustice to ourselves if we do not amend the House bill as best we can, and keep that bill in its substance before both Houses, so that when a conference is agreed to, as it will be, we can see if our committees can not agree upon something practical, and not go off at a tangent on divergent lines, one House going one way and one the other, getting so far apart that our conferees can not do anything, and will not be expected to do anything, and all that the railroads and their attorneys want will be accomplished by having two variant bills plausibly advocated, and yet so arranged as to make it perfectly apparent that we are not going to curtail their power and privileges, which is exactly what they want.

That is all I care to say at present.

Mr. MAXEY. Mr. President, I had intended to submit some extended remarks on this subject, but it has been so fully discussed, the grievances complained of have been so plainly presented not only in the Senate but elsewhere, that I only care now to give my reasons for the vote I shall cast on the pending measure and to discuss the essential distinction between the House bill and the Senate bill.

I recognize that railroads are high up among the greatest means in the development of this great country, that they have enabled the people to utilize immense areas of agricultural and timber lands in the great Southwest and far West which without these means of transportation would yet be waste land. I recognize all that. I have no prejudice against railroads. I recognize their incalculable value in intercommunication, in the spread of intelligence, and cementing more closely the Union. I never owned any stock, any bonds, or any interest of any kind or character in railroads, and do not now, and am not and never was a railroad attorney. I am not a shipper, and have no further personal interest in freight rates than what I pay for the freight of articles for family use. I can say, therefore, that I am impartial.

The only question, it seems to me, necessary now to be discussed, because all others have been fully elaborated, is, Shall we adopt a commission system for the ascertainment of grievances, or shall we declare certain known grievances to be unlawful, and place in the courts the power to hear, judge, and determine as to them? That, it seems to me, is the only question.

A great deal has been said in respect to the power of Congress to touch the subject at all. If I doubted that Congress had power, I should vote against any measure, however great the grievance might be. I believe the salvation of this country depends upon a strict adherence to the Constitution in all its parts. It is known that the origin of the present Constitution was in the fact, first, that the old Articles of Confederation gave to Congress no power of taxation for the purpose of supporting the Government; and second, that under those articles Congress had no power whatever over commerce with foreign nations or among the several States. These two causes brought about the assembling of the convention which framed our Constitution, matchless in conception, and whose principles, without jar or confusion, meet the expanding necessities of the American people.

The Constitution declares that Congress shall have power "to regulate commerce with foreign nations and among the several States, and with the Indian tribes." Whatever power is embraced in a fair construction of those words Congress undoubtedly possesses, and possesses exclusively. I remember the case of McCulloch *vs.* Maryland, in 4 Wheaton, one of the greatest questions that ever occurred in the judicial history of this country, grew out of the United States Bank charter. In that case—I am speaking entirely from memory—the United States Bank had been chartered by Congress, and the State of Maryland undertook to levy a tax upon the stock of that bank. The charter was granted under that clause of the Constitution which says "Congress may borrow money on the credit of the United States." That is an unqualified and unlimited power. It does not point out how the money shall be borrowed. It simply says Congress shall have power to borrow money on the credit of the United States. When that case went to the Supreme Court, the court, through the Chief-Justice, said that the power to borrow money on the credit of the United States being vested by the Constitution in Congress and without qualification or limit, the means and method whereby that power might be made effective were in Congress, and the attempt of the State of Maryland to lay any tax upon the bank to that extent crippled the power of Congress and was in its nature the assertion of a power vested in Congress, and more, that the power being without limitation or qualification in Congress, it was exclusive. That principle is settled there.

It has since been applied to every bond issued by the United States. In Gibbons *vs.* Ogden, in 9 Wheaton, the same principle is reaffirmed in that great interstate-commerce case which arose between the United States and the State of New York. If Congress has the power to regulate commerce with foreign nations, among the several States, and with the Indian tribes, then what do we mean by that regulation of commerce? It has exercised power over commerce from the foundation of this constitutional Government. It has done it by its navigation laws, its tonnage laws; it has done it by acts passed at the very first Congress that assembled under the Constitution; it has done it ever since. It prevents a steamboat from being loaded in our waters unless it is under a licensed pilot and is a licensed steamboat. It makes unlawful any contract to employ a boat unless it has a licensed pilot and is a licensed boat. It makes it unlawful to hire such a boat, to make a contract for such a boat, and it is unlawful on both sides. Both contracting parties to such a contract, according to the navigation laws, violate the act.

In the case of Gibbons *vs.* Ogden the Supreme Court asks, through Chief-Justice Marshall, if commerce from one State to a distant State must pass through intermediate States, can it be said that the intermediate States can obstruct that commerce? That question itself is a most powerful argument in favor of the power of Congress to regulate commerce between the States. To the full extent of the reserved powers of the States I concede that Congress has no authority whatever; but to the full extent of the granted power, the Congress of the United States is supreme under the Constitution, because the Constitution itself says that "this Constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made under the authority of the United States, shall be the supreme law of the land; and the judges in every State shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding."

If, then, the House bill is within the scope and purview of the commerce clause of the Constitution I have quoted, no constitutional obstruction is in the way. And the same of the Senate bill.

I concede and have always conceded that to the extent of the granted powers an act of Congress under the Constitution is supreme; and the only question as to the pending measures is, do they fall within the granted power? I assert the authority of the General Government to the extent of the granted powers as fully and freely as I would resist an attempt on the part of Congress to exercise any of the reserved powers of the States.

Mr. President, what does the Senate bill attempt to do? It raises a commission of nine persons. I have examined with great care to find what they are to do; and I must confess that the duties of the commission to my mind are very vague and indefinite. I do not exactly see what they are to do. They are authorized to send for books, persons, and papers, and to examine witnesses—they can do all that—and to "investigate the matters complained of, to determine all questions of fact at issue, to record its finding, and to furnish a report thereof to both parties."

One of the grand characteristics of a court is that it can hear and determine. Is this a court? Is it designed to be a court? If so, undoubtedly the Senate bill is unconstitutional, because the judges of the courts of the United States must hold their office during good behavior, and these commissioners do not hold their office during good behavior, but for a term of years. Are they invested with judicial powers? Then where have you the authority to invest a commission outside of a court with judicial powers? No such authority exists.

But suppose that this commission goes out and hears and determines and gathers up all this great body of facts, and furnishes one copy to the railroad and the other to the party claiming to be aggrieved, what then is to be done with this testimony or with these papers after they are obtained? That question was asked one day last week—I believe Saturday afternoon—of the Senator in charge of the bill. Are they evidence? If they are evidence, how do they get to be so? I do not know of any method of getting evidence before a court in the form of depositions save and except by a commissioner of the court. It must be a commissioner of the court that takes depositions. These men are not commissioners authorized to take depositions. A United States commissioner is a part of the machinery of the court itself and he is authorized by the court to take depositions. Those depositions properly taken and properly returned are evidence before that court. But these facts that are ascertained by this commission are not evidence.

Well, in reply to the question asked him, "What are you going to do with them?" the Senator in charge of the bill said he was going to send them to the district attorney. In other words, after you have gone to all this expense of $5,000 each for your nine commissioners, your $3,500 for your clerk, with the privilege under this bill of any number of employés that the commission may deem proper over and above the pay to the commissioners and their clerk and office-hire, stationery, and all that, making an enormous amount of money—after you have gathered up all these facts what are you going to do with them? Are they evidence before a court?

It is admitted that the commissioners can not adjudge between the parties, because that would make them a court beyond all peradventure, but these facts are sent up, as gathered, as memoranda to the United States district attorney for him to prepare an indictment or the necessary petition in equity, as the case may be, to bring the railroad company complained of before the court.

Then, after all this has been done, what next do you do? You have to take all these papers in order to prepare the indictment or petition, and the district attorney says that the testimony of A in Ohio or B in Texas or C in Iowa is important to the ascertainment of the facts in the case, and you have then got to send out to a United States commissioner and gather up in due form of law all these facts developed by the data furnished by the commissioners to the district attorney. There you have a double labor and expense. In other words, the whole machinery of the commission to my mind is cumbersome and ineffective. If it has the power to be effective it is judicial power, and if it has the judicial power to be effective then it is not a constitutional power, unless we create it into a court, as we did the Court of Claims, unless we create a court and permit them to hold their offices during good behavior, and make it, as we did the Court of Claims, a court of investigation, limited, as to this commission, to railroad matters. The bill does not pretend that this commission is to go out and gather up information as the basis of legislation, but as a sort of friendly mediator without effective power to adjust controversies, or failing in that, to lay the huge pile of facts unauthenticated as testimony before the district attorney.

So I can not see for the life of me what is the object of this commission. It is not the character of commission to which the Senator from Kentucky [Mr. BECK] referred—and I have not much use for commissions any way—a commission to go all over the land and gather up evidence in order to enable Congress to proceed understandingly. That is not the nature of this commission; but the commission here, according to the wording of this Senate bill, is:

> To investigate the matters complained of, to determine all questions of fact at issue, to record its finding, and to furnish a report thereof to both parties.

Then when you come to test it to the bottom they do not determine the facts; that is done by a court, and this investigation which they make is nothing in the world but an investigation for the purpose of furnishing data, as I understand, to the district attorney. It is the most remarkable proceeding I have ever heard of, and I do not think it will do.

What is the use of attempting "to determine all questions of fact at issue" when they can determine nothing? What is the use of recording "its finding" when its finding binds nobody?

Come, then, to the House bill. I concede at the outset that any legislation in respect to railroads is in its nature tentative; it is bound to be so. Where we have a great complicated machinery as delicate in its operation as a watch, extending from the Atlantic to the Pacific, extending from the lakes to the Gulf, over all this broad land, with its connections and interconnections and arrangements with each other—when you have such a system as that, any attempt whatever at legislation, in its very nature, being as it is now new legislation, must be simply tentative. It can not be otherwise. But you want to start. If it be true, and of that fact I have no doubt, that there are grievances, and well-grounded and well-ascertained grievances, against the railroads, we should, if we have the power, remedy them. The great body of the people of the United States whose raw products or manufactured goods are shipped on these roads are, as we know most of them are, complaining, and especially so on the part of the agricultural community, who always work hard and still remain comparatively poor, while the high officers of railroads are growing fabulously rich. Men who a few years ago, within your memory and mine, were poor are now worth their ten, fifteen, or fifty millions of dollars. If we have the constitutional power, a remedy should be applied. On that point I beg to say that the House bill is in the spirit and letter of the Constitution in my judgment. While Congress has never exercised the power in the regulation of commerce to the extent provided in this bill, I am clearly of opinion that it is constitutional and would be upheld by the Supreme Court.

Recurring to the widespread complaint, I beg to say that where there is a gathering up of wealth from the great body of the community, and a transfer of that wealth into the hands of the few, there is necessarily complaint. That country is the happiest and most prosperous where wealth is equitably distributed among all the people—none very rich and none very poor. That country is in a dangerous attitude where the few are rich and the many are poor, and day after day we are getting more and more in that condition, and the people find that these railroads have a power over them which is absolutely enormous.

It is the height of unwisdom on the part of railroad companies to resist reasonable and fair legislation. It is to their interest, as to all, that justice to all be done. Why, sir, take the case of four, five, or six men in the city of New York, who can sit down and raise the price of transportation of your wheat 5 cents on the bushel in ten minutes. What does that mean? Millions of dollars transferred from the earnings of the people to their pockets. So they can, as they do, change the rate of freight, and put an additional dollar per bale on our cotton which we raise in Texas and the other Southern States, and which we send to New York and Boston and Liverpool. Suppose they raise that a dollar on the bale, and what does that mean for Texas? A million dollars on one single article; and they can do it in five minutes and you have not now the power to stop them, and they do it by the comparatively trifling increase of two mills or one-fifth of 1 cent on the pound. But that one-fifth of 1 cent per pound takes $1,000,000 out of the pockets of the people of Texas and transfers it to theirs.

These are grievances that strike at and touch the sense of justice of an honest man. Who will say that it is right to charge me as much for hauling a car from New York to where I live in North Texas at Paris as to haul it to Galveston, four hundred miles beyond? There is not any justice in that. No amount of fallacious reasoning can make any man believe that is right. That is one of the causes people have to complain of. And there is the charging of more for a short haul than for a long haul of the same character. That is not right.

Another is that where roads are competing, and thus a fair show for justice, they combine and pool their issues. Another is the buying up or leasing all roads by a few corporations. Take the roads of my State. You can not get into Texas from the north side or the east without passing over the roads of what is known as the Gould Southwest system. Every road which enters into the State of Texas on the north and east, except the Texas and New Orleans, from Houston to New Orleans, are under the same control.

In the town where I live when Mr. Thomas Allen controlled the Saint Louis, Iron Mountain and Southern Road, leading from Saint Louis to Texarkana, and the Missouri Pacific and Missouri, Kansas and Texas, leading from Saint Louis to Denison, were under different control, the agents of both companies were there seeking for business to Saint Louis, and a very large business was done. Two weeks after that purchase was made of the Iron Mountain Railroad by the Missouri Pacific combination, away went up the price per car from Paris to Saint Louis. Was there any additional expense to the road? Before that purchase it was immaterial to our shippers which way they went out, whether by Texarkana or Denison, the price was the same; and yet as soon as the Iron Mountain Road passed under the same control and dominion as the Missouri Pacific system, the price per car went up. These are grievances that the people complain of.

So long as the roads were under different ownerships there was fair competition. After the purchase made the shippers were at the mercy of the Missouri Pacific combination.

It is just such things which produce discontent. The intelligent sentiment of the country is in favor of fair play, but it favors fair play all around the board.

But a short time ago, during the last cotton crop, when I was at home last fall, the price of freight on a bale of cotton was raised from Paris to New York a certain amount, I do not remember how much. What was the consequence? The day the new arrangement went into operation cotton buyers, as a matter of course, lowered their prices per pound on cotton. The people inquired the cause. There were the reports of the prices in Liverpool and in New York. Cotton had not gone down. The prices in these great markets were as good that day as the day before. Why, then, was it that cotton went down? The cotton buyers had to explain to them, "The reason why it has gone down is that freight has gone up."

Wherever this vast power is in the hands of any corporation it will be used unless there is some controlling power in law above the corporation. Recognizing as I do that railroads are a grand instrumentality of civilization, I look upon them as creatures of the law with special privileges and subject to lawful and just control. Like fire, which is one of the inestimable blessings God gave us; but you have got to control it, you must keep it in check, or it becomes your master. So, sir, railroads must be controlled by law the same as other natural or artificial persons. I would not favor any law to bear upon anybody which I thought oppressive. I believe the provisions of the House bill conservative and reasonable, and I think it would be a most unfortunate thing to let this Congress adjourn without some legislation in the right direction. I think this is in that direction.

I want to give railroad companies equal and exact justice, and alike with everybody else, neither greater nor less.

This bill ordinarily called the Reagan bill, the House bill, pursues the old-fashioned course as we all understand it; points out and makes unlawful certain acts which are specifically named in the bill, for a violation of which jurisdiction goes to the courts in the usual and ordinary way. That is the simple way of doing it. The grievances set forth in that bill are those which are recognized all over the land as being grievances. It is eminently a conservative bill.

I do not expect any bill to leap out of the brain of my friend from Illinois [Mr. CULLOM] like Minerva out of the brain of Jove—perfect.

I do not expect that from the brain of any human being on earth. The question before the Senate is a complicated question. It is a knotty question. It is a difficult question, and the ablest lawyer in this land, the most experienced man in this land, is not disparaging his reputation by admitting it is difficult of comprehension. But where there are known causes of grievance let us begin with those. Here we have the constitutional power, as I think we have, and then as the years roll by experience will show what changes and additions to make. If we have gone too far in one place we can modify it; if we have left out some other important matter we can insert it. We can go on altering and amending until in the course of a few years we have a good and commendable system.

I do not know of a valuable statute in respect to an important controverted question on the books that is not the result of time and experience suggesting important changes. I know of no statute which has not had to be amended if it was one of great practical importance. The human mind is fallible. We can not reach out all at once. We have to take things by degrees, and this is especially true of a subject so vast and complicated as railroad management, and how far it may be justly controlled by law.

I believe that the commission system will do no good. It will be of no value. I believe that the House bill is a conservative bill. I can not point out its defects, if any, for I do not profess to be perfect in railroad information; but I do know that, as far as these points complained of are concerned, they exist. Now let us start with them. Let us give to the courts jurisdiction over these things which we declare to be unlawful, and let the courts proceed in the usual way. We create no new bodies. We do not create a commission which has vague, indefinite powers, and which amounts to nothing except to gather up data for the district attorney; and if it goes beyond that and becomes invested with jurisdictional power, then we have no right to erect that commission, unless at the same time we make it a court inferior to the Supreme Court which Congress may establish from time to time. We have that power, and you may call that court what you may, but whatever name you call it, it is a court if it has jurisdictional powers, and as a court its judges must hold during good behavior.

I do not doubt that everybody is sincere; but some of us honestly believe that there ought to be legislation and others doubtless honestly think there ought not to be. Some of us believe that the country thinks so—not the ignorant and thriftless, but the most enlightened men in this land. Men of ability, men of experience, men of large business throughout the United States believe there is a necessity for some control of railroads and that Congress has the power. Farmers, a very intelligent part of the body-politic, almost universally believe it. I believe it, and if we intend to begin there is no better time than now, and if we begin let us begin with a bill which will bring up the only conceivable question that can be brought before the courts as to the bill—that is to say, has Congress the constitutional power to regulate freight charges, &c., of railroads? That tests the whole question, for no one can say that if we have the power to declare these acts unlawful we have not the power to hand them over to the courts to hear and determine. That is the proper place for them, and there that will be the only question. That being settled affirmatively, we can go on improving the legislation here and there as time and experience dictate. If the bill is not broad enough, amend it. If it is too oppressive or too severe, amend it, and in the course of time we shall have, in my judgment, a fair system for the settlement of these grievances between the people and the railroad companies.

Mr. COKE. Mr. President——

Mr. HARRIS. If the Senator from Texas will yield, I move that the Senate proceed to the consideration of executive business.

Mr. MAHONE. I ask leave to have printed an amendment which I desire to offer at the proper time to the substitute for the bill under consideration.

The PRESIDING OFFICER (Mr. SHERMAN in the chair). The proposed amendment will be received and printed if there is no objection.

Mr. HARRIS. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business.

After thirteen minutes spent in executive session the doors were reopened, and (at 4 o'clock and 23 minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, *January* 20, 1885.

The House met at 12 o'clock m. Prayer by the Chaplain, Rev. JOHN S. LINDSAY, D. D.

The Journal of yesterday's proceedings was read and approved.

ANTHONY EULOGIES.

Mr. ELLIS. I demand the regular order of business.

Mr. CHACE. Pending that I ask now, Mr. Speaker, that the House assign 4 o'clock to-morrow afternoon for the consideration of the Senate resolution in regard to the death of the late lamented Senator ANTHONY, of Rhode Island.

Mr. ELLIS. I hope there will be no objection to that.

There was no objection; and it was ordered accordingly.

LEAVE OF ABSENCE.

Mr. HITT, by unanimous consent, was granted leave of absence for to-day, on account of important business.

LOCKAGE OF SAULT SAINTE MARIE'S CANAL.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of War, transmitting report of the Chief of Engineers in regard to the insufficiency of the lockage of the Sault Sainte Marie's Canal; which was referred to the Committee on Rivers and Harbors, and ordered to be printed.

HOLDING LANDS BY ALIENS PROHIBITED.

Mr. OATES, from the Committee on the Public Lands, reported back a bill (H. R. 5266) to prohibit aliens and foreigners from acquiring a title to or owning lands within the United States of America; which was referred to the House Calendar, and, with the accompanying report, ordered to be printed.

DRAWBACK ON DUTIES, ETC.

Mr. HEWITT, of New York, from the Committee on Ways and Means, reported back the bill (H. R. 7651) to amend section 3019 of the Revised Statutes, relating to drawback on duties on imported material when manufactured and exported; which was referred to the Committee of the Whole House on the state of the Union, and, with the accompanying report, ordered to be printed.

ORDER OF BUSINESS.

Mr. ELLIS. I move to dispense with the morning hour to-day.

The motion was agreed to (two-thirds voting in favor thereof).

Mr. ELLIS. I now move that the House resolve itself into the Committee of the Whole House on the state of the Union for the purpose of proceeding with the consideration of the Indian appropriation bill.

Mr. SINGLETON. I trust the House will not resolve itself into the Committee of the Whole House on the state of the Union on the Indian appropriation bill at this time.

Mr. ELLIS. I demand the regular order of business.

Mr. SINGLETON. I propose, if I can, to get up the Congressional Library bill this morning, and I hope there are friends enough of that measure who will assist me to take it up.

Mr. WILLIS. I rise to a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. WILLIS. I desire to ask, after the motion of the gentleman from Louisiana is voted down, if it will not be in order for me to move to go into the Committee of the Whole to consider the educational appropriation bill? I desire to say, if his motion is voted down, I will make that motion.

The SPEAKER. It would be in order to move to go into the Committee of the Whole House on the state of the Union, but not for any particular bill.

Mr. WILLIS. But I can indicate that is my object.

The question was put on Mr. ELLIS's motion.

The SPEAKER. The noes seem to have it.

Mr. ELLIS. I ask for a division.

The House divided; and there were—ayes 103, noes 30.

Mr. WILLIS. No quorum has voted.

The SPEAKER appointed as tellers Mr. ELLIS and Mr. WILLIS.

The House again divided; and there were—ayes 125, noes 54.

So the motion was agreed to.

INDIAN APPROPRIATION BILL.

The House accordingly resolved itself into the Committee of the Whole House on the state of the Union, Mr. WELLBORN in the chair.

The CHAIRMAN. The House takes up for consideration the bill (H. R. 7970) making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1886, and for other purposes.

The first reading of the bill has been dispensed with, and the Clerk will now proceed to read the bill by paragraphs for amendment.

Mr. ELLIS. Mr. Chairman, if I can have the attention of the committee I hope to make such an explanation of this bill as will perhaps prevent a good deal of debate in its passage when under consideration by paragraphs. The estimates for this branch of the public service for the fiscal year amounts to $7,328,049.64; the recommendations of this bill are for $5,664,135.80. The recommendations are therefore $1,663,914 under the estimates. The law of the current year provided $5,859,402.91; the recommendations of this year are $5,664,135.80; so that the recommendations of this bill are $195,267.11 below the law of the current year.

I would say the reductions are in the estimates for the support of the Indians. It has been the policy of the committee for several years to endeavor to make the Indian more self-sustaining, and for that purpose there has been a gradual decrease of the support given him by the Government, letting him know in this way that there was coming a time

when he would be totally dependent on his own exertions, and therefore that it would behoove him by industry, by improving all the advantages about him, to become self-sustaining.

There is one exception to this general decrease in the estimates for the support of the Indians, and that is with regard to the Indians in Montana Territory. The items for the support of these Indians have been increased about $53,000.

Right here, Mr. Chairman, I desire to make an explanation personal to myself and personal to the committee. There has been a great deal of distress among the Indians in Montana Territory. The condition of these Indians in the winter of last year and in the early spring was pitiable indeed. They actually starved to death, some of them; many of them died for necessaries of life. When this condition was made known to the Committee on Appropriations in the early portion of the long session of Congress by estimates sent to us from the Indian Office, and as soon as the matter could be considered, the total amount asked for was promptly forwarded to them.

I would like to put on record, sir, what has been done for these Indians during the past four or five years. I hold in my hand a tabulated statement of the expenditures made for the support of the Montana Indians from and including the year 1881 down to 1885, the present year. In 1881 there was appropriated for their support the sum of $282,000. In 1882, we appropriated $267,000. In 1883, $277,000; in 1884, $343,000, and in 1885, $296,000. The appropriation for 1884 was originally fixed at $243,000. That appropriation was cut down because there was no complaint of any deficiency from the Indians, or that a certain state of facts existed in connection with them of which the committee was in ignorance. Hitherto the Indians in this Territory had been largely supported by game found upon their reservations, by the ordinary avocation of hunting. But without the knowledge of the committee, uninformed by the Department of any change in this condition of affairs, believing that the game which had entered so largely into their livelihood on the reservation in preceding years still existed, and in accordance with a well-settled and as we believed a wise policy on the part of the committee, their support was cut down for the year ending June 30, 1884. But the fact was that the game was gone. The buffalo had disappeared from the reservation; their crops had totally failed; and consequently, without any fault on the part of the Committee on Appropriations—the Committee on Appropriations of the last session of the Forty-seventh Congress—and without any knowledge on the part of that committee of this condition of affairs, inadequate appropriations were made. When this state of facts was made known to the committee of this Congress the committee promptly gave every dollar that was called for by the estimates. We appropriated the full amount of the deficiency estimated by the Department—that is to say, $50,000. The Senate increased the appropriation $50,000, which increase was promptly concurred in by this House.

When we came to frame the bill for the present year, we based it upon the appropriations for 1884 plus this deficiency for $100,000, believing that that sum would be ample. Notwithstanding that, however, we are again informed by the Department that there will be suffering among these Indians unless relief is promptly sent to them. Therefore, when the deficiency estimate reached the committee it was promptly considered, and on the 6th day of this present month the $50,000 deficiency asked for by the Department was immediately made available for the support of these Indians.

Notwithstanding these facts, a certain gentleman connected with the "Indian rights" department has seen fit to write me an open letter, and has seen fit to let loose upon my devoted head the anathemas of the press East and North—one Mr. C. C. Painter, I believe, a member of the Indian Rights Association, one of those self-constituted friends of the Indians, coming here by what credentials I do not know, appearing frequently before the committee and urging us to discharge our duty.

In the letter of Painter, which was published in the New York Tribune, appear the grossest misrepresentation and statements which he should have known were utterly and infamously false. I desire now, sir, to place on record here the full history of this matter in order that that gentleman, who is represented to be a minister of the gospel, may either inform himself properly before he undertakes to write a public letter to anybody, or else that he may refresh his memory with the story of Ananias. [Laughter.]

In the matter of education, Mr. Chairman, the increase in this bill over the law of the present year—that is, the amount of increase recommended by the present bill—is $20,200. I am glad to state to the committee that the report from all the industrial schools, from all the educational institutions of the United States where these people are being taught, is most satisfactory in its character. From every quarter we learn that the Indian is disposed to work, disposed to learn, and that in the large majority of cases they are making most commendable progress in education and the arts of civilized life. I believe that this work of education should be persevered in. I believe that it is one of the main essentials which are to give a permanent, peaceful, and civilized solution to this important question.

Some new legislation is recommended upon this bill, to which I shall now invite the attention of the committee. The Commissioner of Indian Affairs complains that the penalty attached to selling intoxicating liquors to the Indians is so low that men do not mind conviction, and that it does not result in breaking up the traffic. He reports that they are frequently arrested, frequently tried and convicted and sentenced to a day's imprisonment and $1 fine; that they stand the imprisonment, pay the fine, and then go on with their traffic; and we have been earnestly urged by him, and indeed by the voice of humanity in our own hearts, to increase the penalty so as to make it a terror to these people and endeavor to stop the liquor traffic among the Indians. It is necessary to do this, Mr. Chairman, for vain are all educational appliances and efforts, vain are all industrial schools, vain are all the soft and civilizing influences which may be brought upon him, and with which we endeavor to civilize the savage heart, if you permit men to go in their midst and infrenzy the devil in the savage nature, and pull him back to make a double savage of him.

Therefore, in accordance with the recommendation of the Department, we so amended and re-enacted a section of the Revised Statutes as to make this punishment the minimum. The section is amended and re-enacted so as to read as follows:

SEC. 2139. No ardent spirits shall be introduced, under any pretense, into the Indian country. Every person who sells, exchanges, gives, barters, or disposes of any spirituous liquors or wine to any Indian under the charge of any Indian superintendent or agent, or introduces or attempts to introduce any spirituous liquor or wine into the Indian country, shall be punishable by imprisonment for not less than six months nor more than two years, and by a fine of not less than $50 nor more than $1,000.

And it goes on to re-enact the balance of the section. I believe the wisdom of the committee will sanction this change.

The Department urged upon us very strenuously—and I call the special attention of the committee to this—to give discretionary power to the President of the United States to disarm certain Indians within his discretion. The section which we propose reads as follows:

SEC. 8. That whoever shall furnish to any Indian, by barter, sale, gift, or exchange, any gun, rifle, pistol, or ammunition, or munitions of war, shall, upon conviction thereof, be fined not less than one hundred nor more than one thousand dollars, and be imprisoned not less than six months nor more than two years: *Provided*, That this provision shall not apply to the civilized tribes of the Indian Territory; and that the Secretary of the Interior may issue such permits to Indians for the purchase of arms and ammunition for sporting purposes as he may deem proper: *And provided further*, That the President of the United States may, in his discretion, disarm such Indians as in his judgment may seem best to preserve peace and prevent depredations. All arms thus taken shall be received by the Secretary of War, who shall report all arms received by him, from what tribe taken, and the just value of said arms; and Congress shall appropriate the requisite funds to pay for all arms taken, and said sum shall be paid to said tribe, and, as near as may be, to the original owners of said arms, or their heirs.

We believe, Mr. Chairman, that this is a wise and salutary provision. We believe that its very enactment will prevent depredations and disarm hostilities. We know that there are especially two tribes, the Sioux and the Northern Cheyennes, and that there are also the Apaches and Utes, all of whom are thoroughly armed with the best weapons of war; that they are by treaty stipulation provided with every thing they need by the Government; that they are indisposed to work; that there is no necessity for them to work, because they are supported by the Government under, I believe, unwise treaty stipulations; and they constantly realize the old adage that an idle brain is the devil's workshop, and they interfere with peaceable Indians, and are constantly threatening hostilities and depredations. We believe if they find out the discretion is with the President of the United States to disarm them, that fact itself will incline them to peaceful pursuits, and deter them from depredations on other Indians and on white settlements.

I desire now to call the attention of the committee to the claims of the Pottawatomies and Cherokees for unfulfilled treaty stipulations. By the treaty of 1868, the tenth article of the treaty, the United States bound itself to ascertain the difference between gold and currency, our treaty stipulations being to pay certain annuities to the Pottawatomies in gold; and in 1863, 1864, 1865, 1866, and 1867 we paid their annuities in currency, when there was a great difference between the value of gold and currency. By article 10 of the treaty of 1868 the United States bound itself to ascertain the difference between gold and the currency thus paid, and to pay the same. In pursuance of that treaty we appointed a commissioner, who took into consideration the annuities paid to the Pottawatomies and the value of gold as compared with currency during those years; and he reported there was a balance due the Pottawatomies on this account of about $49,000.

By the same article of the treaty we bound ourselves to ascertain how much we owed them on account of unfulfilled treaty stipulations from 1819; ay, sir, from 1795 up to this time. That commission was appointed and ascertained that we owed those Indians $267,000. Now, my judgment is that that sum ought to be paid and that it ought to be appropriated for. It was found to be due by the commission constituted by us under our treaties and under our acts of Congress, and justice demands that it should be paid. But there was this trouble in the way, we did not know exactly what pro rata was due the several bands of this tribe. There is one band in Michigan, the Huron band; one in Kansas known as the Prairie band; another band in the Indian Territory known as the Citizens' band; still another band in Kansas, a portion of the Citizens' band. The committee was unable to determine what pro rata of these amounts should go to the respective bands. They therefore believed the whole matter should go to the Court of

Claims for ascertainment of the facts and law, and finding out the proper bands to whom the sums should be paid.

The same difficulty existed with regard to the Cherokees on account of unfulfilled treaty stipulations with the Cherokees, from whom we obtained so magnificent a domain east of the Mississippi River. We appointed a commission in 1882 by a law which passed this House and the Senate and received the approval of the President to find out what balance we owed them; and that commission has reported that we owed them—all the Cherokees, the Old Settlers, the Cherokees east of the Mississippi River—somewhere in the neighborhood of $750,000, with interest during a long series of years. It is a matter which has arisen to torment us now, and which has assumed great proportions because of our violation of treaty faith with these Indians. Had we fulfilled our treaties with them and with the Pottawatomies and with the Cherokees, as we should have done year by year, this would not have come to vex our souls to-day.

But there was the same difficulty in the minds of the committee. We did not know what proportion of the amount so ascertained to be due should be paid to the respective bands of Indians, and therefore we have referred it to the Court of Claims that they may ascertain the facts and direct the payment in the proper way.

There is one other clause, the one in regard to claims against Indian treaty funds on account of depredations. In our treaties with all these Indians there are clauses providing that if they commit depredations upon the property of whites the cost of such depredations, ascertained and reported by the Interior Department, shall be paid out of the tribal or treaty funds. That provision has not been carried out. It has been neglected from year to year until those claims piled up in the Interior Department have grown to the large sum of $5,000,000, Congress neglecting from year to year to provide for their payment out of the tribal funds as stipulated in the treaties.

The United States Government is the trustee of those funds; the United States Government, with these claims acknowledged and with a provision made for their payment out of the tribal fund, has yet paid over that fund in full to the debtor, and therefore I believe that if the question ever comes before the courts it will be found that that action has rendered the United States responsible for every dollar of this indebtedness.

In regard to this matter the committee has provided that the Secretary of the Interior, before the next meeting of Congress, shall present to Congress a full statement of all these claims, the name of each claimant, his post-office address, the name of the tribe by whom the depredation was committed, the amount ascertained to be due, and the clause of the treaty which stipulates for the payment of the cost of such depredation; and when the next Congress shall be face to face with this question, and shall have all the facts before it, we believe it will recommend a pro rata payment from year to year, in order that these claims may be finally adjusted. But the committee, believing that the Indians should be made to remember the treaty obligations which bind them to pay for these depredations, has put in some few claims against the tribal funds. They are those which have been particularly urged by members of Congress, and there are, I suppose, twenty or twenty-five of those claims that have been put in here, more as a reminder to the Indians that the cost of these depredations must be paid out of their funds than for any other purpose. We hope and believe that, with all the facts before them, the next Congress will legislate intelligently and wisely upon this question and pave the way for its gradual and final settlement.

I believe, Mr. Chairman, that is about all that I have to say in explanation of the clauses of this bill.

My own idea of this general Indian question—and this is the last time I shall present this bill here, my term of service being about to expire—my own idea is that the future legislator will find the solution of the Indian question in another way.

I believe that if a commission were appointed with power to go out into the Northwestern country, and from some of the territory of the United States select an Indian reservation similar to the present Indian Territory, but not so large, and then negotiate treaties with the tribes whereby they would all agree to abandon their present reservations and go to this new reservation, where you could concentrate your industrial schools, where you could concentrate your agencies, where you could concentrate your missions, where you could establish and concentrate depots of supplies, where the inspection, because of its narrower circuit, would be more rigid and thorough, where you could concentrate all the energies and all the appliances of your civilizing machinery, thus giving to the Indian the protection of courts and of law, and holding up before him the hope of civilization and citizenship—if that plan were adopted and carried out, I believe that in the course of ten or twelve years the Congress of the United States would not be called upon to sit in Committee of the Whole for the purpose of considering a bill for the support of any Indian tribe.

I believe that the Indians would become self-supporting, and that they would thus develop a capacity for citizenship which would lead to their organization first into a Territory, with Delegates upon this floor, and ultimately as a State to be admitted into this Union, with Representatives and Senators in Congress to take care of the interests of their people. I put this on record for the consideration of gentlemen who may follow me in the preparation of this Indian bill.

And now, Mr. Chairman, if there is any question that any gentleman desires to ask in relation to this bill, I will endeavor to give him such information as I can.

Mr. THROCKMORTON. I wish to ask the gentleman from Louisiana what is the Indian population, exclusive of Alaska?

Mr. ELLIS. I think about 260,000.

Mr. THROCKMORTON. How much is appropriated by this bill for the education of the Indians?

Mr. ELLIS. One million nine thousand and forty dollars.

Mr. THROCKMORTON. That does not include appropriations made under the specific articles of treaties?

Mr. ELLIS. That is for the support of schools alone.

Mr. THROCKMORTON. But I find in this bill, in regard to each tribe of Indians, a specific appropriation for teachers and for schools, and then, outside of that, I find an appropriation of $1,011,000 for other educational purposes.

Mr. ELLIS. The bill appropriates for the support of schools $575,000. Added to that there is an appropriation of $20,000 for Alaska. Added to that, for the support of the industrial school at Arkansas City, there is $30,000; for the support of the Indian school at Carlisle, Pa., $76,000; for the support of one hundred Indian pupils at Saint Ignatius Mission school, Montana, $10,000; for the support of the Forest Grove industrial school in Oregon, $41,500; for the support of one hundred and fifty Indian pupils at Genoa, in Nebraska, $29,750; for the support of the school at Hampton, Va., $19,000; for the support of fifty Indian pupils at Lawrence, Kans., $66,300. Then there is an appropriation out of the unexpended balance for the support of schools for the year 1884 for the Indian industrial school for boys on the Flathead Indian reservation, $2,000. That is a deficiency. For the support of the Lincoln school at Philadelphia, Pa., there is appropriated $33,400. Then for the care and support of five hundred Indian pupils at other industrial schools there is an appropriation of $83,500; and for the transportation of Indian children to and from school (which is for educational purposes) the sum of $30,000.

Mr. THROCKMORTON. Mr. Chairman, I find on looking over this bill that there is an appropriation of about $150,000 for the education of the different tribes coming under treaty stipulations, and, as stated by the gentleman from Louisiana, about $1,011,000 for other educational purposes.

I wish to call the attention of the committee to the fact that of an aggregate appropriation of five and a half million dollars for all Indian purposes about one-fifth is applied to education. Now, although I feel as kindly toward the Indians as can any member of the committee, and desire to see their educational facilities promoted, I think it out of all proportion that one-fifth of this sum of five and a half million dollars should be appropriated for educational purposes. I think the Committee on Appropriations must be at fault in proposing to appropriate such large sums of money for the education of the Indians at points so remote from where they reside. It does strike me that if the Government should keep up this policy of education these schools should be located nearer to where the Indians belong, thus saving at least that much to the Government on account of transportation. There is no kind of question in my mind that just as good schools could be established in Missouri, in Kansas, in Iowa, and in Nebraska as the schools which have been established in more distant portions of the country. I do not believe it correct policy that so much of the money appropriated for the Indians should be consigned to this particular use.

Without undertaking to criticise any further the details of this bill, I believe that the appropriations are not in general as specific as they should be made. I submit to the Committee on Appropriations for their future consideration that where they report an appropriation for the civilization of the Indians the amount of the appropriation for such purpose should be expressed, where they report an appropriation for the support of the Indians that amount should be stated, and so on. Many of the items in this bill appropriate from ten thousand to fifty or one hundred thousand dollars for the support, for civilization, for clothing, or for education of the Indians. It is impossible to take this bill and dissect it, as I attempted to do last evening, and determine how much is for the education of the Indians, because large sums of money in which education is included apply also to the support or civilization of the Indians. I think it would be wise policy on the part of the committee if they would in making up the appropriation bills specify what amount is designed for the support of the Indians, what amount for their education, what amount for clothing, what amount for hospital stores, &c., giving each item under its particular head.

By an examination of this bill it will be found there are thirty-five different paragraphs providing for the support and civilization of different tribes. Sometimes these paragraphs do not only include subsistence and civilization, but include the purchase of goods, education, clothing, medicine, medical attention, care of the aged and sick, and promotion of the comfort of the Indians. These different paragraphs aggregate within a fraction of $1,000,000, and embrace sums ranging

from $4,000 to $10,000, $20,000, $40,000, $80,000 and as high in one clause as $390,000. So that it is impossible to determine from the reading of the bill what amount is appropriated for subsistence, what amount for civilization, or what amount for education, or for any particular purpose. These things ought to be corrected, so that we might know how much money was to be appropriated for particular purposes.

I have been gratified to hear the remarks of the gentleman from Louisiana in regard to the future of the Indians and what should be the effort of the Government in regard to them. While I concur fully with him in that respect, I think so far as the Indians are concerned there are other considerations of paramount importance to which Congress should give its attention. I believe the first great step to be taken toward the advancement of the Indians, where they are on reservations, is that those lands should be set apart to them in severalty, so that when they have improved and cultivated the land they may have a home which they may know is to be theirs and their children's. I believe this policy should be applied to every one of the Indian tribes where they are upon reservations. Their agents should be authorized to set apart a homestead for every single man and every head of a family. I believe this would be the first great step toward the civilization and improvement of the various Indian tribes of the country. Some of them are yet too wild and wandering in their habits, perhaps, to admit of such a policy, but as to two-thirds of them or the great bulk of them, I believe such a system would be advisable.

I know that the Indians themselves have made frequent applications to those friendly to their interests to see that they have homes set apart for them. In carrying out this policy the title of the lands may be reserved in the Government for a period of years—say twenty years; and after that time, if meanwhile the Indians had remained attached to their homes, had improved and cultivated them, then I think the title of the lands should be vested in the Indians themselves.

There is another proposition to which I desire to call the attention of the committee. We have heard much about the leasing of Indian lands for grazing purposes, and there are some investigations now going on in regard to that matter. In my judgment, Mr. Chairman, the Indian Department ought to be charged with the duty of seeing that the different Indian tribes on reservations have the right, if they so desire, to lease a portion of their lands for grazing purposes. This would be in many instances the very beginning of making the Indians self-supporting. But any law which might be passed in that direction should be carefully guarded for the protection of the Indians. On the northern border of Texas, where are situated Cheyennes, Apaches, Arapahoes, Comanches, Kiowas, and Wichitas, and some other remnants of tribes, a large reservation has been set apart for their occupancy and use—much more than is needed or can be used or utilized at present by them.

It is excellent grazing and much of it fine agricultural land. Many of these Indians desire to be permitted to lease some of their lands for the purpose of grazing. Now, sir, if that power were given to the Secretary of the Interior and these leases could be made under the supervision of their agents it would be a great benefit to the Indians. For instance, there are multiplied millions of acres of land that they could lease from 8 to 10 and 12 cents an acre. They would be employed by persons leasing the lands as herders. They could thus learn the art of raising stock and taking care of it, as some of them on the northern border of Texas are now doing; that is, leasing their lands and acting as herders for those to whom the lands are leased without any authority of law for that purpose. They have been to the Department and asked the Secretary of the Interior for permission to lease their lands for the purpose indicated. The Secretary has no law under which he can authorize them to do it, and hence he has taken no steps in regard to it. Still, some of these Indians have leased their lands and have been employed by the men leasing them in taking care of their cattle as herders. Those Indians are prospering. From one of the Comanche chiefs I have a letter asking Congress to pass a law to allow him and other Indians to do this thing. I know him personally and I know his tribe. I know that he has accumulated quite a large stock of cattle for an Indian, and he has done so because he has been employed as a herder and sometimes takes his pay in cattle. He is increasing his stock, and I hope will become one of the cattle-kings of that country.

I submit this matter to the committee, and I trust the time will come when it will meet with the serious consideration of this body. By this means the Indians in a few years will become self-supporting and will no longer remain a charge upon the Goverment. If this policy should be adopted and care be taken to protect the rights of the Indians, by the time the treaty annuities have expired the Indians will become self-supporting. I trust the matter will be taken up and acted on favorably by Congress at an early day.

Mr. Chairman, in our legislation touching Indian affairs it should be kept in mind that there are different classes of Indians. Some have made much progress in civilization; others not so much, but have made a fair beginning; and still others who are entirely unwilling to change their savage habits.

The five civilized tribes, consisting of Cherokees, Choctaws, Chickasaws, Creeks, and Seminoles, have advanced greatly in all the arts of peace, in matters of religion, education, agriculture, mechanism, and in commercial pursuits. All of these tribes have their governors, legislatures, their own judges, and enforcement of the laws. Their administrations in all respects are equal in character and dignity to that of any of the Territories of the United States. They have given special attention to the subject of education, and among these people will be found churches, school-houses, and academies that would be a credit to any State or community. These people are so far advanced that it is, in my judgment, money thrown away to keep an agent among them. They know their rights; they know their relations to one another and to the Government. All business transactions between them and the Government should be directly with their respective executive authorities without the cost and intervention of an agent. We should go a step further and declare them citizens of the United States and establish courts in their midst, and, with their consent, give them Territorial representation on this floor. Such a step would gradually and surely prepare the way to finally admit them as a State into the Union. At an early day of this session of Congress I introduced a bill having that object in view.

The lands are theirs, and the Government should not interfere in their disposition. They have demonstrated fully and completely their capacity for self-government, and should be encouraged to march forward in improvement until they attain a population sufficient to enable them to come into the Union as a State. When Texas was annexed she retained her public lands. These five civilized tribes should be allowed to manage their land affairs as to them may seem best, and derive all the benefits growing out of their own control and disposition of them. Such a policy pursued toward these Indians, and the allotment of lands in severalty to the Indians on the reservations in the western part of the Indian Territory, would be a great inducement and incentive to them to turn their attention to stock-raising, agriculture, education, and religion.

The United States courts established among the civilized tribes should have jurisdiction over the wilder tribes. This policy would greatly facilitate the administration of the laws among the Indians and be a great economy to the Government. Gentlemen who are acquainted with the delay in trying causes originating in the Indian Territory, and the expenditures in the Department of Justice growing out of the fact of the remoteness of the courts from many portions of the Indian Territory, will readily understand what a great saving could be effected in the enforcement of the laws by establishing courts directly in the Indian Territory.

Mr. Chairman, if we expect to improve the Indians and induce them to become self-supporting, Congress should see that the money appropriated for them is honestly and fairly applied. Too much of the money should not be given for education. You should first teach the wild tribes to value stock, to utilize the luxuriant grasses that now go to waste, to become herders and stock-raisers and owners of herds. When the Indian realizes the value of stock he will very readily fall into agriculture, and by these means soon become self-supporting. You had far better give him this kind of an education; it will be of more use to him. I mean the recently wild Indian. When he has learned these things he will begin to value the school-house that has been erected at his home under treaty stipulations; and when the Indian children have made sufficient progress, then the brighter ones and those desiring better opportunities might be transported to better and more distant schools.

This bill appropriates in the neighborhood of $150,000 for schools at the agencies and on the reservations, and over a million dollars for education outside of their home schools. This, in my judgment, is a wasteful and almost useless extravagance. If this sum was applied to the purchase of goats and sheep and cattle, and honest, capable men employed to take charge of them and teach the Indians how to manage, control, and increase this stock, a far greater good would be accomplished for the Indians. They would thus learn to rely on their own exertions, and as they progressed in improvement would appreciate the advantages of an education.

Above all things, Mr. Chairman, in dealing with the Indians the faith of the treaties made with them should be sacredly maintained on our part, and they should be required to keep fully up to their obligations. The effort to make new treaties, to induce them to exchange their lands and seek new homes should not be encouraged, except in instances where their hostile course has required such action. They should be encouraged to become attached to their homes and to learn that by pursuing a peaceful and industrious life the Government would protect them from the greedy encroachments of the white man. It is by a just, firm, and humane policy on the part of the Government toward the Indians, a faithful compliance with every obligation, and a rigid requirement of compliance with treaties on their part that the peace of the frontiers is to be maintained and the welfare of these children of nature promoted.

A just and humane solution of the Indian problem invokes the highest order of American statesmanship. With the exception of the incursions of a few predatory bands who seek shelter in our sister Republic of Mexico, there is a more perfect state of peace existing on our Indian borders than at any former period of the country's history.

The present time, therefore, is peculiarly propitious for entering upon the serious consideration of this subject, and I indulge the hope that another session of Congress will not pass away without witnessing a

marked change and improvement in the management of our Indian affairs.

Mr. ADAMS, of Illinois. I wish to ask the gentleman from Louisiana to give his attention to that part of the bill beginning with line 1164. I hardly think it is a legitimate objection to this particular year that one-fifth of the entire appropriation is for educational purposes. Of course that amount will vary from year to year. The very purpose of these appropriations for the education of the Indians is to render them independent of the Government, not only in regard to their support, but in regard to that education which is the means of making them self-supporting.

And I coincide with the views of the gentleman from Texas [Mr. THROCKMORTON] that that education which is of the most value to the Indians and the most valuable to the people of the United States is that education which will enable them to become herders and take care of their grazing-lands. But we have not got so far as that yet, and we now appropriate money to educate these Indians in day schools, and reservation schools, and also in schools in other parts of the country.

But the question I wish to ask the gentleman from Louisiana is why it is necessary to appropriate only at the rate of $167 for each pupil in the various industrial schools scattered throughout the country at a distance from the reservations when other schools ask $175 a pupil.

I remember, Mr. Chairman, that I made an amendment to this bill last year by which that amount was raised to $200. It was adopted by the House, but was lost in some conference committee. The idea I had then and have now is that there is a certain advantage in educating the Indian child a good way off from the reservation. I remember when this bill was under discussion last year that the gentleman from Montana [Mr. MAGINNIS] told us that day schools on the reservations were comparatively valueless as compared with the boarding schools, because the Indians went to the school for a few hours and returned right back to his savage associates and so lost the benefit of that association which he had while in school. And it occurs to me that that argument would apply with greater force to placing Indians in schools a thousand miles away from the reservations, for although the child cannot receive better instructions, he does get a certain advantage which he can not have on the reservation.

Of course I do not desire to move an amendment for the purpose of having it voted down, but I should be glad to have the gentleman from Louisiana explain as to whether the number of children provided for in the section to which I have called his attention is greater than the number provided for in the bill of last year.

Mr. ELLIS. It is the same, exactly the same. This provision, I will say to the gentleman from Illinois, simply permits any already established industrial school to take the Indian children, and allows $167 per capita for that purpose. It is not the establishment of an Indian school; but, as I have said, if any already established institution desires to take Indian children and will take them at that rate, it may do so under the provisions of this bill.

Mr. ADAMS, of Illinois. I am aware that that is the object of the provision in controversy. I simply desire to call the attention of the gentleman to this fact, that if what I have said be true there is a strong motive on the part of the people of the United States why that particular class of schools should receive inducements to provide for these children; and I will ask him whether there would be any objection to allowing an amendment to this bill raising the amount to the same amount that is given to other industrial schools engaged in this work?

Mr. ELLIS. I suspect that there would be very serious objection from various members of the Committee on Appropriations, as well as a strong protest on behalf of the Treasury of the United States against making such an increase. It was the amount allowed in the current year, the bill of last year for this purpose, and the Department has asked no increase of that amount. Many Indian children are now being educated at that rate.

Mr. ADAMS, of Illinois. Do I understand that this is the amount asked for by the Department?

Mr. ELLIS. The exact amount that has been asked for.

Mr. MAGINNIS. Mr. Chairman, I generally agree with the remarks of the gentleman from Texas [Mr. THROCKMORTON] as to the Indian policy, and the necessity of giving to the Indians their lands in severalty. But I entirely disagree with him now in regard to the policy which is adopted in reference to the leasing of the Indian lands. I hold, sir, that it is not in accordance with the policy of this Government, or with any good policy, that the Indians should be allowed to hold a large amount of unnecessary lands and lease them at their will to cattle syndicates or cattle-kings at merely nominal sums as they do now. There is an investigation now going on which shows by what means large tracts of country have been leased in this manner through certain influences and for nominal amounts; leases whereby certain of these cattle syndicates or rings have secured an immense monopoly and for a paltry sum of money.

The Crow reservation, for instance, in Montana, contains over 4,000,000 acres of land. A little while ago a cattle company from Kansas, Colorado, or somewhere else, went there and negotiated a lease for over 3,000,000 of acres of these lands at a rate of $30,000 a year, which lease would have been perfected and carried into execution by the Interior Department but for the fact of the general clamor which was raised against it in this country. Now, if the policy of leasing these Indian lands was to obtain at all, there are men engaged in this business legitimately, cattle-owners, cattle dealers throughout that region of country, who stand ready to give three, yes, five times as much for the use of this property as I have named; and, therefore, if the policy of making these Indian leases is to obtain at all instead of permitting parties to go there and negotiate underhand and privately with the Indians, let the Department take the matter in charge and the lands be leased, after advertisement, to the highest bidder.

But I hold, sir, that is not the line of policy for this Government to pursue at all. The Indians should be given all the lands they want for agricultural and grazing purposes and no more, and the remainder of these vast reservations, which are entirely useless to them and which are the homes of lawlessness, should be cut off, should be segregated, taken from them, and returned to the public lands of the Government, and let the Government put out the money at interest as a trust fund for the benefit of the Indians. That is the policy that should commend itself to all as a wise one for the benefit of the Indians. It will not be contended that it is not better for the Indian, and also more in harmony with the line of policy pursued by this Government; and if we ever adopt any policy on this subject at all, I trust it will be to withdraw these lands from any possibility of being leased—to forbid, in fact, these leases to grazing companies entirely.

Mr. THROCKMORTON. I agree, Mr. Chairman, in the main with the remarks of the gentleman from Montana, except in so far as he opposes the policy of leasing these lands. Now, as a matter of course, if the lands are to be leased, it should be under a careful supervision of the law to protect the rights of the Indians. They should not be permitted to lease their lands for a nominal sum, say for 2 or 3 or 4 cents an acre, when they could just as readily lease them for 10 or 15 cents. I do not mean this remark to apply to the five civilized tribes, because the land is theirs, and they should be left free to manage their own affairs. I would throw around wilder tribes all the restrictions and guards to protect them; but it must be remembered that an Indian can not live on as small a spot of land as a white man can.

Mr. MAGINNIS. I do not claim that. It is no part of my argument.

Mr. THROCKMORTON. They have these lands under treaty agreements in exchange for lands in other localities. They have been set aside for their use under the treaty stipulations.

But there are many millions of acres of land more than they actually need; and sufficient would be left to be employed for their own agricultural and grazing purposes, and millions of acres could be leased for their benefit, the proceeds of which should go directly to the tribe.

I hold it would be of the greatest advantage to them to encourage the rearing of stock; and it is the only way I see in which they can be induced to engage in that pursuit. You must make them herders before you make them tillers of the soil. After you have made them herders and tillers of the soil you can then expend your millions for education with some prospect of advantage. But until they increase their stock and become herders and cultivators of the lands, the money given for education by the million of dollars which you appropriate from year to year will be thrown away and squandered.

Mr. RYAN. Mr. Chairman, there are in connection with this Indian question problems very difficult of solution. The question of educating the Indian and successfully solving the Indian problem by that method, while the tribal relation is maintained, is one that is seriously doubtful. No one can doubt the success of the efforts that have been made to educate the Indians outside of the tribal influences. It has been found that educating the Indian in the midst of civilization advances him much more rapidly than any effort that ever has been made to educate him in his tribe, and hence schools have been established in several of the States, where the Indian is taught the several industries as well as mere book education. But the difficulty has been to some extent that when we educate children at Carlisle, in Pennsylvania; at Hampton, in Virginia; at Chiloco, near the northern boundary of the Indian Territory; at Lawrence, Kans.; at Genoa, Nebr., and the other industrial schools in the several States—when we have taught them there for three or four years, have fitted them for the duties of civilization to a very large extent, prepared them so that they could go out into civilized life and obtain a livelihood, we are constrained to turn them loose and turn them back into the influences of that barbarism from which we took them when we put them in the schools. It is not long before they succumb to those influences and become exactly what their surroundings are, and lapse back into that barbarism from which they were taken.

These are some of the difficulties that we are encountering in our efforts to civilize the Indian by the educational method which we have adopted; but they are not sufficient to discourage the country from pursuing that method. The evil lies very largely in permitting those tribal influences to obtain. The influence of the tribal relation ought not to be permitted, in my judgment, to exist except in cases of absolute necessity. I believe that in conjunction with the system of education which has been adopted and which ought to be extended we ought as far as practicable and as fast as practicable to destroy the tribal rela-

tion. I believe that we ought to extend the laws of the white man over the Indian as far and as rapidly as it is practicable to do so. I believe that what he needs of the lands which he holds now in common ought to be set apart to him in severalty and the surplus opened to settlement.

I concur in some of the remarks made by my friend from Montana [Mr. MAGINNIS]. I do not believe it is for the best interests of the Indian, and I believe it to be contrary to public policy, to allow him to hold a large portion of the public domain, or, if you please, of his own domain, for no other purpose under heaven than to roam over it. In the Indian Territory, a section of country capable of sustaining a population of four or five millions of people, we have now—what? Eighty-two thousand Indians occupying the whole of that Territory. For what purpose? What good purpose does it subserve to the Indian? It rather detracts from his civilization. It encourages that roaming disposition which is the characteristic of the savage. He does not cultivate the soil. It lies there useless to him and useless to mankind. I would not take one rod of it from him without affording him the fullest compensation for it. I would treat with him fairly for all that he does not need for his own purposes, and the balance I would open up to settlement in a way that would place him side by side with the white man engaged in the cultivation of the soil, that his children at least might find employment in the industries surrounding him, and that he might thereby be in the very midst of the active forces and influences of our white, industrious civilization without power to alienate his land, except possibly to rent a portion of it for brief periods for a share of the soil products.

I do not care to occupy the time of the committee further just now. I desire to press on and pass this bill. But I wish to add one other word. Much has been said about leasing these lands. It is said that they could be leased for a much larger sum. I have no doubt of it. But if you are going to retain these lands in their present condition, then it is high time that Congress adopted some regulation for leasing them temporarily, if you please, subject always to the disposition of Congress, that they may be subserving some useful purpose to mankind and be of some benefit to the Indians.

It is true, as the gentleman from Montana has said, that some of these leases have been procured at a sum below what they perhaps ought to have been procured for. But take the case he alludes to in Montana. The gentleman informs us that somebody somewhere has attempted to lease a portion of these lands and pay these Indians $30,000 per annum for it. That I believe is in pursuance of a law enacted two years ago. He tells us that sum is inadequate. That may be, sir. But the fact is the Indians have held that Territory all these long years, and the grasses have rotted upon the ground upon which they grew without producing one dollar either to the Indians or anybody else.

Had this temporary provision been made to allow these Indians to reap the benefit of this $30,000, while I do not approve of that if they are entitled to more, still they would be reaping that much, they would be gathering that much money from grasses which would otherwise rot on the ground, and for which in the past they have not realized and are not now realizing one dollar.

All this in my judgment, however, ought to be regulated by law, and this large public domain now occupied by the Indians of this country ought to be subserving some good purpose for mankind and some better purpose than it has subserved hitherto for the Indian. Why, sir, we have 244,400 Indians in this country to-day, occupying 135,900,000 acres of land, over five hundred and fifty acres per capita; for the man and his wife 1,100 acres; for the man and his wife and one child 1,600 acres; and if you take a family of seven, over 3,800 acres. And yet that land is subserving no good purpose either to the Indian or to anybody else, for he does not cultivate it, and the game which once supported him, in whole or in part, has almost wholly disappeared from it.

I wish to say just one word more on a point of almost supreme importance. I wish to refer to the Indian Territory again for a moment. It is a most tempting field for settlement by the white people of this country. A portion of it is believed by a vast number of the people of this country to be part of the public domain—that portion of it known as Oklahoma. What is the result? The result is that white settlers have poured in there from every section and possessed themselves of that country. They believe they are there rightfully under the law. The administration believes they are there in violation of law. The Army has been sent there repeatedly to remove them, and the Army is there now for the purpose of removing them by force from that Territory; and if we are correctly advised by the public press the settlers have reached the point where they have concluded to let the Army of the United States shoot rather than remove or be removed from what they seem to regard as their homes. This is a question—and I am glad to address you [Mr. WELLBORN in the chair] as chairman of the Committee on Indian Affairs—of supreme moment and one to which I now invite the attention of your honorable committee.

I think it time that your honorable committee brought before this House some proposition for the solution of this problem, for civilization is pressing upon that Territory on nearly all sides. On the Kansas side settlements have crowded clear up to the border. So it is on the Arkansas side; so it is on the Texas side pretty largely; and so it is on the Missouri side. Something must be done in order that we may avoid a condition of things which, to say the least, would not be creditable to the people of this country.

Mr. BLAND. I wish to ask the gentleman a question. I understand that there are settlers, or persons claiming to hold leases, occupying those lands now under the permission of the Government.

Mr. RYAN. I am very glad my friend asked that question. In reply I want to say that there is not a rod of the Oklahoma country claimed by any lease of any sort whatever.

Mr. BLAND. Are there not parties there having lands fenced in for cattle ranges?

Mr. RYAN. I think not in the Oklahoma country.

Mr. PERKINS. There may be some settlers there.

Mr. RYAN. Yes. As I stated awhile ago persons have gone upon those lands to settle under a claim of right, and those settlers may have put up fences around their homes to some extent, but beyond that I am not advised that any portion of that section of the Territory has been fenced. I understood the gentleman from Missouri [Mr. BLAND] to inquire particularly whether those lands had not been fenced in by cattle-men for range purposes.

Mr. BLAND. Yes.

Mr. RYAN. In reply to that I have to say that I have never received any information that that portion of the Indian Territory has been under fence at all, and certainly no portion of it is under lease.

Mr. BLAND. Then the portion of those lands which the Government is seeking to dispossess those people of never has been leased?

Mr. RYAN. No, sir.

Mr. Chairman, I do not desire to say anything more at this time.

Mr. KEIFER. Mr. Chairman, I desire to ask the gentleman from Kansas [Mr. RYAN] a single question before he takes his seat. I want to know whether the settlers proposing to go into this Cherokee country have any color of right or title to go there at all?

Mr. RYAN. That is purely a question of law. The settlers claim that they have a lawful right to go there. They claim that the lands belong to the United States; that that portion of the Territory is public land. I, for my own part, have no need now either to affirm or deny their right. The fact is, I believe that the region in question, the Oklahoma section, is a portion of the lands that were ceded to the United States in 1866 by the Seminole tribe of Indians and by the Creeks.

Mr. PERKINS. And by the Cherokees.

Mr. RYAN. No; the Seminoles and Creeks ceded the Oklahoma section.

Now, it is claimed by the Government that the Indians ceded that region to the United States for a specific purpose, namely, to locate friendly Indians there; and doubtless that was the policy of the Government, that was the purpose for which it wanted those lands in 1866. But subsequently the Government changed its policy with regard to locating Indians in the Indian Territory, and, if my recollection serves me right, it was in 1875 that Congress passed a law prohibiting the settlement of any more Indians in the Indian Territory. The parties now going in there claim that the purpose for which the Government obtained those lands no longer existing, the lands have become a part of the public domain, subject to settlement. Whether that theory be right or wrong, the importance of the subject can not be overestimated; and again, sir, I would appeal to your honorable committee to take early action upon it. I introduced a bill in the beginning of this session with a view to opening that portion of the Territory to settlement, it being no longer owned, occupied, or used by the Indians for any purpose; and it is upon that bill that I now invite the action of your honorable committee—not that it is perfect, not that it is necessarily right, but that it may form the basis of some action that will solve this difficulty.

Mr. STEELE. As I understand it, all that the settlers ask is a judicial decision of the question. Is not that so?

The CHAIRMAN. The gentleman from Missouri [Mr. O'NEILL] has been recognized. Does he yield the floor?

Mr. O'NEILL, of Missouri. I yield for a question, not for a speech.

Mr. RYAN. My information may be incorrect, but I understand that when the troops were first sent into the Territory, and when they arrested those settlers that had gone upon this Oklahoma section, some of the leaders, among them one Captain Payne, since deceased, were arrested and turned over to the civil authorities; and I am informed that they were turned loose by the courts without ever reaching any judicial determination of the question.

Mr. STEELE. That is what the settlers desire—a judicial decision of the question.

Mr. O'NEILL, of Missouri. Mr. Chairman, it has been my good fortune to travel through that portion of the Indian Territory through which the railroad runs. No one unfamiliar with the conditions of population incident to that Territory can appreciate without seeing it the remarkable condition of affairs existing there. Population, settlement, houses, improved farms continue up to the very line, and then, as if you approached some land peculiarly afflicted so that human beings could not exist there, all these evidences of civilization cease as if by magic, and you see no more of them, except a few settlements along the line of the road, until you reach the Texas frontier. All this time you have been

passing through as grand and beautiful a land as there is in this country, but a land almost bereft of population. Gentlemen who have passed through the Territory in other directions have found the same singular condition of things. I can not on this occasion refrain from referring to this subject, for I feel that this Indian question has reached a point where it must be taken hold of by Congress, not alone for the purpose of taking care of the Indians, but also for the purpose of taking care of our poor white and colored people.

Some few days ago we heard these would-be leaders of political sentiment on the two sides of this House standing up here and attempting to explain to the country the cause of the suffering in our large cities, the cause of so many mills being idle and so many men out of employment. They need not imagine that they deceived the people for one instant. The workingmen of this country realize most clearly that the solution of the marvelous growth of labor-saving machinery and the consequent displacement of labor is to be found only in encouraging your workmen to leave your cities, the hot-beds of vice and corruption, and settle on the public lands, where they can earn a livelihood by their labor, where contentment is the result of honest toil and the gaunt wolf of hunger is seldom seen at the door.

This is the only solution of the question, and while you may undertake to account for the present depression of labor by the assignment of local causes, yet we find that the same condition of things exists throughout the world. Your newspaper of yesterday brought you the intelligence of one of the largest public meetings ever held in the city of London, at which the representative of the land question, Henry George, addressed thousands of people, and there the same cry went up, "The land for the people!" For they realize that in no other direction is there any future for the labor of the world. You may resort to temporary makeshifts, but the only secret of happiness in any country is by increasing the number of the owners of the soil. France today owes her prosperity more to the fact that 6,000,000 of her people are owners of the soil than to any other agency.

Now, Mr. Chairman, I realize that no sense of justice will tolerate an empire or territory like the Indian Territory, rich in soil, most glorious in climate, to remain a waste, beyond any possible hope of ever being fully occupied or cultivated by the Indians, a vast domain left there subject to the rapacity and speculation of every combination of thieves or "rings" that can enter into that Territory to make nefarious bargains with those Indians. Hundreds of thousands of acres are leased for a nominal sum, and for many years, by this syndicate or that; and while hundreds of thousands of our people are clamoring for the opportunity to obtain homes, that opportunity does not exist because the great mass of your lands that should be open to settlement and cultivation are already controlled and owned. You have but little arable public land outside of the Indian country. Treaties within proper limits should be respected, but this idea of the sacredness of Indian treaties should not be carried to the verge of idiotic sentiment.

You should do substantial justice to the Indians; you should set apart as much land for them as they can use; you should compel them to be cultivators of the soil or in some way to earn a livelihood for themselves by legitimate, honest labor, instead of leading a wandering, nomadic life. You should recompense them for whatever land you may take from them. But the Indian lands not required for the use of the Indians, together with every foot of public land, should be reserved for actual settlers only.

This is the only solution of the labor question. I refer to this matter because of my honest conviction that now, when you realize that there is a glut in the labor market, that famine stalks broadcast through your land, that there is no hope of fully providing employment for your working classes, your minds should be turned toward this question to see whether or not greater aid and encouragement can not be extended toward our workingmen to enable them to become cultivators of the soil. [Applause.]

Mr. PERKINS. Mr. Chairman, I have no disposition to trespass upon the attention of the committee for more than a few minutes; but in connection with some suggestions which have been made here I wish to present some resolutions which were adopted at a meeting held in my own Congressional district, and which relate in part to the subject we have been discussing.

While it may not be entirely pertinent to this bill, yet it is appropriate for this House to inquire into the condition of the lands in the Indian Territory, and particularly the section known as the Oklahoma country. In consequence of the peculiar condition of that land it has attracted the attention of the entire country. Settlers have gone there by hundreds, and though they have been evicted by the Government, yet they have persisted in their efforts and are going there to-day in larger numbers than ever.

Prosecutions have been instituted by the Government against some of these men as wrongdoers, but in every instance I think the prosecutions have failed and the intruders have been discharged without punishment. This has been in part, as I understand it, because the courts have held there is no legislation under which these men can be prosecuted or punished as trespassers. And hence we find ourselves in this somewhat anomalous position: we find the Government owning this great area of land, the Indians having ceded it to the United States, and yet declaring through its executive department that settlers must not go there to make homes for themselves, and that all so going shall be evicted as trespassers and wrongdoers.

It does not belong to the Indians; it is not a source of revenue or profit to the Government, and the edict is that the progressive pioneer shall not look upon this fair land with a covetous eye and make there a home for wife and little ones because of some peculiarity or provision of the treaty under which the Indian title was extinguished.

As has been suggested by my colleague [Mr. RYAN], quite early in this session a bill was introduced by him providing for the opening of that country to homestead settlement. That bill was referred to the Committee on Indian Affairs, a committee of which I had the honor to be a member, and that bill was referred to me as a subcommittee. Realizing the importance of the proposition or measure, and by direction of the committee, that bill has been referred to the Interior Department for the views of that Department, and the Commissioner of Indian Affairs has expressed his views in writing; but in consequence of the absence of the Secretary of the Interior that communication has not yet reached our committee. It is withheld for the action of the Secretary, the Assistant Secretary deeming it of such importance that the chief of the Department should be consulted rather than that action should be taken in his absence. I make this statement in vindication of our committee as well as for the information of the House and the public.

As has been suggested, Mr. Chairman, there are hundreds of settlers now on that land asking that they may be protected there, asking that they may be given the privilege of making homes there; yet an armed force of the Government is marshaling and is going there to evict them.

In 1866 that land was ceded to the Government of the United States, but ceded, as the Indians claim, for a particular purpose; ceded in order that freedmen and friendly Indians might be settled there. That was the specific purpose, I confess, for which the Indians ceded that land to the Government of the United States. But, as has been stated, it is not available for that purpose, and these white settlers desire it as homes. The Government takes the position, as I understand, that it is powerless without legislation or treaty negotiations to open it to settlement. Under these circumstances, either as a part of this bill or as independent legislation, we should have the action of this House.

If it can be had here properly I desire to call the attention of the chairman of the subcommittee having this bill in charge to this important question, that we may incorporate into it the necessary provisions looking to the opening of that country to homestead settlement. In consequence of the limited term of this session of Congress, it is not probable we can get it by independent legislation, and if we can get it here by a proper amendment to this bill it seems to me we should have it.

The Indians, I repeat, claim we have not the right without further treaty negotiations to open this land to settlement. They claim, as I have already said, that it was ceded by them for a particular purpose, and not to allow white men to occupy it and to come in contact with the Indians and to take from them, as they fear, many privileges which they now possess. It is not occupied for cultivation or other purposes by the Indians. It is not occupied by men claiming it under Indian leases. The Indians have no jurisdiction over it. They ceded their title to the Government in 1866 for the purpose, as they claim, of settlement by freedmen and friendly Indians; and hence the embarrassment to the Government and the necessity of action. I desire to say one word more in connection with these leases which have been discussed here. The Indians are not receiving from those lands what the occupation of the land is worth, but that is not entirely in consequence of combinations formed or of advantages taken, but is largely because of the peculiar tenantcy of these lessors.

If there were some law, if there were some provision of treaty or statute giving them the right to go there and under which they could be protected in these leases, the Indians would realize much more from them and the lessees would be much better pleased. And the little they do realize is to be charged to the fact there is no certainty of tenure. Because of the uncertainty of these leases the men holding them, not knowing whether they will be permitted to remain there thirty days, or six months, or a year, whether they may be driven out at once, are not willing to pay more than they do for the privileges they enjoy. As a consequence of this uncertain tenure, the Indians do not realize more from their lands; and while, Mr. Chairman, I do not advocate this system of leases, if it is to prevail or is to be permitted it should be open to all, and should be regulated by wise and wholesome statutory provisions.

And, Mr. Chairman, if we can get, in connection with this bill, because we can not get at this short session as independent legislation, if we can get provisions of the character I have suggested incorporated into this pending Indian appropriation bill upon these two important subjects, it will be important and of great benefit, not only to the Indians but to the country. And, as a part of my remarks, I desire to have read the proceedings of a meeting held quite recently in my own Congressional district. Other meetings of a like character have been held in other portions of the State; and, to show the feeling of our people, I ask to have them read.

The Clerk read as follows:

HOWARD, KANS., *January* 10, 1885.

At a meeting of the citizens of Howard and vicinity, held at the court-house, the following proceedings were had and the following resolutions were adopted:

The meeting was called to order by L. Scott, and, on his motion, B. L. Brush was elected chairman. John W. Marshall was elected secretary. Some very able speeches were delivered by B. L. Brush, L. Scott, J. F. Lewis, W. D. Parker, H. S. Douthitt, J. M. White, D. W. Dunnett, S. B. Oberlender, and others on the question of opening Oklahoma and the rights of the people to settle therein.

The following resolutions were adopted as an expression of the sense and desire of the meeting:

Whereas the armed forces of the United States have been directed against peaceable citizens that have entered on public lands in the Indian Territory, known as Oklahoma: Therefore,

Be it resolved, That we denounce as an outrage the treatment of loyal American citizens, who are striving to make homes for themselves and their families on lands belonging to the people of the United States; and we further denounce it as the grossest injustice to the people of those States that border on the Indian Territory.

Resolved, That we are opposed to the policy of the Government in using the Army to drive out or interfere with actual settlers upon any of the public domain, as being foreign to the genius of our institutions.

Resolved, That we demand that the armed forces of the United States be immediately withdrawn from Oklahoma, and that all American citizens, that so desire, be allowed peaceably to enter these lands, under no restrictions whatever, other than those that would be found in any other part of the public domain.

Resolved, As this self-same, bold spirit, that is now advancing to the front, has ever existed since the Pilgrim Fathers set their feet on Plymouth Rock, and will ever exist so long as we remain true citizens of this grand Republic, that we, the citizens of Howard and vicinity, pledge ourselves to firmly support this grand element—the van-guard of civilization.

Resolved, That the leasing of any public lands to cattle-men is in direct violation of the laws of the United States and rights of the people, and we demand that all such leases be immediately canceled.

Resolved, That we denounce the inaction of our Representatives and Senators concerning said lands, and that we demand of them to use all means in their power to secure the proper recognition of the rights of the people in this matter from the Government of the United States, and for the faithful performance of this duty we hold them responsible at the ballot-box.

Resolved, That we are opposed to the settlement of any more bands of wild Indians in the Indian Territory.

Resolved, That our Representative, B. W. PERKINS, be requested to present to Congress the sentiments of our people upon this question, and to use all honorable means in his power to secure the necessary legislation at this session of Congress.

Resolved, That a copy of these resolutions be sent to each of our Representatives in Congress, to the head of the Department of the Interior, to the chairman of the Senate Committee on Indian Affairs, and to the President of the United States.

It is the sense of this meeting that the Democrat and Courant publish these resolutions, and that the remaining county papers copy the same.

Much enthusiasm existed during the adoption of the above resolutions.

On motion of W. D. Parker to appoint a committee on organization, W. D. Parker, Robert Shelby, S. B. Oberlender, Thomas Greenwood, and B. L. Brush were appointed as such committee, to report at the next meeting of the people.

Adjourned to meet at the court-house on Saturday, January 17, at 7 o'clock p. m.

B. L. BRUSH, *Chairman*.
JOHN W. MARSHALL, *Secretary*.

Mr. SHIVELY. Let me ask the gentleman from Kansas to state at whose request or instigation the Army is being used to dispossess those settlers in Oklahoma?

Mr. PERKINS. In answer to the question of the gentleman from Indiana, I will say that my understanding is that it is at the instigation or suggestion of one of the Departments of the Government. Whether at the suggestion of the Interior Department or the Department of Justice I do not know, but my understanding is, as suggested heretofore in my remarks, the Administration takes the position that without additional treaty negotiation, or without further legislation, it is the duty of the Government to protect that land from occupation by settlers. It is in consequence of this position taken by the Government that this military force was sent out there to evict the settlers, who from time to time have undertaken to establish homes there, the Government thinking it to be a duty to the Indians to protect those lands from occupation until the Indians themselves cede them to the Government for purposes of settlement and for occupation by the pioneers. That is the position of the Administration, and it is in accordance with that position, as I understand it, that these troops have been sent there.

Mr. CUTCHEON. May I ask the gentleman from Kansas a question?

Mr. PERKINS. Certainly.

Mr. CUTCHEON. I wish to ask if it is not true that proclamation has been made from time to time by the executive department of the Government forbidding settlers to go upon these lands at all?

Mr. PERKINS. There have been, I understand, such proclamations from time to time; and not only that, but armed forces have been sent each time when the proclamations were issued to evict these settlers. But when the intruders have been arrested and taken into the court the courts have decided that they can not be prosecuted as trespassers, for the reason that there is no legislative enactment providing that they shall be so tried, or fixing a penalty or declaring it to be an offense. That being the case, we find ourselves in this anomalous position: the men who go there can not be prosecuted as intruders, and yet they are evicted as trespassers, while the land is public and belongs to the General Government.

Mr. LONG. Acquired for a specific purpose.

Mr. PERKINS. The land is public land of the United States, acquired for a specific purpose. It is there, an inviting field for settlement to the pioneers. They go there and ask to be permitted to make homes, but are not allowed to do so. Now, if we can give them legislation which will enable them to do this it is important that such steps should be taken and these restrictions removed. Each month almost, I may say each day, these complaints will recur until provision is made and until some opportunity is given for the occupation of that land in a legal way. It is because of this anomalous condition that I have brought it now to the attention of the committee. I have been personally to the Commissioner of Indian Affairs and have conferred also with the Secretary of the Interior on this subject in connection with this contemplated legislation, urging action upon the part of the Department so that we may be informed and the machinery of legislation put in motion here to the gratification of the country.

Mr. CUTCHEON. Mr. Chairman, I would like to add a word upon this subject of the Oklahoma lands, because it is a part of this great Indian question, although perhaps not strictly germane to the bill under consideration; and yet I submit the discussion comes in here most pertinently, pertaining as it does to our Indian policy.

It is manifest, from what has been said by the gentleman from Kansas who has just taken his seat, that this land formerly was indisputably the property of the Indian tribes, the Creeks and Seminoles, I believe; that they have never parted with their title in that land, except for a specific purpose; that it has never been restored to the public domain in any proper or ordinary sense of the word, and that whatever title the United States took from the Indian tribes it took not in fee-simple, but simply as trustee—a trustee for a specific purpose; and that land can not be diverted from that trust except by the consent and stipulation of the parties creating the trust—that is to say, the Indian tribes themselves.

Now, that is the situation of affairs. This land, I declare, in my judgment and in the judgment of the Department of the Interior, as I understand it, and of all the Executive Departments of this Government, is not a part of the public domain. It is a parcel of land that the Government of the United States holds simply as trustee for certain Indian tribes for a specific use. Now, if the United States desired to put this land to that specific use, it has the right to do so. If they wish to settle upon it friendly Indians and freedmen, it is their privilege to do so. But when it goes beyond that it departs from the trust which has been committed to it, and violates its treaty obligations. This illustrates in a great measure our habitual methods of dealing with the Indians. We make treaties, and we make agreements with them, and then the people, not the Government so much as we individual citizens, turn around and violate these obligations. These settlers have gone in there and taken possession of the lands upon the plea that they desired to make homes upon them. But they have gone with the full knowledge and understanding that they are trespassers, and also that they had no legal rights there. They have gone there against the repeated warnings and proclamations of the Executive Departments of this Government. They are liable to be evicted by armed force; because in the absence of law—in the absence of any municipal or Territorial law or regulation by which they are to be evicted—there is no other force to be used except the military force of the Government. There is no sheriff with his posse comitatus to arrest and remove them; and there is no means of removing them except the Government shall use the military force.

It seems to me, sir, to be a very simple proposition. That Territory ought to remain in *statu quo* until there has been a recession to the United States free of all trust, or else the United States should preserve it free from invasion by lawless citizens.

Mr. ELLIS. Mr. Chairman, the time having now arrived which was fixed by the previous order of the House for the consideration of resolutions respecting the memory of the late Hon. JOHN H. EVINS, a member of this House from the State of South Carolina, I move that the committee do now rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. WELLBORN reported that the Committee of the Whole House on the state of the Union having had under consideration the Indian appropriation bill, had come to no resolution thereon.

EULOGIES ON HON. JOHN H. EVINS.

The SPEAKER. By order of the House this hour, 2 o'clock, has been set apart for the consideration of resolutions in relation to the death of a late member of this House from the State of South Carolina. The Clerk will report the resolution.

The Clerk read as follows:

Resolved, That Tuesday, the 20th of January, at 2 o'clock p. m., be fixed as the time for delivering tributes to the memory of the late Hon. J. H. EVINS, late a Representative from South Carolina.

Mr. BRATTON. Mr. Speaker, I offer the resolutions which I send to the desk.

The Clerk read as follows:

Resolved, That this House has heard with profound sorrow of the death of Hon. JOHN H. EVINS, late a Representative from the State of South Carolina.

Resolved, That the business of the House be now suspended that fitting tribute may be paid to his memory.

Resolved, That, as an additional mark of respect, the House shall, at the conclusion of these ceremonies, adjourn.

Resolved, That the Clerk communicate these resolutions to the Senate.

Mr. BRATTON. Mr. Speaker, these resolutions are offered for the consideration of the House that we may perform a sad duty to departed worth; that we may do honor to one who has occupied a seat on this floor for several successive terms. His career in this House is best known to the honorable gentlemen who were associated with him here, and is confidently intrusted to their care. In the exercise of the melancholy privilege claimed by myself on this occasion, I speak necessarily rather from the standpoint of the constituents of my distinguished and lamented predecessor, of those who knew him as boy and man at home, and who attested their appreciation by repeatedly returning him to this truly important field of service.

JOHN HAMILTON EVINS was born in Spartanburg District, South Carolina, on the 18th day of July, 1830. His father, Samuel Evins, being a man of ample means, gave his son the benefit of a good academic and collegiate course. Mr. EVINS graduated at the South Carolina College in the class of 1853, and at once began the study of the law, his chosen profession. In December, 1856, he was admitted to the bar and entered upon the practice of his profession in the town of Spartanburg. He continued to be so engaged until he was called by his State to leave this quiet pursuit and serve her in another field. He joined the first company that was organized in his county for military duty in the war between the States; was elected lieutenant; afterward became captain, and served the cause he had espoused with faithfulness and gallantry until disabled for field service by a wound received at the battle of Seven Pines. Though retired from the field he was promoted to the rank of lieutenant-colonel and assigned to light duty in the rear. While thus employed he was called upon by the people of Spartanburg to represent them in the State Legislature, which he did to their entire satisfaction.

At the close of the war Mr. EVINS reopened his law office in the town of Spartanburg, and devoted himself closely and successfully to his profession until 1876, when he was called to a higher sphere of honor and usefulness. He entered the Forty-fifth Congress as the Representative of the fourth Congressional district of South Carolina, and served in that capacity, with faithfulness to his immediate constituents and fidelity to the whole country, until stricken down by disease. His death, though sudden, was not unanticipated by himself and his friends. His health had been declining for a year prior to his demise; and, after consultation with eminent physicians, he became satisfied that his disease was incurable. This conviction did not turn him aside from the path of duty; he entertained it with calm, Christian resignation, and moved forward in the discharge of his public duties as undisturbed as if no shadow of death was impending over him.

On the 20th of October last, at his home in Spartanburg, in the bosom of his family, at 11 o'clock in the forenoon, while seated in a chair, the messenger came to call him across the river.

He was not found unprepared for the summons. In early life he had made a profession of religion and attached himself to the Presbyterian Church, the church of his father. In 1867 he was chosen one of the deacons of the Spartanburg Presbyterian church, and in 1870 was called to be a ruling elder in the same church. From 1868 to his entrance upon his career as a member of Congress he was superintendent of the Sunday-school of his church, and devoted himself to this work with characteristic earnestness and singleness of purpose.

Such, Mr. Speaker, are, as it were, the stations which mark the course of the life which has passed away; the prominent events which, in the lives of men as of nations, are the hill-tops and mountain summits seen from afar and affording a general idea of their progress or decay; but no definite knowledge of the causes producing them, nor any intimate acquaintance with their real history. They are but points of observation from which the thread of the real life may be traced, from which the real character may be read, and the full history studied and learned. Subjection to such scrutiny is necessary to bring out the true force and merit of Mr. EVINS.

From this, the highest plane of public service to which he attained, the track of his life down through its fields of usefulness to his State, his county, his town, his church, and into the privacy of his family circle, glowed with the same light, and was characterized by a constant and consistent uprightness born of high principle. His cultured and highly developed moral sense kept him ever alive to the duty of the hour, whether it led him to the mountain-top or through the lowly vale, whether it called him to positions of distinction and honor or along the humble walks of true charity among the weak, the poor, and the needy.

In that great conflict between the principles of good and evil which seems to be the heritage of humanity, and of which this world seems to be the battle-ground, the life of this pure-minded gentleman, guided by sound principles of morality and true Christian sentiment, has made for itself no uncertain record. As a man, as a citizen, as a neighbor, in the conduct of his private and professional business, in the service of his State in both peace and war, in every relation of life, his influence was elevating and for good.

And when at a critical period in the history of the State to which I belong, while the weight of aspersion and misrepresentation and of misapprehension was bearing upon us with ruinous pressure, we succeeded in sending Mr. EVINS here as our representative and exponent, it was with the expectation that the purity and sincerity of his character and the honesty of his political sentiments would vindicate us from the one and relieve us from the other. From the earnest expressions of regret for his loss with which I have been greeted since my entrance upon this floor by gentlemen of both political parties and from all sections of this country, I now venture to indulge the hope that our expectations have been realized; that his influence here, as elsewhere, has been for good, has been a potent contribution toward the restoration of those relations of respect and confidence between the members of this "indissoluble Union" which is so necessary to the full enjoyment by any of the blessings which our incomparable system of government was designed to secure to all.

In the death of Mr. EVINS we have lost one with a character for honesty so high that slander could not reach it, a merit so modest that envy never assailed it, a public spirit so uniform that suspicion of self-interest never impugned it, a Christian consistency so unassuming that it escaped the sneers of the scoffer, and one whose moderation and wisdom in his public life, unmoved by partisan or sectional purposes, were doing much to close the gap of estrangement between the two great sections of this Union which happily for the good of this whole country is every day becoming narrower and narrower, and will soon, I hope, be a thing of the past.

Mr. DIBBLE. I imagine, Mr. Speaker, that the contribution of the most gifted individual to the sum total of the world's progress and prosperity is of itself comparatively insignificant; yet such contributions, when aggregated, and transmitted with accumulations from time to time, make up what we call the advance of civilization—the improvement of the human race. And it is likewise true that the enlightened policy of a nation as illustrated in the conduct of its public men is the safeguard of its future. The traditions of a people give direction to their aspirations, and tend to shape their national character. The hero or the statesman who has been through life a pattern of patriotic worth becomes after death the exemplar for the guidance of those whom he leaves behind him. It is in this aspect that the eulogy upon the dead becomes a lesson of practical patriotism; the purposes of laudable ambition are transmitted from generation to generation; public and private virtue are kept untarnished, and love of country is blended with love of the good and the true. And in the land where the achievements of her sons live after them in story and in song, "monuments more lasting than brass," where history bestows, as an heirloom, upon the children the honorable record of their sires—it is in such a land that freedom makes her lasting habitation, safe in the stronghold of a public opinion, consecrated by inheritance to the perpetuation of civil and religious liberty.

Three thousand years ago, in the Egypt of the Ptolemies, it was their custom to appoint magistrates to judge the memory of the deceased citizen, and to award to prince and to subject alike condemnation to the vicious, and to the virtuous the honor of a public eulogy granted to him by his country's laws. And although this custom has long since passed away, and judges sit no more in solemn quest over the ashes of the dead, yet fame has become such a tribunal; and as she dictates posterity listens to her decrees and history records them.

It has been well said that "it is right that the tomb should be a barrier between flattery and the prince, and that truth should begin where power ceases." And it is a matter of satisfaction to me, Mr. Speaker, that in recounting the incidents of the life of my deceased colleague and friend there is nothing that his friends would desire to pass over with the charity of silence, or that needs the embellishment of fulsome praise. It shall be my endeavor, therefore, to present in plain, unvarnished narrative the outline of his career, secure in the assertion that purer man never entered this House, nor one who was possessed of a loftier sense of honor, a more conscientious devotion to duty, than JOHN HAMILTON EVINS.

Such traits of character were his by inheritance. The families of Evins and Moore (from the latter of which he was descended on his mother's side) brought with them from the mother country energy, thrift, integrity, and piety. They came first into Pennsylvania and thence to Virginia and the Carolinas. Both families settled in South Carolina, on Tyger River, in what is now Spartanburg County, prior to the Revolutionary war, and were ardent patriots in the struggle for independence. Alexander Evins, the grandfather of our late fellow-member, served as a soldier under "Mad Anthony Wayne," and was wounded so severely in the left shoulder at the storming of Stony Point, that most brilliant of all the battles of the war, as to have been disabled in his left arm for life. He changed the spelling of his surname from "Evans" to "Evins," substituting an "i" for the "a," because a brother of his had espoused the side of the King; and although the Tory left the country, the family has retained this mode of spelling the name ever since. This gallant patriot lies buried in the graveyard of Nazareth Church, the oldest Presbyterian church in Spartanburg County—a house of worship

of which he was one of the founders and a ruling elder. He left six sons, all of whom became leading citizens of their section of South Carolina, and four of whom were at different times members of the State Legislature. One of them was Col. Samuel N. Evins, the father of JOHN H. EVINS.

Among his ancestry on his mother's side was General Thomas Moore, who fought in the battle of Cowpens against the British when a boy 16 years old. In mature years, he was prominent in the politics of the State, and was a member of Congress from South Carolina from 1801 to 1813, and again from 1815 to 1817; and in the interval between the two periods of service in this House he was in the field in the war of 1812, as a brigadier-general, commanding troops on the coast of South Carolina. He was a man of great public spirit, and was one of the founders of the first high-school in Spartanburg District, an institution which is still in existence. He was the great-grandfather of our deceased colleague.

JOHN HAMILTON EVINS was born at the ancestral homestead, on Tyger River, on the 18th day of July, 1830. In early life he enjoyed such advantages of education as the country afforded, besides the precept and example of parents who were distinguished for high-toned principle, broad views, liberal hospitality, and earnest Christian character. He received his higher education at the South Carolina College in its palmiest days, and graduated from that institution in the class of 1853.

I first knew him in 1855, when both of us were young men, living under the same roof. He was then a student of the law, to the practice of which he was shortly afterward admitted, and I, somewhat his junior, was a college student pursuing my last year's course. He was then, as all his associates have ever found him to be in later days, a warm-hearted friend, a courteous and cheerful companion, a just and honorable man. At this period of his life, in easy circumstances as to fortune, living in a section where his ancestry for several generations had attained merited distinction in social, religious, and political circles; fitted by a liberal education for the practice of his chosen profession, and enjoying daily intercourse with the people of a refined and cultivated community, there opened before him the prospect of a happy and successful career. My deceased friend was fortunate in the possession of those traits which enabled him to utilize the advantages which surrounded him, and to achieve as high a degree of substantial success as his friends could have desired.

After his admission to the bar he was associated in practice with that distinguished jurist Hon. Thomas N. Dawkins, afterward one of the judges of our State courts, and with Jefferson Choice, Esq., an able and experienced lawyer at Spartanburg, S. C. Throughout his whole life he has been engaged in the active duties of the profession, except when in military service as an officer of South Carolina troops in the confederate army, or when serving his State in the Legislature and in Congress. At the outbreak of hostilities between the States in 1861 he was an officer in the first company raised in Spartanburg, and fought gallantly in the first battle of Manassas and other conflicts of the war. At the battle of Seven Pines in 1862 he was so severely wounded in the left arm that amputation was proposed, but he refused his consent, and assumed the risk of the attempt to save the arm. This was accomplished through the skill and attention of his brother, who was a surgeon in the army, and the limb was preserved, but he was so seriously disabled as to be incapable of further active service in the field, and I am satisfied that the effects of this wound were felt by him during the rest of his life. He continued, however, in the performance of light military duty until his election to the State Legislature of South Carolina, where he served two terms.

At the close of the war Colonel EVINS had suffered in fortune, in common with his neighbors, but did not repine; on the contrary, he went to work with all his energy to repair the disasters entailed upon the South by that fearful struggle. About this time he married Miss Hattie D. Choice, the daughter of his former partner at law. The union was a congenial one, and his was a happy home, the seat of comfort, refinement, and generous hospitality. Successful at the bar, and enjoying the esteem and confidence of all who knew him, he was content to devote himself to his profession and to take a leading part in enterprises for the development of the resources of his native county and did not aspire to political honors. But in the agony of final reconstruction his State summoned him to her service. In 1876 he was tendered the nomination for Congress from his district without solicitation on his part, and for a time hesitated to accept it, but finally consented to do so as an act of duty, and was elected to the Forty-fifth Congress by a considerable majority. Since then he served continuously as the Representative of the fourth Congressional district of South Carolina, up to the time of his death.

Without endeavoring to enter into the details of his useful services as a member of this House, I will simply sum up his character as a public man by calling attention to that independence of thought and action, that freedom from all the arts and devices of the demagogue which distinguished his career. He was one of those who considered that the representative should not be like a weathercock, turning hither and thither according to every popular breeze, but that he should be rather a leader than a follower of public opinion in regard to matters pertaining to the work of legislation. He was of the class celebrated in the language of the classic poet:

Justum et tenacem propositi virum
Non civium ardor prava jubentium,
* * * * *
Mente quatit solida.

In the early days of the present Congress, his health, which had been gradually failing for some months, became more seriously affected, and he then informed his friends and constituency of his intention to decline a renomination, and to retire to private life. It was his hope at that time, and also that of his friends, that the eminent medical skill which he called to his assistance would avail to arrest the malady which threatened him. But alas! all fond anticipations of returning health were gradually dispelled by the inroads which disease slowly but surely made upon his constitution, until finally it was evident to himself and all his friends that in a short time he would be in the immediate presence of death.

For this emergency he had the preparation of a consistent Christian life. Calm and undismayed, and trusting in God, he was ready to die. I have alluded to the lines of Horace in illustration of his independence of thought and action as a Representative. I can with equal fitness apply to him, when awaiting the last mortal struggle, the omitted line of the stanza, and say—

Non vultus instantis tyranni
Mente quatit solida.

The session of Spartanburg Presbyterian church after his death thus placed among their minutes his religious record;

Colonel EVINS made a public profession of religion early in life, joining Nazareth, the church of his fathers. On the 4th of July, 1867, his membership was transferred to this church, and on the 28th of the same month he was ordained to the deaconship. He continued to serve in this office until promoted by the unanimous voice of the congregation to the eldership, to which he was ordained November 13, 1870. He was also superintendent of the Sabbath-school from 1868 until he entered Congress in 1877. He was also deeply interested in the welfare of the church, liberal in supporting every good work, true and wise as a counselor to his pastor, and in every respect a most valuable member and officer.

* * * His unswerving fidelity to religion, his genuine and practical loyalty to his own church, and his eminent purity of life, ever shone out brightly in all the circumstances in which he was placed, whether in the walks of private life, in the quiet pursuit of his profession, or amid the temptations of the military camp or of the national capital.

It was at his home in Spartanburg on Monday, October 20, 1884, that he quietly and peacefully breathed his last, passing literally from sleep to death.

And now—

'Tis little; but it looks, in truth,
As if the quiet bones were blest
Among familiar names to rest
And in the places of his youth.

Were I to yield, Mr. Speaker, to the emotions which arise as I recall to mind many incidents of my association with my departed friend, and feel how closely our lives were blended in the recent past, I would be unfitted for the discharge of the duty of this hour. And I realize that when the country, in her legislative halls, laments the death of one of her public servants, there is little room in the liturgy of memorial ceremonies for the expression of a feeling of personal bereavement. Only around the desolate hearthstone, whence the loved one has departed, or in the select circle of his kinsmen and dearest friends, is there appropriate place for that sacred sorrow which shuns the public gaze; while here are uttered only "the lesser griefs that may be said."

And yet, while we, his fellow-members, are engaged in the last offices of respect to his memory, and are celebrating in solemn eulogy his public career, in his relations to his State as a citizen, to his constituency as a Representative, and as a legislator to his country, it is proper also to think of him as a true and tender husband and father, a trusty and warm-hearted friend, and an earnest and humble Christian.

And occasions like the present, interspersed here and there in the routine of our official occupations, furnish to us the opportunity for solemn reflection, teaching the frail tenure by which we maintain our foothold on earth ere we sink into our resting-places beneath its surface. Is there not something for our inspiration, Mr. Speaker, in the example of one who has, as a sentinel upon his post, walked uprightly upon his appointed round holding fast to the watchwords of honor and of truth?

No life
Can be pure in its purpose, and strong in its strife,
And all life not be purer and stronger thereby.

Mr. BROWNE, of Indiana. These memorial occasions, Mr. Speaker, come to this House with frightful frequency. Those who meet here are one by one dropping by the wayside as they journey on. Not a session passes but we pause to embalm in the records of this body a tribute to the faithful public services of some honored Representative who has gone to "that undiscovered country." At each Congress there are those who come to these halls ambitious of distinction, inspired by high resolves, buoyant with hope and having promise of long and useful lives, who play their parts but for a day and are then called forever from their labors. This sorrowful experience repeats itself with unvarying regularity, and so it will be until the end. And yet how little we know of death save its certainty! We know it is appointed that all shall die and that from

this stern decree there is no appeal. To-day we speak words of tribute to the memory of one who sleeps under the sunny skies of the South; to-morrow we may be called to perform a like sad office for one whose new-made grave rests under the white raiment of the Northern snows. Who knows? Fortunately to none has been given the power to cast upon the horoscope the figure of our coming griefs, and we know

But the page prescribed, the present state.

May we not here indulge the hope that of every tear of sorrow shed on the graves of our dead some good will be born, and that in the "destroyer's pathway there will spring up bright creations that will defy his power" and convert the valley of darkness into a pathway of light. May not this day repeat the solemn lesson that death reigns in all portions of time; that—

The golden sun,
The planets, all the infinite host of heaven,
Are shining on the sad abodes of death.

The autumn with its fruits provides disorders for us, and the winter's cold turns them into sharp diseases, and the spring brings flowers to strew our hearse, and the summer gives green turf and brambles to bind upon our graves. Calentures and surfeit, cold and agues are the four quarters of the year, and all minister to death; and you can go no whither but you tread on dead men's bones.

I was not wholly unprepared, Mr. Speaker, for the announcement of the death of JOHN H. EVINS. While he was still with us, taking part in our counsels and in the business of this House, I was told by an eminent physician who had been consulted by him that he was incurably stricken by a malady that has long defied the skill of the medical profession, and that his life could be prolonged but for a few months at most. It was difficult to believe that one I saw here almost daily in the performance of his public duties, who moved so calmly among us, was so soon to die; but, as was predicted, to that inexorable disease he soon fell a victim. Burdened, doubtless, with the consciousness that his pilgrimage was near its end, he stood at the post of duty until near the close of the session, when he left us, and, after a brief and fruitless search for health, returned to his home that his grave might be made in the land of his nativity and among those of his ancestors.

Mr. EVINS died just as he touched life's meridian. With his culture and intellectual equipment, his unexhausted resources, had health and life been spared him, what position might he not have attained! Who can tell? Who can measure what of effort and of achievement were prevented by that dread disease that held him in its grasp and drained the very fountains of his life? Who knows what it is to feel the life-current ebbing gently but surely away? How the icy touch of the death malady must obscure every light and paralyze every energy! It was not my good fortune to know the deceased as he was known by those neighbors and associates who enjoyed his personal companionship and hospitality. Those who met him in the family circle, who sat at his table and by his hearth-stone, have fitly spoken of the excellence of his social and the refined purity and happiness of his domestic life. A happy home was his. How home hallows and elevates the human character! How cheerless would life be without its endearments, and how aimless our ambitions but for the impulse it gives to our efforts!

All bear witness to the uprightness of his daily life and his sterling integrity of character. He exemplified the sincerity of his Christian faith by his works—works in the fields of the Master. By no truer test than this can man be judged, for

'Tis not the wide phylactery,
The stubborn fast, nor stated prayers,
That makes us saints; we judge the tree
By what it bears.

That his personal and public life commanded the respect of his people is shown by the unanimity with which he was twice chosen to represent them in the Legislature of his State, and by four successive elections to a seat in this House. A manly character only could have inspired such confidence; a faithful service only could have secured its continuance. That he went to the field, that he put his life to the hazard of battle for the cause that had his sympathy, proved that he had the courage to follow, regardless of personal peril, his duty as God had given him to see it. It has been said:

No one knows what is absolutely right, but every one knows what he thinks to be right, and the highest law is obeyed by him who follows honestly the best light that shines within him and gains the approval of his conscience.

Who does better than he who puts his best thought, his highest and maturest convictions of right, into his life-work? Perfection is for God alone. Among men he deserves well who follows with unfaltering courage where his best and most enlightened judgment leads.

I but give voice to the spontaneous expression of an intelligent constituency, under whose eye passed in review every act of his private and public career, when I put on the enduring records of the national Congress their united testimony that JOHN H. EVINS was an honest man; that everywhere, at all times and in the largest and truest sense, he was an honest man and an incorruptible public servant; that his personal integrity was manifest in his professional and political life and in his every-day dealings. It is said of him that as an advocate he refused to prosecute those he thought innocent, or defend the cause that was tainted with dishonesty or wanting in the element of justice. What a commendable example was this to that high profession whose mission it is, regardless of the blandishments of power or the temptations of reward, to defend the right and secure redress for the wronged.

My first meeting with Mr. EVINS was in the Forty-fifth Congress. A trivial circumstance led me seek his acquaintance. Emigrants from Virginia and the Carolinas, among whom were the sons of the men who fought with Morgan on the memorable field of the Cowpens, settled more than a half a century ago in the Congressional district I have the honor to represent, and gave the name Spartanburg to the village in which for many pleasant years I made my home, and whose people for more than a third of a century have reposed in me an unmerited confidence. I desired to know the representative of the historic district of Spartanburg, S. C., a section so familiar to many of my people, and that I enjoyed that honor will be one of the cherished memories of my life. My acquaintance with him began and ended here. It was a brief friendship, but was long enough to leave with me enduring impressions of the man. He was of nature's nobility and a typical representative of that section of our Union that in the colonial day gave to our Revolution and the cause of popular government such heroic men as Wood and White, Moore and Roderic.

From the first he impressed me by his dignified but gentle courtesy and his unostentatious personal bearing. He at once won my sincerest esteem. One who knew him intimately, one of his distinguished colleagues here, tells me that one of his most notable characteristics was his unobtrusive modesty; that this kept him from pressing forward here and asserting his title to the high position which by reason of his learning and his talents rightfully belonged to him. This statement is corroborated by my observation. Life, however, has no brighter ornament than a true and unadorned modesty, and the character in which this resides is always enriched by the noblest of virtues.

Mr. EVINS was in his very nature tolerant. I always found him most charitable to those who challenged his cherished beliefs. He let mere differences of opinion glide—

Into the silent hollows of the past.

Espousing opposite sides of the bloody controversy through which our people passed but a score of years ago, and widely separated as we were in opinion on many questions, we were in full accord in the hope that from the reunited Republic would be banished every hate; that every wound would be healed; that the waste places would be repaired, and there be ushered in a new and enduring era of prosperity and fraternity. He was a disciple of that great Teacher who taught the inspired philosophy that the most heroic revenge was the return of good for evil. With me he believed this truth should be taught in ever pulpit, inscribed on the doors of every temple and on the folds of every banner.

It is a pleasing faith that God has planted in the human heart the germ of an unresting progress, and that in His own good time it will unfold a charity strong enough to paralyze the ambitions of men and convert armies and navies into ministers of peace and love. It will be a glorious era when love takes the government of men out of the hands of force. How beautiful would be that reign, how bloodless and painless its triumphs! If, as the astronomers tell us, the moon with its white arms reaches down and lifts the mighty billows of the sea toward the stars, may not pity reach down and lift the impulses of the human heart to love and God, and banish violence and warfare from the world forever?

Mr. EVINS was a member of the church, a consistent follower of the Nazarene, and lived and died in the Christian's faith that there is in the universe an overruling Providence and an immortal life beyond the grave. With that cold materialism of the age which teaches the annihilation of the human soul he had no sympathy. Who can believe that beyond the grave there is only nothingness?

If that marvelous microcosm, man, with all the costly cargo of his faculties and powers, were indeed a rich argosy, fitted out and freighted only for shipwreck and destruction, who among us that tolerate the present only from the hope of the future, who that have any aspirings of a high and intellectual nature about them, could be brought to submit to the disgusting mortifications of the voyage?

True, no thought comes to us from the mute lips of the dead. They do not speak to us across the darkness. They display no beacon from the shoreless beyond to light us through the gloomy abyss; but—

A voice within us speaks the startling word,
"Man, thou shalt not die!" Celestial voices
Hymn it 'round our souls; according harps,
By angel fingers touched, when the mild stars
Of morning sang together, sound forth still
The song of our great immortality!
Thick-clustering orbs, and this our fair domain,
The tall, dark mountains, and the deep-toned seas,
Join in this solemn, universal song.
* * * * *
The dying hear it; and, as sounds of earth
Grow dull and distant, wake their passing souls
To mingle in this heavenly harmony.

Is it probable that creative wisdom would have made gross matter eternal, indestructible, and provided that sensation, life, only should be forever destroyed?

Although JOHN H. EVINS is dead, He who every springtime with sunshine and shower touches the bosom of the earth that the rose and the jasmine may come forth and shed their fragrance and beauty on the world will not allow a human soul, the very culmination of His creation, to remain forever in the night of the grave. Sorrowing friends and a mourning household find consolation in this sad hour in the

thought that there is a light radiating from the cross haloing the world with its brightness, glowing with divine beauty—the light of an example and a Christian philosophy—that points the soul to a better life and implants within the human heart both a hope and a faith in the resurrection.

Mr. HARDEMAN. Mr. Speaker, the destiny of man is dissolution, and the history of material organization is decay. To know our end is the lesson of life, for life in its entire analysis is but a lesson; its preface the cradle, its finale the grave. The great voice that John heard out of Heaven saying "There shall be no more death" was not the language of earth, but the unmistakable vernacular of that celestial land above. "Dust to dust, earth to earth, ashes to ashes," is the idiom of earth, voiced by the shroud, the coffin, and the grave. To that voice this House is listening to-day, as it comes from the grave of JOHN H. EVINS of South Carolina, who but a few months ago responded to our roll-call and was zealously engaged in the discharge of official duties and public trusts. His death has made another blank page in our Congressional history. How many are there in our book of records, each one suggesting to the living that their names will soon be written in the journal of death. Looking upon those pages I commune with the past—with its hopes and disappointments, its victories and its defeats, its life and its death. The living present recalls the dead past. The "now" reviews the "before" and foreshadows the "hereafter." The Representatives living walk in the cemetery where their comrades sleep and read upon the tombstones the epitaphs and eulogies of those who have passed away. Among the sleepers there, none were more entitled to respect than was he whose funeral ceremonies we are observing to-day. Born on Southern soil and under sunny skies, he imbibed in his nature their genial attributes as evidenced in the gentleness of his manner, the warmth of his nature, and the purity of his life. Devoted to that South, his whole being was fired with an ardent love for the welfare of his people, the honor of his section, and the glory of his State. Patriotism with him was an innate principle.

It mattered not, whether upon the tented field battling for what he deemed "the right" or in this Hall counseling reconciliation and peace, but one star went before him to light his way. That was the star of patriotic duty, and the light of that star was only obscured by the night of death. Upright in his deportment, warm in his friendship, truthful in his nature, and exemplary in character, he commanded the esteem of all who knew him. Honored by his fellow-citizens for a series of years with State and Federal offices, he performed their duties with strict fidelity, retaining to the close of his life the unwavering confidence of those he was serving. Sensitive in his nature, quiet and retiring in his manners, studious, as far as a weak constitution would permit, he was most appreciated by those with whom he was best acquainted. Fidelity to principle was the chart of his life. Duty discharged the rule of his action. He had a presentiment for months that his end was approaching, so the summons was not unexpected and the grim monster found him panoplied in the armor of a Christian faith and ready for his summons. It soon came.

On the 20th October last, when nature was clothing herself in saffron and autumn was searing flower and forest, he went down to the grave "like a shock of corn that cometh in his season." In scanning the actions of his life, nothing that was unmanly or unbecoming met the eye; for his life was irreproachable; for, Enoch-like, "he walked with God." Stricken down in the meridian of life and the zenith of his usefulness, his loss will be felt around the family altar, where his qualities of head and heart shone most brightly, in the circle of friends that he enlivened with a refined geniality and in this legislative hall, where he was serving with ability his fourth term. A man of education and intelligence, his convictions were the outgrowth of an enlightened judgment, and though unpretentiously asserted, they were maintained with inflexible firmness—not the firmness born of self-conceit and inordinate vanity, but that which is prompted by a consciousness of right and modest merit.

Serving with him upon a committee of this House of which he was chairman, I soon learned to estimate his character and appreciate his solid worth. To the members composing that committee it became apparent early in the session that he was laboring under a malady that had numbered his days. We were not surprised when the end was announced. The book of his life has been closed, and if we are not permitted to break the seals thereof we can profitably recall the memory of him whose name is written therein, associated as it is with a life of usefulness, of strict integrity, of noble impulses and Christian graces. In recalling his memory, in reviewing his life, we are forcibly reminded that—

> Our lives are albums, written through
> With good or ill, with false or true;
> And as the blessed angels turn
> The pages of our years,
> God grant they read the good with smiles,
> And bless the ills with tears.

The history we now make will live after we go hence, for, as was written by Paul, "None of us liveth to himself, and no man dieth to himself." Truly may this be said of him whose memory we now commemorate; for though he has passed away he yet lives in precept and Christian example. As the winds that sweep over a bed of violets bear on their wings their fragrant perfume, so does a pure life carry with it the fragrance of noble deeds, exemplary virtues, and Christian graces. But such a life is no barrier against the approach of the fell destroyer; and, yielding to his power, our companion fell.

> Then gave his name to the world again—
> His blessed past to Heaven; then slept in peace.

Peaceful be the repose, for he only sleeps. The beautiful flower, scorched by summer's suns or blighted by autumn's frost, withers and apparently dies; but it does not die; it only falls to sleep in the lap of winter and will bloom again when "the springtime cometh." So our friend has fallen to sleep on the bosom of his Saviour, there to remain until the Father wakes him to the joys of eternal life. With great satisfaction we can review his character, so strong in its structure, so complete in its appointments, so polished in its finish. And callous is the heart to all instincts of the good and the true who can contemplate the life of such a man, so pure, so gentle, so lovely while in health, so patient in sickness, so calm and triumphant in death, and not exclaim with Balaam, "Let me die the death of the righteous and let my last end be like his."

Mr. GEORGE. Mr. Speaker, I wish to add a few words of tribute to the memory of our departed friend.

Although I had but a limited acquaintance with Mr. EVINS, I learned to respect him for his many good qualities of mind and heart.

His integrity of character was of the highest order, and he was positive in his convictions of right and duty.

As a law-maker he was not bound by local limits, but entered fully into the spirit of legislation for all sections.

Though representing States far distant, we were often drawn together on common ground in matters of legislative interest. I always found him kind and considerate, sociable and earnest.

I state my own impressions very briefly concerning his life and character, and leave to others who knew him longer and more intimately the duty of a more elaborate recital of his life and services. It is a day of sadness for all who knew him.

Our late associate, so universally esteemed, now lies beneath the sod, and under the pine and the palmetto of his native State. May his many good deeds long be remembered! May his memory ever brighten!

Mr. DOWD. Mr. Speaker, my acquaintance with the deceased may be said to have commenced upon the occasion of the funeral of the late President Garfield. Before that I had met Colonel EVINS on one or two occasions only, and our acquaintance was merely casual, although our homes were but sixty miles apart. During the long and melancholy trip to Cleveland, Ohio, and back, we were much in each other's company. There was no one in the entire party whom I had ever met before except Colonel EVINS, and I naturally gravitated to him as a neighbor and friend.

From the beginning of the Forty-seventh Congress our relations grew closer and our friendship stronger. During that Congress I was more intimate with Colonel EVINS than with any other member of the House. We boarded at the same hotel, occupied seats at the same table, and sat near each other in this Hall. We often lunched together, occasionally attended church and theaters together, and frequently took long walks and drives through the city. I think I knew him well. I believe I thoroughly understood his character.

I am not of those who believe that all good is in the past, or that only good men die. I have said upon another occasion that the true office of eulogy is not the bestowal of indiscriminate praise. The highest test of character is to place the good and the bad in sharp contrast. I am no enthusiast, but think I can discern the imperfections as well as the merits even of very warm friends. Nor do I believe any man can be absolutely free from guile, or that much good can be found in the world unmixed with evil. On the contrary, I believe that everywhere within the domain of human existence evil and good, if not actually intermixed are in close proximity. Nothing is perfect; no man can be perfect. And yet, I say with deliberation that I have never known a better man than JOHN HAMILTON EVINS. I have known men of greater intellects and greater learning, men of more obtrusive and conspicuous qualities, but I have never known a more conscientious and thoroughly good man. Long ago he must have fought life's supremest battle and gained the victory over self. Early in life he must have put in complete subjection those evil impulses and passions which are the common heritage of us all, and which surely conquer all who do not conquer them, and by which so many thousands and tens of thousands of weaker men, after struggling against them for years, have at last been enslaved and ruined.

While I knew Mr. EVINS I am sure he never did anything which he believed was wrong. He held an easy mastery over all manner of temptation. Without regard to pain or pleasure, he never for an instant hesitated between what was right and what was even dubious or questionable in its character. He was a sincere and genuine Christian. He believed in the Bible, the God of the Bible, and all its teachings, as naturally and as implicitly as the babe warms and glows in the mellow radiance of a mother's love. The precepts of that Great Book were his guide through life, and its promises and assurances were, no

doubt, his solace and comfort as he approached the valley and shadow of death. I had not the pleasure to know much of the domestic life of Colonel EVINS, but it was evidently beautiful and lovely in the highest degree. He left a widow who must have been from the day of their marriage indeed "an helpmeet for him." He left also a large and interesting family of children. A recent letter from Mrs. Evins contains the following pathetic and touching language:

Of my loss it is impossible for me as yet to speak; bereft of such a husband, with the terrible responsibility of bringing up our children without the help and comfort of his living presence, I feel my burden to be almost greater than I can bear. My trust, however, is in the God of the widow and orphan, and I know he will not forsake us.

I append and beg to present in connection with my remarks the minutes of Spartanburg Presbyterian church, adopted at a session held November 10, 1884, which very fully and very accurately portrays the sterling qualities and exalted merits of the lamented deceased.

Minutes adopted by the session of Spartanburg church, November 10, 1884.

JOHN HAMILTON EVINS was born of pious parentage, at the family homestead, on Tyger River, Spartanburg District, South Carolina, July 18, 1830. His father, Col. Samuel N. Evins, was a man of broad intellect, sterling integrity, high-toned principle, and Christian zeal; and his mother, a woman of decided character and earnest piety. He thus grew up under the most wholesome influences, receiving from his childhood that stamp of character which he developed in manhood. Possessed of ample means, his father gave him such advantages of education, both in the common school and the college, as the country afforded, and he was graduated at South Carolina College in 1853. Soon after this he began the study of law at Spartanburg, and was admitted to the bar in 1856. To this profession he devoted himself with energy and success, and won a high place in the legal fraternity of this section.

Upon the breaking out of the civil war in 1861 he promptly tendered his services to his native State, and served faithfully in the confederate army, first as lieutenant and afterward as captain of the Spartan Rifles. He was severely wounded in the left shoulder at the battle of Seven Pines, and was disabled from further active service in the field, but was nevertheless promoted to the rank of lieutenant-colonel and assigned to lighter military duty nearer home. While thus detained at home he was elected to the State Legislature, and served there in the sessions of 1863 and 1864.

After the war he resumed the practice of law, in which he was actively and constantly engaged until 1876, when, in the great political struggle for the recovery of the State from the hands of aliens and plunderers, he was nominated for Congress from the fourth Congressional district, and was elected by a large majority. At three successive elections he was again chosen to the same high office, and continued to serve faithfully and well in the national Legislature until arrested by death.

Colonel EVINS made a public profession of religion early in life, joining Nazareth, the church of his fathers. On the 4th July, 1867, his membership was transferred to this church, and on the 28th of the same month he was ordained to the deaconship. He continued to serve in this office until promoted by the unanimous voice of the congregation to the eldership, to which he was ordained November 13, 1870. He was also superintendent of the Sabbath school from 1868 until he entered Congress in 1877. He was deeply interested in the welfare of the church, liberal in supporting every good work, true and wise as a counselor to his pastor, and in every respect a most valuable member and officer. About one year ago his health began to fail, and upon consultation with eminent physicians in Washington he became convinced that he was the subject of incurable disease. He bore this fearful conviction calmly and with Christian courage and resignation, at the same time diligently using all human means that gave promise of relief. But he gradually sank under the steady encroachments of disease. His heart had become seriously affected and his lungs so obstructed thereby that breathing at times became difficult and painful. Yet his mind remained clear and his spirits cheerful. He was well aware that his days were few, but he was not disturbed at the thought, his confidence resting in God. And on Monday, October 20, about 11 o'clock a. m., calmly and without a struggle fell asleep while sitting in his chair at his home in Spartanburg.

The tidings quickly spread throughout the city, and the whole community mourned his loss. The next day the funeral services were held in the church where he had so often and so long delighted to worship God. An immense concourse of people, more than the house could contain, gathered to pay the last tribute of respect to one whom all honored and cherished. The pastor conducted the services, assisted by the Rev. R. H. Reid, the former pastor and warm personal friend of the deceased, and the Rev. Ellison Capers, who had attended with a delegation from the city of Greenville; and the body was solemnly and sadly laid away in the family plat of the town cemetery to await the resurrection of the just.

Colonel EVINS was married in 1865 to Miss Hattie D. Choice, the daughter of his former law partner, and she, with eight children, the youngest an infant of five months, survives him. He was a tender husband and a wise and conscientious parent, and the loss to his family in his untimely removal is sad and inestimable.

Our lamented brother was a man of noble impulses, of exalted principles, and of most exemplary life. His character possessed a completeness and beauty rarely found on earth, and the virtues which distinguished him were many, excellent, and striking. His unswerving fidelity to religion, his genuine and practical loyalty to his own church, and his eminent purity of life ever shone out brightly in all the circumstances in which he was placed, whether in the walks of private life, in the quiet pursuit of his profession, amid the temptations of the military camp, or the corrupt atmosphere of the national capital. And withal he was a public-spirited citizen, who lived and labored not for selfish gain and aggrandizement, but always felt a lively interest and performed an active part in anything looking to the welfare of the community, the State, or the country. The loss of such a man may well be mourned and his example sacredly treasured.

Mr. LANHAM. Mr. Speaker, there are two occasions in the proceedings of this House when no sound of tumult cometh to mar its grave decorum or disturb its solemn stillness. The one is when we bow the head at the voice of prayer; the other is in the obituary service we are accustomed to perform when one of its members has yielded to the ultimate appointment of our race and gone the way of all the earth. Reverence for the Deity and respect for our holy religion prompt us in the one case; regard for the dead and a forced recognition of our own mortality move us in the other. Our attention is arrested, clamor ceases, the proprieties of dignified silence are observed, and we can not escape a serious and profound reflection. The latter occasion is once more upon us, and I obey the impulse of my heart when, participating in these ceremonies, I offer my humble contribution to the work of this hour and attempt to bear testimony to the worthy life and excellent character of my departed friend and brother Carolinian. It seems not inappropriate that I should do so, for I have known the deceased from my boyhood. We were born and reared in the same county. He was the honored and trusted representative of my people and kindred. Little would it have been imagined years ago, when I bade him and other friends of my youth farewell and quitted my early home to seek a settling-place "in the land of the setting sun," that he and I should long afterward be reunited in these Halls to mingle awhile together and enjoy the fellowship of other days, then to part again in death, and that I should be called upon in this presence to perform the sad duty which now devolves upon me.

Who knows the ways of the world,
How God will bring them about?

Life is strange; personal history is mysterious. The vicissitudes of humanity, the multiplied and diversified incidents which make up our pilgrimages through the world, the transitions, the separations and reunions, the changes of the times and our changes in them, the innumerable strange things that come to pass along the journey of life; and then the fallings by the wayside, the scenes and circumstances which attend "the inevitable hour," the periods and methods at and by which we are taken off, the inscrutable purposes involved, all carry with them their often sad and always instructive lessons, and serve to impress upon the minds of thoughtful men a confirmation of that philosophy which teaches that—

There's a divinity that shapes our ends,
Rough-hew them how we will.

I shall never forget how kindly and cordially he received me here, the welcome he gave me, the generous pleasure he evinced at meeting his former county-man in this body, the unselfish interest he took in my behalf, how readily and cheerfully he instructed me in my new duties, giving me the results of his own experience and offering friendly and needful suggestions for my guidance. My gratitude, my esteem, my affection toward him daily grew and strengthened by the renewal of our intercourse and his numerous offices of friendship and kindness. Whether I can now speak of him as I would desire or as becomes the occasion, my tribute is at least sincere and heartfelt.

He once said, "In this dark world of ours there is no richer gem than sorrow's diadem—a tear." I can, indeed, give to his memory that "test of affection," and say of a truth that I deplore his loss and grieve that he is no more. His death, which occurred at his home in Spartanburg, S. C., October 20, 1884, was not unexpected to me, for I had observed with constant solicitude and increasing apprehension the fearful inroads which a dreadful and fatal malady were rapidly making upon his strength and constitution; and when a few weeks before the adjournment of the last session he was compelled to seek the supposed benefits of a different climate and healing waters, and told me goodbye, I felt and feared it was the last time I should see him in the flesh.

JOHN HAMILTON EVINS was born in Spartanburg District, South Carolina, July 18, 1830. He was graduated from the South Carolina College in 1853, when to bear a diploma from that institution was to bespeak a thorough and classic education, and to carry a passport to the best circles of refinement and culture. He chose the law for his profession, and successfully practiced the same until the beginning of the war. He joined the confederate army, and rose to the rank of lieutenant-colonel. His army life meant actual service, exposure to danger, and loss of blood. He always had "a place in the picture near the flashing of the guns," and was severely wounded at the battle of Seven Pines. No man made better record as a soldier.

For two years he represented his district with great efficiency and acceptability in the Legislature of his native State, and in 1876 he was nominated for Congress, and went vigorously to work in what then appeared a most difficult undertaking, to assist in the redemption of the State he loved so well from the conditions of misrule and political degradation to which her people had been reduced. Immediately succeeding the war the lot of no Southern State was easy; that of South Carolina was harder than all. She was the inviting prey of roving and greedy adventurers who gathered about her prostrate form and fattened upon her misery. Not the valiant soldiery who had defeated her in war—not these, heroic and chivalrous, who always

Raise the foe when in battle laid low,
And bathe every wound with a tear—

not patriotic and established citizens of any State who could claim a permanent local habitation, or were inspired by a pure purpose of genuine and salutary reconstruction for the common good of the common country; but migratory spoilsmen and local recreants, itinerant stirrers of strife and home agitators of discord who never saw the smoke of battle, found their special field of operation in the Palmetto State, and sought by every means to aggravate, mortify, humiliate, and crush her suffering people. Disquietude and antagonisms were excited and kept alive as the appointed means of selfish gain. It was amid such conditions as these, and infinitely worse than here described, the recollection of which is not revived from any partisan motive but to illustrate his important service—when success seemed almost hopeless—that Colonel EVINS was summoned to the front by his confiding and admiring people, and right gallantly he bore their standard and led them on

to victory. He was re-elected for three successive terms, and, owing to his declining health, voluntarily retired, when it is well known that he could have received a fifth nomination.

My actual knowledge of his Congressional service is limited to the present term and what I saw of him in the committee of which he was chairman and on the floor of the House in the last session; but I have learned from others that his course has been uniformly commendable, manly, and patriotic. He seems to have possessed in an unusual degree the esteem and confidence of those with whom he has been associated here, without regard to political creed or party affiliation. Exemplary conduct, daily walk and conversation exceptionally pure, habits discreet and temperate, methods direct and honorable, a correct and stainless private and public life are universally affirmed of him. He was a quiet, observant, thoughtful man, accustomed to a careful and considerate analysis of the right or wrong of a measure. He was not afflicted with any undue or indecent eagerness for mere *pro forma* public utterance, but spoke only when actuated by a sense of duty and the necessity of the case, and then earnestly and honestly.

He was singularly free from any disposition for mere empty display or artificial appearance. He disdained disguise and despised dissimulation. He was a thoroughly earnest man. His influence, although quietly exerted and employing only such forces as appeal to reflecting minds, was always cogent and pervasive. All men had respect for his judgment and the rectitude and soundness of his convictions. He might not perhaps be classed as a great and distinguished statesman in the usual acceptation of the term, and yet I think he was an extraordinary man, and that he towered among his fellows in all the solid and sterling elements of character. He was safe, accurate, sound, and practical. He was positive, reliable, and useful; always trusted, never doubted. In him wherever a true man was wanted a true man was found. Such are the men who enact wise and wholesome legislation. This can not be said of erratic, uncertain, and visionary men, how brilliant soever they may be. It can be well remarked of him as he said of his deceased colleague, Mr. O'Connor:

> No constituency ever had a more faithful and devoted Representative, South Carolina no truer son, the cause of liberty no firmer friend, tyranny and wrong no more relentless foe.

I come now, Mr. Speaker, to say a word of his higher manhood and "holier chivalry." It was once observed by an eminent religious philosopher that—

> In Christianity, and in Christianity alone, can be discovered character in harmonious wholeness, at once the "*righteous* man," high in the practice of all social virtues, stern in his inflexible adhesion to the utter right, and the "*good* man" who has won for himself a revenue of affection, at whose name men's eyes sparkle and their spirits glow as if a sunbeam glinted in.

He had this "harmonious wholeness." He was an efficient elder in the Presbyterian church and a consistent Christian. He was always ready with hand and purse in the encouragement of religious enterprises. From the appeals of charity he turned not away. He preserved in his metropolitan associations and public life the same devotion to his religious obligations which he practiced at home and among his friends and neighbors.

It requires a true heroism to withstand the solicitations to vice and dissipation which abound in high places. It must be confessed that temptations lie thick in the pathway of a public man at the Federal capital. The allurements of the world, the pomp and pageantry of sin are difficult to resist. To keep a conscience void of offense and maintain an unsullied moral or religious life bring into constant requisition the highest capabilities and strongest forces of resolution. He who can safely pass the ordeal is indeed a hero and entitled to wear a victor's wreath. No human perception can fully discern the spiritual relations which subsist between a man and his Maker, but from what was seen and known of the deceased can be found comforting evidence upon which to predicate the conviction that he kept himself "unspotted from the world." He believed that the bane of public life was immorality and irreligion, and carefully avoided the appearance of either. He exemplified the personal excellence of true Christian character. He died in the triumph of his faith. I believe if a man die he shall live again, and that the deathless spirit of my friend has passed the gate and entered into the city of everlasting peace.

> His day has come, not gone;
> His sun has risen, not set;
> His life is now beyond
> The reach of death or change,
> Not ended, but begun.

All that was mortal of him rests in the old graveyard at home among the ashes of the generations of his people who have preceded him to the silent land. The memory of his virtues will live on and remain bright and beautiful in the hearts of those who knew and loved him. He has left to his family and friends a heritage better than riches—a good name. Ere long and the time will come when each of us shall also "sleep with our fathers." May we profit by his example; live a life of equal rectitude; be as ready for the final departure as he was, and at last rejoin him in the bright beyond.

Mr. TILLMAN. Mr. Speaker, although it is as natural to die as to be born, yet the beginning of life is nearly always associated with joy and hope while its ending is attended with sorrow and sometimes despair.

This is especially the case when a Christian gentleman, wise, good, practical, patriotic, like our late associate, JOHN HAMILTON EVINS, is stricken down in the meridian of his powers and usefulness.

The death of the aged does not shock the sensibilities, because it is expected in the course of nature as the fulfillment of destiny, but the abrupt departure forever of one in the prime of life, who had the happiness of many in his keeping, lacerates feelings that time alone can heal and creates a void which nothing can ever fill.

Our friend, Colonel EVINS, died at the early age of 54, sixteen years short of the span allotted to man by the psalmist; and, in addition to a large family of his own to care for, he was the trusted friend and adviser of hundreds, yea thousands, who had long learned to rely upon him as guide, neighbor, benefactor, attorney, and lawgiver. A mere statement of these facts would be sufficient answer to the questions, Will JOHN H. EVINS be missed; and is the dedication of this day to the commemoration of his virtues and services a sincere tribute to his worth, or is it a ceremonious mockery?

From time immemorial, among all peoples, when a faithful and capable public servant has been cut off in the midst of his career, a suitable record of his life and character has been made, partly from a sense of gratitude, but mostly in justice to the dead and to encourage the living to imitate his example. This is meet and proper. The world's successful men, who preserve their good name untarnished while they succeed, are too few to be permitted to pass into oblivion. As less than one in ten is said to so succeed, the best method perhaps to stimulate the living to fight the battle of life nobly is to make a permanent record of the conduct and character of every deceased citizen who honorably acted a conspicuous part.

Probably nothing contributed so much to the development of the manhood, the intellect, and the greatness of Rome as the honors she paid to her illustrious dead by pronouncing elaborate funeral orations over them and burying them with imposing ceremonies, usually near a public highway, and erecting splendid monuments to perpetuate their fame. Propinquity is a great moral power; and hence it is that the choice young spirits of every separate community generally select their best native models by which to mold their own character with as much fidelity as the writing of a school-boy conforms to his copy-plate. The emulation which prevented Themistocles from sleeping when he reflected on the glories of Miltiades was an ennobling sentiment, and it should be nurtured in the rising generation everywhere and at all times by bestowing appropriate honors upon the distinguished dead and by the recital of their merits.

Colonel EVINS was not a great man, but he certainly had many great qualities of head and heart that deserve to be remembered, and he so conducted himself in all the relations of life, both public and private, that the youth of the country would do well to tread in his footsteps. Posterity may be able to properly appreciate the intellect and achievements of a dead man, but it is only his surviving contemporaries, his friends and intimate acquaintances who can fairly estimate his character. I claim the privilege of attempting to do this for our late associate, not only because he was my colleague here and in the Legislature of our native State, but because we were lifelong friends. I had ample opportunity to know him well, and if I could only describe him as he really was, without a particle of exaggeration, his memory would never perish.

As I said, he was a remarkable man, both intellectually and morally, and, like nearly all noted men, he was largely indebted to his mother's early training for his after success. She was a woman of unusual strength of mind and character, and so indoctrinated her children by precept and example in the principles of probity, industry, and piety that Colonel EVINS never forgot those principles. His father was likewise a man of sterling worth, and left his children a good property, as well as a good example to imitate.

Both his paternal and maternal ancestors emigrated from Pennsylvania to Spartanburg County, South Carolina, many years before the Revolutionary war. His name is of Welsh origin, but he also had Scotch blood in his veins, and he united, both in mind and character, in a high degree, the leading faculties and traits of both nationalities of his forefathers. He combined all the patience, prudence, conservatism, benignity, and plodding industry of the Welshman, with the quickness of perception, mental acumen, clear analysis, sound judgment, strong religious faith, practicality, persistence, and thrift of the Scotchman. In a few words, he had common sense, an honest heart, and tireless energy—the three indispensable prerequisites to honorable success.

He toiled while others slept and worked when others idled, and therefore it was that he outstripped more brilliant competitors. He never believed in luck or duplicity as a means to attain an end, but always relied upon labor, truth, and manly methods in whatever he undertook.

One secret of his success was his thorough preparation on all occasions. His motto was *festina lente*. In his early days, although blessed with robust health, studious habits, and abundant means to pursue his education, he never completed his collegiate course and gained admission to the bar until he was 26 years of age. But when he did come to the legal forum he was so fully equipped for "the occasion sudden

and practice dangerous" that he at once took front rank among some of the ablest country lawyers in America, which position he held until his failing health and exacting duties as a member of this House compelled him in a measure to relinquish his profession.

Another cause of his nearly uniform success at the bar, in the political arena, and in private business was his almost unerring judgment. While he preferred time to examine carefully every phase or relation of a subject, still, in an emergency, he had all the lightning-like accuracy of intuition belonging to the Scottish race, which generally is so clear-headed that it can follow a principle through a maze of rubbish or split a hair without cutting into either side. Whether with or without sufficient time to consider a given proposition, or state of facts, he hardly ever reached a wrong conclusion, and his most confidential associates, myself among the number, habitually distrusted their own judgment when it differed from his. This God-given faculty of common sense not only contributed largely to his success, but it likewise explained, when taken in connection with his honesty and industry, why he had so much influence both in private and public affairs. Every succeeding Congress in which he served only increased his strength here and his popularity among his constituents.

Colonel EVINS was not an orator, but he was emphatically a logician who could trace cause and effect, link by link; not a man of words, but of action; a dealer in facts, not fancies, yet he cherished the loftiest sentiments. He was well read, particularly in history; but he spent the prime of his life in the laborious study of the law as a science, as a whole, not by mere desultory or case reading. He mastered not only its general principles but the qualifying exceptions, and he was familiar with most of the leading cases, fixing each in both American and English jurisprudence.

As an attorney he brought no suit except he believed it to be right. Having brought it, he as completely identified himself with his client's cause as if it had been his own. His mind was pre-eminently judicial, equally expert at analysis or synthesis, and he would have adorned any bench.

His acquirements and his tastes better fitted him for his profession than for politics, and he made a great sacrifice both of feeling and interest when he left the bar to serve in Congress. But duty called him to the political field, and he promptly obeyed, because to do his whole duty was ever the dominating principle of his character. In fact, his unselfish devotion to duty may truly be said to have hastened his end.

When his State in 1860 summoned her sons to arms, he was one of the first to respond, and went to the front with his command, where he proved himself a true soldier at the first battle of Manassas. He continued in active service, participating in all the skirmishes and combats of the army of Northern Virginia, until, while engaged in a terrific struggle at Seven Pines, he received a very dangerous wound in the arm by a ball which splintered the bone just below the shoulder-joint. For a long while he patiently endured intense agony, the irritation of the wound causing much suffering, threatening to compel amputation; but the skillful and tender nursing of his brother, Dr. Thomas Evins, a confederate surgeon, saved his arm. Although never able to rejoin his regiment again, feeble as he was and with his arm still in a sling, as lieutenant-colonel he took command of the home-guard in Spartanburg County and effectually protected that and adjoining counties against the incursions of deserters and native marauders from the mountain fastnesses until the close of the war.

He then resumed the practice of his profession, in which he soon acquired a large, paying clientage, much of which adhered to him even after he became a member of Congress. But the double labor of attorney and Representative in the National Legislature was too much for his enfeebled constitution, which had never entirely recovered from the violent shock to his nervous system caused by his severe wound in the war. He frequently complained in his latter days that he had been overworked. All of you can bear witness how laborious the life of a faithful Congressman is. Most of you remember how punctual and thorough Colonel EVINS was in the discharge of all his duties here until his health broke down. It had been against his wishes that he was translated from the quiet walks of private life and the lucrative practice of his profession to the exciting, irregular, exacting forum of politics. He neither had fondness for the hustings nor relish for the rough-and-tumble debates and scrambles of this House; but as he was selected, without any premeditation on his part, in 1876 to lead a "forlorn hope" for Congress, he could not refuse, and his constituency would have kept him here indefinitely if his failing health had not compelled him to decline a fifth election.

Moreover, neither the impure and heated air of this Hall, nor the climate of this city, with its fickle and sudden extremes, nor the habits and customs of public life here could prove anything but injurious to a man in Colonel EVINS'S state of health. Bright's disease was said to have been the immediate cause of his death, but his disabling wound, his uncongenial Congressional life, and the trying climate of Washington, one or all, must have contributed largely to aggravate his disease if not to produce it. He often expressed regret that he had ever permitted himself to be drawn into politics, but said his people would have it so, and it was his duty to serve them. Any one who knew him before he was so badly wounded could not but remark, ever afterward, how sadly that wound had marred his striking physique and commanding presence. Before that calamity he was tall, erect, lithe, and strong—the picture of vigorous health—with the grace, gallantry, and courtly bearing of a troubadour; but after the wound, notwithstanding much of all these remained, he never was himself again. Therefore it may justly be said he died prematurely—a martyr to duty.

Colonel EVINS was a singularly diffident man, particularly in public speaking. While always modest yet self-possessed in conversation, he still could not rise to address a jury, the House, or the hustings without seeming actually bashful. One of his friends used to say he was the coolest man in a chair and the most frustrated man on his feet in the world. This absence of self-possession, or perhaps I ought to say his lack of sufficient "brass," was a great drawback to him, as it often kept him from talking when he was much fuller of the topic under discussion than most of the blatant, self-sufficient orators who monopolized the debate. You all recollect he never could rise to speak on this floor, even after seven years' service here, without blushing like a timid, embarrassed girl; yet you also remember he was equal to every occasion. He failed in nothing, not even in public speaking, simply because duty, his pole star, forbade. His lack of self-confidence as a speaker has been so aptly described by a friendly hand that I must read it:

> When he first began to speak his natural diffidence would so overpower him as to make it painful to his friends to witness his discomfiture; but with an indomitable will he would subjugate his own self-consciousness, and rising to the demands of the occasion would soon transform an apparent failure into a brilliant success. He never succeeded in overcoming his natural diffidence only in so far as to be able always to fully meet the requirements of the cause which called him before the public. It was only a sense of duty that brought him before the public gaze, and that he always met at any sacrifice to his personal comfort or convenience. The success of his public career was due to this: his conscience was stronger than his consciousness.

And just as he always overcame his strong reluctance to public speaking, when it was his duty to do so, he likewise followed the dictates of his conscience first in espousing the cause of secession at the command of his State and then in regarding the war as having forever settled that question. No man at the South more cheerfully acquiesced in the supremacy of the Union and the abolition of slavery than Colonel EVINS, and up to the end of his busy life he did all he could to rebuild the ruins of the South and to restore fraternal relations between the sections. As he was human, of course he could not at all times wholly divorce himself from the feeling of sectionalism or partisanship, but he was as free from carrying either to excess by vote or speech as any member of this body.

Among his many virtues he had high public spirit, and felt a deep solicitude, as well as aided with his means to the best of his ability, to establish every enterprise intended to develop the resources or promote the general welfare of the community in which he was born, lived, and died. Although reduced from affluence to poverty by the war, he was so successful at the bar and other business that he accumulated a moderate competency for his large family. And notwithstanding he was a splendid economist, there was nothing of the miser about him, and his hand was always open to the unfortunate. No real object of charity ever appealed to him in vain. Nor did he publish it on the house-tops when he aided the distressed. It comes within my knowledge that so generous was he in this regard that he was often imposed upon.

I have briefly spoken of him as a business man, as a citizen, a soldier, attorney, and legislator. What shall be said of him as a husband and father? Nothing can be said in too much praise. In 1861 he married Miss Harriet Choice, of Spartanburg, a young lady of beauty, common sense, and rare accomplishments, who survives to care for their many promising children. Every one who ever saw Colonel EVINS in the bosom of his family always felt happier himself at beholding the unalloyed happiness of that household. His bright children were treated as companions, as all children should be treated by parents, so as to possess their confidence and affection, instead of being held at a distance in rebellious awe. His adored wife was habitually consulted about great as well as small things. Her opinion frequently overruled his own.

When husband and wife have lived together long and happily it is a beautiful provision of nature that they love each other better and better as old age comes on. Especially does the good husband seem to think, as his wife's beauty fades, that she actually grows handsomer and wiser, until finally he learns to look up to her and lean upon her, or rather to honor and obey her almost as a mother. This was charmingly illustrated in the married life of Colonel EVINS.

And here, Mr. Speaker, let us pause for a moment to contemplate the sudden, the extreme, the startling changes from prosperity to adversity, from happiness to misery, that beset humanity. Less than two years ago JOHN H. EVINS was a trusted member of this House, in full possession of the confidence and esteem of his admiring constituents, with a fair prospect of higher honors in store for him. He seemed to be in good health, and was blessed with a happy family, a devoted wife, promising children, troops of friends, prosperous business, and a bright, enduring future appeared assured to him and his. But what a contrast between then and now. He in the grave, his wife a widow, his children orphans. Man, indeed, vibrates like a "pendulum between a smile and a tear," and the uncertainty toward which side his fate will swing

creates such an undefinable dread of the future even in the happiest and most prosperous moments that every one admits—

Life is all a mist,
And in the dark our fortunes meet us.

To crown Colonel EVINS's well-balanced and well-rounded character, he was a sincere Christian, an unfaltering believer in the Presbyterianism of his fathers. But while he adhered tenaciously to the stern doctrine of predestination, he never confounded the acts of will with acts of fate, and regarded free agency as the only means of self-redemption. Nor was there any touch of bigotry in his nature. He believed, as our free Constitution provides, that religion is an affair between man and his God, and that—

If a man's belief is bad,
It will not be improved by burning.

To speak naught but truth of the living and only good of the dead are golden precepts that have come down to us from antiquity. When Colonel EVINS was living nothing dishonest or dishonorable was ever charged against him, although he was a fast friend and an open foe. One of the noblest traits in his admirable character was that he never would under any circumstances permit an absent friend to be slandered in his presence. As nothing ill could be said of him in the flesh, of course nothing but good can be spoken of him in the grave. So if he were brought to trial instead of eulogy, as the Egyptians used to try their dead, no prosecutor could appear against him. What a proud epitaph, yet literally true.

And how did he die? Calmly and resignedly, as every brave, honest man should die, without cowardly repining or vain ostentation. The land of shadows had no terrors for him, because he knew he had to journey through it, and as he had done all the good his means would allow, and as little harm as the frailty of the flesh would permit, he felt that he had no cause to dread the hereafter.

I move the adoption of the resolutions offered by my colleague.

The resolutions were unanimously adopted; and in accordance therewith the House (at 4 o'clock and 5 minutes p. m.) adjourned.

PETITIONS, ETC.

The following petitions and papers were laid on the Clerk's desk, under the rule, and referred as follows:

By Mr. BOYLE: Petition of citizens of Rosstown and of Chartiers Station, Pa., asking for an appropriation for the Allegheny River—to the Committee on Rivers and Harbors.

By Mr. DEUSTER: Memorial of the Chamber of Commerce of Milwaukee, recommending the purchase by the United States Government of the Portage Lake and Lake Superior Ship-Canal—to the Committee on Commerce.

By Mr. LONG: Petition of Milley Estes, of Brockton, Mass., asking for an increase of widows' pensions—to the Committee on Pensions.

By Mr. S. H. MILLER: Petition of 39 citizens of Turkey City, of citizens of Cooksburg, and of 110 citizens of Saint Petersburg, Pa., favoring the improvement of the Allegheny River—to the Committee on Rivers and Harbors.

By Mr. MURPHY: Two petitions of citizens of Omaha, Nebr., asking Congress to construct the Hennepin Canal in the interest of transportation—to the same committee.

By Mr. O'FERRALL: Petition of W. H. Baker, Holmes Conrad, Oscar Barr, C. W. Hensell, and 40 others, citizens of Winchester, Va., for the prompt passage of the Potter refunding bill—to the Committee on Ways and Means.

By Mr. PETERS: Petition of C. S. Bowman and 64 others, ex-soldiers of Harvey County, Kansas, favoring the purchase of Miss Ransom's full-length portrait of General George H. Thomas—to the Committee on the Library.

By Mr. PETTIBONE: Petition of George W. Huntsman, of Hawkins County, Tennessee, for relief—to the Committee on War Claims.

Also, petition of Elizabeth Bell and 20 others, asking for increase of widows' pensions—to the Committee on Pensions.

By Mr. OSSIAN RAY: Petition of C. B. Simpson and 450 others, praying for an increase of pension to George W. Clark, formerly private Company E, Twelfth Regiment New Hampshire Volunteers—to the Committee on Invalid Pensions.

By Mr. REED: A bill for the improvement of the harbor of Portland, Me.—to the Committee on Rivers and Harbors.

Also, petition of Capt. John Linscott and many others, of Orr's Island, Me., for a light-house—to the Committee on Commerce.

By Mr. RIGGS: Petition of Mrs. Jane R. Griswold, for increase of widows' pensions—to the Committee on Pensions.

Also, petition and sworn statement in support of House bill 7979, to restore the name of Clark Heron to pension-roll—to the Committee on Invalid Pensions.

By Mr. POWELL: Petition of citizens of Lexington, Ill., for an increase of widows' pensions—to the Committee on Pensions.

By Mr. SENEY: Joint resolution of the General Assembly of Ohio, requesting the passage of House bill 110, to adjust certain accounts between the United States and the States, Territories, and District of Columbia—to the Committee on Claims.

By Mr. J. D. TAYLOR: Petition of C. A. Gordon and 25 others, asking for an increase of widows' pensions—to the Committee on Pensions.

By Mr. WASHBURN: Petition of the Chamber of Commerce of Minneapolis, Minn., relative to harbor improvements at Grand Haven, Ludington, and Manistee, Mich.—to the Committee on Rivers and Harbors.

Also, resolutions of the Chamber of Commerce of Minneapolis, Minn., relative to acquiring title and ownership of Lake Superior Ship-Canal, Portage Lake Canal, water ways, &c.—to the same committee.

By Mr. J. D. WHITE: Petition for the relief of Mrs. Matilda Cody and others—to the Committee on Invalid Pensions.

The following petitions for the passage of the Mexican war pension bill with Senate amendments were presented and severally referred to the Committee on Pensions:

By Mr. BRENTS: Of citizens of Pomeroy, Columbia County, Washington Territory.

By Mr. CHACE: Of Eliza Whitford and others, of Washington County, and of N. F. Dixon and others, of Narragansett, R. I.

By Mr. D. B. HENDERSON: Of W. A. Morse Post, G. A. R., of Manchester, and 281 citizens of Delaware County, Iowa.

By Mr. KLEINER: Of 100 ex-soldiers and citizens of Posey County, Indiana.

By Mr. LAIRD: Of Oliver J. Moppett and 39 others, soldiers and citizens of Fillmore County; of A. B. Throap and 204 others, soldiers and citizens of Webster County; of Sidney A. Howe and 123 others, soldiers and citizens of York; of L. W. Hastings and 122 others, soldiers and citizens of Aurora; of D. C. Hanger and 176 others, soldiers and citizens of Indianola; of Peter Hendrickson and 30 others, soldiers and citizens of Utica; of J. J. Walley and 60 others, of Edgar; of Robert T. White and 55 others, of Kearney County; of E. H. Fink and 64 others, of Bradshaw; of John Moore and 61 others, of Tobias; of C. F. Broadwell and 79 others, of Webster County; of J. Y. Winings and 99 others, of Franklin; of John T. Early and 150 others, of Saline County; of W. J. Hildreth and 55 others, of Exeter; of S. O. Carman and 147 others, of Thayer County; of T. Q. Spain and 121 others, of Polk County; of Curtis Chandler and 140 others, of Harlan County; of L. N. Long and 165 others, of Fillmore County; of T. A. Adkins and 194 others, of Butler County; and of Edward T. Post and 124 others, of Thayer County, Nebraska.

My Mr. McCOMAS: Of 118 citizens of Frederick County, Maryland.

By Mr. MORGAN: Of J. L. Parham and 60 others, of Saint Clair County; of Thomas Van Swearingen and 44 others, of Montevallo; of W. L. Potter and 30 others, of Barton County; of Anton Eppenaner and 60 others, of Vernon County; and of D. B. Williams and 45 others, of Vernon County, Missouri.

By Mr. REED: Of John Speed, of South Atkinson; of Harvard Whitney and others, of Monroe; of John Bagley, jr., and many others, of Troy; of J. W. Sylvester and many others, of Etna; of James R. Polk and many others, of Freeman; of William H. Hooper and others, ex-soldiers, of York County; of John L. Bradford, of Union; of J. H. Ellis and others, of Smithfield; of A. K. McKenzie and others, of Indian River; of Ignatius Sergent and others, of Machias; and of Robert Colren and others, of East Hampton; and of E. T. Gitchell and others, of Cumberland County, Maine.

By Mr. ROWELL: Of citizens of Macon County, Illinois; of citizens of Piatt County, Illinois.

By Mr. SENEY: Of H. S. Mathias and 105 others, of Crawford County, Ohio.

By Mr. D. H. SUMNER: Of citizens of Fond du Lac County, and of citizens of Dodge County, Wisconsin.

By Mr. VAN ALSTYNE: Of Edgar A. Coon and 112 others, of Albany, N. Y.

By Mr. WELLER: Of Eli S. C. Rogers and 52 others, of Fayette; of Samuel G. Tyrrell and 62 others, of Mitchell County, and W. H. Moore and 81 others, of Brush Creek, Iowa.

SENATE.

WEDNESDAY, *January* 21, 1885.

Prayer by Rev. J. G. BUTLER, D. D., of Washington, D. C.

NAMING A PRESIDING OFFICER.

Mr. ALLISON called the Senate to order, and the Chief Clerk (CHARLES W. JOHNSON) read the following letter:

To the Senate:

Pursuant to the rules, I hereby name and designate Hon. WILLIAM B. ALLISON, a Senator from the State of Iowa, to perform the duties of the Chair in my absence this day.

GEO. F. EDMUNDS,
President pro tempore.

WASHINGTON, D. C., *January* 21, 1885.

Thereupon Mr. ALLISON took the chair as presiding officer for to-day.

THE JOURNAL.

The Journal of the proceedings of yesterday was read and approved.

EXECUTIVE COMMUNICATIONS.

The PRESIDING OFFICER (Mr. ALLISON in the chair) laid before the Senate a communication from the Secretary of War, transmitting, in response to a resolution of the 9th instant, a report of the Chief of Engineers and a report and plat of Newport Harbor, from Lieut. Col. George H. Elliott, Corps of Engineers, in reference to turning over Fort Greene to the city of Newport for use as a public park; which, with the accompanying papers, was, on motion of Mr. SHEFFIELD, referred to the Committee on Military Affairs, and ordered to be printed.

He also laid before the Senate a communication from the Postmaster-General, transmitting, in response to a resolution of the 19th instant, a documentary history of the railway mail service from its origin in 1834 to the present time; which, on motion of Mr. WILSON, was ordered to be printed, and, with the accompanying papers, referred to the Committee on Post-Offices and Post-Roads.

PETITIONS AND MEMORIALS.

The PRESIDING OFFICER presented the petition of Harriet P. Dane and 8 others, nurses in the military service of the United States during the late war, praying for immediate action by Congress on the bill (S. 2248) to provide for the payment of female nurses during the war; which was referred to the Committee on Military Affairs.

Mr. PENDLETON presented a memorial of citizens of Miamisburg, Ohio, remonstrating against the ratification of the proposed Spanish reciprocity treaty; which was referred to the Committee on Foreign Relations.

Mr. CONGER presented the petition of the Franklin Mining Company and citizens of Hancock, Mich., the petition of A. H. Hafenreffer, C. D. Sheldon, Josiah Paul, and other citizens of Houghton County, Michigan, four petitions of citizens of Houghton County, Michigan, and a petition of 128 vessel-owners and citizens of Detroit, Mich., praying for the passage of Senate bill 2522, providing for the purchase by the Government of the two canals across Keweenaw Point, Lake Superior, in the State of Michigan; which was referred to the Committee on Commerce.

REPORTS OF COMMITTEES.

Mr. JACKSON, from the Committee on Claims, to whom was referred the bill (S. 568) for the relief of John B. Davis, reported it without amendment, and submitted a report thereon.

He also, from the same committee, to whom was referred the bill (S. 523) for the relief of Juliet Leef, widow, and the heirs of Henry Leef, deceased, owner of the bark Mary Teresa, illegally seized by Alexander H. Tyler, consul of the United States at Bahia, Brazil, submitted an adverse report thereon, which was agreed to; and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the bill (H. R. 2154) for the benefit of the legal representatives of A. J. Guthrie, reported it without amendment, and submitted a report thereon.

Mr. CAMERON, of Wisconsin, from the Committee on Claims, to whom was referred the bill (H. R. 5849) limiting the time for the presentation and payment of claims against the United States, reported it without amendment, and submitted a report thereon.

Mr. CAMERON, of Wisconsin. I am directed by the Committee on Claims, to whom was referred the bill (H. R. 5322) for the benefit of William H. Wheeler, to report it adversely. I ask that the bill be placed upon the Calendar with the adverse report.

The PRESIDING OFFICER. The bill will be placed on the Calendar with the adverse report of the committee.

Mr. HOAR, from the Committee on Claims, to whom was referred the bill (H. R. 754) for the relief of Nathan H. Dunphe, of Bridgewater, in the State of Massachusetts, reported it without amendment, and submitted a report thereon.

YOST HARBAUGH.

Mr. PIKE. I am instructed by the Committee on Claims, to whom was referred the bill (H. R. 4681) for the relief Yost Harbaugh, to report it without amendment. I ask the consent of the Senate that the bill may be put upon its passage at this time.

Mr. PLATT. Let it be read for information.

The Chief Clerk read the bill, and, by unanimous consent, the Senate, as in Committee of the Whole, proceeded to its consideration. It directs the Secretary of the Treasury to pay to Yost Harbaugh $70, for his services as messenger in the office of the Third Auditor of the Treasury from October 10 to November 10, 1876.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

BILLS INTRODUCED.

Mr. PIKE introduced a bill (S. 2567) for the relief of Rachael J. Floyd; which was read twice by its title, and referred to the Committee on Pensions.

He also introduced a bill (S. 2568) granting a pension to Mrs. Adeline E. Chadbourne; which was read twice by its title, and referred to the Committee on Pensions.

Mr. McMILLAN introduced a bill (S. 2569) granting a pension to Mrs. Lydia S. Huggins; which was read twice by its title, and referred to the Committee on Pensions.

Mr. CULLOM introduced a bill (S. 2570) granting an increase of pension to Col. Samuel M. Thompson; which was read twice by its title, and referred to the Committee on Pensions.

AMENDMENT TO A BILL.

Mr. CAMERON, of Wisconsin, submitted an amendment intended to be proposed by him to the sundry civil appropriation bill; which was referred to the Committee on Appropriations, and ordered to be printed.

TAX ON DISTILLED SPIRITS.

Mr. WILSON submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Treasury be, and he hereby is, directed to communicate to the Senate copies of all official letters and other correspondence in his department of date subsequent to the 30th of November, 1884, relating to the collection or postponement in any manner of the tax upon distilled spirits, and not accompanying his communication to the Senate in response to its resolution of the 13th instant.

LANDS IN INDIAN TERRITORY.

The PRESIDING OFFICER. The Chair lays before the Senate the resolution submitted yesterday by the Senator from Kansas [Mr. PLUMB], which will be read.

The Chief Clerk read the resolution, as follows:

Whereas the United States in 1866 acquired from the Creek and Seminole Indians, by treaty, certain lands situate in the Indian Territory, a portion of which have remained unoccupied until the present time; and

Whereas a widely extended belief exists that such unoccupied lands are public lands of the United States, and as such subject to homestead and pre-emption settlement, and pursuant to such belief a large number of citizens of the United States have gone upon them claiming the right to settle and acquire title thereto under the general land laws of the United States; and

Whereas it is understood that the President of the United States does not regard said lands as open to settlement, and believes it to be his duty to remove all persons who go upon the same claiming the right to settle thereon, and for that purpose has directed the expulsion of the persons now on said lands by the use of military force, and there seems to be a probability of a conflict growing out of the attempt to expel said persons so claiming right and attempting to settle: Therefore,

Resolved, That the President be requested to advise the Senate as to the status of the lands in question as viewed by the Executive, the action taken, if any, to expel persons seeking to settle thereon, and the reason for the same, together with any other information in his possession bearing upon the existing controversy.

Mr. CONGER. Let that lie over.

Mr. INGALLS. Mr. President——

The PRESIDING OFFICER. The resolution is in order this morning, having been submitted yesterday.

Mr. INGALLS. I was about to observe that my colleague [Mr. PLUMB] is unavoidably absent from the Senate to-day, and I presume he would prefer to be present when action is taken upon the resolution. I will therefore ask that it may lie over until to-morrow, retaining its place on the Calendar of Resolutions, if that will be agreeable to the Senator from Michigan.

Mr. VEST. I have not the slightest objection to the resolution going over on account of the absence of the Senator's colleague, but I wish to offer a substitute for the resolution. I desire simply to have the substitute printed and go over with the original resolution.

Mr. INGALLS. I should like to have the substitute reported.

Mr. VEST. Certainly; let it be read.

The PRESIDING OFFICER. The amendment proposed as a substitute by the Senator from Missouri will be read at the desk.

The Chief Clerk read as follows:

Resolved by the Senate and House of Representatives of the United States in Congress assembled, That the Secretary of the Interior is hereby directed and empowered to ascertain by communication with the authorities of the Creek and Seminole Nations of Indians in the Indian Territory upon what terms the said nations will relinquish and convey to the United States all their right, title, and interest in and to all that country described in Article III of the treaty made between the United States and the Creek Nation on June 14, 1866, as "the west half of their entire domain, to be divided by a line running north and south," the lands so described in the treaty being now known as Oklahoma, and being fully described in Senate Executive Document No. 109, Forty-eighth Congress, first session, page 4; and the lands described in Article III of the Seminole treaty of March 21, 1866 (14 Statutes, 756).

That the Secretary of the Interior shall communicate with the authorities of the Creek and Seminole Nations immediately by special agent or otherwise, as he may deem necessary, and transmit the result to Congress.

The PRESIDING OFFICER. The Senator from Kansas asks that the resolution may lie over for the day, retaining its place on the Calendar. Is there objection?

Mr. CONGER. I shall not make the motion this morning, but I shall ask to-morrow, or whenever the resolutions are called up, that they be referred to the Committee on Indian Affairs. If the Senator who presented the substitute thinks it will facilitate the consideration of them not to have it done this morning, I shall not make the motion, but I suggest that the reference had better be made now.

Mr. DAWES. I was not in when the last resolution was read. Is it proposed as an amendment to the resolution offered yesterday by the Senator from Kansas?

The PRESIDING OFFICER. The Senator from Missouri offers an amendment in the nature of a substitute for the resolution submitted

yesterday by the Senator from Kansas. The amendment will be printed, and the whole question will lie over until to-morrow morning without prejudice, there being no objection.

Mr. INGALLS. To be called up under the order of resolutions.

The PRESIDING OFFICER. To be laid before the Senate when "concurrent or other resolutions" shall be in order.

Mr. VEST. I was about to say that my resolution is insisted upon in order to save time, because time is of very great importance now. I do not want to be at all discourteous to the absent Senator from Kansas, but if the question of reference is to be determined by the Senate I should be very glad to have it done now. I have no objection to the matter going to the Committee on Indian Affairs to be reported back to the Senate.

Mr. CONGER. I think the subject-matter of the resolutions should have the consideration of the Committee on Indian Affairs and should also be considered by the Committee on Territories. They are important resolutions and affect very materially the status of the Indian Territory, or some portions of it, a part of which the Committee on Territories have had under their consideration.

Mr. DAWES. All the matters contained, as well in the resolution offered yesterday as the resolution offered to-day, have been before the Committee on Indian Affairs at this Congress and have been considered by them. The conclusions of that committee have been reported to the Senate, and the Senate have adopted those conclusions, and their report is upon our tables. Therefore it would be entirely useless to have the subject recommitted to that committee.

I am inclined to think if any good can come from the resolution offered by the Senator from Kansas, it will be as a basis of communication to the deluded people who are down in that Territory of the exact position which they occupy in relation to the law of the land. Some good may come from an opportunity being given to the President of the United States to reproclaim the position which he has time and again announced in proclamations to those people, so that they may see again and anew and afresh that they are in the place they are in violation of law, and that it is his bounden duty, in accordance with the oath he has taken, to maintain the supremacy of the law there. So I think some good may come from the adoption of the resolutions. When they come up for consideration I shall feel it to be the duty of some member of the Committee on Indian Affairs to state to the Senate what has been done heretofore to make it apparent to those people that they had no right to go there, and that they were invading other people's rights rather than that (as I see it announced in another part of this Capitol) the President of the United States is invading the rights of citizens of this country in maintaining the law of the land.

Mr. VEST. Before the matter goes over I should like to state to the Senator from Michigan that he is mistaken in regard to the question involved in either of the resolutions ever having been before the Committee on Territories, at least during the last two sessions. There is now a bill before the Committee on Territories in reference to the public lands and a portion of the Cherokee lands outside of the limits of the Indian Territory, but there is no bill pending before the Committee on Territories in regard to this Oklahoma territory, which is a different territory entirely, and all of which is inside of the Indian country proper, as the statutes call it. I will say now, without undertaking to discuss the question, for it is a very large one and a very serious one, that the last advices from the Indian Territory are that the United States troops are prevented only by high water from a conflict with the people who have gone in there, I think under a very great mistake, and led by a lot of very bad men; but I do not undertake to discuss the matter.

I ask Senators who feel any interest in the question to look at Executive Document 109, and they will find a full discussion of this entire subject, a description of all the lands in the Indian Territory, and all the information that can possibly be obtained from any Department of the Government upon the subject.

Mr. DAWES. Would not the Senator like to have that document looked at in connection with Senate Report No. 64?

Mr. VEST. Yes; the two documents give all the information that it is possible to obtain.

The PRESIDING OFFICER. This debate is proceeding by unanimous consent, the resolution and the substitute having gone over in the absence of the Senator from Kansas [Mr. PLUMB].

JULIA HARTLEY.

Mr. CULLOM. Yesterday I made an adverse report from the Committee on Pensions on the bill (S. 2535) granting a pension to Mrs. Julia Hartley. I am informed by the junior Senator from Minnesota [Mr. SABIN] that there is other evidence which he desires to have considered by the committee. I move that the bill be recommitted to the Committee on Pensions.

The motion was agreed to.

ORDER OF BUSINESS.

Mr. PIKE. I desire unanimous consent to call up the bill (S. 1025) for the relief of William Ervin. It is a very just claim, and I do not think there will be any opposition to it.

Mr. MORGAN. I prefer that the Chair would lay before the Senate the bill called the Des Moines bill, in order that it may be disposed of before any other business is taken up. That was made the special order for the morning hour to-day.

The PRESIDING OFFICER. The Senator from Alabama objects.

Mr. MORGAN. I do not object to the bill indicated by the Senator from New Hampshire being called up, but I merely desire that the Des Moines bill may be disposed of before the Senator's bill comes up.

The PRESIDING OFFICER. The Senator from New Hampshire will delay a few moments until the regular order is laid before the Senate, being the Calendar under Rule VIII.

Mr. PIKE. Very well.

EFFICIENCY OF THE ARMY.

The bill (S. 1420) to increase the efficiency of the Army of the United States was announced as first in order on the Calendar.

The PRESIDING OFFICER. This bill will lie over, on the request of the Senator from Illinois [Mr. CULLOM], until the return of his colleague [Mr. LOGAN].

DES MOINES RIVER LANDS.

The bill (S. 1886) to quiet title of settlers on the Des Moines River lands, in the State of Iowa, and for other purposes, was announced as next in order on the Calendar.

Mr. MORGAN. In the absence of the Senator from Kansas [Mr. PLUMB], who is unavoidably detained from the Senate to-day, I ask that the bill may be passed over without prejudice until to-morrow, retaining its place.

The PRESIDING OFFICER. The Senator from Alabama asks that the pending bill be passed over until to-morrow without prejudice. The Chair hears no objection, and that order will be made.

WILLIAM ERVIN.

Mr. PIKE. I now move that the Senate proceed to the consideration of the bill (S. 1025) for the relief of William Ervin.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from New Hampshire.

Mr. COCKRELL. I should like to know why there is any reason that that bill should be proceeded with, being a Senate bill, in preference to a large number of other cases which seem to be equally meritorious and which have precedence in order of time upon the Calendar. It seems to me that we ought to proceed with the Calendar, and we can probably reach all the cases of which any final disposition can be made at this Congress. If there is no possibility of the bill being disposed of at this Congress, there will be very little use in consuming the time of the Senate in passing it. I make that suggestion to the Senator from New Hampshire.

The PRESIDING OFFICER. This is not a debatable motion. The Senator from New Hampshire moves to take up the bill indicated by him.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. It directs the Secretary of the Treasury to pay to William Ervin, his heirs or assigns, $7,650, being the value of one hundred and eighty head of beef-cattle seized unlawfully and taken out of his possession in Kansas, in the year 1862, by order of Col. Charles R. Jennison, commanding the Seventh Regiment Kansas Cavalry, United States Volunteers, the beef-cattle having been used as subsistence for the officers and soldiers of that regiment.

Mr. HOAR. Is that a Senate bill?

The PRESIDING OFFICER. It is a Senate bill.

Mr. HOAR. I suggest to my friend from New Hampshire to strike out the words "his heirs or assigns" and to insert the words "or his legal representatives." The word "heir" is technically appropriate, but there is a law in regard to assigns.

Mr. PIKE. I have no objection to those words being stricken out. I move that amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment, in lines 4 and 5, to strike out the words "his heirs or assigns" and to insert "or his legal representatives;" so as to read:

William Ervin or his legal representatives.

The amendment was agreed to.

Mr. COCKRELL. Is there any report in that case? If there is, let it be read.

The PRESIDING OFFICER. The report will be read.

The Chief Clerk read the following report submitted by Mr. PIKE June 16, 1884:

The Committee on Claims, to whom was referred the bill (S. 1025) for the relief of William Ervin, having considered the same, beg leave to make the following report:

In the year 1862 the claimant was a resident of Kansas and the owner of one hundred and eighty head of cattle which were pasturing near Emporia. About April 15, 1862, the said cattle were taken from the claimant by the order of Col. Charles R. Jennison, commanding the Seventh Regiment Kansas Cavalry, and used by such regiment for food.

This appears from the sworn statement of the claimant himself, and the affidavits of Col. Charles R. Jennison and First Lieut. John A. Tanner. Colonel Jennison says the regiment was in want of beef, and he ordered the seizure of the claimant's cattle, and the same were used for the subsistence of his officers and men, and he did not pay for them. Lieutenant Tanner swears the cattle were taken by the command of Colonel Jennison, and were used for the subsistence of the regiment.

Charles F. Garrett and James S. Emery, residents of the city of Lawrence, Kans., swear they were well acquainted with the claimant from 1857 to 1866, and

during that time they knew he was thoroughly loyal to the United States Government.

James Angus swears he was employed by the claimant in the month of April, 1862, herding one hundred and eighty head of cattle, and that about the 15th day of April the said cattle were taken from the possession of the claimant by the Seventh Regiment Kansas Cavalry. Furthermore that he has a distinct recollection that a few days prior Saint Louis cattle-dealers offered the claimant $42.50 a head for these cattle, but the claimant declined to sell them at that price.

The claimant himself swears to receiving the same offer, but that he declined because he considered them worth $55 a head.

In explanation of the long delay in presenting his claim to Congress the claimant swears that in the year 1867 he placed his claim in the hands of a Mr. L. M. O'Brien for prosecution, who, being unable to attend to it, turned it over to Chipman & Hosmer, claim agents in Washington, D. C., together with a number of affidavits of persons who knew of the taking of the cattle. Chipman & Hosmer told the claimant he must furnish the statements of some officers in command of the Seventh Regiment Kansas Cavalry relative to taking his cattle. The claimant was unable to find officers who had knowledge of the transaction until last year, when he procured the affidavits above mentioned of Colonel Jennison and Lieutenant Tanner. For the lack of such evidence Chipman & Hosmer did not present and prosecute the claim.

A letter from Chipman & Hosmer, dated April 30, 1867, acknowledges the receipt of the claim and accompanying papers.

The claimant holds no receipts from Colonel Jennison or any of his command for the cattle, but from records in the War Department it appears that the Seventh Regiment Kansas Cavalry were careless and reckless, accustomed to appropriate property of both friend and foe to their own use, rarely, if ever, giving vouchers therefor. Many complaints were entered against them by different generals who commanded the division in which they were, and finally Colonel Jennison was obliged to leave the service on account of his unsoldierly conduct.

For the above reasons your committee attach less importance to the want of vouchers.

Your committee think the claim is fully substantiated by the evidence, and that the amount offered for the cattle by the Saint Louis cattle dealers—$42.50 per head—just prior to their seizure, is a fair price; they therefore recommend the passage of the bill.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

APPORTIONMENT OF IDAHO TERRITORY.

The PRESIDING OFFICER. The next bill on the Calendar in regular order will be announced.

The bill (S. 1021) to authorize the reapportionment of the Territory of Idaho into council and representative districts was announced as next in order.

Mr. PLATT. That bill came up yesterday and was passed over informally upon my request. It was reported some time ago. On examination of the bill I find that it will be necessary to change the date when a commission authorized in the bill shall report. To do so intelligently, I felt that it was necessary to find the Delegate from the Territory, but I have been unable to find the Delegate from the Territory. I therefore ask that the bill may be passed over without prejudice for the present.

The PRESIDING OFFICER. The Senator from Connecticut asks that this bill go over without prejudice. The Chair hears no objection.

TENEDORE TEN EYCK.

The bill (S. 1300) to authorize the President to restore Tenedore Ten Eyck to his former rank in the Army, and to place him upon the retired-list of Army officers, was announced as next in order.

Mr. COCKRELL. Unless this matter can lie over until to-morrow morning, retaining its place on the Calendar, I shall be compelled to object to the bill. I am just examining the papers in the case, and it is a very unsatisfactory case to me. I was opposed to it in the Committee on Military Affairs and have been and am now. I think it exceedingly vicious and dangerous, and I think I can show it if I have a little more time to examine the papers. I shall either object to its consideration or let it lie over until to-morrow morning.

Mr. CULLOM. As I understand, the Senator from South Carolina [Mr. HAMPTON] reported the bill, and I see he is not in his seat. I shall be glad to have him present when the bill is considered. I see he is coming now.

The PRESIDING OFFICER. The Senator from Missouri asks that this bill may lie over until to-morrow without prejudice.

Mr. COCKRELL. I simply suggest that to the friends of the bill.

Mr. CULLOM. The Senator from South Carolina has come in.

Mr. COCKRELL. I suggest that this bill lie over, that I may have further time to examine it.

Mr. HAMPTON. I will acquiesce in the request of the Senator from Missouri.

The PRESIDING OFFICER. The bill will go over until to-morrow without prejudice.

S. N. WOOD.

The bill (S. 1554) for the relief of S. N. Wood was announced as next in order.

Mr. CAMERON, of Wisconsin. Let that go over.

The PRESIDING OFFICER. The bill is objected to.

VALUATION OF AUSTRIAN FLORIN.

The bill (S. 459) to refund excessive duties caused by extraordinary overvaluation of the Austrian florin in the year 1878 was announced as next in order.

The PRESIDING OFFICER. The bill is reported adversely.

Mr. BECK. Let it go over.

Mr. COCKRELL. Let it take its place on the other Calendar under Rule IX.

The PRESIDING OFFICER. The bill is objected to and goes over.

POSTAL-TELEGRAPH SYSTEM.

The bill (S. 2022) to establish a postal-telegraph system was announced as next in order.

Mr. WILSON. I suggest that that be allowed to pass over to retain its place until the return of the Senator from Colorado [Mr. HILL], the chairman of the Committee on Post-Offices and Post-Roads.

Mr. COCKRELL. I should have no objection in the world to its retaining its place on the Calendar; but we have now got enough cases on the Calendar laid over in this way to consume five or ten minutes every morning in calling them. It is manifest that this bill can not be considered under the five-minute rule in the morning hour, and it loses nothing by taking its place on the other Calendar, because it can be called up by a majority vote at any time.

Mr. WILSON. I suggest that it may be well to let it pass over until the return of the Senator from Colorado, who may then indicate the course he desires to have taken in reference to the bill.

The PRESIDING OFFICER. The Chair hears no objection, and the bill will be passed over without prejudice.

MISSISSIPPI RIVER BRIDGE AT SAINT LOUIS.

The bill (S. 200) authorizing the construction of a bridge over the Mississippi River at Saint Louis, Mo., was considered as in Committee of the Whole.

The bill was reported from the Committee on Commerce with an amendment, to strike out all after the enacting clause and insert:

That it shall be lawful for the Illinois and Missouri Railway Company, a corporation created by the laws of the States of Missouri and Illinois, or its assigns or successors, or any other legally incorporated railroad company or companies which may be associated with it therein, to build a bridge as hereinafter described, and maintain the same, across the Mississippi River, at any point north of Grand avenue, in the city of Saint Louis and State of Missouri.

SEC. 2. That the bridge to be constructed under this act and in accordance with its limitations shall be a lawful structure, and shall be recognized as a post-route; and for the transmission of the mails, troops, and munitions of war of the United States passing over said bridge no higher charge shall be made than the rate per mile paid for their transportation over the railroads and public highways leading to said bridge; and the United States shall have the right of way for postal-telegraph purposes over said bridge.

SEC. 3. That if said bridge be located below a point four and one-half miles above Grand avenue, it shall be made with unbroken and continuous spans; it shall have at least two channel-spans of not less than four hundred and fifty feet clear width of channel-way each, or one span of five hundred feet clear width of channel-way, the said channel-ways to be measured at right angles to the current at any and all stages of water, and a clear head-room under each channel-span of not less than fifty feet, measured to the lowest part of the superstructure at extreme high water. The said high span or spans shall be placed over the best channel or channels of the river at all stages of water; and in case the channel is variable, the length or number of channel-spans shall be increased so as to furnish a good and navigable passage for all classes of boats under some parts of the bridge at all navigable stages of water; and all other spans covering the water way between the shore-lines of the river at average boating stage shall be at least three hundred feet in length, and the clear head-room under such spans shall not be less than ten feet at extreme high water.

SEC. 4. That if said bridge be located above a point four and one-half miles above said Grand avenue, it may be constructed either as a high bridge or as a low bridge. It shall, if a high bridge, have at least two channel-spans of not less than four hundred feet clear width of channel-way each, or one span of five hundred feet clear width of channel-way, the said channel-ways to be measured at right angles to the current at any and all stages of water, and a clear head-room under each channel-span of not less than fifty feet, measured to the lowest point of the superstructure at extreme high water. The said high span or spans shall be placed over the best channel or channels of the river at all stages of water; and in case the channel is variable, the length and number of channel-spans shall be increased so as to furnish a good and navigable passage for all classes of boats under some parts of the bridge at all navigable stages of water; and all other spans covering the water way between the shore-lines of the river at average boating stage shall be at least three hundred feet in length, and the clear head-room under such spans shall not be less than ten feet at extreme high water. Said bridge shall, if a low bridge, have at least one draw or pivot-span opening of not less than four hundred feet clear channel-way, measured at right angles to the currents at all navigable stages of the river, which shall be located over that channel of the river which is most convenient and accessible to boats with tows at all navigable stages of water; and in case that such location be not easily accessible by all classes of boats at all such stages, then another draw or pivot-span opening shall be provided elsewhere for the passage of single boats, which said draw or pivot-span shall have at least one opening of not less than two hundred feet clear channel-way, measured at right angles to the currents at all navigable stages of the river; and that all fixed spans between the shore-lines at the average navigable stage of water shall be three hundred feet or more in length, and that the clear head-room under such spans shall not be less than ten feet at extreme high water.

SEC. 5. That in case said bridge be constructed as a low bridge, as provided in section 4, there shall be at least one protection-pier of masonry, crib-work, or piling, extending from the upper end of a pivot-pier or one of the rest-piers of a draw-span, up stream, for a distance of not less than five hundred feet from the center line of the bridge, or such other distance as may be determined by the Secretary of War, which protection-pier shall be properly arranged with ring-bolts and fender-planking so as to enable boats to tie up alongside of it and drop down through the draw-openings at such times as it may be dangerous to attempt the passage of the draw-opening under headway.

SEC. 6. That all draw or pivot-spans authorized by this act shall be operated by steam or other reliable mechanical power, and shall be opened promptly upon reasonable signal for the passage of boats, except when trains are passing over said span or spans; but in no case shall unnecessary delay occur in opening said draw after the passage of trains; and in case the opening of a draw be delayed by reason of the passing of a train after the signal has been given from a boat ready to pass through, the draw shall be opened for the passage of such boat before another train is allowed to pass over the bridge.

SEC. 7. That the piers of all high-channel spans and all pivot-spans shall be built parallel with the current of the river at that stage of water which is most

important for navigation; and riprapping or other protection for imperfect foundations which will materially lessen the water way shall not be employed in the channel-ways of the high spans or of the draw-openings; and piers which will produce cross-currents or bars dangerous to navigation shall not be constructed; and if, after construction, any piers or protection-walls are found to produce the above-mentioned effects, the nuisance shall be abated or corrected by or at the expense of the persons owning said bridge.

SEC. 8. That in case the approaches to draw-span openings, channel-spans, or raft-passages in said bridge be found to be dangerous or difficult of access by any important class of river traffic, the Secretary of War shall order the construction of such sheer-booms, guide-piers, or other similar device as will obviate the difficulty, which sheer-boom, guide-pier, or other device shall be paid for by the persons owning said bridge.

SEC. 9. That the persons owning, controlling, or operating the bridge authorized by this act shall maintain at their own expense, from sunset to sunrise, throughout the year, and during heavy fogs, such lights or other signals as the Light-House Board shall prescribe, and shall, in case a high bridge be constructed, during the season of navigation, have posted in a conspicuous place on or near the bridge, the clear headroom under the channel-span on that day, the figures expressing this height to be not less than two feet high, and to be readily visible from any point in the channel of the river for a stretch of 3,000 feet above and 1,000 feet below the bridge.

SEC. 10. That no bridge shall be erected or maintained under the authority of this act which shall at any time substantially or materially obstruct the free navigation of said river; and if any bridge erected under such authority shall, in the opinion of the Secretary of War, obstruct such navigation, he is hereby authorized to cause such change or alteration of such bridge to be made as will effectually obviate such obstruction; and all such alterations shall be made and all such obstructions be removed at the expense of the persons owning or controlling said bridge; and in case of any litigation arising from any obstruction or alleged obstruction to the free navigation of said river caused or alleged to be caused by said bridge, the case may be brought in the circuit courts of the United States of Missouri or Illinois in which any portion of said bridge may be located.

SEC. 11. That all railroad companies desiring the use of said bridge shall have and be entitled to equal rights and privileges relative to the passage of railway trains over the same, and over the approaches thereto, upon a payment of a reasonable compensation for such use; and in case the owner or owners of said bridge and the several railroad companies, or any one of them, desiring such use shall fail to agree upon the sum or sums to be paid, and upon the rules and conditions to which each shall conform in using said bridge, all matters at issue between them shall be decided by the Secretary of War upon a hearing of the allegations and proofs of the parties.

SEC. 12. That any bridge authorized to be constructed under this act shall be built and located under and subject to such regulations for the security of navigation of said river as the Secretary of War shall prescribe; and the said company or corporation shall submit to the Secretary of War, for his examination and approval, a design and drawings of the bridge, and a map of the location, giving, for the space of five miles above and one mile below the proposed location of the bridge, the topography of the banks of the river, the shore-lines at high and low water, the direction and strength of the current at all stages, and the soundings, accurately showing the bed of the stream, the location of any other bridge or bridges, and shall furnish such other information as may be required for a full and satisfactory understanding of the subject; and until the said plan and location of the bridge are approved by the Secretary of War the bridge shall not be built; and should any change be made in the plan of said bridge during the progress of construction, such change shall be subject to the approval of the Secretary of War.

SEC. 13. That in case the construction of the bridge authorized in this act be not commenced within three years from the date of its approval, then this act shall be null and void.

SEC. 14. That the right to alter, amend, or repeal this act is hereby expressly reserved.

Mr. McMILLAN. I should like to inquire of the Senator from Missouri whether the provisions in this bill conform entirely to the recommendations of the Chief of Engineers with reference to the width of span in both the cases of a high bridge and a low bridge, which ever may be erected.

Mr. VEST. Yes, sir; this is a bill prepared by the Engineer Bureau. It was drawn by me and sent to the Committee on Commerce and carefully altered by the engineers in regard to the time when the work should be commenced, requiring it to be within three years, and also that jurisdiction shall be given to the circuit court either of Illinois or Missouri. The bill, as sent by the Engineer Corps, provided for jurisdiction in Illinois alone. This provides for a high or a low bridge, just as the Engineer Corps proposed.

Mr. CAMERON, of Wisconsin. I inquire of the Senator from Missouri [Mr. VEST], who I see reported the bill from the Committee on Commerce, whether, in his opinion, it contains all the usual provisions necessary in bills for the erection of bridges over the Mississippi River for the protection of navigation and commerce?

Mr. VEST. It does. It is a bill very carefully drawn and guarded in every way possible, and not subject to any of the objections made to the original bill. I drew the original bill which was sent to the Engineer Bureau, and this is the substitute proposed by the bureau, one of the best bills ever submitted on this subject.

Mr. CONGER. I think there are more provisions embodied in this amendment—some that we recommended for a general bill—than have generally been imposed in regard to sheer-booms and lights and openings and such things.

The PRESIDING OFFICER. The question is on the amendment proposed by the Committee on Commerce.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

COMMISSION TO CENTRAL AND SOUTH AMERICA.

The next bill in order on the Calendar was the bill (S. 1700) to authorize the appointment of three commissioners to visit the principal countries of Central and South America for the purpose of collecting information looking to the extension of American trade and commerce, and the strengthening of friendly and mutually advantageous relations between the United States and all the other American nationalities.

Mr. CAMERON, of Wisconsin. The substance of the bill which the Secretary is about to read was included in an appropriation bill at the last session, and the commission are now performing their duty, so that this may as well be indefinitely postponed.

The PRESIDING OFFICER. The Senator from Wisconsin moves the indefinite postponement of the bill.

The motion was agreed to.

RICHARD PHŒNIX.

The bill (S. 1860) for the relief of Richard Phœnix was announced as next in order.

Mr. HARRIS. That is adversely reported. Let it go over.

Mr. MILLER, of California. Let it be indefinitely postponed.

Mr. HARRIS. Very well.

The PRESIDING OFFICER. The Senator from California moves that the bill be indefinitely postponed.

The motion was agreed to.

COURT OF APPEALS.

The bill (S. 2035) to establish a court of appeals was announced as next in order.

Mr. HOAR. Before the bill is read so as to have it open to objection, I ask unanimous consent to make a brief statement.

The PRESIDING OFFICER. The Senator from Massachusetts asks unanimous consent to make a brief statement with regard to this bill. Is there objection? The Chair hears none.

Mr. HOAR. Mr. President, this bill has passed the Senate once. It is the bill popularly known as the David Davis bill for the relief of the Supreme Court of the United States. It has passed the Senate once with something approaching unanimity, I believe. I am not quite certain in my recollection about the vote, but it has, I am satisfied, the concurrence of both sides of the Chamber. It is a Senate bill, and, if it goes down to the House, I suppose I am violating no rule in saying that it can not pass that body much before the close of the session of Congress, so that the appointments to be made under this bill, beyond all reasonable question, will be made by the incoming, and not by the present, administration.

I say that very frankly so that no gentleman may be determined in regard to giving it consideration now by any apprehension that a large number of new appointments will be made by an administration just expiring. There can be no expectation that that will happen. I hope therefore that the bill may be considered at the present time and sent down to the House for their action.

Mr. JONAS. I object to the consideration of the bill. I think there is very decided opposition to the bill. The Senator is mistaken in that respect.

Mr. HOAR. I move to take up the bill for present consideration, nothwithstanding the objection.

The PRESIDING OFFICER. The Senator from Massachusetts moves to take up for consideration this bill notwithstanding the objection. The question is on that motion.

Mr. JONAS. I call for the yeas and nays.

The yeas and nays were ordered and taken.

Mr. FRYE. I am paired with the Senator from Louisiana [Mr. GIBSON] who is detained from the Senate by sickness.

The result was announced—yeas 26, nays 13; as follows:

YEAS—26.

Aldrich,	Dawes,	Jackson,	Platt,
Allison,	Fair,	Lapham,	Pugh,
Bayard,	Hampton,	Miller of Cal.,	Sabin,
Brown,	Harrison,	Morrill,	Sewell,
Butler,	Hawley,	Palmer,	Van Wyck.
Cameron of Pa.,	Hoar,	Pendleton,	
Cameron of Wis.,	Ingalls,	Pike,	

NAYS—13.

Cockrell,	Jonas,	Sawyer,	Wilson.
Conger,	Miller of N. Y.,	Sherman,	
George,	Morgan,	Slater,	
Harris,	Riddleberger,	Vest,	

ABSENT—37.

Beck,	Farley,	Kenna,	Ransom,
Blair,	Frye,	Lamar,	Saulsbury,
Bowen,	Garland,	Logan,	Sheffield,
Call,	Gibson,	McMillan,	Vance,
Camden,	Gorman,	McPherson,	Voorhees,
Coke,	Groome,	Mahone,	Walker,
Colquitt,	Hale,	Manderson,	Williams.
Cullom,	Hill,	Maxey,	
Dolph,	Jones of Florida,	Mitchell,	
Edmunds,	Jones of Nevada,	Plumb,	

So the motion was agreed to.

The PRESIDING OFFICER. The bill is before the Senate as in Committee of the Whole, and will be read.

The Chief Clerk read the bill.

Mr. HOAR. Section 2, which fixes when the jurisdiction of the old circuit court is to terminate, should be changed from "eighty-four" to "eighty-five," in line 5. I move that amendment.

The PRESIDING OFFICER. The amendment is to strike out

"eighty-four" and insert "eighty-five" in line 5 of section 2; so as to read "December, 1885."

The amendment was agreed to.

Mr. BAYARD. I would suggest that the same amendment in section 7 is required.

The PRESIDING OFFICER. The same amendment is proposed in line 4 of section 7 after the word "and," to strike out "eighty-four" and insert "eighty-five."

Mr. HOAR. Then in section 9, line 12, the word "five" should be "six;" so as to read:

The first term of said court shall be held at each of said places on the second Tuesday in May, 1886.

The PRESIDING OFFICER. The amendments will be considered as agreed to unless objection be made.

Mr. MORGAN. I ask the Senator from Massachusetts to explain what provision is made for writs of error in criminal cases.

Mr. HOAR. Section 8 provides for it. Let that section be read again if the Senator from Alabama desires. That will answer his question.

The PRESIDING OFFICER. Section 8 will be read.

The Secretary read section 8, as follows:

SEC. 8. That a writ of error, if allowed by a judge of the proper court of appeals, may be sued out of that court from the final judgment of a circuit or district court in any criminal case to such court of appeals within ninety days after the entry of such judgment; but such writs shall not operate as a stay of proceedings, except in capital cases, unless it is so ordered by the judge who shall allow the writ, nor after a refusal to allow the writ by one such judge shall it be allowed by another judge. The judgment upon such writ shall be final unless certified as hereinafter provided in the tenth section of this act, and shall be remitted to the circuit or the district court appealed from, to be enforced according to law.

Mr. MORGAN. The precise point I was trying to get at was whether the right to a writ of error was absolute, or whether it was dependent upon its allowance by the court that tried the cause.

Mr. HOAR. It is neither. It depends upon the allowance by a judge of the appellate court, not by the judge who tried the cause on the one side, nor is it an absolute right on the other. It is like a writ of error to the Supreme Court of the United States now, which I do not understand to be strictly absolute, but the judge must be satisfied that the case raises a jurisdictional question.

Mr. MORGAN. The appellate court, then, or a judge of the appellate court in vacation, for instance, can take the record of conviction, examine it, and see whether he is satisfied that the cause ought to go up.

Mr. HOAR. No; it does not change the existing practice of the courts in that respect. No change of law is made. It is the same law under which we have lived from the foundation of the Government which is continued. I understand that law to be, not exactly that the judge should be satisfied that the case ought to go up, because the question may be the most frivolous question; still if the parties choose to carry it up, the judge is only to be satisfied, as I understand, that the facts on which the writ of error is based exist—that is, that there has been such a trial in the court below and that the case presents the jurisdictional question. That is my general understanding of the matter.

Mr. MORGAN. I think there is some difficulty in applying the existing rule of practice in the Supreme Court as fixed by law and by the rules of that court to criminal causes, and we ought to be a little careful about how we make the application. The judge of the Supreme Court of the United States, or the Supreme Court of the United States, or the judge of the supreme court of a State from which a Federal question is to be carried to the Supreme Court of the United States by a writ of error in a civil cause, takes the record and examines it, as the Senator from Massachusetts has said, for the purpose really of ascertaining whether there is in that record a Federal question, a question of which the Federal Supreme Court would have jurisdiction; and if he ascertains that there is such a question involved, then he orders that the writ of error shall issue, or he issues it himself, directed to the inferior court, and thereupon such proceedings are had as that the record is transferred into the Supreme Court of the United States.

Now, we undertake in this bill, as I understand it, to adapt that practice to criminal cases. We have had no right of appeal or writ of error in criminal cases from any inferior court of original jurisdiction of the United States to the Supreme Court; we have had from the district courts of the United States to the circuit courts, and in those cases the right to a writ of error or the right to have the revisory power of the circuit court exercised over the court of original and inferior jurisdiction has been an absolute right, not one dependent upon the opinion of the judge as to whether the case when presented in the appellate court would be within the jurisdiction of that court or not.

I think that in a bill of this character, organizing an intermediate court of appeals, or an intermediate supreme court, having a power of final adjudication upon the life of a man, for instance, that the right of appeal ought to be given in terms that are direct and absolute, and it ought not to depend upon the caprice or whim or opinion or judgment of any judge or any court. In other words, the second trial of a man for a crime or misdemeanor upon the question of his guilt under the law ought to be had as a matter of right after the court to which the appeal is taken has heard arguments of counsel and has had opportunity of investigating the case under such enlightenment as counsel on both sides can give. To deny him that right is to deny him a very essential right, it seems to me, for the protection of his liberty and for the protection of his person.

The bill, as I read it and as I understand it as stated by the Senator from Massachusetts, enables a circuit court of the United States, after the conviction of a man, and one of its judges shall be upon the bench in the appellate court, to deny to that party the right of appeal unless that appellate court shall consider in advance, without the assistance of argument, that the appeal would likely be successful. There is no reason stated here why they may grant or none stated upon which they may deny an appeal. It is a question of discretion in the appellate court, as I understand it, and not a matter of right on the part of the appellant.

Mr. HOAR. Perhaps before the Senator proceeds further, it will be as convenient for him to allow me to make a statement of my understanding.

Mr. MORGAN. I shall be very glad to have it.

Mr. HOAR. Perhaps I ought to have made the statement when the bill was first read before any discussion, but I thought it would not be necessary.

As I understand it, it is not the purpose of this bill to change the existing law or the existing practice. It is not an attempt to make a new code of laws or to make amendments in the law in any way except so far as is necessary to create the new tribunal which shall relieve the Supreme Court of the United States of its present duties.

The policy which exists in regard to the allowance of writs of error in criminal cases, whether wrong or right, it did not seem to the committee proper to review in this bill, because if we entered upon such a task we should be compelled by the same process of reasoning to examine thousands of questions growing up in the existing jurisprudence of the United States. But this bill does, from its necessary operation, enlarge very much the right of a person who is charged with a crime and put upon his trial, because, as the law now exists, he may be tried in the circuit court and he can have no resort to a higher court; he may be tried by a single judge or by a court held by a circuit and district judge sitting together, and he can have no revision, even if it is a capital case, of the rulings of that court upon his trial unless the judges certify that there is a disagreement between them, when it goes up to the Supreme Court of the United States. But, under this bill, after his trial in the ordinary circuit or district court held by one judge or by two, as the case may be—never more than two—he has the right as of course to proceed to this new court for a revision of the proceedings in the court below on his writ of error, when that is, as of course, in the same mode in which writs of error are prosecuted in civil cases—that is, the judge examining it and seeing that it is a fit case, he has a resort to a court consisting of sometimes seven or eight judges, and I do not know but nine, but a court where at least there must be four to make up a quorum, being three judges of the circuit court and at least one district judge in addition. Ordinarily there will be five sitting to hold these courts—I suppose three circuit judges and two district judges.

The person charged as a criminal in a United States court, therefore, has a right in the ordinary course of the administration of justice to resort to a tribunal which there is every reason to anticipate will be a tribunal of equal weight for character, learning, experience, amount of salary, with the supreme court of any State in the Union unquestionably. You take the Senator's own State, or take my own State. The court of appeals established by this bill will command very easily the services of any man who would consent to go on the supreme court of Massachusetts, or the supreme court of Alabama; so that in the particular to which the honorable Senator alludes the right of the prisoner is very much more tenderly dealt with than it is by the present law, because now a man may be hanged on a judgment of a single judge; he is ordinarily hanged if he is tried as a pirate or for a capital offense under the laws of the United States on the judgment of one circuit and one district judge, that judgment not being revised unless they certify that they differ in regard to their opinion, and then it goes to the Supreme Court of the United States. Under this bill it would go, as a matter of course, to this new court of appeals, where there are three circuit judges, and ordinarily two district judges, and where there must be at least four judges to make a quorum.

Mr. MORGAN. Mr. President, this bill does undertake to change the law as it exists now by giving an appeal in criminal causes to a court intermediate to the Supreme Court composed of judges of the circuit and district courts. That is entirely a new right and a new privilege given to a man who is convicted. At the present time if a man is indicted and tried in the circuit court of the United States for any offense or crime whatever, and he is convicted, he is beyond all reach of a revision of his case unless there happen to be a circuit judge and a district judge presiding upon the bench at the time and there is a division of opinion upon a question of law, which they will certify to the Supreme Court of the United States. If there is but one judge presiding in the circuit court, whether he is a circuit judge, a justice of the Supreme Court, or a district judge, and that man is convicted, the fates have fixed

his destiny beyond all appeal and all revision, and he must throw himself either upon the pardoning power of the President or upon the pardoning power of the King of the universe; that is an end of him.

There is a manifest absurdity and a manifest cruelty in the existing system upon that subject. That one man presiding in court, who happens to be there alone, should have a power which would prevent a man from taking an appeal or having his case revised on a question of life and death, when if there had been two judges on that bench he would have had the advantage at least of a division of opinion if the question was one of embarrassment or doubt or difficulty, is a very great defect in our system. The very first impression that I ever had in respect of the criminal jurisdiction of the courts of the United States was one of abhorrence. To think that a Government like the United States should refuse, merely because it did not have time and opportunity, to furnish to men indicted for crime the ability and the good conscience of its highest tribunal for the investigation of the laws upon which they were indicted, always struck me as being a sort of violation by the political power of the Government of the United States of that maxim that lies at the foundation of our republican system, that justice shall be administered without sale, delay, or denial. This bill undertakes to remedy to some extent that system, and to a very considerable extent, but I hope the honorable Senator from Massachusetts will agree with me that it does not go quite far enough.

This bill does give to a party who is convicted of a crime, whether in the circuit or in the district court of the United States, the right to a writ of error to this intermediate high court of appeals, but it makes that right dependent upon the discretion of the judge to whom he may make an application for that writ. He may deny it without incurring any legal penalty, or he may grant it from mere favoritism if he chooses, but it is made a matter entirely in the discretion of the judge to whom the application is made for the writ of error, whether that man shall hang or whether he shall have an opportunity for a new trial or an opportunity of having his case heard in the appellate tribunal.

Section 8 of this bill provides—

That a writ of error, if allowed by a judge of the proper court of appeals, may be sued out of that court from the final judgment of a circuit or district court in any criminal case to such court of appeals within ninety days after the entry of such judgment.

Mr. HOAR. If the Senator will draw some amendment to carry out the views he has suggested I would like to hear it. I think there is something in his point, and I should think it worth while to consider the amendment.

Mr. MORGAN. I have prepared an amendment. I have prepared an amendment to come in at the end of line 15, on page 9, reading as follows:

And in case of conviction for crime the writ of error shall issue as a matter of right.

That, I believe, is entirely in harmony with the general principles of the bill.

Mr. HOAR. It would come in better in the eighth section.

Mr. MORGAN. I thought it would come in better where I proposed it.

Mr. HOAR. Otherwise the eighth section would have to be modified.

Mr. MORGAN. Where does the Senator suggest that it come in in the eighth section? I do not find any place where it would read exactly right.

But such writ shall not operate as a stay of proceedings, except in capital cases, unless it is so ordered by the judge who shall allow the writ, nor after a refusal to allow the writ by one such judge shall it be allowed by another judge.

Mr. HOAR. It strikes me that the way to do it would be to make the eighth section read as follows:

That a writ of error may be sued out of the court of appeals from the final judgment of a circuit or district court in any criminal case to such court of appeals within ninety days after the entry of such judgment; but such writ shall not operate as a stay of proceedings, except in capital cases, unless, &c.

Striking out the words "if allowed by a judge of the proper court of appeals."

Mr. MORGAN. I should be entirely satisfied with that.

Mr. HOAR. I think it will accomplish the whole thing to strike out of the eighth section, beginning in line 1, the words "if allowed by a judge of the proper court of appeals;" and then strike out, beginning in line 7 of the section, the words "nor after a refusal to allow the writ by one such judge shall it be allowed by another judge."

Mr. MORGAN. Yes; strike that out also. That would make it entirely satisfactory to me.

Mr. HOAR. If the Senator will move that amendment, I shall not oppose it.

Mr. MORGAN. I will move that amendment.

Mr. HOAR. I think it is unobjectionable.

Mr. MORGAN. I move to strike out in line 1 of section 8 after the word "error" the words "if allowed by a judge of the proper court of appeals."

The PRESIDING OFFICER (Mr. CAMERON, of Wisconsin, in the chair). The question is on the amendment of the Senator from Alabama.

The amendment was agreed to.

Mr. HOAR. Then strike out all after the word "writ," in line 7, to the end of the sentence.

The PRESIDING OFFICER. The Senator from Massachusetts moves an amendment, which will be read.

The CHIEF CLERK. In section 8, line 7, after the word "writ," it is proposed to strike out:

Nor after a refusal to allow the writ by one such judge shall it be allowed by another judge.

The amendment was agreed to.

Mr. MORGAN. I will now further inquire of the Senator from Massachusetts whether any provision is made here for taking from the district courts of the United States to the circuit court of the United States appeals in that class of cases where the district court acquires jurisdiction over controversies in which the sum of $50 or more is involved. My impression of this bill as it was before the Senate heretofore, and I presume it is the same bill, was that in its language it took away an existing right of appeal from the district to the circuit court of the United States in those cases where the sum in controversy was not in excess of $100 according to my remembrance; perhaps it was $50.

Mr. HOAR. I do not understand it to be so. You mean in existing cases?

Mr. MORGAN. Yes, sir.

Mr. HOAR. I do not understand that it affects them at all. Section 2 as it has been amended, substituting 1885 for 1884, prohibits the taking of appeals or writs of error from the district court of the United States to the circuit court except in bankruptcy reviews, after the 1st of December, 1885. Then it substitutes after that the provision in this section where the value of the property in controversy exceeds $500, and in all other cases where an appeal or writ of error lies from such judgment or decree.

Mr. MORGAN. Now, Mr. President, the effect of that is to limit the jurisdiction of the appellate court to $500.

Mr. HOAR. In mere matters of property, not in other cases.

Mr. MORGAN. Very good; in matters of property where the sum involved in litigation is $500. It then cuts off the existing right of appeal from the district to the circuit court of the United States in all cases under $500 involving questions of the right of property by the following language:

That the several circuit courts of the United States shall have and exercise no jurisdiction in cases of appeals or writs of error from the district courts allowed, taken, or sued out after the 1st day of December, 1885, except that reviews in bankruptcy cases, in the exercise of their supervisory jurisdiction, may be had as heretofore provided.

That does cut off the present existing right of appeal in all causes from the district to the circuit court of the United States where the sum in controversy in the district court is less than $500.

Mr. HOAR. It leaves all bankruptcy cases, all patent cases, all cases where the jurisdiction of the United States court arises merely on account of the question where there is a Federal question, and it leaves also all cases where the district judge certifies that the adjudication involves a question of general importance. But if it is a question of the mere title to property, if no question has arisen of general importance, it does extend final jurisdiction to the district court up to $500, and I think it should. Five hundred dollars is a less amount in value now than $100 was formerly, and we can not relieve the dockets of the courts in any other way. I think that is the best thing we can do on this subject.

Mr. MORGAN. Cutting off the right of appeal?

Mr. HOAR. To that extent.

Mr. MORGAN. Very important questions arise in cases under $500, frequently; just as important as any other questions.

Mr. HOAR. This bill provides for them.

Mr. MORGAN. As an instance, there is the case of Marbury vs. Madison, which arose in regard to the right of a justice of the peace to hold the office; and it led to one of the most important decisions we have ever had in the United States. Very important questions may arise to affect a man the amount of whose litigation may be less than $500, and that man ought to have the right to have the opinion of the appellate court, notwithstanding the small amount involved. It would be right now to provide in this bill that the jurisdiction of the circuit court to hear appeals from the district courts in sums exceeding $500 shall no longer exist, and then leave the jurisdiction otherwise as it stands now intact. That would be securing all the rights that exist and giving additional rights to litigants to take appeals from the district court to the circuit court where the sum in controversy exceeds $500.

Mr. HOAR. If the Chair will delay one moment the striking of the hammer, by unanimous consent I wish simply to say in reply that the right of appeal where there is no question involved of any general importance, but only a small amount of property involved, is ordinarily only a means of oppression which can be practiced by rich litigants against poor litigants. They can appeal and employ counsel and carry the cases to the distress of the person claiming justice; and it seemed to the committee, and it did to Judge Davis when he drew this bill and carefully considered the point, that on the whole more justice would be obtained by leaving the bill as we have left it, that

is, in all cases under $500 to give the right of appeal where there is an important general question involved, and also in these special cases, but not to give it merely on account of the amount under that sum.

Mr. MORGAN. If the Senate will indulge me just one moment, I wish to say in reply to the Senator from Massachusetts that this right of appeal has existed since the first organization of our judicial system. It has not worked badly. Doubtless, in many cases, it has been the means of securing justice to men who had small sums in litigation. There is no complaint against it. There is no reason why it should be destroyed, and we can easily preserve it without infringing in the slightest degree upon the jurisdiction of this intermediate appellate court. I therefore think that in the arrangement of this bill we ought to make it a bill to confer additional rights rather than to destroy any that exist where the practice has been useful.

INTERSTATE COMMERCE.

The PRESIDING OFFICER. The hour of 2 o'clock having arrived the Chair lays before the Senate the unfinished business, which is the bill (H. R. 5461) to regulate interstate commerce and to prohibit unjust discriminations by common carriers.

The Senate, as in Committee of the Whole, resumed the consideration of the bill.

The PRESIDING OFFICER. The pending question is on the first amendment offered by the Senator from Kentucky [Mr. BECK], on which the Senator from Texas [Mr. COKE] is entitled to the floor.

Mr. COKE. Mr. President, I have not participated in the debate upon the subject of interstate commerce now before the Senate up to this time for the reason that the House bill, it was known, would after awhile become the subject of discussion, and my opinion of the Senate bill is and has been that it is a measure of no practical value, and that any amendment in accord with its theory would fail to give it anything of usefulness or merit.

The House bill is one which I hope will be examined thoroughly by the Senate. It is a conservative measure. It is thoroughly well considered. It is the product of a debate and discussion in the press, in the two Houses of Congress, and among the people of ten years' standing, and it represents in its principles and policy the popular will on this great question.

This bill provides that freight and passenger in interstate railroad transportation rates shall be reasonable. It prohibits all discrimination in freight rates between individuals. As an adjunct to that proposition it prohibits rebates and drawbacks. It prohibits pooling and thereby promotes competition. It prohibits discrimination in freight rates between localities by forbidding a greater charge for a short haul than for a longer haul. Lastly, it requires the posting up of schedules of the rates of freight charges, and announces a penalty for charging more or less than the posted rates.

These are the great, leading, salient points of the House bill. I appeal to Senators to give the bill a candid examination and a fair hearing. I deem it proper to say this because the votes of the Senate taken within the last two weeks seem to indicate an opposition to the provisions of the House bill. An examination of that bill will show that it is a just and reasonable measure. It will show further that it embodies in its essential points that which is already the common law of the land in all the States. The States have the common law. The United States have no common law. That is to say, in every State in this Union the common law, as it is understood and adjudicated, prevails, while under the Government of the United States, a government of granted powers and of statutory enactments, the common law is not the general law. I believe I have stated the proposition correctly as it has been adjudicated in the courts, hence the necessity for Congressional legislation.

The Reagan or House bill contains the common law as adjudicated and enforced in the States on the subject of common carriers. I assert that to be a proposition which can not be denied. It prohibits all discriminations in freight rates between individuals. Is it necessary for me to cite authorities upon this proposition? I apprehend it is not with members of the legal profession at least. If it were, I could cite any number of decisions of the highest courts in this country.

Mr. MORGAN. Does the Senator refer to the common law or the statute law of the States?

Mr. COKE. I am speaking of the common law. I will refer to two or three cases which I find conveniently grouped in an able argument of Mr. Chittenden, of New York, before the House Committee on Commerce, which fully illustrates the common law on the subject of pooling. Ten or twelve canal-boatmen in the State of New York scraped together a thousand or twelve hundred dollars each and bought each one of them a canal-boat. Upon these canal-boats they lived winter and summer and the year round with their families, and made their living by running them. Ten or twelve of these horny-handed men concluded that they would form a pool; that they would make a combination; that they would put their boats into a joint-stock company and run them under one head and divide the profits. Those men were sued in the courts of New York, and the supreme court of New York decided that the pool, the agreement, the joint-stock company of these canalmen was an illegal enterprise, and the combination was broken up. I have here what the judge delivering the opinion of the court said with reference to the combination. He said:

It is nothing less than the attainment of an exemption of the standard of freights, and the facilities and the accommodations to be rendered to the public, from the wholesome influence of rivalry and competition. To produce that end more completely, each member binds himself not only to run all his present boats according to the agreement and turn their earnings into the common stock, at the rate agreed upon, and at which rate he is to be charged in the final distribution, though he may have received or charged less, but he is also prohibited, under severe penalties, from employing on any other terms boats subsequently acquired. The association being thus secure against internal defection and external encroachments, and the members having thrown their concerns into stock, to derive an income in proportion to the number of shares they hold, and not according to their merited activity in business, and safe against the reduction of compensation that would otherwise follow mean accommodations and want of skill and attention, the public must necessarily suffer grievous loss. Indeed the consequences of such a state of things would be that freighters and passengers would be ill served just in proportion that carriers were well paid.

That was a pool between canal-boatmen whose misfortune it was to be poor and to only have a thousand or twelve hundred dollars apiece with which to purchase ten or twelve canal-boats. Here in the sixty-eighth volume of Pennsylvania State Reports, page 173, is the case of The M. Railroad Company *vs.* Barclay Coal Company, in which the court said:

The effects produced upon the public interests lead to the consideration of another feature of great weight in determining the legality of the contract, to wit, the combination resorted to by these five companies. Singly, each might have suspended deliveries and sales of coal to suit its own interests, and might have raised the price, even though this might have been detrimental to the public interest. There is a certain freedom which must be allowed to every one in the management of his own affairs. When competition is left free, individual error or folly will generally find a correction in the conduct of others. But here is a combination of all the companies operating in the Blossburg and Burday mining regions, and controlling their entire productions.

They have combined together to govern the supply and the price of coal in all the markets from the Hudson to the Mississippi Rivers, and from Pennsylvania to the lakes. This combination has a power in its confederated form which no individual action can supply. The public interest must succumb to it, for it has left no competition free to correct its baleful influence. When the supply of coal is suspended the demand for it becomes important and prices must rise; or, if the price goes forward, the price fixed by the confederates must accompany it. The domestic hearth, the furnaces of the iron-master, and fires of the manufacturer all feel the restraint, while many dependent hands are paralyzed and hungry mouths are stinted. The influence of a lack of supply or the rise in the price of an article of such supreme necessity can not be measured. It permeates the entire mass of the community and leaves few of its members untouched by its withering blight. Such a combination is more than a contract; it is an offense.

That is the decision of the supreme court of Pennsylvania. It is leveled against combinations of the character denounced by the Reagan bill, which but voices in its main provisions the best established maxims of the common law. Judge Hallett, in delivering the opinion of the court in another case, which was concurred in by Judge McCrary, commences with the following declaration:

The duty of common carriers to give equal service upon equal terms and upon reasonable compensation to all who may apply to them to carry persons and property is as well established as any rule of the common law.

Mr. MORGAN. Was that a Federal court?

Mr. COKE. Yes, sir; Judge McCrary and Judge Hallett, in the circuit court of the United States. Judge Hallett proceeded as follows:

And whatever is inconsistent with it or with the purpose for which it is adopted is against public policy, and can not be upheld. The defendant refuses to carry to and from Denver except in connection with the Rio Grande road; not absolutely, indeed, but for the price charged in connection with that road. To say to the public that the rate should be less by the Rio Grande road than by any other line is in effect to say that the public shall use that road only. A very little difference in tolls will prohibit traffic over other lines, and clearly enough such was the effect in this case. It is admitted that the defendant refuses to carry, in connection with the complainant, at the same rate of charges as with the Rio Grande Company, and then it charges for such carriage a much higher rate. For all practical purposes this course of proceeding amounts to a refusal to carry except in connection with the Rio Grande road.

Says Mr. Chittenden:

After considering the excuses urged for the necessity of this action, Judge Hallett declines to speak at length of the contract, lest he "might convey an impression that for some purposes these corporations have the powers which, in this instrument, they have assumed to exercise." He declares that it is enough to say that it is a conspiracy to grasp commerce and to suppress the building of railroads in two great States, and he cites decisions of the courts of New York, Pennsylvania, and other States in which similar provisions have fallen under condemnation.

That is a very instructive case, and a very able note to that case by Mr. Adelbert Hamilton, one of the editors of the Law Reporter, says:

There can be no question that according to American authority a railroad pooling contract is monopolous in its tendency and objectionable as such, for these three reasons, so tersely reported by Lord Coke in Darcy *v.* Allen (2 Coke's Reports, 84), where, speaking of such monopolies, it is said: "A monopoly hath three incidents mischievous to the public: First, the raising of the price; second, the commodity will not be so good; third, the impoverishing of poor artificers."

I assert as an undeniable proposition: First, that at common law the charges of a common carrier must be reasonable. Second, that a common carrier can not discriminate in freight rates between individuals. Third, that common carriers can not pool and thereby prevent competition. At common law these propositions are indisputable. I will go further and say that the prohibition upon pooling, that the equality as to all persons for whom they carry enjoined upon common carriers at common law, prohibits discrimination between places. I assert further that the highest public policy requires that common carriers who, like railroad corporations, exercise a part of the sovereignty

of the state in condemning land under the right of eminent domain, exercise to a certain extent public offices, public trusts, shall be amenable to public supervision, and that these public offices, these public trusts, the people are entitled to know all about in their administration, and that, therefore, the railroad companies should be required to post up their schedules of rates of freight charges as required by the House bill. All the propositions which I have enumerated are contained in the House bill. There is nothing more nor anything less in the House bill than those propositions except the modes and methods of enforcing them.

Mr. McPHERSON. Would it interfere with the Senator's speech if I should in this connection ask him a question?

Mr. COKE. Not at all, sir.

Mr. McPHERSON. I ask the question for information entirely. As I understand the Senator's remarks, they reach the point that a railway company having the power to condemn or take private property for a use, it must be a public use and to the public benefit. So far I agree with the Senator fully, and perhaps I might even go further, because I believe that if a railway company, having the power to condemn private property for public use, fails to conserve the public interest, it has then no more right to that land than a custom-house officer has to the custom-house at the end of his term of office.

But the point I wanted to raise was this: Does the Senator go so far as to say that Congress should intervene when the rates are reasonable? I do not suppose anybody would go beyond saying that the rate must be reasonable. Suppose it is reasonable, and still the railway companies decide to pool. In short, how can you reach a railway company for pooling the freight while maintaining reasonable rates? How do you propose to punish them? Let me put the question still broader. What is the justice in attempting to punish a transportation line for pooling its business with other lines when at the same time all the lines in the pool maintain reasonable rates?

Mr. COKE. I understand the Senator's question. I will say to him that in the State of New York, where the pooling contract of ten or twelve canal-boatmen was incontinently squelched and sat down upon by the courts, there is a pool of forty-odd railroads, which control the commerce of that great city and all its dependencies, which openly defies all the power and authority of the State. The conclusive presumption of law is that damage results from a violation of law. To hold that a party may violate the law on his idea that no damage will result from it would destroy all law. The mere fact of violating the law is an offense or crime without reference to its results.

Mr. McPHERSON. If I may again interrupt the Senator, I think there is a very wide distinction between the parallel he draws and a railroad company. It is well known to the Senator that the people of the State of New York, owning the Erie Canal, which the people of that great State and the property of that State were taxed to construct, decided to abate all the tolls upon the canal because they deemed it to be a public benefit. They furnished the so-called canal-boatmen, of which the Senator speaks, with water ways free of cost from the lakes to the seaboard, upon which they had the privilege of traveling without any cost whatever except simply that of pulling their boats. If I understand the case correctly they undertook to establish an unreasonable rate, and by means of a pool to continue an increased rate to the public detriment. I must submit to the Senator that there is a very wide distinction——

Mr. COKE. I yielded for a question and not for a speech.

Mr. McPHERSON. Very well; I shall sit down.

Mr. COKE. I will say to the Senator from New Jersey that the pool among these canal boatmen, of which I speak, according to my remembrance, was made and decided before the State of New York ever threw open her canals, and the action of the court in deciding that the pool was unlawful, because in contravention of the common law, was dependent upon no such action of the State of New York as that to which the Senator adverts.

Mr. McPHERSON. That alters the case in a measure.

Mr. COKE. Yes, sir.

Mr. President, I say that the Reagan or House bill is simply a codification of the principles of the common law in all the great leading points of the bill—principles that are enforced every day in the administration of law in the States. They can not be enforced in interstate commerce by the States, because there is no authority in the States having jurisdiction over the subject, and Congress alone has the power.

Mr. HARRISON. Will the Senator from Texas allow me to ask him a question?

Mr. MORGAN. If the Senator from Texas will allow me to ask him a question just there, I will ask if he has not cited a case here in which Federal judges have in a circuit court of the United States applied these principles of common law to transactions between railroads out in the West, and if the Federal courts have not as much power as the State courts in the administration of those principles of the common law which he says are codified in the Reagan bill?

Mr. COKE. Yes, the decision to which I adverted awhile ago, participated in by Judge McCrary, was the decision of a Federal circuit court. The principles of the Reagan bill are legal principles that are standing in every State in this Union and enforced every day by the State courts.

Mr. HARRISON. I wished to ask the Senator a question.

The PRESIDING OFFICER. Does the Senator from Texas yield to the Senator from Indiana?

Mr. COKE. Certainly.

Mr. HARRISON. Perhaps the Senator from Alabama asked the question which is in my mind; I could not hear quite what he said. If it be true that the Reagan bill simply puts into the form of statutory law the common law of the country, is not that common law now applicable to interstate commerce, and have not the courts of the United States jurisdiction to enforce it without reference to any statute?

Mr. MORGAN. That was the point of my question precisely.

Mr. COKE. The Senator from Indiana is simply repeating the question of the Senator from Alabama.

Mr. HARRISON. I could not hear what the Senator from Alabama said.

Mr. COKE. I say that the principles of the Reagan bill are the principles of the common law in all substantial respects; but the railroad companies deny the power of Congress over this subject. The Senator from Kentucky [Mr. BECK] yesterday read from the argument of Governor Brown, of Tennessee, representing 6,000 miles of railroad in the Southwest, to show that he denies that Congress has the power to legislate upon this subject. I believe that the courts of this country have a right to enforce the leading propositions of the Reagan bill, but the country generally is in doubt on the subject. The railroad companies deny the power, and it has been thought by the House of Representatives of sufficient importance to the country that Congress should legislate upon the subject, and if necessary re-enact what may be, and as I think is already, the law of the land on the subject of common carriers.

Mr. Fink, a leading and representative and very able railroad man, the man who, at the head of the New York pool of upward of forty of the leading lines of road in the United States, denies the power of Congress to legislate on this subject, and in his argument before the House Committee on Commerce made this denial in the most emphatic terms. Let Senators who desire information on this subject consult the records of the House Committee on Commerce, and they will find that the leading, governing men in our railroad system and the attorneys of the roads all deny the power of Congress to legislate as proposed in the Reagan bill, and are defiant in the assertion of their right to violate every principle asserted in it and to be themselves the judges of what is reasonable and right in running the roads.

And besides, the Reagan bill provides remedies not given by common law, remedies shown to be necessary to enable the citizens to overcome the great advantages the railroad corporations have over them in matters of litigation and contest.

The Reagan bill says that freight charges shall be reasonable. No Senator will controvert the correctness of that proposition. The Reagan bill provides that railroad corporations shall not discriminate in their charges between individuals. Is not this just and right? Let the Senator who claims it is not rise in his place in the United States Senate and declare that these public corporations, public agents and trustees, have the right to discriminate, as they are now doing every day between persons, and that all American citizens are not equally entitled to the service rendered by these public servants. Let him put himself on record as affirming that some people in this country ought to have freights at half that charged to others and that the railroad managers are of right the sole judges as to who these persons should be.

In order to prevent discriminations between persons the Reagan bill prohibits rebates and drawbacks. Rebates and drawbacks occur where a person is ostensibly charged as other people are for similar service, and the railroad companies pay him beck amounts by way of rebate, and thereby give him an advantage. It is said by Judge REAGAN, who had charge of this bill in the other House and is its author, that in eighteen months $10,000,000 were paid to the Standard Oil Company, in the State of Pennsylvania, in rebates, and through that discrimination in favor of that company the company has been able to strangle every particle of competition in the United States.

These are two of the propositions in the Reagan bill. The third prohibits pooling. I have read to you from decisions of both State and Federal courts and could read hundreds of others, for the books are full of them, declaring that combinations of that character are contrary to public policy and unlawful. In the language of the Pennsylvania judge, "It is more than a contract, it is an offense."

The fourth is that it prohibits discrimination in the freight rates between localities by forbidding a greater charge for a short than for a longer haul. If the individual ought not to be discriminated against, if there should be no discrimination between single individuals, ought there, by parity of reasoning, to be any discrimination between collections of individuals in cities and towns? Ought there to be any discrimination between a collection of individuals in a city or town if the law requires that there shall be none between individuals? I think the one proposition is corroborative of the other.

If the first proposition is correct the latter can not be wrong. All the complications sought to be thrown around the difference between "the long and the short haul" can not obscure the fact which stands out in bold relief that all the individuals, all the people, between the initial

and the terminal points of the long haul are discriminated against and taxed with high freight rates in order to make up alleged losses on the long haul. The Reagan bill, conservative in this as in all its provisions, does allow as much charged for the short haul as for the longer haul, but not more; and because of the prohibition upon more for a short haul than a longer one on the same road is assailed violently as an effort to disturb the laws of commerce. In my judgment the bill is too liberal to the railroads in this respect, but of this they have no right to complain.

The fifth proposition requires the posting up of schedules of rates of freight charges and prescribes a penalty for charging more or less than the posted rates. Have not the public a right to know the rates? Mark you, the railroad corporations exercise functions derived from the States in the condemnation of their right of way through this country. They have possession of the highways. They carry the mails. They drive off all other sorts of competition. There is no way of exchanging our products overland except by their cars. Does any gentleman mean to say that the action of these corporations, which in the language of a New York judge execute public offices, should be secret, and that they should not post their rates in public places so that the public whose powers they are exercising can know about them and govern itself accordingly? Is this not a fair and reasonable requirement?

These five propositions, prohibiting discriminations between individuals, prohibiting rebates, prohibiting pooling, prohibiting discrimination between places, and requiring rates to be posted up in public places, are all the requirements of the Reagan bill, and everything else in the bill simply prescribes the methods of enforcing them. This is the bill which has been denounced by railroad officials and attorneys, by members of the United States Senate and House of Representatives and a considerable portion of the press of the country as a most intolerable outrage upon the rights of railroad corporations. For the most part, a simple re-enactment or codification of well-established common-law principles necessary to protect the citizen against the rapacity of corporate power which the corporations declare are not binding on them and violate every day, is declared from these sources to be a most dangerous, revolutionary, and abominable thing for Congress to do.

A motion was made by the Senator from Illinois [Mr. CULLOM] to take up the House bill, and after it was taken up he moved to strike out all after the enacting clause and to insert the Senate bill. What does that mean? It means that the prohibition upon discriminations in freight between individuals shall be stricken out of the House bill.

Mr. CULLOM. Will the Senator allow me to interrupt him?

Mr. COKE. Certainly.

Mr. CULLOM. If the Senator will allow me, I will state that the Senate bill does not mean that. It expressly prohibits unjust discriminations.

Mr. COKE. I will discuss the Senate bill after a little. I will show what sort of a bill it is. It will strike out the prohibition of discrimination between individuals. It will strike out the prohibition of rebates and drawbacks by which the railroad companies secretly discriminate in favor of individuals. It will strike out the prohibition upon pooling. Is there anything in the Senate bill which prohibits pooling, declared by the highest State and Federal courts to be unlawful? It will strike that out. It will strike out the prohibition against discrimination in freight rates between localities. It will strike out the requirement that the railroad companies shall let the public know what their rates are, so that men may make their business contracts accordingly. The motion is to strike out these provisions and insert the Senate bill.

The Reagan bill comes here from the House of Representatives, not upon popular clamor, but upon a settled popular judgment. I know that the people sometimes go wrong, but give them a little time and they will always rectify their own errors. Their sober second thought is the perfection of human wisdom. The popular clamor, which it is said wafted this bill from the House here, has been a steady demand from the people for ten years through every method by which public opinion is ever voiced. The constitutions of twelve States of this Union contain the provisions of the Reagan bill in their substance. Legislatures of States, political conventions, boards of trade and exchange, county, district, national, and State conventions have all in turn spoken in behalf of the provisions of the Reagan bill. It comes here indorsed by the other House after ten years of discussion, after ten years of debate, and it would never have come over the obstructions and hindrances and opposition of the railroad corporations and their retainers and friends but for the masterly ability and the courage and persistency of a distinguished citizen of my State, whose name the bill bears, and who has linked that name imperishably with a manly and brave defense of popular rights against the encroachments of corporate power. This bill thus indorsed, thus containing in the main only the principles of the common law as they are decided in the States day after day and year after year and as it is settled and established—these plain, clear provisions are to be stricken out, and the Senate bill substituted, if the motion of the Senator from Illinois [Mr. CULLOM] prevails.

Now, Mr. President, I propose to discuss very briefly the Senate bill. That bill was denounced upon the floor of the Senate a few days ago by the honorable Senator from Arkansas [Mr. GARLAND] in an argument that no man has attempted to answer as unconstitutional. No Senator has risen in his place and controverted the positions of the Senator from Arkansas as to the unconstitutionality of that bill.

Mr. PUGH. If the Senator from Texas will allow me, I will state that the amendment which I offered to the second section was to meet the objection of the Senator from Arkansas to the second section, and I showed him that amendment and he admitted that it avoided his objection. The objection was that the second section would be a delegation of all the power Congress has over interstate commerce. The amendment limits the powers of the commission to those specified in the act itself. It is a limitation of the power and not a delegation of the power Congress possesses over that subject.

Mr. COKE. I understand the amendment to be just as the Senator from Alabama states it so far as it goes; but the Senator from Alabama must remember that the objection of the Senator from Arkansas went not alone to the second section. To use his own language, under this bill these commissioners start out as a legislative body, but as they go on into the sections they become a court; they have the power to administer oaths, to call for books and papers, to summon witnesses, to enter judgments. Yet they are to be appointed by the President and removable at his will and pleasure. Are they to be judges? If they are to be judges, if they are to exercise judicial functions, that bill violates the plain letter of the Constitution and all the traditions of this Government and of the Anglo-Saxon race in making a judge dependent for his salary and his bread upon the pleasure of the President or any executive officer. In so far as the President is authorized to remove, it trenches upon the constitutional requirement that judges shall be appointed for life. It destroys the independence of the judge. If there is one thing established in American constitutional jurisprudence it is that the judges are and shall ever be independent of the Executive.

This bill as originally reported to the Senate gave legislative powers to this commission, except that it did not authorize a penalty in its enactments without which they could not have been enforced. It gives as it now stands to this commission judicial powers, except that it can not issue an execution or injunction nor enforce its judgments. What then does the bill amount to? When the House of Representatives, obeying the mandate of the American people, send here a bill putting a curb upon the power of great railroad pools and corporations for the protection of the people you move to strike that out, to ignore it, and to insert under the enacting clause a provision which establishes a commission which has no legislative power under the amendment of the Senator from Alabama, and whose judicial power is unconstitutional and void, and if it were not, whose judicial power is a mere bauble and plaything, because without power to enforce itself, or even to protect itself by fining for contempt.

Then what do you propose to give to the House of Representatives in place of an efficient bill declaring that which is right and just and reasonable? What do you propose to give them in place of that bill which the motion of the Senator from Illinois would trample under foot and ignore, but this hybrid concern, a legislature which is impotent and a court which is powerless? That is the Senate bill.

But I call attention to another feature of this bill. Under sections 5 and 6 there are clauses which provide for a complaint to the commission by parties having grievances against railroad corporations. The commission is to hear the complaints and the evidence in support of them, and to make out its judgment and advise the railroad companies to comply, to obey. If the railroad companies choose not to obey, then the commission are to turn the papers over to the United States district attorney of the district where the grievance occurred for suit against the railroad company. The evidence taken, however, is only for the information of the district attorney, not of the court or jury. The point I make is this: It is a well-settled legal principle that Congress has power to regulate interstate commerce. The States may act upon the subject as long as Congress chooses not to intervene; but, as was decided in McCulloch *vs.* Maryland and in Gibbons *vs.* Ogden, whenever Congress does intervene, whenever Congress does regulate, the power of Congress is exclusive and supreme.

Now Congress, if this bill passes, does act and its action is exclusive. Would not the citizen upon the passage of this bill, if it should pass, find himself compelled to apply to this commission, and is he not ousted of the remedies that he now has in the courts of the country, and must he not come before this commission first? Must he not make his complaint first before this commission and wait until the commission has heard him and has sent his papers to the United States district attorney before he can go into the courts of the country as he can go now?

I object to it on that ground, and I call attention to the fact that there are nine commissioners provided for. Including the district of Columbia and other Territories there are forty-seven States and Territories in this Union. Divide 47 by 9. Each commissioner will have an average of five States and Territories under his jurisdiction. Can any one man hear and determine the complaints against the railroad companies in five States and Territories embracing long distances? I think not.

Mr. MAXEY. Will my colleague allow me to suggest a point in

that connection? If the citizen is required under the Senate bill to go before the commission, and if the railroad companies refuse to abide by its decision and force him into the courts, the costs are double, making the burden that much more.

Mr. COKE. I was coming to that proposition. Here you take away the remedies the people now have and send them before a commission that is unconstitutional in its judicial functions; you interpose this powerless commission between the people and a remedy. You must recollect that these complaints against railroad companies are by the statutes of the different States mostly barred in one year, that there are hardly any of them which are not barred in two years; yet you force a man in Oregon, in California, in Texas, in the remotest confines of the Republic, to Washington before this commission with his witnesses and attorneys at great expense, and for what? To get the commission to express an opinion which the railroad corporations deride and ignore with impunity; and while this is being done the statutes under which the complaint is barred by local law run and the citizen's remedy is gone. That is the proposition before us; that is in substance and effect this commission bill. Instead of giving a remedy to the citizen you are taking away from him the only remedy he has and giving him a worthless thing that is not worth the paper it is written on. The people ask for bread and you cast them a stone.

Now, Mr. President, it is proposed that the Senate of the United States shall ignore the reasonable, sensible, simple propositions contained in the Reagan bill, embodying substantially the common law of the land, which should be left to the courts of the country at the homes of the people of the United States to enforce, as is done in the Reagan bill. It is proposed to ignore these, although the people have demanded them in every form in which they can speak, and give them the remedy of a commission, which takes away from the people the only remedy they now have and leaves their complaints against the railroad companies barred by limitation before they find out whether the commission will allow them to bring suit or not.

I call attention to another feature of this bill. It provides that when the commission send these complaints to the district attorney the Federal courts, regardless of citizenship, shall have jurisdiction. It discriminates against the State courts; it ousts the citizen of his right to sue in his courts at home and drags him to the Federal courts perhaps hundreds of miles away. In the first place it drags him perhaps three thousand miles to Washington with his witnesses and lawyers in order to present his case to a commission which is utterly powerless to give him redress.

Mr. MORGAN. Will the Senator allow me to ask him a question? I had supposed that the purpose of the House bill was to confer jurisdiction on the Federal courts.

Mr. COKE. No, sir. The House bill leaves all litigation that arises under it at home where the transaction occurred and witnesses and parties reside.

The Senate bill will bring litigants in the first place to Washington before the commission; and who believes that this commission can hear 10 per cent. in a year of the complaints that ought to be filed against railroad companies? Does any man believe that this commission can hear them and intelligently decide them? It can not be done. The offer of such a remedy is a denial of any remedy at all.

Mr. President, these are the bills: The Reagan bill, a plain, direct bill, to be enforced by the courts of the country; the commission bill, establishing a new tribunal, which will be declared unconstitutional, and which, if it is constitutional, has no more power to enforce what the commissioners believe to be right than I have or any Senator sitting around me has. These are the bills between which we must choose.

Mr. President, there is more in this debate than appears on the surface to the casual observer. We hear on all sides earnest professions of a desire to remedy evils which all admit permeate our present system of railroad management. These professions are doubtless sincere. It is the more difficult in view of this fact to understand and account for the evident leaning of the Senate, as shown by the numerous ay-and-no votes taken on amendments proposed to the Senate bill, against the simple, direct, and straightforward provisions of the Reagan bill, so reasonable in themselves and so easy of enforcement by the courts of the country already established, and the equally evident disposition of the Senate to adopt a commission bill establishing at a heavy expense a tribunal without power to accomplish anything, and from the date of its creation as proposed in the Senate bill perfectly helpless and powerless.

The honorable Senator from Georgia [Mr. BROWN] has aided materially in solving the difficulty referred to in a bold and explicit avowal of his own views on this subject, and in the light of his able and learned speech made a few days ago we are able to understand much of what before was enigmatical. The high character as well as the acknowledged ability of this distinguished Senator, while vouching for the sincerity of his utterances, when coupled with the fact that he is a successful railroad president and practical administrator of railroad affairs—in a word, a leading and representative railroad man—gives to the views expressed by him peculiar significance. The honorable Senator, disdaining any subterfuge while directing his adroit and powerful argument against the Reagan bill, which he regards with the utmost aversion, and declaring that he will support the Senate bill in preference, does not hesitate to say that he is opposed to both bills and to any legislation on the subject. He says further that he favors the pooling of railroad lines as the only practical solution of the railroad problem in this country, and in the short extract I now read from his speech places himself distinctly on the ground now advocated by Mr. Charles Francis Adams, jr., of Massachusetts:

> This system works injustice both to the merchant and the purchaser. What the merchant wants is a uniform system, where every man will be charged reasonable prices and no more and where everybody is charged alike, and that is right. But, as matters now stand in the transportation world, you can get that only under the pooling system. There is no other possible way to reach it in practice. As there has been some sharp criticism of the Southern Railway and Steamship Association, as there must be about the management of all great interests of that character, I want to read here what a very wise and very able man, who is in no way connected with the South or with the association, says on the subject—a gentleman who has spent many years of his life in studying the railroad problem, a gentleman who is one of the oldest railroad commissioners in America, a man of high character and distinguished ability as well as of a distinguished family. I refer to Hon. Charles Francis Adams, of Massachusetts.

The honorable Senator then quotes copiously from Mr. Adams in advocacy of the pooling or consolidation of railroad lines, and says:

> We may first appoint a commission composed of a small number of persons. In practice it will soon be found that they need numerous assistants and subagents scattered all over this country. The job we are undertaking will be entirely too large for any five, or seven, or ten men, without an enormous retinue of subalterns. What commission at Washington can grasp this whole subject and look into all the details of railroad transportation?

Again, he says:

> It is simply out of the question, and in practice it will soon be found so, and the position will then be taken that it is absolutely necessary to increase the force, and it will grow from one point to another until the agents of the Government in a few years will be found located in all parts of the Union, supervising this immense interest.

The honorable Senator opposes the Senate bill commission, but would infinitely prefer that to the Reagan bill. He desires, like Mr. Adams, that the Government shall "hands off" and leave the railroad lines to consolidate in a "federation" under one head and a government of their own. This *imperium in imperio*, I will remark, it is not contemplated shall have in it any representation from the people, but is to be constituted of railroad men and to be a law unto itself, free from Government interference, with full power to tax all the products of this country—the vast commerce carried by rail—as it may deem expedient and right.

An examination of the discussions before the House Committee on Commerce, which were able and exhaustive, will show that the views expressed by the Senator from Georgia on this subject and by Mr. Charles Francis Adams are shared by all the leading railroad men of this country, and that the project of perfecting a grand consolidation of all the railroad lines in the United States in a federation under one government and one head is not only contemplated but in process of consummation, and will be consummated if Congress shall fail to act energetically on the subject. I read from what Mr. Adams has written about it:

> Beyond and behind this, however, the railroad corporations of the United States have from the beginning enjoyed a sort of lawless independence. Corporations, like communities, accustomed to this, necessarily remain for a long time restive under any sense of control. They need constantly to feel that a policeman's eye is upon them, and that there is a station-house in the next street. No one or two great corporations have yet been developed with power sufficient to assume a coercive protectorate over the others and to compel obedience. The combination of the trunk lines and their recent action toward their connections in the West is the first approach yet made toward this result. But without the cohesive influence of some such protectorate there is in all voluntary combinations a natural tendency to anarchy. In the absence, therefore, of any compelling force to secure order and subordination, the mill of competition has got to keep on grinding for some time yet. Its work is not done. Indeed, it will not be done until, through the process of its grinding, the great principle of the survival of the fittest is finally ground out.
>
> This process is unlikely to prove a rapid one, for order is not easily established in any community which has been long in a state of anarchy. In such cases the demoralization becomes general; the tone of the individual deteriorates. This is what is now the matter with the railroad system of America.

I ask the attention of Senators to this:

> Lawlessness and violence among themselves, the continual effort of each member to protect itself and to secure the advantage over others, have, as they usually do, bred a general spirit of distrust, bad faith, and cunning, until railroad officials have become hardly better than a race of horse-jockeys on a large scale. There are notable individual exceptions to this statement, but taken as a whole the tone among them is indisputably low. There are none of that steady confidence in each other, that easy good faith, that *esprit de corps*, upon which alone system and order can rest. On the contrary, the leading idea in the mind of the active railroad agent is that some one is always cheating him, or that he is never getting his share of something. If he enters into an agreement his life is passed in watching the other parties to it, lest by some cunning device they keep it in form and break it in spirit. Peace is with him always a condition of semi-warfare, while honor for its own sake and good faith apart from self-interest are, in a business point of view, symptoms of youth and defective education. Under such circumstances, what is there but force upon which to build? It was the absence of the element of force which caused the failure of the Saratoga association and probably will cause the failure of those which have succeeded it. Taken as a whole, the American railroad system is in much the same condition as Mexico and Spain are politically. In each case a Cæsar or a Napoleon is necessary.

He proceeds:

> When, however, the time is ripe and the man comes, the course of affairs can even now be foreshadowed; for it is always pretty much the same. Instead of the wretched condition of chronic semi-warfare which now exists, there will be one decisive struggle, in which from the beginning to the end the fighting will

be forced. There will be no patched-up truces made only to be broken, for the object of that struggle will be the complete ruin of some one in the shortest possible time. Then will come the combination of a few who will be sufficiently powerful to restrain the many. The result, expressed in a few words, would be a railroad federation under a protectorate.

Again he says:

The united action of the great through lines is necessary to bring this about; and how to secure that action is now the problem. If the elder Vanderbilt were alive and in the full possession of his powers, he would probably solve the difficulty in the way most natural to him. Meanwhile, although Commodore Vanderbilt is dead, there are very significant indications that his work is going on. His vast property, in the peculiar shape in which he left it and as it is now handled, seems to be little else than an accumulated fund devoted to bringing about a consolidation of railroad interests on the largest possible scale. The New York Central is the basis upon which this superstructure rests.

These are the views of Mr. Adams, so highly eulogized by the Senator from Georgia. He favors a railroad federation, a railroad government, under the imperial head of some great railroad magnate. I will read to you a little more from him. I have a speech entitled "Views of Charles Francis Adams, jr., on the subject of a national railroad commission," delivered before the Merchants' Association at Boston, and after discussing the character of men who ought to be on a commission, and fearing that such men would not be put upon a commission, he said:

Given a commission such as I have suggested, and the so-called railroad problem would present few difficulties. It would either be understood and regulated, or, what I consider much more probable, it would be understood and largely let alone.

I read from Mr. Adams, because he is a leading representative railroad man, and expresses the views of the governing men of that class in this country. He desires and expects to see the railroads of the United States united in one grand federation, one grand and magnificent monopoly, made up of all the smaller monopolies. If he were in the Senate to-day he would vote for the Senate bill and denounce the Reagan bill, and would defeat both, if in his power, as the Senator from Georgia would, for the simple reason that he believes the railroad corporations should be "let alone" to go on and perfect their "federation."

I read again from the same speech:

Composed of such men the commission would be of the greatest public service, and a credit to the country. Men like these, I assure you—and I am now talking of what I know—wielding the great force of publicity, and letting light into dark places, with Congress behind them, would call for few of those stringent laws which the average legislator loves so to pass. If, however, your commission is to be made up not of men like these, but of men with "claims on the party," or any of that kind of cattle, then it would be a nuisance and a disgrace, and the end would be worse than the beginning.

It would be a disgrace to have in the commission any representative man of the popular sentiment of this country on this subject, and that is precisely what Mr. Adams means when he speaks of "such cattle."

Now, Mr. President, I desire to call the attention of the Senate to the fact that, learned and scholarly and intellectual man as Mr. Adams is represented to be and illustrious as his family name is, he sometimes changes his opinions as well as do others. I will read some extracts from his book on the railroad problem, written some years ago, when surrounded by circumstances different from those which now attend him, and ask the Senate to mark the dangers he then so ably depicted to the Government and the people of the railroad combinations he now so earnestly advocates:

Gould and Fisk will at last be obliged to yield to the force of moral and economical laws. * * * Though the regular process of development may be depended upon in its ordinary and established course to purge American society of the worst agents of an exceptionally corrupt time, there is in the history of this Erie corporation one matter in regard to which modern society everywhere is directly interested. For the first time since the creation of these enormous corporate bodies one of them has shown its power for mischief and has proved itself able to override and trample on law, custom, decency, and every restraint known to society, without scruple and as yet without check. The belief is common in America that the day is at hand when corporations far greater than Erie—swaying power such as has never in the world's history been trusted in the hands of mere private citizens, controlled by single men like Vanderbilt, or by combinations of men like Fisk, Gould and Lane—after having created a system of quiet but irrepressible corruption, will ultimately succeed in directing government itself. Under the American form of society there is now no authority capable of effective resistance. The National Government, in order to deal with the corporations, must assume powers refused to it by its fundamental law; and even then is always exposed to the chance of forming an absolute central government, which sooner or later is likely to fall into the very hands it is struggling to escape, and thus destroy the limits of its power only in order to make corruption omnipotent. Nor is the danger confined to America alone. The corporation is in its nature a threat against the popular institutions which are spreading so rapidly over the whole world. Wherever there is a popular and limited government this difficulty will be found in its path, and unless some satisfactory solution of the problem can be reached popular institutions may yet find their very existence endangered.

Again he says:

Here, amid the ruin they had contrived, it is best to leave the Erie Railway, its directors, their tools, and their victims, the exchange, the business community, and the Gold Board—

Referring to the celebrated Black Friday.

When all is said and done, the confusion and dismay prevailing was only no more than what the presence of such a disturbing power as the Erie Railway, in the control of such hands, must always render possible, even if it be not periodical. In themselves the men are nothing; as rulers of the corporation they become terrible. The spring and autumn of 1868, and the spring, summer, and autumn of 1869 had seen the last appliances of civilization perverted into the machinery of organized theft; and through them acts of fraud, treachery, and violence had been unblushingly perpetrated before all men. Since the days of the feudal barons no private hands had wielded such a power in a way so unscrupulous. Risk will not deter them, for ruin can not touch them; to them belongs the gain, but not to them the loss.

Other depredators, by sea and by land, fly from the officers of justice; but these men [Fisk and Gould] ever find securest shelter under the protection of courts of law, whose magistrates they make. Safe in that protection, cowed but not subdued, it is fit and proper here to leave them, masters of Erie, and, as a consequence, masters of the situation, but a blot upon the civilization of the nineteenth century and a lasting disgrace to that financial and commercial organism which renders possible, and that public opinion which tolerates, their existence.

As was said by another:

Such was the picture drawn of Mr. Gould in the earlier stages of his great career by Mr. Charles Francis Adams, jr., now sitting beside him in loving companionship in the same board over which, by Mr. Gould's will and pleasure, he now presides.

Mr. Adams, since the above was written, has been made by Mr. Gould the president of the Union Pacific Railroad Company.

There is his description of Mr. Gould. Here is the description of the power of railroad corporations. He says the Government will have to assume powers not granted by the Constitution in order to protect itself against the dangers they threaten to it, speaking of one single corporation, the Erie; and now this same gentleman advocates a consolidation of all the railroad corporations in the United States, under one grand head, free from Government control. Against his views of former years he advocates a grand railroad federation; and in the speech that I have just read to you, delivered before the Board of Trade of Boston, he does not even desire a commission to interfere; he desires no legislation; but wishes the combination to run on under the will and control and government of men of whom he says, in an extract from his book which I have just read to you, they are simply the worst character of horse-jockeys on a large scale.

I read again. Says Mr. Adams:

One leading feature of these developments, however, is, from its political aspect, especially worthy of the attention of the American people. Modern society has created a class of artificial beings who bid fair soon to be the masters of their creator.

It is but a very few years since the existence of a corporation controlling a few millions of dollars was regarded as a subject of grave apprehension, and now this country already contains single organizations which wield a power represented by hundreds of millions. These bodies are the creatures of single States; but in New York, in Pennsylvania, in Maryland, in New Jersey, and not in those States alone, they are already establishing despotisms which no spasmodic popular effort will be able to shake off.

Yes, Mr. Adams would have a grand railroad federation of all the corporations in this country when he says a few of them in these States have established despotisms "which no spasmodic popular effort will be able to shake off."

Everywhere, and at all times, however, they illustrate the truth of the old maxim of the common law that corporations have no souls. Only in New York has any intimation yet been given of what the future may have in store for us should these great powers become mere tools in the hands of ambitious, reckless men. The system of corporate life and corporate power, as applied to industrial development, is yet in its infancy. It tends always to development—always to consolidation—it is ever grasping new powers or insidiously exercising covert influence. Even now the system threatens the central Government.

He does not now feel that a consolidation of all the railroads will do it.

The Erie Railway represents a weak combination compared to those which day by day are consolidating under the unsuspecting eyes of the community. A very few years more and we shall see corporations as much exceeding the Erie and the New York Central in both ability and will for corruption as they will exceed those roads in wealth and in length of iron track. We shall see these great corporations spanning the continent from ocean to ocean. * * * Now their power is in its infancy; in a very few years they will re-enact, on a larger theater and on a grander scale, with every feature magnified, the scenes which were lately witnessed on the narrow stage of a single State. The public corruption is the foundation on which corporations always depend for their political power.

That was six years ago; and instead of Mr. Adams warning the people now as he did when this was written against the power of these corporations, we find him cheek by jowl with the men he was then condemning and favoring a grand federation of all the railroads of the country.

There is a natural tendency to coalition between them and the lowest strata of political intelligence and morality, for their agents must obey, not question. They exact success and do not cultivate political morality. The lobby is their home, and the lobby thrives as political virtue decays. The ring is their symbol of power, and the ring is the natural enemy of political purity and independence. All this was abundantly illustrated in the events which have just been narrated [in the chapter of Erie]. The existing coalition between the Erie Railway and the Tammany ring is a natural one, for the former needs votes, the latter money. This combination now controls the Legislature and courts of New York. That it controls also the executive of the State, as well as that of the city, was proved when Governor Hoffman recorded his reasons for signing the infamous Erie directors' bill. It is a new power for which our language contains no name. We know what aristocracy, autocracy, democracy, are; but we have no word to express "government by moneyed corporations." Yet the people already instinctively seek protection against it, and look for such protection, significantly enough, not to their own Legislatures, but to the single autocratic feature retained in our system of government—the veto by the executive. * * * The next step will be interesting. As the Erie ring represents the combination of the corporation and the hired proletariat of a great city; as Vanderbilt embodies the autocratic power of Cæsarism introduced into corporate life, and as neither alone can obtain complete control of the government of the State, it perhaps only remains for the coming man to carry the combination of elements one step in advance, and put Cæsarism at once in control of the corporation and of the proletariat, to bring our vaunted institutions within the rule of all historic precedent.

Can the English language condemn more strongly what Mr. Adams has since with equal vigor approved and advocated?

I deal, I repeat, with Mr. Adams as a public man and a great railroad expert, whose views have been invoked in this debate by the Senator from Georgia as having great authority and with the purpose of ascertaining as nearly as possible the weight to which his recent utterances in advocacy of a new policy are entitled.

Now I will read, in order that you may have some little idea of what a grand universal pool would mean, from the argument before the Commerce Committee of the House, made by Mr. Chittenden, of New York, a description of the pool at New York:

This pool commenced in 1877; it was then a pool contract between the four trunk lines centering in New York. It has grown and stretched out its arms and increased, just as an English judge said such contracts would grow and increase, until now it embraces certainly more than forty—that was the last enumeration I had—of the principal railroads of this country. There is in New York city an equipped and organized pool government. It has its executive committee of the trunk lines; its executive committee of the pool, and another executive committee composed of one member from each pooling railroad; it has its board of arbitration, which is intended to take the place of the judiciary; it has its corps of, I do not know how many hundred, clerks, an enormous concern, and over it all is the emperor, the commissioner, Mr. Fink, who to-day exercises a power for good or evil over the commerce and products of this country greater not only than that of any of his contemporaries, but greater than any man ever before exerted in the United States of America. He and his imperial organization are as independent of the law as it is possible for man or state to be, and the whole charter or contract which binds these forty roads into this one copartnership and confederation, judged by the principles of the common law, is as unlawful and as much against public policy, if we are to accept the declarations of the judges of the common law, as the Louisiana State lottery or any other similar institution which is confessedly without the pale of the common law.

There is a picture of the New York pool. Now imagine a pool or combination of all the railroads in the United States, embracing the whole country under one head and a central government like that in New York, and you see exactly what the railroad men of the United States are trying to accomplish. I have here the New York Journal of Commerce, handed me by a friend, of January 15. I read from the headlines of a column in order to show what the people may expect from the proposed "railroad federation," judging it by the New York pool:

Diverted freights and trade—Mercantile interests sacrificed to railroad pool necessities—Roundabout shipments and delays—Complaints of buyers and injury of trade—Merchants and railroad men in conference—Regulation of interstate commerce.

Now hear the New York State commission and the merchants of New York about the pool:

The Merchants' Club committee was represented by Mr. William F. King, of Calhoun, Robbins & Co., who opened the case with an address setting forth the cause of complaint. "Not only," said Mr. King, "has trade been diverted from our own city, but the merchants have suffered large losses from the return of goods, because of the serious delay in delivering to the consignee. These evils began with the organization of the pooling system in 1878 and have increased with the lapse of time, until for the past two years, and especially for the last year, they have been beyond the patient endurance of the mercantile community. Throughout the business of last spring every mercantile house suffered seriously by transfers of freight from the so-called fast freight lines known as the Merchants' Dispatch, the Star Union Line, the Union Line, the Empire Line, and the White Line to the Lackawanna and the West Shore, the Merchants' Dispatch alone transferring daily from three to two car-loads to the West Shore. The consequence was that from four to eight weeks elapsed before the goods so transferred reached their destination in Michigan, Illinois, and other Western States. The agent of the Merchants' Dispatch himself informed me that there were claims against them amounting to $30,000 for diversion of freight and for losses thereon. If you will pardon an allusion to the house of which I am a member, we had to duplicate a bill of merchandise purchased and pay the charges by express, the original shipment only reaching the customer in Michigan after very nearly two months' delay. All the merchants claim to have had similar trouble during the last spring with all fast freight lines having a system of connections to the West."

Mr. King here presented a quantity of documentary evidence, giving circumstantial details of cases in which delays had taken place. Among the examples was a shipment of goods by the Star Union Line which took fifteen days to reach Chicago. Several shipments to Pittsburgh, made on the 10th, 14th, 18th, and 21st of November, all reached their destination together on December 1, showing that the goods must have been held back to make up a car-load.

Mr. King continued: "The instances which these papers present are only a few of the many thousands of similar impositions from which the mercantile community has been and is now suffering, and on behalf of that long-suffering community the committee of three pray for speedy relief from these serious evils, and that such relief may be had prior to the opening of our spring business, which begins about February 1, so that the merchants here represented may be able to notify the customers that there will henceforth be no cause for complaint because of the slow delivery of whatever merchandise they may choose to purchase in this market."

I read that as a sample. There is a column representing different organizations in which similar statements are made.

I read again:

Mr. Abel Cook, on behalf of the Traders and Travelers' Union, urged that the merchants should have the right to choose the line by which they have their goods go, and said they did not like to be put in the position of suppliants for what they had a right to demand. The remedy they sought was some means of getting into court to enforce their common-law rights without being compelled to resort to the attorney-general and wait his determination in case the railroads refused to carry their freight without consent to the bill of lading imposed upon the shippers. The suggestion that the roads would refuse to act as forwarders beyond their own termini if compelled to do this he thought would be regulated by the principle of competition.

A recess here took place, after which Mr. Depew proceeded to make a general reply to the statements and suggestions presented. At the outset he said the State commission would be met by the difficulty that this is a question of interstate commerce, beyond their jurisdiction. Their action could only affect one section of the business of the New York Central, and could not touch the other roads. He thought the fact emphasized the need of intelligent national legislation on the subject, and denounced the Reagan bill as calculated to defeat the very object here sought.

At the conclusion—

In the course of the colloquy Commissioner Kernan said the commission were of opinion that the pool was illegal.

That was a modest suggestion made by the New York State commissioner, Mr. Kernan. He knows that the courts of the country have declared all such combinations unlawful; but Mr. Depew reminds gentlemen of the New York State commission that this is a matter of interstate commerce, which they as railroad commissioners of the State of New York can not reach, while at the same time he opposes all that is attempted to be done in Congress to give relief to the people.

This is a pool of forty railroads. We see here a column loaded with the complaints of men who are suffering from it, but we have not heard from the people of the other States to whom the goods sold by these merchants ought to have gone. How many of them are broken, how many are crippled, how many are injured by the action of the pool? We have not heard that. Yet in the face of the illegality of a combination admitted to be illegal because so decided by all the courts, the idea of the leading railroad men of the country is to establish a grand universal pool embracing all the railroads of the country.

Mr. President, the railroad problem has evolved an issue between two opposing ideas, and will be solved on one or the other of them. The railroad corporations must be governed by laws passed by Congress, or they will be governed by a despotism created by themselves and over themselves in a universal pool or federation which will embrace all the railroad lines in this country. Congress is brought face to face with this dilemma and must accept one horn or the other of it. Delays are dangerous, because the "grand federation" is already in process of formation under able and skillful operators, its nucleus in the city of New York where more than forty of the leading lines are already confederated or pooled under a central government strong enough already to bring the merchant princes of that great city to its feet. When the single corporation of Erie could dominate the State of New York in the manner so graphically described by Mr. Adams; when the merchants and business men of New York are already suppliants at the feet of the pool now existing there, how can any limit be placed on the power of a great federation of all the railroad corporations of the country backed by unlimited wealth, with the best talent of the country in its service, and an active, vigilant, intelligent, and well-paid army of employés at command, with power to crush all who oppose its schemes by discriminating against them and to reward its friends, with power to build up or destroy at pleasure cities and towns, and to levy such tribute as avarice may suggest, unobstructed and unhindered, upon the great commerce carried over the roads, with all the influences and agencies so vigorously described by Mr. Adams for corrupting legislatures and congresses and governments—I repeat, how is it possible to resist such an organization in possession of such tremendous power? It simply can not be done, and if perfected the railroad federation will dominate and control this Government, will corrupt and undermine it.

This Government must govern and control the railroad corporations or will be governed and controlled by them. We have at this time our choice between these propositions. If we fail to choose between them now, we may not at a future time be able to choose at all. If we adopt the Reagan bill, its moral effect will be very great on the railroad corporations. Mr. Adams says that only "force" will control them. He sees nothing but the despotism of a Cæsar or Napoleon of their own creation. I desire the "force" of law constitutionally enacted and vigorously executed by the Government of the United States, representing the majesty and the sovereignty of the American people. The Reagan bill will give this. If we pass it, these corporations will realize that we are in earnest, that the people are aroused, and will govern themselves accordingly.

The moral effect upon the country of the passage of the Reagan bill will be good, because it will be universally felt to be not only a just vindication of the dignity of the Government, but a grand measure of protection for the best interests of the people. The English railway commission bill has been alluded to in this debate and its admirable operations made an argument in favor of the Senate bill. The harmless and impotent measure proposed in the Senate bill is utterly unlike the English railway law in every respect. There is no point of resemblance between them.

The English commission possesses all the powers and attributes of a court. It is composed of three commissioners. That commission has jurisdiction over every question affecting railroad transportation That court can summon witnesses. It can fine for contempt; it can issue injunctions; it can issue executions; it can do everything that any other court can do. That is the English commission. It is no such powerless thing as is provided for in the Senate bill.

And besides, the English railroad regulations act, as it is called, formulates the law to be administered by this commission. I read one extract from it, which alone contains the substance of the Reagan bill:

That all such tolls be at all times charged equally to all persons, and after the same rate, whether per ton, per mile, or otherwise, in respect of all passengers and of all goods or carriages of the same description, and conveyed or propelled by a like carriage or engine passing only over the same portion of the line of railway under the same circumstances.

In conclusion, Mr. President, I read from the speech of Mr. Charles Francis Adams, delivered before the Committee on Commerce of the other House. He said:

So far as the railroad system and the railroad business of the country is concerned, I propose to argue to this committee, and endeavor to convince it, that hitherto in the case of the vast body of legislation enacted in respect to them no attempt whatever has been made to study anything except outward manifestations; that almost uniformly the symptoms have been mistaken for the disease and the remedies intended to remove the evil have consequently only

tended to aggravate it. That I may have any chance of success in this effort, I must ask you to dismiss all preconceptions from your minds and to fairly consider what is the real cause—

Now, mark you—

what is the real cause of the inequalities, the injustices, the discriminations of the existing railroad service—those ills of the body-politic for which you are now undertaking to prescribe? I will not stop to dwell upon them or to denounce them. It is not necessary to do so, for I hold them to be proven and their existence notorious. The record is full of evidence on the subject. We all know—every one knows—that discriminations in railroad treatment and charges do exist between individuals and between places. We all know that railroad tariffs fluctuate wildly, not only in different years but in different seasons of the same year. We know that certain large business firms—the leviathans of modern trade—can and do dictate their own terms between rival corporations, while the small concern must accept the best terms it can get. It is beyond dispute that business is carried hither and thither—to this point, away from that point, and through the other point—not because it would naturally go to, away from, or through those points, but because rates are made on an artificial basis and to serve ulterior ends.

In regard to these things I consider the existing system nearly as bad as any system can be. Studying its operations, as I have, long and patiently, I am ready to repeat now what I have repeatedly said before, that the most surprising thing about it to me is that the business community sustains itself under such conditions. The first principles—

Mark this—

The first principles of law governing common carriers are habitually violated. Special contracts, covering long periods of time, are made every day with heavy shippers, under which the common carrier, whose first duty it is to serve all equally—

As the Reagan bill requires them to do—

gives to certain parties a practical control of the markets. There is thus neither equality nor system, law nor equity, in the matter of railroad charges. A complete change in this respect is a condition precedent to any just and equitable system of railroad transportation.

That is what Mr. Charles Francis Adams felt constrained to admit when arguing before the House committee against Congressional legislation. Yet it is said that there is no ground for complaint. When twelve States in the Union have embodied in their constitutions the substance of the Reagan bill; when political conventions, boards of trade and exchange, when the leading railroad man of this country, Mr. Adams, all tell you about these grievances, they are dismissed with the remark that it is popular clamor. Mr. President, it is not popular clamor. I have shown you that in the great State of New York, the leading State in this Union, with all her wealth and power, her authorities have suppressed a little combination, a little pool of ten or twelve hard-handed canal-boatmen as being contrary to law, and that at the time the judge was delivering his opinion, in the heart of the city of New York there was a pool government, pool headquarters, with hundreds of clerks, and an emperor at the head of the pool presiding over the whole, and that the great merchants of the grand and magnificent commercial center of our country were bending their knees before that power. I have shown this, and yet I am told that it is not time for the law to step in and put its hand upon these corporations and say what they shall do and what they shall not do.

Mr. President, in submitting to the lawlessness and power of these corporations we are sowing the seeds which will be reaped in a harvest of communism at some future day. When poor men see that the law takes them promptly by the throat while these powerful combinations of corporate wealth defy the law with impunity, they will think that their own rights ought to be asserted in some form or other. We can avoid this by harkening to the voice of the House of Representatives and giving support to the bill they have sent us. It is a moderate bill. It is a conservative bill. It employs methods well known and well established in the common law. There is nothing harsh about it. It is an assertion of the power of the people and the Government that I desire to see. The moral effect of it would be worth more than Congress could do in any other way. Let the people of this country be informed that the Senate and House of Representatives of the United States have determined that this is a people's government, and that no power shall live under it which is not dominated by the Government and by the people, and this the Reagan bill will do.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. CLARK, its Clerk, announced that the House had passed a joint resolution (H. Res. 288) authorizing the printing of 2,500 extra copies of the annual report of the health officer of the District of Columbia; in which it requested the concurrence of the Senate.

DEATH OF REPRESENTATIVE EVINS.

The message also communicated to the Senate the resolutions of the House on the announcement of the death of Hon. JOHN H. EVINS, late a Representative from the State of South Carolina.

Mr. HAMPTON. Mr. President, I ask that the action of the House be laid before the Senate.

The PRESIDING OFFICER (Mr. COCKRELL in the chair). The Chair will lay before the Senate a message from the House of Representatives.

The Chief Clerk read as follows:

IN THE HOUSE OF REPRESENTATIVES, *January* 20, 1885.

Resolved, That this House has heard with profound sorrow of the death of Hon. JOHN H. EVINS, late a Representative from the State of South Carolina.

Resolved, That the business of the House be now suspended that fitting tribute may be paid to his memory.

Resolved, That as an additional mark of respect the House shall, at the conclusion of these ceremonies, adjourn.

Resolved, That the Clerk communicate these resolutions to the Senate.

Mr. HAMPTON. Mr. President, I offer the resolutions which I send to the desk to be read.

The PRESIDING OFFICER. The Senator from South Carolina presents resolutions which will be read.

The Chief Clerk read as follows:

Resolved, That the Senate has heard with profound sorrow of the death of Hon. JOHN H. EVINS, late a member of the House of Representatives from South Carolina.

Resolved, That the business of the Senate be now suspended in order that fitting tribute may be paid to his memory.

Resolved, That as an additional mark of respect the Senate shall, at the conclusion of these ceremonies, adjourn.

Mr. HAMPTON. It has been established by long custom that when one of our associates in the legislative branch of the Government falls at his post of duty we pause for a time from our daily routine of work to pay a proper tribute of respect to his memory. This time-honored custom, which had its origin in the tenderest and noblest instincts of humanity, has been consecrated to us by many and sad precedents. The Senate has just done becoming honor to the memory of one who was, when living, its oldest member, one of its most honored and now one of its most lamented. To-day, the other branch of Congress, by the resolutions just read, tells us that death has again invaded its halls, and stricken down one of its most useful, honored, and beloved members, JOHN H. EVINS, of South Carolina.

As a Senator from the State which now mourns the loss of one of her truest and most devoted sons, it becomes my painful duty to take official action here touching his death. As he was a very close and dear friend, this duty is rendered doubly painful; but, sir, that pain is greatly alleviated by the fact that the best, the highest eulogy that could be pronounced upon him is to speak of him not in the mere conventional terms of panegyric, but in the calm and sober language of truth. The record of his upright and unblemished life, from his youth to its close, gives the strongest evidence of the integrity of his character, and the manner of his death proved the sincerity of his faith as a Christian.

JOHN HAMILTON EVINS was born in Spartanburg District on the 18th July, 1830, of honorable and pious parents, who, besides affording him ample means for a liberal education, taught him early, a lesson he never forgot, that higher and better knowledge, the fear of the Lord. Graduating at the South Carolina College in 1853, he studied law, was admitted to the bar in 1856, and soon achieved a high and honorable reputation in his profession. During the war he served in the confederate army with conspicuous gallantry, receiving a severe wound, from the effects of which he never entirely recovered. While detained at home by this wound he represented his district for two sessions in the Legislature with the conscientious fidelity that marked his discharge of every public trust.

In 1876 he was elected a member of Congress from the fourth Congressional district in South Carolina, and he was re-elected for three successive terms, on each occasion by a large majority. At the last election he declined to become a candidate, as his health had failed, and he realized even then that the shadow of death was over him, for his physicians held out to him no hope of recovery. He bore their verdict dooming him to an early death with the heroic fortitude of a soldier and the sublime resignation of a Christian. His sufferings were great and constant, but he never murmured nor repined, and with everything to make him cling to life he resolutely looked death in the face, feeling a confident hope he had so lived on earth that life eternal would be his in heaven.

On the 20th of October last, without one pang, without one struggle, he was summoned to his final rest, respected, honored, loved, and lamented, not alone by his immediate constituents, but by our whole State.

Such, Mr. President, is the brief, simple narrative of a life unmarked by any strange or great events, but which has left an impress for good on every one associated with it. It is in this aspect that I regard the career of Colonel EVINS as so noteworthy and so exemplary, and it is for this reason that I have dwelt more largely on his marked moral qualities than on his intellectual. But I by no means underrate his attainments and his ability, for these were of a high order. He was an able lawyer, an admirable Representative in Congress, a cultivated gentleman, and a wise counselor. In every position he was called on to fill he brought to its discharge a well-trained, vigorous intellect, and an ever-present sense of duty. Thus it was that his influence was always widely felt and beneficently exercised.

It seems to me, Mr. President, that the example left by such a life and the lesson taught by it are of higher value to the world than all the earthly prizes that ambition, wealth, power, place can win. These latter may for a time sway mankind, but in the balance held by the hand of the Great Judge at the last day they will weigh but as a feather against integrity, virtue, and piety. All these noble attributes of character were possessed in an eminent degree by the subject of this imperfect sketch, and he surely could have exclaimed triumphantly and exultingly when called to meet his God—

O death, where is thy sting?
O grave, where is thy victory?

Mr. FRYE. Mr. President, having been a member of the House of Representatives in the Forty-sixth Congress, and having then an acquaintance pleasant and agreeable with Mr. EVINS, I do not feel at liberty to allow this occasion to pass without paying a brief tribute to his memory.

I recall without difficulty the first time I ever saw him. It was on the Sabbath day in a crowded church. I saw a face loving, gentle, and without any weakness in it; and it so attracted me that I inquired as to its owner, and found it to be Mr. EVINS. Subsequent acquaintance with him only justified to me that face as the index of his character.

Mr. EVINS, of course, was not conspicuous in debate in the Forty-sixth Congress. Senators know well that in that brief term of service, even with the highest genius for debate, he could not be. And he was not in any sense a wrangler, and he could not be, for his spirit was never disputatious. He did not force himself to the front, and he could not, because he was as modest as a girl. And yet, sir, he had that strength of character and that acquirement which would have made him conspicuous and prominent in public life or anywhere in time. He had thorough culture, undaunted courage, earnest devotion to principle and duty, quick perception, and a profound sense of responsibility to God and man. He added to an attractive face accomplishments and graces unusual to men in active, stirring life—agreeable manners and a warm social nature. But, sir, he had what seems to me greater and better than them all—he was a devoted, sincere, earnest Christian man. I see from the records of the Spartanburg Presbyterian church, in his own State, this:

On the 4th July, 1867, his membership was transferred to this church, and on the 28th of the same month he was ordained to the deaconship. He continued to serve in this office until promoted by the unanimous voice of the congregation to the eldership, to which he was ordained November 13, 1870. He was also superintendent of the Sabbath school from 1868 until he entered Congress in 1877.

Mr. President, it is easy for men in public life, I care not how eminent they may be, to gracefully acquiesce in the fundamental doctrines of the Bible and to talk eloquently of the glories of a blessed immortality to come; but to lead in the midst of the cares and perplexities and enticements and allurements and distractions of public life a lowly, devoted, practical Christian life,

Hoc opus, hic labor est.

Yet, Mr. President, I have reason to believe that from the day Mr. EVINS entered upon his public life here in Congress up to its close he did so walk day by day. He deliberately chose the straight and narrow way and walked directly toward the goal without swerving to the right or to the left. I believe, sir, that Mr. EVINS dying could say with Paul in chains at Rome, "I have fought the fight; I have kept the faith." I believe, sir, that Mr. EVINS dying could say, "I know there is a crown prepared for me." And now he knows it; he wears it.

Mr. President, may the gracious, loving God temper this heavy but kindly blow to his wife and to his children.

Mr. BUTLER. Mr. President, I might safely leave the character of the lamented EVINS where his eulogist and his own unblemished life left it, without stain and without reproach, but a duty of earnest friendship apart from official courtesy and custom requires that I add my contribution, imperfect as it is, to the words of praise so generously and justly bestowed upon him.

South Carolina never had a more devoted son than JOHN H. EVINS, nor popular government a more faithful advocate. The people never had a champion more honest, more courageous, nor this Congress a member more respected for his public and private worth. I knew him intimately for more than a quarter of a century from his early manhood—and there was not much difference in our years—as a friend, citizen, lawyer, soldier, representative of the people; in every relation of life, and can therefore speak advisedly and accurately of him. It was our fortune to be born in the same region of country, the Piedmont belt of South Carolina. The first horizon that greeted our visions was fringed by the same range of mountains, as lovely and picturesque as ever graced the outlines of nature.

He preceded me in the same college but a few years. We entered the confederate armies almost simultaneously, although in different arms of that service. It was our fortune to come upon the arena of national politics about the same time, and here to cultivate relations of the closest personal and political friendship. I knew him, therefore, as few men knew him, and venture to affirm that in the eloquent tributes just paid to his memory in this Chamber and in the other Hall of Congress which he adorned so long and ably, there is not one word of hyperbole or extravagant encomium. He well deserves all that has been so gracefully said of him, and I only wish that in closing these mournful ceremonies of respect to his memory in this the highest forum which an American citizen may enter, I could command language worthy of his exalted character.

I do not know that I need say more of his public life than that he was faithful to every public trust committed to his care. He held the conscientious discharge of every public duty above personal or private considerations. In his public conduct he was honest, he was direct, he was courageous and truthful, he was always true to his constituents, and above all true to himself. There was nothing of the charlatan or demagogue in his nature. He was modest, conservative, considerate, and deferential. He was careful and painstaking, and when he made up his opinion he maintained it with independence, courage, and ability. His judgment was sound, and his intellectual methods were as honest and straightforward as the impulses of his heart were generous. He was well educated and well informed, but did not aspire to the plane of what is known as scholarship or genius. He did not sacrifice the practical to the ideal, nor the real to the theoretical, the substance to the form, and, therefore, was a safe counselor and judicious leader, an able, conscientious representative.

What higher praise, Mr. President, can be conferred upon any public man. What more need be said to embalm his memory in the grateful hearts of his countrymen and establish him as an exemplar to those who come after him. This is my estimate of the man, sincerely entertained. True, something must be allowed to the partialities of friendship on occasions like this, to the license of rhetoric, to the flow of eulogy, and to that inclination of the human heart to speak nothing of the dead except what is good, but, sir, I invoke with confidence the voice of his people to sanction these words in behalf of this distinguished citizen of their State. They are truthful and just; would they could be said of every public servant who assumes a trust for the people. Mr. EVINS was as free from the sordid vices of our nature as the best of his race. He was wonderfully circumspect in his private life, and I believe sincerely and conscientiously true to his profession of the Christian religion. He made no sanctimonious parade, but walked modestly in the fear of God and lived up to his convictions. The duties of life were dearer to him than life itself.

When he was first stricken with the disease that proved fatal to his life, I well remember how earnestly I urged him to leave the capricious winter climate of Washington and seek relief in the mild outdoor atmosphere of Florida, where he could successfully combat the inroads of disease on his vigorous constitution by calling to his assistance not only the curative powers of art and science but the endless resources of kindly nature. In response to my importunities he said his duty required him to remain at his post, and he did and died. Possibly the time allotted him on earth was about to expire, and the change may not have arrested his malady. Of this no one had knowledge, save the God who made him. But I refer to this incident to further illustrate what manner of man he was. It was characteristic of him, and the recital will not surprise those who knew him best.

Military heroes who give up their lives in the flush and excitement and glamour of battle are sustained in the discharge of duty by the rush and conflict of physical forces, the hope of earthly glory and renown, and they are generally bestowed; but the man who stands by his post in the civil walks of life, dying inches by inches, has nothing to sustain him but that high sense of duty, the essence of which true heroes are made. To this class Mr. EVINS properly belonged, and such will be the verdict of his countrymen.

Nothing now remains for me, Mr. President, but to move the adoption of the resolutions before the Senate, which I do with the mournful satisfaction that they have given me the opportunity to pay this sincere but inadequate tribute to the memory of one of the best of men, and that they express, as I believe, the sentiments of his associates and friends.

The PRESIDING OFFICER. Will the Senate agree to the resolutions?

The resolutions were agreed to unanimously; and (at 4 o'clock and 28 minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *January* 21, 1885.

The House met at 12 o'clock m. Prayer by Rev. A. FLORIDUS STEELE, of St. Mark's church, Washington, D. C.

The Journal of yesterday's proceedings was read and approved.

CYPRESS BAYOU, ETC.

The SPEAKER, by unanimous consent, laid before the House a letter from the Secretary of War, communicating a report from the Chief of Engineers, with an estimate of the cost for an improvement of Cypress Bayou and the lakes between Jefferson and Shreveport; which was referred to the Committee on Rivers and Harbors, and ordered to be printed.

CONTINGENT EXPENSES NAVAL OBSERVATORY.

The SPEAKER also laid before the House a letter from the Secretary of the Treasury, communicating estimates of appropriations received from the Secretary of the Navy as additional to the estimates submitted heretofore under the title of "contingent and miscellaneous expenses, Naval Observatory;" which was referred to the Committee on Appropriations, and ordered to be printed.

AMERICAN AND HAYTIEN COMMISSION.

The SPEAKER also laid before the House a letter from the Secretary of the Treasury, communicating an estimate of appropriation received from the Secretary of State to provide for the expenses on the part of

the United States in the matter of the American and Haytien industrial claims commission; which was referred to the Committee on Appropriations, and ordered to be printed.

OFFICE OF AUDITOR FOR POST-OFFICE DEPARTMENT.

The SPEAKER also laid before the House a letter from the Secretary of the Treasury, communicating an estimate of appropriations for file-boxes, file-cases, shelving, and book-cases of the office of the Auditor of the Treasury for the Post-Office Department; which was referred to the Committee on Appropriations, and ordered to be printed.

CHARLES O. BRADLEY.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting the petition of Charles O. Bradley, Twentieth United States Infantry, praying for reimbursement for property lost by him by the burning of his quarters at Fort Reno; which was referred to the Committee on Claims.

QUARTERS AT MILITARY ACADEMY.

The SPEAKER also laid before the House a letter from the Secretary of the Treasury communicating an estimate of appropriation, received from the Secretary of War, for the construction of quarters for enlisted men at the Military Academy; which was referred to the Committee on Appropriations, and ordered to be printed.

LIGHT-HOUSE TENDER LILY.

The SPEAKER also laid before the House a letter from the Treasury Department, transmitting a letter of the Light-House Board in regard to the burning of the light-house tender Lily at Cincinnati, September 20, 1884, and inclosing claims of the officers and men of the vessel for reimbursement of losses of their private effects; which was referred to the Committee on Claims.

CHINCOTEAGUE BAY.

The SPEAKER also laid before the House a communication from the Secretary of the Treasury, transmitting a report from the Chief of Engineers in relation to the results of a survey from Chincoteague Bay, in Virginia, to Delaware Bay, at or near Lewes, Del.; which was referred to the Committee on Rivers and Harbors, and ordered to be printed.

CHANGE OF REFERENCE.

The SPEAKER. If there be no objection, two bills which have been heretofore erroneously referred to the Committee on Military Affairs will be referred to the Committee on War Claims.

There being no objection, the Committee on Military Affairs was discharged from the further consideration of bills of the following titles; and the same were referred to the Committee on War Claims:

A bill (H. R. 4291) for the relief of Perez Dickinson; and

A bill (H. R. 6622) for the relief of I. L. Cain and others.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted as follows:

To Mr. WHITE, of Minnesota, for two days, on account of sickness.

To Mr. POST, of Pennsylvania, two days.

To Mr. ADAMS, of New York, until Monday next.

ACCOUNTS BETWEEN THE UNITED STATES AND THE STATES.

Mr. JOSEPH D. TAYLOR asked and obtained unanimous consent to print in the RECORD the following:

Joint resolution requesting our Senators and Representatives in Congress to procure the passage of a law to adjust certain accounts between the United States and the several States and Territories and the District of Columbia, as set forth in House bill 110, and dated December 10, 1883.

Whereas on December 10, 1883, Hon. BARCLAY HENLEY, of California, introduced in the House House bill 110, which was referred to the House Committee on Claims; and on December 18, 1883, Hon. JOHN F. MILLER, of California, introduced in the Senate Senate bill 795, which was referred to the Senate Committee on Finance, as follows, to wit:

"A bill to adjust certain accounts between the United States and Territories, and the District of Columbia.

"*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of the Treasury be, and he is hereby, authorized and directed to credit each of the several States and Territories, and the District of Columbia, with the amounts of money heretofore laid upon and apportioned to said States, Territories, and District of Columbia, respectively, levied as a direct tax under the provisions of the eighth section of the act of Congress, approved August 5, 1861, entitled 'An act to provide increased revenue from imports to pay interest on the public debt, and other purposes;' and he shall thereafter state an account between the United States, and each of said States, Territories, and District, respectively, and he shall pay to each thereof, out of any money in the Treasury not otherwise appropriated, such sums of money as may appear to the credit of each thereof upon the books of the Treasury arising from such settlement."

The foregoing bill provides that the Secretary of the Treasury shall credit each State with the amount of money assessed against it for direct taxes under the act of August 5, 1861.

The effect of the passage by Congress of said bill will be to refund to those States which have paid the amounts of such assessments to the extent of the sums by them so paid, and to release those States which have not paid from hereafter paying all said taxes, and also from all future liability to pay the same. While the right of the General Government to raise revenue by direct taxation is unquestioned, it is patent that this direct tax was in the nature of an enforced loan; and it was made in this form only because it was required to meet the great exigency then upon the country; and

Whereas several of the States now owe the General Government from a quarter to a half million dollars each, on account of this direct tax, while others have paid their full quota: Therefore,

Be it resolved by the general Assembly of the State of Ohio, That our Senators and Representatives in Congress be requested to urge the passage of the bill hereinbefore referred to, and use their best endeavors to secure to the State the amount paid to the United States by this forced tax.

Resolved, That a copy of this resolution be forwarded to each of the Senators and Representatives by the governor of Ohio.

A. D. MARSH,
Speaker of the House of Representatives.
JOHN G. WARWICK,
President of the Senate.

Adopted January 14, 1885.

UNITED STATES OF AMERICA, OHIO,
Office of the Secretary of State.

I, James S. Robinson, secretary of state of the State of Ohio, do hereby certify that the foregoing is a true copy of the House joint resolution No. 66, adopted by the General Assembly of the State of Ohio, on the 14th day of January, A. D. 1885, taken from the original rolls filed in this office.

In testimony whereof, I have hereunto subscribed my name and affixed my official seal, at Columbus, the 15th day of January, A. D. 1885.

J. S. ROBINSON, *Secretary of State.*

SERGT. ERNEST BECHNER.

Mr. ROSECRANS, by unanimous consent, obtained leave to withdraw from the files without leaving copies the papers in the case of Sergt. Ernest Bechner, Eighth United States Infantry, as the case is covered by the general law.

EXPORT-TOBACCO MANUFACTORIES.

Mr. KELLEY, from the Committee on Ways and Means, reported a bill (H. R. 8029) to authorize the establishment of export-tobacco manufactories and for drawback upon imported articles used in manufacturing exported tobacco; which was read a first and second time, referred to the Committee of the Whole House on the state of the Union, and, with the accompanying report, ordered to be printed.

LABOR IN EUROPE.

Mr. ROGERS, of New York, from the Committee on Printing, submitted the following report:

The Committee on Printing, to whom was referred Senate concurrent resolution to print additional copies of the letter of Secretary of State, dated December 12, 1884, and the accompanying consular reports on "Labor in Europe," has been duly considered by the committee and a concurrence in the same recommended.

The letter and reports referred to contain a mass of information valuable to Congress in legislating upon matters wherein our own citizens are directly affected by the condition of labor abroad, and of general use in the investigation of important economic questions.

IN THE SENATE OF THE UNITED STATES,
January 14, 1885.

Resolved by the Senate (the House of Representatives concurring), That the letter of the Secretary of State dated December 12, 1884, and the accompanying reports of United States consuls, on Labor in Europe, be printed; and that 1,500 additional copies be printed for the use of the Senate, 2,500 copies for the use of the House of Representatives; and for the use of the Department of State 4,000 copies, and 10,000 additional copies of the Secretary's letter, of which 1,500 shall be for the use of the Senate, 2,500 for the House of Representatives, and 6,000 for the use of the Department of State.

The concurrent resolution was agreed to.

Mr. ROGERS, of New York, moved to reconsider the vote by which the resolution was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

REPORT OF HEALTH OFFICER, DISTRICT OF COLUMBIA.

Mr. ROGERS, of New York, from the Committee on Printing, also reported back with favorable recommendation joint resolution (H. Res. 288) authorizing the printing of 2,500 extra copies of the annual report of the health officer of the District of Columbia.

Mr. HOLMAN. What publication is that?

Mr. MCMILLIN. Let us have the report read, Mr. Speaker.

The report was read, as follows:

The Committtee on Printing, to whom was referred House resolution 288, authorizing the printing of 500 additional copies of the annual report of the health officer of the District of Columbia, have duly considered the same and recommend its passage.

These additional copies are intended to supply a general demand, and for the purpose of foreign exchange. The type is already up, having been used in printing the District commissioners' report; which reduces the cost to about $1,000.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

The question being taken on the passage of the joint resolution, there were—ayes 49, noes 17.

Mr. COBB. I make the point that no quorum has voted.

Tellers were ordered; and Mr. ROGERS, of New York, and Mr. COBB were appointed.

Mr. KING. This resolution I believe provides only for the printing of the health report of this District.

The SPEAKER. The resolution has been read.

The House again divided; and the tellers reported—ayes 83, noes 59.

Mr. COBB. I will not insist on a further count.

So the joint resolution was passed.

Mr. ROGERS, of New York, moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

AGRICULTURAL APPROPRIATION BILL.

Mr. DIBRELL, from the Committee on Agriculture, reported a bill (H. R. 8030) making appropriation for the Agricultural Department

for the fiscal year ending June 30, 1886, and for other purposes; which was read a first and second time, referred to the Committee of the Whole House on the state of the Union, and, with the accompanying report, ordered to be printed.

Mr. MILLS. I reserve all points of order on this bill.

The SPEAKER. The gentleman from Texas reserves all points of order.

Mr. DIBRELL. I give notice that I shall ask the House to consider this bill on next Saturday.

ORDER OF BUSINESS.

Mr. ELLIS. I move to dispense with the morning hour.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, announced that the Senate had passed without amendment House bills of the following titles:

A bill (H. R. 1017) relative to the Inspector-General's Department of the Army; and

A bill (H. R. 7768) to authorize the National Bank of Bloomington, Ill., to change its name to the First National Bank of Bloomington.

The message also announced that the Senate had passed with amendments, in which the concurrence of the House was requested, the bill (H. R. 1565) to authorize the appointment of a commission by the President of the United States to run and mark the boundary lines between a portion of the Indian Territory and the State of Texas in connection with a similar commission to be appointed by the State of Texas.

The message further announced that the Senate had passed bills and a joint resolution of the following titles; in which the concurrence of the House was requested:

A bill (S. 1417) to enable Martrom D. Lewis, public administrator, of the city of Saint Louis, in the county of Saint Louis and State of Missouri, having charge of the estate of Gabriel Neudecker, deceased, to make application to the Commissioner of Patents for the extension of letters patent No. 70012, for a process of preparing tobacco, granted October 22, 1867, to said Gabriel Neudecker, deceased;

A bill (S. 2004) for the relief of W. H. Tibbits;

A bill (S. 2529) for the relief of James M. Lobban;

A bill (S. 2543) for the relief of the heirs of Charles B. Smith, deceased, late a lieutenant in the Fifth Iowa Cavalry; and

Joint resolution (S. R. 104) providing for the printing and distribution of the Descriptive Catalogue of Government Publications.

ORDER OF BUSINESS.

The SPEAKER. The question now recurs on the motion of the gentleman from Louisiana [Mr. ELLIS] to dispense with the morning hour.

The motion was agreed to; there being—ayes 92, noes 14 (two-thirds voting in the affirmative).

Mr. ELLIS. I move that the House resolve itself into Committee of the Whole on the state of the Union for the further consideration of the Indian appropriation bill; and pending that motion I move that all general debate in Committee of the Whole be limited to one minute.

Mr. KEIFER. I hope the gentleman will allow us ten or fifteen minutes.

Mr. ROGERS, of Arkansas. There is a proposition pending in this appropriation bill which from practical experience I know ought not to become a law. We shall not be able to discuss this matter satisfactorily under the five-minute rule, and I do trust we shall have some limited time for the discussion before the commencement of the five-minute debate. I ask the gentleman from Louisiana, who I understand is acting under the direction of the Committee on Appropriations, that some little consultation be had, and that the general debate be extended for a short time.

Mr. ELLIS. Yesterday we had two hours' discussion, of which I think about an hour and a half was *dehors* the bill—upon matters that did not properly enter into the consideration of the bill. I believe that as a general thing any gentleman will be able to say intelligibly anything he may wish to say upon any clause of this bill in five minutes. I must object, therefore, to any further general debate.

Mr. ROGERS, of Arkansas. I move to amend the motion of the gentleman from Louisiana by striking out "one minute" and inserting "forty minutes."

Mr. CHACE. I wish to call the attention of the gentleman in charge of this bill to the fact that nearly all the time occupied yesterday in debate upon this bill was on the other side—by gentlemen who advocate the provisions of the bill as reported. Several gentlemen on this side desire to speak on the general merits of the question, and they can not express themselves as they desire in the five-minute debate.

Mr. ELLIS. I do not recognize any "other side" on this bill. It is a bill in which gentlemen on both sides are interested. There is no "other side" of the question.

Mr. CHACE. I did not allude to it as a political question; but I believe the gentleman will find that there is another side, and a very wrong side, in this bill.

Mr. ELLIS. I have no doubt the gentleman knows his own position.

The SPEAKER. The gentleman from Louisiana [Mr. ELLIS] moves that all general debate in Committee of the Whole on the Indian appropriation bill terminate in one minute. The gentleman from Arkansas [Mr. ROGERS] moves to amend so as to close debate in forty minutes.

Mr. WASHBURN. I move to amend the amendment by striking out "forty minutes" and inserting "fifteen minutes."

Mr. WASHBURN's amendment to the amendment was not agreed to.

The question recurring upon the amendment of Mr. ROGERS, of Arkansas, it was agreed to; there being—ayes 88, noes 36.

The motion of Mr. ELLIS as amended was then agreed to.

The SPEAKER. The question now recurs on the motion of the gentleman from Louisiana [Mr. ELLIS] that the House resolve itself into Committee of the Whole on the state of the Union for the consideration of the Indian appropriation bill.

INDIAN APPROPRIATION BILL.

Mr. ELLIS's motion was agreed to; and the House accordingly resolved itself into the Committee of the Whole House on the state of the Union, Mr. WELLBORN in the chair.

The CHAIRMAN. The committee resumes the consideration of the bill (H. R. 7970) making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1886, and for other purposes.

General debate has been limited by order of the House to forty minutes.

Mr. ROGERS, of Arkansas, took the floor.

Mr. ELLIS. I suppose that time, Mr. Chairman, will be equally divided between this and the other side of the House.

Mr. ROGERS, of Arkansas. I do not know how the time is to be divided.

Mr. HOLMAN. I suppose it will be under the five-minute rule, of course.

Mr. ELLIS. Not at all. It is under the rule for general debate.

The CHAIRMAN. Is there any agreement as to the division of the time to which the general debate has been limited by the House?

Mr. ROGERS, of Arkansas. I will state frankly to the chairman while we are making this arrangement I do not wish it to come out of my time. I am not opposed to the bill, but simply desire to discuss an amendment to the bill.

The CHAIRMAN. Is there any understanding?

Mr. ROGERS, of Arkansas. There is no understanding. I shall vote for the bill myself at the proper time, but I wish to discuss an amendment. Shall I proceed?

Mr. ELLIS. I simply ask there might be an understanding. The gentleman from Ohio [Mr. KEIFER], my colleague on the committee, who desires to speak, as well as some other gentlemen, I should like to have some understanding before my friend from Arkansas proceeds, and I therefore ask, by unanimous consent, that the forty minutes be divided, twenty minutes to be controlled by the gentleman from Arkansas, and twenty minutes by the gentleman from Ohio.

The CHAIRMAN. Is that satisfactory?

Mr. ROGERS, of Arkansas. Entirely satisfactory to me.

The CHAIRMAN. If there be no objection that arrangement will be made.

Mr. CHACE. What is it?

The CHAIRMAN. That the gentleman from Arkansas shall control twenty minutes, and the gentleman from Ohio [Mr. KEIFER] the other twenty minutes. Is there objection to that division of the time?

There was no objection, and it was ordered accordingly.

Mr. ROGERS, of Arkansas. Mr. Chairman, my purpose this morning in addressing the committee is to invite attention first to the last section of this bill, and I especially invite the attention of my friend from Louisiana [Mr. ELLIS] and the Committee on Appropriations to that section of the bill.

Now, section 2139 of the Revised Statutes of the United States provides as follows:

SEC. 2139. No ardent spirits shall be introduced, under any pretense, into the Indian country. Every person [*except an Indian, in the Indian country*] who sells, exchanges, gives, barters, or disposes of any spirituous liquors or wine to any Indian under the charge of any Indian superintendent or agent, or introduces or attempts to introduce any spirituous liquor or wine into the Indian country, shall be punishable by imprisonment for not more than two years, and by a fine of not more than $3,000. But it shall be a sufficient defense to any charge of introducing or attempting to introduce liquor into the Indian country, that the acts charged were done by order of or under authority from the War Department, or any officer duly authorized thereunto by the War Department.

The section of the bill which the Committee on Appropriations proposes to substitute for that section differs from it only, so far as my purpose is concerned this morning, in fixing the minimum of punishment. I say frankly, Mr. Chairman, that my objection to the amendment by the committee is not to the maximum of punishment. It is but little difference to me how high the punishment may be. But, Mr. Chairman, it should be kept in mind that it is not always the severity of punishment which prevents crime, but rather the certainty of its execution.

What I object to, therefore, is the minimum punishment fixed by this bill. As amended, the law reads as follows:

Every person * * * who introduces, or attempts to introduce, &c., * * * liquors, &c., * * * into the Indian country, &c., shall be punishable by imprisonment for not less than six months nor more than two years, and by a fine of not less than $50 nor more than $1,000.

Let me illustrate to my friend from Louisiana [Mr. ELLIS]—and I speak, Mr. Chairman, on this point from personal knowledge on this subject. As some gentlemen know, the court which enforces in the main the intercourse laws with Indian people in the Indian Territory sits at my town. Of course, I am of necessity made familiar with the execution of the law in that court. It will be remembered one of the provisions of the statutes is that no spirituous liquors or alcohol in any quantity can be introduced into the Indian Territory except by authority of the War Department. To illustrate, let us take the case of a man living across the line in the Indian country, a member of whose family is suffering from pneumonia, from consumption, or from some form of malarial disease common in that country.

It is the universal practice of the most distinguished, honorable, and high-minded members of the medical profession in that country to use spirituous liquors in some form in this class of cases, and yet the man who introduces a pint of alcohol or a gill of liquor to save the life of a member of his family, if detected, must be imprisoned under this amendment for not less than six months and fined $50. Now, what is the sense or wisdom of a provision like this? I say frankly, Mr. Chairman, in justice to the Committee on Appropriations, that the Commissioner of Indian Affairs not only recommends what they have done in this bill, but he urges a severer penalty than that which the Committee on Appropriations have provided in this bill.

On page 7 of his report I find these words:

> After the offender has been arrested, tried, and found guilty, the punishment under the law as it now stands may be, and in many instances is, so light as to be no terror to the evil-doer. When from $100 to $500 have been expended in prosecuting a case to conviction of the offender and then have him fined $1 and imprisoned one day, as has been the case in some instances, it is very obvious that this worst of all evils in the Indian country will not be removed, and is so broad a farce as to be justly ridiculed and despised. The only effectual remedy for this is the one which I have repeatedly recommended, and that is to make the penalty not less than $300 fine, and not less than two years' imprisonment. The law now reads not more than $300, and not more than two years' imprisonment.

Mr. Chairman, the Commissioner of Indian Affairs, no doubt a kind-hearted, clever old gentleman, and, as he thinks, a friend to the Indians, is as innocent of any practical knowledge of the operations of these laws in that Indian Territory as ex-Governor St. John was of any complicity in the procurement of the recent order from the Secretary of the Treasury touching the tax on bonded whisky. He knows nothing whatever of the operation of these laws in that Territory, and in his efforts to execute and enforce the law he advises this Congress to do that which, permit me to say, with proper deference for him, is precisely what should not be done. I may be permitted to say also, Mr. Chairman, that the Commissioner pays no compliment whatever to the Federal judiciary when he goes out of his way to say that men who have violated the law have been let off with merely nominal sums, or a fine of $1 and a day's imprisonment, thus indicating that they should have been fined a much larger sum. *Ne sutor ultra crepidam.* For the information of this committee as well as of the Commissioner of Indian Affairs, I will say for the judge who presides over the western district of Arkansas that it is the public sentiment of the people of that region of country that at times upon this and kindred subjects he has been most severe in the penalties imposed for this offense where such offenses have been shown to be flagrant. Is it not safe and wise to leave the fixing of the proper penalty in the sound discretion of the presiding judge, who can ascertain all the facts and graduate it to the character of the case?

Let me illustrate the wrong contained in this amendment by other classes of cases which I can cite—and I could cite a dozen instances if necessary. Ours is comparatively a new country. The western part of our State, adjoining the Indian country, is rapidly developing, filling up with people from all parts of the Union. I can not forbear to mention that Arkansas, since 1874, under a thoroughly Democratic State administration, presents this remarkable anomaly. During the last fall and this winter, indeed for three years past, perhaps longer, a large number of negroes from other Southern States have been coming and making their homes with us, becoming permanent citizens of the State.

Whether they have been led to believe that our laws are more humane or more impartially enforced; whether they expect cheaper lands and homes, or better wages, better school facilities, or a more healthful climate, I do not know; but, however that may be, the stubborn fact remains, they come and they stay. These people from abroad never heard of this intercourse law which prohibits a man from carrying into the Indian country a gill or a pint of liquor for his own use. With these classes of people, strangers in the country, not knowing the law, technical violations of this statute must occur, and occur frequently.

Under this provision of the law to which I am now referring a man who is as ignorant of any intended wrong as a child unborn is to be imprisoned six months and fined $50 for such technical violations of the statute as I have just stated. Sir, our common sense can not approve a statute like this. Humanity demands a different course. Can we not trust our judiciary in the exercise of a sound discretion, after we have fixed the maximum punishment, to say what ought to be imposed under all the circumstances? If we can not, the fault is not the law, but it is in our judges, and the suggestion of the Commissioner of Indian Affairs is a reflection either on their capacity or their integrity.

But I repeat that I could go further and cite many other instances of a similar character where the same trouble would arise. Why, sometimes, sir, merchants, druggists in their ordinary business pursuits, in taking liquor from one part of the State to another travel down the Territorial line; there may be, in point of fact there are, slight deflections in the road which takes them into the Indian Territory; they do not stop, but pass through on their way to their destination, and yet under the provisions of this law, and by the rulings of the courts under the law as it stands, these men are not only to be arrested and prosecuted but their property is to be confiscated and they are subject to fine and imprisonment. If the law stands as it is now the court could fine them a dollar and imprison them a minute, but if this amendment is adopted the minimum is $50 and imprisonment six months.

Mr. BROWN, of Pennsylvania. That would not be the case unless they undertook to dispose of the liquor. It would not be a violation of the law simply to pass through in that manner.

Mr. ROGERS, of Arkansas. Under the provisions of the law as it is now and as it is in this bill, the introduction is a violation of the law. If a man travels down the line between the Territory and the State, and if, as I have said, a deflection in the road shall take him across that line into the Territory, if he is inside of the Territory for only a hundred or two hundred yards, and if he has a gill of whisky in his wagon, he is subject to the punishment imposed by this law—that is to say, fine and imprisonment.

Mr. BROWN, of Pennsylvania. But not if he keeps the liquor in his wagon.

Mr. ROGERS, of Arkansas. Yes, sir; and not only that, but the wagon itself is liable to be condemned under the statute. He is himself also subject to indictment and prosecution for a violation of the law and to the penalty fixed by this act. The introduction as well as the selling constitutes an offense, and the intent with which the introduction was had is not a necessary ingredient of the offense. The law allows no introduction for any purpose without authority from the War Department.

Let me put another case much stronger than those I have already given.

Every fall there is a constant stream of emigrants from the State of Missouri to the State of Texas, and from the State of Texas back to the State of Missouri. When traveling the roads at this season of the year one will scarcely get out of sight of covered wagons.

In traveling from Missouri to Texas the road for fifty miles borders closely along the line of the Indian Territory, then goes into the Territory, and on to Texas. Hundreds of these people are totally ignorant of this intercourse law. They and their families traveling through this country under these circumstances often have with them small quantities of liquor for medical purposes. However ignorant they may be of the law, if they introduce one gill of liquor of any description into this Indian country they incur the penalty of this act and subject their property, as I have said, to confiscation.

All will agree that if an emigrant with his family, under the circumstances stated, should introduce a small quantity of liquor for the purposes stated into the Indian country, the act would not constitute the evil which Congress undertook to suppress in the passage of these intercourse laws. Yet, if it be held that such introduction was not a violation of the statute, the gates would be thrown wide open for all sorts of imposition and subterfuge to get liquor into the Indian country. Hence it is that the courts have held, and properly held, that every act of this character is a violation of these intercourse laws.

So that—to sum it all up—for no purpose, except by authority of the War Department, can liquor be carried into this country, not even for sacramental purposes, without incurring the penalties of this statute.

The question then presented is whether or not Congress is willing to enact a law which absolutely requires the Federal judiciary, for the classes of technical cases which I have undertaken to state, to impose upon a citizen six months' imprisonment and a fine of $50. Is it not wiser and better and safer to let the law stand as it is now, without any minimum penalty, leaving the Federal judiciary, in the enforcement of the statute and in the exercise of sound discretion, to graduate the penalty in each case according to the nature and character of case developed on trial? I say it is; and the amendment proposed involves unsafe legislation, and I give notice now at the proper time I shall move to strike out the minimum penalty fixed by the act.

Mr. Chairman, the recommendation of the Commissioner of Indian Affairs on this subject is in keeping with other provisions of the report which he gives to Congress on this Indian question. Let me read for a moment for the enlightenment of the committee on this subject. He says:

> Outside the five civilized tribes in the Indian Territory, who have their own legislatures, courts, and judicial machinery, and among whom life and property are as secure as they are in the States, the Indian is not amenable to any law for injuries committed on one of his own race in the Indian country.

I state, sir, that when the Commissioner of Indian Affairs undertakes to say that "life and property are as secure" in the Indian courts as in the States, he innocently, it may be, perpetrates a slander upon the States. I know that statements of this character have come up to Congress in this shape, and have been repeated again and again until the

Indian Commissioner himself perhaps believes the statement to be true. But he ought to know better. Let me give you a sample of the administration of the law in that Indian country.

I select for illustration a case somewhat personally known to me—the case of Jerry Ward; it is a recent case—not four months old. That gentlemen may know that Jerry Ward is a citizen of the Choctaw Nation, I refer to the session acts of the Choctaw council for 1880, which I hold in my hand, showing that a resolution was passed by the Choctaw council, signed by the governor, directing Jerry Ward, as judge of a certain circuit, to do certain things. I shall have the resolution itself printed in my remarks.

[Bill No. 14.]

A resolution requesting Judge Ward to revoke or suspend a certain writ of injunction at Savanna.

Be it resolved by the general council of the Choctaw Nation assembled, That in consideration of the public necessity, Hon. Jeremiah Ward, circuit judge of the first judicial circuit, Choctaw Nation, is hereby requested to revoke or suspend a certain writ of injunction granted by Hon. James Thompson, on the 24th day of August, 1880, then a circuit judge of said first judicial circuit, stopping the working of a certain coal claim near Savanna, Tobacksy County, Choctaw Nation, which was being operated by the Choctaw Coal and Mining Company under contract with the Choctaw and Chickasaw Nations.

Be it further resolved, That the national secretary is hereby requested to furnish Judge Ward with a certified copy of this resolution as early as practicable, and this resolution shall take effect from and after its passage.

BENJAMIN WESLEY,
Chairman Committee on Judiciary.

Approved November 1, 1880.

J. F. McCURTAIN, *P. C., C. N.*

Now, it so happens that I know Jerry Ward personally. He is a man, I think, not less than 60 years of age. I believe since 1867 at intervals he has been elected as circuit judge, holding his office under the constitution and laws of the Choctaw people. At the last election in that country Jerry Ward was again elected circuit judge; and when the Choctaw council met, without notice to him, who held his commission as one of the circuit judges, they passed a resolution declaring he was not a citizen in that Indian country; and upon that the governor issued an order demanding the surrender of his commission and turned him out of his official position.

And this, according to the Commissioner of Indian Affairs, is that due process of law, that protection to property, which obtains in the States. I assert it is a fair sample of Indian justice in that country. Jerry Ward did not belong to the "Tubbe" or the administration party. He was not a willing tool. He did not answer the purpose. And this old man, more than once honored by his people with high judicial office, educated and intelligent as he is, is to-day, in law, if this is law, an exile.

Jerry Ward never lived anywhere else in his life but among the Choctaws and for years and years in the Indian country, and yet this is the treatment he receives, not at the hands of a subordinate court, but at the hands of the legislative council of the Choctaw Nation, indorsed and carried into effect by the governor of that Territory. I have seen a copy of the resolution, and the original letter of the governor demanding the surrender of his commission, based on that resolution.

I will give another case, by way of illustration. I take the case of Judge Cribbs, of the Choctaw Nation. I will read the forty-third article of the treaty of 1866. It is as follows:

The United States promise and agree, that no white person except officers, agents and employés of the Government, and of any internal improvement company, or persons traveling through or temporarily sojourning in said nations or either of them shall be permitted to go into said Territory unless formally incorporated and naturalized by the joint action of the authorities of both nations into one of the said nations of Choctaws and Chickasaws, according to their laws, customs, or usages; but this article is not to be construed to affect parties heretofore adopted, or to prevent the employment temporarily of white persons who are teachers, mechanics, or skilled in agriculture, or to prevent the legislative authorities of the respective nations from authorizing such works of internal improvement, as they may deem essential to the welfare and prosperity of the community, or to be taken to interfere with or invalidate any action which has heretofore been had in this connection by either of the said nations.

What was the object of this provision of the treaty? Why, Mr. Chairman, it was to teach these people the arts of civilization by actual example; it was to bring into their midst teachers, mechanics, persons skilled in agriculture, honorable and worthy laborers, who would teach them not only letters but how to work, how to open their farms, how to till the soil, how to produce corn and meat, how to become self-reliant and self-sustaining. In short, the object was to promote Indian civilization, letting education go hand in hand with labor; and yet the Choctaw council, in pursuance of what it perhaps conceived to be the correct construction of the provisions of this treaty, but in point of fact in direct contravention of its spirit, as well as of the policy of the Government touching the civilization of these Indians, by an act approved November 2, 1882, imposed a tax of $16.50 upon every lawyer, doctor, carpenter, wagon-maker, blacksmith, wheelwright, millwright, tailor, shoemaker, miller, machinist, sawyer, tanner, clerk, teamster, or any other artisan or non-citizen, and further provided that any person who shall employ any non-citizen in any other manner than is provided for by this act shall be deemed guilty of a misdemeanor and on conviction thereof shall be fined not less than $50 nor more than $100.

Thus we find that the action of the council itself nullifies this provision of the treaty; thus we find that the council of this nation brings to bear the whole power of its national administration to impede the development of that country in those very directions which it was the policy of the Government to promote.

Judge Cribbs, whom I have mentioned, is a citizen of the Choctaw Nation. He was indicted under this act of the Choctaw council for the employment of a laborer without first having obtained the permit provided by law. He was fined. He undertook to appeal his case to the supreme court of that Territory, to secure its reversal. He took the necessary steps in their crude practice to secure that appeal. It was granted by the supreme court of that Territory. Afterward, for some cause and without any trial, the appeal was dismissed and Cribbs subjected to the punishment, under the conviction of the lower court.

He sent all these papers to me, and requested that I lay them before the Secretary of the Interior for his revision. I did so, urging my views before the Secretary touching the provisions of this treaty; but I found that a different interpretation had been placed upon it, not only by the Secretary of the Interior, but by a committee of the Senate of the United States, and, of course, no relief could be had, the constitutionality of this act being upheld by the Department of the Interior.

And now I have come to the point which I desired to make in citing this case, and I speak from a personal knowledge of the facts.

When the Choctaw authorities ascertained that Cribbs had called the attention of the Interior Department to his case, and asked its reversal, the chief-justice of that Territory, without notice and without trial, issued an order over his own signature canceling the license of Cribbs and prohibiting him from practicing in the Indian courts; and for the simple reason, as stated in substance, that he had undertaken by his appeal to the Interior Department to overturn the laws of his own people.

I suppose that the honorable Commissioner of Indian Affairs would regard this as due process of law in any of the States of this Union, but it has been held everywhere in all the States, so far as I know, that no member of the profession can be disbarred without notice and a trial upon specific charges duly preferred.

Let us look for a moment at the operation of this decision. In that Indian country society can be well divided into two great classes. The one which is in power is the one that desires no progress and no development in that nation. The one to which Cribbs belongs is that class of its citizens who are progressive, who seek to make a living on their farms and by their labor. It is this class that deserves well, not only of the Indian government but of the Government of the United States. It is this class which has done more and will do more in the future to civilize and elevate the Indian than all the funds which we have appropriated; and yet we find that this class is the one at which the Choctaw council, by virtue of this act, aimed a deadly blow.

Why, sir, there are Indian citizens in that Indian country who, under the operations of this act, in order to till their farms would be compelled to pay more taxes than, perhaps, the wealthiest citizens of the country in which I live. It will be remembered that there is no necessity for a tax upon its own citizens in the Indian country. Their resources are ample for an economical administration of the law and the maintenance of their schools; while in my own State the highest rate of taxation obtains permitted under the constitution; struggling to meet the obligations of an undisputed State debt and to maintain our common school system, we go to the very limit of the law. Yet this class of citizens in that Indian country who are doing so much to advance and promote its civilization, where no taxes are required, are taxed under this law, as I have said, more oppressively than the people in the States.

Let me give you another example, Mr. Chairman. All along the line of this Indian country, between it and my State, are large and prosperous farmers—I mean on the State side—men who are pursuing agriculture, who have their horses and their cattle and their little property of that description; and yet, sir, if a cow or a horse turned out on the range crosses the line into the Indian country and the Indians shoot one, hamstring another, mutilate another, or commit any similar injury upon it, there is no authority under the heavens to do anything by way of redress or punish the party who commits this act. Every now and then at my own home honorable and worthy citizens come to me and say that Congress ought to pass some law for the protection of their property that accidentally finds its way across the line into the Indian country.

In other words, we are there without criminal or civil jurisdiction for acts like these. It so happens that even if a rascally debtor in the State desires to avoid his debts he simply picks up his property, crosses the line into the Indian country beyond the civil jurisdiction of any court, and there he is as safe as if he were on the opposite side of the Atlantic Ocean. Yet we stand here to-day, Mr. Chairman, with the report of the Commissioner of Indian Affairs telling us that in that country life and property is as secure as it is in the States.

Mr. Chairman, I have one other suggestion to make in connection with this bill. I know that the habit of discussing great questions of public policy upon the consideration of an appropriation bill is perhaps more honored in the breach than in the observance. But there is one idea that I desire to throw out now. At some future time, and on some more fit occasion, I shall endeavor to show that the operation of the whole Indian policy in connection with that Indian country is to defeat the very object for which the Government itself has inaugurated that policy.

Sir, as long as these delegates that represent those tribes are permitted to walk around the lobbies of this Capitol, drawing large salaries from these Indians and misappropriating their funds, as I believe one committee of the House has now undertaken to show, just so long they are interested in keeping back the civilization and the progress of the Indian country; and just so long as the Indian agent sent into that country by this Government is permitted to stay there and draw his salary, just so long is he interested in perpetuation of that state of affairs which it is our duty to prevent; for it is our duty, our moral duty, to lift these people up, if we can, to a higher civilization.

Mr. Chairman, our whole Indian policy has degenerated into a single proposition, namely, to appropriate the people's money to feed, educate, and clothe them, while they eke out a life of laziness and indolence. I do not allude now to the Indian Territory so much, but more particularly to the other tribes of Indians in other parts of the country. Sir, there is a philosophical truth underlying this question of dealing with our Indian population which I want to enforce to-day upon the attention of this body. That truth is that no people on earth were ever civilized by simply educating them. Sir, the very soul of civilization is rooted deep down in labor. Education and labor must go hand in hand in order to produce good results. I will give you this idea in a form that I could not give it myself, and in the words of a distinguished Christian and philanthropist who has published a book upon the question of the education of the negroes at the South. It applies with equal force to the Indian. It deserves our candid consideration and earnest thought. The author says:

> Doing things for and giving things to people does not lift them up, if the doing and the giving do not spring a new hope, a new aspiration, a new purpose in them, or in some way vivify into fruitful life some dormant good already in their souls. The test of our usefulness to others is to be found in their character. Do we make them wiser, stronger, braver, truer? Then we have lifted them up by helping them to grow out of their weakness and evil into their strength and goodness. Why is it better to give a poor man a day's work than a day's rations without work? The one gift lifts him up, the other pauperizes him. In all our plans and efforts to lift up the negro, let us remember that our best help to him is whatever most effectually enables him to help himself.

Sir, this race must be taught to lay aside the hunting-rifle and take up the hoe and the chopping-ax. The Indian will never learn this lesson in schools and colleges. If the few we educate did learn it, when they return to their own people they must go back to their habits and customs, advocate the measures that are popular among the dominant element, right or wrong; doff the spike-tail coat and stove-pipe hat, and don the hunting-shirt and the navy-six, or they are practically ostracized by their own people. To teach these people to work it must be made honorable among them. The way to make it honorable is to bring them in contact with whites who do work, who desire to improve their condition, who want churches, schools, farms, and homes, and laws that are respected because humanely enforced.

There is a solution of this Indian problem in the Indian Territory. We are upholding these rotten governments there under the pretense of civilizing the Indians. We justify our conduct by clinging to treaties that have served their purpose, and were never intended as anything but temporary expedients. We expected the time would come when the logic of events would enforce a different condition for them. We knew by past history that in the march of civilization these Indian governments must give way.

They are giving way year by year. Everybody seems to realize this except the Indian delegates, the Indian agents, and perhaps the Indian Office. Why, sir, we are treated in this last report of the Commissioner of Indian Affairs to a recitation of what the Cherokee delegates have done touching certain acts of this Congress granting charters to railroads through that country, and reminding us that this legislation overturns the theory of that office touching the construction of the treaties with the Indians. He does not seem to have learned yet that Congress, several years since, settled, after mature debate, that the right of eminent domain obtained there, notwithstanding the Indian treaties; that the Government, being sovereign, could not cede that right if it would.

He does not seem to realize that Congress years ago, overriding the treaties, extended the internal-revenue laws over that country, and the courts upheld the act of Congress. I grow impatient under this Bourbon-Indian policy of ours, sir; the better, the intelligent, and progressive Indians are tired of it. I have talked with many of them; I know their sentiments—sentiments they dare not express among their own people.

They understand that the time will soon come when their numbers will so multiply, by intermarriage with whites and by natural increase, that their distributive shares of their land will amount to but little. They therefore begin to want homes of their own; moved by natural instincts they want to provide for themselves and their offspring.

Sir, I believe the Indian people would consent, if a fair expression could be had, to an equal division of their lands among them and to the establishment of a Territorial government. They do not, as I believe, approve of the suggestion of setting apart to each Indian a limited amount of land and turning the balance over to the Government for sale and investment of the proceeds for them. They, as I believe, prefer to control their own lands; they prefer an equal division of it all, and Congress can by proper legislation make their lands inalienable as long as it chooses. They may prevent its being encumbered. Then they may lease it to those who will cultivate it, and the very contact with the better laboring element of the whites will do more to promote their civilization than all the surplus in the Treasury can do.

Going hand in hand with this is citizenship, courts, and laws. It is coming to this. We know it. They know it. It is their interest to accept the situation. It is our duty to protect them by humane laws. Sir, it is the favorite theme of sentimentalists that we must hold sacred the treaties; that good morals demand it. Sir, good morals demand, wise statemanship dictates, and sound public policy requires that we should establish a humane and an honest government in that country, that life and property should be made safe, that peace and order should be maintained. Sir, I would do these people no injustice; I would lift them up by the adoption of a wiser, a more humane, a more honest policy to a higher plane of Christian civilization. Sooner or later it will be done, and the sooner the better for them and for us.

Mr. KEIFER. Mr. Chairman, the gentleman in charge of this bill perhaps correctly characterized this morning the discussion that went on here yesterday. If he be right in saying that the greater part of that discussion was not confined to the bill, that may still be an excuse for the few remarks that I shall submit. There is no time here, it seems, for anybody to say a word in behalf of these tribes of people who have no voice in the Congress of the United States and yet are being continually legislated about and to their great injury.

Allow me to say, partially in answer to the argument made by the gentleman who has just taken his seat [Mr. ROGERS, of Arkansas], that I think the present Commissioner of Indian Affairs understands all about the operation of the laws against selling to the Indians intoxicating liquors, and it may be time enough to talk about mitigating the penalties in such cases when we find gentlemen coming here and praying us to grant relief to them because they are engaged only in the missionary or philanthropic work of prescribing intoxicants to sick Indians!

The argument which the gentleman makes is on the theory that these people who were engaged in selling liquor to the Indians are so engaged merely for the purpose of relieving the Indians when sick. Now, when we meet a case of that kind we might appeal at least to executive clemency. But the law is directed against those who want to speculate by selling liquor to the Indians, and thus causing nearly all the trouble that we have in that Indian country.

But my principal purpose at present is to say something on a subject that was referred to in the discussion on yesterday.

Some of the speeches made by distinguished gentlemen here have been in effect an excuse for men going into the Indian Territory and settling upon the Indian lands, and their defiance of the powers of the Government. I mean exactly what I say; for an examination of the treaties with these Indians will show that there is no color of right on the part for any of these people, whether they be from Kansas or Arkansas, or wherever they may be from, going into the Indian Territory and undertaking to occupy it. There is not a shadow of right of that kind, and I want to protest, Mr. Chairman, against anything being said in the Congress of the United States to excuse those people for going into the Indian Territory to rob these poor Indians of their lands. I want also to say a word in justification of the War Department exercising a power expressly given to it, a power not only given to it under the Constitution and the laws, but expressly authorized by treaties to be exercised in protecting the Indians in their rights to their lands.

Mr. PERKINS. Will the gentleman yield for a question?

Mr. KEIFER. Certainly.

Mr. PERKINS. Have not the Indians, so far as the Oklahoma territory is concerned, sold it to the Government of the United States and received their money?

Mr. KEIFER. Mr. Chairman, I answer no. Now let me answer the question more fully. I read from the treaty of June 14, 1866. That treaty was made with these Indians after the war, after many of the Indians had gone off with the so-called confederate government and when it was desired to have a treaty that would provide in terms that slavery or involuntary servitude should not exist within the territorial limits occupied by these Indian tribes. Other things, too, were taken into account. The United States with its grasping power sought there, under the claim that it desired to settle other tribes of Indians upon a portion of the territory of the Creeks—not only other tribes of Indians, but also freedmen who had gone off into that territory—upon part of those lands, and for that purpose a stipulation was put into this treaty. I will read it, or at least enough of it to be a perfect answer to the question of the gentleman from Kansas. I read:

> ARTICLE 3. In compliance with the desire of the United States to locate other Indians and freedmen thereon, the Creeks hereby cede and convey to the United States, to be sold to and used as homes for such other civilized Indians as the United States may choose to settle thereon, the west half of their entire domain, to be divided, &c.

Now, Mr. Chairman, that furnishes a complete answer to the gentleman's question. The language is: "In compliance with the desire of the United States to locate other Indians and freedmen thereon." These lands were ceded for what? By the express terms of this article they were ceded to the United States to be sold to and used as homes for such other civilized Indians as the United States may choose to

settle thereon, and not for any other purpose. The Indians may very well prefer to have as their neighbors other civilized tribes of Indians or freedmen than white men. They may greatly prefer to have Indians as neighbors than people who under the guise of settlers would occupy lands and then encroach upon the reservation until ultimately the Indians, the rightful owners, were driven away.

Mr. PETERS. Will the gentleman permit me to ask him a question?

Mr. KEIFER. Certainly.

Mr. PETERS. Did the Indians have a right to select what class of people or what tribes should be located upon those lands?

Mr. KEIFER. The Indians by this treaty stipulated that only other Indian tribes and freedmen were to be sent upon those lands, and under that clause of the treaty settlers have no right to go there and usurp the lands, and every one of them should be driven at the point of the bayonet from that Oklahoma territory.

Mr. PETERS. Was it not also decided that the word "freedmen," as there used, was confined to those who were freed by the Creek and Cherokee Nations?

Mr. KEIFER. I am not certain about the reading of the decision, but that does not affect my argument.

Mr. Chairman, I have but very little time, and I wish to call the attention of the House to the position of this territory on the map.

Mr. PERKINS. Has not Congress provided that no Indians shall be settled there?

Mr. KEIFER. I think not. If Congress has provided that Indians shall not be settled there, does it follow in law, reason, or logic that any person in the United States may go there and occupy the land? Congress can yet provide for the settlement of Indians on these lands according to the terms of the treaty.

Mr. PERKINS. Then, I will ask, what shall become of the land?

Mr. KEIFER. The gentleman asks, what shall become of the land? I reply, hold it for the purposes for which we obtained it, and for no other.

Mr. CUTCHEON. Or else recede it.

Mr. PETERS. If no Indians are to be settled there, why hold it?

Mr. KEIFER. The gentleman says no Indians are to be settled there. I say there are Indians to be settled there. If no others, there are the Creeks and Seminoles who might have the right to use it until the United States shall choose to use it as the treaty provides.

Mr. PETERS. The Creeks reserved the eastern half of their territory to themselves.

Mr. KEIFER. And by treaty limited the use the western half was to be put to.

Mr. RYAN. I suppose my friend does not wish to produce any false impression. The land ceded by the Seminoles and Creeks was ceded absolutely for the purposes specified.

Mr. KEIFER. For the purposes I have stated.

Mr. RYAN. But you have just stated that by the terms of the treaty they had a right to retain possession of the ceded territory until the Indians were located upon it.

Mr. KEIFER. Mr. Chairman, I can not allow the gentleman to occupy the little time I have remaining. I have stated nothing of the kind. The gentleman did not understand what I said. In answer to gentlemen who wanted to know what would be done with this land, and who undertook to say there were no Indians to occupy it, I said there were yet Seminoles and Creeks who could occupy it if the United States could not cause it to be used as agreed in the treaty of June 14, 1866.

But, Mr. Chairman, in a brief debate of ten or fifteen minutes I am not going to enter into a legal discussion as to the effect of the stipulation of the treaty in regard to this land and whether, if the United States should fail to use it for the purposes for which it was ceded, it should revert to those tribes. That would be the ordinary result in a transaction between citizens of the United States; but when we are dealing with a poor helpless tribe of Indians it may be that the rule is the other way. At all events, I am justified in saying that the United States did not acquire this territory for any public purposes at all.

The Oklahoma region of country is located [pointing to a map of the Indian Territory] in the very heart of the Indian Territory, the whole of which has long since been dedicated as an Indian country for the settlement of various tribes of Indians. The Creek Indians originally owned all this Oklahoma territory; then a part of it went by treaty to the Seminoles, and the Creeks and Seminoles together ceded, as I have already stated, this Oklahoma territory. On the part of this Indian country originally owned by the Creeks there have been settled the Seminoles, the Iowas, the Kickapoos, the Pawnees, and the Sac and Fox Indians, but there is a portion, commonly called Oklahoma, which has not been occupied at all, and because it has not been occupied the land thieves of the country claim they have a right to go and steal it. I want to enter my protest here as strongly as I can against that being done. If the time should come when we must take this land from these poor Indians and give it to our people because we need more room, let us do it by purchase. If we must steal it let us do it boldly and openly, acknowledging to the world that we are robbing those Indians of the country that has been by solemn treaty dedicated by the United States to them forever. Let us not take possession step by step and piece by piece; let us be open and, if possible, manly about the matter.

Mr. PETERS. Was there any law other than the law which included the whole Louisiana territory that designated this as Indian country?

Mr. KEIFER. Treaty after treaty with the Cherokees, the Choctaws, the Creeks, and other tribes of Indians has dedicated this territory for the occupation of Indian tribes.

Mr. PETERS. I meant any general law.

Mr. KEIFER. Gentlemen talk about the Cherokee lands. Let me say one or two things about the way we deal with these Indians. The Cherokees owned all the northern part of the Indian Territory. They originally stipulated upon the idea that they were to have an outlet indefinitely to the far West. They were settled on the Arkansas, but they wanted an outlet to the great buffalo plains, as they called them. They found that they had more land than they needed or wanted; and they entered into a treaty with the United States by which the western part of their reservation was to be appraised and taken by the United States for the very purpose for which the Creeks and the Seminoles surrendered the western half of their lands.

The United States was to appraise them. It sent a commission there, and that commission went over the country and selected the better parts of it. It appraised some of it at about a dollar an acre and some at 30 cents. It appraised it at various prices and made return to the Government. The average appraisement was 50 cents, or about that, per acre. When that appraisement was returned here to our Government—I do not know what officer is responsible, and care not—it was fixed at an average price of 47 cents an acre for all these Cherokee lands. The United States under treaty said, We will take some of these lands at that average rate of 47 cents, and it sent surveyors in there to select and survey reservations of the very best and choicest of those lands, proposing to pay only to the Cherokees therefor the average price of 47 cents an acre, leaving the comparatively worthless lands for the Indians. Up to this day the United States has not said it was willing to comply with the treaty by paying these Indians the average price for all of the lands. This adjoins the Oklahoma country on the north, and our people are claiming they are public lands, although we have not paid the Cherokees for them. We have not even paid for the good lands we have arbitrarily taken and sold to other Indian tribes for an increased price.

It is in this way that we deal with the Indian tribes, and I want, in the very brief time I have allotted to me, to have it understood there are at least some persons in the Congress of the United States willing to protest, if they have no stronger voice or vote, against such a policy.

It may be, Mr. Chairman, that we are approaching the time when we shall consummate that barbarity of ours growing out of a policy which looks to the final extermination of the Indian tribes, and by taking away from them all their lands. It may be that the decree of destiny has gone forth that they shall all go, but I protest, sir, against this generation at this late day, in our supposed high civilization, I protest against our being charged with the infamy of the Indian policy as it was originally adopted. We can do our duty in the light of the present toward what remains of these Indian tribes. We can keep our own contracts made in recent years with these Indian people. We should pay them according to the terms of our agreement, paying all we agreed to pay them. We should deal justly with them. It is true we abrogate treaty after treaty, and say to the Indians you are getting too much beef and too much bread, and having too good a time under a particular treaty.

When we abrogate a treaty with the Indians we never go and say to them come and take your land. No; but we hold on to all we have got from them and say to them, we must make a better treaty for the United States with you for the future. So we go on, and I think the time has come when we should have a policy carried out, not pretended to be carried out, but actually carried out, that would at least relieve us from some of the charges of the great injustice done toward these people. They are Indians, it is true, but we ought not to stand up here in the presence of the American people and say they have no rights; and when we undertake to trade with them let us be honest to ourselves and to them. They are at least our wards and entitled to our tender care. In conscience we should not rob them.

If I have any time remaining I will yield it to the gentleman from Michigan.

The CHAIRMAN. The time for general debate has expired, and the bill will be reported by paragraphs for amendment.

The Clerk read as follows:

The Secretary of the Interior is hereby directed to pay, out of the treaty funds herein appropriated for the Apaches, Kiowas, and Comanches, to William Midkiff, $2,600; to J. M. Waide, $3,250; and to Henry A. Whaley, $1,650; the same being claims for damages caused by depredations by said Indians, and examined, approved, and reported to Congress by the Commissioner of Indian Affairs.

Mr. ELLIS. By direction of the committee I move to strike out from line 162 to 170 which has just been read; and in lieu thereof to insert the provision which I send to the Clerk's desk.

The Clerk read as follows:

The Secretary of the Interior is hereby directed to pay out of the treaty funds herein appropriated for the Kiowas and Comanches, 15 per cent. to each of

the following-named persons upon their respective claims herein described, and in part payment thereof, to wit: To S. N. Wood, $1,285; to William Beddo, $18,600; to L. W. Vaughan, $247; to R. Vaughan, $695; to J. H. Baker, $110; to J. D. Halsell, $19,625; to James Martin & Brothers, $1,950; to C. C. Fuller, $800; to John Hensley, $2,350; to William M. Hardin, $1,385; to A. J. Henson, $1,250; to C. W. Cooper, $2,250; to Henry A. Whaley, $1,500; to Daniel E. Moore, $3,000; to James P. Lindsey, $2,625; to F. C. Bulkley, $7,500; to the legal representatives of John S. Chisum, $20,000; to J. M. Waide, $2,250; to William Midkiff, $2,600; to Overton Love, $7,350; to Mary Stick, administratrix of Wyatt Gilchrist, $300; the same being claims for damages caused by depredations by said Indians, and examined, approved, and reported to Congress by the Commissioner of Indian Affairs.

Mr. BLOUNT. I wish to ask the gentleman from Louisiana if it has been usual to put those claims in the Indian appropriation bill.

Mr. ELLIS. Yes, sir; it has been done year by year. We appropriate all these moneys in fulfillment of treaty stipulations, and by other clauses in those treaties it is provided these amounts for depredations shall be paid out of the treaty funds.

Mr. BLOUNT. I have seen them on the deficiency bill.

Mr. ELLIS. The Government in paying trust funds pays the obligations on them.

Mr. BLOUNT. That may be the reason for making up the bill in this way; but the general practice I think has been to put these on the deficiency bill when they are allowed at all.

Mr. ELLIS. The deficiency bill does not deal with Indians. This is the practice.

The amendment was agreed to.

The Clerk read as follows:

The Secretary of the Interior is hereby directed to pay, out of the treaty funds herein appropriated for the Pillager band of Chippewa Indians of Minnesota, to John Cook, $1,500; the same being a claim for damage caused by depredations of said Indians, and examined, approved, and reported to Congress by the Commissioner of Indian Affairs.

Mr. ELLIS. By direction of the Committee on Appropriations I send an amendment to the desk. It appears that John Cook, whose name is mentioned in this paragraph, is dead, and it is necessary to provide that the payment shall be made to his executor.

The Clerk read as follows:

In line 243, after the word "to," insert "the estate of;" so that it will read: "To the estate of John Cook."

The amendment was agreed to.

The Clerk read as follows:

For this amount, due the Choctaw Nation, to be placed to the credit of the Choctaws on the books of the United States Treasury, to draw interest at 5 per cent. per annum from the 21st day of May, 1883, the date of the passage of an act by the Choctaw legislature to adopt the Choctaw freedmen as citizens, being three-fourths of the balance of the sum of $300,000 stipulated to be paid and to draw interest under the third and forty-sixth articles of the treaty between the United States and the Choctaws and Chickasaws, dated April 28, 1866, less such sums, at the rate of $100 per capita, as shall be sufficient to pay such persons of African descent belonging to said nation who shall elect to remove and actually remove from the said nation, $52,125; in all, $82,157.89.

Mr. ELLIS. By direction of the committee I offer the amendment which I send to the desk.

The Clerk read as follows:

That the claim of the Cherokee Indians residing east of the Mississippi River at the date of the treaty of 1835–'36, and also the claim of the old settlers or Western Cherokees, both claims being set forth in the report to Congress by the Secretary of the Interior of February 3, 1883, made under the act of August 7, 1882, and as contained in Senate Executive Document No. 60 of the second session of the Forty-seventh Congress, and such sum or sums as may be found to be legally and equitably due to them, be, and the same are hereby, referred to the Court of Claims for adjudication, disposition, and report as provided by the Cherokee treaties of 1835–'36 and 1846, and jurisdiction is hereby conferred upon said court to hear and determine the rights of all parties interested therein, and to enter a decree respectively defining such rights; and said claims shall be heard and tried by preference and without delay; and in case of appeal to the Supreme Court of the United States the said appeal shall also be advanced and tried without delay and by preference; and said court shall especially determine the respective interests of the various bands of said Cherokee Indians and the amounts due each band or any individual members thereof.

Mr. HOLMAN. I reserve the point of order upon that amendment.

Mr. ELLIS. I believe points of order were not reserved upon this bill when it was reported and referred.

Mr. HOLMAN. That may be; but this is an amendment to the bill and subject to the point of order.

Mr. ELLIS. It is an amendment of the Committee on Appropriations.

Mr. HOLMAN. Undoubtedly; but like all other amendments it is subject to the point of order.

Mr. ELLIS. However, I will waive that.

Mr. HOLMAN. I do not wish the gentleman to waive anything. The point of order is good against it.

Mr. ELLIS. Then I will urge the adoption of the amendment at the proper time.

Mr. HOLMAN. I reserve the point of order.

The CHAIRMAN. Does the gentleman from Indiana desire to be heard now?

Mr. HOLMAN. I am willing to withhold the point of order.

Mr. ELLIS. Mr. Chairman, in the year 1882, by the act approved August 7 of that year, the Congress of the United States enacted the following law:

The Secretary of the Interior shall investigate and report to Congress what, in his opinion, would be an equitable settlement of all matters of dispute between the Eastern band of Cherokee Indians (including all the Cherokees residing east of the Mississippi River) and the Cherokee tribe or nation west; also all matters of dispute between other bands or parts of the Cherokee Nation; also all matters between any of said bands or parts thereof and the United States, arising from or growing out of treaty stipulations or the laws of Congress relating thereto, and what sum or sums of money, if any, should, in his opinion, be paid in such settlement; and the sum of $2,500 is hereby appropriated for such investigation.

That act was approved by the President of the United States; and under it the Commissioner of Indian Affairs or the Secretary of the Interior, appointed a commissioner who was duly sworn and has fully examined into all matters between these people and the United States growing out of unfulfilled treaty stipulations. This commissioner reported that a sum of between $700,000 and $800,000, with interest, is due to them. This sum was sent up by the Department to be appropriated for, but on account of our inability to determine to what respective bands of Cherokee Indians this sum properly belonged, or rather the proportion belonging to the eastern and western bands, we were unable properly to distribute the sum found due. Moreover, Mr. Chairman, there was a legal question involved, and we thought it best to refer the whole subject to the Court of Claims.

There is no question, gentlemen of the committee, but that these sums are due the Indians on account of unfulfilled treaty stipulations.

Mr. HOLMAN. Mr. Chairman, I must insist upon the point of order that this proposition to refer these claims to the Court of Claims is new legislation. I understand that questions of order were not reserved upon the bill, but as a matter of course, this being an amendment, it stands simply upon the footing of any other amendment to an appropriation bill, and is subject to any point of order that would lie against a similar amendment if points of order had been reserved upon the bill.

I wish to say in behalf of the point of order that if this were a provision for paying this money, near $800,000, directly from the Treasury, it might be that the point of order would not apply. But here is a proposition, involving independent legislation, referring the subject to the Court of Claims, conferring jurisdiction upon that court to hear and decide the cause and providing for the mode of procedure, which provisions are not authorized by any existing law or treaty.

I wish to say one word, with the permission of the gentleman from Louisiana, in regard to the merits of this matter. I raise this point of order for the reason that these are ancient claims running back half a century. We are not informed as to the thoroughness of the investigation which has been had under the act of the last Congress. The subject does not legitimately belong to the Committee on Appropriations; it belongs to the Committee on Indian Affairs. That committee has considered the subject, and I understand the subcommittee having charge of this subject is prepared to report adversely on these claims and to the effect that the claims are without just foundation.

I have been willing all the time that these claims should go to the Court of Claims under the provisions of the law providing for the employment of that court to ascertain the facts and report to Congress. But I am not willing that these very large claims which have been resting there nearly half a century, some of them more than half a century, shall receive the sanction of Congress to the extent of being referred to the Court of Claims and jurisdiction conferred with a view to a final judgment, which of course Congress must pay. I am therefore compelled to insist on the point of order.

Mr. ELLIS. The rule provides:

Nor shall any provision in any such bill or amendment thereto changing existing law be in order except, &c.

The intendment of that is separate and independent legislation, legislation not growing out of or based upon any existing law; and certainly not legislation intended to carry out existing law.

The legislation intended by the provision offered is based on the treaty stipulations of the United States, which are the very highest law of the land, and the provision is in the nature of carrying out those treaty stipulations. The whole legislation is based on the treaty stipulations of 1835, 1836, and 1846. I suppose the gentleman from Indiana will not dispute the proposition that the claim of these Indians which it is proposed to refer to the Court of Claims is based on treaty stipulations which are the law of the land.

Is there any change intended, sir? The only change intended is that we shall fulfill our duty like men, as we should do, and carry out our treaty stipulations with these people, and do what we have promised them we would do, instead of by a niggardly and falsely economical style of legislation letting these things grow upon our hands year by year, until they have assumed a proportion that has frightened the economist. The provision is based upon existing law. It does not change existing law except in the mode of the execution of the law, and is intended to carry out the provisions of the existing law. The gentleman from Indiana will not dispute that this legislation is based on treaty stipulations which are in existence to-day.

Now, sir, as to the merits. Here is a report carefully drawn in which every single item of these treaty stipulations is gone over, a report covering twenty-nine pages, sanctioned by the Secretary of the Interior, sanctioned by the Commissioner of Indian Affairs, and it comes here with their authority, in which it is shown, ay, it is demonstrated, if a proposition be susceptible of demonstration, that we do owe these Indians justly and righteously a very large balance under our treaty.

What are we going to do about it? Why, sir, to place it in the Court of Claims and hurry it to trial is in the direction of economy. These Indians are getting 5 per cent. interest, and the law of the treaty says they shall have it, and the sooner this litigation is ended between these parties, the Government and the Indian, the better for all parties concerned.

I hold it is not new legislation, but legislation based on existing law for the purpose of carrying out existing law. It is not separate and independent legislation at all.

Can we trust our own courts? Can we trust the Supreme Court of the United States? If it be within the breast of any member of this House to dispute this claim, will he not concede at once that the Supreme Court of the United States can be safely trusted with whatever interest the Government of the United States may have in this matter? The proposition is to refer the question to our own highest tribunal and let that tribunal decide what are the rights of the parties to this controversy.

Ah, Mr. Chairman, if we had had honesty in the administration of these Indian treaties; if there had not been this false sense of miscalled economy, this littleness of soul, by which men have constantly sought, for partisan purposes, to cut down appropriations; if it had not been for this dishonest sort of legislation, this claim would not have risen up here to-day in these great proportions to vex our souls. I say let it be carried to the Supreme Court of the United States, and there let it be finally determined.

Mr. HOLMAN. Mr. Chairman, I wish simply to add to what I have already said that there is nothing in either one of the treaties referred to by this amendment which contemplates the reference of any controversy or contention between this tribe of Indians and the United States to any court or tribunal.

Mr. ELLIS. No; except the tribunal of common honesty.

Mr. HOLMAN. There is no provision in either of those treaties which contemplated any such reference. This is purely independent legislation, conferring jurisdiction which does not now exist by law over the subject-matter of this amendment.

I wish to add a word in relation to what the gentleman has thought proper to say outside of the question of order. I wish to say that there is reason to believe that there is not a shadow of foundation for this claim.

Mr. ELLIS. Will the gentleman from Indiana give the reason?

Mr. HOLMAN. And inasmuch as my friend near me [Mr. PEEL] is a member of the proper committee to investigate this subject—which the Committee on Appropriations is not—and inasmuch as the committee to which my friend from Arkansas belongs has had occasion to make an investigation of these claims, I trust that he will be heard by the House upon this question.

Mr. PEEL. Mr. Chairman, the question now proposed to be referred to the Court of Claims was referred to the Committee on Indian Affairs, of which I am a member, on a memorial of these claimants, and it was submitted to my colleague on the committee, Mr. SMITH, from Pennsylvania, and myself as a subcommittee. I have given the question, so far as it regards the claim of the Settlers, or Western old Cherokees, a very diligent and very thorough examination. They claim this amount upon alleged errors which they say were committed by the accounting officers of the Government in 1850, four years after the date of the treaty of 1846, out of which this claim springs. This claim is based, they say, upon errors committed against them in stating their accounts by charging them with the removal and subsistence of the Eastern Cherokees as stipulated in the fifteenth article of the treaty of 1835. Those accounts were adjusted by the accounting officers, and passed upon and confirmed by the Senate, and the sum of $887,480.15 appropriated, which has been paid to these Old Settlers, save and except a small balance of $660 which is now in the Treasury, for the payment of which I have an amendment now in my hand which I will offer to this bill at the proper time. The act appropriating that $887,000 coupled with the appropriation a proviso that it was not to be disbursed by the disbursing officer unless each Indian for himself executed a receipt acknowledging that it was in full satisfaction of all claims against the Government under the fourth article of the treaty of 1846. I have examined most thoroughly the report of Mr. C. C. Clements, the special agent employed under the resolution of the Senate by the Secretary of the Interior to investigate this question. I have also examined the report of the honorable Commissioner of Indian Affairs upon the same subject. Both those reports bring out the Government in debt to these Indians on these claims in the sum of $1,120,000 and odd. But I can say to this committee and to the members of this House that I do not think any lawyer can examine those reports and the treaties upon which these claims are based without coming to the conclusion which I have reached, that we do not owe these Indians one single cent.

Mr. ELLIS. Then why not refer it to the courts?

Mr. PEEL. This same question has been referred to the Court of Claims under the Bowman act at this Congress and is now pending there, and I understand that a report has been made—indeed I have a copy of the report—in which the auditor of the Court of Claims shows that these claims have no foundation.

Mr. ELLIS. Mr. Chairman, I would like to see that report.

Mr. PEEL. I have it at my room.

Mr. HOLMAN. That shows the importance of having the proper committee consider matters of this kind.

Mr. PEEL. My friend from Louisiana is mistaken also in regard to the interest. That was fixed by a resolution of the Senate allowing these parties 5 per cent. on whatever amount might be found due.

Mr. ELLIS. Mr. Chairman, I would like to ask the gentleman whether the report of the Court of Claims, of which he has spoken, is printed?

Mr. PEEL. I have the printed report of the auditor at my room.

Mr. ELLIS. But I understood my friend to say that the question had been referred to the Court of Claims by the Senate under the Bowman act.

Mr. PEEL. Yes.

Mr. ELLIS. And that the Court of Claims had reported upon it. Now, what I want to know is whether that report is published.

Mr. PEEL. The report is not published, but I have a printed copy of the report of the auditor to the Court of Claims.

Mr. ELLIS. Is that the report of the Court of Claims?

Mr. PEEL. I can not say that it is. It is the auditor's report to the Court of Claims.

Mr. ELLIS. It is the report of an expert then.

Mr. PEEL. Mr. Chairman, so far as I am concerned, I have no objection to this claim being investigated by any tribunal. I have my report upon it prepared, and I have to-day notified the counsel who represent these claimants that I will submit it to the full committee on Tuesday next. When I commenced the investigation of this matter my partialities were all with the claimants, because it came to us so highly indorsed by the authorities to which the gentleman from Louisiana has referred here that I felt strongly inclined to believe that the claim was just; but the more I have investigated it the more thoroughly have I become satisfied that it has not a shadow of foundation, and never has had any foundation since it was first made in 1851.

The CHAIRMAN. The point of order against this amendment is raised, as the Chair presumes, under the third clause of Rule XXI; and the ground is taken that the amendment violates that rule, because it changes existing law and does not on its face retrench expenditures in any one of the three ways specified in the rule. In reply to this point, it is urged by the gentleman from Louisiana first that points of order were not reserved on this bill, and that this amendment having been proposed under direction of the Committee on Appropriations, the failure to reserve points of order admits the amendment. The Chair thinks that this position is not tenable; that an amendment offered under direction of the Committee on Appropriations occupies precisely the same attitude, so far as this question is concerned, as an amendment submitted upon the individual responsibility of a member,

The other answer urged to the point of order is that the amendment does not change existing law. The Chair, however, thinks that it does. There is not in any treaty or in any existing law any provision for the reference of this claim to the Court of Claims or to any other tribunal. This amendment not only proposes the reference of the claim to the Court of Claims, but it goes on to prescribe the method of trial, the mode of payment, &c., all of which provisions are, in the opinion of the Chair, modifications of existing law. The Chair therefore sustains the point of order.

The Clerk read as follows:

For interest on $675,168, at the rate of 5 per cent. per annum, to be expended under the direction of the Secretary of the Interior, under provisions of third article of treaty of June 14, 1866, $33,758.40.

Mr. COSGROVE. I would like to hear some explanation of the provision just read.

Mr. ELLIS. That is the customary provision of law, unchanged.

Mr. COSGROVE. Has this appropriation been customary in former bills?

Mr. ELLIS. Oh, yes.

Mr. HOLMAN. If my friend from Missouri [Mr. COSGROVE] will allow me a moment, I will try to explain the purpose of this proposition. My friend will find that the sundry civil appropriation act passed at the last session contained the following provision:

For this amount, to pay the Creek Nation of Indians for 151,870.43 acres of land, being the amount taken by the United States in excess of the estimate made in the third article of the treaty with said Indians proclaimed August 11, 1866, at 30 cents per acre, $45,561, in full payment for said land.

Now, Mr. Chairman, I wish to say one word in addition. Congress at the last session in appropriating the sum of $45,561, and using the term "in full payment for said land," manifestly intended that that should be the final disposition of this matter. It has not been up to this time the policy of Congress to pay interest.

Mr. ELLIS. But here there is a treaty stipulation.

Mr. HOLMAN. But this being a subject of adjustment and compromise, it does not stand on the same footing as the provision of a treaty. It is matter outside of the treaty.

If I may add a single word in this connection I will say I do not concur in the view which has been expressed that the land which was acquired from these Creeks is to be regarded as public land and subject to settlement as such. It is absolutely certain that the treaty of June

14, 1866, with this tribe of Indians by which this land was acquired repels, every word of it, the idea that this land was acquired as public lands of the United States for general purposes, and to be subject to the laws governing the public domain; but, on the contrary, the treaty expressly declares that the land acquired from the Creeks under that treaty should be acquired solely for the purpose of settling thereon civilized tribes of Indians, not for the general purpose of settlement or disposition by the United States. Hence it would be a palpable violation of public faith and national honor if Congress, without the consent of the Indians, should appropriate these lands for any other purpose.

Mr. ROGERS, of Arkansas. May I ask the gentleman a question?

Mr. HOLMAN. Certainly.

Mr. ROGERS, of Arkansas. I do not understand what lands the gentleman is discussing.

Mr. HOLMAN. The Creek lands ceded to the United States.

Mr. ROGERS, of Arkansas. The Oklahoma strip?

Mr. HOLMAN. Yes, sir; a part of it.

Several MEMBERS. Oh, no.

Mr. HOLMAN. Oh, yes; a part of it.

Mr. ELLIS. This is the same old story of dishonesty and bad faith. By the treaty of 1866 with the Creek Nation, article 3, the United States made this agreement with them. They agreed to purchase from the Creek Indians the west half of their entire domain, to be divided by a line running north and south, a meridian line running directly north and south. They were to purchase lands from these Indians, exactly one-half, for the same price of 30 cents an acre. Then they estimated what that would amount to and fixed the amount at $975,000. They agreed, after disposing or paying over certain portions in certain ways, they would place a certain portion of it in the United States Treasury, after this language: "The United States agree to pay the said Indians, in such manner and for such purpose as the Secretary of the Interior may direct, interest at the rate of 5 per cent. per annum from the date of the ratification of this treaty."

There it is, sir, written in the law made by your people. Your Government, I call the attention of the gentleman, agreed to pay these people at the rate of 5 per cent. per annum upon the purchase price of this Territory—upon all there was left of it in the Treasury.

By another provision of the treaty the United States Government was to make the survey and run the lines directly north and south. How did you do it? With your usual bad faith, with your usual violation of solemn treaty, what did you do? Your own surveyor ran a line north and south, and I call the attention of the committee to this line of shame [holding up a map]. They ran it north and south until the surveyor found it conveniently necessary to diverge a little, to steal a little from the Indians in order to fill out a reservation for the Seminole Indians. We stole by that survey 350,000 acres of land. These are the plain unvarnished facts.

Mr. COSGROVE. Is it customary to make this appropriation for the payment of interest on former appropriation bills?

Mr. ELLIS. So far as this is concerned you have settled the Seminoles on the stolen portion. They have built their homes; they have cleared their fields; they have their stocks, and let the Government of the United States be honest and carry out its solemnly plighted faith to these Indians.

Now, sir, when this steal was discovered the Indians made a claim for it, and after a long time the Government of the United States paid the interest—they paid the interest and acknowledged the principal.

Mr. HOLMAN. Paid the principal, you mean.

Mr. ELLIS. Yes, paid the principal. The Indian had no voice here. One of the contracting parties to the treaty wrote in it "in full," as if I owed the gentleman from Indiana a note of hand for $100 with interest for two or three years, and I should pay him $100 and then should write in an *ex parte* contract and say I have paid $100 in full for all I owed him. I can not better illustrate it. We stole 350,000 acres of lands from these Indians; after nearly twenty years we acknowledged the theft and paid the principal. Now here is the law which we made for the Indian and bound ourselves to pay 5 per cent. interest. What member of the committee will move to strike it out; what man who believes good faith should reside in the breast of government as in the breast of individuals, and particularly so, Mr. Chairman, when dealing with the plundered, robbed, oppressed, and outraged ward? This provision simply closes the books and makes settlement in full by paying the stipulated interest.

The CHAIRMAN. The Chair has been indulging gentlemen in this debate although there is nothing before the House.

Mr. HOLMAN. I move to strike out the paragraph.

Now, Mr. Chairman, it is conceded that we acquired the west half of the Creek lands under the treaty of the 14th June, 1866. No one denies it, that we have acquired that west half at the rate of 30 cents an acre.

Mr. ELLIS. I deny it.

Mr. HOLMAN. It turns out when the line was run there was embraced within the limits of our line 151,870 acres more land than one-half. Of course, it was fair and proper for the Government to pay for it if it took it or placed any other tribe of Indians on it. If the Government took the additional 151,870 acres the Government should pay for it at the rate of 30 cents an acre. For that purpose the last Congress appropriated the sum of $45,561 to pay for the land. We concluded to take it according to the line which had been run. We agreed to pay the Indians $45,561 for it. We paid the money, and now the proposition comes in after this has been finally disposed of—after that line was ratified and confirmed by the passage of that act last year and the acceptance of the money by the tribe—now it is proposed that interest shall be paid on the $45,561 from June 14, 1866, at 5 per cent. per annum, paying interest from the date of the original treaty.

Mr. ELLIS. Wait till we come to the other clause.

Mr. HOLMAN. The clause I wish to speak upon is the pending clause as it is involved in the other clause. I concede the whole of this matter is not involved in the pending provision, but it is in part so involved; and the remarks of the gentleman himself which were addressed to the pending clause were much more applicable to the subsequent clause than the clause now under consideration. But I concede the discussion more fitly belongs to the subsequent clause than to the one now pending; and for that reason and for the purpose of making the discussion more intelligible I withdraw the motion.

Mr. BURNES rose.

The CHAIRMAN. The motion has been withdrawn and there is no proposition pending. Debate is not in order.

Mr. RYAN. I did not understand why the Chair admonished my friend from Missouri [Mr. BURNES] that debate is not in order.

The CHAIRMAN. The motion has been withdrawn, and there is nothing pending before the committee.

Mr. RYAN. I desire to renew the amendment for the purpose of saying a word.

Mr. HOLMAN. I withdrew the motion thinking the discussion can be better taken up on the next paragraph.

The Clerk read the following paragraph:

For interest, at 5 per cent. per annum, on the sum of $45,561, being an additional amount appropriated for cession of land under the third article of their treaty dated June 14, 1866, by act approved July 17, 1884, from July 19, 1866, the date of ratification of the treaty, to July 19, 1884, the date said principal was placed to the credit of the nation, eighteen years, $41,004.90; in all $112,973.30.

Mr. BURNES. I desire, if points of order have not been reserved——

Mr. RANDALL. They have been.

Mr. BURNES. I desire to reserve the right to make a point of order against this paragraph; and with that reservation I have a few remarks to offer that I think may throw some light upon this whole transaction. First, however, I offer the amendment which I send to the desk.

The Clerk read as follows:

Amend by adding the following at the end of line 353:

"*Provided, however*, That no part of the above sum shall be paid until the Creek Nation shall make and file in the office of Secretary of State a deed of cession and conveyance transferring to the United States 150,000 acres of the east half of said Creek lands reserved by the Creek Nation for a permanent home in the treaty of June 14, 1866; and also a statement in writing releasing the United States from the seeming trust created by said treaty as to the west half of said Creek lands sold to the United States by said treaty."

Mr. ELLIS. I reserve the point of order.

Mr. BURNES. Now I desire to call the attention of the committee to the fact that under the treaty of June 14, 1866, the Government of the United States obtained a conveyance from the Creek Nation of the west half of all their lands, and they reserved the east half for their permanent home forever. The line dividing the nation into two parts, according to the terms of the treaty, was to be a direct line running from north to south.

Mr. CHACE. Which treaty was that?

Mr. BURNES. The treaty of June 14, 1866. Now, you observe that by the terms of that treaty and by the granting clause of the treaty, the Government of the United States obtained a title, subject to certain limitations, to the west half, and the west half only. It obtained no title to the east half—to any part of the east half. It obtained title to the west half, and the east was reserved as a home for the Creek Indians forever. This being so, it is conceded, I apprehend, by my distinguished colleague, who has this bill in charge, and it is a fact, that if this line had been run directly from north to south, dividing this territory into two equal parts, the quantity of land paid for would have been the quantity of land that we received. This being so, will any one contend that it was our duty, or that we had a right at the last session of Congress, to appropriate $45,000 for the purpose of paying for land not within the west half. We did appropriate the $45,000, under the gentle coercion of a Senate amendment, and it looks to me now as if we were appropriating for interest on a claim that never rightfully existed, and for which we receive nothing; for I say to the committee now that we get no legal title to the 150,000 acres of land—none whatever, either by statute or under the treaty.

Mr. KEIFER. Why not?

Mr. BURNES. For the reason that the Creek lands were to be divided into two equal parts by a line running due north and south; the west half to be ours and the east half to belong to the Creeks forever. But a surveyor, not having the fear of God or the United States before his eyes and in violation of the express grant under the treaty, voluntarily chose to make a détour from what ought to have been under the treaty a direct line, and pretends to take into the west half 150,000

acres which belonged then and belongs now to the Creeks and was a part of the east half. Will my distinguished colleague on the committee [Mr. KEIFER] please read the granting clause of the treaty and dispute if he can the express grant of the west half and the express reservation to the Creeks of the east half as a permanent home forever? He will find it was a perfect and complete reservation of every part and parcel of the east half. My colleague, able lawyer that he is, will find a further answer to his question in the certainty that title to unpurchased land can not be obtained in the face of express reservation or otherwise by an illegal line run by some surveyor in direct disregard of the law of the land.

Now, then, by the terms of this treaty the Creek Indians ceded and conveyed to the United States the west half, and the west half only, of their lands. If you pay this purchase-money, or the interest on it, do you get the title to the lands? You may say that you have a right to take the lands from the Creek Indians, and that they would acquiesce in that proceeding. But I say that there is no sanction of law, there is no title to or ownership of the lands in the Government of the United States at all. Of course I am not speaking of mere equities that such conditions might create. This being true, the question arises, shall we sit here, having appropriated $45,000 to pay for that to which we have no title either under any existing law or the treaty of 1866, and now appropriate for interest on the former illegal appropriation? Shall we appropriate and pay this money for that which we do not lawfully get; which we can not lawfully hold; which does not belong to us, and which we have solemnly, by treaty obligations, pledged as a permanent home for these Creek Indians forever? That is the question.

But it will be said, and it has been said, that the Seminole Indians have a portion of it. We purchased, or properly speaking coerced, from the Seminoles their entire tract of land at 15 cents an acre and sold to them, good Yankee traders as we are, 200,000 acres of this so-called Oklahoma country, the ceded lands of the Creeks—200,000 acres at 50 cents an acre. So that while the Seminoles sold us their lands at 15 cents an acre we sold to them 200,000 acres at 50 cents an acre. So much, therefore, for the Seminoles and their connection with this transaction. Under threats of confiscation, just after the war had closed, we drove a hard bargain with them as with the Creeks.

I desire, now, sir, to call attention to another feature——

Mr. JOSEPH D. TAYLOR. Before the gentleman leaves this subject will he give, if he can, or state what reason is given for making this détour?

Mr. BURNES. When a surveyor, without any sanction or without any authority of law, either statute or treaty, goes and makes a détour or deviates from a direct line established by law I can see no motive in such a proceeding that is lawful or justifiable. No department of the Government could empower him to violate the law, yet he did it. No other reason is assigned for the action of the surveyor.

Mr. CUTCHEON. Is there any reason given for the divergence? Was it possibly to follow the course of a stream, or anything of that kind?

Mr. BURNES. There is nothing whatever that I have ever heard of to warrant or justify the proceedings at all. It seems to be wholly unjustifiable. Perhaps the gentleman who has the bill in charge—the gentleman from Louisiana—can explain if there is any reason for the divergence except lawlessness. I do not know of any; on the contrary, he must have known he was violating the law of his country, and that no sanction of his proceeding by any officer or department of the Government, save the one of which we are a part, could give even a color of legality to it. I would also say to my friend from Michigan [Mr. CUTCHEON] that there were no topographical or other impediments to the running of a straight line as the treaty requires. It appears to have been done without any sanction of law and in violation of the treaty of 1866, by which we acquired these lands.

I would like to ask the Clerk to read the third section of the treaty of 1866.

The Clerk read as follows:

ARTICLE III. In compliance with the desire of the United States to locate other Indians and freedmen thereon, the Creeks hereby cede and convey to the United States, to be sold to and used as homes for such other civilized Indians as the United States may choose to settle thereon, the west half of their entire domain, to be divided by a line running north and south; the eastern half of said Creek lands, being retained by them, shall, except as herein otherwise stipulated, be forever set apart as a home for said Creek Nation; and in consideration of said cession of the west half of their lands, estimated to contain 3,250,560 acres, the United States agree to pay the sum of 30 cents per acre, amounting to $975,168, in the manner hereinafter provided, to wit: $200,000 shall be paid per capita in money, unless otherwise directed by the President of the United States, upon the ratification of this treaty, to enable the Creeks to occupy, restore, and improve their farms, and to make their nation independent and self-sustaining, and to pay the damages sustained by the mission schools on the North Fork and the Arkansas Rivers not to exceed $2,000, and to pay the delegates such per diem as the agent and Creek council may agree upon as a just and fair compensation, all of which shall be distributed for that purpose by the agent with the advice of the Creek council, under the direction of the Secretary of the Interior; $100,000 shall be paid to soldiers enlisted in the Federal Army and the loyal refugee Indians and freedmen who were driven from their homes by the rebel forces, to reimburse them in proportion to their respective losses; $400,000 shall be paid per capita in money to said Creek Nation, unless otherwise directed by the President of the United States, under the direction of the Secretary of the Interior, as the same may accrue from the sale of land to other Indians. The United States agree to pay to said Indians, in such manner and for such purposes as the Secretary of the Interior may direct, interest at the rate of 5 per cent. per annum from the date of the ratification of this treaty, on the amount hereinbefore agreed upon for said ceded lands, after deducting the said $200,000; the residue, $275,168, shall remain in the Treasury of the United States, and the interest thereon, at the rate of 5 per cent. per annum, be annually paid to said Creeks as above stipulated.

[During the reading of the foregoing the hammer fell.]

The CHAIRMAN. The time of the gentleman from Missouri has expired.

Mr. RANDALL was recognized and yielded his time to Mr. BURNES.

The Clerk then resumed and concluded the reading as above.

Mr. BURNES. Now, let me call the attention of the committee to another proposition. You will observe that this treaty was made in 1866. These Creek Indians had been unfortunate enough to array themselves against the United States in the civil war just then closed, and you will observe, by reading the provisions of the treaty, that following the example of adventurers in the Southern States the administration of the Government of the United States at that date seemed disposed to speculate upon the misfortunes of the terrified Indians. The Creeks, having been transported from their early homes in this country to the western wilds of the Indian Territory, had been given their territory as a permanent home forever. They were at the mercy of the Government at the close of the war. They were told by the treaty itself that they had forfeited all their lands, their rights, and their other property; that by the ceding of one-half of these lands to the Government at 30 cents an acre they might hold the rest for themselves as a permanent home. Now we are taking, at the instance of a Government surveyor, without sanction of law, 150,000 acres more of their territory at the rate of 30 cents an acre, while we are selling at the rate of 50 cents to the Seminoles.

Mr. KEIFER. Is not the correct amount 350,000 acres?

Mr. BURNES. Two hundred thousand acres are provided for and sold in the Seminole treaty of the same year. I have found nothing in any treaty with either the Seminoles or Creeks to justify the statement which I have heard made upon this floor that the Government sold the Seminoles 350,000 acres of the ceded land of the Creeks. I would like for some gentleman who asserts the fact to point us to the treaty that gave more than 200,000 acres to the Seminoles. And if the fact exists, will some one inform us when and where and how the Seminoles paid for the excess? I apprehend it can not be found. The treaty of 1866 between the Seminoles and the United States sustains the statement I have made.

I mention these things now for the purpose of making a basis for the amendment which I have had the honor to offer. We have been told that a state of war exists in this territory of Oklahoma, and that the settlers are now face to face with their destiny, that destiny being under the command of an officer of the United States Army. There can be no fair-minded man, I apprehend, who will for one moment claim that the grant of this Oklahoma territory, so called, is not subject to an express trust created by the treaty, the third section of which has been read in our hearing. These settlers, it had better be said here, have not the lawful right to go upon those Oklahoma lands.

I say this in the face of valued and esteemed constituents who are desirous of going, and some of whom have gone there, and I warn members of this committee that they will be responsible for the blood which may be shed in the conflict said to be impending if they hesitate to speak here and now firmly and distinctly to the high-hearted and gallant people hovering on the borders of Oklahoma that they have no lawful right to invade or settle that territory at this time. They should be told the truth. Congress should give them the right to enter and settle—a right denied them by solemn treaty stipulation. They see large cattle companies enjoying the blessings of the territory, and naturally and properly they think they have as much right there as these favored few with their great herds.

This being so, what follows? The Creek Indians and their enterprising attorneys want $45,000 in money. The always able and fair-minded gentleman who has this bill in charge has investigated this claim, and comes to the conclusion that the Government owes this money to the Creeks. I do not believe a word of it; but it may be so. In this condition of things what had we better do as American representatives? Let us compromise this matter and save the threatened bloodshed to which allusion has been made here. Adopt this amendment, and let the compromise be made, providing that we shall have the lands which my esteemed friend thinks we ought to pay for, and that the Creeks in receiving the money shall relieve us from this seeming trust in the treaty, and allow this fair land to be opened up for the lawful settlement of the poor and homeless people of this country who may desire to go there. It has been seen in this discussion that it is lawful now to settle on these lands Indians and freedmen; and it is a well-known fact that practically a few white men with immense herds of cattle enjoy them without military or other interference on the part of the Government as completely as if they owned them in fee-simple. Let it be our work, by adopting the amendment, to make the honest and humble seeker of a home in this splendid region equal in right there with the favored ranchmen, Indians, and freedmen for whom it now seems to be exclusively held.

Sir, there are in this Oklahoma territory a little less than 5,000 square

miles of territory. Shall we prepare the way for 20,000 hardy, honest, industrious families to make their happy homes thereon, or by inaction allow them to be driven off by the Army of the United States, and under the merest pretense of keeping the lands for Indians and freedmen, who are not there, allow a few cattle-kings to hold and enjoy it all without let or hindrance?

Mr. RYAN. Mr. Chairman, I would suggest to the gentleman from Missouri [Mr. BURNES] to modify his resolution so as to require that the Creek Indians shall file with the Department an acceptance on their part of the survey that was made; because the lands that are sought here to be paid for are all on the west side of that line, and there might be at least some ambiguity as to whether we were paying for lands east or west of the line if the resolution or the amendment should be adopted in its present form. The object my friend has in view is simply to require the Creek Indians to accept the survey that was made, because it is by reason of that survey that the surplus number of acres that we are required to pay for is ascertained.

Mr. BURNES. Mr. Chairman, I am satisfied that the suggestion of my colleague is a good one, and I accept the amendment.

Mr. RYAN. I want to say one word more in this connection. We agree by treaty to divide the Creek country in two equal parts. As my friend from Missouri [Mr. BURNES] has said, the survey that was made and finally accepted does not divide it in two equal parts, but gives to the Government the larger portion by 350,000 acres.

Had the territory of the Creeks been divided in two equal parts we should have received 35,000 acres less than we estimated and paid for. Hence there are 151,000 acres more than we paid for by reason of running the line too far to the east.

Now let me call the attention of the House for one moment to what is stated in a letter upon this subject by the present Secretary of the Interior. He says:

> It is found that the line was not so run as to divide the reservation into two equal parts, but was surveyed in such manner as to embrace in the portion west thereof 3,402,430 acres, or an excess of 186,935 acres over and above the one-half of the whole domain, or an excess of 151,870 acres over and above the estimated quantity stated in the treaty. The quantity of 3,250,560 acres stated in the treaty has been paid for at the stipulated price of 30 cents per acre.
>
> I am of opinion, after a careful review of the whole case, that the Creek Indians are entitled to payment at 30 cents per acre for the additional 151,870 acres taken by the United States and not paid for, with interest at the rate provided by the third article of the treaty for the unpaid portion of the consideration for the ceded land.

Now, Mr. Chairman, we should be greatly embarrassed if we should require a resurvey of those lands and divide them exactly in the middle.

[Here the hammer fell.]

Mr. RANDALL obtained the floor and yielded his time to the gentleman from Kansas [Mr. RYAN].

Mr. RYAN. I ask only a moment more in order to explain the embarrassment that the Government would encounter if it were to resurvey this Territory now and divide it in the middle, instead of paying for the surplus lands we have taken under the incorrect survey. And now, Mr. Chairman, let me call the attention of the House to the fact that we have located the Sac and Fox tribes of Indians right up against the line, as we find by that survey. If we were to have a resurvey and run the line exactly in the center, we should be obliged not only to remove the Sacs and Foxes but also the Pawnees, who are located upon a portion of it. That could only be done at great expense—much greater expense than the mere payment of 30 cents per acre for these surplus lands.

Besides, the Sac and Fox Nation of Indians, as I understand, have paid for their lands to the Government of the United States; and they believe, of course, that the boundaries as already determined are correct. Therefore it seems to me to be equitable and just to pay for the lands we have taken by this inaccurate survey rather than undertake to resurvey them and open this question of difficulty with the Indians, whom we have already located upon these lands.

One word more. This question came up in the last Congress. The Senate of the United States put upon the sundry civil appropriation bill an amendment providing for payment for these excess or surplus lands, amounting to 151,000 acres, together with interest, as provided by the treaty. That amendment went into conference, and finally came out in a form providing for the payment of the principal without interest. I have explained, I believe, as clearly as I am able, the exact status of this proposition now pending, which is to pay the interest on that sum, which we did not provide for in the last bill.

Mr. ROGERS, of Arkansas. I would like to put a question to the gentleman from Kansas [Mr. RYAN]. I find from the gentleman's remarks that he is familiar with this whole subject; and I now ask whether in connection with the proposition he makes we ought not to ratify this false survey?

Mr. RYAN. That was the first suggestion I made to my friend from Missouri.

Mr. ROGERS, of Arkansas. It escaped my attention.

Mr. RYAN. I suggested to the gentleman that he so modify his amendment as to require the Creek Nation of Indians to file a ratification of this survey before this money is paid over.

Mr. KEIFER. I move to amend by striking out the last word. My friend from Missouri offers this amendment and calls it a proposition for compromise. I am glad he agrees with me in one thing—that no citizen has a right to go upon these Oklahoma lands and make settlement. But I must differ with him widely upon his proposition, whether he leaves it in the form in which he presented it or whether he modifies it as suggested by the gentleman from Kansas. The proposition is that these 150,000 acres of stolen land, which not only by the terms of the treaty fixing the basis of payment but by the highest sense of national honor we are bound to pay for at this low rate, at least shall be made the basis of a compromise by which we are to compel these Creek Indians, willing or unwilling, to recede to the United States unconditionally all the western portion of their former reservation. By the latter clause of this amendment they are required to file in the Indian Office a statement in writing, releasing to the United States the seeming trust created by the treaty as to the west half of the Creek lands sold to the United States by the treaty of June 14, 1866. In other words, without a shadow of right on our part, as the gentleman from Missouri must agree, to withhold one cent of the money proposed to be appropriated in this bill, we undertake to say that before we pay them this money these Indians shall waive the trust, waive the condition as found in article 3 of the treaty of June 14, 1866. This is to be done without consulting these Indians. This proposition is as bad as the clause which the gentleman from Indiana has read from the act of July 7, 1884, in which we undertook to say to the Indians that they should accept a given sum of money in full payment for the lands that we have taken from them.

Mr. Chairman, it is agreed on all hands that 150,000 acres of these Creek Indian lands have been taken from the Indians; and now I do not think it very important whether we have a release in writing filed in the Indian Office or not. If we take these lands and settle for them in the manner we have already settled the circumstances in regard to this disputed tract, we need not be very particular about the form of our title, for if we are to go on with our present policy we shall steal the balance some day. We need not be very critical in regard to any release, guarantee, or warranty. If we will only pay for the land we shall have some shadow of title to it. We have already authorized the occupancy of this land by other tribes of Indians, to whom we have sold it, and from whom we have received the money. And now we are talking about the title!

Mr. PETERS. Mr. Chairman, I can not permit to go unchallenged the statement made several times in this debate that persons endeavoring to occupy this Oklahoma territory are doing so without any shadow of right. The first question which presents itself to be decided is whether this Oklahoma territory is Indian country. The only law to be found anywhere in the statutes of the United States that describes any territory as Indian country is the law of 1834, the first section of which reads as follows:

> *Be it enacted, &c.*, That all that part of the United States west of the Mississippi, and not within the States of Missouri and Louisiana or the Territory of Arkansas, and also that part of the United States east of the Mississippi River, and not within any State, to which the Indian title has not been extinguished, shall for the purposes of this act be taken and deemed to be Indian country.

There is the only foundation in all the laws of the United States for this cognomen "Indian country." When you come to examine the Revised Statutes you will find this section has been omitted; it is not now regarded as a part of the laws of this country. Under that first section of the act of 1834, if it still remains in force, Kansas is Indian country, Nebraska is Indian country, Colorado is Indian country. Will gentlemen stand up here to-day and claim that those States are a part of the Indian country? The courts have decided what is properly Indian country. By their decisions they have proclaimed that Indian country is country to which the Indian title has not been extinguished. Now, has the Indian title to this Oklahoma country been extinguished? Where is the man who will say that under any treaty or any law these Creek Indians can go into that Oklahoma country and claim it as theirs?

Where is the man or lawyer who will say this Creek Nation can go into Oklahoma territory and exercise supervision over it? Their title has been extinguished by the treaty of 1866. I care not what provisions were made in that treaty in reference to its occupation by the United States, the title of the Creeks in that territory was extinguished, and by the extinguishment of that Indian title it ceased to be Indian territory; and whenever it ceases to be Indian country then it comes under the general provisions of law in relation to pre-emption and homestead of the public domain.

Mr. LONG. How was the title extinguished?

Mr. PETERS. By the Indians themselves ceding it.

Mr. LONG. For a specific purpose?

Mr. PETERS. I say that the title was extinguished so far as the Indian was concerned. I am not saying anything about the proviso, but I say in the absence of any provision in that treaty providing in case the United States should not occupy this country by settling in it civilized Indians, or by any other means under the proviso, that in the absence of any statement in the treaty providing this land should revert to the Creek Indians, their title is absolutely extinguished, and it is only a question with the United States what it shall do with this country. Under the provisions of section 2257 of the Revised Statutes the

law says all land belonging to the United States to which the Indian title has been or may hereafter be extinguished shall be subject to the right of pre-emption under the conditions, restrictions, and limitations provided by law.

Now, the whole trouble with this Oklahoma territory is there is no machinery there under the law of the Government by which the settler can occupy this land.

[Here the hammer fell.]

Mr. ELLIS. I insist on the point of order against the amendment.

The CHAIRMAN. The gentleman from Missouri has raised the point of order, as the Chair understood him or reserved the right to make the point of order, against the paragraph.

Mr. BURNES. Yes, sir.

The CHAIRMAN. After that point of order is disposed of the point of order of the gentleman from Louisiana against the amendment will be heard.

Mr. ELLIS. Is not the amendment to the paragraph?

The CHAIRMAN. Yes; but the gentleman from Missouri raises the point against the paragraph, and the Chair is desirous of hearing what that point of order is.

Mr. BURNES. The point of order I desire to make is this, that there is no law by treaty or statute authorizing the appropriation of this money, and that the appropriation is in fact in violation of law. But I will not insist upon the point of order now if the gentleman from Louisiana will withdraw his point of order to the pending amendment.

Mr. ELLIS. No; I insist on my point of order.

The CHAIRMAN. The Chair understands the point of order to be that the amendment changes existing law and does not retrench expenditure. Does the gentleman desire to be heard on that question?

Mr. BURNES. I desire to say only this: Here is a paragraph in this bill which appropriates $45,000 for the purpose of paying interest alleged to be due to the Creek Indians eighteen years ago under the terms of a certain treaty.

Mr. ELLIS. I thought the subject had been debated.

The CHAIRMAN. There has been no debate on this point of order.

Mr. ELLIS. I understood there had been; I knew, however, it had not touched it.

Mr. BURNES. I wish to say on the point of order of the gentleman from Louisiana that this is a paragraph appropriating $45,000 under the terms of the treaty of June 14, 1866, alleged to be due the Creek Indians eighteen years ago. By referring to that treaty I find this is interest on land not included in that treaty. Then the gentleman comes to the point and says although it is not included under the treaty we acquired title to it by the unlawful act of our surveyor. This, therefore, is a proposition to pay for land never ceded to the United States, never granted and never conveyed to the United States, but, on the contrary, expressly reserved by the terms of the treaty to the Creek Nation of Indians as a home forever. I say the Government can not acquire title to real estate by the act of a surveyor. This is an alleged appropriation under the treaty, and that treaty says the appropriation is illegal and without consideration.

The CHAIRMAN. The Chair sustains the point of order against the amendment and rules it out.

Mr. ELLIS. Which point of order does the Chair sustain?

The CHAIRMAN. Against the amendment, and it is ruled out. The other point of order the Chair understands was withdrawn.

Mr. BURNES. Did I understand the Chair to overrule the point of order?

The CHAIRMAN. No; the Chair sustains the point of order and rules the amendment out.

Mr. BURNES. Then I desire to press upon the attention of the Chair my point that the paragraph is without the sanction of law.

The CHAIRMAN. The Chair understood that point to be waived.

Mr. BURNES. No; I beg the Chair's pardon; I expressly stated I would not insist upon it unless I was forced to do so.

The CHAIRMAN. Does the gentleman state that he did state he would withdraw the point of order?

Mr. BURNES. I did not, or at least I did not intend to. I remarked I would waive my point of order if the gentleman from Louisiana would waive his.

Mr. KEIFER. I wish to state in reference to this matter that while the gentleman announced that the point of order was waived temporarily, I think he did in fact waive it altogether when he offered the amendment.

The CHAIRMAN. But that was offered with the implied understanding on the part of the committee, and acquiesced in by the Chair, that he reserved the point of order.

Mr. KEIFER. As against the clause?

The CHAIRMAN. Yes, as against the clause.

Mr. BURNES. I desire now not only to have the Chair pass upon the point of order as to the paragraph itself, but to have a vote upon that paragraph in the committee if the Chair shall overrule the point of order.

Mr. ELLIS. I understand the point of order of the gentleman from Missouri to be that there is no provision of law upon which to base the appropriation contained in the paragraph?

Mr. BURNES. That is correct.

Mr. ELLIS. In the first place, I will say that it is too late to make the point of order now, the Clerk having passed from that particular paragraph.

But there is this point which I think is fatal to it, and that is when this bill was reported to the House, ordered to be printed, and referred to the Committee of the Whole House on the state of the Union, no points of order were reserved upon the provisions of the bill. That, I take it, would be in itself fatal to the point of order.

But, Mr. Chairman, in answer to the gentleman from Missouri, I will state that there is law for it. In the first place, there is the treaty of 1866, by which we purchased the lands from the Creek Indians at so much per acre, part of which we paid and a portion of which we did not pay. The balance of the principal we paid by the law of last year. The interest—and this is the paragraph which makes provision for the interest—necessarily follows the principal.

Now, what is the gentleman's argument? He argues that the Government acquires no title. Why, sir, the Creeks are claiming this money for the sale of that land made to the United States. We have paid the principal, and they have acquiesced in that arrangement. They now ask that the interest due them be paid and when we pay the interest we will have paid the purchase-money, the price agreed upon by the treaty of 1866, and the equitable title follows.

Mr. BURNES. Will the gentleman allow me to make a suggestion?

Mr. ELLIS. Certainly.

Mr. BURNES. I would like to ask my colleague on the committee if it be not the fact that by the terms of this treaty there is neither cession nor conveyance of these 151,000 acres of land, or any part of it, to the Government?

Mr. CHACE. Mr. Chairman, if the gentleman from Louisiana will yield to me for a moment I would like to suggest to the gentleman from Missouri that his question would be fully answered by reading the eighth article of this treaty.

Mr. BURNES. Then the gentleman from Rhode Island can answer the question asked of my colleague.

Mr. CHACE. It seems to me the language of this article is so clear that there is no room for a mistake. Besides that, if there be any charge that this Government itself made a mistake, they are estopped from taking advantage of their own laches.

I will read this section of this article of the treaty; it is very short:

ARTICLE VIII. It is agreed that the Secretary of the Interior forthwith cause the line dividing the Creek country, as provided for by the terms of the sale of Creek lands to the United States, in Article III of this treaty, to be accurately surveyed under the direction of the Commissioner of Indian Affairs, the expenses of which survey shall be paid by the United States.

Now, if the United States Government has made this survey, as the report of the Commissioner shows, can the Government come in here and take advantage of its own laches?

Mr. ROGERS, of Arkansas. By doing what?

Mr. BURNES. I hope the gentleman from Rhode Island will not object to my answering his question by the old process of asking another. I ask him in the first place was this an "accurate survey" under the terms of the treaty? And secondly, can the Government acquire title by an inaccurate survey by a surveyor of its own selection?

Mr. CHACE. There is nothing to show that this is an inaccurate survey. The gentleman from Missouri has asserted that it is, but so far as I am aware he has not produced any evidence in support of the claim.

Mr. BURNES. I beg pardon; it has been read in the hearing of this committee, and it shows clearly that this Territory was to be divided into two equal parts; that we were to have the west and the Creeks the east half of the territory. Now it is shown that the division is not equal.

The CHAIRMAN. Does the gentleman from Louisiana desire to be heard further upon the point of order?

Mr. ELLIS. No. Let us have a ruling.

The CHAIRMAN. The Chair has no difficulty in overruling this point of order; and he does so on the ground that the bill was committed to the Committee of the Whole House on the state of the Union without the reservation of any points of order.

The Clerk will read.

Mr. ROGERS, of Arkansas. Mr. Chairman, I now offer the amendment which I send to the desk.

The Clerk read as follows:

Amend by adding at the end of line 353:

"*Provided further*, That no part of the above sum shall be paid until the Creek Nation shall make and file in the office of the Secretary of State an acceptance and ratification of the survey made and approved by the Department under the treaty of June 14, 1866."

Mr. HOLMAN. That amendment, I suggest, is subject to the point of order.

Mr. BURNES. To test the sense of the committee, the Chair having overruled the point of order on the paragraph, I move to strike out the paragraph.

The CHAIRMAN. An amendment to the paragraph has been moved. The Chair will recognize the gentleman from Missouri [Mr. BURNES] for the purpose he has indicated at a later stage.

Mr. ELLIS rose.

Mr. RYAN. I hope my friend will not object to the amendment.

Mr. ELLIS. I have no objection to it.

Mr. HOLMAN. I think it is subject to the point of order.

Mr. ROGERS, of Arkansas. I do not know what the point of order is.

Mr. HOLMAN. The point of order is that it is new legislation.

Mr. ELLIS. I hope the point of order will not be insisted on. The amendment perfects the title of the Government.

Mr. HILL addressed the Chair.

Mr. ROGERS, of Arkansas. I believe I have the floor.

The CHAIRMAN. Does the gentleman from Indiana insist on the point of order?

Mr. HOLMAN. Yes, sir.

Mr. ROGERS, of Arkansas. I ask the gentleman from Indiana to reserve the point of order until I shall have made a brief statement.

Mr. HOLMAN. Before doing so I wish to say this: By the act of the last Congress we appropriated $45,561 to pay for this land, and that money has been accepted. I submit there is a complete estoppel here against the Creeks setting up any claim to the land lying between the line intended to be run in terms of the treaty and the line actually run. There is no trouble about the line title. But my desire is, so far as I am concerned as a member of the House, that that land shall go under the provisions of the treaty, and that it shall not be kept over separate from the land covered by the treaty, which would be a violation of the spirit and purpose of the treaty.

Mr. ROGERS, of Arkansas. The only point involved is whether or not the Creeks by the acceptance of the payment last year are estopped now to deny the title to this property in the Government. The object of the amendment I have offered is to preclude any controversy for all time on that subject.

If we have taken this land unjustly, which seems to be conceded, by an improper survey, and we have partially paid for it without getting any relinquishment of title from the Creeks and that operates as an estoppel, as the gentleman from Indiana seems to think, and perhaps he is correct, what is the objection to requiring these parties to relinquish to the Government whatever claim they may have, and forever put a stop to any controversy?

Mr. HOLMAN. I will answer the gentleman from Arkansas by saying that the body of this land is acquired under that treaty and for a specific object. The land that would be acquired under this provision if acceded to by the Creeks would be on an entirely different footing. And here we would have a strip of land, subject to settlement on the part of our people, creating disturbance from the beginning. It would be far better that all the land we buy from the Creeks should rest on one condition—the provisions of the treaty of 1866; let us acquire whatever right we acquire from them hereafter by treaty.

Mr. ROGERS, of Arkansas. My friend from Indiana is mistaken. The object of the amendment was simply to require these parties to ratify the survey, so that the unjust survey shall become law in the future, and that the title of the Government shall be perfected by virtue of this ratification, so as to place it beyond all controversy in the future.

Mr. ELLIS. Under the treaty?

Mr. ROGERS, of Arkansas. Yes; not under this act, but under the treaty, and under the survey made under the treaty also. That is the object of the amendment; and I hope my friend from Indiana will not insist on the point of order against the provision, which manifestly secures the Government against any controversy in the future.

Mr. HILL. It seems to me a very strange proposition that an amendment should be offered here to require a few Indians to agree now to what they agreed to do several years ago; that is, to ratify a survey which they bound themselves to do under a treaty. Now, sir, if I read this treaty aright, under article 3 they specially agree to cede these lands to the United States upon certain conditions, and those conditions are that these lands are to be subject to settlement by Indians and freedmen, not by citizens of the United States.

This Oklahoma territory is situated in the very heart of the Indian Territory, and whenever you open it up to settlement by citizens of the United States, by cattle-kings or monopolists or any other persons, you grant them the right of way through the Indian Territory, and you might as well talk about putting a bullet through a man's heart and expect the blood afterward to circulate through his veins as to talk about taking that territory and giving it to citizens of the United States, while you reserve the right to use it to these Indians. They are the wards of the Government. A guardian has no right to make bargains with his ward; and in Ohio, where I live, when a guardian swindles his ward he is sent to the penitentiary.

It was a mere case of "might makes right." That is all there is of it. I agree with my colleague [Mr. KEIFER] that those lands ought to be held sacred for these Indians until in the course of nature, which takes its way in everything, they have become extinct, as they will. But so long as they are powerless, so long as they are lying at our feet, a poor people dependent upon our magnanimity, we should not violate the honor, the dignity of the American Congress by robbing them, piece by piece, until we have robbed them of everything which they originally owned on this continent.

Mr. HOLMAN. Mr. Chairman, I ask that that amendment be again reported. I wish to suggest that if the terms are so limited as that this shall be deemed only a portion of the ratification of the acts of the Government under the treaty, so that this strip of land shall stand on the same footing as the balance of it, imposing as to the whole of it good faith on the part of the Government toward these Indians, then I shall be willing to withdraw the point of order, although I think the appropriation ought not to be made.

Mr. ROGERS, of Arkansas. Mr. Chairman, I desire to make one suggestion to the gentleman from Indiana and to the committee. The object which is sought is precisely the object of this amendment; and I want to make this additional suggestion, that perhaps it would be wise to modify it so as to require the Indians to make this acceptance and ratification within a limited period of time, so as not to keep it open longer than, say, six months or perhaps four months. I ask to have the amendment read.

The Clerk read as follows:

Amend by adding after the line 353 the following:

"*Provided, however*, That no part of the above sum shall be paid until the Creek Nation shall make and file in the office of the Secretary of State an acceptance and ratification of the survey made and approved by the Department under the treaty of June 14, 1866."

Mr. HOLMAN. I ask the gentleman from Arkansas [Mr. ROGERS] to consent to add the following language:

The additional lands to be held by the United States under the provisions of the treaty of the 14th of June, 1866.

Mr. ROGERS, of Arkansas. I have no sort of objection to that, Mr. Chairman.

Mr. ELLIS. I suggest further to the gentleman from Arkansas that his amendment be inserted after the word "cents," in line 352, so that it shall not conflict with the title.

Mr. ROGERS, of Arkansas. Mr. Chairman, I accept that modification also. And now, if it will be satisfactory to the gentleman having the bill under control and to the gentleman from Indiana [Mr. HOLMAN], I suggest that there be an additional provision that the acceptance shall be made within six months or twelve months or whatever period may be acceptable to them.

Mr. ELLIS. Make it twelve months.

Mr. CHACE. Mr. Chairman, I would like to have the amendment reported again; and I wish to ask whether all points of order are reserved?

The CHAIRMAN. The amendment has not yet been perfected. The gentleman can, of course, reserve his point of order.

Mr. CHACE. I will do so.

The CHAIRMAN. The point of order was made originally by the gentleman from Indiana [Mr. HOLMAN], and the question is now whether or not he will withdraw it.

Mr. HOLMAN. If I should determine to withdraw it after this amendment is read of course the gentleman from Rhode Island can renew it.

The CHAIRMAN. Unquestionably the gentleman can renew the point of order. The Clerk will report the amendment as proposed to be amended.

The Clerk read as follows:

Provided, however, That no part of the above sum shall be paid unless the Creek Nation shall within twelve months make and file in the office of the Secretary of State an acceptance and ratification of the survey made and approved by the Department under the treaty of June 14, 1866.

Mr. CHACE. Mr. Chairman, I make the point of order that that modifies existing law and puts a new condition into this treaty.

Mr. ROGERS, of Arkansas, addressed the Chair.

The CHAIRMAN. Does the gentleman from Arkansas desire to discuss the point of order?

Mr. ROGERS, of Arkansas. I do not.

The CHAIRMAN. The Chair sustains the point of order.

Mr. ROGERS, of Arkansas. I now move to strike out the whole section, from line 342 to line 354.

Mr. CHACE. I withdraw the point of order.

The CHAIRMAN. The Chair will again submit the amendment as soon as it is perfected according to the agreement.

Mr. KEIFER. If there is to be further modification of it we reserve all rights.

The CHAIRMAN. The Clerk will report the amendment as perfected according to the agreement.

The Clerk read as follows:

Amend by adding after the word "cents," in line 352, the following:

"*Provided, however*, That no part of the above sum shall be paid unless the Creek Nation shall within twelve months make and file in the office of the Secretary of State an acceptance and ratification of the survey made and approved by the Department under the treaty of June 14, 1866; and the additional lands acquired by the United States by the survey shall be held by the United States under the provisions of the treaty of June 14, 1866."

Mr. KEIFER. That is right.

Mr. WHITE, of Kentucky. Mr. Chairman, I desire to ask whether that may not be construed to mean that when the Indians accept this money lands will then be opened for settlement?

Mr. ROGERS, of Arkansas. Not at all.

Mr. WHITE, of Kentucky. I suggest whether it had not better be understood now that this is not for the purpose of opening up those lands to white settlers, and that the intention is to reserve the lands for the purposes expressed in the treaty.

Mr. ROGERS, of Arkansas. Will my friend from Kentucky allow me to make a statement on that point? I will state to him that in two, or perhaps in more, cases, in the district court of the United States for the western district of Arkansas, under the provisions of this treaty the court has held that this land was not open to settlement, and Payne was convicted under the criminal statutes of the United States for invading that territory, and then he was sued in the civil court and judgment for the penalty of the law recovered against him for moving in there a second time, and I think that at the time of his death two other suits of the same character were pending against him. So that up to the present time, so far as the courts have passed upon this question, they have uniformly held, so far as I am advised, that these lands are not open for settlement under the treaty of 1866.

Now let me say another thing. It is to be deprecated as exceedingly unwise that one single word should fall from any gentleman upon this floor urging the people of the States to go into that country under this treaty. The courts having decided that it is not open, and that those people have no rights there, it is wiser and better for us to meet the issue as it now stands, and either pass some law fixing a penalty that can be enforced, or else, on the other hand, take direct steps for the opening of that country to settlers.

Mr. KEIFER. I want to suggest also to the gentleman from Kentucky that these lands that have been taken by this wrongful survey are now in possession of the Sac and Fox and Pawnee Indians, and would not come within the Oklahoma tract as that now stands.

Mr. WHITE, of Kentucky. I understand that.

Mr. KEIFER. It is all possessed by other tribes of Indians and paid for by them.

Mr. WHITE, of Kentucky. I am very much obliged for the information. Information is what I am trying to elicit. The question raised in my mind by the reading of the amendment was this: Whether when the Creeks accepted this money it would not be said that this Oklahoma reservation would be open to settlement, inasmuch as this money was in lieu of the extra amount of land that was taken, when Oklahoma was surveyed, from the eastern portion of the Indian Territory?

Mr. KEIFER. The modification which has been put upon the amendment settles that.

Mr. RYAN. The proposition does not affect the status of the Oklahoma country one particle.

Mr. KEIFER. Not at all.

The question being taken on the amendment of Mr. ROGERS, of Aakansas, as amended, it was agreed to.

Mr. BURNES. I now move that the paragraph as amended be stricken out. This motion is in the interest of peace and the people at large. It will be for the interest and the well-being of the people, especially of the Western States, whose citizens have a deep concern in this matter. The sight of a number of large cattle companies spread out all over this Indian Territory, like a network of steel, protected by our Army, has deeply impressed itself upon the minds of the people of the West. They see a few persons occupying those lands as fully, to all intents and purposes, as if the Indian title were entirely extinct and a fee-simple title vested in these few occupants. The struggling and anxious settler, poor and needy, sees Oklahoma to-day practically in the possession of a small number of persons composing cattle companies. He feels that by some means special privileges are given by his country to others and denied to him; and he realizes that a wrong is being done to him. An American, and least of all a homeless frontiersman, will not long submit to wrong or outrage.

Let us not by neglect or indifference still further arouse the deep-seated sentiment of the people who are now hovering upon the borders of this Territory. Let this provision be stricken out. Let the members of this House take time to investigate a subject upon which depends, it may be, the blood and lives of American citizens. When we have investigated it carefully and thoroughly some action perhaps may be reached which will quiet the public mind, bring peace and happiness to a people upon whom now sit gloom and discontent, and mark another victory for that great principle of equality of right in all which is dear alike, we trust, to every Representative of the people on this floor.

Let this paragraph for the present go out. It is of doubtful propriety. It is outside of any treaty, outside of any law. Say what you please about acquiring title by the act of a surveyor, you are appropriating this money after the lapse of eighteen years for interest on a pretended debt that never existed—an old, stale claim—and nothing is offered by it that will in the least show a disposition to protect rights of persons now threatened, abolish special privileges now grown hateful to great masses of earnest men, or save the border from commotion and conflict.

Mr. VALENTINE. Are there any cattle now upon the Oklahoma territory?

Mr. BURNES. The Oklahoma territory, 5,000 square miles in extent, is covered with cattle as a dead carcass in midsummer with flies.

Mr. VALENTINE. Is that country so occupied under a lease?

Mr. KEIFER. They ought to be driven off.

Mr. BURNES. To my friend from Nebraska I answer no; neither lease nor known tribute to any one. I blame no one; I censure no one; but the fact exists that this Oklahoma country in its entirety is occupied without molestation by the cattle of great cattle companies. They occupy every acre of it to the practical exclusion of the individual settler. Our people believe that if it is lawful for a man with a vast herd of cattle to go into that territory, it is lawful for the settler to go there with his wife and little ones. They can not help feeling this way. Under these circumstances I hope the Committee of the Whole will strike out this provision and let the matter rest until some proper provision can be made that will give peace, quiet, and equal rights in Oklahoma to all alike.

Mr. ELLIS. Mr. Chairman, I want to disabuse the mind of this committee of the impression that the payment of this debt to the Indians will in one way or another affect the status or the dedication of Oklahoma. Some gentlemen seem to have Oklahoma "on the brain." The strip of land now in question does not affect Oklahoma, does not touch Oklahoma, but is a portion of the lands purchased from the Creek Indians, which the Government took title to or took possession of, and upon which it has settled the Seminoles and the Sacs and Foxes.

Mr. KEIFER. And the Pawnees.

Mr. WHITE, of Kentucky. Is not this eastern line of the survey, as described by the gentleman from Missouri, on which the Government has located the Sacs and Foxes and other Indians—is not this a part of the Western Creek territory which was ceded to the Government?

Mr. ELLIS. Undoubtedly.

Mr. WHITE, of Kentucky. And if that part is affected is not the whole affected?

Mr. ELLIS. Oh, no! There is no dispute about the status of Oklahoma. That has all been paid for. The dispute is about 150,000 acres of land which were included in an unjust survey made by the United States. This matter does not affect the status of Oklahoma at all.

Gentlemen say there is no law for the payment of this money. Why, sir, here is the treaty of 1866, by which we bought this land at 30 cents per acre. We were to run a line north and south. We did so until, running south, we reached a certain point, and then we diverged so as to cheat the Indians out of 150,000 acres. After eighteen years we acknowledge our error and pay the principal. But the treaty carries a provision for interest, which it is now proposed to pay. Yet gentlemen say there is no law for it. If ever the Government of the United States owed a just debt, it owes this debt to the Creek Indians; and never do I want to hear a member of the American Congress cast one slur upon any weak and unfortunate State that has repudiated a portion of its obligations so long as our archives show the utter repudiation of the obligations of the Government, the shameless violation of its plighted faith to these wards of the Republic.

Mr. ROGERS, of Arkansas. I desire unanimous consent to insert an additional clause in the amendment just adopted. I take it to be essential that in the ratification of this treaty these Indians proceed in pursuance of an act of their national council. Therefore, I ask unanimous consent to modify the amendment as adopted by inserting after the word "months" the words "and in pursuance of a resolution of its national council first had and obtained."

Mr. KEIFER. I think that is right.

Mr. ELLIS. There is no objection to that.

The CHAIRMAN. Is there objection to modifying in the manner now proposed the amendment already adopted? The Chair hears none; and the amendment will be modified accordingly.

Mr. HOLMAN. Mr. Chairman, the gentleman from Missouri [Mr. BURNES] thinks this claim to $45,000 is without foundation, and that really is the question to be considered. It is admitted by running this line more eastwardly than was contemplated by the treaty the Government acquired 151,000 acres of land, for which it ought to pay at the rate of 30 cents per acre under the terms of the treaty if the new line was approved by the United States and the tribe; and it is proposed to pay the tribe interest at 5 per cent. per annum on the price of the land at 30 cents per acre, amounting to something over $45,000, the interest on the $45,000 to be computed at the rate of 5 per cent. for eighteen years, that is, from 1866. The survey was not made in 1866, but I am not able to say how much later. The Government did not acquire the ownership of this strip of land in any form in 1866. It did not acquire it when the survey was made. The basis of the Government title rests entirely upon the act of the last Congress appropriating $45,561 to pay for the lands. The Indians accepted the money, and there is the basis of our title.

Mr. KEIFER. What does the gentleman do with the treaty of 1866.

Mr. HOLMAN. It provides for a definite line dividing the tract in equal parts, and the amount which would be given to the United States by that line, as has been stated, has been provided for and secured to the tribe to the extent of every dollar. I do not say paid, but provided for. This is for other lands and the 151,000 acres. We did not acquire those lands until the survey was made and until we voted the money to pay for them. That was only last year. Until that time we had no title to this 151,000 acres of land. We had no right of occupation to the land. The Indians had not acquiesced in it, and Congress had not acquiesced in the line run until we appropriated that $45,000 for the land and the Indians accepted the money. There is its title, and there

is its origin, to the 151,000 acres, and yet it is proposed to pay interest on that sum of money as though we had acquired the land eighteen years ago. I object to that view as clearly untenable.

Mr. KEIFER. Was not the land acquired at the time of the ratification of the treaty?

Mr. ELLIS. Certainly, and taken possession of.

Mr. HOLMAN. Certainly not. By the treaty we acquired the half of the lands of the tribe and no more. This survey was not made until after that treaty was ratified and the line by which we acquire the additional 151,000 acres was not surveyed in conformity with the treaty; if it had, no question could have arisen; but the line was run farther east, giving us the additional 151,000 acres.

Mr. KEIFER. But we certainly put Sac and Fox Indians there. We sold it to them before we surveyed it.

Mr. HOLMAN. We provided by the eighth article of the treaty that an accurate survey should be made of that line. The survey was afterward made, and was not in conformity with the treaty. The subject was brought to the attention of Congress, and we appropriated the money to pay for the land, and the Indians received it. Will you tell me on what basis any claim for interest rests?

Mr. KEIFER and Mr. RYAN rose.

Mr. HOLMAN. Excuse me for a moment. It has been said the act we passed appropriating $45,000 contemplated the payment of interest. On the contrary, the concluding words of that law are "in full payment for said lands."

Mr. KEIFER. That is what we said, but the Indinas did not have anything to say about it.

Mr. HOLMAN. Until then we did not acquire the lands. What title have we acquired until the Indians accepted the money and thus recognized the line established by the survey which gave us the increased amount of land?

Mr. KEIFER. We sold it and got the money for a good portion of it.

Mr. RYAN. Will the gentleman inform the House when the Government located the Sac and Fox Indians on these lands?

Mr. HOLMAN. It located them on the land many years ago, but after the treaty of 1866; the Government, I think, did not locate them on the land between the true line and the line actually run. It located them on the land ceded to the United States by the Creek Nation, as they had the right to do; but I am not certain as to the time or manner of their location.

Mr. RYAN. They located the Sac and Fox Indians on these lands before the survey was made.

Mr. HOLMAN. On this specific strip?

Mr. RYAN. Yes; on the lands embraced in this specific strip.

Mr. ELLIS. In 1866 they took possession of it and settled these Indians on it.

The CHAIRMAN. Debate is exhausted.

Mr. BURNES's motion to strike out the paragraph was disagreed to.

Mr. PEEL. I offer an amendment to this clause.

The Clerk read as follows:

Amend by inserting on page 15, after line 353:

"That the Secretary of the Treasury of the United States pay to the treasury of that part of the Cherokees known and denominated as the Old Settler or Western Cherokees the sum of $660.80, together with 5 per cent. interest from the 12th of June, 1838; it being the balance now in the Treasury of the appropriation of $887,480.15, made to them by act of Congress September 30, 1850."

Mr. PEEL. I ask the Clerk to read the report which I have made in respect to this matter to the Committee on Indian Affairs, and which was referred by that committee to the Committee on Appropriations.

The Clerk read the report (by Mr. PEEL), as follows:

The committee find that on September 30, 1850, Congress appropriated to pay to that part of the Cherokee Indians known as the "Old Settler" or "Western Cherokees," in compliance with treaty stipulations, the sum of $532,896.90, with interest thereon from June 12, 1838, until said amount should be paid, at the rate of 5 per cent. per annum (9 Stat., page 556).

That the payment of that sum, with the interest thereon as aforesaid, was made on September 22, 1851, and the whole amount to be thus disbursed was the sum of $887,480.15.

It appears that the disbursement was made by John Drenan, as superintendent of Indian affairs. The Second Auditor of the Treasury, by his letter to J. M. Bryan, commissioner of the "Old Settler" or "Western Cherokee" Indians, dated June 27, 1882, states that of the sum thus appropriated there was remaining in the hands of said John Drenan as such superintendent, upon the settlement of his accounts as such disbursing officer, the sum of $660.80, which was not paid to said Indians; that said Drenan turned said balance over to Thomas S. Drew, also superintendent of Indian affairs, and that the said Drew failed to either pay the same to said Indians or to account therefor and pay the same into the Treasury of the United States. The Second Auditor states that upon the failure of Superintendent Drew to account for said balance suit was instituted against him to recover the amount of said balance, and the sum of only $449.30 was collected from him, which seems now found to be in the Treasury.

The committee are satisfied that there was withheld from these Indians of that appropriation, by the agents of the United States, the sum of $660.80, which ought to have been paid to them at the time the other disbursement was made, namely, on 22d day of September, 1851. That that sum, with interest thereon from September 22, 1851, at the rate of 5 per cent. per annum until the same shall be paid, is now due to these Indians. Therefore, the committee report the memorial back to the House with the recommendation that the same be referred to the Committee on Appropriations for the necessary appropriation to pay the said balance and interest as above stated, amounting to $——.

Mr. PEEL. I ask that the memorial appended to the report be printed in the RECORD.

There was no objection.

The memorial is as follows:

MEMORIAL OF THE "OLD SETTLER" OR "WESTERN CHEROKEE" INDIANS.

To the honorable Senate and House of Representatives of the United States of America in Congress assembled:

Your memorialist, J. M. Bryan, as the commissioner and agent of the "Old Settler" or "Western Cherokee" Indians, for and in behalf of said Indians, respectfully represents unto your honorable bodies that there is now due to said Indians, from the United States, the sum of $660.80, together with interest on said sum from September 22, 1851, until the same shall be paid, at the rate of 5 per cent. per annum, the same being a balance not disbursed of the appropriation of $532,896.90, made by act of Congress approved September 30, 1850, to be paid to said Indians in compliance with the treaty between the United States and the Cherokee Nation of Indians in the year of 1846.

Your petitioner further represents that the circumstances under which this claim arose are as follows: After the above-mentioned appropriation was made, one John Drenan, a superintendent of said Indians, was authorized and directed by the Department of the Interior to disburse or pay the same to the said Indians, as prescribed in and by said treaty, and for that purpose the amount of money necessary therefor was placed in his hands by the proper authorities of the United States; that he, on or about September, 1851, disbursed said amount, except the sum of $660.80 aforesaid, being the balance aforesaid, and for which, together with interest as aforesaid, this claim is made.

That the said John Drenan, after making the disbursements aforesaid, and in the month of May, 1853, turned over to one Thomas S. Drew, another superintendent of said Indians, the said balance of $660.80, and that the said Drew failed and neglected to disburse said balance, or any part thereof, to said Indians, or account therefor to the United States. That, to recover said balance, the United States instituted suit against him, upon which a recovery was had, and upon the judgment the sum of $449.30 only was collected, as will more fully appear by reference to a letter of Hon. O. Ferriss, the Second Auditor of the Treasury, hereto attached as Exhibit A.

Your petitioner further represents that said Indians have repeatedly applied to the Commissioner of Indian Affairs, and requested the payment of said balance with the interest thereon, as aforesaid, but without avail.

Wherefore your petitioner, for and on behalf of said Indians, prays your honorable bodies to authorize and direct the payment of the said balance and interest, and to make the necessary appropriation therefor, and to direct the payment of the same to said Indians may be made by the proper officer of the United States in such manner as the said Indians by their counsel have or may request. As in duty bound he will ever pray.

J. M. BRYAN,
Commissioner and Agent of the "Old Settler" or "Western Cherokee" Indians.

Mr. PEEL. This sum, Mr. Chairman, $660.80, is the balance of that appropriation of $887,000 made in 1851. The law appropriating that sum to the payment of these Indians required that it should be distributed among them per capita. By reason of that requirement of law in making the distribution of the fund this small balance was not paid by the commissioner appointed for that purpose. The change could not be made, and this sum was left over. It can not be paid to them per capita under the terms of that law, because the amount is so small. There is no question that it belongs to the Cherokees, and is now in the Treasury as a part of the fund appropriated to them. If paid, however, under the terms of that law it would require a new census of the nation. This simply provides that it shall be paid into their treasury.

Mr. HOLMAN. Let me ask the gentleman from Arkansas this question, whether or not, from his examination of the subject, the Committee on Indian Affairs find this to be the total amount due with reference to the claims set up by the Cherokees which accrued prior to 1851?

Mr. ELLIS. Let me ask the gentleman if this is based upon treaty stipulations?

Mr. PEEL. Yes, sir.

Mr. ELLIS. Did not that treaty require that it should be paid per capita?

Mr. PEEL. No, sir; that was a provision in the act of Congress.

Mr. ELLIS. This, then, is an addition to the treaty?

Mr. PEEL. Yes, sir.

Mr. ELLIS. Then I make the point of order against it.

Mr. HOLMAN. The point comes too late.

Mr. PEEL. I will state to the gentleman that the act of Congress appropriating $887,000 was a provision of law to pay the amount found due to them by the Senate in 1851—the amount found due to the old settlers, which we are discussing here now.

Mr. ELLIS. I make the point of order upon it.

Mr. HOLMAN. It is too late to make the point of order now.

Mr. ELLIS. I do not think it is. I submit the point to the Chair.

The CHAIRMAN (Mr. HAMMOND in the chair). The present occupant of the chair is not informed as to the exact condition of this amendment. As the Chair understands it, the amendment was offered by the gentleman from Arkansas, and he proceeded to make an argument in support of it. The report which has been read by the Clerk was read as part of his remarks. The Chair thinks it is now too late to make the point of order.

Mr. ELLIS. Very well. [Cries of "Question!"]

Mr. HOLMAN. I wish to ask the gentleman whether or not, upon his examination of the subject, it would be proper to add the following:

In full of any balance due to said Indians prior to that date.

Mr. PEEL. I see no objection to that.

Mr. ELLIS. Oh, yes; there is.

Mr. RYAN. That will not do at all.

Mr. ELLIS. I shall oppose the amendment of the gentleman from Indiana, and reserve the point of order upon that portion of it.

Mr. RYAN. As I understand it, the gentleman from Arkansas makes the motion to pay the balance due to the Western Cherokees. The Western Cherokees are but a small portion of the Cherokee Nation. It is what is called "the old settlers' claim." The old settlers who get the benefit of this particular claim are, I repeat, but a small portion of the nation; and now if you add the amendment suggested by my friend from Indiana, you preclude the rest of the nation from asserting a claim they have pending here also. It would be grossly unjust. The nation has a claim pending here for something like $300,000.

Mr. HOLMAN. But my friend says that claim has no foundation whatever.

Mr. ELLIS. In that he differs from the Secretary of the Interior, the Commissioner of Indian Affairs, and the sworn commissioner who investigated the claim.

Mr. RYAN. In reply to the gentleman from Indiana, I will say that the same authority which determined that the old settlers are entitled to their claim here has also determined that the nation is entitled to the claim which it has presented; and if one is unjust it is altogether likely that the other is. I do not mean, however, to be understood as saying that the old settlers' claim is unjust.

Mr. PEEL. I think I can explain this satisfactorily in a moment.

The CHAIRMAN. Will the gentleman from Indiana submit his amendment in writing?

Mr. HOLMAN. I will withdraw the amendment.

The CHAIRMAN. The question is on agreeing to the amendment of the gentleman from Arkansas.

Mr. HOLMAN. I understand the gentleman wishes to be heard on that.

The CHAIRMAN. The Chair will recognize the gentleman from Arkansas.

Mr. PEEL. I wish to be heard for a moment.

This amendment simply includes the balance of the appropriation of 1851. That appropriation was found to be all that was due to the Old Settler or Western Band of Cherokees growing out of the treaties of 1835 and 1846. When that settlement was made in 1850 by the Senate this sum of $887,000 and over was appropriated and paid. It was all paid excepting this balance to which I now refer. This part of it remains in the Treasury and can not be disbursed, because it would require the distribution to be made per capita, as I have said. The superintendent who disbursed the money could not make the exact change, and hence this balance remains on hand, amounting to $660. It has been in the Treasury ever since, and can not be paid out now without a new census was taken. The reason it can not be paid per capita is that it does not amount to 5 cents apiece to each member of that band.

Mr. RYAN. What is the amount?

Mr. PEEL. Six hundred and sixty dollars and eighty cents.

Mr. RYAN. That is not the claim I had in view. I think this claim is just.

Mr. ELLIS. I withdraw my objection.

The question being taken on the amendment offered by Mr. PEEL, it was adopted.

The Clerk read the following paragraph:

KANSAS.

For interest, in lieu of investment, on $200,000, at 5 per cent. per annum, per second article of treaty of January 14, 1846, $10,000.

Mr. ELLIS. Under instructions of the Committee on Appropriations I offer the amendment which I send to the desk.

The Clerk read as follows:

After line 405 insert the following:

"That the Secretary of the Interior be, and he is hereby, authorized and directed to apply the net proceeds arising from the sales of Kansas Indian lands, in the State of Kansas, now in the Treasury, and such as shall from time to time be in the Treasury, to the credit of the Kansas tribe of Indians, to the payment of all of the present indebtedness of said tribe, principal and interest, represented by the certificates issued in the years 1862 and 1863, and known as Kaw or Kansas Indian scrip; said payment to be made as follows: He shall, ninety days after the approval of this act, apply $67,386.89, being the net proceeds on hand March 27, 1884, together with such sum as may have accrued since said date, in pro rata payment, principal and interest, of all such scrip certificates aforesaid as shall be filed in the Department of the Interior on or before the said ninetieth day after the approval of this act, and of the genuineness of which he shall be satisfied; and thereafter whenever the proceeds, after the deduction of the expenses of the sale of said lands, shall equal the sum of $10,000, the Secretary of the Interior shall pay said sum, together with any excess thereof, upon such certificates as aforesaid as shall be on file at the Department of the Interior on the date of such payment and for thirty days thereto preceding, and shall continue so to pay until the indebtedness of said tribe represented by said scrip certificates, with the interest thereon, shall be fully liquidated, or until the entire net proceeds of the sale of said lands, that are now on hand or that may hereafter be acquired, shall be exhausted: *Provided*, That not exceeding 5 per cent. interest per annum shall be allowed on any of such scrip."

Mr. ELLIS. If the committee desire an explanation I am ready to give it. Perhaps it may be as well that I should give it.

In 1859 the Kaws in Kansas had more land than they desired. By a treaty of 1860 they agreed to move to what is known as the diminished reservation in Kansas. It was furthermore agreed that the proceeds of the surplus lands should be sold and applied to purposes of their comfort and civilization. In 1862 some parties were employed, one of them now an honored member of this House, Mr. STEVENS, of New York, to build houses for these people and to do work and labor for their civilization. In accordance with the terms of the treaty of 1860, that work was done. There was no money to pay for the work done. Under a provision of that treaty the Secretary of the Interior was authorized to issue this scrip, which he did to Mr. STEVENS and others to the amount, I believe, of about $76,000. This has remained unpaid up to this day. It was to be paid out of the proceeds of the sale of the surplus lands of the Kaw Indians.

By the report of the Commissioner of the Land Office there was on the 27th March, 1884, $67,386.89 of the proceeds of this land upon which this scrip bears a lien, to pay which it is devoted.

The committee recommend that the proceeds of this land—the money on hand in the Treasury—be applied to the payment of this scrip. They have changed the interest on the scrip from 6 per cent. to 5 per cent., so as to make it the same rate of interest as the settlers are paying on the lands. It is right and ought to be paid.

The amendment offered by Mr. ELLIS was agreed to.

The Clerk read the following paragraph:

The Secretary of the Interior is hereby directed to pay to Dennis Sheedy the sum of $4,658, and to B. J. Everett $3,550, out of treaty funds herein appropriated for the Northern Cheyenne Indians; the same being claims for damages caused by depredations of said Indians, and examined, approved, and reported to Congress by the Commissioner of Indian Affairs.

Mr. JAMES. I desire to offer an amendment, to insert after the words "Cheyenne Indians," in line 495, the words "to be carried to the surplus fund;" and to strike out the words "out of treaty funds herein appropriated." That is the suggestion of the Committee on Indian Affairs, that this be carried to the surplus fund.

Mr. ELLIS. I have no objection to that amendment.

The amendment was agreed to.

The Clerk read the following paragraph:

OMAHAS.

For third of twelve installments, being last series, in money or otherwise, per fourth article treaty of March 16, 1854, $10,000.

Mr. ELLIS. By direction of the Committee on Appropriations I offer the amendment which I send to the desk.

The Clerk read as follows:

After line 503 insert as follows:

"To enable the Secretary of the Interior to appraise and sell, in accordance with the provisions of an act entitled 'An act to provide for the sale of a part of the reservation of the Omaha tribe of Indians in the State of Nebraska, and for other purposes,' approved August 7, 1882, that portion of said reservation in township 24, range 7 east, remaining unallotted on the 1st day of June, 1885, $1,000; said sum to be reimbursed from the fund received from the sale of said lands: *Provided*, That the Secretary of the Interior may in his discretion and with the consent of the Indians extend the time of payment for lands as fixed by section 2 of said act, so that one-third of the purchase-money shall become due and payable in two years from the date when the land shall be or has been thrown open to settlement, together with one year's interest on the amount of the first installment, to be paid when entry is made, and the second installment of one-third shall become due and payable in one year, and the remaining one-third in two years from date of first payment, with interest as provided in said act. And in case of default in either of said payments or interest thereon the person thus defaulting for a period of sixty days shall forfeit absolutely his right to the tract which he has purchased and any payment or payments he may have made: *Provided, further*, That also with the consent of the Indians the Secretary of the Interior is hereby authorized to cause to be appraised and sold to the highest bidder, under such regulations and upon such terms as to payment as he may deem to be most advantageous to the said Indians, that part or parcel of said reservation described as follows: All that portion of the northeast quarter of the northeast quarter of section 27 and the west half of the northwest quarter of section 26, in township 25, range 6 east, lying east of the Sioux City and Nebraska Railroad, containing about fifty acres, more or less, conditioned, however, that the purchaser thereof shall erect, operate, and maintain a flouring mill thereon."

Mr. ROGERS, of Arkansas. Mr. Chairman, I rise to a parliamentary inquiry. I desire to ask whether or not this amendment is subject to points of order. If so, I desire to reserve them until we have an explanation of it.

Mr. ELLIS. Mr. Chairman, the hour has arrived that has been fixed by the House for the consideration of the resolutions in relation to the death of Hon. HENRY B. ANTHONY, late a Senator from Rhode Island. I therefore move that the committee do now rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. WELLBORN reported that the Committee of the Whole House on the state of the Union had, according to order, had under consideration the bill (H. R. 7970) making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1886, and for other purposes, and had come to no resolution thereon.

ENROLLED BILLS SIGNED.

Mr. NEECE, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

A bill (H. R. 1017) relative to the Inspector-General's Department of the Army; and

A bill (H. R. 7768) to authorize the National Bank of Bloomington, Ill., to change its name to the First National Bank of Bloomington.

DEATH OF THE LATE SENATOR ANTHONY.

The SPEAKER. The hour of 4 o'clock having arrived, the Chair lays before the House the resolutions of the Senate in relation to the death of the late Senator ANTHONY.

The Clerk read the resolutions, as follows:

IN THE SENATE OF THE UNITED STATES, *January* 19, 1885.

Resolved, That the Senate has heard with profound sorrow of the death of HENRY B. ANTHONY, late a Senator from the State of Rhode Island.

Resolved, That the business of the Senate be now suspended to enable his associates to pay proper tribute of regard to his high character and distinguished public services.

Resolved, That the Secretary of the Senate communicate these resolutions to the House of Representatives.

Resolved, That, as an additional mark of respect to the memory of the deceased, the Senate do now adjourn.

Mr. CHACE. Mr. Speaker, I offer the following resolutions, which I ask the Clerk to read.

The Clerk read as follows:

Resolved, That the House of Representatives has received with deep sorrow the official announcement of the death of HENRY BOWEN ANTHONY, late United States Senator from the State of Rhode Island.

Resolved, That the business of the House be now suspended, that opportunity may be afforded to give expression of our sense of his personal worth, of his public services, and of the loss which the country and his native State have sustained.

Resolved, That at the conclusion of these tributes to his memory the House shall stand adjourned.

Mr. CHACE. Again Rhode Island is called to mourn the loss of a distinguished son. A second time in my brief career in this House it becomes my duty to pay the last tribute of respect to the memory of one of her Senators. Again we are reminded how swiftly glide these lives of ours; that the dreams of hope are but shadows; that the honors for which we clutch must wither in our hand; that the cares, the joys, the fears of life alike soon find an end. It is well for us to pause for a brief season and look back.

When, in the closing days of 1859, the Senate of the Thirty-sixth Congress met, the two sides of that Chamber more nearly resembled the representatives of two hostile countries than an ordinary legislative body, met to calmly discuss questions of common interest. All of those wonderful intellectual giants, the product of the primitive days of the Republic, had passed off the stage of action. Clay, full of years, but weary and worn with compromise, had sunk to rest with only anxious hope, and was reposing at his own beautiful Ashland; the ashes of Calhoun were mingling with the soil of his native Carolina; Webster, almost heartbroken and full of forebodings for the future of the Union, had been laid in the simple tomb at Marshfield, where the ocean which he loved so well might sing his solemn dirge through the coming ages. The gathering storm which these men had vainly sought to avert was darkly impending over the nation. All the great economic questions were swallowed up in this one absorbing topic.

Among those who entered that Senate and took sides with the defenders of freedom was HENRY B. ANTHONY, of Rhode Island. In the prime of life, at 45 years of age, inheriting from a long line of virtuous ancestry a constitution of wonderful strength and vigor; of singular beauty, both of person and of feature, with a commanding presence, highly educated, cultivated in his manners, with a rare grace and urbanity, and a charming felicity in social intercourse, he at once became a favorite, even in those days of intense partisanship, with members of both sides of the Senate. Possessed of intellectual gifts of the very highest order, thoroughly furnished as he was by the peculiar training which a long career of journalism had given him, he was fitted to take a high position in the councils of the nation.

Possessed of a peculiarly well-balanced mind, his caution and prudence often restrained him from labored efforts of oratory and from participating in the excitements of clashing debate. In all the legislative history of the country but few men have introduced measures of great and far-reaching importance. The qualities that dazzle and captivate the popular mind are not always those which are of most value. As in nature, so in the operation of paliamentary bodies, we find the silent forces are often the most potent. It is by patient toil and careful prevision in committee that the public interests are guarded and promoted. This was the peculiar field of usefulness to which our lamented friend bent his attention. On the floor of the Senate he was alert, attentive, and careful, and when occasion required, quick to penetrate the armor of error, to expose its purpose, or to defend those measures for which the public weal called.

He did not speak often, but when his voice was heard it commanded attention. His speeches, always bearing evidence of great learning and research, were couched in the purest and most polished English. His intellect was broad and vigorous, with wit as keen and incisive as a Damascus blade, that would have been a dangerous weapon with one less gentle, for he was as kind and loving as a woman.

In all the long list of names borne on the Senate roll two men only have been elected to five consecutive terms—Thomas H. Benton and HENRY B. ANTHONY. And yet, although serving so long, much of the time during the most stormy period of our parliamentary history, no man of all that throng of fellow-Senators could say that he had just cause of offense toward him, and with rare exceptions all were his friends.

Serving at a time when from the necessities of the Government growing out of the war money was poured out like water, when in the mad fever of speculation and grasping for sudden wealth through Government contracts reputations went down like soldiers in battle, he came out unscathed, not a breath of suspicion resting upon him. Holding the most pronounced views on all the questions which agitated the public mind like a seething cauldron during the period before and after the war, though abating nothing, he retained the friendship of his most earnest opponents. Knowing the weakness of indecision, he reached forward for political truth with a firm hand and still preserved a strong balance of conservatism.

Deeply learned in the foundation principles of our Government, and as deeply skilled in the use of language, he sometimes presented those principles with wonderful effect.

He was twice elected governor of Rhode Island and twice President of the United States Senate. But long and honorable and useful as have been his services in the Senate, it is as a faithful son of Rhode Island that the citizens of that State will most cherish his memory. Born in the town of Coventry of a Quaker family whose ancestors had dwelt there from the days of its earliest settlement, spending his youth among the hills of his native State, educated in her schools and at her university, putting forth the first labors of his early manhood as well as the more brilliant efforts of his maturer years in defense of her constitution, he loved her as a man loves his mother.

He was, indeed, a part of Rhode Island. He believed her constitution to be the most perfect instrument of the kind ever drawn by the hand of man, and his defense of it is unanswerable. His name and his fame is linked with Rhode Island and her happily constituted system. There, as a journalist, he attained a most distinguished position, building up, from small beginnings, one of the most influential and useful journals in New England; earning, by the purity of his diction, clearness and conciseness of style and felicity of expression, a high reputation. Honored and trusted by her people, he honored them by the faithfulness of his services.

I have known Senator ANTHONY from my youth up—known him as did all, to respect, to admire, to love him. In every sphere, in all circles, under all circumstances, wherever he went, his progress was a constant conquest of friendship, and friends once won, he "grappled them to his soul with hoops of steel."

How many who commenced the race of life with him have fallen by the way while he passed on. The friends of his youth died and he found others.

During his service in the Senate he saw the shackles stricken from 4,000,000 slaves, the deed of manumission written in the blood of 300,000 men; the Union, tottering to its foundation, purified and restored, the dream of the fathers that this land should be consecrated to liberty realized. During his term he saw men rise to distinction in both Houses of Congress and pronounced their eulogies. As Senator, he saw Lincoln inaugurated; held up his hands during the vigils of those weary four years of war, and saw him buried, mourned alike by friend and foe. Saw Garfield rise from obscurity to distinction in the forum, the field, and in this House—elected Senator, made President, and laid in his grave on the shores of Lake Erie. Grant's wonderful career from the store in Galena to his triumphant progress around the world was but an episode.

Of his hopes for the future life I can not speak. He rarely spoke of it to me.

As life is ordinarily viewed, it may be said that his was a success; but if we could go with him through the long journey, full rounded up to near three-score and ten, we might not maintain our estimate of what is human success. He had hosts of friends and few enemies; was honored as but few men have been; but with all he carried for many years a great sorrow. The wife of his youth, beautiful and accomplished, was early stricken down, and ever after he continued alone the journey of life. He realized, as all must, that—

> All pomp was but a name;
> That gold and silver were not life and joy;
> That what to-day bestowed of love or fame,
> To-morrow's breath would wither and destroy.

He realized, as do all who grapple with great public questions, of how much too little avail are our best endeavors to establish justice, to put an end to inequality, or to satisfy those less favored. He saw how empty a thing is honor, what a dream is life itself, and how decay and death follow quickly after youth and strength, as cloud-shadows chase the sunshine on the mountain-side. Occupying as he did for many years so distinguished a position, he realized that—

> He who ascends the mountain tops shall find
> Its loftiest peaks most wrapped in clouds and snow;
> He who surpasses or subdues mankind
> Must look down on the hate of those below;
> Though far above the sun of glory glow,
> And far beneath the earth and ocean spread,
> Round him are icy rocks, and loudly blow
> Contending tempests on his naked head,
> And thus reward the toils which to those summits led.

With him "life's vain parade is over." But though "he walked with throngs of good friends, now at last he is called to pass alone the dread portals of death."

He will long be remembered by his associates here for the radiance of his genial presence, for his careful attention to every detail of legislative duty, for the warmth of his friendship, and the absence of partisan rancor. In his native State his memory will be cherished by young

and old for his gentleness, his dignity, his faithfulness to trust, for his long and useful services.

Mr. KELLEY. Mr. Speaker, I address the House not because I believe I can add anything of value to what others will say of the character and labors of the late Senator ANTHONY, but because the sweet memories of an unclouded friendship which extended through a quarter of a century and endured the friction of personal, political, and official relations impel me to offer a tribute, however unworthy of its subject it may prove to be.

HENRY B. ANTHONY entered upon the duties of Senator from the State of Rhode Island in December, 1859, at the opening of the Thirty-sixth Congress, and I entered fully upon my duties as Representative from the fourth district of Pennsylvania on the 4th of July, 1861, when the two Houses, in obedience to the proclamation of President Lincoln, met "to consider and determine such measures as in their wisdom the public safety and interest may seem to demand."

The times were disjointed before the elections of 1860 were held. The controlling spirits of the South having determined to submit the interpretation of the Constitution to the arbitrament of war, the Senators from that section of the country withdrew from the Senate, and those who had been looked to to represent the people in the House of Representatives declined to accept Congressional nominations and refused to recognize the Thirty-seventh Congress as a body whose enactments would be binding on them in law or conscience. The situation produced by this action was novel and portentous. In matters of gravest import and responsibility the Executive must act without the aid of precedent or tradition, and the President and his Cabinet naturally sought counsel from the recently chosen representatives of the loyal people. It thus came to pass that gentlemen elected to the Thirty-seventh Congress, who, under ordinary circumstances would probably not have met until the month of December, became *habitués* of the capital and co-workers from the 4th of March, between which date and the organization of Congress I frequently met Senator ANTHONY in such social intercourse as the already disturbed condition of Washington would permit, and in consultation with the President, heads of Departments, Senators, and members-elect of the House of Representatives.

Though a man of broad and varied information and profound convictions he preferred no claim to leadership, and superficial observers more readily regarded him as a devotee to society than as an earnest man of affairs. He was in the vigor of mature manhood, and I recall with pleasure the sweet smile that wreathed his handsome face upon the slightest provocative to mirth. Within an irreverent but limited circle of acquaintances he was called "the rosebud Senator," which sobriquet might have been bestowed as a tribute to the healthful glow which mantled his cheek or from the fact that in those days when *boutonnières* were in less common use than now he constantly wore a bud or other choice flower.

He had none of the impetuosity or burning enthusiasm of Senators Wade, of Ohio, and Chandler, of Michigan, or of the intense devotion to the advanced opinions, approved by his judgment, which characterized my great colleague Thaddeus Stevens; yet he was the trusted counselor of his more impulsive fellow-Senators, and his fidelity to the convictions which sustained the Republican party and impelled its advance from point to point in the cause of personal freedom until American slavery had perished was never doubted by that imperious and exacting party leader, the great commoner of Pennsylvania.

The means of communication between the capital and remote sections of the Republic were, in comparison with those of to-day, very restricted, and the President could not with propriety name an earlier day than the 4th of July for the assembling of Congress. But that the armed forces of the improvised confederacy should be prevented from invading the capital or any of the loyal States, he had upon his own authority put 75,000 men into the field to which the United States had been challenged. When, on the designated day, Congress had assembled, the President in his message expressed the estimate of the executive department of the Government as to the draft the rebellion would make upon the resources of the Republic. In suggesting the number of men and the amount of means he hoped Congress would provide he said, "It is now recommended that you give the legal means for making this contest a short and decisive one; that you place at the control of the Government for the work at least 400,000 men and $400,000,000."

From that day until Grant had restored to Lee his sword, the surrender of which had symbolized the defeat of the confederate army and the collapse of the pretended government which had called it into existence, until the work of reconstruction had been completed, so far as legislation could promote its completion, the opinions of Senator ANTHONY were sought and weighed by the Executive and those legislators who from their greater prominence in the proceedings of Congress were popularly regarded as the men who were shaping the destinies of our country. His judgment was rarely or never at fault. He seemed to comprehend every question as it arose, whether it was a measure to provide men and means for successful warfare; or to establish a system of finance which should, without embarrassing the productive interests of the country, enable the Government to furnish the Army and Navy with the amplest munitions of war; or to restore to the position in the Union they had sought to abandon the impoverished and decimated States of the South; or to reduce our revenues without impairing the public credit by the repeal of many of the taxes which had been adopted as a war measure, and which bore, as all internal or excise taxes must bear, specially upon the producing classes.

Caution is the parent of prudence, and caution was a marked characteristic of Senater ANTHONY. While appreciating the greatness of the duties before the Government, he would delay, if not postpone indefinitely, the adoption as a policy of any measure or set of measures that seemed to involve the possibility of encouraging the enemies of the Government by the abandonment of a declared purpose. It was this characteristic which, above all others, secured him the supreme confidence of President Lincoln, whose caution is now seen to have been as efficient in bringing the war to a successful close as were the skill and courage of the most brilliant of our soldiers.

But I am trespassing upon the time of the House, my object in addressing which was, as I have said, to simply lay a humble tribute on the bier of a long-cherished friend.

Mr. POLAND. Mr. Speaker, I should hardly have felt justified in occupying a moment on this occasion except for the fact that I am one of the few members of this House who served in the other with the deceased Senator ANTHONY.

My acquaintance with him commenced with the opening of the Thirty-ninth Congress, the first Congress after the close of the great war. The ten years which followed were as trying and difficult to the men engaged in the administration of public affairs as any in our history. The questions as to how the seceding States were to be restored to their proper places in the Union, how peace and harmony were to be again restored, and the whole country again united after the fearful disruption, and the financial question of how to provide for the immense indebtedness, were all new and difficult, and might well appall and distract the wisest statesman. The proper settlement of some of these questions was embarrassed and complicated by the bitterness and acrimony naturally engendered by the losses and sufferings caused by the war.

Having been in Congress myself during the ten years succeeding the war, I feel justified in saying that Senator ANTHONY bore a much more important part and exercised a much greater influence in the proper settlement of all these great questions than he was generally credited with in the country. He made no pretension to oratory, and did not mingle largely in general debate. But his associates soon learned his value, the breadth and solidity of his judgment, his extended and accurate knowledge upon all public questions, and he exercised the influence accorded to a wise and sagacious man. While the war was waging he gave most earnest and vigorous effort to make it successful. When it was over, he ranked among those who desired in settling and adjusting the questions growing out of it to show all possible kindness and magnanimity.

The Senator was exceedingly ready and adroit in practical suggestions to meet and avoid difficulties which arose in the routine of legislative business.

I may be pardoned for relating an instance when he relieved me from a great embarrassment. Members who were here from 1865 to 1875 will remember that during that period the great work of revising the national statutes was begun and completed. I was chairman of the committee on the revision in the House and had the general charge of the matter before Congress. The revision as reported by the commissioners to Congress was printed on large paper, in coarse type, like ordinary bills, making a very large bulk. The amendments proposed by the committee and adopted by the House numbered many hundreds.

The rules of the House required the whole bill and all the amendments to be engrossed on paper by the Clerk before being sent to the Senate. As this would consume a great deal of time, the House, upon my application, suspended this rule, and allowed the bill to be engrossed by incorporating the amendments into one of the printed copies of the bill, by interlining, writing on the margin, or pasting on such amendments as were too long to be written in. In this form the revision was sent to and passed by the Senate. The joint rule of the two Houses requires that a bill passed by both Houses shall be engrossed on parchment to be sent to the President. This would require a great amount of time, and the end of the session was approaching. The House thereupon passed a joint resolution to suspend the joint rule for the engrossment on parchment, and authorized another copy to be prepared as before to be sent to the President. This joint resolution came back from the Senate disagreed to. Senator Garrett Davis, of Kentucky, a most excellent gentleman, but who tolerated no innovation upon established usages and ancient ways, led the opposition, and was horrified at the notion of sending such a patched bundle to the President to be preserved in the solemn archives of the State Department. The House asked a conference. I was one on the part of the House, Senator Davis one from the Senate, and he stood for a parchment engrossment of the whole Revised Statutes. I was in a great dilemma. I had given years of work to it and had obtained its passage through Congress, but it was likely to fall because I could not get it to the President for his signature. Fortunately Senator ANTHONY was one of the Senate conferees, and he pro-

posed that the whole be reprinted and send it to the President in that form. I supposed that would take too long, but the Congressional Printer was sent for, who said it could be done in a week, and thereupon Senator ANTHONY's proposition was reported by the conference and adopted. I think I ought to finish this story by saying that the whole work was set up and printed at the Government Printing Office in three days and brought to me on the morning of the fourth day in a handsomely bound volume, which I still keep as the earliest edition of that work.

He was utterly without ostentation. He disliked all show and parade. His manners and habits were of the plainest and simplest character. One of the pleasantest recollections of my life is of a somewhat protracted visit I made him in his plain, quiet, quaint old home in the city of Providence. He was a thorough scholar and a clear and forcible writer. His long connection with the public press, his ability as a writer, and the fairness and candor with which he discussed public questions enabled him to do much in shaping the public judgment of the country during the eventful years of his manhood.

But the crowning glory of our deceased friend was the perfect kindness and amiability of his character. His heart warmed to all men. Perhaps he had enemies, but I never heard of one. His culture and his character seemed to combine in some of his literary composition. On some occasions of this kind, when called upon to pay tribute to the memory of a deceased friend or colleague, his efforts have equaled in tenderness of thought and beauty of expression anything I have ever heard or read. I have known no man whose whole life was more charming. All his words and deeds, both public and private, seemed imbued with the spirit of the holy evangel, "On earth peace, good will toward men."

Mr. MORSE. Mr. Speaker, it may be presumptuous on my part to rise on the floor of this House to attempt to deliver a eulogy on the late Senator ANTHONY, but being beloved by the people of my State as much as he was in his own, and particularly so by the people of my district, I feel it my duty in their behalf to say a few words.

Mr. Speaker, so closely allied are the neighboring States of Rhode Island and Massachusetts in martial renown, in commercial interests, and in social ties, that I feel it to be my duty, as it is my pleasure, to cast my humble tribute on the grave of HENRY BOWEN ANTHONY. We knew him well in Massachusetts as the editor of the Providence Journal, which has a large circulation in the southeastern portion of our State; we respected him as the governor of our sister State, proud of her history and a stalwart defender of her institutions; we honored him as a Senator who represented the smallest of States, but whose noble intellect and patriotic heart covered the length and breadth of our great Union; and we loved him as an honorable gentleman, without fear and without reproach, who has during the last quarter of a century played important political and social parts in the great drama of life performed on this busy Washington stage.

Others have eloquently narrated the successive events of his life. My own personal acquaintance with him in this Capitol was mainly concerning those matters which had been referred to the Naval Committees of the Senate and the House, of which we were respectively members. He having served on the Naval Committee of the Senate from 1863 until his death continuously (and having again and again declined its chairmanship because he preferred to remain chairman of the Committee on Printing), he was well acquainted with the condition and the needs of our gallant Navy, its officers, its navy-yards, its academy and school. Officers of merit, with untarnished records, found in him a friend and an advocate. He was, however, sternly opposed to the retention on the quarter-deck of those whose known indulgency rendered them at times unfit to command without jeopardizing the safety of the vessels and the men under their command.

Intercourse with Senator ANTHONY on public and private business was at all times attractive and acceptable. Few members of Congress have retained during twenty-five years of continuous service, amid the labors, the intrigues, and the conflicts of political life, so many of the sterling, manly qualities which are here destroyed.

His character as a statesman, as a citizen, and as a friend were so truly and so lovingly portrayed at his funeral by Rev. Augustus Woodbury, his religious adviser and the chaplain of his deceased associate, General Burnside, that I annex the funeral discourse to these remarks.

When Senator ANTHONY was here last winter the stamp of illness was on his features, but he had the same ease and grace of manner and conversation which had so endeared him to his friends when he was in health, and he spoke of his bodily troubles with calm composure. Before the summer months had ended he had gone to his rest, surrounded by his relatives and friends, with the beauty of the setting sun, after having lived out what the psalmist calls "the days of our age," adorned with the richest virtues of the heart. He has gone, full of years and honors, to meet the experiences of another world. Nothing is left but sweet remembrances of his purity of character, his generosity and liberality of spirit, his proud and noble manhood.

Immortality o'ersweeps
All pains, all tears, all time, all fears, and peals
Like the eternal thunders of the deep
Into our ears this truth, He lives forever.

REV. MR. WOODBURY'S DISCOURSE.

The silent and secret forces of insidious disease are among those mysterious elements of our physical being which seem to baffle human skill. The physician faithfully studies the problem, but can only approximate its solution. Death by slow degrees saps the foundation, and in due time overthrows the structure of life. Nature gradually succumbs; the inevitable hour approaches with sure steps; the organs of the body cease to discharge their functions; the eyes look their last upon the faces of dear friends; the spirit exhales, and there is nothing left but the rigid form, soon to change to dust and ashes. When death comes suddenly, we who remain are stunned by the shock, and can not make real to our hearts and minds the departure of our friend from the scenes in which he was a familiar object of our affection and regard. But, in the progress of long-continued sickness, we sadly watch and wait, in the anxiety of a protracted suspense, the fond eye of love catching the glimpse of every favorable symptom, hoping against hope, or noting, with quick and sympathetic recognition, the gradual failure of the physical powers, till the fatal change comes and leaves the heart bereaved.

All this we say is the Providential ordering, and we submit to the decrees of that Almighty Power which joins with its action the designs of infinite wisdom and the exercise of infinite love. To the sufferer himself who is obliged to feel that death can not be averted, although its coming may be somewhat delayed, the experience is not without its compensations. Human intelligence can not devise a remedy, but divine Providence furnishes an alleviation in the training of character. Patience, courage, trust, obedience, are cultivated in the soul. "Not as I will" becomes the habitual expression of the heart—difficult to say with a full comprehension of its meaning, but when completely realized, the sublime word of a victorious faith. To be weak is to be miserable! It is quite true, for ambition is quenched, energy is dissipated, mental and physical activity is stopped, and one is forced to be a spectator merely of scenes in which he would gladly have taken part, and to confess that his work in the world is done. Yet this weakness may be re-enforced by the Divine presence and power, and the spirit may be lifted up into a plane of life from which it can look serenely down upon the weaknesses and pains of this mortal state, and prepare itself for the entrance into immortal life. For death, as I have said on former occasions, is not the end. It is the transition stage of the soul, the door which opens to the spirit the boundless realm of immortality.

Do I err in saying that to our friend, whose obsequies we observe to-day, this discipline of the spirit has been exercised for his eternal good? The disease to which he has yielded was certain in its progress, and its end was calmly foreseen. He could not have deceived himself by any flattering indications of temporary improvement. He has himself anticipated the hour when his physical life would be extinguished. Perhaps he may have preferred to die at the Capitol; possibly in the Senate Chamber itself, the scene of his patriotic labors, in the midst of associates who had learned both to honor and to love him. For men, who, when living, serve the state with passionate devotion, may fittingly desire to die on the spot which has been rendered memorable by their presence, as the soldier would wish to fall upon the field of battle, or the man of God would wish to be stricken down wearing the harness of his valiant endeavor for the divine kingdom. But, whenever and wherever the summons might come he was ready. With a cheerful courage, with a patient submission, with an undoubting trust, he has calmly looked forward to the time of his departure from the field of active life. For him death had no terrors, for he had schooled himself to that serenity of soul which could not be disturbed either in life or death. Not given much to introspection, certainly not disposed to make public his private and personal experiences, he was yet, without doubt, conscious in himself of this calm and peaceful state, and thus passed painlessly and quietly to his final rest. Long has he filled the public eye, well has he accomplished the mission of his public service, faithfully has he discharged the public trust committed to his care, and now he leaves to his fellow-citizens and his fellow-countrymen the record of his diligent and devoted labor. We attempt no labored panegyric. We pass no judgment. The future will determine the value of his service, and posterity will pronounce the verdict, "Well done." To speak a simple word of appreciation, before the grave shall shut him from our sight, is the office of the hour.

Mr. ANTHONY was a genuine child and a faithful representative of Rhode Island. Born upon her soil, nurtured in her traditions, educated at her university, receiving the highest honors she had to give, he thoroughly believed in the perfection of her policy and the permanence of her institutions. When called upon to defend the peculiar features of her government, he brought to the task both the ability of an advocate and the devotion of a son. In the editorial chair of the journal which he controlled, and in his seat in the Senate, he never forgot the obligations he owed to the mother who had reared and raised him to the position which he occupied and filled. He was jealous of her honor, and was always prepared to do valiant battle for her ancient prerogatives. The arguments which more than once he made both in the Journal and in the Senate in her behalf may not have wholly convinced those who believed that in the changes of the times a more generous extension of suffrage and a freer commercial policy were desirable. But no one could question the depth of his convictions and the sincerity of his faith. He was positive that the prosperity of the State and the welfare of its people were bound up in the maintenance of institutions which its history had sanctioned. With the power of this assurance he went to his duty with an unflinching resolution to give to it the fullest ability he could command. This element of strength is not to be lightly valued in making up the estimate of his character.

But the claims of his native State were not permitted to lessen his devotion to his country's need. His patriotism was as wise and enlightened as it was eminent and marked. Entering the Senate at a time when the first mutterings of the storm that was to sweep the land were heard, he was prepared with a calm courage to face the tempest when it broke. Feeling the full sense of the responsibility of the occasion, as a representative of the Union he was fearless and urgent in all measures for the defense of free institutions and the preservation of the Republic. He never doubted the result of the struggle in its darkest days, but cheerfully and bravely wrought on for the achievement of a full success. In the days of reconstruction he endeavored so to work that no second misfortune might befall. The constitution of the Senate changed. One by one his early associates passed away. Some paid the debt of nature. Others were swept away by political revolutions. But no revolutions touched his seat or alienated the support of the people of his State. Repeated re-elections returned him to his Senatorial chair. He became the "Father of the Senate," and as the new members came in they sought both his counsel and his friendship. He was elected President *pro tempore*, and with grace and dignity he conducted the deliberations of the distinguished body which called him to its chief post of honor. It was something more than a compliment when the Senate, notwithstanding his precarious health, still elected him to the office, hoping that he might be able to discharge its duties. It was a recognition of his worth, and though he was obliged to decline the position, he was touched with gratitude and made more conscious than ever of the warmth of feeling which his fellow-members cherished toward him in their hearts. He was the model legislator of the upper branch of the national Congress, not indulging in long debate, but always attentive and always present in the spirit of conscious duty. His practical wisdom is perpetuated in the rule for facilitating the business of the Senate which bears his name.

Public life has many temptations, and there have been men in public station who have thought it not beneath them to serve themselves and their own interest while engaged in serving the state. It is true that many stories that are

bandied about in the public press with too ready an appetite for scandal are gross exaggerations. In the fierce light that beats upon official station peccadilloes become crimes. Of these indeed we condone nothing, we excuse nothing. But partisan zeal may sometimes put a wrong construction upon innocent motives and acts. Happily for ourselves we have no need to speak here with bated breath. For honor has followed merit and the laurel bears no blighted leaf. Of the value and honesty of Mr. ANTHONY's public service there has never been the slightest question. No breath of detraction ever tarnished the luster of his well-earned public fame. He did not seek or use his office for private gain or personal emolument. If he did not rise—or even aspire to rise—to the summit of the highest statesmanship, he yet allowed no one to surpass him in the singleness of his purpose to advance the interests of his State and to promote the welfare of his country. His stainless patriotism and his unsullied public service are known of all men. They are as creditable to the people of our Commonwealth as to himself. The representative reflects the character of his constituents. If the fountain of public virtue be pure the stream can not well be turbid.

It seems but commonplace to speak of Mr. ANTHONY's literary attainments. Accepting journalism as his profession, he rapidly carried the paper which he edited to the foremost rank. With a clear, incisive, direct style of composition, he brought to the daily discussion of current events and public measures the ample stores and equipment of a well-furnished mind. He brightened the columns of the Journal with delicate humor and lambent wit. When indulging in satire, he carried in the velvet scabbard of his well-turned periods a sword sharp as the scimeter of Saladin. In the consideration of graver themes he exhibited a cogency and vigor which revealed the strength of an original and carefully trained intellect. If one should meet him in controversy, it were well to see that there were no weak or unguarded places in the joints of the armor. For his keen eye was sure to find them and his trenchant blade would be thrust home with fatal result. His election as governor did not take him from his daily labor, while he neglected no public duty. With intervals of leisure, until the advent of his late associate—whose recent death was like the loss of his right arm—he still continued the management of the Journal. Its columns were enriched by frequent contributions from his ready pen. After Mr. Danielson assumed control, the daily mail brought to the office the letter which he found time amid engrossing cares to write. He loved the Journal, for it was his offspring.

His fellow Senators will, in due time, bear witness to the excellence and variety of these literary gifts. In a larger field, on a more conspicuous stage, the same qualities of mind and heart were displayed. He did not often speak at length. It would be far from his habit to occupy an entire session with prolonged address. But when he spoke, it was from a thorough knowledge of his subject and in pregnant and weighty words. His long experience and his accurate acquaintance with public affairs gave him a commanding influence. He was well entitled to the respect and attention with which he was always heard.

His work in the committee-room was thorough and efficient, and the public measures which he brought to the Senate, well digested and prepared, were accepted as the conclusions of one who knew well the true character and purpose of national legislation.

In one department of public speaking he certainly excelled. The memorial addresses which from time to time he delivered in the Senate are among the finest specimens of elegiac oratory to be found in our language. In this he discharged no perfunctory duty. Speaking from the heart, with a delicate appreciation of character, with a marvelous felicity of diction and facility of expression, with a complete and clear conception of the gravity of the occasion, he uttered the sincere sentiments of brotherly affection and friendly regard. Of these the three addresses which he made on the death of Senator Sumner are pre-eminent. It became his duty to deliver to the authorities of Massachusetts the body of the deceased statesman. I have been told by the Sergeant-at-Arms of the Senate, who accompanied the committee to Boston, that Mr. ANTHONY was not informed till reaching the frontier of the State of what was expected of him.

Amid the noise and turmoil of the railway journey he composed in his mind the brief but touching address which deserves to be inscribed on the imperishable bronze. It was the grateful expression of profound feeling when, in committing to the governor of our neighboring Commonwealth the mortal part of her honored son, he further said: "The part which we do not return to you is not wholly yours to receive nor altogether ours to give. It belongs to the country, to freedom, to civilization, to humanity." The heart of the man spoke from the tongue, and when on other occasions he addressed the Senate in eulogy of the friends who had fallen by his side, we may well believe that his heart was stirred by the warm emotions that found expression on his eloquent lips.

Glimpses of his inner life are thus vouchsafed to us. And if we were permitted here to enter into those sacred precincts, where personal and private sorrow has its home, there would be a full revelation of kindness, gentle consideration, fraternal love, generous helpfulness, loyal friendship, and uplifting faith. An early sorrow touched our friend soon after he had entered upon his public career. There is no doubt but that it tinged all his subsequent years. For though in social intercourse he was a most genial host, a delightful companion, and the center of a charmed and charming circle of friends, there was still the unseen presence of a melancholy which checked the exuberance of his spirits. It was the minor chord in the harmony of his life. It is not for me to dwell upon the theme.

Those who have through life felt the warm contact of his love, who have experienced the joy of his friendship, who have shared his confidence and secured his esteem, carry in their hearts the fervent, grateful appreciation of his virtue, and will long cherish the memory of his worth. Those who were associated with him in the common duties and labors of humanity, those who were employed by him in the conduct of his chosen occupation, those who for many years have looked upon him as a master and leader in their business, will acknowledge the justice and honor with which every detail was observed, the fidelity with which every obligation was met, and the thoroughness with which every task was performed. Three-score years and ten have nearly passed. The heavy burden has been laid down. The weary body is at rest. The busy mind has transferred its activity to another sphere of being. The spirit is with its God.

Mr. ANTHONY has seen in the Senate a generation of statesmen pass away. He has seen a new generation come upon the stage of public life. Is the past better than the present? As we bid farewell to those who vanish from our sight, have we no word of welcome to those who are pressing forward? We grieve over the death of men who we hardly thought could be spared. We look around to see who are to take up and carry on the work which they have been doing. A pillar of the State has fallen, and as we look upon the fragments we fear that the structure is weakened. But the Republic, bereaved afresh of one of its most trusted and trustworthy counselors, still lives. Divine Providence finds its agents and instruments, and by the inspiration and help of the Divine Presence the blessed results for humanity will be attained. I can not more fittingly close this address than in Mr. ANTHONY's own words: "When I recall those whom I have seen fall around me, and whom I thought necessary to the success, almost to the preservation, of great principles, I recall also those whom I have seen step into the vacant places, put on the armor which they wore, lift the weapons which they wielded, and march on to the consummation of the work which they inaugurated. And thus I am filled with reverent wonder at the beneficent ordering of nature, and inspired with a loftier faith in that Almighty Power without whose guidance and direction all human effort is vain, and with whose blessing the humblest instruments that He selects are equal to the mightiest work that He designs."

Mr. KEIFER. Mr. Speaker, again the Congress of the United States pauses in its important legislative duties to commemorate the illustrious dead.

HENRY BOWEN ANTHONY, of Rhode Island, though much my senior, was my personal friend.

He was born April 1, 1815, in the State he served so long and so well. He graduated at Brown University in 1833. He was five times elected by his State to full terms in the United States Senate. He was an honored member of that august legislative body from March 4, 1859, to September 2, 1884, the date of his death.

At 23 years of age he entered upon the highly honorable work of a journalist in his native State. He never entirely gave up the profession of journalism. In 1850 and 1851 he was governor of his State, and served it acceptably. He was then a Whig. He was a born gentleman, of Anglo-Saxon blood and Quaker principles. His generous, kind, and genial nature seemed to save him from many of the hard blows that most great men have to receive in a successful life. He was just and considerate to friend and foe, never arrogant. He was charitable and never ostentatious. He did not rely on high public position to attain name or fame, but upon accomplished deeds. He was a patient toiler after useful knowledge, and when acquired he wielded it for his country's good. A single fact with him was prized more highly than a volume of loose generalization. He had a critical constituency to watch him in his public life. It was exacting, but not unreasonable. Another has well said:

He was a stalwart champion of Rhode Island, of her sons and daughters, of her traditions and her institutions.

He personified in his whole life, as citizen, editor, chief executive of his State, Senator, and presiding officer of the United States Senate, the true type of an American gentleman. He has been aptly called the "gentleman-statesman." He lacked none of the noble qualities of a high-spirited American. He was ever keenly sensible to all the manly qualities. He was filled with convictions, and they were his own. His views are impressed upon many of the laws of his country.

His Senatorial life began when rebellion and treason were ripening in and around this Capitol. He saw both rise in the full bloom of defiant power, and then fall prostrate by the judgment of war. He never faltered in his patriotism, and when war came he held up the hands of President Lincoln from Bull Run to Appomattox. His was not a blind patriotism, but an enlightened devotion to a country he loved.

He hated slavery because he believed it was an obstacle in the progressive march of civilization and condemned by Christianity. He spoke and voted for every measure looking to the eradication of the institution of slavery in the United States and of every other injustice incident to that institution. He favored all the amendments to the Constitution of the United States adopted since the war. He was for universal amnesty and universal suffrage.

He was twice elected (March, 1863, and March, 1871) President *pro tempore* of the Senate, and in that position served four years. He displayed rare abilities as a parliamentarian and presiding officer. His principal committee work was on the Naval and Public Printing Committees. He was chairman of the latter committee for twenty-one years. He served with distinction on other standing and special committees during and since the war.

During his chairmanship of the Committee on Public Printing and under his direction great improvements were made in the character and speedy execution of the public printing. Under his master care and wise counsel the most wonderful and extensive printing establishment in the world has grown up.

He was not a frequent debater on the floor of the Senate, though the Congressional Globe and RECORD contain many of his eloquent speeches on important subjects. He talked when he had something useful to say. He always, when speaking, commanded the attention of the Senate. His nearest, longest, and most confidential friend, Maj. Ben. Perley Poore, speaking of his addresses, says:

His eloquence is practical and sensible, unadorned with worthless verbal embroidery, yet throughout its solid Senatorial sentences there is a classic grace that charms the ear, while his dignified presence, pleasing manner, and pleasant voice aid in gratifying the audience.

He was bold and honest in the expression of his views, and thus made himself felt in public affairs. He loved the editorial profession, and always tried to ennoble it and give it greater weight and more universal influence for good.

Speaking in the Senate on this subject, he said:

I know something about the management of a newspaper. It is almost the only matter that I do know anything about; and for the truth of the maxim which I am about to declare I appeal to those Senators, on both sides of the Chamber, who, if they have not had greater experience than I have in that honorable profession, have reflected greater credit upon it. It is this: A paper that can not support itself can not be of any service to a party; to depend upon it is like leaning upon a man who can not stand up; to spend money upon it is like wasting fuel in the attempt to kindle a stone. The day when such papers were read has passed; and the day has long since arrived when a paper, to be of service to a party, must first establish a value to the public. It must acquire a character for the reliability of its facts and for the candor of its arguments; it must have the public confidence before it can affect the public opinion; it must be in a con-

siderable degree independent of party before a party can derive any great value from its services. Of all the foolish expenditures that are made for political purposes, none are more useless and wasteful than those for the support of the class of newspapers that very few read and that nobody believes.

Senator ANTHONY'S services to his country in time of war had substantial recognition by the District of Columbia Commandery of the Military Order of the Loyal Legion. He was the first man elected by it a companion of the third class, a degree conferred only on civilians who rendered distinguished service to their country in the war of the rebellion. The resolutions adopted by that commandery after his death are considered worthy of repetition here.

Mr. ANTHONY, by his kind consideration for others, was in all social circles a special favorite. In private conversation he had the rare quality of being a respectful listener, while at the same time he was an entertaining talker.

Though advanced in years, and decorated with well-earned public honors, he never spoke of himself or his acts with pride or egotism. Retrospection is a habit of the mind in the aged, and there is no reason why they should not speak with pride of their past successes.

The aged veteran soldier—

> Shoulders his crutch, and shows
> How fields are won.

And why should not the veteran statesman speak of his exploits and victories? Senator ANTHONY was too modest to do this.

He outlived nearly all his early Senatorial colleagues. The names of Douglas and Yates of Illinois, Baker of California, Sumner of Massachusetts, Fessenden of Maine, Seward and King of New York, Chase, Wade, and Pugh of Ohio, Crittenden of Kentucky, Collamer of Vermont, Hale of New Hampshire, Carpenter and Howe of Wisconsin, Morton of Indiana, Chandler of Michigan, and many others equally distinguished have long ago been "carved on the marble that covers their dust." Rhode Island has buried but recently (September, 1881) another United States Senator—General Burnside. He was a soldier of renown as well as a statesman.

While both Senators ANTHONY and Burnside belonged to the State they so faithfully and ably represented, yet their fame and deeds belong now to the whole country, to freedom, to civilization, and to humanity.

Resolutions of the Military Order of the Loyal Legion, District of Columbia Commandery, adopted November 5, 1884.

HENRY BOWEN ANTHONY, a companion of the third class, died at his residence in Providence, on the 2d day of September, 1884.

Senator ANTHONY was born in Coventry, R. I., April 1, 1815. His ancestors were among the oldest inhabitants of that town, their Saxon blood and Quaker principles indicating their origin and their character. Receiving a classical education, he was graduated from Brown University in 1833. His health failing, he relinquished his legal studies, and in 1838 he assumed the editorial charge of the Providence Journal, and soon gave evidence of his common sense, his practical energy, and his varied learning, spiced with a refined humor that attracted the attention of the reading people of Rhode Island. No man in that State had a wider circle of devoted friends, and those who did not enjoy his personal acquaintance could say that—

> He, in a general honest thought,
> And common good to all, made one of them.
> His life was gentle, and the elements
> So mix'd in him that Nature might stand up
> And say to all the world, "This is a man!"

In 1849 Mr. ANTHONY was elected governor of the State of Rhode Island, and he was re-elected in 1850, but he declined being a candidate for a third term. His course as chief magistrate of his native State was marked by a strict attention to its material interests and devotion to the great principles of public liberty.

On retiring from the gubernatorial chair he again devoted his whole time to his editorial labors until 1859, when he was elected United States Senator. He took his seat in the Senate on the 5th of December, 1859, and continuously occupied it, having been successively re-elected in 1865, in 1871, in 1877, and in 1883. He was several times elected President *pro tempore*, and at the time of his death he was the *Pater Senatus*.

At the outbreak of the rebellion Mr. ANTHONY at once took a decided stand in defense of the Union. A typical conservative, and by birth a lover of peace, he faced the secession movement with unflinching firmness and advocated its unconditional defeat. The sagacity which prompted the decision which nerved and the resolution which supported him are stamped upon the legislative annals of the war for the restoration of the Union, and the soldiers and sailors of Rhode Island will ever cherish their recollections of his patriotic generosity.

Senator ANTHONY was not a frequent speaker, but when he addressed the Senate he was always listened to with attention. His eloquence was practical and sensible, with no attempt at worthless verbal embroidery, yet amidst its solid Senatorial sentences there was a classic grace that engaged the ear, while his dignified presence, grace of manner, and pleasant voice aided in gratifying his audiences.

The commandery of the District of Columbia selected Senator ANTHONY as a companion of the third class, an honor which he highly appreciated. He was not, however, permitted to meet with the commandery many times. Death claimed him, and the summons had to be obeyed. His stalwart form, crowned with white locks, will no more be seen in the Senate Chamber; his kind heart is cold; his friendly hand is numb. It is pleasing to know that his mental faculties were bright, clear, and firm to the last, and he died in the mellow eveningshine of matured faculties, as he had lived, a philosopher, a gentleman, and a Christian.

Resolved, That this memorial be entered on the records of the commandery, and that a copy of the same be forwarded to the family of our late companion.

JOHN F. MILLER,
Brevet-Major General, U. S. V.,
HENRY J. SPOONER,
First Lieutenant, U. S. V.,
BEN: PERLEY POORE,
Major, M. V. M.,
Committee.

Mr. TUCKER. Mr. Speaker, the death of Hon. HENRY B. ANTHONY, late Senator from the State of Rhode Island, who, by his long and distinguished public service and his private virtues, has entitled himself to this memorial consideration by the two Houses of Congress, recalls to our minds the relation of his mother Commonwealth to our Federal Union at the foundation of the Government and at the ordeal crisis of its history during the period in which he was her representative in the Senate of the United States.

"Rhode Island and the Providence Plantations" constituted one of the original thirteen States which, under the loose league of the Continental Congress and afterward under the Articles of Confederation, fought together for the independence of the American States. But when the convention of 1787 met in Philadelphia to frame a new Constitution for these United States Rhode Island was conspicuous for her absence from its counsels, and signalized her jealousy of any change in the terms of the Federal Union by declining to supersede the old Articles of Confederation by the Constitution of 1789. Eleven States only ratified that instrument, and without the concurrence of North Carolina and Rhode Island the new Government was launched upon its voyage under the new Constitution. For nearly a year North Carolina, and until June 16, 1790, Rhode Island, were not members of the new Union constructed upon the terms of the Constitution of 1789.

The accession of Rhode Island by the act of her convention, dated May 29, 1790, was accompanied by declarations and demands of amendments, which evinced at once her jealousy for her rights as a State and her apprehension of danger from the powers delegated to the Federal Government.

She entered the Union as the equal of every other State in the Senate but with only one vote in the House of Representatives. Shorn of her equipollent power in the House, and fearful of its effects upon the rights of the States and the liberties of her people, she declared in like terms with Virginia, and in the same terms with New York, "that the powers of Government may be reassumed by the people whensoever it shall become necessary to their happiness;" and she proposed amendments, which foreshadowed those subsequently adopted within a few years after the adoption of the Constitution, by which the reserved rights of the States were more explicity secured, and the delegated powers of the United States were more clearly defined. In all of these views Virginia, the then largest, and Rhode Island, the then smallest, State were wholly in acord.

But in the next seventy years alienation of views and feelings were produced by diversity of interests, and from the existence of slavery in the South, to which the people of Rhode Island were strongly opposed. The tariff, the Missouri restriction, the relation of slavery to the Territories and to this District engendered contentions which brought the Union to the crisis of 1860, about which time Mr. ANTHONY entered the Senate of the United States.

He was then about 45 years of age and in the prime of his powers. A member of the Society of Friends, his political, personal, and religious sentiments made him a warm and earnest opponent of slavery. Originally a Whig and devoted adherent of Mr. Clay, he became a Republican when that party absorbed all opposition in the Northern States to the Democratic party. Of course he promoted the election of Mr. Lincoln in 1860, and supported with zeal and consistency all the measures for the war upon the Confederate States. At the close of the war he sustained the reconstruction measures and the entire policy of the party to which he belonged until his death in September, 1884.

It is difficult in any part of his political career for me to find a point of agreement between us. Without doubt there may have been questions on which we concurred, but they were few and on matters of minor importance.

But this variance of opinions, and even upon such questions as involved the two sections of the country in a civil war, can not prevent me from offering my willing testimony to his talents, to the purity of his private character, to his incorruptible integrity as a Senator, to the sincerity of his convictions, to the patriotism of his intentions, and to the urbanity, dignity, and courtesy which distinguished his personal and official intercourse. I knew him not intimately, but well enough to appreciate his intellect, to admire his public and private virtues, and to pay willing tribute to his patriotic devotion to what he thought was for the best interests of his country.

And why should differences upon political questions stint our praise of men whose conscientious convictions were as pure and honest as our own? Why should the embers of civil strife kindle again a wall of fire between me and one who was from genuine patriotism our enemy during the four dreadful years of carnage and of devastation? Why shall not men of both sides ascend to the heights of a magnanimity of thought which will accredit to their one-time foe, but now their fellow-citizen and compatriot, as sincere convictions and as genuine purposes to maintain the right and uphold the truth as is claimed for themselves? Who professes infallibility in thought or action? What standard can we who are prone to err erect for pronouncing judgment on others? If others are honest in opinion and purpose, who of us shall dare to condemn them for opinions contrary to our own?

For myself I declare in the solemn presence of the dead that I can and do forget all the diversities and hostilities of the past, and accord to him as much of virtue in purpose and of conscientiousness in action as I claim for those to whom he was hostile. Let the dead past be thus

buried in the graves of the dead of both sections, and let the living practice that noble charity which accords to every other what each claims for himself, and we will in honorable recognition of each other's virtues and forbearance for each other's faults move on with mutual respect and affection to the achievement of the best results for our common country in the grand future of the American States. It is thus, and only thus, that we can secure to the future of our country a true and genuine peace between the once hostile sections and make us one in heart and purpose, as we are one in constitutional Union. For myself, in all sincerity, I rejoice in this opportunity to testify these catholic sentiments and purposes, by laying upon the tomb of the late Senator from Rhode Island this chaplet which Virginia weaves through my humble hands as her tribute of honor to the character, virtues, and fame of the lamented dead!

Mr. SPOONER. Mr. Speaker, the "Father of the Senate" is dead. A long life of usefulness, largely devoted to the public service, has closed. A career unexampled by that of any son of his native State and almost unparalleled in the history of the Republic has terminated. All that was mortal of HENRY B. ANTHONY has been borne to its final resting place, reverently escorted by representatives of the National and State governments and by the mourning people of Rhode Island, and tenderly committed to the soil from whence he sprang.

His obsequies have been said; his virtues and attainments depicted, and his great services to his State and the nation fittingly portrayed. The General Assembly of the State of Rhode Island, the Board of Trade of the city of Providence, the Commandery of the Loyal Legion of this District, of which he was an honorary and an honored companion, the Senate of the United States, the public press, and the voice of the people have all recounted and recalled the incidents of his honorable life and pronounced their eulogies upon his private character and his distinguished public services.

The utterances of this hour, devoted to the memory of the deceased Senator, properly supplement the many similar tributes to his worth; and, though evolving little perhaps not already said, may at least, while giving appropriate recognition by this House of the public loss and the public sorrow, point again the lessons of a completed and well-spent life; and so, while appreciating the completeness of the tributes already paid, I can not omit the opportunity offered to render this last testimonial of respect and regard for my late friend and colleague.

It was Senator ANTHONY'S fortune to live in stirring, troublous times, and to be a prominent participant in events which have largely contributed to the making of our history. From early manhood to almost the allotted life of man he may be said to have been constantly concerned in the direction of public affairs; first as an influential editor and controller of public thought; then as governor of his State; and finally as United States Senator by five successive elections and during more than twenty-five years of continuous service, embracing the most eventful period of our national existence.

Liberally educated and graduating at Brown University in 1833, with great natural talents and no small degree of cultivation and adaptability for the work, Mr. ANTHONY five years later became sole editor of the Providence Journal, in which capacity he established that newspaper among the leaders of New England opinion, and attained his earlier reputation as a graceful, vigorous writer, and a keen and discriminating critic of men and of public affairs.

The period of his earlier editorial career was in those years which immediately preceded and included the so-called "Dorr rebellion," when wide and irreconcilable differences among the people of Rhode Island concerning their suffrage gave rise not only to bitter discussions and personal and party dissensions, but even to domestic strife and an appeal to arms, threatening the peace and the very existence of the State. In those days Mr. ANTHONY and his paper were the stern, uncompromising supporters of the so-called "Law-and-order" party of Rhode Island, urging the supremacy of existing law and of the government organized under it until the same should be changed by and through the instrumentality and processes which that law recognized, and earnestly demanding the suppression by armed force of any armed resistance to what they claimed to be the only lawful government of the State.

It was during that period that Mr. ANTHONY established his reputation as an editor and first illustrated the proportions of his ability and the grasp and insight of his intellect. Yet, bitterly as the conflict was waged between the "Dorrites" and the "Algerines," as the contending parties were called, and virulent as were many of the animosities and antagonisms aroused—families and former friends dividing in hostile array—and although no man in Rhode Island more persistently and vigorously opposed Thomas W. Dorr and his associates than did HENRY B. ANTHONY, his peculiar characteristics, both of manner and method, are illustrated by the fact that many of his most hostile opponents in those days of internal strife subsequently became his faithful political adherents and closest personal friends. Indeed, within a few days I have read a letter recently written by an old "Dorrite" and a strong political opponent of Mr. ANTHONY in the "days of forty-two," who there speaks of the deceased Senator as one among his "ideals of great men."

Largely by reason of the reputation earned and the political alliances with which he became associated during the years of and immediately succeeding the contest referred to, Mr. ANTHONY was in 1849 nominated by the Whig party of Rhode Island and elected governor of the State; and in the following year re-elected to the same office, receiving upon this second election more than three-fourths of all the ballots polled—a marked evidence of his popularity with the people and of their satisfaction with his discharge of his duties as chief magistrate during his preceding term.

It is a peculiarity of Rhode Island politics, due I believe partly to the size of the State and partly to the characteristic independence of her people, that party lines are frequently broken for the expression of individual preferences, and votes often cast in direct antagonism to the nominal party affiliations of the voter; and Mr. ANTHONY, having perhaps to a greater extent than any other of his fellow-citizens a large following of personal friends, of varying shades of political opinion, captivated by his genial manners and won by his unquestioned integrity and the constancy of his friendship and his purpose, always found many staunch political supporters among those whose political alliances were usually widely at variance with his own; and, although originally a Whig and subsequently always a Republican, through the course of his long public life he enjoyed the continuous confidence and political support of many Rhode Island Democrats.

A Rhode Islander by birth and descended from old Rhode Island stock; by nature, descent, instinct, and education saturated with the ideas, principles, and convictions peculiar to the people of his State; with an affection akin to admiration for her traditions, her history, and her ancient institutions, Mr. ANTHONY was for more than a quarter of a century recognized as that one of all her citizens best qualified to represent her interests, as was evinced by his repeated elections to serve her during all that period in the United States Senate. His Senatorial career, extending from 1859 to the time of his death in September, 1884, spanned the lifetime of a generation. It saw the rise and overthrow of the great rebellion, the abolition of slavery, and the reconstruction of the Union, with constitutional liberty for black as well as white as a foundation-stone; it witnessed the restoration of financial safety and integrity and that wonderful expansion of American industries which wise legislation had fostered; it beheld that marvelous growth and prosperity which, within that period of time, had nearly doubled the population of Rhode Island as well as the population of the United States, and had nearly tripled the value of their manufactured products; it saw the star of the Republic, which had seemed about to set in clouds and darkness, blazing again in the peaceful sky as a beacon-light to progress and to freedom!

The long and faithful services of Senator ANTHONY in the national councils form a conspicuous part of the recorded history of our country, and scarcely demand recital here. They constitute a record of high patriotism, fidelity to duty, and prudent statesmanship during those trying seasons of peril and of strife when numerous new and important questions affecting the safety and perpetuity of our institutions vexed the public mind and demanded Congressional action; they embrace the period following the war, when matters of scarcely less importance to the welfare, peace, and prosperity of our people—the reconstruction of the Union, and questions of finance and traffic and taxation—called for that wisdom in legislation which he was so competent to exercise. Affable and courtly in manner, earnest yet prudent and conservative, diligent in the work committed to his charge, possessing rare gifts of eloquence and persuasion as well as a logical mind united with unusual power of statement and analysis, Senator ANTHONY, though seldom indulging in formal speeches in the Senate and but infrequently engaged in debate upon the floor, was for many years a power in the affairs of Government and one of the most influential of Senators. As an industrious member and as chairman of important committees, and for four years as President *pro tempore* of the Senate, he has left the impress of his statesmanship and his patriotism upon much of the legislation enacted during his term of Senatorial service.

If Mr. ANTHONY had not been called to public life, but had continued to actively occupy his early editorial chair, I believe I may safely assert that he would have attained both reputation and fame as a great editor. That was a career for which he was peculiarly adapted and most admirably equipped by his ability, his inclinations, and his attainments.

Few men possessed a keener appreciation of men and motives or better understood the course and the cause of the progress of affairs, or could express their views more clearly, forcibly, and attractively. A master of good English, some of the earlier as well as the more recent products of his pen are among the best examples of correct and graceful diction which our literature affords. He could be witty without being offensive; humorous and yet not gross; severe but still kindly and discriminating; complimentary yet not effusive; vigorous, or sympathetic, or critical, or sad, or gay; and through all he wrote there ever ran a genial, human vein, with a captivating style of thought and expression; and though his wit and satire were keen and incisive, yet, like the scimeter of Saladin, they seldom left a ragged wound to fester long after their blows had been delivered.

But I will delay the House no longer.

The "Father of the Senate" rests from his labors; the voice of the

master of eulogy is hushed; and, with the memory of his glowing periods ringing in my ears, my simple tribute to his memory seems but discordant music.

His fame is a part of our common history, interwoven with the fame of Lincoln and Grant and Seward and Sumner and of those other patriots, now largely of the past generation, who labored, or fought, or died that the Union and free institutions might live.

Mr. Speaker, I move the adoption of the resolutions.

The resolutions were unanimously adopted; and in accordance therewith (at 5 o'clock and 10 minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions and papers were laid on the Clerk's desk, under the rule, and referred as follows:

By Mr. BLAND: Petition of James Bainster, of Cole County, Missouri, for payment for property taken and used by the Union Army during the late war—to the Committee on War Claims.

By Mr. BREITUNG: Petition of John Duncan, J. N. Wright, and of others, citizens of Calumet, Mich.; of William Harris, and others, of Lake Linden; of Lake Superior South Shore, Lake Michigan and Lake Superior Transportation Company, and others, of Hancock; of S. B. Harris, S. D. North & Son, and others, of Hancock; of T. L. Chadburne, R. M. Hoar, Hon. J. A. Hubbell, and others, of Houghton, Mich.; and resolutions of the Board of Trade of Chicago, Ill., praying for the purchase by the Government of the two canals across Point Keweenaw, Lake Superior, Michigan, in accord with the report of the Secretary of War, as contained in Senate Executive Document No. 15, Forty-eighth Congress, second session—to the Committee on Rivers and Harbors.

By Mr. CURTIN: Petition of merchants and manufacturers of New York, urging the ratification of the Spanish treaty—to the Committee on Ways and Means.

By Mr. DAVIDSON: Petition of citizens of Florida, asking for an appropriation for Punta Rassa Harbor—to the Committee on Rivers and Harbors.

By Mr. DORSHEIMER: Petition of P. J. Reuss, M. D., late surgeon in Seventh Regiment New York Volunteers, for increase of pension—to the Committee on Invalid Pensions.

Also, petition of Frank Rothen, for pay as route-agent, &c.—to the Committee on Claims.

By Mr. HOPKINS: Petition of 624 citizens of Pennsylvania, requesting certain improvements in the Alleghany River and its tributaries—to the Committee on Rivers and Harbors.

Also, petition of citizens of Massachusetts, for the passage of the resolutions of Mr. Hopkins relative to the transportation of cattle—to the Committee on Commerce.

By Mr. LACEY: Petition of Fairbanks Post, No. 17, Grand Army of the Republic, of Detroit, Mich., for the passage of House bill 7548—to the Committee on Pensions.

By Mr. LYMAN: Petition of George H. Maintien Post, No. 133, Department of Massachusetts, for publication in Official Records of the War of the Rebellion of photographic illustrations—to the Committee on Military Affairs.

By Mr. MAYBURY: Petition of Emory Wendell, A. E. Vizer, Heavennich Bros., and 50 others; of Edson, Moore & Co., John J. Bagley & Co., William S. Talman, and 48 others; of Ducharme, Fletcher & Co., Beatty, Fitzsimmons & Co., and 49 others, of Detroit, Mich., praying for the purchase by the Government of the two canals across Point Keweenaw, Lake Superior, Michigan, in accord with the report of the Secretary of War, as contained in Senate Executive Document No. 15, Forty-eighth Congress, second session—to the Committee on Rivers and Harbors.

By Mr. NELSON: Petition of citizens of Moorhead, Minn., for the improvement of the Red River of the North—to the same committee.

By Mr. PATTON: Petition of Mrs. Mary Hammond and 35 others, of Dayton, Pa., asking for an increase of widows' pensions—to the Committee on Pensions.

By Mr. POLAND: Petition of Emily Crain and others, of Williamstown, Vt., asking an increase of widows' pensions—to the same committee.

By Mr. W. F. ROGERS: Petition of business men of Buffalo, N. Y., asking that the United States acquire the title to the two canals connecting Portage Lake, in the State of Michigan, with Lake Superior on the east and west, and make said canals free of tolls—to the Committee on Rivers and Harbors.

By Mr. ROSECRANS: Petition of Ann E. S. Close, widow of Col. James T. Close, deceased, late colonel Sixteenth Virginia Volunteers, United States Army—to the Committee on Invalid Pensions.

By Mr. A. HERR SMITH: Remonstrance of citizens of Lancaster County, Pennsylvania, against the ratification of the reciprocity treaty with Spain—to the Committee on Ways and Means.

By E. B. TAYLOR: Petition of James H. Crozier and others, of Trumbull, Ohio, asking an increase of widows' pensions—to the Committee on Invalid Pensions.

By Mr. WALLACE: Petition of Henry C. James and others, of Salem, Ohio, asking for an increase of widows' pensions—to the same committee.

By Mr. WARD: Petition of a large number of citizens of Indiana, for an appropriation of $100,000 for the improvement of the Wabash River from Terre Haute to La Fayette, and from La Fayette to Pittsburg, Ind.—to the Committee on Rivers and Harbors.

Also, petition of 72 honorably discharged soldiers of Indiana, praying Congress to pass an act granting soldiers and sailors one hundred and sixty acres of land free from the conditions of settlement—to the Select Committee on the Payment of Pensions, Bounty, and Back Pay.

The following petitions for the passage of the Mexican war pension bill with Senate amendments were presented and severally referred to the Committee on Pensions:

By Mr. ANDERSON: Of Abilene Post, No. 63, Department of Kansas, Grand Army of the Republic.

By Mr. CHACE: Of Francis H. Wood and others, of Providence, R. I.

By Mr. W. W. CULBERTSON: Of citizens of Carter and Lewis Counties, Kentucky.

By Mr. LACEY: Of James R. Dickey and 227 others, of Coldwater, Mich.

By Mr. PAYNE: Of 63 citizens of Wayne County, New York, and of 112 citizens of Moravia, N. Y.

By Mr. POLAND: Of Alonzo H. Spooner and others, of Hancock, Vt.

By Mr. RANKIN: Of citizens of Waldo and of Stockbridge, Wis.

By Mr. SENEY: Of Conrad Bope and 64 others, of Wyandot County, Ohio.

By Mr. SHIVELY: Of H. C. O. Grublke and 20 others, of Homesville, Otis, La Porte, and Westville; and of George A. Bencher and 26 others, of North Liberty, Ind.

By Mr. STOCKSLAGER: Of 154 citizens of Organ Spring, Ind., and of 94 citizens of Nabb, Clark County, Indiana.

By Mr. WARD: Of citizens of Boone County, of Arcadia, of Pettit, of Forest, of Clark's Hill, and of Frankton, Ind.

SENATE.

THURSDAY, *January* 22, 1885.

Prayer by the Chaplain, Rev. E. D. HUNTLEY, D. D.

The Journal of yesterday's proceedings was read and approved.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of War, transmitting, in response to a resolution of December 20, 1884, a report from the Chief of Engineers and accompanying report from Lieut. Col. George H. Elliot, Corps of Engineers, submitting an estimate of the cost of the proposed improvement of the harbor of Providence, R. I., by the removal of Green Jacket Shoals; which, with the accompanying report, was ordered to be printed, and referred to the Committee on Commerce.

He also laid before the Senate a letter from the Attorney-General, transmitting, in answer to a resolution of the 20th instant, a statement showing the settlement of claims for lands taken by the Government under the act of July 15, 1882, for increasing the water supply of the city of Washington, and the obstacles thereto; which was referred to the Committee on the District of Columbia, and ordered to be printed.

REPORT OF DISTRICT HEALTH OFFICER.

The joint resolution (H. Res. 288) authorizing the printing of 2,500 extra copies of the annual report of the health officer of the District of Columbia was read twice by its title.

The PRESIDENT *pro tempore*. The joint resolution will be referred to the Committee on Printing, if there be no objection.

Mr. MANDERSON. The Committee on Printing have had that subject-matter under consideration. A joint resolution of similar purport was introduced in the Senate and referred to the committee, and I was instructed yesterday to report in favor of the joint resolution. It being identical with the one passed by the other House, I ask that the House joint resolution be now considered by the Senate.

Mr. COCKRELL. Let it be read for information.

The PRESIDENT *pro tempore*. It will be read at length.

The Chief Clerk read as follows:

Be it enacted, &c., That the Public Printer be, and he is hereby, authorized and directed to print 2,500 extra copies of the annual report of the health officer of the District of Columbia; 100 for the use of the Senate, 350 for the use of the House of Representatives, and 2,050 for the use of the said health officer of the District of Columbia.

Mr. COCKRELL. I should like to ask before we proceed further whether the joint resolution on this subject passed by the Senate is the same as that passed by the House?

Mr. MANDERSON. It is exactly the same. The joint resolution now before the Senate is identical in language with the one acted upon by the committee.

Mr. COCKRELL. I am very sorry I was not here when it was acted upon. I should certainly have opposed the proposition to let the House of Representatives have three hundred and fifty copies and the Senate only a hundred.

Mr. MANDERSON. That is about the equal proportion of membership of the two Houses. It is not a document, I will inform the Senator from Missouri, that seems to be in much demand by our constituents.

Mr. COCKRELL. I understand perfectly what it is. I have had application for it, and have had to send it off, and I know something about it. The proposition is not just or right to the Senate.

The PRESIDENT *pro tempore*. Debate is not in order except by unanimous consent. Is there objection to the present consideration of the bill or joint resolution? It is a joint resolution by its title on the outside, and a bill by its enacting clause on the inside. The Chair hears no objection, and the bill, as it legally is, that being what it is on its face, is now before the Senate, as in Committee of the Whole, and open to amendment.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

The PRESIDENT *pro tempore*. The Chair will state to the Senator from Nebraska that there is an obvious error between the entitling of the paper and its enacting clause, and that the title ought to be amended so as to make it a bill in its title.

Mr. MANDERSON. I move to so amend the title.

The PRESIDENT *pro tempore*. If there be no objection the title will be amended so as read: "A bill authorizing the printing of 2,500 extra copies of the annual report of the health officer of the District of Columbia;" and as amended the title will stand.

PETITIONS AND MEMORIALS.

Mr. SHERMAN presented a petition of M. F. Wooster Post, No. 34, Grand Army of the Republic, Department of Ohio, praying for the purchase by the Government of Miss Ransom's portrait of Maj. Gen. George H. Thomas; which was ordered to lie on the table.

Mr. MILLER, of New York, presented a petition of 535 citizens of New York city, praying that all acts fixing the term of many administrative offices at four years be repealed; which was referred to the Committee on Civil Service and Retrenchment.

He also presented the petition of Margaret F. Rawdon, of Little Falls, N. Y., praying for the passage of the joint resolution (S. R. 111) referring the controversy between the United States and Venezuela, in respect to the awards of the mixed commission, to the President; which was referred to the Committee on Foreign Relations.

He also presented a petition of letter-carriers in the employ of the Post-Office Department, praying additional compensation for labor in excess of eight hours per day; which was referred to the Committee on Post-Offices and Post-Roads.

He also presented the petition of Adam Johnson, late of Company G, One hundred and fifty-third Regiment New York Volunteers, and the petition of George W. Collins, late of Company C, Sixteenth Regiment New York Volunteers, praying for an extension of the time for filing pension claims; which were referred to the Committee on Pensions.

Mr. CAMERON, of Pennsylvania, presented the petition of Robert McFarland and 648 other citizens of Pittsburgh, Pa., and vicinity, praying for an appropriation for the improvement of the Allegheny River; which was referred to the Committee on Commerce.

Mr. GARLAND presented resolutions adopted by the city council of Hot Springs, Ark., remonstrating against the passage of the bill (H. R. 7688) for the regulation of the Hot Springs reservation; which were referred to the Committee on Public Lands.

Mr. PENDLETON presented a memorial of Cigar-makers' Union, No. 173, Zanesville, Ohio, remonstrating against the ratification of the proposed Spanish reciprocity treaty; which was referred to the Committee on Foreign Relations.

Mr. LAPHAM presented a memorial of the Chamber of Commerce of the State of New York, favoring the establishment of a United States marine hospital at the port of New York; which was referred to the Committee on Commerce.

Mr. PALMER presented the petition of John Donahue, of Emmett, Mich., praying for the restoration of forty acres of land patented to him by the Government and subsequently taken by another person; which was referred to the Committee on Public Lands.

REPORTS OF COMMITTEES.

Mr. MAXEY, from the Committee on Post-Offices and Post-Roads, to whom was referred the bill (H. R. 1566) for the relief of O. L. Cochran, late postmaster at Houston, Tex., reimbursing him for money erroneously collected from him by the Post-Office Department, reported it without amendment.

Mr. BUTLER, from the Committee on Naval Affairs, to whom was referred the bill (H. R. 257) for the relief of John P. Gregson and Francis H. Ellison, reported it without amendment.

He also, from the same committee, to whom was referred the bill (S. 409) limiting a portion of an act entitled "An act making appropriations for the naval service for the fiscal year ending June 30, 1883, and for other purposes," reported adversely thereon; and the bill was postponed indefinitely.

Mr. BUTLER. I am instructed by the Committee on Naval Affairs, to whom was referred the bill (S. 318) for the relief of cadets and cadet-engineers who were in the naval service at Annapolis on the 5th day of August, 1882, to report it with an amendment. I am requested to state that the committee is not unanimous in so reporting the bill.

Mr. MILLER, of California, from the Committee on Foreign Relations, reported an amendment intended to be proposed to the bill (H. R. 7857) making appropriations for the consular and diplomatic service of the Government for the fiscal year ending June 30, 1886, and for other purposes, for payment to E. J. Smithers of unpaid salary as United States consul at Chin-Kiang and Tien-Tsin, from the 9th day of July, 1884, to the 20th day of October, 1884; which was referred to the Committee on Appropriations, and ordered to be printed.

Mr. MILLER, of California. I am also instructed by the Committee on Foreign Relations, to whom was referred the bill (S. 2545) allowing the widow of William H. Hunt, late minister to Russia, one year's salary, to report it adversely and to move its indefinite postponement; and in lieu thereof I report an amendment to the consular and diplomatic appropriation bill on the same subject, to be referred to the Committee on Appropriations.

The PRESIDENT *pro tempore*. The bill just reported by the Senator from California will be postponed indefinitely, if there be no objection, and the proposed amendment will be referred to the Committee on Appropriations, and printed.

Mr. MILLER, of California, from the Committee on Foreign Relations, to whom was referred the memorial of J. Van Allen, of New York city, remonstrating against granting a charter for the establishment in this country of a university to be presided over personally by the head of the Catholic Church, asked to be discharged from its further consideration and that it be referred to the Committee on Education and Labor; which was agreed to.

Mr. McMILLAN, from the Committee on the Judiciary, to whom was referred the bill (H. R. 736) for the relief of James Hooper, reported adversely thereon; and the bill was postponed indefinitely.

He also, from the Committee on Commerce, to whom was referred the bill (S. 2382) to authorize Frank W. Hunt to erect and maintain a ferry across the Missouri River at the military reservation of Fort Buford, Dakota Territory, reported it with an amendment.

Mr. CAMERON, of Pennsylvania, from the Committee on Naval Affairs, to whom was referred the bill (S. 1435) to fix the positions of the assistant astronomers at the Naval Observatory, reported adversely thereon; and the bill was postponed indefinitely.

Mr. FRYE. I am instructed by the unanimous action of the Committee on Commerce, to whom was referred the bill (S. 2559) for the encouragement of the American merchant marine and to promote postal and commercial relations with foreign countries, to report it with a favorable recommendation.

Mr. CONGER, from the Committee on Commerce, to whom was referred the bill (S. 2171) to promote the efficiency of the revenue-marine service, reported it without amendment.

SAINT CROIX RIVER BRIDGE.

Mr. CONGER. I am instructed by the Committee on Commerce, to whom was referred the bill (H. R. 3258) to authorize the construction of a bridge across the Saint Croix River at the most accessible point between Stillwater and Taylor's Falls, Minn., to report it favorably with amendments. I ask unanimous consent that the bill may be considered at the present time.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill.

Mr. CONGER. I desire to say that the Senate passed a bill which contains all that is in this bill as proposed to be amended. The committee have recommended such amendments as will make the House bill correspond with the bill which the Senate passed. All the amendments are inserted in their places in the House bill to make it correspond to the bill which the Senate has approved.

The PRESIDENT *pro tempore*. The bill will be read.

Mr. CONGER. I ask unanimous consent that the amendments may be read as we proceed with the paragraphs.

The PRESIDENT *pro tempore*. The Senator from Michigan asks unanimous consent that the amendments reported by the Committee on Commerce be considered in the order which they shall be reached in the reading of the text of the bill. Is there objection? The Chair hears none.

The Chief Clerk proceeded to read the bill and read to line 17 of section 2.

The first amendment of the Committee on Commerce was, in section 2, line 11, to strike out "of such" and insert "other;" and in the same line, after the word "works," to insert the words "provided for in this act;" so as to read:

> Shall submit to the Secretary of War a plan of the bridge and other accessory works provided for in this act.

The amendment was agreed to.

The reading of the bill was resumed. The next amendment of the Committee on Commerce was, in line 34 of section 2, before the word "navigable," to insert the words "the best;" so as to read:

> With a draw over the main channel of the river at an accessible and the best navigable point.

The amendment was agreed to.

The reading of the bill was resumed. The next amendment was, in line 39 of section 2, after the word "boats," to insert "vessels, and other water-craft;" so as to read:

Provided also, That said draw shall be opened promptly upon reasonable signal for the passing of boats, vessels, and other water-craft.

The amendment was agreed to.

The next amendment was, after the word "water-craft," in line 40 of section 2, to insert:

Provided, however, That no bridge shall be built under the provisions of this act except there also be built, at the time of the erection of the piers, proper sheer-booms or other proper protections to safely guide boats, vessels, rafts, and other water-craft through said draw-spans, and at the expense of the company or corporation erecting said bridge.

The amendment was agreed to.

The reading of the bill was resumed. The next amendment was, in section 3, line 10, before the word "accessory," to insert the word "other;" and in the same line, after the word "works," to insert "provided for in this act;" so as to read:

SEC. 3. That the Secretary of War is hereby authorized and directed, upon receiving any such plan and map and other information, and upon being satisfied that a bridge built on such plan and with such accessory works and at such locality will conform to the prescribed conditions of this act, to notify the company that he approves the same; and upon receiving such notification the said company may proceed to an erection of said bridge conforming strictly to the approved plan and location; but until the Secretary of War approves the plan and location of said bridge and other accessory works provided for in this act, and notify the company of the same, the bridge shall not be built.

The amendment was agreed to.

The next amendment was, in section 3, line 12, after the word "or," to strike out "said" and insert "other;" in line 13, after the word "works," to insert "provided for in this act;" and at the end of the section to add "not, however, to be in any wise inconsistent with the provisions or conditions of this act;" so as to read:

And notify the company of the same, the bridge shall not be built; and should any change be made in the plan of the bridge or other accessory works, provided for in this act, during the progress of the work thereon, such change shall be subject likewise to the approval of the Secretary of War, not, however, to be in any wise inconsistent with the provisions or conditions of this act.

The amendment was agreed to.

The reading of the bill was resumed. The next amendment was, in section 4, line 2, after the words "according to," to strike out the words "the terms and limitations thereof" and insert "its provisions and conditions;" so as to read:

SEC. 4. That any bridge and accessory works, when built and constructed under this act and according to its provisions and conditions, shall be a lawful structure.

The amendment was agreed to.

The next amendment was, to add to section 4 the following words:

And the United States shall have the right of way for postal telegraph and telephone lines, free of charge, across said bridge.

The amendment was agreed to.

The next amendment was, to insert after section 4, as an additional section, the following:

SEC. 5. That it shall be the duty of the Secretary of War to require the company or persons owning said bridge to cause such aids to the passage of said bridge authorized by the provisions of this act to be constructed, placed, and maintained, at their own cost and expense, in the form of booms, dikes, piers, or other suitable and proper structures for confining the flow of water to a permanent channel, and for the guiding of rafts, steamboats, and other water-craft safely through the draw and raft spans, as shall be specified in his order in that behalf; and on the failure of the company or persons aforesaid to make and establish such additional structures within a reasonable time, the said Secretary shall proceed to cause the same to be built or made at the expense of the United States, and shall refer the matter without delay to the Attorney-General of the United States, whose duty it shall be to institute, in the name of the United States, proceedings in any circuit court of the United States in which such bridge, or any part thereof, is located, for the recovery of the cost thereof; and all moneys accruing from such proceedings shall be covered into the Treasury of the United States.

The amendment was agreed to.

The reading of the bill was resumed and concluded.

The PRESIDENT *pro tempore*. The numbers of the concluding sections will be changed to correspond with the number of the additional section, inserted as section 5.

Mr. COCKRELL. I should like to hear the last section but one of the bill read again.

The Chief Clerk read as follows:

SEC. 6. That the right to alter, amend, or repeal this act is hereby expressly reserved; and the right to require any changes in said structure, at the expense of the owners thereof, whenever Congress shall decide that the public interests require it, is also expressly reserved.

Mr. COCKRELL. There ought to be a provision not giving Congress the right to require a change or anything of the kind in order not to impede navigation, but giving the power to the Secretary of War. It seems to me that has always been left to the discretion of the Secretary of War. There may be some other clause that gives the control of the structure. It would not be appropriate to vest in Congress the right to require a mere change to be made in the bridge or a repair to be made to it.

Mr. CONGER. In section 3 there is a provision that any change or alteration in the bridge "shall be subject likewise to the approval of the Secretary of War."

Mr. COCKRELL. Let the third section of the bill be read.

The Chief Clerk read as follows:

SEC. 3. That the Secretary of War is hereby authorized and directed, upon receiving any such plan and map and other information, and upon being satisfied that a bridge built on such plan and with such accessory works and at such locality will conform to the prescribed conditions of this act, to notify the company that he approves the same; and upon receiving such notification the said company may proceed to an erection of said bridge, conforming strictly to the approved plan and location; but until the Secretary of War approve the plan and location of said bridge and other accessory works provided for in this act, and notify the company of the same, the bridge shall not be built; and should any change be made in the plan of the bridge or other accessory works, provided for in this act, during the progress of the work thereon, such change shall be subject likewise to the approval of the Secretary of War, not, however, to be in any wise inconsistent with the provisions or conditions of this act.

Mr. COCKRELL. That does not cover the point I suggested. For example, where repairs have to be made or any change is to be made in the bridge, that ought to be done by the company at their own expense, under the direction of the Secretary of War, and not of Congress.

Mr. CONGER. The power is given to Congress to change, alter, amend, or repeal. That provision was inserted in the Senate bill, I think, on the motion of the present President of the Senate; and it has been inserted in other bills since that time, and received the approval of the Senate. That would apply after the bridge is built, if any material change should be made there, in which case it is provided that Congress shall have the right to repeal, alter, or amend.

Mr. COCKRELL. The provision is all right, except as to keeping the bridge in repair, or making any change that may be necessary after the structure is completed. The bill leaves it to Congress to determine that, when I think the Secretary of War ought to determine it. Let that section be read again.

Mr. CONGER. If the Senator has any amendment that he would like to offer, let him present it.

Mr. COCKRELL. Let the section be read again.

The Chief Clerk read as follows:

SEC. 6. That the right to alter, amend, or repeal this act is hereby expressly reserved; and the right to require any changes in said structure, at the expense of the owners thereof, whenever Congress shall decide that the public interests require it, is also expressly reserved.

Mr. COCKRELL. I do not think that clause is sufficient. There might be changes required and necessary which the Secretary of War ought to have the right to order. My recollection is that a provision has always been inserted in similar bills heretofore that keeping the bridge in repair and things of that kind shall be under the direction of the Secretary of War. But still if the Senator from Michigan desires no change, I shall not make any further suggestion.

Mr. CONGER. The Senator will find that section 3 provides for the approval of the Secretary of War of the plan and construction of the bridge, and that any changes which may be made in it shall also be subject to his approval—that is, while it is being constructed; and in case there should be a necessity for making any great material change, that comes in under the clause to alter, amend, and repeal, and the power is reserved to Congress to require those changes. It is not a direction; it is a limitation. I have no objection to any other phrase, but it seems to me that the bill is one of the most full in respect of the reservation of power to the Government of any that we have passed. So the committee thought, and I think so myself.

Mr. FRYE. I suggest to the Senator having the bill in charge to strike out the last section:

That this act shall take effect and be in force from and after its passage.

It is surplusage. There is no necessity for it. It performs no office there.

Mr. CONGER. Very well; I move that that section be stricken out.

The PRESIDENT *pro tempore*. The question is on agreeing to the amendment of the Senator from Michigan, to strike out the seventh section of the bill.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

RAILWAY MAIL SERVICE.

Mr. WILSON. I am directed by the Committee on Post-Offices and Post-Roads to report back to the Senate the letter of the Postmaster-General, dated January 20, 1885, and the accompanying documentary history of the railway mail service, with a concurrent resolution, which I ask may be read, and that the resolution, communication, and document be referred to the Committee on Printing.

The PRESIDENT *pro tempore*. The resolution will be read.

The resolution was read, as follows:

Resolved by the Senate (the House of Representatives concurring), That the letter from the Postmaster-General, dated January 20, 1885, and the accompanying documentary history of the railway mail service from its origin in 1834 to the present time, be printed, and that 2,000 additional copies be printed for the use of the Senate, 3,000 for the use of the House of Representatives, and for the use of the Post-Office Department 5,000 copies.

The PRESIDENT *pro tempore*. The concurrent resolution, with the

accompanying papers, reported by the Senator from Iowa, will be referred to the Committee on Printing.

CONGRESSIONAL RECORD REPORTS.

Mr. MANDERSON. I am directed by the Committee on Printing, to whom was referred a concurrent resolution providing that the reports in the CONGRESSIONAL RECORD shall be an accurate transcript of the proceedings and debates of the two Houses of Congress, to report it favorably. Believing that the Senate is practically unanimous in favor of the resolution, and that it will take no time, I ask for its present consideration.

The PRESIDENT *pro tempore*. Is there objection to the present consideration of the resolution?

Mr. HOAR. Without objecting, I may say that I should like to make a few observations on that resolution when it comes up. It will not be a very long discussion, but the resolution will not pass without debate.

Mr. ALLISON. I suggest that it be laid over for a day.

Mr. HOAR. I have no objection to its consideration now.

The PRESIDENT *pro tempore*. Is there objection to the present consideration of the resolution?

Mr. MANDERSON. I withdraw the request at the suggestion of Senators. Let the resolution go over until to-morrow.

The PRESIDENT *pro tempore*. The resolution will be placed on the Calendar.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. CLARK, its Clerk, announced that the House had agreed to the concurrent resolution of the Senate to print the letter of the Secretary of State dated December 12, 1884, and the accompanying reports of United States consuls on labor in Europe.

The message also announced that the House had concurred in the amendments of the Senate to the bill (H. R. 1565) to authorize the appointment of a commission by the President of the United States to run and mark the boundary lines between a portion of the Indian Territory and the State of Texas in connection with a similar commission to be appointed by the State of Texas.

The message further announced that the House had concurred in the amendment of the Senate to the bill (H. R. 181) to declare forfeiture of certain lands granted to aid in the construction of a railroad in Oregon.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills; and they were thereupon signed by the President *pro tempore*:

A bill (H. R. 1017) relative to the Inspector-General's Department of the Army; and

A bill (H. R. 7768) to authorize the National Bank of Bloomington, Ill., to change its name to the First National Bank of Bloomington.

BILLS INTRODUCED.

Mr. GARLAND introduced a bill (S. 2571) to authorize the Merchants' National Bank of Little Rock, Ark., to change its name to the First National Bank of Little Rock; which was read twice by its title, and referred to the Committee on Finance.

Mr. MILLER, of New York, introduced a bill (S. 2572) authorizing the President of the United States to appoint Cadet-Engineer John U. Crygier an assistant engineer in the United States Navy, and for other purposes; which was read twice by its title, and referred to the Committee on Naval Affairs.

LANDS IN INDIAN TERRITORY.

The PRESIDENT *pro tempore*. The Chair lays before the Senate, pursuant to the order of the Senate yesterday, the resolution offered by the Senator from Kansas [Mr. PLUMB]. It will be read.

The Chief Clerk read the resolution, as follows:

Whereas the United States in 1866 acquired from the Creek and Seminole Indians by treaty certain lands situate in the Indian Territory, a portion of which have remained unoccupied until the present time; and

Whereas a widely extended belief exists that such unoccupied lands are public lands of the United States, and as such subject to homestead and pre-emption settlement, and pursuant to such belief a large number of citizens of the United States have gone upon them claiming the right to settle and acquire title thereto under the general laws of the United States; and

Whereas it is understood that the President of the United States does not regard said lands as open to settlement, and believes it to be his duty to remove all persons who go upon the same claiming the right to settle thereon, and for that purpose has directed the expulsion of the persons now on said lands by the use of military force, and there seems to be a probability of a conflict growing out of the attempt to expel said persons so claiming right and attempting to settle: Therefore,

Resolved, That the President be requested to advise the Senate as to the status of the lands in question as viewed by the Executive, the action taken, if any, to expel persons seeking to settle thereon, and the reason for the same, together with any other information in his possession bearing upon the existing controversy.

The PRESIDENT *pro tempore*. The amendment proposed by the Senator from Missouri [Mr. VEST] will be read.

The Chief Clerk read as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is hereby directed and empowered to ascertain, by communication with the authorities of the Creek and Seminole Nations of Indians in the Indian Territory, upon what terms the said nations will relinquish and convey to the United States all the right, title, and interest in and to all that country described in article 3 of the treaty made between the United States and the Creek Nation on June 14, 1866, as "the west half of their entire domain, to be divided by a line running north and south," the lands so described in the treaty being now known as "Oklahoma," and being fully described in Senate Executive Document No. 109, Forty-eighth Congress, first session, page 4, and the lands described in article 3 of the Seminole treaty of March 21, 1866. (14 Statutes, 756.)

That the Secretary of the Interior shall communicate with the authorities of the Creek and Seminole Nations immediately, by special agent or otherwise, as he may deem necessary, and transmit the result to Congress.

The PRESIDENT *pro tempore*. The question is on agreeing to the amendment proposed by the Senator from Missouri.

Mr. VEST. Mr. President, upon reflection I do not wish to substitute the resolution I offered for that of the Senator from Kansas. There is really no conflict between the two resolutions, and I think it would be very well in the present contingency to adopt both.

The information this morning from the Indian Territory is to the effect that General Hatch has telegraphed to the War Department to know whether he is expected to attack the persons who have settled in what is known as the Oklahoma country at any or all hazards, and he has further informed the Department, as I see by the papers, that he is satisfied those people can not be removed except in the event of force being used for that purpose. The man who is now at the head of the persons who have gone into the Territory bears the character of being a very determined, if not a desperate man, and he seems resolved to push matters to an extremity. This being the case, it is of the utmost importance that the prevention of bloodshed should be secured by the action of Congress.

For myself I do not see that the President of the United States can take but one course, and that is the course already adopted by him. I do not think that any intelligent lawyer will undertake to say that the Oklahoma country is subject to settlement by white persons at this time. It has not been declared by the authorities of the United States to be open for homestead or pre-emption. It stands in a position to-day before the law which absolutely prevents its settlement by white men, at least until there shall be some sort of arrangement with the Indians from whom the land must be purchased. This being the case, the President could adopt but one course. In July last by proclamation he warned all persons from entering into that territory in its present condition. Notwithstanding that, in absolute defiance of the authorities of the United States, three raids have been made upon the territory, and now there are more than two hundred and fifty armed men encamped upon the Stillwater prepared to resist the forces of the United States, and the dispatches state this morning that the force is being rapidly augmented by accessions from all the adjacent States.

Mr. MAXEY. Mr. President——

The PRESIDENT *pro tempore*. Does the Senator from Missouri yield to the Senator from Texas?

Mr. VEST. Certainly.

Mr. MAXEY. I wish to ask the Senator from Missouri a question in regard to a matter with which he is more familiar than I am, he being a member of the Committee on Territories. Is any land of the United States not surveyed, sectionized, and subdivided subject to settlement?

Mr. VEST. I do not understand that it is.

Mr. MAXEY. Has this land ever been surveyed and sectionized?

Mr. VEST. This never has been, and in addition to that there are other considerations to which I propose to refer very briefly.

Mr. MAXEY. It is not subject to settlement.

Mr. VEST. No. As a matter of course the Senators representing the States bordering upon the Indian Territory, particularly the Senators from the States of Kansas and Missouri, are very deeply interested in this question. Large numbers of our people, I think under very bad advice and entirely misguided, have gone into that Territory, and they have gone there honestly believing that they have the right as citizens of the United States to occupy that soil. They have gone there in spite of advice, so far as I am concerned, always given to the same intent, that if they wished to avoid trouble they should stay out of that country. That it will be eventually opened up to settlement there is no sort of question. I say this reluctantly, because I do not want to be put even in the apparent position of encouraging the people who have gone in there under the present circumstances. Still I am bound to say, in what few words I shall submit here to-day, that it is inevitable that this country shall be opened up to settlement. Our past experience, the nature of the American people, the course of events, to say nothing about manifest destiny, all point in one direction, that all this land, much of which is of the most valuable description, will be occupied by white men. That is the inevitable course of events in regard to Oklahoma.

Some misapprehension exists as to what is Oklahoma. We find gentlemen in public life who seem not to understand at all what is the nature of this controversy, if we can term it such, between the people who have gone in there and the authorities of the United States. Recent debates held in another portion of the Capitol seem to indicate that gentlemen occupying public position believe that the President has violated the law. As I said before, the President could do nothing

but what he has done. Under his oath of office, as the Chief Executive of the nation, he is sworn to carry out the law, and the law as it stands to-day absolutely prohibits the settlement of white men upon that soil.

Now, what is Oklahoma? Because if I can reach the men who have gone in there, whether a single Senator listens to me or not, I shall have achieved something in the interest of peace and law and order. Oklahoma proper is a country nearly 5,000 square miles in area. It is located in almost the central part of what is known as the Indian country, and that Indian country, by law of 1834 of the American Congress, was declared to be all the lands west of the Mississippi River that were not entered, that were not surveyed, that were not assigned by the Government or authorities of the United States. It was a loose description, and it has settled down now to be what is called in common parlance, but what is not known to the law by that expression, as the Indian Territory. In the statute it is called the Indian country. The five civilized tribes—the Choctaws, Chickasaws, Cherokees, Seminoles, and Creeks—occupy the eastern portion of this Territory, using that word. The Creeks sold the western half of their possessions to the United States in 1866, at 30 cents per acre. In Senate Report No. 64 a succinct statement will be found. It reads as follows:

> The country known as "Oklahoma" covers a portion of the lands ceded to the United States by the treaties of 1866 with the Creek and Seminole Nations of Indians, respectively; the unassigned portion of which extends from the Canadian River on the south to the Cimarron River on the north, and from the country of the Cheyennes and Arapahoes on the west to the country occupied by the Iowas, Kickapoos, and Pottawatomies on the east.

And if Senators will take the trouble to look at the map furnished by the Interior Department in which the boundaries of Oklahoma are definitely described, they will find that in order to go to that country it is necessary to go from the borders of Kansas one hundred and twenty-one miles through the Cherokee country west of where the civilized Cherokees now reside in order to reach this debatable land, Oklahoma. As I have stated, its boundary on the south is the Canadian River, on the north the Cimarron, on the west the reservation of the Cheyennes and Arapahoes, who were intended to be located on the line of the State of Kansas. They were taken there by General Sheridan, at their own request, and placed down south of the Cimarron River, where they have remained ever since. This country known as Oklahoma originally embraced a little less than 5,000 square miles of territory. A large portion of it is represented as possessing a most delightful climate.

Mr. DAWES. Will the Senator allow me to inquire whether I understood him to say it is 5,000 square miles in area?

Mr. VEST. Yes, sir.

Mr. DAWES. The Secretary of the Interior reports that it contains 1,210,000 acres. Five thousand square miles would be more than that.

Mr. VEST. I speak of what was known as Oklahoma proper prior to the time that the western portion of it was set off for Indian tribes.

Mr. DAWES. I have before me a map furnished by the Secretary of the Interior, in response to a resolution of last winter, giving the boundaries of Oklahoma. It is bounded in this map on the north by the Cimarron River, on the east by what is now occupied by the Iowas, Kickapoos, and Pottawatomies, on the south by the Canadian River, and on the west by what is occupied by the Cheyennes and Arapahoes.

Mr. VEST. The present boundaries.

Mr. DAWES. That area is stated by the Secretary in this same document to contain 1,210,000 acres.

Mr. VEST. That is correct, I have no doubt.

Mr. DAWES. Five thousand square miles would contain three times that.

Mr. VEST. Certainly; but I spoke of Oklahoma as originally known. Since that time the Sacs and Foxes, the Seminoles, the Pottawatomies, the Kickapoos and Iowas, Cheyennes and Arapahoes have all been located within the original boundaries.

Mr. DAWES. In the Secretary's estimate that part is taken out.

Mr. VEST. That part is now taken out.

Mr. DAWES. And I understand that those parts are occupied by Indians under executive orders.

Mr. VEST. Yes, sir; they are. The Senator from Massachusetts has correctly given the boundaries as they are, south by the Canadian River, north by the Cimarron, west by the Cheyennes and Arapahoes, and east by the Iowas, Kickapoos, and Pottawatomies.

Now, Mr. President, the difficulty in regard to this matter arises under a clause in the treaty of 1866 made between the United States and the Creek Nation of Indians and a treaty made in August of the same year between the United States and the Seminoles. I ask the attention of Senators to this clause, because here is the whole difficulty, and upon this a plausible pretext has originated for leading people into that territory on the ground that it is open to settlement, homestead and pre-emption. The third article of the treaty of 1866 with the Creeks is:

> In compliance with the desire of the United States to locate other Indians and freedmen thereon, the Creeks hereby cede and convey to the United States, to be sold to and used as homes for such other civilized Indians as the United States may choose to settle thereon, the west half of their entire domain, to be divided by a line running north and south.

I have examined the contemporaneous debate, and in my opinion the intention of the Senate of the United States, when it used the word "freedmen" in these treaties, was to include all the freedmen in all the States of the Union. The idea then existed that public policy demanded that the negroes emancipated by the proclamation of President Lincoln could be colonized in the Indian Territory and segregated to themselves. It is unnecessary to say that it was a great mistake, and no man who knew the negroes ever conceived that such a thing was possible, that they ever could be taken from the homes they then had and colonized in any such way. But that was the intention unquestionably. Afterward, Mr. Schurz, Secretary of the Interior, when the question first came up under the raid of Captain Payne, now dead, construed this section of the treaty to mean the freedmen among the five civilized tribes.

These Indians were slave-owners, and they divided in the war just as their white brethren did in the border States, a large number participating with the confederacy and raising troops for the confederate army. They were slave-owners, and at the close of the war had a large number of freedmen among them. Mr. Schurz, I think, improperly construed this clause of the treaty to mean the freedmen among the Indians themselves. But even these were not colonized.

The Creeks conveyed this land at 30 cents an acre, subject only to one condition, and that was that the United States should only settle upon it Indians from the plains and freedmen. Whatever may be the technical right of this matter, no lawyer, I undertake to say, would, as between man and man, between one citizen and another, hold that the land belongs to the United States without condition. No court of equity would refuse to carry out the conditions of this grant. If it were a case between individuals, one of whom accepted the grant under those conditions, and afterward undertook to violate them, any court of equity would interfere and cause him to carry out the terms of the grant. There would be a perfect estoppel to his doing aught else; he would be prevented from saying that was not his contract and not his understanding.

The Government of the United States made this treaty with these Indians, and bought from the Creeks 3,260,560 acres, at 30 cents an acre, amounting to $978,168. We have paid this or secured it to their satisfaction. After we have made that treaty, we can no more tear up its conditions, and say that we can put upon those lands anybody that we please, than an individual who had bought a piece of property for a certain expressed use could ignore that use and say it was his illimitably and in fee. It is in fact a conditional fee. The land was sold to the United States under certain conditions and for certain purposes. Only Indians or freedmen were to go on the land. What man has a right to say they would have sold for 30 cents an acre if they thought that white men with their acquisitive propensities were to become their immediate neighbors?

It seems to me a question too plain for argument. When I saw some weeks since in the public prints that a United States judge in Kansas had made a decision that these lands were open to settlement, I could not believe it, and I venture to say no man on the bench has ever made such a declaration. I have read the opinion delivered by Judge Foster. It decides nothing else except that persons going in there were subject to a penalty. It does not pretend to say, and I undertake to say that no judge who wears the ermine to-day will ever say that under present laws white men have a right to go into that territory and make settlements.

We purchased from the Seminoles by the treaty of August, 1866, 2,169,080 acres of land, at 15 cents an acre, making $325,362, which we have paid. We have acquired from the two tribes 5,419,640 acres of land in the middle of the temperate zone, as fair as any upon which the sun has ever shone, for $1,303,530. Yet the greed of our people is such that they propose to break through these treaties—for the Seminole treaty contains the same provisions with the Creek treaty—go on this land before it is surveyed, take possession of it in defiance of the proclamation of the President and of the law and treaties, and appropriate it to their own use.

This is the whole of this question. It seems to me that Congress should meet it now fairly and openly in accordance with our honor as a people, in accordance with the strict faith of the nation. The story of our dealings with the red man is a sad one. I do not propose to use any rhetoric about it. It is a story that beggars rhetoric. No mortal man can do justice to the terrible wrongs inflicted on those people. It is enough to say now that we ought to deal with them equitably and honestly, and it can be done in but one way. They have rights in this land. They have the right—call it residuary or contingent or uncertain interest, or what you may—to say that none except Indians and freedmen shall be located on this territory. That right can be purchased. This land was sold at a price ridiculously low, if it was to be regarded as a sale of the fee. There is but one way for us to act as a great people of overwhelming power, and that is to go to these friendly Indians and say to their authorities who are struggling day by day, advancing slowly and gradually, "We come to deal with you now as if you were one of the greatest and most powerful nationalities on the face of the earth; not even the lion of England shall receive more deference." My view is that if we will so treat these people we can acquire their interest, whatever it is, in this land, and remove from controversy this question that will be settled in blood unless it is settled by law. Congress a few years ago, I believe in 1875, prohibited the further introduction of Indians from the plains into this territory.

That does not affect the question of these treaties. If we have no further use for that country for the Indians of the plains, that does not give us the right to put upon it our own citizens, independent of the claim set up under the treaties which I have read.

Mr. DAWES. Mr. President, the relations of the United States to the Indian Territory have at last forced themselves upon the attention of the country. No one connected with Indian matters in the Senate, at least since I have been a member, has failed to try to arrest the attention of the Senate in reference to those peculiar relations session after session, but hitherto without avail. Matters have been left to drift and to drift in precisely the same direction as has alarmed every one who has had anything to do with the subject, until it is presented to us now whether we shall indifferently stand by and see it settled by force and perhaps by bloodshed. For one, I am obliged to both the Senator from Kansas and the Senator from Missouri for bringing the matter before the Senate in the manner in which they have done, and for the apparent spirit and the real spirit, so far as I know, which actuates them, for I confess that I have not been able heretofore to make any Senator think there was any occasion to look very seriously into this matter.

The resolution offered by the Senator from Kansas I said yesterday I thought might result in this good: that it would give the President of the United States, while asserting the supremacy of the law, another opportunity to call the attention in the most formal and serious manner of those affected by his proclamation to the clear and unquestioned position in which they have put themselves of violation of the law, and trust to the effect of such a renewed proclamation upon them to obviate the necessity of force and possible bloodshed, for the supremacy of the law is the one thing about which we can raise no possible question. That must be maintained by the President of the United States at whatever cost; but every one must be desirous, while maintaining the supremacy of the law, to find some way of doing it without the sad result of bloodshed.

There are two classes of people down in Oklahoma defying the authority of the United States. One of them is the leaders who have gone there with their eyes open and with full knowledge, and, as I am credibly informed, largely as a matter of speculation and revenue. The other is their followers, innocent but deluded people, anxious to obtain homes upon the public land, and only knowing that here is desirable land, unoccupied, which they are told by their leaders is public land and whom their leaders have undertaken for a specified sum per capita paid into their treasury to take upon that land and to maintain them there. The leaders have been from time to time prosecuted, under such laws as the United States have, for trespass. I see in the public papers Congress arraigned for not having provided laws sufficient to punish these trespassers upon the public land. That charge does not lie against the Senate of the United States, for repeatedly the Senate of the United States has passed a bill providing for the punishment of such trespassers by imprisonment as well as fine. More than a year ago, during this Congress, the Senate passed such a bill, which remains elsewhere unacted upon. If that had been passed into a law when it was first reported here, three or four years ago, and these leaders had been punished under it, not only by fine but by imprisonment, the three or four hundred innocent and honest followers of these men would have been kept from the trouble they are in now. The blame, therefore, does not lie at the door of the Senate. It has done everything in its power to furnish the Executive with authority to punish efficiently these leaders. It is in order that the President may have the opportunity to show these leaders what will be the consequences of their persisting in this violation of the law, as well as their innocent and deluded followers the consequences of continuing to follow the advice of these leaders, that I think good will come from the adoption of the resolution proposed by the Senator from Kansas.

There is another class of citizens, much larger, to whom also in my opinion it will be serviceable, and that is that large class of citizens, especially residing in the Western country, desirous of taking up homes upon the unoccupied lands of the United States as soon as they can lawfully, in conformity with law; but the policy of the Government and the treatment of such cases by the Government have been such as to lead them to believe that the only man who can secure a desirable homestead upon the public land is the man who first gets upon it, whether he get upon it in conformity with the law or not, and this large class of our fellow-citizens complain and rightfully complain that, after persons have gone on in violation of law and got possession the Government, when it comes to open the territory, recognizes those persons to the exclusion of the honest citizen who will not violate the law and seems to himself to have as good a right certainly as a trespasser to occupy the public land. Now, I want the President of the United States in some form, in his proclamation, to assure the law-abiding citizens of this country who are desirous to go upon the public land that the violators of the law shall not profit to their exclusion by getting upon any unoccupied land in violation of the law; and therefore these three classes of our citizens, the larger one conforming to the law, another class following leaders who know better, and the leaders themselves, shall have brought to their minds distinctly the consequences of this persistence in the violation of the law.

I see that the Legislature of one of the largest of the Western States yesterday denounced the exclusion of these people from this territory and called upon Congress at once to open it.

Mr. ALLISON. What State?

Mr. DAWES. The Legislature of Kansas. In the other branch (if I may be allowed to allude to it), the day before yesterday the proceedings of a public meeting, held at a court-house in one of the large and populous counties of one of the Western States, were put upon the record there, in which they denounced this attempt of the President of the United States by force to exclude their fellow-citizens from occupying this land.

That is a spirit which a proper proclamation from the President of the United States may do something toward allaying; something toward showing those who promote it that they are putting themselves on the side of the violators of law. I desire that the President may have the occasion, which such a resolution may offer, to present again to all these classes of citizens, for such consideration as each from his standpoint will be likely to give to it, the consequences of this attempt not only to violate the law but to defy the force of the United States sent there to enforce the law. I hope it will have the effect and save us, therefore, from the sad and deplorable consequences which must ensue.

It may not be improper to allude to the fact that I see already printed circulars sent among the followers of these men and among the people in the States, who as good citizens refuse to violate the law but are as anxious to better themselves by making new homes as anybody, urging them to hold on to this position until the 5th of March as if this trouble could be devised by an outgoing administration to an incoming one. I do not for a moment believe that there is any possibility of anything being gained by the breakers of the law by any such suggestion as that. Those who will take charge of this Government after the 4th of March will in my judgment be as much disposed as anybody else to enforce the laws while they remain upon the statute-book, and these poor people are being further deluded, in my opinion, if they are deluded with the idea that it is possible for them to maintain under any incoming administration any violation of the law with impunity.

But, sir, the resolution of the Senator from Missouri opens up another subject and looks to what is ultimately to be done with these lands, and that is a subject which is forced by this condition of things upon the attention of the Senate, and I trust will hold its place in the consideration of the Senate until some proper disposition shall have been made of it. Here is a large tract of land, a million and a quarter acres, more or less, as fine land as is in any part of the Indian Territory unoccupied, of no use for the purposes for which it was obtained and in all probability never likely to be appropriated for those purposes. There is other land in the Territory, much larger tracts of land, similarly situated; and what is to be done with that land is a serious question embraced within the resolution of the Senator from Missouri.

Mr. HARRISON. If the Senator from Massachusetts will allow me to make a suggestion——

Mr. DAWES. I yield.

Mr. HARRISON. I notice that the resolution of the Senator from Missouri proposes to initiate at once negotiations with a view to securing an absolute title to this strip called Oklahoma. If those negotiations should be instituted and brought to a conclusion, the Government would find itself in the ownership of a strip of land in the interior of the Indian Territory cut off from everywhere else. So that can not be considered separately.

Mr. DAWES. I was about to say when I was interrupted, properly enough, by the Senator from Indiana, that Oklahoma is a little tract of land very nearly in the center of the Indian Territory, like that label on that book [exhibiting]; a little over a million acres of land located very nearly in the center of the Indian Territory. There is above it one tract of land, between it and Kansas, over 6,000,000 acres, a tract a good deal larger than the whole State of Massachusetts, on which there is not a dwelling of an Indian or of a white man save the cowboys who take care of the cattle grazing there under one single lease. That land is, I say, unoccupied by white people, unoccupied by Indians, and in the future, according to the best reasoning as to the prospects of the Indian race, never to be occupied by the Indians.

The last of the many policies the United States have undertaken to adopt toward the Indian race, after having tried all others and failed, is to set him up for himself on just so much land, and no more, as he can himself profitably use for his own maintenance. That leaves on all the Indian reservations all over the United States vast tracts of land that can never be used for such purpose by the Indian, and yet to which the Indian has in many cases a perfect title, in all of them some sort of qualified title. With this large tract above Oklahoma left, we are asked to open to public settlement this region in the very heart of the Indian Territory, a project which every one will see in a moment is utterly impracticable if you stop there. It is surrounded by Indians and one hundred and fifty miles from a State on the one side and two hundred miles on the east, and I do not know how much on the south. It is utterly impracticable to have a settlement or a colony of white people of the United States there, over whom the laws of the United States and among whom the courts of the United States must be established—utterly impossible unless you go further.

The title to this land was ceded to the United States for one purpose, and one only, by the Creeks and Cherokees. All the vast tract above it is substantially in the same condition, though not granted in the same words. The Cherokees have covenanted with the United States by treaty that the United States may have all that vast tract for the same purpose. It is true, I think, as the Senator from Missouri says, that when the purpose was stated to be that of settling friendly Indians and freedmen, it did not contemplate the settlement of freedmen from the States, but only those who were freedmen in the Indian Territory itself. The same treaty provided, however, and imposed the obligation upon the five tribes, to take care of the freedmen themselves, with the stipulation that if the tribes did not take care of the freedmen, then the United States would take care of them upon this land. They have undertaken, after their manner, to take care of the freedmen. They have not accomplished it, but they have undertaken it. There have been no freedmen settled on this land. There never will be any. They do not care to go there. They will not separate themselves from those through whose blood they came into existence and whose blood they share with the tribes. They prefer to stay where they are. So it never can be used for that purpose.

In my opinion—I agree with the Senator from Missouri and with the Senator from Kansas—sooner or later the white man as a settler will take possession of this land. How is he going to obtain it? We are called upon to open it by a statute, but the title to it does not belong to us. Within the last twenty years we have covenanted by treaty that it shall never be occupied by white men, and yet we are called upon to disregard that treaty. In matters of great importance, where we think treaties are in the way, matters of vastly more importance than this, we may with propriety hesitate lest we violate a treaty; but here is a treaty lying across our path, executed with equal solemnity and with only this difference, that it is with a weak people while other treaties that are in the way of larger enterprises are with powerful nations and we hesitate when we come to them.

I am for the policy suggested by the resolution of the Senator from Missouri, but I want it applied to all that land. It would be utterly impracticable and it would be nonsense to attempt to open Oklahoma, a little patch in the center of the Indian Territory, if by fair and honest negotiation with the Creeks and Seminoles we can obtain the absolute title free from condition. We must have with it the 6,000,000 acres between it and Kansas, and we can obtain that and obtain this title from the Creeks and Seminoles if we will negotiate with them as we negotiate with powerful peoples, fairly, honestly, and frankly. If the Senator from Missouri will make his resolution broad enough to embrace all the lands now liable to be occupied by Indians and freedmen, and not needed by the United States for that purpose, although the cattle-men have now got all of them as well in Oklahoma as the rest surrounded by wire fences, to open negotiations with those who hold the title, open them fairly and frankly and honestly, as I have no doubt the incoming administration will feel it its duty to do if it does it—and whatever is done must be done under that administration—I have confidence enough in the future to believe that the day has passed when any man, any official in this country, desires longer to wrong the Indian. Daylight has been so poured in upon transactions with the Indians that it is not safe longer to pursue the policy of stealing their lands and robbing them.

Let us, therefore, recognize the necessity of opening these lands sooner or later to settlement, and let us clear the way by honest and fair negotiation. Let us not do as we have done within the last two years here in the Senate, when the United States bound itself by solemn covenant with these people that it would not cut railroads through their country and then undertook to assert its right of eminent domain after we had covenanted that we would not exercise it. The people of the country looking around and seeing the United States itself trampling on its own treaties may well infer that they may do likewise, and do with impunity what the United States has set up in this Chamber its right to do. Let us deal with the Indians having had the fee to this territory granted to them, dealt with them with regard to the vast regions to which they held the fee in the States—let us deal with them fairly, extinguishing their title for what will in the public judgment be deemed a fair and honest consideration for it, and let us then open the land so acquired to the homesteader who obeys and observes the law, and not give it to the trespassers who go in in violation of the law and take possession of the land, and then come here and obtain, if possible, some consideration as innocent settlers; often they are, but more often they are like the leaders of this Oklahoma band, going in for the purpose of getting possession and claiming the benefit of a homestead to be given them by the United States as apparently honest settlers.

Mr. HAWLEY. The Senator from Missouri, whose attention I should like for a moment, exhibited to us a map of the Indian Territory, and I find in the center of that a yellow spot, relatively insignificant, designated as Oklahoma. I wish to know whether there is any legal authority anywhere for calling any portion of that Territory Oklahoma, whether Oklahoma has any legal definition or limits of nature, or whether that is the name given by cattle-raisers who have seized a piece of land there, or has the Secretary of the Interior out of his own brain devised the name?

Mr. VEST. There is no authority of law for that name. It originated, I believe, with Colonel Boudinot, a Cherokee, and it was used first in a proposed act of Congress in the bill introduced by Mr. Franklin, a Member from Missouri, for establishing a Territorial government in the Indian Territory, to be called Oklahoma. The original signification of the name in the Cherokee tongue, I believe, is the home of the red man; and therefore the white men want it. That is the meaning of it, I believe.

Mr. HARRISON. I wanted to make an inquiry and I think a practical suggestion in connection with this matter. I believe there was a petition presented asking Congress to take some action with a view to opening this tract of country for settlement; and that it was referred to the Committee on Indian Affairs. Now, I think if that committee would promptly report back that petition unfavorably with a resolution declaring it to be the sense of the Senate that that land is not open to settlement——

Mr. DAWES. I call the attention of my colleague upon the committee to a report which I hold in my hand, No. 64 of the last session, upon that petition, made by our colleague on the left [Mr. CAMERON, of Wisconsin], in which that very conclusion was reached.

Mr. HARRISON. That is true, but that has become a little musty and the subject is brought to our attention again by this. I believe if such a resolution could be again reported, could be voted upon in the Senate by a yea-and-nay vote, and a practically unanimous expression of this body given on the subject, it would do a great deal toward preventing that armed collision which is imminent now in the territory.

Mr. MAXEY. I think this a fit occasion for the Senate of the United States to put their seal of condemnation upon organized lawlessness. The territory of Oklahoma is not subject to location, to entry, or to private sale or public sale. It has not been surveyed, sectionized, or subdivided. Those who go there know that they go in utter violation of the law of this land, and if they are permitted to violate the law and stay in that country, and the Senate of the United States refuses to prevent it, it seems to me we present the humiliating spectacle of tolerating or acquiescing in a violation of the laws that we have made.

If the territory of Oklahoma can be settled by parties going in there, then there is a large tract of country lying south of the south boundary of Kansas and north of the north line of the panhandle of Texas, about sixty miles wide, as large as an ordinary-sized State, which has never been surveyed or sectionized, and which may in like manner be invaded and settled upon by these lawless people, and between the ninety-eighth degree of west longitude and the one hundredth degree of west longitude is another immense tract of territory west of the Chickasaw Nation and east of the east line of the panhandle of Texas, which to-day belongs to the United States and has not been surveyed or sectionized; and if you permit the invasion of Oklahoma the same principle would apply to all that great body of land lying between the north line of Texas and the south line of Kansas and between the west line of the Chickasaw Nation and the east line of Texas, and what will you do?

The five civilized tribes, so called, are doing their best to become civilized and enlightened, and if this country is ever opened up to settlement, as in all human probability it will be, surveyed, and sectionized, and subdivided, and the people of the United States by law invited to go and settle there, instead of getting honest neighbors, as they would if the law was obeyed, these Indians get settled all around them lawless depredators, and thus instead of having the hand of help extended to those civilized tribes by the people of the United States we sit here and permit a violation of our own laws, and have these people surrounded by lawless men.

Mr. President, such a policy will not do, and I say this is an occasion when the Senate of the United States ought in the most emphatic manner to put its seal of condemnation upon all this lawless invasion of territories which are not open to settlement and which belong to the United States.

Mr. PLUMB. I had not in mind in the introduction of this resolution that such a debate would follow. I thought the condition of things which existed in the new territory, and of which we were advised by telegraphic dispatches in the daily newspapers, warranted the Senate in making the inquiry of the President in regard to the facts, as he understood them to be, in order that we might ascertain if on the basis of those facts we should undertake legislation, or whether there was anything which ought to be done to meet the situation as presented. I do not desire to enter into the debate after so much has been said by others upon this subject, especially after the exposition given of the status of these lands by the Senator from Missouri. But I desire to say that it is plain that some people have gone in there who are undoubtedly honestly of the opinion that they have a right to be there, and some others probably who have a different view of their rights, but it is impossible to distinguish one class from the other in dealing with them, whether we do it by the armed forces of the United States or otherwise. But the fact that men are there believing they have a right to be there, that by various processes which have been put forth and by arguments which have been addressed in various places and which have been published in regard to the status of these lands known as the Oklahoma lands, these people have come to believe honestly that they are entitled to go there, is unquestionable.

Mr. MAXEY. I ask the Senator how they can possibly think they have a right to be there when they have been notified in every conceivable way, and even by armed force, that they have no right to be there.

Mr. PLUMB. I will come to that in a moment. As I said, the fact that they are there, that they are American citizens, that their offense is apparently venial at worst, entitles them to more than a passing consideration. It has received such at the hands of the Senate, and I am glad of it. As I said in the beginning, I did not expect the resolution to lead to debate.

The PRESIDING OFFICER (Mr. HALE in the chair). The hour of 2 o'clock has arrived.

Mr. PLUMB. I ask unanimous consent to have the special order informally set aside.

Mr. COCKRELL. I hope that request will be granted.

Mr. PLUMB. I think we can get rid of the resolution in a few moments.

Mr. HARRIS. I suggest that the unfinished business be laid before the Senate, and then unanimous consent undoubtedly will be given.

The PRESIDING OFFICER. The unfinished business will be laid before the Senate, being the bill (H. R. 5461) to regulate interstate commerce and to prohibit unjust discriminations by common carriers.

Mr. PLUMB. I ask that the special order be informally laid aside in order that the consideration of the resolution may continue.

The PRESIDING OFFICER. If there be no objection the Senator from Kansas will proceed.

Mr. CULLOM. Has the Senator any idea how long the debate will last?

Mr. PLUMB. I think five or ten minutes will dispose of the question. I shall detain the Senate but a moment myself.

The reason for the belief these people have is, in the first place, the fact that the United States Government acquired these lands for a purpose which it afterward abandoned, and that it has paid for the lands or substantially paid for them. That carries the conviction to these people that the Indians, not having the right themselves to go upon the lands and use them by reason of the fact that the Government has purchased them, became subject to the general laws of the United States, which provide that the public lands shall be open to homestead and pre-emption settlement. That has been amplified in a great many ways to make it effective. In addition to that, it was currently reported last fall that Judge Foster, of the district court for the district of Kansas, had decided in a case brought in the name of the United States against certain persons who had been trespassing upon these lands, that the lands were public lands of the United States and open to settlement. I heard that that opinion had been rendered and made inquiry and ascertained that no such opinion had been rendered, but that the prisoner had been discharged, and that out of that had grown perhaps the belief that Judge Foster's decision was to that effect. Some time since, for the purpose of ascertaining exactly what the judge did decide in the opinion formally rendered, I sent to the district attorney for the district of Kansas and asked him for a copy of the opinion, which I have, and if the Senate does not desire to hear it I ask that it be incorporated in the RECORD.

The paper is as follows:

United States district court, district of Kansas.

The United States *vs.* David L. Payne *et al.* On motion to quash indictment.

J. R. Hallowell, United States attorney, for United States; J. W. McDonald, attorney for defendants.

The indictment in this case charges the defendants with conspiracy, and confederating together to commit an offense against the United States, under chapter 8, Supplement Revised Statutes, 484. The offense alleged in brief is that the defendants conspired and confederated together among themselves and with other persons to enter upon and make settlement on certain lands belonging, secured, and granted by treaty of the United States to certain Indian tribes, and lying between the Canadian and North Fork of the Canadian Rivers in the Indian Territory, and commonly known as the Oklahoma lands, and also having before that time been removed from the Indian country by the military forces of the United States, did conspire and confederate together and with other persons to return to said Indian country, commonly known as the Oklahoma country, and also to enter upon lands known as the Cherokee strip or outlet in said Indian country, and charging defendants with certain overt acts to effect the object of said conspiracy, &c.

The law concerning the entering and making settlement on Indian lands is found in section 2118, Revised Statutes United States, page 370, title 38, and reads as follows: "Every person who makes a settlement on any lands belonging, secured, or granted by treaty with the United States to any Indian tribe, or surveys or attempts to survey such lands, or to designate any of the boundaries by marking trees, or otherwise, is liable to a penalty of $1,000. The President may, moreover, take such measures and employ such military force as he may judge necessary to remove any such person from the lands."

The law concerning the removal of persons from the Indian country further provides as follows:

"SEC. 2147. The Superintendent of Indian Affairs, and the Indian agents and subagents, shall have authority to remove from the Indian country all persons found therein contrary to law, and the President is authorized to direct the military force to be employed in such removal.

"SEC. 2148. If any person who has been removed from the Indian country shall thereafter at any time return or be found within the Indian country, he shall be liable to a penalty of $1,000."

It will be observed that the law fixes a penalty of $1,000 in either case, and section 2124 defines how this penalty shall be enforced. It reads as follows:

"All penalties which shall accrue under this title shall be sued for and recovered in an action in the nature of an action of debt, in the name of the United States, before any court having jurisdiction of the same, in any State or Territory in which the defendant shall be arrested or found, the one half to the use of the informer and the other half to the use of the United States, except when the prosecution shall be first instituted on behalf of the United States, in which case the whole shall be to their use."

The act to accomplish which this conspiracy was formed, *i. e.*, to make settlement on Indian lands and to return to the Indian country after being removed therefrom, might be termed an offense against the United States, but it is evidently not an indictable offense, nor could it be prosecuted by criminal proceedings. It is an offense created by statute, with a definite penalty attached and the mode prescribed for enforcing the penalty.

The prosecution may be instituted by any informer, and this because it is a *qui tam* action. We find all through the acts of Congress a distinction made between prosecutions for crimes and offenses, and suits for penalties and forfeitures. Thus, in defining the jurisdiction of the district court (Revised Statutes, section 563) after defining its jurisdiction of crimes and offenses, it reads as follows: "Third. Of all suits for penalties and forfeitures incurred under any law of the United States." Again, in defining the jurisdiction of the circuit court (Revised Statutes, section 629) subdivision 20 gives the circuit court jurisdiction with the district court of crimes and offenses, &c., but in subdivision 4 of the same section, defining suits of which the court shall have jurisdiction, it expressly excepts from the circuit court jurisdiction of suits for penalties and forfeitures. In section 711, defining the general jurisdiction of the United States courts, this distinction is again observed. Section 732 provides where such suits may be brought. Section 1047 prescribes the period of limitation in such suits. There are various penalties prescribed for violations of the internal revenue and navigation laws, and sections 3213 and 4234 appertain to that subject. From these several provisions of the statutes I am of opinion that the acts charged do not show a conspiracy to commit an offense against the United States within the meaning of the conspiracy clause, chapter 8, Supplement Revised Statutes, and for this reason these indictments must be quashed.

Mr. PLUMB. It does not decide in any way that the lands are public lands of the United States of the character of lands which are open to homestead and pre-emption entry. It does not decide anything about the character of the lands whatever. If there is anything in it which does bear on that question it is that they are a part of the Indian country, as that term is used in the statutes, and that they are lands from which the President may, under the law, remove persons whom he may characterize as intruders and who are there in violation of the intercourse act of the United States; but the case went off on the proposition that the action was one for a penalty alone, a *qui tam* action, and that consequently there was no indictable offense, and on that theory of the case the persons who had been indicted and arrested were discharged.

The effect given to that decision or the report of that decision has done a great deal and possibly more than almost anything else to convey the idea that these lands were open to settlement; but the opinion itself has not so far as I know ever been published, and consequently there has been no means at hand readily of disputing what has been alleged as to the character of the decision.

I differ, Mr. President, with the Senator from Missouri and the Senator from Massachusetts in regard to the rights of the United States in these lands. My own belief is that these lands may be opened to settlement by Congress and the President, without the consent of the Indians. In pursuance of that belief I introduced a bill at the last session of Congress which not only provides for the opening of these lands to settlement, but which embraces besides the instruction to the President contained in the resolution offered by the Senator from Missouri except that it goes further and requires the President of the United States to inaugurate measures looking to the diminution of all the reservations in the Indian Territory which are in excess of the needs of the Indians and the acquisition of the lands by the Government for the purpose of opening them to settlement. I believe that now either by resolution or law the President ought to be advised to take such action not only in regard to these so-called Oklahoma lands, but in regard to all the reservations in the Indian Territory which in his judgment are in excess of the needs of the Indians in whose occupancy they are to-day.

Some action of this kind must at some time be taken. The interposition of the Indian Territory, of an unoccupied section of country, as a barrier to the commerce between great States, has become a source of irritation, of loss, of constant inconvenience, which the people are restive under and do not wish any longer to exist if they can help it; and this will amount to a condition of public opinion in the West principally and to some extent in the entire country, that will compel substantially something to be done. I do not mean to say that it shall be done without the consent of the Indians, but I believe that the Indians themselves will come to see, under the persuasive power of the President and under the force of this aroused public opinion, that their interests lie in the direction of concession on this point, and therefore we shall be rid shortly of this anomalous condition of things and shall have the power to open up to the landless people of the United States a large body of very fine land on which they will be able and also willing to make homes, and I hope that this discussion will tend strongly in that direction.

I trust that this discussion will lead to some action of that kind to be taken by the present Congress, and that we shall not dwell on this matter and carry it over from session to session to be confronted each year with just the condition of things we are confronted with now, with men who, however they may be violating the law, are still in a measure by reason of the purpose or alleged purpose for which they go there entitled to some degree of sympathy and consideration, and because of the further fact that it is confessed everywhere that this land is not to be used any more for the purpose for which it was originally acquired, and that following the universal practice of the Government from time immemorial all such lands have been brought under conditions for settlement. As this must so come soon, it is better it should come now right away, and thus avoid these constant conflicts and these

alarms on the borders, when people are there seeking this land which they think the Government is unnecessarily and unwisely holding from settlement.

I believe this can all be done with due regard to the interests of the Indians; I believe it can be done with a due regard to the obligations of the Government to the Indians. I believe there is a peaceful and a proper and a just solution of all this question if only we move in time. But as I have had occasion to say before, if we withhold action too long we may sometimes be under constraint to act promptly and to some extent perhaps unjustly, acting under the pressure of an emergency which our own delay has brought to pass.

Now, I may say one thing in regard to the inquiry propounded by the Senator from Connecticut, in addition to what the Senator from Missouri has said about Oklahoma. The map which the Senator from Connecticut saw, and which bears on it, I think, the name of Oklahoma as applied to a tract of land, was not a creation of the Interior Department—that is to say, the Interior Department did not put that name upon it. That name, Oklahoma, is not part or parcel of the records of the Government at all, and is in no way an official designation of that section of country, but it has become a designation in the local vernacular which applies to that particular tract of land, and generally also in a measure to the entire Indian Territory. But what is known as Oklahoma now for the purposes of this controversy is a limited area of land, stated by the Senator from Massachusetts as being about a million and a quarter acres. There is some doubt, I think, as to whether it covers quite so much, but at all events not more. It is a tract of land which I understand is not occupied either by Indians or white men, and is in no sense encumbered by any occupancy of anybody claiming a right to be there, except as it is occupied by the persons who are now there as colonists claiming the right to settle.

The Senator from Missouri stated, I believe, in the opening of his remarks that he did not desire to have the resolution which he offered yesterday proposed as a substitute for the one which I offered, but that he would permit his to come up as a separate measure. I hope, therefore, there will be no objection to the passage of the resolution I offered.

The PRESIDING OFFICER. The Senate resumes the consideration of the bill to regulate interstate commerce.

Mr. CULLOM. If the Senate is ready to vote on the resolution of the Senator from Kansas, I have no objection.

The PRESIDING OFFICER. The Chair understood that the unfinished business was laid aside simply for the purpose of enabling the Senator from Kansas to finish his remarks.

Mr. HAWLEY. I hope we shall reach a conclusion on this resolution. I do not think we have anything more important before us. It need not take long.

The PRESIDING OFFICER. If there is no objection——

Mr. VEST. If the resolution is to go over until to-morrow, I have not the slightest objection to extending the resolution that I offered so as to cover all that territory and to bring the whole question up, if it is the wish of the Senate, in such a form that we can dispose of it at once. I can arrange the resolution that I offered so as to cover all these points by to-morrow, and by that time we can take a vote on both resolutions.

Mr. PLUMB. I do not see any necessary connection between the two. I do not propose delay; and as my resolution calls for information merely, I think it would be better to have that information to-day rather than to-morrow, or to-morrow rather than next day. If it is important to have it at all, let us have it now.

Mr. VEST. I am perfectly willing.

Mr. PLUMB. The other resolution, which relates to something in the future, can of course come up as a separate measure.

Mr. VEST. Very good. With the understanding, then, that the resolution I offered will come up to-morrow, I am perfectly willing to have a vote on the resolution of the Senator from Kansas.

The PRESIDING OFFICER. Does the Senator from Missouri withdraw his amendment?

Mr. VEST. Yes, sir; I withdraw it.

The PRESIDING OFFICER. The question is on the resolution offered by the Senator from Kansas.

The resolution was agreed to.

Mr. VEST. I desire to offer the resolution which I submitted as an amendment to the resolution of the Senator from Kansas as an original resolution.

The PRESIDING OFFICER. As a joint resolution?

Mr. VEST. Yes, sir.

The joint resolution (S. R. 113) in relation to certain lands in the Indian Territory acquired by the United States from the Creek and Seminole Indians was read twice by its title.

Mr. VEST. Let it lie on the table for the present.

The PRESIDING OFFICER. It will lie on the table.

MOTHER OF J. P. RINGGOLD.

Mr. McMILLAN submitted the following resolution; which was referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

Resolved, That the Secretary of the Senate be, and he is hereby, authorized and directed to pay to the mother of John P. Ringgold, deceased, late clerk to the Committee on Commerce, a sum equal to six months' salary as clerk aforesaid at the rate of $2,220 per annum, out of the "miscellaneous items" of the contingent fund of the Senate, the said sum to be considered as including the funeral expenses and all other allowance.

EXECUTIVE SESSION.

Mr. MILLER, of California. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After one hour and fifty-six minutes spent in executive session the doors were reopened, and (at 4 o'clock and 13 minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, *January* 22, 1885.

The House met at 12 o'clock m. Prayer by the Chaplain, Rev. JOHN S. LINDSAY, D. D.

The Journal of yesterday was read and approved.

ANNALS OF THE WAR.

The SPEAKER, by unanimous consent, laid before the House a letter from the Secretary of War, in response to a resolution of the House, inquiring what number of copies of the Annals of the War remain undistributed, and whether they will be needed by the War Department; which was referred to the Committee on Printing.

NAVIGATION IN NARRAGANSET BAY.

The SPEAKER also laid before the House a letter from the Secretary of the Treasury, transmitting a communication from the Light-House Board relative to the establishment of additional aids to navigation in Narraganset Bay, Rhode Island; which was referred to the Committee on Appropriations, and ordered to be printed.

EMPLOYÉS IN DIVISION OF WARRANTS.

The SPEAKER also laid before the House a letter from the Secretary of the Treasury, transmitting estimates and asking an appropriation of $2,550 to pay employés in the division of warrants for extra work; which was referred to the Committee on Appropriations, and ordered to be printed.

CHRONOLOGICAL HISTORY OF THE DEPARTMENT OF STATE.

The SPEAKER also laid before the House a communication from the Secretary of the Treasury, inclosing an estimate from the Secretary of State for an appropriation of $6,000 for the purchase of the manuscript of the work entitled, "The Chronological History of the Department of State, and the Foreign Relations of the Government," &c.; which was referred to the Committee on Appropriations, and ordered to be printed.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted as follows:

To Mr. GREEN, for five days, on account of sickness.

To Mr. JOHNSON, of New York, for ten days, from January 18, on account of important business.

To Mr. STEVENS, for two days, on account of important business.

WITHDRAWAL OF PAPERS.

On motion of Mr. BINGHAM, by unanimous consent leave was granted for the withdrawal from the files of the House of the papers in the case of Bridget Hamilton, without leaving copies.

ORDER TO PRINT TESTIMONY.

Mr. WARNER, of Ohio, by direction of the Committee on the Payment of Pensions, Bounty, and Back Pay, asked and obtained an order that the testimony now being taken by that committee be printed for the use of the committee.

BOUNDARY BETWEEN TEXAS AND INDIAN TERRITORY.

Mr. LANHAM. Mr. Speaker, I ask unanimous consent to take up, for the purpose of moving concurrence in the Senate amendment, House bill 1565—a bill to authorize the appointment of a commission by the President of the United States to run and mark the boundary lines between a portion of the Indian Territory and the State of Texas, in connection with a similar commission to be appointed by the State of Texas.

The SPEAKER. Does the gentleman desire to have the amendments read?

Mr. LANHAM. I do not, unless there is some special request for the reading.

Mr. COX, of North Carolina. Let us have them read.

The Clerk read as follows:

Be it enacted, &c., That the President of the United States be, and he is hereby, authorized to detail one or more officers of the Army, who, in conjunction with such person or persons as may be appointed by the State of Texas, shall ascertain and mark the point where the one hundredth meridian of longitude crosses Red River, in accordance with the terms of the treaty aforesaid; and the person or persons appointed by virtue of this act shall make report of his or their action in the premises to the Secretary of the Interior, who shall transmit the same to Congress at the next session thereof after such report may be made for action by Congress.

SEC. 2. That the sum of $10,000, or so much thereof as may be necessary, to be expended under the direction of the War Department, be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, to pay the expenses of the United States in carrying out the provisions of this act.

Amend the preamble so as to read as follows:

Whereas the treaty between the United States and Spain executed February 22, 1819, fixed the boundary line between the two countries west of the Mississippi River as follows: Beginning on the Gulf of Mexico at the mouth of the Sabine River, in the sea, and continuing north along the western bank of that river to the thirty-second degree of latitude; thence by a line due north to the degree of latitude where it strikes the Rio Roxo of Nachitoches, or Red River; thence following the course of the Rio Roxo westward to the one hundredth degree of longitude west from London and the twenty-third from Washington; thence crossing the said Red River and running thence by a line due north to the river Arkansas; thence following the course of the southern bank of the Arkansas to its source in latitude 42 degrees north; and thence by that parallel of latitude to the South Sea; the whole being as laid down in Melish's map of the United States published at Philadelphia, improved to the 1st of January, 1818; and

Whereas a controversy exists between the United States and Texas as to the point where the one hundredth degree of longitude crosses the Red River, as described in the treaty; and

Whereas the point of crossing has never been ascertained and fixed by any authority competent to bind the United States and Texas; and

Whereas it is desirable that a settlement of this controversy should be had, to the end that the question of boundary, now in dispute because of a difference of opinion as to said crossing, may also be settled: Therefore, &c.

Mr. LANHAM. I move that the House concur in the amendments of the Senate.

Mr. HOLMAN. I trust, before that is done, the gentleman from Texas will explain the effect of these amendments.

Mr. LANHAM. The bill as it now comes from the Senate is in the same form as the substitute which was offered in the House at the time this bill was passed. The Senate committee after considering the House bill reported in favor of the adoption of this substitute, which is identical, word for word, with that offered on behalf of the Judiciary Committee by Mr. Willits in the Forty-seventh Congress, and offered by the gentleman from Maine [Mr. REED] in the present Congress when this bill was under consideration in the House at the last session. The bill as now amended is not in all respects the bill we would desire, and is not entirely approved by me, for the reasons I have heretofore stated; but it seems to be the only legislation on the subject which can now be had, and may offer some possible solution of the question. Therefore I have moved to concur in the amendments of the Senate.

The amendments were concurred in.

Mr. LANHAM moved to reconsider the vote by which the amendments were concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

LAND GRANT TO RAILROAD IN OREGON.

Mr. COBB. I rise to present a privileged report from a committee of conference.

The Clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 181) to declare forfeiture of certain land granted to aid in the construction of a railroad in Oregon, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to all the amendments of the Senate to said bill, and agree to the same.

T. R. COBB,
BARCLAY HENLEY,
L. D. PAYSON,
Managers on the part of the House.
J. H. SLATER,
J. N. DOLPH,
P. B. PLUMB,
Managers on the part of the Senate.

The report of the committee of conference was agreed to.

Mr. COBB moved to reconsider the vote by which the report was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

STENOGRAPHER IN HOT SPRINGS INVESTIGATION.

Mr. STORM, by unanimous consent, submitted the following resolution; which was referred to the Committee on Accounts:

Resolved, That there is hereby appropriated out of the contingent fund of the House a sum sufficient to pay for the service of stenographer to the Committee on Expenditures in the Interior Department, in addition to the amount heretofore allowed said committee for payment of expenses of investigation of Hot Springs matters, as directed by resolution of the House; said payment to said stenographer to be upon vouchers approved by the chairman of said committee and by the chairman of the Committee on Accounts.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, announced that the Senate had passed without amendment the bill (H. R. 4681) for the relief of Yost Harbaugh.

The message further announced that the Senate had passed bills of the following titles; in which the concurrence of the House was requested:

A bill (S. 200) authorizing the construction of a bridge over the Mississippi River at Saint Louis, Mo.; and

A bill (S. 1025) for the relief of William Ervin.

ORDER OF BUSINESS.

Several members demanded the regular order.

The SPEAKER. The regular order is the call of committees for reports.

Mr. ELLIS. I move to dispense with the morning hour.

The motion was agreed to (two-thirds voting in favor thereof).

INDIAN APPROPRIATION BILL.

Mr. ELLIS. I move that the House resolve itself into Committee of the Whole on the state of the Union for the further consideration of the Indian appropriation bill.

The motion was agreed to.

The House accordingly resolved itself into Committee of the Whole House on the state of the Union (Mr. WELLBORN in the chair) and resumed the consideration of the bill (H. R. 7970) making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1886, and for other purposes.

The pending amendment was the following:

After line 503 insert as follows:

"To enable the Secretary of the Interior to appraise and sell, in accordance with the provisions of an act entitled 'An act to provide for the sale of a part of the reservation of the Omaha tribe of Indians in the State of Nebraska, and for other purposes,' approved August 7, 1882, that portion of said reservation in township 24, range 7 east, remaining unallotted on the 1st day of June, 1885, $1,000; said sum to be reimbursed from the fund received from the sale of said lands: *Provided*, That the Secretary of the Interior may, in his discretion and with the consent of the Indians, extend the time of payment for lands as fixed by section 2 of said act so that one-third of the purchase-money shall become due and payable in two years from the date when the land shall be or has been thrown open to settlement, together with one year's interest on the amount of the first installment, to be paid when entry is made, and the second installment of one-third shall become due and payable in one year, and the remaining one-third in two years from date of first payment, with interest as provided in said act. And in case of default in either of said payments or interest thereon the person thus defaulting for a period of sixty days shall forfeit absolutely his right to the tract which he has purchased and any payment or payments he may have made: *Provided further*, That also with the consent of the Indians the Secretary of the Interior is hereby authorized to cause to be appraised and sold to the highest bidder, under such regulations and upon such terms as to payment as he may deem to be most advantageous to the said Indians, that part or parcel of said reservation described as follows: All that portion of the northeast quarter of the northeast quarter of section 27 and the west half of the northwest quarter of section 26, in township 25, range 6 east, lying east of the Sioux City and Nebraska Railroad, containing about fifty acres, more or less, conditioned, however, that the purchaser thereof shall erect, operate, and maintain a flouring mill thereon."

The CHAIRMAN. The pending question is upon this amendment proposed by the gentleman from Louisiana [Mr. ELLIS], upon which the gentleman from Arkansas [Mr. ROGERS] reserved a point of order.

Mr. ROGERS, of Arkansas. So far as I am individually concerned, having had sufficient explanation of the subject, I am willing to withdraw my point of order—not, however, so as to prevent any other member who may not be satisfied from renewing it.

Mr. ELLIS. This amendment is right. If any explanation is desired, I will yield to the gentleman from Nebraska [Mr. VALENTINE].

Mr. VALENTINE. I am ready to give an explanation; but I do not think any is desired. The amendment has the approval of the Commissioner of Indian Affairs, the Secretary of the Interior, the Indians, and all parties in interest. It has been submitted to the Committee on Appropriations, and has been unanimously approved at a full meeting of that committee.

The amendment was agreed to.

The Clerk read as follows:

OTOES AND MISSOURIAS.

For third of twelve installments, being the last series, in money or otherwise, per fourth article treaty of March 15, 1854, $5,000.

Mr. WEAVER. I offer the amendment which I send to the desk.

The Clerk read as follows:

After line 523 insert the following:

"The Secretary of the Interior is hereby authorized to make such extension of time for the payment of the purchase-money under the sale made under an act entitled 'An act to provide for the sale of the remainder of the reservation of the Confederate Otoe and Missouria tribes of Indians in the States of Nebraska and Kansas, and for other purposes,' as he may deem just to said Indians and settlers: *Provided*, That the interest shall be paid at the rate as now provided by said act; but the time for the payment of the whole of said purchase-money shall not be extended more than two years from the time the said purchase-money became due according to the original terms of sale under said act."

Mr. ELLIS. I have no power to accept this amendment on the part of the Committee on Appropriations; but I have examined it, and believe it to be right. It provides merely an extension of the time within which those settlers shall make payment of purchase-money for their lands.

Mr. WELLER. I rise to a point of order. I can not hear what is going on, there is so much confusion. I did not hear what the gentleman from Louisiana said.

Mr. ELLIS. I will again repeat that the proposed amendment merely extends the time to certain purchasers who are settlers upon the lands sold from the Indian reservation under treaty stipulation. It is for the advantage of these men, who have been unfortunate, and are not able to meet their payments. It does no harm to anybody, and is of great good to this class of settlers. I think it should pass.

Mr. WEAVER's amendment was agreed to.

The Clerk proceeded to read the bill.

Mr. WELLER. Mr. Chairman, I have been listening attentively, but there has been so much confusion I do not know exactly where we

are in the reading of the bill. I desire to offer an amendment to page 22, in lines 525 and 526. The paragraph is as follows:

For perpetual annuity, at least one-half of which is to be paid in goods and such articles as may be deemed necessary for them, per second article of treaty of September 24, 1857, $30,000.

I desire to know whether we have passed that point.

Mr. ELLIS. We have passed it.

The CHAIRMAN. By two pages.

Mr. WELLER. Is an amendment permissible at this time under the rules?

Mr. ELLIS. If germane to the pending paragraph, certainly.

Mr. WELLER. I understand the gentleman from Indiana states it would be proper to move an amendment at this time.

Mr. ELLIS. Yes, if germane to the paragraph.

The CHAIRMAN. It would not be if objected to, but if not objected to the Chair will entertain it.

Mr. WELLER. Then I offer the following amendment:

In lines 525 and 526 strike out the words "at least one-half of which is to be paid in goods and such articles as may be deemed necessary for them," and in lieu thereof to insert "payment shall be made in cash in standard silver dollars." [Laughter.]

Mr. ELLIS. I reserve the point of order.

The CHAIRMAN. Does the gentleman object?

Mr. ELLIS. I insist on the point of order.

The CHAIRMAN. The amendment is not in order, the paragraph having been passed.

Mr. WELLER. I desire to suggest this: that this paragraph of the bill was passed while the confusion was such I was unable to determine whether it had been passed or not. I hope the gentleman will withdraw his point of order under the circumstances. I am able to give good and valid reasons why payment should be made to relieve the Treasury of the United States of its surplus of standard dollars.

Mr. STEELE. I demand the regular order.

Mr. ELLIS. I insist on the point of order.

Mr. WELLER. Instead of payment being made in goods out of which speculators can make rich profits.

The CHAIRMAN. The point of order is sustained and the amendment is ruled out.

The Clerk read as follows:

SHOSHONES AND BANNOCKS.

Shoshones: For sixteenth of thirty installments, to purchase suits of clothing for males over 14 years of age, flannel, hose, calico, and domestics for females over the age of 12 years, and such goods as may be needed to make suits for boys and girls under the ages named, as per ninth article of treaty of July 3, 1868, $10,000.

Mr. ELLIS. The committee directed me to offer the following amendment.

At the end of line 767 add the following.

The Clerk read as follows:

For the payment by the Secretary of the Interior, to J. M. Hogan, of Stockton, Cal., the sum of $6,600 out of funds herein appropriated for Shoshone Indians, the same being a claim for damages caused by depredations of said Indians, examined, approved, allowed, and reported to Congress by the Department of the Interior, $6,600.

The amendment was agreed to.

The Clerk read as follows:

For sixteenth of thirty installments, to purchase such articles as may be considered proper by the Secretary of the Interior for persons roaming, $150,000.

Mr. JAMES. I should like to inquire whether under the treaty with these Indians $200,000 should not be appropriated. Are we not compelled by the treaty to pay that amount?

Mr. ELLIS. No, sir. You refer to the second clause on page 24.

Mr. JAMES. I refer to the treaty of April 29, 1868.

Mr. ELLIS. On what page?

Mr. JAMES. In line 804.

Mr. ELLIS. That is a flexible provision of the treaty and leaves it discretionary, and we considered this amount to be enough. There is no specific sum mentioned in the treaty.

The Clerk read as follows:

For pay of additional employés at the several agencies for the Sioux in Nebraska and Dakota, $20,000.

Mr. JAMES. I move to amend that by making it $25,000. There are seven agencies, and the sum appropriated is not sufficient to go around—seven agencies and 22,000 Indians.

The CHAIRMAN. The gentleman will send up his amendment.

Mr. ROGERS, of Arkansas. I reserve the point of order.

Mr. JAMES. My amendment is in line 816, after the word "twenty," to insert "five;" so it will read "twenty-five thousand dollars."

Mr. ELLIS. I should like to hear the gentleman on the necessity of that amendment.

The CHAIRMAN. The Chair understands the gentleman from Arkansas to reserve the point of order.

Mr. ROGERS, of Arkansas. Yes; I reserved the point of order, but I am willing to hear the gentleman's statement.

Mr. JAMES. There are seven agencies and 22,000 Indians to be looked after in these seven agencies, and the sum allowed is not sufficient in the estimation of the Indian Commissioner to enable them to give the proper educational facilities and to have the proper number of employés.

Mr. ROGERS, of Arkansas. I insist on the point of order.

Mr. ELLIS. We pay an agent at each one of these agencies, and we believe $3,000 is plenty to pay for employés. If we were guided by the estimates of the Department this bill would be out of all proportion. The committee carefully considered this and believed $3,000 at each agency to be plenty. I hope the amendment will be voted down.

Mr. ROGERS, of Arkansas. I insist on my point of order.

The CHAIRMAN. The gentleman will state it.

Mr. ROGERS, of Arkansas. It is that it increases expenditures.

Mr. CHACE. That point is not well taken.

Mr. ELLIS. It is not liable to a point of order, I think.

Mr. CHACE. It is not liable to the point of order inasmuch as it does not change existing law.

The CHAIRMAN. The Chair overrules the point of order.

The amendment was disagreed to.

The Clerk read as follows:

For pay of second blacksmith, and furnishing iron, steel, and other material, per eighth article of same treaty, $2,000; in all, $1,590,300.

Mr. ELLIS. The committee direct me, Mr. Chairman, to propose an amendment to this clause, which I send to the desk.

The Clerk read as follows:

After line 829 insert:

"That so much of the act approved July 4, 1884, as makes an appropriation of $10,000 for the Medewakanton band of Sioux Indians be so amended as to allow the Secretary of the Interior to disburse the same to the Medewakanton band of full-blooded Indians in Minnesota for agricultural implements, land, or cash, as in his judgment may seem best for said Indians; and of this amount $720 shall be expended to pay a practical farmer for instructing said Indians in agriculture."

Mr. ELLIS. This proposes simply to reappropriate the unexpended appropriation of last year and devote it to the civilization and instruction of these Indians. I hope it will be agreed to.

The amendment was agreed to.

The Clerk read as follows:

The Secretary of the Interior is hereby directed to pay, out of the moneys herein appropriated for the Sioux Indians, to John McCall $70, and to Mrs. John Bohl $25; the same being claims for damages caused by depredations of said Indians, and examined, approved, and reported to Congress by the Commissioner of Indian Affairs.

Mr. ELLIS. I am instructed by the committee to propose an amendment to come in after the words "Sioux Indians" in line 831.

The Clerk read as follows:

To Abner Lowry, sr., $2,306.60.

Mr. ELLIS. This is a depredation claim which has been examined, approved, and transmitted to Congress for payment.

The amendment was agreed to.

Mr. WASHBURN. Mr. Chairman, I offer a further amendment to come in after line 836.

The Clerk read as follows:

Insert after line 836:

"The Secretary of the Interior is hereby directed to pay, out of the moneys herein appropriated for the Sioux Indians, to George Storrs $840; the same being a claim for damages caused by depredations of said Indians, and examined, approved, and reported to Congress by the Commissioner of Indian Affairs."

Mr. ELLIS. That is right, sir; the amendment ought to be adopted.

Mr. ADAMS, of Illinois. I desire to ask the gentleman from Louisiana, when a deduction is made from an amount appropriated to the Sioux Indians, as in this case, which is divided into many items, out of what item the deduction is to be made.

Mr. ELLIS. It will be deducted from the treaty funds, and is discretionary with the Secretary of the Interior.

Mr. ADAMS, of Illinois. Then it would not affect certain specific appropriations like that on line 826 or 818 or 815?

Mr. ELLIS. It would not, sir.

Mr. THROCKMORTON. I would inquire if the amendment which has just been offered has been passed upon by the Committee on Indian Affairs?

Mr. WASHBURN. It has been examined and reported upon unanimously.

The amendment of Mr. WASHBURN was agreed to.

The Clerk read as follows:

For seventeenth of thirty installments, to be expended under the direction of the Secretary of the Interior, for clothing, blankets, and such other articles as he may deem proper and necessary, under eleventh article of same treaty, $25,000.

Mr. JAMES. Mr. Chairman, I move to amend in line 861 by striking out "twenty-five" and inserting "thirty;" so that it will read "thirty thousand dollars."

Article XI of the treaty referred to in this paragraph of the bill provides that a sum sufficient in the discretion of Congress, not to exceed $30,000, shall be appropriated. I claim that the amount appropriated in this clause of the bill is not sufficient and should be increased.

The CHAIRMAN. The Clerk will report the amendment proposed by the gentleman from New York.

The Clerk read as follows:

In line 861, strike out "twenty-five" and insert "thirty;" so that it will read, "$30,000."

Mr. ELLIS. Mr. Chairman, I think we have given enough for the

item contemplated by this paragraph of the bill. I will state to the gentleman from New York that this article of the treaty is flexible, and does not require a specific appropriation of the sum named. We computed the number of Indians and dealt justly by them as we believe. It is the same exactly as the provision for the current year, and no deficiency has been reported. I hope the amendment will be rejected.

The amendment of Mr. JAMES was not agreed to.

The Clerk read as follows:

UTES.

For fifth of ten installments, to be distributed, at the discretion of the President, to such Ute Indians as distinguish themselves by good sense, energy, and perseverance in the pursuits of civilized life and in the promotion of a good understanding between the Indians and the Government and people of the United States, $4,000.

Mr. ELLIS. I am directed by the Committee on Appropriations to offer the amendment which I send to the desk.

The Clerk read as follows:

After line 894 insert:

"The Secretary of the Interior shall cause a complete and accurate list of all approved and pending claims of citizens on account of depredations of Indians chargeable against any treaty fund of Indians to be made and presented to Congress on or before the first Monday of December, 1885. Said list shall contain the name and address of the claimant, the date of the depredation, the date of examination and approval, by what Indians committed, what funds remain to said Indians out of any treaty stipulations and reference to the clause of the particular treaty by which the Indians agreed to pay for depredations by them committed; and said Secretary of the Interior shall also report such suggestions looking to the payment of said claims as may seem wise to him, and whether in his judgment a pro rata allowance out of the respective Indian treaty-funds to be applied to the payment of said claims can be made, and if so to what extent and in what cases."

Mr. ELLIS. The design of this amendment is to bring all the facts in regard to Indian depredations and claims of this character to the attention of Congress. It would give Congress full information in regard to their nature and in regard to their extent, so that the legislators of the future may deal intelligently with this subject. It is necessary information for Congress, and if presented in that form will facilitate the action of Congress in dealing with these questions.

Mr. ROGERS, of Arkansas. I would like to ask the gentleman from Louisiana the question as to whether the provisions of this amendment are broad enough to extend into the Indian Territory proper?

Mr. ELLIS. Certainly; it covers all claims for depredations by any Indians with whom we have treaties providing for payment on account of such depredations.

Mr. ROGERS, of Arkansas. Does it extend also to the payment of those claims which have been rejected by the Department in years gone by?

Mr. ELLIS. It does not.

Mr. ROGERS, of Arkansas. My judgment is the amendment ought to be broader in that regard. I know myself there are various claims of that description, some of which are being now proposed for the consideration of the various committees of Congress; and if we have this report to Congress touching these claims I think it ought to embrace all claims pending before the Department or before Congress.

Mr. MAGINNIS. I suppose the gentleman from Louisiana wants to cover all claims that have been reported to Congress by the Secretary under the law of 1872.

Mr. ELLIS. That was my intention. I have no objection, however, to broadening the provision.

Mr. MAGINNIS. If a claim comes before a committee of Congress information can be got in some other way. I think the amendment should be as the gentleman has made it.

Mr. ROGERS, of Arkansas. Will the gentleman from Montana please to explain the effect of the statute to which he has referred?

Mr. MAGINNIS. About the year I have named, about 1872 or 1873, the practice of paying for these depredations out of Indian allowances was stopped by act of Congress and all claims were referred to the Secretary of the Interior to be examined, adjudicated, and reported upon to Congress; and such claims have been reported upon and no action taken upon them.

Mr. ELLIS. The Secretary was constituted the judge.

Mr. ROGERS, of Arkansas. And it is those claims favorably reported upon to which the amendment refers?

Mr. ELLIS. Yes, sir.

Mr. ROGERS, of Arkansas. I desire to make one further inquiry: whether the claims when adjudicated unfavorably by the Secretary of the Interior are to be excluded from future consideration by Congress?

Mr. ELLIS. Certainly not.

Mr. THROCKMORTON. I think the amendment offered by the gentleman from Louisiana is correct. The subject to which it refers has been fully explained by the gentleman from Montana. I do not think the amendment to this bill should go any further than this. The claims referred to by the gentleman from Arkansas [Mr. ROGERS] have been reported with the other claims by the Secretary of the Interior to Congress; and for the information of the gentleman from Arkansas I desire to say that every session of Congress since this law was enacted the Secretary of the Interior has reported to Congress various claims that have been filed with him that have been examined by the agents among the different Indian tribes, and passed upon by the agents and then by the Commissioner of Indian Affairs, and then finally by the Secretary of the Interior; and they have been reported from time to time to Congress, not only approved claims and the amounts approved, but the claims that have been rejected.

Now I am well aware of the fact that there are a great many claims that ought to have been passed; but this examination in the Indian country of these claims has been altogether a one-sided affair. Indians have passed upon them and said whether they were guilty of the depredations or not, and the citizen has had to rely upon such proof as he could get up in different places to show the spoliations committed on him and get that before the Indian agency and the Department; and in many an agency gross injustice has been done in regard to these claims. Nevertheless the claims have been reported to Congress, whether approved or rejected; and it is within the power of Congress to refer these rejected claims to the Committee on Indian Affairs, that they may be examined into; and where there is evidence that would justify or warrant a reversal of the decision of the Secretary of the Interior the Committee on Indian Affairs would be fully justified in reversing that decision and recommending Congress to pay the claims.

I think the amendment proposed by the committee is a judicious one, and that it should not go further than it does. These claims alluded to have already been adjudicated, and it is meting out now tardy justice to men that have suffered from these depredations. This brings them prominently before Congress, and will perhaps insure speedy action upon them. I hope the amendment will be adopted.

Mr. ROGERS, of Arkansas. I want to make one further observation. It will not be understood that I oppose the amendment at all. I simply desired to understand fully the purport of it, and to see to it that these claims which have been adjudicated unfavorably by the Interior Department were not excluded from relief by Congress if additional evidence should be obtained showing that they were just. I am in full accord with the object and purport of this amendment; but I say it is an unwise policy for us in passing upon these claims to adjudicate in favor of A and reject B, where the one may be as meritorious as the other.

A high public policy, a wise public policy, would dictate that these Indians who demand on all occasions, in season and out of season, that the Government shall be just to them, should be compelled promptly to give back to the citizens upon whom they commit depredations an ample consideration for such depredations as they commit. If Congress will provide for this the tendency of that kind of legislation will be to suppress these depredations and bring about peace and order upon the border. Therefore I am in full accord with the amendment, and only desire to see to it that, by the amendment, these claims which were favorably adjudicated before the Secretary of the Interior are not excluded from future consideration by Congress.

The question being taken, the amendment offered by the gentleman from Louisiana [Mr. ELLIS] was agreed to.

The Clerk read as follows:

Support of Indians at Fort Peck agency: For this amount, to be expended in such goods, provisions, and other useful articles as the President may, from time to time, determine, in instructing in agricultural and mechanical pursuits, in providing employés, educating children, procuring medicine and medical attendance, care for and support of the aged, sick, and infirm, for the helpless orphans of said Indians, and in any respect to promote their civilization, comfort, and improvement, $90,000.

Mr. CHACE. Mr. Chairman, I desire to ask the gentleman from Louisiana [Mr. ELLIS] in charge of this bill whether it is not the fact that we have been obliged to make a deficiency appropriation for the last year for these Indians at the Fort Peck agency.

Mr. ELLIS. We have, sir.

Mr. CHACE. And are not the circumstances this year the same as they were last?

Mr. ELLIS. No.

Mr. CHACE. I am informed that they are.

Mr. ELLIS. At this time last year those Indians were dying of starvation. To-day they have plenty of rations, and the Department has ordered their rations to be exhausted by the 21st day of March. The bill has taken into consideration the deficiency, and reported the appropriation of last year and $3,000 additional.

Mr. CHACE. I do not so understand it. I understand that you are $10,000 short.

Mr. ELLIS. No; $53,000 long.

Mr. CHACE. The appropriation is $10,000 short on the very basis stated by the gentleman from Louisiana himself, as I understand it.

Mr. ELLIS. That is not all for these particular Indians. There are three other agencies in Montana.

Mr. MAGINNIS. There are four agencies included there.

Mr. CHACE. I understand that; but there was a deficiency last year.

Mr. ELLIS. There was a deficiency for the current year of $10,000. It was a deficiency which would exist after March. The Commissioner of Indian Affairs has taken the appropriation and has ordered the supplies to be exhausted on the 21st of March, and reported what was necessary ($50,000) to carry them to the 30th of June.

Mr. CHACE. But you do not give him that sum by $10,000.

Mr. ELLIS. The deficiency of which the gentleman from Rhode

Island speaks did not apply simply to these particular Indians but to the three other agencies also; this is only one of four agencies in Montana.

Mr. MAGINNIS. I think the gentleman from Rhode Island will find that this is right, except that the Commissioner of Indian Affairs ought to take some means to remove these Indians to the Standing Rock agency and incorporate them with the rest of the Sioux. They have no business at this isolated agency. They were gathered up there under the fraudulent administration of affairs which existed in 1872, and the proper way to deal with them is to let them go where they want to go, and join their relations of the other Sioux tribes.

Mr. ELLIS. I certainly should have no objection to that; but no such recommendation has reached us from the Department.

Mr. MAGINNIS. I suppose not; nor is such a recommendation likely to be made so long as the Department relies upon an agent whose salary depends on the existence of that agency.

Mr. ELLIS. If the gentleman from Montana [Mr. MAGINNIS] will offer a proper amendment, we will not regard the recommendation of the Department, but will do what is right as to these Indians.

Mr. ROCKWELL. Mr. Chairman, I suppose that these are the four tribes of Indians that have been alluded to here by the gentleman from Louisiana [Mr. ELLIS], and it seems that the appropriation is less than the estimates recommended by the Department. I rise now for the purpose of making a statement in relation to this matter. Upon page 947 of the RECORD I find in the remarks made by the gentleman from Louisiana [Mr. ELLIS] the other day certain language which I will ask the Clerk to read.

The Clerk read as follows:

Notwithstanding these facts, a certain gentleman connected with the "Indian rights" department has seen fit to write me an open letter, and has seen fit to let loose upon my devoted head the anathemas of the press East and North—one Mr. C. C. Painter, I believe, a member of the Indian Rights Association, one of those self-constituted friends of the Indians, coming here by what credentials I do not know, appearing frequently before the committee and urging us to discharge our duty.

In the letter of Painter, which was published in the New York Tribune, appear the grossest misrepresentation and statements, which he should have known were utterly and infamously false. I desire now, sir, to place on record here the full history of this matter in order that that gentleman, who is represented to be a minister of the gospel, may either inform himself properly before he undertakes to write a public letter to anybody, or else that he may refresh his memory with the story of Ananias.

Now in the letter here referred to, which was an open letter to the gentleman from Louisiana, which appeared in the New York Tribune on the 5th of January, there were certain statements showing that these appropriations were less than the estimates, and as the gentleman from Louisiana has characterized unfavorably the writer of this letter, who is the representative of the Indian Rights Association, one of the noblest associations of this country, established in Philadelphia and having a branch association in the capital city of the Commonwealth which I have the honor in part to represent—I would like to hear the gentleman from Louisiana tell the House what statements in this open letter written to him in relation to the appropriations for these Indians are false. The gentleman has characterized the writer of this letter, a constituent of mine, as making statements that are unqualifiedly false, and I should like to hear him specify those statements.

This gentleman, a constituent of mine, whose statements the gentleman from Louisiana has characterized as false, is a man well-known in the district I have the honor to represent, a man who has been selected for the position he occupies on account of previous meritorious service, a man whose record is unstained, whose integrity has never been impeached. I call on the gentleman from Louisiana to submit on this floor any evidence bearing out his assertions, and showing wherein the statements contained in this letter are wrong.

The gentleman from Louisiana also, in the speech from which I have quoted, made a statement in reference to the appropriations made during the last few years for the Indians. This statement he submits as a defense against this open letter, and winds up by showing that on the 6th of January, in this House, a contingency resolution was introduced giving $50,000 more on account of certain starving Indians who are included in the four classes I have mentioned. Then the gentleman goes on to state that in spite of these circumstances Mr. Painter writes this open letter to him.

Now, I wish to make the point here that this open letter appeared in the New York Tribune of January 5; and I ask the gentleman whether it is not the fact that this resolution to which he refers as vindicating the conduct of the committee against the attacks made in this open letter was presented here on the day after this letter had appeared in the New York Tribune, and whether he did not know at the time the resolution was passed that this letter had been published.

Mr. ELLIS. I have not seen any letter yet. I have seen only editorial comments, from which I gathered my information as to the character of the letter and the assertions made therein. Has the gentleman the letter?

Mr. ROCKWELL. I have the letter.

Mr. ELLIS. Will you oblige me by giving it to me?

Mr. ROCKWELL. Certainly I will, first asking to have it printed as part of my remarks. If the gentleman will allow me further——

Mr. ELLIS. Then, Mr. Chairman, when I take the floor, after having moved the previous question on this bill, if I do not brand "falsehood" on C. C. Painter's brow I will make an elaborate apology to him. I object to the printing of that letter.

[Here the hammer fell.]

Mr. BOUTELLE. I move to amend by striking out the last word, and yield my time to the gentleman from Massachusetts [Mr. ROCKWELL].

Mr. ROCKWELL. I understand the gentleman from Louisiana has objected to the printing of this letter.

Mr. ELLIS. I do.

Mr. ROCKWELL. I suppose I have the right, Mr Chairman, to read it as part of my remarks.

The CHAIRMAN. The gentleman has that right in his five minutes.

Mr. ROCKWELL. I have five minutes, then, in which to read the letter, and I bring up this matter not alone because I believe that this constituent of mine has been falsely accused in this matter, but also because I think it brings home to all of us the fact so well illustrated in the life of that great statesman of Kentucky, Henry Clay—and illustrated to-day in the conduct of another great statesman of Kentucky who presides over the deliberations of this body—that "whenever business of whatever nature is to be transacted in a deliberative assembly or in private life, courtesy, forbearance, and moderation are best calculated to bring it to a successful conclusion."

Mr. ROCKWELL proceeded to read the letter, as published later in the proceedings, but was interrupted by,

Mr. ELLIS, who said: Is the gentleman proceeding under unanimous consent?

The CHAIRMAN. The gentleman from Massachusetts has five minutes yielded to him by the gentleman from Maine [Mr. BOUTELLE] on a *pro forma* motion.

Mr. ROCKWELL continued the reading until the expiration of his five minutes.

Mr. ELLIS. Mr. Chairman, what is pending?

The CHAIRMAN. A *pro forma* amendment moved by the gentleman from Maine [Mr. BOUTELLE]. Does the gentleman insist on that amendment?

Mr. HISCOCK. Is debate on the amendment exhausted?

The CHAIRMAN. It is.

Mr. BOUTELLE. I withdraw the amendment.

Mr. HISCOCK. I renew it, and yield my time to the gentleman from Massachusetts [Mr. ROCKWELL].

Mr. ROCKWELL continued the reading of the letter.

Mr. ELLIS. I move that the committee rise.

The CHAIRMAN. The Chair will recognize the gentleman after the five minutes of the gentleman from Massachusetts have expired.

Mr. ROCKWELL continued the reading of the letter until its conclusion.

The letter is as follows:

RESPONSIBILITY FOR STARVATION AMONG THE PIEGANS.

[An open letter to Mr. ELLIS from Professor Painter.]

GREAT BARRINGTON, MASS., *December* 24, 1884.

SIR: My surprise and astonishment were so great the other morning because of your sudden change of purpose regarding the "deficiency estimate" for the relief of certain Montana Indians, that I could not in the brief time allowed me answer your questions. You had only the evening before repeated to me the explicit promise made by you and Mr. RYAN to the committee of the Indian Rights Association, on the 12th instant, that you would, just as soon as the estimate reached your committee, introduce and secure the passage of a joint resolution appropriating the sum asked for.

You were informed in the letter from the acting Secretary of the Interior, which accompanied this estimate, and which was referred with it to your committee, that the agent at the Blackfeet agency had been instructed by the Department to exhaust his supplies by the 31st of March, and that unless supplies to meet the deficiency were sent in by the 15th of January, that it would be all but impossible to get them in through that country in time to prevent starvation.

Certainly nothing contained in this letter was calculated to lessen the urgency of the action which was sought from you, and which you had so explicitly promised.

I fear that no importunity can now secure action in this matter which will save these poor people from extreme suffering, and it is not with the hope of averting this, but with the purpose rather of locating responsibility for it, that I proceed to answer your questions: (1) How did it happen that there was such suffering among them; and (2) what has become of the money ($100,000) appropriated last winter for their relief?

1. It appears that the Department asked for the support of these Indians (food and clothing), for the year ending June 30, 1884, the sum of $260,000, and that Congress, at the suggestion of your committee, gave $176,000, being $84,000 less than the Department deemed necessary. It may be well to say in this connection that the sum asked for was based upon the expectation that game would be as abundant as in years past, which proved a mistake, as none was to be found.

The deficiency created by the action of your committee was $84,000; the utter failure of all crops by reason of frost, drought, &c., and the entire absence of game, threatened this people with absolute starvation. Senator VEST and Delegate MAGINNIS reported this condition of things at the very opening of the last session of Congress. The President called the attention of Congress to the facts as communicated to him by the Secretary of the Interior, who asked for $138,000 to meet the emergency. Special Inspector Howard appeared before your committee and informed you of what he had just seen among these people, and you introduced a joint resolution the next day appropriating $50,000 to this purpose. The Senate amended this and appropriated $100,000. If you are doubtful as to your responsibility for the non-concurrence of the House in this amendment, I will respectfully refer you to the CONGRESSIONAL RECORD for February 1, 1884, pages 823 and 824. Mr. MAGINNIS related what he had seen and heard in a personal visit to these people a few months previous, and was sure that at least $100,000 was both needed and asked for. Mr. CHACE was confident that the Department had asked for $138,000.

Your assertion, made with great positiveness, and reiterated, that your committee had given every dollar that had been asked for by the Commissioner of Indian Affairs, caused the House to reject the Senate amendment, and a delay ensued before you were forced to correct a mistake which was fatal to many poor starving Indians; and so, after a delay of two months after it was informed of the facts, Congress appropriated about three-fourths of the sum asked for.

That this was not sufficient appears from a mild statement in the last report of the Commissioner of Indian Affairs, who says: "There is little doubt that many deaths among them (these Montana Indians) were the direct result of lack of food."

During a recent visit to the Blackfeet agency the agent informed me that he issued during the spring and early summer from four to six burial boxes per day for some time, and that no money would induce him to witness again the scenes through which he had passed during those fearful months.

It was estimated that four hundred of the Indians of that agency, which numbered not more than twenty-four hundred or twenty-six hundred, died from want of food.

At Fort Belknap the suffering would have been just as great but for the fact that it is near a large military post, and that the men brought their wives and daughters—even little girls—and prostituted them to the whites for money with which to purchase food.

This, I agree with you, is "an infamy," one for which, as chairman of the Subcommittee of Appropriations for Indian Affairs, who cut down estimates, who delayed action, and who has now deliberately refused to report a resolution appropriating for the deficiency for this year, the country will hold you responsible.

The answer to your second question is not hard to find. Divide the sum of money appropriated to feed and clothe these people, 14,000 of them in round numbers, and you will have for this purpose about 3½ cents per diem per capita; a sum which might be used honestly for such a purpose without raising such strong suspicions that it had been wasted that you are forced, as a prudent public officer, intrusted with grave responsibilities, to thrust aside with contempt the estimate of the Interior Department and the urgent cry that there will be another "infamy" unless you act at once, and say you must know how this has been expended before you will ask for any more.

For the year ending June 30, 1885, the Department asked for these same Indians, for food and clothing, $275,000. Acting under your advice Congress has appropriated $243,000. That is $32,000 less than the needed sum.

You have before you the facts that $50,000 is needed to prevent the infamy of starvation again; that the supplies at one agency will be exhausted on the 1st of April next, and that the supplies must be sent in by the middle of January. Your promise to the committee, composed of General Armstrong, Messrs. Biddle, Welsh, and Fraser, of Philadelphia, was explicit that you would act upon these facts as soon as they reached your committee; but this, the next morning after they did reach you, you flatly refused to do until you had satisfactory answers to your questions.

These I have attempted to answer, whether satisfactory or not I can not say, but with facts from the official record.

Your argument that you had given money for irrigating-ditches, and that these people ought to do something to support themselves, is fully met by the fact that this bill was not approved until the 4th of July last, and consequently practical relief for those whom it was designed to aid could not be derived in so short a time. Your remark that "the Indian seems to have too many friends about here" betrays, I fear, the animus by which you are controlled. As all known methods for securing relief for these Indians from your committee have been exhausted, I am forced to appeal to our citizens at large, who, I am confident, do not desire either that these people shall starve or be forced to prostitution to save themselves from such a fate; and so I send these answers to your questions to the country at large.

Yours, &c.,

C. C. PAINTER.

To Hon. E. JOHN ELLIS,
Chairman of Subcommittee Indian Appropriations,
House of Representatives, Washington, D. C.

Now, the argument used by the gentleman from Louisiana——

The CHAIRMAN. The gentleman's time has expired.

Mr. ELLIS. Let the gentleman finish his speech.

Mr. PARKER. If the gentleman from New York will withdraw his *pro forma* amendment, I will renew it and give my time to the gentleman from Massachusetts.

Mr. HISCOCK. I withdraw the *pro forma* amendment.

Mr. PARKER. I renew it, and will yield to the gentleman from Massachusetts.

Mr. ELLIS. Let the gentleman finish his speech.

Mr. ROCKWELL. Mr. Chairman, the argument used by the gentleman from Louisiana, made in these statements—I refer now to the speech he made January 6, when he introduced the resolution for $50,000 for the temporary support of some of these Indians, the day after this letter was published in the New York Tribune——

Mr. ELLIS. I did not know such a letter had been written. I told Mr. Painter I could discharge my duty without further suggestions from him. I did not know of the existence of such a letter.

Mr. ROCKWELL. I say, Mr. Chairman, that the speech made by the gentleman from Louisiana the day after this letter had been published in the New York Tribune (I am sorry the gentleman did not see it; it was a short speech)—I allude also to the speech to be found on the page of the RECORD which I have indicated, January 21—in that he seems to hold up these arguments: These appropriations were made smaller for two reasons, first, because it appeared to be the settled policy of some one to cut down appropriations; and, secondly, because game was plenty and abundant. These appropriations were cut down for that purpose and for that reason.

I would like to ask the gentleman from Louisiana whether as a matter of fact the Department did not take into consideration that very fact—whether the Department did not take into consideration that very fact that there was game there in abundance when they made their estimates and cut down the appropriations; and why, when that is so, is it necessary for the committee further to cut down the estimates on the same ground? Was not that the same argument the gentleman from Louisiana made in his speech delivered on this floor on the 6th of January? These statements that he has since made, and to which I have alluded in the RECORD, as attacking the character and integrity of this honest man, this representative of the Indian Rights Association of America, if he had made them on that day I should then and there have corrected him, for I was upon the floor and heard him as he introduced the resolution.

But, sir, he has not made this representation in reference to the character of this gentleman in haste or anger after reading the letter, but he waits from the 6th of January, when he makes his first speech, until the 20th of January, when he makes his next speech. If he had left out the reflection on this gentleman's character and integrity I should not now take the floor to defend my constituent. But, sir, from long acquaintance with the man assailed, I desire to place on the public records of this country in a spot where the record will be imperishable, and not merely in newspapers, which are evanescent, and which are forgotten and perhaps go into the waste-basket, my estimate of this gentleman, whom I have known for years, and who, although I am sorry he is so unfortunate as to have a controversy with the gentleman from Louisiana, I feel bound from my acquaintance not only with him but from knowledge of the character for ability he has won for himself in the community in which we both live to state that he is an honest man, that he is a Christian gentleman, and that the aspersions of the gentleman from Louisiana are not merited. I believe upon further consideration of the matter, whatever may be the facts in dispute in this case, the first man in this House to regret the attack upon this honest man will be the gentleman from Louisiana himself. [Applause.]

Mr. CHACE. Unless the gentleman from Louisiana wishes to reply I will go on. I believe if the gentleman will carefully revise this matter and look it over he will withdraw his offensive remarks in regard to this gentleman.

Mr. ELLIS. Not if my present impressions are correct; but I will intensify them.

Mr. CHACE. I desire to call the attention of the House to two or three pregnant facts in connection with this matter. In the first place, whose money is this we are appropriating? It is not our money we are appropriating. This money belongs to the Indians. The Government of the United States have in their Treasury $5,000,000 long since overdue. We have here four tribes of Montana Indians, who year after year have died from starvation because of the outrageous wrong of the people of this country. They have been removed from the lands which belonged to them under solemn obligation from the people of this country to pay them an annuity, which has not been paid.

The Department brings in estimates of the amount necessary for their support. Year after year we cut these estimates down and leave these Indians to perish of starvation. Now, again we are asked to make another cut of the estimates. The question arises, sir, are we innocent of the blood of these people? I hope gentlemen will join me in voting for an amendment to this bill that I shall now offer: to insert in line 971 the sum of $100,000, instead of $90,000 as proposed by the Committee on Appropriations.

The estimates for these four tribes amount to $467,000. The Committee have appropriated $412,000, a reduction of nearly $15,000 to each tribe. It is a wrong to these Indians which we can not afford to perpetrate any more.

The CHAIRMAN. Does the gentleman from New York withdraw the *pro forma* amendment?

Mr. HISCOCK. I do.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

For support, civilization, and instruction of the Shoshones——

Mr. MAGINNIS. I want to submit a motion to strike out the last word.

Mr. CHACE. Mr. Chairman, I have already offered an amendment to the preceding paragraph.

The CHAIRMAN. The Chair was not aware that the gentleman from Rhode Island had offered an amendment.

Mr. MAGINNIS. I hope the gentleman from Rhode Island will permit me to go on now in this connection for a few moments.

Mr. CHACE. I will wait, of course, until the gentleman from Montana has concluded, and then press the amendment I have indicated.

Mr. MAGINNIS. I would like to call the attention of the Committee, as this question has arisen, to the history of this Fort Peck agency and the real responsibility in regard to the starvation of these Indians. There was at the time this began a number of Indians collected at the Fort Peck agency under the administration of Columbus Delano, by an Indian agent out of the remnants of several Sioux tribes. This House appropriated, I think, about $850,000 for their support the first year.

Mr. CHACE. To what year does the gentleman refer?

Mr. MAGINNIS. To 1872 or 1873. I do not exactly remember which year, but about that time.

Mr. CHACE. I thought the gentleman was referring to the present year.

Mr. MAGINNIS. No, sir.

About $50,000 of that appropriation was given to the Indians and the $800,000 was divided up among the boys. [Laughter and applause.] The Indian ring, since broken up, at that time was in full fling in this

country. They used to meet in the parlors of a hotel in New York and divide the dividends arising from the Indian appropriations as regularly as the board of directors of a prosperous railroad company might meet and divide the surplus and profits of their business.

Mr. CHACE. The gentleman does not pretend to say that there is any such thing in existence at this time?

Mr. MAGINNIS. No, sir; I am not saying anything of the kind.

Mr. CHACE. Nor has there been since the organization of the present board of Indian inspectors.

Mr. MAGINNIS. I am not making such complaint at present. I am speaking of the origin of this thing. I want to show how the reduction came to be made.

At this time steamboats used to go up the Missouri River lightly loaded with supplies for the mythical Indians who were supposed to be in that vicinity. They required no assistance to get up the river. But when they came back—when they came down the river again—every appliance necessary in navigation was required to carry them safely over the bars, so heavily laden were they with vouchers. [Laughter.] This is the agency at which it is familiarly understood they used to drive the cattle around the corral three or four times, counting them each time, and finally ran them off and sold them to the white men. [Laughter.] It was here that ten sacks of sugar were delivered and the voucher was raised to a hundred or a thousand sacks.

These facts, Mr. Chairman, were made known by another eminent gentleman from Pennsylvania, Mr. Walsh.

Mr. RANDALL. Mr. Welsh.

Mr. MAGINNIS. Yes, Mr. Welsh; but for a long time we were unable to break that practice down. Mr. Orville Grant, since deceased, obtained a tradership at that agency, and there were some very warm debates in this House in regard to his connection with it. Finally, our late lamented President, Mr. Garfield, and the honorable gentleman from Pennsylvania [Mr. RANDALL], knowing these facts, cut down the appropriation of $500,000 to a reasonable amount for the sustenance of the Fort Peck Indians. And, by the way, let me say in this connection these Indians should not be at Fort Peck at all, but should be with the remainder of the Dakota tribe.

In relation to the suffering of the Piegans, the Blackfeet, and the Blood Indians, the direct responsibility rests with the Indian Department. The gentleman from Rhode Island [Mr. CHACE] will bear me out in this statement, that the amounts under the treaty were denied to these tribes for many years; and it was by the kindness and generosity of the gentleman from Louisiana himself, who investigated the subject, that we restored the appropriation to what it should be; and he and I were both grateful to Mr. ELLIS, I think, in the last Congress for his connection with this matter.

Mr. CHACE. I wish to be as gracious to the gentleman from Louisiana as it is possible to be; but I have a distinct recollection of having a year ago hard work to get an appropriation raised from $50,000 to $138,000.

Mr. MAGINNIS. If the gentleman from Rhode Island will look back at the Indian appropriation bills for the last ten or twelve years——

The CHAIRMAN. The time of the gentleman from Montana has expired.

Mr. REAGAN was recognized, and yielded his time to Mr. MAGINNIS.

Mr. MAGINNIS. Now, if the gentleman will look back at the Indian appropriation bills for the last twelve years or the last ten years, he will find the appropriations for the Piegans, the Bloods, and the Blackfeet have ranged from $25,000 to $35,000, having been cut down from $50,000.

Mr. CHACE. The appropriation has averaged less than $25,000, when we owe them under treaty stipulations an annuity of $50,000.

Mr. MAGINNIS. But, as I said before, the Indian Department, through its inefficiency, is responsible for this whole matter.

Mr. CHACE. Is it responsible for the non-fulfillment of the treaty?

Mr. MAGINNIS. No, sir. Will the gentleman just listen to me? Those Indians occupy an immense area of country. I hold in my hand the report of Senator DAWES, including the report of a subcommittee made by Senator VEST and myself. Some years ago we went to that country. We made arrangements with the Indians. They said, "This land is no longer of any use to us; when you gave it to us you gave it for a hunting country; it was then a great buffalo country and we did not need your supplies then. Now the game is all gone; we want to surrender this country; we do not want it."

Mr. CHACE. I do not wish to interrupt the gentleman; but is he not putting that in a somewhat erroneous light? Did not the first proposition come from our side for them to surrender that reservation?

Mr. MAGINNIS. No, sir.

Mr. CHACE. And did not the Government make a treaty with these Indians by which they undertook to pay them that annuity?

Mr. MAGINNIS. The gentleman from Rhode Island is wrong. He is going back too far. I am speaking of recent events. They proposed to surrender all the unnecessary portions of that reservation from which the game was gone and from which they derived no benefit. And four years ago I introduced into this House a bill to provide for those Northern Indians, and Senator VEST introduced into the Senate a similar bill to provide for them, which gave them the amount they wanted, which gave them ample appropriations, which provided that homes should be built for them, which provided they should receive cattle, schools, &c. And that bill has failed to pass this House and has failed to pass the Senate, simply because the Commissioner of Indian Affairs has been unable to make up his mind about it, although the Secretary of the Interior has recommended it, he being a Western man and knowing a great deal more about it than the Commissioner, who is a good, honest man; and if he had recommended that bill, if he had indorsed it and approved it, it would have gone through this House three years ago. It would have passed last winter but for him, and a remedy would have been provided, instead of those Indians suffering every year and starving. But this thing is to be repeated this year and next year and next year till a final settlement is made. If the Commissioner would not take the recommendation of the Senator from Missouri and myself he should have sent out some other men, some of his own men; but the officers of the Indian Department have simply rested on their oars and done nothing, and are, therefore, unable to give the House an opinion upon which the House can act; and, therefore, the House has taken no action. I hold all the suffering that has fallen upon those Indians to be directly traceable to the inefficiency of the Indian Department.

Mr. CHACE. I should like to ask the gentleman from Montana two or three questions. If I understand him he admits on our motion——

Mr. MAGINNIS. On whose motion?

Mr. CHACE. The motion of the United States Government, a treaty was made with these tribes by which they surrendered their reservation and we agreed to pay them an annuity of $50,000.

Mr. MAGINNIS. That was by the treaty of 1868.

Mr. CHACE. And the gentleman admits that they ratified the treaty, and we did not ratify it, but took possession of their reservation?

Mr. MAGINNIS. Yes, sir.

Mr. CHACE. We moved them on a reservation where there was no game, and we failed to pay the annuity.

Mr. MAGINNIS. That was the failure of preceding Congresses.

Mr. CHACE. Are not those the facts?

Mr. MAGINNIS. Exactly, but you can not blame the gentleman from Louisiana [Mr. ELLIS] for the policy inaugurated by Mr. Garfield.

Mr. CHACE. I blame nobody. I will take my own share of responsibility until I have discharged my duty in protesting against a recurrence of this thing.

Mr. MAGINNIS. I agree very much with the gentleman from Rhode Island in what he has said. He has said this before.

Mr. CHACE. And I would like to have it emphasized. The gentleman has just said that this starvation of these Indians has been brought about by a wrong and outrage committed upon them. It has recurred over and over again, and is likely to recur again another year.

[Here the hammer fell.]

The CHAIRMAN. The time of the gentleman from Montana [Mr. MAGINNIS] has expired. The question is on the amendment of the gentleman from Rhode Island [Mr. CHACE], which had escaped the attention of the Chair.

Mr. ELLIS. Does the gentleman from Rhode Island wish to support his amendment?

Mr. CHACE. I do.

Several MEMBERS. Let it be reported.

The Clerk read as follows:

In line 971 strike out "ninety" and insert "one hundred;" making it read: "To promote their civilization, comfort, and improvement, one hundred thousand dollars."

Mr. CHACE. Mr. Chairman, I desire to plead with this House to depart in this instance from the usual custom and to remember that this is not our money that we are appropriating. It is money that belongs to these Indians. It is their money; they have a right to it. And, in reply to some remarks made by the gentleman from Montana [Mr. MAGINNIS], which, although he may not have intended it certainly do detract somewhat from the force of my amendment, I desire to say that since the time to which he has alluded the board of Indian inspectors has been appointed, composed of gentlemen of the very highest character—Christian gentlemen who have nothing whatever to do with the objectionable transactions to which he has alluded here, except to exercise their influence to correct them.

Mr. MAGINNIS. If the gentleman from Rhode Island understood me to charge the existence of fraudulent practices under the present administration, I wish to correct him, because I did not intend to make any such charge or intimation.

Mr. CHACE. I am very glad to hear the gentleman say so.

Mr. ROGERS. The gentleman from Montana did not make any such charge.

Mr. COSGROVE. I understand the gentleman from Rhode Island to say that this is not the money of the United States that we are called upon to appropriate, but that it is the money of the Indians. I should like to hear him explain how it came to be their money.

Mr. CHACE. It became their money by the solemn obligation of the United States to the Indians under a treaty when we took their lands. There are $5,000,000 in the Treasury of the United States, all of which belong to the Indians.

Mr. ELLIS. Will the gentleman from Rhode Island refer us to the treaty?

Mr. CHACE. Certainly; there is no difficulty about it.

Mr. ELLIS. I want the treaty and the article.

Mr. MAGINNIS. The gentleman from Rhode Island is mistaken. We never had a treaty with these Fort Peck Indians. He refers to the Blackfeet and Bloods and Piegans.

Mr. RYAN. This is not the money of these Indians. It is simply a gratuity and does not come out of the tribal fund at all.

Mr. CHACE. If gentlemen will give me time, I will look for the treaty to which I have referred. I may be wrong, but I will look and see. In the mean time I would like to have this amendment passed over for a few moments.

Mr. REAGAN. Mr. Chairman, I do not propose to participate in the discussion of this bill, but I simply rise to say that it would be very interesting to me, and I have no doubt to the American people generally, if somebody would find out a way by which the Indians, like other people, could be made to work for their living. We have millions of poor people in the United States, many of them quite as poor as these Indians, but we do not appropriate money to support them in idleness, to feed and clothe them off the labor of other people; and it has always been a curious fact to me that we have gone on year after year appropriating large sums of money to feed an idle, lazy, vagabond set of Indians and have never been able to find any way to put them to work for their living. [Applause.]

The CHAIRMAN. The gentleman from Rhode Island [Mr. CHACE] asks unanimous consent to pass over the paragraph now under consideration until the bill has been read through. Has the Chair correctly stated the request of the gentleman?

Mr. CHACE. Yes.

Mr. ELLIS. I object to that.

The CHAIRMAN. Objection is made, and the question is on the amendment offered by the gentleman from Rhode Island [Mr. CHACE].

Mr. ELLIS. Mr. Chairman, I wish to speak to that amendment. The gentleman from Rhode Island [Mr. CHACE] will search in vain for any treaty which gives these Indians a title to this money. It is simply a gratuity on the part of the United States. Now, sir, I believe that no living mortal should starve or want, especially the Indians, occupying the relation they do to the United States; but I believe that we have given them enough here. There is even-handed justice required in this matter—justice to the people whose money we are appropriating, justice to the Indian who has been made dependent by our civilization. Our civilized agencies have driven away from him or destroyed the game on which he lived; the Government of the United States, by a policy which I am unable to fathom, permitted the cattle of the Indians, their natural cattle—the buffalo—to be slaughtered for the sport of English gentlemen, for the sport of gentlemen from New York, of gentlemen from Boston, of gentlemen from Chicago and from New Orleans, and from every other city from which they chose to go out to slaughter for the mere love of slaughter.

Our girdle of civilization has been extending all the time, and the result of all this is that the Indian is deprived of his natural food. I do not agree with my friend from Texas [Mr. REAGAN]. I think the United States Government should see to it that these Indians do work; but until they are located upon a reservation which will reward their toil with abundant crops, I believe that we are bound to see that they do not suffer. At the same time we should take care that the money of the people is not recklessly expended. Now, what have we done? In the last session of the Forty-seventh Congress this last year we gave these Indians $243,000. That appropriation gave out, and the present Congress was called upon for a deficiency appropriation, first of $50,000, and afterward of $50,000 more.

Mr. CHACE. To what Indians does the gentleman now refer?

Mr. ELLIS. The Montana Indians—the four agencies in Montana. So that the total amount appropriated for the last session of the Forty-seventh Congress, supplemented by the deficiency appropriation at the first session of this Congress, made the total sum $343,000.

Mr. Chairman, I thought the Department ought to know its business, that it ought to know what these Indians needed. I did not believe the Department would come and present a deficiency that would not cover every supply. It presented first a deficiency of $50,000; that was given by the House. Afterward this was increased in the Senate by adding a deficiency which I never saw until it came from the Senate, making the deficiency appropriation $100,000. This made the aggregate amount $343,000. With the preparation of that bill I had nothing to do.

Mr. CHACE rose.

Mr. ELLIS. If the gentleman will only be still, I think he will learn something. When I came to prepare this bill, anxious to do justice to these people, I estimated the appropriation upon the basis of the appropriation made last year, plus the deficiency; and then I "went $3,000 better" than that. So that we gave $296,000, which, supplemented by the deficiency, makes $346,000, or $3,000 over and above the appropriations of last year, plus the deficiency.

I thought this would be sufficient. I knew that appropriations were made for irrigating the lands of these people and to assist them in agricultural pursuits. We thought they would raise something of a crop. The policy is in the direction of the position taken by my friend from Texas [Mr. REAGAN]. The policy is not to support these people in idleness, but merely to maintain them until they can become self-supporting. Ah, Mr. Chairman, the way to do that is not to fill them with everything good and maintain them in idleness. If you intend to make these people self-supporting you must teach them that there will come a time when the fostering hand of the Government will be withdrawn and they will be compelled to look to themselves. This has been the policy of the Committee on Appropriations and of Congress in gradually cutting down the provisions for the support of the Indians, furnishing them with stock and agricultural implements, with farmers to teach them how to work, and with industrial schools, in order that the time may come when Government support can be entirely withdrawn.

Now, we have given to these people, to the Montana tribes at the agency now in question, where the gentleman wishes to give $10,000 more, a proper proportion of the increased appropriations contained in this bill, which, as I have said, amount to $3,000 more than the appropriations made last year, plus the deficiency. I believe this is enough.

The CHAIRMAN. The question is on the amendment of the gentleman from Rhode Island [Mr. CHACE].

Mr. HEWITT, of New York. Mr. Chairman, I move *pro forma* to amend the amendment by striking out the last word. I have listened to this discussion with profound interest. I think it is very profitable. The gentleman from Texas [Mr. THROCKMORTON] who spoke in the general debate on this bill, from his large experience and from that relation which he of all men in this House or perhaps in the country has been able to establish with the Indians, because he has kept the faith with them, laid down a policy which is concurred in, I believe, by every friend of the red man. I had not the pleasure of hearing the gentleman's remarks; but while reading them in the RECORD with great satisfaction and entire approbation, I received from one of the truest friends of the Indian that this country has produced a letter so touching, so full of sympathy and wisdom, and asking from the President-elect a boon so desirable to be granted, that I communed with myself as to how I could best give effect to the writer's wishes. The sainted man who wrote this letter without any idea that it would be published, a good bishop of the church to which I profess allegiance, is now prostrated with disease in a far-off land. After a lifetime devoted to missionary work in the far West his last prayer as it were comes as an invitation to this House to do justice, as it is striving to do, to the red man. I trust I do not violate that sacred character which belongs to private communications when I take the liberty of reading to the House this letter from Bishop Whipple. I do this only because I believe that I shall thus best secure the object so dear to his heart. For I have reason to believe that the President-elect reads the RECORD, and I venture to hope that this letter will make such an impression upon his memory that the Indian Bureau will be confided to the management of some experienced and trusted friend of these wards of the nation:

HOTEL DES ANGLAIS, MENTONE, FRANCE,
January 4, 1885.

HONORABLE AND DEAR SIR: I have not the privilege of knowing the President-elect. You know how many years I have labored for the poor Indians. I have given them all a man could give—my time, my means, and my heart. When I began my efforts for them, our Indian affairs were at the darkest. My best friends said it was hopeless. I carried it to that One who always hears every cry of a burdened heart, and I resolved, God being my helper, I never would turn my back on the heathen at my door. I have tried to keep the vow. The Indian system has not been reformed; but the difference in its administration is as day to midnight. Instead of establishing almshouses to graduate savage paupers, the Government encourages labor, provides schools, employs Indians at wages, and the whole drift is toward Christian civilization. There are many abuses to be reformed, and dishonesties to be stopped, but the general administration is just. In the absence of a well-defined system of government, with personal rights of property, the success or failure of the Indian Bureau depends wholly on its head. I know your pity for this poor race. Will you not ask the President-elect to be doubly careful in the selection of the Commissioner of Indian Affairs? No appointment in his gift can bring him and his party greater honor, and none cause him, if unworthy, so much shame and disgrace.

I am here an invalid. You will pardon my request.

Your friend,

H. B. WHIPPLE,
Bishop of Minnesota.

HON. ABRAM S. HEWITT.

Stricken with sickness and possibly dying on the shores of the Mediterranean, far away from the children of the forest whom he has loved so well and for whom he has done so much, his heart goes back into the frozen regions of Minnesota and the prayer which he utters to that Almighty One who is the God of justice will, I trust, be heard through His servant who is chosen to administer the government and to execute the wise provisions of this bill, so carefully matured by the committee.

The question recurred on Mr. CHACE's amendment.

The committee divided; and there were—ayes 46, noes 73.

So the amendment was rejected.

The Clerk read as follows:

For support and civilization of the Modoc Indians now residing within the Indian Territory, $5,000.

Mr. JAMES. I wish to amend by adding at the end of line 994 an appropriation for the Navajo Indians, left out by mistake. They have money in the Treasury, and there is no appropriation for them. I move the following.

